

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF NEW YORK

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GEORGE SASSOWER, :

Plaintiff, : Index No.

-against- : 5774-1983

ERNEST L. SIGNORELLI, et al., : AFFIDAVIT IN

Defendants. : OPPOSITION

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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 I submit this affidavit in opposition to the latest baseless motion made by plaintiff pro se, this time seeking a variety of unspecified and totally unjustifiable discovery from a variety of non-parties. In particular, plaintiff pro se seeks discovery from a number of judicial officers based solely upon his own tortured conjuring of a broad-based conspiracy against him.

2. The motion for discovery should be denied. CPLR § 3101(a)(4) provides that discovery may be taken from a person not a party when there are "adequate special circumstances"

justifying such discovery. There are no such special circumstances here, and plaintiff pro se does not suggest any. Rather, Mr. Sassower bases his motion on nothing more than his own predictably lengthy affidavit, baldly setting forth as established facts his own personal musings, supported occasionally by oblique references to anonymous "reliable sources" (p. 29) or other unidentified informers (p. 30). On that flimsy basis -- which is no basis at all -- plaintiff pro se would subject to discovery the Surrogate of Suffolk County (p. 36), a Justice of the Supreme Court, Westchester County (p. 37), the Presiding Justice and the Clerk of the Appellate Division, Second Department (id.), and others. This he cannot, and should not be permitted to, do.

3. Mr. Sassower's plain purpose in seeking such discovery is not to satisfy any need therefor but, rather, only to harass the judges he has named. Mr. Sassower has repeatedly sued Surrogate Signorelli in connection with the Surrogate's conduct of an estate proceeding, entitled Matter of Eugene Paul Kelly, once pending before him and in which Mr. Sassower was executor. The present action, recently transferred from Suffolk County, where it had been pending for several years, is the only version of Sassower v. Signorelli in this Court. Others are presently pending in Supreme Court, Westchester County, and appeals in Sassower v. Signorelli matters are

pending in the Appellate Divisions for the Second and Fourth Departments. The present action has already been dismissed against Surrogate Signorelli.\*

4. Erick F. Larsen, on behalf of the Suffolk County Attorney, in an affirmation dated May 4, 1983, has already opposed the present motion and pointed out a mere fraction of the history of litigation repeatedly commenced by the Sassower family against Surrogate Signorelli. Annexed to that affirmation (the "Larsen affirmation") as Exhibit "C" is a copy of a decision dated December 22, 1982, in one of the many other actions entitled Sassower v. Signorelli in which the Court (Matthew J. Coppola, JSC), having examined the details of the various Sassower v. Signorelli actions, determined that George Sassower, plaintiff pro se here, and his wife

"have embarked on a course of endless, unceasing, vexatious litigation directed at [Surrogate Signorelli]".

\* If the Surrogate, who was represented by the Attorney General, were still a party to this action, we would heartily join in the request made by Erick F. Larsen, in his May 4, 1983 affirmation on behalf of the Suffolk County defendants in opposition to Mr. Sassower's present motion, that this action be returned to Suffolk County or to Westchester County, where the courts are fully familiar with the vexatiousness of the Sassowers' repeated litigation. Indeed, it is obvious that Mr. Sassower's sudden eagerness to relocate his litigation to New York County, where it is virtually unknown, arises from the growing familiarity with the various versions of Sassower v. Signorelli which has been developed by the Supreme Courts in Westchester and Suffolk Counties, and the diminishing tolerance those courts have shown to Mr. Sassower's repetitious efforts. We submit that either of those courts is best situated to deal with this action in the context of all of the other cases, and that the present action should, therefore, be transferred to one of them.

Because the Sassowers were "bent upon a course of litigation harassment" (id.), the Court also enjoined the commencement by them of any further such actions.

5. Now, Mr. Sassower seeks discovery in this previously-commenced action. Although he concedes that Surrogate Signorelli has already been dismissed as a defendant because of his absolute judicial immunity from such suits (p. 36), Mr. Sassower nonetheless claims an unspecified "manifest necessity of pre-trial disclosure" (p. 35) from him.

6. There is and can be no such necessity. In the first place, the basis of the dismissal of the Surrogate from this action is his judicial immunity, which involves no determinations of fact other than his undisputable status as Surrogate. Accordingly, no discovery is necessary or appropriate under CPLR § 3102(a)(2), allowing discovery from a "person who possessed a ... defense asserted in the action", and any such discovery would be contrary to the very purpose of absolute judicial immunity -- that is, to eliminate the possibility of a dissatisfied litigant, like Mr. Sassower, misusing the judicial process in a vindictive attempt at retribution against a judge who did not decide in his favor.

7. Furthermore, discovery by Mr. Sassower from the Surrogate has already been stayed in another action and, therefore, should not be permitted here. In Sassower v. Signorelli, Westchester Co. Index No. 3607/79, in which Mr.

Sassower's wife and daughter are named as plaintiffs and in which Mr. Sassower actively participates, all discovery has been stayed by operation of CPLR 3214(b) and 5519(a) subd. 1 because Surrogate Signorelli moved for summary judgment and to dismiss the complaint and because a notice of appeal has been filed from an order denying that motion. (I am informed that the Appellate Division declined to vacate that stay of discovery.) One basis for that motion, and the appeal from its denial, is the Surrogate's absolute immunity from suit,\* the same immunity on which the present Sassower complaint against him was dismissed. Thus, to allow the requested discovery here, where the Surrogate has already been dismissed, where there has been no suggestion of any need for such discovery, and where all such discovery in a closely related action has already been stayed, would effectively thwart the very purpose behind absolute judicial immunity and would encourage disappointed litigants like Mr. Sassower simply to commence duplicative actions and to seek in one what has been already been denied in the other.

8. Finally, with regard to Surrogate Signorelli, as well as the other judicial officers from whom Mr. Sassower wants undescribed discovery, it must be noted that nowhere in his rambling 37-page affidavit does Mr. Sassower suggest what discovery he wants or, more significantly, why he needs any

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\* Special Term simply denied that motion without any explanation as to how it found that judicial immunity did not apply.

such discovery at all. Rather, his affidavit is devoted principally to yet another treatment of his imaginative novelization of the facts, which, of course, he presents as undisputed. For example, Mr. Sassower sets forth at length his own version of the proceedings in which he appeared before Surrogate Signorelli. What he neglects to inform this Court is that the Surrogate has already gone on record with a chronicle of the proceedings before him, in the February 24, 1978 memorandum decision in Matter of Eugene Paul Kelly, to which Mr. Sassower only briefly alludes (p. 22). To complete the record, a copy of that decision, as it was subsequently published by the New York Law Journal, is annexed hereto as Exhibit "1".

9. Plaintiff pro se also describes various other purported "events", each of which is facially absurd, but which he nonetheless offers as "established" (p. 7). Contrary to Mr. Sassower's affidavit, none of those incidents has ever been "established", or even suggested, other than in Mr. Sassower's personal speculation. For example, there has been no evidence whatsoever

(a) that Surrogate Signorelli "destroyed or secreted" any documents (p. 7);

(b) that any surreptitious "conversations" took place between Justice Gulotta or Mr. Selkin and Surrogate Signorelli, "as a result [of which], bail was denied" to Mr. Sassower (p. 16);

(c) that articles were published by the New York Daily News "at the request of Surrogate Signorelli in an attempt to discredit plaintiff" (p. 18); or

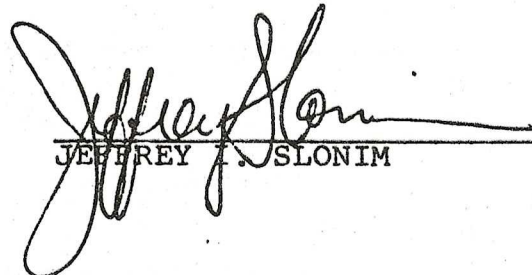
(d) that the Attorney General "succumb[ed] to pressure" to file an appeal or that Surrogate Signorelli was "told and [knew] that such appeal [was] absolutely meritless" (p. 20).

Similarly, there has been absolutely no suggestion, outside of Mr. Sassower's rather fertile imagination,

(e) that Justice Mollen was "communicated [with?]" or that Justice Ferraro was "communicated with" ex parte (p. 29), or

(f) that a law secretary communicated ex parte with the Clerk and Justice (presumably Ferraro) of Supreme Court, Westchester County in a purported attempt to influence wrongfully the outcome of a pending proceeding (p. 30).

10. Mr. Sassower's unsupported conjecture cannot serve as a basis to disrupt the functionings of any of these judges or the Clerk of the Second Department, none of whom are parties to this action. Indeed, Mr. Sassower nowhere even attempts to suggest what relevant information could be obtained through such discovery. Plaintiff pro se has simply demonstrated no reason whatsoever for subjecting any of these non-parties to discovery and has not suggested any "special circumstances" for allowing such discovery under CPLR § 3101(a)(4). Accordingly, the motion for leave to take such discovery should be denied.

  
JEFFREY A. SLONIM

Sworn to before me this  
17th day of May, 1983

  
Assistant Attorney General  
of the State of New York

Exhibit "A" - Signorelli - "Diatribes NYLJ

[122-123]

(122-123)

Upon his failure to account, an order to show cause was then issued by my predecessor, Judge Hildreth, and made returnable on October 20, 1973, directing petitioner to show cause why he should not be removed as executor and punished for contempt of court because of his failure to obey the court's order of March 27, 1973, directing him to account. At Sasower's request the said application was adjourned on three successive occasions, and was finally submitted to the court for decision on January 12, 1978. By an order dated March 23, 1978, Sasower was removed as fiduciary and determined to be in contempt of court, but permitting him an additional thirty days from the date thereof to purge himself by filing his account.

SURROGATE'S COURT

Surrogate Signorelli

MATTER OF EUGENE PAUL KELLY, deceased. This is a contested accounting involving a relatively modest estate. Because of its unusual history the court is of the opinion that it would serve a constructive purpose to retrace the path of this estate since its inception.

The decedent, who expired on April 24, 1972, nominated in his will his attorney, George Sasower, as his executor, who filed a petition to probate the decedent's last will and testament on May 10, 1972. The objections to probate were ultimately settled, the will was admitted to probate on September 9, 1974 and letters testamentary were issued to the petitioner.

On November 13, 1974, a petition to compel the executor to account was filed with the court and citation issue returnable December 2, 1974. It was difficult to serve Sasower, thereby necessitating the issuance of ten supplemental citations. The court ultimately issued an order permitting service by substituted service after it became apparent that he was evading service of process. On the return date of the citation, namely March 17, 1975, Sasower defaulted and the court then issued an order dated March 27, 1975, ordering him to account.

Mr. Sasower on April 15, 1976, filed his account as preliminary executor with a petition for its judicial settlement for the period from April 24, 1972, to September 9, 1974. Although the citation was made returnable on June 4, 1976, it was adjourned on a number of occasions and a supplemental citation was then issued returnable July 27, 1976. After an additional adjournment to September 7, 1976, jurisdiction was completed, collection filed and the matter was accordingly placed on the Masters Trial and Hearing Calendar and scheduled for conference for September 21, 1976. The matter was adjourned on five separate occasions to March 2, 1977.

On March 2, 1977, the guardian ad litem and counsel for a legatee filed objection to his account. The guardian ad litem and the attorney for the legatee had not filed objections sooner in the hope that a conference would result in a settlement of the proceeding.

Incidentally, Doris Sasower, the wife of the petitioner herein, had at the inception of this estate filed a notice of appearance, appearing as attorney for the executor. She was expressly directed by the court to be present for the scheduled court conferences, but has defaulted in appearance for any of the said dates.

On March 25, 1977, the court issued an order appointing the Public Administrator, as temporary administrator, and on April 23, 1977, Sasower who had been previously ordered removed as executor was then served in open court with a written order directing him to turn over to the Public Administrator all books, papers and other property of this estate in his possession and under his control on or before May 5, 1977. On that day the matter was scheduled for trial on June 1, 1977. The parties were ordered to conclude their examinations before trial on May 2, 1977.

Mr. Sasower brought on a series of motions seeking a disqualification of the undersigned, the vacating of prior orders of this court dated March 27, 1975 and March 9, 1978, and an examination before trial of one of the objectants. All of the motions were denied except the application for the examination before trial. The party to be examined before trial, who incurred the loss of a day's wages, appeared for the examination on the scheduled date, but Sasower defaulted in appearance.

In the interim, Sasower then filed appeals to the Appellate Division, of the orders of this court dated March 22, 1977 and April 23, 1977, providing respectively for the appointment of the Public Administrator as temporary administrator and ordering him to turn over the estate's assets to the Public Administrator. The Appellate Division dismissed the said appeals by unanimous decision, dated June 12, 1977. The trial date, at petitioner's request, had been adjourned from June 1, 1977, to June 13, 1977.

On the scheduled date for trial, counsel representing the Public Administrator advised the court that he could not proceed to trial because of Sasower's refusal to comply with the court's order of April 23, 1977, directing him to turn over the assets of the estate to the Public Administrator. When questioned by the court, Sasower informed the court that he would not accede to the court's directive and when he was then advised by the court that he would be held in contempt of court, he relented and assured the court that he would comply and was granted an adjournment to June 22, 1977, for that purpose. He was directed to return on June 22, 1977, to insure his compliance

therewith. On June 22, 1977, he failed to appear, and the court then conducted a hearing and, in view of the fact that he had contumaciously failed to comply with the court's order to turn over the books, records and assets of the estate to the Public Administrator of Suffolk County, he was adjudged to be in contempt of court, and sentenced to thirty days in the county jail.

Pursuant to a warrant of commitment, he was apprehended by the Sheriff of Suffolk County on June 23, 1977, and brought before the court, whereupon he was given an opportunity to purge himself of the contempt. When he persisted in his refusal to comply with the court's order, he was remanded to the Suffolk County Jail to serve his sentence. On the same day, he procured a writ of habeas corpus from a Justice of the Appellate Division, Second Department, who scheduled the matter for a hearing on the following day, June 24, 1977, in the Suffolk County Supreme Court. The said Appellate Division Justice denied his application for bail. Later, that same day, he applied for and received another writ of habeas corpus from a Suffolk County Supreme Court Justice which contained a provision for bail. In both habeas corpus applications, he alleged that no previous application had been made for the relief requested.

Petitioner was released on bail on the second writ and a hearing was scheduled thereon. The hearing was ultimately conducted by Supreme Court Justice McInerney, who then dismissed the court's contempt order on technical grounds, without prejudice to a renewal of the contempt proceedings.

It is the contention of the undersigned that the said Supreme Court Justice preempted the function of the Appellate Division in choosing to act as an appellate court and reviewing the order of the Surrogate, a judge of coordinate jurisdiction. Since a proper and complete record had been, in fact, compiled in the Surrogate's Court, the contemnor's sole recourse was to seek review of the contempt order by the Appellate Division (People v. Zorrig 12 AD 2d 639, 300 NYS 2d 631; People v. Chislow 43 AD 2d 415, 346 NYS 2d 348; Waterhouse v. Coll 71 Misc. 2d 600, 324 NYS 2d 601).

As a result of the above decision, Sasower has, with impunity, continued to flout the orders of this court and avervily hampered and unduly delayed the resolution of this estate at great harm and expense to the legatees and infant beneficiaries named in the will. He did successfully evade service of further process to adjudge him in contempt of court until served with a new contempt citation by counsel for the Public Administrator on the date the accounting trial was commenced.

In addition to the foregoing, Sasower's inexcusable conduct has affected other courts as well. He caused Justice Bernstein of the Supreme Court, Nassau County, to issue an order to show cause requesting the staying of a warrant of commitment allegedly issued by this court, without first verifying that the warrant of commitment had in fact been issued. The fact of the matter is that the warrant of commitment had not been issued and the order to show cause was consequently dismissed. Sasower then commenced a civil action in the Federal District Court against the undersigned, the Sheriff of Suffolk County, the Assistant Attorney General of the State of New York and other attorneys and individuals involved in this estate. The said action was dismissed by the court, and Sasower then filed an appeal of the order of dismissal with the Second Circuit Court. During the pendency of this appeal, Sasower saw fit to file a second suit, essentially in duplication of the first action which was dismissed.



On December 13, 1977, the court scheduled this matter for pre-trial conference, and all parties appeared except for Sasower. The court then set the matter down for trial on January 22, 1978, and directed that a trial notice be sent to the petitioner advising him of the trial date and its peremptory marking.

On January 23, 1978, all parties appeared for the trial. The issue of the petitioner's failure to comply with the court's order was once again raised, and in response to the court's question as to whether or not he had obeyed the order to turn the assets over to the Public Administrator, the petitioner refused to answer the question, claiming his Fifth Amendment privilege against self-incrimination and requested the opportunity to consult counsel. The court thereupon held in abeyance the question of his contempt of the court's order until the following day, pending his appearance with counsel. In the interim, the accounting trial was commenced and was continued to the following day. Prior to recessing for the day, the court directed Sasower to return the following morning at 9:30 to continue the trial, and to resolve the further question of his contemptuous conduct.

The petitioner failed to appear in court the following day, and a telephone communication was received by the court from the petitioner's wife, an attorney and his former counsel in this estate. She stated that Sasower could not appear because he was in the Appellate Division on another matter, but refused to identify the case or the particular department of the Appellate Division. A member of the court's staff called the First and Second Departments of the Appellate Division, and it was finally determined that Mr. Sasower was arguing a case in the Second Department that morning, and that the counsel of record in the case was the petitioner's wife. The court requested the Clerk of the Appellate Division to direct Sasower to appear at the Surrogate's Court the following day to continue the trial. The court accordingly, adjourned the trial until the next day, and Sasower once again failed to appear on the adjourned date. He called the court in the morning and stated that he would not appear because of other court engagements which he refused to identify. Due to the petitioner's refusal to appear in court, and in the absence of an affidavit of other engagement, the court attempted to continue the trial in his absence.

However, Mr. Sasower's intransigence has made it virtually impossible to adjudicate the issues raised in this litigation. It is imperative that he comply forthwith with the order of the court directing him to turn over the assets and records of this estate to the Public Administrator, and it is equally essential that he bring his accounting up to date as has been directed by the court on numerous occasions.

I have determined that it would not be in the interests of justice for me to pass upon the new contempt application, and I have consequently referred the matter to the Acting Surrogate for his determination. I have further concluded that the resolution of this estate would be facilitated by referring to the Acting Surrogate the instant litigation pertaining to Sasower's intermediate accounting, as well as any and all future proceedings concerning his stewardship of the affairs of this estate.

Mr. Sasower, a member of the bar, has impeded the orderly administration of this estate, and has caused it to incur needless expense. He has willfully and intentionally failed to heed any and all directives of this court, and I would be derelict in my duty if I failed to report his actions to the appropriate tribunal for disciplinary action. Doris Sasower, his wife and his former counsel, should be similarly called upon to explain her extraordinary behavior in this matter.

I am accordingly directing the Chief Clerk to forward a copy of this decision to

the Presiding Justice of the Appellate Division, Second Judicial Department, for such disciplinary action as he may deem appropriate with regard to the conduct of George Sasower and Doris Sasower.

This decision constitutes the order of the court.