SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE TERM: NINTH & TENTH JUDICIAL DISTRICTS

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JOHN McFADDEN,

Respondent,

#2008-1427-WC
#2009-148-WC

-against-

Notice of Motion for Disqualification of Justice Denise F. Molia & Other Relief

DORIS L. SASSOWER,

Respondent,

ELENA SASSOWER,

Appellant.

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PLEASE TAKE NOTICE that upon the annexed affidavit of appellant *pro se* ELENA SASSOWER, sworn to on January 2, 2010, the exhibits annexed thereto, and upon all the papers and proceedings heretofore had herein, appellant ELENA SASSOWER will make a motion at the Appellate Term of the Supreme Court of the Second Judicial Department (Ninth & Tenth Judicial Districts) at 141 Livingston Street, Brooklyn, New York 11201 on January 20, 2010 at 10:00 a.m., or as soon thereafter as the parties or their counsel can be heard, for an order:

1. disqualifying Justice Denise F. Molia from the above-captioned two appeals (White Plains City Court #SP-651/89, #SP-2008-1474) and from the two appeals in *John McFadden v. Elena Sassower*, #2008-1433-WC; #2008-2428-WC (White Plains City Court #SP-1502/07), for demonstrated actual bias and interest pursuant to §100.3E of the Chief Administrator's Rules Governing Judicial Conduct and Judiciary Law §14 based, *inter alia*, on her participation as a judge on the Appellate Term panels that rendered the undated [October 1, 2008], November 26, 2008, and June 22, 2009 decisions and orders on appellant's prior motions

herein and her conduct at the December 16, 2009 oral argument of these four appeals and, if denied, disclosure by her, pursuant to §100.3F of the Chief Administrator's Rules Governing Judicial Conduct, of facts bearing upon her fairness and impartiality;

2. determining, with factual findings and conclusions of law, the issues presented as dispositive by appellant's prior motions, but not identified, let alone adjudicated, by the Court's undated [October 1, 2008], November 26, 2008, and June 22, 2009 decisions and orders;

3. directing a subpoena to White Plains City Court Clerk Patricia Lupi for:

> (a) the specific documents and/or entries in the files and records of the White Plains City Court which formed the basis of her alleged representation to White Plains City Court Judge Jo Ann Friia that only #SP-651/89 was open, but not #SP-434/88 (*16 Lake Street Owners, Inc. v. John McFadden, George Sassower and Elena Sassower*); #SP-500/88 (*16 Lake Street Owners, Inc. v. John McFadden, George Sassower and Elena Sassower*), or #SP-652/89 (*John McFadden v. George Sassower*) – and upon which Judge Friia asserted she was relying in purporting to consolidate only #SP-651/89 with #SP-1502/07 (*John McFadden v Elena Sassower*);
>
> (b) all documents and/or entries in the files and records of the White Plains City Court pertaining to her opening a new index number for #SP-651/89, *to wit*, #SP-2008-1474, and especially, reflecting the date, the reason for doing so, at whose instance it was done, and what notice, if any, was given to the parties;
>
> (c) an explanation for her failure to respond to appellant's August 22, 2008 letter to her, including its itemization of the deficiencies of her Clerk's Returns on Appeals for #SP-651/89 and #SP-1502/07.

4. imposing maximum costs and sanctions against Leonard A. Sclafani, Esq. and his client John McFadden and against Assistant Solicitor General Diana R.H. Winters and her client White Plains City Court Clerk Patricia Lupi, as well as against supervising attorneys in the Attorney General's Office, pursuant to this Court's Rule §730.3(g) and referring them to disciplinary and criminal authorities, consistent with this Court's mandatory "Disciplinary Responsibilities" under §100.3D(2) of the Chief Administrator's Rules Governing Judicial

Conduct, for conduct before this Court that is both frivolous and fraudulent, as demonstrated by appellant's reply briefs and by this motion.

5. for such other relief as may be just and proper, including:

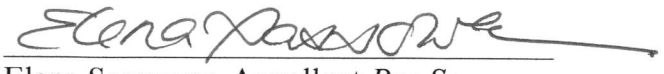
(a) referring the Appellate Term's court attorneys who handled appellant's three prior motions and/or are now handling appellant's four appeals to appropriate authorities for investigation and dismissal, consistent with the Court's mandatory "Administrative Responsibilities" and "Disciplinary Responsibilities" under §100.3C(2) and §100.3D(2) of the Chief Administrator's Rules Governing Judicial Conduct;

(b) disclosing the names of such court attorneys, and, if denied, disclosing whether the court attorneys who handled appellant's prior motions are the same as those now handling her appeals;

Pursuant to CPLR §2214(b), answering papers, if any, are required to be served at least seven days prior to the January 20, 2010 return date.

Dated: January 2, 2010
Southampton, New York

Yours, etc.



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TO: Leonard A. Sclafani, Esq.
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New York State Attorney General Andrew M. Cuomo
Attorney for Non-Party White Plains City Court Clerk Patricia Lupi
ATT: Assistant Solicitor General Diana R.H. Winters
120 Broadway, 25th Floor
New York, New York 10271

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE TERM: NINTH & TENTH JUDICIAL DISTRICTS

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JOHN McFADDEN,

Respondent,

#2008-1427-WC
#2009-148-WC

-against-

Affidavit in Support of Motion for Disqualification of Justice Denise F. Molia & Other Relief

DORIS L. SASSOWER,

Respondent,

ELENA SASSOWER,

Appellant.

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

ELENA RUTH SASSOWER, being duly sworn, deposes and says:

1. I am the appellant in the above-captioned two appeals (White Plains City Ct. #SP-651/89; #SP-2008-1474) and in the two appeals in *John McFadden v. Elena Sassower*, #2008-1433-WC, #2008-1428-WC (White Plains City Ct. #SP-1502/07), in which oral argument was had on December 16, 2009 before Associate Justice Denise F. Molia and newly-appointed Associate Justice Angela G. Iannacci – Presiding Justice Francis A. Nicolai having recused himself, *sua sponte*, upon the call of my appeals.

2. This affidavit is submitted in support of my accompanying notice of motion whose threshold relief – the disqualification of Justice Molia for demonstrated actual bias and interest – is reinforced by her conduct at the oral argument. Likewise, the necessity of the motion's other relief is reinforced by the oral argument.

3. A videotape of the oral argument would convincingly substantiate this motion.[1] None is available, however, as this Court does not record the oral argument because it is not a "court of record" (Exhibits A-1, A-2).

4. There are, however, many witnesses to the oral argument, including witnesses with sufficient background and knowledge of these appeals to have been able to understand what was happening: this Court's Chief Clerk, Paul Kenny, who was physically present at the front of the courtroom, and this Court's court attorneys to whom the oral argument was televised live, reflective of their behind-the-scenes role in handling the appeals.

5. Although upon entering the courtroom with the other justices, Presiding Justice Nicolai made an opening statement that they had read the briefs, were familiar with the facts of the appeals, and that those arguing should direct themselves to the law, I do not believe that either Justice Molia or Justice Iannacci had read my briefs or knew the facts, law, and legal argument they present – all undenied and undisputed in the record before them. Certainly, no fair and impartial tribunal, having read my appellant and reply briefs and having determined based thereon that my four appeals are unopposed, as *a matter of law*, would allow Leonard A. Sclafani, Esq., counsel for John McFadden, and Assistant Solicitor General Diana R.H. Winters, counsel for non-party White Plains City Court Clerk Patricia Lupi, to appear before it without answering for their flagrant litigation misconduct which I had particularized – including their

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[1] It would also reflect Leonard Sclafani's admission, in response to questioning, that there "never was a tenancy" – thereby conceding one of my Affirmative Defenses to Mr. McFadden's petition in #SP-651/89 and my Third Affirmative Defense to Mr. McFadden's petition in #SP-1502/07, entitling me to dismissal of both petitions for lack of subject matter jurisdiction.

flagrant litigation misconduct before this Court, as demonstrated, with virtual line-by-line precision, by my three reply briefs (Exhibits B-2, C-2, D-2)[2].

6. Indeed, no fair and impartial tribunal would have allowed either Mr. Sclafani or Assistant Solicitor General Winters to argue appeals #2008-1427-WC and #2009-148-WC: Mr. Sclafani because he had filed no brief[3] and this Court expressly bars anyone who has not filed a brief from arguing, stating unequivocally in bold and capitalized type in the notice of oral argument it mails out, "You **WILL NOT** be permitted to argue unless you have filed a brief" (Exhibit E) – and Assistant Solicitor General Winters because, as set forth in the "Introduction" and "Conclusion" of my reply brief (Exhibit D-2), her representation of Clerk Lupi is unauthorized, requiring rejection of her non-party brief, *as a matter of law*.

7. Nevertheless, and despite my strenuous objection on these grounds to both Mr. Sclafani and Assistant Solicitor General Winters being permitted to argue, the Court allowed them to argue, without any explanation – and without even inquiring of either of them as to my objection – or calling upon them to respond to the two documents I had first placed before the Court by my pre-appeal motions and which my

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[2] These exhibits are the "Introduction" and "Conclusion" sections of my three reply briefs on my four appeals.

[3] Mr. Sclafani's failure to file a respondent's brief for #2008-1427-WC & #2009-148-WC – notwithstanding a July 17, 2009 order of Clerk Kenny granting his letter-application for an enlargement of time to file (Exhibit D-4) – must be seen in the context of my July 16, 2009 letter to Mr. Kenny, opposing the granting of such application and detailing the fraudulence of the brief that Mr. Sclafani had sought to file on July 6, 2009, but which the Clerk's Office rejected for improper service. Annexed is my July 16, 2009 letter which, after four pages itemizing a sampling of the deceits in Mr. Sclafani's rejected brief, demonstrated that it was "NO OPPOSITION *as a matter of law*", as it did "not deny any of the facts, law, or legal argument" presented by my appellant's brief. (Exhibit D-3, pp. 8-9, underlining and capitalization in the original).

appellant's brief in #2008-1427-WC & #2009-148-WC asserted were then, as now, "dispositive" (Exhibit D-1, p. 3), furnishing the Court with additional copies:

- My July 18, 2008 order to show cause to disqualify White Plains City Court Judge Jo Ann Friia and to vacate her July 3, 2008 decision/order containing a 51-page analysis of the decision/order;[4]

- My October 10, 2008 opposition/reply affidavit containing a 12-page analysis of the cross-motion of the Attorney General that Judge Friia's October 14, 2008 decision/order thereafter granted to the extent of denying, on jurisdictional grounds, my September 18, 2008 motion to compel Clerk Lupi to provide this Court with the documents and information essential for my appeals.[5]

8. Nor do I believe that Justices Molia and Iannacci read the document "dispositive" of my appeals in #2008-1433-WC and #2008-1428-WC, so-identified by my briefs therein[6] – with a copy annexed to my reply brief in #2008-1433-WC[7]:

- my November 9, 2007 order to show cause to disqualify White Plains City Court Judge Brian Hansbury and to vacate his October 11, 2007 decision/order, containing a 30-page analysis thereof.

9. Had Justices Molia and Iannacci read these three documents – and been familiar with the record before them showing that neither Mr. Sclafani nor Assistant Solicitor General Winters denied or disputed their accuracy in any respect – they would have known that oral argument by them opposing my appeals would be an

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[4] My July 18, 2008 order to show cause is Exhibit N in the two-volume compendium of exhibits accompanying my April 17, 2009 appellant's brief in #2008-1427-WC & #2009-148-WC.

[5] My October 10, 2008 opposition/reply affidavit is Exhibit O in the two-volume compendium of exhibits accompanying my April 17, 2009 appellant's brief in #2008-1427-WC & #2009-148-WC.

[6] See my appellant's brief in #2008-1433-WC, at p. 36, as well as my reply brief therein (Exhibit B-2, at p. 1, 3); the totality of my appellant's brief in #2008-1428-WC.

[7] Exhibit C thereto.

unconscionable imposition on the Court's time and, indeed, "fraud on the court"[8]. That is, precisely, what it was.

10. For the convenience of the Court, a Table of Contents follows:

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* * *

FIRST BRANCH OF MY MOTION: JUSTICE MOLIA'S DISQUALIFICATION FOR DEMONSTRATED ACTUAL BIAS AND INTEREST

11. Following Justice Nicolai's *sua sponte* recusal, I attempted to make an oral application for Justice Molia's disqualification for demonstrated actual bias and interest based on her participation in this Court's three decisions and orders denying the

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[8] The definition of "fraud on the court" appears on page 1 of my September 2, 2008 memorandum of law in support of my August 13, 2008 vacatur/dismissal motion, quoting from Black's Law Dictionary (7th ed. 1999):

> "A lawyer's or party's misconduct in a judicial proceeding so serious that it undermines or is intended to undermine the integrity of the proceeding."

prior motions I had made to obviate the appeals and ensure the integrity of the appellate record. Justice Molia's response was immediate and intensely hostile. After initially purporting that she knew nothing about either the motions or decisions, ultimately asking if I had copies of the decisions to show her, she denied my application without disputing my assertion that no fair and impartial tribunal could render them and without requesting that I elaborate as to the particulars. Indeed, she impeded my doing so both by her anger and by telling me that further presentation on the subject would be deducted from my time to argue the appeals.

12. Justice Molia's inability to dispassionately evaluate my entitlement to her disqualification for demonstrated actual bias and interest arising from those decisions gives her an interest in not evaluating my entitlement to the disqualification of Judges Hansbury and Friia for demonstrated actual bias and interest arising from their decisions, as well as their obligation to have made disclosure, which Justice Molia also did not make. Consistent therewith, Justice Molia asked me no questions at the oral argument about my November 9, 2007 order to show cause for Judge Hansbury's disqualification or about my July 18, 2008 order to show cause for Judge Friia's disqualification. This, notwithstanding those two documents are dispositive of all four appeals, with their sufficiency in establishing the disqualification of Judges Hansbury and Friia requiring, *as a matter of law*, that the appealed-from decision/orders, judgment of eviction, and warrant of removal be not only reversed, but vacated[9], with

[9] The sufficiency of my July 18, 2008 order to show cause in establishing Judge Friia's disqualification – embodied by the third "Question Presented" of my appellant's brief for #2008-1427-WC & #2009-148-WC – is discussed by its Point III (at pp. 79-87). The sufficiency of my November 9, 2007 order to show cause for Judge Hansbury's disqualification – embodied by the

referrals of both City Court judges to disciplinary and criminal authorities, pursuant to this Court's mandatory "Disciplinary Responsibilities" under §100.3D(1) of the Chief Administrator's Rules Governing Judicial Conduct – relief my briefs expressly seek (Exhibits B-1, C-1, D-1)[10].

13. As for the specifics of Justice Molia's demonstrated actual bias and interest, arising from the decisions on my motions in which she participated, they are as follows:

A. This Court's undated [October 1, 2008] decision and order (Exhibits F-1, F-2), bearing Justice Molia's name, in addition to Justice Edward McCabe and Justice Melvyn Tanenbaum, denied my August 13, 2008 motion for vacatur, dismissal, and other relief, without reasons and without identifying or addressing any of the facts, law, or legal argument I presented in support of that motion's three branches – of which it identified only one: vacatur of Judge Friia's July 3, 2008 decision/order and July 21, 2008 judgment – and without identifying either of the two grounds upon which vacatur was sought:

- "fraud, misrepresentation, or other misconduct of an adverse party", pursuant to CPLR §5015(a)(3); and
- "lack of jurisdiction to render the judgment or order", pursuant to CPLR §5015(a)(4).

Also without reasons, the decision and order attached a *sua sponte* condition to

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first "Question Presented" of my appellant's brief for #2008-1428-WC – is discussed by its Point I (at pp. 27-28). The law with respect to vacatur, rather than reversal, based thereon appears at pages 29-31 of my appellant's brief for #2008-1428-WC and pages 24-26 of my appellant's brief for #2008-1427-WC & #2009-148-WC.

[10] These exhibits are the "Introduction" and "Conclusion" sections of my three appellant's briefs on my four appeals.

its granting of my July 30, 2008 order to show cause for a stay pending appeal: requiring me to pay Mr. McFadden "rent/and or use and occupancy at the rate most recently payable within 10 days from the date of this order and continue to pay use and occupancy at a like rate as same becomes due".

Annexed hereto as Exhibit G is my October 15, 2008 order to show cause for reargument/renewal & other relief of that undated [October 1, 2008] decision and order, whose moving affidavit constitutes a 24-page analysis of the decision and order, particularizing why NO fair and impartial tribunal could render them. The first paragraph identifies that the "ultimate purpose" of my order to show cause is "to determine whether there is a cognizable judicial process in this Court whereby I can vindicate my rights" and concludes, 45 paragraphs later, as follows:

> "46. Based on the foregoing, it may well be wondered if any of the three seasoned justices whose names appear on the order and decision, including Presiding Justice McCabe who signed the order, read any of the motion papers. In the event they simply accepted a drafted order and decision from one of the Court's staff attorneys, this is to give notice that IMMEDIATE supervisory oversight is required, as the order and decision fall below ANY acceptable standard.
>
> 47. Certainly, the order and decision raise reasonable questions as to the Court's fairness and impartiality, as no disinterested tribunal, having respect for its own integrity and the integrity of the judicial process, could deny my dispositive August 13, 2008 vacatur/dismissal motion, *without reasons*, and reward Mr. McFadden's demonstrated fraud before THIS COURT, by *sua sponte* conditioning my stay pending appeal on payment to him. This would be evident had the Court made findings of fact and conclusions of law with respect to my vacatur/dismissal motion, which, upon the granting of reargument, it must do so as to dispel the appearance – and actuality – that it is denying me relief to which I am entitled, *as a matter of law*.
>
> 48. If it is this Court's view that the exhaustive factual and legal presentation in my August 13, 2008 vacatur/dismissal motion does not, *as a matter of law*, entitle me to all my requested relief therein, it

must, at very least, set forth its reasoning so that I might be guided accordingly on my appeals. As stated by the Appellate Division, First Department in *Nadle v. L.O. Realty Corp*, 286 AD2d 130, 735 NYS2d 1 (2001) – a case approvingly cited by the Appellate Division, Second Department in *Hartford Fire Insurance Co. v. Cheever Development Corp*, 289 A.D.2d 292; 734 N.Y.S.2d 598 (2001):

> '...we now take this opportunity to explain the basis for our insistence on the inclusion of the reasoning underlying a ruling. First of all, as the Third Department has had occasion to note:
>
> > Written memoranda assure the parties that the case was fully considered and resolved logically in accordance with the facts and law. Indeed, written memoranda may serve to convince a party that an appeal is unlikely to succeed or to assist this court when considering procedural and substantive issues when appealed.
>
> (*Dworesky v. Dworesky*, 152 A.D. 2d 895, 896.) In addition to the potential benefits to the litigants, the inclusion of the court's reasoning is necessary from a societal standpoint in order to assure the public that judicial decision making is reasoned rather than arbitrary.'" (capitalization, underlining, and italics in the original).

My affidavit's 24-page showing was also the basis of the final "other and further relief" sought by my October 15, 2008 order to show cause:

> "...disclosure of facts bearing upon the appearance and actuality of this Court's bias and interest pursuant to §100.3F of the Chief Administrator's Rules Governing Judicial Conduct, disqualification pursuant to §100.3E of the Chief Administrator's Rules Governing Judicial Conduct and Judiciary Law §14, and transfer of this appeal and appellant's appeals under #2008-1428 WC and #2008-1433 WC to an appellate court outside the Second Department to ensure fair and impartial justice" (Exhibit G, OSC: p. 3, ¶6).

Nonetheless, Justice Molia, without making any disclosure of facts bearing upon her impartiality, struck my requested interim stay pending determination of the motion before signing the order to show cause (Exhibit G, OSC: p. 4) – which no fair and impartial tribunal would have done based on the fact-specific, law-supported moving

affidavit before her.

B. This Court's November 26, 2008 decision and order (Exhibits H-1, H-2), bearing Justice Molia's name, in addition to Justice McCabe and Justice Tanenbaum, denied my order to show cause for reargument/renewal and other relief without identifying any of the other relief sought, including that of disclosure, disqualification, and transfer, and without identifying any of the facts, law or legal argument presented by my 24-page moving affidavit, none of which it identifies. Its few references to my supposed "contentions" are limited to the stay pending appeal and are materially false, ripped from context, or non-specific, concealing the demonstrated "unjustness", if not unlawfulness, of the Court's *sua sponte* conditioning the stay upon my payment of "rent/and or use and occupancy" to Mr. McFadden – a condition it does not even reveal to be *sua sponte*.

As for its "note" concerning denial of reargument of my August 13, 2008 motion because "a motion to vacate an order must be addressed to the court that issued the order", the record before the Court established that I had already addressed a motion to vacate Judge Friia's July 3, 2008 decision/order to Judge Friia – my July 18, 2008 order to show cause with its 51-page analysis of her July 3, 2008 decision/order, which she had denied, without signing it – a fact my August 13, 2008 motion not only identified, but substantiated by transmitting the original July 18, 2008 order to show cause.

Nor was my August 13, 2008 motion limited to vacating an order. That was only its first branch:

> "(1) vacating Judge Friia's July 3, 2008 decision & order and her July 21, 2008 judgment of eviction and warrant of removal for 'fraud, misrepresentation, or other misconduct of an adverse party', pursuant to

CPLR §5015(a)(3), and for 'lack of jurisdiction to render the judgment or order', pursuant to CPLR §5015(a)(4)".

Indeed, the multi-branch relief sought by my August 13, 2008 motion was highlighted by my October 15, 2008 order to show cause by its express request that if the Court did not grant the August 13, 2008 motion "so as to obviate the appeal herein" that it "giv[e] reasons therefor, if not findings of fact and conclusions of law with respect to each of the motion's three branches." (Exhibit G, OSC: p. 2 (¶2), underlining added).

The concealed second and third branches of my August 13, 2008 motion, which the Court's November 26, 2008 decision and order offered no justification for denying, were – like the first branch – sufficient to obviate the appeal. These were for an order:

> "(2) dismissing Petitioner JOHN McFADDEN's underlying March 27, 1989 Petition based on documentary evidence and lack of subject matter jurisdiction, pursuant to CPLR §§3211(a)(1) & (2) and CPLR §3212(b);
>
> (3) granting such other and further relief as may be just and proper, including:
>
> (a) referring Petitioner and his counsel, Leonard A. Sclafani, Esq., for disciplinary and criminal investigation, as likewise Judge Friia, consistent with this Court's mandatory 'Disciplinary Responsibilities' under §100.3(D) of the Chief Administrator's Rules Governing Judicial Conduct;
>
> (b) imposing monetary sanctions and costs upon Petitioner and his counsel for litigation misconduct proscribed by 22 NYCRR §130-1.1 *et seq.*, and
>
> (c) assessing damages against Petitioner's counsel for deceit and collusion proscribed under Judiciary Law §487(1) as a misdemeanor and entitling Respondents to treble damages."

Establishing my entitlement to the granting of each of these two branches – as likewise to the vacatur sought by the first branch – was my July 18, 2008 order to show cause, the accuracy of whose 51-page analysis of Judge Friia's July 3, 2008

decision/order was completely undenied and undisputed by Mr. McFadden and Mr. Sclafani, then as now.

C. This Court's June 22, 2008 decision and order (Exhibits I-1, I-2), bearing Justice Molia's name, in addition to Justice Kenneth Rudolph and Justice Alan Scheinkman – the latter "taking no part" – denied my May 11, 2009 motion for an order directing White Plains City Court Clerk Lupi to furnish the Court with a proper Clerk's Return on Appeal for Judge Friia's October 14, 2008 decision/order (#2009-148-WC). Such denial was without reasons and without identifying or addressing any of the facts, law, or legal argument presented by my May 11, 2009 motion – or by my May 28, 2009 reply affidavit and June 1, 2009 letter[11], respectively seeking and demonstrating my entitlement to sanctions and disciplinary and criminal referrals of Assistant Solicitor General Winters and Mr. Sclafani for their fraudulent advocacy before this Court.

Suffice to say, this Court's June 22, 2009 decision and order changed the relief my motion sought from a direction for a "proper" Clerk's Return on Appeal for #2009-148-WC to a "further return" and falsely recited that Judge Friia's appealed-from October 14, 2008 order had been "entered"– when my motion recited, as grounds for the requested "proper" Clerk's Return:

- that "the Clerk's Return contains no original of Judge Friia's October 14, 2008 decision & order – nor even a copy – and the inventory of 'Papers Forwarded to Appellate Term' [] does not list it." (at p. 4);

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[11] My June 1, 2009 letter to Clerk Kenny noted that I had not received Mr. Sclafani's affirmation on my May 11, 2009 motion until after its return date – and expressly requested that my letter be brought to the attention of the panel deciding the motion, so that it not be misled by the "outright lies" in ¶¶3 and 5 of Mr. Sclafani's affirmation. So that the letter may be part of the record, it is annexed hereto (Exhibit J).

- that the copies of the October 14, 2008 decision & order in the Clerk's Return were all attachments to other documents and all unentered (at p. 4), and

- that the original was still in the White Plains Clerk's Office where it was unentered (at pp. 4-5).

14. Comparison with the record on those three motions, herein incorporated by reference, readily reveals that no fair and impartial tribunal could render the above three decision and orders (Exhibits F, H, I) or – as Justice Molia additionally did – strike the requested interim stay pending determination of the motion from the reargument/renewal order to show cause she signed (Exhibit G). Each decision and order is unfounded in fact and law – and knowingly so, maliciously intended to deprive me of relief to which the facts and law overwhelmingly entitled me, while ignoring and effectively rewarding Mr. McFadden and Mr. Sclafani, and the non-party Clerk Lupi and Assistant Solicitor General Winters who then, as now, was unlawfully representing her in violation of Executive Law §63.1.

15. Although the undated [October 1, 2008] order appears to have been signed (Exhibit F-2), the other two are not, in violation of CPLR §2219(b)[12] – these being the November 26, 2008 order (Exhibit H-2), by which, on December 5, 2008, I was evicted from my home of 21 years, and the June 22, 2009 order (Exhibit I-2), formatted with Justice Molia's name as the signing judge.

16. Upon information and belief, the June 22, 2009 order would normally have been signed by the justice presiding over the panel – which was the Appellate

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[12] "an order of an appellate court must be signed by a judge thereof, except that upon written authorization by the presiding judge, it may be signed by the clerk or, in his or her absence or disability, by a deputy clerk.", See New York Jurisprudence 2D, §15 "Signing of order"

Term's then presiding justice Kenneth Rudolph. Justice Rudolph may have been loathe to sign it because – as he reasonably knew – there was, at very least, a disqualifying appearance that he could not be fair and impartial[13] – a recognition which should have been sharpened by Justice Scheinkman's *sua sponte* disqualification from the panel.

17. Having denied me any reasoned adjudication of the dispositive issues presented by my three prior motions, indeed, having fashioned decisions and orders concealing those straight-forward issues, Justice Molia now has an interest in not adjudicating or acknowledging those issues on my appeals, lest she reveal how easily appeals #2008-1427-WC and #2009-148-WC might have been obviated in my favor, with consequences, also in my favor, for appeals #2008-1433-WC and #2008-1428-WC, simply by adhering to elementary adjudicative principles and black-letter law, as was her duty to do.

18. Her conduct at the oral argument was consistent with her actualizing that interest, as she asked no substantive questions about the issues that had been the subject of my pre-appeal motions, all of which are centrally-presented by my briefs as determinative of my appeals and as requiring this Court to discharge its mandatory "Disciplinary Responsibilities" under §100.3D of the Chief Administrator's Rules.[14] These issues fall into three categories:

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[13] The Center for Judicial Accountability, Inc. (CJA) – the nonpartisan, nonprofit citizens' organization of which I am co-founder and now director, opposed Justice Rudolph's elevation to higher judicial office from the New Rochelle City Court. Our February 9, 2000 statement in opposition is annexed (Exhibit K), downloaded from our website, www.judgewatch.org.

[14] See the fifth "Question Presented" by my appellant's brief in #2008-1427-WC & #2009-148-WC and corresponding Point V (at pp. 92-96) thereof; the third "Question Presented" by my appellant's brief in #2008-1433-WC and corresponding Point III (at pp. 31-33) thereof.

- judicial disqualification and misconduct (Judges Hansbury and Friia);

- attorney and client misconduct (Mr. Sclafani and his co-conspiring client Mr. McFadden; the Attorney General's office, acting for Clerk Lupi); and

- chief clerk misconduct (Clerk Lupi).

19. The standards governing judicial disqualification are set forth by my appellant's brief in #2008-1428-WC, at pages 16-20, excerpted from my memorandum of law in support of my November 9, 2007 order to show cause, which was before both Judge Hansbury and Judge Friia. These include a standard that any fair and impartial tribunal would articulate in determining my entitlement to the disqualification of these two City Court judges:

> "Adjudication of a motion for a court's disqualification must be guided by the same legal and evidentiary standards as govern adjudication of other motions. Where, as here, the motion details specific supporting facts, the court, as any adversary, must respond to those facts, as likewise the law presented relative thereto. To fail to do so would subvert the motion's very purpose of resolving the 'reasonable questions' warranting disqualification."

20. Such is properly the standard employed by the Court on this motion, absent Justice Molia's disqualifying herself based on the particulars herein presented.

SECOND BRANCH OF MY MOTION: FACT-BASED, LAW-SUPPORTED DETERMINATIONS OF THE ISSUES PRESENTED BY MY PRIOR MOTIONS AS DISPOSITIVE

21. The best way for any fair and impartial tribunal to demonstrate whether the issues identified by my prior motions are "dispositive"– as I have again and again asserted them to be – is to confront them.

22. As first stated by my August 13, 2008 vacatur/dismissal motion (at ¶11) –

and reiterated *verbatim* in the "Introduction" of my appellant's brief for #2008-1427-WC and #2009-148-WC (Exhibit D-1, pp. 2-3):

> "11. No appellate court can uphold a decision awarding summary judgment to a petition alleging that respondents 'entered in possession [of the subject premises] under a month to month rental agreement' for which there is not only NO evidentiary proof, but which is rebutted by evidentiary proof. Nor can an appellate court uphold a warrant of removal that 'completely falsifies' the allegations of the petition for which summary judgment was given and 'materially alters' its caption. Nor can it allow a judgment of eviction to stand that 'materially diverges' from the decision it purports to implement, including by omission of respondents' Answer. All these are readily-verifiable from what is now before this Court, making the requested vacatur/dismissal relief of my motion not only immediately appropriate, but matters of elementary law. No appeal is necessary to resolve these straight-forward, documentarily-established issues. They can be resolved expeditious[ly], now" (underlining and capitalization in the original).

23. Adjudication of this proposition is the first of the fact-based, law-supported determinations I herein request, as to which Point IV of my appellant's brief in #2008-1427-WC and #2009-148-WC (at pp. 87-92) presents the substantiating law and legal argument, unchallenged on appeal, as they were when I presented them in support of my prior motions.[15] This includes the following:

> "More than 90 years ago, in *Lamphere v. Lang*, 213 N.Y. 585, 588 (1915), the Court of Appeals stated:
>
> > "The law on the subject is clear. 'Pleadings and a distinct issue are essential to every system of jurisprudence, and there can be no orderly administration of justice without them. If a party can allege one cause of action and then recover upon another, his complaint would serve no useful purpose.' (*Romeyn v. Sickles*, 108 N.Y. 650, 652.) 'The rule that judgment should

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[15] See: (1) my September 2, 2008 memorandum of law in further support of my August 13, 2008 vacatur/dismissal motion (pp.14-21 under the heading "APPELLANT'S ENTITLEMENT TO THE VACATUR/DISMISSAL RELIEF SOUGHT BY HER AUGUST 13, 2008 MOTION"); (2) my October 15, 2008 affidavit in support of my order to show cause for reargument/renewal & other relief (Exhibit G, at fn. 2); (3) my November 3, 2008 reply affidavit in further support of my order to show cause (at pp. 10-11).

> be rendered in conformity with the allegations and proofs of the parties, '*secundum allegata et probate*,' is fundamental to the administration of justice. Any substantial departure from this rule is sure to produce surprise, confusion and injustice.' (*Day v. Town of New Lots*, 107 N.Y. 148, 154; *Northam v. Dutchess Co. Mut. Ins. Co.*, 177 N.Y. 73.)' Also quoted in *Cohen v. City Company of New York et al.*, 283 N.Y. 112, 117; 27 N.E.2d 802 (1940).

A similar statement of the law, even more relevant, appears in *Gordon v. Ellenville and Kingston Railroad Company*, 119 A.D.797, 802 (3rd Dept., 1907):

> "...to permit a recovery would be to allow the plaintiff to allege one cause of action and recover upon another. The effect would be not only to change the action from one cause to another and different ground of action, but it would authorize a recovery upon evidence which disproves the cause of action alleged in the complaint.'
>
> That is precisely what happened here. The warrant of removal [] predicates recovery on a Petition alleging that 'on or about the 30th day of October, 1987', McFadden granted possession of the subject premises to the Sassowers 'under a written occupancy agreement incident to a contract of sale'. This 'disproves the cause of action alleged' in the Petition in #651/89 [], *to wit*, that the Sassowers 'entered in possession...under a month to month rental agreement', on no specified date and for no specified rent."

24. In addition to a fact-specific, law-supported determination of my entitlement to dismissal of Mr. McFadden's March 27, 1989 petition pursuant to CPLR §3211(a)(1) for a defense "founded upon documentary evidence", I specifically seek a fact-specific, law-supported determination of my entitlement to dismissal of his petition pursuant to CPLR §3211(a)(2) because "the court has not jurisdiction of the subject matter of the cause of action". Such dismissal was sought by the second branch of my August 13, 2008 motion, with my moving affidavit providing a record-based analysis (at ¶¶24-37) showing that White Plains City Court Judge James Reap wrongfully denied

me and my mother comparable dismissal by his legally-insupportable and contrived September 18, 1989 decision on our April 24, 1989 motion – an analysis whose accuracy, replicating the analysis in my July 18, 2008 order to show cause (at ¶¶27-34), stands unchallenged in the record before this Court.[16]

25. As the "Introduction" to my appellant's brief for #2008-1427-WC and #2009-148-WC expressly incorporates by reference my August 13, 2008 vacatur/dismissal motion and October 15, 2008 order to show cause for reargument/renewal & other relief because "they were, and are, dispositive" (Exhibit D-1, p. 3), I refer the Court to them, in the interest of judicial economy, for such other fact-based, law-supported determinations as a fair and impartial tribunal would now make in substantiation of the relief sought.

THIRD BRANCH OF MY MOTION:
DIRECTING A SUBPOENA
TO THE WHITE PLAINS CITY COURT CLERK

26. In my July 30, 2008 order to show cause to stay enforcement of Judge Friia's July 3, 2008 decision/order and July 21, 2008 judgment of eviction and warrant of removal pending my appeal, the first ground of appeal was as follows:

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[16] As further noted at pages 20-21 of my September 2, 2008 memorandum of law in support of my August 13, 2008 vacatur/dismissal motion under the heading "APPELLANT'S ENTITLEMENT TO THE VACATUR/DISMISSAL RELIEF SOUGHT BY HER AUGUST 13, 2008 MOTION":

> "The burden of proving jurisdiction rests with the party asserting it. *Preferred Electric v. Wire Corp. v. Duracraft Products, Inc.*, 114 AD2d 407, 494 N.Y.S.2d 131 (2d Dept. 1985)', *Certain Underwriters at Lloyd's of London v. Bellettieri, Fonte & Laudonio, P.C.*, 19 Misc. 3d 1136A (Westchester Co. Supreme Court/Justice Scheinkman 2008). Mr. McFadden never met that burden. His Petition contained none of the requisite substantiating details about the 'month to month rental agreement' by which the respondents allegedly 'entered in possession' of the subject premises and was insufficient on its face, in addition to being a flagrant fraud concocted to bootstrap jurisdiction, which McFadden knew he did not have by reason of the contract of sale and express language of the occupancy

"**Upon information and belief, #651/89 is closed and petitioner's March 27, 1989 Petition was dismissed for want of prosecution at some point during the past 15 years of dormancy.**

For this reason, the White Plains City Court Clerk opened a new docket number for this 1989 proceeding, #SP-2008-1474. Such was done surreptitiously and without notice to the parties, so as to circumvent my legal entitlement to dismissal of petitioner's diametrically different Petition in his 2007 proceeding, *John McFadden v. Elena Sassower*, #1502/07, and summary judgment on my counterclaims therein." (bold in the original).

27. My August 13, 2008 vacatur/dismissal motion (¶¶17-23) alerted the Court to the difficulty I was having in securing from Clerk Lupi the documents and other information necessary to establish the status of #SP-651/89 and advised:

"...Should Clerk Lupi continue to fail to respond – which has been her custom, countenanced by Judge Friia – I will apply to this Court for a subpoena so that the dockets, records, and other information essential to establishing the status of this proceeding and the other related proceedings can be accurately determined and the jurisdictional issues with respect thereto resolved." (¶20, underlining added).

28. I thereafter updated the Court as to Clerk Lupi's continued non-response and to the deficiencies of her Clerk's Returns on Appeal for both #SP-651/89 and #SP-1502/07 by my September 2, 2008 reply affidavit in further support of my August 13, 2008 vacatur/dismissal motion (¶¶44-46), stating:

"Like the other issues forming the basis of my vacatur/dismissal motion, this Court's determination of the status of [#SP-651/89] may be readily-accomplished – and, if closed, should properly obviate the necessity of appeal." (¶46).

29. However, I did not apply for a subpoena. Rather, based on advice from this Court's Clerk's Office, including from Chief Clerk Kenny, I made my September 18, 2008 motion in White Plains City Court, within #SP-651/89, to require Clerk Lupi

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agreement, which his Petition dishonestly concealed."

to furnish this Court with proper Clerk's Returns on Appeals and other documents and information establishing the status of #SP-651/89, with which #SP-1502/07 was allegedly consolidated because it was allegedly open, as well the status of three related cases with which #SP-1502/07 was not consolidated because they were allegedly closed, *to wit*, #SP-434/88 (*16 Lake Street Owners, Inc. v. John McFadden, George Sassower and Elena Sassower*); #SP-500/88 (*16 Lake Street Owners, Inc. v. John McFadden, George Sassower and Elena Sassower*), and #SP-652/89 (*John McFadden v. George Sassower*).

30. Mr. Sclafani opposed the motion with fraud and deceit, as likewise the Attorney General, unlawfully representing the non-party Clerk Lupi in violation of Executive Law §63.1. I particularized this by my October 10, 2008 opposition/reply affidavit. By then, a three-judge panel of this Court, Justice Molia among them, had denied my August 13, 2008 vacatur/dismissal motion, without reasons and without providing me with any assistance in ascertaining the status of #SP-651/89 and related cases, essential to my appeals (Exhibit F).

31. The foregoing was set forth by my October 15, 2008 order to show cause for reargument/renewal & other relief (Exhibit G, affidavit: ¶¶25-43), whose third branch expressly requested that this Court reject Clerk Lupi's deficient Returns on Appeals and order her to furnish it with the documents and information necessary to establishing the status of #SP-651/89 and the related other cases. In further support of that third branch, my November 3, 2008 reply affidavit (¶¶15-24) provided the Court with Judge Friia's October 14, 2008 decision/order on my September 18, 2008 motion, the fraudulence of which was readily apparent from my October 10, 2008

opposition/reply affidavit therein – a copy of which I supplied (¶24), together with the entire record on the motion.

32. The Court's response – by the same panel that included Justice Molia – was its November 26, 2008 decision and order (Exhibit H), whose denial of my October 15, 2008 order to show cause (Exhibit G) was without identifying its third branch of relief pertaining to Clerk Lupi's Returns on Appeals and her willful failure to furnish the documents and information necessary for ascertaining the status of #SP-651/89 and related cases.

33. Consequently, I now directly seek the subpoena from this Court which I failed to pursue when I instead made my September 18, 2008 motion in White Plains City Court. To the extent this Court deems itself as having implicitly denied a subpoena by its November 26, 2008 decision and order (Exhibit H), I hereby move for reargument/renewal of that denial. As hereinabove stated (at ¶15), the November 26, 2008 order is unsigned.

34. The subpoena to Clerk Lupi that I herein request is for:

> (a) the specific documents and/or entries in the files and records of the White Plains City Court which formed the basis of her alleged representation to Judge Friia that only #SP-651/89 was open, but not #SP-434/88 (*16 Lake Street Owners, Inc. v. John McFadden, George Sassower and Elena Sassower*); #SP-500/88 (*16 Lake Street Owners, Inc. v. John McFadden, George Sassower and Elena Sassower*), or #SP-652/89 (*John McFadden v. George Sassower*) – and upon which Judge Friia asserted she was relying in purporting to consolidate only #SP-651/89 with #SP-1502/07 (*John McFadden v Elena Sassower*);
>
> (b) all documents and/or entries in the files and records of the White Plains City Court pertaining to her opening a new index number for #SP-651/89, *to wit*, #SP-2008-1474, and especially, reflecting the date, the reason for doing so, at whose instance it was done, and what notice, if any, was given to the parties;

(c) an explanation for her failure to respond to my August 22, 2008 letter to her, including its itemization of the deficiencies of her Clerk's Returns on Appeals for #SP-651/89 and #SP-1502/07[17].

35. No fair and impartial tribunal can allow a court clerk "subject to [its] direction" to misrepresent and manipulate court records nor permit a judge "subject to [its] direction" to either orchestrate or condone same (*cf.* §100.3C(2) of the Chief Administrator' Rules Governing Judicial Conduct) – issues which are before the Court on my appeal #2009-148-WC, as they were on my prior motions.

36. Here too, it appeared from the oral argument that Justices Molia and Iannacci were unperturbed by the collusion between Clerk Lupi and Judge Friia in record tampering – or that they had not read, and were ignorant of, Point II of my appellant's brief for #2009-148-WC (pp. 74-79) and the law and legal argument particularized by my October 10, 2008 opposition/reply affidavit on which Point II draws.

FOURTH BRANCH OF MY MOTION:
SANCTIONS & COSTS
PURSUANT TO §730.3(g) OF THIS COURT'S RULES,
AND DISCIPLINARY & CRIMINAL REFERRALS
PURSUANT TO §100.3D(2) OF THE CHIEF ADMINISTRATOR'S RULES
GOVERNING JUDICIAL CONDUCT

37. On September 17, 2008, the Appellate Division, Second Department promulgated amendments to its Appellate Term rules. Among these, a new provision, §730.3(g):

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[17] Pages 56-58 of my appellant's brief for #2008-1427-WC & #2009-148-WC summarize my August 22, 2008 letter to Clerk Lupi, including as to the deficiencies of her Clerk's Returns on

> "Any attorney or party to a civil appeal who, in the prosecution or defense thereof, engages in frivolous conduct as that term is defined in 22 NYCRR subpart 130-1.1(c), shall be subject to the imposition of such costs and/or sanctions as authorized by 22 NYCRR subpart 130-1 as the court may direct."

38. Although the rule was "effective immediately.", this Court's three decisions and orders on my prior motions (Exhibits F, H, I) gave it no application whatever – and in fact, repudiated it, *sub silentio* – by concealing, without adjudication, my fact-specific, law-supported showing that Mr. McFadden, Mr. Sclafani, and Assistant Solicitor General Winters had engaged in pervasively fraudulent and deceitful advocacy before this Court in connection with those motions, entitling me to costs and sanctions against them under 22 NYCRR §130-1.1, as well as disciplinary and criminal referrals of them, pursuant to this Court's mandatory "Disciplinary Responsibilities" under §100.3D(2) of the Chief Administrator's Rules Governing Judicial Conduct – relief expressly requested by my motions papers.

39. The predictable result was – as I had stated it would be – that Mr. Sclafani, on behalf of Mr. McFadden, and Assistant Solicitor General Winters, on behalf of Clerk Lupi, saw themselves free to replicate in their briefs on my four appeals the same documentarily-exposed frauds of their opposition to my motions – which is what they did.

40. My three reply briefs on my four appeals meticulously dissect and demonstrate the fraudulence of their briefs – and do so not only in support of my appeals, but expressly in support of relief under §730.3(g), as well as disciplinary and criminal referrals of them pursuant to this Court's mandatory "Disciplinary

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Appeals.

Responsibilities" under §100.3D(2) of the Chief Administrator's Rules Governing Judicial Conduct (Exhibits B-2, C-2, D-2).

41. Yet, at the oral argument, neither Justices Molia nor Iannacci articulated not the slightest outrage or reproach of Mr. Sclafani or Assistant Solicitor General Winters, each of whom was allowed to repeat the deceits I had already exposed to this Court, first by my reply affidavits in support of my prior motions and then by my reply briefs in support of my appeals.[18] Either Justices Molia and Iannacci were so ignorant of the record they did not know this, or they are so intent on depriving me of my legal entitlement on my four appeals as to jettison their duty to ensure the honesty of the advocacy before them.

42. To reinforce my entitlement to the sanctions/costs and criminal/disciplinary referrals requested and documentarily-established by each of my three reply briefs (Exhibits B-2, C-2, D-2), I am embodying my requests therein in this formal motion.

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[18] Among Mr. Sclafani's already exposed deceits, which he repeated at the oral argument: that Judge Reap's September [18], 1989 decision "decided all issues raised"; that after the conclusion of the federal action, Mr. McFadden was so "totally exhausted" and had used "every cent he had to pay legal fees" that he had "no ability to come back to court" and was forced to allow me to continue in the apartment "at a reduced rent", while paying mortgage and common charges.

Mr. Sclafani also put forward new deceits, as for instance, that he was so "ashamed" of how White Plains City Court had handled SP-#651/89 that he had undertaken to represent Mr. McFadden "pro bono". According to him, after his client brought him the files, he decided to give his legal services "for free" because what the City Court did "makes [him] not want to be a lawyer".

There is no evidence to support this claim. This includes the petition in #SP-1502/07, signed by Mr. Sclafani in addition to Mr. McFadden, which materially omits ANY reference to #SP-651/89 or other prior City Court proceedings or the federal case. Certainly, too, had Mr. Sclafani undertaken to represent Mr. McFadden "pro bono", he would have been motivated to obviate litigation by exploring settlement possibilities. Mr. Sclafani never did – and, as the record shows, he rejected all my own settlement overtures, out of hand. To the extent that Mr. Sclafani is now working "for free", it is presumably because Mr. McFadden refuses to pay him – replicating, it seems, Mr. McFadden's refusal to pay his former lawyers representing him.

43. It is unclear to me whether this Court's rule §730.3(g) covers "frivolous" oral advocacy. If so, I additionally seek costs and sanctions against Mr. Sclafani and Assistant Solicitor General Winters, pursuant thereto, based on their "frivolous" December 16, 2009 oral argument in opposition to my appeals.

FIFTH BRANCH OF MY MOTION: OTHER & FURTHER RELIEF, INCLUDING REFERRAL OF CULPABLE COURT ATTORNEYS FOR INVESTIGATION AND DISMISSAL, & DISCLOSURE OF THEIR NAMES

44. To the extent Justices Molia and Iannacci are relying on court attorneys to review motions and briefs, to accurately summarize for them the material facts and controlling law, and to draft decisions and orders based thereon bearing the Justices' names, this is to give notice – as I did by my October 15, 2008 order to show cause for reargument/renewal, and other relief (Exhibit G, affidavit: ¶46) – that "IMMEDIATE supervisory oversight is required", as their workproduct "fall[s] below ANY acceptable standard". That is the ONLY conclusion that can be drawn from the Court's three decisions and orders on my motions (Exhibits F, H, I), from Justice Molia's striking of my requested interim stay from my October 15, 2008 order to show cause (Exhibit G, OSC: p. 4), and from the conduct of Justices Molia and Iannacci at the December 16, 2009 oral argument on my four appeals.

45. The court attorneys – anonymous to me – are either grotesquely incompetent or corrupt. Pursuant to this Court's mandatory "Administrative Responsibilities" and "Disciplinary Responsibilities" under §100.3C(2) and §100.3D(2) of the Chief Administrator's Rules Governing Judicial Conduct, they must be referred for investigation to determine which it is and, if the latter, whether their corruption

arises from personal or professional relationships or some other interest, and whether it is illustrative of their handling of other appeals or is invidious to mine. In either event, they must be dismissed.

46. So that my rights on these appeals may be properly protected, I request to know the names of the court attorneys who were involved in handling my three prior motions and drafting its decisions and orders therein, as well as the names of the court attorneys who have been involved on my four appeals, including "prepping" the justices for the oral argument. At minimum, I request to know whether these two sets of attorneys are the same.

WHEREFORE, it is respectfully prayed that for the reasons herein particularized, relief be granted in accordance with my accompanying notice of motion.

ELENA SASSOWER

Sworn to before me this
2nd day of January 2010

Notary Public

JOANN E. SCHNAUFER
Notary Public, State of New York
No. 01SC5081241
Qualified in Suffolk County
Commission Expires June 30, 2011

TABLE OF EXHIBITS

Exhibit E: Appellate Term postcards of oral argument: "You **WILL NOT** be permitted to argue unless you have filed a brief"

Exhibit F-1: Appellate Term's undated [October 1, 2008] decision (McCabe, Tanenbaum, Molia)

Exhibit F-2: Appellate Term's undated [October 1, 2008] order

Exhibit G: Sassower's October 15, 2008 order to show cause for reargument/renewal, & other relief, signed by Justice Molia (October 16/October 21, 2008)

Exhibit H-1: Appellate Term's November 26, 2008 decision (McCabe, Tanenbaum, Molia)

Exhibit H-2: Appellate Term's unsigned November 26, 2008 order

Exhibit I-1: Appellate Term's June 22, 2009 decision (Rudolph, Molia, with Scheinkman "taking no part")

Exhibit I-2: Appellate Term's unsigned June 22, 2009 order

Exhibit J: Sassower's June 1, 2009 letter to Chief Clerk Kenny
Enclosure #1: Sassower's May 15, 2009 letter to Chief Clerk Kenny
Enclosure #2: Sclafani's May 26, 2009 affirmation

Exhibit K: CJA's February 9, 2000 letter of opposition to designation of Supreme Court Justice Kenneth Rudolph to Appellate Division