Superseded by

CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

Elena Ruth Sassower, Coordinator

BY FAX AND BY MAIL
9 pages 216-687-6881

December 9, 1998

Professor Charles Gardner Geyh
Cleveland State University
1801 Euclid Avenue
Cleveland, Ohio 44115-2223

RE: CJA's document-supported critique

Dear Charles:

This responds to your letter dated November 23, 1998, mailed in an envelope bearing a December 1, 1998 postmark, and not received by me until December 5, 1998 (Exhibit "A"). Such letter crossed my own letter to Virginia Sloan, dated and faxed to her on December 2nd -- which I asked her to fax to you (Exhibit "B").

While I *genuinely* appreciate the kind comments with which you open and close your letter -- and your agreement that "if a judicial decision is a product of fraud...it is a form of misconduct deserving discipline, if not impeachment", I take strong issue with the balance of your letter, which I regard as profoundly, and repeatedly, disingenuous.

Notwithstanding your letter qualifies the "couple of thoughts" you offer as in your "individual capacity only", those "thoughts" -- the product of three hours review -- raise serious question as to your fitness to occupy the important positions of leadership you currently hold as a Professor of Law at Indiana University, as a Visiting Associate Professor of Law at Cleveland State University, as Director of the American Judicature Society's Center for Judicial Independence, and as a task force reporter to Citizens for Independent Courts. All such positions were identified in your biography, in connection with your participation at the USC Law School Symposium on "Judicial Independence and Accountability" on a

panel which was supposed to be examining a future "research agenda for issues of judicial independence"[1].

Firstly, your extraordinary claim that "we agree that courts have historically insisted on too stringent a standard for recusal", which you state is reflected by "[our] citation to [your] work". This is an outright UNTRUTH -- both as to CJA's *express* position, reflected in ALL the materials I gave you at the USC Symposium, and as to the *plain meaning* of the words from your 1993 consultant's study for the National Commission on Judicial Discipline and Removal:

> "While the text of sections 144 and 455 appear to create a relaxed standard for disqualification that would be relatively easy to satisfy, judicial construction has limited the statutes' application, so that recusal is rare, and reversal of a district court refusal to recuse, is rarer still." *"Means of Judicial Discipline other than those Prescribed by the Judicial Discipline Statute, 28 U.S.C. Section 372(c)"*, Charles Gardner Geyh, Research Papers of the National Commission on Judicial Discipline and Removal, Vol. I, p. 771.

Since it is CJA's intention to continue to quote these words for the proposition that the recusal statutes have been gutted by judicial interpretation -- which is the context in which we quoted them in the cert petition in *Sassower v. Mangano, et al.* (at p. 30) and in CJA's March 10, 1998 memorandum to the House Judiciary Committee, reprinted in the cert petition appendix [A-299] -- please clarify your position as to the efficacy of the federal recusal statutes. Needless to say, your position should accord with the empirical evidence presented by *Sassower v. Mangano* -- in which there are no less than 10 recusal applications, including an application for the disqualification of the Supreme Court Justices, reprinted *in full* in the petition for rehearing [RA-6].

Secondly, your claim that our materials demonstrate that our "primary concern is not so much to promote systemic change..." This is also an outright UNTRUTH. The very first document I handed you was CJA's published article, "*Without Merit: The Empty Promise of Judicial Discipline*", enclosed in CJA's informational brochure. In addition to describing the federal recusal statutes as having been gutted by the federal judiciary, the article is a critique of the National Commission's 1993 Report, exposing it as methodologically-flawed and dishonest. The documents I thereafter handed you all substantiate that critique. These are the cert papers in *Sassower v. Mangano* -- which, as I told you, expressly identify the worthlessness of ALL the mechanisms touted by the National Commission as

---

[1] Although your letter (Exhibit "A") claims that "we agree that judicial accountability is a necessary counterbalance to judicial independence", you will recall that in the preface to my question to the panel, I highlighted that, consistent with the definitions advanced by USC Dean Scott Bice at the outset of the Symposium, judicial accountability is an integral component to judicial independence.

ensuring judicial integrity[2]. Among these mechanisms is impeachment investigation by the House Judiciary Committee. Because you worked for the House Judiciary Committee and, in the context of your panel remarks at the USC symposium about Congress' constitutional role, I also provided you a free-standing copy of CJA's written statement to the House Judiciary Committee for inclusion in the record of the its June 11, 1998 oversight hearing of the "administration and operation of the federal judiciary -- *with* the supporting documentary compendium[3]. Such statement and compendium not only expose the House Judiciary Committee's wilful abandonment of its impeachment responsibilities, but of its duty to ensure the integrity of the federal recusal and disciplinary statutes -- gutted by the federal judiciary.

Thirdly, your pretense -- in order to avoid giving your opinion on CJA's document-supported critique of the National Commission's Report -- that at issue in *Sassower v. Mangano* is the correctness of the federal courts' invocation of the *Rooker-Feldman* -- and your inference that you agree with their dismissal of the case on that ground. The complete IRRELEVANCE of *Rooker-Feldman* may be seen from the *unopposed* cert petition, detailing the fraudulent nature of the decisions of the district judge and appellate panel, each expurgating and falsifying the very allegations of the verified complaint that vitiated such defense[4]. This, in addition to falsifying the evidentiary record as to the posture of the case. Since your letter concedes that fraud is a basis for "discipline, if not impeachment", you should be offering your opinion as to the *uncontroverted* fraud particularized therein -- and the ABSENCE of any mechanism to redress such fraud. As the cert petition demonstrates, by reprinting the *full record* of the §372(c) complaints filed against the district judge and appellate panel[5] [A-242; A-251; A-272; A-28; A-31], the §372(c) disciplinary process has itself been corrupted by fraudulent decisions -- and, as demonstrated by the supplemental brief, the House Judiciary Committee has jettisoned its impeachment duties. Such opinion is additionally compelled in view of my question to the USC Symposium panel, on which you participated about whether a future research agenda might include examination of dishonest judicial decisions. As you know, the organizers of the USC Symposium, with no objection from the panelists, refused to permit the panel's response to that open question.

Fourthly, your pretense that your concerns are "on a public policy level" -- and that public policy cannot be based "on a particular case involving a particular individual, but on the basis of patterns cutting across multitudes of cases." Obviously "public policy", if it is to have any legitimacy, must be grounded in empirical reality. Aside from the fact that your letter does not request that we provide you with

---

[2] *See* cert petition, pp. 24-25; supplemental brief, pp. 1-2, 9.

[3] CJA's written statement, *without* the documentary compendium, is reprinted at SA-17 of the supplemental brief.

[4] *See* cert petition, p. 11, 14-18.

[5] Upon my inquiry, you conceded that you may have never before seen a §372(c) complaint.

additional cases, *Sassower v. Mangano* is, as I told you, the most perfect and complete case study of judicial misconduct -- one which, additionally, presents and incorporates information and statistics demonstrative of a SYSTEMIC breakdown of checks on federal judicial misconduct in all three governmental Branches. Indeed, the rehearing petition (at p. 4, fn. 3) provides a concise summary of where, in the cert papers, such information and statistics appear.

Absent your rebuttal of the foregoing, it is your professional responsibility to revise your letter and respond to CJA's critique of the National Commission's Report, as contained in our published article, and substantiated by the documents provided you at the USC Symposium[6]. As discussed -- and as reflected by our December 2nd letter to Virginia Sloan -- no one in a position of leadership has been willing to comment on the critique and substantiating documents. As I told you, this includes Professor Burbank, a key author of the National Commission's Report and a Vice-President of American Judicature Society, with whom you sat during at least part of the USC Symposium.

It is also your professional responsibility to honestly apprise Virginia of CJA's ground-breaking work on judicial independence and accountability, as evidenced by that article and supporting documents, so that, as requested by our December 2nd letter, CJA may be invited to participate in Citizens for Independent Courts. We have yet to receive Virginia's response.

Yours for a quality judiciary,

Elena

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

Enclosures
cc: Virginia Sloan, Citizens for Independent Courts
Professor Stephen Burbank

---

[6] Those same documents, as well as a free-standing copy of our July 27, 1998 criminal complaint to the U.S. Justice Department's Public Integrity Section [SA-47], were sent to the American Judicature Society's Center for Judicial Independence in mid-September, following an extensive phone conversation with Leslie Reis. As discussed, three weeks later, with no response from Ms. Reis, I called back and was told by Michael Grossman that he had succeeded Ms. Reis. Mr. Grossman, who stated that he was not familiar with the National Commission's Report, was so extremely rude that I asked to speak with his superior. He identified you and represented that he had already talked to you about our materials, but that you were not interested in seeing them and "not interested in pursuing or giving an opinion about them". Mr. Grossman, who identified that the materials were in his office, also refused to give me your phone number and address so that I could contact you directly. Thus, as I told you, I was particularly eager to meet you at the Symposium. When I recounted the foregoing to you, you told me that Mr. Grossman had never spoken to you about those materials -- and that Mr. Grossman was no longer at American Judicature Society. I believe you stated that he had taken a job with a D.A.'s office.