

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, August 16, 2019 12:50 PM
To: 'Eric Reed'
Subject: LET ME HELP YOU in meeting your "professional ethics" as a journalist -- and your responsibilities to The Street

Dear Eric –

I was not expecting a response from you until Monday – and believe you should give yourself that time to reconsider each of your three e-mail responses to me, if you honestly believe that they not only answer the “substantive questions” presented by my three e-mails, but do so “fully”.

Suffice to say that your August 13th article took a detour from its subject “*How Much Do Judges Make in 2019?*” to not only inform about judicial selection, but to editorialize with respect to the selection of state judges, asserting: “electing judges to the bench has generally proven to be an unmitigated disaster” – implying the superiority of the two other “common systems” to which you cite: “appointment by the state governor, appointment by a commission” – <https://www.thestreet.com/personal-finance/how-much-do-judges-make-15046259>.

I don't know why a clarifying NOTE to your article is not in order, stating:

- (1) that such implication was NOT intended by you;
- (2) that you have been furnished with credible information that in New York – the state you identify as having the top earning state judges in the nation – the appointive process for appellate judges has been corrupted – and that the proffered evidence, accessible *via* website, has yet to be verified by you, including as relates to the January 2016 New York State Senate confirmation of New York's highest judge who heads the New York state judiciary and its top court, the New York Court of Appeals: <http://www.judgewatch.org/web-pages/judicial-selection/nys/judicial-selection-ny-difiore-menu.htm>;
- (3) that NOW before the New York Court of Appeals, on which that chief judge and six associate judges sit (*via* a touted “merit selection” appointment process involving a commission, the governor, and the state senate) is an explosive lawsuit chronicling the unconstitutionality, unlawfulness, and fraud by which the salary increases for all New York state judges were procured – and that the chief judge is a named defendant, arising from her complicity in such judicial salary increases, concealed by a “slush-fund” judiciary budget (*see*, ¶¶39-43 of appellants' May 31, 2019 motion before the Court of Appeals --& its exhibits G, H: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/5-31-19-reargument-etc.htm>);
- (4) that your article erroneously identifies the salaries of New York state judges as set by “the legislature in Albany” and “set by legislature” – when, in fact, since 2012, their salaries have been set by two commissions – whose unconstitutionality, unlawfulness, and fraud is the subject of the lawsuit;
- (5) that notwithstanding the statutes establishing these salary-raising commissions were enacted in 2010 and then in 2015, there has been NO scholarship about their constitutionality and lawfulness, either *as written*, or *as applied*, or by their enactment, **by** scholars, bar associations, “good government” organizations, or the press.

Such clarifying NOTE is your duty – and accords not only with your “professional ethics” as a journalist, but with The Street's assertion, on its website, that “Since its inception in 1996, *TheStreet.com* has distinguished itself as a trusted

and reliable source for news, analysis and information of the financial markets, economy, sector trends, investment and financial planning”: http://corporate.thestreet.com/?_ga=2.210787925.1759341019.1565874853-1352152511.1510407155. Presumably your article fits within the rubric of “sector trends”. Surely, however, The Street does not mean that it is not to be “trusted and reliable” in other areas, as well.

As The Street’s website has a contact feature for “Feedback” that opens with the words “Tell Us What You Think” for “comments, suggestions, or questions”: <https://www.thestreet.com/contact-us>, I would be perfectly willing to submit my comment and suggestion that, at very least, a clarifying NOTE to your August 13th article is in order – so that Street readers are NOT, as they currently are, misled by its content. What do you think? Shouldn’t your Street editors be weighing in on this?

Finally, as for your refusal to assist me in finding a journalist for what, by any cognizable standard, is a major, major story – essential to constitutional and lawful governance – your Street editors would plainly benefit from your assessment, as a lawyer and former litigator, of the posture of the lawsuit that the Court of Appeals has before it: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/record-ct-of-appeals.htm> – involving, as it does, not only commission-based judicial salary increases, but the unconstitutionality and unlawfulness of the ENTIRE New York State budget – currently \$175 billion dollars. The summary judgment posture of the causes of action pertaining to the whole of the budget – fourth, fifth, and ninth – will have obvious impact on “financial markets, economy, sector trends, investment and financial planning” that The Street covers. Shouldn’t you be alerting Street editors to assign an investigative reporter – preferably a lawyer/former litigator, like yourself – to seize this scoop on what is coming down the pike – and shouldn’t you be pitching it, consistent with the recipe you laid out in “*Anatomy of a Pitch*”: <http://www.thingsdangerous.com/2018/08/anatomy-of-a-pitch/>?

Please respond – on Monday, not before.

Thank you.

Elena
914-421-1200

From: Eric Reed <ericre@gmail.com>
Sent: Thursday, August 15, 2019 1:54 PM
To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>

Subject: Re: I need HELP in finding a journalist to do the "DEEP DIVE" that your August 13, 2019 article does not do

Hi Elena,

I feel that I've answered your substantive questions fully. All stories have a certain scope, which makes all stories imprecise to a certain degree. To review New York's specific judicial selection process would also require that I review this process for every state. That is beyond the scope of this piece.

Regarding your second question, it is a matter of professional ethics. Journalists are not allowed to accept compensation or gifts of absolutely any kind from sources, potential sources or subjects of a piece. Nor are we allowed to accept compensation or gifts of absolutely any kind in exchange for placing stories. To do so would create a conflict of interest. If I accepted payment from you, from that point on my readers, editors and colleagues would always have to question whether my stories were based on my own best judgment of the truth or based on a payout from someone with an interest in the issue.

I cannot help you with this. To the extent that it's useful, I also recommend that you stop offering payment to people as you approach them with this story. Most journalists will disregard your pitch out of hand as soon as you bring this up. In fact, even mentioning it is kind of offensive. It suggests that someone is open to bribery.

Good luck placing this piece.

Eric

Eric Reed

+1 860-604-1559

ericreedwriter.com

UOS, all times Eastern Standard

On Thu, Aug 15, 2019 at 12:11 PM Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org> wrote:

Dear Eric,

Thank you for your second e-mail. It is concerning to me that you do not view the "imprecis[ion]" of your August 13, 2019 article to warrant, at very least, clarification, either by an appended note or by a follow-up article.

In any event, I interpret your response: "this particular article doesn't have the capacity to go into state-by-state details at this level of granularity" to be agreement that "*How Much Do Judges Make in 2019?*" is an "informational/survey type article", NOT the "deep dive" my story proposal identifies, in its first sentence, by its question: "How about following up your informational/survey-type article with a 'deep dive' about how New York's judges became the highest paid state judges in the nation?"

As you have responded to that question by stating that you are currently busy with "several large pieces...on health reform and the banking industry", the question becomes: how can I find a journalist, preferably a lawyer, like yourself, to do the "deep dive" that my story proposal outlines?

What is objectionable about my paying a referral/finder's fee to compensate you for taking your valuable time to locate such a journalist for a story proposal whose merit and significance you do not dispute? And, if you will not accept such fee, how do I become a "private (non-media) client" who you will help by what you describe as "consultation and freelance writing"?

Please give yourself the weekend to more carefully review what is, by any objective standard, a prize-winning story proposal, essential to the preservation of constitutional governance, the rule of law, and our democracy – and to examine, perhaps for the first time, the explosive lawsuit record before the New York Court of Appeals on which it rests: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/record-ct-of-appeals.htm>. Won't you "blast" it out to your colleagues?

I would appreciate if you would call me on Monday, at your convenience.

Thank you, in advance,

Elena

914-421-1200

From: Eric Reed <ericre@gmail.com>

Sent: Wednesday, August 14, 2019 3:08 PM

To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>

Subject: Re: thank you, however -- RE: Things Dangerous "LEAD & PARTNERING UP: Your yesterday's article "How Much Do Judges Make in 2019?" (The Street, Aug. 13, 2019)

Hi Elena,

Thanks for reaching out! In regards to your specific questions:

I'm not sure I see any inaccuracies in the piece. I can certainly see how this issue might make the article imprecise, and don't disagree with you there. Yet while New York may have a different specific process for determining its judicial pay scales, ultimately this comes down to an act of the legislature determining how to allocate its budget. I'm afraid that this particular article doesn't have the capacity to go into state-by-state details at this level of granularity.

Regarding partnering and consulting, this section of my website refers to consultation and freelance writing for private (non-media) clients. I do not under any circumstances exchange coverage of absolutely any kind for payment. Please stop offering.

Thank you,

Eric Reed

+1 860-604-1559

ericreedwriter.com

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On Wed, Aug 14, 2019 at 2:58 PM Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org> wrote:

Dear Eric,

Thank you for your prompt response. However, are you unable to refer/forward this ground-breaking story proposal pertaining to a HAPPENING NOW major litigation at New York's Court of Appeals to your journalist colleagues, particularly those who are lawyers – including upon my payment to you, as part of the “partnering” and “consulting” services indicated at the bottom of each webpage of your “Things Dangerous” website: <http://www.thingsdangerous.com/>?

And, as a professional, are you unconcerned about inaccuracies in your article "*How Much Do Judges Make in 2019?*" Will you not, in any way, correct the errors, express and implicit, which my story proposal identified as appearing in the article, posted, just yesterday, by The Street, presumably promptly upon your submitting the article for its publication and payment?

Kindly review the story proposal more carefully, examining the lawsuit evidence on which it rests – and call me, if not later in the week, then on Monday of next week, to discuss the “partnering” and “consulting”

services available, for payment, if not through you, then through your journalist/media colleagues providing similar services. Surely, it would not take you long to "blast" my e-mail proposal to them so as to get things rolling in finding a journalist to investigate and report on the monumental story that is before you, so critical to government integrity and the rule of law. Please, TIME IS OF THE ESSENCE.

Thank you, in advance.

Elena
914-421-1200

From: Eric Reed <ericre@gmail.com>
Sent: Wednesday, August 14, 2019 1:58 PM
To: elena@judgewatch.org

Subject: Re: Things Dangerous "LEAD & PARTNERING UP: Your yesterday's article "How Much Do Judges Make in 2019?" (The Street, Aug. 13, 2019)"

Hi Elena,

Thank you for reaching out to me, and for reading.

I currently have several large pieces I'm working on regarding health reform and the banking industry, so I'm afraid I don't have time to pick this up. However I'll be certain to keep your group in mind if I need comment on future related pieces.

Best regards,

Eric Reed

+1 860-604-1559
ericreedwriter.com

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On Wed, Aug 14, 2019 at 12:50 PM elena@judgewatch.org <eric@thingsdangerous.com> wrote:

From: Elena Sassower <elena@judgewatch.org>

Subject: **LEAD & PARTNERING UP: Your yesterday's article "How Much Do Judges Make in 2019?" (The Street, Aug. 13, 2019)**

Message Body:

The below was sent to you, about 20 minutes ago, via your e-mail address, ericre@gmail.com, under the subject heading "LEAD & PARTNERING UP: Your yesterday's article 'How Much Do Judges Make in 2019?' (The Street, Aug. 13, 2019)". I look forward to speaking with you, at your earliest convenience, & I thank you, in advance. Elena Sassower

TO: FREELANCE JOURNALIST-NEWS & ANALYTICAL REPORTER/ATTORNEY ERIC REED

RE: Your yesterday's article "How Much Do Judges Make in 2019?" (The Street, Aug. 13, 2019)
<https://www.thestreet.com/personal-finance/how-much-do-judges-make-15046259>

How about following up your informational/survey-type article with a "deep dive" about how New York's judges became the highest paid state judges in the nation?

It is NOT, as your article reports, because their judicial salaries were set by "the legislature in Albany". Rather, since 2012, their yearly salaries have skyrocketed more than \$80,000, to be highest in the nation, as a result of two sham seven-member commissions, which – in addition to being unconstitutional for a myriad of reasons – flagrantly violated the materially-identical statutes that created them, flagrantly flouted conflict-of-interest rules, and made "force of law" pay raise recommendations that were outrightly fraudulent.

This has been the subject of fierce litigation challenge, since 2012 – NOW before New York's "prestigious and selective" highest state court, the New York Court of Appeals, on which appointive "merit-selected" judges sit. This gives you the opportunity – through a single, explosive case in the nation's "Excelsior State" – to explore not only whether high-pay correlates with having the "sharpest lawyers sitting on the bench", who are the "best and brightest", but whether the quality of justice produced by appointed judges is superior to that of elected judges – which your article implies that it is. Such expose would be a FIRST – and on many fronts. Indeed, in the more than 40 years since New York voters scrapped their constitutional right to elect their Court of Appeals judges in favor of "merit-selection" appointment, there has been NO examination by scholars, bar associations, the so-called "good government organizations", or the press as to whether "merit selection" was "the better way" the voters were led to believe it was. NONE have been willing to examine how "merit selection" has operated in fact (as opposed to the touted theory) – or the supposed "excellence" and "impartiality" of the "merit-selected" appointed judges it has produced, verifiable from their decisions. To the contrary, in face of evidentiary proof, spanning decades, that both "merit selection" and the decisions of those judges were corrupt, scholars, bar associations, "good government organizations", and the press have REFUSED to undertake any investigation, while continuing to promote "merit selection", the supposed quality of New York's judiciary, and judicial pay raises.

That you are an attorney, with a background in litigation: <http://www.ericreedwriter.com/wp-content/uploads/2019/07/Eric-Reed-CV.pdf>, and specializing in "analytical journalism" with a website/blog entitled "Things Dangerous": <http://www.thingsdangerous.com/>, makes you PERFECT for the ground-breaking "enterprise"/investigative journalism here proposed, resting, in the first instance, on open-and-shut, primary-source, case file evidence, ALL conveniently accessible from the website of the Center for Judicial Accountability, Inc. (CJA), www.judgewatch.org, the unfunded, non-partisan, non-profit citizens' organization which has brought the litigation, pro bono, "on behalf of the People of the State of New York & the Public Interest". The direct link to the menu page for the lawsuit record before the Court of Appeals, from which the lower court record, before judges both appointed and elected, is accessible, is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/record-ct-of-appeals.htm>.

I am eager to speak with you, as soon as possible, about this ground-breaking proposal. This includes, if you are not interested and/or yourself able to pursue it, your referring/forwarding the proposal to fellow journalists, optimally also attorneys, who would. I would be amenable to such "partnering" and "consulting" services as are indicated at the bottom of your "Things Dangerous" website/blog under the title

heading "PARTNER UP".

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

www.judgewatch.org

914-421-1200

elena@judgewatch.org