

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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2:20 p.m. 3 pages

TO: The New York Times, Metro Desk
 ATT: Joyce Purnick, Editor
 Jerry Gray, Political Affairs Editor

FROM: Elena Ruth Sassower, Coordinator

DATE: December 11, 1998

RE: Governor Pataki's nomination of Albert Rosenblatt to the Court of Appeals

Yesterday's front-page Metro article, "*Pataki Nominates 2d Judge to State's Highest Court*", reports that Senate confirmation of Albert Rosenblatt to the Court of Appeals is "all but certain". UNREPORTED is the reason for that certainty -- having NOTHING to do with Justice Rosenblatt's qualifications, but with the reality that Senate confirmation is a rubber stamp. To this, CJA can attest from its own direct, first-hand experience over the past five years, including having twice testified, in 1993, in opposition to two of Governor Cuomo's nominees to the Court of Appeals.

Consequently, the *only* way for the public to be protected against confirmation of a demonstrably unfit judicial nominee is if the media examines the serious issues which the Senate will NOT otherwise examine. The issues, as to which CJA can provide the *Times* with documentary proof, are Justice Rosenblatt's unfitness AND the sham "merit selection" process that produced him.

Complete secrecy envelopes the "merit selection" process to our state's highest court. Such secrecy -- which CJA asserted to be unconstitutional in its December 15, 1993 Senate testimony¹ -- conceals a fraudulent screening process. Indeed, in the context of Justice Rosenblatt's nomination, CJA can PROVE the wholesale abandonment of "merit selection" principles by the Commission on Judicial Nomination, as well as the complicity of the organized bar.

Last month, we sent you a copy of our November 18th letter to the Executive Committee of the Association of the Bar of the City of New York, detailing our direct, first-hand experience with the

¹ Such testimony is accessible from CJA's website: www.judgewatch.org

Commission on Judicial Nomination and transmitting to the City Bar, as well as to the other bar recipients of that letter, our October 5th letter to the Commission and the SAME documentary proof of Justice Rosenblatt's unfitness it had enclosed. This included THREE judicial misconduct complaints against Justice Rosenblatt, filed with the Commission on Judicial Conduct in 1994 -- each facially-meritorious, but each summarily dismissed by it, *without* investigation and *without* the requisite determination, required by Judiciary Law §44.1, that they were facially lacking in merit.

As you know, the City Bar -- and legal establishment -- have long ago had documentary proof of the corruption of the Commission on Judicial Conduct, including a copy of the file of our 1995 Article 78 proceeding against the Commission. The Commission survived that case ONLY by fraud, as particularized by CJA's \$3,000 public interest ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (NYLJ, 8/27/97, pp. 3-4).

Also transmitted to the Commission on Judicial Nomination with our October 5th letter -- and, thereafter to the bar recipients of our November 18th letter -- were the *unopposed* cert petition and supplemental brief in *Sassower v. Mangano, et al.* This, because Justice Rosenblatt was one of the *et al.* defendants. Justice Rosenblatt was not merely a nominal defendant in that §1983 federal civil rights action, but directly involved in the Second Department judicial corruption particularized by the verified complaint -- having been a member of the Second Department panel which refused to recuse itself from an Article 78 proceeding in which the Second Department was sued for corruption². As you know, that Article 78 proceeding, as well as the §1983 federal action, are also featured in "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" -- because they, like the Article 78 proceeding against the Commission on Judicial Conduct, were each defended by fraud by the State Attorney General and each "thrown" by fraudulent judicial decisions.

The *Times* already has TWO COPIES of the *unopposed* cert petition and supplemental brief in *Sassower v. Mangano*, setting forth, without controversy, the readily-verifiable facts of fraud and judicial corruption -- DISQUALIFYING Justice Rosenblatt from ANY judicial office. Indeed, the *Times* also has a full copy of our July 27, 1998 criminal complaint to the Public Integrity Section of the U.S. Justice Department, seeking criminal investigation and prosecution³ -- the same document as we provided to the Commission on Judicial Nomination with our October 5th letter and, thereafter, to the bar associations with our November 18th letter.

² See CJA's \$20,000 public interest ad, "*Where Do You Go When Judges Break the Law?*", NYT, Op-Ed page, 10/26/94; NYLJ, p. 9, 11/1/94.

³ The criminal complaint, *without exhibits*, is reprinted in the appendix of the *Sassower v. Mangano* supplemental brief at SA-47.

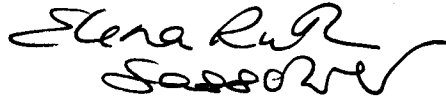
Tomorrow, we will hand-deliver to the *Times* copies of each of those letters, the THREE unlawfully-dismissed *facially-meritorious* judicial misconduct complaints against Justice Rosenblatt from 1994, as well as our currently pending *facially-meritorious* judicial misconduct complaint against him, filed with the Commission on Judicial Conduct on October 6th. The basis of our current complaint includes our belief, for reasons specified, that Justice Rosenblatt PERJURED HIMSELF in his answers to specific questions on the Commission on Judicial Nomination's written questionnaire. Justice Rosenblatt should be called upon to publicly disclose his questionnaire responses. Indeed, it is CJA's position that the public, which will be paying his \$125,000 judicial salary on the pretext that he has been found "well qualified" by a legitimate "merit selection" process -- should be entitled to inspect the questionnaire he was required to complete.

The *Times'* long-standing editorial advocacy of "merit selection" obligates it to finally provide the public with information about how the process ACTUALLY works. CJA's October 5th and November 18th letters provide an unprecedented, EYE-OPENING glimpse into an otherwise closed process -- one revealing its utter dysfunction, politicization, and corruption.

We have no doubt that had the *Times* reported *any* of the many fully-documented stories we have provided it over the years about the dysfunction, politicization, and corruption of judicial selection and discipline -- including Governor Pataki's brazen manipulation of his judicial appointments process to the lower state courts -- the Governor would not have dared to nominate Justice Rosenblatt to our state's highest court. Our November 18th letter -- a copy of which was sent to the Governor -- provided him with full notice of the relevant particulars and that these were being made known to the press.

TIME IS OF THE ESSENCE. If it is your intention to deprive the public of this important story -- much as you have deprived the public of *all* such stories in the past -- please pass on the enclosed substantiating evidentiary materials to Arthur Sulzberger, Jr., to whom a copy of this memo is being sent.

As always, you may be assured of our complete cooperation and assistance in developing this vital, "news fit to print" story.



cc: Arthur Sulzberger, Jr.

CENTER FOR JUDICIAL ACCOUNTABILITY, INC. (CJA)
INVENTORY OF TRANSMITTAL

Correspondence:

Commission on Judicial Nomination (CJN)

CJA's 10/5/98 ltr
CJN's 11/25/98 ltr
CJA's 12/1/98 ltr

Commission on Judicial Conduct (CJC)

CJA's 10/6/98 complaint
CJA's 11/3/98 ltr
CJC's 11/3/98 acknowledgment
CJC's 12/2/98 acknowledgment
CJA's 12/10/98 ltr

Bar Leaders -- Governor Pataki

CJA's 11/18/98 ltr to Executive Committee of the City Bar,
with fax and certified mail receipts to Governor Pataki

CJA's 1994 Judicial Misconduct Complaints against Justice Rosenblatt:

CJA's 9/19/94 misconduct complaint
CJA's 10/26/94 misconduct complaint
CJA's 12/5/94 misconduct complaint

CJC's ltrs of acknowledgment and dismissal:

9/28/94; 11/4/94; 12/13/94; 12/14/94; 1/24/95