

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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BY FAX & MAIL: 518-426-6952 (3 pages)

BY E-MAIL: [jdefranc@senate.senate.ny.us](mailto:jdefranc@senate.senate.ny.us)

September 18, 2006

Chairman John A. DeFrancisco  
New York State Senate Judiciary Committee  
Albany, New York 12247

RE: FOR THE RECORD: Senate confirmation of Appellate Division, Fourth Department Presiding Justice Eugene F. Pigott, Jr. to the New York Court of Appeals

Dear Chairman DeFrancisco:

This is to confirm that on September 14, 2006, immediately following the Senate Judiciary Committee's "hearing" on Justice Pigott's confirmation to the New York Court of Appeals, I provided the following documents for inclusion in the record – copies of which I gave to your Chief of Staff, Carole Luther, expressly for such purpose, as well as to yourself and Justice Pigott:


- (1) CJA's September 14, 2006 written statement, with annexed appendix;
- (2) Syracuse Post-Standard editorial, "*A Flawed Process: Judicial nominees should be subject to more public scrutiny*", January 27, 2003.

As you stopped my oral presentation of CJA's written testimony on the second page – thereafter precluding my continuation as I skipped ahead to the third page – I clearly never reached the sixth page. I, therefore, submit a superseding sixth page, correcting a typo in the citation reference to the Judiciary Law, whose pertinent language is quoted. It should be Judiciary Law §63.3 – not §66.3. I request that this enclosed superseding page be substituted for the erroneous page in the record. All copies of CJA's written statement – including that posted on our website, [www.judgewatch.org](http://www.judgewatch.org) – will hereinafter reflect such correction.

Finally, enclosed is CJA's letter of today's date to the Secretary of the Senate, setting forth our Freedom of Information Law request – to which you are an indicated recipient.

Thank you.

Yours for a quality judiciary,

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

Enclosures

As a result of the inaction of all concerned – including the press – the Commission on Judicial Nomination’s behind-closed-doors abandonment of “merit selection” principles has continued unabated, fatally tainting this nomination.

The only aspect of the Commission’s work not behind closed doors – and the only visible measure of whether it has adhered to any semblance of “merit selection” – is its July 20, 2006 report to the Governor recommending Justice Pigott for appointment to the New York Court of Appeal, along with six others [A-21]. Such report – a mere 1-1/2 pages – like the Commission’s predecessor reports, establishes the Commission’s violation of “merit selection” as it is NOT in conformity with the express requirement of Judiciary Law §63.3, which mandates that it:

*“shall include the commission’s findings relating to the character, temperament, professional aptitude, experience, qualifications and fitness for office of each candidate who is recommended to the governor” (italics added).*

The Commission’s July 20, 2006 report makes NO findings as to EACH of the seven recommended candidates. Rather, it contains a bald, conclusory statement that “in the collective judgment of the Commission” all seven candidates are “well qualified” according to the aforesaid criteria. This is then followed by an attached “summary of the careers of the recommended candidates” [A-23], which is nothing more than a distillation of resume-type biographic information, with NO qualitative assessment. Justice Pigott’s summary is 10 skimpy lines, none mentioning his membership on Governor Pataki’s Temporary Judicial Screening Committee. The summaries of the other six candidates are anywhere from 8 to 14 lines.

So that the record is clear, of the seven candidates which the Commission on Judicial Nomination presented to Governor Pataki by its July 20, 2006 report, CJA is able to attest, with substantiating documentation, that five would necessarily have been rejected by any Commission operating under “merit selection” principles. Such principles required the Commission to properly investigate their candidacies, which it demonstrably did not do as to these five – Justice Pigott, among them – or as to the other two.

This Committee’s duty, on behalf of the Senate, is to ensure the People’s constitutional right to “merit selection” of its New York Court of Appeals judges, for which, in 1977, they relinquished their right to elect Court of Appeals judges. On that basis, it must reject Justice Pigott’s appointment as there is NO publicly available evidence showing anything but that it is “merit selection” in name only. Investigation of the substantiating documentation would so prove.

*Elena R. R.*  
*Xasowee*

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BY FAX & MAIL: 518-455-3332 (1 page)

September 18, 2006

Steven M. Boggess, Secretary of the Senate  
State Capitol, Room 321  
Albany, New York 12247

RE: FREEDOM OF INFORMATION LAW (FOIL) REQUEST:  
Senate confirmation of Appellate Division, Fourth Department Presiding  
Justice Eugene F. Pigott, Jr. to the New York Court of Appeals

Dear Mr. Boggess:

Pursuant to the Freedom of Information Law (FOIL), the Center for Judicial Accountability, Inc. (CJA) requests:

- (1) a copy of the transcript of the Senate Judiciary Committee's September 14, 2006 "hearing" on Justice Pigott's confirmation to the New York Court of Appeals;
- (2) a copy of the transcript of the September 15, 2006 "debate" and vote in the State Senate on Justice Pigott's confirmation to the New York Court of Appeals;
- (3) a copy of the roll call of Senators voting on the question of Justice Pigott's confirmation, as entered in the Senate Journal;
- (4) a copy of the certification of Justice Pigott's confirmation, signed by the President and Secretary of the Senate.

Your prompt attention would be greatly appreciated. Please advise, by fax (914-428-4994), as to the cost of this FOIL request -- which we will promptly remit.

Thank you.

Yours for a quality judiciary,



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

cc: Senate Judiciary Committee Chairman John DeFrancisco  
By Fax: 518-426-6952 & E-Mail: [jdefranc@senate.senate.ny.us](mailto:jdefranc@senate.senate.ny.us)