

THE  
WESTCHESTER



GUARDIAN

PRESORTED  
STANDARD  
PERMIT #3036  
WHITE PLAINS NY

Vol. IV NO XLXXIV

*Westchester's Most Influential Weekly*

Thursday, October 21, 2010

*"Freedom of the Press is Alive and Well!"*



**The Honorable Cathy Seibel**



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## LAW



# Gannett's Journal News Sued for Libel &

By Elena Ruth Sassower

As *The Westchester Guardian* celebrates its \$8 million

First Amendment victory, another First Amendment case, suing for \$50 million, is just beginning. It is a public interest lawsuit against Gannett's *Journal News* for violating its First Amendment responsibilities by knowingly false reporting and editorializing, misleading the public on issues of legitimate public concern, thwarting reform, and rigging elections.

The case has been brought by the Center for Judicial Accountability, Inc. (CJA), a national, non-partisan, non-profit, citizens' organization, born and based in White Plains. For two decades, the *Journal News* has willfully suppressed CJA's groundbreaking accomplishments in documentarily establishing the corruption of the processes of judicial selection and discipline – and of the judicial process itself – while simultaneously defaming, denigrating, and besmirching CJA's co-founders, who are its director and president.

Exemplifying this is the news article that is the subject of the lawsuit. Published on May 6, 2009 at the top of page 3 of *The Journal News* and headlined "Hecklers try to derail new city judge", with identical content on its lohud.com website, but a different headline, "White Plains woman heckles city judge during confirmation", the article purported to describe what took place at the White Plains Common Council meeting at which White Plains City Court Judge Brian Hansbury was reappointed to the White Plains City Court. The purported "hecklers" were myself and my mother – yet each of us was, in fact, completely silent "during confirmation" of Judge Hansbury. Indeed, the Mayor and Common Council refused to permit public comment on Judge Hansbury's fitness and the judicial appointments process "during" the Common Council meeting at which he was confirmed – presumably because Common Council meetings are televised live on the City's public access channel for the public to see, with the recorded video thereafter repeatedly re-televised.

Our public comment was therefore

relegated to the untelevised "citizens' half-hour" preceding the Common Council meeting, where speakers are limited to three minutes. The news article gave not a single quote of what we said, resorting, instead, to disparaging characterizations, framed by irrelevant and false embellishments, to conceal its serious and substantial nature. What we stated was that Judge Hansbury's on-the-bench corruption was established by casefile evidence which we had delivered to the Mayor's office six weeks earlier – and that such documentary evidence, together with our correspondence about it to the City's Corporation Counsel, Mayor, and Common Council, had apparently been withheld from the Judicial Review Committee, whose purpose – under the White Plains Code – is to evaluate suitable candidates for judicial appointment.

To further diminish our credibility, the article stripped us of the professional credentials by which we had identified ourselves in our comment and correspondence as CJA's co-founders and director and president. Indeed, the article never mentioned CJA, thereby making it additionally appear that we were merely private litigants with no larger issue or constituency.

*The Journal News* reporter who wrote the article was fully aware of the true facts. He personally heard what we said in the citizens' half hour and thereafter came up to us and received, in hand, our six-week correspondence with the City's Corporation Counsel, Mayor, and Common Council, about which we had spoken. Yet, to avoid writing about what we had publicly said – all corroborated by the referred-to casefile and correspondence – the reporter telephoned me the next day, asking me to supply him with personal and irrelevant information. His response to my query as to whether he had read the correspondence we had given him was to complain that it was "all about process" and to arrogantly tell me he would decide what to write as a story.

Likewise, his editor at *The Journal News* was aware of the true facts – because after my unsettling phone conversation with the reporter, I immediately

telephoned the editor. I then memorialized my conversation with him in e-mails, the first of which stated:

"...So that there is no confusion as to what [the reporter] is writing about Judge Hansbury's reappointment yesterday: The story that he should be presenting to *Journal News* readers is about the process by which White Plains gets its City Court judges – about which I spoke yesterday in the citizens' portion of the Common Council meeting, at which [the reporter] was present. DOES HE HAVE A TAPE?"

The story is NOT about the particulars of the 'landlord-tenant' case that was before Judge Hansbury, which is what [the reporter] wanted to know about when he phoned me, importuning me to answer why my 'landlord' wanted to evict me. How outrageous!

The only thing that readers need to know about that case is what I stated at the hearing – (1) that I have direct, first-hand experience of Judge Hansbury's corruption on the bench – and that his corruption, along with that of Judge Friia, resulted in my being dispossessed from my home of 21 years. Specifically, Judge Hansbury rendered two fraudulent decisions in the case, unfounded in fact and law and knowingly so – and such is verifiable from the casefile record, a copy of which I hand-delivered to the Mayor's office, along with a copy of my perfected appeals therefrom, on March 23rd under a letter of that date.

I provided [the reporter] with a copy of that important March 23rd letter to the Mayor, as likewise [my other letters to the Mayor, Corporation Council, and Common Council]. These are a breathtaking WINDOW into the COMPLETELY-CLOSED judicial appointment process to the White Plains City Court. They are all also posted on CJA's website, [www.judgewatch.org](http://www.judgewatch.org), accessible via the top panel 'Latest News', which links to a webpage entitled 'The Corruption of the Judicial Appointment Process to White Plains City Court'. Accessible from that webpage are

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# Journalistic Fraud in New First Amendment Case

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the substantiating casefile record and appellate briefs DOCUMENTARILY ESTABLISHING the fraudulence of Judge Hansbury's two judicial decisions.

Among the serious questions that [the reporter] should be investigating for *Journal News* readers is whether – as I stated at the Common Council meeting yesterday – such corroborating casefile, as likewise my correspondence, was withheld from the Judicial Screening Committee, thereby rendering its (confidential) report endorsing Judge Hansbury's appointment, VOID and a NULLITY.

I look forward to working with *The Journal News* in developing an expose of how White Plains gets its City Court judges. Mine is NOT the only case of Judge Hansbury's corruption. My mother also sought to present at yesterday's

meeting as to a case involving her[] Indeed, as part of the appointment process, White Plains should have – but did not – solicit public comment about Judge Hansbury's performance on the bench, including by notices in the *Journal News* and elsewhere.

Indeed, White Plains also did not advertise the vacancy in the *Journal News*. How many lawyers do you think applied – & were passed over in favor of Judge Hansbury? – the only candidate nominated at yesterday's Common Council meeting."

The *Journal News*'s knowingly false and defamatory news article was published the next day, with readers of its lohud.com website invited to post comments. Of the six comments, four were unfavorable, including "This nut belongs in the loony bin, plain and simple."; "Doris there are meds for this."; "Here is a picture of

the nutjob...and of her mother". A single comment was favorable: "I wish more people would make their way to City Hall and speak their minds. Take your Gov't back people." Another single comment sought more information: "Was she unavailable for comment for this article? Did she give any reasons for the things she was saying? What are the specifics?"

As *Journal News* readers will know, page 3 of the newspaper – the same page as the news article appeared – contains a column entitled "HOW TO REACH US", listing the various editors and, at that time, a heading in bold, capitalized type entitled "READERS' REPRESENTATIVE," beneath which was stated:

"If you have any questions or concerns about anything you see in *The Journal News* or about our journalistic standards and practices, please contact: Reader

Services Editor..."

Directly opposite, on the newspaper's page 2, is *The Journal News*' masthead with a section entitled "ACCURACY", also in bold, capitalized type, under which was then stated:

"Accuracy, fairness and balance are important to us. It is the policy of *The Journal News* to promptly correct errors. To report an error or clarify a story, please direct your call to the readers' representative..."

In fact, *The Journal News* did not then have a "Readers' Representative" – as we learned upon telephoning to complain about the article. Our complaint, by letter dated July 14, 2009, was, therefore, addressed directly to the newspaper's Senior Managing Editor. It requested that the knowingly false and defamatory news article be retracted and a

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journalistic expose written about the issue of legitimate public concern it has purposefully concealed – "the corruption of the judicial appointment process by which White Plains gets its City Court judges, as established by primary-source documentary evidence". In support, we enclosed a fact-specific 15-page analysis of the article, whose annexed exhibits included the same correspondence to the Corporation Counsel, Mayor, and Common Council as had been the focus of our public comment in the "citizens' half-hour" and that we had given to the reporter, in hand.

*The Journal News*' response was NOT to "promptly correct errors". In fact, it did not respond at all. Neither did it respond a month later when we wrote a second letter, advising that we had received no response to our complaint. Finally, on October 26, 2009, with the elections for Mayor and Common Council fast approaching, I telephoned the Senior Managing Editor, who stated that she believed that *The Journal News*' Editor & Vice President for News had responded. I told her we had received nothing from him and the next day memorialized that in an e-mail, a copy of which I sent to the Editor & Vice President for News. It closed, as follows:

"Voters must be IMMEDIATELY informed of the true facts and important

issues suppressed by the May 6, 2009 article so that they can intelligently cast their votes for Mayor and Common [C]ouncil in the upcoming election, now only a week away. Likewise, *The Journal News* editorial board must be informed so that its editorial endorsements may alert voters to the flagrant betrayal of public trust and responsibilities by Common Council members seeking re-election and mayoral office.

As in the past, I and CJA's President & Co-Founder, Doris L. Sassower, are ready to assist *The Journal News* in discharging its First Amendment obligations to the public..."

There was no response from *The Journal News*, leaving us no choice but to bring a lawsuit to vindicate our rights – and that of the public – injured by its fraudulent journalism.

The Verified Complaint, served earlier this month, is posted on CJA's website, [www.judgewatch.com](http://www.judgewatch.com), accessible via the top panel "Latest News". Prefacing its allegations are two quotes – the first of which are words of U.S. Supreme Court justices, reflective of what countless decisions of that Court recognize as the purpose of the freedom of the press conferred by the First Amendment:

"The First Amendment goes beyond protection of the press... 'it is the right of the [public], not the right of the [media] which is paramount,' ...for 'without the

information provided by the press most of us and many of our representatives would be unable to vote intelligently or to register opinions on the administration of government generally".

In keeping therewith, the Verified Complaint presents, not just causes of action for libel, but, on behalf of the public, a cause of action for journalistic fraud, stating:

"66. The news article...is a journalistic fraud, intended to mislead the public into believing that in reappointing Judge Hansbury to White Plains City Court, the executive and legislative branches of White Plains City government were properly functioning and safeguarding its welfare, when they were not.

69. Such journalistic fraud is all the more egregious as it not only allowed a demonstrably corrupt White Plains City Court judge – and collusive fellow judges – to continue to inflict irreparable injury upon plaintiffs and unsuspecting litigants, but allowed Common Council members

who should have been turned out of office for corruption to be re-elected in the November 2009 elections.

78. Defendant GANNETT's pattern and practice of journalistic fraud was calculated to – and did – ...deprive the public of countless opportunities to secure the good-government reforms that plaintiffs' dedicated advocacy consistently put within its grasp. Reform of the totally sham 'process' by which White Plains gets its City Court judges is but one example of the myriad of reforms that would have been achieved had defendants respected their First Amendment responsibilities."

This lawsuit is YOUR lawsuit – and we vitally need your help and support. Follow its progress on CJA's website and in this crusading newspaper. Stay tuned.

*Elena Ruth Sassower is Center for Judicial Accountability, Inc. (CJA) Co-Founder and Director.*