

Subject: On Transparency: How The NYT Litigates When Sued

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Organization: Center for Judicial Accountability, Inc.

TO: AMERICAN JOURNALISM REVIEW

ATT: Dean Thomas Kunkel, President

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How does the great and mighty New York Times litigate when sued? Are the standards of "quality" and "excellence" that supposedly mark its journalism manifested in its legal submissions as well?

These questions are dramatically answered by the *first-ever* public interest lawsuit against The Times for "journalistic fraud" – where its litigation misconduct has resulted in a motion by plaintiffs for sanctions against it – and for such other resounding relief as summary judgment, including removal of The Times' front-page motto "All the News That's Fit to Print" as a false and misleading advertising claim.

Attached is the Center for Judicial Accountability's press release (#2) about the extraordinary posture of the case.  [press-release-2.pdf \(86KB\)](#)

Also attached, CJA's first press release, sent you 2-1/2 months ago, summarizing the lawsuit's electorally-explosive and fully-documented allegations as to The Times' election-rigging for Senator Hillary Rodham Clinton and New York State Attorney General Eliot Spitzer, among others.

 [press-release-1.pdf \(101KB\)](#)

Full details – including copies of the court submissions in the case – are posted on CJA's website, www.judgewatch.org, accessible via the sidebar panel "Suing The New York Times".

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P R E S S R E L E A S E #2: June 9, 2006 onward

**PUBLIC INTEREST LAWSUIT vs THE NEW YORK TIMES
SEEKS JUDGMENT AGAINST IT, INCLUDING REMOVAL OF
ITS FRONT-PAGE MOTTO "ALL THE NEWS THAT'S FIT TO PRINT"
AS A FALSE AND MISLEADING ADVERTISING CLAIM**

How does the great and mighty New York Times litigate when sued? Are the standards of "quality" and "excellence" that supposedly mark its journalism manifested in its legal submissions as well?

These questions are answered in motion papers filed by the non-profit, non-partisan citizens' organization, Center for Judicial Accountability, Inc. (CJA), and its director, Elena Ruth Sassower, plaintiffs in the first-ever public interest lawsuit against The Times, suing it for journalistic fraud in connection with its news reporting and editorializing. Their papers – responding to a Times motion to dismiss the lawsuit – demonstrate that The Times' motion, "from beginning to end and in virtually every sentence", "flagrantly falsifies, omits, and distorts the [lawsuit's] allegations and cites law that is either inapplicable by reason thereof or [itself] falsified and distorted".

Based thereon, plaintiffs have requested maximum costs and sanctions against Times attorneys and the named Times defendants they represent – among them, Publisher Arthur Sulzberger, Jr., Executive Editor Bill Keller, Managing Editor Jill Abramson, and Public Editor Byron Calame – as well as disciplinary referrals against Times attorneys and their disqualification. Indeed, plaintiffs' showing is so resounding that they have cross-moved for summary judgment on their three causes of action and, as part thereof, removal of The Times' front-page motto "All the News That's Fit to Print" as a false and misleading advertising claim. All of this is in addition to a default judgment against non-appearing Times defendants, including Daniel Okrent, The Times' first Public Editor.

The papers in this historic lawsuit – seeking money damages of \$906,000,000 – are posted on CJA's website, www.judgewatch.org – accessible via the sidebar panel, "Suing The New York Times". This includes the lawsuit's verified complaint, chronicling The Times' pattern and practice of election-rigging for Senator Hillary Rodham Clinton and New York Attorney General Eliot Spitzer creating their anticipated landslide victories this November.

* The Center for Judicial Accountability, Inc. (CJA) is a national, non-partisan, non-profit citizens' organization working to ensure that the processes of judicial selection and discipline are effective and meaningful.

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PRESS RELEASE #1: March 22, 2006 onward

FIRST-OF-ITS-KIND PUBLIC INTEREST LAWSUIT vs THE NEW YORK TIMES IN VINDICATION OF THE FIRST AMENDMENT

The New York Times is being sued for libel and journalistic fraud in a landmark public interest lawsuit, the first to implement the powerful recommendation for media accountability proposed in the 2003 law review article "*Journalistic Malpractice: Suing Jayson Blair and the New York Times for Fraud and Negligence*", 14 Fordham Intellectual Property, Media & Entertainment Law Journal 1.

The lawsuit, charging The Times with betraying its First Amendment responsibilities to the public, is brought by the Center for Judicial Accountability, Inc. (CJA) and its director, Elena Ruth Sassower. The libel causes of action are based on a Times column, "*When the Judge Sledgehammered The Gadfly*", about Ms. Sassower, then serving a six-month jail sentence in D.C., after conviction on a "disruption of Congress" charge. An analysis of the column, annexed as Exhibit A to the Verified Complaint, demonstrates that the column is "deliberately defamatory", "knowingly false and misleading", and "completely covers up the politically-explosive underlying national and New York stories of the corruption of the processes of judicial selection and discipline, involving our highest public officers".

These public officers include Senator Hillary Rodham Clinton, running for re-election to the U.S. Senate this year, with an eye to the presidency in 2008, and New York Attorney General Eliot Spitzer, running this year to be New York's next governor. The Verified Complaint alleges that their anticipated landslide victories are being rigged by The Times, whose steadfast refusal to report on the records of Ms. Clinton and Mr. Spitzer with respect to judicial selection and discipline is with knowledge that such reporting would rightfully end their electoral prospects, if not generate disciplinary and criminal prosecutions against them for corruption. As for past electoral races, the Verified Complaint dramatically shows that The Times rigged Senator Charles Schumer's 2004 re-election to the Senate by similarly refusing to report on his record as to judicial selection and discipline, and, prior thereto, rigged Mr. Spitzer's 2002 re-election as attorney general and Governor George Pataki's 2002 and 1998 re-elections as New York's governor, likewise by refusing to report on their records.

The Times' protectionism of all these public officers -- and its suppression of any coverage of the *readily-verifiable* documentary evidence of systemic governmental corruption involving judicial selection and discipline, provided it by CJA throughout the past 15 years -- underlies the lawsuit's cause of action for journalistic fraud.

The Verified Complaint, its substantiating exhibits, and the law review article are posted on CJA's website, www.judgewatch.org -- accessible *via* the sidebar panel, "Suing The New York Times".

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