By Fax: 202-225-6413
By Certified Mail: RRR
P-271-548-610

16 Lake Street, Apt. 2C
White Plains, New York 10603
May 5, 1994

Honorable Nita Lowey
House of Representatives
1424 Longworth Building
Washington, D.C. 20515

ATT: Jordan Frankl, Legislative Assistant for Judicial Affairs

Dear Mr. Frankl:

Following up our last telephone conversation, I am writing to request Congresswoman Lowey's personal intercession in securing a response from the House Judiciary Committee to my letter dated August 26, 1993. A copy of that letter, addressed to Edward O'Connell, Assistant Counsel to the Subcommittee on Intellectual Property and Judicial Administration, was previously sent to your office, but is enclosed again for your convenience (Exhibit "A").

As you agreed, the Congresswoman's personal intercession is now appropriate because your own diligent efforts to obtain a response from Mr. O'Connell have been unsuccessful. Indeed, in the more than six months that have elapsed since you told me that Mr. O'Connell promised you that a response to my August 26, 1993 letter would be forthcoming, we have still had no response from him or from anyone else on behalf of the House Judiciary Committee to the serious questions raised by that letter.

Those serious questions involve the accuracy of the August 1993 Final Report of the National Commission on Judicial Discipline and Removal. Inasmuch as that body was created by an act of Congress to evaluate the adequacy of existing mechanisms to review and rectify misconduct by federal judges, members of Congress must necessarily be concerned when critical inaccuracies in the Commission's Report are brought to their attention. Examination of my August 26, 1993 letter (Exhibit "A") leaves no doubt but that the inaccuracies at issue are critical in nature.

Consequently, Congresswoman Lowey may rightfully view her intercession in this matter as not solely on behalf of individual constituents, but on behalf of Congress and the public interest advanced by it when it voted to create the National Commission.

I would also reiterate that Mr. O'Connell has still <u>not</u> responded to my January 31, 1994 letter to him--a copy of which we sent the Congresswoman under a coverletter of the same date. Since the January 31, 1994 letter to Mr. O'Connell complements, refers to, and annexes my August 26, 1993 letter to him, we would ask that Congresswoman Lowey similarly bring that letter to the attention of the Chairman of the House Judiciary Committee when she communicates with him. For your convenience, I am annexing a copy of my January 31, 1994 letter to Mr. O'Connell (Exhibit "B"), as well as my coverletter to you[1] (Exhibit "C").

With the Congresswoman's assistance, we trust the House Judiciary Committee will expeditiously respond to the far-reaching questions posed by my August 26, 1993 and January 31, 1994 letters (Exhibits "A" and "B") and reconcile the discrepencies in the National Commission's Report.

Yours for a quality judiciary,

Elena Ruth Sassower

ELENA RUTH SASSOWER

Enclosures: (a) 8/26/93 ltr to O'Connell
(b) 1/31/94 ltr to O'Connell
(c) 1/31/94 coverltr to Frankl

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[1] Attached thereto is Mr. O'Connell's wholly non-responsive January 4, 1994 letter.

By Fax and Mail:
202-225-3737

16 Lake Street, Apt. 2C
White Plains, New York 10603
August 26, 1993

Edward O'Connell, Counsel
Subcommittee on Intellectual Property
and Judicial Administration
Room 207
Canon House Office Building
Washington, D.C. 20515

RE: Judicial Discipline and Removal

Dear Mr. O'Connell:

This letter follows up our telephone conversation on August 12, 1993 in which you stated that "there has never been an investigation of an individual complaint in the history of the House Judiciary Committee".

If so, the Report of the National Commission on Judicial Discipline and Removal is highly misleading in suggesting, as it does, that the House Committee on the Judiciary is an available mechanism for addressing complaints of judicial misconduct.

We refer you, specifically, to pages 33-39 of the Draft Report[1], which identify the House Committee on the Judiciary as the proper recipient of complaints regarding judicial misconduct. Nowhere is it stated or even suggested that individual complaints alleging impeachable conduct not within the purview of the 1980 Act will not be investigated by the Committee.

Indeed, both Michael Remington and William Weller, Director and Deputy Director, respectively, of the National Commission on Judicial Discipline and Removal, informed me that the House Committee on the Judiciary was the appropriate place for review of our complaint against District Court Judge Gerard L. Goettel and Circuit Court Judge Jon O. Newman.

Such position was shared by Francis Lorson, the Chief Deputy Clerk of the Supreme Court to whom I made inquiry immediately following that Court's June 4, 1993 denial of our Petition for Rehearing. Mr. Lorson stated that investigation of the misconduct alleged in our Petition for Rehearing was the

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[1] Page references are to the Commission's Draft Report since the the Final Report is not yet available from the Government Printing Office.

Ex A

responsibility of the House Committee on the Judiciary. It was for this reason that we filed our June 9, 1993 complaint with you.

Since there appears to be substantial contradiction as to the investigatory role of the House Committee on the Judiciary--and its Subcommittee on Intellectual Property and Judicial Administration--we believe a statement on the subject by you, as counsel to the Subcommittee, and by Allen Erenbaum, counsel to the Committee, is appropriate. Inasmuch as both you and Mr. Erenbaum are liaisons to the National Commission on Judicial Discipline and Removal, we trust you will be particularly concerned about ambiguities which its Report creates.

Obviously, where complaints received by the House Committee are properly within the scope the 1980 Act and can be handled by the judicial mechanism, there is no need for investigation by the Committee.

The important question is what the House Committee does with complaints, such as ours: (a) which are <u>not</u> covered by the Act; (b) where appellate remedies have been exhausted and have shown themselves ineffective; and (c) where the allegations, if true, would constitute impeachable conduct. If, as you indicated by telephone, the answer is <u>nothing</u>--such fact should be unequivocally reflected in a "clarification" to the Commission's Report.

Certainly, one would not infer from the Report that the <u>sole</u> purpose of the House Committee's receiving complaints is so that it can play score-keeper: compiling statistical tabulations of the "number and nature of judicial discipline complaints received" for publication in its "Summary of Activities" (at p. 36). What is the purpose then?

We note that page 39 of the Draft Report refers to the Commission's analysis that "well over 90 percent of the complaints [received by the Committee] do not raise genuine issues pertinent to judicial discipline or impeachment". In light of your statement to me that "there has never been an investigation of an individual complaint in the history of the House Judiciary Committee", are we, therefore, correct in assuming that the nearly 10 percent of the complaints received by the House Committee which do raise serious "discipline or impeachment" issues are <u>not</u> investigated? Are these complaints simply "archived" by the House Committee (at p. 36) and allowed to lie fallow, without follow-up. A direct answer to this question is essential since our complaint--which, indisputably, raises serious "discipline [and] impeachment issues"--is plainly within the aforesaid 10 percent category.

It is shocking to believe that such serious complaints--which citizens take the time and trouble to present in the interest of protecting our system from dishonest and unethical federal judges--would simply be ignored <u>without</u> investigation by the House Committee responsible for such review.

Very truly yours,

Elena Ruth Sassower

ELENA RUTH SASSOWER

cc: Michael J. Remington, Director
William J. Weller, Deputy Director
National Commission on Judicial Discipline and Removal
Francis J. Lorson, Chief Deputy Clerk, U.S. Supreme Court
Congresswoman Nita Lowey
Jeffrey M. Shaman, Senior Fellow and Project Director
American Judicature Society
Charles Stephen Ralston, Esq.
NAACP Legal Defense and Educational Fund

By Fax and Certified Mail: RRR
P-407-707-236

16 Lake Street, Apt. 2C
White Plains, N.Y. 10603
January 31, 1994

Edward H. O'Connell, Jr.
Assistant Counsel
Subcommittee on Intellectual Property
and Judicial Administration
2138 Rayburn House Office Building
Washington, D.C. 20515-6216

Re: Judicial Discipline and Removal

Dear Mr. O'Connell:

Reference is made to your letter of January 4, 1994.

You state that you were informed by "Congressman Lowey's office" that we had requested a "formal acknowledgment" of our transmittal to the Subcommittee on Intellectual Property and Judicial Administration of what you refer to as "certain information in regard to District Court Judge Goettel and Circuit Judge Jon O. Newman". To the extent that such statement is correct, it dramatically understates what we have been requesting throughout these many months.

As reflected by my letter to you dated August 26, 1993, we have identified what appear to be serious discrepancies and inaccuracies in the Report of the National Commission on Judicial Discipline and Removal, as highlighted by your candid comment to me on August 12, 1993 that:

> "There has never been an investigation of an individual complaint in the history of the House Judiciary Committee."

Although five months have now elapsed since you signed the U.S. Postal Service's return-receipt for the August 26, 1993 letter (copy enclosed), we have received no response from you or from anyone else on behalf of the House Judiciary Committee to the specific questions posed by that letter and no denial of the critical inaccuracies we have identified in the National Commission's Report.

Ex B

In discussions with Congresswoman Lowey's office about such inaccuracies, I noted a further inaccuracy therein, to wit., the Commission's statement that:

> "...the Committee responds to <u>every</u> complaint with a letter acknowledging receipt of the complaint and directing the complainant's attention to the 1980 Act." (at p. 35 of the Final Report, emphasis added)

I pointed out to Jordan Frankl, the Congresswoman's Legislative Assistant for Judicial Affairs, that we had received <u>no</u> such acknowledgment from the House Judiciary Committee--notwithstanding our June 9, 1993 formal complaint of judicial misconduct was received by the Committee on June 12, 1993--as reflected by the date stamped on a return-receipt of the U.S. Postal Service (copy enclosed).

Mr. Frankl assured me that he would speak with you about responding to my August 26, 1993 letter, as well as about acknowledging our June 9, 1993 complaint. It was my understanding that he had done so as to both matters on more than one occasion.

Belatedly and after prodding, you have now acknowledged our complaint--although you curiously do not use the word "complaint" in your January 4, 1994 letter, referring instead to "documents", "information" and "concerns". And you do not direct our attention to the 1980 Act, which the Report of the National Commission states is what you do when you acknowledge "every complaint". Do we infer from such omission that you do not believe our complaint to be justiciable under the Act? If that is the case, what avenue of redress is there if, as you told me last August, the House Judiciary Committee does not investigate individual complaints?

Indeed, are we to also infer from the fact that your January 4th letter does not state what the House Judiciary Committee has been doing these many months with our fully-documented formal complaint--or what it is intending to do with it--that, just as my August 26th letter surmised, the House Judiciary Committee does nothing with complaints raising serious "discipline [and] impeachment issues" except tabulate them for publication in its "Summary of Activities"?

In keeping with the National Commission's recommendation that:

> "With a few changes, the Committee's responses to judicial complaints could be even more informative. The acknowledgment letter should tell complainants that the 1980 Act does not contemplate sanctions for judges' decisions or issues relating to the merits of litigation..." (at p. 36 of the Final Report),

we request elaboration of your January 4th letter, as well as your long-awaited response to my August 26th letter, a copy of which is enclosed for your convenience.

Yours for a quality judiciary,

Elena Ruth Sassower

ELENA RUTH SASSOWER

Enclosures:
(a) U.S. Postal Service return-receipt for 8/26/93 ltr
(b) U.S. Postal Service return-receipt for 6/9/93 ltr
(c) 8/26/93 ltr

cc: Jordan Frankl, Legislative Assistant for Judicial Affairs
Office of Congresswoman Nita Lowey
Francis J. Lorson, Chief Deputy Clerk, U.S. Supreme Court
Cynthia Gray, Director
Center for Judicial Conduct Organizations
American Judicature Society
Charles Stephen Ralston, Esq.
NAACP Legal Defense and Educational Fund

P 407 707 236

# Receipt for Certified Mail

No Insurance Coverage Provided
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| | |
|---|---|
| Sent to Edward O'Connell Counsel Subcommittee on Intellectual Property & Judicial Administration | |
| Street and No. 2138 Rayburn | |
| P.O., State and ZIP Code House Judiciary Committee Washington DC 20515-6216 | |
| Postage | $ |
| Certified Fee 2.05 | |
| Special Delivery Fee | |
| Restricted Delivery Fee | |
| Return Receipt Showing to Whom & Date Delivered | |
| Return Receipt Showing to Whom, Date, and Addressee's Address | |
| TOTAL Postage & Fees | $ 2.52 |
| Postmark or Date | |

PS Form 3800, June 1991

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- Complete items 3, and 4a & b.
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- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
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Consult postmaster for fee.

3. Article Addressed to:
Edward O'Connell
Counsel
Subcommittee on Intellectual Property & Judicial Administration
House Judiciary Committee
2138 Rayburn
Washington DC 20515-6216

4a. Article Number P 407 707 236

4b. Service Type
☐ Registered ☐ Insured
☑ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

7. Date of Delivery FEB 08 1994

5. Signature (Addressee)

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

Thank you for using Return Receipt Service.

PS Form 3811, December 1991 ☆ U.S.G.P.O.: 1992-307-530 **DOMESTIC RETURN RECEIPT**

By Certified Mail: RRR
P-407-707-235

16 Lake Street, Apt. 2C
White Plains, N.Y. 10603
January 31, 1994

Honorable Nita Lowey
House of Representatives
1424 Longworth Building
Washington, D.C. 20515

ATT: Jordan Frankl, Legislative Assistant for Judicial Affairs

Dear Mr. Frankl:

As you can see from the enclosed, notwithstanding your kind intercession, we have not received any response from Mr. O'Connell to my August 26th letter.

Nor does Mr. O'Connell's belated January 4th acknowledgment of our formal complaint inform us in the least as to the status of this matter--which he does not even identify as constituting a complaint.

Simply put, will our fully-documented complaint of impeachable conduct by Judges Goettel and Newman be investigated by the House Judiciary Committee's Subcommittee on Intellectual Property and Judicial Administration?

Although Mr. O'Connell has had more than ample time to evaluate whether our complaint is justiciable under the 1980 Act, he has not given any indication of what the Subcommittee's view is. Nor has he instructed us to file a complaint under the 1980 Act even as a "formality" before the Subcommittee proceeds further.

In view of such non-responsiveness--which is precisely what I have been complaining about to you since our first conversation months ago--it is understandable that Mr. O'Connell would not wish you to see a copy of his January 4th letter, as certainly would appear to be the case from his failure to indicate you or the Congresswoman as recipients thereof.

Please call me (914-997-8105) following your review of the enclosed correspondence. Serious issues, reflecting adversely upon the integrity and effectiveness of the disciplinary mechanism within the House of Representatives, have emerged from Mr. O'Connell's dilatory and unprofessional handling of this matter. At this point, it plainly appears that the Subcommittee is not only unable and unwilling to itself review gross judicial

EXC

misconduct, but is not even providing necessary information to complainants so that review by other agencies and branches of government can be timely pursued.

Yours for a quality judiciary,

Elena Ruth Sassower

ELENA RUTH SASSOWER

Enclosures:
(a) Mr. O'Connell's 1/4/94 letter to me
(b) my 1/31/94 ltr to Mr. O'Connell

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ONE HUNDRED THIRD CONGRESS

# Congress of the United States

## House of Representatives

COMMITTEE ON THE JUDICIARY
2138 RAYBURN HOUSE OFFICE BUILDING
WASHINGTON, DC 20515-6216

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MAJORITY—225-3951
MINORITY—225-6906

January 4, 1994

Ms. Elena Ruth Sassower
16 Lake Street, Apt. 2C
White Plains, New York 10605

Dear Ms. Sassower:

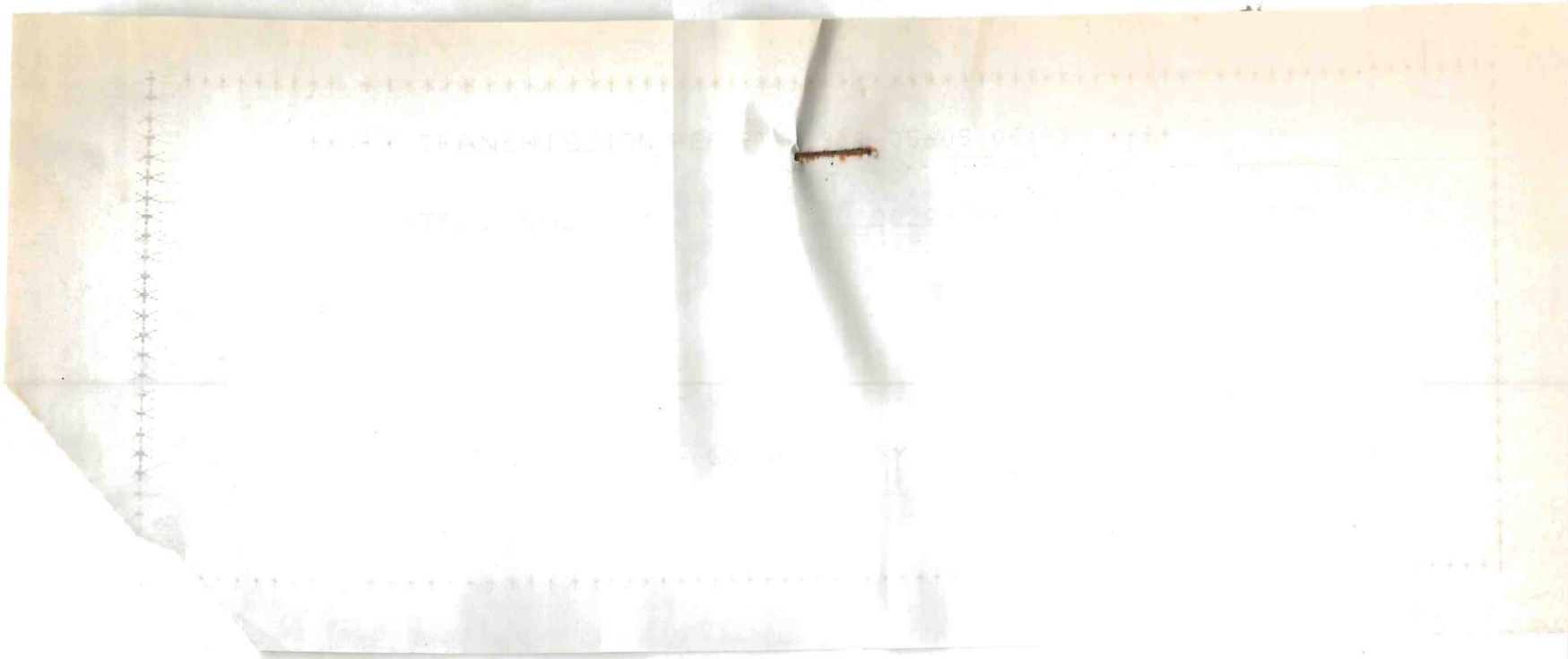
I have been informed by Congressman Lowey's office that you want a formal acknowledgment from our Subcommittee that you have submitted certain information in regard to District Court Judge Gerald L. Goettel and Circuit Judge Jon O. Newman to the Subcommittee on Intellectual Property and Judicial Administration. As you know, we have talked numerous times about your concerns and I have previously forwarded, at your request, your submission to the National Commission on Judicial Discipline and Removal. The Commission has returned your information to the Subcommittee.

This is a formal acknowledgement that we have received your documents.

Sincerely,

Edward H. O'Connell, Jr.
Assistant Counsel
Subcommittee on Intellectual Property
and Judicial Administration

WJH:eov



**SENDER:**

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

I also wish to receive the following services (for an extra fee):

1. ☐ Addressee's Address
2. ☐ Restricted Delivery

Consult postmaster for fee.

3. Article Addressed to:

Hon. Nicer Lowe
Att: Jordan Frankl
1424 Longworth Bldg
Washington, DC 20515
Att: Jordan Frankl

4a. Article Number
P 271 548 610

4b. Service Type
☐ Registered ☐ Insured
☑ Certified ☐ COD
☐ Express Mail ☐ Return Receipt for Merchandise

5. Signature (Addressee)

7. Date of Delivery
5-10-94

6. Signature (Agent)

8. Addressee's Address (Only if requested and fee is paid)

PS Form 3811, December 1991 ☆U.S. GPO: 1992—323-402 DOMESTIC RETURN RECEIPT

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**Receipt for Certified Mail**
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|---|---|
| Sent to | Hon. Nicer Lowe |
| Street and No. | Att: Jordan Frankl |
| P.O., State and ZIP Code | 1424 Longworth Bldg Washington, DC 20515 |
| Postage | $ 1.21 |
| Certified Fee | 1.- |
| Special Delivery Fee | |
| Restricted Delivery Fee | |
| Return Receipt Showing to Whom | 1.- |
| Return Receipt Showing to Whom, Date, and Addressee's Address | |
| TOTAL Postage & Fees | $ 3.21 |
| Postmark or Date | MAY 10 1994 WHITE PLAINS NY |

PS Form 3800, June 1991

16 Lake Street, Apt. 2C
White Plains, New York 10603

tele: 914-997-8105
fax: 914-684-6554

FAX COVER SHEET

5/5/94 — DATE

9:00 a.m. — TIME

TO: Jordan Frankl, Legislative Assistant for Judicial Affairs for Hon. Nita Lowey

FAX NUMBER: 202-225-6413 (telephone: 202-225-6506)

This fax consists of a total of 3 pages, including this cover sheet. If you do not receive the indicated number of pages, or if there is a question as to the transmittal, please call (914) 997-8105.

FROM: Elena Ruth Sassower

Dear Mr. Frankl:

The original--with exhibits--is being sent by mail today.

Once again, I thank you for your assistance and professional follow-up.

Yours for a quality judiciary,

Elena Ruth Sassower