In the
SUPREME COURT OF THE UNITED STATES
October Term, 1992
No.

In re:

GEORGE SASSOWER,

Petitioner,

PETITION FOR A WRIT OF MANDAMUS
to the
U.S. CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT
and
CHIEF U.S. CIRCUIT COURT JUDGE GILBERT S. MERRITT

PETITION

Petitioner, as and for his petition for a Writ of Mandamus directed to the U.S. CIRCUIT COURT OF APPEALS FOR THE SIXTH CIRCUIT [hereinafter "respondent-tribunal"] and CHIEF U.S. CIRCUIT COURT JUDGE GILBERT S. MERRITT [hereinafter "respondent-Merritt"].

Petitioner, by this petition, seeks to compel respondent-tribunal to adjudicate various threshold and/or decisive issues presented to respondent-tribunal which are quintessential to petitioner's proposed petition for a writ of certiorari from the Order of March 4, 1993 (Exhibit "A").

The determination of such threshold and/or decisive issues by respondent-tribunal are absolutely essential to this Court's appellate jurisdiction, and relief cannot be obtained in any other form or from any other court, as herein demonstrated.

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Related and incidental to the aforementioned, is petitioner's application to have respondent-Merritt, qua Chief Judge, process petitioner's disciplinary complaints against those attorneys who aided and abetted in the corruption of the Chief Judge and of his circuit.

PRELIMINARY STATEMENT

1. In petitioner's general bias application of February 3, 1993, he stated (Exhibit "B", p. 8):

> "Since Chief Judge Merritt has a pecuniary interest in the outcome of the issue as to whether he can, in a personal capacity action, sued in his own name, for conduct which is not intended to serve legitimate federal interests, be represented by a U.S. attorney (cf. 28 U.S.C. §547), the within action, in this Court, where the issue is also presented, and is decisive, presents a disqualifying general bias situation (Aetna v. Lavoie, 475 U.S. 813 [1986])."

2a. The serious nature of the charges made demands, nothing less, than an in haec verba presentation by petitioner of some of the judicial concessions and judicial admissions of respondent-Merritt, qua litigant.

b(1) By petitioner's recusal affirmation of February 3, 1993 (Exhibit "B"), the panel was aware of some of the judicial concessions that respondent-Merritt was being requested to make, and which he thereafter made (Exhibit "B", p. 3-5).

(2) Since the panel could not determine those issues in a manner favorable to respondent-Merritt, albeit threshold, respondent-tribunal ignored same.

3a. Petitioner stated in his recusal application (Exhibit "B", p. 1):

" 2a. The ultimate fact, mandated the relief sought herein, is clear, documented and not controverted, to wit., Chief U.S. Circuit Court Judge GILBERT S. MERRITT ['Merritt'] has been corrupted, and he in turn has corrupted the entire Sixth Circuit." [emphasis supplied].

b. As just one example, petitioner stated (Exhibit "B", p. 1-2):

" 3a. The existence of N.Y. State Ass't Attorney General CAROLYN CAIRNS OLSON ['Olson'], defending state officials in federal court, in manifest violation of the Eleventh Amendment of the United States Constitution, and fundamental rules prohibiting conflicting legal representation, is clear and decisive evidence that she actually knows that this tribunal has been corrupted, and that her unlawful representation will not result in any repercussion. [emphasis supplied]

b. Olson, simply does not enter into this type of unlawful representation until she is assured that the tribunal has been corrupted.

c. Olson, and the other members of her office, are all well aware that the federal courts, in view of the prohibition contained in the Eleventh Amendment, do not have jurisdiction in money damage tort litigation.

d. Olson, and the other members of her office, are all well aware that in no court, can she simultaneously represent, in the same litigation, the statutory trustee, to wit., ROBERT ABRAMS ["Abrams"] and those who are stealing trust assets, e.g., Presiding Justice FRANCIS T. MURPHY ['Murphy'].

e. Any person, lawyer or judge, is irresistibly compelled to conclude that some federal jurist has corrupted Chief Judge Merritt to accept such Olson multiple representation, particularly when such serious allegation are not denied, nor is there any attempt to deny same." [emphasis supplied]

c(1) Since the Eleventh Amendment jurisdictional infirmity had been repeatedly asserted and never determined, was again made in petitioner's recusal application of February 3, 1993 -- or less than one month after Puerto Rico Aqueduct v. Metcalf (506 U.S. , 113 S.Ct. 684 [1993]) -- there simply was no way that the panel could avoid addressing this threshold issue.

(2) Every attorney and litigant in this and related proceedings knew that respondent-Merritt had been corrupted and their conduct reflected such knowledge.

(3) Thus, for example, in Sassower v. Abrams (SDNY 92-08515), Olson judicially admitted the following to be true.

> " 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.
>
> 6. You are aware that your attorney, as your legal representative, has failed to disclose to this Federal Court that the State of New York is being unconstitutionally burdened with the cost and expense of this litigation and that she is, and knows she is, representing you in clear absence of all jurisdiction.
>
> 7. Despite the recent statement, hereinafter set forth (Sherman v. Community, 980 F.2d 437, 440 [7th Cir.-1992]), you have no intention of advising this Court of the Eleventh Amendment subject matter infirmity ... .
>
> "The Shermans overlook the enduring principle that judges must consider jurisdiction as the first order of business, and that the parties must help the courts do

so (cases cited). Nothing can justify adjudication of a suit in which ... there is some ... obstacle to justiciability. ... . The eleventh amendment deprives federal courts of jurisdiction to consider most suits against states. State agencies or officials sued in their official capacity are 'the state' for this purpose." [emphasis supplied]

(4) However, because such, and other threshold, determinations, would further expose respondent-Merritt's corruption, and prejudice his position, qua personal capacity defendant, the panel ignored these issues.

(5) In a related order issued that same day, respondent-tribunal attempted to immunize itself from a Rule 60(b) independent action, by barring petitioner from access to all the courts in the Sixth Circuit, absent permission.

d. In the related disciplinary complaints against the state and federal attorneys who unlawfully appeared and represented conflicting interests, at state and federal cost and expense, respondent-Merritt simply refused to process disciplinary applications pursuant to CCA6 Rule 32.

4. Respondent-Merritt has involved himself in the larceny of judicial trust assets, the diversion of substantial monies payable "to the federal court" to private pockets, extortion, defrauding the federal government, not reporting "taxable income" or paying his taxes on same, has since been judicially admitted and judicially conceded.

QUESTIONS PRESENTED

1. Where the same threshold questions are simultaneously before the respondent-tribunal and in the District Court in the Second Circuit, where respondent-Merritt is an active defendant, in a personal capacity money damage action, and the judicial admissions and judicial concessions reveal the corruption of respondent-Merritt, which corruption is violative of the civil, criminal and revenue codes of the United States, must this Court mandamus respondent to adjudicate petitioner's "general bias recusal" threshold application where, because of such evidence, the "general bias" recusal of respondent-tribunal was irresistibly compelled?

Comment: If in fact, a general bias recusal had to be granted, and the respondent-tribunal so determines upon a grant of this proceeding, the panel's decision of March 4, 1993 was and is a nullity (Liljeberg v. Health Services, 486 U.S. 847 [1988]).

The following judicial admissions of respondent-Merritt appears in Sassower v. McFadden (SDNY 93-0342 [PKL]), a parallel and pending action:

> " 1. You know that in this action, in which you are a defendant, plaintiff makes claim against you in your personal, not official, capacity.
>
> 2. You have not paid, nor do you expect to pay, for your federal defense representation in this action.
>
> 3. You have not applied for and/or received a 28 U.S.C. §2679 'scope' certification, nor has there been any adjudication that you are entitled to 'scope' status.

4. In your own name, without any United States substitution, you are being represented, in this action, by the U.S. Attorney for the Southern District of New York.

5. You know of no authority contained in 28 U.S.C. §547, or elsewhere, for the United States Attorney to lawfully represent you in this action at federal cost and expense.

6. You are not aware of any authoritative case, decision or precedent in the Sixth Circuit, excluding cases involving plaintiff, where a United States attorney represented tort defendants who had not been 28 U.S.C. §2679 'scope' certified or adjudicated.

7. You are not aware of any authoritative case, decision or precedent in any other circuit in the United States, excluding cases involving plaintiff, where a United States attorney represented tort defendants who had not been 28 U.S.C. §2679 'scope' certified or adjudicated.

8. A reasonable, if not irresistible compelled conclusion from the aforementioned is that you are defrauding the federal purse by such unauthorized federal representation, at federal cost and expense. [emphasis supplied]

9. In your Sixth Circuit, including in your Court, with your knowledge, federal judges from the Second Circuit, are being represented by the U.S. Attorney D. MICHAEL CRITES ['Crites'], at federal cost and expense, in personal capacity actions, in their own names, for conduct contrary to legitimate federal interests.

10. A reasonable, if not irresistible compelled conclusion from the aforementioned is that in your Circuit and Court, federal judges from the Second Circuit, are defrauding the federal purse. [emphasis supplied]

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. [emphasis supplied]

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. [emphasis supplied]

18. You are aware that in your Circuit and in your Court, U.S. Attorney Crites, and the same Assistant U.S. Attorneys, are defending federal judges in civil tort litigation and simultaneously representing the federal government and opposing any federal grand jury inquiry in the related criminal activities of such judges.

19. 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 such simultaneous and conflicting civil and criminal representation by a United States attorney and/or his office. [emphasis supplied]

20. You are aware that in your Circuit and Court, as well as elsewhere, the uncontroverted documentary evidence is that the judicial trust assets of Puccini were made the subject of larceny, that monies payable 'to the federal court' were diverted to private pockets, that millions of dollars were extorted from a private person in order to avoid incarceration under a criminal conviction, all with judicial involvement in such and related criminal racketeering activities. [emphasis supplied]

21. You are aware that the uncontroverted documentary evidence in your Circuit and Court, as well as elsewhere, is that the published decisions, such as Raffe v. Doe (619 F. Supp. 891 [SDNY-1985]), Sassower v. Sheriff (824 F.2d 184 [2d Cir.-1987]), and other decisions wherein plaintiff in involved, lack subject matter and/or personal jurisdiction, were rendered without any due process, were the result of fraud and corruption, and published by Lexis to an attempt to conceal the criminal racketeering conduct of jurists in New York and Second Circuit." [emphasis supplied]

In that same action (Sassower v. McFadden, supra), as part of petitioner's Local Rule 3g Statement ["Uncontroverted Facts"], the following were judicially conceded by, inter alia, respondent-Merritt to be true:

" 1. None of the federal defendants, represented by the U.S. Attorney, including ... GILBERT S. MERRITT ['Merritt'] and [U.S. Magistrate Judge] MICHAEL R. MERZ ['Merz'] [of Ohio], have applied for and/or received a 28 U.S.C. §2679[d] 'scope' certificate.

2. The federal defendants being represented by the U.S. Attorney, including ... Merritt and/or Merz, know and are clearly aware that such federal representation, at federal cost and expense, in this personal capacity action is unauthorized (28 U.S.C. §547), and that they are defrauding the federal purse. [emphasis supplied]

3. The U.S. Attorney OTTO G. OBERMAIER ['Obermaier'] and Assistant U.S. Attorney ROBERT W. SADOWSKI ['Sadowski'] also know and are aware that in this personal capacity action, their representation of the federal defendants is unauthorized and they are defrauding the federal purse. [emphasis supplied]

4. Obermaier, Sadowski and the federal defendants in this action, including ... Merritt and/or Merz, know and are aware that their actions as alleged herein, which includes the diversion of monies payable 'to the federal court' to private pockets, are contrary to the legitimate and monetary interests of the United States. [emphasis supplied]

5. Obermaier, Sadowski and the federal defendants in this action, including ... Merritt and/or Merz, know and are aware that their actions as alleged herein, are criminal in nature and violative of the federal criminal code. [emphasis supplied]

6. The federal defendants being represented by the Obermaier and/or Sadowski, including ... Merritt and/or Merz, as well as Obermaier and Sadowski, are aware that such personal capacity civil representation for criminal activities itself, compromises and obstructs the ability of the U.S. Attorney to prosecute them for their criminal activity in this jurisdiction. [emphasis supplied]

7. The federal defendants being represented by the Obermaier and/or Sadowski, including ... Merritt and/or Merz, as well as Obermaier and Sadowski, are aware that such personal capacity civil representation violates the constitutional scheme for the separation of powers, and is unconstitutional. [emphasis supplied]

8. The federal defendants being represented by the Obermaier and/or Sadowski, including ... Merritt and/or Merz, as well as Obermaier and Sadowski, are aware that such personal capacity civil representation, at federal cost and expense, is effectively an unlawful increase in these defendants' compensation, constitutes 'taxable income', and that they defendants have no intention of reporting such 'taxable income' on their tax returns, or paying taxes upon such income." [emphasis supplied]

2. Where petitioner filed CCA6 Rule 32 disciplinary complaints against some of those involved themselves in judicial corruption in litigation in the Sixth Circuit, including in the corruption of respondent-Merritt, and authority to process such complaints is exclusively within the authority of the Chief U.S. Circuit Court Judge, must this Court mandamus respondent-Merritt to process such disciplinary applications?

Comment: Some of Chief Judge Merritt's co-defendants in the Second Circuit action or their privies, are those who corrupted respondent-Merritt and the Sixth Circuit judiciary, and against whom petitioner made disciplinary complaints.

Consequently, although the professional unethical misconduct of these attorneys is clear, respondent-Merritt refuses to process the disciplinary complaints against them.

3a. Where state defendants, expressly sued in their personal capacities, in tort for money damages, are represented by the N.Y. State Attorney General, himself an active defendant, in his personal capacity, at state cost and expense, must this Court mandamus the respondent to adjudicate this threshold Eleventh Amendment jurisdictional issue?

Comment: In the related Second Circuit litigation, the prime state jurists-defendants have admitted that they:

> "have little doubt that a federal judge who ignores a manifest Eleventh Amendment violation ... has been compromised and/or corrupted."

3b. Where the N.Y. State Attorney General is the statutory fiduciary of a judicial trust, and has statutory fiduciary obligations to petitioner, a money judgment creditor with equitable stock interests in the judicial trust, and where the NYS Attorney General simultaneously represents himself and those who have made the judicial trust the subject of larceny, must this Court mandamus respondent to adjudicate such threshold issue?

Comment: In related Second Circuit litigation, the prime state jurists-defendants have admitted that they:

> "have little doubt that a federal judge who ... [permits] conflicting representation by [the NYS Attorney General] has been compromised and/or corrupted."

Thus, even some of respondent-Merritt's co-defendants in the Second Circuit litigation, who were also defendants in the Sixth Circuit, entertain "little doubt" that respondent-tribunal "has been compromised and/or corrupted".

4. Where none of the successive Attorney Generals of the United States, or Acting Attorney General, or any of their authorized representatives (28 CFR §15.3) have or will issue 28 U.S.C. 2679[d] "scope" certificates, for federal judges and officials, who are involved in criminal racketeering activities which are contrary to federal interests, e.g., diverting monies payable "to the federal court" to private pockets, can such federal judges and officials be represented by the U.S. Attorney, at federal cost and expense, in their own personal names, and must this Court mandamus respondent to adjudicate such issue?

Comment: Respondent-Merritt, and other members of the federal judiciary have judicially conceded and admitted, as heretofore shown, that such federal representation, at federal cost and expense, is unauthorized, a fraud on the federal purse, violates the constitution scheme for the separation of powers, and "taxable income" which they do not intend to report or pay.

Since 28 U.S.C. §2679[d] "scope" status triggers a United States substitution, and deprives the defendant of official privileges and immunities, the issue is of threshold importance in any money damage action, before respondent-tribunal and in the Second Circuit.

5. Where MEAD DATA CENTRAL, INC. ["Lexis"], whose business activities are fairly attributable to government and does not claim First Amendment privileges, with knowledge that its republication of judicial material concerning petitioner were rendered without personal jurisdiction, without subject matter jurisdiction, without due process, causing petitioner constitutional injuries, must this Court mandamus the respondent to adjudicate petitioner's right to injunctive and money damage relief against, inter alia, Lexis?

Comment: Doe v. McMillan (412 U.S. 306 [1973]) is instructive, but at bar, unlike Doe v. McMillan (supra), the initial publications are in clear absence of all jurisdiction, and the publications were and are intentionally false and deceptive.

Thus, in related litigation, in the Second Circuit, former Chief U.S. Circuit Court Judge JAMES L. OAKES ["Oakes"], judicially admitted the following to be true:

> "Although you are aware that Sassower v. Sheriff (824 F.2d 184 [2d Cir.-1987]) is a manifest constitutional and/or jurisdictional nullity, you have allowed such decision, as well as Raffe v. Doe (619 F. Supp. 891 [SDNY-1985]), to remain in effect in order to aid in the corruption of courts throughout the United States."

6. Where petitioner refused to address or make any significant comment concerning Raffe v. Doe (619 F. Supp. 891 [SDNY-1985]) in the civil proceedings in the Sixth Circuit, once petitioner was charged with criminal contempt, and presently intends to follow that course of conduct in this Court, must this Court mandamus respondent to adjudicate such criminal contempt proceeding, as petitioner insists, before he is compelled to respond to the charges in the related and parallel civil action (cf. United States v. United Mine Workers, 330 U.S. 258, 310 [1947]?

JURISDICTION

The jurisdiction of this Court exists by virtue of Article III of the U.S. Constitution, and the power of this Court to mandamus respondent and respondent-Merritt is necessary and essential in order to vindicate this Court's jurisdiction (28 U.S.C. §1651[a], Rule 20, Rules of the Supreme Court of the United States).

OPINION BELOW

The opinion of the respondent-tribunal is annexed (Exhibit "A") and it reveals that the presented threshold questions (Exhibit "B") were ignored, in a studied attempt not to adversely prejudice the proceedings against respondent-Merritt, simultaneously litigated in the Second Circuit.

CONSTITUTIONAL AND STATUTORY PROVISIONS

1. Article III of the U.S. 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 and 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 ...."

2. Amendment V of the U.S. Constitution provides:

> "No person shall ... , nor shall any person be subject for the same offense to be twice put in jeopardy of life or limb; nor shall be compelled in any criminal case to be a witness against himself, nor be deprived of ... liberty, or property, without due process of law ...".

3. Amendment Eleventh of the U.S. Constitution provides:

> "The Judicial power of the United States shall not be construed to extend to any suit in law or equity, commenced or prosecuted against one of the United States by Citizens of another State, or by Citizens of Subjects of any Foreign State.

4. 28 U.S.C. §1651[a] provides:

> "The Supreme Court ... may issue all writs necessary or appropriate in aid of their respective jurisdiction and agreeable to the usages and principles of law."

5. 28 U.S.C. §2679[d] provides:

"(1) 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. ...

(3) In the event that the Attorney General has refused to certify scope of office or employment under this section, the employee may at any time before trial petition the court to find and certify that the employee was acting within the scope of his office or employment. Upon such certification by the court, such action or proceeding shall be deemed to be an action or proceeding brought 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.

(4) Upon certification, any action or proceeding subject to paragraph (1), (2), or (3) shall proceed in the same manner as any action against the United States filed pursuant to section 1346(b) of this title and shall be subject to the limitations and exceptions applicable to those actions."

6. 28 U.S.C. §547. Duties

"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; (3) appear in behalf of the defendants in all civil actions, suits or proceedings pending in his district against collectors, or other officers of the revenue or customs for any act done by them or for the recovery of any money exacted by or paid to these officers, and by them paid into the Treasury; (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."

7. 28 CFR §15.3 Removal and defense of suits.

"(a) The U.S. Attorneys are authorized to make the certifications provided for in .... 28 U.S.C. 2679(d) ... with respect to civil actions or proceedings brought against Federal employees in their respective districts. Such a certification may be withdrawn if a further evaluation of the relevant facts or the consideration of new or additional evidence calls for such action. The making, withholding, or removal and defense of, or the refusal to remove and defend, such civil actions or proceedings by the U.S. Attorneys shall be subject to the instructions and supervision of the Assistant Attorney General in charge of the Civil Division."

8. "Rule 32(c) of the Rules of the Sixth Circuit:

"Initiation of Disciplinary Proceedings. Formal disciplinary proceedings pursuant to this Rule shall be initiated by the issuance of an order to show cause, signed by the Chief Judge or the Clerk of Court, acting at the direction of the Chief Judge ... (4) Initial Action on the Complaint. Upon filing, the complaint shall be sent to the Chief Judge for initial review. (i) If the Chief Judge determines that the complaint on its face or after investigation is meritless or does not warrant action by this court, the complaint shall be dismissed by order of the Chief Judge. (ii) If following review it is determined that reasonable grounds exist for further investigation, the reviewer may order such investigation or may issue an order to show cause if the complaint appears to be meritorious. ..."

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STATEMENT OF THE CASE

1. This proceeding is not intended to compel the respondent-tribunal to come to any particular conclusion, only to determine threshold and/or decisive issues, so that there may be a proper review of the matter by this Court.

a. Obviously, if a "general bias" situation existed, and it is so determined as a result of this proceeding, then Exhibit "A" is void, and there is no need for a writ of certiorari.

b(1) In the face of more than one hundred years of Eleventh Amendment litigation (Hans v. Louisiana, 134 U.S. 1 [1890]), there is no possible way that respondent-tribunal could have avoided, in money damage tort litigation, the nullification of state representation, at the cost and expense of a sovereign state.

(2) However, in order not to prejudice the position of respondent-Merritt in his litigation in the Second Circuit, respondent-tribunal avoided determining this threshold issue.

c(1) Woods v. McGuire (954 F.2d 388 [6th Cir.-1992]), which also arose in the Southern District of Ohio, involving the same U.S. Attorney, is decisive on the issue on the unauthorized federal representation, at federal costs and expense of those who have not been 28 U.S.C. §2679[d] "scope" certified.

(2) In that case the defendant, Edward Zipfel, unlike his co-defendants, did not have "scope" status and consequently was represented by his own attorney, presumably at his own cost and expense.

(3) Woods v. McGuire (supra) further confirms the correctness of respondent-Merritt's judicial concession that he is receiving "taxable income" (see 26 U.S.C. §120[c]) in the form of "free" legal services from the government, for personal capacity litigation.

Nevertheless, respondent-Merritt, as he has also conceded, has no intention of paying his taxes on same.

2a. As to the charges against petitioner of non-summary criminal contempt, petitioner insisted that such criminal charges be addressed and adjudicated before he be made to respond to the matter in contemporaneous civil litigation, in order to preserve his Fifth Amendment rights.

b. Respondent-tribunal recognizing that Raffe v. Doe (supra) was a sham, as thereafter expressly conceded by former Chief U.S. Circuit Court Judge JAMES L. OAKES ["Oakes"], respondent-tribunal, refused to adjudicate the criminal contempt proceeding.

c. Thus, there is no way that petitioner can address that issue in this Court without first disposing of the criminal charges against him.

d. The judiciary, no more than the constable, must give respect and obedience to petitioner's Fifth Amendment rights (Shelley v. Kraemer, 334 U.S. 1 [1947]).

e. Nevertheless, it can be noted that even if the Raffe v. Doe (supra) Court had personal jurisdiction over petitioner or his interests, which it did not have, no court nor judge can dispense with the necessity of a court-appointed receiver from his obligation to financially account for his stewardship, or immunize those who made judicial trust assets the subject of larceny, as was attempted in Raffe v. Doe (supra), in exchange for a "pay-off" to the judiciary.

EXISTENCE OF JURISDICTION BELOW

This is an original proceeding in this Court.

Insofar as the underlying proceeding in the court below is concerned, jurisdiction was by the filing of a timely notice of appeal (FRAppP, Rule 4) from a final decision of the district court (28 U.S.C. §1291).

REASONS FOR THE ISSUANCE OF THIS WRIT

1a. Review by this Court can only be properly had if the respondent-tribunal addresses decisive threshold issues.

b. The obligation of the respondent-tribunal is to determine issues presented, without fear or favor, irrespective of their potential consequences to their respondent-Merritt (Cohens v. Virginia, 19 U.S. [6 Wheat] 264, 404 [1821]).

2a. The corruption of a Chief U.S. Circuit Court judge is a matter of public concern which cannot and should not be concealed by the judiciary through the simple expedient of closing its eyes, covering its ears, and holding its breath.

b(1) Knowledge by the general public of, inter alia, respondent-Merritt's corruption, of a criminal magnitude, cannot be avoided, and the impact can only be lessened by remedial action by the this Court.

(2) The media, as a tribunal of first resort, is not generally as temperate.

WHEREFORE, it is respectfully prayed that this petition be granted in all respects.

Dated: May 14, 1993

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(914) 949-2169

CERTIFICATION OF SERVICE

On May 15, 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 Sixth Circuit and Chief Judge Gilbert S. Merritt, U.S. Post Office & Courthouse Bldg., 100 East 5th Street, Cincinnati, Ohio 45202-3988; Solicitor General of the United States, Department of Justice, Washington, D.C. 20530; Acting U.S. Attorney Barbara L. Beran, Att: AUSA Pamela Millard Stanek, Federal Building, 200 West Second Street, Dayton, Ohio 45402; Thompson, Hine and Flory, Esqs., 2000 Courthouse Plaza N.E., P.O. Box 8801, Dayton, Ohio 45401-8801; Feltman, Karesh, Major & Farbman, Esqs., 152 West 57th Street, New York, NY 10019; and Ass't N.Y. State Attorney General David B. Roberts, The Capitol, Albany, New York 12224, that being their last known addresses.

Dated: May 15, 1993

GEORGE SASSOWER

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

GEORGE SASSOWER,
Plaintiff-Appellant,
-against-
MEAD DATA CENTRAL, et al.,
Defendants-Respondents.

Docket No.
92-3537

1a. This affirmation, made upon penalty of perjury, is made to: (1) vacate all dispositions in this Circuit, in the above and related matters, with appropriate sanctions on the various attorneys and parties (Universal Oil v. Root, 328 U.S. 683 [1946] and Hazel-Atlas v. Hartford, 322 U.S. 238 [1944]); and (2) for a general bias recusal.

b. On January 20, 1993, affirmant made a similar, but joint, motion under this appeal, as well as, Sassower v. Thompson, Hine and Flory, Docket No. 92-3553, which was rejected by the Clerk's Office, under covering letter of January 25, 1993, because affirmant had "lumped the two together".

c. The significance is that none of the parties, or their attorneys, that were served disputed the serious allegations made in affirmant's affirmation, which are realleged herein.

2a. The ultimate fact, mandated the relief sought herein, is clear, documented and not controverted, to wit., Chief U.S. Circuit Court Judge GILBERT S. MERRITT ["Merritt"] has been corrupted, and he in turn has corrupted the entire Sixth Circuit.

b. Furthermore, in litigation presently pending in the U.S. District Court for the Southern District of New York, Chief Judge Merritt is defrauding the federal government, in the

same manner that jurists have corrupted and defrauded the federal government in this Circuit, as herein partially demonstrated.

3a. The existence of N.Y. State Ass't Attorney General CAROLYN CAIRNS OLSON ["Olson"], defending state officials in federal court, in manifest violation of the Eleventh Amendment of the United States Constitution, and fundamental rules prohibiting conflicting legal representation, is clear and decisive evidence that she actually knows that this tribunal has been corrupted, and that her unlawful representation will not result in any repercussion.

b. Olson, simply does not enter into this type of unlawful representation until she is assured that the tribunal has been corrupted.

c. Olson, and the other members of her office, are all well aware that the federal courts, in view of the prohibition contained in the Eleventh Amendment, do not have jurisdiction in money damage tort litigation.

d. Olson, and the other members of her office, are all well aware that in no court, can she simultaneously represent, in the same litigation, the statutory trustee, to wit., ROBERT ABRAMS ["Abrams"] and those who are stealing trust assets, e.g., Presiding Justice FRANCIS T. MURPHY ["Murphy"].

e. Any person, law, lawyer or judge, is irresistibly compelled to conclude that some federal jurist has corrupted Chief Judge Merritt to accept such Olson multiple representation, particularly when such serious allegation are not denied, nor is there any attempt to deny same.

4. The admissions by Attorney General Abrams, the statutory trustee, in the Notice to Admit of November 27, 1992 (Sassower v. Abrams, 92 Civ. 8515 [SDNY]), addressed to him, simply proliferates with instances of serious acts of corruption in the judicial forums, including:

> "100. Although there was no accounting for Puccini in existence, clear evidence of the larceny of Puccini's trust assets and unlawful plundering, you and your office consented or did not object to the discharge Feltman's fidelity bonding company.
>
> 104. You and/or your office have evidence that judges, officials and/or their designees are being 'paid-off' for their involvement in the Puccini matter."

5a. The statute, the legislative history, and the decisions thereunder are plain and clear, to wit., without 28 U.S.C. §2679 "scope" status, federal officials or employees, pay for their own defense litigation expense (Sullivan v. Freeman, 944 F.2d 334 [7th Cir.-1991]; Arbour v. Jenkins, 903 F.2d 416 [6th Cir.-1990]; Kelley v. United States, 568 F.2d 259, 264-265 n. 4 [2nd Cir.-1978] cert. denied 439 U.S. 830 [1978]; Smith v. Swarthout. Mich. , 491 NW2d 590 [1992]).

b(1) Nevertheless, Chief Judge Merritt, as well as U.S. Magistrate Judge MICHAEL R. MERZ ["Merz"] of the Southern District of Ohio, are being represented in a personal capacity action by a U.S. Attorney, at federal cost and expense.

(2) Affirmant's Rule 3g Statement in support of his motion for Rule 56 summary judgment relief, reads partially as follows (Sassower v. McFadden, SDNY- 93 Civ. 0342):

> " 1. None of the federal defendants, represented by the U.S. Attorney, including

CHARLES L. BRIEANT ['Brieant'], GERARD L. GOETTEL ['Goettel'], JON O. NEWMAN ['Newman'], GILBERT S. MERRITT ['Merritt'], and MICHAEL R. MERZ ['Merz'], have applied for and/or received a 28 U.S.C. §2679[d] 'scope' certificate.

2. The federal defendants being represented by the U.S. Attorney, including Brieant, Goettel, Newman, Merritt and/or Merz, know and are clearly aware that such federal representation, at federal cost and expense, in this personal capacity action is unauthorized (28 U.S.C. §547), and that they are defrauding the federal purse.

3. The U.S. Attorney OTTO G. OBERMAIER ['Obermaier'] and Assistant U.S. Attorney ROBERT W. SADOWSKI ['Sadowski'] also know and are aware that in this personal capacity action, their representation of the federal defendants is unauthorized and they are defrauding the federal purse.

4. Obermaier, Sadowski and the federal defendants in this action, including Brieant, Goettel, Newman, Merritt and/or Merz, know and are aware that their actions as alleged herein, which includes the diversion of monies payable "to the federal court" to private pockets, are contrary to the legitimate and monetary interests of the United States.

5. Obermaier, Sadowski and the federal defendants in this action, including Brieant, Goettel, Newman, Merritt and/or Merz, know and are aware that their actions as alleged herein, are criminal in nature and violative of the federal criminal code.

6. The federal defendants being represented by the Obermaier and/or Sadowski, including Brieant, Goettel, Newman, Merritt and/or Merz, as well as Obermaier and Sadowski, are aware that such personal capacity civil representation for criminal activities itself, compromises and obstructs the ability of the U.S. Attorney to prosecute them for their criminal activity in this jurisdiction.

7. The federal defendants being represented by the Obermaier and/or Sadowski, including Brieant, Goettel, Newman, Merritt and/or Merz, as well as Obermaier and Sadowski, are aware that such personal capacity civil representation violates the constitutional scheme for the separation of powers, and is unconstitutional.

8. The federal defendants being represented by the Obermaier and/or Sadowski, including Brieant, Goettel, Newman, Merritt and/or Merz, as well as Obermaier and Sadowski, are aware that such personal capacity civil representation, at federal cost and expense, is effectively an unlawful increase in these defendants' compensation, constitutes 'taxable income', and that they defendants have no intention of reporting such 'taxable income' on their tax returns, or paying taxes upon such income.

60. On learning that such constitutionally damaging Judge Goettel decisions were being published by Lexis, plaintiff commenced an action in the Southern District of Ohio in November of 1991, and moved for injunctive and summary judgment relief.

61. U.S. Magistrate Judge Merz does not have 'dispositive' powers with respect to summary judgment or injunction motions, as he was and is aware.

62. Nevertheless, Merz after being corrupted by, inter alia, the attorneys for Lexis, FKM&F and Chief Judge Brieant, 'hijacked' and 'waylaid' plaintiff's summary judgment and injunction motion, which he intended as a 'final disposition' for such relief.

63. Merz imposed a similar 'final solution' on plaintiff's second motion for summary and injunctive relief, although he knew he had no such power or authority.

64. A third motion, made on or about January 4, 1992, which corrected all the pre-textual reasons falsely asserted by Merz for not determining plaintiff's summary judgment and injunctive motions, simply was not processed or determined by Merz by reason of his corruption by, inter alia, Lexis and its attorneys.

65. Merritt has ratified all the aforementioned unlawful exercise of power by Merz with knowledge that Merz knowingly usurped lawful authority.

67. Lexis, West, Westlaw, LCPC, and NYLJ have actually known for years that the New York - Second Circuit have been publishing defamatory, jurisdictionally infirm, opinions concerning plaintiff, causing constitutional injuries, for his exposure of criminal activities."

6a. On November 27, 1992, Notices to Admit were served upon the attorneys for [former] Chief U.S. Circuit Court Judge JAMES L. OAKES ["Oakes"], Chief U.S. District Court Judge CHARLES L. BRIEANT ["Brieant"], and Attorney General Abrams in Sassower v. Abrams (92 Civ. 8515 [SDNY]).

b. No denials were asserted by the aforementioned in the almost three (3) months that have elapsed.

c. The pictured portrayed by such Notices to Admit has been one of criminal corruption in the New York - Second Circuit judicial bailiwicks.

d. Included, as admitted, in the Notice directed to Chief Judge Oakes are the following:

> " 8. You never entertained any doubts since you became a federal judge that a conviction for non-summary criminal contempt, without a trial, without the opportunity for a trial, without any confrontation rights, and without any live testimony in support thereof, was void.
>
> 9. You never entertained any doubt that the Judge Nickerson trialess convictions were a constitutional and/or jurisdictional nullity.
>
> 10. Nevertheless, as a Circuit Judge, and thereafter as Chief Judge, you permitted such criminal trialess convictions to remain extant, even when such conviction was elevated to the status of a 'serious' crime and became the pre-text for disbarring GS [plaintiff].
>
> 11. You have permitted such trialess convictions to remain extant, although you knew that it was causing GS to be denied his basic constitutional rights, including his right to access to the courts for relief in the Second and other circuits.
>
> 12. You are and have been aware that the monies payable 'to the [federal] court' were diverted to KREINDLER & RELKIN, P.C. ['K&R'], CITIBANK, N.A. ['Citibank'] and/or JEROME H. BARR, Esq. ['Barr'], but you have done nothing to remedy such matter.

13. You have been and are aware that the decision of U.S. District Judge WILLIAM C. CONNER ['Conner'] in Raffe v. Doe (619 F. Supp. 891 [SDNY-1985]) was the result of fraud and corruption, whose object was to conceal the larceny of the judicial trust assets of PUCCINI CLOTHES, LTD. ['Puccini'] and other criminal activities.

14. Such corruptly secured decision and Order you, as Chief Judge, have permitted to be employed and unremedied in order to advance a criminal racketeering adventure involving KREINDLER & RELKIN, P.C., FELTMAN, KARESH, MAJOR & FARBMAN, Esqs. ['FKM&F'] and members of the judiciary.

18. You conspired with Circuit Court Judge GEORGE C. PRATT ['Pratt'], in the decision of Sassower v. Sheriff (824 F.2d 184 [2d Cir.-1987), aware that it was factually contrived, concocted, and fabricated, and whose purpose, in reversing [the District Court], was to advance a criminal racket involving the larceny of judicial trust assets and other criminal activities, including the extortion of substantial monies.

19. Although you are aware that Sassower v. Sheriff (supra) is a manifest constitutional and/or jurisdictional nullity, you have allowed such decision, as well as Raffe v. Doe (619 F. Supp. 891 [SDNY-1985]), to remain in effect in order to aid in the corruption of courts throughout the United States.

21. Sued in individual capacity in tort litigation, you have defrauded the federal government by dragooning federal attorneys to represent you and members of the Second Circuit, at federal cost and expense, without obtaining a 28 U.S.C. 2679[d] 'scope certificate'.

22. You have 'fixed' and 'corrupted' federal judges in other circuits, in order to advance your own criminal racketeering activities."

7a. Raffe v. Doe (supra) and Sassower v. Sheriff (supra) have been decisive and/or have substantially influenced the decisions in this Circuit, nisi prius and appellate.

b. In view of the admission by Chief Circuit Court Judge Oakes that although he is aware that these two (2)

decisions are "constitutional and jurisdictional nullities" they are permitted:

> "to remain in effect in order to aid in the corruption of courts throughout the United States."

all the determinations in this Circuit must be declared void.

8a. Chief U.S. District Court Judge Brieant of the Southern District of New York, is known to have been actively "fixing" matters in this and other circuits.

b. Chief Judge Brieant, has also not denied the matters set forth in the Notice to Admit, addressed to him, of the same date, and they include:

> "4a. You have actively involved yourself and acted on behalf of KREINDLER & RELKIN, P.C. and FELTMAN, KARESH, MAJOR & FARBMAN, Esqs. and have employed your official status as Chief Judge for that purpose."

9. Since Chief Judge Merritt has a pecuniary interest in the outcome of the issue as to whether he can, in a personal capacity action, sued in his own name, for conduct which is not intended to serve legitimate federal interests, be represented by a U.S. attorney (cf. 28 U.S.C. §547), the within action, in this Court, where the issue is also presented, and is decisive, presents a disqualifying general bias situation (Aetna v. Lavoie, 475 U.S. 813 [1986]).

10a. This Court is reminded that affirmant has refused to fully address the determination of Raffe v. Doe (supra) until after the threatened contempt proceedings against have been determined.

b. Affirmant entertains little doubt that the members of this Court, as well as the District Courts in this Circuit,

are well aware of the fraud and corruption in the New York-Second Circuit judicial bailiwicks, and have failed to grant affirmant any opportunity for a confrontational hearing or give obedience to affirmant's constitutional self-incriminating rights, because it would further expose such corruption.

11. This recusal request, is made in good faith.

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

Dated: February 3, 1993

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

CERTIFICATION OF SERVICE

On February 3, 1993 I served a true copy of this Motion by mailing same in a sealed envelope, first class, with proper postage thereon, addressed to AUSA Pamela Millard Stanek, Federal Building, 200 West Second Street, Dayton, Ohio 45402; Thompson, Hine and Flory, Esqs., 2000 Courthouse Plaza N.E., P.O. Box 8801, Dayton, Ohio 45401-8801; Feltman, Karesh, Major & Farbman, Esqs., 152 West 57th Street, New York, NY 10019; Lawrence J. Glynn, Esq., 2 William Street, White Plains, N.Y. 10603; Young & Alexander, Co. L.P.A., P.O. Box 668 Mid-City Station, 367 West Second Street, Dayton, Ohio 45402-0666; Bogin & Patterson, Esqs., 131 North Ludlow Street, Dayton, Ohio 4502-1737; and Ass't N.Y. State Attorney General David B. Roberts, The Capitol, Albany, New York 12224, that being their last known addresses.

Dated: February 3, 1993

GEORGE SASSOWER