

letter to Temporary Senate President Flanagan and Assembly Speaker Heastie; and my November 30, 2015 written statement and subsequent submissions to the Commission on Legislative, Judicial and Executive Compensation.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant
on her own behalf individually & as Director of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York & the Public Interest
914-421-1200
elena@judgewatch.org

From: Brodie, Frederick <Frederick.Brodie@ag.ny.gov>
Sent: Monday, July 23, 2018 3:47 PM
To: 'jlandes@nycourts.gov' <jlandes@nycourts.gov>
Cc: 'Center for Judicial Accountability, Inc. (CJA)' <elena@judgewatch.org>; Paladino, Victor <Victor.Paladino@ag.ny.gov>
Subject: CJA v. Cuomo, letter regarding appellant's OSC

Dear Ms. Landes,

Attached is a letter concerning appellant's application for an Order to Show Cause in *Center for Judicial Accountability v. Cuomo*, Albany Cty. Index # 5122-16. Also attached is a pdf of the exhibits referenced in the letter. As noted in the letter, we respectfully request that these be provided to the Justice who will determine appellant's application.

Thank you very much for your assistance.

Respectfully submitted,

Frederick A. Brodie
Assistant Solicitor General
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“48. Suffice to say, with respect to the requested TRO and preliminary injunction pertaining to the commission-based judicial salary increases – and the district attorney salary increases based thereon – Attorney General Underwood must demonstrate that Judge Hartman’s dispositions of appellants’ sixth, seventh, and eight causes of action [R.109-112 (R.187-201), R.112-114 (R.201-212), R.114 (R.212-213)], are defensible, which, based on the facts and law in the record before her – highlighted by the brief (at pp. 9-10, 14-17, 20, 26-27, 35-36, 37-38, 42, 44, 50-69) – she cannot do.

49. Indeed, in light of the enclosures to my May 16, 2018 NOTICE (free-standing Exhibit I (eye)), Attorney General Underwood should be expected to produce, at the oral argument of this TRO – at minimum:

- her findings of fact and conclusions of law as to the respects in which the Commission on Judicial Compensation’s August 29, 2011 report, on its face, violates Chapter 567 of the Laws of 2010 – itemized by appellants’ executive summary to their October 27, 2011 opposition report [See appellants’ November 29, 2011 corruption complaint to public integrity bureau; March 2, 2012 letter: Exhibit A; March 30, 2012 order to show cause for a stay with TRO in declaratory judgment action];
- her findings of fact and conclusions of law as to the respects in which the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation [R.1083-1105], on its face, violates Chapter 60, Part E, of the Laws of 2015 [R.1080-1082] – summarized by appellants’ 12-page “Statement of Particulars” and itemized by the fifteenth cause of action of their March 23, 2016 verified second supplemental complaint in the prior citizen-taxpayer action [R.212-213] on which the eighth cause of action of their September 2, 2016 verified complaint rests [R.114]. [See appellants’ March 6, 2018 misconduct complaint against Albany District Attorney Soares, Exhibits B & C].”

As the most cursory examination of the record reveals, I long ago and repeatedly met my burden of EVIDENTIARILY proving the People’s entitlement, *as a matter of law*, to the voiding of the commission-based judicial salary increases. Indeed, be sure to come to the oral argument with the EVIDENCE and, in particular:

(1) Chapter 567 of the Laws of 2010;

(2) Chapter 60, Part E, of the Laws of 2015;

(3) a FULL copy of CJA’s October 27, 2011 opposition report;

(4) the March 28, 2012 verified complaint in appellants’ declaratory judgment action, *CJA v. Cuomo, et al* (Bronx Co. #302951/12/NY Co. #401988-12),

with its compendium of substantiating exhibits;

(5) the free-standing and compendium exhibits substantiating appellants’ March 23, 2016 verified second supplemental complaint in the prior citizen-taxpayer action, *CJA v. Cuomo, et al*. (Albany Co. #1788-14) (inventoried by Exhibit G to my affidavit) – and, especially, my December 31, 2015 letter to Chief Judge DiFiore; my January 15, 2016

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<manisha.sheth@ag.ny.gov>; 'Jane Landes' <jlandes@nycourts.gov>; 'ad3clerksoffice@nycourts.gov'
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Subject: CJA v. Cuomo -- NOTICE TO ATTORNEY GENERAL UNDERWOOD: your duty to withdraw Assistant Solicitor General Brodie's letter to the Appellate Division & to appear personally, or by a high-ranking deputy, at the oral argument of the TRO -- Friday, July 27th

TO: Attorney General Barbara Underwood

The below corrects a typographical error in the otherwise identical e-mail sent at 2:02 pm – and adds to and reformats the documentary EVIDENCE that you are reminded to bring to the oral argument of appellants' TRO.

Thank you.

Elena Sassower

TO: Attorney General Barbara Underwood

This is to give you NOTICE that the above-attached July 23, 2018 letter that Assistant Solicitor General Frederick Brodie yesterday furnished to the Appellate Division, Third Department in opposition to appellants' order to show cause with preliminary injunction and TRO by the below e-mail is materially false and deceitful – and your duty is to withdraw it, forthwith.

CJA's website, www.judgewatch.org, posts my finalized July 24, 2018 moving affidavit in support of the order to show cause and identifies Assistant Solicitor General Brodie's letter in its postscript (at p. 18) – stating that I will be responding to it in a separate affidavit and will seek sanctions pursuant to NYCRR 130-1.1 *et seq.* The direct link to the webpage on which it is posted is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/7-24-18-osc-with-TRO.htm>.

So that you will have sufficient time to discharge your supervisory duties and withdraw Assistant Solicitor General Brodie's letter – so as to spare me and the Court of having to deal with its deceptions – I have asked the Court—*via* its Chief Motion Attorney, Ed Carey -- to reschedule the oral argument on the TRO from tomorrow, July 25th, to Friday, July 27th. I will, nonetheless, drive up to Albany tomorrow, SOLELY for purposes of filing with the Court the ten copies of appellants' brief and reproduced record on appeal and, simultaneously, the order to show cause, with my moving affidavit, so that Associate Justice Eugene Devine – who was to hear the argument tomorrow -- will have sufficient time to review them – and to discern, *on his own*, the fraudulence of Assistant Solicitor General Brodie's letter – and the necessity of ascertaining, threshold, what you have done to evaluate “the interest of the state” on the appeal and on the order to show cause – and how you are addressing your conflicts-of-interest.

Again, I reiterate that it is you – and/or your highest supervisory/managerial attorneys – who must appear at the argument of the TRO -- NOT Assistant Solicitor General Brodie, who, by his yesterday's letter, has further demonstrated his unfitness for so important a task.

Finally, I take this opportunity to quote the two paragraphs of my moving affidavit to which Assistant Solicitor General Brodie's letter referred for the proposition that I was attempting to “shift the burden to respondents” of establishing appellants' entitlement to the TRO:

I have received no response from you – nor from any supervisory/managerial attorney, on your behalf – to my below July 24th e-mail, sent at 3:22 pm, putting you on NOTICE that Assistant Solicitor General Frederick Brodie’s July 23th letter, urging the Court not to sign appellants’ order to show cause, with preliminary injunction and TRO, was “materially false and misleading”, and that I had postponed oral argument on the TRO, then scheduled for July 25th, so that you would have time to withdraw it.

Indeed, the only response I received was from Assistant Solicitor General Brodie, by two e-mails. The first, at 5:01 pm on July 24th, stated “I stand by the content of my July 23 letter” – and indicated as his e-mail’s sole cc, his immediate supervisor, Assistant Solicitor General Victor Paladino. The second, at 9:41 am on July 26th, attached Assistant Solicitor General Brodie’s July 26th letter to the Court, resubmitting his July 23rd letter in opposition to appellants’ now submitted and served order to show cause and filed perfected appeal – with no indicated cc’s.

In the event you and your top-ranking supervisory/managerial team were not provided with Assistant Solicitor General Brodie’s July 24th and July 26th e-mails and are not knowledgeable of his representations therein, especially in his July 24th e-mail, including “I doubt that any such ‘findings of fact and conclusions of law’ exist”, which was his response to ¶149 of my moving affidavit, below quoted, copies are annexed hereto.

I will, as stated by my below July 24th e-mail to you, now turn to a drafting an affidavit, particularizing the multitudinous respects in which Assistant Solicitor General Brodie’s July 23rd letter, now reiterated by his July 26th letter, is – as I so advised you – “materially false and deceitful” and will seek sanctions against him, you, and your other supervisory/managerial attorneys, pursuant to NYCRR §130-1.1 *et seq.* In conjunction therewith, I will further request that you be directed to appear before the Court, if you do not appear at the **oral argument of the TRO, now scheduled for Thursday, August 2nd, at 11 am** – and that you be directed to furnish, at that time, your relevant “findings of fact and conclusions of law”, starting with the facial violations of Chapter 567 of the Laws of 2010, evidenced by the August 29, 2011 report of the Commission on Judicial Compensation, and the facial violations of Chapter 60, Part E, of the Laws of 2015, evidenced by the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation, consistent with your duty and “the interest of the state”. By the way, I neglected to include those two commission reports in the list of five EVIDENTIARY items that my below July 24th e-mail reminded you to bring to the oral argument, so please add them to the list.

If Thursday, August 2nd, at 11 am is not convenient for you – or for such fully-knowledgeable, high-ranking, supervisory/managerial attorney(s) as you may assign to appear in your stead at the oral argument of the TRO – please advise, as soon as possible. In addition to Associate Justice Eugene Devine, who has arranged his schedule to accommodate the oral argument, the Court, at my request, is arranging for a court stenographer to be present, and I, upon receiving the Court’s permission, have arranged for the presence of a videographer.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant
on her own behalf individually & as Director of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York & the Public Interest
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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>

Sent: Tuesday, July 24, 2018 3:22 PM

To: 'Barbara.Underwood@ag.ny.gov' <Barbara.Underwood@ag.ny.gov>

Cc: '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' <Alvin.Bragg@ag.ny.gov>; 'marty.mack@ag.ny.gov'

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Wednesday, August 1, 2018 4:41 PM
To: 'Jane Landes'; 'ad3clerksoffice@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'
Subject: Tomorrow's oral argument of TRO -- CJA v. Cuomo
Attachments: 8-1-18-reply-affidavit-draft-4pm.pdf; ex-z-analysis-brodie-ltr-draft-4pm.pdf

TO: Court Attorney Jane Landes

As discussed this morning, attached is a preview of what I will be submitting tomorrow in conjunction with the 11 am oral argument: a reply affidavit and "legal autopsy"/analysis of Assistant Solicitor General Brodie's July 23, 2018 letter to the Court. These are still in draft – but I am sending them so that there is more time for everyone to review them, in advance of the argument. I expect no significant changes to the final versions, which I will send and post on CJA's website no later than 6:30 am tomorrow morning.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant
on her own behalf individually & as Director of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York & the Public Interest
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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, July 27, 2018 4:54 PM
To: 'Barbara.Underwood@ag.ny.gov' <Barbara.Underwood@ag.ny.gov>
Cc: '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' <Alvin.Bragg@ag.ny.gov>; 'marty.mack@ag.ny.gov' <marty.mack@ag.ny.gov>; 'Matthew.Colangelo@ag.ny.gov' <Matthew.Colangelo@ag.ny.gov>; 'Margaret.Garnett@ag.ny.gov' <Margaret.Garnett@ag.ny.gov>; 'manisha.sheth@ag.ny.gov' <manisha.sheth@ag.ny.gov>; 'Jane Landes' <jlandes@nycourts.gov>; 'ad3clerksoffice@nycourts.gov' <ad3clerksoffice@nycourts.gov>

Subject: CJA v. Cuomo -- NOTICE TO ATTORNEY GENERAL UNDERWOOD: The Attorney Misconduct, for which you are Liable, & your Duty to Appear at the Oral Argument of the TRO -- Thursday, Aug 2

TO: Attorney General Barbara Underwood