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
Website: www.judgewatch.org

BY E-MAIL and BY FAX [6 pages]

DATE: May 27, 2005

TO: Ralph Nader: Center for the Study of Responsive Law
Public Citizen: Joan Claybrook, President
Brian Wolfman, Director/Litigation Group
Common Cause: Chellie Pingree, President & CEO
Ed Davis, Vice President of Policy and Research
People for the American Way: Ralph G. Neas, President
Elliot Mincberg, Vice President, General Counsel & Legal Director
Alliance for Justice: Nan Aron, President
Brennan Center for Justice: Tom Gerety, Executive Director
Burt Neuborne, Legal Director
Deborah Goldberg, Director/Democracy Program
American Judicature Society: Allan Sobel, Executive Vice President & Director
The Constitution Project's Courts Initiative: Kathryn Monroe, Director
Justice at Stake Campaign: Bert Brandenburg, Executive Director
Appleseed Foundation: Linda Singer, Executive Director
Open Society Policy Center: Morton H. Halperin, Executive Director
Open Society Institute-Washington Office: Stephen Rickard, Director
Washington Legal Foundation: Paul Kamenar, Senior Executive Counsel
Judicial Watch: Tom Fitton, President
Cato Institute: Roger Pilon, Vice President for Legal Affairs &
Director/Center for Constitutional Studies
Free Congress Foundation: Marion Edwyn Harrison, President, COO & Counsel
Robert D. Thompson, Vice President/Coalitions for America

FROM: Elena Ruth Sassower, Coordinator
Center for Judicial Accountability, Inc. (CJA)

RE: **Furthering "Basic Citizen Rights -- and the Vital Importance of Citizen Participation in Federal Judicial Selection", as well as Fundamental Judicial Accountability by your *Amicus Curiae* and Other Assistance in the Appeal of the "Disruption of Congress" Case, *Elena Ruth Sassower v. United States of America***

On June 28, 2005, a year to the day since I was sentenced to six months' incarceration for respectfully requesting to testify in opposition to a federal judicial nominee at the Senate Judiciary Committee's May 22, 2003 confirmation hearing, the appeal of my "disruption of Congress" conviction and sentence is due to be filed in the D.C. Court of Appeals.

You are already familiar with the politically-explosive facts of the case and their catalytic potential to advance long-ago made, but *unimplemented*, recommendations for non-partisan, good-government reform of federal judicial confirmation for the benefit of ALL this nation's citizens, regardless of ideology. They were set forth by my June 16, 2003, September 10, 2003, September 16, 2003, and June 8-9, 2004 memoranda to you and by my draft memo-in-progress as to the unconstitutionality of the "disruption of Congress" statute, *as written and as applied*, transmitted to you on June 10, 2004.

So as not to be repetitive, I particularly refer you to my June 8, 2004 memorandum, as it summarizes the compelling reasons for its express request for your

> "legal and *amicus curiae* assistance on the appeal, including to vindicate the elementary proposition that 'a citizen's respectful request to testify at a public congressional hearing is not – and must never be deemed to be – 'disruption of Congress' by challenging the constitutionality of D.C. Code §10-503.16(b)(4), *as written and as applied*",

In the event the June 8-9, 2004 memoranda are not readily-accessible from your files, they and my other correspondence to you are posted on CJA's website, www.judgewatch.org, including as part of the "*Paper Trail to Jail*" on the "*Disruption of Congress*" page.[1]

This is not the time to speculate about how differently events might have unfolded had you responded to my June 8-9, 2004 memoranda[2], especially with respect to their

---

[1] This correspondence is also accessible *via* the sidebar panels, "***Correspondence:Organizations***"; "*Correspondence: Nader & Others*".

[2] The only responses were a June 16, 2004 letter from Mr. Harrison, President, COO and Counsel of Free Congress Foundation, and a June 23, 2004 letter from Mr. Pilon, Vice President for Legal Affairs of the Cato Institute and Director of its Center for Constitutional Studies. Both letters requested that I "forthwith remove" them from CJA's "distribution lists". [*see*: "*Correspondence: Organizations*"].

request that

> "you submit a statement to Judge Holeman, either individually or collectively, in advance of the June 28th sentencing, setting forth your view with respect to the "disruption of Congress" charge and requesting that any sentence be stayed pending appeal, particularly a sentence of jail time." (June 8, 2004 memo, at p. 8).

Nor is this the time to dwell on your failure, upon my June 28, 2004 incarceration, to take any steps to secure my release pending appeal or to concern yourselves with how the appeal was going to be perfected. On a human level, none of you saw fit to brighten my jail time by a single visit, let alone by a letter of encouragement or support. Upon my release, you neither telephoned nor sent cards or flowers to greet me. Six weeks later when three of you were apparently contacted by Kristen Lombardi for the article she was writing for *The Village Voice*,[3] you purportedly "refused to comment or spoke only off the record" – with one of you defending your inaction by scurrilous defamation: "One attorney privately told the *Voice* that his group's unwillingness to lend Sassower a hand had 'nothing to do with the merits of her claims' and 'everything to do with her being a very difficult person.'"

As reflected by my correspondence with you, the only thing "difficult" about me is the *independently-verifiable* evidentiary proof I have repeatedly provided you as to the corruption of judicial selection, judicial discipline, and the judicial process. You have refused to discuss it with me, refused to comment upon it publicly, and refused to take any action consistent therewith to protect the public. This, notwithstanding your rhetoric about the importance of the proper functioning of judicial selection, discipline, and the "rule of law" and your stated missions with respect thereto and/or in promoting citizen participation in our democracy, First Amendment rights, and open, accountable government.

My professional obligation – as should be your own – is not to allow anything to interfere with the priority of the public interest. I, therefore, put aside the past and reiterate my June 8-9, 2004 request for your *amicus* and other assistance in this appeal, in which I am *pro se* and single-handedly championing the public interest.

---

[3] Ms. Lombardi's article, "*The Scourge of Her Conviction*" (February 2-8, 2005 issue), as well as my responding Letter to the Editor and the Letters of four readers, are accessible *via The Village Voice* website, www.villagevoice.com [use the search feature and enter my last name only]

Of the four major issues I will be presenting to the D.C. Court of Appeals, you are already familiar with the first three from my June 8, 2004 memorandum:

> (1) whether I was entitled to Judge Holeman's disqualification for "pervasive actual bias", meeting the "impossibility of fair judgment" standard articulated by the U.S. Supreme Court in *Liteky v. United* States, 510 U.S. 540?;
>
> (2) whether I was entitled to change of venue/removal to the U.S. District Court for the District of Columbia, pursuant to the venue provision of the "disruption of Congress" statute, where, additionally, the record in D.C. Superior Court established a long-standing pattern of egregious violations of my fundamental due process rights and "protectionism" of the government?;
>
> (3) whether the "disruption of Congress" statute is unconstitutional, *as written and as applied*?

The fourth issue arose at the June 28, 2004 sentencing:

> (4) whether, when Judge Holeman suspended execution of the 92-day jail sentence he imposed on me, his terms of probation were appropriate and constitutional and whether, when I exercised my statutory right to decline probation, it was legal and constitutional for him to impose a superseding six-month jail sentence?

To enable you to better evaluate these far-reaching issues and the opportunity to "make law" with respect to ALL four, I have been working hard since my December 23, 2004 release to lay out the substantiating evidentiary facts. This I have done by a draft "Statement of the Case/Facts", which – in a single document – comprehensively sums up the underlying record, including by extensive excerpts from motion papers and transcripts of the proceedings, especially the trial. I have also drafted an "Argument" corresponding to the four appellate issues. Suffice to say that with respect to the third issue, the unconstitutionality of the "disruption of Congress" statute, *as written and as applied*, I have essentially replicated, albeit with certain reformatting, what I presented to you by my memo-in-progress. This, because not only did you not deny or dispute its accuracy in any respect, but also the U.S. Attorney and the D.C. Court of Appeals – to whom I subsequently furnished the memo to support my July 16, 2004 motion to reargue the Court of Appeals' denial, without reasons, of the June 28, 2004 emergency

motion of my legal advisor to secure my release pending appeal[4].

I am e-mailing you my draft "Statement of the Case/Facts" and "Argument", along with tables of contents and my proposed "Issues Presented for Review". In the event your internet server cannot accommodate the transmittal of these lengthy drafts, they are also accessible from CJA's website, posted on the "*Disruption of Congress*" page, where they will be modified periodically as a "work-in-progress".

It is my hope to have *amicus curiae* briefs for each of my four appellate issues – and perhaps, additionally, for such important subsidiary constitutional issues as the interpretation of the "Speech and Debate Clause" of the U.S. Constitution and my Sixth Amendment confrontation rights, applied to the facts of this case, entitling me to the testimony of the five Senators I subpoenaed – especially Senator Saxby Chambliss, the presiding chairman at the Senate Judiciary Committee's May 22, 2003 confirmation hearing and the purported "complainant" on the "disruption of Congress" charge.

Pursuant to Rule 29 of the D.C. Court of Appeals, the due date for filing an *amicus* brief is one week after the filing of my appellate brief. Appropriate to this case about patriotism, the rule of law, and fundamental citizen rights, that date is the day after the Fourth of July: Tuesday, July 5, 2005. I expect the U.S. Attorney would consent to such filing, thereby obviating the need for a motion.

In the event you cannot provide an *amicus* brief, I request your legal assistance in crafting my appellate brief – and your recommendations of other organizations, prominent law professors and/or attorneys who might be favorably disposed to championing the public interest by the filing of an *amicus* brief.

Additionally, I again request – as I did by my June 8-9, 2004 memoranda -- that you alert your media and academic contacts to this unprecedented case so that it can more fully meet its history-making and law-making potential.

Meantime, I am sending copies of this letter to Ms. Lombardi, as well as to constitutional law Professor Jonathan Turley, the sole academic included in her *Village Voice* article, whose quoted comments about the case were that it is "extraordinary" and sets a "worrisome precedent".

---

[4] *See* my July 16, 2004 motion (¶¶15, 18-19; Ex. "C" (¶29(b)), as well as my September 13, 2004 reply affidavit (¶¶6-9). [posted on CJA's website: "*Disruption of Congress: Paper Trail From Jail*"]

Please let me hear from each of you as soon as possible.

Thank you.

cc: Kristen Lombardi, *The Village Voice*
Professor Jonathan Turley
American Civil Liberties Union