

CENTER for
JUDICIAL
ACCOUNTABILITY



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By Hand

October 8, 1994

Jan Hoffman
The New York Times
229 West 43rd Street
New York, New York 10036

RE: Stories

Dear Ms. Hoffman:

Following up your request that I send you materials relative to stories by The New York Times--which, much to my surprise, was reiterated by Joseph Fried this past Thursday, I enclose the following:

(1) Materials that I transmitted more than a week ago to the Editorial Board--together with the request:

"The voters are counting on you to push the reporters of the Times to ask the candidates the questions that your September 17th editorial pose".

These include: (a) my September 25th "Letter to the Editor", responding to that editorial, as well as: (b) my September 29th letter to Republican nominee Dennis Vacco, which discussed and enclosed correspondence with Democratic nominee Karen Burstein.

Please read my letter to Mr. Vacco--which I faxed to Ian Fisher on October 6th--and the attached copies of Judiciary Law §14 and §100.3(c) of the Rules Governing Judicial Conduct--which I hand-delivered to Mr. Fisher on September 10th. I think that if the Times does not recognize its responsibility to inquire of the candidates on the issues therein outlined--at least it can report on the efforts of private citizens to get such answers from the candidates.

The answers directly affect the public, which, plainly, is adversely affected by an Attorney General who violates the law and permits the very judges charged with criminal conduct to decide their own case.

Ex "P"

Likewise, the public has a direct interest in the specifics as to how the candidates propose to handle fully-documented complaints of criminal conduct by sitting judges--since such full documentation will be on the desk of whomever is to be elected.

Finally, since the role of the Attorney General is to address the constitutionality of statutes whose integrity has been impugned--and the incumbent Attorney General has totally failed to defend the constitutionality of three statutory provisions challenged in Sassower v. Hon. Guy Mangano, et al.--that case is additionally important. Indeed, at issue is the constitutionality of the Article 78 statute--which affects all citizens of this State¹--as well as New York's attorney disciplinary statute--which affects all of this State's attorneys.

(2) My October 2nd "Letter to the Editor", responding to the September 27th New York Times editorial "No Way to Pick a Judge". This "Letter to the Editor"--which is self-explanatory--should highlight for you that there is a dynamite story here--particularly appropriate in the election season--about what happened to a lawyer who sought to defend the voting rights of citizens of this State in the Election Law case of Castracan v. Colavita, which challenged the political trading and manipulation of judgeships. FYI, four years ago, the New York State League of Women Voters issued a state-wide press release expressing its concern about the case and, in 1991, the NAACP Legal Defense and Educational Fund sought to come in as amicus.

(3) My mother's September 19, 1994 complaint to the New York State Commission on Judicial Conduct against the high-ranking justices of the Appellate Division, Second Department who refused to disqualify themselves from Sassower v. Hon. Guy Mangano, et al.--and, in violation of Judiciary Law §14 and §100.3(c) of the Rules Governing Judicial Conduct decided their own case. In view of Joseph Fried's September 20th article on the "apparent" conflict of interest in the Lemerick Nelson case before Judge Trager--in which he contacted five ethicists for their views on the subject--I thought Mr. Fried would be most interested in a complaint involving ACTUAL conflict of interest and MANDATORY disqualification, as to which his five ethicists could be expected to be unanimous and unequivocal in their condemnation of what has occurred.

As you know, the Times has written extensively about "conflict of interest" issues--and its editorial position on the confirmation

¹ Article 78 protects individuals in our state from government abuse and inaction--providing them with a mechanism by which their allegations can be independently reviewed.

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of Stephen Breyer to the U.S. Supreme Court was framed in the context of that issue².

Since the New York State Commission on Judicial Conduct itself distributes the Rules Governing Judicial Conduct as part of its Annual Report, it is quite extraordinary that Justice William Thompson, who is one of the Commission's members, should be the central justice against whom the complaint is directed. Indeed, Justice Thompson was the presiding justice on the Order dismissing Sassower v. Hon. Guy Mangano. May I particularly direct your attention to the last paragraph of my mother's complaint:

"The Commission's handling of this profoundly serious and far-reaching complaint will test whether one of its own judicial members will be held accountable for failing to adhere to the fundamental ethical and legal standards that this Commission was constitutionally created to enforce."

I trust you would agree that the people of this State have a direct interest in the Commission's handling of my mother's most serious September 19th complaint--particularly where our Attorney General and Court of Appeals have so shockingly abandoned respect for mandatory judicial disqualification requirements.

(4) Finally, since so much attention has been focused on the O.J. Simpson trial, I enclose a copy of my August 2nd "Letter to the Editor" relative to an observation your Times reporter made that judges "routinely" disclose "potential conflict of interest" at the start of cases". Although that is what judges are supposed to do--that is not happening in the average case, for which there is no media attention³. Sassower v. Hon. Guy Mangano, et al is probably as shocking a "local example" as you could ever find.

² However, whereas the "conflict of interest issue" in Justice Breyer's case was one about which ethicists differed [i.e. Professor Stephen Gillers v. Professor Monroe Freedman], there can be no dispute that in Sassower v. Hon. Guy Mangano, et al., our New York State Attorney General--and the Appellate Division, Second Department--have violated the most fundamental rule of judicial disqualification that "no man can be the judge of his own cause".

³ See Floyd Abrams' "Letter to the Editor", published in the Times on September 26th "The Public Needs TV to Oversee the Courts", which quotes Jeremy Bentham "Without publicity, all other checks are insufficient; in comparison of publicity, all other checks are of small account".

Ms. Jan Hoffman

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Thank you for your review. We are ready to provide all assistance and documents necessary to enable The New York Times to verify every aspect of the aforementioned important stories.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability

Enclosures

cc: Editorial Board
Joseph Fried
Ian Fisher
Ralph Blumenthal
Joseph Berger