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Elena Ruth Sassower, Coordinator

BY HAND

October 9, 1998

Ms. Elsa Brenner, The New York Times
408 Ridgeway
White Plains, New York

Dear Ms. Brenner:

Enclosed are the *unopposed* cert petition and supplemental brief in the federal civil rights action, *Sassower v. Mangano, et al.* These documents continue, on the federal level, the electorally-significant story highlighted on the Op-Ed page of The New York Times in CJA's public interest ad, "*Where Do You Go When Judges Break the Law?*" (10/26/94) -- which cost us $16,770. Indeed, among the ad's concluding words were "Now, all state remedies have been exhausted". The ad is included in the cert appendix at A-269, as is CJA's $3,000 public interest ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*"(New York Law Journal, 8/27/97) [A-261][1].

The cert petition and supplemental brief -- each substantiated by voluminous appendices -- resoundingly demonstrate that the answer to the question "*Where Do You Go When Judges Break the Law*?" is NOT to federal court. The cert petition particularizes how the lower federal judiciary protected the defendant high-ranking New York State judges and State Attorney General-- who had *no* defense to the allegations of the verified complaint of their corruption. The federal judiciary did this by abandoning *all* cognizable adjudicative standards, including by authoring fraudulent judicial decisions. The supplemental brief particularizes that the supposed checks on such federal judicial misconduct in the Legislative and Executive Branches are -- like the supposed checks in the Judicial Branch -- dysfunctional and corrupted.

The U.S. Supreme Court's response to our document-supported showing as to the breakdown of checks on federal judicial misconduct in all three government Branches was not only to turn its back on its mandatory duty to accept review under its "power of supervision", but its duty under ethical and professional codes to make disciplinary and criminal referrals of the subject federal judges. Moreover, the Supreme Court also jettisoned its ethical and statutory obligations relating to judicial disqualification.

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[1] *See* the final paragraphs, which detail the federal action [A-267]

Enclosed, in addition to the Court's October 5, 1998 order denying cert, is a copy of our September 23, 1998 recusal/disclosure application, distributed to each of the Court's Justices. According to the Clerk, the Justices did *not* act on it and, for that reason, it has *not* been docketed. In such fashion, the Justices have concealed that their denial of the cert petition and failure to refer the subject federal judges for criminal and disciplinary investigation is tainted by their failure to address the threshold issue of their impartiality. Such misconduct replicates the misconduct of the Second Circuit, whose concealment of unadjudicated disqualification applications was particularized in the cert petition and a further ground upon which the Court's review was sought (2nd Question Presented, Point II, at 26-30).

Needless to say, the Court's aforesaid disposition of *Sassower v. Mangano* would be egregious at any time (*See* "Reasons for Granting the Writ", cert petition at 21-26; supplemental brief, at 1-3)-- but, particularly so at this HISTORIC moment, when the #1 issue in the news relates to whether President Clinton's perjury and obstruction of justice in proceedings *unconnected* to his presidential office, rise to a level warranting impeachment. Although the precise standards for impeachment are hotly debated, it is UNIFORMLY recognized that impeachment applies in cases of official misconduct where a public officer has subverted his office. This is precisely the situation in *Sassower v. Mangano*, where the subject federal judges wholly subverted their judicial office and the judicial process by their fraudulent decisions.

The enclosed fact-specific and substantiated materials should suffice to convince you that what is here involved -- in *readily-verifiable*, case file form -- is systemic governmental corruption, state and federal, affecting the public interest. The New York Times has a professional duty to provide the public with such information -- and all the more so in this electoral season where State Attorney General Vacco is running for re-election. According to the Times' October 5th article on the front-page of its Metro Section, "most experts and recent polls indicate" that that race for Attorney General "is shaping up as the most competitive of the three major races for statewide offices this year". Let there be no doubt but that were the Times to expose Attorney General Vacco's litigation fraud and misconduct in *Sassower v. Mangano* -- covering up for the state corruption highlighted in "*Where Do You Go When Judges Break the Law?*" and in "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" -- he would not only be electorally-defeated, but would face indictment and disbarment.

As reflected by the supplemental brief (at 1, 9-10), we have filed a criminal complaint with the Public Integrity Section of the Justice Department's Criminal Division -- against the State Attorney General, among others [SA-47]. So that you can have the benefit of the exhibits to that July 27, 1998 complaint, a free-standing copy is enclosed, identical to the one lodged with the U.S. Supreme Court in support of the supplemental brief (p. 9, fn.. 2).

After reviewing the enclosed materials, we trust you will agree that this story requires more than a "News Brief" in the Westchester Section, for which you write. Indeed, because of the statewide and,

indeed, national aspects of this story, we ask that you promptly bring them to the attention of Times editors able to provide for coverage in the Metro and National Sections of the newspaper.

We would appreciate a call early next week so that we can make arrangements to transmit to the Times the substantiating file proof, relevant to its coverage of the race for State Attorney General.

Yours for a quality judiciary,

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

Attachments: "*Where Do You Go When Judges Break the Law?*",
NYT Op-Ed ad, 10/26/94, NYLJ ad, 11/1/94, p. 9
"*Restraining 'Liars in the Courtroom' and on the Public Payroll*"
NYLJ ad, 8/27/97, pp. 3-4
"*Swipes by Candidates Highlight Attorney General Race*".
NYT, front-page Metro article, 10/5/98

Enclosures

Reprinted from the Op-Ed Page, Oct. 26, 1994, *THE NEW YORK TIMES*

The New York Times

Where Do You Go When Judges Break the Law?

FROM THE WAY the current electoral races are shaping up, you'd think judicial corruption isn't an issue in New York. Oh, really?

On June 14, 1991, a New York State court suspended an attorney's license to practice law—immediately, indefinitely and unconditionally. The attorney was suspended with no notice of charges, no hearing, no findings of professional misconduct and no reasons. All this violates the law and the court's own explicit rules.

Today, more than three years later, the suspension remains in effect, and the court refuses even to provide a hearing as to the basis of the suspension. No appellate review has been allowed.

Can this really happen here in America? It not only can, it did.

The attorney is Doris L. Sassower, renowned nationally as a pioneer of equal rights and family law reform, with a distinguished 35-year career at the bar. When the court suspended her, Sassower was *pro bono* counsel in a landmark voting rights case. The case challenged a political deal involving the "cross-endorsement" of judicial candidates that was implemented at illegally conducted nominating conventions.

Cross-endorsement is a bartering scheme by which opposing political parties nominate the same candidates for public office, virtually guaranteeing their election. These "no contest" deals frequently involve powerful judgeships and turn voters into a rubber stamp, subverting the democratic process. In New York and other states, judicial cross endorsement is a way of life.

One such deal was actually put into writing in 1989. Democratic and Republican party bosses dealt out seven judgeships over a three-year period. "The Deal" also included a provision that one cross-endorsed candidate would be "elected" to a 14-year judicial term, then resign eight months after taking the bench in order to be "elected" to a different, more patronage-rich judgeship. The result was a musical-chairs succession of new judicial vacancies for other cross-endorsed candidates to fill.

Doris Sassower filed a suit to stop this scam, but paid a heavy price for her role as a judicial whistle-blower. Judges who were themselves the products of cross-endorsement dumped the case. Other cross-endorsed brethren on the bench then viciously retaliated against her by suspending her law license, putting her out of business overnight.

Our state law provides citizens a remedy to ensure independent review of governmental misconduct. Sassower pursued this remedy by a separate lawsuit against the judges who suspended her license.

That remedy was destroyed by those judges who, once again, disobeyed the law — this time, the law prohibiting a judge from deciding a case to which he is a party and in which he has an interest. Predictably, the judges dismissed the case against themselves.

New York's Attorney General, whose job includes defending state judges sued for wrongdoing, argued to our state's highest court that there should be no appellate review of the judges' self-interested decision in their own favor.

Last month, our state's highest court — on which cross-endorsed judges sit — denied Sassower any right of appeal, turning its back on the most basic legal principle that "no man shall be the judge of his own cause." In the process, that court gave its latest demonstration that judges and high-ranking state officials are above the law.

Three years ago this week, Doris Sassower wrote to Governor Cuomo asking him to appoint a special prosecutor to investigate the documented evidence of lawless conduct by judges and the retaliatory suspension of her license. He refused. Now, all state remedies have been exhausted.

There is still time in the closing days before the election to demand that candidates for Governor and Attorney General address the issue of judicial corruption, which is real and rampant in this state.

Where do you go when judges break the law? You go public.

Contact us with horror stories of your own.

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*The **Center for Judicial Accountability, Inc.** is a national, non-partisan, not-for-profit citizens' organization raising public consciousness about how judges break the law and get away with it.*

New York Law Journal

AUGUST 27, 1997

[at page 3]

RESTRAINING "*LIARS IN THE COURTROOM*" AND ON THE PUBLIC PAYROLL

On June 17th, The New York Law Journal published a Letter to the Editor from a former New York State Assistant Attorney General, whose opening sentence read "Attorney General Dennis Vacco's worst enemy would not suggest that he tolerates unprofessional or irresponsible conduct by his assistants after the fact". Yet, more than three weeks earlier, the Center for Judicial Accountability, Inc. (CJA), a non-partisan, non-profit citizens' organization, submitted a proposed Perspective Column to the Law Journal, detailing the Attorney General's knowledge of, and complicity in, his staff's litigation misconduct – before, during, and after the fact. The Law Journal refused to print it and refused to explain why. Because of the transcending public importance of that proposed Perspective Column, CJA has paid $3,077.22 so that you can read it. It appears today on page 4.

[at page 4]

RESTRAINING "*LIARS IN THE COURTROOM*" AND ON THE PUBLIC PAYROLL

– a $3,077.22 ad presented, in the public interest, by the Center for Judicial Accountability, Inc. –
(continued from page 3)

In his May 16th Letter to the Editor, Deputy State Attorney General Donald P. Berens, Jr. emphatically asserts, "the Attorney General does not accept and will not tolerate unprofessional or irresponsible conduct by members of the Department of Law."

A claim such as this plainly contributes to the view -- expressed in Matthew Lifflander's otherwise incisive Perspective Column "*Liars Go Free in the Courtroom*" (2/24/97) -- that the State Attorney General should be in the forefront in spearheading reform so that the perjury which "pervades the judicial system" is investigated and deterrent mechanisms established. In Mr. Lifflander's judgment, "the issue is timely and big enough to justify creation of either a state Moreland Act Commission investigation by the Governor and the Attorney General, or a well-financed legislative investigation at the state or federal level", with "necessary subpoena power". Moreover, as recognized by Mr. Lifflander and in the two published letter responses (3/13/97, 4/2/97), judges all too often fail to discipline and sanction the perjurers who pollute the judicial process.

In truth, the Attorney General, our state's highest law enforcement officer, lacks the conviction to lead the way in restoring standards fundamental to the integrity of our judicial process. His legal staff are among the most brazen of liars who "go free in the courtroom". Both in state and federal court, his Law Department relies on litigation misconduct to defend state agencies and officials sued for official misconduct, including corruption, where it has *no* legitimate defense. It files motions to dismiss on the pleadings which falsify, distort, or omit the pivotal pleaded allegations or which improperly argue *against* those allegations, without *any* probative evidence whatever. These motions also misrepresent the law or are unsupported by law. Yet, when this defense misconduct -- readily verifiable from litigation files -- is brought to the Attorney General's attention, he fails to take any corrective steps. This, notwithstanding the misconduct occurs in cases of great public import. For its part, the courts -- state and federal -- give the Attorney General a "green light."

Ironically, on May 14th, just two days before the Law Journal published Deputy Attorney General Berens' letter, CJA testified before the Association of the Bar of the City of New York, then holding a hearing about misconduct by state judges and, in particular, about the New York State Commission on Judicial Conduct. The Law Journal limited its coverage of this important hearing to a three-sentence blurb on its front-page news "Update" (5/15/97).

Our testimony described Attorney General Vacco's defense misconduct in an Article 78 proceeding in which we sued the Commission on Judicial Conduct for corruption (N.Y. Co. #95-109141). Law Journal readers are already familiar with that public interest case, spearheaded by CJA. On August 14, 1995, the Law Journal printed our Letter to the Editor about it, "*Commission Abandons Investigative Mandate*" and, on November 20, 1996, printed our $1,650 ad, "*A Call for Concerted Action*".

The case challenged, *as written and as applied*, the constitutionality of the Commission's self-promulgated rule, 22 NYCRR §7000.3, by which it has converted its mandatory duty under Judiciary Law §44.1 to investigate facially-meritorious judicial misconduct complaints into a discretionary option, unbounded by *any* standard. The petition alleged that since 1989 we had filed eight facially-meritorious complaints "of a profoundly serious nature -- rising to the level of criminality, involving corruption and misuse of judicial office for ulterior purposes -- mandating the ultimate sanction of removal". Nonetheless, as alleged, each complaint was dismissed by the Commission, *without* investigation, and *without* the determination required by Judiciary Law §44.1(b) that a complaint so-dismissed be "on its face lacking in merit". Annexed were copies of the complaints, as well as the dismissal letters. As part of the petition, the Commission was requested to produce the record, including the evidentiary proof submitted with the complaints. The petition alleged that such documentation established, "*prima facie*, [the] judicial misconduct of the judges complained of or probable cause to believe that the judicial misconduct complained of had been committed".

Mr. Vacco's Law Department moved to dismiss the pleading. Arguing *against* the petition's specific factual allegations, its dismissal motion contended -- *unsupported* by legal authority -- that the facially irreconcilable agency rule is "harmonious" with the statute. It made no argument to our challenge to the rule, *as applied*, but in opposing our Order to Show Cause with TRO falsely asserted -- *unsupported* by law or *any* factual specificity -- that the eight facially-meritorious judicial misconduct complaints did not have to be investigated because they "did not on their face allege judicial misconduct". The Law Department made no claim that any such determination had ever been made by the Commission. Nor did the Law Department produce the record -- including the evidentiary proof supporting the complaints, as requested by the petition and further reinforced by separate Notice.

Although CJA's sanctions application against the Attorney General was fully documented and uncontroverted, the state judge did not adjudicate it. Likewise, he did not adjudicate the Attorney General's duty to have intervened on behalf of the public, as requested by our formal Notice. Nor did he adjudicate our formal motion to hold the Commission in default. These threshold issues were simply obliterated from the judge's decision, which concocted grounds to dismiss the case. Thus, to justify the rule, *as written*, the judge advanced his own interpretation, falsely attributing it to the Commission. Such interpretation, belied by the Commission's own definition section to its rules, does nothing to reconcile the rule with the statute. As to the constitutionality of the rule, *as applied*, the judge baldly claimed what the Law Department never had: that the issue was "not before the court". In fact, it was squarely before the court -- but adjudicating it would have exposed that the Commission was, as the petition alleged, engaged in a "pattern and practice of protecting politically-connected judges...shield[ing them] from the

disciplinary and criminal consequences of their serious judicial misconduct and corruption".

The Attorney General is "the People's lawyer", paid for by the taxpayers. Nearly two years ago, in September 1995, CJA demanded that Attorney General Vacco take corrective steps to protect the public from the combined "double-whammy" of fraud by the Law Department and by the court in our Article 78 proceeding against the Commission, as well as in a prior Article 78 proceeding which we had brought against some of those politically-connected judges, following the Commission's wrongful dismissal of our complaints against them. It was not the first time we had apprised Attorney General Vacco of that earlier proceeding, involving perjury and fraud by his two predecessor Attorneys General. We had given him written notice of it a year earlier, in September 1994, while he was still a candidate for that high office. Indeed, we had transmitted to him a full copy of the litigation file so that he could make it a campaign issue -- which he failed to do.

Law Journal readers are also familiar with the serious allegations presented by that Article 78 proceeding, raised as an essential campaign issue in CJA's ad "*Where Do You Go When Judges Break the Law?*". Published on the Op-Ed page of the October 26, 1994 New York Times, the ad cost CJA $16,770 and was reprinted on November 1, 1994 in the Law Journal, at a further cost of $2,280. It called upon the candidates for Attorney General and Governor "to address the issue of judicial corruption". The ad recited that New York state judges had thrown an Election Law case challenging the political manipulation of elective state judgeships and that other state judges had viciously retaliated against its "judicial whistle-blowing", *pro bono* counsel, Doris L. Sassower, by suspending her law license immediately, indefinitely, and unconditionally, *without* charges, *without* findings, *without* reasons, and *without* a pre-suspension hearing, -- thereafter denying her *any* post-suspension hearing and *any* appellate review.

Describing Article 78 as the remedy provided citizens by our state law "to ensure independent review of governmental misconduct", the ad recounted that the judges who unlawfully suspended Doris Sassower's law license had refused to recuse themselves from the Article 78 proceeding she brought against them. In this perversion of the most fundamental rules of judicial disqualification, they were aided and abetted by their counsel, then Attorney General Robert Abrams. His Law Department argued, *without* legal authority, that these judges of the Appellate Division, Second Department were not disqualified from adjudicating their own case. The judges then granted their counsel's dismissal motion, whose legal insufficiency and factual perjuriousness was documented and uncontroverted in the record before them. Thereafter, despite repeated and explicit written notice to successor Attorney General Oliver Koppell that his judicial clients' dismissal decision "was and is an outright lie", his Law Department opposed review by the New York Court of Appeals, engaging in further misconduct before that court, constituting a deliberate fraud on that tribunal. By the time a writ of certiorari was sought from the U.S. Supreme Court, Mr. Vacco's Law Department was following in the footsteps of his predecessors (AD 2nd Dept. #93-02925; NY Ct. of Appeals: Mo. No. 529, SSD 41; 933; US Sup. Ct. #94-1546).

Based on the "hard evidence" presented by the files of these two Article 78 proceedings, CJA urged Attorney General Vacco to take immediate investigative action and remedial steps since what was at stake was not only the corruption of two vital state agencies -- the Commission on Judicial Conduct and the Attorney General's office -- but of the judicial process itself.

What has been the Attorney General's response? He has ignored our voluminous correspondence. Likewise, the Governor, Legislative leaders, and other leaders in and out of government, to whom we long ago gave copies of one or both Article 78 files. No one in a leadership position has been willing to comment on either of them.

Indeed, in advance of the City Bar's May 14th hearing, CJA challenged Attorney General Vacco and these leaders to deny or dispute the file evidence showing that the Commission is a beneficiary of fraud, without which it could *not* have survived our litigation against it. None appeared -- except for the Attorney General's client, the Commission on Judicial Conduct. Both its Chairman, Henry Berger, and its Administrator, Gerald Stern, conspicuously avoided making *any* statement about the case -- although each had received a personalized written challenge from CJA and were present during our testimony. For its part, the City Bar Committee did not ask Mr. Stern *any* questions about the case, although Mr. Stern stated that the sole purpose for his appearance was to answer the Committee's questions. Instead, the Committee's Chairman, to whom a copy of the Article 78 file had been transmitted more than three months earlier -- but, who, for reasons he *refused* to identify, did *not* disseminate it to the Committee members -- abruptly closed the hearing when we rose to protest the Committee's failure to make such inquiry, the importance of which our testimony had emphasized.

Meantime, in a §1983 federal civil rights action (*Sassower v. Mangano, et al*, #94 Civ. 4514 (JES), 2nd Cir. #96-7805), the Attorney General is being sued as a party defendant for subverting the state Article 78 remedy and for "complicity in the wrongful and criminal conduct of his clients, whom he defended with knowledge that their defense rested on perjurious factual allegations made by members of his legal staff and wilful misrepresentation of the law applicable thereto". Here too, Mr. Vacco's Law Department has shown that there is no depth of litigation misconduct below which it will not sink. Its motion to dismiss the complaint falsified, omitted and distorted the complaint's critical allegations and misrepresented the law. As for its Answer, it was "knowingly false and in bad faith" in its responses to *over 150* of the complaint's allegations. Yet, the federal district judge did not adjudicate our fully-documented and uncontroverted sanctions applications. Instead, his decision, which obliterated any mention of it, *sua sponte*, and *without* notice, converted the Law Department's dismissal motion into one for summary judgment for the Attorney General and his co-defendant high-ranking judges and state officials -- where the record is wholly devoid of *any* evidence to support anything but summary judgment in favor of the plaintiff, Doris Sassower -- which she expressly sought.

Once more, although we gave particularized written notice to Attorney General Vacco of his Law Department's "fraudulent and deceitful conduct" and the district judge's "complicity and collusion", as set forth in the appellant's brief, he took no corrective steps. To the contrary, he tolerated his Law Department's further misconduct on the appellate level. Thus far, the Second Circuit has maintained a "green light". Its one-word order "DENIED", *without* reasons, our fully-documented and uncontroverted sanctions motion for disciplinary and criminal referral of the Attorney General and his Law Department. Our perfected appeal, seeking similar relief against the Attorney General, as well as the district judge, is to be argued **THIS FRIDAY, AUGUST 29TH**. It is a case that impacts on every member of the New York bar -- since the focal issue presented is the unconstitutionality of New York's attorney disciplinary law, *as written and as applied*. You're all invited to hear Attorney General Vacco *personally* defend the appeal -- if he dares!

We agree with Mr. Lifflander that "what is called for now is action". Yet, the impetus to root out the perjury, fraud, and other misconduct that imperils our judicial process is not going to come from our elected leaders -- least of all from the Attorney General, the Governor, or Legislative leaders. Nor will it come from the leadership of the organized bar or from establishment groups. Rather, it will come from *concerted* citizen action and the power of the press. For this, we do not require subpoena power. We require only the courage to come forward and publicize the readily-accessible case file evidence -- *at our own expense, if necessary*. The three above-cited cases -- *and this paid ad* -- are powerful steps in the right direction.

CENTER for JUDICIAL ACCOUNTABILITY, Inc.

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Governmental integrity cannot be preserved if legal remedies, designed to protect the public from corruption and abuse, are subverted. And when they are subverted by those on the public payroll, including by our State Attorney General and judges, the public needs to know about it and take action. That's why we've run this ad. Your tax-deductible donations will help defray its cost and advance CJA's vital public interest work.

10/5/98

The Metro Section

The New York Times

Swipes by Candidates Highlight Attorney General Race

By RAYMOND HERNANDEZ

Dennis C. Vacco, New York's Attorney General, did not have a primary challenge to worry about this year. Neither has he had to fret about money — his campaign war chest is bulging. And he has picked up good publicity lately on issues like cracking down on unscrupulous health insurers and arresting child pornographers.

Not a bad position to be in during an election year.

But now, not even three weeks into the general election campaign, Mr. Vacco, the Republican incumbent, finds himself locked in what most experts and recent polls indicate is shaping up as the most competitive of the three major races for statewide offices this year.

The Democratic challenger, Eliot L. Spitzer, has mounted a broad assault against Mr. Vacco — on television and in speeches and fliers — seeking to force him to defend his integrity and to answer charges that he has turned the office into a patronage mill.

Mr. Spitzer, a wealthy Manhattan lawyer, who is using his and his family's money to finance his campaign, proved to be a formidable candidate during a tough four-way primary race, and has been just as aggressive since then.

Mr. Vacco dismisses Mr. Spitzer's attacks as unfounded and points to a record that includes fighting crime, protecting consumers and cleaning up the environment. Mr. Vacco began the general election campaign by calling on Mr. Spitzer to refrain from attacks, but then started raising questions about the source of Mr. Spitzer's money.

"Hey, Eliot: Show me the money," blasted a headline from a flier recently distributed by Mr. Vacco's campaign, adding in smaller print: "Vacco campaign calls for answers to questions about Spitzer campaign cash."

Mr. Spitzer wasted little time in firing back. "Hey, Dennis, stop trying to turn away attention from your record of cronyism," said a flier his campaign put out.

The stakes in the race are high. The Attorney General has a staff of 450 lawyers who are responsible for defending the state against hundreds of lawsuits each year, as well as enforcing its environmental, consumer and other laws. And the Attorney General, along with the Governor and the Comptroller, are New York's three major officeholders elected by a statewide vote.

The major point of contention in the contest between Mr. Vacco and Mr. Spitzer is who has the integrity and competence to be New York's top law enforcement officer. Mr. Spitzer, a moderate, has emphasized his experience as a prosecutor — he was head of the Manhattan District Attorney's labor racketeering unit — and as a civic advocate in making his case. He has also focused on popular issues, from protecting customers from price gouging to forcing corporate polluters to clean up the Hudson River and using product liability laws to force gun manufacturers to install safety locks.

More important, though, he has waged a vigorous campaign against Mr. Vacco. He has argued that Mr. Vacco has neglected the duties of the Attorney General's office and in the process has compromised the well-being of New Yorkers. He has attacked what he says is the incumbent's reluctance to take on tobacco companies, corporate polluters and other powerful interests because they are major supporters of the State Republican Party.

But the thrust of his attacks has been on what he describes as Mr. Vacco's politicization of the office. In speeches, fliers, letters and a recent television advertisement, Mr. Spitzer contends that Mr. Vacco has undermined the professionalism of the office by dismissing dozens of experienced lawyers and replacing them with younger, inexperienced lawyers with ties to the Republican and Conservative Parties.

Last Monday, a Federal judge in Albany threw out a lawsuit filed by two former assistant attorneys general who said that Mr. Vacco had dismissed them because of their political affiliations. The judge, Rosemary S. Pooler, said

Continued on Page B4

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Attacks Highlight the Race for Attorney General

Continued From Page B1

that even if those claims were correct, the Attorney General had the right to hire lawyers who shared his political views.

Mr. Vacco's campaign said that the ruling should put an end to the issue, noting that Judge Pooler, as a Democrat, had sided with the Attorney General. "Even respected Democrats recognize the frivolity of these politically motivated lawsuits brought by disgruntled former employees," said Matthew Behrmann, Mr. Vacco's campaign manager.

While the court decision might have blunted some of the sharpness of Mr. Spitzer's political jabs, it did nothing to deter him from continuing to hammer away at the issue.

"The question is not whether it is legal to run a political patronage mill out of the Attorney General's office," Steven Goldstein, the spokesman for the Spitzer campaign, said in response. "The question is whether it is unethical. As virtually every major newspaper in this state has pointed out already, it is certainly not ethical, and that is what the court of public opinion will decide in November."

One of the most recent public polls on the attorney general's race showed Mr. Vacco and Mr. Spitzer in a statistical dead heat among all registered voters. But the survey — the Quinnipiac College Poll, which was released on Sept. 27 — showed Mr. Vacco with a slight lead over Mr. Spitzer, 40 percent to 35 percent, among likely voters.

Part of Mr. Spitzer's strategy from the start has been to try to overcome whatever advantage Mr. Vacco has, including incumbency, by turning to a deep campaign war chest. But even that has turned into a campaign issue.

The Vacco campaign notes that in a previous bid for the Democratic nomination for attorney general in 1994, Mr. Spitzer lent his campaign $4.3 million even though his tax returns showed that he had a total income of only $559,000 for both 1993 and 1994. Mr. Spitzer responded that the money he spent on the campaign came from his savings, his income as a lawyer and his father, Bernard Spitzer, a wealthy real estate developer.

But Mr. Vacco is expected to mount a high-spending campaign of his own. He has already raised more than $3.2 million and is widely expected to receive more from the State Republican Party should he run into trouble. Beyond that, he could benefit from the popularity of the Republican Governor, George E. Pataki.

A conservative who took office at a time of a national Republican ascendancy, Mr. Vacco has done an effective job of expanding his platform beyond the narrow law-and-order one he ran on in 1994. He has embraced moderate issues as the electorate itself has become more moderate in recent years. He has cast himself as a defender of consumers, a protector of the environment and a champion of women's issues.

He has even become a convert on the contentious issue of litigation against the tobacco industry. When he first took office, he refused to join a nationwide lawsuit that sought to recoup from tobacco makers the billions of dollars that states spent treating tobacco-related illnesses. He said that would be akin to suing dairy producers for cholesterol-related diseases caused by their products.

His position led critics to charge that he was being soft on cigarette makers only because they were major contributors to the State Republican Party. He eventually joined in the lawsuits against the tobacco companies and is now an outspoken critic of the industry, though opponents contend that his conversion was a cynical political move.

Mr. Vacco rose from political obscurity in 1994 when he became New York's first Republican Attorney General in nearly two decades. He had been a career prosecutor who had never held elective office.

Mr. Spitzer is a political newcomer himself. He, too, is a career lawyer who was a prosecutor in the Manhattan District Attorney's office and is now a partner in a Manhattan law firm.

More than that, however, the men share similar positions on some major issues. Both are supporters of the death penalty. And they emphasize their experience as prosecutors fighting crime, even though combating street crime is largely handled by local district attorneys, not the Attorney General of the state.

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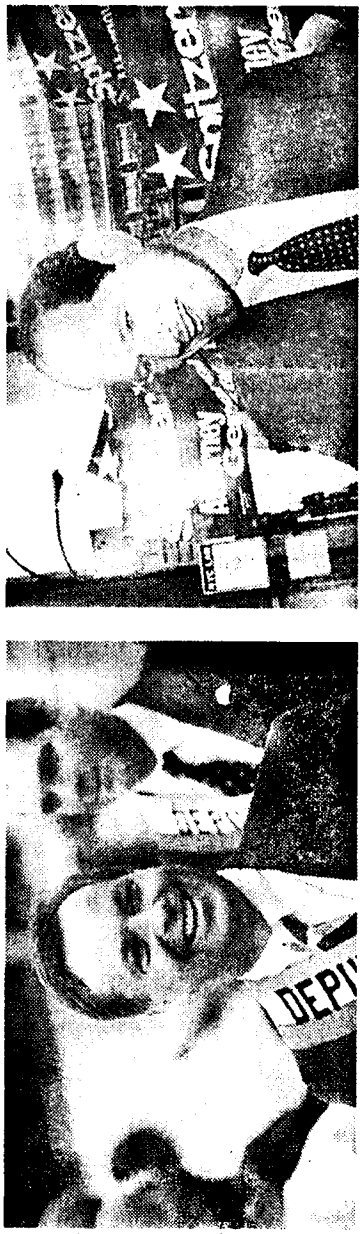

Frances Roberts for The New York Times

Chris Maynard for The New York Times

Attorney General Dennis C. Vacco, left, and Eliot L. Spitzer, his Democratic opponent, focus on the negative.