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August 19, 2005

Professor Jonathan Turley
J.B. and Maurice Shapiro Professor of Public Interest Law
George Washington University Law School
2000 H Street, N.W.
Washington, D.C. 20052

RE: Giving substance to your quoted comments in the article, "*The Scourge of Her Conviction*" (Village Voice, Feb. 2-8, 2005), in the appeal of the "disruption of Congress" case, *Elena Ruth Sassower v. United States of America*

Dear Professor Turley,

Following up our August 10th phone conversation, I thank you for your expressed interest in writing about, and otherwise publicizing, the "disruption of Congress" case, on appeal before the D.C. Court of Appeals – and your willingness to help locate law professors and others who might be willing to file *amicus curiae* briefs for my first three appellate issues. *Amicus* briefs will not be due for more than two and a half months – Monday, November 14, 2005.

As discussed, Professor Horwitz, Director of Clinical Programs at Roger Williams University School of Law and author of "*Coercion, Pop-Psychology and Judicial Moralizing: Some Proposals for Curbing Judicial Abuse of Probation Conditions*", 57 Washington & Lee Law Review 75 (2000), has taken on my fourth appellate issue relating to the unconstitutionality of Judge Holeman's probation conditions and the unlawfulness of his superseding six-month jail sentence. Enclosed is a copy of Professor Horwitz' draft *amicus curiae* brief[1], which you asked to see. We would like as many law professors and organizations as possible to sign on to the brief – and would greatly appreciate your suggestions in that regard, as well as any

[1] This is Professor Horwitz' first draft, which he has authorized me to send you.

referrals you might directly make.

With respect to my first three appellate issues –

> (1) my entitlement to Judge Holeman's disqualification for pervasive actual bias meeting the "impossibility of fair judgment" standard of the U.S. Supreme Court in *Liteky v. United States*, 510 U.S. 540 (1994);
>
> (2) my entitlement to removal/transfer of the case to the U.S. District Court for the District of Columbia, pursuant to the venue provision of the "disruption of Congress" statute -- where, additionally the record establishes a pervasive pattern of egregious violations of my fundamental due process rights and "protectionism" of the government; and
>
> (3) the unconstitutionality of the "disruption of Congress" statute, *as written and as applied* –

these are particularized by my appellant's brief. Although the brief is posted on the "DISRUPTION OF CONGESS" page of CJA's website, www.judgewatch, it is doubtless more convenient for you to have a "hard copy". It is, therefore, enclosed – as are the brief's accompanying supplemental fact statement and three-volume appendix.

As discussed, my first appellate issue consumes virtually the entirety of the brief – 96 of 119 pages. When I filed the brief on June 28, 2005, I simultaneously filed a procedural motion to exceed page limits and, alternatively, for the Court – which apparently has never had an appeal raising the issue of pervasive actual bias meeting the "impossibility of fair judgment" standard of *Liteky* – to articulate the specificity required and to give me sufficient pages to meet my burden, additionally bearing in mind that my showing of pervasive actual bias also substantiates my second issue as to my entitlement to venue in federal court.[2] This was denied by a three-judge panel in a July 14, 2005 order, which also rejected my supplemental fact statement. I thereupon filed a motion for reconsideration and other relief, including *en banc* review and disqualification of/disclosure by the three-judge panel. A three-judge panel denied this by an August 5, 2005 order, giving me 90 days to revise my brief within the generic 50-page limit. My separate petition for *en banc* review of the consolidated appeals – which highlighted (¶¶2-8) that all four of my appellate issues are not only of "exceptional importance", but appear to be "of first impression" for the D.C. Court of Appeals -- remains

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[2] *See* ¶¶5-6, 9 of my procedural motion.

pending. All these documents are enclosed.

I urgently need legal assistance[3] in redrafting the first appellate issue of my brief pertaining to Judge Holeman's pervasive actual bias meeting the standard of *Liteky*, as I must somehow consolidate its 96 pages and my 161-page supplemental fact statement to no more than 30 pages. If you would give me the names of professors who might be willing to file an *amicus* brief with respect to this first issue, I could approach them for such assistance. I would also be glad to have the assistance of law students at George Washington or elsewhere, particularly those who are skilled writers. The due date for my appeal is Thursday, November 3, 2005.

Finally, in the event you never saw my published Letter to the Editor, "*Activists, judges*" (Feb. 16-22, 2005), responding to Kristen Lombardi's Village Voice article, "*The Scourge of Her Conviction*" (Feb. 2-8, 2005), I enclose a copy. Needless to say, my transmitted appellant's brief, supplemental fact statement, and appendix will enable you to verify the truth of my published Letter that the Village Voice article is a defamatory cover-up. Likewise, the coverage that preceded it in Legal Times, New York Law Journal, The Washington Post, Roll Call, The Philadelphia Inquirer, and The New York Times[4]. To varying degrees, ALL conceal the politically-explosive nature of the case and its far-reaching legal and constitutional issues, substituting instead a mix of one-sided or materially incomplete, misleading, even false presentations, interwoven with baseless and maligning characterizations of me.

Again, I thank you for your recognition of the important, precedential nature of the "disruption of Congress" case. Based on our phone conversation, I have listed you on the "DISRUPTION OF CONGRESS" page of our website as a "Media Resource" in a special category reserved for "*Defenders of the Public Interest*". With your help – and that of Professor Horwitz, who I have also honored by such designation – there will be many additional "*Defenders of the Public Interest*" to laud and celebrate.

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[3] *See* ¶¶2(b), 17-19 of my reconsideration motion.

[4] The coverage in these publications is itemized at footnote 3 of my July 29, 2005 letter to New York Times Executive Editor Bill Keller, posted on the "DISRUPTION OF CONGRESS" page under the heading, "*Bringing accountability to The New York Times -- & other media that have suppressed, obscured, and falsified the 'disruption of Congress' case*". My analysis of Times coverage, by its November 7, 2004 column, "*When the Judge Sledgehammered The Gadfly*", accompanies my July 29, 2005 letter to Mr. Keller.

Thank you.

Yours for a quality judiciary,

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

Enclosures: (1) draft *amicus curiae* brief of Professor Andrew Horwitz
(2) my appellant's brief, supplemental fact statement, & 3-volume appendix
(3) my procedural motion; my reconsideration motion; my petition for rehearing *en banc*; & the three-judge panel's August 5, 2005 order
(4) my Letter to the Editor, "*Activists, judges*" Village Voice (Feb.16-22, 2005)

cc: Professor Andrew Horwitz
Ralph Nader & Other Addressees of CJA's May 27, June 1, and June 2, 2005 memos[5]
Kristen Lombardi, Village Voice
The Public

[5] These are all posted on the "DISRUPTION OF CONGRESS" page under the heading, "*Missing in Action*". For your convenience, however – and so that your authoritative voice may be heard with respect to the complete betrayal of the public interest herein by Mr. Nader and established/establishment organizations -- both the supposed "non-partisan, good-government" ones and those on the left & right which purport to concern themselves with federal judicial selection, the rule of law, &/or enhancing citizen participation in our democracy and accountable government -- I am enclosing "hard copies" of my May 27 and June 1, 2005 memos to them – to which you were an indicated recipient and which were e-mailed to you, including as part of my June 6, 2005 letter to you. Additionally, I am enclosing my June 2, 2005 memo.

letters

Activists, judges

I am the subject of "The Scourge of Her Conviction" by Kristen Lombardi [February 2–8], purporting to be about my arrest, conviction, and six-month incarceration on a "disruption of Congress" charge. Such a story shamelessly covers up the corruption of federal judicial selection involving a Who's Who of the high and mighty in New York and Washington. It hardly befits a newspaper that holds itself out as maintaining a tradition of "no-holds-barred reporting and criticism."

Among the high and mighty who get off "scot-free" or virtually so: senators Schumer and Clinton. Your story makes it appear that they—and likewise the U.S. Senate Judiciary Committee—could freely ignore documentary evidence of corruption by New York Court of Appeals judge Richard Wesley, which I presented to them weeks before the committee's May 22, 2003, hearing to confirm his nomination to the Second Circuit Court of Appeals. Indeed, you nowhere identify that senators Schumer and Clinton were duty bound to examine that evidence and had the power to prevent the nomination from proceeding to a hearing. Nor do you mention that the nomination was the product of a political "agreement," announced by Senator Schumer in a press release—let alone explore Governor Pataki's role in that "agreement." Omitted is that Judge Wesley was a pal of the governor from their days in the New York legislature and the governor's first appointee to the New York Court of Appeals. Also omitted is the Center for Judicial Accountability's evidence-based assertion that the nomination was a "payback" to Judge Wesley for having protected Governor Pataki in a politically explosive public interest lawsuit directly implicating him in the corruption of the State Commission on Judicial Conduct and "merit selection" to the New York Court of Appeals.

As to the documentary evidence of Judge Wesley's corruption in that lawsuit, you make no qualitative assessment—and garble what Judge Wesley did and what the lawsuit was about. Indeed, you so completely protect the guilty that you do not call the commission by its name, but euphemistically refer to it as "the state's judicial-review board."

Senator Schumer is a Harvard Law School graduate, Senator Clinton a graduate of Yale Law School. What were their findings of fact and conclusions of law with respect to what you describe as the "27-page memorandum that outlined, in meticulous detail, the center's opposition"? And why has the *Voice*, which has a copy of that March 26, 2003, memorandum and the pertinent substantiating evidence of Judge Wesley's misconduct in the commission case and in an earlier case challenging the constitutionality of billions of dollars of New York bonds, not itself come forward with findings of fact and conclusions of law?

That you smear me as a "pest" and otherwise besmirch my proper and professional advocacy only further underscores your betrayal of fundamental standards of journalism. *Voice* readers can judge this for themselves by examining the paper trail of documents pertaining to the "disruption of Congress" case, posted on the center's website, judgewatch.org.

Elena Ruth Sassower
Coordinator, Center for Judicial Accountability Inc.
White Plains, New York