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September 20, 2002

New York Times
Albany Bureau

ATT: James McKinley

RE: ELECTION COVERAGE:
Exposing the REAL Attorney General
Spitzer-- not the P.R. version

Dear Mr. McKinley:

As discussed, enclosed is the story proposal for election coverage that I am now releasing to newspapers and freelance journalists. Hopefully, the prospect of competition will goad you into maximizing the long head-start I gave you -- and the substantiating documentation *already* in your possession -- so that the Times can still "lead" on this important election year story. As always, I would be pleased to come up to Albany and meet with you -- the sooner, the better.

Please let me know by mid-week what your intentions are, including whether you want me to pick up the two cartons of documentation I gave you when we met together nearly three months ago. Obviously, if you are not going to take advantage of such breathtaking treasure-trove of evidentiary proof, I want to offer it to other journalists.

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As you know, Mr. Spitzer is deemed a "shoe-in" for re-election as Attorney General¹ and a rising star in the Democratic Party with a future as Governor and

¹ "Court of Claims Judge to Face Spitzer", (New York Law Journal, May 15, 2002, John Caher, Daniel Wise), quoting Maurice Carroll, director of Quinnipiac College Polling Institute, "Spitzer has turned out to be a very good politician, and he is just not vulnerable"; Governor Pataki "could pick the Father, Son and Holy Ghost and he wouldn't beat Spitzer";

possibly President². The reason is simple. The press has NOT balanced its coverage of lawsuits and other actions *initiated* by Mr. Spitzer, promoted by his press releases and press conferences, with any coverage of lawsuits *defended* by Mr. Spitzer. This, despite the fact that defensive litigation is the "lion's share" of what the Attorney General does.

The Attorney General's *own* website identifies that the office defends "thousands of suits each year in every area of state government" -- involving "nearly two-thirds of the Department's Attorneys in bureaus based in Albany, New York City, and in the Department's 12 Regional offices."³ Therefore, it is appropriate that the press balance its coverage by critically examine at least one lawsuit *defended* by Mr. Spitzer. Only by so doing will the voting public be able to gauge how he has performed in this vital area.

Our non-partisan, non-profit citizens' organization proposes a specific lawsuit as particularly appropriate for press scrutiny. The lawsuit was not only expressly brought in the public interest, but has spanned Mr. Spitzer's tenure as Attorney General and is now pending before the New York Court of Appeals. More importantly, it is a lawsuit with which Mr. Spitzer is directly familiar and knowledgeable. Indeed, it was generated and perpetuated by his official misconduct -- and seeks monetary sanctions and disciplinary and criminal relief against Mr. Spitzer *personally*.

Documented by the lawsuit is that Mr. Spitzer used his position as Attorney General to cover-up systemic governmental corruption involving, *inter alia*,

"*The Attorney General Goes to War*", (New York Times Magazine, June 16, 2002, James Traub), "Spitzer's position is considered so impregnable that the Republicans have put up a virtually unknown judge to oppose him this fall -- an indubitable proof of political success"; "*The Enforcer*" (Fortune Magazine, September 16, 2002 coverstory, Mark Gimein), "he's almost certain to win a second term as attorney general this fall".

² "Spitzer Pursuing a Political Path" (Albany Times Union, May 19, 2002, James Odato); "A New York Official Who Harnessed Public Anger" (New York Times, May 22, 2002, James McKinley); "Democrats Wait on Eliot Spitzer, Imminent 'It Boy'" (New York Observer, August 19, 2002, Andrea Bernstein), "many insiders already are beginning to talk --about the chances of a Democrat winning back the Governor's office in 2006. At the top of their wish list is Mr. Spitzer, whose name recognition has shot through the roof in the last year, private pollsters say, and who appears -- for now, at least -- to have no negatives."

³ See www/oag.state.ny.us/: "Tour the Attorney General's Office" -- Division of State Counsel.

Governor Pataki, high-ranking judges, and the State Commission on Judicial Conduct. He did this by wilfully failing to investigate the documented allegations of corruption underlying the lawsuit and, thereafter, employing fraudulent defense tactics to defeat it. Such tactics would be grounds for disbarment if committed by a private attorney.

Annexed to the litigation papers is a paper trail of correspondence with Mr. Spitzer, establishing his *direct knowledge and personal liability* for the fraudulent defense tactics of his Law Department by his wilful failure and refusal to meet his mandatory supervisory duties under DR-1-104 of New York's Code of Professional Responsibility (22 NYCRR §1200.5).

I do not exaggerate in saying that press scrutiny of this one lawsuit will not only rightfully end Mr. Spitzer's re-election prospects and political career, but his legal career as well. Indeed, it may prove equally devastating for Governor Pataki.

Added to this, the lawsuit provides an "inside view" of the hoax of Mr. Spitzer's "public integrity unit" – which, according to a September 1999 Gannett article, "*Spitzer's Anti-Corruption Unit Gets Off to a Busy Start*", had "already logged more than 100 reports of improper actions by state and local officials across New York".

Obviously, verifying the hoax of the "public integrity unit" should begin with the first two reports it received – which were from CJA. These were publicly handed to Mr. Spitzer on January 27, 1999, immediately upon his announcement of the establishment of his "public integrity unit". Reflecting this is the transcript excerpt of my public exchange with Mr. Spitzer at that time. A copy is enclosed, along with CJA's \$3,000 public interest ad, "*Restraining Liars in the Courtroom' and on the Public Payroll*" (New York Law Journal, August 27, 1997, pp. 3-4), to which my transcript exchange refers.

Tellingly, a "search" of the Attorney General's website [www.oag.state.ny.us/] produces only *seven* entries for his "public integrity unit", with virtually *no* substantive information about its operations and accomplishments. This is all the more astounding when seen in the context of Mr. Spitzer's 1998 campaign promise "to take on the task of cleaning up government by taking on *all* of the problems that have led to governmental stagnation and corruption in New York". That promise was detailed in the first three pages of Mr. Spitzer's 1998

campaign policy paper, "Making New York State the Nation's Leader in Public Integrity...", particularizing the bold steps his "Public Integrity Office" would be taking to root out corruption. These pages, copies of which are enclosed, provide a stark contrast to Mr. Spitzer's 2002 re-election website [www.spitzer2002.com] which nowhere mentions his "public integrity unit" and nowhere identify "governmental corruption" and "public integrity" as issues. Examination of the lawsuit file reveals why.

For immediate purposes -- and to get a flavor of this important politically-explosive lawsuit -- enclosed is an article about it, "*Appeal for Justice*" from Albany's alternative newspaper Metroland (April 25-May 1, 2002). Also enclosed is my long ago published letter to the editor, "*An Appeal to Fairness: Revisit the Court of Appeals*" (New York Post, December 28, 1998), providing some of the underlying facts. Additionally enclosed is my June 17, 2002 notice of motion for sanctions and disciplinary and criminal referral of Mr. Spitzer *personally* and to disqualify him from the lawsuit for his unlawful representation of the State Commission on Judicial Conduct, its sole respondent, whose Chairman, Election Law lawyer Henry T. Berger, helped secure Mr. Spitzer's 1998 razor-close victory as Attorney General.

I would be pleased to come to Albany and meet with you so that you can better understand the lawsuit's significance and see for yourself the lawsuit file, from which the extraordinary story of Mr. Spitzer's official misconduct and the hoax of his "public integrity unit" is *readily and swiftly verifiable*. I await your enthusiastic response.

Yours for a quality judiciary
and electorally-meaningful reporting,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Enclosures