

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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BY FAX: 212-608-1240 (3 pages)

April 12, 2000

Mr. David Rohde/The New York Times

RE: The 25<sup>th</sup> Anniversary of the Commission on Judicial Conduct:  
An Investigative Expose on the Occasion of LAW DAY: May 1<sup>st</sup>

Dear David:

Please call me, ASAP, to set up an interview for the above, long-discussed story or to arrange for a meeting with your editors.

Enclosed is a copy of yesterday's Newsday editorial, "*Open Up the Process for Disciplining Judges in NY*". Its example of the Commission's behind-closed-doors cover-up – that the Commission sent judges advisory letters of caution, rather than pursuing charges against them, is "small change" against the larger, more prevalent reality of the Commission's operations. This reality is READILY-VERIFIABLE –and the sources of verification are indicated in the brackets that follow:

- (1) that the Commission summarily dismisses 85% of the judicial misconduct complaints it receives – that is, *without* investigation [See statistic from Commission's 1999 Annual Report; statistic from 1998 Annual Report was 88%];
- (2) that included among these summarily-dismissed complaints are *facially-meritorious* complaints which the law *requires* the Commission to investigate [See Judiciary Law §44.1 AND duplicate copies of filed complaints from CJA's archive]
- (3) that when the Commission's unlawful dismissals, *without* investigation, of *facially-meritorious* complaints are challenged in court, it subverts the judicial process by fraudulent litigation tactics of its attorney, the State Attorney General, so as to defeat the challenge [See litigation files of the three most recent Article 78 proceedings against the Commission – *all in Supreme Court/NY County*];
- (4) that state judges cover up the Commission's corruption, including the Attorney General's defense fraud on its behalf, by "throwing" the Article 78 challenges with fraudulent judicial decisions [See CJA's analyses of the decisions, including its

analysis of the most recent decision, appearing at pages 15-29 of its February 23<sup>rd</sup> letter to the Governor].

PLEASE NOTE the concluding lines of yesterday's Newsday editorial:

“the state Legislature talks endlessly about opening up the process, but it never does anything about it. It's time it did.”

The **ONLY** way to get the self-dealing Albany Legislature to stop talking and to start acting in the public interest is by an expose of the Commission. **LAW DAY – May 1<sup>st</sup>** -- is an appropriate time for the Times to feature “bombshell” revelations about the Commission's operations, and how it has survived the three most recent legal challenges in New York Supreme Court, and about CJA's herculean efforts to vindicate the public's rights. This includes CJA's requests to the Governor for appointment of a Special Prosecutor or investigative commission and to Chief Judge Kaye for the appointment of a Special Inspector General.

In view of the fact that Monday's Times (4/10/00) ran your extensive story about the 3<sup>rd</sup> anniversary of the end of the rules exempting various categories of professionals from serving on juries -- about which you had **NO** particular revelations to report, there should be no further delay in a story about the Commission – *celebrating its 25<sup>th</sup> anniversary this year* – and about which, to date, there has been *no* investigative expose.

Such a story, which would cause a political upheaval, reaching to the Governor, would rightfully win the Times – and you -- a Pulitzer – making up for this year's failure to obtain such prestigious award, reflected in yesterday's “complete list” (front-page & B8).

Yours for a quality judiciary,



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

Enclosure

To: IERS  
From: RPS

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TOTAL P. 01

# Newsday

RAYMOND DANEN  
Publisher, President and C.E.O.

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"Where there is no vision, the people perish."

APRIL 11, 2000

# Open Up the Process for Disciplining Judges in NY

In "Animal House," the college dean declares slovenly Delta House to be on "double secret probation." This fuzziness is funny in the movie, but in New York State, which in reality disciplines its judges via a system every bit as amorphous, it's not a bit amusing.

But it is comfortable, quite comfortable, for judges and their always amorphous political contacts. The notion of a double secret procedure is actually a part of a very real system set up in a 1974 statute. Investigations are done behind closed doors and the conclusions become public only if the Commission on Judicial Conduct decides to admonish, censure, remove or retire a judge.

That leaves a lot of rug under which embar-

rassments may be quietly swept. Earlier this year, for example, the commission completed its formal inquiry into the Suffolk County Conservative Party's practice of soliciting expensive ads from judicial candidates. The ads, in a pre-election newspaper, cost as much as \$5,000, and over the course of five years the party collected \$75,000 from candidates. Comparable ads in Suffolk Life, with five times the circulation, cost \$1,800.

Were the candidates for judgeships buying the party's endorsement? In letters sent to the judges who advertised, the commission said they "should avoid such payments because they may reasonably be construed as a quid pro quo for the nomination." But that's as

far as it went. Nobody was accused of (a) selling or (b) buying nominations. Commenting on the commission's action, Suffolk Commissioner of Jurors Michael O'Donchoe, himself a Conservative on the outs with the party leadership, said a major revenue source for the Conservative Party had dried up. "You can no longer go down to [Suffolk Conservative Party chairman Pasquale] Curcio and buy an endorsement. This puts an end to that."

Maybe it does. Maybe it doesn't. This form of double secret probation should not be a part of the system of judicial discipline. The state Legislature talks endlessly about opening up the process, but it never does anything about it. It's time it did.