

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

-----x

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.

-----x

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

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

This affidavit is submitted by plaintiff for  
leave to reargue the two Orders of this Court entered on  
June 27, 1983 (Exhibit "A" and Exhibit "B"), and  
modification of such Orders based upon the following  
arguments:

b. Even if such document production requires the duplication of "hundreds if not thousands of pages", would not such reproduction be less expensive and more convenient than the production of several additional employees of "County" in New York City for an oral deposition and requiring them to produce as part of such examination, the very same documents?

I respectfully submit, the persistent refusal to comply by the County with plaintiff's disclosure demands is all part and parcel of a stonewalling "dance" by all the defendants herein.

WHEREFORE, it is respectfully prayed that plaintiff's motion be granted in all respects, and defendant's cross-motion be denied, with costs.



GEORGE SASSOWER

Sworn to before me this  
29th day of June, 1983

*Barbara Tatesure*

BARBARA TATESURE  
Notary Public State of New York  
No. 24-4760746  
Qualified in Kings County  
Commission Expires March 30, 1984

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

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GEORGE SASSOWER,

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This affidavit is submitted by plaintiff for  
leave to reargue the two Orders of this Court entered on  
June 27, 1983 (Exhibit "A" and Exhibit "B"), and  
modification of such Orders based upon the following  
arguments:

1. The Court granted plaintiff's request that he be permitted to examine the non-party witness, Harry Schlegel (Exhibit "B", p. 5), but erroneously referred to said non-party witness on two occasions as "Nelkin" (p. 7).

Hopefully the parties will stipulate to correct such patent error prior to the return date, but in the event of any difficulty, it is requested that such error be corrected by the Court.

2. The Court inadvertently omitted to schedule the dates when the examination of Art Penny was to be continued, pursuant to a prior Order of the Court.

Here again, hopefully the parties will be able to stipulate, prior to the return date, mutually agreeable dates, otherwise it is requested that such dates be set by this Court.

3. This Court denied plaintiff's request for the examination of Surrogate Signorelli because plaintiff's right to such examination "is simply not made out by the conclusory language employed by" plaintiff (Exhibit "B", p. 4).

a. Nothing contained in plaintiff's affidavits, factually or conclusory, was disputed by defendants on these motions, or by defendants or anyone else in other prior motions or proceedings in this action or any place else.

b. There is a great difference and distinction between immunity for civil damages [which issue is not before His Honor] and immunity from testifying [which is now before His Honor]. For a judicial officer immunity is the general rule in action against him for damages, as a testimonial witness there is generally no immunity (Dennis v. Sparks, 449 U.S. 24).

At bar, the Appellate Division, Second Department, has had before it for more than one year the dismissal of plaintiff's causes of action against Signorelli.

That same appellate court will have before it in the September 1983 term the refusal of nisi prius to dismiss the action of plaintiff's wife and daughter against Signorelli based on judicial immunity.

His Honor's irrelevant comment that "[t]here can be no question concerning his (Signorelli's) immunity from suit as a judicial officer" (Exhibit "B", p. 4), overstates the proposition. There is no immunity if there is a clear absence of personal and subject matter jurisdiction; there is no immunity if the judicial officer knows he has no jurisdiction; and there is no immunity if the act is not judicial in nature.

c. Unquestionably on June 24, 1977 there was no proceeding in any court involving plaintiff. According to the News' stringer, Art Penny, he received three telephone calls from persons whose names he refused to disclose, and told to proceed to Surrogate's Court, Suffolk County, which he did. One of the articles on which this action is based states "the judge (Signorelli) explained that he allowed Sassower (plaintiff) to purge himself of the contempt charges by giving Mastroianni a complete accounting of the estate".

There is no question about the falsity of the statement since such accounting had been given more than one year prior thereto and that was not the grounds for the contempt sentence. Central to News' liability and damages is whether Signorelli gave it such false statement or whether Signorelli gave the News the correct statement and it was published falsely. Penny testified to the correctness of the statement as given.

The examination is sought not to establish liability on the part of Signorelli, but sought as relevant and material to the liability and damages of the New York News.

d. The Deputy Sheriffs, contrary to plaintiff's demands and judicial mandate, conveyed plaintiff to Signorelli's courthouse [where he was refused the right to obtain a writ of habeas corpus], rather than to the County Jail [where he could have and eventually did obtain such writ].

Once again, whether Signorelli gave instructions to the Sheriff and his Deputies to disobey the law and express terms of Warrant of Commitment affects the liability and damages sought by plaintiff against the Sheriff's Office.

The examination is ought not to establish liability on the part of Signorelli, but sought as relevant and material to the liability and damages of the Sheriff and his deputies.

e. In view of the aforementioned, further examples and extended discussion would needlessly belabor the point.



4. Contrary to the statement of His Honor that Vincent G. Berger, Jr., "appears to be no more than counsel to the Public Administrator for Suffolk County, Anthony Mastroianni" (Exhibit "B", p. 4), he seemed to have been the source for the misinformation in the News' article of June 27, 1977 that "Mastroianni never received the accounting". The later article published by the News states:

"Vincent Berger, counsel to the public administrator noted that Sassower was served Aug. 10 with (Judge) Murov's order directing him to appear yesterday, when he could have fought the contempt proceedings."

Did Berger make such extra-judicial statement to the News or was it another piece of sheer fabrication by or distortion by such publication?

Since there is no question that plaintiff served a notice of special appearance and successfully contested the court's jurisdiction, the truth of such reported statement is, once again, relevant and material to plaintiff's action against the News.

6. This Court correctly perceived (but underestimated) the relationship between plaintiff and Erick F. Larsen, Esq.

The relationship is not only "civilized and professional in tone", it is extremely friendly and courteous. Such amicable relationship does not, and should not, affect the vigor in which our particular positions are asserted.

a. Such, unfortunately, was not the situation on June 10-11, 1978, when Mr. Larsen was present and witnessed the events of that time, which included the refusal to obey a Writ of Habeas Corpus directing my immediate release, the refusal to permit me to have visitors, the refusal to allow me to be visited by counsel, and the incarceration of my wife and daughter for nothing more than serving such Writ.

I know of no proposition that disqualifies a testimonial witness merely because he happens to be an attorney or an attorney for some of the parties (except as to privileged material).

Mr. Larsen's testimony is relevant, material, and crucial as to the events of June 1978, a proposition denied by no one.

b. There has been a matter that I have strongly and openly faulted Mr. Larsen, and that is his several attempts to gain unsportmanship mileage out of irrelevant matter.

As Mr. Larsen (and the Appellate Division) now recognize, the holding and words in Kelly v. Sassower (78 A.D.2d 502), has been completely refuted after extensive investigation and examination as a complete fraud upon various courts and judges.

In throwing in the sponge, before the completion of cross-examination the attorney for the Grievance Committee stated:

"To attempt to catalogue and analyze every false and misleading statement to a document prepared by the [my adversary] firm in connection with these two trusts would be a Herculean task and would only belabor the point. It has been satisfactorily established that [my] conduct ... in not violative of any applicable disciplinary rule." (Report of Hon. Aloysius J. Melia, dated February 4, 1982, p. 12, confirmed by the Appellate Division).

Particularly significant is the following portion of the statement of Hon. Aloysius J. Melia, in agreeing with the dismissal of the charges, wherein His Honor stated:

"Now really, I find it difficult to believe anything that [my adversary] said, I hate to say that, and I only do it because I think it is necessary to do so, because this is a very, very strange case. ..

Now, I find great difficulty --- I found great difficulty with that from a factual and a legal standpoint, particularly when it is certainly true that the Justices involved here, including the Appellate Division, were all fine, eminent, able men. But, hearing the testimony, however, it is clear to me that for the most part they did not have the benefit of all that is before me. ...

In addition, and as part of this whole patchquilt, we have [my adversary] admitting that in many instances there were false statements in papers submitted by him to these various judges, which, indeed, would tend to excite them." (p. 13-14).

The shame of my friend and colleague becomes manifest, when like the Signorelli diatribe, criticism of my conduct by the Appellate Division may be republished freely, while I am prohibited, under of pains of further disciplinary proceedings, from publishing the details and outcome of the disciplinary proceedings which completely vindicated me.

I repeat -- because I have not found one person who comprehend and justify this oddity. The Signorelli, sua sponte diatribe, as published in the New York Law Journal or the Appellate Division decision noted by His Honor (Exhibit "B", p. 6), may be cited and republished freely and with impunity. Nevertheless, disciplinary proceedings were thereafter initiated against me because I chose to disclose some exonerating and relevant testimony in a subsequent pertinent judicial proceedings.

Even the Grievance Committee has not been "unsympathetic to the predicament" (Exhibit "D"). The entire letter exchange of this "bizzare situation" when another tribunal found difficulty rationalizing the matter is annexed herein (Exhibit "C", "D", and "E").

Thus reference by my adversaries to matters wherein I am prohibited from disclosing exculpatory and exonerating details are without moral or ethical justification, particularly when they are irrelevant to the issues at hand and set forth only to prejudice.

Prejudice and bias is the hallmark of the lynch mob, it has no place in a civilized judicial tribunal.

As a "free man", cognizant to my obligation to society, I give, as may be seen herein, only limited obedience to such irrationality and no obedience to tyrants, even if they be members of the judiciary, who, on a wholesale basis, refuse to follow, recognize, or obey basic constitutional and civilized rights.

8. I respectfully request that His Honor reconsider the question of the issue regarding the desired examination of the Patterson and Townley firms. I respectfully submit, particularly with the destruction of documents and the manifestly contrived lack of recollection, constitutes "special circumstances", as presently judicially interpreted.

9. I also believe that His Honor gave insufficient consideration when His Honor no more than "denied" my request that the objections on behalf of Art Penny be overruled. His Honor's position seems to be inconsistent with some clearly established rules on the subject and some novel aspects deserve judicial articulation so counsel may be guided in the further examinations herein.

10. The involvement of two members of the Appellate Division and others (Exhibit "B", p. 5) has, with greater detail, been set forth in papers in the Appellate Division. These assertions have not been denied. Obviously, information not generally available, has been leaked to plaintiff. To set forth further details will only jeopardize the disclosure of such sources with probable termination of such sources for further information.

A non-intrusive joint inquiry, in lieu of a formal examination, would serve the interests of justice and preserve judicial dignity and propriety.

WHEREFORE, it is respectfully prayed that leave to rearque be granted and on reargument, the Orders of this Court be modified accordingly.

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GEORGE SASSOWER

Sworn to before me this  
30th day of June, 1983

**BARBARA MATURE**  
Notary Public State of New York  
No. 24-4760746  
Office in Kings County  
Commission Expires March 30, 1984



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 Avenue,  
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.

8th JUDICIAL DISTRICT

NOV 12 1982

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"Exhibit C"

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), compelling 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



~~Hon. Milton Hadden~~

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SUN JUDICIAL DISTRICT

NOV 13 1982

CRIMINAL COMMITTEE

State of New York  
Grievance Committee for the  
Ninth Judicial District

200 BLOOMINGDALE ROAD

WHITE PLAINS, N. Y. 10608

FRANK H. CONNELLY, JR.  
CHAIRMAN

914-940-4540

GARY L. CASELLA  
CHIEF COUNSEL

RICHARD E. GRAYSON  
TIMOTHY J. BRENNAN  
ASSISTANT COUNSEL

SYLVIA L. FABRIANI  
INVESTIGATOR

November 15, 1982

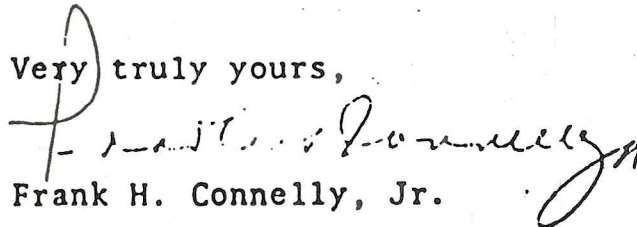
George Sassower, Esq.  
285 Soundview Avenue  
White Plains, New York 10606

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

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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

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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,

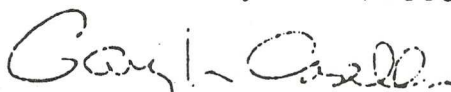
Exhibit "E" 237

Honorable Henry W. Lengyl  
November 23, 1982  
Page Two

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.