

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

-----X
DORIS L. SASSOWER,

Plaintiff,

-against-

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 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,

Defendants.
-----X

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: NOTICE OF MOTION
: TO DISMISS
:

: 94 Civ. 4514
: (JES)
: Pro Se

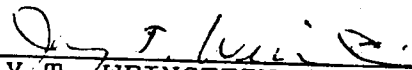
PLEASE TAKE NOTICE that upon the annexed affidavit of JAY
T. WEINSTEIN, sworn to 8th day of March, 1996, the accompanying
memorandum of law and all the pleadings and proceedings heretofore
had herein, the undersigned attorney for defendants will move this
Court on the 12th day of April, 1996, in the United States Court-
house at Foley Square, New York, New York, at 1:00 o'clock in the
afternoon, or as soon thereafter as counsel may be heard, for an
order dismissing the action pursuant to Fed. R. Civ. P. Rules 41(b)
upon the ground that plaintiff has failed to comply with an Order
of the Court and prosecute this matter, and

PLEASE TAKE FURTHER NOTICE that answering affidavits and memoranda if any must be served upon the undersigned counsel for the defendants and filed with the Clerk of this Court, in accordance with Judge Sprizzo's Order dated March 5, 1996.

Dated: New York, New York
March 8, 1996

Yours, etc.,

DENNIS C. VACCO
Attorney General of the
State of New York
Attorney for State Defendants
By:



JAY T. WEINSTEIN (JTW-3193)
Assistant Attorney General
120 Broadway
New York, New York 10271
(212) 416-8573

TO: DORIS SASSOWER

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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94 Civ. 4514
(JES)
Pro Se

STATE OF NEW YORK)
 : SS.:
COUNTY OF NEW YORK)

JAY T. WEINSTEIN, being duly sworn, deposes and says:

1. I am an Assistant Attorney General in the office of DENNIS C. VACCO, Attorney General of the State of New York, attorney for defendants. I make this affidavit in support of defendants' motion to dismiss this action pursuant to Fed. R. Civ. P. Rules 41(b) for failure to comply with an Order of the Court and failure to prosecute.

2. Plaintiff instituted this action under 42 U.S.C. § 1983 as a pro se, seeking declaratory relief, damages, attorney's fees, and costs, for defendants roles in her suspension to practice

law in the State of New York for failure to comply with a Court Order to submit to a psychiatric exam. She commenced this action by filing her pro se complaint on or about June 6, 1994.

3. On January 9, 1995 defendants answered the complaint. On January 19, 1995 defendants moved for dismissal under Fed. R. Civ. P. 12(c), on the grounds of, among others, collateral estoppel for litigating in state court the claims she presents in this action, and lack of subject matter jurisdiction.

4. On June 23, 1995, plaintiff cross-moved for summary judgment and sanctions.

5. On October 10, 1995, defendants filed a statement in opposition to plaintiff's Rule 3(g) Statement and supporting affidavit, and memorandum in reply to plaintiff's motion for summary judgment and in opposition to plaintiff's motion for sanctions.

6. On September 28, 1995, plaintiff moved, by order to show cause, for a preliminary injunction and order temporarily restraining defendant Justices from enforcing her suspension from the practice of law or from presiding over any action involving her, pending the outcome of the litigation. The Court reserved decision until October 27, 1995.

7. By Order, dated October 3, 1995, the Court stated that it "will reserve decision on plaintiff pro se's application for a temporary restraining order until it rules on the cross-motions for summary judgment scheduled for oral argument on October 27, 1995 . . .," and otherwise set dates for the filing of papers.

8. On October 27, 1995, the Court denied plaintiff's motion for recusal she filed the day before and heard oral argument on defendants' motion on the pleadings.

9. On November 9, 1995, the Court ordered plaintiff to "submit to the Court copies of all documents filed in state court proceedings relating to complaints filed against plaintiff pro se, the suspension of plaintiff pro se's license to practice law and the constitutionality of the proceedings therein, on or before January 2, 1995, and it is further ordered that neither party shall file supplemental affidavits or memoranda of law without leave of Court." Order, dated November 9, 1995.

10. By letter, dated December 27, 1995, plaintiff wrote to request an explanation from the Court why the Court directed, by November 9, 1995 Order, her to submit copies of documents of certain state proceedings.

11. By letter, dated February 9, 1996, plaintiff requested clarification of the Court's November 9th Order and apprised the Court of the prejudice she believes she suffers from the Court's failure to rule on her Order to Show Cause and preliminary injunction and TRO, threatening to burden the Court with another Order to Show Cause if she does not hear from the Court in three days.

12. On February 13, 1995, I contacted the Court, by telephone, and asked your scheduling clerk Linda Kotowski of available dates for a conference to move for sanctions against plaintiff under 41(b). Ms. Kotowski asked me to confer with

plaintiff regarding the selection of a date for the conference that would be mutually convenient for both parties. When I contacted plaintiff, by telephone, to confer with her over the selection of a date for a pre-motion conference, she refused to cooperate, speaking to me in loud tones, and with threats and insults.

13. By letter, dated February 23, 1996, plaintiff wrote to protest my alleged favored treatment by the Court, failure of the Court to respond to her letters, and the prejudice she suffers because the Court has not acted upon her Order to Show Cause, stating, "[i]f the Court will not do its duty to protect me by granting me the urgently-required injunctive relief, I ask that this letter be accepted as a renewal of my previous motion for this Court's recusal."

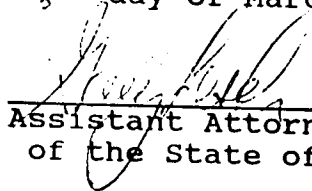
14. Upon information and belief, to this date, plaintiff has failed to comply with the Order of this Court.

WHEREFORE, for all the aforesaid reasons, and for the reasons set forth in the accompanying memorandum of law, defendants' motion to dismiss the complaint pursuant to Fed. R.

Civ. P. Rules 41(b) should be granted with prejudice.


JAY T. WEINSTEIN (JTW-3193)

Sworn to before me this
8th day of March, 1996


Assistant Attorney General
of the State of New York