CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

Elena Ruth Sassower, Coordinator

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March 7, 2001

Barbara Reed, Policy Director & Counsel
The Constitution Project
50 F Street, N.W., Suite 1070
Washington, D.C. 20001

RE: 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. Reed:

Following up our telephone conversation this morning, this is to request The Constitution Project's assistance, *amicus* and otherwise, in the above-entitled public interest 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 tenure[1], but does so in the context of a case whose object is to vindicate the public's right to an effective state judicial disciplinary mechanism.

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 New York's Appellate Division, First Department replicates the lower court's subversion of judicial independence by fashioning a factually fabricated, legally insupportable decision.

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[1] *See* Brief, p. 27 and, especially, pp. 46-48 (quoting from Uncertain Justice: The Reports of the Task Forces of Citizens for Independent Courts at p. 90).

The Constitution Project's involvement will ensure that this politically-explosive appeal, whose criminal ramifications reach to New York's Governor, is decided as it should be: *on the facts and the law*. This is what judicial independence is all about. The Project's ability to build a coalition of organizational support and to garner media coverage for the important issues this appeal presents – including those relating to "merit selection" -- 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.

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 Eliot 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. Commision*, including my dispositive motion to intervene therein -- I would be pleased to transmit them forthwith.

As agreed, I will call you in the first week of April so that we can discuss ways in which The Constitution Project can contribute to both judicial independence and accountability by this historic public interest case. Thank you.

Yours for a quality judiciary,

Elena Ruth Sassower

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

Enclosures: As indicated, plus CJA's informational brochure

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[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.

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