

# CENTER *for* JUDICIAL ACCOUNTABILITY, INC.\*

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*Elena Ruth Sassower, Director*

BY E-MAIL: [margolick@aol.com](mailto:margolick@aol.com)

DATE: December 11, 2007

TO: David Margolick, Esq.

FROM: Elena Ruth Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)

RE: CONTRIBUTING TO SCHOLARSHIP & TEACHING: Examining the Truth of Your Criticism of U.S. Supreme Court Beat Reporters and Scholars in Your September 23, 2007 New York Times Book Review of The Nine: Inside the Secret World of the Supreme Court

Bravo on your candid observation about Supreme Court beat reporters and scholars in your September 23, 2007 New York Times book review of Jeffrey Toobin's The Nine:

"Reporters assigned [to the Supreme Court] rarely venture beyond oral arguments, briefs and decisions. Almost never do they stray from their cubicles...

...examining the justices critically, grading the quality and propriety and intellectual honesty of their work, is dangerous. You risk losing whatever tiny chance you have that one of them will talk to you in a pinch or throw you an occasional crumb. So almost no one even tries. No other reporters are as passive as Supreme Court reporters...

...And scholars aren't much help. Many top law professors once clerked on the court: cherishing their relations with the justices, along with the power to pull strings from Cambridge or New Haven or Palo Alto to land similar positions for their students, few dig deeply into court affairs. It all works very neatly; the only ones hurt are the American people..."

This, certainly, comports with our direct, first-hand experience with them – going back to 1999 and then repeating itself in 2004 and, now again, in 2007.

Such is properly a subject for evidenced-based scholarship and teaching by example – and my proposal for same is set forth by my enclosed letter of today's date to Professor Mark Obbie, Associate

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\* The **Center for Judicial Accountability, Inc. (CJA)** is a national, non-partisan, non-profit citizens' organization dedicated to ensuring that the processes of judicial selection and discipline are effective and meaningful – a goal that cannot be achieved without honest scholarship and a press discharging its First Amendment responsibilities.


Director of the Institute for the Study of the Judiciary, Politics, and the Media at Syracuse University and Director of its Carnegie Program in Legal Reporting. As detailed, Professor Obbie has publicly taken issue with your assessment of Supreme Court reporters in his September 22, 2007 LawBeat blog "*Reviewing a review of the Toobin reviews*". Yet, he and the Institute's Director, Professor Keith Bybee, have long refused to examine contrary evidence, establishing your position, that I long ago offered them in correspondence, to which they would not even respond.

That prior correspondence – dated November 17, 2006, January 10, 2007, and March 21, 2007 – is all posted on CJA's website, [www.judgewatch.org](http://www.judgewatch.org), accessible via the sidebar panel "Searching for Champions (Correspondence) – Academia", which is where the enclosed letter to Mr. Obbie will also be posted.

So as not to lose precious time waiting for Professor Obbie's response to my proposal, I will myself advance scholarship on the compromised state of reporting and scholarship that you so eloquently articulated. As identified at the end of my letter, I will be sending copies to the myriad of Supreme Court reporters, journalists, and scholars, all of whom are M.I.A. with respect to CJA's November 19, 2007 press release "*How Does the U.S. Supreme Court Handle Misconduct Complaints against its Staff?*" so that they may explain their inaction. This includes Mr. Toobin, who is hardly the "independent[t]" "outsider" you identify him to be, which perhaps explains why you weren't "blown away by something truly secret and surprising" (to use Professor Obbie's words in criticism of you). A copy of my coverletter to Mr. Toobin, illustrative of the coverletters I will be sending to the others – and providing an update of this story, for coverage – is enclosed.

Finally, I would be remiss in my civic responsibilities and duties as CJA's director if I did not encourage you to use your prodigious journalistic gifts and legal background to build on the important contribution you've already made to "telling it, like it is". Won't you consider investigating and reporting on the major scandal that is this unreported story of how the Supreme Court handles misconduct complaints against its staff and the unprecedented and dangerous "disruption of Congress" case that is its present context, so that it can meet its powerful reform-generating potential? If such is not possible, I ask that you pass it on to other journalists, true to their calling, who will investigate and report it – and to scholars who will bring its wealth of primary source documentary evidence into their research and teaching

Thank you.

A handwritten signature in black ink, appearing to read "Elena Ruiz" with a stylized flourish underneath.

Enclosures: (1) CJA's December 11, 2007 letter to Professor Mark Obbie, attaching, *inter alia*, CJA's November 19, 2007 press release "*How Does the U.S. Supreme Court Investigate Misconduct Complaints against its Staff?*"  
(2) CJA's December 11, 2007 coverletter to Jeffrey Toobin, Esq.

cc: Professors Mark Obbie & Keith Bybee, Syracuse University  
Jeffrey Toobin, Esq.  
CJA's website