

## CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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BY FAX: 212-696-4514 (3 pages)

BY MAIL

December 11, 1997

Al Robbins, Vice-President  
New York Law Journal  
345 Park Avenue South  
New York, New York 10010

RE: Appellate papers: *Sassower v. Mangano, et al.*  
2nd Circuit: #96-7805

Dear Mr. Robbins:

It has been many months since our last conversation -- on Tuesday, August 26th. At that time, you were good enough to personally telephone to tell us that you had given the final "go-ahead" to our much revised ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" and that it would be printed in the next day's paper. I mentioned that we were already hard at work preparing the oral argument of *Sassower v. Mangano, et al.*, scheduled for that Friday, and you wished us good luck.

Although I instinctively thanked you for your kind wishes, I thereafter realized that an appeal such as *Sassower v. Mangano, et al.* should have nothing to do with luck. It required no more than that the Second Circuit have minimal respect for the rule of law. I immediately wanted to call you back or fax you a note saying as much.

I also wanted to write Mr. Finkelstein a note of thanks for his intercession -- without which I have no doubt that the ad would *never* have been published. Had Mr. Finkelstein not been on vacation when I delivered the "camera-ready" ad on August 26th, I would have brought him a bouquet of flowers.

Thereafter, the rush of events got the better of me: beginning with that Friday's oral argument. So shocking was the Circuit panel's behavior at the August 29th argument that we *immediately* ordered the tape of the hearing, ordered a stenographic transcript, and began preparing a formal recusal motion. Less than two weeks later, on September 10th, the panel issued a not-for-publication, no citation Summary Order, which *never* cited the record once and expressly did *not* adjudicate *any* of the district judge's rulings on the motion submissions before him (including his failure to rule on our documented and uncontroverted sanctions applications against the defendants and their co-defendant counsel, the State Attorney General). Indeed, its Summary Order bore out *precisely* what our ad said about the

federal judiciary's "green light" to lying and perjury by the State Attorney General and state judges -- adding a further "green light" to the federal district judge, whose thoroughly dishonest and fraudulent decision was the subject of our appeal.

Since then, we have been very busy: filing a Petition for Rehearing with Suggestion for Rehearing *In Banc*, filing a motion for recusal and to vacate for fraud the Circuit panel's Summary Order and the district judge's Judgment/decision, and filing two judicial misconduct complaints pursuant to 28 U.S.C. §372(c): one against the district judge, the other against the Circuit panel. These are pending before the Second Circuit.

Because the *Law Journal* has a continuing obligation to present the legal community with information about *Sassower v. Mangano, et al.* -- whose significance is even more profound and far-reaching in the wake of the Circuit panel's official misconduct -- I am sending a copy of this letter to Ruth Hochberger and Kris Fischer, together with a copy of the Petition for Rehearing with Suggestion for Rehearing *In Banc* and copies of our §372(c) judicial misconduct complaints. To further highlight for them the significance of the case, which, as described in footnote 1 to our Petition for Rehearing, will be part of a formal presentation to the House Judiciary Committee to remove federal judicial discipline from the federal judiciary, I am also including<sup>1</sup> a copy of my published article "*Without Merit: The Empty Promise of Judicial Discipline*" (Massachusetts School of Law: *The Long Term View*, Vol. 4, No. 1, pp. 90-97) -- cited in that footnote. A copy of the article is herewith enclosed for you.

There is no excuse for the *Law Journal* not to have written about this case -- long ago. However, it now has a unique opportunity to use the case to give readers an "inside view" into how the §372(c) judicial misconduct mechanism *actually* works and to discuss the interface between disciplinary and appellate remedies. Needless to say, this kind of story would be *perfect* for the *National Law Journal*.

If the *Law Journal* is belatedly ready to meet its journalistic responsibilities to the legal community by writing a story about this case, it would make sense for it to retain the *Sassower v. Mangano, et al.* appellate papers. Otherwise, we ask that the *Law Journal* return them to us -- since we need to make them available elsewhere. Obviously, with the announcement in today's *Law Journal* of G. Oliver Koppell's candidacy for State Attorney General -- this case, which names Mr. Koppell as a defendant for his misconduct as "interim" Attorney General, is directly relevant to his fitness for office, much as it is directly relevant to the fitness of his successor, the incumbent Attorney General, Dennis Vacco.

The appellate papers had been hand-delivered to the *Law Journal* on August 5th, with an August 12th coverletter to Ms. Fischer summarizing the transmittal. Our coverletter stated:

"CJA is not a profit-making mega-firm. Please recognize that the appellate records are extremely costly for us to reproduce and bind. Under no circumstances should they be discarded, since we would be glad to have them returned to us." (at p. 5)

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<sup>1</sup> The ad is annexed to each of the two §372(c) judicial misconduct complaints.

You may recall that as we were wrangling over our ad, I telephoned Ms. Fischer to request that she supply you with those appellate papers, with which you were unfamiliar (see my 8/25/97 4:00 p.m. ltr). Of course, should the *Law Journal* wish copies of those papers at some later date, we'll readily provide them.

Please let us know, ASAP. Thank you sincerely -- and happy holidays.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator  
Center for Judicial Accountability, Inc.

Enclosures: (1) "*Restraining 'Liars in the Courtroom' and on the Public Payroll*", NYLJ, 8/27/97  
(2) "*Without Merit: The Empty Promise of Judicial Discipline*", The Long Term View,  
(Massachusetts School of Law, Vol. 4, No. 1, pp. 90-97)

cc: James Finkelstein, Publisher  
Ruth Hochberger, Editor-in-Chief  
& Kris Fischer, Managing Editor [with Petition for Rehearing and §372(c) complaints]