

R. 9/19/92
EDWARD I. SUMBER
CHAIRMAN

State of New York
Grievance Committee for the
Ninth Judicial District

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914-949-4540

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ASSOCIATE COUNSEL

September 16, 1992

CONFIDENTIAL

Donald M. Sheraw, Esq.
Clerk of the Court
State of New York
Court of Appeals
Court of Appeals Hall
20 Eagle Street
Albany, New York 12207

Re: Matter of Doris L. Sassower v.
Grievance Committee for the
Ninth Judicial District

Dear Mr. Sheraw:

We are in receipt of a copy of your letter dated September 9, 1992, concerning the above-referenced matter and take this opportunity to respond.

There is no substantial constitutional questions involved in the above-referenced matter pursuant to which Doris L. Sassower would have some basis to maintain that she has an appeal as of right. Rather, simply put what is involved is a blatant and flagrant failure by Ms. Sassower to comply with an Order of the Appellate Division, Second Department that she submit to a medical examination.

By Order of the Appellate Division, Second Department dated June 14, 1991, Ms. Sassower was suspended from the practice of law for having failed and refused to comply with the earlier Order of the Court, dated October 18, 1990, that she be examined by a qualified medical expert.

This Court, by Order dated September 10, 1991, has already denied a motion by Ms. Sassower for leave to appeal from the Order of Suspension and a stay of such Order. Matter of Sassower 78 NY2d 984.

Donald M. Sheraw, Esq.

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September 16, 1992

Enclosed are copies of two Affirmations dated June 18, 1992 and June 26, 1992, submitted by the undersigned to the Appellate Division, Second Department pursuant to Ms. Sassower's motion brought on by Order to Show Cause, which resulted in the Order dated July 31, 1992. It is the latter Order from which Ms. Sassower has filed her purported direct appeal with this Court.

It is urged that the Court of Appeals exercise its sua sponte authority and dismiss Ms. Sassower's claimed appeal as of right.

Very truly yours,



Gary L. Casella
Chief Counsel

GLC:mjm

Enclosures

cc: Ms. Doris L. Sassower

6/18/92

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : SECOND JUDICIAL DISTRICT

----- X

In the Matter of DORIS L. SASSOWER,
A Suspended Attorney.

GRIEVANCE COMMITTEE FOR THE
NINTH JUDICIAL DISTRICT,

AFFIRMATION IN
OPPOSITION

Petitioner,

Docket No. 90-00315

- against -

DORIS L. SASSOWER,

Respondent.

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Gary L. Casella, an attorney duly admitted to practice law in the State of New York affirms the following to be true under the penalties of perjury.

1. I am the attorney for the petitioner, Grievance Committee for the Ninth Judicial District and am fully familiar with this matter.

2. This affirmation is submitted in opposition to the relief requested by Doris L. Sassower, a suspended attorney, in her Order to Show Cause dated June 16, 1992, and supporting affidavit.

3. The history of the Court's action in this matter is briefly as follows: By Order of this Court dated December 14, 1989, petitioner was authorized to institute a disciplinary proceeding against respondent Doris L. Sassower. This Court's

Order, dated October 18, 1990, directed that respondent be examined by a qualified medical expert to be arranged for by petitioner to determine if she is incapacitated from practicing law. The Order of October 18, 1990 also directed that Petitioner's Motion to Suspend respondent be held in abeyance pending receipt and consideration of the report of the medical expert. Additionally, the Order denied respondent's cross-motion to "dismiss the underlying disciplinary proceeding based upon, inter alia, lack of personal jurisdiction ... "

The Order of this Court dated November 18, 1990, appointed Honorable Max H. Galfunt as Special Referee in the disciplinary proceeding.

Two Orders were issued by the Court both dated June 12, 1991. The first denied respondent's motion, to vacate the Court's Order of October 18, 1990 directing that she be examined by a qualified medical expert and to discipline affirmant. The second Order of that date denied petitioner's motion to impose financial sanctions and costs against Eli Vigliano, then counsel to respondent, pursuant to Part 130 of the Uniform Rules for the New York State Trial Courts, for engaging in frivolous conduct, but granted, "... leave to renew upon a showing of continuing frivolous conduct as defined by Section 130-1.1(a) of the Rules of the Chief Administrator of the Court (22 NYCRR 130-1.1(c))."

In its Order dated June 14, 1991, this Court immediately suspended respondent from the practice of law pursuant to Section 691.4(1) of the Rules Governing the Conduct of Attorneys [22 NYCRR 691.4(1)] based on a finding that she had failed to comply with the Order of October 18, 1990, directing that she be examined by a medical expert to determine if she is incapacitated.

In a further Order dated July 15, 1991, this Court denied respondent's motion to "vacate/and or modify" its Decision and Order of June 14, 1991, suspending respondent from the practice of law.

The Court of Appeals, in its Order of September 10, 1991, denied respondent's motion, for leave to appeal, to seal records and a stay of the Order of Suspension. Matter of Sassower 78 NY2d 984.

By Order dated June 4, 1992, this Court referred the Supplemental Petition to the Special Referee, Honorable Max H. Galfunt and directed that respondent submit her answer with respect thereto within fourteen (14) days of such Order. A second Order of the Court, also dated June 4, 1992, afforded respondent fourteen (14) days from the date of such Order to move with respect to the charges or provide answers and otherwise denied her application.

4. Respondent has now brought on yet another meritless motion by Order to Show Cause raising many of the very same claims that she has previously placed before this Court and the

New York Court of Appeals which, as set forth above, denied leave to appeal from the Order of Suspension.

5. This Court in suspending respondent fully complied with Matter of Padilla and Gray 67 NY2d 440 and Matter of Russakoff. (NYLJ, May 11, 1992, p. 27, cols. 1, 2, 3, 4) As noted in paragraph 3 supra, this Court in imposing the suspension made a finding as required and articulated its reasons in support thereof. Indeed, it was this Court that suspended Gray 110 AD2d 672 based on an application by petitioner and that interim suspension was, of course, affirmed by the Court of Appeals in Matter of Padilla and Gray (67 NY2d 440).

Respondent's claim that she has not been guilty of a lack of cooperation in failing to comply with this Court's Order of October 18, 1990, for a period now in excess of one and one-half years, is ludicrous. Her patent contempt for this Court's authority and blatant disregard for it are clear.

6. Respondent has annexed a copy of a letter dated March 6, 1992, sent to the Court by affirmant on behalf of petitioner in which it was requested that the disciplinary proceeding against respondent be held in abeyance. She argues that the proceeding against her should not now go forward.

7. Section 90 (2) of the Judiciary Law vests jurisdiction in the Appellate Division to discipline attorneys for acts of misconduct. Petitioner which investigates and prosecutes alleged acts of professional misconduct against

attorneys pursuant to authority of the Appellate Division (22 NYCRR 691) can make recommendations to the Court where appropriate. However, final determinations in attorney disciplinary matters are the province of the Court. Accordingly, there is no impediment to proceeding, petitioner's letter of March 6, 1992 notwithstanding.

Judiciary Law, Section 90(2) provides in pertinent part as follows:

The supreme court shall have power and control over attorneys and counsellors-at-law and all persons practicing or assuming to practice law, and the appellate division of the supreme court in each department is authorized to censure, suspend from practice or remove from office any attorney and counsellor-at-law admitted to practice who is guilty of professional misconduct, malpractice, fraud, deceit, crime or misdemeanor, or any conduct prejudicial to the administration of justice; and the appellate division of the supreme court is hereby authorized to revoke such admission for any misrepresentation or suppression of any information in connection with the application for admission to practice.

8. Respondent objects to having to answer the Supplemental Petition by June 18, 1992. (An answer has not yet been received as of the preparation of this Affirmation.) However, the Supplemental Petition, which is dated April 9, 1992, was served on respondent on April 10, 1992. Accordingly, respondent has had such charges for a period in excess of two months. This is clearly more than a sufficient time to respond for anyone not intent on obstructing and delaying a disciplinary proceeding.

9. Respondent indicates once again that she will seek to have affirmant disciplined, although this Court by its Order dated June 12, 1991, as noted above, has already denied such requested relief. It appears that she will base her new claims on some purported abuse of authority in bringing on formal charges, although petitioner and the Court approved such action.

10. It is urged that if respondent brings on such motion and it is determined to be frivolous that the Court on its own initiative impose sanctions against respondent and award costs to petitioner pursuant to Part 130 of the Rules of the Chief Administrator (22 NYCRR 130).

11. Respondent's arguments, concerning a purported jurisdictional question and petitioner's Order to Show Cause to have her examined, resulting in the Court's Order of October 18, 1990, were as she concedes in paragraph 13 of her affidavit in support of her Instant Order to Show Cause raised before by her to this Court. She also unsuccessfully raised the same claims in her Motion for Leave to Appeal to the Court of Appeals, which as set forth was denied by Order of September 10, 1991, Matter of Sassower 78 NY2d 984.

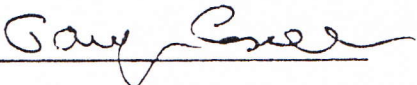
12. Respondent's baseless contentions at paragraph 22 et seq. of her instant affidavit sworn to on June 15, 1992 before Eli Vigliano which once again address the steps taken by petitioner resulting in this Court's Order of October 18, 1990 have been dealt with by this Court as well as the Court of Appeals.

13. In summary, respondent's instant Order to Show Cause is "supported" by respondent's affidavit sworn to on June 15, 1992 in which she largely rehashes the very same meritless claims that she has repeatedly and unsuccessfully placed before this Court and the Court of Appeals.

WHEREFORE, it is urged that this Court once again deny in full the relief requested by respondent and advise her that if she brings on any further frivolous application she will be sanctioned and have appropriate costs imposed against her pursuant to Part 130 of the Rules of the Chief Administrator (22 NYCRR 130) and that this Court take whatever other action it deems appropriate.

DATED: June 18, 1992

White Plains, Ne York

A handwritten signature in cursive script, appearing to read "Gary Casella", is written over a horizontal line.

Gary L. Casella

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : SECOND JUDICIAL DISTRICT

In the Matter of DORIS L. SASSOWER,
A Suspended Attorney.

GRIEVANCE COMMITTEE FOR THE
NINTH JUDICIAL DISTRICT,

Petitioner,

- against -

DORIS L. SASSOWER,

Respondent.

AFFIRMATION IN
OPPOSITION

GARY E. CASELLA

Attorney for Respondent
Office and Post Office Address, Telephone

STATE OF NEW YORK
GRIEVANCE COMMITTEE
NINTH JUDICIAL DISTRICT
CROSSWEST OFFICE CENTER
398 N. WOOD ROAD, SUITE 200
WHITE PLAINS, NEW YORK 10603
(914) 340-4540

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

Attorney(s) for

Sir:— Please take notice

NOTICE OF ENTRY

that the within is a (certified) true copy of
duly entered in the office of the clerk of the within named court on

19

NOTICE OF SETTLEMENT

that an order of settlement to the HON. _____
of the within named court, at _____
on _____ 19____ at _____ M. _____
one of the judges

Dated,

Yours, etc.

GARY E. CASELLA

Attorney for

Office and Post Office Address, Telephone

To

Attorney(s) for

GRIEVANCE COMMITTEE
NINTH JUDICIAL DISTRICT

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : SECOND JUDICIAL DISTRICT

6/26/92

-----X

In the Matter of DORIS L. SASSOWER,
A Suspended Attorney.

AFFIRMATION IN FURTHER
OPPOSITION

Docket No. 90-00315

GRIEVANCE COMMITTEE FOR THE
NINTH JUDICIAL DISTRICT,

Petitioner,

-against-

DORIS L. SASSOWER,

Respondent.

-----X

GARY L. CASELLA, an attorney duly admitted to practice law in the State of New York affirms the following to be true under the penalties of perjury.

1. I am the attorney for the petitioner, Grievance Committee for the Ninth Judicial District and am fully familiar with this matter.

2. This affirmation is submitted in further opposition to the relief requested by Doris L. Sassower, a suspended attorney, in her Order to Show Cause dated June 16, 1992 and supporting affidavit and in response to her Affidavit in Reply of June 22, 1992.

3. Affirmant does not wish to burden the Court with endless responses to Ms. Sassower's meritless and frivolous claims nor to her poison pen. However, one item requires clarification.

4. Respondent claims it is an outrage that she has had no hearing in a period in excess of one year since her

suspension. Yet in a letter she sent to Presiding Justice Mangano, dated April 15, 1992, (copy annexed), she states at the top of page two,

"Given my present circumstances, I would ask that the Court grant an indefinite extension of the disciplinary proceedings. There is no prejudice. I am not practicing law pursuant to this Court's suspension order."

5. Plainly, respondent is seeking every avenue to avoid a hearing. Any claim by her to the contrary is deceitful. Since respondent does not wish a hearing to be held and is using every trick in her bag to delay or avoid such, she can not be heard to claim a denial of due process.

DATED: June 26, 1992
White Plains, New York



Gary L. Casella

1151e

VIA FAX: 718/858-2446

Hon. Guy Mangano, Presiding Justice
Appellate Division, Second Department
45 Monroe Place, New York, 11201

Re: Docket # 90-00315

Honorable Sir:

This letter is written in reference to your Decision & Order dated April 1, 1992. The same was annexed to the Supplemental Petition your Chief Counsel saw fit to have served upon me in the courtroom, while I was attending judicial proceedings before Justice Nicholas Colabella on Friday, April 10, 1992.

At the outset, I must note that the public might view said Decision & Order and the place in which it was served as retaliation against me for bringing on my Article 78 proceeding against Justice Colabella. It might also believe activation of dormant disciplinary proceedings at this time was intended to impede me in the exercise of my appellate rights in the Breslaw matter, as to which, as you know, I have an April 28, 1992 deadline. Due to my time pressures, I am seeking an enlargement of that time by Order to Show Cause, returnable April 17, 1992.

I have requested copies of the papers on which the ex parte Order was based, which were not annexed to the papers even after your Order was granted without affording me the due process right to be heard before, rather than after, a matter is adjudicated.

I discussed my request both with Donna Sosna, who advised me that she is the principal appellate court attorney in your Chambers, as well as with Mr. Casella. Ms. Sosna informed me I would be afforded the right to see the papers, which, she said would be made available to me at the Courthouse in Brooklyn.

However, when I pointed out to her the severe time constraints I am under, of which the Court is aware, as well as my geographic distance from the Court, she was kind enough to suggest that a letter request to the Court for copies to be mailed to me would be considered.

I likewise discussed with both Mr. Casella and Ms. Sosna my need for an extension of time to answer or move with respect to the

Petition. Ms. ^{S. J. Na} ~~Sassower~~ informed me that such request should likewise be in writing and that it could similarly be presented by letter. Given my present circumstances, I would ask that the Court grant an indefinite extension of the disciplinary proceedings. There is no prejudice. I am not practicing law pursuant to this Court's suspension order.

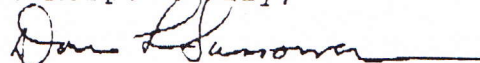
In that connection, may I also request copies of the underlying papers submitted by Mr. Casella in support of his original Petition calling for my suspension, likewise obtained and directed by this Court totally ex parte, which I likewise never received either from him or the Court.

I would respectfully ask that the Court vacate my suspension, should it maintain the view that the proceedings must go forward, since it was not my contention, but Mr. Casella's that suspension was required by reason of medical incapacity.

I respectfully submit that "the appearance of propriety" requires that all matters involving me be transferred to the First Department for reasons noted in my Article 78 proceeding against Justice Colabella. And, finally, I further object to the assignment of Max Galfunt as the Referee in light of his prior involvement in a prior totally unjustified charge, ultimately withdrawn by reason of my success on appeal. If the Court will just afford me my appellate rights, I expect similar success in the litigation involving Justices Colabella and Fredman. Certainly, valuable and limited judicial resources should not be expended at this juncture on matters relating thereto before all the pending litigation concerning them is conclusively adjudicated.

I would greatly appreciate the Court's expeditious and favorable attention to my within requests--without requiring a formal motion--in light of present exigent deadlines.

Most Respectfully,



DORIS L. SASSOWER

Dls/bh

cc.: Gary Casella, Chief Counsel
Grievance Committee, 9th Judicial District