

**Elena Ruth Sassower**

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BY HAND

June 13, 2008

Patricia Lupi, Chief Clerk  
White Plains City Court  
77 Lexington Avenue  
White Plains, New York 10601

RE: My Yesterday's Visit to the Clerk's Office & Our Conversation Together  
John McFadden v. Elena Sassower, White Plains City Court #SP-1502/07

Dear Ms. Lupi,

This follows up my visit to the Clerk's Office yesterday, in which I discussed my already drafted letter to you, responding to Ms. Rodriguez' June 9, 2008 letter to me. I had waited to finalize the letter until I reviewed the file in the above-numbered case, which I did yesterday. The now finalized letter is enclosed.

My enclosed finalized letter makes only grammatical improvements to the draft. It does not recite the particulars of what occurred during my yesterday's visit. Such recitation would substantiate my entitlement to transfer of this case from White Plains City Court – and I reserve same for such motion as I will make should the Court does not transfer the case *sua sponte* so that a fair and impartial tribunal might make findings of fact and conclusions of law as to my entitlement to dismissal and summary judgment. As I stated to you yesterday in your office, reiterating what I had told Judge Friia at the November 16, 2007 oral argument of my November 9, 2007 order to show cause to disqualify Judge Hansbury and to vacate his October 11, 2007 decision & order:

“...the only trial warranted herein is as to the amount of compensatory and punitive damages due me on my Counterclaims – since, *as a matter of law*, I am entitled to the granting of the second and third branch of my September 5, 2007 cross-motion: dismissal of the Petition and summary judgment on those Counterclaims.” (¶7 of my November 26, 2007 affidavit in further support of the motion underlying my November 9, 2007 order to show cause).

Suffice to say that you initially represented to me that you were unaware that Judge Hansbury had rendered any written decision subsequent to his October 11, 2007 decision. You stated your belief that Judge Hansbury's recusal had been oral, during proceedings in open court.

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This is incorrect. By written decision & order dated January 29, 2008, Judge Hansbury recused himself and expressly directed you "to assign this matter to another judge of the White Plains City Court".

You appeared to concede that you had made no such assignment – and that no White Plains City Court judge had instructed that you send your May 30, 2008 notices to the parties, requiring their appearance for a June 30, 2008 trial. You told me that Judge Friia would be the trial judge for the case, but that this was simply because she was scheduled to preside on June 30, 2008 as part of standard rotation, not because you had assigned the case to her prior thereto or because she had thereafter instructed you to notice the case for trial.

I told you that Ms. Rodriguez would not provide me with a copy of the docket in the case, claiming that the City Court Clerk's Office did not have any docket recording the papers filed and judicial or administrative actions taken. You did not contradict same or furnish me with a copy.

As discussed, a docket should reflect whether Judge Hansbury's January 29, 2008 decision & order was entered by the Clerk's Office and whether my adversary filed a notice of entry, with an affidavit of service upon me. I received from him no notice that the January 29, 2008 decision & order had been entered and saw none in the court file which Ms. Rodriguez belatedly produced for me following my complaint to you as to her initial deficient production of what she had purported to be the file. Consequently, and consistent with the notice appearing on the face of Judge Hansbury's January 29, 2008 decision<sup>1</sup>, my time has not begun to run. Likewise my time for reargument and renewal has not begun to run.

If you do not rescind your May 30, 2008 trial notice based on your failure to assign this case to "another judge of the White Plains City Court", as directed by Judge Hansbury's January 29, 2008 decision, and your corresponding failure to await that judge's instructions, I request that you bring this letter and my accompanying letter to Judge Friia so that she can exercise her authority both as trial judge and Chief Judge of White Plains City Court to strike your trial notice and take further appropriate action. This includes transferring the case from White Plains City Court based on the record and the additional facts known to her bearing upon the appearance that neither she nor the Court are a fair and impartial tribunal. Should she disagree that transfer is the appropriate course, her obligation is to disclose the disqualifying facts known to her, pursuant to §100.3F of the Chief Administrator's Rules Governing Judicial Conduct. Absent same and her failure to strike the trial notice, I will present such facts as I know to support an order to show cause to stay the June 30, 2008 trial pending determination of my formal motion for the following relief:

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<sup>1</sup> Such notice on the decision, prominently affixed alongside the case title, states: "TO COMMENCE THE STATUTORY TIME PERIOD FOR APPEALS AS OF RIGHT (CPLR 5513[a]) YOU ARE ADVISED TO SERVE A COPY OF THIS ORDER, WITH NOTICE OF ENTRY, UPON ALL PARTIES."

(a) to disqualify her and White Plains City Court for actual bias and interest pursuant to §100.3E of the Chief Administrator's Rules Governing Judicial Conduct and Judiciary Law §14 and to transfer this proceeding to another Court to ensure the appearance and actuality of impartial justice – and, if denied, for disclosure pursuant to §100.3F of the Chief Administrator's Rules Governing Judicial Conduct of facts bearing on the Court's impartiality;

(b) vacating Judge Hansbury's January 29, 2008 and October 11, 2007 decisions & orders based on his without-explanation recusal, arising from the record of my November 9, 2007 order to show cause to disqualify him for actual bias and interest;

(c) for reargument of Judge Hansbury's January 29, 2008 decision & order pursuant to CPLR §2221 and, upon the granting of same, vacating its denial of the substantive relief sought by my November 9, 2007 order to show cause;

(d) for findings of fact and conclusions of law as to my entitlement to dismissal of the Petition and summary judgment on my Counterclaims based on the record of my September 5, 2007 cross-motion and November 9, 2007 order to show cause – no such findings of fact and conclusions of law having been made by the October 11, 2007 and January 29, 2008 decisions & orders<sup>2</sup>;

Alternatively, if all the foregoing relief is denied, for a stay pending determination of my appeal thereof – and of Judge Hansbury's January 29, 2008 decision & order – to the Appellate Term of the Appellate Division, Second Department.

I would appreciate your response as soon as possible, and likewise a response from Judge Friia, so that I may know how to proceed.

Thank you.

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<sup>2</sup> It must be noted that petitioner filed no answer to my four Counterclaims (CPLR §3019(d), CPLR §402). Such Counterclaims not only contain specific factual allegations, but incorporate the highly particularized factual allegations of my ten Affirmative Defenses.

June 13, 2008

Very truly yours,

A handwritten signature in black ink, appearing to read 'Elena Ruth Sassower', with a long horizontal flourish extending to the right.

ELENA RUTH SASSOWER, *Pro Se*

Enclosure

cc: Leonard Sclafani, Esq.  
(also enclosing Ms. Rodriguez' June 9, 2008 letter to me,  
as it did not indicate that she was sending a copy to him)