

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, August 3, 2018 6:53 AM
To: 'etyler@nycourts.gov'
Cc: 'Barbara.Underwood@ag.ny.gov'; 'Brodie, Frederick'; 'Paladino, Victor'; 'Janet.Sabel@ag.ny.gov'; 'Kent.Stauffer@ag.ny.gov'; 'Meg.Levine@ag.ny.gov'; 'Jeffrey Dvorin'; 'Adrienne Kerwin'; 'Helena.Lynch@ag.ny.gov'; 'Brian.Mahanna@ag.ny.gov'; 'Alvin.Bragg@ag.ny.gov'; 'marty.mack@ag.ny.gov'; 'Matthew.Colangelo@ag.ny.gov'; 'Margaret.Garnett@ag.ny.gov'; 'manisha.sheth@ag.ny.gov'; 'Jane Landes'; 'ad3clerksoffice@nycourts.gov'
Subject: Transcript: Yesterday's Oral Argument of TRO -- citizen-taxpayer action, CJA v. Cuomo, et al./Appellate Division, 3rd Dept. (Justice Eugene Devine)
Attachments: 8-2-18-signed-osc.pdf

TO: Eric Tyler, Court Reporter

As I requested yesterday, at the conclusion of oral argument of the TRO in the citizen-taxpayer action, *CJA v. Cuomo, et al*, please let me know, as soon as possible, as to the cost of the stenographic transcript.

Please also advise as to whether Attorney General Underwood would be charged the same cost were she or other supervisory/managerial attorneys of the attorney general's office to order the transcript – or even Assistant Solicitor General Brodie, who made yesterday's argument before Associate Justice Devine. How about if the transcript were ordered by the Appellate Division's Attorney Grievance Committee?

Attached is the order to show cause, as signed by Justice Devine, requiring that defendants-respondents' answering papers be e-mailed to me by 5 p.m. today, Friday, August 3rd, with my reply papers due to be served by 5 pm on Monday, August 6th.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant
Individually and as Director of the Center for Judicial Accountability, Inc.
& on behalf of the People of the State of New York & the Public Interest

914-421-1200

elena@judgewatch.org

Center for Judicial Accountability, Inc. (CJA)

From: Eric Tyler <etyler@nycourts.gov>
Sent: Friday, August 3, 2018 9:11 AM
To: Center for Judicial Accountability, Inc. (CJA)
Subject: Re: Transcript: Yesterday's Oral Argument of TRO -- citizen-taxpayer action, CJA v. Cuomo, et al./Appellate Division, 3rd Dept. (Justice Eugene Devine)

Elena,

This email will serve as an invoice in reply to your request for the transcript in the matter of: CJA v. Cuomo, et al.

INVOICE:

Daily Copy: 40 pgs. X \$6.50 = \$260.00 (emailed to you by 5:00 PM today – paid by cash or certified funds before 2pm today)

Expedited: 40 pgs. X \$5.40 = \$216.00 (emailed to you within 7 days after payment of cash or certified funds)

Regular: 40 pgs. X \$4.30 = \$172.00 (emailed to you within 30 days after payment of cash or certified funds)

Please let me know which option you would prefer. Make certified funds payable to ERIC J. TYLER. My office is located at the Albany County Judicial Center, 6 Lodge Street, Albany, NY.

Thank you.

Eric J. Tyler

New York State Unified Court System
Senior Court Reporter – Third Judicial District

Work: +1 (518) 285-8743
Email: etyler@nycourts.gov

Albany County Supreme & County Courts
Albany County Judicial Center
6 Lodge Street
Albany, New York 12207

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Date: Friday, August 3, 2018 at 6:53 AM
To: Eric Tyler <etyler@nycourts.gov>
Cc: "Barbara.Underwood@ag.ny.gov" <Barbara.Underwood@ag.ny.gov>, "Brodie, Frederick" <Frederick.Brodie@ag.ny.gov>, "Paladino, Victor" <Victor.Paladino@ag.ny.gov>, "Janet.Sabel@ag.ny.gov" <Janet.Sabel@ag.ny.gov>, "Kent.Stauffer@ag.ny.gov" <Kent.Stauffer@ag.ny.gov>, "Meg.Levine@ag.ny.gov" <Meg.Levine@ag.ny.gov>, 'Jeffrey Dvorin' <Jeffrey.Dvorin@ag.ny.gov>, 'Adrienne Kerwin' <Adrienne.Kerwin@ag.ny.gov>, "Helena.Lynch@ag.ny.gov" <Helena.Lynch@ag.ny.gov>, "Brian.Mahanna@ag.ny.gov" <Brian.Mahanna@ag.ny.gov>, "Alvin.Bragg@ag.ny.gov"

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, August 3, 2018 11:26 AM
To: 'Eric Tyler'
Subject: Transcript Costs & Timing: Yesterday's Oral Argument of TRO -- citizen-taxpayer action, CJA v. Cuomo, et al./Appellate Division, 3rd Dept. (Justice Eugene Devine)

Dear Eric,

Obviously, the transcript would be most useful if it were available by "by 5:00 PM today" – since, assuming the attorney general puts in answering papers by that time, my reply papers are due by 5 pm Monday. Obviously, the cost is a big factor here – and sometimes the parties "split" the cost.

In that connection, please answer my further questions:

"whether Attorney General Underwood would be charged the same cost were she or other supervisory/managerial attorneys of the attorney general's office to order the transcript – or even Assistant Solicitor General Brodie, who made yesterday's argument before Associate Justice Devine. How about if the transcript were ordered by the Appellate Division's Attorney Grievance Committee?

Also, is there any accommodation on the "daily rate" for citizen-taxpayer actions, statutorily-required to proceed expeditiously (State Finance Law 123-c(4)). Would you be able to furnish me the transcript by Sunday at the "regular" rate of \$172?

My videographer has said he will try to have the video for me, as soon as possible. But I've yet to hear back from him whether he can get it to me by this weekend. As I would want either the video or transcript for use in preparing reply papers – assuming the attorney general does put in answering papers today – when is the earliest that you would be able to furnish me with the transcript, if I put in the order tomorrow, by noon, or Sunday, by noon?

Thank you.

Elena Sassower

From: Eric Tyler <etyler@nycourts.gov>
Sent: Friday, August 3, 2018 9:11 AM
To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
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Center for Judicial Accountability, Inc. (CJA)

From: Eric Tyler <etyler@nycourts.gov>
Sent: Friday, August 3, 2018 11:48 AM
To: Center for Judicial Accountability, Inc. (CJA)
Subject: RE: Transcript Costs & Timing: Yesterday's Oral Argument of TRO -- citizen-taxpayer action, CJA v. Cuomo, et al./Appellate Division, 3rd Dept. (Justice Eugene Devine)

Elena,

Normally split billing is done either by order of the presiding judge or agreement between both parties that are ordering the transcript. The Appellate Division nor the Attorney General have expressed any interest in ordering the transcript.

As to page rates, there are specific rates for the Unified Court System, public fund (i.e., District Attorney, Public Defender, Attorney General, village, town, city, county) and the general public. As far as will others pay the same rate? There are different rates for each entity (UCS, PUBLIC & ALL OTHERS) but the rate difference is not that far apart and the range of rates are set by the State.

Long and short, the CJA falls into the last category, which is the quotes I sent you earlier. Daily is normally by 10:00 AM the next business day, but I am able to get it to you today by 2PM as I am almost finished with the transcript due to your oral request yesterday and the schedule as set by the Court.

I hope this answers your questions. Please advise on dropping off payment today at the Judicial Center.

Thank you. Eric.

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In that connection, please answer my further questions:

"whether Attorney General Underwood would be charged the same cost were she or other supervisory/managerial attorneys of the attorney general's office to order the transcript – or even Assistant Solicitor General Brodie, who made yesterday's argument before Associate Justice Devine. How about if the transcript were ordered by the Appellate Division's Attorney Grievance Committee?"

Center for Judicial Accountability, Inc. (CJA)

From: Mert Melfa <mertmelfa@aol.com>
Sent: Friday, August 3, 2018 12:14 PM
To: elena@judgewatch.org
Cc: bob@givemeliberty.org
Subject: Re: Do you think you can have the video ready this weekend? -- FW: Transcript Costs & Timing: Yesterday's Oral Argument of TRO -- citizen-taxpayer action, CJA v. Cuomo, et al./Appellate Division, 3rd Dept. (Justice Eugene Devine)

Hi Elena,

Here is the video feed:

<https://vimeo.com/282952995>

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

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
To: mertmelfa <mertmelfa@aol.com>
Cc: Robert Schulz <bob@givemeliberty.org>
Sent: Fri, Aug 3, 2018 11:31 am
Subject: Do you think you can have the video ready this weekend? -- FW: Transcript Costs & Timing: Yesterday's Oral Argument of TRO -- citizen-taxpayer action, CJA v. Cuomo, et al./Appellate Division, 3rd Dept. (Justice Eugene Devine)

Dear Mert –

Below is my response to what the court reporter sent me. Let me know, as soon as possible, if you'll be able to provide me with the video this weekend, as otherwise I may have no choice but to order the transcript "daily rate".

Thanks.

Elena
914-421-1200

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, August 3, 2018 11:26 AM
To: 'Eric Tyler' <etyler@nycourts.gov>
Subject: Transcript Costs & Timing: Yesterday's Oral Argument of TRO -- citizen-taxpayer action, CJA v. Cuomo, et al./Appellate Division, 3rd Dept. (Justice Eugene Devine)

Dear Eric,

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In that connection, please answer my further questions:

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, August 3, 2018 2:35 PM
To: 'Eric Tyler'
Cc: 'mertmelfa@aol.com'; Robert Schulz (bob@givemeliberty.org)
Subject: I prefer the VIDEO, thank you! -- RE: Yesterday's Oral Argument of TRO -- citizen-taxpayer action, CJA v. Cuomo, et al./Appellate Division, 3rd Dept. (Justice Eugene Devine)

Dear Eric,

Thank you, but I'm a bit flabbergasted by your below e-mail, sent at 11:48, stating that you are able to furnish me with the transcript by 2 pm today as you are "almost finished with the transcript due to [my] oral request yesterday and the schedule as set by the Court".

It is absolutely NOT my impression that I ordered the transcript without knowing the cost, let alone that I ordered it at the "daily rate" – and especially as I had a videographer on hand to furnish me with a video. Certainly, you would have asked me for a deposit yesterday, if you believed that, without my knowing its cost, I had ordered the transcript. Indeed, you refused to give me any estimated cost figures, stating to me that I would have to put my request for your cost estimate in writing – which is precisely what I did, this morning, by my e-mail to you.

I will leave it to the attorney general, the Court, and the Court's attorney grievance committee to take advantage of your nearly completed transcription of yesterday's oral argument – and to compensate you for it, at the established rates that they and/or the state pay. There is no need for me to order the transcript – and at such a hefty price, without even a discounting or any other accommodation extended by you by reason of the statutorily-dictated expedited time parameters – when I NOW have something far, far better: the video, which the videographer has NOW supplied me – and which I have NOW viewed. It is amazing – and the videographer, Mert Melfa, deserves to be recognized for his civic contribution.

Last week, on short notice, at the recommendation of this state's foremost citizen-activist/constitutionalist, Bob Schulz, I contacted Mert, who generously agreed to drop what he was doing so as to film the July 25th oral argument and – after it was cancelled – to film yesterday's oral argument. He asked for nothing in return, other than the most nominal reimbursement for his travelling expenses. This I gave him, following yesterday's oral argument – and it was with the greatest reluctance that he took from me even the little bit more that I gave him, which I practically had to force him to take. His video of the oral argument has made your transcription SUPERFLUOUS – and I can't imagine that anyone would prefer your transcription to the video -- no matter how accurate it is.

I will be posting the video on the Center for Judicial Accountability's website, www.judgewatch.org – and when I do, I will furnish you, the Court, and the attorney general with the link so that you, they – and everyone else – can come to the only possible conclusion, namely, that the job of court stenographers should give way to the videotaping of court proceedings as the standard.

While writing this e-mail, I have received your further e-mail, sent at 1:49 pm, stating:

"Elena,

The transcript of the oral argument before the Hon. Eugene P. Devine is completed. I will email it to you after I have received the \$260.00 as quoted in the original email for daily delivery.

I will be here at the judicial center until 4:30 PM.
Thank you!"

Please do not await the \$260 "daily rate" payment – as I never ordered a "daily rate" transcript, or any transcript.

Thank you.

Elena Sassower

From: Eric Tyler <etyler@nycourts.gov>
Sent: Friday, August 3, 2018 11:48 AM
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Center for Judicial Accountability, Inc. (CJA)

From: Eric Tyler <etyler@nycourts.gov>
Sent: Friday, August 3, 2018 1:49 PM
To: Center for Judicial Accountability, Inc. (CJA)
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New York State Unified Court System
Senior Court Reporter - Third Judicial District

Work: +1 (518) 285-8743
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6 Lodge Street
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Center for Judicial Accountability, Inc. (CJA)

From: Eric Tyler <etyler@nycourts.gov>
Sent: Friday, August 3, 2018 3:04 PM
To: Center for Judicial Accountability, Inc. (CJA)
Cc: mertmelfa@aol.com; Robert Schulz
Subject: Re: I prefer the VIDEO, thank you! -- RE: Yesterday's Oral Argument of TRO -- citizen-taxpayer action, CJA v. Cuomo, et al./Appellate Division, 3rd Dept. (Justice Eugene Devine)

Elena,

My apologies for any confusion that was caused regarding your conversation with me at the conclusion of the case regarding your wanting a transcript. The transcript is completed.

Normal practice is complete payment up front then delivery as agreed, unless it's time sensitive as in this situation, then we will start transcription in expectation of payment while transcription is being done, then immediately delivered.

The transcript is obviously the official court record of the proceedings held at the Appellate Division that day. If you do require the transcript in the future for submission to another court, etc., please email me 30 days in advance and I will give you the lower quoted rate that is within the State established guidelines.

Best of luck on your appeal.

Eric.

Eric J. Tyler
New York State Unified Court System
Senior Court Reporter - Third Judicial District

Work: +1 (518) 285-8743
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Albany County Judicial Center
6 Lodge Street
Albany, New York 12207

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, August 3, 2018 2:35:25 PM
To: Eric Tyler
Cc: mertmelfa@aol.com; Robert Schulz
Subject: I prefer the VIDEO, thank you! -- RE: Yesterday's Oral Argument of TRO -- citizen-taxpayer action, CJA v. Cuomo, et al./Appellate Division, 3rd Dept. (Justice Eugene Devine)

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1
EX BB-8

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, August 3, 2018 4:06 PM
To: 'Eric Tyler'
Cc: 'mertmelfa@aol.com'; Robert Schulz (bob@givemeliberty.org)
Subject: Thank you -- RE: I prefer the VIDEO, thank you! -- RE: Yesterday's Oral Argument of TRO -- citizen-taxpayer action, CJA v. Cuomo, et al./Appellate Division, 3rd Dept. (Justice Eugene Devine)

Dear Eric –

Thank you. Apologies accepted. I would expect that the Court and its Attorney Disciplinary Committee will want your transcription for official purposes – and compensate you for same.

Thank you, too, for your expression of “luck! Fortunately, the appeal is a matter of open-and-shut, *prima facie* evidence – and black-letter law. That is enough for me – and, I would hope, for the Court.

Best,

Elena

From: Eric Tyler <etyler@nycourts.gov>
Sent: Friday, August 3, 2018 3:04 PM
To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Cc: mertmelfa@aol.com; Robert Schulz <bob@givemeliberty.org>
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1
EXBB-9