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BY HAND

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Mr. Michael Aronson
Editorial Board
Daily News
450 West 33rd Street
New York, New York 10001

RE: *"Who Judges the Judges?"*¹ –
Finding the Causes of the "Disorder in the Courts"

Dear Mr. Aronson:

If the Daily News is going to "explore the judiciary in detail" – including "its lack of accountability" – which is what your powerful November 26th editorial, "*Disorder in the Courts: Judging the Judges*" (Exhibit "A-1") says -- then it must explore the sole state agency whose specific duty is to "judge the judges" – the New York State Commission on Judicial Conduct. As discussed, the problem with the Commission is NOT that it is "ineffective". It is corrupt.

Because the Commission's operations take place "behind closed doors", it has been able to conceal its corruption. Presumably, this is why you told me -- almost defensively -- that the Daily News has made no allegations about the Commission's corruption. Unless the Daily News is conflicted by the fact, among others, that one of its reporters, Barbara Ross, is married to the Commission's Deputy

¹ This is the title the Daily News gave on September 12, 1999 to my letter to the editor, which it printed, in sharply expurgated form, in response to its editorial, "*Mirror, Mirror*". As you recalled that the Daily News had printed letters from me – a copy of my proposed letter is enclosed, along with your expurgated version, and my subsequent correspondence (Exhibit "B"). Also enclosed is my prior letter to the editor, which the Daily News printed, also in sharply expurgated form, on February 13, 1998 under the title, "*O'Rourke's Appointment was Illegal*" and correspondence (Exhibit "C"). This, in response to its editorial, "*O'Rourke's Pork*". Each of my proposed letters involves explosive issues that go to the heart of the "*Disorder in the Courts*" (Exhibit "A-1").

Administrator, Robert Tembeckjian, the Daily News must report on *the readily-verifiable* evidence of the Commission's corruption – herein transmitted to you “on a silver platter”.

Please be advised, that contrary to popular belief, the Commission does NOT have discretion to dismiss judicial misconduct complaints, *without investigation*. Rather, the law – Judiciary Law §44.1 – imposes upon the Commission a *mandatory* duty to investigate complaints, the only exception being where it determines that “the complaint on its face lacks merit”. The Commission, however, has subverted that mandatory investigative duty by an unlawful rule, 22 NYCRR §7000.3, by which it has given itself *complete discretion* to do anything or nothing at all with the judicial misconduct complaints it receives.

More than six years ago, the Center for Judicial Accountability, Inc. (CJA) -- our non-partisan, non-profit citizens' organization -- spearheaded a lawsuit against the Commission, challenging 22 NYCRR §7000.3, *as written and as applied*. Because the Commission had NO legitimate defense, it was defended by litigation misconduct of its attorney – the State Attorney General – and was rewarded by a fraudulent judicial decision, without which it would not have survived. This has been the subject of extensive public advocacy by us, including a published letter to the editor, “*Commission Abandons Investigative Mandate*”, (NYLJ, 8/14/95, p. 2) [A-50] and two paid ads, “*A Call for Concerted Action*” (NYLJ, 11/20/96, p. 3) [A-51-51a], and “*Restraining 'Liars in the Courtroom and on the Public Payroll'*” (NYLJ, 8/27/97, pp. 3-4) [A-55-56]. These important published pieces are included in the enclosed Appendix to my public interest lawsuit against the Commission² – a lawsuit which also challenges 22 NYCRR §7000.3, *as written and as applied*, as well as a host of other rule and statutory provisions relating to the Commission³.

The complete appellate papers are enclosed so that you and others at the Daily News can confirm that the *only* way the Commission can survive this breathtaking lawsuit is if the Appellate Division, First Department fails to recuse itself and “throws” the case by a fraudulent judicial decision. This has already happened on the lower court level, where Acting Supreme Court Justice Wetzel, an appointee of the Governor to whom the case was “steered” in violation of random assignment

² See the description of the prior lawsuit in the Verified Petition [A-25-27] and such pertinent documents as CJA's May 5, 1997 written challenge to those in leadership positions A-48.

³ See the Verified Petition's Six Claims for Relief [A-37-45].

rules, and who was more disqualified than any of his five judicial predecessors who had recused themselves, “threw” the case by a decision which, in EVERY material respect, is false, fabricated, and legally insupportable. It is this decision which is the subject of the appeal.

As you will be able to *readily* confirm from the appellate papers, the Commission has had NO legitimate defense to the appeal. For this reason, its attorney, the State Attorney General, has filed a Respondent’s Brief which, from beginning to end, and in virtually every line, is filled with falsification, distortion, and omission. This has been painstakingly exposed in a 66-page Critique, which is the centerpiece of the second branch of my voluminous August 17th motion⁴, to strike the Attorney General’s Respondent’s Brief as a “fraud on the court”, to disqualify the Attorney General from representing the Commission, and to sanction him and the Commission and to refer them for disciplinary and criminal prosecution. The first branch of the motion seeks to disqualify the Appellate Division, First Department for interest and bias, both actual and apparent.

In violation of law, the Appellate Division, First Department last week preceded with oral argument on the appeal – without first adjudicating my threshold August 17th motion. This was the subject of extensive objection by me during the oral argument – which the Appellate Division, First Department refused to allow to be recorded, either stenographically or by audio/video taping.

Enclosed is a copy of my reconstruction of what took place at the November 21st oral argument -- annexed as Exhibit “A” to my letter of today’s date to the Appellate Division, First Department. Also enclosed are the two Interim Relief Applications which I brought in an unsuccessful attempt to obtain an adjournment of the oral argument pending the Court’s adjudication of my threshold August 17th motion, as well as to obtain permission for a record of the oral argument.

Your most cursory review of these enclosed appellate materials will provide you with a resounding answer to your question to me, “Am I going to find anything of value in there?” Not only does the lawsuit bring down the Commission, but it provides a breathtaking “window” into the corruption of the New York State Commission on Judicial Nomination – the agency which operates behind closed-doors to provide the Governor with a “short list” of nominees for our state’s highest court, the Court of Appeals, based on supposed “merit selection” principles. Indeed,

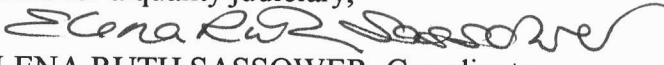
⁴ See Exhibit “U” to the motion and ¶¶88-92 of my August 17th moving affidavit.

this case will not only allow you to examine – as never before – the supposed “merit selection” process of judicial appointment to the Court of Appeals, but will give you an entre into the hitherto unexplored realm of how the Governor has filled hundreds of “lower court” judicial vacancies during the past seven years, purportedly after “merit selection” screening. It is essential that you undertake such exploration – including the ignominious and corrupt role played by the State Senate and the bar associations, among others -- before you go about proposing, as a blanket solution, scrapping judicial elections in favor of “highly qualified legal professionals, appointed by the governor, subject to legislative approval”.

Review of the appellate materials – and the underlying lower court file – is well worth the time of the Daily News – considering what is involved in this case is not only “one third of the government” of this State – but the violation of the “solemn public trust” by this State’s highest public officers – the Governor, the Attorney General, and Legislative Leaders, who are up for re-election in 2002.

I would be happy to speed your review by providing you or whoever you might designate with a personal presentation of the case. At such time, I will bring with me copies of CJA’s voluminous correspondence with the Governor, Legislature, and the Chief Judge pertaining to the manipulation of the judicial appointments process, including the corruption of the “merit selection” process to the Court of Appeals. For immediate purposes, annexed hereto (Exhibit “D”) are a couple of pertinent published pieces: “*Untrustworthy Ratings?*”, (NY Times, 7/17/92); “*No Justification for Process’s Secrecy*” (NY Law Journal, 1/24/96); “*On Choosing Judges, Pataki Creates Problems*” (NY Times, 11/16/96); “*An Appeal to Fairness: Revisit the Court of Appeals*” (NY Post, 12/28/98).

Yours for a quality judiciary,


ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

P.S. In view of the Daily News’ publication in today’s paper of the letter to the editor, “*Improving the System*”, by Steven C. Krane, President of the New York State Bar Association (Exhibit “A-2”), please be advised that CJA has a wealth of *documentary* materials – including correspondence with President Krane about this lawsuit – exposing the falsity and deceit of his letter’s various claims, including as to “merit selection of judges”, “opening the attorney and judicial discipline systems to the public”, and the supposed “quality” and

“scholarship” of judicial rulings “as a group”. CJA would be pleased to provide it to the Daily News so that the public is not misled as to the true situation in our courts.

Enclosures