

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

BY PRIORITY MAIL

January 25, 2001

Deborah Goldberg, Deputy Director
Democracy Program/Judicial Independence Project
Brennan Center for Justice
161 Avenue of the Americas, 12th Floor
New York, New York 10013

RE: *Amicus* and other assistance 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. Cal #2000-5434)

Dear Ms. Goldberg:

Following up our January 22nd phone conversation, this is to request *amicus* and other assistance from the Brennan Center's Judicial Independence Project of its Democracy Program in the above-entitled appeal against the New York State Commission on Judicial Conduct, sued for corruption.

As you will see from the enclosed Appellant's Brief and Appendix, this appeal not only underscores the *sine qua non* of judicial independence: a fair and impartial tribunal, free of such external considerations as a complete lack of judicial tenure¹, but does so in the context of a case whose object is to vindicate the public's right to an effective state judicial disciplinary apparatus. Such apparatus is an essential safeguard against abuses of judicial independence by biased and self-interested state judges.

Examination of the Brief will convince you that the Commission has NO legitimate defense to this appeal – and that the *only* way it can survive the evidence of its corruption, established by the record of the Article 78 proceeding, is if the Appellate Division, First Department replicates the lower court's subversion of judicial independence by fashioning a factually fabricated, legally insupportable decision.

¹ See Brief, pp. 27, 46-48.

The Brennan Center's involvement will ensure that this politically-explosive appeal, whose criminal ramifications reach to the Governor, is decided as it should be: *on the facts and the law*. This is what judicial independence is all about. The Brennan Center's ability to build a coalition of organizational support and to garner media coverage for the important issues of governmental integrity this appeal presents will make it more difficult for the Appellate Division to "throw" the appeal by a fraudulent judicial decision – as it did last November in deciding another appeal involving the Commission, *Michael Mantell v. New York State Commission on Judicial Conduct* (NY Co. #108655/99, Appellate Division, First Dept. Cal. #2000-3833)².

A copy of the Appellate Division's decision in *Mantell v. Commission*, as reported by the November 20, 2000 New York Law Journal, is enclosed, annexed to CJA's December 1, 2000 memorandum to the Commission and its attorney, the State Attorney General, calling upon them to move to vacate that decision for fraud.

As discussed, the status of the instant appeal is that the Attorney General requested additional time to respond to my Appellant's Brief. The January 11th stipulation I signed, giving the Attorney General until March 23rd and myself until April 27th, puts the appeal over to the June term. A copy of the stipulation is enclosed. Also enclosed is my January 10th letter to Attorney General Spitzer, calling upon him to disavow his representation of the Commission and to join in support of the appeal and in a motion to ensure that it is heard by a fair and impartial tribunal. Additionally, enclosed is my January 11th letter transmitting my faxed signature on the stipulation.

Should you wish to see the lower court record in the appeal -- encompassing the lower court record in *Mantell v. Commission* – or the appellate papers in *Mantell v. Commission*, including my dispositive motion to intervene therein -- I would be pleased to transmit them forthwith.

I look forward to "open and honest discourse" with the Brennan Center as to the powerful contribution it can make in advancing judicial independence by this historic public interest case.

Yours for a quality judiciary,



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

Enclosures:

As indicated, plus CJA's informational brochure

² The lower court decision in *Mantell v. Commission* appears at 299-307 of the Appendix, with CJA's analysis thereof appearing at 321-334.