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FROM: Elena Ruth Sassower, Coordinator
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RE: CONNECTING THE DOTS & FOLLOW-UP COVERAGE:
The Village Voice (August 17-23, 2005 issue)
From “*Times’ to Commoners: Go Elsewhere*” (Moses)
To “*Pataki’s Quiet Court Packing*” (Robbins)
To “*Serving a Life Term*” (Schanberg)

BRAVO on your terrific articles, appearing in the August 17-23, 2005 issue of The Village Voice. May these be the basis for further and even more powerful follow-up coverage!

As these articles appear without any connection being drawn between them, I take this opportunity “to connect the dots” – and to advance the *reasonable* possibility that because The New York Times required the backing of Governor Pataki and other powerful government officials -- and the cooperation of the courts -- to procure the land, favorable terms, and lease for its new headquarters, it has been motivated to “steer clear” of coverage exposing their official misconduct.

Mr. Robbins identifies “Pataki’s most threatening scandal” as the “parole-for-sale” cases in Brooklyn. Really? – or is it simply that investigative authorities, as well as such press as The Times, covered up more threatening scandals involving the Pataki administration and Governor Pataki directly? Mr. Schanberg himself states that Manhattan D.A. Morgenthau “buried an investigation” that “New York State’s economic-development chief Charles Gargano, the fundraiser for Governor George Pataki”, was rewarding major campaign contributors with state contracts. His implication is that D.A. Morgenthau did not adequately handle it.

Mr. Schanberg properly calls for “a full look at Morgenthau’s record”, stating “it’s hard to recall any truly comprehensive and balanced coverage of his work by the city’s mainstream press” during his 32 years as Manhattan D.A. and his seven years before that as U.S. Attorney for the Southern District of New York.

The foremost of this “mainstream press” is The Times. Yet, whether it is D.A. Morgenthau’s record – or the records of other powerful public officers, including those seeking re-election or further public office, Governor Pataki among them – The Times REFUSES to examine *readily-verifiable* documentary evidence of their complicity in the corruption of New York’s behind-closed-doors processes of judicial selection and discipline – and of the judicial process itself. Indeed, The Times has been so committed to “protecting” such high public officers as Governor Pataki and Attorney General Spitzer that it has refused to even explore why the New York State Ethics Commission and the U.S. Attorney for the Eastern District of New York have each ignored, *without dismissal*, CJA’s fully-documented 1999 ethics and criminal complaints against them. As illustrative, CJA’s *unresponded-to* October 8, 2002 memo to The Times editorial board regarding its prospective editorial endorsements for Governor and Attorney General in the November 2002 elections and highlighting the significance of these *still-pending* ethics and criminal complaints, wholly suppressed from coverage by the news side. Further illustrative, our *unresponded-to* July 29, 2005 letter to Executive Editor Bill Keller on the very subject of The Times’ duty to report on “*readily-verifiable* evidence...of the corruption of the processes of judicial selection & discipline and the complicity of our highest public officers, including those seeking re-election or further public office”. Such letter expressly identified (at fn. 8) that the story proposal transmitted by the October 8, 2002 memo “is even more politically explosive and far-reaching today than it was 2-1/2 years ago.”

Both this October 8, 2002 memo, with its appended story proposal, and the July 29, 2005 letter are posted on CJA’s website, www.judgewatch.org – accessible *via* the sidepanel, “PRESS SUPPRESSION – *New York Times*”. That is where you’ll also find more than 13 years worth of our correspondence with The Times, establishing its unabashed “protectionism” of powerful incumbents on issues of judicial selection, discipline, and government integrity. As for the substantiating documentary proof which this correspondence provided and proffered to The Times, it may be viewed from other sidepanels of our website: “JUDICIAL SELECTION”, “JUDICIAL DISCIPLINE”, “TESTIMONY”, “TEST CASES”, “DISRUPTION OF CONGRESS’ CASE”, “CORRESPONDENCE”. Indeed, from the sidebar panel “CORRESPONDENCE-NYS Officials”, you can access our *still-pending* March 26, 1999 ethics complaint against Governor Pataki and Attorney General Spitzer [see “CORRESPONDENCE - NYS Officials: New York State Ethics Commission”] and our *still-pending* September 7, 1999 criminal complaint against them [see “CORRESPONDENCE - NYS Officials: U.S. Attorney for the Eastern District of New York”] – as well as our follow-up correspondence to the Ethics Commission and U.S. Attorney based thereon

As evident from the sidebar panel "JUDICIAL SELECTION-New York State", Mr. Robbins' article on Governor Pataki's conservative appellate appointments – important as it is – merely scratches the surface. And it is WRONG in stating that "only courthouse cognoscenti [have been] tracking the governor's judicial maneuvers" and in implying that the "few outspoken critics back in 1996" are no more. Our non-partisan, non-profit citizens' organization was the FIRST to begin "tracking" Governor Pataki's manipulations of the judicial appointments process – which we had well chronicled by the spring of 1996 and which, by November 16, 1996, were so further appalling that The Times briefly let down its protective shield, publishing our Letter to the Editor, "*On Choosing Judges, Pataki Creates Problems*" – though not without expurgating its most explosive part that the Governor was rigging the ratings of his so-called "temporary" judicial screening committee. Moreover, as reflected by our correspondence with The Times both preceding and following publication of that Letter, we have NEVER DURING THESE PAST NINE YEARS let up in trying to expose what has been going on. Our *still-pending* 1999 ethics and criminal complaints about Governor Pataki's corrupting of the judicial appointments process are just one example of our powerful advocacy, on behalf of the public– and suffice to expose a scandal of sweeping dimensions in which The Times is "front and center" by its wilful and deliberate cover-up.

That this scandal goes *directly* to Times Publisher Arthur Sulzberger, Jr. is clear from the substantial correspondence we have addressed to him throughout these years or to which he was an indicated recipient. In addition to our *unresponded-to* July 29, 2005 letter to Mr. Keller -- with its August 12, 2005 follow-up memo to Mr. Sulzberger, *et al.*, also *unresponded-to* -- this correspondence includes our comprehensive February 12, 1998 complaint to Mr. Sulzberger, virtually all of whose 14 pages detailed The Times' cover-up of the corruption of the judicial appointments process to New York's lower courts involving Governor Pataki and the State Senate, both up for re-election that year. Our *unresponded-to* October 13, 2003 letter to Mr. Keller continued the chronological recitation from 1998, now encompassing The Times' cover-up of the corruption of "merit selection" to the New York Court of Appeals with respect to three appointments to that court: in 1998, 2000, and 2003.

Unfortunately, Mr. Robbins' article is further marred because he makes it appear that Governor Pataki has a free hand in making his appellate appointments – and that there are no constraining rules whose violations would subject him to ethics and criminal investigation.¹ The only judicial screening body to which Mr. Robbins refers – and this,

¹ Rules also prescribe the circumstances under which a public officer can collect a pension while earning a salary for another public office. This is also not reflected by Mr. Robbins' article – whose final sentence refers to Governor Pataki's appointment of former Appellate Division Justice Alfred Lerner to a \$109,000 part-time position on the State Commission on Investigations while he collects a \$139,000 pension. Governor Pataki's acquiescence to violation of rules regulating "double dipping" was discussed as part of our March 26, 1999 ethics complaint (at p. 19) – as it was, prior thereto, in our February 12, 1998 complaint to Mr. Sulzberger (at pp. 13-14).

for appointment to the New York Court of Appeals -- is the Commission on Judicial Nomination, which he misidentifies as the Commission on Judicial Conduct. Yet, as reflected by our 1999 ethics and criminal complaints and our other complaints, correspondence, and testimony posted on our website, we long ago and repeatedly documented Governor Pataki's flagrant disregard of the very rules specified by his own Executive Orders, as well as the rigged ratings of his judicial screening committees for appointments to New York's "lower" courts. These committees are simply "fronts", as, likewise, the Commission on Judicial Nomination, which "screens" for appointments to the Court of Appeals. A corrupt Commission on Judicial Conduct, to which the Governor is directly complicitous, further pollutes the judicial appointments process at every level.

CJA's posted primary source materials give an unprecedented "inside look" into the corruption of the behind-closed-doors judicial appointments process. This includes with respect to the "process" by which Governor Pataki appoints the presiding justice for the Appellate Division, First Department² – a position which Mr. Robbins notes is currently filled by out-of-town Justice John Buckley and to which he says the Governor is expected to appoint his former counsel, James McGuire. Indeed, the posted materials establish that prior to Governor Pataki's elevation of then Associate Justice Buckley to be presiding justice, we provided the Governor's First Department Judicial Screening Committee with a January 22, 2002 letter particularizing his misconduct in two-integrally related appeals of two lawsuits against the Commission on Judicial Conduct – *Michael Mantell v. New York State Commission on Judicial Conduct* (S.Ct./NY Co. #108655/99) and *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct of the State of New York* (S.Ct./NY Co. #108551/99). The consequence of this misconduct was not only to lawlessly insulate the Commission from future legal challenge, but to "protect" the Governor, shown by the record before Justice Buckley to be implicated in the Commission's corruption.

Mr. Robbins does not directly say that Governor Pataki's conservative and out-of-town appointees are corrupting the judicial process – let alone that the Governor is installing them to "throw" cases affecting him and his interests by fraudulent judicial decisions. However, Justice Buckley's corrupt conduct – *as readily-verifiable from these two Commission case files* – did not, as it should have, result in investigation and steps for his discipline and removal – but his ultimate elevation as top judge of the "prestigious First Department". As for Mr. McGuire, who Mr. Robbins states would become "Pataki's eyes and ears on the appellate bench" if the Governor moves him up from Queens Supreme Court, he is directly complicitous in the Commission's corruption, on the Governor's behalf, and in the Governor's corruption of the judicial appointments process. This is reflected at page 18 of our *still-pending* March 26, 1999 ethics complaint – and

² See "JUDICIAL SELECTION - New York State: The Corruption of Judicial Appointments to New York's Lower State Courts"

documented by the substantiating documents it enclosed, most spectacularly, by our December 23, 1997 letter to Mr. McGuire. Such December 23, 1997 letter begins by reciting my prior direct contact with Mr. McGuire, followed up by my May 6, 1996 letter to him, transmitting a copy of the file of an earlier lawsuit against the Commission on Judicial Conduct – *Doris L. Sassower v. Commission on Judicial Conduct of the State of New York* (NY Co. #109141/95) and petitions signed by 1,500 New Yorkers, stating:

“We, the People, hereby petition Governor George Pataki to appoint a State Commission to investigate and hold public hearings on judicial corruption and the political manipulation of judgeships in the State of New York.”

According to Mr. Schanberg, D.A. Morgenthau played a leading role in the 1970's in opposing Governor Carey's appointment of a special state prosecutor to investigate and prosecute judicial corruption – his view being that existing prosecutors were “doing the job properly”. He then was instrumental in the downfall of Maurice Nadjari as special prosecutor such that “Eventually the office was shut down. It was the last time any governor or mayor has tried to create an aggressive investigation of the state's or city's judiciary”.

Consequently, no examination of D.A. Morgenthau's “full record” would be complete without looking into whether he has been “doing the job properly” with respect to judicial corruption. That the Commission on Judicial Conduct has its principal office in his bailiwick and was born of the judicial scandals that led to Governor Carey's appointment of Special Prosecutor Nadjari makes such examination all the more fitting.

Examining D.A. Morgenthau's record with respect to judicial corruption is *easily accomplished* – including for an “unfree newspaper”. It requires no more than several hours review of the casefiles of the three above-entitled lawsuits against the Commission on Judicial Conduct – copies of which CJA long ago provided D.A. Morgenthau so that he could take appropriate action to protect the public from corrupt judges within his jurisdiction and a corrupt Commission on Judicial Conduct within his jurisdiction. Indeed, I would be pleased to facilitate your review so that, within the space of an hour, you can understand that these three lawsuits were “thrown” by fraudulent judicial decisions of three Manhattan Supreme Court justices and that the two lawsuits which were appealed – those from 1999 -- were upheld by similarly fraudulent judicial decisions of the Appellate Division, First Department – the first of which was participated in by Justice Buckley.

Within this same hour's time, you will be able to see that D.A. Morgenthau not only jettisoned his duty to investigate and prosecute these corrupt judges and the Commission on Judicial Conduct, but, likewise, his duty to investigate and prosecute his own protégé, Attorney General Spitzer, whose litigation fraud in the 1999 cases, corrupting the judicial process, was the subject of our fully-documented October 21, 1999 criminal complaint to him – one which also sought his investigation of the Manhattan-based Commission on

Judicial Nomination for its role in the corruption of "merit selection" to the New York Court of Appeals.

This October 21, 1999 criminal complaint to D.A. Morgenthau and our predecessor May 19, 1995 criminal complaint to him are posted on our website, accessible *via* the sidebar panel, "CORRESPONDENCE - NYS Officials: Manhattan District Attorney Robert Morgenthau". Also posted there are the Notices of Petition and Verified Petitions in Doris Sassower's 1995 lawsuit against the Commission on Judicial Conduct and in my 1999 lawsuit against the Commission on Judicial Conduct – served upon D.A. Morgenthau on the day those lawsuits were filed, as each sought, by formal Notice of Right to Seek Intervention, his intervention, on behalf of the public. Among the common relief these lawsuits sought: a request to the Governor for appointment of a special prosecutor to investigate the Commission's "complicity in judicial corruption by powerful, politically-connected judges"³ and referral of Commission members and staff to the State Attorney General, the U.S. Attorney, the Manhattan District Attorney, and the State Ethics Commission "for appropriate criminal and disciplinary investigation".

Between the April 22, 1999 Verified Petition in my lawsuit -- based on events particularized by CJA's March 26, 1999 ethics complaint to the State Ethics Commission⁴ -- and CJA's September 7, 1999 criminal complaint to the U.S. Attorney for the Eastern District of New York⁵, you can readily recognize the truth of my assertion in my Letter to the Editor, "*Activists, Judges*" (*Village Voice*, February 16-22, 2005), that the lawsuit was "politically-explosive" and "directly implicated [Governor Pataki] in the corruption of the State Commission on Judicial and 'merit selection' to the New York Court of Appeals." Indeed, during its three-and-a-half-year odyssey through New York's courts, the lawsuit also resoundingly exposed the Governor's corrupt and corrupting judicial appointments process to the lower state courts. [*See* "TEST CASES – State (*Commission*)"].

³ Among these "powerful, politically-connected judges", former Appellate Division, Second Department Justice William Thompson, who Mr. Robbins makes appear as a courageous lone voice in speaking out against Governor Pataki's judicial appointments by his complaint that "Under the guise of merit selection, Mr. Pataki has effectively eliminated African-American and Hispanic judges from the appointive judiciary."

As identified by the Verified Petition in Doris Sassower's 1995 lawsuit and recaptured in the Verified Petition in my 1999 lawsuit, Justice Thompson was the Commission's highest-ranking judicial member and the Commission "protected" him by dismissing, *without investigation*, facially-meritorious, documented complaints against him for his politically-motivated, lawless, and retaliatory judicial conduct.

⁴ *See*, in particular, pp. 20-22, 25-27.

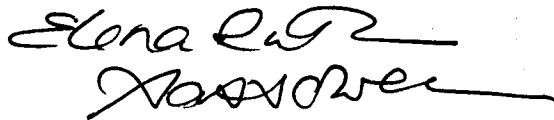
⁵ These two complaints, as well as CJA's October 21, 1999 complaint to the U.S. Attorney for the Southern District of New York, are part of the record in my 1999 lawsuit against the Commission – and were provided to D.A. Morgenthau. [*See* "TEST CASES - State (*Commission*)"]

The series of scandals documented by this one lawsuit – ALL of which The Times wilfully and deliberately suppressed from coverage, as it did the very fact of the lawsuit -- were, by far, more “threatening scandal[s]” for Governor Pataki than the “parole-for-sale” cases pursued by the U.S. Attorney for the Eastern District. We even stated as much at the outset of our September 7, 1999 criminal complaint, based on a Times front-page story that there was “no evidence” that Governor Pataki was involved in the parole decisions.

Neither D.A. Morgenthau, The Times, nor any of the myriad of powerful public officers, investigative authorities, and press⁶ to whom we turned to vindicate the public’s rights would expose this fully-documented scandal leading directly to Governor Pataki and a “Who’s Who” of New York’s high and mighty. WILL YOU?

As the primaries for Manhattan and Brooklyn District Attorneys⁷ are only two weeks away and the November election less than two months after that, please advise as to your interest without delay. Needless to say, you may be assured of our complete assistance – including by copies of the substantiating primary source documents not already in The Voice’s possession⁸.

Thank you.



⁶ From our direct, first-hand experience with Newsday – as reflected by our correspondence with it [“PRESS SUPPRESSION - Newsday”], we see NO basis for Mr. Schanberg’s view that it is “the only mainstream paper in this city that doesn’t have an addiction to sacred cows.” Like other mainstream papers – and The Voice – it also suppresses ALL coverage of *readily-verifiable* documentary evidence of the corruption of judicial selection and discipline – and the complicity of our highest public officers.

⁷ Brooklyn D.A. Charles Hynes is similarly complicitous in judicial corruption and the corruption of the Commission on Judicial Conduct, as may be seen from his inaction on the fully-documented criminal complaints we filed with him. [See “CORRESPONDENCE - NYS Officials: Brooklyn District Attorney Charles Hynes”]

⁸ A single document in The Voice’s possession suffices for *ready-verification* of the documentary fact that the Commission on Judicial Conduct was the beneficiary of five fraudulent judicial decisions of Manhattan Supreme Court and Appellate Division, First Department justices – without which it could not have survived the three above-described lawsuits. That document is the final motion in my lawsuit against the Commission: my October 24, 2002 motion for leave to appeal to the New York Court of Appeals. A copy was supplied to The Voice in substantiation of CJA’s March 26, 2003 written statement in the “Disruption of Congress” case – and such “pertinent substantiating evidence” is so-referred-to by my Village Voice Letter to the Editor, “*Activists, Judges*”.

Mr. Sulzberger ALSO has a copy of this dispositive October 24, 2002 motion, transmitted to him by CJA’s August 16, 2005 memo to The Times.