CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

Elena Ruth Sassower, Coordinator

BY FAX AND MAIL: 328-1505 (6 pages)

August 20, 2001

Kenneth Famulare, Staff Assistant
Office of Congresswoman Nita Lowey
222 Mamaroneck Avenue, Suite 310
White Plains, New York 10605

RE: Upcoming Meeting & Informational Requests

Dear Mr. Famulare:

This follows up our phone conversation a short time ago. Thank you for arranging a meeting with Congresswoman Lowey's District Director, Pat Keegan, at 1:15 p.m. on Tuesday, August 28th.

As discussed, I have received NO response from *any* member of New York's congressional delegation to CJA's July 26th request for support for an application for New York's Appellate Division, First Department to permit a "record" to be made of the upcoming oral argument of the appeal of a public interest lawsuit against the New York State Commission on Judicial Conduct[1]. For your convenience, a copy of that completely *non-partisan, non-controversial* request is enclosed.

Also enclosed is a copy of a March 1, 1996 New York Post article in which Congresswoman Lowey is quoted as saying, "We must ensure that the Commission on Judicial Conduct doesn't become the Commission on Judicial Cover-Ups". This, after having "stumbled into the commission's wall of confidentiality... when she tried to assist a constituent" the previous year.

On a somewhat different subject, please be good enough to check that, in addition to the copies of the Congressional Research Service Reports of "Committee Funding Resolutions and Processes" for the 106th and 107th Congresses which I have already received, I will also be sent the Reports for the 102nd –105th Congresses.

---

[1] The upcoming oral argument, which had been calendared for the Appellate Division, First Department's September 2001 Term, is now calendared for its October 2001 Term.

Again, thank you.

Yours for a quality judiciary,

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

Enclosures

TRANSMISSION VERIFICATION REPORT

TIME : 08/20/2001 11:17
NAME : CJA
FAX : 9144284994
TEL : 9144211200

DATE,TIME	08/20 11:13
FAX NO./NAME	3281505
DURATION	00:03:35
PAGE(S)	06
RESULT	OK
MODE	STANDARD ECM

argument. Some are too far away to make that feasible. Others cannot take time off from work or leave family responsibilities and other commitments. The solution is to record the appellate argument so that those unable to attend will have it available to them at a more convenient time and place. Yet, the Appellate Division, First Department – like New York's other three Appellate Divisions -- has NO tape recorder, NO video camera, NOT even a court stenographer to record the appeals argued before its justices. This, notwithstanding the Appellate Division is a "court of record" (NYS Constitution, Article VI,§1b).

By contrast, the U.S. Court of Appeals for the Second Circuit – also in Manhattan, indeed, only about two miles from the Appellate Division, First Department – has a taping system that automatically records oral arguments of appeals. Litigants and members of the interested public can then purchase copies of the tape for a nominal fee.

In the instant appeal against the Commission, a special application will have to be made so that I, as the petitioner -- and the public whose interest I represent – can have the benefit of a record of the argument, be it audio, video, or stenographic. However, last year, when I made a written application for a stenographer to record the oral argument of an appeal in another lawsuit against the Commission, the Appellate Division, First Department denied it, *without reasons*. Consequently, I am seeking to buttress my upcoming application with a showing of public support, such as reflected by the enclosed petition.

The enclosed petition is not just *non-partisan*, it is *non-controversial*. It asks no more than that a "court of record" should act like one so that New Yorkers, statewide, can have a record of an appeal whose outcome concerns them all. As such, members of the New York's Congressional Delegation should be UNANIMOUS in their support.

Although the petition has *nothing* to do with the particulars of the lawsuit against the Commission, I am, of course, ready to discuss the substance of the case and answer any questions you may have so that you can better advise constituents who turn to you for help in addressing misconduct by New York State judges. Otherwise, I would appreciate if you would each sign the petition – perhaps getting four additional signatures to fill the page -- and mail it back to me.

Thank you.

Elena Ruth Sassower

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

Enclosures

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station
White Plains, New York 10605-0069

Tel. (914) 421-1200
Fax (914) 428-4994

E-Mail: judgewatch@aol.com
Web site: www.judgewatch.org

TO: Senators Charles E. Schumer and Hillary Rodham Clinton;
Representatives Gary L. Ackerman, Sherwood L. Boehlert, Joseph Crowley, Eliot L. Engel, Vito Fossella, Benjamin A. Gilman, Felix J. Grucci, Jr., Maurice D. Hinchey, Amory Houghton, Jr., Steve Israel, Sue Kelly, Peter T. King, John LaFalce, Nita M. Lowey, Carolyn B. Maloney, Carolyn McCarthy, John M. McHugh, Michael R. McNulty, Gregory W. Meeks, Jerrold Nadler, Major R. Owens, Jack Quinn, Charles B. Rangel, Thomas Reynolds, Jose E. Serrano, Louise M. Slaughter, John E. Sweeney, Edolphus Towns, Nydia M. Velazquez, James T. Walsh, and Anthony D. Weiner

FROM: Elena Ruth Sassower, Coordinator

DATE: July 26, 2001

RE: Support from New York's Congressional Delegation for the Public's Right to a Record of the Oral Argument of a Public Interest Lawsuit against the New York State Commission on Judicial Conduct in New York's Appellate Division, First Department – a "Court of Record"

The Center for Judicial Accountability, Inc. (CJA) is a non-partisan, non-profit citizens' organization, based in New York. Our purpose is to safeguard the public interest in meaningful and effective processes of judicial selection and discipline. A copy of our informational brochure is enclosed, along with our published article, "*Without Merit: The Empty Promise of Judicial Discipline*", The Long Term View, (Massachusetts School of Law), Vol. 4, No. 1 (summer 1997).

As you know, the New York State Commission on Judicial Conduct is the state agency charged with the duty to receive and investigate judicial misconduct complaints against New York State judges. For the past two years, the Commission has been sued for corruption in an important public interest lawsuit. Oral argument of the appeal is scheduled for this September in New York's Appellate Division, First Department in Manhattan.

Recognizing the potential of this appeal to bring about much needed judicial accountability, People from throughout New York State have expressed interest in being present at the oral

The New York State Commission on Judicial Conduct is the state agency charged with the duty to protect the public from unfit New York judges. For the past two years, the Commission has been sued for corruption in an important public interest lawsuit. Oral argument of the appeal is scheduled for this September in New York's Appellate Division, First Department in Manhattan.

Recognizing the potential of this appeal to bring about much needed judicial accountability, People from throughout the state have expressed interest in being present at the oral argument. Some are too far away to make that feasible. Others cannot take time off from work or leave family responsibilities and other commitments. The solution is to record the appellate argument so that those unable to attend will have it available to them at a more convenient time and place. Yet, the Appellate Division has no tape recorder, no video camera, not even a court stenographer to record the appeals argued before its justices. This, notwithstanding the Appellate Division is a "court of record" (NYS Constitution, Article VI, §1b). Consequently, for the oral argument of the appeal against the Commission to be recorded, a special application will have to be made. Please support such application by signing this Petition.

We, citizens of the State of New York, hereby petition the justices of New York's Appellate Division, First Department in support of the application to allow a recording to be made of the appellate argument of the public interest lawsuit, *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico, against Commission on Judicial Conduct of the State of New York* (NY Co. #108551/99), scheduled for the September 2001 Term.

SIGNATURE	PRINT NAME	ADDRESS	PHONE #	E-MAIL

* * Please duplicate and use for additional petitioners. Return Petitions with original signatures to:

Center for Judicial Accountability, Inc., Box 69, Gedney Station, White Plains, NY 10605-0069 [Tel: (914) 421-1200]. Thank you.

NEW YORK POST, FRIDAY, MARCH 1, 1996

State politicians to scrutinize judicial-conduct panel

By AL GUART

New York state officials say they will be closely watching the Commission on Judicial Conduct as it considers the case of Brooklyn Judge Lorin Duckman.

"A commission that's ineffective in this kind of case is worse than having nothing in place," state Senate Majority Leader Joseph Bruno (R-Renaselaer) told The Post.

Bruno, also chairman of the Senate Judiciary Committee, said the panel displayed "an apparent" lack of interest by routinely dismissing complaints against judges.

"We have to stop coddling these incompetents," he said, adding he will take "taking a look" at the commission when it is up for funding.

U.S. Rep. Nita Lowey (D-Westchester/Queens), who stumbled into the commission's wall of confidentiality last June when she tried to assist a constituent, said, "We must ensure that the Commission on Judicial Conduct doesn't become the Commission on Judicial Cover-ups."

> ***"We must ensure that the Commission on Judicial Conduct doesn't become the Commission on Judicial Cover-ups."***
>
> REP. NITA LOWEY

Michael Letwin, president of the Association of Legal Aid Attorneys, said, "The commission is not known for exercising a great deal of control over judicial misconduct."

The Post reported last week that the panel summarily dismissed 85 percent of complaints filed in 1994.

"It's not unusual to have a dismissal rate that high," the commission's executive director, Gerald Stern, said.

He added that 113 judges have been removed, and 350 disciplined, in the panel's 20-year history.

Stern said his $1.5 million budget — down from $2.3 million five years ago — is "not enough." The staff level has been cut from 45 to 21.

"There are cases we cannot properly investigate," he said. "There are no funds for travel or overnight expenses."

He agreed that lawyers' fear of retaliation by judges is a problem. But he said, "I believe there are a lot of lawyers who believe we're effective and some who believe we're too tough."

Stern said he favors public hearings once a judge is formally charged.

A sample of complaints dismissed without inquiry includes:

■ A charge that a Nassau County Surrogate Court judge ran a "charity" — whose contributors included lawyers who regularly appeared before him. Stern said the Office of Court Administration had "approved the existence" of the fund, but OCA officials denied that.

■ A charge that a Bronx Criminal Court judge showed "a lack of judicial temperament" when he jailed a Legal Aid lawyer for 20 minutes last August for speaking to a client in his courtroom.

■ A charge that a Brooklyn Family Court judge jumped out of her seat screaming, "I'm sick of you" before having a lawyer removed from her courtroom last May.

The lawyer, who had asked to adjourn a case for 10 minutes so his client could be present, also accused the judge of gender bias.

■ A charge that a Brooklyn Criminal Court judge handcuffed a Legal Aid lawyer to a bench for 20 minutes in December 1991 because "she was late," sparking a walkout by 100 fellow lawyers.