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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

AUG 22 1977

DEPARTMENT OF LAW
~~NEW YORK CITY OFFICE~~

GEORGE SASSOWER,

Plaintiff,

-against-

File No.
77 C 1447

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,
VINCENT G. BERGER, JR., JOHN P. FINNERTY,
ALLEN KROOS, ANTHONY WISNOWSKI, and
LEONARD J. PUGATCH,


Defendants.

-----x

S I R S:

PLEASE TAKE NOTICE, that upon the annexed
affidavit of GEORGE SASSOWER, Esq., sworn to on the 18th
day of August, 1977, and all proceedings had heretofore
cross-
herein, the undersigned will move this Court on the 2nd
day of September, 1977 at 10:00 o'clock in the forenoon
of that day or as soon thereafter as Counsel may be heard
for an Order dismissing the motion of Hon. LOUIS J.
LEFKOWITZ dated August 8, 1977 and returnable August 19,
1977, with appropriate sanctions, together with any other,
further, and/or different relief as to this Court may seem
just and proper in the premises.

Dated: August 18, 1977.

Yours, etc.,


To: Hon. LOUIS J. LEFKOWITZ
JAMES C. MARSH, Esq.

GEORGE SASSOWER, Esq.
Attorney for plaintiff-pro se

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x
GEORGE SASSOWER,

Plaintiff,

-against-

File No.
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ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,
VINCENT G. BERGER, JR., JOHN P. FINNERTY,
ALLEN KROOS, ANTHONY WISNOWSKI, and
LEONARD J. PUGATCH,

Defendants.

-----x
STATE OF NEW YORK)
CITY OF NEW YORK) ss.:
COUNTY OF NEW YORK)

GEORGE SASSOWER, Esq., first being duly
sworn, deposes, and says:

This affidavit is in support of plaintiff's
cross-motion to dismiss the motion of Hon. LOUIS J.
LEFKOWITZ dated August 8, 1977, served by mail purportedly
on the same day and made returnable on August 19, 1977.

Plaintiff also prays that appropriate
sanctions be imposed against Hon. LOUIS J. LEFKOWITZ
or those in his office responsible for the matters set
forth hereinafter.

The profound significance of this cross-
motion should not be lost by a first-blush impression, for
it exemplifies a course of conduct being followed by some of

these defendants, it aids in understanding the genesis of the dispute in the State court, it destroys the claim of immunity by defendant, LEONARD J. PUGATCH, and poses a challenge to this Court with respect to equality of treatment between individuals and representatives of a sovereign.

1. Defendants' motion was made giving plaintiff the minimum allowable time of eleven (11) days, if their affidavit of service be truthful.

In fact these defendants gave plaintiff only one (1) business day in order to respond to their Rule 12(b) (6) motion.

Their motion papers and supporting memorandum was not mailed on August 8, 1977, but on August 9th or 10th, and was not received by your deponent until Thursday August 11th. In order for plaintiff to timely mail his papers in opposition, same had to be completed and mailed by the next day, August 12, 1977.

Annexed is Exhibit 1, which is a photostatic copy of the envelope which carried these defendants moving papers and it bears their own meter date of August 9th.

As will be seen this is not an isolated matter and as will be shown it has come to a point where the question of "due process" must be met.

2. On July 28, 1977, Mr. Justice GEORGE F.X. McINERNEY rendered a determination which sustained plaintiff's Writ of Habeas Corpus, which provided that an Order be settled on notice.

Such Order was prepared by the Office of Hon. LOUIS J. LEFKOWITZ and noticed for August 3rd, 1977, at 9:30 a.m., based upon an affidavit of service by mail on July 29, 1977 (Exhibit 2).

Annexed is the envelope which carried such proposed Order with Notice of Settlement and it bears the postmark of August 1, 1977 P.M. (Exhibit 3).

In fact same was not received by your deponent until after August 3, 1977 at 9:30 a.m.

My effort to delay the signing of said proposed order with the fabricated affidavit of service (Exhibit 4) was in vain since same was apparently signed immediately (NYLJ, August 5, 1977, p. 16, col 1t), and I had no opportunity to submit a counter-order.

These are the tactics of some of the other defendants in this litigation and I will not burden this Court at this time with further examples and documents.

* * *

Patently the Order of Contempt which was nullified by Mr. Justice McINERNEY was based on false and contrived recitals and certifications by the defendant

ERNEST L. SIGNORELLI.

It is unrealistic to expect that State prosecuting officials will prosecute these defendants for their misconduct (Boryszowski v. Brydges, 37 N.Y.2d 361, 364), but I expect their chicanery to stop at the steps of a United States Courthouse.

"There is not one law for the (representatives of) the sovereign and another for the subject" (People v. Stephens, 71 N.Y. 527, 549)

It is not my intention to turn this litigation into a "barroom brawl", but I intend to make a good faith attempt to comply with the rules of this Court and expect the same from the defendants and their attorneys.

I am tired of being made to stay up all night because the defendants and their attorneys consistently insist on giving short notice, based very often on contrived affidavits or contrary to the applicable rules.

* * *

The situation at hand reveals the fallacy of the contended immunity of defendant LEONARD J. PUGATCH.

The fact that he was representing the defendant ERNEST L. SIGNORELLI does not immunize him from liability, if in fact he acted in concert in submitting a proposed order to the court with a false affidavit of

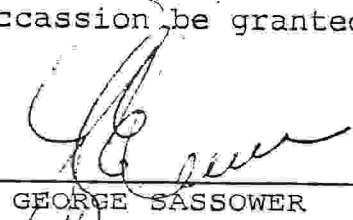
service.

* * *

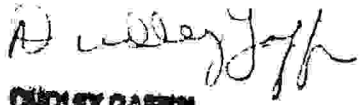
The fact that this Court, sua sponte adjourned defendants' motion until September 2, 1977 is irrelevant since I worked without sleep until Friday afternoon when I was so advised and all my plans for the following week were also altered.

I appreciate the fact that I could have requested an adjournment in view of this late service, but any delay in this matter operates prejudicially against plaintiff.

WHEREFORE, deponent respectfully requests that relief appropriate to the occasion be granted on this cross-motion.


GEORGE SASSOWER

Sworn to before me this
18th day of August, 1977.



DUDLEY GAFFIN
Notary Public, State of New York
No. 51-4620858
Qualified in New York County
Commission Filed in New York County
Commission Expires March 30, 1979

TATE
GENERAL
KOWITZ
OFFICE CENTER
NEW YORK 10047

GEORGE SASSOWER
75 Wykagy L. Station
New Rochelle, N.Y. 10804

Best Protection
Against Fraud

AUG-9-77
N.Y.
57

STATE OF NEW YORK
COUNTY OF NEW YORK

JEAN L. SCHUMAN

being duly sworn, deposes and says

that he is Senior Law Stenographer in the office of the Attorney General of the State of New York, the Attorney for Ernest L. Signorelli herein. On the 29th day of July, 1977 he served the annexed upon the following named persons:

GEORGE SASSOWER, ESQ.
Pro Se
75 Wykagyl Station
New Rochelle, New York 10804

Michael P. Bazell
Assistant County Attorney
Suffolk County
County Center
Riverhead, New York 11901

Attorney in the within entitled proceeding by depositing a true and correct copy thereof, properly State Off

enclosed in a post-paid wrapper, in a post-office box regularly maintained by the Government of the United States ~~ADDRESS~~
Bldg., Veterans Hwy., Hauppauge, NY 11787

~~ADDRESS~~ directed to said Attorney at the address within the State designated by him for that purpose.

Sworn to before me this 29th day of July, 1977

[Signature]
Assistant Attorney General of the State of New York

[Signature]

STATE OF NEW YORK
ATTORNEY GENERAL
LOUIS J. LEFKOWITZ
STATE OFFICE BUILDING
VETERANS HIGHWAY
HAUPPAUGE, NEW YORK 11787

GEORGE SASSOWER, ESQ.
75 Wykagyl Station
New Rochelle, New York 10804

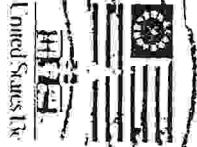


Exhibit 3.

Law Offices

~~SASSOWER & SASSOWER~~

GEORGE SASSOWER
~~BORIS L. SASSOWER~~

75, Wylkagyl Station, New Rochelle, N.Y. 10804

914/636-4050

August 3, 1977

Hon. George F.X. McInerney
559 Middle Road
Bayport, New York, 11705

Re: Sassower v. Sheriff & Signorelli

Honorable Sir:

Late this morning I received an "Order with Notice of Settlement", noticed for 9:30 a.m. today.

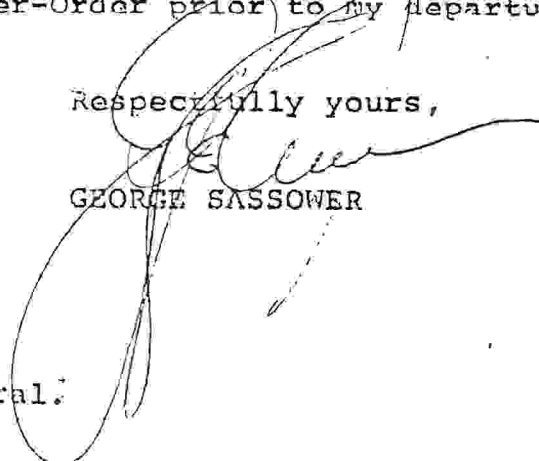
Anything contained in the affidavit of service notwithstanding, the Post Office postmark was marked "Smithtown, New York P.M. August 1, 1977"

I would therefore appreciate it if Your Honor would hold such Order in abeyance for two weeks pending receipt or publication of Your Honor's decision which I still not have seen.

Since I may be away next week, the request for two weeks is respectfully requested.

If I receive a copy of such decision this week, I will try to take care of any Counter-Order prior to my departure.

Respectfully yours,


GEORGE SASSOWER

GS/bh

cc: LEONARD J. PUGATCH, Esq.
Assistant Attorney General.

EXHIBIT 4