

Elena Ruth Sassower

16 Lake Street, Apt. 2C
White Plains, New York 10603

E-Mail: elenaruth@aol.com

Tel. (914) 949-2169
Fax (914) 428-4994

BY HAND

August 28, 2007

White Plains City Court
77 South Lexington Avenue
White Plains, New York 10601

ATT: Lynn Ward, Deputy Clerk

RE: Ordering the transcript of proceedings on August 27, 2007 in
McFadden v. Sassower, White Plains City Court #SP-1502/07

Dear Ms. Ward,

This is to confirm my request, made yesterday afternoon by phone, to place an order for the transcript of yesterday morning's proceedings in the above-entitled landlord-tenant matter, at which Judge Hansberry presided (approximately 9:50 a.m.).

You stated you could not give me the stenographer's name or telephone number and that I would have to put my request in writing. This is that writing.

Please ask the stenographer to contact me directly as soon as possible as to the estimated cost and when the transcript will be ready for pick up. In the meantime, a \$40 check is enclosed to get the job started.

Thank you.

Very truly yours,

Elena Ruth Sassower

ELENA RUTH SASSOWER
16 LAKE STREET, APT. 2C
WHITE PLAINS, NY 10603-3832

1-8-168
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75345898

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DATE 8/28/07

PAY TO THE
ORDER OF

Forty Dollars & No Cents

\$ *40*⁰⁰/₁₀₀

DOLLARS

citibank

CITIBANK, N.A. BR. #168
444 MAMARONECK AVENUE
WHITE PLAINS, NY 10605

MEMO *SP-1502/07*

Elena Ruth Sassower

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EXCC-1

CITY OF WHITE PLAINS
COUNTY OF WESTCHESTER, STATE OF NEW YORK

-----X

JOHN MCFADDEN,

Petitioner

- against -

#SP-1502/07

ELENA RUTH SASSOWER,

Respondent.

-----X

77 S. Lexington Avenue
White Plains, New York
August 27, 2007
10:05 a.m.

B e f o r e : HON. BRIAN HANSBURY,
City Court Judge

LEONARD A. SCLAFANI, ESQ.
Attorney for Petitioner
18 East 41st Street, 15th Floor
New York, New York 10017

ELENA RUTH SASSOWER, Respondent, Pro Se
16 Lake Street, Apt. 2C
White Plains, New York 10603

By: Katherine T. Mannon
Court Reporter

EX CC-2

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THE CLERK: McFaddon versus Sassower.

THE COURT: Motion.

THE COURT: Appearances, please.

MR. SCLAFANI: Leonard A. Sclafani, 18
East 41st Street, 15th Floor, New York, New York
10017.

THE COURT: You are Miss --

MS. SASSOWER: Elena Sassower, 16 Lake
Street, Apt. 2C, White Plains, New York 10603.

THE COURT: We have here a Notice of
Motion returnable --

MR. SCLAFANI: Today, Judge.

THE COURT: Today.

MS. SASSOWER: Served on Friday.

THE COURT: Hold on. Hold on. Let me
just make sure. Yes, returnable today. Ms.
Sassower, have you filed a response to this?

MS. SASSOWER: This motion was served on
me on Friday. I would like to know what are the
rules governing time.

THE COURT: I'm not here to advise you of
the rules.

Have you filed the motion, or do you need
time to file?

MS. SASSOWER: Exactly, Your Honor.

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1 THE COURT: Exactly what?

2 MS. SASSOWER: It was short-served, Your
3 Honor, and there was no legal authority that
4 would permit such service.

5 THE COURT: Okay, well, you can put that
6 in your papers.

7 MS. SASSOWER: Absolutely, Your Honor.

8 THE COURT: Okay?

9 MS. SASSOWER: It should be rejected and
10 renoticed.

11 THE COURT: Well, I'm not going to require
12 that. That would require me now to look at this
13 and prejudge this, and I refuse to do that.

14 MS. SASSOWER: Okay.

15 THE COURT: I want to see what you have to
16 say.

17 MS. SASSOWER: Thank you, Your Honor.

18 THE COURT: How about, can you be back
19 here and file it by the 5th of September?

20 MS. SASSOWER: I would request two weeks,
21 please. It's a substantial --

22 MR. SCLAFANI: May I suggest -- may I be
23 heard?

24 THE COURT: Certainly.

25 MR. SCLAFANI: We were here on July 16th

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1 last on this holdover proceeding.

2 THE COURT: Right.

3 MR. SCLAFANI: Petitioner came with
4 counsel, who made the initial appearance on her
5 behalf, but then she discharged counsel in the
6 middle of the morning's proceedings and said she
7 would proceed pro se.

8 THE COURT: Okay.

9 MR. SCLAFANI: She asked for an
10 adjournment, and she was granted a brief
11 adjournment, but she wanted more time.

12 The Judge, after a lengthy discussion,
13 granted her until the 29th of July. I asked
14 that it be put on for that specific day, that I
15 get papers served -- I'm sorry, it wasn't put on
16 for that day. It was put on for papers to be
17 served on a motion for that counsel which she
18 said she already prepared and served on the
19 Judge so that I would have received them on or
20 before July 29th because I was leaving for
21 vacation, and I needed time to put in papers.
22 They didn't come until August 20th.

23 There was a letter from counsel following
24 the Court's ruling asking for an adjournment
25 until August 20th. I have no knowledge that it

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1 was granted, but it may have been. I looked at
2 the file on Friday.

3 THE COURT: What counsel wrote the letter?

4 MR. SCLAFANI: I'm sorry?

5 THE COURT: What counsel requested --

6 MR. SCLAFANI: Ms. Sassower.

7 THE COURT: Herself?

8 MR. SCLAFANI: Right. She requested it
9 herself by a letter.

10 THE COURT: Okay, and I opposed that
11 request, and as far as I know, that request was
12 never granted.

13 MR. SCLAFANI: One of the items of the
14 motions before you is a motion for a default
15 judgment. On Friday, I looked at the file. I
16 note that there is a handwritten indication that
17 perhaps the Judge granted that application, but
18 that left me on the 22nd, or Thursday night.
19 Late Thursday evening, we received an answer
20 with several counterclaims, and that left me
21 with three days -- left me with one day if I was
22 going to make this motion. I made the motion
23 within that time.

24 THE COURT: Right.

25 MR. SCLAFANI: One of the Judge's rulings

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1 was that the answer be filed or the motion be
2 made by the 29th of July regarding the
3 Respondent's use and occupancy. We had accepted
4 use and occupancy for June and July. August was
5 coming up. She claimed that she had sent
6 checks. We told her that they were returned to
7 her. We told the Judge they were returned to
8 her. The Judge directed her the pay.

9 Again, she wrote a letter to the Court and
10 she said, "Well, it's going to cost me \$60 to
11 stop payment on those checks, and I want to
12 deduct the \$60." And as far as I know, there's
13 nothing in the file. The Judge never granted
14 that. So Respondent didn't pay the use and
15 occupancy for July and June.

16 We did receive use and occupancy for
17 August coupled with a letter that indicates
18 deductions and the like that I was forced to
19 respond to. If the Court is going to grant any
20 further adjournments of the Respondent's time,
21 she needs to tender that use and occupancy
22 immediately.

23 Now, otherwise, I request that these
24 proceedings be most expeditiously handled
25 because my client isn't receiving the use and

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1 occupancy, and they've already been delayed for
2 some extensive period of time.

3 THE COURT: Have you paid the money?

4 MS. SASSOWER: I have indeed, Your Honor.
5 I sent the checks, two checks. Notwithstanding,
6 I was thereafter served with a petition that
7 falsely claimed that no part of the use and
8 occupancy had been received. That was false,
9 and it was so established in court on the 16th,
10 the return date of the petition.

11 At that time, I represented myself. There
12 was never counsel representing me. I had
13 counsel coming in to assist me. I represented
14 myself, and I requested an adjournment of time
15 to answer the petition, which was granted to
16 July 27th. On July 26th, I wrote a letter to
17 the Court --

18 THE COURT: No, I don't -- okay. All I
19 asked you was if you paid the money, and you
20 said you did; right?

21 MS. SASSOWER: The answer as conceded
22 here, I paid August. I also paid June and July
23 which was returned, allegedly. It has never
24 been received by me. I put that forth in a
25 letter to the Court dated July 20th because when

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1 I went to the bank, I was told that it would
2 cost \$30 a piece to stop the checks which I had
3 sent, and the petition falsely claimed that they
4 had not been received when they had been.

5 It is --

6 THE COURT: But Miss -- okay. Wait, thank
7 you. All right. That's all I wanted to know.
8 You said you paid it.

9 MR. SCLAFANI: No, she didn't say that.

10 THE COURT: I understand. She said she
11 sent it back. This is what we're going to do, all
12 right?

13 MS. SASSOWER: Yes, Your Honor.

14 THE COURT: This matter is adjourned for
15 any and all response to September 6th and must
16 be served upon him no later than September 5th.
17 We're going to be back here on September 6th.
18 This is contingent upon you providing the Court
19 with proof that you paid for use and occupancy.

20 MS. SASSOWER: Use and occupancy for when?

21 THE COURT: Excuse me?

22 MS. SASSOWER: Use and occupancy for when?

23 THE COURT: The time disputed.

24 MS. SASSOWER: I have.

25 THE COURT: Okay, then, there's no

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1 problem. Show us the proof. Show us the proof.

2 See you on the 6th.

3 MS. SASSOWER: Your Honor, I have a couple
4 of others matters, please.

5 THE COURT: No, you don't.

6 MS. SASSOWER: I have a cross motion.

7 THE COURT: Miss, you have no other
8 matters here. There's a motion that you've
9 asked for time to respond. I've given you time
10 to respond. You must serve him by the 6th.
11 Thank you. See you then.

12 MS. SASSOWER: Your Honor, is it possible
13 to have two weeks time?

14 THE COURT: No.

15 MS. SASSOWER: I have other matters that
16 need my attention.

17 THE COURT: Well, then focus on this one,
18 and get this done first. See you on the 6th.
19 Thank you, Miss. Thank you, Sir.

20 MS. SASSOWER: May I have a copy of the
21 transcript, please? Do you have a card?

22 THE COURT: Miss, step back. Step back.

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Certified to be a true and
accurate transcription of the stenographic
notes.

Katherine T. Mannon
Katherine T. Mannon