

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, August 1, 2017 12:25 PM
To: 'bwarner@commoncause.org'
Cc: 'slerner@commoncause.org'; 'tmayers@commoncause.org'
Subject: BRAVO & HOORAY to Common Cause-North Carolina on its important lawsuit vs the North Carolina Legislature for constitutional violations

TO: Bryan Warner/Director of Communications – Common Cause-North Carolina

I again thank you for the time you gave to our phone conversation this morning pertaining to the important declaratory judgment action that Common Cause-North Carolina commenced against the North Carolina Legislature on April 19, 2017 to nullify bills passed by its without-notice extra session – a lawsuit with strong parallels to a citizen-taxpayer lawsuit, for declaratory relief, that our non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc., commenced on September 2, 2016, building upon our prior citizen-taxpayer lawsuit, commenced on March 28, 2014, that had been “thrown” by a fraudulent August 1, 2016 decision.

I showed you where the full record of these two lawsuits can be found on our website, www.judgewatch.org, via the prominent homepage link: “CJA’s Citizen-Taxpayer Actions to End NYS’ Corrupt ‘Budget Process” and Unconstitutional ‘Three Men in a Room’ Governance”. The direct link is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/menu-budget-reform.htm>. At the bottom of that webpage, as I also showed you, is a link entitled “2017 Outreach to academia, good gov’t groups, etc.” – and on it is posted the below April 14, 2017 e-mail that I sent to the Executive Director of Common Cause-New York, Susan Lerner, requesting the benefit of Common Cause-New York’s guidance, expertise, media connections, *amicus* support, and/or intervention in our unfolding citizen-taxpayer action. As with my prior phone calls and e-mails to Common Cause-New York and Executive Director Lerner, spanning many, many years, there was NO response – and this notwithstanding your press releases about the Common Cause-North Carolina lawsuit just days later.

As discussed, consistent with Common Cause’s mission to educate and empower citizens, I strongly urge that that Common Cause-North Carolina post on its website the full record of its unfolding lawsuit challenge to the North Carolina Legislature’s without-notice extra session, so that the citizens of North Carolina and elsewhere can see for themselves how the constitutional and legal issues are addressed by the parties, their attorneys – and by the court. Perhaps you can create a blog for the case, which doubtless could foster lively discussion by the citizens of North Carolina – including by its constitutional scholars, law professors, political scientists, lawyers, prompting them to file *amicus* briefs in further support of the plaintiffs. There are so many possibilities for Common Cause-North Carolina to maximize the potential of the suit to educate the public, advance good government – and to provide a role model example for Common Cause chapters in other states to not just whine and complain about state legislatures – which is what Common Cause-New York does, with respect to the New York State Legislature – but to bring and advance lawsuits against the legislatures for their brazen constitutional, statutory, and rule violations. Again, BRAVO and HOORAY to Common Cause-North Carolina for bringing the suit. I look forward to speaking with Executive Director Bob Phillips, at his convenience, so that I might learn more about the case and its posture, at this juncture.

To enable Common Cause-New York Executive Director Lerner to also learn more about your case – and to belatedly respond to my below April 14, 2017 e-mail, including as to the state of the record, then and since, in our citizen-taxpayer action, entitling plaintiffs to summary judgment, *as a matter of law* – I am sending a copy of this e-mail to her.

Again, thank you.

Elena Sassower, Director

Center for Judicial Accountability, Inc. (CJA)

www.judgewatch.org

914-421-1200

From: Center for Judicial Accountability, Inc. (CJA) [mailto:elena@judgewatch.org]

Sent: Friday, April 14, 2017 3:58 PM

To: 'slerner@commoncause.org' <slerner@commoncause.org>

Cc: 'tmayers@commoncause.org' <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-taxpayer 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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