

CITY COURT OF WHITE PLAINS: STATE OF NEW YORK
COUNTY OF WESTCHESTER

FILED
CITY COURT OF
WHITE PLAINS, N.Y.
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JOHN McFADDEN,

Petitioner,

Index #651/89

-against-

Respondents'
Affidavit

DORIS L. SASSOWER and ELENA SASSOWER,

Respondents.
-----x

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

DORIS L. SASSOWER and ELENA RUTH SASSOWER, being duly sworn, depose and say:

1. This Affidavit is submitted by the above-named Respondents in support of their application for an extension of time to answer Petitioner's motion for summary judgment herein and for reargument and renewal of the Decision/Order of Hon. James Reap, dated December 30, 1992.

2. Respondents are presently engaged in the preparation of a Petition for a Writ of Certiorari to the United States Supreme Court in the federal action involving the subject premises. That federal action, under the Fair Housing Act¹, was commenced with the Petitioner herein, who was a co-plaintiff with Respondents.

3. Respondents are proceeding pro se on their Writ

¹ It may be noted that the NAACP Legal Defense and Educational Fund appeared as amicus curiae before the Circuit Court of Appeals.

EX 2-4

application, which was originally due to be filed by December 24, 1992. Because of the complexity of the issues² and Respondents' lack of familiarity with the technical requirements of such applications, Respondents applied for and were granted two extension requests to enable them to complete and file their Writ. Accordingly, Respondent's deadline is now February 22, 1993 by Order of Hon. Clarence Thomas, Circuit Justice for the Second Circuit. Such date represents a final deadline.

4. Respondents are, likewise, pro se in this City Court proceeding, which had been stayed since 1989 to await the outcome of the federal action. That stay was granted by Judge Reap himself--a fact which his December 30, 1992 Decision/Order appears to have overlooked.

5. The federal action has not been concluded--and will not be concluded until all appellate remedies are exhausted, i.e., until the U.S. Supreme Court makes a final disposition of Respondents' "Cert" application.

6. Obviously, after a three-year freeze by this Court on its proceedings herein, it would be precipitous and a waste of judicial resources to proceed during the relatively short period necessary for the U.S. Supreme Court to act on Respondents' Petition for Certiorari.

7. As shown by the papers on this motion, there is no

² The seriousness of those issues can be gauged from Respondents' Petition for Rehearing in the Circuit Court, annexed as Exhibit "A" to their November 11, 1992 Affidavit to this Court.

claim of any prejudice to the Petitioner herein resulting from a continuation of the stay granted by Judge Reap in this matter more than three years ago.

8. Under the foregoing facts and circumstances, it would be contrary to judicial economy, as well as the interests of justice to proceed herein by requiring Respondents to proceed at this point. If Respondents' reasonable request to await the outcome of the Supreme Court's disposition is not granted on reargument and renewal--for which no reasons have been stated by Judge Reap--Respondents ask that their time be extended to at least 30 days after their February 22, 1993 filing deadline.

9. Due to the death of Peter Grishman, Esq., their prior counsel in this proceeding, Respondents--if not granted the aforesaid adjournment--would be required to engage other counsel because of their present inability, as hereinabove set forth, to proceed pro se.


10. Respondents take this opportunity to seek reconsideration of the denial of their request for sanctions and, if denied, that a statement of reasons for such denial be provided for appellate review. Such misconduct by adverse counsel--which has been appropriately detailed in Respondents' papers³--and was uncontroverted by any factual counterproof--entitles Respondents, as a matter of law, to the sanction relief

³ Those papers include Respondents': (a) November 11, 1992 Affidavit; (b) November 25, 1992 Affidavit; (c) December 16, 1992 Affidavit. This Court's attention is also respectfully drawn to Respondents' (d) December 16, 1991 Affidavit.

sought, including dismissal of the proceeding before this Court. Such would be in the interest of both judicial economy and justice.

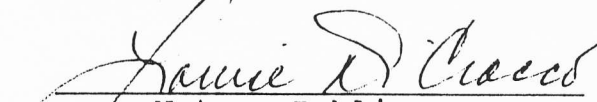
11. Finally, as has been previously noted, this proceeding is jurisdictionally defective for a number of reasons, and Respondents do not waive their jurisdictional or other objections.

WHEREFORE, it is respectfully prayed that reargument and renewal of Respondents' application for adjournment be granted, and on such reargument and renewal, that Petitioner's summary judgment motion be adjourned, sine die, to await the outcome of Respondents' application for a Writ of Certiorari to the U.S. Supreme Court; and, in the event the aforesaid relief is denied, that an adjournment of at least 30 days from February 22, 1993 be granted to permit Respondents to prepare and file their response thereto.


DORIS L. SASSOWER


ELENA RUTH SASSOWER

Sworn to before me this
19th day of January 1992


Notary Public

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

Dec 10, 1994