

A106

NOTICE OF CROSS-MOTION

[A106-A108 I

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

-----x  
GEORGE SASSOWER,

Plaintiff,

Index No.  
5774-1983

-against-

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI,  
ALAN CROCE, ANTHONY GRYZMALSKI, HARRY E.  
SEIDELL, NEW YORK NEWS, INC., JOHN P.  
FINNERTY 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 21st day of June, 1984 and upon all the pleadings and proceedings had heretofore had herein, the undersigned will cross-move [#2] this Court at a Special Term Part I 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 June, 1984, at 9:30 o'clock

A107

in the forenoon of that day or as soon thereafter can be heard for an Order restraining (a) striking the answer of the defendant, New York News, Inc., unless it immediately responds to plaintiff's interrogatories dated June 2, 1984; (b) compelling defendant, New York News, Inc., as a witness, to respond to plaintiff's aforementioned interrogatories; (c) immediately vacating any statutory stay by reason of any motion for summary judgment by the defendant, New York News, Inc., that it may make; (d) compelling the defendant, New York News, Inc., to disclose if it will represent witness, HARRY SCHLEGEL, and if in the affirmative, to produce him for a court ordered examination before trial; (e) together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

A108

PLEASE TAKE FURTHER NOTICE, that opposing papers, if any, are to be served upon the undersigned at least three (3) days before the return date of this motion with an additional five (5) days if service is by mail.

Dated: June 21, 1984

Yours, etc.,

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

To: Martin B. Ashare, Esq.  
Paterson, Belknapp, Webb & Tyler, Esqs.  
Robert Abrams, Esq.

A109

PLAINTIFF'S AFFIDAVIT  
[ A109-A113 ]

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 GRYZMALSKI, HARRY E.  
SEIDELL, NEW YORK NEWS, INC., JOHN P.  
FINNERTY, 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:

1a. This affidavit is submitted in support of a  
cross-motion (#2) (a) striking the answer of the  
defendant, New York News, Inc. ["News"], unless it  
immediately responds to plaintiff's interrogatories  
[Exhibit "1"]; (b) compelling defendant, News, as a  
witness to respond to plaintiff's interrogatories; (c)  
immediately vacating any statutory stay by reason of any

motion for summary judgment by the defendant, News, that it may make; (d) compelling the defendant, News, to disclose if it will represent witness, HARRY SCHLEGEL, and if in the affirmative, to produce him for a court ordered examination before trial; (e) together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

b. The Suffolk County ["SC"] defendants have renewed their motion for partial summary judgment, which, because of pending examinations before trial of the SC clients, has been adjourned from June 15, 1984 to June 29, 1984.

c. Deponent has cross-moved [#1] for leave to reargue the Court's decision denying leave to amend his complaint against defendant, ERNEST L. SIGNORELLI.

Contrary to the statement and holding of Hon. MARTIN B. STECHER, the uncontroverted testimonial and probative evidence supports the allegation that ERNEST L. SIGNORELLI, gave an out-of-court interview to ART PENNY, a stringer for the News and published therein.

AIII.

2a. In order to further insure defeat of the SC's motion for summary judgment, plaintiff served interrogatories on the attorneys for the News, a party defendant to this action.

b. Today, deponent spoke to the attorney handling this matter on behalf of the News and was informed that the News' attorneys have no intention of responding these interrogatories, since they, also, intend to move for summary judgment -- a motion, now to be made, more than six (6) years.

Consequently, although a few days premature, no reason exists for delaying this cross-motion.

c. Unquestionably, where falsity of the publications are all but conceded, the News, prior to pre-trial disclosure, has no chance of summary relief, and their attorneys know it!

It is clearly a dilatory move, particularly since it is more than six (6) years since this action was commenced, and if summary relief were warranted, their seasoned, expert, and distinguished attorneys, present and former [Townley & Updike, Esqs.], for the News would have moved years ago!

d. Thus, if the News desires to move for summary judgment, which is its option, it should waive the statutory stay or else this Court should vacate same.

Otherwise, it will be the domino effect -- the SC's attorney's motion will have to be stayed pending receipt of those answers to those interrogatories!

3. In the event the News refuses to comply with plaintiff's interrogatories, then its answer should be stricken.

Since some of these answers are relevant to the causes of action and defenses of the other defendants, the News should, as a witness, be compelled to respond to same.

4a. By prior Order of this Court, dated June 20, 1983 [entered June 27, 1983, plaintiff was given leave to examine before trial, HARRY SCHLEGEL, a former employee of the News.

b. If the attorneys intends to represent Mr. Schlegel, it should announce same and arrange for his examination. Otherwise, deponent will subpoena such witness, in which event the News will not be permitted to interpose any personal objection on his behalf.

A113.

5. After more than six (6) years, this matter should not be permitted to be delayed any further, absent manifest necessity. This at least was the opinion of Hon. BRUCE McM. WRIGHT.

WHEREFORE, it is respectfully prayed, that this cross-motion [#2] be granted in all respects.

*[Handwritten signature of George Sassower]*  
\_\_\_\_\_  
GEORGE SASSOWER

Sworn to before me this  
21st day of June, 1984

*[Handwritten signature of Barbara Tatures]*  
BARBARA TATURES  
Notary Public State of New York  
No. 24-4760746  
Qualified in Kings County  
Commission Expires March 30, 1986