

NOV 1 1983

(24-26)
SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

Index No. 5774 - 1983

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GEORGE SASSOWER,

Plaintiff,

MOTION #70, AUGUST 5, 1983

-against-

ERNEST L. SIGMORELLI, ANTHONY MASTRO-
IANNI, JOHN P. FINNERTY, ALAN CROCE,
ANTHONY GRYMALSKI, HARRY E. SEIDELL,
NEW YORK NEWS, INC. and VIRGINIA MA-
THIAS,

Defendants.

SPECIAL TERM, PART I-A

387

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BRUCE MCM. WRIGHT, J.:

The author of the term that optimistically declares that litigation must have an end, might alter his view upon meeting the plaintiff in this case and his close kinship with others. As though seeking to outrage the bones of Dickens and exceed the longevity of Jarndyce v. Jarndyce, and transform New York courts into a latter-day Bleak House, plaintiff has become an indefatigable litigator. Motions abound, while appeals are apparently pending from orders. In this latest of pro se applications, the plaintiff, who is a member of the Bar, alleges that the defendants Alan Croce and Anthony Grymalski willfully failed and refused to submit to examination before trial, pursuant to orders of this court dated June 20, 1983. For that lapse, he asks that the answers of those defendants be stricken.

The opposing papers note that I have had several motions in this dispute before me and that some of my rulings are now the subject of appeals by plaintiff. Since June 20, 1983, I have decided at

least five motions in this litigation. By order dated June 20, 1983, I directed that the defendants Alan Croce and Anthony Grymalski be deposed in this court's Special Term, Part II on the 14th and 21st days of July, respectively. Plaintiff swears that he spoke with adversary counsel and he was told that the named defendants were not going to comply with the order directing their pre-trial depositions. Thus, he concludes, their default was deliberate and wilfully intentional and fully deserving of the penalty sought.

The opposing papers say that there is now before me an application to re-argue my ruling that the two defendants Croce and Grymalski must submit to pre-trial depositions. A detailed search of all the thousands of motions that litter my chambers, reveals no such re-argument application.. In any event, the defendant's lawyer says that he was never served with a copy of the June 20, 1983 order with notice of entry. Instead, he says, the plaintiff, by telephone, summarized the substance of the order and gave his "interpretation" of its text. This, despite the language in the last sentence of my decision that admonished plaintiff to serve "forthwith" a copy of the order "upon all appearing counsel." Despite a provision in plaintiff's instant motion for him to serve a Reply, none is before the court. Ergo: It seems conceded that plaintiff failed to do as the order provided and thus, he is shriven by his own unexplained lack of compliance with the June 20th order, of all cause for striking the pleadings of the defendants Croce and Grymalski

By reason of the convoluted issues in this bitter dispute, pre-trial depositions seem indispensable to a proper focus on the precise issues to be tried. Although plaintiff has rendered himself vulnerable to an accusation that he has abandoned his claim for pre-


trial discovery, the defendants ask that the examinations previously ordered be re-scheduled. The re-scheduling should dispose of mentioned motions for re-argument that have not yet reached my chambers.

The plaintiff's motion is denied, upon the condition that the defendants Croce and Grymalski both report to Special Term, Part II of this court on the 30th day of November, 1983, at 10 o'clock A. M., there to be deposed under oath and to produce at that time the documents relevant to this dispute, if any.

Unless the Appellate Division stays the ordered examinations, they are to go forward as directed.

Once again, plaintiff is directed to serve forthwith a copy of this order with notice of entry upon the lawyers for the defendants Croce and Grymalski.

Dated: October 25, 1983.


J. S. C.

FILED
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COUNTY CLERK'S OFFICE
NEW YORK