

CENTER *for* **JUDICIAL ACCOUNTABILITY, INC.***

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BY HAND

March 28, 2008

Professor Jay C. Carlisle
Pace Law School
78 North Broadway
White Plains, New York 10603

RE: Building Evidence-Based Scholarship on Federal Judicial Discipline
(& Selection) – CJA’s March 6, 2008 Letter to the Chief Justice &
Accompanying Critique

Dear Professor Carlisle:

Thank you for your return call two days ago – and your interest in reviewing CJA’s Critique of the Breyer Committee Report. A copy is enclosed, together with a copy of CJA’s March 6, 2008 letter to Chief Justice Roberts, transmitting the Critique to him in support of our two-fold request that the Judicial Conference: (a) disapprove the new rules for federal judicial discipline; and (b) hold hearings on the Breyer Committee Report.

These primary-source documents are furnished to enable you to assist in building evidence-based scholarship on federal judicial discipline. This would include, in addition to your own scholarship, outreach to fellow academicians. Among these, Professor Arthur Hellman, who testified at the federal judiciary’s September 27, 2007 “hearing” on its draft rules for federal judicial discipline and thereafter led a discussion on the subject for the half-dozen or so law students you brought to the “hearing”.

Unfortunately, my own outreach to Professor Hellman has been unavailing. This is recounted by my enclosed March 17, 2008 letter to Professor Hellman, offering him a copy of the Critique for his scholarship. You are an indicated recipient of the letter because, as

* The **Center for Judicial Accountability, Inc.** (CJA) is a national, nonpartisan, nonprofit citizens’ organization dedicated to ensuring that the processes of judicial selection and discipline are effective and meaningful.

recounted by its footnote 3, you sat next to him during the September 27, 2007 post-“hearing” discussion. As yet, I have not received any response from Professor Hellman, although the March 17, 2008 letter was faxed, e-mailed, and mailed to him on that date. I would appreciate your advice on the subject.

Our government and the public, whose interests government is supposed to protect, rightly rely on the expertise of scholars for accurate, unbiased information and analysis. Don't you agree? If so, what are your own answers, as a scholar, to the seminal questions posed by my March 17, 2008 letter to Professor Hellman? Based on your review of CJA's March 6, 2008 letter to the Chief Justice and Critique:

(1) Do you agree that the federal judiciary's new rules for federal judicial discipline “violate and affirmatively misrepresent the congressional statute they purport to implement^[fn], 28 U.S.C §§351-364, and do not comply with its requirement of ‘appropriate public notice and an opportunity for comment’ (§358), at least not in a meaningful, good-faith way”?

If so,

(a) What is your view of the Judicial Conference's adoption of the rules on March 11, 2008?;

(b) Do you agree that this is a matter properly brought to Congress' attention?

(2) Do you agree that the Breyer Committee Report is superficial, “methodologically-flawed and dishonest”, and “a knowing and deliberate fraud on the public”?

If so,

(a) Do you agree that such warrants “congressional hearings, disciplinary and criminal investigations, and radical overhaul of the façade of federal judicial discipline that currently exists”?;

(b) Isn't action by our other government branches, Congress and the President, even more compelled if the Chief Justice does not respond to CJA's March 6, 2008 letter – including by taking such action as Congress empowered the Judicial Conference to take, pursuant to 28 U.S.C. §331, to “hold hearings, take sworn testimony, issue subpoenas

and subpoenas duces tecum, and make necessary and appropriate orders in the exercise of its authority”?

I look forward to your answers – and the benefit of your assistance in building a powerful coalition of scholars who do not shirk their professional – and civic – duty to confront primary-source evidence, such as presented by CJA’s Critique and transmittal letter to the Chief Justice. I have no doubt but that such coalition, joining scholarship with *verifiable*, empirical evidence, will achieve efficacious, constitutionally-appropriate solutions to judicial misconduct in all its manifestations. This would include the judicial misconduct that the judicial and legal establishment consistently AVOIDS confronting, *to wit*, judicial decisions which, when compared to the record, are verifiable frauds in that they knowingly and deliberately fabricate, distort, and omit material facts and/or disregard controlling, black-letter law.

I thank you for suggesting that I call Jon Weiss, Esq, with whom I had the pleasure of speaking yesterday at length. He recollected having met me at the September 27, 2007 “hearing”. I told him I would be delivering to you a copy of the Critique and its accompanying Compendium of Exhibits, as well as our correspondence with the Chief Justice and Professor Hellman, which he promised to read. I, therefore, would appreciate if you would share them with him.

As discussed, the Critique is additionally substantiated by three free-standing file folders. These contain the record of our three judicial misconduct complaints, filed under the 1980 Act, and our 1995-1998 correspondence with the Administrative Office. I am not herewith transmitting these because duplicating and assembling them is extremely time-consuming – and they are ALL posted on CJA’s website, www.judgewatch.org, accessible *via* the sidebar panel “Judicial Discipline-Federal”, which links to our March 6, 2008 letter to the Chief Justice and Critique. However, should you wish a “hard copy” of these documents to facilitate your scholarship, don’t hesitate to request them.

Thank you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Director
Center for Judicial Accountability, Inc. (CJA)

Enclosures & cc’s: next page

Enclosures: (1) CJA's March 6, 2008 letter to Chief Justice Roberts,
with Critique & Compendium of Exhibits
(2) CJA's March 17, 2008 letter to Professor Arthur Hellman
with its enclosed August 13, 2002 letter from CJA to him

cc: Professor Arthur Hellman
Jonathan Weiss, Esq.