SUPREME COURT OF STATE OF NEW YORK
ALBANY 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-

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

Defendants.

----------x

Index #1788-14

Affidavit in Reply & in Further Support of Plaintiffs' Motion

Oral Argument Requested

STATE OF NEW YORK)
WESTCHESTER COUNTY) ss.:

ELENA RUTH SASSOWER, being duly sworn deposes and says:

1. I am the above-named *pro se* individual plaintiff, fully familiar with all the facts, papers, and proceedings heretofore had. I submit this affidavit in reply to Assistant Attorney General Adrienne Kerwin's April 9, 2015 affirmation and memorandum of law in opposition to plaintiffs' March 31, 2015 motion for leave to supplement their verified complaint. I also submit this affidavit in further support of the motion – including the relief to which AAG Kerwin does not refer:

> "...an order by the Court disqualifying itself and vacating its October 9, 2014 decision and order by reason thereof, absent disclosure of facts bearing upon its financial interest and the appearance and actuality that it is not fair and impartial, pursuant to §100.3F of the Chief Administrator's Rules Governing Judicial Conduct." (notice of motion, p. 2)

2. Once again, AAG Kerwin disregards all cognizable standards by her advocacy before the Court, plainly secure in the knowledge that, once again, this Court will let her get away with everything. Apart from the material factual falsehoods on which her opposition rests,[1] AAG Kerwin does not deny or dispute the accuracy of my moving affidavit or plaintiffs' verified supplemental complaint in any respect. Indeed, because ¶8 of my moving affidavit identified that AAG Kerwin's opposition would have to confront:

- that the Court's purported dismissal of plaintiffs' first cause of action by its October 9, 2014 decision does not bar their fifth cause of action, set forth at ¶¶169-178 of the verified supplemental complaint];
- that the Court's purported dismissal of plaintiffs' second cause of action by its October 9, 2014 decision does not bar their sixth cause of action, set forth at ¶¶179-193of the verified supplemental complaint;
- the Court's purported dismissal of plaintiffs' third cause of action by its October 9, 2014 decision does not bar their seventh cause of action, set forth at ¶¶194-202 of the verified supplemental complaint,

---

[1] In addition to the material factual falsehoods hereinafter detailed, AAG Kerwin's "preliminary statement" in her memorandum of law falsely asserts that the complaint "challenge[s] the negotiation of the 2015-2015 (sic) Legislative and Judiciary budgets" (at p. 1, underlining added), implying that its challenge is to the tail end of the budget process. By contrast, ¶4 of her affirmation states "...the Complaint in this action challenges only the initial steps taken toward the enactment of the 2014-2015 Legislature and Judiciary budgets.", which is also false. This – and her ¶5, which further simplistically and inaccurately describes the complaint – are *verbatim* repetitions of what was set forth at ¶¶6-7 of her April 18, 2014 affirmation in support of defendants' dismissal motion and by her April 18, 2014 her memorandum of law (at p. 5), despite its having been objected to by plaintiffs' May 16, 2014 memorandum of law in support of their cross-motion for summary judgment and other relief (see, especially, pp. 4, 14).

neither her paltry affirmation nor her even paltrier memorandum of law refer to it, let alone deny or dispute the accuracy of its showing. Such makes her opposition not only frivolous, *as a matter of law*, but fraudulent.

3. Instead, ¶19 of AAG Kerwin's affirmation baldly purports that the October 9, 2014 decision (Exhibit 11-b)[2] has already found the fifth, sixth, and seventh causes of action of plaintiffs' verified supplemental complaint to be "legally insufficient to state a claim" by its determination with respect to the first, second, and third causes of action of plaintiffs' verified complaint. This is false – as is the similar assertion that the decision "dismissed plaintiffs' First, Second and Third Causes of Action as failing to state a claim", set forth in her memorandum of law ("Preliminary Statement", p. 1).

4. The October 9, 2014 decision did not find these causes of action "legally insufficient to state a claim". Apart from its ruling with respect to defendants Attorney General Schneiderman and State Comptroller DiNapoli,[3] the closest it came was its completely bald assertion that "itemization" was not justiciable – which it did without confronting any aspect of plaintiffs' legal showing to the contrary. The decision's dismissal of the balance of the first, second, and third causes of action, confined to cherry-picked and distorted allegations, is explicitly based on supposed "documentary evidence" furnished by AAG Kerwin, which the decision does NOT specify and which, in fact, does NOT exist. This is particularized by plaintiffs' fifth, sixth, and seventh causes of action (¶¶174-175, 187, 200).

---

[2] Annexed to plaintiffs' verified supplemental complaint.

[3] As to these two defendants, the decision baldly asserts that they are "entitled to dismissal of the action in its entirety as plaintiffs' complaint does not adequately state a single cause of action as to either defendant." (at p. 6). As with everything else, such is without identifying, let alone confronting, plaintiffs' showing to the contrary, set forth at pp. 22-26 of their May 16, 2014 memorandum of law.

5. Contrary to the impression created by ¶¶10-16 of AAG Kerwin's affirmation, the fifth, sixth, and seventh causes of action (¶¶169-202) are not identical to the first, second, and third causes of action. Rather, their content is primarily an explication of why each cause is not barred by the October 9, 2014 decision. This showing is entirely uncontested by AAG Kerwin.

6. The uncontested facts and law presented by plaintiffs' fifth, sixth, and seventh causes of action (¶¶169-202) overwhelmingly put the lie to AAG Kerwin's two-paragraph Point I of her memorandum of law entitled "Plaintiffs' Effort to Supplement the Complaint with the Proposed Fifth, Sixth and Seventh Causes of Action would be Futile". The second of its two paragraphs – which is where its limited facts are, relies on, but does not identify, the October 9, 2014 decision. It reads, in full:

> "In this case, the court has already determined that the allegations in plaintiffs' proposed Fifth, Sixth and Seventh Causes of Acton (sic) are legally insufficient to state a claim. See Kerwin aff. at Exh. B. Since these claims would be dismissed in the same way that the First, Second and Third Causes of Action in the original complaint were dismissed, plaintiffs' motion for leave to supplement the complaint should be denied." (underlining added).

7. As hereinabove recited, the October 9, 2014 decision does not dismiss the first, second, and third causes of action as "legally insufficient to state a claim" – and furnishes no basis for the fifth, sixth, and seventh causes of action to be "dismissed in the same way". Nor is dismissal "appropriate" in a declaratory judgment action, such as this, which requires declarations – a fact pointed out by plaintiffs' fifth, sixth, and seventh causes of action (at ¶¶171-172, 181, 196). This, over and beyond the fact that AAG Kerwin's April 18, 2014 motion to dismiss for failure to state a cause of action was directed to the complaint "in its entirety", thereby precluding dismissal of the first, second, and third causes of action, while preserving the fourth cause of action. As pointed out

by plaintiffs' May 16, 2014 memorandum of law, quoting the Third Department in *Huntsman Chemical Corporation, et al v. Tri/Insul Company, Inc.*, 183 AD2d 1002 (1992):

> "...a motion will be denied in its entirety where the complaint asserts several causes of action, at least one of which is legally sufficient and where the motion is aimed at the pleadings as a whole without particularizing the specific causes of action sought to be dismissed (*Halpern v Halpern*, 109 AD2d 818, 819)."

8. As for the eighth cause of action of plaintiffs' verified supplemental complaint – paralleling the fourth cause of action of their verified complaint – AAG Kerwin's Point I omits any reference to it, thereby conceding, *as a matter of law*, that it would not be "futile" to supplement the verified complaint to include it.

9. AAG Kerwin makes the eighth cause of action the exclusive subject of Point II of her memorandum of law. Entitled "Permitting Plaintiffs to Supplement the Complaint with the Proposed Eighth Cause of Action Would Not Promote Judicial Economy", it contains at least three material falsehoods and no law supporting her opposition. Its six sentences read in full:

> "This case has been pending for over a year. The existing scheduling order provides that discovery was to end on March 20, 2015, and that dispositive motions are due May 22, 2015. If the plaintiffs are permitted to supplement the complaint to include claims relating to a budget process that occurred a year after the one at issue in this case, discovery will essentially need to start over. Such a result is unreasonable and prejudicial because a claim analyzing an entirely different budget process necessarily arises out of materially different facts than those relating to last year's budget process. Koenig v. Action Target, Inc., 76 AD3d 997 (2d Dept 2010)(amendment that arises out of materially different facts prejudices the opposing party). If plaintiffs wish to challenge the 2015-16 budget process, they should be required to commence a new action."

10. The first falsehood of AAG Kerwin's six-sentence Point II relates to the posture of the case: that discovery has been completed and that the case is nearing conclusion, as to which AAG Kerwin's affirmation similarly stated:

> "The existing scheduling order provides that discovery was to end on March 20, 2015, and that dispositive motions are due May 22, 2015. A copy of the scheduling order is annexed hereto as Exhibit D." (at ¶20).

11. In fact, discovery in this case has not only not been completed, it has been completely sham. This is why AAG Kerwin fails to recite ANY facts pertaining to discovery – let alone to append the pertinent discovery documents or correspondence. Indeed, AAG Kerwin's affirmation so conceals the actual posture of the case that it does not append defendants' November 5, 2014 answer to the verified complaint that its ¶9 purports is its Exhibit C. Rather, it annexes as its Exhibit C the so-ordered scheduling order between the parties, purported by its ¶20 to be its Exhibit D.

12. Defendants' missing answer, signed and verified by AAG Kerwin, is herewith annexed (Exhibit C).[4] Not only is it utterly sham, but plaintiffs demonstrated it as such by their December 8, 2014 interrogatory questions and document demand (Exhibit E), whose Part IV (at pp. 8-13) furnishes an analysis of the answer. This includes of the answer's denials of nine paragraphs of plaintiffs' fourth cause of action. Set forth by #28 of plaintiffs' interrogatory questions and document demand (Exhibit E, p. 9), it reads:

> "28. Defendants' Answer, by its ¶5, states that defendants:
>
> > "Deny the allegations contained in paragraphs 5, 15, 18, 19, 114, 116, 117, 118, 119, 120, 121, 125, 126."
>
> This bald denial is sham and would not enable defendants to move for summary judgment, as it does not meet the particularized allegations of the 13 paragraphs of the Complaint it purports to deny – 9 of which are within the Complaint's Fourth Cause of Action: 'Nothing Lawful or Constitutional Can Emerge From a Legislative Process that Violates its Own Statutory & Rule Safeguards' (¶¶114-126). Consequently, this Interrogatory Question #28 calls upon defendants to substantiate their bald and provably false denials of these 13 paragraphs, as follows:

---

[4] The exhibits annexed to this reply affidavit (Exhibits C-G) continue the sequence begun by my March 31, 2015 moving affidavit, which annexed Exhibits A and B.

As to ¶114: furnish facts demonstrating that defendant legislators did not willfully and deliberately violate express statutory and rule provisions with respect to defendant Governor's Legislative/Judiciary Budget Bill #S.6351/A.8551;

As to ¶¶116-117: furnish facts demonstrating that defendant legislators did not violate Legislative Law §32-a by ignoring, without response, plaintiff Sassower's repeated phone calls and written requests to testify – 'with full knowledge that her testimony was not only serious and substantial, but dispositive', violating both plaintiffs' right to be heard and the public's right to hear with respect to the Judiciary and Legislative budgets and the Commission to Investigate Public Corruption;

As to ¶118: furnish facts demonstrating that defendant legislators did not willfully and deliberately violate their own rules, as for instance, pertaining to fiscal notes and introducer's memoranda (Senate Rule VIII, §7, Senate Rule VII, §1 and Assembly Rule III, §1(f), so as to unconstitutionally conceal from taxpayers the dollar amounts of Judiciary and Legislative budgets they do not know or will not reveal;

As to ¶119: furnish facts demonstrating that defendant legislators did not violate such rules as Senate Rule VII, §4 'Title and body of bill', which, if complied with, would have prevented Budget Bill #S.6351/A.8551 from funding the third phase of the judicial salary increase and superseding Judiciary Law Article 7-B without identifying such fact;

As to ¶120: furnish facts demonstrating that defendant legislators did not violate all substantive and procedural Senate and Assembly rules designed to ensure legitimate legislative process, as for instance, committee votes (Senate Rule VIII, §5), in tossing Legislative/Judiciary Budget Bill #S.6351/A.8551 into resolutions commencing the joint budget conference 'process';

As to ¶¶121-123: furnish facts demonstrating that defendant legislators did not conceal their violations of legitimate legislative process and the public's rights by false declarations in introducing and fashioning their joint budget conference resolutions;

As to ¶124-125: furnish facts demonstrating that defendant legislators' joint budget conference 'process' was not sham and violative of legitimate legislative process;

As to ¶126: furnish facts demonstrating that 'behind-closed-door deal-making' by defendant Governor and legislative leaders does not

> violate Constitutional, statutory and Senate and Assembly rule provisions relating to openness, such as Article III, §10 of New York's Constitution; Public Officers Law, Article VI; Senate Rule XI, § 1; Assembly Rule II, §1."

13. AAG Kerwin's January 14, 2015 response to the inventory questions and document demand is annexed (Exhibit F). In responding to the above #28 (Exhibit F, pp. 13-14), AAG Kerwin deleted everything but the seven "As to…" paragraphs as "Extraneous commentary and argument" and, with respect to the seven "As to…" paragraphs, disposed of them, collectively, as follows:

> "**Response**: Object to the form. Further, the question is overbroad, unduly burdensome, harassing, argumentative and prohibited by the Speech or Debate Clause of the New York State Constitution. See N.Y. Const. art. III, §11. Defendants further object because information relating to this question is no longer at issue in this case pursuant to the court's October 9, 2014 Decision and Order." (Exhibit E, at p. 14).

14. To facilitate the Court's examination of AAG Kerwin's bald denials of nine paragraphs of plaintiffs' fourth cause of action (Exhibit C) – as to which her interrogatory response refused to furnish evidence (Exhibit F) – annexed is a "marked pleading" of the fourth cause of action, furnishing the allegations of its paragraphs, annotated by AAG Kerwin's answer to each (Exhibit D).

15. As for the correspondence which AAG Kerwin was duty-bound to recite, if not furnish, it is also annexed (Exhibit G). This correspondence is as follows:

- my February 4, 2015 letter to the Court (Exhibit G-1), advising that AAG Kerwin's January 14, 2015 response to plaintiffs' December 8, 2014 interrogatory questions and document demand consisted of a repetitive invocation of "the Speech or Debate Clause of the New York State Constitution" and assertions that the requested information and documents were "no longer at issue in this case pursuant to the court's October 9, 2014 Decision and Order"; that AAG Kerwin conceded that she would be identically responding at depositions; that she agreed with my suggestion that it would be useful to have a court conference before proceeding to depositions; and that we would each be available for such conference on February 27, 2015 in the 11:15 a.m. time-slot that the Court had open.

- The Court's February 18, 2015 letter to AAG Kerwin (Exhibit G-2), requesting she advise as to her "views on the necessity and/or value of a conference";

- AAG Kerwin's February 20, 2015 letter to the Court (Exhibit G-3), confirming the content of my February 4, 2015 letter; further asserting that defendants' position is that "the sole issue that remains to be litigated in this case is whether the requirements of Legislative Law 32-a were satisfied in connection with the 2013-2014 (sic) budget"; that "a majority of plaintiffs' discovery demands are unrelated to that single cause of action"; that "most of plaintiffs' discovery demands seek information protected by the Speech or Debate Clause of the New York State Constitution"; and concluding "If the court would prefer to address this discovery dispute by way of a formal motion instead of a conference, please so advise.";

- My February 23, 2015 e-mail to the Court and AAG Kerwin (Exhibit G-4), stating "Attached is my letter of today's date to the chairs and ranking members of the Senate and Assembly fiscal committees, to which you are indicated recipients because of its discussion of the verified complaint's fourth cause of action, Legislative Law 32-a, and the 'speech or debate clause'"[5];

- The Court's February 25, 2015 letter (Exhibit G-5), stating "the Court finds that formal motion practice would be the most efficient means to resolve the parties' discovery dispute."

16. Plaintiffs expect to make a formal motion to compel the discovery to which they are entitled. Meantime, from the annexed documents (Exhibits C, D, E, F, G) the Court can begin to discern for itself the mockery that AAG Kerwin made of discovery, as, likewise, of her purported verified answer to plaintiffs' verified complaint. Suffice to note that when AAG Kerwin responded to the Court's February 18, 2015 letter requesting her "views on the necessity and/or value of a conference", her February 20, 2015 letter to the Court asserted:

> "It is defendants' position that the only issue that remains to be litigated in this case is whether the requirements of Legislative Law 32-a were satisfied in connection with the 2013-14 (sic) budget. Notwithstanding, a majority of plaintiffs' discovery demands are

[5] The February 23, 2015 letter is Exhibit 8 to plaintiffs' verified supplemental complaint and is quoted, in full, at ¶152 thereof.

unrelated to that single cause of action." (Exhibit G-3, underlining added).

17. In other words, AAG Kerwin's February 20, 2015 letter to the Court was purporting that the fourth cause of action, preserved by the October 9, 2014 decision, was limited to Legislative Law 32-a – a fiction she replicates in her April 9, 2015 affirmation in opposition to this motion wherein she states:

> "The only claim to survive dismissal was plaintiffs' Fourth Cause of Action alleging that the defendants violated Legislative Law 32-a in connection with the negotiating of the 2014-2015 budget." (at ¶8)

This is false.

18. Apart from the plethora of statutory, rule, and constitutional violations embraced by the fourth cause of action, summarized by the declaration the verified complaint requests with respect thereto:

> "D. that Budget Bill #6351/A.8551 is a wrongful expenditure, misappropriation, illegal and unconstitutional because nothing lawful or constitutional can emerge from a legislative process that violates its own statutory & rule safeguards, *inter alia*, Legislative Law §32-a (public hearings); Senate Rule VIII, §7, Senate Rule VII, §1, and Assembly Rule III, §1(f) (fiscal notes and introducer's memoranda); Senate Rule VII, §4 ('Title and body of bill'); Assembly Rule III, 1, 8) 'Contents'; 'Revision and engrossing'; Senate Rule VIII, §§3, 4, 5; Assembly Rule IV (committee meetings, hearings, reports, votes); Senate Rule VII, 9 (resolutions); New York Constitution, Article III, §10 '...The doors of each house shall be kept open...' ; Public Officers Law, Article VI 'The legislature therefore declares that government is the public's business...'; Senate Rule XI, §1 'The doors of the Senate shall be kept open'; Assembly Rule II, §1 'A daily stenographic record of the proceedings of the House shall be made and copies thereof shall be available to the public', etc." (verified complaint/"Prayer for Relief", at p. 45)

– which the decision distills as "that the legislative process violated legislative statutory and rule safeguards" (at p. 5) – its ruling with respect to the fourth cause of action begins as follows:

> "Plaintiffs' complaint adequately sets forth a viable cause of action alleging, *inter alia*, that defendants violated Legislative Law §32-a regarding public hearings for New York's Budget...". (at p. 6, underlining added).

19. The second falsehood in AAG Kerwin's six-sentence Point II is its assertion that the discovery to which plaintiffs' verified supplemental complaint would entitle them would be:

> "unreasonable and prejudicial because a claim analyzing an entirely different budget process necessarily arises out of materially different facts than those relating to last year's budget process." (underlining added).

20. Tellingly, AAG Kerwin does not substantiate her bald-faced lie that the verified supplemental complaint presents an "entirely different budget process" for fiscal year 2015-2016 from fiscal year 2014-2015 or identify any of the supposedly "materially different facts" pertaining to them. This is not surprising as the verified supplemental complaint asserts and particularizes that the "budget process" for both fiscal years is identical and that the material facts are identical – with such highlighted at the very outset of my moving affidavit, as follows:

> "2. With the end of fiscal year 2014-2015 today, March 31, 2015, all the billions of taxpayer dollars of Budget Bill #S.6351/A.8551, whose disbursement plaintiffs sought to enjoin, will have been disbursed. Yet, although the Court can no longer grant the injunctive relief requested by ¶2 of the verified complaint's "PRAYER FOR RELIEF", its three other paragraphs can still be granted (Exhibit A).
>
> 3. ¶1 of plaintiffs' "PRAYER FOR RELIEF" – on which their three subsequent paragraphs rest – is the most important: declaratory judgment with respect to the unconstitutionality and unlawfulness of Budget Bill #S.6351/A.8551. And reinforcing plaintiffs' entitlement to this relief is the successor to Budget Bill #S.6351/A.8551 for fiscal year 2015-2016, Budget Bill #S.2001/A.3001, replicating, identically, ALL the constitutional, statutory, and rule violations of Budget Bill #S.6351/A.8551.
>
> 4. It is to furnish the Court with the relevant particulars about the identical constitutional, statutory, and rule violations of successor Budget Bill #S.2001/A.3001 – and to secure all available relief with respect thereto – that plaintiffs seek to supplement their verified complaint.

5. Picking up where ¶126 of the verified complaint leaves off,[fn] the verified supplemental complaint states, in its prefatory ¶129 and thereafter demonstrates by its content that:

> '129. Virtually all the constitutional, statutory, and rule violations detailed by the verified complaint pertaining to the Governor's Budget Bill #S.6351/A.8551 and the Legislature's and Judiciary's proposed budgets for fiscal year 2014-2015 are replicated by the Governor's Budget Bill #S.2001/A.3001 and the Legislature's and Judiciary's proposed budgets for 2015-2016. It is, as the expression goes, 'déjà vu all over again'". (underlining added).

21. The third falsehood in AAG Kerwin's six-sentence Point II is her final sentence that "If plaintiffs wish to challenge the 2015-16 budget process, they should be required to commence a new action". She furnishes not a single fact as to how this would "promote judicial economy". As she well knows, it would be duplicative and extremely wasteful for plaintiffs to commence a new action in view of the actual posture of this case vis-à-vis discovery and the fact that the "budget process" challenged herein is identical to the "budget process" challenged by the verified supplemental complaint. As stated at ¶14 of my moving affidavit, without contest from AAG Kerwin, any new taxpayer action that plaintiffs would commence with respect to Budget Bill #S.2001/A.3001 "doubtless would be referred to this Court as a related case". In fact, it would reasonably be consolidated with this case pursuant to CPLR §602(a):

> "When actions involving a common question of law or fact are pending before a court, the court, upon motion, may order a joint trial of any or all the matters in issue, may order the actions consolidated, and may make such other orders concerning proceedings therein as may end to avoid unnecessary costs and delay."

22. As for AAG Kerwin's single case in her Point II, *Koenig v. Action Target*, 76 AD3d 997 (2nd Dept 2010), it supports the granting of plaintiffs' motion because, at bar, identical facts and identical law pertain to both the verified complaint and verified supplemental complaint.

23. Indeed, underscoring that AAG Kerwin has neither facts nor law for her Point II opposition to supplementing the verified complaint with the eighth cause of action is *Perkins v. New York State Electric & Gas Co.*, 91 A.D.2d 1121 (1983), wherein, five months after a note of issue was filed, the Third Department nonetheless stated "The argument that further discovery will be necessary and more time will be expended to defend the...claim does not justify denial of the motion".

24. Notwithstanding *Perkins*, *supra,* plaintiffs are perfectly willing to limit themselves to a most circumscribed discovery with respect to their verified supplemental complaint, should the Court deem same to be a "just" term for its "freely given" granting of leave pursuant to CPLR §3025(b).

25. As AAG Kerwin's opposition presents neither facts nor law for the Court's denying plaintiffs leave to supplement the verified complaint, such reinforces that were the Court to nonetheless deny it, its duty is, as set forth at ¶10 of my moving affidavit, to not only give "particularized response to plaintiffs' fifth, sixth, seventh, and eighth causes of action (¶¶169-236) and the declaratory judgment they seek (at pp. 39-40), [but to] disclose facts bearing upon the Court's fairness and impartiality, pursuant to §100.3F of the Chief Administrator's Rules Governing Judicial Conduct." This includes disclosure with respect to the Court's financial interest and actual bias, detailed at ¶¶11-12 of my moving affidavit, without contest from AAG Kerwin.

26. Finally, this Court's duty is to protect the integrity of the judicial process and impose sanctions and penalties upon AAG Kerwin for her frivolous and fraudulent April 9, 2014 opposition, as hereinabove demonstrated, consistent with 22 NYCRR §130-1.1 *et seq.*, Judiciary Law §487, *et seq.*, and §100.3D(2) of the Chief Administrator's Rules Governing Judicial Conduct. Plaintiffs do

not need to avail themselves of a formal motion to request such relief, as it is a power that any fair and impartial tribunal recognizes.[6]

ELENA RUTH SASSOWER

Sworn to before me this
15th day of March 2015

Notary Public

PATRICIA U ROLDRIGUEZ
Notary Public - State of New York
NO. 01RO6196133
Qualified in Westchester County
My Commission Expires

22 NYCRR §130-1.1(d) expressly states: "An award of costs or the imposition of sanctions may be made…upon the court's own initiative, after a reasonable opportunity to be heard."

TABLE OF EXHIBITS

SUPREME COURT OF STATE OF NEW YORK
ALBANY 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 #1788-14

-against-

Justice McDonough

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

Defendants.

----------x

**AFFIDAVIT IN REPLY & IN FURTHER SUPPORT
OF PLAINTIFFS' MOTION FOR LEAVE
TO SUPPLEMENT VERIFIED COMPLAINT & OTHER RELIEF**

ELENA RUTH SASSOWER, Plaintiff *Pro Se*, individually
& as Director of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York &
the Public Interest

10 Stewart Place, Apartment 2D-E
White Plains, New York 10603
914-421-1200
elena@judgewatch.org