

A64
PLAINTIFF'S NOTICE OF MOTION
[A64-A65]
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

-----x
GEORGE SASSOWER and DORIS L. SASSOWER,
Plaintiffs,
-against-

Index No.
14373-1982
Action "A"

ERNEST L. SIGNORELLI,
Defendant.

-----x
-----x
DORIS L. SASSOWER and CAREY A. SASSOWER,
Plaintiffs,
-against-

Index No.
3607-1979
Action "B"

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

Defendants.
-----x

S I R:

PLEASE TAKE NOTICE, that upon the annexed
affidavit of DORIS L. SASSOWER, Esq., duly sworn to on
the 31st day of December, 1982, and upon all the
pleadings and proceedings had heretofore herein, the
undersigned will move this Court at a Special Term Part
I of the Supreme Court of the State of New York, County

of Westchester, held at the Courthouse thereof, 111 Grove Street, White Plains, New York, 10601, on the 14th day of January, 1983 at 9:30 o'clock in the forenoon of that day or as soon thereafter as Counsel may be heard for an Order for leave to reargue the decision of this Court dated December 22, 1982; alternatively, for leave to amend Action "B" so as to include my three causes of action contained in Action "A", together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

PLEASE TAKE FURTHER NOTICE, that, opposing papers, if any, are to be served at least five days before the return date of this motion with such additional time as required by statute and rule, if such service is by mail.

Dated: December 31, 1982

Yours, etc.,

DORIS L. SASSOWER, Esq.
Attorneys for plaintiffs
283 Soundview Avenue,
White Plains, N.Y. 10606
914-997-1677

To: Robert Abrams, Esq.
Abrams & Sheidlower, Esqs.
David J. Gilmartin, Esq.
Vincent G. Berger, Jr., Esq.
Patterson, Belknap, Webb & Tyler, Esqs.
George Sassower, Esq.

A66
DORIS L. SASSOWER, ESQ. - APPELLANT - IN SUPPORT
[A66-A69]

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-

Action "A"

ERNEST L. SIGNORELLI,

Defendant.

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DORIS L. SASSOWER and CAREY A. SASSOWER,
Plaintiffs,

Index No.
3607-1979

-against-

Action "B"

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

Defendants.

-----*
STATE OF NEW YORK)
)ss.:
COUNTY OF WESTCHESTER)

DORIS L. SASSOWER, Esq., first being duly
sworn, deposes, and says:

I am the plaintiff in the above entitled actions and submit this affidavit in support of my motion for leave to reargue the decision of this Court (per Hon. MATTHEW F. COPPOLA) dated December 22, 1982 [Exhibit "1"]; alternatively, to amend Action "B" so as to include my three causes of action [Exhibit "2"] contained in Action "A".

1. Action "A" and Action "B" are the only actions that I have ever had against defendant ERNEST L. SIGNORELLI.

a. The causes of action contained in Action "B" arose prior to the institution of same in 1979.

b. The causes of action contained in Action "A" arose subsequent to the commencement of Action "B".

It is blackletter law that a cause of action for malicious prosecution lies only after vindication. Since my resounding vindication occurred subsequent to 1979, it could not have been included in the prior Action "B".

Consequently, dismissal by this Court based upon CPLR 3211(a) [4] [5] was manifestly inappropriate and erroneous.

The overall view of His Honor's decision indicates that the Court was relying basically on CPLR 3211(a)[4] for its disposition. That section specifically provides that:

"the court need not dismiss upon this ground but may make such order as justice requires".

Since my causes in Action "A" were never adjudicated, it was beyond the constitutional pale for the Court to dismiss same because another action for different causes was pending.

2. Alternatively, I request, pursuant to CPLR 3025, that I be permitted to amend my complaint in Action "B" by incorporating my causes of action, in haec verba, from Action "A".

Prior to commencement of Action "A", there was consideration given to requesting amendment of Action "B" in lieu of commencing a new action. There were good reasons for pursuing that course.

Contrariwise, there were very good and substantial reasons for pursuing the course chosen.

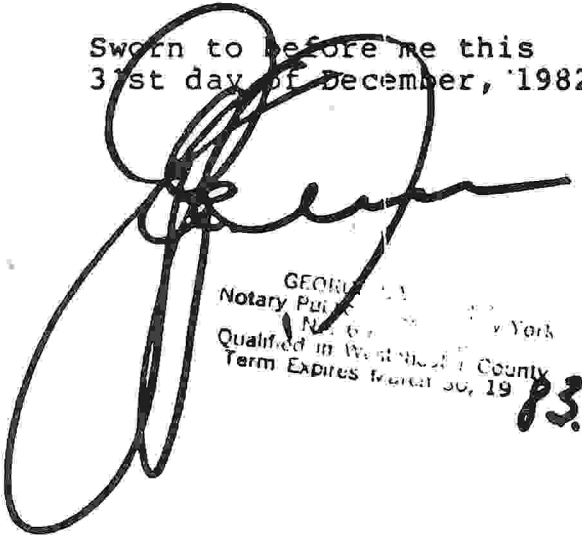
Dismissal is inappropriate for choosing one legitimate course over another.

3. I further respectfully submit that the injunction placed upon me as applicable to new causes of action based on separate republications of the Signorelli defamation is unconstitutional and inappropriate, in the absence of simultaneously enjoining the tortfeasors from committing further tortious acts.

WHEREFORE, it is respectfully prayed that the relief requested herein be granted in all respects, together with such other, further, and/or different relief as to this Court may seem just and proper in the premises.

Doris L. Sassower
DORIS L. SASSOWER

Sworn to before me this
31st day of December, 1982


GEORGE
Notary Public
Qualified in Westchester County
Term Expires March 30, 1983