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December 19, 2002

The New York Times

To the Editor:

NOTE: This letter is somewhat longer than my previous letter which you published on November 16, 1996, as the lead letter, under the title "*On Choosing Judges, Pataki Creates Problems*". However, it may be even more important.

* * *

RE: "State Senate Votes to Confirm One of its Own to a Judgeship"
(news article, Dec. 18).

Where is respect for democracy and fundamental rules of procedure when the NYS Senate Judiciary Committee holds a "hearing" on the confirmation on the Governor's judicial nomination of its own Chairman, Senator James Lack -- *without* notice to the public, *without* permitting opposition testimony, and *without* asking a single question as to his legal qualifications?

Yet under Senator Lack's chairmanship, this kind of violative conduct has become the norm for confirmation of the Governor's judicial nominees. Of the hundreds passed on for Senate confirmation, Chairman Lack has not permitted opposition testimony to a single one. This is not because, prior to the confirmation "hearings", Chairman Lack has interviewed those members of the public who have contacted the Committee with requests to testify or because,

after reviewing their substantiating documents, he has deemed what they had to say unworthy. Rather, all requests have been summarily rejected or simply ignored.

It is Chairman Lack's betrayal of the public trust in confirming judicial nominees that I attempted to testify about at the Committee "hearing" on his own judicial confirmation. Although you identified that a sergeant at arms threatened me with removal, such threat came from Acting Chairman Volker. This, when I rose to inquire whether a stenographer was present to record the proceedings. Oh, did I not mention that during Chairman Lack's tenure Committee "hearings" to confirm lower court nominees have also not been stenographically recorded?



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

- Enclosures: (1) "State Senate Votes to Confirm One of Its Own for a Judgeship", article, NYT, 12/18/02
(2) "On Choosing Judges, Pataki Creates Problems", letter, NYT, 11/16/96

R E G I O N

State Senate Votes to Confirm One of Its Own for a Judgeship

By JAMES C. MCKINLEY Jr.

ALBANY, Dec. 17 — Senator James J. Lack, a Republican whose reputation was tarnished when he flew into a rage at another driver last year, was confirmed today by the State Senate as a Court of Claims judge, just a few minutes after a short committee hearing.

Mr. Lack was nominated for the judgeship by his fellow Republican, Gov. George E. Pataki, just a week ago. His bid to run for a State Supreme Court judgeship last year ran into trouble after a woman said he had flown into a rage, followed her home, screamed at her, chased her into her garage, flashed his Senate

badge and continued yelling.

Mr. Lack, who is 58, later said he had become outraged at the woman, Lore von Hoffen, because she crossed a double yellow line in a school zone. She filed a complaint with the police but later dropped charges. Senator Lack delivered a written apology to her, but the political damage done to his career doomed his effort to be elected a judge.

The road-rage incident did not come up at Mr. Lack's confirmation hearing today. Several senators delivered speeches praising him for being a kind and compassionate colleague as well as for having a fine knowledge of court administration.

The committee hearing was a strange event, because Mr. Lack, of Suffolk County, has been committee chairman since 1994. He recused himself from the vote, in which his colleagues confirmed him unanimously without asking a single question about his legal qualifications.

"It's a little bit of an out-of-body experience watching your own committee meet and you are the subject matter," Senator Lack, who was first elected in 1979, said.

The hearing was called without notice and no one was allowed to testify in opposition. Elena Ruth Sassower, who runs the Center for Judicial Responsibility, attempted to testify, and said she would have told the committee that Senator Lack had a tendency to rush confirmation hearings and sometimes ignored complaints about nominees. A sergeant-at-arms threatened to remove her from the chamber.

"They didn't allow any testimony," she said. "It's only themselves, chatting with the nominee, trading compliments. It's an affront to proper procedure."

The acting chairman, Senator Dale M. Volker, said Ms. Sassower was not allowed to speak because she had disrupted other hearings. He said the committee had taken into account the road-rage incident but dismissed it as a minor setback in an otherwise exemplary career. "Jim Lack is an extremely competent guy," he said.

Governor Pataki has also expressed his confidence in Mr. Lack's temperament. The governor's aides said his judicial screening committee had vetted Mr. Lack and had found him highly qualified.

Lottery Numbers

Dec. 17, 2002

Midday New York Numbers — 245

Midday New York Win 4 — 2129

New York Numbers — 519

New York Win 4 — 3863

New York Take 5 — 9, 18, 21, 25, 32

New York Pick 10 — 2, 3, 4, 18, 22, 24, 26, 32, 41, 48, 49, 52, 58, 67, 70, 71, 73, 75, 77, 79

New Jersey Pick 3 — 261

New Jersey Pick 4 — 1353

New Jersey Cash 5 — 6, 10, 22, 23, 24

Mega Millions — 3, 7, 21, 29, 49; mega ball, 46

Connecticut Mid-Day 3 — 617

Connecticut Mid-Day 4 — 2194

Connecticut Daily — 171

Connecticut Play 4 — 0237

Connecticut Cash 5 — 7, 8, 11, 18, 21

Connecticut Classic Lotto — 3, 4, 5, 9, 13, 33

Dec. 16, 2002

New York Take 5 — 6, 15, 16, 24, 36

New York Pick 10 — 2, 5, 6, 11, 15, 18, 24, 32, 34, 35, 37, 40, 42, 50, 57, 59, 63, 68, 78, 79

Connecticut Daily — 405

Connecticut Play 4 — 4413

Connecticut Cash 5 — 1, 12, 28, 33, 35

DO NOT FORGET THE NEEDIEST!

The New York Times

EDITORIALS/LETTERS SATURDAY, NOVEMBER 16, 1996

On Choosing Judges, Pataki Creates Problems

To the Editor:

Our citizens' organization shares your position that Gov. George E. Pataki should take the lead in protecting the public from processes of judicial selection that do not foster a quality and independent judiciary ("No Way to Choose Judges," editorial, Nov. 11). However, the Governor is the problem — not the solution.

A Sept. 14 news article described how Governor Pataki had politicized "merit selection" to New York's highest court by appointing his own counsel, Michael Finnegan, to the Commission on Judicial Nomination, the supposedly independent body that is to furnish him the names of "well qualified" candidates for that court.

More egregious is how Governor Pataki has handled judicial appointment to the state's lower courts. Over a year and a half ago, the Governor promulgated an executive order to establish screening commit-

tees to evaluate candidates for appointive judgeships. Not one of these committees has been established. Instead, the Governor — now almost halfway through his term — purports to use a temporary judicial screening committee. Virtually no information about that committee is publicly available.

Indeed, the Governor's temporary committee has no telephone number, and all inquiries about it must be directed to Mr. Finnegan, the Governor's counsel. Mr. Finnegan refuses to divulge any information about the temporary committee's membership, its procedures or even the qualifications of the judicial candidates Governor Pataki appoints, based on its recommendation to him that they are "highly qualified."

Six months ago we asked to meet with Governor Pataki to present him with petitions, signed by 1,500 New Yorkers, for an investigation and public hearings on "the political manipulation of judgeships in

the State of New York." Governor Pataki's response? We're still waiting.

ELENA RUTH SASSOWER
Coordinator, Center for Judicial
Accountability Inc.
White Plains, Nov. 13, 1996