



NINTH JUDICIAL COMMITTEE

Box 69, Gedney Station
White Plains, New York 10605-0069
Tel: (914) 997-8105 / Fax: (914) 684-6554

August 25, 1993

Thea Hoeth, Executive Director
New York State Ethics Commission
39 Columbia Street
Albany, New York 12207-2717

Dear Ms. Hoeth:

We have heard nothing from the Ethics Commission in the half year since we personally met with you and your staff at your offices in Albany and presented the Commission with a full copy of the files in Castracan v. Colavita and Sady v. Murphy.

Such files indisputably establish serious derelictions and abuse of office by the New York State Board of Elections. Indeed, to facilitate the Commission's review, we had not only meticulously organized and indexed the files, but had provided you with a 3-page guide to the files entitled "Itemization of Documents Essential to Determining the Nonfeasance and Malfeasance of the New York State Board of Elections".

Although we were promised that the Commission would be acting on the information we supplied, we have not as yet been favored with any communication from you as to the status of our documented complaints. Nor have our files been returned to us, as we had requested.

As you may see from the enclosed letter, we will be giving testimony before the Senate Judiciary Committee on September 7, 1993. It would be most helpful for us to have a progress report from the Commission at this time, as well as our files--which, we understood, your office would be duplicating.

Yours for a quality judiciary,

ELENA RUTH SASSOWER

Coordinator, Ninth Judicial Committee

Enclosure

cc: Chairman Koppell, Assembly Judiciary Committee
Chairman Vitaliano, Assembly Committee on Election Law



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By Fax: 518-426-6906

August 24, 1993

Ned Cole, Counsel
Senate Judiciary Committee
Albany, New York

RE: Confirmation Hearings of Justice Howard Levine

Dear Mr. Cole:

This confirms our understanding that time will be reserved for the testimony of Doris L. Sassower to address the Senate Judiciary Committee at the confirmation hearings of Justice Howard Levine for appointment to the Court of Appeals to be held on September 7, 1993.

It is our view, based on his participation in the Appellate Division, Third Department's May 2, 1991 Decision in Castracan v. Colavita, that Justice Levine showed a profound insensitivity to legal and ethical rules relative to recusal and the transcending public interest issues involved in the case and disregarded controlling law.

As discussed, fully indexed and organized copies of the court record of Castracan v. Colavita--including the papers before the Appellate Division, Third Department--were previously transmitted by us to (1) Chairman Koppell of the Assembly Judiciary Committee; (2) Chairman Vitaliano of the Election Law Committee; and (3) Thea Hoeth, Director of the New York State Ethics Commission.

We have already placed a call to Chairman Koppell's office with a request that his copy of the two-volume record be supplied to you.

We would particularly draw your attention to File Folder "F", containing the reargument papers of the Third Department's May 2, 1991 Decision, including Petitioners' Notice of Motion (document "F-1"), Petitioners' supporting Memorandum of Law, (document "F-2"), and the Third Department's October 17, 1991 Decision

August 24, 1993

(document "F-14"), which denied the Petitioners' motion for reargument, as well as their alternative request for leave to appeal to the Court of Appeals.

We would also draw your attention to File Folder "A", containing three letters of Doris Sassower to Governor Cuomo relative to the Castracan v. Colavita case and its companion case, Sady v. Murphy. You will note that Doris Sassower's October 24, 1991 letter (document "A-1") specifically called upon the Governor to requisition the court records of those cases and appoint a special prosecutor to investigate the clear evidence of the politicization of our judiciary established by those and other cases.

Until you receive the record from Chairman Koppell, we enclose a copy of our Memorandum to the Court of Appeals (document "G-8") summarizing the pertinent issues as presented following the Third Department's May 2, 1991 Decision in Castracan. Said Memorandum was part of Petitioners' submission before the Third Department (Ex. "B" to document "F-9") in support of their request that the Appellate Division at least grant leave to appeal to the Court of Appeals. As shown by the Third Department's October 17, 1991 Decision (document "F-14"), Justice Levine concurred in the denial of said request.

For your further information, a copy of Doris Sassower's listing in Martindale-Hubbell's Law Directory is enclosed. She is a Fellow of the American Bar Foundation and was the first woman ever appointed to serve on the Judicial Selection Committee of the New York State Bar Association--on which she served from 1972-1980, evaluating every candidate for the Appellate Division, Court of Appeals, and Court of Claims during that period.

Yours for a quality judiciary,



ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

Enclosures: 11 pages

cc: Chairman Koppell, Assembly Judiciary Committee
Chairman Vitaliano, Election Law Committee
Thea Hoeth, Director, New York State Ethics Commission