

Suffolk County - Notice of Motion  
(241-243)

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

-----X  
GEORGE SASSOWER,

Plaintiff,

-against-

New York Co.  
Index #  
5774-1983

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

Suffolk Index #  
78-17671

NOTICE OF MOTION

Defendant.  
-----X

PLEASE TAKE NOTICE, that upon the annexed affirmation of ERICK F. LARSEN, dated July 11, 1983, and upon all of the pleadings and proceedings had heretofore herein, the undersigned will cross move this Court at a Special Term, Part 1A, of the Supreme Court of the State of New York, County of New York, held at the courthouse thereof, 60 Centre Street, in the Borough of Manhattan, City and State of New York, on the 15th day of July, 1983, at 9:30 o'clock, in the forenoon of that day or as soon thereafter as counsel can be heard for an order seeking the following relief:

1. Pursuant to CPLR, Section 2221 to reargue and/or to renew this Court's order dated June 20, 1983 in so far as it denied Defendant's protection from discovery and upon reargument and/or renewal modifying said order in the interest of justice;

2. Pursuant to CPLR, Section 2004 in the alternative extending Defendant's time to comply with the Court's June 20, 1983 order by rescheduling the court ordered examinations before trial in the interest of justice;
3. Pursuant to CPLR, Section 5015(1) vacating and granting relief from this Court's order of February 3, 1983, in so far as it transferred venue of this action from Suffolk County to New York County, upon the grounds that Defendant's default in responding to that application was excusable and that it is in the interest of justice that Defendants be relieved of the default in responding to Plaintiff's application for such order;
4. Pursuant to CPLR, Section 510(1) and (3) and Section 511 transferring venue to County of Suffolk upon the grounds that New York County is not a proper County for venue of this action and upon the grounds that the convenience of material witnesses and the ends of justice will be promoted by a change of venue to Suffolk County;
5. For such other and further relief as this Court may deem just and proper.

Dated: July 7, 1983  
Hauppauge, New York

Yours, etc.,

DAVID J. GILMARTIN, Suffolk  
County Attorney for Defendants  
Mastroianni, Pinnerty, Croce,  
and Grymalski  
H. Lee Dennison Building  
Veterans Memorial Highway  
Hauppauge, New York 11788  
(516) 360-3727  
ERICK F. LARSEN, Of Counsel

TO:

GEORGE SASSOWER, ESQ.  
Plaintiff Pro Se  
2125 Mill Avenue  
Brooklyn, New York 11234

(cont'd)

HON. ROBERT ABRAMS,  
Attorney General of the State of New York  
Attorney for Defendant  
Two World Trade Center  
New York, New York 10047

PATTERSON, BELKNAP, WEBB & TYLER, ESQS.  
30 Rockefeller Plaza  
New York, New York 10112  
Attn: Zoe Mendes, Esq.



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

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GEORGE SASSOWER,

Plaintiff,

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,  
VINCENT G. BERGER, JR., JOHN P. FINNERTY,  
ALAN CROCE, ANTHONY CRYMALSKI, CHARLES  
BROWN, HARRY E. SEIDELL, NEW YORK TIMES,  
INC., and VIRGINIA MATHIAS,

Defendants.  
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New York Co.  
Index #  
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AFFIRMATION

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

1. I make this affirmation in opposition to the Plaintiff's application for leave to reargue the two orders of this Court both dated June 20, 1983, and in support of the Suffolk Defendants' cross motion which is annexed.
2. Your affirmant was quite surprised to receive a telephone call from the Plaintiff on June 30, 1983, in which he indicated that the Court had rendered its decision on two of the outstanding three applications which were pending at the time. On May 24, 1983, your affirmant appeared before the Court in connection with all three of the outstanding applications. At that time upon the consent of the Plaintiff who was also present, the Court expressly indicated that it would decide all three motions together and at the same time. The Court directed your



affirmant to serve Defendants' opposition papers on or before June 22, and ordered the Plaintiff to serve any reply papers on or before June 30, 1983, in connection with the third outstanding application then pending before the Court.

3. Documents submitted in support of the Suffolk Defendants' application for a protective order and in opposition to the two applications by the Plaintiff for discovery were believed to be related and interdependent. It is feared that by not considering these applications together, Defendants may be prejudiced.

4. In its June 20, 1983, opinion the Court stated:

The opposition asked that the depositions be held, if at all, in Suffolk County. But it has been ordered that this case steer clear of that County on the basis of some elusive theory not entirely clear. Accordingly, the depositions can not be held there.

5. It is apparent to your affirmant from this portion of the Court's previous decision that the Court was unclear as to how and why the action was transferred from Suffolk County to New York County. It appears that as a result, the Court is under the belief that it would be improper for any part of the proceedings to be conducted in Suffolk County. This simply is not the case.

6. This action was originally commenced on or about June 21, 1978 by service of a bear summons improperly designating Westchester County as its venue. After Defendants duly demanded a complaint, Plaintiff moved for leave to take precomplaint discovery. Thereafter, Defendants cross moved to dismiss this action

on the grounds that Plaintiff was in default in that he failed to serve a timely complaint, Defendants having duly demanded same. Such motion and cross motion were denied by Justice William A. Walsh, Jr., of Westchester County entered September 13, 1978. Justice Walsh ordered the Plaintiff to serve a complaint within ten (10) days which he did (copy annexed as Exhibit "A").

7. Thereafter, on or about September 15, 1978, your affirmant upon behalf of the Suffolk Defendants duly served a demand for change of venue pursuant to CPLR, Section 511(e). Because the Suffolk Defendants are all officers or employees of Suffolk County, your affirmant then moved to transfer venue from Westchester to Suffolk County pursuant to CPLR, Section 504. This application was granted and venue transferred by order of Justice Leon Lazer dated November 14, 1978. <sup>(Annexed as Exhibit "B")</sup> During the next four (4) years extensive proceedings in this action took place in Suffolk County. Then by motion returnable December 29, 1982, the Plaintiff made application to change venue suggesting New York or Westchester Counties or any other county outside the Tenth Judicial District (notice of motion and supporting affidavit annexed as Exhibit "C"). Due to the delay in the receipt of Plaintiff's moving papers and the intervening holidays, your affirmant appeared personally on the December 29th return date and pursuant to an agreement with counsel for the co-defendant, New York News (12/27/82 confirming letter annexed as Exhibit "D"), requested and received an adjournment of the application to January 31, 1983.

8. Just prior to obtaining the adjournment your affirmant had a discussion with Zoe Mandes, attorney for co-defendant, New York News Inc. At that time, Ms. Mandes indicated that she was planning to oppose plaintiff's application for change of venue. She requested that your affirmant obtain an adjournment of the return date on behalf of both defendants, which was done. Because of the litigious proclivity of the plaintiff in this and related actions, counsel for the co-defendants during the five year pendency of these actions have developed a system of cooperation whereby not all motions made by the plaintiff are opposed by each and every defendant. Instead, some motions are opposed only by some defendants so as to reduce the amount of paperwork which would otherwise be generated strictly in connection with the Sassower matters.

9. In addition, in early January, 1983, your affirmant having served as an Assistant Suffolk County Attorney for almost six years, decided to resign from that office and devote full time to the private practice of law. In early January, the time when your affirmant gave notice of his intention to resign, it was contemplated by all concerned that responsibility for Sassower matters would be transferred to another Assistant in the Office of the Suffolk County Attorney. It must be stressed that for more than five years, as an Assistant Suffolk County Attorney, your affirmant was exclusively responsible for the



defense of the Suffolk defendants in the numerous actions and proceedings, including appeals which were pending all over the metropolitan area in both the State and Federal courts involving the Sassowers.

10. Your affirmant's last day as an Assistant Suffolk County Attorney was Friday, January 28, 1983, to wit, two (2) days before the January 31, 1983, return date of the plaintiff's application in this action for change of venue. At that time, it was believed by your affirmant that others in the Office of the Suffolk County Attorney had assumed complete control and responsibility for all Sassower matters, including opposition to the plaintiff's outstanding application to change venue.

11. However, due to a mistake in the transfer of case load responsibilities of your affirmant, and a breakdown in communication, no opposition was submitted on behalf of the Suffolk defendants to the change of venue application. Moreover, counsel for the co-defendant, New York News Inc., determined that it would not oppose the plaintiff's application. This decision by co-defendant's counsel was not communicated either to your affirmant nor to anyone else in the Office of the Suffolk County Attorney. In order for the record to be clear it must be noted that counsel for the co-defendant was in no way obligated to communicate the decision not to oppose the plaintiff's application. Moreover, at all times, it was the intention of counsel for the Suffolk defendants to formally

oppose the plaintiff's change of venue application.

12. Since there was no opposition, newly elected Justice James J. Brucia on February 3, 1983, ordered venue of this action transferred to New York County (order annexed as Exhibit "E"). Thus, upon careful consideration of the undisputed facts in this action, there is absolutely no legitimate reason why depositions of the Suffolk defendants cannot be held at the courthouse in Suffolk County. Moreover, the undisputed facts in this action strongly militate in favor of conducting the depositions at the courthouse in Suffolk.

13. As this court has recently observed, with respect to this action plaintiff is monmanical (affected with or suggestive of madness; characterized by ungovernable excitement or frenzy; frantic). This observation follows upon the heels of Westchester Supreme Court Justice Coppola, who invoked the extraordinary device of enjoining the Sassowers from generating any further and new litigation involving the Kelly Estate, due to the abusive and irresponsible manner in which plaintiffs have been conducting litigation against the Suffolk defendants.

14. Permitting a plaintiff to depose defendants is one thing. Ordering responsible public officials, including the Sheriff of Suffolk County, the Public Administrator of Suffolk County, the Commanding Officer of the Internal Affairs Unit of the Sheriff's Office, and Deputy Sheriffs to travel to Manhattan to be deposed, under the circumstances of this

action is not in the interests of justice. In light of the Sassowers "track record" in this and related litigation, even if the defendants were not public officials under the circumstances, it is extremely unfair for them to be deposed by the plaintiff in Manhattan when they live and work in Suffolk County. When one considers that these defendants are public officials sued in this action exclusively for conduct which occurred in their official capacity (and undisputively pursuant to the express mandate of the Surrogates Court), the unfairness of this situation becomes nothing less than overwhelming.

15. Law applicable to this situation strongly militates in favor of the depositions being conducted at the Supreme Courthouse in Suffolk County. CPLR, Section 3110 concerning the location of oral depositions must be read in the context of CPLR, Section 504(1) governing the venue of actions in which county officers or employees are Defendants.

16. CPLR, Section 3110(1) expressly authorizes this Court to order the depositions of the Suffolk Defendants to be conducted in Suffolk County (even if they were not public officials) because that is the County in which they all reside and are employed. However, because Defendants are public officials, CPLR, Section 504(1) expressly provides that venue is only proper in Suffolk County. Moreover, CPLR, Section 3110(3) expressly provides that where an action against employees of Suffolk County is pending in Suffolk County, oral depositions are to be conducted at the Suffolk County Courthouse unless the parties stipulate otherwise.

17. Thus under normal circumstances, Plaintiff's conduct



aside, clearly the Suffolk Defendants would expressly be entitled to be deposed at the Courthouse in Suffolk County in this action. Clearly under the facts, applicable law, and circumstances of this action it is in the interest of justice that the depositions of the Suffolk Defendants be held at the Courthouse in Suffolk County. The question thus becomes: does the order of Justice Brucia (annexed as Exhibit "E") preclude or militate against this result.

18. It is respectfully submitted that the failure by counsel to formerly oppose the Plaintiff's application for change of venue should not be allowed to cause such a harsh result upon the innocent Suffolk Defendants individually.

19. All of the Suffolk Defendants work and maintain their offices in the County complex which includes the main Supreme Courthouse of Suffolk County. All pertinent records are also maintained at this location. Defendant, Public Administrator, Anthony Mastroianni, has indicated to your affirmant that his office maintains a full file cabinet and several cartons of records which have been generated concerning the Plaintiff in judicial proceedings including this action spanning a period in excess of ten (10) years. He informs your affirmant that these documents are not indexed chronologically or by subject matter due to the unusual nature of these proceedings and the sheer unusually large volume of unfamiliar paperwork which has been generated. It would be extremely unfair and burdensome to require the Public Administrator to transport this material to the Courthouse in Manhattan. Only the Plaintiff is in a position to identify those documents which he believes relevant to his

case. Defendants should not be ordered to do anything more than allow access by the Plaintiff to these documents during normal business hours in their offices.

20. Moreover, since the Plaintiff in this action, George Sassower, is the attorney involved in all other actions and proceedings involving Sassower's arising from the same subject matter; and is also a party, in most if not all but one of the other related actions and proceedings; and since he was the former Executor and attorney for the Estate of Kelly, the overwhelming majority of the documents in Defendants' files are already in the possession of Mr. Sassower or were generated by him in the first instance. Your affirmant recognizes that this action must proceed and that all parties are entitled to conduct reasonable discovery. While the instant application to depose the Suffolk Defendants "on its face" may not appear abusive it must be viewed in context.

21. In support of the Suffolk Defendants' application for a protective order and in opposition to the Plaintiff's discovery applications, your affirmant as succinctly as possible attempted to enlighten the Court as to the unusual circumstances surrounding this action. Key documents were selected, consisting primarily of judicial decisions in order to acquaint this Court with the unique situation presented. Your affirmant stands in the position of being able to produce thousands of pages of "screaming style" related Sassower litigation documents complete with misstatements, criminal accusations, disregard for previous judicial determinations directly on point all reeking of emotionalism and lacking in substance.



22. Mr. Sassower has abused the Suffolk Defendants in both the District Court for the Eastern and Souther Districts and the Circuit Court of Appeals. He has abused them in Westchester County, in Suffolk County and in New York County. On appeal he has abused the Suffolk Defendants in the Second Department, the First Department and now in the Fourth Department as well as the U.S. Court of Appeals for the Second Circuit. The Plaintiff, George Sassower, early in related proceedings has sued the former County Attorney and your affirmant for millions of dollars in United States District Court for the Eastern District of New York. Within the last year, Mr. Sassower has served a notice of claim indicating his intention to sue the current County Attorney of Suffolk County as well as your affirmant for additional millions of dollars. Mr. Sassower has sued in related proceedings two Assistant Attorney Generals at different times in different actions because they defended judges who Sassower made Defendants in this or related proceedings. Moreover, upon information and belief, Mr. Sassower sued a panel of judges of the Appellate Division, Second Department and another panel of judges from the Appellate Division, First Department. By no means is this representative sample exhaustive. However, it certainly is representative of the extraordinary type of abuse which the Suffolk Defendants have been forced to undergo for a period of in excess of five (5) years merely because they executed a judicial mandate.

23. In every one of the proceedings or actions in which your affirmant represented the Suffolk Defendants, each and every



action, proceeding or appeal has terminated in favor of Suffolk Defendants, the Suffolk County Attorney, or your affirmant.

24. In the course of these related proceedings, Mr. Sassower has repeatedly used wrong citations, wrong index numbers, has subpoenaed court files from County Clerks to Appellate Divisions while applications were being considered in the court of original instance, has proceeded by order to show cause upon an almost continuous basis, has given inadequate notice, has scheduled the bare minimum return dates for applications, has refused to grant adjournments routinely, in almost every instance moves for reargument, always appeals, and prior to Judge Copola's injunction often commences an entirely new action which merely rehashes what was already decided previously against him.

25. Your affirmant stands ready, willing and able to support each and every one of these statements by producing thousands of pages of documents which have been generated during the past five (5) years in Sassower related litigation. George Sassower has needlessly caused the taxpayers of this state to expend thousands if not hundreds of thousands of dollars. Upon information and belief, as this Court has eluded, and as other Courts have found Mr. Sassower is consumed beyond reason by a course of frivolous and unreasonable litigation.

26. In the Plaintiff's current application to reargue he alleges that the Defendants did not dispute his allegations. This is completely untrue. The Suffolk Defendants dispute almost everything that the Plaintiff alleges. However, long ago

your affirmant on behalf of the Suffolk Defendants stopped responding to the ludicrous, long winded testimonials which the Plaintiff routinely interposes in connection with each and every application which is before the Court. A fifty (50) page affidavit by the Plaintiff would otherwise require a fifty (50) page affidavit by your affirmant on behalf of the Suffolk Defendants. This would be unfair and abusive not only to the Court and to the clients who have important public duties to perform but also to the taxpayers of Suffolk County. It must be stressed that neither the Suffolk Defendants nor your affirmant will be enticed into expressly disputing each and every allegation that is set forth by Mr. Sassower in this or any other application.

27. However, in fairness to the Court and to the clients, Plaintiff's allegations with respect to your affirmant's involvement in the underlying substance of this action must be expressly disputed. On the evening of Saturday, June 10, 1978, (the date of the Plaintiff's arrest by Deputy Sheriffs of Suffolk County pursuant to the second warrant of committment issued by the Surrogates Court) because a number of Suffolk Officials were then currently Defendants in a number of actions and proceedings brought by Mr. Sassower, your affirmant was contacted by his client the Sheriff in order to render appropriate advice. At no time on that date did your affirmant speak with or even see the Plaintiff, George Sassower, his wife Doris or his daughter Carrie. At the time of the Plaintiff's arrest and incarceration, your affirmant was actually defending the Sheriff in an Article 78 proceeding seeking to enjoin the Sheriff and his Deputies from executing the pertinent warrant of committment. Detailed know-



ledge of the incident complained of was gained by your affirmant exclusively in his capacity as counsel both at the time complained of and thereafter through attorney client communications and by studying relevant documents. However, due to ethical considerations regardless of whether your affirmant is or is not defense counsel in this action it would be completely inappropriate for your affirmant to disclose anything either now in this affirmation or at any future date either through deposition or trial testimony with respect to the incident complained of.

28. According to the Plaintiff's own version of the facts at all relevant times he was incarcerated in a jail cell upon one of the upper floors of the correctional facility. How then is he able to set forth under oath according to his allegedly personal knowledge the involvement of your affirmant? This simply can not be done without stretching the truth beyond reason. It is firmly believed that if cross examined on this point the Plaintiff would be forced to admit that he has no personal knowledge as to your affirmant's actual involvement, if any, other than the admitted fact that your affirmant fulfilled his responsibilities as counsel at the time.

29. Moreover, upon information and belief, there is a very strong ulterior motive on the part of the Plaintiff for seeking an order of this Court to depose your affirmant. This same ulterior motive your affirmant believes has led the Plaintiff to actually sue your affirmant and the current County Attorney and the previous County Attorney. Upon information and belief, the Plaintiff is attempting to deprive the Suffolk Defendants



of counsel who is fully familiar with all of the claims, actions, proceedings and appeals which have been brought by the Sassowers against the Suffolk Defendants for more than five (5) years. The Plaintiff is well aware that there is no substitute for personal experience.

30. This is the fourth time within one year that the Plaintiff has made application to take your affirmant's deposition. All three previous attempts have been unsuccessful. All suits against your affirmant and the former and current County Attorneys have also been unsuccessful. Nevertheless, the Suffolk Defendants merely request that the current application to depose your affirmant be denied without prejudice. If after all discovery is concluded the Plaintiff still believes that your affirmant's testimony is "crucial" and the Court then determines that it is permissible Plaintiff will still have the opportunity to conduct a full and fair inquiry. By resolving this discovery controversy in this fashion, the rights of all parties can be preserved and no party will obtain a blatantly unfair and prejudicial advantage.

31. The Suffolk Defendants are not parties to all of the Sassower related actions and proceedings which are currently pending in the State and Federal Courts. In his moving papers, Plaintiff attempts to boot strap his case by setting forth selected parts of what appears to be formal grievance proceedings against himself and his wife. It is believed that it is totally improper for this material to be set forth in this action. Upon information and belief, it constitutes a violation of the orders of the grievance committee and is at the same time unfair to the Suffolk Defendants since they have no access to the full record

before that body.

32. In addition, the Plaintiff eludes to extensive proceedings in the Appellate Division, Second Department in which he has moved to obtain disclosure in the Appellate portion of this very action by the attorneys for all parties as well as all members of that Appellate Court. It must be pointed out that Mr. Sassower's simultaneous application to that Court has been denied by decision reported in the New York Law Journal dated July 8, 1983 (decision annexed as Exhibit "F"). It is absolutely reprehensible that Sassower has successively and simultaneously made application in at least three different courts for the same relief without expressly informing the courts as to the relevant details.

33. In this action and related actions and proceedings, Mr. Sassower has exhausted the patience of judges in the Eastern District of New York, Westchester County, Suffolk County and the Appellate Division, Second Department. He has repeatedly been held in contempt both in Suffolk and New York Counties. For more than five (5) years the Suffolk Defendants have served as the vehicle for the Plaintiff's abuses throughout these related proceedings. At this very moment the Suffolk Defendants (and your affirmant and the current County Attorney personally) are being abused in Westchester County, New York County, Suffolk County, United States District Court for the Southern District of New York, the Appellate Division, Second Department, the Appellate Division, Fourth Department and upon information and belief will soon be abused in the Appellate Division, First Department, as well.



34. While Plaintiff's notice of deposition of the Suffolk Defendants may not appear abusive on its face and while his discovery applications in New York County to date viewed in a vacuum may not appear unreasonable taken in relevant context they are nothing less than an absolute abuse of an attorneys normally cherished status as a member of the bar.

35. Accordingly, your affirmant upon behalf of the Suffolk Defendants sincerely pleads that reasonable protection be afforded by the Court from the current abuse which is being inflicted by the Plaintiff in this action. Normal and routine discovery proceedings are not appropriate in the context of this action. One need not possess a crystal ball in order to envision the specific abuses which each of the individual Suffolk Defendants are about to be subjected to at the scheduled depositions.

36. The unusual circumstances of this action fully warrant examination of the Defendants' documents by the Plaintiff in the offices of the individual Defendants prior to the conduct of the individual Suffolk Defendants' deposition. Moreover, it is patently unreasonable to force each of the individual Suffolk Defendants to spend four (4) hours commuting to and from Manhattan in order to be personally abused under the guise of conducting a deposition by a person who has obviously extreme difficulty constraining himself in writing and during oral appellate argument let alone in an unsupervised deposition.

37. In contrast, if allowed to be deposed at the Suffolk Supreme Courthouse Defendants can actually walk from their offices to the location of the deposition and can continue to conduct county business during recesses and interruptions for court



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37. In contrast, if allowed to be deposed at the Suffolk Supreme Courthouse Defendants can actually walk from their offices to the location of the deposition and can continue to conduct county business during recesses and interruptions for court

for the deposition on such short notice.

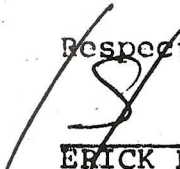
39. As the Plaintiff admits and as this Court expressly noted in its decision, despite the substantive differences and animosities among the parties your affirmant and the Plaintiff have been quite able to continue a professional relationship in the context of this action. Due to the nature of the individual Defendants' duties it highly desirable that they be given a time period in which to schedule and conduct the depositions rather than a specific date and time schedule. In other words, if the Court would modify its order to require that each of the Suffolk Defendants be deposed within a forty-five to sixty day period it is verily believed that counsel will be able to amicably arrange a schedule with the Plaintiff which is convenient to all concerned. Such a modification of the Court's order will be highly beneficial to all of the parties and will allow counsel the flexibility of convenient personal scheduling and determination of the most appropriate order in which each of the Defendants should be deposed.

40. If this Court is not disposed to grant even this limited request in the alternative, your affirmant requests a sufficient reasonable lead time in which to schedule and properly prepare each of the Defendants for their individual depositions.

WHEREFORE, it is respectfully requested that the relief set forth in the annexed notice of motion be granted to the Suffolk Defendants.

Dated: July 11, 1983  
Hauppauge, New York

Respectfully submitted,

  
ERICK F. LARSEN

**By Damiani, J.P.; Titone  
Weinstein and Rubin, JJ.**

**SASSOWER, ap. v. JOHN P. FIN  
NERTY, res. Motion by appellant to  
compel all parties and attorneys to make  
a full and complete disclosure of all ex  
parte communications with this court or  
its members related directly or indirectly  
to the events at issue, and to have all  
members of this court likewise comply.  
Motion denied.**



SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----x  
GEORGE SASSOWER,

Plaintiff,

Index No.  
10726-1978

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,  
VINCENT G. BERGER, JR., JOHN P. FINNERTY,  
ALLAN CROCE, ANTHONY GRZYMALSKI, CHARLES  
BROWN, HARRY E. SEIDELL, NEW YORK NEWS INC.,  
and VIRGINIA D. MATHIAS,

Defendants.  
-----x

Plaintiff, complaining of the defendants respectful  
set forth and allege:

1. That at all of the times hereinafter mentioned the  
defendant, NEW YORK NEWS INC. was a domestic corporation  
duly organized and existing under and by virtue of the laws  
of the State of New York.

AS AND FOR A FIRST CAUSE OF ACTION  
AGAINST ALL THE DEFENDANTS HEREIN  
EXCEPT THE DEFENDANT, NEW YORK NEWS  
INC.

2. That at all of the times hereinafter mentioned the  
defendants in this cause of action, conspired to act jointly  
and in concert, and in fact did so in the actions hereinafter  
described.

3. On March 8, 1978, the defendant HARRY E. SEIDELL,  
with knowledge that he did not have jurisdiction over the  
plaintiff in incarcerating him, and despite such manifest  
lack of jurisdiction, with the aid and cooperation of the

other defendants herein caused plaintiff to be sentenced for criminal contempt of court.

4. With knowledge that the Order of Criminal Contempt and Warrant of Commitment issued on March 8, 1978, was void, sham, and spurious, the defendants published same in order to defame, embarrass, and harass the plaintiff.

5. With knowledge that the Sheriff and his Deputies of Suffolk County did not have jurisdiction outside of Suffolk County, except under circumstances and conditions not here relevant, the defendants authorized, sent, and went outside of Suffolk County in order to defame, harass, imprison and assault the plaintiff.

6. Although the plaintiff was willing to make himself available to the Sheriff and his Deputies at such places outside the County of Suffolk so that they could execute the aforementioned void, sham and spurious Warrant of Commitment, at such time as met with the convenience of the Sheriff and his Deputies, they refused to execute such Warrant by reason of the fact that the legal remedy of Habeas Corpus was readily available to plaintiff at such places.

7. That on the 10th day of June, 1978, the defendant, ANTHONY GRZYMALESKI, and another Deputy Sheriff of Suffolk County, with the permission, consent, and direction of the other defendants herein went outside of Suffolk County, assaulted, imprisoned, and abducted the plaintiff herein.

8. That such assaults upon plaintiff caused him serious physical injuries and he was threatened with still

further serious injuries unless he submitted to such abduction without further attempt to gain the aid of police authorities having jurisdiction at the time and places.

9. Having abducted the plaintiff to Suffolk County Jail, the defendants incarcerated the plaintiff contrary to the laws of the State of New York.

10. Thereafter, when plaintiff was ordered released under a Writ of Habeas Corpus, the defendants refused to release plaintiff, but instead kept him incarcerated and imprisoned.

11. In addition the defendants otherwise violated the plaintiff's rights and their obligations, and caused him great personal injuries all to his damage.

AS AND FOR A SECOND CAUSE OF  
ACTION AGAINST ALL THE DEFENDANTS

12. Plaintiff repeats, reiterates, and realleges each and every allegation of the complaint marked "1" and "2" as if more specifically set forth at length herein, and further alleges.

13. That on or about June 27, 1977, and thereafter, the NEW YORK NEWS INC., publishing a newspaper of general circulation primarily in the City of New York and the surroun area, published defamatory material concerning the plaintiff who was not a public figure, not involved with public matters, and on subject matters on which he did not voluntarily desire to become engaged in in a public manner.

14. That such publications accused plaintiff of criminal activity, exposed him to hatred, contempt, aversion, and



induced evil and unsavory opinion of him privately and in his profession in which he was then engaged, to wit, an attorney, copies of which are not presently available to plaintiff.

15. That such allegations were knowingly false and misleading, and/or maliciously published in a grossly irresponsible manner without the due consideration for standards of information gathering and dissemination followed by responsible parties.

16. The defendant NEW YORK NEWS INC. falsely published that plaintiff, inter alia, did not file an accounting in an estate that he was administering, that he was spending estate monies and attempted to sell estate property without authorization, that his criminal activities were being investigated by the District Attorney.

17. That such false material was given to the NEW YORK NEWS INC. by the other defendants herein in their joint effort to defame plaintiff, cause him harm and injuries.

18. That as a result thereof plaintiff sustained special damages in his profession and other injuries.

19. Furthermore, by reason of the premises plaintiff desires and demands punitive damages against these defendants

AS AND FOR A THIRD CAUSE OF  
ACTION AGAINST THE DEFENDANT  
VIRGINIA D. MATHIAS

20. On or about the 30th day of January, 1978, plaintiff mailed to this defendant the sum of \$50 for certain stenographic minutes to which plaintiff was entitled.

21. That the plaintiff never received such minutes as

ordered, nor did he agree to the terms and conditions that this defendant imposed for same.

22. That plaintiff has demanded the return of such funds and same has been refused.

WHEREFORE, plaintiff demands judgment in the first cause of action in the sum of \$5,000,000 actual and punitive damages; \$5,000,000 actual and punitive damages in the second cause of action; and \$50 in the third cause of action, together with the costs and disbursements of this proceeding.

GEORGE SASSOWER, Esq.  
Attorney for plaintiff-pro se.  
75 Wykagyl Station  
New Rochelle, New York, 10804  
914-636-4050

MEMORANDUM

INDEX #78-17671  
10/16/78

SUPREME COURT, SUFFOLK COUNTY (268-269)

SPECIAL TERM PART I

GEORGE SASSOWER,  
Plaintiff,

BY LAZER J. S. C.

DATED November 14, 1978

VS.  
ERNEST L. SIGNORELLI, ANTHONY  
MASTROIANNI, VINCENT G. BERGER,  
JR., JOHN P. FINNERTY, ALLAN  
CROCE, ANTHONY GRZYMALSKI, CHARLES  
BROWN, HARRY E. SEIDELL, NEW YORK  
NEWS INC. and VIRGINIA MATHIAS,  
Defendants.

GEORGE SASSOWER, ESQ.  
Plaintiff Pro Se  
75 Wykagyl Station  
New Rochelle, New York 10804

✓ HOWARD E. PACHMAN, ESQ.  
Suffolk County Attorney  
Attorney for Defendants Mastroianni,  
Finnerty, Croce and Grzymalski  
Veterans Memorial Highway  
Hauppauge, New York 11787

LOUIS J. LEFKOWITZ, ESQ.  
Attorney General, State of New  
York  
Attorney for Defendants Signorelli  
Seidell and Mathias  
Two World Trade Center  
New York, New York 10047

TOWNLEY & UPDIKE, ESQ.  
Attorneys for Defendant New York  
News Inc.  
220 East 42nd Street  
New York, New York 10007

JAMES MARSH, ESQ.  
Attorney for Defendant Berger  
P.O. Box 290  
6351 Jericho Turnpike  
Commack, New York 11725

This unopposed motion by defendants Anthony Mastroianni, John P. Finnerty, Allan Croce and Anthony Grzymalski for an order pursuant to CPLR 511 changing the place of trial of the action from Westchester County to Suffolk County is granted. The Clerk of the Supreme Court, Westchester County is directed to forward the case file to the Clerk of this Court upon service upon him of a copy of this order.

The moving defendants are all officers, agents or employees of Suffolk County, and "the place of trial of all actions against counties...or any of their officers, boards or departments shall be, for: 1. a county, in such county" (CPLR 504). This statutory provision applies



# MEMORANDUM

MOTION #14,244  
INDEX #78-17671  
10/16/78

SI-100W

SUPREME COURT, SUFFOLK COUNTY

SPECIAL TERM PART I

SASSOWER

BY LAZER J. S. C.

VS.

DATED November 14, 19 78

SIGNORELLI et al.

when such officers are sued in their representative capacities even though the municipality is not a party defendant (see Reeve v. O'Dwyer, 199 Misc. 123, 98 N.Y.S.2d 452; 2 Weinstein-Korn-Miller, par. 504.06, p. 5-65) Although defendant Vincent G. Berger, Jr. did not take any action as an official of Suffolk County, he has joined in the co-defendant's request for a change of venue.

So ordered.

*Leon D. Lazer*  
\_\_\_\_\_  
J. S. C.

LEON D. LAZER

*Recorded in office  
of County Clerk  
of Suffolk County  
on 11/20/78*

(270-271)

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----x  
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.  
-----x

S I R S:

PLEASE TAKE NOTICE that upon the annexed affidavit of GEORGE SASSOWER, Esq., duly sworn to on the 16th day of December, 1982, and all the proceedings had heretofore herein, the undersigned will move this Court at a Special Term Part I held at the Courthouse thereof, Griffing Avenue, Riverhead, Long Island, New York, 11901, on the 29th day of December, 1982, at 9:30 o'clock in the forenoon of that day or as soon thereafter as Counsel may be heard for an Order changing the venue of this action, together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

*edit to 1/31/82*  
the papers to be served  
1/18 mail  
1/24 HAND

Index No.  
78-17671

PLEASE TAKE FURTHER NOTICE, that answering papers, if any, are to be served upon the undersigned at least five days before the return date of this motion, with an additional three days added if such service is by mail.

Dated: December 16, 1982

Yours, etc.,

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

To: Patterson, Belknap, Webb & Tyler, Esqs.  
Robert Abrams, Esq.  
David J. Gilmartin, Esq.  
Vincent G. Berger, Jr., Esq.



(272-285)

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF SUFFOLK

-----x  
GEORGE SASSOWER,

Plaintiff,

Index No.  
78-17671

-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.  
-----x

STATE OF NEW YORK )

COUNTY OF WESTCHESTER )

) ss.:  
)

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

I am the plaintiff in the within action and  
submit this affidavit in support of my motion for a  
change of venue, as a matter of law and/or discretion,  
to a county outside the Tenth Judicial District, for all  
future proceedings.

63-113  
A. S. A.

In this unusual action, the principal antagonists are the plaintiff and the defendant, Ernest L. Signorelli, Surrogate of Suffolk County.

Constitutional Right

1. All parties have a right to litigate their claims in a constitutionally constituted tribunal (Tumey v. Ohio, 273 U.S. 510, 47 S.Ct. 437, 71 S.Ct. 749). The local judge is often the product of and/or has had some associations with the same political organization as the official being sued.

Compelling litigants outside the judicial district to bring their suit in the judicial district of the official being sued may serve governmental convenience, but often at the expense of the constitutional requirement of a neutral and detached tribunal (Sharkey v. Thurston, 268 N.Y. 123, 126).

Plaintiff contends that CPLR §§504-506 is, on its face, violative of the due process clauses of the Constitutions of the United States (Amendment XIV) and State of New York (Art 1 §6).

2. Alternatively, plaintiff contends that CPLR §§504-506 is unconstitutional, as applied to cases wherein local judicial officials are sued and, as here, they have a strong personal interest.

The unconstitutionality of the situation becomes more pronounced when, as here, the suit is personally against and reflective of the integrity of the Surrogate and Acting Supreme Court Justice of the very same county in which the case is to be decided, and where the entire judiciary has been inundated with prejudicial publicity at the instance of the judicial defendants.

Impartiality, under such circumstances, becomes temporized with the reality of human frailties (Gibson v. Berryhill, 411 U.S. 564, 575, 93 S.Ct. 1689, 1696, 36 L.Ed.2d 488, 497-498). At best, to the reasonably fair objective person, any decision by this Court, becomes suspect and subject to cynical evaluation.



16A Am Jur 2d, Constitutional Law, §855, 1074,  
1076, states:

"a statute which compels a litigant to submit his controversy to a tribunal of which his adversary is a member does not afford due process of law."

3. Unquestionably, there is social intercourse and professional cross-pollination between members of the judiciary, particularly those of the same county.

If judicial disqualification, mandatory or discretionary, is dependent on the availability of alternatives, New York County, the home county of defendant, New York News, Inc., and the location of the offices of its attorneys, could serve as an alternative venue for this action. New York County, also being one of the two counties wherein the Attorney General, the attorney for the judicial defendants, has his principal office.

Westchester County, the county wherein pends related actions could also serve as an alternative situs.

Any one, of the two aforementioned counties, as the venue of this action, or any other county outside the Tenth Judicial District, has plaintiff's consent.

Where, as here, a judicial officer is being sued in his own county, it is unconstitutional to place the onus on the non-judicial litigant to prove bias or prejudice in order to change the venue. Prima facie, Suffolk County, is, and should be, an improper and unconstitutional venue, with the burden of showing otherwise upon the defendants.

#### Legal Discretion

1. The feasibility of alternatives in this case renders specious any assertion of a "duty to sit" by any member of the Suffolk Court (Laird v. Tatum, 409 U.S. 824, 837, 93 S.Ct. 7, 15, 43 L.Ed.2d 50, 60). The duty, in this case, is clearly one of recusal and disqualification (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, 223 N.Y.S.2d 18 [2d Dept.]; Arkwright v. Steinbugler, 283 App. Div. 397, 128 N.Y.S.2d 823 [2d Dept.]).

2. In a related proceeding between plaintiff and Ernest L. Signorelli, Hon. B. THOMAS PANTANO, in Supreme Court, Nassau County (Index No. 20987), on October 14, 1982, transferred the matter from Nassau County to Westchester County. Certainly, if Nassau County was deemed inappropriate in an equity proceeding, a fortiori, Suffolk County is inappropriate, where substantial money damages are requested.

3. In the Nassau proceeding, the Attorney General annexed the Order of Mr. Justice JAMES A. GOWAN, which substantiates plaintiff's assertion of actual bias.



Mr. Justice GOWAN's order is presently sub  
judice at the Appellate Division, Second Department. Significantly, none of the respondents' attorneys, which included the Attorney General and the Suffolk County Attorney could, or did, in any way, defend the egregious determination of Mr. Justice GOWAN when he dismissed, without a hearing, plaintiff's Writ of Habeas Corpus.

Appellant's "Questions Presented" at the Appellate Division reveals the obvious reason for the total lack of opposition by all respondents' 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."

I 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, which is the subject of this action).

I further suggest that a fairly objective person could reasonably come to the conclusion that Mr. Justice GOWAN holding, was inspired, inter alia, by the fact that there were, and are, legal proceedings pending against Ernest L. Signorelli, a colleague of Mr. Justice GOWAN, arising out of this transaction. Nevertheless, it is a decision, after months of pondering by Mr. Justice GOWAN, which is clearly suspect, intellectually corrupt.

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.



4. The recent opinion of Hon. FRANK P. DeLUCA, is another example. His Honor's opinion proliferates with indefensible factual and legal error, all adverse to plaintiff.

His Honor erroneously found inter alia that the Suffolk County Attorney had responded to plaintiff's interrogatories, when they did not. His Honor sua sponte microscopically examined plaintiff's complaint and found defects therein, when defendants never complained of any such defects. Contrariwise, His Honor did not examine the form of the New York News' answer, which was the subject of plaintiff's motion.

Ironically, the Court "shot Signorelli and itself in the foot" when, without any submission of the Signorelli diatribe, His Honor somehow obtained a copy of same, compared it with the two articles printed in the Daily News, and -- eureka! -- found that the News' articles were fair and true reports of the Signorelli diatribe!

The Court overlooked the fact that the News' articles preceeded the Signorelli diatribe by 6 and 8 months respectively, and thereby inadvertently His Honor discovered the source of much of the material in the Signorelli diatribe -- The Daily News!

There are similar decisions and actions by other justices of Suffolk County in cases involving, directly or indirectly, Ernest L. Signorelli, which are also indefensible and reprehensible. These include (a) the decision of Mr. Justice MORTON WEISSMAN, who on Feb. 4, 1982, refused to grant plaintiff relief against the Daily News for its failure to serve answers to plaintiff's interrogatories because the Daily News was not served, although its attorneys were; (b) the sua sponte refusal to compel the Daily News to respond to an unprivileged interrogatory, not objected to or opposed on plaintiff's motion (Hon. JOSEPH JASPAN, on Sept. 29, 1982), and (c) similar judicial decisions and conduct.

5. A reading of plaintiff's complaint reveals that the gestapo, storm trooper mentality of many Suffolk County officials are on trial in this matter, and it would serve no purpose to belabor the obvious.

A judge may not, and should not, adjudicate a cause of his full blooded brother residing under the same roof, as is the present posture of this matter, nor should he adjudicate the egregious conduct of officials that he very well knows.

6. ERNEST L. SIGNORELLI, without any pretence of due process, labeled plaintiff a pariah in the New York Law Journal and Nassau and Suffolk County editions of the New York Daily News. ERNEST L. SIGNORELLI's diatribe of February 24, 1978 is constantly being republished, particularly in Suffolk County. A change of venue for all purposes is, under this circumstances, constitutionally mandated (Sheppard v. Maxwell, 384 U.S. 333, 86 S.Ct. 1507, 16 L.Ed.2d 600).



7. It is manifestly contrary to basic judicial philosophy and ethics to have Ernest L. Signorelli pollute Suffolk County with his contrived defamatory assertions (which he has refused to verify by sworn affidavit) and then insist that the matter be judicially adjudicated in that very same county.

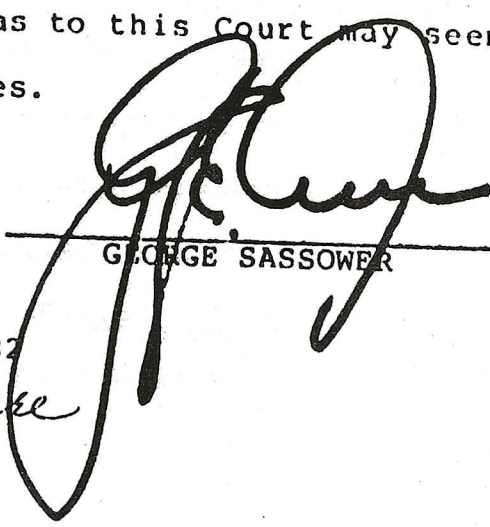
8. Any question regarding the extent of official misconduct in Suffolk County finds expressing in plaintiff's complaint. The obvious reaction on June 24, 1982, at the Appellate Division, Second Department, when some of its essential allegations were confirmed by the Assistant Suffolk County Attorney was exacerbated by the excuse tendered by the Assistant Suffolk County Attorney, to wit, the Supreme Court jurist who signed the Writ of Habeas Corpus mandating my release was, in his words, "illiterate".

The Suffolk County officialdom should be taught that the law does not require that only directions from "literate" judges be obeyed, nor does it empower them to be the ex parte arbiters of the literacy of the judiciary in another district of their department.

9. The venue of this action was initially Westchester County and was transferred on default to Suffolk County on a motion erroneously made returnable in Suffolk County, by the Suffolk County Attorney.

The Assistant Suffolk County Attorney has since apologized for his caper leading to such default, and in view of such apology, it would serve no useful purpose to set forth the circumstances thereof.

WHEREFORE, it is respectfully prayed that this matter be transferred to a venue outside the Tenth Judicial District, together with such other, further, and/or different relief as to this Court may seem just and proper in the premises.



\_\_\_\_\_  
GEORGE SASSOWER

Sworn to before me this  
16th day of December, 1982

*Barbara Tatesure*

BARBARA TATESURE  
County Public Sealer of New York  
1982

Suffolk County  
1982

Exhibit Letter

PATTERSON, BELKNAP, WEBB & TYLER

A PARTNERSHIP INCLUDING PROFESSIONAL CORPORATIONS

30 ROCKEFELLER PLAZA

NEW YORK, N. Y. 10112

(212) 541 4000

CABLE ADDRESS CURTISITE  
TELEX 423667 PBW U  
TELECOPIER (212) 541-4107

December 27, 1982

VIA FEDERAL EXPRESS

Erick F. Larsen, Esq.  
Assistant County Attorney  
Department of Law  
Suffolk County  
Veterans Memorial Highway  
Hauppauge, New York 11787

Sassower v. Signorelli

Dear Erick,

This will confirm our conversation of this morning in which you informed me that you would appear at Supreme Court, Suffolk County, Special Term, Part I on December 29, 1982, in the above-captioned matter and request, on behalf of the Suffolk County Attorney, a defendant in the above-captioned matter, an adjournment of three weeks of plaintiff's motion to change venue. Defendant New York News Inc. joins in that request for an adjournment. Because of the distance involved, I will not appear in court on December 29, 1982; you have agreed to request an adjournment on behalf of the New York News Inc. as well as the Suffolk County Attorney.

As I informed you, I called plaintiff on December 23, 1982 and requested that he consent to an adjournment of his motion. He refused to consent to an adjournment of any kind.

Thank you for your cooperation in this matter.

Very truly yours,



Zoe Mandes

cc: Clerk of the Court  
Supreme Court  
Suffolk County

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