

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE TERM : 9th and 10th JUDICIAL DISTRICTS

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PRESENT : McCABE, J.P., TANENBAUM and MOLIA, JJ.

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JOHN McFADDEN,

Respondent,

-against-

NO. 2008-1427 W C

DORIS L. SASSOWER,

Respondent,

-and-

ELENA SASSOWER,

Appellant.

-----X

JOHN McFADDEN,

Petitioner,

-against-

NO. 2008-1504 W C

DORIS L. SASSOWER and ELENA SASSOWER,

Respondents.

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DECISION

On the court's own motion, the motions by Elena Sassower returnable August 13, 2008 and August 21, 2008, the motion by John McFadden returnable September 4, 2008 and the motion by Doris L. Sassower returnable August 18, 2008 are consolidated for disposition.

MD-1

EXF-1

RE: JOHN MCFADDEN v DORIS L. SASSOWER and ELENA SASSOWER  
NO. 2008-1427 W C

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JOHN McFADDEN v DORIS L. SASSOWER and ELENA SASSOWER  
NO. 2008-1504 W C

-----X  
On the court's further motion, the appeal by Elena Sassower from the order of the City Court of White Plains, Westchester County (Jo Ann Friia, J.), dated July 3, 2008, is deemed from the final judgment of said court entered, pursuant to the July 3, 2008 order, on July 21, 2008 (see CPLR 5512 [a]; Neuman v Otto, 114 AD2d 791 [1985]).

Motion by John McFadden to enlarge time to submit opposition to the motion returnable August 21, 2008 is granted and the opposition papers are deemed timely served and filed.

Motion by Doris Sassower for stay denied.

Motion by Elena Sassower to vacate the decision and order of the White Plains City Court dated July 3, 2008 and its final judgment entered July 21, 2008, and for other relief denied.

Motion by Elena Sassower seeking in effect to stay enforcement of the final judgment entered July 21, 2008 is granted and enforcement of the final judgment is stayed pending hearing and determination of the appeal on condition that the appeal is perfected on or before December 5, 2008. Movant is directed to pay John McFadden any and all arrears in rent/and or use and occupancy at the rate most recently payable within 10 days from the date of this order and to continue to pay use and occupancy at a like rate as the same becomes due.

In the event that any of the above conditions are not met, the court, on its own motion, may vacate the stay, or respondent John McFadden may move to vacate the stay on three days' notice.

We note that Doris L. Sassower has failed to file a notice of appeal.