

Elena Ruth Sassower

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BY FAX: 518-486-2715 (3 pages)

BY MAIL

November 5, 2008

Amy C. Karp, Records Access Officer/Assistant Counsel
Office of New York State Attorney General Andrew M. Cuomo
The Capitol
Albany, New York 12224-0341

RE: F.O.I.L. Request #08991 (Appeal) & New F.O.I.L. Request
John McFadden v. Doris L. Sassower & Elena Sassower
White Plains City Court #SP-651/89 ("SP-2008-1474")

Dear Ms. Karp:

This responds to your October 28, 2008 letter to me, stating that my above-numbered FOIL request is "now closed".

However, your October 28, 2008 letter encloses only a single document: a September 24, 2008 letter from White Plains City Court Clerk Patricia Lupi to Judith McCarthy, Assistant Attorney General in charge of the Attorney General's Westchester Regional Office, requesting the Attorney General's representation in the above-entitled case between private parties. While Clerk Lupi's September 24, 2008 letter is responsive to the first half of my September 26, 2008 FOIL request: for "(1) a copy of any written request that Chief Clerk Lupi made for such representation", it is not responsive to the second: "(2) the Attorney General's approval thereof".

Please advise whether you will reopen my FOIL request so as to furnish me with its unresponded-to second half, including any and all records establishing that the Attorney General made the predicate determination that Clerk Lupi's requested representation was "in the interest of the state", as Executive Law §63.1 expressly requires, or that the Attorney General's representation of Ms. Lupi fell within some other statutory provision. Presumably, such determination would have been made by the Attorney General's Division of State Counsel.

If you will not reopen my FOIL request, kindly transmit this letter to the Attorney General's Counselor and Chief of Staff, Steven M. Cohen, who is also the Attorney General's Records Access Appeals Officer, as my appeal from your October 28, 2008 letter pursuant to §89(4)(a) of the Public Officers Law.

EX P. 2

By way of a new FOIL request, enclosed is my September 29, 2008 letter to Ms. McCarthy, faxed to her on that date and hand-delivered the following day, wherein I invoked Executive Law §63.1 to not only challenge the legitimacy of the Attorney General's representation of Clerk Lupi, but to support my own request for the Attorney General's representation &/or intervention "in ensuring the integrity of court records and the proper functioning of the White Plains City Court Clerk's Office". Please provide any and all publicly-available records pertaining to the Attorney General's review and determination of my September 29, 2008 letter, again presumably by his Division of State Counsel.

Pursuant to F.O.I.L. [Public Officers Law §89.3], your response to this new request is due within five business days of its receipt.

Thank you.

Very truly yours,



ELENA RUTH SASSOWER

Enclosure

cc: Robert Freeman, Executive Director
NYS Committee on Open Government

Elena Ruth Sassower

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September 29, 2008

NYS OFFICE OF THE ATTORNEY GENERAL
WESTCHESTER REGIONAL OFFICE

SEP 30 2008

RECEIVED BY

ASSISTANT ATTORNEY GENERAL

Office of the Attorney General
Westchester Regional Office
101 East Post Road
White Plains, New York 10601-5008

ATT: Judith McCarthy, Assistant Attorney General in Charge

RE: Determining the "interest of the state", pursuant to Executive Law §63.1, in *McFadden v. Doris L. Sassower & Elena Sassower* White Plains City Court #SP-651/89 ("SP-2008-1474") Appellate Term #1427 WC

Dear Ms. McCarthy:

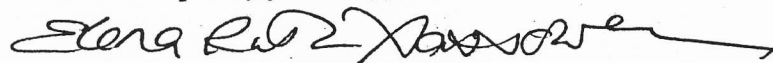
This follows up my telephone conversation earlier today with Assistant Attorney General Dian Kerr McCullough – and the subsequent messages I left for you on your voice mail and with Yvonne.

Pursuant to Executive Law §63.1, which requires that the Attorney General's participation in litigation be guided by the "interest of the state", I hereby challenge the legitimacy of the Attorney General's current representation of White Plains City Court Clerk Patricia Lupi in the above-entitled matter, which I request be withdrawn in favor of the Attorney General's representation of me &/or intervention on my behalf in ensuring the integrity of court records and the proper functioning of the White Plains City Court Clerk's Office, as here at issue.

I will call you on Wednesday to speak with you directly about this matter.

Thank you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER

cc: Assistant Attorney General Dian Kerr McCullough