

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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February 28, 2006

Charles Lewis, Founder & President  
The Fund for Independence in Journalism  
1250 24th Street, N.W., Suite 300  
Washington, D.C. 20037

- RE: (1) Enriching your scholarship by primary source documents of the media's knowing and deliberate violation of "the people's right to know" with respect to judicial corruption, the corruption of judicial selection and discipline – and the complicity of public officers, including those seeking re-election and further public office; and
- (2) Realizing the purpose of The Fund for Independence in Journalism

Dear Mr. Lewis:

This letter is occasioned by your statement that you are writing a book about "what is the role of journalism exactly when it comes to truth" – which you made during your January 1<sup>st</sup> appearance on C-Span's Q & A – as well as by my fortuitous discovery that you are currently a Fellow at Harvard University's Joan Shorenstein Center on the Press, Politics & Public Policy, where your research, presumably for your book, is on "power, the news media, and the people's right to know".

The Center for Judicial Accountability, Inc. (CJA) is a national, non-partisan, non-profit citizens' organization, dedicated to providing the media with accurate, *independently-verifiable* information about judicial corruption and securing the public's right to know about, and participate in, the essentially closed-door processes of judicial selection and discipline. Unfortunately, these are *not* goals shared by the news media – a fact we have meticulously documented during the more than fifteen years of our existence.

The purpose of this letter is two-fold. First, to assist your scholarly research by offering you primary source documents consisting of CJA's unique archive of correspondence with a substantial number of news media, establishing their knowing and deliberate refusal to report on *readily-verifiable* documentary evidence of the corruption of the processes of judicial selection and discipline, as well as of the judicial process itself. Such are additionally valuable as they will enable you to answer what

your June 8, 2001 commentary, "*Judiciary Should Let Sunshine In To Reduce Public Skepticism*"<sup>1</sup>, identified as the question that has "gnawed at [you] for years":

"Has there generally been less scandal in the judiciary because less information is made available to the public, or is there inherently more 'integrity' in this part of government?"

Your June 2001 commentary avoided the answer by remarking that it was "a long and separate discussion". Yet, if -- as it appears -- you did not subsequently engage in that "discussion", your prospective book and current Fellowship are the perfect opportunity.

### Stating

"In general, the judiciary is the least known part of government, the least investigated by the national news media, and the least besmirched by public scandal over the last half-century or so",

your June 2001 commentary did not fault the media, except incidentally. Rather, you repeated the gospel that:

"Most investigative reporters instinctively believe that *all* information is potentially useful, and that public officials, even those wearing robes, are flawed human beings, their actions requiring scrutiny." (italics in your original).

The reality exposed by our primary source evidence is diametrically different. It shows a *modus operandi* among "investigative reporters" and top managerial and editorial levels of the news media to reject scrutinizing judges and the judiciary in any meaningful, systematic way, as, likewise, other public officials whose misconduct touches on the judiciary. As illustrative, New York Senator Hillary Rodham Clinton and New York Attorney General Eliot Spitzer, each actively complicitous in corrupting judicial selection and discipline and the judicial process itself.

You can *immediately* verify this, as the corroborating primary source documents are posted on CJA's website, [www.judgewatch.org](http://www.judgewatch.org). They are most conveniently and comprehensively accessible *via* the sidebar panel, "Press Suppression", which brings up a selection of "Special Topics" -- including as relates to the media's "Skewing & Subverting the Electoral Process" by their protectionism of Senator Clinton and Attorney General Spitzer. Further down the page is a heading, "Paper Trails of Press Suppression, Protectionism, and Blackballing", followed by a list of specific media. First on the list is The New York Times. Our breathtaking fifteen-year "Paper Trail" of correspondence with The Times includes complaint, after complaint, after complaint to its highest echelons of power: its publisher, its executive editors, its managing editors, its bureau and desk editors, its editorial board, and -- since the

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<sup>1</sup> I accessed this commentary from The Center for Public Integrity's website, [www.publicintegrity.org](http://www.publicintegrity.org) -- using the search feature and typing in the words, "judicial selection", "judicial discipline", and "judicial corruption". Your commentary appears to be the extent of The Center's contribution to these vital subjects.

introduction of the office of public editor – to its two public editors, whose rank dishonesty and cover-up have now culminated in our public interest lawsuit against The Times for libel and journalistic fraud. This, based on the Times' wilful and deliberate suppression from coverage of the evidence of the corruption of judicial selection and discipline, combined with its protectionism of complicitous public officers, including those seeking re-election or further public office: Senator Clinton and Attorney General Spitzer among them.

In championing “the public’s right to know” under the First Amendment, our verified complaint opens with the quote:

“The First Amendment goes beyond protection of the press..’...‘It is the right of the [public], not the right of the [media], which is paramount,’...for ‘without the information provided by the press most of us and many of our representatives would be unable to vote intelligently or to register opinions on the administration of Government generally,’ ...”<sup>2</sup>

Although the complaint will not be served for another few weeks, its powerful outlines are apparent from CJA’s July 29, 2005 letter to Times Executive Editor Bill Keller, from our follow-up August 16, 2005 memo, and from our September 26, 2005 letter to Public Editor Byron Calame – all posted on CJA’s “Paper Trail” of correspondence with The Times, as well as highlighted on the linked webpage, “Suing The New York Times”. Needless to say, upon request, we will promptly forward you the drafted complaint so that you can better understand this dramatic interface of “power, the news media, and the people’s right to know”, now unfolding in an unprecedented lawsuit.

This leads to the second purpose of this letter. During your January 1<sup>st</sup> C-Span interview, you stated that your newly-founded Fund for Independence in Journalism was initially intended to serve as “a legal defense endowment fund for The Center for Public Integrity”, but that it was also evolving as

“a platform to talk about what’s happening to journalism, and what’s happening to information, and what’s happening to our society when it comes to knowing about what’s going on and a lot of larger issues.”

The “Press Suppression” page of CJA’s website – leading up to our groundbreaking lawsuit against The Times for journalistic fraud -- provide hard evidence of what is happening: **our democracy is going down the drain because the media is deliberately starving the public of information to which it is absolutely entitled by the most basic definition of what journalism is supposed to be about. This is an emergency situation, requiring action.** Especially is this so in this election year

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<sup>2</sup> *Cohen v. Cowles Media Co.*, 501 U.S. 663, 678 (1991), Justice Souter, writing in dissent with Justices Marshall, Blackmun, and O’Connor, citing cases culminating in *New York Times Co. v. Sullivan*, 376 U.S. 254, 278-279 (1964), cited in “*Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence*”, by Professors Clay Calvert and Robert Richards, 14 *Fordham Intellectual Property, Media & Entertainment Law Journal* 1, footnotes 62 and 156 (2003).

where The Times and other media are blithely continuing their “election-rigging” conduct by withholding from the public ALL report of the records of Senator Clinton and Attorney General Spitzer with respect to judicial selection, discipline and the corruption of the judicial process. This, with knowledge that such records – which coalesce in an unprecedented “disruption of Congress” case<sup>3</sup> -- expose systemic governmental corruption on both national and New York levels that would rightfully compel voters to vote Senators Clinton and Attorney General Spitzer out of office, in addition to requiring disciplinary and criminal authorities to proceed against them for their official misconduct, which has caused vast, irreparable injury to the People of New York State and the nation.

Consequently, CJA respectfully requests that The Fund for Independence in Journalism act in the courageous spirit of its name, which connotes journalism whose “Independence” is for the purpose of meeting its First Amendment responsibilities to inform the public as to matters of legitimate public concern. Specifically, we request that you alert The Center for Public Integrity -- the magnificent organization you founded “to serve as an honest broker of information – and to inspire a better informed citizenry to demand a higher level of accountability from its government and elected leaders”<sup>4</sup> -- to the primary source documents posted on CJA’s website so that it can lead the way in investigating and reporting on the *readily-verifiable* systemic corruption that The Times and other media have been shamelessly suppressing. We likewise request that you alert the other journalist entities identified by The Fund’s website as “Resources for Citizens and Journalists” to these documents – thereby testing whether their commitment to the “public’s right to know” matches that of The Center for Public Integrity

Further, we respectfully request your assistance in bringing the “Press Suppression” page of CJA’s website to the attention of media critics and academic institutions.<sup>5</sup> Indeed, we can already attest to the importance of having someone of your stature acting as our liaison. This, based on our initial unsuccessful outreach efforts to get legal assistance and media attention for our lawsuit against The Times – including from the Directors of the Pennsylvania First Amendment Center at Pennsylvania State University, Professors Clay Calvert and Robert Richards, whose own law review article, “*Journalistic Malpractice: Suing Jayson Blair and the New York Times for Journalistic Fraud and*

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<sup>3</sup> See CJA’s July 29, 2005 letter to Mr. Keller (at p. 7) – copies of which were sent to Legal Times, The New York Law Journal, Roll Call, The Philadelphia Inquirer, and The Washington Post under an August 9, 2005 memo (see sidebar panel, “Disruption of Congress”, of CJA’s website).

<sup>4</sup> Quoted from The Center for Public Integrity’s website (“About Us”).

<sup>5</sup> This would include the Joan Shorenstein Center on the Press, Politics, and Public Policy, where The Times’ first public editor, Daniel Okrent is also a Fellow, doing research “into the role of ombudsmen”. Mr. Okrent’s own pivotal role in generating our lawsuit against The Times (in which he is a named defendant) is reflected by CJA’s July 29, 2005 letter to Mr. Keller (at pp. 2-3), with the substantiating primary source documents posted on the “Press Suppression-New York Times” page of CJA’s website.

*Negligence*" underlies the lawsuit.<sup>6</sup>

In your Q & A interview you confessed that "what exactly" The Fund for Independence in Journalism does is "still unfolding". Your review of CJA's posted website material will enable you to swiftly discover The Fund's unique role – one perhaps less aligned with entities "funded by and for journalists"<sup>7</sup> and more aligned with "the public", whose "right to know" The Fund has expressly dedicated itself to "protecting". Indeed, this critical role will become evident to you as you grapple with the question, herein asked, as to whether The Fund – or its linked affiliates – can provide us with legal or other assistance in our First Amendment public interest lawsuit against The Times, in vindication of "the public's right to know" – or refer us to any journalistic organization or First Amendment entity which can.

We await your response – and promise you all assistance, including by hard copies of the posted primary source documents and access to the originals.

With thanks and sincere appreciation for your founding and leadership of The Center for Public Integrity,

Yours for a quality judiciary  
and responsible journalism,



ELENA RUTH SASSOWER, Director & Co-Founder  
Center for Judicial Accountability, Inc. (CJA)

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<sup>6</sup> The otherwise unbelievable exchange of correspondence between myself and Professors Calvert and Richards is posted on CJA's website, accessible *via* the sidebar panel, "Correspondence-Academia". I do not know the funding sources of the Pennsylvania First Amendment Center, but, it appears that media, including The Times, generously underwrite a variety of journalistic programs and First Amendment type endeavors – with the result that these entities turn a cold shoulder to exposing what their media benefactors are doing.

<sup>7</sup> Quoted from your Q & A interview.