CENTER *for* JUDICIAL ACCOUNTABILITY, INC.*

Post Office Box 8101
White Plains, New York 10602

Tel. (914)455-4373

E-Mail: cja@judgewatch.org
Website: www.judgewatch.org

January 29, 2013

TO: Chief Administrative Judge A. Gail Prudenti
New York State Unified Court System

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

RE: (1) Clarifying the Judiciary's Budget for Fiscal Years 2013-2014 & 2012-2013:
(a) The dollar amounts sought by the Judiciary for judicial salary increases;
(b) The dollar amounts sought by the Judiciary for "compensation and non-salary benefits for judges and justices of the unified court system", *exclusive of salary*; and
(2) Production of the Judiciary's Findings of Facts and Conclusions of Law with Respect to CJA's October 27, 2011 Opposition Report and People's Lawsuit Based Thereon against New York State's Three Government Branches and Highest Constitutional Officers, *CJA, et al. v. Cuomo, et al.*, to Void the Three-Phase Judicial Salary Increases

On February 6, 2013 the New York State Senate and Assembly will hold a joint legislative hearing on "Public Protection" at which you will be testifying in support of the Judiciary's budget for fiscal year 2013-2014.

In transmitting the Judiciary's $1.7 billion "General Operating Fund Budget" for fiscal year 2013-2014, your November 30, 2012 letter to the Governor, to the Senate and Assembly Majority and Minority Leaders, and to the Chairs of the Senate Finance Committee, Assembly Ways and Means Committee, Senate Judiciary Committee, and Assembly Judiciary Committee identified that it included "funding for the next phase of the judiciary salary increase" (underlining added).

This "next phase" is the second phase of the three-phase judicial salary increase recommended by the August 29, 2011 "Final" Report of the Special Commission on Judicial Compensation.

Please advise where the dollar amount requested for this second phase of the judicial salary increase is set forth in the Judiciary's budget for fiscal year 2013-2014 – as I am unable to find it. By contrast, the dollar amount requested for the first phase of the judicial salary increase was in the Executive Summary of last year's "General Operating Fund Budget" for fiscal year 2012-2013, which listed it as $27.7 million.

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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.

Please also identify the dollar amounts, exclusive of salary, requested for "compensation and non-salary benefits for judges and justices of the state-paid courts of the unified court system" in the Judiciary's budgets for fiscal years 2013-2014 and 2012-2013. It would appear that this information is contained – though not so-itemized or accessible – in the Judiciary's separate budget of "General State Charges", whose "Major Purpose" is summarized as:

> "includ[ing] funding required for fringe benefits provided to state-paid judges and nonjudicial employees. Appropriations are required for pension contributions, Social Security and Medicare, health, dental, vision and life insurance, and employee benefit funds." (underlining added).

The Judiciary's budget of "General State Charges" for fiscal year 2013-2014 is over $666 million dollars – a huge figure not identified by either of your two November 30, 2012 letters transmitting the two separate budgets. The Judiciary's budget of "General State Charges" for fiscal year 2012-2013 was over $582 million dollars – and this huge figure, also, was not identified by the two November 30, 2011 budget-transmitting letters of your predecessor, Chief Administrative Judge Ann Pfau.[1]

In testifying last year at the Legislature's January 30, 2012 joint budget hearing on "Public Protection", Senate Judiciary Committee Chair John Bonacic noted that "some of the Senators in the past have expressed concerns about having more itemization from the Judiciary in line item". He stated that although the Judiciary presents its budget "in the same form as the Legislature", the Legislature, every six months, "file[s] financial statements with more specificity". He suggested that further information from the judiciary, including on its website, would be "helpful with more transparency" (at 0:25:01). Your response was as follows:

> "Thank you, Senator, and I do understand this issue and I understand that more than a budget issue, it really is one that really does lend itself to expenditure reports and I'm sensitive to that. We do prepare similar reports at different levels and I think you make a very, very good suggestion and I promise you that I will look, I will work with you and your office and any of the other members from the Senate and Assembly who have the same concerns. I'm also hopeful, you know, as you know that the state comptroller is moving to a new financial system and we will be somehow able – in this new system – to create these type of reports. I really think that this new system will enhance transparency and openness. You know the way that the Senate and Assembly does business is a little bit differently, of course, than the court system. But I really think we can work together and we can, we will be able to provide you with the information that you request and the public deserves." (at 0:25:50).

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[1] Interestingly, the year earlier, for fiscal year 2011-2012 – the first time the Judiciary separately itemized its "estimates of funding for General State Charges necessary to pay the fringe benefits of judges, justices, and nonjudicial employees separately from itemized estimates of the annual operating needs of the Judiciary" – the "General State Charges" was $617.3 million.

As I will be testifying at the February 6, 2013 joint legislative hearing in opposition to the Judiciary's budget request for monies for the second phase of the judicial salary increases – and will do so based on CJA's October 27, 2011 Opposition Report to the Commission on Judicial Compensation's August 29, 2011 "Final" Report and our People's lawsuit based thereon, *Center for Judicial Accountability, Inc., et al. v. Cuomo, et al.*, against New York State's three government branches and highest constitutional officers to void the judicial salary increases — demand is hereby made that you produce the Judiciary's findings of fact and conclusions of law with respect to our October 27, 2011 Opposition Report and the four causes of action of the *CJA v. Cuomo* verified complaint.[2]

Needless to say, your failure to use the opportunity of your February 6, 2013 appearance before the Legislature to contest our particularized showing that the judicial salary increases are unconstitutional, statutorily-violative, and fraudulent will be deemed a further concession that New York Chief Judge Jonathan Lippman and the Unified Court Administration cannot do so.

Thank you.

cc: Judicial Branch Constitutional Officers
Chief Judge Jonathan Lippman
Executive Branch Constitutional Officers
Governor Andrew M. Cuomo
(& Budget Director Robert Megna)
Comptroller Thomas DiNapoli
Attorney General Eric T. Schneiderman
Legislative Branch Constitutional Officers
Senate Majority Coalition Leaders Dean Skelos & Jeff Klein
Senate Minority Conference Leader Andrea Stewart-Cousins
Assembly Speaker Sheldon Silver
Assembly Minority Leader Brian Kolb
Senate Finance Committee
Senator John A. DeFrancisco, Chair
Senator Liz Krueger, Ranking Member
Assembly Ways & Means Committee
Assemblyman Herman D. Farrell, Jr., Chair
Assemblyman Robert Oaks, Ranking Member
Senate Judiciary Committee
Senator John J. Bonacic, Chair;
Senator Ruth Hassell-Thompson, Ranking Member
Assembly Judiciary Committee
Assemblywoman Helene E. Weinstein, Chair
Assemblyman Tom McKevitt, Ranking Member

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[2] Although the Unified Court System has CJA's Opposition Report and the *CJA v. Cuomo* verified complaint, these documents are also readily accessible from our website, www.judgewatch.org, including *via* the top panel "Latest News".

Center for Judicial Accountability, Inc. (CJA)

From:	Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent:	Tuesday, January 29, 2013 3:59 PM
To:	'aprudent@courts.state.ny.us'; bwalker@nycourts.gov
Cc:	'jlippman@courts.state.ny.us'
Subject:	The Judiciary's Budget & Production of the Judiciary's Finding of Facts & Conclusions of Law
Attachments:	1-29-13-ltr-to-prudenti.pdf

Dear Chief Administrative Judge Prudenti,

Attached is CJA's letter of today's date, already faxed to you and to Chief Judge Lippman. It is also posted on our website, www.judgewatch.org, accessible *via* the top panel "Latest News". For your convenience, here's the direct link: http://www.judgewatch.org/web-pages/cja/latest-news.htm .

Inasmuch as the Legislature's February 6, 2013 Joint Hearing on the Judiciary's Budget is next week, I would appreciate your expeditious response, by e-mail.

Thank you.

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

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*** TX REPORT ***
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Prudenti confirmed w/ Katarina 212-428-2100

TRANSMISSION COMPLETED

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ST. TIME	01/29 15:14
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*** TX REPORT ***
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Coppman confirmed via V.M. 212-661-6787

TRANSMISSION COMPLETED

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