

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

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**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>  
**Sent:** Monday, March 18, 2013 10:50 AM  
**To:** mallison@nysenate.gov; latimer@nysenate.gov  
**Subject:** What is the Dollar Cost of the Judiciary Budget & of the Judiciary Appropriations Bill?  
**Attachments:** 2-27-13-ltr-to-usher.pdf; 3-18-13-senate-assembly-members.pdf

Dear Victor:

Following up our phone conversation, attached is my letter of today's date, just sent to ALL Senators & Assembly Members bearing the above-entitled subject-line.

Below is my February 27, 2013 e-mail for Senator Kruger, furnishing her with my February 27, 2013 letter to her Chief of Staff, Brad Usher, memorializing his shocking statements to me when I called inquiring as to what was happening with respect to my testimony at the February 6, 2013 budget hearing on "Public Protection". That February 27, 2013 letter – A MUST-READ -- is attached.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
914-455-4373

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**From:** Center for Judicial Accountability, Inc. (CJA) [<mailto:elena@judgewidth.org>]  
**Sent:** Wednesday, February 27, 2013 11:26 AM  
**To:** 'lkrueger@senate.state.ny.us'  
**Cc:** [usher@nysenate.gov](mailto:usher@nysenate.gov)  
**Subject:** Securing Appropriate Oversight & Action

Attached is my already-faxed letter to Chief of Staff Brad Usher, to which Senator Krueger is an indicated recipient. Please be sure that it is furnished to the Senator so that she can take such appropriate action as befits a public officer of her rank and position. The letter is already posted on CJA's website, [www.judgewidth.org](http://www.judgewidth.org), accessible *via* the top panel "Latest News" on the webpage devoted to "Securing Legislative Oversight & Override of the 2<sup>nd</sup> and 3<sup>rd</sup> Phases of the Judicial Pay Raises..." – which is where this fax will also be posted. Here's the direct link: <http://www.judgewidth.org/web-pages/judicial-compensation/legislative-oversight-judicial-raises.htm>

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
914-455-4373

CENTER for JUDICIAL ACCOUNTABILITY, INC.\*

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March 18, 2013

TO: All Senate & Assembly Members

FROM: Elena Ruth Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)

RE: **The People's Right to Know the Dollar Cost of the Judiciary Budget  
& of the Appropriations Bill for the Judiciary**

This follows up my March 15<sup>th</sup> e-mail to all members of the Senate and Assembly, whose subject line asked three questions: "Is the Judiciary Budget a 'Slush Fund'? What is its Dollar Cost – and that of the Appropriations Bill?"

Time is of the essence. Senate and Assembly leaders have announced their intention to have the Senate and Assembly vote on appropriations bills and a budget deal with the Governor by Thursday, March 21<sup>st</sup>. This means the bills must be on your desk today or tomorrow, absent the leaders' circumventing Article III, §14 of New York's Constitution by a "message of necessity" from the Governor. Yet, notwithstanding I sent out my e-mail before 9:00 a.m. on Friday, March 15<sup>th</sup>, I have received no answer to its subject line questions from any Senate or Assembly member, as of this hour and date, 9:00 a.m., Monday, March 18<sup>th</sup>.

I, therefore, reiterate those questions, on behalf of the People of the State of New York, whose tax dollars you will be spending. For your convenience, the substantiating body of the March 15<sup>th</sup> e-mail is set forth below:

**"ALERT: Is the Judiciary Budget a 'Slush Fund'?"**

TO: All Senate & Assembly Members

FROM: Elena Ruth Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)

**What is the precise dollar cost of the Judiciary budget being approved by you?**

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



According to the Senate's 'White Book' of its Finance Committee's Majority Coalition (at p. 75), the total is \$2,662,000,000. According to the Senate's 'Blue Book' of its Finance Committee's Democratic Minority (at p. 232), it is \$2,660,128,900. The difference is \$1,871,000 between them.

What about the Assembly? The 'Yellow Book' of its Ways and Means Committee (at p. 73-1), controlled by Majority Democrats, gives a far different total: \$1,973,235,869. The 'Green Book' of the Ways and Means Minority Republicans gives no figure at all.

Who's right? Chief Administrative Judge Gail Prudenti, testifying in support of the Judiciary's budget at the February 6<sup>th</sup> joint budget hearing on 'public protection' wasn't asked – and didn't say. She gave no dollar amount for the Judiciary's budget – and, tellingly, its total cost was not set forth in the Judiciary's budget documents, whose two parts add up to \$2,630,896,476. Nor was a total cost identified by the 'single budget bill' that the Judiciary passed on to the Governor – and which the Governor passed on to you with the 'Commentary' that it was '\$2.6 billion' – a rounded figure that can conceal many tens of millions of dollars. As for the budget resolutions you passed on March 11<sup>th</sup>, the Senate resolution 'concur[s] with the Executive recommendation of \$1.75 billion.'

Is the Judiciary budget a 'slush fund'? That's what I have called it in a March 11<sup>th</sup> letter sent to all members of the General Conference Committee and its Joint Budget Subcommittee on 'Public Protection', Criminal Justice, and the Judiciary. The letter suggests (at p. 10) that the untallied total cost of the Judiciary appropriations bill might be \$2,683,991,476 or more and summarizes and expands upon my testimony at the February 6<sup>th</sup> budget hearing, calling upon you to reject the Judiciary budget as unconstitutional for lack of appropriate itemization, including its omission of the dollar cost of the judicial salary increase it contains, also nowhere identified in the appropriations bill.

All Senate and Assembly Members are indicated recipients of the March 11<sup>th</sup> letter, expressly so 'they might be held accountable for their votes' (at p. 13). The letter, the video of the February 6<sup>th</sup> hearing with my 10-minute testimony, and the documentary proof substantiating both the letter and my testimony are posted on CJA's website, [www.judgewatch.org](http://www.judgewatch.org), on a webpage entitled 'Securing Legislative Oversight & Override of...the judicial pay raises...', accessible *via* the top panel 'Latest News'.

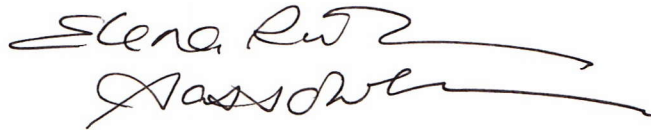
To facilitate your review – so that you may discharge your duty to your constituents and the People of the State of New York to reject the Judiciary budget and appropriations bill or, at very least, the judicial salary increase, demonstrated to be fraudulent, statutorily-violative, and unconstitutional – here's the direct link:

<http://www.judgewatch.org/web-pages/judicial-compensation/legislative-oversight-judicial-raises.htm>.

Thank you.” (bold & underlining in the original).

Come election time, how will you face your constituents if you are unable to answer the questions here presented? And how will you explain voting for a Judiciary appropriations bill with unidentified judicial pay raises, whose fraudulence and statutory and constitutional violations were demonstrated by documentary proof in the possession of Senate and Assembly leadership and the fiscal committees of both houses, of which you had knowledge?

Lest you be complicit with them in what is “grand larceny of the public fisc, involving tens of millions of dollars this year alone” – so-described by my March 11<sup>th</sup> letter (at p. 3, underlining in the original) – you must rise up now, on behalf of your constituents and the People of the State of New York, in demanding that Senate and Assembly leaders and the fiscal committees respond to the particulars of that letter.

Handwritten signature in black ink, appearing to read "Elena Ruiz" with a stylized flourish.

cc: Governor Andrew M. Cuomo  
Budget Director Robert L. Megna  
The Public & The Press



## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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February 27, 2013

TO: Brad Usher, Chief of Staff to Senator Liz Krueger

FROM: Elena Ruth Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)

RE: Memorializing What You Told Me

This is to memorialize what you told me yesterday when I called to again request to meet with Senator Krueger – who, in addition to being a member of the Senate Judiciary Committee, is Ranking Member of the Senate Finance Committee – before whom I had testified on February 6, 2013 at the joint legislative hearing on “Public Protection” in opposition to the Judiciary’s requested budget for fiscal year 2013-2014 and the unspecified millions of dollars in judicial salary increases it seeks – and to whom, as she left the hearing room, I had given, *in hand*, a bound copy of CJA’s October 27, 2011 Opposition Report.

You stated to me that Senator Krueger could not meet with me, giving as an excuse that she is “busy with the budget”. When I reiterated that it was about the budget that I wished to meet with Senator Krueger, you told me there are “a lot of budget issues”, but that “[my] budget issue” is “not a priority” for the Senator. When I responded that “[my] budget issue” is the budget of the third branch of our state government – a \$2.6 billion dollar expense – you replied that the Senator, having “listened to [my] testimony”, does not “accept [my] argument”. When I protested that my supposed “argument” concerned the dispositive nature of the October 27, 2011 Opposition Report in establishing that the judicial salary increases recommended by the Commission on Judicial Compensation’s August 29, 2011 “Final” Report are fraudulent, statutorily-violative, and unconstitutional and, additionally, the insufficient itemization in the Judiciary budget, precluding meaningful review and rendering it unconstitutional, for which I had furnished the February 9, 2011 Supreme Court decision in *Pines v. State of New York* (Nassau Co. #13518/10) – both requiring findings of fact and conclusions of law – you resisted that such was necessary, stating that Senator Krueger does not have the time or resources, thereafter asking me what findings of fact and conclusions of law are.

When I stated that the Senate Finance Committee is the most resourced committee of the Senate, with a budget presumably matching, if not exceeding, the \$5.8 million budget of the Assembly Ways and Means Committee, and asked you what that budget is because, unlike the Assembly Ways and Means Committee budget, it is not specified in the Legislature’s requested budget for fiscal year 2013-2014 – you told me I would have to get that information from Senator DeFrancisco, its Chairman. You further told me that notwithstanding Senator Krueger is the Finance Committee’s Ranking Member, she has no power because she is in the minority, rejecting my assertions that she is



nonetheless in a position to secure the necessary findings of fact and conclusions of law and take other steps to protect the public purse.

According to you, Senator Krueger believes that the judicial salary raises are “justified” – and any contrary showing, such as by our October 27, 2011 Opposition Report, will have to be determined in a court of law. You adhered to this even as I pointed out the Commission on Judicial Compensation’s most flagrant statutory violation, evident from the face of its August 29, 2011 Report and so-highlighted by our Opposition Report (at pp. 18-21; 25-26; 31-33). That facially-evident violation is the Commission’s deliberate disregard of the requirement that it “examine, evaluate and make recommendations with respect to adequate levels of judicial compensation and non-salary benefits”, as the statute expressly mandates for any salary recommendation (Chapter 567 of the Laws of 2010, §1(a)) – thereby concealing a package of “fringe benefits” whose cost to taxpayers has been estimated at approximately \$40,000 a year for each judge.<sup>1</sup> Tellingly, the Judiciary conceals the annual dollar amount of “fringe benefits” for all judges, as opposed to everyone on the Judiciary’s payroll, in its budget request for \$660.7 million in “General State Charges”, whose increase for fiscal year 2013-2014 is a whopping \$93-plus million over the current fiscal year.

You additionally told me – by way of further excusing Senator Krueger’s complicity in grand larceny from the public purse – that the budget is decided by “three men in a room” – these being Governor Cuomo, Temporary Senate President Skelos, and Assembly Speaker Silver. Suffice to say, these “three men in the room” are the original recipients of our October 27, 2011 Opposition Report – and any findings of fact and conclusions of law to be made as to the October 27, 2011 Opposition Report would expose their official misconduct and fraud upon New York taxpayers, warranting their being criminally prosecuted and removed from office for corruption. This you well know from our several prior phone conversations, beginning on December 7, 2012 – and my extensive correspondence spanning from that date to January 9, 2013 – to which Senator Krueger was more than an indicated recipient.<sup>2</sup>

As you further know, no great time and resources are needed for Senator Krueger to verify the fraud, statutory violations, and unconstitutionality of the judicial salary increases demonstrated by our October 27, 2011 Opposition Report. All that is necessary is securing such findings of fact and conclusions of law as were made by the “three men in a room” – and by Chief Judge Lippman, the

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<sup>1</sup> It was to conceal this very statutory infirmity that Chief Administrative Judge Prudenti, in testifying before Senator Krueger on February 6, 2013, referred to the Commission on Judicial Compensation as the “Judicial Salary Commission”, stating, in both her oral and written presentation, “We face significant cost increases in the coming year, including the judicial salary adjustments recommended by the Judicial Salary Commission...” (at 1:11:48; p. 2).

<sup>2</sup> This correspondence is posted on our website, [www.judgewatch.org](http://www.judgewatch.org), accessible *via* the top panel “Latest News”, on the webpage entitled “CJA’s championing of appropriate rules and leadership for the New York State Legislature”.

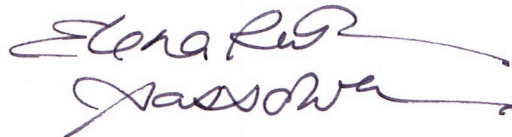


fourth original recipient of the October 27, 2011 Opposition Report – as well as by our state’s highest law enforcement officer, Attorney General Schneiderman, to whom our Opposition Report was provided on November 29, 2011. This was highlighted by the correspondence to which I referred in my testimony, sent to you and Senator Krueger in the week and a half preceding the February 6, 2013 budget hearing – four copies of which I handed up at the hearing.<sup>3</sup>

What is Senator Krueger’s justification for refusing to demand that our highest constitutional officers produce their findings of fact and conclusions of law with respect to our October 27, 2011 Opposition Report, in discharge of her constitutional, statutory, and Senate-rule duties to protect the public fisc? This she could readily do, as a minority member of the Senate, with or without the support of a single other Senator or Assembly member. All that is necessary is that she write them a letter demanding production of their findings of fact and conclusions of law, to reiterate that demand at Senate Finance and Judiciary Committee meetings and on the floor of the Senate, and, of course, at press conferences in Albany and Manhattan, which she could easily call and which, given its subject, would be widely reported by the media, whose coverage would leave no choice to the “three men in the room”, to the Attorney General, and to the Chief Judge, but to disgorge the incriminating evidence. Or did Senator Krueger not even read our October 27, 2011 Opposition Report, from which her duty to her constituents and to the People of this State would be evident. As for you, you stated you had “looked through it”.

Should you deny or dispute the accuracy of the foregoing in any respect – or deny what is obvious from the most cursory examination of the October 27, 2011 Opposition Report, *to wit*, that findings of fact and conclusions of law with respect thereto will make it impossible for any member of the Senate Finance Committee or Assembly Ways and Means Committee to approve the judicial salary increases for all the reasons set forth therein and summarized by the “Executive Summary” which was distributed to Senator Krueger when I testified – please furnish specifics, without delay. In any event, please identify the salary you receive as Senator Krueger’s Chief of Staff – a salary paid by this state’s taxpayers.

Thank you.



cc: Senator Liz Krueger  
NYS Legislators, etc. & The Public

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<sup>3</sup> These four copies were being publicly presented by me when Chairman DeFrancisco cut me off – and can be seen in the video of the February 6, 2013 hearing (at 7:34:48), which is posted on our website, together with that correspondence, accessible *via* the top panel “Latest News”, on the webpage entitled “Securing Legislative Oversight & Override of the 2<sup>nd</sup> & 3<sup>rd</sup> Phases of the Judicial Pay Raises...”.