

3 -----X

4 ELENA RUTH SASSOWER, : Index  
5 Plaintiff, : No. 108551/99

6 - against - :

7 COMMISSION ON JUDICIAL CONDUCT, NY STATE :

8 Respondent. :

9 -----X

10 111 Centre Street  
11 New York, New York 10013  
12 June 14, 1999

13 B E F O R E:

14 HONORABLE RONALD A. ZWEIBEL,  
15 Justice Supreme Court.

16 A P P E A R A N C E S:

17 For the Plaintiff:  
18 ELENA RUTH SASSOWER,  
19 Pro Se

20 For the Respondent:  
21 ELIOT SPITZER, ESQ.  
22 State of New York Office of Attorney General  
23 BY: CAROLYN CAIRNS OLSON, ESQ.

24 ELLEN S. BRUNO  
25 SENIOR COURT REPORTER

EX "G"

1  
2 for the Attorney General to represent the  
3 Commission here and the identity of who in the  
4 Attorney's General Office evaluated the public's  
5 right to its intervention, that is the Attorney  
6 General's intervention on the public's behalf, there  
7 are other threshold issues identified in my letter.

8           Aside from that and the default issue,  
9 respectfully, the issue, also threshold, in view of  
10 the fact that there have been two judicial  
11 disqualifications in this case, needless to say, it  
12 is my expectation, and I trust that conscious of  
13 your ethical duties, there will be some discussion  
14 here, some disclosure of facts, which I submit,  
15 present an appearance, certainly, and perhaps an  
16 actuality, that this Court could not be fair and  
17 impartial. And indeed, that this Court has an  
18 interest in the proceeding as prescribed by  
19 Judiciary Law 14, which is a mandatory, which would  
20 make this disqualification of this Court  
21 regrettably mandated.

22           I thank the Court, I do want to just thank  
23 the Court for its consideration, not only now in  
24 giving me this opportunity to make this  
25 presentation at fair length, but the courtesy which

1  
2 I think is consistent with this Court's recognition  
3 of proper standards that you extended this morning,  
4 when you had your law secretary called me and  
5 informed me that there would be some delay, so that  
6 I could guide myself accordingly as to the time of  
7 this conference.

8 And indeed, the standards of civility say,  
9 that judges should be punctual, and if delayed,  
10 they should notify counsel as soon as possible. It  
11 did not escape me that your Honor saw fit to  
12 respect that.

13 I don't know whether you would like me to  
14 make a presentation on the particular issues that I  
15 think may present for you, at the outset, a  
16 disqualification.

17 THE COURT: If it could be done briefly.

18 MS. SASSOWER: Yes.

19 THE COURT: You're asking this Court to  
20 recuse itself also?

21 MS. SASSOWER: Regrettably.

22 THE COURT: I will hear you as to why I  
23 should recuse myself.

24 MS. SASSOWER: As reflected in the record  
25 before Justice Lebedoff, when she recused herself

1  
2 and indicated that this case would be tossed back  
3 for re-assignment, I stated that there was a  
4 problem with any assignment, needless to say,  
5 because all the judges here are under the  
6 disciplinary jurisdiction of the Commission on  
7 Judicial Conduct, and therefore, have an inherent  
8 conflict in a case involving it.

9 But I would like to move to something that  
10 is even more substantial, because although it could  
11 be argued, well, if everyone was disqualified for  
12 that reason, who would there be? And that invokes  
13 the rule of necessity, okay.

14 I would like to focus on some more immediate  
15 issues. I have had the misfortune to learn that  
16 your Honor is a Court of Claims judge.

17 THE COURT: That's a misfortune?

18 MS. SASSOWER: That's not the misfortune.  
19 That's not the unfortunate part. The unfortunate  
20 part is that your term, I understand, expires in  
21 two years.

22 THE COURT: That's correct.

23 MS. SASSOWER: Unless you, your Honor, is  
24 intending to retire and move down to Florida.

25 THE COURT: I have no intention of that.

1  
2 MS. SASSOWER: Then it is presumed that you  
3 would be seeking reappointment. Reappointment for  
4 a Court of Claims judge is through the governor.

5 I can guarantee you, that you would not get  
6 a reappointment were you to have passing respect  
7 for the facts and the law in this case, because the  
8 facts and the law in this case would require you to  
9 expose not just the corruption of the Commission on  
10 Judicial Conduct, but the complicity and actual  
11 knowledge of Governor George Potaki, not only with  
12 the fact that the Commission is corrupt, known to  
13 him over many years, but specifically in connection  
14 with his appointment of Albert Rosenblatt to the  
15 Court of Appeals, with knowledge that Albert  
16 Rosenblatt was the subject of a judicial misconduct  
17 complaint pending before the Commission.

18 THE COURT: Was that brought by you?

19 MS. SASSOWER: Hmm-hmm.

20 The issue in this case, your Honor, is  
21 what -- the immediate issue, the transcending issue  
22 is a complaint filed by me on October 6, 1998,  
23 concerning, among others, the candidacy of Albert  
24 Rosenblatt to the Court of Appeals.

25 Among other things, it alleged a belief, for

1  
2 reasons particularized, that Albert Rosenblatt had  
3 perjured himself in his -- in response to two  
4 questions on his questionnaire to the Commission on  
5 Judicial Conduct.

6 THE COURT: I'm not really getting into that  
7 issue.

8 MS. SASSOWER: The result is the issue in  
9 the case, unfortunately, and an adjudication of  
10 what took place --

11 THE COURT: I want to hear something further  
12 as to why you think I should recuse myself. I'm  
13 not interested in that matter concerning Justice  
14 Rosenblatt.

15 MS. SASSOWER: Unfortunately, that matter is  
16 at the heart of the case and exposing what the  
17 Commission did in connection with that complaint  
18 would expose the government's -- I'm sorry, the  
19 Governor's fraudulent nomination of Albert  
20 Rosenblatt, which was then rammed through the  
21 Senate Judiciary Committee, fraudulently, by the  
22 chairman.

23 You, as a Court of Claims judge, seeking  
24 reappointment in two years, would have to be  
25 reappointed by the Governor, who <sup>i</sup>was directly

1  
2 implicated herein, in criminal conduct, him as well  
3 as the chairman of the Senate Judiciary Committee  
4 as well as a whole host of government officials and  
5 agencies and bar leaders whose support you would  
6 need and require if you were not intending to move  
7 down to Florida and you indicated you were not.

8 Secondly, you sit, I understand in the  
9 criminal part.

10 THE COURT: I also have a civil calendar.  
11 That's why you're before me.

12 MS. SASSOWER: I understand you have a  
13 largely criminal load.

14 And as I understand it, the administrative  
15 judge of the criminal division is Juanita Bing  
16 Newton, also a Court of Claims judge, who, her  
17 exact title is, I believe, administrative judge,  
18 First Judicial District Supreme Court, Criminal  
19 Branch, so I would think that she's your boss. Not  
20 only is she --

21 THE COURT: She is not my boss. She is the  
22 administrative judge of the criminal term.

23 MS. SASSOWER: You might require -- you  
24 might, you might find it necessary in your day to  
25 day operations to remain in her good graces.

1  
2 In any event, she is not only a member of  
3 the Commission, but she is one of the members who  
4 we have directly challenged. We opposed her  
5 confirmation to the Court of Claims, her  
6 reconsideration to the -- her reappointment to the  
7 Court of Claims, based upon her participation in  
8 the corruption of the Commission on Judicial  
9 Conduct.

10 In short, ~~in view of the fact that most~~  
11 ~~pressingly and oppressively~~, in view of the fact  
12 that you do intend to seek reappointment, I would  
13 urge you to examine the papers in this case,  
14 because I would respectfully submit perhaps you are  
15 unfamiliar with the pleading.

16 Were you familiar with the pleading, you  
17 would know the role where Albert Rosenblatt fits in  
18 this and the Governor fits in this and the Senate  
19 Judiciary Committee fits in this, and I believe you  
20 would immediately recognize you can't decide this  
21 case without exploding your future. You can  
22 explode it for the good. You can up hold the  
23 public's right. You can make a name for yourself.  
24 Unfortunately, making a name for yourself --

25 THE COURT: This sounds like a threat, like



1  
2 if I don't do what you want, my future is at risk.  
3 I'm not concerned about doing the right thing with  
4 regard to what either side wishes in this case.

5 MS. SASSOWER: I am not threatening. I'm  
6 enlightening you to the fact that there is --

7 THE COURT: I think it is a veiled threat,  
8 because of action that you took against others. I  
9 don't take that lightly.

10 MS. SASSOWER: With all respect, we seek to  
11 uphold the judicial process and we applaud judges  
12 who do that.

13 So, I would be most happy if you felt that  
14 the appearance and the actuality was such that  
15 recusal is not required, that you demonstrated that  
16 by your conduct.

17 THE COURT: It appears that nobody agrees  
18 with your various positions over the years to date;  
19 is that correct?

20 MS. SASSOWER: I'm not sure what you're  
21 referring to.

22 THE COURT: I'm referring to various other  
23 proceedings that were brought against various other  
24 individuals.

25 MS. SASSOWER: Well, your Honor...

1  
2 THE COURT: I'm not getting into details of  
3 all of the other cases.

4 MS. SASSOWER: What took place in prior  
5 proceedings can be readily verifi<sup>ed</sup>able from the  
6 record, such as described in a public interest ad,  
7 which I wrote and paid for, which is part of this  
8 proceeding, called: "Restraining' Liars in the  
9 Courtroom <sup>and</sup> on Public Payroll."

10 It discusses <sup>that</sup> in three public interest cases  
11 involving judicial self-interest, all standards of  
12 conduct went out the window, because the Attorney  
13 General practices an M.O., a modus operandi of  
14 litigation, misconduct and fraud, making fraudulent  
15 dismissal motions, which the Court grants without  
16 addressing any threshold issues.

17 THE COURT: Let's get to the other issue,  
18 why you believe that Judge Lebedoff did not have  
19 the right to grant additional time to the  
20 respondent in this case at the time that she  
21 recused herself.

22 MS. SASSOWER: With all respect, I would  
23 respectfully request, since it would appear that  
24 you are, without examination of the pleading, ~~to~~  
25 make <sup>ing</sup> a determination that you are not disqualified,

1  
2 either for the appearance or the actuality of bias;  
3 am I correct?

4 THE COURT: I'm not making any decision.

5 MS. SASSOWER: Oh, okay. I will be happy to  
6 move to the next point, however, I respectfully, I  
7 will be happy to address that issue for your Honor.

8 I respectfully submit that we go  
9 sequentially, having disposed of the  
10 disqualification of your Honor, the next issue  
11 would be the disqualification of the Attorney  
12 General from representing the Commission on  
13 Judicial Conduct.

14 THE COURT: Let me just ask the Attorney  
15 General, have you submitted all papers in this  
16 case?

17 MS. OLSON: Yes, we moved to dismiss. In a  
18 footnote, in one of our briefs, we addressed the  
19 argument anticipated that she was going to seek  
20 disqualification. I have yet to see a motion for  
21 disqualification.

22 THE COURT: Does the petitioner intend to  
23 submit additional papers in this case?

24 MS. SASSOWER: I seemed to have misplaced my  
25 notes. May I have one moment. I will do that

1  
2 knows, from her point one, is being brought by me  
3 in an individual capacity. I am not suing as  
4 coordinator. I do not state anywhere in the  
5 caption or in the paragraphs --

6 THE COURT: I'm going to direct that that be  
7 addressed at the same time.

8 MS. SASSOWER: I would point out, however,  
9 that much as I said in advance of their submission  
10 of the dismissal, that they have no legitimate  
11 defense, they have proven it now, ~~that~~ I have in  
12 this interim period been examining their dismissal  
13 motion, it is, from beginning to end, filled with  
14 falsification, concealment, omission,  
15 misrepresentation, distortion. Their entire motion  
16 is based upon their manipulation of the facts in a  
17 manner in which I described.

18 THE COURT: Last thing I want to know from  
19 you is what category of judge do you think would be  
20 appropriate to resolve your matter, since Court of  
21 Claims judges are up for reappointment?

22 MS. SASSOWER: Well, you are up in two  
23 years.

24 THE COURT: Supreme Court judges are  
25 elected.

1  
2 MS. SASSOWER: You're up in two years.

3 THE COURT: If I was up in nine years, it  
4 would make a difference?

5 MS. SASSOWER: Governor Potaki would not be  
6 in office. He will be in office in two years,  
7 okay.

8 THE COURT: He may be vice-president.

9 MS. SASSOWER: I would say, in answer to  
10 your question, that for appearance sake, it is a  
11 judge who is not subject to reappointment in the  
12 near future, under this governor. And likewise,  
13 not up for election in the immediate future,  
14 because we know that elections are controlled by  
15 political interests. That's the reality in this  
16 State.

17 THE COURT: You'll have one month to file  
18 your motion to disqualify the A.G.

19 MS. OLSON: What about our motion to  
20 dismiss, will there be a return date on that as  
21 well?

22 THE COURT: Same date.

23 MS. OLSON: In addition to her moving to  
24 disqualify, she will be responding to our motion to  
25 dismiss?