

## Center for Judicial Accountability

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**From:** Center for Judicial Accountability <elena@judgewatch.org>  
**Sent:** Wednesday, June 01, 2016 10:31 AM  
**To:** 'gemellar@nysenate.gov'; 'marchione@nysenate.gov'; jordan@nysenate.gov; casale@nysenate.gov  
**Cc:** sacquario@nysac.org; cherryb@co.schoharie.ny.us; zugibet@co.rockland.ny.us; gmccaffrey@co.livingston.ny.us; Districtattorney@co.genesee.ny.us; lfriedman@co.genesee.ny.us  
**Subject:** Tabling, if not voting down, S.7408-A -- state reimbursement of district attorney salary increases

### **TO: Peter Gemellaro, Legislative Analyst for Senator Marchione – Chair, Senate Committee on Local Government**

As discussed shortly after 9 a.m. this morning, S.7408-A – on the calendar of today's 12:30 p.m. meeting of the Committee on Local Government -- must be tabled, pending a committee hearing – if not voted down, summarily.

The sole basis of S.6408-A, amending County Law §700, subdiv. 11, to have the state pick up the full cost of the district attorney salary increases resulting from the “force of law” judicial salary increases recommended by the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation, is the statutory link between district attorney salaries and judicial salaries, set forth in Judiciary Law §183-b.

Quite apart from the fraudulence and unlawfulness of the Commission on Legislative, Judicial and Executive Compensation and its December 24, 2015 report – about which I notified Senator Marchione by e-mail on March 31, 2016, furnishing her a link to the March 23, 2016 verified second supplemental complaint: <http://www.judgewatch.org/web-pages/searching-nys/budget/3-23-16-osc-2nd-supp-complaint.htm> -- there is NO legitimate basis for the statutory link – whose result, since 2012, has been to increase district attorney salaries by approximately \$30,000 – making district attorneys among the highest-paid elected officials in the counties. S.6408-A will now facilitate yet another increase of approximately \$30,000, with district attorney salaries becoming even more disproportionate and out-of-wack with county salary levels.

Is there any evidence that district attorney salary levels, raised by reason of the statutory-link as recently as 2014, 2013, and 2012, were inadequate? And when, if ever, did the 1999 district attorney salary levels become inadequate? In the twelve-year span from 1999 through 2011, did any of the counties suffer from an insufficient pool of qualified district attorney candidates because of salary? Indeed, didn't incumbent district attorneys repetitively seek re-election, as for instance, current incumbents, Onondaga County District Attorney William J. Fitzpatrick; Warren County District Attorney Kate Hogan; Orleans County District Attorney Joseph V. Cardone; Schenectady County District Attorney Robert Carney; Dutchess County District Attorney William Grady?

The Senate Committee on Local Government should be holding a hearing on repealing Judiciary Law §183-b – inviting testimony from the New York State Association of Counties and the District Attorneys Association of the State of New York, among others. Below is the e-mail I sent to each of them yesterday entitled “Protecting County Taxpayers -- Repealing the Statutory Link between District Attorney & Judicial Salaries, Etc.”. The Committee should also be holding an oversight hearing as to whether the county district attorneys are, in fact, discharging their “state constitutional and statutory duties related to the enforcement of the State Penal Law” – an area of inquiry willfully and deliberately not examined by the conflict-ridden, district-attorney filled Commission to Investigate Public Corruption because, *inter alia*, the Commission knew it would require a claw-back of the 2012 and 2013 district attorney salary increases – and prevent subsequent increases based thereon.

Please consider this e-mail as the Center for Judicial Accountability's formal request for both these hearings.

More to follow...

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

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**From:** Center for Judicial Accountability [mailto:[elena@judgewatch.org](mailto:elena@judgewatch.org)]  
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Districtattorney@co.genesee.ny.us; 'lfriedman@co.genesee.ny.us'

**Subject: Protecting County Taxpayers -- Repealing the Statutory Link between District Attorney & Judicial Salaries, Etc.**

Dear Mr. Acquario,

Following up your return call to me on Thursday, May 26th, for which I thank you, here's the direct link to the March 23, 2016 second supplemental complaint in the Center for Judicial Accountability's 2014 citizen-taxpayer action, challenging the judicial salary increases – on which the district attorney salary increases rest: <http://www.judgewatch.org/web-pages/searching-nys/budget/3-23-16-osc-2nd-supp-complaint.htm>.

I am presently writing a letter to you and NYSAC President Cherry, requesting that NYSAC advocate for the Legislature's repeal of the statutory link between district attorney and judicial salaries – and for legislative oversight of the Commission on Legislative, Judicial and Executive Compensation and its December 24, 2015 report. On the same subject, I will also be writing to New York State District Attorney Association President Zugibe -- who himself, or by his fellow 61 district attorneys, can easily furnish NYSAC with findings of fact and conclusions of law with respect to the March 23, 2016 second supplemental complaint and the record thereon.

Meantime, below is my self-explanatory April 12<sup>th</sup> e-mail to Livingston County Supervisors pertaining to the “unlawful, fraudulent, and unconstitutional district attorney salary increases” – a copy of I also sent to Livingston County District Attorney McCaffrey. Other correspondence – including the April 8, 2016 e-mail I sent to Genesee County District Attorney Friedman – is posted on CJA's webpage: “HOORAY FOR THE COUNTIES! PUSH-BACK ON FOOTING THE BILL FOR THE D.A. PAY RAISES...” The direct link is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/budget-2016-17/county-opposition-to-da-salary-increases.htm>.

Thank you.

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**From:** Center for Judicial Accountability [mailto:[elena@judgewatch.org](mailto:elena@judgewatch.org)]  
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**Subject: Safeguarding the taxpayers of Livingston County from unlawful, fraudulent, and unconstitutional district attorney salary increases**

Dear Livingston County Supervisors –

Thank you for serving Livingston County taxpayers by your opposition to this year's \$30,000-plus district attorney salary increase -- reported by the *Livingston County News* in its today's article, "Defiant supervisors may challenge state on DA salary increase": <http://www.thelcn.com/lcn01/defiant-supervisors-may-challenge-state-on-da-salary-increase-20160412>.

I have already spoken with Ways and Means Committee Chairman Daniel Pangrazio and left a voice mail message for Board of Supervisors Chairman Eric Gott, alerting them to facts and law that will assist you in challenging the district attorney salary increase. Livingston County and the other counties throughout New York must NOT be liable for district attorney pay hikes resulting from the judicial salary increases recommended by the Commission on Legislative, Judicial and Executive Compensation – as those recommended judicial salary increases are statutory-violative, fraudulent, and unconstitutional.

Indeed, Livingston County taxpayers should demand to know, from their Albany legislators – Senator Catharine Young, who chairs the Senate Finance Committee and is a member of the Legislature's Joint Budget Conference Committee; from Senator Patrick Gallivan, who is a member of the Senate Finance Committee and of the Legislature's Joint Budget Subcommittee on "Public Protection" – and from Assemblyman William Nojay, who co-sponsored a bill to amend the statute that created the Commission on Legislative, Judicial and Executive Compensation --why they took NO action to protect the public from the Commission's judicial salary increase recommendations that they knew to be statutorily-violative, fraudulent, and unconstitutional and why they ignored the vigorous efforts of our non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA), to secure legislative oversight and override. Is it because in a system of government with three co-equal branches, there is a necessary correspondence in the salaries of the constitutional officers of each of those branches, so that the higher judicial salaries are the higher legislative and executive salaries will be – and because the surest route to their pay raises was *via* a commission whose recommendations would have "the force of law"? Let them answer to the voters in this election year.

You can examine for yourself CJA's extensive correspondence to legislators – virtually all sent to Senator Young – as it is posted on CJA's website, [www.judgewatch.org](http://www.judgewatch.org), accessible *via* the prominent center hyperlink "NO PAY RAISES FOR NEW YORK'S CORRUPT PUBLIC OFFICERS: The Money Belongs to their Victims!". Start with our January 15, 2016 letter to Temporary Senate President John Flanagan and Assembly Speaker Carl Heastie – whose enclosures include our December 31, 2015 letter to Westchester County District Attorney/Chief Judge Nominee Janet DiFiore and a 12-page statement of particulars as the statutory violations, fraud, and unconstitutionality of the Commission's judicial salary increase recommendations. The direct link to the webpage for the January 15, 2016 letter is here: <http://www.judgewatch.org/web-pages/judicial-compensation/2015/jan-15-2016-ltr-to-leg-leaders.htm>.

There was NO RESPONSE from ANY legislators – or from Chief Judge Nominee DiFiore. Nor did they respond to any of our succession of further correspondence: <http://www.judgewatch.org/web-pages/judicial-compensation/2015-no-pay-raises-menu.htm>. Consequently, on March 23, 2016, we were put to the burden of going to Court to void the Commission's judicial salary increases. Here's the link to our March 23, 2016 verified second supplemental complaint – part of our two-year-old citizen-taxpayer action to vindicate the public's rights with respect to the prior \$40,000 judicial salary increases, likewise statutorily-violative, fraudulent, and unconstitutional: <http://www.judgewatch.org/web-pages/searching-nys/budget/3-23-16-osc-2nd-supp-complaint.htm>. I direct your attention, in particular, to ¶¶238, 241, 273-300, and the thirteenth, fourteenth, and fifteenth causes of action (¶¶385-457) pertaining to the Commission on Legislative, Judicial and Executive Compensation and its statutorily-violative, fraudulent, and unconstitutional judicial salary increase recommendations – as these furnish all the evidence you need to uphold the rights of Livingston County

taxpayers and taxpayers throughout the state against this year's district attorney salary increase – and against the next three years of district attorney salary increases, resulting from the Commission's December 24, 2015 report.

By copy of this e-mail to Senator Young, to Senator Gallivan, to Assemblyman Nojay, and to Livingston County District Attorney Greg McCaffney, let them respond to the factual and legal showing made by our December 31, 2015 letter to then Westchester County District Attorney/Chief Judge Nominee DiFiore, and made by our January 15, 2016 letter to Temporary Senate President Flanagan and Assembly Speaker Heastie, and further presented by the thirteenth, fourteenth, and fifteenth causes of action of our March 23, 2016 verified second supplemental complaint that the judicial salary increases – on which the district attorney salary increases are based – are statutorily-violative, fraudulent, and unconstitutional.

Based on the penal provisions cited by our December 31, 2015 and January 15, 2016 letters, their duty is to take steps to secure criminal prosecution of the seven members of the Commission on Legislative, Judicial and Executive Compensation and we specifically request that all four public officers do so.

Finally, here's the link to the video of my testimony before the Legislature three years ago, at its February 6, 2013 budget hearing, at which I testified as to the statutory tie between judicial salaries and district attorney salaries: [http://nystateassembly.granicus.com/MediaPlayer.php?view\\_id=2&clip\\_id=327](http://nystateassembly.granicus.com/MediaPlayer.php?view_id=2&clip_id=327). I was relegated to the end – and you can find it at 7 hours, 20 minutes. Since then, I have not been permitted to testify at the Legislature's joint budget hearings – including this year with Senator Young's chairmanship of the Senate Finance Committee. I did, however, remind her – and such members of the Senate Finance Committee as she shared my e-mail – of the statutory link between judicial and district attorney salaries, as you can see from Question #23 of my February 2, 2016 transmittal of "Questions for Chief Administrative Judge Lawrence Marks": <http://www.judgewatch.org/nys-2016-17-budget/questions/2-2-16-questions-for-chief-admin-judge-marks.pdf>.

I am available to answer questions, including under oath.

Finally, I have created a webpage to celebrate your good-government efforts and that of other county legislators in protecting the People of the State of New York from the HUGE larceny of the public fisc that has been taking place and which is in progress – and in achieving a responsible and responsive state government such as we do NOT presently have. It is entitled "Hooray for the Counties! Push-Back to Footing the Bill for the D.A. Raises". Here's the direct link: <http://www.judgewatch.org/web-pages/searching-nys/budget/budget-2016-17/county-opposition-to-da-salary-increases.htm>.

Thank you.

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