

SUPREME COURT OF STATE OF NEW YORK
BRONX COUNTY

CENTER FOR JUDICIAL ACCOUNTABILITY, INC.
and ELENA RUTH SASSOWER, individually and
as Director of the Center for Judicial Accountability, Inc.,
acting on their own behalf and on behalf of the People
of the State of New York & the Public Interest,

Plaintiffs,

-against-

ANDREW M. CUOMO, in his official capacity
as Governor of the State of New York,
ERIC T. SCHNEIDERMAN, in his official capacity
as Attorney General of the State of New York,
THOMAS DiNAPOLI, in his official capacity
as Comptroller of the State of New York,
DEAN SKELOS, in his official capacity
as Temporary President of the New York State
Senate, THE NEW YORK STATE SENATE,
SHELDON SILVER, in his official capacity
as Speaker of the New York State Assembly,
THE NEW YORK STATE ASSEMBLY,
JONATHAN LIPPMAN, in his official capacity
as Chief Judge of the State of New York,
the UNIFIED COURT SYSTEM, and
THE STATE OF NEW YORK,

Defendants.

At an IA Part 15 of the New York
Supreme Court held in Bronx County at the
Bronx County Building in the City of New York

on MARCH

30

2012

Present

Hon.

JUSTICE

Hon. Mary Ann Brigantti-Hughes

ORDER TO SHOW CAUSE
FOR A STAY WITH TRO

Index # 302951/2012

Upon the annexed affidavit of ELENA RUTH SASSOWER, plaintiff *pro se*, sworn to on
March 30, 2012, and plaintiffs' Verified Complaint with exhibits annexed thereto and free-standing,

AN IAS PART 15, ROOM 702
LET defendants show cause before ~~this Court~~ at 851 Grand Concourse, Bronx, New York

10451-2937 on the 16th day of April 2012 at 9:30 a.m. or as soon thereafter as the
parties or their counsel can be heard, for an order:

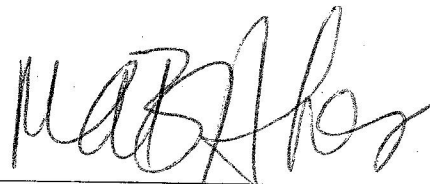
(1) enjoining defendants from implementing the judicial salary raises recommended by the August 29, 2011 "Final Report" of the Special Commission on Judicial Compensation and enjoining those recommendations from becoming law on April 1, 2012 pending determination of plaintiffs' Verified Complaint to declare such salary raises unconstitutional, statutorily-violative, and fraudulent and to strike Chapter 567 of the Laws of 2010 as unconstitutional.

(2) for such other and further relief as may be just and proper.

~~SUFFICIENT CAUSE APPEARING THEREFORE, let defendants be enjoined from implementing and giving legal effect to the Special Commission on Judicial Compensation's judicial salary raise recommendations on April 1, 2012, pending determination of this motion~~

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the 6th day of April 2012 upon the defendants herein by PERSONAL SERVICE ~~e-mail~~ be deemed good and sufficient service, ~~with answering papers served upon the pro se plaintiff, by e-mail, three day before the return date.~~

DATED: ~~Bronx, New York~~
~~March~~, 2012



Supreme Court Justice

Hon. Mary Ann Briganti-Hughes

SUPREME COURT OF STATE OF NEW YORK
BRONX COUNTY

----- X
CENTER FOR JUDICIAL ACCOUNTABILITY, INC.
and ELENA RUTH SASSOWER, individually and
as Director of the Center for Judicial Accountability, Inc,
acting on their own behalf and on behalf of the People
of the State of New York & the Public Interest,

Plaintiffs,

-against-

**Affidavit in Support of
Order to Show Cause with
TRO**

Index #

ANDREW M. CUOMO, in his official capacity
as Governor of the State of New York,
ERIC T. SCHNEIDERMAN, in his official capacity
as Attorney General of the State of New York,
THOMAS DiNAPOLI, in his official capacity
as Comptroller of the State of New York,
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as Temporary President of the New York State
Senate, THE NEW YORK STATE SENATE,
SHELDON SILVER, in his official capacity
as Speaker of the New York State Assembly,
THE NEW YORK STATE ASSEMBLY,
JONATHAN LIPPMAN, in his official capacity
as Chief Judge of the State of New York,
the UNIFIED COURT SYSTEM, and
THE STATE OF NEW YORK,

Defendants.

-----X
STATE OF NEW YORK)
BRONX COUNTY) ss.:

ELENA RUTH SASSOWER, being duly sworn deposes and says:

1. I am the above-named *pro se* plaintiff and, as co-founder and director of plaintiff
Center for Judicial Accountability, Inc. (CJA), fully familiar with all the facts, papers, and
proceedings on which the Verified Complaint herein is based.

2. This affidavit is submitted in support of plaintiffs' order to show cause, with TRO, to enjoin defendants from implementing the judicial salary raises recommended by the August 29, 2011 "Final Report" of the Special Commission on Judicial Compensation pending determination of plaintiffs' Verified Complaint to declare the recommended judicial pay raises unconstitutional, statutorily-violative, and fraudulent and to strike Chapter 567 of the Laws of 2010 as unconstitutional. Absent the requested stay, the recommended judicial pay raises will take effect April 1, 2012

3. The standard for granting a stay is "likelihood of success on the merits". At bar, the "likelihood of success on the merits" is absolute – as evident from plaintiffs' October 27, 2011 Opposition Report to the "Final Report" of the Special Commission on Judicial Compensation – which is the dispositive document on which the Verified Complaint rests.¹ It demonstrates that the Commission's Report is "statutorily non-conforming, constitutionally-violative, and the product of a tribunal disqualified for interest and actual bias" – and, indeed, that the Report's pay raise recommendations is a fraud upon the public "achieved by obliterating the existence of citizen opposition to any judicial pay raises, championed by [plaintiffs], and all the facts, law, and legal argument presented in support" (Opposition Report, at p. 1, underlining in the original).

4. Neither our State's highest constitutional officers to whom the Opposition Report was addressed – defendants CUOMO, SKELOS, SILVER, and LIPPMAN – nor any of the other constitutional and public officers to whom we thereafter turned to vindicate the People's rights based thereon, nor the Commissioners of the now defunct Commission on Judicial Compensation, nor the judges, lawyers, bar leaders, and others who are judicial pay raise advocates – have denied or

¹ Plaintiffs' October 27, 2011 Opposition Report, with its two-volume Compendium of Exhibits, is a free-standing exhibit to the Verified Complaint, incorporated therein by reference. The August 29, 2011 "Final Report" of the Special Commission on Judicial Compensation is also a free-standing exhibit.

disputed the Opposition Report's accuracy in any respect or that it warrants the relief therein requested:

- “(1) Legislation Voiding the Commission's Judicial Pay Recommendations;
- (2) Repeal of the Statute Creating the Commission;
- (3) Referral of the Commissioners to Criminal Authorities for Prosecution;
- (4) Appointment of a Special Prosecutor, Task Force, and/or Inspector General to Investigate the Documentary and Testimonial Evidence of Systemic Judicial Corruption, Infesting Supervisory and Appellate Levels and the Commission on Judicial Conduct – which the Commission on Judicial Compensation Unlawfully and Unconstitutionally Ignored, Without Findings, in Recommending Judicial Pay Raises”.

5. This is set forth by our Verified Complaint, at ¶¶109-127, under the title heading “Commission on Judicial Compensation's August 29, 2011 ‘Final Report’ & Plaintiffs' October 27, 2011 Opposition Report”.

6. Culminating this section of our Verified Complaint is a description of plaintiffs' March 2, 2012 letter to defendant constitutional officers, entitled:

“YOUR FINDINGS OF FACT & CONCLUSIONS OF LAW: Protecting the People of this State & the Public Purse from Judicial Pay Raises that are Unconstitutional, Unlawful, & Fraudulent”.

It requested that they “advise as to [their] findings of fact and conclusions of law” with respect to the Opposition Report, and to confirm that they would be “taking action, consistent therewith, to protect the People of this State and the public purse from the succession of constitutional and statutory violations therein particularized”. This March 2, 2012 letter is the Verified Complaint's final exhibit, Exhibit Q.

7. There has been no response from defendants to plaintiffs' March 2, 2012 letter – including to its assertion (at p. 2) that evident from such findings of fact and conclusions of law as

they would have made is “the merit of our Opposition report in establishing *prima facie* constitutional and statutory violations, in addition to fraud perpetrated on the People of the State.”

8. Notwithstanding the high evidentiary and legal burden that plaintiffs are required to meet for the granting of a stay with TRO, our October 27, 2011 Opposition Report and March 2, 2012 letter make obvious that we have met that burden because defendants have no “merits” defense to our legal challenge to the Commission’s August 29, 2011 “Final Report”.

9. As defendants have had up to five months to make their findings of facts and conclusions of law with respect to our October 27, 2011 Opposition Report, this Court must require that they come forward with such findings of fact and conclusions of law, NOW, at the Court’s hearing on the TRO. Certainly, this is not a situation where defendants need time to give a “merits” response to the October 27, 2011 Opposition Report. They have had more than ample time, as the clock ticked away each succeeding month to April 1, 2012. This includes defendant SCHNEIDERMAN, whose office has two copies of the Opposition Report, as recited by footnote 1 and page 4 of the March 2, 2012 letter.

10. Defendant SCHNEIDERMAN, in particular, must be required to disgorge his findings of fact and conclusions of law at the Court’s hearing of this TRO, since his failure to do so in response to our March 2, 2012 letter has resulted in our being unfairly burdened with having to bring this lawsuit, which was his obligation to bring, pursuant to Executive Law §63.1. As highlighted by our March 2, 2012 letter (at p. 3), such findings of fact and conclusions of law as defendant SCHNEIDERMAN would have made would have established his duty, pursuant to Executive Law §63.1, to have undertaken this lawsuit, with an “injunction on the People’s behalf”.

11. On Tuesday, March 27, 2012, after calling this Court’s Office of the Self-Represented and confirming proper procedure for bringing an order to show cause for a stay with TRO, I

telephoned defendant SCHNEIDERMAN's office to advise that in the absence of any response from defendant SCHNEIDERMAN and the other defendants to our March 2, 2012 letter, we had no choice but to compel their response by this lawsuit and that, in addition to challenging the constitutionality of the Chapter 567 of the Laws of 2010 – for which we were required to give the Attorney General notice – I was also giving notice that a stay and TRO would be sought by order to show cause.

12. I spoke initially with Assistant Attorney General Joel Graber, Esq. and, shortly thereafter, with Assistant Attorney General Lisa Dell, who is Deputy Bureau Chief of the Litigation Bureau and has a rotation this week handling emergency applications brought on by orders to show cause. She spoke with me on speakerphone with Assistant Attorney General Roderick Arz and in a lengthy conversation, I apprised them that the October 27, 2011 Opposition Report is not just dispositive of plaintiffs' entitlement to a stay, with TRO, but to summary judgment.

13. Only because issue has not been joined, as CPLR §3212 requires, are plaintiffs not simultaneously moving for summary judgment in conjunction with this TRO/stay application. However, should defendant SCHNEIDERMAN respond to this order to show cause by a CPLR §3211 dismissal motion – as the then attorney general defendant CUOMO apparently did in *Mary McKinney, et al. v. Commissioner of the New York State Department of Health, et al.*, 15 Misc.3d 743 (Supreme Court/Bronx Co. 2007), a case whose citations I provided Assistant Attorney General Dell on March 27th because it is included in our cause of action addressed to the unconstitutionality of Chapter 567 of the Law of 2010, *as written* – plaintiffs will seek conversion of their motion to summary judgment in their favor pursuant to CPLR §3211(c).

14. To enable the Attorney General's Office to be fully prepared for this Court's hearing today on the TRO application, including by having, on hand, defendant SCHNEIDERMAN'S

finding of facts and conclusions of law, I e-mailed this order to show cause to Assistant Attorneys General Dell and Arz on Wednesday, March 28th and then again yesterday, together with the Verified Complaint.

15. On Wednesday, March 28th, I also e-mailed this order to show cause to the other defendants, with notice that if they intend to oppose the TRO that they be prepared to produce their findings of fact and conclusions of law. I furnished them with the order to show cause again yesterday – and likewise with the Verified Complaint. Attached are the e-mails I sent, stating, *inter alia*:

“We have not had any response from you, our highest constitutional officers of our three government branches, or from any other public officers to our March 2, 2012 letter entitled ‘YOUR FINDINGS OF FACT & CONCLUSIONS OF LAW: Protecting the People of this State & the Public Purse from Judicial Pay Raises that are Unconstitutional, Unlawful, & Fraudulent’...

Consequently, to protect the People of New York and the public purse, we are doing your job by commencing a lawsuit to stop the judicial pay raises based on our October 27, 2011 Opposition Report to the ‘Final Report’ of the Special Commission on Judicial Compensation.

...

THIS IS TO GIVE YOU NOTICE that if you intend to oppose the stay..., you will be expected to produce your findings of fact and conclusions of law with respect to CJA’s October 27, 2011 Opposition Report. As stated by our March 2nd letter (at p. 2), your findings of fact and conclusions of law should have made evident to you ‘the merit of our Opposition Report in establishing, prima facie constitutional and statutory violations, in addition to fraud perpetrated on the People of the State...’ (March 28, 2012 e-mail, 1:13 p.m., underlining in the original).

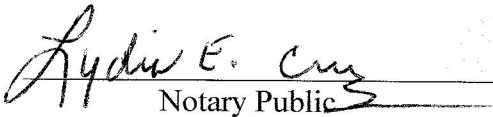
16. One further point weighing in plaintiffs’ favor in “balancing the equities” and granting the TRO – which I discussed with Assistant Attorney General Dell – and that is the no-diminishment clause of Article VI, §25(a) of the State Constitution. Notwithstanding the recommended pay raises are unconstitutional, statutorily violative, and fraudulent, it might be cynically contended that removing them, once they have become effective, is a proscribed diminishment.

17. Obviously, this Court, as any, has a direct financial interest in the outcome of this action, beginning with the TRO – and is not disqualified only because of the “rule of necessity”, holding that where all are disqualified, none are disqualified. That being so, this Court’s obligation is to act in a manner that will minimize the actuality of its self-interest, as for instance, by scrupulously adhering to evidentiary and legal standards in determining the issues before it – and by rendering reasoned decisions,² addressed to the facts and law which plaintiffs have presented.

18. The first of this Court’s reasoned decisions, occasioned by plaintiffs’ order to show cause, is on the issue of “likelihood of success on the merits” and the proof thereof before the Court: most importantly, plaintiffs’ October 27, 2011 Opposition Report, their March 2, 2012 letter, and the findings of fact and conclusions of law, which defendants were on notice to produce for the Court’s hearing and evaluation of plaintiffs’ entitlement to TRO relief.


ELENA RUTH SASSOWER

Sworn to before me this
30th day of March 2012


Notary Public

² As to the importance of reasoned decisions, see *Nadle v. L.O. Realty Corp*, 286 AD2d 130, 735 NYS2d 1 (1st Dept. 2001):

“...we now take this opportunity to explain the basis for our insistence on the inclusion of the reasoning underlying a ruling. First of all, as the Third Department has had occasion to note:

Written memoranda assure the parties that the case was fully considered and resolved logically in accordance with the facts and law. Indeed, written memoranda may serve to convince a party that an appeal is unlikely to succeed or to assist this court when considering procedural and substantive issues when appealed.

(*Dworesky v. Dworesky*, 152 A.D. 2d 895, 896.) In addition to the potential benefits to the litigants, the inclusion of the court’s reasoning is necessary from a societal standpoint in order to assure the public that judicial decision making is reasoned rather than arbitrary.”

CENTER *for* JUDICIAL ACCOUNTABILITY, INC.*

Post Office Box 3002
Southampton, New York 11969

Tel. (631) 377-3583

E-Mail: cja@judgewatch.org
Website: www.judgewatch.org

Election Day, November 8, 2011

EXECUTIVE SUMMARY

OPPOSITION REPORT TO THE “FINAL REPORT OF THE SPECIAL COMMISSION ON JUDICIAL COMPENSATION”

On August 29, 2011, the Special Commission on Judicial Compensation rendered a “Final Report” to Governor Andrew Cuomo, Temporary Senate President Dean Skelos, Assembly Speaker Sheldon Silver, and Chief Judge Jonathan Lippman recommending a 27% salary increase for New York State judges over the next three years.

These salary recommendations will automatically become law and cost New York taxpayers hundreds of millions of dollars – unless overridden by the Legislature by April 1, 2012. Nevertheless, NONE of New York’s bar associations, scholars, funded “good government” organizations, or media have critically examined the Commission, its Report, or the Court of Appeals’ February 23, 2010 decision in the judiciary’s judicial compensation lawsuits against the Governor and Legislature that propelled enactment of the statute creating the Commission.

Such critical examination has been done, however, by the unfunded, non-partisan, non-profit citizens’ organization, Center for Judicial Accountability, Inc. (CJA). Embodied in an October 27, 2011 Opposition Report, it demonstrates that the Commission’s Report is “statutorily non-conforming, constitutionally violative, and the product of a tribunal disqualified for interest and actual bias”. Indeed, it demonstrates that the Commission’s Report is a “fraud upon the public”, achieved by concealing the citizen opposition to any judicial pay raises, championed by CJA, and all the facts, law, and legal argument presented in support.

Based thereon, CJA’s Opposition Report calls upon the Governor, Temporary Senate President, Assembly Speaker, and Chief Judge – to whom it is addressed – to secure:

- (1) legislative override of the Commission’s judicial pay recommendations;
- (2) repeal of the statute creating the Commission;
- (3) referral of the Commissioners to criminal authorities for prosecution; and
- (4) appointment of a special prosecutor, task force, and/or inspector general to investigate the documentary and testimonial evidence of systemic judicial corruption, which the Commission unlawfully and unconstitutionally ignored,

* **Center for Judicial Accountability, Inc. (CJA)** is a national, non-partisan, non-profit citizens’ organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

without findings, in order to recommend judicial pay raises.

CJA's constitutional challenge to the Commission's pay raise recommendations is based on CJA's analysis of Article VI of the New York State Constitution, as drawn from the Court of Appeals' February 23, 2010 decision – an analysis which CJA placed before the Commission three weeks before its August 29, 2011 Report. It demonstrated that any increase in judicial compensation is unconstitutional, absent predicate findings that New York state judges are discharging their duties to render fair and impartial justice and that mechanisms are in place and functioning to remove corrupt judges. The Commission's Report makes no such findings and conceals the analysis, whose accuracy it does not dispute (at pp. 1, 3, 10-13).

CJA raises a ***further constitutional challenge*** in questioning whether, without a constitutional amendment, it was constitutional for the legislature and executive branches to delegate judicial compensation to an appointed commission whose recommendations do not require affirmative legislative and executive action to become law – which is what they did by the statute creating the Commission (at fn. 2).

The Commission's statutory violations, particularized by CJA's Opposition Report, are:

- (1) ***In violation of the Commission statute***, the Commission's judicial pay raise recommendations are unsupported by any finding that current “pay levels and non-salary benefits” of New York State judges are inadequate (at pp. 1, 16, 31);
- (2) ***In violation of the Commission statute***, the Commission examines only judicial salary, not “compensation and non-salary benefits” (at pp. 18-21, 25-31);
- (3) ***In violation of the Commission statute***, the Commission does not consider “all appropriate factors” – a violation it attempts to conceal by transmogrifying the statutory language “all appropriate factors” to “a variety of factors” (at pp. 4-5, 21);
- (4) ***In violation of the Commission statute***, the Commission makes no findings as to five of the six statutorily-listed “appropriate factors” it is required to consider (at pp. 21, 23-24);
- (5) ***In violation of the Commission statute***, the Commission does not consider and makes no findings as to “appropriate factors” presented by CJA's citizen opposition as discrediting New York's judges from any pay raise – whose appropriateness is uncontested by the Commission and judicial pay raise advocates. Among these:
 - (a) evidence of systemic judicial corruption, infesting appellate and supervisory levels and the Commission on Judicial Conduct – demonstrated as a constitutional bar to raising judicial pay (at pp. 10-13); and
 - (b) the fraudulence of claims put forward to support judicial pay raises by judicial pay advocates (at pp. 13-15), including their concealment of pertinent facts, *inter alia*:

- (i) that New York's state-paid judges are not civil-service government employees, but "constitutional officers" of New York's judicial branch;
- (ii) that the salaries of all New York's "constitutional officers" have remained unchanged since 1999 – the Governor, Lieutenant Governor, Attorney General, and Comptroller, who are the "constitutional officers" of our executive branch – and the 62 Senators and 150 Assembly members who are the "constitutional officers" of our legislative branch;
- (iii) that the compensation of New York's judicial "constitutional officers" is comparable, if not superior, to the compensation of New York's executive and legislative "constitutional officers", with the judges enjoying incomparably superior job security;
- (iv) that New York's executive and legislative "constitutional officers" have also suffered the ravages of inflation, could also be earning exponentially more in the private sector; and also are earning less than some of their government-paid staff and the government employees reporting to them;
- (v) that as a co-equal branch, the same standards should attach to pay increases for judges as increases for legislators and executive branch officials – *to wit*, deficiencies in their job performance and governance do not merit pay raises;
- (vi) that outside the metropolitan New York City area, salaries drop, often markedly – as reflected by the county-by-county statistics of what New York lawyers earn – and there is no basis for judges in most of New York's 62 counties to be complaining as if they have suffered metropolitan New York City cost-of-living increases, when they have not, or to receive higher salaries, as if they have;
- (vii) that New York judges enjoy significant "non-salary benefits";
- (viii) that throughout the past 12 years of "stagnant" pay, New York judges have overwhelmingly sought re-election and re-appointment upon expiration of their terms – and there is no shortage of qualified lawyers eager to fill vacancies;
- (ix) that the median household income of New York's 19+ million people is \$45,343 – less than one-third the salary of New York Supreme Court justices.

These concealments – hallmarks of the judicial compensation lawsuits and of the Court of Appeals February 23, 2010 decision purporting a judicial pay raise “crisis” and separation of powers violation by the Legislature and Governor in “linking” judicial salaries to legislative salaries – are all replicated by the Commission’s Report. In so doing, it simultaneously covers up the fraudulence of the lawsuits and that decision.

As set forth by the Opposition Report:

- judges have NO constitutional entitlement to cost of living increases (at pp. 34-35);
- there is NO separation of powers constitutional violation by “linkage” (at fn. 9); and
- the Commission’s recommended judicial pay raise distorts and skews the appropriate symmetry in pay of the “constitutional officers” of New York’s co-equal government branches (at pp. 36-37).

Beyond the actual bias of the Commissioners, proven by their constitutionally, statutorily, and evidentiarily-violative Report, the Opposition Report also identifies (at pp. 15-17) the disqualifying interest of several Commissioners – beginning with Chairman William C. Thompson, Jr. As highlighted (at pp. 2, 10, 13, 15), Chairman Thompson was the subject of a written application for his disqualification for interest, presented by CJA promptly upon his appointment to the Commission, which neither he nor the Commission determined in face of notice that the Commission could not lawfully proceed until that threshold issue was ruled upon. Such is itself grounds for voiding the Commission’s judicial pay raise recommendations.

So that the Governor, Temporary Senate President, Assembly Speaker, and Chief Judge may have the assistance of the Commissioners and of judicial pay advocates in discharging their mandatory duties to protect the People of New York, CJA’s Opposition Report identifies, in its “Conclusion” (at p. 37), that it is being furnished to the Commissioners, as well as to judicial pay raise advocates, so that they may have the opportunity to rebut it, if they can.

The “Conclusion” (at p. 37) also looks ahead to the 2012 elections, when every member of New York’s Senate and Assembly is up for re-election, and lays out an agenda of citizen action to “vindicate the public’s rights by making judicial pay raises and judicial accountability the decisive election issues they rightfully are”, in the event the Governor, Temporary Senate President, Assembly Speaker, and Chief Judge fail to act. As stated:

“Voters will find it easy to embrace so self-evident a proposition [**‘NO PAY RAISES FOR NYS JUDGES WHO CORRUPT JUSTICE – THE MONEY BELONGS TO THE VICTIMS!’**], as likewise CJA’s further position that the money be used to rehire the hundreds of court employees terminated to save money and to staff new judgeships whose creation is warranted by caseload levels far exceeding capacity.”

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) [elena@judgewatch.org]
Sent: Thursday, March 29, 2012 3:43 PM
To: 'wendy.merton@exec.ny.gov'; 'katie.sherwin@exec.ny.gov'; 'skelos@nysenate.gov'; 'burman@nysenate.gov'; 'garvey@nysenate.gov'; 'searlesa@assembly.state.ny.us'; 'silver@assembly.state.ny.us'; 'speaker@assembly.state.ny.us'; 'mmone@courts.state.ny.us'; 'jross@courts.state.ny.us'; 'eric.schneiderman@ag.ny.gov'; 'Joel.Grabber@ag.ny.gov'; 'lisa.dell@ag.ny.gov'; 'roderick.arz@ag.ny.gov'; 'william.schaeffer@ag.ny.gov'; 'stacy.aronowitz@ag.ny.gov'; 'Sampson@senate.state.ny.us'; 'spotts@senate.state.ny.us'; 'taliaoren.senate@gmail.com'; 'budgetdirector@budget.ny.gov'; 'dob.sm.press@nysemail.state.ny.us'; 'adryan@osc.state.ny.us'
Subject: VERIFIED COMPLAINT & OSC for STAY with TRO: Lawsuit vs Unconstitutional, Unlawful & Fraudulent Judicial Pay Raises
Attachments: verified-complaint-3-29-12.pdf; osc-with-affidavit-3-29-12.pdf

Dear Governor Cuomo, Temporary Senate President Skelos, Assembly Speaker Silver, & Chief Judge Lippman –
Attorney General Schneiderman, Comptroller DiNapoli, Senate Minority Leader Sampson, & Budget Director Megna,

Due to technological & mechanical problems, our order to show cause with TRO to stop the judicial pay raises will be presented to the Court tomorrow morning. Attached is the Summons and Verified Complaint in the lawsuit, to be commenced tomorrow. Also attached is the order to show cause, with my moving affidavit, which will be modified to reflect that it is being presented tomorrow, not today.

Unfortunately, due to our technological difficulties, I am not able to post on our website. However, here's the link to our webpage for our October 27, 2011 Opposition Report, which posts, as well, the relevant correspondence – most importantly our March 2, 2012 letter. <http://www.judgewatch.org/web-pages/judicial-compensation/opposition-report.htm>

Needless to say, the day's delay furnishes you additional time to furnish your findings of fact and conclusions of law for our October 27, 2011 Opposition Report to Assistant Attorney General Roderick Arz, who will be appearing in Court tomorrow.

Elena Sassower
 718-708-5303

From: Center for Judicial Accountability, Inc. (CJA) [mailto:elena@judgewatch.org]
Sent: Wednesday, March 28, 2012 4:40 PM
To: 'wendy.merton@exec.ny.gov'; 'katie.sherwin@exec.ny.gov'; 'skelos@nysenate.gov'; 'burman@nysenate.gov'; 'garvey@nysenate.gov'; 'searlesa@assembly.state.ny.us'; 'silver@assembly.state.ny.us'; 'speaker@assembly.state.ny.us'; 'mmone@courts.state.ny.us'; 'jross@courts.state.ny.us'; 'eric.schneiderman@ag.ny.gov'; 'Joel.Grabber@ag.ny.gov'; 'lisa.dell@ag.ny.gov'; 'roderick.arz@ag.ny.gov'; 'william.schaeffer@ag.ny.gov'; 'stacy.aronowitz@ag.ny.gov'; 'Sampson@senate.state.ny.us'; 'spotts@senate.state.ny.us';

3/30/2012

'taliaoren.senate@gmail.com'; 'budgetdirector@budget.ny.gov'; 'dob.sm.press@nysemail.state.ny.us';
'adryan@osc.state.ny.us'; 'investigations@osc.state.ny.us'

Subject: GIVING NOTICE: Order to Show Cause for Stay & TRO: Lawsuit vs Unconstitutional, Unlawful
& Fraudulent Judicial Pay Raises

**Dear Governor Cuomo, Temporary Senate President Skelos, Assembly Speaker Silver, &
Chief Judge Lippman –**

**Attorney General Schneiderman, Comptroller DiNapoli, Senate Minority Leader
Sampson, & Budget Director Megna,**

Following up my below e-mail, attached is the (not yet finalized) order to show cause for a stay,
with TRO, of the judicial pay raises and my moving affidavit to be presented in court tomorrow.
The finalized version will be sent early tomorrow morning, as likewise the verified complaint

Elena Sassower, Director
Center for Judicial Accountability, Inc (CJA)
718-708-5303

From: Center for Judicial Accountability, Inc. (CJA) [mailto:elena@judgewatch.org]

Sent: Wednesday, March 28, 2012 1:13 PM

To: 'wendy.merton@exec.ny.gov'; 'katie.sherwin@exec.ny.gov'; 'skelos@nysenate.gov';
'burman@nysenate.gov'; 'garvey@nysenate.gov'; 'searlesa@assembly.state.ny.us';
'silver@assembly.state.ny.us'; 'speaker@assembly.state.ny.us'; 'mmone@courts.state.ny.us';
'jross@courts.state.ny.us'; 'eric.schneiderman@ag.ny.gov'; 'Joel.Grabner@ag.ny.gov';
'lisa.dell@ag.ny.gov'; 'roderick.arz@ag.ny.gov'; 'william.schaeffer@ag.ny.gov';
'stacy.aronowitz@ag.ny.gov'; 'Sampson@senate.state.ny.us'; 'spotts@senate.state.ny.us';
'taliaoren.senate@gmail.com'; 'budgetdirector@budget.ny.gov'; 'dob.sm.press@nysemail.state.ny.us';
'adryan@osc.state.ny.us'; 'investigations@osc.state.ny.us'

Subject: GIVING NOTICE: Lawsuit being commenced to stop the judicial pay raises

**Dear Governor Cuomo, Temporary Senate President Skelos, Assembly Speaker Silver, &
Chief Judge Lippman –**

**Attorney General Schneiderman, Comptroller DiNapoli, Senate Minority Leader
Sampson, & Budget Director Megna,**

✓ We have not had any response from you, our highest constitutional officers of our three
government branches, or from any other public officers to our March 2, 2012 letter entitled
"YOUR FINDINGS OF FACT & CONCLUSIONS OF LAW: Protecting the People of this
State & the Public Purse from Judicial Pay Raises that are Unconstitutional, Unlawful, &
Fraudulent", sent by the below e-mail, with the letter attached.

Consequently, to protect the People of New York and the public purse, we are doing your job by
commencing a lawsuit to stop the judicial pay raises based on our October 27, 2011 Opposition
Report to the "Final Report" of the Special Commission on Judicial Compensation.

Tomorrow we will be going to Supreme Court/Bronx County, buying an index # and RJI for our
verified complaint – and taking it before a judge with an order to show cause for a stay and TRO
to prevent the judicial pay raises from becoming law on April 1, 2012.

3/30/2012

The caption of the case is:

CENTER FOR JUDICIAL ACCOUNTABILITY, INC. and ELENA RUTH SASSOWER, individually, and as Director of the Center for Judicial Accountability, Inc, acting on their own behalf and on behalf of the People of the State of New York & the Public Interest, v.

ANDREW M. CUOMO, in his official capacity as Governor of the State of New York, ERIC T. SCHNEIDERMAN, in his official capacity as Attorney General of the State of New York, THOMAS DiNAPOLI, in his official capacity as Comptroller of the State of New York, DEAN SKELOS, in his official capacity as Temporary President of the New York State Senate, THE NEW YORK STATE SENATE, SHELDON SILVER, in his official capacity as Speaker of the New York State Assembly, THE NEW YORK STATE ASSEMBLY, JONATHAN LIPPMAN, in his official capacity as Chief Judge of the State of New York, the UNIFIED COURT SYSTEM, and THE STATE OF NEW YORK.

THIS IS TO GIVE YOU NOTICE that if you intend to oppose the stay at tomorrow's hearing before the judge, you will be expected to produce your findings of fact and conclusions of law with respect to CJA's October 27, 2011 Opposition Report. As stated by our March 2nd letter (at p. 2), your findings of fact and conclusions of law should have made evident to you "the merit of our Opposition Report in establishing, *prima facie*, constitutional and statutory violations, in addition to fraud perpetrated on the People of the State".

Later today we will e-mail you our draft order to show cause for a stay with TRO – so that you can prepare accordingly. Early tomorrow we will send you the finalized order to show cause – as well as the verified complaint, with a link to our website where it will all be posted.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
718-708-5303

From: Center for Judicial Accountability, Inc. (CJA) [mailto:elena@judgewatch.org]
Sent: Friday, March 02, 2012 3:14 PM
To: 'wendy.merton@exec.ny.gov'; 'katie.sherwin@exec.ny.gov'; 'skelos@nysenate.gov'; 'burman@nysenate.gov'; 'garvey@nysenate.gov'; 'searlesa@assembly.state.ny.us'; 'silver@assembly.state.ny.us'; 'speaker@assembly.state.ny.us'; 'mmone@courts.state.ny.us'; 'jross@courts.state.ny.us'
Cc: 'eric.schneiderman@ag.ny.gov'; 'Joel.Grabber@ag.ny.gov'; 'william.schaeffer@ag.ny.gov'; 'stacy.aronowitz@ag.ny.gov'; 'Sampson@senate.state.ny.us'; 'spotts@senate.state.ny.us'; 'taliaoren.senate@gmail.com'; 'budgetdirector@budget.ny.gov'; 'dob.sm.press@nysemail.state.ny.us'; 'adryan@osc.state.ny.us'; 'investigations@osc.state.ny.us'; 'eric.hornbeck@law360.com'
Subject: Your Findings of Fact & Conclusions of Law: Protecting the People of this State & the Public Purse from Judicial Pay Raises that are Unconstitutional, Unlawful, & Fraudulent

TO: Governor Andrew Cuomo

3/30/2012

SUPREME COURT OF STATE OF NEW YORK
BRONX COUNTY

----- X
CENTER FOR JUDICIAL ACCOUNTABILITY, INC.
and ELENA RUTH SASSOWER, individually and
as Director of the Center for Judicial Accountability, Inc,
acting on their own behalf and on behalf of the People
of the State of New York & the Public Interest,

Plaintiffs,

Index #

-against-

ANDREW M. CUOMO, in his official capacity
as Governor of the State of New York,
ERIC T. SCHNEIDERMAN, in his official capacity
as Attorney General of the State of New York,
THOMAS DiNAPOLI, in his official capacity
as Comptroller of the State of New York,
DEAN SKELOS, in his official capacity
as Temporary President of the New York State
Senate, THE NEW YORK STATE SENATE,
SHELDON SILVER, in his official capacity
as Speaker of the New York State Assembly,
THE NEW YORK STATE ASSEMBLY,
JONATHAN LIPPMAN, in his official capacity
as Chief Judge of the State of New York,
the UNIFIED COURT SYSTEM, and
THE STATE OF NEW YORK,

Defendants.

ORDER TO SHOW CAUSE FOR A STAY WITH TRO

ELENA RUTH SASSOWER, Plaintiff *Pro Se*
4901 Henry Hudson Parkway, Apartment 8M
Bronx, New York 10471
718-708-5303