

# Doris L. Sassower

283 Soundview Avenue  
White Plains, New York 10606-3821

Tel: (914) 997-1677  
Fax: (914) 684-6554

Elena Ruth Sassower, Paralegal Assistant

## BY EXPRESS MAIL

EM02560493US

October 26, 1998

William K. Suter, Clerk  
U.S. Supreme Court  
1 First Street, N.E.  
Washington, D.C. 20543

RE: Petitioner's October 14, 1998 letter/application/judicial misconduct complaint  
Sassower v. Mangano, et al., Supreme Court Docket #98-106

Dear Mr. Suter:

As stated in my enclosed letter of today's date to Mr. Lorson, on Friday, October 23rd, Mr. Lorson advised that you do not intend to respond to petitioner's October 14, 1998 letter, addressed to you. Such advice, in a phone call initiated by me, came after four days of futile attempts to ascertain directly from your office -- and from other personnel under your supervision -- when petitioner could expect your response to that letter and the status of her Rule 44 request, incorporated therein, for an extension of time to file a petition for rehearing<sup>1</sup>. Rather than answer these two simple, straightforward questions, your staff, including your secretary, Denise McNerney, engaged in shockingly unprofessional behavior. As you know, petitioner's October 14th letter recounts (at p. 2 and fn.3) Ms. McNerney's prior behavior, as well as that of a person who answered Ms. McNerney's line on October 9th and identified herself as "Amy". Mr. Lorson has now advised that the name "Amy" is unknown to him as belonging to any staff person.

It must be noted that the clear inference of your failure to respond to petitioner's October 14th letter is that you cannot defend, with legal authority, the false records being created by the Clerk's office, in not docketing recusal applications, such as petitioner's, distributed to the Justices -- nor the fact that the Clerk's office is thereby concealing the Justices' misconduct in failing to act on such

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<sup>1</sup> In an envelope postmarked October 21st, we have now received, by mail, a letter dated October 20th, and signed by Mr. Lorson, advising that the Rule 44 extension request was denied by Justice Ginsburg on October 20th. Coincidentally or not, October 20th is the date of my first phone messages inquiring, to no avail, as to the status of the extension request -- whose outcome we were unaware until my October 23rd phone conversation with Mr. Lorson.

distributed recusal applications. Likewise, the clear inference is that you cannot defend Ms. McNerney's inexplicable October 6, 1998 letter returning petitioner's September 23, 1998 recusal/disclosure letter-application, pursuant to §455 -- an application Mr. Lorson represented as having been distributed to the Justices. Ms. McNerney's improper return of that application for a stated reason belied by the very date of the application and the face of the docket sheet she enclosed, could not have occurred had the application been docketed -- as formally requested by petitioner's September 29, 1998 letter. Obviously, one of the functions served by docketing is to secure the record and ensure that there is no question as to the precise documents before the Court, whether distributed to the Justices or lodged with the Clerk.

Additionally, the clear inference of your failure to identify the Court's procedures for judicial misconduct complaints against the Justices is that the Court did not act on the 1993 recommendation of the National Commission on Judicial Discipline and Removal to adopt procedures for their filing and disposition and that the current procedures are a one-way referral of judicial misconduct complaints to the complained-against Justice, who is free to ignore it.

Should you belatedly recognize your professional duty to respond to the informational inquiries in petitioner's October 14th letter, please include responses to the following additional information requests:

- (1) the number of recusal applications, distributed to the Justices, but *not* docketed by the Clerk's office because the Justices did *not* act on them;
- (2) the number of judicial misconduct complaints against the Justices and whether the complained-against Justices disposed of them by written order; and
- (3) the number of individuals who the Court has barred from *in forma pauperis* status in their petitions for writs of certiorari and extraordinary writs, their names, and/or file/citation number of Court's orders.

Since your conduct and that of the Clerk's office reflect directly on the Court, what follows is a recitation of the particulars of that conduct relative to my inquiries as to when petitioner could expect your response to her October 14, 1998 letter and its incorporated Rule 44 extension request.

**My first phone messages for you were on Tuesday, October 20th, at approximately 3:10 p.m..** At that time, I left a message for you with the Court's operator, after she tried to ring through to your line but discovered that no one was in. Shortly thereafter, I left a message, also for you, with Aaron

Smith, an intern at the Clerk's office. Since Mr. Smith recommended that I speak with Deputy Clerk Chris Vasil, I also left a message on his voice mail, including a request that, in view of time exigencies, it would be appreciated if response to petitioner's October 14th letter were faxed to us at 914-428-4994, as well as mailed.

**On Wednesday, October 21st, at approximately 2:40 p.m.,** with no call back from anyone from the Clerk's office, I again phoned Mr. Vasil (202-479-3027). Once more, I got his voice mail and reiterated my prior message about petitioner's October 14th letter, including our request that response thereto be faxed. Still no call or fax from Mr. Vasil or anyone on your behalf.

**On Thursday, October 22nd, at approximately 9:25 a.m.,** I again called Mr. Vasil. This time, he answered his phone. After identifying myself, I inquired whether he had gotten my two prior messages. He responded by asking what my question was, to which I repeated my question as to whether he had gotten my two prior messages. Mr. Vasil answered "yes", then put me on hold. The phone was thereupon disconnected. Although I immediately phoned back, Mr. Vasil did not pick up. Instead, I got his voice mail. I left a message stating that I certainly hoped he had not purposely disconnected the conversation and requesting that he call back so that we could discuss the status of the October 14th letter. However, Mr. Vasil did not call back, then or thereafter.

I thereupon tried to speak directly to you. I telephoned the Court operator (202-479-3000), who connected me with a woman stating to be your secretary. I believe this woman was Denise McNerney. She advised that you would not be available that day or the next. She claimed to be unfamiliar with petitioner's October 14th letter addressed to you, sent with nine original copies for distribution to the Justices. As a convenience to her, I offered to fax her a copy of the letter. However, she refused to give me permission to use the fax number and insisted that I mail another copy to her. Ms. McNerney intimated that, despite my advice to her that the Post Office had confirmed delivery to the Court on October 15th of the express mail package containing the letter, it might not have been received. She then put me to the burden of calling the mailroom.

Fortunately, and in sharp contrast to personnel in the Clerk's office, personnel in the mailroom and filing room are professional and conscientious. Mr. Ronnie Gibson, a mailroom clerk (202-479-3271), checked the mailroom records and confirmed that the express mail package had been received, before noon on October 15th. He then suggested that I speak with Calvin Todd, supervisor of the filing room (202-479-3048), to further track the package. Mr. Todd confirmed from the filing room records that the package had been received and delivered to the Clerk's office on the 15th. Out of concern for the whereabouts of the package, Mr. Todd then offered to himself call your secretary and to phone me back. Within 15 minutes or so, he did call back to report that your secretary had told him that the letter had been distributed to the Justices. In response to my inquiries, Mr. Todd identified the secretary with whom he had spoken as Denise, but did not know if her last name was McNerney.

Mr. Todd gave me Denise's direct number (202-479-3014). At approximately 10:20 a.m., I dialed her number, but was told that she had stepped away. The person to whom I spoke identified herself as "Kelly" and took a message for Denise to return my call. She stated that Denise would be back shortly. Four hours later, with no return call from Denise, I called again. Once more, "Kelly" picked up the line and told me that Denise was not in, but that she had been given my earlier message. I asked "Kelly" if you had any other secretary. I was told that you have a second secretary, whose name is Sandy Nelson, but that Ms. Nelson was out sick and had been out sick all that week. I then gave "Kelly" a second message for Denise to call me back. However, Denise did not return my call.

**On Friday, October 23rd, at approximately 11 a.m.**, I dialed your number and asked to speak with Ms. Nelson. I was told that Ms. Nelson was out sick. In response to my query as to whether the woman answering my call was "Kelly", she told me that there is no "Kelly" and that she was Denise. I asked if she was Denise McNerney, but she said no and told me that there was more than one Denise in the Clerk's office. However, she refused to give me her last name. Denise then asked whether I hadn't spoken to Mr. Todd the day before. In the midst of my reply, she put me on hold, where I remained and remained, until finally, I hung up. Denise did not thereafter return my call

Some hours later, I telephoned Mr. Lorson (202-479-3024). The substance of our phone conversation is reflected by the accompanying letter.

Yours for a quality judiciary,

ELENA RUTH SASSOWER  
Paralegal Assistant to Petitioner

P.S. As previously discussed with Mr. Lorson, in the event the Court does not grant petitioner's soon-to-be filed petition for rehearing, petitioner requests that the Court return to her the excess copies of her cert petition, supplemental brief, and petition for rehearing that are not sent to the various law school/library collections and which would otherwise be discarded. These materials were extremely costly for Petitioner to reproduce and bind for the Court, and it is her intention to put them to good use in advancing a proper dialogue on judicial independence and accountability issues.

Read and approved by:

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DORIS L. SASSOWER, Petitioner *Pro Se*  
*Sassower v. Mangano, et al.*

William K. Suter, Clerk

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October 26, 1998

Enclosure

cc: New York State Attorney General,  
Counsel for respondents and co-respondent  
Justices of the United States Supreme Court

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Clerk's office  
US Supreme Court  
1 First Street NE  
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ATT: Messrs. Suter + Corson

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delivered  
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10:20 a.m.