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BY FAX: 518-465-8083 (20 pages)

November 3, 2000

Newsday, Capitol Bureau
Albany, New York

ATT: Thai Jones, reseacher

RE: Follow Up to "Pataki's Justice Pick", Newsday, 11/3/00

Dear Mr. Jones:

Governor Pataki did more than "pass[] over six more experienced lawyers for the state's highest court" in appointing Justice Graffeo for the Court of Appeals – he disregarded the public's rights under Judiciary Law §63.3. That law requires that the NYS Commission on Judicial Nomination present its recommendees to the Governor by a report with "findings" as to the qualifications of "each candidate". [see enclosed copy]

Yet, the Commission's October 4, 2000 report contained NO "findings" as to "each candidate", as the law requires. Consequently, NONE of its seven recommendees were properly before the Governor for appointment – a fact highlighted by CJA's fact-specific, fully-documented October 16, 2000 report – a copy of which was hand-delivered to the Governor's NY office on October 17th and received in Albany the following day.

As requested, enclosed is a copy of the Commission on Judicial Nomination's violative October 4, 2000 report. Also enclosed are pertinent pages from CJA's October 16, 2000 report: its Introduction and Point I, as well as its Conclusion. Additionally included is CJA's Letter to the Editor, "An Appeal to Fairness: Revisit the Court of Appeals" (New York Post, 12/28/98) – which is the report's first exhibit, referred to on the first page.

For your convenience, John Caher's powerful front-page "Behind the News" article in yesterday's New York Law Journal is also being faxed, together with the cited December 30, 1982 NYT article quoting Governor-Elect Cuomo. As discussed, although John's piece provides groundbreaking insight into the Commission on Judicial Nomination's behind-closed-doors deliberative process, it only grazes the surface of the yet-to-be-reported story of the Commission's abandonment of "merit selection" principles.

cc: Jordan Rau, Newsday [212-696-0590] [full report by Fed-Ex]

Elena Ruth Sassower