

CENTER for JUDICIAL ACCOUNTABILITY, INC.*

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Elena Ruth Sassower, Director

BY FAX: 914-422-1231 (6 pages)

BY HAND: 3/23/09

March 20, 2009

Edward P. Dunphy, Corporation Counsel
Department of Law
City of White Plains
255 Main Street
White Plains, New York 10601

RE: The Appointment Process by which White Plains Gets its City Court Judges:
On-the-Bench Corruption of White Plains City Court Judge Brian Hansbury,
Disqualifying Him from Reappointment upon Expiration of His Term

Dear Mr. Dunphy:

On Monday, March 16th, the Mayor's Office advised me that you are the contact person for the White Plains Judicial Screening Committee which reviews the qualifications of candidates seeking appointment as White Plains City Court Judges. Mayor Delfino himself confirmed that City Court Judge Brian Hansbury, whose term is expiring, has applied to be reappointed and that I should provide you with any relevant information and documents. Yet despite the notice I gave you on March 16th when I visited your office at about 3:00 p.m. and – in your absence – spoke with your legal assistant, Heather¹, about casefile evidence establishing Judge Hansbury's on-the-bench corruption for review by the Judicial Screening Committee, neither you nor anyone else from the Committee has telephoned me for further details or to request the substantiating casefiles.

On Tuesday, March 17th, after waiting all day for a call from you, I telephoned your office at about 4:40 p.m. Heather answered and stated that you had instructed her that if I called she should tell me that if I wanted the date on which Judge Hansbury's term expires, I would have to make a FOIL request for it. Likewise, she stated that my requests for information as to the

* 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. Its administrative/corporate office is in White Plains, New York.

¹ Heather declined to give me her last name.

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membership of the White Plains Judicial Screening Committee and its procedures would also require a FOIL request. Heather further told me that it would not be sufficient for me to fax these FOIL requests, but that I would have to either deliver them by hand or send them by certified mail.

Apparently, you are more interested in discouraging meaningful citizen input in the selection process by which White Plains gets its City Court judges than in fostering it. I told Heather this and that thanks to two fraudulent judicial decisions by Judge Hansbury, obliterating any semblance of the rule of law and judicial process, I had been wrongfully evicted from my home of 21 years and no longer live in White Plains. I stated that the earliest I could hand-deliver my FOIL requests would be Monday, March 23rd – and that unless time is not of the essence for the Judicial Screening Committee, I would expect you or someone else from the Committee to promptly telephone me and request that I bring a copy of the relevant casefiles to White Plains on March 23rd so that verification of Judge Hansbury's official misconduct could commence.

As I informed Heather, I presently have two perfected appeals of Judge Hansbury's two fraudulent judicial decisions pending in the Appellate Term – copies of which I can also provide. Review of my two appellant's briefs and the underlying City Court record – beginning with my November 9, 2007 order to show cause for Judge Hansbury's disqualification for demonstrated actual bias and interest based on his October 11, 2007 decision & order, which he adjudicated by his January 29, 2008 decision & order² – will not

² My order to show cause presented a 30-page analysis of Judge Hansbury's October 11, 2007 decision & order in support of its ¶4 assertion,

“As hereinafter demonstrated, absent rank incompetence, no fair and impartial tribunal could have rendered the October 11, 2007 decision & order [], as it flagrantly violates controlling legal and adjudicative standards and falsifies the factual record to deprive me of relief to which I am entitled, *as a matter of law*. That relief, which would have obviated a trial – and which must properly do so upon this motion – is the granting of my [September 5, 2007] cross-motion to dismiss the Petition, for summary judgment on my Counterclaims, and for costs and sanctions against, and disciplinary and criminal referrals of, petitioner...and his attorney... for fraud and deceit. The decision denies all such dispositive relief without identifying ANY of the facts, law, or legal argument presented by my cross-motion, and without citing ANY applicable law.” (underlining in the original).

Judge Hansbury's response – by his January 29, 2008 decision & order – was to recuse himself, without explanation, but only AFTER “denying ALL my motion's substantive relief, again in a conclusory and demonstrably fraudulent fashion, citing NO law, identifying NONE of the facts, law, or legal argument I had presented, and concealing or obscuring most of my requested relief, including disclosure and vacatur.” (quoting from my first June 13, 2008 letter to White Plains City Court Chief Clerk Patricia Lupi, also annexed to my June 24, 2008 letter to Judge Friia and my three subsequent orders to show cause to disqualify Judge Friia for

only require that Judge Hansbury's application for reappointment be unequivocally rejected, but that you and the Committee refer him for disciplinary and criminal investigation and prosecution. Such will create a further vacancy on the White Plains City Court, as investigation and prosecution will establish the collusive, if not directing, role of White Plains Senior Judge Jo Ann Friia in Judge Hansbury's brazen abuse of office and betrayal of the public trust, which she then furthered by her own fraudulent judicial decisions³ – no doubt motivated by her desire to retaliate against my mother, Doris L. Sassower, for having appeared before the Mayor and Common Council on December 4, 2006, opposing her reappointment as a White Plains City Court judge.⁴ As with Judge Hansbury, Judge Friia wilfully ignored and

demonstrated actual bias and interest, all of which she refused to sign).

³ The standard for judicial removal was set forth by my memorandum of law supporting my November 9, 2007 order to show cause for disqualification and was before BOTH Judges Hansbury and Friia. As therein set forth (at pp. 3-4):

"A single decision or judicial action, correct or not, which is established to have been based on improper motives and not upon a desire to do justice or to properly perform the duties of his office, will justify a removal...", italics added by Appellate Division, First Department in *Matter of Capshaw*, 258 A.D. 470, 485 (1st Dept 1940), quoting from *Matter of Droege*, 129 A.D. 866 (1st Dept. 1909).

The memorandum additionally quoted *Matter of Bolte*, 97 A.D. 551 (1st Dept. 1904):

"A judicial officer may not be removed for merely making an erroneous decision or ruling, but he may be removed for *wilfully* making a wrong decision or an erroneous ruling, or for a reckless exercise of his judicial functions without regard to the rights of litigants, or for manifesting friendship or favoritism toward one party or his attorney to the prejudice of another..." (at 568, emphasis in original).

"...Favoritism in the performance of judicial duties constitutes corruption as disastrous in its consequence as if the judicial officer received and was moved by a bribe." (at 574).

The casefiles furnish indisputable *prima facie* evidence of improperly-motivated decision-making by both Judges Hansbury and Friia – baseless factually, legally, and knowingly so, to deprive me of relief to which I am entitled, *as a matter of law*.

⁴ A copy of my mother's December 4, 2006 written statement to the Mayor and Common Council, which she presented in conjunction with her oral presentation, was annexed as Exhibit 6-a to my July 8, 2008 order to show cause for Judge Friia's disqualification for demonstrated actual bias and interest. In pertinent part, the statement read:

"She is a menace to those who are directly and indirectly affected by her decisions, as well as the public at large, especially municipal taxpayers who pay the freight for Judge Friia's incontrovertible malfeasance."

disregarded my request that she disclose facts bearing upon her fairness and impartiality. Presumably, Judge Friia has furnished a reference for Judge Hansbury in his application for reappointment.

I also told Heather that the casefile evidence of the coordinated lawlessness of these two White Plains City Court judges is posted on the Center for Judicial Accountability's website: www.judgewatch.org. To facilitate your finding it, I have created, in conjunction with this letter, a hyperlink entitled "Judicial Appointment Process to White Plains City Court – *Now Unfolding!*", accessible *via* the sidebar panel "Judicial Selection-State-NY".

As for my FOIL requests, please be advised that nearly a year and a half-ago, on November 13, 2007, while I was before Judge Hansbury with my order to show cause to his disqualification, I filed a FOIL request with the White Plains City Clerk to obtain:

"[the] certificate of appointment of Brian Hansbury to White Plains City Court & all publicly-accessible records pertaining to his appointment, including his qualifications & fitness to be a judge".

In response, I did not receive any documents pertaining to Judge Hansbury's "qualifications & fitness to be a judge". Rather, I only got a copy of the City Clerk's April 1, 2007 letter to the Office of the Administrative Judge of the Ninth Judicial District, advising that Judge Hansbury had been "appointed as City Court Judge Full Time effective April 1, 2007 to a term which will expire on May 13, 2009".⁵ Consequently, I already know the exact date on which Judge Hansbury's term expires. However, pursuant to FOIL, I herein request:

(1) all publicly-accessible records pertaining to Judge Hansbury's "qualifications & fitness to be a judge" with respect to his initial appointment as a part-time White Plains City Court judge, his subsequent appointment as a full-time White Plains City Court judge, and his current bid to be reappointed as a full-time judge. This would include any application form that Judge Hansbury was required to complete to secure such positions, reports of the Judicial

Such has certainly been borne out, incontrovertibly, by what Judge Friia did, in tandem with Judge Hansbury did, in cases involving me, to which my mother was not only an interested party, but an indispensable party, who had never been served with process or named as a party in one case, and never renoticed in another case to which she was a party and which Judge Hansbury, without notice to my mother, consolidated by his October 11, 2007 decision, to which his January 29, 2008 decision adhered.

⁵ This FOIL request – and response – were provided to Judge Hansbury as they were annexed as Exhibit KK to my November 26, 2007 affidavit in further support of the motion underlying my November 9, 2007 order to show cause.

Screening Committee, and written communications to and official proceedings of the White Plains Common Council;

(2) a copy, in blank, of the application form(s), if any, that Judge Hansbury was required to complete to secure his initial appointment as a part-time White Plains City Court judge; his subsequent appointment as a full-time White Plains City Court judge, and for reappointment as a full-time judge;

(3) a copy of the rules, procedures, or protocol used by the White Plains Judicial Screening Committee and the White Plains Common Council to fill judicial vacancies in White Plains City Court;

(4) a copy of the membership roster of the White Plains Judicial Screening Committee and any publicly-accessible documents pertaining to the members' appointments and qualifications;

(5) a copy of any public notices, including advertisements, announcing the White Plains City Court vacancy arising from the expiration of Judge Hansbury's term;

(6) a copy of any public notices, including advertisements, soliciting information and comment on Judge Hansbury's on-the-job performance as a White Plains City Court judge;

(7) any publicly-available documents reflecting the number of candidates, excluding Judge Hansbury, who have applied to fill the judicial vacancy arising from the expiration of his term; their names, and qualifications.

Pursuant to FOIL (Public Officers Law §89.3), your response is required within five business days of receipt of this written request.

Thank you.

Yours for a quality judiciary,



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

cc: see next page

cc: Mayor Joseph M. Delfino
White Plains Common Council:
Council President Benjamin Boykin
Council Member Rita Z. Malmud
Council Member Glen Hockley
Council Member Milagros Lecuona
Council Member Thomas M. Roach
Council Member Dennis J. Power
White Plains City Court Judge Brian Hansbury
White Plains City Court Senior Judge Jo Ann Fria