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Sent: Thursday, May 21, 2026 9:13 AM
To: elena@judgewatch.org; jtobin@jns.org; editor@jns.org

Cc: jed.rubenfeld@yale.edu; darcy.smith@yale.edu; dlogan@rwu.edu; rod.smolla@mwpp.com; nadine.strossen@nyls.edu; david.rudenstine@yu.edu; rudenstn@yu.edu; 'Mark Stephens, CBE'; jturley@law.gwu.edu; mgoldfeder@touro.edu; NJAC; dersh@law.harvard.edu

Subject: **Re: LEAD -- Israel can successfully sue The NYT & Nicholas Kristof for "journalistic fraud" and "institutional reckless disregard for truth" in the US District Court for the Southern District of NY**

Hi,

I hope all is well. Thanks for reaching out. It is an admirable notion but unfortunately no, I don't think it is possible. Among other things- the law generally does not impose a duty on private newspapers or media organizations to cover a citizen's allegations. The First Amendment does not usually create an enforceable private right to force coverage. There is also a serious standing problem. The alleged injury is broad and attenuated. Article III standing requires a concrete injury fairly traceable to each defendant and redressable by the court. The previous case is also a major obstacle. In *Sassower v. Gannett Co.*, the appellate court rejected a similar "journalistic fraud" theory, holding that a complaint about what a news article failed to include was not actionable.

All the best,

mark

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Subject: LEAD -- Israel can successfully sue The NYT & Nicholas Kristof for "journalistic fraud" and "institutional reckless disregard for truth" in the US District Court for the Southern District of NY

TO: [Jewish News Syndicate \(JNS\) Editor-in-Chief Jonathan Tobin](#)

Four hours before I cc'd you on my [yesterday's e-mail to Professor Jonathan Turley](#), I sent the below e-mail to the five legal experts who have been cited and quoted by news articles for the proposition that, under U.S. law, Israel and Prime Minister Netanyahu will not be able to bring a successful defamation lawsuit against [The New York Times](#) and Mr. Kristof in U.S. courts. These five legal experts are Professors Jed Rubenfeld, David Logan, Rodney Smolla, Nadine Strossen, David Rudenstine, and British lawyer Mark Stephens. My initial e-mail to them, on Tuesday, as to whether they agree that Israel could bring a successful federal lawsuit for "journalistic fraud" and "institutional reckless disregard for truth" against [The Times](#) and Mr. Kristof is also below.

I am cc'ing these five legal experts on this e-mail as a reminder that I am awaiting their responses to this SIMPLE QUESTION – and also Professor Turley, as well as Professors Mark Goldfeder and Alan Dershowitz, from whom, since Monday, I have been awaiting responses to the same SIMPLE QUESTION.

I am giving JNS the LEAD in reporting to the public and Prime Minister Netanyahu on the SIMPLE QUESTION I have asked these eight legal scholars and their answers. Please advise expeditiously so that I may be guided accordingly.

Thank you.

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Subject: Explanation Requested -- SIMPLE QUESTION: Do you agree that Israel could successfully bring a federal lawsuit suing The NYT & Nicholas Kristof for "journalistic fraud" and "institutional reckless disregard for truth"?

Dear Mr. Stephens,

Thank you for your below e-mail – the first I have received, responding to mine.

However, I am at a loss to understand its three-word content: "No Absolutely not".

Presumably, this is your answer to my "SIMPLE QUESTION: Do you agree that Israel could successfully bring a federal lawsuit suing The NYT & Nicholas Kristof for 'journalistic fraud' and 'institutional reckless disregard for truth'?"

Are you contesting the viability of the “journalistic fraud” and “institutional reckless disregard for truth” causes of action and the significance of CJA’s federal lawsuit in establishing same? If so, on what legal basis and evidence? Kindly explain.

As you have apparently not cc’d the other recipients of my e-mail – Professors Rubinfeld, Logan, Smolla, Strossen, and Rudenstine – I am cc’ing them so that they may have the benefit of your elaboration.

Thank you.

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From: Mark Stephens, CBE <Mark.Stephens@howardkennedy.com>
Sent: Wednesday, May 20, 2026 3:42 AM
To: elena@judgewatch.org

Subject: Re: SIMPLE QUESTION: Do you agree that Israel could successfully bring a federal lawsuit suing The NYT & Nicholas Kristof for "journalistic fraud" and "institutional reckless disregard for truth"?

No
Absolutely not

Mark Stephens, CBE
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Stay in touch 

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Subject: SIMPLE QUESTION: Do you agree that Israel could successfully bring a federal lawsuit suing The NYT & Nicholas Kristof for "journalistic fraud" and "institutional reckless disregard for truth"?

TO: [Yale Law School Professor Jed Rubenfeld](#)
[Roger Williams Law School Professor Emeritus & Former Dean David Logan](#)
[Vermont Law School Professor & Former President Rodney Smolla](#)
[New York Law School Professor Emerita Nadine Strossen](#)
[Cardozo Law School Professor & Former Dean David Rudenstine](#)
[Mark Stephens, Esq. – international media law expert](#)

According to news articles, as, for instance, [here](#), [here](#), [here](#), and [here](#), and podcasts, such as [this](#), and underscored by the title of Professor Rubenfeld's May 14th article "[The Case of Israel v. Kristof Is Dead on Arrival](#)", you have each stated that under U.S. law Israel could not successfully bring a defamation lawsuit based on [The New York Times](#)' May 11th opinion journalism of Nicholas Kristof – the law being the U.S. Supreme Court's 1964 decision in *New York Times v. Sullivan*.

However, **would you not agree that Israel and Prime Minister Netanyahu, on its behalf, could successfully sue [The New York Times](#) and Mr. Kristof in the U.S. District Court for the Southern District of New York for "journalistic fraud" and "institutional reckless disregard for truth" – causes of action proposed as viable under the First Amendment more than 20 years ago by law scholars in law review articles, "[Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence](#)" (2003) and "[Institutional Reckless Disregard for Truth in Public Defamation Actions against the Press](#)" (2005) – and demonstrated as viable by an existing lawsuit, unfolding in the U.S. District Court for the Southern District of New York, brought by the non-partisan, non-profit citizens' organization [Center for Judicial Accountability, Inc. \(CJA\)](#) and myself as its director, on our "*own behalf and on behalf of the People of the State of New York & the Public Interest*", against [The New York Times](#) and 33 other press defendants, suing them for their *knowingly* false, corruption-abetting, election-rigging journalism, destroying constitutional, lawful New York state governance and pivotally-focused on their rigging of the 2025 electoral win of Zohran Mamdani as New York City mayor.**

Professors Logan and Smolla are fully aware of the "journalistic fraud" and "institutional reckless disregard for truth" causes of action – and of CJA's federal lawsuit. Here are my e-mails to them on [February 17th](#) and [here](#), and on [February 27th](#), followed by my [March 3rd](#) and [March 18th](#) e-mails to the [American Law Institute](#), of which they are members and to which they were cc'd – and whose originals are below. Here, too, are my [December 3rd](#) and [January 22nd](#) e-mails to former Cardozo Law School Dean-Professor Rudenstine. I received no responses from them.

Indeed, I received virtually no responses from the dozens of law professors and First Amendment scholars to whom I turned or from academic and research institutions – and such responses as I did receive did not deny or dispute the viability of the "journalistic fraud" and "institutional reckless disregard for truth" causes of action, or the far-reaching significance of CJA's lawsuit, or that the unprecedented course of the lawsuit in the district court reinforces what the above-attached and here-linked [October 29, 2025 verified amended complaint](#) makes obvious, namely, that the lawsuit, [substantiated by a mountain of open-and-shut, prima facie, documentary evidence](#), is a summary judgment case, to which there is NO defense, factually or legally, with the SOLE issue being the magnitude of compensatory, presumed, and punitive damages – a jury determination that will reasonably be many tens of billions of dollars.

[CJA's webpage for the lawsuit](#), from which the electronic docket is accessible, includes a link for [CJA's webpage of my extensive outreach to scholars](#) and additionally features my [May 8th letter to the district court judge](#), summing up where matters stand. From this, you can easily answer **the SIMPLE QUESTION**

here asked: Do you agree that Israel could successfully bring a federal lawsuit suing The New York Times and Nicholas Kristof for "journalistic fraud" and "institutional reckless disregard for truth"?

So that the public and Prime Minister Netanyahu may be accurately informed as to Israel's legal remedies – which they must be – please advise, expeditiously, as to your answers.

I am available to speak with you directly – and to answer questions – and would welcome the opportunity to do so.

Thank you.

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Subject: AGAIN -- OVERSIGHT REQUIRED: Violations of Duties by ALI Reporters, Advisers, & Members to Prevent Emergence of the Torts of "Journalistic Fraud" & "Institutional Reckless Disregard for Truth" & Discussion of their Caselaw

TO: AMERICAN LAW INSTITUTE OFFICERS

President David F. Levi/Duke Law School

President Elect Wallace B. Jefferson/Alexander Dubose & Jefferson

Director Diane P. Wood/University of Chicago Law School

Deputy Director Eleanor Barrett

&, additionally,

Director Emeritus & Council Member Richard Revesz/New York University Law School

Will the torts of “journalistic fraud” and “institutional reckless disregard for truth”, embodied by prior and forthcoming common law, be included in ALI’s Restatement (3rd) of Torts?

I have received no responses from you to my below March 3rd e-mail on the subject. Is this because you have not responded and, if so, what is the reason?

Do you dispute the accuracy of anything my e-mail stated, with evidence – and that this mandates decisive action pursuant to ALL codes of professional, ethical, and civic responsibility, including the ALI’s own Restatement (3rd) of The Law Governing Lawyers (2000)?

And if you do not dispute either, what explanation is there for your seeming inaction other than conflicts of interest you have not disclosed? Or do you dispute that mandated action would expose flagrant violations of duties by those with whom you have personal and professional relationships and expose false narratives about the rule of law, common law, and “a deliberative process in which all participants are in a common quest for the truth”.

I note I have also received no responses from the indicated cc’s, most importantly the ALI reporters, advisors, and members, all of whom are law professors/scholars. Have you?

Please advise so that I may know the truth of the matter and be guided accordingly.

Thank you.

Elena Sassower, Director
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Subject: OVERSIGHT REQUIRED: Violations of Duties by ALI Reporters, Advisers, & Members to Prevent Emergence of the Torts of "Journalistic Fraud" & "Institutional Reckless Disregard for Truth" & Discussion of their Caselaw

TO: AMERICAN LAW INSTITUTE OFFICERS

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Director Emeritus & Council Member Richard Revesz/New York University Law School

I am director and co-founder of the nonpartisan, nonprofit citizens' organization Center for Judicial Accountability, Inc. (CJA) and write to report for your oversight and action flagrant violations of duties by ALI reporters and advisors of the ALI Restatement (3rd) of Torts, whose purpose is to prevent emergence of the torts of "journalistic fraud" & "institutional reckless disregard for truth" – proposed more than 20 years ago by the law review articles "Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence" (2003) and "Institutional Reckless Disregard for Truth in Public Defamation Actions against the Press" (2005) – as to which there is caselaw from two lawsuits that CJA brought, in New York state courts, against The New York Times (2006-2008) and against Gannett (2010-2013), with more caselaw forthcoming from CJA's unfolding federal lawsuit against The New York Times and 33 other representative press defendants, filed in the U.S. District Court for the Southern District of New York (electronic docket/Court Listener).

None of the complained-against reporters and advisors have contested that "journalistic fraud" and "institutional reckless disregard for truth" and existing and forthcoming caselaw with respect thereto are properly part of the ALI Restatement (3rd) of Torts. However, ALL have refused to identify the section of the Restatement in which they believe the torts should be placed and to confirm that they will be taking steps to ensure their inclusion.

Reflecting this – and my notice to them that I would be contacting ALI leadership about the situation – are my below February 27th and February 18th e-mails to:

- Law Professors Robert Post & Lyrissa Lidsky, Co-Reporters of the TORTS-DEFAMATION & PRIVACY RESTATEMENT
- Law Professors Douglas Laycock & Richard Hasen, Co-Reporters of the TORTS-REMEDIES RESTATEMENT
- Law Professors Nora Feeman Engstrom & Michael Green, Co-Reporters of the TORTS-MISCELLANEOUS PROVISIONS RESTATEMENT
- Law Professors Pamela Karlan & John Calvin Jeffries, Co-Reporters of the TORTS-CONSTITUTIONAL RESTATEMENT, plus Associate Reporter Law Professor Fred Smith, Jr.
- Law Professors RonNell Andersen Jones, Lili Levi, Amy Gadja & Samantha Barbas, advisors of the TORTS-DEFAMATION & PRIVACY RESTATEMENT – all of whom, with

Law Professors Post, Lidsky, and Hasen, had participated in the [“Future of Press Freedom: Democracy, Law, and the News in Changing Times”](#) project of [Columbia University’s Knight First Amendment Institute](#).

None responded. Likewise, no response from the other recipients of these two e-mails – the Knight First Amendment Institute and other scholars participating in “Future of Press Freedom: Democracy, Law, and the News in Changing Times”, such as ALI elected member-Law Professors [Martha Minow](#), [Vicki Jackson](#), [Alan Chen](#), [Margaret Kwoka](#) and ALI *ex officio* member University of California-Berkeley Law School Dean [Erwin Chemerinsky](#).

I gave comparable notice that I would be contacting ALI leadership to two other advisors of the TORTS – DEFAMATION & PRIVACY RESTATEMENT, Law Professors [David Logan](#) and [Rodney Smolla](#),. Here’s my unresponded-to [February 27th e-mail](#) to them, based on my prior February 17th e-mails to them and to plaintiff-lawyers featured by [New York Times](#) reporter David Enrich in his articles and book [Murder the Truth – Fear, The First Amendment, and A Secret Campaign To Protect the Powerful](#), with no response from anyone.

The ONLY conclusion that can be drawn from the foregoing is that ALI’s law professor reporters and advisors, as well as ALI law professor members, are NOT intending to include “journalistic fraud” and “institutional reckless disregard for truth” and the caselaw thereon in the Restatement (3rd) of Torts and, concomitantly, are NOT intending to embody the law review articles and lawsuits in their scholarship, as I have requested.

As for the motive behind this two-fold violation of duties, it is obvious from examination of the verified complaints of CJA’s three lawsuits and their litigation records, whose mountain of open-and-shut, *prima face* evidence “**blows to smithereens**” the law professors’ corruption-concealing narratives about the functioning of the press, academia, the judiciary, and other “[knowledge institutions buttressing constitutional democracy](#)” – narratives they craft from methodologically-flawed scholarship, concealing rebutting evidence – the product of their multitudinous conflicts of interest.

In that regard, the 2019 “Visionaries” documentary about ALI, posted on [ALI’s “About” webpage](#), begins with the sentence: “The absence of truth is an existential threat to our institutions and ultimately it threatens our democracy.” The two sentences with which it ends are: “The American Law Institute is an example of what distinguishes a healthy democracy from an authoritarian state. In a free society, the rule of law is arrived at by a deliberative process in which all participants are in a common quest for the truth.” Between these is a nearly half-hour portrayal of ALI as a civic-minded collaboration of scholars, judges, and lawyers, who, to use President Levi’s phrase, “check [their] self-interest at the door”, so as to diligently engage in an honest, truth-seeking process in service of the rule of law and our democracy – with such including dialogue with “victim advocates”, “community activists”, and “NGOs”.

Consequently, and further reinforced by President Levi’s October 3, 2025 essay “[Participatory Democracy in Action](#)”, extolling the value of citizen participation, I look forward to such dialogue and answering your questions. Of highest priority is your assessment of CJA’s unfolding [federal lawsuit](#), brought, expressly, to secure truthful journalism, without which our constitutional democracy and the rule of law cannot be saved, and whose astonishing posture is laid out by my [December 19th affidavit demonstrating subject matter jurisdiction](#) and [February 23rd letter to the district judge](#), now capped by the judge’s [March 2nd so-ordered annotation](#).

So that all recipients of the above-recited e-mails may join in this constructive dialogue and respond to the foregoing and the mandates of the [ALI's Restatement \(3rd\) of The Law Governing Lawyers \(2000\)](#), I am cc'ing them – and, additionally, two further advisors of the TORTS-DEFAMATION & PRIVACY RESTATEMENT, Law Professors [Eugene Volokh](#) and [Clay Calvert](#), the latter having co-authored the 2003 law review article proposing the “journalistic fraud” cause of action as viable under the First Amendment and waiting to be tested. I cc'd both on a [January 2nd e-mail](#), to which I got no response from them or from its other two recipients: [Law Professor Jane Bambauer](#), who co-hosts with Professor Volokh, the [Hoover Institution podcast “Free Speech Unmuted”](#), and [Law Professor Robert Richards](#), who co-founded with Professor Calvert, Pennsylvania University's now defunct Pennsylvania Center for the First Amendment, and co-authored, with him, the 2003 law review article on “journalistic fraud”.

For the convenience of all – and to facilitate truthful, evidence-based scholarship about “knowledge institutions buttressing constitutional democracy”, the nonprofit [American Law Institute](#) among them – this e-mail will be posted on CJA's webpage of “Outreach to Scholars” pertaining to the federal lawsuit, whose direct link is [here](#).

Thank you.

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Subject: Follow-Up & Confirmation -- ALI's Restatement (3rd) of Torts -- & the Unfolding Federal Lawsuit to Establish the Torts of "Journalistic Fraud" & "Institutional Reckless Disregard for Truth"

TO: AMERICAN LAW INSTITUTE CO-REPORTERS

TORTS-REMEDIES

Co-Reporter [Law Professor Douglas Laycock](#)

TORTS-MISCELLANEOUS PROVISIONS

Co-Reporter [Law Professor Nora Freeman Engstrom](#)

Co-Reporter [Law Professor Michael Green](#)

TORTS-CONSTITUTIONAL

Co-Reporter [Law Professor John Calvin Jeffries](#)

I have received no responses from you or the indicated cc's to my below February 18th e-mail and assume this is because you and they have not responded – and that the reason is because you and they do not contest that the ALI's Restatement (3rd) of Torts must include the emerging torts of “journalistic fraud” and “institutional reckless disregard for truth” and the caselaw pertaining thereto that already exists and that will be generated by the unfolding federal lawsuit against The New York Times and 33 other press defendants.

If this is not correct, please advise by Monday, noon (NY time), and furnish such findings of fact and conclusions of law as you have made with respect to the federal lawsuit, so that I may be guided accordingly in my communications with ALI leadership.

Thank you.

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Subject: American Law Institute's Restatement (3rd) of Torts -- & the Unfolding Federal Lawsuit to Establish the Torts of "Journalistic Fraud" & "Institutional Reckless Disregard for Truth"

TO: AMERICAN LAW INSTITUTE CO-REPORTERS

TORTS-REMEDIES

Co-Reporter [Law Professor Douglas Laycock](#)

TORTS-MISCELLANEOUS PROVISIONS

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TORTS-CONSTITUTIONAL

Co-Reporter [Law Professor John Calvin Jeffries](#)

I am director and co-founder of the non-partisan, nonprofit citizens' organization [Center for Judicial Accountability, Inc. \(CJA\)](#) – and am writing to alert you to CJA's unfolding federal lawsuit against [The New York Times](#) and 33 other press defendants, whose first two causes of action seek judicial recognition of the torts of "journalistic fraud" and "institutional reckless disregard for truth", proposed more than 20

years ago by law review articles as viable under the First Amendment, "[Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence](#)", 14 [Fordham Intellectual Property, Media & Entertainment Law Journal](#) (2003) and "[Institutional Reckless Disregard for Truth in Public Defamation Actions against the Press](#)", 90 [Iowa Law Review](#) 887 (2005).

Above-attached and here-linked is the [October 29, 2025 verified amended complaint](#), whose paragraphs 6(c) and (d) identify and link to CJA's two prior lawsuits in New York state courts, seeking judicial recognition of those two causes of action.

In which section of ALI's Restatement (3rd) of Torts should these emerging torts be included? I have asked that question to four of your fellow co-reporters, plus an associate reporter, without response:

- to [Law Professor Robert Post](#) and [Law Professor Lyrrisa Lidsky](#), the co-reporters for the "[Torts: Defamation and Privacy](#)" Restatement, and to [Law Professor Richard Hasen](#), co-reporter for the "[Torts: Remedies](#)" Restatement, by a [February 2nd e-mail](#), without response from them or any of its other recipients;
- to [Law Professor Pamela Karlan](#), co-reporter for the "[Constitutional Torts](#)" Restatement, and to [Law Professor Fred O. Smith, Jr.](#), an associate reporter thereof, by a [February 2nd e-mail](#), without response from them or any of its other recipients.

In the interest of economy, I refer you to the particulars set forth by those two February 2nd e-mails – and am cc'ing all their recipients for such responses as they wish to belatedly contribute.

Needless to say, if you believe that the ALI's Restatement (3rd) of Torts should not include the decisional law that already exists with respect to the emerging torts of "journalistic fraud" and "institutional reckless disregard for truth" and that will be generated by CJA's unfolding federal lawsuit, please state the reasons so that I may be guided accordingly in my communications with ALI leadership.

Thank you.

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