

**SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION : FIRST DEPARTMENT**

-----X
**In the Matter of NORMAN LEONARD
COUSINS, an Attorney & Counselor at Law:**

**Departmental Disciplinary Committee
for the First Judicial Department,**

Petitioner,

NOTICE OF APPEAL

- against -

**NORMAN LEONARD COUSINS
(OCA Atty. Reg. No. 1437425),**

Respondent.

-----X

S I R S :

PLEASE TAKE NOTICE that pursuant to Judiciary Law § 90 (8) and/or CPLR 5601(b) (1) and (2), respondent herein and hereby appeals to the Court of Appeals of the State of New York from two Orders of the Appellate Division, First Department dated and filed in the Office of the Clerk of the Appellate Division, First Department on October 19, 2010 (at least one of which is final) which disbarred respondent from the practice of law effective November 18, 2010. Said Orders were served on respondent's counsel by the Departmental Disciplinary Committee for the First Judicial Department via Certified Mail: Return Receipt Requested and received at the office of respondent's counsel on October 25, 2010.

PLEASE TAKE FURTHER NOTICE that respondent appeals from each and every portion of said Orders as well as from the whole thereof.

**Dated: New York, New York
November 23, 2010**

Yours, etc.,

/s/ VICTOR M. SERBY

VICTOR M. SERBY
Attorney for Respondent
255 Hewlett Neck Road
Woodmere, NY 11598-1452
(516) 374-2455

To: DEPARTMENTAL DISCIPLINARY COMMITTEE
Attorney for Petitioner
Supreme Court, Appellate Division
First Judicial Department
61 Broadway
New York, New York 10006
(212) 401-0800

SOLICITOR GENERAL OF THE STATE OF NEW YORK
Department of Law
The Capitol
Albany, New York 12224

**NEW YORK STATE
COURT OF APPEALS**

Preliminary Appeal Statement

Pursuant to section 500.9 of the Rules of the Court of Appeals

1. CAPTION OF CASE (as the parties should be denominated in the Court of Appeals):

STATE OF NEW YORK COURT OF APPEALS

Departmental Disciplinary Committee for the First Judicial
Judicial Department,

Petitioner,

-against-

NORMAN LEONARD COUSINS
(OCA Atty. Reg. No. 1437425),

Respondent.

2. Name of court or tribunal where case originated, including county, if applicable:
Appellate Division, First Department

3. Civil index number, criminal indictment number or other number assigned to the matter in the
court or tribunal of original instance: M-6017

4. Docket number assigned to the matter at the Appellate Division or other intermediate
appellate court: M-288

5. Jurisdictional basis for this appeal:

Leave to appeal granted by the Court of Appeals or a Judge of the Court of Appeals

Leave to appeal granted by the Appellate Division or a Justice of the Appellate
Division

CPLR 5601(a): dissents on the law at the Appellate Division

CPLR 5601(b)(1): constitutional ground (Appellate Division order)

CPLR 5601(b)(2): constitutional ground (judgment of court of original instance)

CPLR 5601(c): Appellate Division order granting a new trial or hearing, upon
stipulation for judgment absolute

CPLR 5601(d): from a final judgment, order, determination or award, seeking
review of a prior nonfinal Appellate Division order

Other (specify) _____

6. How this appeal was taken to the Court of Appeals (choose one) (see CPLR 5515[1]):

NOTICE OF APPEAL

Date filed: Nov. 24, 2010
Clerk's office where filed: First Dept.

ORDER GRANTING LEAVE TO APPEAL (civil case):

Court that issued order: _____
Date of order: _____

CERTIFICATE GRANTING LEAVE TO APPEAL (criminal case):

Justice or Judge who issued order: _____
Court: _____
Date of order: _____

7. Demonstration of timeliness of appeal in civil case (CPLR 5513, 5514):

Was appellant served by its adversary with a copy of the order, judgment or determination appealed from and notice of its entry? yes no

If yes, date on which appellant was served (if known, or discernable from the papers served): Rec'd Oct. 25, 2010

If yes, method by which appellant was served: personal delivery
 regular mail
 overnight courier
 other (describe CM:RRR)

Did the Appellate Division grant or deny a motion for leave to appeal to this Court in this case? yes no

If yes, fill in the following information:

- a. date appellant served the motion for leave to appeal made at the Appellate Division: _____
- b. date on which appellant was served with the Appellate Division order granting or denying such motion with notice of the order's entry: _____, and
- c. method by which appellant was served with the Appellate Division order granting or denying such motion:

_____ personal service
_____ regular mail
_____ overnight courier
_____ other (describe _____)

8. Party Information:

Instructions: Fill in the name of each party to the action or proceeding, one name per line. Indicate the status of the party in the court of original instance and the party's status in this Court, if any. Examples of a party's original status include: plaintiff, defendant, petitioner, respondent, claimant, third-party plaintiff, third-party defendant, intervenor. Examples of a party's Court of Appeals status include: appellant, respondent, appellant-respondent, respondent-appellant, intervenor-appellant.

No.	Party Name	Original Status	Court of Appeals Status
1	Departmental Disciplinary Committee	Petitioner	Respondent
2	Norman Leonard Cousins	Respondent	Appellant-Respondent
3			
4			
5			
6			
7			
8			
9			
10			

9. Attorney information:

Instructions: For each party listed above, fill in the name of the one law firm and responsible attorney who will act as counsel of record, if the party is represented. Where a litigant is self-represented, fill in that party's data in section 10 below.

For Party No. 1 above:

Law Firm Name: Departmental Disciplinary Committee for the First Judicial Department
 Responsible Attorney: Mady J. Edelstein
 Street Address: 61 Broadway
 City: New York State: NY Zip: 10006
 Telephone No: 212-401-0800 Ext. _____ Fax: (212) 401-0810
 If appearing Pro Hac Vice, has attorney satisfied requirements of section 500.4 of the Rules of the Court of Appeals? yes no

For Party No. 2 above:

Law Firm Name: Victor M. Serby
 Responsible Attorney: Victor M. Serby
 Street Address: 255 Hewlett Neck Road
 City: Woodmere State: NY Zip: 11598-1452
 Telephone No: (516) 374-2455 Ext. _____ Fax: (267) 841-0009
 If appearing Pro Hac Vice, has attorney satisfied requirements of section 500.4 of the Rules of the Court of Appeals? yes no

For Party No. __ above:

Law Firm Name: _____
 Responsible Attorney: _____
 Street Address: _____
 City: _____ State: _____ Zip: _____
 Telephone No: _____ Ext. _____ Fax: _____
 If appearing Pro Hac Vice, has attorney satisfied requirements of section 500.4 of the Rules of the Court of Appeals? yes no

For Party No. __ above:

Law Firm Name: _____

Responsible Attorney: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone No: _____ Ext. _____ Fax: _____

If appearing Pro Hac Vice, has attorney satisfied requirements of section 500.4 of the Rules of the Court of Appeals? yes no

For Party No. __ above:

Law Firm Name: _____

Responsible Attorney: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone No: _____ Ext. _____ Fax: _____

If appearing Pro Hac Vice, has attorney satisfied requirements of section 500.4 of the Rules of the Court of Appeals? yes no

(Use additional sheets if necessary)

10. Self-Represented Litigant information:

For Party No. __ above:

Party's Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone No.: _____ Ext. _____ Fax: _____

For Party No. __ above:

Party's Name: _____

Street Address: _____

City: _____ State: _____ Zip: _____

Telephone No.: _____ Ext. _____ Fax: _____

11. Related motions and applications:

Does any party to the appeal have any motions or applications related to this appeal pending in the Court of Appeals? yes no

If yes, specify:

a. the party who filed the motion or application: _____

b. the return date of the motion: _____

c. the relief sought: _____

Does any party to the appeal have any motions or applications in this case currently pending in the court from which the appeal is taken? yes no

If yes, specify:

a. the party who filed the motion or application: Respondent - Appellant _____

b. the return date of the motion: December 7, 2010 _____

c. the relief sought: Reargument Or Leave to Appeal

Are there any other pending motions or ongoing proceedings in this case? If yes, please describe briefly the nature and the status of such motions or proceedings: No.

12. Set forth, in point-heading form, issues proposed to be raised on appeal (this is a nonbinding designation, for preliminary issue identification purposes only):

1) Is collateral estoppel an acceptable substitute for due process of law ?

2) Can the DDC avoid complying with the Rules & Procedures of the Departmental Disciplinary Committee (Part 605 of the Rules of the Supreme Court, Appellate Division, First Department) in a vacuum (meaning, in the absence of any pending proceeding against an attorney)?

3) Did the DDC's conduct in this matter violate the First Department's holding in In re Antoine, 46 A.D.3d 60 (1st Dept. 2007)?

4) In New Jersey and most states, the standard of proof in an attorney disciplinary proceeding is no less than "clear & convincing evidence". Appellant will urge the Court of Appeals to adopt the "clear & convincing evidence" standard as the minimally accepted standard of proof in attorney disciplinary proceedings throughout NYS (except in non-disbarrable proceedings involving simple negligence or neglect of client matters).

5) The DDC's total noncompliance with Judiciary Law § 90 (8) is a violation of respondent's rights to due process of law under the US & NYS Constitutions.

(use additional sheet, if necessary)

13. Does appellant request that this appeal be considered for resolution pursuant to section 500.11 of the Rules of the Court of Appeals (Alternative Procedure for Selected Appeals)?

 yes ✓ no

If yes, set forth a concise statement why appellant believes that consideration pursuant to section 500.11 is appropriate (see section 500.11[b]): _____

14. Notice to the Attorney General.

Is any party to the appeal asserting that a statute is unconstitutional? yes no

If yes, has appellant met the requirement of notice to the Attorney General in section 500.9(b) of the Rules of the Court of Appeals? yes no

15. **ITEMS REQUIRED TO BE ATTACHED TO EACH COPY OF THIS STATEMENT:**

A. A copy of the filed notice of appeal, a copy of the order granting leave to appeal (civil case), or a copy of the certificate granting leave to appeal (noncapital criminal case), whichever is applicable;

B. The order, judgment or determination appealed from to this Court;

C. Any order, judgment or determination which is the subject of the order appealed from, or which is otherwise brought up for review;

D. All decisions or opinions relating to the orders set forth in subsections B and C above; and

E. If required, a copy of the notice sent to the Attorney General pursuant to section 500.9(b) of the Rules of the Court of Appeals.

F. If required, a disclosure statement pursuant to section 500.1(f) of the Rules of the Court of Appeals.

Date: Dec. 1, 2010

Submitted by: Victor M. Serbv

(Name of law firm)
/s/ Victor M. Serbv

(Signature of responsible attorney)

Victor M. Serbv
(Typed name of responsible attorney)

Attorneys for appellant Norman Leonard Cousins
(Name of party)

-or-

Date: _____

Submitted by _____, pro se
(Signature of appellant)

(Typed/printed name of self-represented appellant)