

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NASSAU

-----X  
GEORGE SASSOWER, individually and on :  
behalf of others similarly situated, :  
 :  
Plaintiff, :

-against-

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

: NOTICE OF MOTION  
TO DISMISS

: Index No. 20987/82

-----X  
S I R S:

PLEASE TAKE NOTICE that upon the Summons dated August 18, 1982 and the petition and/or complaint annexed thereto an application will be made pursuant to 7804(f) and 3211(a) at Special Term, Part I of the Supreme Court of the State of New York, Nassau County, at the Supreme Court Building, Mineola, New York on the 4th day of October, 1982 at 9:30 o'clock in the forenoon or as soon thereafter as counsel can be heard for an order dismissing the proceedings herein upon the grounds that:

1. This court has not jurisdiction to entertain this matter pursuant to 3211(a)(8) CPLR and §7804(c).

2. This action may not be maintained because of the principle of res judicata pursuant to 3211(a)(5).

3. This action is barred by the statute of limitations §3211(a)(5) CPLR.

4. This action may not proceed as there is another action pending between the same parties for the same cause of action in another court §3211(a)(4) CPLR.

5. The petition fails to state a claim upon which relief may be granted §3211(a)(7) CPLR.

6. The complaint involves questions which could adequately be reviewed on appeal and therefore contains no issues reviewable by this court §7801(1) CPLR at 3211.

7. This action is denominated as a class action and contains no allegation as to any cognizable class alleged to be represented. CPLR 3211(a)(7).

Respondent demands all answering affidavits be served at least 5 days before the return date as required by CPLR 2214(b).

WHEREFORE, it is respectfully requested that this court enter an order dismissing the proceeding

herein in its entirety as against Defendant Ernest L. Signorelli, Surrogate's Court of the State of New York, County of Suffolk, assessing costs as against Plaintiff and awarding such other and further relief which to this court may seem just and proper.

Dated: Garden City, New York  
September 16, 1982

Yours, etc.

PAUL C. AHRENS, Of Counsel

ROBERT ABRAMS, Attorney General  
Attorney for the State of  
New York  
1325 Franklin Avenue  
Garden City, New York 11530  
(516)742-3700

TO:

CLERK  
Supreme Court, Nassau County  
Special Term Part I  
Supreme Court Drive  
Mineola, New York 11501

GEORGE SASSOWER, ESQ.  
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New York, New York 10022

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 :  
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: AFFIRMATION IN  
SUPPORT OF  
MOTION TO DISMISS  
Index No. 20987/82

-----x

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, Suffolk County.

2. This affirmation is made in support of  
Defendant Signorelli's motion to dismiss.

AS A GROUND FOR DISMISSAL  
PURSUANT TO CPLR §3211(a)(5)

3. The complaint herein may not be maintained and is objectionable in point of law as it is barred by the statute of limitations.

4. Plaintiff herein designates venue in this action on the basis of CPLR §506. This section is entitled "WHERE SPECIAL PROCEEDING COMMENCED".

5. Based on this designation, that this is a special proceeding against a body or officer, this action is time barred by the applicable statute of limitations.

6. Plaintiff complains of a decision by defendant dated February 24, 1978.

7. CPLR §217 governs the time limitations within which this type of proceeding may be brought and designates that time as within four months of the determination complained of.

8. This action is time barred by CPLR §217 and CPLR §3211(a)(5) as it has been brought far beyond the allowed time, four months from February 24, 1978. The action must therefore be in all respects dismissed.

AND AS A GROUND FOR DISMISSAL  
PURSUANT TO CPLR §3211(a)(4)

9. The complaint herein is further objectionable in point of law in that it is nowhere alleged that no other action or proceeding brought by plaintiff is presently pending relative to the matters raised by plaintiff in the present case.

10. On information and belief, plaintiff has brought five other actions or proceedings relative to the same facts and circumstances which form the basis for the present case which are presently pending or have been decided in federal and state courts in various parts of the state. These actions and proceedings include, inter alia:

a). An action now pending in the Supreme Court of the State of New York, County of Westchester, bearing Index No. 3607-1979 against defendant Signorelli and others, in which many of the identical facts and circumstances are alleged in the present action are alleged.

(see Movant's Exhibits #1 and #2, annexed hereto).

b). An Article 78 proceeding in the Supreme Court of the State of New York, County of Suffolk, bearing Index No. 77-11984, against Suffolk County Sheriff John P. Finnerty.

c). A habeas corpus proceeding in the Supreme Court of the State of New York, County of Suffolk, bearing Index No. 77-11984, against the Sheriff of Suffolk County.

d). An action for tort damages in the Supreme Court of the State of New York, County of Suffolk, bearing Index No. 78-17671, against defendant Signorelli, among others (as to b-d, see Movant's Exhibit #3).

e). At least one other action, in federal court, against the members of the disciplinary committee of the Ninth Judicial District.

11. Despite the fact that the relief requested in many of these actions is somewhat different in some cases, the present action is based on the identical facts and circumstances previously alleged, particularly in the Westchester County case described above.

12. Because there is at least one other action pending against defendant Signorelli based on the same facts and circumstances as are alleged herein, the action herein must be in all respects dismissed pursuant to CPLR §3211(a)(4).

AND AS A FURTHER GROUND FOR DISMISSAL  
PURSUANT TO CPLR §3211(a)(5)

13. Defendant repeats and realleges the allegations contained in paragraphs 9-12 above as if fully set forth herein.

14. Based on principles of res judicata and collateral estopped, the action herein must be in all respects dismissed pursuant to CPLR §3211(a)(5).

AND AS A GROUND FOR DISMISSAL  
PURSUANT TO CPLR §3211(a)(7)

15. The action should be dismissed and is objectionable in point of law as it fails to state a claim upon which relief can be granted.

16. The complaint contains a large number of disassociated and vague paragraphs which, taken as



a whole, reveal no right to relief or any specific legal relief which can be granted upon this complaint.

17. Plaintiff does not even identify the decision he finds objectionable, nor does he reveal the nature of the matter pending in the Appellate Division which he refers to in his complaint.

18. For the above stated reasons the complaint must be dismissed pursuant to CPLR §3211(a)(7).

AND AS A FURTHER GROUND FOR DISMISSAL  
PURSUANT TO CPLR §3211(a)(7)

19. The present action is denominated in the caption by plaintiff as being a class action. However, the complaint contains no allegation as to any kind of class whatever.

20. For the above-stated reason, the action herein must be dismissed pursuant to CPLR §3211(a)(7).

AS A GROUND FOR DISMISSAL  
PURSUANT TO CPLR §3211(a)(2)  
and 7801(1)

21. The complaint is objectionable in point

of law in that it seeks the review of a decision issued by a judge in his official capacity which decision could adequately be reviewed by appeal to the Appellate Division.

22. Pursuant to CPLR 7801(1) this court lacks subject matter jurisdiction over the within proceeding or complaint and it should therefore be dismissed pursuant to CPLR §3211(a)(7).

AS A REQUEST FOR THE COSTS AND  
DISBURSEMENTS OF DEFENDING THIS  
ACTION TO BE ASSESSED AS  
AGAINST PLAINTIFF

23. As witnessed by the sheer number of grounds under which the present action can properly be dismissed, the present action is without any merit whatever.

24. Where, as here, the defendant has been made to respond to a seemingly endless stream of duplicative and meritless lawsuits, the costs of the defense to the actions should be assessed as against the plaintiff, both to reimburse the defendant for the ever-mounting costs of making a defense and to discourage the plaintiff from further burdening defendant with even more actions and proceedings arising from a single set of circumstances.

WHEREFORE, defendant Signorelli, Surrogate's Court of the State of New York, County of Suffolk, prays that the action herein lie in all respects dismissed; that the costs and disbursements of defending this matter be assessed as against plaintiff; and for such other and further relief as to the Court may seem just and proper.

Dated: Garden City, New York  
September 16, 1982

*Paul C. Ahrens*

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PAUL C. AHRENS, Of Counsel

ROBERT ABRAMS, Attorney General  
Attorney for the State of  
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