

Ctr for Judicial Accountability

From: Ctr for Judicial Accountability [cja@judgewatch.org]
Sent: Tuesday, June 19, 2007 6:01 PM
To: 'info@justiceatstake.org'
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Subject: Championing Judicial Independence at the U.S. Supreme Court by Amicus Curiae Support of Cert Petition in "Disruption of Congress" Case
Attachments: 6-19-07-justice-at-stake.pdf; petition-6-19-07.doc

TO: JUSTICE AT STAKE CAMPAIGN – Bert Brandenburg, Executive Director

Following up our phone conversation earlier today, attached is my already faxed memo to you of today's date and, additionally, the draft cert petition.

I look forward to your favorable response.

Thank you.

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

cc: The Constitution Project: Virginia Sloan, Executive Director
 American Judicature Society:
 Seth Anderson, Executive Director
 Cynthia Gray, Director/Center for Judicial Ethics
 Krista Maeder, Assistant to Executive Director
 Brennan Center for Justice:
 Michael Waldman, Executive Director
 Burt Neuborne, Legal Director
 Deborah Goldberg, Director/Democracy Program
 James Sample, Counsel/Fair Courts Project
 Lauren Jones, Research Associate
 Appleseed Foundation: Betsy Cavendish, Executive Director
 Common Cause:
 Bob Edgar, President & CEO
 Ed Davis, Vice President of Policy & Research
 The Fund for Modern Courts:
 Dennis R. Hawkins, Executive Director
 Denise Kronstadt, Director of Advocacy
 Dahlia Lithwick/Slate
 Lyle Denniston/Scotusblog
 Professor Jonathan Turley
 Professor Andrew Horwitz

6/19/2007

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Elena Ruth Sassower, Director

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BY FAX, E-MAIL, & MAIL (4 pages)

DATE: June 19, 2007

TO: Justice at Stake Campaign & Its Campaign Partners
ATT: Bert Brandenburg, Executive Director

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: Championing Judicial Independence at the U.S. Supreme Court by
Amicus Curiae Support for Cert Petition in “Disruption of Congress” Case –
Elena Ruth Sassower v. United States of America

This is to request an *amicus curiae* brief from the Justice at Stake Campaign – and its Campaign Partners – in support of U.S. Supreme Court review of the petition for a writ of certiorari in the “disruption of Congress” case *Elena Ruth Sassower v. United States of America*, to be filed on August 17, 2007.

You should already be familiar with the far-reaching significance of the case in documenting both the corruption of federal judicial selection and the corruption of the judicial process in D.C. Superior Court. Such was the subject of extensive prior communications from me, beseeching your assistance – organizational, legal, *amicus curiae*, and media. This included correspondence sent in September 2003, June 2004, May 2005, and August 2005, summarizing the potential of the case to: (1) advance non-partisan, good government reform of federal judicial selection; (2) debunk misconceptions about judicial independence and accountability;¹ and (3) “make law”.²

* The Center for Judicial Accountability, Inc. (CJA) is a national, non-partisan, non-profit citizens’ organization, documenting, by independently-verifiable empirical evidence, the dysfunction, politicization, and corruption of the processes of judicial selection and discipline on federal, state, and local levels.

¹ Among these, the misconception that “merit selected” appointed judges are independent of political and other pressures, unlike elected judges. As pointed out by my June 8, 2004 memo: “...the District of Columbia has a ‘merit selection’ system for appointment of judges to both [the Superior Court and the Court of Appeals]” (at p. 10).

Justice at Stake promotes itself as “a national partnership working for fair and impartial courts”. Your website identifies this as “judicial independence”, defining the term to mean “that judges are free to decide cases fairly and impartially, relying only on the facts and the law.” This definition, on your “Why Judicial Independence Matters” webpage, is prefaced by a quote from Supreme Court Justice Anthony M. Kennedy:

“The law makes a promise – neutrality. If the promise gets broken, the law as we know it ceases to exist.”

The “Why Judicial Independence Matters” webpage thereafter asserts:

“...there are mechanisms to hold judges accountable. Ruling can be appealed all the way up to the Supreme Court”.

Consequently, I specifically request that Justice at Stake and its Campaign Partners file an *amicus curiae* brief in support of Supreme Court review of the cert petition’s four “Questions Presented” – each advancing judicial independence. The first of these:

“Is it a constitutional violation, *prima facie* disqualifying, and misconduct *per se* for a court to conceal and wilfully fail to adjudicate a motion for its disqualification, disclosure, and transfer – and does it have jurisdiction to proceed further in the matter?”

The second and third questions pertain to the D.C. Court of Appeals’ disqualification for pervasive actual bias and interest, as manifested by its fraudulent judicial rulings, unsupported by “the facts and the law”. The fourth question is whether the Supreme Court recognizes “supervisory and ethical duties when a Petition for a Writ of Certiorari presents readily-verifiable ‘reliable evidence’ of judicial misconduct and corruption.” These duties are specified to include “referrals to disciplinary and criminal authorities” and “adjudicat[ing] the appellate issues, subverted by the underlying judicial misconduct and corruption, where those issues are of constitutional dimension and public importance”. The first two of those appellate issues also involve judicial independence – my entitlement to the trial judge’s disqualification for pervasive actual bias and my entitlement to removal/transfer to federal court based on the record in D.C. Superior Court, as well as in the D.C. Court of Appeals, establishing “a pervasive pattern of egregious violations of [my] fundamental due process rights and ‘protectionism’ of the government”.

Of course, from Justice at Stake and those of its Campaign Partners which purport to concern themselves with judicial selection, I would also welcome an *amicus curiae* brief on the unconstitutionality of the “disruption of Congress” statute – especially *as applied* to my respectful

² You don’t have to search your files to review this important correspondence. It, and the substantiating documentary proof to which it refers, are conveniently posted on CJA’s website, www.judgewatch.org, accessible *via* the sidebar panel “Disruption of Congress”.

request to testify in opposition to a federal appeals court nominee at the Senate Judiciary Committee's May 22, 2003 public hearing on his confirmation.

To assist Justice at Stake and its Campaign Partners in evaluating this request for their *amicus curiae* voice before the Supreme Court, I am attaching my draft "Questions Presented" and draft cert petition, whose "Statement of the Case"³ opens with the words:

"This case is about judicial misconduct and corruption in the D.C. Superior Court and Court of Appeals, covering up the corruption of federal judicial selection which petitioner's legitimate exercise of First Amendment rights exposed."

I would greatly appreciate the benefit of Justice at Stake's guidance, suggestions, and expertise – and that of its Campaign Partners – in making necessary revisions and improvements.

Please confirm that you will be promptly forwarding this written request and its attachment to all Justice at Stake Campaign Partners.⁴ This includes the following Campaign Partners which, to no avail, I long ago and repeatedly contacted for organizational, legal, *amicus*, and media assistance, sending them the same correspondence as I sent Justice at Stake in 2003, 2004, and 2005: The Constitution Project, American Judicature Society, Brennan Center for Justice, Appleseed Foundation, Common Cause, and The Fund for Modern Courts.⁵ I have indicated them as recipients of this memo, which I will send them *via* the e-mail addresses I have for them, assuredly inferior to the ones you have.

In the event neither Justice at Stake nor any of its Campaign Partners will contribute an *amicus curiae* brief on the judicial independence issues presented by the cert petition, I request to know what "mechanisms" are available to hold judges "accountable" in this case, apart from Supreme Court review – and what steps Justice at Stake and the Campaign Partners will take so that this PERFECT casestudy of the worthlessness of "mechanisms" for ensuring judicial independence may be the genesis for what has heretofore been missing: empirical research and scholarship on judicial independence drawn from case files – and advocacy based thereon.⁶

³ The recited record of the proceedings in the D.C. Superior Court and Court of Appeals is posted on our "Disruption of Congress" webpages. "Hard copies" of any of this record – as, for instance, of my many disqualification/disclosure/transfer motions, will be furnished upon request.

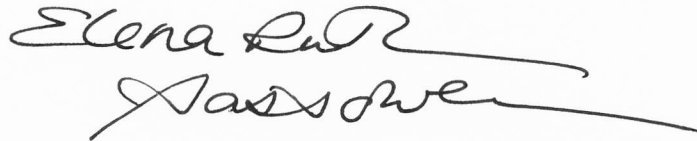
⁴ I would hope your transmittal to the Campaign Partners would be accompanied by a recommendation for their *amicus* involvement. However, the Partners are free to chart their own course – as your website make evident: "The positions and policies of Justice at Stake campaign partners are their own, and do not necessarily reflect those of other campaign partners."

⁵ Modern Court was sent only the 2003 and 2004 correspondence.

⁶ I would note that Justice at Stake's webpage for "Washington, D.C." – accessed through its "Learn About Your State" tab – contains no information except five random "News" articles (three of which are not

I look forward to hearing from Justice at Stake and the Campaign Partners as soon as possible, including as to whether you and they will be alerting your abundant media contacts to this historic, law-making case.

Thank you.

A handwritten signature in black ink, appearing to read "Elena Lu". The signature is fluid and cursive, with a long horizontal stroke extending to the right.

Enclosure: draft cert petition with "Questions Presented" (by e-mail)

cc: Justice at Stake Campaign Partners:
The Constitution Project
American Judicature Society
Brennan Center for Justice
Appleseed Foundation
Common Cause
The Fund for Modern Courts

Dahlia Lithwick/Slate
Lyle Denniston/Scotusblog
Professor Jonathan Turley
Professor Andrew Horwitz

accessible). There is, however, a notice "We're working on this page. Soon, you'll be able to learn more about judicial issues affecting this state..."

What "mechanisms" for ensuring judicial independence does Justice at Stake plan to supply on that "Washington, D.C" webpage? The "merit-selection" appointment of D.C. Superior Court and Court of Appeals judges who never face an electorate?