

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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BY E-MAIL

March 24, 2017

Acting Supreme Court Justice Denise Hartman  
Albany Supreme Court

RE: Citizen-Taxpayer Action: Center for Judicial Accountability, et al. v. Cuomo, et al.  
Albany Co. #5122-16  
Plaintiffs' Request to Adjourn to March 28, 2017 their Order to Show Cause,  
Returnable Today – & Notice to the Attorney General

Dear Justice Hartman:

This follows up my two phone conversations yesterday morning with your secretary Joanne Locke.

On February 21, 2017 you signed plaintiffs' February 15, 2017 order to show cause for your disqualification/vacatur/reargument/renewal & other relief – allowing defendants more than a month to respond – and plaintiffs less than two days to reply.

Assistant Attorney General Adrienne Kerwin's opposition papers were e-mailed to me on Wednesday, March 22<sup>nd</sup>, at 4:43 p.m. The return date is today, Friday, March 24<sup>th</sup>, at 9:30 a.m.

The parties will be before the Court at 11 a.m. on Tuesday, March 28<sup>th</sup> on a new order to show cause that plaintiffs will be presenting for a preliminary injunction and TRO pursuant to State Finance Law §123-e(2)<sup>1</sup> to restrain defendants from proceeding further on “amended” budget bills for fiscal year 2017-2018 – and from disbursing taxpayer monies based thereon. These “amended” budget bills – like “amended” budget bills for fiscal year 2016-2017 – are not only unconstitutional, on their face, but frauds, having not been “amended” in fact. Plaintiffs, therefore, respectfully request that their order to show cause, returnable today, be adjourned until then – so that they will have the opportunity to reply

<sup>1</sup> 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).

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orally, if not in writing, to AAG Kerwin's March 22<sup>nd</sup> opposition papers.

Until then, plaintiffs will endeavor to have the Attorney General withdraw AAG Kerwin's opposition papers as they are utterly fraudulent, revealed as such by the most cursory examination of Exhibit U to plaintiffs' February 15<sup>th</sup> order to show cause. This fraud includes with respect to the Court's dismissal of the fourth and fifth causes of action of plaintiffs' September 2, 2016 verified complaint.

As plaintiffs' March 28<sup>th</sup> oral argument will focus on the fourth and fifth causes of action of their September 2, 2016 complaint and its applicability to fiscal year 2017-2018 and their summary judgment entitlement to IMMEDIATE declarations nullifying the Senate and Assembly "amended" budget bills for fiscal year 2017-2018 and all proceedings based thereon, attached are plaintiffs' four FOIL/records requests of today's date pertaining to the Senate and Assembly's purported "amending" of budget bills for both fiscal years 2017-2018 and 2016-2017.

By this letter, plaintiffs give notice to AAG Kerwin – and her highest superiors, including Attorney General Schneiderman – to bring to the March 28<sup>th</sup> oral argument records responsive to these four FOIL/records requests and come prepared to demonstrate to the Court how the fiscal year 2017-2018 "amended" budget bills – and the Senate and Assembly one-house resolutions, based on the "amended" bills, with their accompanying summary of changes, already made to the budget bills – are anything less than a *sub silentio* repudiation of Article VII, §§4, 5, 6 of the New York State Constitution and of the controlling consolidated Court of Appeals decisions in the budget lawsuits to which the Senate and Assembly were both parties: *Silver v. Pataki* and *Pataki v. Assembly*, 4 N.Y.3d 75 (2004). This, apart from their violations of Article III, §10 of the New York State Constitution: "Each house of the legislature shall keep a journal of its proceedings, and publish the same... The doors of each house shall be kept open...".

Yesterday, I telephoned the Attorney General's office, leaving two messages to speak with supervisory personnel. I will be following up further today and on Monday.

Needless to say, should the Court deny the requested adjournment of the return date of the February 15<sup>th</sup> order to show cause from today, March 24<sup>th</sup>, to March 28<sup>th</sup>, plaintiffs' request that this letter be deemed their reply.

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

Enclosures (4): two March 24, 2017 FOIL/records requests to the Senate  
Two March 24, 2017 FOIL/records requests to the Assembly