

Case No. 2008-1428 WC

To be Argued by:
Elena Sassower
(15 minutes requested)

APPELLATE TERM OF THE SUPREME COURT
NINTH & TENTH JUICIAL DISTRICTS

JOHN McFADDEN,

Respondent,

-against-

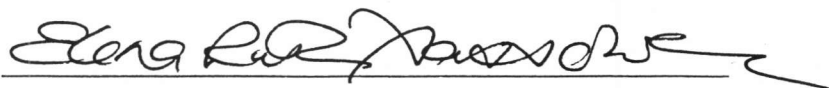
ELENA SASSOWER,

Appellant.

08 NOV 13 PM 2:59

RECEIVED
APPELLATE TERM
CLERK'S OFFICE

APPELLANT'S BRIEF*



ELENA SASSOWER, Appellant *Pro Se*
16 Lake Street, Apartment 2C
White Plains, New York 10603
Tel: 646-220-7987

***Appeal 2: Judge Brian Hansbury's January 29, 2008 Decision & Order
(Westchester City Court #1502/07)**

EXC-1

INTRODUCTION

This is an appeal from a January 29, 2008 decision & order of White Plains City Court Judge Brian Hansbury recusing himself, without explanation or disclosure, after denying appellant's legally-sufficient November 9, 2007 motion for his disqualification for demonstrated actual bias and interest – a motion also requesting that he disclose facts bearing upon his impartiality, if disqualification were denied.

As hereinafter shown, appellant's motion entitled her to Judge Hansbury's disqualification, *as a matter of law*, as likewise to vacatur of his October 11, 2007 decision & order by reason thereof or upon the granting of reargument and renewal. Vacatur of both his January 29, 2008 and October 11, 2007 decisions & orders are mandated by this appeal.

Also mandated is the granting of the relief the October 11, 2007 decision & order wrongfully denied – and to which appellant is entitled *as a matter of law*: dismissal of the Petition and summary judgment on her four Counterclaims, with costs and maximum sanctions against respondent and his counsel and their referral to disciplinary and criminal authorities. Such is directly sought by appellant's accompanying appeal of the October 11, 2007 decision & order, #2008-1433-WC, incorporated herein by reference.

Finally, based on the clear and unambiguous record underlying the January 29, 2008 decision & order establishing it and the October 11, 2007 decision & order to be “judicial frauds”, this Court's duty is to refer Judge Hansbury to disciplinary and criminal authorities – consistent with its mandatory “Disciplinary Responsibilities” under §100.3D(1) of the

Chief Administrator's Rules Governing Judicial Conduct and the public declaration of New York's highest state judge: "The court system has zero tolerance for jurists who act unethically or unlawfully"¹

STATEMENT OF THE CASE

The procedural history of this case, spanning from its commencement by Verified Petition dated June 22, 2007 to Judge Hansbury's October 11, 2007 decision & order – the subject of appellant's appeal under #2008-1433-WC – is set forth by her brief therein.

The continued procedural history to Judge Hansbury's January 29, 2008 decision & order – the subject of this appeal under #2008-1428-WC – follows.

The Clerk's Notice of Trial & Sassower's November 9, 2007 Order to Show Cause

Eight days after Judge Hansbury's October 11, 2007 decision & order, the White Plains City Court Clerk's Office sent a form-notice dated October 19, 2007 to respondent John McFadden [hereinafter "McFadden"] and appellant Elena Sassower [hereinafter "Sassower"] that the case was scheduled for trial on November 20, 2007.²

On November 8, 2007, Sassower filed an order to show cause to stay the November 20, 2007 trial pending determination of her within motion:

“(a) to disqualify Part-Time White Plains City Court Judge Brian Hansbury for demonstrated actual bias and interest pursuant to §100.3E of the Chief Administrator's Rules Governing Judicial Conduct and Judiciary Law

¹ “*Court controversies aren't the whole picture*” by Chief Judge Judith Kaye, published by Gannett newspapers, March 22, 2002, underlining added.

² The trial notice is Exhibit GG to Sassower's November 9, 2008 order to show cause to stay the trial.

New York's highest state judge: "The court system has zero tolerance for jurists who act unethically or unlawfully" (see fn. 1, *supra*).

CONCLUSION

WHEREFORE, *as a matter of law*, Judge Hansbury's January 29, 2008 decision & order must be vacated, as likewise his October 11, 2007 decision & order. McFadden's Petition must be dismissed and summary judgment awarded to Sassower on her four Counterclaims, with costs and maximum sanctions imposed on McFadden and his counsel pursuant to 22 NYCRR §130-1.1 *et seq.*, as well as their referral to disciplinary and criminal authorities.

Additionally, and consistent with this Court's mandatory "Disciplinary Responsibilities" under §100.3D(1) of the Chief Administrator's Rules Governing Judicial Conduct, Judge Hansbury must be referred to disciplinary and criminal authorities for his brazen violations of his judicial function.



ELENA RUTH SASSOWER

Dated: White Plains, New York
November 13, 2008