

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Doris L. Sassower, Director  
Elena Ruth Sassower, Coordinator

Certified Mail/RRR: 7001-0320-0004-7860-0374  
7001-0320-0004-5457-4972

TO: A. Gail Prudenti, Appellate Division, Second Department Presiding Justice  
Anthony V. Cardona, Appellate Division, Third Department Presiding Justice

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

RE: Your Right to "Hear" CJA's Opposition Testimony to Senate Confirmation of  
Court of Claims Presiding Judge Susan P. Read to the New York Court of  
Appeals – and to "Be Heard" with Respect Thereto

DATE: January 28, 2003

As judges who testified on behalf of Court of Claims Presiding Judge Susan Read at the Senate Judiciary Committee's January 22, 2003 "hearing" to confirm her appointment to the Court of Appeals, you, no less than the public, were wrongfully deprived by Chairman DeFrancisco of the opportunity to "hear" my testimony in opposition.

I, therefore, enclose copies of my written statement, with appendix documents – identical to the copy I gave, *in hand*, to Chief Administrative Judge Jonathan Lippman, shortly after the "hearing" at which he also testified on Judge Read's behalf.

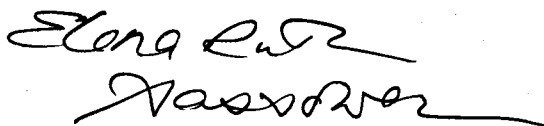
Since you each felt it appropriate to give supporting testimony, there should be *no* constraint on your commenting on my written statement – at very least as to such fundamental due process principles as adequate notice and opportunity to be heard, as well as to the other legal issues raised, having constitutional dimension.

I also extend this invitation to Judge Read, who kept silent in the face of Chairman DeFrancisco's trampling on the public's legitimate rights – and to whom a copy of my statement and appendix was provided *via* the Court of Appeals' Public Information Officer, Gary Spencer.

I additionally invite comment from Chief Judge Judith Kaye and the five other Associate Judges of the Court of Appeals. To that end, an additional copy of my written statement, with appendix documents, is transmitted herewith to Mr. Spencer for circulation to them with this invitation.

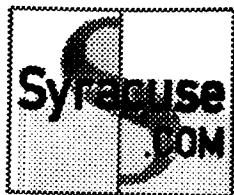
In the event you and the other judicial recipients of this invitation decline to comment on the fundamental legal and constitutional issues presented by my written statement, I request that, either jointly or separately, you refer my statement, as well as the forthcoming stenographic transcript of the Senate Judiciary Committee's confirmation "hearing", to the appropriate bodies within the judicial and legal establishment for comment and such substantive response as the drafting of legislation to safeguard the public's legitimate rights in the selection of judges to our State's highest Court.

Finally, and still on the subject of the Senate Judiciary Committee's "hearing" on Judge Read's confirmation, enclosed is a copy of the groundbreaking editorial, "*A Flawed Process: Judicial nominees should be subject to more public scrutiny*", appearing in yesterday's Syracuse Post-Standard.



**Enclosures**

cc: Chief Administrative Judge Jonathan Lippman  
[certified mail/rrr: 7001-0320-0004-5457-4798]  
Gary Spencer, Public Information Officer/NY Court of Appeals  
[certified mail/rrr: 7001-0320-0004-5457-4989]  
Associate Judge Susan Read  
Chief Judge Judith Kaye  
Associate Judges George Bundy Smith, Carmen Ciparick,  
Richard Wesley, Albert Rosenblatt, Victoria Graffeo



## The Post-Standard

### A Flawed Process

**Judicial nominees should be subject to more public scrutiny**

Monday, January 27, 2003

In his first appearance as chairman of the state Senate's Judiciary Committee last Tuesday, Sen. John DeFrancisco presided over a confirmation hearing on Gov. George Pataki's latest nominee to the state Court of Appeals. But the hearing revealed more about the flawed process by which the Senate scrutinizes judicial candidates than it did about the nominee.

The hearing on Judge Susan Phillips Read lasted less than hour. Senators asked no questions. Three state judges each gushed 10 minutes of praise on behalf of the nominee. Read made just a brief statement, calling a seat on the Court of Appeals a "daunting and sobering job."

Only one witness, Elena Ruth Sassower, coordinator of the Center for Judicial Accountability, suggested anything negative about Read. But DeFrancisco cut off her testimony and ordered her out of the room when she began talking about the judicial selection process. "Pack your bags," DeFrancisco told her.

With that, the committee unanimously approved Read. The next day, the full Senate confirmed Read, 55, as associate judge on the seven-member high court. Associate Court of Appeals judges serve 14-year terms and make \$151,200 a year.

DeFrancisco, R-Syracuse, acknowledged the Senate does not conduct independent inquiries of judicial nominees. He said the governor's office provides senators with state police reports on candidates and requires nominees to complete sworn questionnaires.

DeFrancisco and the other senators on the Judiciary Committee could have asked Read probing questions about her lack of experience in criminal law, either as a defense attorney or a criminal court judge. The Court of Appeals handles thousands of appeals, motions and other filings in criminal matters, including death penalty cases. Instead, senators did nothing.

Senators have a solemn obligation to independently and thoroughly examine judicial candidates who come before them, not just rubber-stamp names passed on by the governor. Otherwise, the confirmation process -- spelled out in the state Constitution to check executive-branch power -- is a sham.

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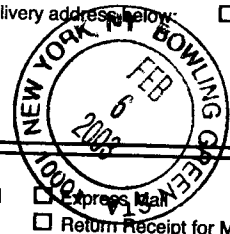
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Sent To: *NY Court of Appeals*  
*Att. Cary Spencer - Public Informant*  
 Street, Apt. No., or PO Box No. *NY Office*  
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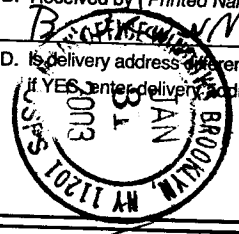
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