

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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1 page

TO: The New York Times, Metro Desk  
ATT: Joyce Purnick, Editor  
Jerry Gray, Political Affairs Editor

FROM: Elena Ruth Sassower, Coordinator

DATE: September 10, 1998

RE: Electorally-significant -- AND UNREPORTED -- issues of government integrity in the race for New York State Attorney General

Faxed herewith is a typewritten duplicate of my handwritten note, transmitting materials which I hand-delivered for you yesterday.

"Just as judicial corruption was properly an issue in the 1994 Attorney General's race (See NYT, Op-Ed ad, 10/26/94, "Where Do You Go When Judges Break the Law?"), so it is, again, in this electoral season where the all-important race for Attorney General is now heating up.

The enclosed cert petition and supplemental brief detail the serious allegations of official misconduct by the Attorney General in the §1983 federal action, referred to in CJA's NYLJ ad, "Restraining 'Liars in the Courtroom' and on the Public Payroll", 8/27/97, pp. 3-4. Copies of both ads are enclosed, as is the notice we distributed at today's City Bar/NYLJ forum.

If it is your intention to suppress coverage and here, too, deprive the public of the information it needs to make an informed electoral choice, please forward this note and enclosed materials to Mr. Sulzberger so there is no doubt as to where the ultimate responsibility for the betrayal of the public trust lies."

Elena Ruth  
Sassower

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Elena Ruth Sassower, Coordinator

BY FAX: 212-556-1434

BY HAND

October 20, 1998

Arthur Ochs Sulzberger, Jr., Publisher  
*The New York Times*  
229 West 43rd Street, 14th floor  
New York, New York 10036

RE: The Razor-Close Race for New York State Attorney General:  
Dennis Vacco's litigation fraud in defense of state judges and the  
State Commission on Judicial Conduct, sued for corruption, and  
Eliot Spitzer's Wilful Failure to Raise the Issue

Dear Mr. Sulzberger:

Only two weeks remain until Election Day. Even still, the *Times* can make a powerful difference. It can, belatedly, meet its journalistic duty to provide voters with information essential to making informed electoral choices -- at least in the race for New York State Attorney General.

Yesterday's *Times* article, "*In a 'Virtual' Race, Politics Without Kissing Babies*", by Terry Pristin (Exhibit "A-1"), highlighted how razor-close the Attorney General's race is -- and the size of the pool of as yet undecided voters:

"Mr. Vacco was favored by 38 percent of registered voters, and Mr. Spitzer by 37 percent, with 23 percent undecided. Among voters considered likely to vote, Mr. Vacco was ahead 43 percent to 41 percent. (The margin of sampling error was plus or minus 3 points.)"

Further on, Mr. Pristin refers to the fact that both Mr. Vacco and Mr. Spitzer are focusing their campaigns on:

"fighting street crime, which has traditionally been considered more of a job for the state's district attorneys than for the attorney general.

Less emphasis has been put on the office's traditional role in defending the state when it is sued..."

As you know, for years, our non-partisan citizens' organization has tried to get the *Times* to report on the State Attorney General's tactics of litigation fraud and other misconduct in defending state judges and the State Commission on Judicial Conduct, sued for corruption, when it has *no* legitimate defense. In the context of this electoral race, back on February 12th, we wrote you, pointing out:

"The CRITICAL issue in Attorney General Vacco's re-election campaign will be how he and his staff have performed on-the-job. Four years ago, the *Times* editorialized (9/17/94) that 'the voters need to know how the candidates [for Attorney General] intend to handle the job's meat-and-potatoes work in defending the state against legal actions' ... Attorney General Vacco's on-the-job performance in defending state officials and agencies in legal actions was the subject of CJA's \$3,000 ad, "*Restraining 'Liars in the Courtroom' and on the Public Payroll*", in the August 27, 1997 *New York Law Journal*..." (Exhibit "P-2"). Copies of the ad, with a coversheet, were faxed to the *Times* on that date (Exhibits "F-3"- "F-5"), as well as placed on the *Times* desk at the Federal Court in Foley Square on August 29th, also with a coversheet (Exhibit "F-6")..." (2/12/98 ltr, fn. 16; See, also fn. 10).

"*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (Exhibit "B") detailed THREE specific public-interest cases, beginning with Attorney General Vacco's defense of the New York State Commission on Judicial Conduct, sued for corruption in a state Article 78 proceeding, and ending with his defense of Appellate Division, Second Department judges and his own office, sued for corruption in a §1983 federal civil rights action. All three cases were identified by their court docket/index numbers, with the third case further specifically identified by name, *Sassower v. Mangano, et al.*

Yesterday, we faxed you a copy of a memo-letter to Roland Miller, editor of the *Times*' Westchester Section, about Elsa Brenner's article "*Lawyer's Challenge*", published on October 18th. The "*Lawyer's Challenge*" to which Ms. Brenner's article was referring is *Sassower v. Mangano*. Transmitted with that faxed memo-letter was a copy of my October 9th coverletter to Ms. Brenner about the DECISIVE electoral significance of our Supreme Court submissions in *Sassower v. Mangano* -- a copy of which we provided her. In pertinent part, my coverletter to Ms. Brenner stated:

"...Let there be no doubt but that were the Times to expose Attorney General Vacco's litigation fraud and misconduct in *Sassower v. Mangano* -- covering up for the state corruption highlighted in "*Where Do You Go When Judges Break the Law?*" and in "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" -- he would not only be electorally-defeated, but would face indictment and disbarment." (at p. 2)

You may already have in your possession a copy of the *unopposed cert* petition and supplemental brief in *Sassower v. Mangano*, which we hand-delivered for Ms. Brenner -- since a month earlier, we also hand-delivered a copy to Joyce Purnick and Jerry Gray, under a handwritten covernote, which concluded as follows:

"If it is your intention to suppress coverage and here, too, deprive the public of information it needs to make an informed electoral choice, please forward this note and enclosed materials to Mr. Sulzberger so there is no doubt as to where the ultimate responsibility for the betrayal of the public trust lies."

Enclosed is a copy of that September 9th covernote, as retyped the following day and faxed to Ms. Purnick and Mr. Gray (Exhibit "C-1"), together with the notice, referred to therein, as having been distributed at the September 9th forum for the Democratic candidates for Attorney General, sponsored by the *New York Law Journal* and the Association of the Bar of the City of New York (Exhibit "C-2").

Although the transmitted cert petition and supplemental brief particularized criminal official conduct by New York's highest law enforcement officer, covering up state judicial corruption and political manipulation of elective state judgeships, neither Ms. Purnick, who oversees the Metro Desk, nor Mr. Gray, who oversees its political reporting, have seen fit to provide the public with any information about it. This is not the first time that Ms. Purnick and Mr. Gray have suppressed electorally-significant stories. Indeed, our February 12th letter to you featured the misconduct of both Ms. Purnick and Mr. Gray in suppressing such stories relating to Governor Pataki's corruption of the state judicial appointments "process".

By copy of this letter to Ms. Purnick and Mr. Gray, we request that if they have not already transmitted to you the *Sassower v. Mangano* cert petition and supplemental brief that we hand-delivered to them on September 9th -- as requested by our covernote -- they immediately do so.<sup>1</sup>

If you, as Publisher, do not have time to read these primary-source materials, it is **ABSOLUTELY IMPERATIVE** that you **IMMEDIATELY** give them to someone who will -- preferably someone with passing respect for the rule of law and the integrity of the judicial process. The *unopposed* recitation of the facts concerning Attorney General Vacco's official misconduct in *Sassower v. Mangano* appears at pages 5-16 of the cert petition and at pages 3-7 of the supplemental brief. Our July 27, 1998 criminal complaint based thereon, filed with the Public Integrity Section of the U.S. Justice Department's Criminal Division, appears in the appendix to our supplemental brief at SA-47.

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<sup>1</sup> We also reiterate our request to Ms. Brenner that she immediately transmit the materials we provided her on October 9th to her editor, Mr. Miller. As to the free-standing copy of our July 27, 1998 letter to the Justice Department, *with* exhibits, which we provided her, we ask that it be referred to you.

Since September 8th, Mr. Spitzer has had a copy of the *Sassower v. Mangano* cert petition and supplemental brief<sup>2</sup>. Consequently, the *Times* should explore why Mr. Spitzer, as part of his electoral campaign, has not raised the issues they present about Mr. Vacco's ligation fraud and betrayal of the public trust. To assist the *Times* in questioning Mr. Spitzer, enclosed is a copy of CJA's pertinent September 7, 1998 letter to him. Included therewith is CJA's August 8, 1994 letter to Mr. Spitzer in his prior campaign for Attorney General (Exhibit "D-2").

In light of yesterday's excellent front-page Metro Section article, "*Party Boss Has Firm Grip on Judgeships*" by David B. Halbfinger, describing how the little actual democracy that exists in judicial (and other) elections is being circumvented (Exhibit "A-1"), both Mr. Spitzer and Mr. Vacco must be questioned about what, if anything, they believe the Attorney General's office should do to investigate and what role it should play if presented with information that state judges who owe their judgeships to political patrons, are "throwing" cases to protect the power structure controlled by those patrons. To prevent the questioning from becoming too theoretical and the responses of the candidates too self-promoting, the allegations of the *Sassower v. Mangano* verified complaint<sup>3</sup>, beginning with those describing the history-making Election Law cases of *Castracan v. Colavita* and *Sady v. Murphy*<sup>4</sup>, should serve as concrete reference points.

The *Times*' duty to provide proper coverage of the race for State Attorney General requires your IMMEDIATE AND PERSONAL ATTENTION. It also requires referral of this letter and the *Sassower v. Mangano* cert petition and supplemental brief to the *Times* Editorial Board, which is undoubtedly preparing to editorially endorse either Mr. Vacco or Mr. Spitzer. Such endorsement must be fully-informed by the within described information as to Mr. Vacco's on-the-job conduct, which, thus far, the news side of the *Times* has wholly suppressed from coverage<sup>5</sup>. In view of the *Times* repeated editorials

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<sup>2</sup> A copy of the receipted transmittal letter, reflecting delivery on that date for Mr. Spitzer, is annexed hereto as Exhibit "D-1".

<sup>3</sup> The verified complaint is reprinted, in full, at A-49-100 of the cert petition.

<sup>4</sup> Challenged by those Election Law cases was a *written* cross-endorsements deal between Democratic and Republican party leaders, involving seven judgeships, over a three-year period -- including contracted-for resignations to create judicial vacancies [A-99-100]. Additionally, challenged in *Castracan* were the illegally-conducted Democratic and Republican judicial nominating conventions.

<sup>5</sup> Indeed, the *Times* based its September 12, 1998 endorsement of G. Oliver Koppell for the Democratic nomination for Attorney General on his "public service...marked by principled and intelligent approach to issues" (Exhibit "E"). Such representation is belied by the *uncontroverted*, documentarily-established allegations of the *Sassower v. Mangano* verified complaint (§§10, 24, 166-178, 182-191; 195-208), particularizing Mr. Koppell's knowing and deliberate in-office misconduct as Attorney General, warranting his inclusion as a defendant, sued for corruption and complicity in judicial corruption.

over the past weeks, condemning President Clinton, "the nation's chief law enforcement officer"<sup>6</sup>, for sabotaging the judicial process by lying under oath and for doing damage to our all important rule of law, the Editorial Board must blast Mr. Vacco, New York's chief law enforcement officer, for wholly subverting the rule of law and judicial process -- not only by *knowingly* permitting his subordinates to engage in fraud, including lying under oath, in defending against public interest lawsuits to which there was no legitimate defense, but in *knowingly* permitting those cases to be "thrown" by state and federal judges, whose decisions were themselves judicial perjuries.

We have repeatedly offered the *Times* copies of the three files referred to in "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (Exhibit "B") -- including in my October 9th letter to Ms. Brenner. We reiterate that offer so that the *Times* can *readily-verify* what the ad says about those files show. Such *verification* -- WHICH COULD BE ACCOMPLISHED WITHIN SEVERAL HOURS -- will enable the *Times* to editorialize for a Justice Department investigation -- an investigation requested in our July 27, 1998 letter to the Department [SA-47]. Additionally, it will permit the *Times* to editorially question the integrity that Mr. Spitzer will bring to the office of Attorney General, in view of his wilful failure to raise the corruption issues the case files document. Indeed, the story of these case files will spill over into the race for New York Governor, enabling the *Times* to expose, belatedly, Governor Pataki's deliberate cover-up of Attorney General Vacco's official misconduct, including by corrupting the New York State Ethics Commission.

Finally, it must be noted that last week the *Times* gave both front-page and editorial coverage to the appearance of impropriety and conflict of interest by Attorney General Vacco's receipt of campaign donations during and following settlement of consumer complaints under investigation by his office (Exhibits "F-1" and "F-2"). In so doing, the *Times* relied on circumstantial evidence to impugn the integrity of Attorney General Vacco's office. It goes without saying that the three cases described in "*Restraining 'Liars in the Courtroom' and on the Public Payroll*" (Exhibit "B") are *not* about either appearances or circumstantial evidence. They are about irrefutable case file proof.

If the *Times* does its duty to **examine and report on such proof**, the electoral races for New York State Attorney General and Governor will be blown wide open. Thus will the public be able to achieve essential government reform to safeguard the rule of law and democratic rights.

Yours for a quality judiciary and responsible journalism,



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

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<sup>6</sup> NYT Editorial, "*A Debate on Allowable Lies*", 10/6/98.