

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Monday, October 31, 2016 2:20 PM
To: 'rmccarthy@buffnews.com'
Cc: 'jneville@buffnews.com'; 'dsherman@buffnews.com'; 'citydesk@buffnews.com'; 'dturner@buffnews.com'; 'tprecious@buffnews.com'
Subject: The 2016 Election for Erie Co. District Attorney: Testing the "public integrity" commitment & fitness of D.A. Candidates Flynn & Treanor

TO: Robert McCarthy, Buffalo News

This follows up the voice mail message I left for you this morning concerning the Erie County district attorney race between John Flynn and Joe Treanor – both praised as “strong candidates” by the October 26th Buffalo News editorial “In a DA race with two strong candidates, Flynn’s experience sets him apart”. Your October 27th Buffalo News article “*Political relief is in sight*” describes the district attorney race as having been “a sleeper”.

The D.A. race would be anything but “a sleeper” – and it would further the express goal of the Buffalo News’ editorial as an aid to voters -- if you asked D.A. candidates Flynn and Treanor two simple questions:

- (1) If elected, what would your procedures be for handling public corruption complaints, filed with your district attorney office, where you have financial and other conflicts of interest?; and
- (2) If elected, what salary would you expect to receive as Erie County district attorney?

Whichever candidate is elected will have to confront both issues, threshold. Indeed, failing to do so will result in the newly-elected Erie County district attorney becoming the subject of the same October 14, 2016 conflict-of-interest/misconduct complaint as has been filed with the Eighth Judicial District Attorney Disciplinary Committee against Erie County Acting District Attorney Michael J. Flaherty, Jr. and against former Erie County District Attorney, now Supreme Court Justice, Frank Sedita. It is a complaint against them for colluding in high-level government corruption involving district attorney salary increases they know to be fraudulent, statutorily-violative, and unconstitutional. These are the same district attorney salary increases that would-be Erie County D.A. Flynn and Treanor are presumably expecting to be the beneficiary of.

You can verify for yourself the serious and substantial nature of the complaint, filed by our non-partisan, non-profit citizens’ organization, Center for Judicial Accountability, Inc. (CJA), as it is posted on our website, www.judgewatch.org, accessible *via* the prominent homepage link: “NO PAY RAISES FOR NEW YORK’S CORRUPT PUBLIC OFFICERS: The Money Belongs to their Victims!”. This brings up a menu of entries, including #12 entitled: “Making the 2016 District Attorney Elections Competitive”, with a link to the complaint. For your convenience, the direct link is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/budget-2016-17/10-14-16-complaint-vs-soares-etc.htm>.

The October 14, 2016 conflict-of-interest/misconduct complaint sets forth the pertinent facts. In brief, since 2012, district attorney salaries have been jacked up by approximately \$60,000 in 56 New York State counties, Erie County among them. This, based on the August 29, 2011 report of the Commission on Judicial Compensation and the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation – each “false instruments”, violative of multiple provisions of the penal law that the D.A.s are charged with enforcing, including the vaunted “Public Trust Act”.

D.A. candidates Flynn and Treanor can easily determine whether these two commission reports are “false instruments” – as the SAME EVIDENCE as was before Erie County D.A. Sedita in 2013-2014, as a member of the D.A.-stacked Commission to Investigate Public Corruption, and as was before Erie County Acting D.A. Flaherty since July of this year is accessible from our webpage for the complaint. Based thereon, their duty is to disavow the fraudulent, statutorily-violative, and unconstitutional \$60,000 salary increases of which they would otherwise benefit and advise Erie County government to take appropriate steps to void them. Will they do that, if elected?

CJA has a pending citizen-taxpayer action, *CJA v. Cuomo, et al.* (Albany Co. #5122-16), whose 6th, 7th, and 8th causes of action seek to void the commission reports on which the D.A. salary increases are based, with a 10th cause of action to void this year’s state aid to the counties for D.A. salaries: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/menu-2nd-citizen-taxpayer-action.htm>. This is referred-to at page 7 of the October 14, 2016 conflict-of-interest/misconduct complaint as in a posture of SUMMARY JUDGMENT for the plaintiffs. Do D.A. candidates Flynn and Treanor deny or dispute that plaintiffs are entitled to SUMMARY JUDGMENT, *as a matter of law*. If so, they must furnish their findings of fact and conclusions of law with respect to the posted record.

Any district attorney candidate who will not answer the above straight-forward questions pertaining to conflicts-of-interest and the D.A. salary they will be accepting, if elected – and who will not furnish findings of fact and conclusions of law with respect to the EVIDENCE presented by CJA’s pending citizen-taxpayer action and October 14, 2016 conflict-of-interest/misconduct complaint-- must be deemed UNFIT for so important a public office – or any other.

Certainly, their answers will more reliably guide voters than the October 26th editorial, which, on public corruption/integrity issues, stated:

“Both candidates support the public integrity unit formed by Acting District Attorney Michael J. Flaherty Jr. in the aftermath of concerns that former District Attorney Frank A. Sedita III had paid scant attention to the issue. Both pledge to pursue public corruption wherever it may appear in Erie County.

If there is any concern regarding Flynn, it is in his standing as the candidate of the county Democratic Party. Some worry that might induce him to back off investigating some public corruption cases. He flatly promises that he won’t, and he needs to make good on that promise. Republican Treanor, for his part, is not accepting any campaign donations.”

I am available to assist you and the Buffalo News to the max, including at night and over the weekend, and will happily answer all questions so that the Buffalo News can lead on this explosive, corruption-busting story, with ramifications on all 13 of New York State’s other district attorney electoral races – including the uncontested district attorney races in adjacent Niagara county and in nearby Orleans county -- on local county government races, on all 213 state senate and assembly seats – and on the charade that has been playing out with respect to the Commission on Legislative, Judicial and Executive Compensation and its upcoming report on legislative and executive compensation, due to be rendered AFTER the November 8, 2016 elections.

Thank you.

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

THE 14 NEW YORK STATE COUNTIES ELECTING DISTRICT ATTORNEYS IN 2016

Counties whose District Attorneys are running for “re-election” UNOPPOSED

ALBANY COUNTY (population: 306,000)

District Attorney P. David Soares running **UNOPPOSED** for re-election on the Democratic, Working Families, & Independence lines

MADISON COUNTY (population: 72,000)

District Attorney William G. Gabor running **UNOPPOSED** for re-election on Republican & Conservative lines

ORLEANS COUNTY (population: 42,000)

District Attorney Joseph V. Cardone running **UNOPPOSED** for re-election on Republican line

Counties whose Acting District Attorneys are running for “re-election” UNOPPOSED

DELAWARE COUNTY (population: 48,000)

Acting District Attorney John Hubbard running **UNOPPOSED** for election on Republican, Conservative, Independence, & Reform lines

FULTON COUNTY (population: 55,000)

Acting District Attorney Chad Brown running **UNOPPOSED** for election on Republican line

A County with an Uncontested, Multi-Party Endorsed District Attorney “Election”

NIAGARA COUNTY (population: 215,000)

Caroline A. Wojtaszek running **UNOPPOSED** on Democratic, Republican, Working Families, & Independence lines

Counties with Contested District Attorney Elections

CORTLAND COUNTY (population: 49,000)

District Attorney Mark D. Suben running for re-election on the Democratic & Working Families lines

Patrick Perfetti running on Republican, Conservative, Independence, & Reform lines

CHAUTAUQUA COUNTY (population 133,000)

Acting District Attorney Patrick Swanson running for election on Democratic, Working Families, Independence, & Women's Equality lines

Jason L. Schmidt running on Republican, Conservative, & Reform lines

HERKIMER COUNTY (population: 65,000)

District Attorney Jeffrey S. Carpenter running for re-election on Republican, Conservative, & Reform lines

Mike Daley running on Democratic & Independence lines

LIVINGSTON COUNTY (population: 65,000)

District Attorney Gregory J. McCaffrey running for re-election on Democratic, Conservative, Working Families, & Independence lines

Raymond Sciarrino running on the Republican & Reform lines

ERIE COUNTY (population: 919,000)

Joseph Treanor running on the Republican, Conservative, Independence, & Reform lines

John Flynn running on Democratic & Working Families lines

MONTGOMERY COUNTY (population: 50,000)

Howard Aison running on the Democratic line

Kelli McCoski running on the Conservative, Democratic, Independence, Reform, Republican, & Woman's Equality lines

TOMPKINS COUNTY (population: 103,000)

Matthew Van Houten running on the Democratic line

Edward Kopko running on the Independence line

WESTCHESTER COUNTY (population: 961,000)

Anthony Scarpino running Democratic, Conservative, & Women's Equality lines

Bruce Bendish running on Republican & Reform lines