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Elena Ruth Sassower, Coordinator

BY HAND

June 20, 2000

Evan A. Davis, President
Association of the Bar of the City of New York
42 West 44th Street
New York, New York 10036-6689

RE: Request, *inter alia*, for the City **Bar's** (1) establishment of a Standing Committee on Judicial Conduct; and (2) *amicus* support and legal assistance in *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct of the State of New York* (NY Co. #99-108551) (pp. 5-8)

Dear President Davis:

This letter follows up our brief conversation together at the May 23rd reception celebrating your installation as the City Bar's new President. As discussed, your inaugural address, recalling the City Bar's origins as rooted in a "campaign to drive corrupt judges off the bench and corrupt politicians out of office" -- when fighting corruption was "actually dangerous" -- was an inspiration. May you be true to your pledge to foster the City Bar's "essential mission" as a "vehicle to help members be fiduciaries of the justice system" and to promote the role of lawyers as "custodians of the rule of law" and "fiduciaries of the public interest"!

Unfortunately, fighting judicial and governmental corruption is still "actually dangerous". Moreover, contrary to the sanguine view expressed in your inaugural address as to the City Bar's "extraordinary" success in bringing corruption "under law enforcement", systemic judicial and political corruption is, in many respects, just as flagrant and unrestrained today as it was 130 years ago when the City Bar was formed. Not the least reason is because the City Bar's leadership, with personal and professional ties to the public officers responsible for the corruption, has forsaken the City Bar's original purpose. Again and again, and in the most

shameless ways, this leadership has substituted its own self-interest for the public interest, wholly disregarding its obligations under ethical codes of professional responsibility.

Over the past decade, our non-partisan, non-profit citizens' organization, the Center for Judicial Accountability, Inc. (CJA)[1], has empirically documented what can only be described as the City Bar's complicity in systemic judicial and governmental corruption. This complicity is *explicitly* reflected in CJA's public interest ads, "*A Call for Concerted Action*" (NYLJ, 11/20/96, p. 3: Exhibit "A-2") and "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (NYLJ, 8/27/97, pp. 3-4: Exhibit "A-3"). It is also *impliedly* reflected in CJA's earlier public interest ad, "*Where Do You Go When Judges Break the Law?*" (NYT, 10/26/94, Op-Ed page; NYLJ, 11/1/94, p. 11: Exhibit "A-1"), which does NOT answer that fundamental question by referencing the City Bar. Indeed, the City Bar has NO standing committee to address judicial misconduct or the corruption issues relating thereto. Tellingly, more than a year after the City Bar's now defunct *ad hoc* Committee on Judicial Conduct recommended in its March 1999 report the creation of a standing bar committee to alleviate the reluctance of lawyers to file judicial misconduct complaints in the federal system and to facilitate their resolution[2], none has been formed. Obviously, this is because any bar committee operating with a modicum of integrity would rapidly have to confront heinous judicial misconduct, including retaliation against judicial "whistle-blowing" lawyers, for which all remedies have been corrupted.

CJA's aforesaid public interest ads -- for which CJA paid nearly $25,000 -- like CJA's other published pieces present a breathtaking summary of the systemic judicial and governmental corruption that CJA has documented. The political manipulation of state judicial elections and the lawless retaliation inflicted by state judges on CJA's judicial "whistle-blowing" co-founder Doris L. Sassower, covered up by a corrupted judicial process, is reflected by "*Where Do You Go When Judges*

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[1] CJA emerged from the Ninth Judicial Committee, a local non-partisan, non-profit citizens' organization, founded in 1989 by Eli Vigliano, Esq. Although this letter refers only to CJA, its activities prior to September 1993 were as the Ninth Judicial Committee.

[2] The March 1999 report of the City Bar's *ad hoc Committee* is printed at pages 598-636 of the September/October 1999 issue of The Record (Vol. 54, No. 5). Its "Recommendation for Standing Bar Committee" is at pp. 625-628 therein.

Break the Law?" (Exhibit "A-1")[3]; Governor Pataki's manipulation of the appointment process to New York's lower state courts is reflected by CJA's Letter to the Editor, "*On Choosing Judges, Pataki Creates Problems*" (NYT, 11/16/96: Exhibit "A-4"), the unlawful appropriation of public monies for one of Governor Pataki's lower court appointees is reflected by CJA's Letter to the Editor, "*O'Rourke's Appointment was Illegal*" (Daily News, 2/13/98: Exhibit "A-5"); the unwarranted secrecy that prevents verification of the so-called "merit selection" appointment of judges by New York City's mayor is reflected by CJA's Letter to the Editor, "*No Justification for Process's Secrecy*" (NYLJ, 1/24/96: Exhibit "A-6"); the corruption of the appointment and confirmation process to New York's highest state court is reflected by CJA's Letter to the Editor, "*An Appeal to Fairness: Revisit the Court of Appeals*" (NY Post, 12/28/98: Exhibit "A-7"); the corruption of the state judicial disciplinary process, *to wit*, the New York State Commission on Judicial Conduct, is reflected by CJA's Letter to the Editor, "*Commission Abandons Investigative Mandate*", (NYLJ, 8/14/95: Exhibit "A-8"), as well as by "*A Call for Concerted Action*" (Exhibit "A-2") and "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (Exhibit "A-3"). The latter ad highlights, by three specific case examples, the active complicity of the State Attorney General in corrupting the judicial process, state and federal, by a *modus operandi* of litigation fraud when he has NO legitimate defense to lawsuits against judges and the Commission on Judicial Conduct, sued for corruption.

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[3] The consequence of Ms. Sassower's adherence to ethical codes of professional responsibility requiring an attorney to uphold the rule of law and the public interest was that on June 14, 1991, the Appellate Division, Second Department issued an "interim" order suspending her from the practice of law *immediately, indefinitely, and unconditionally* – an order *un*supported by a petition of written charges and rendered *without* a pre-suspension hearing, *without* findings or reasons, and *without* any provision for appellate review. To date – more than nine years later -- Ms. Sassower has been denied *any* post-suspension hearing and *any* appellate review of the petition-less, finding-less, reason-less "interim" suspension order.

Ms. Sassower's attempt to vindicate her due process, equal protection, and first amendment rights by a state Article 78 proceeding – *Sassower v. Hon. Guy Mangano, et al.* -- and by a federal action under 28 USC §1983 – *Sassower v. Hon. Guy Mangano, et al.* – have been thwarted by the State Attorney General and state and federal judges who subverted the judicial process. This subversion of legal remedies is reflected by "*Where Do You Go*" (Exhibit "A-1") and, more specifically, by "*Restraining 'Liars*"" (Exhibit "A-3")

CJA's letters to the City Bar for its assistance in connection with the unlawful suspension of Doris Sassower's law license and the corruption of the judicial process relative thereto are Exhibits "K-1", "K-2", "K-3", "V-1", "V-2", "V-3", "Y") herein, with the City Bar's responses at Exhibits "K-4" and "V-4".

On the federal level, apart from the corruption of the federal judicial process reflected by "*Restraining 'Liars'*" (Exhibit "A-3"), is the corruption of the federal judicial screening process, reflected by CJA's Letter to the Editor, "*Untrustworthy Ratings*?" (NYT, 7/17/92) (Exhibit "A-9) and the corruption of the federal judicial disciplinary mechanism under 28 USC §372(c), covered up by the 1993 Report of the National Commission on Judicial Discipline and Removal, reflected by CJA's article, "*Without Merit: The Empty Promise of Judicial Discipline*" (The Long Term View (Massachusetts School of Law), summer 1997, vol 4, no. 1, pp. 90-97) (Exhibit "A-10").

These published pieces summarize only a *fraction* of the pervasive governmental corruption that CJA has spent ten years investigating, studying, and documenting. Yet, they suffice to present a horrifying picture – one compelling response from the City Bar *IF* it had any genuine commitment to rooting out judicial and governmental corruption and preserving the rule of law. The City Bar, however, has *no* such genuine commitment. It has refused to respond to *any* of these published pieces, copies of which CJA has repeatedly provided to its leadership. Likewise, it has refused to respond to *any* of the proof of corruption on which the pieces are based, extensive portions of which CJA has provided to the City Bar to enable it to discharge its ethical and professional duty to safeguard the rule of law and the integrity of public institutions on which it rests. This, the City Bar has also refused to do. Simultaneously, its presidents have *made knowingly false and misleading public* statements and its relevant committees have *issued knowingly false and misleading* reports about the processes of judicial selection and discipline, as well as about attorney discipline, and issued and adhered to *knowingly false* judicial ratings.

Three years ago, at the City Bar's May 14, 1997 hearing on the New York State Commission on Judicial Conduct -- the same hearing as is identified in "*Restraining 'Liars'*" (Exhibit "A-3") -- CJA summarized the dishonest refusal of the City Bar's leadership to address the *readily-verifiable* proof CJA had provided as to the corruption of judicial selection and discipline and the unconstitutionality of New York's attorney disciplinary law, used to retaliate against Doris Sassower for her judicial "whistle-blowing" advocacy. CJA's testimony (Exhibit "B-1") emphasized that this abdication of ethical and professional responsibility by the City Bar's leadership was also *readily-verifiable*. In support, CJA proffered copies of its voluminous correspondence with that leadership.

The *ad hoc* Committee on Judicial Conduct's response was to ignore that proffer[4] and to demonstrate the same disreputable conduct about which CJA had testified. Its belated March 1999 report concealed the *readily-verifiable* proof which CJA had presented and proffered as to the corruption of the Commission on Judicial Conduct and of 28 USC §372(c) -- as to which it made NO FINDINGS.

In view of your announced commitment to the historic role of the City Bar and to the responsibility of lawyers as guardians of justice, the rule of law, and the public interest, it is incumbent upon you to begin your presidency by examining the *readily-verifiable* proof of the City Bar's grossly unethical and dishonest conduct in matters relating to systemic judicial and governmental corruption – and to take corrective action based thereon. This would include establishing, within the City Bar, a Standing Committee on Judicial Conduct, whose first charge would be confronting, WITH FINDINGS, the massive evidentiary proof of systemic judicial and governmental corruption that CJA has repeatedly provided to the City Bar's leadership.

The most recent of this proof is that from the file of the Article 78 proceeding, *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct of the State of New York* (NY Co. #99-108551). That file, PHYSICALLY incorporating the files of the two most recent other Article 78 proceedings against the Commission, *Doris L. Sassower v. Commission* (NY Co. #95-109141) and *Michael Mantell v. Commission* (NY Co. #99-108655)[5], establishes, *prima facie*, that in all three cases

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[4] Nonetheless, before leaving the hearing room, I gave one of the Committee members a copy of the file of the Article 78 proceeding, *Doris L. Sassower v. Commission* – additional to the copy given to the City Bar one and a half years earlier, as recounted in CJA's testimony (Exhibit "B-1", p. 9). I also gave that Committee member copies of CJA's correspondence with the City Bar relating thereto, including CJA's February 10, 1997 letter to City Bar Counsel Alan Rothstein and CJA's March 7, 1997 letter to President Michael Cardozo. These letters are specifically referred to in CJA's testimony (Exhibit "B-1", p. 10) as having been previously furnished to the *ad hoc* Committee's Chairman, Robert Jossen. Copies of the February 10, 1997 and March 7, 1997 letters are annexed hereto as Exhibits "R" and "S", respectively.

[5] More than two months before Mr. Mantell commenced his Article 78 proceeding against the Commission on Judicial Conduct, he wrote a February 12, 1999 letter to the City Bar's Judiciary Committee. Identifying that he had testified at the City Bar's May 14, 1997 hearing, he requested comment as to the propriety of the Commission's dismissal, *without* investigation, of a judicial misconduct complaint he had filed with it. By letter dated March 23, 1999, the Chairman advised him that "the Judiciary Committee does not render opinions on the merits of

the Commission had NO legitimate defense to the proof of its corruption and that it survived only because New York's highest legal officer, the State Attorney General, resorted to fraudulent litigation tactics on its behalf, which state judges then covered up by fraudulent judicial decisions.

Under 22 NYCRR §1200.4, codifying DR-1-103(A), "Disclosure of Information to Authorities", of New York's Disciplinary Rules of the Code of Professional Responsibility[6], reflected, as well in Rule 8.3 of the ABA Model Code of Professional Conduct[7], an individual attorney has a duty to report fraudulent conduct by another attorney, to "a tribunal or other authority empowered to act". This duty applies with even greater force to the City Bar, which has successfully advocated extending an individual lawyer's responsibilities under ethical rules to law firms[8] and which can hardly have any credibility in espousing ethical rules for the legal community when it exempts itself from any corresponding ethical obligations.

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complaints against individual judges, nor does it comment on whether a complaint was properly handled by the New York State Commission on Judicial Conduct". No referral was made to the City Bar's *ad hoc* Committee on Judicial Conduct, which, the month following Mr. Mantell's February 12, 1999 letter, purportedly issued its March 1999 report. [*See* fn. 16 *infra*]

6 "A lawyer possessing knowledge, (1) not protected as a confidence or secret, of a violation of DR 1-102 [§1200.3] that raises a substantial question as to another lawyer's honesty, trustworthiness or fitness in other respects shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation."

DR 1-102 [28 NYCRR§1200.3], entitled "Misconduct", proscribes a lawyer or law firm from, *inter alia*, "(4) Engag[ing] in conduct involving dishonesty, fraud, deceit, or misrepresentation"; and "(5) Engag[ing] in conduct that is prejudicial to the administration of justice".

7 Rule 8.3(a): "A lawyer having knowledge that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to that lawyer's honesty, trustworthiness or fitness as a lawyer in other respects, shall inform the appropriate professional authority."; Rule 8.3(b) "A lawyer having knowledge that a judge has committed a violation of applicable rules of judicial conduct that raises a substantial question as to the judge's fitness for office shall inform the appropriate authority."

8 *See, inter alia*, the May 1993 report "Discipline of Law Firms", by the City Bar's Committee on Professional Responsibility, printed in the June 1993 issue of The Record, Vol. 48, No. 5, pp. 628-644.

The City Bar duty to report to appropriate authorities the evidence of high-level corruption presented by the file of *Elena Ruth Sassower v. Commission* is essential, as CJA has been wholly unable to obtain criminal and disciplinary investigation from the governmental agencies and public officers to which it has turned. Among these are the Manhattan District Attorney, the U.S. Attorney for the Southern District of New York, the U.S. Attorney for the Eastern District of New York, the New York State Ethics Commission – in addition to the State Attorney General and the Commission on Judicial Conduct, the two key participants in that corruption. Indeed, the file of *Elena Ruth Sassower v. Commission* itself chronicles CJA's exhaustive efforts to obtain official investigation and prosecution while that litigation was progressing in Supreme Court/New York County. These efforts have continued since Acting Supreme Court Justice Wetzel "threw" the case by a fraudulent January 31, 2000 judicial decision – as evident from the mountain of CJA's subsequent correspondence to those same governmental agencies and public officers. As resoundingly demonstrated therein, these governmental oversight agencies and public officers are disabled by disqualifying conflicts of interest -- which they refuse to address, let alone disclose, in violation of law and ethical rules of professional responsibility. The result has been a complete inability to bring the corruption established by the file of *Elena Ruth Sassower v. Commission* "under law enforcement".

For your convenience, an inventory of the file of *Elena Ruth Sassower v. Commission* and of CJA's correspondence based thereon – *all in the possession of City Bar counsel, Alan Rothstein* -- is annexed hereto as Exhibits "C-1" and "C-2", respectively. Of particular importance are CJA's February 23, 2000 letter to Governor Pataki, containing (at pp. 15-29) an analysis of Justice Wetzel's fraudulent January 31, 2000 decision and requesting (at pp. 33-34) that he appoint a special prosecutor or investigative commission, and CJA's March 3, 2000 to Chief Judge Kaye, requesting that she appoint a special inspector general to investigate the Commission's corruption.

Based upon the fact-specific, document-supported presentations in those letters – and in CJA's subsequent April 18, 2000 letter to Chief Judge Kaye – CJA requests that the City Bar also call upon the Governor and the Chief Judge to appoint an independent investigative and prosecutorial body, using ALL its public relations and press connections for that purpose, and, additionally, that it pursue other steps to secure an official investigation and criminal prosecution of the corruption established by the file of *Elena Ruth Sassower v. Commission*, including filing a

complaint with the Public Integrity Section of the U.S. Justice Department's Criminal Division.

To the extent that the City Bar believes that the appellate process can be counted on to furnish a "remedy" for the annihilation of the rule of law that has occurred in *Elena Ruth Sassower v. Commission*, depriving the People of this State of redress against a demonstrably corrupted Commission, CJA further requests the City Bar's *amicus* support and legal assistance in the appeal, which must be perfected by the end of the year. To date, the City Bar has not responded to CJA's February 9, 2000 letter to Mr. Rothstein (Exhibit "D-3") which expressly requested a response "*in writing* [as to] what the City Bar will do to vindicate the rule of law and public interest in this important case". A copy of the March 23, 2000 Notice of Appeal and Pre-Argument Statement is annexed (Exhibit "E") – additional to the one sent to Mr. Rothstein on that date.

To facilitate your assessment of the City Bar's ignominious conduct, flagrantly violating its obligations under ethical codes of professional responsibility, copies of CJA's correspondence with the City Bar's leadership, to which CJA's May 14, 1997 testimony refers (Exhibit "B-1", pp. 2, 8-10), are collected in Compendium I hereto. This is supplemented by Compendium II, collecting copies of CJA's correspondence with the City Bar's leadership in the three years subsequent to the May 14, 1997 hearing. Collectively, this correspondence, appended in approximate chronological orders, spans the tenures of your five presidential predecessors: Conrad Harper, John Feerick, Barbara Paul Robinson, Michael Cardozo, and Michael Cooper and includes letters addressed to each of them[9].

Inasmuch as you were a candidate in the 1998 Democratic primary for New York State Attorney General, the correspondence that should be of greatest interest to you is that pertaining to the three cases identified in "*Restraining 'Liars'*" (Exhibit "A-3") as demonstrating the Attorney General's *modus operandi* of fraudulent defense tactics, covered up by fraudulent judicial decisions. This correspondence shows that

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9 CJA's letters specifically addressed to President Harper are annexed as Exhibit "I-1" and "I-3"; CJA's letters specifically addressed to President Feerick, even before he became President, are annexed as Exhibits "H-1", "H-3", "H-5" and multiple letters in Exhibit "J"; CJA's letters specifically addressed to President Robinson are annexed as Exhibits "K-2", "K-3", "M" and "O"; CJA's letters specifically addressed to President Cardozo are annexed as Exhibits "S", "T-2"; and CJA's letters specifically addressed to President Cooper are annexed as Exhibits "D-1" and "AA".

CJA pleaded with the City Bar for *amicus* and other legal assistance in each of these three cases – *Doris Sassower v. Commission*, among them – providing copies of the litigation files to enable the City Bar to independently verify the Attorney General's subversion of the rule of law, in tandem with corrupt state and federal jurists. The City Bar's response was always identical: refusing to comment on the files and, without doing so, declining or ignoring CJA's requests for help. In chronological order, this correspondence consists of:

(1) CJA's October 17, 1994 and October 27, 1994 letters to then City Bar President Barbara Robinson (Exhibits "K-2" and "K-3") seeking *amicus* support in the Article 78 proceeding, *Doris L. Sassower v. Hon. Guy Mangano, et al.* -- the second of the three cases detailed in "*Restraining 'Liars'*" (Exhibit "A-3"). The City Bar's response was by a December 13, 1994 letter from Mr. Rothstein (Exhibit "K-4"), acknowledging that the case "addresses significant issues", but declining *amicus* support, with no reason other than "The Association submits briefs only in the rarest of cases, and then only with the active participation of a committee of the Association". Completely ignored was whether the issues of the Article 78 proceeding mandated that it be one of those " rarest of cases", as, likewise ignored was the despicable conduct of the Chairman of the City Bar's Committee on Professional Responsibility, including his refusal to allow that Committee to consider for itself the *amicus* request[10];

(2) CJA's March 18, 1996 letter to President Robinson (Exhibit "M") seeking legal assistance in the Article 78 proceeding, *Doris L. Sassower v. Commission* – the first of the three cases detailed in "*Restraining 'Liars'*. That letter recited (at p. 2) how CJA's prior January 25, 1996 letter for assistance to the City Bar's Legal Referral Service[11] had been routed to Mr. Rothstein, who then stated, purportedly after discussion with President Robinson and various chairmen of City Bar committees, that not only would "the

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[10] *See* CJA's October 17, 1994 letter, p. 2 (Exhibit "K-2"), referencing CJA's annexed September 28, 1994 letter to John Borek, Esq.

[11] CJA's January 25, 1996 letter to the Legal Referral Service is annexed to its March 18, 1996 letter to President Robinson.

City Bar "not do anything through its committees, but that it would not refer us or provide us with assistance in locating individuals to pursue the case on a pro bono basis". To this, President Robinson responded, by a March 26, 1996 letter (Exhibit "N"), "confirm[ing] what you have been told before. This Association can not assist you". CJA's reply, by an April 12, 1996 letter to President Robinson (Exhibit "O"), received no response from her or anyone else, excepting the Chairman of the City Bar's Committee on Professional and Judicial Ethics (Exhibit "P"), an indicated recipient, who put his "head in the sand";

(3) CJA's September 15, 1997 and November 10, 1997 letters to Mr. Rothstein (Exhibits "V-2", and "V-3"), seeking *amicus* support in the §1983 federal action *Doris L. Sassower v. Hon. Guy Mangano, et al.* -- the third of the three cases detailed in "*Restraining 'Liars'*". Mr. Rothstein's written response, following CJA's December 17, 1997 fax (Exhibit "W-1"), requesting a letter to "frame beside our ad, '*Restraining 'Liars'*'" was by a December 23, 1997 letter (Exhibit "V-4). Without elaboration, Mr. Rothstein's letter purported that after forwarding the "papers" in the federal action to the Committees on Professional Discipline and Professional Responsibility, "the decision was not to file an amicus brief". No response was received to CJA's subsequent August 12, 1998 letter to Mr. Rothstein (Exhibit "Y"), requesting, in addition to *amicus* support in the federal action, that the City Bar meet its obligations under Rule 8.3 of the ABA's Model Rules of Professional Conduct "to make disciplinary and criminal referrals consistent with the record".

The aforesaid three cases: the Article 78 proceeding, *Doris L. Sassower v. Hon Guy Mangano, et al.*, the Article 78 proceeding, *Doris L. Sassower v. Commission*, and the §1983 federal action, *Doris L. Sassower v. Mangano, et al.*, are integral to the *Elena Ruth Sassower v. Commission* Article 78 proceeding – in particular, to petitioner's July 28, 1999 motion to disqualify the Attorney General from representing the Commission[12]. Copies of the files of those three cases should be

[12] *See, inter alia*, ¶14 of petitioner's July 28, 1999 supporting affidavit. It refers to *Elena*

available at the City Bar, as they were not returned to us. Their examination will readily reveal the reason for the City Bar's refusal to confront ANY of the proof of corruption they present: the proof is *irrefutable*, requiring the City Bar to have taken appropriate action under Rule 8.3 of the ABA's Model Rules of Professional Conduct, as well DR-1-103(A) of New York's Disciplinary Rules of the Code of Professional Responsibility [22 NYCRR §1200.4].

Compounding the City Bar's refusal to have responded to this file proof has been its refusal to require a response from relevant public officers and would-be public officers – even when appropriate occasions have presented themselves.

Now that you have the benefit of CJA's correspondence with the City Bar, you will surely recognize one such occasion with greater clarity: the City Bar's September 9, 1998 debate between the four Democratic contenders for State Attorney General, co-sponsored by the New York Law Journal. As one of those four contenders, you may recall the powerful question CJA proposed for the debate. It was set forth in CJA's September 8, 1998 memorandum to the Law Journal and City Bar (Exhibit "Z") – with copies to the contenders[13]. That question was:

> "... why the contenders for the Democratic nomination for Attorney General had not raised, as a campaign issue, the fraud and misconduct of the Attorney General's office in its defense of state judges and the New York State Commission, as highlighted in CJA's public interest ad, '*Restraining 'Liars in the Courtroom' and on the Public Payroll*'... *readily-verifiable* from the files of the two Article 78 proceedings and §1983 federal action identified with the court index and docket numbers for said purpose."

As CJA's correspondence makes obvious, the City Bar was in a position to have

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Ruth Sassower v. Commission as presenting "the confluence of the three litigations which "*Restraining 'Liars*'" describes and necessarily expos[ing] the official misconduct of Attorney General Spitzer's predecessors in those litigations and subsequent thereto in wilfully failing and refusing to take corrective steps upon notice, as well as his own official misconduct in failing to take corrective steps when notified of his mandatory ethical and professional duty to do so.".

13 Annexed to CJA's September 8, 1998 memorandum is a copy of CJA's prior correspondence with you, including CJA's March 20, 1992 memorandum to Governor Cuomo's Task Force on Judicial Diversity, of which you were chair.

knowledgeably posed such question to the candidates, as it had copies of the files of those three cases. Plainly, posing such question would have powerfully contributed to the electoral contest by: (1) exposing the unfitness of front-runner Oliver Koppell, whose official misconduct as a former Attorney General was particularized in the verified complaint in the *Sassower v. Mangano*[14] federal action, in which he was a named defendant; and (2) cornering the three other Democratic contenders, each of whom had received, with the September 8, 1998 memorandum (Exhibit "Z"), the substantiating cert petition and supplemental brief in the *Sassower v. Mangano* federal action, to committing themselves to raising the Attorney General's fraudulent defense tactics as a campaign issue against incumbent Attorney General Vacco and pledging that, if elected, they would disavow such behavior and take appropriate corrective steps in the cases in which had occurred. Instead, the City Bar ignored CJA's evidentiarily-supported proposed question and, with it, forfeited an important opportunity to expose corrupt and criminal practices in the Attorney General's office and ensure the integrity of that office in the future.

The result has been that Eliot Spitzer, victorious in the Democratic primary and general election *without* ever raising the issue of his predecessors' fraudulent defense tactics, has *refused* to address the issue as Attorney General. This, notwithstanding Mr. Spitzer's public promise that "Anything that is submitted to us we will look at it", which he made at the City Bar's January 27, 1999 breakfast for him, co-sponsored with the Law Journal, when he responded to CJA's question from the audience as to what he was going to do about the allegations in "*Restraining 'Liars'*" that "the Attorney General's office uses fraud to defend state judges and the Commission on Judicial Conduct sued in litigation" (Exhibit "F-2")[15]. Thereafter, Mr. Spitzer simply ignored, *without* comment, the proof from the files of the three cases featured in "*Restraining 'Liars'*" (Exhibit "A-3") and permitted his Law Department to replicate its *modus operandi* of litigation fraud in the subsequently-commenced Article 78 proceedings, *Elena Ruth Sassower v.*

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[14] The paragraph references from the verified petition pertaining to the official misconduct of then Attorney General Koppell are identified in Exhibit "B" to CJA's September 8, 1998 memorandum as follows: ¶¶10, 24, 166-178, 182-191; 195-208.

[15] A full copy of the transcript of the City Bar's January 27, 1999 breakfast for Mr. Spitzer is part of the file in *Elena Ruth Sassower v. Commission*: annexed as part of Exhibit "E" to Elena Sassower's July 28, 1999 affidavit in support of her omnibus motion, *inter alia*, to disqualify the Attorney General and for sanctions against him, including disciplinary and criminal referral.

Commission and *Michael Mantell v. Commission.* As to this litigation fraud, *readily-verifiable* from the files of these two cases – and the fraudulent judicial decisions rendered in each case, likewise *readily-verifiable* -- Mr. Spitzer has failed and refused to take any corrective steps, despite notice of his obligation to do so (*see, inter alia*, CJA's February 7, 2000 notice attached to Exhibit "D-3").

"*Restraining Liars*" (Exhibit "A-3") itself reflects another occasion where the City Bar had an opportunity to require response from relevant public officers to the file evidence of their corruption, but wilfully chose not to. That occasion was the May 14, 1997 hearing of the City Bar's *ad hoc* Committee on Judicial Conduct when it refused to ask the Administrator of the Commission on Judicial Conduct a single question about the file of *Doris L. Sassower v. Commission* -- notwithstanding the importance of such inquiry was emphasized by CJA's testimony (Exhibit "B", pp. 7-10) and by its prior correspondence with the *ad hoc* Committee (Exhibits "T-1" – "S-4"). The Committee's protectionism of the Commission at the May 1997 hearing prefigured its protectionism of the Commission two years later in its March 1999 report, which made NO FINDINGS as to the *Doris L. Sassower v. Commission* file, which it also never even mentioned. Indeed, by the time the City Bar sent the March 1999 report for publication in the September/October 1999 issue of The Record[16], it had further proof of the Commission's corruption: the file of *Elena Sassower v. Commission*, then unfolding in Supreme Court/New York County.

There is yet a third salient example of the City Bar's failure to require a relevant public officer to respond to the *readily-verifiable* case file proof of his corruption, when an appropriate occasion presented itself. It is the inferable failure of the City Bar's Executive Committee during its purported review of the candidates recommended as "well qualified" by the Commission on Judicial Nomination for

[16] There is reason to believe that the March 1999 report may have been backdated, quite apart from the suspicious six-month lag time until publication in the September/October issue of The Record. By letters to President Cooper and *ad hoc* Committee member Lawrence Zweifach, dated May 18, 1999 and May 19, 1999 (Exhibits "D-1" and "D-2"), requesting *amicus* support and legal assistance in *Elena Ruth Sassower v. Commission*, CJA asserted that the *ad hoc* Committee had not rendered any report. Neither President Cooper nor Mr. Zweifach contradicted CJA's assertion, with Mr. Zweifach not returning my several phone calls to his office [6/22/99; 8/3/99; 8/27/99]. Likewise, Mr. Rothstein, with whom I spoke in May and August of 1999 and who received both these letters, did not contradict such assertion – let alone provide CJA with a copy of the report. The alternative is that the City Bar wanted to ensure that CJA would not have an opportunity to expose the report's fraudulence prior to publication.

appointment by the Governor to the Court of Appeals to require one of those candidates, Appellate Division, Second Department Justice Rosenblatt, to respond to the proof of his judicial misconduct disclosed by the three cases featured in "*Restraining 'Liars'*". CJA's November 18, 1998 letter to the Executive Committee (Exhibit "BB") detailed the significance of the files in these cases in establishing Justice Rosenblatt's unfitness[17]. Since Justice Rosenblatt would have had *no* satisfactory answer to the serious judicial misconduct established by these files, it seems fairly plain that the Executive Committee never probed him on the subject – a likelihood reinforced by the failure of the Executive Committee to contact CJA for further information about them. This, quite apart from whether the Executive Committee made any inquiry of Justice Rosenblatt as to the allegation in CJA's November 18, 1998 letter of his believed perjury on his Court of Appeals application. This protectionism of Justice Rosenblatt may have been attributable, on some level, to the fact that then President Michael Cooper and Justice Rosenblatt had been classmates – a fact President Cooper later identified to me, I believe when I handed him a copy of "*An Appeal to Fairness: Revisit the Court of Appeals*" (Exhibit "A-7").

That Justice Rosenblatt's candidacy would not have survived the scrutiny called for by CJA's November 18, 1998 letter may be seen from the fact that, as set forth in "*An Appeal to Fairness*", his confirmation by the State Senate was rammed through in an unprecedented, no-notice, by-invitation-only hearing at which CJA was not invited to testify. This state of affairs was apparently agreeable to the City Bar, which never requested that CJA provide it with substantiating documentation so that it might protest to the State Senate and endorse CJA's request for an investigation by the Attorney General. Indeed, the City Bar's only discernible

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[17] Justice Rosenblatt's on-the-bench misconduct in the *Sassower v. Mangano* Article 78 proceeding resulted in a facially-meritorious September 19, 1994 misconduct complaint being filed against him with the Commission on Judicial Conduct in 1994. The Commission's unlawful dismissal of that complaint, as well as two others against Justice Rosenblatt based on his on-the-bench judicial misconduct in another case were thereafter embodied in the *Sassower v. Commission* Article 78 proceeding. As to the *Sassower v. Mangano* federal action, in which Justice Rosenblatt was a defendant, his complicity in the Attorney General's fraudulent defense tactics of that action, of which he was a beneficiary, became the basis for a further judicial misconduct complaint – this one based on his off-the-bench misconduct. That complaint, also based on Justice Rosenblatt's believed perjury on his Court of Appeals application, was pending before the Commission on Judicial Conduct, during the period of the Executive Committee's purported review of Justice Rosenblatt's qualifications.

response was to invite Court of Appeals Judge Rosenblatt to be its guest speaker at its May 18, 1999 annual meeting.

As hereinabove reflected, the City Bar has not been above issuing *knowingly false* and misleading public statements[18], reports, and judicial ratings. During the very period of CJA's document-supported advocacy against the Commission on Judicial Conduct, it issued TWO false reports, covering up for the Commission.

The first of these, the City Bar's June 26, 1996 report, "*Judicial Accountability and Judicial Independence: The Judge Lorin Duckman Case Should Not Be Referred to the State Senate*"[19] by its Task Force on Judicial Selection and Merger, gave an unqualified endorsement of the Commission[20]. This was accomplished by making NO

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[18] *See, inter alia*, the City Bar's June 15, 1995 public letter, by its Chairman of the Committee on Professional Discipline. The letter refers to New York's use of the lowest standard for imposing discipline upon attorneys and states "we know of no study which has concluded that lawyers are unfairly convicted of misconduct as a result of this lower burden of proof, or of discipline based largely on evidence that would be inadmissible in a trial...". It also refers to rules pertaining to discovery and states "once again, no study has yet been conducted of the incidence of the withholding of exculpatory material by disciplinary prosecutors...".

That Doris Sassower's disciplinary files contained explosive proof on these very issues and belied the City Bar's view that attorney disciplinary proceedings are based on "probable cause" findings and, therefore, should be open to the public may be seen from her February 1995 cert petition in her *Sassower v. Mangano* Article 78 proceeding, perfected following the City Bar's rebuff of her request for assistance (Exhibit "K-4"). The "Question Presented" therein as to the unconstitutionality of New York's attorney disciplinary law, as written and as applied, and the four-point legal argument are reprinted in the appendix of the cert petition of the *Sassower v. Mangano* federal action [A-117-131].

Plainly, IF the City Bar's despicable response to Doris Sassower's requests for its *amicus* assistance and legal support is demonstrative of its response to other attorneys victimized by New York's attorney disciplinary law and its prosecutors -- and there is EVERY reason to believe that it is – it is understandable that the City Bar would not undertake studies based on accessible file evidence or otherwise avail itself of an evidentiary basis for the reforms it advocates.

[19] The Report is printed at pages 629-653 of the October 1996 issue of The Record (Vol. 51, No. 6).

[20] "The Commission on Judicial Conduct provides a systematic, routinized and non-political administrative body to review allegations of judicial misconduct." (at p. 632).

"...the Commission on Judicial Conduct not only implements the Constitutional standard for improper judicial behavior of 'misconduct in office, persistent failure to perform his duties, habitual intemperance and conduct, on or off the bench, prejudicial to the administration of

MENTION, LET ALONE FINDINGS, as to the *readily-verifiable* proof of the Commission's corruption from the file of *Doris L. Sassower v. Commission*, that had been the subject of CJA's March 18, 1996 and April 12, 1996 letters to President Robinson (Exhibits "M" and "O") and, thereafter, of CJA's May 23, 1996 letter to the New York State Assembly Judiciary Committee (Exhibit "Q-2"), to which then incoming City Bar President Michael Cardozo was an indicated recipient and a copy of which had been given, *in hand*, to Mr. Rothstein, on the evening Mr. Cardozo succeeded Ms. Robinson. The May 23, 1996 letter – to which CJA received *no* response from the City Bar -- identified (at p. 4) that while the City Bar was refusing to comment on the Article 78 file, it had issued an unsolicited May 10, 1996 public statement – one which misleadingly pretended that opening the Commission's proceedings against a judge once it had brought a formal complaint against him would "raise the level of public confidence in the judicial discipline process" and "diminish suspicions that the process favors individual judges at the expense of the public interest".

The false depiction of the Commission in the Task Force's June 26, 1996 report was the subject of CJA' February 10, 1997 letter to Mr. Rothstein (Exhibit "R")[21], which also reiterated CJA's request to him that the *Doris. L. Sassower v. Commission* file and CJA's related correspondence be transmitted to Robert Jossen, Chairman of the City Bar's *ad hoc* Committee on Judicial Conduct – an indicated recipient of the February 10, 1997 letter.

The second report is the March 1999 report of the *ad hoc* Committee on Judicial Conduct, depicting the Commission as a viable, functioning mechanism[22]. This, too, was accomplished by making NO MENTION, LET ALONE NO FINDINGS,

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justice,' but also implements the Rules Governing Judicial Conduct and the Code of Judicial Conduct. These written standards, along with the substantial body of decisional law implementing them and the independent nature of both the Commission and its staff ensure that its decisions are principled and that its fact-finding procedures are fair." (at p. 652).

21 CJA's February 10, 1997 letter (Exhibit "R", p. 3) pointed out that President Cardozo, an *ex officio* Task Force member, had been on notice of the dispositive significance of the Article 78 file since August 22, 1995, when he was an indicated recipient of CJA's letter of that date to former City Bar President Feerick, then Chairman of the Fund for Modern Courts. A copy of that August 22, 1995 letter is annexed to CJA's April 12, 1996 letter to President Robinson (Exhibit "O").

22 "The state system provides a worthwhile structure for the most egregious cases of judicial misconduct..." (at p. 599)

as to the ***readily-verifiable*** proof of the Commission's corruption from the file of *Doris L. Sassower v. Commission*[23], whose significance CJA had repeatedly emphasized (Exhibits "B-1", pp. 7-11, "B-2", "S-1" – "S-4", "M", "O", "Q-2"). Adding to this cover-up, the report recommended AGAINST establishment of oversight of the Commission as "neither necessary nor productive" (at p. 613) – a characterization plainly self-serving as the *ad hoc* Committee can be presumed to have realized that any legitimate oversight would encompass examination of the *Doris L. Sassower v. Commission* file – from which its wilful cover-up would be exposed.

The *ad hoc* Committee's March 1999 report also followed the identical pattern of omission in reporting on federal judicial discipline under 28 USC §372(c). Here, too, it made NO MENTION, LET ALONE NO FINDINGS, as to CJA's fact specific, evidence-supported allegations of the corruption of that statutory mechanism. As to 28 USC §372(c), the efficacy of which the Committee never made the subject of any hearing -- presumably because it did not want a repeat of the May 14, 1997 hearing at which CJA and other members of the public had attested to the Commission's corruption[24] -- the report purports (at p. 601) that the Committee received no response to its solicitation of City Bar members for their "experiences with the federal system". Yet, as is reflected by CJA's November 10, 1997 letter to Mr. Rothstein (Exhibit "V-3", p. 2), CJA offered the Committee proof of the corruption of the federal disciplinary mechanism, to which it never responded.

The nature of this proffered proof may be gleaned from CJA's article "*Without Merit: The Empty Promise of Judicial Discipline*" (Exhibit "A-10"), which CJA's November 10, 1997 letter requested Mr. Rothstein to transmit to the Committee (Exhibit "V-3", p. 2) and which, CJA itself subsequently provided, *in hand*, to Committee member Lawrence Zweifach. Yet, the report makes NO MENTION of

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23 *See* report, at p. 608: "Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., as well as other members of that organization, presented submissions which were highly critical of the Commission on a host of grounds."

24 ***See, inter alia***, the testimony of former Bronx Surrogate Bertram Gelfand at the City Bar's May 14, 1997 hearing, annexed as Exhibit "D" to CJA's February 23, 2000 letter to the Governor.

that article NOR ANY FINDINGS as to its fact-specific allegations of the corruption of §372(c) and the worthlessness of the 1993 Report of the National Commission on Judicial Discipline and Removal, on which the Committee's March 1999 report uncritically relies (at pp. 616-622). In fact, as to these allegations, the appendices in the cert petition and supplemental brief in the *Doris L. Sassower v. Mangano* federal action – of which the City Bar had TWO copies[25] -- contained dispositive proof[26]. Adding to this was the further proof of the petition for rehearing – a copy of which CJA transmitted to President Cooper under a November 6, 1998 memorandum (Exhibit "AA"). The November 6, 1998 memorandum, constituting an impeachment complaint against the Justices of the U.S. Supreme Court, called upon the City Bar and others to meet their "*continuing* ethical and professional obligations to protect the public from unchecked judicial corruption that has wholly subverted the Constitution and anything resembling the rule of law." The City Bar did not respond to such document-supported memorandum, which it received in the weeks *immediately* preceding its receipt of

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[25] The first set was provided to Mr. Rothstein in August and September 1998. The second was provided, *in hand*, to City Bar Vice-President Michael Gerrard, on September 9, 1998, on the occasion of the debate among the democratic candidates for Attorney General.

Mr. Gerrard was at the May 23, 2000 reception in your honor and I took the occasion to speak with him about the copy of the cert petition and supplemental brief I had given him nearly two years earlier. Mr. Gerrard told me that it was his view that "they did not make out a case of judicial misconduct". In response to this shocking claim – for which Mr. Gerrard provided no specificity -- I handed him another copy of "*Restraining 'Liars'*" (Exhibit "A-3"), pointing out the paragraphs of the ad which summarized some of the heinous judicial misconduct that had been committed. In response to my question to Mr. Gerrard as to what he had done with the cert petition and supplemental brief, he stated that after sharing them with other members of the City Bar's Executive Committee, he had "recyled them" by discarding them.

[26] *See* the appendix to the *Sassower v. Mangano, et al.* cert petition containing Doris Sassower's two §372(c) judicial misconduct complaints against the district and circuit judges: A-242 and A-A252; the Chief Judge's order dismissing those complaints: A-28; Doris Sassower's petition for review to the Second Circuit Judicial Council: A-31; and the Judicial Council's order denying review: A-31. *See* the appendix to the supplemental brief in *Sassower v. Mangano, et al.* containing, *inter alia,* Doris Sassower's August 10, 1998 letter to Solicitor General Waxman: SA-11; Doris Sassower's July 27, 1998 letter to Lee Radek, Chief of the Public Integrity Section of the U.S. Department of Justice's Criminal Division: SA-47; CJA's November 24, 1997 letter to Jeffrey Barr, Deputy General Counsel of the Administrative Office of U.S. Courts: SA-79. *See also* CJA's statement for the record of the House Judiciary Committee's June 11, 1998 "oversight hearing of the administration and operation of the federal judiciary": SA-17; CJA's testimony at the April 24, 1998 public hearing of the Commission on Structural Alternatives for the Federal Courts of Appeals: CA-29.

CJA's November 18, 1998 letter to its Executive Committee (Exhibit "BB").

The City Bar also rendered a dishonest and superficial February 7, 1997 report by its Council on Judicial Administration, covering up Governor Pataki's manipulation of judicial appointments to the lower state courts. Entitled "*Report on the Continued Use of the Temporary Judicial Screening Committee*"[27], its exclusive focus was the *appearance* of impropriety by the Governor's continued use of his Temporary Committee. The report made NO MENTION, LET ALONE FINDINGS, as to CJA's fact-specific allegations of *actual* impropriety, particularized in CJA's June 11, 1996 letter to the New York State Senate[28]. A copy of this letter was given, *in hand*, to President Cardozo on December 7, 1996 at the City Bar's program "How to Become a Judge", in the context of his having acknowledged, in conversation with me, reading CJA's November 16, 1996 Letter to the Editor, "*On Choosing Judges, Pataki Creates Problems*" (Exhibit "A-4"). Thereafter President Cardozo charged the City Bar's Council on Judicial Administration with preparing its report – one concealing CJA's groundbreaking work. This is recounted in CJA's March 7, 1997 letter to President Cardozo (Exhibit "S"), protesting the report's dishonesty and superficiality and calling for a supplement to address *readily-available* evidence of *actuality* of impropriety, including evidence that the Governor's office had used his temporary judicial screening committee to rig at least one candidate's "highly qualified" rating: that of Court of Claims Judge Juanita Bing Newton, a member of the Commission on Judicial Conduct. President Cardozo never responded to CJA's March 7, 1997 letter.

Nor did President Cardozo respond to CJA's subsequent June 12, 1997 memorandum (Exhibit "U"), seeking the City Bar's support for CJA's June 2, 1997 letter to the Governor, which set forth facts raising additional questions as to the operations of his judicial screening committees, both temporary and permanent, and asserted the public's rights to basic information relating to their functioning, including the screening committee reports of the qualifications of the Governor's judicial appointees, which his own Executive Orders expressly made publicly-available, but which the Governor nonetheless withheld.

The consequence of President Cardozo's wilful non-response to CJA's fact-specific correspondence showing Governor Pataki's manipulation of judicial appointments to the lower state courts, with the complicity of the State Senate – and the similar non-

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[27] The report is printed at pages 222-230 of the March 1997 issue of The Record (Vol. 52, No. 2).

[28] A copy of CJA's June 11, 1996 letter to the State Senate is annexed as Exhibit "B" to CJA's March 7, 1997 letter to President Cardozo, *infra*.

response of all other bar associations and so-called public interest organizations – was that the Governor continued to withhold *all* information about his judicial appointments process, including *all* committee reports on their qualifications, and continued to disregard requisite judicial appointment procedures. Thus, in December 1997, the Governor appointed Westchester County Executive Andrew O'Rourke to the Court of Claims – an appointment not based on any "thorough inquiry" of Mr. O'Rourke's judicial qualifications by the Governor's State Judicial Screening Committee and which may not even have been supported by any committee report of his qualifications, both required by the Governor's Executive Order #10[29]. Such appointment was the *direct* result of the City Bar's failure and refusal to respect its ethical obligations under DR 8-102(a) of New York's Disciplinary Rules of the Code of Professional Responsibility[30], codified as 22 NYCRR §1200.43, and retract its 1992 rating approving Mr. O'Rourke for the District Court of the Southern District of New York. Indeed, Mr. O'Rourke was reported to have used that rating, as likewise the American Bar Association's rating approving him for that district court judgeship, to ally the State Judicial Screening Committee's concerns as to his qualifications for the Court of Claims (Exhibit "W-3")[31].

As is reflected by massive correspondence (Exhibit "J"), the City Bar had long been on notice of its duty to retract the 1992 rating – as likewise of the duty of the American Bar Association to retract its own approval rating. CJA's extensive correspondence with the City Bar began well before its Judiciary Committee's May 6, 1992 vote approving Mr. O'Rourke for the federal judgeship. It included CJA's February 24, 1992 letter to then City Bar President Conrad Harper (Exhibit "I-1"), to which he replied with a superficial March 5, 1992 response (Exhibit "I-2"), and CJA's follow-up March 17, 1992 letter to President Harper (Exhibit "I-3"), to which there was no response. It continued with CJA's May 14, 1992 letter (Exhibit "J") to his successor, incoming President John Feerick, transmitting a copy of

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29 A copy of Executive Law #10 is annexed to CJA's June 2, 1997 letter to the Governor, which is part of Exhibit "U" herein.

30 "A lawyer shall not knowingly make false statements of fact concerning the qualifications of a candidate for election or appointment to a judicial office". *See* also Rule 8.2 of the ABA Model Rules of Professional Conduct to the same effect.

31 Reporter Dispatch, (Gannett Suburban Newspapers: White Plains) December 22, 1997, Front-Page: "The Committee asked O'Rourke about his not having practiced law since he became county executive 15 years ago... He reminded the committee that he was rated qualified by the Association of the Bar of the City of New York and American Bar Association when he was nominated for the federal judgeship."

CJA's 50-page investigative critique of Mr. O'Rourke's publicly-accessible answers to the questionnaire that he had been required to fill out for the U.S. Senate Judiciary Committee.

CJA's May 1992 critique, supported by a compendium of over 60 exhibits, showed the inadequacy and perjury of Mr. O'Rourke's answers, including to a key question as to his qualifications. Since that key question also appeared on the ABA questionnaire and corresponded to a far more difficult question on the City Bar questionnaire – for which Mr. O'Rourke's answers were not publicly available -- the inadequacy and perjury of Mr. O'Rourke's answers to the ABA's identical question and to the City Bar's comparable question were inferable[32]. By letter to President Feerick, dated May 26, 1992 (Exhibit "J"), CJA expressly called upon the City Bar to retract its approval rating, based upon CJA's documentary showing that its Judiciary Committee, like the ABA, failed to meaningfully investigate Mr. O'Rourke's responses to its questionnaire, and, indeed, that its Judiciary Committee had actually "screened out" adverse information proffered to it during the very period in which it was evaluating Mr. O'Rourke's district court nomination. This was followed by a request for the City Bar to join CJA in calling for an official investigation of the federal judicial screening process, whose deficiencies, at all levels, had been exposed by CJA's critique.

As the correspondence reflects (Exhibit "J"), in the fall of 1992, President Feerick passed the matter on to the Judiciary Committee's new Chairman, Alvin Hellerstein, whose dilatory, incompetent, and unprofessional response, by letter dated February 3, 1993, was made the subject of oral protests to Mr. Rothstein and, beginning in December 1995 and from December 1997 to March 1998, of extensive communications and correspondence with the Judiciary Committee's successor chairman, Daniel Kolb (Exhibits "L" and "W-2" – "W-23")[33]. At no time did the Judiciary Committee, either under Mr. Hellerstein or Mr. Kolb, ever make ANY FINDINGS as to the irrefutable documentary proof presented by CJA's May 1992

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[32] That Mr. O'Rourke did, in fact, give the ABA and City Bar the SAME inadequate and perjurious response to that key question was, ultimately confirmed by him in an admission to a newspaper reporter. *See*, Exhibit "W-4" herein, annexing an exhibit from CJA's December 23, 1997 letter to James McGuire, the Governor's counsel.

[33] Due to their volume, CJA has not annexed the documentation transmitted to the City Bar in connection with its opposition to Mr. O'Rourke's Court of Claims confirmation and waiver. However, CJA's two-page statement of opposition to the confirmation, distributed to the Senators prior to their January 13, 1998 rubber-stamp confirmation, is annexed to Exhibit "W-11".

critique of the deficiencies of the federal judicial screening process, including of its own screening process, and its duty to take corrective steps under ethical codes of responsibility, which CJA cited in its correspondence[34].

This duty was all more urgent as the City Bar was on notice, from as early as June 1992[35], that Mr. O'Rourke was using that rating to bootstrap the issue of his qualifications. Five years later, after Mr. O'Rourke successfully used the unretracted rating to secure approval by the Governor's State Judicial Screening Committee and, thereby, appointment by the Governor, CJA put the City Bar on notice of that fact as well (Exhibits "W-3" and "W-5").

Yet, the City Bar turned its back on CJA' pleas and refused CJA's many entreaties to develop and pursue strategies to forestall the Senate Judiciary Committee's January 13, 1998 "rubber-stamp" confirmation of Mr. O'Rourke's appointment (Exhibits "W-3" – "W-5"). Forestalling confirmation would have been easy to accomplish. All the City Bar had to do was withdraw its insupportable 1992 rating, consistent with its ethical duty, and to support CJA's efforts to obtain the State Judicial Screening Committee's report on Mr. O'Rourke's qualifications, consistent with the public's rights under ¶2d of the Governor's *own* Executive Order #10. The City Bar refused to do anything, leaving CJA with the impossible burden of single-handedly trying to uphold the public's rights. This refusal continued after Mr. O'Rourke's sham confirmation hearing, when, by virtue of the City Bar's inaction, Mr. O'Rourke was able to obtain from the Office of Court Administration an unlawful waiver enabling him to "double dip" and obtain an $80,000 government pension on top of his $130,000 judicial salary (Exhibit "A-5").

Indeed, as may be gleaned from CJA's correspondence (Exhibits "W-15" –"W-23"), the City Bar would not even undertake an analysis of §211 of the Retirement and Social Securities Law pertaining to the waiver – nor publicly endorse CJA's own analysis, showing the unlawfulness of the OCA's actions[36].

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34 *See, inter alia*, CJA's January 22, 1993 letter to Mr. Hellerstein, which is part of Exhibit "J" herein.

35 *See, inter alia*, CJA's June 26, 1992 fax and CJA's September 9, 1992 letter to Mr. Rothstein, which are part of Exhibit "J" herein.

36 In this period in which CJA was, over and again, begging for legal assistance to vindicate the public's rights (Exhibits "W-9" – "W-23"), Mr. Kolb was, apparently, not only Chairman of the City Bar's Judiciary Committee but Chairman of the American College of Trial Lawyers'

The City Bar's shameless complicity in Mr. O'Rourke's fraudulently-procured Court of Claims judgeship and in his unlawful waiver may have been motivated by the fact that exposing either would have negatively impacted upon Mr. Hellerstein, the Judiciary Committee's former Chairman, then seeking appointment to the federal bench. Indeed, it may be that during his tenure as Chairman, Mr. Hellerstein's cover-up of the dysfunction of the federal judicial screening process and the City Bar's own screening, exposed by CJA's critique, was itself motivated by his judicial aspirations. He may well have realized that "blowing the whistle" on such dysfunction – and the important persons and organizations involved therein -- would have ended his future as a federal judge.

In any event, on May 13, 1998, less than two months after CJA's last written communication with Mr. Kolb (Exhibit "W-23") – to which he never responded – the Judiciary Committee, under his chairmanship, approved Mr. Hellerstein for a district court judgeship for the Southern District of New York. At no time prior thereto did Mr. Kolb ever notify CJA that the Judiciary Committee was screening Mr. Hellerstein, although Mr. Kolb may be presumed to have recognized that CJA would have wished to present the Committee with opposition based on Mr. Hellerstein's betrayal of the public trust as Chairman of the City Bar's Judiciary Committee. Indeed, when CJA eventually became aware of Mr. Hellerstein's nomination and impending hearing before the U.S. Senate Judiciary Committee, it immediately expressed its strong opposition to the Senate Judiciary Committee. Copies of CJA's July 30, 1998 and August 3, 1998 letters to the Senate Judiciary Committee were provided to the City Bar under CJA's August 12, 1998 letter to Mr. Rothstein (Exhibit "Y", at p. 2), which called upon the City Bar to belatedly "meet its ethical duty and address the evidence of Mr. Hellerstein's self-interested protectionism, as reflected by his February 3, 1993 letter to us". The City Bar never responded[37]. Consistent with the U.S. Senate Judiciary Committee's "rubber

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Downstate New York Pro Bono Committee and national Chairman of the College's Access to Justice Committee. *See*, March 6, 1998 column in the New York Law Journal (at p. 3), entitled "*The Public Service Network at the City Bar*".

[37] Nor did the City Bar respond to CJA's request, made two months earlier, in June 1998, that it retract its approval of recertification for Appellate Division, Second Department Justice William Thompson and its approval for certification of Appellate Division, Second Department Justice John Copertino, based on the evidence of their unfitness from the files of *Doris L. Sassower v. Commission* and the *Sassower v. Mangano* federal action. Although it would appear that Doris Sassower's June 25, 1998 draft letter was never finalized and sent to Mr. Rothstein, a copy is annexed as Exhibit "X" as it reflects the conversation she had with Mr. Rothstein at that

stamp" confirmation procedures, Mr. Hellerstein was confirmed to the federal bench.

The foregoing recitation, albeit lengthy, only passingly summarizes the depravity of the City Bar's conduct in covering up the dysfunction, politicization, and corruption of the processes of judicial selection and discipline and in perpetuating New York's unconstitutional attorney disciplinary law, used to retaliate against whistle-blowing attorney, Doris L. Sassower. The particulars are even more nauseating – as review of CJA's document-supported correspondence with the City Bar will readily reveal.

To assist you in that review, I and CJA's director, Doris L. Sassower, would be pleased to come to the City Bar or to your law office and make an oral presentation, answer your questions, and supply you with any of the substantiating documentary proof not already in the possession of the City Bar's leadership.

Understandably, you may be loathe to undertake such review. Like your presidential predecessors, you have personal and professional ties with those at the City Bar whose misconduct is evidenced by CJA's correspondence, and with the powerful government and civic leaders responsible for, and complicitous in, the systemic judicial and governmental corruption at issue. Nevertheless, your duty under ethical codes of professional responsibility is to rise above your ties to these elites and actualize the stirring words of your inaugural address on behalf of the public and the City Bar's rank and file. That is the meaning of leadership.

Yours for a quality judiciary,

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

Enclosures

P. S. In the past, CJA provided duplicate copies of its correspondence – exhibits included – to large numbers of City Bar recipients. Since none, but one, ever saw fit to respond – and that one did so by putting his "head in the sand" (Exhibit "P") -- CJA will not now go to the effort and

time.

expense of sending copies of this letter to any of the City Bar's past presidents, officers, or committee chairs, who turned a "cold shoulder" to our pleas. We would, however, be glad if you shared this letter, with them, utilizing the City Bar's high-speed copiers and other substantial resources, to do so.

Nevertheless, because of Mr. Rothstein's pivotal involvement in denying all of CJA's requests – and the fact that he is in possession of a substantial portion of CJA's transmitted documentary material, including the entirety of the *Elena Ruth Sassower v. Commission* Article 78 file, a full copy of this letter, with exhibits, is being furnished to him.

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COMPENDIUM I
TO CJA's JUNE 20, 2000 LETTER
TO CITY BAR PRESIDENT EVAN DAVIS

CJA's Correspondence with the City Bar *Prior* to the May 14, 1997 Hearing of the *Ad Hoc* Committee on Judicial Conduct

Exhibit "G": CJA's requests for *amicus* support and legal assistance in the 1990 Election Law case, *Castracan v. Colavita*

"G-1": CJA's September 28, 1990 fax coversheet to City Bar Executive Director Fern Sussman, enclosing press release

"G-2": CJA's October 4, 1990 fax coversheet to the City Bar's *pro bono* coordinator, Ann Cirasulo, enclosing press release

"G-3": CJA's October 25, 1990 letter to Judge Michael Stallman, Chairman of the City Bar's Election Law Committee

"G-4": CJA's February 12, 1991 letter to Chairman Stallman

"G-5": CJA's October 24, 1991 letter to Governor Mario Cuomo, to which the City Bar was an indicated recipient

Exhibit "H-1": CJA's December 23, 1991 letter to City Bar incoming President John Feerick, enclosing, *inter alia*, a copy of CJA's October 24, 1991 letter (see above)

"H-2": Incoming President Feerick's January 28, 1992 letter to CJA

"H-3" CJA's February 12, 1992 letter to incoming President Feerick

"H-4": Incoming President Feerick's February 25, 1992 letter to CJA

"H-5": CJA's March 10, 1992 letter to Incoming President Feerick

Exhibit "I": CJA's 1992 correspondence with the City Bar PRIOR to the vote of its Judiciary Committee approving Andrew O'Rourke for the District Court of the Southern District of New York

"I-1": CJA's February 24, 1992 letter to President Conrad Harper, annexing CJA's prior correspondence with City Bar's Judiciary Committee

"I-2": President Harper's March 5, 1992 letter to CJA

"I-3": CJA's March 17, 1992 letter to President Harper, to which incoming President Feerick was an indicated recipient

Exhibit "J": CJA's 1992-3 correspondence with the City Bar pertaining to CJA's May 1, 1992 critique of Mr. O'Rourke's qualifications and the City Bar's deficient judicial screening procedures – as collected in CJA's "Correspondence Compendium III" and inventoried therein[1]

Exhibit "K": CJA's 1992 and 1994 requests for *amicus* help and legal assistance relating to the lawless and retaliatory "interim" suspension of Doris L. Sassower's law license:

"K-1": CJA's October 16, 1992 letter to City Bar Counsel Alan Rothstein, seeking *amicus support* before the New York Court of Appeals

"K-2": CJA's October 17, 1994 letter to President Barbara Robinson, seeking *amicus* support before the U.S. Supreme Court in the Article 78 proceeding, *Doris L. Sassower v. Hon. Guy Mangano, et al.* and transmitting CJA's prior correspondence with the City Bar's Committee on Professional Responsibility under a September 28, 1994 coverletter to John Borek, Esq.

"K-3": CJA's October 27, 1994 letter to President Robinson

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1 Compendium III was transmitted to Judiciary Chairman Daniel Kolb under CJA's

"K-4":	December 13, 1994 letter of Alan Rothstein, on behalf of President Robinson
Exhibit "L":	CJA's January 9, 1996 letter to Judiciary Chairman Daniel Kolb, transmitting to him Compendium III (Exhibit "J" herein)
Exhibit "M":	CJA's March 18, 1996 letter to President Robinson seeking *amicus* support and legal assistance in the Article 78 proceeding *Doris L. Sassower v. Commission on Judicial Conduct of the State of New York* and transmitting a copy of CJA's January 25, 1996 letter to the City Bar's Legal Referral Service
Exhibit "N":	President Robinson's March 26, 1996 letter
Exhibit "O":	CJA's April 12, 1996 letter to President Robinson
Exhibit "P":	April 17, 1996 letter of Steven Krane, Chairman of the City Bar's Committee on Professional and Judicial Ethics
Exhibit "Q":	CJA's correspondence with the City Bar concerning its May 10, 1996 public statement about the Commission on Judicial Conduct
"Q-1":	CJA's May 16, 1996 letter to Mr. Rothstein
"Q-2":	CJA's May 23, 1996 letter to the New York State Assembly Judiciary Committee, to which the City Bar is an indicated recipient and which was given, in hand, to Mr. Rothstein
"Q-3":	Mr. Rothstein's May 24, 1996 letter
Exhibit "R":	CJA's February 10, 1997 letter to Mr. Rothstein protesting the favorable endorsement of the Commission on Judicial Conduct in the City Bar's June 26, 1996 report of its Task Force on Judicial Selection and Merger

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January 9, 1996 letter (Exhibit "L").

Exhibit "S": CJA's March 7, 1997 letter to President Cardozo protesting the City Bar's superficial and dishonest February 7, 1997 report by its Council on Judicial Administration

Exhibit "T": CJA's correspondence with the City Bar's *ad hoc* Committee on Judicial Conduct and with President Cardozo pertaining to the May 14, 1997 hearing on the Commission on Judicial Conduct

"T-1": CJA's April 25, 1997 letter to Robert Jossen, Chairman of the *ad hoc* Committee on Judicial Conduct

"T-2": CJA's May 6, 1997 fax to President Cardozo, inviting him to testify at the May 14, 1997 hearing on the Commission on Judicial Conduct and transmitting to him CJA's May 5, 1997 written challenge (challenge is annexed as Exhibit "B-2")

"T-3": CJA's May 8, 1997 letter to Lawrence Zweifach, transmitting to him a copy of CJA's May 5, 1997 written challenge

"T-4": CJA's May 13, 1997 fax coversheet to Chairman Jossen, transmitting a copy of CJA's May 13, 1997 letter to Henry Berger, Chairman of the New York State Commission on Judicial Conduct

"T-5": CJA's May 13, 1997 fax coversheet to Lawrence Zweifach, transmitting a copy of CJA's May 13, 1997 letter to Mr. Berger

"T-6": CJA's May 13, 1997 fax coversheet to Chairman Jossen, transmitting a copy of a May 13, 1997 letter of Gerald Stern, Administrator of the Commission on Judicial Conduct to CJA, and CJA's May 13, 1997 response thereto

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COMPENDIUM II
TO CJA's JUNE 20, 2000 LETTER
TO CITY BAR PRESIDENT EVAN DAVIS

CJA's Correspondence with the City Bar *Subsequent* to the May 14, 1997 Hearing of the *Ad Hoc* Committee on Judicial Conduct[1]

Exhibit "U": CJA's June 12, 1997 letter to the indicated recipients of CJA's June 2, 1997 letter to Governor Pataki – the City Bar among them

Exhibit "V": CJA's requests for *amicus* support and legal assistance for the §1983 federal action, *Doris L. Sassower v. Hon. Guy Mangano, et al.* [*See also* Exhibit "Y"]

"V-1": CJA's September 4, 1997 fax coversheet to Mr. Rothstein

"V-2": CJA's September 15, 1997 letter to Mr. Rothstein

"V-3": CJA's November 10, 1997 letter to Mr. Rothstein

"V-4": December 23, 1997 letter from Mr. Rothstein

Exhibit "W": CJA's correspondence with the City Bar pertaining to the nomination/confirmation of Andrew O'Rourke to the Court of Claims and his OCA waiver

"W-1": CJA's December 17, 1997 fax coverletter to Mr. Rothstein

1 CJA's most recent correspondence, its May 18, 1999, May 19, 1999, and February 9, 2000 requests for *amicus support* and legal assistance in *Elena Ruth Sassower v. Commission* (NY Co. #99-108551), are annexed to CJA's June 20, 2000 letter to President Davis as Exhibits "D-1" – "D-3".

"W-2": CJA's December 19, 1997 memo to Daniel Kolb, Chairman of the City Bar's Judiciary Committee

"W-3": CJA's December 22, 1997 letter to Chairman Kolb

"W-4": December 23, 1997 letter to Chairman Kolb

"W-5": CJA's December 30, 1997 memo to Chairman Kolb

"W-6": CJA's January 5, 1998 fax coversheet to Chairman Kolb

"W-7": CJA's January 8, 1998 fax coversheet to Chairman Kolb

"W-8": CJA's January 8, 1998 fax coversheet to Mr. Rothstein

"W-9": CJA's January 9, 1998 fax coversheet to Chairman Kolb

"W-10": CJA's January 12, 1998 fax coversheet to Chairman Kolb

"W-11": CJA's January 14, 1998 fax coversheet to Chairman Kolb, with 2-page handout "WHY YOU MUST VOTE *AGAINST* SENATE CONFIRMATION OF ANDREW O'ROURKE TO A $113,000 COURT OF CLAIMS JUDGESHIP"

"W-12": CJA's January 26, 1998 fax coversheet to Chairman Kolb

"W-13": CJA's January 29, 1998 memo to Chairman Kolb

"W-14": CJA's January 30, 1998 fax coversheet to Chairman Kolb

"W-15": CJA's January 30, 1998 fax coversheet to Chairman Kolb

"W-16": CJA's February 2, 1998 fax coversheet to Chairman Kolb

"W-17": CJA's February 2, 1998 fax coversheet to Chairman Kolb

"W-18": CJA's February 5, 1998 memo to Chairman Kolb

"W-19": CJA's February 5, 1998 memo to Chairman Kolb

"W-20": CJA's February 6, 1998 memo to Chairman Kolb

"W-21":	CJA's February 10, 1998 memo to President Cardozo c/o Chairman Kolb
"W-22":	CJA's February 16, 1998 memo to Chairman Kolb
"W-23":	CJA's March 7, 1998 transmittal coverletter to Chairman Kolb
Exhibit "X":	Doris Sassower's June 25, 1998 letter to Mr. Rothstein, in draft, reflecting her phone conversation with him for retraction of the City Bar's approval of recertification for Appellate Division, Second Department Justice William Thompson and its approval of certification for Appellate Division, Second Department Justice John Copertino
Exhibit "Y":	CJA's August 12, 1998 letter to Mr. Rothstein, requesting *amicus* support and legal assistance in the §1983 federal action, *Doris L. Sassower v. Hon. Guy Mangano, et al.* and retraction of the City Bar's rating approving Alvin Hellerstein for the District Court, Southern District of New York
Exhibit "Z":	CJA's September 8, 1998 memorandum to the City Bar, c/o Mr. Rothstein, proposing a question for its September 9, 1998 debate between the four democratic contenders for State Attorney General, co-sponsored with the New York Law Journal
Exhibit "AA":	CJA's November 6, 1998 memorandum to, *inter alia*, City Bar President Michael Cooper, constituting an impeachment complaint against the Justices of the U.S. Supreme Court
Exhibit "BB":	CJA's November 18, 1998 letter to the City Bar's Executive Committee, c/o Mr. Rothstein, concerning its review of the candidates recommended for the Court of Appeals by the Commission on Judicial Nomination and, in particular, Appellate Division, Second Department Justice Albert Rosenblatt