

STATE OF NEW YORK
COURT OF APPEALS

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ELENA RUTH SASSOWER, Coordinator of
of the Center for Judicial
Accountability, Inc., acting pro bono
publico,

Appellate Division
Docket No. 5638/01

Petitioner-Appellant,

-against-

COMMISSION ON JUDICIAL CONDUCT OF THE
STATE OF NEW YORK,

Respondent-Respondent.
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**AFFIRMATION OF
IN OPPOSITION TO
PETITIONER'S MOTION
FOR REARGUMENT**

CAROL FISCHER, an attorney duly admitted to practice law
before the Courts of the State of New York, affirms as follows
under penalty of perjury:

1. I am an Assistant Solicitor General in the Office of
the Attorney General of the State of New York, counsel for the
respondent-respondent Commission on Judicial Conduct of the State
of New York ("respondent" or "Commission"). I am fully familiar
with the matters set forth in this Affirmation, which is
submitted in opposition to the October 15, 2002 motion of
petitioner-appellant Elena Ruth Sassower ("petitioner"), in which
she seeks to reargue this Court's September 12, 2002 decisions
and orders (a) dismissing her attempted appeal as of right from
Sassower v. Comm'n on Judicial Conduct of New York, 289 A.D.2d
119, 734 N.Y.S.2d 68 (1st Dep't 2001) (Exhibit B-1 to Affidavit
of Elena Ruth Sassower in Support of Reargument, sworn to October
15, 2002 ("Sassower Reargument Aff.")); (b) denying her June 17,

2002 motion for entry of sanctions against respondent and respondent's counsel (*id.*); and (c) denying her May 1, 2002 motion to disqualify the entire Court from hearing her appeal (Sassower Reargument Aff., Exhibit C-1).

2. Her motion should be denied. Petitioner does little more than repeat the same unsupported accusations of fraud and corruption she has made in all of her prior filings. Her present motion is, therefore, not only without merit but a waste of judicial resources.

3. Petitioner devotes many pages to challenging the denial of her motion to disqualify Chief Judge Kaye and Judges Rosenblatt, Smith, Graffeo, Ciparick, and Levine (Sassower Reargument Aff. ¶¶10-47). However, petitioner never demonstrated that any of the Court's members (with the arguable exception of Judge Rosenblatt, the subject of one of the complaints giving rise to this proceeding) had anything remotely resembling a present, non-speculative interest in the outcome of this case. See Judiciary Law §14. To the contrary, petitioner sought disqualification because of her wholly unsupported and fantastical conviction that if she prevailed in her appeal, various judges of the Court would face disciplinary and criminal liability based on their actions in other cases. (See Affidavit of Elena Ruth Sassower in Support of Disqualification, sworn to May 1, 2002). Petitioner's contention that none of Judge

Rosenblatt's colleagues could impartially evaluate her appeal was, likewise, based solely upon her own unfounded speculation (Sassower Reargument Aff. ¶32). Therefore, despite petitioner's claim that her disqualification motion was based upon Judiciary Law §14 (Sassower Reargument Aff. ¶18), she had no basis to seek relief under this statute: none of the judges who ruled on her appeal had any interest in her case.

4. Once it denied petitioner's motion for disqualification, the Court treated petitioner's motion as one for recusal, "referred to the Judges for individual consideration and determination by each Judge" (Sassower Reargument Aff., B-1).

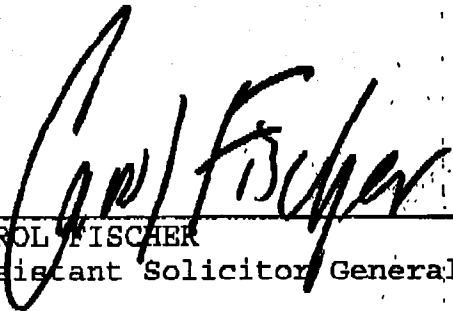
Petitioner appears to concede that this procedure was supported by the Court's own case law (Sassower Reargument Aff. ¶41). Her claim that the Court's decision to treat her disqualification motion as one for recusal was "fraudulent" therefore makes no sense (Sassower Reargument Aff. ¶34-47).

5. Petitioner's sole support for her application to reargue the dismissal her appeal and denial her motion for sanctions is citations to, and lengthy quotations from, her own prior submissions. Respondent replied to these arguments and charges in its earlier filings, and therefore respectfully refers the Court to its May 28, 2002 letter to the Court, submitted in response to the Court's sua sponte inquiry into its jurisdiction over petitioner's appeal, and the Affirmation of Carol Fischer,

dated June 28, 2002, in Opposition to Petitioner's Motion To Strike and For Sanctions, Etc.

WHEREFORE, for all of the reasons noted above, and in its previous submissions to the Court, the Commission respectfully requests this Court to deny petitioner's motion to reargue this Court's September 12, 2002 decisions and orders in its entirety.

Dated: New York, New York
November 8, 2002



CAROL FISCHER
Assistant Solicitor General

STATE OF NEW YORK
COURT OF APPEALS

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SASSOWER, Coordinator of the Center for Judicial
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COMMISSION ON JUDICIAL CONDUCT OF THE
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AD No. 5638/01

AFFIRMATION IN OPPOSITION

ELIOT SPITZER

Attorney General of the
State of New York

Attorney for Respondent-Respondent

Service of copy of

within _____ is admitted
this _____ day of _____,