

1 CITY COURT : CITY OF WHITE PLAINS  
2 COUNTY OF WESTCHESTER : STATE OF NEW YORK  
3 -----X  
4 16 LAKE STREET OWNERS, INC.,

PETITIONER,

- against -

JOHN McFADDEN, GEORGE SASSOWER and  
ELENA SASSOWER,

RESPONDENTS.

Index No.  
434/88

9 -----X  
10 -----X

11 16 LAKE STREET OWNERS, INC.,

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RESPONDENTS.

Index No.  
500/88

16 -----X  
17 -----X

18 JOHN McFADDEN,

PETITIONER,

- against -

DORIS L. SASSOWER and ELENA SASSOWER,

RESPONDENTS.

Index No.  
504/88

23 -----X

24 December 28, 1988  
25 Recusal Motion (Excerpt from  
Calendar Call)  
White Plains City Court  
White Plains, New York

Exhibit 7-9

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B E F O R E :       HON. JAMES B. REAP  
                          CITY COURT JUDGE

APPEARANCES :       ATTORNEY FOR PETITIONER  
  
                          LAWRENCE J. GLYNN, ESQUIRE  
                          Two William Street  
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ATTORNEYS FOR RESPONDENT McFADDEN  
  
                          LEHRMAN, KRONICK & LEHRMAN  
                          199 Main Street  
                          White Plains, New York   10601

BY:   GARY A. FRIEDMAN, ESQUIRE

                          GEORGE SASSOWER  
                          RESPONDENT PRO SE  
                          16 Lake Street  
                          White Plains, New York   10603

ATTORNEY FOR RESPONDENT ELENA SASSOWER  
  
                          PETER J. GRISHMAN, ESQUIRE  
                          194 Deerfield Lane No.  
                          Pleasantville, New York   10570

ATTORNEY FOR RESPONDENT DORIS SASSOWER  
  
                          ELI VIGLIANO, ESQUIRE  
                          50 Main Street  
                          White Plains, New York   10606

Kathleen Kelly  
Court Reporter

1                               - P R O C E E D I N G S -

2                   MR. SASSOWER:    You don't have my  
3                   motion papers that I know of.

4                   THE COURT:        Case closed.    I  
5                   have motions fully submittted,   I have to  
6                   decide.

7                   MR. VIGLIANO:    One, your Honor,  
8                   erroneously, the record said "your wife",  
9                   his former wife was the applicatnt of  
10                  the apartment.   She is no longer his wife.  
11                  And two, your Honor, Mrs. Sassower, based  
12                  upon a ruling you made in July of 1986 in  
13                  which you recused yourself from hearing a  
14                  matter in which she was involved as a  
15                  party, had anticipated that, aside from  
16                  any of this original argument made with  
17                  respect to the proceedings brought against  
18                  her, I believe she had expected that you  
19                  would likewise, if a motion were made  
20                  to recuse yourself from hearing the case  
21                  in which she is involved, similarly, and  
22                  if not, she wants to renew the application.

23                  I would respectfully request, since  
24                  she is an attorney, that she make that  
25                  application with her own mouth.

1  
2 MRS. SASSOWER: Well, your Honor,  
3 as you recall, there was a case before you  
4 in which I was a party-defendant, wherein  
5 your Honor made various rulings on the  
6 basis of which, and other conduct complained  
7 of by me, I moved to recuse your Honor,  
8 and ultimately your Honor did disqualify  
9 himself from hearing the matter further.

10 That case, as your Honor knows,  
11 was pending for some time in the Appellate  
12 Term on appeal from the dispositions that  
13 were rendered in this Court, and resulted  
14 in a reversal of the judgments of convic-  
15 tions that were issued out of this Court-  
16 house.

17 The decision made it clear that the  
18 conduct of that matter was a wrongful injury  
19 to me by reason of the improper exercise of  
20 jurisdiction by this Court of matters which  
21 were not criminal under any stretch of the  
22 imagination or law, and in fact, they  
23 unanimously reversed the matter on the law  
24 and the facts and remitted all penalties  
25 and did not send it back for a new trial

1 but dismissed it absolutely. That  
2 served -- that conviction was, unfor-  
3 tunately, used against me in various  
4 ways, as this Court knew it would, in  
5 disciplinary proceedings that were brought  
6 against me and used by others, third  
7 parties, including this board, which,  
8 long after the facts, long after the  
9 facts --  
10

11 MR. SASSOWER: May I be excused?

12 THE COURT: Yes.

13 MR. SASSOWER: Thank you.

14 MRS. SASSOWER: -- wrongful approval  
15 of our application, sought to justify it by  
16 making references to this wrongful convic-  
17 tion that I suffered in this Courthouse and  
18 sought to retaliate against my daughter for  
19 that, as well as for conduct of Mr. Sassower,  
20 which was not substantiated in any way. As  
21 a result, I have, and my family has been  
22 caused to suffer needless injury; all of which  
23 will be the subject of further action and re-  
24 view at a later time.

25 Under those circumstances, it would

1  
2 be certainly improper in the extreme for  
3 your Honor or Judge Holden, who was the  
4 presiding judge of my case after your  
5 Honor did, in fact, recuse himself, to  
6 assert any jurisdiction over matters in-  
7 volving me or members of my family. I  
8 don't believe that any reasonable person  
9 would feel that your Honor could, or Judge  
10 Holden could review any matter before you  
11 with the kind of detached impartiality  
12 which the law exacts from one who is going  
13 to adjudicate any matter before him, and  
14 therefore, I respectfully ask that your  
15 Honor consider this application for re-  
16 cusal, and if, on the remote chance that  
17 this case would receive any disposition  
18 other than a deferral to the Federal Court  
19 by reason of the discrimination action  
20 there pending, if any other jurisdiction  
21 whatsoever is asserted by this City Court  
22 over the matter, then I would ask that it  
23 be referred to another Judge outside the  
24 City Court of the City of White Plains for  
25 such adjudication.

1  
2 MR. FRIEDMAN: Since this affects  
3 my matter with Mr. McFadden, I would ob-  
4 ject to your Honor recusing himself. I  
5 have heard no facts that would give rise  
6 to your recusal.

7 THE COURT: Just the fact I  
8 recused myself, that's all there is in  
9 the case, from the criminal matter.

10 MRS. SASSOWER: I will produce a  
11 copy of the minutes from that proceeding,  
12 and I would like to sum up.

13 MR. FRIEDMAN: I don't know why  
14 you recused yourself in the original matter,  
15 but I don't see any reason for you to recuse  
16 yourself right now.

17 We have five or six cases going on  
18 now; if you recuse yourself in this one case  
19 you would have to recuse yourself in all  
20 six cases and we would have to start from  
21 ground zero with the new judge.

22 You have made decisions against my  
23 law firm also overturned, and I guess against  
24 other law firms, against my clients, also.  
25 That's just the state of the law. The fact

Judge Holden made an adverse decision --

THE COURT: He didn't.

MR. FRIEDMAN: That's what she said.

THE COURT: She was unanimously convicted by a jury of her peers. The Appellate Term reversed the conviction stating there was an honest dispute about a bill and it never should have gone to a criminal trial, and that basically was the District Attorney's decision, not a Judge's decision.

MR. FRIEDMAN: That gives more credence.

THE COURT: It was reversed by the Appellate Term in the exercise of wisdom and mercy, they did not want to see a lawyer have this kind of conviction on her record.

MRS. SASSOWER: If anything shows your bias, it's that statement. It was reversed on the law and the facts, not in the interest of mercy, because it is not a crime to question a bill on the part of my host for that evening. It is not yet a crime in



America for a man to question a bill,  
and my bill was -- my portion of the  
bill was paid, as Judge Holden was made  
aware, plus I made a 440 motion. Judge  
Holden was given ample evidence law and  
facts and reasons and arguments, which  
would have, if he had not been trying to  
whitewash the City of White Plains and  
the police department and everybody  
connected with that prosecution, that was  
the time he could have, in his neutral,  
impartial adjudication, could have rectified  
the error made by the jury, when he errone-  
ously submitted that non-crime to a jury.

THE COURT: Translation, your  
problem is with him, not me.

MR. VIGLIANO: Exactly, your Honor.

MR. FRIEDMAN: That's why your Honor  
should not recuse himself.

MRS. SASSOWER: As your Honor patently  
forgets, there is ample application in my re-  
quest for recusal recorded in stenographic  
minutes, and if necessary, I will submit a  
copy to document, if your Honor needs that

1 - Motion -

-8-

2 reminder of all the reasons that went into  
3 it and all of the many rulings your Honor  
4 made that were abusive of discretion, as  
5 were all the rulings of Judge Holden abusive  
6 of discretion.

7 THE COURT: Motion to recuse my-  
8 self is denied.

9  
10 (Whereupon recusal motion portion of this proceeding  
11 was concluded.)

12 \* \* \*

13  
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15  
16  
17  
18 I hereby certify the foregoing to be a true  
19 and correct transcript of the within proceeding.

20 In witness whereof, I set my hand this 2nd  
21 day of February, 1989.

22 Kathleen Kelly

23 Kathleen Kelly, Court Reporter  
24  
25