

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, JOHN P. FINNERTY,  
ALAN CROCE, ANTHONY GRZYMALSKI,  
et al.,

Defendants.

FURTHER ANSWER OF "SUFFOLK  
COUNTY DEFENDANTS"  
TO AMENDED COMPLAINT

Index No. 5774/83

Westchester County Clerk's  
Index No. 10726/1978

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Defendants Anthony Mastroianni (Public Administra-  
tor of Suffolk County), John P. Finnerty (Sheriff of Suffolk  
County) and Alan Croce and Anthony Grzymalski (deputy  
Sheriffs), collectively referred to as "the Suffolk County  
defendants") by Martin Bradley Ashare, Esq., County Attorney  
of Suffolk County (Reisman, Peirez & Reisman, Esqs., of  
counsel) for their further answer to the amended complaint  
herein:

ANSWERING THE FIRST CAUSE OF ACTION

1. Deny knowledge or information sufficient to  
form a belief concerning each and every allegation contained  
in paragraph "1" thereof.

2. Deny each and every allegation contained in  
paragraph "2" thereof, except deny knowledge or information  
sufficient to form a belief concerning defendants other than  
the Suffolk County defendants.

3. Deny knowledge or information sufficient to form a belief concerning each and every allegation contained in paragraphs "3" and "4" thereof, except admit that a certain decision and order dated July 28, 1977 was duly granted and filed by Hon. George F. X. McInerney, Justice, and that notice of said decision or order was given to the parties to the proceeding in which it was rendered.

4. Deny each and every allegation contained in paragraph "5" thereof, except deny knowledge or information sufficient to form a belief concerning defendants other than the Suffolk County defendants.

5. Deny each and every allegation contained in paragraph "5" thereof.

6. Deny each and every allegation contained in paragraph "6" thereof, except admit that the order of Hon. George F. X. McInerney, Justice dated November 4, 1977 was made, and was binding upon the parties to the proceeding in which it was granted, unless duly stayed, as permitted by law, or reversed.

7. Deny each and every allegation contained in paragraph "7", except admit that plaintiff George Sassower was not present at the trial resulting in the judgment of criminal contempt granted by acting Surrogate Harry E. Seidell.

8. Deny each and every allegation contained in paragraph "8" thereof, except admit that the order of

criminal contempt and warrant of commitment issued in pursuance thereof or duly served and filed in conformity with the requirements of law.

9. Deny each and every allegation contained in paragraph "9" thereof, except admit that the Sheriff and deputy Sheriffs of the County of Suffolk attempted to execute the warrant of commitment upon plaintiff George Sassower outside of Suffolk County, and that in or about June 1978, they did so at plaintiff's residence in Westchester County.

10. Deny each and every allegation contained in paragraph "10" thereof, except admit that plaintiff communicated in writing with the then County Attorney of Suffolk County, Howard Pachman, Esq., offering, inter alia, to make himself available at enumerated courthouses outside of Suffolk County so that the warrant of commitment could be executed at such courthouses.

11. Deny each and every allegation contained in paragraph "11" thereof, except that the Suffolk County defendants admit that plaintiff has such rights to a writ of habeas corpus as are permitted by statute, and by the United States and New York State Constitutions.

12. Deny each and every allegation contained in paragraph "12" thereof, except admit that on or about June 10, 1978, defendant Anthony Grzymalski, deputy Sheriff and one deputy Sheriff Edward Morris, with the consent and

authority of the Sheriff of Suffolk County, and in pursuance of the order of contempt and warrant of commitment, executed said warrant upon plaintiff George Sassower at his residence in Westchester County, and that plaintiff was thereafter transported to the Suffolk County Correctional Facility in Riverhead, New York, to be incarcerated in pursuance thereof.

13. Deny each and every allegation contained in paragraph "13" thereof.

14. Deny each and every allegation contained in paragraph "14" thereof, except admit that plaintiff was duly incarcerated in the Suffolk County Correctional Facility on or about June 10, 1978 in conformity with the warrant of commitment duly issued by Harry E. Seidell, Acting Surrogate.

15. Deny each and every allegation contained in paragraphs "15", "16" and "17" thereof.

ANSWERING THE SECOND CAUSE OF ACTION

16. The Suffolk County defendants make the same admissions and denials concerning the allegations contained in paragraphs "1" and "2" of the complaint, as realleged in paragraph "18" thereof.

17. Deny knowledge or information sufficient to form a belief concerning each and every allegation contained in paragraphs "19", "20", "21", "22" and "23" thereof; except deny that the Suffolk County defendants were involved, or participated in any of the matters alleged in said paragraphs.

18. Deny each and every allegation contained in paragraph "24" thereof, except deny knowledge or information sufficient to form a belief concerning defendants other than the Suffolk County defendants, and they specifically deny that any "authorized" representatives of the Suffolk County defendants performed any of the matters alleged in paragraph "24".

19. Deny knowledge or information sufficient to form a belief in each and every allegation contained in paragraph "25", except deny said allegations as concerns the Suffolk County defendants.

20. Deny each and every allegation contained in paragraph "26" thereof.

ANSWERING THE THIRD CAUSE OF ACTION

21. The Suffolk County defendants make the same admissions and denials concerning the allegations contained in paragraphs "1" and "2" of the complaint, as realleged in paragraph "27" thereof.

22. Deny knowledge or information sufficient to form a belief concerning each and every allegation contained in paragraphs "28" through "31" of the amended complaint, inclusive.

23. Deny each and every allegation contained in paragraph "32" as concerns the Suffolk County defendants and otherwise deny knowledge or information sufficient to form a belief concerning said allegations.

ANSWERING THE FORTH CAUSE OF ACTION

24. The Suffolk County defendants make the same admissions and denials concerning the allegations contained in paragraphs "1" and "2" of the complaint, as realleged in paragraph "33" thereof.

25. Deny each and every allegation contained in paragraph "34" thereof, except admit that a criminal contempt proceeding was duly prosecuted before Hon. Harry E. Seidell, Acting Surrogate, on the complaint of Anthony Mastroianni, as Public Administrator, and that the Public Administrator was represented by Vincent G. Berger, Jr., Esq., as attorney, in connection therewith, and that plaintiff was sentenced to be, and thereafter incarcerated in the Suffolk County jail in pursuance of an order of contempt, and warrant of commitment duly issued by Acting Surrogate Seidell.

26. Deny each and every allegation contained in paragraphs "35" and "36" thereof.

ANSWERING THE FIFTH CAUSE OF ACTION

27. The Suffolk County defendants make the same admissions and denials concerning the allegations contained in paragraphs "1" and "2" of the complaint, as realleged in paragraph "41" thereof.

28. Deny each and every allegation contained in paragraphs "37" - "40" inclusive, except admit that defendants Croce and Grzymalski arrested plaintiff in Westchester

County on or about June 23, 1977 in pursuance of a warrant of commitment issued by Surrogate Signorelli, that said defendants brought plaintiff directly to the Courtroom of Surrogate Signorelli, as said warrant of commitment provided, that said defendants thereafter brought plaintiff to the Suffolk County Correctional Facility, to be incarcerated, as said warrant of commitment further provided, and admit that although said defendants permitted plaintiff to make several telephone calls from his home, they did not permit plaintiff to proceed to a court or judge other than the Suffolk County Surrogate's Court, or to Judge Signorelli.

29. Deny each and every allegation contained in paragraphs "42", "43" and "44" thereof, except admit that Surrogate Ernest L. Signorelli issued an order of criminal contempt against plaintiff, and a warrant of commitment, in pursuance of which plaintiff was arrested and incarcerated, and that said order of contempt was thereafter invalidated, which invalidation was affirmed upon appeal to the Appellate Division, Second Department.

ANSWERING THE SIXTH CAUSE OF ACTION

30. The Suffolk County defendants make the same admissions and denials concerning the allegations contained in paragraphs "1" and "2" of the complaint, as realleged in paragraph "45" thereof.

31. Deny each and every allegation contained in paragraph "46", except admit the terms and provisions of the Judiciary Law, to which the Suffolk County defendants respectfully refer.

32. Deny each and every allegation contained in paragraph "46" thereof, except admit that on or after February 24, 1978, an opinion by Surrogate Ernest L. Signorelli in a case entitled Matter of Kelly was published in the New York Law Journal, and that said opinion makes reference to the role of plaintiff as the former executor therein.

33. Deny each and every allegation contained in paragraph "47" thereof, except deny knowledge or information sufficient to form a belief concerning defendants other than the Suffolk County defendants.

34. Deny each and every allegation contained in paragraph "48" thereof.

35. Deny each and every allegation contained in paragraph, "49" and "50" thereof.

ANSWERING THE SEVENTH CAUSE OF ACTION

36. The Suffolk County defendants make the same admissions and denials concerning the allegations contained in paragraphs "1" and "2" of the complaint, as realleged in paragraph "51" thereof.



37. Deny knowledge or information sufficient to form a belief concerning each and every allegation contained in paragraph "53" thereof.

38. Deny each and every allegation contained in paragraph "54" thereof, except admit that an opinion by Surrogate Ernest L. Signorelli rendered in the Estate of Kelly matter concerning, inter alia, the role of plaintiff as executor, was published in the New York Law Journal.

39. Deny knowledge or information sufficient to form a belief concerning each and every allegation contained in paragraph "55", except refer to the original of said opinion for its content and import.

40. Deny knowledge or information sufficient to form a belief concerning each and every allegation contained in paragraphs "56" through "62" of the amended complaint, inclusive, except deny that the Suffolk County defendants participated in any respect in the preparation, or publication of said opinion.

41. Deny each and every allegation contained in paragraph "63" thereof.

ANSWERING THE EIGHTH CAUSE OF ACTION

42. The Suffolk County defendants make the same admissions and denials concerning the allegations contained in paragraphs "1" and "2" of the complaint, as realleged in paragraph "64" thereof.

43. Deny each and every allegation contained in paragraph "65" thereof.

44. Deny each and every allegation contained in paragraph "66" thereof, except deny knowledge or information sufficient to form a belief concerning the actions of defendants other than the Suffolk County defendants.

45. Deny each and every allegation contained in paragraph "67" thereof.

ANSWERING THE NINTH CAUSE OF ACTION

46. The Suffolk County defendants make the same admissions and denials concerning the allegations contained in paragraphs "1" and "2" of the complaint, as realleged in paragraph "68" thereof.

47. Deny each and every allegation contained in paragraph "69" thereof, except admit that certain appeals were taken, which are matters of public record, and that a criminal complaint by defendant Anthony Grzymalski, charging plaintiff with assault in the second degree, was dismissed.

48. Deny each and every allegation contained in paragraph "70" thereof.

AS AND FOR A FIRST AFFIRMATIVE DEFENSE

49. The claims asserted in the amended complaint are barred, and are rendered dismissable, by the res judicata effect of certain litigation previously initiated by George Sassower, as plaintiff, in the United States District Court for the Eastern District of New York, "George

Sassower v. Ernest L. Signorelli, et al.", EDNY, Docket Nos. 77 Civ. 1447 (Mishler, J.) and 78 Civ. 124 (Mishler, J.) and the affirmance thereof by the United States Court of Appeals for the Second Circuit under Docket No. 77-7511.

50. In addition, the second cause of action, insofar as it charge Public Administrator Anthony Mastroianni with defamation, is dismissable by reason of the collateral estoppel effect of the holding of the Appellate Division, Second Department in Sassower v. Signorelli, 96 A.D.2d 585, 465 N.Y.S.2d 543, app. disp. 61 N.Y.2d 756, lv. den. \_\_\_\_\_ N.Y.2d \_\_\_\_\_, dismissing the same claim as against Surrogate Signorelli.

51. In addition, the allegations here are dismissable by reason of the collateral estoppel effect of the judgment of criminal contempt duly granted by Hon. Harry E. Seidell, Acting Surrogate on or about May 8, 1978, which judgment of conviction has never been reversed.

WHEREFORE, the Suffolk County defendants demand judgment dismissing the amended complaint herein, together with the costs and disbursements of this action.

Dated: June 20, 1984

MARTIN BRADLEY ASHARE  
County Attorney of Suffolk County  
By: REISMAN, PEIREZ & REISMAN  
Of Counsel  
Attorneys for Defendants  
Anthony Mastroianni, John P.  
Finnerty, Alan Croce and  
Anthony Grzymalski  
1301 Franklin Avenue  
Garden City, New York 11530

TO: GEORGE SASSOWER, ESQ.  
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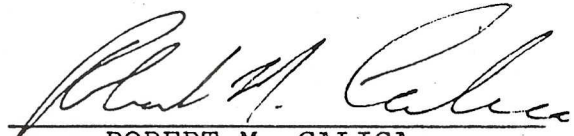
VERIFICATION

STATE OF NEW YORK )  
                          ) ss:  
COUNTY OF NASSAU )

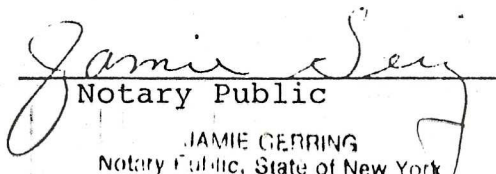
ROBERT M. CALICA, being duly sworn, deposes and  
says:

1. I am a member of the firm of Reisman, Peirez & Reisman, attorneys for the Suffolk County defendants. I have read the foregoing further answer to the amended complaint herein, and the same is true to the best of my knowledge, except as to matters therein alleged upon information and belief. I am making this verification because the Suffolk County defendants all reside and maintain their offices in Suffolk County, and my firm's office is located in Nassau County.

The basis of my belief concerning all matters not alleged upon personal knowledge are discussions with the Suffolk County defendants, and a review of their files.

  
ROBERT M. CALICA

Sworn to before me this  
20<sup>th</sup> day of June, 1984.

  
Notary Public  
JAMIE GERRING  
Notary Public, State of New York  
No. 30-4762312  
Qualified in Nassau County  
Commission Expires March 30, 1986