

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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TO: Senators Charles E. Schumer and Hillary Rodham Clinton;
Representatives Gary L. Ackerman, Sherwood L. Boehlert, Joseph Crowley,
Eliot L. Engel, Vito Fossella, Benjamin A. Gilman, Felix J. Grucci, Jr., Maurice
D. Hinchey, Amory Houghton, Jr., Steve Israel, Sue Kelly, Peter T. King, John
LaFalce, Nita M. Lowey, Carolyn B. Maloney, Carolyn McCarthy, John M.
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Owens, Jack Quinn, Charles B. Rangel, Thomas Reynolds, Jose E. Serrano,
Louise M. Slaughter, John E. Sweeney, Edolphus Towns, Nydia M. Velazquez,
James T. Walsh, and Anthony D. Weiner

FROM: Elena Ruth Sassower, Coordinator

DATE: July 26, 2001

RE: Support from New York's Congressional Delegation for the Public's Right to
a Record of the Oral Argument of a Public Interest Lawsuit against the New
York State Commission on Judicial Conduct in New York's Appellate Division,
First Department – a "Court of Record"

The Center for Judicial Accountability, Inc. (CJA) is a non-partisan, non-profit citizens' organization, based in New York. Our purpose is to safeguard the public interest in meaningful and effective processes of judicial selection and discipline. A copy of our informational brochure is enclosed, along with our published article, "*Without Merit: The Empty Promise of Judicial Discipline*", The Long Term View, (Massachusetts School of Law), Vol. 4, No. 1 (summer 1997).

As you know, the New York State Commission on Judicial Conduct is the state agency charged with the duty to receive and investigate judicial misconduct complaints against New York State judges. For the past two years, the Commission has been sued for corruption in an important public interest lawsuit. Oral argument of the appeal is scheduled for this September in New York's Appellate Division, First Department in Manhattan.

Recognizing the potential of this appeal to bring about much needed judicial accountability, People from throughout New York State have expressed interest in being present at the oral

July 26, 2001

argument. Some are too far away to make that feasible. Others cannot take time off from work or leave family responsibilities and other commitments. The solution is to record the appellate argument so that those unable to attend will have it available to them at a more convenient time and place. Yet, the Appellate Division, First Department -- like New York's other three Appellate Divisions -- has NO tape recorder, NO video camera, NOT even a court stenographer to record the appeals argued before its justices. This, notwithstanding the Appellate Division is a "court of record" (NYS Constitution, Article VI, §1b).

By contrast, the U.S. Court of Appeals for the Second Circuit -- also in Manhattan, indeed, only about two miles from the Appellate Division, First Department -- has a taping system that automatically records oral arguments of appeals. Litigants and members of the interested public can then purchase copies of the tape for a nominal fee.

In the instant appeal against the Commission, a special application will have to be made so that I, as the petitioner -- and the public whose interest I represent -- can have the benefit of a record of the argument, be it audio, video, or stenographic. However, last year, when I made a written application for a stenographer to record the oral argument of an appeal in another lawsuit against the Commission, the Appellate Division, First Department denied it, *without reasons*. Consequently, I am seeking to buttress my upcoming application with a showing of public support, such as reflected by the enclosed petition.

The enclosed petition is not just *non-partisan*, it is *non-controversial*. It asks no more than that a "court of record" should act like one so that New Yorkers, statewide, can have a record of an appeal whose outcome concerns them all. As such, members of the New York's Congressional Delegation should be UNANIMOUS in their support.

Although the petition has *nothing* to do with the particulars of the lawsuit against the Commission, I am, of course, ready to discuss the substance of the case and answer any questions you may have so that you can better advise constituents who turn to you for help in addressing misconduct by New York State judges. Otherwise, I would appreciate if you would each sign the petition -- perhaps getting four additional signatures to fill the page -- and mail it back to me.

Thank you.



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

Enclosures

The New York State Commission on Judicial Conduct is the state agency charged with the duty to protect the public from unfit New York judges. For the past two years, the Commission has been sued for corruption in an important public interest lawsuit. Oral argument of the appeal is scheduled for this September in New York's Appellate Division, First Department in Manhattan.

Recognizing the potential of this appeal to bring about much needed judicial accountability, People from throughout the state have expressed interest in being present at the oral argument. Some are too far away to make that feasible. Others cannot take time off from work or leave family responsibilities and other commitments. The solution is to record the appellate argument so that those unable to attend will have it available to them at a more convenient time and place. Yet, the Appellate Division has no tape recorder, no video camera, not even a court stenographer to record the appeals argued before its justices. This, notwithstanding the Appellate Division is a "court of record" (NYS Constitution, Article VI, §1b). Consequently, for the oral argument of the appeal against the Commission to be recorded, a special application will have to be made. Please support such application by signing this Petition.

We, citizens of the State of New York, hereby petition the justices of New York's Appellate Division, First Department in support of the application to allow a recording to be made of the appellate argument of the public interest lawsuit, *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* (NY Co. #108551/99), scheduled for the September 2001 Term.

SIGNATURE

PRINT NAME

ADDRESS

PHONE #

E-MAIL

* * Please duplicate and use for additional petitioners. Return Petitions with original signatures to:

Center for Judicial Accountability, Inc., Box 69, Gedney Station, White Plains, NY 10605-0069 [Tel: (914) 421-1200]. Thank you.