

Elena Ruth Sassower

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July 20, 2007

Judge Eric Press
White Plains City Court
77 Lexington Avenue
White Plains, New York 10601

RE: Safeguarding the Integrity of these Proceedings
McFadden v. Sassower, White Plains City Court #SP-1502/07

Dear Judge Press,

This letter is written to safeguard the integrity of the proceedings in the above-entitled case, where at issue is my home of nearly two decades.

On the return date of the notice of petition, Monday, July 16, 2007, I brought to your attention that the verified petition of John McFadden, represented by Leonard Sclafani, Esq., was based on "flagrant falsification and omission of material fact." I expressed my belief that it would easily support imposition of sanctions and costs under 22 NYCRR §130-1.1 and identified my intention to make such application.

I do not yet have the stenographic transcript of the proceeding – which I immediately ordered. Suffice to say, upon my stating my intention to seek sanctions and costs under 22 NYCRR §130-1.1, I was cut off from continuing, while Mr. Sclafani was permitted to engage in a lengthy discourse. When finally permitted to reply, I stated that Mr. Sclafani's oral representations to the Court were materially false – and that if he believed them relevant to the case, they should have been contained in the petition, from which they were virtually absent.

The proceeding ended with Mr. Sclafani requesting that I be required to pay his client occupancy for the subject apartment. To this, I responded that I had sent Mr. McFadden occupancy payments for June and July and that the assertion in his verified petition¹ (at ¶14) that "no part" had been "received" was false.

As a result of the Court's questioning of Mr. Sclafani, he was forced to concede that Mr. McFadden had received payments from me for June and July. Indeed, Mr. Sclafani admitted that he had told Mr. McFadden to return my checks to me and that his client had done so. Upon my advising the

¹ The petition, dated June 22, 2007, was signed by Mr. McFadden and Mr. Sclafani. The verification, though purporting to be by Mr. Sclafani pursuant to R.P.A.P.L. §741, is signed by Mr. McFadden and notarized on June 23, 2007. The notice of petition is dated June 27, 2007. These were filed with the Court on July 2, 2007, but not served upon me until July 9, 2007, when I found them, upon my return home at approximately 6 p.m., affixed to my door.

Ex J

Court that I had not received the return of either the June or July checks, the Court did not request that Mr. Sclafani get a sworn statement from his client on the subject. Rather, the Court placed the burden on me by its instruction that I should go to the bank to stop my checks and then send new checks to Mr. McFadden.

As I believe it highly unlikely that both of the two checks that Mr. McFadden separately returned to me got lost in the mail, I waited until after the mail arrived on Wednesday afternoon, July 18th to see if Mr. McFadden might belatedly return to me the checks, thereby obviating my having to go to the bank to stop them. When no envelopes arrived containing the checks, I went to the bank and was told that it would cost \$30 to stop each check.

The next day – yesterday, July 19th – after again waiting to see if the checks might arrive in the mail, which they did not – I telephoned Mr. Sclafani (212-696-9880) to inform him that if his client wanted to save \$60, he should return to me the checks, as otherwise I would be deducting \$30 from each of the new checks I would be sending Mr. McFadden. The woman who answered the phone, after putting me “on hold”, told me that Mr. Sclafani had instructed her to tell me that he would not speak to me because “everything must be in writing”. The woman refused to give me her name, but answered affirmatively when I asked if she was Mr. Sclafani’s secretary. She further refused my request that she relay to Mr. Sclafani my message about the \$60 cost of stopping the checks, stating that Mr. Sclafani would refuse to allow her to relay any phone message from me. Each time I repeated the message I wished her to relay to Mr. Sclafani – which was two, if not three, times – she purported she had not heard what I was saying. Indeed, she was not ashamed to identify the reason, *to wit*, she was putting me “on hold” to block out the message content because “everything must be in writing”.

When I further told her that she should tell Mr. Sclafani that I was aware that he had telephoned Steve Lesh on Monday afternoon, but that Mr. Lesh was not representing me and that his communications should be with me directly, she also responded that I must “put it in writing” – to which I replied that I would “put it in writing to the Court”.

I believe it appropriate for the Court to know that immediately upon the conclusion of the July 16th proceeding, Mr. Sclafani walked over to Mr. Lesh for no reason other than to hand him an internet print-out of a February 2005 Village Voice article about me, stating words to the effect that he wanted Mr. Lesh to know the kind of person he was getting involved with. It would appear that Mr. Sclafani’s telephone call to Mr. Lesh later that day – rather than to me – imparting to him certain information was similarly motivated by a desire to poison and prevent any professional relationship between myself and Mr. Lesh. Certainly, if Mr. Sclafani was uncertain as to whether I had retained Mr. Lesh to represent me, he could have as easily called me.

For the record, until the July 16th court proceeding, there had never been any communication between Mr. Sclafani and myself, either orally or in writing. My only knowledge of him was by Mr. McFadden’s inclusion of Mr. Sclafani’s name as his one and only “cc” on letters to me unilaterally increasing my monthly occupancy from the \$1,000 fixed by the October 30, 1987 occupancy agreement which was part of a contract of sale. The first of these letters was dated November 10, 2001 – and I paid that increase, as likewise every other, without raising a single question, until the

last increase, which Mr. McFadden unilaterally announced in an October 1, 2006 letter, as to which I corresponded extensively with Mr. McFadden.² In short, Mr. Sclafani has absolutely no basis for his unprofessional, scurrilous conduct toward me. Indeed, prior to representing Mr. McFadden in this malicious and harassing summary proceeding, he took no steps to see if there might be some amicable resolution of matters – although he had reason to know from his client that I was amenable to same and had repeatedly expressed myself on that subject in my correspondence, to which Mr. McFadden – presumably on Mr. Sclafani’s advice – has not responded. Illustrative are my last two letters to Mr. McFadden, dated May 31, 2007 and June 30, 2007, transmitting my checks for the June and July occupancy. Copies are enclosed.

Based on the foregoing, I respectfully request that the Court direct that Mr. Sclafani submit an attorney’s affirmation and Mr. McFadden, an affidavit, concerning the representation in ¶14 of the verified petition that “no part” of the monthly occupancy charge had been “received” and, additionally, that they recite the particulars as to Mr. Sclafani’s instructions to Mr. McFadden to return the two checks to me and Mr. McFadden’s alleged return of them, as represented by Mr. Sclafani on July 16th. Additionally, I request the Court’s confirmation that I may deduct the \$60 cost of stopping the checks from the new checks I will send to Mr. McFadden pursuant to the Court’s July 16th directive.

Thank you.

Very truly yours,



ELENA RUTH SASSOWER

Enclosures

cc: Leonard Sclafani, Esq.
John McFadden
Steven Lesh, Esq.

² The petition omits any and all recitation of these material facts, as likewise the basis for Mr. McFadden’s supposed termination of my “tenancy”. Nor does the petition identify that the \$2,200 which ¶14 purports to be “The fair market value of [my] use and occupancy” is a whopping \$425 more than the occupancy charge demanded by Mr. McFadden’s (undisclosed) October 1, 2006 letter, to which it claims “no part...[Mr. McFadden] has received”.

Elena Ruth Sassower

*16 Lake Street, Apartment 2C
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May 31, 2007

John McFadden
472 Clearmeadow Drive
East Meadow, New York 11554

Dear John,

I have received no response to my April 29, 2007 letter, much as I received none to my January 31, 2007 letter.

If it is your goal to be counterproductive, you are succeeding spectacularly. However, I remain ready to sit down together to discuss our respective rights and obligations so that we might arrive at a mutually-beneficial resolution of our differences.

Meantime, I enclose my \$1,660 check to cover my June 2007 occupancy. Please deduct the further \$115 from the monies I laid out years ago for purchase and installation of the stove and refrigerator in the good faith belief that these would come off the ultimate sale price of the apartment.

If you prefer, you may also deduct the \$115 from the \$1,660 I paid you exactly a year ago for occupancy in June 2006. As you know, throughout that month I was deprived of fair use and enjoyment of the apartment by reason of the major renovations and repairs you unilaterally arranged for and insisted upon, with the promise that you would thereafter negotiate with me the apartment sale.

Thank you.



Enclosure

Elena Ruth Sassower

*16 Lake Street, Apartment 2C
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June 30, 2007

John McFadden
472 Clearmeadow Drive
East Meadow, New York 11554

Dear John,

I have received no response from you to my May 31, 2007 letter – or to my prior letters to you from January 31, 2007 onward.

Let me know when you are ready to sit down to discuss our respective rights and obligations so as to reach a mutually-beneficial resolution of our differences.

Meantime, I enclose my \$1,660 check to cover my July 2007 occupancy. As previously stated, please deduct the further \$115 from the monies I laid out years ago for purchase and installation of the stove and refrigerator in the good faith belief that these would come off the ultimate sale price of the apartment.

If you prefer, you may also deduct the \$115 from the \$1,660 I paid you for occupancy in June 2006. As you know, I was deprived of fair use and enjoyment of the apartment throughout that month by reason of the major renovations and repairs you unilaterally arranged for and insisted upon, with the promise that you would thereafter negotiate with me the apartment sale.

Thank you.



Enclosure