

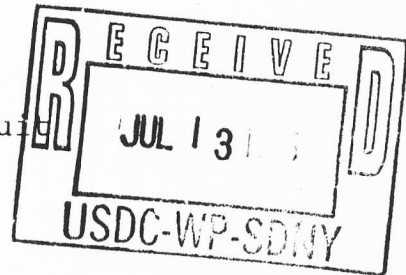
CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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Box 69, Gedney Station
White Plains, New York 10605

July 13, 1995

U.S. Court of Appeals for the Second Circuit
Foley Square
New York, New York 10007



ATT: Carolyn Campbell, Chief Deputy Clerk

RE: Non-Compliance by the Second Circuit with
Filing Requirements

Dear Ms. Campbell:

This letter follows up our conversation on Friday, July 7, 1995, in the Clerk's Office of the Court of Appeals for the Second Circuit, wherein I informed you and Kathy Brouwer, the Court of Appeals' Operation Manager, of the fact that the Second Circuit has not been filing its disposition orders under 28 U.S.C. 372(c) with the Federal Judicial Center.

Both you and Ms. Brouwer stated that you were unaware that the Second Circuit had any obligation to file orders with the Federal Judicial Center. Indeed, Ms. Brouwer became indignant at my very suggestion that such obligation existed.

I draw your attention to the "Rules of the Judicial Council of the Second Circuit Governing Complaints Against Judicial Officers under 28 U.S.C. Section 372(c)"--which document Ms. Brouwer provided me, upon my request. Rule 17, entitled "Public Availability of Decisions", expressly includes the following provision relative to disposition orders:

"(b) Manner of making public. ...The clerk will send copies of the publicly available materials to the Federal Judicial Center, 1520 H Street, N.W., Washington, D.C. 20005, where such materials will also be available for public inspection..."

A copy of said Rule is annexed hereto as Exhibit "A", together with Rule 22, which states:

"These rules apply to complaints filed on or after April 1, 1994...."

Consequently, copies of all of the many orders disposing of complaints filed after April 1, 1994--which I reviewed in two looseleaf books at the Clerk's Office of the Second Circuit on

Ex "B"

July 7, 1995--should have been furnished by the Second Circuit to the Federal Judicial Center. Yet, when I visited the Federal Judicial Center on July 3, 1995, not a single order of the Second Circuit had been filed with it in more than three and a half years.

Ironically, since 1991, the only "filing" contained in the Federal Judicial Center's folder for the Second Circuit was my own on behalf of the Center for Judicial Accountability and consisted of the front-page item in the March 2, 1994 New York Law Journal which, because it announced that the Chief Judge's orders dismissing 372(c) complaints would now be made public, we faxed to the Federal Judicial Center on March 31, 1994 (Exhibit "B").

Of course, prior to April 1, 1994, the Rules of the Second Circuit also obliged the Circuit to file its disposition orders with the Federal Judicial Center--except for dismissal orders of the Chief Judge. A copy of the Second Circuit's prior Rule 17, effective as of July 1, 1987, is annexed hereto as Exhibit "C". Of the seven orders of the Second Circuit that I found in the files at the Federal Judicial Center, only three orders are after the July 1, 1987 effective date. The remaining four, which include a Chief Judge's dismissal order, are from earlier years. Copies of the seven orders--not all of which are "sanitized"--are enclosed herewith as Exhibit "D". Do such few orders reflect full compliance with the applicable Rules of the Second Circuit through March 31, 1994?

As reflected by correspondence from 1991, obtained at the Federal Judicial Center (Exhibit "E"), the Second Circuit was reminded more than four years ago to file its orders with the Federal Judicial Center. In response, it promised to forward "all public orders...as soon as they are filed". Yet, as revealed by my recent visit to the Federal Judicial Center, that was not done.


We wish to know the reason for such non-compliance and request that compliance be effected by the Second Circuit as soon as possible for all the years in which it had--albeit varyingly--an obligation to file with the Federal Judicial Center

Finally, a propos of the April 1, 1994 modification of the Second Circuit's Rules to make public the dismissal orders of the Chief Judge (Exhibits "A" and "B"), we enclose pages 2-5 from the March 1994 "Addendum to the Report of the Judicial Conference Committee to Review Circuit Council Conduct and Disability Orders" (Exhibit "F"). Such pages refer to one Circuit which until "recently" did not adopt Illustrative Rule 17(a) so as to make dismissal orders of the Chief Judge public. Are we correct in assuming that such unidentified Circuit is the Second Circuit? Please advise.

July 13, 1995

We thank you in advance for your prompt attention.

Yours for a quality judiciary,

A handwritten signature in cursive script that reads "Elena Ruth Sassower". The signature is written in black ink and is positioned above the typed name.

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

cc: Federal Judicial Center
Roger Carr, Manager of Information Services
Administrative Office of the United States Courts
Jeffrey N. Barr, Assistant General Counsel