

In the
SUPREME COURT OF THE UNITED STATES
October Term, 1993
No. 93-

-----x
GEORGE SASSOWER,
Petitioner,
vs.
N.Y.S. Attorney General ROBERT ABRAMS,
Respondent.
-----x

In the Matter of a GRAND JURY
APPLICATION by GEORGE SASSOWER,
individually and on behalf of the
Grand Jury for the Northern District
of New York,
Petitioner,
for a Grand Jury presentation
concerning the criminal activities
of ROBERT ABRAMS, Attorney General
of the State of New York, and FRANCIS
T. MURPHY, Presiding Justice of the
Appellate Division, State of New York,
First Judicial Department.
-----x

x-----x
PETITION FOR A WRIT OF CERTIORARI
to the
U.S. CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT
x-----x
x-----x
STAY MOTION
x-----x

GEORGE SASSOWER
Petitioner, pro se
16 Lake Street,
White Plains, NY 10603
914-949-2169

1a. This motion seeks to enjoin and stay N.Y. State Attorney General ROBERT ABRAMS ["Abrams"] from defending himself and others in personal capacity money damage tort litigation in various federal circuits, at the cost and expense of the State of New York, as being violative of the Eleventh Amendment to the U.S. Constitution (Puerto Rico Aqueduct v. Metcalf, 506 U.S. , 113 S.Ct. 684 [1993]).

b. As hereinafter demonstrated, by judicial admissions, the remedy sought is "indisputably clear" (Turner v. F.C.C., 508 U.S. , 113 S.Ct. 1806 [1993]).

2a. In affirmant's motion at the Second Circuit Court, dated and filed March 22, 1993 (Exhibit "A-1", "A-2"), the relief requested was for:

"(1) leave to file these appeals, without prejudice ... and (6) a mandatory (affirmative) stay in order to comply with Rule 23.3 of the Rules of the Supreme Court of the United States."

b(1) As a result of the fixing activities by federal judges, in and out of the Second Circuit, "the relief sought is not available from any other court or judge" (Rule 23.3).

(2) Although no one has ever denied that the aforementioned representation, at state cost and expense, is violative of Amendment Eleventh of the U.S. Constitution, even at the District Court (Exhibit "B"), it has been permitted to exist in the Second, Third, Fourth, Sixth and District of Columbia Circuits, despite vigorous objections having been asserted by affirmant (see, e.g. In re Sassower [Sixth Circuit], SCUS Docket No. 92-8933), as part of a criminal racketeering operation by, inter alia, Second Circuit Court jurists.

3a. For refusing to participate, for resisting and exposing judicial corruption, the condition has been imposed upon petitioner by the then U.S. Circuit Court Judge JON O. NEWMAN ["Newman"] of the Second Circuit, that affirmant petitioner must seek leave in order to file any paper in that Court (see Sassower v. Mahoney, 498 U.S. 1108 [1991]), a condition also imposed upon affirmant for like reason in the Southern and Eastern Districts

of New York, the Third Circuit, the Fourth Circuit, the Sixth Circuit, the Eighth Circuit, the Ninth Circuit, and the District of Columbia Circuits (cf. Mt. Healthy v. Doyle, 429 U.S. 274 [1977]).

b. Leave is invariably denied, even when the right to relief is irresistibly and constitutionally compelling.

"Due process, as this Court had repeatedly held, is a term that 'negates any concept of inflexible procedures universally applicable to every imaginable situation'. " (Hortonville Joint School v. Hortonville Ed., 426 U.S. 482, 494 [1976]).

(1) Leave was denied by the Second Circuit courts for a writ of coram nobis in order to invalidate a manifestly unconstitutional conviction for non-summary criminal contempt and to recapture fine monies payable "to the federal court" but diverted to private pockets (Sassower v. Kreindler, Docket No. 92-5045)

(2) Leave was denied in order gain access to the courts in order to liquidate petitioner's contractually based, constitutionally protected, money judgment (Sassower v. Puccini, Docket No. 93-5128).

(3) Leave was denied in order to compel a court-appointed receiver and Attorney General Abrams, qua statutory fiduciary, to account for a judicial trust after a lapse of thirteen years (Sassower v. Feltman & Abrams, Docket No. 93-5127).

(4) Leave has been held required in order to request an original writ of habeas corpus in the N.Y. State and in the Southern District of New York (Sassower v. Politan, SDNY, 89 Civ. 4339 [CLB]).

4. Only a few, of the many, admissions of the unconstitutional scenario being practiced, is set forth herein:

a. Chief U.S. Circuit Court Judge GILBERT S. MERRITT ["Merritt"] of the Sixth Circuit, admitted the following in the Notice to Admit, dated Feb. 8, 1993, in Sassower v. McFadden (SDNY, 93-0342 [PKL]):

"11. In your Circuit and in your Court, N.Y. State Attorney General ROBERT ABRAMS ['Abrams'] and/or members of his office are representing Abrams and state judges at state cost and expense.

12. In view of the prohibition contained in the Eleventh Amendment to the U.S. Constitution, you are not aware of any authoritative case, decision or precedent in the Sixth Federal Circuit, excluding cases involving plaintiff, where state judges, officials, and/or employees are being defended in money damage tort actions at state cost and expense.

13. In view of the prohibition contained in the Eleventh Amendment to the U.S. Constitution, you not aware of any authoritative case, decision or precedent in any other circuit in the United States, excluding cases involving plaintiff, where state judges, officials, and/or employees are being defended in money damage tort actions at state cost and expense.

14. You are aware that Abrams is the statutory fiduciary for all involuntarily dissolved corporations in the State of New York, including PUCCINI CLOTHES, LTD. ['Puccini'].

15. You are aware that those judges who made the judicial trust assets of Puccini the subject of larceny, are being jointly represented with Abrams by the same attorney(s).

16. You are unaware of any authoritative case, decision or precedent in the Sixth Circuit, excluding case in which plaintiff is involved, for permitting a joint representation of the statutory fiduciary with those who are transactionally involved in the larceny of such judicial trust assets.

17. You are unaware of any authoritative case, decision or precedent in any court in the United States, excluding cases in which plaintiff is involved, for permitting a joint representation of the statutory fiduciary with those who are transactionally involved in the larceny of such judicial trust assets."

b. NY State Assistant Attorney General CAROLYN CAIRNS OLSON ["Olson"], who represented Attorney General Abrams and others, at state cost and expense, in the Fourth and Sixth Circuits, admitted the following in the Notice to Admit, dated February 12, 1993, in Sassower v. Abrams (SDNY, 92-08515 [PKL]):

" 4. You know, as settled law, the Eleventh Amendment of the U.S. Constitution divests this Court of subject matter jurisdiction, in money damage tort litigation, where the cost of the litigation is at cost and expense of a sovereign state, such as the State of New York.

5. You have failed to disclose to this Federal Court that the State of New York is being unconstitutionally burdened with the cost and expense of your defense representation."

c. N.Y. State Appellate Division Presiding Justice FRANCIS T. MURPHY ["Murphy"], in the Notice to Admit of February 8, 1993 Sassower v. Abrams (supra), admitted the following:

" 3. You know that your legal representation in this matter is being undertaken by the Office of the N.Y. State Attorney General ROBERT ABRAMS ["Abrams"], at state cost and expense.

4. You know, as settled law, the Eleventh Amendment of the U.S. Constitution, as a jurisdictional infirmity, with exceptions not here relevant, this Court does not have subject matter jurisdiction where the cost of the litigation is at state cost and expense.

5. You have failed to disclose to this Court that the cost and expense of this litigation against you is being borne by the state treasury, so that it might determine whether subject matter jurisdiction exists.

6. You know that you are being accused of conduct which is contrary to legitimate state interests,

7. You know that by having the state bear the cost and expense of your defense, for conduct contrary to legitimate state interest, you are defrauding the state treasury, a matter of criminal magnitude.

8. You know that Attorney General Abrams is the statutory fiduciary of the judicial trust assets of PUCCINI CLOTHES, LTD. ['Puccini'], who has some mandatory 'duties' (e.g. Business Corporation Law §1216(a)) and extensive discretionary powers (e.g. Business Corporation Law §1214(a)).

9. You know that you have been charged with aiding and abetting the larceny of the judicial trust assets of Puccini, extortion, of receiving 'pay-offs', and other criminal activities.

10. You are aware that Abrams, is a co-defendant with you, in this action.

11. You have solicited and/or accepted the legal representation of Abrams, although the same Assistant Attorney General is representing Abrams.

12. You have little doubt that the conduct of Attorney General Abrams's, and that of his office, in this matter is unethical and/or criminal.

13. You have little doubt that a federal judge who ignores a manifest Eleventh Amendment violation, and the conflicting representation by Abrams, has been compromised and/or corrupted."

d. Attorney General Abrams, in the Notice to Admit, dated November 27, 1992 in Sassower v. Abrams (supra), admitted the following:

"71. You, members of your office, and others knew that K&R [Kreindler & Relkin, P.C.] and FKM&F [Feltman, Karesh, Major & Farbman] -- 'the criminals with law degrees' -- had corrupted, inter alia, Presiding Justice FRANCIS T. MURPHY ['Murphy'] and Administrator XAVIER C. RICCOBONO ['Riccobono'] and through them, with your conspiratorial cooperation, had effectively obtained control of the state and federal judicial system in New York and the Second Circuit."

5a. Petitioner's unopposed motion of March 22, 1993, at the Circuit Court for, inter alia, summary reversal of the Order of the District Court (Exhibit "B") reads as follows:

" 2a. In express violation of 28 U.S.C. §455(b)[3] the above proceeding was determined by U.S. District Court Judge FREDERICK J. SCULLIN ['Scullin'] who was the U.S. Attorney Sassower v. Mahoney (916 F.2d 709 [2d Cir. - 1990], participated in same, and the essential issues were involved in that former action as well as the action at bar. ... [In the opinion of the District Court, dated February 3, 1993 (Exhibit "B"), the Court] stated:

"The court notes that the plaintiff/petitioner has demanded in this regard that the undersigned, in my former capacity as U.S. Attorney, recuse myself from presenting this matter to the Grand Jury because of a 'general bias'. Notwithstanding plaintiff's request, and in light of the finding of this court that the complaint and petition are frivolous, the request for recusal in any capacity is denied"

c. The proceedings before Judge Scullin are, as Judge Scullin knew, as a matter of law, void (Liljeberg v. Health Services, 486 U.S. 847 [1988]).

3a. Judge Scullin stated:

"plaintiff alleges that the defendant [N.Y. State Attorney General ROBERT ABRAMS ['Abrams']] is unlawfully representing state employees who are defendants in civil actions in their individual capacities.

Plaintiff contends that such representation is in violation of the Eleventh Amendment to the United States Constitution."


b. However, except for stating affirmant's contention, Judge Scullin never addressed the issue.

6. Where a criminal racketeering entourage, which includes Chief Circuit Court Judge Newman, is engaged in the larceny of judicial trust assets, diverting monies payable "to the federal court" to private pockets, extortion and other criminal activities, the unconstitutional transgressions of Attorney General Abrams, at state cost and expense, in multiple federal circuits must be stayed and enjoined by this Court.

7. The aforementioned is stated to be true under penalty of perjury.

WHEREFORE, it is respectfully prayed that this motion be granted in all respects, with costs.

Dated: August 9, 1993

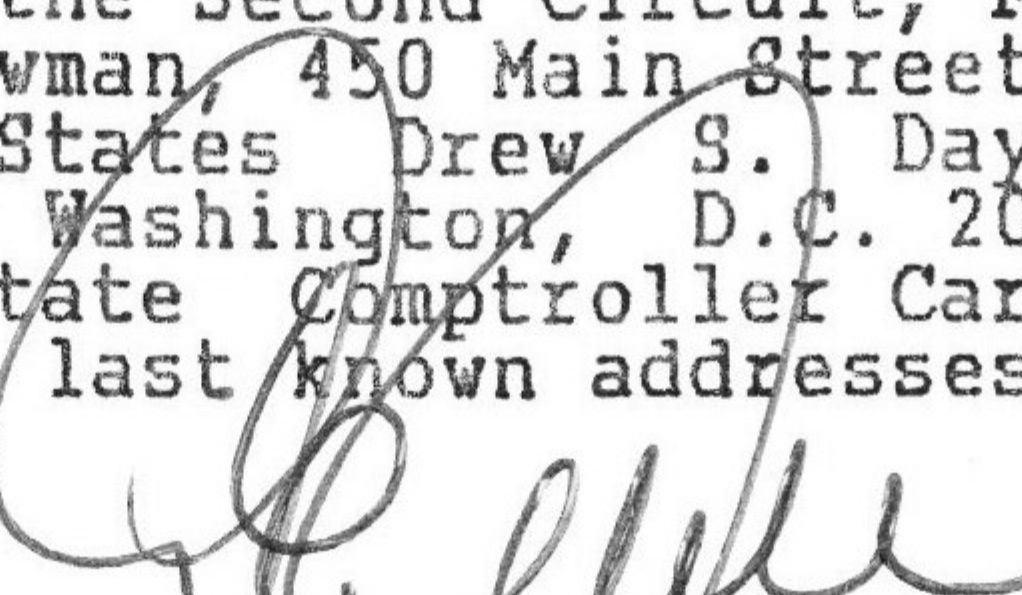


GEORGE SASSOWER
Petitioner, pro se.

CERTIFICATION OF SERVICE

On August 10, 1993 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. Circuit Court of Appeals for the Second Circuit, Foley Square, New York, NY 10007; Chief Judge Jon O. Newman, 450 Main Street, Hartford Conn. 06103; Solicitor General of the United States Drew S. Days, III of the United States, Department of Justice, Washington, D.C. 20530; Robert Abrams, The Capitol, Albany, NY 12224; N.Y. State Comptroller Carl McCall, The Capitol, Albany, NY 12224, that being their last known addresses.

Dated: August 10, 1993



GEORGE SASSOWER

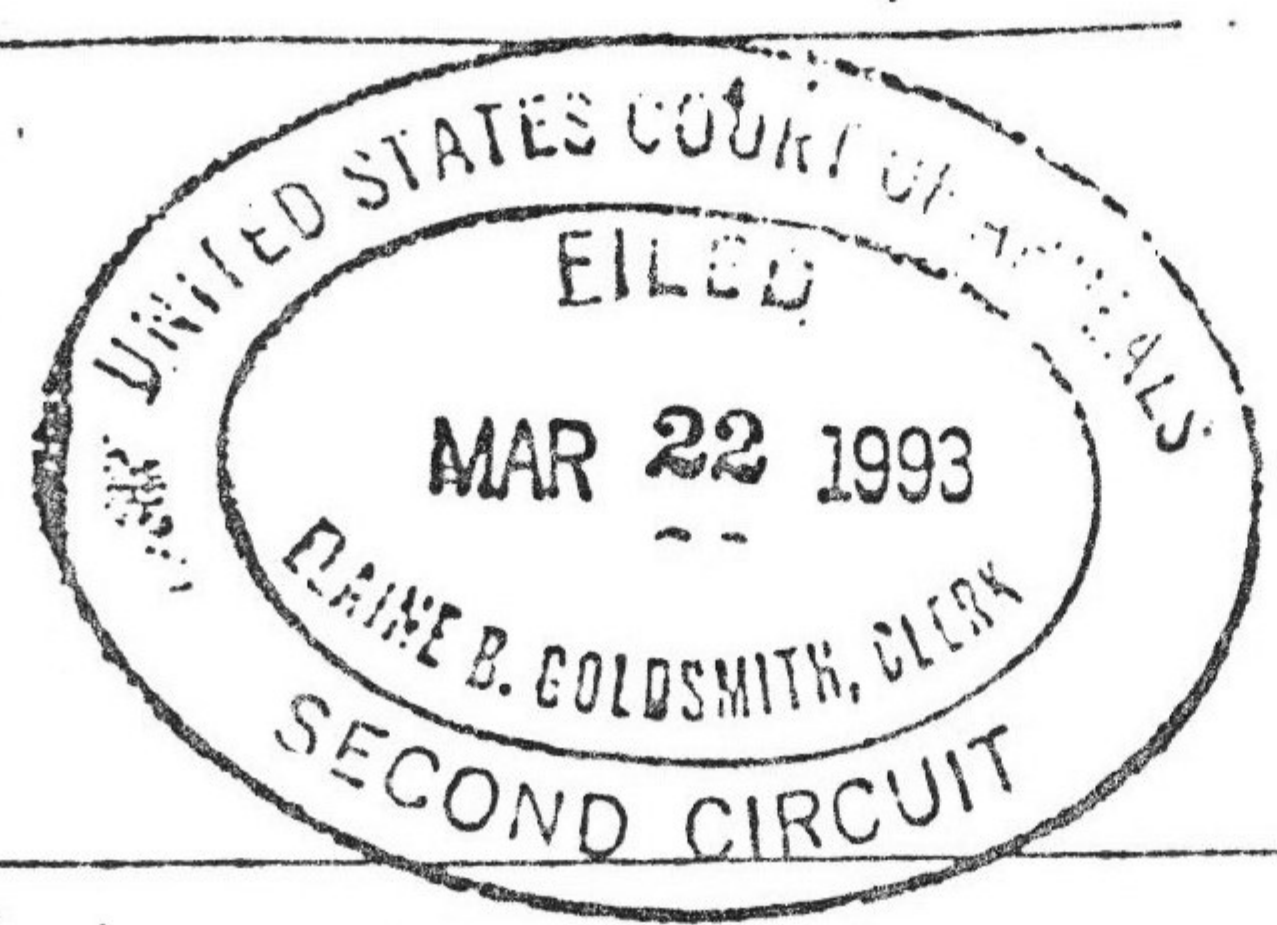
United States Court of Appeals FOR THE SECOND CIRCUIT

Each motion must be accompanied by a supporting affidavit.

SASSOWER

Abrams

Use short title



93-7172/7173
Docket Number

NOTICE OF MOTION

for *leave, Consolidation, T.F.P. etc.*

MOTION BY: (Name, address and tel. no. of law firm and of attorney in charge of case)

OPPOSING COUNSEL: (Name, address and tel. no. of law firm and of attorney in charge of case)

GEORGE SASSOWER
16 Lake Street
Ite Plains, NY 10603-3352

see inside

Has consent of opposing counsel:

- A. been sought? Yes No
- B. been obtained? Yes No
- Has service been effected? Yes No
- Is oral argument desired? Yes No

(Substantive motions only)

Requested return date:

Apr. 13, 1993

(See Second Circuit Rule 27(b))

Has argument date of appeal been set:

- A. by scheduling order? Yes No
- B. by firm date of argument notice? Yes No
- C. If Yes, enter date: _____

EMERGENCY MOTIONS, MOTIONS FOR STAYS & INJUNCTIONS PENDING APPEAL

Has request for relief been made below? Yes No
(See F.R.A.P. Rule 8)

Would expedited appeal eliminate need for this motion? Yes No

If No, explain why not:

Will the parties agree to maintain the status quo until the motion is heard? Yes No

Judge or agency whose order is being appealed:

Judge SOULIN

Brief statement of the relief requested:

leave to file, consolidate, recussa, 28 USC 1915, 28 USC 1254(2) cert

Complete Page 2 of this Form

By: (Signature of attorney)

[Signature]

Signed name must be printed beneath
George Sassower

Appearing for: (Name of party)

George Sassower

Date *3/22/93*

Appellant or Petitioner: Plaintiff Defendant

Appellee or Respondent: Plaintiff Defendant

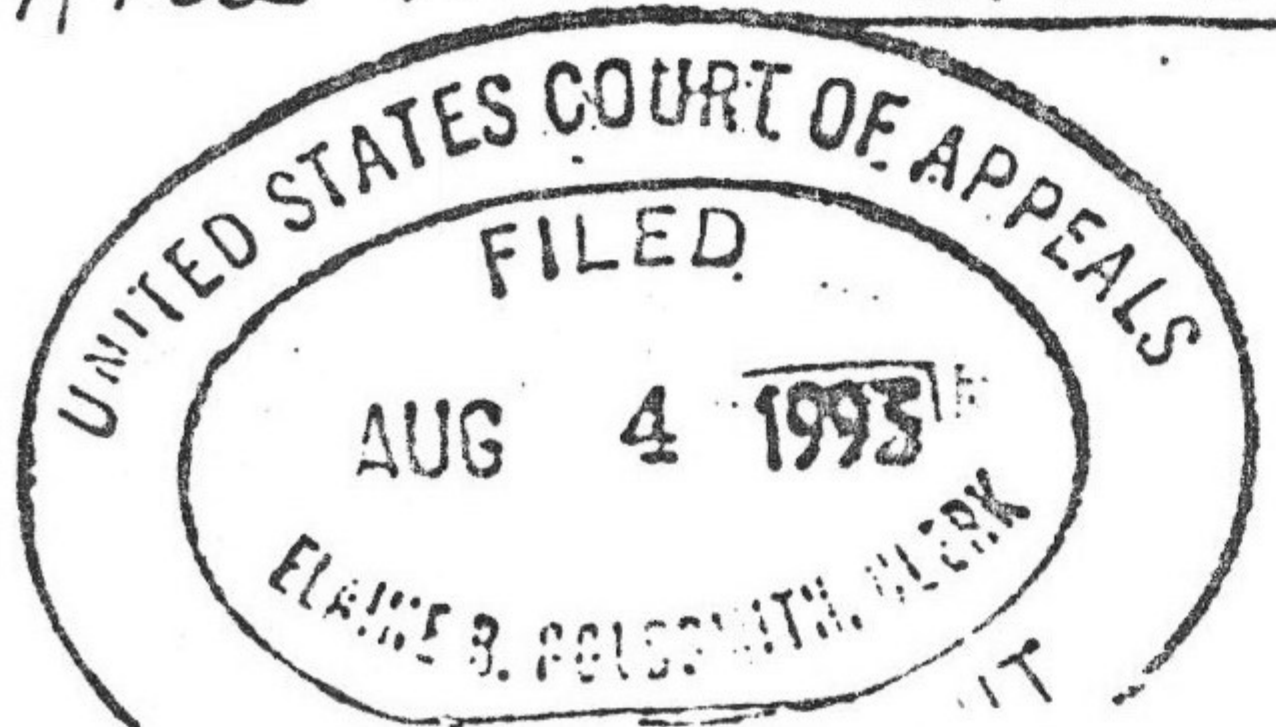
A TRUE COPY
ELAINE B. GOLDSMITH, Clerk

By *Kathy Brouwer*
Deputy Clerk

ORDER

IT IS HEREBY ORDERED that the ~~motion be and it hereby is~~ ^{ABOVE REFERENCED APPEALS BE CONSOLIDATED FOR THE PURPOSES OF} ~~granted~~ ^{denied}

ENTERING THIS ORDER, AND THE MOTIONS FOR LEAVE TO APPEAL AND FOR PAUPER STATUS ARE DENIED.



SO ORDERED:
FOR THE COURT,
Elaine B. Goldsmith, Clerk
By: *Kathy Brouwer*
Kathy Brouwer, Operations Mgr.

A-1

8-4-93

CERTIFIED: 8-5-93

U.S. CIRCUIT COURT OF APPEALS
FOR THE SECOND CIRCUIT

-----x
GEORGE SASSOWER,
Plaintiff,

CCA2d 93-7173
NDNY 93 CV 177 [FJS]

vs.

N.Y.S. Attorney General ROBERT ABRAMS,
Defendant.
-----x
-----x

IN THE MATTER OF A GRAND JURY
APPLICATION BY GEORGE SASSOWER
INDIVIDUALLY AND ON BEHALF OF
THE JURY FOR THE NORTHERN DISTRICT
OF NEW YORK,

CCA2d 93-7172
NDNY 93 CV 178 [FJS]

Petitioner,
FOR A GRAND JURY PRESENTATION
CONCERNING THE CRIMINAL ACTIVITIES
OF ROBERT ABRAMS, ATTORNEY GENERAL
OF THE STATE OF NEW YORK, AND FRANCIS
T. MURPHY, PRESIDING JUSTICE OF THE
APPELLATE DIVISION, STATE OF NEW YORK,
FIRST JUDICIAL DEPARTMENT.
-----x

Affirmant, under penalty of perjury, makes this motion in support of an application for: (1) leave to file these appeals, without prejudice to an action in damages for imposing such unconstitutional requirement upon affirmant; (2) leave to consolidate the above appeals; (3) a general bias recusal; (4) estopping this Court from making any 28 U.S.C. §1915 analysis of affirman't papers, and/or granting in forma pauperis status; (4) summary reversal; (5) a 28 U.S.C. §1254[2] certification; and (6) a mandatory (affirmative) stay in order to comply with Rule 23.3 of the Rules of the Supreme Court of the United States.

1. Since the District Court consolidated these matters for the purpose of the opinion, and most of the essential issues, law and fact, are the same, it would serve everyone's purpose to consolidate the appeals.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

U.S. DISTRICT COURT
N.D. OF N.Y.
FILED

FEB 3 1980

AT _____ O'CLOCK _____ M
GEORGE A. RAY, CLERK
SYRACUSE

GEORGE SASSOWER,

Plaintiff,

vs.

Civil No. 93-CV-177
(FJS)(GJD)

N.Y.S. Attorney General ROBERT ABRAMS,

Defendant.

IN THE MATTER OF A GRAND JURY
APPLICATION BY GEORGE SASSOWER
INDIVIDUALLY AND ON BEHALF OF
THE JURY FOR THE NORTHERN DISTRICT
OF NEW YORK,

Petitioner,

Civil No. 93-CV-178

FOR A GRAND JURY PRESENTATION
CONCERNING THE CRIMINAL ACTIVITIES
OF ROBERT ABRAMS, ATTORNEY GENERAL
OF THE STATE OF NEW YORK, AND FRANCIS
T. MURPHY, PRESIDING JUSTICE OF THE
APPELLATE DIVISION, STATE OF NEW YORK,
FIRST JUDICIAL DEPARTMENT.

(FJS) (GJD)

APPEARANCE:

OF COUNSEL:

GEORGE SASSOWER,
Plaintiff, Pro Se
16 Lake Street, Apt. 2C
White Plains, New York 10603-3852

FREDERICK J. SCULLIN, District Judge

ORDER

Presently before this court are the above-captioned
plaintiff's applications to proceed in forma pauperis in these

Exhibit "B"

civil actions. For the reasons set out below, plaintiff is denied leave to proceed in forma pauperis and the actions dismissed pursuant to 28 U.S.C. § 1915(d) as frivolous and malicious.

In the first lengthy and nearly incomprehensible complaint, plaintiff alleges that the defendant is unlawfully representing state employees who are defendants in civil actions in their individual capacities. Plaintiff contends that such representation is in violation of the Eleventh Amendment to the United States Constitution and further complains that the defendant unlawfully involved himself in the "PUCCINI" litigation and other legal matters.

The second matter referenced above appears to be an attempt to force the U.S. Attorney of the Northern District to present to the Grand Jury, pursuant to 18 U.S.C. §3332(a), evidence of a criminal conspiracy by the above-named principals in connection with the "PUCCINI" litigation. The court notes that the plaintiff/petitioner has demanded in this regard that the undersigned, in my former capacity as U.S. Attorney, recuse myself from presenting this matter to the Grand Jury because of a "general bias". Notwithstanding plaintiff's request, and in light of the finding of this court that the complaint and petition are frivolous, the request for recusal in any capacity is denied.

Conclusory allegations of conspiracy and corruption abound in this complaint and petition, and absent an awareness of the litigious history of this plaintiff, the court would be satisfied to merely dismiss the complaint as an overzealous litigant misconstruing the law. Plaintiff however, is a disbarred attorney who has been jailed for contempt and barred from filing

any complaints relating to the "PUCCINI" litigation. See Sassower v. Sheriff of Westchester County, 824 F.2d 184, 186 (2d Cir. 1987). The attempt by plaintiff to relitigate even collateral issues to the "PUCCINI" matters is, in this court's opinion, sufficient basis to find that plaintiff is yet again attempting to file frivolous and malicious litigation.

The method to determine whether a pro se plaintiff should be permitted to proceed in forma pauperis requires a two step process to be followed by the district court. First, the court must determine whether the plaintiff qualifies by economic status and, second, whether the cause of action stated in the complaint is not frivolous, malicious or without merit. Martin-Trigona v. Stewart, 691 F.2d 856 (8th Cir. 1982). The court has determined that plaintiff's financial status qualifies him to file or "commence" this action in forma pauperis. 28 U.S.C § 1915(a).

Although plaintiff may be permitted to commence the action in forma pauperis, the court may "dismiss the proceeding under 28 U.S.C. § 1915(d) if the court thereafter determines that the application of poverty is untrue or the action is frivolous or malicious." Brown v. Schneckloth, 421 F.2d 1402 (9th Cir.), cert. denied, 400 U.S. 847 (1970).

In determining whether plaintiff's action is frivolous or malicious the court must look to see whether plaintiff can make a rational argument on the law or facts to support the claim. Neitzke v. Williams, 490 U.S. 319 (1989). Although the court has the duty to show liberality towards pro se litigants, Haines v. Kerner, 404 U.S. 519 (1972); Nance v. Kelly, 912 F.2d 605 (2d Cir. 1990), and extreme caution should be used in considering an in

forma pauperis application, Anderson v. Coughlin, 700 F.2d 37 (2d Cir. 1983), there is a responsibility on the court to determine that a claim is not frivolous or malicious before permitting a plaintiff to proceed with an action in forma pauperis. Ultimately, dismissal of frivolous actions pursuant to 28 U.S.C. § 1915(d) is appropriate to prevent abuses of the process of the court, Harkins v. Eldredge, 505 F.2d 802 (8th Cir. 1974), as well as to discourage the waste of judicial resources. Neitzke, 490 U.S. at 327.

Plaintiff's complaint and petition arises from his and his associate's contact with the Attorney General in a number of forums, none of which appear to have occurred in the Northern District. It appears that plaintiff seeks to file these actions here to avoid the likelihood of sanctions in the Southern or Eastern Districts of New York. See, e.g., Raffe v. Doe, 619 F. Supp. 891 (S.D.N.Y. 1985); Raffe v. Citibank, N.A., Civil Docket No. 84-CIV-305 (E.D.N.Y. 1985); In re George Sassower, 700 F. Supp. 100 (E.D.N.Y. 1988). Considering both plaintiff's litigious history and warnings concerning "PUCCINI" related litigation and the allegations here presented, it is the opinion of this court that these actions are frivolous, malicious, and without any arguable basis in law.

Claims like this now before the court, which have no arguable basis in law, may be dismissed as frivolous pursuant to 28 U.S.C. § 1915(d). Neitzke v. Williams, 490 U.S. 319 (1989). In sum, I find the complaint herein frivolous. To allow further processing of these claims would be a waste, not only of public funds, but of scarce judicial resources.

Accordingly, it is hereby
ORDERED, that the plaintiff is granted leave to file in
forma pauperis, and it is further

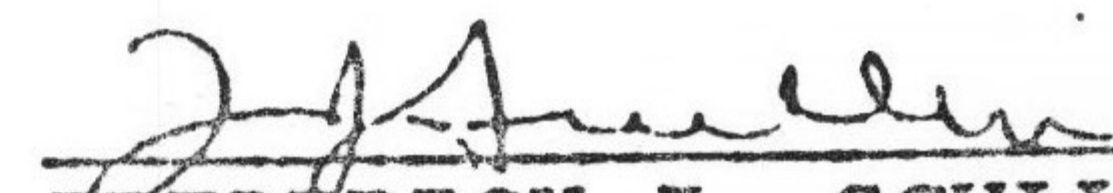
ORDERED, that the plaintiff is denied leave to proceed
in forma pauperis and the above-captioned complaint and petition
are dismissed pursuant to 28 U.S.C. § 1915(d), and it is further

ORDERED, that the Clerk serve a copy of this Order on
the plaintiff by regular mail.

I further certify that any appeal of these matters would
not be in good faith pursuant to 28 U.S.C. § 1915(a).

IT IS SO ORDERED.

DATED: February 3rd, 1993
Syracuse, New York


FREDERICK J. SCULLIN
U.S. District Judge