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June 2, 1997

Governor George Pataki
Executive Chamber, The Capitol
Albany, New York 12224

RE: The public's right to *basic* information and your unworthy appointment of Justice Nicholas Colabella to the Appellate Division, First Department

Dear Governor Pataki:

We hereby request information regarding your recent appointment of Supreme Court Justice Nicholas Colabella to the Appellate Division, First Department, as well as information pertaining to your appointment of approximately 100 other state court judges during your tenure as Governor.

According to your May 9, 1997 press release (Exhibit "A-1"), Justice Colabella was screened by your Temporary Judicial Screening Committee. As you know, this Committee was established pursuant to your Executive Order #11 (Exhibit "B") to review the qualifications of candidates until superseded by permanent screening committees, pursuant to your Executive Order #10 (Exhibit "C"). The permanent screening committee with jurisdiction over Appellate Division, First Department vacancies -- such as the one to which you have appointed Justice Colabella -- is the First Department Judicial Screening Committee.

You belatedly named the members of the First Department Judicial Screening Committee and those of the other Department Judicial Screening Committees, following the stir created by publication of our Letter to the Editor, "*On Choosing Judges, Pataki Creates Problems*", in the November 16, 1996 New York Times (Exhibit "D"). That Letter highlighted your continued use of the Temporary Committee and failure to implement your Executive Order #10. On March 6, 1997, the first-paragraph of a front-page New York Law Journal article announced that you had "finished selecting the members needed to make [permanent screening committees] *operational*" (Exhibit "E"). Noting that you had "never explained [your] lengthy delay in getting the panels up and running", the Law Journal quoted from the February 7, 1997 report of the Association of the Bar of the City of New York that it "might look like the Governor was waiting until 'political favors' had been paid with judicial appointments".

According to Executive Order #11 (Exhibit "B", ¶4), once the chairperson of the Temporary Screening Committee receives "written notification" from the chairperson of a permanent screening committee that same is "*fully operational*", the Temporary Committee

> "shall cease reviewing the qualifications of candidates for judicial office within the jurisdiction of the notifying committee and shall transmit to the chairperson of the notifying committee all relevant information, records and reports relating to candidates."

We do not know whether and when, in the nearly three months since your appointment of members to the four Department Judicial Screening Committees, they became "*fully operational*" and whether and when the Chairmen of those Committees, all of whom you appointed, transmitted the requisite "written notification" to the Chairman of the Temporary Screening Committee that they were "open for business". We, therefore, request such information.

Significantly, neither your May 9, 1997 press release nor the May 15, 1997 front-page Law Journal article about Justice Colabella's appointment (Exhibits "A-1" and "A-2") identify *any* review of his qualifications by the First Department Judicial Screening Committee.

Consequently, we sought such information from Austin Campriello, counsel to the First Department's Judicial Screening Committee. Mr. Campriello refused to provide it to us and took the position that he was "not able to confirm or deny the workings of the Committee". He advised me to communicate with your office. **Consequently, this letter is our formal request for such specific information as Mr. Campriello refused to provide: (a) whether and when the First Department Committee became "fully operational"; (b) whether and when it transmitted notification to that effect to the Temporary Committee; and (c) whether and when it became involved in reviewing Justice Colabella's qualifications for the Appellate Division, First Department.**

Before abruptly hanging up on me, Mr. Campriello gave me the name of Nan Weiner, who he identified as working in your office as "Executive Director" in charge of coordinating the work of the judicial screening committees. Although I left a detailed recorded phone message for Ms. Weiner on May 28th, the same day I spoke with Mr. Campriello, she has not returned my call. This is consistent with her behavior last year. At that time, we sought to communicate with your Temporary Judicial Screening Committee, which had *no* phone number or mailing address, except through your office. Eventually, our phone calls to your office were diverted to Ms. Weiner. Our repeated urgent messages for her identified that we had information for the Temporary Committee bearing adversely on the qualifications of Court of Claims Judge Juanita Bing Newton, who, according to a Law Journal notice, was then being interviewed by it for reappointment. Not only did Ms. Weiner *not* return any of our calls, but your office would *not* identify for us Ms. Weiner's responsibilities relative to judicial screening or her title -- other than that she was your "assistant" and "part of this". Our April 29,

1996 letter to your counsel, Michael Finnegan, a member of the Temporary Screening Committee[1], recounted what we described as our "'Twilight Zone' experience" with your staff -- including Ms. Weiner and Mr. Finnegan -- as we unsuccessfully struggled to obtain *basic* information about your secret judicial appointments process and to contribute constructively to its purported goal of ensuring that only "highly qualified" candidates would be appointed by you.

Mr. Finnegan's misconduct, as detailed in that letter and our subsequent letters, and your failure to implement Executive Order #10 were highlighted in our November 16, 1996 Times Letter to the Editor (Exhibit "D"), whose effect was to wake up the leadership of the somnolent bar associations to take some minimal steps, which they did, less on behalf of the public interest, than their own. We summarized this fact in a March 7, 1997 letter to City Bar President Michael Cardozo -- a copy of which we sent you.

Under Executive Order #11, the Temporary Committee is precluded from recommending to you candidates other than those determined to be "highly qualified" by "a majority vote of all members of the committee". That determination can only come *after* the Committee has conducted "a thorough inquiry" and prepared "written reports on the qualifications of each candidate" (Exhibit "B", ¶¶2b, 2c). Virtually identical language to this effect appears in Executive Order #10 (Exhibit "C", ¶¶2c, 2d). Likewise, identical language describes the public availability of such reports. Executive Orders #11 and #10 both read:

> "upon the announcement by the Governor of an appointment the report relating to the appointee *shall* be made available for public inspection" (Exhibit "B", ¶2c; Exhibit "C", ¶2d) (emphasis added).

In May 1996, when you made an unprecedented number of appointments to the bench, to wit, 26 -- including Judge Juanita Bing Newton -- you publicly proclaimed that they had all been found "highly qualified" by your Temporary Judicial Screening Committee. Inasmuch as that Committee -- unreachable except through your office -- never contacted us concerning our proffered documentary proof of Judge Newton's unfitness, contained in the file of our Article 78 proceeding against the New York State Commission on Judicial Conduct, on which Judge Newton sits as a judicial member, our view -- which we expressed in a June 11, 1996 letter -- was that your office had deliberately *withheld* it from the Temporary Committee so as to obtain from it the "highly qualified" rating, which she could not otherwise receive. In other words, and as that letter stated, your office was using the Temporary Committee as a "front" behind which it was rigging the ratings[2]. Although we sought information confirmatory of Judge Newton's "highly qualified" rating -- and that of your other 25

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[1] *See* Executive Order #11, ¶3.

[2] By our June 12, 1996 letter, Mr. Finnegan was specifically invited to respond, on your behalf, to the serious issues presented by our June 11, 1996 letter. He failed to do so.

appointees, among them, 3 to the Appellate Division -- your office, and specifically Mr. Finnegan, to whom our written correspondence was directed, *never* responded.

Apparently, Mr. Finnegan's appalling disrespect for the public's rights and manipulation of the judicial appointments process is not displeasing to you. This is the only inference that can be drawn from your designation of Mr. Finnegan as *chairman* of your State Judicial Screening Committee[3], reported in the same press release as announced Justice Colabella's elevation to the Appellate Division, First Department (Exhibit "A-1").

According to that press release (Exhibit "A-1"), Justice Colabella received a "highly qualified" rating from your Temporary Screening Committee. Such rating, if it exists, is not the product of any "thorough inquiry", which would have readily unearthed adverse information, disqualifying Justice Colabella from consideration for *any* office of public trust. Naturally, we are most interested in substantiation of that rating.

Consequently, we assert our rights under Executive Order #11 (Exhibit "B", ¶2c) and Executive Order #10 (Exhibit "C", ¶2d) to inspect the committee report(s) as to Justice Colabella's qualifications. Under those same provisions, we further assert our rights to inspect the committee reports as to the qualifications of the 26 nominees you appointed in May 1996, particularly Judge Newton -- as well as the committee reports as to the qualifications of *each and every* judicial nominee you have appointed during your tenure as Governor.

We also reiterate the public's right to information as to the procedures used by your Temporary Committee in screening applicants so as to verify its adherence to the "thorough inquiry" requirement of your Executive Order #11 (Exhibit "B", ¶2b) -- without which a "highly-qualified" rating cannot properly be rendered. Such procedures normally require candidates to complete a questionnaire, which answers a screening committee then reviews and investigates. However, as pointed out by our June 12, 1996 letter to Mr. Finnegan, the result of your office's "stonewall silence" in response to our repeated requests for information as to the procedures employed is that we were unable to confirm whether your Temporary Committee even used a questionnaire. Obviously, relying on "resumes", which is what your various "classified" advertisements requested that applicants send your office (Exhibits "F-1" and "F-2"), ensured the self-serving nature of the information they provided about their qualifications.

By contrast, questionnaires oblige candidates to disclose a range of specific information, including information embarrassing, unflattering, and potentially disqualifying, from which judicial fitness can more accurately be gauged and "thorough inquiry" strategies formulated. Illustrative is the "Uniform Judicial Questionnaire" used by the City Bar for its screening of candidates for judicial office -- federal and state (Exhibit "G").

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[3] Under Executive Order #10 (Exhibit "C", ¶3), *any* of the 13 members of the State Judicial Screening Committee may be designated by you as chairman.

A standard question on such questionnaires relates to whether the candidate has been the subject of disciplinary complaints and legal suit. So fundamental is this question that even if the Temporary Committee did not require a written questionnaire from candidates, it is hard to imagine the interview component of a "thorough inquiry" not including it.

We are personally familiar with two suits in which Justice Colabella was a named defendant, each entitled *Doris L. Sassower v. Justice Nicholas Colabella* (A.D. 2d Dept, #92-01093, #92-03248). These were Article 78 proceedings in which Justice Colabella's on-the-bench misconduct was fully documented by appended court transcripts and so malicious and deliberate in nature as to require his referral to the New York State Commission on Judicial Conduct, which relief was expressly sought. Indeed, the evidentiary proof presented by those Article 78 proceedings mandated Justice Colabella's removal from the bench because he wilfully used his judicial office for retaliatory purposes to advance ulterior political and personal interests. This included, most particularly, the interests of his boyhood friend and former law partner, Anthony Colavita, the first-named respondent in the Election Law case of *Castracan v. Colavita*[4], which had been brought by Doris Sassower as *pro bono* counsel, to challenge a corrupt 1989 judicial cross-endorsement Deal between Republican and Democratic leadership of the Ninth Judicial District, implemented at judicial nominating conventions which violated the Election Law. Mr. Colavita was then the long-time Chairman of the Westchester Republican County Committee and former Chairman of the State Republican Party. Justice Colabella not only owed *all* his judicial offices to Mr. Colavita, but had been Mr. Colavita's *first* choice for the Westchester Surrogate judgeship, the cornerstone of the 1989 Deal, challenged by Ms. Sassower.

Tellingly, the May 15, 1997 Law Journal article (Exhibit "A-2") refers to comments by Angelo Ingrassia, Chief Administrative Judge for the Ninth Judicial District, that "he reserves some of his toughest assignments for Justice Colabella". Indeed, the case involving Doris Sassower over which Justice Colabella presided and from which the Article 78 proceedings against him emerged was one Judge Ingrassia directed to him, in violation of the random selection requirement of the Uniform Trial Court Rules. However, the only sense in which the case was a "tough assignment" is that it required a judge who, like a "contract killer", would be capable of blithely murdering "the rule of law" and the most fundamental rules of procedure so as to eviscerate all Ms. Sassower's constitutional rights. Justice Colabella proved himself more than equal to that task.

Judge Ingrassia's premeditated specific assignment of the case to Justice Colabella occurred *after* Ms. Sassower's counsel had made a motion to transfer it to another judicial Department because she could not get a fair trial in the Ninth Judicial District as a result of the judicial bias against her engendered by the *Castracan v. Colavita* case -- which motion Judge Ingrassia summarily denied. In assigning the case to Justice Colabella, Judge Ingrassia did *not* disclose disqualifying facts of which he was presumably well aware: that Justice Colabella had a close personal, professional, and political

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[4] Supreme Ct., Albany Co., Index # 6056/90; 173 A.D.2d 924, Lexis 5322 (A.D. 3d Dept.); 78 N.Y.2d 1041, Lexis 4684 (NY Ct of Appeals).

relationship with Mr. Colavita. Likewise, Justice Colabella did *not* disclose that relationship, except to acknowledge same in the course of the subsequent mistrial/recusal motion of Ms. Sassower's counsel, which, by then, was not confined to the appearance of impropriety, but to its actuality: a series of *unprecedented* egregiously erroneous rulings by Justice Colabella, which were intended to -- and did -- prejudice Ms. Sassower's legal rights. As set forth in that recusal motion, which Justice Colabella denied, and in her subsequent recusal motions, which he also denied, Justice Colabella used his position to settle scores and avenge Mr. Colavita. In the process, Justice Colabella, who, according to the Law Journal (Exhibit "A-2"), Judge Ingrassia relies on to clear court "backlogs", profligately and with the knowledge of Judge Ingrassia, wasted vast amounts of court time and hundreds of thousands of taxpayer dollars on an unwarranted six-week trial and jurisdictionally-void contempt proceedings, wherein he shamelessly jettisoned *all* judicial standards and respect for due process and authored decisions which were legally insupportable and factually fabricated. This is the context of Ms. Sassower's Article 78 proceedings against Justice Colabella, necessitated by his official misconduct.

A "thorough inquiry, particularly of a public official such as Justice Colabella, would include a media/Lexis-Nexis search. This, too, would have disclosed such Article 78 proceedings against Justice Colabella, reported in Gannett newspapers, as well as in the New York Law Journal. In fact, on March 24, 1992, the Law Journal published Ms. Sassower's Letter to the Editor regarding her first Article 78 proceeding, which made manifest its significance (Exhibit "H"):

> "The petition underlying my proceeding before the Appellate Division is undenied. It documents a pattern of judicial misconduct violating black-letter law as to jurisdiction, as well as fundamental constitutional rights. It also sets forth facts showing that the Code of Judicial Conduct required Judge Colabella to have disqualified himself. His refusal to do so is at the heart of my 78 proceeding."

At minimum, a media search would have disclosed what Mr. Finnegan, a politically-connected Westchester lawyer, doubtless already knew: that a publicly adversarial relationship exists between Justice Colabella and Doris Sassower, a prominent lawyer with more than 35 years' standing at the bar. Yet, notwithstanding a "thorough inquiry" necessarily includes interviews of persons able to provide information, particularly negative information, about the candidate, the Temporary Committee never contacted Ms. Sassower or the Center for Judicial Accountability, Inc. (CJA), of which she is co-Founder and Director. And, quite apart from such media search, what could be more obvious than that CJA, based in Westchester, would be a valuable source of information about Justice Colabella, a judge sitting in Westchester?

The impressive credentials and work-product of Doris Sassower[5] and CJA were well known to Mr. Finnegan and your staff from the voluminous materials we previously provided your office, especially the file of our Article 78 proceeding against the New York State Commission on Judicial Conduct (*Doris L. Sassower v. Commission on Judicial Conduct*, NY Co. Clerk #95-109141). Indeed, that Article 78 file made evident the high quality of Ms. Sassower's legal papers, from which the serious and substantial nature of *any* Article 78 proceeding she brought against Justice Colabella could be inferred[6].

It may be presumed that just as Mr. Finnegan did not wish the members of the Temporary Committee to see the file of our Article 78 proceeding against the Commission when it was considering the qualifications of Judge Newton, so he did not want them to see the files of our Article 78 proceedings against Justice Colabella. The fact that Justice Colabella's name was never "floated" as a contender for the Appellate Division, First Department appointment reinforces that view. Mr. Finnegan could predict, with reasonable certainty, that were Justice Colabella's name to surface in the press, CJA would, as quick as lightening, seek to contact the Temporary Committee -- much as we had last year after the Law Journal published a notice about Judge Newton's candidacy -- and that, as then, CJA would ready a transmittal of the Article 78 files. That Justice Colabella's name was *not* publicly mentioned in connection with the Appellate Division, First Department vacancies, while others were, may be seen from the Law Journal's front-page December 10, 1996 article, "*Appellate Selection Process Stirs Concerns*"[7], as well as its front-page December 16, 1996 notice (Exhibits "J-1" and"J-

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[5] Ms. Sassower's credentials, as listed in the 1989 Martindale-Hubbell Law Directory, are printed on the reverse side of the reprint of CJA's October 26, 1994 New York Times Op-Ed ad, "*Where Do You Go When Judges Break the Law?*". That reprint is an insert to CJA's informational brochure, accompanying *all* our correspondence. For your convenience, another copy is annexed hereto, together with Ms. Sassower's "Director's Biography" (Exhibits "I-1" and "I-2").

[6] The petition in our Article 78 proceeding against the Commission also made evident that the justices of the Appellate Division, Second Department had wholly abandoned the rule of law in a retaliatory vendetta against Ms. Sassower (*See*, especially, Exhibits "G", "H", "I", "J"). From such lawless conduct, the fate of the two Article 78 proceedings against Justice Colabella was predictable, as well as of our subsequent perfected appeals, *Wolstencroft v. Sassower*, #92-03928/29; #95-09299 (*See*, particularly, the reargument motions to both those appeals).

[7] Such article mentioned Appellate Division, Second Department Judge Albert M. Rosenblatt as a front-runner for appointment to the Appellate Division, First Department. In the event he is under consideration to fill a First Department vacancy -- or any other judicial office -- CJA would wish to present to the relevant screening committee information dispositive of his unfitness, *Sassower v. Mangano, et al.*, A.D. 2d #93-02925 (Article 78 proceeding); *Sassower v. Commission, supra*, (Article 78 proceeding): See petition: Exhibits "G", "H", "I", "J").

2").

Quite apart from the failure of the Temporary Committee to contact Doris Sassower and CJA -- two obvious and outspoken sources for information about Justice Colabella -- we do not believe it solicited the views of members of the legal community having direct, personal knowledge of Justice Colabella's on-the bench conduct. Indeed, the recently-issued New York Judge Reviews and Court Directory (Exhibit "K") reflects the kind of unflattering assessments of Justice Colabella that the Temporary Committee would have received -- had the legal community been asked to comment. Thus, the very first paragraph, under the heading, "Attorneys' Comments", describes Justice Colabella's "Temperament/Demeanor" as follows:

> "Only a few attorneys described Judge Colabella as 'easygoing.' The rest did not have anything positive to say, and some had extremely strong feelings. 'Very high strung. He has an awful temper.' 'Hot tempered.' 'Usually he will pick one attorney out of the group and start yelling. He's a yeller. I don't like being in his part.' 'He's a screamer. Very explosive. A very tough judge.' 'He's brutal. He loves launching thunderbolts at attorneys.' 'He's known for being very difficult. He can be unreasonable.' 'Difficult judge to deal with.' 'He seems to be on a power trip. He lets you know who's boss. He constantly reminds you he's the boss.' The consolation? 'He's not as difficult as Owen.'"

The balance of the entry, with its range of comment reflecting adversely on Justice Colabella's courtroom behavior and decision-making, only reinforces the importance of a "thorough inquiry", including examination of transcripts and appellate records[8].

It deserves note that whereas entries of other judges listed in the Law Directory include sections with information about "Teaching/Lectures/Publications" and "Honors and Memberships", Justice Colabella's entry does not include such sections. Other than his law school training, there is nothing in his Law Directory entry connoting particular scholarship or legal excellence or that he has been recognized by the legal community as having made some contribution to the law or has involved himself in bar associations or other organizations, advancing knowledge and understanding of the law.

Since under ¶3 of Executive Order #11 (Exhibit "B"), it was the responsibility of your counsel, Mr. Finnegan, to ensure that the Temporary Committee had

> "sufficient staff and resources...to carry out properly its responsibilities including adequate investigations into all matters relevant to the qualifications of candidates for appointment to judicial office",

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[8] The number of "reported cases" listed under Justice Colabella's "Appellate Record" appears to be erroneous -- and is being checked by the author. Based on our initial Lexis search, the number is not, as indicated, 1.

we request to know what "staff and resources", Mr. Finnegan made available to the Temporary Committee, pursuant to ¶3 of Executive Order #11. This, of course, reiterates our request for such information which we made directly to Mr. Finnegan in our unresponded-to April 29, 1996 letter to him. Invoking our rights under the Freedom of Information Law, we also request information as to any and all monetary allocations to the Temporary Committee and expenditures incurred by it.

We note that ¶7 of Executive Order #10 (Exhibit "C") provides that *each* of the permanent screening committees established therein will have

> "*a paid staff available to it* sufficient to enable the committee to carry out properly its responsibilities including adequate investigations into all matters relevant to the qualifications of candidates for appointment to judicial office."(emphasis added)

Therefore, we request information as to the "paid staff" resources that *each* of the permanent screening committees has had and, pursuant to the Freedom of Information Law, to the expense thereof to taxpayers, as well as other costs incurred by the permanent committees, such as the reimbursement of their members' "necessary expenses".

We include, of course, the County Screening Committees -- as to which we also seek information as to whether and when they each became "operational". As part thereof, we request the name of the person designated to *each* of the 62 County Committees by the chief executive officer of each county, as specified in ¶5 of Executive Order #10.

Since it is the public whose welfare is *directly* affected by the quality of your judicial appointees and who pays their substantial salaries, the public should be entitled to the information herein requested. However, based on our extensive experience with you and your office, we can only conclude that your position is that the public has *no* rights to either information or participation in your judicial appointments process. Certainly, we invite you to elaborate *your* views as to the public's rights in this important area.

Your prompt response would be most refreshing.

Yours for a quality judiciary,

Elena Ruth Sassower

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

cc: See next page

cc: [Only Exhibits "D", "T", and "K" are included, but are available upon request. All Exhibits, as well as all correspondence referred to in this letter, may be accessed on CJA's web site: www.judgewatch.org]

Members of the Governor's Temporary Judicial Screening Committee
Members of the Governor's Permanent Judicial Screening Committees
President, Association of the Bar of the City of New York
President, New York County Lawyers Association
President, New York State Bar Association
President, Bar Association of Erie County
President, Bar Association of Onondaga County
President, Women's Bar Association of the State of New York
President, New York Women's Bar Association
President, New York State Trial Lawyers
President, Westchester County Bar Association
Executive Director, Fund for Modern Courts
Executive Director, Common Cause
Executive Director, NYPIRG
Executive Director, Citizens Union
Gannett Suburban Newspapers
New York Law Journal
The New York Times

The New York Times

EDITORIALS/LETTERS *SATURDAY, NOVEMBER 16, 1996*

On Choosing Judges, Pataki Creates Problems

To the Editor:

Our citizens' organization shares your position that Gov. George E. Pataki should take the lead in protecting the public from processes of judicial selection that do not foster a quality and independent judiciary ("No Way to Choose Judges," editorial, Nov. 11). However, the Governor is the problem — not the solution.

A Sept. 14 news article described how Governor Pataki had politicized "merit selection" to New York's highest court by appointing his own counsel, Michael Finnegan, to the Commission on Judicial Nomination, the supposedly independent body that is to furnish him the names of "well qualified" candidates for that court.

More egregious is how Governor Pataki has handled judicial appointment to the state's lower courts. Over a year and a half ago, the Governor promulgated an executive order to establish screening committees to evaluate candidates for appointive judgeships. Not one of these committees has been established. Instead, the Governor — now almost halfway through his term — purports to use a temporary judicial screening committee. Virtually no information about that committee is publicly available.

Indeed, the Governor's temporary committee has no telephone number, and all inquiries about it must be directed to Mr. Finnegan, the Governor's counsel. Mr. Finnegan refuses to divulge any information about the temporary committee's membership, its procedures or even the qualifications of the judicial candidates Governor Pataki appoints, based on its recommendation to him that they are "highly qualified."

Six months ago we asked to meet with Governor Pataki to present him with petitions, signed by 1,500 New Yorkers, for an investigation and public hearings on "the political manipulation of judgeships in the State of New York." Governor Pataki's response? We're still waiting.

ELENA RUTH SASSOWER
Coordinator, Center for Judicial Accountability Inc.
White Plains, Nov. 13, 1996

Ex "D"

Reprinted from the Op-Ed Page, Oct. 26, 1994, THE NEW YORK TIMES

The New York Times

Where Do You Go When Judges Break the Law?

FROM THE WAY the current electoral races are shaping up, you'd think judicial corruption isn't an issue in New York. Oh, really?

On June 14, 1991, a New York State court suspended an attorney's license to practice law—immediately, indefinitely and unconditionally. The attorney was suspended with no notice of charges, no hearing, no findings of professional misconduct and no reasons. All this violates the law and the court's own explicit rules.

Today, more than three years later, the suspension remains in effect, and the court refuses even to provide a hearing as to the basis of the suspension. No appellate review has been allowed.

Can this really happen here in America? It not only can, it did.

The attorney is Doris L. Sassower, renowned nationally as a pioneer of equal rights and family law reform, with a distinguished 35-year career at the bar. When the court suspended her, Sassower was *pro bono* counsel in a landmark voting rights case. The case challenged a political deal involving the "cross-endorsement" of judicial candidates that was implemented at illegally conducted nominating conventions.

Cross-endorsement is a bartering scheme by which opposing political parties nominate the same candidates for public office, virtually guaranteeing their election. These "no contest" deals frequently involve powerful judgeships and turn voters into a rubber stamp, subverting the democratic process. In New York and other states, judicial cross endorsement is a way of life.

One such deal was actually put into writing in 1989. Democratic and Republican party bosses dealt out seven judgeships over a three-year period. "The Deal" also included a provision that one cross-endorsed candidate would be "elected" to a 14-year judicial term, then resign eight months after taking the bench in order to be "elected" to a different, more patronage-rich judgeship. The result was a musical-chairs succession of new judicial vacancies for other cross-endorsed candidates to fill.

Doris Sassower filed a suit to stop this scam, but paid a heavy price for her role as a judicial whistle-blower. Judges who were themselves the products of cross-endorsement dumped the case. Other cross-endorsed brethren on the bench then viciously retaliated against her by suspending her law license, putting her out of business overnight.

Our state law provides citizens a remedy to ensure independent review of governmental misconduct. Sassower pursued this remedy by a separate lawsuit against the judges who suspended her license.

That remedy was destroyed by those judges who, once again, disobeyed the law — this time, the law prohibiting a judge from deciding a case to which he is a party and in which he has an interest. Predictably, the judges dismissed the case against themselves.

New York's Attorney General, whose job includes defending state judges sued for wrongdoing, argued to our state's highest court that there should be no appellate review of the judges' self-interested decision in their own favor.

Last month, our state's highest court — on which cross-endorsed judges sit — denied Sassower any right of appeal, turning its back on the most basic legal principle that "no man shall be the judge of his own cause." In the process, that court gave its latest demonstration that judges and high-ranking state officials are above the law.

Three years ago this week, Doris Sassower wrote to Governor Cuomo asking him to appoint a special prosecutor to investigate the documented evidence of lawless conduct by judges and the retaliatory suspension of her license. He refused. Now, all state remedies have been exhausted.

There is still time in the closing days before the election to demand that candidates for Governor and Attorney General address the issue of judicial corruption, which is real and rampant in this state.

Where do you go when judges break the law? You go public.

Contact us with horror stories of your own.

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*The **Center for Judicial Accountability, Inc.** is a national, non-partisan, not-for-profit citizens' organization raising public consciousness about how judges break the law and get away with it.*

Ex "I-1"

CENTER FOR JUDICIAL ACCOUNTABILITY, INC.

DIRECTOR'S BIOGRAPHY

DORIS L. SASSOWER, Director and Co-Founder of the Center for Judicial Accountability, Inc., is a *cum laude* graduate of New York University Law School. One of five women in her graduating class, she was a Florence Allen Scholar (named for the first woman to serve as Chief Judge of a federal appeals court). Following her admission to the bar in 1955, she launched her legal career as an assistant to one of the foremost champions of court reform of his day -- Arthur T. Vanderbilt, then Chief Justice of the highest court of the State of New Jersey.

Thereafter, over a thirty-five year period, Ms. Sassower built a private law practice, while continuing her commitment to public service. Early on, she held positions of leadership. From 1963 to 1965, she served as the first woman and youngest President of the Lawyers' Group of the Alumni Association of Brooklyn College, from which she graduated *summa cum laude* in 1954. In 1968, she became the youngest President of the New York Women's Bar Association, serving from 1968-69. As a leader of the women's rights movement, long before there was a recognized "movement", she broke ground with her seminal article, "*What's Wrong With Women Lawyers?*" published in 1968 in Trial Magazine, a first on the subject of discrimination against women in a major professional journal. She actively promoted the importance of increasing the number of women in the legal profession and on the bench, a subject on which she spoke before the National Conference of the Bar Presidents in 1969 -- the first woman ever to address that body.

A recipient of countless honors and awards, Ms. Sassower was named Outstanding Young Woman of America from the State of New York in 1969 and, in 1970, became President of Phi Beta Kappa Alumnae in New York. In 1971, she represented the New York Women's Bar Association on the first judicial screening panel set up in New York County to review the qualifications of candidates for the Supreme Court in the First Judicial Department. Her article on the subject was published on the front page of the New York Law Journal in October 1971. Thereafter, she became the first woman member of the New York Bar Association's Judiciary Committee. In that capacity, she served for eight years -- spending innumerable hours, *pro bono,* interviewing candidates for the New York State Court of Appeals, the Appellate Division of the New York Supreme Court, and the State Court of Claims.

In 1972, at age 39, Ms. Sassower was nominated as a candidate for the New York Court of Appeals -- the first woman practitioner to be accorded such distinction. In 1973, the American Bar Association named her as its first woman Chair of the National Conference of Lawyers and Social Workers. In 1981, the National Organization for Women gave her a Special Award "for her outstanding achievements on behalf of women and children in the area of Family Law" and for her intensive divorce reform work. At the same time, her trail-blazing work on behalf of fathers earned her a national reputation as "the mother of joint custody".

Ex "I-2"

A Fellow of the Academy of Matrimonial Lawyers, Ms. Sassower was elected in 1989 to the Fellows of the American Bar Foundation, "an honor reserved for *less than one-third of one percent* of the practicing bar in each State", awarded "to lawyers whose professional, public and private careers have demonstrated outstanding dedication to the welfare of their communities and to the objectives of the American Bar Association..."

In 1990, as *pro bono* counsel to the Ninth Judicial Committee, she brought the historic lawsuit of *Castracan v. Colavita,* under New York's Election Law, to challenge the manipulation of state court judgeships by political party bosses and the misconduct of their judicial nominees. The lower courts dumped the case. On June 14, 1991, five days after The New York Times printed her Letter to the Editor about the case and he intention to appeal it to the Court of Appeals, she was suspended from the practice of law, immediately, indefinitely, unconditionally -- without any charges, hearing, findings, or reasons. Her continued and repeated attempts to obtain a hearing as to the basis for the retaliatory and lawless suspension of her license and to obtain appellate review have all been denied. This is partially reflected by the Op-Ed ad, "*Where Do You Go When Judges Break the law?*", published in The New York Times on October 26, 1994.

This has not silenced her from speaking forcefully for reform of the processes of judicial selection and discipline. She has since devoted her energies to building CJA, serving as its Director since its inception.

NEW YORK
JUDGE REVIEWS
AND COURT DIRECTORY

1997-1998 EDITION

By
Benedene Cannata, Esq.

JAMES PUBLISHING
INCORPORATED
LAW PUBLISHERS

Ex "K"

For the most part, the judge lets lawyers try their own cases. "He doesn't take over questioning." "He'll cut off attorneys who he feels are wasting time. He gets involved in the questioning."

Opinions varied as to his rulings. "Rules by the seat of his pants." "Rules consistently." While some attorneys stated they felt he is weak on the rules of evidence, others said that his was a "pretty strict application of the rules of evidence." "Good grasp on evidentiary rules. He applies them fairly."

Most (but not everyone) found Judge Cohen to be accommodating with witness schedules. "He's difficult with adjournments; the same for witness schedules."

SETTLEMENTS

Comments regarding this judge's settlement abilities were mixed. "Aggressive. He pushed the parties throughout the trial." "Tried to settle, but at a low price." "He attempted. He wanted settlement. He negotiated."

ADJOURNMENT/CONTINUANCES

Not all of the legal practitioners interviewed gave negative comments about continuances. "You can get it." "Flexible." "Difficult."

PROCLIVITIES

Attorneys polled opined that Judge Cohen, who is assigned to a city part, is inclined toward the city. "He went out of his way to help the city. Plaintiffs' attorneys are uncomfortable." "Pro-city." "He is there to protect the city at all costs." In non-city cases, however, they say he is even. "He's objective."

SUGGESTIONS

"Avoid him if you can. Don't take it from him." "Be prepared. Have issues briefed, memos ready, and witnesses prepared." "Don't expect too many smiles."

COLABELLA, NICHOLAS

Justice, Ninth Judicial District Supreme Court, Westchester County

Appointment/Election: Elected in January 1988; current term expires in December 2000.

Previous Experience: Judge, Westchester County Court, 1982-1987; Eastchester Town Justice Court, 1981-1982; Private practice, 1964-1982.

Admission: Admitted to New York State Bar in 1962; also admitted to practice before Eastern District of New York, 1970; Southern District of New York, 1970.

Education: J.D., Albany Law School, Albany, NY (1962).

Biographical Data: Born May 1936, in Bronxville, NY. Catholic.

Appellate Record: As of 10/28/96, 1 Reported Case; 1 Affirmed; 0 Reversed; 0 Modified.

Recent Decisions: *Tornese v. Tornese*, 11/95 (Common Law Remarriage); *Robustelli v. Worby* P.C., 4/26 (Sub-section 3104(d) Motion timely if made within five (5) days of receipt of written order); *Lloyd v. Cohen*, 8/95 (Interpreting Carvahlo); *Thorn v. Stephens*, (Right of owners of future interest in land); *Vetere v. Ponce*, 4/96 (Elected officials failure to timely file oath of office); *Mandroukakis v. County of Westchester*, 5/96 (Physician-patient privilege).

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Law Clerk: Raymond Powers

ATTORNEYS' COMMENTS

TEMPERAMENT/DEMEANOR

Only a few attorneys described Judge Colabella as "easygoing." The rest did not have anything positive to say, and some had extremely strong feelings. "Very high strung. He has an awful temper." "Hot tempered." "Usually he will pick one attorney out of the group and start yelling. He's a yeller. I don't like being in his part." "He's a screamer. Very explosive. A very tough judge." "He's brutal. He loves launching thunderbolts at attorneys." "He's known for being very difficult. He can be unreasonable." "Difficult judge to deal with." "He seems to be on a power trip. He lets you know who's boss. He constantly reminds you he's the boss." The consolation? "He's not as difficult as Owen."

Most attorneys are not happy with the treatment they receive at Judge Colabella's hand. "He treats attorneys harshly. He's tough." "Like [excrement]." "He's condescending and nasty and not well liked by attorneys." "He likes to humiliate lawyers in order to get results and get discovery done." "He's a very exacting man and he expects a lot."

Judge Colabella may be "the last judge you would send a young attorney to." "This is probably the worst judge for a young attorney." "He'll eat him for lunch."

ON THE BENCH

While this judge is said to be "excellent at moving cases," queries as to whether he is hardworking and efficient received oddly lukewarm responses. All found him prepared, but that was where the consensus ended.

There was likewise no consensus on his approach to a case. "Both law and facts." "More of a facts judge." "More oriented toward case law and statutes." Attorneys said that Judge Colabella's legal acumen is anywhere from average to very good. "He's still getting familiar with the [civil] law. Not really experienced with negligence." "He's very strict during discovery."

Opinions as to whether his decisions are well reasoned were "not especially," "sometimes," "usually" and "always."

Whether his mind can be changed was mostly answered in the negative. "No. It's his way or no way." "No. He listens to attorneys before making a ruling, but after that, that's it."

ON TRIAL

Comments on this judge's speed and efficiency varied, but it seems that the proceedings move apace. "Very quick." "Very efficient. He does work hard." "He really moves his calendar." "Quick. He makes attorneys work." "Trial went on longer than it should have." "Not as quick as it could have been. We spent a lot of time waiting around."

Although some said the courtroom environment was "not too difficult" and "professional," others said that it could have been friendlier. "Frightening." "Oppressive." "Very hostile, almost humiliating." "Hell."

On any given day, Judge Colabella may or may not interject himself into a case. "He gets involved and interrupts but not quite to the point of taking over." "Takes over questioning and, arguably, the whole trial." "He does get involved. He is always trying to keep the pace up." "He'll ask questions and get involved. He doesn't quite take over the trial, though." "He doesn't take over at all, minimal involvement." "Won't take over the trial."

This judge's evidentiary rulings were said to be "down the middle." "He's liberal if anything, but he's still fair."

Opinions varied regarding whether Judge Colabella would be accomodating to witness and other scheduling problems. "He's very difficult." "I would never describe him as accommodating." Others disagreed, however. "He's pretty accommodating." "He'll help attorneys out."

SETTLEMENTS

There was mostly praise received for the judge's tenacity in the area of settling. "He's a strong settler. Aggressive. He pushes throughout the trial." "Aggressive. He won't give up." "Wasn't very aggressive. He conferenced the case but that was it." "His personality makes him an effective settler."

ADJOURNMENT/CONTINUANCES

Legal practitioners expressed skepticism at best regarding this judge's willingness to grant requests for continuance. "Not easy." "Impossible." "Not very receptive." "Never."

PROCLIVITIES

Opinions on Judge Colabella's proclivities were unanimous: He is even.

SUGGESTIONS

"Don't push him. If he wants it a certain way, that's the way it's going to be." "Remember that it's only one trial and, luckily, not all our judges are so unreasonable."

COLLAZO, SALVADOR

Acting Justice, First Judicial District Supreme Court, New York County

Appointment/Election: Appointed in January 1991; current term expires in December 2000.

Previous Experience: Judge, Civil Court, City of New York; also served as Special