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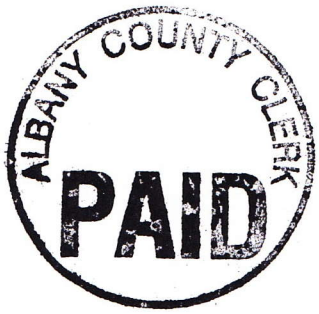
At an IAS Part of the Supreme Court of the State of New York, held in and for the County of Albany at the Courthouse, located at 16 Eagle Street, New York, New York on the 29th day of March, 2017.



SUPREME COURT OF STATE OF NEW YORK
ALBANY COUNTY

CENTER FOR JUDICIAL ACCOUNTABILITY, INC. and ELENA RUTH SASSOWER, individually and as Director of the Center for Judicial Accountability, Inc., acting on their own behalf and on behalf of the People of the State of New York & the Public Interest,

Plaintiffs,

ORDER TO SHOW CAUSE WITH PRELIMINARY INJUNCTION & TRO

-against-

Index # 5122-16
RJI #01-16-122174

ANDREW M. CUOMO, in his official capacity as Governor of the State of New York, JOHN J. FLANAGAN in his official capacity as Temporary Senate President, THE NEW YORK STATE SENATE, CARL E. HEASTIE, in his official capacity as Assembly Speaker, THE NEW YORK STATE ASSEMBLY, ERIC T. SCHNEIDERMAN, in his official capacity as Attorney General of the State of New York, THOMAS P. DiNAPOLI, in his official capacity as Comptroller of the State of New York, and JANET M. DiFIORE, in her official capacity as Chief Judge of the State of New York and chief judicial officer of the Unified Court System,

Defendants.

Upon the annexed affidavit of the unrepresented individual plaintiff ELENA RUTH SASSOWER, sworn to on March 29, 2017, the exhibits annexed thereto, plaintiffs' accompanying March 29, 2017 verified supplemental complaint, and upon all the papers and proceedings heretofore

had in this citizen-taxpayer action and in the predecessor citizen-taxpayer action, *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Albany Co. #1788-2014),

LET defendants show cause before Acting Supreme Court Justice Denise Hartman at 16 Eagle Street, Albany, New York 12207 on the 28th day of April 2017 at 9:30 a.m. or as soon thereafter as the parties or their counsel may be heard, why an order should not issue:

(1) pursuant to CPLR §3212, granting summary judgment to plaintiffs on each of the five sections of the sixth cause of action of their September 2, 2016 verified complaint (¶¶59-68) – and declaring null and void the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation and enjoining further disbursement of monies pursuant to its "force of law" judicial salary increase recommendations;

(2) pursuant to CPLR §3025(b), granting leave to plaintiffs to supplement their September 2, 2016 verified complaint (pertaining to fiscal year 2016-2017) by their March 28, 2017 verified supplemental complaint (pertaining to fiscal year 2017-2018);

(3) declaring null and void, by reason of the legislative defendants' fraud and violation of Article III, §10 of the New York State Constitution, the eight budget bills for fiscal year 2017-2018 they purport to have "amended" on March 13, 2017[1], but which, in fact, they did not "amend" – and enjoining all budget actions based thereon;

(4) declaring null and void, by reason of the legislative defendants' fraud and violation of Article III, §10 of the New York State Constitution, Debt Service Budget Bill #S.2003-A/A.3003-A for fiscal year 2017-2018 they purport to

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[1] **These eight bills are:**

three "appropriation bills", purportedly amended by defendant Senate and, separately, by defendant Assembly – resulting in six bills:

State Operations: #S.2000-B: #A.3000-B;
Aid to Localities: #S.2003-B; #A.3003-B;
Capital Projects: #S.2004-B; #A.3004-B;

And five "Article VII bills", purportedly amended by defendant Senate and, separately, by Defendant Assembly – resulting in ten bills:

Public Protection & General Government: #S.2005-B; #A.3005-B
Education, Labor & Family Assistance: #S.2006-B; #A.3006-B
Health and Mental Hygiene Budget: #S.2007-A; #A.3007-A;
Transportation, Economic Development, & Environmental Conservation: #S.2008-B; #A.3008-B
Revenue: #S.2009-B; #A.3009-B.

have identically "amended" on March 20, 2017, but which, in fact, they did not amend – and enjoining all budget actions based thereon;

(5) declaring null and void, by reason of the legislative defendants' violation of Article VII, §§4, 5, 6 of the New York State Constitution and the controlling consolidated decision of the Court of Appeals in *Pataki v. Assembly* and *Silver v. Pataki*, 4 NY3d 75 (2004), each of their March 13, 2017 "amended" budget bills that altered appropriations by increases and additions, directly to the bills, not "stated separately and distinctly from the original item" and removing and inserting qualifying language – and enjoining all budget actions based thereon;

(6) enjoining defendants from enacting the unamended Legislative/Judiciary Budget Bill #S.2001/A.3001 and/or disbursing monies pursuant thereto; or, alternatively: (i) as to the legislative portion, enjoining enactment of its §1 appropriations and §4 reappropriations (pp. 1-9; 27-53) and disbursement of monies therefrom, *inter alia*, because, in violation of Article VII, §1 of the New York State Constitution, they are not certified; and; (ii) as to the judiciary portion, enjoining enactment of its §3 reappropriations (pp. 23-26) and disbursement of monies therefrom, *inter alia*, because, in violation of Article VII, §1 they are not certified;

(7) for such other and further relief as may be just and proper, including $100 motion costs pursuant to CPLR §8202.

~~SUFFICIENT CAUSE APPEARING THEREFORE, let a temporary restraining order issue pursuant to State Finance Law §123-e(2)[2], enjoining defendants as hereinabove set forth pending hearing and determination of this motion.~~

DH 3/29/17

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[2] State Finance Law §123-e(2) reads:

> "The court, at the commencement of an action pursuant to this article, or at any time subsequent thereto and prior to entry of judgment, upon application by the plaintiff or the attorney general on behalf of the people of the state, may grant a preliminary injunction and impose such terms and conditions as may be necessary to restrain the defendant if he or she threatens to commit or is committing an act or acts which, if committed or continued during the pendency of the action, would be detrimental to the public interest. A temporary restraining order may be granted pending a hearing for a preliminary injunction notwithstanding the requirements of section six thousand three hundred thirteen of the civil practice law and rules, where it appears that immediate and irreparable injury, loss, or damage will result unless the defendant is restrained before a hearing can be had." (underlining added).

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the 31st day of March 2017 upon the defendants herein by personal service be deemed good and sufficient service.

ANSWERING PAPERS, if any, are to be served by defendants, *via* e-mail and regular mail, at ~~least~~ by _____ ~~days prior to the return date of this order to show cause, *to wit*~~, April 21, 2017.

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Denise L. Hartman
Acting Supreme Court Justice

* Plaintiff's request for an evidentiary hearing on March 31, 2017 is denied.