

CENTER for JUDICIAL ACCOUNTABILITY, INC.*

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Elena Ruth Sassower, Director

BY FAX: 202-296-6895 (8 pages)

BY E-MAIL: CAC@theusconstitutionproject.org
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March 25, 2011

Douglas T. Kendall, President
Constitutional Accountability Center (CAC)
1200 18th Street, N.W.
Washington, D.C. 20036

RE: BEING TRUE to the Constitutional Accountability Center's "Judicial Nominations and Accountability" "Issue":

(1) On Judicial Nominations: *What is Your Response to the Center for Judicial Accountability's March 14, 2011 Letters to Senate Majority Leader Reid and Senate Minority Leader McConnell?;*

(2) On Judicial Accountability: *What is Your Response to the Center for Judicial Accountability's May 13, 2008 Memo to Senate Majority Leader Reid and Senate Minority Leader McConnell?*

Dear Mr. Kendall,

Following up the voice mail message I left for you on Tuesday morning, March 22nd, and my subsequent phone conversation shortly thereafter with Judith Schaeffer, who stated, in returning my call, that she was doing so on your behalf, this is to reiterate my request that CAC withdraw its March 17, 2011 letter to Senate Majority Leader Reid and Senate Minority Leader McConnell, urging that Caitlin Halligan be "confirmed promptly" to the United States Court of Appeals for the District of Columbia Circuit. Both you and Ms. Schaeffer, as CAC's President and Vice President, are the signatories of the letter.

Presumably, Ms. Schaeffer relayed to you the substance of our March 22nd phone conversation – though not necessarily her sarcastic, abusive treatment of me, unrestrained by any concern about the information I was imparting, nor expression of willingness to examine substantiating evidence. Indeed, in face of everything I told her – including as to the documentary proof posted

* **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.

on CJA's website, www.judgewatch.org, whose webpage pertaining to Ms. Halligan I guided her to as we spoke – Ms. Schaeffer was not ashamed to tell me, more than once, that CAC was supporting the nomination.

Hours later, Ms. Schaeffer, whose two recent blogs about Ms. Halligan: "*A Note to Senator Grassley: Ten < Eleven*" (March 11, 2011) and "*D.C. Circuit Nominee Caitlin Halligan to Argue Before U.S. Supreme Court on Monday*" (March 18, 2011) are on CAC's website, www.theusconstitution.org, apparently removed the written comment I had posted to the latter blog, neither of which had a single comment – and each of which invited comment with the line "Start the ball rolling by posting a comment on this article!"

My comment, a copy of which I made before sending it, and which, upon being sent, registered with the notation that it had not yet been "moderated", was as follows:

"Thank you for this opportunity to comment.

Our non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA), has already 'start[ed] the ball rolling'. This morning, March 22nd, hours after learning of the Constitutional Accountability Center's March 17, 2011 letter to Senate Majority Leader Reid and Senate Minority Leader McConnell, urging that Ms. Halligan be 'confirmed promptly', I telephoned requesting to speak with President Douglas Kendall, and/or Vice President Judith Schaeffer.

Ms. Schaeffer returned my call and I apprised her of CJA's own letters to Senate Majority Leader Reid and Senate Minority Leader McConnell, three days earlier -- on March 14, 2011 -- calling upon them to remove Ms. Halligan's nomination from the Senate's Executive Calendar &/or put a hold on her Senate confirmation.

I summarized for Ms. Schaeffer the facts set forth by those letters, requiring the Constitutional Accountability Center to withdraw its support of Ms. Halligan and endorse our requested relief. The letters are posted on CJA's website: www.judgewatch.org, on a webpage, accessible via the top panel 'Latest News'.

Everyone should read our March 14, 2011 letters to the Senate Leadership for themselves, along with their enclosed March 9, 2011 letters to the Senate Judiciary Committee, and the referred-to substantiating documentary proof of Ms. Halligan's official misconduct as NY Solicitor General, also posted on CJA's website.

Feel free to call with any questions or for further details: 631-377-3583.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
elena@judgewatch.org

Please advise whether you approve of the removal of such truthful comment, written with no incriminating details about CAC other than that I had left messages to speak with you and/or Ms. Schaeffer – and had spoken with Ms. Schaeffer, requesting that CAC take steps consistent with CJA’s March 14, 2011 letters to Senate Majority Leader Reid and Senate Minority Leader McConnell.

As you and Ms. Schaeffer have had three full days to not only review CJA’s March 14, 2011 letters, but to verify Ms. Halligan’s official misconduct as Solicitor General from the referred-to posted case record and to assess the Senate Judiciary Committee’s nonfeasance and misfeasance with respect thereto, what is CAC’s response to that letters? How can the Senate meaningfully discharge its constitutional “advise and consent” function, when the Senate Judiciary Committee has transmitted her nomination – as likewise others – “without written report”, thereby concealing opposition and the Committee’s failure to investigate and make findings.

Surely a “think tank, law firm, and action center”, such as CAC, which lists “Judicial Nominations and Accountability” as among its “issues”, should be in the forefront in recognizing the evidentiary value of CJA’s March 14, 2011 letters for purposes of scholarship and empirically-based advocacy in defense of the People’s constitutional rights.

Finally, I take this opportunity to remind you that it is now going on nine years since my August 2, 2002 letter to you, summarizing the obliteration of all congressional and other safeguards for ensuring federal judicial accountability, about which we had spoken by phone, and enclosing corroborating proof to support CJA’s request for your assistance, as the Community Rights Counsel’s Executive Director who had testified at the House Judiciary Committee’s November 29, 2001 hearing on “Operations of Federal Judicial Misconduct Statutes” – a hearing born of CJA’s advocacy and from which we had been excluded. I received no response from you to that letter – as important today, as it was when I sent it to you. A copy is enclosed.

My August 2, 2002 letter to you and all the substantiating documents it transmitted are exhibits to CJA’s March 6, 2008 Critique of the Breyer Committee Report on “Implementation of the Judicial Conduct and Disability Act of 1980”. I personally delivered the Critique to Congress in support of congressional hearings and disciplinary and criminal investigations under a May 13, 2008 memo addressed to our four congressional leaders – the first two of whom were then, as now, Senate Majority Leader Reid and Senate Minority Leader McConnell.

Just as Senate Leaders Reid and McConnell have not responded to CJA’s March 14, 2011 letters chronicling the corruption of federal judicial selection in the context of Senate confirmation of Caitlin Halligan, so they have not responded to CJA’s May 13, 2008 memo as to the corruption

of federal judicial discipline, established by our Critique of the Breyer Committee Report.

As it does not appear from CAC's website that CAC or its predecessor Community Rights Counsel has done its own critique or analysis of the Breyer Committee Report – and such plainly falls within the “Judicial Accountability” subject area of CAC's work – CJA herein requests that CAC address our March 6, 2008 Critique – and the content of our May 13, 2008 memo, including as to the constitutional tie between “good behaviour” and judicial pay. This will give you a belated opportunity to address a great many of the issues presented nearly nine years ago by my August 2, 2002 letter to you – issues to which I had also alerted you more than four years earlier following your testifying at the House Judiciary Committee's June 11, 1998 “Oversight Hearing of the Administration and Operation of the Federal Judiciary”, from which CJA had also been excluded from testifying. A copy of my June 16, 1998 fax coversheet, reflecting our phone conversation at that time, is enclosed.

Our March 6, 2008 Critique, May 13, 2008 memo, and all related correspondence are posted on our website, www.judgewatch.org, accessible *via* the left sidebar panel “Judicial Discipline-Federal”, as well as *via* the top panel “Latest News”. The direct link is <http://www.judgewatch.org/web-pages/judicial-discipline/federal/judicial-discipline-federal.htm>. To assist CAC's “think tank” scholarship, I would be pleased to supply a “hard copy” – replicating the offer I similarly made to Ms. Schaeffer to supply a “hard copy” of the casefile record of Ms. Halligan's official misconduct as New York Solicitor General.

CJA looks forward to constructive, evidence-based dialogue and collaborative action with CAC on judicial nomination and accountability issues so that the meaning and promise of our Constitution may be resurrected from the corruption in which it is mired. To that end, I hope to hear from you soon and see the restoration of my expunged March 22nd comment to its rightful place on CAC's website.

Thank you.

Yours for a quality judiciary,



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

cc: Judith E. Schaeffer, Vice President/Constitutional Accountability Center
The Public & Other Interested Parties

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

August 2, 2002

Douglas T. Kendall, Executive Director
Community Rights Counsel
1726 M Street, NW, Suite 703
Washington, D.C. 20036-4524

RE: Ascertaining the True Purpose of the November 29, 2001
“Oversight Hearing” on 28 USC §§372(c), 144, and 455
by the House Judiciary Committee’s Courts
Subcommittee

Dear Doug:

Thank you for your return call last Wednesday – and the time you generously gave to our conversation.

To enable you to come to your *own* conclusions as to the true purpose of the November 29, 2001 “oversight hearing” – at which the House Judiciary Committee’s Courts Subcommittee chose not to invite even a single witness who could testify as to any direct, first-hand experience in filing §372(c) judicial complaints or in moving for judicial disqualification under §§144 and 455 AND where I, who had such direct, first-hand experience and whose advocacy was the catalyst for the hearing, was not only excluded from testifying, but prevented from even submitting a statement for the record -- I am enclosing a copy of my July 30, 2002 letter to Melissa McDonald, asking that very question as to the hearing’s purpose¹.

Since that letter cannot be appreciated without some of the underlying documents to which it relates, I also enclose my referred-to July 31, 2001 and September 4, 2001 letters to Ms. McDonald. However, even before examining these letters, I recommend that you read CJA’s “ALL IMPORTANT” March

¹ Prefacing the letter is my July 31, 2002 coverletter to Philip Kiko, the House Judiciary Committee’s Chief of Staff/General Counsel and Sam Garg, its Minority Counsel.

10, 1998 and March 23, 1998 memoranda to the House Judiciary Committee and my published article, "*Without Merit: The Empty Promise of Judicial Discipline*" (*The Long Term View*, (Massachusetts School of Law), Vol. 4, No. 1, Summer 1997) – annexed as Exhibits "H-1", "H-2", and "G" to my September 4, 2001 letter. These were the basis for my request to testify FOUR YEARS AGO at the Subcommittee's June 11, 1998 "oversight hearing of the administration and operation of the federal judiciary" – as to which, because you were a spectator, I telephoned you on June 16, 1998 for information as to what had transpired.

I also recommend that you read CJA's written statement submitted to the Subcommittee for inclusion in the record of the June 11, 1998 "hearing" reciting its denial of that request to testify and the sham of its oversight over the federal judiciary. It is annexed as part of Exhibit "I-2" to my September 4, 2001 letter. The Subcommittee's response to this important statement was to exclude it from the printed record of the June 11, 1998 "hearing" – wholly without notice to CJA.

After you review the foregoing, I would greatly appreciate your suggestions as to what must be done. Surely, you will agree that it is a grotesque and dangerous deceit for the Subcommittee to publicly pretend at a rigged "hearing" on §§372(c), 144, and 455 that it is discharging its oversight responsibilities and to accept praise from testifying witnesses as to both the Subcommittee and the federal judiciary, while it is wilfully refusing to confront decisive *prima facie* evidence of the federal judiciary's subversion of §§372(c), 144, and 455, as well as wilfully failing to even acknowledge, let alone investigate, its own receipt of judicial impeachment complaints, which, without any statistical record being kept, it is simply "shelving", if not destroying.


As your invitation to testify at the November 29, 2001 "hearing" came from the Subcommittee's Ranking Member, Howard Berman², I hope you will be sufficiently outraged by the enclosed to see fit to ask him about the hearing's true purpose – and to inquire as to what corrective measures he will take to address CJA's groundbreaking advocacy, as reflected by our March 10, 1998 and March 23, 1998 memoranda, by our June 11, 1998 statement for the record, and by our subsequent correspondence with the Subcommittee.

² As discussed, I would appreciate if you would provide me with a copy of the invitation letter, as well as any other documents from the Subcommittee in connection with the "hearing".

Needless to say, a journalistic expose – such as done by Joe Stephens on financial conflicts by federal judges, etc. – would be a powerful catalyst to vindicating the public’s right to meaningful mechanisms of judicial accountability, which do NOT presently exist in either the Subcommittee or the federal judiciary. As my attempts to interest Mr. Stephens in such fully documented story produced no results in January 1999, a telephone call from you might make the difference.

Thank you.

Yours for a quality judiciary,



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

Enclosures

P.S. I would appreciate if you would send me a copy of CRC’s studies on judges’ junkets, disqualifying financial conflicts of interest, and failure to comply with reporting requirements, referred to in your written testimony. Also, if you have an extra copy of the “Highlights of Media Coverage on Privately-Funded Seminars” and “Highlights of Media Coverage on Stock Conflicts”, which accompanied your written statement, please send it to me as the printed record of the November 29, 2001 “hearing” has so size-reduced them that they are virtually impossible to read without a magnifying glass.

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FAX COVER SHEET

This fax transmission consists of a total of 14 page(s) including this cover page. If you have not received all the pages, please call (914) 421-1200.

DATE: 6/16/98 TIME: 2²⁵ pm FAX #: 202-962-3546 ³⁶⁸¹

TO: Dr. Kendall, Esq.
Community Rights Counsel

RE: Introductions - will send "hard copies"
by mail with CJA's

FROM: ELENA RUTH SASSOWER, Coordinator informational
brochure, etc.

NOTE: The information herein contained is PRIVILEGED AND CONFIDENTIAL, intended for the use of the intended recipient, named above. If you are not the intended recipient, an agent or an employee responsible for delivering this document to the intended recipient, you are hereby notified that any dissemination or copying of this document or the information contained herein, is strictly prohibited. If you have received this facsimile in error, please notify us immediately by telephone at the above indicated telephone number and return the original facsimile to us at the above address by mail. You will be reimbursed for all costs incurred. Thank you!

MESSAGE: Thank you again for taking the time
to speak with me. Enclosed, as discussed,
is my published article in the
recusal/disciplinary statutes, as well as the
National Commission's cover-up report.
The article was part of an 3/10/98
memo to the House Judiciary Committee -
a copy of which I am also fixing.
Our report to testify at the 6/11/98 oversight
hearing was based in this memo + an
subsequent memo.

CENTER for JUDICIAL ACCOUNTABILITY, INC. is a national, non-partisan, non-profit citizens' organization documenting how judges break the law and get away with it.

P.S. Please do send any of your own articles or materials that would be of interest to us.

Thanks!