

CITY COURT OF WHITE PLAINS  
COUNTY OF WESTCHESTER

City Court of White Plains

FILED

JOHN McFADDEN.,

Petitioner (Landlord)

DORIS L. SASSOWER AND ELENA SASSOWER.  
16 LAKE STREET, APARTMENT 2C  
WHITE PLAINS, NEW YORK..

Against

Respondent (Tenant)

NOTICE OF PETITION  
and

PETITION TO  
RECOVER REAL PROPERTY  
HOLDOVER

6051/89

To The Respondent(s) above named and described in possession of the premises hereinafter described of claiming possession thereof:

TAKE NOTICE that a hearing on the following petition to recover possession of said premises will be held on the 10th day of April 1978 at 9:00 o'clock in the forenoon before the above named court at 279 Hamilton Avenue, White Plains, NY 10601. TAKE FURTHER NOTICE that in accordance with Sec. 743, RPAPL, demand is hereby made for compliance with said section and that answer be served upon the attorney for the landlord three days prior to return date.

TAKE FURTHER NOTICE that demand is made in the petition herein for judgment against you, the Respondent Tenant for possession of the premises, for rent due of \$ and for reasonable attorneys fees in the amount of \$ 160.00 per hour plus costs and disbursements pursuant to the lease.

TAKE FURTHER NOTICE that if you fail to interpose and establish any defense that you may have to the allegations of the petition, you may be precluded from asserting such defense or the claim on which it is based in any other proceeding or action.

DATE: March 27, 1989

Attorney for Petitioner:

Stephen J. Lehrman, 199 Main St.  
White Plains, N.Y. 10601

4124 ATM RY

PETITION

NO APPEARANCE BY TENANT  
FINAL ORDER & WARRANT  
STAY TO  
JUDGMENT GRANTED

respectfully shows that:

The petition of John McFadden

1. Petitioner is the owner and landlord of the premises.
2. Respondent Doris L. Sassower and Elena Sassower is the tenant of said premises who entered in possession thereof under a month to month rental agreement between respondent and the landlord, wherein respondent promised to pay to landlord as rent \$ each month in advance on the 1st day of each month.
3. Respondents are now in possession of said premises and said premises complies with the warranty of habitability., SEC. 235B
4. The term for which said premises were rented by the respondent tenant expired on 11/30/88 pursuant to the notice of termination, a copy of which is annexed hereto, and which was served on tenant on 10/17/88. The facts on which this proceeding are based are set forth in the annexed notice.
5. Said notice of termination was served on respondent on 10/17/88.
6. The respondents continue in possession of the premises without permission of the landlord, or of the petitioner after the expiration of said term.
7. The property herein sought to be recovered is the residence of the tenant herein.
8. The petitioner requests reasonable attorney fees of \$ 160.00 per hour plus costs and disbursements.
9. The premises being known as 16 Lake Street, Apt. 2C, White Plains, NY

Petitioner requests: a final judgment awarding possession of the premises to the petitioner-landlord, the issuance of a warrant to remove the respondents from possession of the premises, a judgment for rent in arrears against respondent tenant for \$ with interest from 19, reasonable attorneys fees of \$160.00 per hour plus costs and disbursements pursuant to the lease.

DATED: March 27, 1989

Petitioner

The name signed must be printed beneath:

JOHN McFADDEN

STATE OF NEW YORK, COUNTY OF WESTCHESTER  
JOHN McFADDEN

ss:

being duly sworn deposes and says that deponent is the petitioner in

the foregoing petition and has read said petition and that the contents of said petition by said petitioner subscribed are true to the knowledge of deponent. That deponent is not a party to the proceedings herein and is not a party to the proceedings herein and is not a party to the proceedings herein.

Sworn to before me on March 27, 1989

CLAUDE J. ABRAHAM  
Notary Public, State of New York  
No. 40-4786620  
Qualified in Westchester County  
Term Expires 12/31/1991

NOTARY PUBLIC

JOHN McFADDEN

The name signed must be printed beneath:

IMPORTANT TO TENANT - If you are dependent upon a person in the military service of the United States or the State of New York, advise the court at the hearing, in order to protect your rights.

Courtesy Clerk

EX 0-1

651/89

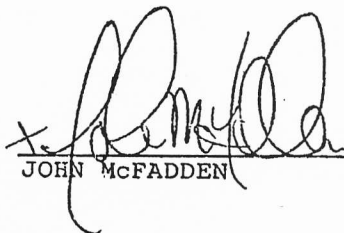
TO: Doris L. Sassower and Elena Sassower  
16 Lake Street, Apartment 2-C  
White Plains, New York 10603

PLEASE TAKE NOTICE that the undersigned landlord does hereby elect to in accordance with Section 232B of Real Property Law of the State of New York, and does terminate your tenancy as of November 30th, 1988 and the tenancy of all those claiming under you with respect to those certain premises described as follows:

16 Lake Street, Apartment 2-C  
White Plains, New York 10603

YOU ARE FURTHER NOTIFIED that you are required to remove from the said premises on or before November 30th, 1988.

UPON YOUR FAILURE TO VACATE said premises, the undersigned landlord will commence summary proceedings to remove you therefrom.

  
JOHN McFADDEN

Dated: White Plains, NY  
October 12, 1988

Present: HON. JO ANN FRILIA  
CITY COURT JUDGE

-----X  
JOHN MCFADDEN,

Petitioner,

-against-

DORIS L. SASSOWER and ELENA SASSOWER,

Respondents.  
-----X

**DECISION ON MOTION**

TO COMMENCE THE  
STATUTORY TIME PERIOD  
FOR APPEALS AS OF RIGHT  
(CPLR 5513[a]) YOU ARE  
ADVISED TO SERVE A COPY  
OF THIS ORDER, WITH NOTICE  
OF ENTRY, UPON ALL PARTIES.

INDEX NO.: SP 651/89  
MOTION DATE: 12/17/91

Reassigned and resubmitted: 6/30/08

Notice of Motion	1
Affidavit of John McFadden	2
Exhibits (unmarked)	3
Filed Papers: All papers on file.	

Upon the foregoing papers, the Court finds and decides as follows:

Procedural History:

This summary holdover proceeding was commenced on April 4, 1989 by service of a notice of petition and petition upon the above-captioned respondents. On April 24, 1989, the respondents filed a motion with the City Court which requested various forms of relief. By decision and order entered September 18, 1989, the Hon. James Reap denied those branches of the motion which sought dismissal of the proceeding based upon lack of subject matter jurisdiction and inadequate notice, and directed the respondents to file their answer on or before October 6, 1989. The respondents filed an answer with the City Court on June 6, 1990.

Sometime in August 1988, the respondents commenced an action in the United States District Court, Southern District of New York against the Board of Directors (the "Board") and the Cooperative Corporation (the "Corporation") alleging housing discrimination, a violation of the New York Executive Law, estoppel and damages for severe emotional distress. On March

20-2

19, 1991, the jury returned a special verdict in favor of the Board and Corporation. By judgment of the United States District Court dated March 20, 1991, the action was dismissed.

On November 25, 1991, the petitioner served and filed a motion for summary judgment. By decision and order dated December 19, 1991, the Hon. James Reap reserved decision pending a determination of respondent's appeal by the United States Court of Appeals for the Second Circuit.

On July 9, 2007, approximately fifteen (15) years and eight (8) months after the Hon. James Reap reserved decision in this matter, the petitioner commenced a summary holdover proceeding against respondent Elena Sassower under Index No. SP 1502/07. In motion papers filed in connection with SP 1502/07, the City Court has now been provided with the information which the Hon. James Reap deemed necessary in his decision to reserve on petitioner's motion for summary judgment. Specifically, on appeal, the Second Circuit affirmed both the District Court's decision to impose sanctions upon the above-captioned respondents and the denial of their motion for a new trial (*see Sassower v. Field*, 973 F.2d 75 [U.S. Ct. of Appeals, 2d Cir. 1992]; *certiorari denied*, 507 U.S. 1043 [1993]).

On June 30, 2008, the parties were advised in open court that the Hon. James Reap retired in or about December 1992 and that this Judge would consider petitioner's motion for summary judgment *de novo*, supplemented only by the Second Circuit decision cited above.

Petitioner's Motion for Summary Judgment:

The papers before this Court establish the following: On or about October 30, 1987, the petitioner and respondents entered into a contract of sale for the subject cooperative apartment (the "Apartment"). The parties also executed an "occupancy agreement" which provided for "temporary occupancy" of the Apartment pending Board approval of respondents' application to purchase same. In or about May and June 1988, the respondents received communication(s) from the Board of Directors which disapproved their application to purchase. Under the terms of the occupancy agreement, respondents' right to occupy the Apartment terminated in May 1988.

Shortly thereafter, respondents commenced the federal lawsuit in the United States District Court, Southern District of New York, asserting the various claims referenced by the federal court decision(s). Ultimately, the federal lawsuit was dismissed and sanctions were imposed upon the respondents for their frivolous conduct.

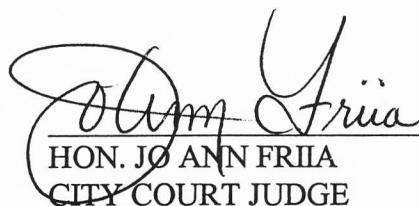
As noted in Judge Reap's decision dated December 19, 1991, "[i]f [the respondents] also lose in the U.S. Court of Appeals [the case in City Court] will be effectively terminated. This follows because all respondents' claims in the federal action were dismissed and it is those exact claims that form their defense in the City Court summary proceeding." In fact, respondents' appeal to the U.S. Court of Appeals for the Second Circuit was a failure. In its opinion, the Second Circuit affirmed the District Court's decision which imposed sanctions and also denied respondents' request for a new trial. The U.S. Supreme Court denied respondents' writ of certiorari.

Upon the credible evidence, petitioner has established his entitlement to judgment as a matter of law. In view of the results of respondents' federal law suit, and having considered the defenses raised in this proceeding, respondents have failed to raise a material triable issue of fact. Accordingly, summary judgment is granted. A judgment of possession and warrant to remove shall issue forthwith, with a statutory stay of execution.

Submit judgment for signature.

**THIS DECISION CONSTITUTES THE ORDER OF THE COURT**

Dated: White Plains, New York  
July 3, 2008

  
HON. JO ANN FRIIA  
CITY COURT JUDGE

TO: Lehrman, Kronick & Lehrman  
Attorneys for Petitioner  
199 Main Street  
White Plains, New York 10601

Lawrence J. Glynn, Esq.  
Attorney for Respondent  
2 William Street  
White Plains, New York 10601

Peter Grishman, Esq.  
Attorney for Respondent  
194 Deerfield Lane North  
Pleasantville, New York 10570

Doris L. Sassower  
Respondent Pro Se  
283 Soundview Avenue  
White Plains, New York 10606

Elena Sassower  
Respondent Pro Se  
16 Lake Street, Apartment 2C  
White Plains, New York 10603

Leonard A. Schafai, Esq. (courtesy copy)  
Attorney for Petitioner  
18 East 41<sup>st</sup> Street, 15<sup>th</sup> Floor  
New York, New York 10017

CITY COURT OF THE CITY OF WHITE PLAINS  
COUNTY OF WESTCHESTER

FILED CITY COURT OF  
WHITE PLAINS, N.Y.

JOHN MCFADDEN

Petitioner

Index #SP 651/89

2009 JUL 11 A 10:12

JUDGMENT-HOLDOVER

472 Clearmeadow Drive  
East Meadow, New York 11554

-against-

Judgment Rendered  
in Favor of Petitioner  
Residing at  
472 Clearmeadow Drive  
East Meadow, NY 11554

DORIS L. SASSOWER

Respondent

283 Soundview Avenue  
White Plains, NY 10606

and

ELENA SASSOWER

Respondent

16 Lake Street, Apt 2C  
White Plains, NY 10603

- - - - - X

Petitioner having duly commenced this summary holdover proceeding on April 4, 1989 by service of the Notice of Petition and Petition filed herein upon the above-captioned respondents; and respondents having filed a motion with this Court seeking various forms of relief including dismissal of the proceedings based upon lack of subject matter jurisdiction and inadequate notice; and, by Decision and Order entered on September 18, 1989, this Court denied respondents' said motion; and petitioner having served and filed a motion for summary judgment herein on November 25, 1991; and, by Decision and Order dated December 19, 1991, this Court reserved decision on the said motion pending a determination by the United States Court of Appeals for the Second Circuit of an appeal that had been filed by respondents of decisions of the United States District for the Southern District of New York that denied respondents' motion for a new trial and granted sanctions against respondents for frivolous conduct in commencing and maintaining an action against the Board of Directors of the cooperative corporation that owns the premises the subject of the above captioned proceeding and the



building in which it was situated in which respondents alleged housing discrimination, a violation of New York Executive Law, estoppel and damages for severe emotional distress and also pending receipt by this Court of notification of the outcome of respondents' appeal; and the United States District Court for the Second Circuit having denied respondents' appeal and having affirmed the decisions of the United States District Court appealed from (except that, as to respondent Elena Sassower, the Court vacated the imposition of sanctions solely on the ground of said respondents' impoverished condition) and this Court having been notified of the said decision of the United States Court of Appeals on July 9, 2007, thereby rendering petitioner's pending motion for summary judgment ripe for adjudication in accordance with the above described December 19, 1991 Decision and Order of this Court; and this Court having now considered petitioner's motion for summary judgment *de novo* and, by Decision and Order entered herein on July 3, 2008, having granted petitioner's said motion;


NOW, on motion of petitioner, through his attorneys, Leonard A. Sclafani, P.C. in person, it is

ADJUDGED, that the possession of the premises described in the petition herein, to wit, Unit 2C in the building known as 16 Lake Street, White Plains, New York, be awarded to the petitioner-landlord with \$55.00 costs of this proceeding, and it further

ADJUDGED, that a warrant of eviction issue, such issuance to be stayed to and including the 31<sup>st</sup> day of July, 2008

Dated: July 21, 2008

Enter

  
JoAnn Friia, Judge



CITY COURT OF THE CITY OF WHITE PLAINS  
COUNTY OF WESTCHESTER

-----  
JOHN MCFADDEN

Petitioner

472 Clearmeadow Drive  
East Meadow, New York 11554 (Address)

FILED CITY COURT OF  
WHITE PLAINS, NY Index #SP 651/89

2000 JUL 11 A 10:12

WARRANT  
HOLD OVER

-against-

DORIS L. SASSOWER

Respondent

283 Soundview Avenue  
White Plains, NY 10606 (Address)

and

ELENA SASSOWER

Respondent

16 Lake Street, Apt 2C  
White Plains, NY 10603 (Address)

-----X

To

GREETING:

Whereas, John McFadden has made petition in due form in writing, and presented the same, duly verified, to this Court that he is the Petitioner-Overlandlord of the premises hereinafter described, and that on or about the 30<sup>th</sup> day of October, 1987, he granted possession to respondents of the premises known as Unit 2C in the building known as 16 Lake Street situate in the City of White Plains, State of New York; under a written occupancy agreement incident to a contract made by petitioner with respondents for the sale to respondents of petitioner's interest in the said premises for a term commencing on the 30<sup>th</sup> day of October 1987 which said term ended in May, 1988, which term has expired, and that the said respondents hold over and continue in possession of the same, without permission of the Landlord, after the expiration of respondents' term therein, and

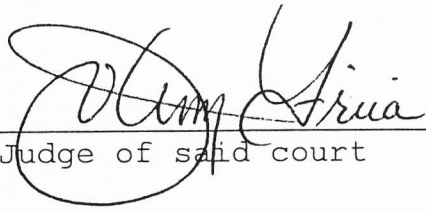
Whereas, a notice of motion for summary judgment was duly

EX-4

made herein by petitioner, John McFadden, directed to respondents specifying the time and place of the hearing of the motion, and proof of service of the notice of motion was presented and upon the motion of petitioner for summary judgment, I did thereupon render final judgment awarding to Petitioner, among other things, the delivery of the possession of said property;

Therefore, in the name of the People of the State of New York, You are Commanded to remove respondents Doris Sassower and Elena Sassower from the said premises, and put the Petitioner in full possession thereof.

In Witness Whereof, I have subscribed to these presents, this 21st day of July, 2008

  
\_\_\_\_\_  
Judge of said court

Pursuant to the command of the above Warrant, I have this day put the Petitioner into full possession of the premises above mentioned.

Dated this \_\_\_\_\_ day of \_\_\_\_\_, 2008

\_\_\_\_\_