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Appeal for Justice

Lawsuit alleges corruption at the state Commission on Judicial Conduct—and seeks to disqualify all members of the Court of Appeals from hearing it

MAY 1 IS A FITTING DAY FOR Elena Ruth Sassower to serve her papers with state Attorney General Eliot Spitzer and the state Commission on Judicial Conduct. May 1, after all, is Law Day—a day established by congressional resolution in 1961 to celebrate liberty, equality and justice under the law. Likewise, the point of Sassower's public-interest suit, a proceeding against the Commission on Judicial Conduct alleging that it is corrupt and has failed to fulfill its mandate to investigate civilians' complaints against judges, is to draw attention to people's rights to "justice under law." Or, in some instances, the lack thereof.

As coordinator for the Center for Judicial Accountability Inc., a nonprofit citizens' organization that for more than a decade has been dedicated to revealing the secretive and insular nature of the commission, Sassower is filing a motion with the Court of Appeals to compel the organization to investigate *all* complaints against judges, as required by state law. As it stands now, the commission investigates complaints at its own discretion, and critics say that all too often, complaints against politically connected, higher-level judges are dismissed; when a complaint against a powerful judge is heard, the resulting punishment often is little more than a slap on the wrist.

The charges and evidence in Sassower's petition are intensely critical of the commission, its administrators and members, and of Spitzer, whom Sassower says has helped insulate the commission from public accountability and judges from receiving complete investigations. In essence, she has assembled an exhaustive set of legal papers that implicates officials as high up as Gov. George Pataki in what she calls "willful misconduct," and an attempt to subvert oversight of the judiciary—especially members of the judiciary who have friends in high places.

So far, Sassower's case has been dismissed out of hand by lower courts; she points out, however, that her case was steered before judges who had a vested interest in seeing its demise, although the

Nomination. Sassower believes that Rosenblatt was not forthcoming with the commission when it asked him whether he had ever been a subject of misconduct complaints. The Commission on Judicial Conduct dismissed Sassower's complaint without investigation in December 1998. It was after failing to receive satisfactory answers to her repeated questions about the dismissal of her complaint—and subsequent related complaints—that Sassower began her legal proceedings against the Commission on Judicial Conduct.

"It's the complaint against him based upon his perjury in his application to the panel hearing a case brought by Sassower's mother, Doris Sassower, which alleged corruption in election laws as it pertains to judges. The case resulted in the abrupt and unconditional suspension of Doris Sassower's law license without a hearing or notice of charges.

The only Appeals Court judge who is not somehow directly involved with the case is Richard Wesley. But Sassower says that he should also be disqualified because of the "appearance that he cannot be fair and impartial" if his colleagues are all implicated in the suit.

"Because virtually every judge in the

> *"The criminal ramifications of this lawsuit reach this state's most powerful leaders upon whom judges are directly and immediately dependent and with whom they have personal and professional relationships."*

assistant solicitor general Carol Fischer, acting on behalf of the attorney general's office, argued in 2000 that "any question of judicial bias is meritless." Practically no one in state government or the court system is willing comment on it.

This time around, Sassower's case is going to be particularly difficult for the courts to contend with because she is asking that none of the judges sitting on the Court of Appeals be allowed to preside over it.

"What is most dramatic [about this case] is not the fact that I'm going to be serving my notice of appeal on the commission and its attorney, the state attorney general," Sassower commented. "But that I am also accompanying that with an unusual motion to disqualify the judges of the Court of Appeals."

According to Sassower, all save one of the Appeals Court judges have "personal and pecuniary" interests in her case.

Take, for instance, Associate Judge Albert Rosenblatt. In 1998, Sassower made a judicial misconduct complaint against him, charging that he committed perjury when he was being interviewed for his position by the commission in charge of appointing Appeals Court judges, the Commission on Judicial Court of Appeals which was dismissed by the commission, so he has direct interest," Sassower said. She said that both Judge George Bundy Smith and Judge Victoria Graffeo were involved in the events that gave rise to the initial suit—the "ramming through" of the approval of Rosenblatt despite complaints against his appointment—and should also be disqualified from the case.

As for Chief Judge Judith Kaye, Sassower said that over the past two years, she has provided her with full copies of her complaints and lawsuit against the commission: "I said, 'You need to appoint a special inspector general [to investigate].' . . . But what does she do? She says she has no authority. I say she sure does have the authority to undertake an official investigation. So I filed a misconduct complaint [against her] with the commission based on the ethical rules that a judge must take appropriate action when faced with evidence of violative conduct taking place in front of him."

Judge Carmen Ciparik ought to be disqualified, Sassower contended, because she served on the commission from 1985 through 1993.

Judge Howard Levine should be disqualified, she said, because he sat on a state is under the commission's disciplinary jurisdiction and because the criminal ramifications of this lawsuit reach this state's most powerful leaders upon whom judges are directly and immediately dependent and with whom they have personal and professional relationships," Sassower's court papers state, "I raised legitimate issues of judicial disqualification and disclosure in the courts . . . Their disqualifying interest is based on participation in the events giving rise to this lawsuit or in the systematic governmental corruption it exposes—as to which they bear disciplinary and criminal liability."

Sassower acknowledged that her suit has already been denied by both the Supreme and Appellate courts in the past, but she said she's not going to be dissuaded, even if Appeals Court refuses her again: "I did not bring this case with the idea that the public's rights would be vindicated in the court," she said. "I brought this case because, if the courts are corrupt from bottom to top, I was going to put it all together in a neat package where it could be presented to the public in a neat form. . . . The public needs to know what s going on with judiciary discipline and judicial nomination."

—Erin Sullivan