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BY FAX: 212-696-4287 (6 pages)

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Mr. Michael Riccardi/New York Law Journal
New York, New York

RE: JOURNALISM THAT MAKES A DIFFERENCE

Dear Michael:

Following up our many conversations, both by phone and in person, beginning shortly after your front-page, above-the-fold October 5, 1999 story, "*State Commission Can Refuse to Investigate Judge*" about Justice Lehner's dismissal of Michael Mantell's Article 78 proceeding against the NYS Commission on Judicial Conduct, here are pertinent record references for two most *immediately* relevant story proposals about my Article 78 proceeding against the Commission. This is preliminary to several other story proposals about the case -- which we have many times discussed -- that I will forward to you soon with the pertinent record references.

PROPOSAL #1. A *propos* of today's front-page, above-the-fold Law Journal article by Daniel Wise, "*Manhattan Judges Protest Plan for Government Cases*", to assign "major lawsuits filed against government officials" with "a substantial impact upon the public at large" to a group of five judges -- following yesterday's New York Times article by David Rohde -- my Article 78 proceeding against the Commission on Judicial Conduct -- now before its 7th judge -- presents a NOW-HAPPENING case study of how judges are assigned under the PRESENT SYSTEM.

Notwithstanding Daniel Wise's statement "Currently, cases against public officials that raise constitutional and other broad policy questions *are randomly assigned* among the 45 judges who handle civil cases in Manhattan Supreme Court" (emphasis added) -- echoing David Rohde's statement that "under the old system, cases against the government were *randomly assigned* among the roughly

45 Supreme Court justices in Manhattan" (emphasis added), 2 of the 7 judges assigned to my Article 78 proceeding against the Commission were NOT *randomly* assigned, but designated by Administrative Judge Crane, for reasons unknown. This is reflected by the three enclosed pages of the computerized assignment sheet for the case.

You already have a copy of my December 2nd letter to Administrative Judge Crane inquiring as to why he interfered with the *random* assignment of the Article 78 proceeding by directing it to Justice William Wetzel and, before that, by removing it from *randomly*-assigned Justice Carol Huff, to direct it to Acting Supreme Court Justice Ronald Zweibel – and the legal authority for same.

Presumably, upon Justice Wetzel's recusal, my Article 78 proceeding would fall into the category of cases eligible for *random* assignment to the five appellate term judges – except for the fact that I have requested that the case be assigned to a specially-designated judge, who is not only retired or retiring – but willing to disavow further judicial or political appointment. This request, appearing, *inter alia*, at 5 of my November 5, 1999 letter to Justice Kapnick, provides an opportunity for the Law Journal to examine procedures and precedents for ensuring the impartiality of the tribunal in politically-explosive cases, such as mine, where judicial self-interest is so inescapably present.

PROPOSAL #2. A story examining the process for assigning judges to cases – and the necessity of ensuring the appearance and actuality that the tribunal is fair and impartial -- easily lends itself to a profile of Justice Wetzel, the hand-picked choice of Administrative Judge Crane for my Article 78 proceeding against the Commission. Such a profile would fit in with other profiles done by the Law Journal of judges handling other important cases. In addition to the Law Journal's front-page, above-the fold profile of the Albany justice assigned "by a fluke" to hear the Article 78 proceeding against the Court of Appeals judges relating to lawyer compensation on capital cases (9/20/99), was last week's front-page, above-the fold profile of the Albany judge selected following "deliberation" by top judges, including Administrative Judge Lippman, to hear the Diallo case (12/27/99)

You have copies of all my correspondence with Justice Wetzel containing pertinent biographic and other information about him in support of my application for his recusal and/or disclosure of facts bearing upon the appearance of his lack of impartiality. These are my December 2nd, December 9th, and December 17th

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letters to him¹. Pages 5-7 of my December 2nd letter detail his dependency on Governor Pataki for reappointment -- his appointive term as a Court of Claims judge having expired on June 30, 1999, *more than six months ago* -- his professional and personal ties to the Governor, and that he was the subject of a facially-meritorious judicial misconduct complaint based, in part, on a 1994 fundraiser he held at his home while he was a sitting village justice for then candidate Pataki -- which the Commission dismissed without investigation. The pertinent documents are annexed to the December 2nd letter including, as Exhibit "J", my letter to the Governor asking why he has not reappointed Justice Wetzel to the bench and further inquiring as to "the number and identities of other Court of Claims judges who the Governor is maintaining on the bench as "hold overs" (at p. 3). This, in addition to requesting the publicly-accessible 1995 judicial screening committee report of Justice Wetzel's qualifications, as well as reiterating CJA's previous requests for the judicial screening committee reports of the qualifications of ALL the Governor's judicial appointees.

I look forward to working together with you on these and other important stories, directly affecting the legal community and general public.

Yours for a quality judiciary,



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

Enclosure: 3-page computerized assignment sheet

¹ Exhibit "A" to my December 2nd letter is Justice Wetzel's November 22nd response to my initial November 15th letter to him -- which is Exhibit "B" thereto.