COURT OF APPEALS
STATE OF NEW YORK

----------x

In the Matter of Doris L. Sassower,
An Attorney and Counselor-at-Law,

Mo. No. 1673

GRIEVANCE COMMITTEE FOR THE NINTH JUDICIAL DISTRICT,

Petitioner-Respondent,

Notice of Motion for Recusal, Reargument, Reconsideration, and Leave to Appeal

-against-

DORIS L. SASSOWER,

Respondent-Appellant.

----------x

S I R S :

PLEASE TAKE NOTICE that upon the Affidavit of DORIS L. SASSOWER, dated March 27, 1996, and the exhibits annexed thereto, and upon all the papers and proceedings heretofor had herein, Respondent-Appellant Pro Se, DORIS L. SASSOWER, will move this Court, at the Courthouse thereof, 20 Eagle Street, Albany, New York on April 15, 1996, in the forenoon of that day, or as soon thereafter as counsel may be heard, for an order granting:

(a) Recusal of this Court;

(b) Reargument and reconsideration of this Court's Decision and Order, dated February 20, 1996, pursuant to §500.11(g) of this Court's Rules, and, upon such reargument and reconsideration, that it determine that the Court has subject matter jurisdiction of this appeal of right; and, in the event such relief is denied;

(c) Leave to appeal to this Court, pursuant to CPLR §5602(a)[2] and §500.11(d) of the Court's Rules;

(d) Such other and further relief as the Court may deem just and proper.

Answering papers, if any, are to be served not less than seven (7) days before the return date.

Dated: March 27, 1996
White Plains, New York

DORIS L. SASSOWER
Respondent-Appellant Pro Se
283 Soundview Avenue
White Plains, New York 10606

TO: Grievance Committee for the Ninth Judicial District
399 Knollwood Road
White Plains, New York 10603

Attorney General of the State of New York
120 Broadway
New York, New York 10271

Solicitor General, Department of Law
The Capitol
Albany, New York 12224

COURT OF APPEALS
STATE OF NEW YORK
----------x
In the Matter of Doris L. Sassower,
An Attorney and Counselor-at-Law,

GRIEVANCE COMMITTEE FOR THE NINTH JUDICIAL DISTRICT,

Petitioner-Respondent,

-against-

DORIS L. SASSOWER,

Respondent-Appellant.
----------x

Mo. No. 1673

Affidavit in Support of Recusal, Reargument, Reconsideration, and Leave to Appeal

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss:

DORIS L. SASSOWER, being duly sworn, deposes and says:

1. I am the Respondent-Appellant, fully familiar with the facts, papers, and proceedings heretofore had herein.

2. This Affidavit is submitted in support of a motion for recusal of this Court on the ground of bias, actual and apparent; reargument and reconsideration of this Court's Decision and Order, dated February 20, 1996 (Exhibits "A-1" and "A-2"), pursuant to §500.11(g) of this Court's Rules; and for leave to appeal, pursuant to CPLR §5602(a)[2], because this case comes within the special class of "non-final" orders which are appealable by permission of the Court of Appeals.

3. The Decision (Exhibit "A-1"), dismissing my appeal of right, was served upon me, with Notice of Entry, by mail on February 26, 1996 (Exhibit "B").

4. I respectfully ask the Court, pursuant to

§500.11(g)[3], to excuse the minor delay in bringing on this motion as it relates to reargument and and reconsideration. Such is due to various medical problems I have had over the past few weeks, as shown by the letters from three of my physicians, annexed hereto as Exhibit "C". This has resulted in a substantial time loss, which has been particularly handicapping because, as the Court knows, I am pro se. In addition, I have been subjected to impossible-to-meet, retaliatory litigation deadlines, vindictively imposed upon me by the Appellate Division, Second Department (Exhibit "D"). That Court, in violation of Judiciary Law §14, has refused to recuse itself from adjudicating my appeals, even where the subject matter of the appeals is encompassed in my pending §1983 federal litigation against it for its heinous violation of my constitutionally guaranteed civil rights, Sassower v. Mangano, et al., 94 Civ. 4514 (JES)[1].

AS TO RECONSIDERATION, REARGUMENT, AND RECUSAL

5. The purpose of this motion is to bring to the Court's attention certain material facts, which appear to have been overlooked, misapprehended, or deliberately disregarded.

6. As hereinafter detailed, this Court's Decision (Exhibit "A") is palpably erroneous. It purports to grant

---

[1] The Complaint in my federal action is part of the record before this Court--having been before the Appellate Division, Second Department as Exhibit "D" to my March 27, 1995 motion for reargument, renewal, leave to appeal to the Court of Appeals, Leave to Appeal on Certified Questions of Law, and Other Relief.

Respondent's dismissal motion on the ground of "lack of finality", yet no such ground is raised in that motion. At the same time, it totally ignores my uncontroverted arguments as to finality, set forth in my Affidavit in Opposition (at ¶¶16-22). The Decision, likewise, ignores my explicit request therein (at ¶31) that my appeal of right be considered in support of a request for leave to appeal, in the event it were to be dismissed for lack of finality. On such leave application, non-finality would be no bar, since CPLR §5602(a)[2] expressly provides for an appeal to the Court of Appeals by permission:

> "in a proceeding instituted by...one or more public officers...or a court or tribunal, from an order which does not finally determine such proceeding...".

This being such a proceeding, the subject Order, if viewed as "non-final", is within the parameters of such provision.

7. The Court's previous exercise of jurisdiction to review interim suspension orders is shown by its decisions overturning the interim suspension orders of attorneys Nuey and Russakoff--copies of which were annexed as Exhibits "E-1" and "E-2" to my Jurisdictional Statement.

8. Additionally, this Court has overlooked, ignored, or disregarded my threshold request, as set forth in two letters to the Court, requesting it to recuse itself, inter alia, for its discriminatory and disparate treatment in denying me the equal protection of the law, as it afforded to attorneys Nuey and Russakoff.

THE THRESHOLD ISSUE OF THIS COURT'S RECUSAL

9. By letter to this Court, dated November 15, 1995 (Exhibit "E"), I transmitted my Jurisdictional Statement on my then fifth attempt to obtain review of the Appellate Division, Second Department's monstrous petition-less, finding-less, and hearing-less June 14, 1991 "interim" Order, suspending my law license, as perpetuated and exacerbated by the subject Order proposed to be appealed.

Citing this Court's record of discriminatory and disparate treatment of me, as demonstrated by its failure and refusal to grant me the review it granted to "interimly" suspended attorneys Nuey and Russakoff, my letter explicitly asked that this Court:

> "recuse itself to ensure that there is the actuality and appearance of an appropriate independent and impartial tribunal to hear the sensitive issues relating to this appeal--including those relating to this Court's subject matter jurisdiction.".

10. By letter dated November 27, 1995 (Exhibit "F"), the Clerk of this Court responded to me as follows:

> "Your request that the Court recuse itself in this matter cannot be granted administratively, and your letter request will not be considered by the Court."

11. By letter dated December 6, 1995 (Exhibit "G"), I replied:

> "As to the issue of the Court's recusal, it was not my intention that recusal "be granted administratively". The Court is constitutionally and statutorily mandated to recuse itself, sua sponte, when--as here--its actual bias has been demonstrated and its

> impartiality might reasonably be questioned (Article VI, §20(b)(4), §28(c) of the Constitution of the State of New York, §100.3(c) of the Rules Governing Judicial Conduct).
>
> Therefore, I do not know what you mean when you state "your letter request will not be considered by the Court". I respectfully submit that, as Clerk, you have a duty to apprise the Court of my November 15, 1995 letter request for its recusal. Certainly, it has always been my understanding that before making a formal motion for such relief, as a courtesy to the judges involved--who may prefer not to have all the reasons for recusal articulated--the objection should be raised orally or by letter to permit each judge to search his or her own conscience in determining, sua sponte, whether, in the event of an adverse decision, justice will not only be done, but will be seen to have been done.
>
> I would point out that apart from the grounds identified in my November 15, 1995 letter, additional grounds for recusal were presented to the Court in the March 14, 1994 letter of Evan Schwartz, Esq., my attorney, in support of the Court's jurisdiction as of right in my Article 78 proceeding, Sassower v. Mangano, et al.. Said grounds are incorporated herein by reference--with a copy of the pertinent pages (pp. 5-7) annexed for the Court's convenience."

12. Having received no response whatever to my December 6, 1995 letter (Exhibit "G"), I inferred that my informal recusal request would be placed before the Court.

13. However, inasmuch as the Decision (Exhibit "A") makes no reference whatever to my recusal request, I learned that the Court would not rule on it without a formal motion. To avoid needless duplication of effort, I, therefore, repeat, reallege, and incorporate by reference all of the facts

delineated in my aforesaid November 15, 1995 and December 6, 1995 letters (Exhibits "E" and "G", respectively)--including the exhibit to my December 6, 1995 letter. I respectfully ask that such documents be considered by the Court at this time in support of my instant motion, wherein its recusal is formally requested.

14. As hereinafter set forth, this Court's Decision (Exhibit "A") is so egregiously erroneous and discriminatory as to reflect the Court's actual and apparent disqualifying bias against me, preventing it from properly performing its adjudicative and ethical responsibilities.

THE DECISION IS EGREGIOUSLY ERRONEOUS AND REFLECTS BIAS

15. As shown by the face of the Decision (Exhibit "A"), this Court did not rest its dismissal of my appeal on its own sua sponte jurisdictional inquiry. Rather, it explicitly predicated its dismissal on Respondent's motion--which this Court's Decision purported to have "granted".

16. No unbiased court could possibly grant that motion, which, as I showed by detailed analysis in my Affidavit in Opposition, was not only deficient and frivolous, but "a deliberate deceit upon this Court within the meaning of Judiciary Law §487(1)." (at ¶2). Indeed, based thereon, I requested this Court to impose monetary sanctions upon Respondent, and to make "a disciplinary and criminal referral" of its counsel[2]. To such dispositive showing as my Affidavit in Opposition presented,

---

2 See, WHEREFORE clause (p. 14) of my Affidavit in Opposition.

Respondent filed no reply whatever. It, thereby, conceded that its dismissal motion was--as I demonstrated it to be--legally and factually insupportable, as well as perjurious.

17. Moreover, no unbiased court could grant Respondent's motion, on the ground stated in its Decision, to wit, "upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution", since, as noted, such ground was not even asserted in Respondent's dismissal motion. This fact was pointed out by me at ¶16 of my Affidavit in Opposition, wherein I specifically stated that Respondent

> "asserts no objection to this Court's jurisdiction based on lack of finality...[and] may, thus, be deemed to have waived such objection."

18. In predicating its dismissal on "finality", this Court appears to have overlooked the extensive--and uncontroverted--arguments in my Affidavit in Opposition (at ¶¶17-22), showing: (a) that the "irreparable injury" test of finality has been satisfied (at ¶17); (b) that there is no statutory basis precluding this Court's jurisdiction to review "interim" suspension orders, which are statutorily unauthorized, Matter of Nuey, (at ¶¶18-20); and (c) that the source for this Court's review of "quasi-criminal" attorney disciplinary orders is more properly the constitutional provisions governing criminal appeals than those for civil appeals (at ¶¶21-22).

LEAVE TO APPEAL

19. By its Decision (Exhibit "A"), this Court makes no reference to my request for permission to appeal, if review as of right were not granted. Such request appeared at ¶31 of my Affidavit in Opposition, as follows:

> "Should this Court rule, notwithstanding the foregoing, that my appeal taken of right is one requiring leave, in the interests of justice and judicial economy, I request that the Court, sua sponte, grant me the leave it heretofore granted to the interimly-suspended attorneys Nuey and Russakoff. The documentary record before this Court amply establishes my contention that my case is a fortiori in every respect to those attorneys' cases[3]. Such conversion of this appeal is without prejudice to my contention that an appeal lies of right.

20. I submit that this Court's decisions in Matter of Nuey and Matter of Nuey--in both of which this Court granted leave to appeal interim suspension orders and invalidated them for lack of findings--are dispositive of my entitlement to this Court's properly exercised discretion, pursuant to CPLR §5602(a)[2], to review the June 14, 1991 petition-less, finding-less, hearing-less "interim" suspension Order, encompassed in the within appeal.

21. As heretofore highlighted on my prior attempts to obtain review by this Court--including in the above-quoted ¶31 of my Affidavit in Opposition--my case is in every respect a fortiori.

---

[3] See, inter alia, Exhibit "G" to my 1/24/94 Jurisdictional Statement in my Article 78 proceeding Sassower v. Mangano, A.D. #93-02925.

22. The transcendent, state-wide importance of this case to the profession and the public at large is such that no impartial court would fail to recognize it as the right vehicle to finally declare our attorney disciplinary law the unconstitutional abomination that it is--as found more than twenty years ago by Judge Jack Weinstein in his powerful dissenting opinion in Mildner v. Gulotta, 405 F.Supp. 182 (E.D.N.Y. 1975). Analysis and discussion of that case, in the context of the June 14, 1991 "interim" suspension Order, is contained in my petition for certiorari to the U.S. Supreme Court, which is before this Court[4]. Such petition, to which this Court is respectfully referred, shows that denial of leave to appeal would be a gross abuse of discretion by this Court.

Finally, this case calls upon the Court to discharge its legal and ethical duty of oversight over a lower court--and its appointed agents and employees--which has knowingly and deliberately engaged in official misconduct. This Court can no longer ignore what the uncontroverted record herein unequivocally shows: that the lower court, aided and abetted by Petitioner-Respondent, has flouted the Constitutions of this State and of the United States, the decisional law of this Court, the U.S. Supreme Court, and its own court rules, to savagely retaliate against me for ulterior, politically-motivated purposes.

---

[4] See, pp. 13-29 of Exhibit "C" to my March 27, 1995 motion before the Appellate Division, Second Department for reargument, renewal, leave to appeal to the Court of Appeals, Leave to Appeal on Certified Questions of Law, and Other Relief.

WHEREFORE, it is respectfully prayed that the relief be granted in accordance with the accompanying Notice of Motion.

Doris L. Sassower
DORIS L. SASSOWER

Sworn to before me this
27th day of March 1996

Beth Avery (Beth Avery)
Notary Public
Qualified in Westchester County
02AV5056824
Expires 3/11/98

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss.:

ELENA RUTH SASSOWER, being duly sworn, deposes and says:

Deponent is not a party to the action, is over 18 years of age, and resides in White Plains, New York.

On March 27, 1996 Deponent served the

within: MOTION FOR RECUSAL, REARGUMENT, RECONSIDERATION, AND LEAVE TO APPEAL

upon: Grievance Committee for the Ninth Judicial District
399 Knollwood Road
White Plains, New York 10603

Attorney General of the State of New York
120 Broadway
New York, New York 10271

Solicitor General, Department of Law
The Capitol
Albany, New York 12224

by depositing true copies of same in post-paid properly addressed wrappers in an official depository under the exclusive care and custody of the United States Post Office within the State of New York at the address last furnished by them or last known to your Deponent.

Elena Ruth Sassower
ELENA RUTH SASSOWER

Sworn to before me this
27th day of March 1996

Beth Avery (Bethhavery)
Notary Public
Qualified in Westchester County
Commission expires 3/11/98
(# 02AV5056824)

Index No. Year 19

COURT OF APPEALS
STATE OF NEW YORK

In the Matter of Doris L. Sassower,
An Attorney and Counselor-at-Law.

GRIEVANCE COMMITTEE FOR THE NINTH JUDICIAL DISTRICT,

Petitioner-Respondent.

-against-

DORIS L. SASSOWER,

Respondent-Appellant.

MOTION FOR RECUSAL, REARGUMENT, RECONSIDERATION AND LEAVE TO APPEAL

Doris L. Sassower
283 Soundview Ave
White Plains NY 10606
(914) 997-1677

DORIS L. SASSOWER, ~~P.C.~~
~~Attorney for~~ Respondent-Appellant Pro Se
Office and Post Office Address, Telephone
~~50 MAIN STREET • TENTH FLOOR~~
~~WHITE PLAINS, N.Y. 10606~~
~~(914) 682-2001~~

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 a
duly entered in the office of the clerk of the within named court on 19

☐ NOTICE OF SETTLEMENT

that an order of which the within is a true copy will be presented for
settlement to the HON. one of the judges
of the within named court, at
on 19 at M.

Dated,

Yours, etc.

Doris L. Sassower
283 Soundview Ave
White Plains NY 10606

DORIS L. SASSOWER, ~~P.C.~~
~~Attorney for~~ Respondent-Appellant Pro Se
Office and Post Office Address

To