

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : SECOND DEPARTMENT

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In the Matter of the Application of :
GEORGE SASSOWER, :

For an Order rejecting the Memorandum :
submitted by and on behalf of ERNEST L. :
SIGNORELLI, and any and all similar :
documents that might be submitted in :
this matter. :
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DORIS L. SASSOWER and CAREY A. : AFFIDAVIT IN
SASSOWER, : OPPOSITION

Plaintiffs, :

-against- :

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

Defendants. :

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STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

JEFFREY I. SLONIM, being duly sworn, deposes and
says:

1. I am an Assistant Attorney General in the
office of ROBERT ABRAMS, Attorney General of the State of
New York, and am responsible for the defense of several of
the actions and proceedings brought by George and Doris
Sassower against Ernest L. Signorelli, Surrogate of Suffolk
County. This affidavit is respectfully submitted in

response to the matter brought on in this Court by an Order to Show Cause dated November 9, 1982, supported only by an affidavit of George Sassower, dated November 8, 1982. None of the wide-ranging relief Mr. Sassower therein seeks should be granted.

2. It appears that Mr. Sassower is trying to create the very conflict of which he complains by bringing this needless proceeding against judges considering motions or applications by the Attorney General, anticipating, as he does (p. 14), that the Attorney General will represent those judges in this proceeding. In order to avoid any appearance of such a conflict, therefore, I must state, for the record, that I have not spoken or otherwise communicated with either Justice Coppola or Justice Rosenblatt, directly or indirectly, in connection with the present matter. Although those judges are the only respondents named to the present matter, Mr. Sassower also seeks various relief against the Attorney General, and it is therefore appropriate for me to respond. Moreover, because the Attorney General represents defendant Signorelli in the actions before Justices Coppola and Rosenblatt, the Attorney General should be heard on behalf of that defendant.

3. It appears, although it is far from clear, that Mr. Sassower makes his present application pursuant to CPLR article 78, at least insofar as it seeks mandamus

against Justice Coppola and prohibition against Justice Rosenblatt. However, to the extent that Mr. Sassower does seek relief pursuant to Article 78, his papers are defective. In the first place, he has not served the petition required by CPLR 7804(d).

4. Moreover, even if his rambling affidavit were to be deemed a petition -- and there is no reason that it should -- it would not support the application apparently made by Doris and Carey Sassower arising out of "their" action against Surrogate Signorelli. A petition verified only by an attorney, and not by a party, is inadequate. E.g., Matter of Hyde v. Oestreich, 194 NYS2d 374, 376 (Sup. Ct. Nassau Co. 1959). Only Doris and Carey Sassower are parties to the action in which the summary judgment motion here at issue is pending before Justice Coppola, and neither of them has submitted the verified petition required by CPLR 7804(d).

5. In any event, there is no basis for any of the relief sought by Mr. Sassower. With respect to the request for an order directing Justice Coppola to "expeditiously render decisions" (Order to Show Cause, p. 2) on motions presented to him on September 2, 1982, this Court is undoubtedly aware of the volume of cases pending in the courts. Moreover, Mr. Sassower has nowhere suggested how he has been harmed because the motions have not been decided

precisely within the 60-day period prescribed by the CPLR. In the absence of any such showing, or even allegation, of injury, it is submitted that the application for the extraordinary remedy of mandamus should be denied.

6. Mr. Sassower's request for an order in the nature of prohibition against Justice Rosenblatt should also be denied. Mr. Sassower seeks to prevent Justice Rosenblatt from transferring certain motions submitted to him on October 29, 1982 to Justice Coppola. However, Mr. Sassower, in his own affidavit (p. 12), concedes that his application is moot because Justice Rosenblatt has already referred those motions to Justice Coppola. The Clerk of Special Term, Part I has confirmed for me the fact of that reference. Accordingly, the application for a writ of prohibition is moot and should be denied.

7. Even if it were not moot, that request should still be denied. CPLR 2217(a) provides that:

"Any motion may be referred to a judge who decided a prior motion in the action."

As was demonstrated in one of the motions submitted to Justice Rosenblatt, all of these actions entitled Sassower v. Signorelli are identical. Mr. Sassower himself concedes that all of the Sassower v. Signorelli litigation constitutes only "a unique ... case, presently being litigated in a number of courts." (Sassower aff. p. 2) Therefore,

although the actions were commenced under different index numbers, it is submitted that CPLR 2217(a) allows a motion in one of these cases to be referred, in the discretion of the Court, to a judge who has considered motions in others. In that way, the interests of judicial efficiency and economy protected by CPLR 2217(a) are similarly well served despite the various plaintiffs' attempts to present the same matters to a variety of courts and judges.

8. Furthermore, Mr. Sassower fails to suggest how he could be prejudiced by Justice Rosenblatt's discretionary referral to Justice Coppola, who is already familiar with the saga of the various actions entitled Sassower v. Signorelli. Without any support, Mr. Sassower vaguely contends that the reference would

"cause delay in the rendition of decision(s) in [the action already before Justice Coppola] and prejudice by reason of the steady stream of republication of the Signorelli diatribe in the interim." (Sassower aff. p. 11)

Mr. Sassower offers no reason why the reference of two motions will delay decision of other, prior pending motions in other cases. Nor does he offer any explanation for what "prejudice" will occur from the unidentified "steady stream of republication" of the decision of Surrogate Signorelli for which he and his wife keep suing the Surrogate. Put

simply, Mr. Sassower has not presented any reason to prevent the exercise of Justice Rosenblatt's discretion -- which, as has been seen, has already been exercised.

9. Mr. Sassower's sudden concern for the various defendants he persists in suing, by insisting that they must first consent in writing to reference of the motions, is plainly a "red herring". Even if it were Mr. Sassower's place to argue on behalf of his adversaries, those adversaries have not objected to the reference and, in fact, several have indicated their consent. Annexed hereto as Exhibit "A" is a copy of a letter from Erick F. Larsen, Assistant Suffolk County Attorney, to Justice Rosenblatt, consenting to the referral. In addition, I was authorized by Burton Abrams, attorney for defendant New York Law Journal, prior to the October 29, 1982 calendar call, to consent to that reference on his behalf, and I did submit that consent to Justice Rosenblatt at the calendar call. Mr. Sassower's sudden pretended concern for his adversaries should not prevent the reference.

10. Mr. Sassower also seeks to restrain the Attorney General -- who is not named as a respondent to this proceeding (see Order to Show Cause, p. 1) -- from "republishing" the February 24, 1978 decision of Surrogate

Signorelli. It is that decision (or "diatribe", as Mr. Sassower calls it) which is at the heart of all of the Sassower v. Signorelli cases.

11. There is no basis for restraining the Attorney General from reproducing the decision about which the Sassowers persist in suing. Mr. Sassower's request for a prior restraint on "republication" on its very face violates the First Amendment to the United States Constitution, and should be denied. New York Times Co. v. United States, 403 US 713 (1971); Near v. Minnesota, 283 U.S. 697 (1931).

12. Moreover, the requested restraint should be denied because, as Mr. Sassower concedes, he and his wife have an adequate remedy at law if any such "republication" were wrongful. As Mr. Sassower himself agrees, the purportedly wrongful actions of the Attorney General would "constitute ... actionable defamation". (Sassower aff. p. 8). Thus, even if the Attorney General were wrong in reproducing the Signorelli decision -- which, as will be seen, he is not -- such reproduction should not be restrained because the Sassowers have an adequate remedy at law.

13. Reproduction of the decision, which was published in the New York Law Journal on or about March 3, 1978, is not wrongful. George and Doris Sassower persist in

suing Surrogate Signorelli because he issued that decision, yet they fail to provide any court with the content of that decision, relying instead on their own personal view of it as a "sua sponte diatribe". In defending the judge who issued that decision, therefore, it is necessary to provide each court with the decision itself. Neither of the Sassowers has ever suggested -- nor could they -- that the Attorney General has ever "republished" the Surrogate's decision in any but a judicial setting created by the Sassowers' persistent lawsuits.

14. It is apparent that Mr. Sassower's request for an order restraining the Attorney General from reproducing the Surrogate's decision is nothing more than attempt to prevent the Attorney General from properly defending against the actions and proceedings repeatedly brought by him and his wife. There is simply no reason to restrain the Attorney General from providing each court in those cases with a copy of the decision to which the Sassowers always refer in only conclusory terms.

15. Finally, Mr. Sassower also seeks to restrain the Attorney General from representing clients, sued by the Sassowers, whom the Attorney General is required by law to represent. Executive Law § 63; Public Officers Law § 17. Mr. Sassower has already made an identical application in a cross-motion now pending in the Supreme Court, Westchester

County. See Sassower aff. p. 18. Because the same application is already under consideration in another court, the present application should be denied.

16. The application should also be denied because it is nothing short of frivolous. Mr. Sassower does not dispute that the Attorney General must, under law, represent each of the courts, judges and state officers whom the Sassowers repeatedly sue. Rather, his contention seems to be that, because he has sued all of those defendants (including, of course, this Court), the Attorney General is somehow disabled from doing his statutory duty.

17. There is no basis to that contention, nor does Mr. Sassower offer one. Instead, he condescendingly speculates (p. 15), without any factual reference, that the Attorney General is "subordinating the interests of some of his clients in favor of other". Again without any offering of factual support, Mr. Sassower concludes, based only on his own speculation, that there must be a "conflict of interest" in the Attorney General's representation of each of his clients.

18. There is no such conflict, nor has any of the Attorney General's clients in these cases ever complained of one. Instead, it is apparent that Mr. Sassower's real complaint is that the Attorney General

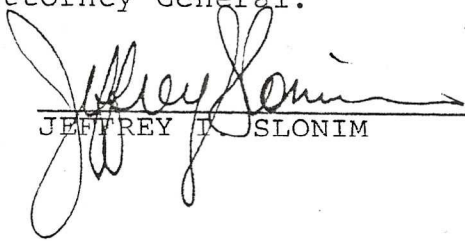
is doing too effective a job in defending against Mr. Sassower's litigious onslaught. Thus, he complains that the various Assistant Attorneys General handling Sassower matters -- there are too many such matters for one Assistant to be responsible for all of them, and some Assistants must represent other Assistants when Mr. Sassower sues them for doing their jobs -- are all "working in tandem and coordinating their activities." (p. 18) Mr. Sassower also complains of the "cross-pollination of information" which he perceives as taking place in the Attorney General's office, without anywhere suggesting how or why such a coordination of defenses would be improper.

19. Mr. Sassower himself makes clear that a coordinated defense against all of the Sassower v. Signorelli matters is absolutely necessary. He concedes -- indeed, he seems to stress -- that all of these matters are, in reality, only one case, which he and his wife have chosen to litigate "in a number of courts". (p. 2) Mr. Sassower's own concession that all of the matters are "a unique, ... multifurcated case" (id., emphasis added) only confirms that a coordinated defense is necessary against all of them.*

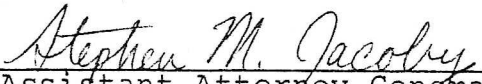
* The conceded identity of all of the Sassower v. Signorelli matters also demonstrates the propriety of the reference of pending motions by Justice Rosenblatt to Justice Coppola. See ¶ 7, supra.

20. The present, wide-ranging application, brought on by Order to Show Cause, is made without any basis whatsoever and is apparently nothing more than Mr. Sassower's latest effort in his continuing, never-ending vindictive assault upon Surrogate Signorelli and upon the Attorney General for defending him. As has been seen, the application should be denied in all respects. In addition, it is respectfully submitted that the utter baselessness of this entire matter more than justifies an award of costs against Mr. Sassower, if only to deter the bringing of future proceedings similarly lacking in any merit.

WHEREFORE, it is respectfully submitted that the application should be denied in all respects and that the costs of opposing the application should be awarded against George Sassower and to the Attorney General.


JEFFREY T. SLONIM

Sworn to before me this
16th day of November, 1982


Assistant Attorney General
of the State of New York

COUNTY OF SUFFOLK



DAVID J. GILMARTIN
COUNTY ATTORNEY

DEPARTMENT OF LAW
Tel: (516) 360-5668

November 4, 1982

The Hon. Albert M. Rosenblatt
Justice of the Supreme Court
Supreme Court Courthouse
Poughkeepsie, New York 12601

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11/9/82
Re: Sassower v. Signorelli
Special Term Part I/#75
October 29, 1982

Dear Justice Rosenblatt:

I have received copies of letters to His Honor from George and Doris Sassower dated October 31st and November 2nd, respectively, concerning the Attorney General's application to refer the captioned proceeding to the Hon. Matthew F. Coppola in Westchester County. I am writing at the request of Doris and George Sassower and in an effort to assist this Court in making its determination with respect to the request for referral.

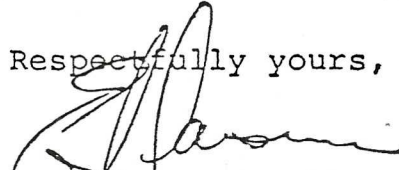
During the past four and one-half years I have represented "Suffolk Defendants" in numerous State and Federal actions and proceedings in courts of original jurisdiction and upon appeal all over the New York Metropolitan Area. There is no question in my mind that all of these judicial proceedings including the captioned proceeding are factually and legally related. I am also firmly convinced that the interest of justice, the public interest, the interest of judicial efficiency and economy as well as the interest of all the defendants and/or respondents cry out and demand that a single New York Supreme Court Justice familiarize himself with the entire history of the "Sassower proceedings" and take a firm hand in making the determinations which are required almost weekly in the course of these related proceedings.

As George and Doris Sassower have implied, Justice Coppola has a number of written and oral applications presently pending before him. He also has had the benefit of extensive oral argument and the parties have submitted literally hundreds of pages of supporting and opposing documentation as well as memorandums of law. I respectfully and sincerely request that this Court exercise

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its discretion by granting the Attorney General's application to transfer the captioned proceeding in the interest of justice to the Hon. Matthew F. Coppola.

Respectfully yours,



ERICK F. LARSEN
Assistant County Attorney

EFL/las

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