

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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*Elena Ruth Sassower, Coordinator*

BY E-MAIL: [mlondon@paulweiss.com](mailto:mlondon@paulweiss.com)  
BY FAX: 212-373-2037 (5 pages)

November 17, 2005

Martin London, Esq.  
Paul, Weiss, Rifkin, Wharton & Garrison, LLP  
1285 Avenue of the Americas  
New York, New York 10019-6064

RE: Legal assistance for an already-commenced lawsuit against The New York Times for libel & journalistic fraud

Dear Mr. London,

It was a genuine privilege to hear your powerful comments at yesterday's program, "*Freedom of the Press or License to Libel: Balancing Freedom of the Press with an Individual's Right to Protect 'A Good Name' from Defamatory Statements*", sponsored by the New York University Law School Alumni Association. Your brutal "on-the-ground" description of the harsh realities confronting an individual defamed by the press reflect what I have been facing – and I so-stated from the audience microphone.

**In substantiation of your assertion that The New York Times is "stubborn, arrogant, and holier than thou",** responding to George Freeman's claim that The Times has a "strong policy" of correcting factual errors and readily does so "irrespective of whether it increases or decreases the chances of being sued", I recounted that The Times had not even given me the courtesy of a response to a letter I had written for correction of a column about me, which I had demonstrated to be knowingly false and defamatory throughout and which I had addressed to Bill Keller, with copies to Arthur Sulzberger, Jr., Jill Abramson, and Allan Siegal, among others. As for Byron Calame, to whom I thereafter turned, I related that his response was that since the column had been published before he began his tenure as Public Editor, he would not get involved.

**In substantiation of your assertion that libel plaintiffs are "much worse today since *Times v. Sullivan*",** I recounted that when I subsequently turned to the Legal Referral Service of the Association of the Bar of the City of New York, which is run jointly with New York County Lawyers Association, I could not obtain a referral to a single lawyer for a lawsuit against The Times -- notwithstanding the combined membership of these two bar associations is over 30,000 lawyers. The reason for this, according to the City Bar's counsel, is that since *Times v. Sullivan* lawyers have been unwilling to bring libel cases against the press.

At the reception afterwards, a lawyer told me that a colleague sitting next to him, hearing what I said at the microphone, had commented that he expected that you would have publicly offered to represent me *pro bono*. I explained to him that you had told me that you were retiring – when I approached you after the program's conclusion, but that you had agreed to help me in locating legal assistance, stating that if I sent you a request in writing, you would respond.

This is my written request – and supplements the copy of the law review article, “*Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence*”, 14 Fordham Intell. Prop. Media & Ent. L.J. 1 (2003), which I gave you, *in hand*, after you stated you were unfamiliar with it.

In the interest of economy, enclosed is the summary of the lawsuit against The Times, which I e-mailed to the City Bar on October 14<sup>th</sup> and then again on October 21<sup>st</sup>, and for which I received not a single legal referral.

The status of the lawsuit is as follows: On November 4<sup>th</sup>, in the absence of any legal referrals, but with the invaluable *pro bono* legal assistance of 80-year old retired attorney Eli Vigliano, Esq., an NYU Law School alumnus (Class of '50), I met the one-year libel statute of limitations by filing a summons with notice in Supreme Court/Westchester County. Under New York law, I have 120 days in which to serve it upon The Times – after which The Times has 20-30 days to demand the complaint.

I hope to serve the summons with notice on Friday, December 23, 2005, having, in the interim, assembled a top-flight legal team with expertise in libel, the First Amendment, fraud, etc. to ensure that ALL requisite allegations are properly pleaded in the complaint I have drafted in support of the three causes of action for defamation, defamation per se, and for journalistic fraud, seeking monetary damages of \$906,000,000.

Attached is the filed summons with notice and draft complaint – a “hard copy” of which I held in my arms as I spoke from the microphone. I had hoped to give it to you yesterday, along with the complaint's annexed exhibits A-S. I will gladly deliver that “hard copy” to you, upon request, to aid in your referring this groundbreaking lawsuit to appropriate legal experts in the event you are unable to yourself provide such expert counseling.

By copy of this letter to NYU Law Professor Diane Zimmerman, moderator of yesterday's program, I likewise respectfully request her aid in locating appropriate legal experts. Upon her request, I will also deliver to her a “hard” copy of the draft complaint with its exhibits, the filed summons with notice, as well as the law review article, “*Journalistic Malpractice*”, all of which I am herewith e-mailing.

As for legal fees, I would hope that the legal experts to whom you and she refer me would be public-spirited enough to provide a complimentary consultation. Certainly, experts rendering assistance in the lawsuit -- whether working “up-front” or “behind the scenes” -- would be entitled to handsome recompense from the \$906,000,000 damages sought, over and beyond tributes and thanks from the

defrauded public which, as represented by myself and the non-partisan, non-profit Center for Judicial Accountability, Inc. (CJA), is a plaintiff. In any event, for purposes of ensuring that the complaint is properly pleaded, I am prepared to personally pay -- and in cash -- whatever consultation and expert fees are sought. I can assure you that it is "small change" compared to the financial and other sacrifices I have patriotically borne on behalf of the public interest, including the six-month incarceration featured in The Times' defamatory column.

That being said, I am gratified that Paul, Weiss, Rifkind, Wharton & Garrison, LLP -- in which you are a partner -- has an "unwavering commitment to provide pro bono legal assistance to those in need and to serve the public interest" and that, "In 2004, Paul, Weiss lawyers, summer associates, and paralegals spent more than 39,000 hours on pro bono matters". I do not believe that the requested consultation and expert assistance would require more than a handful of hours.

Again, I thank you for your superlative presentation at the NYU Law School Alumni program -- and for your anticipated assistance in locating skilled legal counsel for a case which will powerfully advance the press accountability you espoused from the dais.

Thank you.

Yours for a quality judiciary  
and responsible journalism,



ELENA RUTH SASSOWER\*, Coordinator & Co-Founder  
Center for Judicial Accountability, Inc. (CJA)

Enclosure: October 14<sup>th</sup> & October 21<sup>st</sup> e-mail to Legal Referral Service/NYC & NY Co. Bar Assoc.

Attachments: (1) filed November 4<sup>th</sup> summons with notice

(2) draft complaint

(3) "*Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence*", 14 *Fordham Intell. Prop. Media & Ent. L.J.* 1 (2003)

(4) knowingly false & defamatory NYT column, "*When the Judge Sledgehammered The Gadfly*" with line-by-line analysis

(5) July 29, 2005 coverletter to Bill Keller

cc: Eli Vigliano, Esq. (fax: 718-884-3747)

Professor Diane L. Zimmerman

(fax: 212-995-4881 & e-mail: [diane.zimmerman@nyu.edu](mailto:diane.zimmerman@nyu.edu))

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\* Daughter of NYU Law School alumna, Doris L. Sassower, Director & Co-Founder of the Center for Judicial Accountability, Inc. (Class of '55).

**Subject: Request for Legal Referral: Lawsuit vs NYT for Libel & Fraud**

**Date:** 10/21/2005, 10:19 AM

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

**To:** irs@abcny.org

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

**TO: LEGAL REFERRAL SERVICE OF THE ASSOCIATION OF THE BAR OF THE CITY OF NEW YORK & COUNTY BAR ASSOCIATIONS**

**ATT:** Clara Schwabe

Per your phone call to me moments ago -- following up on my phone call minutes earlier with Ms. Davis -- I am resending my October 14th e-mail request to which I received no response.

I greatly thank you for your assistance.

Elena Sassower

----- Original Message -----

**Subject: Request for Legal Referral: Lawsuit vs NYT for Libel & Fraud**

**Date:** 10/14/2005, 1:33 PM

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

**To:** irs@abcny.org

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

This follows up my phone conversation a short time ago with Claudia.

I require a lawyer or lawyers for a high-profile, precedent-setting public interest case against The New York Times. A summary follows:

This is a case against The New York Times for libel, arising from its November 7, 2004 publication of a column about me, "*When the Judge Sledgehammered The Gadfly*" (Front Page, Westchester Section).

By a July 29, 2005 letter to Times Executive Editor Bill Keller -- with copies to Publisher Arthur Sulzberger, Jr., etc. -- I gave notice that such column was defamatory, deliberately false and misleading, and a wilful cover-up of the major national and New York stories of corruption that The Times had long been suppressing and which had been the subject of continual complaint to The Times, over many, many years, by our non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA). Enclosed with my July 29, 2005 letter was a copy of the November 7, 2004 column and a line-by-line analysis. I requested corrective action -- and a response within three weeks, absent which I would file a complaint with Times Public Editor Byron Calame. No response was forthcoming.

On September 26, 2005, I filed a complaint with Public Editor Calame. His September 30, 2005 e-mail response was that because the column appeared before he became Public Editor, he would not address it.

The November 7, 2004 column and my line-by-line analysis -- along with the aforesaid July 29 - September 30, 2005 correspondence are posted on CJA's website, [www.judgewatch.org](http://www.judgewatch.org) [click sidebar panel: "PRESS SUPPRESSION". Scroll down to THE NEW YORK TIMES and click again.]] Examination of our posted 15-year history of correspondence with, and complaints to, The Times, culminating in the exchange pertaining to the column, will make obvious that I can readily PROVE actual malice.


It is my hope to bring this case not only in my name for libel, as well as possibly CJA's, but on behalf of the public for "journalistic fraud". This, in implementation of powerful recommendations for fostering media accountability in the 2003 law review article "*Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence*" (by Professor Clay Calvert & Robert Richards), 14 Fordham Intell. Prop. Media & Ent. L.J. 1). As CJA's posted correspondence and complaints further establish, we have over and over again given The Times notice of the damage it is inflicting upon the public and the electoral process by its demonstrably fraudulent journalism - to no avail.

For your convenience, The Times' November 7, 2004 column with my line-by-line analysis are attached, as likewise the article on "*Journalistic Malpractice*".

I thank you in advance for your assistance and such legal referrals as you are able to make.

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

 [analysis-gadfly.pdf \(1504KB\)](#)

 [JournalisticMalpractice.pdf \(1826KB\)](#)