

From: elena@judgewatch.org
Sent: Wednesday, April 8, 2026 1:04 PM
To: 'whenricksen@barry.edu'

Subject: **Scholarship & Lawsuit Participation: Federal Lawsuit to Establish Causes of Action for "Journalistic Fraud" & "Institutional Reckless Disregard for Truth"**

Attachments: [amended-complaint-oct-29-2025-signed-by-zerman.pdf](#)

TO: [Associate Law Professor Wes Henricksen/Barry University School of Law](#)

I am director and co-founder of the nonpartisan, nonprofit citizens' organization [Center for Judicial Accountability, Inc. \(CJA\)](#).

A *propos* of your 2022 law review article "[Disinformation and the First Amendment: Fraud on the Public](#)", 96 St. John's L. Rev. 543, and your 2024 book [In Fraud We Trust](#), did any of your law professor colleagues and fellow scholars of media law, the First Amendment, and torts alert you to the cause of action for "journalistic fraud" proposed as viable under the First Amendment and just waiting to be tested by the 2003 law review article "[Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence](#)" by Professors Clay Calvert and Robert Richards – as to which there has seemingly been NO scholarship and NONE of lawsuits based thereon, such as the two that CJA brought, on behalf of the public, both in New York state courts, the first, against [The New York Times](#) (2006-2008), and the second, against [Gannett](#) (2010-2013).

These two lawsuits, whose records prove the viability of the "journalistic fraud" cause of action and, additionally, of a cause of action for "institutional reckless disregard for truth", proposed in a 2005 law review article "[Institutional Reckless Disregard for Truth in Public Defamation Actions against the Press](#)" by Professors Randall Bezanson and Gilbert Cranberg, are now part of a third lawsuit which CJA has brought, on behalf of the public, this time in federal court, against the [NYT](#) and 33 other representative press defendants.

Above-attached and here-linked is the [October 29, 2025 amended verified complaint, as signed by CJA's counsel and refiled on January 5, 2026](#), from which you will readily discern that there is NO defense to its four causes of action, factually or legally – and that the SOLE issue will be the magnitude of compensatory, presumed, and punitive damages, a jury determination that will reasonably be many billions of dollars. This is reinforced by the district court's unprecedented handling of the case, as reflected by my [December 19th affidavit demonstrating subject matter jurisdiction](#), my [February 23rd letter to the district judge](#), and the judge's [March 2nd so-ordered annotation](#).

Obvious from your 2022 law review article (and, presumably, your book and other scholarship) is that it substantiates the "journalistic fraud" and other causes of action – and I would like to speak with you about this, both in terms of your own scholarly follow-up and teaching and with respect to whether you would be interested in filing an *amicus curiae* brief or otherwise participating in the lawsuit, either *pro bono* or for pay.

When would you be available for a conversation?

Thank you.

Elena Sassower, Director
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