purportedly consolidated[1], I previously presented with similar clarity and precision in court submissions. This includes my submissions to this Court in support of:

(1) my July 30, 2008 order to show cause for a stay pending appeal;

(2) my August 13, 2008 vacatur/dismissal motion; and

(3) my October 15, 2008 order to show cause for reargument, renewal, & other relief.

To these, Mr. Sclafani responded promptly, inundating this Court with voluminous opposing papers, whose pervasive perjuries and deceits I was then forced to spend huge amounts of time and energy to unravel, lest the Court be misled as to the true facts. This I did in fact-specific, record-based reply submissions, seeking maximum costs and sanctions against Mr. Sclafani and his co-conspiring client pursuant to 22 NYCRR §130-1.1 *et seq.* and Judiciary Law §487 and disciplinary and criminal referrals of them.

In those submissions, I stated that just as Mr. Sclafani had no legitimate defense to the relief I was then seeking, so he would have no legitimate defense to my appeal. I believe this reality lies behind his May 12, 2009 letter. Quite simply, Mr. Sclafani has been unable to figure out what further lies and inflammatory rhetoric to employ in his respondent's brief to support the fraudulent judgment of eviction and warrant of removal he obtained and executed to dispossess me of my home of 21 years.

As for Mr. Sclafani's final claim that his "litigation schedule will not accommodate an earlier date to file respondent's brief without hardship", I am not sympathetic. Based on my direct, first-hand-experience with Mr. Sclafani, which has robbed me of nearly two years of my life and caused inestimable personal and professional injury to me and others, Mr. Sclafani is responsible for the "litigation schedule" for which he seeks the Court's indulgence. As the record in #SP-1502/07 resoundingly establishes, Mr. Sclafani generated, perpetuated, and expanded that fraudulent case, including through #SP-651/89 – maliciously disregarding my entreaties of settlement and obstructing my efforts to curtail and dispose of the litigation consistent with the facts and law.

Under these circumstances, I oppose any extension of time to Mr. Sclafani – and ask that if you or the Court give any consideration to his extension request, that he be mandated to certify, in advance, that his respondent's brief will not be frivolous, as defined by 22 NYCRR §130-1.1 *et*

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[1] Such consolidation was pursuant to the October 11, 2007 and January 29, 2008 decisions & orders of White Plains City Court Judge Brian Hansbury -- the subject of my two perfected appeals: #2008-1433-WC and #2008-1428-WC, respectively.

**Elena Ruth Sassower**
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BY FAX & BY MAIL: 718-643-7889 (4 pages)

May 15, 2009

Appellate Term Chief Clerk Paul Kenny
141 Livingston Street, 15th Floor
Brooklyn, New York 11201-5079

RE: Response to Mr. Sclafani's May 12, 2009 Letter – Request that Any Extension to Him be Conditioned on His Advance Certification Pursuant to 22 NYCRR §130-1.1 *et seq.* & an Explicit Warning from the Court
*John McFadden v. Doris L. Sassower & Elena Sassower*:
#2008-1427-WC; #2009-148-WC

Dear Mr. Kenny,

This responds to Mr. Sclafani's May 12, 2009 letter, which, consistent with his past pattern and practice, is deceitful and in bad-faith. Indeed, Mr. Scalfani's respondent's brief for the above appeals was due on May 13, 2009, making it rather late for him to be writing the Court for the two-fold relief he seeks.

Mr. Sclafani's first request is for permission to file a single respondent's brief in response to my single appellant's brief, filed on April 17, 2009. Surely, Mr. Sclafani does not believe he needs permission to file a single brief in response to a single brief. More likely, it is a pretextual cover for his second request: an extension of time for his respondent's brief "to a date in early July, 2009".

In support, Mr. Sclafani purports that my appellant's brief and two volumes of exhibits are "both lengthy and extremely difficult to digest let alone respond". To the extent his phrase "extremely difficult to digest" means unclear – as opposed to disquieting to confront – this is a deceit. There is nothing unclear about my fact-specific, record-referenced presentation – and I challenge Mr. Sclafani to identify any aspect he cannot readily comprehend and respond to.

Nor should the length of my appellant's brief and exhibits be an obstacle to Mr. Sclafani, as he is already fully familiar with the underlying case #SP-651/89 which – at his importuning – was resurrected by White Plains City Court Judge Jo Ann Friia from its dormant, if not dismissed, state so that his client could be given summary judgment to which he is not entitled, *as a matter of law*. Indeed, virtually everything my appellant's brief presents about #SP-651/89 and about the separate case *John McFadden v. Elena Sassower*, #SP-1502/07, with which #SP-651/89 was

seq. and reinforced by this Court's Rule §730.3(g)[2].

In further support, I ask that you or the Court examine Mr. Sclafani's two briefs in #SP1502/07 opposing my appeals #2008-1433-WC and 2008-1428-WC – as my copies do not contain any certification by him pursuant to 22 NYCRR §130-1.1. Each of these two briefs by him was not only pervasively violative of 22 NYCRR §130-1.1, but fraudulent – requiring me to again spend huge amounts of time and energy to exposing his litigation fraud. I did this by my reply briefs so that the Court would not be misled – and in support of maximum costs and sanctions against Mr. Sclafani and his client, as well as their referral to disciplinary and criminal authorities. Indeed, the situation was so extreme that in both my reply briefs I stated:

> "...based on the showing herein that Sclafani is virtually incapable of telling the truth in anything he says – replicating his conduct in White Plains City Court, as well as previously before this Court in opposing Sassower's July 30, 2008 order to show cause for a stay pending appeal, her August 13, 2008 vacatur/dismissal motion, and her October 15, 2008 order to show cause for reargument/renewal, & other relief, all arising from #SP-651/89, *John McFadden v. Doris L. Sassower and Elena Sassower*, and docketed herein as #2008-1427-WC – this Court should consider including a request to disciplinary authorities that they order that Sclafani be medically examined, as his behavior is clearly pathological." [my February 2, 2009 reply brief in #2008-1428-WC, p. 3; my March 6, 2009 reply brief in #2008-1433-WC, pp. 2-3].

I refer you and the Court to these two dispositive reply briefs so that you may understand how unfair it would be to burden me, yet again, with having to dissect the further fraud and deceit of Mr. Sclafani in a third brief. I, therefore, respectfully request that the Court accompany any extension it gives Mr. Sclafani with an explicit warning that any further violation of his duties, as an officer of the Court, and, specifically, Rules 3.1 and 3.3 of the Rules of Professional Conduct for Attorneys[3], will result in the Court's taking "appropriate action" against him, consistent with

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2 This Court's Rule §730.3(g) states:

> "Any attorney or party to a civil appeal who, in the prosecution or defense thereof, engages in frivolous conduct as that term is defined in 22 NYCRR subpart 130-1.1(c), shall be subject to the imposition of such costs and/or sanctions as authorized by 22 NYCRR subpart 130-1 as the court may direct."

3 These rules were cited by my appellant's brief (at p. 95) as follows:

> "Of particular relevance: Rule 3.1 'Non-Meritorious Claims and Contentions', which subjects an attorney to discipline for frivolous conduct as defined by 22 NYCRR §130.1.1 *et seq*, as well as Rule 3.3 'Conduct Before a Tribunal', whose significance was highlighted in the December 16, 2008 press release of the New York State Unified Court System as follows:

§100.3D(2)[4] of the Chief Administrator's Rules Governing Judicial Conduct and the Court of Appeals' recent decision recognizing "an attorney's special obligation to protect the integrity of the courts and foster their truth-seeking function"[5].

Lastly, I wish to bring to your attention that Mr. Sclafani's May 12, 2009 letter fails to indicate that he has furnished copies to Doris L. Sassower and the New York State Attorney General – each recipients of my April 17, 2009 appellant's brief. For their convenience, I will send them a copy of his letter along with mine.

Thank you.

Very truly yours,

ELENA RUTH SASSOWER, *Pro Se*

cc: Leonard Sclafani, Esq. [Fax: (212) 949-6310]
Doris L. Sassower [Fax: (914) 684-6554]
New York State Attorney General Andrew Cuomo [Fax: (914) 422-8706]
ATT: Dian Kerr McCullough

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- 'Rule 3.3 requires a lawyer to correct a false statement of material fact or law previously made to the tribunal by the lawyer or the client and to take necessary remedial measures, including disclosure of confidential client information.

- Rule 3.3 requires a lawyer who knows that a person intends to, is or has engaged in criminal or fraudulent conduct related to the proceeding to take reasonable remedial measures, including disclosure of confidential client information.'"

[4] "A judge who receives information indicating a substantial likelihood that a lawyer has committed a substantial violation of the Code of Professional Responsibility shall take appropriate action."

[5] This recent decision, *Amalfitano v. Rosenberg*, 12 N.Y.3d 8, 14, rendered February 12, 2009, is also cited by my appellant's brief (at pp. 95-96).