

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NASSAU

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GEORGE SASSOWER, individually and on
behalf of others similarly situated,

Plaintiff

-against-

AFFIRMATION IN
OPPOSITION TO CROSS-MOTION
TO CHANGE VENUE

ERNEST L. SIGNORELLI, SURROGATE'S COURT
OF THE STATE OF NEW YORK, COUNTY OF
SUFFOLK, and NEW YORK LAW PUBLISHING
COMPANY,

Index No. 20987/82

Defendants

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PAUL C. AHRENS, an attorney duly admitted to practice
law in the courts of the State of New York, affirms under penalties
of perjury that:

1. I am an Assistant Attorney General in the Nassau
County office of Attorney General ROBERT ABRAMS, and as such I
am the attorney representing the Honorable Ernest L. Signorelli,
Surrogate's Court of the State of New York, County of Suffolk.

2. This affirmation is submitted in opposition to
petitioner/plaintiff's cross-motion to change venue.

3. Pursuant to CPLR 506(b), a proceeding against
a body or officer must be brought in the Judicial District where
the determination complained of was made, therefore Nassau County
is proper venue for this matter.

4. Plaintiff/Petitioner now asserts that he is entitled to have the matter transferred to another county pursuant to CPLR 510(2).

5. The contention that CPLR 504-506 are violative of the due process rights of the plaintiff/petitioner are conclusory, and unsubstantiated statements and should be rejected out of hand.

6. The contention that the above sections are unconstitutional as applied is likewise without merit as CPLR 510 and 511 are specifically designed to alleviate those problems in a case where the problems actually exist.

7. The plaintiff/petitioner's broad theory that any time a judge is involved in a case, another judge in the same district should not hear the matter due to lack of impartiality should be rejected.

8. The CPLR recognizes the circumstances where one judge should not properly review the actions of another of equal sitting through the provisions of 506(b)(1) CPLR.

9. That situation does not exist here and there emerges no reason why a Supreme Court Justice sitting in Nassau County could not hear this proceeding involving a Surrogate Court Judge in Suffolk County.

10. It is respectfully submitted that the mention of the acting Supreme Court Justice in paragraph 7 and the

discourse in paragraph 9 of plaintiff/petitioner's affirmation have nothing to do with the facts of the instant proceeding and should not be considered.

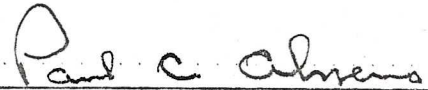
11. The mere fact that defendant/respondent herein is a Judge in the same Judicial District where the proceeding has been brought does not, by itself justify the presumption that a fair hearing is not available. There must be some factual assertion by plaintiff/petitioner herein showing, in this case, that the actual possibility of partiality before this court should let plaintiff/petitioner move this matter to another county.

12. The Supreme Court Justices are accustomed to dealing with these types of situations frequently presented by Article 78 CPLR petitions and are able to provide impartial decisions in these types of cases. If anything, the threshold to be met before a case of this type would be transferred pursuant to §510(2) CPLR should be higher than in the normal case.

13. For the above stated reasons it is respectfully requested that plaintiff/petitioner's motion be denied and that this matter be heard in Nassau County.

WHEREFORE, it is respectfully requested that this Court enter an Order denying plaintiff-petitioner's cross-motion and requiring that the proceeding be heard in Nassau County, that the costs and disbursements attendant to defending this cross-motion be assessed as against petitioner; and ordering such other and further relief as to this court may seem just and proper.

Dated: Garden City, New York
October 5, 1982



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