

**Elena Ruth Sassower**

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BY HAND: 11 a.m.

July 26, 2007

Judge Eric Press  
White Plains City Court  
77 Lexington Avenue  
White Plains, New York 10601

FILED CITY COURT OF  
WHITE PLAINS, NY  
2007 JUL 26 A 11:04

RE: Respondent's Request for an Extension of Time to Answer Verified Petition  
to Monday, August 20, 2007  
McFadden v. Sassower, White Plains City Court #SP-1502/07

Dear Judge Press,

This letter is written to request an extension of time to answer the verified petition in the above-entitled matter to Monday, August 20<sup>th</sup> – a week prior to the next court date of Monday, August 27<sup>th</sup>.

On Monday, July 16<sup>th</sup>, when this case was first before the Court<sup>1</sup>, Leonard Sclafani, Esq., attorney for petitioner, John McFadden, *sua sponte* and without explanation, launched into a lengthy exposition of background history about the many years of litigation in federal court, as well as in city court involving the October 30, 1987 contract of sale and occupancy agreement for the subject apartment. In so doing, Mr. Sclafani did not explain why, if he thought such to be relevant, he had not recited it in the verified petition he drafted for Mr. McFadden and which Mr. McFadden and he both signed.

In fact, this prior federal and city court litigation is an essential component of my defense to the petition. It was already embodied in the draft answer I brought to court on July 16<sup>th</sup>, where it was among my first affirmative defenses.<sup>2</sup> These first affirmative defenses had been drafted from memory – the litigation files having long ago been put into storage.

Since July 16<sup>th</sup>, I have spent more than 30 hours searching for, organizing, and reviewing my files of the federal and city court litigation so that I can properly verify and swear to the truth of my answer, affirmative defenses, and my yet-to-be-drafted counterclaims based thereon. This, in addition to preparing myself to answer questions you posed on July 16<sup>th</sup>, as well as proving the falsity of Mr.

<sup>1</sup> I am awaiting receipt of the transcript of the July 16<sup>th</sup> proceeding, which I promptly ordered from the stenographer on that date.

<sup>2</sup> The Court briefly inspected such draft, which I handed it up upon its request to see a copy of the occupancy agreement and contract of sale, neither of which Mr. Sclafani had annexed to the petition – but which I had annexed as Exhibit A to my draft answer.

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Sclafani's various oral representations.<sup>3</sup>

Although I have been able to retrieve virtually my entire file of the federal action, I have located only portions of the city court cases, of which I have five separate index numbers: three from 1988 and two from 1989. Upon discovering that I did not have a sufficiently complete file of the city court cases, I went to the city court's clerk's office and asked to requisition the court files. That was on Monday, July 23<sup>rd</sup>. Because the cases are so old, I was told that there was neither a computerized docket nor even a computer record that the cases exist – and that the files would probably be available only on microfilm. I requested access to same. On both Tuesday and Wednesday mornings, I telephoned the clerk of the landlord/tenant part to find out the status of my requisition request. I have received no return calls in response to my two voice mail messages.

In the meantime, I am seeking the assistance of counsel in developing and refining my drafted affirmative defenses, which I have slightly modified based upon my review of the federal court and city court files I have. I am meeting with two separate counsel today for such purpose, as well as for assistance in the drafting of my counterclaims. Among these counsel is one referred by the Westchester County Bar Association's Lawyer Referral Service, the brochures for which are prominently displayed at the windows of the city court clerk's office.

Unlike Mr. Sclafani, who is going away on vacation for the first two weeks in August – and whose schedule you accommodated in setting the case down for August 27<sup>th</sup> – I will not be vacationing during the coming weeks. I have much work to attend to, including perfecting a petition for a writ of certiorari to the U.S. Supreme Court in the “disruption of Congress” case described in the February 2005 Village Voice article that Mr. Sclafani handed to Steve Lesh on July 16<sup>th</sup> for improper and maligning purposes.<sup>4</sup> The cert petition in that important case is due on August 17<sup>th</sup>.

Extending my time to answer to August 20<sup>th</sup> will in no way delay proceedings herein, on the Court's calendar for August 27<sup>th</sup>. Consequently, there is no prejudice to petitioner.

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<sup>3</sup> Needless to say, the litigation files also prove the material falsity of Mr. Sclafani's July 17, 2007 letter, enclosing:

“various decisions and orders of the United States District Court for the Southern District of New York, United States Court of Appeals for the Second Judicial Circuit and the United States Supreme Court pursuant to which the claims of respondent Elena Sassower and her mother, Doris Sassower, involving the events, facts and circumstances underlying and precipitating the instant proceeding were dismissed on their merits and monetary and monetary sanctions of more than \$93,000 were levied against the Sassowers for their frivolous and vexatious litigations in those matters.” (underlining added).

I will separately respond to such letter – and Mr. Sclafani's conspicuous and unexplained failure to enclose any of the city court decisions in the prior proceedings. Suffice to say, the truth with respect to the federal and city court litigations – and “the instant proceeding” – is diametrically opposite from what Mr. Sclafani's unsworn letter and oral representations would have this Court believe.

<sup>4</sup> See page 2 of my July 20, 2007 letter to the Court.

In that connection, I would point out that the petition not only does not identify any reason for termination of my "tenancy", but does not allege any urgency in connection with these proceedings. Indeed, had Mr. McFadden and Mr. Sclafani felt the need for expedition, they would not have allowed 12 days to elapse from the June 27<sup>th</sup> date on the notice of petition before serving me sometime in the afternoon on Monday, July 9<sup>th</sup> for a proceeding returnable on Monday morning, July 16<sup>th</sup>.

Since Mr. Sclafani felt that less than a week's time was sufficient for me to answer the petition, a comparable amount of time should be more than generous for him to read my answer in advance of the August 27<sup>th</sup> proceeding.

If, notwithstanding the foregoing, the Court does not extend my time to answer to August 20<sup>th</sup>, I ask that it grant me the Monday, July 30<sup>th</sup> date to answer it initially gave me before changing the date to Friday, July 27<sup>th</sup> for no other reason than that Mr. Sclafani wanted to see my answer before going on his vacation on July 30<sup>th</sup>. Inasmuch as Mr. Sclafani stated that he would be returning to his office by mid-August, he will have more than ample opportunity to see my answer at that time.

Thank you.

Very truly yours,



ELENA RUTH SASSOWER

cc: Leonard Sclafani, Esq.

By Fax: 212-949-6310

John McFadden

EP APPROVED EXTENSION 7/26/07

**Elena Ruth Sassower**

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EX K-2

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