

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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DORIS L. SASSOWER and CAREY A. SASSOWER, :

Plaintiffs, :

-against-

ERNEST L. SIGNORELLI, JOHN P. FINNERTY, :
WARDEN REGULA, ANTHONY MASTROIANNI, and :
THE NEW YORK LAW JOURNAL PUBLISHING :
COMPANY, :
Defendants. :

VERIFIED ANSWER OF DE-
FENDANT THE NEW YORK
LAW PUBLISHING COMPANY

Index No. 3607-1979

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Defendant, The New York Law Publishing Company ("New
York Law"), by its attorneys, Abrams & Sassower, for its answer
to the complaint herein, states as follows:

WITH RESPECT TO THE FIFTH CAUSE OF ACTION

1. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation set forth in paragraphs "1" through "23", inclusive, of the complaint.
2. Denies each and every allegation set forth in paragraph "25" of the complaint, except admits and alleges that New York Law publishes the New York Law Journal ("Law Journal"), the official daily newspaper for the courts in the First and Second Judicial Departments, which prints, among other things, the

calendars and decisions of the courts of record in such judicial departments, judicial and other legal notices.

3. Denies each and every allegation set forth in paragraph "26" of the complaint, except admits and alleges that the Law Journal is staffed and edited by persons some of whom are attorneys or familiar with legal principles.

4. Denies each and every allegation set forth in paragraph "27" of the complaint, except admits and alleges that the Law Journal includes as part of its publication selected material from various courts which its editorial staff believes of legal interest to members of that profession; however, as a matter of policy and regular procedure, the Law Journal publishes each decision and order received by it from the clerk of each of the Surrogate's Courts included in the First Judicial Department and the second, tenth and eleventh judicial districts of the Second Judicial Department, including Suffolk County.

5. Denies each and every allegation set forth in paragraph "28" of the complaint, and refers the Court to §90 of the Judiciary Law for a full and complete statement of the provisions thereof.

6. Denies each and every allegation set forth in paragraph "29" of the complaint, insofar as the same relates or refers to this defendant and denies knowledge or information sufficient

to form a belief as to the truth of each and every allegation set forth in said paragraph insofar as the same relates or refers to any other defendant in this action.

7. Denies each and every allegation set forth in paragraph "30" of the complaint, except admits and alleges that the particular words complained of were included in a decision and order of the Surrogate's Court, Suffolk County, in the Matter of Eugene Paul Kelly, deceased (Surrogate Signorelli), published in the March 3, 1978 edition of the Law Journal.

8. Denies each and every allegation set forth in paragraph "31" of the complaint.

WITH RESPECT TO THE SIXTH CAUSE OF ACTION

9. Repeats and realleges each and every assertion set forth in paragraphs "1" through "8" hereinabove, inclusive, with the same force and effect as if the same were fully set forth at length herein.

10. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation set forth in paragraph "35" of the complaint.

11. Denies each and every allegation set forth in paragraph "36" of the complaint.

12. Denies knowledge or information sufficient to form a belief as to the truth of each and every allegation set forth in paragraphs "37" and "38" of the complaint.

13. Denies each and every allegation set forth in the first sentence of paragraph "39" of the complaint, and denies knowledge or information sufficient to form a belief as to the truth of each and every allegation of the remainder of said paragraph.

14. Denies each and every allegation set forth in paragraph "40" of the complaint.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

15. The complaint fails to state a claim against this defendant upon which relief can be granted.

AS AND FOR A SECOND AFFIRMATIVE DEFENSE

16. Pursuant to authority conferred by §91 of the Judiciary Law, the Law Journal has been designated as the official daily newspaper for the Second Judicial Department, and has contracted with the Justices of the Appellate Division of the Second Judicial Department to print calendars, decisions, opinions, disposition of cases, judgments and other matters relating to the courts in the second, tenth and eleventh judicial districts, including Suffolk County.

17. The words set forth in the complaint as having been published by this defendant concerning plaintiff, Doris L. Sassower, was a verbatim publication of a judicial opinion and

order rendered and filed by a court of competent jurisdiction within the tenth judicial district of the Second Judicial Department and said words were not otherwise or elsewhere published by this defendant.

18. The publication and dissemination of the judicial opinion and order referred to in paragraph "17" hereof, was an intrinsic part of the official function granted to the Law Journal pursuant to its designation and authorities under §91 of the Judiciary Law and is absolutely privileged.

AS AND FOR A THIRD AFFIRMATIVE DEFENSE

19. This defendant repeats and realleges each allegation set forth in paragraphs "16" and "17" of this answer to the complaint.

20. The publication and dissemination of the judicial decision and order referred to in paragraph "17" of this answer was and is a fair and true report of a judicial proceeding and a civil action cannot be maintained against this defendant therefor by virtue of the provisions of §74 of the Civil Rights Law.

AS AND FOR A FOURTH AFFIRMATIVE DEFENSE

21. This defendant repeats and realleges each allegation set forth in paragraphs "16", "17" and "20" of this answer to the complaint.

22. The publication and dissemination of the judicial decision and order referred to in paragraph "17" of this answer was and is a fair and true report of a judicial proceeding and is absolutely privileged.

AS AND FOR A FIFTH AFFIRMATIVE DEFENSE

23. This defendant repeats and realleges each allegation set forth in paragraphs "16", "17" and "20" of this answer to the complaint.

24. The words set forth in the complaint as having been published by this defendant concerning plaintiff, Doris L. Sassower, were true in that this defendant did nothing more than to publish and disseminate a true and accurate version of an opinion.

AS AND FOR A SIXTH AFFIRMATIVE DEFENSE

25. This defendant repeats and realleges each allegation set forth in paragraphs "16", "17", "20" and "24" of this answer to the complaint.

26. The words set forth in the complaint as having been published by this defendant were true in that this defendant did nothing more than to publish and disseminate a true and accurate opinion, published without in any way indicating judgment or conclusion of this defendant or the Law Journal or

recommendation for readers to form any conclusion one way or the other. Such publication was in the ordinary course of business and without malice.

AS AND FOR A SEVENTH AFFIRMATIVE DEFENSE

27. This defendant repeats and realleges each allegation set forth in paragraphs "16", "17", "20", "24" and "26" of this answer to the complaint.

28. The granting to plaintiffs of damages as demanded by the complaint by reason of the publication and dissemination by this defendant of the judicial opinion and order referred to in paragraph "17" hereof would be violative of the rights of this defendant and of the Law Journal guaranteed to them under the First Amendment to the Constitution of the United States with respect to freedom of the press.

AS AND FOR A EIGHTH AFFIRMATIVE DEFENSE

29. This defendant repeats and realleges each allegation set forth in paragraphs "16", "17", "20", "24", "26" and "28" of this answer to the complaint.

30. The granting to plaintiffs of damages as demanded by the complaint as a result of the publication and dissemination by this defendant of the judicial opinion and order referred to in paragraph "17" hereof would be violative of the

rights of this defendant and of the Law Journal guaranteed to them under Article I, §8 of the Constitution of the State of New York with respect to freedom of the press.

WHEREFORE this defendant demands judgment dismissing the complaint herein, and awarding to it the costs and expenses of this action, and such other and further relief as to this Court seems just, equitable and proper.

Dated: New York, New York
May 15, 1979

ABRAMS & SASSOWER
Attorneys for Defendant
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Verified on May 21, 1979 by E. Lawrence
Perkins, Vice-President of defendant.