

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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January 20, 2004

Stuart Marques, News Editor  
The New York Sun  
105 Chambers Street  
New York, New York 10007

RE: (1) Supervisory oversight over the deficient, cover-up news reporting of Willam F. Hammond, Jr., "*Senators Confirm Smith as Member Of Court of Appeals*", (NY Sun, 1/13/04) and his unprofessional, unaccountable conduct in connection therewith  
(2) Proposal for a meeting to discuss the panoply of groundbreaking, electorally-significant stories CJA has to offer on issues of judicial selection and discipline – all readily-verifiable and fully-documented

Dear Mr. Marques:

Following up our yesterday's phone conversation, enclosed, for your convenience, are:

- (a) the January 15, 2004 Associated Press feed by Joel Stashenko, which appeared on Newsday.com as "*Why Democrats were mum on Pataki high court choice*"; and
- (b) the January 15, 2004 Gannett column, "*Smith's approval exposes flaws in the review process*" by Yancey Roy.

These two pieces reflect the beginnings of the kind of probing, intelligent journalism that The New York Sun has a right to expect from its Albany correspondent, Bill Hammond – but which it did not get by his misleading, cover-up article on the State Senate's confirmation of Robert S. Smith to the New York Court of Appeals. This specifically includes his paragraph:

“Addressing an issue raised by Democrats, Mr. Smith also declared that his contributions to Governor Pataki and other Republicans, amounting to tens of thousands of dollars in recent years, were given without any expectation of a ‘quid pro quo.’”

As discussed, the SOLE opposition testimony at the Senate Judiciary Committee’s January 12<sup>th</sup> hearing – which I presented based on reporting by The Buffalo News<sup>1</sup> -- was that federal and state campaign contributions from 1995 to 2003 showed:

“Smith and his wife have donated at least \$219,000 to Pataki and state Republican committees. That does not include tens of thousands of dollars in additional donations Smith made to federal GOP candidates and committees, including President Bush, former U.S. Senator Alfonse D’Amato, former New York Mayor Rudolph W. Giuliani, Utah Sen. Orrin Hatch, Kentucky Sen. Mitch McConnell and former senator and now U.S. Attorney General John D. Ashcroft.”

A copy of my January 12<sup>th</sup> testimony is enclosed<sup>2</sup> so that you can see for yourself precisely what I said on the subject of Mr. Smith’s campaign contributions – and my assertion that “the public is entitled” to know the “precise monetary figures” contributed. Apparently, Mr. Hammond is of the opposite view: that the magnitude of the contributions should be concealed from the public.

As to Mr. Hammond’s statement that the issue of contributions had been “raised by Democrats” – misleading readers into believing that it was “raised” where they would expect it to be, *to wit*, at the hearing – the reality is that the Senate Judiciary Committee’s Democrats said NOTHING on the subject. Indeed, they sat mutely as the Committee’s Republican Chairman, John DeFrancisco, threatened me that I would never again be permitted to testify if I did not keep

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<sup>1</sup> “Local judge bypassed for state’s highest court”, The Buffalo News, 11/5/03, Tom Precious.

<sup>2</sup> The testimony is also posted on CJA’s website, [www.judgewatch.org](http://www.judgewatch.org) – including the underlying appendix documents [*see sidebar, “Testimony”*].

quiet and return to my seat. This, because I directly inquired, after finishing my testimony, whether Mr. Smith was now going to be called upon to respond to the specific questions identified by my testimony – beginning with the precise amount of his financial contributions. Such was a moment of genuine “drama” – encapsulating the sham nature of the Committee’s hearing, readily discernible to any objective, knowledgeable observer<sup>3</sup>. Yet, including it would have required Mr. Hammond to identify my powerful championing of the public’s rights by my testimony – something he preferred to altogether conceal.

As discussed, before I turned to you, leaving phone messages on your voice mail on January 13<sup>th</sup>, January 15<sup>th</sup>, and then finally speaking with you yesterday (212-406-2000 x678), I gave Mr. Hammond the opportunity to himself address the deficiencies of his coverage. However, Mr. Hammond refused to speak with me when I phoned him on January 13<sup>th</sup> (518-465-8746) -- and would not answer my inquiries as to whether he had been at the Committee’s hearing and, if so, whether he had received a copy of my written testimony. These are pretty basic questions and Mr. Hammond gave no reason for refusing to answer them – except to concede that my previous complaints about him to Managing Editor Ira Stoll and President & Editor Seth Lipsky were a motivating factor<sup>4</sup>. As to Mr. Hammond’s response to my attempt to reason with him that “as a professional” he had a duty to rise above his personal animus, he hung up on me.

It fact, before I telephoned Mr. Hammond on January 13<sup>th</sup>, I had already gotten confirmation from him that he had been at the hearing and had received a copy of my testimony. This, because on January 12<sup>th</sup> I had spoken to him in the press room of the Capitol and had asked him these very questions. Indeed, our conversation at that time consisted of no more than his affirmative responses

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<sup>3</sup> I have already written to the Senate Judiciary Committee to request a copy of the stenographic transcript of the “hearing” – and, upon receipt, would be pleased to provide you with a duplicate so that you can more accurately assess Mr. Hammond’s coverage.

<sup>4</sup> My complaints against Mr. Hammond, arising from his suppression of an electorally-significant and readily-verifiable story proposal, “‘Scooping the Competition: Exposing the *Real* Attorney General Spitzer—not the P.R. Version”, are reflected by my correspondence with Messrs Stoll and Lipsky, posted on CJA’s website, [*see sidebar, “Press Suppression”*].

By way of supplement, when Mr. Hammond finally returned to me the documentary materials I had provided him in substantiation of the story proposal, they were in such “untouched by human hands” condition as to make obvious that Mr. Hammond had never even bothered to review the contents of the painstakingly indexed and organized file folders.

because of Mr. Hammond's obvious disinterest in discussing with me any aspect of my testimony or in inquiring as to my perspective on the confirmation proceedings, as to which he knew I had significant expertise.

I look forward to your responsible, supervisory review -- and wish to assure you that CJA remains ready to assist The Sun in "scooping" the competition with an extraordinary panoply of fully-documented, readily-verifiable, and politically-explosive stories as to the corruption of judicial selection and discipline.

As to "merit selection" to the New York Court of Appeals, a journalistic expose is long overdue. Indeed, it is now over 25 years since New Yorkers gave up their constitutional right to elect judges to our state's highest court -- without any critical examination by the press of what they got in return. Of course, this has not stopped the editorial boards of New York's most influential newspapers from advocating that such "merit selection" also replace judicial elections to the lower state courts -- and from persisting in their editorial advocacy even after being provided with and proffered the documentary proof of how corrupted and dysfunctional the Court of Appeals "merit selection" process is.

I would welcome the opportunity to meet with you personally to discuss the range of groundbreaking, electorally-significant stories CJA has to offer -- and respectfully request that a meeting be arranged for such constructive purpose.

Thank you.

Yours for a quality judiciary  
and meaningful reporting,



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

Enclosures

cc: William Hammond, Jr.

[By Fax: 518-465-9619]

**Subject: Supervisory Oversight & Future News Stories**

**Date: 1/20/2004, 4:33 PM**

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

**To: smarques@nysun.com**

**Organization: Center for Judicial Accountability, Inc.**

**To: Stuart Marques, News Editor  
New York Sun**

**From: Elena Ruth Sassower, Coordinator  
Center for Judicial Accountability, Inc. (CJA)  
Tel: (914) 421-1200**

Attached is my already faxed letter to you of today's date, with my January 12th testimony in opposition to Senate confirmation of Robert S. Smith to the NY Court of Appeals -- suppressed by Bill Hammond.

Thank you.

 [1-20-04-marques.doc \(48KB\)](#)  [1-12-04-testimony-e.doc \(60KB\)](#)

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