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

x----------x

GEORGE SASSOWER,
Petitioner,
-against-
ROBERT ABRAMS, FRANCIS T. MURPHY, XAVIER C. RICCOBONO, CHARLES L. BRIEANT, JAMES L. OAKES, A.R. FUELS, INC., HYMAN RAFFE, HOWARD BERGSON, FRED L. SHAPIRO, DONALD DIAMOND, CAROLYN CAIRNS OLSON, and MATTHEW T. CROSSON,
Defendants.

x----------x

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

x----------x

PETITION

x----------x

QUESTIONS PRESENTED

1. Where the uncontroverted assertion and evidence is that:

> "in and/or about July of 1989, without any pretense of subject matter or personal jurisdiction, and without notice or due process, and not in the presence of the plaintiff [petitioner], the defendant, Chief U.S. District Court Judge CHARLES L. BRIEANT of the Southern District of New York, by oral proclamation, issued an edict that plaintiff would not be permitted ingress to any part of the Federal Building and Courthouse in White Plains, except by permission of either Chief U.S. District Court Judge CHARLES L. BRIEANT and/or U.S. District Court Judge NICHOLAS H. POLITAN of the District of New Jersey; and ... that the aforementioned oral edict has been in effect continually since it was issued; and ... enforced by the representatives of the U.S. Department of Justice stationed at the said building entrance; and ... that by virtue of certain papers served on plaintiff in the instant litigation, the plaintiff needs access to the Clerks' Offices in the aforementioned Federal Building in order to examine and photocopy certain legal papers and documents"

must the assigned U.S. District Court Judge temporarily enjoin and restrain the U.S. Attorney from enforcing such physical exclusion edict of petitioner from the Federal Courthouse and Building, or provide some other appropriate remedy?

2a. Where neither U.S. Attorney, nor anyone else, ever controverted petitioner's assertion that without a 28 U.S.C. §2679[d] "scope" certificates or adjudication, Chief U.S. District Court Judge CHARLES L. BRIEANT ["Brieant"] and U.S. Circuit Court Judge JAMES L. OAKES ["Oakes"], could not be represented in a money damage tort action, at federal cost and expense by the U.S. Attorney, must the U.S. District Court Judge promptly determine such threshold issue?

b. Is there a conflict of interest between the U.S. Attorney and Chief Judge Brieant with respect to the enforcement of such physical exclusion edict, further precluding the usurped representation by the U.S. Attorney?

c. Where Chief Judge Brieant and Assistant U.S. Attorneys have not denied that they suborned the perjury of federal employees with respect to the circumstances surrounding the without due process, without jurisdiction, physical exclusion oral edict, can those Assistant U.S. Attorneys continue to represent Judge Brieant in this personal capacity money damage tort action?

THE PARTIES and/or ATTORNEYS

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Petitioner, pro se.
16 Lake Street,
White Plains, NY 10603
(914) 949-2169

AUSA ROBERT W. SADOWSKI
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HOWARD M. BERGSON, Esq.
Attorney for def. AR & Raffe
21 Technology Drive,
East Setauket, NY 11733
(516) 689-8001

OPINION BELOW

CONSTITUTIONAL AND STATUTORY PROVISIONS

1. Amendment I of the U.S. Constitution provides:

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

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

"No person shall ... nor be deprived of ... liberty, or property, without due process of law ... ."

3. FRCivP, Rule 77[b] provides:

"All trials upon the merits shall be conducted in open court"

TABLE OF AUTHORITIES

JURISDICTION OF THE SUPREME COURT

28 U.S.C. §1254[1]

STATEMENT OF THE CASE

1a. The clear, undisputed, uncontroverted, ultimate operative fact is that without personal or subject matter jurisdiction, or due process, Chief U.S. District Court Judge CHARLES L. BRIEANT ["Brieant"] of the Southern District of New York, in or about July 1989 (not in petitioner's presence) issued an oral edict that petitioner was to be physically barred from the Federal Courthouse and Building in White Plains, absent his permission or the permission of U.S. District Court Judge NICHOLAS H. POLITAN ["Politan"] of New Jersey.

b. The existence of such oral edict was memorialized, about six months later, in a letter by Chief Judge Brieant to a local Congresswoman, and remains in effect since issuance.

2a. Petitioner, on January 4, 1993, needing access to the Federal Building in White Plains for the purpose of obtaining certain papers, and inspecting certain documents, in order to properly present and defend certain dispositive pre-trial motions before U.S. District Court Judge PETER K. LEISURE ["Leisure"], on notice, moved for a Temporary Restraining Order and Preliminary Injunction.

b. Such application for a Preliminary Injunction was preceded by a Notice to Admit, dated November 27, 1992 (A19), as well as a motion for partial summary judgment.

3a. By affidavits, sworn to on January 28, 1993, the Assistant U.S. Attorney submitted opposing affidavits of a Deputy U.S. District Court Clerk and an Deputy U.S. Marshal stationed at that Federal Building in White Plains, which did not dispute the ultimate operative fact, as alleged heretofore by petitioner.

b. Within a week of the receipt of the aforementioned affidavits, petitioner served a Notice to Admit [Second Set] directed to Chief Judge Brieant (A25), which directly challenged the almost all assertions contained in the opposing affidavits.

4. There are no denials as to any statements contained in either Notice to Admit, which are supported by independent evidence.

5. Without a trial or hearing, Judge Leisure adopted the assertions set forth in the opposing affidavits and denied relief to petitioner.

6a. Undenied by Chief Judge Brieant, those who executed these two affidavits, and the Assistant U.S. Attorney is that such opposing affidavits are perjurious, and secured by subornation of perjury.

b. However, the argument of the Assistant U.S. Attorney, the attorney for Chief Judge Brieant, is that he and his office have exclusive jurisdiction as to whether a criminal prosecution will be pursued by reason of such submissions.

REASONS FOR THE ISSUANCE OF THIS WRIT

In addition to the manifestly unlawfulness of such physical exclusion edict, as limited to the situation at bar, the constitutionality of all criminal trials is placed in doubt (In re Oliver, 333 U.S. 257 [1948]).

Dated: July 22, 1993

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

CERTIFICATION OF SERVICE

On July 23, 1993 I served true copies of this Petition by mailing same in a sealed envelope, first class, with proper postage thereon, addressed to U.S. Solicitor General Drew S. Days, III, 10th and Constitution Avenues, Washington, D.C. 20530; Assistant U.S. Attorneys Robert W. Sadowski/G. Elaine Wood, 100 Church Street, 19th Floor, New York, NY 10007; Assistant Attorney General Angela M. Cartmill, 120 Broadway, New York, NY 10271, and Howard M. Bergson, Esq., 21 Technology Drive, Setauket, NY 11733 that being their last known addresses.

Dated: July 23, 1993

GEORGE SASSOWER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

GEORGE SASSOWER, Plaintiff,	:	
-against-	:	
ROBERT ABRAMS, FRANCIS T. MURPHY, XAVIER C. RICCOBONO, CHARLES L. BRIEANT, JAMES L. OAKES, A.R. FUELS, INC., HYMAN RAFFE, HOWARD BERGSON, FRED L. SHAPIRO, DONALD DIAMOND, CAROLYN CAIRNS OLSON, and MATTHEW T. CROSSON, Defendants.	:	OPINION AND ORDER 92 Civ. 8515 (PKL)

APPEARANCES

GEORGE SASSOWER
16 Lake Street
White Plains, New York 10603

Plaintiff Pro Se

ROGER B. HAYES, ESQ.
Acting United States Attorney for the
Southern District of New York
One St. Andrew's Plaza
New York, New York 10007

Robert W. Sadowski, Esq., of counsel

Counsel for the Federal Defendants

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LEISURE, District Judge:

This action is part of the latest series of lawsuits brought by plaintiff pro se, George Sassower, contesting the dissolution of Puccini Clothes, Ltd. in New York State Supreme Court in the early 1980s, as well as the later judicial decisions by federal courts in this Circuit which disposed of subsequent related actions brought by Sassower, and also issued various injunctions and orders in an attempt to prevent the filing of any additional vexatious and frivolous lawsuits by Sassower.

More specifically, by Order of the Court, dated December 10, 1987, the Honorable Charles L. Brieant, United States District Chief Judge, Southern District of New York, enjoined plaintiff from filing actions in the United States District Court for the Southern District of New York without prior leave of Court. In addition, in July 1989, after Sassower continued to submit voluminous papers to the Clerk's Office in White Plains for filing, Chief Judge Brieant orally directed the United States Marshal in the White Plains Courthouse to refuse plaintiff access to the Courthouse unless he had a legitimate purpose for entering.

Plaintiff Sassower now moves this Court, pursuant to Rule 65 of the Federal Rules of Civil Procedure, for a temporary restraining order and preliminary injunction seeking to enjoin the United States Marshal and Court Security Personnel at the United States District Courthouse in White Plains (the "White Plains Courthouse") from carrying out the instructions of Chief Judge Brieant to bar plaintiff from entering the Courthouse except for

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legitimate purposes. The federal defendants in this action are Chief Judge Brieant and the Honorable James L. Oakes, United States Circuit Judge, Court of Appeals for the Second Circuit (collectively referred to as "the federal defendants").

In addition, Sassower has brought a motion for sanctions, dated January 25, 1993, pursuant to Rule 11 of the Federal Rules of Civil Procedure, against the federal defendants and Assistant United States Attorney Robert Sadowski, Esq., for a statement made by Mr. Sadowski in a letter to the Court, dated January 14, 1993, which Sassower alleges is false.

For the reasons stated below, the plaintiff's motion for a temporary restraining order and preliminary injunction is denied. The Court also denies plaintiff's motion for Rule 11 sanctions.[1]

BACKGROUND

The focal point of Sassower's endless series of lawsuits is his basic contention that the assets of Puccini Clothes, Ltd. ("Puccini") were dissipated by the individuals, attorneys, accountants, receivers, and judicial officers who were involved in the dissolution and receivership of Puccini in New York State Supreme Court. See Raffe v. John Doe, 619 F. Supp. 891, 892 (S.D.N.Y. 1985).[2] Since that time, Sassower has continually

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[1] Having reviewed plaintiff's motions and the Government's opposition, the Court has determined that a hearing or oral argument on these issues is unwarranted.

[2] The early lawsuits were brought by Sassower as the attorney for Hyman Raffe, a shareholder of Puccini. Raffe v. John Doe, 619 F. Supp. at 892.

brought lawsuits to relitigate the merits of the Puccini receivership and to demonstrate that the members of an alleged conspiracy were successful as a result of the cooperation or inaction of judicial officers who oversaw the dissolution of Puccini, See Raffe v. John Doe, 619 F. Supp. at 892-93. As the Second Circuit has noted, "George Sassower has been an abusive litigant for a number of years. . . ." Sassower v. Sansverie, 885 F.2d 9, 10 (2d Cir. 1989).

After a long and tortured history of litigation in New York State courts, Sassower turned his attention to the federal courts to relitigate the Puccini dissolution. See Raffe v. John Doe, 619 F. Supp. at 894-95; Raffe v. Citibank, N.A., No. 84 Civ. 305 (E.D.N.Y. August 1, 1984). In Raffe v. John Doe, the Court dismissed a series of actions brought by Sassower with respect to the Puccini dissolution and issued an injunction barring plaintiff from filing suit in any federal court against individuals involved in the Puccini dissolution and receivership who were being harassed as a result of his vexatious suits. Raffe v. John Doe, 619 F. Supp. at 898; see also Sassower v. Sansverie, 885 F.2d at 10 (affirming the enforcement of a similar injunction against Sassower issued by the United States District Court for the Eastern District of New York).

In 1987, plaintiff commenced a new action against the Puccini defendants, as well as the Honorable William C. Conner, United States District Judge, Southern District of New York, who had presided over Raffe v. John Doe and had enjoined plaintiff from

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commencing suits against the Puccini defendants. See Sassower v. Sapir et al., 87 Civ. 7135 (CSH).[3] During the Sapir litigation, Sassower added as a defendant the Honorable Charles S. Haight, Jr., United States District Judge, Southern District of New York, before whom the case was pending. Judge Haight then applied to Chief Judge Brieant for reassignment of the case based on the fact that he was now a defendant. See Declaration of J. Michael McMahon, dated January 28, 1993 ("McMahon Declaration"), Exhibit A.

In response to Judge Haight's request, Chief Judge Brieant issued a Memorandum and Order, dated December 10, 1987, finding that the amended complaint adding Judge Haight as a party defendant was served after Judge Haight had determined, by a Memorandum and Order, dated November 18, 1987, that all of plaintiff's motions in the Sapir action should be held in abeyance and no more motions should be filed, pending decision on defendants' motion to dismiss. Judge Brieant then dismissed the amended complaint and issued an order directing the Clerk of this Court "not to accept for filing any paper or proceeding or motion or new case of any kind presented by Mr. George Sassower, or naming him as a party plaintiff or petitioner, without the leave in writing first obtained from a judge or magistrate of this Court. . . ." McMahon Declaration, Exhibit A.

Despite the issuance of Judge Brieant's December 10, 1987

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3 Sassower also named the Honorable Howard Schwartzberg, United States Bankruptcy Judge, Southern District of New York, as a defendant. Judge Schwartzberg presided over Sassower's bankruptcy proceeding.

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order enjoining plaintiff from filing papers without leave of Court, plaintiff continued to submit voluminous papers to the Clerk's Office in White Plains for filing. These voluminous, sometimes duplicative, submissions became an inordinate burden to the Clerk's office and often resulted in new clerks, or clerks unfamiliar with plaintiff, accepting his papers for filing in violation of the Court's order. Moreover, according to the policy and practice of this Court, the screening of all pro se papers is the function of the Pro Se Clerk's Office located at the Foley Square Courthouse, not the Clerk's Office in White Plains. See McMahon Declaration, at ¶¶ 10-16.

Accordingly, in July 1989, Judge Brieant orally directed the United States Marshal in the White Plains Courthouse to refuse plaintiff access to the Courthouse unless he had a legitimate purpose for entering. See Declaration of Michael Witkowich, dated January 28, 1993 ("Witkowich Declaration"), at ¶ 4. A legitimate purpose did not include filing papers, delivering letters to judges' chambers, or disrupting the orderly operation of Courthouse business by monopolizing the attention of personnel in the Clerk's office. Id. This order was entered in an effort to prevent Sassower from circumventing the existing injunctions and orders currently in place against him, as well as to enforce the Court's procedures for accommodating pro se litigants.

In an effort to avoid the injunction which prohibits the filing of federal actions in this Court without prior leave from the Court, Mr. Sassower recently filed a series of actions,

including the above referenced action, in the New York State Supreme Court against federal officers including Chief Judge Brieant. The Government has removed each of these cases to this Court. In the instant action, plaintiff's claims against the federal defendants arise out of orders issued by the District Court for the Southern District of New York, discussed above, which attempt to prevent Sassower from filing any additional vexatious lawsuits in this Court.

Plaintiff Sassower has now moved for a temporary restraining order and preliminary injunction to enjoin court security personnel at the White Plains Courthouse from carrying out the instructions of Chief Judge Brieant by barring Sassower from entering the Courthouse except for legitimate purposes. The United States Attorney's Office for the Southern District of New York has submitted opposition papers on behalf of Chief Judge Brieant and Judge Oakes who are named as defendants in this case.[4]

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[4] By letter dated January 14, 1993, the Government requested that the federal defendants have until January 29, 1993, to respond to plaintiff's application for a temporary restraining order and preliminary injunction. The Court granted that request by memorandum endorsement, dated January 19, 1993. On January 29, 1993, the federal defendants filed and served their response to plaintiff's application.

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DISCUSSION

I. TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION APPLICATION

In order to prevail on a motion for a preliminary injunction, the party seeking the injunction must demonstrate: (1) irreparable harm should the relief be denied; and (2) either (a) a likelihood of success on the merits, or (b) sufficiently serious questions going to the merits to make them a fair ground for litigation and a balance of hardships tipping decidedly in the moving party's favor. Castrol, Inc. v. Quaker State Corp., 977 F.2d 57, 62 (2d Cir. 1992); Resolution Trust Corp. v. Elman, 949 F.2d 624, 626 (2d Cir. 1991); Coca-Cola Co. v. Tropicana Products, Inc., 690 F.2d 312, 314-15 (2d Cir. 1982). The Court finds that the plaintiff has failed to set forth any evidence that would support his application for a temporary restraining order or a preliminary injunction.[5]

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[5] Plaintiff also moved for an ex parte restraining order. However, in order to obtain an ex parte restraining order under Rule 65(b) of the Federal Rules of Civil Procedure, the moving party must show immediate and irreparable harm will occur before notice can be served. Rule 65(b) states that an ex parte restraining order should be granted only if, inter alia, "it clearly appears from specific facts shown by affidavit or by the verified complaint that immediate and irreparable injury, loss, or damage will result to the applicant before the adverse party or that party's attorney can be heard in opposition." Sassower has failed to make any showing as to the need for an ex parte order in this case and, thus, the request for ex parte relief is denied.

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A. IRREPARABLE HARM

First, the Court finds that plaintiff has failed to make a showing of immediate and irreparable injury if an injunction is not granted allowing Sassower to enter the White Plains Courthouse. Sassower argues that he needs access to the Clerks' Offices in the Courthouse "in order to examine and photocopy certain legal papers and documents." Application for Temporary Restraining Order and Preliminary Injunction, at 2. Sassower does not identify these documents. Instead, Sassower states that, at this juncture, he "would prefer not to specifically identify the papers and/or documents that he needs for the purposes of this litigation, particularly those in the Bankruptcy Part. . . ." Declaration of George Sassower in Support of Application for Temporary Restraining Order and Preliminary Injunction, at 1.

These statements by Sassower are insufficient to make a showing of irreparable harm required for the issuance of a preliminary injunction. As the Government correctly notes, even though Sassower is denied access to the Courthouse, he is still able to obtain any bankruptcy files which he may need to inspect for purposes of his current litigation. See Declaration of Kenneth Freda, dated January 28, 1993. If plaintiff is referring to documents that are contained in open case files, he may request such documents at the Pro Se Clerk's Office at Foley Square and those documents will be provided to him. If plaintiff seeks documents contained in closed files, those files are not available at the White Plains Courthouse; rather, plaintiff can acquire these

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files from the Federal Records Center in Bayonne, New Jersey at a cost of $25.00 per file or plaintiff can travel to Bayonne to review the closed files. See Freda Declaration, at ¶¶ 5-6. Finally, if plaintiff needs access to the Courthouse to file papers or personally deliver correspondence to judges, Sassower is not harmed by the Judge Brieant's oral order prohibiting access to the Courthouse because Sassower has been enjoined by prior order, dated December 10, 1987, from filing any papers in the Southern District of New York.

Through any of the above procedures, Sassower can obtain access to any necessary court documents without entering the White Plains Courthouse. Thus, the Court finds that Sassower has not demonstrated any irreparable harm that will result if he is not allowed immediate access to the White Plains Courthouse. Accordingly, on this basis alone, the application for a temporary restraining order and preliminary injunction must be denied.

B. LIKELIHOOD OF SUCCESS ON THE MERITS

(1) Right to Inspect Judicial Records

It is well-established that the public has a common-law right to inspect and copy judicial records. See United States v. Eastern Air Lines, Inc., 923 F.2d 241, 245 (2d Cir. 1991); In re Newsday, Inc., 895 F.2d 74, 78-79 (2d Cir.), cert. denied, 496 U.S. 931 (1990). However, as the Second Circuit has noted, the right to inspect judicial records is not absolute. The decision of whether to grant access to court files "'is one best left to the sound

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discretion of the trial court, a discretion to be exercised in light of the relevant facts and circumstances of the particular case.'" Eastern Air Lines, 923 F.2d at 245 (quoting Nixon v. Warner Communications, Inc., 435 U.S. 589, 599 (1978). In Nixon v. Warner Communications, the Supreme Court stated that "[e]very court has supervisory power over its own records and files, and access has been denied where court files might become a vehicle for improper purposes." 435 U.S. at 598.

In the instant case, plaintiff Sassower has a long history of using the courts for improper purposes. Sassower continued to misuse the Court system even though his conduct resulted in various disciplinary measures including: (1) numerous injunctions, see, e.g., Sassower v. Carlson, 930 F.2d 583, 584 (8th Cir. 1991); Sassower v. Sansverie, 885 F.2d at 10; (2) disbarment, see, e.g., In re Sassower, 700 F. Supp. 100, 104 (E.D.N.Y. 1988), aff'd, 875 F.2d 856 (2d Cir. 1989); and (3) criminal contempt, see In re Barr, 121 A.D.2d 324, 503 N.Y.S.2d 392 (1st Dep't 1986) (Sassower was convicted of 63 counts of criminal contempt for violating an order of disqualification and sentenced to 30 days imprisonment).

The December 10, 1987 injunction prohibiting Sassower from filing any actions without leave of Court was another attempt to prevent Sassower from abusing the Court system by filing vexatious and frivolous lawsuits. As the Second Circuit has noted, "the traditional standards for injunctive relief, i.e. irreparable injury and inadequate remedy at law, do not apply to the issuance

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of an injunction against a vexatious litigant." In re Martin-Trigona, 737 F.2d 1254, 1262 (2d Cir. 1984), cert. denied, 474 U.S. 1061 (1986). Instead, "[a] history of litigation entailing 'vexation, harassment and needless expense to [other parties]' and 'an unnecessary burden on the courts and their supporting personnel' is enough." Id. (quoting In re Hartford Textile Corp., 681 F.2d 895, 897 (2d Cir. 1982), cert. denied, 459 U.S. 1206 (1983)). The 1987 injunction barring Sassower from the filing of lawsuits was entirely appropriate given Sassower's history of vexatious litigation and within the sound discretion of the Court under the circumstances.

Similarly, the 1989 oral order denying Sassower access to the White Plains Courthouse was only issued after Sassower continued to disrupt the court system, despite the 1987 injunction, by refusing to follow the procedures established for pro se litigants in using the court facilities. The proper procedure for a pro se litigant wishing to file papers in this Court is to submit the papers through the Pro Se Clerk's Office at Foley Square. In addition, plaintiff can use the Pro Se Clerk's Office to obtain, examine, and copy the files he needs. There is no reason for a pro se litigant to burden the Clerk's Office in White Plains with these matters when that office is not equipped to process such papers or retrieve files. The rules and procedures of the district court with respect to pro se litigants have the force of law because they do not conflict with rules prescribed by the Supreme Court, congressional enactments, or constitutional provisions. See United

States v. Yonkers Board of Education, 747 F.2d 111, 112 (2d Cir. 1984).

There is strong evidence that Sassower had become disruptive to the effective operation of the White Plain's Courthouse. Under these circumstances, Judge Brieant's order simply compels Sassower to conduct his business with the Court through the Pro Se Clerk's Office in conformity with the rules and procedures of this Court. Thus, Judge Brieant's order barring access was in complete accordance with his duties and responsibilities as the Chief Judge to ensure the observance of the court rules and the orderly judicial processes of the Court. Sassower is not being denied access to court files, but rather simply must comply with certain reasonable procedures for obtaining such documents.

As the Second Circuit has noted, courts may take reasonable steps to prevent a vexatious litigant from disrupting the court process:

> [T]he United States Courts are not powerless to protect the public, including litigants . . .from the depredations of those . . .who abuse the process of the Courts to harass and annoy others with meritless, frivolous, vexatious or repetitive. . .proceedings.

In re Hartford Textile Corp., 659 F.2d 299, 305 (2d Cir. 1981), cert. denied, 455 U.S. 1018 (1982); see also Polur v. Raffe, 912 F.2d 52, 57 (2d Cir. 1990) ("'[t]he equity power of a court to give injunctive relief against vexatious litigation is an ancient one which has been codified in the All Writs Statute'") (quoting In re Hartford Textile Corp., 681 F.2d 895, 897 (2d Cir. 1982), cert.

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denied, 459 U.S. 1206 (1983)), cert. denied, 111 S. Ct. 1389 (1991). Accordingly, the Court finds that Judge Brieant's instructions to the United States Marshal do not violate plaintiff's common-law right to inspect judicial records and plaintiff is not entitled to a temporary restraining order or a preliminary injunction on such grounds.[6]

(2) Absolutely Immunity

Plaintiff also has failed to establish likelihood of success on the merits because the underlying claims against the federal defendants, both of whom are federal judges, are barred by, inter alia, the doctrine of absolute immunity. It is well-settled that judicial officers are absolutely immune from civil liability (i.e. monetary damages) for acts undertaken pursuant to their judicial power and authority. See Mireles v. Waco, 112 S. Ct. 286, 287 (1991); Forrester v. White, 484 U.S. 219, 225-29 (1988); Butz v. Economou, 438 U.S. 478, 508-14 (1978); Stump v. Sparkman, 435 U.S. 349, 355-64 (1978).

Absolute immunity from civil liability extends to any judicial act. In assessing whether a particular act is "judicial," the Supreme Court has noted that courts look "to the nature of the act itself, i.e., whether it is a function normally performed by a

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[6] Moreover, for the reasons stated herein, the Court also finds that plaintiff Sassower has failed to raise sufficiently serious questions going to the merits of his claims to warrant injunctive relief. In addition, given Sassower's history of vexatious litigation, the balance of hardships clearly is not in his favor. Thus, he is not entitled to a preliminary injunction under that standard either.

A14.

judge, and to the expectations of the parties, i.e., whether they dealt with the judge in his judicial capacity." Stump, 435 U.S. at 362.

In the instant case, the complaint clearly relates to acts of Chief Judge Brieant and Judge Oakes which were performed during the course of their official judicial functions. The plaintiff's complaint names these defendants for orders or decisions rendered in cases that they presided over in which Sassower was involved. More specifically, with respect to Judge Brieant, plaintiff objects to the injunction barring the filing of suits and the oral order restricting access to the White Plains Courthouse. The Court notes that even if these orders were administrative in nature, such orders are considered judicial acts that are entitled to absolute immunity from damages. See Martinez v. Winner, 771 F.2d 424, 434 (10th Cir. 1985) (Chief Judge's administrative act of assigning cases protected by absolute immunity).

Accordingly, Sassower has failed to demonstrate likelihood of success on the merits with respect to the federal defendants who are immune from a suit for damages by the doctrine of absolute immunity.

II. MOTION FOR SANCTIONS

In a motion, dated January 25, 1993, plaintiff Sassower requests an order imposing sanctions pursuant to Rule 11 of the Federal Rules of Civil Procedure against Judge Brieant, Judge Oakes, and Assistant United States Attorney Robert W. Sadowski, Esq. The basis of Sassower's motion is Mr. Sadowski's letter to the Court, dated January 14, 1993, which stated that "plaintiff is only now challenging Judge Brieant's [July 1989] order." (emphasis added). Sassower contends that this statement is false. Sassower directs the Court's attention to certain documents in which he alleges that he previously raised the issue of Judge Brieant's oral order.

The Court finds that the statement in the letter is not false or misleading in light of the current record. Moreover, the statement at issue was irrelevant to the Court's decision in this matter. Sassower's motion for Rule 11 sanctions is denied in its entirety.

CONCLUSION

For the reasons stated above, plaintiff's application for a temporary restraining order and preliminary injunction is denied in its entirety. In addition, plaintiff's motion for Rule 11 sanctions also is denied.

SO ORDERED

Dated: February 10, 1993
New York, New York

U.S.D.J.

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92-cv-8515
Leisure

United States Court of Appeals

FOR THE

SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Seocnd Circuit, held at the United States Courthouse in the Cioty of New York on the 27th day of April , 1993.

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GEORGE SASSOWER,

Plaintiff-Appellant,

-v-

ROBERT ABRAMS, FRANCIS T. MURPHY; XAVIER C. RICCOBONO; CHARLES L. BRIEANT; JAMES L. OAKES; A.R. FUELS; HERMAN RAFFE; HOWARD BERGSON; FRED L. SHAPIRO; DONALD DIAMOND; CAROLYN CAIRNS OLSON; and MATTHEW T. CROSSON,

Defendant-Appellees.

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UNITED STATES COURT OF APPEALS
FILED
APR 27 1993
ELAINE B. GOLDSMITH, CLERK
SECOND CIRCUIT

93-6077

ORDER

An order was entered on December 3, 1990 in Sassower v. Mahoney, docket number 88-6203, enjoining George Sassower from filing any further papers in this court unless leave of this court has first been obtained. A notice of appeal was received from the district court in the above captioned action on March 29, 1993, and on March 30, 1993, a letter was sent to appellant Sassower informing him that failure to seek leave of this court to process the notice of appeal within 20 days of the date of the letter would result in dismissal. No such leave having been received,

IT IS ORDERED that the above captioned appeal be and hereby is dismissed.

Elaine B. Goldsmith

ELAINE B. GOLDSMITH,
Clerk

THE CERTIFIED ( ) ORDER ( )
( ) STATEMENT OF COSTS, HAS BEEN
RECEIVED BY: MC
DATE: 5/11/93

A18.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GEORGE SASSOWER,

Plaintiff,

-against-

ROBERT ABRAMS, FRANCIS T. MURPHY, XAVIER C. RICCOBONO, CHARLES L. BRIEANT, JAMES L. OAKES, A.R. FUELS, INC., HYMAN RAFFE, HOWARD BERGSON, FRED L. SHAPIRO, DONALD DIAMOND, CAROLYN CAIRNS OLSON, and MATTHEW T. CROSSON,

Defendants.

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Docket No.
92 Civ. 8515 [LBS]

NOTICE TO ADMIT
[Charles L. Brieant]
First Set

Pursuant to Rule 36 of the Federal Rules of Civil Procedure, plaintiff [hereinafter "GS"] requests that defendant, CHARLES L. BRIEANT, admit the following:

1. With your consent, U.S. Attorney OTTO G. OBERMAIER ["Obermaier"] represents you, a named defendant, in this action, although no 28 U.S.C. 2679 "scope" certificate has been applied for and/or issued.

2. Although you are being sued in a personal capacity, you have not compensated or reimbursed, nor do you expect to compensate or reimburse, either U.S. Attorney Obermaier or the federal government for this legal representation or the expenses incurred thereby.

3. You are Chief Judge of the U.S. District Court for the Southern District of New York.

4. During the period of GS's litigation in the United States District Court for the Southern District of New York, you employed, as your law clerk, the son of Presiding Justice FRANCIS T. MURPHY ["Murphy"] of the Appellate Division, First Judicial Department, while Presiding Justice Murphy employed your son, at the Appellate Division.

5. The compensation for the son of Presiding Justice Murphy came from federal funds, while the compensation for your son came from state funds.

6. During such period of cross-employment, you were familiar with 28 U.S.C. §458 which provides:

> "No person shall be appointed to or employed in any office or duty in any court who is related by affinity or consanguinity within the degree of first cousin to any justice or judge of such court."

7. During such period of cross-employment, you were familiar with the holding in Spector v. State Comm. on Judicial

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Conduct (47 N.Y.2d 462, 418 N.Y.S.2d 565, 392 N.E.2d 552 [1979]), wherein less egregious cross-appointments were involved, and for which the Court held (at 466, 566, 553):

> "Our analysis recognizes two levels of consideration. The progression may be simply stated. First, nepotism is to condemned, and disguised nepotism imports an additional component of evil because, implicitly conceding that evident nepotism would be unacceptable, the actor seeks to conceal what he is really accomplishing. Second, and this peculiar to the judiciary, even if it cannot be said that there is proof of the fact of disguised nepotism, an appearance of such impropriety is no less to be condemned than is the impropriety itself."

8. During such period of cross-employment between Presiding Justice Murphy and yourself, GS was one of the persons suspected of transmitting information to the media and/or independently publishing material concerning: (1) the disguised nepotism practices between yourself and Justice Murphy; (2) professional disciplinary procedures being employed for the personal ends of Justice Murphy; (3) the "patronage mill" operating at the Justice Murphy Courthouse; (4) the larceny and plundering of judicial estates; (5) the corrupt administrative practices in the First Department by LOUIS FUSCO ["Fusco"] and XAVIER C. RICCOBONO ["Riccobono"], wherein "pay-offs" were openly the coins of the judicial realm; (6) and other similar corrupt activities.

9. You were aware during the GS litigation in the Southern District of New York, that GS was openly accusing Presiding Justice Murphy of employing his judicial office in order to facilitate the larceny and plundering of judicial trust assets, including that of PUCCINI CLOTHES, LTD. ["Puccini"].

10. Newsday, published at least two article two articles concerning some of the activities of Presiding Justice Murphy, insofar as you were implicated.

11. Plaintiff made such Newsday disclosures the subject of his personal publication and distribution, mailing you a copy thereof.

12. At no time prior to December 10, 1987 did you have any relationship, in a judicial capacity with GS, related to Puccini.

13. At no time prior to December 10, 1987 did you have any relationship, in a judicial capacity, with Puccini, HYMAN RAFFE ["Raffe"], DENNIS F. VILELLA ["Vilella"], HAROLD COHEN ["Cohen"], DONALD LEIGHTON ["Leighton"] and/or SAM POLUR, Esq. ["Polur"].

14. At all times, the action, whose short title was Sassower v. Sapir, et al. (Docket Number 87 Civ. 7135) carried the identifying initials of "CSH", as part of the Docket Number.

15. "CSH" identified U.S. District Court Judge CHARLES S. HAIGHT ["Haight"] as the jurist assigned to adjudicate the case.

16. On December 10, 1987, without any notice or due process, you dismissed GS's action in Sassower v. Sapir (supra), without prejudice, which action was then and always had been pending before Judge Haight.

17. As part of your Memorandum and Order of December 10, 1987, which bore the initials of CSH as part of its Docket Number, you stated:

> "The Clerk of this Court is hereby ORDERED not to accept for filing any paper or proceeding or motion or new case of any kind presented by Mr. George Sassower, or naming him as a party plaintiff or petitioner, without the leave in writing first obtained from a judge or magistrate of this Court ... ."

18. The following day, again without notice, without any opportunity to object or controvert, you issued a similar Order to the U.S. Bankruptcy Court for the Southern District of New York.

19. You did not pretend, in either the Order of December 10, 1987 or December 11, 1987, that your actions were in a judicial capacity or that you had jurisdiction over GS or his causes.

20. The only authority for cited for your Order of December 10, 1987 was 28 U.S.C. §137, which provides:

> "The business of a court having more than one judge shall be divided among the judges as provided by the rules and orders of the court. The chief judge of the district court shall be responsible for the observance of such rules and orders, and shall divide the business and assign the cases so far as such rules and orders do not otherwise prescribe. If the district judges in any district are unable to agree upon the adoption of rules or orders for that purpose the judicial council of the circuit shall make the necessary orders."

21. You knew on December 10, 1987 that neither 28 U.S.C. §137 nor any rule or order gave you the right to intrude into an action assigned to another judge, dismiss such action, and prohibit the filing of any future papers in that district

(see United States v. Heath, 103 F. Supp. 1 [Hawaii-1952]; Katz v. Lerner, 713 F. Supp. 568 [EDNY-1989]).

22. You knew on December 10, 1987 and at all times thereafter that your actions were "coram non judice and void" (United States v. Heath, supra).

23. However, since GS needs permission to move to invalidate your December 10, 1987 Order or bring an action to declare it invalid, you and/or your court has denied GS permission to make such motion or bring such action.

24. With respect to your Order of December 11, 1987, you did not even pretend to have authority for your actions over the Bankruptcy Court and have none.

25. In your Memorandum and Order of December 10, 1987 the title of GS's amended complaint in Sassower v. Sapir is set forth in full.

26. Such title in your Memorandum and Order of December 10, 1987, does not contain the name of Judge Haight.

27. Nevertheless, you falsely stated in your Memorandum and Order of December 10, 1987 that:

> "Judge Haight himself has been added to the case as a defendant, along with Judge Conner of this Court."

28. Although your attention has been drawn to such false statement a number of times, you have deliberately and intentionally failed and refused to correct same.

29. You contrived the statement that GS included Judge Haight as a party defendant, and have refused to correct same, because it would destroy the entire raison d' etre of your Memorandum and Order.

30. In your Memorandum and Order of December 10, 1987, you stated:

> "It is quite clear to me that the amended complaint which added Judge Haight as a party defendant, was served after Judge Haight had, by a memorandum and order dated November 18, 1987, filed herein, determined that all motions of plaintiff in this action should be held in abeyance, and no more should be filed, until Judge Haight decided a motion by defendant decided a motion by defendants to dismiss the action as violative of an injunction issued in this Court against the plaintiff Mr. Sassower and reported, sub nom Raffe v. Doe, 619 F. Supp. 891, 898 (S.D.N.Y. 1985), and it is also clear that inclusion of the

assigned judge as an addition defendant had the effect, and probably the purpose of disrupting the orderly judicial process of this district court insofar as concerns the motion to dismiss."

31. On December 10, 1987, you knew that GS amended his complaint in Sassower v. Sapir after he obtained a copy of the "Bill [Conner] to Terry [Haight]" "fixing memorandum" which precipitated the sua sponte Order of November 18, 1987 of Judge Haight.

32. You further stated in your Memorandum and Order of December 10, 1987 that:

> "Plaintiff ... must be deemed to recognize that the Amended Complaint violates the 1985 injunction."

33. Where the actions complained about in Sassower v. Sapir took place in 1986 and 1987, a 1985 injunction cannot possibly immunize such subsequent conduct, particularly since Judge Conner's decision so states, as you must have and did recognize.

34. You further stated in such Memorandum and Order of December 10, 1987:

> "Judge Haight, and for that matter Judge Conner also, are immune from this sort of litigation."

35. Even before Forrester v. White (484 U.S. 219 [1988]) you knew that "fixers", such as Judge Conner, or those who solicited the "fixing" action by Judge Conner, were not immunized from a Dennis v. Sparks (449 U.S. 24 [1980]) damage lawsuit.

36. In or about July of 1989 you issued an edict which physically barred GS from the Federal Building and Courthouse in White Plains, N.Y. 10601, all without notice or due process.

37. You confirmed the existence of such physical exclusion edict in a letter of Congresswoman NITA M. LOWEY ["Lowey"], and/or a member of her staff, dated January 23, 1990, which read as follows:

> "This letter responds to your inquiry ... concerning George Sassower. ... The prior exclusion order remains in effect, unless and until his physical presence is actually required. ..."

38. Such physical exclusion edict has remained in effect since its issuance to this date.

39. Except for the appearance of GS under a subpoena to testify, such physical exclusion edict was not modified during the non-summary contempt proceeding before U.S. District Judge GERARD L. GOETTEL ["Goettel"] in George Sassower v. City of New Rochelle (77 Civ. 5728-LBS]), and GS was excluded during such proceedings.

40. You knew and know that the physical exclusion of GS during the hearings in George Sassower v. City of New Rochelle was unlawful.

41. Except for the appearance of GS under a subpoena to testify, such physical exclusion edict was not modified during the trial or other public judicial proceedings of E.R. Sassower v. Field (88 Civ. 5775 [GLG]).

42. You knew and know that the physical exclusion of GS during the trial and other public judicial proceedings in E.R. Sassower v. Field (supra) was unlawful.

43. You knew and know that the physical exclusion of GS from the Federal Courthouse in White Plains, violated Amendment VI of the U.S. Constitution of all defendants in the criminal proceedings held in that building.

44. You knew and know that the physical exclusion of GS from the Federal Courthouse in White Plains, violated the due process rights of all civil litigants in that Courthouse.

45. 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.

Dated: November 27, 1992

Respectfully submitted,

GEORGE SASSOWER [GS-0521]
Plaintiff, pro se
16 Lake Street,
White Plains, N.Y. 10603
914-949-2169

To: U.S. Attorney Otto G. Obermaier
Att: AUSA Robert W. Sadowski
Attorney General Robert Abrams
Att: AAG Carolyn Cairns Olson
Duncan, Fish & Bergson, Esqs.
Att: Howard M. Bergson, Esq.
Fred L. Shapiro, Esq.
Donald Diamond, Esq.
Matthew T. Crosson, Esq.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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GEORGE SASSOWER,
Plaintiff,
-against-
ROBERT ABRAMS, et el.,
Defendants.

Docket No.
92 Civ. 8515 [PKL]
Notice to Admit
[Charles L. Brieant]
[Second Set]

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Pursuant to Rule 36 of the Federal Rules of Civil Procedure, plaintiff requests that defendant, CHARLES L. BRIEANT ["Brieant"], admit the following second set of admissions:

1. Since November 27, 1992, the date plaintiff's first set of admissions were served, you still have not applied for or received any 28 U.S.C. §2679 "scope" certificate for your defense in this action, which is being made at federal cost and expense.

2. You have not applied for a 28 U.S.C. §2679 "scope" certification, nor has there been any indication that one would be issued if application were made, because you and the various U.S. attorneys are aware that you are engaged in criminal activities which are contrary to legitimate federal interests.

3. Since November 27, 1992, the date plaintiff's first set for admissions were served, you have not compensated or reimbursed, nor do you intend to compensate or reimburse, the federal government for this personal capacity representation, which is being made at federal cost and expense.

4. You are not aware of any case in the Southern District of New York, excepting those brought by plaintiff, where federal attorneys, at federal cost and expense, are representing tort defendants, who have not received a 28 U.S.C. §2679 "scope" certification nor adjudicated to be entitled to "scope" status.

5. You are not aware of any case in any federal court in any other federal judicial district, excepting those brought by plaintiff, where federal attorneys, at federal cost and expense, are representing tort defendants, who have not received a 28 U.S.C. §2679 "scope" certification nor have been adjudicated to be entitled to "scope" status.

6. You and the federal attorneys representing you, know that you and they are defrauding the federal government by this defense representation, at federal cost and expense.

7. You and the federal attorneys representing you, know that state representation, of state defendants, at state cost and expense, is violative of the Eleventh Amendment of the U.S. Constitution, and a subject matter jurisdictional infirmity.

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8. You and the federal attorneys representing you, know that such state representation, at state expense, is a fraud on the state treasury, in addition to being unconstitutional.

9. You and the federal attorneys representing you, know that the same state attorneys, cannot simultaneously represent ROBERT ABRAMS ["Abrams"], the statutory fiduciary, and those like FRANCIS T. MURPHY ["Murphy"], XAVIER C. RICCOBONO ["Riccobono"] and DONALD DIAMOND ["Diamond"] who are some of those who are aiding and abetting the raping of judicial trusts in which Abrams is the fiduciary.

10. You and the federal attorneys representing you, know that judges in this Court, including U.S. District Court Judge PETER K. LEISURE ["Leisure"] are permitting this fraud upon the federal treasury, by this federal representation, at federal cost and expense, without a 28 U.S.C. §2679 "scope" certificate because of your personal desires on the subject.

11. You and the federal attorneys representing you, know that judges in this Court, including U.S. District Court Judge Leisure are permitting this fraud by permitting state representation, at state cost and expense, notwithstanding the Eleventh Amendment of the U.S. Constitution, because of your personal desires on the subject.

12. You and the federal attorneys representing you, know that judges in this Court, including U.S. District Court Judge Leisure are permitting this fraud of permitting the simultaneous representation of Abrams and those who are engaged in the larceny of judicial trust funds over which Abrams is the fiduciary, because of your personal desires on the subject.

13. Your modus operandi is to involve others to aid and abet your criminal racketeering activities.

14. You and the federal attorneys representing you, determined to have Deputy U.S. Marshal MICHAEL WITKOWICH ["Witkowich"] and Deputy Clerk J. MICHAEL McMAHON ["McMahon"] submit false and perjurious statements, rather than tendering your own statement on the subject.

15. You and your attorneys were aware that under such modus operandi you and they were, inter alia, suborning perjury.

16. When you issued your oral edict of July 1989, you were aware that plaintiff had not been in the Federal Building and Courthouse in White Plains during the months of March, April, May, June, and the first half of July 1989.

17. You issued your oral edict of July 1989, before plaintiff's first visit to the Federal Building and Courthouse in White Plains in July of 1989.

18. On and prior to January 28, 1993, you and your federal attorneys intentionally concealed from Deputy U.S. Deputy Marshal Witkowich, that under your signature, you wrote in January of 1990 "[t]he prior exclusion order [of plaintiff] remains in effect, unless and until his physical presence is actually required. ..." [emphasis supplied]

19. Your aforementioned written statement concerning plaintiff's physical exclusion was quoted in plaintiff's undenied Notice to Admit dated November 27, 1992, and you and your attorneys intentionally concealed such fact from Deputy U.S. Marshal Witkowich when he executed his affirmation of January 28, 1993.

20. Your aforementioned quoted written statement concerning plaintiff's physical exclusion was contained in plaintiff's uncontroverted motion dated January 25, 1993, and you concealed such fact from Deputy U.S. Marshal Witkowich when he executed his affirmation of January 28, 1993.

21. In Sassower v. Brieant (90-M-49 [TPG]), an allegation of plaintiff's July 19, 1990, complaint, reads as follows:

> " 8. In or about August [sic] of 1989, under a conspiratorial arrangement made by and between Brieant and [U.S. District Court Judge] Politan [of New Jersey], without even a pretense of due process or lawful authority, by oral edict, not made in plaintiff's presence or knowing, Brieant physically excluded plaintiff, as he thereafter learned, from the entire Federal Building in White Plains, and each and every part thereof, including the common areas and areas not under Brieant's exclusive or police power control, 'unless and until his [plaintiff's] physical presence is actually required', as Brieant, six (6) months later, wrote."

22. You and your federal attorneys deliberately and intentionally concealed your 1990 written statement, and all evidence that such statement existed, from Deputy U.S. Marshal Witkowich, in order that he sign a substantial different variant, which he did, under penalties of perjury, on January 28, 1993.

23. You and your federal attorneys were reasonably certain that if Deputy U.S. Marshal Witkowich knew of the existence of your January 1990 written statement, he would not have signed his perjurious statement of January 28, 1993.

24. Prior to January 28, 1993 you never received a complaint from anyone, at any time, that plaintiff had ever "disrupted the orderly operation of Courthouse business by monopolizing the attention of personnel in the Clerk's Office".

25. Prior to January 28, 1993, you never stated or asserted to anyone, including Deputy U.S. Marshal Witkowich, that plaintiff had ever "disrupted the orderly operation of Courthouse business by monopolizing the attention of personnel in the Clerk's Office".

26. As far as you know neither Deputy U.S. Marshal Witkowich nor any other member of the U.S. Marshal's Office, ever saw plaintiff "disrupt the orderly operation of any courthouse business by monopolizing the attention of the personnel".

27. The Deputy U.S. Marshal Witkowich statement of January 28, 1993, made under penalty of perjury, states that:

> "Chief Judge Charles L. Brieant [in July of 1989] directed the United States Marshal to stop Sassower from entering the Courthouse unless the United States Marshal determined that ... Sassower was not enter[ing] the Courthouse ... to disrupt the orderly operation of Courthouse business by monopolizing the attention of personnel in the Clerk's Office",

was and is false and deceptive, and known by you and your federal attorneys to be false and deceptive.

28. Prior to January 28, 1993 you were unaware of plaintiff ever being in the chambers of any U.S. District Court judge in the White Plains building.

29. Prior to January 28, 1993, you never stated or asserted to anyone, including Deputy U.S. Marshal Witkowich, that plaintiff was prohibited from entering the chambers of judges in the White Plains Federal Building and Courthouse, as distinguished from the building itself.

30. The fact is, as you are aware, that you had no authority to prohibit plaintiff's presence in any judge's chambers, if that particular judge desired or directed same.

31. On January 28, 1993, you were not aware of a single incident when "the United States Marshal stop[ped] Sassower from entering the Courthouse".

32. On January 28, 1993, you were not aware of a single incident where "the United States Marshal" inquired of plaintiff as to the "purpose" of plaintiff's visit or of any "interview ... to determine what [plaintiff's] intentions [were] in the Courthouse."

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33. Deputy U.S. Marshal Witkowich was induced to execute a false and deceptive written statement, for judicial consideration, when he stated on January 29, 1993:

> "I assisted in his [plaintiff's] arrest in July [sic] 1989, pursuant to a warrant issued by the Hon. Nicholas H. Politan of the United States District Court of the District of New Jersey. Sassower was arrested and charged with criminal contempt for violating an injunction issued by Judge Politan precluding Sassower from filing frivolous papers in the United States District Court for the District of New Jersey."

34. You and Deputy Witkowich knew that from early March of 1989 until about May 17, 1989, plaintiff repeatedly wrote that if shown a valid warrant of arrest he would voluntarily surrender.

35. However, you desired a public arrest to be made of plaintiff, preferably in White Plains, consequently numerous U.S. marshals, at considerable federal cost and expense, for almost three (3) months, attempted to locate and arrest plaintiff.

36. You and your federal attorneys also know that the so-called "frivolous" paper, mentioned in the statement of Deputy U.S. Marshal Witkowich, was not frivolous, but a motion which attempted to terminate the "extortion" payments made by HYMAN RAFFE ["Raffe"] to your cronies, payments which in his words, "were bleeding [him] to death".

37. You are aware that any investigation into the extortion payments made by Raffe to avoid, inter alia, incarceration under a criminal conviction, would probably result in your indictment, impeachment and incarceration.

38. Although you were a defendant in an action before U.S. District Court Judge NICHOLAS H. POLITAN ["Politan"] of New Jersey, you and he were in private communication with each other.

39. It was you who, in and about March 1988 caused Judge Politan to, sua sponte, issue an order which prohibited communication between petitioner and the clerks of that Court.

40. Although sued in your personal capacity, and although no 28 U.S.C. §2679 "scope" certificate had been applied for or issued, you were represented in New Jersey and the Third Circuit by the U.S. Attorney of New Jersey, at federal cost and expense.

41. You were and are aware that by such federal representation, at federal cost and expense, you were defrauding the federal government.

42. You were and are aware that the reasonable cost of such federal representation in New Jersey and Third Circuit was and is "taxable income", and you have not reported or paid the taxes due and owing on such "taxable income".

43. The motion, which Deputy U.S. Marshal Witkowich described, in his statement of January 28, 1993, as "frivolous" and the predicate for plaintiff's 1989 arrest, was to abort the "extortion" payments being made by Raffe to your cronies and/or their designees.

44. Such motion had compelling merit and was not "frivolous".

45. Likewise, you and your federal attorneys, induced McMahon to submit a false and perjurious statement, dated January 28, 1993.

46. From the time that the White Plains Branch of the U.S. District Courthouse opened until July of 1989, the only case that plaintiff submitted to and which was litigated in White Plains was Vilella v. Santagata (87 Civ. 1450 [GLG]), nevertheless you and your federal attorneys had McMahon sign a perjurious statement dated January 28, 1993 which states. inter alia, "as a result of the large number of lawsuits commenced by Sassower".

47. You are aware that Vilella v. Santagata (supra) was active in White Plains only during the months of March through June of 1988.

48. You and your federal attorneys caused McMahon to sign a statement, which stated:

> "an injunction in 1985 precluding Sassower from filing lawsuits in the district court ... because this Office may not accept Sassower's papers for filing, each time he submits papers to the Clerk's Office, a clerk must read Sassower's papers to determine whether accepting his papers for filing is a violation of this Court's orders"

when you knew the aforementioned statement patently false, since neither McMahon or anyone in his office had ever read the 1985 injunction.

49. You and your federal attorneys knew that neither McMahon, nor anyone in his office ever checked or screened plaintiff's papers, even when Vilella v. Santagata (supra) was in active litigation in White Plains, except to determine whether a Certificate of Service was appended, a procedure no different than practiced by that office with for anyone else, including attorneys, and that the McMahon contrary statement was false and perjurious.

50. You and your federal attorneys knew and know the McMahon statement about forwarding plaintiff's papers to the pro se clerk for checking and/or screening was false and perjurious since neither McMahon nor his office ever forwarded any of plaintiff's papers to the pro se office prior to July of 1989.

51. You and your federal attorney knew and know that the McMahon statement concerning plaintiff's "voluminous papers [submitted] to the Clerk's Office in White Plains for filing" was and is false, fabricated, concocted and contrived, since the records will reveal that except for the few months that Vilella v. Santagata (supra) was pending, the filings by plaintiff in the White Plains Office, averaged no more than 2 or 3 documents per year, which includes notices of appeal, which can be filed in any office of the District Court for the Southern District of New York, by anyone, even for causes pending in Foley Square.

Dated: February 8, 1993

Yours, etc.

GEORGE SASSOWER [GS-0512]
Plaintiff, pro se
16 Lake Street,
White Plains, NY 10603
(914) 949-2169

CERTIFICATION OF SERVICE

On February 8, 1993 I served a true copy of this proposed Order by mailing a copy of same in a sealed envelope, first class, with proper postage thereon, addressed to Assistant U.S. Attorney Robert W. Sadowski, 100 Church Street, New York, NY 10007; Assistant Attorney General Angela M. Cartmill, 120 Broadway, New York, NY 10271; and Duncan, Fish & Bergson, Esqs., 21 Technology Drive, East Setauket, N.Y. 11733; and Charles L. Brieant, Deputy U.S. Marshal Deputy U.S. Marshal Michael Witkowich and Deputy Clerk J. Michael McMahon, 101 East Post Road, White Plains, N.Y. 10601, that being their last known addresses.

Dated: February 8, 1993

GEORGE SASSOWER

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SUPREME COURT OF THE UNITED STATES

GEORGE SASSOWER,
Petitioner,
-against-
ROBERT ABRAMS, FRANCIS T. MURPHY, XAVIER C. RICCOBONO, CHARLES L. BRIEANT, JAMES L. OAKES, A.R. FUELS, INC., HYMAN RAFFE, HOWARD BERGSON, FRED L. SHAPIRO, DONALD DIAMOND, CAROLYN CAIRNS OLSON, and MATTHEW T. CROSSON,
Defendants.

Docket No. 93-

PETITION FOR A WRIT OF CERTIORARI
TO THE CIRCUIT COURT OF APPEALS FOR THE
DISTRICT OF COLUMBIA

MAILING AFFIRMATION

Affirmant, under penalty of perjury, states that he mailed his Writ of Certiorari to the Supreme Court of the United States with Proof of Service on Friday, July 23, 1993 (Certified Receipt No. P 269 523 145) as shown by the attached photocopy.

Dated: July 23, 1993

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

P 264 523 145

Receipt for Certified Mail
No Insurance Coverage Provided
Do not use for International Mail
(See Reverse)

Sent to	Clerk, U.S. S.Ct.
Street and No.	1 Lake St. NE.
P.O. State and ZIP Code	Washington DC 20543
Postage	$2.90
Certified Fee	1.00
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	
Return Receipt Showing to Whom, Date, and Address	
TOTAL Postage & Fees	$3.90
Postmark or Date	JUL 23 1993 WHITE PLAINS, NY

PS Form 3800, June 1991