

## CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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BY FAX: 518-426-6036 (16 pages)

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New York Law Journal/ John Caher

RE: "Behind the News":  
Confirming NY's Highest Judges "Merit Selection" Style

Dear John:

**Behold** the Senate Judiciary Committee's perfecting of "rubber stamp" confirmation hearings: "by invitation only" with the public NOT permitted to testify (or at least not in opposition).

This warrants another "Behind the News" story – as it is yet another ugly side of "merit selection" to our State's highest court, for which, 23 years ago, New Yorkers relinquished their right to elect their Court of Appeals judges.

Among *knowledgeable* sources from whom you should solicit comment about how the Senate Judiciary Committee is supposed to perform its "advice and consent" function in the "merit selection" scheme are: (1) Luke Bierman; (2) Fund for Modern Courts; (3) the bar associations, etc. As the latter two are vocal advocates of "merit selection", you should ask them what steps they will be taking to vindicate the public's right to a meaningful Senate Judiciary Committee "hearing" on Justice Graffeo's "merit selection" appointment.

As discussed, enclosed are:

- (1) CJA's November 21, 2000 letter to Chairman Lack, inquiring as to "the requirements" for securing an "invitation" to the Senate Judiciary Committee's "by invitation only" confirmation hearing for Justice Graffeo;
- (2) Bob Schulz' November 21, 2000 letter to Senate Judiciary Committee Counsel David Gruenberg regarding the "by invitation only" confirmation hearing for Justice Graffeo at which the public can "observe the hearing, but not participate";
- (3) CJA's December 16, 1998 letter to Mr. Gruenberg regarding the "by invitation only" "no public testimony" hearing on Justice Rosenblatt's confirmation;

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- (4) CJA's June 6, 1996 letter to Mr. Gruenberg, regarding the Senate Judiciary Committee's "no public testimony" policy for "lower court" confirmation hearing.

Also enclosed is the Governor's November 6th letter to Bob, responding to his October 30<sup>th</sup> letter. Tellingly, the Governor has not seen fit to respond to CJA's October 16<sup>th</sup> report – quite obviously because he cannot do so without conceding the corruption of two pivotal state agencies, of which he has long been knowledgeable – the NYS Commission on Judicial Nomination and the NYS Commission on Judicial Conduct.

On the subject of the Commission on Judicial Conduct's corruption – enclosed is yesterday's front-page Law Journal item and published decision about the Appellate Division, First Department's shutting the door to judicial review on complainants whose *facially-meritorious* judicial misconduct complaints the Commission on Judicial Conduct dismisses *without* investigation. The referred-to "motion seeking leave to intervene and for other related relief" – which the Appellate Division denied without decision – is mine. You can be sure, it is just as devastating and comprehensive as CJA's October 16<sup>th</sup> and November 13<sup>th</sup> reports – furnishing you with yet another explosive "Behind the News" story to write.

Yours for a quality judiciary,



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Center for Judicial Accountability, Inc. (CJA)

Enclosures