

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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

Tel: (914) 421-1200
Fax: (914) 684-6554

E-Mail: judgewatch@aol.com
Web site: <http://www.judgewatch.org>

By Courier

April 29, 1997

Magistrate Judge Sharon E. Grubin, Co-Chair
Second Circuit Task Force on Gender, Racial
and Ethnic Bias in the Courts
U.S. Courthouse
500 Pearl Street
New York, New York 10007-1312

RE: Essential Follow-Through by the Task Force

Dear Judge Grubin:

Reference is made to the front-page article in the February 25, 1997 Law Journal (Exhibit "A") that the Second Circuit's Task Force on Gender, Racial and Ethnic Bias in the Courts expects to issue its "draft report" this coming June -- a year later than its target date. The article concludes by quoting you as saying "To do a thorough, complete job with scientific accuracy took a lot longer than anybody expected."

Frankly, we have our doubts that "a thorough, complete job" is being done. Our November 28, 1995 testimony (Exhibits "B" and "C") presented our view that proper examination of the §372(c) complaint mechanism -- the *only* formal mechanism for complaints against federal judges -- would require examination of the Circuit's files of those complaints and, additionally, contacting the complainants¹. We reiterated that testimonial assertion -- this time based on our own direct, first-hand experience -- in a June 17, 1996 letter to you (Exhibit "E"), which transmitted a duplicate copy of the file of our §372(c) complaint against Chief Judge Newman for his retaliatory and fraudulent decision in *Sassower v. Field*. That file was provided so that the Task Force could verify for itself "the extent to which the Second Circuit has subverted the §372(c) mechanism". Indeed, by its enclosed Petition for Review, then *sub judice* before the Circuit Council, we demonstrated that our §372(c) complaint was dumped by Acting Chief Judge Kearse in a decision which was *knowingly* false and unfounded -- much like the decision of Judge Newman, which was the subject of our complaint.

The Task Force never contacted us to follow-up as to what the Circuit Council did with our Petition for Review -- which was to deny it by a boiler-plate order "for the reasons stated" in Judge Kearse's

¹ See Exhibit "B", pp. 7-8.

dishonest decision². Nor did the Task Force contact us to follow-up on any of the documentary materials we provided when we testified on November 28, 1995 (Exhibit "D"). These included our cert petition papers to the U.S. Supreme Court in *Sassower v. Field* and our recusal motion against Judge John Sprizzo in our §1983 federal action *Sassower v. Mangano*. It is hard to imagine that the Task Force could have read those documents and not have had questions.

As to our §1983 federal action, our June 17, 1996 letter (Exhibit "E") expressly stated that events subsequent to our testimony

"further establish that there is *no way* a litigant can protect himself from an abusive and biased judge and from the most pernicious manifestation of that bias, flagrantly dishonest decision-writing." (p. 2, emphasis in the original).

Yet, no one from the Task Force ever inquired of us as to what those subsequent events were.

Those events, including the flagrantly dishonest decision of Judge Sprizzo, dismissing the case, have now been neatly chronicled in our Appellant's Brief in *Sassower v. Mangano*, presently on appeal before the Second Circuit (#96-7805). In bold letters, the overarching issue presented on the opening page of the Brief is "should the District Judge have recused himself for bias?" The introductory "Statement of the Case" includes the following:

"This appeal is not about good-faith error by the District Judge, but about a willful course of behavior perverting the judicial process. Moreover, after Plaintiff made her recusal motion, the District Judge's conduct in the proceeding became even more depraved and abusive than previously, raising the specter that he went on to retaliate against Plaintiff, if not for her recusal motion, than for the public testimony she gave about it on November 28, 1995 to the Second Circuit Task Force on Gender, Racial, and Ethnic Fairness in the Courts [R-890]. This judicial misconduct reached such a magnitude of perversion and prejudice to Plaintiff that she turned to the Chief Judge of the Southern District to exercise his supervisory power over the District Judge for 'manifest bias [which] has caused him to run amok' [R-901]. More than ten weeks after Plaintiff's first letter to the Chief Judge [R-901], with no response from him,

² To complete the Task Force's file of our §372(c) complaint, a copy of the Clerk's June 27, 1996 coverletter and the Circuit Council's June 26, 1996 Order are enclosed. Our cert papers to the U.S. Supreme in *Sassower v. Field*, which were part of our §372(c) complaint, were provided to the Task Force at the time we testified (Exhibit "D"). It would appear from the inventory that we did not provide the Task Force with our Petition to the Second Circuit for Rehearing and Suggestion for Rehearing *En Banc* in *Sassower v. Field*, which was also part of our §372(c) complaint. It is enclosed.

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but less than three weeks after her second letter to the Chief Judge, requesting he recuse himself on conflict-of-interest grounds [R-902], again with no response from him, the District Judge rendered his subject Decision [R-4]." (Br. 3)

We have no doubt but that our appeal papers in *Sassower v. Mangano* are a "must-read" for the Task Force. These include our motion therein now pending before a Second Circuit panel for, *inter alia*, the *sua sponte* recusal of the Second Circuit. The basis for such request is the empirical evidence of this Circuit's actual bias, as reflected by Chief Judge Newman's retaliatory and fraudulent decision in *Sassower v. Field* -- which was covered up by the Circuit, when we sought rehearing *en banc* -- and, thereafter, by Judge Kearse and the Circuit when we filed our §372(c) complaint against Judge Newman.

Consequently, this letter serves to again bring those extraordinary primary source materials to the Task Force's attention -- including our now perfected appeal in *Sassower v. Mangano* -- so that it can evaluate the adequacy and efficacy of remedies for victims of "merits-related" judicial conduct. That was, after all the issue presented by our testimony (Exhibit "B", p. 4) and highlighted in our June 17, 1997 letter (Exhibit "E"), which asked, "Where do you go with a 'merits-related' bias complaint against a federal judge?". Should the Task Force be unable to access one of the ten copies of the perfected appeal in *Sassower v. Mangano* we filed with the Second Circuit, we will, of course, furnish it with a copy of its own.

Meantime, we have indicated to the Second Circuit, in connection with our pending motion for its *sua sponte* recusal in *Sassower v. Mangano*, that the Task Force has a copy of the file of the §372(c) complaint and that we would request that it be made available to the motion panel -- and to the Attorney General -- upon request. This includes our cert papers in *Sassower v. Field*, as well as our Second Circuit Petition for Rehearing and Suggestion for Rehearing *En Banc*, which were part of our filed complaint. For your convenience, a copy of the pertinent pages of our Supplemental Affidavit in *Sassower v. Mangano*, wherein we stated that we would make such arrangements with the Task Force, is annexed hereto (Exhibit "F").

Thank you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

Enclosures: As indicated, plus CJA informational brochure, with inserts

cc: Task Force Co-Chair Circuit Court Judge John Walker
Task Force volunteer Executive Director Sheila Birnbaum