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BY CERTIFIED MAIL-RRR: Z-203-707-607

January 27, 1998

Jeffrey N. Barr, Assistant General Counsel
Administrative Office of the U.S. Courts
One Columbus Circle
Washington, D.C. 20005

RE: Remedies within the federal judiciary to restrain and punish
on-the-bench misconduct by federal judges violative of recusal
statutes and codes of judicial conduct

Dear Mr. Barr:

Following up our telephone conversation on Friday, January 23rd, in which we discussed the fact that you *still* have not reviewed the urgent, time-sensitive materials transmitted two months ago by our November 24, 1997 coverletter -- which itself took you a month to read ("by Christmas") -- this is to again request that you *delegate* the review. This *simple solution* was proposed more than a month ago, in our December 24, 1997 letter, and was discussed with you by phone on January 6th.

Since you mentioned on Friday, that you will be having lunch with Tom Willging of the Federal Judicial Center this Wednesday (that is, tomorrow), this letter memorializes my enthusiastic request that you arrange to delegate review to Mr. Willging. Not only does Mr. Willging *clearly* have the expertise to assess our two §372(c) complaints -- having been a consultant to the National Commission on Judicial Discipline and Removal and having examined, with you, *hundreds* of §372(c) complaints for the National Commission as part of your joint study "*Administration of the Federal Judicial Conduct and Disability Act of 1980*" -- but he assuredly will want to know more about our very public criticisms of that joint study. Those criticisms are summarized in my article "*Without Merit: The Empty Promise of Judicial Discipline*", annexed to each of those two §372(c) complaints. As you know, you already have within your possession much of the documentary materials on which the article is based, not the least of which is the record of our prior §372(c) complaint.

Moreover, based on Mr. Willging's background, as briefly described in the "Biographies" section at the end of the National Commission's Report: a researcher at the Federal Judicial Center, previously a law professor and practicing lawyer, who is the "author of several publications concerning court

procedure", and with an LL.M. degree from Harvard Law School, Mr. Willging will be *readily able* to assess the seriousness of the record in our §1983 federal action, *Sassower v. Mangano, et al.* That record was transmitted by our November 24th letter to support our request that the costly-superstructure of the federal judiciary: the Judicial Conference, the Administrative Office, and the Federal Judicial Center take "necessary steps to protect the 'administration of justice', all but destroyed by a district judge and, thereafter, by Second Circuit appellate judges" (at p. 2). This includes our request that if the Judicial Conference:

"believes that the only recourse within the federal judiciary is by appeal, e.g. appeal to the U.S. Supreme Court, [it provide] a written statement to that effect -- including its own endorsement of Supreme Court review so that the profound issues relating to judicial independence and accountability may be addressed by the judicial branch *before* they are addressed by Congress" (our 11/24/97 ltr, at p.6).

Should Mr. Willging be unavailable for such assignment, we request that this matter be *immediately* directed to your superior, William Burchill, the Administrative Office's General Counsel, so that an appropriate referral may be made. It is unacceptable -- and we have no doubt but that Congress will find it unacceptable -- that the important, time-sensitive issues presented by our November 24th letter are being placed on a very "back burner" because you are busy and because you claim to be the *only one* in all of the Administrative Office who can address them. Such claim only highlights that there *must* be a redistribution of the federal judiciary's \$3,000,000,000 resources¹ so as to establish a professional and properly-staffed office within the Administrative Office to oversee judicial discipline issues. This should be a priority since you are far too lacksidaisical and cavalier in your single-handed handling of such issues. And that is putting it mildly.

It is outrageous that you should suggest -- as you did -- that Mr. Burchill (with whom I have never had *any* communication) would not want to speak with me directly because I have "no credibility". Based on my many telephone conversations with you over the past 2-1/2 years -- which I have followed up by correspondence -- you have overwhelming proof that I am intelligent, informed, and credible *in every respect*. It is your obligation to convey that to Mr. Burchill -- and to provide him with the file of my one-sided correspondence with you so that he can make an honest determination of my "credibility" for himself.

Time is rapidly passing for our cert petition to the U.S. Supreme Court. Please let us hear from you within the next two weeks -- preferably in writing -- with the Administrative Office's response to our November 24, 1997 letter and subsequent communications. A written response from you would be your *first* in all these many years.

¹ I have twice telephoned the number you gave me (202-273-2243: Pat Richards) to obtain more precise budget information -- each time I got an answering machine on which I left a voice mail message.

Finally, enclosed is a copy of our January 26th letter to ABA President Jerome Shestack, pertinent portions of which I read to you over the telephone on Friday. It has been modified to reflect, with attribution, your statements to me.

Yours for a quality judiciary,

Elena R. S. Sassower

ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

Enclosure

cc: House Judiciary Committee

Subcommittee on Courts and Intellectual Property

Z 203 707 607

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Jeffrey Barr, Assistant General Counsel
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