

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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August 22, 1995

John D. Feerick, Chairman
Fund/Committee for Modern Courts
c/o Fordham University School of Law
140 West 62nd Street
New York, New York 10023

Dear Chairman Feerick:

We congratulate you on becoming Chair of the Fund/Committee for Modern Courts and look forward to working together with you to advance our common goal of a well-qualified, independent judiciary.

I understand that prior to her departure, Elizabeth Hubbard, as Executive Director of Modern Courts, forwarded to you and other members of the Board information relating to an Article 78 proceeding we commenced against the New York State Commission on Judicial Conduct for its gross dereliction of duty to the People of this state.

A description of that ground-breaking litigation--and how the state Supreme Court has dumped it by abandoning elementary standards of adjudication and falsifying the factual record--was published last week by the New York Law Journal in my "Letter to the Editor". In case you missed it, I am enclosing a copy, as well as a copy of the Court's decision, also published in the Law Journal.

I specifically direct your attention to the last paragraph of my letter. In pertinent part it reads as follows:

"The public and legal community are encouraged to access the legal papers in the Article 78 proceeding from the New York County Clerk's office (Sassower v. Commission, #95-109141)...What those papers unmistakably show is that the commission protects judges from the consequences of their judicial misconduct--and, in turn, is protected by them."

August 22, 1995

A full set of the court papers in Sassower v. Commission is in the possession of Modern Courts. They were transmitted by us months ago to demonstrate the vital need for Modern Courts to play a role in the litigation on behalf of the public interest. I assume Ms. Hubbard's communication with the Board about the litigation was in that context.

Now that the state Supreme Court has so demonstrably torpedoed the litigation, Modern Courts' assistance is more imperative than ever. Participation is additionally appropriate because Modern Court was instrumental in creating the Commission, whose importance it has consistently recognized.

As I am sure you know, Modern Courts twice issued reports on the Commission, the most recent under Michael Cardozo's chairmanship. However, it appears that in neither report did Modern Courts compare the Constitution and statute with the self-promulgated rules of the Commission, which examination shows to be facially irreconcilable. Nor does it appear that Modern Courts ever examined the kind of judicial misconduct complaints being dismissed without investigation by the Commission, so as to determine the constitutionality of the Commission's self-promulgated rule, as applied. Our litigation against the Commission will surely be an "eye-opener".

We, therefore, respectfully request that you, as Chair of Modern Courts, and Mr. Cardozo, as Vice-Chair and Chair of its Executive Committee, personally review the court papers, in the possession of Modern Courts, so as to verify the transcending public significance of the Article 78 proceeding and what has been done to it by the state Supreme Court.

You can be assured that the significance of this litigation is not lost upon us. Therefore, a copy of this letter is being sent to counsel at the Assembly Judiciary Committee, together with a duplicate of the Sassower v. Commission court papers.

We expect that the Assembly Judiciary Committee will rightfully look to Modern Courts for its assessment of the frightening and dangerous situation--both at the Commission and in the state Supreme Court--fully documented by the Article 78 file.

Yours for a quality judiciary,



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

Enclosures/cc's: on next page

Enclosures:

- (a) "Commission Abandons Investigative Mandate", Ltr to
Editor, NYLJ, 8/14/95
- (b) Memorandum-Decision, NYLJ, 7/31/95
- (c) CJA brochure

cc: Michael A. Cardozo, Vice-Chairman, Modern Courts
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