

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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BY PRIORITY MAIL
DELIVERY CONFIRMATION: 0300-1290-0000-4624-0465

July 5, 2006

Tom Rosenstiel, Director
Project for Excellence in Journalism (PEJ)
1615 L Street, N.W., Suite 700
Washington, D.C. 20036

RE: *Primary Source* Documents to Assist in PEJ's Research & to Support
CJA's Request for Assistance in "better understanding...what to expect
from the press and how to demand it"

Dear Mr. Rosenstiel:

Enclosed, as briefly discussed on June 29th at the Media Giraffe conference on democracy and the media, is a duplicate of the copy of the Center for Judicial Accountability's verified complaint in the first-ever public interest lawsuit against The New York Times for journalistic fraud – which, upon my proffering it to you, you requested that I mail¹, taking from me only the two press releases about the case.

Such fact-specific verified complaint – with its voluminous substantiating exhibits – are *primary source* documents to assist the Project for Excellence in Journalism in its express goal² of using "research rather than merely criticism to clarify and raise standards of American journalism".

The verified complaint provides an unprecedented window into how America's premier newspaper – The New York Times – has betrayed its First Amendment responsibilities to the public by knowingly false and misleading reporting and editorializing, perpetuating systemic governmental corruption

¹ I, thereafter, gave that proffered copy to Media Giraffe Project Director Bill Densmore, following his unsolicited request to me, on June 30th, to see the lawsuit complaint. Hours earlier, during the conference luncheon, Mr. Densmore and journalism professors Norman Sims and Ralph Whitehead, Jr. of the University of Massachusetts (Amherst) received a \$75,000 seed grant from the Knight Foundation to start a New England News Council, presented by Gary Gilson, Executive Director of the Minnesota News Council.

² www.journalism.org/who/faq/default.asp "What is the Project for Excellence in Journalism?"

involving the processes of judicial selection and discipline and constituting election-rigging for the complicit public officers. It not only exposes as myth The Times' supposed excellent, quality journalism, but reveals as sham The Times' purported soul-searching and reforms in the wake of the Jayson Blair scandal, including its establishment of the office of public editor. Indeed, the lawsuit directly results from the misfeasance of both The Times' first and second public editors – each named defendants. As such, it demonstrates the profound fallibility of that commonly-believed safeguard for ensuring journalistic accountability and responsiveness and offers a compelling case study as to how a news council – had one been available – might have functioned as a means for both securing oversight of misfeasant public editors and averting litigation. That back in 1997 CJA wrote to Abe Rosenthal, former Executive Editor of The Times and “[O]ne of the most influential opponents of news councils”³, inquiring about his opposition to news councils and ombudsmen and furnishing him with a fact-specific, fully-documented chronicling of what, nine years later, would be embodied by the lawsuit, makes such case study all the more powerful and ironic.⁴

I look forward to discussing with you how the verified complaint – and the breathtaking record of the lawsuit, summarized by the second press release – can be integrated into the research of the Project for Excellence in Journalism. As you suggested, I will call you mid-month. Hopefully, by then you will also have reviewed CJA's website, www.judgewatch.org – including our “Press Suppression” sidebar panel with its posted *primary source* documents establishing a comparable lack of journalistic standards and betrayal of the public trust by a wide range of other news media and journalists – all worthy of research and report by the Project for Excellence in Journalism, if it is to understand what is happening “on the ground”, in the “grassroots”.

Although you spoke eloquently on June 29th at the conference about new definitions of journalism – premised on the view that the proliferation of new media has resulted in an unimpeded information flow – our posted *primary source* documents demonstrate that the “gatekeepers” are alive and well. Indeed, this is especially evident from our unsuccessful efforts to gain publicity for our groundbreaking Times lawsuit, chronicled by our “Outreach” link on our “Suing The New York Times” webpage. Among these “gatekeepers”: preeminent media critic bloggers Jay Rosen and Jeff Jarvis, both also academics, who claim the “gatekeepers” are gone. Consequently, I am sending copies of this letter to Messrs. Rosen and Jarvis so that they may identify the definition of journalism on which they relied when they decided that their PressThink & Buzzmachine websites would withhold ALL information about the lawsuit, including the very fact of its existence – and whether this definition explains their hostile reactions to me on June 28th when, following their participation in the

³ Quoted from “*Why Aren't There More News Councils?*” by Mr. Gilson in the Winter/Spring 2006 issue of Newsworthy, the magazine of the Minnesota News Council, distributed at the Media Giraffe conference – and accessible from the Minnesota News Council's website, www.news-council.org. Such issue, as likewise the website, provides impressive information about how news councils work – including that the complainant signs a waiver of the right to sue.

⁴ Our April 30, 1997 letter to Mr. Rosenthal and his May 7, 1997 response are posted on CJA's website, as part of our 15-year “paper trail” of correspondence with The Times, accessible *via* the sidebar panels “Press Suppression” and “Suing The New York Times”.

dinner panel discussion “How Will Journalism Stay Relevant? To Whom? In What Forms?”, I approached them, handing them duplicates of my unresponded-to prior e-mails to them, entreating their coverage of the serious and substantial issues outlined by the two press releases.⁵

Indeed, as the mission of the Project for Excellence in Journalism expressly includes “help[ing] citizens gain a better understanding of what to expect from the press and how to demand it”⁶, our non-partisan, non-profit citizens’ organization requests the Project’s opinion as to whether the press has an obligation to report the fact of the lawsuit, as well to verify the truth of the lawsuit’s *readily-verifiable* document-supported allegations of The Times’ journalistic fraud, subverting this year’s most important electoral races in New York and undermining our democracy. If so, by what means would the Project propose that we “demand” the press to fulfill this two-fold obligation?

Yours for a quality judiciary, meaningful elections,
and responsible journalism,



ELENA RUTH SASSOWER, Director & Co-Founder
Center for Judicial Accountability, Inc. (CJA)

- Enclosures: (1) CJA’s press release #1: March 22, 2006 onward –
“First-of-its-Kind Public Interest Lawsuit vs The New York Times
in Vindication of the First Amendment”
(2) CJA’s press release #2: June 9, 2006 onward –
“Public Interest Lawsuit vs The New York Times Seeks Judgment Against
It, Including Removing of Its Front-Page Motto “*All the News That’s Fit
to Print*” as a False and Misleading Advertising Claim”
(3) March 21, 2006 verified complaint in the lawsuit
(4) my prior e-mail correspondence to Jay Rosen & Jeff Jarvis –
copies of which I handed them on June 28th at the Media Giraffe conference

cc: See next page

⁵ Only Mr. Jarvis knows whether he also acted as “gatekeeper” when, in presiding over the June 29th session “Finding a New Definition of Journalism” to which you were the keynote speaker, he decided not to call on me in the portion reserved for audience participation. As I told you afterward, my intended comment, drawn from CJA’s on-the-ground experiences – related to the falsity of the premise that the “gatekeepers” are gone and concerned the press’ wilful and deliberate failure to meet the core definition of journalism: “verified facts to hold the powerful accountable”, so-defined by Ellen Hume, Director of the Center on Media and Society at the University of Massachusetts (Boston), who took the position, during her participation in the previous evening’s dinner panel discussion “How Will Journalism Stay Relevant? To Whom? In What Forms?”, that “journalism does not need reinvention”.

⁶ www.journalism.org/who/faq/default.asp “What does PEJ do?”

cc: Jay Rosen (<http://journalism.nyu.edu/pubzone/weblogs/pressthink/>)
Professor, New York University, Department of Journalism
Jeff Jarvis (<http://www.buzzmachine.com>)
Associate Professor & Director of the Interactive Journalism Program,
City University of New York, Graduate School of Journalism
Media Giraffe Project/New England News Council
ATT: Bill Densmore, Director
Norman Sims, Professor
University of Massachusetts (Amherst), Department of Journalism
Ralph Whitehead, Jr., Professor
University of Massachusetts (Amherst), Department of Journalism
Gary Gilson, Executive Director, Minnesota News Council
Knight Foundation
ATT: Eric Newton, Director of Journalism Initiatives
Gary Kebbel, Journalism Initiatives Program Officer
Ellen Hume, Director/Center on Media and Society, University of Massachusetts (Boston)
The Press
The Public

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PRESS RELEASE #1: 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 -- accessible *via* the sidebar panel, "Suing The New York Times".

* 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.

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PRESS RELEASE #2: June 9, 2006 onward

PUBLIC INTEREST LAWSUIT vs THE NEW YORK TIMES SEEKS JUDGMENT AGAINST IT, INCLUDING REMOVAL OF ITS FRONT-PAGE MOTTO “ALL THE NEWS THAT’S FIT TO PRINT” AS A FALSE AND MISLEADING ADVERTISING CLAIM

How does the great and mighty New York Times litigate when sued? Are the standards of “quality” and “excellence” that supposedly mark its journalism manifested in its legal submissions as well?

These questions are answered in motion papers filed by the non-profit, non-partisan citizens’ organization, Center for Judicial Accountability, Inc. (CJA), and its director, Elena Ruth Sassower, plaintiffs in the first-ever public interest lawsuit against The Times, suing it for journalistic fraud in connection with its news reporting and editorializing. Their papers – responding to a Times motion to dismiss the lawsuit – demonstrate that The Times’ motion, “from beginning to end and in virtually every sentence”, “flagrantly falsifies, omits, and distorts the [lawsuit’s] allegations and cites law that is either inapplicable by reason thereof or [itself] falsified and distorted”.

Based thereon, plaintiffs have requested maximum costs and sanctions against Times attorneys and the named Times defendants they represent – among them, Publisher Arthur Sulzberger, Jr., Executive Editor Bill Keller, Managing Editor Jill Abramson, and Public Editor Byron Calame – as well as disciplinary referrals against Times attorneys and their disqualification. Indeed, plaintiffs’ showing is so resounding that they have cross-moved for summary judgment on their three causes of action and, as part thereof, removal of The Times’ front-page motto “All the News That’s Fit to Print” as a false and misleading advertising claim. All of this is in addition to a default judgment against non-appearing Times defendants, including Daniel Okrent, The Times’ first Public Editor.

The papers in this historic lawsuit – seeking money damages of \$906,000,000 – are posted on CJA’s website, www.judgewatch.org – accessible *via* the sidebar panel, “Suing The New York Times”. This includes the lawsuit’s verified complaint, chronicling The Times’ pattern and practice of election-rigging for Senator Hillary Rodham Clinton and New York Attorney General Eliot Spitzer creating their anticipated landslide victories this November.

* 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.

Subject: "Answering Back" to The New York Times

Date: 2/8/2006, 12:26 PM

From: Elena Ruth Sassower <judgewatchers@aol.com>

To: pressthink@journalism.nyu.edu

Organization: Center for Judicial Accountability, Inc.

Dear Professor Rosen,

A propos of your comments in the January 2nd New York Times article, "*Answering Back to the News Media, Using the Internet*", our non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA), has long been doing just that -- and in a rather extraordinary fashion.

I invite you to see this for yourself. Our many, many paper trails of correspondence with the press, documenting its "suppression, protectionism, and blackballing", are posted on our website, www.judgewatch.org, accessible *via* the sidebar panel, "Press Suppression".

Most spectacular of these is our paper trail of correspondence with The New York Times, posting our voluminous 15-year exchange, including letters and complaints to its publisher, executive editors, managing editors, standards editor, public editors -- now culminating in a groundbreaking lawsuit, as to which The Times has been DUCKING SERVICE. A separate sidebar panel, "Suing The New York Times" will provide the public with a front-row, inside view of The Times-- as to which, in the meantime, CJA's July 29, 2005 letter to Times Executive Editor Bill Keller gives the pertinent outline.

This unprecedented public interest lawsuit should be of particular interest to you -- in view of your commitment to "civic journalism" and to democracy that is more than the "ghost" it has become. I would greatly appreciate the opportunity to speak with you about it -- and, of course, to give you -- and your students -- the lead before contacting other media journalists, blogs, and academic institutions. I can be reached at 914-421-1200.

Thank you.

Elena Sassower, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Subject: Do You Want the Lead on our Public Interest Lawsuit vs The New York Times?

Date: 2/19/2006, 6:00 PM

From: Elena Ruth Sassower <judgewatchers@aol.com>

To: pressthink@journalism.nyu.edu

Organization: Center for Judicial Accountability, Inc.

Dear Professor Rosen,

As I have received no response to my February 8th e-mail, I am sending it yet again -- at the bottom of this e-mail.

By way of update, our public interest lawsuit against The New York Times -- which we believe to be the FIRST lawsuit against it for journalistic fraud -- has now been served upon The Times by a summons with notice. It is posted on our website, www.judgewatch.org, conveniently accessible via the NEW sidebar panel, "Suing The New York Times". Also posted is the law review article that inspired our journalistic fraud cause of action, "*Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence*" by Professors Clay Calvert & Robert Richards, co-directors of the Pennsylvania Center for the First Amendment at Pennsylvania State University.

Are you familiar with the law review article? And are you familiar with The Times' track record with respect to the more recognized cause of action for libel? -- upon which we are also suing The Times. According to New York Times Company Assistant General Counsel George Freeman -- your colleague in New York University's journalism department --

"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".

If you have already examined our 15-year correspondence with The Times, posted on our website, you can see why our lawsuit has the potential to BOTH break The Times' all-too-perfect (if true) record as to libel AND establish journalistic fraud as an appropriate cause of action in the extreme circumstances as at bar. More irreparably damaging for The Times, however, is that our soon-to-be-served verified complaint, which tracks this extraordinary correspondence, provides an unprecedented "window" into The Times -- at all levels -- one that resoundingly put to rest a panoply of myths and an endless stream of rhetoric about its integrity and excellence -- and about the changes and safeguards it put in place following the Jayson Blair scandal. Indeed, its establishment of the office of public editor has only exacerbated The Times' journalistic fraud, including election-rigging -- which is why Daniel Okrent and Byron Calame are named defendants.

I cannot delay much longer in reaching out to other media critics, First Amendment scholars, and bloggers about this groundbreaking lawsuit. Therefore, please advise as to your interest by Wednesday, February 22nd. If you want the lead, I would be grateful if you would telephone me directly.

Thank you.

Elena Sassower, Coordinator
Center for Judicial Accountability, Inc. (CJA)
(914) 421-1200

Subject: First-of-its-kind public interest lawsuit vs NYT in vindication of the First Amendment

Date: 3/22/2006, 12:56 PM

From: Elena Ruth Sassower <judgewatchers@aol.com>

To: pressthink@journalism.nyu.edu

Organization: Center for Judicial Accountability, Inc.


Dear Professor Rosen:

This follows up my unresponded-to February 8th and February 19th e-mails to you, offering you and your students "the lead" on CJA's public interest lawsuit against The New York Times. This, because of your commitment to "civic journalism" and to democracy that is more than a "ghost" in the "media machine".

The Times was served with the Verified Complaint yesterday (by mail) and I am now reaching out to media journalists with the following announcement:

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.

Attached is the press release about this politically-explosive lawsuit, summarizing The Times' election-rigging that has created the landslide candidacies of Senator Hillary Rodham Clinton and NY Attorney General Eliot Spitzer, among others. The release is also posted on the website, www.judgewatch.org, accessible via "Latest News" and "Suing The New York Times".

 [press-release-3-22-06.pdf](#) (99KB)

I look forward to hearing from you yet.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
914-421-1200

Subject: On Transparency: How The NYT Litigates When Sued

Date: 6/9/2006, 10:04 AM

From: Elena Ruth Sassower <judgewatchers@aol.com>

To: pressthink@journalism.nyu.edu

Organization: Center for Judicial Accountability, Inc.


TO: Professor Jeffrey Rosen ("Pressthink")


A *propos* of your April 4, 2006 "Pressthink" column, "*No End to Any Argument: Keller on Transparency*", whose first sentence identifies that you are among a group of "New York Times watchers", I would appreciate a list of other "New York Times watchers" so that I can include them in my outreach to secure coverage of the unfolding public interest lawsuit against The Times for "journalistic fraud". To date, I have sent you three e-mails about this groundbreaking, politically-explosive lawsuit (February 8th, February 19th, March 22nd) -- with no response.

This is now the fourth -- and further solicits your coverage:

How does the great and mighty New York Times litigate when sued? Are the standards of "quality" and "excellence" that supposedly mark its journalism manifested in its legal submissions as well?

These questions are dramatically answered by the *first-ever* public interest lawsuit against The Times for "journalistic fraud" -- where its litigation misconduct has resulted in a motion by plaintiffs for sanctions against it -- and for such other resounding relief as summary judgment, including removal of The Times' front-page motto "All the News That's Fit to Print" as a false and misleading advertising claim.

Attached is the Center for Judicial Accountability's press release (#2) about the extraordinary posture of the case.  [press-release-2.pdf \(86KB\)](#)

Also attached, CJA's first press release, sent you 2-1/2 months ago, summarizing the lawsuit's electorally-explosive and fully-documented allegations as to The Times' election-rigging for Senator Hillary Rodham Clinton and New York State Attorney General Eliot Spitzer, among others.  [press-release-1.pdf \(101KB\)](#)

Full details --including copies of the court submissions in the case -- are posted on CJA's website, www.judgewatch.org, accessible *via* the sidebar panel "Suing The New York Times".

Elena Sassower, Director & Plaintiff
Center for Judicial Accountability, Inc. (CJA)
Tel: 914-421-1200

Subject: First-of-its-kind public interest lawsuit vs NYT in vindication of the First Amendment

Date: 3/22/2006, 5:53 AM

From: Elena Ruth Sassower <judgewatchers@aol.com>

To: jeff@buzzmachine.com

Organization: Center for Judicial Accountability, Inc.

TO: Jeff Jarvis (a.k.a. "www.buzzmachine.com)


Bravo on your truly impressive "Disclosure" statement.

Notwithstanding your New York Times' ties, your role as "a national leader in the development of online news, blogging, and other forms of citizen journalism", as well as your position as director of the new media program at CUNY Graduate School of Journalism, compels me to bring to your attention that The 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.

Attached is the press release about this politically-explosive lawsuit, summarizing The Times' election-rigging with respect to the candidacies of Senator Hillary Rodham Clinton and Attorney General Spitzer, among others. The release is also posted on the website, www.judgewatch.org, accessible via "Latest News" and "Suing The New York Times".

If you are too conflicted to handle this newsworthy story, kindly pass it on to your colleagues.

Thank you.

 [press-release-3-22-06.pdf \(99KB\)](#)

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
914-421-1200

Subject: On Transparency: How The NYT Litigates When Sued

Date: 6/9/2006, 10:35 AM

From: Elena Ruth Sassower <judgewatchers@aol.com>


To: jeff@buzzmachine.com

Organization: Center for Judicial Accountability, Inc.


TO: Jeff Jarvis (a.k.a. "www.buzzmachine.com)

How does the great and mighty New York Times litigate when sued? Are the standards of "quality" and "excellence" that supposedly mark its journalism manifested in its legal submissions as well?

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Elena Sassower, Director & Plaintiff
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