

rec'd 6/27/01

CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

Elena Ruth Sassower, Coordinator

BY HAND

June 1, 2001

Ronald Kuby, Esq.
740 Broadway, 5th Floor
New York, New York 10003

RE: Your advocacy – including by your WABC talk-show –to vindicate the public interest in the appeal of the public interest Article 78 proceeding, *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* (NY Co. #108551/99), to be argued in the Appellate Division, First Dept., September 2001 Term)

Dear Mr. Kuby:

Thank you for agreeing to review the appellate papers in the above-entitled public interest lawsuit against the New York State Commission on Judicial Conduct. I trust this will be a prelude to your agreeing to a meeting at which we can sit down together -- with Professor Kinoy and other members of the civil liberties/public interest community -- to map out an *amicus*/public relations strategy to prevent the appeal from being “thrown” by a fraudulent judicial decision.

As highlighted by my May 16th letter to you (at pp. 2-3), the Commission has repeatedly been the beneficiary of fraudulent judicial decisions, *without which it could not survive*. This includes the Appellate Division, First Department’s two-paragraph affirmance in *Michael Mantell v. Commission*, which, *without* citation to legal authority, insulated the Commission from future legal challenge by inferring that a complainant whose *facially-meritorious* judicial misconduct complaint has been dismissed by the Commission, *without* investigation, lacks “standing” under Judiciary Law §44.1 to sue¹.

These fraudulent decisions are encompassed in the instant appeal. Indeed, Justice Wetzel’s decision [A-9-14], the subject of this appeal, rests dismissal *exclusively* on the fraudulent dismissal

¹ The appellate decision in *Mantell*, as printed in the New York Law Journal, is annexed to CJA’s December 1, 2000 memorandum-notice to the Attorney General and Commission, appended to my January 10, 2001 letter to Attorney General Spitzer.

decision of Justice Cahn in *Doris L. Sassower v. Commission* [A-189-194] and of Justice Lehner in *Michael Mantell v. Commission* [A-299-307]. Consequently, you can rapidly prove to yourself that there is NO legitimate defense to the appeal simply by reviewing my *uncontroverted* analyses of these decisions of Justices Cahn and Lehner – both part of the record before Justice Wetzel [A-52-54; 321-334]. Even without benefit of the underlying record of those cases, each physically a part of the underlying record in my case, examination of the analyses will enable you to confirm that the decisions of Justices Cahn and Lehner are legally bogus, contrived, and insupportable. To facilitate your verifying this, enclosed is a copy of Judiciary Law, Article 2A, containing Judiciary Law §44.1, and of 22 NYCRR §7000.00 *et seq.*, containing §7000.3, as well as the definition section §7000.1.

I would point out that my analyses of the fraudulent decisions of Justices Cahn and Lehner are discussed at pages 13, 33, 58-60 of my Appellant's Brief, with pages 3-4 of my Critique of the Attorney General's Respondent's Brief reinforcing their dispositive significance and highlighting the fact that, on appeal, as likewise before the lower court, the Attorney General's response to these analyses has been to ignore them *as if they do not exist*. An analysis of the Appellate Division, First Department's fraudulent affirmance in *Mantell*, with its add-on pertaining to lack of "standing", on which the Attorney General relies in his Respondent's Brief, is presented by my Critique [See pages 11, 40-47].

May I suggest that before examining these dispositive analyses – *which should take no more than a couple of hours of your time* -- you read my January 10th, April 18th, and May 3rd letters to Attorney General Spitzer, and my May 3rd letter to Deputy Solicitor General Belohlavek. These encapsulate the status of the appeal –including my position that, pursuant to Executive Law §63.1, the Attorney General's duty is to disavow his representation of the Commission and support the appeal. This, because the Attorney General has NO legitimate defense to my Appellant's Brief – a fact highlighted in those letters and proven by my meticulously documented Critique of his Respondent's Brief.

For your convenience, an inventory of the transmitted materials is enclosed².

Should you have any questions or wish to see the underlying record, don't hesitate to call. In any event, I will plan to call you in two weeks time to discuss your review and, hopefully, to schedule a meeting.

² Also enclosed is a copy of the petition I am circulating for support of my application to the Appellate Division, First Department for a "record" to be made of the oral argument of my appeal. Notwithstanding the Appellate Division is a "court of record" (NYS Constitution, Article VI, §1b), it has no taping system, no audio camera, and not even a court stenographer.

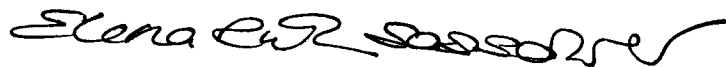
Ronald Kuby, Esq.

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Thank you.

Yours for a quality judiciary,

A handwritten signature in black ink, appearing to read "Elena Ruth Sassower", with a stylized flourish at the end.

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

cc: Professor Arthur Kinoy

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

Constitutional, Statutory, and Rule Authority:

New York State Constitution, Article VI, §22

Judiciary Law, Article 2A

22 NYCRR §7000 *et seq.*

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