

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----x

GEORGE SASSOWER, individually and CV 86-3797
as trustee of the trusts created
by EUGENE PAUL KELLY, and by his
Estate, and those similarly
situated, or to be benefited thereby.

Plaintiff,

VINCENT G. BERGER, JR.; ANTHONY
MASTROIANNI; Surrogate ERNEST I.
SIGNORELLI; CHARLES Z. ABUZA;
Hon. HARRY SEIDELL; RICHARD C.
CAHN; ROBERT M. CALICA; MARTIN
B. ASHARE; THE SURROGATE'S COURT
OF THE STATE OF NEW YORK, COUNTY
OF SUFFOLK; THE SHERIFF OF SUFFOLK
COUNTY; Hon. SOL WACHTLER;
Hon. JOHN W. BELLACOSA;
Hon. MILTON MOLLEN, individually
and on behalf of the APPELLATE
DIVISION OF THE SUPREME COURT,
SECOND JUDICIAL DEPARTMENT;
Hon. MOSES M. WEINSTEIN;
Hon. ISAAC RUBIN; and
Hon. BURTON S. JOSEPH,

Defendants.

November 6, 1987

-----x

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

GEORGE SASSOWER, ESQ.
Plaintiff Pro Se
51 Davis Avenue
White Plains, New York 10605

REISMAN, PIEREZ & REISMAN, ESQS.
Attorneys for Defendants
Mastroianni, Cahn, Calica,
Berger, Ashare, County of
Suffolk and Sheriff of Suffolk County
Garden City, New York 11530
Robert M. Calica, Esq., Of Counsel

ARNOLD I. SILBERSTEIN, ESQ.
Attorney for Defendant Abuza
551 Fifth Avenue
New York, New York 10176

HONORABLE ROBERT ABRAMS
ATTORNEY GENERAL
STATE OF NEW YORK
Department of Law
190 Willis Avenue
Mineola, New York 11501
Dewey Lee, Assistant
Attorney General

MISHLER, District Judge

Plaintiff George Sassower has moved: (1) for an order compelling "an expeditious" conclusion to a non-summary criminal contempt proceeding; (2) for an order prohibiting "unbridled control" of the contempt proceeding by "civil adversaries"; (3) protection from retaliatory action by state officials; (4) for a change of venue; (5) to vacate a contempt conviction dated March 8, 1978; (6) for expedition of a motion before defendant Hon. Milton Mollen and/or Hon. Robert J. Sise; (7) for an order for a hearing to determine if Sassower's disbarment was retaliatory; and (8) for recusal of the undersigned.

Defendants oppose all of plaintiff's motions and cross-move for dismissal.

In its memorandum of decision and order dated November 29, 1984, the court directed Sassower to refrain from further litigation in this matter before this or any other federal court except and until he pays such attorney's fees and costs as this court will direct. On January 28, 1986 the court determined that defendants Anthony Mastroianni, John P. Finnerty, Alan Croce, Anthony Grzymalski and the County of Suffolk ("County defendants") were entitled to an award of fees in the amount of \$5,435. On March 4, 1986, the court awarded the sum of \$2,661.25 as reasonable attorney's fees to defendants Ernest L. Signorelli, Harry Seidel and Leonard J. Pugatch ("State defendants"). None of these fees have been paid and Sassower has filed the instant motions in violation of this court's order. They are, accordingly, dismissed as to all defendants.

Defendants Mastroianni, Cahn, Calica, Berger, Ashare, County of Suffolk and Sheriff of Suffolk County move for sanctions and reasonable counsel fees pursuant to Rule 11. Under Rule 11, an attorney or pro se plaintiff has an affirmative duty to conduct a reasonable

inquiry into the viability of a pleading before signing it. See Eastway Construction Corp. v. City of New York, 762 F.2d 243, 253 (2d Cir. 1985). Sassower knew of the order forbidding further litigation in this matter and signed the papers anyway. Clearly, the instant motions are frivolous and defendants are entitled to fees under Rule 11. The amount of an award under Rule 11 is set at the discretion of the district court, based on "the number of hours reasonably expended on the litigation multiplied by a reasonable hourly rate." Hensley v. Eckerhart, 461 U.S. 424, 437, 433, 103 S. Ct. 1933, 1941 (1983). Defendants have not suggested their assessment of what constitutes a reasonable fee in this matter. However, the court knows that Sassower has filed a bankruptcy petition and that defendants will have great difficulty in collecting their fee. Thus, in its discretion, the court awards a nominal fee of \$100.00 to defendants.

Defendants have also requested a declaration by the court that they

are not required to answer or defend any further action, proceeding, motion, or application hereafter commenced by plaintiff in contravention of the . . . injunction

[of 11/29/84], unless and until directed to do by this court, or by a court of competent authority. . . .

We so order.

CONCLUSION

Sassower's motions are denied in all respects. Defendants' motion to dismiss is granted, as is their request for leave to respond to future actions as described above. The application for fees pursuant to Fed. R. Civ. P. 11 is granted in the amount of \$100.00, and it is

SO ORDERED.


U. S. D. J.