

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: SECOND DEPARTMENT

-----x

MILTON BRESLAW,

Plaintiff,

-against-

EVELYN BRESLAW,

Defendant.

-----x

NOTICE OF APPEAL

Westchester County
Index. No. 22587/86

FILE
AUG 9 - 1991
ANDREW J. SPANO
COUNTY CLERK
COUNTY OF WESTCHESTER

S I R S:

PLEASE TAKE NOTICE that Appellant DORIS L. SASSOWER, P.C., former attorney for the Defendant, EVELYN BRESLAW, and Appellant DORIS L. SASSOWER, individually, do hereby appeal to the Appellate Division, Second Judicial Department of the Supreme Court of the State of New York, from the Order of the Honorable Samuel G. Fredman, of the Supreme Court of the State of New York, County of Westchester, dated and entered June 24, 1991, in the above-entitled action in the Office of the Clerk of the County of said Court, and from each and every part thereof, except such part thereof that found no contempt had been committed by Appellants and denied any relief to Respondent based on the alleged contempt, including all intermediate orders, and from a Money Judgment against Appellants in the amount of \$9,250.01

/ Ex "L"

filed and entered on July 15, 1991 in the Office of the County Clerk, pursuant to an award of sanctions under the aforesaid Order appealed from.

Dated: August 8, 1991
Yonkers, New York

Yours, etc.

ELI VIGLIANO, Esq.
Attorney for Appellants
Doris L. Sassower, P.C. and
Doris L. Sassower, individually
1250 Central Park Avenue
Yonkers, New York 10704
(914) 423-0732

Mailing Address:
P.O. Box 70
Gedney Station
White Plains, New York 10605-0070

TO:

THE CLERK OF THE COUNTY OF WESTCHESTER
White Plains, New York

BENDER & BODNAR, Esqs.
Attorney for Defendant-Appellee
11 Martine Avenue
White Plains, New York 10606

DRANOFF & JOHNSON, P.C.
Attorney for Plaintiff
One Blue Hill Plaza
P.O. Box 1629
Pearl River, New York 10965-8629

**SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : SECOND JUDICIAL DEPARTMENT
Civil Appeal Pre-Argument Statement - Form E**

Instructions: Complete this form at the time that the notice of appeal is prepared. Annex it to the notice of appeal, file it with the clerk of the court from which the appeal is taken, and serve a copy on the other parties to the action or proceeding.

Case Title:

MILTON BRESLAW,
Plaintiff,
-against-
EVELYN BRESLAW,
Defendant.

Lower Court Information:

Court: Supreme Court County: Westchester
Index No.: 22587/86 Judge: Fredman
Appeal from (check one): Judgment Order Other (specify)
Dated Order dated 6/24/91; Judgment dated 7/15/91
Entered Order entered 6/24/91; Judgment entered 7/15/91

Notice of Appeal:

Dated 8/8/91
Filed 8/9/91

Attorney Information:

Name	Address	Telephone
For Appellants Doris L. Sassower, P.C., and Doris L. Sassower, ELI VIGLIANO, ESQ.	1250 Central Park Avenue Yonkers, New York 10704	individually (914)423-0732
For Respondent (Evelyn Breslaw) - BENDER & BODNAR	11 Martine Avenue White Plains, N.Y. 10606	(914) 997-1100
For Other Parties (Milton Breslaw) DRANOFF & JOHNSON, P.C.	One Blue Hill Plaza P.O. Box 1629 Pearl River, N.Y. 10965-8629	(914) 735-6200

Nature of Appeal:

Specify the nature of the cause of action or special proceeding (e.g. contract, negligence, matrimonial, CPLR article 78): A contempt proceeding was initiated by motion as part of the divorce action between the named parties thereto. Appellants were neither parties nor counsel to any party at the time. \$9,250.01
If an appeal from a judgment, specify the amount awarded (if applicable): \$9,250.01
After non-jury trial jury trial (check one)

If an appeal from an order, specify the nature of the motion (e.g. summary judgment, pendente lite relief, vacate a default, etc.): a motion for contempt and sanctions against Appellants, although they were then neither parties nor attorneys in the divorce action.
Motion granted denied (check one)

If granted, specify the extent of the relief (if applicable): The Order of 6/24/91 denied contempt relief, imposed sanctions under Rule 130-1.1, and authorized entry of a money judgment against Appellants in the sum of \$9,250.01
App. Div. 2nd Dept. **Pre-Argument Statement** \$9,250.01 sanctions

Issues:

Specify the issues proposed to be raised on appeal:

See annexed Rider

Other Appeals:

State whether there any additional appeals are pending in this action and the date of the entry of the orders or judgments appealed from.

No

Transcript Information:

I, the attorney for the appellant, hereby certify that (check one of the following):

- (x) satisfactory arrangements have been made with the court reporter (give name) Susan Gallagher for payment of the cost of the transcript;
- () I have already ordered the transcript to be prepared;
- () other arrangements have been made in accordance with the order of Justice dated _____ ; or
- () the appeal is from an order where there were no minutes taken.

Counsel's signature:



Date: August 8, 1991

RIDER TO APPELLANTS' PRE-ARGUMENT STATEMENT

Issues Proposed To Be Raised On Appeal include:

1. Whether Justice Fredman committed reversible error by denying Appellants' application to recuse himself on the ground of bias based on:

(a) his adversarial relationship with them prior to gubernatorial interim appointment to the Supreme Court bench.

(b) his political relationship with Harvey Landau, Esq., the attorney then representing Respondent Evelyn Breslaw, which fact was not disclosed by Justice Fredman or Mr. Landau. Mr. Landau at the time he initiated the contempt proceedings against Appellants was Chairman of the Scarsdale Democratic Club, endorsing and actively participating in Justice Fredman's campaign for election to a full 14-year term, to which his law firm gave a monetary contribution while the case was pending.

2. Whether Justice Fredman's conduct, rulings, and Decisions rendered by him in the course of the proceedings, especially his June 24, 1991 Decision, reflected the aforesaid bias and personal animus against Appellants, and whether said conduct, rulings, and Decisions were contrary to law, fact, and an egregious abuse of judicial discretion, constituting reversible error.

3. Whether the Order and Money Judgment appealed from, including, inter alia, imposition of sanctions pursuant to Rule 130-1.1 of the Uniform Rules of the Trial Court, was erroneous as a matter of law, fact, and an abuse of discretion, by reason of, inter alia, lack of jurisdiction over Appellants, precluding any legal basis whatsoever for the contempt/sanction proceedings held before Justice Fredman.