

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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Box 69, Gedney Station  
White Plains, New York 10605

By Priority Mail

August 14, 1995

Seth Rosner, Esq.  
30 River Road  
New York, New York 10044

RE: Meeting the Duty of Ethical  
and Professional Responsibility

Dear Mr. Rosner:

Thank you for taking the time to speak with me at the recent ABA Annual Meeting in Chicago and for expressing your willingness to review my mother's cert petition to the U.S. Supreme Court. A copy of the petition, challenging the constitutionality of New York's attorney disciplinary law is enclosed, together with the opposing and reply papers.

As discussed, twenty years ago, in Mildner v. Gulotta, 405 F. Supp. 182 (E.D.N.Y. 1975), aff'd 425 U.S. 901 (1976), New York's attorney disciplinary statute was found unconstitutional in a dissenting opinion by Judge Jack Weinstein<sup>1</sup>, who you told me had taught you civil procedure.

Since you, like just about everyone else involved in the attorney disciplinary field in New York, indicated in our conversation that you were unfamiliar with Mildner v. Gulotta, I am enclosing a copy of the case for your convenience.

You should know that nobody in the attorney disciplinary field has been willing to discuss with us any of the critical issues raised in Mildner or in my mother's cert petition. Indeed, although I have brought to their attention the significance of the Mildner case and transmitted copies of my mother's cert papers to the so-called leaders of the New York bar--including Frank Rosiny, Chairman of the State Bar's Committee on Professional Discipline--it has been to absolutely no avail. As illustrative, I enclose a copy of my June 1, 1995 letter to Mr. Rosiny and the State Bar's appalling (non) response.

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<sup>1</sup> Mildner v. Gulotta is discussed at pp 13-16 of the cert petition under "Reasons for Granting the Writ" and at Points II and IV (pp. 18-21, 28).

You will note that Hal Lieberman, Chief Counsel for the Departmental Disciplinary Committee of the First Department, was a recipient of my June 1st letter. Mr. Lieberman was at the reception in Chicago, which followed your fine program on "Special Mitigation Circumstances: Should Mitigation Vary with Respondent's Characteristics?". He "brushed me off" at the reception, refusing to set any other time to discuss the constitutionality of New York's attorney disciplinary law with me. In our perfunctory conversation, Mr. Lieberman stated he had still not read Mildner, opined--in response to my inquiry as to his view of my mother's cert petition--merely that it was "okay", and refused to comment upon New York's attorney disciplinary law other than to reaffirm--without elaboration--its constitutionality.

Mr. Lieberman could not survive any debate as to the constitutionality of New York's attorney disciplinary law--which is palpably unconstitutional. Nor could he--or any other "professional responsibility lawyer"--even begin to defend the litany of horrors chronicled in my mother's cert petition, constituting a vicious and heinous retaliation against her for speaking out and seeking to protect the public from the political manipulation of judgeships in New York and the criminal conduct of lawyers and judges involved in the political deal and judicial conventions she was challenging, pro bono, in an Election Law case<sup>2</sup>. Such was the duty of all members of the profession under the ABA Model Rules of Professional Conduct and New York's Code of Professional Conduct.

As the enclosed correspondence with the New York State Bar Association shows, the very lawyers whose stock-in-trade is the bar's various ethical and professional codes have adopted the proverbial ostrich-like "head in the sand" approach. These lawyers--leaders of the bar, no less--have turned their back on our repeated proffers of documentary proof that New York's attorney disciplinary law is destroying the lives of countless lawyers by denying them rudimentary due process rights and that New York's court-controlled disciplinary machinery has been employed vindictively and maliciously against my mother, i.e., to retaliate against her for judicial "whistle-blowing". Indeed, although we were deluged with calls and letters from people all over the country in response to the quarter-page Op-Ed advertisement describing the retaliation to which my mother was subjected and the perversion of fundamental law and rules of judicial disqualification, appearing in the October 26, 1994 issue of The New York Times, not one bar leader or "professional

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<sup>2</sup> See, pp. 3-5 of the cert petition. A copy of the written political "deal" trading judgeships through judicial cross-endorsements appears in the cert appendix, A-29-30.

responsibility lawyer" responded. Instead, we were met with "thundering silence" and complete indifference from lawyers who are supposed to be the "guardians of the law". An additional copy of the New York Times ad, entitled "Where Do You Go When Judges Break the Law?"--which you told me you had not seen--is enclosed.

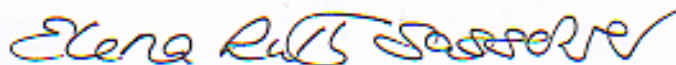
Because you have been in top leadership positions, as Chair of the ABA Standing Committee on Professionalism, as a member of the ABA Standing Committee on Ethics and Professional Responsibility, and as President and a founding member of the Association of Professional Responsibility Lawyers, we earnestly entreat you to show the leadership that has been so demonstrably lacking in other bar leaders.

Since, as I understand, your tenure on the ABA's Standing Committee on Professionalism has ended, I am sending a copy of this letter, with enclosures, to Dean Burnele Powell, who continues as a member of that Committee. My mother advises that Dean Powell expressed interest in reviewing the matter when she spoke to him about it at the ABA Chicago convention.

Additionally, copies are being sent to the Chairs of other relevant ABA standing committees: Raymond Trombadore, Esq. of the Standing Committee on Professional Discipline; Margaret Love of the Standing Committee on Ethics and Professional Responsibility, as well as to Jeanne Gray, Director of the ABA's Center for Professional Responsibility.

We will, of course, provide any and all further information desired upon request so that there can be no excuse for the failure of those in leadership positions--in the ABA and elsewhere--to meet their ethical and professional obligation to take steps to protect the legal profession from New York's egregiously unconstitutional disciplinary law and to redress the heinous injustice inflicted on my mother--a pre-eminent bar leader for more than thirty-five years, with countless ABA-related honors and activities to her credit<sup>3</sup>.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator  
Center for Judicial Accountability, Inc.

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<sup>3</sup> My mother's listing in the 1989 edition of the Martindale-Hubbell Law Directory is reprinted at A-26-28 of the cert petition.

Enclosures:

- (a) Mildner v Gulotta, 405 F.Supp. 182 (1975)
- (b) cert papers, Sassower v. Mangano, et al.
- (c) my 6/1/95 ltr to Frank Rosiny, NYSBA
- (d) 6/5/95 response from NYSBA
- (e) CJA brochure with 10/26/94 NYT Op-Ed advertisement

cc: Dean Burnele Powell  
Raymond Trombadore, Esq.  
Margaret Love, Esq.  
Jeanne Gray, Esq.