

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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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,

**Moving Affidavit in Support of
TRO & Preliminary Injunction**

Petitioners/Plaintiffs,

-against-

NEW YORK STATE JOINT COMMISSION ON PUBLIC ETHICS,
LEGISLATIVE ETHICS COMMISSION,
NEW YORK STATE INSPECTOR GENERAL,

KATHY HOCHUL, in her official capacity as
GOVERNOR OF THE STATE OF NEW YORK,

ANDREA STEWART-COUSINS, in her official capacity as
TEMPORARY SENATE PRESIDENT, & the NEW YORK STATE SENATE,

CARL HEASTIE, in his official capacity as
ASSEMBLY SPEAKER, & the NEW YORK STATE ASSEMBLY,

LETITIA JAMES, in her official capacity as
ATTORNEY GENERAL OF THE STATE OF NEW YORK,

THOMAS DiNAPOLI, in his official capacity as
COMPTROLLER OF THE STATE OF NEW YORK,

Respondents/Defendants.

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STATE OF NEW YORK)
COUNTY OF WESTCHESTER) ss.:

ELENA RUTH SASSOWER, being duly sworn deposes and says:

1. I am the above-named *pro se* individual petitioner/plaintiff, fully familiar with all the facts, papers, and proceedings herein.

2. On June 7, 2022, petitioners, “acting on their own behalf and behalf of the People of the State of New York & the Public Interest”, [filed via NYSCEF](#) this hybrid Article 78 proceeding, declaratory judgment action, and citizen-taxpayer action to secure the mandamus and declaratory relief compelled, *as a matter of law*, by the New York State Constitution, New York statutes, legislative rules, and caselaw – and did so with an order to show cause (#31) and accompanying June 6th supporting affidavit (#32) because time was of the essence.

3. The fate of that order to show cause at the hands of Albany County Supreme Court Justice Peter Lynch – the then Part 1 duty judge – defeating the very purpose of our proceeding by order to show cause so as to moot the mandamus relief we seek against respondent Joint Commission on Public Ethics (“JCOPE”) is recited by my June 21st affidavit (#43) in support of a new order to show cause (#42), seeking what the prior order to show cause did not, a TRO and transfer/removal to federal court. The [new order to show cause](#) and my [June 21st affidavit](#) are incorporated herein by reference¹ – the latter, with the [June 6, 2022 verified petition](#) (#1),² in evidentiary substantiation of petitioners’ entitlement to a preliminary injunction pursuant to CPLR §6312(a).

4. This motion is necessitated by what took place with respect to that dispositive new order to show cause – following the [June 21st recusal](#) of the current Part 1 duty judge, Acting Supreme Court Justice/Court of Claims Judge Richard Platkin (#44). According to Deputy Chief Clerk Mary Grace Sullivan, after other unidentified judges recused themselves, the order to show cause was given to Supreme Court Justice Mackey.

¹ This new order to show cause and my June 21st affidavit are, additionally, being furnished to respondents in hard copy, with the hard copy of this motion, as I had already duplicated them for service before the subsequent events that necessitated the motion.

² [CPLR §105\(u\)](#) entitled “Verified pleading” reads: “A ‘verified pleading’ may be utilized as an affidavit whenever the latter is required.”

5. Justice Mackey's response was a [June 22nd "Decision and Order"](#) (#45), concealing the entirety of [my affidavit](#)'s particularized recitation of Justice Lynch's actual bias, arising not only from the financial and others interests he shares with fellow judges – divesting all of them, including Justice Mackey, of jurisdiction pursuant to [Judiciary Law §14](#) – but the role of Justice Lynch's own twin brother in the underlying corruption exposed by my complaints to JCOPE, for which petitioners seek mandamus. Instead, Judge Mackey creates the fiction that the order to show cause “in essence, seeks to reargue Judge Lynch's denial of certain temporary relief and seeks to change the return date of the motion” – and that, therefore, “this proceeding and proposed Order to Show Cause shall forthwith be transferred to the Honorable Peter A. Lynch for review and determination pursuant to CPLR §2221(c)”. This is utter fraud, including because Justice Mackey affirmatively, if impliedly, purports that there is no disqualification for bias or interest making Justice Lynch “unable to hear” the supposed reargument motion.

6. Justice Lynch rendered no “order” that petitioners are rearguing or would have need to reargue, as it is but an order to show that because I did not serve it – and stated I would not serve it – is a nullity. *On its face*, such [June 8th order to show cause](#) (#37) is INDEFENSIBLE, setting a [July 15th return date](#) that cannot be explained other than as a demonstration of actual bias, born of interest, grossly depriving us of the [normal CPLR §2214\(b\) time parameters](#) available to us by notice of motion for no purpose other than to moot the preliminary injunctive relief to which our verified petition evidentially entitles us, *as matter of law*, and for which we sought the expedition of an order to show cause.

7. As is petitioners' right, we now proceed without expedited order to show cause time parameters to secure, if not a TRO, then an immediate hearing of our entitlement to an injunction to prevent the “ethics commission reform act of 2022” from taking effect on July 8th – and for prompt determination with respect thereto, consistent with [CPLR §6312](#):

“(a) Affidavit; other evidence. On a motion for a preliminary injunction the plaintiff shall show, by affidavit and such other evidence as may be submitted, that there is a cause of action, and either that the defendant threatens or is about to do, or is doing or procuring or suffering to be done, an act in violation of the plaintiff’s rights respecting the subject of the action and tending to render the judgment ineffectual...

(c) Issues of fact. Provided that the elements required for the issuance of a preliminary injunction are demonstrated in the plaintiff’s papers, the presentation by the defendant of evidence sufficient to raise an issue of fact as to any of such elements shall not in itself be grounds for denial of the motion. In such event the court shall make a determination by hearing or otherwise whether each of the elements required for issuance of a preliminary injunction exists.”

ELENA RUTH SASSOWER

Sworn to before me this
23rd day of June 2022

Notary Public