

**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Friday, August 30, 2019 11:23 AM  
**To:** dmclark@alm.com; DanClarkReports@Gmail.com  
**Cc:** 'Susan DeSantis'; Editorial@alm.com  
**Subject:** **Correction Needed: "Judge Strikes Down Outside Income Ban for NY Lawmakers, Upholds Salary Hike" (NYLJ, Aug. 29, 2019)**  
**Attachments:** [8-21-19-nylj-ltr.pdf](#)

**TO: Dan Clark/New York Law Journal**

There is an embarrassing error in your yesterday's article "[Judge Strikes Down Outside Income Ban for NY Lawmakers, Upholds Salary Hike](#)", presumably appearing in today's print edition, about Justice Platkin's August 28, 2019 decision in *Barclay v NYS Committee on Legislative and Executive Compensation*.

Referring to Justice Ryba's June 7, 2019 decision in *Delgado v. New York State*, you state:

"That decision is expected to be appealed, both by the Government Justice Center and the State Attorney General's Office, which represented the committee in both lawsuits against its decision."

This is erroneous. The *Delgado* decision has ALREADY been appealed – and Justice Platkin's August 28<sup>th</sup> decision explicitly says this at page 5, as follows:

"The two defendants in *Delgado*, the State of New York and the Comptroller, filed a notice of appeal on July 15, 2019 (see NYSCEF Doc No. 98). Plaintiffs have filed a cross appeal and an appeal to the Court of Appeals (see NYSCEF Doc Nos. 105-106)."

Indeed, it is the express basis upon which the Attorney General sought a stay before Justice Platkin, "pending determination of the *Delgado* appeals", which the decision's page 6 identifies and then decides against the Attorney General.

It would appear that you did not yourself read Judge Platkin's decision. Is this correct? And did you also not read my several e-mails to Deputy Editor DeSantis last week pertaining to the Law Journal's August 20<sup>th</sup>/21<sup>st</sup> publication of my letter "*A Call for Scholarship, Civic Engagement & Amicus Before the NYCOA*", culminating in my below August 26<sup>th</sup> e-mail – to which I copied you – all identifying that the *Delgado* plaintiffs had filed a notice of DIRECT appeal to the Court of Appeals, solely on the issue of constitutionality?

As my below August 26<sup>th</sup> e-mail had promised to keep the Law Journal "updated on developments" and give you "the LEAD on what is happening" in *CJA v. Cuomo* – a case dispositive of *Delgado*, *Barclay*, and the other four lawsuits currently challenging the delegation of legislative power to a committee/commission – here's the link to the webpage of my August 28<sup>th</sup> letter to the Court of

Appeals: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/8-28-19-ltr.htm>, highlighting (at pp. 18-19) the significance of the final sentence of my letter “A Call for Scholarship, Civic Engagement & Amicus Before the NYCOA”, furnishing the Court with the letter, and stating (at p. 19):

“As the Court would be well-served by an appropriate status report from Attorney General James on the *Delgado* and other lawsuits – including as to what steps, if any, she has taken to apprise the plaintiffs therein and the courts of the two threshold integrity issues that exist in those cases: (1) her own direct and indirect financial and other interests in the suits; and (2) the judges’ own interests, especially arising from the relatedness of those lawsuits to this – I request that such status report be ordered by this Court as part of the ‘other and further relief as may be just and proper’, requested by appellants’ August 8, 2019 notice of motion (at ¶17).”

Indeed, inasmuch as your article concludes with the sentence, “The Attorney General’s Office said it was reviewing the decision” – referring to Justice Platkin’s August 28<sup>th</sup> decision – it is important that you examine my August 28<sup>th</sup> letter to the Court so that you know what the Attorney General’s Office is simultaneously “reviewing”.

As always, I am available to assist you in your reporting – and invite you to call me with questions. Meantime – and inasmuch as you are writing primarily for a sophisticated readership of lawyers and judges – I would hope that the correction to your article will include a link to Judge Platkin’s August 28<sup>th</sup> decision in *Barclay* and to Judge Ryba’s June 7<sup>th</sup> decision in *Delgado*. For your convenience, they are

here: [https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=Gqlr\\_PLUS\\_Z4wxDvnsm\\_PLUS\\_ZZrTUSA==](https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=Gqlr_PLUS_Z4wxDvnsm_PLUS_ZZrTUSA==) and here: <https://iapps.courts.state.ny.us/nyscef/ViewDocument?docIndex=THnzwTtKKqfDLDXMI9uX5w==>.

Thank you.

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

---

**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
**Sent:** Monday, August 26, 2019 10:39 AM  
**To:** 'Susan DeSantis' <[sdesantis@alm.com](mailto:sdesantis@alm.com)>  
**Cc:** 'dmclark@alm.com' <[dmclark@alm.com](mailto:dmclark@alm.com)>; 'DanClarkReports@Gmail.com' <[DanClarkReports@Gmail.com](mailto:DanClarkReports@Gmail.com)>

**Subject:** Thank you -- "A Call for Scholarship, Civic Engagement & Amicus Curiae Before the NYCOA" (NYLJ 8/20/19 (internet), 8/21/19 (print))

**TO:** Susan DeSantis/New York Law Journal Deputy Editor-in-Chief

It was late in the day on Friday, August 23rd that I went to the law library and found that you had published my letter to the editor “*A Call for Scholarship, Civic Engagement & Amicus Curiae Before the NYCOA*” on Wednesday, August 21<sup>st</sup> in the Law Journal’s print edition. Thank you for so-recognizing its timeliness and importance.

FYI, below is what I e-mailed to a wide range of New York’s press on that Wednesday, *prior* to the scheduled 1:00 pm start of the first meeting of the Public Campaign Financing & Election Commission.

Again, thank you. I will keep you – and Law Journal reporter Dan Clark -- updated on developments. Indeed, I will give the Law Journal the LEAD on what is happening, just as I did in submitting the proposed letter/perspective column to you on Tuesday, August 20<sup>th</sup>, which you then so-promptly published on the Law Journal’s website, enhanced by that spectacular photo of New York’s 1777 State Constitution.

Meantime, I have featured the New York Law Journal on an “Honor Roll” that is part of CJA’s webpages on the topic of “New York’s ‘Force of Law’ Commissions – Unconstitutionality & Fraud IN PLAIN SIGHT”. Here’s the direct link: <http://www.judgewatch.org/web-pages/searching-nys/force-of-law-commissions/press-force-of-law-commissions/honor-roll.htm>.

Regards.

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

### **Is New York’s new Public Campaign Financing & Election Commission constitutional?**

Or doesn’t it matter? How about getting expert opinion from New York’s 13 law schools, multitudinous bar associations, universities, colleges, think-tanks, and institutes?

To help get the ball rolling, here’s the link to CJA’s letter to the editor that the New York Law Journal published yesterday afternoon on its website, <https://www.law.com/newyorklawjournal/2019/08/20/a-call-for-scholarship-civic-engagement-amicus-curiae-before-the-nycoa/>, responding to a perspective column entitled “*It’s Legally Perilous to Have a Commission Responsible for Election Laws*”.

By the way, CJA’s website, [www.judgewatch.org](http://www.judgewatch.org), not only posts the [full record of CJA v. Cuomo](#), but it aggregates records of the six other lawsuits, currently unfolding in state and federal courts, challenging the constitutionality of the delegation of legislative powers to commissions/committees. These six lawsuits are listed at pages 2-3 of CJA’s August 9, 2019 letter to the Court of Appeals, as part of a “NOTICE” to Attorney General Letitia James of her duty to provide the Court with an “appropriate status report” about them. Additionally, [CJA’s webpage for the August 9<sup>th</sup> letter](#) posts links to webpages created for each of the six lawsuits, with their records.

Suffice to note that among the six, [\*Delgado v. New York State\*](#), has now joined [\*CJA v. Cuomo at the Court of Appeals\*](#) – a notice of DIRECT appeal to the Court of Appeals having been filed by its plaintiffs on August 9<sup>th</sup>, solely on the issue of constitutionality.

I am available to assist you – and to be interviewed.

Thank you.

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