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STATE OF NEW YORK

PUBLIC HEARING

Commission on Legislative, Judicial  
and Executive Compensation

November 30, 2015

New York City Bar Association  
42 West 44th Street  
New York, New York

B E F O R E:

SHEILA BIRNBAUM, Chair  
HON. BARRY A. COZIER (RET.)  
ROMAN B. HEDGES  
MITRA HORMOZI  
GARY JOHNSON  
HON. JAMES J. LACK (RET.)  
FRAN REITER

Anne Marie Scribano  
William Leone  
Senior Court Reporters

## Proceedings

people is truly what is at stake here.

Thank you.

*Thank you.*

CHAIR PERSON: Any questions?

(No response.)

CHAIR PERSON: Elena Sassower, *director of the Center for Judicial Integrity*

MS. SASSOWER: I take it that Mr. Schulz is

deferring to me his three plus minutes.

CHAIR PERSON: He's not deferring anything, You

will have ten minutes like everybody else. And that's going to be the ten.

MS. SASSOWER: Excuse me. *have already raised* I want to raise an issue

of your actual bias and self-interest, as well as that of Commissioner *Lack + Coz in Chair Birnbaum you can --*

CHAIR PERSON: Do you want your ten minutes or --

MS. SASSOWER: I most certainly do. And I would

request that Commissioner Hormozi who I first met in 2011

when she was a panelist here speaking about reform that,

perhaps, she take the initiative to allow me the extra three

minutes that I *will require* would request for my *important* witness statement.

CHAIR PERSON: Would you please proceed.

MS. SASSOWER: *yes,* I need a moment or so to setup. I

*was slated to testify* would likely testify after lunch, *is that correct?*

CHAIR PERSON: If you would like we will pass you

and go to the next speaker.

MS. SASSOWER: That is fine with me. I'm happy to

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*1:39:49*

*Sassower: I require that I'm sorry*

*Sassower: hearing is Excuse me*

*MS Sassower*

*MS Sassower*

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reserve to the end if that would be --

CHAIR PERSON: That would be fine.

MS. SASSOWER: If that would enable me to have the  
12 or 13 minutes that I require *for my full presentation, I would appreciate that.*

CHAIR PERSON: You have ten minutes. Thank you.

Carol Ann, Director of the Health Watch.

MS. SASSOWER: She informed me that she would be  
here at 1:30. She's slated to testify, I believe, *about* at 2:15.

CHAIR PERSON: Okay.

MS. SASSOWER: I was scheduled to testify *at* about  
that time as well.

CHAIR PERSON: We're moving ahead.

Matthew Kapolwitz.

Thank you, Mr. Kapolwitz.

MR. KAPOLWITZ: Good morning, Ms. Birnbaum and  
members of the Commission. My name is Matthew Kapolwitz. I  
thank this Commission for the opportunity to testify.

I am an individual who serves pro bono on the  
Compensation Committee for an international nonprofit  
disability organization in the public sector. I have also  
been a litigant in New York State. I will speak about the  
job performance component of judicial compensation.

Compensation in every field is one of the primary  
drivers of job performance. Regardless of whether someone  
is a minimum wage worker or a judge, when the compensation

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1  
2 Elena Sassower, Director for the Center for  
3 Judicial Accountability?

4 Thank you.

5 MS. SASSOWER: May I just do some housekeeping  
6 here? There are an excess of cups ~~in the way~~.

7 THE CHAIRPERSON: Sure. Just let us know when  
8 you're ready and I'll start the clock.

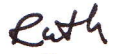
9 Thank you.

10  MS. SASSOWER: There was no press announcement  
11 from this Committee, press release sent out notifying the  
12 public of this hearing today and, consequently, there are  
13 not many people present, nor who requested to testify  
14 because they didn't know about this hearing, nor did they  
15 ever know or do they know that they have an opportunity to  
16 make written submissions.

17 We are so ahead of schedule, I would ask the  
18 indulgence of the panel. My statement is only 12 minutes or  
19 so.

20 THE COURT: Why don't we just try to stick to the  
21 10 like everybody else and then we'll see where we are.

22 MS. SASSOWER: I prefer not to run, race through  
23 it.

24  My name is Elena Sassower and I am director and  
25 co-founder of the Center for Judicial Accountability, Inc.,  
26 a nonpartisan, nonprofit citizens' organization that, for



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1  
2 more than a quarter of a century, has documented that New  
3 York's judiciary is not discharging its constitutional  
4 function to render fair and impartial justice according to  
5 law. Rather, it is pervasively corrupt from trial levels up  
6 to the appellate and supervisory levels, throwing cases by  
7 fraudulent judicial decisions that falsify and omit the  
8 controlling facts and obliterate the most basic adjudicative  
9 and due process standards. And making this even more  
10 catastrophic and unconstitutional is that all safeguards  
11 within the judiciary and within the legislative and  
12 executive branches are dysfunctional and corrupted, not the  
13 least reason because, when citizens bring suit to enforce  
14 black letter, unambiguous law and principles of  
15 constitutional governance, judges throw the cases, usually  
16 with the connivance <sup>of</sup> ~~with~~ our state's highest law enforcement  
17 officer, the New York Attorney General, who, when he has no  
18 legitimate defense, defends anyway with litigation fraud,  
19 for which he is rewarded by fraudulent judicial decisions in  
20 favor of his governmental clients.

21 As I stated when I testified before the Commission  
22 to Investigate Public Corruption at a September 17, 2013  
23 public hearing, cases are perfect paper trials. There's a  
24 record, so it's easy to document ~~the~~ judicial corruption.  
25 That was at the same hearing at which U.S. Attorney Preet  
26 Bharara testified.

## Proceedings

1  
2 Indeed, on CJA's website, [www.judgewatch.org](http://www.judgewatch.org),  
3 there is a prominent hyperlink on the home page entitled  
4 What's Taking You So Long, Preet? CJA's three litigations,  
5 whose records are perfect paper trails for indicting New  
6 York's highest public officers for corruption.

7 U.S. Attorney Bharara's prosecutions of former  
8 Assembly Speaker Silver and his unrelated prosecution of  
9 former temporary <sup>Senate</sup> President Skelos are each for small change.  
10 And establishing this resoundingly are those three  
11 litigations, accessible from our home page link, bearing his  
12 name. These litigations, each of which we brought in the  
13 public interest on behalf of the People of the State of New  
14 York, involved the open and shut prima facie case of their  
15 collusion with each other and with Governor Cuomo and Chief  
16 Judge Lippman in grand larceny of the public fisc. This  
17 with respect to the judicial salary increases recommended by  
18 the August 29th, 2011 report of their appointed Commission  
19 on Judicial Compensation, whose fraudulence, statutory  
20 violations and unconstitutionality we proved by an  
21 October 27, 2011 opposition report presented to all four of  
22 these highest constitutional officers without response.

23 This nonfeasance and collusion against the <sup>P</sup>people  
24 was the subject of the first of the three litigations. A  
25 declaratory judgment action, which we commenced in  
26 March 2012, and as to which we sought U.S. Attorney

## Proceedings

1  
2 Bharara's intervention, as part of a fully documented  
3 criminal complaint, we hand delivered for him on April 15,  
4 2013, a copy of which I handed up to the Commission to  
5 Investigate Public Corruption <sup>in testifying</sup> and testified before it five  
6 months later.

7 The second litigation, a citizen taxpayer action,  
8 as well as a third litigation, our intervention in the  
9 legislature's declaratory judgment action against the  
10 Commission to Investigate Public Corruption, embraced the  
11 multi-billion dollar slush fund judiciary budget in which  
12 the judicial salary increases are embedded with direct  
13 ramifications on the whole of the state budget, on three men  
14 in a room, behind closed doors government and dysfunction  
15 borne of a set of assembly rules, vesting autocratic powers  
16 in the temporary Senate President and Assembly Speaker.

17 Both of these two subsequent litigations, commenced  
18 in March and April 2014, arose from U.S. Attorney Bharara's  
19 nonfeasance with respect to the April 15th, 2013 criminal  
20 complaint and from the corruption of the Commission to  
21 Investigate Public Corruption, which he covers up.

22 But for the evisceration of any cognizable  
23 judicial process in all three of these litigations,  
24 resulting from the double whammy of Attorney General  
25 Schneiderman's litigation fraud, rewarded by fraudulent  
26 judicial decisions, current judicial salaries would



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1  
2 rightfully be what they were in 2011 and the 2010 statute  
3 that created the Commission on Judicial Compensation, which  
4 in 2015 became the template for the statute creating this  
5 Commission, would have been declared unconstitutional long,  
6 long ago.

7           So this Commission has U.S. Attorney Bharara to  
8 thank for the ongoing three-branch crime spree involving  
9 judicial salary increases and the secreting of them in the  
10 budget, sufficient in and of itself to disentitle all the  
11 constitutional officers whose compensation is before you  
12 from any increase.

13           The judiciary and the judicial pay raise advocates  
14 testifying here today and by their written submissions tout  
15 the excellence and high quality of the judiciary, implicitly  
16 recognizing that judicial salary increases are predicated on  
17 judges fulfilling their constitutional function of rendering  
18 justice.

19           Plainly, they need a reality check if they are  
20 actually unaware of the lawlessness and non-accountability  
21 that reigns in New York's judicial branch, notwithstanding  
22 our ~~news~~ <sup>notice</sup> to them again and again and again.

23           Let them confront with findings of fact and  
24 conclusions of law our October 27, 2011 opposition report  
25 and our three litigations arising therefrom. This includes  
26 our constitutional analysis drawn from the Court of Appeals



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February 23, 2010 decision in the judges' judicial compensation lawsuits and from Article 6 of the New York State Constitution that, quote, "The appellate, administrative, disciplinary and removal provisions of Article 6 are safeguards whose integrity or lack thereof are not just appropriate factors, but constitutional ones. Absent findings that these integrity safeguards are functioning and not corrupted, the Commission cannot constitutionally recommend raising judicial pay."

For your convenience, I am furnishing you with the starting point of the three litigations, our verified complaints in each, the first of which included a full copy of our dispositive opposition report, identical to what I handed to Chairwoman Birnbaum four weeks ago at the conclusion of your November 3rd first organizational meeting.

Of these three litigations, only the citizen taxpayer action is live and unfolding. As to it, I am also furnishing to you our supplemental verified complaint and the very last submission in the case, our November 5th, 2015 reply papers in further support of our cross-motion for summary judgment and other relief. Highlighted therein are the uncontested facts and law entitling us to a declaration that the judicial salary increases recommended by the Commission on Judicial Compensation's August 29, 2011 report

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are fraudulent, statutorily violative and unconstitutional and that the statute that created that Commission, materially replicated in the statute that created this Commission, was unconstitutional as written and as applied.

The judge to whom the case was assigned, who got a \$40,000 salary increase as a result of the Commission on Judicial Compensation's report, does not have to be excellent to render those requested declarations of fraud, unlawfulness and unconstitutionality. He does, however, need to earn his \$174,000 salary, yearly salary, by at least being competent and honest, as that is all that is necessary for rendering the declarations, as you can readily verify from the dispositive presentations in our reply paper<sup>s</sup>. Such declarations mandated by law and the most basic of judicative principles will restore judicial salaries to their 2011 levels and preclude any increase until the systemic corruption infesting New York's judiciary is rectified, including by a lawfully functioning Commission on Judicial Conduct, not the sham that currently exists. *Almost done.* It will also require ~~a~~ <sup>the</sup> shutdown of this Commission on multiple grounds of unconstitutionality, which as written grounds -- with the as-written grounds being reinforced by those as applied, manifested by how this Commission has been operating in this statutorily violative first month of its operations<sup>s</sup> —

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THE CHAIRPERSON: Ms. Sassower --

THE WITNESS: ~~Looking~~ -- *including at this hearing*

THE CHAIRPERSON: -- you now have nearly  
13 minutes.

THE WITNESS: I'm almost done.

THE CHAIRPERSON: Ms. Sassower.

THE WITNESS: *We're*  
~~You're~~ way ahead --

THE CHAIRPERSON: Ms. Sassower, how much --

THE WITNESS: *— including at this hearing*  
Let the public hear what I have to  
say.

THE CHAIRPERSON: You *can*  
*Sassower: I am almost finished*

VOICE: I want to hear it.

VOICE: I want to hear it, too.

VOICE: I want to hear it.

VOICE: I'm here.

MS. SASSOWER: This is of sufficient importance --

THE CHAIRPERSON: You can pack the room, Ms.  
Sassower, with your colleagues, that's perfectly fine.

MS. SASSOWER: It's the public that needs to hear  
and see how this *is — this hearing is being conducted*

THE CHAIRPERSON: You had as much time as anybody  
else. You now have had 13 minutes --

*Sassower - I believe -*  
MS. CAROL: Elena can have my three minutes and  
it's three minutes --

MS. SASSOWER: Thank you.



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THE CHAIRPERSON: You are?

MS. CAROL: My name is Carol, Ann.

MS. SASSOWER: Thank you. *Thank yr.*

MS. CAROL: She can have three minutes of my  
10-minute testimony. *SASSOWER: Thank yr. I need only  
a minute to conclude.*

THE CHAIRPERSON: You're Ann Carol? *I'm sorry*

MS. CAROL: Yes.

THE CHAIRPERSON: Okay, take the time.

MS. SASSOWER: Thank you. *for your generosity*

Excuse me.

It will also require the shutdown of this  
Commission on multiple grounds of unconstitutionality with  
the as-written grounds being reinforced by those as applied,  
manifested by how this Commission has been operating in the  
statutorily violative first month of its operations,  
including at this hearing, conducted as if the current  
judicial salary levels are not, as each of the Commissioners  
must by now know them to be, ill-gotten gains stolen from  
the taxpayers.

VOICE: Here, here.

MS. SASSOWER: Indeed, based upon my  
communications with you over the past month, your  
verification should largely be done.

As I stated to you on November 3rd, in my e-mail  
requesting to testify at this hearing, the four weeks until

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1  
2 the hearing were ample time for each Commissioner  
3 individually to verify the accuracy of our October 27th,  
4 2011 opposition report, quote, "thereby requiring that this  
5 Commission's recommendations, having the force of law, be  
6 for the nullification, ~~the~~ voiding of the Commission on  
7 Judicial Compensation's August 29th, 2011 report and a  
8 clawback of the 150 million plus dollars that the judges  
9 unlawfully received pursuant thereto," unquote.

10 The only way you can get away with doing anything  
11 else in your own report, which is statutorily required by  
12 December 31st, 2015, is by obliterating the existence of our  
13 opposition report, the record of our three litigations based  
14 thereon, and all findings of fact and conclusions of law  
15 that are your duty to make with respect thereto.

16 This kind of fraudulent concealment is precisely  
17 how the Commission on Judicial Compensation operated and how  
18 judges operate when they throw cases by fraudulent judicial  
19 decisions.

20 This Commission's threshold duty is, of course, to  
21 address issues of the disqualification of its members for  
22 actual bias and interest. And my November 3rd e-mail  
23 requesting to testify set that forth stating, quote, "Should  
24 any of the Commissioners feel themselves unable to discharge  
25 their duties with respect to the systemic three-branch  
26 corruption issues presented by CJA's citizen opposition and

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that other citizens will be presenting as well, they should step down from the Commission forthwith. Two Commissioners, Cozier and Lack~~f~~, are absolutely disqualified by reason of their active role in that corruption and Chairman Birnbaum, perhaps, as well," unquote.

Time does not permit me to furnish the particulars, suffice to say that all three have demonstrated their utter disregard for case file evidence of judicial corruption, particularly as it relates to the Commission on Judicial Conduct and ~~a~~<sup>the</sup> court-controlled attorney disciplinary system, whose corruption they have perpetuated.

All documentary proof supporting this testimony, including as relates to the disqualifying bias and interests of Commissioners Cozier, Lack~~f~~ and Birnbaum, will be posted on CJA's website [www.judgewatch.org](http://www.judgewatch.org), accessible by the prominent homepage link No Pay Raises for New York's Corrupt Public Officers. The money belongs to their victims.

Thank you.

THE CHAIRPERSON: Thank you.

VOICE: Bravo, excellent.

MS. SASSOWER: I have here --

THE CHAIRPERSON: Thank you.

MS. SASSOWER: -- the verified complaint~~s~~ the final motion papers in the citizen taxpayer action. I have, additionally --



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THE CHAIRPERSON: Thank you. We'll make sure it gets --

MS. SASSOWER: -- and a hard copy of my statement with annexed supporting ~~papers~~ <sup>exhibits</sup>.

THE CHAIRPERSON: Thank you.

If you just leave them that at the table, we'll have somebody pick them up and distribute them.

MS. SASSOWER: You already, of course, ~~have~~ <sup>have</sup> the opposition report.

THE CHAIRPERSON: Yes, we do.

THE WITNESS: Do you need another full copy?

THE CHAIRPERSON: No.

THE WITNESS: One is sufficient?

That being said, I will nonetheless ~~because~~ Commissioner Hormozi was chair of the Commission on Public Ethics and presented in this room, in December 2011, on the issue of reform. <sup>I'm giving her --</sup>

MS. REITER: Ms. Sassower, you are way over. And I am finding this offensive at this point. You have been talking for over 20 minutes now. <sup>ok?</sup> You were supposed to have 10. You're done. You got sufficient time.

Could you please leave your documents <sup>so that we can continue</sup> and this hearing --

MS. SASSOWER: You virtually have no one here testifying.

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MS. REITER: Excuse me?

MS SASSOWER: You have no one here testifying ~~and~~

*chair Birnbaum* — I think we have many people --

MR. REITER: <sup>*I think*</sup> We have many people testifying that

you don't agree with and I find that most offensive of all

that you think anybody who disagrees with you is not

actually testifying.

MS. SASSOWER: No, no -- *this is about evidence please*

MS. REITER: Could you <sup>*finish*</sup> finish, finish --

MS. SASSOWER: Actually, you have no --

MS. REITER: Put yourself over there --

MS. SASSOWER: You have no evidentiary

presentation.

*Ms Reiter: you're done.*

THE CHAIRPERSON: Ms. Sassower, we're done.

Please. We have --

MS. SASSOWER: <sup>*- by the*</sup> ~~The~~ judicial pay raise advocates --

MS. REITER: You are done.

THE CHAIRPERSON: We have other people. Please.

MS. SASSOWER: -- ~~inadequate current~~ <sup>*as to the inadequacy of current salaries*</sup> --

THE CHAIRPERSON: <sup>*Will you*</sup> Give up the microphone --

MS. SASSOWER: <sup>*as to*</sup> any problem in attracting qualified candidates *to the bench or -*

THE CHAIRPERSON: Honorable Matthew Turner, is

Mr. Turner here?

MS. SASSOWER: Thank you.

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THE CHAIRPERSON: Mr. Turner?

Very good. Thank you.

We'll certainly let you take your coat off.

(Continued on the next page)

speaking to  
Commissioner  
Hormoz

Sassover:  
this is for you  
Hormoz: nods in  
acknowledgment

Sassover leaves table  
then quickly returns  
Oh, I only want  
the combination  
back  
(which she  
takes from  
the table)