

CENTER for
JUDICIAL
ACCOUNTABILITY



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By Priority Mail

October 4, 1994

Martin Sanchez, Executive Director
National Lawyers Guild
55 Avenue of the Americas
New York, New York 10013

RE: Petition for a writ of certiorari,
\$1983 federal action

Dear Mr. Sanchez:

As discussed by phone last week, enclosed is a copy of the papers that were before the Court of Appeals in my mother's Article 78 proceeding, Sassower v. Mangano, et al.. Also enclosed is a copy of the Court of Appeals' September 29, 1994 Order, which we have just received, denying review--either as of right or by leave.

Aside from a petition for a writ of certiorari to the United States Supreme Court, for which we have ninety days, we must serve our \$1983 complaint by September 17th--and desperately require the assistance of counsel expert in such civil rights actions, based on the deliberate deprivation of my mother's First Amendment, due process, and equal protection rights. Such federal action will also seek a declaration that New York's disciplinary law and the Appellate Division, Second Department's rules are unconstitutional, as written and as applied.

Enclosed is a copy of the federal complaint which we filed in the Southern District of the Second Circuit on June 20, 1994--within three years of service upon my mother of the June 14, 1991 suspension Order¹. Such complaint, whose causes of action were hastily put together under severe time pressures and neither finalized nor proofread², was filed simply to toll the statute of limitations. We wish to substitute it with another complaint before the lapse of the 120-day period.

1 Exhibit "D-6" to the Jurisdictional Statement.

2 As for the "Factual Allegations" portion of the filed complaint (at pp. 10-61), it is similar, though not identical, to the "Chronology", annexed as Exhibit "J" to my mother's reargument/reconsideration motion. The "Chronology" is a later and more comprehensive document.

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At the time the federal complaint was drafted, we were unaware of Mildner v. Gulotta, 405 F.Supp. 182 (1975). The profound significance of that case--which, for your convenience, I enclose--is an important additional reason to substitute the filed complaint.

You will note from Mildner v. Gulotta that Judge Weinstein, in his powerful dissenting opinion twenty years ago, found New York's attorney disciplinary law (Judiciary Law §90):

"constitutionally infirm in denying attorneys the due process and equal protection guaranteed by the Fourteenth Amendment to the United States Constitution." (at p. 201)

As discussed, the basis upon which the two-judge majority in Mildner v. Gulotta sustained Judiciary Law §90 was that there were no allegations of bias or improper motive by the court. However, in my mother's case--and at the core of her Article 78 proceeding--is the evidentiary record of massive and ferocious hostility against her by the court.

Indeed, the Appellate Division, Second Department's refusal to disqualify itself from Sassower v. Mangano, et al.--where law and ethical rules so clearly required it to do so--is a reflection of its knowledge that it could not afford to have the extraordinary files under A.D. #90-00315 independently reviewed (see ¶24 of the Jurisdictional Statement)³.

The unconstitutionality of Judiciary Law §90--and the relevance of Mildner v. Gulotta to my mother's case--is detailed at pp. 16-23 of her July 19, 1994 affidavit in support of her motion for reargument, reconsideration, and leave to appeal.

As reflected by the Attorney General's flimsy opposing "Memorandum of Law" and pointed out by my mother's reply affidavit (at ¶¶10-13)--the Attorney General totally failed to defend the constitutionality of Judiciary Law §90--which it is his duty to do.

The Attorney General also totally failed to defend the constitutionality of the Article 78 statute, notwithstanding the serious issues raised on the subject in my mother's papers (see pp. 5-8 of Mr. Evan Schwartz' 3/14/94 letter to the Court of Appeals and pp. 4-6 of her reargument, reconsideration motion).

³ As described at ¶7 of the Jurisdictional Statement, each and every order in the underlying disciplinary proceedings under A.D. #90-00315 is, when compared with the record, "jurisdictionally void (and) otherwise factually and legally unfounded".

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I would add that prior to the Appellate Division, Second Department's utterly fraudulent suspension of my mother's license more than three years ago, she had a long and distinguished legal career. For your information, I enclose a copy of her 1989 Martindale-Hubbell listing, which always gave my mother its highest "AV" rating throughout the years it rated her, as well as a copy of a letter from the Fellows of the American Bar Foundation, confirming her election to membership, an honor reserved for less than one-third of one percent of the practicing bar of each state. I also enclose a copy of the text of an award she received in 1981 from N.O.W. in recognition of her "intensive work to obtain a just law governing divorce and property distribution in the State of New York".

Since time is of the essence, we would greatly appreciate your circulating this material immediately to lawyers who have the interest and expertise to handle such important and high-profile litigation as this.

Very truly yours,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability

Enclosures:

- (a) 1989 Martindale-Hubbell listing
- (b) ltr of American Bar Foundation
- (c) 1981 award from N.O.W.
- (d) Court of Appeals 9/29/94 Decision/Order
- (e) 1/24/94 Jurisdictional Statement
- (f) Attorney General's 2/11/94 ltr
- (g) 3/14/94 ltr of Evan Schwartz, Esq.
- (h) 7/19/94 reargument, reconsideration motion
- (i) Attorney General's 8/4/94 Memorandum
- (j) 8/8/94 Reply Affidavit
- (k) filed federal complaint
- (l) Mildner v. Gulotta, 405 F. Supp. 182 (1975)