

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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DATE: August 29, 2003

TO: Senate Judiciary Committee Chairman Orrin Hatch  
By Fax: 202-224-9102 [11 pages]  
By E-Mail: [swen\\_prior@judiciary.senate.gov](mailto:swen_prior@judiciary.senate.gov)

Ranking Member Patrick Leahy  
By Fax: 202-224-9516 [11 pages]  
By E-Mail: [rachel\\_arfa@judiciary.senate.gov](mailto:rachel_arfa@judiciary.senate.gov)

FROM: Elena Ruth Sassower, Coordinator  
Center for Judicial Accountability, Inc. (CJA)

RE: SUPERVISORY OVERSIGHT over Senate Judiciary Committee Staff whose Disregard of CJA's Document Requests has Included Withholding from CJA the Public Portions of Questionnaires of Judicial Nominees whose Confirmations are Pending before the Committee and Senate

This is to protest the Senate Judiciary Committee's exclusion of our non-partisan, non-profit citizens' organization – and the public interest we represent – from any constructive role in the Senate Judiciary Committee's evaluation of the fitness of nominees to "lifetime" federal judgeships.

On July 22, 2003, the Senate Judiciary Committee held a "hearing" on the confirmation of P. Kevin Castel to the District Court for the Southern District of New York. Despite CJA's obvious interest in such confirmation – reflected by our May 5, 2003 memorandum transmitting voluminous documentary evidence of his unfitness and requesting to testify in opposition at any hearing to be held on his confirmation – the Committee gave us no notice of the July 22<sup>nd</sup> "hearing", which we did not learn of until after-the-fact.

No objective evaluation of our document-supported May 5th memorandum could lead to any conclusion but that the Committee owed us the courtesy of

notifying us of the July 22<sup>nd</sup> "hearing" on Mr. Castel's confirmation – at very least so that we could attend as eye-witness spectators -- if we were not to be allowed to testify in opposition.

In face of our May 5<sup>th</sup> memorandum and extensive prior and subsequent documentary presentations, exposing that:

"except when the Senate Judiciary Committee is searching for some non-ideological 'hook' on which to hang an ideologically-objectionable nominee – the Committee cares little, if at all, about scrutinizing the qualifications of the nominees it is confirming", (CJA's May 5, 2003 memorandum, Exhibit "A", p. 2),

the Committee staff appears to have embarked upon a stratagem to impede us from making any further documentary presentations as to the qualifications of other judicial nominees. This, by ignoring our requests for documents – including for the public portions of the completed questionnaires of judicial nominees whose confirmations are before the Committee.

Indeed, the Committee's July 22<sup>nd</sup> "hearing" on Mr. Castel's confirmation to the District Court for the Southern District of New York was ALSO a "hearing" to confirm THREE other nominees to the District Courts of New York -- as to whom, over a month earlier, CJA had requested the public portions of their questionnaires from the Committee's Clerks – without response. These three judicial nominees are: Stephen C. Robinson and Richard J. Holwell, each also nominated to the District Court for the Southern District of New York, and Sandra J. Feuerstein, nominated to the District Court for the Eastern District of New York.

CJA requested the public portions of their questionnaires in a faxed June 9<sup>th</sup> letter to Documents Clerk "Kurt" and in a faxed and e-mailed June 18<sup>th</sup> letter to Nominations Clerk Swen Prior, which was also sent to Kurt, as well as Rachel Arfa, Nominations Clerk for the Democratic Minority, each indicated recipients. This was followed up on July 15<sup>th</sup> – just a week before the July 22<sup>nd</sup> "hearing" - - by a faxed and e-mailed letter to Mr. Prior, to which Ms. Arfa was an indicated recipient and which – like the June 18<sup>th</sup> letter, was sent to her by fax and e-mail. Enclosed are copies of these letters and the fax and e-mail receipts.

CJA's July 15<sup>th</sup> letter identified that NONE of the previously requested documents had been received and closed by stating,

"Please advise as to when these documents were mailed.... If they have not yet been mailed, please identify the reason – and when they will be forthcoming."

To this there was no response from either Mr. Prior or Ms. Arfa – not even a belated mailing of the questionnaires, requested more than a month before, for judicial nominees whose confirmation "hearings" were the following week.

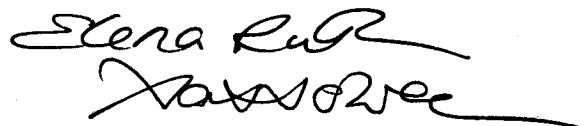
Yesterday, August 28<sup>th</sup> – in a further attempt to obtain these questionnaires and answers to CJA's July 15<sup>th</sup> letter -- I telephoned the Senate Judiciary Committee at 11:45 a.m. Matt picked up the phone. Upon ascertaining my identity and putting me "on hold", he stated, much as he has in the past, that Mr. Prior was not available, but that I could leave a voice mail message for him. This, I ultimately did – but only because Matt would not put my call through to someone having supervisory authority over Mr. Prior, or even identify who such person might be. It is now more than 28 hours later and there has been no return call or message from Mr. Prior – or any other Committee staff.

Unless you consent and authorize Mr. Prior and Ms. Arfa to withhold from CJA the documents we long ago requested – including the public portions of the questionnaires of judicial nominees whose confirmations are pending before the Committee and Senate -- CJA requests that you immediately ensure that they are mailed to us without further delay.

Finally, inasmuch as there are two other judicial nominees to the District Courts of New York whose confirmations are before the Committee, CJA take this opportunity to now request the public portions of the completed questionnaires of: (1) Gary Lawrence Sharpe, nominated on April 28, 2003 to the District Court for the Northern District of New York; and (2) Sandra Lynn Townes, nominated on July 1, 2003 to the District Court for the Eastern District of New York.

Thank you.

Enclosures

The block contains two handwritten signatures in black ink. The first signature is "Elena Ruiz" and the second signature is "Xaviera".

*Chairman Hatch  
Senate Judiciary  
Committee*

TRANSMISSION VERIFICATION REPORT

TIME : 08/29/2003 16:57  
NAME : CJA  
FAX : 9144284994  
TEL : 9144211200

DATE, TIME	08/29 16:52
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MODE	STANDARD ECM

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Member  
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TRANSMISSION VERIFICATION REPORT

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TEL : 9144211200

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MODE	STANDARD ECM