

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GEORGE SASSOWER,

Plaintiff,

-against-

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

Defendants.
-----x

File No.
77 C 1447
COPY OF THE WITHIN PAPER
RECEIVED
AUG 30 1977
NEW YORK CITY OFFICE
ATTORNEY GENERAL

S I R S:

PLEASE TAKE NOTICE, that upon the annexed affidavit of GEORGE SASSOWER, Esq., duly sworn to on the 30th day of August, 1977, and upon all papers and proceedings had heretofore herein, the undersigned will cross-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 all of the defendants' pending motions with prejudice and other 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 30, 1977.

Yours, etc.,

GEORGE SASSOWER, Esq.
Attorney for plaintiff
75 Wykagyl Station
New Rochelle, New York, 10801

To: Hon. Louis J. Lefkowitz
James G. Marsh, Esq.

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VINCENT G. BERGER, JR., JOHN P. FINNERTY,
ALLEN KROOS, ANTHONY WISNOSKI, 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 a cross-motion
to dismiss all of the defendants' pending motions with
prejudice and other appropriate sanctions.

THE LATEST OUTRAGE.

If words are to have any meaning, rules any
efficacy, and decency any breath of life, this Court
should deal sternly with the defendants for their
nefarious tactics herein.

Every one of the pending motions by the defendants
have violated the rules governing this Court and the parties
herein.

Every one of the pending motions by the defendants
have abbreviated the time for plaintiff to make timely
response.

The protests made thus far by plaintiff have

been without avail.

The latest motion received is one made on behalf of defendant ERNEST L. SIGNORELLI, dated August 23, 1977, received August 25, 1977, and returnable September 2, 1977.

For plaintiff to make timely response to said voluminous motion, he would have had to mail his responding papers the same day as such motion was received.

As in the state courts, these defendants have taken it upon themselves to make their own rules, as to procedure, substantive law, and morality.

The defendants and their attorneys seem bent on making their own rules in this Court, and they will continue to do so unless this Court deals effectively with this matter now.

In abbreviating plaintiff's time to make proper and adequate response, the defendants and their attorneys are not only violating the rules of this Court but are attempting to deny plaintiff procedural due process.

Because I have been working day and night on defendants other untimely served papers, I did not see this latest motion until August 28th, 1977.

Since seeing this latest motion by defendants, I have worked continuously and practically no sleep.

Because it suits defendants purposes to transgress the rules of this Court, I have had to forego my other legal and moral obligations to my clients and my family.

To further exacerbate the matter, they have orchestrated the Surrogate's Court proceeding in an attempt to preclude proper response to their motions.

I assert and maintain, that in this Court the parties are to be treated equally. The rules that bind the plaintiff also should bind the defendants, notwithstanding the fact that they are employees or agents of a sovereign.

* * *

Defendants' pending motions are pursuant to Rule 12 of the Rules of Federal Civil Procedure.

There is no motion by the defendants for summary judgment before this Court.

Nevertheless, the defendants have seen fit to assert factual material, knowing full well that same is irrelevant.

The fact that your deponent does not fully respond to the assertions of the defendants and their attorneys should not be construed as an admission that same are correct.

Some of the assertions made in defendants' papers are made by persons who have no personal knowledge of the matters asserted, and deponent submits that unless qualified to testify they are unqualified to assert facts in papers to this Court as a basis for summary relief.

* * *

Deponent is particularly annoyed about the letter of August 23, 1977 to this Court by one of the defendants, LEONARD J. PUGATCH, Esq.

In such letter the said LEONARD J. PUGATCH, Esq., makes reference to a conversation of August 4, 1977 with your deponent.

The substance of such conversation with your deponent, as set forth in such letter is false and contrived.

I have always attempted to treat Mr. Pugatch with courtesy and have always extended to him more than the usual courtesies generally extended between members of the bar.

The fact is that my approach to his request was such that in his own words he stated that it "was very fair" and properly thanked me.

That he and his client have now decided to make the instant motion, they are attempting to make your deponent the "scapegoat" for their belated and confusing procedures.

That the instant motion was a belated and recent afterthought can clearly be recognized by the fact that in their rush they did not find time to insert the citations for Rizzo v. Goode, Juidice v. Vail, and Trainor v. Hernandez.

WHEREFORE, your deponent respectfully prays

that this cross-motion be in all respects granted.

GEORGE SASSOWER

Sworn to before me this
30th day of August, 1977.

DUDLEY GAFFIN
Notary Public, State of New York
No. 31-462636
Qualified in New York County
Commission filed in New York County
Commission Expires March 30, 1978