

Thomas Thornton
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Gerald Stern, Esq.
Commission on Judicial Conduct
801 Second Avenue, 13th floor
New York, NY 10017

Re: Children's Rights Council

30 May 1998

Dear Mr. Stern,

On behalf of the Children's Rights Council, New York Chapter I would like to invite you (or another representative of the Commission on Judicial Conduct) to be a guest speaker at our monthly meeting in July. The topic of the meeting, which I will be leading, is judicial accountability. Date, time and place are Wednesday, July 1, 7:00 P.M. at the YMCA Annex at 122 West 17th Street.

The Children's Rights Council is a politically nonaffiliated national organization of men and women whose main goal is best summed up by the slogan "The best parent for children of divorce is both parents." We frequently have nonmembers as guest speakers; recently, e.g., former judge Jerome Hornblass gave a talk on arbitration as an alternative way to reach a divorce settlement.

The length of the presentation should be approximately 30 minutes. Talks are generally followed by questions from the floor.

I am also inviting a representative of the Center for Judicial Accountability to speak for 30 minutes.

I would be delighted to welcome you or another representative of the Commission on Judicial Conduct on July 1. Please let me know if you accept or decline CRC's invitation.

Thank you.

Sincerely,

Thomas Thornton

EX 9-1

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F A X

To: Gerald Stern, Esq., Commission on Judicial Conduct
Date: 25 June 1998
Re: CRC meeting

Dear Mr. Stern,

Four weeks ago, I sent you the attached invitation to speak at the July meeting of the Children's Rights Council. Unfortunately, I still have not received a reply, and our meeting is taking place in just six days.

Ms. Elena Ruth Sassower of the Center for Judicial Accountability has accepted my invitation, and for the sake of balance, I hope that you or another representative of the Commission on Judicial Conduct will present your organization's point of view.

I look forward to your reply and hope to welcome you on July 1.

Thank you.

Sincerely,

Thomas Thornton

Enc

EX "Q-2"



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June 25, 1998

Mr. Thomas Thornton
499 Ft. Washington Ave.
#3D
New York, N.Y. 10033

By Fax 740-7008

Dear Mr. Thornton:

I am in receipt of your fax, inviting me to speak on July 1, which I just received. I regret that I did not respond earlier, but to the best of my knowledge, I did not receive your earlier invitation.

I respectfully decline the invitation.

Each complaint that we receive is considered by the members of the Commission on Judicial Conduct. The members of the Commission make a decision in each case whether the complaint on its face has merit -- that is, whether it alleges judicial misconduct as opposed to error of law, for example. The Commission is not a court, and it has limited authority to consider allegations that judges have disregarded or misinterpreted the law. The legislature establishes the jurisdiction and the authority of the Commission to discipline judges, and the courts interpret the intention of the legislature. The Commission has been formally reminded by the Court of Appeals that it cannot interfere in the independence of the judiciary, and cannot discipline a judge for errors of law.

Ms. Sassower, who will be appearing before the Children's Rights Council on July 1, has pointed out many times that the Commission dismisses 85% of the complaints it receives. That is correct. These are not summary dismissals, however. They are based on a full reading of the complaint, and an analysis and discussion by Commission members. Each complaint is acted upon by

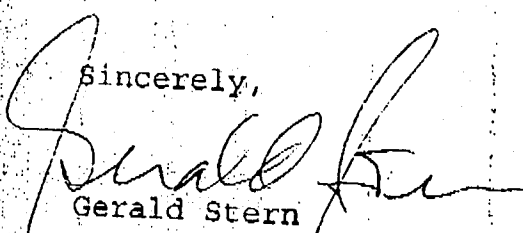
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the Commission, including those that are not investigated. Many of those in the 85% category are clarified by transcripts and interviews with complainants and their counsel. It is the experience of every Commission in the country that between 80% and 90% of complaints are not facially meritorious, and, consequently, are dismissed. A few states purport to "investigate" a higher percentage, but in reality they define as investigations the tasks that we perform in preparing the complaints for Commission action. Thus, to the extent that any state claims to investigate a higher percentage than 15% of the complaints received, the difference is semantical. The reality is that no judicial disciplinary agency in the country has the kind of discretion that some individuals believe the New York Commission should have. In the final analysis, it is up to the legislature and the courts, in interpreting the legislation, to determine whether the Commission should have broader authority than we believe we have.

I thank you for inviting me, but I have to be selective in accepting speaking engagements. Your concerns are important and very real, but I decline the invitation. Neither I nor any member or staff of the Commission will attend.

Sincerely,


Gerald Stern

PS. This was sent by FAX on June 25, but your fax line was busy.

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F A X

To: Gerald Stern, Esq., COMMISSION ON JUDICIAL CONDUCT
Date: 6-26-98
Re: CRC's invitation

Dear Mr. Stern,

Thank you very much to your prompt response to my fax of June 25.

I am very disappointed that you declined my invitation to speak at the next monthly meeting of the Children's Rights Council, New York Chapter. Since you explained the CJC's function as opposed to that of the appellate courts, I fear that you may have misunderstood the purpose of my invitation. Since I have personally filed a complaint against an egregiously abusive member of the judiciary, Judge Phyllis Gangel-Jacob—a complaint that is not based on her numerous errors of law but on her violations of elementary rules of the court—I am perfectly well aware of the limitations of the CJC, just as I am of the difference between the Commission and the Appellate Division or the Court of Appeals. Consequently, CRC's July meeting, which I will be chairing, is not intended to provide a forum for all those attendees who believe their parental rights have been unjustly and effectively terminated. I certainly don't plan to conduct a meeting where you or another member of the Commission would be expected to comment on individual cases. (In fact, I am not even aware of any CRC members having open complaints.) Rather, the meeting is meant to offer general as well as specific information on the kinds of redress available to litigants whose complaints go beyond a judge's error of law, and to the procedures for such complaints in New York State. It seems to me that if 85% of all complaints you receive are facially not meritorious, educating the public should decrease that number—which would be in the interest of everyone concerned.

I will inform Ms. Sassower that she can speak for 50 minutes rather than 25, but should you reconsider and decide it is in the Commission's (and the CRC meeting's attendees') interest to be fully informed about the scope of CJC's responsibilities and procedures and to hear the Commission's own point of view—which, as I stated before, would be extremely desirable in the interest of balance—I would be happy to accommodate you even at very short notice.

Should you not change your mind, I will read your letter at the meeting so attendees will at least know where you stand, even if that stand is explained only very briefly.

Sincerely,

Thomas Thornton

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