

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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,

-against-

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. HASTIE, 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 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.

AFFIRMATION

Index No. 5122-16

RJI No.: 01-16-122174

Adrienne J. Kerwin, an attorney licensed to practice in the State of New York, affirms the following under penalty of perjury pursuant to CPLR 2106:

1. I am an Assistant Attorney General of counsel in this matter to Eric T. Schneiderman, Attorney General of the State of New York, attorney for defendants Governor Andrew M. Cuomo, the New York State Senate, the New York State Assembly, John J. Flanagan, Carl E. Hastie, Eric T. Schneiderman, Thomas DiNapoli and Janet M. DiFiore in the above-captioned action.

2. I submit this affirmation in opposition to plaintiffs' application seeking an order (i) disqualifying the Honorable Denise A. Hartman, Acting Supreme Court Justice; (ii) granting re-argument and renewal of Defendants' motion to dismiss, pursuant to Rule 2221 of the New York Civil Practice Law and Rules; (iii) vacating the Court's Decision and Order dated December 21, 2016 on Defendants' motion to dismiss, for "fraud" and lack of jurisdiction; and (iv) litigation costs.

3. In a Complaint filed September 2, 2016, Plaintiffs Elena Ruth Sassower and the Center for Judicial Accountability ("CJA") asserted ten causes of action, as citizen-taxpayers, challenging the Governor's Legislative/Judiciary Bill S.6401/A.9001, and the amended bill S.6401-a/A.9001-a. A copy of the Complaint ("Compl."), without exhibits, is annexed hereto at **Exhibit A**.

4. Specifically, Plaintiffs alleged that: (1) the Legislature's proposed budget for Fiscal Year 2016-2017 is unconstitutional, Compl. ¶¶ 24-33; (2) the Judiciary's proposed budget for 2016-2017 is unconstitutional, Compl. ¶¶ 35-39; (3) budget bill S.6401-a/A.9001-a is unconstitutional over and beyond the legislative and judiciary budgets it embodies, "without revision," Compl. ¶¶ 41-47; (4) the process by which the State budget for Fiscal Year 2016-2017 violated its own rules, and "nothing lawful or constitutional" can emerge therefrom, Comp. ¶¶ 49-53; (5) the process by which the State budget for Fiscal Year 2016-2017 was enacted violated Article VII, §§ 4, 5, and 6 of the New York State Constitution, Compl. ¶¶ 55-58; (6) Chapter 60, Part E, of the Laws of 2015 is Unconstitutional, as written, for five separate reasons, including unconstitutional delegation, and the judicial salary increase recommendations by the Commission on Legislative, Judicial and Executive Compensation (the "Commission") are null and void,

Compl. ¶¶ 60-68; (7) Chapter 60, Part E of the Laws of 2015 is unconstitutional, as applied, Compl. ¶¶ 70-76; (8) the Commission's violations of its express statutory requirements of Chapter 60, Part E, of the Laws of 2015 render its judicial salary recommendations null and void, Compl. ¶¶ 78-80; (9) the "three-men-in-a-room" budget deal-making process is unconstitutional, Compl. ¶¶ 82-84; and (10) the appropriation item entitled "For grants to counties for district attorney salaries in bill S.6403-d/A.9003-d does not authorize disbursements for Fiscal Year 2016-2017 and is unconstitutional, Compl. ¶¶ 86-110.

5. A motion to dismiss the Complaint was granted in part, and denied in part, by a December 21, 2016 Decision and Order of this Court. A copy of the Decision and Order is annexed hereto at **Exhibit B**.

6. Thereafter, the Defendants served an Answer to the Complaint. A copy of the answer is annexed hereto at **Exhibit C**.

7. For the reasons discussed in Defendants' Memorandum of Law submitted herewith, and incorporated herein, the plaintiff's current motion should be denied in its entirety.

WHEREFORE, the Defendants respectfully request that the court issue an order (1) denying Plaintiffs' motion in its entirety and (2) granting Defendants any further relief the court deems just, proper and equitable.

Dated: Albany, New York
March 22, 2017



Adrienne J. Kerwin