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BY FAX: 518-426-6036 (9 pages)

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New York Law Journal
29 Elk Street
Albany, New York 12207

ATT: John Caher

RE: Your Pick of Substantive "Behind the News" Stories – All Interconnected:
(1) the *readily-verifiable* corruption of "merit selection" to the New York Court of Appeals; (2) the *readily-verifiable* corruption of the New York State Commission on Judicial Conduct; (3) the *readily-verifiable* official misconduct of New York State Attorney General Eliot Spitzer

Dear John:

As you know, my 2-1/2 year old public interest lawsuit against the New York State Commission on Judicial Conduct provides an *unprecedented window* into the Commission on Judicial Nomination's so-called "merit selection" screening in the context of Albert Rosenblatt's candidacy for the New York Court of Appeals in 1998.

Examination of this lawsuit, now headed for the Court of Appeals, is an APPROPRIATE follow-up to your article, "*Fine Results, But Flawed Process*" in the current issue of the New York State Bar Association's Government, Law and Policy Journal – a copy of which you were kind enough to send me¹. Indeed, CJA's correspondence with the Commission on Judicial Nomination, which is part of that lawsuit², establishes, contrary to the claims of unnamed

¹ As discussed when we spoke earlier today, I was actually surprised that you didn't write me out of the your article. While I appreciate your acknowledging to me that I had provided you "much of the information" that appears in your article, I hope that one day you might publicly acknowledge the important contributions I have been making so that the non-partisan, non-profit citizens' organization I have been working for over a decade to build might rightfully be recognized as more than "fringe" (at p. 30).

² You already have some of this correspondence, annexed, *inter alia*, as Exhibits "H" and "I" to CJA's October 16, 2000 Report to the Bar Association's on the Commission on Judicial Nomination's October 4, 2000 Report of Recommendees. [See fn. 3 *infra*]

“[d]efenders of the process”, referred to at the conclusion of your article (at p. 31), that it did NOT subject Justice Rosenblatt to “intense scrutiny”, including “interviews with adversaries”. Nor did the Governor’s office, which also received copies of this correspondence undertake “intense scrutiny” – contrary to the “[d]efenders’ claims

Moreover, contrary to your view that the “tide seemed to shift following the 1993 confirmation hearing for Judge Howard A. Levine” (at p. 30), closer examination will reveal to you that it was Justice Rosenblatt’s nomination that was the “turning point” in the Senate Judiciary Committee’s confirmation hearings. It was the hearing on Justice Rosenblatt’s confirmation that marked the FIRST TIME a Court of Appeals confirmation hearing was conducted “by-invitation-only” and without permitting opposition testimony – and the ONLY time such hearing was held with NO NOTICE to the public. I believe your examination will lead you to conclude that the switch came about because the Senate Judiciary Committee KNEW that Justice Rosenblatt could NOT survive CJA’s opposition testimony, based, *inter alia*, on his believed perjury on his publicly-inaccessible application to the Commission on Judicial Nomination. That the only subsequent confirmation hearing to the Court of Appeals – for Justice Graffeo -- was also “by-invitation-only”, with no opposition testimony permitted -- is because the Senate Judiciary Committee knew – based on CJA’s two evidence-based October 16, 2000 and November 13, 2000 Reports, which we had provided it³ --that our testimony would embrace the bogus “merit selection” appointment and confirmation of Justice Rosenblatt – and the fact that the readily-verifiable corruption of the New York State Commission on Judicial Conduct, of which it had long before been given documentary proof, undermines the very possibility of “merit selection”.

Of course, doing a substantive exploration of “merit selection” to the New York Court of Appeals – something, I believe, the press has never done in the nearly quarter century of such “merit selection” – will “certainly piss[] off people in power” – well beyond what you described as their response to your current article. I hope you would agree, however, that your job, as a journalist is not to protect and flatter those in “power”, but to “go where the truth leads”. Law Journal readers have a right to expect nothing less from a newspaper whose front-page identifies “113 years of service”.

As discussed, the Appellate Division, First Department has now “thrown” the appeal of my lawsuit against the Commission on Judicial Conduct. A copy of its fraudulent 8-sentence decision, as printed in last week’s New York Law Journal, is enclosed. To assist you and others in recognizing that such decision represents a complete corruption of the appellate process, I am currently working on an analysis – which I will fax you next week. Such analysis will be

³ A copy of CJA’s October 16, 2000 Report was transmitted to you under an October 19, 2000 coverletter. A copy of CJA’s November 13, 2000 Report was transmitted to you under a November 15, 2000 coverletter.

part of my presentation to the Court of Appeals – where you will have a “front-row” seat on what your article says (at p. 31) has never been, “a scandal arising from an appointed Court of Appeals judge’s official performance”.

Meantime, I enclose a copy of my November 30th letter to Kris Fischer, transmitting to her a FULL copy of the appellate papers in my lawsuit against the Commission. This, to enable her to recognize the lawsuit’s transcending public importance, exposing not only the corruption of the Commission on Judicial Conduct, but the official misconduct of Attorney General Spitzer, running for re-election in 2002.

As previously discussed, the New York Law Journal has an important public service to perform in examining how Attorney General Spitzer has defended state agencies, such as the Commission, when they have been sued for corruption and unlawful conduct, and the record of his “Public Integrity Unit”, whose establishment he publicly announced on January 27, 1999 at the breakfast the Law Journal co-sponsored for him at the City Bar. My lawsuit against the Commission provides a breathtaking “paper trail” on both these issues.

Yours for a quality judiciary,



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

Enclosures