

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

(914) 421-1200 • Fax (914) 684-6554

E-Mail: probono@delphi.com

Box 69, Gedney Station

White Plains, New York 10605

By Fax: 212-949-8864  
and Priority Mail: Certified, RRR 801-449-718

December 5, 1994

Commission on Judicial Conduct  
801 Second Avenue  
New York, New York 10017

RE: Complaint against the Justices of the  
Appellate Division, Second Department

Dear Commission Members:

This letter further supports my September 19, 1994 complaint, supplemented on October 5, 1994, which supplementation was thereafter encompassed in a new and separate complaint dated October 26, 1994<sup>1</sup>.

My October 26th complaint was specifically directed to the conduct of the appellate panel of the Appellate Division, Second Department, which, on October 5th, had on its appeals calendar seven (7) appeals in an unrelated civil case involving me and my professional corporation. Said complaint detailed the events of October 5th--including Presiding Justice Thompson's refusal to allow me to present a recusal motion, either orally or by my proffered Order to Show Cause, which he rejected out of hand. My complaint described the event of October 5th as:

"so shocking as to cause me to proceed  
directly from the courthouse in Brooklyn to  
your offices in Manhattan"

My October 26th complaint also detailed the deliberate falsification of the record by James Pelzer, a clerk of the Appellate Division, Second Department who, in a letter to me dated October 6th, failed to disclose that he was not present at the so-called "oral argument" on October 5th. Annexed thereto as Exhibit "I" was my verified letter dated October 17th, responding to Mr. Pelzer's October 6th rewrite<sup>2</sup> of what had occurred in the

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<sup>1</sup> Also filed with the Commission on October 26th was a copy of the advertisement "Where Do You Go When Judges Break the Law" (Exhibit "1"), published on the Op-Ed page of that day's The New York Times, a copy of which was also provided to the Appellate Division, Second Department on that date.

<sup>2</sup> Exhibit "H" to my October 26, 1994 complaint.

courtroom on October 5th.

As noted on the face of my October 17th letter, five copies of my October 17th letter were hand-delivered to the Appellate Division, Second Department on that date. These were given directly to Mr. Pelzer to be distributed to each member of the appellate panel presiding on October 5th, as well as to the Presiding Justice of the Appellate Division, Second Department, Hon. Guy Mangano.

In providing copies of my verified October 17th letter to each of the aforesaid justices, I drew their attention to their obligations under §100.3(b)(1), (2), and (3) of the Rules Governing Judicial Conduct to correct the false court record Mr. Pelzer had created, without any personal knowledge on his part of the facts set forth.

The serious allegations and ramifications of my sworn accusations in my October 17th letter required immediate response and rectification by the Court--since, as reflected at page three of that letter, my complaint concerning the events of October 5th was already before the Commission.

Incredibly, I received no response from Mr. Pelzer or from the Court to my hand-delivered verified October 17th letter. Instead, a week later, the appellate panel, rendered a decision dated October 24, 1994, dismissing all seven appeals and affirming the lower court, with costs. A copy of the decision is annexed as Exhibit "2".

On its face, the decision falsely represents that I was appearing pro se. This, notwithstanding I explicitly stated on October 5th that I was not waiving my right to counsel and was appearing only to present my vacatur/recusal motion and adjournment request inasmuch as I had been unable to obtain counsel following the appellate panel's prejudicial granting of my attorney's motion to withdraw<sup>3</sup>. Indeed, when I rose to present my motions, I specifically asked that the Day Calendar, which identified me as pro se, be corrected since I had in no way prior thereto stated that I was appearing to orally argue the appeals pro se.

Moreover, the decision's notation that the case was "argued" is likewise dishonest. As set forth in my uncontroverted verified October 17th letter to Mr. Pelzer,

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<sup>3</sup> This is further reflected by my legal back to my vacatur/recusal motion, on which I identified myself as "pro se on this motion only" (Exhibit "F" to 10/26/94 complaint).

"although seven (7) appeals were on the calendar to be argued, the Court permitted me no more than a minute and a half to speak before interrupting me with intensely hostile questions wholly irrelevant to the issues before the Court. Presiding Justice Thompson then directed me to sit down and called upon Mr. Blaustein to be heard. Thereafter, Presiding Justice Thompson refused to permit me any right of rebuttal to correct misstatements that had been made and concluded the court session." (at p.2)

Although the merits are irrelevant for present purposes, the appellate panel's October 24th decision (Exhibit "2") is factually and legally insupportable, further demonstrating the Court's bias and malevolence. Should the Commission desire me to elaborate on same, I am ready to do so, upon request. However, the record before the Commission establishes that the appellate panel was disqualified from rendering any decision on the seven appeals--and particularly where it had wholly failed to controvert my sworn accusations of judicial misconduct, set forth in my October 17, 1994 letter to Mr. Pelzer.

In that regard I draw the Commission's attention to the penultimate paragraph of my October 26th complaint, which stated:

"Indeed, what is now taking place by the justices involved is criminal conduct inasmuch as they are knowingly falsifying a matter which is part of a court proceeding, constituting the crime of obstruction of governmental administration, in violation of §195.05 of the Penal Law."

As the Commission is aware, in addition to my September 19th and October 5th filed complaints with the Commission against the justices of the Appellate Division, Second Department--known to the appellate panel at the time it rendered its insupportable October 24th decision--there has been an on-going adversarial relationship between the Appellate Division, Second Department and myself arising out of the extant Article 78 proceeding, Sassower v. Hon. Guy Mangano, et al.. As set forth in my October 5, 1994 Order to Show Cause in support of recusal/vacatur<sup>4</sup>, that proceeding is now on its way to the U.S. Supreme Court on a

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<sup>4</sup> My Order to Show Cause for recusal was attached to my October 17th letter to Mr. Pelzer--full copies of which were provided for each justice of the appellate panel, in addition to Presiding Justice Mangano.

December 5, 1994

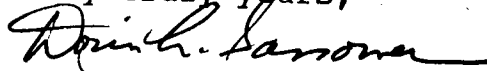
petition for a writ of certiorari.

Additionally, on the same date as my October 17th letter to Mr. Pelzer was hand-delivered, the twenty justices of the Appellate Division, Second Department were served with the summons and complaint in my federal action (Exhibit "3"), which had been filed in the U.S. District Court for the Southern District on June 20, 1994 (Exhibit "4").

Such federal action will show a pattern of biased, factually fabricated and legally insupportable decisions adverse to me by the Appellate Division, Second Department. The Commission is asked to take cognizance of same at this time for the purpose of evaluating the extent of the "appearance of impropriety" created by the appellate panel's failure to disqualify itself from matters involving me, as well as its actual bias.

In light of the immediate threat to the public interest posed by an appellate court that so blatantly and vindictively misuses its judicial power, I wish to know whether my aforementioned complaints are receiving expedited attention, as previously requested.

Very truly yours,



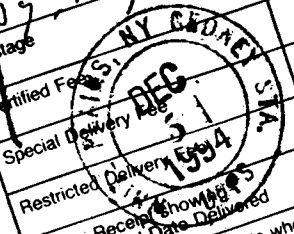
DORIS L. SASSOWER, Director  
Center for Judicial Accountability

DLS/er

- Enclosures:
- (1) Appellate panel's 10/24/94 decision/order
  - (2) Acknowledgement of service on 10/17/94 by Martin Brownstein, Clerk of the Court, in Sassower v. Hon. Guy Mangano, et al., 94 Civ. 4514; listing of 20 justices of Appellate Division, 2nd Dept.
  - (3) first page in Sassower v. Hon. Guy Mangano, et al., 94 Civ. 4514, reflecting 6/20/94 filing

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**P 801 449 718**  
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