

CENTER for  
JUDICIAL  
ACCOUNTABILITY



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By Hand

October 17, 1994

Barbara Robinson, President  
Association of the Bar  
of the City of New York  
42 West 44th Street  
New York, New York 10036-6690

RE: Amicus Support before the U.S. Supreme Court

Dear Ms. Robinson:

I trust you will recall our all-too brief meeting at the reception following your induction as President of the City Bar Association. At that time, I spoke to you about the Center for Judicial Accountability and suggested a personal meeting to discuss the demonstrated failure of the City Bar's Committee on the Judiciary to perform its proper screening function<sup>1</sup>.

For the past five years, we have focused our attention on the need to improve the process of judicial nomination so as to ensure that only lawyers of the highest integrity and competence sit on the bench, as well as the need to make judges in office accountable for their official misconduct.

Three years ago, as a result of my activities in challenging the political manipulation of judgeships by party leaders, I was suspended from the practice of law, immediately, unconditionally, and indefinitely by an Order of the Appellate Division, Second Department. That suspension Order, dated June 14, 1991, was made without a plenary proceeding, without notice of formal charges,

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<sup>1</sup> On that subject, may I suggest that you obtain from Alan Rothstein, counsel to the City Bar, a copy of our May 1, 1992 critique of the federal judicial nominating process, which we submitted to the United States Senate Judiciary Committee, as well as the extraordinary correspondence between us and the City Bar relative thereto. In the meantime, I enclose a copy of the item based upon our critique that appeared in the June 22, 1992 issue of New York Magazine, entitled "Credentials Gap: The Case of the Missing Cases".

without a hearing, without findings, and without reasons. As such, it was--and is--palpably unlawful and unconstitutional.

Last year, I brought an Article 78 proceeding against the Appellate Division, Second Department in which I charged it with having issued and perpetuated a knowingly fraudulent and politically-motivated suspension of my license. Notwithstanding Judiciary Law §14 and §100.3(c) of the Rules Governing Judicial Conduct, incorporated at Article VI, §20 of our New York State Constitution, which explicitly disqualify a judge who is a party to a proceeding or who has a substantial interest in its outcome from adjudicating it, the Appellate Division, Second Department refused to disqualify itself and, on motion of its own attorney, the Attorney General of the State of New York, dismissed the case against itself.

That such refusal to respect the mandatory disqualification rules should occur in the context of an Article 78 proceeding--whose historic purpose is to provide independent review of allegations of governmental misconduct--reflects the extent to which high-ranking judges and our state's highest law officer--have betrayed the obligations of their office. Indeed, on appeal to the New York Court of Appeals, the Attorney General argued against any review of his judicial clients self-interested dismissal of my Article 78 proceeding.

In the face of such frightening perversion of the rule of law, I turned to the City Bar Association for amicus support before the Court of Appeals. This past February, I spoke to the City Bar's counsel, Alan Rothstein, who referred me to Gregory Joseph, the Chairman of the Association's Committee on Professional Responsibility.

The shameful manner in which Mr. Joseph summarily disposed of my amicus request and ignored the serious issues raised by my Article 78 proceeding--without even presenting same to the Committee on Professional Responsibility--is recounted in my September 28th letter to John Borek, Esq. of the firm in which Mr. Joseph is a partner. A copy of that letter is enclosed.

To permit you to judge for yourself the transcending public interest issues involved in my Article 78 proceeding and Mr. Joseph's appalling and professionally irresponsible behavior in the face thereof, I also enclose a complete set of the papers that were before the Court of Appeals in my Article 78 proceeding.

At this time, thanks to Mr. Joseph's indifference and inaction, I am now seeking amicus support for my petition for a writ of certiorari to the U.S. Supreme Court since, by Order dated September 29, 1994, the Court of Appeals declined to review the

Appellate Division, Second Department's dismissal of my Article 78 proceeding.

I particularly draw your attention to the constitutional issues delineated in my July 19, 1994 motion for reargument, renewal and, alternatively for leave to appeal to the Court of Appeals. Specifically, three statutory provisions are challenged by my Article 78 proceeding as unconstitutional--two relating to the Article 78 statute (at pp. 4-6) and another relating to Judiciary Law §90 (pp. 16-23).

Judiciary Law §90 directly impacts upon members of the bar, since it is New York's attorney disciplinary law. As discussed in my aforesaid reargument motion, nearly twenty years ago, in the case of Mildner v. Gulotta, Judge Jack Weinstein, in his powerful dissenting opinion, found Judiciary Law §90:

"constitutionally infirm in denying attorneys the due process and equal protection guaranteed by the Fourteenth Amendment to the United States Constitution." (at p. 201).

A copy of the extraordinary Mildner case is enclosed for your review. As my reargument motion points out (at ¶42), the basis upon which the two-judge majority in Mildner sustained Judiciary Law §90 was that there were no allegations of bias or improper motive by the court. Such allegations, however, are present in my case--and the documentary proof thereof is dispositive.

I respectfully request that you, as the City Bar's President, immediately bring my request for amicus support to the attention of the Executive Committee and every relevant committee of the Association. Should you wish me to present the matter personally to the Executive Committee or to any other committee of the Association, I would be pleased to do so.

I would note that prior to the unlawful and retaliatory suspension of my license, I was a prominent leader of the bar. Indeed, as I mentioned when we first met, the distinguished founding partner of your law firm, the late Francis Plimpton, was one of my most ardent supporters in 1976, when I was a candidate for the American Bar Association's House of Delegates. At that time, he wrote a letter on my behalf on the Debevoise, Plimpton letterhead and generously sent it out on my behalf to 500 leading members of the bar. A copy of that letter is enclosed for your review.

A copy of my 1989 listing in the Martindale-Hubbell Law Directory, as well as a letter confirming my 1989 election as a Fellow in the American Bar Foundation, is annexed to my enclosed September 28th letter to John Borek, Esq.

As you can see, I was a leader in the women's rights movement long before the movement was recognized and worked long and hard to bring women into positions of leadership. I am, therefore, particularly gratified by your election as the Association's first woman President. May it also augur well for the cause of judicial reform and the Association's meaningful role in meeting its responsibilities to the public!

Very truly yours,

DORIS L. SASSOWER

DLS/er

Enclosures:

- (a) "Credentials Gap: The Case of the Missing Cases", New York Magazine, 6/22/92
- (b) ltr to John Borek, Esq.
- (c) Mildner v. Gulotta, 405 F. Supp. 182 (1975)
- (d) Article 78: Sassower v. Mangano, et al.:
  - (1) 1/24/94 Jurisdictional Statement
  - (2) Attorney General's 2/11/94 ltr
  - (3) 3/14/94 ltr of Evan Schwartz, Esq.
  - (4) 7/19/94 motion for reargument, reconsideration, leave to appeal
  - (5) Attorney General's 8/4/94 Memorandum
  - (6) 8/8/94 Reply Affidavit
- (e) 7/12/76 letter of Francis Plimpton, Esq.
- (f) "New York Women's Bar Ex-President Gets Wide Support for Election to ABA House", New York Law Journal, 8/3/76

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July 12, 1976

Dear Member of the  
 American Bar Association:

Doris L. Sassower of New York is a candidate for election as an Assembly Delegate to the House of Delegates.

As the first woman ever invited to address the National Conference of Bar Presidents, Ms. Sassower drew the attention of the profession to the problems of sex-discrimination long before the current women's movement came upon the scene. Her remarks to the leadership of the organized Bar in 1969 led to significant action within the ABA and elsewhere.

The need for corrective action was again her focus in 1972 when she spoke before the House of Delegates at the Annual Meeting in San Francisco. Her initiative resulted in the passage of a resolution supporting an affirmative program to bring more women into the profession.

Ms. Sassower has also represented the ABA as chairperson of the National Conference of Lawyers and Social Workers.

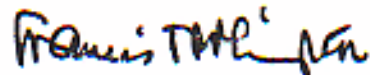
Her many bar association activities, set forth in her enclosed biographic summary, are but a part of her work. She has written frequently in the field of human rights: her latest article appears in the May 1976 issue of the ABA Journal. As a past president of the New York Women's Bar Association, and as an author and civil rights litigator, she has a special perspective from which the House of Delegates would benefit.

Member of the  
American Bar Association - 2.-

July 12, 1976

The signers of her petition are listed on the reverse side of this sheet. I hope you will join us in supporting her and that you will urge your Atlanta going friends to do likewise!

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Francis T. P. Plimpton". The signature is stylized with a large initial 'F' and a cursive 'P' at the end.

Francis T. P. Plimpton

Enclosure

# PETITION SIGNATURES

Tom C. Clark, Washington, DC  
 Albert E. Jenner, Jr, Chicago, IL  
 Whitney North Seymour, New York, NY  
 Lawrence E. Walsh, New York, NY  
 Francis T.P. Plimpton, New York, NY  
 David R. Brink, Minneapolis, MN  
 William P. Dickson, Jr, Norfolk, VA  
 Floyd L. Rheam, Tulsa, OK  
 Shepherd S. Tate, Memphis, TN  
 Daniel L. Golden, South River, NJ  
 J. Henry Neale, Scarsdale, NY  
 Lyman M. Tondel, Jr, New York, NY  
 Adrian M. Foley, Jr, Newark NJ  
 William H. Erickson, Denver, CO  
 James R. Greenfeld, New Haven, CT  
 William R. Goldberg, Providence, RI  
 Ann W. Lake, Dedham, MA  
 Jeanne S. Miller, New Haven, IN  
 Carl F. Paul, Washington, DC  
 David H. Schantz, Haddenfield, NJ  
 Ralph Nowill, Washington, DC  
 Florence R. Peskoe, Colts Neck, NJ  
 Howard K. Bell, Ocean City, NJ  
 Roy M. Sullivan, Stone Mountain, GA  
 Peter C. Dorsey, New Haven, CT  
 Ernest H. Fremont, Jr, Kansas City, MO  
 Edward L. Benoit, Twin Falls, ID  
 Theodore J. LaBregue, Red Bank, NJ  
 Robert C. Ward, Miami Beach, FL  
 Oscar Fendler, Blytheville, AR  
 Berge C. Tashjian, Worcester, MA  
 Samuel D. Thurman, Salt Lake City, UT  
 Ben J. Weaver, Indianapolis, IN  
 Arlo McKinnon, Milwaukee, WI  
 R.W. Nahstoll, Portland, OR  
 Robert J. Kutak, Omaha, NE  
 Daniel J. Murray, Providence, RI  
 Harlan Thomas, Des Moines, IO  
 Caroline Ruscick, Alpine, NJ  
 William M. Gibson, Canton, MA  
 Charles Anderson, State College, PA  
 Philip H. Shore, Metuchen, NJ  
 Bernard Protzell, Newark, NJ  
 Bernard M. Powell, Morristown, NJ  
 Leonard Meyerson, Jersey City, NJ  
 Leonard R. Blumberg, Manville, NJ  
 Richard K. Bernstein, New York NY  
 Boris Kostelanetz, New York, NY  
 Howard R. Patch, Jr, New York, NY  
 Harriet F. Pilpel, New York, NY

Leon Jaworski, Houston, TX  
 Leonard S. Janofsky, Los Angeles, CA  
 Chesterfield Smith, Lakeland, FL  
 Jason E. Bellows, Chicago, IL  
 Bernard G. Segal, Philadelphia, PA  
 Joyce Cox, Houston, TX  
 Francis H. Fairley, Charlotte, NC  
 Jerome J. Shestack, Philadelphia, PA  
 Wilbur H. Friedman, New York, NY  
 Robert MacCrate, New York, N.Y.  
 William Reece Smith Jr, Tampa, FL  
 W. Stell Huie, Atlanta, GA  
 Robert M. Landis, Philadelphia, PA  
 Kendrick Smith, Butte, MO  
 John J. Creedon, New York, NY  
 Kenneth W. Greenawalt, Hartsdale, NY  
 Richard J. Medalie, Washington, DC  
 T. Girard Wharton, Somerville, NJ  
 Stanton L. Ehrlich, Chicago, IL  
 George F. Moser, Union City, NJ  
 Cullen Smith, Waco, TX  
 John E. Nagle, Davenport, IA  
 Mickey M. Miller, Ft. Wayne, IN  
 Charles L. Bertini, Wood Ridge, NJ  
 Philip H. Corboy, Chicago, IL  
 C. Kimball Rose, Phoenix, AR  
 Phillip R. Gebhardt, Clinton, NJ  
 Frederick G. Fisher, Jr, Boston, MA  
 John H. Yauch, Sr, Short Hills, NJ  
 Edgar G. Boedeker, Clayton, MO  
 A. Leo Levin, Philadelphia, PA  
 David F. Cavers, Cambridge, MA  
 Thomas N. O'Neill, Jr, Philadelphia, PA  
 Norman J. Kalcheim, Philadelphia, PA  
 Austin B. Noble, Montpelier, VT  
 Geoffrey C. Hazard, Jr, New Haven, CT  
 Roy E. Willy, Sioux Falls, SD  
 R.M. James Ruscick, Ft. Lee, NJ  
 James O. Goodwin, Oregon City, OR  
 Elizabeth Stein, Chicago, IL  
 Frances Friedman, New York, NY  
 Ernest N. Giannone, So. Orange, NJ  
 Gerald M. Eisenstat, Vineland, NJ  
 David Gross, Newark, NJ  
 William P. Elliot, Scotch Plains, NJ  
 Joseph A. Kinney, Jr, Newark, NJ  
 Joel R. Brandes, New York, NY  
 Henry H. Foster, Jr, New York, NY  
 Kathryn V. Woodward, New Rochelle, NY  
 Mary M. Woenig, Westport, CT

# New York Law Journal

SERVING THE BENCH AND BAR SINCE 1883

NEW YORK, TUESDAY, AUGUST 3, 1976

## New York Women's Bar Ex-President Gets Wide Support for Election to ABA House

Four former presidents of the American Bar Association have joined other bar leaders and one retired U.S. Supreme Court justice in endorsing the candidacy of Doris L. Sassower in the election next week for Assembly delegate to the ABA's House of Delegates.

Ms. Sassower, a New York attorney active in sex-discrimination and civil rights litigation, will be competing for one of the five Assembly delegate positions to be filled at the ABA's annual meeting next Monday through Thursday in Atlanta. If successful, she would become the first woman delegate to ever represent the Assembly, which constitutes the entire ABA membership, according to endorsement statements released by her supporters.

There have been, and presently are, women sitting in the 350-member House of Delegates — the association's policy-making body —

but they represent the various local and state associations or the component sections of the ABA. There are fifteen Assembly delegates, with five vacancies occurring each year.

Ms. Sassower is one of sixteen candidates for the five posts to be filled this year. She must first win in her own district — comprising New York, Connecticut and Vermont — in a run-off election of sorts to be eligible for final balloting by the entire Assembly during the meeting in Atlanta.

### Headed Women's Bar

Ms. Sassower is a former president of the New York Women's Bar Association and has represented the ABA as chairperson of the National Conference of Lawyers and Social Workers. She is a graduate of New York University School of Law and has written extensively on the subject of women's rights.

Among those endorsing her candidacy as an Assembly delegate are retired Supreme Court Justice Tom Clark; ABA President Lawrence E. Walsh; former ABA Presidents Whitney North Seymour Sr., Chesterfield Smith, Leon Jaworski and Bernard G. Segal; former New York State Bar Presidents Lyman Tondel Jr. and Robert MacCrate; Francis T.P. Plimpton, former president of the Association of the Bar of the City of New York; Boris Kostalanetz, former president of the New York County Lawyers' Association; and Wilbur Friedman, the current president of the County Lawyers' Association.