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## E.N.D. CALLS FOR ATTORNEY GENERAL TO INVESTIGATE CHIEF JUDGE IN "FAVORS FOR PROMOTIONS" SCANDAL

By

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*“ End Discrimination Now Cites Judges Jonathan Lippman, Shira Scheindlin, JCC in Landmark Obstruction of Justice Case. WPP and Verizon Cited for Role in “Financing” Sham Litigations. ”*

### For\_Immediate\_Release:

April 24, 2010, New York, N.Y.: End Discrimination Now (E.N.D.) has petitioned the Attorney General to investigate criminal allegations of Obstruction of Justice, Conspiracy to Defraud, and Conversion charges against Chief Judge Jonathan Lippman and 30 other defendants including Southern District Judges Shira Scheindlin, George Daniels, Gerard Lynch, First Department Judges Luis Gonzales, David Friedman, Joseph Sullivan, James Catterson and Rolando Acosta in a landmark case against the Judiciary. A civil case filed by END President Kathryn Jordan alleging the same causes of action is pending in Federal Court before Judge Deborah Batts . Under an obscure local rule, the Attorney General is representing the judges.

“It’s highly doubtful that most New Yorkers will appreciate why the Attorney General has supported a taxpayer financed defense of these criminal judges while ignoring the allegations of this Complaint, the overwhelming evidence and the testimony of hundreds of New Yorkers who traveled to the Public Hearings held by the New York State Senate last summer to attest to pervasive judicial misconduct”, Jordan stated. END is demanding that the AG Office “redeploy its vast resources to investigate the very serious criminal allegations against the defendant judges”, even if a “Chinese wall” has to be constructed”. Jordan’s Complaint (Docket 09 cv 10616) alleges that the Judiciary in New York has been “operating as an organized crime unit” for decades whereby judges dole out “favours” to corporate defendants facing large financial and reputation risks as a result of serious violations of federal and state discrimination laws in order to enable the defendant corporations to avoid liability for jury verdicts or potential jury verdicts. In the process of doling out these favours, the Judges create “IOU’s” or future favours for themselves, the accommodating jurists. The IOU’s are paid when Corporate counsel, recognized as highly influential in the judicial nomination process under the current Rules, are in a position to return these favours when positions open for promotions in the judiciary.

Jordan herself discovered this surreptitious conspiracy after filing two separate but legally similar disability discrimination cases which she intended to take to jury trial, only to have the outcomes of both “fixed”. The first case, against Bates Advertising (WPP Group), was actually tried and resulted in a jury verdict in Jordan’s favor after a decade of litigation and appeals ( after the employer refused to settle the case despite incriminating admissions by Bates Management from depositions taken 15 years ago). After DBR’s predictably losing the wrongful termination jury trial in 2005 (avoiding liability on the Failure to Promote claim via discovery frauds) as well as the Post Trial Motions including a JNOV, and after posting a \$3.3M Bond, WPP Group, the acquirer of Bates Advertising, refused to execute the Bond and instead directed DBR to file a frivolous appeal, based on the same legal theories as the Post Trial Motions. “This is how our tax payer funds are being expended by the Judiciary, entertaining frivolous appeals from corporations as “favours”.

The First Department Panel, headed by then Chief Judge Jonathan Lippman, should have denied the appeals as frivolous, but instead reversed the Jury verdict on December 27th, 2007 after declaring a bias against the Plaintiff and after endorsing the trial judge’s intemperate outburst and bullying of her as “evidence” of the Plaintiff’s lack of credibility. (The First Department also failed to order a new trial, another act of obstruction of justice). Jordan had accused the trial judge of encouraging improper overtures by her discharged attorney over a \$1.3M contingent legal fee, a matter which had occurred 9 months after the jury verdict. Appellate Law in New York precludes appellate judges from rendering “issues of fact” and rehearing Post Trial pleadings denied by the trial court (JNOV). Judiciary Law precludes judges from acting on personal biases and requires judges to “recuse sua sponte” if they cannot act as impartial triers of fact.

Despite these hefty legal restrictions, the activist First Department Lippman Panel not only reversed the jury verdict and trial’s court’s denial of the JNOV (giving the employer an illegal “second bite of the apple”) , they acted on their declared biases and used the precedent case to to re-write discrimination law to relax the requirements for proving “pretext” in discrimination cases, effectively gutting the McDonnell Douglas standard and creating a large loophole for employers to discriminate with impunity. “Judge Lippman’s Order of December 27th, 2007 is legally tantamount to an admission of guilt. In the Order he endorses the misconduct of another judge, renders a “credibility” determination about the Plaintiff (improperly substituting himself for the jury), rejects the trial courts’ denial of the JNOV, and legislates “from the bench” new discrimination law”, Jordan stated. WPP’s attorneys at Drinker Biddle are also accused of filing a frivolous appeal at taxpayer expense and for “lying during the federal and state discovery phase of the trial” in Interrogatories about the corporate relationships of the Defendants with the intent of obstructing discovery of the “Failure to Promote” claim.

On the Verizon case, Federal Judge Shira Scheindlin is alleged to have “fixed” Jordan’s disability discrimination case at the onset with the aid of Paul Hastings counsel for Verizon by secretly entering into an agreement with trial counsel (Phelan and Gage) to settle and not try the case sometime in early 2004. When Jordan refused to execute the token Settlement Agreement, she was threatened with “litigation and sanctions” by opposing counsel Ken Gage and lured to a “status conference” on July 23rd, 2004 by Judge Scheindlin who had, through

her clerk, duped Jordan into thinking that "settlement talks are off " Jordan, known by the Court to be "ill" and "without counsel" at the time, walked into an ambush. The "status conference" turned into an (illegal) "agreement on the Record" Final Settlement where Jordan was threatened again with "permanent litigation" and "more legal fees". This was Judge Scheindlin's and Verizon's concept of a voluntary agreement. Under New York law trial judges are precluded from adjudicating "settlements" and all "voluntary" settlements must provide for the right to legal representation. Consequently, Judge Scheindlin brazenly falsified her Final Order to make it appear that Jordan was represented by counsel during the execution of the Agreement (July 14th) and at the time of the Final Settlement Conference (July 23rd), despite knowing attorney David Fish had withdrawn on July 12th, 2004.

On appellate review, Judge George Daniels denied Jordan's Rule 60 (b) application falsely claiming that "Plaintiff was at all relevant times represented by counsel", a "fact" that was rebutted by the Record evidence, a decision adopted by the Second Circuit, who claimed to have conducted a "de novo" review. Verizon predictably breached both explicit terms of the Agreement a month later and Judge Gerard Lynch dismissed Jordan's claims of "bad faith" as well..

The final leg of the conspiracy was the Malpractice claims that Jordan brought against her corrupt lawyers on both cases who aided the judges in the frauds. Judge Marcy Friedman, continuing the conspiracy and cover up, dismissed all of the Malpractice claims prior to discovery after Judge Lippman's Order of December 27th, 2007 placed blame squarely at the feet of the attorneys. Judge Acosta dismissed Jordan's appeal of the same instead of recusing himself.

The instant Complaint cites a pattern of multiple judges acting in concert to deny a litigant her right to due process over a long period of time and the role of the appellate courts and JCC in conspiring to mask these abuses, effectively acting to obstruct justice. Jordan's Complaint also alleges that the judges "converted" the judgment risks of the employers into IOU's for the judges themselves by using their authority to dispense favors to corporate offenders whom they expected to aid their advancement. This monetization of the frauds could lead to other more serious causes of action.

The Complaint places a heavy emphasis on the greed and dishonesty of the employers and their counsel. These companies, WPP and Verizon, acted against their own EEO policies and willfully engaged in a "war of attrition" against a disabled litigant, whom they knew had already been "severely" damaged as a result of the discrimination with the goal of outspending and outlasting her. "This was systematic calculated torture of a human being with the goal of avoiding responsibility for an employer's unlawful actions. The consequences are simply tragic".

Not surprisingly the "favors for IOUs" scheme has led to the weakening of the power of judges. Judges cannot act as "impartial triers of fact" unless they are free of influence from parties who have vested interests in litigation outcomes. The 2009 Judicial Conference emphasized this when it determined the impermissibility of "undue influence".

Ironically, the Defendant judges who betrayed the very oaths they swore to as guardians of the Laws of New York lost their immunity against prosecution in the process of abusing their judicial discretion. Further, as the acts of obstruction of justice were willful and because the defendants declared their operative biases they cannot be argued as "legal errors" . They were clearly motivated by greed, prejudice, ambition and envy of the "private sector". And apparently while instigated by the Corporations that felt entitled to flaunt the Laws, the crimes would not have been possible without the cooperation of the current judicial leadership.

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**For more information:**

Visit our website: [www.enddiscriminationnow.com](http://www.enddiscriminationnow.com)

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