

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

-----x
DORIS L. SASSOWER,

Petitioner,

Index No.
95-109141

-against-

NOTICE OF RIGHT
TO SEEK INTERVENTION

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF NEW YORK,

Respondent.
-----x

S I R S:

PLEASE TAKE NOTICE that upon the annexed Notice of Petition and Verified Petition of DORIS L. SASSOWER, sworn to on the 10th day of April 1995, the exhibits annexed hereto, and upon all the papers and proceedings heretofore had, you are entitled, as a person or agency charged with the duty to protect the public interest, which will or may be affected by the outcome of the above-entitled proceeding, raising constitutional issues of magnitude, to seek intervention therein, pursuant to CPLR §§1012 and 1013.

Dated: April 10, 1995
White Plains, New York

Yours, etc.

DORIS L. SASSOWER
Petitioner Pro Se
283 Soundview Avenue
White Plains, New York 10606
(914) 997-1677

TO: ATTORNEY GENERAL OF THE STATE OF NEW YORK
120 Broadway
New York, New York 10271

DISTRICT ATTORNEY OF NEW YORK COUNTY
1 Hogan Place
New York, New York 10013

NEW YORK STATE ETHICS COMMISSION
39 Columbia Street
Albany, New York 12207-2717

UNITED STATES ATTORNEY
Southern District of New York
U.S. Courthouse Annex
1 St. Andrew's Plaza
New York, New York 10017

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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DORIS L. SASSOWER,

Petitioner,

Index No.
95-109141

-against-

NOTICE OF
PETITION

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF NEW YORK,

Respondent.
-----X

S I R S:

PLEASE TAKE NOTICE that upon the annexed Verified Petition of DORIS L. SASSOWER, duly sworn to on the 10th day of April 1995, the exhibits annexed hereto, and upon all the papers and proceedings heretofore had, a motion will be made in the Submissions Part of the Courthouse, Room 130, located at 60 Centre Street, New York, New York, on May 3, 1995 at 9:30 a.m., or as soon thereafter as counsel can be heard for an order and judgment:

(a) declaring 22 NYCRR §7000.3, as written and as applied, unconstitutional and illegal and commanding Respondent to cease and prohibiting Respondent from making any further summary dismissal determinations thereunder;

(b) reversing, annulling, and setting aside Respondent's summary dismissals, without investigation, of Petitioner's meritorious complaints of judicial misconduct;

(c) requesting the Governor to appoint a Special Prosecutor to investigate Respondent's documented complaints of

high-level judicial corruption and complicity therein by Respondent;

(d) referring Respondent, both its members and its staff, to the Attorney General of the State of New York, the United States Attorney, and the District Attorney in New York, and the New York State Ethics Commission for appropriate criminal and disciplinary investigation of Respondent; and

(e) granting such other and further relief as to the Court may seem just and proper, including, pursuant to Public Officers Law §79, the statutory fine of \$250 payable to the State Treasurer, together with the costs and disbursements of this proceeding.

Dated: April 10, 1995
White Plains, New York

Yours, etc.

DORIS L. SASSOWER
Petitioner Pro Se
283 Soundview Avenue
White Plains, New York 10606
(914) 997-1677

TO: NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT
801 Second Avenue
New York, New York 10017

ATTORNEY GENERAL OF THE STATE OF NEW YORK
120 Broadway
New York, New York 10271

DISTRICT ATTORNEY OF NEW YORK COUNTY
1 Hogan Place
New York, New York 10013

NEW YORK STATE ETHICS COMMISSION
39 Columbia Street
Albany, New York 12207-2717

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Southern District of New York
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SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

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DORIS L. SASSOWER,

Petitioner,

Index No.
95-109141

-against-

VERIFIED
PETITION

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF NEW YORK,

Respondent.
-----X

To: SUPREME COURT OF THE STATE OF NEW YORK,
COUNTY OF NEW YORK:

Petitioner respectfully shows this Court and alleges:

FIRST: That at all times hereinafter mentioned, Petitioner was and is a citizen of the United States of America and the State of New York and a resident, elector, and taxpayer thereof, presently residing in the City of White Plains, County of Westchester.

SECOND: That Petitioner is the Director of the Center of Judicial Accountability, Inc., a national not-for-profit citizens' action organization, incorporated in 1994 under the laws of the State of New York, working to improve the quality of the judiciary, and has been so involved for many years prior thereto.

THIRD: That Petitioner is a party personally aggrieved by certain rules, procedures, and determinations of Respondent, severely, seriously, and substantially prejudicial to her and to the general public.

FOURTH: That by Respondent's failure and refusal to perform the duties enjoined upon it by law, Petitioner became the victim of retaliatory and vindictive judicial misconduct, as yet unredressed. Such retaliation has included the issuance by the justices of the Appellate Division, Second Department -- one of whom, Justice William B. Thompson, also sits as a judicial member of Respondent New York State Commission on Judicial Conduct -- of a knowingly fraudulent and unlawful order, dated June 14, 1991, suspending Petitioner's license to practice law immediately, indefinitely, and unconditionally.

FIFTH: That said June 14, 1991 order suspended Petitioner without charges, without a hearing, without findings, and without reasons. To date -- nearly four years later -- the justices of the Appellate Division, Second Department have repeatedly refused to vacate such order and repeatedly denied Petitioner a post-suspension hearing as to the basis of its "interim" suspension order, as well as independent review by denying her leave to appeal to the Court of Appeals and refusing to recuse themselves from an Article 78 proceeding brought against them to challenge their aforesaid unlawful and retaliatory conduct.

SIXTH: That the foregoing facts have been repeatedly brought to Respondent's attention, as part of Petitioner's filed complaints subsequent to her suspension, as well as in an Op-Ed advertisement in the October 26, 1994 issue of The New York Times, entitled "Where Do You Go When Judges Break the Law". A

copy thereof was filed with Respondent on that day (Exhibit "A").

SEVENTH: That the record before Respondent also gave it knowledge of Petitioner's distinguished credentials as an "AV" rated attorney. Included as part of Petitioner's complaints filed with Respondent was a copy of Petitioner's biographic listing in the 1989 Martindale-Hubbell Law Directory (Exhibit "B-1") which so rated her, and a copy of a letter confirming her election in 1989 as a Fellow of the American Bar Association, as well as the fact that such is an "honor limited to one-third of one percent of lawyers licensed to practice in each jurisdiction" (Exhibit "B-2").

EIGHTH: That at all times hereinafter mentioned, Respondent Commission on Judicial Conduct was and is the public body created, organized, and existing under and by virtue of the laws of the State of New York, charged, inter alia, with the duty to "receive, initiate, investigate and hear complaints" against "any judge or justice of the unified court system" (New York State Constitution, Article VI, §22.a), with broad investigatory powers, including the power of subpoena (Judiciary Law, §42).

NINTH: That pursuant to the venue provisions of CPLR §506(b), this proceeding is brought in New York County, which is where Respondent's principal office is located.

TENTH: That pursuant to CPLR §7801 et seq., this Petition is brought seeking a judgment in the nature of certiorari, mandamus, prohibition, and such other and further relief as this Court may deem just and proper, to challenge the

constitutionality and legality of 22 NYCRR §7000.3 and of Respondent's determinations and rulings thereunder, dismissing, without investigation, Petitioner's numerous substantiated complaints of serious judicial misconduct.

ELEVENTH: That under the New York State Constitution, Article VI, §22.c, the People of this State have expressly empowered Respondent to "establish its own rules and procedures not inconsistent with law."

TWELFTH: That under Judiciary Law, Article 2-A, the Legislature of this State has similarly commanded that the rules and procedures to be adopted by Respondent shall not be "otherwise inconsistent with law" (§42.5).

THIRTEENTH: That Judiciary Law §44.1 imposes upon Respondent a mandatory duty to:

"...receive, initiate, investigate and hear complaints with respect to the conduct, qualifications, fitness to perform, or performance of official duties of any judge... Upon receipt of a complaint (a) the commission shall conduct an investigation of the complaint; or (b) the commission may dismiss the complaint if it determines that the complaint on its face lacks merit..." (emphasis added)

FOURTEENTH: That nevertheless and notwithstanding the clear and unequivocal constitutional and statutory mandate defining its official duties, Respondent has failed and refused to perform such duties as are enjoined upon it by law and has, instead, promulgated rules and procedures flagrantly inconsistent therewith. Such rules include, without limitation by reason of specification, 22 NYCRR §7000.3, providing as follows:

(a) When a complaint is received....an initial review and inquiry may be undertaken.

(b) Upon receipt of a complaint, or after an initial review and inquiry, the complaint may be dismissed by the commission or, when authorized by the commission, an investigation may be undertaken." (emphases added)

FIFTEENTH: That Respondent has refused to provide Petitioner with information concerning the promulgation of 22 NYCRR §7000.1 et seq., including rule-making history relative thereto.

SIXTEENTH: That Respondent has refused to reconcile the patent discrepancy between Judiciary Law §44.1 and 22 NYCRR §7000.3, although requested to do so.

SEVENTEENTH: That by its self-promulgated 22 NYCRR §7000.3, Respondent has subverted the public interest and frustrated and thwarted the intent of the People and their elected representatives by transforming its mandatory duty to "investigate and hear" into an optional one, with no requirement, as called for by Judiciary Law §44.1, that Respondent first make a determination that the "complaint on its face lacks merit...", prior to summary dismissal of a given complaint.

EIGHTEENTH: That as written, 22 NYCRR §7000.3 is unconstitutional since, contrary to the explicit requirements of Judiciary Law, §44.1, it permits Respondent to act without and in excess of its jurisdiction by summarily dismissing, without investigation and without any findings, complaints of judicial misconduct arbitrarily, capriciously, and without a fixed,

objective standard by which any exercise of discretion can be measured.

NINETEENTH: That as applied, 22 NYCRR §7000.3 has enabled Respondent to violate its mandate to protect the public from incompetent, corrupt, and otherwise unfit judges and, instead, to initiate and perpetuate a pattern and practice of protecting politically-connected judges -- including Justice William B. Thompson, one of its own judicial members -- by summarily dismissing, without investigation or findings, complaints of judicial misconduct filed against them. Respondent, thereby, shields such judges from the disciplinary and criminal consequences of their serious judicial misconduct and corruption. In so doing, Respondent has knowingly and deliberately acted in conspiracy and complicity with judicial wrongdoers, aiding and abetting them in violating Petitioner's rights under the First and Fourteenth Amendments of the Federal Constitution and Article I, §§6, 8, and 11 of the New York State Constitution and the public's right to a fair, impartial, and independent judiciary.

TWENTIETH: That from 1989 to the present date, Petitioner has filed with Respondent eight written complaints against various "judges and justices of the unified court system", none of which was "on its face lacking in merit". Said complaints were dated October 5, 1989, October 24, 1991, January 2, 1992, December 4, 1992, September 19, 1994, October 5, 1994, October 26, 1994, and December 5, 1994.

TWENTY-FIRST: Copies of the aforesaid eight complaints are annexed hereto as Exhibits "C" through "J", without the voluminous supporting exhibits and evidentiary proof. Pursuant to CPLR §409 and §7804(e), Petitioner requests that Respondent file with the Court a certified transcript of the record of the proceedings, including the original complaints filed by Petitioner, together with the exhibits and evidentiary proof supplied by Petitioner in support thereof, so that the Court may further verify the substantial and documented nature of her complaints.

TWENTY-SECOND: That the supporting exhibits and evidentiary proof supplied and proffered by Petitioner in support of her aforesaid complaints established, prima facie, judicial misconduct by the judges complained of or probable cause to believe that the judicial misconduct complained of had been committed.

TWENTY-THIRD: That the judicial misconduct alleged and documented by Petitioner's aforesaid eight complaints was of a profoundly serious nature -- rising to the level of criminality, involving corruption and misuse of judicial office for ulterior purposes -- mandating the ultimate disciplinary sanction of removal. Pursuant to Article VI, §22.a of the New York State Constitution and §44.1 of the Judiciary Law, Petitioner was constitutionally and statutorily entitled to investigation of such complaints.

TWENTY-FOURTH: That notwithstanding Article VI, §22.a of the New York State Constitution and Judiciary Law §44.1, Respondent summarily dismissed each and every one of Petitioner's aforesaid eight complaints, without investigation and without making a determination that any given complaint was "on its face lacking in merit" or any other findings. Copies of Respondent's letters acknowledging receipt of Petitioner's complaints and subsequent dismissal letters are annexed hereto as Exhibit "K" and "L", respectively.

TWENTY-FIFTH: That Petitioner's four 1994 complaints (Exhibits "G", "H", "I", "J") were summarily dismissed by Respondent's letters dated December 13, 1994 and January 24, 1995 (Exhibits "L-5" and "L-6", respectively).

TWENTY-SIXTH: That Petitioner's December 4, 1992 complaint (Exhibit "F") was summarily dismissed by Respondent's letter dated January 20, 1993 (Exhibit "L-4") and Respondent has, for more than two years, failed and refused to act upon Petitioner's letter dated January 22, 1993 (Exhibit "M"), notwithstanding same showed that Respondent's stated basis for dismissal was erroneous.

TWENTY-SEVENTH: That Respondent has failed and refused to provide information reasonably requested by Petitioner as to the basis of its summary dismissals of her aforesaid eight complaints, or to provide her with information as to Respondent's procedures in rendering such dismissals.

TWENTY-EIGHTH: That prior to 1989, Petitioner filed at least one other complaint with Respondent, dated May 20, 1986. Such complaint Respondent, likewise, summarily dismissed without investigation and without any determination that "the complaint on its face lacks merit". A copy of said complaint is annexed hereto, together with Respondent's acknowledgment letter and dismissal thereof as Exhibits "N-1", "N-2" and "N-3", respectively.

TWENTY-NINTH: That by reason of Respondent's aforesaid rules and procedures, it has violated Petitioner's due process and equal protection rights, guaranteed under the Fourteenth Amendment of the U.S. Constitution and Article I, §6 and §11 of the New York State Constitution, by arbitrarily, capriciously, and unreasonably, if not knowingly and deliberately, denying her the investigatory and other relief to which her complaints of judicial misconduct clearly entitled her, including referral, pursuant to Judiciary Law, §44.10. Respondent has further denied Petitioner the constitutionally-guaranteed protection afforded by the Rules Governing Judicial Conduct, promulgated by the Chief Administrator of the Courts with the approval of the New York Court of Appeals, pursuant to Article 6, §§20 and 28 of the New York State Constitution.

THIRTY: That based on Respondent's own 1994 Annual Report -- the latest Report available -- in 1993, members of the public filed 1457 complaints with Respondent, "the largest number ever". Upon information and belief, of that number, Respondent

dismissed 1275 complaints, without investigation and without any determination that the complaints on their face lacked merit-- representing 87.5% of all complaints filed with it.

THIRTY-FIRST: That such summary dismissals are constitutionally and statutorily unauthorized and defeat the will and intent of the People of the State of New York and its duly-elected legislative representatives, as expressed in Article VI, §22.a of the Constitution of the State of New York and Article 20-A of the Judiciary Law.

THIRTY-SECOND: That all such summary dismissals without investigation and without findings represent a massive "consumer fraud" upon the taxpayers of this State, whose hard-earned dollars -- over \$1.5 million annually -- fund Respondent. Such tax burden is borne by the public in the belief that Respondent's rules, procedures, and practices comport, not contravene, the explicitly-mandated constitutional and statutory requirements so as to carry out their intended purposes of effectuating and ensuring a quality judiciary.

THIRTY-THIRD: That there is no remedy by appeal from Respondent's aforesaid acts and failures to act, and no adequate relief therefrom is obtainable, except by an Article 78 proceeding.

THIRTY-FOURTH: That no previous application for this or similar relief has been made to any other court or judge.

WHEREFORE, Petitioner respectfully prays for a judgment granting review in the nature of certiorari, mandamus, and prohibition (a) declaring 22 NYCRR §7000.3, as written and as applied, unconstitutional and illegal and commanding Respondent to cease and prohibiting Respondent from making any further summary dismissal determinations thereunder; (b) reversing, annulling, and setting aside Respondent's summary dismissals, without investigation, of Petitioner's meritorious complaints of judicial misconduct; (c) requesting the Governor to appoint a Special Prosecutor to investigate Respondent's documented complaints of high-level judicial corruption and complicity therein by Respondent; (d) referring Respondent, both its members and its staff, to the Attorney General of the State of New York, the United States Attorney, and the District Attorney in New York, and the New York State Ethics Commission for appropriate criminal and disciplinary investigation of Respondent; and (e) granting such other and further relief as to the Court may seem just and proper, including, pursuant to Public Officers Law §79, the statutory fine of \$250 payable to the State Treasurer, together with the costs and disbursements of this proceeding.

Dated: April 10, 1995
White Plains, New York

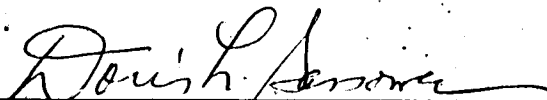
DORIS L. SASSOWER
Petitioner Pro Se

VERIFICATION

STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss.:

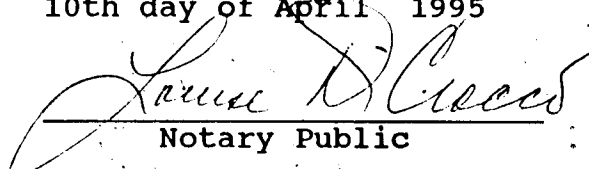
DORIS L. SASSOWER, being duly sworn, deposes and says:

I am the Petitioner in the within proceeding. I have read the annexed Petition and attest to the fact that same is true and correct of my own personal knowledge, except as to those allegations stated on information and belief, and as to such allegations, I believe them to be true.



DORIS L. SASSOWER

Sworn to before me this
10th day of April 1995


Notary Public

LOUISE DICICCO
Notary Public, State of New York
No. 4718571
Qualified in Westchester County
Commission Expires ~~March 30, 1992~~

12-10-96