

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, April 14, 2017 3:58 PM
To: 'slerner@commoncause.org'
Cc: 'tmayers@commoncause.org'
Subject: OPPORTUNITY/OBLIGATION -- citizen-taxpayer action: March 29, 2017 OSC for declaration of unconstitutionality & unlawfulness of NYS budget -- returnable April 28, 2017

TO: COMMON CAUSE-New York/Executive Director Susan Lerner

This follows my lengthy phone conversation earlier today with Assistant Director Trevon Mayers about CJA's unfolding citizen-taxpayer action, here's the link to the webpage of CJA's March 29th order to show cause for a preliminary injunction, with TRO – the same webpage as I showed him during our conversation: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/9-2-16-osc-complaint/3-29-17-osc.htm>.

Especially as you are a lawyer, it will not take you long to review the March 29th order to show cause – and recognize its potential. For this reason, please call me after you review it so that I might have the benefit of your thoughts and judgment. I have no doubt that based on Article VII, §§4, 5, 6 of the New York State Constitution and the reinforcing Court of Appeals decisions in *Silver v. Pataki/Pataki v. Assembly & Senate*, 4 NY3d 75 (2004), and *New York State Bankers Association v. Wetzler*, 81 NY2d 98 (1993) – ALL posted on the webpage of the March 29th order to show cause – you will agree that the New York State budget is flagrantly “OFF THE CONSTITUTIONAL RAILS” and that the outcome of CJA's order to show cause – and of the citizen-taxpayer action on which it rests – must be summary judgment for the plaintiffs, AS A MATTER OF LAW.

As I stated to Assistant Director Mayers, I invite Common Cause-New York to have “a piece of the action” by filing an *amicus curiae* brief and/or by making a motion to intervene so that Common Cause might contribute its wider perspective and achieve, through the citizen-action, adjudications of the constitutional and legal dimensions of its advocacy about the budget, spanning countless years – all blithely ignored by New York's governors and legislators. Certainly, Common Cause also has a bully-pulpit and can easily issue press statements about the case, as well as reach out to its large network of media and academic contacts so that the case receives both the press coverage and substantive scholarship it deserves.

Common Cause-New York has a powerful opportunity, if not obligation, to play a leadership role here, for the benefit of ALL New Yorkers. The order to show cause for declarations of unconstitutionality and unlawfulness of the New York State budget is OPEN & SHUT – and WE WILL WIN!

I am available, including over the weekend and at night, and will look forward to your call.

Thank you.

Elena Sassower, Director
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