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From: elena@judgewatch.org <elena@judgewatch.org>[[add to contacts](#)]**To:** Skaggs, Adam <SkaggsA@exchange.law.nyu.edu>, elena@judgewatch.org**Cc:** Da Silva, Maria <dasilva@exchange.law.nyu.edu>**Date:** Thursday, August 19, 2010 07:41 am**Subject:** Please advise -- Re: Advancing the Brennan Center's Recusal Reform Recommendations in NYS**Attachments:**  [Text version of this message. \(5KB\)](#)

whether, as it appears, the Brennan Center is not only rejecting all three of my proposals for advancing recusal reform, but collaboration with CJA.

Also, what is the Brennan Center's opinion of "the merits" of my draft motion to the Appellate Division? Since the Brennan Center reviewed the draft in evaluating my *amicus* request, opining as to its "merits" does not impose on "limited internal resources" or "numerous competing demands."

Please also advise as to why the Brennan Center has not referred our draft motion to other advocates of "judicial independence" and "fair courts" having a capacity to furnish *amicus* and other support? Among these: the Justice at Stake Campaign, whose 50 or so "campaign partners" include the American Bar Association and other entities which both individually and collectively, have -- like the Brennan Center -- been the beneficiary of millions of dollars of funding from the Open Society Institute and other foundations to advance "fair courts" and "judicial independence". Why have you made no referrals?

Time is of the essence. Therefore, please respond, as soon as possible -- furnishing, as well, the names of colleagues who shared in the review.

Finally, as for the primary source materials I left with you on July 27th, was it your intention to discard them, return them to us, or provide them to scholars for scholarship? Your e-mail does not say.

Thank you.

Elena Sassower

-----Original Message-----

From: Skaggs, Adam [mailto:SkaggsA@exchange.law.nyu.edu]**Sent:** Monday, August 16, 2010 12:09 PM**To:** elena@judgewatch.org**Cc:** 'Da Silva, Maria'**Subject:** RE: Advancing the Brennan Center's Recusal Reform Recommendations in NYS

Elena —

Many thanks for contacting us, and for sharing the information on the opportunity for the Brennan Center to participate as an *amicus* in the NY proceedings.

We have reviewed the materials and shared them with our colleagues. Unfortunately, at this time, the Brennan Center will not be able to participate in the case. This decision in no way reflects our views on the merits of the case — on which we express no opinion — but is the unfortunate result of limited internal resources and numerous competing demands.

Many thanks again. We wish you the best with this litigation, and with your other, important, pursuits.

Best regards,

Adam

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From: elena@judgewatch.org [mailto:elena@judgewatch.org]
Sent: Tuesday, August 10, 2010 2:54 PM
To: adam.skaggs@nyu.edu
Cc: maria.dasilva@nyu.edu
Subject: Advancing the Brennan Center's Recusal Reform Recommendations in NYS

Thank you and Maria, again, for meeting with me on July 27th and discussing CJA's three proposals for advancing the Brennan Center's recusal reform recommendations in New York: (1) developing record-based scholarship, particularly of cases involving motions to disqualify judges for ACTUAL, rather than apparent, bias; (2) establishing a recusal advisory committee -- the Brennan Center's only recommendation that can be citizen-activated: "Outside observers need not sit idly by as judges consider the [other 9] reforms"; (3) engaging in amicus curiae advocacy

As indicated by the voice messages I left for you, Adam, yesterday and earlier today, the opportunity for the Brennan Center's amicus voice has now arisen -- one embracing scholarship and the functions of a recusal advisory committee: The Appellate Term denied, without reasons, the legally-sufficient April 25, 2010 motion for its disqualification that I left with you (embodying also my legally-sufficient January 2, 2010 disqualification motion, which I also left with you). Attached is a copy of its July 8, 2010 decision/order -- which I only learned of a couple of hours after our meeting. Also attached: my draft notice of motion to the Appellate Division and moving affidavit, incorporating the Brennan Center's recusal reform recommendations (see paras 32-35).

I would appreciate your review, as soon as possible. For starters, is there an appeal of right from the Appellate Term's denial, without reasons, of a motion to disqualify its justices -- or is the Appellate Division's review only by leave? Have any laws "limited or conditioned" Article 6, Sec. 4K of the NYS Constitution?

Please circulate this query and my draft motion among Brennan scholars, lawyers, law students, and other researchers so that this and the other legal and constitutional issues can be more fully developed. I am completely open to suggestions for improving my draft motion.

By the way, the underlying record, both in White Plains City Court and at the Appellate Term (&, of course, the appellate briefs), is accessible from CJA's website, www.judgewatch.org [see:

sidepanel:Judicial Selection-NYS, with a hyperlink for White Plains City Court. Also, via the top panel "Latest New", likewise with a hyperlink.]

I will call you on Friday, if I don't hear from you sooner.

Thanks, again.

Elena

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