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January 22, 2002

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

RE: CJA's *Unresponded-to* December 20, 2001 Letter for a Meeting with the Daily News Editorial Board on its "*Judging the Judges*" Editorial Series

Dear Mr. Aronson:

The Daily News recent editorials, "*Justice Denied*" (12/22/01) and "*The Verdicts Are In*" (1/18/02) -- the second expressly identified as part of the "*Judging the Judges*" editorial series and coming a day after publication of Chief Judge Kaye's column, "*I Rise in Defense of State's Courts*" (1/17/02), where she responds to the "*Judging the Judges*" editorials with the assertion:

"Complaints of judicial misconduct are reviewed by the State Commission on Judicial Conduct, an independent, constitutional body. Its rebukes of sitting judges are published. Indeed, two such rebukes were reported in The News last month, and two more this month",

underscores the necessity that the Editorial Board respond to CJA's *unresponded-to* December 20, 2001 letter requesting a meeting. This, so that we can prove to the Editorial Board, based on the case file evidence of my groundbreaking lawsuit against the Commission in *your* possession since November 30th, that not only is the Commission *verifiably* corrupt -- which the Daily News editorials fail to so identify -- but that Chief Judge Kaye has long had the evidentiary proof of the Commission's corruption *in her possession*.

Such requested meeting is also essential so that the Editorial Board, in continuing to take swipes at elected judges (1/18/02 editorial), can recognize that judicial appointment, including "merit selection" appointment, is no panacea and also results in the installation of judicial tyrants and

judges whose rulings are as politically-motivated as their elected colleagues.

In the event you have not seen the published Letter to the Editor, "*In Defense of the Judiciary*", appearing in the January 17th New York Law Journal, a copy is enclosed. Such published Letter, derides the "independent conclusion" of the Daily News in its "*Judging the Judges*" editorial series, and opines that it is a "sad mistake",

"caused because those who made it have not been inside the courts, seeing as we at the bar do, justice dispensed every day in a system which, albeit imperfect like all others, does the essential job of keeping us civilized and does it well."

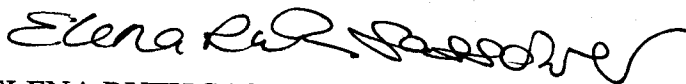
My ground-breaking public interest lawsuit against the Commission – encompassing two other lawsuits against the Commission – provides *readily-verifiable* "inside the courts" proof of the obliteration of justice and anything resembling the rule of law by our state courts – of which the bar, like Chief Judge Kaye, has long been fully knowledgeable.

For your information, on December 18th, my lawsuit against the Commission was "thrown" by a fraudulent appellate decision. This is now the FIFTH fraudulent decision of which the Commission has been the beneficiary in the three separate lawsuits against it.

A copy of my pending motion for reargument is enclosed. Based on the appellate record in your possession, you can *readily verify* that the December 18th decision is a criminal act by the five-judge appellate panel, whose combined yearly salaries cost New York taxpayers nearly three quarters of a million dollars.

The People of this State have a right to expect that the Daily News, as part of its "*Judging the Judges*" series, will examine the court papers in my important lawsuit against the Commission so as to come to its own, evidence-based "independent conclusion" as to the wholesale corruption of the judicial process and the worthlessness of the very mechanisms for judicial accountability touted by the judicial and legal establishment. Obviously, such examination would be greatly expedited and simplified by the Editorial Board's meeting with us so that we can highlight those portions of the record most dispositive of the corruption issues.

Yours for a quality judiciary,



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

Enclosures

DAILY NEWS

450 W. 33rd St., New York, N.Y. 10001

MORTIMER B. ZUCKERMAN, *Chairman & Co-Publisher*

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Justice denied

The state Commission on Judicial Conduct censured Manhattan Criminal Court Judge Donna Recant last week for behaving inappropriately and unprofessionally on the bench, mistreating lawyers, defendants and even courtroom spectators.

Among the 1998 and 1999 incidents cited: Ordering a lawyer handcuffed to a bench and then jailing him for 10 days for allegedly making rude remarks. Handcuffing a defendant for chewing gum in the courtroom. Insulting a spectator for the same offense — and for not speaking English. Ejecting lawyers who offended her sensibilities in one way or another. And using bail to try to coerce guilty pleas — even when prosecutors had not demanded bail.

The censuring would be laudable — except for the fact that the commission's action carries no real consequences. No fine. No suspension. Just a letter in Recant's personnel file. Big deal. Credit Chief Judge Judith Kaye and the Office of Court Administration for subsequently reassigning Recant from Criminal to Civil Court — a move some observers view as a demotion.

Under rules adopted a quarter-century ago, the Commission on Judicial Conduct can admonish, reprimand, censure or — the most effective punishment — remove judges. To the best of anyone's knowledge, though, only one Supreme Court justice in New York City has been removed in 20 years. Because only one deserved to be? Right. And pigs whistle.

As for admonishment, reprimands and censure — they all amount to just a public slap on the wrist. After a time, the issue is forgotten. Of greater concern is that the people who must go to Recant's courtroom to seek justice will likely have no idea that their case is being heard by a kook. Unless they've read — and remembered — the bit of bad press she got.

The public doesn't have easy access to a judge's personnel file. The public isn't told whether a judge is under threat of disciplinary action.

There is something definitely missing from the spirit of the law when it is sullied by rude and disrespectful judges. And by a supersecret judiciary that does everything in its power to protect the reputations — however feeble — of the berobed brethren.

DAILY NEWS

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The verdicts are in

A judge who engages in ethically dubious behavior should be boot-
 ed from the bench. End of discussion. But, as the cases of two
 elected Brooklyn Supreme Court justices make painfully evident, re-
 moval from office is a sanction rarely applied in New York. Even
 when that is the only fitting punishment.

According to the state Commission on Judicial Conduct, Justice
 Larry Martin wrote to two fellow judges on his official stationery seeking "favorable con-
 sideration" in the sentencing of the sons of friends. One letter went to North Carolina on
 behalf of a convicted shoplifter; the other, to Suffolk County, urging a "nonjail disposition"
 of a drug conviction.



The commission said Martin "violated well-
 established ethical standards" banning judges
 from using their office "to advance the private
 interests of others." But the punishment — ad-
 monition — is no punishment. No fine, no sus-
 pension, no big deal.

Even worse is the case of Justice Richard Huttner, who used his
 position to try to influence a judge to rule in favor of a Manhattan
 co-op in a dispute with a restaurant. The same co-op where Huttner
 served on the board of directors. He signed affidavits supporting a
 lawsuit and invoked his judicial office in discussing the litigation.

The panel concluded that Huttner "displayed a remarkable insen-
 sitivity to his ethical responsibilities and to the ethical problems cre-
 ated by his actions." But again, the penalty — censure — was inade-
 quate. Huttner told this page, "Frankly, what I did was stupid and
 dumb." Really? Try "unethical and indefensible."

In an editorial page analysis last year of the city's 180 elected Su-
 preme Court justices, Martin and Huttner were among 89 rated mar-
 ginal to unfit. And Huttner had a prior claim to infamy: He prompt-
 ed a state probe of fiduciary appointments after giving a receiver-
 ship to Brooklyn Democratic boss Clarence Norman's law partner.

State Supreme Court justices are elected to 14-year terms. Martin
 won't face voters until 2007; Huttner, 2005. Thanks to the spoils sys-
 tem, they'll have little or no opposition and be reelected in a cinch.

Meanwhile, those appearing before Larry Martin or Richard Hutt-
 ner will have their cases heard by justices not worthy of the title.

DAILY NEWS
 Friday, January 18, 2002

I rise in defense of state's courts

By JUDITH S. KAYE

As chief judge, I present a State of the Judiciary address each January, summing up the accomplishments of the New York courts over the past year and our plans for the year ahead. Despite the extraordinary challenges of 2001, I was pleased to report on Monday that the New York judiciary is as strong as ever.

Regrettably, however, the courts are generally in the news only when the news is negative. Criticism and suggestions that can make us better are welcome, but it's a shame that the public doesn't get the full picture of what we're about. So it is with great interest that I have followed the Daily News editorial series "Judging the Judges."

I agree with The News that as a public institution the courts must seek ways to better serve the public — and we do. I also agree that as a public institution the courts must recognize their accountability to the public — and we do.

That is perhaps nowhere better shown than by the astronomical case dispositions by our trial judges: for the year 2000, for instance, 1,147,343 criminal cases, 1,224,990 civil cases, 695,431 Family Court cases and 135,475 Surrogates Court cases. By any standard, that is a remarkable record of productivity for the state's 1,137 trial judges.

With more than 3 million new cases a year, our judiciary does an outstanding job serving the citizens of this state. Overwhelmingly our judges, whether elected or appointed, are dedicated, hardworking and effective, resolving demanding case dockets with skill, care and efficiency.

At the same time that we have concentrated on the day-to-day business of managing and resolving staggering case-

loads, the courts have successfully integrated significant changes in operations, such as reforming the jury system and introducing a commercial division, drug courts, domestic violence courts and children's centers.

I disagree with The News that an individual judge's performance can be measured by number of hours inside the courtroom or number of reversals. It might be nice to have a simple test to rate a judge. But given the nature of the work, a judge's competence cannot be evaluated by a box score. That does not make the courts any less accountable than the other branches of government.

Our daily business, by definition, is open to the public. With rare exception, the courtroom doors are wide open all day. Hearings and case files are open to the public, judges' decisions and orders are public and appellate reviews of trial decisions are published.

Information about the daily activity of courts and judges is publicly available, as is evident from statistics cited in The News' editorials. Bar associations publish their ratings of candidates for judicial office.

Complaints of judicial misconduct are reviewed by the state Commission on Judicial Conduct, an independent, constitutional body. Its rebukes of sitting judges are published. Indeed, two such rebukes were reported in The News last month, and two more this week.

Yes, the court system uses certain standards in assessing how we might better manage our caseloads. But it is unrealistic to gauge a particular judge's productivity or work ethic by those statistics, given the nature of what judges do. So



MARCOS OKSENHENDLER DAILY NEWS

many factors affect what a judge does on any given day — the complexity of a case, the frequency and type of motions made, the number of parties and trial witnesses in the litigation, even whether the necessary parties show up when they are supposed to, just to name a few.

And yes, we have problems. No human endeavor is perfect. But we try to recognize our problems and resolve them where we can, as shown most recently by our action on appointments of fiduciary guardians.

Throughout our nation's history, our courts have protected rights, punished wrongs and helped to distinguish us as a land of freedom and opportunity. I feel that is true of the New York courts in particular. As we work to improve the judicial system, let's not lose sight of the great resource we have in the New York judiciary.

Kaye is chief judge of New York.

LETTERS

To the Editor

In Defense Of the Judiciary

It is important that the bar not be accused of silent acquiescence in the broad and invalid condemnation of the State Supreme Court within the City of New York made in the series of editorials appearing in the *Daily News* over the past several weeks. The "independent conclusion" of the newspaper is that the judiciary in New York City is in pitiful condition and that many of our Justices are unqualified, with as many as half ranging from marginally to wholly unfit for the bench. Curiously, it is this same judiciary which has consistently reaffirmed the free expression of opinions and ideas, just like some of those recited in the editorials, no matter how repugnant or misguided they may be.

And while the judiciary, as the newspaper points out, can in some circumstances be more powerful than the executive or legislative branches of government, it is the judiciary which is powerless, for ethical reasons, to publicly defend itself against broadbased attacks upon its integrity and competence. It is the one branch of government that cannot fight back.

To the extent the articles urge the prompt reorganization of the court system, the opening up to the public of judicial disciplinary proceedings, the elimination of individual abuses by judges and the adoption of an appointive rather than the elective system for choosing judges, they raise important issues and are worthy not only of further investigation and debate, but action where it will result in the improvement of our system.

But what is it, in these times or in any other times, which would provoke a responsible newspaper to undermine virtually the entire judicial branch of government in our city? I am not yet cynical enough to believe it is just to sell newspapers. The ethics that anything that arouses the public to buy newspapers is fair game — is the kind of stuff found in fiction and movies like *The Fountainhead* and not in the real world.

So my "independent conclusion" is that the editorials in condemning our judicial system, in plain and simple terms, is a sad mistake. A mistake caused because those who made it have not been inside the courts, seeing as we at the bar do, justice dispensed every day in a system which, albeit imperfect like all others, does the essential job of keeping us civilized and does it well.

Roy L. Reardon
New York, N.Y.

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