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FAX COVER SHEET

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DATE

TIME

TO: Mr. Matt Sarago
Federal Judicial Center/Information Services

FAX NUMBER: 202-273-4027 (tele: 202-273-4153)

This fax consists of a total of ² _____ pages, including this cover sheet. If you do not receive the indicated number of pages, or if there is a question as to the transmittal, please call (914) 997-8105.

FROM: Elena Ruth Sassower

MESSAGE:

Dear Matt:

As discussed, I enclose the New York Law Journal notice relative to public access to orders of dismissal against judicial complaints in the Second Circuit.

Also, would you be good enough to verify where the materials produced and accumulated by the National Commission on Judicial Discipline and Removal during its tenure have been archived.

Again, I thank you for your generous and expert assistance.

Elena

EX B

New York Law Journal

TRAINING THE BENCH AND BAR SINCE 1886

E-211—NO. 40

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TODAY'S NEWS

Update

...of associates are on... according to the annual... of the profession from Hil... Inc., law firm consultants... ville, N.J. Demand for as... particularly corporate as... is up, it claims. "The talk... ntial downsizing and lack... nd for first-through third... ociates is nonsense," it... my firms will continue... rtime banks. With commer... ing up, firms that want to... ate their leases need to... t, it suggests. Hildebrandt... s supervising Shea &... dissolution, notes that... need "not only good bot... figures, but a strong firm... shared goals, and a clear... direction" to survive.

Orders of the Chief Judge of the U.S. Court of Appeals for the Second Circuit dismissing complaints alleging judicial misconduct will be made public, under a new Second Circuit rule. Some 25 to 75 misconduct complaints against judges are dismissed by the Chief Judge each year; since 1980, fewer than five complaints have received a full hearing on the merits by a panel of district and circuit judges, whose orders are already made public. Opening of the process was recommended last year by the National Commission on Judicial Discipline and Removal, which was created by Congress. The name of the judge against whom the complaint is lodged will remain secret under the new rule, scheduled to take effect April 1.

Patterson, Belknap, Webb & Tyler partner Lisa E. Cleary has been elected chair of MFY Legal Services Inc., a not-for-profit corporation that provides free civil legal services to low-income New Yorkers. This is the organization's 30th

Court Orders New Trial In Gun Case

'Retroactive Misjoinder' Found in Federal Appeal

BY DEBORAH PINES

AFTER DISMISSING a New York man's conviction for being a felon in possession of a gun, a federal appeals panel then reversed armed robbery and other counts against the man due to inevitable spillover prejudice.

In a rare finding of "retroactive misjoinder," the U.S. Court of Appeals for the Second Circuit said a new trial, without the "inflammatory" gun count, is necessary to determine if Clarence Jones robbed a Hollis, Queens savings bank in 1991, in *U.S. v. Jones*, 93-1256.

Retroactive misjoinder arises when the joining of multiple counts, which was initially proper, becomes improper due to later developments, such as the dismissal of some counts by a trial or appellate court.

The Second Circuit opinion, written by Judge Joseph M. McLaughlin dismissed altogether the ex-felon gun

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Excerpt From The Decision



PHOTOGRAPH BY EAYE ELLMAN

"Even if we were to agree that the district judge's initial denial of the motion to sever or bifurcate [the ex-felon gun count] was proper, the government's failure to establish the interstate commerce element of that count creates, in our judgment, a 'retroactive misjoinder' situation."

Justice Joseph McLaughlin

Convicted Over Plea

'Ineptitude' Helped

BY MATTHEW GOLOSTEIN

A MENTALLY-disturbed man, convicted of arson for torching the apartment of his wife, will get a new trial because he was not allowed to represent himself during those proceedings, a late court ruled yesterday.

The Appellate Division, Second Department, unanimously found that Gregory Schoolfield was constitutionally protected to represent himself when the court appointed a defense lawyer over his objection.

The appellate panel, including Chief Justice Justice Imhof, said the trial court should have allowed the defendant to represent himself once it was determined that he was competent to do so. The court also found that the trial judge should have allowed the defendant to waive the right to counsel.

Mr. Schoolfield has been charged with the same arson crime