April 3, 2021 Complaint Form for the February 11, 2021 Complaint against ASSISTANT ATTORNEY GENERAL HELENA LYNCH

revising, as required by Chief Attorney Monica Duffy's March 9, 2021 letter, the prior submitted February 11, 2021 complaint form – plus updating

TO: Third Judicial Department Attorney Grievance Committee
286 Washington Avenue Extension, Suite 200
Albany, New York 12203-6320
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Complainant's Name: Elena Ruth Sassower,
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Attorney's Name: Assistant Attorney General Helena Lynch
(registration #4383642/Albany/2006)

Address: New York State Attorney General
The Capitol – Albany New York 12224-0341

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Albany, NY 12224

E-Mail & Telephone number: Helena.Lynch@ag.ny.gov (518) 776-2580

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1. Have you filed a complaint concerning this matter with another attorney grievance committee, state attorney general's office or any other agency?

   YES. I filed this identical February 11, 2021 conflict-of-interest/misconduct complaint with the Second Department Attorney Grievance Committee (for the Second, Eleventh, and Thirteenth Districts), with respect to Attorney General James, and with the First Department Attorney Grievance Committee, with respect to Solicitor General Underwood.

   I also filed a related February 7, 2021 conflict-of-interest/misconduct complaint with the Commission on Judicial Conduct against the judges of the Court of Appeals, of the Appellate Division, Third Department, and against Chief Administrative Judge Marks for covering up the misconduct of the Attorney General and attorney staff who are the subject of this complaint. A copy was enclosed with the February 11, 2021 complaint (at p. 10).

   On March 5, 2021, I additionally filed a conflict-of-interest/ethics complaint against Attorney General James with the Joint Commission on Public Ethics (JCOPE) and the Legislative Ethics Commission (LEC), furnishing, in substantiation, the February 11, 2021 complaint and its enclosed February 7, 2021 complaint. This March 5, 2021 complaint was filed at the advice/direction of Albany County District Attorney P. David Soares, to whom I had filed a June 4, 2020 grand jury/public corruption complaint pertaining to the fraudulent pay raises of which Attorney General James and her fellow constitutional officers of New York's three government branches are beneficiaries and the budget.

   Based on the June 4, 2020 grand jury/public corruption complaint – and 61 materially-identical grand jury/public corruption complaints I thereafter filed with New York's 62 other district attorneys – I also filed a November 4, 2020 corruption complaint with Acting U.S. Attorney for the Northern District of New York Antoinette Bacon, which, by a December 19, 2020 letter, I then sent to the Acting U.S. Attorneys for the Southern, Eastern, and Western Districts of New York.

   Action Taken: None, as yet, except that Chief Counsel of the Second Department Attorney Grievance Committee for the Second, Eleventh, and Thirteenth Districts Diana Maxfield Kearse advised, by a March 3, 2021 letter, that although Attorney General James was admitted in the Second Department, she is "currently registered at a business address in Manhattan" and, "[a]s such, the appropriate Grievance Committee is the one in the First Department".

2. Have you brought a civil action against this attorney? NO.

3. Are you represented by an attorney? NO.

4. Are you an attorney? NO.

Details of the February 11, 2021 Complaint
against Assistant Attorney General Helena Lynch

Assistant Attorney General Helena Lynch was the attorney assigned by the Attorney General's office to defend against the two cases identified at #3 on page 3 of the February 11, 2021 complaint: (1) *Delgado v. State of New York* (Albany Co. #907537-18); and (2) *Barclay v. New York State Committee on Legislative and Executive Compensation* (Albany Co. #901837-19), in Supreme Court/Albany County, and did so by litigation fraud. Most egregiously, but not exclusively, this consisted of urging dismissal of each case based on the Appellate Division, Third Department's December 27, 2018 memorandum and order in *CJA v. Cuomo…Schneiderman… DiFiore* – a decision she knew to be a judicial fraud, as likewise the November 27, 2018 decision and judgment of Acting Supreme Court Justice/Court of Claims Judge Hartman it purported to "affirm".

Assistant Attorney General Lynch's knowledge arose from her participation, with Assistant Attorney General Adrienne Kerwin, in procuring Judge Hartman's November 28, 2017 decision. And because they each knew that the November 28, 2017 decision was fraudulent and could not be "affirmed" other than by a fraudulent decision – and could not be defended on appeal except by litigation fraud, which was how they had procured it, I cc'd both of them – and their direct supervisors, Litigation Bureau Chief/Assistant Attorney General Jeffrey Dvorin and Deputy Attorney General/Division of State Counsel Meg Levine, and the executive level managerial attorneys of the Attorney General's office – on my May 16, 2018 e-mail to then Acting Attorney General Underwood transmitting my May 16, 2018 letter/NOTICE – the same letter/NOTICE as is Exhibit A-1 to the February 11, 2021 complaint – and which included plaintiffs' 22-page "legal autopsy"/analysis of the November 28, 2017 decision, annexed to their January 10, 2018 notice of appeal [R.1-30]. All were also cc'd on my follow-up e-mails to Attorney General Underwood, on May 18, 2018, May 30, 2018, June 6, 2018, and June 14, 2018, and also on my June 18, 2018 e-mail to Assistant Attorney General Victor Paladino, as I searched to find who in the Attorney General's office would be handling the appeal – thereafter cc'ing them on a large portion of my June-July 2018 e-mails to the assigned appellate attorney, Assistant Solicitor General Frederick Brodie, transmitting appellants' brief and three-volume record on appeal, as I was preparing them.[1]

[1] All of this correspondence is part of *CJA v. Cuomo…Schneiderman…DiFiore* – annexed as exhibits to my July 24, 2018 moving affidavit in support of plaintiffs' order to show cause, filed with the Appellate Division, Third Department on July 25, 2018. *See*, Exhibit I-1 (May 16, 2018); Exhibit I-2 (May 18, 2018); Exhibit J-1 (May 30, 2018); Exhibit K (June 6, 2018); Exhibit L (June 14, 2018); Exhibit M-1 (June 18, 2018); Exhibit M-3 (June 18, 2018); Exhibit M-4 (June 18, 2018]; Exhibit N-2 (June 26, 2018); Exhibit N-4 (June 29, 2018); Exhibit O-1 (July 3, 2018); Exhibit Q-1 (July 6, 2018).

Plaintiffs' July 4, 2018 appellants' brief – buttressed by their record on appeal – laid out the story of what had happened. Assistant Attorney General Lynch was popped into the case on March 27, 2017, upon my seeking supervisory oversight of Assistant Attorney General Kerwin, who, having corrupted the judicial process with litigation fraud in the predecessor *CJA v. Cuomo* citizen-taxpayer action (Albany Co. #1788-14), in tandem with Albany County Acting Supreme Court Justice/Court of Claims Judge Roger McDonough – and so-highlighted by plaintiffs' 33-page "legal autopsy"/analysis, annexed as Exhibit G to their September 2, 2016 verified complaint [R338-373] – was doing the same in their second citizen-taxpayer action, in tandem with Judge Hartman.

At that point, Assistant Attorney General Kerwin had procured from Judge Hartman a December 21, 2016 decision and order [R-527-535], dismissing nine of the ten causes of action of the September 2, 2016 verified complaint [R-87-392] – preserving the sixth cause of action as to the unconstitutionality, *as written and by its enactment*, of the "force of law" budget statute that established the Commission on Legislative, Judicial and Executive Compensation – Chapter 60, Part E, of the Laws of 2015 [R.109-112 (R.187-201)]. The fraudulence of that decision, depriving plaintiffs of the summary judgment to which they were entitled, *as a matter of law*, on all ten causes of action of their September 2, 2016 verified complaint – and Assistant Attorney General Kerwin's litigation fraud in procuring it – was demonstrated by plaintiffs' 24-page "legal autopsy"/analysis of the December 21, 2016 decision, annexed as Exhibit U [R.554-577] to their February 15, 2017 order to show cause for Judge Hartman's disqualification for demonstrated actual bias and interest, pursuant to §100.3E of the Chief Administrator's Rules Governing Judicial Conduct and Judiciary Law §14, vacatur of her December 21, 2016 decision by reason thereof and for fraud and lack of jurisdiction, and, if denied, disclosure, pursuant to §100.3F of the Chief Administrator's Rules Governing Judicial Conduct, of her financial interest and relationships bearing on her fairness and impartiality [R.536-610].

On February 21, 2017, Judge Hartman signed the February 15, 2017 order to show cause [R.536-537], setting a return date more than a month away, on March 24, 2017, giving Assistant Attorney General Kerwin until March 22, 2017 for answering papers and adding, with respect to the return date, "No personal appearances are required".[2]

On March 22, 2017, Assistant Attorney General Kerwin served her opposition papers [R.613-634], requesting Judge Hartman to deny plaintiffs' February 15, 2017 order to show cause "in its entirety" and "in all respects". In so doing, she did not deny or dispute the accuracy of the Exhibit U "legal autopsy"/analysis in any respect and concealed the motion's requested relief of disclosure.

[2] My February 15, 2017 and February 24, 2017 e-mails to Assistant Attorney General Kerwin, transmitting the order to show cause to her, requested that she forward it to her superiors, including Attorney General Schneiderman [R.611].

To this, I replied by a March 24, 2017 letter to Judge Hartman [R.838-839], stating that Assistant Attorney General Kerwin's opposition papers were "utterly fraudulent, revealed as such by the most cursory examination of Exhibit U" – and requesting a four-day adjournment of the return date so as to be able to give a more elaborate reply, in writing, if not orally, on March 28, 2017 when plaintiffs would be presenting an order to show cause for a preliminary injunction, with TRO, with respect to the FY2017-2018 budget. I stated that meantime I was endeavoring to have the Attorney General's office withdraw Assistant Attorney General Kerwin's March 22, 2017 opposition, that I had already left two messages the previous day with the Attorney General's office, and was herewith giving notice to her that she "and her highest superiors, including Attorney General Schneiderman" should come to the upcoming presentment of plaintiffs' order to show cause for a preliminary injunction with TRO prepared with relevant documents.

Judge Hartman responded by an e-mailed March 24, 2017 letter [R.840], granting me until March 28, 2017 to file reply papers. By then, Litigation Bureau Chief Dvorin had e-mailed me [R.841], stating he was responding to my "recent voicemails" and that I should put my "concerns" in writing. The exchange of e-mails between myself and Litigation Bureau Chief Dvorin on that Friday, March 24th [R.842-846] then continued on Monday, March 27th [R.847], when he responded [R.848]: "In my view, this matter has been handled appropriately in all respects by this office". He further advised that Assistant Attorney General Lynch would be appearing on the upcoming order to show cause and that his superior was Meg Levine. My immediate e-mail to him, entitled "'handled appropriately in all respects by this office?'..." [R.849], cc'd Deputy Attorney General Levine and Assistant Attorney General Lynch – and stated:

> "What are you talking about? What has your review consisted of? Have you read Exhibit U to plaintiffs' Feb 15th order to show cause? Have you read plaintiffs' September 30, 2016 memorandum of law?
>
> Please furnish me with the contact telephone numbers for your superiors, including Attorney General Schneiderman's executive offices, IMMEDIATELY." (capitalization in the original)

Litigation Bureau Chief Dvorin's sole response [R.850] was to state: "I suggest that you first contact Meg Levine via email." – which I thereupon did [R.851], cc'ing him, in addition to Assistant Attorneys General Lynch and Kerwin. The e-mail, entitled "YOUR SUPERVISORY OVERSIGHT IS URGENTLY REQUIRED…", read:

> "Your supervisory oversight is urgently and immediately required. Litigation Bureau Chief Dvorin is apparently refusing to identify whether he has read Exhibit U to plaintiffs' Feb 15th order to show cause – and plaintiffs' September 30, 2016 memorandum of law. Has he? Have you?

> Please call me upon your review. AAG Kerwin's fraudulent opposition to the Feb 15th order to show cause must be withdrawn – and steps taken by the Attorney General's office to intervene on behalf of plaintiffs or furnish representation to us in this mammoth, utterly ground-breaking citizen-taxpayer action in which we have SUMMARY JUDGMENT over and over again – including on the issues to be presented tomorrow pertaining to the fiscal year 2017-2018 budget bills.
>
> The budget has been DRIVEN OFF THE CONSTITUTIONAL RAILS BY YOUR CLIENTS!
>
> Here's the webpage of my testimony before the Legislature on January 30th and 31st on the subject: http://www.judgewatch.org/web-pages/searching-nys/2017-legislature/budget-hearings.htm ." (capitalization and underlining in the original).

Deputy Attorney General Levine did not respond until 10:13 a.m. the next morning, March 28th, when she sent me an e-mail [R.858] stating: "I have reviewed your request and discussed internally. We believe we have handled your concerns appropriately and are prepared to discuss your concerns in the context of any papers you present to the court. We have nothing further to add outside of the litigation context."

This was about 20 minutes after I had sent a March 28th e-mail to Judge Hartman [R.852-856] – to which Deputy Attorney General Levine had been cc'd – requesting adjournment to the next day of my presentation of plaintiffs' order to show cause for a preliminary injunction with TRO because I was waiting to hear back from her.

I thereupon e-mailed Deputy Attorney General Levine [R.858] – cc'ing Litigation Chief Dvorin and Assistant Attorney Generals Lynch and Kerwin – and stating:

> "Your below e-mail does not answer the questions I asked you. Have you read Exhibit U to plaintiffs' Feb 15th order to show cause - and plaintiffs' September 30, 2016 memorandum of law. Did Litigation Bureau Chief Dvorin? And who are the unnamed individuals with whom you have 'discussed internally' my request supervisory oversight? Have they read Exhibit U to plaintiffs' Feb 15th order to show cause - and plaintiffs' September 30, 2016 memorandum of law?
>
> In addition to answering these questions, please immediately furnish me with the e-mail addresses, if not phone numbers, of all above you who have supervisory responsibilities over you and over those you are charged with supervising. Specifically, please provide contact information for: (1) Executive Deputy Attorney General for State Counsel Kent Stauffer; (2) Chief Deputy Attorney General Janet Sabel; (3) Chief Deputy Attorney

> General Jason Brown; and, at the top, (4) Attorney General Schneiderman -- a named defendant in the case and direct beneficiary of AAG Kerwin's fraudulent March 22nd opposition to plaintiffs' Feb. 15th order to show cause."

Thereafter, I sent a further March 28th e-mail to Judge Hartman – cc'ing Deputy Attorney General Levine, Litigation Bureau Chief Dvorin, and Assistant Attorneys General Lynch and Kerwin [R.860] – stating:

> "I hereby give further notice to the highest supervisory levels of the Attorney General's office:
>
> Tomorrow afternoon, Wednesday, March 29th, at 3 p.m., before Justice Hartman, for presentment of plaintiffs' order to show cause for preliminary injunction with TRO. Come prepared with documents responsive to plaintiffs' FOIL requests pertaining to your legislative clients' 'amended' budget bills, as well as prepared to discuss the Court of Appeals' consolidated decision in Silver v. Pataki and Pataki v. Assembly, 4 NY3d 75 (2004) – and, its equally decisive decision in NYS Bankers Association v Wetzler, 81 NY2d 98 (1993)."

And to further ensure preparedness, I e-mailed all of them at 8:08 a.m. the next day, March 29th, right before leaving for the 2-1/2 hour trip from White Plains to Albany, stating:

> "For your convenience, plaintiffs' March 29, 2017 order to show cause with preliminary injunction & TRO and supporting affidavit and verified supplemental complaint are accessible from CJA's website, www.judgewatch.org, via the homepage link 'CJA's 'Citizen-Taxpayer Actions to End NYS' Corrupt Budget 'Process' and Unconstitutional 'Three Men in a Room' Governance. The direct link to the webpage for plaintiffs' March 29, 2017 order to show cause -- posting links for the referred to substantiating documents, VIDEOS, transcripts, legal authorities, is here:
>
> http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/9-2-16-osc-complaint/3-29-17-osc.htm.
>
> Will furnish hard copies upon my arrival in Albany, hopefully no later than by 1:30 p.m. for today's 3 p.m. presentation."

This was the background to Assistant Attorney General Lynch's shameful appearance before Judge Hartman seven hours later [R.816-837], with NO evidence or witnesses to support her paltry and palpably false 30-second opposition to plaintiffs' March 29, 2017 order to show cause for a preliminary injunction with TRO [R.635-746] – reflective of her confidence and that of her superiors that she and

they could get away with anything – just as Assistant Attorney General Kerwin had – because of Judge Hartman's HUGE salary interest in the case and because, prior to Governor Cuomo having appointed her to the bench, two years earlier, she had worked for 30 years in the Attorney General's office, including under Cuomo and Schneiderman, both defendants, being sued for their corruption and "grand larceny of the public fisc".

And so it was. Despite plaintiffs' open-and-shut, *prima facie* entitlement to a TRO to enjoin further action on the Legislature's so-called "amended" budget bills, as I had repeatedly alerted Judge Hartman and the Attorney General's office, by my e-mailed communications from March 24th onward [R.838-860] – and at the March 29th oral argument [R.816-837] – and as the face of the March 29, 2017 order to show cause and supporting papers made obvious [R.635-743] – Judge Hartman struck the TRO, refused my request for an immediate evidentiary hearing, and gave Assistant Attorney General Lynch more than three weeks, until April 21st, to submit answering papers, setting a return date of April 28, 2017 [R.635-638].

During this period, I was continually alerting and reminding Assistant Attorney General Lynch, Deputy Attorney General Levine, Litigation Bureau Chief Dvorin, and Assistant Attorney General Kerwin to the indefensibility, fraudulence, and unconstitutionality of what was happening – starting on March 30, 2017, with my e-mail at 11:20 a.m. to Judge Hartman, to which they were all cc'd [R.861-862], then two hours later, by my 1:35 e-mail to Deputy Attorney General Levine [R-863-864], to which they were all cc'd, and then an hour and a half after that, by my 3:08 p.m. e-mail to Assistant Attorney General Lynch [R.868-869], to which they were all cc'd. The next day, March 31, 2017, I was calling up the Attorney General's executive offices – and at 3:02 p.m. they were all cc'd on my e-mail addressed to Attorney General Schneiderman, Chief Deputy Attorney General Jason Brown, Chief Deputy Attorney General Janet Sabel, and Executive Deputy Attorney General for State Counsel Kent Stauffer [R.870-871]. These four were now permanent additions to the cc list for my significant e-mails pertaining to *CJA v. Cuomo…Schneiderman…DiFiore* before Judge Hartman and at the Appellate Division, Third Department.

On April 2, 2017 and then again on April 5, 2017, they were all cc'd on my two e-mails to Attorney General Schneiderman [R.873-874; R.875-876]. And on April 28, 2017, they were all cc'd on my e-mailed letter to Judge Hartman with "Notice to the Attorney General" [R.810-812], identifying that Assistant Attorney General Lynch's April 21, 2017 opposition papers [R.747-786] to plaintiffs' March 29, 2017 order to show cause were "from beginning to end, utterly fraudulent" – and that the Attorney General's duty was to withdraw her "perjurious affirmation and fraudulent memorandum of law", "thereby obviating the burden on me of reply papers and the burden on the Court of confronting threshold sanctions issues."

In the absence of response from the Attorney General's office, I then cc'd Attorney General Schneiderman, *et al.* on my May 15, 2017 e-mail to Assistant Attorney

General Lynch [R.809, R.990], furnishing the link to CJA's webpage for plaintiffs' May 15, 2017 reply papers to her April 21, 2017 opposition [R.788-990] and stating:

> "Plaintiffs have no objection to your belatedly withdrawing your opposition papers and taking such other remedial steps, as is your duty to do so." (underlining in the original).

Plaintiffs' May 15, 2017 reply papers consisted of:

- my reply affidavit [R.788-921], annexing the above record-referenced e-mails, spanning from March 24, 2017 to April 28, 2017 as exhibits (which is how they came to be part of the record on appeal) – and, in addition to summarizing them, summarizing and giving further particulars as to the evidence substantiating plaintiffs' *matter of law, prima facie* entitlement to the granting of the preliminary injunction – indeed to the TRO, no hearing necessary – with illustrative examples annexed as exhibits [R.876-a – 921];

- plaintiffs' May 15, 2017 reply memorandum of law [R.922-990], whose introduction was substantially quoted by their July 4, 2018 appellants' brief (at pp. 31-32).

Additionally, and pursuant to ¶17 of my May 15, 2017 reply affidavit, I sent two subpoenas duces tecum in further support of plaintiffs' March 29, 2017 order to show cause to the County Clerk for transmittal to Judge Hartman. All were then cc'd on my May 22, 2017 e-mail to Assistant Attorney General Lynch, furnishing my May 19, 2017 transmitting letter to the Clerk and the subpoenas [R.991-995a]. Inexplicably, it was Assistant Attorney General Kerwin, not Assistant Attorney General Lynch, who sent a May 23, 2017 letter to Judge Hartman [R.996], objecting to the subpoenas.

Apart from adhering to her *sua sponte* April 25, 2017 letter [R.787] that "personal appearances are neither required nor permitted", depriving plaintiffs of oral argument on the now fully-submitted March 29, 2017 order to show cause [R.635-996], Judge Hartman's response, by a June 26, 2017 decision and order [R.68-79], was to omit ALL the facts, law, and legal argument presented by plaintiffs' May 15, 2017 reply papers in denying the order to show cause, "in its entirety" – the first branch being for summary judgment on the sixth cause of action of their September 2, 2016 verified complaint as to the unconstitutionality, *as written and by its enactment*, of the "force of law" budget statute that established the Commission on Legislative, Judicial and Executive Compensation – Chapter 60, Part E, of the Laws of 2015 [R.636, R.639-640, R.471-526]. As for the subpoenas, Judge Hartman's decision denied these based on her denial of the order to show cause's second branch – leave to plaintiffs to supplement their September 2, 2016 verified complaint, pertaining to the FY2016-17 budget, with their March 29, 2017 supplemental verified complaint, pertaining to the FY2017-2018 budget [R.636, R.640, 642, R.471-526, R.554-577] – which she based on her December 21, 2016 decision.

By then, plaintiffs had already presented Judge Hartman with a June 12, 2017 order to show cause [R.997-1066] which, on June 16, 2017, she had signed – and, on June 20, 2017, I had e-mailed to Assistant Attorney General Lynch, *et al* [R.1068]. It sought reargument/renewal/vacatur of Judge Hartman's two May 5, 2017 decisions and orders:

> (1) her May 5, 2017 decision and order [R.49-51] which, in addition to outrightly LYING that she had "no interest in this litigation" and denying plaintiffs' February 15, 2017 order to show cause for her disqualification by concealing its Exhibit U "legal autopsy"/analysis demonstrating her December 21, 2016 decision to be a judicial fraud [R.554-577] and substituting the further LIE that plaintiffs' "allegations of bias and fraud" were "conclusory" and "meritless", concealed the motion's request that she make disclosure of her interests and relationships [R.536-537], of which she made none; and
>
> (2) her "amended" May 5, 2017 decision and order [R.52-60] which appended to the end of her otherwise unchanged December 21, 2016 decision [R.526-535] the required CPLR §2219(a) recitation of "Papers Considered", identified as missing by plaintiffs' February 15, 2017 order to show cause [R.540-541 (¶7)], with further elaboration by its Exhibit U "legal autopsy"/analysis of the December 21, 2016 decision [R.576-577].

In further support of what Judge Hartman had "overlooked" and the requested vacatur, plaintiffs' June 12, 2017 order to show cause annexed – as Exhibit E [R.1014-1038] – a 23-page analysis of Assistant Attorney General Kerwin's March 22, 2017 opposition to plaintiffs' February 15, 2017 order to show cause, in substantiation of my March 24, 2017 letter to Judge Hartman [R-838-839] alerting her that it was "utterly fraudulent".

On July 21, 2017, Assistant Attorney General Kerwin opposed plaintiffs' June 12, 2017 order to show cause by a cross-motion, [R.1069-1273] seeking summary judgment for defendants on plaintiffs' sixth cause of action – largely based on the June 26, 2017 decision – as well as sanctions against me, including enjoining me from further litigation.

On July 27, 2017, I e-mailed Assistant Attorneys General Kerwin and Lynch – and their supervisors, including Attorney General Schneiderman – my letter to Judge Hartman [R.1282-1291], giving "NOTICE TO THE ATTORNEY GENERAL" that Assistant Attorney General Kerwin's July 21, 2017 opposition/cross-motion was "not just procedurally improper, but founded throughout, on flagrant fraud and violation of black-letter law and standards" – and that his duty was "to withdraw it and take other appropriate steps to uphold the rule of law and ethical mandates, as required by New York's Rules of Professional Conduct, applicable to them." (underlining in the original).

There being no response from the Attorney General's office, I sent all of them plaintiffs' August 25, 2017 reply papers to the July 21, 2017 cross-motion and in further support of the June 12, 2017 order to show cause. Annexed as Exhibit I [R.1293-1319] was plaintiffs' 27-page "legal autopsy"/analysis of Judge Hartman's June 26, 2017 decision [R.68-79]. Its summarizing preface was as follows:

> "This analysis constitutes a 'legal autopsy' of the June 26, 2017 decision and order of Acting Supreme Court Justice Denise A. Hartman, denying, 'in its entirety', plaintiffs' March 29, 2017 order to show cause for summary judgment on the sixth cause of action of their verified complaint, for leave to add a supplemental complaint, and for injunctive relief. It supplements plaintiffs' 'legal autopsy' of Judge Hartman's December 21, 2016 decision and order, annexed as Exhibit U to their February 15, 2017 order to show cause for her disqualification for interest and for the actual bias manifested by her December 21, 2016 decision.
>
> Just as plaintiffs' Exhibit U analysis demonstrates that Judge Hartman's December 21, 2016 decision is 'a criminal fraud, falsifying the record in all material respects to grant defendants relief to which they were not entitled, *as a matter of law*, and to deny plaintiffs relief to which they were entitled, *as a matter of law*', and that it violates a multitude of provisions of New York's Penal Law, including:
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> Penal Law §175.35 ('offering a false instrument for filing in the first degree');
> Penal Law §496 ('corrupting the government') – part of the "Public Trust Act';
> Penal Law §155.42 ('grand larceny in the first degree');
> Penal Law §190.65 ('scheme to defraud in the first degree');
> Penal Law §195.20 ('defrauding the government');
> Penal Law §105.15 ('conspiracy in the second degree');
> Penal Law §20.00 ('criminal liability for conduct of another');
> Penal Law §195 ('official misconduct'),
>
> this analysis demonstrates the same with respect to her June 26, 2017 decision, likewise, 'so totally devoid of evidentiary support as to render [it] unconstitutional under the Due Process Clause' of the United States Constitution, *Garner v. State of Louisiana*, 368 U.S. 157, 163 (1961); *Thompson v. City of Louisville*, 362 U.S. 199 (1960).
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> Plaintiffs' Exhibit U analysis identified (at p. 1) that the fraudulence of Judge Hartman's December 21, 2016 decision is most speedily verified, within minutes, by examining plaintiffs' September 30, 2016 reply memorandum of law, constituting a 'paper trail' of the record before her. So, here, the fraudulence of Judge Hartman's June 26, 2017 decision is

verifiable, within minutes, by examining plaintiffs' May 15, 2017 reply memorandum of law, likewise a 'paper trail of the record before her.

ALL the facts, law, and legal argument presented by plaintiffs' May 15, 2017 reply memorandum of law – and by plaintiff Sassower's May 15, 2017 reply affidavit accompanying it – are omitted from Judge Hartman's June 26, 2017 decision. Indeed, the only mention of these two documents in Judge Hartman's decision is in its last page listing of 'Papers Considered'. That is also the only place where the decision mentions the April 21, 2017 opposition papers of Assistant Attorney General Helena Lynch, whose fraudulence, from beginning to end and in virtually every line, is particularized by plaintiffs' May 15, 2017 reply memorandum of law in support of requested threshold relief:

> (1) for sanctions, and disciplinary and criminal referrals of AAG Lynch and those supervising her in the Attorney General's office, responsible for her litigation fraud;
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> (2) for the disqualification of defendant Attorney General Schneiderman from representing his co-defendants; and
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> (3) for the Attorney General's representation of plaintiffs or intervention on their behalf, pursuant to Executive Law §63.1 and State Finance Law Article 7-A.

None of these three threshold issues are adjudicated by Judge Hartman's June 26, 2017 decision, which conceals them all. Ditto, the even more threshold issue presented by plaintiffs' May 15, 2017 reply memorandum of law of Judge Hartman's duty to make disclosure, absent her disqualifying herself. This, based on facts further demonstrating her actual bias subsequent to those embodied by plaintiffs' February 15, 2017 order to show cause. Among these, her denial of the February 15, 2017 order to show cause by a three-paragraph May 5, 2017 decision that concealed plaintiffs' Exhibit U analysis of her December 21, 2016 decision and baldly LIED that she had 'no interest in this litigation…or affinity to any party hereto' and that plaintiffs' 'allegations of bias and fraud' were 'conclusory' and 'meritless'.

Having so disposed of plaintiffs' Exhibit U analysis and her disqualification for actual bias, by her May 5, 2017 decision, and making no disclosure, Judge Hartman's June 26, 2017 decision relies on her December 21, 2016 decision to deny ALL branches of plaintiffs' March 29, 2017 order to show cause, excepting its first branch for summary judgment on their sixth cause of action – the sole cause of action her December 21, 2016 decision had preserved. As to that sixth cause of action, Judge Hartman's June 26, 2017 decision denies it by additional frauds – the most spectacular of which is

her LIE that her December 21, 2016 decision had rejected its sub-cause E – a LIE born of her inability to concoct any other pretense for denying plaintiffs a summary judgment award that would cause her judicial salary to plummet $20,000, immediately. Finally, having relied on her December 21, 2016 decision to deny the second branch of plaintiffs' March 29, 2017 order to show cause for leave to supplement their verified complaint, Judge Hartman denies as 'moot' their request that she sign subpoenas duces tecum for legislative records that would further prove what the record before her already establishes resoundingly: plaintiffs' entitlement to summary judgment on the fourth and fifth causes of action of both their September 2, 2016 verified complaint and their proposed March 29, 2017 verified supplemental complaint and injunctive relief based thereon." (underlining, capitalization, and italics in the original "legal autopsy"/analysis).

As highlighted by appellants' brief (at p. 45), Assistant Attorney General Kerwin submitted no reply papers to plaintiffs' August 25, 2017 opposition, although entitled to do so.

This was the posture of the case when, based on the above attorney misconduct, I filed my September 16, 2017 complaint with the First and Third Department Attorney Grievance Committees against Assistant Attorneys General Lynch and Kerwin, their immediate supervisors: Litigation Bureau Chief Dvorin and Deputy Attorney General Levine; and managerial higher ups: Attorney General Schneiderman, Chief Deputy Attorney General Brown, Chief Deputy Attorney General Sabel, and Executive Deputy Attorney General Stauffer – e-mailing them the complaint expressly so they could "each be ready to furnish the [Attorney Grievance] Committees with [] written responses pursuant to NYCRR §1240.7(b)(2)." Indeed, the September 16, 2017 complaint annexed, as Exhibit C, my e-mail sending the complaint to them – with Exhibit A being my June 16, 2017 judicial misconduct complaint to the Commission on Judicial Conduct against Judge Hartman and Exhibit B my September 11, 2017 supplement thereto.

Two and a half months later, Judge Hartman would render her November 28, 2017 decision and judgment [R.31-41], granting Assistant Attorney General Kerwin's July 21, 2017 cross-motion for summary judgment to defendants on plaintiffs' sixth cause of action – and denying the disqualification and other relief sought by plaintiffs' June 12, 2017 order to show cause.

The fraudulence of the November 28, 2017 decision is particularized by the "Argument" spanning pages 46-69 of the July 4, 2018 appellants' brief, with a footnote, at the outset (at p. 46), identifying that the presentation was "extracted from plaintiffs' 'legal autopsy'/analysis…accompanying their January 10, 2018 notice of appeal [R-1]". As hereinabove recited with substantiating record references (at footnote 1), I furnished Assistant Attorney General Lynch with the appellants' brief and record on appeal, contemporaneously with my preparing and finalizing them in June and July 2018.

Thereafter, I kept Assistant Attorney General Lynch current on what was happening with the appeal at the Appellate Division, Third Department. She was a cc on my e-mails to Assistant Solicitor General Brodie, annexing and linking plaintiff-appellants' motion papers, particularizing his unremitting litigation fraud at the Appellate Division, including his fraudulent September 21, 2018 respondents' brief, covered up and rewarded by fraudulent decisions of the appellate justices. This culminated on December 13, 2018, with an e-mail addressed to Attorney General Underwood, also sent to Assistant Attorney General Lynch and Assistant Solicitor General Paladino.

The December 13, 2018 e-mail, which bears directly on this February 11, 2021 complaint against Attorney General Underwood, Assistant Attorney General Lynch, and Assistant Solicitor General Paladino pertaining to the *Delgado* and *Barclay* cases, stated, in pertinent part:

> "…this is to give you NOTICE that the direct and foreseeable consequence of Mr. Brodie's flagrant and unceasing fraud before the Appellate Division, Third Department, spanning from his July 23, 2018 letter to his December 10, 2018 opposing memorandum – which you and your supervisory/managerial attorneys have permitted, if not directed – is the unconstitutionality and fraud of the New York State Compensation Committee, perpetrated on the People of the State of New York, from its first meeting on November 13, 2018 to its December 10, 2018 report. **Based on the record of CJA's second citizen-taxpayer action, entitling appellants to summary judgment on their ten causes of action – and, in particular, on its sixth cause of action (sub-causes A & B) – it is your duty to enjoin the Compensation Committee's 'force of law' salary and lulu recommendations, resulting from its report – and to do so before January 1, 2019, the date the first phase of its recommendations takes effect.**
>
> In the event you are unaware of my oral and written testimony to the Compensation Committee at its November 30, 2018 hearing identifying the DISPOSITIVE nature of the record of CJA's second citizen-taxpayer action, here's CJA's menu webpage entitled 'New York State Compensation Committee – Unconstitutionality in Plain Sight', from which my testimony and the substantiating EVIDENCE is posted: http://www.judgewatch.org/web-pages/searching-nys/2018-legislature/hhh-compensation-committee/2018-compensation-committee.htm. For your further convenience, my written testimony is also attached.
>
> Suffice to note that on July 23, 2018, when Mr. Brodie interposed his fraudulent letter to the Appellate Division, Third Department, urging that it NOT sign appellants' initial order to show cause, it was in face of ¶31 of my moving affidavit identifying yet a further reason why appellants were

entitled to the relief sought by its third branch, 'an accelerated schedule for briefing, oral argument, and decision…', consistent with the expedition mandated by the citizen-taxpayer action statute:

> '31. …this year's behind-closed-doors three-men-in the-room, 'amending' of budget bills resulted in the insertion of a Part HHH into Budget Bill #S.7509-C/9509-C, establishing a compensation committee for legislative and executive pay raises (Exhibit H). Such suffers from substantially the same constitutional and statutory infirmities as Part E of fiscal year 2015-2016 Budget Bill #S.4610-A/A.6721-A (Chapter 60, Part E, of the Laws of 2015), challenged by appellants' sixth and seventh causes of action [R.109-112 (R.187-201); R.112-113 (R.201-212)].[fn.9] As the judicial declarations to which appellants are entitled herein would render that compensation committee and its work a nullity, the sooner that happens, the better for all concerned.'

…

One final observation is in order. Based upon the statement in the Compensation Committee's report (at p. 11, #7) that the recommended 'force of law' salary increases for Executive Law §169 commissioners 'will thus allow for other staff salaries to be increased accordingly', it would appear that the same will happen in [the] attorney general's office, namely, that the recommended 'force of law' salary increase for the attorney general will allow for increases in salaries for the attorney general's staff. This includes for the solicitor general, whose compensation is fixed by the attorney general, pursuant to Executive Law §61. As you will be returning to that position on January 1, 201[9], upon the swearing-in of Attorney General-Elect Letitia James, please promptly advise how you will now address this further conflict of interest, afflicting you and, pursuant to Executive Law §62, other staff of the attorney general's office.

Once again, I ask that you respond personally, or by a high-ranking supervisory/managerial attorney, not *via* the complained-against Mr. Brodie." (December 13, 2018 e-mail, capitalization, underlining, and bold in the original).

Four days later, Assistant Attorney General Lynch, as well as Attorney General Underwood and Assistant Solicitor General Paladino, would all be cc's on my December 17, 2018 e-mail to the Appellate Division, Third Department, attaching what would be my final submission to that court: my now notarized December 15, 2018 reply affidavit to Assistant Attorney General Brodie's December 10, 2018 memorandum opposing plaintiff-appellants' November 27, 2018 order to show cause to disqualify the appeal panel for demonstrated actual bias, for certification of questions to the Court of Appeals, and other relief. Among its exhibits:

Exhibits H-1 – H-6: my above December 13, 2018 e-mail – re-sent on December 14, 2018 – and the only responses I received, which were from Assistant Solicitor General Brodie, *to wit*, his two e-mails stating "the respondents will not withdraw their memorandum in opposition to your motion in the appellate division" and that this was "an answer on behalf of respondents and the Attorney General's office".

Exhibit I: plaintiff-appellant's 10-page "legal autopsy"/analysis of Assistant Solicitor General Brodie's December 10, 2018 "Memorandum in Opposition to Appellants' Motion for Disqualification and Other Relief";

Exhibit J: the December 14, 2018 summons and verified complaint in *Delgado*, for which there was not yet an RJI; and

Exhibit K: my November 30, 2018 written testimony before the Committee on Legislative and Executive Compensation, with its accompanying provisions of the New York State Constitution: Article VII, §§1-7 pertaining to the fashioning and enactment of the executive budget and Article III, §10 pertaining to the openness proscribed for legislative proceedings.

My December 15, 2018 reply affidavit, which printed in full the text of my December 13, 2018 e-mail to Attorney General Underwood, highlighting that among the fraud of Assistant Solicitor General Brodie's December 10, 2018 opposing memorandum was its concealment of the five questions for which plaintiff-appellants' November 27, 2018 order to show cause was seeking certification to the Court of Appeals – and their context, *to wit*,

"As the constitutional function of New York's attorney general is to ensure that the state and its public officers comply with the United States and New York Constitutions and that laws promulgated are consistent therewith and, where consistent, complied with – including by state judges and the attorney general's own office – Mr. Brodie must be expected to furnish the Court with guidance, by an appropriate memorandum of law on the suggested certified questions."

My December 15, 2018 reply affidavit then stated:

"8. The first four of these proposed questions pertain to the unprecedented, first-impression nature of the situation in which New York's judiciary here finds itself by reason of the categorical jurisdictional bar that Judiciary Law §14 imposes on 'interested' judges – and the seeming unavailability of 'the rule of necessity'. Such mandates a judicial answer – and not only for this case, but for the cases expected to be brought challenging the constitutionality and lawfulness of Part HHH of Budget Bill

#S.7509-C/9509-C – now Part HHH of Chapter 59 of the Laws of 2018 – establishing the New York State Compensation Committee.

9. In those prospective cases – and the first [*Delgado*] has already been commenced in Albany County Supreme Court (Exhibit J) – the Judiciary Law §14 jurisdictional bar is triggered because Part HHH is materially identical to the budget statute here, Chapter 60, Part E, of the Laws of 2015, both of which, additionally, were enacted in materially identical ways and thereafter violated in materially identical fashions. Consequently, no state judge can declare unconstitutional and unlawful Chapter 59, Part HHH, of the Laws of 2018, *as written and as applied*, without effectively declaring the same with respect to Chapter 60, Part E, of the Laws of 2015, *as written and as applied*, as to which this Court – and all other state judges – are HUGELY 'interested' financially.

10. Conversely, the declarations of unconstitutionality, illegality and fraud herein sought by the' sixth, seventh, and eighth causes of action pertaining to Chapter 60, Part E, of the Laws of 2015, the Commission on Legislative, Judicial and Executive Compensation, and its December 24, 2015 report – as to which the record establishes appellants' summary judgment entitlement – will mandate comparable declarations with respect to Part HHH, the Compensation Committee, and its December 10, 2018 report. This is what I stated to this Court 4-1/2 months ago by the above-quoted ¶31 of my moving affidavit in support of appellants' initial order to show cause, filed on July 25, 2018 with appellants' brief and three-volume record on appeal – and what I publicly stated by my testimony at the Compensation Committee's November 30, 2018 hearing, accompanied by all the briefs and the three-volume record on appeal (Exhibit K).

11. As for appellants' fifth proposed certified question pertaining to the attorney general, it is likewise one of first-impression that will arise, threshold, in any lawsuit challenge to Part HHH, the Compensation Committee, and its December 10, 2018 report – because, as here, the attorney general will have no legitimate 'merits' defense – mandating that his litigation role, pursuant to Executive Law §63.1, be on behalf of the litigating plaintiffs – and this, *via* independent counsel because, *inter alia*, the attorney general suffers from mandatory disqualification because he is an actual beneficiary of the 'force of law' salary raise recommendations of the December 10, 2018 report, not just, as at bar, a prospective beneficiary.[fn2]" (my December 15, 2018 reply affidavit, underlining and capitalization in the original).

"[fn2] *See* September 2, 2016 verified complaint, ¶14(c) [R.96]: 'As Attorney General, defendant SCHNEIDERMAN benefits from the salary increase recommendations made by the Commission on Legislative, Judicial and Executive Compensation.'; September 30, 2016 memorandum of law [R.519-520] –

On December 19, 2018, the appeal panel denied plaintiff-appellants' November 27, 2018 order to show cause, in its entirety, and without reasons, identifying it only as "Motion to disqualify appeal panel and for other relief".

Two days later, on December 21, 2018, Assistant Attorney General Lynch was appearing before Albany Supreme Court Justice Christina Ryba, on behalf of the defendants in *Delgado*, opposing the *Delgado* plaintiffs' December 21, 2018 order to show cause for a preliminary injunction/TRO, as to which the summons and verified complaint had not yet been served (Tr., p. 7). Litigation Bureau Chief Dvorin – a cc on all the same e-mails as Assistant Attorney General Lynch – was with her, and interjected, vis-à-vis scheduling of defendants' responsive papers and a return date to say "If I could beg the Court's indulgence. I normally wouldn't say anything, but just to clarify one point…There is at the moment some issues internally about representation that we need to resolve" (Tr., at p. 12).

Six days later, on December 27, 2018, the appeal panel would render its memorandum and order in *CJA v. Cuomo…Schneiderman…DiFiore* – on which Assistant Attorney General Lynch would rely in her January 7, 2019 opposition to the *Delgado* plaintiffs' December 21, 2018 order to show cause, citing to it in her opposing memorandum of law for the proposition that the *Delgado* challenge to the constitutionality of the "force of law" statute that had established the Committee on Legislative and Executive Compensation was "meritless" because "a nearly identical statute – which, in 2015, created the commission on legislative, judicial, and executive compensation – was recently affirmed as constitutional by the Appellate Division, Third Department. See Ctr. for Judicial Accountability, Inc. v. Cuomo, No. 527081, 2018 WL 6797292, at *3 (3d Dep't Dec. 27, 2018)." (at p. 2), and that "The Third Department's holding is squarely on point in the current matter" (at pp. 14-15), and "completely refutes Plaintiffs' theory…" (at p. 15).

Assistant Attorney General Lynch continued in the same vein at the January 11, 2019 return date,[3] stating that the Appellate Division, Third Department's decision was

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> identifying defendant Schneiderman's 'direct, financial interest in the sixth, seventh, and eighth causes of action pertaining to the Commission on Legislative, Judicial and Executive Compensation.'"

[3] On January 9, 2019, I telephoned Justice Ryba's chambers for permission to have the January 11, 2019 proceedings videoed – and, at Justice Ryba's request, through her law clerk, embodied same in an e-mail cc'ing counsel, including Assistant Attorney General Lynch. Justice Ryba then followed up with her own e-mailed letter to counsel. On January 10, 2019, her law clerk e-mailed me that Justice Ryba had approved the request. The correspondence and VIDEO are posted on CJA's webpage for the *Delgado* case, here: http://www.judgewatch.org/web-pages/searching-nys/force-of-law-commissions/part-hhh-chapter59-laws-2018/delgado-v-state.htm.

"exactly applicable here and completely dispositive" (at 25 mins/30 secs.) and "I believe the Center for Judicial Accountability case is absolutely determinative here and I'll leave it at that." (at 28 mins/10 secs.)

Footnote 4 of the February 11, 2021 complaint (at p. 3) supplies record references to plaintiff-appellants' submissions to the Court of Appeals in *CJA v. Cuomo…Schneiderman…DiFiore*, aggregating illustrative portions of Assistant Attorney General Lynch's advocacy in *Delgado* and *Barclay*, importuning for dismissal based on the Appellate Division, Third Department's December 27, 2018 memorandum and order – which, after May 2, 2019, she reinforced by citing to the Court of Appeals' dismissal of plaintiff-appellants' appeal of right.

On June 7, 2019, in *Delgado*, Justice Ryba upheld the constitutionality of the budget statute that established the Committee on Legislative and Executive Compensation – Chapter 59, Part HHH of the Laws of 2018 – in a decision that relied on the Appellate Division, Third Department's December 27, 2018 memorandum and order in *CJA v. Cuomo…Schneiderman…DiFiore*, 167 AD3d 1406 (2018), citing to it eight times.

On August 29, 2019, in *Barclay*, Albany County Acting Supreme Court Justice/Court of Claims Judge Richard Platkin denied Assistant Attorney General Lynch's request to withhold decision pending determination of the noticed-appeals of Justice Ryba's June 7, 2019 decision in *Delgado* and purported that there was no need to address the merits of *Barclay*'s sixth cause of action as to "an unconstitutional delegation of legislative authority" because he was granting summary judgment to the *Barclay* petitioners on their second cause of action that the Committee on Legislative and Executive Compensation, by its December 10, 2018 report, had "acted in excess of its authority in recommending restrictions on outside income and employment".

Judge Platkin's August 29, 2019 decision in *Barclay* was eight days after publication in the New York Law Journal's print edition of my letter to the editor "*A Call for Scholarship, Civic Engagement & Amicus Curiae Before the NYCOA*", which it had published on-line the day before, highlighting that the Appellate Division, Third Department's December 27, 2018 decision in *CJA v. Cuomo* – on which Justice Ryba's June 7, 2019 decision relied in "upholding the constitutionality of the statutory delegation of legislative power challenged in *Delgado*" – was before the Court of Appeals and that its record, including at the Court of Appeals, accessible from CJA's website, was "shocking". Notably, the sole reference in Judge Platkin's decision to "*Center for Jud. Accountability, Inc. v. Cuomo*, 167 AD3d 1406…[3d Dept 2018], appeal dismissed 33 NY3d 993 [2019]" is on page 20, in its footnote 10 – a footnote which opens with the sentence: "Like many budget bills, Part HHH is not a model of drafting clarity" and closes by referring to Part HHH's delegation of legislative power as "extraordinary".

CJA's menu webpage for the February 11, 2021 complaint, at the Attorney Grievance Committee for the Third Judicial Department, from which the complaint

and all referred-to substantiating EVIDENCE for it and this complaint form are accessible, is here: http://www.judgewatch.org/web-pages/searching-nys/attorney-discipline/feb-11-21-complaint-3rd-dept.htm.