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DEFENDANT'S NOTICE OF MOTION
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

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GEORGE SASSOWER and DORIS L. SASSOWER,	:	
Plaintiffs,	:	Index No. 14373-1982
-against-	:	<u>NOTICE OF MOTION</u>
ERNEST L. SIGNORELLI,	:	
Defendant.	:	

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PLEASE TAKE NOTICE that, upon the annexed affidavit of JEFFREY I. SLONIM, sworn to October 15, 1982, together with the exhibits thereto, the undersigned will move this Court, at a Special Term, Part I thereof, at the County Court House, White Plains, New York 10601, on October 29, 1982 at 9:30 a.m. or as soon thereafter as counsel may be heard, for an order, pursuant to CPLR 3211(a), dismissing the complaint herein on the grounds that it is barred by res judicata, collateral estoppel and statute of limitations; there are other actions pending between the same parties for the same claims asserted herein in courts of the state or the United States; and the complaint fails to state a cause of action upon which relief could be granted against defendant; and further for an order, pursuant to the general equity powers of this Court, N.Y. Const. art. VI §7 subd. a, permanently enjoining plaintiffs from commencing any action or proceeding against defendant herein in any court of

this state based upon the same facts and occurrences at issue in the previous actions brought by plaintiffs, or either of them, against him, and prohibiting plaintiffs, or either of them, from commencing any action or proceeding for money damages against the Attorney General or any Assistant Attorney General for defending any action brought by plaintiffs, or either of them, against defendant herein, and for such other and further relief as the Court shall deem fitting and proper in the circumstances.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR 2214(b), answering papers, if any, shall be served at least five days before the above return date.

Dated: New York, New York
October 15, 1982

Yours, etc.

ROBERT ABRAMS
Attorney General of the
State of New York
Attorney for Defendant
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New York, New York 10047
Tel. No. (212) 488-2753

TO: GEORGE SASSOWER, ESQ.
DORIS L. SASSOWER, ESQ.
Plaintiffs Pro Se
283 Soundview Avenue
White Plains, New York 10606

2. The accompanying memorandum of law sets forth the legal bases for this motion. The purpose of this affidavit is to provide the Court with some of the background to the present action and to call to the Court's attention the harassment to which Surrogate Signorelli -- as well as the Attorney General and the Assistant Attorneys General required by law to defend him -- has been subjected by the numerous repetitious actions and proceedings brought by the Sassowers in various state and federal courts.

3. The present action was commenced by the service of a summons, without a complaint, on or about August 9, 1982. Contrary to the express requirements of CPLR 305(b), the summons failed to state the nature of the action. Apparently in response to a demand duly made, plaintiffs then served the complaint. Annexed hereto as Exhibit A is a copy of the summons and complaint herein.

4. Although it is difficult to tell from the bare-bones conclusory assertions of the complaint what exactly this case is about, it appears to be based, like the other Sassower actions, on the conduct by Surrogate Signorelli of a proceeding once pending before him in Surrogate's Court, Suffolk County, entitled Matter of Eugene Paul Kelly. In particular, plaintiffs have in the past brought suit against the Surrogate based upon a decision he rendered in that proceeding on or about February 24, 1978. A copy of that decision, as it appeared in the New York Law Journal on or about March 3, 1978, is annexed hereto as Exhibit B.

5. In that decision, the Surrogate, defendant here, set forth some of the procedural history of that proceeding and referred a pending contempt application to an Acting Surrogate for consideration. He also referred the entire litigation to the Acting Surrogate and, I was recently informed, has not presided over that case since that time. In his decision, the Surrogate discussed the conduct of George and Doris Sassower and concluded that Mr. Sassower had "impeded the orderly administration of this estate" and had "willfully and intentionally failed to heed any and all directives of this court." The Surrogate concluded by directing the Chief Clerk to forward a copy of his decision to the Presiding Justice of the Appellate Division, Second Department, for such disciplinary action as he might deem appropriate with regard to the conduct of George and Doris Sassower.

6. Plaintiffs allege in their complaint that the disciplinary proceedings commenced against them resulted in their "complete vindication".

7. The Sassowers, who are both attorneys, have undertaken to sue Surrogate Signorelli, as well as other individuals, on numerous occasions as a result of proceedings in Matter of Eugene Paul Kelly. The Attorney General has been called upon to defend the Surrogate in many, if not all, of those actions. Because of the sheer volume of papers generated in these litigations, it has been impossible for our office to keep precise records of all of the cases. We presently have

a part-time legal intern who is devoting substantially all of his time to organizing the various Sassower files.

8. Several of the Sassower actions, however, are readily identifiable. In 1977, George Sassower commenced an action against Surrogate Signorelli and others in the United States District Court for the Eastern District of New York. In a Memorandum of Decision and Order dated September 20, 1977, Chief Judge Mishler of that Court dismissed the action. A copy of that decision is annexed hereto as Exhibit C.

9. Mr. Sassower then commenced a new action against the same defendants and others, again in the Eastern District of New York. In a Memorandum of Decision and Order dated April 20, 1978, Chief Judge Mishler dismissed that action also. Exhibit D hereto is a copy of that decision.

10. Mr. Sassower appealed both dismissals to the United States Court of Appeals for the Second Circuit. The Court of Appeals affirmed. Annexed as Exhibit E is the Court of Appeals' two-page decision in the matter.

11. In 1978, George Sassower commenced an action against Surrogate Signorelli in the United States District Court for the Southern District of New York. A copy of the complaint in that action, entitled Sassower v. Grzymalski, et al., 78 Civ. 4989, is Exhibit F to this affidavit. According to the Court's docket sheet for that action, no disposition was ever made

therein as to defendant Signorelli, but the action was "statistically closed" in 1981.

12. In 1978, George Sassower also commenced an action against Surrogate Signorelli and others in this Court. Annexed hereto as Exhibit G is a copy of the complaint in that action. The action was transferred by this Court to the Supreme Court, Suffolk County, where it was dismissed. Also attached as part of Exhibit G is a copy of the decision, dated March 20, 1980, dismissing that action. The order entered on that decision is presently on appeal to the Appellate Division, Second Department.

13. In 1979, Doris Sassower commenced an action in her own behalf and on behalf of her daughter Carey against Surrogate Signorelli and others in this Court under Index No. 3607-1979. That action is, I believe, still pending. A copy of the complaint in that case is annexed hereto as Exhibit H. Also annexed as part of that exhibit are copies of the July 20, 1982 affidavits of Doris and George Sassower submitted in support of a motion for summary judgment in that action. Those affidavits demonstrate the identity of issues in that 1979 action and the present one.

14. An action was recently commenced against Surrogate Signorelli in Supreme Court, Nassau County by George Sassower, "individually and on behalf of others similarly situated." A copy of the complaint, dated August 18, 1982, is annexed hereto as Exhibit I.

15. The foregoing is not presented as an exhaustive list; indeed, there may well be still more versions of Sassower v. Signorelli in existence. It is, however, illustrative of the vexatious litigation to which the Surrogate has been subjected.

16. But that is not the sum total of the Sassower litigation arising from the events in Matter of Eugene Paul Kelly. George Sassower has sued the Appellate Divisions themselves on at least three occasions. Annexed hereto as the following exhibits are the complaints, respectively, in the following actions:

J : Sassower v. Appellate Division, 2d Dep't
78 Civ. 6070 (S.D.N.Y.)

K : Sassower v. Appellate Division, 2d Dep't
Index No. (Sup. Ct. Westchester Co.)
(filed 1980)

L : Sassower v. Appellate Division
1st and 2d Dep'ts
82 Civ. 4970 (S.D.N.Y.)

17. Moreover, Mr. Sassower has also sued, or threatened to sue, the Assistant Attorneys General who defend against his cases. As set forth in Chief Judge Mishler's September 20, 1977 decision (Exhibit C hereto), Mr. Sassower sued Assistant Attorney General Leonard J. Pugatch for his "defense of defendant Signorelli" (p. 10). Judge Mishler, as has been seen, dismissed that action, as well as its successor, in which Pugatch was also sued (Exhibit D). The Second Circuit affirmed both dismissals (Exhibit E).

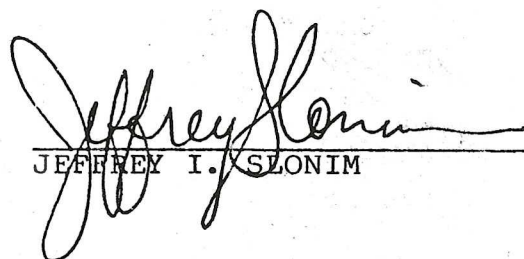
18. Mr. Sassower recently filed a claim in the Court of Claims against the State, Attorney General Robert Abrams and Assistant Attorney General Stephen M. Jacoby based upon the Attorney General's representation of Surrogate Signorelli in the Westchester County action commenced against him by Doris and Carey Sassower (Exhibit G). A copy of that claim, which is still pending, is annexed hereto as Exhibit M.

19. I have been informed that Mr. Sassower has also threatened to sue Assistant Attorney General Paul Ahrens, who has been handling the Sassower case in Nassau County. That threatened suit was also based upon Mr. Ahren's defense of the action to which he has been assigned.

20. There must be an end to this harassment. No one disputes the right of a person to his or her day in court. But nothing justifies allowing a continued course of frivolous litigation, clearly brought solely to harass, like that involved here. We do not ask this Court to enjoin prosecution of any of the already pending actions; all we ask is to be spared the time, effort and expenditure of state funds needed to defend against future incarnations of the same claims. We also ask the Court to enjoin plaintiffs from commencing any suits or filing any claims against the attorneys who are charged by law with the

responsibility of defending public officials like Surrogate Signorelli.*

WHEREFORE, it is respectfully submitted that the motion should be granted and that the complaint should be dismissed and an injunction entered prohibiting plaintiffs from commencing any future actions or proceedings against Surrogate Signorelli based upon the facts and circumstances underlying their previous actions against him, and also barring them from bringing any suits for money damages against the Attorney General or any Assistant Attorney General based upon his or her defense of any Sassower v. Signorelli action.


 JEFFREY I. SLONIM

Sworn to before me this
 15th day of October, 1982


 Assistant Attorney General

* Of course, plaintiffs will always have available to them the opportunity to file complaints, with the appropriate disciplinary body, of any perceived unethical or unprofessional conduct by an Assistant Attorney General, if they are so advised. The injunction sought here extends only to claims for money damages.