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PRIVILEGED AND CONFIDENTIAL

BY HAND

March 8, 1994

Hon. G. Oliver Koppell
Attorney General of the State of New York
120 Broadway
New York, New York 10271

RE: Sassower v. Mangano, et al.
A.D. #93-02925

Dear Mr. Koppell:

Following my fax to you on Friday, March 4th of my letter of that date, I was heartened to receive a telephone call from the counsel to your Executive Committee, Shelley Mayer, advising me that you wished to personally review the underlying files under A.D. #90-00315 and requesting that I supply a copy to you.

Elena worked all weekend to assemble each of the Orders comprising Exhibit "D" of my Jurisdictional Statement with the underlying motion papers and has organized them in separate color-coded file folders. The red folders contain ex parte Orders; the blue folders contain Orders relating to my so-called "interim" suspension Order, dated June 14, 1991; and the green folders contain Orders relating to initiation and prosecution of new jurisdictionally-void proceedings against me--even while I am still suspended and have been deprived of any hearing as to the basis therefor, which hearing I never had before or since entry of the "interim" suspension Order. To further facilitate your review, a coversheet in each of the folders identifies the contents thereof and provides pertinent information and cross-references.

I respectfully draw your attention to ¶7 of my Jurisdictional Statement, describing the Orders contained in Exhibit "D" as "jurisdictionally void...[and] otherwise factually and legally unfounded". These Orders, when compared with the underlying papers, not only establish an on-going pattern of abusive conduct by respondents acting without or in excess of jurisdiction, but conduct which is demonstrably fraudulent, malicious, and criminal. This includes procurement and perpetuation of the unlawful June 14, 1991 "interim" suspension Order, which, for almost three years, has unjustly stigmatized me and deprived me of my livelihood.

Supp. Exh. "7"

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The files herein transmitted represent the "state of the record" before the Appellate Division at the time of my above-entitled Article 78 proceeding. It was based upon such record that my Cross-Motion¹ in the Article 78 proceeding argued that the Appellate Division was disqualified, for actual bias, from adjudicating the Article 78 proceeding challenging its own conduct. The record then showed, plainly, that there was no remedy before the Appellate Division, Second Department because:

"the files under A.D. #90-00315 establish irrefutably that the Second Department has consistently disregarded my factually and legally dispositive jurisdictional objections." (§61 of my Cross-Motion)

Had Assistant Attorneys General Sullivan or Olson bothered to review the record, their ethical duty as government attorneys would have compelled them to advise their clients that their conduct was legally indefensible and would not be defended at taxpayers' expense.

As set forth in my February 6, 1994 letter to you, in light of your judicial clients' January 28, 1994 Decision/Order denying my November 19, 1993 dismissal/summary judgment motion "in the underlying proceeding", the office of the Attorney General must make known to the Court of Appeals that there is no remedy in the "underlying proceeding". Under the extraordinary circumstances documented by the files under A.D. #90-00315, the obligation of the Attorney General is to retract its opposition to retention of jurisdiction by the Court of Appeals so as to provide the Article 78 remedy intended by the Legislature to check the grotesque usurpation of power here present.

The transcripts of the "hearings" in the underlying disciplinary proceeding, referred to in §§14-15 of the Jurisdictional Statement, provide further confirmation that your clients' conduct is fraudulent and criminal, as well as depraved and pathological. These transcripts must be read to be believed since it is otherwise inconceivable that such a travesty should occur in an American courtroom. Since Respondent Casella has obtained such transcripts at a cost of over \$3,000 to the taxpayers of this State, they should be put to some salutary purpose and should be requested from Respondent Casella--or from Respondent Referee, who was sent a copy ex parte by Respondent Casella.

¹ See, especially, §§21-23 therein, which is Exhibit "F-2" to the Jurisdictional Statement.

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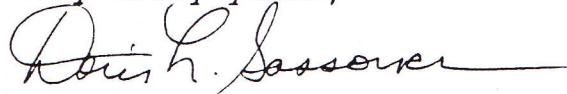
I am confident that your review of the record under A.D. #90-00315 will cause you to rethink your view, as Elena reported it to me following her conversation with you in January, that your office, "must defend the judges". I am sure you did not mean to imply that the judges must be defended even when their conduct is illegal or fraudulent and even when your lawyers have to lie to accomplish their defense.

This case, Sassower v. Mangano, et al., should be the bedrock of a new policy in the Attorney General's Office--since, obviously, one does not already exist--that judicial law-breakers will not be defended at public expense and that the Attorney General will not tolerate staff counsel who do not consider themselves bound by the Code of Professional Responsibility. Assuredly, such policy will reduce your caseload, enhance ethical sensitivity within your office and, at the same time, improve the quality of justice in our courts.

Shelley Mayer advised us in our first conversation together that the Attorney General's Office has no unit to investigate complaints, such as mine, of judicial corruption. May I suggest that that become another accomplishment of your administration.

Should you so desire, Elena and I would be greatly honored to assist you in developing these programmatic changes within the Office of the Attorney-General, as well as what we hope would be your recommendations for remedial action by the Legislature.

Very truly yours,



DORIS L. SASSOWER, Director
Center for Judicial Accountability

DLS/er

Enclosures: Inventory of Transmittal
(19 Orders under A.D. #90-00315)

DECEMBER 14, 1989 DECISION & ORDER ON APPLICATION:

Exhibit "D-1" to the Jurisdictional Statement

This ex parte Order was never served upon DLS, who also was never given notice of the application it purports to grant. The July 31, 1989 committee report, which the Order purports to be the basis for the Appellate Division, Second Department's authorization of disciplinary proceedings against DLS, is an ex parte communication, never provided to DLS nor seen by her.

In the Attorney-General's dismissal motion in the Article 78 proceeding, Assistant Attorney General Sullivan, who made no claim to having read the report, nonetheless asserted that said report "implicitly" relied upon the rarely-used exigency exception of §691.4(e)(5), thereby permitting the Grievance Committee to dispense with the pre-petition requirements of written charges and hearing that DLS was never afforded.

DLS' Cross-Motion in the Article 78 proceeding (¶¶33-47, 51) demonstrated the falsity of Assistant Attorney General Sullivan's claim that the Grievance Committee had proceeded under §691.4(e)(5) and sought discovery (¶¶48-50) of the July 31, 1989 report, as well as the similarly ex parte committee reports upon which the Appellate Division, Second Department thereafter authorized the disciplinary proceedings under the January 28, 1993 Petition ("D-15") and March 25, 1993 Supplemental Petition ("D-16").

Assistant Attorney General Olson's spurious and bad-faith opposition to discovery of those committee reports was demonstrated by DLS' 7/19/93 Affidavit in support of her Cross-Motion (¶¶20-31) and Point VI of her Memorandum of Law (pp. 15-18).

Discussion of the December 14, 1989 ex parte Order can be found in DLS' 11/19/93 Dismissal/Summary Judgment Motion and, specifically, ¶¶12-13, 16, 19, 23-4, 85, underscoring that there were no "findings" of professional misconduct on which the July 31, 1989 report was based since there was no hearing, no recommendation for prosecution based thereon, but only unsworn accusations, controverted by me.

OCTOBER 18, 1990 DECISION & ORDER ON MOTION:

Exhibit "D-2" to the Jurisdictional Statement

A concise specification of the multiple errors in this Order can be found, inter alia, at ¶¶29-31 of DLS' 11/19/93 Dismissal/Summary Judgment Motion--the accuracy of which Casella's December 7, 1993 Affirmation in Opposition did not dispute. Such specification amplifies the description of said Order appearing at fn. 10 of the Jurisdictional Statement:

"...the October 18, 1990 Order...contained at least seven pivotal errors--five of which were designed to cover-up the fact that there was neither personal nor subject matter jurisdiction for the October 18, 1990 Order, with the two additional errors palpably prejudicial to Appellant's rights under §691.13(b)(1)."

PAPERS UNDERLYING THE ORDER:

- (1) Casella's Order to Show Cause, signed 5/8/90, for DLS' immediate suspension or court-ordered medical examination [unsupported by the required petition showing the application was authorized by the Committee--which was disputed by DLS and never documented by the Committee by any proof thereof]
- (2) Vigliano's Cross-Motion, dated 6/7/90, for:
 - (A) Dismissal of Casella's Order to Show Cause for:
 - (i) lack of personal jurisdiction;
 - (ii) lack of subject matter jurisdiction;
 - (iii) res judicata and/or collateral estoppel;
 - (iv) invidious selectivity;
 - (v) a false, misleading and/or deceptive presentation by the Grievance Committee;
 - AND
 - (B) A pre-disciplinary hearing on the subject of unconstitutional invidious selectivity; and/or 'double jeopardy', res judicata and/or collateral estoppel.
- (3) Casella's Affirmation in Opposition, dated 6/13/90
- (4) DLS' Reply Affidavit in support of Cross-Motion, verified 6/25/90

NOVEMBER 1, 1990 DECISION & ORDER ON MOTION:

Exhibit "D-3" to the Jurisdictional Statement

This ex parte Order, appointing Max Galfunt as special referee, afforded DLS no opportunity to contest such designation before it was made.

Such Order, not rendered until almost eight months after DLS filed her Verified Answer to the February 6, 1990 Petition, reflects the lack of exigency with which the Appellate Division, Second Department viewed this matter and the fact that, contrary to Assistant Attorney General John Sullivan's false claim in his 5/12/93 motion to dismiss the Article 78 proceeding, the Grievance Committee was not proceeding under the exigency exception of §691.4(e)(5). (See, inter alia, DLS' 7/2/93 cross-motion in the Article 78 proceeding, ¶¶33-47.)

JUNE 12, 1991 DECISION & ORDER ON MOTION:

JUNE 12, 1991 DECISION & ORDER ON MOTION:

JUNE 14, 1991 DECISION & ORDER ON MOTION: "INTERIM" SUSPENSION

Exhibits "D-4", "D-5", and "D-6" to the Jurisdictional Statement

These three Orders were highlighted at ¶23 of DLS' 7/2/93 Cross-Motion in the Article 78 proceeding as dispositive of the necessity for recusal/transfer of the Article 78 proceeding since comparison with the underlying papers show them to be factually and legally unfounded. (See, also, 11/19/93 dismissal/summary judgment motion, ¶¶32-34). The retaliatory motive for the Appellate Division, Second Department's Orders--none of which made any findings--is described in DLS' 6/20/91 Affidavit in support of vacatur/modification (at ¶¶12-13)

PAPERS UNDERLYING THE ORDERS:

- (1) Casella's Order to Show Cause, signed 1/25/91, to immediately and indefinitely suspend DLS for "failure to comply" with the October 18, 1990 Order ("D-2").
[unsupported by the required petition showing the application was authorized by the Committee--which was disputed by DLS and never documented by the Committee]
- (2) Vigliano's Order to Show Cause, signed 1/29/91, to:
(A) vacate the Appellate Division, Second Department's October 18, 1990 Order "for lack of subject matter jurisdiction"; and (B) to discipline Casella for "bringing on an unauthorized and void [May 8, 1990] motion...resulting in...[the] jurisdictionally defective Order dated October 18, 1990..." [interim stay stricken]
- (3) Casella's Affirmation in Opposition, dated 2/5/91, to DLS Order to Show Cause
- (4) Casella's Motion, dated 2/5/91, for sanctions against Vigliano
- (5) Vigliano's Memorandum of Law, dated 2/12/91, in support of his Order to Show Cause and in opposition to Casella's Order to Show Cause
- (6) Vigliano's Affirmation in further support of his OSC and in Opposition to Casella's OSC, dated 2/12/92
- (7) Casella's Affirmation, dated 2/13/91
- (8) Vigliano's Sur-Reply Affirmation, dated 2/20/91, in Opposition to Casella's Order to Show Cause
- (9) Vigliano's Opposing Affirmation, dated 2/20/91, to Casella's motion for sanctions against him

JULY 15, 1991 DECISION & ORDER ON MOTION:

Exhibit "D-7" to the Jurisdictional Statement

This Order denied, without reasons, vacatur or modification of the June 14, 1991 interim suspension Order ("D-6") notwithstanding DLS' stated willingness to submit to an immediate medical examination (§2 of her supporting affidavit)

The Order made no comment upon the political motivations behind the suspension of DLS' license, stemming from her activities as pro bono counsel for the Ninth Judicial Committee--set forth in DLS' motion as part of a request for recusal/transfer (§§12-14 of DLS' supporting affidavit).

PAPERS UNDERLYING THE ORDER:

- (1) Vigliano's Order to Show Cause, dated 6/20/91, to vacate or modify June 14, 1991 interim suspension Order ("D-6") and other relief [interim stay stricken]
- (2) Casella's Affirmation in Opposition, dated 6/21/91

APRIL 1, 1992 DECISION & ORDER ON APPLICATION:
APRIL 1, 1992 DECISION & ORDER:

Exhibits "D-8" and "D-9" to the Jurisdictional Statement

These ex parte Orders were specifically highlighted at ¶19 of DLS' 7/2/93 Cross-Motion in the Article 78 proceeding as evidencing the necessity for recusal/transfer:

"...by its two Orders dated April 1, 1992...the Second Department, sua sponte, and without any statement of reasons, usurped the delegated function of the Grievance Committee of the Ninth Judicial District by overriding the unanimous vote of the Committee to hold prosecution of the February 6, 1990 Petition 'in abeyance' during the period of [DLS'] interim suspension and misrepresented that the Grievance Committee sought to 'supplement' the February 6, 1990 Petition and 'prosecute additional allegations... In fact, the Grievance Committee made no such application to 'supplement' and 'prosecute additional allegations', as its underlying March 6, 1992 letter plainly showed..." (emphasis in the original)

As set forth in DLS' 11/19/93 dismissal/summary judgment motion (¶59), the April 1, 1992 Decision and Order ("D-9"):

"provides a fortuitous glimpse of what is taking place--to wit, [the Appellate Division, Second Department's] extraordinary readiness to authorize disciplinary prosecutions against [DLS] even where, as reflected by the ex parte March 6, 1992 letter, [the Grievance Committee] had provided it with absolutely no evidentiary basis on which to do so." (emphasis in the original)

PAPERS UNDERLYING THE ORDERS:

- (1) Casella's March 6, 1992 ex parte letter addressed to Presiding Justice Mangano

JUNE 4, 1992 DECISION & ORDER ON MOTION:

Exhibit "D-10" to the Jurisdictional Statement

This Order, when compared with the accompanying Order of the same date, is inconsistent.

PAPERS UNDERLYING THE ORDER:

- (1) 4/15/92 DLS' letter to Presiding Justice Mangano
- (2) 4/20/92 Casella's letter to Presiding Justice Mangano
- (3) 5/12/92 DLS' letter to Presiding Justice Mangano

JUNE 4, 1992 DECISION & ORDER ON MOTION:

Exhibit "D-11" to the Jurisdictional Statement

This ex parte Order appointed Max Galfunt as special referee, with no opportunity afforded DLS to contest such designation before it was made.

Although the Order refers to being based upon 'the papers filed in support of the application and the respondent's papers', DLS had not by that date answered or moved against the Supplemental Petition dated April 9, 1992. Indeed, the accompanying June 4, 1994 Order ("D-10"), reflects that fact.

JULY 31, 1992 DECISION & ORDER ON MOTION:

NOVEMBER 12, 1992 DECISION & ORDER ON MOTION: sua sponte

Exhibit "D-12" and "D-13" to the Jurisdictional Statement

These Orders, which, without reasons, denied DLS' motion for vacatur of the findingless June 14, 1991 Order of interim suspension ("D-6") and imposed upon her maximum costs--notwithstanding her suspension was a fortiori to that in Russakoff, vacated by the Court of Appeals--are described at ¶19 of the Jurisdictional Statement.

PAPERS UNDERLYING THE ORDERS:

- (1) DLS' Order to Show Cause, signed 6/16/92, to, inter alia: (A) renew Vigliano's 6/20/91 Order to Show Cause to vacate 6/14/91 suspension Order; (B) vacate 6/14/91 suspension Order based on Russakoff; (C) vacate Orders of 6/12/91 and 10/18/90; (D) direct an immediate disciplinary investigation of Casella; and (E) if motion is denied, leave to appeal to the Court of Appeals
- (2) Casella's Affirmation in Opposition, dated 6/18/92
- (3) DLS' Affidavit, dated 6/22/92, in Reply and in further support of motion to vacate 6/14/91 suspension Order and other relief
- (4) Casella's Affirmation in Further Opposition, dated 6/26/92
- (5) DLS' letter, dated 6/30/92, in response to Casella's 6/26/92 Affirmation

NOVEMBER 12, 1992 DECISION & ORDER ON MOTION:

Exhibit "D-14" to the Jurisdictional Statement

This Order, combines two separate motions, hereinbelow inventoried, DLS' 6/18/92 motion to dismiss and her 7/3/92 motion to strike. Said Order is identified at ¶¶12 and 13 of the Jurisdictional Statement as reflecting the Appellate Division, Second Department's "refusal...to follow the law as to jurisdiction in the 'underlying disciplinary proceeding'. Indeed, the factual record and controlling law required, inter alia, the granting of DLS' 6/18/92 dismissal motion--much as it required the granting of her subsequent 11/19/93 dismissal/summary judgment motion (Cf., 11/19/93 dismissal/summary judgment motion, ¶¶26-27)

PAPERS UNDERLYING THE ORDERS:

MOTION TO DISMISS:

- (1) DLS' Motion, dated 6/18/92, to: (A) dismiss February 6, 1990 Petition and April 9, 1992 Supplemental Petition; (B) vacating April 1, 1992 Orders; (C) granting disclosure/discovery pursuant to CPLR §408; (D) transfer to another Judicial Department
- (2) Casella's Affirmation in Opposition, dated 7/2/92
- (3) DLS' Affidavit, dated 7/22/92, in Reply in Further Support of Motion to Dismiss and Other Relief

MOTION TO STRIKE:

- (1) DLS' Motion, dated 7/3/92, to: (A) strike Supplemental Petition dated 6/26/92; (B) grant disclosure/discovery pursuant to CPLR §408; (C) direct an immediate disciplinary investigation of Casella; (D) sanctions
- (2) Casella's Affirmation in Opposition, dated 7/7/92
- (3) DLS' Affidavit in Reply and in Further Support of Motion to Strike and Other Relief, dated 7/22/92

NOVEMBER 12, 1992 DECISION & ORDER ON MOTION:

Exhibit "D-15" to the Jurisdictional Statement

This ex parte Order is purportedly based upon a committee report dated July 8, 1992. DLS was never given notice of the application it purports to grant.

The July 8, 1992 report was never furnished DLS, but was transmitted ex parte to the Appellate Division, Second Department and made the basis for prosecution of disciplinary proceedings against her, with no opportunity afforded DLS to be heard with respect thereto.

It may be noted that at the time of the July 8, 1992 committee report, DLS was already suspended from the practice of law. Under such circumstances, there could be no claim of exigency under §691.4(e)(5) so as to permit the Grievance Committee to dispense with the pre-petition requirements of written charges and hearing, which it did. Nonetheless, by this Order the Appellate Division, Second Department authorized the disciplinary proceeding that became the January 28, 1993 Petition and denied her the pre-petition due process to which she was entitled.

Discussion of this ex parte Order, which is internally inconsistent, can be found, inter alia, in DLS' 11/19/93 Dismissal/Summary Judgment Motion and, specifically, ¶¶12-13, 17, 19, 23-4, 70.

MARCH 17, 1993 DECISION & ORDER ON MOTION:

Exhibit "D-16" to the Jurisdictional Statement

This ex parte Order is purportedly based upon a committee report dated December 17, 1992. DLS was never given notice of the application it purports to grant.

The December 17, 1992 report was never furnished DLS, but was transmitted ex parte to the Appellate Division, Second Department and made the basis for prosecution of disciplinary proceedings against her, without DLS being afforded an opportunity to be heard with respect thereto.

At the time of the December 17, 1992 report, DLS was already suspended from the practice of law. Under such circumstances, there could be no claim of exigency under §691.4(e)(5) so as to permit the Grievance Committee to dispense with the pre-petition requirements of written charges and hearing, which it did. Nonetheless, by this Order, the Appellate Division, Second Department authorized the disciplinary proceeding that became the March 25, 1993 Supplemental Petition and denied her the pre-petition due process to which she was entitled.

Discussion of this ex parte Order, can be found in DLS' 11/19/93 Dismissal/Summary Judgment Motion and, specifically, ¶¶12-13, 19, 23-4, 73-75.

APRIL 22, 1993 DECISION & ORDER ON MOTION:

Exhibit "D-17" to the Jurisdictional Statement

This Order is described at ¶¶19-20 of the Jurisdictional Statement as demonstrating the invidiousness and malice with which the Appellate Division, Second Department has, notwithstanding Matter of Russakoff, denied DLS a hearing on her interim suspension and a final order--thereby preventing review by the Court of Appeals.

PAPERS UNDERLYING THE ORDER:

- (1) DLS' motion, dated 12/14/92, for: (A) reargument, renewal, and reconsideration of Appellate Division, Second Department's sua sponte November 12, 1992 Order ("D-13"), amending its July 31, 1992 Order ("D-12") and, alternatively, (B) directing an immediate post-suspension hearing as to the basis of the June 14, 1991 suspension Order ("B-6"); (C) certifying as a question of law to the Court of Appeals whether Russakoff controls the case at bar so as to require vacatur.
- (2) Casella's Affirmation in Opposition, dated 12/24/92
- (3) DLS' Reply Affidavit, dated 2/24/93
- (4) DLS' Supplemental Affidavit, dated 3/8/93

MAY 24, 1993 DECISION & ORDER ON MOTION:

Exhibit "D-18" to the Jurisdictional Statement

This Order, improperly combining two separate and unrelated motions, is discussed, inter alia, at ¶¶47-49 of DLS' 11/19/93 dismissal/summary judgment motion.

PAPERS UNDERLYING THE ORDER:

MOTION TO VACATE PETITION DATED JANUARY 28, 1993:

- (1) DLS' motion, dated 2/22/93, to vacate service and dismiss the January 28, 1993 Petition for lack of personal jurisdiction
- (2) Casella's Affirmation in opposition, dated 3/2/93
- (3) DLS' Reply Affidavit, dated 3/8/93

MOTION TO VACATE SUPPLEMENTAL PETITION DATED MARCH 25, 1993:

- (1) DLS' motion, dated 4/14/93, to vacate service and dismiss the March 25, 1993 Supplemental Petition for lack of personal jurisdiction
- (2) Casella's Affirmation in opposition, dated 4/22/93

SEPTEMBER 20, 1993 DECISION & ORDER ON MOTION:

Exhibit "D-19" to the Jurisdictional Statement

The indefensibility of this Order is summarized, inter alia, at ¶¶47-49 of DLS' 11/19/93 dismissal/summary judgment motion.

PAPERS UNDERLYING THE ORDER:

- (1) DLS' motion, dated 6/14/93, for reargument and renewal of the May 24, 1993 Order ("D-18"), and other relief, including recusal/transfer to another Judicial Department
- (2) Casella's Affirmation in Opposition, dated 6/23/93
- (3) DLS' Reply Affidavit, verified 7/9/93