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March 4, 2010

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

RE: Quality Control at the Clerk's Office:
Request for Clarification:

- (1) February 23, 2010 Decision & Order/Judgment for #2008-1427-WC:
John McFadden v. Doris L. Sassower & Elena Sassower
(White Plains City Court #SP-651/89)
- (2) February 23, 2010 Decision & Order/Judgment for #2008-1433-WC
& #2008-1428-WC – *John McFadden v. Elena Sassower*
(White Plains City Court #SP-1502/07)

Dear Mr. Kenny,

This is to supplement my three recent letters to you¹ based on:

1. the Appellate Term's February 23, 2010 decision, with accompanying order/judgment, determining my appeal #2008-1427-WC from Judge Friia's July 3, 2008 decision/order, July 21, 2008 judgment of eviction, and July 21, 2008 warrant of removal; and
2. the Appellate Term's February 23, 2010 decision, with accompanying order/judgment, determining my appeals #2008-1433-WC and #2008-1428-WC from Judge Hansbury's October 11, 2007 and January 29, 2008 decisions/orders.²

Copies are enclosed for your convenience.

¹ These three recent letters to you are: (1) my February 25, 2010 letter entitled "Demand for Recall & Correction of February 19, 2010 Orders"; (2) my March 1, 2010 letter entitled "Quality Control at the Clerk's Office: Request for Clarification: February 23, 2010 Decision & Order/Judgment"; and (3) my March 1, 2010 letter entitled "Quality Control at the Clerk's Office: Certification Request Pursuant to Judiciary Law §255".

² I was unaware of these two February 23, 2010 decisions and orders/judgments until I received copies on March 1, 2010 when I was at the Clerk's Office – the mailed copies having not yet been received by me.

Like the Appellate Term's February 23, 2010 decision and order/judgment determining my appeal #2009-148-WC from Judge Friia's October 14, 2008 decision – the subject of my March 1, 2010 letter to you for clarification – these two additional February 23, 2010 decisions and orders/judgments are unsigned by any judge. Here, too, the only signatures on them are your stamped signatures on the orders/judgments, affixed to the right of the word "ENTER:". As you confirmed when we spoke on March 1, 2010, these stamped signatures are for purposes of entry only.

As you know, CPLR §2219(b) states:

“an order of an appellate court must be signed by a judge thereof, except that upon written authorization by the presiding judge, it may be signed by the clerk or, in his or her absence or disability, by a deputy clerk.”, See New York Jurisprudence 2d, §15 “Signing of order”.

Please, therefore, explain why you have allowed all three February 23, 2010 orders/judgments to be entered when, *on their face*, they are not only unsigned, but fail to even indicate who was expected to sign them. If your Clerk's Office has signed originals, I request copies.

Like the February 23, 2010 order/judgment which falsified the entry status of Judge Friia's appealed-from October 14, 2008 decision, so too these February 23, 2010 orders/judgments falsify the entry status of Judge Friia's appealed-from July 3, 2008 decision and July 21, 2008 warrant and Judge Hansbury's appealed-from October 11, 2007 and January 29, 2008 decisions³. This you will be verifying when, pursuant to Judiciary Law §255, you respond to my other March 1, 2010 letter to you by providing me with certifications that you cannot find these entered documents, notwithstanding your “diligent[] search” for them in your “files, papers, records, and dockets”. As for the true entry date of Judge Friia's July 21, 2008 judgment of eviction, misrepresented by the February 23, 2010 order/judgment for #2008-1427-WC, that will be separately verified, if not by you than by administrative, disciplinary, and criminal authorities, upon investigation of the facts and circumstances surrounding the fax which the White Plains City Court Clerk's Office sent to your Clerk's Office on October 23, 2008, as recounted by my February 25, 2010 letter to you (at pp. 1-3).

Please note that ALL the questions raised by my March 1, 2010 letter to you for clarification as to “form and normal and customary procedures” with respect to the February 23, 2010 decision and order/judgment determining #2009-148-WC are applicable to the two February 23, 2010 decisions and orders/judgments determining

³ This decision, signed by Justice Hansbury on January 29, 2008, is referred to by the Appellate Term as “the order entered on January 30, 2008”. The January 30, 2008 date, however, is only the date it was file stamped by the White Plains City Court Clerk's Office.

appeals #2008-1427-WC, #2008-1433-WC, and #2008-1428-WC. They, too, appear to be drafts, possibly “by some court attorney who is either grossly incompetent or corrupt”. The decisions are double-spaced, entitled “DECIDED”, contain decretal paragraphs, and, like the untitled orders/judgments accompanying them, peculiarly end:

“Molia and Iannacci, JJ., concur.
Nicolai, P.J., taking no part.”

As stated by my March 1, 2010 letter for clarification:

“Isn’t the usual meaning of judges who ‘concur’ in a decision that they did not write it, but are agreeing in the decision of another judge? Palpably, there is no other judge, if ‘Nicolai, P.J.’ took ‘no part.’” (at p. 2)

Suffice to say that the Appellate Term’s February 23, 2010 decisions determining my appeals #2008-1427-WC, #2008-1433-WC, and #2008-1428-WC do so without identifying any of the facts, law, or legal argument I presented by my briefs and at oral argument, indeed, without identifying any of the “Questions Presented” forming the basis of my appeals. The decision in #2008-1427-WC (#SP-651/89), vacating Judge Friia’s July 21, 2008 judgment and dismissing Mr. McFadden’s 1989 petition, essentially grants the relief to which I and my mother were entitled by my August 13, 2008 vacatur/dismissal motion to the Appellate Term, without identifying that fact. As for the decision in #2008-1433-WC and #2008-1428-WC, granting, “upon searching the record”, summary judgment to Mr. McFadden on his 2007 petition and dismissing my affirmative defenses and counterclaims, it obliterates ALL adjudicative and evidentiary standards and is a flagrant fraud, *readily-verifiable* from the record purported to have been “search[ed]”, whose relevant particulars my briefs had comprehensively summarized.

I understood from our March 1, 2010 conversation that your Clerk’s Office does not draft the orders/judgments from the decisions, but that these – like the decisions – are the product of the judges and/or law clerks. Please confirm that this is so.

In that regard, both these two additional February 25, 2010 orders/judgments – in a fashion identical to that described by my March 1, 2010 letter for clarification – also contain the sweeping fraud, not found in the decisions, that the outcome of my appeals are the result of “due deliberation having been had” – standard verbiage whose falsity is resoundingly proven by the record. Here, too, insofar as the orders/judgments recite, in bold-faced, capitalized type, that I “**argued**” the appeals “**IN PERSON**” – implying a significance not possessed by my briefs, which are not mentioned – the decisions

identify nothing I said “**IN PERSON**” at the oral argument.⁴

There is, however, an additional respect in which the order/judgment determining #2008-1427-WC is improper. It fails to list my mother, Doris L. Sassower, as a recipient, notwithstanding she is a party in the underlying White Plains City Court case #SP-651/89, entitled to notice by reason thereof. This omission contrasts with the same-dated order/judgment determining #2009-148-WC, which lists her as a recipient.⁵ Here, as there, the order/judgment also improperly changes the caption: switching the designation of my mother from “Respondent” to “Tenant” – which she is not – while not comparably changing John McFadden’s designation from “Respondent” to “Landlord”. Why is this when both filed no briefs on my appeal in #2008-1427-WC?

There is also an additional respect in which the order/judgment determining #2008-1428-WC is improper. Its caption wrongly identifies the underlying White Plains City Court case as #SP-651/89 when, like #2008-1433-WC, it is #SP-1502/07.

As previously stated, I await your expeditious response so that I may be guided accordingly in safeguarding my continuously trampled rights – and, in conjunction therewith, those of my mother, Doris L. Sassower, a respondent on appeals #2008-1427-WC and #2009-148-WC.

Thank you.

Very truly yours, ..



ELENA RUTH SASSOWER
Appellant *Pro Se*

Enclosures: (1) February 23, 2010 decision & order/judgment in #2008-1427-WC
(2) February 23, 2010 decision & order/judgment
in #2008-1433-WC & #2008-1428-WC

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

⁴ Nor do the decisions identify anything Mr. Sclafani said – most importantly, his admission, in response to questioning, that “there never was a tenancy”, which I recounted in my January 2, 2010 motion to disqualify Justice Fria (at fn. 1) – without dispute from Mr. Sclafani.

⁵ Consistent therewith, my mother received from the Appellate Term its decision and order/judgment determining #2009-148-WC, but not determining #2008-1427-WC.