

BY HAND

February 20, 1994

Gregory Joseph, Esq.  
Chairman, Committee on Professional Responsibility  
Association of the Bar of the City of New York  
c/o Fried, Frank, Harris, Shriver & Jacobson  
One New York Plaza  
New York, New York 10004

RE: Sassower v. Mangano, et al.

Dear Mr. Joseph:

Pursuant to our telephone conversation the other day, I am transmitting herewith a copy of my Jurisdictional Statement filed with the Court of Appeals in the above Article 78 proceeding.

As you can see, the issues in the case are profound and far-reaching not only for members of the profession, but for the public at large. What is involved is no less than the total abandonment of the rule of law and ethical principles by the Appellate Division, Second Department, which has grossly misused its disciplinary power for retaliatory and politically-motivated ulterior purposes.

This conclusion can be drawn from the fact, inter alia, that my professional license has been suspended under a so-called "interim" suspension Order for more than two and a half years. Such Order was accomplished without a plenary proceeding, with no notice of written charges, no hearing, no evidentiary findings, and without even a statement of reasons in the suspension Order itself<sup>1</sup>--all contrary to the explicit requirements of the Appellate Division's own Rules Governing the Conduct of Attorneys. The Appellate Division entered its interim Order of suspension on June 14, 1991, in the face of the Court of Appeals' decisions in Matter of Nuey, 61 N.Y.2d 513, 474 N.Y.S.2d 714 (1984) and has since perpetuated it, notwithstanding the Court of Appeals' supervening decision in Matter of Russakoff, 72 N.Y.2d 520, 583 N.Y.S.2d 949 (1992). As the record shows, the Appellate Division has denied my motions to vacate such "interim"

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<sup>1</sup> The "interim" suspension Order is annexed to my Jurisdictional Statement as Exhibit "D-6".



suspension Order, as those cases required (although my case is a fortiori in all respects<sup>2</sup>) and, by its Decision/Order dated January 28, 1994<sup>3</sup>, has threatened me with criminal contempt, should I make any further motions in the "underlying disciplinary proceeding" without prior judicial consent (a practice itself condemned in decisions in other Judicial Departments).

Your Committee must not be silent while the Court of Appeals is deliberating on its sua sponte inquiry as to whether it should take jurisdiction over my appeal as of right. What has been done by the Appellate Division, Second Department in unjustly stigmatizing me and depriving me of my livelihood without cause presents a dangerous threat to every member of the profession, particularly to those who, like myself, have had the courage to speak out in order to provide leadership on politically sensitive or controversial issues, especially those challenging vested interests within the judiciary.

Nor should your Committee be silent when, as here, the Appellate Division, Second Department, has destroyed the integrity of the Article 78 vehicle, created by the Legislature to check abuse of judicial power, by failing to recuse itself from adjudicating the proceeding wherein its own misconduct is at issue. Such frightening state of affairs did not shock the conscience of either the Court or its attorney, the Attorney General, whose office vigorously opposed my request for recusal and transfer. Under such circumstances, the organized bar must step forward to restore public confidence in a judicial process which has so blatantly departed from the most fundamental tenet of our law that "no man shall be judge of his own cause".

For your information, I enclose a copy of my listing in Martindale-Hubbell's law directory, which has always given me its highest "AV" rating in all the years it has rated me, as well as a copy of a letter from the Fellows of the American Bar Foundation, confirming my election to membership in that distinguished body.

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<sup>2</sup> Detailed comparison of the "interim" suspension in my case with that in Russakoff appears at Exhibit "G" of my Jurisdictional Statement.

<sup>3</sup> The January 28, 1994 Decision/Order decided my November 19, 1993 dismissal/summary judgment motion made "in the underlying disciplinary proceeding", following dismissal of my Article 78 proceeding on the ground that a remedy existed within "the underlying disciplinary proceeding. The November 19, 1993 motion, undecided at the time my Jurisdictional Statement was filed, is referred to at fn. 7 therein.



February 20, 1994

I do appreciate your expression of interest and your kind invitation to submit the enclosed Jurisdictional Statement for your presentment to the Committee at its meeting this coming Tuesday.

For immediate purposes, the most important contribution the Committee could make would be to send a letter to the Court of Appeals expressing its deep concern and opinion that jurisdiction of the Court of Appeals is warranted, indeed, essential, not only in the exercise of its appellate function, but in its supervisory role over the lower courts of our State.

Should there be any questions after you or the Committee have reviewed the Jurisdictional Statement, please feel free to call me. Needless to say, I would be ready to provide any of the underlying materials or to make a personal presentation to the Committee.

Thank you for your anticipated support.

Sincerely,



DORIS L. SASSOWER

DLS/er

Enclosures:

- (a) Jurisdictional Statement, dated 1/24/94
- (b) Appellate Division's 1/28/94 Decision/Order
- (c) Court of Appeals' sua sponte jurisdictional inquiry, dated 1/28/94
- (d) Martindale-Hubbell listing
- (e) letter from the Fellows

cc: Alan Rothstein, Esq.

Counsel, Association of the Bar of the City of New York