

QUESTIONS PRESENTED

Is the lower court's appealed-from November 28, 2017 decision and judgment defensible?

1. Was the lower court duty-bound to have disqualified itself for demonstrated actual bias – and is its November 28, 2017 decision and judgment and all prior decisions void by reason thereof?

The lower court denied appellants' request that it disqualify itself

2. Is the lower court's concealment of appellants' requests that it disclose its financial interests and relationships with defendants – and its failure to make any disclosure – sufficient, in and of itself, to mandate vacatur of its November 28, 2017 decision and judgment – and of its underlying prior decisions – *as a matter of law?*

The lower court concealed plaintiffs' requests for disclosure – of which it made none.

3. Is the lower court's concealment of appellants' three threshold issues pertaining to the attorney general – and its failure to adjudicate same – sufficient, in and of itself, to mandate vacatur of its November 28, 2017 decision and judgment – and of its underlying prior decisions – *as a matter of law?*

The lower court concealed and did not adjudicate any of the below three threshold issues:

- a) appellants' entitlement to an order imposing sanctions and costs upon respondents' counsel, the attorney general, for litigation fraud – and referring him and the culpable attorneys under his supervision to disciplinary and criminal authorities;
- b) appellants' entitlement to an order disqualifying respondents' counsel, the attorney general, himself a respondent, from representing his co-respondents for conflict of interest;
- c) appellants' entitlement to an order pursuant to Executive Law §63.1 and State Finance Law Article 7-A directing the attorney

general to represent appellants and/or to intervene on their behalf
– including *via* independent counsel.

4. Based on the evidentiary record and controlling law, was the lower court duty-bound to grant appellants summary judgment on each of the ten causes of action of their September 2, 2016 verified complaint – and the preliminary injunction and TRO sought by their September 2, 2016 order to show cause?

The lower court did not base its adjudications on the record or controlling law in disposing of any of the ten causes of action of appellants' September 2, 2016 verified complaint – and denying the requested injunctive relief.

5. Based on the evidentiary record and controlling law, was the lower court duty-bound to grant appellants all branches of their March 29, 2017 order to show cause – and the preliminary injunction and TRO it sought?

The lower court did not base its denial of appellants' March 29, 2017 order to show, with preliminary injunction and TRO, on the record or controlling law.

6. Based on the evidentiary record and controlling rules of judicial and attorney conduct, was the lower court duty-bound to grant appellants the “other and further relief” specified by their September 2, 2016 verified complaint and March 29, 2017 verified supplemental complaint?, *to wit*:

“restoring public trust by referring to prosecutorial authorities the evidence particularized by [these verified pleadings] as [they] establish[], *prima facie*, grand larceny of the public fisc and other corrupt acts, requiring that the culpable public officers and their agents be criminally prosecuted and removed from office, without further delay.” (at p. 45, #4; at p. 72, #4, italics in the original).

The lower court concealed and did not determine its duty with respect to this “other and further relief”.