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BY HAND

October 10, 2008

Jacqueline Rodriguez, Clerk, Landord/Tenant Part
White Plains City Court
77 Lexington Avenue
White Plains, New York 10601

RE: John McFadden v. Doris L. Sassower and Elena Sassower,
White Plains City Court #SP-681/89 & "SP-2008-1474"

Dear Ms. Rodriguez:

Please replace pages 4 and 5 of my September 18, 2008 affidavit in support of my motion with the enclosed pages 4 and 5. These add the words "hand-delivered" to the itemization therein of my August 22, 2008 and August 28, 2008 letters to Clerk Lupi.

Thank you.

Very truly yours,



ELENA RUTH SASSOWER, *Pro Se*

cc: Leonard Sclafani, Esq.
Assistant Attorney General Dian Kerr McCullough

procedure is for me to make a motion in this Court prior to seeking relief from the Appellate Term, including for its so-ordering of a subpoena to Chief Clerk Lupi for the documents and information I requested from her by letters dated July 30, 2008 (Exhibit H) and August 22, 2008 (Exhibit K).

5. Such motion – whether to this Court or to the Appellate Term – would be unnecessary but for Chief Clerk Lupi’s wilful and deliberate failure to respond to my August 22, 2008 letter to her (Exhibit K), particularizing the deficiencies of the “Clerk’s Return on Appeal” for #651/89 (Exhibit F) and for #1502/07 (Exhibit G), neither of which she signed, as well as the knowingly false and misleading nature of her August 7, 2008 letter to me (Exhibit J) in purported response to my July 30, 2008 letter to her (Exhibit H).

6. In the interest of judicial economy, I incorporate by reference the correspondence between myself and Chief Clerk Lupi, setting forth the facts germane to this motion and entitling me to ALL its requested relief. This correspondence is:

(a) my hand-delivered July 30, 2008 letter to Chief Clerk Lupi (Exhibit H);

(b) my hand-delivered August 7, 2008 letter to Chief Clerk Lupi, stating that I had received no response from her to my July 30, 2008 letter and that such was prejudicial as the requested information was needed for my July 30, 2008 order to show cause in the Appellate Term for a stay pending appeal, returnable on August 13, 2008 (Exhibit I);

(c) Chief Clerk Lupi’s August 7, 2008 letter to me, sent in an envelope postmarked August 8, 2008 and not delivered to me until August 13, 2008 (Exhibit J);

(d) my hand-delivered August 22, 2008 letter to Chief Clerk Lupi,

requesting that she respond in time for my further submission to the Appellate Term due on September 2, 2008 (Exhibit K); and

(e) my hand-delivered August 28, 2008 letter to Chief Clerk Lupi, stating that I had received no response and asking that she advise when her response would be forthcoming (Exhibit L).

7. I rest on the exposition in my aforesaid letters to Chief Clerk Lupi, with only the following modification as to the contents of the record of #1502/07 transmitted by the White Plains City Court Clerk's Office to the Appellate Term. The recitation in the second paragraph on page 5 of my August 22, 2008 letter (Exhibit J) was true and correct on August 13, 2008, but not on September 2, 2008.

On September 2, 2008, I again requisitioned the record of #1502/07 at the Appellate Term and received the identical folder as I had on August 13, 2008. I thereupon inquired of Senior Court Clerk David Ryan whether there might be a further folder containing the record – which he succeeded in locating and which he then marked with a #1, placing a #2 on the other folder. This folder #1 contained documents that approximate the description in the second paragraph of page 5 of my August 22, 2008 letter (Exhibit K) as having been listed in the “Papers Forwarded to Appellate Term” compiled by the White Plains City Court Clerk's Office (Exhibit G-2)².

² The “2) Stenographers Minutes” are those for June 30, 2008;

The “3) Federal Cases” is the August 12, 1991 district court decision in the federal action involving the subject apartment – which had been one of many federal court decisions transmitted by Mr. Sclafani under a July 17, 2007 letter to Judge Eric Press, which was not among the file contents;

The “16) Letter from Sclafani” is his August 30, 2007 faxed letter to me [misdated June 7, 2007] responding to my August 29, 2007 faxed letter to him requesting his missing page 33 of his