

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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Box 69, Gedney Station
White Plains, New York 10605

By Priority Mail

November 27, 1994

Mr. Hilton Kramer
The New York Post
c/o New Criterion
850 Seventh Avenue, Suite 503
New York, New York 10019

Dear Mr. Kramer:

Thank you for your marvelous "Times Watch" column in the New York Post. You are to be commended for performing a real public service in exposing what passes for journalism in New York's so-called "paper of record", The New York Times.

Per the request of Eric Coppolino, our Communications Director, who spoke with you earlier this month, I enclose background materials to "Where Do You Go When Judges Break The Law?", our \$16,770 paid-advertisement on the Op-Ed page of the October 26th New York Times (Exhibit "A"). These include our extensive correspondence with Times reporters and editors and our three unpublished Letters to the Editor. They unequivocally demonstrate the Times' suppression of a dynamite and important story, plainly within its touted standard of news "fit to print".

What news did the Times view as "fit to print" in this period? As illustrated by the October 14th "Region News Brief" (Exhibit "B"), an item entitled "Woman Sues Town Over Slip on Dog Drool" got 3-plus inches of free space and an item out of White Plains (our neck of the woods) entitled "Candidate Arrested in Prostitution Sweep" got 4-plus inches of free space--although it was not a story impacting on any election, the "john" in question having "failed to win a spot on the ballot".

By contrast--and clearly not up to the standard set by those memorable pieces--what we offered the Times in the weeks before the November 8th election was a hard-hitting election story--not only rooted in heroic efforts to protect the sanctity of the franchise in this state, but with the potential to impact--if exposed by the press--on New York's most important electoral races, those for Governor and Attorney General.

As you can see from our ad (Exhibit "A"), the background to the story is a 1990 Election Law case in which a New York lawyer, Doris L. Sassower¹, as pro bono counsel, brought suit to challenge the manipulation of judicial nominations by party bosses and the constitutionality of judicial cross-endorsements.

Such a case should have been of particular interest to the Times since, year after year (Exhibit "C-1")--including this year in a September 27th editorial (Exhibit "C-2")--the Times has decried the manipulation of judicial elections by party bosses and the travesty of judicial cross-endorsement.

It was while Ms. Sassower was counsel in that Election Law case that she was suspended by the Appellate Division, Second Department in an order which stated no reasons, made no findings, and was not preceded by requisite formal charges or any hearing. In the more than three years since issuance of that suspension order, the Appellate Division, Second Department has, without reasons, repeatedly refused to direct any post-suspension hearing as to the basis of the suspension and refused to grant leave to appeal to the Court of Appeals. The Court of Appeals has refused any review.

Last year, Ms. Sassower brought a special proceeding entitled Sassower v. Hon. Guy Mangano, et al.², in which she charged that her suspension was a knowing and deliberate fraud, designed to silence and discredit her from challenging the manipulations of judgeships and speaking out against judicial corruption. That case was pending before the Court of Appeals until the end of this past September.

In that proceeding, Ms. Sassower alleged: (a) that high-ranking judges had used their judicial office to retaliate against her as a judicial whistleblower³--a situation which, three years earlier, she had made known to Governor Cuomo in a letter

1 Ms. Sassower's credentials, as set forth in Martindale-Hubbell's law directory of 1989, are annexed inter alia, as the last page of Exhibit "E-2".

2 Justice Guy Mangano is the Presiding Justice of the Appellate Division, Second Department.

3 The well-recognized retaliation faced by whistleblowers is not unknown to the Times, as reflected by articles and editorials it has published on the subject (Exhibit "D").

requesting the appointment of a Special Prosecutor (Exhibit "E")⁴; and (2) that the State Attorney General, as attorney for the accused justices, was aiding and abetting his judicial clients in covering up their criminal conduct. This included his permitting them to break the law by refusing to disqualify themselves from adjudicating the proceeding, thereby preventing the evidentiary record from being independently reviewed, as the law required.

Since the Times' coverage of the electoral races included such characterizations of Governor Cuomo's administration as "remarkably...untouched by major scandal" (Week in Review, 8/21/94: Exhibit "F-1") and an editorial opinion (Editorial, 9/17/94: Exhibit "F-2") that "the voters need to know how the candidates [for Attorney General] intend to handle the job's meat-and-potatoes work of defending the state against legal actions"--the case of Sassower v. Mangano, et al. should have been viewed by the Times as a breathtaking opportunity to expose a major scandal "covered up" by the Cuomo administration and to elicit from the candidates for Attorney General their view of the legally unsupported--and dangerous--positions advanced by the incumbent Attorney General in Sassower v. Hon. Mangano, et al.

Indeed, the actual conflict of interest issue represented by judges deciding their own case, as the incumbent Attorney General allowed to be done in Sassower v. Hon. Guy Mangano, et al., fit in perfectly with the Times' on-going coverage--both in articles and editorials--of apparent conflict of interest and appearance of impropriety issues (Exhibit "G"). As illustrative, throughout the summer, the Times used Judge Stephen Breyer's apparent conflict of interest as a basis upon which to oppose his nomination to the U.S. Supreme Court (Exhibit "H").

I would particularly draw your attention to our three unpublished letters to the Editor (Exhibits "I", "J", "K")--each of which were faxed with a coversheet message--as well as my September 29th letter to the Times Editorial Board (Exhibit "L") alerting it to the refusal of Times writers to follow-up and report on issues framed and identified by it in editorials. No response was ever received by us to my urgent communications to the Editorial Board, transmitted by fax, mail, hand-delivered letters, and in telephone messages. Nor did Times reporters do anything with my numerous story proposals and angles for coverage of important electoral issues (Exhibits "M", "N", "O", "P").

⁴ Numerous copies of that letter were sent to the Westchester, New York, and Albany bureaus of the Times, as reflected by the coverletters and fax sheets annexed as Exhibit "E-1".

Ironically, three days before our Op-Ed advertisement appeared, the Times ran an article on the front page of its October 23rd "Week in Review", entitled "Running on Empty: Where Did All the Issues Go?" (Exhibit "Q"). In commenting on the prevalent mood that "Government...[doesn't] work" and describing the so-called lack of issues, the article quoted a professor of political science as stating that "Candidates running campaigns are always pure opportunists in terms of what they talk about". Such self-evident truth clearly compels the media and citizens to "fill the void" and be the ones to challenge the candidates with the politically-explosive and "sticky" issues which, on their own, candidates would never confront. Yet, two weeks earlier, Ian Fisher, the Times reporter who did the lion's share of reporting on the Attorney General's race, told me explicitly--in response to my October 6th fax to him (Exhibit "M-3")--that unless the candidates for Attorney General themselves brought up the case of Sassower v. Mangano, et. al or the issue of judicial corruption it raised, he would not question them about it. Nor would he--or any of the other Times reporters--write about our extraordinary citizen efforts to get the major candidates for Attorney General to respond to how the Attorney General's Office, under their stewardship, would handle that politically-sensitive case (see Exhibit "P", p. 1)--although our written correspondence to Dennis Vacco and Karen Burstein (annexed hereto as Exhibit "L") was repeatedly provided to Times editors and reporters.

As reflected by my unresponded-to communications with the Times editorial board, the suppression of this important election story was with its knowledge and consent. It turned its back on its important September 17th editorial (Exhibit "F-2") as to what the "voters need[ed] to know" before voting for the State's next Attorney General. Indeed, the Times did not publish a single "Letter to the Editor" in response to that editorial--not even our own (Exhibit "J"), which was in full agreement with its publicly-stated position⁵.

By spending \$16,770 of our own money on the October 26th advertisement (Exhibit "A"), we went "the final mile", doing our patriotic duty to make democracy work. We stated in the ad:

⁵ It may be noted that in response to its September 27th editorial "No Way to Pick a Judge" (Exhibit "C-2"), the Times printed exactly one "Letter to the Editor" (Exhibit "C-3"). That letter, written by Assemblyman Larry Seabrook, echoed issues for which we were trying to obtain Times coverage: manipulation of judgeships by party leaders, illegally-run judicial nominating conventions, oversight by state authorities. Indeed, Assemblyman Seabrook concluded by urging scrutiny of these issues by the media, stating "it is this kind of backroom dealing that breeds voter cynicism and apathy."

"There is still time in the closing days before the election to demand that candidates for Governor and Attorney General address the issue of judicial corruption, which is real and rampant in this state."

Yet in the 13 days that remained in the campaign, no reporter, columnist, nor editor from the Times followed up the shameful story of betrayal of the public trust by officials at the highest levels of government of this State.

On the subject of the appalling nonfeasance of The New York Times, which, additionally, has stood "idly by" in the face of a story about vicious retaliation against a judicial whistleblower and the trashing of basic constitutional rights by our state courts, I enclose a copy of A.M. Rosenthal's column from earlier this year, entitled "The Way She Died", commemorating the thirtieth anniversary of the killing of Kitty Genovese (Exhibit "R"):

"But how could it happen--38 witnesses keeping silent while Catherine Genovese died?..."

When I see the scene in my mind, I know that there must have been lots of witnesses--in the streets, or watching from windows.

But the thought that they walked away or pulled their heads in does not startle me anymore. I take it for granted. If I were still an editor I would probably not bother to send reporters to search out witnesses, it seems so commonplace now, silent witnesses."

Nobody was asking the Times to "search out witnesses", but simply to perform its duty to report a New York story, relevant to the electoral campaigns and impacting on the integrity of government of this state. That all the scandalous allegations of judicial corruption and official misconduct were part of particularized and documented court pleadings makes the Times' suppression of this story all the more unforgivable.

Like the murderer of Kitty Genovese, who could have been stopped had just one witness not been silent, I think it fair to say that had the Times written any story on Sassower v. Hon. Guy Mangano, et al.--or published any of our three Letters to the Editor (Exhibits "I", "J", "K")--the Court of Appeals would have been too mortified to have denied review of that important case. Indeed, four years earlier, had the Times seen fit to report on the extraordinary 1990 Election Law case--supported as it was by the New York State League of Women Voters and the NAACP Legal

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Defense and Educational Fund--and on what the courts were doing in dumping the case by jettisoning elementary legal standards and falsifying the factual record, the Court of Appeals would have been hard put to deny review⁶. And, assuredly, had there been coverage, the courts--not excepting the Court of Appeals--could not have gotten away with their vendetta against the champion of that case that they have.

To assist you in holding the Times accountable to minimal journalism standards--which the within documentation shows it has abysmally not met--I am sending copies of this letter to Joseph Lelyveld, Executive Editor of the Times, and Arthur Ochs Sulzberger, Jr., its Publisher, to permit them to intelligently comment for your column.

By this letter, I also respectfully request a personal meeting with them--or their representatives--so that they may clarify the Times' standard of news "fit to print" and explore with us future coverage of unfolding developments in this story, which profoundly affect the public. These include the disposition of our fully documented complaint against the justices of the Appellate Division, Second Department, filed with the New York State Commission on Judicial Conduct (see Exhibit "N"), as well as the disposition of our fully documented criminal complaint against those justices, which we filed with the Brooklyn District Attorney's Office (see Exhibit "M-2, Pressman ltr, p. 4").

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator

cc: Joseph Lelyveld, Executive Editor

Certified Mail, RRR: P-801-449-633

Arthur Ochs Sulzberger, Jr., Publisher

Certified Mail, RRR: P-801-449-634

Enclosures: itemized on next page

⁶ An illustrative sampling of our communications with the Times--leading nowhere--is reflected by Exhibit "R". This includes: Exhibit "S-1": a press release on the Election Law case; Exhibit "S-2": our unpublished "Letter to the Editor" to the Times Westchester section; Exhibit "S-3": a copy of the New York State League of Women Voters' statewide alert and the A.P. feed on the case. Consequently, when, eight months later, the Westchester Times finally published a "Letter to the Editor" from Doris Sassower in its June 9, 1991 issue (annexed to Exhibit "E-2" hereto), that letter was largely devoted to describing how "The New York Times has done its best to bury the story" of the Election Law case.

ATTACHMENTS TO NOVEMBER 27, 1994 LETTER TO HILTON KRAMER

- Exhibit "A": "Where Do You Go When Judges Break The Law", Op-Ed page advertisement, NYT, 10/26/94
- Exhibit "B": "Woman Sues Town Over Slip on Dog Drool", "Candidate Arrested in Prostitution Sweep", NYT, 10/14/94
- Exhibit "C-1": "Judicial Choices: The Best Of A Crowd", NYT editorial, 10/31/94
- Exhibit "C-2": "No Way to Pick a Judge" NYT editorial, 9/27/94
- Exhibit "C-3": "Maneuvering on Bronx Judgeship Violates Federal Election Law", Ltr to Editor, 10/5/94
- Exhibit "D-1": "Woman Tells of Retaliation for Complaint on Tailhook", NYT, 10/5/94
- Exhibit "D-2": "Colleagues at C.I.A. Portray Fallen Star as Sex Bias Victim", NYT, 9/14/94
- Exhibit "D-3": "Whitewater Whistle-Blower Is Put on Leave", NYT, 8/16/94
- Exhibit "D-4": "For Police Corruption Battler, a Bitter Retirement", NYT, 7/11/94
- Exhibit "D-5": "Revenge on Two Whistle-Blowers", NYT editorial, 6/4/93
- Exhibit "D-6": "Retaliation Alleged in Black Lawyer's Indictment", 11/8/92
- Exhibit "E-1": 10/26/91 coverltr to Editorial Board/Op-Ed
10/26/91 coverltr to Anthony Lewis
10/29/91 fax to Sam Roberts, NY office
10/30/91 fax to Sam Verhovek, Albany office
11/1/91 fax coversheet to Westchester office
- Exhibit "E-2": Doris L. Sassower's 10/24/91 letter to Governor Mario Cuomo

- Exhibit "F-1": "You're as Old as the Polls Make You Feel",
NYT, 8/21/94 Week in Review
- Exhibit "F-2": "After the Primaries: New York's Mystery
General", NYT, 9/17/94
- Exhibit "G-1": "Judge in Simpson Case Goes by the Rules",
NYT, 7/23/94
- Exhibit "G-2": "No Conflict in Fund", Leslie Fay's Law Firm
Didn't Act Improperly, Disqualification in
Bomb Plot Case Bodes Ill", Letters to Editor,
NYT, 9/3/94
- Exhibit "G-3": "Crown Hts. Defense Team To Ask Judge to Step
Down": Conflict of Interest Charged by
Lawyers", NYT, 9/8/94
- Exhibit "G-4": "Judge's Ties to Jewish Leader Stir Debate in
Crown Hts. Case", NYT, 9/20/94
- Exhibit "G-5": "Crown Hts. Judge Won't Step Down", NYT,
10/12/94
- Exhibit "G-6": "Mr. Espy Resigns, NYT editorial, 10/4/94
- Exhibit "H-1": "Sharp Questions for Judge Breyer", NYT
editorial, 7/10/94
- Exhibit "H-2": "Breyer Is Challenged on Apparent Conflict on
Eve of Hearing", NYT, 7/12/94
- Exhibit "H-3": "More Questions for Judge Breyer", NYT
editorial, 7/14/94
- Exhibit "H-4": "A Cloud on the Breyer Nomination" NYT
editorial, 7/26/94
- Exhibit "I": 8/2/94 "Letter to the Editor" with fax
coversheet

Exhibit "J": 9/25/94 "Letter to the Editor" with fax coversheet

Exhibit "K": 10/5/94 "Letter to the Editor" with fax coversheet

Exhibit "L": 9/30/94 coversheet and hand-delivered 9/29/94 letter to the Times editorial board: enclosing correspondence with Dennis Vacco and Karen Burstein

Exhibit "M-1": "Some Light Sparring for 4 Attorney General Candidates", NYT, 9/10/94

Exhibit "M-2": hand-delivered 9/10/94 ltr to Ian Fisher

Exhibit "M-3": 10/6/94 fax to Ian Fisher

Exhibit "N": 10/3/94 fax to Joseph Fried enclosing our 9/19/94 complaint to the New York State Commission on Judicial Conduct

Exhibit "O": hand-delivered 10/3/94 ltr to Joseph Berger, Westchester Bureau Chief

Exhibit "P": hand-delivered 10/8/94 ltr to Jan Hoffman

Exhibit "Q": "Running on Empty: Where Did All the Issues Go?", NYT, 10/23/94, Week in Review

Exhibit "R": "The Way She Died", column, A.M. Rosenthal, NYT, 3/15/94

- Exhibit "S-1": 10/23/91 fax to Jonathan Landman, NY office,
enclosing press release/Order to Show Cause
in support of preference
- Exhibit "S-2": 10/23/91 fax to Tessa Melvin, Westchester
office, enclosing "Letter to the Editor"
- Exhibit "S-3": 10/29/91 fax to Dorothy Samuels, New York
office, enclosing statewide alert of New York
League of Women Voters and A.P. feed

P 801 449 634
RECEIPT FOR CERTIFIED MAIL
 NO INSURANCE COVERAGE PROVIDED
 NOT FOR INTERNATIONAL MAIL
 (See Reverse)

Sent to	Arthur Solisberg	
Street and No.	229 West 43rd St	
P.O., State and ZIP Code	NY NY 10036	
Postage	\$	2.90
Certified Fee		1-
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt showing to whom and Date Delivered		1-
Return Receipt showing to whom, Date, and Address of Delivery		
TOTAL Postage and Fees	\$	4.90
Postmark or Date	NOV 28 1985	

P 801 449 633
RECEIPT FOR CERTIFIED MAIL
 NO INSURANCE COVERAGE PROVIDED
 NOT FOR INTERNATIONAL MAIL
 (See Reverse)

Sent to	Joseph Lelyvet	
Street and No.	229 West 43rd St	
P.O., State and ZIP Code	NY NY 10036	
Postage	\$	2.90
Certified Fee		1-
Special Delivery Fee		
Restricted Delivery Fee		
Return Receipt showing to whom and Date Delivered		1-
Return Receipt showing to whom, Date, and Address of Delivery		
TOTAL Postage and Fees	\$	4.90
Postmark or Date	NOV 28 1985	

PS Form 3800, June 1985

PS Form 3800, June 1985

Is your RETURN ADDRESS completed on the reverse side? **Is**

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:
 Arthur Solisberg
 229 West 43rd St
 NY, NY 10036

5. Signature (Addressee)
 [Signature]

6. Signature (Agent)
 [Signature]

4a. Article Number
 P801 449 634

4b. Service Type
 Registered
 Certified
 Express Mail
 Return Receipt for Merchandise

8. Addressee's Address (Only if requested and fee is paid)
 [Address]

1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

I also wish to receive the following services (for an extra fee):
 1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

NOV 28 1985 NEW YORK NY

Thank you for using Return Receipt Service.

Is your RETURN ADDRESS completed on the reverse side? **Is**

SENDER:

- Complete items 1 and/or 2 for additional services.
- Complete items 3, and 4a & b.
- Print your name and address on the reverse of this form so that we can return this card to you.
- Attach this form to the front of the mailpiece, or on the back if space does not permit.
- Write "Return Receipt Requested" on the mailpiece below the article number.
- The Return Receipt will show to whom the article was delivered and the date delivered.

3. Article Addressed to:
 Joseph Lelyvet
 229 West 43rd St
 NY, NY 10036

5. Signature (Addressee)
 [Signature]

6. Signature (Agent)
 [Signature]

4a. Article Number
 P801 449 633

4b. Service Type
 Registered
 Certified
 Express Mail
 Return Receipt for Merchandise

7. Date of Delivery
 11/30

8. Addressee's Address (Only if requested and fee is paid)
 [Address]

1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

I also wish to receive the following services (for an extra fee):
 1. Addressee's Address
 2. Restricted Delivery
 Consult postmaster for fee.

NOV 28 1985 NEW YORK NY

Thank you for using Return Receipt Service.

PS Form 3811, December 1991

PS Form 3811, December 1991

*U.S. G.P.O. 1983-352714

*U.S. G.P.O. 1983-352-714

DOMESTIC RECEIPT

DOMESTIC RETURN RECEIPT