

Elena Ruth Sassower

From: Elena Ruth Sassower [elena@judgewidth.org]
Sent: Tuesday, November 13, 2007 10:58 AM
To: 'Dahlia.Lithwick@slate.com'; 'tmauro@alm.com'
Cc: 'tschoenberg@alm.com'
Subject: Laying Bare the "Internal Operations and Culture" of the Supreme Court & Its Clerk's Office

Dear Dahlia & Tony,

This belatedly follows up my October 12th e-mail to both of you, which stated:

"Are you familiar with Chief Justice Robert's extraordinary April 26, 2007 opinion – as Circuit Justice – in the *Boumediene* case, 127 S.Ct. 1725? I've made an October 9th motion to the Chief Justice requesting that he clarify it – and challenging the (invidious) use to which it is being put, in my 'disruption of Congress' case, by the Clerk's Office.

The motion additionally seeks recall/vacatur of the Court's October 1, 2007 order denying my petition for a writ of certiorari, based on the misconduct of the Clerk's Office in connection with my prior motion to compel the Solicitor General's response to the cert petition.

Please read this latest motion – whose footnote 5 cites your coverage of the Chief Justice's September 19th speech in Syracuse on judicial independence and the First Amendment. It is posted on CJA's website, www.judgewidth.org, most conveniently accessible *via* the top panel 'Latest News'.

I'll be in touch next week.

Thanks"

In the month since that e-mail, my EXPLOSIVE October 9th motion has fallen into "a black hole" at the Supreme Court Clerk's Office. It has NOT been docketed, NOT been returned, and my repeated attempts to ascertain its status have been unsuccessful. This situation is recounted in my October 26th Petition for Rehearing, as well as in a simultaneously-made & incorporated misconduct complaint against Clerk William Suter and his staff, sent to Chief Justice Roberts in his administrative capacity.

Please read the Petition for Rehearing – which additionally recites and rests on Chief Justice Robert's September 19th Syracuse speech. It is calendared for the Court's November 20th conference and is posted on CJA's website, accessible with all the substantiating appendix documents *via* the sidebar panel "Disruption of Congress-The Appeals".

What more do I need to provide you so that you can investigate and report on the lawlessness that my Rehearing Petition and misconduct complaint chronicle at the Supreme Court Clerk's Office? Dahlia, you acknowledged when we spoke on September 21st, that you have never done any stories on the Supreme Court Clerk's Office. Tony, have you done any? How about the other reporters covering the Supreme Court?

Please call me at your earliest convenience so that we can discuss your coverage of this extraordinary story – one laying bare an important aspect of the Court's "internal operations and culture". Indeed, this story reveals David Margolick's misconception in his September 23rd New York Times book review that it is "nearly impossible" for reporters to obtain information about the Court's "internal operations and culture", except "years after the fact" when the Justices make it "available to the public", as by their "posthumous papers". Here, the information is "available" to you in "real time" – thereby presenting a test of David's more formidable charge, summarized and

quoted in "*Nine Ways to Read the Nine*" by Dahlia and Emily Bazelon, posted on Slate's website on September 21st, just hours after my phone conversation with Dahlia about my September 17th motion to compel the Solicitor General's response to my cert petition:

"Margolick more or less goes after all the beat reporters as slothful and compromised: Covering the justices critically 'is dangerous: you risk losing whatever tiny chance you have that one of them will talk to you in a pinch or throw you an occasional crumb. So almost no one even tries. *No other reporters are as passive as Supreme Court reporters.*' The italics here are ours, because, ouch."

Before I furnish this story to other Supreme Court beat reporters – and because the two of you (alone among Supreme Court reporters) were at Justice Robert's September 19th Syracuse University speech and were participants, the day before, in the Syracuse University symposium "*Supreme Makeover: How the news media and the Supreme Court justices they cover are inventing a new model of judicial openness*" – I would appreciate your response as to whether you will be writing about this documented, readily-verifiable story of the Court's "internal operations and culture" and, if not, the reasons.

Thank you.

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