

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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*Elena Ruth Sassower, Coordinator*

BY FAX: 212-416-8139 (6 pages)

July 3, 2002

Attorney General Eliot Spitzer  
120 Broadway  
New York, New York 10271

RE: Upholding Fundamental Ethical Standards of Professional Responsibility and Discharging your Duty as "The People's Lawyer":

June 17, 2002 motion in the Court of Appeals (#719/02) in the public interest lawsuit *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico, against Commission on Judicial Conduct of the State of New York* (S.Ct/NY Co. #108551/99; A.D. 1<sup>st</sup> Dept #5638/01)

Dear Mr. Spitzer:

ONCE MORE, this is to put you on notice of your mandatory supervisory responsibilities under the clear and unambiguous provisions of 22 NYCRR §§1200.5 [DR 1-104 of New York's Disciplinary Rules of the Code of Professional Responsibility], as well as under NYCRR §130-1.1, to take "reasonable remedial action" to remedy the flagrant litigation misconduct of Assistant Solicitor General Carol Fischer – this time, by her non-probative, knowingly false, deceitful, and frivolous June 28, 2002 "affirmation", filed with the Court of Appeals in opposition to my June 17, 2002 motion.

That June 17, 2002 motion is the DIRECT result of your ongoing refusal to discharge your mandatory supervisory responsibilities over the misbehaving Ms. Fischer, the necessity of which I most recently brought to your *personal* attention by my May 21, 2002 letter to you, both faxed and hand-delivered to your office on that date<sup>1</sup>.

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<sup>1</sup> My May 21, 2002 letter to you is now before the Court of Appeals as Exhibit "A" to my June 7, 2002 reply affidavit on my motion to disqualify the Court's judges and for disclosure.

EX "A-1"

July 3, 2002

In the event you are unaware that my June 17, 2002 motion seeks ALL the relief that my May 21, 2002 letter to you indicated would be sought, a copy of my notice of motion is enclosed. This includes maximum monetary sanctions and costs against you *personally* and disciplinary and criminal referral against you.

Please be further advised that as to the unlawfulness of your **even representing the Commission** – challenged by my June 17, 2002 motion as violative of Executive Law §63.1 and conflict of interest rules -- Ms. Fischer's six-paragraph "affirmation" conceals such plainly threshold issue and falsely purports it is not properly before the Court (at ¶¶1, 6).

I specifically draw your attention to ¶¶15-24 of my motion relating to the unlawfulness of your representing the Commission. ¶16 points out that the record of my lawsuit, spanning more than three years, is devoid of EVEN a statement that your representation is consistent with "the interests of the state" -- the predicate for your advocacy pursuant to Executive Law §63.1. Ms. Fischer's "affirmation" also offers NO such statement, let alone substantiating proof. Nor does her "affirmation" deny or dispute *any* of the multiple conflicts of interest which the *uncontroverted* record shows you and your upper echelon staff to be afflicted. As to these conflicts, my ¶¶20-24 identified that unless responsive affidavits were submitted by you, your staff, and the Commission, "the Court must, *as a matter of law*, grant disqualification based thereon." Ms. Fischer supplied no such affidavits.

Please be advised that UNLESS Ms. Fischer's non-probative, legally-insufficient, and fraudulent opposing "affirmation" is IMMEDIATELY withdrawn, I will have no choice but to burden the Court with reply papers. These will request maximum *additional* sanctions and costs against you *personally* and against other culpable supervisory personnel, including Solicitor General Caitlin Halligan, Deputy Solicitor General Belohlavek, and against the Commission, pursuant to 22 NYCRR §130-1.1.

As in the past, and as explicit in my May 21, 2002 letter (pp. 3-4), I am ready to assist you in recognizing your professional and ethical responsibilities to the Court, to me, and to the People of this State, by a meeting at which we could review the "state of the record" of this important public interest case. Ms. Fischer's "affirmation" makes NO statement as to the "state of the record", notwithstanding the papers incorporated by my motion emphasized the imperative of such sworn statement<sup>2</sup>.

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<sup>2</sup> See ¶¶10-13 of my June 7, 2002 reply affidavit on my disqualification/disclosure motion;

Please inform me of your intentions no later than 5:00 p.m., Friday, July 5, 2002, so that I may know how to proceed.

Yours for a quality judiciary,

ELENA RUTH SASSOWER  
Petitioner-Appellant *Pro Se*

Enclosures

cc: Office of the Solicitor General: [By Fax: 212-416-6350]  
ATT: Solicitor General Caitlin J. Halligan  
Deputy Solicitor General Michael S. Belohlavek  
Assistant Solicitor General Carol Fischer  
New York State Commission on Judicial Conduct [By Fax: 212-949-8864]  
ATT: Gerald Stern, Administrator & Counsel  
Chairman Henry T. Berger & Commission members

TRANSMISSION VERIFICATION REPORT

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¶¶37-40 of my June 7, 2002 affidavit on the Court's *sua sponte* jurisdictional inquiry.