

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station  
White Plains, New York 10605-0069

Tel. (914) 421-1200  
Fax (914) 428-4994

E-Mail: [judgewatch@aol.com](mailto:judgewatch@aol.com)  
Web site: [www.judgewatch.org](http://www.judgewatch.org)

Elena Ruth Sassower, Coordinator

**BY FAX: 212-556-3717 (20 pages)**

TO: John Landman, Editor, Metro Section

FROM: Elena Ruth Sassower, CJA Coordinator

RE: Upcoming Senate Judiciary Committee Confirmation "Hearing" on Justice Graffeo's Appointment to the New York Court of Appeals

DATE: November 17, 2000

This follows up the voice mail message left on your answering machine this morning after my call for Tony Marcano was transferred to your line.

Events in Florida underscore the significance of a state's highest court – and the value of a series of stories examining "merit selection" appointment/confirmation to New York's Court of Appeals, for which, 23 years ago, New Yorkers gave up their right to elect their highest state judges.

Your Metro Section reporters and editors have been refusing to develop even a single story on this important subject in the face of *readily-verifiable* proof, in their possession, as to the corruption of the "merit selection" process. In the event you have NOT seen CJA's October 16, 2000 report on the NYS Commission on Judicial Nomination's abandonment of "merit selection" principles – hand-delivered to the Times a full month ago – please immediately obtain it from David Rhode or from Tony Marcano, or whoever else has been sitting on it while Governor Pataki moved forward to appoint Justice Graffeo to the Court of Appeals on November 2<sup>nd</sup> – the same day as the New York Law Journal published a front-page, above-the-fold, "Behind the News" story, "*Semi-Secret Court of Appeals Nominations Draws Criticism*", based on Point I of CJA's October 16, 2000 report.

The Metro Section, including its Albany Bureau, was aware of both CJA's October 16, 2000 report – and the Law Journal story – when Ray Hernandez wrote his story on Justice Graffeo's appointment, which appeared at the back of the November 3<sup>rd</sup> Metro Section.

November 17, 2000

Reflecting this is CJA's November 2<sup>nd</sup> fax – sent to NY and Albany shortly before and after 9 a.m. – a copy of which is enclosed. Also enclosed is CJA's unpublished November 6<sup>th</sup> Letter to the Editor about the placement of Mr. Hernandez's story and the Times' suppression of coverage about the corrupted processes of appointment and confirmation that "have replaced our right to elect our highest state judges".

As to the Senate Judiciary Committee upcoming hearing on Justice Graffeo's confirmation, is the Metro Section planning to omit all coverage? This is what it did two years ago when the Senate Judiciary Committee held a no-notice, by invitation-only-confirmation hearing on Justice Rosenblatt's appointment, at which no opposition testimony was permitted. In the event you are unaware of that travesty, enclosed is a copy of CJA's Letter to the Editor, "*An Appeal to Fairness: Revisit the Court of Appeals*", published by the New York Post on December 28, 1998.

In the expectation that the Metro Section will meet its duty to Times readers and the public at large by covering Justice Graffeo's confirmation hearing and the serious citizen opposition that has ALREADY been presented, enclosed is CJA's November 13<sup>th</sup> letter to Justice Graffeo and Senate Judiciary Committee Chairman Lack – as well as the Introduction and Conclusion of CJA's November 13, 2000 report, referred to therein.

I look forward to speaking with you personally after you have reviewed CJA's October 16, 2000 report. I will withhold delivering to you CJA's November 13, 2000 report until I hear from you – or someone on your behalf. Needless to say, time is of the essence.

Yours for a quality judiciary  
and responsible journalism,



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

Enclosures

P.S. Please share this letter with Mr. Marcano and Mr. Rohde.

cc: New York Times/Albany Bureau [By Fax: 518-436-7109]  
ATT: Ray Hernandez

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station  
White Plains, New York 10605-0069

Tel. (914) 421-1200  
Fax (914) 428-4994

E-Mail: [judgewatch@aol.com](mailto:judgewatch@aol.com)  
Web site: [www.judgewatch.org](http://www.judgewatch.org)

BY FAX: 212-556-3622 (1 page)

BY E-MAIL: [letters@nytimes.com](mailto:letters@nytimes.com)

November 6, 2000

Letters to the Editor  
The New York Times

ATT: INELL WILLIS

To the Editor:

RE: "*The Uses of Secrecy*", (column, Nov. 4), Anthony Lewis reminds us that "we rely on judges to keep us on the path of the Constitution." He should have been talking to his Times co-workers. Just the day before, they literally buried the story of Governor Pataki's appointment of Victoria Graffeo to our state's highest court: placing it on the page before the metro section obituaries. Compounding this, they did not flag it on the metro section front-page as being "Inside" or include it in the first section "News Summary". Two days later, there was nothing in the "Week in Review".

Before 1977, this never could have happened. Back then – and for the preceding 130 years – New Yorkers elected judges to its Court of Appeals. That changed because this newspaper, among others, convinced New Yorkers to approve a referendum giving up their sacred electoral right for what was touted as "reform" – "merit selection" appointment.

But this supposed "reform" is, instead, a politicized behind-closed-doors process that fails to adhere to "merit selection" principles, followed by a confirmation "hearing" that is a "rubber stamp" charade. However, even on the Times' back pages you won't read about this. The Times refuses to report on – let alone examine – the corrupted processes that have replaced our right to elect our highest state judges.



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

**CENTER for JUDICIAL ACCOUNTABILITY, INC.**

*P.O. Box 69, Gedney Station  
White Plains, New York 10605-0069*

*Tel. (914) 421-1200  
Fax (914) 428-4994*

*E-Mail: [judgewatch@aol.com](mailto:judgewatch@aol.com)  
Web site: [www.judgewatch.org](http://www.judgewatch.org)*

*Elena Ruth Sassower, Coordinator*

**BY PRIORITY MAIL**

**CERTIFIED/RRR: 7099-3400-0001-2791-8370**

**CERTIFIED/RRR: 7099-3220-0010-4766-1748**

November 13, 2000

Justice Victoria A. Graffeo  
Appellate Division, Third Department  
Justice Building, Room 310  
Capitol Station, P.O. Box 7288  
Albany, New York 12224

Chairman James J. Lack  
Senate Judiciary Committee  
The Capitol, Room 413  
Albany, New York 12247

RE: The Public's Right to "Hear" and "Be Heard" at the Upcoming  
Senate Judiciary Committee Confirmation Hearing on Justice  
Graffeo's Appointment to the New York Court of Appeals

Dear Justice Graffeo and Chairman Lack:

Enclosed are copies of CJA's October 16, 2000 report, detailing the Commission on Judicial Nomination's subversion of the "merit selection" process to the New York Court of Appeals and CJA's November 13, 2000 report, detailing the bar associations' complicity therein.

The Introduction and Conclusion of CJA's November 13, 2000 report identify that each of you are members of Chief Judge Kaye's Committee to Promote Public Trust and Confidence in the Legal System and that each of you can powerfully demonstrate your commitment to promoting public trust and confidence. This, at the upcoming Senate Judiciary Committee hearing on Justice Graffeo's confirmation, at which Chairman Lack will preside.

November 13, 2000

CJA calls upon Justice Graffeo, who aspires to sit on our State's highest court, to demonstrate her fitness for such public office by putting aside her substantial self-interest in favor of the public interest. To that end, she must insist that Chairman Lack not "ram through" her Senate confirmation as he "rammed through" Justice Rosenblatt's Senate confirmation in 1998: by a no-notice, by-invitation-only, confirmation hearing, at which no opposition testimony was permitted<sup>1</sup>. It is her duty – as likewise Chairman Lack's – to ensure the public of a meaningful opportunity to "hear" and "be heard" at the confirmation hearing. Likewise, it is her duty – as well as Chairman Lack's – to publicly address the serious issues particularized by CJA's reports as to the corruption of the "merit selection" process to our State's highest court. This includes the threshold issue as to whether the Commission on Judicial Nomination's October 4, 2000 report conforms with the requirement of Judiciary Law §63.3 that it contain "*findings* relating to the character, temperament, professional aptitude, experience, qualifications and fitness for office of *each candidate* who is recommended to the governor"<sup>2</sup> and, if not, whether the Senate may lawfully proceed with confirmation, over public objection as presented by CJA's October 16, 2000 report.

Yours for a quality judiciary,



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

Enclosures:

- (1) CJA's October 16, 2000 report with free-standing File Folders "A" and "B"
- (2) CJA's November 13, 2000 report
- (3) CJA's informational brochure with insert "*An Appeal to Fairness: Revisit the Court of Appeals*", Letter to the Editor, NY Post, 12/28/98

<sup>1</sup> This is highlighted by Exhibits "A-1" and "A-2" to CJA's October 16, 2000 report, which are, respectively, CJA's Letter to the Editor, "*An Appeal to Fairness: Revisit the Court of Appeals*" (NY Post, 12/28/98), and CJA's March 26, 1999 ethics complaint (at pp. 21-22).

<sup>2</sup> Emphasis added.

TRANSMISSION VERIFICATION REPORT

TIME : 11/17/2000 13:06  
NAME : CJA  
FAX : 9144284994  
TEL : 9144211200

DATE, TIME	11/17 12:54
FAX NO./NAME	12125563717
DURATION	00:12:41
PAGE(S)	20
RESULT	OK
MODE	STANDARD ECM

TRANSMISSION VERIFICATION REPORT

TIME : 11/17/2000 12:53  
NAME : CJA  
FAX : 9144284994  
TEL : 9144211200

DATE, TIME	11/17 12:40
FAX NO./NAME	15184367109
DURATION	00:12:33
PAGE(S)	20
RESULT	OK
MODE	STANDARD ECM