

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DORIS L. SASSOWER, :

Plaintiff, :

-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 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. :
-----X

ANSWER

94 Civ. 4514

(JES)

Pro Se

State Defendants 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, the Grievance Committee for the Ninth Judicial District, and the present members thereof, Max Galfunt, Special Referee, and G. Oliver Koppell, former Attorney General of the State of New York, by their attorney, Dennis C. Vacco, Attorney General of the State of New York, for their answer to the complaint, allege as follows:

1. Deny the allegations contained in ¶¶ 1 & 2, except

admit that plaintiff purports therein to describe the nature of this action and the nature of the relief sought.

2. Deny the allegations contained in ¶ 3, except refer the Court to Exhibit A of the complaint for its contents.

3. Deny the allegations contained in ¶¶ 4-7.

4. ¶ 8 contains legal argument and therefore no responsive pleading is required.

5. Deny the allegations contained in ¶ 9, plaintiff purports to characterize therein her claim for relief.

6. Deny the allegations contained in ¶¶ 10 and 11.

7. Admit the allegations contained in ¶ 12.

8. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 13.

9. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 14, except admit upon information and belief that plaintiff had no record of prior discipline.

10. Deny the allegations contained in ¶ 15.

11. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶¶ 16-18.

12. Deny the allegations contained in the first sentence of ¶ 19 and refer Court to New York State Judiciary Law § 90(2) for its terms. Admit allegations contained in the second sentence of ¶ 19.

13. Deny the allegations contained in ¶ 20 and refer Court to 22 N.Y.C.R.R. § 691.4(a) for its terms.

14. Admit the allegations contained in ¶ 21, except that as of October 1994, defendant Sumber is no longer the Chairman of defendant Grievance Committee.

15. Admit the allegations contained in ¶ 22.

16. Deny the allegations contained in ¶ 23, except admit that Referee Galfunt has been appointed as a Special Referee from time to time.

17. Deny the allegations contained in ¶ 24, except admit that G. Oliver Koppell was Attorney General as of January 1, 1994, that he was appointed by the legislature, that he was a member of the legislature and Chairman of the Assembly Judicial Committee and that he was given papers by plaintiff, including papers in Castracan v. Colavita.

18. Admit the allegations contained in ¶ 25.

19. Deny the allegations contained in ¶¶ 26, 27.

20. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶¶ 28-39.

21. Deny the allegations contained in ¶ 40.

22. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 41.

23. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the first two sentences of ¶ 42, admit the allegations contained in the third sentence of ¶ 42 except refer the Court to 22 N.Y.C.R.R. § 691.4(e)(4) and (f) for its terms, and deny the allegations contained in the fourth sentence of ¶ 42.

24. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 43.

25. Admit, upon information and belief, the allegations contained in ¶ 44.

26. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶¶ 45-54.

27. Admit the allegations contained in ¶ 55, except refer the Court to 22 N.Y.C.R.R. § 691.4(k) for its terms, and deny that the Order of the Second Department was dilatory.

28. Deny the allegations contained in ¶ 56.

29. Deny the allegations contained in ¶ 57, and refer the Court to the December 14, 1989 Order of the defendant Second Department for its contents.

30. Deny the allegations contained in ¶ 58, except admit that the confidential December 14, 1989 Order of defendant Second Department was not served on plaintiff.

31. Deny the allegations contained in ¶ 59, except admit that plaintiff was served with a notice of petition and petition on February 8, 1990.

32. Deny the allegations contained in ¶ 60, except admit that neither a copy of the December 14, 1989 Order of Second Department nor a copy of the July 31, 1989 confidential report were annexed or served with the February 6, 1990 petition.

33. Admit that defendant Grievance Committee received plaintiff's Answer on March 8, 1990, except deny knowledge or information sufficient to form a belief as to the truth of the

remaining allegations contained in ¶ 61.

34. Admit the allegations contained in ¶ 62.

35. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶¶ 63-65.

36. Deny the allegations contained in the first sentence of ¶ 66, except admit that the April 13, 1990 court transcript and April 20, 1990 decision were annexed to an Order to Show Cause which was served upon plaintiff; deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in ¶ 66.

37. Deny the allegations contained in ¶ 67.

38. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 68; refer the Court to 22 N.Y.C.R.R. § 691.13(c)(1) for its terms.

39. Deny the allegations contained in ¶ 69.

40. Deny the allegations contained in ¶¶ 70-72, except admit that plaintiff opposed the May 8, 1990 Order to Show Cause and refer the Court to contents of plaintiff's opposition papers.

41. Deny the allegations contained in ¶¶ 73 and 74.

42. Admit that on October 18, 1990 defendant Second Department adjudicated the May 8, 1990 Order to Show Cause, brought on by defendant Grievance Committee and plaintiff's cross-motion, except refer the Court to 22 N.Y.C.R.R. § 691.4(k) for its terms and deny knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in ¶ 75.

43. Deny knowledge and information sufficient to form

a belief as to the truth of the allegations contained in ¶¶ 76-78.

44. Deny the allegations contained in ¶ 79.

45. Deny the allegations contained in ¶ 80, except admit that defendant Galfunt was appointed as Special Referee by Order of defendant Second Department dated November 1, 1990.

46. Deny the allegations contained in ¶¶ 81 and 82.

47. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 83.

48. Deny the allegations contained in ¶ 84, except admit that defendant Grievance Committee refused to agree to vacate the suspension.

49. Deny the allegations contained in ¶ 85, except refer the Court to defendant Grievance Committee's Order to Show Cause, dated January 25, 1991 and plaintiff's Order to Show Cause, dated January 28, 1991, for their contents.

50. Deny the allegations contained in ¶¶ 86 and 87.

51. Admit the allegation contained in ¶ 88 that defendant Grievance Committee used the same A.D. #90-00315 docket number for the January 25, 1991 Order to Show Cause and the February 6, 1990 petition, except deny the remaining allegations.

52. Deny the allegations contained in ¶ 89, except refer the Court to plaintiff's motion by Order to Show Cause of January 28, 1991 for its contents.

53. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 90, except

refer the Court to 22 N.Y.C.R.R. § 691.4(k) for its terms.

54. Admit the allegations contained in ¶ 91.

55. Deny the allegations contained in ¶ 92.

56. Deny the allegations contained in ¶ 93, and refer the Court to Exhibit A for its contents.

57. Deny the allegations contained in ¶ 94.

58. Deny knowledge or information sufficient to form a belief as to the allegations contained in ¶ 95.

59. Deny knowledge or information sufficient to form a belief as to the allegation contained in ¶ 96 that defendant Casella's designated physician refused to supply plaintiff with his credentials; deny the remaining allegations contained in ¶ 96.

60. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 97, except deny that plaintiff has complied with the Order of defendant Second Department that plaintiff submit to an examination.

61. Deny the allegations contained in ¶ 98, except admit that on July 15, 1991 defendant Second Department denied "without reasons" plaintiffs motion by Order to Show Cause and refer the Court to plaintiff's motion by Order to Show Cause for its contents.

62. Deny the allegations contained in ¶ 99, except admit that defendant Galfunt was apprised of the June 14, 1991 interim suspension.

63. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 100,

except admit that additional sua sponte complaints were served on plaintiff based on further allegations of misconduct against plaintiff which were brought to Grievance Committee's attention.

64. Deny the allegations contained in ¶ 101, except admit that defendant Grievance Committee issued a sua sponte complaint based on Justice Fredman's findings that plaintiff should be sanctioned for her misconduct and refer the Court to Justice Fredman's decision, dated June 24, 1991, for its contents.

65. Deny the allegations contained in ¶ 102.

66. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 103, except admit that Grievance Committee served a sua sponte complaint on plaintiff alleging that she had violated defendant Second Department's Order of suspension, dated June 14, 1991, by continuing to practice law.

67. Deny the allegations contained in ¶ 104, except admit that plaintiff submitted responses to complaints.

68. Deny the allegations contained in ¶ 105, except admit that defendant Grievance Committee refused transfer of complaints to another judicial department.

69. Deny the allegations contained in the first sentence of ¶ 106, except admit that defendant Grievance Committee did not transfer plaintiff's complaint out of Second Department; transfer was directed by defendant Second Department to another Disciplinary Committee. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in the

remainder of ¶ 106.

70. Admit that plaintiff moved for leave to appeal, except refer the Court to plaintiff's motion, dated July 19, 1991, for it's contents.

71. Deny the allegations contained in ¶¶ 108 and 109.

72. Admit the allegations contained in ¶ 110.

73. Deny the allegations contained in ¶¶ 111-112, except admit that there was an election appeal of Sady v. Murphy calendared on August 20, 1991, oral argument was heard and Justice Thompson was a member of the bench.

74. Deny the allegations contained in ¶ 113.

75. Deny the allegations contained in ¶ 114, except admit that there was a decision by Order of defendant Second Department dated August 21, 1991 that affirmed the Order appealed from, and refer the Court to that Order for it's contents.

76. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 115.

77. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 116, except refer the Court to the calendar of the New York Court of Appeals.

78. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 117.

79. Deny knowledge or information sufficient to form a belief as to the allegations contained in ¶¶ 118-121.

80. Deny the allegations contained in ¶¶ 122, 123.

81. Deny the allegations contained in ¶ 124, except admit that Grievance Committee served sua sponte complaint based on plaintiff's misconduct in the proceedings before Justice Colabella.

82. Deny, upon information and belief, the allegations contained in ¶¶ 125-127.

83. Deny the allegations contained in ¶ 128, except refer the Court to the Supplemental Petition, dated April 9, 1992, for it's contents.

84. ¶ 129 contains legal argument and therefore no responsive pleading is required.

85. Deny the allegations contained in ¶ 130.

86. Deny the allegations contained in ¶ 131, except admit that plaintiff was required to answer a sua sponte complaint regarding her conduct in Wolstencroft.

87. Deny, upon information and belief, the allegations contained in ¶ 132, except admit a sua sponte complaint was served on plaintiff.

88. Deny, upon information and belief, the allegations contained in ¶ 133, except admit that plaintiff has been advised that she is not entitled to the work product of the Grievance Committee.

89. Admit the allegations contained in ¶ 134.

90. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 135.

91. Deny knowledge or information sufficient to form a

belief as to the truth of the allegations contained in ¶ 136.

92. Admit the allegations contained in ¶ 137.

93. Deny, upon information and belief, the allegations contained in ¶ 138.

94. Admit the allegations contained in ¶ 139.

95. Deny, upon information and belief, the allegations contained in ¶ 140, and refer the Court to 22 N.Y.C.R.R. § 691.4(e)(4) and (f) for their terms.

96. ¶ 141 contains legal argument and therefore no responsive pleading is required.

97. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 142.

98. Admit the allegations contained in ¶ 143.

99. Deny the allegations contained in ¶¶ 144 and 145, except admit that plaintiff's appeal as of right was dismissed, and refer the Court to the Order of the Court of Appeals dated November 18, 1991 for its contents.

101. Admit the allegations contained in ¶ 146(a); deny that defendant Second Department authorized disciplinary proceedings based on defendant Grievance Committee's "ex parte" July 8, 1992 report, and deny information sufficient to form a belief as to the truth of when plaintiff became aware of the disciplinary proceedings; admit the allegations contained in ¶ 146(c).

102. Deny knowledge or information sufficient to form belief as to the truth of the allegations contained in ¶ 147.

103. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 148.

104. Deny, upon information and belief, the allegations contained in ¶ 149, except refer the Court to 22 N.Y.C.R.R. § 691.4(e)(4) and (f) for it's terms.

105. ¶ 150 contains legal argument and therefore no responsive pleading is required.

106. Deny the allegations contained in ¶ 151.

107. Deny the allegations contained in ¶ 152, except refer the Court to 22 N.Y.C.R.R. § 691.4(e)(4), (f) and (h) and 22 N.Y.C.R.R. 691.4(e)(5) for their terms.

108. Deny the allegations contained in ¶ 153, except admit that the January 28, 1993 Petition is based on sua sponte complaints of professional misconduct by plaintiff which has come to the attention of the defendant Grievance Committee.

109. Deny the allegations contained in ¶ 154.

110. Deny the allegations contained in ¶ 155, except refer the Court to New York State Judiciary Law § 90(6) for it's terms.

111. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 156.

112. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 157.

113. Deny the allegations contained in ¶ 158, except admit that plaintiff has made unsuccessful requests to disqualify defendant Casella, and refer the Court to plaintiff's letter dated

March 15, 1993 for it's contents.

114. Deny the allegations contained in ¶ 159.

115. Deny the allegations contained in ¶ 160, except refer the Court to the Order of defendant Second Department dated March 17, 1993 for its contents.

116. Deny the allegations contained in ¶ 161, except refer the Court to 22 N.Y.C.R.R. § 691.4(e)(4), (f), and (h) and 22 N.Y.C.R.R. § 691.4(e)(5) for their terms.

117. Deny the allegations contained in ¶ 162, except refer the Court to New York State Judiciary Law § 90(6) for it's terms.

118. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 163.

119. Deny the allegations contained in ¶ 164.

120. Admit the allegations contained in the first sentence of ¶ 165; deny the allegations contained in the second sentence of ¶ 165.

121. Deny the allegations contained in ¶ 166, except admit that plaintiff served Article 78 petition, and refer the Court to the Article 78 petition for it's contents.

122. Admit the allegations contained in ¶ 167.

123. Deny the allegations contained in ¶¶ 168-170, except admit that motion papers were served and filed on behalf of respondents in response to plaintiff's Article 78 petition, and refer the Court to respondents' motion papers for it's contents.

124. Deny the allegations contained in ¶ 171, except

admit the existence of the Order of defendant Second Department, and refer the Court to the Order of defendant Second Department, dated May 24, 1993, for it's contents.

125. Deny the allegations contained in ¶ 172, and refer the Court to plaintiff's motion dated June 14, 1993 for it's contents.

126. Deny the allegations contained in ¶¶ 173-177, except refer the Court to plaintiff's cross-motion brought by Order to Show Cause, dated July 2, 1993, for it's contents.

127. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶¶ 179-181.

128. Deny the allegations contained in ¶¶ 182 and 183, except admit that defendant Second Department dismissed plaintiff's Article 78 petition and refer the Court to the Order of defendant Second Department, dated September 20, 1993, for it's contents.

129. Admit the allegations contained in ¶ 184 to the extent there was an Order of defendant Second Department dismissing the Article 78 proceeding and that presiding Justice Mangano was not a member of that bench.

130. Admit the allegations contained in ¶ 185.

131. Deny the allegations contained in ¶ 186.

132. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶¶ 187 and 188.

133. Deny the allegations contained in ¶ 189, except

refer the Court to the Order of defendant Second Department, dated September 20, 1993, and plaintiff's motion, dated November 19, 1993, for their contents.

134. Deny the allegations contained in ¶ 190, except refer the Court to plaintiff's motion, dated November 19, 1993, for it's contents.

135. Deny the allegations contained in ¶ 191.

136. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶¶ 192-194.

137. Refer the Court, with respect to the allegations contained in ¶ 195, to plaintiff's Notice of Appeal, dated January 3, 1994, for it's contents.

138. Deny the allegations contained in ¶ 196.

139. Admit the allegations contained in ¶ 197.

140. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in ¶¶ 198 and 199.

141. Deny the allegations contained in ¶ 200, except admit plaintiff complained to G. Oliver Koppell about conduct of staff.

142. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 201.

143. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 202, and deny allegations characterizing dismissal of Article 78 petition.

144. Deny the allegations contained in ¶ 203, except admit office filed papers.

145. Deny knowledge or information sufficient to form a belief as to the allegations contained in ¶ 204, except admit plaintiff told G. Oliver Koppell "that the Assistant Attorney General who had handled the matter before Defendant Second Department and, thereafter, to the Court of Appeals, had admitted to her that he had never read the files under A.D. 90-000315."

146. Deny the allegations contained in ¶ 205.

147. Deny knowledge or information sufficient to form a belief as to the truth of the allegations contained in ¶ 206.

148. Deny knowledge or information sufficient to form a belief as to the allegations contained in ¶ 207, except deny that G. Oliver Koppell was guilty of complicity, and deny that clients were guilty of criminal conduct and refer the Court to plaintiff's letter dated March 15, 1994 for its contents.

149. Deny the allegations contained in ¶ 208.

150. Admit the allegations contained in ¶ 209.

151. Repeat and reallege each of the foregoing answers to the paragraphs referred to in ¶ 210.

152. Deny the allegations contained in ¶ 211 and refer the Court to plaintiff's cited reference of Matter of Nuey, 61 N.Y.2d 513, 474 N.Y.S.2d 714 (1984).

153. Deny the allegations contained in ¶ 212 and refer the Court to 22 N.Y.C.R.R. § 691.4(1)(1) for its terms.

154. Deny the allegations contained in ¶ 213 and refer

the Court to New York State Judiciary Law § 90(2) for its terms.

155. Deny, upon information and belief, the allegations contained in ¶ 214.

156. Deny the allegations contained in ¶¶ 215 and 216.

157. Deny the allegations contained in ¶ 217 and refer the Court to 22 N.Y.C.R.R. § 691.2 for its terms.

158. Deny the allegations contained in ¶¶ 218-234.

159. Repeat and reallege each of the foregoing answers to the paragraphs referred to in ¶ 235.

160. Deny the allegations contained in ¶¶ 236-245.

161. Repeat and reallege each of the foregoing answers to the paragraphs referred to in ¶ 246.

162. Deny the allegations contained in ¶¶ 247-249.

163. Repeat and reallege each of the foregoing answers to the paragraphs referred to in ¶ 250.

164. Deny the allegations contained in ¶ 251.

FIRST AFFIRMATIVE DEFENSE

165. This Court should abstain under the principles announced in Younger v. Harris, 401 U.S. 37 (1971).

SECOND AFFIRMATIVE DEFENSE

166. The complaint is barred, in whole or in part, by the Eleventh Amendment to the United States Constitution.

THIRD AFFIRMATIVE DEFENSE

167. This Court lacks subject matter jurisdiction under the Rooker-Feldman doctrine.

FOURTH AFFIRMATIVE DEFENSE

168. This Court should dismiss the complaint based on res-judicata and/or collateral estoppel.

FIFTH AFFIRMATIVE DEFENSE

169. The complaint should be dismissed, in whole or in part, based on absolute judicial immunity, quasi-judicial immunity, absolute prosecutorial immunity and qualified immunity.

SIXTH AFFIRMATIVE DEFENSE

170. This action is time barred, in whole or in part, due to plaintiff's failure to timely serve and file her complaint within the applicable statute of limitations.


171. The complaint should be dismissed for failure to state a claim for either deprivations of constitutional rights or conspiracy to deprive plaintiff of her constitutional rights under 42 U.S.C. § 1983.

172. This complaint should be dismissed for failure to comply with Rule 8 of the Fed. R. Civ. P. which requires a short and plain statement of her claims for relief.

WHEREFORE, defendants demand judgment dismissing the complaint against them and for such other and further relief as this Court deems just and proper.

Dated: January 9, 1995
New York, New York

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State of New York
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By:



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