

Respondent's  
November 26, 2007  
opposing affidavit

58. Such consolidation must also be denied because Mr. Sclafani's reason for so-moving is false. As stated by his ¶44, he seeks consolidation only:

"...to the extent that [the] Court does not determine to abide the request of petitioner in his original motion for the Court separately to adjudicate the pending cases forthwith."

As set forth at ¶11 herein, there is NO such request in the "original motion", made by Mr. Sclafani on Mr. McFadden's behalf. Indeed, it was only after my September 5, 2007 cross-motion affidavit highlighted (at ¶155) the summary judgment posture of Mr. McFadden's case #651/89 against me and my mother, that Mr. Sclafani included in his September 5, 2007 opposing/reply affirmation a request for summary judgment in that case, in his closing paragraphs, ¶¶45-54. Although the deceptions of these paragraphs were meticulously chronicled by ¶¶54-79 of my September 11, 2007 reply affidavit – and are so-summarized by ¶¶23-30 of my instant motion – Mr. Sclafani blithely repeats them here.

59. In the interest of judicial economy, I refer the Court to what I particularized at ¶¶64-78 of my September 11, 2007 affidavit rebutting, *inter alia*, Mr. Sclafani's reiterated deceit in ¶¶45-47 of his instant affirmation that "all of the papers" have been submitted with respect to the still-pending judgment motion in #651/89 and that the loss that I and my mother suffered in the federal case settles Mr. McFadden's summary judgment entitlement.

60. Suffice to say that ¶63 of my September 11, 2007 reply affidavit pointed out that Mr. Sclafani had provided NO legal authority as to how to activate long-dormant proceedings, involving additional parties. I stated:

"surely it cannot be done summarily – let alone by the summary granting of a 14-year old summary judgment motion therein – without a formal motion made under the index number of such proceedings, giving notice to the affected parties. Such affected parties would be my mother, a respondent in open proceeding 651/89, and the Co-Op, the petitioner in open proceedings 434/88 and 500/88."


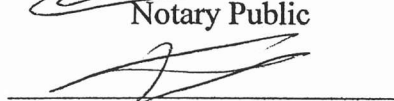
61. Mr. Sclafani still provides NO legal authority in pressing for the Court to render summary judgment in #651/89, without notice to the parties therein – much as he provides no legal authority for purporting to move for consolidation, without notice to the parties in the to-be-consolidated cases he does not even specify.

\* \* \*

WHEREFORE, the demonstrated perjury, deceit, and fraud that pervades the cross-motion of Leonard A. Sclafani, Esq., on behalf of petitioner John McFadden, mandates that it be denied, with imposition of maximum costs and sanctions against both Mr. Sclafani and Mr. McFadden, pursuant to 22 NYCRR §130-1.1 *et seq.*, with referral of Mr. Sclafani to disciplinary authorities for his substantial violations of New York's Disciplinary Rules of the Code of Professional Responsibility (*inter alia*, 22 NYCRR §1200.3(a)(4) and §1200.33(a)(5)) and referral of him and his complicit client to criminal authorities for violation of Penal Law §210.10 and other applicable provisions pertaining to perjury and "deceit or collusion, with intent to deceive the court or any party" (Judiciary Law §487).<sup>12</sup> Such cross-motion does not constitute opposition, *as a matter of law*, to respondent's motion underlying her order to show cause, but, rather, *as a matter of law*, reinforces her showing of entitlement to the relief sought.

  
ELENA RUTH SASSOWER

Sworn to before me this  
26<sup>th</sup> day of November 2007

  
Notary Public  


LAURA MARJI  
Notary Public, State of New York  
No. 01MA6049278  
Qualified in Westchester County  
Commission Expires Oct 10, 2010

<sup>12</sup> See ¶¶185-189 of my September 5, 2007 cross-motion affidavit.