

12/16/92

CITY COURT OF WHITE PLAINS: STATE OF NEW YORK  
COUNTY OF WESTCHESTER

-----x

JOHN McFADDEN,

Petitioner,

Index #651/89

-against-

Reply Affidavit  
in Further  
Support of  
Sanctions

DORIS L. SASSOWER and ELENA SASSOWER,

Respondents.

-----x

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

ELENA RUTH SASSOWER, being duly sworn, depose and say:

1. This Affidavit replies to Mr. Lehrman's shameful and unsubstantiated Affirmation, dated December 12, 1992 (sic).

2. Annexed hereto as Exhibit "A" is my faxed letter to Mr. Lehrman, dated December 3, 1992, demanding that he set forth factual details to support his claim at paragraph 12 thereof that his adjournment to December 2, 1992 was by "consent". As indicated by my handwritten notation thereon, receipt by Mr. Lehrman's office was confirmed by Diane at 11:06 a.m. on December 3, 1992.

3. In the two weeks since transmittal of the aforesaid fax, Mr. Lehrman has failed to respond<sup>1</sup>. This must be taken as

<sup>1</sup> Because my December 3rd fax to Mr. Lehrman indicated Judge Reap and Judge Holden as recipients thereof (Exhibit "A"), I contacted the Court to ascertain whether it had received any response from Mr. Lehrman. Catherine Richey, the Court Assistant, confirmed for me yesterday that no response from Mr. Lehrman was contained in the Court file.

Ex 2-3

an admission by him that he never requested or obtained my consent to the indicated December 2, 1992 adjournment.

4. Mr. Lehrman's inability to furnish any corroboration for his bald-faced lie to Ms. Wald on November 24, 1992, which he has repeated at paragraph 12 of his Reply Affirmation, demonstrate the falsity and perjuriousness of his representations to the Court that such adjournment was "on consent".

5. I again reiterate that Mr. Lehrman never requested or obtained my consent to the December 2, 1992 adjournment.

6. The foregoing incident underscores the fraudulent and perjurious nature of all of Mr. Lehrman's court submissions in this matter--which have already been carefully detailed by Respondents in our opposing papers both this year and last--and which are uncontroverted by Mr. Lehrman.

Respondents, therefore, respectfully request that this Court review: (a) our Affidavit, dated November 11, 1992; (b) the my Affidavit in Further Support of Sanctions, dated November 25, 1992; as well as (c) our Responding Affidavit of last year, dated November 16, 1991. These aforesaid documents, incorporated herein by reference, amply justify Respondents' request for sanctions, including denial of Mr. Lehrman's motion, dismissal of the petition, and referral of Mr. Lehrman to the Grievance Committee.

7. In connection with the balance of Mr. Lehrman's instant Reply Affirmation, it is likewise unsubstantiated and

seeks to mislead the Court by ignoring discussion of pertinent facts.

8. The irrefutable fact is that Mr. Lehrman's motion is premature--having been made while Respondents are in the midst of preparing their petition for a writ of certiorari to the U.S. Supreme Court.

9. Although Mr. Lehrman does not choose to acknowledge Respondents' right to pursue their federal appellate remedies (in a case in which his own client was originally a party-plaintiff), the U.S. Supreme Court takes the contrary view. As shown by the annexed notification, the Supreme Court has recently granted our request for an extension of time to file our petition for a writ of certiorari (Exhibit "B"). Such extension was granted on our submission of the lower courts' decisions and our Petition for Rehearing. An identical copy of our Petition for Rehearing was annexed as Exhibit "A" to Respondents' November 11, 1992 Affidavit to this Court<sup>2</sup>.

10. As set forth in Respondents' November 11, 1992 Affidavit, deferment of action by this Court is "not prejudicial to Petitioner, who himself makes no claim to the contrary" (at paragraph 10). Such further fact is undisputed by Mr. Lehrman's

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<sup>2</sup> Mr. Lehrman's complete failure to address either the facts and law set forth in that document permit him to repeat--three times in his short Reply Affirmation that "there is no possibility that the U.S. Supreme Court will hear the Sassower case". Since Mr. Lehrman is not one of the nine Supreme Court Justices who will determine the fate of Respondent's "cert" application, his representations of "no possible likelihood" are plainly false.

Reply Affirmation.

Elena Ruth Sassower  
ELENA RUTH SASSOWER

Sworn to before me this  
16th day of December 1992

[Signature]  
Notary Public

State of New York            )  
County of Westchester    )ss:

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

I am one of the above-named Respondents, have read the foregoing, and state that the allegations contained therein are true and correct to the best of my personal knowledge, information, and belief.

Doris L. Sassower  
DORIS L. SASSOWER

Sworn to before me this  
16th day of December 1992

[Signature]  
Notary Public

By Fax: 914-761-4672  
11:00 a.m.

16 Lake Street, Apt. 2C  
White Plains, New York 10603  
December 3, 1992

Frederic Lehrman, Esq.  
Lehrman, Kronick & Lehrman  
199 Main Street  
White Plains, New York 10601

RE: McFadden v. Sassower, Index #651/89

Dear Mr. Lehrman:

I have just received a copy of your Reply Affirmation, dated December 12, 1992 (sic), in today's mail. I note the following statement contained therein:

12. "Contrary to the contents of the further affidavit of the Respondents dated November 25, 1992. Your affirmant did speak with Elena Sassower about a one-week adjournment from November 25, 1992 to December 2, 1992 which was consented to."

I hereby demand that you furnish me by return fax (914-684-6554) the particulars as to your alleged conversation with me, setting forth the sum and substance of the said alleged conversation, as well as the time, place, and manner thereof.

Very truly yours,



ELENA RUTH SASSOWER

cc: Judge James B. Reap  
Judge John F. Holden, Jr.

Ex "A"

receipt by Lehrman's office  
confirmed by Diane 11<sup>06</sup>am 12/3/92

Supreme Court of the United States

No.

A-450

Elena Sassower and Doris L. Sassower,

Petitioners

v.

Katherine Field, et al.

ORDER

UPON CONSIDERATION of the application of the petitioner,

IT IS ORDERED that the time for filing a petition for a writ of certiorari in the above-entitled case, be and the same is hereby, extended to and including January 25th, 1992/3.

/s/ Clarence Thomas  
Associate Justice of the Supreme  
Court of the United States

Dated this 4th  
day of December, 1992.

Index No. 651 Year 19 89  
CITY COURT OF WHITE PLAINS: STATE OF NEW YORK  
COUNTY OF WESTCHESTER

JOHN McFADDEN,

Petitioner,

-against-

DORIS L. SASSOWER and ELENA SASSOWER,

Respondents.

REPLY AFFIDAVIT IN FURTHER SUPPORT OF SANCTIONS

**DORIS L. SASSOWER, [Redacted]**

**[Redacted]**  
Pro Se

Office and Post Office Address, Telephone  
**[Redacted]**  
**[Redacted]**  
**[Redacted]**

Elena Ruth Sassower  
Pro Se  
16 Lake Street, 2C  
White Plains, NY 10603

To

Attorney(s) for

Service of a copy of the within

is hereby admitted.

Dated,

.....  
Attorney(s) for

Sir:—Please take notice

NOTICE OF ENTRY

that the within is a (*certified*) true copy of a  
duly entered in the office of the clerk of the within named court on

19

NOTICE OF SETTLEMENT

that an order  
settlement to the HON.  
of the within named court, at  
on 19 at M.

of which the within is a true copy will be presented for  
one of the judges

Dated,

Yours, etc.

**DORIS L. SASSOWER, [Redacted]**

**[Redacted]**  
Pro Se

Office and Post Office Address  
**[Redacted]**

Elena Ruth  
Sassower  
Pro Se

To