SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION: FIRST DEPARTMENT

ELENA RUTH SASSOWER, Coordinator
of the Center for Judicial Accountability, Inc.,
acting *pro bono publico*,

Petitioner-Appellant,

-against-

COMMISSION ON JUDICIAL CONDUCT
OF THE STATE OF NEW YORK,

Respondent-Respondent.

NOTICE OF MOTION FOR LEAVE TO APPEAL TO THE COURT OF APPEALS

App. Div. 1st Dept. #5638
S.Ct./NY Co. #108551/99

PLEASE TAKE NOTICE that upon the annexed Affidavit of Petitioner-Appellant *Pro Se* ELENA RUTH SASSOWER, sworn to on February 20, 2002, the exhibits annexed thereto, and upon all the papers and proceedings heretofor had, ELENA RUTH SASSOWER will move this Court at 27 Madison Avenue, New York, New York 10010 on Wednesday, March 6, 2002 at 10:00 a.m., or as soon thereafter as Respondent-Respondent and its counsel can be heard for an order:

1. Granting leave to appeal to the Court of Appeals; and

2. Such other relief as may be just and proper.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR §2214(b), answering papers, if any, are to be served on or before February 27, 2002.

February 20, 2002

Yours, etc.

ELENA RUTH SASSOWER
Petitioner-Appellant *Pro Se*
Box 69, Gedney Station
White Plains, New York 10605-0069
(914) 421-1200

TO: ATTORNEY GENERAL OF THE STATE OF NEW YORK
Attorney for Respondent-Respondent
120 Broadway
New York, New York 10271
(212) 416-8020

NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT
Respondent-Respondent
801 Second Avenue
New York, New York 10017
(212) 949-8860

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ELENA RUTH SASSOWER, Coordinator
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AFFIDAVIT

App. Div. 1st Dept. #5638
S.Ct/NY Co. # 99-108551

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

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

1. I am the Petitioner-Appellant *Pro Se* in the above-entitled public interest Article 78 proceeding against Respondent-Respondent, the New York State Commission on Judicial Conduct [hereinafter "Commission"], and fully familiar with all the facts, papers, and proceedings heretofore had herein.

2. This affidavit is submitted in support of a motion for leave to appeal to the Court of Appeals, pursuant to CPLR §5602 and §600.14(b) of the Rules of this Court.

3. This motion is timely, having been made within 35 days of the Commission's service by mail of this Court's December 18, 2001 decision & order, with notice of entry (Exhibit "A"), as prescribed by CPLR §§5513(b) and 2103(c).

4. Presently pending before this Court is my January 17, 2002 reargument motion, which I incorporate by reference in the interest of judicial economy.

5. Unless this Court is able to refute the fact-specific, law-supported showing in that motion that its appellate decision "perverts the most basic adjudicative standards and obliterates anything resembling the rule of law" – *which the Commission has been wholly unable to do* -- its duty is to recall and vacate the decision and refer the appeal for adjudication to the Appellate Division, Fourth Department, as requested by my reargument motion.

6. Should this Court, nonetheless, adhere to its decision, which, by reason of its "legal disqualification" for interest under Judiciary Law §14, it was *without* jurisdiction to even render[1], it should be willing to have our highest State court review the decision for all the reasons my reargument motion sets forth. For the Court to do otherwise would compound the "criminal act" its decision represents.

7. This case meets the criteria for "permission to appeal in civil cases", set forth in the Court of Appeals' own rules, 22 NYCRR §500.11(d)(1)(v). Indeed, presented are not only a multitude of issues of "public importance", but a "conflict with [a] prior decision[] of [the Court of Appeals]".

8. The Court of Appeals' decision in *Matter of Nicholson*, 50 NY2d, 597 (1980) – a case involving a challenge to the Commission's "authority... to investigate

[1] *See* legal authorities cited at ¶25 of my January 17th moving affidavit on my reargument motion.

alleged improprieties" (at 603)—is dispositive both as to "public importance" and decisional "conflict".

9. As to "public importance": *Nicholson* makes plain that issues of judicial integrity and impartiality are not just "important", they are paramount:

> "There can be no doubt that the State has an overriding interest in the integrity and impartiality of the judiciary. There is 'hardly *** a higher governmental interest than a State's interest in the quality of its judiciary' (*Landmark Communications v. Virginia*, 425 US 829, 848 [Stewart, J., concurring]", at 607.

10. The Commission is the agency created by statute and the State Constitution to implement the State's "overriding interest in the integrity and impartiality of the judiciary" – a fact *Nicholson* recognizes[2]. Consequently, when the Commission is sued for corruption based on its violations of statutory and constitutional requirements, such as detailed in my Verified Petition's six Claims for Relief [A-37-45], there can be no question of the lawsuit's "public importance", involving, as it does, a challenge to the integrity of "the instrument through which the State seeks to insure the integrity of its judiciary", *Judicial Conduct v. Doe*, 61 NY2d 56, 61 (1984).

11. Reinforcing the "public importance" of this lawsuit, beyond my Verified Petition's six Claims for Relief [A-37-45], is the record of the Commission's response: subverting the judicial process through the fraudulent defense tactics of its

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[2] *See also, Matter of Sardino*, 58 NY2d 286, 291 (1983) "...one of the obvious reasons for establishing a permanent Commission on Judicial Conduct is to elevate judicial performance by insuring that the practices in the various courts comply with the high standards required by judicial officers."

attorney, the State Attorney General. This, because it had NO legitimate defense to these six irrefutable Claims for Relief, and, thereafter, because it had NO legitimate defense to my appeal.

12. The Attorney General's flagrant and unremitting violations of New York's Disciplinary Rules of the Code of Professional Responsibility (22 NYCRR §1200 *et seq.*) – applicable to *every* lawyer in this State and whose enforcement in the First Judicial Department is vested in this Court (Judiciary Law §90.2, 22 NYCRR §603 *et seq.*) -- is an additional issue of transcending "public importance", as likewise the Attorney General's flagrant and unremitting violations of Judiciary Law §487 and 22 NYCRR §130-1.1, similarly applicable to *every* lawyer in this State.

13. This record of unrestrained litigation misconduct by New York's highest law enforcement officer, so inimical to the "interests of the state", raises yet a further issue of "public importance", *to wit*, whether, pursuant to Executive Law §63.1 – the *sole* statutory authority cited by the Attorney General for his representation of the Commission – he should have been disqualified and, indeed whether he should have been representing me, on behalf of the public interest, as I expressly and repeatedly sought to have him do.

14. Nor can there be any question as to "public importance", when *two* levels of the State judiciary obliterate the *very* statutory and rule provisions that are supposed to guide them in maintaining their "integrity and impartiality" – Judiciary Law §14 and §§100.3E and F of the Chief Administrator's Rules Governing Judicial

Conduct[3] – and whose wilful violations are the Commission's duty to prosecute (22 NYCRR §7000.9, "Standards of Conduct").

15. As the record shows, Justice Wetzel and this Court, *each* under the Commission's disciplinary jurisdiction and *each* having relationships with, and dependencies on, persons and entities implicated in the Commission's corruption, manifested their disqualifying interest and bias by decisions which distort and falsify the record, in *every* material respect, and which are legally unsupported and insupportable. Indeed, the decisions of Justice Wetzel and this Court [A-9-14], (Exhibit "A") follow the *same pattern* in achieving the predetermined end of "protecting" the Commission and those implicated in its corruption.

(a) Each decision *sub silentio* repudiates Judiciary Law §14 and §§100.3E and F of the Chief Administrator's Rules Governing Judicial Conduct relating to judicial disqualification and disclosure – so as to wrongfully deprive me of the relief I would be entitled thereunder:

Justice Wetzel, by denying, *without findings*, my extensively-documented December 2, 1999 application pursuant to those statutory and rule provisions [A-250-290] – also omitting from his decision EVERY ground the application specified as warranting his disqualification, ALL reference to the application's request for disclosure, and ANY mention, let alone discussion, of Judiciary Law §14 and

[3] As pointed out by the FIRST paragraph of my Appellant's Brief (p. 2), the Chief Administrator's Rules Governing Judicial Conduct "have the force of the New York State Constitution behind them", as they rest on Article VI, §§20 and 28(c) thereof.

§§100.3E and F of the Chief Administrator's Rules (*See* my Appellant's Brief, pp. 35, 42-52).

This Court, by falsifying the relief sought by the first branch of my extensively-documented August 17, 2001 motion for its disqualification and for disclosure so as to conceal same – then denying, *without findings and without reasons*, this falsely summarized motion (*See* my January 17th reargument motion, Exhibit "B-1": pp. 4-7).

(b) Each decision *sub silentio* repudiates New York's Disciplinary Rules of the Code of Professional Responsibility and the mandatory disciplinary obligation of judges, pursuant to §100.3D of the Chief Administrator's Rules Governing Judicial Conduct, to take "appropriate action" in the face of "substantial" Code violations -- so as to wrongfully deprive me of the relief to which I would be entitled thereunder:

Justice Wetzel, by denying, *without findings and without reasons*, my fully-documented July 28, 1999 omnibus motion for sanctions, including disciplinary and criminal referrals, against the Attorney General and Commission for their fraudulent motion to dismiss my Verified Petition and to disqualify the Attorney General for violation of Executive Law §63.1 and multiple conflicts of interest (*See* my Appellant's Brief, pp. 35, 53-54).

This Court, by purporting to deny, *without findings and without reasons*, my fully-documented August 17, 2001 motion, whose second branch sought sanctions,

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Relevant extracts from §§100.3E and F of the Chief Administrator's Rules, pertaining to "Disqualification" and "Remittal of Disqualification", appear at pp. 37-38 of my Appellant's Brief.

including disciplinary and criminal referrals, against the Attorney General and Commission for their fraudulent Respondent's Brief and to disqualify the Attorney General for violation of Executive Law §63.1 and conflict of interest rules – requested relief wholly concealed by the Court's decision (*See* my January 17th reargument motion, Exhibit "B-1": pp. 4-7).

(c) Each decision obliterates my Verified Petition's six Claims for Relief [A-37-45] so as to falsely purport that my lawsuit is controlled by prior judicial decisions of which the Commission has been the beneficiary – decisions applicable to *only* my First Claim [A-37-38] and which, as to that First Claim, were *proven* to be judicial frauds by my *undisputed* fact-specific, law-supported analyses, focally presented in the record before Justice Wetzel and this Court [A-52-54; A-321-334; Exhibit "R" to my August 17th motion]. This, to wrongfully deprive me of my entitlement to *each* of my Verified Petition's six Claims for Relief.

Thus, Justice Wetzel, by transmogrifying my six Claims to a single "issue" [A-12-13], exclusively rests his dismissal of my Verified Petition on Justice's Cahn's decision in *Doris L. Sassower v. Commission* [A-189-194] and on Justice Lehner's decision in *Michael Mantell v. Commission* [A-299-307] – with *no* findings as to my two *undisputed* analyses documenting the fraudulence of these decisions [A-52-54; A-321-334] nor even mention that these *undisputed* analyses are in the record before him, let alone prominently, and that this record *physically* incorporates copies of the lower court record in *Doris L. Sassower v. Commission* and *Mantell v. Commission*

in substantiation of these two *undisputed* analyses (*See* my Appellant's Brief, pp. 35, 54-61; A-346, 350).

This Court, by concealing my six Claims for Relief in an "*inter alia*", and affirming Justice Wetzel's decision, with *no* findings as to my two *undisputed* analyses of the fraudulent decisions of Justices Cahn and Lehner, nor mention of their existence – additionally relying on its own appellate decision in *Mantell* [Exhibit "B-1" to my August 17th motion] – with *no* findings as to my *undisputed* analysis showing the fraudulence of this further decision [Exhibit "R" to my August 17th motion][4] nor mention that such *undisputed* analysis, like my other two *undisputed* analyses [A-52-54; A-321-334], are "everywhere" in the record I have placed before the Court. This includes in my three dispositive "highlights" of my Critique of Respondent's Brief – each *undisputed* -- built on these *undisputed* analyses (*See* my January 17th reargument motion, ¶¶9-14, 23 to my moving affidavit).

(d) Each decision unlawfully insulates the Commission from future legal challenge:

Justice Wetzel, by a *sua sponte* filing injunction against me and the NON-PARTY Center for Judicial Accountability, Inc., *without* notice, *without* opportunity to be heard, *without* findings – on a record devoid of *any* sanctionable conduct by me (*See* my Appellant's Brief, pp. 61-68).

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[4] My August 17th motion (at ¶50) incorporates by reference my substantiating September 21, 2000 motion in the *Mantell* appeal.

This Court, by affirming such filing injunction, *without* reference to its due process-less nature, and, additionally, by pretending, in a single-sentence, that I "lack[] standing to sue the Commission", *without* making any factual findings, *without* providing a single direct legal citation – except perhaps the *Mantell* appellate decision -- and *without* discussing *any* of my appellate arguments as to my "standing to sue the Commission", including as to the *inapplicability* of the *Mantell* appellate decision, apart from its demonstrated fraudulence (*See* my January 17th reargument motion, Exhibit "B-1": pp. 17-19, 15-16).

16. The decisions of Justice Wetzel and this Court, when compared to the record, establish, *prima facie*, judicial corruption. This is of transcending "public importance" – commanding supervisory review by our State's highest court. Indeed, the judicial corruption pertaining to this Court is all the more calamitous as it involves a substantial number of seasoned judges colluding to destroy the fundamental safeguard within our judicial system of appellate review, as well as the very professional standards and duties which they are charged with monitoring:

> "... the Legislature has delegated the responsibility for maintaining the standards of ethics and competence to the Departments of the Appellate Division (*see*, Judiciary Law §90[2]; *and see, e.g.* Rules of App Div, 1st Dept. [22 NYCRR] §603.2). To assure that the legal profession fulfills its responsibility of self-regulation, DR 1-103(A) places upon each lawyer and Judge the duty to report to the Disciplinary Committee of the Appellate Division any potential violations of the Disciplinary Rules that raise a 'substantial question as to another lawyer's honesty, trustworthiness or fitness in other respects'. Indeed, one commentator has noted that, '[t]he reporting requirement is nothing less than essential to the survival of the profession' (Gentile, *Professional Responsibility – Reporting Misconduct By Other Lawyers*, NYLJ, Oct. 23, 1984, at 1, col 1; at 2, col 2; *see also*, Olsson, *Reporting Peer*

Misconduct: Lip Service to Ethical Standards is Not Enough, 31 Ariz L Rev 657, 658-659.)" *Wieder v. Skala*, 80 NY2d 628, 636 (1992), (underlining added for emphasis).

17. Whether embodied in DR 1-103(A) of New York's Disciplinary Rules of the Code of Professional Responsibility or in §§100.3D(1) and (2) of the Chief Administrator's Rules Governing Judicial Conduct, which I repeatedly cited in the record before Justice Wetzel and this Court, reporting obligations, deemed "essential to the survival of the profession", are of clear "public importance". Had Justice Wetzel or this Court had passing respect for these obligations and for their statutory charge "of insisting that lawyers exercise the highest standards of ethical conduct"[5], they would have promptly made FINDINGS as to the specific motions before them pertaining to violations of the Disciplinary Rules of the Code of Professional Responsibility and violations of the Chief Administrator's Rules Governing Judicial Conduct, *to wit*, (1) my sanctions motions against the Attorney General and Commission; and (2) my judicial disqualification/disclosure application and motion. Such FINDINGS would have *necessarily required* FINDINGS as to the accuracy of my analyses of the fraudulent judicial decisions in *Doris L. Sassower v. Commission* and *Michael Mantell v. Commission* [A-52-54; A-321-334], (Exhibit "R" to my August 17th motion).

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[5] *See Matter of Rowe*, 80 NY2d 336, 340 (1992), which preceding text states:

"The Code of Professional Responsibility, promulgated by the American and New York State Bar Associations and implemented by the rules of the Appellate Divisions, counsel that the continued existence of a free and democratic society depends on a concept of justice based upon the rule of law. Lawyers play a critical role in sustaining the rule of law..."

18. As the record herein makes clear, such essential FINDINGS would have established systemic judicial and governmental corruption, facilitated by the nonfeasance and misfeasance of leaders of the legal profession, in and out of government [A-26-27, 48-56, 61-69, 86-90, 101, 223-225][6]. This nonfeasance and misfeasance – born of total disregard for conflict of interest rules by upper echelon lawyers -- is yet another issue of utmost "public importance", especially as it relates to my Proposed Intervenors: the New York State Attorney General, the Manhattan District Attorney, the New York State Ethics Commission, and the U.S. Attorney for the Southern District of New York [A-16-17, 223-225, 257-258], (my Appellant's Brief, pp. 10, 47; my August 17th motion, Exhibit "H").

19. As to decisional conflict: This Court's reliance on its fraudulent appellate decision in *Mantell v. Commission* for the proposition that the Commission has discretion "whether to investigate a complaint" is irreconcilably contrary to the Court of Appeals' decision in *Matter of Nicholson*, prominently in the record before this Court -- much as it had been prominently in the record before the *Mantell* appellate panel[7].

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6 *See* my August 17th motion, ¶¶15-48 and exhibits thereto.

7 *See* pages 3-6 of Mr. Mantell's Appellant's Brief, spanning the whole of his "Argument" section – and page 3 of his Reply Brief. *Also*, Exhibit "E" to my September 21, 2000 motion in

20. In *Nicholson*, the Court of Appeals unambiguously stated:

> "...the commission MUST investigate following receipt of a complaint, unless that complaint is determined to be facially inadequate (Judiciary Law 44, subd 1)" at 610-611, emphasis added.

21. Such interpretation of Judiciary Law §44.1 by the Court of Appeals is not only consistent with the plain meaning of the statute[8], but, as reflected by *Nicholson*, fits within the contextual background of the State's "overriding interest" in preventing corruption, both in fact and in appearance, for which the Legislature not only gave the Commission a mandatory investigative duty that would ensure its effectiveness, but retained that mandatory duty despite two major revisions of the statute[9].

22. §600.14(b) of this Court's Rules requires that I "set forth the questions of law to be reviewed by the Court of Appeals". While I would have no objection to the generic question used by this Court in other cases granting leave to appeal, *to wit*,

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the *Mantell* appeal, presenting my fact-specific, law-supported analysis of Justice Lehner's fraudulent decision [A-321-334], including my discussion of *Nicholson* [A-327].

[8] The statute and the balance of Judiciary Law 2-A is the "law" pertaining to the Commission, referenced in the pertinent provisions of Article VI, §22(a) and (c) of the New York Constitution.

[9] This legislative history is detailed in Point II of the petitioner's Memorandum of Law in *Doris L. Sassower v. Commission*, referred to at the outset of my 3-page analysis of Justice Cahn's fraudulent judicial decision therein [A-52-54]. For the convenience of the Court, which does not even wait until expiration of the 30-day period for the making of reargument motions before remitting the lower court record back from whence it came, a copy of that Point II is annexed hereto as Exhibit "B". Particularly noteworthy are pp. 14-15, excerpting testimony of the Commission's Administrator at a legislative oversight hearing on the Commission by the New York State Senate and Assembly Judiciary Committees the year following the Court of Appeals' *Nicholson* decision.

"whether this Court's decision was properly decided?"[10], there are specific "questions of law" which this Court should be perfectly willing for the Court of Appeals to review – especially as they would enable the Court of Appeals to lay down broader legal principles, as to which this Court is in dire need of "guidance":

QUESTIONS PRESENTED

As to Judicial Disqualification & Disclosure:

(a) *As a matter of law*, was Petitioner-Appellant's August 17, 2001 motion sufficient to require this Court's "legal disqualification" for interest pursuant to Judiciary Law §14 and to require disclosure of facts pertinent to the grounds for its disqualification therein set forth, including as to its bias, both actual and apparent?[11]

(b) *As a matter of law*, is this Court's appellate decision so unfounded, factually and legally, as to manifest (i) the actuality of the Court's disqualifying bias, thereby establishing its denial of Petitioner-Appellant's August 17, 2001 for its recusal an abuse of discretion; and (ii) a violation of Petitioner's due process rights under the New York and United States Constitutions?

(c) *As a matter of law*, was this Court required to adjudicate Petitioner-Appellant's August 17, 2001 motion, fully-submitted five weeks before oral argument of the appeal, *in advance of oral argument*?[12]

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[10] *See also* commentary on CPLR §5713 Professor David Siegel in McKinney's Consolidated Laws of New York Annotated, Book 7B.

[11] This question would allow the Court of Appeals to also articulate whether, as set forth in Judicial Disqualification: Recusal and Disqualification of Judges by Richard E. Flamm [A-237], a judge is required to disclose facts that would be relevant to the parties and their counsel in considering whether to move for recusal. *Also*, Ethics Opinion #548 (1983) of the Committee on Professional Discipline of the New York State Bar Association.

[12] This question would allow the Court of Appeals to establish whether, as enunciated in 48A Corpus Juris Secundum §145 [A-339] and Judicial Disqualification: Recusal and Disqualification of Judges by Richard E. Flamm [A-232-233], a motion for judicial disqualification is threshold and a court is without authority/jurisdiction to "determine the cause or hear any matter affecting substantive rights" until such motion is adjudicated.

(d) *As a matter of law*, could this Court properly deny, *without* reasons or findings, Petitioner-Appellant's August 17, 2001 motion and do so in a manner concealing that the motion sought (i) the Court's disqualification and disclosure[13]; and (ii) sanctions, including disciplinary and criminal referral, against the Attorney General and Commission for litigation misconduct and the Attorney General's disqualification?

As to Judiciary Law §44.1:

(e) *As a matter of law* could this Court rely on its own appellate decision in *Mantell v. Commission*, 227 AD2d 96 (2000), for the proposition that the Commission has "discretion" "whether to investigate a complaint", when the record before it showed, *inter alia*, that such decision conflicts with the Court of Appeals' decision in *Matter of Nicholson*, 50 NY2d 597 (1980), as to the Commission's mandatory investigative duty under Judiciary Law §44.1?

As to Standing to Sue the Commission:

(f) *As a matter of law*, could this Court properly assert that Petitioner-Appellant "lacks standing to sue the Commission" – a ground for dismissal NOT relied on by the lower court[14] – (i) *without* specifying the facts supporting its conclusion that Petitioner-Appellant "failed to demonstrate that she suffered some actual or threatened injury as a result of the putatively illegal conduct"; (ii) *without* discussing substantiating legal authority or even directly citing such authority; and (iii) *without* addressing, or even identifying, ANY of Petitioner-Appellant's appellate arguments in support of her "standing to sue"[15].

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[13] This question would allow the Court of Appeals to articulate whether, as propounded in my Appellant's Brief (pp. 38-39), adjudication of motions and applications for judicial disqualification are to be guided by the same legal and evidentiary standards as govern adjudication of other motions -- such that a judge's failure to respond to a fact specified as warranting recusal may be deemed to admit it and falsehood and evasion in responding to a fact is considered evidence in substantiation thereof.

[14] This raises due process issues as "the linchpin of our constitutional and statutory design [is] intended to afford each litigant at least one appellate review of the facts (Cohen and Karger, Powers of the New York Court of Appeals §109, at 465 [rev ed])", *People v. Bleakley*, 69 NY2d 490, 494 (1987).

[15] These appellate arguments appear in the third "highlight" of my Critique of Respondent's Brief (pp. 40-47) – annexed as Exhibit "U" to my August 17, 2001 motion. The dispositive nature of this third "highlight" was repeatedly identified by me in the record before this Court,

As to the Filing Injunction:

(g) *As a matter of law*, was this Court required to vacate the lower court's imposition of a filing injunction against Petitioner-Appellant and the *non-party* Center for Judicial Accountability, Inc. where the record establishes, *prima facie*, (i) that such *sua sponte* imposition by the lower court was *without* notice, *without* opportunity to be heard, and *without* findings; and (ii) NO facts to support imposition of such filing injunction?[16]

WHEREFORE, the transcending public importance and irreconcilable conflict with decisional law of the Court of Appeals require that leave to appeal to the Court of Appeals be granted.

Elena Ruth Sassower

ELENA RUTH SASSOWER
Petitioner-Appellant *Pro Se*

Sworn to before me this
20th day of February 2002

Notary Public

ANTHONY DELLA VECCHIA
Notary Public, State of New York
No. 01DE5035675
Certificate Filed in Westchester County
Commission Expires 11-01-02

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including at the oral argument of the appeal [*See* my January 17, 2002 reargument motion, Exhibit "C", p. 6 thereto].

[16] This question would also give the Court of Appeals the opportunity to explore whether, and under what circumstances, a filing injunction is constitutional – and whether its decision in *AG Ship Maintenance v. Lezak*, 69 NY2d 1 (1986), and the subsequent promulgation of 22 NYCRR §130-1.1 preempts or forecloses such "inherent power" remedy (*Cf.* my Appellant's Brief, pp. 67-68).