

Elena Ruth Sassower

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BY HAND

March 1, 2010

Paul Kenny, Chief Clerk
Appellate Term, Second Judicial Department
141 Livingston Street, 15th Floor
Brooklyn, New York 11201

RECEIVED
APPELLATE TERM
CLERK'S OFFICE
10 MAR - 1 AM 10:33

RE: Quality Control at the Clerk's Office:
Certification Request Pursuant to Judiciary Law §255

John McFadden v. Doris L. Sassower & Elena Sassower

Appellate Term #2008-1427-WC;

#2009-148-WC

(White Plains City Court #SP-651/89; #SP-2008-1474)

John McFadden v. Elena Sassower

Appellate Term #2008-1428-WC;

#2008-1433-WC

(White Plains City Court #SP-1502/07)

Dear Mr. Kenny,

Following up my February 25, 2010 letter to you, stating, in pertinent part:

“If it is your contention that Judge Fria’s October 14, 2008 and July 3, 2008 orders and July 21, 2008 warrant were ever entered, please supply me with copies from the White Plains City Court’s Clerk’s Returns on Appeals for #SP-2008-1474 and #SP-651/89” (at p. 1, underlining in the original),

I draw your attention to **Judiciary Law §255 “Clerk must search files upon request and certify as to result”**.¹ It reads:

“A clerk of a court must, upon request, and upon payment of, or offer to pay...diligently search the files, papers, records, and dockets in his office...and certify that a document or paper, of which the custody legally belongs to him, can not be found.”

¹ Related statutory provisions, CPLR 4521 “Lack of record”, and CPLR 4540 “Authentication of official record of court or government office in the United States”, as well as a sample form for a “4521 Certificate of Clerk That a Certain Paper Is Not on File”, are set forth in my October 17, 2008 letter to White Plains City Court Clerk Patricia Lupi, annexed as Exhibit Q-1 to my Compendium of Exhibits accompanying my April 17, 2009 appellant’s brief in #2008-1427-WC and #2009-148-WC.

Pursuant thereto, I hereby request that you “diligently search the files, papers, records, and docket” of #2008-1427-WC and #2009-148-WC and certify that you cannot find an entered October 14, 2008 order, nor an entered July 3, 2008 order, nor an entered July 21, 2008 warrant.

Also pursuant thereto, I request that you “diligently search the files, papers, records, and docket” of #2008-1433-WC and #2008-1428-WC and certify that you cannot find any entry for Judge Hansbury’s October 11, 2007 order, nor for his January 29, 2008 order.

Please furnish these certifications forthwith so that there will be no further misrepresentations on the subject – the most recent being the Appellate Term’s unsigned February 23, 2010 order/judgment bearing what appears to be your stamped signature beside the word “ENTER:”.

Thank you.

Very truly yours,



ELENA RUTH SASSOWER

Appellant *Pro Se*

cc: Leonard A. Sclafani, Esq.
Doris L. Sassower
New York State Attorney General Andrew Cuomo
ATT: Deputy Solicitor General Benjamin N. Gutman
Assistant Solicitor General Diana R.H. Winters