

GEORGE SASSOWER

ATTORNEY AT LAW
51 DAVIS AVENUE
WHITE PLAINS, N. Y. 10605

914-949-2169

October 30, 1986

Hon. Burton S. Joseph
Family Court : Nassau County
1200 Old Country Road,
Westbury, New York, 11590

Re: People ex rel Sassower v. Sheriff
Hearing: Nov. 6, 1986

Honorable Sir:

1. So that Your Honor and my adversaries may be properly prepared and guided, I set forth forth my present intentions for November 6, 1986, subject, of course, to Your Honor's contrary directions.

2a. At the very first opportunity, if 100% of the Surrogate's and Supreme Court files are not present and available, I shall respectfully request that Your Honor and Richard C. Cahn, Esq., to set forth, on the record, what efforts were made to secure same for the hearings.

b. In this respect, I draw Your Honor's attention, that many, if not all, of such records, are or should be duplicated on microfiche and copies were and are available.

c. Your Honor must further understand, that there came a point where I even turned over my "duplicates" to Mr. Mastroianni, a matter which was inquired into, admitted by Mr. Mastroianni, before Mr. Justice Aloysious J. Melia, but not before Your Honor.

d. Consequently, many, if not most, of my documents, came from the Grievance Committee files, rather than my own.

3a. I shall strongly assert that the present hearing, is intended by the Appellate Division and the Suffolk County entourage to harass, not to determine whether I voluntarily waived my constitutional right of confrontation.

b. The facts set forth in my letter to Presiding Justice Milton Mollen et el., in addition to the events before Your Honor, and other facts, clearly and irresistibly supports such conclusion.

4a. There could not be any default and/or constitutional waiver with respect to a "hearing" on March 7, 1978, since there was never any intention to hold any such "hearing", with me as a participant, then or thereafter!

b. With Mr. Mastroianni and/or Mr. Berger, having in their possession (1) all my books and records with respect to the estate, (2) all Mr. Baranowsky's books and records, (3) my trial testimony, (4) my examination before trial, (5) bank records, (6) in addition to a great deal of other information, no one can possibly believe that Mr. Mastroianni or Mr. Berger would testify under oath on March 7, 1978, or anytime thereafter, "that I wilfully failed to turn over the books and records of the Kelly estate"!

c. What possible purpose or use could I have with any Kelly book or paper, that was worth this constant harassment of myself and my family?

5a. For description purposes, if necessary, Mr. Berger had (1) the contract of sale that I signed; (2) the description which was sent me, along with the objection sheet, from Title Guarantee Company, and (3) the appraiser's report.

b. In short, no one, not even Surrogate Signorelli, could have possibly found me in criminal contempt on March 7, 1978, and no hearing was intended, and every one knew it, including Sgt. Croce of the Suffolk County Sheriff's Office and Assistant County Attorney, Erick P. Larsen, Esq.!

6. Finally, even without Your Honor's consent, I vehemently resent the attempted affront on Your Honor's position or intelligence, to delegate to Your Honor the asinine "issue" of whether there was a "intentional and constitutional waiver" of my confrontation rights, by the Appellate Division or anyone else, in view of the material set forth in the accompanying letter.

7. I again remind Mr. Cahn and Mr. Calica of their United States v. Agurs, (427 U.S. 97) obligations, with its possible consequences for any default.

8. If my colleague, Mr. Calica, even dares to ascribe to me, as being involved in "frivolous" litigation, I will respectfully request Your Honor to absent himself temporarily from the Courtroom, while "I shove Mr. Calica's foot down his throat". Then we will be friends again!

Respectful


GEORGE SASSOWER

cc: Richard C. Cahn, Esq.
Robert M. Calica, Esq.
Doris L. Sassower, Esq.

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK

-----X
PEOPLE OF THE STATE OF NEW YORK, ex rel.
GEORGE SASSOWER,

JUDICIAL SUBPOENA

Petitioner,

Index No.

-against-

77-11984

SHERIFF OF SUFFOLK COUNTY,

Respondent.
-----X

THE PEOPLE OF THE STATE OF NEW YORK

To: Presiding Justice Milton Mollen
Associate Justice Moses M. Weinstein
Associate Justice Isaac Rubin

WE COMMAND YOU, that all business and excuses being laid aside, you and each of you appear and attend before Hon. BURTON S. JOSEPH, Acting Justice of the Supreme Court of the State of New York, County of Suffolk, at a Part of this Court, at Family Court of the State of New York, Nassau County, held at 1200 Old Country Road, Westbury, New York, 11590, on the 6th day of November, 1986, at 10:30 o'clock in the forenoon of that day, and at any recessed or adjourned date to give testimony in this proceeding on the part of the petitioner, as an adverse witness.

Failure to comply with this subpoena is punishable as a contempt of Court, criminal and civil, and shall make you liable to the person on whose behalf this subpoena was issued for a civil penalty not to exceed fifty dollars and all damages sustained by reason of your failure to comply, in addition to criminal sanctions.

WITNESS, Honorable BURTON S. JOSEPH, Justice of said Court, at Westbury, New York, the 30th day of October, 1986.

GEORGE SASSOWER
Attorney for Petitioner, pro se
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White Plains, N.Y., 10605
(914) 949-2169

GEORGE SASSOWER

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WHITE PLAINS, N. Y. 10605

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October 30, 1986

Presiding Justice Milton Mollen
Associate Justice Moses M. Weinstein
Associate Justice Isaac Rubin

Re: People ex rel Sassower v. Sheriff
Estate of E.P. Kelly
Hearing: Nov. 6, 1986: 10:30 a.m.

Honorable Sirs:

1a. Enclosed is a Subpoena for the aforementioned hearing, which Acting Supreme Court Justice Burton S. Joseph has stated, in similar situations in this matter, need not be "so ordered" by His Honor.

b. Any more convenient time or place that Your Honors desire, agreeable to Mr. Justice Joseph, is acceptable to me.

2a. My several efforts to have the matter disposed of summarily, have been consistently been opposed by my adversaries, although they do not dispute the factual issue on which summary treatment was requested. Thus, the hearing which was commenced on September 25, 1986, has been continued to the above date.

b. My desire to reach the ultimate issues has also been repeatedly opposed.

c. Since one of my adversaries, about one week ago, spoke to the media about this matter, I am no longer interested in a summary disposition.

d. Consequently, as Mr. Justice Joseph can confirm, I wish to make it eminently clear that it was not I who desired a hearing on an undisputed fact, or eschewed the ultimate issues, or spoke to the media for publication purposes, but my adversaries!

2. The background undisputed facts, which may help in focus Your Honor's testimony, are as follows:

a. As a result of some recent hearings on the Estate matter, before Mr. Justice Joseph, "zilch" was the amount recovered by the Public Administrator's claim against me, which was for \$72,778.44!

b. During such hearings, it was discovered that since 1977, the Public Administrator had in his possession the books and records of Mr. Kelly's accountant (see annexed letter of Vincent G. Berger, Jr.).

c. It was again and independently determined by Mr. Justice Joseph, that the Public Administrator and/or his attorney had all my books and records of the Estate, prior to the first contempt proceedings in 1977.

d. Consequently, and particularly in 1978, with all the assets, books and records in the possession of the Public Administrator, why at government and estate expense, was I pursued with criminal contempt proceedings, by the Signorelli entourage and the Appellate Division, based upon the perjurious assertions that I "had wilfully failed to turn over such books and records", at government and estate expense?

e. Why was Doris L. Sassower, Esq. served with a subpoena duces tecum, in 1978, to go to Riverhead for inquiry on the same subject, and otherwise harassed, at government and estate expense?

f. The scenario in Surrogate's Court was clear: When I was hospitalized; or paralyzed; or in the Court of Appeals; or in the Appellate Division, Second Department; or in the Appellate Division, First Department; or in Supreme Court, Queens County, on trial; or Ms. Sassower was elsewhere engaged, defaults were taken.

Indeed, with brazen arrogance, at times, hearings were scheduled for times when Surrogate Signorelli was told I would be in a higher court, actually engaged!

g. When I appeared, the matter was adjourned or nothing was accomplished!

h. Consequently, with the documented evidence that the Public Administrator and his attorney had all the assets, books, and records in their possession in 1977, I believe I envision little difficulty is convincing Mr. Justice Joseph and the media, that had I been present on March 7, 1978, rather than elsewhere engaged on trial, there would not have been any criminal contempt hearings!

3. Once my adversary spoke to the media, for the purpose of publication, I was determined to "nail the jellyfish to the wall", after a hard ten (10) year Captain Ahab harassing pursuit, not only in Surrogate's Court, but in the Appellate Division, as well, ostensibly in search of "phantom" books and records at government and estate expense!

4a. In the Appellate Division, Second Department, in the third criminal contempt proceeding after I turned over all the books and records, on page 1, my Brief (Sassower v. Signorelli, 96 A.D.2d 585, 465 N.Y.S.2d 543) reads as follows:

"2. Could appellant be constitutionally and legally tried, convicted and sentenced for criminal contempt, all in his absence, the first time the matter was on for a hearing, and while he was legally engaged in the midst of a trial in a higher court?

The Court below held in the affirmative.

3. Was appellant's legal engagement in a higher court a conscious, voluntary, and deliberate waiver of his constitutional and legal right to be present at trial, conviction and sentence for criminal contempt, as a matter of law, so as to dispense completely with a habeas corpus hearing?

Special Term held in the affirmative.

5. Was appellant supposed to risk contempt in Supreme Court, Bronx County by abandoning a pending trial in its midst and prejudice appellant's cause in order to appear in Surrogate's Court? [emphasis supplied]

The Court below impliedly held in the affirmative."

b. Page 3 of that same Brief (Statement), reads as follows:

"Appellant entered a plea of 'not guilty' and requested a plenary trial. ... On March 7, 1978, the first time this matter was on the calendar for a hearing, appellant was in the midst of a trial in Supreme Court, Bronx County before Mr. JOSEPH DiFEDE (Green v. Green). By affidavit, appellant advised the Surrogate's Court of the actual engagement."

c. With everyone, without exception, conceding that I was engaged as aforementioned, or not having any evidence to the contrary, both at nisi prius or the Appellate Division, and with the Appellate Division having actual knowledge, as will be shown, that I turned over these books and records about nine months before such contempt proceeding, the irresistible conclusion is that the Appellate Division, was and is also intending to harass.

5a. Argument in the Appellate Division, followed the twenty (20) full days of hearings before Hon. ALOYSIOUS J. MELIA, and His Honor's almost one hundred (100) page decision, wherein I was resoundingly vindicated of each and every charge, based on confessions and admissions of Surrogate Signorelli and his entourage, without hardly any testimony on my part, and with the affirmative findings that I had turned over all the Kelly books and records before the first contempt proceeding.

b. Consciously concealed from Judge Melia by the Signorelli entourage, was the fact that they also had actual possession of the books and records of Kelly's accountant, which would have clearly torpedoed their assertions that they could not account.

c. Thus, for the Appellate Division, Second Department, to (1) remit for a hearing in order to determine whether my absence on March 7, 1978, constituted a intentional and deliberate waiver of my constitutional right to be present, in view of the aforementioned, and when (2) that Court also actually knew that I had long previously turned over such books and records, became suspect, to say the least.

6a. Argument in the Appellate Division, was also subsequent to the four (4) day hearings against Ms. Sassower, where her affidavits of actual engagement elsewhere, all sent by certified mail to Surrogate's Court, were never recorded, and defaults taken!

Presiding Justice Milton Mollen
Associate Justice Moses M. Weinstein
Associate Justice Isaac Rubin

-5-

Oct. 30, 1980

b. Ms. Sassower's resounding vindication, was with leave to seek sanctions for the meritless disciplinary proceedings against her!

7a. If the Appellate Division had any doubt about my actual engagement, albeit its undisputed nature, a telephone call or communication to Mr. Justice DiFede or the Administrative Judge could have simply resolved the issue!

b. In view of the aforementioned, the sheer waste of judicial, estate, and my monies, for the attorney for the Suffolk County Sheriff to accuse me, to the media, of frivolous litigation in this matter, is the epitome of gall!

8a. Once the "default" was taken on March 7, 1978, my offer to surrender at such place outside of Suffolk County where I could obtain an immediate writ of habeas corpus were repeatedly rejected, as were my demands for a trial on the merits of the contempt proceeding.

b. Instead, the Sheriff of Suffolk County, made numerous forays into Westchester County and New York City, at public expense, not to apprehend me, but to harass me and my family.

c. Despite my written and oral offers to surrender, they visited neighbors and inquired about me as being a "fugitive from justice"!

9a. Finally, when I commenced a proceeding to enjoin the Sheriff of Suffolk County from entering Westchester County or New York City, purportedly in search for this "fugitive from justice", the deputy sheriffs secretly arrested me in New Rochelle, and abducted me to the Riverhead jail.

b. Ms. Sassower somehow learned of the event, which took place at such time that no one was a witness, and obtained a Writ of Habeas Corpus from Hon. ANTHONY J. FERRARO, who released me on my own recognizance.

c. On presenting such Writ, accompanied by one of our daughters, caused incarceration, without food, water, or toilet facilities!

Presiding Justice Milton Mollen
Associate Justice Moses M. Weinstein
Associate Justice Isaac Rubin

-6-

Oct. 30, 1980

10a. The events of this Saturday-Sunday morning massacre, when I and my family was incarcerated in Riverhead, and its purpose, have been deliberately obscured by everyone involved.

b. It is clear, that no one wanted or was interested in books or records! No one even hinted that such was the object.

c. Information, very much above the level of scuttlebutt, is that time was needed in order to find someone who could or would communicate with Mr. Justice FERRARO for the purpose of having His Honor modify my immediate release!

d. Presiding Justice MILTON MOLLEN, was that person, and Mr. Justice FERRARO stood fast.

e. Incarcerating my wife and daughter, rendering them incommunicado, so that someone could be found to improperly entice a jurist to unfavorably modify a writ of habeas corpus, is barbaric.

11a. When it comes to sheer waste of public and estate funds, Sassower v. Signorelli (65 A.D.2d 756, 409 N.Y.S.2d 762) cannot be overlooked.

b. With the Public Administrator in possession of all the the books and records that I had in my possession, (1) without any accusation; (2) without notice of any trial or hearing; (3) I was tried; (4) convicted; and (5) sentenced, all in absentia.

c. A federal judge had to figuratively put a gun to a Suffolk County jurist head, after four (4) days of trial, before the Court, sustained the Writ of Habeas Corpus.

d. Would any private party or attorney appeal such manifestly defective conviction at his own cost and expense, or even oppose it in a habeas corpus proceeding at nisi prius?

e. Only after considerable pressure was placed on the Attorney General's Office by Surrogate Signorelli, was such appeal prosecuted.

f. As every jurist knows the only issue in a habeas corpus proceeding, is jurisdiction, and the constitutionality of the conviction!

Presiding Justice Milton Mollen
Associate Justice Moses M. Weinstein
Associate Justice Isaac Rubin

-7-

Oct. 30, 1980

g. Nevertheless, in affirming, the Appellate Division, did not look to the record for its facts, but went to the Signorelli, sua sponte 1978 diatribe, which does not have a single kernel of truth contained therein, and found, inter alia, that I had not turned over the books and records of the Kelly Estate!

h. The undisputed documentary evidence that everyone recognized me as the lawful executor from March 1976 to March 1977 is overwhelming, including Certified Letters Testamentary issued in March of 1978.

i. After being granted permission to sell a vacant house, at the eve of closing, Surrogate Signorelli, without notice, held the contract not to have been authorized. Seventeen (17) months later, unable to find another purchaser, it was sold to the same person for the same price. The Estate bearing most of the expense for the interim losses!

12a. I intend to show Mr. Justice Joseph and the media that (1) I am being denied "equal protection of the laws" by this judicial harassment and retribution, at the expense of public and estate funds; and (2) with all the assets, books, and records in the possession and control of the Public Administrator, there was absolutely no intention of holding any hearing on March 7, 1978, or at any time thereafter.

b. I waited until after the Order was submitted to be signed by Mr. Justice Joseph in order to file a petition in bankruptcy, not wishing to influence His Honor's determination on the matter. Nevertheless, if His Honor had imposed any assessment against me, I would have somehow found means to pay same, notwithstanding any adjudication by the federal bankruptcy court.

c. I was driven bankrupt by the massive expenditure of judicial and estate funds by frivolous harassing procedures designed to conceal judicial improprieties.

d. When I am an executor or trustee, no judge nor court will make the estate a "judicial fortune cookie"!

e. My evidence before Mr. Justice Joseph will be only which is legally based. In the forum of the media, it will be documents of judicial misconduct and frivolity by the judiciary, not by me.

Presiding Justice Milton Mollen
Associate Justice Moses M. Weinstein
Associate Justice Isaac Rubin

-8-

Oct. 30, 1980

f. I do not, nor did I ever have, the resources to engage in frivolous proceedings! The government and judiciary has!

g. More than \$1,000,000 of judicial, estate, and my monies, incarcerating me twice, without benefit of trial, incarcerating Ms. Sassower and our daughter, under the aegis of pursuing books and records which the Public Administrator has, and always had, is a matter of public inquiry, not me!

h. I am entitled to be free of "selective persecution", persecution simply because I believe the judicial forum should be free of corruption.

i. This "circus performance" that the Appellate Division has "ordered" Mr. Justice Joseph to preside over, at great judicial expense, supposedly to determine where I was on March 7, 1978, but in reality to harass me, is denigrating to Mr. Justice Joseph, the judicial system, and civilized society!

j. Once the Appellate Division, did not permit me to appeal, at that stage, a "without notice" ukase removing me, I turned over all the books and records that I had, two (2) long trials have proven that fact! How many more trials must I endure to hear the admissions and confessions of the Signorelli entourage confirming that fact?

k. There simply was no contempt hearing, with my participation, intended for March 7, 1978, or any other time!

l. Since my adversaries desire a media performance, I welcome the opportunity to participate in same, but it is going to be a full and complete performance, wherein media outlets will have knowledge of the facts!

Respectfully,


GEORGE SASSOWER

cc: Hon. Burton S. Joseph
Cahn, Wishod, Wishod, and Lamb, Esqs.
Reisman, Peirez, Reisman, & Calica, Esqs.
Doris L. Sassower, Esq.
Newsday:

Att: Ms. Jane Fritsch

March 9th, 1978

Mrs. Grace DuBois
103-22 114th Street
Richmond Hill, New York 11419

Re: Estate of EUGENE PAUL KELLY.

Dear Mrs. DuBois:

I have received and reviewed your letter dated March 1st, 1978, together with the attached statement. This information cannot assist the Public Administrator since it does not pertain to the estate of EUGENE PAUL KELLY but rather to the Gene Kelly Moving & Storage, Inc. I believe that any questions in this regard should be directed to Charles S. Abuza, Esq., 551 Fitch Avenue, New York, New York, 10017, telephone 212 - 682-8750. We have already contacted Mr. Baronowsky in 1977 who turned over to us all records in his possession.

Thank you for your assistance.

Very truly yours,

VINCENT G. BERGER, JR.

VGB/c
Encl.

V. Berger

FBI	PLAINTIFF'S	RESP.	DEFENDANT'S	FBI	PLAINTIFF'S	RESP.	DEFENDANT'S
EXHIBIT	II	EXHIBIT	II	EXHIBIT	II	EXHIBIT	II
FOR EVIDENCE	FOR IDENTIFICATION	FOR EVIDENCE	FOR IDENTIFICATION	FOR EVIDENCE	FOR IDENTIFICATION	FOR EVIDENCE	FOR IDENTIFICATION

Exhibit "C"

P 112 59839

Surrogate's Court — Suffolk County

The People of the State of New York

To All to Whom These Presents Shall come, or may Concern, Greetings:

IT IS HEREBY CERTIFIED that on the 9th day of September, 1974

Letters Testamentary of the Last Will of

EUGENE PAUL KELLY

late of

Suffolk County, New York,

were duly issued by the Surrogate's Court of Suffolk County to

GEORGE SASSGATER

RESPONDENT'S EXHIBIT A5
N. Y. SUPREME COURT

the Execut or in aid will named and that the same are still valid and in full force.

OCT 22 1974

IN TESTIMONY WHEREOF this certificate is issued under the seal of the court

LAWRENCE M. V. J.S.R.
OFFICIAL COURT REPORTER

WITNESS, HON. ERNEST L. SIGNORELLI, Surrogate, at Riverhead, in Suffolk County,

New York this 14th day of March, 1977.

(SEAL)

Ernest L. Signorelli

MERWIN S. WOODARD
Chief Clerk Surrogate's Court
Suffolk County, New York

PS-128