

A122

NEWS' NOTICE OF CROSS-MOTION

[A122-AA123]

SEPARATE COPY

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

-----x

GEORGE SASSOWER, :

Plaintiff, :

-against- :

Index No. 5774-1983

ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI, :

JOHN P. FINNERTY, ALAN CROCE, ANTHONY

GRZYMALSKI, HARRY E. SEIDELL, NEW YORK :

NEWS, INC. and VIRGINIA MATHIAS, :

Defendants. :

-----x

NOTICE OF CROSS-MOTION
FOR SUMMARY JUDGMENT

PLEASE TAKE NOTICE that upon (i) the annexed affirmation of Dietrich L. Snell dated June 22, 1984, and the exhibits thereto; (ii) the annexed affidavits of Harry Schlegel, Robert E. Keane and Arthur S. Penny, all dated June 21, 1984; (iii) the defendant New York News Inc.'s Memorandum of Law In Support of Cross-Motion for Summary Judgment; and upon all the pleadings and proceedings herein, the undersigned will cross-move this Court, at Special Term, Part I at the Supreme Court of the State of New York, County of New York, 60 Centre Street, New York, upon return of the renewed motion for summary judgment of defendants Anthony Mastroianni, John P. Finnerty, Alan Croce and Anthony Grzymalski, presently returnable on June 29, 1984, or on any adjourned date thereof, at 9:30 a.m., or as soon thereafter as counsel may be heard, for summary judgment in favor of defendant New York News Inc. pursuant to CPLR 3212, and for such other and further relief as this Court

A123

deems just and reasonable.

PLEASE TAKE FURTHER NOTICE that pursuant to CPLR §2214(b) answering papers, if any, must be served upon the undersigned at least five (5) days before the return date of this motion.

Dated: New York, New York
June 22, 1984

Yours, etc.

PATTERSON, BELKNAP, WEBB & TYLER
Attorneys for Defendant
New York News Inc.
30 Rockefeller Plaza
New York, New York 10112
Telephone: (212) 541-4000.

TO: GEORGE SASSOWER, ESQ.
Plaintiff pro se
2125 Mill Avenue
Brooklyn, New York 11234

ROBERT ABRAMS, ESQ.
Attorney General of the
State of New York
Attorney for Defendants
Signorelli, Seidell and Mathias
Two World Trade Center
New York, New York 10040

REISMAN, PEIREZ & REISMAN
Of Counsel to Hon. Martin B. Ashare,
County Attorney of Suffolk County
Attorneys for Defendants
Anthony Mastroianni, John P. Finnerty,
Alan Croce and Anthony Grzymalski
1301 Franklin Avenue
Garden City, New York 11530

A127.

HARRY SCHLEGEL- AFFIDAVIT

[A127-A128]

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

-----X

GEORGE SASSOWER,	:	Index No. 5774-1983
	:	
Plaintiff,	:	
	:	
-against-	:	AFFIDAVIT IN SUPPORT
	:	OF CROSS-MOTION FOR
	:	<u>SUMMARY JUDGMENT</u>
ERNEST L. SIGNORELLI,	:	
ANTHONY MASTROIANNI, JOHN P. FINNERTY,	:	
ALAN CROCE, ANTHONY GRZYMALSKI,	:	
HARRY E. SEIDELL, NEW YORK NEWS, INC.	:	
and VIRGINIA MATHIAS,	:	
	:	
Defendants.	:	

-----X

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

HARRY SCHLEGEL, being duly sworn, deposes and says:

1. I am a former news editor for the defendant New York News Inc. (the "News"). Until my retirement on December 31, 1979, I had been employed by the News in that capacity for approximately 10 years. Prior to that time, I had worked at the News for 25 years as a rewrite man, rewriting copy and stories submitted by reporters. I respectfully submit this affidavit in support of the News' motion for summary judgment in this action.

2. My position as news editor included editing stories that appeared in the Nassau-Suffolk edition of The New York Daily News. Some of these stories were written by part-time reporters, or "stringers," whose work supplemented that of the News' regular

A118

staff. As editor, my job included deciding whether the story initially suggested by a stringer should be pursued. After being edited by me, a submitted article would undergo further editing by copy and news editors, before it would appear in the newspaper.

3. As a general rule, I did not conduct any independent verification of material contained in articles written by stringers or full-time reporters. Whenever I had a question concerning the accuracy of a story, I would confer with the reporter who wrote it and, if the circumstances warranted, would request that the reporter obtain additional corroboration before I would approve the story for publication.

4. Starting sometime during 1975, I had occasion to work with a former News stringer named Arthur Penny, who covered the Suffolk County courts in Riverhead, New York. Over the course of our professional relationship, I edited a number of news stories written by Mr. Penny, whom I considered to be a competent and reliable reporter.

5. I have never met George Sassower, the plaintiff, and at the time the articles were published certainly did not intend, or have any motive, to cause him any harm.

WHEREFORE, I respectfully request that the News' motion for summary judgment be granted.

Harry Schlegel
Harry Schlegel

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

[Signature]
Notary Public

JOEL ALAN WIRCHIN
Notary Public, State of New York
No. 60-4771973
Qualified in Westchester County
Certificate Filed in New York County
Commission Expires March 30, 1986

1977 -- during which the articles in question were published -- Mr. Penny received approximately 65 payments totaling \$5,225 for articles he wrote for the News. The latter figure represents above-average annual compensation for a News stringer in 1977. A copy of the ledger page containing this data is attached hereto as Exhibit A.

3. Apart from plaintiff's claims in the instant case, the News has never received any complaints regarding the many articles written by Penny that the News has published.

WHEREFORE, I respectfully request that the News' motion for summary judgment be granted.



Robert E. Keane

Sworn to before me this
21 day of June, 1984



Notary Public

MARION BULMAN
Notary Public, State of New York
No. 31-5518025
Qualified in New York County
Commission Expires March 30, 1986

A131

ARTHUR S. PENNY-AFFIDAVIT

[A130-A133]

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

-----X

GEORGE SASSOWER, : Index No. 5774-1983
 :
 Plaintiff, :

-against- : AFFIDAVIT IN SUPPORT
 : OF CROSS-MOTION FOR
 : SUMMARY JUDGMENT

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

-----X

STATE OF NEW YORK)
 : ss.:
 COUNTY OF SUFFOLK)

ARTHUR S. PENNY, being duly sworn, deposes and says:

1. I am a former free-lance reporter for the defendant New York News Inc. (the "News") and the author of the two articles at issue in this lawsuit. I respectfully submit this affidavit in support of the News' motion for summary judgment in this action.

2. In 1956, I began working as a journalist for the ABC News Service, a subsidiary of the Long Island Daily Press. During the 1960s and 1970s, I also worked for and eventually ran a business called the Suffolk County News Service, which supplied news material to numerous weekly newspapers in Suffolk County. In addition, I worked as a radio news reporter for the Island Broadcasting System, a combination of three Suffolk County radio stations. Finally, between 1958 and 1973, I also did some weekend

and special assignment work gathering news in Suffolk County for The New York Times.

3. None of my work as a news reporter has ever been involved in any libel action other than this one. None of my work has ever been retracted.

4. In 1975, I began working for the News as a free-lance reporter on general assignment, including coverage of all courts in Suffolk County, the police and the District Attorney's Office. Under my arrangement with the News, I would submit news stories for publication in The New York Daily News, and was paid on a per-story basis.

5. During the summer of 1977, I covered the story of the contempt charges levied against George Sassower, plaintiff in this case, regarding the latter's conduct as former executor of an estate that was being administered in the Surrogate's Court for Suffolk County. My coverage resulted in the publication of two articles in the Nassau-Suffolk edition of the Daily News, one on June 27, 1977, the other on August 17, 1977. These articles appeared in the newspaper substantially as I wrote them.

6. Now, seven years later, I can no longer remember all of the details surrounding my coverage of the Sassower story. However, I do recall that some time before the first article appeared I received telephone calls from individuals at the Surrogate's Court to the effect that I should come to the Court for a news story. Upon my arrival at the Court, the public file

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NEWS' NOTICE OF CROSS-MOTION

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[A122-AA123]
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, HARRY E. SEIDELL, NEW YORK
NEWS, INC. and VIRGINIA MATHIAS,

Defendants.

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: Index No. 5774-1983
: NOTICE OF CROSS-MOTION
: FOR SUMMARY JUDGMENT
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PLEASE TAKE NOTICE that upon (i) the annexed affirmation of Dietrich L. Snell dated June 22, 1984, and the exhibits thereto; (ii) the annexed affidavits of Harry Schlegel, Robert E. Keane and Arthur S. Penny, all dated June 21, 1984; (iii) the defendant New York News Inc.'s Memorandum of Law In Support of Cross-Motion for Summary Judgment; and upon all the pleadings and proceedings herein, the undersigned will cross-move this Court, at Special Term, Part I at the Supreme Court of the State of New York, County of New York, 60 Centre Street, New York, upon return of the renewed motion for summary judgment of defendants Anthony Mastroianni, John P. Finnerty, Alan Croce and Anthony Grzymalski, presently returnable on June 29, 1984, or on any adjourned date thereof, at 9:30 a.m., or as soon thereafter as counsel may be heard, for summary judgment in favor of defendant New York News Inc. pursuant to CPLR 3212, and for such other and further relief as this Court

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Dated: New York, New York
June 22, 1984

Yours, etc.

PATTERSON, BELKNAP, WEBB & TYLER
Attorneys for Defendant
New York News Inc.
30 Rockefeller Plaza
New York, New York 10112
Telephone: (212) 541-4000.

TO: GEORGE SASSOWER, ESQ.
Plaintiff pro se
2125 Mill Avenue
Brooklyn, New York 11234

ROBERT ABRAMS, ESQ.
Attorney General of the
State of New York
Attorney for Defendants
Signorelli, Seidell and Mathias
Two World Trade Center
New York, New York 10040

REISMAN, PEIREZ & REISMAN
Of Counsel to Hon. Martin B. Ashare,
County Attorney of Suffolk County
Attorneys for Defendants
Anthony Mastroianni, John P. Finnerty,
Alan Croce and Anthony Grzymalski
1301 Franklin Avenue
Garden City, New York 11530

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HARRY SCHLEGEL- AFFIDAVIT

[A127-A128]

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

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GEORGE SASSOWER,	:	Index No. 5774-1983
	:	
Plaintiff,	:	
	:	
-against-	:	AFFIDAVIT IN SUPPORT
	:	OF CROSS-MOTION FOR
	:	<u>SUMMARY JUDGMENT</u>
ERNEST L. SIGNORELLI,	:	
ANTHONY MASTROIANNI, JOHN P. FINNERTY,	:	
ALAN CROCE, ANTHONY GRZYMALSKI,	:	
HARRY E. SEIDELL, NEW YORK NEWS, INC.	:	
and VIRGINIA MATHIAS,	:	
	:	
Defendants.	:	

-----X

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

HARRY SCHLEGEL, being duly sworn, deposes and says:

1. I am a former news editor for the defendant New York News Inc. (the "News"). Until my retirement on December 31, 1979, I had been employed by the News in that capacity for approximately 10 years. Prior to that time, I had worked at the News for 25 years as a rewrite man, rewriting copy and stories submitted by reporters. I respectfully submit this affidavit in support of the News' motion for summary judgment in this action.

2. My position as news editor included editing stories that appeared in the Nassau-Suffolk edition of The New York Daily News. Some of these stories were written by part-time reporters, or "stringers," whose work supplemented that of the News' regular

A128

staff. As editor, my job included deciding whether the story initially suggested by a stringer should be pursued. After being edited by me, a submitted article would undergo further editing by copy and news editors, before it would appear in the newspaper.

3. As a general rule, I did not conduct any independent verification of material contained in articles written by stringers or full-time reporters. Whenever I had a question concerning the accuracy of a story, I would confer with the reporter who wrote it and, if the circumstances warranted, would request that the reporter obtain additional corroboration before I would approve the story for publication.

4. Starting sometime during 1975, I had occasion to work with a former News stringer named Arthur Penny, who covered the Suffolk County courts in Riverhead, New York. Over the course of our professional relationship, I edited a number of news stories written by Mr. Penny, whom I considered to be a competent and reliable reporter.

5. I have never met George Sassower, the plaintiff, and at the time the articles were published certainly did not intend, or have any motive, to cause him any harm.

WHEREFORE, I respectfully request that the News' motion for summary judgment be granted.

Harry Schlegel
Harry Schlegel

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

[Signature]
Notary Public

JOEL ALAN WIRCHIN
Notary Public, State of New York
No. 60-4771973
Qualified in Westchester County
Certificate Filed in New York County
Commission Expires March 30, 1986

A129

ROBERT E. KEANE-AFFIDAVIT

[A129-130 I

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

-----X

GEORGE SASSOWER, :

Plaintiff, :

-against- : Index No. 5774-1983

ERNEST L. SIGNORELLI, :

ANTHONY MASTROIANNI, JOHN P. FINNERTY, :

ALAN CROCE, ANTHONY GRZYMALSKI, :

HARRY E. SEIDELL, NEW YORK NEWS, INC. :

and VIRGINIA MATHIAS, :

Defendants. :

-----X

STATE OF NEW YORK)

: ss.:

COUNTY OF NEW YORK)

ROBERT E. KEANE, being duly sworn, deposes and says:

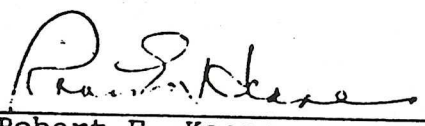
1. I am the Assistant Managing Editor in charge of administration and operations for the defendant New York News Inc. (the "News"), a position I have held for the last 3 years. I respectfully submit this affidavit in support of the News' motion for summary judgment in this action.

2. My duties as Assistant Managing Editor include supervising the maintenance of a ledger that records payments to free-lance reporters, such as Arthur Penny, the author of the two articles underlying this lawsuit. That ledger indicates that in

1977 -- during which the articles in question were published -- Mr. Penny received approximately 65 payments totaling \$5,225 for articles he wrote for the News. The latter figure represents above-average annual compensation for a News stringer in 1977. A copy of the ledger page containing this data is attached hereto as Exhibit A.


3. Apart from plaintiff's claims in the instant case, the News has never received any complaints regarding the many articles written by Penny that the News has published.

WHEREFORE, I respectfully request that the News' motion for summary judgment be granted.



Robert E. Keane

Sworn to before me this
21 day of June, 1984



Notary Public

MARION BULMAN
Notary Public, State of New York
No. 31-5518025
Qualified in New York County
Commission Expires March 30, 1986

A131.

ARTHUR S. PENNY-AFFIDAVIT

[A130-A133]

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

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GEORGE SASSOWER, : Index No. 5774-1983

Plaintiff, :

-against- :

AFFIDAVIT IN SUPPORT
OF CROSS-MOTION FOR
SUMMARY JUDGMENT

ERNEST L. SIGNORELLI, :

ANTHONY MASTROIANNI, JOHN P. FINNERTY, :

ALAN CROCE, ANTHONY GRZYMALSKI, :

HARRY E. SEIDELL, NEW YORK NEWS, INC. :

and VIRGINIA MATHIAS, :

Defendants. :

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STATE OF NEW YORK)

: ss.:

COUNTY OF SUFFOLK)

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and special assignment work gathering news in Suffolk County for The New York Times.

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5. During the summer of 1977, I covered the story of the contempt charges levied against George Sassower, plaintiff in this case, regarding the latter's conduct as former executor of an estate that was being administered in the Surrogate's Court for Suffolk County. My coverage resulted in the publication of two articles in the Nassau-Suffolk edition of the Daily News, one on June 27, 1977, the other on August 17, 1977. These articles appeared in the newspaper substantially as I wrote them.

6. Now, seven years later, I can no longer remember all of the details surrounding my coverage of the Sassower story. However, I do recall that some time before the first article appeared I received telephone calls from individuals at the Surrogate's Court to the effect that I should come to the Court for a news story. Upon my arrival at the Court, the public file

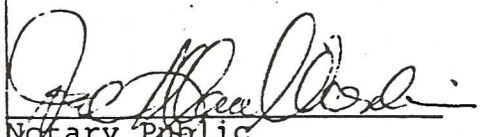
on the estate in question was made available to me and I perused its contents. Although I do not recall the precise documents in the file, I am certain that both the June 27 and the August 17 articles were based on that material. During the course of the summer, following publication of the June 27 article, I stayed abreast of developments in the Sassower matter by attending various court proceedings, at which I obtained additional information.

7. At the time I submitted these articles to the News, I was confident that both of them constituted true and accurate reports of the judicial proceedings involving Mr. Sassower. I did not know Mr. Sassower personally, and never intended -- nor did I have any conceivable motive -- to cause him any harm. I simply reported on a public, newsworthy event that I believed would be of interest to News readers.

WHEREFORE, I respectfully request that the News' motion for summary judgment be granted.


Arthur S. Penny

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


Notary Public

JOEL ALAN WIRCHIN
Notary Public, State of New York
No. 60-4771973
Qualified in Westchester County
Certificate Filed in New York County
Commission Expires March 30, 1988