

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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DATE: March 24, 2006

TO: Yale Law School Professors of Media Law & The First Amendment:  
Professor Jack M. Balkin  
Professor Yochai Benkler  
Professor Robert C. Post

RE: Vindicating the First Amendment:  
*Elena Ruth Sassower, et al. v. The New York Times Company, et al.*

Following up my March 10<sup>th</sup> memorandum, this is to advise that on March 21<sup>st</sup> – the first full day of spring – we served the verified complaint in the above-named public interest lawsuit against The New York Times. It is posted on CJA's website, [www.judgewatch.org](http://www.judgewatch.org), accessible via the sidebar panel "Suing The New York Times". Our press release entitled "FIRST-OF-ITS-KIND PUBLIC INTEREST LAWSUIT vs THE NEW YORK TIMES IN VINDICATION OF THE FIRST AMENDMENT" is enclosed.

Pursuant to New York's CPLR 3025(a), we have several weeks within which to amend the verified complaint, as of right. Consequently, you can still contribute your expertise to strengthening our three causes of action for libel, libel *per se*, and journalistic fraud and damages based thereon. We would welcome your guidance on behalf of the public, whose interest we continue to single-handedly champion, without funding and without benefit of specialists in media law. Should you require compensation for your advice, we will make appropriate arrangements.

A professor at another law school e-mailed us that "[he's] not sure why [we] think [he'd] be interested in assisting [us] to pursue a lawsuit against the NYTimes, when [he] represent[s] journalists, including the NY Times". We believe, however, that any lawyer reading the verified complaint would recognize a civic duty to provide assistance -- as democracy, the rule of law, and the very essence of good citizenship are destroyed by the kind of press suppression, protectionism, and blackballing therein particularized.

As professors of media law and the First Amendment, you are obligated to keep informed of significant developments in the field so as to incorporate them into your teaching and commentary, where relevant. We trust you would agree that the 2003 law review article "Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence", 14 Fordham Intellectual Property, Media & Entertainment Law Journal 1, and our public interest lawsuit are two such developments.

March 24, 2006

In that connection, we have already proposed that the law review article and our historic lawsuit be part of the January 19, 2007 conference "*Reclaiming the First Amendment: A Conference on Constitutional Theories of Media Reform*", being organized by Hofstra University School of Law and the Brennan Center for Justice at New York University School of Law.<sup>1</sup> The conference sponsors are presently soliciting proposals for papers that will address "any aspect of the First Amendment and the mass media" to "further the conference goal of proposing innovative policy and legal approaches".<sup>2</sup>

We would be pleased to assist you or your law students in presenting this unfolding litigation in a conference paper – or in otherwise utilizing it for scholarly and empirical research.

Thank you.

Yours for a quality judiciary  
and responsible journalism,



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

Enclosure

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<sup>1</sup> Such proposal was made by our March 13<sup>th</sup> memorandum to Hofstra University Law School Professor Eric Freedman. It is posted on CJA's website, accessible from the sidebar panel "Suing The New York Times", via the link "Outreach: Champions & Betrayers of Media Accountability, the First Amendment, & the Public Interest". That is where our prior March 10<sup>th</sup> memorandum to you is also posted, to be joined by this memo.

<sup>2</sup> SEE, [www.hofstra.edu/Academics/Law/law\\_conference\\_mediareform.cfm](http://www.hofstra.edu/Academics/Law/law_conference_mediareform.cfm)

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**P R E S S   R E L A S E: March 22, 2006 onward**

## **FIRST-OF-ITS-KIND PUBLIC INTEREST LAWSUIT vs THE NEW YORK TIMES IN VINDICATION OF THE FIRST AMENDMENT**

The New York Times is being sued for libel and journalistic fraud in a landmark public interest lawsuit, the first to implement the powerful recommendation for media accountability proposed in the 2003 law review article "*Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence*", 14 Fordham Intellectual Property, Media & Entertainment Law Journal 1.

The lawsuit, charging The Times with betraying its First Amendment responsibilities to the public, is brought by the Center for Judicial Accountability, Inc. (CJA) and its director, Elena Ruth Sassower. The libel causes of action are based on a Times' column, "*When the Judge Sledgehammered The Gadfly*", about Ms. Sassower, then serving a six-month jail sentence in D.C., after conviction on a "disruption of Congress" charge. An analysis of the column, annexed as Exhibit A to the Verified Complaint, demonstrates that the column is "deliberately defamatory", "knowingly false and misleading", and "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".

These public officers include Senator Hillary Rodham Clinton, running for re-election to the U.S. Senate this year, with an eye to the presidency in 2008, and New York Attorney General Eliot Spitzer, running this year to be New York's next governor. The Verified Complaint alleges that their anticipated landslide victories are being rigged by The Times, whose steadfast refusal to report on the records of Ms. Clinton and Mr. Spitzer with respect to judicial selection and discipline is with knowledge that such reporting would rightfully end their electoral prospects, if not generate disciplinary and criminal prosecutions against them for corruption. As for past electoral races, the Verified Complaint dramatically shows that The Times rigged Senator Charles Schumer's 2004 re-election to the Senate by similarly refusing to report on his record as to judicial selection and discipline, and, prior thereto, rigged Mr. Spitzer's 2002 re-election as attorney general and Governor George Pataki's 2002 and 1998 re-elections as New York's governor, likewise by refusing to report on their records.

The Times' protectionism of all these public officers -- and its suppression of any coverage of the readily-verifiable documentary evidence of systemic governmental corruption involving judicial selection and discipline, provided it by CJA throughout the past 15 years -- underlies the lawsuit's cause of action for journalistic fraud.

The Verified Complaint, its substantiating exhibits, and the law review article are posted on CJA's website, [www.judgewatch.org](http://www.judgewatch.org) -- accessible via the sidebar panel, "Suing The New York Times".

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\* The Center for Judicial Accountability, Inc. (CJA) is a national, non-partisan, non-profit citizens' organization working to ensure that the processes of judicial selection and discipline are effective and meaningful.