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STATE OF NEW YORK  
SUPREME COURT

COUNTY OF ALBANY

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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-

Index No. 1788-14

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 Sate of New York,

Defendants.

-----  
- ORDER TO SHOW CAUSE -

BEFORE: HON. MICHAEL C. LYNCH  
Justice of the Supreme Court

Transcript of the Proceedings held on the record  
on March 28, 2014, at the Albany County Courthouse, Albany,  
New York.

*EX Y*

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APPEARANCES:

ELENA R. SASSOWER  
10 Stewart Place, Apt 2DE  
White Plains, NY 10603  
Pro Se Plaintiff

ERIC T. SCHNEIDERMAN  
Office of the Attorney General of the State of New York  
The Capitol  
Albany, NY 12224

By: ADRIENNE J. KERWIN, ESQ.  
and JAMES B. MCGOWAN, ESQ.  
Attorneys for Defendants

1           THE COURT: As the acting Part I judge today I have  
2           been presented with an Order To Show Cause with a stay  
3           for TRO. The action is captioned the Center for  
4           Judicial Accountability, Inc. and Elena Ruth Sassower,  
5           Individually and as Director of the Center.

6           It's against Andrew Cuomo as Governor, as well as  
7           various leaders of the State Legislature, the Attorney  
8           General, and the State Comptroller.

9           To begin, let me do this. Let me ask for  
10          appearances on the record.

11          MS. SASSOWER: Thank you. Elena Sassower. I'm  
12          appearing pro se, and let me just highlight that the  
13          caption identifies that I and the Center are acting on  
14          our own behalves and on behalf of the People of the  
15          State of New York and the public interest.

16          THE COURT: I appreciate that. I will get to the  
17          more specifics. I was just trying to get to the  
18          caption.

19          May I have appearances on behalf of the defendants?

20          MS. KERWIN: Sure. Adrienne Kerwin and Jim McGowan  
21          on behalf of all of the defendants for TRO purposes  
22          only.

23          THE COURT: Ma'am, I have to say it is -- well,  
24          that clock hasn't been changed due to Daylight Savings,

1 but it's five of four. The papers were presented to me  
2 at 3:30 and I did have a chance to quickly go through  
3 them.

4 I realize there is an action under State Finance  
5 Law Section 123, a Citizen Taxpayer Action, challenging  
6 the enactment, if you will, of this year's budget bill.  
7 There is also a request for a declaratory judgment and a  
8 request for a permanent injunction.

9 So the immediate issue to be addressed today is  
10 this proposed show cause application includes a TRO and  
11 that is what I would like to hear addressed in the  
12 courtroom this afternoon.

13 Miss Sassower, I will ask you if you would like an  
14 opportunity to address that issue.

15 MS. SASSOWER: Thank you, your Honor, yes.

16 In the first instance, I would like to identify  
17 that as a threshold question, perhaps not to be  
18 addressed this afternoon because of the small amount of  
19 time we have, but the threshold issue is our contention  
20 that the attorney general should be intervening here on  
21 behalf of the People of the State of New York and the  
22 public interest in this taxpayer action.

23 On the issue of the injunction, the TRO, the most  
24 important aspect with respect to the legislative budget,



1 and let's understand that the legislative budget is  
2 combined in a single bill with the judiciary budget.

3 Now, the constitution sets forth the procedure by  
4 which the two branches, the legislative and judicial  
5 branches, compile their budget. And what it says is  
6 itemized estimates of the financial needs. And each of  
7 those itemized estimates of financial needs is required  
8 to be certified.

9 With respect to the legislative budget, the wording  
10 is itemized estimates of the financial needs of the  
11 legislature certified by the presiding officer of each  
12 couch HOUSE.

13 Now, what was presented by Temporary President  
14 Skelos and Assembly Speaker Silver under a cover letter  
15 dated November 27<sup>th</sup> was not represented to be itemized  
16 estimates, but simply a single sentence letter saying  
17 attached hereto is a copy of the legislature's budget  
18 for the 2014/2015 fiscal year pursuant to Article 7,  
19 Section 1 of the New York State Constitution.

20 The New York State Constitution, Article 7, Section  
21 1 doesn't require a budget. It requires itemized  
22 estimates that are certified by the --

23 THE COURT: May I ask you a question, if I may,  
24 because the focus here is on the TRO.

1 MS. SASSOWER: Um-hum.

2 THE COURT: And I understand that that's the  
3 contention in the substantive pleading, but the question  
4 is whether or not you are entitled to a TRO today. And  
5 there are a couple of statutory provisions that I think  
6 are important that need to be addressed in the world of  
7 TROs involving the State. And let me just be specific.

8 CPLR 6313 Subdivision A states that no TRO may be  
9 granted against the public officer of the state to  
10 restrain the performance of statutory duties.

11 With that limitation, what would be the basis for  
12 this Court, in your view, to actually issue a TRO today?

13 MS. SASSOWER: Article 7-A of the State Finance Law  
14 is designed to prevent dissipation disbursements of  
15 unconstitutional, unlawful appropriations. It's to  
16 prevent misappropriation of public monies.

17 You have, with respect to the legislative budget,  
18 no compliance with the conditioned precedent for  
19 inclusion of their budget in the state budget. It  
20 didn't represent itself to be itemized estimates and  
21 there was no certification.

22 Now, certification --

23 THE COURT: When you say "it", you are referring to  
24 the November 27<sup>th</sup>, 2013 letter?

1 MS. SASSOWER: Yes. And I should say that I made  
2 a -- because of the seriousness here, I requested that  
3 the attorney general bring either the original or a  
4 copy, so that there should be no question as to what the  
5 temporary senate president and the assembly speaker  
6 presented to the governor, which was not in conformity,  
7 was in violation of Article 7, Section 1.

8 And remember that with respect to certification,  
9 certification is an attestation of accuracy of truth.  
10 And as I demonstrated in correspondence that is now  
11 embodied in that complaint, the budget is contrived. It  
12 is not based on itemized estimates of the financial  
13 needs of the legislature. It's not even purported to  
14 be. But examination shows that it is not. And among  
15 the things that it is -- forgetting about the fact it is  
16 a contrivance of leadership, it is missing general  
17 states charges. Where are they?

18 Now, additionally, when the governor transmitted  
19 that budget, included it in the state budget and joined  
20 it on the budget bill with the judiciary's budget,  
21 without explanation appeared 19 pages of  
22 re-appropriations that are not even in the budget that  
23 was not itemized estimates, but the budget that had been  
24 presented by Speaker Silver and Temporary Senate



1 President Skelos.

2 So this budget bill seeks something that wasn't  
3 even in the budget and that's not even certified. Where  
4 did it come from?

5 So you have here, on the most basic level, the most  
6 flagrant noncompliance violation, with the clear,  
7 unequivocal language of Article 7, Section 1.

8 So we are seeking to enjoin the legislature from  
9 even voting and the governor from signing such a bill  
10 which rests upon a budget, not itemized estimates, not  
11 certified, that throws in untold millions of dollars of  
12 re-appropriations that, by the way, those  
13 re-appropriations are tucked in the back in an  
14 out-of-sequence section of the bill.

15 Now, again, I requested that the attorney general  
16 bring to your Honor the original or certified copy so  
17 that you could see on its face what you are dealing with  
18 here, the noncompliance.

19 Now, then there is a separate issue with respect to  
20 the judiciary budget, which is also part of this bill.  
21 I'm ready to outline that for you if you would like.

22 THE COURT: I have to focus on the question. Let  
23 me finish the question for the record.

24 It's five after 4. We have to stop by 4:30. So I



1 want to focus on the premise for a TRO today.

2 I have just read to you the statutory prohibition  
3 against issuing a TRO against a public state officer in  
4 the performance of statutory duties.

5 So really, I'm not trying the entire case here this  
6 afternoon. I certainly wouldn't presume to do such a  
7 thing. And I am entertaining your show cause  
8 application and I expect to be signing it with a return  
9 date. But the focus right now is on how -- what basis  
10 would there be for this Court to sign the TRO.

11 MS. SASSOWER: I believe State Finance Law, Article  
12 7-A, is as much statutory authority; in fact, is the  
13 statutory authority. That, in fact, this action, so  
14 serious, did the legislature view the issue of  
15 misappropriation of public funds unconstitutional,  
16 unlawful disbursement of public monies, that it gives a  
17 right of the attorney general to proceed in this action  
18 and it also provides that this is an action that takes  
19 preference. It is so serious and substantial and there  
20 are no standing objections or any other objections.  
21 This is an action that brings you directly to the  
22 merits.

23 And what I'm saying is that prima facie, the  
24 plaintiffs here have furnished you evidence of the

1 violations, the constitutional and other violations with  
2 respect to this budget.

3 Now, I do have to, I believe, identify something  
4 with respect to the judiciary portion.

5 THE COURT: You may.

6 MS. SASSOWER: And I recognize that this is a  
7 sensitive subject. Obviously you have an interest.  
8 Every judge has an interest.

9 THE COURT: I know that the Court of Appeals has  
10 addressed issues concerning judicial compensation and  
11 there is a matter of necessity here. Someone has to  
12 hear the issues, so.

13 MS. SASSOWER: Absolutely. But the issue here with  
14 respect to compensation is, again, an issue of  
15 compliance with statutory preconditions, because the  
16 only basis for the judicial pay raises is the  
17 recommendation of the Commission on Judicial  
18 Compensation in its 2011 report.

19 The Commission on Judicial Compensation was charged  
20 with evaluating the issue of judicial compensation and  
21 making recommendations. And it was required to adhere  
22 to certain factors, to consider certain factors.

23 There was a complete violation of the express  
24 factors identified. And let me just give you one so

1 that you understand how egregious it is on its face.

2 It was called Commission on Judicial Compensation.  
3 Its charge was to examine compensation and non-salary  
4 benefits. The only thing that the Commission on  
5 Judicial Compensation examined was salary, and that in  
6 the most superficial fashion. Its report is barely --  
7 it's not even 10 pages. Then there are a couple of  
8 pages double spaced, wide margins, charts. In other  
9 words, there is not much there. But evident on the face  
10 is that it did not examine compensation and you know  
11 compensation is far broader than salary. Compensation  
12 includes pension, health, social security, all of the  
13 perks, that package.

14 That alone, the failure of the Commission on  
15 Judicial Compensation to examine and report on that,  
16 voids their recommendation. It is on its face  
17 nonconforming with a condition precedent for the  
18 recommendation. The only basis for the pay raises is  
19 the recommendation of the Commission on Judicial  
20 Compensation.

21 Now, there are innumerable respects in which their  
22 recommendation was statutorily violative, fraudulent,  
23 unconstitutional, and that was the subject of a  
24 fact-specific oppositional report, which was provided in



1           October of 2011 to our highest public officers, the  
2           governor, the temporary senate president, the assembly  
3           speaker, the chief judge. These are the highest  
4           constitutional officers of our three government  
5           branches. They were all the appointing authority on the  
6           Commission of Judicial Compensation. It was to them  
7           that the Commission rendered its report and so we  
8           furnished an opposition report. No findings of fact.  
9           No conclusions of law. No denial or dispute by them of  
10          any aspect of our showing, requiring us then to proceed  
11          on a long course of advocacy that actually has brought  
12          us here today. No one denies or disputes what was set  
13          forth in that opposition report and that opposition  
14          report was dispositive.

15                 The last thing that I do want to say and this is  
16          the judiciary's budget. The judiciary did furnish what  
17          it represented as itemized estimates of the judiciary's  
18          financial need. And it was certified with also the  
19          constitutionally required approval by the Court of  
20          Appeals as well.

21                 But concealed by its budget presentation was any  
22          mention of the third phase of the judicial pay raises or  
23          its cost, reflective that they, that the judiciary was  
24          trying to conceal from the legislature its prerogative



1 and in this case its responsibility, its duty to void  
2 the third phase.

3 The fact that it was, it is, unidentified,  
4 un-itemized, is unconstitutional.

5 But then now let me take another aspect here of the  
6 judiciary budget. The judiciary budget, their budget  
7 presentation, their documents that were covered by the  
8 certification, their certification, failed to identify  
9 re-appropriations. Again, we have an issue of  
10 re-appropriations.

11 The re-appropriations for the judiciary pop in to  
12 what they proffered as their single budget bill. That  
13 is, they presented their budget, their itemized  
14 estimates, and then it would appear in a separate  
15 document they furnished the bill that they wanted the  
16 governor to pass on to the legislature. They wrote the  
17 bill themselves. They wrote the bill for the governor.

18 In their bill, proposed bill, which the governor  
19 adopted whole, put in with the legislative budget are  
20 appropriations. Are they certified is a question as to  
21 whether or not the certification of the chief judge and  
22 the Court of Appeals encompasses those  
23 re-appropriations. There is also a question on their  
24 face whether they comply with two express constitutional

1 provisions as to how appropriations and  
2 re-appropriations are supposed to be identified,  
3 designated, as well as a provision of the State Finance  
4 Law.

5 And on their face there is a question as to whether  
6 those -- I mean, if they weren't certified and the fact  
7 that they were not included in the budget presentation  
8 of the judiciary, is reflective of perhaps the fact that  
9 they didn't want to certify those re-appropriations  
10 because perhaps they were not proper.

11 Re-appropriations mean, as I understand it, from  
12 the citizens guide to the budget that's on the Division  
13 of Budget's website, re-appropriations are money that is  
14 left over. So usually when you have leftover money you  
15 haven't used, you return it. You return it to the  
16 public treasury. Here there is somehow being rolled  
17 over.

18 Now --

19 THE COURT: Miss Sassower.

20 MS. SASSOWER: Yes.

21 THE COURT: Can I just say it's 4:15.

22 MS. SASSOWER: Yes. Thank you.

23 THE COURT: So I'm going to have to give the  
24 assistant attorney general an opportunity to respond on

1 the TRO.

2 MS. SASSOWER: Thank you.

3 THE COURT: Miss Kerwin.

4 MS. KERWIN: Judge, I'm unaware of any provision of  
5 the State Finance Law that trumps CPLR 6313-A.

6 THE COURT: I'm looking at Section 123-C  
7 Subdivision 4. And that provision says an action under  
8 the provisions of this article shall be heard upon such  
9 notice to such officer or employee as the Court shall  
10 direct and shall be promptly determined. The action  
11 shall have a preference over all other causes in all  
12 courts. It refers to setting a time frame for notice.  
13 It does not specifically speak to TRO.

14 MS. KERWIN: That's exactly right. These kinds of  
15 cases are supposed to be decided quickly and that is the  
16 purpose of that provision, but it is not permission for  
17 a Court to enjoin a statutory or constitutional duty of  
18 a public officer, which is what the plaintiff is trying  
19 to do here.

20 So absent that, I don't know of any statutory  
21 provision that allows for TRO here.

22 Notwithstanding, very briefly, there is nothing  
23 here to support any kind of likelihood on the merits,  
24 because there is no justiciable controversy in here.



1 And the only evidence that's contained in here are  
2 letters, mostly I should say, are letters from the  
3 plaintiff.

4 So even on an actual, you know, a regular old TRO  
5 standard, it wouldn't fly here anyway.

6 So for those reasons we ask that the TRO be denied.

7 THE COURT: Miss Sassower, do you wish to reply?

8 MS. SASSOWER: Oh boy. This is shameful advocacy  
9 by the attorney general, which is --

10 THE COURT: I don't think there is a need for that.  
11 Let's just focus on the merits.

12 MS. SASSOWER: Okay. When she says there is no  
13 justiciable controversy, there is no likelihood of  
14 success on the merits, I have already identified the  
15 specifics with respect to the legislative budget.

16 THE COURT: I don't need to go through those again.

17 MS. SASSOWER: Now, with respect to the judiciary  
18 budget, with all respect, there is another issue. And  
19 that is the constitutional provision that judicial  
20 salary shall not be or compensation shall not be  
21 diminished.

22 And there is an argument that might conceivably be  
23 made that come April 1<sup>st</sup>, and this becomes effective,  
24 this third phase, you can't touch it.



1           Do I accept that argument? No. Because I don't  
2 think that parties can be beneficiaries of fraud, all  
3 right, and what you have here is judicial salary  
4 increased recommendations that are fraudulent, but that  
5 is an argument that may be made.

6           I will say, your Honor, in view of the seriousness  
7 here and because there has been so little time, since we  
8 have a weekend, nothing is happening on the weekend, I  
9 would propose perhaps we defer -- you defer decision so  
10 that you can have more of an opportunity to review what  
11 she says is the letters, that she disdains as the  
12 letters, so that you can assess whether or not these  
13 letters are not dispositive of the issues and whether  
14 they did not provide the public officers with the  
15 opportunity to come forward with the relevant documents,  
16 the relevant information in defense of their budgets and  
17 the budget bill. Among the letters are FOIL and records  
18 requests to the governor, division of the budget, to the  
19 senate, secretary of the senate, and the assembly public  
20 information office to request certifications, to request  
21 the general state charges that is missing from the  
22 legislative budget, to request information as far as the  
23 appropriation -- the re-appropriations.

24           By the way, one of the problems here too with the

1 re-appropriations is that nobody seems to know how much  
2 money is represented in this bill. They are all over  
3 the lot.

4 So this is a lot of taxpayer dollars and the State  
5 Finance Law is to protect the public "fis". I would  
6 respectfully request that your Honor defer decision if  
7 there is any question as to what statutory provision  
8 controls with respect to an injunction. Maybe you defer  
9 to Monday. I'm even willing to appear on Monday.

10 THE COURT: I have to say it's 4:20 and I want to  
11 be able to address this on the record.

12 I don't have a need to adjourn this proceeding. I  
13 understand the issue that's been presented. I'm very  
14 familiar with the statutory provision that I referenced.  
15 I have not heard any basis to depart from the  
16 restriction of CPL 6313 Subdivision A that really  
17 doesn't allow a TRO to be issued in this circumstance.

18 So I'm going to decline the TRO; however, I also  
19 need to set a return date for this application. And in  
20 that sense I would ask, first, for the defendants'  
21 counsel, do you wish to be heard on the return date?  
22 Because the application is for an injunction and I'm  
23 going to be signing this. The case will be assigned in  
24 the clerk's office on the wheel. I'm not quite sure who

1 gets this case.

2 So I do want to address the return date on the  
3 request by the plaintiffs for an injunction.

4 MS. KERWIN: Judge, just in light of what's going  
5 on with my clients right now, I think I would need about  
6 at least three weeks to respond and a return date  
7 thereafter as you see fit for a reply.

8 THE COURT: So you would be looking for three  
9 weeks. That would be through April 18<sup>th</sup> for  
10 responding papers?

11 MS. KERWIN: Yes.

12 THE COURT: Miss Sassower, do you wish to be heard  
13 on that?

14 MS. SASSOWER: I will be guided by whatever your  
15 Honor deems is appropriate here.

16 Do I think that's appropriate? No, not remotely.  
17 I think it's contemptuous of the purpose of this  
18 statutory safeguard.

19 THE COURT: Let me ask. In terms of responding  
20 time, how much time would you need?

21 MS. SASSOWER: Well, if they -- I'm one person and  
22 I'm not a lawyer. They are the Law Department of the  
23 State of New York with over 500 lawyers and a huge staff  
24 and they are asking for three weeks. So I would ask



1 that a generous amount of time be given to me to respond  
2 or that I be given an opportunity upon receipt to --

3 THE COURT: Would you like three weeks to respond?

4 MS. SASSOWER: Thank you, your Honor.

5 THE COURT: Okay. So let me do this. So  
6 responding papers would be due May 9th. I'm going to  
7 have to write this into the document. Let me just do  
8 that now. So with responding papers due on May 9<sup>th</sup>,  
9 what we should do is set a return on the injunction  
10 application. My suggestion is the following Friday, May  
11 16<sup>th</sup>.

12 MS. SASSOWER: So then the state is free to  
13 disburse the monies where there is a prima facie showing  
14 of unconstitutionality?

15 THE COURT: I have already stated my reason for  
16 refusing to issue the TRO. I'm just trying to get a  
17 return date. The State has asked until April 13<sup>th</sup>.  
18 You have asked for a comparable amount of time. Those  
19 are for the submission of papers. Now we need an actual  
20 return date.

21 What I would suggest, and you can respond, both  
22 sides, papers would all be submitted by May 9th. I can  
23 set a return date for the following Friday. That also  
24 is subject to whoever gets the case being available that

1 day. And if you are looking for further oral argument,  
2 that would be something to address with the IAS judge.  
3 Frankly, I just don't know if it's going to be me or  
4 someone else.

5 MS. SASSOWER: My position is, again, that the  
6 attorney general is violating his obligation of  
7 Executive Law 63.1 in there is no merit defense here.

8 THE COURT: You have already made that point.

9 MS. SASSOWER: All right.

10 THE COURT: And I apologize, but it's 25 after 4  
11 and this issue, you know, it started with a reference to  
12 a November 27<sup>th</sup> letter that you challenged and here we  
13 are on March 28<sup>th</sup> at 4:25. I have to deal with this  
14 right now.

15 MS. SASSOWER: The reason is because the  
16 legislature has failed to discharge its duties with  
17 respect to the budget and this particular bill.

18 THE COURT: I know that you have made that argument  
19 and that's in your papers, but let me finish the show  
20 cause.

21 So what I'm going to do, I'm going to make this  
22 returnable on the 16<sup>th</sup> day of May.

23 MS. SASSOWER: And I can't convince your Honor to  
24 perhaps reflect upon this a bit further?

1 THE COURT: No. I have made my ruling. In fact,  
2 let me do this. Any oral argument would have to be  
3 addressed with the IAS judge.

4 MS. SASSOWER: With respect to service of papers?

5 THE COURT: What I'm going to do is I'm going to  
6 make copies of what I'm signing right now.

7 Have you provided a full set of the application to  
8 the attorney general's office?

9 MS. SASSOWER: Yes, I have.

10 THE COURT: Great. What we will do is I will make  
11 copies right now. Please don't leave until we do that.  
12 We can provide the original and copies to you, Miss  
13 Sassower, so that you have them. So service is really  
14 accomplished right here.

15 MS. SASSOWER: Okay.

16 THE COURT: So I'm going to put in here service  
17 today.

18 Would you be willing to accept service upon all of  
19 the responding parties or the defendants?

20 MR. MCGOWAN: Your Honor, we attempted to get  
21 authorization from all of the proposed defendants. The  
22 only one that has indicated they want personal service  
23 is the Office of the State Comptroller --

24 MS. SASSOWER: I will do it right now.



1 MR. MCGOWAN: -- which is at 120 State Street.

2 THE COURT: What I will do is I will give you a  
3 little more time to do that.

4 MS. SASSOWER: I'm downstate. I would really like  
5 to run over and do it now.

6 THE COURT: Sure.

7 MS. SASSOWER: If you can take the balance of the  
8 papers for your clients, I would appreciate that.

9 MR. MCGOWAN: At the Court's direction we will  
10 accept service for everyone but the State Comptroller.

11 THE COURT: So what I will do to be on the safe  
12 side, why don't I give you until Monday to complete  
13 service. I know you are here.

14 MS. SASSOWER: Right.

15 THE COURT: And I understand, but I don't -- things  
16 can happen. I don't want you to be deprived of the  
17 opportunity.

18 MS. SASSOWER: Sure.

19 THE COURT: So let's see. Let me just state for  
20 purposes of the record what I have done with the show  
21 cause. I have made it returnable May 16<sup>th</sup> at 9:30 and  
22 indicated on here that any requests for oral argument  
23 must be raised with the IAS judge.

24 I have also outlined the responding schedule on

1 page 2, where responding papers, if any, must be served  
2 by April 18<sup>th</sup>. And reply papers, if any, must be  
3 served by May 9th. And with that we stand adjourned,  
4 but what I will do is I will make the copies for you and  
5 we will give the original papers back to you, Miss  
6 Sassower, so that you can file them accordingly.

7 MS. SASSOWER: Thank you, your Honor.

8 THE COURT: Okay.

9 MS. KERWIN: Thanks, Judge.

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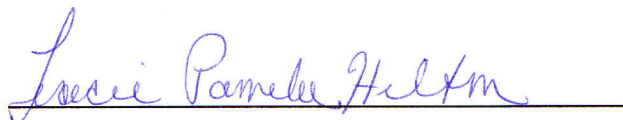
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C E R T I F I C A T I O N

I, Tracie Pamela Hilton, C.S.R, R.P.R., a Senior Court Reporter for the Unified Court System, Third Judicial District of the State of New York, do hereby certify that I attended and reported the foregoing proceedings; that it is a true and accurate transcript of the proceedings had therein to the best of my knowledge and ability.



Tracie Pamela Hilton  
Certified Shorthand Reporter  
Registered Professional Reporter

Dated: April 8, 2014