

rec'd 10/3/08  
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At a term of the Appellate Term of the Supreme Court  
of the State of New York for the 9<sup>th</sup> & 10<sup>th</sup> Judicial Districts

HON. EDWARD G. McCABE, J.P.  
HON. MELVYN TANENBAUM  
HON. DENISE F. MOLIA, JJ.

-----X  
JOHN McFADDEN,  
Respondent,  
-against-

NO. 2008-1427 W C

DORIS L. SASSOWER,  
Respondent,  
-and-

Lower Ct #  
SP-651/89  
"SP 2008-1471"

ELENA SASSOWER,  
Appellant.

-----X  
JOHN McFADDEN,  
Petitioner,

-against-

NO. 2008-1504 W C

DORIS L. SASSOWER and ELENA SASSOWER,  
Respondents.

-----X  
The above named appellant having appealed to this court from an ORDER of the CITY COURT, WHITE PLAINS, WESTCHESTER COUNTY entered on JULY 3, 2008, and the APPELLANT (ELENA SASSOWER) having moved this court by order to show cause returnable AUGUST 13, 2008 to STAY THE ENFORCEMENT OF THE FINAL JUDGMENT ENTERED JULY 21, 2008 PENDING THE DETERMINATION OF THE APPEAL and the APPELLANT (ELENA SASSOWER) having moved this court by notice of motion returnable AUGUST 21, 2008 to VACATE THE DECISION OF THIS WHITE PLAINS CITY COURT DATED JULY 3, 2008 AND FOR OTHER RELIEF and the RESPONDENT (JOHN McFADDEN) having moved this court by order to show cause returnable SEPTEMBER 4, 2008 to ENLARGE THE TIME TO SUBMIT OPPOSITION PAPERS TO THE MOTION RETURNABLE AUGUST 21, 2008 and the RESPONDENT (DORIS SASSOWER) having moved this court by order to show cause returnable AUGUST 18, 2008 to STAY ALL PROCEEDINGS PENDING THE DETERMINATION OF THE APPEAL and said motions having duly come on to be heard;

EXF-2

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

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

-----X  
Now, on reading the papers filed in support of said motion and the papers filed in opposition thereto, and due deliberation having been had thereon, it is,

ORDERED that on the court's own motion are hereby consolidated for disposition; and it is further,

ORDERED that 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 Friaa, 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]); and it is further,

ORDERED that the 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; and it is further,

ORDERED that the motion by Doris Sassower for a stay is denied; and it further,

ORDERED that the 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 is denied; and it is further,

ORDERED that the 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; and it is further,

ORDERED that 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.

  
HON. EDWARD G. McCABE:  
JUSTICE PRESIDING  
Appellate Term