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United States Court of Appeals FOR THE SECOND CIRCUIT

SERVICE PAGE 1

Each motion must be accompanied by a supporting affidavit.

SASSOWER V. MANGANO

96-7805

Date for Number

NOTICE OF MOTION

state type of motion

for filing a corrected brief

Use short title

MOTION BY: *(Name, address and tel. no. of law firm and of attorney in charge of case)*

OPPOSING COUNSEL: *(Name, address and tel. no. of law firm and of attorney in charge of case)*

NYS Dep't of Law by Jay T. Weinstein
120 Broadway, 24th Floor
New York, New York 10271
(212) 416-8573

Has consent of opposing counsel:

A. been sought? Yes No

B. been obtained? Yes No

Has service been effected? Yes No

Is oral argument desired? Yes No

(Substantive motions only)

Requested return date:

(See Second Circuit Rule 27(b))

Has argument date of appeal been set:

A. by scheduling order? Yes No

B. by firm date of argument notice? Yes No

C. If Yes, enter date: _____

Judge or agency whose order is being appealed:

John E. Sprizzo

Brief statement of the relief requested:

Leave to file corrected copy of appellees' brief.

Complete Page 2 of This Form

By: *(Signature of attorney)*

Appearing for: *(Name of party)*

Appellant or Petitioner:

Plaintiff Defendant

Appellee or Respondent:

Plaintiff Defendant

Jay T. Weinstein
Signed name must be printed beneath

Defendants-Appellees

Date

Jay T. Weinstein

3/11/97

Kindly leave this space blank

ORDER

IT IS HEREBY ORDERED that the motion be and it hereby is granted denied

Ex "C"

ious requests for similar relief and disposition:

No.

Statement of the issue(s) presented by this motion:

Leave to file corrected brief.

Brief statement of the facts *(with page references to the moving papers)*:

See annexed affidavit of Jay T. Weinstein.

Summary of the argument *(with page references to the moving papers)*:

See annexed affidavit of Jay T. Weinstein.

UNITED STATES COURT OF APPEALS
SECOND CIRCUIT

-----X

SASSOWER V. MANGANO

AFFIDAVIT OF
ASSISTANT ATTORNEY
GENERAL JAY T. WEINSTEIN

Docket No. 96-7805

-----X

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

JAY T. WEINSTEIN, being duly sworn, deposes and says:

1. I am an Assistant Attorney General in the Office of DENNIS C. VACCO, Attorney General of the State of New York, Attorney for Appellees in the above-captioned appeal.

2. I submit this affidavit in support of my motion to file a corrected copy of appellees' brief. The corrected copy of appellees' brief should be accepted because it was served and filed a mere twenty-four hours after the original brief was filed, and because the only material changes to the corrected brief was the addition of a question presented for review, and both the original and corrected copy of the brief contained the identical brief-point with respect to that issue.

3. On March 4, 1997, appellees served and filed, by Express Mail, their brief. After filing the brief, I noticed that the brief contained errors, consisting of: (1) omitting the name of Assistant Solicitor General Thomas D. Hughes (2) omitting one question presented for review, (2) incomplete Table of Authorities, (3) citation, and (4) grammar. I corrected the

brief in these respects, and on March 5, 1997, I served and filed, by Express Mail, appellees' corrected brief. In addition to the aforementioned corrections, the March 5, 1997 brief was retrieved and saved on an earlier version of the Word-Perfect software program, which had the effect of altering, slightly, the appearance of the type and changing the pagination of the brief. The corrections and alterations contained in the March 5, 1997 brief as compared to the March 4, 1997 brief are as follows:

a. Type: The March 5, 1997 brief was produced on computer software Word-Perfect 5.1, whereas the March 4, 1997 brief was produced on Word-Perfect 6.0. The change in the software altered the appearance of the lettering and the pagination of the brief.

b. The Cover: (1) The March 5, 1997 brief contains the additional name of Thomas D. Hughes, Assistant Solicitor General; (2) The lettering of the March 5, 1997 is in bold print; (3) The language "On Appeal From The United States District Court For The Southern District Of New York" and "Brief For Defendants-Appellees" was positioned closer to the center on the March 5, 1997 brief.

c. Pagination The conversion of the March 5, 1997 brief to Word-Perfect 5.1 affected the pagination of the brief. The pagination altered the location within the brief of headings and citations. The changes in the location of the headings are stated in Table of Contents below. The changes in the location of citations are as follows: (1) Allah v.

Commissioner of Department of Correctional Services - p.22
(formerly p.21), (2) Anderson v. Liberty Lobby, Inc. - p.13
(formerly p.12), (3) Moccio v. New York State Office of Court
Administration - p.12, 14-16 (formerly pp.12, 14, 15), (4) Owens
v. Coughlin - p.21. (formerly p. 20), (4) Schwartz v. Public
Administrator - pp.17-19 (formerly pp. 17 and 19), (5) Tang v.
Appellate Division - p.17 (formerly p.16); (6) Texaco, Inc. v.
Penzoil Co. - pp. 14-15 (formerly pp. 13 and 15), (7) Winters v.
Lavine - p.17 (formerly p.16), (8) United Mine Workers of America
v. Gibbs - pp. 25-26 (formerly p.25), (9) p.vii., "Table of
Authorities" citations to the United States Constitution are not
contained in the March 4, 1997 brief, "Table of Authorities."

d. Table of Contents: (1) Questions Presented For
Review - Page 3 (formerly page 2); (2) "D." Sassower's Collateral
Challenges To The Disciplinary Proceedings Under Article 78 Of
The New York Civil Practice Law & Rules (formerly a second "C.");
(3) E. Sassower's District Court Action - Page 10 (formerly page
9); (4) F. The District Court Decision - Page 11 (formerly page
10); (5) POINT III B.2. Grievance Bar Committee Members - page 25
(formerly page 24); (6) Conclusion - Page 25 (formerly page 24).

e. Table of Authorities: The March 5, 1997 brief
contains references in the "Table of Authorities" to cases cited
in Point IV, whereas the "Table of Authorities" in the March 4,
1997 brief does not (It should be noted, however, that the cases
cited in the body of the March 5, 1997 brief are the same as the
cases cited in the body of the March 4, 1997 brief). These case-

references are as follows: (1) Apple v. Jewish Hospital and Medical Center - p.27 (contained on p.26 of March 4, 1997 brief, but not referenced in the Table of Authorities), (2) In re Drexel Burnam Lambert - p.26 (contained on p.26 of the March 4, 1997 brief, but not referenced in the Table of Authorities), (3) Liteky v. United States - p.27 (contained on p.26 of the March 4, 1997 brief, but not referenced in the Table of Authorities), (4) United States v. Lovaglia - p.27 (contained on p.26 of the March 4, 1997 brief, but not referenced in the Table of Authorities).

f. Questions Presented: The March 5, 1997 brief contains the additional question presented for review number 5: "Did the district court properly deny plaintiff's motion for recusal?" However, it should be noted that both briefs contain Point IV: "The District Court Properly Denied Plaintiff's Motion For Recusal."

g. Citation: (1) p.27: citation to Liteky v. United States, 510 U.S. 540, 114 S.Ct. 1147 (1994) (changed from Liteky v. U.S., ___ U.S. ___, 114 S.Ct. 1147 (1994)); (2) p.23: Mireles v. Waco, 502 U.S. 9, 112 S.Ct. 286, 288 (1991) (changed from Mireles v. Waco, ___ U.S. ___, 112 S.Ct. 286, 288 (1991)); (3) p.15: Texaco, 481 U.S. at 25, 107 S.Ct. at 1533 (Marshall, J. concurring) (changed from Pennzoil, 481 U.S. at 25, 107 S.Ct. at 1533 (Marshall, J., concurring)); (4) p.26: See, e.g., In re Drexel Burnam Lambert, 861 F.2d 1307, 1309 (2d Cir. 1988), reh'g denied en banc, 869 F.2d 116 (2d Cir.), cert. denied, 490 U.S. 1102 (1989) (changed from See, e.g., In re Drexel Burnam Lambert,


861 F.2d 1307, 1309 (2d Cir. 1988), reh'g denied en banc, 869 F.2d 116 (2d Cir., cert. denied, 490 U.S. 1102 (1989)).

h. Grammatical and spelling errors: (1) p.i,

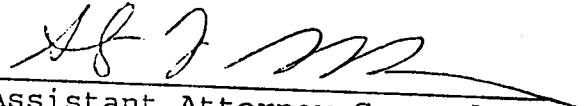
TABLE OF CONTENTS: "PLAINTIFF'S CLAIMS WERE BARRED BY THE DOCTRINES OF ISSUE AND CLAIM PRECLUSION" (changed from "PLAINTIFF'S CLAIMS WERE BARRED BY THE DOCTRINES OF ISSUE AND CLAIMS PRECLUSION"); (2) p.12, fifth word, first full paragraph: "immunities" (changed from p.11: "immunites"); (3) p.13 "POINT I: THE DISTRICT COURT PROPERLY RULED THAT IT LACKED SUBJECT MATTER JURISDICTION OVER PLAINTIFF'S CLAIMS UNDER THE ROOKER-FELDMAN DOCTRINE" (changed from p.12: "POINT I: THE DISTRICT COURT PROPERLY THAT IT LACKED SUBJECT MATTER JURISDICTION OVER PLAINTIFF'S CLAIMS UNDER THE ROOKER-FELDMAN DOCTRINE"); (4) p.26, first line, first full paragraph: "pursuant to" (changed from p.25: "pursuant ot"); (5) p.26, first word, first full paragraph: "One" (changed from "On"); (6) p.27, second word, last sentence: "plaintiff's" (changed from "plaintiff"); .

WHEREFORE, I respectfully request that this Court grant my application to file a corrected brief.

Dated: New York, New York
March 11, 1997


JAY T. WEINSTEIN
Assistant Attorney General

Sworn to before me this
11 day of March 1997


Assistant Attorney General
of the State of New York