

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1990
No. 92-

-----x
GEORGE SASSOWER,
Appellant,
-against-
UNITED STATES OF AMERICA,
Appellee,
ROBERT ABRAMS, et al.,
Appellees.
LEE FELTMAN, et al.,
Appellees.
-----x

x-----x
PETITION FOR A WRIT OF CERTIORARI
TO THE CIRCUIT COURT OF APPEALS FOR THE
THIRD CIRCUIT
x-----x
x-----x
PETITION
x-----x

PRELIMINARY STATEMENT

This is the first, of several, related petitions to this Honorable Court from the Third Circuit, with the others following within the next few days, together with a motion for consolidation.

Every reasonable effort will be made to avoid repetition, as to the facts, questions presented, relief requested, and otherwise.

QUESTIONS PRESENTED

1a. Where, in June of 1990, the Circuit Court of Appeals vacated the criminal sentence imposed upon appellant, and remanded same to the District Court for re-sentencing (U.S.A. v. Sassower, 908 F.2d 965 [3rd Cir.-1990]), and during the

subsequent twenty-three (23) months appellant has made every conceivable application to the U.S. Attorney of New Jersey, the District Court and Circuit Court of Appeals to have such re-sentencing take place, is appellant, by virtue of Amendment V and/or VI of the U.S. Constitution, entitled to an Order directing an expeditious re-sentencing, a final disposition, and/or articulated reasons from the U.S. Attorney, the District and/or Circuit Court for their wilful refusal to re-sentence appellant or dispose of this criminal matter?

b. May the District and/or Circuit Court wilfully refuse to re-sentence appellant and thereby preclude and prejudice potential review by this Court of the judgment of conviction, where appellant intended to have his petition for a writ of certiorari presented after re-sentencing?

c. Where appellant's judgment of conviction was inundated with subsequently disclosed fraud and corruption, involving the U.S. Attorney's Office, the District Court and Circuit Court, may the District and Circuit Court deny appellant the right to petition for a writ of error coram nobis based upon such subsequently surfacing evidence of fraud and corruption?

2a. May the U.S. Attorney, at federal cost and expense, lawfully represent federal officials, sued in tort in their personal capacities, where: (a) they have not been "scope certified" (28 U.S.C. §2679[d]); (b) there has been no United

States substitution (28 U.S.C. §2679[d]; 28 U.S.C. §547); and (3) where the federal officials are involved in criminal racketeering activities, including the diversion of monies payable "to the federal court" to private pockets, and other racketeering activities adverse to federal sovereign interests?

b. Must the U.S. Solicitor General and/or U.S. Attorney be directed to recover monies payable, in haec verba, "to the federal court", but diverted to private pockets, and other monies which are lawfully the property of the sovereigns, federal, state and city?

c. May the same assistant U.S. attorney defend federal officials, at federal cost and expense, in their personal capacities, without scope certifications, and to advance such personal activities, simultaneously prosecute appellant for non-summary criminal contempt?

3a. Under Amendment XI of the U.S. Constitution, may a federal court recognize state representation, at state cost and expense, for officials sued in their personal capacities for activities which are contrary to state financial interests?

b. Where criminally diverted judicial trust monies were held under "color of law", must the U.S. Solicitor General, U.S. Attorney and/or state authorities be directed to recover such monies for the benefit of the state and local sovereigns?

4a. May the same law firm simultaneously, in the same litigation, represent in federal court, a court-appointed receiver, acting under "color of law", and those who made the judicial trust assets the subject of larceny?

b. May the compensation to such law firm be "extorted" from one whose interests are contrary to such law firm's activities, under threats that he will be incarcerated for his failure to make payment?

5. May a county official, sued in his personal capacity, be represented in federal court, at county cost and expense, where local law precludes such representation?

6. Should the county official be directed to return appellant's monies and seized property where it is uncontroverted that he acted without subject matter and personal jurisdiction?

THE PARTIES

GEORGE SASSOWER
Petitioner
16 Lake Street,
White Plains, N.Y. 10603
(914) 949-2169

ROBERT ABRAMS, Esq.
Appellee & Atty for Appellees
The Capitol,
Albany, New York 12224
(518) 474-2121

CLAPP & EISENBERG, P.C.
Attorney for Appellees
1 Newark Center,
Raymond Blvd
Newark, N.J. 07102
(201) 642-3900

SNITOW & PAULEY, Esqs.
Attorney for Appellees
345 Madison Avenue
New York, N.Y. 10017
(212) 599-4500

TABLE OF CONTENTS

Preliminary Statement	i
Questions Presented	i
The Parties	iv
Table of Contents	v
Table of Authorities	v
Opinions Below	1
Jurisdiction	1
Constitutional-Statutory Provisions	1
Statement of the Case	2
Reasons for Granting the Writ	5
Appendix	
Letter Orders, District Court	A-01
Order Circuit Court	A-03

TABLE OF AUTHORITIES

Burkett v. Fulcomer 951 F.2d 1431 [3rd Cir.-1991], cert. pending, sub nom. Haberstroh v. Burkett, #91-1522 [60 USLW 3689]	2, 5
Doggett v. U.S. cert. granted U.S. , 112 S.Ct. 631 [1991]	5
People v. Alejandro 70 N.Y.2d 133, 517 N.Y.S.2d 927, 511 N.E.2d 71 [1987]	4
U.S.A. v. Sassower 908 F.2d 965 [3rd Cir.-1990]	3
Young v. U.Y. ex rel Vuitton 481 U.S. 787 [1987]	4

OPINIONS BELOW

The District Court by letter orders (A1-2) denied appellant permission to file motions for the relief sought herein, the Circuit Court of Appeals, by opinion (A3), affirmed.

JURISDICTION

- (i) Letter Denials, District Court: 11/18-12/5, 1991
Circuit Court Opinion: February 12, 1992
- (ii) None.
- (iii) Not Applicable
- (iv) 28 U.S.C. §1254

CONSTITUTIONAL-STATUTORY PROVISIONS

1. Article VI[2] of the United States Constitution provides that:

"This Constitution and the Laws of the United States which shall be made in Pursuance thereof; ... shall be the supreme Law of the Land ..."

2. Article III of the United States Constitution provides:

"§1 The judicial power of the United States, shall be vested in one Supreme Court, and in such inferior Courts as the Congress may from time to time ordain and establish. ... §2[1] The judicial power shall extend in all cases, in law and equity, arising under this Constitution and Laws of the United States"

3. The First Amendment of the United States Constitution provides that:

"Congress shall make no law respecting ... abridging the freedom of speech ... or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

4. The Fifth Amendment of the United States Constitution provides that:

"No person shall ... shall be deprived of ... liberty, or property, without due process of law ...".

5. The Sixth Amendment of the United States Constitution provides that:

"In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial ... "

6. 28 U.S.C. §2679(d)(1) provides:

"Upon certification by the Attorney General that the defendant employee was acting within the scope of his office or employment at the time of the incident out of which the claim arose, any civil action or proceeding commenced upon such claim in a United States district court shall be deemed an action against the United States under the provisions of this title and all references thereto, and the United States shall be substituted as the party defendant."

7. 28 U.S.C. §547 provides:

"Except as otherwise provided by law, each United States attorney, within his district, shall--- (1) prosecute for all offenses against the United States; (2) prosecute or defend, for the Government, all civil actions, suits or proceedings in which the United States is concerned; ... (4) institute and prosecute proceedings for the collection of fines, penalties, and forfeitures incurred for violation of any revenue law, unless satisfied on investigation that justice does not require the proceedings; and (5) to make such reports as the Attorney General may direct."

STATEMENT OF THE CASE

1a. Appellant was charged with a single simple count of non-summary criminal contempt, incarcerated for two (2) months, without bail, during which period of incarceration a 'phantom', 'non-existing', "accounting" for the judicial trust

assets of PUCCINI CLOTHES, LTD. ["Puccini"], in which appellant is, inter alia, a contractually based judgment creditor, was engineered.

b. There was and is no such "accounting", and the "approval" thereof was a sham and a judicial fraud, with high level judicial, state and federal, involvement therein.

c. All of Puccini's assets were made the subject of larceny by the judicial cronies and/or their bag-men, leaving nothing for its nationwide creditors, including appellant.

d. Appellant's conviction was affirmed on June 19, 1990, but the sentence was vacated and the District Court directed to resentence appellant (U.S.A. v. Sassower, 908 F.2d 965 [3rd Cir.-1990]).

e. Repeated applications by appellant to the U.S. Attorney, the District Court and the Circuit Court of Appeals were either ignored or denied, without any articulated reason for same.

f. The same jurist who wrote the opinion in Burkett v. Fulcomer (951 F.2d 1431 [3rd Cir.-1991], cert. pending, sub nom, Haberstroh v. Burkett, #91-1522 [60 USLW 3689], seven (7) weeks thereafter, without discussing any of the issues raised by appellant in his motions at the Circuit Court for summary reversal, including his right to be re-sentenced, denied appellant's appeal (A-03).

2a. The aforementioned criminal proceeding was a fraud and a hoax, intended to advance a criminal racketeering adventure, which included the larceny of judicial trust assets,

diversion of monies payable "to the federal court" to private pockets, extortion, and other racketeering activities.

b. Such fraud upon the federal, state, city and county governments, and Puccini's legitimate creditors, including appellant, simply could not be finally consummated unless the court-appointed receiver and his bonding company were discharged by a judicially "approved" "accounting", an "accounting" which does not exist.

3a. The same Assistant U.S. Attorney defending perfidious federal officials, in their personal capacities, without any scope certifications or United States substitution, while such civil tort actions were pending, charged appellant with non-summary criminal contempt (cf. Young v. U.Y. ex rel Vuitton, 481 U.S. 787 [1987]).

b. State officials, involved in such criminal racketeering adventure, contrary to state fiscal interests, sued in their personal capacities, including the N.Y. State Attorney General, are being represented by him at state cost and expense.

c. The same law firm who is representing the court-appointed receiver, is simultaneously representing those firms who made his judicial trust assets the subject of larceny, being compensated for by "extortion" monies from a person whose interests are contrary to the activities of this law firm.

4. To impair appellant's First Amendment activities, without subject matter or personal jurisdiction (People v. Alejandro, 70 N.Y.2d 133, 517 N.Y.S.2d 927, 511 N.E.2d 71 [1987]), a distant District Attorney seized his computer 'data

discs' and papers, under an unlawful search warrant, and refuses to return them to appellant.

REASONS FOR THE GRANT OF THIS WRIT

This is a continuing and expanding judicial scandal, which cannot be arrested by the denial of this petition, but instead will become a topic for the media attention and a resultant grand jury investigation.

Some of the issues, as will subsequent petitions will more clearly demonstrate, parallel the issues raised in Burkett v. Fulcomer (supra) and Doggett v. U.S. (cert. granted U.S. , 112 S.Ct. 631 [1991]).

Dated: May 11, 1992

Respectfully submitted,

GEORGE SASSOWER [GS-0512]
Petitioner, pro se
16 Lake Street,
White Plains, N.Y. 10603
914-949-2169

CERTIFICATION OF SERVICE

On May 11, 1992 I served a true copy of this Petition by mailing same in a sealed envelope, first class, with proper postage thereon, addressed to U.S. Solicitor General, Kenneth W. Starr, Department of Justice, 10th & Constitution Ave., Washington, D.C. 20530; Robert Abrams, Esq., The Capitol, Albany, New York 12224; Clapp & Eisenberg, P.C., 1 Newark Center, Raymond Blvd., Newark, N.J. 07102; Snitow & Pauley, Esqs., 345 Madison Avenue, New York, N.Y. 10017, that being their last known addresses.

Dated: May 11, 1992

GEORGE SASSOWER

12/01/91
9/18/91

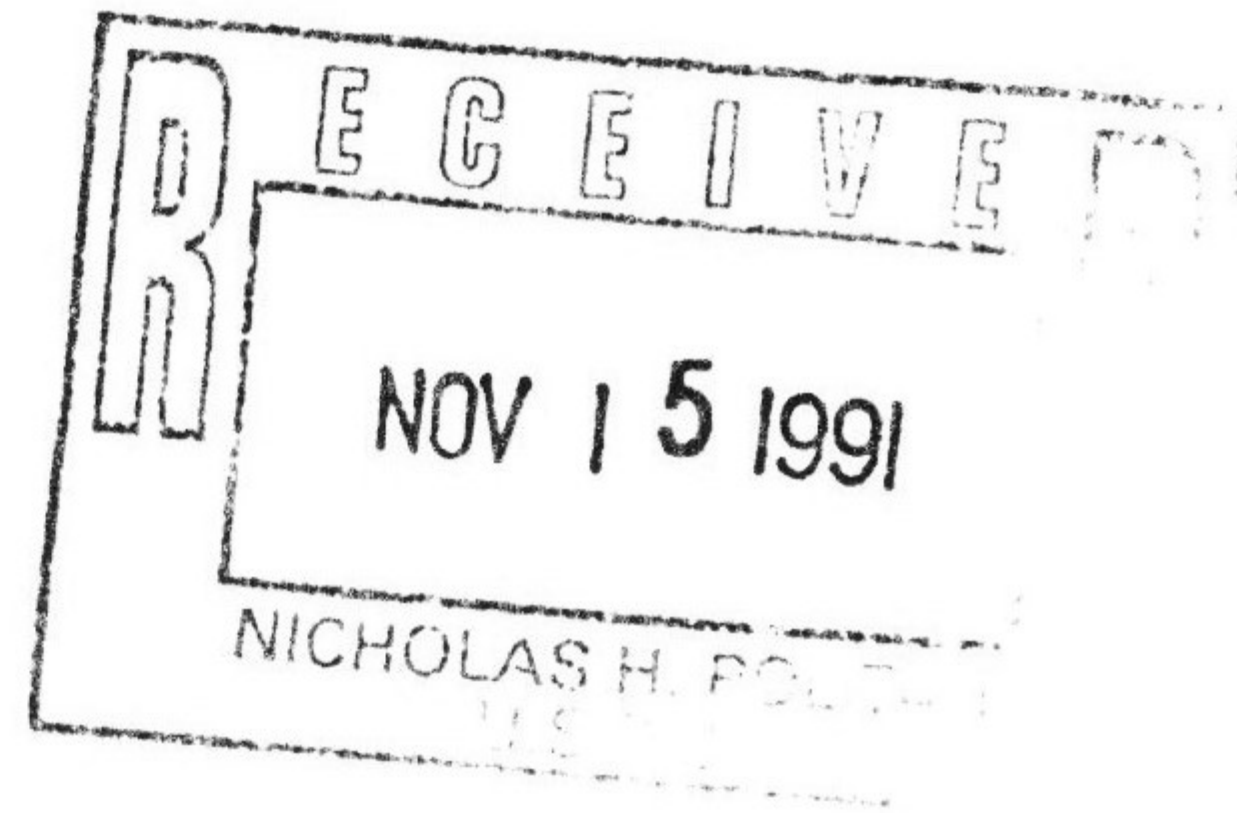
GEORGE SASSOWER

16 LAKE STREET
WHITE PLAINS, N. Y. 10603

914-949-2169

November 11, 1991

Hon. Nicholas H. Politan
U.S. District Judge
District of New Jersey
Post Office and Courthouse Bldg.
Newark, New Jersey 07101



Re: U.S. v. Sassower
89-00103

Dear Sir:

I request permission to move to vacate and/or dismiss the conviction in the above matter, as a matter of right and by reason of judicial discretion.


In order to conserve the energies of the Court I will assume that permission is granted unless I hear to the contrary within fourteen (14) days from the above date.

Most Respectfully,


GEORGE SASSOWER

cc: U.S. Attorney Michael Chertoff
Clerk of the District Court For Filing

Denied


NICHOLAS H. POLITAN, U.S.D.J.
11/18/91

A-1

GEORGE SASSOWER

16 LAKE STREET
WHITE PLAINS, N.Y. 10603

914-949-2169

November 11, 1991

Hon. Nicholas H. Politan
U.S. District Judge
District of New Jersey
Post Office and Courthouse Bldg.
Newark, New Jersey 07101

Re: Sassower v. Abrams
88 Civ. 1012

Dear Sir:

I request permission to move in the above consolidated proceeding to (1) restrain the U.S. Attorney from representing any civil defendant in tort litigation without a 28 U.S.C. §2679[d] "scope certification" and United States substitution; (2) for the return of all my seized property, including all duplicates, by District Attorney Denis Dillon which at the time was vested in the District Court of New Jersey (28 U.S.C. §1334[d]), because of a jurisdictional infirmity (People v. Alejandro, 70 N.Y.2d 133, 517 N.Y.S.2d 927, 511 N.E.2d 71 [1987]), and by reason of the extant Order of Hon. Daniel J. Moore of New Jersey; (3) dispensing from any further need to seek Your Honor's permission to gain physical ingress to the Federal Building and Courthouse in White Plains, N.Y.; and (4) and relief consistent with the above.

In order to conserve the energies of the Court I will assume that permission is granted unless I hear to the contrary within fourteen (14) days from the above date.

Most Respectfully,

GEORGE SASSOWER

cc: U.S. Attorney Michael Chertoff
D.A. Denis Dillon
Chief U.S. District Judge Charles L. Brieant
Clerk of the District Court [For Filing]

A-2
(see NEXT PAGE)

68

GEORGE SASSOWER

16 LAKE STREET
WHITE PLAINS, N. Y. 10603

914-949-2169

November 11, 1991

ORIGINAL FILE

DEC 3 1991

Hon. Nicholas H. Politan
U.S. District Judge
District of New Jersey
Post Office and Courthouse Bldg.
Newark, New Jersey 07102

WILLIAM T. WALSH, CLERK

FILED
NOV 14 1991 ENTERED
on THE DOCKET
12-6 1991
WILLIAM T. WALSH, CLERK
(Deputy Clerk)

Re: Sassower v. Abrams
88 Civ. 1012

Dear Sir:

I request permission to move in the above consolidated proceeding to (1) restrain the U.S. Attorney from representing any civil defendant in tort litigation without a 28 U.S.C. §2679(d) "scope certification" and United States substitution; (2) for the return of all my seized property, including all duplicates, by District Attorney Denis Dillon which at the time was vested in the District Court of New Jersey (28 U.S.C. §1334(d)), because of a jurisdictional infirmity (People v. Aleandro, 70 N.Y.2d 117, 517 N.Y.S.2d 927, 511 N.E.2d 71 (1987)), and by reason of the extent order of Hon. Daniel J. Moore of New Jersey; (3) dispensing from any further need to seek Your Honor's permission to gain physical ingress to the Federal Building and Courthouse in White Plains, N.Y.; and (4) and relief consistent with the above.

In order to conserve the energies of the Court I will assume that permission is granted unless I hear to the contrary within fourteen (14) days from the above date.

Most Respectfully,
[Signature]
GEORGE SASSOWER

cc: U.S. Attorney Michael Chestnut
D.A. Denis Dillon
Chief U.S. District Judge Charles L. Brieant
Clerk of the District Court (For Filing)

[Signature]
NICHOLAS H. POLITAN, U.S.D.J.S.D.J.

12/3/91

UNITED STATES COURT OF APPEALS
FOR THE THIRD CIRCUIT

Nos. 91-5936, 91-5986, 92-5012

EP 3 6

GEORGE SASSOWER

vs.

ROBERT ABRAMS, et al.

(D.N.J. Civ. No. 88-01012)

GEORGE SASSOWER, individually and as Chapter 13 debtor,
and on behalf of Puccini Clothes, Ltd.

vs.

LEE FELTMAN, et al.

(D.N.J. No. 88-01562)

UNITED STATES OF AMERICA

vs.

GEORGE SASSOWER

(D.N.J. Crim. No. 89-103)

Appeals from the United States District Court for the
District of New Jersey
District Judge: Honorable Nicholas H. Politan

Before: Mansmann, Scirica, and Rosenn, Circuit Judges

MEMORANDUM ORDER

A-3

These three consolidated appeals relate to two actions, District of New Jersey Civil Nos. 88-1012 and 88-1562, filed by Appellant George Sassower relating to a personal bankruptcy and the involuntary dissolution of Puccini Clothes.

Because the issues in these cases had been fully and finally litigated in other forums, the district court enjoined Mr. Sassower from filing any further proceedings, motions or documents related to Civil Nos. 88-1012 and 88-1562 without the court's prior written approval. After Mr. Sassower attempted to file further motions related to these actions, he was convicted of criminal contempt, under 18 U.S.C. § 401, for violating the court's injunction.

I.

Mr. Sassower's appeals at Court of Appeals Nos. 91-5936 and 92-5012 involve further attempts by Mr. Sassower to file successive and repetitive motions in the district court in Civil Nos. 88-1012 and 88-1562. After consideration of all of the contentions and arguments raised by Mr. Sassower in the materials submitted to this Court, we conclude that no substantial question is raised by the appeals at C.A. Nos. 91-5936 and 92-5012, and furthermore, that the appeals are frivolous and vexatious. We will therefore order that the district court orders appealed from in C.A. Nos. 91-5936 and 92-5012 be summarily affirmed, pursuant to Chapter 10.6 of this Court's Internal Operating Procedures.

A-H.

With regard to the following motions and supporting documents submitted to this Court by appellant Sassower in C.A. No. 91-5936,

Date Received	Item
12-24-91	"Motion to disqualify the U.S. Attorney for the District of New Jersey from the continued representation of defendants in this action," and "affirmation" in support thereof.
12-24-91	"Motion to disqualify Attorney General Robert Abrams from Representing anyone in this litigation, except himself," and "affirmation in support thereof.
12-24-91	"Motion to disqualify Snitow & Pauley," and "affirmation" in support thereof
12-24-91	"Motion to disqualify Clapp & Eisenberg, P.C.," and "affirmation" in support thereof
12-24-91	Motion for transcripts
1-30-92	Motion to stay possible summary action until disposition of the above motions

and after review of all the requests and contentions raised therein by appellant, we will order that these motions be denied.

II.

Mr. Sassower's appeal at C.A. 91-5986 relates to his criminal contempt conviction, District of New Jersey Criminal No. 89-103, affirmed by this Court. See C.A. No. 89-5810. By order entered on December 5, 1991, the district court denied Mr. Sassower's "request for permission to move to vacate and/or dismiss" his criminal contempt conviction, relying on its

previous order enjoining Mr. Sassower from future filings related to Civil Actions 88-1012 and 88-1562 without the prior written permission of the court. Mr. Sassower's appeal of this denial is presently before this Court in C.A. No. 91-5986.

Mr. Sassower's submissions to this Court indicate that he intended to file a petition for a writ of error coram nobis, had the district court granted his request "for permission to move to vacate and/or dismiss [his] conviction." The writ of error coram nobis was traditionally available to attack an allegedly invalid conviction when the petitioner had served his or her sentence and was no longer "in custody" for the purposes of 28 U.S.C. § 2255.¹ United States v. Osser, 864 F.2d 1056, 1059-60 (3d Cir. 1998). Rule 60(b), Fed. R. Civ. P., however, officially abolished writs of error coram nobis, although such a writ may still be granted pursuant to the court's inherent powers under the All Writs Act, 28 U.S.C. § 1651(a). Osser, 864 F.2d at 1059-60. In any event, a writ of error coram nobis is an "extraordinary remedy, [allowed] only under circumstances compelling such action to achieve justice, . . . and to correct errors of the most fundamental character." Id. at 1059 (citations omitted). Furthermore, the writ is only available if the petitioner demonstrates that he or she is suffering from continuing consequences of the allegedly invalid conviction. Id.

¹ At the time he submitted his request to file a collateral attack on his criminal contempt conviction, Mr. Sassower's one year sentence of probation had already expired and he was no longer "in custody" for the purposes of 28 U.S.C. § 2255.

Having reviewed all of the arguments submitted by appellant Sassower to this Court, we find that Mr. Sassower's petition for a writ of error coram nobis would have been completely without merit, had he been allowed to file it in the district court. Accordingly, and because Mr. Sassower has no statutory right to petition the district court for a writ of error coram nobis, we conclude that the district court did not err in denying Mr. Sassower's request for permission to file a petition for a writ of error coram nobis. Accordingly, we will order that the district court order which Mr. Sassower appealed in C.A. No. 91-5986 be summarily affirmed, pursuant to Chapter 10.6 of this Court's Internal Operating Procedures.

With regard to the following motions, documents and other submissions by Mr. Sassower in C.A. No. 91-5986:

Date Received	Item
12-24-91	"Appellant's Statement in Support of Summary Reversal and Dismissal . . ."
12-24-91	Motion for "an order compelling: <ul style="list-style-type: none"> a) "Administrative Law Judge Stanley S. Ostrau, . . . New York Attorney General Robert Abrams, and Fidelity and Deposit . . . to serve upon the parties and this Court a copy of the 'accounting' . . . approved by the court appointed receiver for Puccini Clothes . . ." b) "a verified accounting for the judicial trust assets of Puccini Clothes . . ." and "affirmation" in support thereof
12-24-91	Motion for "an order compelling Elaine B. Goldsmith, Clerk of the Court for the Second Circuit to serve upon the parties and this Court

A-7

certified copies of the record on appeal in Sassower v. Sherrif . . ." and "affirmation" in support thereof

12-24-91 Motion for an "order appointing an attorney to institute criminal contempt proceedings against Samuel A. Alito, Jr. and Michael Chertoff" and "affirmation" in support thereof

12-24-91 Motion for an "order appointing an attorney to institute criminal contempt proceedings against Charles L. Brieant and James L. Oakes," and "affirmation" and other documents in support thereof

and after consideration of all the contentions raised therein by the appellant, we order that all these motions and other requests be denied.

III.

We have also reviewed, and will deny, Mr. Sassower's request, pursuant to 28 U.S.C. § 1254(2), that we certify a number of legal questions raised in these consolidated appeals for consideration by the United States Supreme Court.

IV.

In sum, it is ORDERED that the district court orders appealed from in C.A. Nos. 91-5936 and 92-5012 be and are hereby SUMMARILY AFFIRMED, pursuant to Chapter 10.6 of this Court's Internal Operating Procedures. It is further ORDERED that all motions filed with this court in C.A. No. 91-5936 be and are hereby DENIED.

With regard to C.A. No. 91-5986, it is ORDERED that the order of the district court appealed from be and is hereby SUMMARILY AFFIRMED, pursuant to Chapter 10.6 of this Court's

A-S.

Internal Operating Procedures. In addition, all motions and other requests filed with this Court in C.A. No. 91-5986 are hereby DENIED.

Finally, Mr. Sassower's request, pursuant to 28 U.S.C. § 1254(2), that we certify a number of legal questions raised in these consolidated appeals for consideration by the United States Supreme Court is hereby DENIED.

BY THE COURT,

Carol Fox Mansmann
Circuit Judge

Date: FEB 12 1992

GB/cc: B.D. JB CJK BC
GCC Dme GK BT
Ra Pida ETD K.L.B. 7
HMB WBY J.S.P. K.B. 3
JLB