

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF WESTCHESTER

FILED AND
ENTERED
ON 8-4-04
WESTCHESTER
COUNTY CLERK

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GEORGE SASSOWER, individually and as trustee
of specific monies held for the benefit
of ELENA R. SASSOWER,
Plaintiff,

RECUSAL ORDER
Index No. 92-20421

-against-

FELTMAN, KARESH, MAJOR & FARBMAN,
XAVIER C. RICCOBONO, DONALD DIAMOND,
FRANCIS T. MURPHY, JOSEPH W. BELLACOSA,
MATTHEW T. CROSSON, ALBERT M. ROSENBLATT,
JOSEPH B. GAGLIARDI, ROBERT ABRAMS
AND CHARLES L. BRIEANT,
Defendants.

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MARY H. SMITH, J.

This case was assigned to me through the regular IAS process. It appears that in addition to plaintiff's instant lawsuit, which names as defendants present and former Judges Bellacosa, Gagliardi, Murphy, Riccobono, Rosenblatt and Brieant and which seeks to add the Honorable Fred L. Shapiro as a defendant, plaintiff has also brought an Article 78 proceeding in the Appellate Division, Second Department, which suit seeks mandamus and prohibition relief against certain named Justices of this Court (i.e., Hon. Joan B. Lefkowitz, Hon. Linda S. Jamieson and Hon. Bruce E. Tolbert) as well as "all other Justices and Acting Justices of the Supreme Court for the Ninth Judicial District." Because I am a Justice of the Supreme Court for the Ninth Judicial District, it would appear that I am also a respondent in the Article 78 proceeding. Furthermore, the parties named in the instant action, as well as the Article 78 proceeding which emanates from the instant action, are personal friends and colleagues. Based on these potential conflicts, I find it necessary to recuse myself in order to avoid the appearance of impropriety.

EX 99-1

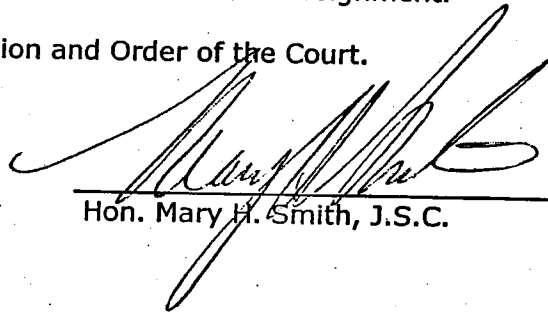
"[T]he question of when a Judge should disqualify [herself] is generally a matter of personal conscience..." (*Casterella v Casterella*, 65 AD2d 614). Because of the potential appearance of impropriety in presiding over this case, I find it appropriate to recuse myself from consideration of the case. To do otherwise would give the appearance of impropriety and would raise questions about the integrity of the court and its determinations. (See *Murray v Murray*, 73 AD2d 1015).

Accordingly, it is

ORDERED, that this case is referred back to the IAS for reassignment.

The foregoing constitutes the Opinion, Decision and Order of the Court.

Dated: White Plains, New York
August 4, 2004



Hon. Mary H. Smith, J.S.C.

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Westchester County Supreme and County Courts
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White Plains, New York 10601

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