



Appellate Term
Supreme Court of the State of New York
2nd, 11th & 13th and 9th & 10th Judicial Districts

PAUL KENNY
CHIEF CLERK

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March 16, 2010

Ms. Elena Ruth Sassower
16 Lake Street (Apt 2C)
White Plains, New York 10603

Re: **McFADDEN v SASSOWER**
Appellate Term Docket Nos. 2008-1427
2008-1428
2008-1433
2008-148

Dear Ms. Sassower:

This letter is in partial response to your various letters directed to my attention. As I have advised you on many occasions in the past, we have a very heavy caseload at the Appellate Term and I cannot personally answer every correspondence sent to me by a litigant. As you are well aware, my able staff in the clerk's office has devoted an extraordinary amount of time serving you at the counter as well as by telephone. The clerks are very knowledgeable regarding our procedure and almost always check with me or with my deputy when they are at all unsure of the correct answer.

As I have also advised you many times in the past, a clerk, even the chief clerk, generally has only ministerial duties and cannot substantively change, correct or alter an order or decision of the court. As such, to the extent you wish me to "correct" the court's appeal order and decision with respect to the "entry" of the lower court's orders, such a request must be made by motion on notice.

Although I have been advised by the Office of Court Administration that I do not have to provide you with copies of signed motion orders or decisions (since we do not provide same to any parties), since a member of the clerk's office showed you a copy of the signed order, I am enclosing a copy of it for your records.¹ In as much as the signed appeal decisions are physically part of the court's confidential report and not available to the public, I will not provide you with a signed copy of the appeal decisions.

As regards your request for a copy of the presiding justice's administrative order bestowing upon me permission to sign the court's orders, I have attached a copy hereto.

¹ As I advised you at the counter last week, the Appellate Term will very shortly follow the procedure of the Appellate Division, where the consultation clerk records the votes of the justices and the justices do not sign the court's order and decision.

In partial response to your March 12, 2010 letter, please be advised that the Appellate Term, at present, does not have a website. We are currently working on one and hope to have it up and running by sometime this summer. Nor do we have a "manual" or other written document regarding our internal procedures. In any event, if we did it would not be available to you or any member of the public. Information regarding the staffing of our Law Department is a matter of public record in the unified court system's budget report and I would direct your attention there for any information on that subject, though its relevance to the prosecution of your appeal escapes me.

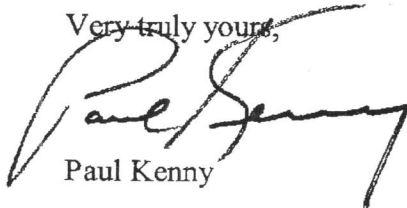
Regarding your question as to the extent to which our "process" compares to the Appellate Division as set forth on their website, I would say that they are substantially the same, with two significant distinctions: Unlike the Appellate Division, we do not hear the appeals on printed "records or appendices," rather, the court receives the clerk's return (from the lower court), that is, the original file as certified by the trial court. And, although we will soon be transitioning to the Appellate Division's procedure of recording votes at consultation rather than the justices physically signing the decisions, at present, the justices sign a decision, and an order is later drafted by the clerk's office and signed by the chief clerk or deputy clerk.

Each Appellate Term justice has a supreme court law clerk. I am unaware of the extent to which each judge's law clerk participates, if at all, in the processing of Appellate Term appeals. Since each justice has a full case load in Supreme Court, I would assume that their law clerks spend significantly less time on appeals than their counterparts in the Appellate Division. Once again the relevance to your appeals eludes me completely.

As for the Deputy Clerk, we had one performing the function you described (for more than 30 years). However he retired in August of 2009. I have been performing his consultation clerk duties with respect to the 9th and 10th Judicial Districts since his departure.

I trust this is a comprehensive response to your inquiries. If you have any further questions, please direct them to the clerk's office. I know that you are concerned with the time limitations with respect to your motion to reargue / leave to appeal. If you are having any difficulty, make a written request for additional time and I am confident that given the complexity of your issues, the court will be favorably disposed to granting additional time.

Very truly yours,



Paul Kenny

cc: via fax

At a term of the Appellate Term of the Supreme Court of the State of New York for the 9th & 10th Judicial Districts

HON. EDWARD G. McCABE, J.P.
HON. MELVYN TANENBAUM
HON. DENISE F. MOLIA, JJ.

OCT 01 2008

-----X
JOHN McFADDEN,

Respondent,

-against-

NO. 2008-1427 W C

DORIS L. SASSOWER,

Respondent,

-and-

Lower Ct #

SP-651/89

"SP 2008-1471"

ELENA SASSOWER,

Appellant.

-----X
JOHN McFADDEN,

Petitioner,

-against-

NO. 2008-1504 W C

DORIS L. SASSOWER and ELENA SASSOWER,
Respondents.

-----X
The above named appellant having appealed to this court from an ORDER of the CITY COURT, WHITE PLAINS, WESTCHESTER COUNTY entered on JULY 3, 2008, and the APPELLANT (ELENA SASSOWER) having moved this court by order to show cause returnable AUGUST 13, 2008 to STAY THE ENFORCEMENT OF THE FINAL JUDGMENT ENTERED JULY 21, 2008 PENDING THE DETERMINATION OF THE APPEAL and the APPELLANT (ELENA SASSOWER) having moved this court by notice of motion returnable AUGUST 21, 2008 to VACATE THE DECISION OF THIS WHITE PLAINS CITY COURT DATED JULY 3, 2008 AND FOR OTHER RELIEF and the RESPONDENT (JOHN McFADDEN) having moved this court by order to show cause returnable SEPTEMBER 4, 2008 to ENLARGE THE TIME TO SUBMIT OPPOSITION PAPERS TO THE MOTION RETURNABLE AUGUST 21, 2008 and the RESPONDENT (DORIS SASSOWER) having moved this court by order to show cause returnable AUGUST 18, 2008 to STAY ALL PROCEEDINGS PENDING THE DETERMINATION OF THE APPEAL and said motions having duly come on to be heard;

RE: JOHN MCFADDEN v DORIS L. SASSOWER and ELENA S. SASSOWER
NO. 2008-1427 W C

-----X
JOHN McFADDEN v DORIS L. SASSOWER and ELENA SASSOWER
NO. 2008-1504 W C
-----X

Now, on reading the papers filed in support of said motion and the papers filed in opposition thereto, and due deliberation having been had thereon, it is,

ORDERED that on the court's own motion are hereby consolidated for disposition; and it is further,

ORDERED that on the court's further motion, the appeal by Elena Sassower from the order of the City Court of White Plains, Westchester County (Jo Ann Friia, J.), dated July 3, 2008, is deemed from the final judgment of said court entered, pursuant to the July 3, 2008 order, on July 21, 2008 (see CPLR 5512 [a]; Neuman v Otto, 114 AD2d 791 [1985]); and it is further,

ORDERED that the motion by John McFadden to enlarge time to submit opposition to the motion returnable August 21, 2008 is granted and the opposition papers are deemed timely served and filed; and it is further,

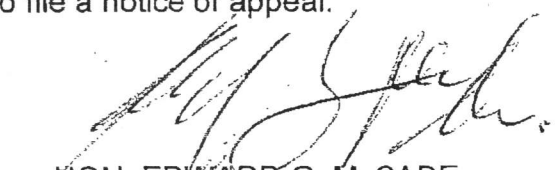
ORDERED that the motion by Doris Sassower for a stay is denied; and it further,

ORDERED that the motion by Elena Sassower to vacate the decision and order of the White Plains City Court dated July 3, 2008 and its final judgment entered July 21, 2008, and for other relief is denied; and it is further,

ORDERED that the motion by Elena Sassower seeking in effect to stay enforcement of the final judgment entered July 21, 2008 is granted and enforcement of the final judgment is stayed pending hearing and determination of the appeal on condition that the appeal is perfected on or before December 5, 2008. Movant is directed to pay John McFadden any and all arrears in rent/and or use and occupancy at the rate most recently payable within 10 days from the date of this order and to continue to pay use and occupancy at a like rate as the same becomes due; and it is further,

ORDERED that in the event that any of the above conditions are not met, the court, on its own motion, may vacate the stay, or respondent John McFadden may move to vacate the stay on three days' notice.

We note that Doris L. Sassower has failed to file a notice of appeal.


HON. EDWARD G. McCABE
JUSTICE PRESIDING
Appellate Term

Supreme Court of the State of New York
Appellate Division: Second Judicial Department

ADM 2008-0207

Pursuant to the power vested in me by subdivision (b) of section 2219 of the Civil Practice Law and Rules and section 80.3 of title 22 of the New York Code of Rules and Regulations, I, A. Gail Prudenti, the Presiding Justice of the Appellate Division of the Supreme Court of the State of New York for the Second Judicial Department, do hereby

AUTHORIZE the clerk of the Appellate Terms for the Second and Eleventh Judicial Districts and of the Ninth and Tenth Judicial Districts, respectively, or in his or her absence, the deputy clerk of the said courts, to sign the orders thereof.

Dated: Brooklyn, New York

February 7, 2008



A handwritten signature in black ink, appearing to read "A. Gail Prudenti".

A. GAIL PRUDENTI

Presiding Justice