JUDICIAL MISCONDUCT COMPLAINT PURSUANT TO 28 U.S.C. §372(c)
AGAINST U.S. DISTRICT JUDGE JOHN E. SPRIZZO

Filed by: Doris L. Sassower **Date: October 28, 1997**

This is a complaint under 28 U.S.C. §372(c) against U.S. District Judge John E. Sprizzo of the Southern District of New York/Second Circuit for official misconduct in the §1983 civil rights action, *Sassower v. Mangano, et al.*, #94 Civ. 4514 (JES). Such misconduct, spanning the course of the litigation, culminated in a *knowingly* false, fabricated, and fraudulent decision of dismissal, dated May 21, 1996 [R-4-21], which served to protect influential state defendants, including high-ranking state court judges and the New York State Attorney General, who had *no* legitimate defense to the particularized allegations of my Verified Complaint of their corruption [R-23-100]. They, therefore, founded their defense on a strategem of litigation misconduct, including fraud -- in which Judge Sprizzo was fully complicitious.

Throughout the course of the litigation and in his decision, Judge Sprizzo wilfully failed to adjudicate *any* of my several sanctions applications against defendants -- each documented, uncontroverted, and incontrovertible (Br. 38-50). These included my sanctions application: (1) for their dismissal motion, which obliterated and misrepresented the material allegations of my Verified Complaint and controlling law relative thereto; (2) for their Answer, which was false and in bad faith in response to *over 150* of the Complaint's allegations; (3) for their frivolous, irrelevant, and non-probative 2-1/2 page affidavit in opposition to my summary judgment application; and (4) for their counsel's fraudulent oral advocacy. Instead, Judge Sprizzo's decision deliberately omitted *any* mention of my unadjudicated sanctions applications, likewise obliterated and misrepresented my Complaint's material allegations[1] and controlling law relative thereto, and, *sua sponte* and *without* notice, converted defendants' dismissal motion to one for summary judgment in their favor, based on *no* evidence whatever[2] (Br. 64-75). *Without* reasons, his decision denied my summary judgment application -- which, like my sanctions applications, was fully-documented, uncontroverted, and incontrovertible and entitled me to relief, *as a matter of law* (Br. 61-64).

Also protected by Judge Sprizzo's deliberate dishonesty and willful perversion of elementary adjudicative standards were the judges of this Circuit, who had a direct, personal interest in ensuring that my law license -- the subject of the litigation -- was not restored to me and, with it, my good name. If decided on the facts and law, this case, involving the state defendants' misuse of New York's attorney disciplinary law to retaliate against me for my judicial whistle-blowing, would have resulted in their being criminally investigated, prosecuted, and removed from office, compensatory and punitive damages against them for millions of dollars, and a declaration that New York's attorney disciplinary law is unconstitutional. As such, the case stood to make front-page

---

[1] The deliberateness with which Judge Sprizzo's decision did this is highlighted by the Appendix to my Appellant's Brief, *infra*, annexed hereto as Exhibit "A".

[2] The basis stated by Judge Sprizzo's decision for his *sua sponte* conversion was that "voluminous affidavits" had been filed by "both parties". In fact, defendants had filed *no* "voluminous affidavits". Their only affidavit -- 2-1/2 pages in length -- was the subject of my unadjudicated application for Rule 56(g) sanctions (Br. 58).

headlines and powerfuly advance my judicial whistle-blowing advocacy. This includes my advocacy against judges of this Circuit stemming from their vicious judicial retaliation against me for NO reason other than my familial relationship with George Sassower[3]. Mr. Sassower is well known to this Circuit. He has repeatedly sued its judges and filed misconduct complaints against them, alleging that they render decisions, on both the district and appellate level, which fabricate facts and disregard controlling law so as to cover-up state court corruption in which the State Attorney General is an active, collusive participant. The publicity and soaring credibility I would have received as a result of a successful outcome to this lawsuit would have brought attention to this Circuit's previous retaliation against me -- with consequent investigation, prosecution, and removal from office of the federal judges involved -- and would necessarily have lent credibility to -- and examination of -- Mr. Sassower's long-standing allegations of corruption in the Circuit. Further, Mr. Sassower has also been a victim of New York's unconstitutional and judicially self-serving attorney disciplinary law -- and within that class of attorneys who would have benefited by a federal ruling on the unconstitutionality of reposing *all* aspects of New York attorney discipine in the state courts.

Judge Sprizzo's official misconduct in *Sassower v. Mangano, et al.* is readily verifiable from the record therein. Its brazenness leads to the inescapable conclusion that Judge Sprizzo knew he had nothing to fear from the Circuit, either by a direct appeal or by a §372(c) misconduct complaint, because he was advancing this Circuit's ulterior objectives. He certainly had nothing to fear from the Chief Judge of the Southern District, Thomas Griesa, who failed to respond to my entreaties that he exercise supervisory power over Judge Sprizzo's "manifest bias [which] has caused him to run amok" (Br. 3). The record before Judge Sprizzo [R-502-3, R-558-572] showed that Judge Griesa, on behalf of the Southern District, had unlawfully suspended my federal law license, *without* a hearing, in violation of constitutional due process and in flagrant disregard of the Southern District's own Rule 4, which I had specifically invoked because defendant Second Department's "interim" suspension of my state law license was *without* written charges, *without* findings, *without* reasons, *without* a hearing -- either before or after -- and *without* any right of appellate review and was a malicious retaliation against me for my whistle-blowing against state judicial corruption and the manipulations by the major political parties of state judicial selection.

---

[3] This Circuit's judicial retaliation includes its imprimatur to the lawless and biased conduct of another district judge of the Southern District in a lawsuit against private defendants in which I was a co-plaintiff, *Sassower v. Field, et al.*, 88 Civ. 5775 (GLG). That lawsuit, wherein the defendants engaged in *unadjudicated* discovery misconduct, ended with a factually false, fabricated and legally insupportable decision imposing, *without* a hearing, a completely arbitrary $100,000 award of counsel fee/sanctions against me and my daughter -- which the Circuit sustained on appeal (#91-7891) under "inherent power", in a factually baseless and retaliatory decision, 975 F.2d 75 (1992), authored by Judge Jon Newman, which flew in the face of bedrock decisional law of the Supreme Court and of the Circuit and *never* once cited to the record or identified a single one of our appellate arguments -- each dispositive of our right to reversal, including the granting of our *fully-documented, uncontroverted* Rule 60(b)(3) motion for a new trial. This Circuit covered-up for Judge Newman and the district judge by denying our Petition for Rehearing with Suggestion for Rehearing *En Banc* and, thereafter, by upholding the dismissal of our fully-documented §372(c) complaint against then Chief Judge Newman (#96-8511), dismissed by a dishonest decision of Acting Chief Judge Amalya Kearse which falsely contended, *inter alia*, that it was "merits related", that the statute required dismissal of "merits-related" complaints, and that it was "unsupported. A copy of that complaint, Acting Chief Judge Kearse's dismissal, our petition for rehearing, and the Circuit Council's order affirming dismissal are annexed as Exhibits "C"-"F" to my incorporated-by-reference October 10, 1997 recusal/vacatur for fraud motion.

Judge Sprizzo's "pervasive bias"and fraudulent decision has already been the subject of a meticulously-documented appeal (#96-7805). In the interest of judicial economy, such appeal papers are incorporated by reference and made a part hereof. Included in the Record on Appeal is my Order to Show Cause for Judge Sprizzo's recusal, pursuant to §144 and §455 [R-643-733]. Judge Sprizzo denied it from the bench [R-762-765], with no written decision or order thereon, and, thereafter denied my subsequent motion for reargument, renewal, and reconsideration [R-743-864] as part of his dismissal decision. In that decision [R-13-14], Judge Sprizzo misrepresented both the recusal and reargument motions so as to justify having denied them -- and, likewise, misrepresented the nature and content of *all* other motion-submissions before him so as to conceal the egregiousness of his other adjudications. My sanctions applications he wholly omitted from his decision and the material allegations of my Complaint he obliterated and misrepresented, together with the controlling law relative thereto (Exhibit "A"). This flagrant dishonesty was highlighted in the five Points of my Appellant's Brief, whose *sole* overarching issue was:

> "As evidenced from the course of the proceedings and the subject Decision, should the District Judge have recused himself for bias?" (*See*, Appellant's Brief: Issues Presented for Review)

Point I of my Appellant's Brief (at 31-37) delineated my entitlement to the granting of my Order to Show Cause for recusal and of my reargument motion. It also noted (at 32-33) that even before the U.S. Supreme Court's decision in *Liteky v. United States*, 114 S.Ct. 1147 (1994), this Circuit had recognized that a judge's conduct of proceedings before him" can form the basis for a finding of bias, *United States v. Wolfson*, 558 F.2d 59, 63 (1977), *United States v. Coven*, 662 F.2d 162, 168 (1981), *In re IBM*, 618 F.2d 923, 928 (1980), citing *Wolfson v. Palmieri*, 396 F.2d 121, 124 (1968)[4].

Because of the deliberate and knowing nature of Judge Sprizzo's misconduct, my Appellant's Brief concluded (at 76) by requesting disciplinary and criminal referrral of Judge Sprizzo, as well as of the defendants, with whom he had collusively engaged in fraudulent and corrupt conduct. However, as a result of the disqualifying bias of the Circuit panel assigned to this appeal, it complicitously covered up for Judge Sprizzo and did not rule upon the *sole*, transcending, and threshold issue of his pervasively-biased and corrupt conduct. Instead, its not-for publication, no-citation Summary Order, dated September 10, 1997, *expressly* did *not* adjudicate Judge Sprizzo's disposition on *any* of the motion-submissions before him -- including my recusal Order to Show Cause and reargument motion -- and *never* once cited to the record *or* referred to the allegations of my Complaint, expurgated by the appealed-from decision. This is particularized in my Petition for Rehearing with Suggestion for Rehearing *In Banc*, in my October 10, 1997 recusal/vacatur for fraud motion, as well as in my §372(c) complaint against the panel members -- all of which are incorporated by reference and made part hereof.

This complaint is properly cognizable under 28 U.S.C. §372(c). Judge Sprizzo's misconduct, although arising from a litigation and encompassing a judicial decision and rulings, is not "merits-related" because no adjudications were rendered "on the merits". No decision and rulings are being challenged as "erroneous" "good-faith" adjudications. What is here at issue is Judge

---

[4] *See* also *In re IBM*, 45 F.3d 641, 644 (1995), per Chief Judge Jon Newman, "'in the rarest circumstances' judicial rulings alone can warrant recusal..."

Sprizzo's corrupt use of his judicial office to advance ulterior, illicit purposes *unrelated* to the merits of the proceedings before him. Such behavior, subverting "the effective and expeditious administration of the business of the courts", constitutes impeachable conduct. It is properly the subject of disciplinary review irrespective of whether judicial or appellate remedies exist. Moreover, under 28 U.S.C. §372(c), even "merits-related" complaints are reviewable since the language of the statute affords the Circuit discretion not to dismiss such complaints[5]. This discretion is particularly warranted where judicial and appellate remedies are unavailable -- or, as at bar, unavailing by reason of the protectionism and self-interest complained of.

Because of the *actual* bias of this Circuit, as particularized in my incorporated-by-reference October 10, 1997 recusal/vacatur for fraud motion, and its palpable self-interest in covering up Judge Sprizzo's misconduct, this §372(c) complaint should be transferred to another Circuit. The §372(c) statute does *not* preclude transfer -- and recusal and transfer are always appropriate where judges are unable or unwilling to act impartially or where there is an "appearance of impropriety" -- as here.

Should the Chief Judge of another Circuit or the Acting Chief Judge of this Circuit[6] who initially reviews this fully-documented misconduct complaint nonetheless dismiss it as "merits-related", it should be by a fact-specific, responsive, non-conclusory order addressed to the complaint's particulars. This would accord with the recommendation of the National Commission on Judicial Discipline and Removal -- endorsed by the Judicial Conference based on the recommendation of its Committee to Review Circuit Council Conduct and Disability Orders -- which calls for reasoned, non-conclusory dismissals, as well as the Commentary on Rule 4 of the Illustrative Rules Governing Complaints of Judicial Misconduct and Disability, stating that the "statutory purposes" of §372(c) are best served when orders disposing of complaints are "relatively expansive". Indeed, likewise endorsed by the Judicial Conference, based on the recommendation of its Review Committee, is the National Commission's recommendation that the Circuits resolve the substantive ambiguity of §372(c) by creating a body of interpretive precedent. [For citations, *see* Exhibit "E", p. 1 to my incorporated-by-reference October 10, 1997 recusal/vacatur for fraud motion].

Such interpretive precedent should provide definition of the "merits-related" category, specifically in the context of complaints alleging bad-faith, biased conduct that is egregious and part of a pattern of behavior, as well as illuminate its relationship to "normal adjudicative procedures", i.e., judicial and appellate remedies[7]. Heretofore, this Circuit has refused to provide such definition,

---

[5] This Circuit's rule 4(c)(2) requiring dismissal of "merits-related" complaints must be stricken as violative of the statute. See Exhibit "E", p. 4 to my October 10, 1997 recusal/vacatur for fraud motion, incorporated herein by reference.

[6] Chief Judge Winter is absolutely disqualified from reviewing this complaint since the allegations of corrupt and fraudulent decision-making herein raised mirror those in my previously-filed §372(c) complaint against then Chief Judge Jon Newman for his authorship of the fraudulent and retaliatory appellate decision in *Sassower v. Field, supra*. (*See* footnote 2, *supra*). Judge Winter was complicitous in that decision, being a member of the appellate panel, together with former Chief Judge Edward Lumbard.

[7] *See* "*Without Merit: The Empty Promise of Judicial Discipline*", by E. R. Sassower, The Long Term View (Massachusetts School of Law), Vol 1, No. 4, pp. 90-97, annexed hereto as Exhibit "B".

either in connection with my previously-filed §372(c) complaint[8] or in response to the presentation made by the Center for Judicial Accountability, the organization of which I am co-founder and Director, to the Second Circuit's Task Force on Gender, Racial, and Ethnic Fairness in the Courts[9].

The pattern of egregious and willful misconduct of Judge Sprizzo, as established by my *uncontroverted* Appellant's Brief[10], makes this the "rare case" anticipated by *In re Charge of Judicial Misconduct*, 685 F.2d 1226 (9th Cir. 1982), one where, additionally, his "improper motive" is both alleged and evidentiarily demonstrated:

> "We need not reject the possibility of an exceptional case developing where the nature and extent of the legal errors are so egregious that an inference of judicial misconduct might arise, but that would be a rare case, and it has not occurred here. We note, moreover, that there is neither an assertion or evidence that the judge acted with improper motive" at 1227.

The term, "prejudicial to the effective and expeditious administration of the business of the courts" -- the standard for discipline under §372(c) -- is to be considered in light of, *inter alia*, the relevant ABA Canons, as well as the Judicial Conference's Code of Judicial Conduct. [*See*, Research Papers of the National Commission on Judicial Discipline and Removal, Vol. 1: "*The Role of Judicial Ethics in the Discipline and Removal of Federal Judges*", at p. 882, citing Senate Report on §372(c) statute]. Judge Sprizzo's corrupt conduct violated the first three Canons of both the ABA and Judicial Conference's Codes. Particularly noteworthy is that both call upon a judge to take corrective steps in the face of misconduct -- be it by a lawyer or judge:

> "A judge should initiate appropriate action when the judge becomes aware of reliable evidence indicating the likelihood of unprofessional conduct by a judge or lawyer." Judicial Conference's Code of Judicial Conduct, Canon 3B(3).

The overwhelming evidence in the record before Judge Sprizzo gave him more than "the likelihood" of defendants' unprofessional conduct. It presented him with indisputable proof of a pattern of unremitting fraud before him, as well as public corruption by high-ranking state officials in the state forum -- warranting his reporting defendants "to the appropriate authorities", pursuant to the Commentary to that Canon. ABA Canons 3D(1) and (2) are appropriately more forceful.

The Commentary to the Judicial Conference's Canon 1 recognizes that a judge's violations of its Code may serve as a basis for disciplinary action depending on such factors as their "seriousness", "the intent of the judge", "a pattern of improper activity, and their "effect...on others or on the judicial system". The record establishes that *all* such factors are resoundingly met.

---

[8] *See* pp. 1-4 of my petition for rehearing on my prior §372(c) complaint, annexed as Exhibit "E" to my October 10, 1997 recusal/vacatur for fraud motion.

[9] *See* E. R. Sassower's November 28, 1995 testimony before the Task Force and her June 17, 1996 letter to it, annexed as Exhibits "A" and "B" to my April 28, 1997 Supplemental Affidavit in support of my April 1, 1997 recusal/sanctions motion.

[10] My Appellant's Brief is uncontroverted inasmuch as defendants' Appellees' Brief did not deny *any* of the factual showing or respond to any of the legal argument presented therein. Indeed, it did not even refer to my Appellant's Brief! (*See* my Reply Brief, p. 2).