

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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By Courier

June 17, 1996

Magistrate Sharon E. Grubin, Co-Chair  
Second Circuit Task Force on Gender, Racial and  
Ethnic Bias in the Courts  
U.S. Courthouse  
500 Pearl Street  
New York, New York 10007-1312

RE: Second Circuit Task Force on Gender, Racial and  
Ethnic Fairness in the Courts

Dear Judge Grubin:

In our November 28, 1995 testimony before the Task Force, the Center described the inadequacy of existing mechanisms to protect the public from biased, abusive judges. We called upon the Task Force to answer the question "Where do you go with a "merits-related bias complaint against a federal judge?".

Central to our presentation was discussion of the disciplinary mechanism under 28 U.S.C. §372(c). We focused on the "thorny" issue of the justiciability of "merits-related" complaints thereunder--which the National Commission had failed to clarify.

Since that time, we ourselves have filed a bias complaint under 28 U.S.C. §372(c). Our direct, first-hand experience demonstrates that the judiciary has gutted the remedy under §372(c)--much as it has gutted the remedy provided by Congress under the recusal statutes, about which we testified, based on our direct, first-hand experience (DLS testimony, pp. 7-10).

It has done this by promulgating local rules which are inconsistent with the statute. This includes the Second Circuit's local rule 4(c)(2), which makes dismissal of "merits related complaints" mandatory, in contravention of the §372(c) statute, where it is discretionary.

Additionally, the Second Circuit dismisses §372(c) complaints by the same tactic of dishonest decisions as its judges employ to deny meritorious recusal motions.

Although our testimony emphasized the methodological importance to the Task Force's endeavors that it review §372(c) complaints filed in the Second Circuit and that it communicate with complainants, we were never contacted by the Task Force in connection with our §372(c) complaint, filed on March 4, 1996.

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So that there can be no doubt as to the extent to which the Second Circuit has subverted the §372(c) mechanism, we transmit herewith copies of the papers relating to our §372(c) complaint against this Circuit's Chief Judge, Jon O. Newman.

They are:

- (1) our complaint, under 28 U.S.C §372(c), dated 3/4/96
- (2) Second Circuit letter of acknowledgment, dated 3/5/96
- (3) Second Circuit letter, dated 4/11/96, enclosing dismissal Order of Acting Chief Judge Amalya Kearse, dated 4/11/96
- (4) our letter petitioning for review, dated 5/10/96
- (5) Second Circuit letter of acknowledgment, dated 5/15/96
- (6) our letter petitioning for review, dated 5/30/96
- (7) Second Circuit letter of acknowledgment, dated 5/31/96.

Finally, we do not know whether--and to what extent--the Task Force reviewed the extensive documentary materials we provided in support of our November 28, 1995 testimony, including the documents relating to our motion to recuse Judge John Sprizzo in our §1983 federal action (DLS testimony, pp. 7-10).

Events in that §1983 action, subsequent to our testimony, further establish that there is no way a litigant can protect himself from an abusive and biased judge and from the most pernicious manifestation of that bias, flagrantly dishonest decision-writing. Because the record therein dispositively demonstrates that fact, we urge the Task Force to review the litigation file of Sassower v. Mangano, #94 Civ. 4514 (JES).

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator  
Center for Judicial Accountability, Inc.

Enclosures