KATHRYN JORDAN

222 Lakeview Avenue West Palm Beach FL 33401 561 658 1080 * 561 659 1766 (f) * 917 596 4617

FAX MEMORANDUM

April 21, 2008

Ms. Jean Savanyu/Mr. Tambeckjian COMMISSION ON JUDICIAL CONDUCT NEW YORK STATE SUPREME COURT 61 Broadway New York NY 10006

Re: Investigation—closed before it opened the outraged indignant jurist is never guilly

DEAR MS. SAVANYU/MR. TAMBECKHAN:

Have you both convinced yourselves that because several high level judges have enabled and covered up the misconduct of several other high level judges, that this somehow exculpates the wrongful acts of the Judiciary? That it immunizes jurists from scrutiny? That the louder a jurist screams, or the more indignant his or her unsworn denial, the more credible the defense? That all a judge has to do is *proclaim* any allegations against them as "baseless", and they are vindicated? Or go on the attack against the defenseless who is, by virtue of the very allegations, are deemed "contemptuous" and "contumacious"? And that all a judge has to do to get past one of your "investigations" is to deny the allegations? No witnesses. No investigation. No trial. Just blind acceptance.

We have an epidemic in our country. It used to be that the lawyers were corrupt. Now we have Judges covering up for other judges. Judges lying. Judges using the Rules to silence their accusors. Judges attacking their accusors with name calling and blatant threats. Judges using their position and authority to censor and intimidate their critics. Judges substituting their opinion for bona fide jury verdicts, simply because they don't like the decision, or the litigant (and revealing their operative bias when they do). Judges coercing litigants into unfavorable settlements and having their colleagues cover up for them when they are challenged for the same.

Your "Commission" is enabling these scams everyday when you should be enforcing the Canons of Judicial Conduct and punishing the violators. If you don't have the funds to properly investigate, don't pretend that you have. If you have a conflict of interest with a particular judge, recuse yourself. (It's apparent you do). If you feel pressured to suppress evidence, or to ask the softball questions, just say "no".

We are going to be facing the biggest scandal in Judicial history if someone does not come to their senses and starts holding these errant jurists responsible for their conduct. They should be held to a HIGHER standard, not a lower one. And if I have to be the whistleblower, I will assume that role. Somebody needs to before our entire Judicial system falls apart.

REGARDS.

KATHAY GRACE JRODAN

СС∦ЙОВЕКТ ТЕМВЕСКІЛА№

KATHRYN GRACE JORDAN

340 Royal Poinciana Way Suite 317-360 Palm Beach FL 33480 917 596 4617

CONFIDENTIAL FAX MEMORANDUM

July 11th, 2008

Mr. Robert Tembecjiaan NYS COMMISSION ON JUDICIAL CONDUCT 61 Broadway NY NY 10006

Re: Outcome of Two Related Complaints; Honorable Judge Rolando T. Acosta; First Department Appellate Panel; New Related Investigation: Honorable Judge Marci Friedman

Dear Mr. Tembecjiaan:

As you are aware, I initiated an investigation of Judge Rolando Acosta last year after he violated the Rules of Judicial Conduct while adjudicating a litigation of disability discrimination that I had commenced against a former employer, Bates Advertising (115785-99). Although I provided you with a voluntary polygraph and a list of eye witnesses, as well as a line of questioning and various documentary evidence, your unit's conclusion was that there was "insufficient evidence" that Judge Acosta had violated the Canons, (Note: there were two clerks present during the first incident). As alleged, I advised you that this jurist had a) threatened to "act as a fact witness" against me if I ever filed a malpractice litigation against my trial attorney. Laurence Lebowitz; b) threatened to be assigned as the trial judge for that case (which he in fact was before my recusal motion); c) issued a gag order in which he tried to silence my "baseless allegations" against him; d) sanctioned me after I continued to report continued violations by the Court including his encouraging my former, discharged attorney (Lebowitz) to file "pleadings" for the Plaintiff (when the Court was aware I was filing my own and receiving legal advice from new counsel), and when he failed to sanction the male attorneys who also violated the contempt order; e) viciously attacked me as "contemptuous" in his final Judgment, and dedicated 7 pages of that document to attacking my character and slandering me personally because I had made the same "baseless accusations", and referring to me as "contumacious" and other libelous language. Incredibly, this was the same Judge who had just upheld a jury verdict whereby an employer was harshly judged for referring to me as "a cripple".

My second Complaint dealt with the <u>First Department's response</u> to Judge Acosta's Judgment when an appeal was filed by my adversary and they issued their Opinion in December 2007. This was the historic moment when the jury verdict was tossed out to

allow the panel to insert their own personal biases. Instead of ordering that the issue of Judge Acosta's allegations against me be heard by an impartial trier of fact, the First Department panel adopted *verbatim* the Court's conclusory and self serving denials of "baseless" allegations. They then overturned the jury verdict, the result of 13 years of litigation, disregarding all of the evidence of discrimination and adopting as fact the Judge's vicious personal attack upon me (clearly not questioning why a litigant who *won* a case would lie about a judge's conduct who *upheld* the verdict). This all transpired during a period when Judge Acosta was obviously being considered for a promotion to the First Department Appellate Panel. Thus, the Panel was acting with great outrage and hubris that one of their own was being criticized, clearly failing to recognize that complaints against jurists are not supposed to be resolved by lynch mob tactics, intimidation or a clear double standard for what constitutes ethical conduct. The latter being one standard for jurists, and one for litigants, and the higher standard being leveled at the litigants.

The First Department's Decision, which attempted to re-write the laws on proving disability discrimination by deploying a creative interpretation of the McDonnell Douglas standard in order to *justify* reversing the jury verdict in my favor, was clearly tainted by a strong operative bias against me that emanated not only from their identification with Judge Acosta's inflammatory remarks, and the usual gender bias that goes with complaining females, but their obvious bias against the Disabled. To arrive at this gargantuan error of law, they had to climb out on a very long limb: ruling that all an employer had to do was articulate a "legitimate reason" for their actions (in this instance "financial reasons/cost effectiveness") and no further test of discrimination, or even evidence of the employer's motives, was needed. (Or as we argued in our brief, all they had to do was say "we fired her because she had blue eyes, and if the latter were true, *ca sufficant!*) Thus, in attempting to help Judge Acosta avoid responsibility for his misconduct, they created a gigantic loophole for all employers to climb through to escape liability for discriminatory acts. Oh, what a tangled web....

This conspiracy to deprive me of justice after a completely bona fide jury trial and 13 very painful years of litigation was clearly payback for making the allegation against Judge Acosta to begin with. And a complete abuse of the discretionary powers of this Court. The Panel made no attempt to hide the contempt that they shared with Judge Acosta for my having come forward with these allegations. The possibility that I might actually be telling the truth, and the Judge manipulating the same to cover up bad judgment on his part, was clearly not even in the realm of possibility (or they pretended it not to be). The fact that the integrity of the entire judicial system depends upon the impartiality of judges, and the only mechanism to ensure that impartiality is ensuring that complaints are <u>not</u> stilled, apparently skipped their minds.

Nonetheless, I filed this second Complaint with your unit, and with the Albany unit whom I sent a voluminous brief with 12 copies. At the time, Judge Acosta was being considered for the proposed promotion to the first department. As I laid out in great detail, I did not think that this jurist had demonstrated the character for the higher court position. Clearly, the fact that there might be another Spitzer scandal lurking in the

wings was of no moment. I have reason to believe that this complaint never made its way to the reviewing committee.

I was never advised of the outcome of this second investigation. I received a cryptic letter in the mail which asserted a denial but failed to identify what case it was about, or to even provide a case number. As you know, I repeatedly demanded to have the results codified. Instead I received another cryptic note. This only confirms what I suspected: that this "investigation" was never performed.

This serves to formally request that the letter from Ms. Savanyu be clarified as to which investigation she refers to. If the second investigation was conducted, I would like to know who the investigative agent was and when it was performed.

As you are aware, the third leg of this judicial cover up has now occurred and has resulted in my latest and third complaint, against Judge Marci Friedman. Judge Friedman was assigned the politically charged task of trying the malpractice cases that I filed against the attorneys, especially Mr. Lebowitz. This was a particularly ironic note on the case as the First Department had clearly placed the accountability for the reversal of the jury verdict at "Plaintiff's" door. Here the failure to put into evidence a critical compensation document was cited. Although all prior criticisms had been launched against me personally, the disabled plaintiff, whose greatest crime was sending "too many (damn) faxes" to the Court, this time the blame had to be put where it belonged: with the corrupt and inept attorney Lebowitz. This presented a serious problem for the Acosta cover up. For Judge Friedman to have exculpated Mr. Lebowitz at the Motion to Dismiss stage of the malpractice litigation, where all disputed issues are treated as fact and the non-moving party given the benefit of all doubt, meant only one thing: that the Acosta cover up had come full circle. Clearly, the First Department could not blame me for this blatant screw up. Judge Friedman, who made her own bias very clear with her sarcastic characterization of my alleged "deep feelings" about pursuing the malpractice eases, was not about to let this case go to discovery, where I would be allowed to examine Mr. Lebowitz on the stand. Here it would not just be my polygraph that Judge Acosta would have to worry about, but Mr. Lebowitz sworn testimony as to why he was in Judge Acosta's chambers on April 3rd, 2005, and what transpired. Or even Judge Acosta himself, who as you may recall from the first chapter of this sordid tale, had promised to play a starring role as a "fact witness" in the malpractice case. Thus, Judge Friedman did her part for the home team. She threw out all of the malpractices cases against all of the attorneys before they were even heard. They are now on appeal, where in a moment of great poetic justice, the First Department will have to revisit the irony of their decision to throw out a bona fide jury verdict after taking the word of a judge, who was under investigation, as fact and blatantly siding against the defenseless and woefully outnumbered pro se litigant.

Hopefully, this little summary provides a sketch of the enormity of the judicial scandal that the Commission has failed to address. I consider it the judicial equivalent of Enron. One judge after another covering up for each other until there is no integrity whatsoever to the system at all. And the watch dog unit too fearful of the politics to take any of this

on. Once there is no one in the system with any standards, there is no need to worry about cover ups.

Sounds like a 60 Minutes special to me.

I formally request that Ms. Savanyu provide a new letter for the First Department investigation identified as to what case she is referring, and I fully expect that all future letters advising complainants of outcomes will be properly identified. You can choose not to do your job, but you cannot hide behind ambiguity.

I will also tell you that I fully expect that, given all the incestuous relationships that exist on these allegedly arms-length judicial investigatory bodies, that my pending appeal to the New York Court of Appeals will be similarly dismissed. The cover up will then have come full circle.

Sincerely,

Kathryn Grace Jordan

Ce: Honorable Judge Thomas Klonick

KATHRYN GRACE JORDAN

340 Royal Poinciana Way Suite 317-360 Palm Beach FL 33480 917-596-4617

CONFIDENTIAL FAX MEMORANDUM

July 28th, 2008

Mr. Robert Tembecjiaan NYS COMMISSION ON JUDICIAL CONDUCT 61 Broadway NY NY 10006

Re: Investigation of First Department Decision; Acosta Investigation and related Judge Friedman Investigation

Dear Mr. Tembecjiaan:

This serves to attempt, again, to secure from you the status of the following Complaints that are all related and have been submitted to you as separate complaints. You have refused to respond in the past to my request to have the results of the investigations identified and I personally believe that you are doing so to cover up the fact that no investigation was performed on any of this. To rebut this assertion, please advise the status of the following Complaints:

- L. Judge Rolanda Acosta: Complaint of "ex parte" communications with an attorney who sought to influence the court about a decision on legal fees, complaint that the Judge abused his authority and threatened the litigant who reported the "ex parte" communications, then used his position as jurist on the case to censor and sanction the same complainant. Judge also attacked complainant in writing as "contemptuous" after she reported the improper conduct, while dismissing the allegations as "baseless" without actually denying them or requesting a full investigation of the facts.
- a. Acosta Judicial Nomination at First Dept: A one inch thick brief was sent to the review committee for Acosta's nomination to the First Department panel. The question here is "Was this complaint shared with the review committee?" and "What was the outcome of the Complaint shared with Albany?". How could the panel appoint a judge to a higher court, and essentially reward misconduct, if this investigation had been conducted? I sent a voluminous brief to the Committee. I would like to know if a) the complaint was shared with the following reviewers; and b) if there was an outcome to the complaint:

Mr. Robert Bourque Hon. E. Leo Milonas
Ms. Caitline Halligan Ms. Maria T. Vullo
Mr. Robert Joffe Mr. Stephen P. Younger

Mr. Cyrus Vance Jr. Mr. Conrad Johnson Hon. Barry A Cozier Mr. Glen Lau-Kee Hon. George Gundy Smith

This was the NEW YORK JUDICIAL SCREENING COMMITTEE. If they were shown my document and still appointed Judge Acosta to the higher court, rewarding him for his misconduct and clear violation of the Canons, then I believe the public needs to know. If they never were provided my Complaint, then it was intercepted by someone, and again the public needs to know. This was a very serious allegation and it should have been taken seriously by the reviewers.

- 2. First Department Panel: Complaint that all five panelists abused their discretion by adopting the trial judge's improper and slanderous statements about the reporter of judicial misconduct by Acosta. The Panel failed to perform any due diligence of any kind to ascertain whether Acosta's accusation about the complainant (Jordan) was based in fact, or whether it was appropriate or consistent with the demeanor of a judge to attack a disabled litigant and deploy name calling in an obvious attempt to discredit the criticism and silence the critic. Ironically, the panel accepted the judge's allegations at face value, This was completely contradictory to the Canons of Judicial Conduct, which require judges to investigate any and all claims of misconduct, not cover them up. Further, all five judges clearly had operative biases about the subject of disability discrimination, that were so great that they actually disregarded all of the evidence of discrimination that was presented to the Jury, and intentionally misapplied the standard for evaluating discrimination cases, long established by McDonnell Douglas? have recused itself, not endorsed Acosta's abusive rant. Was the Complaint here investigated and what was the outcome of the investigation? Your Commission needs to respond with the name of the complaint properly identified. If you continue to refuse to identify the name of the complaint, you must realize that you yourself will have become part of the cover up.
- 3. Judge Friedman: All good cover ups have to have a "defense; person who makes sure that no holes are allowed to open up the investigation once the act has been concealed. Judge Friedman played this role. She also felt confident doing it because she realized that deceptions and cover ups are the fast track way to get promoted in State Court, and because your Commission failed to find Acosta responsible for his violations of the Codes (and I believe you deployed an unorthodox "interpretation" of the statute to do this). Judge Friedman could not possibly have dismissed all four attorney malpractice cases on any bona fide basis. Judge Friedman realized that the Lebowitz malpractice case, which included the misconduct by Lebowitz, the attorney who had the "ex-parte" communications with Acosta, posed a significant threat to keeping the cover up of Acosta quiet. Had I been allowed to cross examine Lebowitz, I would definitely have been able to prove that Acosta had acted improperly and had encouraged Lebowitz' improper attempts to influence the Court. I would also have had an opportunity to testify about how I had been threatened by Acosta. Perhaps most damningly, I would have been able to cross examine the two clerks who were present during the threat by Acosta on April 3rd, 2006, and to cross examine the two attorneys (opposing counsel) who witnessed the

entire scheme, and who knew that Acosta had directed them to keep Lebowitz name on all correspondence. (I do not believe your investigators even attempted to do this, which is scandalous in itself). This is why Judge Freidman disposed of all four of the attorney malpractice cases. No opportunity to examine eye witnesses would be allowed. Had she only disposed of Lebowitz, there would have been potential leaks by the other attorneys, so she had to vacate all four Complaints. However, the basis upon which she did this was completely improper. The cases were dismissed upon Motions to Dismiss before Jordan had even had any discovery. (The legal standard for bona fide dismissal of cases at this early stage of a litigation is that there would have to be "no triable issues of fact". Thus there is no basis for Judge Friedman to have dismissed these claims at this early stage).

I hold you, Mr. Tembeckjian, completely responsible for this cover up. I believe you made the call that Judge Acosta's clerks would not be contacted for examination, or that if they were contacted that they would be given soft ball questions. I believe you knew very well that Acosta had violated his oaths, but you rationalized it by telling yourself that it was more important to protect Acosta than it was to investigate my claim. You were able to do this by convincing yourself that I, a person that neither you nor your investigators have ever met, was not a credible witness or complainant. You accepted Acosta's slanderous attacks on me at face value. In doing so you allowed a jurist who not only violated his oath of office to get away with it, but you enabled the biggest cover up in judicial history.

To sum up, we have Judge Acosta lying in his Final Judgment and carefully avoiding making a complete sworn denial of the "baseless" allegations by attacking his accuser as "contemptuous" and exploiting the deep rooted biases about pro-se litigants and the disabled. We have Acosta arranging to have himself appointed as the jurist on the Lebowitz case (I forced him to recuse himself) after threatening to be appointed as the jurist. We have "someone" removing my polygraph from the Affidavit that I filed asking for his recusal. We then have 12 people on the judicial nominating committee either participating in the cover up by disregarding all of the evidence (which I can prove was sent to them) or never getting the Complaint because it was intercepted. We then have five First Department jurists throwing out a bona fide jury verdict, and openly citing that Acosta's Opinion influenced their decision to disregard all of the evidence of discrimination and manipulate the legal standard, effecting the most outrageous act of judicial misconduct in the history of the appellate courts. There is no question that they were influenced by Acosta. They Decision affirms that they believed my allegations were "baseless" even though there was no attempt to have an impartial trier of fact, of which Acosta was surely not, adjudicate the same. We then have Judge Friedman pulling up the rear and dismissing all four of the malpractice cases so that no witnesses of any kind of allowed to be examined. Finally it becomes known that Judge Acosta was appoint by Elliot Spitzer. And that he undoubtedly knew that nomination was coming up and that is why he so visciously attacked me. What jurist attacks a disabled litigant for sending "too many faxes"? Who would bully someone who is so unable to defend themselves unless they were desperate to silence that person? Why would that same jurist, if they truly felt so strongly about communications to the Court,

allow Lebowitz to send unauthorized communications to the Court that were indisputably "ex parte" but only sanction me? And why would the First Department feel that this was just fine, and that the real crime was the complaint against the jurst?

Is this the kind of judicial behavior that you believe is consistent with the second highest court of New York?

I at least hope that do realize you are sitting on the biggest scandal in the history of the New York judiciary.

Sincerely,

Kathryn Grace Jordan

Ce: Honorable Judge Thomas Klonick

p.s. Please respond identifying the case that you are reporting about.

KATHRYN JORDAN

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FAX MEMORANDUM

January 19, 2008

CONFIDENTIAL

Mr. Robert Tembeckjian
COMMISSION ON JUDICIAL CONDUCT
NEW YORK STATE SUPREME COURT
61 Broadway
New York NY 10006

Re: Judge Acosta Investigation

As you are aware I have asked you to re-open my case of Judicial Misconduct against Judge Acosta based on the new evidence that I have provided. I am also asking that you investigate the First Department panel that made the decision to reverse the jury verdict based in large part on their adoption of Judge Acosta's false allegations about me. It is clear from a plain reading of their decision that the Panel was influenced by and adopted Judge Acosta's inflammatory statements and that they made improper and adverse credibility determinations about me. This led to their complete disregard of the overwhelming evidence of discrimination. While I do believe the panel is unapologetically Pro Employer, Judge Acosta gave them the angle they were looking for the "second guess" the jury.

I find it more than interesting that the Final Judgment by Judge Acosta in November 2006, who had rendered a Decision just eight months earlier in February 2006, to uphold the jury verdict finding the Defendants guilty of disability discrimination and castigating me as "a cripple", would effectively seek to destroy the credibility of the person he had just endorsed. Something happened during that eight month period. Maybe this was not a tantrum by the Judge after all. Maybe this was a signal that he had changed his mind.

I would like to know when Judge Acosta first became aware he was being considered a candidate for the First Department.

I would like to know whether any of the jurists on the panel who adopted Judge Acosta's accusations about me, instead of calling for an independent investigation, have had complaints filed against them and the nature of those complaints.

I would like to have your team ask the questions that I provided for them to Judge Acosta's clerks again and this time emphasize with them the ramifications of perjury and not telling the "whole truth".

I am willing to come to your office and undergo direct investigation by your team about the circumstances leading up to the Judge's Final Judgment. I will be in NY from January 23rd until January 30th. I will agree to submit to a polygraph with an expert of your choice. I will cooperate in any way with your investigation.

Judge Acosta has tried to portray me as an "out of control" Pro Se litigant, a theme that resonates well with most jurists who have a general operative bias against self represented inviduals. That is not what happened and that is not who I am.

I have appended below a letter that was sent to me by the Deputy Director of the Governor's Task Force on Sexual Harassment praising my efforts and my "serious commitment" to the advancement of women's rights. My position on the disabled is also vigorous but has been diverted by thus now 13 year litigation.

The Judge clearly created credibility issues about me with his Final Judgment (attached), and the Panel erroneously, but willfully, adopted his operative bias and accepted his slanderous

It should be clear by now the damage that the Judge's actions have caused. The First Department, accepting his denial of wrongdoing as "baseless", recently threw out the jury verdict that I worked for 10 years for. While the First Department's actions were improper, accepting the judge's denials as fact and making a credibility determination on a matter that should have been referred to another jurist, they were clearly influenced by Judge Acosta's seven page tirade. The Judge admitted that I had accused him of judicial misconduct.

With respect to the First Department, their conduct with respect to a jurist that was under consideration for a position for this appellate body and their decision to adopt his unsworn denials as "baseless" is the question here. I am asking that this panel be investigated because of their clear disregard of the Rules and the law in their Decision to overturn the jury verdict, and because of the possibility that there is a relationship between Judge Acosta's candidacy for the First Department and the First Departments' "nod" to him in their dismissal of my jury verdict. The legal standard for overturning jury verdict is extremely high. The judge had to have committed an error in instructing the jury or the jury had to have acted "irrationally". There was no evidence of either. What the panel did was completely disregard the evidence of discrimination and misapply the Stephenson legal standard with the intention of finding a way to throw the case out. If you read the decision carefully you will see that they made adverse credibility determinations about my testimony. This was undoubtedly because they believed Judge Acosta's accusation of my being "contemptuous" and the insinuations he made about my credibility.

I know why Judge Acosta acted as he did. I was present during the "ex parte" incidents (as an observer) and I was present when the judge threatened me. My testimony should be given full weight. I also believe that the Final Judgment that Judge Acosta drafted contains my inadvertent admissions as to what was actually going on. I am quite certain the Judge Acosta drafted the Final Judgment with two objectives: a) to discredit my

allegations of judicial misconduct when meant discrediting me and b) to signal to the Fourth Dept that he had changed his mind, I believe in order to cultivate their good will, and to reverse a prior Pro Employee decision.

As soon as Judge Friedman rules on my Motion to Dismiss on the malpractice case against Lebowitz. I will be coming in behind this case with my won investigation. I will be calling Judge Acosta and his clerks as witnesses, so if your staff has not done their jobs, it will be revealed at that time.

Please take these matters seriously. There is a tremendous amount at stake for everyone involved. Again, I urge you to have me come in for questioning when I am in town. I think after you meet me your assessment about my credibility might change.

Sincerely.

Kathryn Jordan

KATHRYN JORDAN

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FAX MEMORANDUM

August 1, 2008

Mr. Robert Tembeckjian COMMISSION ON JUDICIAL CONDUCT NEW YORK STATE SUPREME COURT 61 Broadway New York NY 10006

Re: Ms. Savanyu's Letter of July 29th, 2008 Referencing your alleged letter of July 9th, 2008.

Dear Mr. Tembeckjian:

I received today Ms. Savanyu's letter of July 29th, 2008 which appended a copy of a letter you claim to have sent to me on July 9th, 2008. First, let me establish that I never received the letter you claim to have sent me on July 9th. As it is apparent that the mail is getting here failing quickly, this is rather odd. I check the mail at least once a day and your letter was not among the mail.

Second, while you have finally admitted that you dismissed my cases against Judge Acosta and the First Department, you seem focused on the concept of the possibility of an appeal. I could not be contacting you to appeal a Decision I did not know had been taken. Nonetheless, I would like to see the citation which precludes appeals by complainants.

I am not at all surprised by your decision to dismiss the complaints against Judge Acosta and the First Department panel. I expected dismissal. However, I do wish to point out to you numerous inconsistencies in your position that had to be part of a decision to reject my complaints.

As the Canons of Judicial Conduct establish:

The Rules governing judicial conduct are the rules of reason.

There has been short supply of reason in evaluating these matters. It is apparent from Judge Acosta's very personal attack upon me, in which he not only threatened me but resorted to name calling and slander, as well as the First Department's declaration of outrage that I would even consider making "baseless allegations" against a judge, that these matters were all approached extremely emotionally and from a position of bias.

Nonetheless, I feel compelled to point out the obvious contradictions in your position and the standards that all judges are supposedly held to, comparing the evidence with the law and your conclusions:

Section 100.3: A judge shall perform the duties of judicial office impartially and diligently.

- (3) A judge shall be patient, dignified and courteous to litigants, jurors, witnesses, lawyers and others with whom the judge deals in a official capacity (and specifically not "manifiest prejudice based upon age, race, creed, color, sex, and disability)
- (4) A judge shall perform judicial duties without bias or prejudice against or in favor of any person.
- (5) A judge shall require lawyers in proceedings before the judge to refrain from manifesting by words or conduct bias or prejudice...
- (6) A judge shall accord to every person who has a legal interest in a proceeding the right to be heard according to the law. A judge shall not initiate, permit or consider ex parte communications...outside the presence of the parties concerning a pending or impending proceeding. The only exception to the latter are situations involving "scheduling or administrative matters"..."provided no party will gain a procedural or tactical advantage."
- (7) A judge shall not make any public comment about a pending or impending proceeding...and require similar abstention from court personnel.".

I assume you read these Canons prior to rendering your latest denial of these two complaints. Hence, I will focus on pointing out exactly how the allegations I made about both Judge Acosta and the First Department meet these criteria.

Section 100.3 (3): You clearly concluded that both Judge Acosta and the First Department conducted themselves with the dignity and impartiality that are required of their office despite the following facts:

1. Judge Acosta's Amended Judgment of November 2007 where he clearly attacked me visciously and personally, allegedly for sending him too many faxes after he issued a gag order in Mid April 2006. The Court's own words, labeling me as "contemptuous" and "contumacious" clearly not only fail the dignity test, they constitute legal slander. Further, and more importantly from a legal perspective, the Court admitted that it made these statements after I made "baseless allegations" of improper "ex parte" conduct and attempts by my former attorney to influence the judge. As far as impartiality, the Court indisputably failed to sanction or censor Mr. Lebowitz or the male attorneys all of whom communicated with the Court after the "gag order". Given the sexist manner in which Judge Acosta ran his courtroom, where I was regularly told to "shush", any comments I made were derided and where he accredited my incompetent and dilatory attorney with "bringing you a long way", this is not surprising. However, there clearly was disparate treatment of me compared to the male attorneys, a matter of incredible irony given that this was a discrimination case. Thus, even before we get to what actually occurred on April 3rd, 2006, the Court clearly did not meet the criteria here. Bullying and

intimidating a pro se litigant to stop her from making complaints about misconduct was a direct violation of this Canon. Then there is the matter of the April 3rd, 2006 "ex parte" meeting with Lebowitz and the subsequent "threat meeting" with me. Now in order for you to dismiss this allegations you had to a) ignore my sworn polygraph; b) fail to examine the eye witnesses who were present at the time, c) take Judge Acosta's self serving denials as fact. My polygraph alone would warrant further investigation, as one would have to have serious questions about the veracity of a judge who has gone as far as intimidating a complainant of judicial misconduct. However, no independent investigation of what occurred on April 3rd, 2006 was conducted. Clearly, you decided to take Judge Acosta at his word, even though (if you read his Amended Judgment carefully) he never actually denies that he threatened me or that he allowed Lebowitz into his chambers to present "evidence" when no third parties were present.

2. The First Department Decision of December 24, 2007: It is indisputable that the First Department not only failed to order an impartial hearing on the facts as to what occurred between myself and Judge Acosta, it is apparent from a plain reading of their decision that they were enraged that I made the accusation. So enraged, in fact, that they were willing to sanction me, overturn a bona fide jury verdict, and misapply the long established standard for evaluating discrimination cases. In fact, they threw out all the evidence of discrimination, effectively called me a liar (where there was no evidence of any kind that I lied and completely failing to appreciate the dilemma faced by the disabled in job searches, confusing a negotiated "reason for leaving" of "cost cutting" (to avoid having to address the discrimination matter outside the agency, with an admission of guilt), and relying upon a single piece of omitted evidence to justify all of the above (compensation document that allegedly proved it was more cost effective to fire the disabled Jordan and hire from outside the company the non-disabled Kosoff). The latter is a matter that was extensively briefed in our appeal papers and I dare say that even Judge Acosta knows that the line of logic deployed by the First D was ridiculous. However, and this is where they were just as guilty as Acosta, the First Department failed to relegate the issue of credibility to an impartial trier of fact. Instead they simply adopted Judge Acosta's self serving denials as fact, clearly never even questioning why a litigant who won a jury trial would put herself and her case at risk to make a "baseless" allegation". There is extensive case law about how allegations of misconduct about a judge are to be handled by appellate courts. Throwing out a jury verdict favoring the complainant are not one of the sanctioned reasons.

(4))A judge shall perform judicial duties without bias or prejudice against or in favor of any person. (5) A judge shall require lawyers in proceedings before the judge to refrain from manifesting by words or conduct bias or prejudice...

There is no question that Judge Acosta applied different rules to me than he did to the male attorneys as far as conduct was concerned. It is also apparent that he did absolutely nothing to punish Mr. Lebowitz' outrageous attempts to influence the judge about the issue of legal fees. In fact, I testified many times before you that Judge Acosta allowed and encouraged Lebowitz into his chambers, and that he repeatedly encouraged Lebowitz

to submit "pleadings" even though he had been fired from the case. The evidence is indisputable here: Judge Acosta sanctioned and censored me, while condoning serious violations by Lebowitz, an officer of the court. No rationale mind could not conclude there was prejudice here. Further, the First Department, perpetuated this bias. It had an opportunity to censor Judge Acosta for his operative bias, but failed to mention it. Instead they adopted the trial courts bias. This was outrageous and a clear violation of the Canon 100.3 (4).

The fact that the First Department found Judge Acosta's vile attack and slandering of the Complainant to be warranted, speaks volumes about the dysfunction and corruption that has afflicted the judiciary. There was no basis for the court's viscious attack and even the most naïve of appellate panels would have to observe that the attack was undertaken to silence the claims. The First Department simply resolved the matter by adopting the trial court's unsworn denials as fact. This is evident from a plain reading of the December 2007 decision by the First Dept. Further, there is tremendous evidence that their decision to overturn the jury verdict was in response to their great rage that a complainant might report judicial misconduct in the first place. The conclusion is unavoidable: The position of a jurist provides automatic immunity to any claims of misconduct.

5) A judge shall require lawyers in proceedings before the judge to refrain from manifesting by words or conduct bias or prejudice...

Judge Acosta treated me differently and applied different standards to me and the male attorneys, especially Lebowitz. He ridiculed me in open court repeatedly. The all male panel of Appellate jurists failed to correct this and in fact sanctioned the Court's double standard. The gender bias here was so great that neither the trial court nor the panel was able to see it. All they could see was that a lowly woman was questioning the office of the judiciary and not coincidently a fellow male jurist who was about to join their group.

(6) A judge shall accord to every person who has a legal interest in a proceeding the right to be heard according to the law. A judge shall not initiate, permit or consider exparte communications...outside the presence of the parties concerning a pending or impending proceeding. The only exception to the latter are situations involving "scheduling or administrative matters"..." provided no party will gain a procedural or tactical advantage."

I suspect it was the misapplication of this exception that you deployed to justify condoning Judge Acosta's outrageous behavior. I made a repeated claim that the Court was engaged in "ex-parte" conversations with my former attorney. The central issue of what occurred on April 3rd, 2006 could not have been properly addressed by the Commission. I testified and provided a voluntary polygraph that Lebowitz was allowed unauthorodox access to the trial court and that the Court allowed him to present evidence ex-parte. Further I testified that I was threatened repeatedly after this. Despite this overwhelming evidence of misconduct (which was not rebutted by the Courts Amended Judgment, which if read properly was an admission of guilt), no attempt was made to

ascertain the truth here. The conclusions reached defied logic. Why would a litigant who had won a jury trial and had the trial court uphold the verdict suddenly accuse the Court of improper conduct that clearly posed a risk to her case and credibility, unless it was true? Clearly the First Department's decision provides insight into how disputes between errant judges and complainants are resolved by this Commission and the Appellate Courts: blame the reporter of the misconduct. This decision by the First Department contravened all established law as to how misconduct claims are to be handled. THIS IS INDISPUTABLE. When you believe me or believe Judge Acosta, it is clear that the PROCESS was tainted and totally biased. It is indisputable that Lebowitz was NOT SANCTIONED or censored in any way. No attempt to reconcile this disparity with the Canons was made. One can only conclude that whenever a complaint about misconduct is made about a judge that a complainant will not only not be automatically disbelieved, she will be sanctioned, censured, threatened and her jury verdict thrown out. That is exactly what occurred here, unapologetically I may add,

(7) A judge shall not make any public comment about a pending or impending proceeding...and require similar abstention from court personnel.".

As I advised you in my Complaint, Judge Acosta and his clerks perpetuated a series of actions aimed at discrediting my claims. First, the polygraph that was appended to my affidavit and that should have been part of the Appellate Record was removed from the final file. Second, the Amended Judgment was leaked to the Legal Press. In fact, a scurrilous headline slandering me personally was involved. I was advised that the story came from Judge Acosta's chambers. Thus, Acosta dealt with a complaint against him, that might have just been about an error in judgment, in the most ruthless and damaging manner. He and his clerks made certain that the evidence that might convict him was removed from the file that the First Department might see. He and his clerks then went to work on the legal press to create an image of me as an out of control pro se litigant. The strategy clearly worked, but he did not have to work so hard. The First Department was clearly all too willing to believe any self serving denials he might conjure up no matter how far fetched or unsubstantiated.

We then get to the issue of the timing of Judge Acosta's promotion to the First Department. Clearly at some point Judge Acosta had to have been advised that he was being considered for the promotion after his appointment by Elliott Spitzer. It was at this juncture that I sent my voluminous file to Albany. I do not believe the panel was ever provided with copies of this file. I believe the complaints were destroyed. Fortunately, there is a paper trial.

In Sum, there is no possible basis upon which either Judge Acosta or the First Department could have been fully vindicated in any bona fide investigation of my claims. Your conclusion does not even meet the logic test.

Your imprimatur and the First Departments imprimatur are now on this cover up. But I will not accept your decision because it not only flies in the face of the facts and law, it does not even meet the "reason" test.

Now I await your final decision with respect to Judge Freidman who dismissed all four malpractice cases against the attorneys, including Lebowitz. She did so prior to final adjudication of the Bates appeal, and at the MTD level. You may want to refamiliarize yourself with the stats on MTD's dismissal. An MTD at this stage in the litigation could only occur if there were no triable issues of fact. Clearly, even the First Department disgrees.

Respectfully.

Kathryn Grace Jordan COMPLAINANT

KATHRYN GRACE JORDAN

340 Royal Poinciana Way Suite 317-360 Palm Beach FL 33480 917 596 4617

CONFIDENTIAL FAX MEMORANDUM

August 4th, 2008

Mr. Robert Tembeejiaan NYS COMMISSION ON JUDICIAL CONDUCT 61 Broadway NY NY 10006

Re: Judge Friedman Investigation

Dear Mr. Tembeejiaan:

I am again forwarding the document that was taken from the Lebowitz case file, my Affdavit dated November 28th, 2008 detailing all of the defects that Lebowitz made during his grossly negligent handling of my case. I intend to contact the District Attorney this week about the tampering of the files that has transpired on these cases.

If I were to summarize what has occurred, it would be as follows:

Laurence Lebowitz, after gaining improper "ex parte" access to Judge Acosta, presented him with "evidence" aimed at influencing his opinion of our attorney fee dispute. Judge Acosta took these claims at face value. He then used his position as jurist to bully and intimidate me into acceding to his recommendation that Mr. Lebowitz be provided with what he claimed to deserve. When I refused, Judge Acosta threatened to act against me in any malpractice action and to be assigned the acting jurist. (He later carried out that threat and was then recused).

After the April 3rd, 2006 intimidation meeting. Mr. Lebowitz continued his "ex-parte" communications with the Court, even though he had been terminated as attorney of record. I forwarded my strong objections to the Court. The trial court then issued a gag order with the express intent of silencing my criticisms of the improper conduct. When I persisted in complaining about it, I was sanctioned. At no time did the Court even remark about Mr. Lebowitz outrageous conduct. In fact, the Court clearly condoned it.

In his Final Judgment, Judge Acosta retaliated against me, and signaled his punitive intent to the appellate court, labeling me as "contemptuous" and "contumacious", and penned a viscious 7 page tirade slandering my good name. Every attorney who has read this decision has used it against me in related and unrelated litigations. It was shear character assassination. This was followed by Acosta's leaking a biased version of the

incident to the legal press in what was the most calculated smear campaign of a litigant in Supreme Court history. The voluntary polygraph that I appended to my recusal affidavit was insidiously removed from the appellate record,

When Acosta came up for promotion, I filed a complaint to the Commission in Albany and to the Review Committee. I advised them that Judge Acosta was highly intelligent and talented as a jurist but lacked the ethical standards that are necessary for the higher court. My complaint was intercepted.

Then the appeals were filed by the parties. The First Department reversed the jury verdict. In doing so, it completely endorsed Acosta's improper attack upon me. They took Acosta's self serving assertions that my allegations were "baseless" at face value. They were so outraged that a mere litigant would accuse a jurist of misconduct that they formed a completely distorted and grossly unfair bias against me. I suspect there was also a large dose of gender and disability bias, not to mention ignorance about the plight of the disabled, and a "blame the victim" mentality—all stereotypes normally deployed by discriminating employers. This bias caused them to completely disregard all of the evidence of discrimination and replace the jury credibility determination with their own hateful bias. Then, faced with concocting their own "pre-text" to justify their bias, they manipulated (and misapplied) the McDonnell Douglas standard for evaluating discrimination cases, and erroneously concluded that because we allegedly failed to rebut the pretext of "cost cutting" that we failed to prove discrimination. This was an outrageous abuse of their discretion and a blatant perpetuation of the Acosta cover up.

Enter Judge Friedman. Judge Friedman dismissed the Lebowitz malpractice case (and the others) before there was even discovery on the triable facts. She simply tossed the case. (Thus sparing Judge Acosta the embarrassment of having to carry out his threat to act as a "fact witness" against me). This occurred despite the fact that there was a pending appeal and the First Department decision, if accepted, would have placed the blame for the jury reversal on the failure of Plaintiff to adequately document her evidentiary claims. Most disturbingly, the critical affidavit that I appended to my Motion in Opposition to Defendants's Motion to Dismiss was removed from the file and only the signature and certification pages remained.

I provide you with a courtesy copy of my affidavit so you can see just how outrageous Judge Friedman's decision was, and how evidence tampering has pervaded this case.

It is one thing to have to endure 13 years of litigation while suffering a excruciatingly painful degenerative illness, but to have to endure the abuses that Judge Acosta, Mr. Lebowitz and Judge Friedman perpetuated against me were incaluably cruel. Make no mistake, this was an orchestrated effort by a group of jurists and attorneys to silence a litigant who insisted on the truth.

This was a cover up of a cover up of a cover up. And the First Department is just as guilty as Acosta is. They endorsed his decision and his misconduct, just as you are doing now.

Sincerely,

Footnotes:

1. Judge Acosta was made aware of these defects at the time of the Final Judgment. It also sent him numerous memoranda regarding the various evidentiary failures and the direct monetary consequence to the case. It also advised Judge Acosta that Lebowitz was directly responsible for my failing to receive any compensatory damages (pain & suffering) due to Lebowitz complete failure to put forth a medical case or to examine his own client about the same. It attested to the fact that Lebowitz was directly responsible for the 60% haircut that Plaintiff received on the economic damages because of his failure to properly present the compensation evidence to the jury (or why it would be impossible for an EVP to have made only \$120,000) or to competently examine the EVP of Finance while he was on the stand. It also provided documentation that Lebowitz failed to instruct the jury that my future pay was Long Term Disability, a non taxable benefit, a failure which in itself cost me \$1,200,000 in tax free income.

These were all errors that "customary care" of a competent attorney would have avoided. They do not fall into the legal category of "best effort" that Judge Friedman generously afforded the attorneys who took my hard earned money but failed to perform the most basic of discovery tasks. Fortunately, the federal case attorney had wrapped up the necessary evidence before Lebowitz and company came on the scene, and fortunately I was an excellent witness who the Jury believed.

You may recall from a cursory reading of Judge Acosta's Amended Judgment, where attacked me viscously as "contemptuous" for complaining of "baseless allegations" of misconduct between himself and Mr. Lebowitz, that I also complained to him about the defects that are cited above. Judge Acosta did not want to hear about these failures, as was evident from his Decision. The chose to ignore all of the very detailed allegations of just how Lebowitz botched the golden opportunity he was afforded.

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CONFIDENTIAL FAX MEMORANDUM

August 10th 2008

Hon, Thomas A. Klonick NYS COMMISSION ON JUDICIAL CONDUCT 61 Broadway NY NY 10006

Re: Robert Tembeckjian and Misconduct Investigations
Of Judge Rolando Acosta, Judge Marcy Friedman,
First Department Panelists Judge Lippman, P.J. Friedman,
Sullivan, Gonzalez and Catterson, JJ.

Dear Honorable Judge Klonick:

I am contacting you regarding several serious matters that relate to the integrity of not only the NYS Commission on Judicial Conduct, but the judicial system in New York State itself.

First of all, I am very concerned about Robert Tembeckjian's ability to direct the Commission. Obviously he has a serious conflict of interest with his cable TV program which features jurists and attorneys every week. I believe this has affected his ability to oversee the enforcement of the Canons of Judicial Conduct, and the widespread abuses of judicial power, not to mention conflicts of interest. Mr. Tembeckjian has a huge conflict of interest himself, and it is apparent from the cavalier manner in which he dismisses serious allegations backed up by hard evidence that he cannot perform this function impartially. He is far too concerned about how the judicial and legal community will perceive him to administer and supervise investigations of serious violations of the Codes.

Second, Mr. Tembeckjian has a clear bias about me personally. Because I am a "Pro Se" litigant, he dismisses most of what I have to say. In fact, the only source of real information about judicial misconduct is going to come from people like myself, not other judges who cover up for each other, or attorneys who are fearful of the judges power.

Third, there is extensive prejudice against women in the legal and judicial system. I have personally experienced dismissive disrespectful and sometimes sexist behavior by a

number of judges in the New York Court system. I know I am not alone in this experience. Sexism in the court system is widespread (see attached studies).

Fourth, I do not believe that my Complaint against Judge Rolando Acosta and the First Department panel was properly investigated. In fact, I will go furher than that, I believe the "investigation" was a sham. Now Mr. Tembeckjian has sought to immunize his incompetence and cronyism by asserting that "appeals ...can only be afforded to judges at their discretion" (paraphrasing). He refuses to acknowledge that he failed miserably to investigate the Acosta matter. I personally believe his "failure" was intentional.

To have found both of these investigations baseless, Mr. Tembeckjian had to have ignored the fact that Judge Rolanda Acosta, by his own admission, violated the Canons of Judicial Conduct and then sought to suppress the Complaint filed against him by "sanctioning" and "censoring" the Complainant (Jordan), and then attacking her visciously in a a seven page tirade whereby he slandered and libeled Jordan as "contemptuous". Acosta's chambers then leaked the story to the press. The Polygraph that Jordan voluntarily performed was removed from the Appellate Record.

Then the First Department, departing from customary procedures and case law, overturned the Jury verdict, and admitted in their Decision that they were outraged that a litigant would make "baseless" allegations against a jurist. This outrage, expressed in clearly prejudicial terms about women and the disabled, precipitated their decision to disregard all of the evidence of discrimination that the violating employer had admitted on the stand during the 11 day hearing. This was in clear violation of the Canons of Judical Conduct which require impartial hearing of the facts and voluntary recusal if the jurist is incapable of the same.

We then have the Complaints about the aforementioned misconduct being intercepted and disregarded after being forwarded to the Review Panel of the First Department who was evaluating Acosta at that time.

The cover up becomes complete when Judge Marcy Friedman dismisses all four malpractice cases that Jordan brought in Supreme Court. This was done at the MTD stage of the litigation before discovery. Judge Friedman clearly had an undisclosed bias about Jordan and attorney malpractice cases, which she failed to disclose and recuse herself. Further there was evidence again of tampering with evidence, as a key Affidavit that Jordan sent to the Court was taken from the file. The significance of the malpractice cases are that Lebowitz, the defendant here (along with two discovery attorneys), was the person who improperly approached Judge Acosta, and whose handling of the case and failure to admit certain critical evidence was cited by the First Department as the justification for their dismissal of the case.

Thus, we have a trial judge abusing his authority and then using his authority to censor the Complainant (while failing to sanction or censor the male attorney who committed the violation), a five male appellate panel endorsing the misconduct and the censorship of the complainant, as well as abusing their authority in overturning a bona fide jury verdict,