CENTER for JUDICIAL ACCOUNTABILITY, INC.

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By Priority Mail

January 9, 1996

Assembly Judiciary Committee
L.O.B. Room 831
Empire State Plaza
Albany, New York 12248

ATT: Patricia Gorman, Counsel

RE: Unconstitutionality of N.Y.'s Attorney Disciplinary Law

Dear Pat:

Happy New Year! We trust that 1996 will see the Assembly Judiciary Committee move forward on CJA's "Recommendations for Imperatively-Required Legislative Action"--fully supported, as they are, by empiric documentary proof.

As to the unconstitutionality of New York's attorney disciplinary law (see, p. 2 of our written Recommendations), the Assembly Judiciary Committee has an extraordinary opportunity.

As may be seen from the enclosed copy of Doris Sassower's November 15, 1995 Jurisdictional Statement to the Court of Appeals and coverletter of the same date, the constitutional issues outlined by our cert petition in Sassower v. Mangano, et al. are now again before the New York State Court of Appeals.

Based on the Committee's review of that cert petition, the Committee could--and should--make known to the Court of Appeals its concern that New York's attorney disciplinary law is--as detailed therein--unconstitutional and has been improperly employed to retaliate against a judicial "whistle-blower".

Plainly, it is in the interest of the Assembly Judiciary Committee to urge the Court to take jurisdiction over Doris Sassower's instant appeal--whether of right or by leave. Without judicial clarification of the constitutional issues, the Committee will have no choice but to embark upon a more laborious and protracted process of hearings and legislation.

Should you wish a full set of papers now before the Court of Appeals, we will gladly transmit them to you upon request.

As you know, there have been several proposals to open the attorney disciplinary process upon the filing of formal charges. Most recently, Chief Judge Kaye's Committee on the Profession and the Courts, chaired by Louis Craco, Esq., made such recommendation. On that subject, my enclosed November 15, 1995 letter should be considered as opposition thereto. As discussed therein (at pp. 2-5):

> "the premise [of opening disciplinary proceedings once formal charges are filed] is that such charges are preceded by a 'probable cause' finding. However, as documented by...Sassower v. Mangano, et al.,...this is not so..." (emphasis in the original)

As to the constitutional issue arising out of the denial of discovery rights to accused attorneys, I wish to bring to your attention the pertinent observations of the Committee on Professional Discipline of the Association of the Bar of the City of New York, set forth in its June 15, 1995 letter to Maxwell Pfeiffer, President of the New York State Bar Association comments as follows:

> "despite the existence of rules in at least three Departments affording respondents a certain modicum of discovery, our inquiries indicate that in practice those attorneys are not able to obtain the discovery the rules authorize."

Such statement only further underscores the exigent need for meaningful action during this session to end the continuing injustice to members of the bar, resulting from New York's flagrantly unconstitutional attorney disciplinary law.

Yours for a quality judiciary,

Elena

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

Enclosures:
(a) DLS' 11/15/95 letter to New York Court of Appeals and Jurisdictional Statement
(b) City Bar's 6/15/95 ltr to New York State Bar Association