

DORIS L. SASSOWER

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December 16, 1994

Hon. John Sprizzo
United States District Court
Foley Square
New York, N.Y. 10007

Re: Sassower v. Mangano et al. 94 Civ. 4514(JS)

Dear Judge Sprizzo:

This letter responds, with leave of Court, to a most disingenuous letter, received yesterday, from the office of the Attorney-General, counsel to the defendants in the above matter. The letter, signed by Assistant Attorney-General Jay T. Weinstein, dated and postmarked December 13, 1994, indicates hand-delivery to the Court on that date. Since defense counsel knew that a letter dated and mailed by ordinary mail on December 13, 1994 from lower Manhattan to White Plains cannot reasonably be expected to be received on the same day as its hand-delivery to the Court, it may be inferred that it was his deliberate and conscious intention that I have no opportunity to respond prior to the Court's anticipated disposition of his request on December 15, 1994. Such date was the very day on which defendants were required to answer my Verified Complaint, by this Court's Order dated November 14, 1994 (a copy is enclosed for the Court's convenience).

The inference is further supported by the fact that defense counsel chose not to fax a copy of such letter to me, an option readily available to him. The Court may note that my fax number appears on my letterhead, the very same as was used in all my prior correspondence with the Attorney-General's office. Moreover, such mode of communication, which would have assured my same day receipt of his letter requesting extension of a December 15, 1994 deadline, has been regularly been employed by such office in the past. Indeed, on November 7, 1994, the Attorney-General transmitted his most recent prior application for an extension to me via fax (see his "Facsimile Transmission Cover Sheet annexed hereto).

A comparison of such prior application with the instant one shows that Mr. Weinstein, in failing to fax such request to me also has conspicuously departed from the normal and customary practice of

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his office, as exemplified by such November 7, 1994 extension request, in another respect by failing to make same in affirmation form, accompanied by a proposed order.

Additionally, Mr. Weinstein's December 13, 1994 letter admits the fact that he spoke to me on December 8, 1994 in connection with his requested extension. Yet he waited five days before sending his letter request, although he also admits that Deputy Clerk Belfiore told him to do so on December 9th. Mr. Weinstein offers no explanation or excuse for his delay--consistent with the fact that such was not inadvertence but intentional.

This type of oppressive and bad-faith conduct is particularly reprehensible against a litigant such as myself, who is unrepresented by counsel and without the resources to accomodate such unfair time pressures.

It may be further inferred that Mr. Weinstein did not put his application in sworn form to avoid Rule 11 penalties, as well as those for false filing under the Penal Law of the State of New York. At the conclusion of our December 8, 1994 telephone conversation, I cautioned Mr. Weinstein to be sure to give a full and complete account of it to the Court.

Obviously, Mr. Weinstein did not wish to do this, since it would have exposed his conduct as frivolous and harassing: I specifically informed Mr. Weinstein that I would stipulate to his requested extension (as previously done in connection with his aforesaid November 7, 1994 application), provided only that he reciprocated with a stipulation consenting to adjournment of the conference scheduled for next Friday, December 23rd. However, Mr. Weinstein refused to so stipulate, notwithstanding I informed him that: (a) I had previously consented to the Attorney-General's request for extension of time, as well as his request for adjournment of the previously scheduled court conference on November 9, 1994 to November 29, 1994; (b) I have a December 28th deadline for filing my petition for cert to the U.S. Supreme Court for review of the Article 78 proceeding which is the subject of this action, and in the interest of judicial and legal economy, I suggested that the December 23, 1994 court conference be postponed, sine die, to await the outcome of a decision on that petition by our highest Court. Mr. Weinstein was apprised of the fact that his office was already in receipt of my application for an extension of that deadline, but that, unless such extension were granted by the U.S. Supreme Court, which would be most unusual, since such an application is "not favored" (Rule 14 of the Rules of the Supreme Court), I would literally be racing against the clock on December 23rd.

Once given this knowledge, Mr. Weinstein became adamant about going ahead with the conference on that date. When I asked why he was so insistent, that his office wants to "forge ahead" with

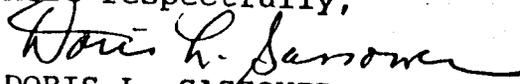
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the matter (despite the fact that his office is presently in transition as a result of the recent elections and the change of administration on January 1st) and he was not even sure he would be there to handle the case after the new Attorney-General takes over). I suggested to Mr. Weinstein that if he was so bent on forging ahead at this point, he should comply with your Honor's order dated November 14, 1994, more than a month ago, that the defendants answer the complaint by December 15, 1994, such being the Court's explicit directive. Mr. Weinstein has chosen not to obey this Court's said Order, simply ignoring that clear and unambiguous deadline, without making a proper motion on sworn papers to modify the November 14, 1994 Order--and, spitefully, Mr. Weinstein has refused to stipulate to postponement of the December 23, 1994 court conference, in exchange for which I was ready to consent to his extension request. He, thereby, anticipated the Court's granting such request before I even knew it was being presented.

When I spoke to Mr. Weinstein, I also told him that shortly after the aforesaid Order came down, I discussed with his predecessor, Assistant Attorney-General Oliver Williams, that I wished to put off the December 23 conference, due to its being so close to the Christmas holiday, as well as the due date of my intended cert petition. I had already obtained a possible alternate date of January 10, 1994 from Your Honor's Clerk, Linda Kotowski, if the Attorney-General did not stipulate to a sine die adjournment. Mr. Williams, who may already have departed the office, said he would get back to me since he purported himself unable to agree to any postponement of the December 23, 1994 date. However, Mr. Williams has not been heard from since.

I trust that the Court will agree that the foregoing conduct on the part of the Attorney-General's Office is irresponsible and unprofessional, and that by reason thereof, his instant request should be denied. Under such circumstances, it is just and proper that he bear the consequences of his deliberate default in compliance with this Court's clear and unambiguous November 14, 1994 Order that his clients answer my Verified Complaint. I further ask for appropriate condemnation by this Court of the Attorney-General's aforesaid burdensome, vexatious, and malicious conduct. Finally, I respectfully request the Court to postpone the December 23, 1994 court conference, sine die, for reasons set forth above.

Most respectfully,


DORIS L. SASSOWER

cc: Ass't. Attorney-General Jay A. Weinstein
Enclosures (2)

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
SASSOWER,

Plaintiff(s),

- against -

94 Civ. 4514 (JES)

MANGANO, ET AL.,

ORDER

Defendant(s).
-----X

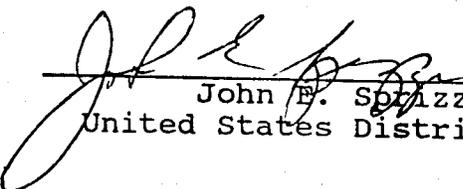
The above-captioned action having come before this Court, and the Court having considered all matters raised, it is

ORDERED that defendants' time to answer shall be and hereby is extended until December 15, 1994, and it is further

ORDERED that the Pre-Trial Conference previously scheduled for November 10, 1994 shall be and hereby is adjourned until December 23, 1994 at 10:30 a.m. in Courtroom 705.

Dated: New York, New York

November 14, 1994



John F. Spizzo
United States District Judge

FACSIMILE TRANSMISSION COVER SHEET
IF DIFFICULTIES ARISE IN TRANSMISSION, PLEASE CALL (212) 416-8610

To: DORIS C. SASSOWER Fax: 914-689-6557 Sent: _____
Tel: _____

From: OLIVER W. WILLIAMS, MAG
Fax No. (212) 416-6009 Telephone No. (212) 416-8569

Re: SASSOWER v. HON. MANGANO
Date: 11.7.94 Pages (including cover): 8

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Comments:

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Operator: _____ Date and Time Completed: _____