

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Coordinator

BY PRIORITY MAIL
CERTIFIED/RRR: Z-509-073-748

March 17, 2000

Robert M. Morgenthau, District Attorney
New York County
1 Hogan Place
New York, New York 10012

ATT: Assistant District Attorney Thomas A. Wornam
Deputy Chief, Special Prosecutions Bureau

- RE: (1) Your wilful disregard of conflict of interest rules
in connection with CJA's October 21, 1999 criminal
complaint and request for intervention in *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)
- (2) Supervision by your superiors and, specifically, by
Manhattan District Attorney Robert M. Morgenthau

Dear Mr. Wornam:

It is now three weeks since CJA's February 25, 2000 memorandum-notice to you in the above-entitled public interest Article 78 proceeding against the New York State Commission on Judicial Conduct. Such notice alerted you to the catastrophic consequence of your disrespect for *fundamental* conflict of interest rules in connection with CJA's October 21, 1999 criminal complaint and intervention request¹. It called upon you to take corrective steps to protect the public and identified, as "your first duty", to "confront the *threshold* conflict of interest issues, heretofore wilfully ignored by you" (at p. 2)

¹ CJA's October 21, 1999 criminal complaint/intervention request to the Manhattan District Attorney is part of the *Elena Sassower v. Commission* Article 78 file: annexed as Exhibit "G" to my November 5, 1999 letter to Justice Kapnick.

As you know, in an October 28, 1999 phone call to me, you purported that you did not have to address the conflict of interest issues particularized at pages 5-7 of CJA's October 21, 1999 complaint, because, in your view, the complaint presented "not enough evidence" to warrant criminal prosecution and conviction. In response, I requested that you provide legal authority for such backward and plainly self-serving approach. I also reiterated the request made in the October 21, 1999 complaint itself (at pp. 5-6) for a copy of the procedures at the Manhattan District Attorney's office for handling conflicts of interest.

Additionally, I asked that you specify in what respects the evidence was "not enough", either as to the Commission on Judicial Conduct's unlawful dismissal of *facially-meritorious* judicial misconduct complaints -- of which you had 11 examples in your possession -- or as to the Attorney General's defense fraud in the two Article 78 proceedings, *Elena Ruth Sassower v. Commission* (NY Co. #99-108551) and *Doris L. Sassower v. Commission* (NY Co. #95-109141) -- of which you had copies of the files². Further, I asked you to explain why, in light of your claim that there was "not enough evidence", you were not requesting CJA to supply additional evidence.

This is reflected in my October 29, 1999 letter to you, faxed at 4:52 a.m. (Exhibit "A-1), which further stated that, in view of the seriousness of the October 21, 1999 complaint, as well as the seriousness of the conflict of interest issues presented, the complaint should be handled by Mr. Morgenthau himself. My letter pointed out that the complaint should certainly not be handled by you, since you have a self-interest in preventing objective review. Such review would expose your dishonesty in connection with your dismissal of CJA's May 19, 1995 and September 19, 1995 criminal complaints against the Commission and Attorney General.

By letter dated October 29, 1999 (Exhibit "A-2"), you provided none of the information which I had requested in our phone conversation and in my faxed letter, already in your possession. This was set forth in my November 4, 1999 letter (Exhibit "A-3"). That letter, faxed, as well as sent certified mail/return receipt (Z-294-568-942), explicitly requested that you:

² A copy of the file in *Doris L. Sassower v. Commission* was hand-delivered to the District Attorney's office under CJA's March 5, 1996 letter to you. (See CJA's October 21 complaint, p. 2).

“immediately direct CJA’s October 21st criminal complaint to your Manhattan superiors, preferably to Mr. Morgenthau himself. If Mr. Morgenthau does not believe that the conflict of interest issues presented by the complaint are *threshold* and that, based on the supporting evidentiary proof, *to wit*, the file of my Article 78 proceeding against the Commission on Judicial Conduct and the file of the Article 78 proceeding *Doris L. Sassower v. Commission on Judicial Conduct of the State of New York* (NY Co. #95-109141) – both defended by the State Attorney General by fraudulent litigation tactics – and CJA’s correspondence relating to the Commission on Judicial Nomination -- he has *no duty* to the citizens who elected him to himself refer the complaint to the Public Integrity Section of the Justice Department’s Criminal Division, *independent* of CJA’s communications with federal prosecutors, he should set that forth in a letter.

CJA hereby requests that Mr. Morgenthau furnish a copy of such letter to the Court in my current Article 78 proceeding against the Commission on Judicial Conduct, with an explanation as to why, based on the file therein, including my July 28th and September 24th Memoranda of Law supporting my omnibus motion, he will not be intervening. Tellingly, your October 29th letter provides no explanation whatever for such position.”

CJA received no response to the November 4, 1999 letter³, nor any other communications from you or the Manhattan District Attorney.

Consequently, CJA hereby reiterates its request – this time as a demand – that you: (1) identify the legal authority for presuming to determine the evidentiary sufficiency of CJA’s criminal October 21, 1999 complaint *without* first addressing the conflict of interest issues it presents; and (2) supply a copy of the Manhattan District Attorney’s procedures for handling conflicts of interest.

Demand is also made that you identify whether and when you provided the October 21, 1999 criminal complaint to Mr. Morgenthau or to your other

³ The November 4, 1999 letter, as likewise the October 29, 1999 letters, are also Exhibits “K-1” – “K-3” to my November 5, 1999 letter to Justice Kapnick, a copy of which was hand-delivered to your office on November 9, 1999.

superiors, as requested.

I understand that the supervisory "chain of command" above you is: (1) Leroy Frazer, Chief of the Special Prosecutions Bureau; (2) Dan Castleman, Chief of the Investigative Division; and (3) Manhattan District Attorney Morgenthau. **By this letter, CJA requests that after initial review by Mr. Frazer and Mr. Castleman, Mr. Morgenthau evaluate the conflict of interest issues presented by the October 21, 1999 criminal complaint/intervention request and the mountain of evidence that CJA provided in substantiation.** This includes the copy of the file of *Michael Mantell v. Commission* (NY Co. #99-108655), identified in CJA's October 21, 1999 complaint (at p. 4), referred to in my October 29, 1999 letter (Exhibit "K-1"), and delivered to your office on December 10th.⁴ Such file provides you with a 12th example of a *facially-meritorious* judicial misconduct complaint, unlawfully dismissed by the Commission, and a third case example of the Attorney General's reliance on litigation fraud in defending the Commission's unlawful conduct.

Review by Attorney General Morgenthau and Messrs. Castleman and Frazer must also include review of CJA's February 25, 2000 memorandum-notice with its enclosed February 23, 2000 letter to Governor Pataki, as well as the further correspondence herein transmitted under CJA's memorandum-notice of today's date, most particularly, CJA's March 3, 2000 letter to Chief Judge Judith Kaye.

For your convenience and theirs, an inventory of the *Elena Ruth Sassower v. Commission* Article 78 file and of the post-decision correspondence is annexed hereto.

⁴ A copy of the file of *Mantell v. Commission* was hand-delivered to your office with a copy of my December 9th letter to Justice Wetzel. Exhibit "D" to that letter is CJA's analysis of Justice Lehner's fraudulent decision "throwing" the *Mantell* case.

March 17, 2000

I look forward to speaking personally with District Attorney Morgenthau or anyone he should designate, such as Messrs. Castleman and Frazer, to discuss with me CJA's October 21, 1999 criminal complaint/intervention request and the recusal issues relating thereto. At that time, I would be pleased to arrange to provide the Manhattan District Attorney with yet further evidence in substantiation of CJA's criminal complaint against the New York State Commission on Judicial Conduct, the New York State Attorney General, and the New York State Commission on Judicial Nomination.

Yours for a quality judiciary
and governmental integrity,



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

cc: Governor George Pataki
Chief Judge Judith Kaye
New York State Commission on Judicial Conduct
New York State Attorney General
U.S. Attorney for the Southern District of New York
New York State Ethics Commission
U.S. Attorney for the Eastern District of New York
Association of the Bar of the City of New York
Media

Enclosures

INVENTORY: Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct (NY Co. #99-108551)

1. **Petitioner's Notice of Right to Seek Intervention, Notice of Petition, and Verified Petition (April 22, 1999)**
2. **Attorney General's Affirmation (Carolyn Cairnes Olson) in Support of Respondent's Application Pursuant to CPLR §3012(d) (May 17, 1999)**
3. **Attorney General's Dismissal Motion (May 24, 1999), consisting of:**
 - (a) **Notice of Motion, with Affirmation of Assistant Attorney General Michael Kennedy and Affidavit of Albert Lawrence, Commission Clerk;**
 - (b) **Memorandum of Law in Support of Motion to Dismiss, signed by Assistant Attorney General Carolyn Cairns Olson**
4. **Petitioner's Omnibus Motion (July 28, 1999), consisting of:**
 - (a) **Notice of Motion, with Affidavit of Petitioner and Affidavit of Doris L. Sassower, CJA's Director;**
 - (b) **Memorandum of Law in Opposition to Respondent's Dismissal Motion & in Support of Petitioner's Motion for Disqualification of the Attorney General, Sanctions, a Default Judgment, and Other Relief**
[with free-standing File Folders: see inventory annexed to Petitioner's Affidavit]
5. **Attorney General's Reply Memorandum in Further Support of a Motion to Dismiss and in Opposition to Petitioner's Motion for "Omnibus Relief", signed by Assistant Attorney General Carolyn Cairns Olson (August 13, 1999)**
6. **Petitioner's Papers in Reply and in Further Support of her Omnibus Motion (September 24, 1999), consisting of:**
 - (a) **Petitioner's Reply Affidavit**
 - (b) **Petitioner's Reply Memorandum of Law**
7. **Petitioner's November 5, 1999 letter to Acting Supreme Court Justice Barbara Kapnick**
8. **Petitioner's December 2, 1999 letter to Acting Supreme Court Justice William Wetzel**
9. **Petitioner's December 2, 1999 letter to Administrative Judge Stephen Crane**
10. **Petitioner's December 9, 1999 letter to Acting Supreme Court Justice William Wetzel**
[with file of *Mantell v. Commission* (NY Co. #99-108655)]
11. **Petitioner's December 17, 1999 letter to Acting Supreme Court Justice William Wetzel**
12. **Decision/Order of Acting Supreme Court Justice William Wetzel, dated January 31, 2000**

INVENTORY: Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct (NY Co. #99-108551)

POST-DECISION CORRESPONDENCE:

1. CJA's February 7, 2000 memorandum-notice to Attorney General Spitzer and the New York State Commission on Judicial Conduct
2. CJA's February 23, 2000 letter to Governor George Pataki
3. CJA's February 25, 2000 memorandum-notice to the Proposed Intervenors
4. CJA's March 3, 2000 letter to Chief Judge Judith Kaye
5. CJA's March 3, 2000 letter to the Commission on Judicial Conduct
6. CJA's March 17, 2000 letter to the Proposed Intervenors
7. CJA's March 17, 2000 letter to Manhattan District Attorney
8. CJA's March 17, 2000 letter to U.S. Attorney for the Southern District of New York
9. CJA's March 17, 2000 letter to U.S. Attorney for the Eastern District of New York