

COURT OF APPEALS
STATE OF NEW YORK

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

GRIEVANCE COMMITTEE FOR THE
NINTH JUDICIAL DISTRICT,

Petitioner-Respondent,

-against-

DORIS L. SASSOWER,

Respondent-Appellant.
-----X

Docket #90-00315

NOTICE OF MOTION
TO DISMISS APPEAL

S I R S:

PLEASE TAKE NOTICE, that upon the annexed affirmation of Matthew Renert, of counsel to Gary L. Casella, attorney for Petitioner herein, upon the Order of the Appellate Division, Second Judicial Department, dated and entered on June 23, 1995 which denied the respondent-appellant's motion in its entirety for the reargument and renewal of that court's order dated February 24, 1995, the undersigned will move this Court at a term appointed to be held on Monday the 25th day of December 1995, at 9:30 o'clock in the forenoon of such day, or as soon thereafter as counsel can be heard, at the Courthouse, Court of Appeals Hall, 20 Eagle Street, Albany, State of New York, for an Order dismissing respondent's Notice of Appeal dated September 18, 1995 upon the grounds that respondent-appellant has no appeal as of right from the Order of the Appellate

Division, Second Department, dated and entered on June 23, 1995
and for such other and further relief as may be just and proper.

DATED: White Plains, New York
December 6, 1995

Yours, etc.

Gary L. Casella
Attorney for Petitioner-
Respondent

Matthew Renert
Of Counsel

399 Knollwood Road
White Plains, New York
(914) 949-4540

TO: Doris L. Sassower
Respondent-Appellant
283 Soundview Avenue
White Plains, New York 10606

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

GRIEVANCE COMMITTEE FOR THE
NINTH JUDICIAL DISTRICT,

AFFIRMATION

Petitioner-Respondent,

-against-

DORIS L. SASSOWER,

Respondent-Appellant.

-----X

MATTHEW RENERT, 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 of counsel to Gary L. Casella, attorney for the petitioner-respondent in the above captioned matter and am fully familiar with all of the facts and proceedings had herein.

2. This affirmation is submitted in support of the instant motion to dismiss the Notice of Appeal of the respondent-appellant dated September 18, 1995.

3. By Order dated June 23, 1995, the Appellate Division, Second Department denied the respondent-appellant's

motion in its entirety for the reargument and renewal of that court's order dated February 24, 1995, which (1) granted the motion by Eli Vigliano, Esq., to withdraw as attorney of record for the respondent, (2) continued the respondent's suspension pursuant to 22 NYCRR 691.4 for failure to cooperate, with leave to respondent to move to vacate the suspension after she submits to the court ordered examination, and (3) held the disciplinary proceeding in abeyance pending the respondent's compliance with that court's order of October 18, 1990.

4. Furthermore, by the same Order dated June 23, 1995, the Appellate Division, Second Department denied in their entirety respondent-appellant's requests that (1) upon granting the motion for reargument and renewal the court recuse itself from any adjudication of the instant proceedings and transfer the proceedings to another Judicial Department and (2) upon such recusal and transfer, the court vacate its order of February 24 1995 and (3) upon such vacatur, deny petitioner's motion to confirm the findings of Special Referee Galfunt and to continue respondent's suspension pursuant to 22 NYCRR 691.13(b)(1).

5. Lastly, by the same Order dated June 23, 1995, the Appellate Division, Second Department denied in its entirety respondent-appellant's motion seeking (1) the vacatur of the that court's interim suspension order, dated June 14, 1991, which was continued by that court's order of February 24, 1995,

(2) the denial of the motion to withdraw by Eli Vigliano, Esq.,
(3) oral argument on the instant motion and (4) leave to appeal
to this Court.

6. It is from this Order aforementioned in paragraphs
3,4 and 5 that the respondent-appellant has filed a Notice of
Appeal as of right dated September 18, 1995.

7. The jurisdictional bases upon which the
respondent-appellant has filed her Notice of Appeal as of right
are Judiciary Law Section 90(8) and CPLR Section 5601.

8. It is petitioner-respondent's position that subject
matter jurisdiction for an appeal as of right does not exist in
this case. While Judiciary Law Section 90(8) does provide a
party to a disciplinary proceeding a right to appeal from a
final order of any Appellate Division upon questions of law
involved therein, such an appeal is necessarily limited by
Article 6, Section 3 of the New York State Constitution which
provides for appeals from a judgment or order of the Appellate
Division as of right only as follows:

- a. When the construction of the Constitution
of the State of or the United States is
directly involved, or where one or more
of the Appellate Division dissents, or
where the judgment or order is one of
reversal or modification

as a matter of right. Gerzof v. Gulotta, 42 N.Y. 2d 960; Mildner v. Gulotta, 405 F.Supp. 182 (D.C.N.Y.), affirmed, 425 U.S. 901 (1975).

12. On four previous occasions, this Court has rejected on jurisdictional grounds the respondent-appellant's efforts to proceed in the underlying matter in an improper fashion. (See respondent-appellant's Jurisdictional Statement Pursuant to 22 NYCRR 500.2, paragraph 8).

12. It is evident that respondent-appellant is again proceeding in an improper manner in filing the Notice of Appeal as of right dated September 18, 1995 and that the appeal should be dismissed.

WHEREFORE, it is respectfully requested that the respondent-appellant's Notice of Appeal dated September 18, 1995 be dismissed and that the Court grant such other and further relief as may be just and proper.

DATED: White Plains, New York
December 6, 1995



Matthew Renert

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

GRIEVANCE COMMITTEE FOR THE
NINTH JUDICIAL DISTRICT,

Petitioner-Respondent.

-against-

DORIS L. SASSOWER,

Respondent- Appellant.

NOTICE OF MOTION TO DISMISS
APPEAL WITH AFFIRMATION

GARY L. CASELLA
Attorney for Petitioner
Office and Post Office Address, Telephone
STATE OF NEW YORK
GRIEVANCE COMMITTEE
NINTH JUDICIAL DISTRICT
CROSSWEST OFFICE CENTER
399 KNOLLWOOD ROAD — SUITE 200
WHITE PLAINS, NEW YORK 10603
(914) 949-4540

To Doris L. Sassower
Respondent-Appellant
283 Soundview Avenue, White Plains, NY 10606

~~XXXXXXXX~~

Service of a copy of the within

is hereby admitted.

Dated,

.....
Attorney(s) for

Please take notice

NOTICE OF ENTRY

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

19

NOTICE OF SETTLEMENT

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

of which the within is a true copy will be presented for
one of the judges

Dated,

Yours, etc.

GARY L. CASELLA

Attorney for

Office and Post Office Address, Telephone

To

STATE OF NEW YORK
GRIEVANCE COMMITTEE
NINTH JUDICIAL DISTRICT
CROSSWEST OFFICE CENTER

Attorney(s) for