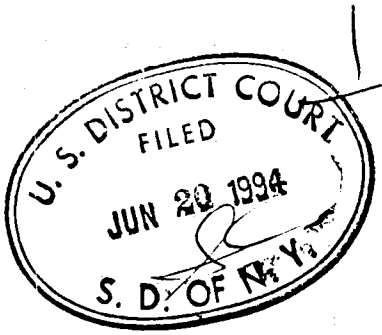

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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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 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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94 Civ.

VERIFIED COMPLAINT

Jury Trial Demanded

94 CIV. 4514

JUDGE SPRIZZO

DORIS L. SASSOWER, as and for her Verified Complaint herein, respectfully sets forth and alleges:

NATURE OF THE ACTION

1. This is an action for declaratory judgment and other equitable relief, as well as for money damages, compensatory and punitive, against the above-named Defendants to redress their wilful and deliberate deprivation of rights secured to Plaintiff by the constitutions and laws of the United States and of the State of New York, by acting, separately and in

concert, to cause and to perpetuate to the present date an unlawful, unconstitutional, retaliatory, politically motivated "interim" suspension of Plaintiff's professional license to practice law by Order of Defendant SECOND DEPARTMENT, dated June 14, 1991, and for participating in a criminal conspiracy in furtherance thereof.

2. Plaintiff seeks to have this Court declare as null and void said "interim" suspension Order and all other disciplinary Orders rendered against her under A.D. #90-00315, as well as the statutory provisions and court rules by which those Orders were wrongfully procured against Plaintiff, to wit, 22 N.Y.C.R.R. §691.4 and, particularly §691.4(l)(1) and §691.13(b)(1) and Judiciary Law §90(2) and §90(10), as written and applied, so as to declare Plaintiff a member of the bar of the State of New York in good standing and restore to her all rights, privileges and immunities with respect to her license to practice law.

3. On June 14, 1991, Defendant SECOND DEPARTMENT, without notice of formal charges, without a hearing, without a finding of probable cause, or any other findings, administrative or judicial, and without any jurisdiction whatsoever, by a so-called "interim" Order, suspended Plaintiff's license to practice law immediately, unconditionally, and indefinitely (Exhibit "A"). Defendant SECOND DEPARTMENT and Defendant CASELLA, acting under its auspices and direction, knew such Order to be unlawful and fraudulent and that it was being rendered for political,

personal, and private ulterior motivations, totally outside the scope of their judicial/official duties for the sole purpose of discrediting, defaming and destroying Plaintiff to cause her to cease her activities in exposing judicial corruption.

4. Since June 14, 1991 and for the three years to the present date, Defendant SECOND DEPARTMENT, aided and abetted by Defendants CASELLA, SUMBER, and GRIEVANCE COMMITTEE, has knowingly and deliberately abused its disciplinary powers by acting without jurisdiction and beyond the scope of its judicial functions, in violation of Plaintiff's constitutional and statutory rights by issuing, and refusing to vacate, the June 14, 1991 interim suspension Order. Notwithstanding Plaintiff was deprived of any hearing, administrative or judicial, prior to issuance of the June 14, 1991 "interim" suspension Order, which did not arise out of any case or controversy then before Defendants SECOND DEPARTMENT or GRIEVANCE COMMITTEE, Defendant SECOND DEPARTMENT has refused to direct a post-suspension hearing as to the alleged basis of the "interim" suspension. Simultaneously, it has authorized prosecution of retaliatory and knowingly baseless disciplinary proceedings against Plaintiff.

5. This retaliation was part of an ongoing "vendetta" against Plaintiff by Defendant SECOND DEPARTMENT, going back to 1979, when it authorized Defendant GRIEVANCE COMMITTEE to bring legally insufficient and frivolous disciplinary proceedings against Plaintiff and her ex-husband, George Sassower. As a result of the bias then extant against them in the Second

Department, those proceedings were transferred to the Appellate Division, First Department. Plaintiff and her former spouse were thereafter acquitted of all 32 "bogus" charges against, which the Appellate Division, First Department found to be so frivolous as to Plaintiff that it not only granted dismissal thereof, but gave her leave to seek sanctions against her prosecutors in the Second Department.

6. Thereafter, Defendant SECOND DEPARTMENT has deliberately failed and refused to transfer any matters involving Plaintiff out of the department. Instead, Plaintiff has been "targeted" for disciplinary investigation and prosecution in a selective, discriminatory and invidious manner.

7. Said prosecutions were designed to intimidate, coerce and bankrupt Plaintiff and so exhaust her physically, emotionally, and mentally that she would cease her exercise of First Amendment rights and, particularly, her public activities challenging judicial corruption.

8. Insofar as this action seeks prospective equitable relief against the above-named Defendants, it does not violate, directly or indirectly, the constitutional prohibition contained in Amendment XI of the U.S. Constitution.

9. Insofar as this action seeks monetary damages for constitutional torts committed by the above-named Defendants, such relief is based on the fact that the suspension order in question did not arise out of any case or controversy pending before the Second Department, which, therefore, was acting in

clear and complete absence of jurisdiction and outside its judicial functions. Liability is sought against such Defendants in their personal capacities, by reason of their actions, known to them to be outside the scope of their respective offices and in gross abuse of their public offices. By reason thereof, the financial burden of their defense is not sought to be imposed on the sovereign state of New York, but on Defendants personally.

10. The Attorney-General's official and personal liability is predicated on his deliberate and knowing complicity in the wrongful and criminal conduct of his clients, whom he has defended with knowledge that their defense rested on perjurious factual allegations made by members of his legal staff and wilful misrepresentation of the law applicable thereto.

JURISDICTION AND VENUE

11. Jurisdiction to grant declaratory relief is conferred by Title 28 U.S.C. §2201, §2202. Jurisdiction to grant monetary relief is granted by Title 28 U.S.C. §1331 and §1343(3) and Title 42 U.S.C. §1983, §1985(3) and §1988. The rights, privileges and immunities claimed to have been violated are those guaranteed by the First, Fifth, Sixth, Eighth, and Fourteenth Amendments to the United States Constitution.

12. Venue lies in the Southern District of New York in that, pursuant to 28 U.S.C. §1391, Plaintiff and various Defendants reside and have their offices within said district and a substantial part of the events or omissions giving rise to the claim occurred there.

THE PARTIES

A. The Plaintiff

13. At all times hereinafter mentioned, Plaintiff was, and still is, an adult citizen of the United States, a native born American, residing in White Plains New York. Prior to Defendant SECOND DEPARTMENT's June 14, 1991 "interim" suspension Order, Plaintiff had, for more than twenty-five years, lived and maintained offices for the practice of law in Westchester County, which is under the jurisdiction of the Appellate Division, Second Judicial Department. Prior thereto, Plaintiff maintained her law offices exclusively in the First Department, where she was admitted to the bar of the State of New York in 1955, after fulfilling its required educational requirements and passing a state-administered bar examination.

14. At the time of the June 14, 1991 "interim" suspension Order, Plaintiff, as Defendants knew, had no record of any prior disciplinary convictions. She was well-known as a distinguished matrimonial and human rights lawyer, lecturer and writer, and had been in continuous good standing at the bar for over thirty-five years. She had a thriving private practice, an outstanding career and a national reputation based on her legal writings, her public advocacy in the area of equal rights and law reform, and her litigation accomplishments in both the private and public sector. She was consistently professional rated "AV" by Martindale-Hubbell's Law Directory and, in June 1989, was elected as a Fellow of the American Bar Foundation. Such honor

is reserved for less than one-third of one percent of the practicing bar in each State.

15. Defendants knew that Plaintiff had been President of the New York Women's Bar Association and had a long background in the area of judicial reform. She had served on committees to reform the judicial selection process and had written and been published on that subject in The New York Law Journal.

16. For eight years, from 1972 to 1980, Plaintiff had served as the first woman appointed to the Judicial Selection Committee of the New York State Bar Association. In that capacity, Plaintiff interviewed and participated in the evaluation of every candidate for the New York State Court of Appeals, the Appellate Divisions, and the Court of Claims. She herself was nominated as a candidate for the Court of Appeals in 1972.

17. At relevant times hereinafter mentioned, commencing in or about August 1989, Plaintiff publicly expressed her opinion as to the unfitness of Hon. Samuel G. Fredman, a former Chairman of the Westchester County Democratic Committee, then sitting as a Supreme Court justice in Westchester County by interim appointment of Governor Mario Cuomo.

18. At relevant times hereinafter mentioned, Plaintiff publicly expressed her opinion, beginning in or about September 1989, that a certain cross-endorsement Deal between the Republican and Democratic Party leadership (Exhibit "B") in late August 1989, involving the trading of seven judgeships,

thereafter implemented at illegally conducted Judicial Nominating Conventions held in or about September 1989, was corrupt and a fraud upon the public and an unconstitutional disenfranchisement of the voters under the New York State Constitution.

B. The Defendants

19. At relevant times hereinafter mentioned, Defendant SECOND DEPARTMENT was, and still is, the state body with exclusive jurisdiction authorized by Judiciary Law §90(2) to discipline by censure, suspension, and disbarment members of the bar within the Second Department who are "guilty of professional misconduct". Defendant GUY MANGANO was and is still is the Presiding Justice thereof, and personally participated in the June 14, 1991 "interim" suspension Order and every other disciplinary Order affecting Plaintiff under A.D. #90-00315.

20. Upon information and belief, at all relevant times hereinafter mentioned, Defendant GRIEVANCE COMMITTEE FOR THE NINTH JUDICIAL DISTRICT (hereinafter "Defendant GRIEVANCE COMMITTEE") was, and still is, the disciplinary agency, operating as an arm of the Defendant SECOND DEPARTMENT, appointed by it, pursuant to 22 N.Y.C.R.R. §691.4(a), to investigate and prosecute matters involving attorneys in the Ninth Judicial District.

21. Upon information and belief, since November 1990, Defendant SUMBER has been the Chairman of Defendant GRIEVANCE COMMITTEE, appointed by Defendant SECOND DEPARTMENT. Defendant SECOND DEPARTMENT, likewise, has appointed all members of Defendant GRIEVANCE COMMITTEE, herein collectively referred to as

Does 1-20.

22. Upon information and belief, at relevant times hereinafter mentioned, Defendant GARY CASELLA (hereinafter "Defendant CASELLA") was, and still is, Chief Counsel of Defendant GRIEVANCE COMMITTEE, appointed by Defendant SECOND DEPARTMENT pursuant to 22 N.Y.C.R.R. §691.4(b), on an at-will basis, serving at the pleasure of Defendant SECOND DEPARTMENT.

23. Upon information and belief, at relevant times hereinafter mentioned, Defendant MAX GALFUNT (hereinafter "Defendant GALFUNT") was, and still is, a Special Referee regularly appointed by Defendant SECOND DEPARTMENT to hear disciplinary matters, on an at-will, per diem basis, serving at the pleasure of Defendant SECOND DEPARTMENT.

24. Upon information and belief, at relevant times hereinafter mentioned, Defendant G. OLIVER KOPPELL was, as of January 1994, Attorney General of the State of New York, to which public office he was duly appointed by interim appointment of Governor Mario Cuomo to fill the unexpired term of former Attorney-General Robert Abrams, who resigned. Prior thereto, Defendant KOPPELL was a member of the New York State Legislature, Chairman of the Assembly Judiciary Committee, who, as such, was given by Plaintiff a full set of the court papers in Castracan v. Colavita and Sady v. Murphy, hereinafter more fully detailed, as well as copies of complaints relative thereto filed with the New York State Commission on Judicial Conduct, documenting the corruption of sitting state court judges.

25. During all times mentioned in this Complaint, the aforesaid Defendants were acting in their official capacities and under color of law, that is, under color of the Constitution, rules, regulations, and of the customs and usages of the State of New York.

26. At all times mentioned in this Complaint, the Defendants MANGANO and other justices of Defendant SECOND DEPARTMENT, Defendants CASELLA, SUMBER, GRIEVANCE COMMITTEE, and GALFUNT have acted jointly and in concert with each other, in unlawful conspiracy to deprive Plaintiff of her constitutionally protected rights, within the meaning of 43 U.S.C. §1983. Since April 28, 1993 and continuing up to the present time, the Attorney General of the State of New York, has also, acting jointly and in concert with the above-named Defendants, deprived Plaintiff of her constitutional rights, by covering up their misconduct through perjury and deceit committed by members of his staff, with his full knowledge and tacit approval.

27. At all times mentioned in this Complaint, each of the above-named Defendants had the duty and the opportunity to protect Plaintiff from the unlawful actions of the other Defendants, but each Defendant failed and refused to perform such duty, thereby proximately causing Plaintiff's injuries.

FACTUAL ALLEGATIONS

28. In May 1989, Samuel G. Fredman, a former Chairman of the Westchester County Democratic Committee, who was a matrimonial attorney, without prior judicial experience, took

office as a Supreme Court justice of the Ninth Judicial District, by appointment of Hon. Mario Cuomo, Governor of the State of New York. Upon information and belief, said appointment was a political "pay-back" to Mr. Fredman for his delivery of the Westchester Democratic vote to Governor Cuomo, when he first ran for the office in 1982.

29. The position Mr. Fredman was appointed to fill was an interim vacancy, created, upon information and belief, as part of a larger judge-trading deal between the Westchester Republican and Democratic Party Chairmen, consummated in 1989, by the pre-arranged early resignation of Supreme Court Justice Lucille Buell, a Westchester County Republican, whose term was to expire on December 31, 1989, thereby permitting an interim appointment by the Governor.

30. In or about May 1989, Harvey Landau, Esq. was a member of the Scarsdale Democratic Club, actively promoting the nomination of Samuel G. Fredman for a full fourteen year term in the November 1989 general elections.

31. On or about June 22, 1989, Mr. Landau, as successor counsel to Plaintiff's law firm in a divorce action entitled Breslaw v. Breslaw, presented a false, fraudulent, and facially deficient Order to Show Cause, seeking to hold Plaintiff and her professional corporation in contempt and for sanctions against them based upon the alleged refusal to turn over to him their legal files relating to Mrs. Breslaw's divorce action, which Justice Fredman signed.

32. At the time the aforesaid contempt motion was presented, Justice Fredman had no prior involvement in the Breslaw matter, but had considerable prior professional involvement with Plaintiff, who had been his adversary and professional competitor for many years, during which he had evidenced hostility and vicious feelings toward her and the public and professional positions she had espoused.

33. Justice Fredman did not disqualify himself from consideration of Mr. Landau's Order to Show Cause to punish Plaintiff for contempt, which was factually, legally, and jurisdictionally baseless as a matter of law, as would have been obvious to any unbiased and competent judge.

34. On June 30, 1989, Plaintiff appeared in Justice Fredman's part for the return date of her own pending Order to Show Cause for reargument of the Order which was the subject of Mr. Landau's Order to Show Cause. Mr. Landau failed to appear on such return date and Justice Fredman, over Plaintiff's objection, engaged in ex parte communication with Mr. Landau. Upon conclusion of such ex parte communication, Mr. Landau's untimely opposing papers were received by the Court, and Justice Fredman further denied Plaintiff an adjournment to reply thereto, as well as an adjournment of Mr. Landau's contempt Order to Show Cause, whose July 10, 1989 return date, Plaintiff informed the Court was for a day she was scheduled to be out of the country.

35. By letter hand-delivered to Justice Fredman's Chambers, Plaintiff notified Justice Fredman that in view of the

Court's denial of her requested adjournment of the first-time on pending motions and its ex parte conversation with Mr. Landau, she would be retaining counsel in the contempt proceeding and requested thirty days for such purpose.

36. Justice Fredman's mailed letter response denied Plaintiff any adjournment--notwithstanding that Judiciary Law §756 mandates the right to counsel in contempt proceedings. Said letter did not arrive at Plaintiff's law firm until late in the morning on July 10, 1989, at which time Plaintiff's secretary called the court, offering to send over an attorney.

37. Justice Fredman's law secretary advised that that was unnecessary.

38. The court records show that the Breslaw matter was not on the calendar on July 10, 1989, that there were no appearances noted, and that no default was taken against Plaintiff or her law firm.

39. Nonetheless, on July 13, 1989, Justice Fredman issued a defamatory decision prejudging Plaintiff guilty of the underlying contempt charged by Mr. Landau and excoriating her for what he termed her "capricious disappearance" on July 10, 1989, which he characterized as a "gross insult visited" upon him personally, constituting a further contempt. Without giving Plaintiff any opportunity to be heard with respect thereto, Justice Fredman then released his defamatory July 13, 1989 decision to the New York Law Journal and local press.

40. Within a week of publication by The New York Law

Journal on July 24, 1989 and articles on the contempt proceeding by the local Gannett newspaper, on information and belief, Defendant GRIEVANCE COMMITTEE rendered an ex parte report concerning Plaintiff, which it thereafter filed with Defendant SECOND DEPARTMENT.

41. Plaintiff has never seen such ex parte July 31, 1989 report, discovery of which has been consistently denied her by Defendants CASELLA and SECOND DEPARTMENT.

42. Upon information and belief, the ex parte July 31, 1989 report related to complaints by two former clients, arising out of fee disputes with Plaintiff's law firm. Said complaints, pending since 1987 and 1988, had not been the subject of any further inquiry by Defendant GRIEVANCE COMMITTEE following Plaintiff's final submission of written responses thereto. Defendant GRIEVANCE COMMITTEE never notified Plaintiff of any intent to take disciplinary steps, and never served her with pre-petition written charges or afforded her a pre-petition hearing, as 22 N.Y.C.R.R. §691.4(e)(4) and (f) require. The nature of the complaints, as reflected by their lengthy pendency before Defendant GRIEVANCE COMMITTEE, made the exigency exception under §691.4(e)(5) inapplicable.

43. On August 15, 1989, Justice Fredman denied Plaintiff's motion for his recusal based on his personal bias and pre-existing hostility toward her. Neither he nor Mr. Landau disclosed their on-going political relationship.

44. On August 24, 1989, Respondent SECOND DEPARTMENT

denied Plaintiff's application for leave to appeal Justice Fredman's Order denying recusal.

45. On August 30, 1989, Justice Fredman, in the presence of the press, held Plaintiff in summary contempt. Plaintiff thereupon brought an Article 78 proceeding against Justice Fredman, who later withdrew the summary contempt after being informed by the Attorney General that it could not defend same.

46. Upon information and belief, on or before August 30, 1989, the political leadership of the Westchester Democratic and Republican Parties formalized, by a written document, the negotiations that had been taking place over the preceding year relating to trading of judgeships in the Ninth Judicial District. The document set forth a three-year deal [hereinafter "the Deal"-(Exhibit "B") by which, through cross-endorsements, the Democratic and Republican parties bartered Supreme and County judgeships, including the surrogate judgeship of Westchester County, upon agreed terms and conditions, including a contracted-for resignation of a Supreme Court judge and a split of judicial patronage along party lines.

47. Upon information and belief, the principal architect and beneficiary of the Deal was Justice Fredman.

48. Upon information and belief, the Deal was ratified by the Executive Committees of the Democratic and Republican parties of the counties comprising the Ninth Judicial District--Westchester, Putnam, Dutchess, Orange, and Rockland. It was

implemented at the Judicial Nominating Conventions conducted in September 1989 which, pursuant to the Deal, nominated Justice Fredman, then 64 years of age to a 14-year term on the Supreme Court.

49. The Democratic Judicial Nominating Convention was held on September 19, 1989 and personally witnessed by Plaintiff, as a member of the Ninth Judicial Committee, a citizens' group organized by Eli Vigliano, Esq., who was also present at the Convention and witnessed same.

50. In an October 1, 1989 article published in the Westchester edition of The New York Times, Plaintiff as well as Mr. Vigliano were quoted as "attempting to mount a legal challenge".

51. Within the next ten days, Plaintiff gave information to the Judiciary Committee of the Westchester Bar Association and Women's Bar Association concerning Justice Fredman's unfitness for the judicial office to which he had been nominated by both major parties. By letter dated October 5, 1989, Plaintiff sent a copy of her written submission concerning Justice Fredman to the New York State Commission on Judicial Conduct, which dismissed her complaint by letter dated November 28, 1989.

52. On November 1, 1989, Mr. Vigliano, on behalf of the Ninth Judicial Committee, hand-delivered a written complaint to Governor Cuomo's Manhattan office, copies of which he filed with the New York State Board of Elections and the New York State

Commission on Judicial Conduct, entitled "Election Fraud in the Ninth Judicial District". Mr. Vigliano contended that the three-year Deal was illegal and a fraud upon the voters, as were the Judicial Nominating Conventions, which he detailed as violative of the Election Law in numerous respects, set forth by him. Mr. Vigliano further noted the perjurious nature of Certificates of Nomination, signed by the permanent chairman and secretary of each party, all lawyers.

53. The Governor's Office referred Mr. Vigliano's complaint to the New York State Board of Elections which, thereafter, dismissed it without investigation and without notice to Mr. Vigliano. On information and belief, the New York State Commission on Judicial Conduct took no action on Mr. Vigliano's November 3, 1989 complaint to it.

54. On November 15, 1989, the local Gannett newspapers reported that Plaintiff had been recently released from a psychiatric hospital, which she voluntarily entered following her collapse resulting from Justice Fredman's abusive treatment and public humiliation of her in the Breslaw case.

55. Notwithstanding that under 22 N.Y.C.R.R. §691.4(k), disciplinary proceedings are to be given a preference by the court, it was not until December 14, 1989 that Defendant SECOND DEPARTMENT rendered, ex parte, an Order authorized prosecution of a disciplinary proceeding against Plaintiff based on alleged "acts of professional misconduct set forth in the committee's report, dated July 31, 1989"--almost five months

earlier.

56. Said four month lapse demonstrates that Defendant GRIEVANCE COMMITTEE had not relied on the exigency exception under 22 N.Y.C.R.R. §691.4(e)(5) when it filed its ex parte July 31, 1989 report, without first complying with requisite pre-petition requirements.

57. Defendant SECOND DEPARTMENT's ex parte December 14, 1989 Order did not allege compliance by Defendant GRIEVANCE COMMITTEE with pre-petitions requirements, set forth in 22 N.Y.C.R.R. §691.4(e)(4), §691.4(f), and §691.4(h) of notice, written charges, a hearing, and findings based on evidentiary proof or that it was proceeding under the exigency provision of §691.4(e)(5).

58. No copy of the aforesaid ex parte December 14, 1989 Order was served upon Plaintiff.

59. On February 8, 1990, Plaintiff was personally served with a Notice of Petition and Petition, dated February 6, 1990. The Petition, signed by then-Chairman of Defendant GRIEVANCE COMMITTEE, William Geoghegan, was made entirely "upon information and belief", with Mr. Geoghegan's Verification thereof resting wholly on Defendant SECOND DEPARTMENT's ex parte December 14, 1989 Order, rather than on any recommendation for prosecution by Defendant GRIEVANCE COMMITTEE in its ex parte July 31, 1989 report.

60. No copy of Defendant SECOND DEPARTMENT's ex parte December 14, 1989 Order or Defendant GRIEVANCE COMMITTEE's ex

parte July 31, 1989 report were annexed to, or served with, the February 6, 1990 Petition.

61. On March 8, 1990, Plaintiff, by her attorney, Eli Vigliano, Esq., served her Verified Answer, dated March 7, 1990, which denied knowledge or information sufficient to form a belief as to the ex parte July 31, 1989 report, as well as of Defendant GRIEVANCE COMMITTEE's compliance with Judiciary Law §90 and §691.4, alleged as jurisdictional allegations in the Petition.

62. Plaintiff's Verified Answer further pleaded two complete affirmative defenses, including that Plaintiff was "being made the subject of invidious, discriminatory, retaliatory, selective disciplinary action denying her, inter alia, the equal protection of the laws".

63. In April 1990, Justice Fredman, in the still unresolved Breslaw contempt proceeding, telephoned Plaintiff's psychiatrist, without Plaintiff's knowledge or consent, and directed him to appear in court--under threat that he would otherwise be brought to court by a sheriff--to respond to his inquiries as to Plaintiff's medical condition.

64. On April 13, 1990, over the objection of counsel appearing on Plaintiff's behalf and in her absence, Justice Fredman violated Plaintiff's physician-patient privilege under CPLR §4504, directing Plaintiff's physician to testify in open court and in the presence of the press, which thereafter published report of same.

65. At taxpayer expense, Justice Fredman ordered the

court reporter to transcribe the April 13, 1990 court proceeding on an expedited basis and, on April 20, 1990, issued a personally derogatory and defamatory decision, wherein he made an adjudication based on the physician's testimony that Plaintiff was mentally capacitated.

66. Both the April 13, 1990 court transcript and Justice Fredman's April 20, 1990 decision were then annexed to an Order to Show Cause brought by Defendant CASELLA seeking a court-ordered medical examination of Plaintiff pursuant to §22 N.Y.C.R.R. §691.13(b)(1) to determine whether she was mentally incapacitated and to suspend her upon such determination. Said Order to Show Cause, which Defendant CASELLA procured ex parte, was signed on May 8, 1990 by Hon. Isaac Rubin, a Justice of Defendant SECOND DEPARTMENT, whose Westchester Chambers were in close physical proximity to those of Justice Fredman and who was a member of the New York State Commission on Judicial Conduct when it received the 1989 complaints of Plaintiff and Mr. Vigliano, referred to at ¶¶ 52-3 hereinabove.

67. Defendant CASELLA's Order to Show Cause was palpably insufficient as a matter of law. Such application, pursuant to 22 N.Y.C.R.R. §691.13(b)(1), required a petition of Defendant GRIEVANCE COMMITTEE. No petition supported Defendant CASELLA's Order to Show Cause, but his attorney's affirmation, which failed to even allege that Defendant GRIEVANCE COMMITTEE had authorized his application under 22 N.Y.C.R.R. §691.13(b)(1).

68. Plaintiff's medical condition had never been

placed in issue in any disciplinary proceeding, as reflected by the fact that Defendant CASELLA did not proceed under 22 N.Y.C.R.R. §691.13(c)(1). Nor did Defendant CASELLA's May 8, 1990 Order to Show Cause allege that it had been or that his application was in any way related to the February 6, 1990 Petition against Plaintiff.

69. The February 6, 1990 Petition was completely unrelated to Defendant CASELLA's May 8, 1990 Order to Show Cause and, therefore, not an underlying proceeding to such application.

70. Plaintiff opposed Defendant CASELLA's May 8, 1990 Order to Show Cause with a Cross-Motion to dismiss same for lack of personal and subject matter jurisdiction, stating that Defendant CASELLA had not shown that Defendant GRIEVANCE COMMITTEE had authorized him to bring such application or that requisite pre-petition procedures had been followed.

71. Plaintiff further sought dismissal based on "unconstitutional invidious selectivity", specifically requesting "a pre-disciplinary hearing" to establish Defendant GRIEVANCE COMMITTEE's "continuing and unending pattern of invidious selectivity" going back to its first disciplinary proceeding ever brought against her more than ten years earlier.

72. In support thereof, Plaintiff pointed out that when those earlier proceedings had been transferred to the Appellate Division, First Department, it threw out, on summary judgment, seventeen of the twenty charges made therein against

Plaintiff, thereafter throwing out the remaining three charges in a November 18, 1981 Order, which gave leave to Plaintiff to seek sanctions against Defendant GRIEVANCE COMMITTEE for its frivolous conduct.

73. Plaintiff's complaint as to the constitutionally impermissible manner in which Defendant GRIEVANCE COMMITTEE had prosecuted those earlier proceedings and the unethical conduct of its Chief Counsel, Assistant Counsel, and its Chairman was reflected by the November 18, 1981 Order, annexed to her papers in support of her Cross-Motion.

74. Defendant CASELLA failed to present any proof that Defendant GRIEVANCE COMMITTEE had authorized him to make the May 8, 1990 Order to Show Cause for Plaintiff's suspension under 22 N.Y.C.R.R. §691.13(b)(1).

75. Under 22 N.Y.C.R.R. §691.4(k), disciplinary proceedings are to be given a preference by the court. Nonetheless, for more than four months Defendant SECOND DEPARTMENT did not adjudicate Defendant CASELLA's May 8, 1990 Order to Show Cause and Plaintiff's Cross-Motion until October 18, 1990--the day before Plaintiff was scheduled to argue the appeal in Castracan v. Colavita before the Appellate Division, Third Department.

76. In late September 1990, Plaintiff, acting as pro bono counsel to the Ninth Judicial Committee, filed a case in the Third Department under the Election Law, entitled Castracan v. Colavita, et al., challenging the three-year cross-endorsements

Deal (Exhibit "B"), the 1990 phase of which was then being implemented, as well as the conduct of the 1990 Democratic and Republican Judicial Nominating Conventions, which the Petition alleged had violated the New York State Election Law.

77. By decision/order dated October 17, 1990, Castracan v. Colavita was dismissed for failure to state a cause of action by the Supreme Court, Albany County, which stated that it could not address the legality of the Three-Year Deal, absent proof that the judicial nominating conventions implementing it had been illegally conducted. By such decision, the lower court disregarded the legal standard for a motion to dismiss for failure to state a cause of action and falsified the record, which contained ample proof as to the violations of the Election Law at the judicial nominating conventions, inter alia, in the form of affidavits of three eye-witnesses to the conventions. No hearing was afforded the Castracan Petitioners to present further proof.

78. Notwithstanding the preference to which appeals in Election Law proceedings are automatically entitled by the Election Law and the rules of the Appellate Division, Third Department cancelled, without reasons, the October 19, 1990 scheduled argument on the appeal in Castracan v. Colavita on October 18, 1990--the same day Defendant SECOND DEPARTMENT issued its Order on Defendant CASELLA's May 8, 1990 Order to Show Cause.

79. Defendant SECOND DEPARTMENT's October 18, 1990 Order, which it had delayed rendering for nearly four months, was

not a lawful Order, being erroneous in at least seven material respects:

(a) It mischaracterized Plaintiff's Cross-Motion, which sought dismissal of Defendant CASELLA's May 8, 1990 Order to Show Cause, as seeking dismissal of a disciplinary proceeding authorized against her by a December 6, 1989 Order;

(b) There was no December 6, 1989 Order against Plaintiff, but only a December 14, 1989 Order, authorizing the February 6, 1990 Petition;

(c) Plaintiff's Cross-Motion did not challenge personal jurisdiction in "the underlying disciplinary proceeding", but rather contested Defendant CASELLA's service of the May 8, 1990 Order to Show Cause upon Plaintiff's daughter.

(d) There was no "underlying disciplinary proceeding" to Defendant CASELLA's May 8, 1990 Order to Show Cause--the February 6, 1990 Petition being completely separate and unrelated;

(e) Defendant SECOND DEPARTMENT's use of the same docket number, A.D. 90-00315, for its October 18, 1990 Order as had been assigned to the February 6, 1990 Petition, to make it appear that there was some connection between them. There was none;

(f) Defendant SECOND DEPARTMENT's delegation to Defendant CASELLA, as Plaintiff's prosecutor, the court's authority to designate "qualified medical experts" was unauthorized by 22 N.Y.C.R.R. §691.13(b)(1).

(g) 22 N.Y.C.R.R. §691.13(b)(1) is not limited to examination by a single medical "expert", as ordered by Defendant SECOND DEPARTMENT, but rather by "medical experts".

80. By Order dated November 1, 1990--eight months after issue had been joined on Defendant GRIEVANCE COMMITTEE's February 6, 1990 Petition by Plaintiff's March 7, 1990 Verified Answer--Defendant SECOND DEPARTMENT, appointed Defendant GALFUNT, as special referee for the February 6, 1990 Petition.

81. Thereafter, Defendants GRIEVANCE COMMITTEE, CASELLA, and GALFUNT took no steps to proceed with the February 6, 1990 Petition.

82. Defendant CASELLA failed to notify Mr. Vigliano of the name of the medical expert he had designated to examine Plaintiff until December 1990. Defendant CASELLA and the doctor designated by him then refused to agree to any safeguards relative to Plaintiff's examination.

83. Thereafter, by letter dated January 10, 1991, Mr. Vigliano delineated several respects in which the October 18, 1990 Order was not authorized by 22 N.Y.C.R.R. §691.13(b)(1), the section invoked by Defendant CASELLA, requiring a plenary proceeding. Mr. Vigliano's letter distinguished that section from §691.13(c)(1), which Defendant CASELLA had not invoked and which was also inapplicable, Plaintiff never having raised her disability as a defense to the February 6, 1990 Petition. In view of this and other jurisdictional infirmities, Mr. Vigliano requested that Defendant GRIEVANCE COMMITTEE stipulate to vacatur

of the October 18, 1990 Order, absent which he would make an application to the court.

84. Without addressing any of Mr. Vigliano's jurisdictional and legal objections, Defendant CASELLA responded, by letter dated January 15, 1991, that Defendant GRIEVANCE COMMITTEE "does not and will not agree to voluntary vacatur".

85. Thereafter, both Defendant CASELLA and Plaintiff obtained Orders to Show Cause. Defendant CASELLA's Order to Show Cause, signed January 25, 1991, was made pursuant to 22 N.Y.C.R.R. §691.4(l)(1)(i) to immediately suspend Plaintiff for alleged "failure to comply" with Defendant SECOND DEPARTMENT's October 18, 1990 Order. Plaintiff's Order to Show Cause, signed January 28, 1991, was for vacatur of the October 18, 1990 Order as jurisdictionally void, as well as in opposition to Defendant CASELLA's Order to Show Cause.

86. Defendant CASELLA's January 25, 1991 Order to Show Cause for suspension was not supported by any petition by Defendant GRIEVANCE COMMITTEE setting forth any charge, based on a finding, that she had "failed to comply". It was supported only by Defendant CASELLA's attorney's affirmation, which further failed to allege that Defendant GRIEVANCE COMMITTEE had authorized his application.

87. Without addressing the jurisdictional issues, Defendant CASELLA's supporting affirmation affirmatively represented, for the first time, that the unrelated February 6, 1990 Petition was "an underlying disciplinary proceeding"--which

statement Defendant CASELLA knew to be false--and additionally represented that prosecution of the February 6, 1990 Petition had been delayed as a result of Plaintiff's alleged failure to comply--which he also knew to be false. Defendant CASELLA claimed that this was an "equally as important reason" for Plaintiff's immediate suspension.

88. Defendant CASELLA also used for his Order to Show Cause the same A.D. #90-00315 docket number as had been assigned to the February 6, 1990 Petition. This was intended to further the deceit that his motion for Plaintiff's suspension and the February 6, 1990 proceeding against her were related--which he knew they were not.

89. Plaintiff's January 28, 1991 Order to Show Cause and supporting papers sought sanctions against Defendant CASELLA and an investigation of his unethical conduct, vigorously denying and controverting Defendant CASELLA's conclusory and unsupported claim of Plaintiff's "failure to comply". Plaintiff's papers further showed that Defendant SECOND DEPARTMENT's October 18, 1980 Order was not a "lawful demand", as 22 N.Y.C.R.R. §691.4(l)(1)(i) specifically requires.

90. Under 22 N.Y.C.R.R. §691.4(k), disciplinary proceedings are to be given a preference by the court. Nonetheless, more than four months elapsed before Defendant SECOND DEPARTMENT decided the aforesaid two motions and Defendant CASELLA's subsequent motion for sanctions against Mr. Vigliano. Orders thereon were rendered within a few days following a June

9, 1991 publication by The New York Times of Plaintiff's Letter to the Editor about the significance of the Castracan v. Colavita case, her intention to take it to the Court of Appeals, and the misconduct of Justice Fredman on the bench and, likewise, within days of Plaintiff's transmittal to Governor Cuomo of an affirmation about Mr. Landau's unethical conduct in the Breslaw case for consideration by the Governor, then reported by local Gannett newspapers, as a prospective nominee of the Governor for an interim appointment on the Supreme Court in Westchester County. On June 11, 1991, Plaintiff filed a copy of said affirmation with Defendant GRIEVANCE COMMITTEE as a formal complaint by her against Mr. Landau.

91. By two Orders dated June 12, 1991, Defendant SECOND DEPARTMENT denied, without reasons, Mr. Vigliano's Order to Show Cause to vacate the October 18, 1990 Order and to discipline Defendant CASELLA, and denied Defendant CASELLA's motion for sanctions against Mr. Vigliano, "with leave to renew upon a showing of continued frivolous conduct". Defendant SECOND DEPARTMENT did not identify what conduct by Mr. Vigliano it considered "frivolous".

92. Review of said papers shows no "frivolous" conduct having been committed by Mr. Vigliano, such statement being intended solely for the purpose of intimidation.

93. Two days later, on June 14, 1991, with no stay for review by the Court of Appeals nor time allowed for compliance with the challenged October 18, 1990 Order, Defendant

SECOND DEPARTMENT issued its "interim" suspension Order granting Defendant CASELLA's Order to Show Cause, without any findings or statement of reasons therefor (Exhibit "A"). Said Order, of which Plaintiff was unaware until it was served upon her five days later, on June 19, 1991, had by then had been released to the press by Respondent SECOND DEPARTMENT.

94. At the time Defendant SECOND DEPARTMENT issued its June 14, 1991 Order (Exhibit "A"), Defendant SECOND DEPARTMENT knew that such "interim" suspension orders, without findings or stated reasons, were contrary to its own rules, as set forth in 22 N.Y.C.R.R. §691.4(l)(2), as well as controlling Court of Appeals' caselaw, as articulated in Matter of Nuey, 61 N.Y.2d 513 (1984), which required it to make findings.

95. Immediately upon service of the June 14, 1991 Order, Plaintiff made arrangements to be examined by the physician designated by Defendant CASELLA, who informed her that he was employed by Defendant GRIEVANCE COMMITTEE and would not provide a copy of his credentials to her, without first checking with Defendant CASELLA.

96. Thereafter, Defendant CASELLA's designated physician refused to supply Plaintiff with his credentials and Defendant CASELLA took the position that even were Plaintiff to submit to an examination, and even were there no finding of incapacity, he would, nonetheless, recommend that she remain suspended for what he termed her "flagrant" failure to comply with Defendant SECOND DEPARTMENT's October 18, 1990 Order.

97. Simultaneous with Plaintiff's arrangements to be medically examined, Plaintiff moved by Order to Show Cause to vacate and/or modify the June 14, 1991 "interim" suspension Order, with a TRO stay provision pending the determination of the motion. Defendant SECOND DEPARTMENT struck out such provision, notwithstanding Plaintiff's supporting affidavit stated her readiness to submit to a medical examination and that arrangements were in progress for same.

98. Plaintiff's aforesaid Order to Show Cause, which Defendant SECOND DEPARTMENT denied, without reasons, on July 15, 1991, argued that suspension of her license was unauthorized and excessive punishment for her attorney's legitimate legal challenge to its October 18, 1990 Order and that recusal of the Respondent SECOND DEPARTMENT was warranted by the appearance that its June 14, 1991 Order was "swift retribution for the opinions expressed" by her in her aforesaid New York Times letter to the Editor and her filed complaint against Mr. Landau for his misconduct with Justice Fredman.

99. By letter dated June 21, 1991, Defendant CASELLA forwarded to Defendant GALFUNT, the referee assigned to hear the February 6, 1990 Petition, a copy of the June 14, 1991 "interim" suspension Order. In said letter, Defendant CASELLA represented the February 6, 1990 Petition as an "underlying proceeding", which would "of course" "be held in abeyance". Said representation was false and known to be false by Defendant CASELLA knew since the February 6, 1990 Petition was not an

"underlying proceeding".

100. Within three weeks of service by Defendant CASELLA of the June 14, 1991 "interim" suspension Order, Defendant CASELLA notifed Plaintiff that Defendant GRIEVANCE COMMITTEE had authorized two sua sponte complaints against her.

101. By letter dated June 28, 1991, Defendant CASELLA notified Plaintiff of a sua sponte complaint against her based on a decision, issued four days earlier by Justice Fredman in the Breslaw contempt proceeding. Said decision, which referred to Plaintiff's June 9, 1991 New York Times' Letter to the Editor, was rendered by Justice Fredman more than a year after the conclusion of the Breslaw contempt proceedings.

102. On its face, Justice Fredman's June 24, 1991 decision, which Defendant CASELLA enclosed with the sua sponte complaint, departed from accepted legal an judicial standards to an extent reflecting pathology.

103. By letter dated July 6, 1991, Defendant CASELLA notified Plaintiff of a sua sponte complaint based on the filing in Castracan v. Colavita of a Notice of Appeal to the Court of Appeals, bearing the name of Plaintiff's law firm, Doris L. Sassower, P.C., on June 20, 1991--the day following service of Defendant SECOND DEPARTMENT's June 14, 1991 "interim" suspension Order.

104. Plaintiff responded to each of the aforesaid sua sponte complaints, also requesting proof that they had been authorized by Defendant GRIEVANCE COMMITTEE and various

information as to procedures followed by Defendant GRIEVANCE COMMITTEE in connection therewith. Defendants CASELLA and SUMBER failed and refused to provide such proof and to supply Plaintiff with a copy of any rules applicable to the operation of Defendant GRIEVANCE COMMITTEE.

105. Defendant CASELLA denied Plaintiff's further request that Defendant GRIEVANCE COMMITTEE transfer complaints involving her to another judicial department, based on her long-standing complaints of retaliatory and invidious prosecution and misconduct, also refusing to provide proof that such request had been presented for Defendant GRIEVANCE COMMITTEE's consideration.

106. Defendant CASELLA refused to transfer Plaintiff's formal complaint against Mr. Landau out of the Second Judicial Department and sent it to the Grievance Committee for the Tenth Judicial District, which is under the authority of Defendant SECOND DEPARTMENT. In July 1991, its Chief Counsel dismissed Plaintiff's complaint, without presentment to that Committee and without requiring any response from Mr. Landau. Said disposition contradicts express procedures, outlined in a pamphlet distributed by the Grievance Committee for the Tenth Judicial District as "Advice to Complainants", that attorneys made the subject of "a proper complaint" will be required to respond thereto. Plaintiff's complaint was in all respects "a proper complaint".

107. By motion dated July 19, 1991, Plaintiff moved for leave to appeal to the Court of Appeals based, inter alia, on

Respondent SECOND DEPARTMENT's failure to comply with the requirements of 22 N.Y.C.R.R. §691.4, decisional law, and due process, as well as the unlawfulness of its October 18, 1990, procured by Defendant CASELLA without a petition, in violation of 22 N.Y.C.R.R. §691.13(b).

108. In opposition, Defendant CASELLA, without any evidentiary support, repeated that the February 6, 1990 Petition was an "underlying" disciplinary proceeding--which statement he knew to be false.

109. Such misrepresentation permitted Defendant CASELLA to argue to the New York State Court of Appeals that his May 8, 1990 Order to Show Cause did not require a petition, the February 6, 1990 Petition constituting authorization by the Committee for his two totally unrelated May 8, 1990 and January 25, 1991 Orders to Show Cause.

110. Defendant CASELLA further argued that the "interim" suspension of Plaintiff "constitutes a non-final, interlocutory order".

111. In August 1991, Plaintiff appeared before Defendant SECOND DEPARTMENT, together with Mr. Vigliano, who was arguing the appeal of Sady v. Murphy, which challenged the third phase of the 1989 Three-Year Deal, then being implemented. During oral argument, Defendant MANGANO as well as Justice William Thompson, a member of the New York State Commission of Judicial Conduct, expressed views as to the corrupt and unethical nature the Deal and the petitioners' entitlement to a hearing, of

which they had been deprived by the lower court.

112. Justice Thompson, speaking of the contracted-for resignation of a Supreme Court justice, required by the Deal, stated that such violated "ethical rules and would not be approved by the Commission on Judicial Conduct" and, further, that "a judge can be censured for that".

113. Defendant MANGANO recognized the contractual nature of the Deal and the criminal ramifications thereof stating that those involved would "have a lot more to worry about than this lawsuit when this case is over".

114. Nonetheless, on August 21, 1991, Respondent SECOND DEPARTMENT dismissed Sady v. Murphy in a one-line decision that "petitioners failed to adduce evidence sufficient" to invalidate the challenged nomination--when it knew, as reflected from its statements, that the written Deal was illegal, as a matter of law, and, further that the petitioners in Sady had been denied their right to a hearing to present proof, if such were deemed necessary.

115. On August 28, 1991, Plaintiff appeared with Mr. Vigliano before the Court of Appeals, in connection with Mr. Vigliano's appeal from Defendant SECOND DEPARTMENT's dismissal of Sady v. Murphy. Judge Richard Simon, who heard the leave application, called the 1989 Three-Year Deal, "a disgusting deal" and made a statement that trading judgeships represented an exchange of valuable consideration under the Election Law.

116. Nonetheless, on that same day, August 28, 1991,

the Court of Appeals dismissed the appeal of right in Sady v. Murphy on the ground that "no substantial constitutional question is directly involved" and denied the motion for leave to appeal.

117. On September 10, 1991, the New York State Court of Appeals denied Plaintiffs' motion for leave to appeal from the June 14, 1991 "interim" suspension Order. The following month, on October 15, 1991 it dismissed the appeal as of right filed by Mr. Vigliano on behalf of the Petitioners in Castracan v. Colavita, on the ground that "no substantial constitutional question is directly involved".

118. On October 24, 1991, Plaintiff wrote a letter to Governor Cuomo, requesting appointment of a special prosecutor to investigate the politicization of the bench and corruption of the judicial process, documented by the files in Castracan v. Colavita, its companion case, Sady v. Murphy, the Breslaw contempt proceeding before Justice Fredman, and Defendant SECOND DEPARTMENT's suspension of her license, which Plaintiff's letter asserted to be without legal and factual basis and retaliatory.

119. Plaintiff sent copies of said letter, directly critical of Defendant SECOND DEPARTMENT and the New York State Court of Appeals to those courts, as well as to the Administrative Judge of the Ninth Judicial District, in addition to agencies of government, such as the New York State Commission on Judicial Conduct, and government leaders, such as Defendant KOPPELL, then Chairman of the Assembly Judiciary Committee. Thereafter, Plaintiff filed additional complaints with the New

York State Commission on Judicial Conduct, copies of which Defendant KOPPELL also received.

120. All said complaints were subsequently dismissed by the New York State Commission on Judicial Conduct, without investigation.

121. In or about October 1991, Plaintiff moved to transfer a case in which she was personally involved as a defendant from the Ninth Judicial District, based, inter alia, on her activities as pro bono counsel to the Ninth Judicial Committee and to the Petitioners in Castracan v. Colavita. Said motion was denied by the Administrative Judge for the Ninth Judicial District, who then personally assigned the case to Supreme Court Justice Nicholas Colabella.

121. Undisclosed to Plaintiff was that Justice Colabella had been a childhood friend and former law partner of Anthony Colavita, the first named respondent in Castracan v. Colavita, and had himself been offered the Westchester surrogate judgeship under the three-year Deal challenged by that case.

122. As the judge assigned to the case of Wolstencroft v. Sassower, Justice Colabella knowingly and deliberately rendered a succession of legally improper and severely prejudicial rulings. He refused to recuse himself when application was made therefor by Plaintiff, during which he admitted his relationship with Mr. Colavita to be on-going.

123. Thereafter, as a result of Justice Colabella's wilful disregard of black-letter law as to jurisdiction and due

process, Plaintiff brought two CPLR Article 78 proceedings against him before Defendant SECOND DEPARTMENT. Plaintiff's first Article 78 proceeding against Justice Colabella was brought on February 13, 1992, following issuance by Justice Colabella of a February 10, 1992 decision and accompanying order & warrant of commitment. By the papers in such proceedings, Defendant SECOND DEPARTMENT became aware of the extreme physical and mental harassment to which Plaintiff was being mercilessly subjected by Justice Colabella.

124. By letter dated March 2, 1992, Defendant CASELLA notified Plaintiff that Defendant GRIEVANCE COMMITTEE had "authorized" a sua sponte complaint based on Justice Colabella's aforesaid February 10, 1992 decision.

125. By ex parte letter dated March 6, 1992, Defendant CASELLA advised the Presiding Justice of Defendant SECOND DEPARTMENT that Defendant GRIEVANCE COMMITTEE had "unanimously voted" to hold prosecution of the February 6, 1990 Petition in abeyance during the period of Plaintiff's suspension, further noting that he intended to take no action upon the two sua sponte complaints in the Breslaw and Castracan matters, which he identified as then "pending" before Defendant GRIEVANCE COMMITTEE.

126. Based on Defendant CASELLA's aforesaid March 6, 1992 ex parte letter--as to which Plaintiff had no knowledge--Defendant SECOND DEPARTMENT, issued two Orders dated April 1, 1992. By the first, Defendant SECOND DEPARTMENT denied what it

called Defendant GRIEVANCE COMMITTEE's ex parte "application" to hold prosecution of the February 6, 1990 Petition in abeyance and directed Defendant GRIEVANCE COMMITTEE to proceed to prosecute same. By the second, Defendant SECOND DEPARTMENT authorized a supplemental petition, claiming that Defendant GRIEVANCE COMMITTEE was seeking to supplement the February 6, 1990 Petition and "to prosecute additional allegations based upon acts of professional misconduct which form the basis of sua sponte complaints pending" before it.

127. Defendants CASELLA and GRIEVANCE COMMITTEE did not challenge Defendant SECOND DEPARTMENT's April 1, 1992 Orders, the first of which overrode Defendant GRIEVANCE COMMITTEE's unanimous vote, the second of which falsified the facts in claiming that Defendant GRIEVANCE COMMITTEE was seeking to prosecute a supplemental petition when, it had not done so. Instead, Defendant CASELLA compliantly served a Supplemental Petition, dated April 9, 1992, signed by Defendant SUMBER, with the same docket number as the separate and unrelated February 6, 1990 Petition, A.D. #90-00315.

128. The April 9, 1992 Supplemental Petition, which lacked a Verification, was--like the February 6, 1990 Petition--pleaded entirely "on information and belief" It embodied Defendant GRIEVANCE COMMITTEE's two sua sponte complaints in Castracan and Breslaw, as to which Defendant GRIEVANCE COMMITTEE had never notified Plaintiff of any intent to take disciplinary steps and never served her with pre-petition written charges or

afforded her a pre-petition hearing, as 22 N.Y.C.R.R. §691.4(e)(4) and (f) require.

129. Plaintiff's "interim" suspension made the exigency exception under §691.4(e)(5) inapplicable.

130. Additionally, the April 9, 1992 Supplemental Petition added a charge that had never before been presented to Plaintiff by Defendant GRIEVANCE COMMITTEE for response and which was not authorized by Defendant SECOND DEPARTMENT's second April 1, 1992 Order, which referred only to the "sua sponte complaints pending with the petitioner". Said unauthorized charge rested on Plaintiff's alleged post-suspension "non-compliance" with Defendant SECOND DEPARTMENT's October 18, 1990 Order directing her medical examination by a "medical expert" designated by Defendant CASELLA.

131. Thereafter, by letter dated May 5, 1992, Defendant CASELLA notified Plaintiff that, as part of the sua sponte complaint on Wolstencroft, he was requiring her response to a decision of Justice Colabella rendered the previous day, May 4, 1992.

132. By letter, dated May 29, 1992, Defendant CASELLA notified Plaintiff that Defendant GRIEVANCE COMMITTEE had "authorized" a further sua sponte complaint based on another matter before Justice Colabella, F. Gordon Realty v. Donald J. Fass.

132. By letter dated June 11, 1992, Plaintiff sought disclosure of exculpatory and other materials in the possession

of Defendant GRIEVANCE COMMITTEE, inquiring whether such materials, as well as documents supplied by Plaintiff in responding to disciplinary complaints against her, had been presented and reviewed by Defendant GRIEVANCE COMMITTEE, the date, and what action had been taken with respect thereto.

133. By letter of the same date, Defendant CASELLA stated that Plaintiff was "not entitled to information concerning the internal workings of the Committee in these matters". Defendant CASELLA admitted that Defendant GRIEVANCE COMMITTEE's prosecution of the disciplinary proceedings against Plaintiff rested entirely on unsworn statements.

134. By motion dated June 16, 1992, Plaintiff moved to vacate Defendant SECOND DEPARTMENT's June 14, 1991 "interim" suspension based on the Court of Appeals' supervening May 1992 decision in Matter of Russakoff, 72 N.Y2d 520, because of Respondent SECOND DEPARTMENT's failure to make findings therein and because of its denial of a post-suspension hearing. Plaintiff also sought vacatur based upon lack of jurisdiction and the deliberate fraud, misrepresentation, and other unethical practices of Defendant CASELLA, as to which Plaintiff requested an immediate disciplinary investigation.

135. Two days later, by motion dated June 18, 1992, Plaintiff moved to dismiss the April 9, 1992 Supplemental Petition, as well as the February 6, 1990 Petition which it incorporated, based on non-compliance with jurisdictional provisions of Judiciary Law §90 and 22 N.Y.C.R.R. §691.4(e)(4),

§691.4(f), and (h) by Defendants SECOND DEPARTMENT, GRIEVANCE COMMITTEE, CASELLA, and SUMBER.

136. In conjunction therewith, Plaintiff sought disclosure pursuant to CPLR §408 so as to determine whether Defendant GRIEVANCE COMMITTEE was complying with rules regarding committee action and authorization "or whether, as is believed, the Committee functions more as a 'rubber stamp' for Mr. Casella."

137. Plaintiff further sought transfer to another Judicial Department based on Defendant SECOND DEPARTMENT's pattern of decisions, which she alleged to be "in disregard for fact and law", "politically-motivated retaliation" and "invidious, selective, and discriminatory prosecution".

138. While Plaintiff's June 18, 1992 motion to dismiss the April 9, 1992 Supplemental Petition was sub judice, Defendant CASELLA, without leave of Court, served a new Notice of Supplemental Petition and Supplemental Petition, dated June 26, 1992. Said new Supplemental Petition was virtually identical to the previous one, except that it annexed a Verification thereafter made by Defendant SUMBER. Defendant CASELLA refused to withdraw his earlier Supplemental Petition.

139. On July 3, 1992, Plaintiff moved to strike the June 26, 1992 Supplemental Petition, for discovery, and for an "immediate disciplinary investigation of Petitioner's Chief Counsel for his persistent unethical and abusive practices".

140. Thereafter, Defendant CASELLA transmitted an ex

parte letter dated July 8, 1992 to Defendant SECOND DEPARTMENT. Upon information and belief, said ex parte letter related to Defendant CASELLA's two sua sponte complaints on Wolstencroft and Fass. Prior thereto, Defendant GRIEVANCE COMMITTEE had never notified Plaintiff of any intent to take disciplinary steps and had never served her with pre-petition written charges or afforded her a pre-petition hearing, as 22 N.Y.C.R.R. §691.4(e)(4) and (f) require.

141. Plaintiff's "interim" suspension made the exigency exception under §691.4(e)(5) inapplicable.

142. At the time of said ex parte July 8, 1992 communication, Plaintiff had supplied Defendant CASELLA with written responses denying any wrong-doing by her and directing his attention to her two Article 78 proceedings against Justice Colabella, wherein she documented the unlawful nature of Justice Colabella's conduct and that his decisions knowingly falsified the facts concerning her.

143. By Order dated July 31, 1992, Defendant SECOND DEPARTMENT denied, without reasons and with imposition of "costs", Plaintiff's June 16, 1992 motion to vacate the June 14, 1991 suspension Order based on Russakoff. It also denied all other relief, including Plaintiff's request for leave to appeal to the Court of Appeals.

144. Thereafter, Plaintiff sought to appeal as of right to the Court of Appeals based upon Defendant SECOND DEPARTMENT's denial of her constitutional right to equal

protection to that afforded to Mr. Russkaoff, further arguing that interim suspension orders without hearings are unconstitutional.

145. Although Plaintiff demonstrated that her "interim" suspension was in all respects a fortiori to that in Russakoff, by Order dated November 18, 1991, the Court of Appeals dismissed, for lack of finality, Plaintiff's appeal as of right.

146. By three separate Orders dated November 12, 1992, Defendant SECOND DEPARTMENT: (a) sua sponte, amended its July 31, 1992 Order denying vacatur of the June 14, 1991 "interim" suspension Order to impose maximum statutory costs against Plaintiff for having made said motion; (b) authorized disciplinary proceedings based on Defendant GRIEVANCE COMMITTEE's ex parte July 8, 1992 report--as to which Plaintiff only then became aware; and (c) by "Decision and Order on Application", denied Plaintiff's motion for discovery and for investigation of Defendant CASELLA's unethical conduct and granted Defendant GRIEVANCE COMMITTEE leave "to resubmit the charges" of the June 26, 1992 Supplemental Petition, after granting Plaintiff's July 3, 1992 motion to strike same and to vacate the April 1, 1992 Order which had authorized it.

147. Thereafter, by letter dated December 4, 1992, Plaintiff communicated directly with Defendant SUMBER, protesting Defendant GRIEVANCE COMMITTEE's violation of her due process rights by failing to comply with the pre-petition requirements of §691.4 as to either the February 6, 1990 Petition or the charges

in the June 26, 1992 Supplemental Petition and that she had never had any hearing as to her alleged "failure to comply", for which Defendant SECOND DEPARTMENT had purportedly suspended her nearly a year and a half earlier. Plaintiff further stated that, by virtue of her interim suspension, there could be no claim of exigency and threat to the public interest under §691.4(f). Said letter to Defendant Sumber was followed by several more on the subject requesting an immediate hearing on her "interim" suspension.

148. On December 14, 1992, Plaintiff moved to reargue and renew the November 12, 1992 aforesaid sua sponte Order, detailing that her right to vacatur of the interim suspension Order was in all respects a fortiori to Russakoff's.

149. By ex parte report dated December 17, 1992, Defendant CASELLA communicated with Defendant SECOND DEPARTMENT. Upon information and belief, said communication purported to be the resubmission of the three charges of Defendant GRIEVANCE COMMITTEE's June 26, 1992 Supplemental Petition and the April 9, 1992 Supplemental Petition before it, authorized by Defendant SECOND DEPARTMENT's November 12, 1992 "Decision and Order on Application". Prior thereto, Defendant GRIEVANCE COMMITTEE had never served Plaintiff with pre-petition written charges or afforded her a pre-petition hearing, as 22 N.Y.C.R.R. §691.4(e)(4) and (f) require.

150. Plaintiff's "interim" suspension made the exigency exception under 22 N.Y.C.R.R. §691.4(e)(5) inapplicable.

151. On January 28, 1993, Defendant SUMBER signed a Petition, made entirely "upon information and belief", based on the ex parte November 12, 1992 Order authorizing Defendant GRIEVANCE COMMITTEE to commence a proceeding against Plaintiff based on acts allegedly set forth in Defendant GRIEVANCE COMMITTEE's ex parte July 8, 1992 report.

152. Defendant SECOND DEPARTMENT's November 12, 1992 Order failed to allege compliance by Defendant GRIEVANCE COMMITTEE with pre-petition jurisdictional requirements, set forth in 22 N.Y.C.R.R. §691.4(e)(4), (f), and (h) of notice, written charges, a hearing, and findings based on evidentiary proof or that it was proceeding under the exigency provision of §691.4(e)(5).

153. The five charges comprising the January 28, 1993 Petition against Plaintiff were based entirely on Defendant GRIEVANCE COMMITTEE's own sua sponte complaints relating to the Wolstencroft and Fass matters before Justice Colabella.

154. Said January 28, 1993 Petition used the same docket number, A.D. #90-00315, as had been assigned to the completely separate and unrelated February 6, 1990 Petition.

155. Defendant GRIEVANCE COMMITTEE failed to personally deliver the January 28, 1993 Petition in accordance with Judiciary Law §90(6). Instead, Defendant GRIEVANCE COMMITTEE sent a process server disguised as a "pizza deliveryman", who, when informed that no pizza had been ordered by Plaintiff, returned the following day--a Saturday--and left

the January 28, 1993 Petition stuck in the handle of the front door of Plaintiff's home.

156. On February 22, 1993, Plaintiff moved to vacate the January 28, 1993 Petition based on lack of personal jurisdiction.

157. Upon information and belief, in late February 1993, Defendant SECOND DEPARTMENT communicated ex parte with Defendant GALFUNT, directing him to proceed with the February 6, 1990 Petition.

158. Immediately thereafter, Plaintiff sought to disqualify Defendant CASELLA from prosecution of the February 6, 1990 Petition based on her on-going complaints of prosecutorial misconduct by him and the fact that he would be an essential witness to her affirmative defenses. By letter dated March 15, 1993, Plaintiff put Defendant CASELLA on notice that he would be called upon to testify on the subject of the false claim in his January 25, 1991 Order to Show Cause for Plaintiff's suspension, to wit, that the February 6, 1990 Petition was "an underlying disciplinary proceeding" to his suspension application.

159. By Supplemental Affidavit, dated March 8, 1993, in further support of her December 14, 1993 motion to reargue and renew Defendant SECOND DEPARTMENT's November 12, 1993 sua sponte Order imposing maximum costs upon her for moving for vacatur based on Russakoff, Plaintiff documentarily showed, by comparison of her interim suspension order with those of 20 other attorneys interimly suspended by Defendant SECOND DEPARTMENT, that she had

been treated in a disparate and discriminatory manner in that her suspension was unprecedented and that each of said attorneys had received a hearing, unless waived, and a final order for appellate review.

160. By "Decision & Order on Application" dated March 17, 1993, Defendant SECOND DEPARTMENT acted upon Defendant GRIEVANCE COMMITTEE's ex parte December 17, 1992 report--as to which Plaintiff had no knowledge--and authorized Defendant GRIEVANCE COMMITTEE to bring a proceeding based on "three additional allegations of professional misconduct set forth in the supplemental petition dated June 26, 1992".

161. Defendant SECOND DEPARTMENT's March 17, 1993 Order did not allege compliance by Defendant GRIEVANCE COMMITTEE with pre-petitions requirements, set forth in 22 N.Y.C.R.R. §691.4(e)(4), (f), and (h) of notice, written charges, a hearing, and findings based on evidentiary proof or that it was proceeding under the exigency provision of §691.4(e)(5).

162. On March 30, 1993, Defendant GRIEVANCE COMMITTEE served the Supplemental Petition dated March 25, 1993, without complying with the personal delivery requirement of Judiciary Law, §90(6), instead, leaving such Supplemental Petition in the mailbox at Plaintiff's home.

162. Defendant GRIEVANCE COMMITTEE's March 25, 1993 Supplemental Petition, signed by Defendant SUMBER, failed to state that it is based upon a committee report authorizing the charges set forth therein.

163. On April 8, 1993, in a telephone conference with Defendant REFEREE GALFUNT and Defendant CASELLA, who were then proceeding on the February 6, 1990 Petition, as directed by the Defendant SECOND DEPARTMENT, Defendant GALFUNT further stated that he would not rule on her jurisdictional objections to the February 6, 1990 Petition.

164. By motion dated April 14, 1993, Plaintiff moved for vacatur of the March 23, 1993 Supplemental Petition for lack of jurisdiction.

165. By Order dated April 22, 1993, Defendant SECOND DEPARTMENT denied, with maximum costs against her, Plaintiff's reargument/renewal motion of its November 12, 1992 sua sponte Order which imposed maximum costs upon her for moving for vacatur under Russkaoff as "duplicative and frivolous". Said statement by Defendants MANGANO and SECOND DEPARTMENT was known to be false, since Plaintiff had never previously presented the facts set forth in her March 8 1993 Supplemental Affidavit, relating to the "interim" suspensions of other attorneys by Defendant SECOND DEPARTMENT.

166. On April 28, 1993, following Defendant GALFUNT's continued refusal to rule on the jurisdictional objections to the February 6, 1990 Petition at the conference thereon, Plaintiff served an Article 78 proceeding addressed to that Petition, entitled DORIS L. SASSOWER v. HON. GUY MANGANO, as Presiding Justice of the Appellate Division, Second Dept., HON. MAX GALFUNT, as Special Referee, and EDWARD SUMBER and GARY CASELLA,

as Chairman and Chief Counsel respectively of the Grievance Committee for the Ninth Judicial District, based upon the lack of compliance with requisite jurisdictional pre-petition procedures under 22 N.Y.C.R.R. §691.4(e) and (f).

167. Plaintiff's aforesaid Article 78 Petition included transfer to another judicial department as part of its requested relief.

168. Thereafter, the Attorney General, on behalf of the above-named Respondents moved for dismissal. In such dismissal motion, the Attorney General conceded that the pre-petition requirements of 22 N.Y.C.R.R. §691.4 had not been complied with, but falsely argued that compliance was not required because the ex parte July 31, 1989 report, underlying the December 14, 1989 Order directing prosecution, "implicitly relied" upon the exigency exception under §691.4(e)(5).

169. The Assistant Attorney-General who made such dismissal motion did not purport that he had personal knowledge of Defendant GRIEVANCE COMMITTEE's ex parte July 31, 1989 report about which he was expressing his aforesaid factual allegations and beliefs and did not support his affirmation with any affidavit from his clients, who did have such personal knowledge. Nor did the Assistant Attorney General claim to be familiar with the two complaints encompassed by the February 6, 1990 Petition, purportedly based thereon.

170. The Assistant Attorney-General further opposed transfer and falsely asserted, without evidentiary support or

affidavit by a party with personal knowledge, that Plaintiff's jurisdictional objections could be adequately addressed in the underlying proceeding.

171. On May 24, 1993, while Plaintiff's Article 78 proceeding against Defendant SECOND DEPARTMENT was pending against it, Defendant SECOND DEPARTMENT denied, in one motion and without reasons, Plaintiff's two separate motions to vacate the January 28, 1993 Petition and March 17, 1993 Petitions for lack of personal jurisdiction.

172. By motion dated June 14, 1993, Plaintiff moved to reargue and renew said May 24, 1993 Order based, inter alia, upon Defendant SECOND DEPARTMENT's disregard for black-letter law relative to the controlling language of Judiciary Law §90(6) regarding personal service and upon "the appearance of impropriety" of Defendant SECOND DEPARTMENT's adjudicating Plaintiff's motion contesting personal jurisdiction while it was being sued by her in her pending Article 78 proceeding.

173. By Order to Show Cause, dated July 2, 1993, Plaintiff cross-moved in her Article 78 proceeding for leave to amend or supplement her 78 Petition:

> "so as to plead a pattern and course of harassing and abusive conduct by Respondents, acting without or in excess of jurisdiction, as reflected by the March 25, 1993 Supplemental Petition and the January 28, 1993 Petition and all acts in prosecution thereof, as well as the May 8, 1990 and January 25, 191 motions made by Respondent Casella resulting in the interim Order of suspension dated June 14, 1991."

174. As part of that Cross-Motion, Plaintiff factually

refuted and documented as false Assistant Attorney General Sullivan's claim that the ex parte July 31, 1989 report "implicitly relied" upon the exigency exception and sought discovery thereof, as well as of the ex parte July 8, 1992 report underlying the January 28, 1993 Petition and the ex parte December 17, 1992 report underlying the March 17, 1993 Supplemental Petition--both of which were rendered after Plaintiff was already suspended, thereby making unavailable any claim of "exigency" as to the latter two petitions.

175. Plaintiff further showed that Defendant SECOND DEPARTMENT and GALFUNT were refusing to address her jurisdiction challenge to the February 6, 1990 Petition. She annexed the full transcript of the April 1993 conferences before Defendant REFEREE GALFUNT and, specifically, referred to Defendant SECOND DEPARTMENT's prior denial, without reasons, of her jurisdictional challenge to the February 6, 1990 Petition, encompassed in her June 18, 1992 motion to dismiss.

176. Plaintiff's Cross-Motion detailed that all of Defendant SECOND DEPARTMENT's Orders under A.D. #90-00315, when compared to the record, "evidence a pattern of disregard for black-letter law and standards of adjudication--particularly as to threshold jurisdictional issues", with specific reference to those preceding the June 14, 1991 "interim" suspension Order and thereafter denying vacatur. The Attorney General did not deny same.

177. Plaintiff's Cross-Motion, which also sought

summary judgment, was unchallenged by the Attorney General, who did not deny Plaintiff's sworn statements as to the facts underlying Defendant SECOND DEPARTMENT's ex parte July 31, 1989 report.

178. The Attorney General, citing Judiciary Law §90(10), opposed any disclosure of the ex parte reports on which the February 6, 1990 Petition and other disciplinary petitions purported to rest. Without any legal authority, the Attorney General argued in opposition to transfer and contended that Presiding Justice Mangano was himself not disqualified from adjudicating Plaintiff's Article 78 proceeding, naming him as the first respondent.

179. On September 7, 1993, while Plaintiff's Article 78 proceeding was pending before Defendant SECOND DEPARTMENT, Plaintiff appeared at public hearings before the New York State Senate Judiciary Committee in Albany and gave testimony as Director of the Ninth Judicial Committee, in opposition to Governor Cuomo's nomination to the Court of Appeals of Justice Howard Levine. Such opposition rested on Justice Levine's participation on the panel of the Appellate Division, Third Department, whose affirmance of dismissal in Castracan v. Colavita, contravened controlling law, the transcending public interest, and disregarded the factual record. In support thereof, Plaintiff provided the Senate Judiciary Committee with the full record in Castracan v. Colavita.

180. Plaintiff's further testified that in a case

where the legality and constitutionality of judicial cross-endorsements was the central issue, the Appellate Division, Third Department panel was obliged to disclose--but did not--that three of its five members had themselves been cross-endorsed when they ran for their judicial offices.

181. Plaintiff further argued that the Governor's nomination of Justice Levine by the Court of Appeals could properly be viewed by the public as a political "pay back" by Governor Cuomo for covering up the corrupt political Deal which Castracan v. Colavita challenged.

182. Two weeks later, Defendant SECOND DEPARTMENT, by Order dated September 20, 1993, granted the dismissal motion of its own attorney, the Attorney General, and dismissed the Article 78 Petition "on the merits", stating that "petitioner's jurisdictional challenge can be addressed in the underlying disciplinary proceeding". Defendant SECOND DEPARTMENT knew such statement to be false.

183. Defendant SECOND DEPARTMENT further denied all relief requested by Plaintiff's Cross-Motion, notwithstanding her documented showing, by reference to the file under A.D. #90-00315, that Defendant SECOND DEPARTMENT was not an impartial tribunal and that the conduct being challenged by her was criminal in nature.

184. Defendant SECOND DEPARTMENT's dismissal of the Article 78 proceeding was by a five-judge panel, three of whom had participated in every Order under A.D. #90-00315, which

Plaintiff's Article 78 proceeding had sought to have reviewed and an additional judge who had participated in more than half of the challenged Orders. Defendant MANGANO did not participate on the panel.

185. On the same day as it dismissed Plaintiff's Article 78 proceeding, Defendant SECOND DEPARTMENT, this time with Defendant MANGANO Presiding, denied, without reasons, Plaintiff's June 14, 1993 motion for reargument/renewal of its May 24, 1993 Order for vacatur of the January 28, 1993 Petition and March 25, 1993 Supplemental Petition for lack of personal jurisdiction.

186. The following week, on September 27, 1990, Plaintiff was directed to proceed with three days of hearings on the February 6, 1990 Petition, in the absence of her attorney of record thereon, Eli Vigliano, Esq.

187. At said hearings, Defendant GALFUNT refused, contrary to Defendant SECOND DEPARTMENT's September 20, 1993 Order that Plaintiff could raise her jurisdictional objections to the February 6, 1990 Petition in "the underlying disciplinary proceeding", to permit her to do so, and allowed Defendant CASELLA to proceed on the February 6, 1990 Petition, without requiring him to first prove the jurisdictional allegations contained therein--which Plaintiff's March 8, 1990 Verified Answer had placed in issue. Defendant GALFUNT also refused to permit Plaintiff to prove that there was no jurisdiction.

188. At the aforesaid hearings on the February 6, 1990

Petition, Defendants GALFUNT and CASELLA refused to permit any proof by Plaintiff on the subject of her June 14, 1991 "interim" suspension and Defendant GALFUNT refused to require Defendant CASELLA to give testimony as to his false statements to Defendants SECOND DEPARTMENT, GALFUNT, and the Court of Appeals that the February 6, 1990 Petition was "underlying" his application for Plaintiff's suspension.

189. On November 19, 1993, pursuant to Defendant SECOND DEPARTMENT's statement in its September 20, 1993 dismissal of her Article 78 Proceeding, Plaintiff moved "in the underlying disciplinary proceeding" for dismissal/summary judgment of the three disciplinary petitions against her, dated February 6, 1990, January 28, 1993, and March 25, 1993; for discovery of Defendant GRIEVANCE COMMITTEE's ex parte reports, dated July 31, 1989, July 8, 1992, and December 17, 1992; and for appointment of a special referee to investigate and report as to Plaintiff's complaints of prosecutorial and judicial misconduct in connection with all of the disciplinary proceedings against her.

190. Plaintiff's November 19, 1993 dismissal/summary judgment motion also sought transfer to another judicial department, documenting, by specific record references, that Defendant SECOND DEPARTMENT knew that the disciplinary proceedings it was authorizing against Plaintiff were jurisdictionally void, factually baseless, and resting on false and perjurious affirmations of Defendant CASELLA.

191. Defendant CASELLA failed to oppose Plaintiff's

motion for summary judgment with any evidentiary support or probative affidavit, and failed to provide any legal authority in opposition to dismissal of the jurisdictionally-void disciplinary proceedings, he had commenced against Plaintiff, without compliance with 22 N.Y.C.R.R. §691.4--even after Plaintiff was already suspended from the practice of law.

192. On December 15, 1994, Plaintiff appeared in Albany at public hearings of the New York State Senate Judiciary Committee, and, as Director of the Center for Judicial Accountability, testified in opposition to Governor Cuomo's nomination of Justice Carmen Ciparick to the New York State Court of Appeals.

193. Plaintiff's aforesaid opposition was based, inter alia, on Justice Ciparick's inaction as a member of the New York State Commission on Judicial Conduct, to which she had been appointed by Governor Cuomo, in the face of documented complaints from Plaintiff and Mr. Vigliano as to the three-year Deal, the violations of the Election Law at the judicial nominating conventions, the legally-aberrant decisions of the Third Department in Castracan v. Colavita and of the Second Department Sady v. Murphy, the fraudulent, pathological, and criminal conduct of Justice Fredman in the Breslaw case and the legally insupportable and retaliatory June 14, 1992 interim suspension Order of the Defendant SECOND DEPARTMENT.

194. As part of her opposition, Plaintiff challenged the completely secret process by which nominations to the Court

of Appeals were made by the Governor as unconstitutional, as well as the Senate Judiciary Committee's failure to discharge its "advise and consent" function in anything more than a "rubber-stamp" manner, based on deals made in advance by Senate leadership with the Governor.

195. On January 3, 1994, Plaintiff filed a Notice of Appeal to the Court of Appeals from the Defendant SECOND DEPARTMENT's Order and Judgment, dated September 20, 1993, dismissing her Article 78 proceeding, Sassower v. Hon. Guy Mangano, et al.

196. On January 9, 1994, Defendant KOPPELL was made personally aware of the dishonest and fraudulent manner in which the Attorney General's office had handled the Article 78 proceeding brought by Plaintiff, entitled SASSOWER V. HON. GUY MANGANO, et al., including permitting their judicial clients to adjudicate the legality of their own conduct, which the Article 78 Petition asserted to be fraudulent and criminal.

197. On January 10, 1994, Defendant SECOND DEPARTMENT refused to grant a stay of further hearings on disciplinary proceedings on the February 6, 1990 Petition, pending the outcome of the Article 78 appeal and disposition of Plaintiff's November 19, 1993 dismissal/summary judgment motion. A further hearing then took place on the February 6, 1990 Petition before Referee Galfunt, which was adjourned sine die.

198. On January 24, 1994, Plaintiff filed her Jurisdictional Statement to the Court of Appeals in Sassower v.

Mangano, et al., detailing fraudulent and criminal conduct by Defendant SECOND DEPARTMENT, the substantial constitutional issues based on the impropriety of Defendant SECOND DEPARTMENT reviewing the legality of its own conduct in an Article 78 proceeding against it, the unconstitutionality of open-ended interim suspension orders and the disciplinary mechanism.

199. Plaintiff further argued, with citation of legal authority, in support of jurisdiction of the New York State Court of Appeals, that "In an Article 78 proceeding in which the Appellate Division has original jurisdiction...appeal lies to the Court of Appeals".

200. By letter dated February 3, 1994, Plaintiff filed a formal complaint with Defendant KOPPELL against his staff counsel for their fraudulent and unethical misrepresentations of fact and law before the Appellate Division, resulting in the September 20, 1993 Judgment of the SECOND DEPARTMENT dismissing Plaintiff's Article 78 proceeding. In support thereof and Plaintiff's allegation that Defendant KOPPELL's judicial clients were using their office "for ulterior and retaliatory purposes", Plaintiff requested "an independent examination of the files under A.D. #90-00315", waiving all confidentiality for said purpose.

201. The following day, Plaintiff received a copy of Defendant SECOND DEPARTMENT's Order dated January 28, 1994, denying, without reasons, her November 19, 1993 dismissal/summary judgment motion in the "underlying proceeding"

and threatening Plaintiff with criminal contempt should she make further motions without prior judicial approval.

202. By letter dated February 6, 1994, Plaintiff notified Defendant ATTORNEY GENERAL KOPPELL that his judicial clients' January 28, 1994 Order further proved that there was no remedy "in the underlying disciplinary proceeding" and that the September 20, 1993 dismissal of her Article 78 Petition based thereon "was and is an outright lie". In support thereof, Plaintiff supplied Defendant KOPPELL with a full set of papers in the November 19, 1993 dismissal/summary judgment motion.

203. Nonetheless, by letter dated February 11, 1994, Defendant KOPPELL permitted his office to file with the Court of Appeals opposition to Plaintiff's Jurisdictional Statement, repeating the misrepresentations made to the Appellate Division--already documented by Plaintiff to be false and legally insupportable.

204. Thereafter, by letter dated February 22, 1994, Plaintiff apprised Defendant 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. #90-00315.

205. Following Defendant KOPPELL failure and refusal to requisition the disciplinary files under A.D. #90-000315, Plaintiff supplied Defendant ATTORNEY GENERAL KOPPELL with a full set of papers, organized and indexed so as to substantiate Plaintiff's claim at ¶7 of her Jurisdictional Statement that all

of Defendant SECOND DEPARTMENT's Orders under A.D. #90-00315 "in addition to being jurisdictionally void, are otherwise factually baseless, as the record under A.D. #90-00315 unequivocally shows".

206. On March 15, 1994 Plaintiff filed a letter with the Court of Appeals in further support of jurisdiction stating that Respondent SECOND DEPARTMENT was using its disciplinary power to retaliate against a judicial whistle-blower and that the confidentiality of Judiciary Law §90(10) was being employed against Plaintiff to disguise the lack of jurisdiction and "probable cause" for disciplinary proceedings it had continued to generate against her--even after her suspension.

207. Plaintiff's letter also brought to the attention of the New York State Court of Appeals the fact that Defendant KOPPELL was guilty of complicity with the criminal conduct of his clients. In support thereof, Plaintiff annexed her correspondence with Defendant KOPPELL to her letter.

208. Thereafter, despite written communications to Defendant KOPPELL, inquiring as to the status of his review of the files under A.D. #90-00315--hand-delivered to his office on March 8, 1994--Defendant KOPPELL failed and refused to review the files "in the underlying disciplinary proceeding" and failed and refused to retract his office's criminally false and fraudulent submission to the Court of Appeals.

209. By Decision dated May 12, 1994, the Court of Appeals dismissed Plaintiff's appeal taken from the SECOND

DEPARTMENT's dismissal of the Article 78 proceeding and denial of her Cross-Motion for lack of finality and upon the ground that no substantial constitutional question is directly involved." It made no comment as to any of the unethical conduct complained of by Plaintiff, including the lack of an impartial tribunal in the entity known as Defendant SECOND DEPARTMENT.

AS AND FOR A FIRST CAUSE OF ACTION FOR DECLARATORY JUDGMENT

210. Plaintiff respectfully repeats, reiterates, and realleges all of the foregoing allegations, with the same full force and effect as if set forth verbatim hereinafter.

22 N.Y.C.R.R. §691.4(l)(1) and §691.2 Are Unconstitutional On Their Face, And As Applied.

211. There is no statutory authority for "interim" suspension orders. This irrefutable fact was recognized in Matter of Nuey, 61 N.Y.2d 513, 474 N.Y.S.2d 714 (1984), wherein the New York State Court of Appeals explicitly recognized that Judiciary Law §90 does not provide a basis for "interim" suspensions.

212. The court rule authorizing "interim" suspensions, 22 N.Y.C.R.R. §691.4(l)(1), fails to identify the source of its authority.

213. Although Judiciary Law §90(2) confers exclusive disciplinary jurisdiction on the Appellate Divisions of the Supreme Court of the State of New York, such provision does not delegate any authority to them to make court rules as to

disciplinary proceedings amounting to substantive law.

214. Defendant SECOND DEPARTMENT has stated that there is no public information available as to the rule-making procedures of the Court as to disciplinary matters.

215. The historical genesis of the Defendant SECOND DEPARTMENT's promulgation of its Rules is thus maintained as a wholly secret process, to which the public, including the very attorneys affected by their invocation, are told they have no right of access.

216. The "interim" suspension provisions of 22 N.Y.C.R.R. §691.4(l) and §691.13(b)(2) represent substantive law-making by the Appellate Divisions.

217. Under 22 N.Y.C.R.R. §691.2, interim suspension of an accused attorney based on an alleged "failure to comply" with a court order or demand of the grievance committee, as referred to in 22 N.Y.C.R.R. §691.4(l)(1), rests on an automatic, self-executing definition of professional misconduct anytime an attorney fails to so comply, without consideration of the factual circumstances leading to such alleged "failure". This, therefore, embraces within it a "failure" which has a good faith predicate, a concept contrary to the federal and state constitutions and susceptible of its use for illegitimate purposes, as occurred in Plaintiff's case where the June 14, 1991 "interim" suspension Order (Exhibit "A") does not find that there was a "failure to comply", let alone that it was disobedient or in bad faith.

218. The record before Defendant SECOND DEPARTMENT shows that following its October 18, 1990 order, Plaintiff's counsel attempted to challenge it in a lawful and timely manner, consistent with the ethical duty of all attorneys to challenge an unlawful order or demand. That such challenge could, as here, be then as a basis for Defendant SECOND DEPARTMENT's June 14 1991 "interim" suspension shows the need for federal judicial intervention to prevent the rights of citizens from being unconstitutionally infringed upon.

219. If Judiciary Law, §90, is construed as permitting interim suspension orders by the Appellate Divisions of the Supreme Court of the State of New York, notwithstanding the absence of any language authorizing such suspensions or any delegation of power with respect to same, the failure to provide a right of appeal from interim orders of suspension in Judiciary Law §90, comparable to that provided under Judiciary Law §90(8) in the case of final disciplinary orders under such statutory provision, which clearly and unequivocally states that attorneys "shall have the right to appeal to the court of appeals from a final order of any appellate division" or in the Appellate Division's court rules relating to interim suspension must be declared unconstitutional as violative of such interimly suspended attorney's right to equal protection, as well as to due process.

220. There is no rational state purpose served in denying a right of appeal to interimly suspended attorneys, the

consequences of whose interim suspension orders are no less profound, life-determining, irreparable and incalculable than those resulting from final orders to whom the Legislature has provided a statutory right of revie parties, without notice to the persons or attorneys affected thereby, without stating the reasons or circumstances under which such disclosure can be made.

225. The Legislature has thereby conferred a blanket authority in the courts, unregulated by standards of any kind, enabling the type of misuse of power presented by the instant case, where Plaintiff is denied access to information material and necessary to her defense.

226. It is essential to Plaintiff's rights and to the rights of all members of the bar that a declaratory judgment be entered declaring that the "interim" suspension order entered against her on June 14, 1991 be declared null and void, and that the Rules Governing the Conduct of Attorneys be declared unconstitutional, as set forth in particular in 22 N.Y.C.R.R. §691.2, §691.4(l)(1)(2), and §691.13(b).

227. The alleged "failure to comply", as referred to in 22 N.Y.C.R.R. §691.4(l)(1), is a standard too ambiguous, vague and insufficiently defined, to permit its use for any purposes, since, it can be readily used for illegitimate purposes, as in Plaintiff's case, where her "interim" suspension based on an alleged "failure to comply", which was not stated to be in bad faith or disobedient, and consisted entirely of her counsel's well-founded attempt to challenge the October 18, 1990 order as

unlawful. Such motion, denied by the Court only two days before it issued the interim suspension Order, then became the basis for the "failure to comply". Under the Code of Professional Responsibility, an attorney has the ethical duty to challenge an unlawful order or demand. Such challenge cannot constitutionally then be used as a basis for suspension.

228. Defendant SECOND DEPARTMENT's disregard of the absence of required findings to support the false and deceitful allegation by Defendant CASELLA of "failure to comply" with Defendant SECOND DEPARTMENT's October 18, 1990 Order directing her medical examination, and of any statement in conformity with 22 Noss personally and professionally, including the closing of her law practice of more than thirty-five years, all of which has been in violation of Defendant's constitutional rights and to retaliate against her for exercising her First Amendment rights. All such constitutional rights, as aforesaid, have been totally without redress in the state court system, where the very courts that have created the rules which are sought to be enforced by Plaintiff disregard and flout them.

234. Clearly, Plaintiff has no adequate remedy at law or in the New York court system because of judicial bias and the massive cover-up that has taken place of the corrupt activities of powerful, politically well-connected lawyers and judges, whose unethical and criminal conduct has gone wholly unpunished and uninvestigated by agencies charged with the duty of enforcing their obligations as public officers and officers of the Court.

AS AND FOR A SECOND CAUSE OF ACTION UNDER 42 U.S.C. §1983

235. Plaintiff repeats, reiterates and realleges all of the factual allegations hereinabove set forth, with the same full force and effect as if more fully set forth hereinafter.

236. In the manner described herein, the defendants, acting under color of state law, wilfully and maliciously deprived Plaintiff of her constitutional rights.

237. In the manner described herein, the defendants, acting under color of state law, acted with reckless disregard of Plaintiff's constitutional rights.

238. In the manner described herein, the defendants, acting under color of state law, deprived plaintiff of her First Amendment rights to freedom of speech, freedom to petition for redress of grievances, freedom from malicious prosecution, due process and equal protection of the law. All of these rights are secured to Plaintiff by the provisions of the First, Fifth, and Fourteenth Amendments to the United States Constitution and by Title 42 U.S.C. §1983 and §1988.

239. In the manner described above, the defendants, acting under color of state law, deprived Plaintiff of her rights to be free from abuse of disciplinary process, malicious prosecution, and from the intentional infliction of emotional distress upon her. All of these rights are secured to the plaintiff by the provisions of New York law, which are invoked

under the pendent jurisdiction of this Court.

240. The direct and proximate result of the acts and omissions of the Defendant SECOND DEPARTMENT in issuing the June 14, 1991 interim suspension Order was that Plaintiff was compelled to incur economic loss by the necessity of retaining the services of counsel to defend herself against such unlawful and jurisdictionally void Order, and to suffer great physical, mental and emotional pain, humiliation, embarrassment and anguish by reason thereof, consequent to publication of such Order published, which was released to the media on direction of Defendant SECOND DEPARTMENT, to close up her professional practice of more than thirty-five years, and to do so literally "overnight", since the Order was effective "immediately".

241. As a direct and proximate result of Defendants' acts and omissions, and the aforesaid June 14, 1991 interim suspension order suspending Plaintiff from practice by the New York State Appellate Division, Plaintiff was caused to suffer an automatic suspension from practice in the federal courts to which she was also admitted. Such suspension order was also issued without a hearing, thereby causing Plaintiff to suffer further irreparable physical, mental, and emotional pain, suffering, humiliation, embarrassment, and incalculable economic loss.

242. As a direct and proximate result of Defendants' acts and omissions, and by reason of the June 14, 1991 interim suspension order, Plaintiff was further caused to suffer the loss of her real estate license, as well as her notary public license.

243. As a direct and proximate result of Defendants's acts and omissions and her aforesaid suspensions, Plaintiff was caused to suffer irreparable physical, mental, and emotional pain, suffering, humiliation, embarrassment and incalculable economic loss, to undergo medical care and treatment by reason of the trauma such stigma caused to her name, reputation, and career, all to her continuing and incalculable economic loss, and impacting irreparably and permanently on her ability to enjoy life in a normal and customary manner.

244. As a direct and proximate result of the Defendants' acts and omissions alleged herein, Plaintiff was caused to incur severe and grievous physical, mental, and emotional pain, suffering, fright, anguish, shock, anxiety, sleeplessness, and traumatic, stress-related conditions.

245. As a direct and proximate result of Defendants' conduct, Plaintiff was caused to incur medical expense, and will continue to require medical care and treatment for the indefinite future.

AS AND FOR A THIRD CAUSE OF ACTION FOR CONSPIRACY UNDER 42 U.S.C.§1983(3)

246. Plaintiff respectfully repeats, reiterates, and realleges each and every allegation set forth hereinabove, with the same full force and effect as if more fully set forth verbatim hereinafter.

247. Heretofore, and on or about July 31, 1989, the

Defendants herein conspired together and maliciously and wilfully entered into a scheme to deprive Plaintiff of her constitutional rights and her professional license to practice law.

248. Thereafter and on or about July 31, 1989 and continuing up to the present date, the Defendants did those acts and failed to do those acts, in pursuance of said conspiracy as hereabove alleged, and all such acts and omissions were participated in and done by all of the Defendants or by one or more of them as according the plan of said conspiracy for the purpose of discrediting, defaming and destroying Plaintiff's name, reputation, career, and professional practice in order that she be silenced as a voice speaking out against judicial corruption by judges and lawyers in the Second Judicial Department of the Supreme Court of the State of New York.

249. By reason of the foregoing, Plaintiff was damaged as alleged hereinabove.

AS AND FOR A FOURTH CAUSE OF ACTION FOR INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS

250. Plaintiff repeats, reiterates and realleges each and every allegation set forth hereinabove, as if more fully set forth verbatim hereinafter.

251. The acts and omissions of Defendants as herein above set forth were done wilfully, maliciously, outrageously, deliberately, and purposely with the intention to inflict emotional distress upon Plaintiff and/or were done in reckless

disregard of the probability of causing Plaintiff emotional distress, and these acts did in fact result in severe and extreme emotional distress.

WHEREFORE, it is respectfully prayed that this Court grant a declaratory judgment declaring the June 14, 1991 Order suspending Plaintiff from the practice of law a legal nullity and such other and further equitable relief as may be just and proper; and by awarding Plaintiff a judgment against the defendants and each of them, jointly and severally, as follows:

A. Compensatory damages in an amount the trier of fact shall consider to be just and fair to compensate Plaintiff for the injuries suffered by her and which she may, with reasonable certainty, continue to suffer in the future as a result of Defendants' wrongful conduct.

B. Punitive damages in an amount the trier of fact shall consider to be just and fair for Defendants' wilful and malicious violation of Plaintiff's constitutional rights, their intentional gross or reckless disregard thereof;

C. Attorney fees and all costs and expenses of this action;

D. Such other and further relief as this Court shall deem just and equitable to redress the constitutional torts and other wrongs done to Plaintiff as hereinabove set forth.

DORIS L. SASSOWER
Plaintiff, Pro Se
DLS-7527
283 Soundview Avenue
White Plains, New York 10606
914-997-1677

VERIFICATION

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

DORIS L. SASSOWER, being duly sworn, states that I am the Plaintiff in the within action. I have read the within Verified Complaint dated June 20, 1994, and attest that the allegations therein stated are true and correct to my own personal knowledge, unless stated on information and belief, and as to such allegations, I believe them to be true and correct.

DORIS L. SASSOWER

Sworn to before me this
20th day of June, 1994.

Notary Public

VERIFICATION

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

DORIS L. SASSOWER, being duly sworn, states that I am the Plaintiff in the within action. I have read the within Verified Complaint dated June 20, 1994, and attest that the allegations therein stated are true and correct to my own personal knowledge, unless stated on information and belief, and as to such allegations, I believe them to be true and correct.

Doris L. Sassower
DORIS L. SASSOWER

Sworn to before me this
14th day of October 1994.

Louise Di Crocco
Notary Public

LOUISE Di CROCCO
Notary Public, State of New York
No. 4718571
Qualified in Westchester County
Commission Expires ~~March 30, 1982~~
12-10-94