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BY FAX: 518-472-5878 (6 pages)

February 4, 2002

Professor Vincent Martin Bonventre
Albany Law School
80 New Scotland Avenue
Albany, New York 12208

RE: Assisting the media with evaluative comment as to the *readily-verifiable* corruption of the NYS Commission on Judicial Conduct, documented by the appellate papers 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*

Dear Professor Bonventre:

Following up our telephone conversation on Friday, in which you promised to review my reargument motion in my lawsuit against the NYS Commission on Judicial Conduct, as well as such significant cases as the Court of Appeals' decision in *Matter of Nicholson*, 50 NY2d 597, The Albany Times Union has begun an editorial series heavily focused on the Commission. For your convenience, enclosed are copies of yesterday's editorial, "*Privileged Chambers*" and today's editorial, "*Justice Denied*".

I will be calling The Albany Times Union later today to explain to them the DISPOSITIVE significance of my lawsuit in documenting, *inter alia*, that (1) the Commission is unlawfully dismissing *facially-meritorious* judicial misconduct complaints, *without investigation*, in violation of Judiciary Law §44.1¹; (2) the Commission – through its attorney, the State Attorney General

¹ This mandatory duty has been recognized by the Court of Appeals in *Matter of Nicholson*:

"...the commission MUST investigate following receipt of a

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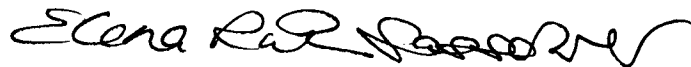
-- has defended itself with litigation misconduct rising to a level of fraud because it has had NO legitimate defense; (3) the Commission has been the beneficiary of FIVE fraudulent judicial decisions, without which it would *not* have survived my lawsuit and the lawsuits brought by my mother and Mr. Mantell -- each physically incorporated in my lawsuit.

Obviously, The Times Union will want -- and need -- evaluative comment as to my 3-in-1 lawsuit. As you have a full copy of the appellate record -- including my analyses of the five fraudulent judicial decisions -- may I give the Times Union your name? If not, please transmit the appellate materials IMMEDIATELY to the Government Law Center -- and advise who would be available to provide such evaluative comment for the media. I note that the purpose of the Government Law Center is to "provide legislators, policy makers and other decision makers with access to nonpartisan and comprehensive analysis of various critical issues facing governments today". Clearly, editorial writers are important decision-makers, shaping the public's views of critical issues, as likewise those of legislators and policy makers.

I look forward to hearing from you at your earliest convenience, both with respect to the media AND with your advice as to how best to secure the Court of Appeals' review of the transcending issues presented by my lawsuit.

Thank you again.

Yours for a quality judiciary,





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

Enclosures

complaint, unless that complaint is determined to be facially inadequate (Judiciary Law 44, subd 1)" (at 610-611, emphasis added).

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Privileged chambers

When it comes to being held accountable, judges are an insulated breed in New York

First published: Sunday, February 3, 2002

There are 3,346 judges in New York state's judicial system. Some never studied law and serve as part-time justices of the peace in sparsely populated regions. Others are graduates of the most prestigious law schools in the nation and had distinguished legal careers before being elected or appointed as judges in city, county and state courtrooms. Many of these jurists, from part-time practitioners to renowned figures, are conscientious, hard-working and impartial. They maintain courtroom decorum at all times, even under trying circumstances.

But that is only part of the picture. There are jarring exceptions. Too many of them, in fact.

Consider:

When Ron Loeber went to state Supreme Court in Albany four years ago, he expected to have his property dispute resolved according to the law. Instead, he found himself hauled off to Albany County jail without a hearing. There he remained for 45 days, sometimes in leg irons, because he refused to sign away his property rights in a dispute with a developer. And when the Appellate Division finally ordered him released, he found that a sheriff's deputy had been ordered to sign a deed terminating his water and easement rights.

The experience left Mr. Loeber shaken. Even now, he wonders how it could have happened in a free country. But last year, the state Commission on Judicial Conduct finally gave Mr. Loeber, a Knox businessman, a modicum of satisfaction when it censured the judge in his case, Joseph Teresi, for sending people to jail without contempt hearings. (Justice Teresi was also cited by the commission for a 1997 matrimonial case in which he sentenced a wife to a weekend in jail for contempt and her husband to one day. Neither had a hearing). Yet in Mr. Loeber's view, the censure was too little, and far too late. "This man violated his oath of office with me," Mr. Loeber told our reporter, Carol DeMare, last February. "That's all he got? It's a slap on the wrist."

It was no isolated slap, either.

Just weeks ago, the commission found that Manhattan Criminal Court Judge Donna Recant had abused her powers on at least 10 occasions during 1998 and 1999, including using bail to coerce guilty pleas. In one incident, the judge had a defendant handcuffed for chewing gum in court. Her punishment? Censure, or a public reprimand and nothing else.

And in another recent case, the commission censured state Supreme Court Justice John P. DiBlasi of White Plains for what it termed "reprehensible behavior." He was found to have tried to undermine the supervisor of an attorney with whom he was having a romantic relationship. He also was found to have left the bench to attend broadcasting classes with an eye toward launching a cable television show of his own.

While the judges had to endure a brief period of public embarrassment because of their conduct, it's another story for those who appear before them. Mr. Loeber, for example, found that the courts were not sympathetic to his plight. Though he tried to sue Justice Teresi for damages, a federal court threw out his claim, citing judicial immunity.

The case, and its outcome, caught our attention because it seemed more in keeping with a dictatorship than a democracy dedicated to the principle of equal justice under the law. So we began to search our files and commission reports to determine whether it was an aberration or part of a pattern. The results were eye-opening. In a review of cases dating back to 1991, we found dozens of judges who had either denied defendants their rights, or engaged in outrageous personal behavior. Yet by and large, they remained on the bench, subject to comparatively mild discipline by the Commission on Judicial Conduct. Only the most egregious conduct was deemed grounds for removal.

Why? That's a question that this page will attempt to answer in a series of editorials beginning today. But there are no easy answers. Some blame the commission for not being aggressive enough. But the commission has to follow its mandate as outlined in state law. And no matter what the commission decides, its sanctions can be appealed by the judge to the Court of Appeals, which can uphold, alter or dismiss the case. Over the years, the state's highest court has in fact toughened penalties in some cases, while easing them in others. And in one unique case, involving proposed censure of a state Supreme Court justice in Manhattan who delayed rulings for years, the court threw out the case on the grounds that the delays, though reprehensible, were an administrative issue, not one of conduct.

So, where does the blame lie? The biggest obstacle to getting at that answer is secrecy. Disciplinary proceedings are not conducted in the open, so the public can't judge whether that process should be reformed.

Take the Loeber case as just one example. While Mr. Loeber was denied a hearing and whisked away to jail in a flash, it took four years before Judge Teresi was publicly cited for his conduct. During that interim, the judge was accorded a lengthy hearing process, and all of it conducted behind closed doors, as required by state law. Even with a public censure on his record, he remained immune from lawsuits.

The more we explored the system, the more it became apparent that New York's system should be a wake-up call for Gov. George Pataki and state lawmakers, who have the responsibility to ensure that all are equal under the law, judges included.

Monday: Sometimes the judge can be an obstacle to justice.

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Justice denied

Sometimes the biggest impediment to a fair trial can be the judge

First published: Monday, February 4, 2002

The last place you would expect to be denied your rights is a courtroom, in front of a judge who is sworn to uphold the constitutional guarantee of equal justice under the law. And yet it is quite possible that the judge might harbor a personal grievance against you and consider you guilty until proven innocent. Or that same judge might deliberately lie to you about your rights. Or the judge might arbitrarily send you off to jail and order some of your property destroyed without even the resemblance of a fair trial.

These examples are not hypothetical. They are part of a real and growing list of offenses by judges throughout New York state. In 1991, there were 197 complaints against judges that were considered serious enough to warrant possible disciplinary action by the state Commission on Judicial Conduct. In 1992, that number had dropped to 180. But by the end of the decade, the numbers were on the rise -- to 242 in 1999 and 215 in 2000.

Since 1975, when New York state first put in place a commission to oversee judicial conduct, a total of 27,006 complaints against judges have been examined. A great many of them were found to be without merit because they challenged the judge's rulings, not conduct. But some 2,500 of those complaints did allege that a defendant's rights had been violated.

Of the 3,346 judges in New York state, approximately 2,200 are part-time town and village justices, and only 400 of them are lawyers. Thus, it might seem only natural that the bulk of complaints would be filed against these lower-level jurists. While that is generally true, it's far from the whole picture. In 2000, for example, the state Commission on Judicial Conduct received 346 complaints against lower level judges, investigated 133 of them and recommended disciplinary action in 69 cases.

At the same time, the number of complaints lodged against the 341 state Supreme Court justices, all of whom are lawyers and serve full time, totaled 253. The high number of complaints at both the lower and upper end of the judicial system is both revealing and disconcerting.

While only 133 of the complaints lodged against part-time justices warranted full investigation, for example, roughly half of those resulted in disciplinary action. By comparison, while only 26 of the 253 complaints against Supreme Court justices were investigated, 17 of them, or far more than half, resulted in formal measures ranging from admonition to censure to removal from office.

Here are just a few of the more egregious cases handled by the commission during the last decade. In all instances, the commission's recommendation became the final disposition of the case:

January 2001: The commission admonishes Albany City Court Judge David Duncan after it finds he conveyed "the unmistakable impression of bias against two traffic defendants, in part because one of them was issued a ticket for speeding in the judge's own neighborhood, and the second defendant was engaged to the first."

April 2000: The commission recommends that Town Judge Thomas Buckley of Dannemora, Clinton County, be removed from the bench for swearing at defendants, violating their rights and ordering a neighboring dog destroyed after seeing it running loose.

January 2000; The commission censures John D. Pemrick, a Greenwich town and village justice in Washington County, for failing to inform a defendant of his right to have an attorney and giving the appearance that he was biased against the defendant.

August 1998: The commission censures Malta Town Justice James E. McKevitt for giving the appearance that he was biased toward prosecutors, including warning a defendant that it would be inadvisable to do anything that might annoy a state trooper.

February 1997: The commission censures Coxsackie Village Justice Stanley Yusko for holding a defendant in jail for twice the legal limit while awaiting trial, in an attempt to extract information from him regarding vandalism at his house. He was also found to have sent defendants accused of traffic offenses to jail without bail.

July 1996: The commission admonishes Judge Bruce Kaplan of Manhattan Family Court for using his influence to improperly pursue child-abuse charges against his lover's ex-husband.

And so the list goes on and on. It is far too long. It cries out for reform. Tuesday: Outrageous behavior is frequently tolerated.

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