

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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DORIS L. SASSOWER,

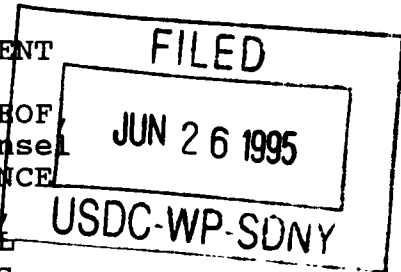
Plaintiff,

94 Civ. 4514 (JES)

-against-

Plaintiff's
Affidavit

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,



Defendants.

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STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss.:

DORIS L. SASSOWER, being duly sworn, deposes and says:

1. I am the above-named Plaintiff, fully familiar with the facts, papers, and proceedings hereinafter referred to.

2. This Affidavit, together with the supporting exhibits hereto, and my accompanying Memorandum of Law are submitted in opposition to Defendants' wholly frivolous "Motion for Judgment on the Pleadings", purportedly pursuant to Fed.R.Civ.P. 12(c) and in support of the conversion of such motion into one for summary judgment, as explicitly authorized by such statutory provision. My Rule 3(g) Statement is annexed.

3. At the outset, it must be noted that Defendants do not annex the pleadings to their motion for judgment thereon, and their Notice of Motion, which refers to "the complaint",

nowhere refers to their Answer. Nor is their Answer referred to anywhere in either Assistant Attorney General Weinstein's supporting affidavit or Memorandum of Law.

4. Aside from the aforesaid fundamental procedural deficiencies, Defendants' Answer--denying, or denying knowledge or information sufficient to form a belief, as to virtually every allegation of the Complaint--precludes the granting of Defendants' motion, as more particularly set forth at Point I of my accompanying Memorandum of Law. This would be obvious had Defendants not withheld their Answer from the Court.

5. Likewise, had Defendants not failed to annex a copy of my Complaint to their motion, it would be obvious to the Court that the pleaded allegations, on their face, are legally sufficient to sustain this Court's subject matter jurisdiction and to state a claim on which relief can be granted and that a dismissal motion based thereon is frivolous in the extreme.

6. My accompanying Memorandum of Law focuses on the deceitful and sanctionable nature of Defendants' Memorandum of Law on their instant motion, showing that, over and again, Defendants have falsified and distorted the content of the pleaded allegations of the Complaint so as to fashion their dismissal motion. As shown therein, the legal authorities cited by Defendants readily support the legal sufficiency of my Complaint and to the extent Defendants claim otherwise, such contention is based on Defendants' false and distorted representations of my pleaded allegations, rather than the actual

allegations of the Complaint.

7. Yet it is not only Defendants' Memorandum of Law in support of their dismissal motion that is false, deceitful, and sanctionable, but their Answer, as well.

8. Said Answer is frivolous on its face in its pleaded denials. It lumps together all the Defendants, notwithstanding they plainly have differing levels of knowledge as to the facts alleged in my Complaint. Consequently, the Answer, in toto, is a palpable sham.

9. Moreover, the jointly-pleading Defendants, who include their counsel, New York's Attorney General, whose disqualification on conflict-of-interest grounds should be self-evident, have engaged in outright perjury and fraud in denying or denying knowledge and information sufficient to form a belief as to virtually all the Complaint's pleaded allegations.

10. This perjury and fraud is easily susceptible to proof on the papers inasmuch as the particularized allegations of the Complaint track the course of the multiple malicious disciplinary proceedings commenced and prosecuted against me by reference to specific court documents.

11. All such court documents, either generated by Defendants themselves or by me in response thereto, are in Defendants' possession or readily available to them. Nonetheless, Defendants' Answer, over and over again, denies knowledge or information sufficient to form a belief as to allegations relating to such documents or to acts reflected therein.

12. Where Defendants do not deny knowledge or information sufficient to form a belief, they deny virtually every material allegation. Here too, comparison of their denials and the documents referred to in the denied pleaded allegations of my Complaint establish Defendants' Answer to be false and perjurious.

13. By hand-delivered letter dated May 25, 1995, I notified Amy Abramowitz, Esq., the Assistant Attorney General now handling this case as counsel to Defendants, that their dismissal motion and Answer were sanctionable by reason of such fraud and perjury and informed her of this Court's warning of the dire consequences thereof, as enunciated at the February 3, 1995 conference on the dismissal motion. A copy of that letter, duly receipt-stamped by the Attorney General's office, is annexed hereto as Exhibit "1".

14. My May 25, 1995 letter was supported by four exhibits, including not only the complete transcript of the February 3, 1995 status conference (Exhibit "A"), but also (as Exhibit "D") a paragraph-by-paragraph analysis of Defendants' Answer. Such analysis documentarily showed to Ms. Abramowitz that more than 150 pleaded denials or denials of knowledge or information sufficient to form a belief were not just false, perjurious, and in bad faith, but known to be such by Defendants by reason of specifically identified documents in their possession or available to them.

15. Notwithstanding such warning letter and the

overwhelming evidence presented therewith, requiring the Attorney General to withdraw this dismissal motion and seek leave to withdraw Defendants' Answer, I received no communication of any kind from Ms. Abramowitz or anyone else at the Attorney General's office.

16. Thus, I am, unfairly, put to the burden of responding to Defendants' frivolous dismissal motion, much as the Court will eventually be faced with the burden of adjudicating it.

17. To avoid needless duplication, I incorporate herein by reference, as if more fully set forth herein, the aforesaid May 25, 1995 letter (Exhibit "1"), together with the exhibits annexed thereto and, in particular, the analysis of Defendants' Answer, as set forth in a critique which forms Exhibit "D" to that letter.

18. In making their motion under Rule 12(c) for "Judgment on the Pleadings", Defendants are aware that the Court may treat the motion as one for summary judgment and dispose of it as provided in Rule 56, giving the parties reasonable opportunity to be heard.

19. For purposes of the authorized conversion of this motion into one under Rule 56, which remedy I invoke, I hereby repeat, reiterate, and reallege all of the allegations set forth in my Verified Complaint, with the same full force and effect as if more particularly set forth herein. I do so not only as a party hereto, but as an officer of the court, albeit one whose

license has been suspended, in violation of my constitutionally-guaranteed federal rights.

20. Based on the record before this Court, there is no genuine issue of fact to be tried as to the relief sought by me, other than the amount of damages, costs, and sanctions to be awarded.

21. Nor is there any issue of law genuinely raised by Defendants, who in their Answer, refer this Court to the statutory and rule provisions, under which the disciplinary orders against me were purportedly issued, for their plain meaning, as well as refer this Court to Matter of Nuey, 61 N.Y.2d 513 (1984), cited by me as controlling, for its own interpretation. (inter alia, ¶¶38, 42, 53, 95, 104, 107, 110, 116-117, 152-4)

22. The law as it relates to the unconstitutionality of New York's disciplinary law, as written and applied, is set forth in my Petition for Certiorari to the U.S. Supreme Court That Petition was filed following the New York Court of Appeals' denial of my motion for reargument, reconsideration, and leave to appeal of its May 12, 1994 dismissal of my appeal as of right from the judicial Defendants' dismissal of my Article 78 proceeding against them, referred to the last factual allegation of my Complaint, ¶209.

23. Pursuant to the Court's direction at the February 3, 1995 conference (Tr. p. 10), referred to hereinabove, I am filing with this Affidavit and with my accompanying Memorandum of

Law a copy of my Cert. Petition and Reply Memorandum to the Attorney General's Memorandum in Opposition, which I incorporate herein by reference and identify as Exhibits "2A", "2B" and "2C", respectively.

24. Although the Supreme Court denied my Cert. Petition, such adjudication, as this Court knows, is not on the merits.

25. As highlighted by the Reply Memorandum (Exhibit "2B", at pp. 2-6), there is no "adequate and independent state ground" to sustain the judicial Defendants' June 14, 1991 "interim" order of suspension or their September 20, 1993 order dismissing my Article 78 proceeding against them and their co-Defendants. Consequently, a substantial constitutional question was directly involved and New York's Court of Appeals' denial of review of each of those orders violated my federal constitutional rights. That New York's highest court has refused review of the June 14, 1991 "interim" suspension order, either by right or by leave, thus denying me the relief it had previously granted interrimly-suspended attorneys Nuey, supra, and Russakoff, Matter of Russakoff, 79 A.D.2d 520 (1992)--as more fully described in my Cert. Petition (Exhibit "2A", pp. 5-6, 16-19)--can only be seen as a manifestation of the judicial bias of New York state courts toward me, as my Complaint more particularly sets forth.

26. Events subsequent to filing of my §1983 Complaint only further evidence the vicious bias, politically-motivated retaliation, and invidious discrimination to which I have been

subjected by Defendants, as alleged therein. Such has been manifested by a succession of orders of the judicial Defendants in appeals unrelated to the disciplinary proceedings, including those which are the subject of allegations of my Complaint herein. From such appeals, the judicial Defendants wrongfully refused to disqualify themselves, even though statutorily obliged to do so under state law because they were directly affected by the outcome of such litigation.

27. Because of Defendants' Dombrowski¹-type harassment of me by its bad-faith prosecution of a succession of knowingly baseless and jurisdictionless disciplinary proceedings against me, as more fully detailed in my Complaint, judicial intervention by this Court in enforcement of my federal constitutional rights is mandated. However, I wish to address Defendants' spurious contention (Br. 14) that the three prerequisites for invocation of abstention have been met.

28. In Defendants' three-sentence argument on that point, Defendants make no mention of my June 14, 1991 "interim" suspension, but only to the February 6, 1990, January 28, 1993, and March 25, 1993 disciplinary petitions. Said petitions are completely separate from and independent of the June 14, 1991 "interim" suspension order. The June 14, 1991 "interim" suspension order, which, as alleged in the Complaint, is unsupported by any petition, is entirely free-standing and its alleged basis is unrelated to any pending proceeding.

¹ Dombrowski v. Pfister, 380 U.S. 479 (1965)

29. As to the proceedings on the aforesaid three disciplinary petitions, such have been stayed by the judicial Defendants, sua sponte, and over my strenuous objections, until I comply with the October 18, 1990 order directing my medical examination.

30. Consequently, Defendants have created a stalemate, blocking state adjudication of such separate and unrelated disciplinary proceedings, unless I surrender my constitutional right to challenge such order which forms the alleged predicate for my June 14, 1991 "interim" suspension order. This is quite apart from the fact that, as alleged by the Complaint, I have been totally blocked from raising my constitutional objections as to those proceedings. I respectfully refer the Court to the transcript excerpts of the purported "hearings" on the February 6, 1990 disciplinary petition annexed to my Cert. Petition (Exhibit "2A, pp. 10-11, fn.7, Appendix: 64-86) so that this Court may get a glimpse of the shameless disregard for my fundamental constitutional rights taking place at the state court level.

31. Defendants' ongoing and unrelenting lawless conduct, causing me severe and irreparable injury², shows my right to and exigency of the requested relief and the need for this Court's intervention, there being, demonstrably, no responsive adjudication possible in the state court system.

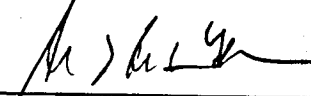
² The judicial Defendants' on-going retaliation against me and lawless behavior was indicated by me at the February 3, 1995 conference (pp. 14-15).

32. As shown hereinabove, there are no material facts actually and in good faith controverted and thus I am entitled as a matter of law to the denial of Defendants' Motion for Judgment on the Pleadings and summary judgment in my favor.

WHEREFORE, it is respectfully prayed that Defendants' Motion be denied, that a summary judgment in Plaintiff's favor as to liability be granted and that she have such declaratory and injunctive relief, as well as costs, sanctions, and attorney fees, as may be appropriate, together with an assessment of her damages.


DORIS L. SASSOWER

Sworn to before me this
23rd day of June 1995


Notary Public

ALAN HARVEY GOLDMAN
Notary Public, State of New York
No. 60-6569575
Qualified in Rockland County
Certificate Filed in Westchester County
Commission Expires 6/30/96