UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DORIS L. SASSOWER,

Plaintiff,

94 Civ. 4514 (JES)

Rule 3(g) Statement

-against-

Hon. GUY MANGANO, PRESIDING JUSTICE OF THE APPELLATE DIVISION, SECOND DEPARTMENT OF THE SUPREME COURT OF THE STATE OF NEW YORK, and the ASSOCIATE JUSTICES THEREOF, GARY CASELLA and EDWARD SUMBER, Chief Counsel and Chairman, respectively, of the GRIEVANCE COMMITTEE FOR THE NINTH JUDICIAL DISTRICT, GRIEVANCE COMMITTEE FOR THE NINTH JUDICIAL DISTRICT, Does 1-20, being present members thereof, MAX GALFUNT, being a Special Referee, and G. OLIVER KOPPELL, Attorney General of the State of New York, all in their official and personal capacities,

Defendants.

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Plaintiff, as and for her Statement, pursuant to 3(g) of this Court's local rules, respectfully sets forth as follows:

1. As to all the material facts alleged in Plaintiff's Verified Complaint, there is no genuine issue of fact. All of Defendants' denials and denials of knowledge and information sufficient to form a belief as to the material allegations of Plaintiff's Complaint, as contained in their Answer, are sham and interposed to harass, prejudice and delay Plaintiff in enforcement of her federal constitutional rights hereunder and without any good faith belief in the truth of such denials. Such is set forth by Plaintiff's Affidavit, verified on June 23, 1995, and more particularly specified by the critique annexed thereto as Exhibit "D".

Ex "C"

2. The material allegations of Plaintiff's Complaint are hereby repeated, realleged, and reiterated, with the same full force and effect, as if more particularly set forth herein, and are thereby made a part of this 3(g) Statement.

3. The evidentiary documentation in proof of the material allegations of Plaintiff's Complaint is all in Defendants' possession, custody, and control.

4. As to the June 14, 1991 "interim" suspension order and the October 18, 1990 order directing Plaintiff's medical examination, Plaintiff specifically alleges:

(a) Prior to the June 14, 1991 "interim" suspension order, Plaintiff was not served with any "Notice of Petition" or "Petition" setting forth any "Charges" based on her alleged "failure to comply with the October 18, 1990 order".

(b) Prior to the June 14, 1991 "interim" suspension order, Plaintiff was not afforded any hearing before the Grievance Committee or judicial Defendants, giving her an opportunity to be heard as to her alleged "failure to comply with the October 18, 1990 order", for which her suspension was allegedly being sought.

(c) Prior to the June 14, 1991 "interim" suspension order, Plaintiff denied Defendant Casella's claim that Plaintiff was guilty of any "failure to comply" with the October 18, 1990 order.

(d) Prior to the June 14, 1991 "interim" suspension order, by formal motion, Plaintiff challenged the October 18,

1990 order, as unlawful and without subject matter and personal jurisdiction.

(e) The June 14, 1991 "interim" suspension order made no findings and was not based on any findings by the Grievance Committee or judicial Defendants.

(f) Since issuance of the June 14, 1991 "interim" suspension order and for more than four years to date, Plaintiff has never been afforded a hearing as to the basis for her "interim" suspension, i.e., her alleged "failure to comply with the October 18, 1990 order".

(g) Prior to the October 18, 1990 order, Plaintiff was not served with any "Notice of Petition" or "Petition" setting forth "Charges" as to the basis upon which, pursuant to 22 NYCRR §691.13(b)(1), Defendant Casella was moving for her suspension, by motion dated May 8, 1990.

(h) Prior to the October 18, 1990 order, Plaintiff, by formal Cross-Motion, sought dismissal of Defendant Casella's May 8, 1990 motion to suspend her for alleged medical incapacity, pursuant to §691.13(b)(1), raising objections based on personal and subject matter jurisdiction, res judicata, collateral estoppel, invidious selectivity, and the Grievance Committee Defendants' "false, misleading, and deceptive presentation". Plaintiff specifically demanded "a pre-disciplinary hearing", particularly as to Defendant Grievance Committee's "continuing and unending pattern of invidious selectivity" and "malicious and retaliatory" harassment.

(i) Prior to the October 18, 1990 order, Plaintiff was not afforded any hearing before the Grievance Committee or judicial Defendants.

(j) The October 18, 1990 order made no findings and did not rest on any findings by the Grievance Committee Defendants.

(k) As alleged at ¶79 of the Complaint, the October 18, 1990 order:

(1) erroneously mischaracterized Plaintiff's Cross-Motion seeking dismissal of Defendant Casella's May 8, 1990 Order to Show Cause, as one seeking dismissal of a disciplinary proceeding authorized against her by a December 6, 1989 order;

(2) erroneously referred to a December 6, 1989 order as having authorized a disciplinary proceeding against Plaintiff, when in fact there was no December 6, 1989 order, but, rather, a December 14, 1989 order authorizing a separate and unrelated disciplinary proceeding.

(3) erroneously referred to Plaintiff's Cross-Motion as challenging personal jurisdiction in "the underlying disciplinary proceeding", when, in fact, Plaintiff's Cross-Motion challenged personal jurisdiction with respect to Defendant Casella's May 8, 1990 Motion;

(4) erroneously referred to an "underlying disciplinary proceeding", when, in fact, there was no "underlying disciplinary proceeding" to which Defendant Casella's May 8, 1990 Motion related;

(5) erroneously used the same docket number, A.D. #90-00315, for the October 18, 1990 order as had been assigned to the separate and unrelated February 6, 1990 petition, authorized by its December 14, 1989 order;

(6) erroneously delegated to Plaintiff's prosecutor, Defendant Casella, the court's authority to designate "qualified medical experts" pursuant to 22 NYCRR 691.13(b)(1);

(7) erroneously limited designation of "qualified medical experts" under 22 NYCRR §691.13(b)(1) to a single "qualified medical expert".

5. At the time of the October 18, 1990 and June 14, 1991 orders, Plaintiff was pro bono counsel in an Election Law case, challenging as unconstitutional and illegal, a 1989 political deal[1] between the two major parties for cross-endorsement of candidates for seven judgeships in the Second Judicial Department over a three-year period and the judicial nominating conventions that implemented such deal.

6. The effect of the June 14, 1991 "interim" suspension order was to remove Plaintiff as counsel from the Election Law case in which she was involved and to discredit her in her on-going activities as a leader and advocate of judicial reform.

Dated: White Plains, New York
June 23, 1995

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[1] The written deal is annexed as Exhibit "B" to Plaintiff's Complaint.

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