By Priority Mail
Certified Mail/RRR: P-801-449-681

March 28, 1996

Public Integrity Section of the Criminal Division
U.S. Department of Justice
10th and Constitution Avenue, N.W
Washington, D.C. 20530

ATT: Lee Radek, Chief

RE: Criminal Investigation of Second Circuit Judges

Dear Mr. Radek:

Transmitted herewith is a copy of our §372(c) judicial misconduct complaint against Judge Jon Newman, now Chief Judge of the Second Circuit, dated March 4, 1996. The indicated enclosures to that complaint are also transmitted, as are copies of the Second Circuit's two letters acknowledging receipt.

Our §372(c) complaint details criminal conduct by Judge Newman and his complicitious Second Circuit brethren, who--for ulterior, retaliatory reasons--demonstrably corrupted their judicial office.

Consequently, we ask that our readily verifiable §372(c) complaint be deemed to constitute our request for criminal investigation and prosecution of Judge Newman and his fellows in the Second Circuit by the U.S. Department of Justice.

You may be assured of our complete cooperation.

Very truly yours,

Elena Ruth Sassower

ELENA RUTH SASSOWER
16 Lake Street, Apt. 2C
White Plains, New York 10603

Doris L. Sassower

DORIS L. SASSOWER
283 Soundview Avenue
White Plains, New York 10606

Enclosures

cc: Tom Mooney, Chief Counsel
Subcommittee on Courts and Intellectual Property
U.S. House of Representatives Committee on the Judiciary

Ex "J-1"

Docket #
91-7891
88 Civ 5775
(GLS)

APPENDIX: COMPLAINT FORM

JUDICIAL COUNCIL OF THE SECOND CIRCUIT

COMPLAINT AGAINST JUDICIAL OFFICER UNDER 28 U.S.C. § 372(c)

INSTRUCTIONS:

(a) All questions on this form must be answered.

(b) A separate complaint form must be filled out for each judicial officer complained against.

(c) Submit the correct number of copies of this form and the statement of facts. For a complaint against:

a court of appeals judge -- original and 3 copies
a district court judge or magistrate judge -- original and 4 copies
a bankruptcy judge -- original and 5 copies

(For further information see Rule 2(e)).

(d) Service on the judicial officer will be made by the Clerk's office. (For further information See Rule 3(a)(1)).

(e) Mail this form, the statement of facts and the appropriate number of copies to the Clerk, United States Court of Appeals, United States Courthouse, Foley Square, New York, New York 10007.

1. Complainant's name:
(1) ELENA RUTH SASSOWER (2) DORIS L. SASSOWER

Address:
(1) 16 Lake Street, Apt. 2C, White Plains, New York 10603

(2) 283 Soundview Avenue, White Plains, New York 10606

Daytime telephone (with area code): (914) 997-8105

2. Judge or magistrate judge complained about:

Name: CHIEF JUDGE JON O. NEWMAN

Court:
COURT OF APPEALS. SECOND CIRCUIT

3. Does this complaint concern the behavior of the judge or magistrate judge in a particular lawsuit or lawsuits?

[✓] Yes [ ] No

If "yes," give the following information about each lawsuit (use the reverse side if there is more than one):

Court:
COURT OF APPEALS. SECOND CIRCUIT

Docket number:
91-7891

Docket numbers of any appeals to the Second Circuit:
91-7891

Did a lawyer represent you?

[ ] Yes [✓] No

If "yes" give the name, address, and telephone number of your lawyer:

4. Have you previously filed any complaints of judicial misconduct or disability against <u>any</u> judge or magistrate judge?

[ ] Yes [✓] No

If "Yes," give the docket number of each complaint.

5. You should attach a statement of facts on which your complaint is based, see rule 2(b), and

JUDICIAL MISCONDUCT COMPLAINT AGAINST JUDGE JON O. NEWMAN PURSUANT TO 28 U.S.C. 273(c)

Filed by: **Elena Ruth Sassower and Doris L. Sassower**

Date: **March 4, 1996**

This is a complaint under 28 U.S.C. 372(c) against Jon O. Newman, Chief Judge of the U.S. Court of Appeals for the Second Circuit. It sets forth--and by the record in *Sassower v. Field* (Docket No. 91-7891) documents--that Judge Newman, in his official capacity as presiding judge of an appellate panel of the United States Court of Appeals for the Second Circuit, *corruptly used his position and authority for ulterior, retaliatory purposes*, to wit, that he authored a decision, dated August 13, 1992, which he *knew* to be factually false and fraudulent, legally insupportable, and issued for the sole purpose of defaming and financially injuring the plaintiffs, who were the immediate family of a judicial "whistle-blower".

Such *wilful* abuse of judicial office, subverting "the effective and expeditious administration of the business of the courts"--and constituting impeachable conduct--was made the subject of exhaustive efforts to obtain judicial review, all unsuccessful. These include plaintiffs' Petition for Rehearing *En Banc* to the Second Circuit, their Petition to the U.S. Supreme Court for a Writ of Certiorari, seeking review under that Court's "power of supervision" and, following denial of "cert", their Petition for Rehearing and Supplemental Petition for Rehearing. Those documents, cross-referenced with record citations, should be the starting point for *verification* of this judicial misconduct complaint[1]--beginning with the eight-page Petition for Rehearing to the U.S. Supreme Court. That Petition was based upon Judge Newman's retaliatory motivation and that of the Second Circuit--as well as of District Court Judge Gerard Goettel, whose demonstrably biased and insupportable decision had to be--but was not--reversed on appeal *as a matter of law.*

As detailed therein, the judicial whistle-blower to which plaintiffs are related is George Sassower--well known to Judge Newman, as well as to many judges of the Second Circuit. Mr. Sassower's relationship to them--and their relationship to him--had, for many years, been fiercely antagonistic and adversarial. He had sued judges of the Second Circuit in a large number of litigations, calling them "criminals in black robes" and other unflattering epithets and characterizing the Circuit as a whole as "unfit for human litigation". Such adversarial litigation by Mr. Sassower is reflected in footnote 1 of Judge Newman's decision (CA-9)[2] and, more revealingly, at footnote 4 of District Judge Goettel's decision (CA-34). As may be inferred from

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[1] Copies of these four documents are enclosed.

[2] CA- refers to the Certiorari Appendix

articles published in the *New York Law Journal* on November 9, 1993 and March 14, 1994 (Exhibits "A-1" and "A-2", respectively), the docket numbers, captions, and allegations of Mr. Sassower's lawsuits and judicial misconduct complaints against Second Circuit judges as of August 13, 1992--the date Judge Newman's decision was rendered--are known to the Circuit or readily accessible by it[3].

George Sassower was not a party to the *Sassower v. Field* litigation, which was a civil rights action under the Fair Housing Act brought by his daughter, Elena, and his ex-wife, Doris. However, Mr. Sassower had a direct interest in its outcome since he shared occupancy with Elena in the apartment which was the subject of the case. As such, Judge Newman--acting for the Second Circuit on the appeal--was no more disinterested in the outcome of the proceeding than District Court Judge Goettel had been in ensuring that plaintiffs lost their case, that the litigation activities of George Sassower were disrupted by his dislocation from the apartment in which he lived with his daughter, and that the family that had provided him with a roof over his head be reputationally ruined, as well as financially punished. Such financial injury to George Sassower's family may have been of particular satisfaction to the Second Circuit, whose judges had been unable to deter George Sassower's litigation activities by imposition of monetary sanctions against him because he had no assets (CA-34, fn. 6). Indeed, Judge Goettel and Judge Newman were so plainly bent on causing financial injury to plaintiffs that they did not care that the "extraordinary" $100,000 imposed upon plaintiffs would result in a "windfall" double payment to fully-insured defendants, who had no standing to seek a counsel fee/sanctions award and--as subsequently proven--no intention to reimburse the insurer (Cert Petition, pp. 2, 6-7, 9, 10, 13, 25-7; see plaintiffs' motion vacate, filed 11/26/91; denied without reasons 8/13/92 (CA-22); plaintiffs' motion for procedural relief, filed 9/24/92; denied without reasons 10/1/92 (CA-26)).

Because of the Second Circuit's *animus* against George Sassower, Judge Newman knew that no matter how abhorrent and retaliatory his decision was, he could count on his Second Circuit brethren to deny a petition for rehearing *en banc*--much as Judge Goettel knew that the Second Circuit would sustain him on appeal. The fact that the Second Circuit, by denying plaintiffs' dispositive Petition for Rehearing *En Banc*, put its imprimatur on Judge Newman's palpably retaliatory decision, requires that this judicial bias complaint, resting on that decision in which the Second Circuit was complicitous, be transferred to another Circuit.

That Judge Newman saw the appeal of Elena and Doris Sassower as a means of retaliating against George Sassower through his family is *readily verifiable* from the decision itself (CA-6). On its face, the decision is repugnant to *fundamental* adjudicative standards and *black-letter* law--including case law of the Second Circuit itself--reflective of its improper

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[3] Upon information and belief, among Mr. Sassower's serious allegations against judges of the Second Circuit is that they have been defrauding the U.S. Government. Although sued by him in their personal capacities, they have nonetheless been defended therein by the U.S. Department of Justice *without* being "scope"-certified, as required by 28 U.S.C. Sec. 2679(d), and *without* any notice of claim being filed, as required by 28 U.S.C. Sec. 2675(a).

motivation. This was detailed in plaintiffs' Petition for Rehearing *En Banc* to the Second Circuit, in their Cert Petition, and in their Supplemental Petition for Rehearing, which, at pages 4-6, succinctly summarized and cross-referenced the violations of Supreme Court decisional law and statutory and ethical rules verifiable from the face of Judge Newman's decision.

This unabashed retaliation and lawlessness is highlighted by Judge Newman's unprecedented use of "inherent power", *without* due process or any finding of due process to sustain the hearing-less, nearly $100,000 monetary sanction against plaintiffs--for no reason other than Judge Goettel's failure to meet the fundamental prerequisites of Rule 11 and 28 U.S.C. Sec. 1927 (Cert Petition, pp. 7-8, 12-13, 19-23). "Inherent power" is itself a usurpation of power--a concession that there is NO LAW to permit the court to do what it wants to do. And the reason there was NO LAW to sustain the sanction award against plaintiffs is because the law requires--in the case of Rule 11--specificity of findings: identification of specific documents, signators, and correlation of costs (Br. 47-48). Yet, Judge Goettel's completely arbitrary $50,000 Rule 11 sanctions award announced that it was dispensing with such requisites (CA-52). Likewise, 28 U.S.C. Sec. 1927 requires specificity, correlating the allegedly sanctionable conduct by lawyers with excess costs (Br. 49),which requirement Judge Goettel's similarly arbitrary $42,000 award flouted (CA-52-3).

From the Appellate Brief (Br. 8-40, 48-9) and Record on Appeal before him, Judge Newman *knew* that the reason Judge Goettel had made no findings to support his Rule 11 and 28 U.S.C. 1927 sanction awards (CA-52-3) was because there were no evidentiary facts in the record on which to base such findings. There simply was no sanctionable conduct on plaintiffs' part[4]. Consequently, Judge Newman knew that if Judge Goettel's guarantuan monetary award against plaintiffs were to be maintained--which was the pre-determined result he and the Circuit desired--he would have to jettison the findings requirement. And this is what his August 13, 1992 decision did--using "inherent power" to sustain Judge Goettel's arbitrary, uncorrelated $50,000 Rule 11 award (CA-14), as well as an unidentified portion of his $42,000 award under 28 U.S.C. Sec. 1927 against Elena Sassower (CA-16-7), the unidentified balance of which Judge Newman maintained against Doris Sassower, in flagrant violation of the specificity required by 28 U.S.C. Sec. 1927 (CA-16).

The demonstrable *bad-faith* of Judge Newman's decision is reflected by its conspicuous failure to identify *any* issue raised by plaintiffs on their appeal (CA-18)--including the factual baselessness of Judge Goettel's decision. This is understandable since had Judge Newman identified such issue (or *any* other) he might have had to refute the copious *undenied and unrefuted record references* in plaintiffs' Appellate Brief and Reply, establishing Judge Goettel's

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[4] As dispositively documented by plaintiffs' *uncontroverted* Rule 60(b)(3) motion--expressly incorporated herein by reference--plaintiffs were not only entitled to sanctions against defense counsel, their clients, and the insurer for their flagrant litigation misconduct, but to a new trial. (See, Appellate Brief, pp. 27-33, 49-54; Reply Brief, pp. 22-27; Petition for Rehearing *En Banc*, pp. 4, 5-6; Cert Petition, pp. 4-6, 13, 26-8).

decision as flagrantly fraudulent, unsupported, and demonstrative of Judge Goettel's virulent actual bias. That Judge Newman knew no factual refutation was possible is evident from his decision which notably does not refute even a single one of plaintiffs' record references or otherwise independently examine the record. Instead, Judge Newman's affirmance rests entirely on Judge Goettel's decision--which Judge Newman varyingly paraphrases or quotes verbatim. This includes those portions of Judge Goettel's decision that plaintiffs' Appellate Brief (Br. 2, 54, & errata sheet) had expressly identified--without any rebuttal by defendants' Respondent's Brief--as *ex parte, dehors* the record, false and defamatory.

Judge Newman's repetition of the aforesaid objected-to *ex parte, dehors* the record statements by Judge Goettel was no gratuitous insert (CA-11, fn. 2). It was purposely intended by him to create an illusion that Doris Sassower was a notorious "public enemy"--against whom it would not be shocking that a federal court would impose a gargantuan monetary sanction. Such purpose was reinforced by Judge Newman's *sua sponte* addition of his own *irrelevant, dehors* the record defamatory hearsay--which appears at the very outset of his decision in a reference to a September 11, 1991 *New York Law Journal* article, headlined "Attorney Sanctioned by Court of Appeals" (CA-8). Judge Newman intended that readers of his judicial decision believe that Doris Sassower was the attorney sanctioned. In fact, the attorney referred to by the headline was not Doris Sassower and was totally unconnected with plaintiffs (Exhibit "B").

Judge Newman's ostensible excuse for including such improper, extraneous, and false matter in his decision was, according to him, that Doris Sassower's "current status [at the bar] is in some doubt" (CA-8). However, a September 11, 1991 *New York Law Journal* article, which was almost a year old as of the date of Judge Newman's August 13, 1992 decision, would plainly not provide information as to Doris Sassower's "current status". Indeed, "current" information as to her status in both the state and federal courts was provided directly to Judge Newman on February 28, 1992, at the oral argument of plaintiff's' appeal, when he interrupted plaintiffs to inquire of Doris Sassower on that subject. Such completely irrelevant[5] and embarrassing inquiry, in a crowded courtroom, may have been recorded by the court. If so, the recording would substantiate that Judge Newman's courtroom inquiry provided him with more "current" information than the September 11, 1991 *New York Law Journal* article, published five months before the oral argument and nearly a year before his August 13, 1992 decision.

The retaliatory and malicious nature of Judge Newman's decision, which as hereinabove shown is *readily verifiable*, gives rise to a further suspicion that Judge Newman was, in some *ex parte*, behind-the-scenes manner involved in the procedurally unauthorized February 27, 1992 order, signed by the Chairman of the Southern District's Grievance Committee,

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[5] As highlighted at pp. 7-8, 10-11 of plaintiffs' Petition for Rehearing *En Banc*, and pp. 20-1, 22-3 of their Cert Petition, Doris Sassower's status at the bar was irrelevant to the sanctions issue since, as established by the record, there was no sanctionable conduct by her or excess proceedings for which she was responsible.

suspending Doris Sassower's license to practice in the Southern District[6]. That order, dated February 27, 1992[7]--the day before the February 28, 1992 oral argument of the appeal before Judge Newman in *Sassower v. Field*--violated Rule 4 of the General Rules of the District Courts for the Southern and Eastern Districts of New York. Indeed, under Rule 4, such order could not properly issue since Doris Sassower's papers in opposition to the Southern District's September 11, 1991 Order to Show Cause to suspend her detailed that she had been suspended in the New York state courts *without* written charges, *without* any hearing, *without* any findings, and *without* reasons and requested a hearing before the Grievance Committee of the Southern District. For the purposes of this misconduct complaint, those opposition papers--which enclosed a copy of her July 19, 1991 motion to the New York Court of Appeals for leave to appeal--are incorporated by reference.

cc: House Judiciary Committee
Subcommittee on Courts and Intellectual Property
U.S. Department of Justice
Public Integrity Section, Criminal Division
Administrative Office of the United States Courts
Second Circuit Task Force on Gender, Racial, and Ethnic Fairness in the Courts
Congresswoman Nita Lowey

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[6] Much as Judge Newman became Chief Judge of the Second Circuit in the year following his authorship of the retaliatory August 13, 1992 decision in *Sassower v. Field*, so the Chairman of the Grievance Committee for the Southern District, who signed the procedurally-unauthorized February 27, 1992 suspension order, became Chief Judge of the Southern District.

[7] Annexed as Exhibit "C" is a copy of the Southern District's February 27, 1992 order. As may be seen, it refers to the New York Court of Appeals' denial of Doris Sassower's motion for leave to appeal her state court suspension. Upon information and belief, such document--if not the content of the full federal disciplinary file--was accessible to Judge Newman.

NYLJ p.1 11/9/93

'Vexatious Litigants' Procedure Held Lawful

A PROCEDURE, established by the Second Circuit, that requires about two dozen "vexatious litigants" to obtain permission from an unidentified judge to file any motions with the court, has been declared reasonable and necessary by a federal appeals panel.

The procedure was called a "reasonable response to the harassing abuse of the litigation process" perpetrated by these litigants in a ruling by Second Circuit Chief Judge Jon O. Newman, *In Re Anthony R. Martin-Trigona,* 93-5008, filed Friday.

Judge Newman

Litigants "who abuse the judicial system forfeit their right to the full panoply of procedures available in the conduct of normal litigation," Judge Newman added.

His opinion, joined in by Circuit Judges Ralph K. Winter and Frank X. Altimari, came in response to unrelated letters from two sanctioned pro se litigants, Anthony R. Martin (formerly known as Anthony R. Martin-Trigona) and George Sassower, who sought disclosure of the identity of judges who had denied them permission to file particular motions in the past year.

Mr. Martin, who has a Palm Beach, Fla. address, is described in court opinions as a law school graduate denied admission to the Illinois bar. He has filed hundreds of lawsuits around the country "against federal and state judges, bar examiners, public officials, public agencies, lawyers and individuals who in one way or another had any relationship, directly or indirectly, to any matter concerning him," according to one opinion.

In one instance, he even reportedly "sought to intervene in the state court divorce action of a federal judge and moved to have himself appointed as guardian ad litem of the judge's minor children."

Mr. Sassower, who has a White Plains, N.Y., address, is described in court opinions as a disbarred lawyer who has been "an abusive litigant for years" filing an "avalanche of litigation" against public and private figures.

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'Vexatious Litigants' Procedure

Continued from page 1, column 4

Both men have been prohibited from filing any papers in the Second Circuit unless leave of court has first been obtained. That leave must come from one Second Circuit judge who is assigned through a process which is not publicly disclosed but is reportedly "related to the seniority of the judges." The same judge, who is not identified, handles all applications from a particular litigant.

In their letters, Messrs. Martin and Sassower sought to learn the identity of the judges who denied them leave to appeal in the past year. In response, Judge Newman treated the letter requests as motions to be considered by a three-judge panel because they raised issues the Second Circuit had not addressed in previous opinions.

Exceeding the Bounds

Judge Newman first noted the ways in which the courts and public can be protected from the harassing tactics of vexatious litigants through rules of general application. Among them, he cited Rule 11 of the Federal Rules of Civil Procedure, which authorizes sanctions for groundless lawsuits, and Rule 38 of the Federal Rules of Appellate Procedure, which authorizes damages for filing a frivolous appeal.

But these techniques are insufficient when "certain individuals so far exceed the bounds of tolerable litigation conduct," he wrote.

He then noted that the U.S. Supreme Court and numerous courts of appeals "have recognized that courts may resort to restrictive measures that except from normally available procedures, litigants who have abused their litigation opportunities."

Several circuits, he noted, have barred vexatious litigants from the normal availability of the in forma pauperis status in civil cases that allows waiver of fees, while others have completely prohibited such litigants from filing designated categories of cases. At least five other circuits have adopted less drastic remedies, like the Second Circuit's, of requiring that vexatious litigants seek permission to file papers, Judge Newman wrote.

The Second Circuit's particular leave-to-file system which assigns that decision to one judge per litigant is a "sensible allocation of judicial resources," Judge Newman added. It also enables that one judge to have a "frame of reference" to assess new applications from the litigant.

Judge Newman also said that concealing the identity of the judge was a "reasonable precaution, necessitated by the unfortunate tendency of some vexatious litigants to direct their harassing tactics personally at the judges whose rulings displease them."

And he defended the tactic of not disclosing the procedure for choosing the judge, which is related to seniority, because it assures that judges are picked "without regard to the identity of the litigant."

Judge Newman concluded, "The procedures adopted in response to the demonstrated abuse that has occurred are necessary for the courts, the judges and ultimately for the public, many of whom are victimized when vexatious litigants are permitted unrestricted opportunities to pursue their tactics of harassment."

Messrs. Martin and Sassower represented themselves.

NEW YORK LAW JOURNAL

Monday, March 14, 1994

Second Circuit Imposes Limits On Frequent Complaint Filers

A CRACKDOWN on vexatious litigants in the Second Circuit, which began in the 1980s with the imposition of "leave to file" requirements for additional lawsuits and appeals, continued last week with the announcement of similar requirements for those who frequently file judicial misconduct complaints.

Those deemed frequent filers must get permission to initiate new complaints from the Second Circuit Chief Judge as an appropriate sanction against them and as a means to protect the system's integrity, according to an opinion from the Second Circuit Judicial Council in *In re George Sassower*, 94-8509, filed Thursday. The Council is the 13-judge body which reviews misconduct complaints against federal judges in the Second Circuit which covers New York, Vermont and Connecticut.

The opinion, signed by Second Circuit Chief Judge Jon O. Newman, imposed the new requirements on George Sassower, a disbarred attorney from White Plains, N.Y., who has filed 16 judicial misconduct complaints in the Second Circuit since 1987, 15 of them since 1990 and eight in 1993. Each complaint was dismissed as frivolous or related to the merits of litigation, the ruling said, noting some complaints were filed against judges for dismissing prior complaints.

PHOTOGRAPH BY FAYE ELLMAN

Judge Jon O. Newman

The opinion noted steps by numerous circuits to limit lawsuits and appeals initiated by litigants who abuse the system, and steps by a few, including the First, Third and Fifth Circuits, to limit repetitive and frivolous judicial misconduct complaints. It rejected claims by Mr. Sassower that no special restrictions should be im-

Continued on page 2, column 3

2d Circuit Limits on Frequent Complainers

Continued from page 1, column 4

posed because his complaints have not put an undue burden on the court.

Restriction Warranted

"Just as those who abuse the normal processes of litigation may be restricted in their opportunity to initiate new lawsuits, those who abuse the judicial misconduct complaint procedure may also be restricted in their opportunity to initiate new misconduct complaints," Judge Newman wrote.

"The integrity of the misconduct complaint procedure, a matter of importance to all persons with a legitimate basis for making a complaint within the scope of 28 USC §372(c), will be maintained by imposing a 'leave to file' restriction on those who abuse this procedure."

Second Circuit Executive Steven Flanders estimated there are only a handful of people at any time who may be called vexatious repeat filers of judicial misconduct complaints. He said there are far fewer than the two dozen litigants on a special court list who need permission from an unidentified Circuit Judge to file additional motions in the Second Circuit.

In November, the Second Circuit defended its leave to file process for vexatious litigants in a ruling also concerning Mr. Sassower, who was described in court opinions as having been "an abusive litigant for years" who has filed an "avalanche of litigation" against public and private figures.

In November, the Second Circuit defended its leave to file process for vexatious litigants in a ruling also concerning Mr. Sassower and a second man, Anthony R. Martin (formerly known as Anthony R. Martin-Trigona) (*NYLJ*, Nov. 9, 1993). Mr. Sassower was described in court opinions as having been "an abusive litigant for years" who has filed an "avalanche of litigation" against public and private figures.

The Judicial Council includes the Circuit's chief judge, the six most senior active appellate court members, and the Circuit's six chief district judges. Currently, its members are: Judge Newman, Circuit Judges Amalya Kearse, Ralph Winter, Roger Miner, Frank Altimari, J. Daniel Mahoney, and John Walker and Chief District Judges Thomas Griesa of the Southern District, Thomas Platt of the Eastern District, Michael Telesca of the Western District, Thomas McAvoy of the Northern District, Jose Cabranes of Connecticut and Fred Parker of Vermont.

NEW YORK LAW JOURNAL

Wednesday, September 11, 1991

Attorney Sanctioned by Court of Appeals

BY GARY SPENCER

ALBANY — The Court of Appeals yesterday sanctioned a Manhattan attorney and his client, finding that their "frivolous" motions for leave to appeal and to reargue were meant primarily to delay enforcement in Israel of a $19.5 million judgment.

"This is precisely the type of misuse of judicial process that Part 130 was adopted to curtail," the Court said, imposing separate $2,500 sanctions on Israeli businessman Henry A. Roth and his attorney, Louis H. Benjamin, formerly of Slotnick & Baker.

In other actions, the Court refused to hear the state's appeal of a decision that Family Court judges in New York City must receive the same pay as their counterparts in Nassau County, whose salaries have been $9,000 higher. It also refused to review a ruling that the natural mother of Lisa Steinberg "abandoned" the child and has no right to sue for wrongful death. Lisa was beaten to death by Joel Steinberg in 1987.

The sanction case — *Intercontinental Credit Corporation Division of Pan American Trade Development Corp. v. Roth*, Mo. No. 883 — stems from a 1989 order by Manhattan Supreme Court Justice Edward J. Greenfield awarding $19.5 million to International Credit Corporation on summary judgment.

Mr. Roth, president of Universal Petroleum Products Inc. and Universal Oil Distributors Inc., had executed unconditional guarantees for loans to three other corporations that were used to reduce the debts of his own firms. When the other corporations defaulted, he was held responsible for the loans. The

Continued on page 2, column 3

Appeals Court Highlights

The State Court of Appeals yesterday:

■ **Ruled 6-0 to impose** a sanction on an Israeli businessman and his Manhattan attorney for filing motions with an 'utter lack of merit' in an attempt to delay enforcement of a $19.5 million judgment.

■ **Let stand a ruling** that Family Court judges in New York City, who make $86,000 a year, are entitled to the same pay as those in Nassau County, who earn $95,000 a year.

■ **Declined to review** a decision that the natural mother of Lisa Steinberg abandoned her daughter and therefore has no right to recover for the child's wrongful death.

■ **Refused to hear an appeal** by a White Plains attorney ordered to submit to a psychiatric examination to determine her fitness to practice law.

Ex "B"

Attorney Is Sanctioned by Court of Appeals

Continued from page 1, column 3

order was affirmed by the Appellate Division, First Department, and ICC began enforcement proceedings.

The enforcement effort included proceedings in Israel, where Mr. Roth owned a $3 million villa in Netanya, according to ICC attorney Matthew S. Dontzin of Kramer, Levin, Nessen, Kamin & Frankel. But the Israeli courts held the New York judgment was not final and could not be enforced because Mr. Roth could seek leave from the Court of Appeals.

His attorney filed the motion for leave to appeal too late, and the Court dismissed it as untimely last June. He moved for reargument a month later, and the Court said yesterday that both motions were frivolous.

"The utter lack of merit in these motions and the virtual impossibility of affecting the final judgment at this late stage in the litigation confirm [ICC's] contention that this reargument motion was made primarily to delay enforcement of a judgment in Israel," it said in a 6-0 per curiam opinion.

"In imposing a sanction on both defendant and his attorney," it said, "we have considered the facts that plaintiff has been inappropriately hampered in its efforts to enforce a valid judgment, that this was defendant's second misguided effort to invoke the jurisdiction of this Court for purposes essentially unrelated to the legitimate settlement of controversies and that a specific, well-founded request for sanctions against both defendant and his counsel has been made."

In *Deutsch v. Crosson*, Mo. No. 667, the Court let stand a ruling that the 45 Family Court judges in New York City, who make $86,000 a year are entitled to the same pay as those in Nassau County, who are the highest paid Family Court judges in the state at $95,000 per year. Judges in some upstate Family Courts earn $82,000 per year, but the order applies only to those in New York City.

The $9,000 raises in judges' salaries will cost the court system about $378,000, along with a $3 million payment for retroactive salary, according to the Office of Court Administration.

The $9,000 raises will cost the court system about $378,000, according to the Office of Court Administration, along with a $3 million payment for retroactive salary. Chief Judge Sol Wachtler took no part in the decision that denied leave to appeal.

In *Launders v. Steinberg*, Mo. No. 675, the Court declined to review a decision that Michele Launders, the natural mother of Lisa Steinberg, abandoned the girl when she gave her up for adoption at birth and therefore has no right to recover for her wrongful death.

Manhattan Supreme Court Justice Eugene L. Nardelli said in his 1989 ruling, "No distributive share in the estate of a deceased is allowed a parent who has failed to provide for or has abandoned such child. Clearly Michele failed to provide for Lisa; she has never performed her legal duty to provide care and training for Lisa. Moreover, it is clear that, no matter what Michele's circumstances and reasons for doing so, she abandoned Lisa."

The Court also refused to hear an appeal by White Plains attorney Doris L. Sassower, who was ordered by the Appellate Division, Second Department, last October to submit to a psychiatric examination to determine her fitness to practice law. The Appellate Division suspended her from practice in June for failing to comply with the order.

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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In the Matter of

Doris L. Sassower
283 Soundview Avenue
White Plains, NY 10606

Respondent

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M-2-238
ORDER

An Order to Show Cause dated September 11, 1991 was served on respondent directing her to show cause why she should not be disciplined by this Court pursuant to General Rule 4(g). The reason for this was the fact that on June 14, 1991 the New York Appellate Division, Second Department, suspended the respondent for an indefinite period based upon her failure to comply with the Appellate Division's order directing her to be examined in order to determine whether respondent is incapacitated from continuing to practice law. On September 10, 1991, the New York Court of Appeals denied respondent's motion for leave to appeal.

The Court has received a submission from respondent which requests that no action be taken by this Court in order to permit the New York Court of Appeals to decide a case which the respondent alleges is factually related to her case. This request is denied.

Ex "C"

It is hereby directed that the respondent be suspended from the rolls of the members of the bar of this Court to run concurrently with the State suspension.

SO ORDERED.

Thomas P. Griesa

THOMAS P. GRIESA
Chairman, Grievance Committee S.D.N.Y.

Dated: New York, New York
February 27, 1992