



April 22, 2020

Via Email: elena@judgewatch.org

Elena Sassower
Center for Judicial Accountability, Inc.
P.O. Box 8101
White Plains, New York 10602

FOIL Request: #2784

Dear Elena Sassower:

The Executive Chamber acknowledges receipt of your FOIL request dated April 15, 2020, seeking:

to request the following with respect to Silver v. Pataki (1998-2004) and Pataki v. Assembly & Senate (2001-2004):

- (1) records pertaining to requests, if any, by the Assembly, Senate, or Governor Pataki for an opinion from then Attorney General Spitzer as to the constitutionality of Governor Pataki's budget bills for FY1998-1999 and FY2001-2002 and of the Legislature's proceedings thereon – whether prior to or after commencement of the litigations;
- (2) records reflecting the basis upon which Attorney General Spitzer represented none of the parties, except, initially, defendant Governor Pataki in Silver v. Pataki;
- (3) records reflecting why, with respect to the constitutional issues, Attorney General Spitzer did not intervene as plaintiff or defendant in either litigation, at any point, nor file a single amicus curiae brief;
- (4) records pertaining to the requests for, and authorization of, independent counsel;
- (5) records reflecting the basis upon which independent counsel was selected – these being the law firms:

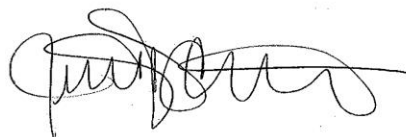
- (a) Weil, Gotshal & Manges, representing LLP, representing Plaintiff Silver (Silver v. Pataki) and Defendant Assembly (Pataki v. Assembly);
- (b) Hancock & Estabrook, LLP, representing (the belated) Plaintiff Senate (Silver v. Pataki) and Defendant Senate (Pataki v. Assembly);
- (c) Cravath, Swaine & Moore, LLP, representing Defendant Pataki (Silver v. Pataki);
- (d) Stillman & Friedman, P.C., representing Plaintiff Pataki (Pataki v. Assembly).
- (6) the signed and approved contracts retaining the above four law firms to represent the parties;
- (7) records reflecting total payments to each of the law firms for the litigations at each court level – Supreme Court; Appellate Division; and Court of Appeals;
- (8) records reflecting why, following the Court of Appeals’ December 16, 2004 decision (4 N.Y.3d 75), neither of the two law firms representing the Senate and Assembly made a motion for reargument/reconsideration thereof or filed a petition for a writ of certiorari to the U.S. Supreme Court – and why, under such circumstances, Attorney General Spitzer did not do so, including via a motion to intervene on behalf of the People of the State of New York.

We are conducting a search for records that respond to your request and will review them for applicable exemptions under FOIL. We will provide you with a status update on or before June 4, 2020.

In light of New York State’s reduction in workforce as part of the ongoing response to the COVID-19 pandemic, there may be delays in response to FOIL requests. Thank you for your patience during this extraordinary time.

If any documents are located that respond to your request, you will be charged \$.25 per page for photocopies. If the response to your request will be provided in another media, we will notify you of any charges.

Very truly yours,



Jillian Diaz Cringle
Acting FOIL Counsel &
Records Access Officer