

Subj: Re: The reason why
Date: 10/8/02 6:09:49 PM Eastern Daylight Time
From: mckinley@nytimes.com (James C. McKinley Jr.)
To: Judgewatchers@aol.com

Fine. I still think you're barking up the wrong tree. Even if the commission has been unfair to you and your mother, which is quite plausible, I don't see how Mr. Spitzer is to blame. Lawyers defending cases cite previous decisions all the time. That you disagree with the decisions they cite does not make them guilty of some sort of misconduct. They are simply making an argument in court, based on whatever case law they can muster. You keep arguing that these precedents are on their face wrong. Perhaps you are right, perhaps not. But unfortunately, only a judge can make that determination in this society. And you lost on appeal.

I think your fixation on Mr. Spitzer is obscuring the real story here. The question that interests me is: Who has Pataki appointed to the bench and are they qualified? We know the vetting process in the Senate is a joke. Questions have been raised about Judge Wentzel's qualifications. I need to know who else he appointed and whether they are serious jurists or simply people he knew and who gave to his campaigns. If there were a pattern, that could proven, of unqualified people being appointed under the governor and rubberstamped by the Senate, that would be a news story. It is hard as hell to get, but I was hoping your organization could help.

Instead, I have been subjected to an unending rant about Mr. Spitzer being guilty of some sort of legal misconduct for defending the commission against your lawsuit. What was he supposed to do? Lay down? Isn't the whole purpose of a lawsuit to present arguments and try to arrive at a fair decision?

I apologize for losing my temper on the telephone. These letters of yours to various editors at the times are, I think, a waste of time. But do what you think is right.

Cheers.
Jim McKinley

At 05:57 PM 10/8/2002, you wrote:

>Dear Mr. McKinley,

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>In response to your question, "why are you sending me this?", it is my
>practice -- consistent with fundamental principles of fairness -- to "cc"
>those about whom I write.

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>Don't you prefer it that way -- to have an opportunity to deny or dispute
>the accuracy of my statements about you -- if, in fact, they can be
>denied or disputed?

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>Since this extraordinary story rests on the lawsuit file -- a copy of
>which you have had since June 28th -- I challenge you to deny or dispute
>that it establishes EVERYTHING I have said it does in my memo to Editorial
>Page Editor Gail Collins.

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