

COURT OF APPEALS
STATE OF NEW YORK

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

Motion No. 1673
Docket No. 90-00315

GRIEVANCE COMMITTEE FOR THE
NINTH JUDICIAL DISTRICT,

NOTICE OF
CROSS-MOTION

Petitioner-Respondent,

-against-

DORIS L. SASSOWER,

Respondent-Appellant.

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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 this Court dated and entered on February 20, 1996 which granted the petitioner-respondent's motion to dismiss respondent-appellant's appeal of the Decision and Order of the Appellate Division, Second Department, dated June 23, 1995, the undersigned will move this Court at a term appointed to be held on Monday the 15th day of April 1996, 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-appellant's motion dated March 27, 1996

upon the grounds that respondent-appellant failed to serve such motion upon petitioner-respondent in a timely fashion pursuant to §500.11(g) of the Rules of this Court and for such other and further relief as may be just and proper.

DATED: White Plains, New York
April 8, 1996

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

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,

Docket No. 90-00315
Motion No. 1673

AFFIRMATION

Petitioner-Respondent,

-against-

DORIS L. SASSOWER,

Respondent-Appellant.
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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 cross-motion to dismiss the Notice of Motion for Recusal, Reargument, Reconsideration, and Leave to Appeal by the respondent-appellant dated March 27, 1996.

3. By Decision and Order dated February 20, 1996 this Court dismissed the appeal by respondent-appellant of the Order

of the Appellate Division, Second Department, dated 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, 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 this 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 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 was from this Order aforementioned in paragraphs 3,4 and 5 that the respondent-appellant filed a Notice of Appeal as of right dated September 18, 1995.

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

8. In its Decision and Order dated February 20, 1996 this Court dismissed the respondent-appellant's appeal upon the ground that the order appealed from does not finally determine this proceeding within the meaning of the Constitution.

9. Respondent-Appellant served petitioner-respondent on March 29, 1995, 38 days subsequent to the date of this Court's decision to dismiss respondent-appellant's appeal.

10. It is petitioner-respondent's position that the instant motion by respondent-appellant was not timely under the specifications of §500.11(g)(3) which state that "[u]nless otherwise permitted by the court, the notice of motion shall be served not later than 30 days after the appeal on motion has been decided."

11. Furthermore, it is petitioner-respondent's position that this Court should deny respondent-appellant's motion for leave to appeal by permission pursuant to CPLR §5602(a)(2) as the issues raised by respondent-appellant are not of state-wide importance but rather have no impact beyond respondent-appellant's own circumstances. (McKinney's Consolidated Laws of New York, Practice Commentaries §C5602:1, p.467).

12. Respondent-Appellant remains suspended pursuant to 22 NYCRR 691.4 solely for her failure to comply with a lawful order of the Appellate Division, Second Department which based upon its Decision and Order dated February 23, 1995 also continues to provide respondent-appellant with leave to move to vacate the suspension upon compliance with such order.

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
April 8, 1995

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

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State of New York,
Court of Appeals

At a session of the Court, held at Court of
Appeals Hall in the City of Albany
on the.....twentieth.....day
of.....February..... 1996

Present, HON. JUDITH S. KAYE, *Chief Judge, presiding.*

Mc. No. 1673

In the Matter of Doris L.
Sassower, a suspended attorney.
Grievance Committee for the Ninth
Judicial District,

Respondent,
Doris L. Sassower,
Appellant.

A motion having heretofore been made herein upon the part of the respondent to dismiss the appeal taken by the appellant in the above cause to this Court and papers having been submitted thereon and due deliberation having been thereupon had, it is

ORDERED, that the said motion be and the same hereby is granted and appeal dismissed, without costs, upon the ground that the order appealed from does not finally determine the proceeding within the meaning of the Constitution.

Judges Levine and Ciparick took no part.

Donald M. Sheraw

Donald M. Sheraw
Clerk of the Court