

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Thursday, January 26, 2017 11:26 AM
To: 'estys@nyassembly.gov'; 'friendc@nyassembly.gov'
Cc: 'swieckic@nyassembly.gov'; 'MagnarW@nyassembly.gov'; 'brabeneck@nyassembly.gov'; 'bronsonh@nyassembly.gov'; 'BuchwaldD@nyassembly.gov'; 'GanttD@nyassembly.gov'; 'GjonjM@nyassembly.gov'; 'jeanpierrek@nyassembly.gov'; 'JenneA@nyassembly.gov'; 'MageeW@nyassembly.gov'; 'MckeviT@nyassembly.gov'; 'millerb@nyassembly.gov'; 'OtisS@nyassembly.gov'; 'ramosp@nyassembly.gov'; 'RyanS@nyassembly.gov'; 'SkartadosF@nyassembly.gov'; 'SkoufisJ@nyassembly.gov'; 'StecD@nyassembly.gov'; 'wallacm@nyassembly.gov'; 'woernerc@nyassembly.gov'; 'roithmayra@nyassembly.gov'; 'farrellh@nyassembly.gov'; 'OaksR@nyassembly.gov'; 'cyoung@nysenate.gov'; 'lkrueger@senate.state.ny.us'
Subject: Oversight by Assembly Committee on Local Governments, beginning with the striking of the \$4,212,000 D.A. salary grants in Aid to Localities Budget Bill A.3003 (at p. 61)
Attachments: aid-to-localities-2017-2018.pdf; aid-to-localities-2016-2017.pdf

TO: Scott Esty, Chief of Staff to Assemblyman Christopher Friend/Ranking Member, Assembly Committee on Local Governments

Thank you for your return call yesterday – and the generous amount of time you gave to our conversation.

Below is the e-mail I had sent earlier in the day to your counterpart in Assemblyman Magnarelli's office – his legislative director & counsel Craig Swiecki – concerning the same issues I thereafter discussed with you: the failure of ANY legislative committee to discharge oversight responsibilities over the state's district attorneys – who, upon information and belief, are the HIGHEST PAID elected county officers by many, many tens of thousands of dollars in every county, other than the five counties of New York City and Hamilton County – the state's least populous county and the only one whose district attorney is part-time – many, if not most of whom, enjoy combined salary and non-salary compensation of approximately \$220,000 per year. This is the direct result of:

- (1) the 40 year-old statute, Judiciary Law §183-a, linking the district attorney salaries of various counties, which are paid by the counties, to judicial salaries, which are paid by the state;
- (2) County Law §700.10 and §700.11, providing for state reimbursement to the counties of a portion of the increased district attorney salary costs resulting therefrom;
- (3) the Governor's Aid to Localities budget bills, whose appropriations for grants for district attorney salaries not only violate County Law §700.10 and §700.11, but Judiciary Law §183-a, as well.

These issues are presented (at ¶¶4, 31-33, 65, 79-80) of the September 2, 2016 verified complaint in CJA's second citizen-taxpayer action against the Governor and Legislature, among others. Its culminating 10th cause of action (¶¶85-110) particularizes the unlawfulness and unconstitutionality of the appropriation and reappropriation of state monies for district attorney salaries in the enacted Aid to Localities budget bill for fiscal year 2016-2017 -- #S.6403-d/A.9003-d.

The September 2, 2016 verified complaint and the lawsuit record are posted on CJA's website, www.judgewatch.org, accessible from the prominent homepage link "CJA's Citizen-Taxpayer Actions to End NYS' Corrupt Budget 'Process' and Unconstitutional 'Three Men in a Room' Governance." As eight of the 20 members of the Assembly Committee on Local Governments are lawyers: Bronson, Buchwald, Jenne, McKevitt, Otis, Ryan, Wallace – and, of course, Chairman

Magnarelli – it has ample legal expertise from which to independently confirm what the other 12 non-lawyer members can readily discern from the lawsuit record: plaintiffs’ entitlement to summary judgment on their 10th cause of action, *as a matter of law* – and, likewise, to summary judgment, *as a matter of law*, on the predecessor nine causes of action – necessitating swift legislative action, beginning with the striking of the \$4,212,000 appropriation in this year’s Aid to Localities Budget Bill #S.2003/A.2003 (at p. 61) “For grants to counties for district attorney salaries” – an appropriation materially identical to that challenged by the 10th cause of action.

I have requested to testify in opposition to Aid to Localities Budget Bill #S.2003/A.3003 at the Legislature’s January 30th budget hearing on “Local Government Officials/General Government” – and look forward to answering the Committee’s questions at that time. However, I am available before then and would welcome the opportunity to speak directly with Ranking Member Friend, Chairman Magnarelli, or any other Committee member in advance of the budget hearing – all of whom I am furnishing this e-mail with that invitation. For the convenience of all, and for the chairs and ranking members of the Assembly Ways and Means Committee and Senate Finance Committee, to whom I am also furnishing this e-mail, the pertinent \$4,212,000 appropriation from this year’s and last year’s Aid to Localities budget bills are attached.

Thank you.

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From: Center for Judicial Accountability, Inc. (CJA) [<mailto:elena@judgewatch.org>]
Sent: Wednesday, January 25, 2017 11:39 AM
To: 'swieckic@nyassembly.gov' <swieckic@nyassembly.gov>; 'MagnarW@nyassembly.gov' <MagnarW@nyassembly.gov>

Subject: Assembly Committee on Local Governments & Assembly Committee on Oversight, Analysis & Investigation

TO: Craig Swiecki/Legislative Director & Counsel to Assemblyman William Magnarelli, Chair-Assembly Committee on Local Governments AND member-Assembly Committee on Oversight, Analysis & Investigation

As discussed, at length earlier this morning, below is the chain of e-mail previously sent to the chair, ranking member, and the other members of the Assembly Committee on Oversight, Analysis & Investigations – concerning the Legislative, Judiciary & Executive Budgets for Fiscal Year 2017-2018.

Inasmuch as Assemblyman Magnarelli chairs the Assembly Committee on Local Governments – and is a lawyer -- his review of the 10th cause of action of the September 2, 2016 verified complaint in CJA’s second citizen-taxpayer action is particularly essential – since, as discussed, it pertains to the constitutional and statutory violations in the Aid to Localities Budget Bill for fiscal year 2016-2017 relating to district attorney salary reimbursement to the counties – violations which are repeated in the Aid to Localities Budget Bill for fiscal year 2017-2018. As Steven Acquario, Executive Director to the New York State Association of Counties (NYSAC), will presumably be testifying at Monday’s budget hearing on “Local Government Officials/General Government”, here’s the direct link to plaintiffs’ September 7, 2016 notice to the counties, to NYSAC, and to the County Attorneys Association of the State of New York, of their right to seek intervention in the lawsuit: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/9-2-16-osc-complaint/9-7-16-notice-intervention.htm>, pertaining to the 10th cause of action.

Am rushed for time now. More to follow.

Thank you.

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From: Center for Judicial Accountability, Inc. (CJA) [<mailto:elena@judgewatch.org>]
Sent: Friday, January 20, 2017 4:16 PM
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Subject: Legislative, Judiciary & Executive Budgets for Fiscal Year 2017-2018 -- & Your Membership on Pertinent Assembly Committees

TO: Assemblyman Fred Thiele, member/Assembly Committee on Oversight, Analysis & Investigation – & member/Assembly Ways & Means Committee

This follows up my phone conversation a short time ago with Laura Tooman in your district office, regarding your membership in the Assembly's smallest committee – the Committee on Oversight, Analysis & Investigation -- & in the Assembly's largest committee – its Ways & Means Committee, the only committee whose funding is itemized by the Legislature's budget for fiscal year 2017-2018.

Below is my self-explanatory e-mail, germane to your duties on both these committees.

As you are a lawyer – and, as I recollect, a former ranking member of the Assembly Judiciary Committee – I respectfully request that you personally review the September 2, 2016 verified complaint in CJA's second citizen-taxpayer action – and the record based thereon – all accessible from CJA's website, www.judgewatch.org, via the prominent link: "CJA's Two Citizen-Taxpayer Actions to End NYS' Corrupt Budget 'Process' and Unconstitutional 'Three Men in the Room' Governance". You have an important role to play in assisting non-lawyer members of the Assembly Committee on Oversight, Analysis & Investigation and the Assembly Ways and Means Committee in understanding what they show: plaintiffs' entitlement to summary judgment, *as a matter of law*, on all ten causes of action of their September 2, 2016 verified complaint – and the duty of both committees and Assembly leadership to take immediate and appropriate corrective steps.

I am available to answer your questions – and would look forward to doing so – and having the benefit of your comment on what I have placed before you.

Thank you.

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From: Center for Judicial Accountability, Inc. (CJA) [<mailto:elena@judgewatch.org>]
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Cc: 'bauerc@nyassembly.gov' <bauerc@nyassembly.gov>; 'TitoneM@nyassembly.gov' <TitoneM@nyassembly.gov>; 'collinse@assembly.state.ny.us' <collinse@assembly.state.ny.us>; 'montesanom@assembly.state.ny.us' <montesanom@assembly.state.ny.us>; 'mcquairi@nyassembly.gov' <mcquairi@nyassembly.gov>; 'kolbB@nyassembly.gov' <kolbB@nyassembly.gov>; 'Carl Heastie' cehbronx@gmail.com

Subject: Assembly Committee on Oversight, Analysis & Investigation -- & the Legislative, Judiciary & Executive Budgets for Fiscal Year 2017-2018

TO: William Licata/Legislative Director to Assemblyman Michael Kearns, member – Assembly Committee on Oversight, Analysis & Investigation

Following up our phone conversation a short time ago – and your examination with me of Article VII, Sec. 1-7 of the NYS Constitution pertaining to the budget, posted on CJA's budget resource webpage: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/supreme-ct/2016/budget-resource-page.htm> – below is my self-explanatory e-mail to the chair and ranking member of the very small, but important, Assembly Committee on Oversight, Analysis & Investigation – of which Assemblyman Kearns is a long-time member.

There must be oversight, analysis, and investigation of the legislative, judiciary, and executive budgets by the Assembly Committee on Oversight, Analysis & Investigation – as these budgets not only violate a multitude of safeguarding statutory and rule provisions, but are OFF THE CONSTITUTIONAL RAILS. This is most exhaustively particularized by the September 2, 2016 verified complaint in the second of CJA's two citizen-taxpayer actions – which, as you saw, is readily accessible from CJA's homepage, www.judgewatch.org, via the prominent link: "CJA's Two Citizen-Taxpayer Actions to End NYS' Corrupt Budget 'Process' and Unconstitutional 'Three Men in the Room' Governance".

I respectfully request that Assemblyman Kearns personally review the September 2, 2016 verified complaint – and the record thereon, encompassing CJA's first citizen-taxpayer action -- and take ALL possible steps to ensure that it is placed on the agenda of the next meeting of the Assembly Committee on Oversight, Analysis & Investigation for discussion and vote by the Committee's six members as to appropriate oversight, analysis, and investigation. As stated by my below e-mail to Chairman Titone: "There is no reason why this fiscal year need repeat the constitutional, statutory, and rule violations of prior fiscal years – and the Assembly Committee on Oversight, Analysis & Investigation can and must take a leadership role in making the difference."

I am available to answer Assemblyman Kearns' questions – and to assist him in any way I can in discharging the duties of his office.

Thank you.

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Subject: Assembly Committee on Oversight, Analysis & Investigation -- & the Legislative, Judiciary & Executive Budgets for Fiscal Year 2017-2018

TO: Eileen Collins/Legislative Director to Assemblyman Joseph Errigo – Ranking Member, Assembly Committee on Oversight, Analysis & Investigation

I have just spoken with Regional Director Spencer Bernard, in your district office about the Assembly Committee on Oversight, Analysis & Investigation – to which Assemblyman Errigo has been appointed as ranking member. Assemblyman Titone chairs that important committee – and my self-explanatory e-mail to his chief of staff – relevant to your duties as legislative director to Assemblyman Errigo – is below.

Please call me at your earliest convenience so that we can discuss, directly, the Committee's urgently-needed oversight, analysis, and investigation of the legislative, judiciary, and executive budgets – reinforced by the Governor's submission yesterday of his budget bills for fiscal year 2017-2018.

Thank you.

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

Sent: Monday, January 9, 2017 3:19 PM

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Subject: Assembly Committee on Oversight, Analysis & Investigation -- & the Legislative, Judiciary & Executive Budgets for Fiscal Year 2017-2018

Chris Bauer, Chief of Staff to Assemblyman Matthew Titone – Chair, Assembly Committee on Oversight, Analysis & Investigation – & member, Assembly Judiciary Committee

Following up our phone conversation a short time ago, this is to reiterate my request for oversight, analysis, & investigation of the legislative, judiciary, and executive budgets by the Assembly Committee on Oversight, Analysis & Investigation – chaired by Assemblyman Titone. The link to the Center for Judicial Accountability's citizen-taxpayer actions, laying out the particulars as to what's been going on with respect to these budgets – and which you briefly examined while we spoke – is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/menu-budget-reform.htm>. I expressly request that Assemblyman Titone personally review the verified complaints – and the record of their odyssey in New York's courts.

There is no reason why this fiscal year need repeat the constitutional, statutory, and rule violations of prior fiscal years – and the Assembly Committee on Oversight, Analysis & Investigation can and must take a leadership role in making the difference.

As Assemblyman Titone is a member of the Assembly Judiciary Committee, I have no objection to his coordinating with the Judiciary Committee so that it assumes the responsibility of oversight, analysis and investigation of the Judiciary budget. The Assembly Judiciary Committee has long been "missing-in-action" with respect to ANY genuine oversight over the Judiciary budget, as well as such other "public protection" components within its purview as the Commission on Judicial Conduct and the Attorney General's office.

Thank you.

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