

Center for Judicial Accountability

From: Center for Judicial Accountability <elena@judgewatch.org>
Sent: Monday, December 07, 2015 4:09 PM
To: sheilabirnbaum@quinnemanuel.com; nyscompensation@gmail.com;
barry.cozier@leclairryan.com; gajohnson@mec.cuny.edu
Cc: 'robert.freeman@dos.state.ny.us'
Subject: Corrected FOIL/Records Request: Your media advisory to 100 media outlets throughout the state & wire services

TO: Records Access Officer/Commission on Legislative, Judicial and Executive Compensation

At the outset of today's Commission meeting, Chair Birnbaum stated that the media advisory about the Commission's November 30, 2015 public hearing – posted on the Commission's website – had been sent to 100 media outlets throughout the state and wire services.

There is only a single media advisory about the Commission's November 30, 2015 hearing posted on the Commission's website, <http://www.nyscommissiononcompensation.org/> – and it is dated November 19, 2015. That would be the day after the November 18, 2015 e-mail I sent to Chair Birnbaum and the Commission entitled "Informing the Public about the Commission's Nov. 30 Public Hearing on Judicial Compensation & its Opportunity to be Heard" – to which I received no response. A copy of that e-mail is below.

Pursuant to FOIL [Freedom of Information Law Article VI], please furnish all publicly-available records establishing:

- (1) the response, if any, that Chair Birnbaum and/or the Commission sent me with regard to my November 18, 2015 e-mail;
- (2) the date(s) the Commission sent its November 19, 2015 media advisory to the 100 media outlets and wire services;
- (3) the manner in which the Commission sent the November 19, 2015 media advisory to the 100 media outlets and wire services;
- (4) the names of the 100 media outlets and wire services to which the Commission sent its November 19, 2015 media advisory – and the addresses/e-mails utilized;
- (5) the date the Commission posted the November 19, 2015 media advisory on its website – believed to be December 1, 2015.

Finally, with respect to the Commission's media advisory dated November 30, 2015 for the meetings held today and scheduled for December 16, 2015, please, likewise, furnish all publicly-available records pertaining to: (1) the date it was sent out to media outlets and wire services; the number and names of the media outlets and wire services to which it was sent; the addresses/e-mails utilized; and the date it was posted on the Commission's website.

Pursuant to Public Officers Law §89.3, your response is required "within five business days" of receipt of this request. I would appreciate if you e-mailed it to me at elena@judgewatch.org.

Thank you.

Elena Sassower, Director

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

From: Center for Judicial Accountability [<mailto:elena@judgewatch.org>]

Sent: Wednesday, November 18, 2015 4:25 PM

To: sheilabirnbaum@quinnemanuel.com; nyscompensation@gmail.com; barry.cozier@leclairryan.com; gajohnson@mec.cuny.edu

Cc: 'kconley@nypost.com'; 'joelstashenko@aol.com'; 'jstashenko@alm.com'; 'kfischer@alm.com'; Kris Fischer (jstorey@alm.com); adenney@alm.com

Subject: Informing the Public about the Commission's Nov. 30 Public Hearing on Judicial Compensation & its Opportunity to be Heard

Dear Chairwoman Birnbaum,

Today's New York Post runs an article entitled "*Pay hikes eyed for NY judges, lawmakers*", whose opening sentence reads: "A state panel is quietly looking at increasing pay for judges and state lawmakers." (underlining added). Here's the link: <http://nypost.com/2015/11/18/pay-hikes-eyed-for-ny-judges-lawmakers/>.

Perhaps the Commission can explain to the article's author, New York Post reporter Kirstan Conley, why a full two weeks after the Commission scheduled a November 30th public hearing in Manhattan on judicial compensation, it has yet to send out a press release about it and the opportunity that the public has to testify and/or make written submissions about salaries and benefits for judges, whose costs it pays for. Certainly, there is not a single press release posted on the Commission's website: <http://nyscommissiononcompensation.org/index.shtml>.

As for the article's statement that the Commission "published just one public-hearing notice, on Halloween, four days before its first hearing on Nov. 3" that is, of course, erroneous. The Commission never published a public-hearing notice for a November 3rd hearing. Rather, New York Law Journal reporter Joel Stashenko received a communication from someone, based upon which he mistakenly reported that the Commission was going to be holding a November 3rd hearing. In fact, it was the Commission's first organizational meeting.

Please immediately confer with the Commissioners so that press releases about the Commission's November 30th public hearing – and the opportunity the public has to testify and/or to furnish written comment – go out forthwith.

Needless to say, the only reason for the Commission's proceeding "quietly" – as it has – is its knowledge that the taxpaying public would never tolerate pay raises for corrupt and incompetent judges – such as we have and cannot rid ourselves of. Likewise pay raises for our collusive and corrupt Legislators and Governor, Attorney General, and Comptroller – all demonstrated, resoundingly, by CJA's advocacy spanning a quarter of a century, including our October 27, 2011 Opposition Report and our three public-interest lawsuits arising therefrom – the latter easily accessible from CJA's website, www.judgewatch.org, via the prominent homepage link: "**What's Taking You So Long, Preet?: CJA's Three Litigations whose Records are Perfect 'Paper Trails' for Indicting New York's Highest Public Officers for Corruption**". These are the same highest public officers as want pay raises.

Thank you – including for your response to my below e-mail by the posting, a short while ago, of the video of the Commission's November 3rd first organizational meeting!

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

From: Center for Judicial Accountability [<mailto:elena@judgewatch.org>]

Sent: Wednesday, November 18, 2015 1:10 PM

To: 'Sheila Birnbaum'
Cc: 'nyscompensation@gmail.com'; 'barry.cozier@leclairryan.com'; 'gajohnson@mec.cuny.edu'

Subject: thank you -- RE: Video of the Commission's Nov 3rd organizational meeting, upstate hearings, & CJA's Oct. 27, 2011 Opposition Report

These are important [Commission](#) decisions.

From: Sheila Birnbaum [<mailto:SheilaBirnbaum@quinnemanuel.com>]
Sent: Wednesday, November 18, 2015 12:21 PM
To: Center for Judicial Accountability
Cc: nyscompensation@gmail.com; barry.cozier@leclairryan.com; gajohnson@mec.cuny.edu
Subject: Re: Video of the Commission's Nov 3rd organizational meeting, upstate hearings, & CJA's Oct. 27, 2011 Opposition Report

This will be sent to all of the Commissioners as all correspondence is.

On Nov 18, 2015, at 10:06 AM, Center for Judicial Accountability <elena@judgewatch.org> wrote:

Dear Chairwoman Birnbaum,

It is now more than two weeks since the Commission's first organizational meeting, on November 3rd – and the video has yet to be posted on the Commission's website, as you stated it would be in our first e-mail exchange. For your convenience, that exchange, which took place on November 2nd, is at the bottom of the below e-mail chain.

What is taking the Commission so long to post the video of the November 3rd meeting? Why was the Commission able to post meeting minutes within just a few days – but not the meeting video? Is there something in the video that the Commission does not want the public to see – as, for instance, the Commissioners' decision to drop a second public hearing and to hold only a single one, on November 30th in Manhattan – which they did without the slightest discussion of whether that would be fair to New Yorkers in the state's vast western, northern, and central regions, where, additionally, salaries and costs of living are so markedly lower.

On the subject of the dramatically lower salaries and costs of living outside the metropolitan New York City area – one of the many "appropriate factors" that all seven members of the 2011 Commission on Judicial Compensation collusively ignored in order to reach the fraudulent pre-determined pay raise recommendations of their August 29, 2011 Report – I refer you to CJA's October 27, 2011 Opposition Report (in particular p. 30) and Executive Summary (at p. iii), which, by now, you and your six fellow Commission members should have each read and considered so dispositive as to mandate a Commission request, if not demand, to the Judiciary and other judicial pay raise advocates for their comment, including their findings of fact and conclusions of law with respect thereto.

Consequently, please deem this e-mail as CJA's request that the Commission not only immediately post the November 3rd video and schedule at least one upstate public hearing on judicial compensation – but, additionally, that it give notice to the Judiciary and judicial pay raise advocates for their findings of fact and conclusions of law with respect to CJA's October 27, 2011 Opposition Report. As seen from the annexed October 28, 2011 e-mail from CJA to the Judiciary and judicial pay raise advocates, they have had a FULL FOUR YEARS to have made findings of fact and conclusions of law.

Needless to say, the Commission's notice to the Judiciary and judicial pay raise advocates – particularly those who have already contacted the Commission about testifying at the November 30th Manhattan hearing – should request their response to CJA's assertion that the October 27, 2011 Opposition Report

requires “that this Commission’s recommendations – having ‘the force of law’ – be for the nullification/voiding of the August 29, 2011 Report AND a ‘claw-back’ of the \$150 million-plus dollars that the judges unlawfully received pursuant thereto.”

Please forward this e-mail to ALL Commissioners, especially Commissioner Mitra Hormozi, who – according to the meeting minutes – did not participate at the November 3rd first organizational meeting due to a scheduling conflict.

Thank you.

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

From: Center for Judicial Accountability [<mailto:elena@judgewatch.org>]

Sent: Tuesday, November 03, 2015 2:04 PM

To: nyscompensation@gmail.com; sheilabirnbaum@quinnemanuel.com; barry.cozier@leclairryan.com; gajohnson@mec.cuny.edu

Subject: Request to testify at the Compensation Commission's November 30, 2015 Public Hearing in NYC -- its Sole Hearing on Judicial Compensation

Dear Commissioners :

I hereby request to testify at the Commission’s November 30, 2015 public hearing in New York City.

Such hearing date, nearly 4 full weeks from now, gives each Commissioner ample time to individually determine whether, as particularized by CJA’s October 27, 2011 Opposition Report, the 3-phase judicial pay raises recommended by the August 29, 2011 Report of the Commission on Judicial Compensation and received by this state’s judges beginning April 1, 2012, are statutory-violative, fraudulent, and unconstitutional – thereby requiring that this Commission’s recommendations – having “the force of law” – be for the nullification/voiding of the August 29, 2011 Report AND a “claw-back” of the \$150-million-plus dollars that the judges unlawfully received pursuant thereto.

Because of the importance of CJA’s October 27, 2011 Opposition Report, not only to your statutorily-required December 31, 2015 report of “adequate levels of compensation and non-salary benefits” for this state’s judges, but to your statutorily-required November 15, 2016 report of “adequate levels of compensation and non-salary benefits” for our legislative and executive constitutional officers, I furnished a hard copy of the full October 27, 2011 Opposition Report to Chairwoman Birnbaum at the conclusion of this morning’s organizational meeting. It consisted of: (1) CJA’s 38-page Opposition Report; (2) CJA’s substantiating two-volume Compendium of Exhibits; and (3) the final two motions in CJA’s lawsuit against the Commission on Judicial Conduct that went up to the Court of Appeals in 2002 – identified by the Opposition Report as having been handed up by me to the Commission on Judicial Compensation at its one and only July 20, 2011 public hearing, in support of my testimony.

To the other three Commissioners physically present at this morning’s meeting -- Commissioners Johnson, Cozier, and Lack -- I furnished to each, *in hand*, a copy of the 38-page Opposition Report and its 4-page Executive Summary.

As for the three Commissioners not physically present – Commissioners Hedges, Reiter, and Hormozi – I had brought to the meeting copies of the 38-page Opposition Report and 4-page Executive Summary for them, as well. Unless they request same, I will assume they will be reading and/or downloading the

Opposition Report from CJA's webpage: <http://www.judgewatch.org/web-pages/judicial-compensation/opposition-report.htm>. The Executive Summary is attached.

Finally, should any of the Commissioners feel themselves unable to discharge their duties with respect to the systemic, three-branch corruption issues presented by CJA's citizen opposition – and that other citizens will be presenting, as well -- they should step down from the Commission forthwith. Two Commissioners, Cozier and Lack, are absolutely disqualified by reason of their active role in that corruption – and Chairwoman Birnbaum perhaps as well. I so-stated this to them, this morning – and will particularize the details, with substantiating evidence, in advance of the November 30, 2015 public hearing, should they fail to step down from the Commission – or publicly disclose and address their conflicts-of-interest.

Meantime, I am available to answer questions and provide such additional information and evidence as may be required.

Thank you.

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

From: Center for Judicial Accountability [<mailto:elena@judgewatch.org>]

Sent: Tuesday, November 03, 2015 7:35 AM

To: 'nyscompensation@gmail.com'

Cc: sheilabirnbaum@quinnemanuel.com; barry.cozier@leclairryan.com; gajohnson@mec.cuny.edu

Subject: No Pay Raises for NY's Corrupt Public Officers - The Money Belongs to Their Victims!

Dear Commissioners:

As a convenience to the Commission on Legislative, Judicial and Executive Compensation, I have constructed a webpage for the Center for Judicial Accountability's evidence-based advocacy on the three-branch compensation issues before you. It is entitled "No Pay Raises for New York's Corrupt Public Officers --The Money Belongs to Their Victims!" -- and is accessible from the prominent center link, bearing that title, on CJA's homepage, www.judgewatch.org

It can also be accessed by the left sidebar panel "Judicial Compensation-State-NY": <http://www.judgewatch.org/web-pages/judicial-compensation/ny-judicial-compensation-menu.htm>.

Finally, inasmuch as **CJA's October 27, 2011 Opposition Report to the Commission on Judicial Compensation's August 29, 2011 Report is the STARTING POINT for your determination of the compensation issues as relate to ALL THREE BRANCHES**, I take this opportunity to furnish you that link, directly. Here it is: <http://www.judgewatch.org/web-pages/judicial-compensation/opposition-report.htm>. The four-page executive summary is attached.

I am available to answer questions, including publicly and under oath.

Thank you.

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

P.S. – correcting the typo in my yesterday’s e-mail (below) as to the date of the Commission on Judicial Compensation’s initial meeting, it was July 11, 2011, not July 10, 2011.

From: Center for Judicial Accountability [<mailto:elena@judgewatch.org>]
Sent: Monday, November 02, 2015 6:28 PM
To: 'Sheila Birnbaum'
Cc: 'Barbara Kalmanash'; 'barry.cozier@leclairryan.com'; 'gajohnson@mec.cuny.edu'

Subject: thank you for your prompt response.

From: Sheila Birnbaum [<mailto:SheilaBirnbaum@quinnemanuel.com>]
Sent: Monday, November 02, 2015 6:23 PM
To: Center for Judicial Accountability
Cc: Barbara Kalmanash; 'barry.cozier@leclairryan.com'; 'gajohnson@mec.cuny.edu'

Subject: Re: Will tomorrow's organizational hearing be live-streamed and/or videoed?

It will be videoed and put on our web site

On Nov 2, 2015, at 6:21 PM, Center for Judicial Accountability <elena@judgewatch.org> wrote:

Dear Chairwoman Birnbaum,

Following up the October 30, 2015 FOIL request, which I directly sent to you and Commissioner Cozier – and my lengthy telephone conversation with your excellent assistant, Barbara Kalmanash, late this afternoon, inquiring about whether tomorrow’s organizational meeting of the Commission on Legislative, Judicial and Executive Compensation was going to be live-streamed &/or videoed – as the 2011 Commission on Judicial Compensation’s initial organizational meeting in New York City had been – here’s a link to the Center for Judicial Accountability’s 2011 webpage pertaining to that Commission, posting the video of its July 10, 2011 live-streamed organizational meeting: <http://www.judgewatch.org/web-pages/judicial-compensation/2011-paper-trail-comm-jud-comp.htm>. That webpage additionally posts the video of its one and only public hearing, on July 20, 2011 in Albany, at which I testified. To facilitate your finding each video, I have highlighted each by enlarged purple lettering.

Your own Commission’s website – which I believe did not go live until yesterday and which only this afternoon posted a side panel for the 2011 Commission – links to the 2011 Commission’s webpage. Although that webpage contains a link to a webpage of its meetings and hearing, that further webpage never posted the video of the July 10, 2011 live-streamed organizational meeting. As for the video of the live-streamed July 20, 2011 hearing, it was originally posted, but thereafter became inaccessible. That is why I made FOIL requests for each – ultimately securing them, in 2013, which I then posted on CJA’s above webpage.

I trust Ms. Kalmanash will fill you in on much of what I additionally recounted for her as to the fraud committed by the 2011 Commission – covered up by all the executive and legislative public officers who believe themselves entitled to pay raises. It is chronicled in CJA’s October 27, 2011 Opposition Report, in a mountain of correspondence, criminal and ethics complaints relating thereto, and by the public interest litigations we have undertaken over the past four years, all accessible from the prominent links on CJA’s homepage, www.judgewatch.org. Of most immediate interest may be my most recent

testimony before the JCOPE/LEC Review Commission at its October 14, 2015 public hearing – as I testified about the conflict-of-interest ethics complaints that JCOPE and LEC have been sitting on against New York’s highest public officers pertaining to the 2011 Commission and the fraudulent, statutorily-violative, and unconstitutional judicial pay raises it recommended – whose consequence has been the establishment of the Commission on Legislative, Judicial and Executive Compensation. Here’s CJA’s webpage posting the video of the October 14, 2015 hearing and my referred-to JCOPE/LEC complaints and related correspondence:

<http://www.judgewatch.org/web-pages/searching-nys/commission-to-investigate-public-corruption/holding-to-account/exposing-JCOPE.htm>.

Please forward this e-mail to all seven members of the Commission on Legislative, Judicial and Executive Compensation so that they can be apprised of the systemic fraud, corruption, and dysfunction that is before them, threshold, not only with respect to judicial compensation, but with respect to legislative and executive compensation.

Thank you.

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

<10-30-15-foil-compensation-commission.pdf>

<10-28-11-email-judicial-pay-raise-advocates.pdf>

<11-8-11-executive-summary-opp-report.pdf>