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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF SUFFOLK : PART 24

-----x
ELENA RUTH SASSOWER and DORIS L. SASSOWER,
Individually and as Director and President,
respectively, of the Center for Judicial
Accountability, Inc., and CENTER FOR
JUDICIAL ACCOUNTABILITY, INC., Acting
Pro Bono Publico,

Plaintiffs,

INDEX NO.
10-12596

-against-

GANNETT COMPANY, INC., The Journal News,
LoHud.com, HENRY FREEMAN, CYNDEE ROYLE,
BOB FREDERICKS, D. SCOTT FAUBEL, KEITH
EDDINGS, DOES 1-10,

Defendants.

-----x

June 1, 2011
Riverhead, New York

P R O C E E D I N G S

B E F O R E: HON. PETER FOX COHALAN,
SUPREME COURT JUSTICE.

A P P E A R A N C E S:

SARNO & DeFELICE, LLC
For the Plaintiff
235 West 23rd Street, 5th Floor
New York, New York 10011
BY: JAMES A. DeFELICE, ESQ.

(APPEARANCES CONTINUED ON PAGE 2.)

JILLIAN CASSAR,
OFFICIAL SUPREME COURT REPORTER

EX 22

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(APPEARANCES CONTINUED)

SATTERLEE, STEPHENS,
BURKE & BURKE, LLP
For the Defendants
230 Park Avenue
New York, New York 10013
BY: MEGHAN H. SULLIVAN, ESQ.

MS. ELENA RUTH SASSOWER, PRO-SE

1 COURT CLERK: Remain seated. Come to
2 order.

3 The matter before the Court,
4 Sassower versus Gannett Company.

5 Counsel, state your appearances for
6 the record.

7 MS. SULLIVAN: Good afternoon, Your
8 Honor. Meghan Sullivan, from Satterlee,
9 Stephens, Burke & Burke, on behalf of the
10 Gannett defendant, and certain of the
11 individuals.

12 THE COURT: Thank you, distinguished
13 counsel.

14 MS. SASSOWER: Elena Sassower,
15 plaintiff, pro se individually, and on
16 behalf of the public.

17 THE COURT: Thank you.

18 MR. DeFELICE: James DeFelice, for
19 the plaintiff, Doris Sassower, and the
20 Center for Judicial Accountability.

21 Good afternoon, Your Honor.

22 THE COURT: Good afternoon, sir.

23 It is a pleasure to see you all.

24 We will get started by my asking
25 plaintiff if she will please rise, the

1 plaintiff pro se, and address the Court.

2 Before you do, though, I always have
3 to ask people appearing pro se, meaning
4 representing themselves in Latin, whether
5 or not you are waiving your right to have
6 an attorney?

7 MS. SASSOWER: I am, sir.

8 THE COURT: And you're willing to
9 proceed without an attorney.

10 Is that correct?

11 THE WITNESS: Yes, sir.

12 THE COURT: Okay. Thank you very
13 much.

14 You will be sworn in.

15 Would you please swear in the
16 plaintiff?

17 COURT CLERK: Yes, Judge.

18 Would you raise your right hand,
19 please?

20 (Whereupon, ELENA RUTH SASSOWER,
21 after having been first duly sworn by the
22 Clerk of the Court, testified as follows:)

23 THE WITNESS: Absolutely. So help
24 me God.

25 COURT CLERK: All right. Your name

1 and address for the record?

2 THE WITNESS: Absolutely.

3 MS. SASSOWER: Elena Sassower; 64
4 ~~South~~ Towd Point Road, Southampton, New
5 York, 11968.

6 COURT CLERK: Thank you.

7 THE COURT: Thank you. Please rise.

8 Please address the Court, and tell
9 us that which you wish us to know.

10 MS. SASSOWER: I am here in defense
11 of this action for libel, libel ^{per} ~~pro~~ se, and
12 journalistic fraud, with an additional
13 cause of action requested for institutional
14 reckless disregard of the truth.

15 I am here in opposition to a
16 dismissal motion made by Satterlee,
17 Stephens, Burke & Burke, on behalf of all
18 defendants, except for two categories.

19 One being defendant Eddings, the
20 reporter, who was a witness to the event,
21 and who wrote the article at issue.

22 And the second class of defendants
23 are the defendant, Does 1-10. These being
24 the personnel associated with Gannett, who
25 directed and instructed Mr. Eddings in the

1 crafting of his article, who failed to take
2 supervisory action to insure the integrity
3 of his journalism, who failed to retract
4 the article when an analysis was presented
5 showing that it was flagrantly false, and
6 knowingly so, and defamatory.

7 These defendant Does include legal
8 personnel, and upon information and belief
9 Satterlee, Stephens, Burke & Burke is one
10 of the defendant Does, which is the reason
11 why it is not representing the defendant
12 Does.

13 In making its dismissal motion, it
14 does not identify the defendant, ~~Does~~, and,
15 in opposition to the cross-motion that I
16 have made, plaintiff's have made, it does
17 not deny or dispute that it is a defendant
18 Doe, and that it is disqualified by reason
19 thereof from representing the defendants in
20 this case.

21 The disqualification of the law firm
22 is a threshold issue before this Court, and
23 that branch of the cross-motion -- and it
24 is an eight branch cross-motion -- is
25 completely unopposed, undenied, undisputed.

1 Indeed, Satterlee does not even
2 acknowledge the existence of a branch for
3 its disqualification, so completely does it
4 wish to conceal this important threshold
5 issue before the Court.

6 I will pause so that perhaps
7 Your Honor might wish to address that
8 issue.

9 THE COURT: I'm going to be
10 conducting this argument, not you.

11 MS. SASSOWER: Of course.

12 THE COURT: But is there anything
13 you wish to add?

14 MS. SASSOWER: With respect to that
15 branch?

16 THE COURT: Whatever you wish to say
17 to the Court at this time.

18 Is there anything you wish to add?

19 MS. SASSOWER: Well, yes. Yes. As
20 demonstrated by the cross-motion papers,
21 the dismissal motion made by the Satterlee
22 firm is, from beginning to end, a fraud
23 upon the Court. It is founded on deceit.
24 It purports to seek dismissal on two
25 grounds.

1 The first ground being failure to
2 state a cause of action.

3 And the second being documentary
4 evidence. This is a pre-answer dismissal
5 motion.

6 On such a motion, the elementary,
7 legal standard is that all the allegations
8 of the complaint are presumed true, and the
9 duty of the Court is to afford every
10 liberal inference to the plaintiff in
11 ascertaining whether or not all those
12 allegations do not state a cause of action.

13 What the Satterlee firm has done is
14 to conceal, distort, falsify the
15 allegations of the complaint to such a
16 degree that they purport that the complaint
17 itself is the documentary evidence,
18 warranting dismissal on grounds of
19 documentary evidence, not just failure to
20 state a cause of action.

21 The complaint throughout alleges,
22 with particulars, the knowingly false
23 presentations made in the article,
24 defamatory characterizations, and this
25 article, let it be emphasized, is a news

1 article. A news article is of a different
2 breed. A news article is not one in which
3 a reporter's opinion is supposed to appear.
4 It is reserved for fact.

5 This is an article which on its face
6 does not comport with the standards of news
7 articles, and purports to recite what took
8 place on May 4th, 2009, at a Common Council
9 meeting, at which a White Plains city court
10 judge was reappointed.

11 The reporter was a witness to what
12 took place. He received in hand the
13 documentation substantiating the
14 presentation made by myself and my mother,
15 and wrote an article, which instead of
16 reciting the facts of what we said, instead
17 of giving any quote as to what we said,
18 characterized it falsely, and further, made
19 it appear as if our presentation was
20 disruptive, unruly, protesting, interfering
21 with the course of the Common Council
22 meeting.

23 Your Honor, there is a video tape of
24 the Common Council meeting, and the video
25 tape substantiates a particularized

1 analysis of the article.

2 Have you as yet had an opportunity
3 to view the videotape, may I ask, Your
4 Honor?

5 THE COURT: I ask the questions, not
6 you.

7 MS. SASSOWER: I understand.

8 THE COURT: Is there anything you
9 wish to add?

10 MS. SASSOWER: Well, in making the
11 dismissal motion, the Satterlee firm
12 conceals the existence of the videotape,
13 conceals that it substantiates the
14 analysis.

15 The analysis, let me point out, not
16 only highlights that we were completely
17 silent during the meeting, the confirmation
18 of White Plains City Court Judge Hansbury,
19 but highlights that the presentation we
20 made focused on the integrity of the
21 appointment process, and the corruption of
22 the appointment process, as well as the
23 documentary evidence of the corruption of
24 the White Plains City Court Judge who was
25 reappointed, Judge Hansbury.

1 This was what we presented at the
2 Common Council meeting. The article
3 completely conceals what we said, and in
4 making the dismissal motion, Satterlee
5 purports that the complaint and the
6 analysis corroborates the article, the
7 complaint, the analysis, the videotape, all
8 refute, refute, repudiate the article.

9 The last thing I would like to say
10 is that at issue here is not only a cause
11 of action for libel, and libel per se, and
12 let me just say that the Satterlee firm, in
13 making its motion, conceals that there is a
14 libel per se cause of action.

15 If you look at the caption of this
16 action, Your Honor, you see that I appear
17 individually, and in my professional
18 capacity.

19 My mother appears as a plaintiff
20 individually, and in her professional
21 capacity.

22 Satterlee, without any
23 authorization, without any identification,
24 is changing the caption of the action, has
25 made us into plaintiffs that appear only in

1 a single capacity, just as its dismissal
2 motion eviscerates to nonexistence the
3 libel per se cause of action.

4 Beyond that, this case is about the
5 false representation that Journal News and
6 Gannett make to the public, to mislead the
7 public into believing that its journalism
8 is trustworthy and credible.

9 On the same page as the article
10 appeared -- and let me again emphasize that
11 at issue is a news article, not an opinion
12 piece, not a column -- on the same page
13 there appears information saying, Reader's
14 Representative. "If you have any
15 questions, or concerns about anything you
16 see in the Journal News, or about our
17 journalistic standards and practices,
18 please contact the Reader's Services
19 Editor."

20 And on the facing page was the
21 masthead -- is the masthead. This article
22 appears on the third page of the newspaper.
23 When you immediately open it up, there was
24 the article right at the top, and on the
25 facing page was the masthead.

1 The masthead has, as part of its
2 language, a representation that accuracy,
3 fairness and balance is important to the
4 Journal News. And once again, if there are
5 any questions or problems about the
6 journalism, any errors needing correction,
7 any clarifications required, that the
8 Reader's Services Representative should be
9 contacted.

10 At the time that appeared, the
11 Journal News did not have a Reader's
12 Services Editor.

13 THE COURT: That's extraneous.

14 Do you have anything further to say?

15 MS. SASSOWER: Well, it did
16 additionally have a pledge as to its
17 willingness to correct errors.

18 In fact --

19 THE COURT: Is there anything you
20 wish to add that is new to what you have
21 already said?

22 MS. SASSOWER: Well, this goes to
23 the issue -- there is on the cross-motion,
24 a branch for summary judgment. As part of
25 the summary judgment, there is a request

1 that the Journal News be ordered to remove
2 from its masthead its accuracy policy
3 because it is a false and misleading
4 advertising claim, in violation of public
5 policy, including General Business Law
6 Article 22(a).

7 Now, quite apart from the defamation
8 here, there are a series of knowingly false
9 representations that the Journal News makes
10 to the public as to the integrity of its
11 journalism and as to safeguards in place.

12 In fact, as detailed in the
13 complaint, when we provided the specifics
14 of the falsity, knowing falsity, of the
15 article that was written about us, and its
16 violation of First Amendment
17 responsibilities to present the public with
18 the issue of legitimate public concern,
19 that were the subject of our presentation
20 at the Common Council meeting, we were
21 completely ignored. There was no
22 responsiveness whatsoever.

23 I will, in closing, on that point,
24 identify that Satterlee's dismissal motion
25 concealed every allegation about the

1 reader's representative. Every allegation
2 ~~of~~ concerning the Journal News and Gannett
3 purported policy for accuracy, and fair and
4 balanced journalism, and purports that the
5 complaint says that -- purports that in
6 bringing this action we were not satisfied
7 with the response that Gannett made to our
8 retraction demand. In fact, what the
9 complaint set forth is that there was no
10 response whatever to our retraction demand.

11 THE COURT: Do you have anything you
12 wish to add?

13 MS. SASSOWER: Thank you, Your
14 Honor.

15 THE COURT: Thank you.

16 Distinguished counsel, Mr. DeFelice,
17 is there anything you wish to add?

18 MR. DeFELICE: Yes, Your Honor. I
19 will be much more brief. I'm addressing
20 the motion to dismiss brought by the
21 defendants, and the question is, the motion
22 to dismiss is based on the defendant's
23 position that a defense can be established
24 based on the documentary evidence.

25 First, I want to bring the article

1 to the Court's attention, which is attached
2 to the moving papers, as well as the
3 response, and is attached to the complaint.

4 THE COURT: Let me ask you a
5 question, if I may. Was this matter
6 litigated, the same exact matter, litigated
7 in Supreme Court for Western ^{Westchester} Suffolk
8 County?

9 MR. DeFELISE: No, it was not, Your
10 Honor.

11 THE COURT: It was different?

12 MR. DeFELICE: This matter was not
13 litigated. Do you mean the underlying
14 matter that the Court was -- or that they
15 were addressing, related to the
16 appointment?

17 THE COURT: Yes.

18 MS. SASSOWER: I think --

19 THE COURT: Please. One at a time.
20 You've spoken.

21 MR. DeFELICE: Elena, you can't --

22 THE COURT: Please, don't address
23 her.

24 Thank you, Mr. DeFelice. Please.
25 Please.

1 MR. DeFELICE: Okay. The article is
2 entitled, "Hecklers try to derail new city
3 judge."

4 The first sentence of that article
5 says, "A city woman once jailed by Congress
6 for interrupting a judicial confirmation,
7 took on the Common Council and a city judge
8 this week, when she talked through Mayor
9 Joseph Delfino's requests."

10 Right away the article brings up
11 something criminal, that true or not, the
12 tone and tenor of the article, given its
13 title and the first sentence, is to say
14 that the Sassowers, who were there on
15 behalf of their nonprofit organization.

16 THE COURT: Go ahead.

17 MR. DeFELICE: It says that they did
18 something wrong. That's the implication
19 here.

20 THE COURT: Well, let me ask you a
21 question: Was it true or not?

22 MR. DeFELICE: No. I meant the
23 first sentence alone.

24 THE COURT: Well, was it true that
25 she was, in fact, jailed?

1 MR. DeFELICE: That's true, and
2 we're not disputing that.

3 Miss Sassower -- I'm sorry -- the
4 plaintiff's gripe is not that that portion
5 of the article is not true, but including
6 it there establishes right away that the
7 tone and tenor of the article, that these
8 women appeared at this Common Council
9 meeting, was wrong.

10 THE COURT: Isn't the truth an
11 absolute defense?

12 MR. DeFELICE: Again, that portion
13 of the article is not something that's
14 complained of. It's the rest of the
15 article which contains multiple -- I guess
16 what we would call, what the defense would
17 characterize -- as minor inaccuracies. It
18 contains many things that didn't happen on
19 the day they appeared at this Common
20 Counseling meeting.

21 THE COURT: Okay. Thank you.

22 MR. DeFELICE: There's multiple
23 references. It says, "The fireworks began
24 even before Judge Brian Hansbury arrived,
25 when the Sassowers asked the council to

1 reject his renomination."

2 It continues to say things that they
3 shouted out when he was brought over.

4 THE COURT: You're saying these are
5 all subjective comments that should not be
6 allowed in a news story?

7 MR. DeFELICE: Not that they're
8 subjective, just that they're not true.

9 THE COURT: Well, if somebody
10 shouts, or raises his or her voice, isn't
11 that possibly shouting?

12 MR. DeFELICE: The complaint is that
13 they did not shout, and that -- that if --
14 there is a video of the proceeding. The
15 proceeding would show there was no shout or
16 raised voice. There's a point where they
17 say, "We heard an audible Hummph," during a
18 portion where somebody else was speaking.

19 THE COURT: Okay. Thank you.

20 MR. DeFELICE: And the video would
21 show that this did not happen.

22 THE COURT: So your argument right
23 now is that everything, not everything, but
24 that which was quoted in the paper, was
25 erroneous, false and basically libelous.

1 MR. DeFELICE: That's correct, Your
2 Honor.

3 THE COURT: Thank you very much.

4 MR. DeFELICE: In addition to that,
5 there was something that's left out of the
6 article, and I will cite a case that refers
7 to information that's left out, that if
8 known, would change the tone and tenor of
9 the article, but what has been left out of
10 the article is that when the individual
11 plaintiffs both stood up and spoke, it was
12 during a portion of this meeting where the
13 floor was actually opened up to individuals
14 to speak, addressing their concerns for
15 what's on the agenda that day.

16 THE COURT: Have we reached a point
17 in the State of New York where you can sue
18 for libel for something that wasn't said?

19 MR. DeFELICE: If -- yes. My answer
20 is yes. In the article, something that --
21 if a piece of information that would change
22 the tone and tenor of the article which --
23 right away, the tone and tenor of the
24 article is she did something wrong in the
25 past; therefore, she's doing something

1 wrong by speaking here.

2 When the truth is, the truth is,
3 they were exercising their right to speak
4 during a portion of the meeting --

5 THE COURT: Please, no colloquy.

6 MR. DeFELICE: -- during a portion
7 of the meeting where they were actually
8 allowed to speak, and nowhere in the
9 article does it contain that.

10 Now, the case that we're relying on
11 is a case -- it's a case from the Second
12 Department, Appellate Division Second
13 Department -- the citation is 46 A.D.3d
14 636, and it is what year -- it is a 2007
15 case. The title is Gerard Matovcik v.
16 Times Beacon Record Newspapers, also known
17 as, et al.

18 In that case, I believe it is a
19 Miller Place school teacher, head of the
20 English Department, charged students for --
21 asked students to bring in money for books,
22 and the paper found out that that money was
23 spent on something other than books. It
24 was spent on things. It was spent on an
25 air-conditioners for the teacher's room and

1 faculty lunches.

2 THE COURT: Okay. What is your
3 point?

4 Go ahead.

5 MR. DeFELICE: I am just giving the
6 Court --

7 THE COURT: You don't have to.

8 MR. DeFELICE: -- a frame of
9 reference, okay. The point is that case
10 says -- the article left out the fact that
11 most of the money actually was spent on
12 books for the school children that paid the
13 money; and therefore, the Court, the
14 Appellate Department, reinstated the case
15 and reversed the decision that granted the
16 dismissal motion.

17 THE COURT: By Appellate Department,
18 obviously, you mean the Appellate Division?

19 MR. DeFELISE: Yes.

20 THE COURT: Okay. Thank you.

21 MR. DeFELISE: Thank you, Your
22 Honor.

23 THE COURT: Thank you, sir.

24 Distinguished counsel, audi alteram
25 partem, as they used to say, I will hear

1 the other side.

2 MS. SULLIVAN: Good afternoon, Your
3 Honor.

4 THE COURT: Good afternoon,
5 distinguished counsel.

6 MS. SULLIVAN: In an attempt to
7 bring the Court back to why we're really
8 here, to the extent possible, we're here
9 because on May 4th, 2009, Doris and Elena
10 Sassower appeared before the White Plains
11 Common Council to protest the nomination of
12 City Court Judge Brian Hansbury.

13 THE COURT: Right.

14 MS. SULLIVAN: Two days later, the
15 Journal News wrote an article describing
16 their protest. That article is included at
17 pages eight and nine of our brief, for the
18 Court's reference.

19 THE COURT: I read it.

20 MS. SULLIVAN: It's initially
21 difficult to tell, both from the article,
22 and from the moving papers, the complaint,
23 what exactly in the article the plaintiff's
24 complained about.

25 The article, even on a cursory

1 inspection of the article, describes Elena
2 and Doris Sassower's protest as heckling.

3 The article describes them as using
4 slings and arrows, and the article makes
5 reference to them creating fireworks.

6 It is on the basis of this language,
7 and it's important that I focus the Court's
8 attention on this language because
9 plaintiff's opposition brief makes it clear
10 that that's the language we're talking
11 about. That's the language in the article
12 that plaintiff's claim is defamatory.

13 On the basis of this language, the
14 Sassowers sued eight named defendants, and
15 identified the defendants, which, Your
16 Honor, we were surprised to learn that my
17 firm is ostensibly included in the unnamed
18 defendants for libel, and a cause of action
19 that plaintiff's deem journalistic fraud.

20 The Sassower's claim fails for at
21 least five reasons.

22 THE COURT: Go ahead.

23 MS. SULLIVAN: At least five
24 reasons, but I want to focus on two of
25 those reasons today.

1 First and foremost, the plaintiff's
2 claim fails because the complaint itself,
3 specifically Exhibit 7 to the complaint,
4 which Miss Sassower referenced in her
5 argument, is an analysis that plaintiffs
6 submitted to the Journal News after the
7 article was published.

8 The analysis established that the
9 gist or ~~staying~~^{sting} of the article --

10 THE COURT: I apologize.

11 MS. SULLIVAN: No worry.

12 THE COURT: I apologize. Please
13 proceed.

14 MS. SULLIVAN: Proceed?

15 THE COURT: Please proceed.

16 MS. SULLIVAN: The gist or ~~staying~~^{sting}
17 of the article is substantially true, Your
18 Honor.

19 THE COURT: Thank you.

20 How about the use of the word,
21 fireworks?

22 MS. SULLIVAN: Yes, yes. The
23 article does say fireworks.

24 THE COURT: Why? I mean, that is a
25 figurative expression, is it not, not a

1 literal expression?

2 MS. SULLIVAN: Absolutely. It's a
3 figurative expression, as are all of the
4 statements, complained of by plaintiffs.
5 They are not, as is required under well
6 established New York law, to state a claim
7 of action or cause of action for libel.
8 They are not factual statements. They
9 cannot be construed as defamatory, as a
10 matter of law, because in order to be
11 defamatory, as a matter of law, the
12 statement has to constitute a fact.

13 THE COURT: But was it a fact that
14 fireworks were displayed?

15 MS. SULLIVAN: Your Honor, as far as
16 I'm aware, the Sassowers did not actually
17 display incendiary devices at the White
18 Plains Common Council meeting.

19 It is unquestionable, though, that
20 the word and phrases are properly
21 understood as figurative statements.

22 THE COURT: Do you think it's proper
23 for a reporter to use figurative statements
24 in a news story, as opposed to an analysis
25 for a news column?

1 MS. SULLIVAN: Absolutely, Your
2 Honor. News articles are not exempt from
3 the requirement under New York Law, that in
4 order to be actionable, a statement has to
5 constitute a fact.

6 Miss Sassower's attempt to make the
7 distinction between editorial opinion
8 articles and news articles, but New York
9 law simply does not make that distinction.
10 The law is clear that in order to be
11 libelous, you have to state a fact.

12 THE COURT: I am somewhat familiar
13 with the issues. My father was the last
14 public official in New York State to
15 successfully sue a newspaper for libel. He
16 sued Newsday, when he was the District
17 Attorney of our county years ago, and won.
18 That hasn't happened since because of
19 Sullivan against New York Times --

20 MS. SULLIVAN: -- yes.

21 THE COURT: Sullivan is your last
22 name?

23 MS. SULLIVAN: Yes.

24 THE COURT: So I am quite well aware
25 of these kinds of issues.

1 MS. SULLIVAN: And there's no
2 relation, Your Honor.

3 Miss Sassower, her position is that
4 the distinction between editorial and news
5 articles is, it is a fiction, it is not
6 true, and Miss Sassower should be aware
7 that it's not true.

8 A strikingly similar case was
9 brought by the Sassowers in 2006, in
10 Westchester County against the New York
11 Times, for an article that was written
12 about the Sassowers, that described Elena
13 Sassower as "A gadfly. Something of a
14 handful. Possessed of a relentless and
15 exhaustive conversational style.
16 Specializing in frontal assault against
17 judicial nominees."

18 Justice Loehr, in Westchester
19 County, heard almost identical claims,
20 including a cross-motion for sanctions
21 against the New York Time's counsel,
22 including the suggestion that the New York
23 Times counsel was, in fact, one of the
24 unnamed Doe defendants.

25 This is a strikingly similar case in

1 many respects, and the disposition that was
2 reached by Justice Loehr, that
3 Miss Sassower has since deemed a fraud,
4 should be instructive to the Court here.
5 They are very similar issues, and I'm happy
6 to discuss any of the other reasons that
7 the Sassowers fail.

8 THE COURT: Thank you very much,
9 distinguished counsel.

10 MS. SULLIVAN: Thank you, Your
11 Honor.

12 MS. SASSOWER: May I? May I --

13 THE COURT: -- No, no. Thank you
14 very much.

15 MS. SASSOWER: -- rebut?

16 THE COURT: No. Thank you very
17 much.

18 I am going to reserve.

19 Thank you distinguished counsel,
20 Mr. DeFelice, distinguished counsel,
21 Miss Sullivan, and Miss Sassower.

22 MS. SASSOWER: May I make a
23 submission for the clarification?

24 THE COURT: Off the record. Off the
25 record.

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Thank you.

Remain seated.

(Whereupon, the matter was
concluded.)

* * *

CERTIFICATION

I, JILLIAN CASSAR, Official Court Reporter, do
hereby certify that the foregoing is a true and
accurate copy of my stenographic notes taken this
date.


JILLIAN CASSAR