

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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GEORGE SASSOWER,

Plaintiff,

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,
VINCENT G. BERGER, JR., JOHN P. FINNERTY,
ALLAN CROCE, ANTHONY GRZYMALSKI, CHARLES
BROWN, LEONARD J. PUGATCH, and the COUNTY
OF SUFFOLK,

Defendants.
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AFFIDAVIT

INDEX #78C-124

STATE OF NEW YORK)
COUNTY OF SUFFOLK)

ss.:

ANTHONY MASTROIANNI, being duly sworn, deposes and says:

I am the duly appointed Public Administrator of the County of Suffolk, State of New York, and a defendant herein. I make this affidavit in support of the instant motion to dismiss the complaint.

I was duly appointed as Public Administrator on September 5, 1970 by the Honorable Pierson Hildreth, the then surrogate of the surrogate's court, Suffolk County, State of New York.

On March 25, 1977, the Honorable Ernest L. Signorelli, presiding in the surrogate's court issued an order appointing your deponent, in his official capacity, as temporary administrator in the Matter of EUGENE PAUL KELLY, (File No. 736-P-1972).

Upon information and belief your deponent was appointed in substitution of plaintiff Sassower, who had been previously ordered removed as executor in the aforementioned Matter of Kelly's Estate.

Also upon information and belief, plaintiff had been previously served in open court on April 28, 1977 with a written order directing plaintiff to turn over to your deponent all books, papers and other property of the Kelly estate which was in his possession or control, on or before May 5, 1977.

Thereafter, plaintiff repeatedly refused and failed to turn over such books, papers, etc. to your deponent. In fact, to this date, plaintiff has refused and failed to turn over such books, papers, etc. to your deponent despite repeated requests by your deponent and orders of the surrogate's court, Suffolk County, New York, to do so.

Your deponent has never had any personal, business or official dealings with plaintiff prior to, or other than the above outlined official relationship. In fact, your deponent has been in plaintiff's physical presence only approximately three or four times. During such times your deponent's only concern is and was to lawfully execute the duties of his office as Public and Temporary Administrator, in good faith.

Your deponent has received a letter from the United States Internal Revenue Service requesting the production of various documents and evidences of property belonging to the aforementioned Kelly estate. A copy of Internal Revenue Form L-364 is annexed hereto and made a part hereof.

The failure and refusal of plaintiff, as former executor, to comply with the order of the surrogate's court has made the administration of the Kelly estate more difficult each day. The infant beneficiaries have a right to receive an accounting of the property supposedly administered by plaintiff.

Upon information and belief, at all times, my efforts to obtain plaintiff's compliance with the aforementioned order of the surrogate's court have been lawful and in conformance with my legally

Imposed duties as duly appointed public and temporary administrator

At no time has your deponent deprived, or conspired to deprive plaintiff of his constitutional or statutory rights.

At no time have I harrassed, or conspired to harrass, the plaintiff.


At no time have I retaliated, or conspired to retaliate, against the plaintiff for his conduct in prior proceedings.

At no time have I suppressed evidence, or information, or conspired to do so.

Upon information and belief I have never conspired or acted in concert with other named defendants to institute, or reinstitute, unconstitutional contempt proceedings against the plaintiff.

I have never consciously deprived or conspired to deprive the plaintiff of any rights under the law.

At all times, in my dealings with plaintiff, I have acted in my official capacity and in good faith.


ANTHONY MASTIOIANNI

Sworn to before me this

17th day of March 1978.


NOTARY PUBLIC

SUE PADON
NOTARY PUBLIC, State of New York
No. 21 54209
Qualified in Suffolk County
Term Expires March 30, 1979