

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

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By Fax: 518-487-5564 (4 pages)

November 23, 2009

Patricia Bucklin, Executive Director  
New York State Bar Association

ATT: Jessica Gitchel, Executive Assistant

Dear Ms. Gitchel:

Thank you for your assistance earlier today.

As discussed, here is my faxed September 16, 2009 letter to Kit McNary pertaining to the Commission on Judicial Nomination's July 20, 2009 press release. To date, and despite several subsequent phone calls and messages for Ms. McNary, I have received no response.

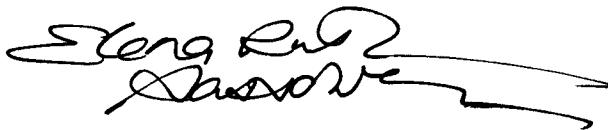
Nor have I received the State Bar's report and recommendations, approved by its Executive Committee on June 19, 2009 – to which President Getnick referred in both his September 17, 2009 letter to the Commission on Judicial Nomination and in the State Bar's comment to the Commission's proposed revised rules, which it enclosed. According to my notes for September 29, 2009, I specifically requested the report and recommendation from Ms. McNary at that time.

Finally, I have today obtained from the website of the New York County Lawyers' Association, a copy of its comment to the Commission on Judicial Nomination's proposed revised rules. In a section entitled "Background", its comment states:

"The Governor's Counsel, Peter Kiernan, met with representatives of the Commission and a variety of bar associations (including NYCLA), as well as other groups interested in the justice system, to seek suggestions about improving the selection process."

I assume that the State Bar was one of the "variety of bar associations" at that meeting – and that any response to my September 16, 2009 letter would reflect that fact.

Thank you.



Enclosure

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

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BY FAX: 518-487-5694 (3 pages)

September 16, 2009

New York State Bar Association  
ATT: Kit McNary

RE: The New York State Bar Association's "Valuable Input" to  
The New York State Commission on Judicial Nomination

Following up our phone conversation, enclosed, as requested, is the July 20, 2009 press release of the New York State Commission on Judicial Nomination pertaining to its proposed revised rules, acknowledging the "valuable input" of the New York State Bar Association "[o]ver the past year".

As the New York State Bar Association did not testify at the Senate Judiciary Committee's hearings on the Commission on Judicial Nomination, held on January 27, 2009, February 3, 2009, May 21, 2009, and June 5, 2009, please advise as to what form that "valuable input" consisted of.

Did the New York State Bar Association submit any written statement to the Senate Judiciary Committee? Did it send any letters with respect to the diversity issue raised by Governor Paterson and others at the end of last year? Did it send any letters to legislators, including, Assemblyman Rory Lancman, who introduced Bill A 3866-A, to remove the restriction on the number of nominees the Commission on Judicial Nomination can forward the governor?

Please advise.

Finally, please note for your records our new address, phone number, and fax number.

Thank you.

Yours for a quality judiciary,



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

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July 20, 2009

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**FOR IMMEDIATE RELEASE**

The Commission on Judicial Nomination has today released for public comment proposed revisions to the rules under which it operates and nominates candidates for appointment to the Court of Appeals, New York's highest court and the Nation's preeminent common law court.

Judith S. Kaye, the Commission Chair and former Chief Judge, stated, "I am pleased that the Commission is releasing proposed rule revisions that reflect the experience of the Commission gathered over the last 30 years as well as the insights of many others to assure that, for the future, the Commission will continue to serve the public interest well."

Over the last year, the Commission has considered valuable input from the Governor, Legislators, and the Attorney General, as well as various individuals and organizations, including the New York State Bar Association, the City Bar Association, the New York County Lawyers' Association, and The Fund for Modern Courts. These new rules are the result of the Commission's work to incorporate this collected wisdom in a manner that is faithful to its overarching constitutional and statutory mandate. The Constitution and statute require that the Commission vigorously seek out, carefully evaluate, and then nominate to the Governor well-qualified candidates from the extraordinary, diverse community of lawyers admitted to practice in New York State.

The Commission on Judicial Nomination was created in 1977 by an amendment to the New York State Constitution. The members of the Commission are appointed by the three branches of government, and the Commission is constitutionally charged as an independent body

to evaluate and nominate candidates for vacancies on the New York Court of Appeals. The Commission serves a critical role in our State's government: to ensure that the judges who sit on the Court of Appeals are chosen from among the State's most highly qualified and accomplished judges, practicing lawyers and legal scholars.

The creation of the Commission on Judicial Nomination was a landmark, collaborative achievement of New York's judicial leaders, political leaders, the leaders of the bar, and public interest groups that were and remain vitally committed to the nomination of outstanding judges for the Court of Appeals. The Commission has served New York's citizens well for over 30 years.

The revised rules are treated as proposed changes to State regulations. All changes to State regulations are filed with the Secretary of State and published in the State Register. The public is given 45 days to comment from the date of publication. The Commission must assess any comment received. If the Commission makes no substantive changes to the rules based on such public comment, the rules may be adopted by the Commission. If substantive changes are made, however, the proposed amended rules must be republished in the State Register and a 30-day comment period is commenced from the date when those revised rules are published.

The proposed substantive changes to the rules include: formalization of a protocol for broad outreach to and solicitation of candidates; addition of an explicit commitment to diversity; simplification of the application process; a requirement that the Commission's report to the Governor include more details about each nominee, as well as a description of the Commission's outreach to candidates; and a protocol for the Commission's website.

The revised rules are available on the Commission's website (<http://nysegov.com/cjn>). Comments on the revised rules may be sent to the Commission's counsel, Stephen P. Younger, at [spyounger@pbwt.com](mailto:spyounger@pbwt.com).