SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT

----------x

In the Matter of George Sassower, an Attorney and Counsellor-at-Law:

GRIEVANCE COMMITTEE FOR THE NINTH JUDICIAL DISTRICT,

Petitioner,

-against-

GEORGE SASSOWER,

Respondent.

----------x

NOTICE OF CROSS-MOTION and AFFIDAVIT

"If you see only what the light reveals and hear only what the sound announces, then you do not see nor do you hear."
Kahlil Gibran

GEORGE SASSOWER, Esq.
Attorney for Respondent.
283 Soundivew Avenue,
White Plains, N.Y. 10606
914-328-0440

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S I R:

PLEASE TAKE NOTICE, that upon the annexed affidavit of GEORGE SASSOWER, Esq., sworn to on the 16th day of June, 1982, and upon all the proceedings had heretofore herein, the undersigned will cross-move this Court at a Stated Term of the Appellate Division of the Supreme Court of the State of New York, on the 18th day of June, 1982, at 9:30 o'clock in the forenoon of that day or as soon thereafter as counsel may be heard for an Order of this Court nullifying all of the disciplinary proceedings against respondent nunc pro tunc, expunging all records of same, and such other, further, and/or different relief as to this Court may seem just and

proper in the premises, including, as incidental to the aforesaid nullification the following relief as part of the fullest possible investigation of the matter:

1. A request to the Honorable Milton Mollen, Presiding Justice of the Supreme Court, Second Judicial Department, that he investigate and forward to this Court such confidential report as deemed proper and appropriate with respect to the allegations contained in this affidavit regarding the alleged misconduct of Surrogate Ernest L. Signorelli and his Court and, in particular, (a) Surrogate Signorelli's alleged violation of confidentiality provisions contained in Judiciary Law §90 with respect to respondent and his wife; (b) all substantiation, if any, for the material contained in such published statement explicitly intended for the recommended disciplinary investigation and prosecution against respondent and his wife; (c) all material information transmitted and withheld, if any, by or on behalf of the Surrogate from the Grievance Committee and its attorneys during all stages of this proceeding; (d) explanation for the absence of filed documents, records, and stenographic minutes taken by official court reporters; (e) the nexus, vel non, between the conduct of the Surrogate and respondent's resort to the courts

for relief; (f) explanation for the deliberate scheduling by the Surrogate and his judicial retinue of court appearances by respondent in Surrogate's Court when he and they knew that respondent was physically incapacitated, elsewhere engaged, and in particular, in the First Department, and for the imposition of punitive action against respondent and his family for being incapacitated or engaged elsewhere; (g) explanation for undue interference or direction by the Surrogate into the practices of the Suffolk County Sheriff's Office, the Office of the State Attorney General, Grievance Committee, and its attorneys (h) explanation and amplification of the testimony given before Honorable Aloysius J. Melia by Surrogate Ernest L. Signorelli; and (i) any and all other matters which the Presiding Justice believes proper and appropriate;

2. A request that the Commission of Judicial Conduct forward to this Court a confidential report containing such information as deemed appropriate and helpful for the disposition of this proceeding with respect to the conduct and testimony of Surrogate Ernest L. Signorelli and his court;

3. A direction that the Grievance Committee, and independently its attorneys, forward to this Court or request Honorable Milton Mollen, Presiding Justice of the Appellate Division, Second Judicial Department, that he direct them to forward to this Court a complete, candid, and comprehensive confidential report of the proceedings against respondent and his wife, Doris L. Sassower, Esq., insofar as they relate to Surrogate Ernest L. Signorelli, his appointees, and the Surrogate's Court, Suffolk County.

4. A request that the Attorney General forward to this Court a confidential report containing such information as deemed appropriate and proper in this matter, and, in particular, all non-privileged conversations had with or on behalf of Surrogate Ernest L. Signorelli and whether, in their opinion, he improperly injected himself in a Habeas Corpus proceeding brought by respondent, and in the appeal therefrom.

5. An Order directing the Sheriff of Suffolk County and the Suffolk County Attorney to forward to this Court a complete, candid and comprehensive report of its activities regarding respondent, and any improper judicial involvement therein, in particular, explaining (1) their repeated forays into Westchester County and New York City in order to arrest respondent when he was amenable to submit to such arrest at the convenience of the Sheriff in the Courthouse of the Bronx, New York, or Westchester counties; (2) their failure to obey a Writ of Habeas Corpus demanding the immediate release of respondent; (3) the incarceration of respondent's wife and daughter, for serving such Writ of Habeas Corpus; and (4) the physical treatment of respondent while he was in its custody.

6. An Order requesting that Honorable Frank A. Gulotta forward to this Court any and all information (or misinformation) conveyed to His Honor by or on behalf of Surrogate Ernest L. Signoorelli regarding the incarceration of respondent.

7. An Order directing Surrogate Ernest L. Signorelli to forward to this Court a duly verified, complete, candid and comprehensive sworn report regarding all of the matters requested of others herein,

together with his involvement or that of his Court, directly or indirectly, in cases in other courts wherein respondent was involved.

Dated: White Plains, New York
June 16, 1982

Yours, etc.,

GEORGE SASSOWER, Esq.
Attorney for Respondent
283 Soundview Avenue,
White Plains, N.Y. 10606
914-328-0440

To: Gary L. Casella, Esq.
Attorney for Petitioner.
Richard E. Grayson, Esq.
Associated Counsel for Petioner
Hon. Milton Mollen
Presiding Justice of the Appellate Division
Commission on Judicial Conduct.
Surrogate Ernest L. Signorelli
Hon. Frank A. Gulotta
Associate Justice of the Appellate Division
Hon. Robert Abrams
Attorney General of the State of New York

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GRIEVANCE COMMITTEE FOR THE NINTH JUDICIAL DISTRICT,

Petitioner,

-against-

GEORGE SASSOWER,

Respondent.

----------x

STATE OF NEW YORK)
) ss.:
COUNTY OF WESTCHESTER)

GEORGE SASSOWER, Esq., first being duly sworn, deposes, and says:

1. These cross-motion papers are initially being served on (1) Presiding Justice Milton Mollen of the Appellate Division, Second Department, (2) The Commission on Judicial Conduct, and (3) Richard E. Grayson, Esq., Assistant Counsel for the Grievance Committee of the Ninth Judicial District.

A preemptive impounding of the files, documents, and stenographic minutes of the Surrogate's Court, Suffolk County, in the Estate of Eugene Paul Kelly (Index No. 736 P 1972) by the Presiding Justice or the Commission is clearly called for on this affidavit, as well as the sworn testimony incorporated in this affidavit.

Richard E. Grayson, Esq. handled this matter on behalf of the Grievance Committee. I am certain, he will, if requested, cooperate in responding to any inquiry.

With the Court's permission, after the Presiding Justice and the Commission have had the opportunity to impound these records, inventory them, or take such other action as it deems appropriate, I shall cause such service to be made on the others named in the Notice of Motion. Until such time, I request that the three above-named recipients strictly preserve the confidentiality of the material contained herein.

2. Based on gross deception, if not outright fraud, perpetrated on this Court and Grievance Committee, as carefully documented in this affidavit, I respectfully request that this Court grant an Order nullifying all the disciplinary proceedings against me nunc pro tunc, expunging all records of same, including the further relief specified in the notice of cross-motion.

I can appreciate the natural skepticism of this Court to accept at face value documents and an experience so unusual in nature. May I remind this Court that similar documentation was presented to the Grievance Committee, but to their subsequent embarassment, they chose to accept the words of the Surrogate instead.

3. I will not, in this affidavit, say anything about Judge Melia which I did not express during the hearing sessions to the Grievance Committee Attorneys. On Judge Melia, we were always in complete accord.

A reading of the early testimony shows very strong protests on my part to the prejudicial material being introduced by petitioner which had, at best, only minimal probative value. After the first few sessions I did not even bother with pro forma objections, for as both sides promptly recognized, we had a judge who had integrity, was very perceptive, and had the ability to render a verdict transcending his own initial convictions.

The conduct and testimony of Surrogate Ernest L. Signorelli and Charles Z. Abuza, Esq. together demonstrate that all the charges were without merit.

The information contained in this affidavit withstood the test of credibility before Judge Melia.

4. The disquieting matters in this affidavit can no longer be quieted. I respectfully suggest that this Court confirm the veracity of the information set forth and then contain it by remedying the situation.

5. The information obtained through a supplemental investigatory order will confirm the propriety of the relief requested: i.e., that these entire disciplinary proceedings should be vacated as a manifest imposition, not to mention fraud, upon this Court.

Any other disposition than a declaration that the entire proceedings were null and void ab initio pays undeserved tribute to Surrogate Signorelli, who duped the Grievance Committee, as well as others, who, in turn, duped the Court (charges for all unrelated Signorelli complaints were withdrawn by the Grievance Committee itself).

This disciplinary proceeding is part of Surrogate Signorelli's strategem of retribution because I sought the assistance of the courts for what "government (Signorelli) was doing" to me.

Access to the courts should not be obstructed by governmental power of retribution.

In the hierarchy of judicial values, this Court must strike out loudly and clearly at the attempted rape of fundamental constitutional and ethical principles.

The Grievance Committee attorneys themselves are at a loss to suggest, even with hindsight, what different or other actions I should, or could, have taken.

It must be remembered that, as Judge Melia reported, none of the charges presented against me involved "moral turpitude" or moral "impropriety" (Referee's Report p. 2), in itself, suggesting some unseen force behind this most vigorously pressed proceeding.

Incidental to the relief requested herein whereby these grievance proceedings be nullified ab initio, I respectfully request this Court to grant the following further relief:

1. A request to the Honorable Milton Mollen, Presiding Justice of the Supreme Court, Second Judicial Department, that he investigate and forward to this Court such confidential report as he believes proper and appropriate with respect to the allegations contained in this affidavit regarding the alleged misconduct of Surrogate Ernest L. Signorelli and his Court and, in particular, (a) Surrogate Signorelli's alleged violation of confidentiality provisions contained in Judiciary Law §90 with respect to respondent and his wife; (b) all substantiation, if any, for the material contained in such published statement explicitly intended for the recommended disciplinary investigation and prosecution against respondent and his wife; (c) all material

information transmitted and withheld, if any, by or on behalf of the Surrogate from the Grievance Committee and its attorneys during all stages of this proceeding; (d) explanation for the absence of filed documents, records, and stenographic minutes taken by official court reporters; (e) the nexus, vel non, between the conduct of the Surrogate and respondent's resort to the courts for relief; (f) explanation for the deliberate scheduling by the Surrogate and his judicial retinue court of appearances by respondent in Surrogate's Court when he knew that respondent was physically incapacitated, elsewhere engaged, and in particular, in the First Department, and for the imposition of punitive action against respondent and his family for being incapacitated or engaged elsewhere; (g) explanation for undue interference or direction by the Surrogate into the practices of the Suffolk County Sheriff's Office, the Office of the State Attorney General, Grievance Committee, and its attorneys (h) explanation and amplification of the testimony given before Honorable Aloysius J. Melia by Surrogate Ernest L. Signorelli; and (i) any and all other matters which the Presiding Justice believes proper and appropriate;

2. A request that the Commission of Judicial Conduct forward to this Court a confidential report containing such information as it believes appropriate and helpful for the disposition of this proceeding with respect to the conduct and testimony of Surrogate Ernest L. Signorelli and his court;

3. A direction that the Grievance Committee, and independently its attorneys, forward to this Court or request Honorable Milton Mollen, Presiding Justice of the Appellate Division, Second Judicial Department, that he direct them to forward to this Court a full, candid, and comprehensive confidential report of the proceedings against respondent and his wife, Doris L. Sassower, Esq., insofar as they relate to Surrogate Ernest L. Signorelli, his appointees, and the Surrogate's Court, Suffolk County.

4. A request that the Attorney General forward to this Court a confidential report containing such information as he believes appropriate and proper in this matter, and, in particular, all non-privileged conversations had with or on behalf of Surrogate Ernest L. Signorelli and whether, in their opinion, he improperly injected himself in a Habeas Corpus proceeding brought by respondent, and in the appeal therefrom.

5. An Order directing the Sheriff of Suffolk County and the Suffolk County Attorney to forward to this Court a full and comprehensive report of its activities regarding respondent, and any improper judicial involvement therein, in particular explaining (1) their repeated forays into Westchester County and New York City in order to arrest respondent when he was amenable to submit to such arrest at the convenience of the Sheriff in the Courthouse of the Bronx, New York, or Westchester counties; (2) their failure to obey a Writ of Habeas Corpus demanding the immediate release of respondent; (3) the incarceration of respondent's wife and daughter, without any amenities, for serving such Writ of Habeas Corpus; and (4) the physical treatment of respondent while he was in its custody.

6. An Order requesting that Honorable Frank A. Gulotta forward to this Court any and all information (or misinformation) conveyed to His Honor by or on behalf of Surrogate Ernest L. Signorelli regarding the incarceration of respondent.

7. An Order directing Surrogate Ernest L. Signorelli to forward to this Court a full, complete, and comprehensive sworn report regarding all of the matters requested of others herein, together with his involvement or that of his Court, directly or indirectly, in cases in other courts wherein respondent was involved.

The true administration of justice and a proper disposition of this matter requires this Court have such information.

This affidavit deals with some of the more important questions raised about this proceeding.

A. THE MANDATE OF PRESIDING JUSTICE MILTON MOLLEN

1. On March 3, 1978, there was published in the New York Law Journal a lengthy sua sponte pronouncement by Surrogate Ernest L. Signorelli, concluding as follows:

> " I am accordingly directing the Chief Clerk to forward a copy of this decision to the Presiding Justice of the Appellate Division, Second Judicial Department, for such

disciplinary acton as he may deem appropriate with regard to the conduct of George Sassower and Doris Sassower. "

2. As Surrogate Signorelli admitted, there was no motion pending before him at the time of his tirade dated February 24, 1978 (Oct. 22, 1981, SM 60), nor did he adjudicate any rights in controversy. It was nothing but a fabricated, misleading, and deceitful statement grievance complaint against George and Doris Sassower, which he knew or assumed would be published in the New York Law Journal (Oct. 21, 1981, SM 61), as indeed, in due course, it was.

This "published statement" was rendered at a time when there was personal litigation between myself and Surrogate Signorelli in the federal courts. Its underlying, ulterior motives (over and beyond defaming us) were to retaliate against me for certain legal positions that I had taken, vis-a vis his improper actions, as more fully detailed hereinafter, to compel me to abandon my legal rights, and to influence improperly pending litigation in other courts wherein he was a party.

Surrogate Signorelli admitted that he knew at the time that all professional complaints against attorneys were statutorily mandated to be confidential (Oct 22, 1981, SM 63-64). The misuse of legal prerogatives is not a defense in a civil suit for damages (Williams v. Williams, 23 N.Y.2d 592, 298 N.Y.S.2d 473), and is certainly not a defense in a disciplinary proceeding that might be brought against this judicial transgressor.

3. By letter dated February 24, 1978, the Clerk of Surrogate's Court, Suffolk County, sent the Presiding Justice the following letter:

"Dear Judge Mollen:

> Pursuant to the direction of the Surrogate, I enclose herewith a copy of the Surrogate's decision in the above entitled matter."

By letter dated March 3, 1978, a copy of which was received by the Grievance Committee on March 6, 1978, the following letter was sent:

"Honorable Ernest L. Signorelli
Surrogate Suffolk County
County Center
Riverhead, New York 11901

Re: Estate of Eugene Paul Kelly, deceased
File No. 736P 1972

Dear Surrogate Signorelli:

I am in receipt of a copy of your decision in the above stated matter, dated February 24, 1978, which decision alleges professional misconduct on the part of George Sassower and Doris Sassower, attorneys-at-law.

My office has contacted the Joint Bar Association Grievance Committee for the Ninth Judicial District and determined that the Committee is aware of the situation you described. Please be assured that appropriate action will be taken.

Thank you for bringing this matter to my attention.

Very truly yours,

MILTON MOLLEN
Presiding Justice"

4. I do not contend that this seemingly routine letter of Mr. Justice Mollen was intended to prejudge the merits of Surrogate Signorelli's complaint, or express agreement with Surrogate Signorelli's conclusion concerning the appropriateness of disciplinary action, or to unduly influence the recipient.

Received by the youthful employees of petitioner, however, the communication came from one of the most important persons in their universe. It could not, and was not, treated as just another of the numerous complaints that the Grievance Committee receives. It was a complaint by a judge and transmitted from the citadel. This letter was "the burning bush" (Exodus 2:3).

The letter of transmittal by the Presiding Justice of the Second Judicial Department could be interpreted by the recipient as a tacit approval of Surrogate Signorelli's published statement, that the Presiding Justice had considered the accusations detailed by Surrogate Signorelli, and believed "disciplinary action ... appropriate".

To the petitioner, the Presiding Justice's letter became a mandate to prosecute.

5. Albert Einstein taught us that force warps space and matter. Psychiatrists and common experience tell us that even subtle forces and pressures can distort and warp human minds and judgment to commit, at times, the most inexplicable acts (e.g. People v.

Jagnjic, 85 A.D.2d 135, 447 N.Y.S.2d 439 [1st Dept.]; Grievance Committee v. Grant, 85 A.D.2d 102, 447 N.Y.S.2d 566 [4th Dept.]).

Petitioner's employees are for the most part young, intelligent, educated, dedicated, and decent, but vis-a-vis the profession, they suffer from a predisposition to believe the worst of an attorney complained against.

In their work, practice, and surroundings, they exclusively concern themselves with professional derelicts and dereliction in the profession.

Given the nature of their work, it would be unnatural for them to fabricate intentionally or to commit any ethically offensive act.

Nevertheless, in their prosecutions against my wife and myself, these perhaps overly idealistic and rightous individuals, came to believe they were on a jihad. With blinded reasoning and without the pretense of any investigation of any serious nature, they filed demonstrably fabricated charges of misconduct, virtually swallowing most of the Surrogate's array of fabricated accusations.

Most of these concocted charges have already been thrown out by this Court and are repeated herein only to refresh recollection. Further examples will hereinafter be shown. They are set forth only to illustrate the twisted state of mind of petitioner's employees at the time, and not as a reflection on their integrity:

a. A Judge, in a decision, sua sponte, directed my wife to deposit some escrow money in a "high interest bearing account".

A reasonable person would accept the statement without attaching to it any further significance.

A suspicious person might inquire as to whether my wife actually obeyed the decision of the Court.

A mentally aberrated person would conclude solely from the aforesaid statement in a decision, without any further inquiry or additional evidence whatsoever, that my wife (1) never obeyed the Court's direction, and (2) swear out professional misconduct charges against her based upon such imagined failure.

In point of fact, my wife, on her own initiative, had voluntarily deposited the escrow money in a "high interest bearing account" upon receipt --approximately six months before the decision of the Court was ever rendered. Because of such unsolicited deposit by my wife in a "high interest bearing account", this relief or authorization was not even requested in any of the submitted papers. The comment by the Court was therefore completely gratuitous.

This closed-mindedness by petitioner's employeees reached its epitome when, in opposition to a motion for summary judgment in this Court, wherein the depository and account number were supplied by my wife, petitioner, without any contrary information, actually opposed summary disposition, stating "respondent has shown neither the petitioner nor the Court that this escrow sum was in a high interest bearing account".

In dismissing that Charge, this Court stated:

> " Charge 19 alleges that respondent failed to place certain escrow funds in a high interest account although directed by a judge to do so in his decision of June 16, 1980. Leaving aside the question whether a decision, as opposed to an order, constitutes a lawful direction to respondent, respondent reveals that the funds were kept by her in a high interest bearing account since December 20, 1979 and has provided petitioner and the court with the account number. Accordingly, this charge is dismissed."

b. When the extensively and long used Blumberg boiler plate clause in its standard printed form retainer agreement becomes the subject of charges against my wife, this Court must certainly recognize that there are undisclosed forces behind the proceedings against us.

As to these charges, this Court stated:

> "Charges 8, 12, and 14 allege that respondent has a clause in several of her retainer agreements whereby the clients have agreed not to settle the case without the retained attorney's consent. The use by respondent of this boiler-plate phrase in the Blumberg form retainer agreement, primarily application to suits for money damages, does not form a proper basis for disciplinary proceedings. These charges are dismissed."

c. When non-refundable fees, as low as $1,500, received by my wife in matrimonial cases, become the subject charges by the petitioner of illegality and unconscionability, obviously something is wrong.

To these charges, this Court stated:

> " Charges 4, 7, 10, 11, and 13 allege that respondent entered into several retainer agreements providing that a portion of the attorney's fee ($1,500, $1,500, $2,300, $2,500, and $5,000) was nonrefundable. In the absence of shocking or clearly unjustifiable circumstances demonstrating overreaching, we do not find the per se use of this clause, apparently in widespread use, adversely reflects on her fitness to practice law, or is the proper basis for a disciplinary proceeding. See Gross v. Russo, 47 A.D.2d 655. These charges are dismissed."

d. This Court apparently suspected something was amiss, for, in its decision in my wife's proceedings, it further stated (##4127, 4352):

> " Finally, respondent has cross-moved for the imposition of sanctions against petitioner and those staff members responsible for bringing 20 meritless charges against her, including 17 found by this court to be so frivolous as to warrant summary dismissal. We deem this branch of respondent's cross-motion to be more appropriately within the jurisdiction of the Appellate Division, Second Department, and accordingly deny it without prejudice to respondent's filing a complaint against the petitioner, or members of its staff, in that court."

6. I do not contend that it was solely the letter of Mr. Justice Mollen which transmuted relatively innocent matters to gargantuan charges of misconduct. There were other events fueling the momentum. But, his letter of transmittal to the Grievance Committee proved to be a powerful inititial propellent, which neither facts, law, nor reason, could arrest, without a needless plenary hearing.

A Court which tells us that a landlord or janitor might be able to perceive the nexus between a defective ceiling and a child scalding itself to death in a bathtub (Muhaymin v. Negron, A.D.2d , 447 N.Y.S.2d 457 [1st Dept.]), should be sufficiently sensitive to surely perceive that a letter of transmittal from the Presiding Justice could be interpreted as a mandate to the recipient. This is particularly probable, when the sender, Judge Signorelli, is expressly thanked by the Presiding Justice of the Appellate Division for imparting this unsolicited information against my wife and myself.

Readily to be differentiated is the lay letter of complaint sent to the Appellate Division. In those cases, petitioner presumably, realizes that the letter of transmittal is of no intended special significance, and the lay person is, likewise presumably, unaware as to where to address a complaint.

Had Mr. Justice Mollen been more discerning His Honor would have recognized that one as supposedly knowledgeable as Surrogate Signorelli, of the fact that complaints against lawyers are more properly made directly to the Grievance Committee, had obviously channelled his complaint against myself and my wife through Judge Mollen for an unrevealed, invidious reason.

The inappropriateness of this "holy war" against me becomes evident when it is recognized that the petitioner conceded, and the Referee explicitly found (Referee's Report p. 2):

> "that none of these charges involve acts of moral turpitude. There is no claim that the respondent siphoned off a client's assets nor was guilty of overreaching, nor any similar impropriety.
>
> Indeed, to date, neither the respondent as executor of the Kelly estate, nor his wife as attorney, has received any fee or expenses for a great deal of work performed."

As we shall see, Iago had found his Othello!

B. THE COURSE JUSTICE MOLLEN SHOULD HAVE PURSUED

1. Had Mr. Justice Mollen been more sensitive to our rights as attorneys and the statutory mandate, he would have informed Surrogate Signorelli, in no uncertain terms, that the law gave to the Appellate Division the exclusive prerogative of determining whether the veil of secrecy was to be lifted prior to conviction (Judiciary Law §90[10]), and that, in fact, Surrogate Signorelli had flagrantly violated the law by his published disclosures.

The Presiding Justice of the Appellate Division which recognized that even a privately written letter, could become the subject of a tort claim (Halio v. Lurie, 15 A.D.2d 62, 222 N.Y.S.2d 759 [2d Dept.]), should have immediately recognized the emotional trauma and devastating effect that the broadcasting of the Signorelli charges, in violation of the statutory mandate of confidentiality, would have upon my wife and myself.

The precision and brevity by which former Presiding Justice GERALD NOLAN posed the question and gave the answer in Halio v. Lurie [supra], at 66, 763), bears repeating:

> "Whether there may be recovery for the intentional infliction of mental distress without proof of the breach of any duty other than the duty to refrain from inflicting it. We see no reason why there should not be."

Presiding Justice Mollen, in haec verba, recognized, in his letter to Surrogate Signorelli, that what was published was "allege[d] professional misconduct ... [against] attorneys-at-law" and surely must have realized that Surrogate Signorelli was under a statutory duty "to refrain from" publishing it.

2. Certainly, (as shown by the unsuccessful proceedings against my wife), Mr. Justice Mollen ought to have been conscious of the fact that conviction does not automatically follow disciplinary charges and should have immediately taken steps to direct all judges under his jurisdiction to be aware that, under no circumstances, should public disclosure be made about any disciplinary complaint without his prior approval.

The outcome of the proceeding against my wife should now, at least, bring home to His Honor not only that the explicit language of the statute must be obeyed, but that this statutory provision has substantial merit. The legal presumption of innocence should be applied in spirit and letter, to the accused lawyer who, like the accused layman, must be held entitled to all the protection provided by law.

Parenthetically, it appears that nothing has been learned by the Presiding Justice from the proceedings against my wife, since, on April 12, 1982, there was published on the first page of the New York Law Journal a disciplinary complaint by a judge against two Second Department attorneys. This probably would not have occurred had a strong directive been issued (at least after Hon. Milton Mollen was personally informed, as he was, of the dismissal of all charges against my wife) to all nisi prius judges regarding professional complaints.

3. I sincerely and respectfully suggest that Mr. Justice Mollen and Mr. Justice Murphy consider, from the unjustified, wasted legal and judicial effort involved in the proceedings against my wife, reminding the judicially supported New York Law Journal, that nothing they or their Courts have said or done should be construed as authorization to publish complaints against attorneys from any state judicial source, except the Appellate Division and the Court of Appeals, and that any such publication is at its own peril (Shiles v. News Syndicate, 27 N.Y.2d 9, 313 N.Y.S.2d 104, cert. den. 400 U.S. 999, 91 S.Ct. 454, 27 L.Ed.2d 450).

4. As hereinabove stated, Mr. Justice Mollen should have grasped, when he received the complaint from Surrogate Signorelli, or shortly thereafter, that there were ulterior motives behind his sending such complaint to Presiding Justice Mollen.

At the time, there was an appeal pending in that Court by Surrogate Signorelli against me. To aid his case, he sought to get his now proven false accusations before that Court, thereby prejudicing the appellate tribunal against me. Surrogate Signorelli successfully breached the judicial integrity of the Appellate Division, Second Department, for, in affirming

my right to habeas corpus relief against an obvious illegal incarceration, some of the false statements contained in Surrogate Signorelli's published statement which he improperly forwarded to Judge Mollen, were gratuitously incorporated therein (65 A.D.2d 756, 409 N.Y.S.2d 762), notwithstanding such statements were never part of the Record on Appeal or included in the Briefs.

When I objected to such glaring impropriety in my motion to reargue, and in subsequent proceedings, sought to have that irrelevant false material redacted from such published decision, Mr. Justice Mollen failed to recognize that such extraneous material came, not from the record, but from Surrogate Signorelli's published complaint which Surrogate Signorelli had sent to him back in February 1978.

Mr. Justice Mollen should have then recognized that he had been "taken in" by Surrogate Signorelli and the fact of his sending such complaint to him directly.

It was obvious then, and more so now, that Surrogate Signorelli purposely directed his defamation of my wife and myself to the Appellate Division, rather than to the Grievance Committee, for its greater impact, and to improperly influence and inflame the Appellate Division against me.

5. I intend to show in this affidavit, by clear, convincing, and unimpeachable proof, mainly from the sworn testimony of Surrogate Signorelli himself, that the published charges he made were false and contrived.

It is also clear that Surrogate's Court, Suffolk County, under the stewardship of Surrogate Signorelli, pruned and then destroyed or secreted various important documents and transcripts of that Court.

In view of the manifest transgression of Surrogate Signorelli in publishing his unsupported complaints of unethical conduct against my wife and myself for the outside world to read, and in view of the falsity of all the charges contained therein -- many admitted so by the testimony of Surrogate Signorelli himself, or documents filed in his Court -- it is clear that Mr. Justice Mollen should not have, as he did,

expressed a "thank you" to Surrogate Signorelli for "bringing to [his] attention" the "professional misconduct" complaint against my wife and myself, but instead returned it to him with, at least, a severe admonition that he had violated the law in publishing his complaint; rebuked him for attempting to unduly influence the Appellate Division in a pending appeal; and informed him that the Appellate Division was not a "message center" for the transmittal of complaints to the Grievance Committee and that he was not its "middleman".

In this affidavit, I intend to show this Court that Surrogate Signorelli (1) is mentally unbalanced (2) has published false and irresponsible statements against my wife and myself, (3) has repeatedly lied under oath, and (4) is intellectually and morally unfit to hold any judicial position.

The sad incontrovertible result of the Surrogate's unprincipled, injudicious behavior is that, even if I am completely vindicated (as the Referee's Report recommends), both my wife and I have been dealt incalculable and irreparable financial and emotional blows. All because of Surrogate Signorelli's blatant violation of the law, to which Judge Mollen became an unwitting accessory.

6. Initially, I wish to show this Court and Judge Mollen that Surrogate Signorelli, by his own words, knew that this published "professional misconduct" complaint against my wife and myself was supposed to be confidential. Also that in transmitting to Judge Mollen of his "professional misconduct" complaints against my wife and myself, Surrogate Signorelli deliberately failed to send to Justice Mollen certain exculpatory information that I had requested be sent to the Appellate Division if complaint were made, as he threatened, almost two years before.

1. The cross-examination of Surrogate Signorelli reads, in part, as follows (Oct. 22, 1981, SM 60-64):

> "Q. When you rendered your February 24, 1978 opinion, was there any pending motion that you were ruling upon? Yes or no, please?
> A. Well, it wasn't a motion.
>
> ...

Q. The opinion of February 24, 1978 was published in the New York Law Journal shortly thereafter, was it not?

A. It was.

Q. You knew at the time you rendered your opinion that it would be published, did you not?

...

THE WITNESS: I assumed it would be, but I didn't know that it would be published.

Q. In such opinion you concluded with the words 'I would be derelict in my duty if I failed to report [George Sassower's] actions ... to the appropriate tribunal for disciplinary action --- Doris Sassower, his wife and his former counsel, should be similarly called upon to explain her extraordinary behavior in this matter.

'I am, accordingly, directing the Chief Clerk to forward a copy of this decision to the presiding Justice of the Appellate Division, Second Judicial Department, for such disciplinary action as he may deem appropriate with regard to the conduct of George Sassower and Doris Sassower,' is that not correct?

...

THE WITNESS: That was part of my decision, yes.

Q. You knew, of course, at the time, did you not, that Judiciary Law, Section 90, Subdivision 10 provided for confidentiality regarding all disciplinary proceedings prior to conviction?

...

A. I'm going to have to refresh my recollection about Section 90, Subdivision 10, before I answer.

Q. Well, are you familar with the provision of the law that all disciplinary proceedings are deemed confidential prior to conviction or prior to order of the Appellate Division?

...

A. I am generally familiar that these proceedings are generally confidential."

2. In May, 1976, I was stricken and hospitalized with the Guillain-Barre Syndrome, which completely paralyzed my hands and legs. As a result thereof, I could not attend two conferences in Suffolk County Surrogate's Court in June of 1976. Neither was my wife able to attend such conferences because she was actually engaged in other cases, she having also assumed my practice and obligations during such period of time. This was made known to the Court by prior phone communications and by affirmations sent by certified mail before such scheduled conferences.

Intimidated by Surrogate Signorelli's threats I went to the next conference on July 6, 1976 in a semi-paralyzed state. Incredibly, my paralysis was, in Surrogate Signorelli's stated opinion, no excuse for not attending, and he threatened to report us both to the Appellate Division. I requested that he not follow that route, but if he did he should, in all fairness, send with such complaint, the affirmations regarding my paralysis and my wife's other legal engagements.

When Surrogate Signorelli made his published complaint to Judge Mollen, however, almost two years later, he did not send such affirmations as I had requested, that he do in fairness, as shown in the transcript of July 6, 1976 (Exhibit "AQ").

> "THE COURT: ...refer this matter to the Appellate Division, and I am going to do that. And, I direct the Court Reporter to complete the Minutes - the entire transcript - and send it to the Appellate Division.
>
> I don't know what it takes to get either you or your wife in court, but I intend to find out.
>
> MR. SASSOWER: This matter was on four or five weeks ago ... . At that time I became very seriously ill; I was hospitalized and I was put into intensive care. The fact is, this is the first time that I am supposedly working since my illness. The next time it was on [two weeks later], I was still ill.
>
> Now, as far as Mrs. Sassower is concerned, not only has she been doing her work, but she is taking care of my matters to the best of her ability; in fact, I fear for her health at this time.
>
> As far as the two prior appearances, your Honor, the Court was notified on both occasions, both as to the illness and the inability to appear. They were advised by phone calls; they were advised by affidavits. My adversary was advised. I advised Miss Dubois, and she knew of my illness and my inability to be here. And, under those circumstances, and considering that in 25 years of practicing law, I don't think I have taken off more than one day - one or two days for illness. I have tried cases when I had 105 temperature. I think, your Honor, that it is a little unfair, under the circumstances, for your Honor to take that position.
>
> Now, I have tried to be brief. I can give you medical affidavits. I can give you hospital bills. I certainly did not choose illness, and it was a dreadful experience for

me; and, in fact, I am still not recovered. And, if I do fully recover it will be sometime before that takes place.

THE COURT: Where is your wife this morning?

MR. SASSOWER: Your Honor, when I left this morning, I had intended to take the train out here, because I didn't trust myself with the car. The only way I could get here by train and be in court on time, was to take a train out of Westchester County at 12:30 a.m.; that was the only way to be here on time. So, I took a chance, and I probably endangered my own life as well as other people, and drove a car.

I don't know - I know she has to be in Supreme Court, New York -whether it was today or tomorrow, I don't know. But to be honest with you, your Honor, when I read the letter, I did not, and I don't think she interpreted that letter that way, that both of us had to be here." (pp. 2-6).

"MR. SASSOWER: ... I think, the letter should have referred to the fact, to be fair about it, that the Court had in its possession at the time an affidavit of illness. Now, this was not contumacious, your Honor, ... The last time this was on the Calendar - I spoke to Mr. Sereduke the day before he had my affidavit in his hand, and he advised me that your Honor was not available; he couldn't discuss it with me. I believe I spoke to him twice that day -the day before, and I spoke to him the morning after. Now, I might be in error as to one telephone call, but I know I spoke to him once or twice the day before the return date. He had my affidavit, and I spoke to him the day after. ... " (pp. 7-8)

"THE COURT: With respect to the letter, sir, I am going to submit this matter to the Appellate Division. If you feel I am unfair, let the Appellate Division decide who is being unfair here. Mr. Court Reporter, I direct you to type up the transcript.
MR. SASSOWER: Your Honor, in all fairness, would you, as part of this Record, mark or deem marked the affidavits that I submitted to this Court on the two prior occasions?
THE COURT: Whatever the Appellate Division requires of this Court, in connection with this matter, will be forwarded to the Appellate Division." (p. 10)

The cross-examination of Surrogate Signorelli with respect to the July 6, 1976 incident and the forwarding of his complaint to the Appellate Division is as follows:

" 'The Court: If you feel I am unfair, let the Appellate Division decide who is being unfair here. Mr. Court Reporter, I direct you to type up the transcript.
Mr. Sassower: Your Honor, in all fairness, would you, as part of this record, mark or deem marked the affidavits that I submitted to this Court on the two prior occasions?

The Court: Whatever the Appellate Division requires of this Court in connection with this matter will be forwarded to the Appellate Division.'" (Oct. 22, 1981, SM 103).

"Q. Now, when you sent this letter to the Appellate Division, did you send Exhibits YZ or AA which are affidavits of actual engagements or affidavits dealing with the illness that I had encountered at the time? Yes or no?
A. Mr. Sassower --

Q. Yes or no?
THE REFEREE: No, I will permit the Judge to answer.
MR. SASSOWER: I want to know if he just sent certain exhibits with what he sent to the Appellate Division.
THE REFEREE: I have to assume that what the Judge says in answer to it to be relevant, either yes or no or an explanation to a partial yes or a partial no.
A. Mr. Sassower, the only thing that was sent to the Appellate Division was my decision.

Q. So the answer is, no?
THE REFEREE: That's the answer. He only sent the decision" (Oct. 22, 1981, SM 105-106).

The body of the affirmation of Doris L. Sassower, Esq., dated June 2, 1976, and mailed that same day (as shown by a Post Office Stamp on Certified Mail #606838) reads as follows (Exhibit "Y"):

" This affirmation is in support of an application [to] adjourn and fix a new date for the return of the 'Citation' in the above matter, presently set for the 8th day of June, 1976.

That except for THOMAS KELLY, everyone necessary to be cited has been timely served.

That said THOMAS KELLY survived the deceased, EUGENE PAUL KELLY, but died subsequently (date presently unknown), and as far as affirmant can ascertain there is no estate which has been filed or administered.

That it seems that THOMAS KELLY was the recipient of funds from the Department of Social Services of the City of New York and since they probably would be entitled to the funds of THOMAS KELLY, it is that Department with whom arrangements will have to be made in this regard.

Furthermore, the executor, GEORGE SASSOWER, Esq.was taken ill with what has been diagnosed as a Guillain-Barre syndrome, which caused a paralysis of Mr. Sassower's hands and legs and his hospitalization.

That although recovery is indicated, the length of time is at present uncertain, but affirmant believes that within two months Mr. Sassower should have sufficiently recovered to substantially engage in his usual working activities.

WHEREFORE, affirmant prays that this matter be adjourned for two months in order to complete jurisdiction."

When we were notified that the matter was only adjourned for two weeks, and not two months, we assumed that the above affirmation of Doris L. Sassower, Esq., was not brought to the attention of the court, since it was obvious that I could not physically attend, and it was realistically impossible in that short period of time to determine who was to be served on behalf of Thomas Kelly, obtain a Supplemental Citation, and have same served.

Therefore, on June 17, 1976, I executed and had mailed (Certified Receipt #231355) the following affirmation, the body of which reads as follows (Exhibit "Z"):

" This affirmation is in support of an application to adjourn the above matter scheduled for June 22, 1976, at 9:30 a.m. until a date subsequent to July 15, 1976.

As appears in the annexed affirmation of DORIS L. SASSOWER, Esq., dated June 2, 1976, I was taken ill with a polyneurosis which caused paralysis of my hands and legs.

That although my physicians have advised me that I am making fine progress, my motor nerves controlling my legs and hips are completely non-functional. Consequently, notwithstanding physical thereapy and exercise, my muscles in that area are 'wasting away' and until those nerves rejuvenate, I am becoming more immobile as time progresses.

Additionally, the involvment of my sensory nerves causes me great pain particularly after I overexert myself.

Under these circumstances, I will not be physically able to attend this Court on the aforementioned date unless these nerves suddenly become functional.

I do believe that after a scheduled testing and examination on July 2, 1976, I will be in a better position to advise this Court more accurately as to my prognosis, but at the present time from all that I have read, seen, and been told, I believe and hope that by the middle of July, I should be well enough to attend this Court.

Insofar as the scheduled appearance on June 8, 1976, the annexed affirmation was mailed to this Court on June 2, 1976 and on June 7th, 1976, the office of Schacter, Abuza, & Goldfarb, Esqs., were advised that such application for adjournment was made.

The said affirmation was returned by the Clerk of the Court on June 10, 1976, and I regret any inconvenience caused because it was not brought to the attention of the Court on June 8, 1976.

I hope that by the adjourned date that jurisdiction will be complete and after an Order is entered on this accounting, I expect to expedite the Final Accounting and bring this matter to a close.

WHEREFORE, affirmant prays that this matter be adjourned until after July 15, 1976."

Anyone with ordinary sensibility could have surmised that great additional burdens, both professionally and personally, were placed upon my wife as a result of my severly traumatic physical disability. Additionally, it was obvious that jurisdiction was not, and could not, be completed until service of a Supplemental Citation on the representative of Thomas Kelly and further, that until such time an appearance could serve no useful purpose.

Nevertheless, my wife's office, received inquiry about her ability to be present on the return date of June 22, 1976, and as a result thereof, she mailed to the Surrogate's Court the following affirmation (Exhibit "AA"):

" That by reason of other legal engagements on June 22, 1976, affirmant was not able to appear in the above matter.

On such date your affirmant was scheduled to appear in Supreme Court: Westchester County on a Court ordered examination before trial in the action entitled Barone v. Barone; she also argued a motion in Special Term Part I of the same Court in Baecher v. Baecher; and was scheduled to try an action in Family Court: Westchester County in Glick v. Glick.

That affirmant did appear on all three of the aforementioned actions on such date.

That such information was conveyed to this Court by telephone prior to June 22, 1976."

Despite the aforesaid, I received a notice that the matter was adjourned again only for two weeks, to wit, July 6, 1976. According to Surrogate Signorelli, as testified to on October 22, 1981, he had never had any prior dealings with either me or my wife (SM 60) and no apparent reason for personal animus.

Yet, by reason of our non-attendance on these two incidents, Surrogate Signorelli wanted, on July 6, 1976, to refer this matter to the Appellate Division.

As the transcript of July 6, 1976 also reveals, there was nothing that the Court desired, that could not be done through the mails.

Let us now examine the published charges that were made by Surrogate Signorelli, most of which were so false and specious that the Grievance Committee itself did not even include the in their formal complaint against us.

C. THE LIES PUBLISHED BY SURROGATE SIGNORELLI

1. I limit myself to only the most clear and convincing evidence, to wit, the admissions of Surrogate Signorelli himself or his staff, as well as documentary evidence of the Surrogate's Court, in establishing that the publication by Surrogate Signorelli is a farrago of patent lies against my wife and myself.

2. This matter was very thoroughly investigated by petitioner. The fact that most of Surrogate Signorelli's published accusations of misconduct were not made the subject of charges shows that even petitioner, with its prosecutorial outlook against my wife and myself at the time it drew its petition, found little or nothing to base charge thereon. There being no direct charge based upon most of these false published assertions by Surrogate Signorelli, a great deal of evidence was not produced with respect thereto, since they were irrelevant to the hearings against us.

3. Surrogate Signorelli's published prevarications are set forth in the sequence in which they were sent to Mr. Justice Mollen and appeared in the New York Law Journal on March 3, 1978.

SIGNORELLI'S PUBLISHED LIE #1

Judge Signorelli opens his published diatribe with the announcement:

> "Because of its unusual history the court is of the opinion that it would serve a constructive purpose to retrace the path of this estate since its inception."

1. Except for the bizarre conduct of Surrogate Signorelli himself, there was nothing "unusual" about this matter. This opening statement is Surrogate Signorelli's method of attracting prospective readers' attention to the publication and to psychologically attune their minds against my wife and myself.

2. Surrogate Signorelli hardly mentions my first three years in representing the estate because, as he well knew, I handled it properly and inexpensively. Thereafter, as Judge Melia found in his Report, I made proper decisions. On the contrary, the route desired by my adversaries was needless, costly, and wasteful (61).

3. The "constructive purpose" his harangue was supposed to serve was never revealed by Surrogate Signorelli. Actually, it is a shroud designed to obscure Surrogate Signorelli's own derelictions and sinister intentions.

SIGNORELLI'S PUBLISHED LIE # 2

Surrogate Signorelli's published narrative then states:

> "it was difficult to serve [George] Sassower ... . The court ultimately issued an order permitting service by substituted service after it became apparent that he was evading service of process."

The evidence reveals that (1) the only previous time that I had to be served personally, I volunteered to acknowledge personal service if process were mailed, and, in fact, I did so; (2) I never refused to accept service by mail instead of personal service; (3) I, in fact, stated in a filed affidavit, ante litem motam, that I would accept service by mail with the same force and effect as if served personally; (4) contrary to Surrogate Signorelli's perjured testimony, there is no extant affidavit by any process server that I was "evading" service; (5) Surrogate Pierson R. Hildreth, the judge involved at the time, never stated that I was "evading" service; (6) I could not have been evading service of a citation since I was unaware that it had been issued until I received it in the mail, pursuant to an Order providing for such service; (7) petitioner investigated this false assertion and did not include it

in the charges against me, obviously concluding it was meritless; and (8) Surrogate Signorelli's own elusive testimony reveals the accusation to be meritless.

There is a psychological significance to this opening deception since the reader assumes that I have something to hide by "evading service" (Richardson on Evidence [10th Ed.] §167, p. 134-136; Fisch on Evidence [2d Ed.] §238, p. 140-143; II Wigmore on Evidence [Chadbourne Rev.] §276, p. 122 et seq.). This false assertion places a veil of suspicion upon us for all activities thereafter set forth in Surrogate Signorelli's published statement.

1. Exhibit "B" is a letter from the firm of Arenson, Gelinas, Dittmar & Karban, Esqs. dated Thursday, June 27, 1974 and reads as follows:

> "Dear Mr. Sassower:
>
> We write with further reference to today's telephone conversation.
>
> We enclose copy of the Citation in the above [Kelly] estate ... . As you suggested, we would appreciate if you would admit due and timely service of the said Citation on the enclosed blue back and return to us. Also please have Notary Public sign where indicated.
>
> Thanking you for your kind cooperation, we are... ".

On Monday, July 1, 1974 (the very day of receipt), I executed and returned an admission of service, duly notarized, as requested (Exhibit "C").

If I were seeking to avoid service, would I suggest and accept service by mail in lieu of personal service?

The testimony of Mr. Abuza was to the effect that he prepared these papers on behalf of the Arenson firm and processed them (Oct. 14, 1981, SM 94). Thus, he was aware of my cooperation generally, and certainly in this respect.

2. With respect to accepting mail service, the testimony by Mr. Abuza is as follows (Oct. 7, 1981, SM 48-49):

> "Q. Mr. Abuza, with respect to the citation issued by Surrogate's Court in order to approve the compromise, is it not a fact that I admitted personal service of that citation [even though it was sent through the mails], and I show you a copy of Exhibit C in evidence to refresh your recollection?
> A. Yes.
>
> Q. And so, you didn't have to serve me [personally] with the citation; is that correct?
> A. I assume so, I don't recall.
>
> ...

Q. In fact, the correspondence ... reveals that it was my suggestion that you not serve me, but send me the citation by mail, and I will admit service; is that correct.
A. It could be."

The Referee's Report states (p. 14):

" I go back to my statement that I find it difficult to believe anything that Mr. Abuza says, unless I find it corroborated in the documents. He brought these various motions, admittedly without attempting to get Mr. Sassower's cooperation, either by letter or by telephone. I found this very strange. But his answer to that was that there was really no point in asking for Mr. Sassower's cooperation because they had a considerable experience over a period of time in which he did not cooperate and, in fact, was uncooperative.

Now, he made that statement ad nauseum and ad infinitum. Yet, he was never able to indicate one single instance where that was true.

Indeed, I do not believe it to be true because there is documentation that supports the contrary view that, indeed, Mr. Sassower was cooperative and was always willing to be.

There are too many instances of this in the record to detail here and I think it is unnecessary. The conclusion is inescapable."

3. In my ante litem motam affirmation of March 14, 1975 (Exhibit "WW"), I stated:

"c. That the attorneys for the petitioner have been informed that they need never serve your deponent with process, and that if they mailed same they would always receive a Notice of Appearance ... ."

In my ante litem motam affirmation of January 20, 1976 (Exhibit "CC"), I stated:

> " Affirmant is in court almost every day, and a simple telephone call to my office will reveal my whereabouts.
>
> Furthermore, anytime that I need to be served personally or on behalf of some of my clients, I have always accepted service by mail and within a few days served a Notice of Appearance."

Are such statements made by a person seeking to "evade" service, as Surrogate Signorelli falsely accused me of doing?

4. Does a hearsay, extra-judicial statement by a process server that he was at my home on Tuesday, January 7, 1975, Thursday, January 9, 1975, and Friday, January 10, 1975 [without the time of the days being mentioned] (Exhibit "UU" - Iden.) sufficient to justify Surrogate Signorelli's published defamation that I was "evading" service?

The process server also stated in an affidavit that he was at my home on Saturday, November 23, 1974 at 4:00 PM; Wednesday, November 27, 1974, at 10:30 AM; and Friday, November 29, 1974 at 8:40 PM and did not find me at home (Exhibit "TT" - Iden.), which is hardly unusual for such dates and times.

The fact is that during that period, I was trying cases almost every day and I naturally would leave home early in the morning and come home very late in the evening (Referee's Report, p. 49a-49b)..

5. Judge Hildreth, the then Surrogate of Suffolk County, never stated or indicated that I was attempting to evade service at that or any other time. He merely permitted substituted service based upon the two aforesaid affidavits of the process server and the affidavit of Mr. Abuza.

6. If there were any merit to this published accusation, is there any doubt that the Grievance Committee would have included it in its petition as still another charge against me? The inference is obvious from the fact that the Grievance Committee did not do so.

7. How could I be evading service of a citation which I never knew had been issued, until I received it in the mail, pursuant to an Order permitting mail service?

8. The testimony on this matter by Surrogate Signorelli was as follows (Oct. 22, 1981, SM 65-70):

"Q. [From W]hat sources did you conclude that I was quote 'evading service'? Unquote.
A. Well, among other things is an affidavit, I believe, Mr. Sassower, in the file from a process server which was filed with the Court in conjunction or in support of a motion to serve you by substituted service on the ground that you were evading service.
...

Q. ...Did the Surrogate who presided at the time in anything he wrote state that I was, quote, 'evading' process?
THE REFEREE: You are talking about Judge Hildreth?
MR. SASSOWER: Right.
Q. Did he ever say that I was evading service? Yes or no?
A. I have no knowledge of whether he ever did or said that. I have no knowledge.

Q. Well, you have the entire file before you at the time you wrote your February 24, 1978 [published diatribe], did you not?
A. Whether or not the file reflects that Judge Hildreth stated that?
Q. That's right.
A. I didn't come across anything like that ... .
...

Q. ...I direct your attention to my affirmation of March 14, 1975.
A. March 14th --
Q. 1975, which is Exhibit WW in evidence.
A. May I see it, please?
THE REFEREE: Sure.
...

Q. Wherein I state that the opposing attorneys had been informed that I need not be served personally, but I have always offered to receive process by mail and within a few days thereafter serve a notice of appearance, is that correct? Is that contained in the affidavit of March 14, 1975?
A. As I read Paragraph C, you do say that, yes.

Q. Now, the issue of whether I was or was not evading service in January of 1975 was not before you on February 24, 1978, is that not correct?
A. Everything that a fiduciary does in the performance of his duties, as it affects the estate, is always before me.
...

Q. Well, before you rendered your opinion of February 24, 1978, did you look at my affidavit of March 14, 1975?
A. Mr. Sassower --
Q. Yes or no.
THE REFEREE: If you recall. I will let you explain.
A. I don't distinctly recall. I can only tell you that before I render an opinion, I make it my business to read anything and everything that's associated with the particular motion or matter before me.

Q. Well, did you read my affidavit ... of March 14, 1975 before you made that statement on February 24, 1978? Yes or no?
A. If your affidavit was duly filed and in the file at the time I rendered the decision, I probably read it, yes.
...
MR. SASSOWER: Mr. Grayson, will you concede that this affidavit was taken from the Surrogate's Court file and was microfilmed?
(Document handed to Mr.Grayson)
MR. SASSOWER: By the Surrogate's Court?
...
THE REFEREE: I think it's so stipulated earlier.
MR. GRAYSON: Yes, microfilmed March 27, 1975.

...

Q. But since March 18, 1975, it has always been in the file of the Surrogate's Court, Suffolk County, is that not correct?

A. If this was taken from our file, yes, it was.

...

THE REFEREE: Mr. Sassower['s] ... position is that he made an offer to accept service by mail at any time. Now, his question is: Whether or not there is anything in the Surrogates' file that would indicate at any time he refused to accept service by mail.

THE WITNESS: I don't know of any such documents."

The constitutional proposition was succinctly set forth in Wisconsin v. Constantineau (400 U.S. 433, 437, 91 S.Ct. 507, 510, 27 L.Ed.2d 515, 519), where the Court stated:.

" Where a person's good name, reputation, honor, or integrity is at stake because of what government is doing to him, notice and opportunity to be heard are essential. ... This appellee [like me] was not afforded a chance to defend herself. She may have been the victim of an official's caprice. Only when the whole proceedings leading to the pinning of an unsavory label on a person are aired can oppressive results be prevented."

Absent a finding of fault, the lawmakers of this State have determined that only the Appellate Division may disclose charges of professional misconduct, for they have decided, as Mr. Chief Justice Cardozo eloquently noted in People ex. rel. Karlin v. Culkin (248 N.Y. 465, 478), that:

> "the fair fame of a lawyer, however innocent of wrongdoing, is at the mercy of the tongue of the ignorance or malice. Reputation in such a calling is a plant of tender growth, and its bloom, once lost is not easily restored. ... The remedy is to make inquisition a secret one in its preliminary stages."

In Bounds v. Smith (430 U.S. 817, 826, 97 S.Ct. 1491, 1497, 52 L.Ed.2d 72, 82), the Court stated:

> "It is not enough to answer that the court will evaluate the facts pleaded in light of the relevant law. Even the most dedicated trial judges are bound to overlook meritorious cases without the benefit of an adversary presentation."

An adversarial presentation is even more essential when the issues are factually, rather than legally, based since while the Court is presumed to know the law, it is not presumed to know the facts.

The factually based published defamation was made without notice or without opportunity to be heard.

As hereafter shown, when Surrogate Signorelli sentenced me to be incarcerated for thirty days, he did it without ever charging me, and held a hearing, rendered a verdict, and imposed sentence, all in absentia.

SIGNORELLI'S PUBLISHED LIE # 3

In his published opinion, Surrogate Signorelli proclaimed that:

> "On the return date of the citaton, namely March 17, 1975, [George] Sassower defaulted ..."

The unchallenged documentary evidence in the Surrogate's Court reveals that I did not default on such motion, but in fact, opposed same (Exhibit "WW").

Coming immediately after the fabricated assertion that I was "evading" service, this further false statement that I "defaulted", escalates the reader's doubts regarding my conduct.

The testimony of Surrogate Signorelli, in cross-examination on this subject, was as follows (Oct. 22, 1981, SM 71-72):

> "Q. Does the order of Mr. Justice Hildreth specifically incorporate as part of his order, my affidavit of March 14, 1975 as being in opposition to the motion? Yes or no?
> A. He recites in his order -- just a minute. Mr. Sassower, I'm trying to answer your question.

Q. Yes or no. Is it in there, or is it not in there?
A. He has such a recitation.

Q. That's all".

In opposing the motion returnable March 17, 1975, I did precisely, specifically, and, unquestionably, everything required of me as appeared on the face of the citation, to wit, "file written objections". The citation further specifically provided that I was "not obliged to appear in person".

SIGNORELLI'S PUBLISHED LIE # 4

Continuing in this published diatribe, Surrogate Signorelli, further falsely stated:

> "At [George] Sassower's request the said application [which resulted in the March 9, 1976 order] was adjourned on three separate occasions and was finally submitted ..."

The testimony of Surrogate Signorelli on this subject was as follows (Oct. 22, 1981, SM 73-74):

> "Q. ... I draw your attention to Exhibits 31-A, 32 and 33, and ask you where you got such information for your opinion of February 24, 1978?
> ...
> A. All right. 31-A apparently is a letter by Mr. Kelly to the Surrogate's Court asking for an adjournment for a period of one month. And 32 is a letter from you.
>
> Q. Saying that it's on, by mutual request, is that not correct?
> A. That's what your letter says.

Q. Right. With a carbon copy to the other side?
A. That's what your letter says.

Q. Right. And 33.
A. And 33, it's again a letter from Mr. Kelly stating that he wishes an adjournment because he claims you are cooperating with him."

The third request for an adjournment seems to have also been at the request of all parties involved (Exhibit "YY").

SIGNORELLI'S PUBLISHED LIE # 5

Continuing his published character assassination, Surrogate Signorelli stated:

> "[the motion] was finally submitted for decision ... . By an order dated March 25, 1976 Sassower was removed as fiduciary and determined to be in contempt of court but permitting him an additional thirty days from the date thereof to purge himself by filing his account."

The extensive evidence on this subject conclusively reveals that (1) I submitted my accounting in December 1975, with a copy admittedly received by the Schacter firm at about that time (Exhibit "FF"); (2) various affidavits and affirmations intended to be used on this motion which led to the aforementioned Order, were missing in the file of Surrogate's Court, although the Schacter firm admittedly had copies of them; and (3) everyone, including the Surrogate and the court

personnel, considered me to be the executor for a year after the later-contrived claim of removal, as the Grievance Committee itself now concedes.

Surrogate Signorelli also admitted that on October 21, 1976 (seven months after my alleged removal), he "directed me to culminate the sale of the deceased's real property" (Oct. 30, 1981, SM 11). Yet, four months following such direction, i.e., on March 17, 1977, after I entered into a contract of sale pursuant to his earlier direction, Surrogate Signorelli incredibly stated that I had no authority to do so and nullified the transaction (Oct. 30, 1981, SM 13).

As the Referee found (Report p. 61):

> " Indeed, in this period, on October 21, 1976, on the record, the Surrogate ordered the respondent to sell the house. He could only do so as executor. (Ex. BP)
>
> The respondent prepared and entered into a contract to sell on December 2, 1976. The Surrogate then aborted the deal.
>
> More than a year later, after paying additional taxes, the Public Administrator sold the house to the same party for the same price."

As the Referee also found (Report p. 60-61):

> " The Public Administrator was not named to replace the respondent until 1 year later, on March 25, 1977. (Ex. 24)

In the intervening year, court transcripts of proceedings before the Surrogate, amply demonstrate that participants in the proceedings considered the respondent to still be the executor.

Abuza so testified here. Though he was the one who brought the motion to have respondent removed, he believed, that when the respondent filed an accounting within the 30 day period, that he had been restored as executor as well, and acted accordingly.

Wruck, a special guardian and others, so referred to the respondent on several occasions in the record of proceedings before the Surrogate.

...

On July 6, 1976, papers were prepared by the respondent in the court room, by court personnel, and signed by the Surrogate. These papers purportedly still recognized the respondent as executor. (Ex. CD) (Ex. AR)"

Because of the excessive volume, only some of the testimony will be set forth. It should be noted, however, that all the evidence and testimony points to the same conclusion.

Some of the pertinent testimony of Judge Signorelli, on his cross-examination related to this subject, is as follows (Oct. 22, 1981, SM 74-79):

"Q. ... I show you Exhibits FF, CC, EE, and DD. And is it not correct but that these documents were not included or considered in the decision made by you on January 28, 1976, which is ZZ -- nor are they recited in the order of March 9, 1976, which is Exhibit 34? Is that not correct? ... And may the record indicate that the four affidavits or affirmations were taken from Mr. Abuza.

...

A. I don't see that recitation in the order.

Q. Nor is it recited in your decision?

A. No, it's not recited in the decision.

...

Q. ... Can you tell us now whether those four affidavits or affirmations were considered when you entered your order of March 9, 1976?

A. Well, the only way I can answer that, if they are in the file, I would have had to consider them.

Q. Okay, now, can you look at the file to tell us if those four affidavits were in your file?

A. I see here an affirmation by Samuel Schacter which is dated January 9, 1976. ... [It] appears to be the only one that's in the file.

...

Q. Will you concede that CC, DD, and EE are not in the Court file?

...

A. If you mean, by that question, that only Mr. Schacter's affirmation is in there --

THE REFEREE: Yes.

A. Looking at this file, that would appear to be correct.

Q. And you have the original file with you this morning?

A. I have the file before me."

The affirmation of Samuel Schacter, dated January 9, 1976 (Exhibit "FF"), which was in the Surrogate's Court file, in part, states:

> "While on the surface it would appear that, since Mr. Sassower has now filed his Account, the question to punish him is moot... "

The examination of Surrogate Signorelli also reveals the following (Oct. 30, 1981, SM 20):

> "MR. SASSOWER: ... in front of Mr. Abuza, who was Mr. Schacter's partner at one time: 'When this motion was in court,' referring to the motion which led to the order of March 9, 1976, I personally spoke to Mr. Schacter and he said, 'Well, you are sending him the accounting, the motion will be withdrawn.' Is that correctly read?
> THE REFEREE: It is in the record."

Petitioner, the Grievance Committee, in its Memorandum, states (pg. 7):

> "The Grievance Committee is cognizant that testimony and documentary evidence point to the fact that respondent was, in fact, thought of (by most, if not all of the attorneys and the Surrogate involved) as the executor even after the service of the March 9, 1976 order removing him."

Surrogate Signorelli's relevant testimony on this point is, as follows:

> "Q. And did you sign it and so order it [on July 6, 1976]?
> A. It appears that I so ordered it.

Q. And did you note on it that it says, I am the executor of the estate of Eugene Paul Kelly?
A. That's what it says.
MR. SASSOWER: I offer this document in evidence dated July 6, 1976." [Exh. "AR"]
...

THE REFEREE: You were saying something about the fact that George Sassower was executor?
THE WITNESS: That's correct." (Oct. 22, 1981, SM 107-108)

"MR. SASSOWER: ...I want the earliest date, the first date I was notified I was no longer the executor?
...
THE REFEREE: Well, I think, reading between the lines, what Mr. Sassower is saying, that subject to that order, that he, in effect, was recognized, still, as the continuing executor. That's his argument. Am I correct about that?
MR. SASSOWER: Absolutely, your Honor.
THE WITNESS: Was there an order vacating that provision, sir?
THE REFEREE: That's argument. So in support of his position, he's asking for any other document subsequent to the order.
THE WITNESS: I see a letter here from Merwin Woodward [Clerk of the Court], addressed to him.

Q. Give us the date.
A. March 16, 1977.
...

THE REFEREE: Now, if the Grievance Committee doesn't set forth an earlier date, then that's the date. That's the earliest date."
(Oct. 22, 1981, SM 116-119)

"THE REFEREE: At the moment, the petitioner here is stuck with the date of one year later, at the moment." (Oct. 22, 1981, SM 120).

"Q. I show you this document, and ask you what that purports to be a photostated copy of?
(Document handed to the witness.)
A. This purports to be a copy of a certificate of letters testamentary issued by the Court.

Q. Thank you.
MR. SASSOWER: Offer into evidence certificate of letters testamentary.
...
MR. SASSOWER: Dated March 14, 1977.
...
MR. GRAYSON: No objection.
MR. SASSOWER: It shows issuance of letters testamentary to George Sassower.
THE REFEREE: It speaks for itself.
MR. GRAYSON: Speaks for itself.
(Certificate marked Respondent's Exhibit 'AS' in evidence)" [Oct. 22, 1981, SM 120-121].

"THE REFEREE: Then we come to the question, ... did you recognize him as executor for the purpose of making the sale?
...
Q. So the question is, sir: Did you 'direct' me to 'culminate' the sale of the real property of the estate of Eugene Paul Kelly on that day; yes or no?
A. If your question is, were you asked to do these things, the answer is yes. I told you to do these things.
...

Q. [In the] the transcript of March 17, 1977. Did you not state at that time that I 'had no authority to enter into that agreement', meaning the contract of sale of the real property in view of your order; yes or no?
...
A. Yes, the answer is yes. I did say that.

Q. And did you further state in so many words that it was improper of me to have entered into the contract of sale of real property on March 17, 1977?
A. I think my words in this transcript speak for themselves when I said, 'He had no authority to enter into that agreement in view of my order.' " (Oct. 30, 1981, SM 10-13) .

"Q. And in what capacity was I noted on the face sheet?
A. It says, 'Attorney for petitioners.'

Q. And does it not also give my title in the proceeding?
A. Executor of the estate of Eugene Paul Kelly." (Oct. 22, 1981, SM 102-103)

"Q. Sir, could you tell us whether an alternate executor or executrix was designated by Eugene Paul Kelly in his will or codicil, which was admitted to probate?
A. Yes.

Q. Could you tell us who that alternate was?
A. Doris Sassower.
...

Q. Did the court send any notice to her prior or subsequent to March 9, 1976 of any motion wherein my removal was being asked for?
...
THE REFEREE: Was anything sent to Doris Sassower is the question.
THE WITNESS: I don't see anything here, no. It was sent to you. Apparently he addressed it to you.

Q. Were any motion papers served upon her?

...

Q. Were there any motion papers at any time served upon her advising her that I was going to be removed or had been removed, and you may consult your assistant if you wish.

...

THE WITNESS: I don't see anything, your Honor.

THE REFEREE: All right.

Q. Sir, is it true that upon the removal or disqualification of an executor, the alternate has the right to be substituted by such fiduciary or at least noticed and given an opportunity to be heard why she should not be so designated; yes or no, sir?

A. The answer to that question, as an alternate executor, she does have a prior right to apply for letters."

(Oct. 30, 1981, SM 37-41)

Charles Z. Abuza's "Affirmation of Legal Services" dated February 6, 1978 (Exhibit "RR") states:

> "[O]n or about January 9, 1976 affirmant received a purported account dated December 20, 1975. ... [A]ffirmant prepared supplemental papers dated January 9, 1976 to punish MR. SASSOWER for contempt ..."

There is nothing in this affirmation by Charles Z. Abuza, Esq., for that date seeking my removal as part of the relief requested. There is nothing in the affirmation of Samuel Schacter, Esq., dated January 9, 1976 about removal (Exhibit "FF"), nor is there anything about removal in the affirmation of Charles Z. Abuza, Esq., dated January 22, 1976 (Exhibit "DD").

Clearly, my removal was not sought on the submission of this motion. Nor did anyone, including Surrogate Signorelli, construe the decision and order of the Surrogate's Court as effecting my removal until he contrived such false assertion one year later.

It is a cardinal rule of construction that the best evidence of what a statute, order, or contract means, is the manner the parties themselves construe it to mean by their actions and conduct.

In (City of New York v. New York City Ry. Co., 193 N.Y. 543, 548-549), the Court stated:

> "When the parties to a contract of doubtful meaning, guided by self-interest, enforce it for a long time by a consistent and uniform course of conduct, so as to give it a practical meaning, the courts will treat it as having that meaning, even if as an original proposition they might have given it a different one. (cases cited). So, when the meaning of a statute is doubtful, a practical construction by those for whom the law was enacted, or by public officers whose duty it was to enforce it, acquiesced in by all for a long period of time, in the language of Mr. Justice Nelson, 'is entitled to great if not controlling influence.' Chicago v. Sheldon, 9 Wall [76 U.S.] 50, 54. ... It is held to have great weight even in the construction of the Constitution itself (cases cited)."

SIGNORELLI'S PUBLISHED LIE # 6

Surrogate Signorelli continues in his published aspersion:

> "Although the citation was made returnable June 8, 1976, it was adjourned on a number of occasions and a supplemental citation was issued returnable July 27, 1976."

The citation was originally returnable on June 8, 1976, at which time I had become paralyzed and I so advised the Court.

If one survives Guillane-Barre, the usual minimum time of recovery at that time, was about three months. Since I had been ill (and hospitalized in intensive care) for about three weeks, my wife, by affirmation (which the Court falsely denied having received), requested an adjournment for two months. The Court adjourned the matter for two weeks.

Two weeks later, when it was on the calendar for June 22, 1976, I was, as predicted, still paralyzed. By affirmation and phone calls (which the Court again falsely denied any knowledge of), I requested an adjournment until after July 15, 1976. The Court granted another adjournment, but again for only two weeks, until July 6, 1976, with a warning that because of my June 1976 absences (by reason of my said paralysis), it was going to refer this matter to the Appellate Division.

On July 6, 1976, I personally travelled the great distance to Surrogate's Court in Riverhead from Westchester County, notwithstanding my aforesaid paralyzed condition, and a Supplemental Citation was issued for July 27, 1976 in order to serve the representative of the one remaining party to be served.

1. Two adjournments are not, as Surrogate Signorelli described it, a "number of adjournments", if the English language has any meaning (Webster's Third New International Dictionary, p. 1550, col. 1t).

2. Two adjournments from June 8, 1976 to July 6, 1976, or twenty-eight days, is not an inordinate length of time, particularly considering the circumstances --my hospitalization under intensive care and paralysis. This ailment was well known at the time the Surrogate wrote his published statement, as it became, in the interim, the unintended result of the swine-flu vaccinations.

3. Nowhere mentioned by the Surrogate, and obviously intentionally omitted by him in his published statement, is the fact that I was seriously ill during this twenty-eight day period. Also conspicuously omitted is the fact that both my wife and myself had submitted

affirmations duly requesting the two adjournments for good cause shown, i.e., severe medical disability on my part and actual engagement on the part of my wife.

This omission of any reference to the extenuating circumstances clearly beyond my control, as well as to the aforementioned affirmations, reveal an unscrupulous, conscious attempt by Surrogate Signorelli to deceive the reader by painting a false, distorted, and damning picture of my wife and myself.

This deceit was specifically directed to the Appellate Division, when, on July 6, 1976, the Surrogate threatened to report my two absences to the Appellate Division. I requested that "in all fairness", if such were to be his disposition, he should accompany his intended complaint, with the affirmations that had been submitted by my wife and myself (and at that time admittedly in the Surrogate's possession).

In failing thereafter to submit such affirmations to Justice Mollen when he transmitted his published complaint, Surrogate Signorelli intended to and did deceive and mislead Justice Mollen, the Appellate Division, as well as the Grievance Committee.

4. Surrogate Signorelli and/or his Court personnel recognized the egregious nature of their conduct, because, as part of their obvious cover-up, they wilfully destroyed or secreted the affirmations that we had sent by certified mail and they deliberately suppressed or obliterated evidence of phone messages received by the Court, when they turned their files over to the Grievance Committee for prosecution (Richardson, supra, §167, p. 134-136; Fisch, supra, §238, p. 140-143; II Wigmore, supra, §276, p. 122 et seq).

Under "Signorelli's Published Lie #8" (infra), further evidence is set forth of the criminal conduct of Surrogate Signorelli and/or his entourage (Penal Law §175.20 et seq.) with respect to this published falsehood .

As a result of this deception upon the Grievance Committee, a wholly spurious charge was presented against my wife, as proven by the established facts.

Overlooked by Surrogate Signorelli and/or the Surrogate's Court in their scandalous "Watergate" caper whereby they secreted our affirmations and records of our phone calls, were the transcribed court proceedings of July 6, 1976. This event, and the fact that it was

stenographically transcribed, they missed in their chronology of events (Exhibit "50"). That transcript contained admissions by the Surrogate's Court that, indeed, it did receive our affirmations and did receive our telephone calls.

I have yet to meet, and never expect to meet, anyone who is informed of the actions of Surrogate Signorelli during the June-July 1976 period in this matter, his action on March 17, 1977, and his repeated deliberate scheduling of the Kelly matter in the Surrogate's Court when he was informed I would be elsewhere actually engaged, including engagements in appellate courts, who would not consider him to be viciously cruel and dangerously deranged. The destruction or secretion of documents reveals that Surrogate Signorelli and/or his Court were fully aware of the heinous nature of his conduct and how far they were willing to go to suppress the evidence of it.

5. One reads faster than he thinks and certainly faster than he analyzes. Consequently, the reader's mind is struck by the words "it was adjourned on a <u>number of occasions</u>". However, the period between the return of the citation and the return of the supplemental citation was only one month and nineteen calendar days. Such a

short period of time does not permit a great number of adjournments, as the mind and imagination might easily, but, erroneously, conjure up by normal or fast reading.

SIGNORELLI'S PUBLISHED LIE # 7

The publication then extends the distortion:

> "After an additional adjournment to September 7, 1976, jurisdiction was completed, objections filed and the matter was accordingly placed on the Reserve Trial and Hearing Calendar and scheduled for conference for September 21, 1976. The matter was adjourned on five separate occasions to March 2, 1977."

By this time the reader obtains the distinct, but mistaken, impression that the constant and continuing adjournments were directly due to the misfeasance or malfeasance of George Sassower.

1. It is only when you slowly read and analyze the succeeding paragraph, that an experienced litigator might realize that the impression given by Surrogate Signorelli was misleading.

That paragraph states:

> " On March 2, 1977, the guardian ad litem and counsel [a Signorelli appointee] for a legatee filed objections to his [George Sassower] account. The guardian ad litem had not filed objections sooner in the hope that a conference would result in a settlement of the proceeding."

Obviously, to a reader familiar with court practice, the proceeding could not have been placed on any Reserve Trial and Hearing Calendar on September 7, 1976, when objections were filed by the Court-appointed guardian on March 2, 1977 (six months later).

22 NYCRR § 1830.21(c) provides:

> " The [Surrogate's] court may direct that as to any matter the trial or hearing date be fixed only after a party shall file in duplicate a note of issue with a statement of readiness ...".

Thus, the matter could not have been properly placed on the "Reserve Trial and Hearing Calendar", because a Note of Issue and Statement of Readiness were not filed until June 13, 1977, as Surrogate Signorelli himself admitted (Oct. 30, 1981, SM 65-66).

2a. September 21, 1976 - The record does not reveal, nor do I presently have documentary evidence of what occurred on that date, except that Charles Z. Abuza, Esq. in his affidavit of legal services (Exhibit "RR" for Iden.) states that I submitted an affirmation dated September 16, 1976 requesting an adjournment and my own diary shows an engagement in Supreme Court, Westchester County.

b. October 21, 1976 - Exhibit "BP" reveals my presence in Surrogate's Court, Suffolk County, and the "direction" of Surrogate Signorelli that I should "culminate the sale of the real property".

c. January 17, 1977 - There is a letter from Siben & Siben, Esqs., dated January 10, 1977 requesting an adjournment because Henry W. Frank, Esq., must leave town because of health. This firm lists 23 members on its Suffolk County letterhead and no question was raised by the Surrogate's Court, as to why another member could not attend the conference. But when I, a single practitioner, was paralyzed, I was directed to come from Westchester County.

d. February 8, 1977 - There is a letter from Charles Z. Abuza, Esq., dated February 1, 1977, requesting an adjournment.

3. Obviously, since I was a mere executor, any impasse was due to disagreements between claimants and the residuary legatees.

The Report of the Referee and the testimony clearly reveals that it is I, the executor, who is and always was, trying to resolve differences within the

Kelly clan and receiving little or no cooperation from the parties, their attorneys, or the accountant for the decedent.

4. This quoted portion, like the rest of Surrogate Signorelli's published assault, is intended to expose the "extraordinary" and wrongful conduct of George Sassower. Surrogate Signorelli's published criticism was intended to convey to the reader that it was I who requested or caused this matter to be adjourned five times, a plainly untrue inference, and that there was something sinister about the five adjournments that I supposedly requested or caused.

SIGNORELLI'S PUBLISHED LIE #8

Surrogate Signorelli, not content with blackening of my name, then proceeded to smear, with the same wicked brush, my attorney-wife. He struck, Pearl Harbor like, without warning or advance notice of any kind to her (or me) of his intentions, not to mention the opportunity to respond prior to publication thereof.

There was nothing actively pending at that time in the Surrogate's Court calling for a decision.

This published attack followed immediately after a telephone call made from the Chambers of Chief Judge JACOB MISHLER at the express direction of the Chief Judge to Surrogate Signorelli's representative.

The direction of the Chief Judge to Surrogate Signorelli, in essence, was that the Surrogate either mend his ways, recuse himself, or else he, the Chief Judge, would seriously consider federal intervention, as I was requesting.

Surrogate Signorelli's representative returned to the federal courtroom shortly thereafter, and reported that he had spoken to Surrogate Signorelli.

Surrogate Signorelli clearly intended, if this was going to be his Last Hurrah with the ostensible protection of civil judicial immunity, that it be a mortal blow.

Taking a page straight from Westbrook Pegler, Surrogate Signorelli lashed out, not at my "little dog", but at my wife, who he has never met, saw, or spoken to, by saying:

> " Incidently, Doris Sassower, the wife of the petitioner herein, had at the inception of this estate filed a notice of appearance, appearing as attorney for the executor. She was expressly directed to be present for the scheduled court conferences, but she defaulted in appearance for any of the said dates."

Before examining this blatant falsehood, conceded by the Grievance Committee to be false (as hereinafter shown), it should be noted, that before the end of his sua sponte published mud-slinging, he was to return to the attack on my wife two more times to assure his blows proved deadly.

Contrary to Surrogate Signorelli's statement, Mrs. Sassower never filed a "notice of appearance".

As Judge Melia noted in his Report of August 27, 1981 (21):

> " During those two years, it is conceded that the respondent [Doris Sassower] ... never filed a notice of appearance."

June 8, 1976

June 8, 1976 was the first scheduled court appearance after I was stricken with illness.

Six days before, on June 2, 1976, my wife, Doris L. Sassower, sent an affirmation to Surrogate's Court advicing that one citation could not be served because the person had died, and, requesting a two month adjournment, for the additional reason of my described illness. The other parties were also notified of my illness. Consequently they did not appear either (Aug. 3, 1981, SM 191).

In the disciplinary proceeding against my wife, the Deputy Chief Clerk testified that on the call of the calendar, the Court noted that it had not received any communication from us and adjourned the matter until June 22, 1976.

That testimony was shown to be false, since two days after the calendar call, June 10, 1976, the Surrogate's Court returned my wife's affirmation, received about a week prior, because an affidavit of service upon the adversary was not annexed to the original.

The other parties were obviously sent copies of this affirmation or made aware of its contents beforehand, since the Surrogate's Court advised them that they need not appear on that day.

This affirmation was, in due course, thereafter returned to the Court, with an affidavit of service. Although in the Court's possession, it was, like the other exculpatory documents, destroyed or secreted.

1. The body of the affirmation of Doris L. Sassower, Esq., dated June 2, 1976, mailed that same day (as shown by a Post Office receipt on the Certified Mail certificate #606838), will be repeated here for the Court's convenience (Exhibit "Y"):

> " This affirmation is in support of an application [to] adjourn and fix a new date for the return of the 'Citation' in the above matter, presently set for the 8th day of June, 1976.
>
> That except for THOMAS KELLY, everyone necessary to be cited has been timely served.
>
> That said THOMAS KELLY survived the deceased, EUGENE PAUL KELLY, but died subsequently (date presently unknown), and as far as affirmant can ascertain there is no estate which has been filed or administered.
>
> That it seems that THOMAS KELLY was the recipient of funds from the Department of Social Services of the City of New York and since they probably would be entitled to the funds of THOMAS KELLY, it is that Department with whom arrangements will have to be made in this regard.
>
> Furthermore, the executor, GEORGE SASSOWER, Esq. was taken ill with what has been diagnosed as a Guillain-Barre syndrome, which caused a paralysis of Mr. Sassower's hands and legs and his hospitalization.
>
> That although recovery is indicated, the length of time is at present uncertain, but affirmant believes that within two months Mr. Sassower should have sufficiently recovered to substantially engage in his usual working activities.

WHEREFORE, affirmant prays that this matter be adjourned for two months in order to complete jurisdiction."

2. Nonetheless, as the Report of Judge Melia dated August 27, 1981, states (p. 16):

" Mr. Kuzmier [Deputy Chief Chief Clerk of the Suffolk County Surrogate's Court] testified that he was in Court, and called the calendar, on June 8, 1976. There was no appearance by anyone.

The calendar reads, in relevant part, as follows:

'Eugene Paul Kelly. No appearance. The Court, on its own motion, will adjourn this matter to June 22, 1976, for all purposes. The Clerk is directed to send appropriate letter of admonition to the attorney for petitioner and petitioner.' (Ex. 23a)

On June 9, 1976, Mr. Kuzmier sent a letter to the respondent [Doris L. Sassower] which she admittedly received.

It reads in part as follows:

'Dear Madam:

On June 8, 1976 no personal appearance was made nor any communication directed to the Court [was received].

The Court on it's own motion adjourned the matter until June 22 at 9:30 A.M. and has directed that you and the petitioner be present in Court on that date.' (Ex. 24a.)"

3. It was reluctantly admitted by Surrogate Signorelli that on the call of the calendar on June 8, 1976, his Court had a copy of Doris L. Sassower's affirmation of June 2, 1976.

"Q. I show you the affirmation of Doris L. Sassower dated June 2, 1976, Exhibit Y, which was sent to your court by certified mail, and ask you if you saw or were made aware of its contents on or prior to June 8, 1976?

...

Q. Do you have any notes in your file to show that this affidavit was received by the Court?

A. ... I have here a communication, which is apparently sent to Doris Sassower and which is dated June 10, 1976 and apparently was sent by the Clerk of my accounting department, Joseph Wolin. ... Its subject is the estate of Eugene Paul Kelly. 'I return herewith ... . The affirmation is returned as it was not on notice to Schacter, Abuza & Goldfarb who have appeared in this matter.'

...

THE REFEREE: ... What's the date of that?
THE WITNESS: June 10th, 1976.

THE REFEREE: That indicates that, does that indicate to you, Judge, that that affidavit of Mrs. Sassower was received prior to June 10th?
THE WITNESS: Judge, I would assume so, but I really am not sure. I really am not sure.

Q. Well, after the non-appearance on June 8th, did the Court cause to be sent out this letter of June 9, 1976? (Document handed to the witness.)

A. I would assume that if this letter went out and from reading the Clerk's minutes of the notation that I undoubtedly indicated to the Clerk that such a letter should be sent out.

Q. Well, does this letter look like a copy of a true letter emanating from Surrogate's Court, Suffolk County?
A. Does it appear to be?

Q. That's right.
A. A copy of a letter that we would normally send out?

Q. Right.
A. Yes, it does.
MR. SASSOWER: I offer this letter in evidence.
THE REFEREE: Any objection, Mr. Grayson?
MR. GRAYSON: No objection.
THE REFEREE: Received, AN in evidence.
(Letter dated 6/9/76 marked Respondent's Exhibit AN in evidence.)
...

Q. I refer you to Exhibit AN in evidence where it states that on June 8th no personal appearance was made, nor any communication directed to the Court. Did you notice that? (Document handed to the witness.)
A. That's right. That's what the letter dated -- Kuzmier says, addressed to Doris Sassower.

Q. But that is obviously in error because they obviously had in their hand the affidavit or affirmation of Doris Sassower dated June 2, 1976?
A. Well, apparently --

Q. Yes or no.
A. It was returned, apparently.

Q. It was returned June 10th?
A. By Mr. Wolin.

Q. On June 10th?
A. That's right.

Q. On June 9th he had it in his possession?
A. I don't know that. I don't know that. I would assume that he did. But I don't know that.
THE REFEREE: The memo seems to suggest.
THE WITNESS: Yes, I would assume that. But I personally don't know that." (Oct. 22, 1981, SM 85-97).

4. Missing also were the minutes of June 8, 1976. This vital record Surrogate Signorelli testified existed and he and his subordinates repeatedly promised the tribunal and the Grievance Committee he would produce. He never did!

The following is his testimony in this respect:

"Q. Sir, what was the purpose of appearing in Surrogates Court on June 8, 1976?
A. June 8, '76? Is there a transcript of that date?
MR. GRAYSON: I do not have a transcript of that date.
...

Q. Were there any minutes taken of the calendar call, stenographic?
A. There is a Court Reporter present.
...

Q. ... Was she taking stenographic minutes?
A. I assume that, I think it was a 'he'. I assume that he would record the proceedings, yes.
...

Q. Could you make those minutes available to us insofar as they regard the Kelly estate?
A. All right. What dates do you want?

Q. June 8th and June 22nd.
MR. GRAYSON: Is that agreeable with you, Mr. Grayson.
MR. GRAYSON: Sure. No problem." (Oct. 22, 1981, SM 81-82)

June 22, 1976

Five days before the adjourned return date, I, by Certified Mail, sent my own affirmation to Surrogate's Court (with an affidavit of service), describing my paralysis, and with it, returned my wife's affirmation of June 2, 1976 (Exhibit "Z").

Additionally, I had two conversations with the Law Assistant regarding my condition (admitted by him in the transcript of July 6, 1976 in the presence of Surrogate Signorelli). My wife, in addition, had one telephone conversation with a clerk in the Surrogate's Court as a result of which she executed and mailed her affirmation of actual engagement (Exhibit "AA").

Nevertheless, the two affirmations which set forth my illness were also destroyed or secreted by Surrogate Signorelli and/or his Court, and all evidence of such telephone conversations obliterated.

The person(s) who destroyed, secreted, and obliterated such evidence overlooked the fact that (1) the two affirmations setting forth my illness were sent by Certified Mail, (2) the letter from Surrogate's Court dated June 10, 1976, acknowledged the receipt of my wife's affirmation of June 2, 1976, and (3) that there was a transcribed session on July 6, 1976, which revealed that Surrogate's Court had these affirmations in hand and the Law Assistant admitted that he had spoken to me twice about my inability to appear.

Surrogate Signorelli's prepared chronology for his testimony at my hearings did not include the July 6, 1976 session in Surrogate's Court (Oct. 22, 1981, SM 100). When it became apparent to the Surrogate that the stenographic transcript of his own Court of that day revealed that exculpatory documents had been destroyed or were being suppressed, he was stunned and foolishly questioned its authenticity by saying "What's this, a certified transcript?" (SM 104).

The Surrogate found himself "hoisted by his own petard" since the following colloquy immediately ensued:

> "THE REFEREE: Mr. Grayson [the Grievance Committee's Attorney].
> MR. GRAYSON: Apparently that's the copy we received from your [Surrogate Signorelli's] office.

THE WITNESS: You received it from my office?
MR. GRAYSON: From the Surrogates Court, apparently, before I became involved.
THE WITNESS: I don't see it certified."

Since the Grievance Committee did not become involved in this matter until March of 1978 (and Mr. Grayson's involvement long after that date), we can fix the date of destruction of the Surrogate's Court copy of this transcript, from this portion of the testimony, as being no earlier than twenty (20) months after the events of that day, or this and other transcripts and documents are being intentionally suppressed by Surrogate Signorelli and/or Surrogate's Court.

There is other testimony and evidence fixing more precisely the dates of removal, but at this juncture such information is immaterial.

Significantly, Surrogate Signorelli also failed to produce the court transcript of June 22, 1976, and other transcripts and documents, although they were repeatedly requested by the Grievance Committee (at my insistence), and although Surrogate Signorelli personally made a commitment to the Referee on October 22, 1981 to produce such material.

The conclusion became inescapable! The attorneys for the Grievance Committee finally realized they had been duped by Surrogate Signorelli.

At the outset of the hearings, Judge Melia requested that both sides cooperate with each other in an exchange of documentation and information. Both sides made every effort to comply with the spirit and letter of Judge Melia's request.

There was one essential difference in the exchange. I accepted seriously everything that the Grievance Committee's attorneys gave me or told me. I, on the other hand, was an accused attorney, bearing the stigma of pariah, and therefore unworthy of belief. It is only on hindsight that my opposing counsel recognize how much, how accurate and precise was the information that I conveyed to them.

Even after Charles Z. Abuza, Esq. massacred himself with his admissions of neverending lies to various courts (which he described as mistakes), lies to the Grievance Committee attorneys, and to Judge Melia, the Grievance Committee attorneys were repeatedly told by me that this was going to be the scenario with Surrogate Signorelli. But, they could not conceive that the scenario would repeat itself with Surrogate Signorelli.

Charles Z. Abuza, Esq. was the cause of the downfall of Charles Z. Abuza, Esq., and more so, Ernest L. Signorelli, particularly his arrogance, was going to be the downfall of Ernest L. Signorelli.

Plainly, two young attorneys, albeit very competent and conscientious, were not going to tell the Grand Mufti of Suffolk County, a twenty year veteran of the bench, anything. How dare they be so presumptous to think otherwise!

To make things worse (or better), Surrogate Signorelli yelled, screamed, and attempted to bully them and the Grievance Committee, particularly when the subject or news was not to his liking. Consequently the Grievance Committee attorneys avoided him and the unpleasantness that it brought.

Apparently, Surrogate Signorelli does not read Milton S. Gould or does not understand what he is saying about hubris and its notable consequences!

The situation and the relationship, between Surrogate Signorelli and the Grievance Committee attorney was as obvious in the hearing room as a herd of elephants.

Had Surrogate Signorelli invited dialogue with the Grievance Committee attorneys or asked them what was happening, they would have told him that I had repeatedly insisted that documents were missing from the duplicate set sent by the Surrogate's Court to the Grievance Committee, that I had repeatedly refused to consent to any certifications executed in Suffolk County because I was claiming they were false, that if there were going to be any criminal prosecution as a result thereof, it was not going to be by Suffolk County prosecuting authorities, but by New York County, and that there was independent evidence in the files of Charles Z. Abuza, Esq. and the Surrogate Court of the existence of these absent documents.

Perhaps he was told, but chose not to listen.

As I painfully learned, no one tells Surrogate Signorelli anything. He "directs" or "orders" you.

This affidavit, and the Surrogate's Court transcripts, irrefutably demonstrate the Surrogate does not listen to what you are saying. He is a martinet too busy "commanding".

The irony of this entire proceeding is that I did not win it, nor did the Grievance Committee lawyers lose it. It was won for me, by Charles Z. Abuza and Ernest L. Signorelli.

Another irony about this whole proceeding is these two arch deceivers, Charles Z. Abuza and Ernest L. Signorelli, were themselves deceived by Judge Aloysius J. Melia.

Neitzsche said, one must learn to listen with the "third ear", Judge Melia listens with about a dozen of such organs.

Although never expressed, two rules predominate with Judge Melia -- fairness and courtesy.

Judge Melia permitted you to make your point, and that was it! You could not kill and, certainly, not overkill.

Because Judge Melia did not scream, berate, or threaten them with perjury, Charles Z. Abuza and Ernest L. Signorelli, continued supplying their outrageous testimony, as if Judge Melia were an eager buyer.

One had to listen to the overbearing buffoonery of Ernest L. Signorelli seemingly serious in expecting Judge Melia to accept his notion that it is proper and lawful to throw a person in jail who was never charged, and then, without any notice, tried, convicted, and sentenced all in absentia.

Did Ernest L. Signorelli actually expect Judge Melia to accept his idea that a person in custody has no Fifth Amendment rights, no right to present a Writ of Habeas Corpus, or right to an adjournment when he is paralyzed.

The only real question while Surrogate Signorelli was testifying was how much of Surrogate Signorelli's such testimony the Grievance Committee Attorneys, the Court Stenographer, and Judge Melia could stomach before they would regurgitate.

Read on and see what Judge Melia was required to listen to:

* * *

1. On June 17, 1976, I executed and had mailed (Certified Receipt #231355) the following affirmation, the body of which is quoted hereinbelow (Exhibit "Z"). Although set forth previously, it is repeated here as a convenience to the Court:

> This affirmation is in support of an application to adjourn the above matter scheduled for June 22, 1976, at 9:30 a.m. until a date subsequent to July 15, 1976.
>
> As appears in the annexed affirmation of DORIS L. SASSOWER, Esq., dated June 2, 1976, I was taken ill with a polyneurosis which caused paralysis of my hands and legs.
>
> That although my physicians have advised me that I am making fine progress, my motor nerves controlling my legs and hips are completely non-functional. Consequently, notwithstanding physical thereapy and exercise, my muscles in that area are 'wasting away' and until those nerves rejuvenate, I am becoming more immobile as time progresses.
>
> Additionally, the involvment of my sensory nerves causes me great pain particularly after I overexert myself.
>
> Under these circumstances, I will not be physically able to attend this Court on the aforementioned date unless these nerves suddenly become functional.
>
> I do believe that after a scheduled testing and examination on July 2, 1976, I will be in a better position to advise this Court more accurately as to my prognosis, but at the present time from all that I have read, seen, and been told, I believe and hope that by the middle of July, I should be well enough to attend this Court.

Insofar as the scheduled appearance on June 8, 1976, the annexed affirmation was mailed to this Court on June 2, 1976 and on June 7th, 1976, the office of Schacter, Abuza, & Goldfarb, Esqs., were advised that such application for adjournment was made.

The said affirmation was returned by the Clerk of the Court on June 10, 1976, and I regret any inconvenience caused because it was not brought to the attention of the Court on June 8, 1976.

I hope that by the adjourned date that jurisdiction will be complete and after an Order is entered on this accounting, I expect to expedite the Final Accounting and bring this matter to a close.

WHEREFORE, affirmant prays that this matter be adjourned until after July 15, 1976."

2. The Report of Judge Melia of August 27, 1981 states (Report p. 17):

" ... a letter dated June 23, 1976 was sent by court personnel to the respondent [Doris L. Sassower. (Ex. 24b.)

...

The body of the letter reads:

'On June 9, 1976 you and the petitioner were directed to be in Court on the return date of June 22 in regard to the above matter.

On the calendar call of June 22 there were no appearances and the matter was adjourned to July 6, 1976 at 9:30 A.M.

You and the petitioner are directed to be present at that time and upon failure of both of you to appear the matter will be referred to the Appellate Division, and this Court will in addition take such action as may be deemed necessary in the premises.'"

3. There is no question but that on June 22, 1976, Surrogate's Court had my affirmation dated June 17, 1976.

This was conclusively shown by the testimony of Surrogate Signorelli and by the transcript, ante litem motam, on July 6, 1976.

> Q. I show you a copy of my affirmation of June 17, 1976 which has been marked here as Exhibit Z in evidence, which was also sent to your court by certified mail, and ask you if you saw this document or was aware of its contents prior to June 22, 1976?
> A. Incidentally, this affirmation indicates that Doris Sassower's affirmation was mailed to the court on June 2nd and returned by the Clerk on June 10th. So apparently that notice that I read to you is applicable."
> (Oct. 22, 1981, SM 95)

4. After receipt of my affirmation of June 17, 1976, my wife's office received inquiry about her ability to be present on the return date of June 22, 1976. As a result thereof, she caused to be mailed to the Surrogate's Court the following affirmation (Exhibit "AA"), repeated here for the Court's convenience:

> " That by reason of other legal engagements on June 22, 1976, affirmant was not able to appear in the above matter.
>
> On such date your affirmant was scheduled to appear in Supreme Court: Westchester County on a Court ordered examination before trial in the action entitled Barone v. Barone; she also argued a motion in Special Term Part I of the

same Court in Baecher v. Baecher; and was scheduled to try an action in Family Court: Westchester County in Glick v. Glick.

That affirmant did appear on all three of the aforementioned actions on such date.

That such information was conveyed to this Court by telephone prior to June 22, 1976."

5. The transcript of the proceedings of July 6, 1976 in Surrogate's Court reveals the following colloquy between myself, Judge Signorelli, Charles Z. Abuza, Esq., and Peter Sereduke, Esq. (a law assistant).

"THE COURT: ...refer this matter to the Appellate Division, and I am going to do that. And, I direct the Court Reporter to complete the Minutes - the entire transcript - and send it to the Appellate Division.

I don't know what it takes to get either you or your wife in court, but I intend to find out.

MR. SASSOWER: This matter was on four or five weeks ago ... . At that time I became very seriously ill; I was hospitalized and I was put into intensive care. The fact is, this is the first time that I am supposedly working since my illness. The next time it was on, I was still ill.

Now, as far as Mrs. Sassower is concerned, not only has she been doing her work, but she is taking care of my matters to the best of her ability; in fact, I fear for her health at this time.

As far as the two prior appearances, your Honor, the Court was notified on both occasions, both as to the illness and the inability to appear. They were advised by phone calls; they were advised by affidavits. My adversary was advised. I advised Miss

Dubois, and she knew of my illness and my inability to be here. And, under those circumstances, and considering that in 25 years of practicing law, I don't think I have taken off more than one day - one or two days for illness. I have tried cases when I had 105 temperature. I think, your Honor, that it is a little unfair, under the circumstances, for your Honor to take that position.

Now, I have tried to be brief. I can give you medical affidavits. I can give you hospital bills. I certainly did not choose illness, and it was a dreadful experience for me; and, in fact, I am still not recovered. And, if I do fully recover it will be sometime before that takes place.

THE COURT: Where is your wife this morning?

MR. SASSOWER: Your Honor, when I left this morning, I had intended to take the train out here, because I didn't trust myself with the car. The only way I could get here by train and be in court on time, was to take a train out of Westchester County at 12:30 a.m.; that was the only way to be here on time. So, I took a chance, and I probably endangered my own life as well as other people, and drove a car.

I don't know - I know she has to be in Supreme Court, New York - whether it was today or tomorrow, I don't know. But to be honest with you, your Honor, when I read the letter, I did not, and I don't think she interpreted that letter that way, that both of us had to be here." (pp. 2-6).

"MR. SASSOWER: ... I think, the letter should have referred to the fact, to be fair about it, that the Court had in its possession at the time an affidavit of illness. Now, this was not contumacious, you Honor, ... The last time this was on the Calendar - I spoke to Mr. Sereduke the day before he had my affidavit in his hand, and he advised me that your Honor was not available; he couldn't discuss it with me. I believe I spoke to him twice that day

-the day before, and I spoke to him the morning after. Now, I might be in error as to one telephone call, but I know I spoke to him once or twice the day before the return date. He had my affidavit, and I spoke to him the day after. ... " (pp. 7-8)

"THE COURT: With respect to the letter, sir, I am going to submit this matter to the Appellate Division. If you feel I am unfair, let the Appellate Division decide who is being unfair here. Mr. Court Reporter, I direct you to type up the transcript.
MR. SASSOWER: Your Honor, in all fairness, would you, as part of this Record, mark or deem marked the affidavits that I submitted to this Court on the two prior occasions?

THE COURT: Whatever the Appellate Division requires of this Court, in connection with this matter, will be forwarded to the Appellate Division." (p. 10)

"MR. ABUZA: The reason I was here [on June 22, 1976], despite receiving Mr. Sassower's affidavit, was because Mr. Sereduke told me to be here.
MR. SEREDUKE: That is correct.

MR. SASSOWER: Mr. Sereduke, you knew I wasn't going to be here at this time.
MR. SEREDUKE: You said you weren't going to come, and I told you that you were directed to come; that is what I told you.

MR. SASSOWER: Since I am on the Record, the day before this was on - and my recollection may be incorrect as well as yours - I spoke to you once or twice the day before.
MR. SEREDUKE: Twice by telephone.

MR. SASSOWER: And, you had my affidavit.
MR. SEREDUKE: Yes, I did.

MR. SASSOWER: You knew I wasn't going to be here because of my illness.
MR. SEREDUKE: You told me that.

MR. SASSOWER: You mentioned - I am not trying to interrogate you, I am trying to refresh my recollection - that you would take it up with the Surrogate.
MR. SEREDUKE: You were directed to be here on that date. And, what I did, I left it up to you and said, 'You have been so warned.'" (pp. 37-39).

Surrogate Signorelli said he wants the Appellate Division to decide whether he was unfair in requesting that I appear on two occasions in June of 1976 when I was paralyzed. I join in that application!

July 6, 1976

1. This Report of Judge Melia continues as follows (p. 17-18):

" Mr. Kuzmier was also present in Court on July 6, 1976. Neither the respondent [Doris L. Sassower] nor her husband appeared.

2. The Report of Judge Melia of August 27, 1981 states (p. 19-20):

" Mr. Kuzmier testified that he has no knowledge of such a call. Further, he says that such a call in ordinary course, would be brought to the attention of the Court on the call of the calendar. This did not occur.

He states that he never saw the affirmation (Ex. 21, [Ex. AA in these proceedings]) before he testified here, although it was in the Court's file.

He testified that in 1976 ... [t]he practice was for such information to be given to himself or the then Chief Clerk. He finds no indication of such a call having been received.

Cross examination developed that none of the three calendars in evidence bear any notation on any case concerning a telephone call (Exs. 23a, b, c.)".

3. It now seems clear, even to the attorneys for the Grievance Committee, that the Surrogate's Court sifted and stripped their files, destroying or suppressing our affirmations relative to my illness and the stenographic minutes of them, as well as other data, which might have been helpful to us.

The Grievance Committee was misled first by Charles Z. Abuza, Esq., and then by Surrogate Signorelli and his Court.

The attorneys for the Grievance Committee were understandably shaken, shocked, and chagrined when they recognized that notwithstanding certifications issued and representations made by Surrogate's Court and forewarnings, the information forwarded to them had been patently pruned.

4. In the transcript of July 6, 1976 is Surrogate Signorelli's remark to me (p. 30):

"hope on July 20th you will advise the Court that jurisdiction has been completed."

If, as Surrogate Signorelli contends, I was removed in March of 1976, why was he thereafter directing me to perform fiduciary functions respecting the estate?

If, as Surrogate Signorelli contends, I was removed in March of 1976, why was he thereafter directing my wife's attendance in Suffolk County, as the attorney for the then "removed" executor?

5. The attorneys for the Grievance Committee now belatedly recognize that they were duped by Surrogate Signorelli and his sycophants. They had much of the exculpatory information even before they forged ahead in this gross perversion of prosecutorial power. Their problem was they chose to accept blindly the conclusory camouflage "cooked up" by Surrogate Signorelli and his Court, and give no credence to documents supplied them by his two accused attorneys-victims.

The attorneys for the Grievance Committee could not, until the midst of the hearings, entertain even the <u>possibility</u> that this widely-disseminated published barrage by Surrogate Signorelli could be founded on the most outrageous falsehoods.

In response to inquiry by the Grievance Committee, my wife, in part, wrote on January 26, 1979:

> " I address myself only to the scheduled conferences of June 22 and July 6 which were the only dates which your enclosures indicate that I was notified by the [Surrogate's] court to attend.
>
> I suggest, if this be so, that the information given you is deliberately incomplete and misleading, since for valid reasons known to the complainant [Ernest L. Signorelli] I could not attend such conferences, nor were they appropriately scheduled as I will briefly set forth herein.
>
> In May of 1976, my husband evidenced severe objective symtoms of what was later diagnosed as Guillain-Barre Syndrome, which paralyzed his legs and hands.
>
> The complainant was advised of my husband's condition, his hospitalization, and further that if he survived without residual effects, it would be three months at a minimum before the affected nerves would become completely operational.
>
> The obvious immediate consequence was that during that period I was burdened with much of my husband's legal obligations in addition to my own, while simultaneously having to find time to care for him and his needs in his impaired condition.
>
> Under such state of emergency, for the complainant to expect my paralyzed husband to attend Court 100 miles away can only reflect on his mental stability and sensitivity as a human being.
>
> Furthermore, for him to request my appearance, regardless of conflicting commitments, legal and otherwise, of which he was duly informed, also reflects on the complainant's judgment.

Enclosed is a copy of my affirmation which sets forth three (3) other conflicting engagements in Westchester County on June 22, 1976. The complainant was sent the original.

Should I have disregarded my commitments to other courts, to other judges,and to other clients in order to go to Suffolk County, for an appearance which had no specific purpose, where there was little, if anything, to be accomplished by my personal appearance, and that could have been accomplished by means other than a personal appearance?

Peruse the excerpted transcript of July 6th, 1976, which you forwarded to me. I really do not know how my husband was able to go to Suffolk County in his condition. In any event, would you not expect that the opening remarks of anyone with even the slightest humanity would be some inquiry as to my husband's health or some compassionate remark under the circumstances?

Nevertheless, nothing was shown why my presence was needed at that time or at a subsequent date.

Despite the statement from my husband that by going by car in his physical condition, '(he) took a chance, and (he) probably endangered (his) own life as well as other people (by driving) a car', the complainant nonetheless wanted him to return two weeks later.

The complainant was also told at that time about my own physical condition, caused to some degree by the aforementioned ordeal concerning my husband and my attempts to cope with the situation, but it was apparently of no concern to the complainant.

I believe that if you were to show the aforesaid pages of the transcript with the information contained herein, known to the complainant, to any psychiatrist, you would

doubtless obtain a diagnosis that would cast doubt on the complainant's judicial competence and temperament.

Significantly, in order for the complainant to furnish the remarks on Page 30 of the transcript of July 6, 1976, he had to include a truncated portion of his remarks which states:

> 'hope on July 20th you will advise the Court that jurisdiction has been completed.'

If, as the complainant now contends, my husband was removed as executor on March 25th, 1976, why was he thereafter directing him to perform fiduciary functions respecting the estate?

If my husband had been removed on March 25th, 1976 as the executor of the estate, what purpose could the complainant have in directing my attendance in Suffolk County, as the attorney for the then extinct executor?

I submit that if, as the complainant asserts, my husband was removed on March 25th, 1976, he had no authority to direct my attendance in Suffolk County.

I further suggest that if the complainant were directed or requested to forward <u>all</u> information he has with respect to any complaint he has against me, there would be little necessity to make anything more than a perfunctory response.

....

/s/ DORIS L. SASSOWER"

SIGNORELLI'S PUBLISHED LIE #9

1. Surrogate Signorelli goes on to publicly state that the Public Administrator was appointed on March 23, 1977, without explanation for the hiatus of more than one year since my alleged removal.

Nor does Surrogate Signorelli's public pronouncement set forth who was taking care of the estate during that intervening year or who was supposed to do so.

Specifically omitted by Surrogate Signorelli is any acknowledgment that he himself had directed me during that period to perform executorial duties, including the sale of the deceased's real estate, and that I, in fact, followed such direction.

2. Surrogate Signorelli continues by stating that on Thursday, April 28, 1977, he ordered me to turn over the books, papers, and property of the Estate by Thursday, May 5, 1977; scheduled a trial for June 1, 1977; with all examinations before trial to be concluded in two (2) business days i.e., by Monday, May 2, 1977.

The Note of Issue and Statement of Readiness, thereafter filed by the Guardian on June 13, 1977, impugns Surrogate Signorelli's assertion that he properly ordered this matter for trial on June 1, 1977 (22 NYCRR §1830.21).

> "Q. In any event, is it true that a note of issue and statement of readiness was filed by Mr. Wruck on June 13, 1977?
> A. To the best of my recollection I believe that he did file same.
>
> Q. On June 13?
> ...
> A. Yes, that is correct. That date is correct.
>
> Q. Therefore, is it correct that a trial could not proceed on June 1, 1977 because of the absence of a note of issue?
> A. That is one of the requirements prior to starting a trial."
> (Oct. 30, 1981, SM 65-66)

SIGNORELLI'S PUBLISHED LIE # 10

Again omitting highly relevant facts, Surrogate Signorelli continued his published catologue of my supposed legal sins, saying:

> " Mr. Sassower brought on a series of motions seeking a disqualification of the undersigned, the vacating of prior orders of this court dated March 27, 1975 and March 9, 1976 ... . All of which [motions] were denied."

All these (three) motions were made returnable on May 16, 1977, and denied by the Surrogate, with the opinion that I had set forth "no facts or law to support the within application".

The three motions are duly recited in the decisions and orders of the Court and entered upon their index cards. However, the most revealing moving affidavit (Exhibit "AT")[recited in haec verba in the Report of the Referee (68-72)] was removed from the Surrogate Court files (Oct. 22, 1981 SM 130-131; Oct. 30, 1981, SM 67):

1. It reads as follows:

"SURROGATE'S COURT: SUFFOLK COUNTY
----------x

In the Matter of the
Estate of

EUGENE PAUL KELLY,

Deceased.

----------x
STATE OF NEW YORK)
CITY OF NEW YORK)ss.:
COUNTY OF NEW YORK)

GEORGE SASSOWER, first being duly sworn deposes, and says:

That he is the executor of the above estate and contends he is such notwithstanding any Orders of this Court, which reasons are not pertinent to this application.

This affidavit is in support of a motion to disqualify the Hon. ERNEST L. SIGNORELLI from any further participation in this matter.

That it is the desire of your deponent that in the event a similar motion dated April 30, 1977 is granted that the instant motion be withdrawn since clearly the Hon. ERNEST L. SIGNORELLI is not at liberty to refute those matters contained herein which His Honor may believe unwarranted.

In desiring fair treatment for himself, your deponent equally desires fair treatment for others.

It is the position of your deponent that the Hon. ERNEST L. SIGNORELLI has conducted himself with bias and prejudice to the extent that it would be improper for His Honor to participate as the Surrogate in this matter.

Only several instances of the conduct of His Honor will be briefly set forth herein to support the position of your deponent.

1. After much fruitless effort a contract to sell the house owned by the decedent was executed with the knowledge and consent of all attorneys interested in this estate and with the knowledge of this Court.

Although every attorney, including the attorney for the purchaser, wanted such sale to be completed, and desired that your deponent deliver a deed in accordance with the contract, His Honor refused.

That the arbitrary action of this Court benefited no one and prejudiced everyone including the prospective purchaser, this estate, and the infant beneficiaries.

That the Court did not advance any rational statement for its actions nor can your deponent find any rational purpose of the actions of the Court.

2. On April 28, 1977 Hon. ERNEST L. SIGNORELLI set down the examination of EDWARD KELLY for Monday May 2, 1977 although your deponent stated that he had other engagements and commitments and the attorney for EDWARD KELLY stated he did not know if his client could be available on such short notice.

Furthermore, His Honor desired such examination held in this Courthouse although deponent resides in Westchester County, the attorney for EDWARD KELLY resides and has his offices in New York County, and the said EDWARD KELLY resides in Queens County.

As matters turned out the said EDWARD KELLY did not appear and wrote a letter to this Court to that effect.

That on May 2, 1977 your deponent was out of this state, as he advised the Surrogate at the time His Honor fixed the time and place.

Any and all attempts to reschedule the time and place of such examination were patently in vain although there was nothing to indicate that your deponent and the attorney for EDWARD KELLY could not agree on a mutually convenient time and place for such examination.

Furthermore, His Honor aware of the physical problems of your deponent, as hereinafter set forth, exhibited an insensitivity, if not cruelty, in mandating that such examination proceed in Riverhead.

3. On April 28, 1977 His Honor purportedly scheduled another conference in this matter.

Although the matter was set for 9:30 a.m., His Honor did not arrive until about 10:00 a.m.

At about 11:30 a.m. of that day your deponent was advised that His Honor would shortly appear in the Courtroom (without any conference having been had wherein your deponent was a participant).

In the proceedings which ensued, His Honor had your deponent personally served with an Order dated April 28, 1977.

Such Order was apparently prepared by the Court and it was Court personnel that was employed to effectuate service.

That aside from this one act there was nothing which occurred necessitating the appearance of your deponent in this Court on that day.

* * *

In the early part of May 1976, your deponent's legs and hands became totally paralyzed as a result of what was then a rare illness called the Guillain-Barre Syndrome. For some time prior thereto imperceptible continuous loss of function of such limbs which evaded medical diagnosis. Thereafter because of the number of cases resulting from Swine-Flu vaccinations, this syndrome has become more cognizable.

In any event your deponent's limbs were either completely or substantially paralyzed for a period of almost three months and the period of recovery has been long, partially because the muscle tissue of these limbs atrophied during such illness.

In January 1977, your deponent fractured his right elbow and as a result thereof could not very easily manipulate the necessary parts of an automobile in order to drive same safely.

To this very day, the arm of your deponent has a very substantial limitation of motion.

During this entire period from May 1976 until the present time the operation of a motor vehicle has been either impossible or extremely difficult.

To drive from Westchester County of Riverhead poses a danger not only to your deponent but to others.

Recently, while driving to Riverhead in this matter, because of the physical limitations of your deponent, a very serious accident was narrowly avoided.

His Honor is not unaware of your deponent's physical situation, nevertheless not only does His Honor not make any attempt to accommodate to deponent's physical limitations, but seems to exacerbate the situation.

There is no substantial reason that the examination of EDWARD KELLY cannot be held in Queens County or in New York County as provided for in the Civil Practice Law and Rules.

There is no substantial reason for having your deponent travel to Riverhead in order to be served with papers.

* * *

That your deponent could give additional examples of the arbitrary conduct of His Honor which in all fairness disqualifies him from any adjudicatory function in this matter, but it would serve no useful purpose since His Honor well knows his feelings herein.

WHEREFORE, your deponent respectfully prays that the Hon. ERNEST L. SIGNORELLI be disqualified in this matter, together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

GEORGE SASSOWER

Sworn to before me this
4th day of May, 1977"

2. Also physically removed from the Surrogate Court files was my reply affidavit on this motion (Exhibit "AU"), the body of which reads as follows:

" GEORGE SASSOWER, first being duly sworn, desposes, and says:

This affidavit in is reply to the affirmation in opposition of ERNEST G. WRUCK, Esq. dated May 6, 1977.

Thus far such affirmation is the only affirmation received by your deponent with respect to the motions returnable on May 17, 1977.

1. The affirmation of ERNEST G. WRUCK, Esq. is devoid of any factual matter nor does the representative of the infants herein refute the factual assertions set forth in the moving papers.

2. Significantly the affirmation of ERNEST G. WRUCK, Esq., makes no attempt to explain his conduct in recognizing your deponent as the executor of this estate from the date of his appointment until March 17, 1977.

3. Neither does the affirmation of ERNEST G. WRUCK, Esq., explain in what manner, if such be the case, the conduct of the Surrogate on March 17, 1977 inured to the benefit of those he represented.

The fact is that the conduct of the Surrogate on March 17, 1977 was without rational, practical, and legal justification and detrimental to the best interests of the infants represented by ERNEST G. WRUCK, Esq.

WHEREFORE, your deponent respectfully prays that the motions be granted in all respect.

GEORGE SASSOWER

Sworn to before me this
16th day of May, 1977."

3. The Report of the Referee continues (72)

" The second motion for recusal is to similar effect and contains additional factors.

He (respondent) recites that it will be necessary to call the Surrogate as a witness ... (Dennis v. Sparks, 449 U.S. 24 [101 S.Ct. 183, 66 L.Ed.2d 185]). He also stated that he would have to call Law Assistants and other personnel. "

4. Petitioner, the Grievance Committee, in its Memorandum, to this Court states (p. 7):

" Petitioner does not argue with respondent's contention at the proceeding that the case of Dennis v. Sparks (supra) stands for the proposition that a judge does not have immunity from testifying ...

The Grievance Committee is cognizant that testimony and documentary evidence point to the fact that respondent was, in fact, thought of (by most, if not all of the attorneys and the Surrogate involved) as the executor even after service of the March 9, 1976 order removing him. ..."

5. The petitioner agreed that Judge Signorelli's decisions that my papers "fail(s) to allege any facts or law warranting the relief sought" was wholly unsupportable and, that that charge unlike those based on other judicial opinions referred to in its Amended Petition, should be stricken (¶¶45, 46).

5. The bodies of my two other affidavits read as follows (Exhibits "51" and "52"):

> " GEORGE SASSOWER, Esq., first being duly sworn, deposes, and says:
>
> That he is the executor of the above estate, and contends he is such notwithstanding any Orders of this Court for legal reasons not pertinent to this application.
>
> The issue that eventually will be the subject of a plenary trial will be the conduct of Hon. ERNEST L. SIGNORELLI, his Law Secretary, his Law Assistants, the attorneys for the interested parties, and the parties themselves between March 9, 1976 until March 17, 1977, with respect to the Order of this Court of the former date.
>
> That your deponent intends to call the aforementioned as hostile and/or adverse witnesses on his behalf in support of his contentions.
>
> Since the Hon. ERNEST L. SIGNORELLI will be one of the primary witnesses, if not the prime witness, needed by your deponent, I do not believe that it would be proper or appropriate for His Honor to further participate in this matter any further.

That this application is without prejudice to other applications to be made by your deponent in this matter. For reasons appearing in the other applications same is being multifurcated.

WHEREFORE, your deponent respectfully prays that an Order be entered disqualifying the Hon. ERNEST L. SIGNORELLI from further participation as Surrogate in this matter together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

GEORGE SASSOWER

Sworn to before me this
30th day of April, 1977."

" GEORGE SASSOWER, first being duly sworn, deposes, and says:

This affidavit is in support of a motion to vacate the Orders of this Court dated March 27, 1975 and March 9th, 1976 grounded on the fact that this Court did not have jurisdiction to enter the aforementioned Orders and particularly to remove an executor with due and proper notice to all parties interested in the estate and proceedings.

That the aforementioned Orders were initiated by application made by one of the legatees.

Except for the executor no one interested in this estate was given notice of such proceedings.

Deponent contends that without notice to other parties interested in the estate the executor may not be removed.

WHEREFORE, deponent prays that the relief requested herein be in all respects granted.

GEORGE SASSOWER

Sworn to before me this
6th day of May, 1977"

Surrogate Signorelli testified (Oct. 22, 1981, SM 129):

"Q. Yes or no. Yes or no. Were there two motions?
A. I know the decision says that.

Q. Okay. I show you Exhibit 54 in evidence, and ask you to produce all papers which were used in that order where you, wherein you denied my motions? (Documents handed to the witness.)
A. All papers that were utilized?

Q. Right.
A. Well, Mr. Sassower, here is the file on that.

Q. Then, I ask you to produce the notice of motion dated May 4, 1977, my affidavit of May 4, 1977, and my affidavit of May 16, 1977, all mentioned in the order of September 12, 1977, which is here marked as Exhibit No. 54 in evidence.
...
A. I do not have any notice of motion dated May 4th. ...

Q. I understand that. Let me explain exactly what the situation is: Your decision says, two motions. Your order recites two motions. And yet your papers only have one motion.
A. For disqualification."

SIGNORELLI'S PUBLISHED LIE #11

Surrogate Signorelli further compounds his distortions as he continues his published statement:

> "Mr. Sassower brought on .. [a] motion ... [for] an examination before trial of one of the objectants. ... [The] examination before trial motion [was granted]. The party to be examined before trial, who incurred the loss of a day's wages, appeared for the examination on the scheduled date, but Sassower defaulted in appearance."

By Notice to Examine before Trial, I, sought to examine Edward Kelly in Supreme Court, Queens County.

When neither Edward Kelly nor his attorney appeared for such examination, I moved for relief.

On Thursday, April 28, 1977, Surrogate Signorelli set such examination down for the following Monday, May 2, 1977, in Riverhead.

On Friday, April 29, 1977, Edward Kelly wrote to Surrogate's Court partially as follows (Exhibit "CL"):

> "Kindly adjourn this matter, since I have not been given sufficient time by the court to prepare myself. ... I advised him [Mr. Abuza] that I must know well in advance in order to notify my employer so that they might have a replacement ready. This short notice of appearance would be a definite hardship for me. ..."

In my recusal affidavit of May 4, 1977 (Exhibit "AT"), I stated:

> " 2. On April 28, 1977 Hon. ERNEST L. SIGNORELLI set down the examination of EDWARD KELLY for Monday May 2, 1977 although your deponent stated that he had other engagements and commitments and the attorney for EDWARD KELLY stated that he did not know if his client could be available on such short notice.
>
> Furthermore, His Honor desired such examination to be held in this Courthouse although deponent resides in Westchester County, the attorney for EDWARD KELLY resides and has his offices in New York County, and the said EDWARD KELLY resides in Queens County.
>
> As matters turned out the said EDWARD KELLY did not appear and wrote a letter to this Court to that effect.
>
> That on May 2, 1977 your deponent was out of this state, as he advised the Surrogate at the time His Honor fixed the time and place."

Mr. Abuza's testimony as described in the Report of the Referee, follows (p. 75-76):

> "Q. Now do you recall that at that hearing (June 8, 1977) the Judge fixed the examination date to be June 13, 1977?
> A. I believe so. I know he fixed a date.
>
> Q. And do you recall what, if anything,I said to the Judge about that date at that time?
> A. I don't recall.

Q. Well, did I tell the Judge that I would be available that day?
A. I don't recall. Do you have a transcript of that?

Q. Did I tell you after the hearing as to whether I would be available on that date?
A. I don't recall.

Q. Do you have any recollection of me telling you that I was scheduled to be at the Court of Appeals, and from there I was going to Massachusetts?
A. You well may have. I did not set that date. The Court set it.

Q. But you don't recall me telling the Court that I have a prior appointment at the Court of Appeals?
A. You may well have. I don't deny that you did."

SIGNORELLI'S PUBLISHED LIE #12

Once more, hiding facts helpful to my legal posture, Judge Signorelli continues his published misstatement by saying:

"The trial date, at petitioner's request, had been adjourned from June 1, 1977, to June 15, 1977".

On May 29, 1977, I executed and served the following affidavit [also now similarly removed from the Surrogate's Court's file or being deliberately suppressed], the body of which reads (Exhibit "CK"):

" GEORGE SASSOWER, Esq., first being duly sworn, deposes, and says:

1. Your deponent assumes that the within matter will not be on the calendar for June 1, 1977 since the Surrogate expressly

stated on at least two (2) occasions that the matter may not be placed down for trial without a Note of Issue and such Note of Issue has not as yet been served.

2. Pending at the present time is a motion to examine EDWARD KELLY, arising out of his default in appearing for examination May 23, 1977.

3. On June 1, 1977, your deponent has been assigned to pick a jury in Supreme Court: Queens County in the action of GOLDBERG v. GODBOLT. This action pending in Queens County should be completed by June 15, 1977.

WHEREFORE, your deponent prays that this matter be marked accordingly.

GEORGE SASSOWER

As Surrogate Signorelli himself admitted, the Note of Issue was not filed until June 13, 1977 (Oct. 30, 1981, SM 65-66): therefore, as stated in my aforesaid affidavit, the matter should not have been on the trial calendar, in accordance with the specific rule of the Surrogate's Court (22 NYCRR §1830.21) and Surrogate Signorelli's express statements to that effect. In any case, my aforesaid affidavit of actual engagement offered in connection with a first-time on trial date (even were the case properly on the calendar) should certainly have sufficed to have avoided a published judicial censure.

SIGNORELLI'S PUBLISHED LIE #13

Surrogate Signorelli further stated in his published statement:

> " On the scheduled date for trial [June 15, 1977], counsel representing the Public Administrator advised the court that he could not proceed to trial because of Sassower's refusal to comply with the court's order of April 28, 1977, directing him to turn over the assets of the estate to the Public Administrator."

The nexus between turning over the assets of the Estate and proceeding to an accounting trial, neither Surrogate Signorelli nor his appointees ever explained, nor is there any rational or necessary connection.

If this were, in fact, the reason that the counsel [who had been Signorelli's campaign manager] could not proceed to trial, he should have moved to vacate the Statement of Readiness filed by the Guardian [another appointee of Surrogate Signorelli] (22 NYCRR §1830.21).

The purpose of a Statement of Readiness is to prevent such applications at trial. Certainly, if anyone were unable to proceed to trial, there is a duty to advise beforehand, and thereby avoid wasted preparation and a needless trip by me travelling from New Rochelle all the way out to Riverhead.

SIGNORELLI'S PUBLISHED LIE # 14

Surrogate Signorelli continues in his injurious published fabrication of the facts, as follows:

> "When questioned by the court, Sassower informed the court that he would not accede to the court's direction ...".

Petitioner, in its Memorandum to this Court, states (pg. 8):

> " CHARGE EIGHT alleges that respondent was contemptuous of the Suffolk County Surrogate's Court and the Surrogate. ...
>
> On June 15, 1977, the day respondent turned over documents on the Estate of Eugene Paul Kelly, a colloquy took place between Surrogate Signorelli and respondent, which is the basis of CHARGE EIGHT. ..
>
> As Surrogate Signorelli testified on October 22, 1981 at this disciplinary proceeding, the respondent '... stated he would not obey the order.' (p. 31)".

Significantly, the Grievance Committee does not allege that I would not obey the order (because it knows that it is untrue), but rather it rests on the patently perjured testimony of Surrogate Signorelli when he falsely swore at the hearings that I "stated that [I] would not obey the order".

The Court transcript upon which Surrogate Signorelli relies for his published and testified-to statement, reads as follows (Amended Petition ¶54):

> "THE COURT: ...The direction of this court is not negotiable. You have been removed -I reiterate and remind you - you have been removed as fiduciary in this case, and further ordered by the court to turn over the assets and books and records pertinent to this estate to the Public Administrator; notwithstanding that you may consider my order unlawful, I have asked you to do this. Now, my question to you is: Do you intend to obey this order? You have not done it up to now.
> MR. SASSOWER: Right.
>
> THE COURT: Do you intend to obey this order?
> MR. SASSOWER: I would make --- -
>
> THE COURT: Just please answer my question. I want it answered now.
> MR. SASSOWER: When the papers come in from Mr. Berger - -
>
> THE COURT: I am asking you right now.
> MR. SASSOWER: I don't know, Your Honor.
>
> THE COURT: You don't know? You, a lawyer and member of the Bar? Will you obey my order?
> MR. SASSOWER: I didn't say that. I will determine after looking it over, based on what Mr. Berger puts in the papers, as to whether I am correct and whether the order is lawful or unlawful.
>
> THE COURT: I am not concerned with what you are going to do. I am asking you now. Are you going to turn over in conformity with this order, the assets, the books and records of this estate to the Public Administrator ---
> MR. SASSOWER: Insofar as - -

THE COURT: - -which I have so directed you to do? Are you going to do that? Yes or no?
MR. SASSOWER: I couldn't answer yes or no.

THE COURT: Then you just won't obey my order?
MR. SASSOWER: I cannot say that.

THE COURT: You cannot say that?
MR. SASSOWER: No Sir.

THE COURT: You realize, as a result of your wilful refusal to obey the order of this court, that that will result in your being held in contempt of this court and fined in the amount of $250.00 or thirty days in jail, or both? Now, I ask you once again, Mr. Sassower, and I might add parenthetically, in eighteen - in the eighteen years that I have been a Judge, I never saw fit to judge any lawyer to be held in contempt. I hope I don't have to do that today, but I tell you that now, and I ask you: Do you intend to obey the order of this court, and turn over the books and records, assets and property of this estate to the Public Administrator?
MR. SASSOWER: Again, Your Honor, at this point, at this point in time, I couldn't answer that yes or no. (TR 29-32)
...

THE COURT: Mr. Wruck, I am adjourning this matter to June 22, 1977, at 9:30 AM. I want full compliance by that date.
...
MR. SASSOWER: The next train starts at 8:30, and doesn't get me here until 11:30.

THE COURT: Allright; make it 11:30"

SIGNORELLI'S PUBLISHED LIE # 15

Surrogate Signorelli also published:

"[George Sassower] assured the court that he would comply and was granted an adjournment to June 22, 1977, for that purpose."

1. Surrogate Signorelli omitted to state that even before the colloquy quoted hereinabove, I had substantially complied with his turnover directive.

2. The Report of the Referee states (p. 62-65):

" [On June 15, 1976] [t]here was considerable colloquy. The conclusion was reached that the respondent would go to the basement, where the Public Administrator's office was located, and turn over documents for photocopying. This was to be done by Mr. Berger.

Berger and the respondent proceeded to the basement and the task was commenced. The respondent had two brief cases.

An employee of the Administrator's office started the process. This went on from some time in the morning until some time in the afternoon. So far, all parties agree.

Berger claims that, at some point in the afternoon, the respondent picked up his brief cases and ran out of the building.

The respondent's version is that he told Berger that he had to leave to catch the last train that would get him to New York City. He left many documents behind for photocopying. He advised Berger that he would contact him shortly to arrange for resumption of the process.

A further complication arose, according to the respondent, due to a light outage. Berger recalls no such incident, but the Surrogate does. However he did not know whether this interfered with the photocopying.
...

In addition, the respondent testified that he telephoned Berger on June 20 [should be 21] for the purpose of arranging to turn over the balance of the papers. Berger never returned his call.
...

The Public Administrator ... is not aware of any missing or outstanding papers. ...

While the Surrogate and Mr. Berger allege that the order to turn over all documents has not been complied with, there is no evidence to support that belief, unless you credit those transmitted in June 1981.

Accordingly, it appears that the respondent substantially complied with orders directing the turnover of papers to the Public Administrator.

It is therefore respectfully recommended that charge four be dismissed."

3. Petitioner, the Grievance Committee, in moving to confirm the Report of the Referee on this charge, states (p. 5):

" Neither Berger nor Mastroianni [the Public Administrator] had a clear picture of what documents respondent neglected to turn over. Fatal to this charge is Mastroianni's testimony of November 4, 1981 (p. 74) that he does not know if there are any missing documents.

The Grievance Committee moves to confirm the recommendation of dismissal of CHARGE FOUR."

4. Surrogate Signorelli testified (Oct. 30, 1981, SM 31-3) :

"Q. But, in any event, were you aware, prior to June 22nd, 1977, that I did turn over to Mr. Berger some books and records and documents of the estate of Eugene Paul Kelly?
A. I was aware you had turned over some papers, yes.

Q. So that at least prior to June 22, 1977 there was partial compliance with your direction, is that correct?
A. I don't know if that would consist of partial compliance. I learned you turned over some papers. Now, what those papers specifically were, I do not know. So whether that was partial compliance I am not in any position to tell you that.
...

Q. Were you also advised that when I left the courthouse to catch the last train from Riverhead to New York City that I left behind sufficient papers to keep the Public Administrator's office busy the rest of the afternoon photostating; yes or no?
A. No.

Q. By 'no', do you mean you were not so advised or you were advised to the contrary?
A. I was not advised that you had left sufficient number of papers, as you put it, to keep the Public Administrator busy that afternoon.

Q. Did I, when I left the courthouse on June 15, 1977, leave certain papers and documents in the Public Administrator's office?
A. I have already testified that you left some papers" .

SIGNORELLI'S PUBLISHED LIES # 16

Surrogate Signorelli further published:

> "Pursuant to a warrant of committment [George Sassower was apprehended by the Sheriff of Suffolk County on June 23, 1977, and brought before the court, whereupon he was given an opportunity to purge himself of contempt. When he persisted in his refusal to comply with the court's order, he was remanded to the Suffolk County Jail to serve his sentence."

1. The manner by which I came to be before the Surrogate's Court and Surrogate Signorelli on June 23, 1977 is legally irrelevant (Gerstein v. Pugh, 420 U.S. 103, 119, 95 S.Ct. 854, 865, 43 L.Ed.2d 54, 68), except to one bent upon inflicting maximum harm to me. Such damage would be the natural, indeed, inevitable result of making it public.

I am certain that every member of this Court is aware that the almost invariable practice is for the law enforcement authorities to first telephone you and request that you appear voluntarily.

I am certain that this Court recognizes that Surrogate Signorelli doubtless instructed the Suffolk County Sheriff's Office that they should not telephone me, but rather, at taxpayers expense, make the long trip from Riverhead to New Rochelle and arrest me without advance warning.

In giving that instruction to the Sheriff's Office, he was plainly performing not a judicial, but a police function.

If there be any question of police functions being performed by the judiciary, one need only to examine the circumstances surrounding my arrest pursuant to a second warrant of commitment. Incidently, this was also as a result of an in absentia trial, conviction, and sentence, rendered the first time it was on for hearing and while I was in the midst of a trial in Supreme Court, Bronx County.

Despite written notice to the Sheriff of Suffolk County that I would voluntarily submit to arrest in Supreme Court, New York, Bronx, or Westchester Counties, or at any other place where I could obtain an immediate Writ of Habeas Corpus, at a time convenient to them, they refused the offer. Instead they made countless forays (at taxpayers' expense) over a period of several months into Westchester County and New York City in futile attempts to arrest under circumstances that would be embarrassing to me and my family.

There was never any question that such police actions were as a result of instructions of Surrogate's Court, Suffolk County. All this Court or Mr. Justice Mollen need do is request the Suffolk County Sheriff for an explanation, including the cost incurred for such activities, and it will become evident that there was improper judicial involvement.

When the Second Judicial Department does nothing about such outrages and the First Judicial Department does nothing to protect attorneys on trial in that Department from Judges in the Second Department, then federal intervention to protect federal constitutional rights seems clear, even under the standards of Mr. Justice Rehnquist.

Nevertheless, the Surrogate's choice of the word "apprehended", rather than the simple "arrested" (as a result of the first warrant) , suggests that I was "Public Enemy #1", secreting myself to avoid arrest. Unknown to the reader is that this could hardly be true, since not only was there never any charge lodged against me, but the trial, conviction, sentencing were all <u>in absentia</u>, without any prior notice whatsoever, <u>nor was I aware of any arrest warrant</u>.

2. Since the warrant of arrest provided I was to be committed to the County Jail (Exhibit "BT"), why was I not taken directly there, where I could obtain a Writ of Habeas Corpus, but instead taken to Surrogate Signorelli, where I could not?

3. The reader is also unaware that the statement that I "persisted in [my] refusal to comply" is a blatant falsehood, as shown by the stenographic minutes of Surrogate's Court.

Surrogate Signorelli testified (Oct. 30, 1981, SM 61):

> "Q. Is everything you told the Deputy Sheriff, once the court proceedings commenced, on the transcript of that day?
> A. Once the proceedings commenced?
>
> Q. Right.
> A. Everything to my knowledge was transcribed."

The transcript of June 23, 1977, in this respect reads as follows (pp. 8-11 [Rec. on Appeal, A68-A71, 65 A.D.2d 757, 409 N.Y.S.2d 762]):

> "THE COURT: ...What I want to know from you, Mr. Sassower, is : Are you going to comply with my order?
> MR. SASSOWER: Sir, I will comply. Right now I am a defendant who has been convicted by order of this court, and I reluctantly must take my legal rights and assert my legal privileges. In any event, Your Honor, I have no doubt in my mind that Your Honor has disqualified himself.

THE COURT: ... I am asking you again, is it your intention to comply with my order?
MR. SASSOWER: ... All I want is a trial right now, or a writ of habeas corpus signed by a judge so that I can pursue my legal remedies just like anyone else.
...

THE COURT: ... what I want to know from you if you are going to comply with my order ... I told you that I want my order complied with unconditionally.. ... Are you going to comply with the order?
MR. SASSOWER: Your Honor, may I --

THE COURT: Are you going to comply with my order?
MR. SASSOWER: I would like to make a phone call, and be given the liberty in the company of the Sheriff, or anybody else you agree to, as I am desirous of pursuing an application for a writ of habeas corpus..

THE COURT: All you are to do, as far as I am concerned, you are to comply with my order. ...
MR. SASSOWER: Could I go before a justice of the Supreme Court?

THE COURT: You are not to be transferred anywhere but to the county jail, my friend."

The shocking and palpably false response of Surrogate Signorelli at the hearing of October 30, 1981 to a question posed by Judge Melia, after Surrogate (a former County Court Judge) Signorelli, responded to my question in his usual evasive, enigmatic manner, tells an unbelievable story (SM 63-64):

> "THE REFEREE: That was not the question. The question was: Did you believe that he [George Sassower] had a right to advance the 5th Amendment and decline to answer the questions at the point that he interposed the 5th Amendment?
> THE WITNESS: No, I believe he did not have that right."

The highpoint of these hearings occurred on October 30, 1981 (SM 54-54), with Surrogate Signorelli testifying under cross-examination.

Judge Melia listened patiently over many sessions to a constant stream of lies and deceptions by Charles Z. Abuza, Esq. and Surrogate Signorelli, both at the hearings and as shown to have been committed elsewhere by them, but His Honor never lost his composure or in any way showed disrespect for any witness.

It had been fully established and conceded by everyone, including Surrogate Signorelli that on June 22, 1977, I had been tried, convicted, and sentenced, all in absentia (SM 45-46).

After Surrogate Signorelli gave several dodges to my question as to whether I had been "charged" with criminal contempt, the following was asked of Surrogate Signorelli (SM 48):

> "THE REFEREE: Just a moment. The question is whether or not on that day you legally charged him [George Sassower]. That is what we are down to."

Surrogate Signorelli continued with his guileful equivocations to Judge Melia's questions.

Finally, when he could no longer could avoid a direct response, and after admitting that I was not "charged" in writing, this former Assistant District Attorney, County Court Judge, and presently Acting Supreme Court Justice, Ernest L. Signorelli, in response to Judge Melia's bluntly-put question as to whether I "was charged orally" actually stated (SM 50):

> "Well, I don't know what the word 'charge' means precisely. ..."

Everyone, including Judge Melia, listened in dumbfounded silence as Surrogate Signorelli non-responsively rambled on. Ironically, the following comment was included in his remarks:

> "I might add, he [George Sassower] never answered any questions directly ..."

After still more obvious shiftiness by Surrogate Signorelli, the following appears (SM 51):

> "Q. At any time prior to June 22, 1977 [the date I was tried, convicted, and sentenced in absentia], did you advise me that a hearing or trial would take place on the contempt on June 22, 1977?
> A. No, but I did advise you --
>
> Q. Yes or no?
> A. I'm sorry, I cannot answer that question in that way."

At that, the Referee, himself a former Assistant District Attorney and Criminal Court Judge, looking directly at former Assistant District Attorney and County Court Judge, ERNEST L. SIGNORELLI, sternly, but without raising his voice, stated (SM 51):

"Yes, you can, Judge."

It took another two pages of testimony before Surrogate Signorelli finally admitted that the answer was "No" (SM 53).

The point having been made very clearly, the Referee, probably correctly, but to my disappointment, would not permit a final blow when Surrogate Signorelli was flat on the mat, and deservedly so. The question that Judge Melia would not permit to be asked at that point, but I respectfully suggest that it should be

asked by Presiding Justice Mollen or the Commission on Judicial Conduct is:

> "Q. Did you know on June 22, 1977 that the procedure that you followed was unlawful?"

Another question that should be asked of Surrogate Signorelli is what lies did he convey to Associate Justice FRANK A. GULOTTA on June 23, 1977, when, a colleague of mine learning of my predicament, presented a Writ of Habeas Corpus to the Appellate Division?

Obviously, Surrogate Signorelli, not only falsely stated in the Contempt Order and Warrant of Commitment that my alleged conduct was "committed during a sitting of the court and in its immediate view and presence", but, undoubtedly, made such false representation to Mr. Justice Gulotta also.

Former Assistant District Attorney, former County Court Judge, now Acting Supreme Court Judge, Ernest L. Signorelli knew that my alleged contemptuous conduct did not take place in his "immediate view and presence", since he took a perjurious inquest in order to establish that fact.

Does this Court believe that had Justice Gulotta not been misinformed as to the procedural truth about my incarceration, the former Presiding Justice and former District Attorney Gulotta would have denied me bail pending a hearing?

The picture I document portrays a tyrant who cares not for any constitution or law, except his own.

He has lied to and about me. He has lied about my wife. He has lied to Justice Mollen and Justice Gulotta. He lied to the Grievance Committee. He lied to Judge Melia, and to others.

He duped Justice Mollen, Justice Gulotta, Judge Mishler, and the Grievance Committee.

For his own ulterior ends he has usurped the authority of his office to defame me and my wife. He has exceeded his authority, abused his influence, and directed the Sheriff of Suffolk County as to how he should operate his office. He has imposed his will upon the Attorney General's Office to oppose my writ when they knew that it had to be granted eventually, and then compelled that office to take an appeal when they knew it was meritless and told him so.

He has breached the integrity and independence of other courts, as well, intruding therein his behind-the-scene tentacles wherever another jurisdiction had control over my actions.

This is not a disciplinary proceeding against me, but Surrogate Signorelli's retaliatory attempt to destroy me for resisting him, his methods, and everything he stands for.

I intend to continue setting forth my documentation so that his true portrait is seen to be as ugly as the final visage of Dorian Gray at the end of that sad story. Nevertheless, in putting together this document, I have only included evidence of high-quality and omitted situations wherein he has involved others, essentially innocent, in his intrigue, for I am mindful, as Mr. Justice Cardozo stated in Berrizi v. Krause (239 N.Y. 315, 318), that "misbehavior though without taint of corruption or fraud may be born of indiscretion."

Surrogate Signorelli's incredible testimony, briefly set forth hereinbefore, is now given in greater detail (SM 45-54):

> "Q. Did you on that date [June 22, 1977] charge me, try me, find me guilty and sentence me to the county jail for criminal contempt?
> ...

THE REFEREE: Yes, that is repetitious. That is a matter of record here.
MR. SASSOWER: So it is conceded that the answer is yes?
THE REFEREE: Yes, it is a matter of record here.

MR. SASSOWER: Then I was found guilty of criminal contempt is one aspect of it; that I was charged on that day, that I was tried on that day, that I was found guilty on that day, and I was sentenced on that day?
THE REFEREE: Yes. All right.
Q. Or was I charged on that day?
THE REFEREE: Did all of those things happen on that day?
THE WITNESS: No.

Q. What happened insofar as the charge, the trial, the finding of guilty and sentencing, what happened on June 22nd?
A. I will have to go back to June 15th to answer your question because the two dates are related. There was a chain of events that took place commencing on June 15th and culminating on June 22nd.
THE REFEREE: The question is: What happened on June 22nd?
THE WITNESS: On June 22nd, I conducted a hearing, and, after conducting this hearing, I made a determination that you had violated my order directing you to turn over to the Public Administrator the books, records and property of the estate; and once having made that determination, I then adjudged you to be guilty of criminal contempt.

Q. The question is, sir: When was I charged with the crime of criminal contempt? What date?
A. June 15th.

Q. Okay --
A. I gave you the Notice provisions and the admonitions as required by 750 of the Judiciary Law.

Q. And could you show us where in the transcript on June 15th I was charged with criminal contempt; and would you read from the transcript, if you contend the transcript is correct?

...

THE WITNESS: No, no, the charge is interspersed in that entire transcript; there was a long colloquy that occurred between you and me.

THE REFEREE: Just a moment. The question is whether or not on that day you legally charged him. That is what we are down to.

...

THE WITNESS: If your Honor please, the way I did it that day, as I advised him -- I asked him whether or not he had complied with my order.

THE REFEREE: No, no --
THE WITNESS: I gave him all of the admonitions and I said if he continued to violate my order he could be adjudged in contempt of court.

THE REFEREE: You put him on notice?
THE WITNESS: I did.

THE REFEREE: Is it fair to say you did not charge him that day?
THE WITNESS: Then, if your Honor please, then, just before I was going to adjudge him in contempt, he then assured me that he would comply and I therefore stayed my adjudication of contempt.

MR. SASSOWER: I move to strike that, your Honor, not only as it is not within the record, but --
THE REFEREE: Just a moment.

MR. SASSOWER: It is not responsive to the question.
THE REFEREE: Motion granted.

Q. Sir, can you show us where on June 15, 1977 you charged me with criminal contempt?

THE REFEREE: As a matter of law, was he charged that day with criminal contempt by you?

THE WITNESS: Well, if your Honor please, first -- was he charged in writing? No. No, he was not charged in writing.

THE REFEREE: Well, was he charged orally?

THE WITNESS: Well, I don't know what the word 'charge' means precisely. As I understand the contempt provisions as contained in 750, they require, when there is a contempt committed in open court, that the judge advise the contemnor about his actions and what those actions are likely to result in because of his violation of a court order in open court; and that is what I proceeded to do on that day. It was a long and extensive colloquy, and I might add, he never answered any questions directly, but I had to engage in that colloquy and I gave him all of the admonitions and the required notices.

THE REFEREE: That is a conclusion. Next question.

Q. Did you try me on June 15, 1977?

A. I have already said that I did not try you on June 15th.

THE REFEREE: The answer is 'no'.

Q. Did you charge me on June 22nd?

A. I had already advised you --

THE REFEREE: Judge, please, I am anxious to get you out of here as quickly possible.

THE WITNESS: No, I did not charge you on June 22nd.

Q. Did you try me on June 22nd?

A. I conducted a hearing and determined that you had not complied with my order and adjudged you to be in contempt.

Q. At any time prior to June 22, 1977, did you advise me that a hearing or trial would take place on the contempt on June 22, 1977?
A. No, but I did advise you --

Q. Yes or no?
A. I'm sorry, I cannot answer that question in that way.

THE REFEREE: Yes, you can, Judge [Signorelli].

THE WITNESS: With all due respect, Judge --

THE REFEREE: Now, please, please. Now, I have given both sides latitude, but a lot of questions can be answered simply. In many instances you want to make explanations and many instances I have permitted it. Now, that unfortunately leads to greater argumentation. Those matter which are worthy, of necessity, to be explained, can be done on redirect. Ordinarily I like to avoid that, but unfortunately we get into confrontation and argumentation so we will stick to the question. Was he advised between the 15th and 22nd that this hearing would be conducted on the 22nd; is that your question?
MR. SASSOWER: Thank you, your Honor.
THE WITNESS: By me, is that by me?

Q. By anybody.
THE REFEREE: Now --
MR. SASSOWER: I'm sorry, your Honor.
THE WITNESS: Vincent Berger sent you a letter on June 17th.

THE REFEREE: To your knowledge or on information and belief -- information that you have -- was he advised that there would be a hearing in connection with contempt on the 22nd? That is the question.
MR. SASSOWER: Thank you, your Honor.
THE WITNESS: I told him on June 15th --

THE REFEREE: No, no, please!
THE WITNESS: June 22nd?

THE REFEREE: In between?
THE WITNESS: No.

THE REFEREE: All right.
THE WITNESS: No.

Q. After the hearing you conducted on June 22, 1977, did you find me guilty?
THE REFEREE: That is in the record, the answer is 'yes'.

Q. Did you, between the time you found me guilty and the time you sentenced me, did you give me any opportunity to make any motions and an arrest of judgment -- off the record.
...

Q. Okay, between the time you found me guilty and the time of sentencing, how much time elapsed?
A. You were sentenced that same day.

Q. Was I given any opportunity to make any motions or make any plea?
THE REFEREE: That is really redundant. The record demonstrates you were not there and you were sentenced the same day. That is unnecessary burdening of the record.

Q. Did you know on June 22, 1977 that the procedure that you followed was unlawful?
MR. GRAYSON: Objection.
THE REFEREE: Sustained.

SIGNORELLI PUBLISHED LIE # 17

Surrogate Signorelli continues:

"On the same day, he procured a writ of habeas corpus from a Justice of the Appellate Division, Second Department, who scheduled the matter for a hearing on the following day, June 24th, 1977, in the Suffolk County Supreme Court. The said Appellate Division Justice denied his application for bail. Later, that same day, he applied for and received another

> writ of habeas corpus from a Suffolk County Supreme Court Justice which contained a provision for bail. In both habeas corpus applications, he alleged that no previous application had been made for the relief requested."

1. Obviously since the Surrogate knew I was in the Suffolk County Jail, he had to be aware that I could not physically have applied to the Appellate Division for a Writ of Habeas Corpus in Brooklyn, New York. But this flagrant defamation is lost to the ordinary reader, as it was to the Appellate Division.

2. The time stamp of the Appellate Division, the records of the Supreme Court, Suffolk County, the County Jail, and of the Appellate Division, all reveal, beyond any doubt or dispute, that the application was initially presented to Special Term of the Supreme Court, which gave me all the relief I had requested, including bail.

3. Obviously, also, the person who presented the Writ of Habeas Corpus to the Appellate Division was ignorant of my application to the Supreme Court and certainly would not have pursued it at the Appellate Division had he known that all the relief desired had already been granted by another Court.

The average reader would not be expected, however, to come to this evident conclusion, since the Appellate Division, Second Judicial Department, with all its staff, time and opportunity to deliberate, did not recognize the obvious. In an opinion wherein (1) this matter was not raised as an issue; (2) was not in the record; (3) was legally irrelevant (Gerstein v. Pugh [supra]) and where (4) Signorelli's own attorney [the Assistant Attorney General] himself admitted the falsity of the statement privately on several occasions, nevertheless, the Appellate Division gratuitously adopted and incorporated it in its own decision (65 A.D.2d 756, 757, 409 N.Y.S.2d 762, 763) by saying:

> " He then petitioned this court for a writ of habeas corpus and asked for bail pending the hearing. A hearing on the writ was directed for the following day (June 24, 1977), but bail was denied.
>
> Within a few hours of that determination, petitioner made application for a writ of habeas corpus to a Justice of the Supreme Court in Suffolk County, without mentioning the prior application to this court. This was in violation of the statute that requires that the petition for a writ 'shall state * * * the date, and the court or judge to whom made, of every previous application for the writ, [and] the disposition of each such application' (CPLR 7002, subd [c], par. 6). The Justice before whom the second application was made directed a hearing on June 27, 1977 and set bail at $300." (Emphasis in the original)

Ironically, the only published appellate decision that states that it is improper for an attorney to falsely set forth that "no previous applications have been made", is Sassower v. Signorelli (65 A.D.2d. 756, 409 N.Y.S.2d 762), a case where I, the attorney involved, did not, and demonstrably, physically, could not have, set forth such false statement.

Must I, and my family name, forever bear that unjustified "badge of infamy", frequently cited by my professional peers, in support of their contentions in other cases that such practice (in which I did not engage) by their adversaries is legally, as well as morally, wrong?

The despicable aspect about the aforesaid opinion of the Appellate Division (besides incorporating defamatory facts not supported in the record) is that, amazingly, it refused to correct such error when I brought it to the Court's attention on a motion to reargue (even imposing costs on me for such righteous effort).

When Surrogate Signorelli mails his libelous tirade to Justice Mollen, he gets a "Thank You" letter. When I advise the Appellate Division of an error in its decision by setting forth the truth, I get rebuffed and socked with costs imposed upon me! Unfortunately, truth is an expensive commodity in this community.

Suffice it to state, that the Grievance Committee found no evidence that this false assertion made by Surrogate Signorelli, and improperly adopted by the Appellate Division, had any truth whatsoever, and to their credit did not lodge any charge against me based upon same.

How did all this extraneous defamatory matter not in the Record as presented to the Appellate Division find its way into the published opinion of that Court?

Presumably from the statement that Surrogate Signorelli sent to Presiding Justice Milton Mollen on February 24, 1978, a time when his appeal was pending in the Appellate Division or from some other ex parte Signorelli source.

SIGNORELLI'S PUBLISHED LIE # 18

Surrogate Signorelli continues:

> "The hearing was ultimately conducted by Supreme Court Justice McInerney who then dismissed the court's contempt order on technical grounds without prejudice to a renewal of the contempt proceedings."

Surrogate Signorelli, a judge of twenty years, with six years in the County Court, actually makes the incredible published statement that the right to be charged, and the right not to be tried, convicted, and sentenced, in absentia, in violation of the constitutions of the United States and State of New York, statutes of the State of New York, and Appellate Division Rules, are but "technical" grounds for dismissal.

Such a description manifestly reflects a moral and ethical unfitness for service on the bench of any court, let alone the Supreme Court of New York State.

Even Archie Bunker would not describe Surrogate Signorelli's procedures as only "technically" deficient.

SIGNORELLI'S PUBLISHED LIE # 19

Judge Signorelli continues:

> " It is the contention of the undersigned that the said Supreme Court Justice preempted the function of the Appellate Division in choosing to act as an appellate court and reviewing the order of the Surrogate, a judge

of coordinate jurisdiction. Since a proper and complete record has been, in fact, compiled in the Surrogate's Court, the contemnor's sole recourse was to seek review of the contempt order by the Appellate Division. People v. Zweig, 32 A.D.2d 659 (300 N.Y.S.2d 65) [2d Dept.]; People v. Clinton, 42 A.D.2d 815 (346 N.Y.S.2d 345) [3d Dept.]; Waterhouse v. Celli, 71 Misc.2d 600 (336 N.Y.S.2d 960) [Sup. Monroe]."

1. These three cases cited by Surrogate Signorelli, as well as every case citing these three cases, actually stand for the contrary proposition, to that advanced by him.

There is no possible way that Surrogate Signorelli can credibly contend to anyone that he did not know that he turned a basic legal proposition around one hundred eighty degrees, as shown by his own three cited cases and the cases citing them.

Here again, Surrogate Signorelli has boldly misrepresented the law in the same perverse manner as he has been shown to have misstated or concealed the relevant facts.

a. The relevant portions of the opinion of this Court in People v. Zweig (supra) are as follows:

" The People urge that the order is not appealable and that the only way to review it is by a proceeding under article 78 of the CPLR. We disagree.

It is true that §752 of the Judiciary Law provides that a summary contempt adjudication is reviewable by an article 78 proceeding; and

in Matter of Douglas v. Adel, 269 N.Y. 144 (and other cited cases), it was held that summary punishment for a criminal contempt committed 'in the immediate view and presence of the court,' during a trial, is reviewable only by an article 78 proceeding and not by appeal. But the rationale of those cases (most of which involved contemptuous conduct during a trial) was that there ordinarily is no adequate record for review on a direct appeal from such a contempt adjudication, so that an article 78 proceeding ordinarily must be brought in order to create an adequate record for the appellate court. Moreover, §752 of the Judiciary Law does not say that an article 78 proceeding is the only way to review a summary adjudication for criminal contempt; it merely says that such adjudication can be so reviewed, and several of the above-cited cases seem to indicate that such contempt adjudication may be reviewed by a direct appeal if a record has already been made which is adequate for appellate review.

In the case at bar there clearly is a record adequate for appellate review, since the minutes of the proceedings before the County Court disclose that the relevant issues were thoroughly discussed and the reasons for appellant's refusal to answer were fully stated and explained. In addition, the parties agree that there is nothing more that they could state in an article 78 petition and answer that is not already in the record before us on this appeal. Hence, if we were to hold this contempt order non-appealable and were to relegate appellant to an article 78 proceeding, we would merely invite circuitous, redundant proceedings, which in our opinion are not required under existing law."

Can anyone with even minimal reading compentency in the law state that there is anything in the aforesaid case which supports Surrogate's Signorelli's published misrepresentation of law that my "sole recourse was to seek (direct) review of the contempt order by the Appellate Division"?

Plainly, this case supports the opposite proposition, particularly where I was not charged, but was tried, convicted, and sentenced, all in absentia.

Nine months before Surrogate Signorelli published his invective against my wife and myself, People v. Sanders (58 A.D.2d 515, 395 N.Y.S.2d 190 [1st Dept.]), was rendered, wherein the Court stated (515, 191):

> " Parenthetically, we note that while we are of the view that the most appropriate procedural vehicle for review of summary contempt is an Article 78 proceeding (Judiciary Law, §755), we nonetheless find that in the case at bar there exists an adequate record for appellate review and therefore review by direct appeal may obtain (People v. Zweig, 32 A.D.2d 569, 300 N.Y.S.2d 651; People v. Clinton, 42 A.D.2d 815, 346 N.Y.S.2d 345)."

Also to be noted is that decided the same day, published in the same volume, official and unofficial, as People v. Zweig (supra), is this Court's opinion in Cahn v. Vario (32 A.D.2d 564, 300 N.Y.S.2d 657, 659 [2d Dept.]), wherein it stated:

> " Appeal from an order of the County Court ... which summarily adjudged appellant in criminal contempt of court for conduct committed in the presence of the court. On oral motion of the District Attorney ..., the appeal is dismissed ... .
>
> No appeal from such order ordinarily lies, the proper method of review being a proceeding pursuant to article 78 of the CPLR (People v. Longo, 30 A.D.2d 828, 293 N.Y.S.2d 704), since in a summary proceeding the contemnor may not have adequate opportunity to develop a competent record for appellate review and in such circumstances may need an article 78 proceeding to give him the chance to develop the full record required (People v.Zweig, 32 A.D.2d 569, 300 N.Y.S.2d 651 [decided herewith]). In the instant matter, appellant apparently concluded that the record of his appearance in the County Court was not full enough to support his views that he was improperly punished for contempt of that tribunal and so he brought on a habeas corpus proceeding, which was transformed into an article 78 proceeding and transferred to this court by the Supreme Court, Nassau County.
>
> Under the circumstances, the instant appeal is moot and this court will pass upon the issues tendered in the article 78 proceeding (see People ex rel. Vario, Sr. v. Kreuger, 32 A.D.2d 571, 300 N.Y.S.2d 655 [also decided herewith])."

b. Surrogate Signorelli also cited People v. Clinton (supra), in support of his assertion.

In that case, the Court stated (815, 345-346):

> " Although an article 78 proceeding is the usual method of review of a judgment of criminal contempt which has been committed in the presence of a court (Judiciary Law, §752), the parties here agree that, since there is an adequate record for appellate review in the case at bar, review by appeal is appropriate (People v. Zweig, 32 A.D.2d 569, 300 N.Y.S.2d 651)."

Certainly, this case (which was also cited in People v. Sanders [supra]), does not stand for Surrogate Signorelli's assertion that my "sole recourse" was a direct appeal. It stands for precisely the opposite proposition, as Surrogate Signorelli well knew.

c. The third case cited by Surrogate Signorelli was Waterhouse v. Celli (supra) -- a factual situation very similar to my case -- wherein Mr. Justice Rosenbaum stated (602-603, 963-964):.

> " Both CPLR §7801(2) and Judiciary Law §§752 and 755 provide for Article 78 proceedings to review orders punishing persons summarily for contempt of court committed in the immediate view and presence of the court. In order for this Court to have jurisdiction of this matter pursuant to Article 78, therefore, it must determine whether the contempt orders were made summarily and secondly, whether they were committed in the immediate view and presence of the court. Respondent maintains that the orders were not made summarily but in fact after a full

hearing which provided an adequate record upon appeal. The Court disagrees. It is obvious from the record that neither of the petitioners were present at the so-called hearing between respondent and counsel. That failure to properly notify petitioners so that they would have an opportunity to be heard to explain their actions and to offer a defense to the charges. Therefore, unlike the record in People v. Zweig, 32 A.D.2d 569, 300 N.Y.S.2d 651 where the defendant was present at all times and had an opportunity to be heard, this case involves a record which is woefully inadequate and impossible for any court to review on appeal. An Article 78 proceeding is not only proper here but is necessary so that the record can be completed by signed affidavits and the taking of testimony if the court deems it necessary. Respondent argues, however, that Article 78 does not lie for the reasons that the failure of the petitioners to appear in court pursuant to the respondent's order was not committed in the immediate presence of the court. This is essential in order for this Court to have jurisdiction of the matter (case cited).

In spite of the fact that neither petitioner was personally seen by the respondent or in his immediate view or presence, it still cannot be said that the acts held to be contemptuous were not themselves performed in the immediate view and presence of the Court. Judiciary Law §§752 and 755 do not say the person held in contempt be in the Court's immediate view and presence but only that the acts forming a basis for the contempt order be so. Cf. 22 Carmody-Wait 2d, §140:15; People v. Higgins, 173 Misc. 96, 16 N.Y.S.2d 302. Here,the acts alleged to be contemptuous were the failure to the petitioners to appear, not before some other body or court as in the matter of Alberti v. Dickens, 22 A.D.2d 770, 253 N.Y.S.2d 561 and other cases cited by respondent, but before the trial judge himself. It is this absence which of course was readily discernable to the respondent which therefore makes this case qualify for Article 78 treatment. ... People

v. Zweig (supra) where the Appellate Division determined that since the avenue taken there was by appeal in the first instance and not by Article 78, it would keep the matter since regardless of whether the order was made in a summary or non-summary manner, there was in fact an adequate record for purposes of review and the defense had been given ample opportunity to explain his behavior and present a defense. It is interesting to note that in both the Dillon case and the Zweig case, the District Attorney argued that upon the facts there presented, only an Article 78 proceeding would lie and not an appeal."

Once again, this case stands for the exactly opposite proposition to that asserted by Surrogate Signorelli and, further, patently, reveals that, substantively, as well as procedurally, his criminal conviction of me was unquestionably invalid.

In Dillon v. Comello (34 A.D.2d 1097, 312 N.Y.S.2d 568 [4th Dept.]), the Court stated:

" [A]ppellant was entitled to invoke the privilege afforded by the Fifth Amendment (cases cited).

We disagree with respondent's contention that appellant has not chosen the proper method of review of the determination (People

v. Zweig, 32 A.D.2d 569, 300 N.Y.S.2d 651)."

3. Since my trial, conviction, and sentence were all rendered in absentia and therefore, on default, there was no review from same, as Surrogate Signorelli was well aware. His diabolical motive was to enthrall me in jail, "slowly twisting in the wind", waiting for his decision (whenever he might deign to render it) based on a motion to vacate he anticipated I would have to make returnable before him.

Surrogate Signorelli bluntly revealed this to be his strategem, in his Brief to the Appellate Division, Second Department, stating (p. 13):

> " It is evident on the face of the contempt order that the relief contained therein was granted on default. ... (His) procedure (was) to move to vacate the default. If that motion is denied, an appeal lies from the order denying the motion."

Surrogate Signorelli's arguments and actions fly in the face of the existence and manifest purpose of the sacred Writ of Habeas Corpus (Fay v. Noia, 372 U.S. 391, 83 S.Ct. 822, 9 L.Ed.2d 837; People ex rel Keitt v. McMann, 18 N.Y.2d 391, 273 N.Y.S.2d 897). Surrogate Signorelli evidently believes himself entitled to powers denied to President Lincoln during the Civil War (Ex parte Milligan, 71 [4 Wall] U.S. 2, 18 L.Ed. 289).

In Poulos v. New Hampshire (345 U.S. 395,, 73 S.Ct. 760, 777; 97 L.Ed. 1105, 1124), Mr. Justice Douglas [dissenting] stated:

> " What Mr. Justice Roberts said needs to be repeated over and again. ... [H]istory proved that judges too were sometimes tyrants."

The Assistant Attorney General handling the case (as well as every other Assistant Attorney General familiar with the matter) knew that the criminal contempt conviction was invalid, but yielding to the extra-judicial pressure exerted by Surrogate Signorelli on the Office of the Attorney General, they opposed my writ of Habeas Corpus.

The Office of the Attorney General knew that an appeal on behalf of Surrogate Signorelli was meritless and told him so. But Surrogate Signorelli, who to my knowledge, never denied to them that he knew such appeal had no merit whatsoever, nevertheless, insisted that they prosecute such appeal. After a long delay, they finally succumbed to the Surrogate's continuing coercion (and other contacts within that office) and perfected the appeal.

Surrogate Signorelli evidently believes that such extra-judicial manipulation of the Office of the Attorney General and the Grievance Committee is an emolument of his office.

Had there been oral argument, and had the Appellate Division, Second Department asked the Assistant Attorney General why that office had prosecuted a clearly meritless appeal, he would have had to (assuming his candor) tell the Court that this was upon the instruction and insistence of Surrogate Signorelli (needless to say, at taxpayers expense).

Point blank, in my presence, a federal judge to whom I had presented a Writ of Habeas Corpus, told the Assistant Attorney General that on the admitted facts, the criminal contempt conviction was a constitutional outrage. The Assistant Attorney General, in so many words acknowledged that he knew it, and so did his office, but said that he does not make the decisions of his office.

The federal judge then stated that he would not intervene at that point with a state judicial proceeding pending, but if my writ were not sustained, and if I were given one telephone call to make, I should telephone him. The Judge then turned to the Assistant

Attorney General, and instructed him that if I could not, for any reason, make that telephone call, he wanted him to make it on my behalf.

The events that occurred in federal court were transmitted to the State trial judge. The message was clear and my Writ of Habeas Corpus sustained before the completion of the hearing.

In my brief to the Appellate Division, I stated:

> " This adjudication was eminently correct, as respondents and their attorneys are well aware. This meritless appeal represents *another egregious attempt by respondents to harass (me) at public expense."

The footnote in my brief reads as follows:

> "* The day following this 'mock' trial, adjudication, and sentence, (I) without prior notice was arrested in Westchester County, abducted to Suffolk County, was prevented from immediately presenting a Writ of Habeas Corpus or right to communicate with counsel, and deprived of other basic constituional rights.
>
> On March 8, 1978, the same Court, on the same charge again conducted a 'mock' trial, adjudication, and sentence in (my) absence when they knew (I) was trying a case in Supreme Court, Bronx County. Again (I) was arrested in Westchester County, abducted to Suffolk County, and deprived of (my) right to present a Writ of Habeas Corpus or to communicate with counsel or family for many hours.

> When eventually a Writ of Habeas Corpus was presented which released (me) on (my) own recognizance, respondent-respondent refused to honor same for five (5) hours until the Supreme Court Justice who signed such Writ telephoned respondent-respondent after midnight.
>
> In the interim, for presenting such Writ of Habeas Corpus, (my) wife and daughter were themselves imprisoned in the Suffolk County Jail Building without access to ordinary amenities."

There is much more to this "horror story", including a physical assault by Suffolk County Deputy Sheriffs, which they attempted to cover up, by claiming that I, (at 55 years of age), and, while handcuffed, beat up one of two fully armed Deputy Sheriffs, which allegedly resulted in his hospital treatment and loss of about ten days of work.

The judge (in Westchester County) needed little more than to look at the imposing Arnold Schwarzenegger physique of this allegedly injured Deputy Sheriff to throw this concocted second degree assault charge against me out of court.

Simply put, Surrogate Signorelli's idea, apparently, was to get me automatically disbarred by having me convicted of a felony, that being the law at that time.

This Court, Judge Mollen, or the Commission on Judicial Conduct can further corroborate the truth as I have outlined it herein by merely calling upon former Assistants Attorney General, Leonard J. Pugatch, Esq. and Emanuel M. Kay, Esq., for a detailed "inside story" and requesting the stenographic minutes of the criminal complaint against me, which I will gladly forward.

To the credit of the State Attorney-General's Office, I understand they refused to have anything to do with the second criminal contempt conviction.

This Court, Judge Mollen, or the Commission on Judicial Conduct can further confirm the truth about this proceeding and Surrogate Ernest L. Signorelli by merely requesting the Chairman of the Grievance Committee and the attorneys who handled this matter on behalf of the Grievance Committee to submit a detailed statement setting forth their experiences with Surrogate Ernest L. Signorelli in this matter.

If this Court desires to know why the Grievance Committee has moved to partially disaffirm, and why no attorney has placed his name on such memorandum on behalf of the Grievance Committee, I respectfully request this Court to call upon it for the answer to such probing question.

SIGNORELLI'S PUBLISHED LIE # 20

A person's subsequent conduct is not the legal result of an acquittal or the dismissal of an indictment.

Thus, for Surrogate Signorelli to blame my subsequent conduct on the legal determination made by Judge McInerney nullifying the Surrogate's contempt finding, (an order affirmed by the Appellate Division), is knowingly false, particularly when made by a Judge.

The testimony before and the Report of Mr. Justice Melia (which petitioner itself moves to confirm) reveals that I did not continue to" flaunt" (the Surrogate presumably meant "flout", which I did not do either) the Order of Surrogate's Court, and had, in fact, substantially complied with Surrogate Signorelli's directive, even before his first criminal contempt proceeding.

The intention of Judge Signorelli in making the published statement, hereinafter quoted, was not so much to criticize his colleague, Judge McInerney, but me, for Judge Signorelli further stated:

> " As a result of the above decision [by Mr. Justice McInerney], Sassower has, with impunity, continued to flaunt the orders of this court and severely hampered and unduly delayed the resolution of this estate at great harm and expense to the legatees and the infant beneficiaries named in the Will."

SIGNORELLI'S PUBLISHED LIE # 21

As the Report of the Referee states (p. 49):

> " Parenthetically, it should be noted that, Anthony Mastroianni, the Public Administrator, replaced the respondent on March 29, 1977. He did not file any accounting until April 1980, though he had no more information in 1980 than he did in March 1977.
>
> That accounting had not been acted upon by the court as of November 1981."

As the Report of the Referee also states (p. 2) neither "respondent ... nor his wife ... has received any fee or expenses for a great deal of work performed."

Contrariwise, the appointees of Surrogate Signorelli, in this $75,000 estate, have submitted claims for fees and expenses of approximately $30,000.

Has the Signorelli-appointed guardian of the children protested the fees requested by the attorney for the Public Administrator [Surrogate Signorelli's campaign manager]?

Has the Signorelli-appointed guardian of the children protested the fees or expenses of the Public Administrator, another Signorelli appointee?

Has the Public Administrator or his attorney, both Signorelli-appointees, protested the fees of the Guardian of the children?

Has anyone of Signorelli's appointees protested the Surrogate's actions, which did result, ironically, in "great harm and expense to the legatees and the infant beneficiaries"?

That is confirmed by the Report of the Referee (p.61), which found that:

> " More than a year later, after paying additional taxes, the Public Administrator sold the house to the same party for the same price."

Who is the Suffolk County Surrogate's Court Stenographer, and how did she get her job?

I know the answer to a number of questions, took legal action with respect to some of them, which is part of the reason that Surrogate Signorelli's has made feverish attempts to discredit me.

There is much validity in the child's answer to the question as to who was Socrates! Socrates, said the child, was a man who went around telling the truth, so they killed him.

Unquestionably, partially for being a nice boy, obeying Judge Signorelli's wishes rather than advancing the interests of his wards (including not objecting to the fees requested by Mr. Berger), Mr. Wruck is now counsel to the Public Administrator (cf. The famous Captain of the Queen's Navy, immortalized by Gilbert and Sullivan's, H.M.S. Pinafore).

It is a generally accepted truism that when someone is at the cash register, there is often a lot of noise made to divert the shopkeeper's attention.

SIGNORELLI'S PUBLISHED LIE # 22

Judge Signorelli then added insult to injury:

" In addition to the foregoing, Sassower's inexplicable conduct ...".

Let us, to this point examine the conduct of George Sassower and question whether it was, indeed, "inexplicable".

1. In the words of Judge Melia (Referee's Report (p. 49b-50):

> " As earlier set forth, Mr. Abuza was aware, both from knowledge obtained from his client and from the respondent, that Barnovsky (the decedent's accountant) was uncooperative and that the respondent was endeavoring to settle claims of creditors and difference between the parties.
>
> However, Mr. Abuza takes the position that the respondent should have haled Mr. Barnovsky into court and forced him to divulge the requisite information.
>
> The respondent countered that such action would have been costly to the estate, estranged the most knowledgeable person about estate assets, occasioned delay and thwarted the respondent's efforts to woo Barnovsky. In these efforts he ultimately prevailed.
>
> The respondent takes the position that it is not customary to file intermediate accountings in 'small' estates such as this one, absent unusual circumstances. None such existed here. The better practice was to file only a final accounting. This procedure, he argues would save court time, lawyers' fees and benefit legatees.
>
> This argument was not seriously challenged here by anyone. Nor were unusual circumstances demonstrated. The genesis for an accounting arose from adversarial attorneys with no showing for need, other than a clamor for an accounting. This, despite the fact that all had knowledge of the practical problems facing the respondent in this regard."

2. In June of 1976, George Sassower was ill, hospitalized, and paralyzed and, therefore, could not attend pro forma conferences in Riverhead, Long Island, a roundtrip journey of some 200 miles.

3. George Sassower sold a house owned by the deceased at the specific direction of Surrogate Signorelli, who, thereafter, held that George Sassower had no authority to sell such house. I do not suggest, but strongly assert, that it is Surrogate Signorelli's conduct which is bizarre and, indeed, "inexplicable".

4. I make a request that I be served with a proper motion on formal papers by Mr. Berger, the Attorney for the Public Administrator before I take a definitive stand as to how I will proceed. Such papers had to be issued and served since, as Surrogate Signorelli admitted, the alleged contempt was not in "its immediate view and presence", his patently false assertion in his Order and Warrant notwithstanding. Such request is falsely termed by Surrogate Signorelli a "refusal to comply".

5. I am not charged, but nevertheless, am tried, convicted, and sentenced, all in absentia. I apply for and receive a Writ of Habeas Corpus, which is sustained.

6. Judge Melia did not find my conduct "inexplicable", but rather, as the Record reveals, it was obvious that he felt it was Surrogate Signorelli's behavior and testimony which called for explanation before a disciplinary tribunal. A few particularly egregious examples, out of so many set forth herein, and still more which are not included solely for space and time limitations.

a. Surrogate Signorelli's insistence that I attend his Court for a pro forma conference knowing of my semi-paralyzed condition.

b. Surrogate Signorelli's direction that I sell the estate's real property, then voiding the transaction on the ground that I had no authority to enter into a contract of sale, causing needless loss of time and money to the estate.

c. Charles Z. Abuza, Esq., requests an adjournment because of a conflicting engagement, and I am requested to choose one of three alternate dates for such adjournment. One date I give as "clear and available", another date I give as "possibly clear and available", and a third date I announce I will be engaged in the Appellate Division, Second Department, arguing an appeal, am scheduled to hold an examination

before trial later that day in New York County, and then scheduled to hold an examination before trial in Westchester County, for a client who has made arrangements to come in from Florida.

The Court chooses the last described date taken up by the three described already conflicting engagements. In Surrogate Signorelli's published statement, he notes that I defaulted and gives no explanation for same, as he similarly omits any possibly sympathetic fact in connection with any of the other so-called "defaults" he attributes to me or my wife.

d. In Surrogate's Court, I advise Surrogate Signorelli in open court (confirmed in the stenographic transcript) that the next day I am scheduled to argue an appeal in the Appellate Division, Second Judicial Department. Nevertheless, when I fail to appear the following day, Surrogate Signorelli publishes a distorted version of such non-appearance.

SIGNORELLI'S PUBLISHED LIE # 23

Surrogate Signorelli, continuing his published insult, states:

> "He [George Sassower] caused Justice Burstein of the Supreme Court, Nassau County to issue an order to show cause requesting the staying of a warrant of commitment allegedly issued by this court, without first verifying that the warrant of commitment had in fact been issued."

1. Court records indicate that was not the only reason or purpose of this Order to Show Cause.

2. When, in the midst of a trial in Supreme Court, Queens County, the clerk announces that he has received a telephone call from Suffolk County that a "body attachment" has been issued against me, I submit that such public announcement is sufficient to trigger preventive measures on my part before further embarrassment and irreparable professional injury is done me.

The subsequent conduct of Surrogate Signorelli unquestionably convinces me that he had someone call Supreme Court, Queens County and give that message. Whether it was true or not is irrelevant. Such announcement is hardly one that would have been contrived by the Court Clerk.

3. The relief requested was more extensive then that set forth by Surrogate Signorelli. My petition of June 6, 1977 reads as follows:

"AS AND FOR A FIRST CAUSE OF COMPLAINT

1. That your petitioner is admitted to practice law in the courts of the State of New York.

2. That the Respondent, ERNEST L. SIGNORELLI, is the Surrogate of Suffolk County of New York.

3. That in the afternoon of June 2, 1977, as your petitioner was about to select a jury in a trial in Supreme Court: Queens County, he learned from the Clerk of Trial Term Part I of that Court that he had received an inquiry from the Sheriff of the County of Suffolk as to the whereabouts of your petitioner since he had a Body Attachment against your petitioner.

4. That your petitioner has not seen such Body Attachment (or Order of Arrest) nor the papers upon which same may be based, but verily believes that same was issued directly or indirectly from the respondent, ERNEST L. SIGNORELLI.

5. That the Respondent, ERNEST L. SIGNORELLI, has issued several sua sponte directives, ... without any prior notice at all, and without any hearing or trial which your petitioner believes to be unlawful and unwarranted.

6. That because your petitioner has not fully complied with some of the directives of the respondent, ERNEST L. SIGNORELLI, and without further notice or hearing, and without first finding your petitioner in contempt, has caused to be issued the aforementioned Body Attachment, which provides for the imprisonment of your petitioner, or restraint of his liberty.

7. That it is the position of your petitioner, that a Body Attachment or Order of Arrest may not be issued without notice or hearing where the underlying directive was made without notice of hearing (except possibly in exceptional circumstances not present in the case at bar).

8. That the position in this respect of your petitioner seems to be supportable by Vail v. Quinlan (406 F. Supp 951 [later reversed on other grounds sub nom Juidice v. Vail, 430 U.S. 327, 97 S.Ct. 1211, 51 L. Ed.2d 376]), wherein it was held that the person to be imprisoned must be given 'adequate notice or warning of the consequences of (his) failure...', that 'due process requires more than the mere opportunity to be heard when the interest involved is deprivation of ... liberty', 'a finding of contempt can be properly made only upon a hearing with both parties present', and ' a hearing ... must be held before, not after, imprisonment' (p. 959).

9. That the aforesaid Body Attachment or Order of Arrest does not, at a minimum, comply with the constitutional mandates as set forth hereinabove.

10. That on information and belief the respondent, ERNEST L. SIGNORELLI, has not nor does he intend to commence any proceedings to adjudicate your petitioner in contempt as a means of avoiding a hearing on this matter.

11. That very early in the morning, the day following knowledge by your petitioner that there was a Body Attachment, and in order to continue with his trial in Supreme Court: Queens County without being interrupted with any Body Attachment, your petitioner presented a substantially similar application to the Appellate Division as is contained in this cause of action, and although same was signed, your petitioner was advised that because of the language contained in CPLR §506 (b)[1] (which does not mention 'surrogate' as an

included category) that this application properly should be brought in this Court. That it is for that reason that your petitioner believes that the stay was stricken. After concluding that the Appellate Division did not have initial jurisdiction over a 'surrogate' under CPLR §506(b)[1], your petitioner abandoned such application in the Appellate Division by not serving copies of such Order and is now proceeding in this Court which petitioner believes to be the proper forum.

AS AND FOR A SECOND CAUSE OF COMPLAINT

12. Petitioner repeats, reiterates, and realleges each and every allegation heretofore made in this petition and further alleges:

13. That while it is your petitioner's belief that the respondent, ERNEST L. SIGNORELLI, is not following the mandate of law as in such cases provided, that in the event it is found that he has followed the statutory mandate or scheme, that such statutory scheme which permits such action by the Surrogate be adjudicated null, void, and unconstitutional.

AS AND FOR A THIRD CAUSE OF COMPLAINT

14. Petitioner repeats, reiterates, and realleges each and every allegation heretofore made in this petition and further alleges:

15. That prior to and in particular between the 9th day of March, 1976 and the 25th day of March, 1977, your petitioner was reocognized as the sole executor of the Estate of Eugene Paul Kelly, deceased.

16. That such recognition of your petitioner as the sole executor was given, without exception, during such period by the respondent, ERNEST L. SIGNORELLI, his legal secretary, all the law assistants of that Court, and every party and every attorney to every party in that estate.

17. That during such period of time your petitioner performed many acts as such executor with the express knowledge, consent, request, and/or direction of the respondent, ERNEST L. SIGNORELLI, the law assistants, and all the attorneys representing the parties interested in such estate including the making of mortgage payments, securing a purchaser for the real property involved (subjecting petitioner to third parties for commissions) and other necessary and proper acts.

18. That during such period all of the aforementioned recognized and treated an Order dated March 9, 1976 as a conditional order rendered null by reason of compliance by your petitioner.

19. That more than a year later, and against the express wishes of all the attorneys for the parties interested in the estate, the respondent, ERNEST L. SIGNORELLI, changed his interpretation and accepted interpretation adopted by all to the order of March 9, 1976 and did not permit your petitioner to consummate the sale of the real property involved.

20. That such unilateral, sua sponte, change of interpretation, is improper in law and prejudiced your petitioner because his time to appeal had expired.

21. The aforementioned is set forth without prejudice to petitioner's contention that the Court was without jurisdiction to remove your petitioner under the Order of March 9, 1976.

AS AND FOR A FOURTH CAUSE OF COMPLAINT

22. Petitioner, repeats, reiterates, and realleges each and every allegation heretofore made in this petition and further alleges:

23. That in order to prejudice petitioner and contrary to the Rules of the Appellate Division and practice in his own Court, the respondent has placed this matter

down for trial without a Note of Issue when he knows that the petitioner desires, but has not had an examination before trial caused by the default of another, and in other ways has acted in violation and contrary to the practice and rules of the Court.

24. That furthermore, on information and belief, the respondent, ERNEST L. SIGNORELLI, has interfered, directly or indirectly, with the ability of your petitioner to obtain transcripts of proceedings which petitioner has desired, since two requests for information about a certain transcript has gone unanswered.

25. That no previous application for this or similar relief has been made to any Court or Judge except as set forth herein.

WHEREFORE, your petitioner, respectfully prays that an Order be entered enjoining and restraining respondents from issuing or enforcing any Body Attachment or Order of Arrest against your petitioner, that the statutory scheme under which the respondent, ERNEST L. SIGNORELLI, issued such Body Attachment or Order of Arrest be adjudicated, null, void, and unconstitutional, that the respondent, ERNEST L. SIGNORELLI, be restrained from enforcing the Order of March 9, 1976 except for the manner such Order was recognized and enforced during the year subsequent to such Order, that the Rules of the Appellate Division and practices of the Surrogate's Court be adhered to, together with any other, further, and/or different relief as to this Court may seem just and proper in the premises.

Dated: New York, New York
June 6, 1977

GEORGE SASSOWER

SIGNORELLI'S PUBLISHED LIE # 24

Justice Signorelli continues his published peregrinations:

> "Sassower then commenced a civil action in the Federal District Court against the undersigned ... . The action was dismissed by the court, and Sassower then filed an appeal of the order of dismissal with the Second Circuit Court. During the pendency of this appeal Sassower saw fit to file a second suit essentially in duplication of the action which was dismissed."

1. Inspection of the complaints in both actions reveals that the second (Exhibit "56"), was not essentially in duplication of the first (Exhibit "55") as falsely asserted by Judge Signorelli.

2. I further intend to show that my complaints do set forth a "case or controversy", even under the stringent standards of the most limiting Justice of the Supreme Court of the United States on this subject.

3. I further intend to show that my Second Complaint was not barred by res judicata (claim preclusion), and to the extent it did, it was necessary to replead such matter to preserve the issue on appeal.

Initially noted is the fact that the Grievance Committee was chronologically in error in its Memorandum, which fact was brought to its attention and it has corrected same by separate affidavit.

My second federal action was brought prior to review by the Second Circuit, not afterward. Both actions were simultaneously before the Second Circuit after the District Court's disposition of the later complaint.

In the recent chamber opinion of Mr. Justice Rehnquist, the author of O'Shea v. Littleton [infra], on December 9, 1981 (Clements v. Logan, U.S. , 102 S.Ct. 284, 286-287, 70 L.Ed.2d 461, 465), he stated:

> " The jurisdiction of the Court of Appeals to order the issuance of a permanent injunction is, I think, open to serious question. Although respondent has suffered an injury sufficient to establish her standing to seek damages '[p]ast exposure to illegal conduct does not in itself show a present case or controversy regarding injunctive relief ... if unaccompanied by any continuing, present adverse affects.' O'Shea v. Littleton, 414 U.S. 488, 495-496, 94 S.Ct. 669, 675, 38 L.Ed.2d 674. As O'Shea makes clear, standing to seek injunctive relief depends on a showing of 'a real and immediate threat of repeated injury.' Id. at 496. Respondent has not alleged that she anticipates being arrested again and again subjected to strip search at th Arlington County Detention Center. Even if she had made such an allegation, it would '[take] us into the area of speculation and conjecture' Id. at 497. See Rizzo v. Goode, 423 U.S. 362, 371-373, 96 S.Ct. 598, 46 L.Ed.2d 561)."

Since my complaint alleged facts showing continuing, present, and adverse effect, in addition to my money damage claims, (which by itself makes it a federal judiciable issue), it presents a federal constitutional "case or controversy".

Presently, my second Writ of Habeas Corpus has been dismissed by a nisi prius Justice of Suffolk County [without a hearing], notwithstanding the fact that I was not present at the trial, conviction, and sentencing (all on the same day), since I was actually engaged, in the middle of a trial, before Mr. Justice JOSEPH DiFEDE in Supreme Court, Bronx County.

While I was on trial in Supreme Court, Bronx County, my contempt hearing appeared on the calendar for the first time, and was all rendered in absentia, notwithstanding that a previous similar conviction had been overturned and affirmed by the Appellate Division.

This is law and justice in Suffolk County!

The warped reasoning of the Suffolk County Judge, who denied my Writ of Habeas Corpus, was that by being in the midst of a trial in Supreme Court, Bronx County, I voluntarily waived my constitutional right to be present at my Suffolk County trial on a date that they, not I chose.

The Suffolk County Judge, who unquestionably is learned in the law, did not even give me a trial on my Writ.

Simply put, the issue I am putting to the Appellate Division, Second Department is:

> "Was I supposed to risk contempt in Supreme Court, Bronx County by abandoning a pending trial in its midst and prejudice my client's cause in order to appear in Surrogate's Court, Suffolk County, the first time it was on the calendar?"

I thought of suggesting to Honorable FRANCIS T. MURPHY, JR., that, following the example of Ex Parte Young (209 U.S. 123, 28 S.Ct. 441, 52 L.Ed. 714), he send one of his representatives to Suffolk County and loudly and clearly advise them that His Honor intends to protect litigants and their attorneys in their constitutional rights while engaged in the courts of his jurisdiction.

A recent dream revealed a more daring thought. In it, a representative of Honorable FRANCIS T. MURPHY, was granted permission to address the Court in Suffolk County (or the Appellate Division, Second Department), and stated:

> "On behalf of Honorable FRANCIS T. MURPHY, Presiding Justice of the Appellate Division of the Supreme Court and all members of that Court, we wish to respectfully advise this Court that if GEORGE SASSOWER, Esq. is to be incarcerated because of his failure to be in

> Surrogate's Court, Suffolk County by reason of his being in the midst of a trial in the Supreme Court within the jurisdiction of the First Judicial Department, then all the members of that Court wish to join him in such incarceration."

Perhaps if were that to happen, I would not be compelled to seek the aid of the federal courts for federal constitutional rights and privileges that this Court is mandated to uphold!

I am frankly tired of the numerous inquiries that have been made over the years of my wife and myself, as to how I am doing with my (or your husband's) battle out in Suffolk County?

It is not only my battle. It is our battle against tyranny, arrogance, and corruption as exhibited by the Surrogate of Suffolk County.

I would not have had this battle, had Mr. Justice Milton Mollen and his Court done their job.

Nevertheless, the federal courts will eventually recognize that state courts are reluctant to protect federal constitutional rights, when, as here, a court or judge is the transgressor.

My federal obstacle, if any, is not "case or controversy", as contended by the Grievance Committee, but "federalism, comity, and abstention" (Juidice v. Vail [infra]), which it does not raise.

The body of the First Cause of Action in the First complaint, filed July 12, 1977, is as follows:

" 5. There is only one Surrogate of Suffolk County, as he adjudicates all cases and controversies in that jurisdiction relating to estates, appoints or has the power to appoint all or substantially all of the employees of the Surrogate's Court: Suffolk County, including assistants, clerks, attendants, and court reporters, who serve at his pleasure.

6. The Surrogate of the County of Suffolk appoints the Public Administrator who in turn appoints his attorney.

7. The Surrogate appoints and removes guardians and other fiduciaries.

8. The Surrogate of Suffolk County passes on the disbursements of the Public Administrator, fixes the fees and passes on the disbursements of the attorney for the Public Administrator, guardians, and other fiduciaries.

9. The Office of the Public Administrator is located in the same building as the Surrogate's Court, Suffolk County, which is maintained by The County of Suffolk and/or The State of New York and they share common expenses.

13. On information and belief, a substantial portion of the time, energy, and activity of defendant, ERNEST L. SIGNORELLI, if not the major portion, is making appointments and passing on applications for fees and disbursements for his appointees and others.

14. The importance of the position of Surrogate of Suffolk County is due to the extraordinarily large patronage power and authority controlled by the Surrogate.

15. That the nexus between the Surrogate, the Public Administrator, and the Public Administrator, by law, custom, and usage is such that they are the agents and servants of the Surrogate.

16. That on information and belief, the monies supporting such patronage as aforementioned, comes from The State of New York, The County of Suffolk, the litigants, the attorneys for the litigants, and the estates being administered.

17. That on information and belief, the Surrogate of Suffolk County in adjudicating cases and controversies, involves in substantial number persons and attorneys who have been appointed directly or indirectly by the Surrogate of the County of Suffolk and it is he who fixes their fees and disbursements.

18. The cases and controversies adjudicated by the defendant, ERNEST L. SIGNORELLI, were cases and controversies adjudicated by the courts at and prior to the formation of the United States and State of New York.

19. On information and belief, in adjudications between the appointees of the defendant, ERNEST L. SIGNORELLI and others, the defendant, ERNEST L. SIGNORELLI, is not, in law or fact, an impartial and disinterested judicial officer; has inconsistent obligations as to his friends and political affiliates with that of his judicial function; does not hold a detached and neutral position; is partial; profits indirectly from his appointments, adjudications, fee allowances, and expense allowances; presents an intolerably high and unconstitutional invitation for the defendant, ERNEST L. SIGNORELLI, to prefer his personal, social, and political obligations to that owed to his judicial obligation for a fair trial and adjudication.

20. Plaintiff is a non-judicially designated litigant in Surrogate's Court: Suffolk County involving the Public Administrator and a guardian appointed by the defendant, ERNEST L. SIGNORELLI.

21. On information and belief, the appointees of defendant, ERNEST L. SIGNORELLI, to insure future appointments, favorable allowances, and other inconsistent reasons with their office, also have subserved and tend to subserve their obligations towards their clients in favor of defendant, ERNEST L. SIGNORELLI.

22. That by reason of the job and economic power that defendant, ERNEST L. SIGNORELLI has over the employees of Surrogate's Court: Suffolk County and the nexus between the defendant, ERNEST L. SIGNORELLI, the employees of Surrogate's Court: Suffolk County, and his appointees, directly or indirectly that Court is not fairly, impartially, or constitutionally administered.

23. That by reason of the aforementioned these defendants under color of statute, regulation, custom, and usage deprive plaintiff and others similarly situated, and continue to do so of their rights, privilges, and immunities secured by the Constitution and Laws of the United States."

Mr. Chief Justice Jacob Mishler, pursuant to Rule 12(b)(6), the federal counterpart of CPLR 3211(a)(7), stated in his decision of September 20, 1977 (Exhibit "64"):

" This cause of actions fails to satisfy the threshold requirement imposed by Article III of the Constitution that those who seek to invoke the power of federal courts must allege an actual case or controversy. Flast v. Cohen, 392 U.S. 83, 94-101, 88 S.Ct. 1942, 1949-53 (1968). '[P]laintiff must allege some

> threatened or actual injury resulting from the putatively illegal action before a federal court may assume jurisdiction.' Linda R.S. v. Richard D. and Texas et al., 410 U.S. 614, 617, 93 S.Ct. 1146, 1148 (1973). Abstract injury is not enough. It must be alleged that the plaintiff '... has sustained or is immediately in danger of sustaining some direct injury' as the result of the challenged statute or official conduct. O'Shea v. Littleton, 414 U.S. 488, 494, 94 S.Ct. 669, 675 (1974), citing Commonwealth of Massachusetts v. Mellon, 262 U.S. 447, 488, 43 S.Ct. 597, 601 (1923).
>
> Plaintiff fails to demonstrate how he has been injured by the alleged partisan administration of the Surrogate's Court. Nowhere in his claim does plaintiff show how he was injured by the impartial adjudications of defendant Signorelli or by the misconduct of defendant Signorelli's appointees. This omission is fatal to plaintiff's claim and mandates its dismissal.
>
> In O'Shea v. Littleton, supra, ... Accord, Gardner et al. v. Luckey et al., 500 F.2d 712, 714 (5th Cir.-1974) cert. denied, 423 U.S. 841, 96 S.Ct. 73 (1975)."

I respectfully submit that, contrary to the opinion of Mr. Chief Judge Mishler, sufficient evidence has been set forth (clearly more fully established by subsequent facts) to establish a constitutional "case or controversy", besides my money damage claims.

The egregious nature of the "Grievance Committee's Memorandum", which no member of the Committee nor any of its attorneys wish to sign, notwithstanding my repeated demands, is that the Amended

Petition does not even allege that I commenced any federal action which did not assert a "case or controversy".

Neither do I recall this issue being brought to my attention or to the attention of Judge Melia. If it appears in the transcript as an issue raised, it must be very nebulous, since I cannot locate it.

Had the issue been raised by the Grievance Committee in its Amended Petition or at the hearings in any substantial manner, I would have insisted on the personal appearance of Mr. Chief Judge Jacob Mishler, and among other questions I would have respectfully inquired about his opinion in Signorelli v. Evans ~~which~~ was affirmed in 637 F.2d 853 [2d Circuit-12/23/80].

In that case, the Circuit Court ironically held that the potential "reputational taint" faced by Surrogate Signorelli, possibly running athwart certain New York rules (by his contemplated commencement of a congressional race without resignation from the bench), created a justiciable "case or controversy".

In my second action, alleged on behalf of myself and "all non-judicially appointed litigants, estates, and beneficiaries wherein judicial appointees are involved", arising after the Surrogate's Court was

trying to hold me in contempt a second time, I substantially realleged my previous first cause of action, heretofore dismissed, but which was pending on appeal, and further alleged (Exhibit "56"):

> " 19. That by force of state law, persons who reside in Suffolk County ... are compelled to have their estates administered in Surrogate's Court: Suffolk County and no place else.
>
> 22. Plaintiff is presently and personally subject to various criminal and civil proceedings in that [Surrogate's] Court.
>
> 24. That because plaintiff was not a judicially designated litigant, has by voice and actions protested the illegal procedures of these defendants, has sought redress in other courts of the State of New York and United States of America, and otherwise lawfully exercised his rights and privileges, the defendant, ERNEST L. SIGNORELLI, has made adverse adjudications against the plaintiff and used the legal procedures to harass him and continues to do so.
>
> 25. That furthermore the defendants to further harass and denigrate plaintiff have instituted several criminal proceedings against the plaintiff, all of which have been successfully defended by plaintiff at great cost of time and expense. Nevertheless these defendants are continually reinstituting same despite their lack of success.
>
> 26. Furthermore the defendant, ERNEST L. SIGNORELLI, has set January 25, 1978 as the date for the commencement of a trial involving plaintiff and plaintiff expects adverse adjudications and rulings because of the aforesaid.

29. That for the reasons heretofore and hereafter mentioned there exists many cases and controversies between the parties herein."

Mr. Chief Justice Mishler, in his decision of April 20, 1978 (Exhibit "67"), stated:

" ... Plaintiff now petitions this court for leave to file a second amended complaint ... which purports to add another defendant and two more causes of action. ... .

... Plaintiff's failure was met by an order of the Surrogate's Court dated March 9, 1976 which purportedly removed him as executor.

... On June 22, 1977 ... Sassower failed to appear. The court held a hearing on the application, found plaintiff in contempt of court, and sentenced him to thirty days imprisonment. A warrant of committment thereupon issued.

... On June 23, 1977, plaintiff was arrested at his home by defendants ..., both Deputy Sheriffs of Suffolk County. Sassower was transported forthwith to the Surrogate's Court, the officers rejecting his request, after conferring with supervisors, that he be permitted access to a neighboring Supreme Court to file a writ of habeas corpus. Arriving at the court, plaintiff was detained for more than two hours and denied access to all avenues of relief; on orders of Surrogate Signorelli, plaintiff was refused permission to file a writ of habeas corpus and denied the opportunity to make any telephone calls. Sassower was ultimately brought before the court and given the chance to purge himself of the contempt. He refused and was thereupon remanded to the Suffolk County Jail.

That very afternoon, plaintiff petitioned the State Supreme Court for a writ of habeas corpus .... . By order dated July 28, 1977 ... the adjudication of contempt was annulled.

...Judge Signorelli immediately appealed from the July 28th order. ... In the meantime, with the appeal of Judge Signorelli still pending, Acting Surrogate Seidell instituted contempt proceedings grounded on Sassower's continued refusal to comply ...

Sassower, having received notice of the impending contempt proceedings, failed to appear on the scheduled return date because of a previous trial committment. Acting Surrogate Seidell conducted a hearing [in absentia], found Sassower guilty of contempt, and imposed a thirty day prison term. ...

The allegations of the amended complaint in this action track the events leading up to the second adjudication of contempt. To say the least, plaintiff's claim's are far reaching, multifarious in nature ... .

Plaintiff's first cause of action consists of a broad based attack on the structure, practices, and administration of the Suffolk County Surrogate's Court. In a large part, it all but mirrors word for word count one of the complaint in Sassower's prior action ... which this court dismissed as failing to comply with the 'case or controversy' requirement of Article III. To the extent this claim is a mere restatement of allegations previously asserted, it is barred on res judicata grounds. Expert Electric, Inc. v. Levine, 554 F.2d 1227, 1232-33 (2d Cir.) cert. denied, 434 U.S. 903, 98 S.Ct. 300 (1977).

Plaintiff attempts to remedy the defect by raising the claim on behalf of himself and '...all non-judicially appointed litigants, estates, and beneficiaries wherein judicial appointees are involved ...' (Amended Complaint §1[b]). Plaintiff maintains that the Surrogate's 'obligations' to appointees taints the fairness of proceedings to the prejudice of non-judicially appointed litigants. Accepting the truth of the allegation, the claim nevertheless remains insufficient.

Firstly, the class definition is too indefinite in scope. DeBremaecker v. Short, 433 F.2d 733, 734 (5th Cir.-1970). Beyond that, the claim does not allege specific instances of injury to any of the so-called members of the purported class, O'Shea v. Littleton, 414 U.S. 488, 494, 94 S.Ct. 669, 675 (1974). Injury is alleged only in the most general terms.

On his own behalf, plaintiff claims injury by adverse ruling of the court. Such 'injury' however does not give rise to a civil rights claim. Medved v. Hallows, 392 F. Supp. 656, 658 (E.D. Wis. 1975) see also Ginsberg v. Stern, 251 F.2d 49, 50 (3d Cir. 1958). We find plaintiff's first cause of action insufficient on its face, and it is therefore dismissed."

The Circuit Court of Appeals in its opinion dated December 19, 1978 (Exhibit "68") stated:

" The actions, insofar as they seek to enjoin proceedings in the Surrogate's Court of Suffolk County, New York, NY, fail to satisfy the threshold 'actual case or controversy' requirement of Article III of the Constitution imposed upon those seeking to invoke federal jurisdiction. See O'Shea v. Littleton, 414 U.S. 488 (1974). No immediate threat to the plaintiff-appellant from the alleged illegal or partisan appointment of administrators by the Surrogate's Court is alleged."

I submit that the factual events since such decision have shown that opinion to be in error.

In my second cause of action of the first complaint, I alleged, inter alia (Exhibit "55"):

" 28. In addition to other infirmities, the aforesaid Order of Contempt and the sentence thereof were both made without the presence of plaintiff, without due and proper notice to plaintiff, for acts which did not

all occur in the Courtroom of the Surrogate's Court: Suffolk County or in the presence of the defendant, ERNEST L. SIGNORELLI.

29. Except for the arbitrary and unexplained omission relating to Surrogate's Court, the State of New York has provided in every other similar conviction, a defendant may apply for bail pending such appeal (Criminal Procedure Law § 460.50).

30. That by reason of the aforementioned arbitrary omission, persons similarly situated have a bail remedy not accorded to plaintiff only because the alleged contempt took place in Surrogate's Court, and standards for bail for other courts are not applicable to plaintiff."

As to this cause, Mr. Chief Justice Mishler held that:

"Since the order of contempt was annulled on July 23, 1977, and plaintiff is no longer incarcerated, this cause of action is dismissed as moot. (cases cited). For the same reason plaintiff's motion for a judgment on the pleadings with respect to this cause of action is denied."

In the second cause of the second action (Exhibit "56"), in addition to the matters contained in the first complaint, I alleged:

" 37. That before the Order adjudicating the aforesaid Contempt Order null and void was entered and while the Contempt Order was still in full force and effect, the defendants, ERNEST L. SIGNORELLI, VINCENT G. BERGER, and ANTHONY MASTROIANNI, directly or indirectly caused another Contempt Proceeding to be instituted against plaintiff before another judge against plaintiff with knowledge that same constituted double jeopardy and was in violation of the Constitution of the United States.

38. That after the Order adjudicating the fact that the Contempt Order of the defendant, ERNEST L. SIGNORELLI, was null and void was entered, the said defendant, ERNEST L. SIGNORELLI, caused a Notice of Appeal to be filed.

39. That as a result of such Notice of Appeal the Contempt Order against plaintiff is still in full force and effect because of the stay provided in CPLR §5519(a)[1].

40. Despite the fact that such Contempt Order is in full force and effect and any new proceeding based on the same facts would be double jeopardy, the defendants have attempted to institute such new proceedings, knowing same are unconstitutional.

41. That because bail procedures are unavailable to plaintiff and because of the limited term that defendant, ERNEST L. SIGNORELLI may impose upon plaintiff (thirty days), it is the ulterior intention of the defendant, ERNEST L. SIGNORELLI to incarcerate plaintiff for the maximum term, which term will have expired before appellate review can be had.

42. That because of this fact, any incarceration of plaintiff will escape review if same is reviewed, plaintiff will have served his entire term in prison prior to appellate adjudication and any reversal will be meaningless to the plaintiff.

43. That defendant, ERNEST L. SIGNORELLI, is proceeding in bad faith, contrary to the Constitution of the United States in violation of the rights and privileges of plaintiff herein."

Chief Judge Mishler stated (Exhibit "67"):

" Plaintiff complains in his second cause of action of defects in both contempt proceedings and asks this court to enjoin execution of the warrant of committment issued

on March 8, 1978. Only last year, the Supreme Court in Juidice v. Vail, U.S., 97 S.Ct. 1211 (1977) considered the applicability of federalism and comity priciples enunciated in ... .

Following the mandate of Juidice, we decline to enjoin execution of the warrant of committment. Sassower clearly had the opportunity to present his double jeopardy claim in the context of the second contempt proceeding and can still be way of a motion to vacate pursuant to CPLR §5015. If committed, plaintiff can petition the state court for a writ of habeas corpus and be admitted to bail pending its determination. Thus, there is no clear threat of irreparable injury (case cited), and no basis for injunctive relief. Plaintiff's bald and conclusory allegation of bad-faith is insufficient to rescue the claim from dismissal. see Grandco Corp. v. Rochford, 536 F.2d 197 (7th Cir.-1976)."

The Circuit Court of Appeals stated (Exhibit "68"):

" Plaintiff-appellant's application for a stay of incarceration pending appeal from the state court's adjudication holding him in criminal contempt must be dismissed as moot, in view of the state court's annulment of the contempt adjudication and its release of plaintiff-appellant on bail.

The district court did not abuse its discretion in refusing to enjoin the state court criminal contempt proceedings, in view of the availability of the state court as the forum for adjudication of the issues raised by plaintiff-appellant with respect to those proceedings and plaintiff's actual invocation of state court procedures. See Juidice v. Vail, 430 U.S. 327 (1977)."

Suffice it to say, that the State procedures are patently inadequate when the Presiding Justice of the First Judicial Department makes no attempt to intervene when I am convicted in absentia because I am in the midst of a Supreme Court trial in that Department.

Suffice it also to say, that the State procedures are patently inadequate when the Presiding Justice of the Second Judicial Department makes no attempt to even investigate a situation wherein my wife and daughter are incarcerated for the simple reason that they served a Writ of Habeas Corpus upon the county jailor.

The third cause of action in the first complaint reads as follows:

> 31. Plaintiff repeats, reiterates, and realleges each and every allegation heretofore made in every paragraph of the complaint, as if more fully set forth at length herein and further alleges:
>
> 32. The defendant, ALLEN KROOS, is an employee of the Sheriff of the County of Suffolk and at all of the times hereinafter mentioned he acted under color of State law, statute, ordinance, regulation, custom or usage.
>
> 33. The defendant, ANTHONY WISNOWSKI, is an employee of the Sheriff of the County of Suffolk and at all of the times hereinafter mentioned he acted under color of State law, statute, ordinance, regulation, custom, or usage.

35. That under color of State law, statute, ordinance, regulation, custom or usage and on information and belief the defendants did conspire and by their joint activity did impede, hinder, obstruct, deprive and/or defeat the due course of justice with intent to deny plaintiff and other citizens of the equal protection of the laws, to injure them or their property for lawfully enforcing, or attempting to enforce, their right to the equal protection of the laws and other rights under the Constitution and the laws of the United States and/or having knowledge of the wrongs conspired to be done or about to be committed and having the power to prevent or aid in the prevention of the commission of the same, neglected or refused to do so in that the defendants, ERNEST L. SIGNORELLI, ANTHONY MASTROIANNI and VICTOR G. BERGER, JR., did and/or conspired to alter records of Court, had Orders made and entered in which the Court patently did not have jurisdiction, obstructed plaintiff's right to obtain public records, unconstitutionally orchestrated a criminal proceeding, made and permitted to be made false statements and certifications on the records of the Court, caused plaintiff to be denigrated, disparaged, and defamed through the public press and otherwise, caused plaintiff to be improperly detained and imprisoned; in that the defendants, except for defendant, LEONARD J. PUGATCH, tried to defeat, hinder and obstruct plaintiff's right for a Writ of Habeas Corpus from the State and Federal Court, assaulted and permitted the assault of plaintiff while in custody, illegally detained plaintiff against his wishes at places other than the County Jail of the County of Suffolk, in that the defendants, ALLEN KROOS and ANTHONY WISNOSKI, failed to make official judgment or executive decision, and without hope of ultimate success and in dereliction of his duty to the Court, the defendant, LEONARD J. PUGATCH, at the behest of the defendants, ERNEST L. SIGNORELLI, and VICTOR BERGER, JR., has failed to disclose to the Court that the Order of Contempt was jurisdictionally and constitutionally invalid

and undertook other actions and courses of conduct to harass plaintiff in time, money and effort.

WHEREFORE, with respect to the first cause of action enjoining the defendant, ERNEST L. SIGNORELLI from hiring any further employees for Surrogate's Court: Suffolk County, directly or indirectly, except for personal assistants, enjoining the discharge of any employee of that Court, except personal assistants, except for cause; mandating that impartial reporters be assigned to such court; enjoining the defendant, ERNEST L. SIGNORELLI, from awarding any fees or passing on any disbursements, except such fees as may be provided by statute, to his appointees or otherwise; enjoining any appointments, directly or indirectly; restraining defendants, ANTHONY MASTROIANNI and VINCENT G. BERGER, JR., from acting as Public Administrator and Attorney for the Public Administrator respectively, enjoining them from receiving any fees or disbursements, directly or indirectly, from Surrogate's Court: Suffolk County; compelling them to account for any and all fees and disbursements so received. With respect to the second cause of action staying and compelling the defendants, ERNEST L. SIGNORELLI and JOHN P. FINNERTY, to stay the incarceration of plaintiff until a final determination on appeal. With respect to the third cause of action awarding judgment in favor of plaintiff against the defendants for $5,000,000 compensatory and punitive damages, with costs and disbursements of this action; together with any other, further, and/or different relief as to this Court may seem just and proper in the first and second cause of action.

Obviously, it was this federal complaint that Surrogate Signorelli escalated from skirmish into a nuclear war.

Success in this complaint (see Ward v. Village of Monroeville, 409 U.S. 57, 93 S.Ct. 80, 34 L.Ed.2d 267; Tumey v. Ohio, 273 U.S. 510, 47 S.Ct. 437, 71 L.Ed. 749) might have meant the end of the Surrogate's patronage system, as practiced in places like Suffolk County. That is essentially what started this disciplinary proceeding against me.

The Surrogate published attack on me, which went so far as to include my wife, and the pressure to bring Grievance Committee charges her was a diabolical attempt to increase the pressure on me.

In constitutional terms, because I sought to exercise my right of access to the federal court to secure redress for the wrong done me by a judge crazed with judicial power, I had to be discredited and destroyed.

And so, I came to understand too well the meaning of the word "vendetta", for the Surrogate spared no expenditure of (taxpayers') time and money to "get" me, abusing the legal machinery in the process.

The Third Cause of action in the second complaint is only against the County of Suffolk and Charles Brown (neither of whom were defendants in the first complaint).

44. Plaintiff repeats, reiterates, and realleges each and every allegation heretofore made in every paragraph of the complaint as if more fully set forth at length and further alleges:

45. That on information and belief the defendant, CHARLES BROWN is a former employee of the County of Suffolk.

46. That the defendant, COUNTY OF SUFFOLK, has and exercises various police powers.

47. That on information and belief the defendant, County of Suffolk permits certain former employees to carry and exhibit certain badges, shields, and other documents which superficially resemble those carried by police officers and having police powers.

48. That on information and belief, the defendant, CHARLES BROWN, is a civilian without police authority or power, but carries such badge, shield, and documentation as if he is such police officer.

49. That the said defendant, CHARLES BROWN, is on information and belief an employee or agent of defendants, ANTHONY MASTROIANNI and VINCENT G. BERGER, JR., and indirectly of ERNEST L. SIGNORELLI, and with their knowledge and consent the said CHARLES BROWN has been used (with his spurious badge or shield) to harass and embarrass plaintiff, as more fully set forth hereinafter.

The Fourth Cause of Action in the second complaint was against the County of Suffolk only and there is nothing in the first action based on the allegations set forth therein:

> 50. Plaintiff repeats, reiterates, and realleges each and every allegation heretofore made in every paragraph of the complaint as if more fully set forth at length and further alleges:
>
> 51. That with respect to the Writ of Habeas Corpus secured on behalf of plaintiff, the plaintiff had to deposit a cash bail of $300 which as yet has not been returned.
>
> 52. That with respect to the return of said $300 the defendant has an onerous procedure, deducts a service charge, and does not pay any interest on said deposit.
>
> 53. That on information and belief such bail funds are deposited by the County of Suffolk and it does or should receive interest on same.
>
> 54. That the refusal or failure to pay interest on said monies to plaintiff and others similarly situated constitutes a deprivation of property without due process of law and violates the Constitution of the United States.
>
> 55. That furthermore, the onerous procedure employed is such that many persons forfeit their bail money rather than go through the time and expense to justly recover same.
>
> 56. That in effect, monies that are posted for bail, are non-returnable payments, partially or completely.

The Fifth Cause of Action in the second complaint was against Ernest L. Signorelli, the Sheriff of Suffolk County, and Suffolk County. There was no such cause of action in the first complaint and it reads as follows:

> 57. Plaintiff repeats, reiterates, and realleges each and every allegation heretofore made in every paragraph of the complaint as if more fully set forth at length and further alleges:
>
> 58. That by law, custom or usage in the State of New York and County of Suffolk, the Sheriff serves judicial processes on behalf of litigants and their attorneys.
>
> 59. That for the purposes of trial alternate means of service through the use of private persons is not feasable if assurance is desired that service will not be disputed or inability to serve is to be asserted.
>
> 60. That on information and belief, through the influence of the defendants, ERNEST L. SIGNORELLI, the Office of the Sheriff refuses to serve or property serve subpoenas on behalf of the plaintiff, as more fully set forth hereinafter, thereby obstructing plaintiff's access to the courts where service must be made in Suffolk County.
>
> 61. Furthermore, because of the bias shown by the defendant, ERNEST L. SIGNORELLI, and his conduct, as more fully set forth hereinafter, the plaintiff cannot receive a constitutionally proper trial in any court presided over, controlled or influenced by the defendant, ERNEST L. SIGNORELLI.

My Sixth Cause of Action in the second action against Ernest L. Signorelli, Vincent G. Berger, Esq., and the Public Administrator, for which there was no corresponding cause in the first complaint alleges:

> 62. Plaintiff repeats, reiterates, and realleges each and every allegation heretofore made in every paragraph of the complaint as if more fully set forth at length and further alleges:
>
> 63. That heretofore the plaintiff herein has proceeded against these defendants in the courts of the United States, and continues to do so.
>
> 64. That in retaliation for proceeding in the courts of the United States and in order to obstruct and hinder such further proceedings these defendants have been using the funds and credits of the Estate of EUGENE PAUL KELLY and Surrogate's Court: Suffolk County for their private purposes in order to annoy, harass, embarrass, and investigate plaintiff and for their private purposes.
>
> 65. That further in retaliation for proceeding in the courts of the United States and in order to obstruct and hinder further proceedings in the courts of the United States, these defendants have been misusing the authority of the Surrogate's Court: Suffolk County for their personal purposes.

My Seventh Cause of Action in the second complaint, corresponds to my Third Cause of Action in the first action, but updates defendants reign of terror, alleging:

> "66. Plaintiff repeats, reiterates, and realleges each and every allegation heretofore made in every paragraph of the complaint as if more fully set forth at length and further alleges:
>
> 67. Prior to and until March 17, 1977, plaintiff was recognized as the sole executor in the estate of EUGENE PAUL KELLY having been so designated in the Last Will and Testament of the deceased.
>
> 68. Prior to and until March 17, 1977, plaintiff as such executor had the express authorization of all attorneys representing all the parties in the aforementioned estate to enter into a contract of sale with respect to a certain property owned by the estate and assume liabilities as a result thereof.
>
> 69. Prior to and until March 17, 1977, plaintiff was recognized as such executor by the defendant, ERNEST L. SIGNORELLI, the officials and employees of the Surrogate's Court, Suffolk County and they knew, authorized and consented to such contract of sale by plaintiff on behalf of the aforementioned estate.
>
> 70. Prior to and until March 17, 1977, there were payments made under a mortgage obligation of the deceased, taxes and other charges that had to be paid which were paid by plaintiff with the knowledge and consent of defendant, ERNEST L. SIGNORELLI, the attorneys and parties involved in the aforementioned estate.

71. Prior to and until March 17, 1977, plaintiff had been authorized and directed by the defendant, ERNEST L. SIGNORELLI, some of the attorneys representing parties interested in the aforementioned estate to perform various other acts as executor of such estate.

72. That as late as March 14th, 1977, Certified Copies of Letters Testamentary were issued to plaintiff as executor in the aforementioned estate by the Surrogate's Court: Suffolk County.

73. That in March of 1977, notwithstanding all of the aforementioned in this cause of action, the defendant, ERNEST L. SIGNORELLI, state that plaintiff had been removed as executor in March of 1976 (approximately one year earlier).

74. The defendant, ERNEST L. SIGNORELLI knew that he had no jurisdiction to remove plaintiff as executor in March of 1976 and this orchestrated proceeding in March of 1977 was based in part on false and tampered documents in Surrogate's Court.

75. That because plaintiff would not silently comply and cooperate in this illegal and irregular procedure, the defendants, SIGNORELLI, BERGER, and MASTROIANNI (and thereafter others), acting jointly and in concert, conspired to hold a "mock trial" in plaintiff's absence, try plaintiff for criminal contempt, illegally arrest him and do such other necessary acts as might be warranted to cause plaintiff to silently submit to their wishes knowing that jurisdiction did not exist over plaintiff for such purposes.

76. On June 22, 1977, the defendants, SIGNORELLI, BERGER, and MASTROIANNI, without proper notice to plaintiff held this "mock trial" in his absence, took testimony, and the defendant, SIGNORELLI, found plaintiff guilty of criminal contempt in accordance with the

aforementioned preconceived plan, knowing that they did not have jurisdiction over the plaintiff under the circumstances.

77. Immediately thereafter and on June 22, 1977, still in the absence of plaintiff these defendants, in accordance with their preconceived plan, dispensed with plaintiff's right of allocution and sentenced him to be incarcerated for 30 days in the Suffolk County Jail, with the knowledge that no jurisdiction existed to impose sentence upon plaintiff without such allocution or proper waiver of same.

78. Thereupon on June 22, 1977, the defendants, SIGNORELLI, BERGER, and MASTROIANNI, drew up a Contempt Order asserting false and contrived facts on the face thereof.

79. On information and belief, the defendants, SIGNORELLI, BERGER, and MASTROIANNI together with the defendants, FINNERTY, CROCE, and GRZYMALSKI, agreed that defendants, CROCE and GRZYMALSKI would journey to plaintiff's residence in the early hours of June 23, 1977, and without prior notice to him would cause his arrest, bring him to the defendant, SIGNORELLI and not to the Suffolk County Jail as provided in the Contempt Order. All these defendants mentioned in this paragraph knowing that jurisdiction did not exist for such arrest and removal of plaintiff to defendant, SIGNORELLI, instead of the Suffolk County Jail was contrary to the Contempt Order.

80. That on information and belief, it was further agreed, expressly or impliedly, by defendants, SIGNORELLI, BERGER, MASTROIANNI, FINNERTY, CROCE, and GRZYMALSKI, that they would not permit plaintiff access to any other court or judge, directly or indirectly, knowing that such course of conduct was illegal and unconstitutional.

81. That in the morning of June 23, 1977, the defendants CROCE & GRZYMALSKI, despite repeated requests by plantiff, refused to communicate with their superiors while at the place of arrest for instructions as to whether they should permit plaintiff access to any judges or courts other than the defendant, SIGNORELLI, or the Surrogate's Court: Suffolk County.

82. That in the morning of June 23, 1977, the defendants, CROCE & GRZYMALSKI, despite requests by plaintiff refused to go to any impartial court or judge, State or Federal for instructions under the circumstances.

83. That in the morning of June 23, 1977, the defendants, CROCE & GRZYMALSKI, while at the plaintiff's home and while he was under arrest, refused to permit plaintiff to communicate with an attorney or advise him of his constitutional rights.

84. That during plaintiff's forced journey from Westchester County of Suffolk County, the defendants, CROCE and GRZYMALSKI, repeatedly refused plaintiff's requests for access to various courts or judges for the purpose of securing a Writ of Habeas Corpus and further refused plaintiff's demands that they seek advice from their superiors as to the legality of their conduct until these defendants were in or near Suffolk County.

85. When plaintiff and defendants, CROCE and GRZYMALSKI, were in or near Suffolk County, these defendants did request instructions with respect to plaintiff's requests that he be permitted access to a court or judge to present his Writ of Habeas Corpus and they were advised that on instructions from the defendant, SIGNORELLI, that they should not permit plaintiff such access, and the defendants, CROCE and GRZYMALSKI knew or should have known that such advice was illegal.

86. Thereupon plaintiff demanded that he be taken to the Suffolk County Jail in accordance with the Order of Contempt but the defendants, CROCE and GRZYMALSKI, wilfully disobeyed such Order of Contempt and instead took plaintiff to the building housing the Surrogate's Court: Suffolk County, the office of defendant, ANTHONY MASTROIANNI, and various other governmental departments.

87. That for approximately two (2) hours while plaintiff was kept under arrest in the aforementioned building, and not in any courtroom, the defendants, CROCE and GRZYMALSKI, refused plaintiff's repeated requests that he be permitted to present his Writ of Habeas Corpus and make telephone calls to an attorney from a pay telephone booth only a few feet away at plaintiff's costs and expense, but all such requests were refused.

88. That during such period of approximately two (2) hours, three (3) times the defendant, CROCE, did honor plaintiff's requests that he go and speak to the defendant, ERNEST L. SIGNORELLI, and each time plaintiff was informed that such requests were denied by the defendant, ERNEST L. SIGNORELLI.

89. That immediately after the last request made of defendant, ERNEST L. SIGNORELLI, came out of his office, looked at the plaintiff with a big grin of glee on his face.

90. That during such two (2) hour period, at no time was Surrogate's Court: Suffolk County in session, and the status of defendant, ERNEST L. SIGNORELLI, was at best, that of a jailor.

91. That at about 12:30 p.m., the defendant, VINCENT G. BERGER, JR., emerged from the office of defendant, ERNEST L. SIGNORELLI, and while in the custody of defendants, CROCE and GRZYMALSKI, they permitted defendant BERGER to wilfully assault plaintiff, and in fact one of them put a restraining hand on the plaintiff.

92. That shortly thereafter on June 23, 1977, the defendant, ERNEST L. SIGNORELLI convened the Surrogate's Court during which time he knowingly and wilfully attempted to intimidate plaintiff, knowingly and wilfully violated plaintiff constitutional and statutory rights, including the right to have counsel, the right not to be questioned on incriminating subjects, access to an appropriate court or judge for habeas corpus relief, and other similar rights.

93. After the court session was recessed with instructions from defendant, ERNEST L. SIGNORELLI, to remove plaintiff to Suffolk County Jail, plaintiff was permitted to make only one (1) telephone call, which was fruitless because of the absence of the attorney-recipient. When plaintiff wanted to make further telephone calls in view of the aforementioned, at his own cost and expense, the defendants, SIGNORELLI, BERGER, CROCE and GRZYMALSKI, objected and refused, particularly when plaintiff expressed a desire to telephone the Appellate Division of the Supreme Court of the Second Judicial Department.

96. By State law, custom, and usage, complaints made to the Grievance Committee of the Bar Association are confidential prior to the imposition of discipline in recognition of the fact that such complaints may not result in censure yet unjustifiably damage the reputation of the attorney involved and hinder his earning ability in his profession. Despite this knowledge of defendant, SIGNORELLI and defendant, BERGER, of such fact and practice, the defendant, BERGER, made complaint to the Bar Association against plaintiff (which was his right) mailing sufficient copies to various other persons so as to assure that same would receive extended publicity (which was not their right) with the intention of denigrating plaintiff's reputation and earning ability, which it did.

97. Similarly, the defendant, BERGER, acting in concert with the defendants, SIGNORELLI and MASTROIANNI, also made complaints to the District Attorneys of Westchester County and Suffolk County in such way as to give such complaints wide publicity, also with the intention of denigrating plaintiff's reputation and earning ability, which it did.

98. Thereafter when one of such complaints was rejected by the District Attorney of Westchester County as a 'fishing expedition' and when the District Attorney of Suffolk County found no evidence of wrongdoing these results were suppressed by defendants.

99. That the defendants further caused false and misleading facts to be circulated to the public press in order to damage plaintiff personally and in his profession, and to prejudice plaintiff's rights in the criminal and habeas corpus proceeding. That during such period of time the defendants, SIGNORELLI, BERGER, and MASTROIANNI, assumed the role of prosecutors.

a. Prejudicial, irrelevant, and/or false statements were made to representatives of the public press shortly prior to June 27, 1977,by defendants, SIGNORELLI, BERGER, and MASTROIANNI, or on their behalf and with their consent.

c. On June 27, 1977, by defendant, BERGER, who was not a party or recognized attorney in the proceedings in Supreme Court and who voluntarily and gratuitously making prejudicial and irrelevant statements in open court with the knowledge that a representative of the press was present and for his benefit.

f. By inviting interviews with the public press and conveying false and prejudicial information at times and places ...

101. In attempting to prejudice the rights of plaintiff, the defendants, SIGNORELLI, BERGER, and MASTROIANNI, they impeded and obstructed plaintiff's right to obtain court minutes from a court stenographer which in fact did prejudice the rights of plaintiff since he did not obtain same until many months later and only after the intervention of the Judicial Conference.

106. Continuing this reign of terror and harassment ...

110. Obstructing plaintiff's right to the Supreme Court ...

111. Although plaintiff and another advised defendant, CHARLES BROWN, who masquerades as a police official that if papers were mailed to plaintiff he would mail a Notice of Appearance ... the defendants, SIGNORELLI, BERGER, and MASTROIANNI, conspired to harass, embarrass, and interfere with plaintiff's business, by loitering and annoying those with whom plaintiff has business relations at their place of business with ostensible purpose of serving meritless legal papers.

112. Defendants, SIGNORELLI, BERGER, and MASTROIANNI, caused a representative of theirs to loiter around plaintiff's residence for many hours, making embarrassing inquiries of neighbors ...

114. That the defendants have done many other acts and continue to do so violative of plaintiff's constitutional and civil rights, in retaliation for plaintiff's availing himself of his legal rights in the Court of the United States and in trying to impair and impede redress in such courts.

WHEREFORE, ... enjoining defendant, ERNEST L. SIGNORELLI from hiring any further employees for Surrogate's Court: Suffolk County, directly or indirectly, except for personal assistants, enjoining the discharge of any employee of that Court except personal

assistants, and except for cause; mandating that impartial reporters be assigned to such Court; enjoining the defendant from awarding any fees or any disbursements, except such fees as may be provided by statute, to his appointees or otherwise; enjoining any appointments, directly or indirectly; restraining defendants, ANTHONY MASTROIANNI and VINCENT G. BERGER, JR., from acting as Public Administrator and Attorney for the Public Adminitrator respectively; enjoining them from receiving any fees or disbursements, directly or indirectly, from Surrogate's Court: Suffolk County, and from the Estate of EUGENE PAUL KELLY, in particular; compelling them to account for any and all fees and disbursements received; ... restraining CHARLES BROWN from using any shield, badge, or identification which resembles that used by a police or peace officer and compelling defendant, COUNTY OF SUFFOLK, to prohibit such use thereof. ... directing that COUNTY OF SUFFOLK include interest on any bail money returned, dispense with onerous conditions with respect to the return of such monies as may be appropriate to the consideration of the amount involved ... enjoining the defendants, ERNEST L. SIGNORELI, VINCENT G. BERGER, JR. and ANTHONY MASTROIANNI from using any funds except their on personal funds in any proceeding involving plaintiff and without any color of authority except that which may be given by an impartial court or judge. ...

SIGNORELLI'S PUBLISHED LIE # 25

Judge Signorelli, continuing in his cunning commentary says:

" On December 13th, 1977, the court scheduled this matter for pre-trial conference, and all parties appeared except for Sassower."

The actual scenario prior to the Surrogate's December 13th scheduling was as follows:

CHARLES Z. ABUZA, Esq. wanted an adjournment, which Surrogate Signorelli granted. Three dates were transmitted to me for such purpose.

I stated that (1) one date was "clear and perfectly acceptable"; (2) the second date I had an engagement but I expected it to be disposed of and it probably would be "clear and acceptable; (3) as to the third date, December 13th, 1977, I was scheduled to appear in the Appellate Division, Second Judicial Department to argue an appeal before Judge Titone, Hawkins, Suozzi, and Mollen; thereafter I was supposed to attend an examination before trial in Civil Court, New York County, and then I had an examination before trial in Westchester County wherein my client was coming in from Florida. After enumerating the aforementioned engagements very specifically, I added that under the circumstances, December 13th, 1977 was decidedly out of the question insofar as any appearance required of me in Suffolk County was concerned.

I might have expected which date Surrogate Signorelli would choose -- December 13th, 1977.

The words of Justice Holmes, in The Common Law (p. 3), are apt:

> "Even a dog distinguishes between being stumbled over and being kicked."

Obviously, I, too, was able to make the distinction, as should the Appellate Division, First and Second Departments.

Signorelli Published Lie #26

Surrogate Signorelli perpetuates his published account of my peccadillos:

> " On January 25th, 1978, all parties appeared for trial. ... Prior to recessing for the day, the court directed Sassower to return the following morning at 9:30 to continue the trial, and to resolve the further question of his contemptuous conduct.

The transcript of January 25th, 1978 of proceedings before Judge Signorelli reveals the following (Exhibit "CM", SM 44):

> "THE COURT: ... Tomorrow morning you appear with your counsel, and we will proceed with regard to this point.
> MR. SASSOWER: May I just state this, Your Honor - do I understand --

THE COURT: We are not suspending the hearing or trial.

MR. SASSOWER: I understand that.

(Mr. Wruck stood up to address himself to the court.)

THE COURT: Please, Mr. Wruck, let me finish. I would be glad to hear you afterwards. Proceed.

MR. SASSOWER: Initially, I am due in the Appellate Division tomorrow morning.

THE COURT: You are before me now, and you are to appear. I am directing you to appear. After we complete what we are working on today -- tomorrow morning at 9:30 with your counsel."

The following day, I appeared in the Appellate Division of the Second Judicial Department and argued on behalf of the respondent in the case of Baecher v. Baecher, which I had handled from its inception in 1975, except for the period when I was ill or recovering therefrom.

As the transcript of Surrogate's Court shows, Surrogate Signorelli was informed of this engagement, but deliberately flouted it.

In more than thirty years at the bar, I have never had or witnessed an occasion, wherein a trial judge did not honor an appellate engagement, particularly in a non-jury proceeding. Yet, Surrogate Signorelli made it his regular practice to schedule my

appearances on whatever date I had verbalized a conflict, as the transcript by his own Court Reporter reveals.

SIGNORELLI'S PUBLISHED LIE # 27

Continuing his overt omissions, Surrogate Signorelli states:

> "Petitioner failed to appear in court the following day, and a telephone communication was received by the court from the petitioner's wife, an attorney and his former counsel in this estate. She stated that [George] Sassower could not appear because he was in the Appellate Division on another matter ..."

As heretofore quoted, Judge Signorelli was advised the previous morning that I had an engagement in the Appellate Division and therefore he should have reasonably assumed that I (as well as he) was bound to honor the higher court's engagement.

The assertion of what my wife stated is made to appear as if it were spoken to him directly when in fact my wife spoke to Mr. Berger outside the presence or hearing of the Surrogate.

The transcript the next day reveals the following (SM 257-262):

> " About a quarter to twelve last night, she [Doris L. Sassower] again contacted me and indicated that her husband had contacted her - George Sassower - and he had told her he would not appear this day because he had an engagement in the Appellate Division. I am not

aware whether she knew which Appellate Division Mr. Sassower had an engagement in, or what judges he would be before, or what case he was going to be on. We didn't discuss that; but she gave me this information ...

Just about fifteen minutes ago, I attempted to reach her again - for the record, it is approximately eleven o'clock - but because of the telephone lines being out of order, I was unable to get through. However, the Public Administrator's office is still attempting to reach Mrs. Sassower, and I told them to let me know in the court room as soon as she is reached.

THE COURT: When I arrived at the court house this morning, it had been indicated to me that Mr. Sassower would not appear, notwithstanding the fact that yesterday I directed him to be present in court this morning ... . I was told that he had told someone he had an engagement in the Appellate Division [the Court transcript reveals that I told it to Judge Signorelli himself in open court the previous day] ... I don't know why Mr. Sassower is not present in this court this morning. He has offered the court no legal excuse for his not being present.

THE COURT: Gentlemen, I have been advised that Mr. Sassower is in the process of arguing an appeal in the Appellate Division of the Second Judicial Department in the case of Baecher v. Baecher, wherein his wife, Doris Sassower, appears as attorney of record."

SIGNORELLI'S PUBLISHED LIE # 28

Judge Signorelli continued:

> "She [Doris L. Sassower] stated that [George] Sassower could not appear because he was in the Appellate Division on another matter, but refused to identify the case or the particular department of the Appellate Division. ... [I]t was finally determined that Mr. Sassower was arguing a case in the Second Department that morning, and the counsel of record in the case was petitioner's wife [Doris L. Sassower]."

1. The published statement by Judge Signorelli that my wife "refused to identify the case or the particular department of the Appellate Division" is just another blatant falsehood as revealed, ante litem motam, by the Surrogate Court transcript itself.

As shown hereinabove, Mrs. Sassower's conversations was with Mr. Berger only, not with the Surrogate, and Mr. Berger stated, ante litem motam, that my wife gave him the information he requested. At no time did he state that she "refused" to identify the case. On the contrary he stated that he and my wife "didn't discuss that".

2. The record of the the Appellate Division (58 A.D.2d 821, 396 N.Y.S.2d 447, leave den. 43 N.Y.2d 645, 402 N.Y.S.2d 1026; 61 A.D.2d 1021, 403 N.Y.S.2d 82; 70 A.D.2d 871, 417 N.Y.S.2d 212; 78 A.D.2d 894, 433 N.Y.S.2d 220; 80 A.D.2d 629, 436 N.Y.S.2d 325) and other

various courts will reveal that I handled almost every aspect of the Baecher v. Baecher matters, including the trials before Mr. Justice John C. Marbach, Mr. Justice Quinn, Mr. Justice James H. Cowhey, and Mr. Justice Walsh. The only time I did not handle this matter was when I was ill and or recovering therefrom.

SIGNORELLI'S PUBLISHED LIE # 29

Judge Signorelli continues:

> "The court accordingly adjourned the trial until the next day, and [George] Sassower once again failed to appear on the adjourned date. He called the court in the morning and stated that he would not appear because of other court engagements which he refused to identify. Due to the petitioner's refusal to appear in court, and in the absence of an affidavit of other engagement, the court attempted to continue the trial in his absence."

The affidavit of services of Vincent Berger, Jr. reveals that he knew that I was at the Appellate Division the following day also. This is just another instance of Surrogate Signorelli's stream of published conscious lies.

SIGNORELLI'S PUBLISHED LIE # 30

Judge Signorelli continues:

> " Mr. Sassower, a member of the bar, has impeded the orderly administration of this estate, and has caused it to incur needless expense."

The "needless expense" caused to the estate was, as noted by the Referee, caused by Surrogate Signorelli and as the Referee further noted no monies have ever been received by us for our extensive services and disbursements. The records of the Surrogate's Court (as established at my hearings) reveal that in this estate of about $75,000, his appointees have applied for fees and commission of approximately $30,000 (Exhibit "59").

Since Surrogate Signorelli desired to become Congressman Signorelli (Signorelli v. Evens, 637 F.2d 853 [2d Cir.]), the need for funds and support for such a campaign was certainly a subject he could not help but consider when making his decisions as Surrogate.

With absolutely amazing arrogance Surrogate Signorelli saw absolutely no impropriety in being Surrogate and running for Congress simultaneously.

This in and of itself reveals his total lack of comprehension of the ethical, as well as constitutional concept (Ward v. Village of Monroeville, 409 U.S. 57, 93 S.Ct. 80, 34 L.Ed.2d 267), of what is due a litigant under due process!

The taxpayer has been saddled with tens of thousands of dollars investigating and prosecuting me and my wife. It will prove to be a worthwhile expenditure if it has revealed Surrogate's Signorelli's practices in the "administration of justice".

D. SURROGATE'S COURT UNDER SURROGATE HILDRETH

Surrogate Signorelli testified that the personnel in Surrogate's Court were not very careful or diligent under the stewardship of his predecessor, Surrogate Hildreth. But,

> "[U]nder my direction, they are more careful, my personnel in the Law Department, in checking orders to see that they correctly recite all of the papers upon which the order is predicated. [In 1976] [t]hey weren't that diligent. I must confess to the Court. Particularly in 1976. That's when I first became Surrogate". (Oct. 22, 1981, SM 138)

Nevertheless, in reviewing the Kelly proceeding, prior to 1976, while Judge Hildreth was Surrogate, one finds that all papers are in the file, all legal documents were microfilmed, all records are correct, and Orders correctly recite the papers upon which they were made.

E. SURROGATE'S COURT UNDER SURROGATE SIGNORELLI

Under the "improved" conditions of Surrogate Signorelli's tenure, I have compiled three lists of missing documents, stenographic minutes, and records from the files of or pertaining to the Estate of Eugene Paul Kelly, deceased (File No. 736 P 1972) in Surrogate's Court, Suffolk County.

1. Documents, stenographic minutes, and records whose existence is confirmed by other records of Surrogate's Court, Suffolk County, but which are now missing. The Grievance Committee's attorneys should have a substantially similar list.

2. Documents, stenographic minutes, and records whose existence in Surrogate's Court, Suffolk County is confirmed by the testimony and records of Charles Z. Abuza, Esq., but which are now missing. The Grievance Committee's attorneys should have a more complete list than I, since they had access to all of Mr. Abuza's files.

3. Documents, stenographic minutes, and records whose existence in Surrogate's Court, Suffolk County is indicated by my own records and recollection, which are now missing.

All missing documents, stenographic minutes, and records have a common attribute: they either exculpate my wife and myself or incriminate Surrogate Signorelli!

The fair conclusion should not be hard for this Court to draw.

My compilation will be turned over to Mr. Justice Mollen, the Commission on Judicial Conduct, or this Court upon request, after the files in this Estate have been officially inventoried or impounded and a full explanation received from Surrogate Signorelli on this subject.

Surrogate Signorelli and his Court succeeded in misleading the Grievance Committee. In view of the Referee's findings, it is doubtful whether any disciplinary proceeding would have been brought against me or my wife, had his complaint not been so thoroughly fallacious.

During the hearings, Judge Melia heard testimony and saw documentation of a seemingly endless stream of outright lies and misleading statements perpetrated upon various courts by Charles Z. Abuza, Esq. and his law firm.

After listening to such testimony for days, Judge Melia asked Mr. Abuza in a very soft and polite manner whether he believed he had a duty to set forth the truth in crystal clear terms in his statements to the court, when the charges and their consequences were so serious?

This same question should be posed by this Court, the Commission, and by Justice Mollen to Surrogate Signorelli with respect to the information he published, gave to Justice Mollen, and the Grievance Committee.

F. THE TESTIMONIAL LIES OF SURROGATE SIGNORELLI

As established hereinabove, Surrogate Signorelli's testimony is replete with conscious deception, equivocation, evasion, feigned ignorance, and bald-faced lies.

The thrust of almost every series of questions revealed his difficulty in coming to grips with the truth.

Surrogate Signorelli would be hard pressed to justify some of his testimony, even using Penal Code standards.

1. Could anyone believe that Surrogate Signorelli, a former Assistant District Attorney and County Court Judge, after many evasive answers, would testify that he does not know what a accusatory "charge" is "precisely"?

Yet, that is what he testified to!

2. Could anyone believe that Surrogate Signorelli (a former Assistant District Attorney and County Court Judge) could not answer "Yes" or "No" to the simple question of whether I was charged with criminal contempt prior to the inquest which took place on June 22, 1977?

To this response, the patient Judge Melia stated "Yes, you can, Judge".

3. Could anyone believe that Surrogate Signorelli would repeatedly claim that he followed the requirements of the Judiciary Law, when he tried, convicted, and sentenced me, all in absentia, for an alleged criminal contempt, outside his presence, and wherein I was never "charged" with the crime or given notice of the hearing? That was his testimony!

4. Could anyone believe that Surrogate Signorelli would testify, in response to Judge Melia's inquiry, that I did not have 5th Amendment rights, when I was taken into custody and brought before him? That was his testimony!

As heretofore mentioned, Judge Melia's obvious procedure in these hearings was to permit a point to be made, not to "kill" or" overkill", but I wonder what his thoughts were while listening to such testimony?

One shudders to think what even a paralegal could have done, had further cross-examination been permitted on such testimony.

5. "Audacious" is the most favorable term for Surrogate Signorelli's pretended justification for publishing the lie that I defaulted on the motion returnable before Judge Hildreth on March 17, 1975, when the records show, plainly and undeniably, that I submitted an affidavit in opposition and the very Order incorporates such affidavit in its recitation clause.

The excuse itself was a bald faced lie.

6. Surrogate Signorelli's distortion that I requested three adjournments during Surrogate Hildreth's tenure, when the documents on their face reveal that they were at the request of both sides. Surrogate Signorelli ran out of excuses for this and many other lies.

7. Everyone present agreed that Charles Z. Abuza, Esq. (including the Grievance Committee attorneys) gave probably the worst testimony they had ever heard. It was such an affront to the truth that the Grievance Committee requested dismissal of the charges before completion of his testimony, and denounced him as a liar in no uncertain terms. Judge Melia not only explicitly accepted the diagnosis and recommendation of the Grievance Committee attorneys on those charges, but added his own choice words of excoriation, as the transcript and the Referee's Report expressly show.

With that setting, any witness who followed had to be an improvement.

When Surrogate Signorelli turned out to be worse than Charles Z. Abuza, Esq., one was reminded of the comforting story about the priest who always found kind words for the departed. When an individual with no redeeming features died, the community turned out for the funeral merely to witness the priest at a loss for words. He came through the crisis, however, eulogizing the deceased with the words: "His brother, is worse."

At least, Mr. Abuza had the intelligence to try to excuse his lies to various courts and judges as "mistakes". Surrogate Signorelli, with his incredible brazenness, could never admit he made a mistake, and, thereby, sank as unmistakably as the Titanic.

Surrogate Signorelli's attempts to rationalize his conduct in directing me to sell the property, directing me to perform executorial functions all after the date of his alleged removal of me as executor, were incomprehensible to everyone present and to everyone who has read his testimony.

Clearly, the rationalization is contrived and false.

Having tortuously "explained", in his irrational way, his direction for me to sell the property, although I was then supposedly an executor "defunctus", Surrogate Signorelli was "checkmated" when he had to explain why he had cancelled the contract on the ground that I was unauthorized.

The reason gradually occurred to everyone, even those who still believed in "the tooth fairy". It was crass greed!

When the property could not be easily sold, he was content to direct me to sell. When I had a buyer, he wanted the commission to go to his appointee.

How else does one explain the sale of the property one year later at the same price to the same person. As the Referee noted, the Surrogate's "switcheroo" caused the estate to incur an additional year of expenses maintaining this empty house, not to mention the loss of interest on the money available at prevailing market rates.

In our cynical world, there are many who will tell you that this was and still is part of the system. I reluctantly accept this. What I can not accept is the published defamatory accusation by Surrogate Signorelli that I, who never received one cent for any of my considerable legal services and disbursements, caused the estate to incur "needless expense", when, all the while, the Surrogate was scheming for his appointees to be in charge of the till.

To say anything more would belabor the point.

G. THE RELIEF PRAYED FOR

I was one of the first soldiers to enter Versailles, France, during World War II --tumultuously greeted as a liberator, by faces long since forgotten. One man, whose face I will never forget, who had lost everything during the occupation, simply and embarrassingly asked why it took us so long to wake up to the situation and come to the rescue.

Had Surrogate Signorelli focused his animus only on me, no matter how intensely, that would have inflicted more than pain enough.

He did not. He publicly defamed my wife who he knew was not directly involved in the matter. He spread his lies over the pages of the New York Law Journal, to be read by her colleagues, and the judges before whom she appeared.

He smeared me, my wife and children by lies that he transmitted to a reporter for the New York Daily News.

On March 3, 1978, while my wife cried bitter tears on seeing the publication in the New York Law Journal, I had faith that ultimately Surrogate Signorelli would be properly dispatched by those in authority.

I was prepared for Surrogate Signorelli. But, I was not prepared for those who, albeit, unwittingly, gave him succor.

I did not expect that Justice Mollen would "thank" Surrogate Signorelli when he violated the legal requirement of confidentiality by publishing his professional misconduct charges against me and my wife.

I did not dream that all the letter writers to the New York Law Journal would silently permit this and similar violations of the statutory mandate of secrecy so openly being violated by a member of the judiciary.

I was unprepared that no one was there when Writs of Habeas Corpus were being disobeyed so flagrantly.

I am still unprepared to believe that the Appellate Division, First Department, is unconcerned when an attorney reports to them that he was tried, convicted, and sentenced, in absentia, while on trial in the First Department. What will their response be on June 24th, 1982 when I fight such conviction in the Second Department?

I am still unprepared to believe that the judiciary is unconcerned when I report that my daughter came home for a week-end from Harvard, and found herself incarcerated, along with her mother, because she helped serve a Writ of Habeas Corpus.

I will not request, ask, pray, or plead that this Court confirm the Report of the Referee. Mere confirmation will not begin to compensate for the injury and damages done to me and my innocent family because of judicial transgression of the law.

H. CONCLUSION

I have demonstrated, unquestionably, the utter frivolousness and malice of the charges levelled at me; Judge Melia -- as this Court's appointee -- meticulously heard the evidence, and sustained my position in every possible respect. It is now this Court's duty to fashion the appropriate remedy to deal with the true subject of this disciplinary matter -- Surrogate Signorelli.

Only a Kafka could adequately describe the nightmare this man created for me and my family in the past five years. The damage he recklessly and wantonly inflicted upon us by his unfounded, publicized accusations has touched every aspect of my and my wife's personal and professional life. Much of that damage is irreparable, uncompensable and frightening to believe that it actually did happen here -- in America.

The law's cumbersome machinery is, perhaps, too often the unintended ally of cynical litigants, who capitalize on delays and obfuscation the legal process can promote. That end is even easier to achieve, however, when the litigant wears a black robe and speaks with all the power and majesty that robe automatically invests in its wearer.

It is just because the real transgression in the matter did so via tragic and despicable misuse of judicial power that this Court -- in its proper use of judicial power -- should resoundingly deal with the case to provide, at least, the partial redress herein requested.

More than seventy years ago this Court said:

> "The duty of this court towards the members of the bar, its officers, is not only to administer discipline to those found guilty of professional conduct, but to protect the reputation of those attacked upon frivolous or malicious charges". (Matter of Stern, 137 App. Div. 909, at 910, 121 N.Y. Supp. 948, 949 [1st Dept.])

I await eagerly this Court's venerated "protection". When it comes, I might, like the man in Versailles, ask why it took so long!

GEORGE SASSOWER

Sworn to before me this
16th day of June, 1982

MURIEL GOLDBERG
Notary Public, State of New York
No 60-4515474 Westchester County
Commission Expires March 30, 1983