

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

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GEORGE SASSOWER,	:	
Plaintiff-Appellant,	:	
-against-	:	<u>NOTICE OF MOTION TO DISMISS THE APPEAL OR TO STRIKE APPELLANT'S BRIEF AND FOR A STAY OF RESPONDENT</u>
NEW YORK NEWS, INC., ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI, JOHN P. FINNERTY, ALAN CROCE, and ANTHONY GRZYMALSKI,	:	<u>SIGNORELLI'S TIME TO RESPOND</u>
Defendants-Respondents,	:	Index No. 5774/83
-and-	:	
VIRGINIA MATHIAS,	:	
Defendant.	:	

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S I R S :

PLEASE TAKE NOTICE that upon the annexed affidavit of LAWRENCE N. ROTHBART, Assistant Attorney General in the office of ROBERT ABRAMS, Attorney General of the State of New York, attorney for Surrogate Ernest L. Signorelli (listed as a defendant-respondent) sworn to the 1st day of August, 1985 and the exhibits attached, Surrogate Signorelli will move this Court at the Appellate Division, First Department Courthouse, located at 27 Madison Avenue, New York, New York 10010 on the 26 th day of August, 1985 at 10:00 in the forenoon for an order (1) dismissing the appeal as to Surrogate Signorelli, or in the alternative, (2) striking the brief of plaintiff-appellant with

costs and disbursements pursuant to the Rules of this Court, 22 NYCRR 600.10(d)(1)(i), 600.10(d)(2)(ii), (iii), (iv) and (3), and staying the time for Surrogate Signorelli to file his respondent's brief until 30 days after the receipt of a proper brief. Answering papers, if any, are to be served upon the undersigned at least 7 days before the return date of this motion.

PLEASE TAKE FURTHER NOTICE that in the event respondent Signorelli's motion to dismiss or to strike the brief is denied, respondent requests 30 days from the date of service of notice of entry of such order to file his respondent's brief.

Dated: New York, New York
August , 1985

Yours, etc.,

ROBERT ABRAMS
Attorney General of the
State of New York
Attorney for Respondent
Surrogate Signorelli
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Defendants-Respondents
1301 Franklin Avenue
Garden City, New York 11530

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Plaintiff-Appellant, :

-against- :

NEW YORK NEWS, INC., ERNEST L. :
SIGNORELLI, ANTHONY MASTROIANNI, :
JOHN P. FINNERTY, ALAN CROCE, and :
ANTHONY GRZYMALSKI, :

Defendants-Respondents, :

-and- :

VIRGINIA MATHIAS, :

Defendant. :
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AFFIDAVIT IN SUPPORT
OF MOTION TO DISMISS
OR TO STRIKE
APPELLANT'S BRIEF

Index No. 5774/83

STATE OF NEW YORK)
: SS.;
COUNTY OF NEW YORK)

LAWRENCE N. ROTHBART, being duly sworn, deposes and
says:

1. I am an Assistant Attorney General in this office
of ROBERT ABRAMS, Attorney General of the State of New York,
attorney for Surrogate Ernest L. Signorelli listed as defendant-
respondent. I submit this affidavit in support of Surrogate
Signorelli's motion to dismiss the appeal, or in the
alternative, to strike plaintiff Sassower's appellate brief
based on my review of this office's records.

2. Ernest L. Signorelli is the Surrogate of Suffolk County.

3. In this action, Surrogate Signorelli, along with the defendants listed in the caption (i.e. Suffolk County defendants and the New York News), were served by plaintiff for a sundry of alleged tortious acts including libel arising from plaintiff's handling of a surrogate matter before Surrogate Signorelli. Plaintiff was eventually found in contempt and arrested. The New York News carried the story.

4. Plaintiff has brought numerous other suits against the various defendants for alleged acts arising from the Surrogate's proceedings.

5. The various actions against Surrogate Signorelli were dismissed by Special Term and those dismissals were affirmed by the Appellate Division. Sassower v. Finnerty, et al., 96 AD2d 585 (2d Dept. 1983); appeal dismissed 61 NY756; leave to appeal denied 61 NY2d 985; Sassower v. Signorelli, 100 AD2d 509 (2d Dept. 1984), affirmed 62 NY2d 780; Sassower v. Signorelli, 99 AD2d 358 (2d Dept. 1984).

6. The Appellate Division also affirmed an order of Supreme Court, Westchester County which enjoined plaintiff from instituting further actions or proceedings in any New York State Court based upon the events relating to the Surrogate's proceeding. Sabbower v. Signorelli, 99 AD2d 358 supra. The Court wrote: "In short, Special Term acted properly in putting an end to plaintiff's badgering of the defendant [Surrogate Signorelli] and the court system." 99 AD2d at 360.

7. In the present appeal plaintiff seeks judicial review of two judgments which dismissed the action against the New York News (Judgment dated September 14, 1984) and dismissed the action as against the County defendants (Judgment dated June 12, 1985). On information and belief the appeal from the judgment dated September 14, 1984 was dismissed by this Court in an Order dated July 25, 1985.

8. He also seeks review of the various interlocutory orders entered in this action including one dated April 6, 1984 which, inter alia, denied plaintiff's application to direct Surrogate Signorelli to answer plaintiff's interrogatories for the purpose of serving a further amended complaint. Over nine months have passed since the June 21, 1984 date on the Notice of Appeal from the April 6, 1984 order.

9. The attempt to serve an amended complaint as against Surrogate Signorelli would be a violation of the injunction affirmed by the Second Department.

10. Moreover the attempt to direct Surrogate Signorelli to answer interrogatories is improper as against a non-party judicial officer.

11. The application and this appeal is also barred by the doctrine of collateral estoppel since a previous order of Special Term (Wright, J.) entered June 27, 1983 denied discovery of non-party witness Surrogate Signorelli and other judicial officers. This Court affirmed Justice Wright's order. Sabbower v. Signorelli, 101 AD2d 1036 (1984).

12. Therefore, based on these multiple independent grounds, the appeal should be dismissed.

13. Plaintiff's brief violates the page limitations for briefs to this Court. 22 NYCRR 600.10(d)(1)(i). While the brief appears to be only 12 pages long, it actually is 84 pages long. Plaintiff's arguments are essentially the arguments against the adjudication made by Mr. Justice Stecher found at A258-A294 of the Appendix and essentially the arguments against the adjudication made by Mr. Justice Stecher found at A137-A171 of the Appendix.

(page 11 of the brief). The pages referred to by plaintiff total 72 pages plus the 12 "officially" in the brief totalling 84. Plaintiff should not be permitted to circumvent the Court rules by "limiting" his brief and then referring the Court and other parties elsewhere for his 72 pages of arguments.

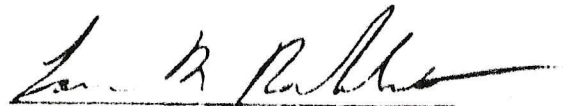
14. Plaintiff, violates Court Rule 600.10(d)(2)(ii) by having almost four pages of imprecise questions to be presented to the Court (see brief pages 8-11).

15. Plaintiff violates Court Rule 600.10(d)(2)(iii) by failing to have supporting references to the Record on Appeal in his statement of the case. The Court and parties to this appeal should not be forced to weed through a record comprising approximately 300 pages to find plaintiff's references.

16. Plaintiff violates Court Rule 600.10(d)(2)(iv) by failing to properly list and divide his points by appropriate headings.

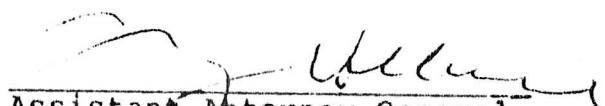
17. Therefore, should this Court decline to dismiss the appeal, plaintiff's brief should be struck and the appeal marked off the September Term, for abject failure to comply with Rule 600.10(d)(2).

WHEREFORE, Surrogate Signorelli respectfully requests that the appeal be dismissed as to him, or in the alternative, that plaintiff's brief be struck and Surrogate Signorelli's time to file a responsive brief be stayed until at least thirty days after receipt of a proper brief, with costs and disbursements.



LAWRENCE N. ROTHBART

Sworn to before me this
1st day of August, 1985



Assistant Attorney General
of the State of New York