

SUPREME COURT OF 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,

**AFFIDAVIT IN SUPPORT
OF ORDER TO SHOW CAUSE
FOR MANDAMUS,
DECLARATORY RELIEF, &
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 that are the subject of the verified petition/complaint herein,¹ which I have written and to whose truth I have sworn.

2. Petitioners, acting on their own behalf and behalf of the People of the State of New York and the Public Interest, commence this hybrid Article 78 proceeding, declaratory judgment action, and citizen-taxpayer action on this, the 78th anniversary of D-Day, 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.

3. As time is of the essence, we proceed electronically, *via* NYSCEF and by order to show. Apart from the vast amounts of taxpayer monies that have been misappropriated and are being dissipated by the unconstitutional, unlawful, and larcenous FY2022-23 state budget – entitling petitioners to relief pursuant to State Finance Law, Article 7-A (§123 *et seq.*)² – the “ethics commission reform act of 2022”, which is part of the budget and abolishes the JOINT COMMISSION ON PUBLIC ETHICS [hereinafter “JCOPE”], will take effect on July 8, 2022.

4. It is this “ethics commission reform act of 2022 ” that has triggered this lawsuit, being non-fiscal policy legislation that was unconstitutionally and unlawfully inserted as Part QQ into Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C, itself unconstitutional and fraudulently introduced as “A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution” and then three times “amended” unconstitutionally and by fraud.

¹ For simplicity, hereinafter referred to as “petitioners” and “petition” – and respondents/defendants as “respondents”.

² State Finance Law §123-b(1) provides for equitable and declaratory relief for “a wrongful expenditure, misappropriation, misapplication, or any other illegal or unconstitutional disbursement of state funds or state property...” with State Finance Law §123-e(2) providing for the granting of a preliminary injunction.

5. To secure judicial determination of the constitutionality and lawfulness of Part QQ as immediately as possible and prevent the mooted of petitioners' first two branches of mandamus relief against JCOPE that would result from JCOPE's demise, petitioners seek the earliest reasonable return date for their order to show cause whose eleven branches of relief – the same as the petition's – culminate in a request for a preliminary injunction to prevent QQ from taking effect pending final determination of this order to show cause and the petition and enjoining JCOPE from closing.

6. Respondents will not be prejudiced by an expeditious return date. As reflected by the petition, all have had years in which to grapple with the constitutional and statutory issues pertaining to the New York state budget and JCOPE – issues concisely summarized by the petition's first exhibit: the April 13, 2022 complaint that petitioners filed with JCOPE ([Exhibit A-1](#)), and simultaneously furnished to the NEW YORK STATE INSPECTOR GENERAL [“NYS-IG”] whose jurisdiction extends to JCOPE as a “covered agency”.

7. Upon the Court's signing of the order to show cause – which, excepting the insertion of expedited dates, is a strictly ministerial act – I will immediately e-mail respondents, all state officers and entities, the signed order to show cause and the underlying papers on which it is based, further furnishing them with the link to where everything is posted on the CENTER FOR JUDICIAL ACCOUNTABILITY's website³ – and request that they accept same as service or promptly consent to service, *via* NYSCEF.

8. As obvious from even a superficial review of the petition, its exhibits, and the scores, if not hundreds, of evidentiary links they cumulatively furnish, petitioners' likelihood of success on the merits is 100%, assuming the Court is fair and impartial, guided by the facts and the law, as it is

³ The direct link to the menu webpage I have created for this lawsuit is here: <https://judgwatch.org/web-pages/lawsuit-jcope-et-al/menu.htm>.

required to be pursuant to [§100.3E of the Chief Administrator’s Rules Governing Judicial Conduct](#), and [Judiciary Law §14](#).

9. Judiciary Law §14⁴ is, in fact, the threshold issue before this Court, as its judges all have HUGE direct financial and other interests in the petition’s eleven branches of relief. This is manifest from the complaints annexed to the petition whose determination by JCOPE and the NYS-IG is sought to be compelled by mandamus. All the complaints involve the commission-based ‘force of law’ judicial pay raises that have boosted each judge’s salary by approximately \$80,000 per year, the Judiciary’s own budget, and the New York State Commission on Judicial Conduct. By reason thereof, the Court is without jurisdiction to proceed⁵ – as to which “rule of necessity” cannot

⁴ Judiciary Law §14 entitled “Disqualification of judge by reason of interest or consanguinity” reads, in pertinent part:

“A judge shall not sit as such in, or take any part in the decision of, an action, claim, matter, motion or proceeding to which he is a party, or in which he has been attorney or counsel, or in which he is interested, or if he is related by consanguinity or affinity to any party to the controversy within the sixth degree. ...”

⁵ See Appellate Division, Third Department’s decision in *People v. Alteri*, [47 A.D.3d 1070 \(2008\)](#), stating:

“A statutory disqualification under Judiciary Law §14 will deprive a judge of jurisdiction (see *Wilcox v. Supreme Council of Royal Arcanum*, 210 N.Y. 370, 377, 104 N.E. 624 [1914]; see also *Matter of Harkness Apt. Owners Corp. v. Abdus–Salaam*, 232 A.D.2d 309, 310, 648 N.Y.S.2d 586 [1996]) and void any prior action taken by such judge in that case before the recusal (see *People v. Golston*, 13 A.D.3d 887, 889, 787 N.Y.S.2d 185 [2004], lv. denied 5 N.Y.3d 789, 801 N.Y.S.2d 810, 835 N.E.2d 670 [2005]; *Matter of Harkness Apt. Owners Corp. v. Abdus– Salaam*, 232 A.D.2d at 310, 648 N.Y.S.2d 586). In fact, “a judge disqualified under a statute cannot act even with the consent of the parties interested, because the law was not designed merely for the protection of the parties to the suit, but for the general interests of justice” ‘ (*Matter of Beer Garden v. New York State Liq. Auth.*, 79 N.Y.2d 266, 278–279, 582 N.Y.S.2d 65, 590 N.E.2d 1193 [1992], quoting *Matter of City of Rochester*, 208 N.Y. 188, 192, 101 N.E. 875 [1913])”. (underlining added).

Also, the Appellate Division, First Department’s decision in *Matter of Sterling Johnson, Jr. v. Hornblass*, [93 AD2d 732, 733 \(1983\)](#):

“Section 14 of the Judiciary Law... is the sole statutory authority in New York for disqualification of a Judge. If disqualification under the statute were found, prohibition would lie, since there would be a lack of jurisdiction. There is an express statutory

be invoked, because such is predicated on jurisdiction that Judiciary §14 divests from interested judges.⁶

10. As the same applies to every judge of New York’s Unified Court System, the Court’s only option is to transfer/remove the case to the federal courts, including pursuant to Article IV, §4 of the United State Constitution: “The United States shall guarantee every State in this Union a Republican Form of Government.”.

11. As the signing of the order to show cause is a ministerial act for relief that, but for an accelerated return date, petitioners could seek by notice of motion, the Court’s refusal to even insert unaccelerated CPLR time parameters and so-sign the order to show cause would be inexplicable except as a manifestation of actual bias, born of interests and relationships. In such event, the Court’s signed declination on the order to show must be accompanied by an explanation.

disqualification. (*See Matter of Merola v. Walsh*, 75 AD2d 163; *Matter of Katz v. Denzer*, 70 AD2d 548; *People ex rel., Devery v. Jerome*, 36 Misc 2d 256.)” (underlining added).

Oakley v. Aspinwall, 3 NY 547, 548, 551 (Court of Appeals, 1850); 28 New York Jurisprudence 2nd §403 (2018).

⁶ See 32 New York Jurisprudence §45 (1963), “Disqualification as yielding to necessity”:

“...since the courts have declared that the disqualification of a judge for any of the statutory reasons deprives him of jurisdiction,^{fn} a serious doubt exists as to the applicability of the necessity rule where the judge is disqualified under the statute.^{fn}”

Conspicuously, when New York courts invoke the “rule of necessity” in cases involving judicial self-interest governed by Judiciary Law §14, they do NOT cite to Judiciary Law §14, which divests them of jurisdiction. Instead they cite, either directly or through other cases, to *United States v. Will*, [449 U.S. 200, 210-211 \(1980\)](#), wherein the U.S. Supreme Court **expressly and under the title heading “Jurisdiction”**, recited its jurisdiction and that of the lower federal judiciary to decide a case involving their own pay raises, there being no federal statute removing from them jurisdiction to do so.

Illustrating the New York courts’ sleight of hand with respect to “rule of necessity” in cases of judicial self-interest: the Court of Appeals decisions in *Maresca v Cuomo*, [64 NY2d 242, 247, n 1 \(1984\)](#), *Matter of Morgenthau v Cooke*, [56 NY2d 24, 29, n 3 \(1982\)](#), as well as in *Maron v. Silver*, [14 NY3d 230, 249 \(2010\)](#) – this being its decision consolidating appeals in three lawsuits by New York judges suing for pay raises. Similarly, the Appellate Division, Third Department’s decision in the *Maron* case, [58 AD3d 102, 106-107](#).

12. No application for the same or similar relief has been made to this or any other Court, except by:

- [petitioners' two prior citizen-taxpayer actions](#), each bearing the shorthand caption, *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Albany Co. #1788-2014), (Albany Co. #5122-16), neither case involving the FY2022-23 state budget or seeking mandamus and declaratory relief against JCOPE, its statutory partner, the Legislative Ethics Commission (LEC), or against the NYS-IG;
- [petitioners' declaratory judgment action](#), also bearing the shorthand caption, *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Bronx Co. #302951-2012; transferred to New York Co. #401988-2012);
- [petitioners' April 23, 2014 order to show cause to intervene in the Legislature's declaratory judgment action against the Commission to Investigate Public Corruption](#) (New York Co. #160941-2013), whose proposed verified complaint annexed petitioners' June 27, 2013 complaint to JCOPE ([Exhibit G](#)) and their July 11, 2013 complaint to NYS-IG ([Exhibit H](#)).

13. As verifiable from [the records of all four litigations](#), they were each “thrown” by a double-whammy of litigation fraud by the New York Attorney General, rewarded by fraudulent decisions of New York judges. This is so-highlighted by petitioners' March 5, 2021 complaint to JCOPE ([Exhibit D-1](#)), resting on and annexing as exhibits their June 4, 2020 grand jury/corruption complaint to Albany County District Attorney P. David Soares and their June 13, 2020 grand jury/corruption complaint to then Montgomery County District Attorney Kelli McCoski, and furnishing further substantiation by petitioners' linked February 11, 2021 complaint against Attorney General JAMES, Solicitor General Underwood, and attorneys under their supervision, filed with the Appellate Division attorney grievance committees ([Exhibit D-2](#)) and petitioners' linked February 7, 2021 judicial misconduct complaint to the Commission on Judicial Conduct ([Exhibit D-3](#)), incorporated therein.


ELENA RUTH SASSOWER

Sworn to before me this
6th day of June 2022 –
(78th anniversary of D-Day)


Notary Public

Bridget A. Deqnan
Notary Public, State of New York
No. 04DE6246735
Qualified in Westchester County 
Commission Expires August 15, 2023