

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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July 28, 1997

Floyd Abrams, Esq.
Cahill, Gordon, & Reindel
80 Pine Street
New York, New York 10005

RE: Vindicating the Public Interest in the First Amendment

Dear Mr. Abrams:

While we appreciate the promptness of your July 27th fax, which arrived today -- we are astounded by it. Frankly, we do not know what "sort of time" is required for a First-Amendment expert like yourself to answer the straight-forward question CJA's July 24th letter posed:

"...what is left of the First Amendment when the Law Journal refuses, *without reasons*, to publish as a Perspective Column specific and obviously verifiable information about the destruction of essential legal safeguards by public officials and then blocks its presentment as a paid ad by *refusing to verify its truth?*" (at p. 5, emphasis added)

Ironically, the two preceding sentences of our letter were as follows:

"You are, no doubt, a very busy man. But, the public interest here is wholly unprotected -- except by us -- and we need your expertise and leadership. Our ad is not about soap, but about what is happening to the rule of law, the paramount check."

With all due respect, CJA is *also* very busy and we're not paid for the time and effort we expend in the public interest, round-the-clock, 7 days a week, year after year, while, simultaneously, we pay thousands of dollars to report critical information to the public which the media -- and, specifically, the New York Law Journal -- is suppressing from coverage. Aside from your ethical duty as a lawyer, "an officer of the legal system and a public citizen having special responsibility for the quality of justice" (ABA Model Rules of Professional Conduct, Preamble, ¶1), are there no obligations concomitant with the honor of being a member of the Law Journal's Board of Editors?

As CJA's Coordinator, I spent two days of time I didn't have composing our July 24th letter, which you confess to have only "look[ed at] quickly". Had you read it, you would have seen that, notwithstanding your obvious friendship with Mr. Goodale "for many years", his conduct, as described therein, is not only "inconsistent with the spirit, let alone the text of the First Amendment",

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but grossly unprofessional and irresponsible. Or do you believe that Law Journal advertisers who spend countless hours and money preparing an ad in the good-faith belief that it will be published are not entitled to timely notice as to the reasons for its rejection -- and that Mr. Goodale was not bound by any duty of good-faith to ensure that we had an opportunity to obviate his objections, if possible, so that our ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*", could run, as scheduled? Surely, Mr. Goodale's duty was all the greater inasmuch as our ad concerned issues of clearly "transcending public importance". Yet, your fax gives no indication whatever that you even read our ad -- let alone your reaction to it.

We trust you would agree with our reasonable request in our letter that Mr. Goodale provide us with a copy of our ad

"circling the alleged 'libels' which formed the basis of his advice to Mr. Finkelstein, who is not a lawyer, that the Law Journal not publish our ad." (at p. 6)

With all respect, busy as you are, you have a large and prestigious law firm on which you can rely: associates, paralegals, and law interns who can read CJA's July 24th letter -- including the ad -- and provide you with a summary report. Indeed, early last week when I first telephoned your office and left a message for you, an assistant thereafter returned my call and stated that you had requested that she find out the details of what it was that I was calling about.

Obviously, if your constraints are merely time-related, rather than those borne of your friendship with Mr. Goodale -- and with Mr. Finkelstein, who erringly follows Mr. Goodale's advice -- we are willing to wait until your busy schedule clears and you have an opportunity to read our July 24th letter -- and our ad. We want our presentation to the Law Journal's Board of Editors to be as informed as possible on the First Amendment issues pertaining to our ad.

Should you be unable or unwilling to assist us, we ask that you, at least, be civic-minded enough to provide us with the names of public-spirited attorneys, knowledgeable of, and sensitive to, the public interest in the First Amendment -- and less subject to compromising conflict-of-interest.

We await your response.

Yours for a quality judiciary,



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

P.S. Inasmuch as your July 27th fax does not indicate any recipients, other than CJA, we are not sending copies of this letter to the designated recipients of our July 24th letter, among them, Mr. Goodale and Mr. Finkelstein. In the event you sent "blind copies" to them, please let us know so that we may furnish them with a copy of this response.