

## Center for Judicial Accountability, Inc. (CJA)

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**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Tuesday, April 18, 2017 4:25 PM  
**To:** 'tim@empirecenter.org'; 'ejm@empirecenter.org'  
**Cc:** 'mark@empirecenter.org'  
**Subject:** OPPORTUNITY/OBLIGATION -- citizen-taxpayer action: March 29, 2017 OSC for declaration of unconstitutionality & unlawfulness of NYS budget -- returnable April 28, 2017

**TO: EMPIRE CENTER FOR PUBLIC POLICY**

**ATT: Tim Hoefer, Executive Director  
E.J. McMahon, Research Director**

This follows my brief phone conversation a short time ago with Data Analyst Mark Walsh about CJA's unfolding citizen-taxpayer action challenging the constitutionality and lawfulness of the New York State budget. Here's the link to the webpage of CJA's March 29<sup>th</sup> order to show cause for a preliminary injunction, with TRO – the same webpage as I showed him during our conversation: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/9-2-16-osc-complaint/3-29-17-osc.htm>.

It will not take you long to review the March 29<sup>th</sup> order to show cause – and recognize its potential. For this reason, please call me after you review it so that I might have the benefit of your thoughts and judgment. I have no doubt that based on Article VII, §§4, 5, 6 of the New York State Constitution and the reinforcing Court of Appeals decisions in *Silver v. Pataki/Pataki v. Assembly & Senate*, 4 NY3d 75 (2004), and *New York State Bankers Association v. Wetzler*, 81 NY2d 98 (1993) – ALL posted on the webpage of the March 29<sup>th</sup> order to show cause – you will agree that the New York State budget is flagrantly “OFF THE CONSTITUTIONAL RAILS” and that the outcome of CJA's order to show cause – and of the citizen-taxpayer action on which it rests – must be summary judgment for the plaintiffs, AS A MATTER OF LAW.

I invite the Empire Center for Public Policy to have “a piece of the action” by filing an *amicus curiae* brief and/or by making a motion to intervene so that it might contribute its wider perspective and achieve, through the lawsuit, adjudications of the constitutional and legal dimensions of its own advocacy about the budget – so much of it ignored by New York's governors and legislators. Certainly, the Empire Center also has a bully-pulpit and can easily issue press statements about the case, as well as reach out to its large network of media and academic contacts so that the case receives both the press coverage and substantive scholarship it deserves.

The Empire Center for Public Policy has a powerful opportunity, if not obligation, to play a leadership role here, for the benefit of ALL New Yorkers. The order to show cause for declarations of unconstitutionality and unlawfulness of the New York State budget is OPEN & SHUT – and WE WILL WIN!

I look forward to your call.

Thank you.

Elena Sassower, Director  
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