

**CENTER for JUDICIAL ACCOUNTABILITY, INC.**

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

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Web site: [www.judgewatch.org](http://www.judgewatch.org)

*Elena Ruth Sassower, Coordinator*

BY CERTIFIED MAIL/RRR: Z-294-568-946

December 2, 1999

Governor George Pataki  
Executive Chamber, The Capitol  
Albany, New York 12224

ATT: James McGuire, Counsel

- RE:
- (1) Request, pursuant to Executive Orders #11, ¶2(c) and #10, ¶2(d) and F.O.I.L, for the judicial screening committee reports of the qualifications of Court of Claims Judge William Wetzel and ALL the Governor's other judicial appointees (pp. 1-2);
  - (2) Information as to why Judge Wetzel is being maintained as a "hold over", as well as the number and identities of other Court of Claims judges who are also being maintained as "hold overs" (p. 3)

Dear Mr. McGuire:

Enclosed is a copy of my letter of today's date to Acting Supreme Court Justice William Wetzel, the judge assigned to my Article 78 proceeding, *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico, v. Commission on Judicial Conduct of the State of New York* (NY Co. #99-108551). Page 11 of that letter refers to this coverletter (last ¶).

As reflected by pages 7-8 of my letter, I am seeking Justice Wetzel's disqualification, *inter alia*, by reason of his long-standing personal and professional relationship with the Governor, who is implicated in criminal conduct by the proceeding. I believe that the Governor's nomination of Justice Wetzel to the Court of Claims on June 12, 1995 is the product of that long-standing relationship.

I specifically direct your attention to the first paragraph on page 11 of my letter, identifying my intention to make a formal recusal motion if Justice Wetzel does not

*EX "J"*

recuse himself based on the facts my letter sets forth. In anticipation of such possibility, I request a copy of the written report of Justice Wetzel's qualifications, which would have been prepared by your "temporary" judicial screening committee.

Pursuant to the Governor's Executive Order #11, ¶2(c), this was to be "available for public inspection" upon announcement of Justice Wetzel's appointment. Additionally, I request information pertaining to the procedures utilized by the Governor's "temporary" judicial screening committee.

As you know, by letter dated June 2, 1997, CJA requested the screening committee reports of ALL the Governor's lower court appointees, pursuant to Executive Orders #11, ¶2(c) and #10, ¶2(d), as well as other information substantiating the legitimacy and actuality of the Governor's judicial screening process. That letter was included in subsequent correspondence to you and, most recently, was attached to CJA's March 30, 1999 letter to Rosario Vizzie, the Governor's Records Access Officer. A copy of the March 30, 1999 letter, reinforcing our rights to such repeatedly-requested documents under F.O.I.L., is annexed hereto for your convenience (Exhibit "A").

The only response we received was to our March 30, 1999 letter. This consisted of two letters from Mr. Vizzie on stationary bearing your name as the Governor's Counsel and indicating that Mr. Vizzie is Assistant Counsel, in addition to Records Access Officer. Mr. Vizzie's first letter, dated April 7, 1999, promised a response by May 6, 1999 (Exhibit "B-1"). His second letter, dated May 6, 1999, promised a response by May 20, 1999 (Exhibit "B-2"). That was more than six months ago – and we have received nothing further from Mr. Vizzie or anyone else at the Governor's office. Meantime, you have received from us copies of our ethics complaints to the New York State Ethics Commission and our criminal complaint to the U.S. Attorney for the Eastern District of New York, sent to you certified mail/return receipt<sup>1</sup>, in which we have complained of the Governor's political manipulation of judicial appointments and his failure to produce the judicial screening committee reports and information, which we have repeatedly requested.

By this letter, CJA reiterates the public's rights under Executive Orders #11, ¶2(c) and #10, ¶2(d) and F.O.I.L to ALL the information requested by our June 2, 1997 and March 30, 1999 letters. Plainly, had the Governor respected CJA's repeatedly-asserted access rights, I would not now have to make special request for the

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<sup>1</sup> CJA's March 26, 1999 complaint to NYS Ethics Commission (certified mail/rrr: Z-509-073-631); CJA's September 15, 1999 complaint to NYS Ethics Commission (certified mail/rrr: Z-509-073-642); CJA's September 7, 1999 complaint to U.S. Attorney for the Eastern District (certified mail/rrr: Z-509-073-649).

December 2, 1999

committee report of Justice Wetzel's qualifications and for information about the Governor's "temporary" judicial screening committee. This, I ask you to supply forthwith.

Finally, CJA believes the public has a right to know why the Governor has maintained Justice Wetzel as a "hold over" these past five months, rather than either reappointing him to the Court of Claims or appointing a successor. Please advise as to the reason, as well as the number and identities of other Court of Claims judges who the Governor is maintaining on the bench as "hold overs".

Yours for a quality judiciary,



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

Enclosure

cc: Acting Supreme Court Justice William Wetzel  
New York State Attorney General Eliot Spitzer  
Proposed Intervenors in instant Article 78 Proceeding  
against NYS Commission on Judicial Conduct  
U.S. Attorney for the Eastern District of New York  
Clay Tiffany, cable T.V. host, "Dirge for the Charlatans"  
Steve Dunleavy, columnist, New York Post  
Committee on Open Government

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Elena Ruth Sassower, Coordinator

**BY CERTIFIED MAIL/RRR: Z-509-073-632**

March 30, 1999

Rosario Vizzie, Records Access Officer for the Governor  
Executive Chamber  
Room 228  
Albany, New York 12224

RE: The Governor's Disclosure Obligations under the Freedom on Information Law

Dear Mr. Vizzie:

The Center for Judicial Accountability, Inc. (CJA) is a non-partisan, non-partisan citizens' organization, focusing on issues of judicial selection and discipline. For your further information, our informational brochure is enclosed.

Annexed hereto as Exhibit "A" is a copy of CJA's March 12, 1999 letter to the New York State Commission on Judicial Nomination, to which you are an indicated recipient. As reflected therein (at p. 3), we invoke our rights under the Freedom of Information Law [F.O.I.L.] to the "financial statement" of now Court of Appeals Judge Albert Rosenblatt, which the Governor was required to "make available to the public", pursuant to Judiciary Law §63.4. The Governor has not provided us with that "financial statement", despite a February 5, 1999 letter request, pursuant thereto, sent to him, certified mail/return receipt (Exhibit "B").

This is not the first time that the Governor has ignored our requests for information to which the public is legally entitled. By letter dated June 2, 1997, faxed and sent certified/return receipt (Exhibit "C"), we sought the "written reports" of the qualifications of the Governor's judicial appointees to the lower state courts, prepared by his judicial screening committees. We pointed out that the Governor's *own* Executive Orders #10 and #11 *expressly* entitle the public to inspect those "written reports". Nevertheless, the Governor ignored that request -- much as he ignored our subsequent requests, pursuant to thereto, for access to those "written reports",

Consequently, much as we invoke F.O.I.L. to reinforce our access rights under Judiciary Law to the Judge Rosenblatt's "financial statement, we invoke F.O.I.L. to reinforce our rights under Executive Orders #10 and #11 to inspect the "written reports" of ALL the Governor's judicial appointees to the

EX "A" 284

March 30, 1999

lower state courts, from the inception of his administration in 1995 to the present.

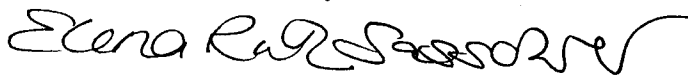
Additionally, we invoke F.O.I.L. to obtain all publicly-accessible records responsive to the other *basic* information requested by our June 2, 1997 letter and subsequent correspondence -- access to which is not barred by Executive Orders #10 and #11. This includes: (1) written rules and procedures, if any, of the temporary judiciary screening committee; (2) a copy, in blank, of the questionnaire(s) that the temporary judicial screening committee required judicial candidates to complete, if any; (3) the "written notification", pursuant to ¶4 of Executive Order #11, from the chairpersons of the permanent judicial screening committees" to the chairman of the temporary judicial screening committee that the permanent committees were "fully operational"; (4) a copy of the "Uniform Rules of the Governor's Judicial Screening Committees" -- including the Appendices thereto consisting of copies, in blank, of the questionnaire(s) judicial candidates are required to complete; (5) records showing whether and when the county screening committees became "operational", including the names of the persons designated to each of the 62 county judicial screening committees by the chief executive officer of each county, as specified by ¶5 of Executive Order #10; (6) records showing the cost to the taxpayers of the Governor's judicial screening committees -- especially for "staff and resources" and "paid staff" required for their operations and investigative activity, as provided for by ¶7 of Executive Order #10.

On a somewhat different subject, but also pursuant to F.O.I.L., we request a copy of the Governor's letter appointing Paul Shechtman to the Ethics Commission, in or about April 1997, and his letter appointing Mr. Shechtman as Chairman of his State Judicial Screening Committee, in or about December 1998.

If there are any fees for copying the records requested, please inform us before filling the request. As you know, F.O.I.L. requires your response within five business days of receipt of a request. If for any reason any portion of CJA's request is denied, please inform us of the reasons for the denial in writing and provide the name and address of the person or body to whom an appeal should be directed.

Thank you very much.

Yours for a quality judiciary,



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

cc: Committee on Open Government  
ATT: Robert J. Freeman, Executive Director

Z 509 073 632

US Postal Service  
**Receipt for Certified Mail**

No Insurance Coverage Provided.

Do not use for International Mail (See reverse)

Sent To	Rosario V1334
Street & Number	Records Access Office
	Room 228 - 2nd Floor
Post Office, State, & ZIP Code	Albany, NY 12224
Postage	\$ 1.43
Certified Fee	1.40
Special Delivery Fee	
Restricted Delivery Fee	
Return Receipt Showing to Whom & Date Delivered	125
Return Receipt Showing to Whom, Date, & Addressee's Address	408
TOTAL Postage & Fees	2.83
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PS Form 3800, April 1995

Is your RETURN ADDRESS completed on the reverse side?

<b>SENDER:</b> ■ Complete items 1 and/or 2 for additional services. ■ Complete items 3, 4a, and 4b. ■ Print your name and address on the reverse of this form so that we can return this card to you. ■ Attach this form to the front of the mailpiece, or on the back if space does not permit. ■ Write "Return Receipt Requested" on the mailpiece below the article number. ■ The Return Receipt will show to whom the article was delivered and the date delivered.		I also wish to receive the following services (for an extra fee): 1. <input type="checkbox"/> Addressee's Address 2. <input type="checkbox"/> Restricted Delivery Consult postmaster for fee.
3. Article Addressed to: Rosario V1334 Records Access Office Executive Chamber Room 228 - 2nd Floor Albany, NY 12224		4a. Article Number Z-509-073-632
4b. Service Type <input type="checkbox"/> Registered <input checked="" type="checkbox"/> Certified <input type="checkbox"/> Express Mail <input type="checkbox"/> Insured <input type="checkbox"/> Return Receipt for Merchandise <input type="checkbox"/> COD		7. Date of Delivery 3-4-99
5. Received By: (Print Name) X [Signature]		8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1994

102595-98-B-0229 Domestic Return Receipt

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STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY 12224

GEORGE E. PATAKI  
GOVERNOR

JAMES M. McGUIRE  
COUNSEL TO THE GOVERNOR

April 7, 1999

Center for Judicial Accountability, Inc.  
ATTN: Elena Ruth Sassower, Coordinator  
P.O. Box 69, Gedney Station  
White Plains, New York 10605-0069

Dear Ms. Sassower:

This letter is to acknowledge that on or about April 1, 1999, this office received your Freedom of Information Law (FOIL) request for :

1. "the 'financial statement' of now Court of Appeals Judge Albert Rosenblatt;"
2. "the 'written reports' of ALL the Governor's judicial appointees to the lower state courts, from the inception of his administration in 1995 to the present;"
3. "all publicly-accessible records responsive to the other *basic* information requested by our June 2, 1997 letter and subsequent correspondence -- access to which is not barred by Executive Orders #10 and #11. This includes: (1) written rules and procedures, if any, of the temporary judiciary screening committee; (2) a copy, in blank, of the questionnaire(s) that the temporary judicial screening committee required judicial candidates to complete, if any; (3) the 'written notification', pursuant to ¶4 of Executive Order #11, from the chairpersons of the permanent judicial screening committees' to the chairman of the temporary judicial screening committee that the permanent committees were 'fully operational'; (4) a copy of the 'Uniform Rules of the Governor's Judicial Screening Committees' -- including the Appendices thereto consisting of copies, in blank, of the questionnaire(s) judicial candidates are required to complete; (5) records showing whether and when the county screening committees became 'operational', including the names of the persons designated to each of the 62 county judicial screening committees by the chief executive officer of each county, as specified by ¶5 of Executive Order #10;

April 7, 1999  
Sassower  
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- (6) records showing the cost to the taxpayers of the Governor's judicial screening committees -- especially for 'staff and resources' and 'paid staff' required for their operations and investigative activity, as provided for by ¶7 of Executive Order #10."
4. "the Governor's letter appointing Paul Shechtman to the Ethics Commission, in or about April 1997;" and
5. "his letter appointing Mr. Shechtman as Chairman of his State Judicial Screening Committee, in or about December 1998."

Please be advised that as with any FOIL Request, this office is only obligated to grant access to those documents or records which are kept by the Executive Chamber, subject to certain exemptions. Further, this office is not obligated to grant access to those documents or records that are not kept within the Executive Chamber or those documents or records that do not exist. In addition, FOIL does not require a state agency to create documents in response to a FOIL Request.

I will review our records to determine what materials we have that would be responsive to your request. Pursuant to the provision of §89 (3) of the Public Officers Law, we should be able to provide you with a further response no later than May 6, 1999.

Sincerely,

*Rosario Vizzi* (BA)

Rosario Vizzie  
Assistant Counsel to the Governor  
Records Access Officer



rec'd 5/10/99



STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY 12224

GEORGE E. PATAKI  
GOVERNOR

JAMES M. McGUIRE  
COUNSEL TO THE GOVERNOR

May 6, 1999

Center for Judicial Accountability, Inc.  
ATTN: Elena Ruth Sassower, Coordinator  
P.O. Box 69, Gedney Station  
White Plains, New York 10605-0069

Dear Ms. Sassower:

This letter is to respond to your April 1, 1999, Freedom of Information Law (FOIL) request for various documents and records regarding, among other things, the Judiciary Screening Committee. Because of the scope of your request, I have not yet completed the process of gathering and reviewing all documents and records that may be responsive. The process of locating and examining these documents and records is labor intensive, since a number of the documents may be found in computer files of Executive Chamber employees.

As I stated in my previous letter to you, please be advised that as with any FOIL Request, this office is only obligated to grant access to those documents or records which are kept by the Executive Chamber, subject to certain exemptions. Further, this office is not obligated to grant access to those documents or records that are not kept within the Executive Chamber or those documents or records that do not exist. In addition, FOIL does not require a state agency to create documents in response to a FOIL Request.

Ex "B-2"

Elena Ruth Sassower


FOIL

May 6, 1999

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I will continue to review our records to determine what materials we have that would be responsive to your request. Pursuant to the provision of §89 (3) of the Public Officers Law, this office should be able to provide you with a further response no later than May 20, 1999.

Sincerely,



Rosario Vizzie

Assistant Counsel to the Governor

Records Access Officer