

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

DATE: September 16, 2003

TO: Allan Sobel, Executive Vice-President & Director
American Judicature Society
Fax: 515-279-3090 (16 pages)
E-mail: asobel@ajs.org

Deborah Goldberg, Deputy Director/Democracy Program
Brennan Center for Justice
Fax: 212-995-4550 (16 pages)
E-mail: deborah.goldberg@nyu.edu

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

RE: Advancing long-overdue non-partisan, good-government reform
of federal judicial selection/confirmation, etc.

This formalizes my telephone requests that you review the “paper trail” of primary source documents establishing the corruption of federal judicial selection/confirmation, posted on the homepage of CJA’s website, www.judgewatch.org¹.

Unless you disagree as to the serious and substantial nature of these primary source documents, your organizations should be collaborating with us to expose the corruption they document and thereby propel long-overdue non-partisan, good-government reforms. As American Judicature Society and the Brennan Center for Justice are “Campaign Partners” in

¹ In my September 4th telephone conversation with Mr. Sobel (515-271-2281), alerting him to these posted primary source documents, he specifically asked for something “in writing”. He was, however, not particularly eager to receive it – as he not only declined to give me his e-mail, but told me I should send it to him by regular mail. In fact, both Mr. Sobel’s e-mail, as well as the American Judicature Society’s fax number (which I obtained from Mr. Sobel only after he told me to send my “writing” by regular mail) are listed on the AJS website.

As for Ms. Goldberg, a “writing” is plainly in order because when I phoned her on August 21st (212-998-6748) – almost five weeks after I first phoned her on June 17th alerting her to the primary source documents posted on CJA’s homepage – she told me that she had NOT reviewed any of them and, thereupon, when our conversation became “disconnected”, failed to return my *immediate* call back, as to which I left a voice mail message for her.

the Justice at Stake Campaign and have worked with The Constitution Project², also a "Campaign Partner", you plainly recognize the importance of collaborative associations. For this reason – as well as for reasons of fairness – your organizations are each indicated recipients of my September 10th letter to Barbara Reed, Director of The Constitution Project's Courts Initiative. A copy of that September 10th letter is enclosed, as is a prefatory transmittal memo to recipients. As has always been CJA's practice, I invite your response. In particular, I invite your response to the assertions in my letter:

- (1) that "the meticulous, fully-documented nature of CJA's work on the twin issues of judicial independence and accountability" has earned us a place beside you as a "Campaign Partner" in the Justice at Stake Campaign (at pp. 1-2); and
- (2) that "the ONLY response we have ever gotten from...American Judicature Society [and] Brennan Center for Justice...to whom, time and again, we have reached out with primary source materials documenting the corruption of judicial selection and discipline – is a cold should refusal to even discuss the materials." (at p. 5)

My September 10th letter to Ms. Reed summarizes that the corruption of federal judicial selection/confirmation has culminated in a criminal case against me for "disruption of Congress". In our phone conversations, I alerted you to this criminal case – and its catalytic potential to power long-ago made, but *unimplemented* recommendations for non-partisan, good-government reform of the federal judicial confirmation process³. Specifically, I directed your attention to my June 16th memo to Ralph Nader, Public Citizen, and Common Cause for legal and other assistance, posted on our website homepage. A copy of that memo is part of my September 10th letter to Ms. Reed.

So that there is no doubt on the subject, I herein make explicit my telephone requests that American Judicature Society and the Brennan Center for Justice also provide me with legal

² Illustrating this participation: American Judicature Society's then Director of its Center for Judicial Independence, Charles Gardiner Geyh, served as reporter to The Constitution Project's Task Force on the Distinction between Intimidation and Legitimate Criticism, and the then Director of AJS' Hunter Center for Judicial Selection, Seth Anderson, served as a member of its Task Force on Selecting State Court Judges.

As for the Brennan Center, its Legal Director, Burt Neuborne, served as a member of the Constitution's Task Force on Federal Judicial Selection.

³ These include the same *unimplemented* recommendations which, to no avail, I brought to American Judicature Society's attention, more than six years ago, inviting it to join a non-partisan coalition effort to secure their implementation. [See CJA's August 13, 1996 letter to AJS Executive Director Frances Zemans, with a copy to AJS President Robert Kaufman – posted on CJA's website, "*Correspondence-Organizations*"].

and other assistance. This would include by “expert” evaluation of the most important of CJA’s homepage documents -- our March 26, 2003 written statement to the American Bar Association and Association of the Bar of the City of New York – thereafter furnished to New York Home-State Senators Schumer and Clinton, the Senate Judiciary Committee, and President Bush, as well as brought to the attention of Senate Majority Leader Frist and Senate Minority Leader Daschle, among others. Such “expert” evaluation of the March 26th statement should attest to what is obvious from its most cursory examination -- that the statement is, *on its face*, dispositive of nominee unfitness, by any cognizable standard – REQUIRING INVESTIGATION of the referred-to substantiating documents AND FINDINGS based thereon.

Of course, each of your organizations possess more than the expertise to attest to the statement’s facial merit, warranting investigation and findings. You also possess a significant portion of the substantiating documents – which have been in your possession for years. In 1998, I transmitted to you the *unopposed* cert petition and supplemental brief in the federal case *Doris L. Sassower v. Hon. Guy Mangano, et al.* and, in 2001, I transmitted to you the intermediate appeal papers in the state case, *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*. These transmittals were to substantiate CJA’s requests for your *amicus* and other assistance in those cases, based on record evidence of judicial and governmental corruption so systemic as to wipe out touted safeguards for ensuring judicial independence and accountability. This is reflected by my exchange of correspondence with your organizations – posted on CJA’s website⁴. As established therein, you not only refused to provide *amicus* and other assistance, but refused to discuss with us the evidentiary significance of ANY of the transmitted record documents.

The federal *Mangano* case and my state *Commission* case underlie the March 26th statement⁵ – thereby reinforcing your professional obligation to FINALLY confront the devastating and irrefutable empirical evidence they present. As identified by the statement (fn. 12), these two cases are “companion cases”, establishing, on federal and state levels, “the corruption of ALL avenues of redress for judicial misconduct”. Although a substantial portion of the record of

⁴ See *Correspondence: Organizations* – with its entries for *American Judicature Society* and *Brennan Center for Justice*, as well as *Correspondence: Academia-Professor Charles Gardiner Geyh*.

⁵ As pointed out by the statement (at pp. 17-18), the unopposed cert petition and supplemental brief in the federal *Mangano* case are not only physically part of my state *Commission* case – but were part of the facially-meritorious judicial meritorious complaint, whose dismissal by the Commission, without investigation, generated my lawsuit against it.

these cases is posted on CJA's website⁶, I am ready to supply you with "hard copies" of the full record -- supplementing the key portions of the record which, presumably, you still have -- as they were not returned to us. Needless to say, whether or not you request such "hard copies" for purposes of substantiating the truth and accuracy of the March 26th statement, your obligation is to bring the existence of such comprehensive record proof to the attention of scholars and researchers affiliated with your organizations so that their scholarship and your advocacy on judicial independence and accountability, as likewise on judicial selection and discipline, may be informed by the empirical, on-the-ground reality that has heretofore been ABSENT⁷.

By copy of this memo to The Fund for Modern Courts -- an indicated recipient of my September 10th letter to Ms. Reed for the same reasons as your organizations are recipients -- I also invite its response to the two above-referenced assertions therein, which similarly apply to it. Like your organizations, The Fund is well familiar with the meticulous, fully-documented quality of CJA's work on judicial independence and accountability -- a substantial quantity of which we have provided it, over more than a decade's time. Yet, The Fund has refused to ever discuss with us the corruption of judicial selection and discipline which our primary source materials have documented. This is reflected by our exchange of correspondence with The Fund, including with Ms. Reed, when she was its Deputy Director. Such correspondence is also posted on our website [*Correspondence: Organizations-Fund for Modern Courts*].

The Fund possesses a more extensive portion of the record of my state *Commission* case than American Judicature Society and the Brennan Center -- including the final two final motions, whose dispositive significance is focally-presented by CJA's March 26th statement. Copies of these two motions were given, *in hand*, to The Fund's Executive Director, Ken Jockers, on December 11, 2002, at the conclusion of its program, "*Judging the Judges: The New York State Commission on Judicial Conduct*". This, as a follow-up to the question I had publicly asked during the program as to whether The Fund would review the underlying litigation files and

"deny and dispute what they show: that the Commission is corrupt, that it has

⁶ See Test Cases: federal (Mangano) -- state (Commission) -- so-named because they purposefully "tested" all touted checks on judicial misconduct -- and documented their complete worthlessness.

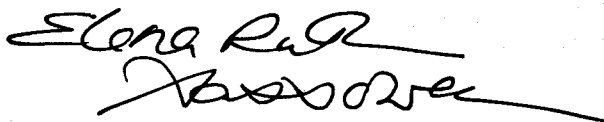
⁷ The American Judicature Society purports to be "building knowledge through empirical research on justice system issues", including by an "Elmo B. Hunter Citizen Center for Judicial Selection" that "conducts, synthesizes, and disseminates empirical research on a wide range of judicial selection issues". The Brennan Center purports to have a "non-partisan agenda of scholarship".

corrupted the judicial process, and [that] it has been the beneficiary of a series of fraudulent judicial decisions without which it would not have survived several court challenges." [See transcription of the full exchange, posted on CJA's website: under "*Correspondence: Organizations-Fund for Modern Courts*].

As CJA's March 26th statement is largely focused on my state *Commission* case – and Mr. Jockers has heretofore NOT responded to my publicly-asked question as to whether The Fund will review the case record – it is appropriate that my request herein for The Fund's legal and other assistance to me in the criminal case, be specifically directed to its evaluating the March 26th statement, and, in particular, to the two focally-presented, dispositive motions I personally handed to Mr. Jockers – and as to which, nine months later, he has not even commented⁸.

Finally, as American Judicature Society, Brennan Center for Justice, and the Fund for Modern Courts all purport to concern themselves with "improving" judicial selection – with American Judicature Society and the Fund explicitly "pushing" for the elimination of judicial elections in favor of "merit selection" appointment – a position espoused by The Constitution Project – your requested examination of the record in my state *Commission* case for purposes of substantiating the truth and accuracy of CJA's March 26th statement will have the further salutary result of forcing you to confront the hoax of "merit selection" to New York's highest state court, which that case RESOUNDINGLY establishes. Only by so-doing can appropriate – and obvious -- safeguards be devised -- such as are not now part of "merit selection" proposals.

Please let me hear from you expeditiously.



cc: The Fund for Modern Court

ATT: Ken Jockers, Executive Director

By Fax: 212-541-7301 (16 pages) By E-Mail: jockers@moderncourts.org

All indicated recipients of CJA's September 10, 2003 letter to Barbara Reed

⁸ As pointed out by the March 26th statement (p. 19), "even without the underlying record, [these two motions] permit verification of their salient aspects by virtue of their annexed exhibits and lengthy record excerpts".

*Allan Sobel
American
Judicare
Society*

TRANSMISSION VERIFICATION REPORT

TIME : 09/16/2003 13:54
NAME : CJA
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DATE, TIME	09/16 13:44
FAX NO./NAME	15152793090
DURATION	00:09:54
PAGE(S)	16
RESULT	OK
MODE	STANDARD ECM

*Deborah
Goldberg*

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