

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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7 pages

January 9, 1998

Joseph Lelyveld, Executive Editor
The New York Times
229 West 43rd Street
New York, New York 10036

ATT: Barbara Laverty, Secretary

RE: NYT suppression of important and time-sensitive stories
concerning the integrity of essential governmental processes

Dear Ms. Laverty:

Following up my telephone call to you at about 12:30 p.m., apprising you of an emergency situation that exists by reason of the Times suppression of important and time-sensitive stories and the refusal of Jerry Gray, the Metro Desk political editor, and Joyce Purnick, the Metro Desk editor to return phone calls -- even when, as is the case with Mr. Gray, he promised to return them -- enclosed is a copy of our October 21, 1996 coverletter, reflecting the complaint we filed more than a year and a half ago against the Times. That complaint, as well as the supplement to it, chronicled the complete failure of Times editors to address suppression of newsworthy and electorally-significant stories, as well as its deliberate black-balling of our citizens' organization.

If Mr. Lelyveld is unaware of that complaint, which was supported by seven documentary compendia of exhibits, we request that he access it from wherever the Times keeps such serious complaints hidden. As discussed, on May 8, 1997, I gave a copy of it, in hand, to Arthur Sulzberger, Jr. at the 92nd Street Y, following the question I asked him from the audience as to why The New York Times does not have a news ombudsman and whether this reflected a view that there could be no legitimate complaints against the Times. Mr. Sulzberger's response had been that he believed that an "ombudsman" lets editors "off the hook" and that the responsibility for complaints should be with the editors. Thereafter, when I gave him a copy of the complaint, together with our supplement to it, I emphasized that it demonstrated that his confidence in Times editors was wholly misplaced. Indeed, the supplement graphically detailed the torrent of verbal abuse and insults I received from Bill Borders, to whom our October 21, 1996 complaint was directed, thereafter unchecked by Gene Roberts to whom I turned, and the deliberate refusal of the Times Metro to return my phone calls and

faxes requesting follow-up coverage to my November 16, 1996 published Letter to the Editor, "*On Choosing Judges, Pataki Creates Problems*".

That published letter exposed how Governor Pataki -- nearly half way through his administration -- had failed to appoint permanent judicial screening committees and was using a temporary committee as to which virtually *no* information was available. In its original version, our letter stated that the Governor's office was "rigging" the temporary committee's ratings -- which charge was fully substantiated by materials we hand-delivered to the Times. Indeed, in the months before my letter was published, we repeatedly urged and pleaded with the Times metro desk and, in particular, with Ms. Purnick, to report on what was going on in the Governor's judicial selection process -- and the sham confirmation process on the Senate level. This was all particularized by our October 21, 1996 complaint (at pp. 17-21) -- including Ms. Purnick's failure and refusal to report about it.

The current story that Ms. Purnick, now elevated to metro editor, is suppressing concerns the permanent judicial screening committees -- and the Governor's refusal to provide the public with *basic* information about their functioning, including information to which the public is expressly entitled to under the Governor's own Executive Order which created them, namely, the committee reports on the qualifications of judicial candidates who the Governor appoints based on their supposed "highly qualified" ratings. Indeed, it appears that as to the Governor's December 12th appointment of former Westchester County Executive Andrew O'Rourke to the Court of Claims, which the Times reported on December 13th -- there may not be any committee report as to his qualifications. Here, as before, we can attest to the fact that the ratings are being "rigged".

Andrew O'Rourke's rubber-stamp confirmation by the State Senate is -- as far as we know -- scheduled for next Tuesday, January 13th. In the past three and a half weeks, our citizens organization has raised serious questions about that nomination and has engaged in vigorous efforts to prevent confirmation -- none of it reported by the Times, which has received from us the pertinent correspondence. This includes: (1) CJA's December 23rd letter calling upon the Governor to withdraw the nomination; (2) CJA's December 26th letter, calling upon Mr. O'Rourke to substantiate the "highly qualified" rating he received from the State Judicial Screening Committee; (3) CJA's December 29th letter, calling upon the members of the State Judicial Screening Committee to withdraw the rating; (4) CJA's January 7th letter to Chief Judge Judith Kaye, calling for her assistance, as well as (5) CJA's letter of today's date to the State Senate Judiciary Committee. Of course, the most important document that we provided to the Times was our critique of Mr. O'Rourke's judicial qualifications -- showing that he is thoroughly unfit for judicial office.

That critique was submitted to the U.S. Senate Judiciary Committee back in 1992, when Mr. O'Rourke was seeking confirmation to the federal judgeship to which he was appointed by President Bush -- and exposed not only Mr. O'Rourke's unfitness, but the failure of the federal judicial

screening process, specifically the American Bar Association and the Association of the Bar of the City of New York. Except for our Letter to the Editor, "*Untrustworthy Ratings?*", which the Times published on July 17, 1992, the Times complete suppressed any report about it and about our call for an official investigation of the federal judicial screening process. This, as well as our herculean efforts to obtain coverage, is highlighted by our October 21, 1996 complaint (*See pp. 6-10*)¹.

It is because of the Times suppression of what our critique showed about Mr. O'Rourke and about the failure of the federal judicial screening process that Mr. O'Rourke has been able to parlay the favorable ratings he obtained from the ABA and City Bar into a "highly qualified" rating from the State Judicial Screening Committee. Indeed, according to a Gannett newstory, Mr. O'Rourke allayed the Committee's concerns that he had not practiced law for 15 years, by remind[ing] it of his favorable ABA and City Bar ratings.

For immediate purposes, I enclose copies of our two aforesaid published Letters to the Editor. Please arrange that our October 21, 1996 complaint -- and its supporting documentation -- and supplement be delivered to Mr. Lelyveld, *without delay*, as well as all the materials we faxed and hand-delivered to the Metro Desk for Mr. Gray and Ms. Purnick and, initially, to Jack Kadden.

Should Mr. Lelyveld or anyone else at the Times wish to reach me over the weekend, please don't hesitate to call. Time is of the essence.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

Enclosures: (1) 10/21/96 coverletter to the NYT
(2) "*In Choosing Judges, Pataki Creates Problems*", 11/16/96, NYT Ltr to the Editor
(3) "*Untrustworthy Ratings?*", 7/17/92, NYT Ltr to the Editor

cc: Arthur Sulzberger, Jr., Publisher
Joyce Purnick, Metro Editor
Jerry Gray, Political Editor/Metro Desk
Jack Kadden, Metro Editor
Sut Jhally, Executive Director, Media Education Foundation

¹ Our October 21, 1996 coverletter specifically referred to the several copies of the critique already in the possession of the Times. It may be noted that a further copy of the critique was hand-delivered for Mr. Gray on December 24th -- under a coverletter which reflects the kind of unprofessional and dishonest shenanigans engaged in by Times editors.

The New York Times

EDITORIALS/LETTERS SATURDAY, NOVEMBER 16, 1996

On Choosing Judges, Pataki Creates Problems

To the Editor:

Our citizens' organization shares your position that Gov. George E. Pataki should take the lead in protecting the public from processes of judicial selection that do not foster a quality and independent judiciary ("No Way to Choose Judges," editorial, Nov. 11). However, the Governor is the problem — not the solution.

A Sept. 14 news article described how Governor Pataki had politicized "merit selection" to New York's highest court by appointing his own counsel, Michael Finnegan, to the Commission on Judicial Nomination, the supposedly independent body that is to furnish him the names of "well qualified" candidates for that court.

More egregious is how Governor Pataki has handled judicial appointment to the state's lower courts. Over a year and a half ago, the Governor promulgated an executive order to establish screening commit-

tees to evaluate candidates for appointive judgeships. Not one of these committees has been established. Instead, the Governor — now almost halfway through his term — purports to use a temporary judicial screening committee. Virtually no information about that committee is publicly available.

Indeed, the Governor's temporary committee has no telephone number, and all inquiries about it must be directed to Mr. Finnegan, the Governor's counsel. Mr. Finnegan refuses to divulge any information about the temporary committee's membership, its procedures or even the qualifications of the judicial candidates Governor Pataki appoints, based on its recommendation to him that they are "highly qualified."

Six months ago we asked to meet with Governor Pataki to present him with petitions, signed by 1,500 New Yorkers, for an investigation and public hearings on "the political manipulation of judgeships in

the State of New York." Governor Pataki's response? We're still waiting.

ELENA RUTH SASSOWER
Coordinator, Center for Judicial
Accountability Inc.
White Plains, Nov. 13, 1996

Untrustworthy Ratings?

To the Editor:

"We have good, quality judges. I think I'd take that as a significant accomplishment." You quote that comment by President Bush in the sixth article of "The Bush Record" (July 1), about his appointment of conservative judges. The reality behind this is that one of every six of President Bush's judicial nominees has been rated "not qualified" by a minority vote of the American Bar Association's evaluating panel.

We believe the real story is not the conservative court built by President Bush but the mediocrities he has nominated for lifetime Federal judgeships. Our grass-roots citizen group recently submitted a critique to the Senate Judiciary Committee documenting the unfitness of one of President Bush's nominees to the Southern District of New York. That nominee also received a "not qualified" minority rating by the Bar Association panel.

You state that "in no case has a majority of the evaluating panel found a Bush nominee unqualified." Yet our critique, based on six months of investigation, found no basis for the Bar Association's majority rating of "qualified" for the nominee we studied. The evidence strongly suggests that the rating of that nominee was not the result of any meaningful investigation at all.

Because of the danger of Senate confirmation of unfit nominees to lifetime Federal judgeships, we have called on the Senate leadership to halt all judicial confirmations pending investigation and the setting up of safeguards.

ELENA RUTH SASSOWER
White Plains, July 10, 1992

The writer is coordinator of the Ninth Judicial Committee, a nonpartisan citizen group.

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Box 69, Gedney Station
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BY HAND

October 21, 1996

The New York Times
229 West 43rd Street
New York, New York 10036

ATT: Nancy Chan, Project Coordinator
Corporate Communications

RE: Complaint of Times' Suppression and Black-Balling

Dear Ms. Chan:

Transmitted herewith is a copy of our submission to Project Censored, which focuses our nomination of media censorship of major news stories on the censorship of *The New York Times*.

We ask that this submission be considered as a formal complaint against *The Times* in general and, in particular, against the following *Times* reporters: Joyce Purnick, Jan Hoffman, Jane Fritch, Joseph Berger, James Feron, and Bill Glaberson. Based on our direct, first-hand experience with them, as recounted in our submission and documented by the seven supporting evidentiary Compendia¹, they have not only engaged in censorship and suppression of objectively significant major news stories, but in knowing and deliberate black-balling of us.

¹ As reflected by footnote 2 (p. 8), we have provided Project Censored a further folder of documents consisting of the Critique "material" we supplied former Executive Editor Max Frankel under our June 14, 1992 coverletter to him (Compendium II, Ex. "L"). Because of the expense to us of replicating yet another copy of our 1992 Critique and the Compendium of exhibits that accompanied it, we ask that you obtain such documents from Mr. Frankel's office or, alternatively, from the reporters and editors to whom we provided at least four additional copies--and who never returned them to us. These include: Joseph Berger, to whom a copy was personally given in March 1993 (See Compendium II, Ex. "OO", p. 2), as well as Jack McKenzie, who--since June 1992--has two copies (See Compendium II, Ex. "I", "N", "V"). Indeed, I met Mr. McKenzie on March 10, 1996 at a conference on "*Legal Ethics: The Core Issues*" and he acknowledged to me -- without my even asking -- that he still had the Critique. He practically recoiled in horror when I asked him whether he wouldn't consider pursuing a story about it.

Of course, should you be unsuccessful in obtaining the Critique and Compendium from them, we will provide you with a copy.

October 21, 1996

We specifically draw your attention to the last paragraph of our submission:

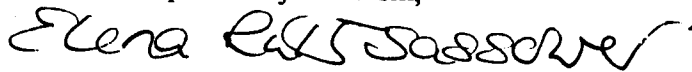
"Because of the on-going cataclysmic consequences to the public resulting from *The Times* betrayal of the public trust and breach of its 'fundamental contract' with its readers, a copy of this recitation, including the substantiating Compendia, is being sent to *The Times* as a complaint so that curative measures may be immediately taken. These would include a meeting with the Publisher and Executive Editor of *The Times* -- or their representatives -- as requested by us so very long ago in our 1992 and 1994 letters." (at p. 23)

As discussed in our October 11th telephone conversation, we request that you bring this profoundly serious complaint to the attention of *Times* Publisher, Arthur Sulzberger, Jr., *Times* Executive Editor, Joseph Lelyveld, *Times* Managing Editor, Gene Roberts, and *Times* Metro Editor, Michael Oreskes.

You may be assured of our fullest assistance and cooperation.

Thank you very much.

Yours for a quality judiciary
and responsible journalism,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

Enclosures

cc: Project Censored
Ralph Nader