

From: Eugene Volokh <volokh@stanford.edu>
Sent: Sunday, November 16, 2025 4:00 PM
To: elena@judgewatch.org

Subject: **Re: Your First Amendment Scholarship -- & Participation, as Amicus Curiae or Counsel, in Federal Lawsuit vs The NYT & 33 Other Press Defendants, in Vindication of the First Amendment & Constitutional, Lawful Governance**

Thanks for writing, but on a quick look — all I can take right now, given the press of other business — your case does not seem well-founded. Among many other problems, there's no basis for bringing it under *federal* law; whatever the possible misconduct of defendants may or may not be, it is not a violation of federal law or of the U.S. Constitution.

Eugene Volokh

From: elena@judgewatch.org <elena@judgewatch.org>
Sent: Sunday, November 16, 2025 9:11 AM
To: Eugene Volokh <volokh@stanford.edu>

Subject: **Your First Amendment Scholarship -- & Participation, as Amicus Curiae or Counsel, in Federal Lawsuit vs The NYT & 33 Other Press Defendants, in Vindication of the First Amendment & Constitutional, Lawful Governance**

TO: [Hoover Institution Senior Fellow Eugene Volokh/Stanford University](#)

As you may recollect, I am director and co-founder of the non-partisan, non-profit citizens' organization [Center for Judicial Accountability, Inc. \(CJA\)](#), with decades of first-hand experience and primary-source, documentary evidence germane to your scholarship. Five years ago, on November 21, 2020, you telephoned me with questions about a pdf posted on CJA's website. The e-mails you sent me at that time are [here](#) and [here](#) and mine to you, reflecting our conversation, is [here](#). I received no response from you to it – nor to my [July 18, 2023 e-mail](#), re-sent [July 20, 2023](#).

In our November 21, 2020 conversation, I stated that I was:

“searching for scholarship for CJA’s groundbreaking public interest lawsuits against [The New York Times](#) and [Gannett](#) for ‘journalistic fraud’ and ‘institutional reckless disregard for truth’ – causes of action whose viability under the First Amendment is...established by the FULLY-POSTED RECORD of each lawsuit showing that [The New York Times](#) and [Gannett](#) had NO defense to recognition of these causes of action and were each protected by the courts, on both trial and appellate levels.” (hyperlinks, capitalization, underlining in the original).

The purpose of this e-mail is to alert you that seven weeks ago, on October 8th, CJA commenced a second lawsuit against [The New York Times](#) for “journalistic fraud” and “institutional reckless disregard for truth” – a federal lawsuit that was additionally against 24 other press defendants, pivotally focused on their rigging of Zohran Mamdani’s electoral win as New York City mayor by

their *knowingly* false, corruption-abetting journalism. Three weeks later, by the above-attached and here-linked [October 29th verified amended complaint](#), the lawsuit was expanded to include subsequent events and another 9 press defendants, for a total of 34.

It appears there is still NO SCHOLARSHIP of the “journalistic fraud” and “institutional reckless disregard for truth” causes of action, proposed more than two decades ago by the law review articles “[Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence](#)” (2003) and “[Institutional Reckless Disregard for Truth in Public Defamation Actions against the Press](#)” (2004-2005) – or of CJA’s landmark lawsuits based thereon in the New York state courts. Is that correct? Certainly, there was no mention of these in your October 17, 2024 Free Speech Unmuted podcast “[Misinformation: Past, Present, and Future](#)”.

This “cancel culture” of scholarship – where there is NO SCHOLARSHIP of facts and law that are “inconvenient” and run counter to preferred “narratives” – has destroyed constitutional, lawful governance by fictions. This must now end – and it is your obligation to end it by honest scholarship that is not “cherry-picked” and polluted by conflicts of interest, which is what has been going on.

Additionally, inasmuch as you are not an “ivory tower” academic, but engage in litigation, filing [amicus curiae briefs](#) and representing clients – [presumably only media clients](#) – I invite your participation in the federal lawsuit, either as *amicus curiae* in support of plaintiffs or as paid or *pro bono* counsel to the unrepresented corporate plaintiff CJA, which I cannot represent as I am not an attorney.

My opinion, as the non-lawyer individual plaintiff, is that this monumental lawsuit, brought “*on behalf of the People of the State of New York & the Public Interest*”, is a summary judgment case, as there is NO defense to it factually or legally. The SOLE issue is the magnitude of compensatory, presumed, and punitive damages – a jury determination that will reasonably be many tens of billions of dollars. Do you disagree?

I look forward to discussing the foregoing with you – no matter how early or late, and as soon as possible. When might I expect your call?

Thank you.

Elena Sassower, Director
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