

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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BY E-MAIL: via Deputy Chief Administrative Judge Michael Coccoma – dcaj-alb@nycourts.gov
BY MAIL

April 28, 2017

Acting Supreme Court Justice Denise A. Hartman
Albany County Courthouse
16 Eagle Street, Room 220
Albany, New York 12207

RE: Citizen-Taxpayer Action: Center for Judicial Accountability, et al. v. Cuomo, et al.
Albany Co. #5122-16

Plaintiffs' Request to Adjourn Today's Return Date of their March 29, 2017
Order to Show Cause for Preliminary Injunction with TRO & Due Date for their
Reply Papers, Plus Notice to the Attorney General

Dear Judge Hartman:

This follows my phone conversation yesterday afternoon with your secretary Joanne Locke, who then put me on speakerphone for an expanded conversation with your law secretary, Christopher Liberati-Conant.

The purpose of my call was to verify whether you had yet decided (1) plaintiffs' February 15th order to show cause for your disqualification and vacatur of your December 21, 2016 decision/order, which you had originally made returnable on March 24th; and (2) my March 30th e-mail to you entitled "URGENT/TIME-SENSITIVE: Reconsideration – & the granting of a TRO and/or the scheduling of an evidentiary hearing, tomorrow, on plaintiffs' entitlement to a preliminary injunction".

For your convenience, enclosed is a copy of the March 30th e-mail, which had requested your prompt determination of both, consistent with State Finance Law §123-c(4) – to which I had received no response.

In our phone conversation, Mr. Liberati-Conant confirmed that you had not yet decided either and stated that I could expect a decision next week on the February 15th disqualification/vacatur order to show cause. He gave no answer as to when you would be deciding my March 30th reconsideration request for a TRO and/or as prompt an evidentiary hearing as possible on the preliminary injunction sought by plaintiffs' March 29th order to show cause.

Because your determination of the February 15th disqualification/vacatur order to show cause materially affects plaintiffs' March 29th order to show cause that you made returnable today, with plaintiffs' reply papers due today, I notified Mr. Liberati-Conant of my request that these dates be adjourned until after you have decided plaintiffs' entitlement to your disqualification and vacatur of your December 21, 2016 decision. Indeed, your December 21, 2016 decision, tossing out nine of ten causes of action of

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plaintiffs' September 2, 2016 verified complaint, is the ONLY basis upon which AAG Lynch's April 21st answering papers oppose the second branch of plaintiffs' March 29th order to show cause for leave to supplement the September 2, 2016 verified complaint pertaining to fiscal year 2016-2017 with plaintiffs' March 29, 2017 verified supplemental complaint pertaining to fiscal year 2017-2018.

Alternatively – and I so-stated to Mr. Liberati-Conant – I request a two-week adjournment of today's return date so that plaintiffs will have an equal amount of time (albeit less two days) for their reply papers as the three weeks and two days that you gave to AAG Lynch for defendants' answering papers. Such is necessitated because AAG Lynch's opposition papers are, from beginning to end, utterly fraudulent – requiring me to devote a massive amount of time to simply untangling and exposing her mountain of deceptions, lest the Court be misled as to the true facts. Despite my best efforts to complete the task since receiving AAG Lynch's opposition papers, by e-mail, last Friday, April 21st, and notwithstanding I have over 20 pages already drafted, I have much left to do. The additional time will enable me to do the accurate, professional job that will be of service to the Court – while also enabling supervisory personnel in the Attorney General's office, including Attorney General Schneiderman, to discharge their supervisory responsibilities and obligation to the Court by withdrawing AAG Lynch's perjurious affirmation and fraudulent memorandum of law. By copy of this letter to them, I put them on notice of their duty to do so, thereby obviating the burden on me of reply papers and the burden on the Court of confronting threshold sanctions issues.

Mr. Liberati-Conant told me that I should put my request in writing, but refused to authorize my e-mailing this letter to chambers, stating that the parties were required to either hand-deliver written communications or send them by mail. When I responded that such prejudiced only me – as AAG Lynch was a five-minute walk from the courthouse and her mailed letters would reach you the next day, unlike mine which would require express mailing, and that it was too late for me to write and express-mail a request for delivery today – Mr. Liberati-Conant nonetheless refused permission and hung up the phone on me as I pointed out to him that your March 31st letter on the subject allowed for e-mailing, where “authorized by the Court”/upon “specific authorization”

Therefore, I am attaching this letter to an e-mail for Deputy Administrative Judge Michael Coccoma, his chief of staff, Scott Murphy, and for his assistant deputy counsel, Anthony Rossi, with whom I had a lengthy phone conversation yesterday, in which I discussed the foregoing requests I was going to be making – and which I did make, two hours later, upon calling your chambers. I am sure Deputy Administrative Judge Coccoma and his staff will be kind enough to assist me by immediately forwarding this letter to you – and I have just now spoken to Assistant Court Analyst Anne Wasielewski concerning same. To facilitate the transmittal, I am herewith furnishing the e-mail addresses I would be using, had I been given permission to e-mail this letter myself: hartmanchambers@nycourts.gov; and jlocke@nycourts.gov.

Finally, after my phone conversation with Ms. Locke and Mr. Liberati-Conant yesterday, I received, in the mail, your April 25th “SO-ORDERED” letter stating: “Regarding the Order to Show Cause in this matter that is returnable April 28, 2017, please note that personal appearances are neither required nor permitted”. The letter indicated that it had also been e-mailed – and, upon checking my in-box, I did find it. So, apparently, you recognize the value of e-mail for written communications of a time-sensitive nature.

Please continue to e-mail your communications to me so that I can know, as immediately as possible, your dispositions in this monumental citizen-taxpayer action in which, as the evidence before you shows, plaintiffs have an open-and-shut, summary judgment entitlement to ALL the relief sought by their March 29th order to show cause – for which reason you have refused to hold an evidentiary hearing.

Thank you.



ELENA SASSOWER, *unrepresented* plaintiff,
acting on her own behalf & on behalf of
the People of the State of New York & the Public Interest

Enclosure: March 30, 2017 e-mail to Judge Hartman – “URGENT/TIME-SENSITIVE...”

cc: Deputy Chief Administrative Judge Michael Coccoma
Chief of Staff Scott Murphy
Assistant Deputy Counsel Anthony Rossi

Chief Judge Janet DiFiore’s “Excellence Initiative” –
c/o Chief Administrative Judge Lawrence Marks

Attorney General Eric Schneiderman
Chief Deputy Attorney General Jason Brown
Chief Deputy Attorney General Janet Sabel
Executive Deputy Attorney General for State Counsel Kent Stauffer
Deputy Attorney General Meg Levine
Litigation Bureau Chief Jeffrey Dvorin
Assistant Attorney General Helena Lynch
Assistant Attorney General Adrienne Kerwin

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Thursday, March 30, 2017 11:20 AM
To: 'Hartman Chambers'; 'Joanne Locke'
Cc: 'Helena Lynch'; 'Meg Levine'; 'Jeffrey Dvorin'; 'Adrienne Kerwin'
Subject: URGENT/TIME-SENSITIVE: Reconsideration -- & the granting of a TRO and/or the scheduling of an evidentiary hearing, tomorrow, on plaintiffs' entitlement to a preliminary injunction -- RE: CJA v Cuomo et al. (#5122-16)
Attachments: 3-29-17-signed-osc.pdf

Dear Justice Hartman,

This follows up my brief conversation with your law secretary, Mr. Liberanti-Conant, shortly after 9 a.m., in which I stated my request that you reconsider your disposition on plaintiffs' March 29th order to show cause for a preliminary injunction and TRO. If you believe that your disposition is remotely defensible, defend it, in writing -- especially as to the basis upon which you denied my request for an evidentiary hearing tomorrow, March 31st -- having declined, from the bench, my request to proceed with an evidentiary hearing then and there, based upon the documentary proof I had brought to court -- and my prior notice to the Attorney General on the subject, including by the below March 28th 11:28 a.m. e-mail to Assistant Attorney General Helena Lynch, among others.

Apparently, you knew you could not justify your disposition -- striking the TRO, denying an immediate evidentiary hearing for the preliminary injunction, setting a 30-day return date on the order to show cause -- with three weeks for the Attorney General to submit opposition papers and only a week for me to reply -- as you did not return to the bench to announce it, instead sending Mr. Liberanti-Conant to deliver the signed order to show cause, which he furnished only to me because AAG Lynch had inexplicably departed, apparently confident that her conclusory, utterly fraudulent, approximately 30-second opposition was acceptable to you -- because, inter alia, of your 30 year-tenure at the Attorney General's office, where, presumably, you were trained in, and yourself practiced, its modus operandi of corrupting the judicial process by litigation fraud when it has no legitimate defense.

What you did yesterday -- rendering a disposition on par with your December 21, 2016 decision -- the subject of plaintiffs' sub judicie February 15th order to show cause for your disqualification for actual bias reinforces your disqualification on that ground. Further proceedings before you are, as they were yesterday and previously, simply a mockery.

This is a citizen-taxpayer action, required to be "promptly determined" and "have preference over all other causes in all courts" (State Finance Law §123-c(4)). Please furnish, forthwith, your decision on plaintiffs' February 15th order to show cause for your disqualification -- one addressing the particulars of its Exhibit U analysis of your December 21, 2016 decision -- which, presumably, you read before fixing a March 24th return date.

Based on the mountain of prima facie, summary judgment evidence I furnished yesterday -- and which I highlighted at the argument, and by my sworn affidavit, and by the particulars of plaintiffs' verified supplemental complaint in support of the order to show cause -- plaintiffs established their entitlement, AS A MATTER OF LAW, to a TRO -- no hearing being required. In any event, there is still time to schedule an evidentiary hearing for tomorrow -- before another judge, upon your disqualification.

I have already contacted the court stenographer for transcription of yesterday's proceedings.

Please respond forthwith, so that I may know how to proceed. I have already reached out to the Clerk's Office -- and will be following up with your supervising judge, at the Appellate Division, with defendant DiFiore's "Excellence

Initiative" at the Office of Court Administration -- and also with the highest supervisory echelons of the Attorney General's office -- including defendant Attorney General Schneiderman himself -- so that, based upon the evidentiary proof furnished yesterday, and the directives of Article III, §10 and Article VII, §1-7 of the New York State Constitution and the Court of Appeals' decisions in Pataki v. Assembly/Silver v Pataki, 4 NY3d 75 (2004), and in NYS Bankers Association v Wetzler, 81 NY2d 98 (1993), a TRO/preliminary injunction may promptly issue in this groundbreaking citizen-taxpayer action to return New York's state budget to "the constitutional rails".

Thank you.

Elena Sassower, unrepresented plaintiff
on behalf of herself, the People of the State of New York, & the Public Interest
914-421-1200

-----Original Message-----

From: Center for Judicial Accountability, Inc. (CJA) [mailto:elena@judgewidth.org]
Sent: Tuesday, March 28, 2017 11:29 AM
To: 'Hartman Chambers' <hartmanchambers@nycourts.gov>
Cc: 'Meg Levine' <Meg.Levine@ag.ny.gov>; 'Jeffrey Dvorin' <Jeffrey.Dvorin@ag.ny.gov>; 'Helena Lynch' <Helena.Lynch@ag.ny.gov>; 'Adrienne Kerwin' <Adrienne.Kerwin@ag.ny.gov>
Subject: Court's rescheduled time/date for plaintiffs' OSC for preliminary injunction with TRO -- RE: Center for Judicial Accountability & Sassower v Andrew M. Cuomo et al., Index #5122-16

I hereby give further notice to the highest supervisory levels of the Attorney General's office:

Tomorrow afternoon, Wednesday, March 29th, at 3 p.m., before Justice Hartman, for presentment of plaintiffs' order to show cause for preliminary injunction with TRO. Come prepared with documents responsive to plaintiffs' FOIL requests pertaining to your legislative clients' "amended" budget bills, as well as prepared to discuss the Court of Appeals' consolidated decision in Silver v. Pataki and Pataki v. Assembly, 4 NY3d 75 (2004) -- and, its equally decisive decision in NYS Bankers Association v Wetzler, 81 NY2d 98 (1993).

Thank you.

Elena Sassower
914-421-1200

-----Original Message-----

From: Hartman Chambers [mailto:hartmanchambers@nycourts.gov]
Sent: Tuesday, March 28, 2017 11:13 AM
To: elena@judgewidth.org; adrienne.kerwin@ag.ny.gov; helena.lynych@ag.ny.gov
Subject: Center for Judicial Accountability & Sassower v Andrew M. Cuomo et al., Index #5122-16

Attached please find correspondence regarding the above matter.

PLEASE DIRECT ALL FURTHER EMAIL CORRESPONDENCE TO THE CHAMBERS EMAIL AT:

hartmanchambers@nycourts.gov

Thank you.