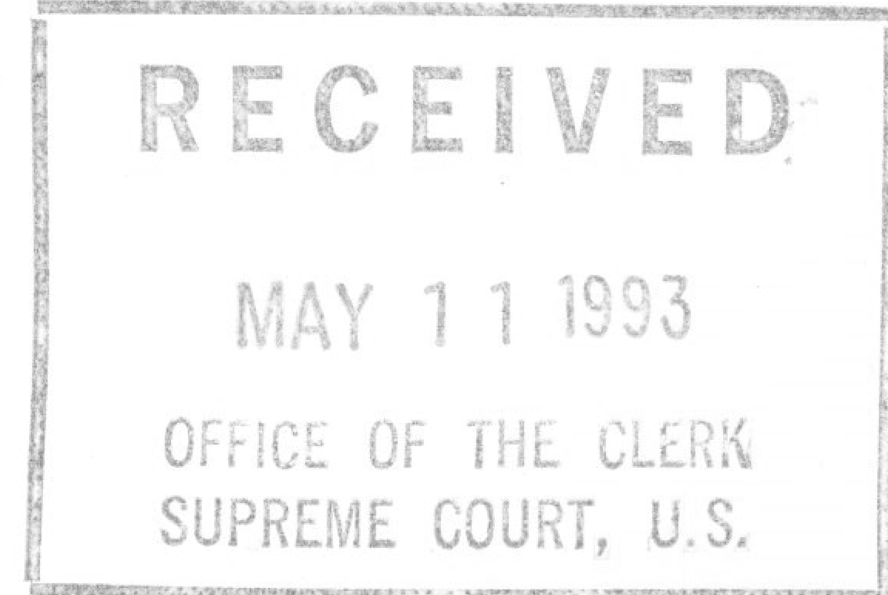
In the

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



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

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

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

MOTION/APPLICATION FOR STAY/INJUNCTION
and
RECUSAL APPLICATION OF ASSOCIATE JUSTICE CLARENCE THOMAS

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

Petitioner moves this Court to:

1a. Stay and/or enjoin ROBERT ABRAMS [hereinafter "respondent-Abrams"], and his purported clients, sued in their personal capacities from defending money damage tort claims of petitioner in the federal courts, at state cost and expense, as being jurisdictionally violative of the Eleventh Amendment of the U.S. Constitution.

b. Stay and/or enjoin respondent-Abrams, _qua_ fiduciary, from representing himself and simultaneously, in the same actions, those acting contrary to the interests of his trusts.

2. _Alternatively_, directing the U.S. CIRCUIT COURT OF APPEALS FOR THE SECOND CIRCUIT [hereinafter "CCA2"] to expeditiously adjudicate petitioner's "general bias" motion, his motion for a "28 _U.S.C._ §1254[2]" certification, his "Rule 23.3 stay application" and other motions.

3. Stay and/or enjoin CCA2 or any federal court in that judicial bailiwick from recognizing respondent-Abrams, _qua_ attorney, in any personal capacity money damage tort action involving petitioner, from defending such action, at state cost and expense, as jurisdictionally violative of the Eleventh Amendment of the _U.S. Constitution_.

4. Stay and/or enjoin CCA2 or any federal court in that judicial bailiwick from recognizing respondent-Abrams, _qua_ fiduciary, from representing himself and simultaneously, in the same action, those acting contrary to the interests of his trust.

5. Stay and/or enjoin any member of CCA2 or any federal jurist in that judicial bailiwick from _ex parte_ inducing, influencing, persuading, and/or soliciting federal courts or jurists in other judicial circuits to violate Amendment Eleven of the _U.S. Constitution_ by permitting respondent-Abrams and/or other state officials, in any personal capacity money damage tort action involving petitioner, to defend such action, at state cost and expense.

6. Respectfully, the involvement of Hon. CLARENCE THOMAS, as a Circuit Court Judge for the District of Columbia, wherein His Honor, is an extant defendant for, inter alia, an Eleventh Amendment violation, petitioner requests recusal on any one-judge motion or application.

* * *

1a. It never has been disputed by anyone, at any time or place, that the representation of respondent-Abrams of himself, and simultaneously of others in the same action, in personal capacity money tort action, at state cost and expense, is violative of Amendment Eleven of the U.S. Constitution, a jurisdictional infirmity.

b. Nevertheless, in the Second Circuit such defense representation is permitted in order to advance and conceal a egregious criminal racket with judicial involvement therein.

c(1) In pending litigation before U.S. District Court Judge PETER K. LEISURE ["Leisure"], although jurists and others have judicially admitted that such defense litigation, at state cost and expense, is jurisdictionally infirm, a corrupted Judge Leisure has refused to address petitioner's motion on the subject which was made more than six (6) months ago.

(2) Thus, for example, in Sassower v. Abrams (SDNY 92-08515[PKL]), Assistant N.Y. State Attorney General CAROLYN CAIRNS OLSON ["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."

(3) In the same action, Presiding N.Y. State Appellate Division Justice FRANCIS T. MURPHY ["Murphy"] admitted the following to be true:

" 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 defense representation in this action.

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

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

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

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

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

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

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

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

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

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

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

2a. In order to conceal and advance their criminal racketeering activities, members of CCA2, nisi prius and appellate, have corrupted members of the federal judiciary in the Third, Fourth, Sixth and District of Columbia Circuits.

b. Thus, in the Sixth Circuit, where Olson represents respondent-Abrams, Presiding Justice Murphy, and other state jurists, Chief U.S. Circuit Court Judge GILBERT S. MERRITT ["Merritt"] has admitted the following to be true (Sassower v. McFadden, SDNY 93-00342 [PKL]):

> "11. In your Circuit and in your Court, N.Y. State Attorney General ROBERT ABRAMS ['Abrams'] and/or members of his office are representing Abrams and state judges at state cost and expense.
>
> 12. In view of the prohibition contained in the Eleventh Amendment to the U.S. Constitution, you are not aware of any authoritative case, decision or precedent in the Sixth Federal Circuit, excluding cases involving plaintiff, where state judges, officials, and/or employees are being defended in money damage tort actions at state cost and expense.
>
> 13. In view of the prohibition contained in the Eleventh Amendment to the U.S. Constitution, you not aware of any authoritative case, decision or precedent in any other circuit in the United States, excluding cases involving plaintiff, where state judges, officials, and/or employees are being defended in money damage tort actions at state cost and expense.
>
> 14. You are aware that Abrams is the statutory fiduciary for all involuntarily dissolved corporations in the State of New York, including PUCCINI CLOTHES, LTD. ['Puccini'].
>
> 15. You are aware that those judges who made the judicial trust assets of Puccini the subject of larceny, are being jointly represented with Abrams by the same attorney(s).

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

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

3. Petitioner's <u>unopposed</u> motion of March 22, 1993, at CCA2 for, inter alia, summary reversal of the Order of the District Court (Exhibit "A") reads as follows:

" 2a. In express violation of 28 <u>U.S.C.</u> §455(b)[3] the above proceeding was determined by U.S. District Court Judge FREDERICK J. SCULLIN ['Scullin'] who was the U.S. Attorney <u>Sassower v. Mahoney</u> (CCA #88-6203), participated in same, and the essential issues were involved in that former action as well as the action at bar. ... [In the opinion of the District Court, dated February 3, 1993 (Exhibit "A"), the Court] stated:

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

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

3a. Judge Scullin stated:

> "plaintiff alleges that the defendant [N.Y. State Attorney General ROBERT ABRAMS [`Abrams'] is unlawfully representing state employees who are defendants in civil actions in their individual capacities. Plaintiff contends that such representation is in violation of the Eleventh Amendment to the United States Constitution".

b. Such jurisdictionally invalid representation existed in, inter alia, Sassower v. Mahoney (supra) and the relief requested herein is simply a variant of Puerto Rico Aqueduct v. Metcalf, (506 U.S. , 113 S.Ct. 684 [1993]) and has compelling merit.

c. Abrams and those he represents is defrauding the State of New York by their disregard of Eleventh Amendment immunity, a matter for injunctive relief and Grand Jury concern.

4a. The Court also stated:

> "The second matter referenced above appears to be an attempt to force the U.S. Attorney of the Northern District to present to the Grand Jury, pursuant to 18 U.S.C. §3332(a), evidence of a criminal conspiracy by the above-named principals in connection with the `PUCCINI [CLOTHES, LTD. [`Puccini'] litigation".

b. Access to the grand jury by petitioner to advise that body of criminal activity is a matter of constitutional (Wood v. Georgia, 370 U.S. 375, 390-391 [1962]) and statutory (Matter of Grand Jury Application, 617 F. Supp. 199 [SDNY-1985]).

c. In addition, the Grand Jury, as an independent constitutional body, on whose behalf affirmant also brought this proceeding, has a right to affirmant's information and evidence so that it can properly perform its `sword' functions (U.S. v. R. Enterprises, 498 U.S. , 111 S.Ct. 722, 726 [1991]), without judicial (U.S. v. Williams, U.S. , 112 S.Ct. 1735 [1992] or prosecutorial (Nixon v. Sirica, 487 F.2d 700 [D.C. Cir.-1973], 712-713 n. 54, cert. denied 434 U.S. 825 [1977]) interference.

5. The New York and Second Circuit courts are corrupt, as evidenced by the cases cited by Judge Scullin, as he actually was aware by Sassower v. Mahoney (supra).

a. In Sassower v. Sheriff of Westchester County, 824 F.2d 184 [2d Cir. 1987]) concocted, contrived, fabricated and devised the essential allegations in this Court's opinion, while it concealed that the mirrored Report of Referee DONALD DIAMOND ['Diamond'] for HYMAN RAFFE ["Raffe"] was never brought on for confirmation, because he agreed, inter alia, to 'pay-off' the judiciary and its cronies, as he recently admitted to be in excess of $2,000,000 (Sassower v. Abrams [SDNY-92-8515-PKL]).

As this Court was also aware the Referee Diamond 'approval' of a 'final accounting' was a fraud, since no 'accounting' existed. The judiciary and its cronies took for themselves all of Puccini's assets (cf. Matter of Kane, 75 N.Y.2d 511, 554 N.Y.S.2d 457 [1990]).

b. In Raffe v. Citibank, N.A. (84-CIV-0305 [EDNY 1985]), affirmant and Raffe were convicted of non-summary criminal contempt, without a trial, without the opportunity of a trial, without confrontation rights, without live testimony in support thereof, and in absentia (cf. Crosby v. U.S., 506 U.S. , 113 S.Ct. 748 [1993]; Bloom v. Illinois, 391 U.S. 194 [1968]; Klapprott v. U.S., 335 U.S. 601 [1949]; Nye v. U.S., 313 U.S. 33 [1941]).

The substantial monies payable 'to the federal court' in the Raffe v. Citibank (supra) order, was diverted to the private pockets of the judicial cronies.

c. In Raffe v. Doe (619 F. Supp. 891 [SDNY 1985]), there was no personal or subject matter jurisdiction over affirmant. In addition to this clear absence of all jurisdiction, trialess diatribe, the injunction was transparently void since no court or judge enjoin a court-appointed receiver from accounting or immunize those who made the judicial trust the subject of larceny.

d. All the convictions of affirmant mentioned in In re George Sassower (700 F. Supp. 100 [EDNY-1988]) without a trial, without the opportunity of a trial, without any confrontation rights, without live testimony in absentia, and manifestly void.

6a. This Circuit and the New York state courts have effectively 'frozen' affirmant's assets and therefore are judicially estopped from making any 28 U.S.C. §1915 analysis.

b. Included in the aforementioned 'frozen' assets is affirmant's contractually based, constitutionally protected, money judgement against Puccini (see Sassower v. Puccini, CCA Docket Nos. 92-6194/6236; see also Sassower v. Feltman, CCA Docket No. 92-7907; Sassower v. A.R. Fuels, CCA Docket Nos. 92-7911/9047), which this Court has stonewalled for six months.

c. Alternatively, in forma pauperis relief should be granted, for which the annexed financial application is submitted.

7. As this Court is aware, most of its members are engaged in criminal racketeering activities, as well as conduct resulting in civil money damages liabilities, this Court should recuse itself and refer same to another circuit.

8a. Pending a determination of this matter, a preliminary injunction is requested prohibiting any involvement of Abrams in any money damage tort litigation in the federal courts in this circuit, at state cost and expense.

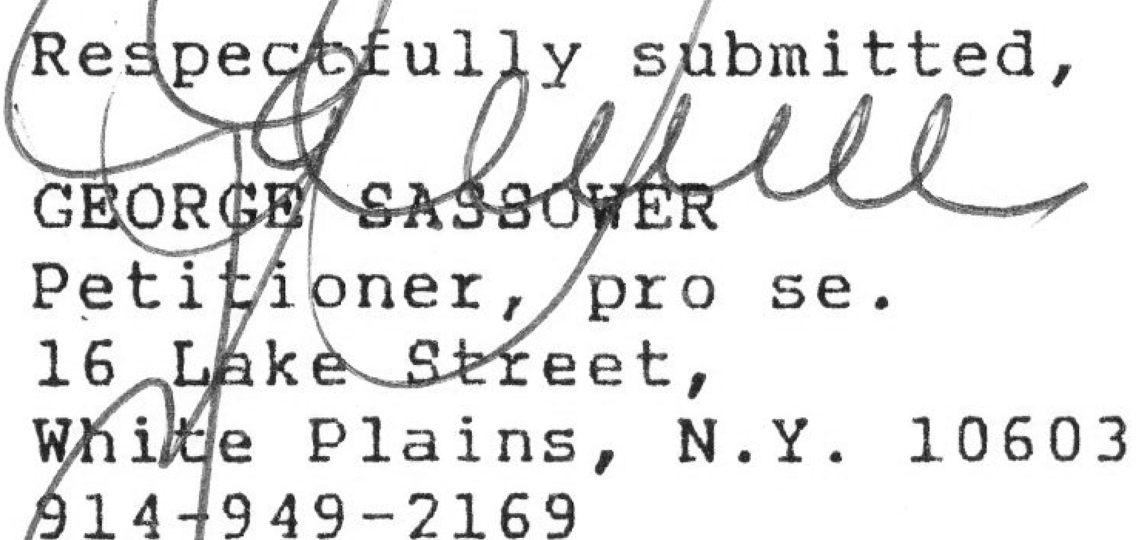
b. Furthermore, affirmant desires a mandatory preliminary injunction which directs that the U.S. Attorney convey affirmant's communications to the Grand Jury for the Northern District of New York in a manner that comports with his and its constitutional and statutory rights.

9. Affirmant prays that there be issued a 28 U.S.C. §1254[2] certification of the issues presented in this motion, together with any other, further and/or different relief as to this Court may seem just and proper in the premises.

4. The corruption of the District of Columbia Circuit by respondent-Abrams and federal jurists from the Second Circuit, to have that Circuit accept such Eleventh Amendment jurisdictionally infirm defense, at state cost and expense, involved [then] Circuit Court Judge CLARENCE THOMAS ["Thomas"], and petitioner respectfully requests that in any one-judge application, Associate Justice Thomas recuse himself.

WHEREFORE, it is respectfully prayed that petitioner's motion be granted in all respects.

Dated: May 5, 1993



Respectfully submitted,

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

CERTIFICATION OF SERVICE

On May 6, 1993, I served a true copy of this Motion by mailing same in a sealed envelope, first class, with proper postage thereon, addressed to U.S. Circuit Court of Appeals for the Second Circuit, Foley Square, New York, NY 10007; Solicitor General of the United States, Department of Justice, Washington, D.C. 20530; Robert Abrams, The Capitol, Albany, New York 12224; U.S. District Court Judge Peter K. Leisure, Foley Square, New York, NY 10007; Assistant U.S. Attorney G. Elaine Wood, 100 Church Street, New York, NY 10007; Assistant Attorney General Angela M. Cartmill, 120 Broadway, New York, NY 10271; Duncan, Fish & Bergson, Esqs., 21 Technology Drive, East Setauket, N.Y. 11733; and Skadden, Arps, Slate, Meagher & Flom, Esqs., 919 Third Avenue New York, New York 10022, that being their last known addresses.

Dated: May 6, 1993

GEORGE SASSOWER

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

FEB 3 [illegible]

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

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

GEORGE SASSOWER,

Plaintiff,

vs.

Civil No. [illegible] (FJS)(GJD)

N.Y.S. Attorney General ROBERT ABRAMS,

Defendant.

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

Petitioner,

Civil No. 93-CV-178 (FJS) (GJD)

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

APPEARANCE: OF COUNSEL:

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

FREDERICK J. SCULLIN, District Judge

ORDER

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

Exhibit "A"

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

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

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

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

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

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

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

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

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

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

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

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Accordingly, it is hereby

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

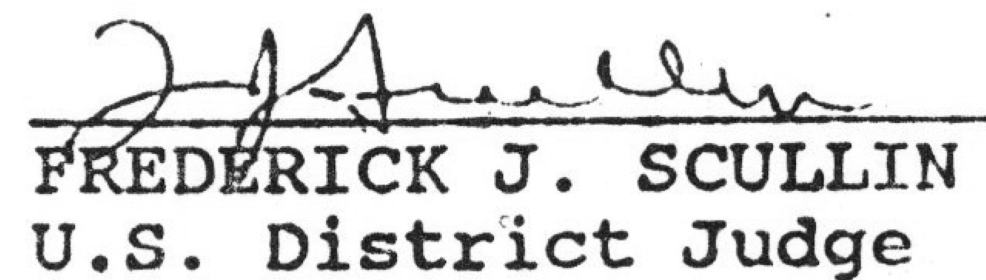
ORDERED, that the plaintiff is denied leave to proceed in forma pauperis and the above-captioned complaint and petition are dismissed pursuant to 28 U.S.C. § 1915(d), and it is further

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

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

IT IS SO ORDERED.

DATED: February 3rd, 1993
Syracuse, New York



FREDERICK J. SCULLIN
U.S. District Judge

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