12/19/90

In The
SUPREME COURT OF THE UNITED STATES
October Term, 1990
No.

GEORGE SASSOWER,
Petitioner-Petitioner,
-against-
Hon. A. FRANKLIN MAHONEY, as Presiding Justice of the Appellate Division, Third Judicial Dept.; WILFRED FEINBERG; EUGENE H. NICKERSON;FRANCIS T. MURPHY; MILTON MOLLEN; XAVIER C.RICCOBONO; ALVIN F. KLEIN; DAVID S. SAXE; IRA GAMMERMAN; Hon. ALLAN L. WINICK; DENIS DILLON; ROBERT ABRAMS; ANTHONY MASTROIANNI; and The DISTRICT COURT OF NASSAU COUNTY.
Respondents-Respondents.

PETITION FOR A WRIT OF CERTIORARI
TO THE CIRCUIT COURT OF APPEALS FOR THE
SECOND CIRCUIT

PETITION

QUESTIONS PRESENTED

Petitioner brought this action "individually, and as a Chapter 13 debtor, with trust powers".

The District Court, under some of the respondents' Rule 12 motion, dismissed petitioner's thirteen (13) count complaint for equitable relief, and one count (1) money damage claim, as barred by the non-payment of prepetition 11 U.S.C. Chapter 13 costs.

The Circuit Court of Appeals affirmed, threatening access to that Court, as sanctions, for a frivolous appeal.

1. Should enforcement of a state judicial edict be enjoined for "overbreadth", where (a) petitioner, as an attorney, was <u>lawfully</u> representing, inter alia, DENNIS F. VILELLA ["Vilella"] in the U. S. District Court for the Southern District of New York; (b) at the time of the instant proceeding was <u>lawfully</u> representing, inter alia, Vilella in the U.S. District Court for the Eastern District of New York where he was a member of the bar in "good standing"; and (c) was otherwise engaged in litigation in the state and federal courts, as a pro se litigant, particularly when the respondent, District Attorney DENIS DILLON ["Dillon"], defaulted and did not oppose the relief requested?

The judicial edict read as follows:

> "[petitioner] be and he hereby is commanded to desist and refrain: (1) from practicing law in any form, either as principal or as agent, clerk or employee of another; (2) from appearing as an attorney or counselor at law before any court, judge, justice, board, commission or other public authority; (3) from giving to another an opinion as to the law or its application, or any advice in relation thereto; and (4) from holding himself out in any way as an attorney and counselor at law."

2. Where petitioner <u>lawfully</u> represented Vilella in the U.S. District Court for the Southern District of New York (<u>Vilella et. el. v. Santagata</u> et. el. (87 Civ. 1450 [GLG]) and <u>lawfully</u> in the U.S. District Court for the Eastern District of New York, where he was a member of the bar in "good standing", can the Appellate Division, Second Department dictate to the federal courts and a co-ordinate appellate court, not to permit petitioner to represent Vilella, and should such attempted interference be enjoined, particularly where Dillon defaultED and did not oppose?

3. Should the state criminal proceedings against petitioner be stayed or ordered dismissed, where Dillon of Nassau County (a) obtained a general law office search warrant; (b) concealed from the state court that the Information was jurisdictional infirm; (c) that petitioner's papers, at all times, set forth, with precision, his status at the bar in the various courts; (d) where a federal judge and a state judge ordered that Dillon return his seized papers, documents, and `data' discs, which he needed for his defense, to be returned, and Dillon refused to fully obey such Order and direction, and (e) Dillon defaulted and did not oppose such relief?

4. Should the state criminal proceedings against petitioner be stayed or ordered dismissed, where the Dillon Office published that petitioner's arrest was motivated by his resort to the media and authorities complaining about egregious prosecutorial misconduct in the Vilella case, and that Dillon's "ire was raised" by such activities by petitioner, which was the reason for petitioner's arrest?

5. Where the established state law was that "any" person could petition for a writ of habeas corpus, could petitioner, a born American citizen and battle-starred veteran of World War II, be denied the right to so petition because he had been disbarred from the state courts for whistle-blowing about judicial misconduct and corruption?

6a. Should legally recognition be refused to the non-summary criminal contempt conviction of U.S. District Court Judge EUGENE H. NICKERSON of the Eastern District of New York where, despite pleas of "not-guilty", petitioner and his client HYMAN RAFFE ["Raffe"] were convicted and herculian fines imposed thereon when the convictions were rendered (a) without a trial; (b) without opportunity for a trial; (c) without 'live' testimony in support thereof; and (d) the proceedings were brought and prosecuted by the private adverse parties who engineered the larceny of the judicial trust assets of PUCCINI CLOTHES, LTD. ["Puccini"]?

b. Should recognition be denied to the aforementioned trialess conviction where the substantially fine monies payable, <u>in haec verba</u>, "to the ['federal'] court" were diverted to the private pockets of the self-proclaimed private prosecutors?

c. Should recognition be denied to the aforementioned trialess conviction, where with the knowledge of the federal judiciary such fine monies were diverted from the federal treasury to the private pockets of the judicial cronies under threats to Raffe that he would be incarcerated if he refused to such diversion?

d. Could such trial conviction for non-summary criminal contempt, an "offense sui generis", be elevated to a "serious" crime, when petitioner refused to be silenced about judicial corruption, and petitioner disbarred by reason thereof?

7. Should legally recognition be refused to the non-summary criminal contempt conviction of N.Y. State Judge DAVID B. SAXE where, despite a plea of, inter alia, "not-guilty" petitioner was convicted and incarcerated (a) without a trial; (b) without opportunity for a trial; (c) without 'live' testimony in support thereof; and (d) the proceedings brought and prosecuted by private adverse parties?

b. Could such trial conviction for non-summary criminal contempt, an "offense sui generis", be elevated to a "serious" crime, when petitioner refused to be silenced about judicial corruption, and petitioner disbarred by reason thereof?

8a. Should legally recognition be refused to the non-summary criminal contempt conviction by N.Y. State Justice ALVIN F. KLEIN where, despite pleas of, inter alia, "not-guilty", in one document, (a) petitioner, (b) Raffe, and (3) SAM POLUR, Esq. ["Polur"] were convicted and sentenced to be incarcerated, (a) without a trial; (b) without opportunity for a trial; (c) without 'live' testimony in support thereof; and (d) the proceedings were brought and prosecuted by the private adverse parties who were involved in the larceny and unlawful plundering of Puccini's trust assets?

b. Should recognition be denied of the aforementioned trialess conviction where petitioner and Polur served their full terms of incarceration, less good time allowance, but Raffe "paid-off" substantial sums of monies to the private prosecutors and was never incarcerated?

c. Could such trial conviction for non-summary criminal contempt, an "offense sui generis", be elevated to a "serious" crime, when petitioner refused to be silenced about judicial corruption, and petitioner disbarred by reason thereof, while Polur left the scene of litigation and the disciplinary proceedings dropped?

9a. Where the Appellate Division, Second Department, not having any power to enact substantive law in disciplinary matters, nevertheless enacts rules which makes a conviction "conclusive evidence of guilty", eliminates consideration of "post-conviction evidence", which rules differ from the rules in the three (3) other departments, are the aforementioned rules "substantive law" and subject to judicial examination under the authority of District of Columbia v. Feldman (460 U.S. 462 [1983])?

b. Is the power to raise, ex post facto, "offenses" to "serious" crimes, substantive in nature, beyond the power of the Appellate Division and subject to a District of Columbia v. Feldman (supra) inquiry?

10a. Should legally recognition be refused to the Report of Referee DONALD DIAMOND which recommended conviction and incarceration of petitioner for 63 counts of non-summary criminal contempt, when made (a) without a trial; (b) without opportunity for a trial; (c) without 'live' testimony in support thereof; (d) the proceedings were brought and prosecuted by the private adverse who engineered the larceny and unlawful plundering of Puccini's judicial trust assets, in active conspiracy with

Referee Diamond who, at the time, was an active party defendant in the state and federal courts, including a money damage action; and (e) all proceedings before Referee Diamond are in a non-public courtroom, with petitioner specifically excluded therefrom?

b. Where in a mirrored procedure and report, Referee Diamond found Raffe guilty of 71 counts and recommended that he be fined $17,750 and be incarcerated for 71 months, but (a) for the payment of "millions of dollars" to the judicial cronies, or those who engineered the larceny and unlawfully plundering judicial trust assets; (b) an agreement to execute releases to, inter alia, the federal and state judiciary; and (c) other unlawful consideration, Raffe was not incarcerated?

11. Where the "soldiers" of Administrative Judge XAVIER C. RICCOBONO ["Riccobono"] in his corrupt judicial forum are Mr. Justice IRA GAMMERMAN and Referee DONALD DIAMOND, who simply obey Administrator Riccobono's corrupt instructions, should the actions of Justice Gammerman and Referee Diamond be declared null and void?

12. Where after two (2) long hearings, in which the entourage of Surrogate ERNEST L. SIGNORELLI were afforded a full and fair hearing, where they admitted that the criminal contempt charges were false, contrived and concocted, was petitioner entitled to a "double jeopardy" injunction, prohibiting repeated contempt charges against him?

13. Should the local criminal proceedings against petitioner be stayed pending N.Y. Supreme Court determinations on petitioner's claims of, inter alia, invidious selective prosecution and a prosecution in order to violate petitioner's First Amendment rights concerning the prosecutorial misconduct in the Vilella matter?

14. Do the allegations in the complaint set forth facts entitling petitioner to an award of money damages?

THE PARTIES

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(914) 949-2169

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Atty. for State Respondents
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262 Old Country Road,
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OPINIONS BELOW

1a. As separate motion will reveal, for approximately thirty (30) months the entire transcript of about twenty (20) pages of the proceedings at the District Court was intentionally withheld from petitioner, obviously because it would disclose the "marching orders" given to the District Court in rendering its unlawful (11 U.S.C. §362[a]) and irrational determination (A32-A34).

b. After petitioner filed his Brief to the Circuit Court a few pages of the transcript was made available to him (A32-A34), carrying a bizarre certification.

c. The Order of the District Court is non-informative (A27-A28), and since D.A. Denis Dillon defaulted (A29) makes no absolute no sense.

2. In view of the Complaint (A2-A26), on which the Questions Presented was based, the determination of the Circuit Court is absurd and patently suspect.

JURISDICTION

(i) Order of the Circuit Court: September 26, 1990

(ii) None.

(iii) Not Applicable

(iv) 28 U.S.C. §1254(1)

CONSTITUTIONAL-STATUTORY PROVISIONS

1. Article I, §8 of the United States Constitution provides that:

> "The Congress shall have the power ... [4] to establish ... uniform laws on the subject of bankruptcies throughout the United States. [9] to constitute tribunals inferior to the Supreme Court."

2. Article VI[2] of the United States Constitution provides that:

> "This Constitution and the Laws of the United States which shall be made in Pursuance thereof; ... shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any State to the Contrary notwithstanding."

3. The First Amendment of the United States Constitution provides that:

> "Congress shall make no law respecting ... abridging the freedom of speech ... or the right of the people peaceably to assemble, and to petition the Government for a redress of grievances."

4. 11 U.S.C. §362[a] provides that:

> "Except ... a petition filed under section ... operates as a stay, applicable to all entities of .. ".

STATEMENT OF THE CASE

1. The complaints sets forth three (3) judicial frauds in the New York-Second Circuit arena which legally should be unrelated.

a. The prime purpose for the filing of the complaint revolved around the conviction of Vilella for "phantom" crimes, the judicial-prosecutorial misconduct involved in securing such conviction, and the attempts made to silence petitioner.

b. Vilella conviction and incarceration was an attempt to silence petitioner with respect to the fraud revolving around the judicial trust assets of PUCCINI CLOTHES, LTD. -- "the judicial fortune cookie". Like "Raffe-The Hostage", Vilella became "Vilella-The Hostage", in an attempt to compel to silence petitioner with respect to Puccini.

c. The Estate of EUGENE PAUL KELLY became one of the "fortune cookies" of Surrogate ERNEST L. SIGNORELLI, who employed its assets to, inter alia, pay his personal obligations. Like Puccini, the legitimate beneficiaries received nothing.

2. Frisby v. Schultz, 487 U.S. 474 [1988]; City of Houston v. Hill, 482 U.S. 451 [1987]; Holt v Virginia, 381 U.S. 131 [1965]; Hazel-Atlas v. Hartford, 322 U.S. 24 [1944], in addition to 11 U.S.C. §362[a] seem to be decisive as to most of the Questions Presented herein.

REASONS FOR THE GRANT OF THIS WRIT

There can be no more important pending petition in this Court than the series of petitions being brought by the petitioner, all of which involve the "impeachable" conduct of federal judges and the integrity of the machinery of justice.

There is no possible way such corrupt activities can be concealed, since much of the information is already in the possession of the media.

Dated: December 19, 1990

Respectfully submitted,

GEORGE SASSOWER
Petitioner, Pro Se.
16 Lake Street,
White Plains, N.Y. 10603
(914) 949-2169

CERTIFICATION OF SERVICE

On December 20, 1990, I served a true copy of this Petitioner by mailing same in a sealed envelope, first class, with proper postage thereon, addressed to the Solicitor General, Department of Justice, Washington, D.C. 20530; Atty. Gen. Robert Abrams, The Capitol, Albany, New York 12224; District Attorney, Denis Dillon, 262 Old Country Road, Mineola, N.Y. 11501; Garrett W. Swenson, Jr., Esq., 158 North Country Complex, Hauppauge, N.Y. 11787.

Dated: December 20, 1990

GEORGE SASSOWER

UNITED STATES DISTRICT COURT

NORTHERN DISTRICT OF NEW YORK

GEORGE SASSOWER Petitioner-Appellant, vs. HON. FRANKLIN A. MAHONEY Respondent-Appellee,	Northern District of New York Civ/Cr No. 88-CV-563 CCA No. 88-6203

Docket Entries

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Petitioner, individually, and as a Chapter 13 debtor, with trust powers, as and for his complaint, respectfully sets forth and alleges:

1. On December 23, 1987, petitioner commenced a case by filing a voluntary petition for relief under Chapter 13 of Title 11, United States Code ("case filing"), and brings this proceeding pursuant to 28 U.S.C. §1343, §1334, §1408, 18 U.S.C. §1961 et. seq.; 42 U.S.C. §1983, and rights which arise directly from the U.S. Constitution.

2a. Disciplinary Rule 1-103 of the Lawyer's Code of Professional Responsibility provides ...

b. Such mandatory obligation essentially mirrors Rule 3B3 of the Code of Judicial Conduct.

3a. Plaintiff is an attorney, in Good Standing, at the United States District Court for the Eastern District of New York .... .

b. Indeed the United States District Court for the Southern District of New York has not shown any inclination to disbar plaintiff, if it must, as part thereof, examine the Order of the Appellate Division, Second Judicial Department, with a "hearing", as ordered by Hon. VINCENT L. BRODERICK.

c. The general and traditional legal sanction for an unconstitutional statute, order, or act, is its nullification.

4a. KREINDLER & RELKIN, P.C. ["K&R"], FELTMAN, KARESH, MAJOR & FARBMAN, Esqs. ["FKM&F"], and LEE FELTMAN, Esq. ["Feltman"] -- "the merchants of corruption" -- who have engaged themselves in the massive larceny and plundering of the judicial trust assets of PUCCINI CLOTHES, LTD. ["Puccini"], which was involuntarily dissolved on June 4, 1980 -- eight (8) years ago -- will <u>never</u> be able to render a true accounting for Puccini's assets, as mandated by law, without dramatically exposing their charted course of criminal racketeering, which in addition to larceny and plundering, includes perjury, corruption, extortion, and other crimes, no matter how many judges and officials they compromise and corrupt!

b. ERNEST L. SIGNORELLI ["Signorelli"], the Surrogate of Suffolk's County, and his appointee, Public Administrator ANTHONY MASTROIANNI ["Mastroianni"], can <u>never</u> render a true judicial accounting, in a proper judicial proceeding, with respect to the ESTATE OF EUGENE PAUL KELLY ["Kelly Estate"], nor justify their barbaric conduct, without dramatically exposing the manner that Signorelli pays some of his personal obligations, no matter how much aid they may improperly receive from Presiding Justice MILTON MOLLEN ["Mollen"] of the Appellate Division, Second Judicial Department, or His Honor's robed thrall!

c(1) District Attorney, DENIS DILLON ["Dillon"] of Nassau County, could never justify the handling of the criminal proceeding against DENNIS F. VILELLA ["Vilella"], who was indicted, convicted, and sentenced to a maximum term of twenty-five (25) years, for the "tire iron" attempted murder and first degree assault upon THERESA NAPPI ["Nappi"].

(2) Vilella, a college graduate, very powerfully built, married, with two (2) small children, extensively involved in community and civic affairs, was indicted and convicted for the aforementioned "tire iron" assault and attempted murder.

(3) Nappi's uncorroborated trial testimony was that she was struck on the skull "about 20 times" (SM 91-92), with "a tire iron" (SM 91), "violently" (SM 102), "with everything you [Vilella] had to hit me" (SM 102), on "[her] head and [her] hands, protecting [her]self" (SM 91).

(4) Nevertheless, the Hospital X-Ray Report and Trauma Assessment Record, both made within twenty-four (24) hours of such assault on Lady Rasputin shows "Skull shows <u>no</u> evidence of fracture. Sutures and vascular markings <u>are normal</u>", eye, leg, and arm movements normal, and the highest possible non-coma score!

(5) Indeed, Lady Rasputin did not even have a bruise on her skull, the site of such alleged vicious "tire iron" assault.

(6) Assistant Attorney J. KENNETH LITTMAN ["Littman"], managed to affirmatively deceive an obviously skeptical Grand Jury into accepting the perjurious Nappi testimony regarding her "six skull fractures", without inspecting the hospital record.

(7) In a more spectacular unlawful charade, Littman, aided and abetted by DR. PETER SORDI ["Sordi"], and the trial judge, Hon. JOSEPH HARRIS ["Harris"], deceived the Trial Jury, as to the nature and extent of Lady Rasputin's injuries, which also did not inspect the hospital records, although here again, marked into evidence.

5. Plaintiff's Chapter 13 estate's interests in Puccini -- "the judicial fortune cookie" -- is as follows:

a. A wholly unsatisfied judgment against Puccini in the sum of $27,912.42, with interest from April 29, 1982.

b. A filed claim against Puccini for the sum of $3,000,000.

c. An attorney's lien on the 25% stock interests of HYMAN RAFFE ["Raffe"] in Puccini.

d. An attorney's lien on a judgment in favor of Raffe against Puccini in the approximate sum of more than $500,000, inclusive of interest.

e. An attorney's lien on a claim in favor of Raffe against Puccini in the approximate sum of almost $40,000, inclusive of interest.

f. A legal and/or equitable lien on the stock interests in Puccini by EUGENE DANN ["Dann"] and ROBERT SORRENTINO ["Sorrentino"], by reason of (1) the aforementioned judgment of $27,912.42, which includes Dann and Sorrentino, as judgment debtors, and (2) attorney's liens by virtue of various judgments and claims against them by Raffe.

6a. Plaintiff was and still is the trustee of various trusts of EUGENE PAUL KELLY, who assets were totally seized by Mastroianni, purportedly for the benefit of the Kelly Estate.

b. Plaintiff was, and claims he still is, the executor of the Kelly Estate, but was unlawfully removed by Signorelli, by retroactive ukase, because, <u>inter alia</u>, plaintiff does not believe that such estates are intended to serve Signorelli's personal interests.

7. Plaintiff represented Vilella in the state forum prior to February 23, 1987, and in the United States District Court for the Southern District of New York, and Eastern District of New York, after February 23, 1987, and still does.

<u>AS AND FOR A FIRST CAUSE OF COMPLAINT</u>
(DECLARATORY JUDGMENT)

8. Plaintiff repeats ...

9a. Vilella, is presently incarcerated in Elmira Correctional Facility, for crimes that neither he nor anyone else ever committed -- they are simply "phantom" crimes!

b. Elmira Correctional Facility is in the jurisdictional bailiwick of the respondent, Hon. A. FRANKLIN MAHONEY, Presiding Justice of the Appellate Division, Third Judicial Department.

10a. Unquestionably, plaintiff can legally represent Vilella, and others, in forums wherein plaintiff was or is permitted to practice.

b. Unquestionably, plaintiff may litigate his interests, before any court or judge, as a pro se litigant, and Judiciary Law §478 so provides.

c. Unquestionably, assuming arguendo the aforementioned Order of the Appellate Division, Second Department is legal and conformed to constitutional mandate, which it clearly did not, plaintiff may not be deprived of any of the privileges and immunities enjoyed by lay persons.

11a. At no time did anyone contend, including Dillon or any member of his staff, that plaintiff's actions for or on behalf of Vilella, including during the period of July and August of 1987 were unlawful or improper, despite the overbroad language contained in the Order of the Appellate Division, Second Department, dated February 23, 1988, until plaintiff began to vigorously exercise his First Amendment, and other constitutional rights, which was in or about January of 1988.

b. The Order of the Appellate Division, Second Department of February 23, 1987, provides that plaintiff:

> "be and he hereby is commanded to desist and refrain: (1) from practicing law in any form, either as principal or as agent, clerk or employee of another; (2) from appearing as an attorney or counselor at law before any court, judge, justice, board, commission or other public authority; (3) from giving to another an opinion as to the law or its application, or any advice in relation thereto; and (4) from holding himself out in any way as an attorney and counselor at law."

c. The language of the aforementioned Order is overbroad, and insofar as it prohibits, or chills, plaintiff's rights under the First Amendment, or leads to possible criminal consequences, it is a constitutional and legal nullity, and should so be declared (City of Houston v. Hill, 482 U.S. 451 [1987]).

AS AND FOR A SECOND CAUSE OF COMPLAINT
(FEDERAL INJUNCTION)

12. Plaintiff repeats ...

13a. Thus, for example, in July and August of 1987, plaintiff was representing Vilella in the United States District Court for the Southern District of New York (Vilella et el. v. Santagata, et el., 87 Civ. 1450 [GLG]), and presently represents him in the United States District Court for the Eastern District of New York (Cohen & Vilella v. Littman, 88 Civ. 0627 [ERK]).

b. By horizontal ukase, no court can dictate the membership of the bar of another court, particularly, as here, where the Order of the Appellate Division, Second Department completely ignored all basic requirements of due process, and constitutional transgressions proliferate.

c. Clearly, no state tribunal can dictate who the federal courts should recognize as members of their bars, as the Order of the Appellate Division, Second Department purports to do, under pains of criminal proceedings.

d. Indeed, membership in the federal bar, carries with it such privileges as may be necessary and proper to zealously advance the rights of litigants in the federal forum, including rights and duties in the state courts, and any state decree to the contrary notwithstanding.

14. The aforementioned Order of the Appellate Division, Second Judicial Department, insofar as it prevented or prevents, and interfered and/or interferes, with plaintiff's obligations to represent Vilella in the federal forums, is repugnant to the supremacy clause of the U.S. Constitution (Article VI[2]), a nullity, and Hon. A. FRANKLIN MAHONEY and Dillon should be enjoined from giving it any respect.

<u>AS AND FOR A THIRD CAUSE OF COMPLAINT</u>
(WRIT OF MANDAMUS and PROHIBITION)

15. Plaintiff repeats ...

16a. On February 22, 1988, because plaintiff was exercising his constitutional First Amendment rights, or so Dillon's Office advised the media, his office filed a criminal information charging plaintiff with violations of the <u>Judiciary Law</u> in that plaintiff tendered three (3) to his office in July and August 1987, which documents set forth the "opinions" of the plaintiff, or so it is alleged.

b. These three (3) documents, served from a county other than Nassau County, the limited jurisdictional bailiwick of Dillon, took great pains in setting forth plaintiff's legal status, and his contentions with respect to same, which Dillon's Office already knew.

c. Violating precise statutory mandates, without attempting to obtain plaintiff's voluntary appearance, Dillon's police force, the next morning, came to Westchester County, arrested plaintiff therein, and took him directly, and had him incarcerated, in Nassau County, which is <u>not</u> an adjoining county to Westchester County.

d. The following day, February 24, 1988, Dillon's police returned with a general search warrant, which read as follows:

> "to make an immediate search of the premises located at 16 Lake Street, White Plains, New York which is used by GEORGE SASSOWER as an office, for correspondence, notes, documents, legal books, files, telephone and office equipment and computer software being used in and for the practice of law by GEORGE SASSOWER. If you find such property or evidence, or any part thereof, to bring it to me [Hon. ALLAN L. WINICK] in the County Court, County of Nassau, State of New York."

e. Pursuant thereto, Dillon's police seized more than fifty (50) floppy discs, containing documents and work product from at least October of 1986, two boxes of documents and work product, and other chattels, a substantial portion of which is protected by the attorney-client privilege, the work product privilege, and the Privacy Act of 1980 (42 U.S.C. §2000aa).

f. Included in same was documents and work products concerning Vilella, and also documents and work product pertaining to the criminal charges against petitioner.

17a. On March 16, 1988, federal judge Hon. DANIEL J. MOORE, ordered that the seized material, or copies, be returned to plaintiff within five (5) days, but Dillon's Office refused to comply with same.

b. On March 22, 1988, Nassau District Court judge, Hon. THOMAS W. DWYER directed that the Order of Hon. DANIEL J. MOORE be complied with, and on March 24, 1988, a partial, bad faith, attempt was made at compliance by Dillon's Office.

18. Until there is full and complete compliance with the aforementioned order and direction, plaintiff cannot fully and lawfully protect Vilella's legitimate rights, nor his own rights, in the criminal proceedings in Nassau County.

19. Until there is full and complete compliance with the aforementioned Order and direction by either Dillon and Hon. ALLAN L. WINICK, the criminal proceedings against plaintiff by Dillon in the District Court of Nassau County should be stayed, if not dismissed.

AS AND FOR A FOURTH CAUSE OF COMPLAINT
(WRIT OF PROHIBITION)

20. Plaintiff repeats ...

21. Plaintiff desires to defend the aforementioned criminal charges against him in Nassau County as a pro se litigant.

22. Such constitutional intention directly conflicts with the Order of the Appellate Division, Second Judicial Department, which, inter alia, commands "to desist and refrain (1) from practicing law in any form, either as principal or as agent, clerk or employee of another; (2) from appearing as an attorney or counselor at law before any court, judge, justice, board, commission or other public authority; (3) from giving to another an opinion as to the law or its application, or any advice in relation thereto; and (4) from holding himself out in any way as an attorney and counselor at law." [emphasis supplied].

23a. Since, according to media, the filed informations against plaintiff and his arrest in February 1988, based on mid-1987 acts, were the result of plaintiff's January-February 1988, "flurry of letters" which "drew" Dillon's "ire", must plaintiff fear a repeat performance in the future by reason of his lawful and constitutional conduct in the present criminal proceeding?

b. This is particularly significant since plaintiff's conduct was not only protected by the express New York State Constitution, which provides that the "right to petition, the government, or any department" may not be "abridged" (Art. 1 §9), but plaintiff received the express and/or implied direction of U.S. District Judge GERARD L. GOETTEL in Vilella v. Santagata (supra).

c. Prosecuting attorneys, such as Dillon, as plaintiff has previously stated, should control their "ire" by placing their head in a "bucket of ice water", not by arresting people in distant counties, and searching and seizing their property, including that of a confidential or personal nature!

d. The prohibitions contained in the aforementioned Order of the Appellate Division, Second Department, must be declared an unconstitutional nullity, as overbroad, since in view of plaintiff's practice in the federal courts, and his pro se representation, it places him at the mercy of every "hot shot" and/or corrupt prosecuting attorney.

24a. The aforementioned prohibitions contained in the Order of the Appellate Division, Second Department, should be declared unconstitutional, null, void, violative of plaintiff's constitutional right of self-representation, and Dillon, and all others prohibited from bringing any proceedings against plaintiff in the future by reason thereof.

b. In addition thereto, without any limitation whatsoever, the District Court of the County of Nassau should be restrained and enjoined, in all respects, from prohibiting plaintiff, by prior restraint, or post-trial sanctions, from acting and arguing, to the court or the jury, in a manner proscribed by the aforementioned Order of the Appellate Division, Second Department.

<u>AS AND FOR A FIFTH CAUSE OF COMPLAINT</u>
(WRIT OF PROHIBITION)

25. Plaintiff repeats ... .

26. On information and belief, the respondent, Hon. A. FRANKLIN MAHONEY and his Court recognizes the common law practice, and statutory and decisional authority for any person obtaining a state writ of habeas corpus "on behalf of" an incarcerated individual.

27a. Nevertheless, assuming <u>arguendo</u> the aforementioned Order of the Appellate Division, Second Department is valid, petitioner has the constitutional rights enjoyed by all lay persons, including the right to secure a writ of habeas corpus on behalf of another.

b. Notwithstanding the aforementioned, Hon. A. FRANKLIN MAHONEY, unconstitutionally refuses to recognize such right in plaintiff.

28. The aforementioned discriminatory treatment by Hon. A. FRANKLIN MAHONEY, individually and on behalf of the Appellate Division, Third Judicial Department should be enjoined.

AS AND FOR A SIXTH CAUSE OF COMPLAINT
(WRIT OF PROHIBITION)

29. Plaintiff repeats .... .

30a. Without lawful notice, without a trial, without a hearing, without even an ex parte inquest, U.S. District Court Judge EUGENE H. NICKERSON, held plaintiff and his client, HYMAN RAFFE ["Raffe"], in non-summary criminal contempt, and imposed, inter alia, monetary sanctions payable to the United States.

b. At the time such contempt had been declared, plaintiff was lawfully engaged in a state court, and notwithstanding same, it was K&R which had defaulted, not petitioner.

c. The facts reveal, that even on an ex parte inquest basis, the self-proclaimed private prosecutors, to wit., K&R who engineered the massive larceny of Puccini's judicial trust assets, could not prove a prima facie case of criminal contempt.

d. Prior thereto, K&R was openly boasting, even in the halls of 225 Cadman Plaza East, Brooklyn, New York, that firm "controlled" Judge EUGENE H. NICKERSON of Nassau County, and His Honor would do <u>anything</u> it requested, and all the events reveal, in the aforementioned situation, and in every other respect, these boasts to have been validly based.

e. By virtue of the Act of Congress of March 2, 1831 -- one hundred fifty-seven (157) years ago -- no court created by Congress has the power to find anyone guilty of non-summary criminal contempt, without a trial, absent a plea of guilty.

Luke Lawless, Esq., was supposed to be "the last victim" (<u>Nye v. United States</u>, 313 U.S. 33, 46 [1941]).

31a. Instructively, while petitioner would have no part in the transaction, none of the monies paid by Raffe under the aforementioned contempt order were received by the United States or any agency thereof, as provided in said Order, but instead went into the pockets of K&R and its clients.

b. K&R, FKM&F, and their clients, including CITIBANK, N.A. ["Citibank"], who steal, rob, plunder, and extort monies, including from the United States Government, and then serve as conduits to enrich members of the judiciary, federal and state, and/or their cronies, including themselves.

32a. In any event, no judge of the United States District Court, nor Circuit Court of appeals has the power to find anyone in non-summary criminal contempt, without a trial, absent a plea of guilty.

b. The District Court of Nassau County and the Court of Hon. A. FRANKLIN MAHONEY, and those under the vertical jurisdiction of His Honor's Court, should be enjoined from giving such criminal conviction any respect whatsoever, insofar as there are proceedings involving plaintiff.

AS AND FOR A SEVENTH CAUSE OF COMPLAINT
(WRIT OF PROHIBITION)

33. Plaintiff repeats ... .

34. That same month, also without benefit of trial, Acting Supreme Court Justice DAVID S. SAXE, found plaintiff guilty of non-summary criminal contempt, without benefit of a trial, under similar egregious circumstances.

35a. The 1831 Act of Congress (supra) was copied from a similar New York statute enacted in 1829.

b. Furthermore, under Bloom v. Illinois (391 U.S. 194 [1968]), non-summary criminal contempt was brought under the protective umbrella of the XIV Amendment, which prohibits convictions for non-summary criminal contempt, without a trial, absent a plea of guilty.

36a. Notwithstanding, the aforementioned, Mr. Justice Saxe, convicted, sentenced, and had plaintiff incarcerated, in a manifestly unconstitutional charade.

b. The District Court of Nassau County and the Court of Hon. A. FRANKLIN MAHONEY, and those under the vertical jurisdiction of His Honor's Court, should be enjoined from giving such criminal conviction any respect whatsoever, insofar as there are proceedings involving plaintiff.

AS AND FOR A EIGHTH CAUSE OF COMPLAINT
(WRIT OF PROHIBITION)

37. Plaintiff repeats .... .

38. On the same day, as the trialess conviction of Mr. Justice Saxe, Mr. Justice ALVIN F. KLEIN, in one document, convicted plaintiff, Raffe, and SAM POLUR, Esq. ["Polur"], without a trial, for non-summary criminal contempt, and sentenced each of them to thirty (30) days of incarceration.

a. Raffe paid millions of dollars in cash and other monetary consideration to the FKM&F and K&R -- "the merchants of corruption" -- and never spent a minute in jail.

As long as Raffe keeps paying extortion to FKM&F, "bag men" for corrupt members of the judiciary, federal and state, he will never be incarcerated.

b. Polur, served his full term of incarceration, but when the Grievance Committee controlled by Presiding Justice FRANCIS T. MURPHY ["Murphy"] commenced disciplinary proceedings against him, based upon this manifestly unconstitutional conviction, he left the scene, and these proceedings were dropped.

Instructively, even when faced with the uncontroverted assertion that the accusation against Polur by FKM&F [were false], Mr. Justice Klein refused to release Polur from incarceration.

c. Plaintiff, also served his full term, refused to yield to "the criminals with law degrees", and was disbarred based essentially on such three (3) trialess convictions, which he was not permitted to controvert (Grievance Committee v. G.Sassower, 125 A.D.2d 52, 512 N.Y.S.2d 203 [2d Dept.-1987]).

39. The District Court of Nassau County and the Court of Hon. A. FRANKLIN MAHONEY, and those under the vertical jurisdiction of His Honor's Court, should be enjoined from giving such criminal conviction any respect whatsoever, insofar as there are proceedings involving plaintiff.

AS AND FOR A NINTH CAUSE OF COMPLAINT
(WRIT OF PROHIBITION)

40. Plaintiff repeats ... .

41a. It is clearly established that the rule-making power of the Appellate Division does not extend to the power to enact substantive law (Gair v. Peck, 6 N.Y.2d 97, 106, 188 N.Y.S.2d 491, 496 [1959]).

b. Nor may there exist different rules of a substantive nature for the conduct of attorneys in the various departments policed by the four (4) Appellate Divisions.

c. Nevertheless, the Second Department, by virtue of 22 NYCRR §671[c], has a "conclusive evidence of guilt", and eliminates "post-conviction evidence", both of which are of a substantive nature, and differs from the "rules" in the other departments, including the Third (see 22 NYCRR §603.13[c], §806.7; §1022.21[c]).

d. Thus, by not permitting plaintiff to controvert, factually or legally, the aforementioned trialess criminal convictions, were unconstitutionally accepted as conclusive (cf. Gilberg v. Barbieri, 53 N.Y.2d 285, 441 N.Y.S.2d 49 [1981]).

42. Furthermore, the approximately twenty-five (25) times that such criminal contempt charges resulted in a determination of something other than guilt, each one triggering constitutional or statutory "former jeopardy", was held to be irrelevant.

43. Plaintiff was denied all subpoena power by Presiding Justice MILTON MOLLEN and his designated referee, including about every other basic constitutional right.

44a. Instructively, Mollen's appointed Referee found:

> "During the entire period to six years respondent [plaintiff] became obsessed with what he believed to be larceny of judicial trust assets by the receiver and the other attorneys involved aided and abetted by the courts. They were all referred to as 'criminals with law degrees,' He was like the man who had a tiger by the tail and couldn't let go. In respondent's case he refused to let go. His actions throughout the lengthy hearings bordered on the irrational. If you disagreed with him or overruled him you were accused of being part of a cabal to cover up the larceny and corruption. Even a jail sentence for contempt of court did not suffice and as a result three more periods of incarceration followed for violations of court orders." [emphasis supplied]

b. A receiver must account and distribute within one (1) year, and account each and every year (Bus. Corp. Law §1216[a]; 22 NYCRR §202.52[e], §202.53).

It is now eight (8) years, and still no accounting, final or otherwise.

c. As a matter of ministerial compulsion, the Attorney General, the statutory watchdog, must make application for such accounting, if not voluntarily performed by the receiver by eighteen (18) months (Bus. Corp. Law §1216[a]).

It is now ninety-six (96) months, and there was never any application by ROBERT ABRAMS, the Attorney General of the State of New York.

d. There simply never can be a true accounting, without further exposing the judicial and official corruption, including that of Attorney General ROBERT ABRAMS, Esq. and of his Office, revolving around such massive larceny.

45a. The aforementioned rule of the Appellate Division, Second Department, may be collaterally reviewed (District of Columbia Court v. Feldman, 460 U.S. 462 [1983]), and should be declared a nullity.

b. At least, other attorneys, who desire to give obedience to DR 1-03, and "blow the whistle" on judges and/or their cronies, who are nothing better than "barbaric thieves", will not be unlawfully trapped, as was plaintiff.

46. The District Court of Nassau County and the Court of Hon. A. FRANKLIN MAHONEY, and those under the vertical jurisdiction of His Honor's Court, should be enjoined from giving such disbarment order any respect, unless plaintiff is afforded an opportunity to prove the unconstitutionality and/or unlawfulness of same.

AS AND FOR A TENTH CAUSE OF COMPLAINT
(WRIT OF PROHIBITION)

47. Plaintiff repeats ... .

48. The District Court of Nassau County, the Court of Hon. A. FRANKLIN MAHONEY, those under the vertical jurisdiction of His Honor's Court, and the Supreme Court of the State of New York, County of New York, should be enjoined from giving respect to the criminal conviction recited in Sassower v. Sheriff, 824 F.2d 184 [2d Cir.-1987]).

49a. The statements made in such opinion are false, contrived, and constitutes the criminal filing of a false document by the panel of the Circuit Court for the Second Circuit.

b. There never was any trial or hearing, nor any opportunity for same, anything falsely stated in said opinion to the contrary notwithstanding.

c. Exhibit "B" is a portion of the appellant's appendix, which sets forth the admission by FKM&F before Magistrate NINA GERSHON that "there is nothing in the record" to show that plaintiff "was invited to appear, did appear, waived his right to appear, didn't show up or anything of the kind."

d. Indeed, the Report of Referee DONALD DIAMOND proliferates with the repeated statements that "in a criminal case a plea of not-guilty, is tantamount to a general denial in a civil action, and raises no triable issues of fact".

e. A fruit fly knows more law than Referee DONALD DIAMOND, who with Mr. Justice IRA GAMMERMAN are the "soldiers" in the crime organization of Administrator XAVIER C. RICCOBONO ["Corruption Incarnate"].

<u>AS AND FOR A ELEVENTH CAUSE OF COMPLAINT</u>
(WRIT OF PROHIBITION)

50. Plaintiff repeats ... .

51a. Almost without exception, every justice in the Supreme Court, New York County is aware of the criminal adventures of Administrator Riccobono, and desires no longer to be involved with same.

b. Thus, despite the non-waivable random assignment system, Administrator Riccobono, by computer manipulation, had the Puccini litigation assigned to Mr. Justice IRA GAMMERMAN.

c. Whereupon, Mr. Justice IRA GAMMERMAN, without notice, without any notice of motion, without any order to show cause, without any supporting papers, without any papers whatsoever, without a trial, without a hearing, without any anything, held plaintiff to be in non-summary criminal contempt, and dragooned to himself, all actions and proceedings in all counties involving plaintiff, related or otherwise.

d. Included in this massive dragooning operation were those actions and proceedings wherein Mr. Justice Gammerman is a named <u>Dennis v. Sparks</u> (449 U.S. 24 [1980]), essential witness, and even those actions and proceedings where he is a viable defendant or respondent.

52. Mr. Justice Gammerman and Referee DONALD DIAMOND, are about the only remaining "soldiers" in the Riccobono garrison, ready to obey the criminal desires of this depraved administrator, are as a matter of law disqualified, and their judicial actions should be declared null and void and/or their orders and decrees made subject to judicial examination in a judicial proceeding in the District Court of Nassau County or bailiwick of Hon. A. FRANKLIN MAHONEY before they are accepted.

<u>AS AND FOR A TWELFTH CAUSE OF COMPLAINT</u>
(WRIT OF PROHIBITION)

53. Plaintiff repeats . . . .

54. Aeons ago, in obvious recognition that plaintiff would not cooperate in the plundering of estates or trusts wherein plaintiff was a fiduciary, Surrogate ERNEST L. SIGNORELLI removed plaintiff as an executor, <u>nunc pro tunc</u>, as of a year prior thereto.

55a. Surrogate Signorelli directed that plaintiff turnover the books and records of the estate to the Public Administrator, ANTHONY MASTROIANNI ["Mastroianni"], which plaintiff did.

b. Nevertheless, despite performance by plaintiff, Signorelli and Mastroianni began a more than eleven (11) year pursuit of plaintiff for the purpose of turning over books and records which were already in their possession.

c. Contempt proceeding, followed contempt proceeding, and trialess incarceration followed trialess incarceration, including that of plaintiff's wife and child, in order to compel plaintiff to turn over some "phantom" books, which Signorelli and Mastroianni always had in their possession.

d. The result of two (2) extensive trials or hearings, one about three (3) weeks long, and the other almost about two (2) weeks in length, revealed that Mastroianni always had those books and records in his possession, which was a matter of confession by Mastroianni.

e. Despite the findings of two (2) jurists, each triggering "double jeopardy" prohibitions, the Appellate Division, Second Department, desires plaintiff to be incarcerated, for a crime that was never committed in an attempt to compel silence by plaintiff (People ex rel. Sassower v. Sheriff, 134 A.D.2d 641, 521 N.Y.S.2d 536 [2d Dept.-1987]).

56. The District Court of Nassau County, the Court of Hon. A. FRANKLIN MAHONEY, and those under the vertical jurisdiction of His Honor's Court, should be enjoined from giving respect to the trialess criminal conviction of plaintiff in Suffolk County.

AS AND FOR A THIRTEENTH CAUSE OF COMPLAINT
(WRIT OF PROHIBITION)

57. Plaintiff repeats ... .

59. The District Court of Nassau County should be enjoined from proceeding to trial against plaintiff, in accordance with statute, until a determination is made in such proceeding pending in the Supreme Court.

AS AND FOR A FOURTEENTH CAUSE OF COMPLAINT
(MONEY DAMAGES)

60. Plaintiff repeats .... .

61. For denying plaintiff access to the courts, state and federal, for legitimate legal relief, including before Hon.I. LEO GLASSER and Hon. EDWARD R. KORMAN, plaintiff demands from the defendants, WILFRED FEINBERG; EUGENE H. NICKERSON; WILLIAM C. CONNER; FRANCIS T. MURPHY; MILTON MOLLEN; ALVIN F. KLEIN; DAVID S. SAXE; IRA GAMMERMAN; DENIS DILLON; ROBERT ABRAMS; and ANTHONY MASTROIANNI, who with others, are simply part of a corrupt conspiracy, the sum of Ten million dollars ($10,000,000), to be tried by a jury.

WHEREFORE, it is respectfully prayed that the relief requested in the within petition be granted in all respects, including money damages, with costs and disbursements.

COPY
U.S. DISTRICT COURT
N.D. OF N.Y.
FILED
JUL 1 1988
AT ___ O'CLOCK ___ M.
J.R. S[illegible] [illegible]erk

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

GEORGE SASSOWER,

Petitioner,

- against -

Hon. A. FRANKLIN MAHONEY, as Presiding Justice of the Appellate Division, Third Judicial Dept.; WILFRED FEINBERG; EUGENE H. NICKERSON; FRANCIS T. MURPHY; MILTON MOLLEN; XAVIER C. RICCOBONO; ALVIN F. KLEIN; DAVID S. SAXE; IRA GAMMERMAN; Hon. ALLAN L. WINICK; DENIS DILLON; ROBERT ABRAMS; ANTHONY MASTROIANNI; and The DISTRICT COURT OF NASSAU COUNTY,

Respondents.

ORDER

88-CV-0553

(Judge Cholakis)

APPEARANCES: OF COUNSEL:

GEORGE SASSOWER, ESQ.
16 Lake Street
White Plains, New York 10603

GEORGE SASSOWER, pro se

DENIS DILLON, District Attorney, Nassau County
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PAUL SILVER

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The Capitol
Albany, New York 12224
Telephone: 518 474-2234

ALAN KAUFMAN
LAWRENCE L. DOOLITTLE
Assistant Attorney General

CHOLAKIS, J.

Plaintiff, having moved for a temporary restraining order and a preliminary injunction, and the State and federal defendants having cross-moved to dismiss the complaint or, alternatively, for summary judgment, and the Court having considered the written submissions of the parties and the arguments of counsel and having rendered a decision therein, it is

ORDERED that the complaint be and hereby is dismissed ~~and judgment entered in favor of the State defendants dismissing the complaint, and it is further~~

CGC

~~ORDERED that plaintiff's motion for a temporary restraining order and preliminary injunction is in all respects denied~~.

DATED: 7/1/88 ~~June , 1988~~
Albany, New York

Con. G. Cholakis

CON. G. CHOLAKIS, USDCJ, NDNY

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

---x

GEORGE SASSOWER,

Petitioner,

-against-

Hon. A. FRANKLIN MAHONEY, et el.,

Respondents.

---x

88Civ0563 [CGC]

U.S. DISTRICT COURT N.D. OF N.Y.
FILED
JUL - 1 1988
J.R. SCULLY, Clerk
ALBANY

COPY

To: Dist. Atty. Denis Dillon
County Courthouse
262 Old Country Rd. Mineola, N.Y. 11501.

The enclosed summons and complaint are served pursuant to Rule 4(c)(2)(C)(ii) of the Federal Rules of Civil Procedure.

You must complete the acknowledgment part of this form and return one copy of the completed form to the sender within 20 days.

You must sign and date the acknowledgment. If you are served on behalf of another person and you are authorized to receive process, you must indicate under your signature your authority.

If you do not complete and return the form to the sender within 20 days, you (or the party on whose behalf you are being served) may be required to pay any expenses incurred in serving a summons and complaint in any other manner permitted by law.

If you do complete and return this form, you (or the party on whose behalf you are being served) must answer the complaint within 20 days. If you fail to do so, judgment by default will be taken against you for the relief demanded in the complaint.

I declare, under penalty of perjury, that this Notice and Acknowledgment of Receipt of Summons and complaint was mailed on May 25, 1988.

Elena Ruth Sassower
ELENA RUTH SASSOWER
May 25, 1988

ACKNOWLEDGMENT OF RECEIPT OF SUMMONS AND COMPLAINT

I declare, under penalty of perjury, that I received a copy of the summons and of the complaint in the above-captioned manner at

Denis Dillon
(Signature)

Authority to Receive Process

June 1, 1988
(Date)

JON

NDNY
88 cv 563
CHOLAKIS(0611)

UNITED STATES COURT OF APPEALS

FOR THE SECOND CIRCUIT

At a stated Term of the United States Court of Appeals for the Second Circuit, held at the United States Courthouse in the City of New York, on the 26th day of September, one thousand nine hundred and ninety.

PRESENT: HONORABLE J. EDWARD LUMBARD,
HONORABLE JON O. NEWMAN,
HONORABLE FRANK X. ALTIMARI,
Circuit Judges.

UNITED STATES COURT OF APPEALS
FILED
SEP 26 1990
ELAINE B. GOLDSMITH, CLERK
SECOND CIRCUIT

- -

GEORGE SASSOWER,

Petitioner-Appellant,

v.

88-6203

HON. A. FRANKLIN MAHONEY, as Presiding Justice of the Appellate Division, Third Judicial Dept.; WILFRED FEINBERG; EUGENE H. NICKERSON; FRANCIS T. MURPHY; MILTON MOLLEN; XAVIER C. RICCOBONO; ALVIN F. KLEIN; DAVID S. SAXE; IRA GAMMERMAN; ALLAN L. WINICK, DENIS DILLON; ROBERT ABRAMS; ANTHONY MASTROIANNI; and THE DISTRICT COURT OF NASSAU COUNTY,

Respondents-Appellees.

- -

O R D E R

George Sassower appeals pro se from the July 18, 1988, judgment of the District Court for the Northern District of New York (Con. G. Cholakis, Judge) dismissing his complaint against various federal and state judges and other officials. This appeal is a renewal of allegations involved in prior frivolous litigation brought by this appellant. See Sassower v. Sansverie, 885 F.2d 9 (2d Cir. 1989); Sassower v. Sheriff of Westchester County, 824 F.2d 184 (2d Cir. 1987). Sassower makes generalized claims of corruption, unsupported by factual allegations, in a continuing effort to relitigate his disbarment. See Matter of Sassower, 125 A.D. 2d 52, 512 N.Y.S.2d 203 (2d Dep't), appeal dismissed, 70 N.Y.2d 691, 518 N.Y.S.2d 964 (1987). Moreover, the complaint appears to have been filed in violation of the injunction barring Sassower from proceeding on any claim that arises out of the administration of the estate of Eugene Paul Kelly until an award of attorney's fees has been satisfied. See Sassower v. Signorelli, Nos. 77C1447, 78C124 (E.D.N.Y. Nov. 19, 1984). In any event, the pending claim is frivolous for numerous reasons, including lack of a proper pleading, an impermissible effort to collaterally attack state disbarment proceedings, and judicial immunity.

To the extent that the appeal seeks recusal of some or all of the judges considering this appeal, such relief is denied as lacking in factual support and procedurally improper.

Since appellant has previously been warned that filing frivolous appeals will subject him to an injunction requiring leave of court to file further papers in this Court, see Sassower v. Sansverie, 885 F.2d at 11, and that warning has not been heeded, it is hereby ORDERED that appellant shall show cause within 20 days, by filing a written response with the Clerk of this Court, why an injunction should not be entered by this Court prohibiting appellant from filing any further papers in this Court unless leave of this Court has first been obtained to file such papers.

The judgment of the District Court is affirmed.

N.B. This summary order will not be published in the Federal Reporter and should not be cited or otherwise relied upon in unrelated cases before this or any other court.

Edward Lord

F. O. [illegible]

[illegible]

Circuit Judges.

P R O C E E D I N G S

THE COURT: I have allowed the plaintiff what I perceive to be great latitude in the presentation of his oral argument to the Court. Plaintiff who appears pro se brought up issues and arguments that in my judgment were not contained in his papers. However, the Court is not unsympathetic to the position in which the plaintiff finds himself and has allowed him what I perceive or what this Court perceives to be extreme latitude for a person who is trained and experienced in the law.

While the matter against the defendant Dennis Dillon arises out of the Valella matter, as Mr. Sassower has referred to it, it also has its genesis or basis, at least in part, around the disbarment order of the appellate division. It is clear from the record, and I am not opposed or challenged by Mr. Sassower, that an order was entered on November 29, 1984 by then Chief Judge Mishler ordering the plaintiff to refrain from any litigation in this matter, and by "in this matter", it appears that Judge Mishler was referring to Mr. Sassower's representation of one Hymen Raffe who was a shareholder of a dissolved corporation known as Puccini Clothes, Ltd. and also from matters arising out of his being an executore for the estate of Eugene Paul Kelly and that Mr. Sassower

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refrain from any such litigation until he pays such attorney's fees and costs as this Court or that Court will direct.

The costs which were imposed upon Mr. Sassower are what he terms the prefiling costs which are contained within a plan which has been submitted to the bankruptcy court under Chapter 13. While Mr. Sassower may be attempting to pay these debts along with others, there has been no allegation on Mr. Sassower's part that the debts have, in fact, been paid. Therefore, Mr. Mishler -- or Judge Mishler's order is still in full force and effect preventing and directing that Mr. Sassower not commence any litigation arising out of the matters to which Judge Mishler referred.

It is this Court's opinion that the best it can make out from reading the complaint which has been filed, that the allegations contained in the complaint arise out of the matters to which Judge Mishler referred. Therefore, in this Court's judgment, the matter should not have been filed in the first place and, therefore, the motions made on behalf of the state and federal defendants are in all respects granted.

The plaintiff has further requested that I modify the order of the appellate division disbarring him. In this Court's judgment, this Court does not have

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the authority or the power within the framework of the lawsuit presently pending before it to modify that order and it refuses to do so.

There has been a proposed order submitted and properly amended which will be signed and, in all probability, it will be filed today in the clerk's office. Thank you, gentlemen.

MR. SASSOWER: May I just say Judge Mishler had nothing to do with that.

THE COURT: Court's adjourned.

(Whereupon, the proceedings in the above-entitled matter were concluded.)

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