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Elena Ruth Sassower, Coordinator

BY FAX AND BY MAIL

5 pages 216-687-6881
9:30 a.m.

December 10, 1998

Professor Charles Gardner Geyh
Cleveland State University
1801 Euclid Avenue
Cleveland, Ohio 44115-2223

RE: Retraction and Apology

Dear Charles:

Enclosed is a superseding letter, replacing the one faxed and mailed yesterday -- which I ask that you DISCARD. Such letter misinterpreted your meaning insofar as your November 23rd letter referred to "too stringent a standard for recusal". This caused me to be unduly harsh in tone. I sincerely apologize.

I would hope that my retraction of misstatements in my letter will encourage you to retract the misstatements in yours. Unfortunately, I believe that your misstatements, unlike mine, are knowing and deliberate -- being the ONLY means you have to avoid confronting the devastating analysis and evidence presented by the documentary materials I handed you at the USC Symposium.

Yours for a quality judiciary,



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

Enclosures

cc: Virginia Sloan, Citizens for Independent Courts
Professor Stephen Burbank

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December 9, 1998

Professor Charles Gardner Geyh
Cleveland State University
1801 Euclid Avenue
Cleveland, Ohio 44115-2223

RE: CJA's document-supported critique

Dear Charles:

This responds to your letter dated November 23, 1998, mailed in an envelope bearing a December 1, 1998 postmark, and not received by me until December 5, 1998 (Exhibit "A"). Such letter crossed my own letter to Virginia Sloan, dated and faxed to her on December 2nd -- which I asked her to fax to you (Exhibit "B").

While I *genuinely* appreciate the kind comments with which you open and close your letter -- and your agreement that "if a judicial decision is a product of fraud...it is a form of misconduct deserving discipline, if not impeachment", I take strong issue with statements in the last three paragraphs of your letter¹, which I regard as profoundly disingenuous.

At the outset, I regard it as disingenuous that you offer your "couple of thoughts" in your "individual capacity only", when you are the Director of American Judicature Society's Center for Judicial Independence and the issues presented by the materials are squarely within its purview. Indeed, the same documents I gave you on November 21st at the USC Symposium on Judicial Independence and Accountability I had sent more than two months earlier to American Judicature Society's Center for

¹ I also take issue with your statement that "we agree that judicial accountability is a necessary counterbalance to judicial independence". You will recall, in the preface to my question at the USC Symposium, I highlighted that, consistent with the definitions advanced by Dean Scott Bice at the outset of the Symposium, judicial accountability is an integral component of judicial independence.

Judicial Independence².

Secondly, your claim that our materials demonstrate that our "primary concern is not so much to promote systemic change..." This is untrue. The very first document I handed you was CJA's published article, "*Without Merit: The Empty Promise of Judicial Discipline*", enclosed in CJA's informational brochure. As I expressly told you -- and obvious from the article itself -- the article is a critique of the National Commission's 1993 Report, exposing it as methodologically-flawed and dishonest. The documents I thereafter handed you all substantiate that critique. These consisted of the cert papers in *Sassower v. Mangano* -- which demonstrate the complete worthlessness of ALL the mechanisms touted by the National Commission as ensuring judicial integrity³ -- and which I so identified to you. Additionally substantiating the critique was a free-standing copy of CJA's written statement to the House Judiciary Committee for inclusion in the record of the its June 11, 1998 oversight hearing of the "administration and operation of the federal judiciary -- *with* the supporting documentary compendium⁴. Such statement and compendium expose the House Judiciary Committee's wilful abandonment of its impeachment responsibilities -- and of its duty to ensure the integrity of the federal recusal and disciplinary statutes -- gutted by the federal judiciary. All these aforesaid materials are -- as the most cursory examination reveals -- focused on "promot[ing] systemic change", chief among them, congressional reinforcement of the recusal and disciplinary statutes; reactivation of the impeachment remedy; and reinvigoration of the codes of professional and judicial conduct.

Thirdly, your pretense -- in order to avoid giving your opinion on CJA's document-supported critique of the National Commission's Report -- that at issue in *Sassower v. Mangano* is the correctness of the federal courts' invocation of the *Rooker-Feldman* doctrine -- and your inference that you agree with their dismissal of the case on that ground. The complete IRRELEVANCE and INAPPLICABILITY

² Such mid-September transmittal followed my extensive phone conversation with Leslie Reis. At the USC Symposium, I discussed with you what then occurred: after three weeks without response from Ms. Reis, I called back and was told by Michael Grossman that he had succeeded Ms. Reis. Mr. Grossman, who stated that he was not familiar with the 1993 Report of the National Commission on Judicial Discipline and Removal, was so extremely rude that I asked to speak with his superior. He identified you -- but claimed that he had already talked to you about our materials and that you were not interested in seeing them and "not interested in pursuing or giving an opinion about them". Mr. Grossman, who identified that the materials were in his office, also refused to give me your phone number and address so that I could contact you directly. Thus, as I told you, I was particularly eager to meet you at the Symposium. When I recounted the foregoing to you, you told me that Mr. Grossman had never spoken to you about those materials -- and that Mr. Grossman was no longer at American Judicature Society. I believe you stated that he had taken a job with a D.A.'s office.

³ See cert petition, pp. 24-25; supplemental brief, pp. 1-2, 9.

⁴ CJA's written statement, *without* the documentary compendium, is reprinted at SA-17 of the supplemental brief.

of *Rooker-Feldman* may be seen from the *unopposed* cert petition, detailing the fraudulent nature of the decisions of the district judge and appellate panel, each expurgating and falsifying the very allegations of the verified complaint that vitiate such defense⁵. This, in addition to falsifying the evidentiary record as to the posture of the case. It is such judicial fraud which is at issue in *Sasower v. Mangano* -- and the first "Question Presented" by the cert petition. Since you concede that fraud is a basis for "discipline, if not impeachment", that is the issue about which you should be commenting -- and the ABSENCE of any mechanism to redress such fraud. As the cert petition demonstrates, by reprinting the *full record* of the §372(c) complaints filed against the district judge and appellate panel⁶ [A-242; A-251; A-272; A-28; A-31], the §372(c) disciplinary process has itself been corrupted by fraudulent decisions -- and, as demonstrated by the supplemental brief (pp, 1-2; 8), the House Judiciary Committee has jettisoned its impeachment duties. Such comment is additionally compelled in view of your participation on the panel to which I addressed my question to the USC Symposium panel, about whether a future research agenda might include examination of dishonest judicial decisions. As you know, the organizers of the USC Symposium, with no objection from the panelists, refused to permit the panel's response to that pertinent question.

Fourthly, your pretense that your concerns are "on a public policy level" -- and that public policy cannot be based "on a particular case involving a particular individual, but on the basis of patterns cutting across multitudes of cases." Obviously "public policy", if it is to have any legitimacy, must be grounded in empirical reality. Aside from the fact that your letter does NOT request that we provide you with additional cases, *Sassower v. Mangano* is, as I told you, the most perfect and complete case study of judicial misconduct. It also should more than satisfy your "public policy level" concerns in that it presents and incorporates information and statistics demonstrative of a SYSTEMIC breakdown of checks on federal judicial misconduct in ALL THREE governmental Branches. Indeed, the rehearing petition (at p. 4, fn. 3) provides a concise summary of where, in the cert papers, such information and statistics appear.

Absent your rebuttal of the foregoing, I respectfully submit that it is your professional responsibility to revise your letter and respond to CJA's critique of the National Commission's Report, as contained in our published article, and substantiated by the documents I provided you at the USC Symposium. As discussed -- and as reflected by our December 2nd letter to Virginia Sloan (Exhibit "B") -- NO ONE in a position of leadership has been willing to comment on the critique and substantiating documents. As I told you, this includes Professor Stephen Burbank, a key author of the National Commission's Report and a Vice-President of American Judicature Society, with whom you sat during at least part of the USC Symposium.

⁵ See cert petition, p. 11, 14-18.

⁶ Upon my inquiry, you conceded that you may have never before seen a §372(c) complaint.

I also respectfully submit that it is your professional responsibility to honestly apprise Virginia of CJA's ground-breaking work on judicial independence and accountability, as evidenced by that article and supporting documents, so that, as requested by our December 2nd letter (Exhibit "B"), CJA may be invited to participate in Citizens for Independent Courts. We have yet to receive Virginia's response.

Yours for a quality judiciary,



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

Enclosures

cc: Virginia Sloan, Citizens for Independent Courts
Professor Stephen Burbank