

**CENTER** for **JUDICIAL ACCOUNTABILITY, INC.**

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*Elena Ruth Sassower, Director*

DELIVERY CONFIRMATION:  
0300-1290-0006-9069-4874

October 26, 2007

William K. Suter, Clerk  
United States Supreme Court  
1 First Street, N.E.  
Washington, D.C. 20543

RE: Misconduct Complaint against You and the Clerk's Office,  
Now Further Embodied in Petition for Rehearing:  
*Elena Ruth Sassower v. United States of America, #07-228*

Dear Mr. Suter:

Enclosed is a copy of my letter of today's date to the Chief Justice, constituting my complaint against you and your staff for official misconduct. Such misconduct, particularized by my October 9, 2007 motion, is now supplemented by your misconduct in handling that motion. This includes your wilful failure – and that of your staff – to advise me as to the status of the motion and of its alternative accompanying October 9<sup>th</sup> letter-complaint for the Chief Justice, with knowledge that I would thereby be delayed and impeded in protecting my rights by myself sending a complaint to the Chief Justice and/or filing a petition for rehearing, due today, October 26<sup>th</sup>. I have now done both.

If you have a legal basis for failing to file and “promptly” transmit to the Chief Justice my October 9<sup>th</sup> motion, as is your duty pursuant to Rule 22.1, please set it forth. Please further identify the dates on which you received and reviewed the motion and why you took no steps to ensure that I would have expeditious notice of its disposition. As with my September 17<sup>th</sup> motion, your computerized docket for case #07-228 contains no entry of receipt and disposition of the October 9<sup>th</sup> motion.

As for the particulars of your staff's misconduct in connection with the motion, they are as follows:

On Friday, October 12<sup>th</sup>, I called the Clerk's Office at 12:45 p.m. to ascertain the status of my October 9<sup>th</sup> motion. According to U.S. postal service records<sup>1</sup>, it was delivered to the Court two days earlier, at 10:48 a.m. on Wednesday, October 10<sup>th</sup>. I spoke with Kendra Morgan, an assistant, who told me she would verify the status with your secretary, Lynn Holtz, and get back to me. Three hours later, at 3:45 p.m., having not heard back from Ms. Morgan, I left a voice mail message for her. At 4:00 p.m., I followed this with a voice mail message for supervisory case analyst Jeff Atkins.

At 4:25 p.m., I again called Ms. Morgan, who I now reached. She told me that I would have to speak with Mr. Atkins. I responded that I had already left him a voice mail, but had not yet received a return call. I asked her to request Mr. Atkins to call me as soon as possible. I thereupon left a second voice mail message for Mr. Atkins, imploring that he call me back so that I might be guided appropriately in making my weekend plans. I received no return call.

On Monday, October 15<sup>th</sup>, I left a voice mail message for Ms. Morgan at 10:00 a.m., a voice mail message for Mr. Atkins at 11:30 a.m., a voice mail message for Ms. Holtz at 12:00 p.m., and another voice mail message for Mr. Atkins at 3:30 p.m. I received no return calls.

At 4:25 p.m., I telephoned the Court's Office of Legal Counsel and spoke with Christie Cherry, a paralegal assistant, requesting information about procedures for forwarding a complaint against you and your staff to the Chief Justice. After explaining to her the relevant particulars, Ms. Cherry stated that since the hour was late, she would get back to me the next day.

On Tuesday, October 16<sup>th</sup>, I received a phone call at about 10:00 a.m. from Eric Fossum, a case analyst in the Clerk's Office. Mr. Fossum told me that he had been asked to call me. However, he knew nothing about the case, other than that my petition for a writ of certiorari had been denied on October 1<sup>st</sup>. After providing him with pertinent background<sup>2</sup>, Mr. Fossum put me "on hold", following which he told me that the Clerk's Office had not received the motion "at this point". I replied that this was quite a surprise not only because the U.S. postal service records showed delivery to the Court six days earlier, but because no one at the Clerk's Office had responded to my many voice mail messages inquiring about the motion by telling me that the motion had not been received.

Mr. Fossum did not say who he had consulted when he put me "on hold" and thereupon told me that the motion had not been received "at this point". He refused to answer my question as to who had asked him to call me and hurried off the phone upon my questioning him, stating that

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<sup>1</sup> Copy attached.

<sup>2</sup> Mr. Fossum's responses to what I told him included his emphatically telling me that the Court's rules "no longer specifically allow" for extensions of time to file petitions for rehearing from the denial of cert and that there were "absolutely no extensions". However, he would not identify the Court rules he was talking about, nor discuss with me Rule 30.3.

he was not the case analyst for this case. At 10:20 a.m., I phoned Mr. Atkins, but got only his voice mail, on which I left a message. At 10:25 a.m., I phoned Ms. Holtz, but likewise only got her voice mail, on which I left a message. At 10:54 a.m., I left a voice mail message for merits clerk Denise McNerny. I also began making calls to the mailroom to ascertain whether it had a record of the motion's receipt and delivery to the Clerk's Office.

At 12:30 p.m., I phoned the Office of Legal Counsel and left a voice mail message for Ms. Cherry. She called me back an hour later, at which time she stated that she had been told by the Clerk's Office that it had now received my motion and that it was "being processed today". However, Ms. Cherry would give me no further information about it, including who was doing the "processing". I implored her to relay to whoever it was that I wished to be informed, as soon as possible, whether it was going to be filed and transmitted to the Chief Justice or, alternatively, given to him as an administrative complaint, as requested in my accompanying October 9<sup>th</sup> letter to you. Ms. Cherry also told me that there are "no formal procedures" for a complaint against you, but that I could mail a complaint directly to the Chief Justice, at the courthouse.

At 2:55 p.m., I phoned Mr. Atkins, but only got his voice mail. My voice mail message for him requested to know who was "processing" my motion and asked that I be informed, as soon as possible, as to the outcome. I thereupon called Ms. Holtz. This time, she answered the phone. However, she refused to speak with me, stating that Mr. Fossum had already spoken with me. I explained that Mr. Fossum had not known anything about the case and that although he had told me that my motion had not been received "at this point", I had since learned that it had been received and was being "processed today". Ms. Holtz hung up on me as I asked who was handling the "processing". Upon promptly calling her back, I got only her voice mail, on which I left a message, reiterating my requests to know who was "processing" my motion and to be informed as soon as possible of its outcome. I received no return call.

On Wednesday, October 17<sup>th</sup>, I phoned Sandy Spagnolo, the case analyst for this case. It was then about 1:42 p.m. – and I got her voice mail, on which I left a message inquiring as to the outcome of the "processing" of my motion. By 4:00 p.m., having received no return call, I telephoned Mr. Atkins. I left a similar message on his voice mail, requesting to know the outcome of the "processing". I received no return call.

On Monday, October 22<sup>nd</sup>, having received no return calls and no postal return of my motion or any written communication from the Clerk's Office, I phoned Mr. Atkins. It was then 4:12 p.m. and I got his voice mail. Again, I left a further message inquiring as to the status of my motion. I thereupon phoned the Clerk's Office, requesting to know the status – and was routed to Ms. Spagnolo, on whose voice mail I left a message. I received no return calls.

On Wednesday, October 24<sup>th</sup>, having still received no return calls, no postal return of my motion, and no written communication from the Clerk's Office, I again left voice messages for

Ms. Spagnolo, at 3:40 p.m., and for Mr. Atkins, at 4:40 p.m., requesting a return call as to the status of the motion, as well as other information needed for finalizing my petition for rehearing. I received no return calls – nor any written communications from the Clerk’s Office.

The foregoing record of misconduct by you and staff under your direction is now embodied in my petition for rehearing. Enclosed are the required 40 copies, together with the required certificate of its word count, certificate of service, and \$200 check.

Yours for a quality judiciary,

A handwritten signature in black ink, appearing to read "Elena Ruth Sassower". The signature is fluid and cursive, written over a horizontal line.

ELENA RUTH SASSOWER

Petitioner *Pro Se*

cc: Chief Justice John G. Roberts  
Solicitor General Paul D. Clement

Enclosures