

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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DORIS L. SASSOWER,

Petitioner,

Index No.
95-109141

GEORGE P. ALESSIO,

Intervenor,

-against-

Affirmation in
Support of
Intervention

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF NEW YORK,

Respondent.
-----X

GEORGE P. ALESSIO, an attorney duly licensed to practice law in the courts of the State of New York, affirms the following to be true under penalty of perjury:

1. I am a resident of Liverpool, New York, in the County of Onondaga.

2. I have been a practicing attorney since November 1981. From January 1982 until September 1986, I served on active duty in the Judge Advocate General's Corp. of the U.S. Navy. From December 1986 to December 1991, I served as a public prosecutor as an Assistant District Attorney of Onondaga County. I have also been a judge, in 1993 serving as Town Justice of Salina, Onondaga County.

3. I have read Petitioner's Verified Petition and her supporting papers in this proceeding and am in total and wholehearted support.

4. Pursuant to CPLR §1013, I make this motion for an

order for intervention in the above-entitled Article 78 proceeding as a person interested and affected by the subject matter of this proceeding.

5. Upon information and belief, the agencies of government, charged with defending my constitutional interests, and served by Petitioner with a Notice of Right to Seek Intervention, have all failed to appear or even notify the Court of their position. Consequently, my constitutional interests are entirely unprotected, except by Petitioner.

6. It is my position that assertion of my claim in this proceeding will be of great assistance to Petitioner, as well as to the public interest, which she is attempting to protect, single-handedly, against the vast resources of Respondent and its counsel, the Attorney General of the State of New York.

7. As reflected by Petitioner's June 9, 1995 Affidavit in Support of Proposed Intervenors, a copy of which I annex hereto as Exhibit "A", she requires "the assistance of all persons similarly aggrieved by Respondent's unconstitutional and unlawful conduct".

8. Leave for intervention is particularly warranted and liberally allowed under CPLR §1013 where, as here, there are common issues in law and fact. That such is the case may be readily seen from my proposed Verified Petition, annexed hereto, setting forth the claim for which intervention is sought.

9. It is respectfully submitted that intervention

will not unduly delay the determination of this proceeding. Issue has not yet been joined herein. Notwithstanding service of the Petition upon Respondent on April 11, 1995, Respondent, in lieu of an answer, has chosen to make a dismissal motion. Upon information and belief, that motion was submitted to the Court on June 12, 1995 and is now sub judice.

10. Based upon my reading of said dismissal motion and Petitioner's response thereto, there is no doubt but that Respondent's motion must be dismissed or denied as a matter of law because such dismissal motion is patently frivolous, being legally and factually unfounded.

11. Assuming the Court denies the motion and does not grant summary judgment in favor of Petitioner to which, in my considered opinion, the facts and law entitle her, Respondent will be required to answer the Verified Petition.

12. Consequently, there will be no prejudice to Respondent or delay occasioned by the granting of the instant intervention motion which, therefore, is "timely", under CPLR §1013, which does not specify a time limitation for such application.

13. As shown by the transcript (at pp. 6-7) of the proceedings on the May 23, 1995 return date of Petitioner's Order to Show Cause for preliminary injunction and default judgment, this Court, as well as Respondent's counsel, were specifically made aware at that time of my desire and intention to intervene. A copy of the May 23, 1995 transcript is annexed as Exhibit "P"

to Petitioner's June 8, 1995 Affidavit in Opposition to Respondent's dismissal motion.


14. The affirmation, referred to in the May 23, 1995 transcript, that I had prepared for presentment by Petitioner to the Court on that date has been annexed by Petitioner as Exhibit "R" to her June 8, 1995 Affidavit in Opposition to Respondent's dismissal motion. In the interest of judicial economy, I reiterate and incorporate by reference all the allegations therein.

15. As I stated at ¶13 of my May 23, 1995 affirmation:

"It is my intention to move, pursuant to CPLR §1013, to intervene so as to join in this profoundly important action to protect the public interest, which has been plainly subverted by Respondent's demonstrated failure to meet its constitutionally and statutorily-mandated duties."

WHEREFORE, it is respectfully prayed that intervention be granted, as requested in the Notice of Motion.

Dated: June 15, 1995
Syracuse, New York



GEORGE P. ALESSIO