

CENTER for
JUDICIAL
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FAX COVER SHEET

10/20/94

2:00 p.m.

DATE

TIME

Carleen Hawn
THE NEW YORK OBSERVER

TO:

212-688-4889 (tele: 212-755-2400)

FAX NUMBER:

8

This fax consists of a total of _____ pages, including this cover-sheet. If you do not receive the indicated number of pages, or if there is a question as to the transmittal, please call (914) 997-8105.

Elena Ruth Sassower, Coordinator

FROM:

Dear Carleen:

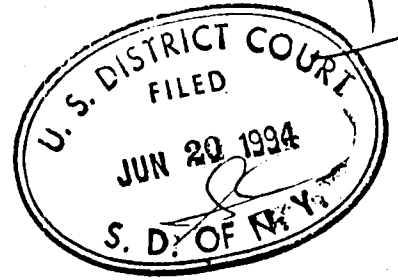
Enclosed are the pages from the federal complaint you requested.

Also enclosed are Judiciary Law §14 and §100.3(c) of the Rules Governing Judicial Conduct showing that a judge must disqualify himself in a proceeding to which he is a party or in which he has an interest. The Appellate Division's refusal to step aside from my mother's proceeding against itself reflects its knowledge that it could not afford to have an independent tribunal review the disciplinary files involving my mother's suspension.

As we have said, over and over, those files are prima facie evidence of the fraud that has taken place--a fraud which explains why the suspension order states no reasons and makes no findings--and why the Appellate Division has refused to direct a hearing as to the basis of the suspension.

Finally, please remind Warren to include a sentence in the article--in addition to "we can't both be right..." that we have eagerly offered the files so that the truth can be established and the guilty parties brought to justice.

Thanks.
Elena



UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----x
DORIS L. SASSOWER,

Plaintiff,

94 Civ.

-against-

VERIFIED COMPLAINT

Jury Trial Demanded

Hon. GUY MANGANO, PRESIDING JUSTICE
OF THE APPELLATE DIVISION, SECOND DEPARTMENT
OF THE SUPREME COURT OF THE STATE OF
NEW YORK, and the ASSOCIATE JUSTICES THEREOF,
GARY CASELLA and EDWARD SUMBER, Chief Counsel
and Chairman, respectively, of the GRIEVANCE
COMMITTEE FOR THE NINTH JUDICIAL DISTRICT,
GRIEVANCE COMMITTEE FOR THE NINTH JUDICIAL
DISTRICT, Does 1-20, being present members
thereof, MAX GALFUNT, being a Special Referee,
and G. OLIVER KOPPELL, Attorney General of the
State of New York, all in their official and
personal capacities,

94 CIV. 4514

JUDGE SPRIZZO

Defendants.

-----x
DORIS L. SASSOWER, as and for her Verified Complaint
herein, respectfully sets forth and alleges:

NATURE OF THE ACTION

1. This is an action for declaratory judgment and other equitable relief, as well as for money damages, compensatory and punitive, against the above-named Defendants to redress their wilful and deliberate deprivation of rights secured to Plaintiff by the constitutions and laws of the United States and of the State of New York, by acting, separately and in

~~X~~ personal, and private ulterior motivations, totally outside the scope of their judicial/official duties for the sole purpose of discrediting, defaming and destroying Plaintiff to cause her to cease her activities in exposing judicial corruption. } ~~X~~

4. Since June 14, 1991 and for the three years to the present date, Defendant SECOND DEPARTMENT, aided and abetted by Defendants CASELLA, SUMBER, and GRIEVANCE COMMITTEE, has knowingly and deliberately abused its disciplinary powers by acting without jurisdiction and beyond the scope of its judicial functions, in violation of Plaintiff's constitutional and statutory rights by issuing, and refusing to vacate, the June 14, 1991 interim suspension Order. Notwithstanding Plaintiff was deprived of any hearing, administrative or judicial, prior to issuance of the June 14, 1991 "interim" suspension Order, which did not arise out of any case or controversy then before Defendants SECOND DEPARTMENT or GRIEVANCE COMMITTEE, Defendant SECOND DEPARTMENT has refused to direct a post-suspension hearing as to the alleged basis of the "interim" suspension. Simultaneously, it has authorized prosecution of retaliatory and knowingly baseless disciplinary proceedings against Plaintiff.

(iii) the judge knows that he or she, individually or as a fiduciary, or his or her spouse or minor child residing in his or her household, has a financial interest in the subject matter in controversy or in a party to the proceeding, or any other interest that could be substantially affected by the outcome of the proceeding;

(iv) the judge or the judge's spouse, or a person within the sixth degree of relationship to either of them, or the spouse of such a person:

(a) is a party to the proceeding, or an officer, director, or trustee of a party;

(b) is known by the judge to have an interest that could be substantially affected by the outcome of the proceeding;

(c) is to the judge's knowledge likely to be a material witness in the proceeding;

(v) the judge or the judge's spouse, or a person within the fourth degree of relationship to either of them, or the spouse of such a person, is acting as a lawyer in the proceeding.

(2) A judge shall inform himself or herself about his or her personal and fiduciary financial interests, and make a reasonable effort to inform himself or herself about the personal financial interests of his or her spouse and minor children residing in the judge's household.

(3) For the purposes of this section:

(i) the degree of relationship is calculated according to the civil law system;

(ii) *fiduciary* includes such relationships as executor, administrator, trustee and guardian;

(iii) *financial interest* means ownership of a legal or equitable interest, however small, or a relationship as director, advisor or other active participant in the affairs of a party, except that:

(a) ownership in a mutual or common investment fund that holds securities is not a "financial interest" in such securities unless the judge participates in the management of the fund;

(b) an office in an educational, religious, charitable, fraternal or civic organization is not a "financial interest" in securities held by the organization;

(c) the proprietary interest of a policy holder in a mutual insurance company, of a depositor in a mutual savings association, or similar proprietary interest, is a "financial interest" in the organization only if the outcome of the proceeding could substantially affect the value of the interest;

(iv) ownership of government securities is a "financial interest" in the issuer only if the outcome could substantially affect the value of the securities.

(d) **Remittal of disqualification.** A judge disqualified by the terms of subparagraph (c)(1)(iii), (iv) or (v) of this section, instead of withdrawing from the proceeding, may disclose on the record the basis of the disqualification. If, based on such disclosure, the parties (who have appeared and not defaulted), by their

(b) Administrative responsibilities. (1) A judge shall diligently discharge his or her administrative responsibilities, maintain professional competence in judicial administration, and facilitate the performance of the administrative responsibilities of other judges and court officials.

(2) A judge shall require his or her staff and court officials subject to his or her direction and control to observe the standards of fidelity and diligence that apply to the judge.

(3) A judge shall take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware.

(4) A judge shall not make unnecessary appointments. A judge shall exercise the power of appointment only on the basis of merit, avoiding favoritism. A judge shall not appoint or vote for the appointment of any person as a member of his or her staff or that of the court of which the judge is a member, or as an appointee in a judicial proceeding, who is a relative within the sixth degree of relationship of either the judge or the judge's spouse. A judge shall also refrain from recommending a relative for appointment or employment to another judge serving in the same court. A judge shall not approve compensation of appointees beyond the fair value of services rendered. Nothing in this section shall prohibit appointment of the spouse of a town or village justice, or other member of such justice's household, as clerk of the town or village court in which such justice sits, provided that such justice obtains the prior approval of the Chief Administrator of the Courts, which may be given upon a showing of good cause.

(5) A judge shall prohibit members of his or her staff who are the judge's personal appointees from engaging in the following political activity:

(i) holding an elective office in a political party, or a club or organization related to a political party, except for delegate to a judicial nominating convention or member of a county committee other than the executive committee of a county committee;

(ii) contributing, directly or indirectly, money or other valuable consideration in amounts exceeding \$300 in the aggregate during any calendar year commencing on January 1, 1976, to any political campaign for any political office or to any partisan political activity including, but not limited to, the purchasing of tickets to a political function, except that this limitation shall not apply to an appointee's contributions to his or her own campaign. Where an appointee is a candidate for judicial office, reference should be made to appropriate sections of the Election Law;

(iii) personally soliciting funds in connection with a partisan political purpose, or personally selling tickets to or promoting a fundraising activity of a political candidate, political party, or partisan political club; or

(iv) political conduct prohibited by section 25.39 of the Rules of the Chief Judge.

(c) Disqualification. (1) A judge shall disqualify himself or herself in a proceeding in which his or her impartiality might reasonably be questioned, including, but not limited to circumstances where:

(i) the judge has a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding;

(ii) the judge served as lawyer in the matter in controversy, or a lawyer with whom he or she previously practiced law served during such association as a lawyer concerning the matter, or the judge or such lawyer has been a material witness concerning it;

to partition the property described therein, do, each for himself, severally swear that he will faithfully, honestly and impartially discharge the trust committed to him as such commissioner.

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[Signatures and Endorsement]

[Jurat]

Form 3

Stipulation Waiving Oath of Referee

[Caption]

IT IS HEREBY STIPULATED and agreed by and between the parties to this action, constituting all the parties to the action whose interest will be affected by the result thereof and all being of full age, that the oath of _____, the referee appointed herein by order of this court made and entered the _____ day of _____, 19__ be waived.

Dated _____, 19__

Attorney for Plaintiff
Office and P.O. Address
Telephone No.

Attorney for Defendant
Office and P.O. Address
Telephone No.

[Signatures and Endorsements]



§ 14. Disqualification of judge by reason of interest or consanguinity

A judge shall not sit as such in, or take any part in the decision of, an action, claim, matter, motion or proceeding to which he is a party, or in which he has been attorney or counsel, or in which he is interested, or if he is related by consanguinity or affinity to any party to the controversy within the sixth degree. The degree shall be ascertained by ascending from the judge to the common ancestor, descending to the party, counting a degree for each person in both lines, including the judge and party, and excluding the common ancestor. But no judge of a court of record shall be disqualified in any action, claim, matter, motion or proceeding in which an insurance company is a party or is interested by reason of his being a policy holder therein. No judge shall be deemed disqualified from passing upon any litigation before him because of his ownership of shares of stock or other securities of a corporate litigant, provided that the parties, by their attorneys, in writing, or in open court upon the record, waive any claim as to disqualification of the judge.

HISTORY:

Formerly § 15, renumbered and amd, L. 1945, ch 649.
Former § 14, add, L. 1909, ch 35, renumbered § 13, L. 1945, ch 649.

CROSS REFERENCES:

General standards for judicial integrity and independence, Code of Judicial Conduct, Canon 1, CLS Jud Appx.

APPENDIX D

RULES GOVERNING JUDICIAL CONDUCT



Section 100.1 Upholding the independence of the Judiciary. An independent and honorable Judiciary is indispensable to justice in our society. Every judge shall participate in establishing, maintaining, and enforcing, and shall himself or herself observe, high standards of conduct so that the integrity and independence of the Judiciary may be preserved. The provisions of this Part shall be construed and applied to further that objective.

100.2 Avoiding impropriety and the appearance of impropriety. (a) A judge shall respect and comply with the law and shall conduct himself or herself at all times in a manner that promotes public confidence in the integrity and impartiality of the Judiciary.

(b) No judge shall allow his or her family, social, or other relationships to influence his judicial conduct or judgment.

(c) No judge shall lend the prestige of his or her office to advance the private interests of others; nor shall any judge convey or permit others to convey the impression that they are in a special position to influence him or her. No judge shall testify voluntarily as a character witness.

100.3 Impartial and diligent performance of judicial duties. The judicial duties of a judge take precedence over all his other activities. Judicial duties include all the duties of a judicial office prescribed by law. In the performance of these duties, the following standards apply:

(a) **Adjudicative responsibilities.** (1) A judge shall be faithful to the law and maintain professional competence in it. A judge shall be unswayed by partisan interests, public clamor, or fear of criticism.

(2) A judge shall maintain order and decorum in proceedings before him or her.

(3) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom he or she deals in an official capacity, and shall require similar conduct of lawyers, and of his or her staff, court officials, and others subject to his or her direction and control.

(4) A judge shall accord to every person who is legally interested in a matter, or his or her lawyer, full right to be heard according to law, and, except as authorized by law, neither initiate nor consider ex parte or other communications concerning a pending or impending matter. A judge, however, may obtain the advice of a disinterested expert on the law applicable to a matter before him or her if notice by the judge is given to the parties of the person consulted and the substance of the advice, and affords the parties reasonable opportunity to respond.

(5) A judge shall dispose promptly of the business of the court.

(6) A judge shall abstain from public comment about a pending or impending matter in any court, and shall require similar abstention on the part of court personnel subject to his or her direction and control. This subdivision does not prohibit judges from making public statements in the course of their official duties or from explaining for public information in procedures of the court.