



# CENTER FOR JUDICIAL ACCOUNTABILITY, INC. (CJA)

*A national, nonpartisan, nonprofit citizens' organization, working to protect the public interest in the integrity of our judicial selection and discipline processes and to depoliticize them so as to ensure that only the most qualified trial lawyers become, and remain, judges.*

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Honorable Stephen P. Younger  
President, New York State Bar Association  
One Elk Street, Albany, New York 12207

Greetings, President Younger:

Thank you for your 11/29/10 e-mail, urging NYSBA members to support legislative action to address what you consider a priority, to wit, increased compensation for our state judges. I am absolutely awestruck by the speed with which your overnight 11/30/10 e-mail reported passage of the "landmark legislation" on the subject you urged be addressed by a Commission to study the subject and make recommendations. At my age, time moves faster than I do. For that reason, kindly excuse my taking a little longer to prepare this response to it.

First off, I agree with you completely that "judges salaries reflect the value that society places on their work." However, I respectfully disagree with you as to your conclusion. Objectively speaking, here in New York, at least, that society does *not* share your obvious belief that judges are *underpaid*. If anything, the payers of those salaries, by and large, do not feel they are getting fair value for the salaries the judges are being paid, whatever that pay is, augmented considerably by the not insubstantial "perks" they get, some tax-free, which should properly be added into the equation.

The profession needs to face up to the fact that the reason for that low opinion of our judges is the popular dissatisfaction with our judges and the quality of the "justice" they dispense. Such is a result of the corruption of our judicial process by political party bosses, whose entrenched control and manipulation of the judicial nominating process, whether appointive or elective, has resulted in lawyers with questionable, if any, qualifications, getting jobs on the bench and keeping them long after their track record shows they should have been fired from them. That would be a given in the private sector, and the government's failure to adhere to such proper requirement has caused serious injury to our society, including the litigants, their families and friends, impacted on by dishonest, biased and abusive judicial behavior.

It is not for nothing that lawyers themselves, nod knowingly, and laugh at still circulated old jokes like "New York has the best judges that money can buy" or courtroom signs saying "In God We Trust," to which they parenthetically add, with a wink, "All others pay cash!" Lawyers, too, are

part of the problem, rather than the solution, because, as emerges in virtually every public corruption scandal, the cast of criminal characters invariably includes one or more lawyers.

Before proceeding, may I take this opportunity to introduce myself. I know from recent e-mail from you that you are encouraging recognition of lawyers who work *pro bono*. I happen to be one of them, 85 years of age, a lawyer admitted to the New York bar 60 years ago, a practicing lawyer for 40 of them, working with law firms, house counsel to a major developer for 11 years, and an adjunct law professor at nearby Pace Law School, teaching Advanced Real Estate Transactions. On retirement, as a seasoned lawyer, I have continued to work, and am still performing *pro bono* public service, by which I mean unpaid for by any third party firm or other entity, but out of my personal pocket, for more than 20 years, spending literally thousands of hours of my legal time to effect change on a meaningful level, as Founder and Chairman of the Ninth Judicial Committee and as Special Counsel to the Center for Judicial Accountability, Inc.

As you will see from the attachments, Doris L. Sassower, Co-Founder and President of CJA, another lawyer who, like myself, only even more so, has likewise spent thousands of hours of her legal time, at her own ongoing out-of-pocket cost, and played a leading role in the public interest work described therein. Like myself, she is also well past retirement age. Gallant "old gent" that I am, I will not mention her precise age.

However, what I will say is that she had a stellar, unblemished legal career and livelihood, until her involuntary retirement from private practice in 1991 for reasons that will become clear from the attached Three Year Deal Addendum, prepared by her, and was an illustrious, long-standing NYSBA member, as well as other bar associations. See also, attached book packet of her professional credentials, including her last listing in Martindale-Hubbell's Law Directory, 1989 ed., identifying, *inter alia*, the numerous bar association memberships she maintained at that time.

Of particular interest to you also will be the fact that in 1972, at 39 years of age, she was the first woman practitioner, then to be nominated to the New York Court of Appeals. She was interviewed by the late N. Earle Evans, of Syracuse, then NYSBA Chairman of its Judiciary Committee, and the late former NYSBA President J. Henry Neale, of Scarsdale, who told her they were so impressed with her credentials that they invited her to serve on their Committee, which screened all candidates for the Court of Appeals, Appellate Divisions of the NYS Supreme Court, and the NYS Court of Claims, the first woman to do so.

In that capacity, she served for eight years. Of further special interest to you, is that for several years, she served on a two-person subcommittee with your late law partner, Chauncey Belknap, whose surname your firm, happily, still bears and did investigative reports on several candidates, including for the Court of Appeals. Also of interest, I might also mention that at the inception of her committee assignment, Chairman Evans told her that the Judiciary Committee was being renamed to the Judicial Selection Committee, in tribute to her October 22, 1971 front page New York Law Journal article, "Judicial Selection Panels: An Exercise in Futility?," based on her experience as a member of New York County's first judicial selection panel, set up by the Reform Democrats in New York County

As former president of the New York Women's Bar Association, she was the first woman to be invited to address the National Conference of Bar Presidents, comprised of the presidents of every national, state and local bar association in the country. She did so, at their 1969 Annual Meetings

in Chicago in conjunction with the American Bar Association, a trip made entirely at her own personal expense. She spoke on the topic of sex discrimination against women in general, and women lawyers, in particular, then invited again to address them in 1976 to update them as to the progress made since then, with the help of cooperating national, state and local bar associations, whose presidents likewise reported their progress after she spoke.

Moving on to the present, here's a thought. How about urging the Legislature to commission a comparable independent study, with recommendations made after due investigation, on the cost of litigation involving government corruption, specifically focusing on complaints of dishonest, biased or otherwise abusive judges, and lower court decisions necessitating appeals by aggrieved parties?

In support of that proposal, I refer you to the [www.judgewatch.org](http://www.judgewatch.org) website of the Center for Judicial Accountability, Inc.(CJA), which has extensively documented that subject, based on more than 20 years of scholarly research, writing, empiric studies, test cases and first-hand, front-line litigation experience, providing case records, legal analysis, recommendations and conclusions, reflecting millions of dollars worth of legal time, freely given as a public service gift to America.

I commend such to your attention and pray you will take the time personally to read and react to my attached Addendum, limited as it is (albeit longer than intended), highlighting just a few of the many items I wish to draw to your attention. Hopefully, they will help you redirect your focus, so as to prioritize the judicial corruption issue before the pay increase.

My considered professional opinion is that in these angry, Tea-Party hard times, passage of such taxpayer-financed increase of judicial salaries by our already near-bankrupt State, with increased taxes and cutbacks in heretofore considered essential services, would risk riots in the streets, unless fully explained and preceded by major legislative reform of the process whereby our state's lawyers are nominated for judgeships, whether appointive or elective.

Based on the all-too frequent front page news reports of one public corruption scandal after another involving lawyers, some going back more than a few years, you, surely, agree that our New York State government is in crisis mode and our judicial branch, even more so. What you may not know is that the general low regard for lawyers in general and our judiciary in particular was exacerbated by a course of events that began more than 20 years ago that I believe is no small factor in the sharply increasing public perception of our justice system as "unjust" in the intervening years.

With all due modesty, I claim some credit, and likewise accept the blame, depending on whether you support the white hats or the black hats, for a chain of events that exposed the underbelly of the beast for all to see. Whether or not you are familiar with the infamous 1989 Three-Year Deal, allow me to give you some historical background with which you may not be familiar. In the summer of that year, I fortuitously came upon a copy of a written resolution embodying a cross-endorsement deal by the Republican and Democratic political party bosses of New York's 9<sup>th</sup> Judicial District and their judicial nominees relating to the *quid pro quo* barter of seven (7) judgeships over three years, 1989, 1990, and 1991.

Attached hereto is a copy of that bipartisan resolution (hereinafter the "Three-Year Deal" or "the Deal"), as well as the more detailed story behind it, for your convenience, set forth in the also attached Three Year Deal Addendum, supported by a few additional documents referred to therein. For more, see, <http://www.judgewatch.org/documents/153-three-year-deal.pdf>.

I am convinced that had our *pro bono* public service work over the past 20 years, including our worthy landmark test cases challenging that Deal, been properly publicized by the mainstream media (an issue that, for present purposes, will remain for another day), it had the potential to revolutionize the judicial nominating process and prevent the downward path our State has taken ever since the Deal put unfit judges on the bench for three-years running with terms of office giving them a foothold into the next century. That, in turn, could have avoided the calamitous breakdown of our judicial system and the continuing corruption of the judicial process that has proven so injurious to our democracy, our citizenry, and the financial health of our state treasury.

In conclusion, I am impelled to share with you CJA's legislative priorities and respectfully ask you to present them to your Executive Board for their consideration and action. In addition to the legislative proposal, *supra*, at p.3, CJA offers the following additional recommendations for action in the next session: for enactment of a statute providing for:

1. Explicit criminalization of judicial cross-endorsement deals as *anathema* to our core democratic values, root cause of many of today's social problems, by amending the aforesaid Election Law, §17-158 (3) to explicitly say that "valuable consideration" includes *judicial* cross-endorsements and other barter arrangements.

2. A Judicial Whistleblowers' Protection Law to protect lawyers and other risk-taking patriotic citizen who speak out as public advocates in defense of our Constitutional rights. Such relief is intended to ensure that they will not be subjected to judicial and other governmental retaliation by judicial decisions, contrary to law and the factual record, or by otherwise abusing their office by inclusion of knowingly false, defamatory, or evidentiarily inadmissible statements, having no basis in the factual record or offering no opportunity for refutation, rightful hearing, or appeal to a higher court.

3. Creation of a commission to study the need for state constitutional amendment, so as to depoliticize the judicial selection and discipline processes and eliminate judicial nominating conventions. Political affiliation shall not be a qualification for judicial office or for court personnel. The guiding principle is to take politics out of the Courthouse forever and to ensure guiding principle that only the best qualified lawyers can become, and remain, our judges.

4. Creation of a commission to study and report on the need for a brand-new §90 of the Judiciary Law, regarding the discipline of attorneys, as well as for removal of disciplinary jurisdiction over attorneys from the Appellate Divisions of the four Judicial Departments of the Supreme Court and vest it in an outside public agency completely independent of the courts, thereby protecting whistle-blowing attorney from being retaliated against for criticizing judges who flout the Rule of Law and the Canons of Judicial Conduct..

I know I speak for Ms. Sassower, in saying that we would gladly bequeath our ideas for solution of our society in crisis, based on our combined 105 years of legal experience, to treat as your own.

Our time on this earth and our financial resources to support our *pro bono* work is finite and at running out. We would both be gratified and deeply honored to donate our expertise to you and NYSBA by serving as Special Consultants on the subject of judicial reform for as long as we can, so that our “20 years at hard labor” can be fruitful for others to benefit from in coming years.

One final thought, Mr. Younger. In consideration of the aforementioned long years of financially uncompensated *pro bono* public service by both Doris Sassower and myself to advance the cause of justice, as reflected in her attached Addendum and CJA’s website, may I humbly propose an unusual nomination. Taking into account the unusual circumstances here involved, bearing in mind apt *caveat* of Justice Oliver Wendell Holmes’s “circumstances alter cases.” I propose that NYSBA bestow upon her an *honorary* membership so that appropriate recognition for her extraordinary *pro bono* public service work can be given at its forthcoming Annual Meetings in NYC and/or at your Annual May, 1 Law Day ceremonies when I understand that NYSBA *Pro Bono* Awards are presented to lawyers with 50 or more years at the bar, for which she qualifies on both counts.

In Ms. Sassower’s attached credentials, you may note therein that Ms. Sassower was last honored in 1997 with the National Giraffe Project Award, bestowed on individuals who “stick their necks out “for the Common Good.” Frankly, I cannot think of any senior lawyer more deserving than she of NYSBA recognition for her years of continuing dedicated *pro bono* public service since then.

I await your comments and will gladly answer any questions as to the foregoing by phone or e-mail. Looking forward to your response, I am.

Cordially yours,

*Eli Vigilano*

Eli Vigilano, Special Counsel

Center for Judicial Accountability, Inc. (CJA)

Attachments (3): Three Year Deal Addendum; Three Year Deal; DLS Bio.