

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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*Elena Ruth Sassower, Coordinator*

BY FAX: 212-529-0644 (13 pages)

BY MAIL

May 16, 2001

Ronald Kuby, Esq.  
740 Broadway, 5<sup>th</sup> Floor  
New York, New York 10003

RE: Your advocacy – including by your WABC talk-show –to vindicate the public interest in the appeal of the public interest Article 78 proceeding, *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) Appellate Division, First Dept.: September 2001 Term)*

Dear Mr. Kuby:

This is to request a meeting with you for purposes of discussing your advocacy – including by your WABC talk-show – for the *already-perfected* appeal of the above-entitled public interest lawsuit in which the New York State Commission on Judicial Conduct is sued for corruption. It is calendared for the September 2001 Term of the Appellate Division, First Department.

Professor Arthur Kinoy already met with me for nearly three hours about this appeal – and warmly endorsed my approaching you about it so that we can build a coalition of support within the civil liberties/public interest community. Professor Kinoy immediately recognized that coalition support is essential because, individually, lawyers, bar associations, and civil liberties/public interest organizations, are too intimidated by – and connected to -- the systemic governmental corruption this case exposes. Among the organizations to which I have already turned for *amicus* and other assistance in vindicating the public's rights on this appeal: the Center for Constitutional Rights, the New York Chapter of the American Civil Liberties Union, the National Lawyers' Guild, the Brennan Center for Justice, the Fund for Modern Courts, the American Judicature Society, the Constitution Project, the Association of the Bar of the City of New York, the New York State Bar Association, the New York Fellows of the American Bar Foundation, and the American Bar Association.

As Professor Kinoy will tell you, this appeal, *if* decided on the facts and the law, will not only bring down the New York State Commission on Judicial Conduct, but the New York State Commission on Judicial Nomination and the supposed "merit selection" appointment process to the New York Court of Appeals. Implicated are this State's highest elected officials -- the Governor, the New York State Attorney General, and such agencies and public officers charged with oversight as the New York State Ethics Commission, the Manhattan District Attorney, and the U.S. Attorney for the Southern District of New York -- each of whom were proposed intervenors in this lawsuit and received fact-specific, fully-documented ethics and criminal complaints, which they refuse to investigate.

You may recall that this is not the first time our non-partisan, non-profit citizens' organization is seeking your assistance in vindicating the public's rights to a Commission on Judicial Conduct that investigates *facially-meritorious* judicial misconduct complaints -- as Judiciary Law §44.1 requires it to do. In April 1996, following the airing of the A & E investigative report, "Bad Judgment", in which you and we were featured, we sought your assistance for a prior Article 78 proceeding against the Commission on Judicial Conduct, which had been "thrown" by a fraudulent decision. To refresh your recollection, a copy of our April 17, 1996 letter to you is enclosed, including its Exhibit "A": our published Letter to the Editor, "*Commission Abandons Investigative Mandate*" (NYLJ, 8/14/95).

Much as we received no response from you to our April 17, 1996 letter, so we received no response from those in government and the legal establishment to whom we turned for help in upholding the public's rights against a corrupted Commission. Reflecting this are our subsequently published public interest ads: "*A Call for Concerted Action*" (NYLJ, 11/20/96, p. 3) and "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (NYLJ, 8/27/97, pp. 3-4) -- copies of which are enclosed, in the event they escaped your attention.

The prior Article 78 proceeding, *Doris L. Sassower v. Commission* (NY Co. 109141/95), as well as a further Article 78 proceeding, *Michael Mantell v. Commission* (NY Co. 108655/99), are *physically* incorporated in the record of the current proceeding. The *readily-verifiable* record of all three lawsuits -- highlighted by the current appeal -- disclose the identical pattern: the Commission, represented by the State Attorney General, our highest state law enforcement officer, engaged in fraudulent defense tactics, which, if committed by a private attorney, would be grounds for disbarment. This was ignored by the assigned justices of Supreme Court/New York County, whose fraudulent decisions "threw" the cases. In such fashion, the Commission, whose duty is to enforce judicial standards, has become the knowing beneficiary of egregious judicial misconduct, without which it could not have survived these three legal challenges to it.

May 16, 2001

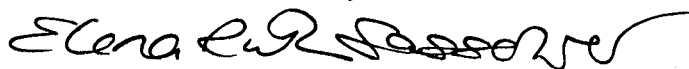
*Doris L. Sassower v. Commission* was never appealed. As for *Mantell v. Commission*, the Appellate Division, First Department's cover-up, two-paragraph affirmance, 715 N.Y.S.2d 316 (2000), insulated the Commission from future legal challenges by inferring that a complainant whose *facially-meritorious* complaint has been dismissed by the Commission, *without* investigation, lacks "standing" under Judiciary Law §44.1 to sue<sup>1</sup>. The Appellate Division provided NO law or factual specificity to support such inference – which the Attorney General, on this appeal, has adopted as Point I in his Respondent's Brief, *without* citation to New York law, other than the *Mantell* appellate decision.

Only the hard-hitting advocacy of someone like yourself – with connections to the media, in addition to a radio show of your own – can prevent the instant appeal from being "thrown", as it will have to be if the Commission and public officers complicitous in its corruption are to survive. As may be gleaned from "Restraining 'Liars'" – and from our Letter to the Editor, "An Appeal to Fairness: Revisit the Court of Appeals" (New York Post, 12/28/98) which bears upon the *facially-meritorious* judicial misconduct complaint at issue on this appeal – this case is a veritable "powder keg".

Should you wish to see a copy of the appellate papers *in advance of a meeting*, I will transmit them to you forthwith. Please let me know, as soon as possible.

Thank you.

Yours for a quality judiciary,



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

Enclosures: As indicated, plus CJA's informational brochure

cc: Professor Arthur Kinoy

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<sup>1</sup> In its *Mantell* affirmance, the Appellate Division stated, "Petitioner lacks standing to assert that, under Judiciary Law §44(1), respondent is required to investigate all *facially meritorious* complaints of judicial misconduct" – ignoring that Mr. Mantell was seeking the Commission's investigation of HIS *facially-meritorious* judicial misconduct complaint.