

**AS AND FOR A FOURTH CAUSE OF ACTION:
INSTITUTIONAL RECKLESS DISREGARD FOR TRUTH**¹⁵

80. Plaintiffs repeat, reiterate, and reallege paragraphs 1-79 with the same full force and effect as if more fully set forth herein.

81. The position of “**READERS’ REPRESENTATIVE**” was intended to ensure the integrity of The Journal News’ journalism.

82. The abolishment of that position by Defendant GANNETT and/or Defendant Journal News, or at very least their failure to staff it, cannot be seen as having journalistic justification. Such decision, irrespective of whether it was failure to staff or abolition of the position, was financially-driven, impelled by a desire to increase defendant GANNETT’s renowned profit margin¹⁶.

¹⁵ This Fourth Cause of Action is based on the law review article, “*Institutional Reckless Disregard for Truth in Public Defamation Actions against the Press*”, 90 Iowa Law Review, 887 (2005), by Professors Randall P. Bezanson and Gilbert Cranberg, who proposed it as a means for fostering media accountability. Its recognition is consistent with *Brown v. State of New York*, 89 N.Y.2d 172, 181-182 (1996): “new torts are constantly being recognized” and treatise authority, The Law of Torts, Vol. 1, Dobbs, Hayden, Bublick (2nd ed. 2011) §1, at 2. “...Tort law is predominantly common law. That is, judges rather than legislatures usually define what counts as an actionable wrong and thus as a tort.; they also define how compensation is to be measured and what defenses may defeat the tort claim.”

* * *

WHEREFORE, plaintiffs demand trial by jury and respectfully pray for judgment in their favor against defendants as follows:

As to the First and Second Causes of Action: Libel and Libel Per Se

(a) awarding plaintiffs compensatory damages from defendants in the sum of Five Million Dollars (\$5,000,000)¹⁷ – such including, as mitigation damages:

(i) the costs plaintiffs incurred in preparing their analysis of “*Hecklers try to derail new judge*”/“*White Plains woman heckles city judge during confirmation*” and their retraction demands based thereon (Exhibits 7, 6, 8, 9);

(ii) plaintiffs’ attorneys’ fees, costs, and disbursements of this action, necessitated by defendants’ willful failure to respond to plaintiffs’ analysis and retraction demands¹⁸;

(b) awarding plaintiffs punitive or exemplary damages from defendants in the sum of Fifteen Million Dollars (\$15,000,000)¹⁹ for the knowing and deliberate lies, smears, and character assassination of defendants’ unretracted news article, maliciously causing the individual plaintiffs to suffer stress, derision, degradation, humiliation, isolation and stigma, affecting them both physically and emotionally, and adversely impacting upon the corporate plaintiff, reputationally, financially, and developmentally.

¹⁶ See ¶6(a) of the Complaint.

¹⁷ No special damages are required to be pled or proved, as defendants’ defamation was not slander, but libel, *Matherson v. Marchello*, 473 N.Y.S.2d 998, 1001, 1004 (2nd Dept. 1984), and libelous *per se*, *Gallo v. Montauk Video, Inc.*, 178 Misc.2d 1069 (Appellate Term-2nd Dept, 1998), 44 *New York Jurisprudence 2nd*, §224 “Compensatory or actual damages”; disparaging them in their profession, *Porcari v. Gannet Satellite Information Network, Inc.*, 50 A.D.3d 993, 994 (2nd Dept. 2008).

¹⁸ *Metropolitan Opera Associations v. Local 100, et al*, 2005 U.S. Dist. LEXIS 14422.

¹⁹ 44 *New York Jurisprudence 2nd*, §225 “Punitive or exemplary damages”; §226 “Punitive or exemplary damages – Necessity of actual damages”: “Punitive damages may be awarded for defamation even without compensatory or actual damages.”

As to the Third Cause of Action: Journalistic Fraud

(a) awarding plaintiffs, on behalf of themselves and the public, compensatory damages from defendants in the sum of Eight Million Dollars (\$8,000,000) for the journalistic fraud defendants committed – such including recompense for:

(i) costs plaintiffs incurred in good-faith reliance on The Journal News' policy of "ACCURACY" and "Corrections", enforced by a "READERS' REPRESENTATIVE" (Exhibits A-1, 4a, 4b) in preparing their analysis of "*Hecklers try to derail new judge*" / "*White Plains woman heckles city judge during confirmation*" and their retraction demands based thereon (Exhibits 7, 6, 8, 9);

(ii) monetary injuries to plaintiffs resulting from defendants' fraud upon the public by its willful concealment of the corruption of the process by which Judge Hansbury was reappointed to White Plains City Court – among these: the monies Judge Hansbury wrongfully deprived plaintiff ELENA SASSOWER by his two fraudulent judicial decisions in *John McFadden v. Elena Sassower* (White Plains City Court Index #SP-1502/07), *to wit*: (a) up to \$1,000,000 on her four Counterclaims; (b) costs and sanctions under 22 NYCRR §130-1.1 *et seq.*; and (c) treble damages under Judiciary Law §487, as well as the money injuries plaintiff DORIS SASSOWER suffered from Judge Hansbury's misconduct in a separate case – all injuries which plaintiffs were unable to redress due to defendants' concealment, ongoing to the present, of this and related corruption;

(b) awarding plaintiffs, on behalf of themselves and the public, punitive or exemplary damages from defendants in the sum of Twenty-Two Million Dollars (\$22,000,000) for their journalistic fraud – such including the pattern and practice of journalistic fraud underlying "*Hecklers try to derail new judge*" / "*White Plains woman heckles city judge during confirmation*" (Exhibits A-1, A-2), expressly referred-to by plaintiffs' July 14, 2009 retraction demand (Exhibit 6) and "amply document[ed]" and objected-to by their nearly 22-year correspondence and complaints, without redress from

defendants, culminating in the continued fraud of their unretracted news article.

As to the Fourth Cause of Action: Institutional Reckless Disregard for Truth

(a) assessment of any of the foregoing damages as part of this cause of action, to the extent warranted by the evidence adduced.

Such other and further relief as may be just and proper, including attorneys' fees, costs, and disbursements of this action.



ELENA RUTH SASSOWER, *Pro Se*
Individually & Acting *Pro Bono Publico*

Dated: December 20, 2011
Southampton, New York

Attorney for DORIS L. SASSOWER, Individually and as President of the Center for Judicial Accountability, Inc., ELENA RUTH SASSOWER, as Director of the Center for Judicial Accountability, Inc, and CENTER FOR JUDICIAL ACCOUNTABILITY, INC., Acting *Pro Bono Publico*

Dated: December 20, 2011
New York, New York