

Elena Ruth Sassower

From: Elena Ruth Sassower [elena@judgewidth.org]
Sent: Tuesday, November 27, 2007 10:04 AM
To: 'david_vondrehle@timemagazine.com'
Cc: 'mjobbie@syr.edu'
Subject: FW: Follow-up to your coverstory "Does the Supreme Court Still Matter" -- Bringing Accountability to the U.S. Supreme Court
Attachments: 11-19-07-press-release.pdf

Opps! November 21st was Wednesday.

From: Elena Ruth Sassower [mailto:elena@judgewidth.org]
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To: 'david_vondrehle@timemagazine.com'
Cc: 'mjobbie@syr.edu'
Subject: Follow-up to your coverstory "Does the Supreme Court Still Matter" -- Bringing Accountability to the U.S. Supreme Court

The following was written last Tuesday, November 21st – but could not be sent as I had no e-mail address for you. Now I do -- & hope to hear from you about this far-reaching story, even more damning of the Supreme Court in light of its yesterday's denial of the rehearing petition in the "disruption of Congress" case.

TO: DAVID VON DREHLE – TIME

This follows up your provocative October 22, 2007 Time magazine coverstory, "*Does the Supreme Court Still Matter?*" Your important point that the Court takes fewer cases affecting fewer people launched my initial draft of a petition for rehearing of the Court's October 1, 2007 denial of a cert petition in an explosive "disruption of Congress" case whose issues affect EVERY litigation in EVERY one of our nation's courts. The draft, after citing to, and quoting from, your article, stated:

"This case is about judicial impartiality – and the standards for ascertaining its determination. It affects every case. Every case involves a judge, whose background and rulings may be the subject of disqualification motions.

This case is about the absence of judicial impartiality so extreme as to wipe out any cognizable judicial and appellate process."

Due to supervening developments in the case and other constraints, I dropped that draft – and its inclusion of your article – which I regret. However, the fact remains that the cert and rehearing petitions offer you "specifics" and "hard evidence" to refute such critics as former journalist-turned professor Mark Obbie. As you know, Professor Obbie directs Syracuse University's Carnegie Legal Reporting Program, from which perch he writes his Lawbeat blog. His October 11, 2007 blog entry, "*Time out of (its) mind*", included the following:

"Other parts of the article mock the justices, clerks, and Supreme Court bar as a cloistered bunch that is drunk on the notion of its own power and importance, while in fact it's slipping into obscurity. It's engaging. But specifics? Hard evidence? Not so much of that. I find it heartening that Time tackles a brainy topic like this, and poses thoughtful, cheeky questions. But the premise of this story seems wildly overstated."

So that you might evaluate the potential of the case for essential follow-up reporting about the Supreme Court, attached is a press release about the case. Entitled "*How Does the U.S. Supreme Court Handle Misconduct*

11/27/2007

Complaints against its own Staff?", it describes the supervening developments encompassed by the rehearing petition. The petition was on the Court's conference calendar yesterday.

The press release, rehearing petition, and cert petition, are all posted on the website of the Center for Judicial Accountability, Inc., www.judgewatch.org, most conveniently accessible *via* the top panel "Latest News".

I look forward to assisting you in developing further vital stories about the Supreme Court – and take this opportunity to note that I was privileged to meet you at the Association of the Bar of the City of New York when you gave a terrific lecture about your book Triangle: The Fire that Changed America, which I then bought and you inscribed.

Thank you.

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Center for Judicial Accountability, Inc. (CJA)
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P R E S S R E L E A S E

November 19, 2007

How Does the U.S. Supreme Court Handle Misconduct Complaints against its Staff?

Two misconduct complaints, now before Chief Justice John Roberts, provide a rare window into the Supreme Court's internal operations, showcasing lawlessness, lack of professionalism, and invidiousness by the Court's Clerk's Office, covered-up by the Court's Legal Office.

The first complaint, against the Court's Clerk and his staff, details how they shielded the Government from accountability by improperly withholding from the Chief Justice, as Circuit Justice for the District of Columbia, a motion to compel the Government's response to a petition for a writ of certiorari in a politically-explosive "disruption of Congress" case (#07-228). They did this without citing any legal authority, which they refused to provide. Such misconduct resulted in the Court's denying the cert petition – and was the basis for a second motion, seeking recall/vacatur of the denial order and, additionally, clarification by the Chief Justice of his remarkable decision, as D.C. Circuit Justice, in *Boumediene v. George W. Bush*, 127 S.Ct. 1725 (2007), being misused by the Clerk's Office. This second motion disappeared in the Clerk's Office, as if in "a black hole", with the Clerk and his staff refusing to give any information as to its status.

This first complaint was sent to the Chief Justice in his administrative capacity. The response was a three-sentence letter from the Court's Legal Office, by its counsel. Ignoring all the facts, law, and legal argument presented by the complaint, the letter baldly purported that the actions of the Clerk's Office were "consistent with Court rules and policies" and that there would be "No response...to further correspondence on these issues."

This has led to the second complaint – against counsel for his flagrant cover-up. The complaint notes that the letter from the Legal Office did not indicate that a copy was being provided to the Chief Justice and asks the Chief Justice whether he endorses and approves of counsel's handling of the complaint against the Clerk and his staff and, if not, what steps he will take. It also requests the Chief Justice to distribute the eight enclosed copies of the complaint to the Associate Justices because they "share responsibility for the proper functioning of the Court's Clerk's Office and Legal Office" and because it bears upon their consideration of the petition for rehearing in the "disruption of Congress" case, calendared for the Court's November 20, 2007 conference. The Clerk's Office misconduct is the first ground for rehearing in that petition. The second ground is the Chief Justice's September 19, 2007 speech at Syracuse University on judicial independence, the First Amendment, and the rule of law – the very issues presented by the cert petition.

This story is easy to verify – and explosive. The two complaints to the Chief Justice, dated October 26, 2007 and November 14, 2007, and the substantiating underlying Supreme Court submissions are all posted on the Center for Judicial Accountability's website, www.judgewatch.org, via the sidebar panel "'Disruption of Congress' – The Appeals". Indeed, the website posts the full record of the case, establishing that two levels of the District of Columbia judiciary, as well as the U.S. Attorney's Office for the District of Columbia, utterly trashed the rule of law to cover-up the corruption of federal judicial selection involving the Senate's most influential members – Senator Hillary Rodham Clinton, among them. Such record of judicial and prosecutorial lawlessness is the basis upon which both the cert petition and rehearing petition assert that the Court's review of the case is mandatory, compelled by its supervisory and ethical responsibilities.

* The Center for Judicial Accountability, Inc. (CJA) is a national, non-partisan, non-profit citizens' organization dedicated to ensuring that the processes of judicial selection and discipline are effective and meaningful.