

CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

BY FAX: 212-556-3815 (3 pages) & E-MAIL: editorial@nytimes.com

URGENT ATTENTION REQUIRED

DATE: June 11, 2003

TO: Editorial Board, The New York Times

FROM: Elena Ruth Sassower, Coordinator

RE: The Scandal of Federal Judicial Selection in the Second Circuit and the Betrayal of the People of New York by New York Senators Schumer & Clinton -- as *Readily-Verifiable* from the "Paper Trail" of Primary-Source Materials Posted on the Home-Page of www.judgewatch.org.

This follows up my phone conversation with staff assistant, Maureen Muenster, shortly after 3:00 p.m. today, requesting to speak with Gail Collins or to those Editorial Board members who write The New York Times' editorials on federal judicial selection.

The Editorial Board must be alerted to what is happening with federal judicial selection right here in the Second Circuit – as to which The New York Times has given NO coverage – notwithstanding this would be of greatest concern to its New York readers – New York being in the Second Circuit. Indeed, my today's phone call to the Editorial Board was occasioned by my phone call twenty minutes earlier to Neil Lewis, who routinely covers federal judicial nominations and the Senate Judiciary Committee. In that conversation, Mr. Lewis unceremoniously told me that he was "not interested" in writing about the nomination of New York Court of Appeals Judge Richard C. Wesley to the Second Circuit Court of Appeals, whose scandalous dimensions are chronicled on the homepage of www.judgewatch.org, the website of our New York-based, non-partisan, non-profit citizens' organization – as to which I had given him notice two days earlier and spoken to him briefly yesterday¹.

¹ In that brief conversation, I stated that notwithstanding The Times editorializes about the need to scrutinize judicial nominees, its news coverage on federal judicial nominations is for courts *everywhere in the country, but New York and the Second Circuit*. As illustrative, I believe I mentioned that The Times had run a news item about the nomination of Michael Chertoff to the Third Circuit Court of Appeals, accompanied by a picture. Wholly ignored was the nomination, made the very same day, of Richard Wesley to the Second Circuit Court of Appeals – where,

Because Mr. Lewis refused to identify why he was “not interested”, refused to identify what documents from the www.judgewatch homepage he had read, and refused to give me the name of his editor, our conversation lasted no more than about 30 seconds. Indeed, as I attempted to ask him whether, with three Op-Ed page articles on federal judicial selection in today’s Times, he was actually “saying” that New Yorkers weren’t entitled to know what was happening in their own Second Circuit involving a powerful federal appellate judgeship and their own New York Senators (Schumer up for re-election and Clinton depicted in today’s Times’ editorial as having fashioned a self-serving narrative), Mr. Lewis responded, “I’m saying, good-bye”, and hung up the phone while I was in mid-sentence.

Unknown to me when I phoned Mr. Lewis at about 2:45 p.m. today, as likewise when I spoke with Ms. Muenster twenty minutes later, was that listed on today’s Senate schedule for 11:00 a.m. was 15 minutes of “debate” on Judge Wesley’s confirmation, followed by a vote “at approximately 11:15 a.m.”. Presumably, Mr. Lewis knew this when he told me he was “not interested” -- and knew that Judge Wesley had been confirmed by a 96-0 Senate vote. Presumably, too, he knew that tomorrow’s Times would have to run something about the confirmation – if for no other reason than that it created a vacancy on New York’s Court of Appeals.

In trying, on my own, to locate Mr. Lewis’ editors, I was told by Tanya at the national desk in New York that they are all in the D.C. Bureau. Upon calling the D.C. Bureau (2:52 p.m.; 202-862-0324), I was told by Mr. Renick, who answered the phone, that Mr. Lewis’ editors were all in a meeting – and that I should leave a voice mail message. He then transferred me to an automated line, whose recording begins by assuring that “responsible editors” will respond “very promptly”. Three quarters of an hour later, as I was composing an e-mail message to you, as Ms. Muenster had requested, I somehow decided to check the Senate website. It was then that I discovered the Senate schedule with the “debate” and vote on Judge Wesley’s confirmation listed for five hours earlier. This prompted my immediate – and even more urgent -- call to the D.C. Bureau to speak to an editor. It was then 3:45 p.m. For some reason, the call was routed to David Johnston, a reporter, not an editor, whose “beat” is terrorism. Very kindly, he listened to what I had to say for over ten minutes, even assuring me that he would himself take a look at the story of Judge Wesley’s nomination told by the documents on the www.judgewatch.org homepage – as to which I beseeched him to contact an editor on my behalf. He then routed me back to the D.C. Bureau. According to Jennifer Misthal, who took my call, the editors were still all in a meeting. This included Jan Battaile, who Ms. Misthal believed to be Mr. Lewis’ editor, having supervisory authority over him. I left an urgent, detailed message with Ms. Misthal for Ms. Battaile, as well as for all other editors, mentioning my discovery of the Senate calendar and the probability of Judge Wesley’s

additionally, he was a judge on New York’s highest state.

confirmation – surely to be reported in tomorrow's Times as no big story, when, as Mr. Lewis knew from our website, it was a MONUMENTAL story of the corruption of federal judicial selection.

At 4:10 p.m., I returned to writing the e-mail message I had commenced half an hour earlier. It took about half an hour to complete – at which time, for reasons unknown, I was unable to transmit the e-mail. It is now midnight. – and I have received NO RETURN CALL FROM ANY EDITOR AT THE WASHINGTON BUREAU.

Please advise, without delay, as to whether, based on your review of the “paper trail” of documents posted on the www.judgewatch.org homepage, The Times' editorial page will recognize its journalistic obligation to inform New York readers and the public at large about the corruption of federal judicial selection, exposed by Judge Wesley's nomination and confirmation – and will take steps to ensure that the “news side” of The Times does likewise.

Thank you.

cc: Washington Bureau/By Fax: 202-862-0427