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February 7, 2002

Chairman James F. Gill
First Department Judicial Screening Committee
c/o Robinson, Silverman, Pearce, Aronsohn & Berman
1290 Avenue of the Americas
New York, New York 10104

RE: Supplement to CJA's January 22, 2002 Letter: On-the-Bench Misconduct of Appellate Division, First Department Justice Eugene L. Nardelli, Disqualifying Him from Consideration for Appointment as Presiding Justice of the Appellate Division, First Department

Dear Chairman Gill:

A front-page item in today's New York Law Journal (Exhibit "A") reports that the First Department Judicial Screening Committee will be interviewing four Appellate Division, First Department justices for the position of the Appellate Division's Presiding Justice next Thursday. Now publicly identified for the *first* time is the candidacy of Eugene L. Nardelli, the Appellate Division, First Department's Acting Presiding Justice.

Like his three Appellate Division, First Department colleagues, Richard T. Andrias, John T. Buckley, and Milton L. Williams – who had been identified as candidates by the January 22nd Law Journal and whose unfitness was the subject of CJA's January 22nd letter to you – Justice Nardelli has engaged in on-the-bench misconduct whose seriousness not only disqualifies him from consideration for appointment as Presiding Justice, but warrants his removal from the bench. Indeed, as should have been obvious from Exhibit "B-2" to our January 22nd letter, Justice Nardelli was presiding justice of the appellate panel on which Justice Andrias sat in *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico against Commission on Judicial Conduct of the State of New York*.

Please be advised that as presiding justice in *Elena Ruth Sassower v. Commission*, Justice Nardelli not only bears primary responsibility for the fraudulent five-judge appellate decision therein, wholly obliterating the rule of law, but alone denied, *without reasons and without findings*, an

EX "9"

unopposed interim relief application (Exhibit "B"), which, *as a matter of law*, had to be granted. Such interim relief application sought adjournment of the oral argument of the appeal pending adjudication of a threshold motion, whose relief included "specially assigning th[e] appeal to a panel of 'retiring or retired judge[s], willing to disavow future political and/or judicial appointment'" and disclosure by members of the appellate panel of "the facts pertaining to their personal and professional relationships with, and dependencies on, the persons and entities whose misconduct is the subject of th[e] lawsuit or exposed thereby."

This threshold motion, particularizing the respects in which *Elena Ruth Sassower v. Commission* criminally impacted upon Governor Pataki, such that any judge dependent upon him for redesignation or seeking elevation was disqualified for interest, had been *fully-submitted five weeks in advance of oral argument*. However, as a result of behind-the-scenes manipulations by the panel sitting on the submission date -- a panel on which Justice Williams was presiding justice and on which Justice Andrias sat -- the motion was adjourned, *sua sponte*, and *without notice or opportunity to be heard*, to the date of the oral argument of the appeal and returned to the Clerk's Office.

From the threshold motion, Justices Nardelli, Andrias, and Williams knew that unless they denied or disputed my showing as to the criminal ramifications of the lawsuit on the Governor, they were disqualified for interest and, in the case of Justice Williams, who had been presiding justice of the panel which had "thrown" the related prior appeal of *Michael Mantell v. Commission* by a fraudulent decision, that he was additionally disqualified for actual bias. Yet, *without denying or disputing* the impact of this lawsuit on the Governor, these three judges each *failed* to recuse themselves and made *no* disclosure that they aspired to be elevated by the Governor to Presiding Justice and, in Justice Andrias' case, that his term on the Appellate Division was almost expired and that he required the Governor's redesignation. They then manifested their disqualifying interest and protectionism of the Governor by their *lawless actions, subverting the appeal*.

Oral argument of the appeal in *Elena Ruth Sassower v. Commission* went forward, as scheduled -- with Justices Nardelli and Andrias sitting silently with three appellate colleagues in face of a direct challenge that the panel identify legal authority entitling it to proceed without first adjudicating the threshold motion for their disqualification. Indeed, to conceal the lawlessness of their conduct, their decision "throwing" the appeal -- the same decision as is Exhibit "B-2" to our January 22nd letter to you -- not only purports to deny the motion, *without reasons or findings*, but *misrepresents* the relief the motion sought. So that you can see for yourself that the motion was NOT, as the decision purports, to "adjourn oral argument of [this] appeal", a copy of the notice of motion is enclosed (Exhibit "C"). Such notice will also enable you to glean the serious, indeed, decisive, nature of the motion -- which, substantiated as it was an overwhelming record, the Court was required to grant, *as a matter of law*.

February 7, 2002

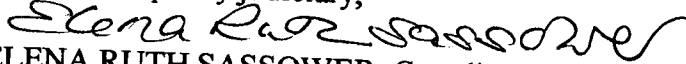
Needless to say, you would already have the record of *Elena Ruth Sassower v. Commission* – encompassing *Mantell v. Commission* and the threshold motion therein – had you or anyone from the First Department Judicial Screening Committee contacted us following our January 22nd letter. We have received *no* follow-up request for further information and documents as to the unfitness of the candidates whose qualifications your Judicial Screening Committee is charged with reviewing. Likewise, we have received *none* of the information and documents requested by our January 22nd letter.

For the record, I telephoned your office at approximately 4:00 p.m. on January 23rd and obtained confirmation from your secretary that the fax I had sent you seven hours earlier, enclosing a copy of our January 22nd letter, was on your desk. Your secretary confirmed that Austin Campriello, to whose attention the January 22nd letter had been faxed at noon the previous day – *without response* -- was the Screening Committee's counsel. She stated that Mr. Campriello was busy in court until March and returns to the office in the evenings to prepare. Although she told me that she wasn't sure when we would be getting a response, she did say we would be getting one – and that the interviews of the candidates for Presiding Justice were *not* – as the Law Journal reported – going to take place the next day. When the next day and then the day after passed without any call from you or your office, I mailed you “hard copies” of the previously-faxed January 22nd and January 23rd letters by certified mail/return receipt. Delivery was acknowledged on January 29th.

Once again, I remind you that, consistent with ¶2c of Governor Pataki's Executive Order #10.1, prohibiting the committee from “pass[ing] on the qualifications of any candidate until after a thorough inquiry has been made by the committee and its staff”, and Section VIII, ¶4 of the Uniform Rules for Governor Pataki's Judicial Screening Committees, requiring “a thorough investigation of each candidate”, the First Department Judicial Screening Committee and/or its staff are obligated to obtain further information about the official misconduct of Justices Williams, Buckley, Andrias -- and now Nardelli – in the appeals of *Mantell v. Commission* and *Elena Sassower v. Commission*.

As previously stated, I am able to provide *direct, first-hand testimony* on the subject – and to substantiate same with *readily-verifiable* documentary proof from both appeals. Upon request, I will immediately prepare a full copy of the record of these appeals for transmittal to the Committee's offices and would be willing to meet with Committee members and staff any day next week.

Yours for a quality judiciary,


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

Enclosures

cc: Nan Weiner, Executive Director/Governor Pataki's Judicial Screening Committees

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