

-9

CRITIQUE

Numbers on the left reflect the numbering of paragraphs in Defendants' Answer filed by Assistant Attorney General Jay Weinstein.

Ver Compl = Verified Complaint
Chrono = Chronology

Answer

3. Denial to Ver Compl ¶5:
Defendant's denial is false and in bad faith. This is documentarily established by the Second Department's order transferring the 1979 disciplinary proceedings against DLS to the First Department and the First Department's order dismissing the charges against Plaintiff, with leave to her to seek sanctions against her prosecutors in Second Department. Said orders are or were in the possession of all Defendants [inter alia, Exhibits "V-1" and "V-2" to Plaintiff's 11/19/93 dismissal/summary judgment motion].
16. Denial to various allegations of Ver Compl ¶23
Defendants' denial is false and in bad faith. This is documentarily established by payment vouchers which are or were in the possession of all Defendants--one such voucher having been annexed to Plaintiff's submission to the Court of Appeals in her Article 78 proceeding, Sassower v. Mangano [Exhibit "5" to Plaintiff's 3/14/94 ltr to the Court of Appeals in support of jurisdiction]
17. Denial to various allegations of Ver Compl ¶24
Defendant Attorney General Koppell's denial is false and in bad faith. Said Defendant received from Plaintiff a full set of the court papers in Castracan v. Colavita and Sady v. Murphy, as well as copies of her complaints of judicial corruption, filed with the New York State Commission on Judicial Conduct.

20. DKI as to Ver Compl ¶¶31-39: [Chrono #4-#14]

Defendants' DKI responses are false and in bad faith. This is documentarily established by Plaintiff's appellate brief and Record on Appeal in Breslaw v. Breslaw, #00562/4, which is in the possession of Defendant Second Department, and which was decided by it on November 28, 1994.

21. Denial as to Ver Compl ¶40: [Chrono #15]

Defendants' denial is false and in bad faith. All Defendants except Defendant Referee are or were in possession of Justice Fredman's July 13, 1989 decision, printed in the July 23, 1989 New York Law Journal, with Defendant Second Department in possession of copies of Gannett articles referred to in ¶40, as part of the record on appeal in Breslaw v. Breslaw, #00562/4.

The fact that Defendant Grievance Committee rendered a July 29, 1989 ex parte report, which it thereafter transmitted to Defendant Second Department is documentarily established, inter alia, by Defendant Second Department's December 14, 1989 order rendered thereon. [Exhibit "AA-2" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

22. DKI to Ver Compl ¶41: [Chrono #16]

Respondents' DKI response is false and in bad faith. Defendants' denial of discovery of the Grievance Committee's ex parte July 31, 1989 report is personally known to all Defendants and has been the subject of continuous litigation. This is documentarily established by the disciplinary files under A.D. #90-00315, including transcripts of hearings on the February 6, 1990 disciplinary petition. Such denial was a focal issue of Plaintiff's Article 78 proceeding, Sassower. v. Mangano, et al..

**23. DKI to the first two sentences of Ver Compl ¶42 [Chrono ##17-20]

Respondents' denial is false and in bad faith. Plainly Defendants Grievance Committee members and Casella have knowledge of the July 31, 1989 report, which they themselves produced and know

whether any inquiry was conducted by them following Plaintiff's final submission of responses to the complaints of former clients filed against her.

24. DKI to Ver Compl ¶43: [Chrono ##22-3]

Respondents' denial is false and in bad faith. Defendant Second Department is in possession of Plaintiff's appellate brief and Record on Appeal in Breslaw v. Breslaw, #00562/4, which includes Justice Fredman's denial of Plaintiff's recusal motion [A-38].

25. Admit, on info and belief, to Ver Compl ¶44: [Chrono #22]

Defendants' qualified admission is false and in bad faith. Defendant Second Department is in possession of Plaintiff's appellate brief and Record on Appeal in Breslaw v. Breslaw, #00562/4, containing a copy of the Defendant Second Department's August 24, 1989 decision [A-190-201; A-211-215].

26. DKI to Ver Compl ¶45: [Chrono #24]

Defendants' denial is false and in bad faith. Defendant Second Department is in possession of Plaintiff's appellate brief and Record on Appeal in Breslaw v. Breslaw, #00562/4, containing the papers in the Article 78 proceeding referred to therein [A-216-237].

DKI to Ver Compl ¶54: [Chrono #33]

Defendants' denial is false and in bad faith. Defendant Second Department is in possession of Plaintiff's appellate brief and Record on Appeal in Breslaw v. Breslaw, #00562/4, containing the Gannett article in question [A-349].

DKI to Ver Compl ¶46, 48, 49, 52: [Chrono #25, 27, 28, 31]

Defendant Attorney General Koppell's DKI response is false and in bad faith, the full files of Castracan v. Colavita having been provided him in May 1992, reflecting the truth of the allegations

set forth in the above-numbered paragraphs.

DKI to Ver Compl ¶54: [Chrono #33]

27. Admit to Ver Compl ¶55, deny dilatory and referring Court to 22 N.Y.C.R.R. §691.4(k) for terms [Chrono #21]

29. Denial to Ver Compl ¶57, but refer court to December 14, 1989 order for content: [Chrono #36]

Defendants' denial is false and in bad faith. This is documentarily established by the face of Defendant Second Department's order itself. Said order, which is a court document, is or was in the possession of all Defendants [inter alia, Exhibit "A" to Article 78 proceeding].

30. Gobbledegook response to Ver Compl ¶58: [Chrono #37]

Defendants' denial is false and in bad faith, their response admitting the totality of allegations.

31. Partial denial to Ver Compl ¶59: [Chrono #38]

Defendants' denial is false and in bad faith. This is documentarily established by the February 6, 1990 disciplinary petition itself--which is or was in the possession of all Defendants [inter alia, Exhibit "C" to Plaintiff's Article 78 proceeding].

32. Gobbledegook response to Ver Compl ¶60: [Chrono #39]

Defendants' denial is false and in bad faith, their response admitting the totality of the allegations.

33. Partial DKI to Ver Compl ¶61: [Chrono #40]

Respondents' DKI response is false and in bad faith. This is documentarily established by the face of Plaintiff's Verified Answer, which Defendants acknowledge as having been received by the Grievance Committee on March 8, 1990. Said Verified Answer is or

was in the possession of all Defendants [inter alia, Exhibit "U" to Plaintiff's 11/19/93 dismissal/summary judgment motion]. [compare Defendants' #34 herein to Ver Compl ¶62].

35. DKI to Ver Compl ¶63-65: [Chrono ##43-45]

Defendants' denial is false and in bad faith. This is documentarily established by the uncontroverted record in Breslaw v. Breslaw, #00562/4, in the possession of Defendant Second Department and the subject of adjudication by it on November 28, 1994.

36. Partial Denial to Ver Compl ¶66: [Chrono #46]

Defendants' denial is false and in bad faith. This is documentarily established by Defendant Casella's Order to Show Cause, signed by Justice Isaac Rubin on May 8, 1990, which is or was in the possession of all Defendants, except Defendant Galfunt. As reflected thereon, said Order to Show Cause was pursuant to §691.13(b)(1) and sought the relief described in ¶66. As personally known to Defendant Casella, who also knows where Justice Rubin's chambers were located, said Order to Show Cause was procured ex parte

37. Denial to Ver Compl ¶67: [Chrono #47]

Defendants' denial is false and in bad faith. This is documentarily established by Defendant Casella's May 8, 1990 Order to Show Cause, which shows that no petition supported it, but only Defendant Casella's attorney's affirmation which did not allege that it was authorized by Defendant Grievance Committee. Said document is or was in the possession of all Defendants except Galfunt.

38. DKI to Ver Compl ¶68 and referring Court to 22 NYCRR §691.13(c)(1) for terms: [Chrono #48]

Defendants' DKI response is false and in bad faith. This is documentarily established by Defendant Casella's May 8, 1990 Order to Show Cause, which is in the possession of all Defendants, except Defendant Galfunt. Hence, those Defendants have knowlege and information

sufficient to form a belief as to what that document did and did not allege.

Moreover, Defendants' knowledge that DLS did not place her medical condition in issue in the disciplinary proceedings is established, inter alia, by the section under which Defendant Casella moved in his May 8, 1990 Order to Show Cause §691.13(b)(1). That section is distinct from §691.13(c)(1), to which Defendants--rather than directly responding--refer the Court because they do not want to make the admission that they would otherwise have to. All Defendants are in possession of Eli Vigliano's 1/10/91 letter to Defendant Casella discussing the distinction between those two sections (inter alia, Ex. "R-2" to Plaintiff's 11/19/93 dismissal/summary judgment motion).

39. Denial to Ver Compl ¶69:

Defendants' denial is false and in bad faith. This is reflected by the fact that Defendants gave a DKI to Ver Compl ¶68. Moreover, the fact that the service provision of the May 8, 1990 Order to Show Cause did not direct service upon Eli Vigliano, Plaintiff's attorney on the February 6, 1990 Petition, and that Defendant Casella did not serve him further shows that the February 6, 1990 Petition was not an "underlying" proceeding to Defendant Casella's Order to Show Cause. The aforesaid documents are or were in the possession of all Defendants, except Referee Galfunt, who possesses, however, the February 6, 1990 Petition.

40. Denial to Ver Compl ¶¶70-72, but referring Court to Plaintiff's opposition papers: [Chrono ##50-52]

Defendants' denials are false and in bad faith. This is documentarily established by Plaintiff's opposing papers, referred to in ¶¶70-72, all of which are or were in the possession of all Defendants, except Defendant Galfunt.

41. Denial to Ver Compl ¶¶73-74: [Chrono ##53-54]

Defendants' denials are false and in bad faith. This is documentarily established by Plaintiff's June 25, 1990 Reply Affidavit in Support of her

Cross-Motion, referred to in ¶¶73-74. Defendant Casella's failure to present proof of authorization by Defendant Grievance Committee for his May 8, 1990 OSC is documentarily reflected by that document, as well as his June 13, 1990 Affirmation in Opposition.

All such documents are or were in the possession of all Defendants, except Defendant Galfunt.

42. DKI to Ver Compl ¶75 as to all but date of October 18, 1990 Order, refer Court of 22 NYCRR §691.4(k) for terms: [Chrono #55]

Verification as to the original date for argument of Castracan v. Colavita before the Appellate Division, Third Department is reflected by the files in that case, transmitted to Defendant Koppell in May 1992.

43. DKI to Ver Compl ¶¶76-78:

Defendants' DKI responses are false and in bad faith as to Defendant Koppell. The complete files of Castracan v. Colavita were transmitted to him under a coverletter dated May 12, 1992.

44. Denial to Ver Compl ¶79: [Chrono #60]

Defendants' denial is false and in bad faith. This is documentarily established by the disciplinary files in the possession of all Defendants except Defendant Galfunt, and the express language of 22 NYCRR §691.13(b)(1).

46. Denial to Ver Compl ¶82: [Chrono #63]

Defendants' denial is in bad faith. This is reflected by the papers supporting Petitioner's January 28, 1991 Order to Show Cause.

- **47. DKI Response to Ver Compl ¶83: [Chrono #64]

Defendants' DKI response is false and in bad faith. This is documentarily established by Mr. Vigliano's January 10, 1991 letter to Defendant Casella. Said letter is or was in the possession

of all Defendants [inter alia, Exhibit "R-2" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

48. Denial to Ver Compl ¶84: [Chrono #65]

Defendants' denial is false and in bad faith. This is documentarily established by Defendant Casella's January 15, 1991 letter--which was or is in the possession of all Defendants [inter alia, as Exhibit "R-3" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

49. Denial to Ver Compl ¶85, but referring Court to Defendant Casella's January 25, 1991 Order to Show Cause and Plaintiff's January 28, 1991 Order to Show Cause: [Chrono #66]

Defendants' denial is false and in bad faith. This is documentarily established by said documents, referred to at ¶85. which are part of the court files under A.D. 90-00315. Said files are or were in the possession of all Defendants, except Defendant Galfunt.

50. Denials to Ver Compl ¶¶86-87: [Chrono ##67-68]

Defendants' denials are false and in bad faith. This is documentarily established by Defendant Casella's January 25, 1991 Order to Show Cause and, as to ¶87, by comparison of that document with Defendant Casella's May 8, 1990 Order to Show Cause. Said documents, part of the court files under A.D. #90-00315, are or were in the possession of all Defendants, except Defendant Galfunt.

52. Denial to Ver Compl ¶89, but referring Court to Plaintiff's January 28, 1991 Order to Show Cause for contents: [Chrono #70]

Defendants' denial is false and in bad faith. This is documentarily established by the documents referred to in ¶89. All said documents, part of the court files under A.D. #90-00315, are or were in the possession of all Defendants, except Defendant Galfunt.

53. DKI to Ver Compl ¶90, except referring Court to 22 NYCRR §691.4(k) for terms: [Chrono #71, 74]

Defendants' DKI response is false and in bad faith. This is documentarily established by the documents referred to therein, in the possession of all Defendants, except Defendant Galfunt, who does not possess copies of the motions referred to therein [See, inter alia, Exhibits "B" and "C", respectively to Plaintiff's 6/20/91 Affidavit in support of OSC to vacate/modify Order of interim suspension, Exhibit "G-1" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

55. Denial to Ver Compl ¶92: [Chrono #72]

Defendants' denial is false and in bad faith. This is documentarily established by Eli Vigliano's January 28, 1991 Order to Show Cause and supporting papers, and his opposition to Defendant Casella's January 25, 1991 Order to Show Cause and February 5, 1991 Notice of Motion. Said documents are or were in the possession of all Defendants, except Defendant Galfunt.

58. DKI to Ver Compl ¶95: [Chrono ##76, 77]

Defendants' DKI response is false and in bad faith. This is documentarily established by Plaintiff's Affidavit in support of her June 20, 1991 OSC to vacate/modify the June 14, 1991 interim suspension order. Said document is in the possession of all Defendants, except Defendant Galfunt. See, also, DLS' 8/22/91 Affidavit, annexed to Affirmation of David Goldstein, Esq. in further support of Plaintiff's motion for Leave to Appeal to Court of Appeals, as well as Exhibits "A" and "B" thereto, in the possession of Defendants Grievance Committee and Casella.

59. DKI and Denial to Ver Compl ¶96: [Chrono #77]

Defendants' DKI response is false and in bad faith. See above documents for refusal of doctor to supply credentials.

60. DKI to Ver Compl ¶97: [Chrono #78]

Defendants' denial is false and in bad faith. This is established by Plaintiff's Order to Show Cause to vacate and/or modify the interim suspension Order. Said document, referred to in ¶97, is or was in the possession of all Defendants, except Defendant Galfunt.

61. Denial to Ver Compl ¶98, but referring Court to Plaintiff's June 20, 1991 Order to Show Cause: [Chrono #79]

Defendants' denial is in bad faith. This is established by Plaintiff's OSC, referred to at ¶98--which is or was in the possession of all Defendants, except Defendant Galfunt.

62. Denial to Ver Compl ¶99: [Chrono #80]

Defendants' denial is false and in bad faith. This is established by review of Defendant Casella's aforesaid letter, which is or was in the possession of all Defendants, as well as the disciplinary files, which are or were in the possession of all Defendants, except Defendant Galfunt.

63. DKI to Ver Compl ¶100: [Chrono #81]

Defendants' denial is false and in bad faith. Defendant Casella's letters of notification, dated June 28, 1991 and July 6, 1991--referred to at ¶101 and ¶103 of the Verified Complaint--were annexed as Exhibits "H-1" and "I-1" to Plaintiff's 11/19/93 dismissal/summary judgment motion--in the possession of all Defendants--and were within three weeks of Defendant Casella's June 19, 1991 service of the interim order of suspension.

64. Denial to Ver Compl ¶101, except admit sua sponte complaint on Fredman decision, referring Court to it for its content: [Chrono #82]

Defendants' denial is false and in bad faith. This is reflected by Defendant Grievance Committee's June 28, 1991 complaint and Justice Fredman's June 24, 1991 decision, which are or were in the possession of all

Defendants, inter alia, Exhibit "H-1" to Plaintiff's 11/19/93 dismissal/summary judgment motion.

Plaintiff's appellate brief and Record on Appeal in Breslaw v. Breslaw, A.D. #92-00562/4, is in the possession of Defendant Second Department.

65. Denial to Ver Compl ¶102: [Chrono #83]

Defendants' denial is false and in bad faith. This is reflected by Justice Fredman's June 24, 1991 decision, copies of which are or were in the possession of all Defendants, inter alia, Exhibits "H-1" to Plaintiff's 11/19/93 dismissal/summary judgment motion.

66. DKI to Ver Compl ¶103: [Chrono #84]

Defendants' denial is false and in bad faith. This is established by Defendant Casella's 7/6/91 letter, which is or was in the possession of all Defendants [inter alia, having been supplied same as Exhibit "I-1" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

67. Deny to Ver Compl ¶104, except admitting Plaintiff submitted responses to complaints: [Chrono #85]

Defendants' denial is false and in bad faith. This is established by Plaintiff's responses to Defendant Grievance Committee's complaints and the responding correspondence from Defendants Casella and Sumer. Said documents are or were in the possession of all Defendants [inter alia, as Exhibits "H" and "I" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

68. Deny to Ver Compl ¶105, except admitting that Defendant Grievance Committee refused to transfer: [Chrono #86]

Defendants' denial is false and in bad faith. This is established by Plaintiff's transfer request and Defendant Casella's response, including his refusal to provide proof that Plaintiff's transfer request had been presented for the Defendant Grievance Committee's consideration. Said documents are or were in the possession of all Defendants [inter alia, Exhibit "I-2" et seq. to Plaintiff's 11/19/93 dismissal/summary

judgment motion].

69. DKI to last three sentences of Ver Compl ¶106: [Chrono #87, 88]

Defendants' denial is false and in bad faith. This is established by Exhibit "G-3" through "G-15" to Plaintiff's 11/19/93 dismissal/summary judgment motion--which is or was in the possession of all Defendants.

70. As to Ver Compl ¶107, refer Court to contents of Plaintiff's July 19, 1991 motion for leave to appeal: [Chrono #89]

Defendants' response is false and in bad faith. Plaintiff's aforesaid motion establishes the truth of the allegations of ¶107. Said motion is or was in the possession of Defendant Grievance Committee, Casella, and Sumber.

71. Denials to Ver Compl ¶¶108 and 109: [Chrono #90, 91]

Defendants' response is false and in bad faith. This is established by Defendant Casella's opposition papers, wherein he offered no support for his representation that the February 6, 1990 Petition was an "underlying" disciplinary proceeding. Said opposition is or was in the possession of Defendant Grievance Committee, Casella, and Sumber.

The falsity of such representation is established by the files under A.D. #90-00315, which are or were in the possession of all Defendants, except Defendant Galfunt.

79. DKI to Ver Compl ¶118, 119: [Chrono #101, 102]

Prior to becoming Attorney General and thereafter, Defendant Attorney General Koppell received copies of Plaintiff's October 24, 1991 letter, including as part of Plaintiff's Article 78 proceeding [Exhibit "K" to Plaintiff's July 19, 1994 motion for reargument]. Defendant Attorney General Koppell also received copies of Plaintiff's correspondence with the Commission on Judicial Conduct based thereon.

Plaintiff's October 24, 1991 letter is also in the possession of Defendant Second Department, having been sent directly to Respondent Mangano, having been provided as part of the the Article 78 papers, and, inter alia, as part of her Record on Appeal in Wolstencroft v. Sassower, #92-03928/9, [A-1356-71].

79. DKI to Ver Compl ¶121: [Chrono ##104, 105]
Defendants have skipped repeat of Ver Compl ¶121.
RESPONSE REQUIRED

However, Defendant Second Department possesses a copy of DLS' change of venue motion and Justice Ingrassia's denial, which it reviewed when it denied appellate review.

Failure of Justice Colabella to disclose relationship to Anthony Colabella and the three-year Deal, reflected by transcripts annexed to Plaintiff's appeal, Wolstencroft v. Sassower, 92-03928/29.

80. Denial of Ver Compl ¶¶122, 123 as to Justice Colabella's conduct: [Chrono ##106, 107]

Defendants' denial is false and in bad faith. Plaintiff's uncontroverted appellate brief and Record on Appeal in Wolstencroft v. Sassower, #92-03928/29, containing transcript evidence, is in the possession of Defendant Second Department.

81. Denial of Ver Compl ¶124 as to Defendant Casella's March 2, 1992 letter: [Chrono #108]

Defendants' denial is false and in bad faith. This is established by review of Defendant Casella's March 2, 1992 letter. Said document is or was in the possession of all Defendants--[inter alia, as Exhibit "J-1" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

82. DKI to Ver Compl ¶¶125-7: [Chrono #109, 110, 111, 112, 114]

Defendants' denials are knowingly false and in bad faith. This is established by the documents

identified in ¶¶125-7--which are or were in the possession of all Defendants [inter alia, as Exhibits "W-3", "W-1", "W-3" and "P-1" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

83. Denial of Ver Compl ¶128, but refers Court to April 9, 1992 Supplemental Petition: [Chrono #115]

Such denial is knowingly false and in bad faith. This is established, inter alia, by the April 9, 1992 Supplemental Petition, which is or was in the possession of all Defendants [inter alia, as Exhibit "P-1" to Plaintiff's 11/19/93 dismissal/summary judgment motion.]

Moreover, Defendants' denial of Plaintiff's allegation that Defendant Grievance Committee never notified her of its intent to take disciplinary steps and never served her with pre-petition written charges or hearing is false.

85. Denial of Ver Compl ¶130: [Chrono #117]

Defendants' denial is knowingly false and in bad faith. This is established by comparison of Defendant Grievance Committee's April 9, 1992 Supplemental Petition, Defendant Second Department's April 1, 1992 Decision & Order, and Defendant Casella's March 6, 1992 letter, which are or were in Defendant's possession [inter alia, as Exhibits "P-1", "W-2", and "W-3" of Plaintiff's 11/19/93 dismissal/summary judgment motion].

86. Denial of Ver Compl ¶131 as to Defendant Casella's May 5, 1992 letter to Plaintiff: [Chrono #118]

Defendants' denial is knowingly false and in bad faith. This is established by Defendant Casella's May 5, 1992 letter, which is or was in the possession of all Defendants [inter alia, as Exhibit "J-5" of Plaintiff's 11/19/93 dismissal/summary judgment motion].

87. Denial, on information and belief, of Ver Compl ¶132, except admit sua sponte complaint served: [Chrono #119]

Defendants' denial is knowingly false and in bad faith. This is established by Defendant Casella's May 29, 1992 letter of sua sponte complaint, which is or was in the possession of all Defendants [inter alia, as Exhibit "K-1" of Plaintiff's November 19, 1993 dismissal/summary judgment motion].

Defendants have SKIPPED the second ¶132: [Chrono #120] RESPONSE REQUIRED

88. Denial "upon information and belief" to Ver Compl ¶133: [Chrono #121]

Defendants' denial is false and in bad faith. This is by Defendant Casella's June 11, 1992 letter, which is or was in the possession of all Defendants [inter alia, as Exhibit "N-2" of Plaintiff's 11/19/93 dismissal/summary judgment motion]--showing Defendant Casella's admission that the prosecution of Plaintiff rests on unsworn statements.

90. DKI to Ver Compl ¶135: [Chrono #124]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's June 18, 1992 dismissal motion, a court document, which is or was in the possession of all Defendants.

91. DKI to Ver Compl ¶136: [Chrono #125]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's June 18, 1992 motion, a court document, which is or was in the possession of all Defendants.

93. DKI to Ver Compl ¶138: [Chrono #127]

Defendants' denial is knowingly false and in bad faith. This is established by Defendant Grievance Committee's June 26, 1992 Supplemental Petition, a court document, which is or was in the possession

of all Defendants [inter alia, Exhibit "p-2" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

Moreover, Defendant Casella has the knowledge and information to answer as to whether he refused to withdraw his April 9, 1992 Supplemental Petition and both Defendant Casella and Defendant Second Department have the knowledge and information to answer as to whether Defendant Casella had leave of court to serve the June 26, 1992 Supplemental Petition.

95. Denial, "upon information and belief" of Ver Compl ¶140 and referring Court to terms of 22 NYCRR §691.4(e)(4) and (f): [Chrono #129]

Defendants' denial is knowingly false and in bad faith. This is established by the ex parte July 8, 1992 report, which is or was in the possession of Defendants Grievance Committee, Casella, Second Department, and Sumber, who further know whether, prior to that report, Plaintiff was notified of an intent by Defendant Grievance Committee to take disciplinary action or served with pre-petition written charges or afforded a hearing.

96. Claim that Ver Compl ¶141 is a legal argument not requiring responsive answer is spurious. It is a fact. [Chrono #130]

97. DKI to Ver Compl ¶142: [Chrono #131]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's responses to the Wolstencroft and Fass complaints, which are or were in the possession of all Defendants [inter alia, Exhibits "J", "K" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

99. Denial to Ver Compl ¶144-5, except admit dismissal by Court of Appeals and refer Court to its Order for the contents: [Chrono #133, 134]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's motion to the Court of Appeals and the Court of Appeals'

Order. Said documents are or were in the possession of Defendants Casella, Grievance Committee, and Sumber.

101. Denial to Ver Compl ¶146(b): [Chrono #135]

Defendants' denial is knowingly false and in bad faith. This is established by Defendant Second Department's November 12, 1992 Order, a court document, which is or was in the possession of all Defendants [inter alia, Exhibit "O-2" to Plaintiff's November 19, 1993 dismissal/summary judgment motion].

Moreover, all Defendants know that the July 8, 1992 report was an ex parte communication, as to which Plaintiff was given no notice.

102. DKI to Ver Compl ¶147: [Chrono #137]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiffs' December 4, 1992 letter to Defendant Sumber and subsequent correspondence to him, all of which documents are or were in the possession of all Defendants as part of a court document [inter alia, Plaintiff's 2/14/93 Reply Affidavit, Exhibits "A", "B", "D", "F"].

103. DKI to Ver Compl ¶148: [Chrono #138]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's December 14, 1992 reargument/renewal motion, a court document, which is or was in the possession of all Defendants, except Defendant Galfunt.

104. Denying "upon information and belief" Ver Compl ¶149, except refer Court to 22 NYCRR §691.4(e)(4) and (f): [Chrono #139]

Defendants' denial is knowingly false and in bad faith. The December 17, 1992 ex parte report was produced by Defendants Casella, Sumber, and/or Grievance Committee, was transmitted to Defendant Second Department, and is or was in their possession.

Moreover, Defendants Casella, Sumber, and

Grievance Committee know whether Defendant Grievance Committee served Plaintiff with pre-petition written charges or afforded a pre-hearing.

105. Defendants' claim that Ver Compl ¶149 is a legal argument not requiring responsive answer is spurious. It also is a fact. [Chrono #140]

106. Denial of Ver Compl ¶151: [Chrono #141]

Defendants' denial is knowingly false and in bad faith. This is established by Defendant Grievance Committee's January 28, 1993 Petition, a court document, which is or was in the possession of all Defendants [inter alia, Exhibit "D" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

107. Denial of Ver Compl ¶152 and referring Court to §691.4(e)(4), (f), (h) and §691.4(e)(5) for terms: [Chrono #136]

Defendants' denial is knowingly false and in bad faith. This is established by Defendant Second Department's November 12, 1992 Order, a court document, which is or was in the possession of all Defendants [inter alia, Exhibit "O-2" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

108. Denial of Ver Compl ¶153: [Chrono #142]

Defendants' denial is knowingly false and in bad faith. This is established by the January 28, 1993 Petition, a court document, which is or was in the possession of all Defendants [inter alia, Exhibit "D" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

109. Denial of Ver Compl ¶154: [Chrono #143]

Defendants' denial is knowingly false and in bad faith. This is established by comparison of Defendant Grievance Committee's January 28, 1992 Petition with its February 6, 1990 Petition, referred to in ¶154. Both documents are or were in the possession of all Defendants [inter alia,

Exhibits "D" and "C" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

110. Denial of Ver Compl ¶155, but referring Court to Judiciary Law §90(6): [Chrono #144]

Defendants' denial is knowingly false and in bad faith. The uncontroverted record before Defendant Second Department shows such service as alleged in ¶155.

- **111. DKI to Ver Compl ¶156: [Chrono #145]

Defendants' denial is knowingly false and in bad faith. Plaintiff's February 22, 1993 motion to vacate is a court document and in the possession of Defendants Casella, Grievance Committee, and Second Department--the latter of which adjudicated it. Said document was also supplied to Defendant Attorney General Koppell, as part of the transmittal of the file to him on March 10, 1994.

- **112. DKI to Ver Compl ¶157: [Chrono #146]

Defendants' denial is knowingly false and in bad faith. Defendant Galfunt's admission to such ex parte contact--in the presence of Defendant Casella--is reflected by pp. 4-5 of the April 8, 1993 transcript of the preliminary conference on the February 6, 1990 Petition. Said transcript is or was in the possession of all Defendants [Exhibit "C" to DLS' 7/2/93 cross-motion to Plaintiff's Article 78, Sassower v. Mangano, et al.].

113. Denial to Ver Compl ¶158, except referring Court to Plaintiff's March 15, 1993 letter for its content: [Chrono #147]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's March 15, 1993 letter, referred to in ¶158, which is or was in the possession of all Defendants [inter alia, Exhibit "E-3" to Plaintiff's 7/2/93 cross-motion in her Article 78 proceeding, Sassower v. Mangano, A.D. #93-02925].

114. Denial to Ver Compl ¶159: [Chrono #148]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's March 8, 1993 Supplemental, referred to in ¶159. Said court document is or was in the possession of all Defendants, except Galfunt.

115. Denial to Ver Compl ¶160, except refer to Defendant Second Department's March 17, 1993 Order for its contents: [Chrono #149]

Such denial is knowingly false and in bad faith. This is established by Defendant Second Department's Order, a court document, which is or was in the possession of all Defendants [inter alia, Exhibit "AA-1" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

116. Denial to Ver Compl ¶161, except refer Court to §691.4(e)(4), (f), and (h) and §691.4(e)(5) for terms: [Chrono #150]

Such denial is knowingly false and in bad faith. This is established by Defendant Second Department's March 17, 1993 Order, a court document, which is or was in the possession of all Defendants [inter alia, Exhibit "AA-1" to Plaintiff's 11/19/93 dismissal/summary judgment motion].

117. Denial to Ver Compl ¶162, except referring Court to Judiciary Law §90(6): [Chrono #151]

Defendants' denial is knowingly false and in bad faith. This is established by, inter alia, the affidavit of service of Defendant Grievance Committee's own process server, annexed as Exhibit "A" to Plaintiff's 4/14/93 vacate motion. Said document is or was in the possession of all Defendants.

Defendants not answering repeat of Ver Compl ¶162. [Chrono #152]. Response Required

118. DKI to Ver Compl ¶163: [Chrono #153]
Defendants' denial is knowingly false and in bad faith. This is established by the transcript of the April 8, 1993 telephone conference, which is or has been in the possession of all Defendants [inter alia, annexed as Exhibit "C" to Plaintiff's 7/2/93 cross-motion in her Article 78 proceeding, Sassower v. Mangano, et al., A.D. 93-02925.
119. Denial of Ver Compl ¶164: [Chrono #154]
Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's April 14, 1993 motion to vacate, referred to in ¶164. Said motion, a court document, is or was in the possession of all Defendants.
120. Denial of 2nd sentence of Ver Compl ¶165: [Chrono #155]
Defendants' denial is knowingly false and in bad faith. This is established by comparison of Plaintiff's March 8, 1993 Supplemental Affidavit and the record under A.D. #90-00315--court documents, which are or were in the possession of all Defendants, except Galfunt.
121. Denial of Ver Compl ¶166, and refer Court to Article 78 Petition: [Chrono #156]
Defendants' denial is knowingly false and in bad faith. This is established by the transcript of the April 28, 1993 conference, which is or has been in the possession of all Defendants [inter alia, Exhibit "D" to Plaintiff's 7/2/93 cross-motion in Article 78 proceeding, Sassower v. Mangano, A.D. #93-02925].
123. Denial of Ver Compl ¶¶168-170, but refer Court to Defendant Attorney General's motion papers in Article 78 proceeding: [Chrono #158-60]
Defendants' denial is knowingly false and in bad faith. This is established by the motion papers to which Defendants refer the Court.

124. Denial of Ver Compl ¶171, but refer the Court to Defendant Second Department's May 14, 1993 Order: [Chrono #161]

Defendants' denial is knowingly false and in bad faith. This is established by the May 14, 1993 Order and Plaintiff's two vacatur motions, referred to in ¶171--which are or were in the possession of all Defendants--as well as Defendant Second Department's September 20, 1993 Order dismissing Plaintiff's Article 78 proceeding, a copy of which is possessed by all Defendants.

125. Denial of Ver Compl ¶172, but refer Court to Plaintiff's June 14, 1993 reargument/renewal motion for contents: [Chrono #161]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's June 14, 1993 motion, referred to in ¶172--which is or was in the possession of all Defendants.

126. Denial of Ver Compl ¶¶173-177, but refer Court to Plaintiff's July 2, 1993 cross-motion for contents: [Chrono #162-67]

Defendants' denials are knowingly false and in bad faith. This is established by Plaintiff's July 2, 1993 cross-motion, referred to in ¶¶173-177. Defendant Attorney General Koppell, on behalf of all Defendants, is in the possession of such document.

SKIPPED Ver Compl ¶178...RESPONSE REQUIRED [Chrono #168]

127. DKI to Ver Compl ¶¶179-181: [Chrono #169-71]

Defendant Attorney General Koppell's denial is knowingly false and in bad faith. In November 1993, he received, by hand from Plaintiff's daughter, a copy of Plaintiff's testimony and supporting compendium of exhibits.

128. Denial of Ver Compl ¶¶182-183, but refer Court to Defendant Second Department's September 20, 1993 Order dismissing the Article 78 proceeding for its content: [Chrono #172-3]

Defendants' denials are knowingly false and in bad faith. This is established by Defendant Second Department's September 20, 1993 Order, the Article 78 papers, and comparison with the file under A.D. #90-00315, referred to at ¶183. Said documents are or were in the possession of all Defendants.

129. As to Ver Compl ¶184, only admit Order and Justice Mangano not on panel: [Chrono #174]

Defendants' qualified admission is knowingly false and in bad faith. This is established by the papers in Plaintiff's Article 78 proceeding and the disciplinary files under A.D. #90-00315 showing that the participation of Defendant Second Department justices in adjudicating the Article 78 proceeding is as described in ¶184.

130. Admit to Ver Compl ¶185: [Chrono #175]

Hooray! Finally an honest answer

131. Denial of Ver Compl ¶186: [Chrono #176]

Defendants' denial is knowingly false and in bad faith. This is established by (a) the transcript of the hearings of the February 6, 1990 Petition, commenced on September 20, 1993; and (b) the record, establishing Eli Vigliano, Esq. as Plaintiff's attorney of record on the February 6, 1990 Petition.

132. DKI as to Ver Compl ¶¶187-188: [Chrono #177-78]

Defendants' denials are knowingly false and in bad faith. This is established by the participation of Defendants Casella and Galfunt at the hearings on the February 6, 1990 Petition, conducted on September 27-30, 1993. The transcripts of those hearings are or were in the possession of all Defendants.

133. Denial of Ver Compl ¶189, but refer Court to Defendant Second Department's September 20, 1993 Order and Plaintiff's November 19, 1993 motion: [Chrono #179]

Defendants' denial is knowingly false and in bad faith. This is established by the documents to which Defendants refer the Court--all of which are in Defendants' possession.

134. Denial of Ver Compl ¶190, but referring Court to Plaintiff's November 19, 1993 motion: [Chrono #180]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's November 19, 1993 dismissal/summary judgment motion referred to at ¶190 and to which Defendants refer the Court. Said motion is or was in the possession of all Defendants.

135. Denial of Ver Compl ¶191: [Chrono #181]

Defendants' denial is knowingly false and in bad faith. This is established by Defendant Casella's opposing papers, referred to in ¶191. Said papers are dated December 3, 1993.

136. DKI to Ver Compl ¶¶192-4: [Chrono #182-4]

Defendant Attorney General Koppell's denial is knowingly false and in bad faith. This is established by the copy of Plaintiff's testimony and supporting compendium of exhibits which he received in hand on January 9, 1994 -- a fact reflected by the coverletter to him from Plaintiff of that date.

137. As to Ver Compl ¶195, referring Court to Plaintiff's January 3, 1994 Notice of Appeal for content: [Chrono #185]

Defendants' non-responsive response is knowingly in bad faith since Plaintiff's ¶195 is established by her Notice of Appeal.

138. Denial to Ver Compl ¶196: [Chrono #186]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's letter dated January 9, 1994, hand-delivered to Defendant Koppell by Plaintiff's daughter who spoke with him at great length about its contents. Said personal communication is referred to by Plaintiff's February 3, 1994 letter to Defendant Koppell, annexed as Supplemental Exhibit "2" to Mr. Schwartz' March 14, 1994 letter to the Court of Appeals in support of that Court's jurisdiction of the Article 78 proceeding. Said document is in the possession of the office of the Attorney General.

139. Admit to Ver Compl ¶197: [Chrono #187]

Hooray! A rare honest answer.

140. DKI to Ver Compl ¶¶198-199: [Chrono #188]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's January 24, 1994 Jurisdictional Statement, referred to in ¶198, which is in the possession of the office of the Attorney General.

141. Partial Denial to Ver Compl ¶200: [Chrono #189]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's February 3, 1994 letter to Defendant Koppell [annexed as Supplemental Exhibit "2" to Mr. Schwartz' 3/14/94 letter to the Court of Appeals in the Article 78 proceeding]. Said document is in the possession of the office of the Attorney General.

142. DKI to Ver Compl ¶201: [Chrono #190]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's February 6, 1994 letter, hand-delivered to Defendant Attorney General Koppell [annexed as Supplemental Exhibit "4" to Mr. Schwartz' March 14, 1994 letter to the Court of Appeals in the Article 78 proceeding, Sassower v. Mangano].

143. DKI and denial to Ver Compl ¶202: [Chrono #191]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's February 6, 1994 letter to Defendant Koppell, enclosing the full set of papers in Plaintiff's dismissal/summary judgment motion. A copy of said letter is annexed as Supplemental Exhibit "4" to Plaintiff's March 14, 1994 letter to the Court of Appeals in the Article 78 proceeding, Sassower v. Mangano.

144. Denial to Ver Compl ¶203, except admit filed papers: [Chrono #192]

Defendants' denial is knowingly false and in bad faith. This is established by comparison between the Attorney General's February 11, 1994 letter to the Court of Appeals and the papers submitted by Plaintiff on the Article 78 proceeding in the Appellate Division, Second Department. All such documents were in the possession of Defendant Attorney General Koppell and are in the possession of the office of the Attorney General

145. DKI to Ver Compl ¶204, except admit that Plaintiff told Defendant Koppell that Assistant Attorney General told her that he had never read the files under A.D. #90-00315: [Chrono #193]

Defendants' denial is knowingly false and in bad faith since their admission concedes the allegation.

146. Denial to Ver Compl ¶205: [Chrono #194]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's March 8, 1994 letter to Defendant Koppell, hand-delivering the disciplinary file under A.D. #90-00315, as organized and itemized according to the inventory annexed therewith. Plaintiff's aforesaid letter was annexed as Exhibit "7" to Plaintiff's March 14, 1994 letter to the Court of Appeals in support of its review of the Article 78 proceeding.

147. DKI to Ver Compl ¶206: [Chrono #195]

Defendants' denial is knowingly false and in bad faith. This is established by Plaintiff's March 14, 1994 letter to the Court of Appeals, referred to in ¶206. Said letter, part of the file in Plaintiff's Article 78 proceeding, in the possession of the office of the Attorney General.

148. DKI and deny to Ver Compl ¶207: [Chrono #196]

Defendants' denial is knowingly false and in bad faith. This is established by a comparison of the Article 78 papers and the disciplinary files under A.D. #90-00315-which are or were in the possession of all Defendants except Defendant Galfunt.

149. Denial to Ver Compl ¶208: [Chrono #197]

Defendants' denial is knowingly false and in bad faith. This is established by the large number of allegations in the complaint herein relative to the files under A.D. #90-00315 and the Article 78 proceeding, as to which Defendants are denying knowlege or information sufficient to form a belief, as well as the fact that there was no retraction by the Attorney General of his submission to the Court of Appeals.

AS AND FOR A FIRST CAUSE OF ACTION:

152. Denial to Ver Compl ¶211 and referring Court to Plaintiff's cited reference of Nuey:

Defendants' denial is knowingly false and in bad faith. Nuey acknowledges no statutory authority for orders of interim suspension.

153. Denial to Ver Compl ¶212 and refer Court to §691.4(1)(1) for terms:

Defendants' denial is knowingly false and in bad faith. §691.4(1)(1) fails to identify source of authority for interim suspensions

154. Denial to Ver Compl ¶213 and refer Court to Judiciary Law §90(2):

Defendants' denial is knowingly false and in bad faith. Judiciary Law §90(2) does not delegate substantive rule-making authority

155. DKI to Ver Compl ¶214:

Defendants' denial is knowingly false and in bad faith. This is established by Exhibit "L-3" to Plaintiff's July 19, 1994 reargument/renewal motion to the Court of Appeals in the Article 78 proceeding, Sassower v. Mangano, which is in the possession of the office of the Attorney General.

156. Denial to Ver Compl ¶¶215-216:

Defendants' denial is knowingly false in in bad faith. This is established by Exhibit "L-3" to Plaintiff's July 19, 1994 reargument/renewal motion to the Court of Appeals in the Article 78 proceeding, Sassower v. Mangano, which is in the possession of the office of the Attorney General.

Moreover, §691.4(1) and §691.13(b)(2) plainly constitute substantive rule-making inasmuch as interim suspensions are not statutorily authorized.