

Revised

**CENTER FOR JUDICIAL ACCOUNT**  
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To	Bill Ritter	From	CJA		
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Att: Ron Patafio, Editorial Page Editor

Who judges the judges? On Tuesday, Election Day, **We the People**, will. The question is how they exercise that important right.

This newspaper has editorially endorsed various judicial candidates and published bar ratings giving them their "stamp of approval". We believe such endorsements and ratings are unfair and misleading. If the public interest is to be protected, what is required is a much more rigorous and extensive process of investigation than either Gannett or bar associations have undertaken.

Newspapers, even bar associations, rarely solicit the views of those best able to know and comment on the judicial performance -- the aggrieved litigants, whose lives have often been destroyed by judges who pollute the judicial process with incompetence, outright dishonesty, and other abuses.

It was to give voice to this unheard-from constituency of judicial **victims** that the Center for Judicial Accountability, Inc., a national, non-profit, non-partisan organization, headquartered in White Plains, was created. Our files -- and those of New York's Commission on Judicial Conduct -- are filled with **thousands** of "horror stories -- showing that the need for constitutional change in our judicial nomination and discipline processes has risen to emergency status. For too long, our third branch of government, on which we depend to assure the integrity of the other two, has been used as a "dumping ground" for the favored beneficiaries of a political system that rewards party faithful with judgeships, irrespective of merit. We know only too well that many judges gain office *via* political bosses, more on the basis of connections, political deals, and party loyalty. Whatever merit such candidates possess is purely coincidental.

In the case of incumbent judges, it is our view, contrary to that expressed in your October 19 issue (Local News, p.7A), that a judge's on-the-job performance must be the starting point of evaluation, and that no judge deserves reappointment or reelection merely for *being* one. Only

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P. 2

judges who have well performed their duties, ethically and professionally, deserve that honor. Voters must reject the idea that simply because a judge *has* the job, he/she deserves to *keep* the job -- even when their track record in office may include a history of criticized decisions, higher court reversals, judicial misconduct complaints, and civil rights actions against them based on unthinkable constitutional violations.

For example, consider this information about one of the judges whom Gannett endorsed and the Westchester County and Westchester Women's Bar Associations rated as "well-qualified", Judge Aldo A. Nastasi, who has sat on the Supreme Court bench for the past 14 years, and -- at age 65 - - wants 14 years more (retirement at age 70 is constitutionally mandated). Back in 1981, when Judge Nastasi was a County Court Judge -- but serving as an Acting Supreme Court Judge -- he took jurisdiction over a case involving one Thaddeus Burke, whose 23-month old son had, without warning, been removed by the mother from their Virginia home while Mr. Burke was at work and brought to Westchester County. Instead of ordering the child's immediate return to Virginia, as required by law, Judge Nastasi, after denying the father, who had come to New York to reclaim his child, his right to be heard, summarily awarded temporary custody to the mother, allowing the father only supervised and severely limited visitation until the permanent custody hearing scheduled by the Court *five weeks* later.

The "tender years" doctrine: custody of young children automatically awarded to the mother, was outdated even in 1981. Nonetheless, Judge Nastasi applied it as the basis for his temporary custody award and thus imposed the burden of determining the custody issue on New York taxpayers. When this decision was rightfully criticized by the father and his counsel in press reports about the case, which became a *cause celebre*, leading to formation of the Westchester Chapter of Equal Rights for Fathers, Judge Nastasi was forced to recuse himself. With no compelling reasons, and over objection, the press was thereafter barred from the courtroom and, in the father's absence, permanent custody was awarded to the mother.

When Mr. Burke's attorney next appeared before Judge Nastasi in an unrelated case, he refused to recuse himself until his actual bias against the attorney was proven by a transcript showing his hostile remarks about such attorney outside that attorney's **presence**. Only then did he step down, although his ethical duty required him to do so from the outset. Judges must be accountable for such misconduct on Election Day.

Inasmuch as I was the lawyer involved, the above facts are not hearsay, but direct, first-hand knowledge.

**Doris L. Sassower**, co-founder and director of the Center for Judicial Accountability, Inc., is a membership organization with members in 30 states, working to change the way lawyers become, and remain, judges.