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BY FAX: 1:00 p.m. 2 pages
March 16, 1998

TO: HOUSE JUDICIARY COMMITTEE
Majority Side: ATT: Tom Mooney, Mitch Glazier, Blaine Merritt.....202-225-3673
Minority Side: ATT: Perry Apfelbaum, Robert Raben.....202-225-7680
JUDICIAL CONFERENCE OF THE UNITED STATES
c/o Administrative Office of U.S. Courts
Office of General Counsel.....202-273-1108
ATT: William Burchill, Jeffrey Barr
Office of Legislative Affairs.....202-273-1139
ATT: Art White, Deputy Assistant Director
PROFESSOR STEPHEN BURBANK.....215-573-2025

RE: H.R. 1252 ("JUDICIAL REFORM ACT OF 1997")

Enclosed is a copy of Professor Stephen Burbank's March 15th e-mail response to our March 13th letter to him. He not only does "not wish to receive" the primary source materials, referred to in our letter as establishing the inadequacy of 28 U.S.C. §372(c), §144 and §455, but does "not intend to read" them.

No scholar of any integrity rejects primary source materials bearing upon the area of his expertise and specialization -- such as §372(c). Indeed, a true scholar eagerly examines evidence contradicting his scholarship precisely so that, if necessary, he can revise his conclusions. As identified by our letter to Professor Burbank and the March 10th Memorandum it enclosed, our proffered evidence establishes that the Judicial Conference made knowingly false claims to the House Judiciary Committee in its opposition to Sections 4 and 6 of H.R. 1252 -- and that his own May 14, 1997 testimony was "varyingly false, misleading, and uninformed". Professor Burbank's e-mail response reflects his unabashed contempt for his first and foremost obligation as a scholar to "follow the evidence" wherever it leads. Of course, Professor Burbank works closely with the Judicial Conference and the federal judiciary -- a relationship that severely compromises his willingness to examine evidence adversely reflecting upon them, much as it did during his tenure on the National Commission on Judicial Discipline and Removal.

Needless to say, by rejecting the proffered evidentiary proof, Professor Burbank, as a member of the National Commission, is not relieved of his obligation to refute -- *if he can* -- CJA's analysis of the Commission's Report as "methodologically flawed and dishonest", as set forth in "*Without Merit: The Empty Promise of Judicial Discipline*" (Long Term View, Vol. 4, No. 1). Indeed, the analysis of "merits-relatedness" in that article embraces and quotes from Chapter 5 -- of which Professor Burbank acknowledged himself to be the "principal author" in his May 14, 1997 testimony (at p. 58).

EX "C"

R-30

Elena R. R.
[Signature]