Doris L. Sassower

283 SOUNDVIEW AVENUE
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TO: Dennis Vacco TITLE: NYS Attorney General Litigation

FAX NO: 474-8995 RE: Misconduct by AG office

FROM: Doris C Sassower

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MESSAGE: Immediate Attention Required
Second Circuit Docket # 96-7805
Sassower v. Mangano, et al

P 571 752 151

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Exhibit 2

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DORIS L. SASSOWER

283 Soundview Avenue, White Plains, NY 10606-3821 • TEL: 914/997-1677 • FAX: 914/684-6554

VIA FAX:
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518-474-8995

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P-571-752-151

January 14, 1997

Attorney General Dennis Vacco
120 Broadway
New York, New York 10271

RE: Sassower v. Mangano, et al.
Second Circuit Docket #96-7805

Dear Attorney General Vacco:

This is to put you on notice of the criminally fraudulent and unethical conduct of your office in the above-entitled federal action before the U.S. District Court, Southern District of New York. Your office defended all the defendants therein, sued in both their official and personal capacities, including Attorney General G. Oliver Koppell, a named party.

By reason of your office's litigation misconduct, my appellate Brief to the Second Circuit seeks criminal and disciplinary penalties, as well as civil damages -- entitlement to which the Brief details and the Record on Appeal fully documents.

The gravamen of my federal action is the vicious retaliation to which I have been subjected by the high-ranking judges of the Appellate Division, Second Department, who, aided and abetted by their at-will appointees, all defendants herein, have used their judicial offices for ulterior, politically-motivated purposes to punish me for my judicial whistle-blowing public advocacy. This retaliation has included the Second Department's wholly unlawful suspension of my law license, by Order dated June 14, 1991, without charges, without findings, without reasons, and without a hearing -- either before or in the more than five-and-a-half years since. There is no legal authority that permits such heinous deprivation of my federally and state-guaranteed constitutional rights. Indeed, the June 14, 1991 Suspension Order contravenes New York State's attorney disciplinary statute, Judiciary Law §90, the Second Department's own operative disciplinary court rule pursuant to which I was purportedly suspended, 22 NYCRR §691.4(l), and the controlling decisional law

of the highest court of our State, as reflected in Matter of Nuey, 61 N.Y.2d 513 (1984), and Matter of Russakoff, 72 N.Y.2d 520 (1992).

The basis upon which your predecessor, then Attorney General Koppell, was named as a party-defendant was his complicity in the Second Department's subversion of the Article 78 remedy, to wit, he defended its refusal to recuse itself from the Article 78 proceeding I brought against its justices for their knowing misuse of their disciplinary power in the clear absence of jurisdiction -- as to which they had wrongfully deprived me of all appellate review.

As alleged by ¶178 of my Verified Complaint, the Attorney General's office provided no legal authority for the proposition that Second Department judges were free to decide an Article 78 proceeding to which they were parties and in which the lawfulness of their conduct was directly at issue. Nor did it provide any evidentiary substantiation for the false factual representations made in its motion to dismiss the Article 78 proceeding, unsupported by any affidavit from its clients or other proof (¶¶168-170). Instead, Attorney General Koppell blocked review by the New York Court of Appeals of the Second Department's dismissal of my Article 78 proceeding (¶¶195-208).

This is not the first time that the unlawful, retaliatory conduct of the Second Department and the Attorney General's monstrous perversion of the Article 78 remedy have been brought to your personal attention. While you were still a candidate for the office of Attorney General, a letter, dated September 29, 1994, was sent to your campaign headquarters, as well as to your own law office, certified mail, return receipt requested. That letter, a copy of which is annexed (Exhibit "A"), not only provided you with a detailed statement of the relevant facts, but transmitted a full set of papers comprising the submissions to the New York Court of Appeals on my then pending appeal from the Second Department's unlawful dismissal of the Article 78 proceeding in its own favor. Such transmittal of the relevant court papers was to enable you to meet your legal and ethical duties, in the event you became Attorney General, and to permit you to raise in the campaign the profound issues involved. It included: (a) a full set of the correspondence with then Attorney General Koppell, as reflected by ¶¶200-208 of my Complaint; (b) two affidavits, which I submitted to the Second Department, and, thereafter, to the New York Court of Appeals, showing that my suspension is in every respect a fortiori to that in Russakoff, entitling me to immediate vacatur of the Second Department's finding-less Suspension Order, as a matter of law, and that I alone, among twenty interimly-suspended attorneys in the Second Department, have been deprived of a hearing as to the basis for my suspension, as recited at ¶148 and ¶159 of my Complaint; and

(c) a 56-page "Chronology", cross-referenced to documents from the disciplinary file, establishing that the retaliatory Suspension Order and the bogus disciplinary proceedings commenced against me were without compliance with jurisdictional and due process prerequisites of 22 NYCRR §691.4, et seq., and without any factual basis -- said "Chronology" being, in essence, the 50-page "Factual Allegations" section of my Complaint ¶¶28-209[1].

The following month, on October 26, 1994, the Second Department's retaliatory suspension of my law license and the Attorney General's complicity in subverting the Article 78 remedy was recounted in a quarter-page ad on the Op-Ed page of The New York Times, entitled "Where Do You Go When Judges Break the Law?". On November 1, 1994, the ad was reprinted in the New York Law Journal. A copy is annexed as Exhibit "B".

Such widely-circulated ad, "in the closing days before the election", specifically called upon candidates for Attorney General to "address the issue of judicial corruption", which was described as "real and rampant in this state."

Thus, your personal knowledge of the facts, giving rise to the defendants' liability, including that of Attorney General Koppell, can be reasonably imputed to you. This is in addition to your liability for the litigation misconduct of your office, once you became Attorney General, of which this letter is intended to give you personal notice.

At this juncture, with the benefit of my appellate Brief and Record on Appeal in hand, you are hereby requested to take immediate remedial steps. These would include your stipulating to the immediate vacatur of the Second Department's unlawful June 14, 1991 Order suspending my law license or, at very least, to an immediate TRO pending appeal, staying: (a) enforcement of the Suspension Order; (b) all further adjudication by the Second Department in cases in which I am involved, directly or indirectly and, in particular, in the Wolstencroft case, the subject of ¶¶122-124, 131, 140, 142, 146(b), 151, 153 of my federal Complaint); (c) such steps as necessary to vacate the suspension of my federal law license by the District Court for the Southern District of New York.

My entitlement to such relief was meticulously delineated in my Order to Show Cause for a Preliminary Injunction, with TRO,

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[1] For the significance of the "Chronology" in establishing the litigation misconduct of the Attorney General's office by its filing of Defendants' Answer, see my appellate Brief, pp. 11, 13, 17, 23, 44, 46-47, 62.

filed with the District Judge on September 26, 1996, which appears at pages 488-623 of the Record on Appeal and is discussed at pages 50-56 of my appellate Brief (Point III). Subsequent events have reinforced my entitlement to a stay of the Second Department's continued adjudication of matters involving me, most particularly, the Wolstencroft case. Indeed, on December 23, 1996, the Second Department, which denied my prior written and oral applications for its recusal therefrom, issued a Decision & Order on the very Wolstencroft appeal that ¶¶54-56 of my supporting affidavit had indicated had to be perfected [R-510-512]. Just as predicted at ¶¶55-56 therein [R-511-512], the Second Department upheld Justice Colabella's lawless conduct by a decision which, when compared to the appellate record and the brief therein, is in every respect knowingly false, fraudulent, and violative of the most fundamental standards of adjudication. This includes the Second Department's claim that "the record supports the Supreme Court's determination that the Ninth Judicial Committee is an alter ego of the defendant."

I respectfully request that you obtain a copy of the appellate papers in the aforesaid Wolstencroft appeal, A.D. #95-09299, in the previous related Wolstencroft appeal under A.D. #92-03928/29, as well as in the two Article 78 proceedings against Justice Colabella, #92-01093, #92-03248, as referred to at ¶123 of my Complaint, so that you can verify for yourself the Second Department's on-going criminal and larcenous conduct in rendering legally insupportable, factually fabricated adjudications against me.

You should be aware that the December 23, 1996 Decision & Order has just been served upon me by adverse counsel, thereby starting my time running for reargument and appeal. Ordinarily, I would move for reargument, with a request for leave to appeal to the Court of Appeals. However, based upon the Second Department's official misconduct, documented its fraudulent suspension of my law license, its commencement of bogus disciplinary proceedings against me, the appellate record in my two Wolstencroft appeals, as well as in the appeals expressly referred to at ¶57 of my affidavit in support of my Preliminary Injunction/TRO Order to Show Cause [R-512], any application to that wrongdoing court would be a vain act.

Under Rule 8 of the Federal Rules of Appellate Procedure, injunctive and stay relief may be obtained from the Second Circuit pending appeal. Since review of my appellate Brief and Record on Appeal herein should convince you that it would be frivolous and unethical for your office to oppose my motion for such relief, I specifically request that you stipulate thereto. This would avoid or mitigate the sanctions and costs that I would be entitled to have assessed against your office and you

personally, including increased criminal and disciplinary liability.

As you know, your paramount responsibility is to protect the public from governmental misconduct -- not to cover up for and protect judicial miscreants, who have flagrantly corrupted the judicial process and usurped disciplinary power for their own political and personal advantage.

Indeed, the documented evidence of your clients' violations of my constitutionally-protected due process and equal protection rights, which your office fraudulently sought to conceal before the District Judge, is such as to require you to take steps beyond the limited stipulation hereinabove requested. Based upon the record in the federal action, and the clear and plain meaning of Judiciary Law §90(2), 22 NYCRR §691.4(l), Nuey, and Russakoff, your responsibility as Attorney General is to affirmatively acknowledge that my constitutional rights have been wrongfully violated.

Moreover, as highlighted in the September 29, 1994 letter to you (Exhibit "A", p. 2), it is the Attorney General's duty to opine as to the constitutionality of state laws, whose constitutionality is impugned. The Attorney General failed to defend the constitutionality of New York's attorney disciplinary law in the Article 78 proceeding and failed to do so before the District Judge in this action. It has thereby conceded the unconstitutionality of §691.4(l), reflected by the New York Court of Appeals' decisions in Nuey and Russakoff. This is over and above the unconstitutionality of New York's attorney disciplinary law, as a whole, delineated in my Petition for a Writ of Certiorari to the U.S. Supreme Court, with citation to legal authority [R-303-439].

Your office did not respond to the constitutional arguments set forth in my Petition for a Writ of Certiorari in the context of the Article 78 proceeding and did not do so in this action, where those arguments were incorporated by reference in my summary judgment application [R-478]. Indeed, in this action, the Attorney General, by Defendants' Answer, deferred to the federal court for interpretation of Judiciary Law §90(2), 22 NYCRR §691.4 et seq., Nuey and Russakoff (see my appellate Brief, p. 14, fn. 9).

Having so failed to defend the constitutionality of New York's attorney disciplinary law, the Attorney General is mandated to take the affirmative steps required from the outset, to wit, to protect the public and this tax-paying plaintiff from enforcement of an unconstitutional law. Your obligation on this appeal is to belatedly recognize that paramount duty to the public, as well as to me.

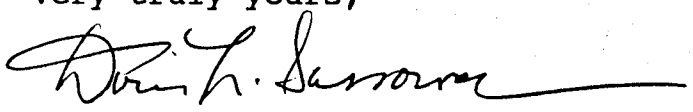
an attorney "fully familiar" with the case and able to answer questions would be present. Mr. Bass did so following my notification to him that Assistant Attorney General Jay Weinstein, who had handled the case before the District Judge, had just then informed me, in response to my phone call to him, that he was not planning to attend the Pre-Argument Conference. I told Mr. Bass that when I had asked Assistant Attorney General Weinstein for an explanation, he had laughed at the idea that he should have to explain.

By reason thereof, no appellate issues could be narrowed, let alone settled or resolved, thereby wasting Mr. Bass's valuable time, as well as my own. Mr. Bass stated, in the presence of Assistant Attorney General Sanghvi, that Rule 38 sanctions are available against appellees for bad-faith, frivolous conduct in defense of appeals.

Should you, notwithstanding the foregoing, nonetheless oppose the requested immediate injunction and stay relief pending appeal or oppose the appeal itself, I will seek all possible sanctions, including contempt for violation of the October 23, 1996 Order.

I await your prompt response.

Very truly yours,



DORIS L. SASSOWER

Enclosures: 4 exhibits

cc: Stanley Bass, Second Circuit Staff Counsel

CENTER for JUDICIAL ACCOUNTABILITY

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September 29, 1994

Dennis Vacco, Esq.
Box 267
Niagara Square Station
Buffalo, New York 14201-0267

ATT: William Flynn, Esq.

RE: Campaign Issues in the Race for New York State Attorney General

Dear Mr. Flynn:

Per our telephone conversation yesterday, I enclose a copy of the September 17th New York Times' editorial, "After the Primaries: New York's Mystery General". I specifically draw your attention to its statement:

> "...the voters need to know how the candidates intend to handle the job's meat-and-potatoes job of defending the state against legal actions..."

We agree. We believe that Mr. Vacco should let voters know whether he--like predecessor Attorney Generals--will disregard black-letter law and ethical rules regarding conflict-of-interest and judicial disqualification.

As discussed, when my mother[1] brought the Article 78 proceeding, Sassower v. Mangano, et al., charging the Appellate Division, Second Department with using its judicial offices to retaliate against her for "whistleblowing" on judicial corruption, it was the Attorney General who defended the judicial respondents. How

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[1] For your information, I annex a copy of my mother's credentials, as they appeared in the 1989 Martindale-Hubbell law directory. Additionally, in 1989 my mother was elected to be a Fellow of the American Bar Foundation, an honor reserved for less than one-third of one percent of the practicing bar in each state.

Ex "A"

did the Attorney General defend the judges, accused of heinous criminal acts? By allowing the very judges whose orders were the subject of the Article 78 challenge to decide their own case.

The case is presently pending before the New York State Court of Appeals, where Attorney General Koppell, without legal authority, argues that the Appellate Division, Second Department was not disqualified from adjudicating its own case. Likewise, without legal authority, he argues that there should be no appellate review of the Appellate Division's self-interested decision in its own favor, granting the dismissal motion of its own Attorney, the Attorney General.

Such grotesque insensitivity to conflict-of-interest by our State's highest law officer endangers the integrity of the judicial process and destroys the sanctity of Article 78 proceedings, historically designed to provide independent review of governmental abuses. It must be exposed and unequivocally disavowed by the candidates for Attorney General, vying for election in November.

Since Judiciary Law §14, as well as §100.3(c) of the Rules Governing Judicial Conduct, which is incorporated by reference in the New York State Constitution (Article VI, §20) each explicitly require that a judge disqualify himself from a case wherein he is a party or has an "interest that could be substantially affected by the outcome of the proceeding", the public is entitled to know--in advance of the election--whether Dennis Vacco, if elected Attorney General in November--will obey such clear-cut law and ethical rules. Indeed, were Mr. Vacco to be elected, Sassower v. Mangano, et al. would be on his desk in January.

As discussed, if the Court of Appeals does not grant review of Sassower v. Mangano, et al., we will prepare a petition for a writ of certiorari to the U.S. Supreme Court. What will be Mr. Vacco's position to such petition? To enable him to respond, we enclose the submissions which are now before the Court of Appeals.

Will Mr. Vacco also argue--without citation to legal authority (because there is none)--that permitting accused judges to decide an Article 78 proceeding against themselves is okay? And what position will he take as to the constitutionality of the Article 78 statute and Judiciary Law §90--discussed in detail at pp. 4-10, 16-23 of my mother's enclosed reargument/renewal motion--but ignored entirely by Mr. Koppell, notwithstanding that the Attorney General has the affirmative duty to address the constitutionality of statutes, where they are impugned. (See, my mother's Reply Affidavit, ¶¶10-13)

The public is also entitled to know how Mr. Vacco, as Attorney General, proposes to handle complaints of judicial corruption--such as here presented. The extensive correspondence with Attorney General Koppell, annexed to my mother's Court of Appeals submissions[2], shows the complete failure of his office to respond to the documentary evidence provided it. Since Mr. Vacco, if elected our new Attorney General, will have on his desk the evidentiary proof of criminal, fraudulent, and collusive conduct by sitting judges--that question is actual, not speculative or abstract.

As you may recall, on September 12, 1994, The New York Times described Ms. Burstein's view of the Attorney General's role regarding governmental corruption as:

> "favors an expansion of duties for attorney general but is uncertain of exact role."

Now that Ms. Burstein is the Democratic candidate, it is time for her--as well as for Mr. Vacco--to articulate for the voters how the Attorney General will handle issues involving governmental corruption.

Indeed, the Times' September 17th editorial specifically asks the questions: "What, exactly, does the New York State Attorney General do? What should the job be?"

As reflected by my mother's August 4th letter to Ms. Burstein, Ms. Burstein was made aware of the "real life" situation of Sassower v. Mangano, et al, wherein independent review of the allegations of judicial corruption was cynically blocked by the Attorney General.

Although Ms. Burstein's hand-written note to my mother claims she "will look into this matter when [she is] attorney general", the voting public knows better than to rely on vague promises of politicians. Ironically, the September 12th New York Times quotes Ms. Burstein as saying: "Promises are very easy to make and cheap in fact".

It would, therefore, be refreshing for Mr. Vacco--as a candidate for Attorney General--to define how the Attorney General's office, under his leadership, will handle judicial corruption issues. Certainly, we would not expect that someone like

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[2] See the correspondence annexed to Mr. Schwartz' 3/14/94 letter to the Court of Appeals as Exhibits "2", "4", "5", "6", "7", "8", "9", and to my mother's 7/19/94 reargument motion as Exhibits "M", "N", "O", "P", "R".

Mr. Vacco, who is "tough" on crime in our streets, would be "soft" on crime when it is committed by judges in our courtrooms.

As discussed, Ms. Burstein, who was given copies of our Court of Appeals' papers, has refused to disavow the actions of her Democratic predecessors--even on the single issue of letting accused judges decide their own case. Indeed, she would not even give her own opinion on the propriety of such conduct, when we pressed her for an answer in a telephone conversation on August 8th. It seems quite plain that Ms. Burstein--for all her civil liberties rhetoric--is part of the Democratic machine and will not show leadership, where to do so would threaten her political patrons.

Consequently, it is up to Mr. Vacco to let the public--and the editors of The New York Times--know how he intends to handle the "meat-and-potatoes" work of the Attorney General in a real case involving a suit against the State, Sassower v. Hon. Guy Mangano, et al..

Finally, I draw your attention to The New York Times' September 27th editorial "No Way to Pick a Judge". That editorial is directly germane to the judicial corruption issues involved in Sassower v. Hon. Guy Mangano, et al., since that Article 78 proceeding alleges that the criminal conduct of the Appellate Division, Second Department arises from its retaliation against my mother for her activities as pro bono counsel in an Election Law case challenging a political judge-trading deal in the Ninth Judicial District, implemented at illegally-conducted judicial nominating conventions. On that subject, I refer you to pp. 14-16 of my mother's reargument/renewal motion. Annexed thereto as Exhibit "K" is her October 24, 1991 letter to Governor Cuomo. By such letter, my mother three years ago called upon the Governor to appoint a special prosecutor to investigate documentary evidence of judicial corruption and the politicization of the bench. As reflected by Sassower v. Hon. Guy Mangano, et al., the documentary evidence, warranting that appointment--including that of the complicity of the Attorney General's office in the cover-up of such corruption--is even more overwhelming today.

Yours for a quality judiciary,

Elena Ruth Sassower

ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability

Enclosures: see next page

Enclosures:
(a) 1989 Martindale Hubbell listing
(b) letter from the Fellows of the American Bar Foundation
(c) New York Times editorial, 9/17/94
(d) New York Times, 9/12/94 article and grid
(e) New York Times editorial, 9/27/94
(f) 8/4/94 ltr to Karen Burstein
(g) Karen Burstein's hand-written response
(h) Judiciary Law §14
(i) §100.3(c) of Rules Governing Judicial Conduct
(j) Article 78 papers before the Court of Appeals
  (1) 1/24/94 Jurisdictional Statement
  (2) 2/11/94 ltr of Attorney General
  (3) 3/14/94 ltr of Evan Schwartz
  (4) 7/19/94 Reargument/Renewal Motion
  (5) 8/4/94 "Memorandum of Law" of Attorney General
  (6) 8/8/94 DLS Reply Affidavit

cc: Dennis Vacco, Esq.
786 Ellicott Square
Buffalo, New York 14203
[Certified Mail: RRR 389-708-758]

The New York Times: Board of Editors [By Hand]

Plainly, if performance of such paramount duty places you in a conflict of interest position by reason of your representation of the defendants, you must withdraw as their counsel. The fact that your office found it necessary to defend them by fraud, misrepresentation, and other litigation misconduct here, as well as in the Article 78 proceeding, only demonstrates that defendants have no legitimate defense and that the Attorney General improperly provided them with representation in the first instance. Indeed, my federal action would have been obviated had the Attorney General recognized its paramount duty when I brought the Article 78 proceeding and not engaged in litigation misconduct in connection therewith.

It should be further obvious that over and above the unconstitutionality of New York's attorney disciplinary law, as written and as applied, the Attorney General cannot justify defense of an appeal where the incontrovertible record shows documented fraud and dishonesty by its own office. Nor can the Attorney General justify the District Judge's Decision [R-4-21], shown by pages 30-75 of my appellate Brief (Points I-V) to be fraudulent and wholly dishonest as well.

Unless I hear from you in response to this letter by next Tuesday, January 21, 1997, I will move before the Second Circuit for injunctive, stay, and other appropriate relief. At that time, I will also move to amend the caption of my federal Complaint so as to reflect that you are the successor to Attorney General Koppell and that Janet Johnson has succeeded Edward Sumber as Chair of the Grievance Committee for the Ninth Judicial District -- in the event you do not voluntarily stipulate to such proposed amendments. I would point out that at the November 8, 1996 Pre-Argument Conference, Second Circuit staff counsel Stanley Bass himself suggested the appropriateness of such stipulation.

To complete the picture of your office's pattern of litigation misconduct, you should know that your office acted in contempt of the October 23, 1996 Notice and Order relative to the Pre-Argument Conference (Exhibit "D"). The purposes for such conference, explicitly set forth on the face of the Notice and Order, were completely defeated by your office's wilful disobedience of such court mandate in that the attorney who attended the conference, on your behalf, Assistant Attorney General Alpa J. Sanghvi, not only lacked the required authority, but also familiarity with any aspect of the case either before the District Judge, in the prior state court proceedings, or with any relevant aspect of New York's attorney disciplinary law, as to which Mr. Bass specifically questioned her.

This was in face of the fact that the day before the conference Mr. Bass telephoned the Attorney General's office to confirm that

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November 13, 1992

TO WHOM IT MAY CONCERN:

This is to certify that Doris L. Sassower of White Plains, New York, was elected a Fellow of the American Bar Foundation in 1989 and is in good standing. This honor is limited to one-third of one percent of lawyers licensed to practice in each jurisdiction.

The Fellows is an honorary organization of practicing attorneys, judges and law teachers whose professional, public and private careers have demonstrated outstanding dedication to the welfare of their communities and to the highest principles of the legal profession. Established in 1955, The Fellows encourage and support the research program of the American Bar Foundation.

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Carol Murphy
Staff Director of The Fellows

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Law Directory

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One Hundred and Twentieth Annual Edition

DORIS L. SASSOWER, P.C.

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Matrimonial, Real Estate, Commercial, Corporate, Trusts and Estates, Civil Rights.

DORIS L. SASSOWER, born New York, N.Y., September 25, 1932; admitted to bar, 1955, New York; 1961, U.S. Supreme Court, U.S. Claims Court, U.S. Court of Military Appeals and U.S. Court of International Trade. *Education:* Brooklyn College (B.A., summa cum laude, 1954); New York University (J.D., cum laude, 1955). Phi Beta Kappa. Florence Allen Scholar. Law Assistant, U.S. Attorney's Office, Southern District of New York, 1954-1955; Chief Justice Arthur T. Vanderbilt, Supreme Court of New Jersey, 1956-1957. President, Phi Beta Kappa Alumnae in New York, 1970-71. President, New York Women's Bar Association, 1968-69. President, Lawyers' Group of Brooklyn College Alumni Association, 1963-65. Recipient: Distinguished Woman Award, Northwood Institute, Midland, Michigan, 1976. Special Award "for outstanding achievements on behalf of women and children," National Organization for Women—NYS, 1981; New York Women's Sports Association Award "as champion of equal rights," 1981. Distinguished Alumna Award, Brooklyn College, 1973. Named Outstanding Young Woman of America, State of New York, 1969. Nominated as candidate for New York Court of Appeals, 1972. Columnist: ("Feminism and the Law") and Member, Editorial Board, Woman's Life Magazine, 1981. Author: Book Review, *Separation Agreements and Marital Contracts*, Trial Magazine, October, 1987; *Support Handbook*, *ABA Journal*, October, 1986; Anatomy of a Settlement Agreement Divorce Law Eduction Institute 1982 "Climax of a Custody Case," *Litigation*, Summer, 1982; "Finding a Divorce Lawyer you can Trust," *Scarsdale Inquirer*, May 20, 1982. "Is This Any Way To Run An Election?" *American Bar Association Journal*, August, 1980; "The Disposable Parent: The Case for Joint Custody," Trial Magazine, April, 1980. "Marriages in Turmoil: The Lawyer as Doctor," Journal of Psychiatry and Law, Fall, 1979. 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Address to: The National Conference of Bar Presidents, Congressional Record, Vol. 115, No. 24 E 815-6, February 5, 1969; The New York Womens Bar Association, Congressional Record, Vol. 114, No. E5267-8, June 11, 1968. Director: New York University Law Alumni Association, 1974; International Institute of Women Studies, 1971; Institute on Women's Wrongs, 1973; Executive Woman, 1973. Co-organizer, National Conference of Professional and Academic Women, 1970. Founder and Special Consultant, Professional Women's Caucus, 1970. Trustee, Supreme Court Library, White Plains, New York, by appointment of Governor Carey, 1977-1986 (Chair, 1982-1986). Elected Delegate, White House Conference on Small Business, 1986. Member, Panel of Arbitrators, American Arbitration Association. *Member:* The Association of Trial Lawyers of America; The Association of the Bar of the City of New York; Westchester County, New York State (Member: Judicial Selection Committee; Legislative Committee, Family Law Section), Federal and American (ABA Chair, National Conference of Lawyers and Social Workers, 1973-1974; Member, Sections on: Family Law; Individual Rights and Responsibilities Committee on Rights of Women; 1982; Litigation) Bar Associations; New York State Trial Lawyers Association; American Judicature Society; National Association of Women Lawyers (Official Observer to the U.N., 1969-1970); Consular Law Society; Roscoe Pound-American Trial Lawyers' Foundation; American Association for the International Commission of Jurists; Association of Feminist Consultants; Westchester Association of Women Business Owners; American Womens' Economic Development Corp.; Womens' Forum. Fellow: American Academy of Matrimonial Lawyers; New York Bar Foundation.

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.

__7__
__8__
__9__
[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 __1__, the referee appointed herein by order of this court made and entered the __2__ day of __3__, 19__4__ be waived.

Dated __5__, 19__6__ __7__
Attorney for Plaintiff
Office and P.O. Address
Telephone No.
__8__
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.

(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;

(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

Re[illegible]ted from the Op-Ed Page, Oct. 26, 19[illegible] THE NEW YORK TIMES

The New York Times

Where Do You Go When Judges Break the Law?

FROM THE WAY the current electoral races are shaping up, you'd think judicial corruption isn't an issue in New York. Oh, really?

On June 14, 1991, a New York State court suspended an attorney's license to practice law—immediately, indefinitely and unconditionally. The attorney was suspended with no notice of charges, no hearing, no findings of professional misconduct and no reasons. All this violates the law and the court's own explicit rules.

Today, more than three years later, the suspension remains in effect, and the court refuses even to provide a hearing as to the basis of the suspension. No appellate review has been allowed.

Can this really happen here in America? It not only can, it did.

The attorney is Doris L. Sassower, renowned nationally as a pioneer of equal rights and family law reform, with a distinguished 35-year career at the bar. When the court suspended her, Sassower was *pro bono* counsel in a landmark voting rights case. The case challenged a political deal involving the "cross-endorsement" of judicial candidates that was implemented at illegally conducted nominating conventions.

Cross-endorsement is a bartering scheme by which opposing political parties nominate the same candidates for public office, virtually guaranteeing their election. These "no contest" deals frequently invoive powerful judgeships and turn voters into a rubber stamp, subverting the democratic process. In New York and other states, judicial cross endorsement is a way of life.

One such deal was actually put into writing in 1989. Democratic and Republican party bosses dealt out seven judgeships over a three-year period. "The Deal" also included a provision that one cross-endorsed candidate would be "elected" to a 14-year judicial term, then resign eight months after taking the bench in order to be "elected" to a different, more patronage-rich judgeship. The result was a musical-chairs succession of new judicial vacancies for other cross-endorsed candidates to fill.

Doris Sassower filed a suit to stop this scam, but paid a heavy price for her role as a judicial whistle-blower. Judges who were themselves the products of cross-endorsement dumped the case. Other cross-endorsed brethren on the bench then viciously retaliated against her by suspending her law license, putting her out of business overnight.

Our state law provides citizens a remedy to ensure independent review of governmental misconduct. Sassower pursued this remedy by a separate lawsuit against the judges who suspended her license.

That remedy was destroyed by those judges who, once again, disobeyed the law — this time, the law prohibiting a judge from deciding a case to which he is a party and in which he has an interest. Predictably, the judges dismissed the case against themselves.

New York's Attorney General, whose job includes defending state judges sued for wrongdoing, argued to our state's highest court that there should be no appellate review of the judges' self-interested decision in their own favor.

Last month, our state's highest court — on which cross-endorsed judges sit — denied Sassower any right of appeal, turning its back on the most basic legal principle that "no man shall be the judge of his own cause." In the process, that court gave its latest demonstration that judges and high-ranking state officials are above the law.

Three years ago this week, Doris Sassower wrote to Governor Cuomo asking him to appoint a special prosecutor to investigate the documented evidence of lawless conduct by judges and the retaliatory suspension of her license. He refused. Now, all state remedies have been exhausted.

There is still time in the closing days before the election to demand that candidates for Governor and Attorney General address the issue of judicial corruption, which is real and rampant in this state.

Where do you go when judges break the law? You go public.

Contact us with horror stories of your own.

CENTER *for* JUDICIAL ACCOUNTABILITY

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*The **Center for Judicial Accountability, Inc.** is a national, non-partisan, not-for-profit citizens' organization raising public consciousness about how judges break the law and get away with it.*