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Subject: **Follow-Up & Confirmation -- ALI's Restatement (3rd) of Torts -- & the Unfolding Federal Lawsuit to Establish the Torts of "Journalistic Fraud" & "Institutional Reckless Disregard for Truth"**

Attachments: [no18-1-oct29-2025-verified-amended-complaint-signed-by-zerman.pdf](#)

TO: AMERICAN LAW INSTITUTE CO-REPORTERS

TORTS-REMEDIES

Co-Reporter [Law Professor Douglas Laycock](#)

TORTS-MISCELLANEOUS PROVISIONS

Co-Reporter [Law Professor Nora Freeman Engstrom](#)

Co-Reporter [Law Professor Michael Green](#)

TORTS-CONSTITUTIONAL

Co-Reporter [Law Professor John Calvin Jeffries](#)

I have received no responses from you or the indicated cc's to my below February 18th e-mail and assume this is because you and they have not responded – and that the reason is because you and they do not contest that the ALI's Restatement (3rd) of Torts must include the emerging torts of “journalistic fraud” and “institutional reckless disregard for truth” and the caselaw pertaining thereto that already exists and

that will be generated by the unfolding federal lawsuit against The New York Times and 33 other press defendants.

If this is not correct, please advise by Monday, noon (NY time), and furnish such findings of fact and conclusions of law as you have made with respect to the federal lawsuit, so that I may be guided accordingly in my communications with ALI leadership.

Thank you.

Elena Sassower, Director
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From: elena@judgewatch.org <elena@judgewatch.org>
Sent: Wednesday, February 18, 2026 10:14 AM
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Subject: American Law Institute's Restatement (3rd) of Torts -- & the Unfolding Federal Lawsuit to Establish the Torts of "Journalistic Fraud" & "Institutional Reckless Disregard for Truth"

TO: AMERICAN LAW INSTITUTE CO-REPORTERS

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I am director and co-founder of the non-partisan, nonprofit citizens' organization [Center for Judicial Accountability, Inc. \(CJA\)](#) – and am writing to alert you to CJA's unfolding federal lawsuit against [The New York Times](#) and 33 other press defendants, whose first two causes of action seek judicial recognition of the torts of "journalistic fraud" and "institutional reckless disregard for truth", proposed more than 20 years ago by law review articles as viable under the First Amendment, "[Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence](#)", 14 [Fordham Intellectual Property, Media & Entertainment Law Journal](#) (2003) and "[Institutional Reckless Disregard for Truth in Public Defamation Actions against the Press](#)", 90 [Iowa Law Review](#) 887 (2005).

Above-attached and here-linked is the [October 29, 2025 verified amended complaint](#), whose paragraphs 6(c) and (d) identify and link to CJA's two prior lawsuits in New York state courts, seeking judicial recognition of those two causes of action.

In which section of ALI's Restatement (3rd) of Torts should these emerging torts be included? I have asked that question to four of your fellow co-reporters, plus an associate reporter, without response:

- to [Law Professor Robert Post](#) and [Law Professor Lyrrissa Lidsky](#), the co-reporters for the "[Torts: Defamation and Privacy](#)" Restatement, and to [Law Professor Richard Hasen](#), co-reporter for the "[Torts: Remedies](#)" Restatement, by a [February 2nd e-mail](#), without response from them or any of its other recipients;
- to [Law Professor Pamela Karlan](#), co-reporter for the "[Constitutional Torts](#)" Restatement, and to [Law Professor Fred O. Smith, Jr.](#), an associate reporter thereof, by a [February 2nd e-mail](#), without response from them or any of its other recipients.

In the interest of economy, I refer you to the particulars set forth by those two February 2nd e-mails – and am cc'ing all their recipients for such responses as they wish to belatedly contribute.

Needless to say, if you believe that the ALI's Restatement (3rd) of Torts should not include the decisional law that already exists with respect to the emerging torts of "journalistic fraud" and "institutional reckless disregard for truth" and that will be generated by CJA's unfolding federal lawsuit, please state the reasons so that I may be guided accordingly in my communications with ALI leadership.

Thank you.

Elena Sassower, Director
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