

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

DATE: March 5, 2004

TO: Professor Steven Lubet/ Northwestern University School of Law
E-mail: slubet@law.northwestern.edu & Fax: 312-503-5950 (5 pages)

Professor Monroe Freedman/ Hofstra University School of Law
E-mail: lawmhf@hofstra.edu & Fax: 516-463-6091 (5 pages)

FROM: Elena Ruth Sassower, Coordinator
Center for Judicial Accountability, Inc. (CJA)

RE: The EVIDENTIARY BASIS for assessing the U.S. Supreme Court's practices, policies, and procedures with respect to recusal

A propos of Tony Mauro's March 1st Legal Times' "Courtside" column, "*Decoding High Court Recusals*", in which you are each quoted, attached/enclosed is CJA's March 3rd memo to him – to which you are indicated recipients. All CJA's correspondence referred-to therein – including CJA's unresponded-to February 25th letter to Professor Lubet – is either posted directly on the homepage of CJA's website, www.judgewatch.org, or accessible via the indicated panels "*Test Cases-Federal (Mangano)*" and "*Correspondence-Federal Officials*".

As judicial ethics experts on whom the press routinely relies, you should be willing to assist the press with evaluative comment as to the Court's handling of the September 23, 1998 disqualification/disclosure application, chronicled by the primary source documents substantiating CJA's *uninvestigated* November 6, 1998 impeachment complaint against the justices¹. At very least, you should be willing to publicly state – as a general proposition requiring NO examination of documents -- that:

“it is profound misconduct for any court – not to mention our nation's highest – to wilfully ignore, without adjudication, an application relating to its disqualification and for disclosure and to conceal such non-adjudication by omitting the very existence of the application from the case docket.”

¹ These primary source documents, itemized at page 4 of CJA's February 12, 2004 letter to Chief Justice Rehnquist, are all posted on CJA's website under "*Test Cases-Federal (Mangano)*".

March 5, 2004

IF you disagree with so self-evident a proposition, the press should rightfully look to you for "legal authority or argument" – particularly as the justices wilfully ignored the express request for same in the October 14, 1998 improvised misconduct complaint against them, thereafter reinforced by the petition for rehearing underlying the November 6, 1998 impeachment complaint, which they summarily denied.

It is an unpardonable betrayal of professional responsibility for experts on judicial ethics to "cherry-pick" evidence to avoid the critical issues within their purview on which the public's rights, welfare, and the very "rule of law" so fundamentally depend. The public, as well as members of Congress charged with impeachment responsibilities, are entitled to scholarly, objective assessment of CJA's *uninvestigated* November 6, 1998 impeachment complaint against the justices – including whether, as highlighted by CJA's February 12, 2004 letter to Chief Justice Rehnquist, it exposes the false and misleading nature of his January 26, 2004 identical letters to Senators Leahy and Lieberman. If you are not able or not willing to personally undertake this scholarly, objective assessment, your professional obligation is to identify the judicial ethics scholars who would be.

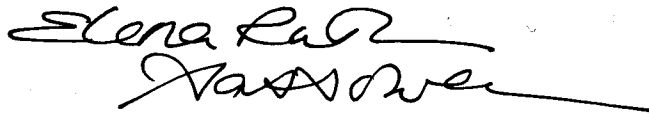
Whether with you – or with them – our non-partisan, non-profit citizens' organizations is committed to

"fruitful collaboration based on our shared concern for safeguarding the public interest in judicial impartiality and integrity."

To that end, we will promptly provide "hard copies" of the November 6, 1998 impeachment complaint and the documentary record on which it rests for independent review and verification.

Please advise.

Thank you.



cc: Tony Mauro/Legal Times
All recipients of CJA's March 1, 2004 story proposal

Subject: The Evidentiary Basis for Assessing the Supreme Court's Practices, Polices & Procedures with Respect to Recusal

Date: 3/5/2004, 11:52 AM

From: Elena Ruth Sassower <judgewatchers@aol.com>

To: slubet@law.northwestern.edu, lawmhf@hofstra.edu

cc: tmauro@legaltimes.com, michaelj@nytimes.com, ligree@nytimes.com, david.savage@latimes.com, gholland@ap.org, lanec@washpost.com, mcoyle@amlaw.com

Organization: Center for Judicial Accountability, Inc.



TO: Professor Steven Lubet/Northwestern University School of Law
Professor Monroe Freedman/Hofstra University School of Law

Attached is the Center for Judicial Accountability's memo of today's date to each of you (which will also be faxed). As soon as can be arranged, this important memo will additionally be posted on the homepage of our website, www.judgewatch.org -- where the pertinent related documents are already posted or accessible.

We await your response -- consistent with your professional and ethical responsibilities.

Thank you.

Elena Ruth Sassower, Coordinator
Center for Judicial Accountability, Inc. (CJA)

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TRANSMISSION VERIFICATION REPORT

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