

rec'd 12/23/03



STATE OF NEW YORK  
EXECUTIVE CHAMBER  
ALBANY 12224

December 12, 2003

Elena Ruth Sassower, Coordinator  
Center for Judicial Accountability, Inc.  
P.O. Box 69, Gedney Station  
White Plains, NY 10605-0069

Dear Ms. Sassower:

This letter is to acknowledge that, on or about December 8, 2003, this office received your Freedom of Information Law (FOIL) request for "materials pertaining to Governor Pataki's appointment of Robert S. Smith, Esq. to the New York Court of Appeals from among the seven candidates nominated by the Commission on Judicial Nomination," including "evaluations and supporting materials received from the bar associations for [the] seven candidates," as well as "the financial statement that Mr. Smith was required to submit."

Please be advised that as with any FOIL request, this office is only obligated to grant access to those documents or records which are kept by the Executive Chamber, subject to certain exemptions. Further, this office is not obligated to grant access to documents or records that are not kept within the Executive Chamber or that do not exist. In addition, FOIL does not require this office to create documents in response to a FOIL request.

I will review our records to determine what materials we have that would be responsive to your request. Pursuant to the provision of Public Officers Law § 89 (3), we should be able to provide you with a further response by approximately January 9, 2004.

Sincerely,

Mark R. Ustin  
Assistant Counsel to the Governor  
Records Access Officer

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