

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. 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 DiNAPOLI, in his official
capacity as Comptroller of the State of New York, and
JANET M. DIFIIORE, in her official capacity as Chief
Judge of the State of New York and chief judicial
officer of the Unified Court System,

Defendants.

ANSWER

Index No. 5122-16

Hartman, J.

Defendants Andrew M. Cuomo, John J. Flanagan, the New York State Senate, Carl E. Heastie, the New York State Assembly, Eric T. Schneiderman, Thomas DiNapoli and Janet M. DiFiore by their attorney, Eric T. Schneiderman, Attorney General of the State of New York, Adrienne J. Kerwin, Assistant Attorney General, of counsel, answer the complaint as follows:

1. Deny knowledge or information sufficient to form a belief as to the truth of and, thereby, denies paragraph 8 of the complaint.

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2. Deny the allegations contained in paragraphs **9, 14, 60, 61, 62, 63, 64, 66, 67** and **68** of the complaint.

3. Deny the allegations contained in paragraphs **1, 2, 3, 4, 20** and **22** of the complaint and respectfully refer the court to the complaint as the best evidence of what is stated, alleged and sought therein.

4. As to the allegations contained in paragraphs **5** and those under the heading **“Prayer for Relief”** within the complaint, no response is required. However, to the extent that a response is deemed required, the allegations are denied.

5. As to the allegations contained in paragraph **6** of the complaint, respectfully refer all issues of law to the court.

6. As to the allegations contained in paragraphs **7, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 46, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 69, 70, 71, 72, 73, 74, 75, 76, 77, 78, 79, 80, 81, 82, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109** and **110** of the complaint, no response is required as a result of the court’s December 21, 2016 Decision and Order in this case. However, to the extent a response is deemed required, the allegations are denied.

7. As to the allegations contained in paragraph **10** of the complaint, admit that John J. Flanagan is the Temporary Senate President of the New York State Senate, respectfully refer the court to all relevant constitutional, statutory, regulatory, administrative and Senate provisions and rules for a full and complete description of Mr. Flanagan’s powers and duties, and deny all other allegations.

8. As to the allegations contained in paragraph **11** of the complaint, admit that the New York State Senate consists of 63 members, respectfully refer the court to the document cited

as the best evidence of what is stated and contained therein, respectfully refer the court to all relevant constitutional, statutory, regulatory, administrative and Senate provisions and rules for a full and complete description of the Senate's powers and duties, and deny all other allegations.

9. As to the allegations contained in paragraph **12** of the complaint, admit that Carl E. Heastie is the Speaker of the New York State Assembly, respectfully refer the court to all relevant constitutional, statutory, regulatory, administrative and Assembly provisions and rules for a full and complete description of Mr. Heastie's powers and duties, and deny all other allegations.

10. As to the allegations contained in paragraph **13** of the complaint, admit that the New York State Assembly consists of 150 members, respectfully refer the court to the document cited as the best evidence of what is stated and contained therein, respectfully refer the court to all relevant constitutional, statutory, regulatory, administrative and Assembly provisions and rules for a full and complete description of the Assembly's powers and duties, and deny all other allegations.

11. As to the allegations contained in paragraph **15** of the complaint, respectfully refer the court to all relevant constitutional and statutory provisions, and all rules and regulations, for a full and complete description of Comptroller DiNapoli's powers and duties, and deny all other allegations.

12. As to the allegations contained in paragraph **16** of the complaint, admit that Chief Judge Janet M. DiFiore was appointed by Governor Cuomo in December 2015 and confirmed by the New York Senate in January 2016 as Chief Judge of the State of New York, respectfully refer the court to all relevant constitutional, statutory, judiciary, regulatory, administrative and judiciary provisions and rules for a full and complete description of Chief Judge DiFiore's powers and duties, and deny all other allegations.

13. Deny the allegations contained in paragraphs **17** and **18** of the complaint and respectfully refer the court to the document cited as the best evidence of what is stated and contained therein.

14. As to the allegations contained in paragraph **19** of the complaint, respectfully refer the court to the cited decision as the best evidence of what is stated and contained therein.

15. As to the allegations contained in paragraph **21** of the complaint, respectfully refer all issues of law to the court, respectfully refer the court to the documents cited as the best evidence of what is stated, contained and alleged therein and deny that the allegations are proper in that they attempt to incorporate allegations from other documents that have not been filed with the court, or served on defendants, within the context of this action.

16. Deny the allegations contained in paragraph **65** of the complaint, and refer all issues of law to the court.

17. Deny each and every allegation of the complaint not specifically responded to above.

DEFENSES

18. A defense is founded upon documentary evidence. CPLR 3211(a)(1).

19. Plaintiffs' claims are moot. CPLR 3211(a)(7).

20. The claims that plaintiffs make in this proceeding are not justiciable. CPLR 3211(a)(7).

21. The petition fails to state a cause of action. CPLR 3211(a)(7).

22. Plaintiffs have failed to obtain jurisdiction over Defendants Andrew M. Cuomo, John J. Flanagan, the New York State Senate and Janet M. DiFiore. CPLR 3211(a)(8).


23. The issue raised by the plaintiffs is not ripe for judicial review.

24. To the extent that plaintiff's claims rely on information protected by the Speech or Debate Clause of the New York State Constitution, they are barred. NY CONST. Art. III § 11.

WHEREFORE, the defendants respectfully request that the relief requested in the complaint be denied, that the complaint and this proceeding be dismissed and that defendants be award costs and disbursements, together with such other relief as may be just.

Dated: Albany, New York
January 20, 2017

ERIC T. SCHNEIDERMAN
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Attorney for Defendants
The Capitol
Albany, New York 12224-0341

By: 
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Verification

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

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 Andrew M. Cuomo, John J. Flanagan, the New York State Senate, Carl E. Hastie, the New York State Assembly, Eric T. Schneiderman, Thomas DiNapoli and Janet M. DiFiore. I have been assigned to defend this proceeding and I am acquainted with the pleadings, papers, and proceedings to

I have read the foregoing answer. The same is true to my knowledge, except as to those matters alleged upon information and belief, and as to those matters, I believe them to be true.

I make this verification pursuant to CPLR Section 3020(d)(2), because the defendants are officers of the State of New York and the New York State Legislature, and I am acquainted with the facts of this proceeding.

Dated: Albany, New York
January 20, 2017



Adrienne J. Kerwin