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& BY HAND

December 14, 2005

George Freeman, Assistant General Counsel
The New York Times Company
229 West 43rd Street
New York, New York 10036

RE: Securing appropriate review by The New York Times Company
Legal Department

Dear Mr. Freeman:

This responds to your December 2, 2005 letter, mailed in an envelope postmarked December 6th.

From your letter, it appears that none of the recipients of my July 29, 2005 letter consulted with The New York Times Company Legal Department in ignoring my request for corrective action with respect to The Times' November 7, 2004 column by Marek Fuchs. According to you, this "seems perfectly appropriate" based on your having "now quickly reviewed some of the voluminous body of materials [I] submitted to various Times editors and executives in the summer of 2005".

Please confirm that you actually read my July 29, 2005 letter with its enclosed 18-page analysis of Mr. Fuchs' column. These belie your characterization that the "emphasis" of my correspondence was "on what I would have wished the column covered, not on specific false and defamatory statements of fact". Indeed, my document-substantiated July 29, 2005 letter to Bill Keller and subsequent September 26, 2005 complaint to Byron Calame chronicle misconduct so violative of Times' First Amendment responsibilities and Times' touted ethics standards as to make obvious that your "quick[]" review[]" was altogether inappropriate. What was called for was studied review, combined with rigorous investigative inquiries of the involved Times editors and executives.

You do not state from whom you obtained the “voluminous body of materials [I] submitted to various Times editors and executives in the summer of 2005” – and whether this included what my July 29, 2005 letter and analysis each identified as the most important document on the “Paper Trail”¹ substantiating CJA’s opposition to Judge Wesley’s confirmation to the Second Circuit Court of Appeals – *to wit*, CJA’s March 26, 2003 written statement and the two final motions in my public interest lawsuit against the New York State Commission on Judicial Conduct, transmitted to Mr. Sulzberger under my August 16, 2005 memo. Nor do you state whether your “quick[] review[]” encompassed any of my underlying nearly 15-year correspondence with The Times, particularly from June 11, 2003 to June 17, 2004, focally discussed by my July 29, 2005 letter.

As to your speculation that Times editors and executives “probably” forwarded my July 29, 2005 letter “to an editor who worked on the piece” and that “it is likely that whoever ultimately received [my] correspondence did not ask for legal review for any or all” of the generic and demonstrably inapplicable reasons you cite, this is not a substitute for the actual facts. Therefore, please confirm that an editor had been assigned to confront the particulars of my 18-page analysis and obtain his findings with respect to my showing that each and every paragraph of Mr. Fuchs’ column is:

“deliberately defamatory, knowingly false and misleading, and so completely covers up the politically-explosive underlying national and New York stories of the corruption of the processes of judicial selection and discipline, involving our highest public officers, as to be explicable only as a manifestation of The Times’ ‘profound and multitudinous conflicts of interest’”².

With such findings, in hand, you can then make appropriate queries as to why the assigned editor, if any – and his superiors – did not turn to the Legal Department for guidance, nor give me the decency of a response.

As stated by my analysis (at p. 2), I have been unable to locate the anonymous “staunchest defenders” to whom Mr. Fuchs refers in his opening sentence to buttress his unflattering characterizations of me and to fortify the supposed “one little fact”, (at p.3) whose falsity my analysis amply demonstrates. It would, therefore, be most immediately productive if you would obtain the names of these “staunchest defenders” and provide them to me so as to establish that they are not outright fictions.

Finally, with regard to your claim that The Times’ “system” has “clearly been successful” because “The Times has not paid a dollar in damages in libel cases (or settled any libel cases for money) since well before libel law was constitutionalized in the New York Times v. Sullivan case...in 1964”, you

¹ Such “Paper Trail” is the “Paper Trail to Jail”, accessible *via* the “disruption of Congress” page of CJA’s website, www.judgewatch.org.

² See the preface to my analysis – including its appended footnote relating to the “profound and multitudinous conflicts”.

surely know that such statistic is the product of many factors, including those referred to in your own written summary, titled "Defamation", which you supplied for the November 16th lecture. In any event, it should be obvious from my analysis-supported July 29, 2005 letter – and the primary source documents on which it rests, long ago provided and proffered to The Times, as well as accessible to it from CJA's website – that I can readily prove not only actual malice, but common law malice. Indeed, it is my recollection that on November 16th, when you publicly responded to my question as to the distinction between actual malice and common law malice, you did not respond as to the differences with respect to money damages about which I had expressly asked.

I await your response – which I ask that you fax (914-428-4994) and/or e-mail (judgewatchers@aol.com), in addition to mail, since I do not daily make it to the post office, especially during the cold winter months. Please be sure to indicate a copy to Mr. Watson, who you failed to indicate as a recipient of your December 2nd letter.

Thank you.

Yours for a quality judiciary
and responsible journalism,



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

cc: Solomon B. Watson, IV, Senior Vice President & General Counsel