

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

BY CERTIFIED MAIL/RRR: Z-294-568-946

December 2, 1999

Governor George Pataki
Executive Chamber, The Capitol
Albany, New York 12224

ATT: James McGuire, Counsel

- RE:
- (1) Request, pursuant to Executive Orders #11, ¶2(c) and #10, ¶2(d) and F.O.I.L, for the judicial screening committee reports of the qualifications of Court of Claims Judge William Wetzel and ALL the Governor's other judicial appointees (pp. 1-2);
 - (2) Information as to why Judge Wetzel is being maintained as a "hold over", as well as the number and identities of other Court of Claims judges who are also being maintained as "hold overs" (p. 3)

Dear Mr. McGuire:

Enclosed is a copy of my letter of today's date to Acting Supreme Court Justice William Wetzel, the judge assigned to my Article 78 proceeding, *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico, v. Commission on Judicial Conduct of the State of New York* (NY Co. #99-108551). Page 11 of that letter refers to this coverletter (last ¶).

As reflected by pages 7-8 of my letter, I am seeking Justice Wetzel's disqualification, *inter alia*, by reason of his long-standing personal and professional relationship with the Governor, who is implicated in criminal conduct by the proceeding. I believe that the Governor's nomination of Justice Wetzel to the Court of Claims on June 12, 1995 is the product of that long-standing relationship.

I specifically direct your attention to the first paragraph on page 11 of my letter, identifying my intention to make a formal recusal motion if Justice Wetzel does not

recuse himself based on the facts my letter sets forth. In anticipation of such possibility, I request a copy of the written report of Justice Wetzel's qualifications, which would have been prepared by your "temporary" judicial screening committee.

Pursuant to the Governor's Executive Order #11, ¶2(c), this was to be "available for public inspection" upon announcement of Justice Wetzel's appointment. Additionally, I request information pertaining to the procedures utilized by the Governor's "temporary" judicial screening committee.

As you know, by letter dated June 2, 1997, CJA requested the screening committee reports of ALL the Governor's lower court appointees, pursuant to Executive Orders #11, ¶2(c) and #10, ¶2(d), as well as other information substantiating the legitimacy and actuality of the Governor's judicial screening process. That letter was included in subsequent correspondence to you and, most recently, was attached to CJA's March 30, 1999 letter to Rosario Vizzie, the Governor's Records Access Officer. A copy of the March 30, 1999 letter, reinforcing our rights to such repeatedly-requested documents under F.O.I.L., is annexed hereto for your convenience (Exhibit "A").

The only response we received was to our March 30, 1999 letter. This consisted of two letters from Mr. Vizzie on stationary bearing your name as the Governor's Counsel and indicating that Mr. Vizzie is Assistant Counsel, in addition to Records Access Officer. Mr. Vizzie's first letter, dated April 7, 1999, promised a response by May 6, 1999 (Exhibit "B-1"). His second letter, dated May 6, 1999, promised a response by May 20, 1999 (Exhibit "B-2"). That was more than six months ago – and we have received nothing further from Mr. Vizzie or anyone else at the Governor's office. Meantime, you have received from us copies of our ethics complaints to the New York State Ethics Commission and our criminal complaint to the U.S. Attorney for the Eastern District of New York, sent to you certified mail/return receipt¹, in which we have complained of the Governor's political manipulation of judicial appointments and his failure to produce the judicial screening committee reports and information, which we have repeatedly requested.

By this letter, CJA reiterates the public's rights under Executive Orders #11, ¶2(c) and #10, ¶2(d) and F.O.I.L. to ALL the information requested by our June 2, 1997 and March 30, 1999 letters. Plainly, had the Governor respected CJA's repeatedly-asserted access rights, I would not now have to make special request for the

¹ CJA's March 26, 1999 complaint to NYS Ethics Commission (certified mail/rrr: Z-509-073-631); CJA's September 15, 1999 complaint to NYS Ethics Commission (certified mail/rrr: Z-509-073-642); CJA's September 7, 1999 complaint to U.S. Attorney for the Eastern District (certified mail/rrr: Z-509-073-649).

committee report of Justice Wetzel's qualifications and for information about the Governor's "temporary" judicial screening committee. This, I ask you to supply forthwith.

Finally, CJA believes the public has a right to know why the Governor has maintained Justice Wetzel as a "hold over" these past five months, rather than either reappointing him to the Court of Claims or appointing a successor. Please advise as to the reason, as well as the number and identities of other Court of Claims judges who the Governor is maintaining on the bench as "hold overs".

Yours for a quality judiciary,



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

Enclosure

cc: Acting Supreme Court Justice William Wetzel
New York State Attorney General Eliot Spitzer
Proposed Intervenors in instant Article 78 Proceeding
against NYS Commission on Judicial Conduct
U.S. Attorney for the Eastern District of New York
Clay Tiffany, cable T.V. host, "Dirge for the Charlatans"
Steve Dunleavy, columnist, New York Post
Committee on Open Government