

# 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](mailto:judgewatch@aol.com)  
Web site: [www.judgewatch.org](http://www.judgewatch.org)

*Elena Ruth Sassower, Coordinator*

BY FAX: 212-416-8942 and 212-416-6075

12:00 p.m. 3 pages

August 16, 1999

Attorney General Eliot Spitzer  
120 Broadway  
New York, New York 10271

ATT: David Nocenti, Counsel to Attorney General Eliot Spitzer  
Assistant Attorney General Carolyn Cairns Olson  
Assistant Attorney General Michael Kennedy

RE: Tuesday, August 17, 1999 Court Calendar  
*Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico, v. Commission on Judicial Conduct of the State of New York, #99-108551*

Dear Mr. Nocenti, Ms. Olson, and Mr. Kennedy:

Last week I telephoned the Court to clarify two procedural issues: (1) that the above-entitled Article 78 proceeding was scheduled for argument on Tuesday, August 17th, as had been indicated at the June 14th court conference<sup>1</sup>; and (2) that the Court's statement at the June 14th conference that it wanted "everything in writing" did not include my already-presented oral application for the Court's disqualification<sup>2</sup>.

As to argument on August 17th, the Court's law secretary, Lisa Rubin, advised me that although the case is on the court calendar, the Court would adjourn argument for a later date so as to permit it to review the submitted motions, which it would just be receiving on August 17th from the

---

<sup>1</sup> The transcript of the June 14th court conference is Exhibit "O" to my Affidavit supporting my omnibus motion. See p. 25, ln. 13 - p. 27, ln. 12.

<sup>2</sup> See Exhibit "O", p. 18, lns. 21-22 for the Court's statement "I want everything in writing". The recusal application was orally presented at pp. 8, lns 8-21, p. 9, ln. 13- p. 17, ln. 4.

EX "B"

August 16, 1999

Clerk's office. Such adjournment, she stated, would be "automatic".

Ms. Rubin nonetheless informed me that the parties and/or their counsel were expected to appear at 9:30 a.m., unless a stipulation was agreed to between us. She stated that such stipulation could include an agreed-to argument date and advised that because Justice Zweibel is just returning from vacation today and will, in addition to his own calendar, be assuming responsibilities of another vacationing judge, our stipulation not set a date before September. She recommended Fridays as the day of the week most convenient for the Judge, since he has a number of cases involving Muslim parties, who observe their sabbath on that day.

Therefore, to avoid the necessity of an otherwise needless court appearance tomorrow and without prejudice to my contention that the Attorney General's representation of the Commission is unlawful and tainted by multiple conflicts of interest, I propose that we agree to Friday, October 1st. This will, I believe, give the court time to review the voluminous papers that are before it in this case. As you know, my Memorandum of Law opposing your May 24th dismissal motion and supporting my July 28th omnibus motion is 99 pages, with my supporting Affidavit running to 55 pages. Such omnibus motion, additionally, includes extensive exhibits and three file folders of substantiating documentation, with the first folder so thick that it is separated into two parts.

In view of the fact that argument will not take place tomorrow, I additionally ask your consent to an extension of time to the Friday after Labor Day, September 10th, for me to respond to your August 13th Memorandum opposing my omnibus motion, which I received from you this weekend. Such Memorandum continues, unabated, the Attorney General's fraudulent and deceitful advocacy, which had required my extensive presentation in my omnibus motion and, which, likewise, will require an extensive presentation here.

Finally, as to the threshold issue of the Court's disqualification, as to which the Court stated "I'm not making any decision" (p.17, ln. 4) and which I interpreted as its reserving decision, it is unclear to me from reading the June 14th transcript whether the Court intended that I should embody my oral application in a written motion when it thereafter stated that it wants "everything in writing" (p. 18, ln. 21-22). Ms. Rubin suggested that I write a letter to the Court for clarification.

I further noted to Ms. Rubin that the Attorney General had not been heard relative to my June 14th application for the Court's disqualification<sup>3</sup>. I, therefore, take the opportunity of this letter to

---

<sup>3</sup> The Attorney General's August 13th Memorandum also makes no reference to my June 14th application for the Court's disqualification, which my Memorandum of Law in support of my omnibus motion referenced on its first page.

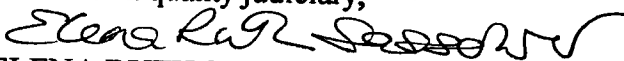
August 16, 1999

invite Attorney General Spitzer, whose publicly proclaimed mission is "to help restore confidence in government"<sup>4</sup>, to personally set forth his position, as "the People's Lawyer" on my oral recusal application, based upon the appearance and actuality of the Court's self-interest in this proceeding, including by reason of its dependency on Governor Pataki for reappointment for its expiring term. Mr. Spitzer is well able to do so not only based on the transcript of my oral application, but because he already has in his possession CJA's March 26, 1999 ethics complaint against Governor Pataki based on his political manipulation of judicial appointments. That ethics complaint, along with the massive substantiating documentation it enclosed in separate file folders, was sent to Mr. Spitzer more than four and a half months ago (certified mail/return receipt) because it was joined with CJA's ethics complaint against him and against Richard Rifkin, his Deputy Attorney General for State Counsel, who was formerly Executive Director of the New York State Ethics Commission. Indeed, for that reason, a copy of that March 26th ethics complaint was annexed as Exhibit "E" to my Affidavit in support of that branch of my omnibus motion as seeks the Attorney General's disqualification for conflict of interest. The pertinent pages of the ethics complaint against the Governor are pp. 14-22.

Since your client, the Commission on Judicial Conduct, purports to concern itself with the appearance and actuality of judicial bias and to prosecute justices based thereon, it should also be heard on the issue of my application for the Court's disqualification on that ground and for its disclosure of other disqualifying facts. The Commission also has in its possession the most essential documentation: the June 14th transcript and the March 26th ethics complaint, annexed to my Affidavit in support of my omnibus motion, which I hand-delivered to it on Friday, August 6th, along with my Memorandum of Law. Additionally, because the March 26th ethics complaint against the Governor, the Attorney General, and Mr. Rifkin is joined with an ethics complaint against the Commission based on the facts that have given rise to this Article 78 proceeding, the Commission also has a free-standing copy of that document, which was sent to it at that time, certified mail/return receipt.

Please respond by 4:15 p.m. today so that I may advise the Court accordingly by the end of the day.

Yours for a quality judiciary,

  
ELENA RUTH SASSOWER, Petitioner *Pro Se*

cc: Justice Ronald Zweibel

New York State Commission on Judicial Conduct (By Fax: 212-949-8864)

---

<sup>4</sup> See "Message from Attorney General Eliot Spitzer", Exhibit "A-2" to my Affidavit supporting my omnibus motion.

TRANSMISSION VERIFICATION REPORT

TIME : 08/16/1999 12:04

NAME : CJA

FAX : 9144284994

TEL : 9144211200

DATE, TIME	08/16 12:02
FAX NO./NAME	12124168942
DURATION	00:01:56
PAGE(S)	03
RESULT	OK
MODE	STANDARD
	ECM

TRANSMISSION VERIFICATION REPORT

TIME : 08/16/1999 12:12

NAME : CJA

FAX : 9144284994

TEL : 9144211200

DATE, TIME	08/16 12:10
FAX NO./NAME	12124166009
DURATION	00:01:54
PAGE(S)	03
RESULT	OK
MODE	STANDARD
	ECM

FAX : 9144284994

TEL : 9144211200

DATE, TIME	08/16 12:16
FAX NO./NAME	12124166076
DURATION	00:02:01
PAGE(S)	03
RESULT	OK
MODE	STANDARD

TRANSMISSION VERIFICATION REPORT

TIME : 08/16/1999 12:03

NAME : CJA

FAX : 9144284964

TEL : 9144211200

DATE, TIME	08/16 12:06
FAX NO./NAME	12129498864
DURATION	00:02:01
PAGE(S)	03
RESULT	OK
MODE	STANDARD