

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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BY E-MAIL: lcohler-esses@edit.nydailynews.com

April 10, 2003

Larry Cohler-Esses, Investigative Reporter
Daily News
450 West 33rd Street
New York, New York 10001

RE: Vindicating the Public's Rights in time for "LAW DAY", MAY 1, 2003: Follow-up to Daily News reporting & editorializing: "Cases vs. Diamond Dismissed" (4/3/03; Michele McPhee) & "Conduct Unbecoming" (4/4/03, Editorial)

Dear Larry:

This is to confirm our meeting together at 11:30 a.m. on Tuesday, April 15th, at which time I will provide you with copies of several dozen judicial misconduct complaints, filed with the New York State Commission on Judicial Conduct by citizens throughout the state. Such will enable you to confirm that the manner in which the Commission handled the judicial misconduct complaints against Judge Marilyn Diamond, described by Michele McPhee's April 3rd article, "Cases vs. Diamond Dismissed", and condemned by the Daily News April 4th editorial "Conduct Unbecoming", is its standard operating procedure¹.

Please allot at least an hour and half for the meeting so that I can review with you the three categories of *readily-verifiable evidence* establishing the

¹ The Daily News editorial phrases the question, "Can you imagine if all investigations were conducted in this manner?". However, the meaning of the Commission's form letter response, "insufficient indication of judicial misconduct", is that NO INVESTIGATION was authorized to be conducted.

Commission's corruption:

- (1) the law – beginning with Judiciary Law §44.1, which requires the Commission to investigate every complaint it receives, absent a determination that the complaint facially lacks merit;
- (2) *facially-meritorious* judicial misconduct complaints, dismissed by the Commission, *without* investigation, in violation of Judiciary Law §44.1;
- (3) files of lawsuits against the Commission brought by complainants whose *facially-meritorious* complaints were dismissed *without* investigation – from which you can readily discern that the Commission had NO legitimate defense; was defended by litigation misconduct of its attorney, the NYS Attorney General; and was rewarded by fraudulent judicial decisions without which it would NOT have survived and which have NOW totally insulated the Commission from further lawsuits by holding (*via* single sentence declarations) that complainants have no “standing” to sue the Commission.

So that your editor, Russ Hoyle, will have NO doubt as to the serious and substantial nature of this three-fold evidence, warranting an *easy-to-accomplish* investigative expose by the Daily News, I would be pleased if he would join us. Likewise, I would be pleased if Richard Schwartz and Michael Aronson would join us – since the end-result of an investigative expose based on such overwhelming, indisputable evidence, will necessarily be strong editorials calling for official investigation and legislative oversight hearings to vindicate the public's rights and restore the “rule of law”, obliterated by judges who are all under the Commission's disciplinary jurisdiction, with an “interest” in perpetuating it as a corrupt facade.

At my Monday's meeting with Mr. Schwartz and Mr. Aronson, I provided copies of three documents which you should read BEFORE we meet together – as these will provide a good grounding for what we will be reviewing together. These are:

- (1) Comptroller Ed Regan's November 15, 1989 Report on the Commission, entitled, "*Not Accountable to the Public*", with his December 7, 1989 press release, "*Commission on Judicial Conduct Needs Oversight*";
- (2) CJA's March 5, 2003 letter to NYS Senate and Assembly Judiciary Committee leadership on the need for a joint legislative oversight hearing of the Commission;
- (3) CJA's October 26, 2001 letter to NYS Senator – now Senate Minority Leader – David Paterson, requesting him to take steps to secure a legislative oversight hearing and/or legislative investigation of the Commission and summarizing the three categories of evidence pertaining to its corruption².

In light of your great eagerness to focus on judicial misconduct complaints filed with the Commission, you can get a head start by examining the copy of the lawsuit file I hand-delivered to the Daily News on November 30, 2001 under a coverletter addressed to Mr. Aronson. It contains 13 judicial misconduct complaints -- with a 14th complaint contained in the further lawsuit papers transmitted under my January 22, 2002 letter to Mr. Aronson. These are:

- 1. CJA's 10/6/98 judicial misconduct complaint against Appellate Division, Second Department Justice Rosenblatt and fellow Second Department justices, which appears at A-57³ of the Record on Appeal. CJA's correspondence with the Commission based thereon is as follows:

CJA's faxed 11/3/98 inquiry letter to Commission A-84

Commission's 11/3/98 acknowledgment letter A-85

Commission's 12/2/98 letter A-91

² Annexed to the letter as Exhibit "B-1" is a copy of a January 16, 1987 judicial misconduct complaint against Criminal Court Judge Arlene Silverman, filed with the Commission by M. L. Henry, who was then Executive Director of the Fund for Modern Courts. A copy of the Commission's July 24, 1987 dismissal letter is annexed thereto as Exhibit "C-2".

³ This judicial misconduct complaint and the correspondence related thereto are detailed at ¶¶ "SEVENTEENTH" through "FORTY-SIXTH" of my Verified Complaint [A-28-37] and summarized by pages 5-10 of my appellant's Brief.

CJA's 12/10/98 inquiry letter A-92

Commission's 12/23/98 dismissal letter A-93

CJA's 12/29/98 inquiry letter A-94

Commission's 1/25/99 letter A-96

2. CJA's 2/3/99 letter, combined with a judicial misconduct complaint against Commissioner-Appellate Division, Second Department Justice Daniel Joy appears at A-97 of the Record on Appeal. CJA's correspondence with the Commission based thereon is as follows:

Commission's 2/5/99 letter A-102

CJA's 3/11/99 letter A-104

3. Clay Tiffany's 5/21/99 judicial misconduct complaint against Acting Supreme Court Justice William Wetzel⁴A-266

Commission's 9/14/99 dismissal letterA-278

**4. CJA's 3/3/00 judicial misconduct complaint against Judge Wetzel and Manhattan Supreme Court Administrative Judge Stephen Crane.....Exhibit "M-1" to my 8/17/01 disqualification/disclosure motion
*Substantiating particulars set forth in CJA's 2/23/00 letter to Governor Pataki.....Exhibit "F" to my 8/17/01 disqualification/disclosure motion⁵***

Commission's 4/6/00 dismissal letter.....Exhibit "M-2" to my 8/17/01 disqualification/disclosure motion

⁴ This judicial misconduct complaint against Judge Wetzel, giving him a proscribed "interest" in my lawsuit against the Commission, is summarized at pages 27-28, 48-49 of my appellant's Brief.

⁵ The recitation of judicial misconduct by Judge Wetzel and Administrative Judge Crane in CJA's 2/23/00 letter to the Governor was the predecessor to the recitation in my appellant's Brief.

5. CJA's 8/3/00 judicial misconduct complaint against Chief Judge Judith Kaye....Exhibit "O-1" to my 8/17/01 disqualification/disclosure motion⁶ [See underlying documents: Exhibits "K", "L-1", "L-2", "N")]

Commission's 9/19/00 dismissal letter.....Exhibit "O-2" to my 8/17/01 disqualification/disclosure motion

6. George Sassower's 7/7/86 judicial misconduct complaint against then Appellate Division, First Department Presiding Justice Murphy, etc.⁷.....Exhibit "E-1a" to my 8/17/01 disqualification/disclosure motion

Commission's 9/18/86 dismissal letter.....Exhibit "E-1b" to my 8/17/01 disqualification/disclosure motion

7. George Sassower's 9/30/88 judicial misconduct complaint against then Supreme Court Justice David Saxe.....Exhibit "E-2a" to my 8/17/01 disqualification/disclosure motion

8. George Sassower's 10/30/88 judicial misconduct complaint against Justice Saxe.....Exhibit "E-2b" to my 8/17/01 disqualification/disclosure motion

Commission's 9/18/88 dismissal letter.....Exhibit "E-2C" to my 8/17/01 disqualification/disclosure motion

9. George Sassower's 2/10/89 judicial misconduct complaint against then Appellate Division, First Department Presiding Justice Murphy.....Exhibit "E-3a" to my 8/17/01 disqualification/disclosure motion

Commission's 2/22/89 acknowledgment letter.....Exhibit "E-3b" to my 8/17/01 disqualification/disclosure motion

⁶ The events leading up to the filing of CJA's 8/3/00 complaint against Chief Judge Kaye are particularized at ¶¶35-44 of my 8/17/01 disqualification/disclosure motion.

⁷ George Sassower's many judicial misconduct complaints against Appellate Division, First Department justices, giving them a proscribed "interest" in my lawsuit against the Commission, as well as engendering hostility toward me, are discussed at ¶¶10-14 of my 8/17/01 disqualification/disclosure motion. Some of the judicial misconduct issues presented by those complaints are highlighted in the June 6, 1989 Village Voice profile, "To the Gulag: Courthouse Leper George Sassower Takes on Every Judge in Town" – annexed as Exhibit "E-7" to my 8/17/01 disqualification/disclosure motion.

10. George Sassower's 2/27/89 judicial misconduct complaint against then Appellate Division, First Department Justice Murphy.....Exhibit "E-4" to my 8/17/01 disqualification/disclosure motion

11. George Sassower's 3/22/94 judicial misconduct complaint against then Appellate Division, First Department Justice Murphy.....Exhibit "E-5" to my 8/17/01 disqualification/disclosure motion

12. George Sassower's 4/13/94 judicial misconduct complaint against Appellate Division Justice Joseph Sullivan.....Exhibit "E-6a" to my 8/17/01 disqualification/disclosure motion

13. George Sassower's 5/23/94 judicial misconduct complaint against Appellate Division Justice Sullivan.....Exhibit "E-6b" to my 8/17/01 disqualification/disclosure motion

14. CJA's 1/7/01 judicial misconduct complaint against the Appellate Division, First Department panel which decided my appeal of Judge Wetzel's decisionExhibit "B-1" to my 1/17/02 reargument motion⁸

Commission's 1/11/02 acknowledgment letter.....Exhibit "B-2" to my 1/17/02 reargument motion

Commission's 2/27/02 dismissal letter.....Exhibit "L-2" to my October 24, 2002 motion for leave to appeal.

Clearly, you have the background "history" for this investigative expose, going back more than three years when I first delivered to you copies of judicial misconduct complaints from CJA's archive. However, I wish to acknowledge Ms. McPhee's important contribution by her April 3rd article, as well as the interest she expressed when I phoned her about doing a follow-up article about lawsuits brought by complainants challenging the Commission's dismissals of their judicial misconduct complaints. I, therefore, ask that Ms. McPhee be

⁸ Annexed also to my October 24, 2002 motion for leave to appeal to the Court of Appeals as Exhibit "L-1". [This document was given to Mr. Schwartz, *in hand*, on December 7, 2002 at the City Bar's program "How to Become a Judge"].

invited to our meeting. That she has in her possession copies of the judicial misconduct complaints against Judge Diamond, dismissed by the Commission, *without* investigation, which she can contribute to our discussions, only reinforces the value of her presence.

I leave it to you to make whatever arrangements are deemed appropriate.

Thank you.

Yours for a quality judiciary,



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

cc: Russ Hoyle: rhoyle@edit.nydailynews.com
Richard Schwartz: rschwartz@edit.nydailynews.com
Michael Aronson: maronson@edit.nydailynews.com
Michele McPhee: mmcphee@edit.nydailynews.com

TRANSMISSION VERIFICATION REPORT

TIME : 04/10/2003 09:55
NAME : CJA
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TEL : 9144211200

DATE, TIME	04/10 09:50
FAX NO. /NAME	12126437831
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PAGE(S)	08
RESULT	OK
MODE	STANDARD ECM

Subj: Investigative Expose of the NYS Commission on Judicial Conduct
Date: 4/10/03 9:42:11 AM Eastern Daylight Time
From: Judgewatchers
To: lcohler-esses@edit.nydailynews.com
CC: rhoyle@edit.nydailynews.com, rschwartz@edit.nydailynews.com, maronson@edit.nydailynews.com, mmcphee@edit.nydailynews.com
File: 4-10-03-cohler-esses.ZIP (30917 bytes) DL Time (50667 bps): < 1 minute

TO: Larry Cohler-Esses, Investigative Reporter
Daily News

FROM: Elena Ruth Sassower, Coordinator
Center for Judicial Accountability, Inc. (CJA)
(914) 421-1200

Attached is my letter of today's date about our 11:30 am meeting on Tuesday, April 15th – at which I hope the indicated recipients of the letter might be present.

Also attached are two referred-to letters: (1) CJA's March 5, 2003 letter to NYS Senate and Assembly Judiciary Committee leadership on the need for holding a joint oversight hearing of the Commission on Judicial Conduct; and (2) CJA's October 26, 2001 letter to NYS Senator – now Senate Minority Leader – David Paterson, requesting that he take steps to secure a legislative oversight hearing and/or legislative investigation of the Commission and summarizing the three categories of evidence pertaining to its corruption.

Regards and thanks.

April 8, 2003

Let me know if there is any additional information or suggestions I can provide you with. "Law Day", May 1, 2003, is less than three weeks away – and you should plan a special "*Judging the Judges*" editorial for that day.

Finally, as to the "pinata" that you, Richard, analogized to the Commission, I can guarantee you that there is no sharper and more certain prod to break it apart than the two boxes containing the file of my important public interest lawsuit against the Commission, which you forbade me to open. As discussed, I request that you give me an hour's time to make a presentation as to the *readily-verifiable evidence* of the Commission's corruption it presents.

It has long been my view that the news side of the Daily News should be undertaking an investigative expose of the Commission in conjunction with your "*Judging the Judges*" editorial series – and I am grateful to you, Richard, for offering to follow-up with Russ Hoyle. Certainly, it would make a great deal of sense for Mr. Hoyle to join us for our hour's meeting, which I hope will be soon upcoming.

Thank you.

Elena

TRANSMISSION VERIFICATION REPORT

TIME : 04/08/2003 12:11

NAME : CJA

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