

## Center for Judicial Accountability

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**From:** Center for Judicial Accountability <elena@judgewatch.org>  
**Sent:** Wednesday, March 30, 2016 12:54 PM  
**To:** 'eric.lane@hofstra.edu'  
**Cc:** Blair Horner (bhorner@nypirg.org); 'Hhorner106@gmail.com'; 'lawrence.norden@nyu.edu'; denora.getachew@nyu.edu; 'bbheck1@yahoo.com'; 'lwvny@lwvny.org'; 'slerner@commoncause.org'; pkatze@commoncause.org; (ddadey@citizensunion.org); twerber@citizensunion.org; 'jkaehny@reinventalbany.org'; 'dominic@reinventalbany.org'  
**Subject:** Lawsuit challenge to the constitutionality & lawfulness of NYS' budget "process" -- including 3-men-in-a-room budget deal-making  
**Attachments:** 3-28-16-press-release-letterhead.pdf

Dear Dean Lane,

Following up my phone messages for you at your law school office, I am pleased to inform you that your important 2010 law review article "*Albany's Dysfunction Denies Due Process*" – about which I spoke with you nearly three years ago -- has now given rise to a legal challenge to the Legislature's violations of legislative due process, including to its behind-closed-doors political conferences that substitute for debate and vote in committees and on the Senate and Assembly floor. Indeed, our March 23, 2016 verified second supplemental complaint (at ¶¶365, 423), addressed to the Legislature's constitutional, statutory, and rule violations with respect to the budget for fiscal year 2016-2017, cites to, and quote from, your law review article. The webpage on which it is posted is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/3-23-16-osc-2nd-supp-complaint.htm>.

Below is the March 28<sup>th</sup> e-mail I sent to the Brennan Center and other "good-government" groups – highlighting the lawsuit's challenge to "three-men-in-a-room" budget deal-making and requesting their comments, suggestions, *amicus curiae* participation and/or intervention.

Please call me, at your earliest convenience, following your review of the verified second supplemental complaint – and, in particular:

- (1) its 12th cause of action (at pp. 36-53) "Nothing Lawful or Constitutional Can Emerge From a Legislative Process that Violates its Own Statutory & Rule Safeguards – and the Constitution";
- (2) its 13th cause of action (at pp. 53-67) "Chapter 60, Part E of the Laws of 2015 [creating the Commission on Legislative, Judicial and Executive Compensation] is Unconstitutional, *As Written...*", particularly its Parts D & E (at pp. 60-67); and
- (3) its 16th cause of action (at pp. 80-85) "Three-Men-in-a-Room Budget Deal-Making is Unconstitutional, *as Unwritten and as Applied*" .

Indeed, I am most eager to understand from you – a preeminent scholar of the Constitution and legislative process – how the budget "process", as it has devolved over the years, including after the 2004 Court of Appeals decision in *Pataki v. Assembly & Senate/Silver v. Pataki*, is anything but the most brazen repudiation of the constitutional design laid out in Article VII, §§1-7 of the New York State Constitution.

To foster dialogue as to this important threshold question – and vindicating the public's trampled rights – a copy of this e-mail is being sent to the Brennan Center and the other "good-government" groups.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
914-421-1200  
[www.judgewatch.org](http://www.judgewatch.org)

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

**Sent:** Monday, March 28, 2016 6:36 PM

**To:** 'Blair Horner ([bhorner@nypirg.org](mailto:bhorner@nypirg.org))'; 'Blair Horner ([Hhorner106@gmail.com](mailto:Hhorner106@gmail.com))'; 'lawrence.norden@nyu.edu'; 'denora.getachew@nyu.edu'; 'Barbara Bartoletti ([bbheck1@yahoo.com](mailto:bbheck1@yahoo.com))'; 'lwwny@lwwny.org'; 'Susan Lerner ([slerner@commoncause.org](mailto:slerner@commoncause.org))'; 'pkatze@commoncause.org'; ([ddadey@citizensunion.org](mailto:ddadey@citizensunion.org)); ([rfauss@citizensunion.org](mailto:rfauss@citizensunion.org)); 'twerber@citizensunion.org'; 'jkaehny@reinventalbany.org'

**Subject: Lawsuit challenge to the constitutionality & lawfulness of NYS' budget "process" -- including 3-men-in-a-room budget deal-making**

Dear Blair, Larry, Barbara, Susan, Dick, and John,

This follows up my phone calls and voice mail messages, advising that our nonpartisan, nonprofit citizens' organization, Center for Judicial Accountability, Inc. (CJA,) has brought what appears to be the first-ever legal challenge to the constitutionality of "three-men-in-a-room" budget deal-making.

As most of you know, for the past two years, CJA has been litigating a citizen-taxpayer action, on behalf of the People of the State of New York and public interest, challenging the constitutionality and lawfulness of the judiciary and legislative budgets for fiscal years 2014-2015 and 2015-2016 and the Governor's budget bills embracing them. Last Wednesday, March 23, 2016, we brought an order to show cause to expand the citizen-taxpayer action to fiscal year 2016-2017, setting forth the facts and law by a verified second supplemental complaint. Its sixteenth cause of action challenges the constitutionality of "three-men-in-a-room" budget deal-making, *as unwritten and as applied.*

CJA's website, [www.judgewatch.org](http://www.judgewatch.org), posts the record of the entire two years of litigation in the case. It is accessible from our prominent homepage link: "CJA's Citizen-Taxpayer Action to End NYS' Corrupt Budget 'Process' & Unconstitutional 'Three Men in a Room' Governance". For your convenience, here's the direct link to the March 23, 2016 verified second supplemental complaint: <http://www.judgewatch.org/web-pages/searching-nys/budget/3-23-16-osc-2nd-supp-complaint.htm> .

We would greatly benefit from your comments and suggestions – and not only with respect to the sixteenth cause of action, but with respect to the other fifteen causes of action. Indeed, as the cause of good government would best be served by your *amicus curiae* assistance/intervention in the citizen-taxpayer action, I respectfully ask that you deem this e-mail my request for same.

Meantime, attached is the press release I have begun to circulate. Kindly bring it to the attention of your many media contacts – and, in the case of Citizens Union, which has its own in-house "Gotham Gazette", that it be submitted for coverage. In any event, I trust you will have no objection if I invite such members of the media who contact me in response to the press release to contact you for further informed comment about the case.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
914-421-1200

