

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.*

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Elena Ruth Sassower, Director

June 12, 2022

TO: The “independent review committee” of the “ethics commission reform act of 2022”

SUNY-Buffalo Law School Dean Aviva Abramovsky
CUNY-Queens College Law School Interim Dean Eduardo R.C. Capulong
Incoming Dean Sudha Setty (July 1, 2022)
Albany Law School Dean Alicia Ouellette
Brooklyn Law School Dean Michael T. Cahill
Columbia University Law School Dean Gillian Lester
Cornell University Law School Dean Jens David Ohlin
Fordham University Law School Dean Matthew Diller
Hofstra University Law School Dean A. Gail Prudenti
New York Law School Dean Anthony Crowell
New York University Law School Dean Troy McKenzie
Pace University Law School Dean Horace E. Anderson, Jr.
St. John’s University Law School Dean Michael A. Simons
Syracuse University Law School Dean Craig M. Boise
Touro College Law School Dean Elena B. Langan
Yeshiva University-Cardozo Law School Dean Melanie Leslie

RE: Lawsuit to VOID the “ethics commission reform act of 2022”, TRO to stay the statute from taking effect on July 8th – & your ethical, professional, and civic responsibilities with respect thereto –

Center for Judicial Accountability, Inc., et al. v.
New York State Joint Commission on Public Ethics, et al.
(Albany Co. #904235-22)

Pursuant to the “ethics commission reform act of 2022” – [Part QQ of enacted Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C \(at pp. 151-201\)](#) – you are the “independent review committee” of the nominations of the Governor, the Legislature’s two majority and two minority leaders, the Attorney General, and the Comptroller of the members of the Commission on Ethics and Lobbying in Government that replaces the Joint Commission on Public Ethics (JCOPE).

* **Center for Judicial Accountability, Inc.** (CJA) is a national, non-partisan, non-profit citizens’ organization working to ensure that mechanisms are in place to prevent judges from “throwing” cases by decisions that are judicial perjuries, obliterating and falsifying fact and law – and that processes of judicial selection and discipline are effective and meaningful.

I write you “on behalf of the People of the State of New York & the Public Interest”, for whom I have brought a lawsuit for a declaration that the “ethics commission reform act of 2022” is unconstitutional, unlawful, and void, as it was enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw. A TRO has been sought to stay the statute from taking effect on July 8th, pending final determination of the verified petition/complaint, brought on by order to show cause with a request for a preliminary injunction. Oral argument on the TRO is scheduled for this Friday, June 17th, at 2 p.m., before Albany County Supreme Court Justice Peter Lynch.

As you are each deans of New York’s 15 American Bar Association-accredited law schools with every possible legal resource at your disposal, including resources provided and amplified by monies from New York taxpayers – unlike myself, a non-lawyer, working alone to build what is an unfunded, unstaffed citizens’ organization striving to achieve some measure of judicial accountability, of which, in reality, there is none – I believe it to be your duty to furnish the People of the State of New York and Justice Lynch with your expert opinion as to the constitutionality and lawfulness of the enactment of the “ethics commission reform act of 2022” *via* the budget – and I call upon you to do so. The verified petition/complaint, the order to show cause, and my affidavit in support of the preliminary injunction are all accessible *via* NYSCEF. The direct link is [here](#).

Indeed, because you were made part of the “ethics commission reform act of 2022” to give credibility to a statute that cannot remotely be deemed “reform” because, *inter alia*, it wipes out existing rights of complainants and the public for no discernable reason other than to “protect” from accountability complained-against public officers – a fact both detailed by the verified petition/complaint and sought to be demonstrated by its requested Article 78 mandamus relief against JCOPE – I also call upon you to furnish your expert opinion as to the statute’s elimination of the specified mandatory provisions pertaining to: (1) JCOPE’s 15-day letters; (2) JCOPE’s notification to complainants; and (3) the requirement that JCOPE’s annual reports list, by their assigned numbers, all complaints received and referred to JCOPE and their “current status”.

Additionally, I call upon you to identify whether and to what extent you were each consulted about the “ethics commission reform act of 2022” AND asked if you consented to the role it assigns you prior to its being popped into the so-called “education, labor, housing and family assistance budget bill” by Governor Hochul, Temporary Senate President Stewart-Cousins, and Assembly Speaker Heastie, as part of their closed-door “three person in a room” deal-making on the FY2022-23 state budget – then sped to passage by the Legislature on a message of necessity from the Governor, at the Legislature’s behest, within hours of its being released.

Finally, inasmuch as outward appearances suggest that you have taken no steps to ensure faithful implementation of the “ethics commission reform act of 2022”, such that when JCOPE goes out of existence on July 8th, absent a stay, there will be NO operational successor entity taking its place, I call upon you to identify what actions you have taken to prevent that from happening.

Suffice to say that as of this date – more than two months since the statute’s April 9th enactment – and notwithstanding the statute’s Executive Law §94.3(c) command: “The independent review committee shall publish on its website a procedure by which it will review the qualifications of the nominated candidate and approve or deny each candidate.” – essentially repeated in its Executive Law §94.3(g) “... The independent review committee shall publish on the commission’s website a procedure by which it will review and select the commission members and other processes to effectuate its responsibilities under this section” – there is NO “website” either of the “independent review committee” or of the Commission on Ethics and Lobbying in Government and NO “procedure” governing your “review” and “responsibilities” “published” anywhere.

I request your responses by letter to Justice Lynch – *cc*’ing the parties – by 5 p.m. Thursday, June 16th. I do, however, invite you to make a motion for leave to intervene and/or to file an *amicus curiae* brief, either collectively as the “independent review committee” or individually as statutorily-designated and reputationally-affected law school deans.

I am available to assist you in meeting your ethical, professional, and civic responsibilities pertaining to the “ethics commission reform act of 2022”. Should you have any doubt as to what those responsibilities are, I request you obtain the guidance of your faculty who instruct your law school students on ethics and professional responsibility.

Lastly, as I am unaware of ANY scholarship on the [Court of Appeals’ 2004 plurality, concurring, and dissenting opinions in Pataki v. Assembly/Silver v. Pataki, 4 NY3d 75](#), pertaining to the state budget, as to which I did my own analysis, set forth by my March 18, 2020 letter to then Governor Cuomo, *cc*’ing, *inter alia*, Division of the Budget Director Mujica, Temporary Senate President Stewart-Cousins, and Assembly Speaker Heastie – the same letter as is [Exhibit A-5 to the petition/complaint](#) because, as identified at the petition’s ¶82, it is “the starting point for the declaration that Part QQ was unconstitutionally enacted”— please furnish me with the names of your faculty who are scholars of Article VII of the New York State Constitution pertaining to the state budget and necessarily familiar with *Pataki v. Assembly/Silver v. Pataki*, so that I may call them as “expert witnesses” on the hearing on the preliminary injunction to which [CPLR §6313\(a\)](#) entitles me “at the earliest possible time” upon the granting of the TRO, to which I am entitled, *as a matter of law*, based on the mountain of flagrant constitutional, statutory, and legislative rule violations pertaining to the budget that the petition specifies (¶¶81-82, 87-89).

Thank you.

s/ELENA RUTH SASSOWER

cc: see next page

cc: Albany Supreme Court Justice Peter Lynch
Respondents/Defendants – *CJA, et al v. JCOPE, et al:*
New York State Joint Commission on Public Ethics
Legislative Ethics Commission
New York State Inspector General
Governor Hochul
Temporary Senate President Stewart-Cousins & the Senate
Assembly Speaker Heastie & the Assembly
Attorney General James
Comptroller DiNapoli
New York Law Journal/ Brian Lee