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January 19, 2006

David E. McCraw, Senior Counsel
The New York Times Company
229 West 43rd Street
New York, New York 10036

RE: Arranging Service of Process Pursuant to the CPLR
Sassower, et al. v. The New York Times Company, et al.

Dear Mr. McCraw:

This responds to your January 17th e-mail.

There is no basis for you to "remain uncomfortable discussing legal issues with a pro se plaintiff". My January 13th letter -- as my November 4th letter before it -- make perfectly evident that I am well familiar with CPLR provisions governing service. Moreover, there are no "legal issues" that need to be discussed. Rather, all that is required are your answers to straightforward factual questions, which "the legal department of *any reputable corporation* would answer...immediately" -- and which you have still NOT answered.

So that the record is clear, your e-mail ignores -- as if they do not exist -- my straightforward questions as to service of process upon The New York Times Company and The New York Times, pursuant to CPLR 311(a)(1). The question as to whether, pursuant to CPLR 311(a)(1), The New York Times Company has authorized its Legal Department to accept service for the corporation does not require discussion. It is either yes or no. Likewise, my question as to the names of the persons who fill the positions which CPLR 311(a)(1) expressly designates as capable of accepting service for the corporation does not require discussion. It requires only their names.

If you do not believe that you have a professional obligation to answer these two questions -- and that Times readers, as well as Times Company shareholders, would reasonably expect you to answer them -- I will turn to Mr. Watson for his supervisory oversight. At the same time -- and since you do not deny that Mr. Watson, as Senior Vice President and "Secretary of the Company", is "an officer", capable of receiving service for the corporation under CPLR 311(a)(1) -- I will make arrangements directly with him for such service of process as my January 13th letter asked you to arrange.

As to service of process on the individual defendants, your response is in bad-faith and disingenuous in multiple respects. Most importantly, neither my January 13th letter, nor my November 4th letter, nor even my November 1st letter asked whether the individual defendants had "authorized anyone in the Legal Department to accept service on their behalf" – and CPLR 308(1) and (2), the sections to which my January 13th letter expressly refers -- do not depend on any "authoriz[ations]" by them, which would be pursuant to CPLR 308(3).

As you well know, CPLR 308(2) provides for personal service upon individual defendants:

"by delivering the summons within the state to a person of suitable age and discretion at the actual place of business...of the person to be served and by...mailing the summons by first class mail to the person to be served at his or her actual place of business...."

I, therefore, asked you to confirm – beginning with my November 4th letter, citing CPLR 308(2) and quoting its pertinent language – that 229 West 43rd Street, New York, New York 10036 is the "actual place of business" of all defendants except Mr. Okrent. Here, too, there is nothing to "discuss". The answer is either yes or no – and I have no doubt but that Times readers and Times Company shareholders would find it shocking and shameful that you have also wilfully failed to provide this answer.

As for Mr. Okrent – the only defendant for whom I had no business telephone number – my January 13th letter closed by stating:

"if The New York Times Company is unwilling to provide me with his address or telephone number – information plainly not available to me from the CPLR or a lawyer – it should be professional enough to set that forth and the reasons therefor."

So that there is no ambiguity on the subject, if your answer to that question is that Mr. Okrent has "not authorized anyone in the Legal Department...to provide plaintiffs with [his] address[]", are you saying that you contacted Mr. Okrent with respect to this lawsuit and that he instructed you not to inform us of his "actual place of business, dwelling place or usual place of abode – or a telephone number for him". And does the Legal Department, in fact, require "authoriz[ation]" from Mr. Okrent to provide us with his (publicly available) telephone number so that we may call him directly about appropriate arrangements for service upon him of a lawsuit that could easily have been averted but for his fraud and misfeasance as The Times' first public editor.

Finally, if you actually believed the lawsuit is "time-barred and frivolous", you would not be trying to dodge, thwart, and sabotage service, as you plainly have – and, together with Mr. Freeman, attempting to discourage and intimidate me and "attorneys who assisted in commencing the action". Indeed, if the reason you did not respond to my November 4th letter regarding service was because you hoped to thereby delay me from taking steps, pursuant to the CPLR, to prevent the libel claims from being

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"time-barred", you did not succeed

That these libel claims are not "frivolous" and "sanction[able]" should be obvious to you from Mr. Freeman's failure and refusal to respond to the underlined informational inquiries of my December 14th letter to him. If you disagree, you should respond to those underlined inquiries yourself – beginning with whether you have read my July 29, 2005 letter to Mr. Keller and its accompanying 18-page analysis of Mr. Fuchs' knowingly false, defamatory, and cover-up November 7, 2004 column, "*When the Judge Sledgehammered The Gadfly*". Indeed, evident from appropriate review of my July 29, 2005 letter – and the underlying documentary evidence to which it refers – is that the Legal Department should be worrying about more than the libel claims.

Please respond by 5:00 p.m., tomorrow, Friday, January 20th, as I will otherwise be turning to Mr. Watson, once again for his supervisory oversight, as well as for purposes of arranging service – first and foremost upon The New York Times Company of which he is "an officer".

Thank you.

Yours for a quality judiciary
and responsible journalism,



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

cc: Eli Vigliano, Esq.