

APPENDIX

This Appendix demonstrates how the District Judge deliberately misrepresents the Complaint in his Decision by shearing from it those allegations of Defendants jurisdiction-less, due process-less, retaliatory conduct that appear in the very paragraphs of the Complaint he cites.

DECISION: Page 2 [R-5]

The Decision CITES ¶19 [R-30] that Judiciary Law §90(2) authorizes the Second Department to discipline attorneys, but OMITTS the allegation of ¶19 that such disciplinary jurisdiction is limited by the express requirement of Judiciary Law §90(2) to attorneys “who are ‘guilty of professional misconduct’”.

DECISION: Page 3 [R-6]

The Decision MISREPRESENTS 22 NYCRR §691.4(e) [R-347-] by paraphrasing it – most egregiously -- so as to omit the language of the rule that makes 22 NYCRR §691.4(e)(5) the exigency exception [R-348].

The Decision CITES ¶41-2 [R-36] that the Grievance Committee filed a report on July 31, 1989 with the Second Department based on complaints of two former clients, but OMITTS the allegations of ¶42 [R-36] that such allegation was made “upon information and belief” since Plaintiff complaint was that she had never seen the July 31, 1989 report, that it was rendered *ex parte*, and that Casella and the Second Department had denied her all access to it. The Decision ALSO OMITTS that portion of said allegation as stated that the Grievance Committee failed to comply with the pre-petition written charges and hearing requirements of 22 NYCRR §691.4(e)(4) and (f) and that the exigency exception of 22 NYCRR §691.4(e)(5) was inapplicable [R-347-8].

The Decision CITES ¶55 [R-39] for the Second Department’s December 14, 1989 Order authorizing prosecution of a disciplinary proceeding against Plaintiff, but OMITTS the allegation of ¶55 [R-39] that the Second Department’s December 14, 1989 Order was rendered *ex parte* and that the four-month lapse of time between it and the July 31, 1989 report was inconsistent with 22 NYCRR §691.4(k) [R-349]. ADDITIONALLY, it OMITTS the relevant allegations of ¶¶56-60 [R-40-41] as to the violations of §691.4 [R-347-348] and due process reflected by the *ex parte* December 14, 1989 Order and the February 6, 1990 disciplinary petition based thereon.

The Decision CITES ¶59 [R-40] for the Grievance Committee's service upon Plaintiff of the February 6, 1990 disciplinary petition, but OMITTS the due process violation alleged in ¶59 [R-40]: the February 6, 1990 petition was made entirely upon information and belief and that the verification rested not on the Grievance Committee's July 31, 1989 report, but upon the Second Department's *ex parte* December 14, 1989 Order. ALSO OMITTED are the due process allegation of ¶60 [R-40-41] that the February 6, 1990 petition did not annex or serve either the *ex parte* July 31, 1989 report or the *ex parte* December 14, 1989 Order upon her.

DECISION: Pages 3-4 [R-6-7]

The Decision CITES ¶66 [R-42] for the Grievance Committee's filing with the Second Department on May 8, 1990 of an Order to Show Cause, pursuant to §691.13(b)(1) [R-350], to direct a medical examination of Plaintiff. However, ¶66 [R-41] identifies that the Order to Show Cause was procured by Casella, *ex parte*, from a judge with a personal/political interest, as he was alleged to be "the principal architect and beneficiary of the Deal..." [R-37: ¶47] that Plaintiff had challenged in *Castracan v. Colavita*. ALSO OMITTED are the due process allegations of ¶67, 68, and 69 [R-42-43] that Casella's May 8, 1990 Order to Show Cause was unsupported by the petition required by §691.13(b)(1) [R-350], that it made no claim that it was related to the February 6, 1990 petition against Plaintiff, and that it was, in fact, unrelated and not "an underlying proceeding to such application".

DECISION: Page 4 [R-7]

The Decision INCORRECTLY CITES ¶93 [R-50-51] for the Second Department's October 18, 1990 Order granting the Grievance Committee's motion that Plaintiff be medically examined, when, in fact, such paragraph refers to the granting of the June 14, 1991 Order. The correct paragraphs relating to the October 18, 1990 Order, ¶¶78-79 [R-45-45], reflect the due process infirmities, *inter alia*, the seven material errors in that Order, including its false and misleading reference to an "underlying" disciplinary proceeding, all of which are identified in allegation numbered 79, BUT COMPLETELY OMITTED from the Decision.

The Decision INCORRECTLY CITES ¶93 [R-50-51] for its false statement that "Sassower refused to comply with the October 18, 1990 Order". The Complaint explicitly denied Casella's claimed refusal, and, moreover, specifically identified that her January 28, 1991 Order to Show Cause sought sanctions against Casella for his unethical conduct and that she had shown therein that the October 18, 1990 Order was not "a lawful demand", as required by §691.4(l)(1)(i) [R-49: ¶89].

The Decision also INCORRECTLY CITES ¶93 [R-50-51] for the Grievance Committee's January 25, 1991 Order to Show Cause for Plaintiff's immediate suspension for "failure to comply with the October 18, 1990 order." ¶93 [R-50-51] has nothing whatever to do with the January 25, 1991 Order to Show Cause and the second paragraph citation given by the Decision, ¶85, specifically identifies Casella, not the Grievance Committee, as having filed the Order to Show

Cause, which, as alleged in ¶86, failed to allege that her was authorized by the Committee; and further alleges the specific rule provision under which he brought such Order to Show Cause, i.e., §691.4(l)(1)(i) [R-349]-- which the Decision OMITS. Additionally ¶85 [R-48] alleges, but the Decision OMITS, that Plaintiff brought her own Order to Show Cause, dated January 28, 1991, for vacatur of the October 18, 1990 Order as jurisdictionally void, as well as in opposition to Casella's Order to Show Cause. ALSO OMITTED entirely from the Decision are the allegations of ¶¶86, 87, 88 [R-48-49] that Casella's January 25, 1991 Order to Show Cause was legally insufficient and factually perjurious, for which Plaintiff sought sanctions and disciplinary action against Casella from the Second Department.

The Decision INCORRECTLY CITES ¶¶85, 93 [R-48, R-50] that the Second Department's June 14, 1991 order [R-96] was made pursuant to 22 NYCRR §691.13(b)(1) [R-350] (relating to disability proceedings to determine alleged incapacity) and that it granted Grievance Committee's motion and "thereby suspended Sassower's license to practice pending her compliance with the October 18, 1990 order". This is a flagrant falsehood, as shown from the face of the Second Department's June 14, 1991 Order -- annexed to the Complaint as Exhibit "A" [R-96], in that: (a) such Order suspended Plaintiff pursuant to 22 NYCRR §691.4(l) [R-349], the provision under which Casella, NOT the Grievance Committee brought the January 25, 1991 Order to Show Cause, as ¶85 alleges [R-48]; and (b) it suspended her unconditionally and not "pending" anything. Moreover, ¶93 [R-50] specifically alleges that the Second Department's June 14, 1991 Order [R-96] was "without any findings or statement of reasons therefor", all of which the Decision OMITS.

The Decision CITES ¶98 [R-52] for the Second Department's July 15, 1991 Order denying her motion to vacate or modify¹ its June 14, 1991 Suspension Order, but OMITS the further allegation of ¶98 that such denial was "without reasons" and that Plaintiff's motion also sought recusal of the Second Department as warranted by the appearance that it was retaliating against Plaintiff for expressing her First Amendment rights to speak out against demonstrated judicial misconduct.

DECISION: Pages 4-5 [R-7-8]

The Decision CITES ¶107 [R-54] for Plaintiff's July 19, 1991 motion for leave to appeal to the Court of Appeals was on the ground that the Second Department had failed to comply with the requirements of N.Y. Comp. Codes R. & Regs. tit. 22, §691.4 and related case law, thereby depriving her of her constitutional right to due process", but OMITS the further specific allegation therein as to the unlawfulness of its October 18, 1990 [Order], procured by Casella without a petition, in violation of 22 NYCRR §691.13(b) [R-350].

The Court's reference to Appellant's motion to vacate/modify June 14, 1991 order is the first time the Opinion cites any action by Appellant in the disciplinary proceedings against her.

DECISION: Page 5 [R-8]

The Decision CITES ¶117 [R-57] for the Court of Appeals September 10, 1991 denial of Plaintiff's motion for leave to appeal the Suspension Order, but OMITTS the further allegation of ¶117 as to the Court of Appeals' dismissal "the following month" of the appeal taken from the dismissal of the Election Law case of *Castracan v. Colavita*.

The Decision CITES ¶127 [R-60] for issuance by the Grievance Committee of an April 9, 1992 supplemental petition, but OMITTS the allegations of ¶127 that it was the Second Department Order authorizing same which was *ex parte* and *sua sponte* and that such Order "overrode Defendant Grievance Committee's unanimous vote" not to prosecute the complaints on which it was based, and ALSO OMITTS the due process infirmities thereof, elaborated upon in ¶¶125, 126, [R-59-60] as well as ¶128, 129, 130 [R-60-61].

The Decision CITES ¶134 [R-62] for Plaintiff's June 16, 1992 motion to vacate June 14, 1991 suspension Order on the ground that the supervening Court of Appeals decision in *Russakoff* [R-529] required a post-suspension hearing and factual findings on the record, but OMITTS ¶134 allegations that she had no such hearing and the Suspension Order made no findings, and the other grounds upon which Plaintiff sought vacatur based upon lack of jurisdiction and the deliberate fraud, misrepresentation, and other unethical practices of Casella, as theretofore pleaded.

The Decision CITES ¶135 [R-62] for Plaintiff's June 18, 1992 motion to vacate April 1992 Supplemental Petition, as well as the February 1990 Petition, for failure to comply with Judiciary Law §90 and 22 NYCRR §691.4(e)(4), (f), and (h) [R-347-8], but OMITTS the allegation of ¶135 that these violations are jurisdictional.

The Decision CITES ¶143 [R-64] that the Second Department's July 31, 1992 order denied Plaintiff's motion to vacate its Suspension Order and all other relief, but OMITTS ¶143's allegation that such denial of Plaintiff's *post-Russakoff* motion [R-529] was made without reasons, with imposition of costs, and other requested denied included Plaintiff's motion for leave to appeal to the Court of Appeals.

The Decision CITES ¶144 [R-64] for Plaintiff's motion to appeal of right to the Court of Appeals on the ground that her constitutional equal protection right had been denied, but OMITTS the specific allegations of ¶144 relating to the *Russakoff* case, and further that the lack of provision for hearing rendered interim suspension orders unconstitutional.

The Decision CITES ¶145 [R-65] for the Court of Appeals' November 18, 1992 Order dismissing Plaintiff's appeal for lack of finality, but OMITTS the allegation of ¶145 that her "interim" suspension was in all respects *a fortiori* to that in *Russakoff* [R-529].

DECISION: Pages 5-6: [R-8-9]

The Decision CITES ¶¶151 and 153 [R-67] for the Grievance Committee's January 28, 1993 disciplinary petition based on five sua sponte charges, but OMITS the allegation of ¶151 that the petition was entirely on information and belief, was based on an *ex parte* November 12, 1992 Order of the Second Department, based on acts allegedly set forth in the Grievance Committee's *ex parte* July 8, 1992 report, and OMITS the allegation of ¶153 as to the context of judicial misconduct and political machinations from which those charges arose.

DECISION: Page 6 [R-9]

The Decision CITES ¶162 [R-69] for the Grievance Committee's issuance of the March 25, 1993 disciplinary petition and reserves for a footnote the allegations of ¶162 and ¶155 that the jurisdictional service requirements of Judiciary Law §90(6) [R-351] were not complied with in serving that petition or the January 28, 1993 disciplinary petition, which it then presents without the specificity contained in such pleaded allegations.

As to both petitions, the Decision OMITS the specific allegations of ¶162 and ¶155, showing not only the lack of personal jurisdiction over Plaintiff resulting from such from the Grievance Committee's violation of the personal delivery requirement of Judiciary Law §90(6) [R-351], but also the fraudulent and egregiously improper manner of service.

The Decision CITES ¶164 [R-70], ¶172 [R-72] for Plaintiff's April 14, 1993 motion to vacate for lack of personal jurisdiction for improper service, but the allegation of ¶164 is not limited to lack of personal jurisdiction, as may be seen from ¶162 [R-69], ¶163 [R-70].

The Decision CITES ¶166 [R-70] for Plaintiff's Article 78 proceeding against various Defendants, but OMITS the specific allegation therein contained that such proceeding was precipitated by Referee Galfunt's continued refusal to rule on Plaintiff's jurisdictional objections to Defendants' February 6, 1990 petition, based on lack of compliance with pre-petition requirements of §691.4(e) and (f) [R-347-8].

DECISION: Page: 7 [R-10]

The Decision CITES ¶171 for the Second Department's May 24, 1993 denial of Plaintiff's separate motions to vacate the two unrelated January 25, 1993 and March 28, 1993 disciplinary petitions, but OMITS the allegations of ¶171 that the motions were for lack of personal jurisdiction and the denial was by one order, "without reasons".

The Decision CITES ¶172 [R-72] for Plaintiff's June 14, 1993 motion to reargue and renew the Second Department's May 24, 1993 Order denying her motions, but OMITS the specific allegations therein as to the basis thereof and the pleaded disregard by the Second Department's of the personal delivery requirement of Judiciary Law §90(6) [R-351] and the appearance of impropriety of the Second Department's adjudicating Plaintiff's motion contesting personal jurisdiction "while it was being sued by her in her pending Article 78 proceeding". [see cert pet., at R-315]

The Decision CITES Plaintiff's cert petition for Defendants' motion to dismiss the Article 78 proceeding, but OMITS ¶168 [R-71] of the Complaint, which identifies Defendants motion as conceding that the pre-petition requirements of §691.4 had not been complied with" but that the Attorney-General had falsely argued that compliance was not required because the *ex parte* July 31, 1989 report ... 'implicitly relied' on the exigency exception under §691.4(e)(5) [R-348].

The Decision CITES ¶173 [R-72]for Plaintiff's cross-motion to amend her Article 78 petition to plead "a pattern of abusive and harassing conduct", but OMITS ¶173's further allegation that such conduct was by Defendants "acting without or in excess of jurisdiction."

The Decision CITES ¶¶182, 183, and 185 [R-75-6], as well as Plaintiff's Cert Petition, for the Second Department's September 20, 1993 Order granting Defendants' motion to dismiss Plaintiff s Article 78 petition "on the merits" and denying Plaintiff's cross-motion, but OMITS the specific allegations therein that it knew that Plaintiff s jurisdictional challenge could not be addressed in "the underlying disciplinary proceeding" and that the Second Department was not an impartial tribunal.

The Decision CITES ¶189 [R-77] for Plaintiff 's November 19, 1993 motion to dismiss the three disciplinary petitions against her OMITS the allegation therein that such motion was made pursuant to the September 20, 1994 Order that her jurisdictional objections could be addressed in "the underlying disciplinary proceeding" and that the motion sought discovery of the *ex parte* reports of the Grievance Committee and appointment of a special prosecutor to investigate the prosecutorial and judicial misconduct complained of by Plaintiff.

The Decision CITES ¶190 [R-70] that Plaintiff's November 19, 1993 dismissal motion sought transfer on the ground that Second Department knew that the disciplinary proceedings against [Plaintiff] were "somehow" void, but OMITS that such allegation was documented by specific record references which also showed that the proceedings were "factually baseless, and resting on false and perjurious affirmations of Defendant Casella."

DECISION: Pages 7-8 [R-10-11]

The Decision CITES ¶198 [R-79] and Plaintiff 's cert petition (A-93, A-94) [435-436]for Plaintiff's appeal to the Court of Appeals from the Second Department's dismissal of her Article 78 Petition and dismissal of her cross-motion, but OMITS reference to ¶199 [R-80], referring

to its fraudulent and criminal conduct, and further alleging that Plaintiff showed her legal entitlement to appellate review by the Court of Appeals in matters where the Appellate Division has original jurisdiction. It further OMITs reference to ¶209, showing that the dismissal was on jurisdictional grounds, and not on the merits of her appeal.

DECISION: Page 8 [R-11]

The Decision CITES ¶201 [R-80] for the Second Department's January 28, 1994 Order denying Plaintiff's November 19, 1993 dismissal/transfer motion, but OMITs the allegations therein that such denial was without reasons and that the Order threatened her with contempt should she make further motions without prior judicial approval. It also OMITs ¶191 [R-77] that Plaintiff's motion was unopposed by any evidentiary proof, probative affidavit, or legal authority from Casella.

The Decision CITES ¶209 [R-82] for the Court of Appeals' May 12, 1994 dismissal of her appeal from the Second Department's dismissal of her Article 78 petition and denial of her cross-motion, but OMITs the allegation therein that it made no mention of Defendants' unethical conduct and the lack of an impartial tribunal in the entity known as Defendant Second Department.

DECISION: Page 9: [R-12]

The Decision CITES ¶¶210-211 [R-83] for Plaintiff's challenge to the constitutionality of 22 NYCRR §691.4(1)(1) and (2), as written and as applied, but OMITs the allegation therein that the New York Court of Appeals recognized in *Nuey* that there is no statutory authority in Judiciary Law §90 for interim suspension orders.

The Decision CITES ¶¶ 236, 247 [R-88; R-90] that Defendants acted under color of state law to wilfully and maliciously violate Plaintiff's constitutional rights, combining her Second and Third Causes of Action, but OMITs the pertinent allegations in ¶238 [R-88] in the Second Cause of Action and ¶248 [R-91] in her Third Cause of Action based on conspiracy that Defendants deprived her of First Amendment rights to freedom of speech, freedom to petition for redress of grievances... and that they conspired to silence her as a voice speaking out against judicial corruption by judges and lawyers in the Second Judicial Department of the State of New York.