From: Skaggs, Adam <SkaggsA@exchange.law.nyu.edu>

To: elena@judgewatch.org, adam.skaggs@nyu.edu
Cc: maria.dasilva@nyu.edu
Date: Tuesday, August 10, 2010 06:24 pm
Subject: RE: Advancing the Brennan Center's Recusal Reform Recommendations in NYS
Attachments:

Thanks for your e-mail, Elena. We will finish reviewing the materials you've shared with us by the end of the week to determine whether the Brennan Center will be able to participate in the litigation as amicus.

Best regards,

Adam
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From: elena@judgewatch.org [mailto:elena@judgewatch.org]
Sent: Tuesday, August 10, 2010 2:54 PM
To: adam.skaggs@nyu.edu
Cc: maria.dasilva@nyu.edu
Subject: Advancing the Brennan Center's Recusal Reform Recommendations in NYS

Thank you and Maria, again, for meeting with me on July 27th and discussing CJA's three proposals for advancing the Brennan Center's recusal reform recommendations in New York: (1) developing record-based scholarship, particularly of cases involving motions to disqualify judges for ACTUAL, rather than apparent, bias ; (2) establishing a recusal advisory committee -- the Brennan Center's only recommendation that can be citizen-activated: "Outside observers need not sit idly by as judges consider the [other 9] reforms"; (3) engaging in amicus curiae advocacy

As indicated by the voice messages I left for you, Adam, yesterday and earlier today, the opportunity for the Brennan Center's amicus voice has now arisen -- one embracing scholarship and the functions of a recusal advisory committee: The Appellate Term denied, without reasons, the legally-sufficient April 25, 2010 motion for its disqualification that I left with you (embodying also my legally-sufficient January 2, 2010 disqualification motion, which I also left with you). Attached is a copy of its July 8, 2010 decision/order -- which I only learned of a couple of hours after our meeting. Also attached: my draft notice of motion to the Appellate Division and moving affidavit, incorporating the Brennan Center's recusal reform recommendations (see paras 32-35).

I would appreciate your review, as soon as possible. For starters, is there an appeal of right from the Appellate Term's denial, without reasons, of a motion to disqualify its justices -- or is the Appellate Division's review only by leave? Have any laws "limited or conditioned" Article 6, Sec. 4K of the

NYS Constitution?

Please circulate this query and my draft motion among Brennan scholars, lawyers, law students, and other researchers so that this and the other legal and constitutional issues can be more fully developed. I am completely open to suggestions for improving my draft motion.

By the way, the underlying record, both in White Plains City Court and at the Appellate Term (&, of course, the appellate briefs), is accessible from CJA's website, www.judgewatch.org [see: sidepanel: Judicial Selection-NYS, with a hyperlink for White Plains City Court. Also, via the top panel "Latest New", likewise with a hyperlink.]

I will call you on Friday, if I don't hear from you sooner.

Thanks, again.

Elena