

## CENTER for JUDICIAL ACCOUNTABILITY, INC.\*

Post Office Box 8101  
White Plains, New York 10602

Tel. (914)455-4373

E-Mail: [cja@judgwatch.org](mailto:cja@judgwatch.org)  
Website: [www.judgwatch.org](http://www.judgwatch.org)

February 1, 2013

TO: Comptroller Thomas P. DiNapoli  
Attorney General Eric T. Schneiderman

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

RE: Discharging Your Constitutional Duty with Respect to the Judiciary Budget Request for Funding of the Judicial Salary Increases Recommended by the August 29, 2011 "Final" Report of the Special Commission on Judicial Compensation

Enclosed is the Center for Judicial Accountability's above-entitled letter of today's date to Governor Cuomo, with enclosures.

Like the Governor, each of you also has a constitutional duty to "take care that the laws are faithfully executed" – and to protect New York taxpayers from fraud by their own government.

Do you deny or dispute that the Center for Judicial Accountability's October 27, 2011 Opposition Report dispositively establishes that the judicial salary increases, for which the Judiciary is seeking funding, are unconstitutional, statutorily-violative, and fraudulent? If so, you, too, must PROVE it – and we so demand that you do so by:

- (1) producing such findings of fact and conclusions of law as you made, or as were made by the attorneys in your offices, with respect to our Opposition Report, if not, additionally, with respect to the four causes of action in our public interest lawsuit based thereon, *Center for Judicial Accountability, Inc., et al. v. Andrew Cuomo, et al.*; and
- (2) testifying, under oath, at the February 6, 2013 joint legislative budget hearing on "Public Protection" at which the issue of the Judiciary's budget is to be considered.

Certainly, testifying, under oath, at the Legislature's February 6, 2013 hearing as to your findings of fact and conclusions of law is consistent with the Attorney General's own January 22, 2013 press release, "Statement of A.G. Schneiderman On The Governor's Executive Budget", on his website, [www.ag.ny.gov](http://www.ag.ny.gov), wherein he states:

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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.

“To help close the budget deficit, our office will leave no stone unturned in rooting out fraud, corruption, and waste in government, so that we can recover more money stolen from the taxpayers and hold accountable individuals who betray the public trust. I would like to thank Governor Cuomo for supporting the Attorney General’s Office in our efforts to meet these goals. And I look forward to working with the Governor and the Legislature to restore the public’s faith in government...”

as, likewise, with the Comptroller’s website, [www.osc.state.ny.us](http://www.osc.state.ny.us), with its assertions about “working to find and fight fraud at every level of State and local government” and posting a January 22, 2013 press release “State Comptroller Thomas P. DiNapoli Statement on Executive Budget Proposal”, stating:

“My office will thoroughly review the Executive Budget and provide a detailed analysis in the coming weeks.”

Thank you.



Enclosure

cc: Executive Branch Constitutional Officers  
Governor Andrew M. Cuomo  
( & Budget Director Robert Megna)

Legislative Branch Constitutional Officers:  
Temporary Senate President Dean Skelos  
Assembly Speaker Sheldon Silver  
Alternating Temporary Senate President Jeff Klein  
Senate Minority Conference Leader Andrea Stewart-Cousins  
Assembly Minority Leader Brian Kolb

Senate Finance Committee  
Senator John A. DeFrancisco, Chair  
Senator Liz Krueger, Ranking Member

Assembly Ways and 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 McKeivitt, Ranking Member

Judicial Branch Constitutional Officers  
Chief Judge Jonathan Jonathan Lippman  
Chief Administrative Judge A. Gail Prudenti

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February 1, 2013

TO: Governor Andrew M. Cuomo

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

RE: Discharging Your Constitutional Duty with Respect to the Judiciary Budget Request for Funding of the Judicial Salary Increases Recommended by the August 29, 2011 "Final" Report of the Special Commission on Judicial Compensation

As you know, your constitutional duty as Governor is to "take care that the laws are faithfully executed" (New York State Constitution, Article IV, §3). It is for this reason that Article VII, §1 empowers you to make "such recommendations as [you] deem proper", upon transmitting the Judiciary's budget to the Legislature.

Demand is hereby made that you explain why, upon transmitting the Judiciary's budget to the Legislature, both this year and last, you failed to "recommend[]" that it override the judicial salary increases for which the Judiciary was seeking funding.

Do you deny or dispute that the Center for Judicial Accountability's October 27, 2011 Opposition Report, hand-delivered to your Manhattan office on that date, dispositively established that those judicial salary increases, recommended by the August 29, 2011 "Final" Report of the Special Commission on Judicial Compensation, are unconstitutional, statutorily-violative, and fraudulent? If so, PROVE IT by producing such findings of fact and conclusions of law as you made, or as were made by your counsel, with respect to our Opposition Report, if not, additionally, with respect to the four causes of action of the verified complaint in our People's lawsuit against you, *Center for Judicial Accountability, Inc., et al. v. Andrew Cuomo, et al.*, based upon your failure to protect the People of this State from those judicial salary increases.<sup>1</sup>

On February 6, 2013, the Senate and Assembly will be holding a joint legislative hearing on the Judiciary's budget. It is a perfect opportunity for you to appear before the Legislature, pursuant to Article VII, §3, which gives you "the right...to appear and be heard...during the consideration

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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.

<sup>1</sup> Our October 27, 2011 Opposition Report and the verified complaint in *CJA v. Cuomo* are posted on our website, most readily accessible *via* the top panel "Latest News".

[of the budget] and to answer inquiries relevant thereto.”

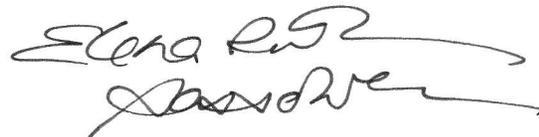
We call upon you to exercise that right – and we demand that you exercise the further right that Article VII, §3 confers upon you, namely, “within thirty days” of the January 22, 2013 date upon which you submitted your budget to the Legislature “to amend or supplement the budget and submit amendments to any bills submitted by [you] or submit supplemental bills”. This, because there is NO DEFENSE to the unconstitutionality, statutory-violations, and fraud demonstrated by our October 27, 2011 Opposition Report and the four causes of action of the *CJA v. Cuomo* verified complaint – as your findings of fact and conclusions of law would reveal.

On the subject of the February 6, 2013 hearing, we enclose copies of our January 29<sup>th</sup> and January 30<sup>th</sup> correspondence with the Judiciary and Legislature, to which you and Budget Director Robert Megna are indicated recipients.

We would have no objection to Budget Director Megna appearing in your stead at the February 6, 2013 hearing – even to the limited extent of his testifying as to the specific matters set forth by our November 1, 2011 letter to him, entitled “Protecting the Public Purse & Public Interest: Request that You Take Steps to Secure Governor Cuomo’s Introduction of Legislation to Override the Commission on Judicial Compensation’s Statutorily-Violative and Unconstitutional Judicial Pay Raise Recommendations”, to which we received no response. A copy of that November 1, 2011 letter is enclosed in support of our further demand – pursuant to FOIL and otherwise – for a copy of such supplemental report as Director Megna may have submitted to you, as requested by the letter as follows:

“...we respectfully request that you present Governor Cuomo with a report supplementing our own, amplifying the critical difference between salary and ‘compensation and non-salary benefits’, wholly disregarded by the Commission. This, in addition to addressing such other ‘appropriate factors’ as the Commission wilfully failed to consider, in violation of the Commission statute and New York’s Constitution. Among these, ‘rates of inflation’; ‘changes in public-sector spending’; ‘the state’s ability to fund increases in compensation and non-salary benefits’ – as well as the ‘skewing’ and ‘distorting’ of the salary structure for ‘constitutional officers’ and executive branch commissioners, to which you alluded when you testified.” (November 1, 2011 letter, at p. 2).<sup>2</sup>

Thank you.



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<sup>2</sup> The November 1, 2011 letter is Exhibit P to the verified complaint in *CJA v. Cuomo* and discussed at ¶¶118 and 119 thereof.

- Enclosures: (1) CJA's November 1, 2011 letter to Budget Director Megna  
(2) CJA's January 30, 2013 letter to Legislative Leadership  
(3) CJA's January 30, 2013 letter to Legislative Oversight Committees  
(4) CJA's January 29, 2013 letter to Chief Administrative Judge

cc: Budget Director Robert Megna

Executive Branch Constitutional Officers

Comptroller Thomas DiNapoli  
Attorney General Eric T. Schneiderman

Judicial Branch Constitutional Officers

Chief Judge Jonathan Lippman  
Chief Administrative Judge A. Gail Prudenti

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 McKeivitt, Ranking Member

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Website: [www.judgewatch.org](http://www.judgewatch.org)

Elena Ruth Sassower, Director

November 1, 2011

Robert L. Megna, Director of the Budget  
State of New York/Executive Department  
Division of the Budget  
State Capitol  
Albany, New York 12224

RE: Protecting the Public Purse & Public Interest: Request That You Take Steps to Secure Governor Cuomo's Introduction of Legislation to Override the Commission on Judicial Compensation's Statutorily-Violative and Unconstitutional Judicial Pay Raise Recommendations

Dear Budget Director Megna,

This follows my phone call to your office on July 21<sup>st</sup>, identifying that I was the person who had risen from her seat to applaud and thank you, on behalf of the People of the State of New York, at the conclusion of your testimony at the Commission on Judicial Compensation July 20<sup>th</sup> hearing.

Yesterday, I again called your office and, again leaving a message of thanks for your July 20<sup>th</sup> testimony, stated that our non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA), had presented Governor Cuomo, Temporary Senate President Skelos, Assembly Speaker Silver, and Chief Judge Lippman with an Opposition Report in support of legislative override of the Commission's recommendations to raise judicial salaries 27% over the next three years.

I further stated that you were an indicated recipient of that Opposition Report<sup>1</sup> – and that I would be transmitting it to you. I do so now, by attachment to this e-mail. The Opposition Report is also readily accessible from CJA's website, [www.judgewatch.org](http://www.judgewatch.org), most conveniently *via* the top panel "Latest News" and left side panel "Judicial Compensation-NYS" – together with the substantiating exhibits referred-to therein. Upon your request, I would be pleased to furnish you with a "hard copy", especially if doing so would facilitate your securing Governor Cuomo's introduction of legislation to override the Commission's judicial pay raise recommendations.

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<sup>1</sup> The Opposition Report mentions you and/or the Division of Budget at pp. 5, 8, 22-23, 24, 36.

Consistent with your July 20<sup>th</sup> testimony, CJA calls upon you to protect the public purse and public interest by taking such action. As our October 27<sup>th</sup> Opposition Report demonstrates (at pp. 1, 18-21, 23, 25, 26, 29, 31, 33), the Commission flagrantly failed “to examine, evaluate and make recommendations with respect to adequate levels of compensation and non-salary benefits for judges and justices”, as was its statutory duty to do – and its judicial pay raise recommendations are unsupported by any finding that current “pay levels and non-salary benefits” are inadequate. Based on our showing therein, we respectfully request that you present Governor Cuomo with a report supplementing our own, amplifying the critical difference between salary and “compensation and non-salary benefits”, wholly disregarded by the Commission. This, in addition to addressing such other “appropriate factors” as the Commission wilfully failed to consider, in violation of the Commission statute and New York’s Constitution. Among these, “rates of inflation”; “changes in public-sector spending”; “the state’s ability to fund increases in compensation and non-salary benefits” – as well as the “skewing” and “distorting” of the salary structure for “constitutional officers” and executive branch commissioners, to which you alluded when you testified.

As you are also an indicated recipient of CJA’s October 28<sup>th</sup> letters to the Commissioners and judicial pay raise advocates, transmitting our Opposition Report to them, those letters are enclosed herewith.

Again, thank you for your past and anticipated upcoming advocacy on behalf of the public purse and public interest.

Yours for a quality judiciary –  
& government integrity,



ELENA RUTH SASSOWER, Director  
Center for Judicial Accountability, Inc. (CJA)

Attachment: CJA’s October 27, 2011 Opposition Report,  
with a link to CJA’s webpage on which it and the exhibits are posted  
Enclosure: CJA’s October 28, 2011 letters to the Commissioners & Judicial Pay Raise Advocates

cc: Governor Andrew M. Cuomo  
Temporary Senate President Dean G. Skelos  
Assembly Speaker Sheldon Silver  
Chief Judge Jonathan Lippman  
Commission on Judicial Compensation  
Judicial Pay Raise Advocates  
Public & Press

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January 30, 2013

TO: Temporary Senate President Dean Skelos  
Assembly Speaker Sheldon Silver

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

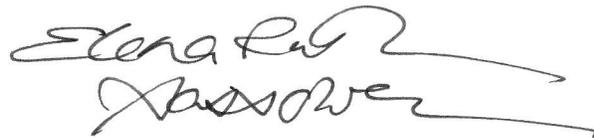
RE: Enabling the Legislative Committees Directly Responsible for Oversight of the  
Judiciary's Budget to Discharge their Mandatory Legislative Function

Enclosed is the Center for Judicial Accountability's letter of today's date to the Chairs and Ranking Members of the Senate Finance Committee, the Assembly Ways and Means Committee, the Senate Judiciary Committee, and the Assembly Judiciary Committee – the legislative committees directly responsible for oversight of the Judiciary's budget. To assist them in discharging this oversight responsibility – and because CJA's October 27, 2011 Opposition Report and the verified complaint in our People's lawsuit based thereon, *Center for Judicial Accountability, Inc., et al. v. Andrew Cuomo, et al.*, are dispositive of the Legislature's duty to override the "the next phase of the judicial salary increase" for which the Judiciary is seeking funding for fiscal year 2013-2014 – please furnish these four committees with the copies you have of the aforesaid documents – all originals.

Indeed, should you deny or dispute that CJA's October 27, 2011 Opposition Report and the *CJA v. Cuomo* verified complaint each establish that this second phase of the judicial salary increase is, like the other two phases, unconstitutional, statutorily-violative, and fraudulent, demand is hereby made that you PROVE IT by:

- (1) producing such findings of fact and conclusions of law as you and/or Senate and Assembly counsel made with respect to the October 27, 2011 Opposition Report, if not, additionally, with respect to the four causes of action of the *CJA v. Cuomo* verified complaint;
- (2) testifying, under oath, at the February 6, 2013 joint legislative budget hearing on "Public Protection" at which the issue of the Judiciary's budget is to be considered.

Thank you.



Enclosure

cc: Additional Legislative Leadership:

Alternating Temporary Senate President Jeff Klein  
Senate Minority Conference Leader Andrea Stewart-Cousins  
Assembly Minority Leader Brian Kolb

Senate Finance Committee

Senator John A. DeFrancisco, Chair  
Senator Liz Krueger, Ranking Member

Assembly Ways and 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 McKeivitt, Ranking Member

Judicial Branch Constitutional Officers

Chief Judge Jonathan Lippman  
Chief Administrative Judge A. Gail Prudenti

Executive Branch Constitutional Officers

Governor Andrew M. Cuomo  
(& Budget Director Robert Megna)  
Comptroller Thomas DiNapoli  
Attorney General Eric T. Schneiderman

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January 30, 2013

TO: Senate Finance Committee  
Senator John A. DeFrancisco, Chair  
Senator Liz Krueger, Ranking Member  
Assembly Ways and 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 McKeivitt, Ranking Member

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

RE: February 6, 2013 Joint Legislative Hearing on "Public Protection": The Legislature's Mandatory Duty to Override the Judiciary's Request for "funding for the next phase of the judicial salary increase", in Discharge of its Checks-and-Balance Constitutional Function

Enclosed is the Center for Judicial Accountability's letter of yesterday's date to Chief Administrative Judge A. Gail Prudenti, putting her on notice that I would be testifying at the February 6, 2013 joint legislative hearing, in opposition to the Judiciary's budget request for "funding for the next phase of the judiciary salary increase" – whose precise dollar amount I was unable to find in its \$1.7 billion "General Operating Fund Budget" for fiscal year 2013-2014. The letter was both faxed and e-mailed Chief Administrative Judge Prudenti, as likewise to Chief Judge Jonathan Lippman – and the fax and e-mail receipts are also enclosed.<sup>1</sup>

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<sup>1</sup> Because of the importance of the letter, I additionally telephoned their offices to confirm that the faxes had been received.

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In pertinent part the letter states:

“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.<sup>fn.</sup>”

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.” (at p. 3)

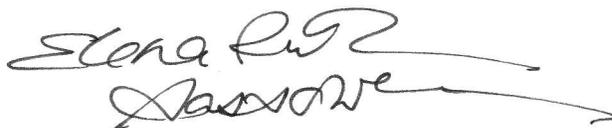
On January 10, 2013, when I first called each of your offices requesting to testify at the February 6, 2013 joint legislative budget hearing, I furnished the staff members with whom I spoke with the pertinent background information as to CJA’s October 27, 2011 Opposition Report and the March 30, 2012 verified complaint in *CJA v. Cuomo*. As these documents are dispositive of the Legislature’s duty to override the “next phase of the judicial salary increase”, I requested that your four legislative committees, each directly responsible for oversight of the Judiciary budget, review them, *in advance of the February 6, 2013 hearing*. I stated that this could easily be done because they are not only posted on CJA’s website, [www.judgewatch.org](http://www.judgewatch.org), readily accessible *via* the top panel “Latest News”, but because multiple hard copies – indeed multiple originals – are in the possession of Temporary Senate President Skelos and Assembly Speaker Silver. I also stated that obtaining from Temporary Senate President Skelos and Assembly Speaker Silver, each lawyers, such findings of fact and conclusions of law as they made with respect to our October 27, 2011 Opposition Report, or as were made by Senate and Assembly counsel, would further establish the Legislature’s duty to override the judicial salary increase – and that, absent your obtaining same, your obligation was to yourselves make findings of fact and conclusions of law, in discharge of your mandatory oversight responsibilities.

So that I may guide my testimony accordingly, I would appreciate your confirmation that you and the members of your committees who will be attending the hearing will be fully familiar with the content of our October 27, 2011 Opposition Report and the March 30, 2012 verified complaint, *in advance of the February 6, 2013 hearing*, and that you will be notifying Chief Administrative Judge Prudenti to come to the hearing prepared to discuss the particularized showing of unconstitutionality, statutory violations, and fraud presented by the Opposition Report – if not by the four causes of action of the

*CJA v. Cuomo* verified complaint based thereon<sup>2</sup> – as you intend to interrogate her, extensively, with respect thereto, in furtherance of the “public protection” that is the “programmatic area” of the hearing – and that you are inviting Chief Judge Lippman to also be present to address same, pursuant to Article VII, §3 of the New York State Constitution and Legislative Law §53(2).

I am available to assist you with your pre-hearing preparation and would welcome the opportunity to speak with you personally and answer such questions as you have.

Thank you.



Enclosures

cc: Judicial Branch Constitutional Officers  
Chief Judge Jonathan Jonathan Lippman  
Chief Administrative Judge A. Gail Prudenti  
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  
Executive Branch Constitutional Officers  
Governor Andrew M. Cuomo  
(& Budget Director Robert Megna)  
Comptroller Thomas DiNapoli  
Attorney General Eric T. Schneiderman

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<sup>2</sup> These four causes of action are:

First Cause of Action: “Evisceration of Separation of Powers: Collusion of the Three Government Branches against the People” (¶¶ 128-139);

Second Cause of Action: “Chapter 567 of the Laws of 2010 is Unconstitutional, As Written” (¶¶ 140-154);

Third Cause of Action: “Chapter 567 of the Laws of 2010 is Unconstitutional, *as Applied*” (¶¶ 155-166);

Fourth Cause of Action: “The Commission’s Judicial Pay Recommendations are Statutorily Violative” (¶¶ 167-172).

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Website: [www.judgewatch.org](http://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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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.<sup>1</sup>

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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<sup>1</sup> 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.<sup>2</sup>

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  
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 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 McKeivitt, Ranking Member

<sup>2</sup> 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](http://www.judgewatch.org), including via the top panel "Latest News".

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

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**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](http://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](mailto:elena@judgewatch.org)

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\*\*\* TX REPORT \*\*\*

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## CENTER for JUDICIAL ACCOUNTABILITY, INC.\*

Post Office Box 8101  
 White Plains, New York 10602

Tel. (914)455-4373

E-Mail: [cja@judgewidth.org](mailto:cja@judgewidth.org)  
 Website: [www.judgewidth.org](http://www.judgewidth.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 governmental 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 Committees identified that it included "funding for the next phase of the judiciary salary increase" (underlining added).

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**CENTER for JUDICIAL ACCOUNTABILITY, INC.\***

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