

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

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BY FAX & E-MAIL (6 pages)

DATE: July 2, 2007

TO: Justice at Stake Campaign Partners  
American Bar Association & its Standing Committee on Judicial Independence  
American Judicature Society  
Brennan Center for Justice  
The Constitution Project  
Institute for the Advancement of the American Legal System  
League of Women Voters Judicial Independence Project  
Appleseed Foundation  
Common Cause  
The Fund for Modern Courts

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

RE: “Working to Keep Our Courts Fair and Impartial” -- As Empirically Tested by the  
“Disruption of Congress” Case *Elena Ruth Sassower v. United States of America*

Enclosed is my June 29<sup>th</sup> letter to Bert Brandenburg, Executive Director of the Justice at Stake Campaign, already directly e-mailed to you on that date as indicated recipients.

I take the opportunity of this coverletter to highlight its concluding paragraph pertaining to you, requesting:

“...the courtesy of [your] responses as to what *amicus curiae* and other legal and media assistance [you] can provide for the cert petition in the 'disruption of Congress' case – and, if none, the reasons therefore and what steps [you] will take to bring the case into scholarship so that advocacy about judicial independence can, at long last, bear some resemblance to the on-the-ground reality.” (underlining in the original).

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\* The **Center for Judicial Accountability, Inc. (CJA)** is a national, non-partisan, non-profit citizens' organization, documenting, by independently-verifiable empirical evidence, the dysfunction, politicization, and corruption of the processes of judicial selection and discipline on federal, state, and local levels.

Kindly also advise as to what services, if any, your organizations provide to litigants and lawyers who turn to you with direct, first-hand information about judicial misconduct and corruption. Specifically, do you ask them to supply you with the substantiating casefiles for research and advocacy based thereon? For that matter, have you ever balanced your vocal defense of judges against “unjust criticism” by acknowledging “just criticism” of judges where such was for judicial decisions and rulings that are *readily-verifiable* judicial frauds – as at issue in the “disruption of Congress” case?

By copy of this letter to Mr. Brandenburg, I ask that he identify whether, to his knowledge, any of Justice at Stake's other Campaign Partners engage in record-based research and advocacy involving fraudulent judicial decisions, or otherwise provide services to victims of judicial misconduct and corruption.

Finally, I note that American Judicature Society, whose Campaign Partner webpage on the Justice at Stake website identifies that it conducts “research” and “empirical research” on “judicial ethics, judicial selection...judicial independence, court administration, and...the justice system”, will be holding an August 10<sup>th</sup> program entitled “Ensuring an Impartial Judge: Current Disqualification Issues”. The program, part of its 2007 Annual Meeting, is described on the American Judicature Society website<sup>1</sup>, introduced as follows:

“Judicial Disqualification is the subject of increasing attention and study nationwide. This program will examine the need for greater effectiveness and transparency in judicial disqualification practices, focusing on the nuts and bolts.”

Which scholars are engaged in this “study nationwide”? – and do their studies go beyond analysis of published judicial opinions on disqualification/disclosure motions and related appeals and mandamus/prohibition petitions to include unpublished judicial opinions?<sup>2</sup> Do any of their studies also examine the underlying casefiles so as to verify the fidelity of the published and unpublished opinions to the actual disqualification/disclosure motions, appeals, and mandamus/prohibition petitions? Assuredly, the “panel of experts” who will be presenting at the August 10<sup>th</sup> program cannot “address practical steps toward ensuring the appearance of judicial impartiality” without confronting what casefiles such as the “disruption of Congress” case documentarily prove, *to wit*, that there are NO “practical steps” for “ensuring the appearance of judicial impartiality”, let alone its actuality, because purported safeguards are demonstrably dysfunctional and corrupted.

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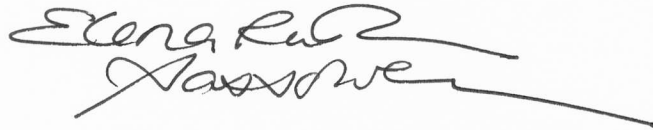
<sup>1</sup> [www.ajs.org/ajs/Meetings/2007/ajs\\_meetings\\_07AM.asp](http://www.ajs.org/ajs/Meetings/2007/ajs_meetings_07AM.asp)

<sup>2</sup> Suffice to compare the published opinion in *Oscar S. Mayers v. Sheila T. Mayers*, 908 A.2d 1182 (October 12, 2006), by a three-judge D.C. Court of Appeals panel (Ruiz, Reid, Nebeker) with the unpublished opinion, 915 A.2d 964, ten weeks later – December 20, 2006 -- in the “disruption of Congress” case by two of the same three judges (Ruiz, Kramer, Nebeker). [accessible *via* [www.judgwatch.org](http://www.judgwatch.org), sidebar panel “Disruption of Congress’-The Appeal]. NIGHT & DAY.

I expressly request that American Judicature Society and other Justice at Stake Campaign Partners having information about the “study nationwide” of judicial disqualification identify the names of the scholars involved so that I might immediately alert them to the record of the “disruption of Congress” case – and seek their guidance and assistance, including as *amicus curiae* in support of Supreme Court review. These scholars presumably include the “panel of experts” for the August 10<sup>th</sup> program. For them, the “disruption of Congress” case is not only “current”, but directly germane to “the issues to be covered”. Most notably, “What grounds for disqualification are most often invoked?”, “Who should decide motions to disqualify?”, “Disqualification issues on appellate courts”, and “What, how, and where should judges disclose relevant information”.

As time is of the essence, I would appreciate your prompt responses.

Thank you.

A handwritten signature in black ink, appearing to read "Elena Ruiz" on the top line and "Nassone" on the bottom line. The signature is fluid and cursive, with a long horizontal stroke extending to the right from the bottom line.

cc: Burt Brandenburg, Executive Director/Justice at Stake Campaign  
Richard E. Flamm, Judicial Disqualification: Recusal and Disqualification of Judges,  
Dahlia Lithwick/Slate  
Lyle Denniston/Scotusblog  
Professor Jonathan Turley  
Professor Andrew Horwitz

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BY FAX & E-MAIL (3 pages)

June 29, 2007

Bert Brandenburg, Executive Director  
Justice at Stake Campaign  
717 D Street, N.W., Suite 203  
Washington, D.C. 20004

RE: “Working to Keep Our Courts Fair and Impartial” – as Empirically Tested by the  
“Disruption of Congress” Case: Elena Ruth Sassower v. United States of America

Dear Mr. Brandenburg:

This follows up the voice mail message I left for you at approximately 11 a.m. on June 27<sup>th</sup>, requesting to speak with you about your June 20<sup>th</sup> letter, sent to me by regular mail. I have received no return call.

Your letter, which states that you have “reviewed the materials [I] sent you”, gives no explanation for why the Justice at Stake Campaign “take[s] no position on the merits of the litigation”. Is this because the draft cert petition in the “disruption of Congress” case chronicles not “fair and impartial courts”, but lawlessness and corruption at the D.C. Superior Court and Court of Appeals and the worthlessness of “mechanisms” that Justice at Stake purports “hold judges accountable”?

Were you to even comment on the case – beginning with the judicial independence issues presented by my draft cert petition – it would be obvious that Justice at Stake should be providing guidance and assistance, if not an *amicus curiae* brief. You give no explanation for why Justice at Stake will not file an *amicus* brief, other than that it has not filed such briefs in the past, and no explanation for why it is not “in a position to provide guidance or assistance, including forwarding” my June 19, 2007 memo addressed to “Justice at Stake Campaign & Its Campaign Partners” to the Campaign Partners.

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I would appreciate the benefit of your explanations. I would also appreciate your response to the further requests in my June 19<sup>th</sup> memo which you have ignored. Among these, that Justice at Stake identify:

“what ‘mechanisms’ are available to hold judges ‘accountable’ in this case, apart from Supreme Court review”.

As you have not disagreed with my characterization that the “disruption of Congress” case is a “PERFECT casestudy of the worthlessness of ‘mechanisms’ for ensuring judicial independence”, isn’t Justice at Stake professionally and ethically obligated to ensure that such case is made the subject of scholarship? And isn’t this even more compelled as you have not denied my assertion that there has been no “empirical research and scholarship on judicial independence drawn from case files -- and advocacy based thereon”? Indeed, what is the empirical basis, drawn from case files, for Justice at Stake’s website assertion:

“there are mechanisms to hold judges accountable. Rulings can be appealed up to the Supreme Court. Laws can be changed. Wrongdoing and ethical violations can be punished. In most states, judges must stand for re-election”,

for which Justice at Stake offers not the slightest qualitative or quantitative assessment of adequacy. As I told you on June 19<sup>th</sup>, when you returned my prior telephone messages and I briefly outlined the substance of my then nearly completed memo to you, our non-partisan, non-profit citizens’ organization can provide you with a multitude of cases, in addition to the “disruption of Congress” case, establishing these “mechanisms” to be utterly ineffectual, where not outrightly corrupted.

While I look forward to your response, I believe our exchange of correspondence is sufficiently serious and substantial that it should be referred to all eleven members of the Justice at Stake Board of Directors for their review and additional response – and I hereby so request.

Meantime, I will most immediately forward this exchange to the below nine Justice at Stake Campaign Partners.<sup>1</sup> This includes the five Campaign Partners specified by your “Why Judicial Independence Matters” webpage as having websites with “more on how judicial independence is critical to upholding a system of fair and impartial courts”: the American Bar Association & its Standing Committee on Judicial Independence, American Judicature Society, Brennan Center for Justice, The Constitution Project, and the Institute for the Advancement of the American Legal System.\* From these five, if not from all nine, I request the courtesy of their responses as to what *amicus curiae* and other legal and media assistance they can provide for the cert petition in the “disruption of Congress” case – and, if none, the reasons therefore and what steps they will take to

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<sup>1</sup> The exchange is also posted on CJA’s website, [www.judgewatch.org](http://www.judgewatch.org), accessible *via* the sidebar panel “Searching for Champions (Correspondence)-Organizations”- “Justice at Stake”, with the latest draft of the cert petition accessible *via* the top panel “Latest News” and ““Disruption of Congress’-The Appeal”.

bring the case into scholarship so that advocacy about judicial independence can, at long last, bear some resemblance to the on-the-ground reality.<sup>2</sup>

Thank you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Director  
Center for Judicial Accountability, Inc. (CJA)

cc: Justice at Stake Campaign Partners:

- \* American Bar Association  
& its Standing Committee on Judicial Independence
- \*+American Judicature Society
- \*+Brennan Center for Justice
- \*+The Constitution Project
- \* Institute for the Advancement of the American Legal System
- League of Women Voters Judicial Independence Project
- +Appleseed Foundation
- +Common Cause
- +The Fund for Modern Courts

Dahlia Lithwick/Slate  
Lyle Denniston/Scotusblog  
Professor Jonathan Turley  
Professor Andrew Horwitz

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<sup>2</sup> Of the nine Campaign Partners, I previously sent six of them my June 19, 2007 memo to you, followed by my June 22, 2007 memo to Ralph Nader, etc. These six are American Judicature Society, Brennan Center for Justice, The Constitution Project, Common Cause, Appleseed Foundation, and The Fund for Modern Courts.+ I received but one response: a June 22<sup>nd</sup> e-mail from the Brennan Center, whose single sentence read: "The Brennan Center will not be participating in this matter." This, from James Sample, counsel in its Fair Courts Project, with whom I directly spoke about the significance of the case on June 18<sup>th</sup>.

I also left telephone messages on June 12<sup>th</sup> and June 18<sup>th</sup> for Seth Anderson, Executive Vice President of American Judicature Society (515-271-2281), from whom I have received no return call, nor other communication.

Not among these six – but among the nine – is the American Institute for the Advancement of the American Legal System. I called it on June 12<sup>th</sup> (303-871-6600), leaving a message for its Executive Director, Rebecca Love Kourlis, to which I have received no return call. Likewise, I have received no return call from Konstantina Vagenas, who works for the American Bar Association's Standing Committee on Judicial Independence, for whom I left a voice mail message on June 27<sup>th</sup> (800-238-2667 x5105) nor from the League of Women Judicial Independence Project, for which I left a June 27<sup>th</sup> voice mail message (202-429-1965).