

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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,

Plaintiffs,

-against-

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.

AFFIRMATION

Index No. 1788-14

May 16, 2014

Adrienne J. Kerwin, an attorney licensed to practice in the State of New York, affirms the following under penalty of perjury pursuant to CPLR 2106:

1. I am an Assistant Attorney General of counsel in this matter to Eric T. Schneiderman, Attorney General of the State of New York, attorney for defendants Governor Andrew M. Cuomo, the New York State Senate, the New York State Assembly, Dean Skelos, Sheldon Silver, Eric T. Schneiderman and Thomas DiNapoli in the above-captioned action.

2. I submit this affirmation in support of defendants' motion to dismiss the complaint pursuant to CPLR 3211(a)(1), (a)(2) and (a)(7).

3. This action was commenced by the filing of a summons and complaint on or about March 28, 2014. A copy of the summons and complaint, without exhibits, is annexed hereto at **Exhibit A**.

4. At or about the time of the commencement of this action, plaintiffs sought a temporary restraining order enjoining any action on the 2014-15 Legislature and Judiciary budgets. That motion was denied. A copy of the March 28, 2014 order show cause is annexed hereto at **Exhibit B**.

5. At the time of oral argument on plaintiffs' motion for a temporary restraining order, plaintiff Sassower informed the court that she is not an attorney, and I have not found any record indicating that plaintiff Sassower is an attorney admitted to practice law in the State of New York.

6. Although voluminous, the complaint in this action challenges only the initial steps taken toward the enactment of the 2014-15 Legislature and Judiciary budgets.

7. Specifically, plaintiffs allege that (1) the Legislature did not provide a certified estimate of its financial needs for the 2014-15 fiscal year as required by Article VII, section 1 of the New York State Constitution; (2) the certified estimates of financial needs submitted by the Legislature and Judiciary were not properly itemized pursuant to Article VII, section 1 of the New York State Constitution; (3) the Governor failed to present the certified estimates of the Legislature and Judiciary in his executive budget "without revision" as required by Article VII, section 1 of the New York State Constitution; and (4) the Legislature failed to follow its own rules and procedures. See Exh. A.

8. A copy of the Legislature's certified estimate of its financial needs for the 2014-15 fiscal year is annexed hereto at **Exhibit C**.

9. A copy of the Judiciary's certified estimate of its financial needs for the 2014-15 fiscal year is annexed hereto at **Exhibit D**.

10. A copy of the Legislature and Judiciary Budget included in the Governor's executive budget is annexed hereto at **Exhibit E**.

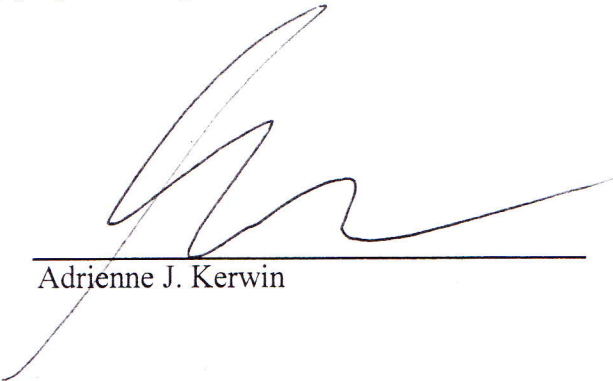
11. A copy of the enacted Legislature and Judiciary Budget is annexed hereto at **Exhibit F**. This document is supplied here to the extent that the complaint is read to challenge the enacted, instead of the proposed, budget.

12. Exhibits C through E are either annexed to the complaint, or otherwise incorporated by reference in the complaint. As a result, defendants respectfully request that the court take judicial notice of these documents pursuant to CPLR 4511.

13. For the reasons discussed in defendants' memorandum of law submitted herewith, the complaint should be dismissed.

WHEREFORE, the defendants respectfully request that the court issue an order (1) granting defendants' motion to dismiss in its entirety, with prejudice, and (2) granting defendants any further relief that the court deems just, proper and equitable.

Dated: Albany, New York
April 18, 2014



Adrienne J. Kerwin