

CENTER for
JUDICIAL
ACCOUNTABILITY



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FAX COVER SHEET

8/2/94

11:00 a.m.

DATE

TIME

THE NEW YORK TIMES
LETTERS TO THE EDITOR

TO:

FAX NUMBER: 212-556-3690 (tele: 212-556-1873)

This fax consists of a total of 3 pages, including this cover-sheet. If you do not receive the indicated number of pages, or if there is a question as to the transmittal, please call (914) 997-8105.

FROM: Elena Ruth Sassower, Coordinator

MESSAGE:

Dear Editor:

Should you wish additional information about the extraordinary Court of Appeals case, referred to in the third paragraph of my letter, we will be most pleased to supply it to you.

Ex "I"

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By Fax: 212-556-3690
and By Mail

August 2, 1994

Letters to the Editor
The New York Times
229 West 43rd Street
New York, New York 10036

Dear Editor:

In covering the high-profile O.J. Simpson case, the Times has created a misimpression about how judicial proceedings involving average citizens are conducted. For instance, in describing O.J. Simpson's arraignment ("Judge in Simpson Case Goes By the Rules", 7/23/94), you report that when Presiding Judge Cecil Mills assigned Judge Lance Ito to handle the murder trial, he disclosed the potentially disqualifying fact that Judge Ito's wife is a member of the Los Angeles police department. This is true. Judge Mills immediately made such disclosure so that either the prosecution or defense could object to Judge Ito's assignment.

However, your reporter added the editorial comment that judges "routinely" disclose "potential conflict of interest" "at the start of cases". This is not true. What happens in the average case, away from the media spotlight, is that judges do

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not "routinely" disclose their potential conflicts. We saw this most recently with Judge Stephen Breyer ("A Cloud on the Breyer Nomination", 7/26/94), who did not disclose his Lloyds of London investments to the parties involved in the environmental pollution cases before him. Nor do judges necessarily step aside after their undisclosed potential conflicts come to light and they are requested to do so.

In fact, when the media is not looking, judges go so far as to decide cases where they have actual--as distinct from potential--conflicts of interest--where they themselves are not only parties to the litigation, but charged with criminal conduct. Sounds shocking? New York State's highest legal officer, Attorney General G. Oliver Koppell, who is running for election to a full term this November, thinks it perfectly proper for such judges not to disqualify themselves and to decide their own case. This transcending issue--the due process right to a fair and impartial tribunal--is now pending before New York's highest court, the Court of Appeals.



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability

The Center for Judicial Accountability, a non-partisan citizens' group working to improve the quality of the judiciary, maintains an archive of cases documenting judicial misconduct.