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Elena Ruth Sassower, Coordinator

BY PRIORITY MAIL

September 16, 1998

Malcolm Rich, Executive Director
Chicago Council of Lawyers
220 South State Street, Suite 800
Chicago, Illinois 60604

RE: *Amicus* support for the cert petition in *Sassower v. Mangano, et al.*,
S.Ct. #98-106

Dear Mr. Rich:

Following up our two lengthy phone conversations, enclosed is a copy of our Supreme Court papers in *Sassower v. Mangano, et al.* As discussed, the case involves the efficacy of the very statutes intended by Congress to ensure the integrity of the judicial process and to safeguard against biased, abusive, and dishonest judges. Those statutes, 28 U.S.C. §§144, 455, and 372(c), were described by CJA's published article, "*Without Merit: The Empty Promise of Judicial Discipline*"¹ as having been judicially-gutted. The cert petition bears that out², as well as the worthlessness of the 1993 Report of the National Commission on Judicial Discipline, critiqued by our article.

The enclosed documents consist of: (1) the cert petition, demonstrating the breakdown of checks on federal judicial misconduct, identified by the Commission's Report as existing within the Judicial Branch; and (2) the supplemental brief with the corroborative materials "lodged" with the Supreme Court Clerk³, demonstrating the breakdown of Legislative and Executive Branch checks on federal

¹ The Long Term View (Massachusetts School of Law), Vol. 4, No. 1, summer 1997, pp. 90-97.

² For citation to the treatises and scholarly assessments of §§144 and 455, see p. 30 of the cert petition. As for the Administrative Office's own statistics on §372(c), see SA-19 of the supplemental brief.

³ These materials are: (1) the evidentiary compendium supporting CJA's written statement to the House Judiciary Committee for inclusion in the record of the Committee's June 11, 1998 "oversight hearing of the administration and operation of the federal judiciary" [SA-17]; and (2) the exhibits to our July 27, 1998 letter to the Chief of the Justice Department's Public Integrity Section, Criminal Division [SA-47].

judicial misconduct, likewise identified by the Commission's Report.

As summarized by the supplemental brief (at p. 2), the result of this wholesale breakdown of checks in all three government Branches is that:

"the constitutional protection restricting federal judges' tenure in office to 'good behavior' does not exist because all avenues by which their official misconduct and abuse of office might be determined and impeachment initiated (U.S. Constitution, Article II, §4 and Article III, §1 [SA-1]) are corrupted by political and personal self-interest. The consequence: federal judges who pervert, with impunity, the constitutional pledge to 'establish Justice', (Constitution, Preamble [SA-1]) and who use their judicial office for ulterior purposes."

Such situation, spelling the end of the rule of law and directly endangering the public, warrants forceful and concerted action by the public interest community. As in the past, where the Chicago Council of Lawyers was "founded out of a concern...that other local bar associations were unwilling to criticize judges"⁴, there is an urgent need for leadership. As reflected by the supplemental brief, the organized bar -- and particularly the Chicago-based ABA [SA-90; SA-102] -- has shamelessly abandoned ethical and professional standards, rather than confront issues of judicial misconduct and corruption.

Legislative advocacy must be undertaken to fortify the gutted federal judicial and disqualification statutes, beginning with pressing for a congressional hearing on the National Commission's Report. As pointed out in CJA's March 23, 1998 Memorandum to the House Judiciary Committee, included in the cert appendix [A-302-304], the final Report was never the subject of a hearing.

More immediately, the *Sassower v. Mangano* case presents an extraordinary opportunity for advancing needed reform. As discussed, in the event the Court denies cert, we intend to file a petition for rehearing, in which case we hope to append a list of public interest/public policy organizations urging review. We respectfully request that Chicago Council of Lawyers show its *amicus* support by being among those organizations and, additionally, that it help garner the support of other organizations and individuals for such purpose, as well as to develop an advocacy coalition.

Because we believe that media coverage may increase the likelihood of the Court meeting its difficult "supervisory" and ethical duties herein, we also ask that Chicago Council of Lawyers alert its media contacts to this important case. Unfortunately, CJA has been so shut out by the media that we have had to rely on extremely expensive public interest ads to "get the message out". Two of these ads

⁴ The Long Term View, *supra*, "Evaluation of the United States Court of Appeals for the Seventh Circuit", note at p. 19

are part of the record in *Sassower v. Mangano, et al.* and included in the cert appendix: "*Where Do You Go When Judges Break the Law?* [A-269], which cost CJA nearly \$20,000 (New York Times, 10/26/94, Op-Ed page; New York Law Journal, 11/1/94, p. 9) and "*Retraining 'Liars in the Courtroom' and on the Public Payroll*" [A-261], which cost us over \$3,000 (New York Law Journal, 8/27/97, pp. 3-4) (Exhibits "B-1" and "B-2").

As soon as you review the enclosed, please let us hear from you as to your thoughts and strategy suggestions.

Yours for a quality judiciary,

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

P.S. CJA's April 24, 1998 testimony before the Commission on Structural Alternatives for the Federal Courts of Appeals -- which cites the Chicago Council of Lawyers' survey of the Seventh Circuit Court of Appeals in its footnote #19 -- appears in the supplemental brief at SA-29. [See SA-46].

Enclosures