SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK
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GEORGE SASSOWER,

Index No.
5774-1983

Plaintiff,

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI, ALAN CROCE, ANTHONY GRYMALSKI, HARRY E. SEIDELL, NEW YORK NEWS, INC., and VIRGINIA MATHIAS,

Defendants.

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STATE OF NEW YORK )
CITY OF NEW YORK ) ss.:
COUNTY OF KINGS )

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

This affidavit replies to the affidavit of JEFFREY I. SLONIM, Esq. (Attorney General), sworn to on May 17, 1983; the affidavit of ZOE MANDES, Esq. (News), sworn to on May 18, 1983; the affirmations of ERICK F. LARSEN, Esq. (Suffolk County), dated May 4, 1983 and May 17, 1983, with respect to plaintiff's motion dated April 20, 1983, returnable on May 5th, 1983, and adjourned at defendants' request to May 24, 1983.

Statement:

1. The underlying factual material, contained in plaintiff's moving papers (pp. 7-31), are not disputed by defendants' attorneys in their papers on this motion or elsewhere.

Nevertheless, despite the proven falsity of the Signorelli sua sponte published diatribe (by his own testimony and records), the Assistant Attorney General republishes same (Slonim, Exhibit "1"), for the truth thereof, and the News annexes its defamatory articles (Mandes, Exhibit "A"), without openly acknowledging their proven falsity.

Pertinent is Mr. Justice Holmes statement:

> "One thinks that an error exposed is dead, but exposure amounts to nothing when people want to believe [or disbelieve]." (Homes-Pollack Letters, p. 219).

2. Only material relevant to the limited issues before this Court, to wit., pre-trial disclosure and privilege, vel non, should be considered. To the extent that extraneous material has been inserted, it should be disregarded in arriving at the decision by the Court.

3. This action concerns itself with deprivation of quintessential constitutional rights, including, for example, the right to access to the courts in order to secure a Writ of Habeas Corpus; the right to expect obedience to the mandate of such Writ; the right to be charged with a crime and informed of same; the right to be notified that a trial on such alleged criminal conduct is going to take place; the right to be at such trial in order to exercise other similarly exalted rights; the right to listen to the testimony of one's accusor and examine him on such testimony; the right to

give testimony and introduce evidence; the right to be present at the verdict; the right of allocution; the right to assert the Fifth Amendment without it being falsely published "under color of law" that the accused persisted in his refusal to comply; the right of a private person in a personal matter not to be labelled a pariah and branded with a badge of infamy, except by due process; the right not to have one's family attained, disparaged, and incarcerated in retaliation for asserting the aforesaid rights.

These rights were not accidently found under a gooseberry bush some 200 years ago, but are the end result of civilization's long, hard march from the cave and its struggle against a gestapo mentality and storm trooper tactics.

To call these essential rights "technicalities", as did "Columnist" Signorelli, in his published sua sponte diatribe (Slonim, Exhibit "1"), or mere "procedural errors" (as defendants' attorneys have sometimes referred to them), is an affront to history, and those societal values which, at great human cost history has produced.

In Poulos v. New Hampshire (345 U.S. 395, 426, 73 S.Ct. 760, 777, 97 L.Ed. 1105, 1124), Mr. Justice Douglas [dissenting] stated:

> "What Mr. Justice Roberts said needs to be repeated over and again ... [H]istory proved that judges too were sometimes tyrants."

4. Essentially this motion is nothing more than an attempt to obtain, in legally admissible form, the details of a shocking, but true, story.

Because plaintiff's papers set forth facts, not unsupportable opinions, they are necessarily lengthy.

General Principles - Issues:

1. The law is manifestly clear -- there is to be full pre-trial disclosure of all parties (Hickman v. Taylor, 329 U.S. 495, 507-508, 67 S.Ct. 385, 392, 91 L.Ed. 451, 460-461; Allen v. Crowell-Collier Pub. Co., 21 N.Y.2d 403, 406-407, 288 N.Y.S.2d 449, 452-453).

2. Although there are no defects in plaintiff's Notice to Examine, since the Suffolk County defendants made an unconditional request for an adjournment, which plaintiff consented to, such consented request constituted a waiver of any and all claimed infirmities, and such Notice, should be honored by the courts (Compagnie v. Citibank, 92 A.D.2d 495, 495-496, 459 N.Y.S.2d 88, 89 [1st Dept.]; Tri-State v. Sinclair, 22 A.D.2d 679, 253 N.Y.S.2d 371 [1st Dept.]; Brand v. Colgate, 21 A.D.2d 670, 671, 250 N.Y.S.2d 1, 2 [1st Dept.]; Lubicz v. Rosen, 54 A.D.2d 894, 388 N.Y.S.2d 16 [2d Dept.]; Burger v. Barnett, 48 Misc.2d 660, 663, 265 N.Y.S.2d 499, 503 [Sup. Kings]).

3. The mere showing that a witnesses's pre-trial desposition is needed to prepare fully for the trial suffices as a "special circumstance", pursuant to CPLR 3101(a)[4] (Gersten v. N.Y. Hospital, 81 A.D.2d 632, 438 N.Y.S.2d 129, 130 [2d Dept.]; Mogollon v. South African, 80 A.D.2d 636, 436 N.Y.S.2d 82, 83 [2d Dept.]; Kelly v. Shafiroff, 80 A.D.2d 601, 602, 436 N.Y.S.2d 44, 45 [2d Dept.]; Jones v. Wissenbach, 80 A.D.2d 962, 437 N.Y.S.2d 785, 787 [3d Dept.]; Shuford v. State, 79 A.D.2d 773, 774, 435 N.Y.S.2d 67, 68 [3d Dept.]; Catskill v. Voss, 70 A.D.2d 753, 754, 416 N.Y.S.2d 881, 883 [3d Dept.]; Siffin v. Rambuski, 87 A.D.2d 979, 450 N.Y.S.2d 106, 108 [4th Dept.]; cf. Post v. Merrill, Lynch, 79 A.D.2d 558, 433 N.Y.S.2d 800, 801 [1st Dept.]).

The News, in stating that "special circumstances" are necessary in order to examine a witness, cites Kelly v. Shafiroff (supra) and Polsinelli v. Hanover, 62 A.D.2d 376, 405 N.Y.S.2d 781 [3d Dept.]) [p. 10, ¶44].

In Kelly v. Shafiroff (supra), the Court stated:

> "The showing by a lawyer, as here, that he needs a witness' pretrial deposition in order to prepare fully for the trial, under the CPLR's liberal rules of pleading, should suffice as 'special circumstances', pursuant to CPLR 3101(a)[4]."

Subsequent to Polsinelli v. Hanover (supra), the Third Department rendered Jones v. Wissenbach (supra), Shuford v. State (supra), and Catskill v. Voss (supra), and has never cited Polsinelli v. Hanover (supra) again on this particular point.

4. A party is entitled to everyone's testimony (U.S. v. Nixon, 418 U.S. 683, 709, 94 S.Ct. 3090, 3108, 41 L.Ed. 2d 1039, 1064).

5. Evidentiary privileges, even those of constitutional dimensions, are not favored and sometimes must give way to more important interests (Herbert v. Lando, 441 U.S. 153, 175, 99 S.Ct. 1635, 1648, 60 L.Ed. 2d 115, 133).

6. A judge, per se, is not entitled to any special testimonial immunity (Dennis v. Sparks, 449 U.S. 635, 100 S.Ct. 1920, 64 L.Ed. 2d 572).

d. As aptly stated by Mr. Justice White, in Dennis v. Sparks (supra), speaking for a unanimous Court, affirming the Circuit Court (604 F.2d 976 [5th Cir. - en banc]) (30-31, 188, 191-192):

> "[T]here is no ... constitutionally-based privilege immunizing judges from being required to testify about their judicial conduct in third-party litigation. Nor has any demonstration been made that historically the doctrine of judicial immunity not only protected the judge from liability but excused him from responding as a witness when his co-conspirators are sued. ... .
>
> Of course, testifying takes time and energy that otherwise might be devoted to judicial duties; and, if cases ... go to trial, the judge's integrity and that of the judicial process may be at stake in such cases. But judicial immunity was not designed to insulate the judiciary from all aspects of public accountability. ... . Neither are we aware of any rule generally exempting a judge from the normal obligations to respond as a witness when he has information material to a criminal or civil proceeding.

> Judicial immunity arose because it was in the public interest to have judges who were at liberty to exercise their independent judgment about the merits of a case without fear of being mulcted for damages should an unsatisfied litigant be able to convince another tribunal that the judge acted not only mistakenly but with malice and corruption. In terms of undermining a judge's independence and his judicial performance, the concern that his conduct will be examined in a collateral proceeding against those with whom he allegedly conspired, a proceeding in which he cannot be held liable for damages and which he need not defend, is not of the same order of magnitude as the prospects of being a defendant in a damages action from complaint to verdict with the attendant possibility of being held liable for damages if the factfinder mistakenly upholds the charge of malice or of a corrupt conspiracy with others."

7. Absent the relationship, the attorney-client privilege does not exist (Matter of Priest v. Hennessy, 51 N.Y.2d 62, 68, 431 N.Y.S.2d 511, 514).

8. A privilege, even one of constitutional magnitude, may be waived by words or conduct (Snyder v. Massachusetts, 291 U.S. 97, 106, 54 S.Ct. 330, 332, 78 L.Ed.2d 674, 678).

9. Once a waiver is voluntarily made, it may not be reasserted (People v. Mitchell, N.Y.2d , N.Y.S.2d [Mar. 30, 1983]). In this recent case, the court stated that the attorney-client privilege:

> "... is to ensure that one seeking legal advice will be able to confide fully and freely in his attorney ... . The court recently formulated the elements of the privilege as follows:
>
> > 'First, it is beyond dispute that no attorney-client privilege arises unless an attorney-client relationship has been established. Such a relationship arises only when one contacts an attorney in his capacity as such for the purpose of obtaining legal advice or services. Second, not all communications to an attorney are privileged. In order to make a valid claim of privilege, it must be shown that the information sought to be protected from disclosure was a "confidential communication" made to the attorney for the purpose of obtaining legal advice or services. Third, the burden of proving each element of the privilege rests upon the party asserting it. Finally, even where the technical requirements of the privilege are satisfied, it may nonetheless, yield in a proper case, where strong public policy requires disclosure. (Matter of Priest v. Hennessy, 51 N.Y.2d 62, 68-69, 431 N.Y.S.2d 511, 514 [citations omitted]).'

... [here] the privilege was lost because of the prior publication to non-employees (see People v. Buchanan, 145 N.Y. 1, 26; People v. Belge, 59 A.D.2d 307, 309, 399 N.Y.S.2d 539, 540)".

10. The attorney-client privilege, if it exists, protects the communication, not the facts (Upjohn v. U.S., 449 U.S. 383, 395-396, 101 S.Ct. 677, 685, 66 L.Ed. 2d 584, 595).

11. A defense based upon confidential information may not be employed while asserting the privilege (Greenberg v. C.B.S., 69 A.D.2d 693, 709, 419 N.Y.S.2d 988, 997 [2d Dept.]).

12. The "shield law" may be invoked only after the establishment of an express or implied agreement of confidentiality (Hennigan v. Buffalo Courier, 85 A.D.2d 924, 446 N.Y.S.2d 767, 768 [4th Dept.]).

13. While general advertising by attorneys is permitted (Bates v. State Bar, 433 U.S. 350, 97 S.Ct. 2691, 53 L.Ed. 2d 810), direct personal solicitation by an attorney, particularly where a conflict of interest may occur, has no constitutional protection (Greene v. Grievance Committee, 54 N.Y.2d 118, 127-128, 444 N.Y.S.2d 883, 888, cert. den. 455 U.S. 1035, 102 S.Ct. 1738, 72 L.Ed. 2d 153).

Non-Issues:

1a. This action, by Order of a court having jurisdiction, has placed venue in New York County (Exhibit "5"). Such Order, made upon notice to all, not having been appealed, is binding on all parties.

b. The order transferring this action from Suffolk County was clearly proper since such County was an unconsitutional venue (Gibson v. Berryhill, 411 U.S. 564, 575, 93 S.Ct. 1689, 1696, 36 L.Ed.2d 488, 497-498; Tumey v. Ohio, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749; Sharkey v. Thurston, 268 N.Y. 123, 126; 16A Am Jur 2d, Constitutional Law, §855, p. 1074, 1076), and otherwise

had the appearance of impropriety (Cosme v. Islip, 73 A.D.2d 681, 423 N.Y.S.2d 846 [2d Dept.], motion for leave denied 50 N.Y.2d 55, 430 N.Y.S.2d 55; Burstein v. Greene, 61 A.D.2d 827, 402 N.Y.S.2d 227 [2d Dept.]; Seifert v. McLaughlin, 15 A.D.2d 555, 233 N.Y.S.2d 18 [2d Dept.]; Arkwright v. Steinbugler, 283 App. Div. 397, 128 N.Y.S.2d 823 [2d Dept.]). Defendants' conduct, generating needless prejudicial publicity, further mandated the change of venue (Sheppard v. Maxwell, 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed. 2d 600).

2. The merits, per se, of this action are irrelevant to this motion. If any of the defendants believe plaintiff's action is meritless, they, if they desire, may move for summary judgment.

The fact that defendants have not moved for summary judgment reveals that they and their attorneys know that such motion cannot possibly succeed. In fact, their dilatory tactics are clearly motivated by their conviction that ultimately they are doomed.

3. Defendants' attorneys distort and misleadingly make reference to other matters, only for their prejudicial nature, and will be dealt with separately hereinafter (see "Would you buy a used horse from Richard III", infra).

Mastroianni, Finnerty, Croce, & Grymalski:

1a. The defendants, Mastroianni, Finnerty, Croce, and Grymalski, have shown nothing which would immunizes them from a full and complete pre-trial disclosure.

b. In any event, their unconditional request for an adjournment, consented to, constitutes a valid agreement, which the courts should enforce, even if it would have modified the demand had proper application been timely made.

2. These defendants, by their Suffolk County Attorney, have hardly uttered a word with respect to the pertinent issues involved on this motion. Their attorneys' irrelevant remarks and references are clearly made to divert the attention of this Court from the precise and limited issues involved.

3. Furthermore, as their attorney has now revealed, they have refused to comply with plaintiff's Notice for Discovery and Inspection, although their time to move for a protective order has expired (Exhibit "6").

4. Only the imposition of costs in the draconian sum of $10,000 will deter these defendants from their purposeful charted and intentional course of obstruction and delay.

Virginia Mathias:

1. Prior to the execution of the affidavit of JEFFREY I. SLONIM, Esq., plaintiff spoke to Assistant Attorney General STEPHEN M. JACOBY regarding the Examination before Trial of defendant, VIRGINIA MATHIAS, who according to him, is presently ill. Although plaintiff has no independent knowledge of such fact, he also has no reason to doubt same.

Plaintiff is reasonable certain they will be able to work out an arrangement for such examination if such illness persists. Nevertheless, plaintiff does request an Order for such examination, for which a previous Notice has been served, but because of the purported aforesaid illness, never held.

2. The assertion by JEFFREY I. SLONIM, Esq., that the Attorney General does not represent any defendant in this action is clearly incorrect.

New York News:

1a. The attorney for the News, states in her affidavit (p. 11, ¶50):

> "the News does not have the material plaintiff seeks and its general practice is to keep copy, if any exists, for thirteen months and to discard it thereafter."

Those unversed in law might be puzzled by the policy practice of the New York News to discard material after the odd and arbitrary "thirteen (13) month" period.

Those recognizing the fact that the Statute of Limitations in defamation actions is one year (CPLR §215[3]) would recognize the rationale for keeping records for the aforesaid period and logically assume that if a suit were timely brought, such records would be preserved.

This assumption is incorrect! According to the News and its present attorneys, the News destroys all material even where suit is timely commenced, at least this was the News' conduct in this matter.

b. The News' reporter, Art Penny, repeatedly testified at his unconcluded examination before trial that he also destroyed his notes (SM 19/12-15).

2. Plaintiff now reviews those events which unquestionably reveal that their is (1) no attorney-client privilege between the Patterson firm and Art Penny; (2) no Civil Rights Law §79-h privilege; (3) an adequate showing for the examination of non-party witnesses; and (4) disqualification of the Patterson firm.

a. The published articles (Mandes affidavit, Exhibit "A") specifically identified the names of the persons who supplied the information for such defamatory publication or made them identifiable (e.g. "attorneys for the beneficiaries" [there were only two]).

b. The published articles set forth the information given to Art Penny by these identified or identifiable persons.

Consequently, the purpose of Civil Rights Law §79-h is inapplicable, since the News and Art Penny have published what they might have otherwise kept confidential. Additionally no agreement, express or implied, of confidentiality has been alleged or shown.

c. The News, by prior Order, was directed to answer plaintiff's interrogatories. Its objection based upon Civil Rights Law §79-h and attorney-client privilege were overruled.

d. The News, after filing a Notice of Appeal, secured a stay from the Appellate Division, Second Department.

e. Rather than perfecting its cross-appeal, the News waived its §79-h and attorney-client privileges, answering plaintiff's interrogatories.

Consequently, plaintiff is at a loss to understand how such privileges can now be reasserted by the News and its attorneys!

Furthermore, it has not been definitively resolved, whether §79-h is applicable in a non-contempt proceeding.

f. An Order was obtained permitting plaintiff to examine Art Penny before trial.

g. Until plaintiff advised the Patterson firm, shortly before this scheduled examination before trial of Penny, that the Patterson firm could not interpose any privileges on behalf of Penny, the Patterson firm consistently stated that it did not represent Penny.

h. By reason of plaintiff's announced position that the Patterson firm could not assert any privilege on behalf of Penny, the Patterson firm "solicited" such representation of Penny from Penny.

Since Penny admitted that he spoke to the Patterson firm on several occasions prior to this "solicited" representation, obviously, at best, the attorney-client privilege may only be asserted as to advice sought by Penny after the retainer, and only if such information was not disclosed before this solicited retainer.

i. According to the News' attorney (p. 4, ¶¶16-18), four days before the scheduled examination before trial, Penny advised the Patterson firm that he intended to appear at this Court ordered examination before trial.

In response to Ms. Mandes question, on behalf of the Patterson firm, that he (Penny) did not have counsel.

> "I [Ms. Mandes] informed him that, if he wanted legal counsel, the News would provide counsel for him. Penny replied that he wanted to have counsel."

Thereupon, the Patterson firm appointed itself, not an independent attorney, as counsel for Penny.

At Penny's examination before trial the Patterson firm interposed objections whose only purpose was to protect the News, not Penny!

3a. Obviously, the News destroyed the underlying material for this litigation only after it gave same to its former attorneys, Townley & Updike, Esqs., who presently have same or have turned such material over to the Patterson firm. Now they absurdly claim such turned over material is "work product".

Patently a party may not prevent pre-trial disclosure by turning over relevant material (or copies thereof) to its attorney and then claim it does not have same, and then have its attorneys contend that their possession constitutes "work product".

b. For a while, during this unconcluded examination before trial, Art Penny, was "singing like a canary", but after Ms. Mandes talked to Penny at length, during the luncheon recess, the examination proliferates with Penny's statements "I do not remember".

Particularly regarding the information given by Penny to the Updike and Patterson firms prior to the "solicited retainer" by Patterson such information is subject to disclosure. Information obtained after the "solicited retainer" was not disclosed by Penny to the Patterson firm for the purpose of obtaining advise for himself, since he was not a defendant and the statute of limitations has expired.

c. A corporation claim of privilege prevents disclosure by its employees (Upjohn v. U.S. [supra]; Cornell v. Mushlin, 85 A.D.2d 592, 444 N.Y.S.2d 709, 710 [2d Dept.]. It logically follows a waiver by the corporation of its attorney-client and Civil Rights Law §79-h waiver, is a waiver by its employees or former employees wherein such employees are not sued [and no longer can be sued] individually. If the rule were otherwise, a corporation could plead a "good faith" defense and the employees assert the "shield privilege", thereby evading the Greenberg v. C.B.S. (supra) option (at 709, 997).

d. Harry Schlegel, former editor for the News and Penny's superior, who according to the News' answers to plaintiff's interrogatories, "may have have edited" these defamatory articles (p. 3, ¶12), and authorized its publication, is clearly an examinable witness. News' attorney does not deny that while Schlegel was working as an editor for the News he also was employed, as were others, for political figures, and were knowingly using the News as a medium to defame those their political employers wanted to embarrass and destroy.

e. Ernest L. Signorelli and Vincent G. Berger, Jr. are named informers in the published articles.

Significantly, the [false] information attributed to Signorelli, was according to Penny, given in chambers on a day the underlying matter was not pending. This was nothing more than a private interview for publication in the News.

Signorelli was not performing a judicial function at the time, on the contrary, he was patently violating Judicial Ethics (Canon 3[6]) and plaintiff's constitutional rights (Martin v. Merola, 532 F.2d 191, 198 [2d Cir.]).

Erick F. Larsen:

1. Erick F. Larsen, Esq. does not deny that he is an important testimonial witness in this matter.

His admission in open court at the Appellate Division, Second Department on June 24, 1982 was precisely to that effect.

2. Before a "stunned" panel he asserted that a Writ of Habeas Corpus demanding plaintiff's release was not only disobeyed, but plaintiff's wife and daughter were incarcerated for serving same. The reason -- the Supreme Court Justice who endorsed and signed the Writ was "illiterate".

Mr. Larsen and his Suffolk County officials crowned themselves as the ex parte arbiters of the literacy qualifications of judges! Nor have these usurpers shown any authority for the proposition that only orders of literate judges need be obeyed!

This graphic and memorable event is deserved of some detail:

On June 24, 1982, plaintiff presented his oral argument to the Appellate Division, Second Department, before Hon. Justice Presiding Vincent A. Damiani, Hon. Moses A. Weinstein, Hon. Isaac Rubin, and Hon. Seymour Boyers.

Plaintiff, as his concluding presentation, related, in relevant part, the events at the Suffolk County Jail on June 10, 1978, wherein the Suffolk County defendants refused to obey a Writ of Habeas Corpus, and, in addition, incarcerated his wife and daughter, without food, water, toilet facilities, or means of communication.

Mr. Justice Moses A. Weinstein, leaned forward, addressed Assistant Suffolk County Attorney Erick F. Larsen, Esq., stated that these were serious charges, and what he had to say with respect to them.

Mr. Larsen arose and following is an almost in haec verba recitation of his statement:

> "When I [Erick Larsen, Esq., Assistant Suffolk County Attorney] was informed that the Sheriff had succeeded in capturing Mr. Sassower, I immediately proceeded to the Jail in Riverhead. Now I have processed thousands of applications by illiterates, but this Writ of Habeas Corpus was executed by one of the most illiterate persons I have ever seen."

3. The decision of the Suffolk County Attorney to retain Mr. Larsen in this matter, after termination of his employment, is nothing less than a transparent ploy in attempting to prevent his examination before trial.

The Judicial Witnesses:

1. If, as the Assistant Attorney General suggests, plaintiff's request to examine various other judicial witnesses is the result of my fertile imagination, plaintiff contends that a minimal non-intrusive examination by a joint letter, should resolve such issue.

2. Significantly, various assertions set forth by the Assistant Attorney General, contending "there has been no evidence" (p. 6), the evidence, is in fact, in his possession.

a. The office of the Attorney General, as representative of the Grievance Committee, knows that the evidence is clear that Ernest L. Signorelli and/or Surrogate's Court destroyed or secreted vital exculpatory documents.

There is massive ucontradicted and unimpeached proof of such fact presently in the possession of the Appellate Division, First Department and with the Attorney General.

1. After analyzing the unassailable evidence, a portion of plaintiff's uncontradicted affidavit to the Appellate Division reads as follows:

"SURROGATE'S COURT UNDER JUDGE HILDRETH

> As testified by Judge Signorelli the personnel in Surrogate's Court were not very careful or diligent under the stewardship of his predecessor, Surrogate Hildreth.
>
> But now (Oct. 22, 1981, SM 138): '[U]nder my [his] direction, they are more careful, my personnel in the Law Department, in checking

> orders to see that they correctly recite all of the papers upon which the order is predicated. [In 1976] [t]hey weren't that diligent. I must confess to the Court. Particularly in 1976. That's when I first became Surrogate'.

Nevertheless, in the Kelly proceeding, prior to 1976, while Judge Hildreth was Surrogate, all papers are in the file, all papers have been microfilmed, all records are correct, and Orders correctly recite the papers upon which the orders were made.

SURROGATE'S COURT UNDER SURROGATE SIGNORELLI

Under the improved conditions of Surrogate Signorelli, I have compiled three lists of missing documents, stenographic minutes, and records from the files of or pertaining to the Matter of the Estate of Eugene Paul Kelly, deceased (File No. 736 P 1972) in Surrogate's Court, Suffolk County.

1. Documents, stenographic minutes, and records whose existence is confirmed by other records of Surrogate's Court, Suffolk County, but which are now missing. The Grievance Committee's attorneys should have a substantially similar list.

2. Documents, stenographic minutes, and records whose existence in Surrogate's Court, Suffolk County is confirmed by the testimony and records of Charles Z. Abuza, Esq., but which is now missing. The Grievance Committee's attorneys should have a more complete list than I have since they had access to all of Mr. Abuza's files.

3. Documents, stenographic minutes, and records whose existence in Surrogate's Court, Suffolk County is indicated by my own records and recollection, which is now missing.

All missing documents, stenographic minutes, and records have the common attribute of either exculpating my wife and myself or incriminating Surrogate Signorelli

The conclusion is crystal clear!"

2. Following is a portion of plaintiff's wife's affidavit of July 20, 1982 (p. 38-50), wherein the Attorney General is appealing the Order denying his motion on behalf of Signorelli for summary judgment.

This should suffice for the purpose of this motion to show the destruction and/or secretion of documents by Signorelli.

Significantly, the following reveals an accounting filed by plaintiff earlier than May 1976, while the News' article of June 26, 1977 [more than one year later] states that Signorelli "explained" no such accounting had been turned over.

"June 8, 1976

The return date for the Citations issued by the Court at the instance of my husband in the Estate of Eugene Paul Kelly.

In May of 1976, my husband was stricken and hospitalized with Guillain-Barre Syndrome, which completely paralyzed his hands and legs. This malady thereafter became well known as the unintended result of the Swine-flu vaccinations.

As a result of this unexpected paralysis of the attorney-executor, I caused to be sent to Surrogate's Court by Certified Mail (#606838) on June 2, 1976 my affirmation of that date, which read as follows:

> 'This affirmation is in support of an application [to] adjourn and fix a new date for the return of the 'Citation' in the above matter, presently set for the 8th day of June, 1976.
>
> That except for THOMAS KELLY, everyone necessary to be cited has been timely served.
>
> That said THOMAS KELLY survived the deceased, EUGENE PAUL KELLY, but died subsequently (date presently unknown), and as far as affirmant can ascertain there is no estate which has been filed or administered.
>
> That it seems that THOMAS KELLY was the recipient of funds from the Department of Social Services of the City of New York and since they probably would be entitled to the funds of THOMAS KELLY, it is that Department with whom arrangements will have to be made in this regard.

Furthermore, the executor, GEORGE SASSOWER, Esq. was taken ill with what has been diagnosed as a Guillain-Barre syndrome, which caused a paralysis of Mr. Sassower's hands and legs and his hospitalization.

That although recovery is indicated, the length of time is at present uncertain, but affirmant believes that within two months Mr. Sassower should have sufficiently recovered to substantially engage in his usual working activities.

WHEREFORE, affirmant prays that this matter be adjourned for two months in order to complete jurisdiction."

The Report of Judge Melia dated August 27, 1981, states (p. 16):

'Mr. Kuzmier [Deputy Chief Chief Clerk of the Suffolk County Surrogate's Court] testified that he was in Court, and called the calendar, on June 8, 1976. There was no appearance by anyone.

The calendar reads, in relevant part, as follows:

'Eugene Paul Kelly. No appearance. The Court, on its own motion, will adjourn this matter to June 22, 1976, for all purposes. The Clerk is directed to send appropriate letter of admonition to the attorney for petitioner and petitioner.' (Ex. 23a)

On June 9, 1976, Mr. Kuzmier sent a letter to the respondent [Doris L. Sassower] which she admittedly received.

It reads in part as follows:

'Dear Madam:

On June 8, 1976 no personal appearance was made nor any communication directed to the Court [was received].

The Court on it's own motion adjourned the matter until June 22 at 9:30 A.M. and has directed that you and the petitioner be present in Court on that date.' (Ex. 24a.)"

3. It was reluctantly admitted by Surrogate Signorelli that on the call of the calendar on June 8, 1976, his Court had a copy of my affirmation of June 2, 1976.

'Q. I show you the affirmation of Doris L. Sassower dated June 2, 1976, Exhibit Y, which was sent to your court by certified mail, and ask you if you saw or were made aware of its contents on or prior to June 8, 1976?

...

Q. Do you have any notes in your file to show that this affidavit was received by the Court?

A. ... I have here a communication, which is apparently sent to Doris Sassower and which is dated June 10, 1976 and apparently was sent by the Clerk of my accounting department, Joseph Wolin. ... Its subject is the estate of Eugene Paul Kelly. 'I return herewith ... . The affirmation is returned as it was not on notice to Schacter, Abuza & Goldfarb who have appeared in this matter.'

...

THE REFEREE: ... What's the date of that?
THE WITNESS: June 10th, 1976.

THE REFEREE: That indicates that, does that indicate to you, Judge, that that affidavit of Mrs. Sassower was received prior to June 10th?
THE WITNESS: Judge, I would assume so, but I really am not sure. I really am not sure.

Q. Well, after the non-appearance on June 8th, did the Court cause to be sent out this letter of June 9, 1976? (Document handed to the witness.)
A. I would assume that if this letter went out and from reading the Clerk's minutes of the notation that I undoubtedly indicated to the Clerk that such a letter should be sent out.

Q. Well, does this letter look like a copy of a true letter emanating from Surrogate's Court, Suffolk County?
A. Does it appear to be?

Q. That's right.
A. A copy of a letter that we would normally send out?

Q. Right.
A. Yes, it does.
MR. SASSOWER: I offer this letter in evidence.
THE REFEREE: Any objection, Mr. Grayson?
MR. GRAYSON: No objection.
THE REFEREE: Received, AN in evidence. (Letter dated 6/9/76 marked Respondent's Exhibit AN in evidence.)
...

Q. I refer you to Exhibit AN in evidence where it states that on June 8th no personal appearance was made, nor any communication directed to the Court. Did you notice that? (Document handed to the witness.)

A. That's right. That's what the letter dated -- Kuzmier says, addressed to Doris Sassower.

Q. But that is obviously in error because they obviously had in their hand the affidavit or affirmation of Doris Sassower dated June 2, 1976?

A. Well, apparently --

Q. Yes or no.

A. It was returned, apparently.

Q. It was returned June 10th?

A. By Mr. Wolin.

Q. On June 10th?

A. That's right.

Q. On June 9th he had it in his possession?

A. I don't know that. I don't know that. I would assume that he did. But I don't know that.

THE REFEREE: The memo seems to suggest.

THE WITNESS: Yes, I would assume that. But I personally don't know that.' (Oct. 22, 1981, SM 85-97).

4. Missing also were the minutes of June 8, 1976. This vital record, Surrogate Signorelli testified existed. He and his subordinates repeatedly promised the tribunal and the Grievance Committee he would produce it. He never did!

The following is his testimony in this respect:

'Q. Sir, what was the purpose of appearing in Surrogate's Court on June 8, 1976?
A. June 8, '76? Is there a transcript of that date?
MR. GRAYSON: I do not have a transcript of that date.
...

Q. Were there any minutes taken of the calendar call, stenographic?
A. There is a Court Reporter present.
...

Q. ... Was she taking stenographic minutes?
A. I assume that, I think it was a 'he'. I assume that he would record the proceedings, yes.
...

Q. Could you make those minutes available to us insofar as they regard the Kelly estate?
A. All right. What dates do you want?

Q. June 8th and June 22nd.
MR. GRAYSON: Is that agreeable with you, Mr. Grayson.
MR. GRAYSON: Sure. No problem.' (Oct. 22, 1981, SM 81-82)

June 22, 1976

Five days before the adjourned return date, my husband, by Certified Mail (#231355), sent his own affirmation to Surrogate's Court (with an affidavit of service), describing his paralysis, and with it, returned my affirmation of June 2, 1976. My husband's affirmation reads as follows:

> 'This affirmation is in support of an application to adjourn the above matter scheduled for June 22, 1976, at 9:30 a.m. until a date subsequent to July 15, 1976.
>
> As appears in the annexed affirmation of DORIS L. SASSOWER, Esq., dated June 2, 1976, I was taken ill with a polyneurosis which caused paralysis of my hands and legs.
>
> That although my physicians have advised me that I am making fine progress, my motor nerves controlling my legs and hips are completely non-functional. Consequently, notwithstanding physical therapy and exercise, my muscles in that area are 'wasting away' and until those nerves rejuvenate, I am becoming more immobile as time progresses.
>
> Additionally, the involvement of my sensory nerves causes me great pain particularly after I overexert myself.

Under these circumstances, I will not be physically able to attend this Court on the aforementioned date unless these nerves suddenly become functional.

I do believe that after a scheduled testing and examination on July 2, 1976, I will be in a better position to advise this Court more accurately as to my prognosis, but at the present time from all that I have read, seen, and been told, I believe and hope that by the middle of July, I should be well enough to attend this Court.

Insofar as the scheduled appearance on June 8, 1976, the annexed affirmation was mailed to this Court on June 2, 1976 and on June 7th, 1976, the office of Schacter, Abuza, & Goldfarb, Esqs., were advised that such application for adjournment was made.

The said affirmation was returned by the Clerk of the Court on June 10, 1976, and I regret any inconvenience caused because it was not brought to the attention of the Court on June 8, 1976.

I hope that by the adjourned date that jurisdiction will be complete and after an Order is entered on this accounting, I expect to expedite the Final Accounting and bring this matter to a close.

WHEREFORE, affirmant prays that this matter be adjourned until after July 15, 1976.'

2. The Report of Judge Melia of August 27, 1981 states (Report p. 17):

> ' ... a letter dated June 23, 1976 was sent by court personnel to the respondent [Doris L. Sassower. (Ex. 24b.)
>
> ...
>
> The body of the letter reads:
>
> 'On June 9, 1976 you and the petitioner were directed to be in Court on the return date of June 22 in regard to the above matter.
>
> On the calendar call of June 22 there were no appearances and the matter was adjourned to July 6, 1976 at 9:30 A.M.
>
> You and the petitioner are directed to be present at that time and upon failure of both of you to appear the matter will be referred to the Appellate Division, and this Court will in addition take such action as may be deemed necessary in the premises.'"

3. There is no question but that on June 22, 1976, Surrogate's Court had my husband's affirmation dated June 17, 1976.

This was conclusively shown by the testimony of Surrogate Signorelli and by the transcript, ante litem motam, on July 6, 1976.

Q. I show you a copy of my affirmation of June 17, 1976 which has been marked here as Exhibit Z in evidence, which was also sent to your court by certified mail, and ask you if you saw this document or was aware of its contents prior to June 22, 1976?

A. Incidentally, this affirmation indicates that Doris Sassower's affirmation was mailed to the court on June 2nd and returned by the Clerk on June 10th. So apparently that notice that I read to you is applicable.'

(Oct. 22, 1981, SM 95)

4. After receipt of my husband's affirmation of June 17, 1976, my office received inquiry about my ability to be present on the return date of June 22, 1976. As a result thereof, I caused to be mailed to the Surrogate's Court the following affirmation:

' That by reason of other legal engagements on June 22, 1976, affirmant was not able to appear in the above matter.

On such date your affirmant was scheduled to appear in Supreme Court: Westchester County on a Court ordered examination before trial in the action entitled Barone v. Barone; she also argued a motion in Special Term Part I of the same Court in Baecher v. Baecher; and was scheduled to try an action in Family Court: Westchester County in Glick v. Glick.

That affirmant did appear on all three of the aforementioned actions on such date.

That such information was conveyed to this Court by telephone prior to June 22, 1976.'

Additionally, my husband had two conversations with the Law Assistant regarding his condition (admitted by the Law Assistant in the transcript of July 6, 1976 in the presence of Surrogate Signorelli). I, in addition, had one telephone conversation with a clerk in the Surrogate's Court, as a result of which I executed and mailed my affirmation of actual engagement.

Nevertheless, the two affirmations which set forth my husband's illness were also destroyed or secreted by Surrogate Signorelli and/or his Court, and all evidence of such telephone conversations obliterated.

The person(s) who destroyed, secreted, and obliterated such evidence overlooked the fact that (1) the two affirmations setting forth my husband's illness were sent by Certified Mail, (2) the letter from Surrogate's Court dated June 10, 1976, acknowledged the receipt of my affirmation of June 2, 1976, and (3) that there was a transcribed session on July 6, 1976, which revealed that Surrogate's Court had these affirmations in hand and the Law Assistant admitted that he had spoken to my husband twice about my inability to appear.

Surrogate Signorelli's prepared chronology for his testimony at my husband's hearings did not include the July 6, 1976 session in Surrogate's Court (Oct. 22, 1981, SM 100). When it became apparent to the Surrogate that the stenographic transcript of his own Court of that day revealed that exculpatory documents had been destroyed or were being suppressed, he was stunned and foolishly questioned its authenticity by saying "What's this, a certified transcript?" (SM 104).

The Surrogate found himself "hoisted by his own petard", since the following colloquy immediately ensued:

"THE REFEREE: Mr. Grayson [the Grievance Committee's Attorney].
MR. GRAYSON: Apparently that's the copy we received from your [Surrogate Signorelli's] office.
THE WITNESS: You received it from my office?
MR. GRAYSON: From the Surrogate's Court, apparently, before I became involved.
THE WITNESS: I don't see it certified."

Since the Grievance Committee did not become involved in this matter until March of 1978 (and Mr. Grayson's involvement long after that date), we can fix the date of destruction of the Surrogate's Court copy of this transcript, from this portion of the testimony, as being no earlier than twenty (20) months after the events of that day, or this and other transcripts and documents are being intentionally suppressed by Surrogate Signorelli and/or Surrogate's Court.

Significantly, Surrogate Signorelli also failed to produce the court transcript of June 22, 1976, and other transcripts and documents, although they were repeatedly requested by the Grievance Committee (at my husband's insistence), and although Surrogate Signorelli personally made a commitment to the Referee on October 22, 1981 to produce such material.

The conclusion became inescapable! The attorneys for the Grievance Committee finally realized they had been duped by Surrogate Signorelli."

Thus, when Mr. Slonim says there is no evidence that "Signorelli 'destroyed or secreted' " (p. 6, ¶9a) he is playing fast and loose with this Court for his own records reveals overwhelming and conclusive evidence of such allegation.

b. Mr. Slonim further states that there is no evidence that Surrogate Signorelli spoke to Judge Gulotta (p. 6, ¶9b). Is any court supposed to believe that former District Attorney and former Presiding Justice of the Appellate Division, FRANK A. GULOTTA, would deny bail to an attorney when (1) there never was an accusatory instrument; (2) never advised of any contempt trial or hearing; (3) tried; (4) convicted; and (5) sentenced, all in absentia?

Except to state that plaintiff received reliable information on this matter from two assistant Attorney Generals, plaintiff is not at liberty to disclose further identification.

c. Obviously, Mr. Slonim is unaware of Mr. Penny's testimony for he testified that he received three or four calls to go to Surrogate's Court on Friday, June 24, 1978 for a "hot story", went into Signorelli's Chambers and told "that he allowed Sassower to purge himself of the contempt charges by giving Mastroianni a complete accounting of the estate".

Signorelli, the Grand Mufti of Suffolk County, knew when he gave his false information to a reporter for the Daily News, it would be published. Clearly, Signorelli did not invite Penny into his chambers to say "Our Father" or "Hail Mary"!

No one has ever questioned that the Signorelli testimony was clearly false since an accounting had been filed about one and one-half years previously!

Significantly, at the time this interview was given, nothing was pending in Surrogate's Court on that day.

Signorelli recognized at the time of the interview that plaintiff was not going to submit to the "Signorelli Code of Star Chamber Procedures", which included not only his "mock" trial, but sending Deputy Sheriffs beyond their bailiwick the following morning to Westchester County in order to have plaintiff arrested and kidnapped to his Court in Suffolk County; repeatedly denying of the right to present a petition for habeas corpus relief; denial of plaintiff's right to communicate with family, friends, and counsel; denial fifth amendment rights, and a laundry list of other constitutional, legal, and moral rights.

The long hard struggle of mankind to become civilized, from the time he emerged in the savannah in Kenya, was not going to be forfeited in the courthouse at Riverhead. Certainly, not by plaintiff. The clouds of war were gathering and Signorelli knew it.

Plaintiff survived two mock contempt trials, incarcerations, physical beatings, false and disparaging publications in the News and Law Journal, a Signorelli inspired disciplinary proceedings, and all Signorelli's efforts to destroy plaintiff and his family. Plaintiff's days of dunkirk are now in the past. Now, "truth", as Zola said, "is on the march and nothing can stop it"!

Ironically, it was the plaintiff's resounding victory at the Signorelli inspired disciplinary proceedings which produced the unassailable evidence of what truly occurred. It was at such proceeding that Signorelli was compelled to testify, and his published charges (Slonim, Exhibit "1") went down like the Titanic.

What must be the most bizarre situation existing, the Attorney General is free to republish the Signorelli, proven false, diatribe in violation of Judiciary Law §90[10], while plaintiff is inexplicably prohibited from publishing the details of his resounding victory even in a judicial forum (Exhibit "7"), which is still another reason for full pre-trial disclosure in this matter.

d. The information that the Attorney General "succumbed to pressure" to file an appeal from the granting of a Writ of Habeas Corpus came from an Assistant Attorney General, and this information can be verified by Mr. Slonim by his inspection of his own file in the matter.

Does Mr. Slonim contend that his office believed a Writ of Habeas Corpus was improperly sustained when there was no accusatory instrument, no notification of a trial or hearing, a trial, conviction, and sentencing, all in absentia? Mr. Slonim knows that his own file reveals that a Suffolk County Judge sustained such Writ after his office conveyed a verbal "gun was put to his head" message by a federal judge!

At the time there was, according to plaintiff's information, not a single Assistant Attorney General who did not believe that such appeal was not completely meritless. Nevertheless, the Attorney General's Office yielded -- at taxpayer's expense -- to Signorelli's insistence.

e. The information that Presiding Justice Mollen communicated with Justice Anthony J. Ferraro, which has never been denied, came from sources which include a Supreme Court justice. Plaintiff's understanding is that the Suffolk County officials refused to obey the Writ signed by Justice Ferraro and incarcerated plaintiff's wife and daughter, not because of any claim that Judge Ferraro was "illiterate", but because they needed time in order to try to have Judge Mollen revoke such writ. The Suffolk County officials may claim that Judge Ferraro is "illiterate", but they must admit he proved himself "fearless" in resisting pressure and reading the "riot act" when His Honor learned the Writ was being disobeyed.

Obviously, I need not prove the literate qualifications of Judge Ferraro. To dispel any doubt, Exhibit "8", the sole document upon which Mr. Larsen and his Suffolk County officials, made their spurious claim of "illiteracy" is annexed hereto. Plaintiff requests that Mr. Larsen produce the original or a good photocopy of same to this Court.

An Appellate Division Justice may modify or revoke an ex parte order of nisi prius (CPLR §5704[a]), but he may not direct or suggest that the nisi prius justice do so. A judge should be free and independent from all outside sources including other members of the judiciary!

f. The ex parte conversation was disclosed when inadvertently, the Justice of the Supreme Court, in Westchester County, read the communication from Suffolk County aloud while a court reporter was present, who transcribed same. The Suffolk County Attorney has a copy of such transcript, as does the Appellate Division. Mr. Slonim is in the wrong ball park when he asserts that plaintiff has no evidence to support his assertions.

Would You Buy a Used Horse from Richard III?

After William Shakespeare did his "hatchet job", obviously not! Surprisingly history reveals that the reign of Richard III was rather enlightened and progressive for his time.

Similarly, examination of some of the "hit and run" references of my adversaries, irrelevant on the issues before this Court, paint a different picture then defendants try to falsely depict.

1. Mr. Larsen refers to the "excellent overview of the underlying facts ... of Mr. (Suffolk County) Justice Gowan", which patently was taken, in large part, from the discredited Signorelli sua sponte diatribe. Such opinion deals with plaintiff's second incarceration, pending sub judice in the Appellate Division, Second Department since June 24, 1982.

Significantly, neither the Suffolk County Attorney nor the Attorney General have attempted to defend, legally or morally this criminal contempt conviction.

Plaintiff's "Questions Presented" at the Appellate Division reveals the obvious reason for the total lack of opposition by all defendants' attorneys (see People v. Parker, 57 N.Y.2d 136, 454 N.Y.S.2d 967):

> "2. Could appellant be constitutionally and legally tried, convicted, and sentenced for criminal contempt, all in his absence, the first time the matter was on for a hearing, and while he was legally engaged in the midst of a trial in a higher court?
> The Court below held in the affirmative.
>
> 3. Was appellant's legal engagement in a higher court a conscious, voluntary, and deliberate waiver of his constitutional and legal right to be present at a trial, conviction, and sentence for criminal contempt, as a matter of law, so as to dispense completely with the necessity of a habeas corpus hearing?
> Special Term impliedly held in the affirmative.
>
> 4. Could appellant be legally sentenced immediately upon conviction without affording him his right to allocution and without inquiry whether an adjournment was desired before sentencing?
> The Court below impliedly held in the affirmative.

5. Was appellant supposed to risk contempt in Supreme Court, Bronx County by abandoning a pending trial in its midst and prejudice his client's cause in order to appear in Surrogate's Court?

The Court below impliedly held in the affirmative."

Plaintiff respectfully submit that no attorney, nor any judge, outside Suffolk County could, or would attempt, to defend the holding of Mr. Justice GOWAN, even with the contrived facts set forth by the Court in its opinion (adopted in large part from the factually false and contrived Signorelli diatribe).

If the aforementioned aspect of Judge Gowan's judgment was in any way defensible, why did not any defendant argue to affirm?

The Attorney General delayed filing his Brief for months after it was due, even then, after giving a patently false excuse for his late filing, he still could not defend the aforesaid aspect of Judge GOWAN's decision.

A reason justifying judicial immunity is the need for fearless decision making. Nevertheless, as exemplified by the aforementioned GOWAN decision, the immunity does not necessarily produce fearless decisions.

3. Despite repeated challenges, Signorelli refuses to verify his sua sponte diatribe, affirm or reaffirm the truth thereof (Slonim, Exhibit "A"). His sycophantic Assistant Attorney General, knowing that it has been irrefutably been shown to be completely false, nevertheless republishes same at every opportunity.

4. Mr. Larsen's reference (Exhibit "B") is likewise indecent, as he has been informed, plaintiff's accusor was found to have repeatedly lied to various courts, including the Appellate Division. Here again plaintiff was resoundingly vindicated and his accusor condemned.

On withdrawing the charges, the attorney for the Grievance Committee stated (which the Referee explicitly adopted as part of his report - p. 12):

> "To attempt to catalogue and anyalyze every false and misleading statement to a document prepared by the Schacter firm in connection with these two trusts would be a Herculean task and would only belabor the point".

The Referee said in His Report many things regarding Mr. Abuza including:

> "Now really, I find it difficult to believe anything that Mr. Abuza said ... His testimony is replete with falsehoods, half truths and misleading statements, and that is true of the papers that he submitted to the various courts. The foregoing conclusions of Mr. Grayson and myself are capsulized. The instances of deception and evasion are too numerous to chronicle here."

WHEREFORE, it is respectfully prayed that plaintiff's motion be granted in all respects, let pre-trial procedures be held expeditiously, so that plaintiff may have his trial in this matter.

GEORGE SASSOWER

Sworn to before me this
24th day of May, 1983

BARBARA TATESURE
Notary Public State of New York
No. 24-4760746
Qualified in Kings County
Commission Expires March 30, 19[illegible]

SHORT FORM ORDER

Exhibit "5" - Order

NO 17671 19--

SUPREME COURT STATE OF NEW YORK

TRIAL/SPECIAL TERM, PART I SUFFOLK COUNTY

Present:

Hon. JAMES J. BRUCIA
Justice

MOTION DATE January 31 19 83

MOTION NO. 20,829

GEORGE SASSOWER,

Plaintiff

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI, VINCENT G. BERGER, JR., ALAN CROCE, ANTHONY GRYMALSKI, CHARLES BROWN, HARRY E. SEIDELL, NEW YORK NEWS, INC., and VIRGINIA MATHIAS,

Defendants.

PLTF'S/PET'S ATTY:
GEORGE SASSOWER, ESQ.
Attorney for Plaintiff
283 Soundview Avenue
White Plains, New York 10606

DEFT'S/RESP'S ATTY:
ROBERT ABRAMS, ESQ.
Attorney for SIGNORELLI & SEI
2 World Trade Center
New York, New York 10047

Upon the following papers numbered 1 to 5 read on this motion to change venue

Notice of Motion/Order to Show Cause and supporting papers 1 to 5; Notice of Cross Motion and supporting papers ____; Answering Affidavits and supporting papers ____; Replying Affidavits and supporting papers ____; Other ____; (and after hearing counsel in support and opposed to the motion) it is,

ORDERED that this motion by plaintiff to change the venue of this action from the County of Suffolk to a County outside the 10th Judicial District is granted.

Plaintiff having brought this action against two judges in Suffolk County and the Public Administrator of Suffolk County claims that his suit would not get an impartial hearing.

Because there has been no objection by any defendant in this action to plaintiff's request for a change of venue, the Court, pursuant to CPLR 510, in its discretion, is changing the venue of this action to New York County.

The Clerk of this Court is directed to deliver to the Clerk of New York County all papers filed in this action and certified copies of all minutes and entries which the Clerk of New York County is to file, enter, or record as the case requires.

Plaintiff is directed to serve a copy of this order on both Clerks and all parties. Any fees required by the Clerk to be paid as a result of this transfer are to be paid by plaintiff.

Dated: 2-3-83

James J. Brucia
J.S.C.

201

COUNTY OF SUFFOLK

DAVID J. GILMARTIN
COUNTY ATTORNEY

DEPARTMENT OF LAW

May 18, 1983

George Sassower, Esq.
283 Soundview Avenue
White Plains, New York 10606

Re: Sassower vs. Signorelli
New York Co. Index No. 5774-83

Dear Mr. Sassower:

In confirmation of our telephone conversation of Tuesday, May 17, 1983, this will serve to formally confirm that we will not honor plaintiff's notice of discovery and inspection dated May 2, 1983, and the amended notice dated May 9, 1983, both returnable at the Supreme Courthouse, Manhattan County, Clerk's Office of Special Term, Part II, on the 19th day of May, 1983.

As I explained in our telephone conversation, it is our opinion that the notices are improper, burdensome, overbroad and especially in light of judicial decisions concerning the matter sought to be discovered, not interposed in good faith.

I will be preparing an application for a protective Order with respect to these notices. I also advised that it would be totally unnecessary for you to have to appear on the return date of the notices in order to formally note defendant's decision not to comply. I am sure that this letter will be sufficient evidence for the record.

In order to avoid unnecessary motion practice, I would be more than pleased to discuss in good faith limiting the scope of the material sought in the notices.

Very truly yours,

ERICK F. LARSEN
Of Counsel

EFL/gw
cc: Robert Abrahms, Esq.
Attorney General
cc: Patterson, Belknap, Webb & Tyler Esqs.

202
Exhibit "6"

VETERANS MEMORIAL HIGHWAY ■ HAUPPAUGE, NY 11788 ■ (516) 360-4049

Exhibit "C" - Letter (234-235)

GEORGE SASSOWER

ATTORNEY AT LAW

914/328-0440

283 SOUNDVIEW AVENUE
WHITE PLAINS, N. Y. 10606

November 10, 1982

Frank H. Connelly, Jr., Esq.
Chairman, Grievance Committee
249 Huguenot Aveue,
New Rochelle, N.Y. 10802

Dear Mr. Connelly,

Yesterday, not unexpectedly, an Assitant Attorney General, presented to Hon. Henry W. Lengyel, Judge of the Court of Claims in White Plains, a copy of the Signorelli disciplinary complaint against me and my wife, although manifestly incompetent, irrelevant, and impertinent under his CPLR 3211(a) motion.

As a result of the oral arguments before His Honor, I was "ordered and directed" to submit the Report of Hon. Aloysius J. Melia, despite the fact that I advised the Court that it was your Committee's position, that it is improper for me to publish or disclose the result or any evidence therefrom, even in a judicial tribunal.

I advised His Honor, that when I made a prior exculpatory disclosure in two pertinent judicial proceedings, your Committee sua sponte made complaint against me for such action.

I further advised His Honor that I could indirectly comply with His Honor's request by serving a Subpoena upon your Committee directing it to produce such report, but that from a recent experience with Hon. George Beisheim, Jr., it would be your position that no one, except the Appellate Division, had jurisdiction to make such direction, and such direction, if made, would not be obeyed unless also authorized by the Appellate Division.

Obviously, His Honor, feels uncomfortable and does not understand the bizarre situation wherein the Signorelli diatribe was published and constantly republished and distributed by the Attorney General's Office and others, while I am restrained from publishing any vindicating evidence or results, which emanates from the disciplinary proceedings.

Exhibit "C"

8th JUDICIAL DISTRICT

NOV 12 1982

I cannot explain this absurd situation to His Honor or anyone else, because I do not understand it myself.

Clearly, the remedy, in face of the unambiguous wording of Judiciary Law §90[10], would be some long overdue action by your Committee against those who persist in violating the law by this publication and constant republication, which thus far, you have not taken.

To exacerbate the situation, His Honor, has, sua sponte, opted to convert the State's motion pursuant to CPLR 3211(c), compeling me to produce material which would clearly violate your Committee's interpretation of the statute.

We both know, as well as all those familiar with the situation, that I could literally "bury" Signorelli, the Committee, the Attorney General's Office, and others if there were a full disclosure of the events in this matter.

His Honor requested me to communicate with your office so that you could possibly explain and advise the Court of your Committee's position on the subject.

Since the Attorney General represents your Committee, as well as Judge Signorelli (without my consent), I expect that a realistic Chinese Wall be established in the Committee's Office, as well as in the Attorney General's Office, to diminish this clearly unethical situation of conflicting interests.

Very truly yours,

GEORGE SASSOWER

GS/bh

cc: Hon. Henry W. Lengyel

[redacted]

[redacted]

235

[illegible] JUDICIAL DISTRICT

[illegible] 1982

[illegible] COMMITTEE

State of New York
Grievance Committee for the
Ninth Judicial District
200 BLOOMINGDALE ROAD
WHITE PLAINS, N. Y. 10605
914-949-4540

FRANK H. CONNELLY, JR.
CHAIRMAN

GARY L. CASELLA
CHIEF COUNSEL

RICHARD E. GRAYSON
TIMOTHY J. BRENNAN
ASSISTANT COUNSEL

SYLVIA L. FABRIANI
INVESTIGATOR

November 15, 1982

George Sassower, Esq.
285 Soundview Avenue
White Plains, New York 10606

Dear Mr. Sassower:

I write in response to your letter of November 10 which was addressed to me at my law office in New Rochelle.

While I do not agree with everything said in that letter I am not unsympathetic to the predicament in which you find yourself. I have asked Mr. Casella to investigate what may be done consistent with the Judiciary Law and the Rules of the Court.

Very truly yours,

Frank H. Connelly, Jr.

FHCjr/s



Exhibit "D"

Exhibit "E" (237-238)

# State of New York
# Grievance Committee for the
# Ninth Judicial District

200 BLOOMINGDALE ROAD
WHITE PLAINS, N. Y. 10605
914-949-4540

FRANK H. CONNELLY, JR.
CHAIRMAN

GARY L. CASELLA
CHIEF COUNSEL

RICHARD E. GRAYSON
TIMOTHY J. BRENNAN
ASSISTANT COUNSEL

SYLVIA L. FABRIANI
INVESTIGATOR

November 23, 1982

CONFIDENTIAL

Honorable Henry W. Lengyl
Judge of the Court of Claims
15th Floor
44 South Broadway
White Plains, NY 10601

Dear Judge Lengyl:

This is to confirm our telephone conversation of today regarding the letter (copy enclosed) of George Sassower, Esq., dated November 10, 1982.

Mr. Sassower inquired therein inter alia, as to his rights of disclosure concerning matters that have been considered by the Grievance Committee.

The position of this Committee is that in view of the requirements of §90(10) of the Judiciary Law, it is the sole province of the Appellate Division as to whether or not to permit any such items to be divulged.

Section 90(10) provides as follows:

> Any statute or rule to the contrary notwithstanding, all papers, records and documents upon the application or examination of any person for admission as an attorney and counsellor at law and upon any complaint, inquiry, investigation or proceeding relating to the conduct or discipline of an attorney or attorneys, shall be sealed and be deemed private and confidential. However, upon good cause being shown, the justices of the appellate division having jurisdiction are empowered, in their discretion, by written order, to permit to be divulged all or any part of such papers, records and documents. In the discretion of the presiding or acting presiding justice of said appellate division,

Exhibit "E" 237

such order may be made either without notice to the person or attorneys to be affected thereby or upon such notice to them as he may direct. In furtherance of the purpose of this subdivision, said justices are also empowered, in their discretion, from time to time to make such rules as they may deem necessary. Without regard to the foregoing, in the event that charges are sustained by the justices of the appellate division having jurisdiction in any complaint, investigation or proceeding relating to the conduct or discipline of any attorney, the records and documents in relation thereto shall be deemed public records.

If there are any further questions in this matter, I would be pleased to be of whatever assistance is possible.

Respectfully submitted,

Gary L. Casella
Chief Counsel

GLC/jfc
Enclosure

cc: Frank H. Connelly Jr., Esq.
George Sassower, Esq.

ACT

WRIT OF HABEAS CORPUS

WRIT OF HABEAS CORPUS

SHERIFF OF THE COUNTY OF SUFFOLK,

Respondent

# The People of the State of New York

upon the relation of GEORGE SASSOWER

TO SHERIFF OF THE COUNTY OF SUFFOLK

Greeting:

WE COMMAND YOU, That you have and produce the body of GEORGE SASSOWER by you imprisoned and detained, as it is said, together with your full return to this writ and the time and cause of such imprisonment and detention, by whatsoever name the said person shall be called or charged before one of the Justices of the Supreme Court of the State of New York, Justice Presiding, Special Term, Part I County of Westchester at 111 Grove Street, White Plains, N.Y. in the courthouse thereof on the 14th day of June 1978 at 10:00 A.M. to do and receive what shall then and there be considered concerning the said person in the premises and have there this writ.

WITNESS, Hon. Anthony J. Ferraro one of the Justices of our said Court the 10th day of June 1978

Pending final determination of the instant petition in Anthony J. Ferraro et al. vs. GEORGE SASSOWER, et al. pursuant to this writ petitioner is released on his own recognizance.

Anthony J. Ferraro
J.S.C.

GEORGE SASSOWER, Esq.
Attorney(s) for Petitioner
Office and Post Office Address
75 Wykagyl Station
New Rochelle, New York, 10

The within writ is hereby allowed this day of

J.

Judge directed June 10 1978
203 3 EFL
Exh. 6 "B"