

rec'd 10/20/08

CITY COURT OF THE CITY OF WHITE PLAINS
COUNTY OF WESTCHESTER

-----X
JOHN MCFADDEN

Index #SP 1474/08

Petition,

NOTICE OF ENTRY

-against-

DORIS L. SASSOWER and ELENA SASSOWER

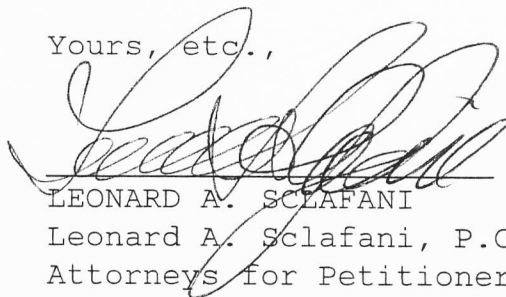
Respondent

-----X

PLEASE TAKE NOTICE that the within is a true copy of a
Decision and Order duly entered in the office of the clerk of the
within named court on October 15, 2008.

Dated: October 17, 2008
New York, New York

Yours, etc.,



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(212) 696-9880

TO: Lawrence J. Glynn, Esq.
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Andrew M. Cuomo
Attorney General of the State of New York
Attorney for Chief Clerk Patricia Lupi
By: Dian Kerr McCullough, Esq.
Assistant General Attorney
101 East Post Road
White Plains, New York 10601

Present: HON. JO ANN FRIIA
CITY COURT JUDGE

-----X
JOHN MCFADDEN,

Petitioner,

-against-

DORIS L. SASSOWER and ELENA SASSOWER,

Respondents.
-----X

DECISION ON MOTION

TO COMMENCE THE
STATUTORY TIME PERIOD
FOR APPEALS AS OF RIGHT
(CPLR 5513[a]) YOU ARE
ADVISED TO SERVE A COPY
OF THIS ORDER, WITH NOTICE
OF ENTRY, UPON ALL PARTIES.

INDEX NO.: SP 1474/08
MOTION DATE: 9/26/08

The following papers numbered 1 to 7 read on this motion by respondent.

- | | |
|--|---|
| Notice of Motion | 1 |
| Affidavit of Elena Ruth Sassower | 2 |
| Exhibits A - L | 3 |
| Notice of Cross-Motion | 4 |
| Affirmation of Dian Kerr McCullough | 5 |
| Reply Affidavit of Elena Ruth Sassower | 6 |
| Exhibits M - Q | 7 |

2009 OCT 15 A 9:12
CITY COURT OF
WHITE PLAINS, N.Y.


Upon the foregoing papers the Court finds and decides as follows:

Although denominated a "notice of motion," the relief sought therein is, in essence, the subject of an Article 78 proceeding, in the nature of mandamus, seeking to compel the Chief Clerk to produce records in connection with a pending appeal before the Appellate Term, Second Department. The City Court is without subject matter jurisdiction to entertain respondent's application (CPLR § 7804 [b]).

Accordingly, respondent's motion is denied. Cross-motion granted to the extent that the City Court is without subject matter jurisdiction to entertain respondent's application.

THIS DECISION CONSTITUTES THE ORDER OF THE COURT

Dated: White Plains, New York
October 14, 2008


HON. JO ANN FRUTA
CITY COURT JUDGE

TO: Leonard A. Sclafanii, Esq.
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CITY COURT OF THE CITY OF WHITE PLAINS
COUNTY OF WESTCHESTER

JOHN MCFADDEN,

Petitioner

-against-

DORIS L. SASSOWER and ELENA SASSOWER

Respondents

NOTICE OF ENTRY

LEONARD A. SCLAFANI, P.C.

Attorneys for PETITIONER

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Pursuant to 22NYCRR 1301.1a the undersigned, an attorney admitted to practice in the courts of New York State, certifies that upon information and belief, and after reasonable inquiry, the contentions contained in the annexed documents(s) are not frivolous:

Leonard A. Sclafani

Service of a copy of the within

is hereby admitted.

Dated,

.....

Attorney(s) for
