

# CENTER for JUDICIAL ACCOUNTABILITY, INC.\*

Box 8220  
White Plains, New York 10602

Tel. (914) 421-1200  
Fax (914) 428-4994

E-Mail: [cja@judgewatch.org](mailto:cja@judgewatch.org)  
Web site: [www.judgewatch.org](http://www.judgewatch.org)

Elena Ruth Sassower, Director

BY E-MAIL: [jeffrey.toobin@turner.com](mailto:jeffrey.toobin@turner.com)

DATE: December 11, 2007

TO: Jeffrey Toobin, Esq., CNN, The New Yorker,  
The Nine: Inside the Secret World of the Supreme Court

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

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

This follows up my November 20, 2007 e-mail to you, transmitting CJA's November 19, 2007 press release, "*How Does the U.S. Supreme Court Handle Misconduct Complaints against its Staff?*" – to which I have received no response. Why is that?

Might the explanation for your non-response – and for the non-responses of every other Supreme Court reporter, journalist, and scholar to whom I turned – be found in David Margolick's September 23, 2007 New York Times book review of your book 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..."

---

\* 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.

Such is properly a subject for scholarship and teaching – and my proposal for same is detailed by my letter of today's date to Professor Mark Obbie, Associate 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. A copy is enclosed, pursuant to the final paragraph of the letter, stating that I would be sending copies

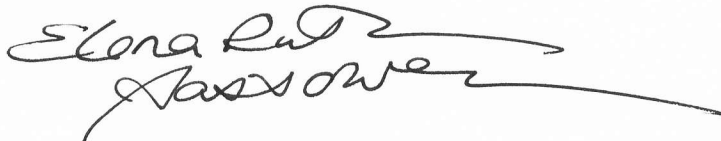
“to the long list of journalists and scholars who are M.I.A. on this story, with an invitation that they illuminate the situation by coming forward with such facts and circumstances as might otherwise explain the ZERO coverage of CJA's November 19, 2007 press release ‘*How Does the U.S. Supreme Court Handle Misconduct Complaints against its Staff?*’ ” (at pp. 10-11).

In the interest of accurate, evidence-based scholarship, I would appreciate your response.

Finally, and because it is never too late for you to rise above your conflicts of interest and pursue this important story or to pass it on to journalists and scholars who will, I take this opportunity to alert you to the fact that I have received no response from Chief Justice Roberts or anyone else at the Supreme Court to my November 14, 2007 complaint against the Court's counsel for his cover-up of the misconduct of the Court's clerk and his staff, recounted in the press release. As for the rehearing petition, it was denied – at least according to a November 26, 2007 letter, signed by the clerk. No reasons given.

For your convenience, the foregoing documents are posted on CJA's website, [www.judgewatch.org](http://www.judgewatch.org), accessible *via* the sidebar panel “‘Disruption of Congress’ – The Appeals”, containing a link to the U.S. Supreme Court. There is also a link entitled “Media – & Academia”, from which you can access my correspondence with Supreme Court reporters, journalists, and scholars pertinent to this story, yourself included<sup>1</sup>.

Thank you.



Enclosures

cc: David Margolick, Esq.

Professors Mark Obbie & Keith Bybee, Syracuse University

---

<sup>1</sup> I note that I have also received no response from you to my December 28, 2006 memo, recounting your participation on November 15, 2006 at New York Law School's panel discussion “*Reporting the Law – Year End Review*”, sponsored by its Program in Law and Journalism, as well as our conversation together immediately afterward. On January 22, 2007, I gave you a further copy of that memo, *in hand*, at the 92<sup>nd</sup> Street Y, after the program on “*The Supreme Court: What to Expect?*”, which you had moderated and at which I had publicly asked the question about the sharp decline in the Court's granting of cert petitions. A copy of that important memo and related prior correspondence to you is accessible from CJA's website, *via* the sidebar panel “*Suing The New York Times-Outreach*”, which links to a webpage relating to “Media-Watch Organizations, Media, & Journalists”.