

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

(309-310)

-----x
GEORGE SASSOWER,

Plaintiff,

INDEX NO. 5774-1983

-against-

NOTICE OF CROSS MOTION

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 affirmation of ERICK F. LARSEN, dated July 28, 1983, and upon all the pleadings and proceedings had heretofore herein, the undersigned upon behalf of defendants, CROCE and GRYMALSKI, will cross move this Court at Special Term Part 1A of the Supreme Court of the State of New York, County of New York, held at the Courthouse, 60 Centre Street, in the State and City of New York, on the 5th day of August, 1983, at 9:30 a.m. for an Order:

(1) Pursuant to CPLR Sections 2221 and 2217 transferring the plaintiff's application dated July 21, 1983, returnable August 5, 1983, to strike these defendants' answers, and referring plaintiff's application to the Honorable Bruce McM. Wright for hearing and determination upon the grounds that

plaintiff's instant application concerns previous applications which have been and are currently under consideration by Judge Wright and upon the grounds that a number of applications currently before Judge Wright intimately involved the same issues of fact and law which are raised by the plaintiff in the current application;

(2) And for such other and further relief as this Court may deem just and proper.

Dated: July 28, 1983
Hauppauge, New York

Yours, etc.,

DAVID J. GILMARTIN, ESQ.
Suffolk County Attorney
Attorney for Defendants,
CROCE and GRIMALSKI
Veterans Memorial Highway
Hauppauge, New York 11788
(516) 360-3727
(516) 360-5030
ERICK F. LARSEN
Of Counsel

TO: PATERSON, BELKNAPP, WEBB & TYLER, ESQS.
ROBERT ABRAMS, ESQ.
GEORGE SASSOWER, ESQ.

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

-----X
GEORGE SASSOWER,

Plaintiff,

INDEX NO. 5774-1983

-against-

AFFIRMATION

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

Defendants.

-----X
ERICK F. LARSEN, an attorney duly admitted to practice
in the New York State Courts affirms the following under
penalties of perjury:

This affirmation is made in opposition to the plaintiff's
application dated July 21, 1983, and returnable August 5, 1983,
to strike the answers of defendants, CROCE and GRYMALSKI; and
in support of these defendants' cross motion to refer the
plaintiff's motion to the Honorable Bruce McM. Wright who is
currently considering the same facts and law in this action
in connection with other outstanding applications of the parties.

Since May of this year, plaintiff, GEORGE SASSOWER, ESQ.,
pro se, has interposed six separate applications concerning
discovery, including an application to reargue/renew the
applications which resulted in the two opinions of Justice Wright
dated June 20, 1983, which are annexed to plaintiff's current
moving papers. Plaintiff has also just served a notice of appeal

from these two decisions of Justice Wright.

In addition to the foregoing, your affirmant, upon behalf of the Suffolk defendants in response to the plaintiff's application, interposed an application for a protective Order (which is the subject of one of Justice Wright's decisions) and after it was partially denied, interposed a cross motion to reargue/renew.

Upon receipt of plaintiff's notice of appeal from these decisions, a cross notice of appeal was interposed on behalf of the Suffolk defendants.

All of these discovery applications have either been decided by Justice Wright or are currently in the process of being decided by Justice Wright. The current application involves the identical facts, law and parties which is currently before Justice Wright. Upon both the plaintiff's and the Suffolk defendants application and cross application to reargue/renew.

In addition, the plaintiff has interposed another application seeking the identical relief as the current application against the other two Suffolk defendants, Croce and Grymalski which is currently returnable next Friday, August 5, 1983, in this part. The only difference between the plaintiff's current application and the application returnable next Friday is the names of the defendants.

In connection with these outstanding applications, the parties have submitted extensive sworn statements in support and

in opposition and numerous documents in the form of exhibits. By this time, Justice Wright is fully familiar with the intricacies of the current applications and the recent history of discovery proceedings and applications in this action.

Plaintiff pro-se has indicated to your affirmant that he consents to his similar application returnable August 5th being consolidated with the instant application. However, plaintiff does not consent to any of these applications being referred to Justice Wright.

Notwithstanding plaintiff's self serving objection, this application and the application returnable August 5th should be consolidated and both referred to Justice Wright for determination along with the other discovery applications which he is currently considering. The interests of justice dictate nothing less.

In opposition to the current application, on behalf of the Suffolk defendants, your affirmant relies upon the notice of motion and supporting 18-page affirmation, with exhibits, dated July 12, 1983, which is currently before Justice Wright. In addition, your affirmant relies upon the affirmation in opposition dated July 22, 1983, in which it was requested that the identical application by the plaintiff with respect to Suffolk defendants, Mastroianni and Finnerty, be referred to Justice Wright for determination. Those documents are respectfully incorporated herein by reference.

In specific opposition to plaintiff's affidavit dated July 21st submitted in support of the instant application, your affirmant was not "correctly and fully advised of the substance" of Justice Wright's decisions and orders dated June 20, 1983, at any time prior to July 7, 1983. Rather, on Thursday, June 30, 1983, the plaintiff in a telephone conversation briefly summarized his interpretation of a small portion of one of the orders.

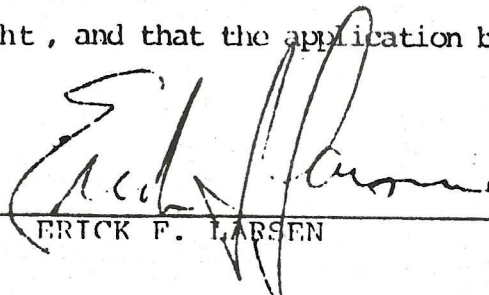
Your affirmant refused to submit his clients to depositions pursuant to orders which were never seen or analyzed previously. It was clearly explained to the plaintiff that it was absolutely essential that your affirmant analyze the orders and confer with his clients prior to conducting any of the depositions. Upon receipt of the orders on July 7, 1983, your affirmant conferred with his clients and it was determined that an application to reargue/renew would be interposed upon their behalf. That application was promptly prepared, filed and served and is currently under the consideration of Justice Wright.

Plaintiff is well aware of these facts yet has opted to interpose two separate applications to strike the answer of your affirmant's clients, the Suffolk defendants. He has done this knowing full well that the identical issues are currently before Justice Wright and the Suffolk defendants have requested Justice Wright to reschedule the depositions if he determines to adhere to his original decisions.

314

WHEREFORE, it is respectfully requested that the instant application be consolidated with plaintiff's identical application returnable August 5, 1983, and that these consolidated applications be referred to Justice Wright for determination. In the alternative if this request for referral is denied, it is respectfully requested that the Suffolk defendants be given an opportunity to supply this court directly with all of the relevant documents which are currently before Justice Wright, and that the application be denied.

Dated: July 28, 1983
Hauppauge, N.Y.



ERICK F. LARSEN