

Elena Ruth Sassower

From: Elena Ruth Sassower [elena@judgewatch.org]
Sent: Thursday, November 15, 2007 12:12 PM
To: 'Dahlia Lithwick'
Subject: For You I Will Wait, etc! -- RE: UPDATE: Laying Bare the "Internal Operations and Culture" of the Supreme Court & Its Clerk's Office -- & Its Legal Office
Attachments: 11-6-07-from-supreme-ct-legal.pdf; 11-14-07-roberts.pdf

Thank you for your kind – and hopeful – response. This is a powerful, far-reaching story – with the potential to make essential good-government reforms. It is truly worthy of your time and talents.

Have a safe and successful trip to wherever you are flying to and from.

Although I imagine you'll be able to access the "Disruption of Congress'-The Appeals" pages of our website, www.judgewatch.org, attached is Court Counsel Harris' November 6th letter to me & my November 14th complaint to the Chief Justice, as a convenience.

Thanks again.

Elena

From: Dahlia Lithwick [mailto:Dahlia.Lithwick@slate.com]
Sent: Thursday, November 15, 2007 10:48 AM
To: Elena Ruth Sassower
Subject: RE: UPDATE: Laying Bare the "Internal Operations and Culture" of the Supreme Court & Its Clerk's Office -- & Its Legal Office

apologies I am on planes today.

Will read this tonight from my hotel and get back to you. If you cannot wait til then I will understand.

Dahlia

From: Elena Ruth Sassower [mailto:elena@judgewatch.org]
Sent: Thursday, November 15, 2007 10:46 AM
To: Dahlia Lithwick; tmauro@alm.com
Cc: tschoenberg@alm.com
Subject: UPDATE: Laying Bare the "Internal Operations and Culture" of the Supreme Court & Its Clerk's Office -- & Its Legal Office

Dear Dahlia & Tony,

Please let me hear from you as soon as possible. There have been IMPORTANT DEVELOPMENTS IN THIS STORY. On Tuesday, a couple of hours after sending you my below e-mail, I received a letter from Counsel Scott S. Harris of the Supreme Court's Legal Office. This has now generated a further complaint to the Chief Justice, express-mailed to him yesterday.

Attached is a draft of the press release I will begin circulating tomorrow. PLEASE ADVISE AS TO YOUR INTEREST – and, if you are not interested, the reasons.

As you know, I have patiently tried to give you the lead on this important story. However, if you will not investigate and report on it yourselves, I would appreciate your advice as to which Supreme Court beat reporters would. I obtained from the Supreme Court's Public Information Office a list of 26 reporters with "Permanent press passes for the October 2007 term" – but it contains no e-mail addresses and/or phone numbers for them. The Public

11/15/2007

Information Office would not supply that to me. I would, therefore, appreciate the benefit of the e-mail addresses and phone numbers for your colleagues that you assuredly have.

It is my hope to reach as many of your colleagues as possible on the Supreme Court beat so that we can empirically test David Margolick's assertions about Supreme Court reporters – about which Dahlia and Emily Bazelon wrote in their "*Nine Ways to Read the Nine*", posted on Slate's website on September 21st. But, will you then report it?

Awaiting your response,

Elena
914-421-1200
elena@judgewatch.org

From: Elena Ruth Sassower [mailto:elena@judgewatch.org]
Sent: Tuesday, November 13, 2007 10:58 AM
To: 'Dahlia.Lithwick@slate.com'; 'tmauro@alm.com'
Cc: 'tschoenberg@alm.com'
Subject: Laying Bare the "Internal Operations and Culture" of the Supreme Court & Its Clerk's Office

Dear Dahlia & Tony,

This belatedly follows up my October 12th e-mail to both of you, which stated:

"Are you familiar with Chief Justice Robert's extraordinary April 26, 2007 opinion – as Circuit Justice – in the *Boumediene* case, 127 S.Ct. 1725? I've made an October 9th motion to the Chief Justice requesting that he clarify it – and challenging the (invidious) use to which it is being put, in my 'disruption of Congress' case, by the Clerk's Office.

The motion additionally seeks recall/vacatur of the Court's October 1, 2007 order denying my petition for a writ of certiorari, based on the misconduct of the Clerk's Office in connection with my prior motion to compel the Solicitor General's response to the cert petition.

Please read this latest motion – whose footnote 5 cites your coverage of the Chief Justice's September 19th speech in Syracuse on judicial independence and the First Amendment. It is posted on CJA's website, www.judgewatch.org, most conveniently accessible via the top panel 'Latest News'.

I'll be in touch next week.

Thanks"

In the month since that e-mail, my EXPLOSIVE October 9th motion has fallen into "a black hole" at the Supreme Court Clerk's Office. It has NOT been docketed, NOT been returned, and my repeated attempts to ascertain its status have been unsuccessful. This situation is recounted in my October 26th Petition for Rehearing, as well as in a simultaneously-made & incorporated misconduct complaint against Clerk William Suter and his staff, sent to Chief Justice Roberts in his administrative capacity.

Please read the Petition for Rehearing – which additionally recites and rests on Chief Justice Robert's September 19th Syracuse speech. It is calendared for the Court's November 20th conference and is posted on CJA's website, accessible with all the substantiating appendix documents via the sidebar panel "Disruption of Congress-The Appeals".

What more do I need to provide you so that you can investigate and report on the lawlessness that my Rehearing

11/15/2007

Petition and misconduct complaint chronicle at the Supreme Court Clerk's Office? Dahlia, you acknowledged when we spoke on September 21st, that you have never done any stories on the Supreme Court Clerk's Office. Tony, have you done any? How about the other reporters covering the Supreme Court?

Please call me at your earliest convenience so that we can discuss your coverage of this extraordinary story – one laying bare an important aspect of the Court's "internal operations and culture". Indeed, this story reveals David Margolick's misconception in his September 23rd New York Times book review that it is "nearly impossible" for reporters to obtain information about the Court's "internal operations and culture", except "years after the fact" when the Justices make it "available to the public", as by their "posthumous papers". Here, the information is "available" to you in "real time" – thereby presenting a test of David's more formidable charge, summarized and quoted in "*Nine Ways to Read the Nine*" by Dahlia and Emily Bazelon, posted on Slate's website on September 21st, just hours after my phone conversation with Dahlia about my September 17th motion to compel the Solicitor General's response to my cert petition:

"Margolick more or less goes after all the beat reporters as slothful and compromised: Covering the justices critically 'is dangerous: you risk losing whatever tiny chance you have that one of them will talk to you in a pinch or throw you an occasional crumb. So almost no one even tries. *No other reporters are as passive as Supreme Court reporters.*' The italics here are ours, because, ouch."

Before I furnish this story to other Supreme Court beat reporters – and because the two of you (alone among Supreme Court reporters) were at Justice Robert's September 19th Syracuse University speech and were participants, the day before, in the Syracuse University symposium "*Supreme Makeover: How the news media and the Supreme Court justices they cover are inventing a new model of judicial openness*" -- I would appreciate your response as to whether you will be writing about this documented, readily-verifiable story of the Court's "internal operations and culture" and, if not, the reasons.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
914-421-1200

Supreme Court of the United States
Washington, D. C. 20543

THE LEGAL OFFICE

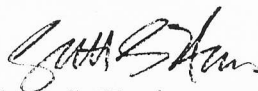
November 6, 2007

Elena Ruth Sassower
Center for Judicial Accountability
P.O. Box 8220
White Plains, New York 10602

Dear Ms. Sassower:

Your October 26, 2007, complaint against Clerk William Suter and other employees of the Supreme Court Clerk's Office has been referred to this office. The actions taken by the Clerk's Office in this matter have been consistent with Court rules and policies. No response will be provided to future correspondence on these issues.

Very truly yours,



Scott S. Harris
Counsel

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Elena Ruth Sassower, Director

EXPRESS MAIL: EB 502223137 US

November 14, 2007

Chief Justice John G. Roberts
United States Supreme Court
1 First Street, N.E.
Washington, D.C. 20543

RE: Misconduct Complaint against U.S. Supreme Court Clerk William K. Suter &
His Staff – Now Expanded by a Misconduct Complaint against the Court’s Counsel
Scott S. Harris: Docket #07-228: *Elena Ruth Sassower v. United States of America*

Dear Chief Justice Roberts:

This follows up and supplements my October 26, 2007 misconduct complaint against U.S. Supreme Court Clerk William K. Suter and his staff, addressed to you “in your administrative capacity, as you bear ultimate supervisory oversight responsibilities over Mr. Suter and how the Supreme Court Clerk’s Office operates.”

Yesterday, I received a three-sentence November 6, 2007 letter from the Court’s Legal Office, signed by Counsel Scott S. Harris, to which I cannot imagine you would approve.

Conspicuously, the letter – which does not identify my October 26, 2007 complaint as having been addressed to you and does not identify that you referred it to the Legal Office – also does not indicate that you were being furnished a copy of the letter.

I am, therefore, annexing a copy to support my initiation of a misconduct complaint against Mr. Harris for his deceitful cover-up of my serious and substantial complaint against Mr. Suter and his staff. Such new complaint is directly within your purview: the Legal Office “owe[s] [its] existence to the Chief Justice’s general authority as Court manager” and was “created by the Chief Justice to assist in carrying out administrative needs of the Court”, 22 Moore’s Federal Practice, Civil §401.07[2].

* The **Center for Judicial Accountability, Inc.** (CJA) is a national, non-partisan, non-profit citizens’ organization dedicated to ensuring that the processes of judicial selection and discipline are effective and meaningful.

I draw your attention to the second sentence of Mr. Harris' letter, baldly purporting:

“The actions taken by the Clerk’s Office in this matter have been consistent with Court rules and policies.”

Such claim by Mr. Harris is without identifying which “Court rules and policies” he is talking about. Not even Mr. Suter had the temerity to purport “consisten[cy] with Court rules and policies”. Rather, as chronicled by my October 26, 2007 complaint, Mr. Suter wholly ignored my requests that he justify the actions of the Clerk’s Office with respect to my decisive September 17, 2007 and October 9, 2007 motions, shown to be invidious and “protective” of the Government in shielding it from accountability. Indeed – and by way of supplement to my October 26, 2007 complaint – I have yet to receive any response from Mr. Suter to my October 26, 2007 letter to him, which accompanied and substantiated the complaint. No “Court rules and policies” could possibly permit the indecent, unprofessional behavior particularized by that October 26, 2007 letter and by my October 9, 2007 motion, with its annexed September 21, 2007 letter to Mr. Suter, also unresponded-to by him.

As for Mr. Harris' imperious third and final sentence:

“No response will be provided to future correspondence on these issues.”,

it slams the door to what Mr. Harris knew would be my responding request that he specify the “Court rules and policies” to which he was referring and that he do so in the context of the facts, law, and legal argument presented by the documents substantiating my complaint, *to wit*, my undocketed and unreturned October 9, 2007 motion, which disappeared in the Clerk’s Office as if in “a black hole”, and my unresponded-to October 26, 2007 letter to Mr. Suter.

I would further note that upon receipt of Mr. Harris' letter yesterday, I telephoned the Court’s Legal Office (2:42 p.m.) to clarify whether a copy had been provided to you. I spoke with Tanya Powell, who told me that Mr. Harris was on the phone, but would call me back. I received no return call.

Please advise as to whether you endorse and approve of Mr. Harris' handling of my October 26, 2007 complaint against Mr. Suter and his Clerk’s Office staff and, if not, what steps you will take consistent with the “guidance”¹ of Canon 3B(2) of the Code of Conduct for United States Judges, which binds all other federal judges:

“A judge should require court officials, staff, and others subject to the judge’s direction and control, to observe the same standards of fidelity and diligence applicable to the judge.”

¹ Report of the National Commission on Judicial Discipline and Removal, p. 122 (1993).

Finally, inasmuch as the Associate Justices also share responsibility for the proper functioning of the Court's Clerk's Office and Legal Office, I respectfully request that the enclosed eight copies of this letter be distributed to them. Such is additionally germane to their consideration of my October 26, 2007 petition for rehearing, whose first section is based on the same misconduct by Mr. Suter and his staff as is the subject of my October 26, 2007 complaint. The rehearing petition is on the Court's conference calendar for this Tuesday, November 20, 2007.

Thank you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER

Petitioner *Pro Se*

Enclosures

cc: Supreme Court Counsel Scott S. Harris
Supreme Court Clerk William K. Suter
The Supreme Court Associate Justices
United States Solicitor General Paul D. Clement

Elena Ruth Sassower

From: Elena Ruth Sassower [elena@judgewidth.org]
Sent: Monday, November 19, 2007 10:20 AM
To: 'Dahlia.Lithwick@slate.com'; 'tmauro@alm.com'
Cc: 'tschoenberg@alm.com'; 'mmcquilken@alm.com'
Subject: PRESS RELEASE "How Does the U.S. Supreme Court Handle Misconduct Complaints against its Staff?"
Attachments: 11-19-07-press-release.pdf

Dear Dahlia & Tony,

Attached is the finalized press release, which will be shortly posted under "Latest News" on CJAs' website, www.judgewidth.org and sent to Supreme Court "beat" reporters and other journalists who write about the Court.

Please let me hear from you, as soon as possible, as to whether you will be reporting on this story.

TONY, I am most disappointed to have received no return calls or e-mails from you about this story. I left a voice message for you at about 1:30 p.m. on Friday, as likewise for Tom – now Legal Times' Executive Editor, without response from either of you. This is particularly surprising as the Legal Times regarded me and the "disruption of Congress" case as sufficiently newsworthy in 2004 that it ran FIVE pieces

- a front-page feature article, published on the eve-of-trial (4/12/04);
- an item during the trial (4/19/04);
- an item upon my conviction (4/26/04);
- an article upon my incarceration (7/5/04).

Each of these was written by Tom, who sat in on a substantial portion of the trial.

This was then capped by an entry in Legal Times' year-end round-up (12/20/04) under the heading "*It Was Not Their Year: Investigated, Attacked, Defeated. Jailed. The players who'd like to forget 2004*", where I was featured, with a picture, next to the picture and entry for John Edwards.

Is it your view that Legal Times readers would not be interested – and do not deserve to know – the extraordinary continuation of the story at the D.C. Court of Appeals and in the U.S. Supreme Court?

Adding to this, the Legal Times is part of the story at the Supreme Court, having published, on March 29, 1993, the article "*Riding the Coattails of the Solicitor General*", written by the same John Roberts as is now Chief Justice. As you know, I called you and Tom in August for assistance in obtaining the article – and Tom had Legal Times' editorial assistant Marisa McQuilken send it to me so that I could use it in my September 17, 2007 motion to compel the U.S. Solicitor General's response to my cert petition. It is also cited in my rehearing petition, scheduled for tomorrow's Court conference.

TONY (& TOM), before I turn to other higher-ups at Legal Times, what is the problem here?

Thanks.

Elena
 914-421-1200

From: Elena Ruth Sassower [mailto:elena@judgewidth.org]
Sent: Thursday, November 15, 2007 12:12 PM
To: 'Dahlia Lithwick'
Subject: For You I Will Wait, etc! -- RE: UPDATE: Laying Bare the "Internal Operations and Culture" of the Supreme Court & Its Clerk's Office -- & Its Legal Office

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