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November 14, 2001

Elena Ruth Sassower, Coordinator
 Center for Judicial Accountability, Inc.
 P.O. Box 69, Gedley Station
 White Plains, NY 10605-0069

Dear Ms. Sassower:

This will acknowledge receipt of your letter of October 30, 2001 and the material enclosed, as well as the supplemental materials you provided. I have been familiar with the Center for Justice Accountability (CJA) since you provided me with brochures and reprints at a woman's luncheon meeting in Washington, D.C.

On receiving your request that I exercise supervisory review of Luke Bierman, Staff Director of the Justice Center, I personally read all the materials you submitted and requested him to provide me with copies of his correspondence with you concerning the request for the ABA to file an *amicus* brief and provide other assistance to the Center for Judicial Accountability.

As volunteer Chair of the Justice Center, I do not exercise supervisory authority over any of the staff. Of course, if I were troubled by the activities or attitudes of a staff member, I would express my dissatisfaction to that employee's staff supervisor. Although I am no longer a member of the ABA Standing Committee on Judicial Independence or its Advisory Committee, it is a constituent entity of the Justice Center, so I attended its meeting last weekend when reconsideration of your request to secure *amicus* and other assistance in the appeal against the New York State Commission on Judicial Conduct was on the agenda. The materials you provided to me were in the agenda book distributed in advance of the meeting to all Standing Committee members.

To file an *amicus* brief requires approval of the ABA Board of Governors which is rarely given. An ABA *amicus* brief is usually filed in a matter before the United States Supreme Court when ABA policy is involved. It is rare for such a brief to be filed with a Court of Appeals or a state Supreme Court, and I know of no instance where such a brief has been filed with an intermediate appellate court or a trial court. No judge ever participates in the decision whether to file an *amicus* brief, or in the drafting of an *amicus* brief; no judge sees the brief until filed as a matter of ABA policy.



Elena Ruth Sassower, Coordinator
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The non-judicial members of the Standing Committee voted unanimously to affirm its previous position and not request Board of Governors' approval to file an *amicus* brief on behalf of the Center for Judicial Accountability. Therefore, Luke Bierman was clearly within his authority in denying your request for assistance; he was executing instructions of the Committee he staffs. I am completely satisfied with his conduct in the circumstances of which you complain.

Writing for myself, I believe the ABA and Center for Judicial Accountability have goals similar in some respects but different in others; each organization can best pursue its goals independently. Thank you for asking my opinion.

Sincerely,

Nonna L. Shapiro