

(299-300)

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,  
JOHN P. FINNERTY, ALAN CROCE, ANTHONY  
GRYMALSKI, HARRY E. SEIDELL, NEW  
YORK NEWS, INC., and VIRGINIA MATHIAS,

Defendants.

-----x  
S I R S:

PLEASE TAKE NOTICE, that upon the annexed  
affidavit of GEORGE SASSOWER, duly sworn to on the 14th  
day of July, 1983, and upon all the pleadings and  
proceedings had heretofore had herein, the undersigned  
will move this Court at a Special Term Part IA of the  
Supreme Court of the State of New York, County of New  
York, held at the Courthouse thereof, 60 Center Street,  
in the Borough of Manhattan, City and State of New York,

on the 29th day of July, 1983, at 9:30 o'clock in the forenoon of that day or as soon thereafter can be heard for an Order striking the answer of ANTHONY MASTROIANNI and JOHN P. FINNERTY for their wilfull failure to attend and submit to an examination before trial in accordance with the Orders of this Court dated June 20, 1983, together with any other, further, and/or different relief as to this court may seem just and proper in the premises.

PLEASE TAKE FURTHER NOTICE, that opposing papers, if any, are to be served upon the undersigned at least five (5) days after the return date of this motion, with an additional five (5) days if such service is by mail.

Dated: July 14, 1983

Yours, etc.,

GEORGE SASSOWER, Esq.  
Attorney for plaintiff  
2125 Mill Avenue,  
Brooklyn, N.Y. 11234  
212-444-3403

To: David J. Gilmartin, Esq.  
Paterson, Belknapp, Webb & Tyler, Esqs.  
Robert Abrams, Esq.

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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 is submitted in support of a motion to strike out the answer of defendants, ANTHONY MASTROIANNI and JOHN P. FINNERTY for their wilfull failure to attend and submit to an examination before trial pursuant to Orders dated June 20, 1983 and entered on June 27, 1983 (Exhibit "A").

1. This is an action for various torts committed by defendants, now in its fifth year.

2. Particularly in the past year, the office of David J. Gilmartin, Esq., the attorney for Anthony Mastroianni and John P. Finnerty have stonewalled every attempt at pre-trial disclosure.

3. On June 29, 1983, a copy of the aforementioned Orders were served on defendants' attorneys.

4. The following day, June 30, 1983, deponent spoke to Erick F. Larsen, Esq., who is handling this matter on behalf of the office of David J. Gilmartin, Esq., and correctly and fully advised of the substance of said decision and Orders.

The bottom line of this conversation and several conversations thereafter was that the aforementioned clients were not going to comply with the said Orders.

I will not recite the laundry list of excuses and reasons for his clients refusal to comply, except that I was willing to reschedule such examinations to meet his convenience provided that they were held in July of 1983 in New York or Kings County. As I explained to him, upon receipt of the aforementioned Orders, I rescheduled my business/social trip from July to August 1983.

5. Mr. Larsen was clearly advised that nothing but a stay from this Court or the Appellate Division or an adjournment granted by the Justice Presiding at Special Term Part II of this Court would suffice.

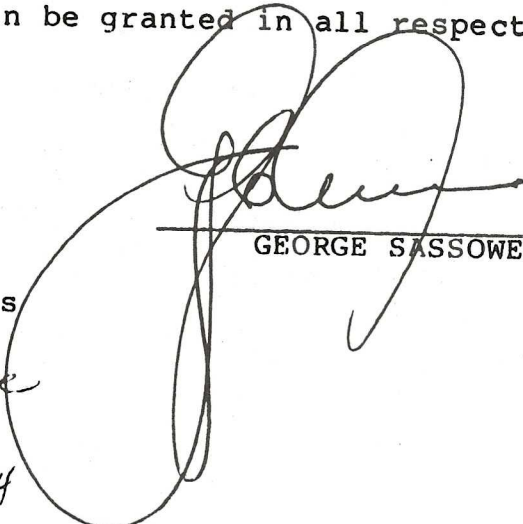
Mr. Larsen was also clearly advised that if he filed a Notice of Appeal in order to obtain a statutory stay, within two days I would be at the Appellate Division requesting that it be vacated.

Mr. Larsen was also clearly informed that an application for reargument, per se, does not operate to stay the aforementioned Orders.

6. Mr. Larsen and his office knows that there is absolutely no legal or moral reason for refusing to submit his clients to an examination before trial.

7. The default by ANTHONY MASTROIANNI, JOHN P. FINNERTY, and their attorney was deliberate and intentional. Nevertheless, I will waive such default provided they agree to submit to such examination, in accordance with the aforesaid Orders by July 19, 1983, and actually submit to such examinations before July 26, 1983.

WHEREFORE, it is respectfully prayed that the relief requested herein be granted in all respects, with costs.



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GEORGE SASSOWER

Sworn to before me this  
14th day of July, 1983

*Barbara Tatesure*

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

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Defendants.

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S I R S:

PLEASE TAKE NOTICE that the within is a true  
copy of an Orders duly entered in the Office of the  
County Clerk, New York County on June 27, 1983.

Dated: June 29, 1983

Yours, etc.,

GEORGE SASSOWER, Esq.  
Attorney for plaintiff  
283 Soundview Avenue,  
White Plains, N.Y. 10606  
914-328-0440

To: PATTERSON, BELKNAPP, WEBB & TYLER, Esqs.  
DAVID J. GILMARTIN, Esq.  
ROBERT ABRAMS, Esq.

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*Exhibit "A"*