

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
Web site: www.judgewatch.org

Elena Ruth Sassower, Coordinator

BY PRIORITY MAIL

Certified Mail/RRR: Z-509-073-637

July 12, 1999

Assistant Professor Christopher Banks
240 Olin Hall
University of Akron
Akron, Ohio 44325-1904

RE: CJA's document-supported testimony before the Commission on Structural Alternatives for the Federal Courts of Appeals

Dear Professor Banks:

Apologies for the delay in sending out the enclosed materials to you. As you can see, they are quite voluminous -- and, even still, only a fraction on of what we presented to the Commission on Structural Alternatives for the Federal Courts of Appeals¹ in substantiation of our April 24, 1998 testimony, a hard copy of which is enclosed.

As discussed, I am enclosing CJA's primary source materials on the federal judicial screening process, detailed at pp. 2-3 of our testimony before the Commission on Structural Alternatives. This includes:

A. CJA²'s 1992 investigative study of the *pre-nomination* federal judicial screening process, consisting of:

- (1) CJA's May 1, 1992 letter to the Senate Judiciary Committee, transmitting our Critique & Compendium of Exhibits
- (2) CJA's June 2, 1992 letter to Senate Majority Leader Mitchell, transmitting our Supplement and Update to the Critique

¹ The precise materials transmitted to the Commission on April 24, 1998, with our testimony was listed on an inventory, which we provided to the Commission. A copy is attached to our written statement.

² CJA was then the "Ninth Judicial Committee" (NJC).

(3) CJA's Correspondence Compendia I-III

- B. CJA's 1996 investigative study of the *post-nomination* federal judicial screening process, consisting of our June 28, 1996 letter to Senate Judiciary Committee Chairman Orrin Hatch

On the federal judicial disciplinary process, I am sharply limiting the transmittal of primary source materials in the interest of manageability to the second of the two cases described at pp. 5-12 of our testimony. As to that case, the §1983 federal action, *Doris L. Sassower v. Hon. Guy Mangano, et al*, I am enclosing the *uncontroverted* cert petition³, supplemental brief, and petition for rehearing that were provided to the Commission, subsequent to our April 24th testimony. These establish, in more summary form than the copy of the full lower court record transmitted to the Commission at the time of our testimony⁴, the Second Circuit's complete obliteration of anything resembling the rule of law and the complicity of the Administrative Office, Judicial Conference, Congress, the Justice Department, and prestigious bar associations, such as the American Bar Association and the Association of the Bar of the City of New York -- which, likewise, received from us full copies of the full lower court record.

Established by the appendix documents to the cert petition [A-] is not only the complete subversion of the federal appellate process, but of the federal judicial disciplinary process under 28 U.S.C. §372(c). Among these materials:

- (1) extensive portions of the appellate brief [A-143-186]-- *all* unidentified and unaddressed by the Second Circuit appellate panel's not-for-publication, no-citation, summary order [A-21-26];
- (2) an excerpt from the appellant's pre-appeal motion for recusal and transfer from the Second Circuit [A-187-191]-- denied *without* reasons [A-32];
- (3) a full copy of appellant's petition for rehearing with suggestion for rehearing *en banc* [A-192-206]-- denied *without* reasons [A-27];
- (4) appellant's line-by-line analysis of the Second Circuit appellate panel's summary order, in support of her Rule 60(b) motion to vacate for fraud the appellate panel's order [A-221-241] -- denied *without* reasons [A-33];
- (5) the complete record of the judicial misconduct complaints filed against the district

³ The prospective cert petition was referred to at p. 6 of our testimony

⁴ The cert petition identifies (at 24, fn. 10) the lower court record as having been transmitted to the Commission on Structural Alternatives as part of the April 24, 1998 testimony.

judge and appellate panel (the judicial misconduct complaint against the district judge [A-242-250]; the judicial misconduct complaint against the Circuit panel [A-251-260]; the Chief Judge's dismissal order [A-28-30]; appellant's petition for review to the Second Circuit Judicial Council [A-272-294], the Circuit Judicial Council's order [A-31].

Together with the appendix documents in the supplemental brief [SA-] and petition for rehearing [RA-], the cert petition also establishes the wilful inaction and complicity of all three branches of government and bar leaders:

As to the inaction and complicity of the Administrative Office and Judicial Conference:

(1) CJA's March 10, 1998 and March 23, 1998 memoranda to the House Judiciary Committee [A-295, A-301] -- referred to at p. 6 of our testimony before the Commission. These memoranda transmitted to the House Judiciary Committee two copies of the lower court record in *Sassower v. Mangano*, one to the Republican Majority and the other to the Democratic Minority;

(2) CJA's November 24, 1997 letter to Jeffrey Barr, Deputy General Counsel of the Administrative Office of U.S. Courts, transmitting a copy of the lower court record in *Sassower v. Mangano* for presentment to the Judicial Conference [SA-79];

As to the inaction and complicity of the Congress:

(1) CJA's June 11, 1998 statement for the record of the House Judiciary Committee's June 11, 1998 "oversight hearing of the administration and operation of the federal judiciary" [SA-17];

As to the inaction of the Justice Department:

(1) CJA's July 20, 1998 letter to Solicitor General Seth Waxman [SA-11] -- and his response thereto [SA-10];

(2) CJA's July 27, 1998 letter to Lee Radek, Chief of the U.S. Justice Department's Public Integrity Section, transmitting a copy of the lower court record in *Sassower v. Mangano* [SA-47];

As to the complicity of the bar associations:

- (1) CJA's unresponded-to January 26, 1998 letter to ABA President Jerome Shestack [SA-90], transmitting a copy of the lower court record in *Sassower v. Mangano*;
- (2) CJA's unresponded-to August 11, 1998 letter to ABA President Philip Anderson [SA-102];
- (3) CJA's unresponded-to August 12, 1998 letter to Alan Rothstein, Counsel, Association of the Bar of the City of New York [RA-30].

It may be noted that the Commission received from us free-standing "originals" of the most of the aforementioned documents, together with the exhibits they had appended and/or transmitted. This, so that its four judicial members and its fifth member, the past president of the ABA, could meet their duty under ethical codes of the Judicial Conference and ABA to respond to the documentarily-established corruption of essential governmental processes. Such duty was not only pointed out in the concluding paragraph of our April 24th testimony (at p. 12), but in our August 14, 1998 letter to the Commission, which expressly requested transmittal of our evidentiary materials to the Commission's Chairman, Byron White, as the only Commission member who "has the 'independence' to act courageously -- and professionally -- by confronting the judicial corruption issues presented and substantiated". Thereafter, our September 4, 1998 letter, which transmitted a copy of the supplemental brief, expressly sought the Commission's *amicus* assistance before the U.S. Supreme Court in connection with the serious issues presented as to the breakdown of checks on federal judicial misconduct, destructive of the constitutional balance and endangering the public.

The Commission's failure to respond in any way -- the by-product of its composition and its sole appointing authority -- and the failure of all other government officers and bar leaders to whom we turned -- have resulted in the perpetuation of *verifiably* corrupt and dysfunctional processes of federal judicial selection and discipline. This collusive inaction also resulted in yet a further perversion of the federal appellate process, this time on the Supreme Court level. The Supreme Court Justices' violation of fundamental disqualification rules -- and their flagrant disregard for their own responsibilities under ethical and professional codes of the Judicial Conference and of the ABA -- is recounted in the petition for rehearing and established by the appendix documents therein.

The rehearing petition and CJA's November 6, 1998 impeachment complaint against the Supreme Court Justices⁵ were the last of the documents we transmitted to the Commission to substantiate its

⁵ Exhibit "A" of the November 6, 1998 impeachment complaint is CJA's May 29, 1998 letter addressed to Bill Burchill, General Counsel, and Jeffrey Barr, Assistant General Counsel, at the Administrative Office -- a copy of which was hand-delivered to the Commission, together with a copy of the cert petition.

July 12, 1999

"*continuing* ethical and professional obligations". The Commission ignored such obligations and the Supreme Court denied the rehearing petition, without reasons, by a November 30, 1998 letter from its Clerk. As for the impeachment complaint, it, like all other citizen-filed impeachment complaints against federal judges, sits in the House Judiciary Committee, neither acknowledged nor investigated.

Upon reviewing the aforementioned primary source materials, you will see that they not only substantiate our explosive April 24, 1998 testimony before the Commission on Structural Alternatives, but our prior presentations: (2) to the National Commission on Judicial Discipline and Removal on July 14, 1993 and July 22, 1993; (1) before the Long Range Planning Committee of the Judicial Conference on December 9, 1994; and (3) before the Second Circuit's Task Force on Gender, Racial and Ethnic Fairness in the Courts on November 28, 1995. Copies of our presentations are enclosed, together with a hard copy of our article, "*Without Merit: The Empty Promise of Judicial Discipline*" (Massachusetts School of Law, Vol. 4, No. 1, Summer 1997), likewise substantiated by these materials.

As discussed, in the event you are not interested or able to pursue the important issues presented by the enclosed primary source materials, exposing systemic judicial corruption and political manipulation, we would appreciate your passing them on to other scholars, including to graduate students looking for "new frontiers" for their dissertations. Thus far, our attempts to provide these materials to the academic community have not been fruitful. As illustrative, enclosed is my exchange of e-mail correspondence with Professor Christopher Smith last summer and my unresponded-to letter to Professor Sheldon Goldman nearly three years ago.

Finally, because the enclosed materials are extremely costly and time-consuming for our non-profit, unfunded citizens' organization to reproduce and assemble, we ask that if you are not going to use them or pass them on to others who will, you be good enough to return them to us -- and, especially, the bound volumes of the cert petition, supplemental brief, and petition for rehearing. In no event, should they be relegated to collecting dust on some bottom shelf.

Yours for a quality judiciary,

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

Enclosures: the above-identified materials,
plus CJA's informational brochure

Z 509 073 637

US Postal Service
Receipt for Certified Mail

No Insurance Coverage Provided.
Do not use for International Mail (See reverse)

Sent to
Asst. Professor Christopher Banks

Street & Number **240 Olin Hall**
University of Akron

Post Office, State, & ZIP Code
Akron, Ohio 44325-1904

Postage \$ **6.20**

Certified Fee **1.40**

Special Delivery Fee

Restricted Delivery Fee

Return Receipt Showing to Whom & Date Delivered **1.25**

Return Receipt Showing to Whom, Date, & Addressee's Address

TOTAL Postage & Fees **9.55**

Postmark or Date
1990
WHITE PLAINS, NY 10595-3748

PS Form 3800, April 1995

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, 4a, and 4b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number. The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

- Addressee's Address
- Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Asst. Professor Christopher Banks
240 Olin Hall
University of Akron
Akron, Ohio 44325-1904

4a. Article Number

2-509-073-637

4b. Service Type

- Registered
- Express Mail
- Return Receipt for Merchandise
- Certified
- Insured
- COD

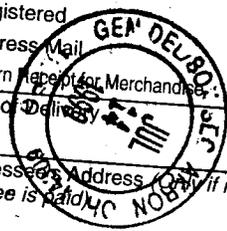
7. Date of Delivery

5. Received By: (Print Name)

6. Signature (Addressee or Agent)

X *[Signature]*

8. Addressee's Address (Only if requested and fee is paid)



Is your RETURN ADDRESS completed on the reverse side?

Thank you for using Return Receipt Service.

PS Form 3811, December 1994

102595-98-B-0229 Domestic Return Receipt