5/16/14

SUPREME COURT OF STATE OF NEW YORK
ALBANY COUNTY

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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,

Index #1788-14

Plaintiffs,

Affidavit in Further Support of Order to Show Cause for Preliminary Injunction, in Opposition to Dismissal Motion, & in Support of Cross-Motion

-against-

<u>Oral Argument Requested</u>

ANDREW M. CUOMO, in his official capacity
as Governor of the State of New York,
DEAN SKELOS in his official capacity as
Temporary Senate President,
THE NEW YORK STATE SENATE,
SHELDON SILVER, 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, and THOMAS DiNAPOLI,
in his official capacity as Comptroller of
the State of New York,

Defendants.

--x

STATE OF NEW YORK)
WESTCHESTER COUNTY) ss.:

ELENA RUTH SASSOWER, being duly sworn deposes and says:

1. I am the above-named *pro se* individual plaintiff in this citizen-taxpayer action brought under State Finance Law Article 7-A [§123 *et seq.*] for a declaratory judgment. I am fully familiar with all the facts, papers, and proceedings heretofore had and submit this affidavit in further

Ex D-2

support of plaintiffs' March 28, 2014 order to show cause for a stay, returnable May 16, 2014, as to which I have requested oral argument (Exhibit W-1).[1] Its relief, as still relevant, is for an order:

> "(1) Pursuant to State Finance Law §123 *et seq*. [Article 7-A 'Citizen-Taxpayer Actions']... enjoining defendants from ... disbursing monies for Budget Bill #S.6351/A.8551, or, at least, the entirety of the Legislative portion, both its appropriations and reappropriations (pp. 1-9; 27-46); and, with respect to the Judiciary portion, the unitemized funding for the unidentified third phase of the judicial salary increase and the reappropriations (at pp. 24-26) pending determination of plaintiffs' Verified Complaint to declare same unconstitutional and unlawful.
>
> (2) For such other and further relief as may be just and proper."

2. Defendants, all of whom are represented by their co-defendant Attorney General Eric Schneiderman, have interposed no opposition to plaintiffs' order to show cause for a stay. Nor have they opposed plaintiffs' March 26, 2014 Notice to Furnish Papers to the Court Pursuant to CPLR §2214(c), seeking production of original records and/or "true and correct copies" upon the hearing of the order to show cause (Exhibit X-2). Consequently, this affidavit is not in reply.

3. Instead, defendants have made an April 18, 2014 motion to dismiss the complaint, which they made returnable on the same May 16, 2014 date as plaintiffs' order to show cause. This affidavit is, therefore, also submitted in opposition to that dismissal motion and in support of plaintiffs' cross-motion.

4. As particularized by plaintiffs' accompanying memorandum of law, which I incorporate by reference, swearing to its truth, the Attorney General's dismissal motion, by Assistant Attorney General Adrienne Kerwin, is a "fraud on the court" – mandating all the relief sought by plaintiffs' cross-motion. This is reinforced by the showing herein pertaining to the wilful and deliberate violation by supervisory lawyers in the Attorney General's office and in the Comptroller's

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[1] This affidavit, annexing exhibits W-BB, continues the sequence of exhibits from the verified complaint, which ended with V.

office of Rule 5.1 of the Rules of Professional Conduct: "Responsibilities of Law Firms, Partners, Managers and Supervisory Lawyers" and their refusal, as likewise of AAG Kerwin, to identify who in the Attorney General's office has independently evaluated "the interest of the state" and plaintiffs' entitlement to the Attorney General's representation/intervention, consistent with Executive Law §63.1 and State Finance Law Article 7-A.

5. For the convenience of the Court, a table of contents follows:

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* * *

Assistant Attorney General Kerwin's Deceitful Affirmation Supporting Her Fraudulent Dismissal Motion

6. Although AAG Kerwin's affirmation in support of her dismissal motion expressly states that it is "under penalty of perjury pursuant to CPLR 2106", it is not affirmed "to be true". Nor does it identify that AAG Kerwin has both personal knowledge and familiarity with the facts, papers, and proceedings pertaining to the lawsuit – or even attest to the accuracy of such factual assertions as appear in her memorandum of law.

7. Withheld from her affirmation are the material facts of which AAG Kerwin has personal knowledge relating to what took place at the March 28, 2014 oral argument before Justice

Michael Lynch and her direct contact with me, both before and immediately after. The most threshold of these concealed material facts are:

> (a) that this is a citizen-taxpayer action under State Finance Law Article 7-A [§123 *et seq.*];
>
> (b) that plaintiffs are expressly acting "on behalf of the People of the State of New York & the Public Interest"; and
>
> (c) that plaintiffs have requested the Attorney General's intervention/representation, pursuant to Executive Law §63.1 and State Finance Law Article 7-A.

8. The particulars of AAG Kerwin's personal knowledge are as follows: On Wednesday morning, March 26, 2014, I telephoned the Attorney General's office to give notice of this citizen-taxpayer action under State Finance Law, Article 7-A that I was planning to commence the next day, March 27, 2014, with an order to show cause for a stay and TRO. AAG Kerwin called me back and I had a substantive conversation with her as to the facts, law, and legal argument giving rise to this action, as chronicled by the correspondence that the verified complaint summarizes and annexes as exhibits. Although the verified complaint was still being drafted, I directed AAG Kerwin to the Center for Judicial Accountability's website, www.judgewatch.org, and its prominent homepage link "CJA Leads the Way to NYS Budget Reform...". Then, as now, the webpage accessed by this hyperlink features a quote from State Finance Law §123:

> "It is the purpose of the Legislature to recognize that each individual citizen and taxpayer of the state has an interest in the proper disposition of all state funds and properties..."

Below this quote are hyperlinks for all the letters that the verified complaint would summarize and annex as exhibits, each posted on its own webpage with all referred-to substantiating documents, videos, and legal authorities. I highlighted for AAG Kerwin why these letters are <u>dispositive</u> and that there was no merits defense to this action. I stated that although the Attorney General is a

named defendant, his duty, pursuant to Executive Law §63.1, is to intervene for the plaintiffs who are expressly acting "on behalf of the People of the State of New York and the Public Interest". I told her that this would be further evident from the relevant documents in defendants' possession – which I was requesting be produced at the hearing of the order to show cause. AAG Kerwin gave me her e-mail so that I could send her the Notice to Furnish Papers to the Court Pursuant to CPLR §2214(c), which I had already prepared (Exhibit X-2). At 12:01 pm, by an e-mail entitled: "Citizen Taxpayer Action – Governor's Budget Bill #S.6351/A.8551" (Exhibit X-1), I sent AAG Kerwin the Notice to Furnish Papers to the Court. The message reiterated: "The Attorney General's intervention, pursuant to Executive Law §63.1 is requested."

9. I spoke with AAG Kerwin several times thereafter, as it became clear that I would be unable to present the order to show cause on Thursday, March 27, 2014, as planned – and that it would have to be put over to Friday afternoon, March 28, 2014.

10. At 8:15 a.m. on Friday, March 28, 2014, I again e-mailed Ms. Kerwin, again using the title "Citizen Taxpayer Action – Governor's Budget Bill #S.6351/A.8551" (Exhibit X-3). I attached the order to show cause for a stay with TRO and, because the Summons and Verified Complaint were too large to attach, furnished the direct hyperlink to CJA's "Budget Reform" webpage on which they were posted. This e-mail also repeated:

> "Again, the Attorney General's intervention, pursuant to Executive Law §63.1, is requested. That is threshold."

11. Thereafter, I called AAG Kerwin several times to advise her of my estimated arrival time, of my arrival at the Clerk's Office, and of the judge who would be hearing the TRO application, Justice Michael Lynch.

12. By the time I finished filling out paperwork and paying fees at the Clerk's Office, AAG Kerwin was already sitting in the office of Justice Lynch's secretary, together with another

AAG, James McGowan. Upon arriving at approximately 3:25 p.m., I furnished each of them copies of the papers – and within 20 minutes or so we were being ushered into Justice Lynch's courtroom, where oral argument was held.

13. A court stenographer took down the argument before Justice Lynch – which I thereafter promptly arranged to have transcribed (Exhibit Y). Consequently, there is no question as to what was said, by whom, and the stated reason for denial of the TRO. Nor is there any question as to the key allegations of the verified complaint that I identified at the March 28, 2014 oral argument, in the presence of AAGs Kerwin and McGowan – allegations they would have to confront in any legitimate dismissal motion.

14. The transcript shows the following:

a. my very first words were to identify that I and the Center for Judicial Accountability (CJA) were appearing not only on our own behalf, but "on behalf of the People of the State of New York and the public interest" and that the threshold issue was our "contention that the attorney general should be intervening here on behalf of the People of the State of New York and the public interest in this taxpayer action." (Exhibit Y, pp. 3-4) – an issue I reiterated at the conclusion of the argument: "My position is, again, that the attorney general is violating his obligation [under] Executive Law 63.1 in [that] there is no merit[s] defense here." (Exhibit Y, p. 21).

b. Justice Lynch denied the TRO because he believed that CPLR §6313 precluded the TRO – notwithstanding my stated view that State Finance Law was authority for its granting, to which AAG Kerwin's response had been "Judge, I'm unaware of any provision of the State Finance Law that trumps CPLR 6313-A"; and "I don't know of any statutory provision that allows for [a] TRO here." The several exchanges were as follows:

> Justice Lynch: "CPLR 6313 Subdivision A states that no TRO may be granted against the public officer of the state to restrain the performance of statutory duties.
>
> With that limitation, what would be the basis for this Court, in your view, to actually issue a TRO today?"
>
> Sassower: "Article 7-A of the State Finance Law is designed to prevent dissipation, disbursements of unconstitutional, unlawful appropriations. It's to prevent misappropriation of public monies..." (Exhibit Y, p. 6).

* * *

Justice Lynch: "…I want to focus on the premise for a TRO today.
I have just read to you the statutory prohibition against issuing a TRO against a public state officer in the performance of statutory duties.
…what basis would there be for this Court to sign the TRO?"

Sassower: "I believe State Finance Law, Article 7-A, is as much statutory authority; in fact, is the statutory authority…." (Exhibit Y, p. 9).

* * *

Justice Lynch: "So I'm going to have to give the assistant attorney general an opportunity to respond on the TRO… Miss Kerwin

Kerwin: Judge, I'm unaware of any provision of the State Finance Law that trumps CPLR 6313-A.

…

Justice Lynch: "I'm looking at Section 123-C, Subdivision 4…It does not specifically speak to TRO."

Kerwin: "That's exactly right…I don't know of any statutory provision that allows for [a] TRO here." (Exhibit Y, p. 15).

* * *

Sassower: "So this is a lot of taxpayer dollars and the State Finance Law is to protect the public fisc. I would respectfully request that your Honor defer decision if there is any question as to what statutory provision controls with respect to an injunction. Maybe you defer to Monday. I'm even willing to appear on Monday."

Justice Lynch: "…I don't have a need to adjourn this proceeding. I understand the issue that's been presented. I'm very familiar with the statutory provision that I referenced. I have no heard any basis to depart from the restriction of CPL[R] 6313 Subdivision A that really doesn't allow a TRO to be issued in this circumstance.
So I'm going to decline the TRO…" (Exhibit Y, p. 18).

c. The substantive contentions of the verified complaint, all of which I identified prior to Justice Lynch's denial of the TRO were the following:

(i) the Legislature's proposed budget, transmitted to the Governor by a one-sentence November 27, 2013 coverletter signed by defendants Skelos and Silver was not certified, did not purport to be "itemized estimates of the financial needs of the legislature"; and – as demonstrated by the correspondence embodied by

the complaint – is "a contrivance of leadership" and notably "missing general state charges" (Exhibit Y, pp. 6-7, 17);

(ii) the Governor's Budget Bill, combining appropriations for the Legislature and Judiciary, included, "tucked in the back in an out-of-sequence section of the bill" "19 pages of re-appropriations [for the Legislature] that are not even in the budget" of defendants Skelos and Silver and "not even certified", totaling "untold millions of dollars" (Exhibit Y, pp. 7-8). The Budget Bill also included re-appropriations for the Judiciary that were not part of the Judiciary's budget presentation, appearing only in its single budget bill, as to which there is a question as to whether the Judiciary's certification encompasses it and whether the re-appropriations are consistent with two constitutional provisions, plus a provision of the State Finance Law (Exhibit Y, pp. 13-14);

(iii) the Judiciary's proposed budget did not identify or itemize the third-phase of the judicial pay raises and its cost – "to conceal from the legislature its prerogative and in this case its responsibility, its duty, to void the third phase"; that this third phase was based on the judicial salary raise recommendation of the Special Commission on Judicial Compensation which violated statutory pre-conditions for the recommendation and was fraudulent and unconstitutional – and so-demonstrated by CJA's October 2011 opposition report. (Exhibit Y, pp. 10-14);

d. AAG Kerwin did not deny or dispute the accuracy of my recitation of the verified complaint, except to say, as an additional reason for denial of the TRO:

> "there is nothing here to support any kind of likelihood on the merits, because there is no justiciable controversy in here. And the only evidence that's contained in here are letters mostly I should say, are letters from the plaintiff.
>
> So even on an actual, you know, a regular old TRO standard, it wouldn't fly here anyway.
>
> So for those reasons we ask that the TRO be denied." (Exhibit Y, pp. 15-16);

e. Justice Lynch interrupted my objections to AAG Kerwin's "shameful advocacy", following which I stated:

> "...in view of the seriousness here and because there has been so little time, since we have a weekend, nothing is happening on the weekend, I would propose perhaps we defer – you defer decision so that you can have more of an opportunity to review what she says is the letters, that she disdains as the letters, so that you can assess whether or not these letters are not dispositive of the issues and whether they did not provide the public officers with the opportunity to come forward with the relevant documents, the relevant information in defense of their budgets and the budget bill. Among the letters are FOIL and records requests to the governor, division of the budget, to the senate,

> secretary of the senate, and the assembly public information office to request certifications, to request the general state charges that is missing from the legislative budget, to request information as far as the appropriation – the re-appropriations.
>
> By the way, one of the problems here too with the re-appropriations is that nobody seems to know how much money is represented in this bill. They are all over the lot…" (Exhibit Y, pp. 17-18).

f. Both before and after AAG Kerwin spoke, I identified that plaintiffs had made a *prima facie* case of constitutional and other violations with respect to the budget and that I had sought to have the Attorney General furnish the Court with original or certified copies of documents so that it could verify this *prima facie* case (Exhibit Y, pp. 8, 10, 20);

g. I also identified irreparable injury resulting from the judicial salary increase, inasmuch as it would conceivably be argued that upon their taking effect on April 1st, removing it would be an unconstitutional diminishment of judicial compensation (Exhibit Y, pp. 16-17).

15. On Monday, March 31, 2014, after leaving voice mail messages for AAG Kerwin and then calling Justice Lynch's chambers and speaking with his law clerk, I spoke directly with AAGs Kerwin and McGowan to confirm my recollection as to what had taken place at the oral argument with respect to the TRO. This is reflected by the March 31, 2014 letter to Justice Lynch that I thereafter faxed to his chambers, requesting "reconsideration, by reargument, renewal, or by vacatur for fraud" of his denial of the TRO, based on State Finance Law §123(e)(2), which states:

> "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." (Exhibit Z-1, at p. 2, underlining in letter).

16. Shortly thereafter, I e-mailed the letter to AAGs Kerwin and McGowan, each indicated recipients. The e-mail, entitled: "Citizen Taxpayer Action: CJA v. Cuomo #1788-14", included the following message:

> "Please advise your superiors – including Attorney General Schneiderman – that I wish to speak with them directly, including as to who is making the determination of 'the interest of the state', pursuant to Executive Law §63.1 – and plaintiffs' entitlement to the Attorney General's representation by reason thereof." (Exhibit Z-2, underlining in original).

17. I, thereafter, quoted this e-mail message in a second letter to Justice Lynch, which I asked be deemed a "supplement" (Exhibit Z-4). In pertinent part it stated:

> "at the March 28th oral argument, I raised the threshold issue of plaintiffs' entitlement to the Attorney General's representation in this citizen-taxpayer action, citing Executive Law §63.1, which predicates the Attorney General's litigation posture on 'the interest of the state'. As evident from the Notice to Furnish Papers to the Court Pursuant to CPLR §2214(c), to which I referred and which the Court then had before it, the issues of unconstitutionality and unlawfulness of the Legislature's proposed budget, the Judiciary's proposed budget, and Budget Bill #S.6351/A.8551 are matters of documentary proof, evident from the face of those documents and from legislative records thereon. The Attorney General was duty-bound, on March 28th, to have produced the originals of these documents and records or certified copies so that the Court could have determined, right then, whether defendants have any merits defense, clearly germane to plaintiffs' entitlement to a TRO – indeed, to summary judgment.
>
> That the Attorney General not only made no production, but misrepresented the law as to the TRO and then, without denying or disputing the accuracy of my fact-specific, law-supported oral presentation, instead baldly purported that the lawsuit was 'meritless', and besmirched the exhibits as 'only correspondence' demonstrates that this is an Attorney General who needs to answer for his statutory duty to himself be bringing this citizen-taxpayer action, as State Finance Law §§123(a)(3) and 123(d) clearly contemplates..." (Exhibit Z-4, underlining in letter).

18. Although the content of this second letter had been discussed with Justice Lynch's law clerk before his decision on the first letter, the second letter was faxed to his chambers at

essentially the same time as his decision on the first letter was being e-mailed. In pertinent part, Justice Lynch's decision, in the form of a so-ordered letter, stated:

> "You have correctly referenced State Finance Law §123-e[2] as authority for the issuance of a temporary restraining order in an Article 7-A action. That being said, given what the Court perceives as the limited likelihood of success on the merits and the lack of irreparable injury, the Court adheres to its March 28, 2014 ruling denying the temporary restraining order. To be noted is the N.Y. Constitution Art VI §25(a) prohibits the diminution of judicial compensation by legislative act during a judge's term in office (see Matter of Maron v. Silver, 14 NY3d 230, 252)..." (Exhibit Z-3).

19. Because this decision had been e-mailed by Justice Lynch's chambers, I was able to e-mail my response to him and simultaneously e-mail it to AAGs Kerwin and McGowan, each indicated recipients. In pertinent part, the e-mail stated:

> "I believe the Court had not yet received my faxed supplemental letter when it rendered its letter denying my request for a telephone conference, which I received by a 4:17 p.m. e-mail only minutes after sending my fax (at 4:22 pm). Indeed, I had not yet had a chance to send my supplemental letter to the Assistant Attorneys General, Adrienne Kerwin & James McGowan – which I herewith furnish to them.
>
> Such supplemental letter makes plain that the Court errs in its prejudgment of 'limited likelihood of success on the merits' inasmuch as the merits are proven, *prima facie* – and sufficient for summary judgment – by the documents requested by plaintiffs' March 26th Notice to Furnish Papers to the Court Pursuant to CPLR §2214(c), over and beyond the correspondence annexed to the Verified Complaint as exhibits, including plaintiffs' FOIL/records requests to the Legislature, Governor, and Division of Budget, to which I referred at oral argument. That is why I e-mailed the Notice to the Attorney General on March 26th for production at the oral argument.
>
> As further pointed out in my supplemental letter, the Attorney General denied none of the particularized facts and law I presented at the oral argument in support of the TRO. Likewise, the Court has cited to nothing in support of its bald assertion of plaintiffs' 'limited likelihood of success on the merits' Certainly, too, on the issue of 'irreparable injury', Article VI, §25(a) of the NYS Constitution does

not, by its language, limit diminution of judicial compensation to 'legislative act during a judge's term in office'.

Inasmuch as §100.3D(2) of the Chief Administrator's Rules Governing Judicial Conduct imposes mandatory 'Disciplinary Responsibilities' on the Court, stating: 'A judge who receives information indicating a substantial likelihood that a lawyer has committed a substantial violation of the Code of Professional Responsibility shall take appropriate action', can I expect the Court to take some 'appropriate action' against New York's most powerful lawyer, the State Attorney General, for the misrepresentations made at the oral argument by Assistant Attorney General Kerwin, in the presence o[f] her superior, Assistant Attorney General McGowan, on which it relied, in denying the TRO on March 28th – and now seemingly again in denying a telephone conference?

Please advise so that I will know how to proceed with respect to the misconduct here by the Attorney General – a named defendant representing other defendants, whose first obligation is to determine 'the interest of the state' pursuant to Executive Law §63.1." (Exhibit Z-5, underlining in the original).

20. By a decision/letter dated April 1, 2014 (Exhibit Z-6), Justice Lynch responded to my supplemental letter by adhering to his March 31, 2014 ruling denying the TRO. In so doing, he did not address the content of the supplemental letter other than to acknowledge that I had "raised the Executive Law §63 contention at oral argument on March 28, 2014 and referenced the CPLR 2214(c) notice".

In the same decision/letter, Justice Lynch also responded to my e-mail, stating, in pertinent part: "Your assertion of misconduct on the part of the Assistant Attorney General at oral argument are unfounded. My ruling stands."[2]

21. At the March 28, 2014 oral argument, AAG McGowan stated that he could accept service for all defendants, but for the Comptroller, whose office had indicated that it wanted personal

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[2] Two weeks after protecting the Governor by his decision, the Governor appointed Justice Lynch to the Appellate Division, Third Department. "*Three justices elevated to panel*", Albany Times Union, April 15, 2014, Robert Gavin: http://www.timesunion.com/local/article/Three-justices-elevated-to-panel-5405438.php

service (Exhibit Y, p. 22). Consequently, immediately following the argument I went to the Comptroller's Office and served upon Deputy Counsel Helen Fanshawe a copy of the order to show cause, verified complaint, and Notice to Furnish Papers to the Court Pursuant to CPLR §2214(c).

22. On April 2, 2014, I followed-up with the Comptroller's Office, whose website identifies its commitment to protecting taxpayer monies – and urges the public's help in "Fighting Government Fraud"[3]. As its webpage on the subject entitled, "Report Government Fraud", states:

> "Comptroller DiNapoli is working to find and fight fraud at every level of State and local government. The public's help is needed in this fight. New Yorkers can report allegations of fraud, corruption or abuse of taxpayer money by calling a toll-free hotline at 1-888-OSC-4555",

I telephoned and filed a phone complaint with Investigator Frank Smith as to the grand larceny of taxpayer dollars pertaining to Budget Bill #S.6351/A.8551. I stated that the substantiating facts and evidence are set forth in the verified complaint herein, that I had served Deputy Counsel Fanshawe with it, and that according to information I had obtained in calling counsel's office, the case was

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[3] Among the Comptroller's webpages, accessible from his homepage, http://www.osc.state.ny.us/index.htm, are:

"About the Comptroller's Office". Its brief history states that when originally established in 1797, the Governor appointed the comptroller, but that this changed in 1846, as a result of the Constitutional Convention of 1846, which gave the People "the right to elect the State Comptroller directly, ensuring the independence of the office." This same webpage answers the question "What are the Comptroller's Responsibilities?", with a long list ending in the statement: "A fundamental orientation unites all the diverse activities of the Office: the State Comptroller is responsible for ensuring that the taxpayers' money is being used effectively and efficiently to promote the common good.".

"State Government Accountability" states: "Comptroller DiNapoli is committed to protecting your tax dollars. In pursuit of its mission to make our government more transparent, effective and efficient, the Office of the State Comptroller issues a wide variety of publications..." Among those listed: "State Budget and Finances", as to which the webpage states "Comptroller DiNapoli provides independent, objective analyses of proposed and enacted State budgets..."; and

"About Comptroller DiNapoli". It states that Mr. DiNapoli is "known for his integrity, independence and steadfast leadership"; "has aggressively fought misuse of public resources"; has been "making government more accountable and transparent to the people for more than 35 years."; "protects public funds from waste, fraud and abuse"; "examines state...finances and provides an independent, credible analysis of government finances."

being handled by Rich Redlo, an assistant counsel. I told him, further, that CJA's website posted the lawsuit papers and instructed him where they could be located.

23. I had also left a message for Mr. Redlo at approximately 10:20 am. However, I did not hear back from him. Instead, just slightly more than an hour later, I received an e-mail from AAG Kerwin – to which AAG McGowan was an indicated recipient – stating:

> "Please be advised that my office is also representing the Office of the State Comptroller in this matter. Therefore, please direct all communications relating to the Office of the Comptroller to my office.
>
> Additionally, I was not copied on the 4:25 pm letter to Judge Lynch or the 6:08 pm email to his chambers referenced in the court's most recent letter to the parties. Please provide me copies of both.
>
> Thank you." (Exhibit Y-7).

24. My prompt e-mail response to AAG Kerwin – to which AAG McGowan was an indicated recipient – was entitled "Please check your inbox – CJA v. Cuomo/citizen taxpayer action: 1788-14". It stated:

> "Thank you for advising that the State Attorney General is also representing the State Comptroller. I will separately write with respect to the duty of both the State Attorney General and the State Comptroller to be intervening, on behalf of the People of the State of New York, *in support of the plaintiffs, who they should be* representing, because there is NO 'merits' defense to this citizen-taxpayer action.
>
> Please advise who at the Attorney General's office is <u>independently</u> determining the 'interest of the state', pursuant to Executive Law §63.1. By now, you and Mr. McGowan should be notifying Attorney General Schneiderman, Comptroller DiNapoli, and the other defendants, that this citizens-taxpayer action is an open-and-shut, *prima facie*, summary judgment case for plaintiffs – and that plaintiffs' Notice to Furnish the Court with Papers pursuant to CPLR §2214(c) reinforces that fact.
>
> As for your statement that you were 'not copied' on my '6:08 pm email, you certainly were. Attached is a copy of that 6:08 pm e-mail,

> the original of which should be in your inbox. As for 'not [being] copied on the 4:25 pm letter to Judge Lynch', it was attached to the 6:08 pm e-mail – and the first sentence of the e-mail itself identifies that you and Assistant Attorney General McGowan were being 'herewith' furnished with my 4:22 pm faxed letter to Judge Lynch.
>
> For your further convenience, I will re-send the original 6:08 pm e-mail, with its attached 4:22 pm faxed letter to Judge Lynch – which should be in your inbox.
>
> Thank you." (Exhibit Z-8, capitalization and underlining in the original).

I thereupon resent to AAGs Kerwin and McGowan the March 31, 2014 e-mail with its attached supplementary letter to Justice Lynch that I had previously sent them (Exhibit Z-8).

25. I received no response from AAGs Kerwin or McGowan until Wednesday, April 23, 2014, when a priority mail envelope was delivered to me containing AAG Kerwin's April 18, 2014 dismissal motion. It made no mention that this is a citizen-taxpayer action pursuant to State Finance Law, Article 7-A; no mention of the basis upon which the TRO had been denied or any of the facts as to what had taken place at the oral argument – or thereafter, as for instance, Justice Lynch's March 31, 2014 and April 1, 2014 letter/orders; no mention of my repeated requests for the Attorney General's intervention/representation for the plaintiffs; and, with the exception of citation to two paragraphs of the complaint pertaining to plaintiffs and two paragraphs of the complaint pertaining to the Attorney General and Comptroller, cited to none of the complaint's paragraphs in substantiation of its false and misleading assertions as to its content.

Plaintiffs' Efforts to Secure Supervisory Oversight of AAG Kerwin's Fraudulent Dismissal Motion by the Attorney General and Comptroller – & Appropriate Action Based Thereon

26. On Tuesday, April 29, 2014, I telephoned AAG McGowan to give him notice that AAG Kerwin's dismissal motion was utterly deficient and fraudulent, requiring that it be withdrawn. He refused to answer my repeated question as to the names of supervisory personnel – and would not

himself confirm that he had reviewed the content of her motion or engage in conversation with me as to its deficiencies. Nor would he respond to my question as to who was evaluating "the interest of the state" and plaintiffs' entitlement to the Attorney General's representation by reason thereof. Thereafter, I telephoned AAG Kerwin and left a similar message on her voice mail, requesting that she advise as to who her supervisors were and who was evaluating "the interest of the state" and plaintiffs' entitlement to the Attorney General's representation. I additionally phoned the Attorney General's Public Integrity Bureau (212-416-8090), leaving a voice mail about the Attorney General's use of litigation fraud in defending against lawsuits.

27. On Thursday, May 1, 2014, having received no response from the Attorney General's office, I telephoned the Comptroller's office to give notice of how the Attorney General was corrupting the judicial process in this citizen-taxpayer action and of the Comptroller's duty, as an independent constitutional officer, responsible for safeguarding the public fisc, to take appropriate steps. Deputy Counsel Fanshawe refused to take my call, advising, through an assistant, that I must speak with AAG Kerwin. Upon requesting to speak with Deputy Counsel Fanshawe's superior, Counsel Nancy Groenwegen, the call was routed to AAG Kerwin's line. Again, I left a voice mail message for AAG Kerwin, informing her that my call had been routed from the Comptroller's office and requesting the names of her superiors so that appropriate steps could be taken, beginning with withdrawing her fraudulent dismissal motion. I stated that if I did not hear back by the next day, I would contact the Attorney General himself. Thereafter, I phoned Robert Ward, Deputy Comptroller for Budget and Policy Analysis, who I had met last October at a program on the state Constitution, discussing with him the disparity between Article VII, *as written*, and the on-the-ground reality with respect to the Judiciary and Legislative budgets.

28. On Friday, May 1, 2014, I received an e-mail from AAG McGowan – to which AAG Kerwin was an indicated recipient – purporting that it was "inappropriate" for me to have "recently reached out to the Attorney General's client, the State Comptroller"; that all contact should be with AAG Kerwin, and that I could "address any concerns...about the conduct of this litigation in writing to Meg Levine, Deputy Attorney General, Division of State Counsel, The Capitol, Albany, NY 12224-0341" (Exhibit AA-1).

29. My response to AAG McGowan, by a May 2, 2014 e-mail entitled "The Duty of Supervisory Oversight & Independent Evaluation Consistent with Executive Law 63.1 & State Finance Law Article 7-A", stated, in pertinent part:

> "Please promptly furnish me with Deputy Attorney General Levine's phone number and/or e-mail.
>
> State Comptroller DiNapoli is an <u>independent</u> constitutional officer, charged with safeguarding the public fisc and taxpayer monies. As such, the Comptroller's duty is to ensure the proper disposition of plaintiffs' citizen-taxpayer action, whose merit, <u>entitling plaintiffs to a summary judgment disposition</u>, is obvious from the most cursory review of its particularized verified complaint, the annexed exhibits, and the CPLR §2214(c) notice to furnish papers to the court.
>
> ...
>
> Did Comptroller DiNapoli hand over representation <u>with knowledge</u> that the Attorney General, a defendant in the action, would, through Ms. Kerwin, brazenly corrupt the judicial process by litigation fraud, continuing what she had done on March 28th before Justice Michael Lynch in opposing plaintiffs' order to show cause for a stay with TRO? Comptroller DiNapoli must not be ignorant of what is being done <u>in his name</u>, which, consistent with his ethical responsibilities and constitutional function, he must disavow.
>
> As I have repeatedly requested, please advise as to who at the Attorney General's office is evaluating plaintiffs' entitlement to the Attorney General's representation and intervention. Such is not only required by Executive Law §63.1, which predicates the Attorney General's litigation position on '<u>protect[ing] the interest of the state</u>', but State Finance Law, Article 7-A – the citizen-taxpayer action statute – which clearly contemplates representation and intervention by the Attorney General.

> Plaintiffs' citizen-taxpayer action is expressly brought 'on behalf of the People of the State of New York & the Public Interest'. If the Attorney General is not going to undertake independent evaluation of his duty with respect thereto, the Comptroller, with his own counsel resources, must step in for that purpose.
>
> ...As I have Deputy Comptroller Ward's e-mail, a copy of this is being furnished to him, with a request that he forward it to Deputy Counsel Fanshawe and Counsel G[roe]nwegen, in the event my guess as to their e-mail addresses is incorrect – and, additionally, that he furnish it to Comptroller DiNapoli. To further remind Mr. Ward of our conversation together last October – and what I furnished him, in hand, so that he could 'initiate appropriate investigation and corrective action at the Comptroller's office' – attached is the October 9, 2013 e-mail I sent him. ..." (Exhibit AA-2).

30. Two and a half hours later, in the absence of any response from AAG McGowan, I found the phone number for the Attorney General's Albany Litigation Bureau on the Attorney General's website. As Deputy Attorney General Levine was not available, I left a message requesting her supervision and that she obtain from AAG McGowan the e-mail I had sent him. I thereupon memorialized this in an e-mail which I sent to AAG McGowan, with a copy to AAG Kerwin (Exhibit AA-3).

31. By then, I had also already called the Comptroller's hotline for "Fighting Government Fraud" – the same as I had called on April 2, 2014, when I orally filed a complaint with Investigator Smith (¶22, *supra*). Upon getting a voice recording, I left a voice mail message, inquiring about that complaint. I then embodied this in a written complaint that I submitted by e-mail (Exhibit AA-4), following which I received an automated e-mail from the Comptroller's office, stating:

> "Please be assured that your complaint will be reviewed and appropriate action taken, including referral to appropriate staff within the Office of the State Comptroller and other agencies if warranted." (Exhibit AA-5).

32. By Wednesday, May 7, 2014, having heard nothing further from the Attorney General or Comptroller – I followed up with phone calls to bring to their specific attention Rule 5.1 of New York's Rules of Professional Conduct regarding the responsibilities of supervisory lawyers for the misconduct of subordinates. I left an extensive message for Deputy Attorney General Levine with her legal assistant, Ann Fisher, requesting oversight of AAG Kerwin, withdrawal of her dismissal motion, and an answer as to who was independently evaluating "the interest of the state" and plaintiffs' entitlement to the Attorney General's representation pursuant to Executive Law §63.1 and State Finance Law, Article 7-A. Ms. Fisher told me that I should put my concerns in writing, but refused to furnish me with an e-mail address. I then called the Comptroller's office and spoke with Comptroller Counsel Groenwegen's executive assistant, Tory Wilson. Again, I was routed to AAG Kerwin. This time, AAG Kerwin picked up her phone – and put me on speakerphone, acknowledging that she shares an office with AAG McGowan, who was present and also listening to what I had to say about her fraudulent dismissal motion. Again, I identified the duty of supervisory attorneys pursuant to Rule 5.1 of the Rules of Professional Conduct and reiterated my long-standing request to know who was evaluating plaintiffs' entitlement to representation pursuant to both Executive Law §63.1 and State Finance Law Article 7-A. During my conversation, Comptroller Counsel Groenwegen phoned – and I took her call immediately.

33. Counsel Groenwegen acknowledged that she had read the verified complaint I had served upon the Comptroller, *via* Deputy Counsel Fanshawe, on March 28, 2014 and, additionally, that she had seen AAG Kerwin's dismissal motion. She did not deny or dispute any aspect of what I described to her about the fraudulence of the dismissal motion, but refused to recognize any responsibility under Rule 5.1 of the Rules of Professional Conduct to take corrective steps to secure its withdrawal – or to re-evaluate the propriety of the Comptroller being represented by an Attorney

General who was corrupting a statutory safeguard for protecting the public fisc – State Finance Law Article 7-A. Her position was that we have "independent courts" and I should just set it all forth in my opposition papers. In so stating, she refused to acknowledge that this case involves judicial self-interest by its challenge to the judicial pay raises – and did not deny her familiarity with CJA's October 27, 2011 Opposition Report and the verified complaint in *CJA v. Cuomo I* based thereon – documents I had personally served on the Comptroller's office in Albany in April 2012.

34. I thereupon called the Attorney General's executive office and spoke with Siovone Kennedy, his Executive Assistant, to whom I summarized the situation. I told her that Attorney General Schneiderman bore ultimate supervisory responsibility for AAG Kerwin's dismissal motion and that his duty was to withdraw it, consistent with Rule 5.1 of the Rules of Professional Conduct. I told her that I had been unable to get any answer as to who was evaluating "the interest of the state" pursuant to Executive Law §63.1. She stated that someone would get back to me.

35. I also called the Comptroller's executive office and, following a message left with Susan, got a return call from the Comptroller's executive assistant, Amber Ryan, with whom I had an extensive conversation as to the Comptroller's duty with respect to the Attorney General's fraudulent defense of this citizen taxpayer action on his behalf.

36. The next day, Thursday, May 8, 2014 – with my answering papers to AAG Kerwin's dismissal motion due the following day – and hoping to hear from the Attorney General and Comptroller that the motion would be withdrawn and that they would be joining with plaintiffs in safeguarding the public monies at issue – I contacted the Court to request a week's extension (Exhibit W). Such was granted – but I have heard nothing from these two constitutional officers, nor anyone subordinate to them.

The Attorney General & Comptroller's Public Posturing as Corruption-Fighters, Jointly Safeguarding Taxpayer Monies

37. While corrupting the judicial process to secure dismissal of this citizen-taxpayer action, Attorney General Schneiderman and Comptroller DiNapoli have been publicly promoting themselves as corruption-fighters, saving taxpayer monies.

38. On May 12, 2014, the Comptroller issued a press release entitled "*DiNapoli Expands Anti-Corruption Initiative*" (Exhibit BB-1). Announcing that the Comptroller has "expanded his anti-corruption initiative and created a new Division of Investigations", to be headed by Deputy Comptroller and Counsel for Investigations Nelson Sheingold, it quotes Comptroller DiNapoli as saying: "This new division will boost our scrutiny and strengthen oversight of public funds...We will continue to expose those who abuse their public duty and rip off taxpayer dollars." The press release further states:

> "Since taking office, DiNapoli has implemented several measures to implement the Comptroller's fraud-fighting ability, including his groundbreaking partnership with state Attorney General Eric Schneiderman's office in the Joint Task Force on Public Integrity..."

It also "encourage[s]" "Anyone with additional information on public corruption...to contact the Comptroller's office by calling the toll-free fraud hotline at 1-888-672-4555" or by filing a complaint online or by mail. This is the same hotline number I had called on April 2nd and May 2nd, thereupon filing an online complaint (¶¶22, 31, *supra*).

39. Five days earlier, on May 7, 2014, Attorney General Schneiderman had held a press conference and issued a press release entitled "A.G. Schneiderman & Comptroller DiNapoli Announce Indictment of NYC Councilman Ruben Wills In Public Corruption Scheme" (Exhibit BB-1). The video of the Attorney General's press conference is posted on his website, with the press release. It opens with the Attorney General recognizing Mr. Sheingold, representing Comptroller

DiNapoli, describing him as "our partner in what we call Operation Integrity, an unprecedented joint executive order issued by our offices that enables us to conduct investigations together." He then recognizes his own office staff, starting with his Executive Deputy Attorney General for Criminal Justice, Kelly Donovan. Although he does not identify the fact, Ms. Donovan had been Counsel to the Commission to Investigate Public Corruption (Exhibit BB-4)[4] – and, by reason thereof, was yet another means by which, as alleged in ¶12(c) of plaintiffs' complaint:

> "Defendant SCHNEIDERMAN may be presumed knowledgeable of plaintiffs' efforts to secure the Commission's investigation of what took place with respect to the budget for fiscal year 2013-2014 – and what was unfolding with respect to the budget for fiscal year 2014-2015..."

40. During the press conference, Attorney General proclaimed that "no one is above the law" and that the best way to tackle the "culture of corruption" is by "less talk and more action, cracking down on public corruption"; pledging to do so "in the weeks and months ahead" because this is a "central focus of our office". In so stating, he also used some of the same language as he had at the Governor's July 2, 2013 press conference announcing the establishment of the Commission to Investigate Public Corruption:

> "I feel very strongly that as someone who believes in government as a force for good, as someone who believes in our popular democracy, that those of us who believe in it have to be the harshest critics of waste, fraud, and abuse in government. And this undermines public confidence in our system. This discourages people from voting. This breaks down the compact between the public and the officials who swear to represent that public."

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4 Other staff that Attorney General Schneiderman acknowledged at the press conference and in his press release were the Deputy Bureau Chief of his Public Corruption Bureau, Stacy Aronowitz, and its new Bureau Chief, Daniel Cort, formerly head of District Attorney Cyrus Vance's Public Corruption Unit – both of whose misfeasance in covering up the fraudulent judicial salary increase, costing New York taxpayers more than $70 million to date, are established by the particulars underlying the complaint's ¶¶5(b)(d)(e).

Postscript to Plaintiffs' Verified Complaint:
Subsequent Facts as to the Budget
& Commission to Investigate Public Corruption

41. AAG Kerwin's memorandum of law falsely states:

> "Although voluminous, the complaint in this action challenges only the initial steps taken toward the enactment of the 2014-2015 Legislature and Judiciary budgets." (p. 5).

42. In fact, plaintiffs' complaint recites all but the end of the budget "process" – the so-called "Budget Conference Committee process" whose illegitimate origination is recited at ¶¶120-126. Suffice to note that plaintiffs' March 26, 2014 Notice to Furnish Papers to the Court Pursuant to CPLR §2214(c) requests the pertinent documents including:

> "action by the Legislature pursuant to Rule III of the Permanent Joint Rules of the Senate and Assembly, and, most specifically as to the proceedings, votes, and reports of the Joint Budget Conference Committee and its Joint Subcommittee on 'Public Protection'." (Exhibit X-2, p. 3).

43. That the Joint Budget Conference Committee and its Joint Subcommittee on 'Public Protection" are sham and just a further subterfuge for unconstitutional behind-closed- doors deal-making is reflected by what minimal pieces of public record there is with respect to them, as posted on the Assembly and Senate websites. These disparate pieces have been collected on CJA's website, www.judgewatch.org, on a webpage entitled: "The Legislature's Resolutions, Conferencing, & Votes - March 2014". The direct link is: http://www.judgewatch.org/web-pages/searching-nys/budget-2014-2015/march2014-legislative-action.htm. Suffice to note there appears to be no report of the Joint Subcommittee on 'Public Protection", no votes, and no meaningful proceedings. The last event is the less-than-four-minute appearance of the Subcommittee on March 26, 2014 – and the statements of co-chairs Lentol and Nozzolio evidence the disgraceful way budget negotiations were taking place.

44. AAG Kerwin's Exhibit F is the enacted Budget Bill, S.6351-A/A.8551-A, which by its added letter A, was apparently amended. However, what the amendment consists of is impossible to discern from the face of the bill – and no information is available from the Senate and Assembly website as to when and how the bill was amended, etc. It appears the amending was done in the usual due-process-less, rule-violating fashion as everything else – further reinforcing the necessity of a court-ordering of plaintiffs' Notice to Furnish Papers to the Court Pursuant to CPLR §2214(c), whose requests include records establishing "legitimate legislative process" with respect to "Amendments"; "Revision and engrossing" of the bill (Exhibit X-2, p. 2 (item #6(c)).

45. What is known is that New York's budget "process" went entirely behind-closed-doors at the end of March, with deal-making negotiations by defendants Cuomo, Skelos, and Silver, plus Independent Democratic Conference Leader Klein. These continued through to the evening of Friday, March 28, 2014 – with the negotiated deal and its included shut-down of the Commission to Investigation Public Corruption being announced by defendant Cuomo, the next day, *via* a telephone conference with reporters.

46. I do not know whether this citizen-taxpayer action, with its pertinent paragraphs about the Commission (¶¶5(i), 7, 24, 31, 33, 48, 72, p. 46: "other and further relief"), contributed to the Governor's decision to close-down the Commission. However, based on the record of the declaratory judgment against the Commission (NY Co. #160941/2013), that had been brought, *inter alia*, by defendants Skelos and Silver and which was defended by defendant Schneiderman, it would not surprise me if the Governor was advised that if he did not shut the Commission down, a judicial declaration would go against him, resoundingly.

47. I so-stated this in my affidavit in support of an April 23, 2014 order to show cause to intervene in the declaratory judgment action (¶70). The intervention motion, made on behalf of the

People of the State of New York & Public Interest, is here relevant as it particularizes the Attorney General's litigation fraud in defending the Commission, whose corruption is also particularized – as well as the conflict-of-interest of taxpayer-paid counsel representing defendants Skelos and Silver, but also purporting to represent the Senate and Assembly. The motion and record are posted on CJA's website. The direct link is: http://www.judgewatch.org/web-pages/searching-nys/commission-to-investigate-public-corruption/holding-to-account/intervention-declaratory-judgment.htm.

48. The last paragraph of plaintiffs' complaint herein, ¶126, states:

> "...one need only examine the Constitutional, statutory, and Senate and Assembly rule provisions relating to openness...to see that government by behind-closed-doors deal-making, such as employed by defendants CUOMO, SKELOS, SILVER, SENATE, and ASSEMBLY, is an utter anathema and unconstitutional – and that a citizen-taxpayer action could successfully be brought against the whole of the Executive budget"

Such can readily be read as a challenge to the ignominious behind-closed doors budget deal reached on March 28, 2014 by the complaint's "WHEREFORE" clause for "other and further relief as may be just and proper" (p. 46).

49. As to the March 31, 2014 rubber-stamp Legislative vote on Budget Bill #S.6351-A/A.8551-A, putting its imprimatur on what had been done behind-closed-doors, the Senate took up the bill first – and it was over in less than half a minute, without discussion and by a fast vote identified as 59 ayes (video: 12:09 -12:27 minutes). The Senate bill was then taken up by the Assembly, as its last order of business – with Assembly Ways and Means Chairman Farrell stating: "The bill we have before us is the bill that is going to get us home before 12 o'clock", to which Assembly members laughed and applauded before voting, without discussion: recorded as ayes 119,

nays 9. It was over in less than 3 minutes (video: 11:51:32 - 11:54:09 hours). Notably voting against: Assembly Ways and Means Ranking Member Oaks.

50. Upon information and belief, the affirmative-voting Senate and Assembly members have not a clue as to the monies cumulatively appropriated by Budget Bill #S.6351-A/A.8551-A or separately for the Legislature and Judiciary.

ELENA RUTH SASSOWER

Sworn to before me this
16th day of May 2014

Notary Public

JANE ROMERO
Notary Public, State of New York
No. 01RO6176895
Qualified in Westchester County
Commission Expires Nov. 5, 20 15

TABLE OF EXHIBITS

Exhibit W: Plaintiff Sassower's May 8, 2014 letter to Acting Supreme Court Justice Roger D. McDonough – "RE: Extension & Hearing Requests"

Exhibit X-1: Plaintiff Sassower's March 26, 2014 e-mail to Assistant Attorney General Kerwin – "RE: Citizen Taxpayer Action – Governor's Budget Bill #S.6351/A.8551"

Exhibit X-2: Plaintiffs' Notice to Furnish Papers to the Court Pursuant to CPLR §2214(c)

Exhibit X-3: Plaintiff Sassower's March 28, 2014 e-mail to AAG Kerwin – "RE: Citizen Taxpayer Action – Governor's Budget Bill #S.6351/A.8551"

Exhibit Y: Transcript of March 28, 2014 oral argument on order to show cause for TRO before Justice Michael C. Lynch

Exhibit Z-1: Plaintiff Sassower's March 31, 2014 letter to Justice Lynch – "RE: Reconsideration of the Court's from-the-bench decision on March 28, 2014 on Plaintiffs' Order to Show Cause for a Stay with TRO in the Citizens-Taxpayer Action…"

Exhibit Z-2: Plaintiff Sassower's March 31, 2014 e-mail to AAG Kerwin & AAG James McGowan – "Citizen Taxpayer Action…"

Exhibit Z-3: Justice Lynch's March 31, 2014 letter/decision

Exhibit Z-4: Plaintiff Sassower's March 31, 2014 letter to Justice Lynch – "RE: Supplement to Letter Request…"

Exhibit Z-5: Plaintiff Sassower's March 31, 2014 e-mail to Justice Lynch's law secretary – "Subject:…What Disciplinary Action will be Taken by Justice Lynch vs the Attorney General Consistent with §100.3D(2) of the Chief Administrator's Rules Governing Judicial Conduct?"

Exhibit Z-6: Justice Lynch's April 1, 2014 letter/decision

Exhibit Z-7: AAG Kerwin's April 2, 2014 e-mail

Exhibit Z-8: Plaintiff Sassower's April 2, 2014 e-mail – "Subject: Please check your inbox…"

Exhibit Z-9: Plaintiff Sassower's April 2, 2014 e-mail – "Subject: FW...What Disciplinary Action will be Taken by Justice Lynch vs the Attorney General Consistent with §100.3D(2) of the Chief Administrator's Rules Governing Judicial Conduct?"

Exhibit AA-1: AAG Kerwin's May 2, 2014 e-mail – "Subject: Center for Judicial Accountability, Inc, etc. v. Cuomo et al..."

Exhibit AA-2: Plaintiff Sassower's May 2, 2014 e-mail – "Subject: The Duty of Supervisory Oversight & Independent Evaluation Consistent with Executive Law 63.1 & State Finance Law Article 7-A:..."

Exhibit AA-3: Plaintiff Sassower's May 2, 2014 e-mail – "Subject: Please forward to Deputy Attorney General Meg Levine – The Duty of Supervisory Oversight & Independent Evaluation Consistent with Executive Law 63.1 & State Finance Law Article 7-A:..."

Exhibit AA-4: Plaintiff Sassower's May 2, 2014 e-mail/complaint – "Subject: ATT: Counsel Groenwegen; Deputy Counsel Fanshawe; Deputy Comptroller Ward: Reporting Government Fraud – Grand Larceny of the Public Fisc & Taxpayer Monies: Governor Cuomo's Budget Bill of Legislative & Judiciary Appropriations for Fiscal Year 2014-2015"

Exhibit AA-5: Comptroller's May 2, 2014 e-mail – "Subject: Re: ATT: Counsel Groenwegen; Deputy Counsel Fanshawe; Deputy Comptroller Ward: Reporting Government Fraud – Grand Larceny of the Public Fisc & Taxpayer Monies: Governor Cuomo's Budget Bill of Legislative & Judiciary Appropriations for Fiscal Year 2014-2015"

Exhibit BB-1: Comptroller DiNapoli's May 12, 2014 press release "*DiNapoli Expands Anti-Corruption Initiative*"

Exhibit BB-2: "*State Comptroller Thomas DiNapoli to add anti-corruption division to office*", Daily News, May 12, 2014, Ken Lovett

Exhibit BB-3: "Attorney General Schneiderman's May 7, 2014 press release "*A.G. Schneiderman & Comptroller DiNapoli Announce Indictment Of NYC Councilman Ruben Wills In Public Corruption Scheme*"

Exhibit BB-4: Commission to Investigate Public Corruption Chief Counsel Kelly Donovan – simultaneously Attorney General Schneiderman's Executive Deputy Attorney General for Criminal Justice, responsible for his Public Integrity Bureau, Criminal Prosecutions, Taxpayer Protection, etc.