

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

BY HAND

June 1, 2001

Ellen C. Yaroshefsky, Director
Jacob Burns Ethics Center
Benjamin N. Cardozo School of Law
55 Fifth Avenue
New York, New York 10003

RE: *Amicus* and other support from the Jacob Burns Ethics Center in the *already-perfected* appeal of the public interest lawsuit, *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico, against Commission on Judicial Conduct of the State of New York*, including assistance "in building a coalition of support and involvement by members of New York's legal ethics community and, in particular by the professors of legal ethics and professional responsibility at New York law schools"

Dear Professor Yaroshefsky:

Perhaps you will recall my public comment on May 2nd, at the "Access to Justice" lecture sponsored by the Jacob Burns Ethics Center. I stated that "Access to Justice" is considerably broader than the single aspect to which Professor Neuborne had confined his remarks: the "right of every poor person to speak through a lawyer in every case" – which right Professor Neuborne viewed as "constitutional". I pointed out that everyone, not only the poor, are entitled to "Access to Justice" in the sense of being able to "speak through a lawyer in every case". However, I stated that there are issues that are "orphans" in that lawyers don't want to touch them. Specifically, I stated that victims of judicial misconduct seem unable to find lawyers to assist them and that, it was my experience that no lawyers wanted to take cases challenging judicial corruption. In particular, I alluded to my experience in bringing a lawsuit against the New York State Commission on Judicial Conduct. My two-fold question to Professor Neuborne was whether he agreed with the proposition that lawyers are unwilling to take cases involving judicial misconduct and, whether he could identify lawyers willing to do so.

Professor Neuborne's response was a dodge. What he said was that he didn't believe there is systemic judicial corruption and that, therefore, he saw no need for government funding for it. To

no avail, I tried to protest that my question had nothing to do with "funding", but, rather, with whether he believed victims of judicial misconduct could, as a rule, find lawyers to address judicial misconduct issues.

Following the lecture, I sought to raise this question with you. You pretty much brushed me aside and were fairly reluctant to take from me CJA's informational brochure, a copy of which you recalled I had given you when we met several years ago at an ethics symposium sponsored by Hofstra Law School. You did, however, agree that I could call you to arrange setting up a meeting to discuss the "Access to Justice" issue I had publicly raised. In the meantime, I asked that you read CJA's public interest ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (NYLJ, pp. 3-4, 8/27/97)¹, a copy of which I handed you.

The enclosed appellate papers and correspondence with the New York State Attorney General's office relate to the lawsuit against the Commission on Judicial Conduct to which I referred in my public comment. Although the profound judicial and defense misconduct in the case raise issues of transcending legal ethics and professional responsibility, I have been wholly unable to find ANY lawyers, including lawyers of ethics and professional responsibility, to provide the slightest assistance. Indeed, I have yet to find a lawyer who will even discuss the case with me or, for that matter, to even discuss "*Restraining 'Liars in the Courtroom' and on the Public Payroll*", describing the *readily-verifiable* pattern of judicial and defense misconduct that subverts the judicial process in cases involving judicial self-interest. Among these lawyers who have refused to provide any assistance, including comment, are Professor Neuborne. This, notwithstanding the Brennan Center for Justice, of which he is Legal Director, has a "Judicial Independence Project" – and the most important safeguard against violations of judicial independence by New York State judges is the State Commission on Judicial Conduct.

Professor Neuborne has an identical set of appellate papers and correspondence with the Attorney General's office relating to my lawsuit against the Commission on Judicial Conduct. His response to my request for assistance was so boorish and unprofessional as to have compelled me to memorialize it in a February 21st letter, sent to him certified mail/return receipt. Although such letter underscores how deliberately disingenuous Professor Neuborne was in his response to my public question to him on May 2nd, I withhold providing you a copy because I hope that Professor Neuborne will yet recognize his duty, as the Brennan Center's Legal Director, to, at very least, sit down and discuss the lawsuit with me. For the same reason, I withhold providing you with a copy of my May 23rd letter to him, memorializing what happened when I went up to speak to Professor Neuborne privately at the end of the "Access to Justice" lecture: he adamantly refused to agree to meet with me for purposes of discussing the lawsuit – or even to have someone else at the

¹ This public interest ad, part of the record of my lawsuit against the Commission, is included in the enclosed Appendix at A-55-56.

Brennan Center discuss it with me.

Enclosed, however, is CJA's May 30th letter to Luke Bierman, Director of the ABA's Justice Center and its Standing Committee on Judicial Independence – to which you are an indicated recipient for reasons therein stated (at p. 4) and repeated (at p. 2) in CJA's June 1st letter to Dean Verkuil, Chairman of the ABA's Advisory Council to the Standing Committee on Judicial Independence.

Following your review of these two letters – and the appellate papers and correspondence with the Attorney General relating to my lawsuit against the Commission on Judicial Conduct – I would appreciate if you call me to arrange a meeting at which we can sit down to discuss the case and the possibility of obtaining from the Cardozo Law School's Jacob Burns Ethics Center *amicus* and other support, including assistance “in building a coalition of support and involvement by members of New York's legal ethics community and, in particular by the professors of legal ethics and professional responsibility at New York law schools”.

Thank you.

Yours for a quality judiciary,



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

- Enclosures: (1) appellate papers and correspondence with NYS Attorney General, as inventoried on accompanying page;
(2) CJA's May 30th letter to Luke Bierman, along with predecessor March 2nd and April 25th letters
(3) CJA's June 1st letter to Dean Paul Verkuil

cc: Burt Neuborne, Director
Brennan Center for Justice
Luke Bierman, Director
ABA Standing Committee on Judicial Independence
ABA Justice Center
Paul R. Verkuil, Dean
Benjamin N. Cardozo School of Law

INVENTORY OF TRANSMITTAL

Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico, against Commission on Judicial Conduct of the State of New York

Correspondence:

Appellant's letters to Attorney General Spitzer, dated January 10, 2001*, April 18, 2001, and May 3, 2001 (enclosing Appellant's Critique of Respondent's Brief)

Appellant's letter to Deputy Solicitor General Belohlavek, dated May 3, 2001 (enclosing Appellant's Critique of Respondent's Brief)

Appellate Submissions:

Appellant's Brief and Appendix, dated December 22, 2000

Respondent's Brief, dated March 22, 2001

Stipulations:

Stipulation, dated January 11, 2001, to adjourn to the June 2001 Term

Stipulation, dated April 6, 2001, to adjourn to the September 2001 Term

Miscellaneous:

Appellant's petition in support of an application to the Appellate Division, First Department for a "record" to be made of oral argument of the appeal

* CJA's December 1, 2000 memorandum-notice to the Attorney General and Commission is attached