

of hundreds of hours of judicial, quasi-judicial, and legal time in replaying identical issues involving the same parties seeking identical relief in separate proceedings which, ultimately, will result in a determination that the Court never had disciplinary jurisdiction over Petitioner in the first place.

Unquestionably, granting of the requested stay would be in the interests of justice, Stanley Electrical Service, Inc. v. New York, 26 A.D.2d 951, 275 N.Y.S.2d 222 (2d Dept. 1966), app'l. dismd., 19 N.Y.2d 629, 278 N.Y.S.2d 412 (1967), as well as in the interest of judicial economy to avoid a profligate waste of judicial resources at a time when the fiscal crisis affecting the courts is receiving prominent public attention<sup>2</sup>.

#### POINT II

**PETITIONER'S CROSS-MOTION FOR RECUSAL AND TRANSFER SHOULD BE GRANTED BY REASON OF THIS COURT'S ACTUAL AND APPARENT BIAS AGAINST HER**

To avoid the inevitable disqualifying consequences of the true facts, Ms. Olson's distorts them to suggest that Petitioner's request for recusal and transfer is comparable to the desire of "any abusive litigant...to go forum-shopping whenever this Court renders an unfavorable decision" (at p. 4). Such argument is a gross misrepresentation of Petitioner's position<sup>3</sup>, as the files under A.D. #90-00315 would have confirmed to her--had she bothered to review them, which Ms. Olson does not even purport to have done.

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<sup>2</sup> See Ex. "S" to Petitioner's 7/2/93 Affidavit

<sup>3</sup> See pp. 9-16 of Petitioner's 7/2/93 Affidavit

Petitioner's recusal and transfer request is premised on this Court's actual bias, demonstrated by its knowing and deliberate misuse of disciplinary power and its wilful disregard for the factual record and black-letter law, as reflected in a long-pattern of vindictive decisions under A.D. #90-00315 having no basis whatever in fact or law.

Such aberrational and improperly-motivated adjudications are summarized at ¶¶ 14, 15, 19, 21, 22, 23 of Petitioner's July 2, 1993 Affidavit--and uncontroverted by Respondents.

As to the "appearance of impropriety" in this Court's adjudicating this proceeding--which names Presiding Justice Mangano as a Respondent in his representative capacity--Ms. Olson does not dispute that her own client, the Respondent Referee, thought it laughable that Petitioner should expect any Article 78 relief from this Court<sup>4</sup>. The laughter of the Respondent Referee, reflected by the April 28, 1993 transcript (Ex. "D" to 7/2/93 Affidavit in support of Order to Show Cause, pp. 104-5) is reflective of the derision of the public, were it to be known that this Court did not view its position in this proceeding as one tainted by extreme conflict of interest.

In addition to mandatory disqualification under Canon 3C.(1)(a) of the Code of Judicial Conduct based on the fact that this Court's "impartiality might be reasonably questioned" by any objective observer, the potential financial liability for a

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<sup>4</sup> See ¶ 18 of Petitioner's 7/2/93 Affidavit

damage award based on Respondents' misconduct, as envisioned by CPLR §7806, provides further basis for disqualification under subdivision (c) of the aforesaid Canon provision and for transfer based thereon. Liljeberg v. Health Services Acquisition Corp., 486 U.S. 847 (1988); Aetna Life Insurance Co. v. Lavoie, 475 U.S. 813 (1985).

Canon 3C.(1)(c) also calls for disqualification whenever a judge has "other interest[s] that could be substantially affected by the outcome of the proceeding". There is no question but that review of the disciplinary files under A.D. #90-00315 by objective adjudicators would lead to the conclusion that serious judicial misconduct had taken place, which resulted in a fraudulent and unlawful suspension--and that such has been maliciously continued in effect despite the prima facie showing of egregious due process and equal protection violations. Under such circumstances, the clear self-interest of this Court lies in continued "cover-up" of the prosecutorial and judicial misconduct connected therewith, since such misconduct, if exposed, would result in severe disciplinary and criminal sanctions. Such self-interest is precisely what was intended by the above-cited Canon provision to require disqualification.

Ms. Olson's failure to provide any legal citation to support her view that such real and apparent conflict of interest is not disqualifying as a matter of law--is a concession of the correctness of Petitioner's legal position.