EXHIBIT 2

"LEGAL AUTOPSY"/ANALYSIS OF THE NOVEMBER 13, 2024 DECISION/ORDER/JUDGMENT OF ULSTER COUNTY SURROGATE COURT JUDGE SARA McGINTY

Center for Judicial Accountability, et al. v. Commission on Legislative, Judicial and Executive Compensation, et al.
Albany Co. #902654-24

"[A] plaintiff's cause of action is valuable property within the generally accepted sense of that word, and, as such, it is entitled to the protections of the Constitution.",
Link v. Wabash Railroad Co, 370 U.S. 626, 646 (1962),
U.S. Supreme Court Justice Hugo Black writing in dissent,
with Chief Justice Earl Warren concurring.

This analysis constitutes a "legal autopsy"[1] of Ulster County Surrogate Court Judge Sara McGinty's November 13, 2024 Decision/Order/Judgment (NYSCEF #97), denying petitioners' September 12, 2024 motion for renewal, reargument, and vacatur, upon transfer to federal court, of Rensselaer County Court Judge Jennifer Sober's three August 14, 2024 "Decision(s), Order(s), and Judgment(s)" (NYSCEF #83).

As a matter of law – and threshold – Judge McGinty's decision is a nullity, irrespective of whether she is an "Acting Supreme Court Justice" – as her decision purports – as she, like Judge Sober, has direct financial and other interests in this lawsuit involving her judicial salary and the corruption infesting New York's judiciary, encompassing its "throwing" cases by fraudulent judicial decisions. She conceals this by her fraudulent decision "throwing" this case.

Identically to Judge Sober's decisions, Judge McGinty's decision upends ALL adjudicative standards and is "so totally devoid of evidentiary support as to render [it] unconstitutional under the Due Process Clause" of the United States Constitution, *Garner v. State of Louisiana*, 368 U.S. 157, 163 (1961), *Thompson v. City of Louisville*, 362 U.S. 199 (1960), and, comparably, under Article I, §6 of the New York State Constitution, "No person shall be deprived of life, liberty or property without due process of law". So, too, it is a criminal act, violating a succession of New York's penal laws, including:

Penal Law §195 ("official misconduct");
Penal Law §496 ("corrupting the government") – part of the "Public Trust Act";
Penal Law §195.20 ("defrauding the government");

[1] The term "legal autopsy" is taken from the law review article "*Legal Autopsies: Assessing the Performance of Judges and Lawyers Through the Window of Leading Contract Cases*", 73 Albany Law Review 1 (2009), by Gerald Caplan, recognizing that the legitimacy of judicial decisions can only be determined by comparison with the record ('…Performance assessment cannot occur without close examination of the trial record, briefs, oral argument and the like…' (p. 53)).

Penal Law §175.35 ("offering a false instrument for filing in the first degree");
Penal Law §155.42 ("grand larceny in the first degree");
Penal Law §190.65 ("scheme to defraud in the first degree");
Penal Law §20.00 ("criminal liability for conduct of another").

Here, too, as before Judge Sober, Attorney General Letitia James – a respondent representing herself and her fellow respondents – is a partner in crime. Having no defense to petitioners' September 12, 2024 motion (NYSCEF #83), she corrupted the judicial process with litigation fraud by her "of counsel" Noah Engelhart, whose fraudulent September 27, 2024 memorandum of law in opposition (NYSCEF #92) was exposed as such by petitioners' October 2, 2024 reply affirmation (NYSCEF #93). No matter, Judge McGinty rewarded AG James and her ten co-respondents by her fraudulent November 13, 2024 decision.

Suffice to say that the fraudulence of Judge McGinty's decision is verifiable, readily, from her CPLR §2219(a) listing of "Papers Considered", inventoried at the very end of the decision (at p. 7) as:

> "NYSCEF Doc. No. 83: Notice of Motion by Petitioners filed September12, 2024.
> NYSCEF Doc. No. 84: Affidavit in Support of Motion, with Exhibits A-D (NYSCEF Doc. Nos. 85-88) filed September 12, 2024.
> NYSCEF Doc. No. 92: Memorandum of Law in Opposition to Motion filed September 27, 2024.
> NYSCEF Doc. No. 93Affidavit in Reply, with Exhibit A (NYSCEF Doc. No. 94) filed October 2, 2024".

NYSCEF #84, the referred-to "Affidavit in Support of the Motion", is, in fact, an affirmation. Its ¶2 identifies as Exhibit A (NYSCEF #85) "petitioners' 27-page, single-spaced 'legal autopsy'/analysis of [Judge Sober's] three August 14, 2024 decisions", stating it to be "dispositive of every branch [of the motion], but the first, for renewal based on newly-discovered evidence". Its ¶5 identifies as Exhibit B (NYSCEF #86) petitioners' September 10, 2024 FOIL request to the OCA, "now the basis for the first branch…, for renewal so that [Judge Sober] can clarify what is potentially a yet further ground for vacatur".

Judge McGinty's decision makes NO mention of the FOIL request and her only reference to the "legal autopsy"/analysis of Judge Sober's three decisions, whose accuracy she does not deny or dispute in any respect, is in her footnote 2, referring to petitioners' "legal autopsy", without identifying what it is a "legal autopsy" of.

For that matter, Judge McGinty's decision makes no mention as to why, notwithstanding CPLR §2221, "Motion affecting prior order", and CPLR §5015, "Relief from judgment or order", require that motions thereunder be made before the judge who rendered them – as petitioners did by their September 12, 2024 motion (NYSCEF #83) – it is she, NOT Judge Sober, who is deciding the motion.

What became of Judge Sober? Did she recuse herself – or was she removed administratively and, if

the latter, what are the reasons and where is the administrative order? If the former, where is her order and what reasons does it give?

Suffice to say, Judiciary Law §9 states:

> "Any judge who recuses himself or herself from sitting in or taking any part in the decision of an action, claim, matter, motion or proceeding shall provide the reason for such recusal in writing or on the record; provided, however, that no judge shall be required to provide a reason for such recusal when the reason may result in embarrassment, or is of a personal nature, affecting the judge or a person related to the judge within the sixth degree by consanguinity or affinity."

For the convenience of all, a Table of Contents follows:

TABLE OF CONTENTS

I
The Evaporation of Judge Sober, Her Replacement by Judge McGinty, & the First Branch of Petitioners' Motion: Renewal Pursuant to CPLR §2221(e) Because Judge Sober is Not the Acting Supreme Court Justice Her Decisions Purport & for Disclosure by Her of Pertinent Facts

The starting point for this analysis is not Judge McGinty's decision, but why the decision is not by Judge Sober. Judge McGinty's decision furnishes no information about this, nor disclose that petitioners made their motion returnable before Judge Sober, consistent with CPLR §2221, "Motion affecting prior order", and CPLR §5015, "Relief from judgment or order", requiring that motions thereunder be made before the judge who rendered them.

The relief sought from Judge Sober by petitioners' notice of motion (NYSCEF #83) was as follows:

1. "pursuant to CPLR §2221(e), granting renewal based on newly-discovered evidence that the Court is not an 'Acting Supreme Court Justice' as these three decisions/orders/judgments purport and disclosure by the Court of its status and compliance with assignment restrictions and Rules of the Chief Judge and Chief Administrative Judge – the subject of petitioners' FOIL request to the Unified Court System (Exhibit B, NYSCEF #86);

2. pursuant to CPLR §2221(d), granting reargument based on the Court's having 'overlooked' and 'misapprehended' ALL dispositive facts and law by its three decisions/orders/judgments – the subject of petitioners' 'legal autopsy/ analysis' of them (Exhibit A, NYSCEF #85) – and

(a) disclosure by the Court of its financial and other interests underlying the pervasive actual bias that its decisions manifest: and

(b) determination by the Court of the constitutional issues arising from its decisions, including as to the unconstitutionality of Chapter 60, Part E, of the Laws of 2015 (NYSCEF #2), *as applied*, embodied in petitioners' first cause of action (NYSCEF #1, ¶39) and, additionally, by the Court's willful failure to accord ANY scrutiny to the 'force of law' December 4, 2023 Report of the Commission on Legislative, Judicial and Executive Compensation, let alone the 'heightened scrutiny' that then Court of Appeals Associate Judge Wilson held to be required for a 'force of law' delegation of legislative power to be constitutional in his concurring opinion in *Delgado v. New York State*, 39 NY3d 242 (2022), without which the three-judge plurality opinion would not have been a majority, instead concealing the issue by falsely purporting, in its 'Motion Sequence 1&2' decision, that petitioners were seeking to "stay" the Legislature from 'adopting' the December 4, 2023 Report – a fraud exported from Respondent Attorney General Letitia James;

3. pursuant to CPLR §5015(a)(3), for the determinations necessary for a jurisdictionally-empowered tribunal to vacate the Court's three decisions/orders/judgments for 'fraud, misrepresentation, or other misconduct of an adverse party' – this being, in the first instance, Respondent Attorney General James;

4. pursuant to CPLR §5015(a)(4), for the determinations necessary for a jurisdictionally-empowered tribunal to vacate the three decisions/orders/judgments for 'lack of jurisdiction' by reason of the Court's financial and other interests, as to which Judiciary Law §14 divests it of jurisdiction – the threshold issue that was before the Court; and

5. pursuant to Article IV, §4 of the United States Constitution, 'The United States shall guarantee every State in this Union a Republican Form of Government', transferring this case to federal court so that it can vacate the Court's three decisions/orders/judgments, inasmuch as this Court cannot do so because a judge disqualified by Judiciary Law §14 'is without jurisdiction, and all proceedings had before such a judge…are void…[and he] is even incompetent to make an order in the case setting aside his own void proceedings.' (28 New York Jurisprudence 2nd §403 (2018) – or certifying the question to the Appellate Division, Third Department or to the New York

Court of Appeals, all of whose judges are, likewise, divested of jurisdiction by Judiciary Law §14;

6. granting such other and further relief as may be just and proper, including $100 motion costs pursuant to CPLR §8202."

On September 16, 2024, four days after petitioners filed their September 12, 2024 motion, an unsigned "Memorandum" on letterhead of the Clerk's Office of the Albany County Supreme and County Courts was uploaded to the NYSCEF docket of the case (NYSCEF #90). Addressed to "Hon. Sara W. McGinty" from Amy Serson, whose title was not given, its three sentences read:

> "The Notice of Motion filed September 13, 2024 in the above-captioned proceeding must be reassigned. It has been reassigned to you from the Article 78 Reassignment Wheel.
>
> If you any questions, please feel free to contact me."

This "Memorandum" was not revealed by AAG Engelhart' September 27, 224 memorandum of law in opposition to the motion (NYSCEF #92), nor that Judge McGinty, not Judge Sober, would be adjudicating the motion – and petitioners pointed this out in their October 2, 2024 reply affirmation (NYSCEF #93), stating, under the heading "AAG Engelhart's Fraudulent Point I: "Petitioner-Plaintiffs' Motion for Leave to Renew Should be Denied (at p. 3)":

> "The facts and law entitling petitioners to the granting of the first branch of their motion, for renewal (NYSCEF #83), are set forth by ¶¶3-5 of their moving affirmation (NYSCEF #84) – including its Exhibit B September 10, 2024 FOIL request (NYSCEF #86), the importance of which the notice of motion itself identifies.
>
> AAG Engelhart does not contest the accuracy of ¶¶3-5 or the FOIL request. Instead, his single paragraph pertaining to renewal conceals the renewal issue, *to wit*, whether County Court Judge Jennifer Sober could lawfully handle this case, and mischaracterizes the situation as 'Petitioner-Plaintiffs' own confusion regarding the exact title of the Court'. Tellingly, AAG Engelhart does not himself furnish 'the exact title of the Court' – and makes no mention of the FOIL request, including in his annotating footnote 3 which, without supplying a single fact, baldly disparages petitioners' ''investigation' into various aspects of the Court, including the Court's title, time on the bench, and salary' as 'irrelevant to both [the] legal basis of the August 14, 2024 Decisions and Orders by the Court and the present motion for leave to renew', which is false.
>
> Tellingly, too, AAG Engelhart does not disclose that the Albany County Clerk's Office has ostensibly conceded that Judge Sober could not lawfully be assigned to the case by administratively removing her from it (NYSCEF #90).[fn3] He

> furnishes no law and offers up no argument that Judge Sober's three August 14, 2024 decisions/orders/judgments do not fall by reason thereof." (hyperlinks and underlining in the original).

Petitioners' annotating fn.3 read:

> "[fn3] The Clerk's Office uploaded its notification of the reassignment at 3:14 pm on September 16, 2024 – about 5-1/2 hours after the Office of Court Administration had acknowledged petitioners' September 10, 2024 FOIL request, *cc*'ing the Clerk's Office and the administrative office of the Third Judicial District. (Exhibit A – NYSCEF #94)."

Judge McGinty – like AAG Engelhart – makes no mention of this September 16, 2024 "Memorandum" in her decision and, after twice referring to Judge Sober, at page 2, as "Hon. Jennifer G. Sober ASCJ", disposes of renewal, at page 3, as follows:

> "In the present proceedings, petitioners first seek a renewal under CPLR 2221(e) based on the 'newly-discovered evidence that Judge Sobers is not an 'Acting Supreme Court Justice.''
>
> A motion for leave to renew must be based upon new facts not offered on the prior motion or a change in the law, either of which would change the prior determination (*see* CPLR 2221[e][2]). Such a motion shall contain reasonable justification for the failure to present such facts on the prior motion (*Carmike Holdin I, LLC v Smith*, 180 AD3d 744, 747 [2d Dept 2020], citing CPLR 2221[e][2][3]. Petitioners' misapprehension of the exact title of the judge is neither a new fact, nor a change in the law.
>
> Petitioners' motion for leave to renew pursuant to CPLR 2221(e) is therefore denied."

In other words, Judge McGinty adopted AG James' fraud that at issue was "Petitioner-Plaintiffs' own confusion regarding the exact title of [Judge Sober]" by revising it to "Petitioners' misapprehension of the exact title of the judge".

To clarify why petitioners' September 12, 2024 motion was not decided by Judge Sober, the circumstances of Judge McGinty's assignment to the case – and whether she, herself, is an acting Supreme Court justice – petitioners made a November 21, 2024 FOIL request to the OCA, requesting:

> (1) "records as to who determined that the September 12, 2024 Notice of Motion (NYSCEF #83) 'must be reassigned', the reason for that determination – and whether this was communicated to 'Hon. Sara W. McGinty';

(2) records as to whether Judge Sober had disqualified or recused herself, had stated why – and whether this was communicated to 'Hon. Sara W. McGinty';

(3) records as to whether, if Judge Sober had NOT disqualified/recused herself, she was consulted as to why the 'Notice of Motion…must be reassigned' and, if so, by whom, and her response – and whether this was communicated to 'Hon. Sara W. McGinty';

(4) records as to how 'the Article 78 Reassignment Wheel' works – and that it was appropriate for use for the hybrid Article 78 proceeding/declaratory judgment action/citizen-taxpayer action *CJA v. Commission on Legislative, Judicial and Executive Compensation, et al.*, commenced in Albany Supreme Court on March 18, 2024;

(5) records as to whether 'the Article 78 Reassignment Wheel' selected any other judge prior to 'Hon. Sara W. McGinty' – and if so, why the assignment did not go to that judge;

(6) records as to whether 'Hon. Sara W. McGinty', the Ulster County Surrogate judge, is an acting Supreme Court justice, including the date(s) she was so-designated, by whom, and for what periods – as she is NOT indicated to be an acting Supreme Court justice on the Unified Court System's webpage for her nor on its webpage for Ulster County Supreme and Court Courts;

(7) records reflecting that the salary of 'Hon. Sara W. McGinty' is that of an Ulster County Surrogate judge, not a Supreme Court justice, and that she receives and has received no additional compensation for work connected with Supreme Court assignments."

It has been eight days since this November 21, 2024 FOIL request to the OCA was sent, without response. As for petitioners' September 10, 2024 FOIL request for records pertaining to whether Judge Sober is an acting Supreme Court justice and her compliance with assignment rules, the OCA has delayed its response, first to October 15, 2024, then to November 12, 2024, then to November 26, 2024, and now to December 10, 2024.

II
Judge McGinty's Financial and Other Interests and Relationships are Far Greater than Those Particularized by Petitioners' Motion as to Judge Sober -- & Required Judge McGinty to Have Disqualified or Recused Herself, from the Outset – and, Failing to Do So, to Have Made Disclosure and Asserted Her Fairness and Impartiality Notwithstanding

Clear from petitioners' September 12, 2024 motion (NYSCEF #83) is that it presented three grounds for Judge Sober to have recused or disqualified herself:

(1) that she was not an acting Supreme Court justice, as her decisions purported she was;

(2) her immense financial interest and relationships, which her decisions had not revealed; and

(3) her pervasive actual bias, arising from her financial interest and relationships, demonstrated by her decisions.

Each of these were issues that Judge McGinty was duty-bound to confront as to herself, threshold, and to have recused or disqualified herself from the case. Failing to do so, her obligation was to have made pertinent disclosure pursuant to §100.3F of the Chief Administrator's Rules Governing Judicial Conduct and to have asserted that she could be fair and impartial, notwithstanding.

Putting aside whether Judge McGinty is an acting Supreme Court justice, she knew, immediately, that her financial interests and relationships were even more immense and extensive than Judge Sober's, particularized by petitioners' moving affirmation (NYSCEF #84) as follows:

> "6. As for the second branch of this motion, for the granting of reargument so that the Court can disclose its financial and other interests giving rise to the pervasive actual bias demonstrated by its decisions, here's my own calculation of the Court's salary interest as a Rensselaer County Court judge:
>
> - On January 1, 2018, when the Court took office, its Rensselaer County Court judge salary was $185,200 – $65,400 more than the $119,800 Rensselaer County Court judge salary of Judiciary Law §221-D.
>
> - This $65,400 difference was the product of the 'force of law' August 29, 2011 Report of the Commission on Judicial Compensation, which had raised the Rensselaer County Court judge salary to $140,300 as of April 1, 2012, to $146,400 as of April 1, 2013; and to $152,500 as of April 1, 2014 (Exhibit C/NYSCEF #87) – then followed by the 'force of law' December 24, 2015 Report of the (1st) Commission on

Legislative, Judicial and Executive Compensation, which had raised it to $183,400 as of April 1, 2016, and then to $185,200 as of April 1, 2017 (Exhibit D/NYSCEF #88);

- The Court collected three months' worth of this $185,200 salary, following which, on April 1, 2018, its salary rose to $197,600, and, a year later, on April 1, 2018, rose to $200,400 on April 1, 2019,– both raises also the product of the 'force of law' December 24, 2015 Report (Exhibit D/NYSCEF #88);

- This $200,400 salary remained the Court's salary for five years, until April 1, 2024, when, as a result of the 'force of law' December 4, 2023 Report of the (3rd) Commission on Legislative, Judicial and Executive Compensation – the subject of this lawsuit – it rose to $221,100 (NYSCEF #47).

7. Because this lawsuit, by its January 18, 2024 Opposition Report (NYSCEF #6), not only establishes that the December 4, 2023 Report is statutorily-violative, fraudulent, and unconstitutional, but that it replicates the same statutory violations, fraud, and unconstitutionality of the two predecessor Reports, the voiding of the December 4, 2023 Report, sought by the verified petition's first cause of action (NYSCEF #1, pp. 12-13, 15) will necessarily result in the voiding of the prior two Reports.

8. Thus, although this Court's most immediate salary interest in this lawsuit, on March 29, 2024, was the $20,700 'force of law' increase that, because of the Court's inaction on petitioners' March 19, 2024 order to show cause, took effect on April 1, 2024 (NYSCEF #47), its actual salary interest is $101,300, the difference between its now $221,100 salary and the $119,800 salary uninflated by those three Reports (Judiciary Law §221-D).

9. As for the Court's claw-back liability, just in terms of its salary and not counting its salary-based compensation benefits, I believe the total to be $547,800, as follows:

- from January 1, 2018 to April 1, 2018: $16,350;
- from April 1, 2018 to April 1, 2019: $77,800;
- from April 1, 2019 to April 1,2024: $403,000;
- from April 1, 2024 to September 30, 2024: $50,650.

10. This Court's judicial brethren with whom the Court has professional, personal, and political relationships and a multitude of interests arising therefrom have comparably HUGE salary interests and claw-back liabilities. As illustrative, predecessor Rensselaer County Court Judge Andrew Ceresia, elected to that position

in November 2009 and whose November 2016 election as a Supreme Court Justice created the vacancy that the Court was elected to fill in November 2017. Justice Ceresia, who swore the Court into office on December 27, 2017, and has sat, since 2022, on the Appellate Division, Third Department, is the purported author of its fraudulent June 20, 2024 decision in *CJA v. JCOPE, et al.*, 228 AD3d 1148 (2024), to which this Court's August 14, 2024 'Motion Sequence 1&2' (NYSCEF #79) cites for the proposition that 'Pursuant to the Rules of Necessity, this Court is authorized to preside over this matter'. This is utter fraud, as, *on its face*, neither that decision, nor the Appellate Division's fraudulent December 27, 2018 decision in *CJA v. Cuomo…DiFiore*, 167 AD3d 1406, 1408, on which it rests – and on which this Court's 'Motion Sequence 1&2' decision rests – identify the jurisdictional issue pertaining to 'Rule of Necessity', which was the same before them, as before this Court by the first branch of petitioners' March 19, 2024 order to show cause (NYSCEF #17, NYSCEF #14).

11. This reargument motion offers the Court the opportunity to back up the frauds and deceits that petitioners' Exhibit A 'legal autopsy'/analysis (NYSCEF #85) demonstrates as pervading each of its three August 14, 2024 decisions – and confront its fairness and impartiality, which, in invoking 'Rule of Necessity', its 'Motion Sequence 1&2' decision does not even purport."

Upon reading this, Judge McGinty knew that Judge Sober's direct financial interest in this lawsuit paled in comparison to hers – and not simply because she came to the bench a year before Judge Sober, but because of a relationship exponentially more direct, namely, her husband, Anthony McGinty,[2] is a Family Court judge and has been one since 2006.

Here's the comparable summary of Judge McGinty's own direct salary interest and claw-back liability that she knew could be written as to her, followed by one for her judge-husband.

Salary Interest & Claw-Back Liability
of Ulster County Surrogate Judge Sara McGinty:

- On January 1, 2017, when Judge McGinty took office, her Ulster County Surrogate judge salary was $183,400 – $63,600 more than the $119,800 Ulster County Surrogate judge salary of Judiciary Law §221-F.

- This $63,600 difference was the product of the "force of law" August 29, 2011 Report of the Commission on Judicial Compensation, which had raised the Ulster County Surrogate salary to $140,300 as of April 1, 2012, to $146,400 as of April 1, 2013; and to $152,500 as of April 1, 2014 (NYSCEF #87) – then followed by the "force of law" December 24, 2015 Report of the (1st) Commission on Legislative,

[2] *See*, "*Three vie for Ulster County Surrogate Court judge*", November 10, 2016, HV1 (Hugh Reynolds).

Judicial and Executive Compensation, which had raised it to $183,400 as of April 1, 2016 (NYSCEF #88);

- Judge McGinty collected three months' worth of this $183,400 salary, following which, on April 1, 2017, the Ulster County Surrogate salary rose to $185,200. A year later, on April 1, 2018, it rose to $197,600, and, a year later, on April 1, 2019, it rose to $200,400 – these three raises also the product of the "force of law" December 24, 2015 Report (NYSCEF #88);

- This $200,400 salary remained Judge McGinty's salary for five years, until April 1, 2024, when, as a result of the "force of law" December 4, 2023 Report of the (3rd) Commission on Legislative, Judicial and Executive Compensation – the subject of this lawsuit – it rose to $221,100 (NYSCEF #47).

Because this lawsuit, by petitioners' January 18, 2024 Opposition Report (NYSCEF #6), not only establishes that the December 4, 2023 Report is statutorily-violative, fraudulent, and unconstitutional, but that it replicates the same statutory violations, fraud, and unconstitutionality of the two predecessor Reports, the voiding of the December 4, 2023 Report, sought by the verified petition's first cause of action (NYSCEF #1, pp. 12-13, 15) will necessarily result in the voiding of the prior two Reports. Thus, although Judge McGinty's most immediate salary interest in this lawsuit, on March 29, 2024, was the $20,700 "force of law" increase that, because of Judge Sober's inaction on petitioners' March 19, 2024 order to show cause, took effect on April 1, 2024 (NYSCEF #47), her actual salary interest is $101,300, the difference between her now $221,100 salary and the $119,800 salary uninflated by the 2011, 2015, and 2023 "false instrument" commission Reports.

As for Judge McGinty's claw-back liability, just in terms of her salary and not counting her salary-based compensation benefits, the total, as of the November 13, 2024 date of her decision, is approximately $625,412[3] as follows:

- From January 1, 2017 to April 1, 2017: $15,900
- from April 1, 2017 to April 1, 2018: $65,400
- from April 1, 2018 to April 1, 2019: $77,800
- from April 1, 2019 to April 1,2024: $403,000
- from April 1, 2024 to November 13, 2024: $63,312.

[3] The figure as of September 30, 2024, two weeks after the reassignment to her was made, was approximately $604,308.

Salary Interest & Claw-Back Liability
of Ulster County Family Court Judge Anthony McGinty:

- On January 1, 2006, when Anthony McGinty took office as an elected Ulster County Family Court judge, his salary was $127,000, pursuant to Judiciary Law §221-E.

- Six years and three months later, on April 1, 2012, this $127,000 salary rose to $148,700 as a result of the "force of law" August 29, 2011 Report of the Commission on Judicial Compensation (p. 9) (NYSCEF #87). It rose again, pursuant thereto, on April 1, 2013, to $155,200, and then again, on April 1, 2014, to $161,700, where it remained for two years.

- On April 1, 2016, as a result of the "force of law" December 24, 2015 Report of the (1st) Commission on Legislative, Judicial and Executive Compensation, his salary rose to $185,600 and then rose again, on April 1, 2017, to $187,400, and then rose again, on April 1, 2018, to $200,000, and then rose again, on April 1, 2019 to $202,800 (NYSCEF #88), where it remained for five years.

- On April 1, 2024, as a result of the "force of law" December 4, 2023 Report of the (3rd) Commission on Legislative, Judicial and Executive Compensation – the subject of this lawsuit – Family Court Judge McGinty's salary rose to $221,100 (NYSCEF #47).

  Because this lawsuit, by petitioners' January 18, 2024 Opposition Report (NYSCEF #6), not only establishes that the December 4, 2023 Report is statutorily-violative, fraudulent, and unconstitutional, but that it replicates the same statutory violations, fraud, and unconstitutionality of the two predecessor Reports, the voiding of the December 4, 2023 Report, sought by the verified petition's first cause of action (NYSCEF #1, pp. 12-13, 15), will necessarily result in the voiding of the prior two Reports. Thus, although Judge McGinty's most immediate salary interest in this lawsuit, on March 29, 2024, was the $20,700 "force of law" increase that, because of Judge Sober's inaction on petitioners' March 19, 2024 order to show cause, took effect on April 1, 2024 (NYSCEF #47), his actual salary interest is $94,100, the difference between his now $221,100 salary and the $127,000 salary uninflated by the 2011, 2015, and 2023 "false instrument" commission Reports.

  As for Family Court Judge McGinty's claw-back liability, just in terms of his salary and not counting his salary-based compensation benefits, the total, as of the November 13, 2024 date of his wife's decision, is approximately $749,112 as follows:

  - from April 1, 2012 to March 31, 2013: $21,700
  - from April 1, 2013 to March 31, 2014: $28,200
  - from April 1, 2014 to March 31, 2016: $69,400

- from April 1, 2016 to March 31, 2017: $58,600
- from April 1, 2017 to April 1, 2018: $60,400
- from April 1, 2018 to April 1, 2019: $73,000
- from April 1, 2019 to April 1,2024: $379,000
- from April 1, 2024 to November 13, 2024: $58,812.

With knowledge of all this direct salary interest – and the multitude of personal, professional, and political relationships, both hers and her husband's, that would be adversely impacted by a law-abiding, record-based decision in this lawsuit – Judge McGinty not only did not disqualify herself, but made no disclosure and no claims that she could be fair and impartial. Indeed, because her November 13, 2024 decision is disconnected and fleeting in its references to judicial salary and conflicts of interest, one can read the decision and not discern the issue as relates to her.

III
Like Judge Sober's Decisions, Judge McGinty's Decision is, from Beginning to End, Fraudulent and Demonstrates Her Actual Bias, Born of the Financial and Other Conflicts of Interest she has Not Disclosed

From beginning to end, and in virtually sentence, Judge McGinty's November 13, 2024 decision is a judicial fraud, manifesting her actual bias, arising from her undisclosed financial and other conflicts of interest. Here are the particulars, apart from her fraudulent disposition of the renewal branch of petitioner's motion, already discussed (at pp. 6-8, *supra*).

Page 1: Caption:

Judge McGinty has altered the caption. Although different from the altered captions of Judge Sober and AG James, objected to by petitioners' "legal autopsy"/analysis (NYSCEF #85, pp. 3, 19), it has the same purpose: to falsely make it appear that the lawsuit is only an Article 78 proceeding, not also a declaratory judgment action and a citizen-taxpayer action – as both of these, by caselaw, and the citizen-taxpayer action expressly by its terms, "**remove[] technical bars of prematurity and lack of standing, the implicit grounds for [Judge Sober's] decision dismissing the verified petition**" (NYSCEF #85, pp. 3, 13-17, bold in original at p. 3).

Page 1: Directly beneath Caption:

"Supreme Court Albany County
Sara W. McGinty, Acting Supreme Court Justice"

Though "Supreme Court Albany County" is where petitioners filed this lawsuit – and such is part of the caption that Judge McGinty retains – the lawsuit has NOT been determined in "Supreme Court Albany County", but in Ulster County by its surrogate judge, who may or may not also be an

"Acting Supreme Court Justice".

Page 1: "Appearances":

The two petitioners, Elena Ruth Sassower and Center for Judicial Accountability, Inc., are identified as "pro se", when they are not. They are "unrepresented" and raised their entitlement to representation by the attorney general, threshold, by their March 18, 2024 order to show cause (NYSCEF #13), and continually thereafter – and this is highlighted by petitioners' "legal autopsy"/analysis (NYSCEF #85, pp. 3- 6, 11, 12-13). Judge McGinty entirely omits this issue from her decision, although germane to – and dispositive of – petitioners' second, third, and fifth branches of their motion.

Letitia James is identified only as "Attorney for Respondents", although she is, additionally, a respondent – a central issue, from the outset, and so-highlighted throughout petitioners' "legal autopsy"/analysis (NYSCEF #85). This, too, is entirely omitted from Judge McGinty's decision, excepting by its caption.

As for "Rachel S. Ouimet, Esq., AAG", who is purported to be appearing for AG James, this is false.[4] All appearances have been by AAG Noah Engelhart, with a one-time appearance of his supervisor AAG John Moore – and this is reflected by the "legal autopsy"/analysis (NYSCEF #85, pp. 2, 23-24) and, further, by AG James' September 27, 2024 opposition to the motion (NYSCEF #92), which was by AAG Engelhart, against whom petitioners' October 2, 2024 reply affirmation (NYSCEF #93) sought additional sanctions.

Page 2: First Paragraph:

> "In this Article 78 proceeding, petitioner moves to (sic) pursuant to CPLR 2221(d) and (e) to reargue or renew a series of decisions by Hon. Jennifer G. Sober ASCJ (the 'Decisions'), as well as for relief under CPLR 5015(a)(3) and (4) to vacate the decisions and to transfer or remove this case to a federal court pursuant to US Constitution Article IV(4) or to certify the question of disqualification under Judiciary Law 14 to the Appellate Division, Third Department."

This one-sentence paragraph is fraudulent.

First, it conceals that this lawsuit is not solely an "Article 78 proceeding", but also a declaratory judgment action and citizen-taxpayer action – so-highlighted by petitioners' "legal autopsy"/analysis

[4] A google search of Ms. Ouimet reveals she has a substantial background in Family Court matters, giving rise to the possibility that Judge McGinty's Family Court judge-husband may have assisted his wife by furnishing her with a template of a decision he had written, in which "Rachel S. Ouimet, Esq., AAG" had appeared for AG James.

(NYSCEF #85, pp. 3, 13-17) in refuting the bogus technical defenses of lack of standing and prematurity asserted by AG James – and adopted by Judge Sober.

Second, it inserts "ASCJ" after "Hon. Jennifer G. Sober" – when the evidence that she is not an "ASCJ" is the subject of the motion's first branch, for renewal, and its Exhibit B September 10, 2024 FOIL request to the OCA (NYSCEF #86), to which Judge McGinty's decision makes no mention.

Third, it transmogrifies petitioners' September 12, 2024 notice of motion (NYSCEF #83), which did not seek "to vacate the decisions", but to enable vacatur by a jurisdictionally-empowered tribunal, did not seek to "remove this case to federal court", but its transfer, and requested certification not only to the Appellate Division, Third Department, but, additionally, or alternatively, to the Court of Appeals of the question of transfer to federal court, arising from Judiciary Law §14 disqualification.

Page 2: Second Paragraph:

> "The contested Decisions by the Hon. Jennifer G. Sober ASCJ all dated August 14, 2024 denied petitioners' application for preliminary injunction and other relief (NYSCEF Doc. No. 79); denied petitioners' application for costs and sanctions against the Office of the Attorney General (the 'AG') and disqualification of the AG and a transfer of the proceeding to federal court (NYSCEF Doc. No. 80); and dismissed petitioners' verified petition/complaint on the motion of respondent New York State Commission on Legislative, Judicial and Executive Compensation (the 'Commission') (NYSCEF Doc. No. 81)."

This one-sentence paragraph is fraudulent.

First, "NYSCEF Doc. No. 79", which is Judge Sober's "DECISION, ORDER, and JUDGMENT (Motion Sequence 1&2)", did more than "den[y] petitioners' application for preliminary injunction and other relief", which is "Motion Sequence 1". It additionally granted "Motion Sequence 2", the purported cross-motion to dismiss the verified petition, made by Respondent AG James on behalf of all respondents except the Commission on Legislative, Judicial and Executive Compensation – and granted it based on grounds of prematurity and standing. This is reflected by "NYSCEF Doc. No. 79" – and by petitioners' "legal autopsy"/analysis of it (NYSCEF #85, beginning at p. 3 and continuing at pp. 13-17, 19).

Second, "NYSCEF Doc. No. 81", which is Judge Sober's "DECISION, ORDER, and JUDGMENT (Motion Sequence 4)", dismissed the verified petition only with respect to Respondent AG James' dismissal motion made on behalf of the Commission on Legislative, Judicial and Executive Compensation, granting dismissal as to it on grounds of untimely service. This is reflected by "NYSCEF Doc. No. 81" – and petitioners' "legal autopsy"/analysis of it (NYSCEF #85, pp. 24-27).

Pages 2-3: Third Paragraph:

> "These proceedings began with petitioners' verified petition/complaint alleging two causes of action arising from the Commission's December 4, 2023 report (the 'Report') approving New York State judicial pay raises, alleging:
>
> - the Report was void because the Commission failed to make the findings or determinations required under Chapter 60 of the Laws of 2015 which created the Commission (the '2015 Statute')[fn1] and the 'governor, the legislature and the chief judge,' all named as respondents herein, failed to exercise any oversight over the Commission's recommendations; and
>
> - the $34,600,000 appropriations for judicial salary increases are themselves based on Commission recommendations which are the product of 'fraud and flagrant violations' of New York State Finance Law 7-A and should be stricken as illegal and unconstitutional."

The annotating fn.1 reads:

> "The law charges the Commission with evaluating and making recommendations every four years to insure adequate levels of compensation for members of the judiciary, among others."

This is fraud.

First, it conceals that "These proceedings began" with petitioners' March 18, 2024 order to show cause to determine threshold issues (NYSCEF #13), which is "Motion Sequence 1" – focally detailed by petitioners' "legal autopsy"/analysis of Judge Sober's decisions (NYSCEF #85, pp. 3-7).

Second, it conceals that the "proceedings" are a hybrid Article 78 proceeding/declaratory judgment action/citizen taxpayer action, arising NOT from the Commission's December 4, 2023 Report "approving New York State judicial pay raises", but from the willful and deliberate nonfeasance of "the governor, legislature, and chief judge, all named as respondents" with respect to petitioners' January 18, 2024 Opposition Report. Judge McGinty's decision nowhere mentions the January 18, 2024 Opposition Report (NYSCEF #6), as it is "DISPOSITIVE" of petitioners' entitlement to the granting of their March 18, 2024 OSC for a preliminary injunction with TRO and for summary judgment, so-highlighted by petitioners throughout the "proceedings", including by their "legal autopsy"/analysis (NYSCEF #85).

Third, it mischaracterizes the verified petition (NYSCEF #1), whose two causes of action do not "allege" anything. Rather, by the January 18, 2024 Opposition Report on which they rest, they establish petitioners' entitlement, *as a matter of law*, to relief requested as follows:

> "As to the first cause of action: declarations, pursuant to CPLR Article 78 and CPLR §3001, that the New York State Commission on Legislative, Judicial and Executive Compensation failed to perform the duties enjoined upon it by Chapter 60, Part E, of the Laws of 2015 for making 'force of law' judicial salary increase recommendations and that the highest constitutional officers of the state's three government branches all failed to discharge their mandated checks and balances/oversight duties with respect thereto – and voiding the Commission's December 4, 2023 Report as statutorily-violative, fraudulent, and unconstitutional, **so-proven by petitioners' January 18, 2024 Opposition Report**.
>
> As to the second cause of action: for a declaration, pursuant to State Finance Law Article 7-A, that the $34,600,000 line-item appropriation in Legislative/Judiciary Budget Bill #S.8301/A.8801 (at pp. 18-19) for judicial salary increases is a wrongful expenditure, misappropriation, illegal, and unconstitutional, **so-proven by petitioners' January 18, 2024 Opposition Report** – and striking it". (bold added).

Fourth, its footnote 1 conceals that the Commission flagrantly violated its statutory duty with respect to "adequate levels of compensation" – and this was so-demonstrated by petitioners' January 18, 2024 Opposition Report and highlighted by the verified petition (NYSCEF #1, ¶33).

Page 3: First Paragraph:

> "Judge Sober's Decisions granted respondents' motion to dismiss the verified petition/complaint by petitioners based on an absence of standing and a failure to obtain timely jurisdiction over respondents."

This one-sentence paragraph is fraudulent.

First, "Judge Sober's Decisions granted" more than a single "respondents' motion to dismiss the verified petition/complaint" AND neither of respondents' two dismissal motions, nor Judge Sober's two decisions granting same, were based on "a failure to obtain timely jurisdiction over respondent**s**" (bold and underlining added). As hereinabove stated:

- Judge Sober's "DECISION, ORDER, and JUDGMENT (Motion Sequence 1&2)" (NYSCEF #79) granted Respondent AG James' dismissal "cross-motion" made on behalf of all respondents except the Commission on Legislative, Judicial and Executive Compensation – and predicated same on prematurity and standing;

- Judge Sober's "DECISION, ORDER, and JUDGMENT (Motion Sequence 4)" (NYSCEF #81) granted Respondent AG James' dismissal motion on behalf of Respondent Commission on Legislative, Judicial and Executive Compensation – and predicated same on failing to obtain timely jurisdiction over Respondent Commission.

Second, Judge Sober's non-merits dismissals of the petition are frauds, factually and legally – and this is demonstrated by petitioners' "legal autopsy"/analysis (NYSCEF #85, pp. 13-17, 19), without contest by AG James' September 27, 2024 memorandum of law in opposition (NYSCEF #92) – and so-highlighted by petitioners' October 2, 2024 reply affirmation (NYSCEF #93).

Page 3: Renewal (1st Branch of Petitioners' Motion):

Already quoted and discussed at pp. 6-8, *supra*.

Pages 3-4: Reargument (2nd Branch of Petitioners' Motion):

> "Petitioners next seek reargument under CLR (sic) 2221(d) based on the Court's having overlooked and misapprehended 'all dispositive facts and law' in the three (3) Decisions challenged. Petitioners cite in particular to a perceived failure on the part of the Court to review the Commission's 2023 report or to make a determination as to the constitutionality of the 2015 law.
>
> Leave to reargue pursuant to CPLR 2221(d) is properly granted upon a showing that the court overlooked or misapprehended the facts and/or the law or mistakenly arrived at its earlier decision (*Loris v. S & W Realty Corp.*, 16 AD3d 729, 730 [3d Dept 2005]). As an initial matter, the Court notes that the contested Decisions were not made on the merits and did not make findings of fact or law on the petition. Instead, the Decisions disposed of the petition on a variety of jurisdictional grounds (ripeness, standing, service of process and mootness). Even if the Decisions were on the merits, however, petitioners fail to identify with specificity the facts or law overlooked or misapprehended by the Court. A rehash of the grounds of the petition does not fulfill this fundamental pleading requirement under CPLR 2221(d). More to the point, there is no offer of facts or law which address the actual basis for the Decisions, which, as noted above, resolved questions of jurisdiction alone.
>
> Petitioners motion for leave to reargue under CPLR 2221(d) is denied." (underlining added).

This is fraud throughout.

First, it conceals that the "reargument" branch of petitioners' motion was expressly based on their "legal autopsy"/analysis of Judge Sober's decisions (NYSCEF #85), establishing that the decisions "'overlooked' and 'misapprehended' ALL dispositive facts and law".

Second, there is nothing "perceived" about Judge Sober's "failure…to review the Commission's 2023 report or to make a determination as to the constitutionality of the 2015 law". Rather, and as highlighted by petitioners' "legal autopsy"/analysis (NYSCEF #85), these were acts of willful and

deliberate nonfeasance by Judge Sober to deprive petitioners of the summary judgment declarations to which they were entitled, open-and-shut, *as a matter of law*, based on their January 18, 2024 Opposition Report (NYSCEF #6) and March 18, 2024 verified petition thereon (NYSCEF #1).

Third, its "initial matter" LIES in justifying Judge Sober's decisions as "not made on the merits" and "not making findings of fact or law on the petition" because they "disposed of the petition on a variety of jurisdictional grounds (ripeness, standing, service of process and mootness)". As demonstrated by petitioners' "legal autopsy"/analysis (NYSCEF #85, pp. 13-16), the non-merits "jurisdictional grounds" of "ripeness, standing, service of process" are frauds, exported from Respondent AG James' dismissal motions. As for "mootness, Judge Sober made no dismissal on that ground.

Fourth, it LIES in purporting that "petitioners fail to identify with specificity the facts or law overlooked or misapprehended by [Judge Sober]". Petitioners' "legal autopsy"/analysis of Judge Sober's decisions (NYSCEF #85) is a 27-page, single-spaced chronicling, sentence by sentence, of the avalanche of facts and law that Judge Sober "overlooked or misapprehended".

Fifth, it LIES that petitioners' request for reargument is supported only by "A rehash of the grounds of the petition". Petitioners' "legal autopsy"/analysis presents the most minimal "rehash of the grounds of the petition" – and only as germane to the falsehoods about it by Judge Sober's decisions (NYSCEF #85, pp. 13, 16-17).

Sixth, it LIES that petitioners make "no offer of facts or law which address the actual basis for the Decisions" – and this is obvious from petitioners' fact-packed, law-supported "legal autopsy"/analysis of the decisions (NYSCEF #85).

Pages 4-5: CPLR §5015 (3rd & 4th Branches of Petitioners' Motion):

> "Petitioners' final motion seeks CPLR 5015 relief from the Decisions based on fraud/misrepresentation/misconduct by an adverse party under CPLR 5015(a)(3) and absence of subject matter jurisdiction in the Supreme Court under CPLR 5015(a)(4). Petitioners' pleadings are rife with broad allegations of fraud; what's missing are facts. This is fatal to petitioners' motion for relief under CPLR 5015.
>
> Allegations of fraud or other misconduct must be supported by fact (*Pinkesz Mut. Holdings, LLC v. Pinkesz*, 198 AD 693 [3d Dept 2021]; *see, also Matter of Mclaughlin*, 111 A.D.3d 1185, 1186 [3d Dept 2013]). Conclusory allegations are insufficient to prove fraud, misrepresentation, or other misconduct to warrant vacatur of [an] order pursuant to CPLR 5015(a)(3) (*Matter of Romine v. New York Pub. Serv. Comm.,* 209 A.D. 1197, 1199 [3d Dept 2022]).
>
> In the absence of facts – new or otherwise – probative of the alleged fraud or other misconduct, petitioners' first ground for CPLR 5015(a)(4) relief is dismissed.

> Petitioner has also failed to establish grounds for vacating the Decisions under CPLR 5015(a)(4). While a motion to vacate on this basis may be made at any time, a finding that a party lacks standing to bring an action does not implicate or impair the trial court's power to entertain the action (*HSBC Bank USA, NA v. Ashley*, 104 AD3d 975 [3d Dept 2013]; *Deutsche Bank Natl. Trust Co. v. Ford*, 183 AD3d 1168 [3d Dept 2020]). Petitioner has offered no facts or law to support her argument that the Court lacks jurisdiction to hear Article 78 proceedings, which, it should be noted are vested in the Supreme Court pursuant to CPLR 7804(b)." (underlining added).

Again, fraud throughout.

First, with respect to CPLR §5015(a)(3) – the subject of the third branch of petitioners' motion – Judge McGinty spits out three LIES that petitioners have not satisfied legal requirements inasmuch as (1) their "pleadings are rife with broad allegations of fraud; what's missing are facts"; (2) that they have furnished only "Conclusory allegations"; and (3) offer an "absence of facts – new or otherwise – probative of the alleged fraud or other misconduct". These are each conclusory frauds, rebutted by "Petitioners' pleadings", from their initiating March 18, 2024 verified petition (NYSCEF #1) – which is their only "pleading" – to the last of their motion papers, *to wit*, their October 2, 2024 reply affirmation in further support of their September 12, 2024 motion (NYSCEF #93), from which Judge McGinty supplies not a single example substantiating her bald LIES.

Second, with respect to CPLR §5015(a)(4) – the subject of the fourth branch of petitioners' motion – Judge McGinty LIES, first impliedly and then directly. Petitioners never claimed that "a finding that a party lacks standing to bring an action…[] implicate[s] or impair[s] the trial court's power to entertain the action" – and Judge McGinty offers no citation to the record to support an argument not made – and which, in actuality, she does not purport petitioners made. Instead, Judge McGinty follows with an assertion: "Petitioner has offered no facts or law to support her argument that the Court lacks jurisdiction to hear Article 78 proceedings, which, it should be noted are vested in the Supreme Court pursuant to CPLR 7804(b)." This appears to relate to the question as to whether Judge Sober is an acting Supreme Court justice – the subject of the first branch of petitioners' motion for renewal – not the motion's fourth branch whose basis is Judiciary Law §14.

Pages 5-6: Transfer/Certification (5th Branch of Petitioners' Motion):

> "Petitioners report that they do not seek an order from this Court vacating the Decisions under CPLR 5015(a)(3) or (4) because Judge Sober is disqualified from taking any action in these proceedings under Judiciary Law 14. Petitioners therefore seek not the vacatur of the Decisions, but 'only the determinations that would enable a jurisdictionally-empowered tribunal to vacate them.' To this end, petitioners seek transfer to the federal courts or certification of the question to the Appellate Division, Third Department or

the Court of Appeals.

Curiously, petitioners simultaneously argue that justices of the Appellate Division, Third Department or the Court of Appeals are divested of jurisdiction under Judiciary Law 14 to vacate the Decisions, just as is any Supreme Court Justice.[fn2] In sum, petitioners seek a form of relief which their own pleadings dismiss as fruitless.

This Court will not engage in attempting to fashion relief which petitioners advocate for on one hand and then reject on the other. Petitioner's application for a referral from this Court to the Appellate Division, Third Department or the Court of Appeals is denied.

Respondents reject petitioners' position that all State judges are disqualified from hearing this case under Judiciary Law 14. For this purpose, respondents cite the decision in *Center for Judicial Accountability, Inc. v. Cuomo*, 167 AD3d 1406, 1407-08 [3d Dept 2018], lv den 33 NY3d 993),[fn3] which has repeatedly rejected petitioners' arguments based on the Rule of Necessity.

Respondents also argue that petitioners' application cannot be transferred to a federal court because they have demonstrated no basis for jurisdiction in a federal court: there is no question of federal law raised by petitioners, nor has diversity of citizenship or an amount in controversy been alleged which might confer jurisdiction on a federal court (28 USC 1331; 1332). Moreover, removal of an action from a state court to a federal court is the exclusive province of defendants or respondents, and is not available to plaintiffs like the petitioners (*Geiger v. Artco Enters.*, 910 F Supp 130 [SDNY 1996])." (underlining added).

The annotating footnote 2 reads:

"Quoting petitioners' 'legal autopsy' (NYSCEF Document No. 89): 'Judiciary Law 14 divests every New York State justice and acting justice of jurisdiction because of their direct financial and other interests.'"

The annotating footnote 3 reads:

"Petitioners should be familiar with this case, as they were the appellants. Indeed, the arguments raised in this proceeding appear to be identical to the ones disposed of in the 2018 decision. Further examination of the earlier decision might well prove to be the basis for collateral estoppel of the issues litigated (again) here (*see, eg, Schwartz v. Public Adm'r of Count of Bronx*, 24 NY2d 65 [1969]: collateral estoppel will be invoked when there is 'an

> identity of issue which has necessarily been decided in the prior action and is decisive of the present action, and [where] there [has] been a full and fair opportunity to contest the decision now said to be controlling')." (underlining added).

Again, fraud throughout.

First, it conceals the constitutional authority pursuant to which transfer is sought, stated by the motion's fifth branch, with underscoring, "Article IV, §4 of the United States Constitution". Thus, even though the first paragraph of Judge McGinty's decision (at p. 2) identifies that petitioners' motion seeks:

> "to transfer or remove this case to a federal court pursuant to US Constitution Article IV(4) or to certify the question of disqualification under Judiciary Law 14 to the Appellate Division, Third Department",

Judge McGinty here conceals it because, as obvious, she cannot and does not contest that it is solid authority for the transfer.

Second, it LIES that petitioners' request for certification is "futile" – as she does not herself confront the Judiciary Law §14 jurisdictional issue from which the transfer request arises, knowing that the only answer to the jurisdictional issue is transfer to federal court – and that certification of the question to the Appellate Division, Third Department or the Court of Appeals would so-determine.

Third, its two paragraphs identifying AG James' argument – the only place in the decision doing so – are each frauds, so-reflected by petitioners' "legal autopsy"/analysis (NYSCEF #85, at p. 12) and October 2, 2024 reply affirmation (NYSCEF #93, at pp. 11-12). Thus, the first paragraph:

- "conceals…the jurisdictional issue pertaining to [Judiciary Law §14] and 'Rule of Necessity'";
- "rests on the Appellate Division, Third Department's [2018 decision] in *CJA v. Cuomo…DiFiore* [which does not] identif[y] any jurisdictional issue pertaining to 'Rule of Necessity";
- "conceals that the Appellate Division, Third Department's decision in *CJA v. Cuomo…DiFiore* is a judicial fraud, so-pleaded by petitioners' verified petition herein (NYSCEF #1, at ¶¶7, 23, 29), substantiated by links to the full record and by petitioners' 'legal autopsy'/analysis of it (NYSCEF #35) and letter transmitting it to the Court of Appeals in support of their appeal of right (NYSCEF #36), both exhibits to their March 29, 2024 reply affidavit in further support of their order to show cause (NYSCEF #33)".

As for the second paragraph, it:

- conceals that AG James did not contest that pursuant to Article IV, §4 of the U.S. Constitution transfer could be made to federal court;

- conceals that the availability of transfer to federal court pursuant to Article IV, §4, in and of itself, precludes invocation of "Rule of Necessity", even if judges divested of jurisdiction by Judiciary Law §14 could invoke it; and

- conceals that any attorney general discharging his/her duties under Executive Law §63.1 and State Finance Law Article 7-A and not suffering from conflicts of interest, would have removed the case to federal court;

Fourth, its two annotating footnotes are each frauds:

- its footnote 2 quotes from petitioners' "legal autopsy", concealing what it is a "legal autopsy" of AND, rather than furnish its NYSCEF number reflecting that it is part of petitioners' motion (NYSCEF #85), furnishes the NYSCEF number for petitioners' September 12, 2024 notice of appeal to the Appellate Division, Third Department that includes it (NYSCEF #89);

- its footnote 3 as to the Appellate Division, Third Department's 2018 decision in *CJA v. Cuomo…DiFiore* is flagrant fraud and all the more so by its suggestion that the case might "be the basis for collateral estoppel of the issues litigated (again) here" and that there had been "'a full and fair opportunity to contest the decision now said to be controlling'". As above-stated, quoting from petitioner's "legal autopsy"/analysis (NYSCEF #85, at p. 12):

> "the Appellate Division's decision in *CJA v. Cuomo…DiFiore* is a judicial fraud, so-pleaded by petitioners' verified petition herein (NYSCEF #1, at ¶¶7, 23, 29), substantiated by links to the full record and by petitioners' 'legal autopsy'/analysis of it (NYSCEF #35) and letter transmitting it to the Court of Appeals in support of their appeal of right (NYSCEF #36), both exhibits to their March 29, 2024 reply affidavit in further support of their order to show cause (NYSCEF #33)"

Page 7 – Ordering/Judgment Paragraph:

> "Therefore, it is hereby
>
> **ORDERED and ADJUDGED** that the petition is dismissed and the relief requested therein is in all respects denied. Arguments of the parties not referenced herein have been reviewed and found to be without merit or otherwise disposed of by this decision/order/judgment." (bold in original).

This is fraud.

First, the "petition" was already dismissed and "the relief requested therein" already denied by Judge Sober's August 14, 2024 "DECISION, ORDER, and JUDGMENT (Motion Sequence 1&2)" (NYSCEF #79) and "DECISION, ORDER, and JUDGMENT (Motion Sequence 4)" (NYSCEF #81).

Second, as this ordering paragraph should have been about the disposition of petitioners' September 12, 2024 motion – not here mentioned, at all – Judge McGinty's dismissal of an already-dismissed petition is, presumably, a *sub silentio* rectification of a dismissal that Judge Sober, not being an acting Supreme Court justice, could not lawfully effectuate.

Third, the "arguments" presented by appellants' motion are meritorious, being substantiated by facts and law so overwhelming that Judge McGinty cannot and does not confront them, except by falsehood and concealment.

Page 7 – Concluding Paragraph, Etc.:

> "This constitutes the Decision/Order/Judgment of the Court. This original Decision/Order/Judgment is being returned to the Petitioner. The below referenced original papers are being delivered to the Albany County Clerk. The signing of this Decision/Order/Judgment shall not constitute entry or filing under CPLR 2220. Petitioner and counsel are not relieved from the provision of that rule regarding filing, entry or notice of entry by the Albany County Clerk.
>
> SO ORDERED.
>
> ENTER.
>
> Dated: November 13, 2024
> Kingston, New York
>
> s/
> _____
> Sara W. McGinty
> Acting Supreme Court Justice
>
> Paper Considered:
>
> NYSCEF Doc. No. 83: Notice of Motion by Petitioners filed September12, 2024.
> NYSCEF Doc. No. 84: Affidavit in Support of Motion, with Exhibits A-D (NYSCEF Doc. Nos. 85-88) filed September 12, 2024.

NYSCEF Doc. No. 92: Memorandum of Law in Opposition to Motion
filed September 27, 2024.
NYSCEF Doc. No. 93Affidavit in Reply, with Exhibit A (NYSCEF Doc. No. 94)
filed October 2, 2024".

This is fraud.

First, no "original Decision/Order/Judgement" was ever "returned to the Petitioner".

Second, "the below referenced original papers", if "being delivered to the Albany County Clerk", would mean that Judge McGinty not only had before her the record of the motion, in electronic format, from the NYSCEF docket, with its live hyperlinks, but, seemingly, hard copies of same.

Third, it remains to be seen if, in fact, Ulster County Surrogate Judge McGinty is an "Acting Supreme Court Justice".

Fourth, the "Papers Considered" – constituting the record of petitioners' motion – were "Considered" by Judge McGinty only for purposes of falsifying and concealing their content so as to render a decision that, from beginning to end, obliterates all adjudicative standards and is indefensible.