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February 9, 2007

Chairman John A. DeFrancisco
New York State Senate Judiciary Committee
Albany, New York 12247

ATT: Carole Luther, Chief of Staff

- RE:
- (1) CJA's January 16, 2007 letter pertaining to Senate Judiciary Committee procedures & request to testify in opposition to Senate confirmation of Brooklyn Supreme Court Justice Theodore T. Jones, Jr. to the New York Court of Appeals:
 - (2) CJA's opposition to Senate confirmation of the reappointment of New York Court of Appeals Chief Judge Judith Kaye & request to testify in opposition

Dear Ms. Luther:

This letter follows up my telephone call to you today, Friday, February 9th, at 11:00 a.m., which you returned approximately 15 minutes later. I then followed up with a further phone call to you shortly thereafter.

During these conversations, I reviewed with you the content of my January 16, 2007 letter, to which there had been no response. You stated as follows:

Senator DeFrancisco "will not let [me] testify" at the Senate Judiciary Committee's hearing to confirm the appointment of Justice Jones to the New York Court of Appeals. This, because, at the three previous hearings to confirm Court of Appeals judges at which I testified I had "not abided by the rules" – which you stated required me "to speak only on qualifications of the judge". In response to my question as to when Senator DeFrancisco had informed you that he would not let me testify in opposition to Justice Jones, you stated that you did not know and were "only passing on the

message”.

You further told me that Justice Jones’ confirmation hearing would be on Monday, February 12th, that the Committee does not have anything publicly available bearing upon his qualifications and fitness (except for Governor Spitzer’s notice of appointment, which you agreed to fax me – but which I have not yet received), and that there were no written procedures and standards governing the Senate Judiciary Committee’s proceedings to confirm New York Court of Appeals judges.

Additionally, you stated that the Committee has no policy with respect to providing witnesses who testify at Court of Appeals confirmation hearings with transcripts of their testimony, free of charge – and that I was the only witness who had ever requested their testimony. You agreed to ask Senator DeFrancisco if he would make such a policy so that I could have a free transcript of my testimony at the Committee’s September 14, 2006 hearing to confirm Justice Piggott’s appointment. I stated I would pay the \$.25 per page cost for the balance of the hearing, totally 81 pages altogether.

I also requested that you ask Chairman DeFrancisco to set forth, in writing, his denial of my request to testify in opposition to Justice Jones’ confirmation – and the reason therefor. I stated, in rebuttal, that: (1) my opposition testimony to the three previous Court of Appeals appointees – Judges Read, Smith, and Piggott – had each related to their qualifications and, moreover, that Chairman DeFrancisco had not cut me off from delivering my full testimony at Judge Smith’s January 12, 2004 confirmation hearing; and (2) that the Committee had not made ANY inquiry as to the basis of my intended testimony in opposition to Judge Jones’ confirmation – none having been identified by my January 16, 2007 letter requesting to testify.

Finally, in connection with Governor Spitzer’s just-announced reappointment of New York Court of Appeals Chief Judge Judith Kaye, who I identified to you as a corrupt judge, I gave you notice that the Center for Judicial Accountability, Inc. (CJA) strenuously opposes her confirmation and reiterated that the same information as my January 16, 2007 letter had requested in connection with Justice Jones’ confirmation, I was requesting with respect to Chief Judge Kaye’s:

- (a) all publicly-available documents the Committee receives bearing upon Chief Judge Kaye’s qualifications and fitness to be reappointed to the New York Court of Appeals;
- (b) any written procedures and standards governing the Senate Judiciary Committee’s proceedings to confirm New York Court of Appeals judges. This would presumably reflect whether the Committee now requires nominees to our state’s highest court to complete a publicly-available questionnaire, such as the U.S. Senate Judiciary Committee requires in its proceedings to confirm federal judges – and whether it has developed any criteria by which it evaluates requests by members of the public to testify in opposition at its confirmation hearings.

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I also requested to testify in opposition to Chief Judge Kaye at the Committee's upcoming confirmation hearing. In that connection, I expressly requested that you tell Chairman DeFrancisco that to the extent that testimony is limited to 10 minutes, mine would be exclusively devoted to Judge Kaye's corruption in her judicial capacity as Chief Judge of the New York Court of Appeals, as well as in her administrative capacity as head of New York's court system. I specifically identified that I would be testifying about what she had done, both judicially and administratively, with respect to CJA's public interest lawsuit against the New York State Commission on Judicial Conduct – and that among the substantiating proof were my final two motions in the case, copies of which I had provided during my March 17, 2003 meeting with Chairman DeFrancisco and Ranking Member Malcolm Smith. I also stated that I would be testifying as to Chief Judge Kaye's role in the corruption of the state judicial appointments process.

Additionally, I informed you that there were numerous other people who, likewise, were strenuously opposed to Chief Judge Kaye's confirmation and wished to testify in opposition at the Committee's hearing – all of them with testimony relating to Chief Judge Kaye's corruption in her judicial capacity, in her administrative capacity, or both. I stated that they would be contacting the Committee separately.

As you told me that the Committee had not as yet scheduled any date for its hearing on Chief Judge Kaye's confirmation, please advise promptly upon its scheduling so that all concerned may be guided accordingly.

Thank you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Director
Center for Judicial Accountability, Inc. (CJA)