

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

BY PRIORITY MAIL

September 16, 1998

Alan Morrison, Esq.
Public Citizen
Supreme Court Assistance Project
1600 20th Street, N.W.
Washington, D.C. 20009-1001

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

Dear Mr. Morrison:

This letter follows up our brief conversation yesterday, in which you reluctantly took the phone, were completely unresponsive to the issues of federal judicial corruption demonstrated by the *unopposed* cert petition and supplemental brief in *Sassower v. Mangano, et al.*, and were wholly unconcerned as to how those issues would be addressed -- and the public protected -- in the event the Supreme Court does not grant the writ.

Based upon your inquiry of me as to when the petition was filed -- the answer to which may be gleaned from the first page of the cert petition -- it may well be that you have not actually reviewed the petition. I know you did not review the supplemental brief because Erica Craven acknowledged to me that she had not copied it. This, after acknowledging that she had only copied portions of the petition. It was not at all clear to me that she copied the full 30-page petition text and, from certain incomprehensible comments, it seemed that if she copied anything from the 317-page cert appendix it was the lower court decisions detailed by the petition and identified by the first "Question Presented" to be fraudulent.

So that there is no mistaking the seriousness of what is here involved, criminal fraud by federal judges, covering up for high-ranking New York State judges and the New York State Attorney General, sued in a §1983 civil rights action for corruption and vicious retaliation against a judicial whistle-blowing attorney, enclosed is a copy of the materials I offered to send Ms. Craven when I spoke with her last Thursday. At the time of that lengthy conversation, Ms. Craven told me that it was unnecessary for me to send such materials since she would obtain them directly from the Supreme Court. On Monday morning when I telephoned, Ms. Craven had not gone to the Court and

examined the materials. Yesterday morning -- 24 hours later -- she called to say the Supreme Court Assistance Project would not be able to assist us and that there were unspecified concerns about the procedural posture of the case. Mind you, the procedural posture of the case is PERFECT -- every "i" dotted and "t" crossed.

The enclosed materials are the cert petition, the supplemental brief, and the two documents "lodged" with the Supreme Court Clerk¹. The cert petition demonstrates not only how the federal judiciary has subverted 28 U.S.C. §§144, 455, and 372(c)² -- the essential statutes intended by Congress to ensure judicial integrity and safeguard the public against biased, abusive, dishonest judges -- but the breakdown of the other checks on federal judicial misconduct, identified by the 1993 Report of the National Commission on Judicial Discipline and Removal as existing within the Judicial Branch. As for the supplemental brief and "lodged" documents, they demonstrate the breakdown of checks on federal judicial misconduct, identified by the National Commission as existing within the Legislative and Executive Branches.

The result of the 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." supplemental petition, p. 2.

Public Citizen cannot be indifferent to such dangerous situation, as herein documented -- or ignore CJA's critique of the National Commission's Report as methodologically flawed and dishonest, set forth in our published article, "*Without Merit: The Empty Promise of Judicial Discipline*", The Long Term View (Massachusetts School of Law), Vol. 4, No. 1, summer 1997 (Exhibit "A", pp. 93-97),

¹ The "lodged" 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].

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.

which is part of the record and included in the cert appendix [A-207]. Nor can Public Citizen forfeit the extraordinary opportunity for advancing needed reform by failing to give its *amicus* support for Supreme Court review. We, therefore, respectfully request that the Supreme Court Assistance Project reconsider its peremptory denial of *amicus* assistance -- including your refusal to help bring this important case to the media's attention so as to improve the likelihood of the Court meeting its difficult "supervisory" and ethical duties in this case. Surely Public Citizen has many media contacts, whereas 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 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 (NYT, 10/26/94, Op-Ed page; NYLJ, 11/1/94, p. 9) and "Retraining 'Liars in the Courtroom' and on the Public Payroll" [A-261], which cost us over \$3,000 (NYLJ, 8/27/97, pp. 3-4) (Exhibits "B-1" and "B-2").

In the event the Court does not accept review at its September 28th conference, we will be filing a petition for rehearing. It is our hope to append a list of public interest/public policy organizations urging review and expressing their grave concern for the profoundly dangerous state of affairs detailed by the cert petition and supplement. We believe that Public Citizen should be one of them, as, likewise, the so-called "Citizens for Independent Courts" to which you have given the stature and credibility of your good name.

As reflected by the "Reasons for Granting the Writ" (at p. 21), vindicating judicial independence is a featured reason for the Court to grant cert. The premise of judicial independence is that in order for judges to fulfil their constitutional role, they must render decisions by applying the law to the facts in the cases before them, unaffected by external pressures and influences. At bar, however, the subject federal judges obliterated and falsified virtually every pertinent fact of the case -- including essentially ALL the material allegations of petitioner's verified Complaint. Consequently, following your examination of the petition, supplemental brief, and "lodged" materials, we respectfully request that you make your membership in "Citizens for Independent Courts" meaningful by alerting it to its obligation to take affirmative steps, consistent with its express mission goals, and, additionally, that you help in mobilizing other organizations and individuals who care about the integrity of the judicial process. If you can't find any that are willing to protect the public by forthrightly confronting judicial corruption issues, please inform Ralph Nader of that fact -- so that he can graphically understand the vital role being played -- single-handedly and without outside funding -- by our non-partisan, non-profit citizens' organization.

Finally, please note that among the "Reasons for Granting the Writ" (at pp. 22-23) is one that should be of particular significance to you, personally: the opportunity for the Court to articulate "loud and clear, the predicate facts that must exist for invocation of defenses that are routinely used, without the essential findings of those predicate facts, to toss out §1983 actions -- as well as [to] re-examin[e]

some of these defenses..." As I noted for Ms. Craven when we first spoke, you authored an article, "*Defending the Government: How Vigorous is Too Vigorous?*" (Exhibit "C"), printed in Mr. Nader's 1976 anthology, Verdicts on Lawyers, in which you detailed the knee-jerk use of defenses by government lawyers. Although the foremost duty of government lawyers is to the public, which pays their salaries, they "may be instructed to prevail by any means whatsoever" (at p. 243). At bar, where the New York State Attorney General engaged in profound defense misconduct, including fraud, *inter alia*, by asserting defenses based on his misrepresentation and falsification of the Complaint's allegations -- which were then replicated in the judicial decisions -- the Court has an unparalleled opportunity to address the fundamental ethical obligations and conflict-of-interest issues of government lawyers which your article so eloquently highlighted.

Yours for a quality judiciary,

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

Enclosures

P.S. Perhaps you will recall that we met, many years ago, at the December 9, 1994 hearing on the draft report of the Long-Range Planning Committee of the Judicial Conference. The fact that CJA testified before the Long-Range Planning Committee is referred to at page 9 of our enclosed written statement to the House Judiciary Committee for inclusion in the record of its June 11, 1998 "oversight" hearing on the federal judiciary -- also reprinted at SA-26 of the supplemental brief. Should you wish to review our testimony -- a copy of which I may have given you, in hand-- it is accessible on CJA's website: www.judgewatch.org