

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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DATE: March 10, 2006

TO: Harvard Law School Professors of Media Law & The First Amendment:
Professor Lawrence A. Tribe
Professor Richard H. Fallon

RE: Landmark Public Interest Lawsuit against The New York Times

The Center for Judicial Accountability, Inc. (CJA) is a non-partisan, non-profit citizens' organization, dedicated to ensuring that the processes of judicial selection and discipline are effective and meaningful. In furtherance of this goal – and to vindicate the public's First Amendment rights – we have commenced a landmark public interest lawsuit against The New York Times. We believe it to be 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*"¹ by Professors Clay Calvert and Robert D. Richards, co-directors of the Pennsylvania Center for the First Amendment at Pennsylvania State University.

Are you familiar with the law review article? And would you be willing to review and comment on our draft Complaint, which we must finalize within the next ten days and serve on The Times?

The law review article is posted on CJA's website, www.judgewatch.org, where it is conveniently accessible via the sidebar panel, "Suing The New York Times". This is where you'll also find our Summons with Notice, which we served upon The Times this past Valentine's Day. Additionally posted are our July 29, 2005 letter to Times Executive Editor Bill Keller, with its paragraph-by-paragraph analysis of the knowingly false, defamatory, and cover-up column, "*When the Judge Sledgehammered The Gadfly*", our follow-up August 16, 2005 memo, and our September 26, 2005 letter to Public Editor Byron Calame. From these, you can swiftly discern the outlines of our three causes of action for libel, libel *per se*, and journalistic fraud. Clicking on the link for the "Paper Trail of Suppression, Protectionism, & Blackballing by The New York Times" will bring you to our preceding correspondence with The Times, spanning 15 years, as well as our culminating four-month correspondence with its Legal Department.

These primary source materials are a goldmine for scholarship, furnishing an unprecedented window into how The Times actually operates. They constitute "clear and convincing evidence"

¹ 14 Fordham Intellectual Property, Media & Entertainment Law Journal 1.

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of both actual and common law malice by The Times— and, beyond that, of a pattern and practice of fraudulent journalism, subverting our democracy by concealing from the public report of *readily-verifiable* evidence of systemic governmental corruption. Such involves the processes of judicial selection and discipline in which our highest public officers, including those seeking re-election or further public office, are complicitous. As chronicled, The Times' conduct is knowing and deliberate and rises to a level of election-rigging.

Upon your request for the draft Complaint, I will promptly e-mail it to you. The factual allegations essentially summarize our "Paper Trail" correspondence, beginning with our June 11, 2003 memorandum-complaint to The Times Editorial Board. What we most require now is the expertise of scholars and practitioners of media law, the First Amendment, and fraud to ensure that our three causes of action are properly pleaded, including with respect to compensatory and punitive damages.

We hope you will be excited by this historic, law-making case — and feel privileged to participate in it, in vindication of the First Amendment, which we are championing. Perhaps you can also refer us to other scholars and practitioners. We would additionally be grateful for your bringing this case to the attention of your law students, especially those searching for *pro bono* opportunities that would afford them a powerful, high-profile litigation experience.

Our ultimate goal is to assemble a top-flight legal support team. Needless to say, we are ready to offer generous recompense from the \$906,000,000 damage award our Complaint seeks -- and, by your efforts and theirs -- obtains.

Thank you.

Yours for a quality judiciary
and responsible journalism,



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