

## Center for Judicial Accountability, Inc. (CJA)

**From:** Center for Judicial Accountability, Inc. (CJA) [elena@judgewidth.org]  
**Sent:** Monday, March 14, 2011 4:36 PM  
**To:** 'benchmemos@nationalreview.com'; 'mm-tips@mediamatters.org'  
**Cc:** 'tmann@brookings.edu'; 'bwittes@brookings.edu'; 'sbinder@brookings.edu'; 'rwheeler@brookings.edu'  
**Subject:** Caitlin Halligan's Confirmation on Today's Senate Executive Calendar  
**Attachments:** 3-14-11-ltr-to-reid-8pp.pdf; 3-14-11-ltr-to-mcconnell-1p.pdf

**TO: Bench Memos – National Review Online**

ATT: Ed Whelan, Carrie Severino, Gary Marx

**Media Matters for America – ATT: Adam Shah & Staff**  
**Brookings Institution**

Thomas E. Mann, Senior Fellow/Governance Studies  
Benjamin Wittes, Senior Fellow/Governance Studies  
Sarah A. Binder, Senior Fellow/Governance Studies  
Russell Wheeler, Visiting Fellow/Governance Studies

Attached, for your reporting & scholarship, are CJA's letters of today's date to Senate Majority Leader Harry Reid & Senate Minority Leader Mitch McConnell, making a "Citizen Demand for Withdrawal from Today's Senate Executive Calendar &/or Senate Hold on the Confirmation of Caitlin J. Halligan to the United States Court of Appeals for the District of Columbia Circuit".

I look forward to speaking with you directly about the Senate's willful betrayal of the public trust with respect to federal judicial nominations, as showcased by these letters.

I can be reached at 631-377-3583.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
[www.judgewidth.org](http://www.judgewidth.org)

**CENTER for JUDICIAL ACCOUNTABILITY, INC.\***

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*Elena Ruth Sassower, Director*

BY FAX: 202-224-2499 (9 pages)

BY E-MAIL

March 14, 2011

Senate Minority Leader Mitch McConnell  
Washington, D.C.

RE: Citizen Demand for Withdrawal from Today's Senate Executive Calendar  
&/or Senate Hold on the Confirmation of Caitlin J. Halligan to the United  
States Court of Appeals for the District of Columbia Circuit –

Dear Senate Minority Leader McConnell:

Following up my telephone call to your office and voice mail message for your counsel, Russell Coleman, at approximately 9:30 this morning, enclosed is CJA's self-explanatory of today's date to Senate Majority Leader Reid, to which you are indicated recipient.

I specifically draw your attention to the final paragraph:

“Suffice to say, if you and/or Senate Minority Leader Mitch McConnell do not withdraw Ms. Halligan's confirmation from today's Executive Calendar – and do not place a ‘hold’ on the confirmation based on the facts herein set forth and reflected by CJA's enclosed March 9<sup>th</sup> letters – CJA requests that you and Senate Minority Leader McConnell distribute this letter and its enclosures to the other 98 Senators so that they may take appropriate action to safeguard the rights and interests of the public they are duty-bound to serve.”

Thank you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Director  
Center for Judicial Accountability, Inc.

Enclosure  
cc: Press  
Academia

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

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*Elena Ruth Sassower, Director*

BY FAX: 202-224-7327 (8 pages)

BY E-MAIL

March 14, 2011

Senate Majority Leader Harry Reid  
Washington, D.C.

RE: Citizen Demand for Withdrawal from Today's Senate Executive Calendar  
&/or Senate Hold on the Confirmation of Caitlin J. Halligan to the United  
States Court of Appeals for the District of Columbia Circuit –

Dear Senate Majority Leader Reid:

Following up my telephone conversation with your staff assistant, Luke Gallagher, and my voice mail message for your counsel, Gavin Parke, at about 9:15 a.m. this morning, as well as my phone messages at the office of Senate Minority Leader Mitch O'Connell shortly thereafter, this is to object to your placing Caitlin Halligan's confirmation to the U.S. Court of Appeals for the D.C. Circuit on today's Senate Executive Calendar.

Such calendaring – which is all the more egregious as it is “without printed report” of the Senate Judiciary Committee – was also without anyone from your office contacting me about my March 10<sup>th</sup> telephone call to Mr. Gallagher and voice mail message for Mr. Parke, notifying them of serious dysfunction at the Senate Judiciary Committee, voiding the integrity of its March 10<sup>th</sup> party-line vote approving Ms. Halligan's nomination and making it otherwise improper to proceed with Senate confirmation.

As stated to them, prior to the Committee's solid Democratic vote approving Ms. Halligan's nomination over a solid Republican vote against, counsel for Democratic Senate Judiciary Committee Chairman Leahy never contacted me about CJA's citizen opposition to Ms. Halligan. Instead, I was relegated to leaving messages with Judiciary Committee staff – Aaron, on Monday morning, March 7<sup>th</sup>, and Sarah, on Tuesday morning, March 8<sup>th</sup> – because, allegedly, counsel were too busy. This counsel, whose names neither Aaron nor Sarah would disclose, continued

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to be too busy on Wednesday morning, March 9<sup>th</sup>, even though I had by then independently discovered that the Committee had scheduled Ms. Halligan's nomination for a vote at its next day's Executive Business Meeting.

Nor did Chairman Leahy's counsel call me in the afternoon of March 9<sup>th</sup>, following my transmittal of CJA's March 9<sup>th</sup> letter addressed to "Chairman Leahy & Democratic Majority Members", in which I recapped what I had stated by phone over the previous two days about dispositive and readily-verifiable evidence of Ms. Halligan's official misconduct as New York's Solicitor General, disqualifying her from any office of public trust – as to which Ms. Halligan's response was mandated before any further consideration could be given to her nomination.

Enclosed is a copy of that important March 9<sup>th</sup> letter, faxed to both Chairman Leahy's Judiciary Committee and Senate offices, as well as e-mailed to the only e-mail addresses Chairman Leahy's Committee and office staff would provide. The accompanying e-mail message read:

"Please immediately distribute to ALL Committee members & their relevant counsel so that their deliberations may be properly informed." (capitalization in the original).

Although I was led to believe on Wednesday, March 9<sup>th</sup>, that such distribution would be – and had been – made, I was told on Thursday, March 10<sup>th</sup>, upon calling Chairman Leahy's Committee office to ascertain the results of the Committee's Executive Business Meeting – that: (1) it had not been distributed; (2) it is not Chairman Leahy's policy to make such distribution, even to members of his own Democratic Majority – and; (3) I would have to furnish it to each Committee member myself.

I also learned that CJA's March 9<sup>th</sup> letter would not be part of the Committee's record of Ms. Halligan's nomination, unless I specifically made such request, and that for such purpose I would have to contact my home-state senator – which I did, Senator Kirsten Gillibrand. When I asked about other citizen opposition to Ms. Halligan's nomination, stating that I wished to see it, as well as submissions made by interests groups – none of which is on the Senate Judiciary Committee's website of "Nomination Materials" – I was told that I'd have to search for it on the internet. .

As for what the Senate Judiciary Committee provides to the Senate to enable it to discharge its "advise and consent" function, I was told the Committee furnishes nothing. Indeed, based on the Senate's March 14<sup>th</sup> Executive Calendar, it appears that the Committee forwards judicial nominees for confirmation "without written report", thereby depriving Senators of information about such opposition as the Committee received and its investigation thereof, if any.

Under such circumstances, the members of the Senate cannot meaningfully exercise their "advise and consent" function – just as members of the Senate Judiciary Committee, who had no knowledge of CJA's March 9<sup>th</sup> citizen opposition, could not intelligently cast a vote on Ms.

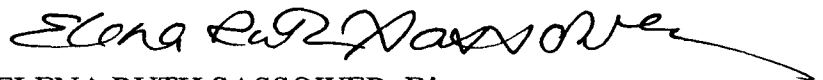
Halligan's nomination at the Committee's March 10<sup>th</sup> Executive Business Meeting. Such unintelligent, lemming-like Committee vote is reflected by its Democratic-Republican 10-8 party-line split, which followed the deceitful presentations of both Chairman Leahy and Ranking Member Grassley at that meeting.

Time does not permit me to particularize the betrayal of the public trust by Ranking Member Grassley, his counsel, David Best, and other counsel serving Senators of the Senate Judiciary Committee's Republican Minority in connection with Ms. Halligan's confirmation – or by counsel to various Senators of the Democratic Majority. Suffice to say, they should be required to disclose what they did upon my notification to them, beginning on Monday morning, March 7<sup>th</sup>, of CJA's citizen opposition to Ms. Halligan's confirmation. For immediate purposes, a copy of CJA's March 9<sup>th</sup> letter addressed to "Ranking Member Grassley & Republican Minority Members" of the Senate Judiciary Committee – e-mailed for Ranking Member Grassley and the various counsel with our letter for "Chairman Leahy & Democratic Majority Members" – is enclosed.

Suffice to say, if you and/or Senate Minority Leader Mitch McConnell do not withdraw Ms. Halligan's confirmation from today's Executive Calendar – and do not place a "hold" on the confirmation based on the facts herein set forth and reflected by CJA's enclosed March 9<sup>th</sup> letters – CJA requests that you and Senate Minority Leader McConnell distribute this letter and its enclosures to the other 98 Senators so that they may take appropriate action to safeguard the rights and interests of the public they are duty-bound to serve.

Thank you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Director  
Center for Judicial Accountability, Inc.

Enclosures

cc: Senate Minority Leader Mitch McConnell  
Press  
Academia

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*Elena Ruth Sassower, Director*

BY FAX: 202-224-9516 (2 pages)  
BY E-MAIL: [info@judiciary-dem.senate.gov](mailto:info@judiciary-dem.senate.gov)

March 9, 2011

Chairman Patrick J. Leahy & Democratic Majority Members  
United States Senate Judiciary Committee  
Washington, D.C.

RE: Citizen Opposition to Confirmation of Caitlin J. Halligan to the  
United States Court of Appeals for the District of Columbia Circuit –  
on the Agenda of the Senate Judiciary Committee’s  
March 10, 2011 Executive Business Meeting

Dear Chairman Leahy & Democratic Majority Members:

This follows my telephone notification to the Senate Judiciary Committee Majority Office on Monday morning, March 7<sup>th</sup>, and then again yesterday morning, of the official misconduct of Caitlin J. Halligan as New York State Solicitor General, disqualifying her for any position of public trust, let alone for a judgeship.

Specifically, Ms. Halligan corrupted the judicial process to defeat a landmark public interest lawsuit against the New York State Commission on Judicial Conduct, sued for corruption. She did this by countenancing the repudiation of ALL litigation standards by the Solicitor General’s office and the obliteration of ALL adjudicative standards by New York State judges, including as to judicial disqualification and disclosure.

Such misconduct is *readily-verifiable* and fully-documented by the lawsuit record, the particulars of which were brought to Ms. Halligan’s direct attention within days of her becoming Solicitor General by an October 2, 2001 letter to her, which I hand-delivered to her office.

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Chairman Patrick J. Leahy & Democratic Majority Members

Page Two

March 9, 2011

Entitled, “Your Duty to Comply with Fundamental Rules of Supervisory and Professional Responsibility in the appeal...”, this October 2, 2001 letter is featured on CJA’s website, [www.judgewatch.org](http://www.judgewatch.org), on a webpage devoted to our opposition to Ms. Halligan’s confirmation: <http://www.judgewatch.org/web-pages/judicial-selection/federal/judicial-selection-fed-2011.htm>.<sup>1</sup> It is the most convenient starting point for your verifying the litigation fraud she condoned and allowed her office to commit, warranting the relief I requested then and thereafter in motion papers: her referral to disciplinary and criminal authorities. That would have happened, but for Ms. Halligan’s success in depriving me – the petitioner in the lawsuit, acting for the public – of a fair and impartial tribunal, which she did both before New York’s Appellate Division, First Department and the New York Court of Appeals, covering up a similar deprivation in Supreme Court/New York County.

Inasmuch as Ms. Halligan did not respond to the October 2, 2001 letter – because doing so would have required her to concede the litigation fraud of the Solicitor General’s office and the judicial fraud of state judges without which the Commission could not prevail – she must be required to respond now – before any further consideration is given to her nomination. This would especially include her response to the “three ‘highlights’”, identified at page 7 of my October 2, 2001 letter and in my subsequent correspondence and motion papers as “dispositive” of both branches of my August 17, 2001 motion: the first branch being for judicial disqualification/disclosure and the second branch pertaining to the Attorney General’s disqualification and the Solicitor General’s litigation misconduct.

The full record of the lawsuit is accessible *via* our webpage pertaining to our opposition to Ms. Halligan’s confirmation, as well as *via* the left sidebar panel “Test Case-State (*Commission*)”. Nonetheless, I would be pleased to provide you with a hard copy – as well as to come to Washington to answer your questions and give testimony under oath.

Finally, so that you may glimpse the irreparable injury that Ms. Halligan caused the People of New York by her corrupting of the judicial process to protect a corrupted Commission on Judicial Conduct, I urge that you view the videos of the 2009 hearings on the Commission, held by the New York State Senate Judiciary Committee, posted on CJA’s website at: <http://www.judgewatch.org/web-pages/judicial-discipline/nys/nys-sjc-hearing.htm>

Thank you.

Yours for a quality judiciary,



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

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<sup>1</sup> Also accessible *via* our website’s top panel “Latest News”.

**Center for Judicial Accountability, Inc. (CJA)**

**From:** Center for Judicial Accountability, Inc. (CJA) [elena@judgewatch.org]  
**Sent:** Wednesday, March 09, 2011 12:32 PM  
**To:** 'info@judiciary-dem.senate.gov'; 'senator\_leahy@leahy.senate.gov'; 'david\_best@judiciary-rep.senate.gov'; 'blazer\_smith@grassley.senate.gov'  
**Cc:** 'ted\_schroeder@coons.senate.gov'; 'alvaro\_bedoya@franken.senate.gov'; 'david\_barlow@lee.senate.gov'; 'stephen\_higgins@judiciary-rep.senate.gov'; 'tmann@brookings.edu'; 'sbinder@brookings.edu'; 'bwittes@brookings.edu'; 'rwheeler@brookings.edu'  
**Subject:** Tomorrow's Executive Business Meeting: Citizen Opposition to Confirmation of Caitlin Halligan to the US Court of Appeals for the DC Circuit  
**Attachments:** 3-9-11-sjc-dem-majority.pdf, 3-9-11-sjc-rep-minority.pdf

Attached are the Center for Judicial Accountability's already-faxed letters to the Senate Judiciary Committee's Democratic & Republican sides pertaining to Caitlin Halligan's nomination, on the Committee's agenda for tomorrow's Executive Business Meeting.

Please immediately distribute to ALL Committee members & their relevant counsel so that their deliberations may be properly informed.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
631-377-358



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Elena Ruth Sassower, Director

BY FAX: 202-224-9102 & 202-224-6020 (2 pages)

BY E-MAIL: david\_best@judiciary-rep.senate.gov

March 9, 2011

Ranking Member Charles Grassley & Republican Minority Members  
United States Senate Judiciary Committee  
Washington, D.C.

RE: Citizen Opposition to Confirmation of Caitlin J. Halligan to the  
United States Court of Appeals for the District of Columbia Circuit –  
on the Agenda of the Senate Judiciary Committee's  
March 10, 2011 Executive Business Meeting

Dear Ranking Member Grassley & Republican Minority Members:

This follows my telephone conversation on Monday morning, March 7<sup>th</sup>, with David Best, your counsel for judicial nominations, about the official misconduct of Caitlin J. Halligan as New York State Solicitor General, disqualifying her for any position of public trust, let alone for a judgeship.

Specifically, Ms. Halligan corrupted the judicial process to defeat a landmark public interest lawsuit against the New York State Commission on Judicial Conduct, sued for corruption. She did this by countenancing the repudiation of ALL litigation standards by the Solicitor General's office and the obliteration of ALL adjudicative standards by New York State judges, including as to judicial disqualification and disclosure.

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March 9, 2011

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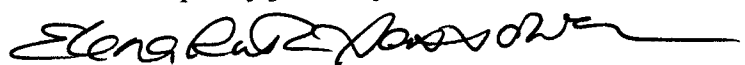
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Thank you.

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Center for Judicial Accountability, Inc. (CJA)

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<sup>1</sup> Also accessible *via* our website’s top panel “Latest News”.