

**STATE OF NEW YORK
SUPREME COURT**

COUNTY OF ALBANY

CENTER FOR JUDICIAL ACCOUNTABILITY, INC.
and ELENA RUTH SASSOWER, individually and as
Director of the Center for Judicial Accountability, Inc.,
acting on their own behalf and on behalf of the People
of the State of New York & the Public Interest,

Plaintiffs,

-against-

DECISION AND ORDER

Index No.: 1788-14

RJI No.: 01-14-113240

ANDREW M. CUOMO, in his official capacity as
Governor of the State of New York, DEAN SKELOS
in his official capacity as Temporary Senate President,
THE NEW YORK STATE SENATE, SHELDON
SILVER, in his official capacity as Assembly Speaker,
THE NEW YORK STATE ASSEMBLY, ERIC T.
SCHNEIDERMAN, in his official capacity as Attorney
General of the State of New York, and THOMAS
DiNAPOLI, in his official capacity as Comptroller of
the State of New York

Defendants.

(Supreme Court, Albany County All Purpose Term)

Appearances:

Elena Ruth Sassower
Self-Represented Plaintiff
Post Office Box 8101
White Plains, NY 10602

Eric T. Schneiderman
Attorney General
State of New York
Attorney for All Defendants
The Capitol
Albany, NY 12224
(Adrienne J. Kerwin, Esq., Assistant
Attorney General)

Roger D. McDonough, J.:

Plaintiffs seek an Order: (1) granting leave to supplement their verified complaint with a proposed verified supplemental complaint; and (2) disqualifying this Court and vacating the Court's October 9, 2014 Decision and Order. Defendants oppose the relief in its entirety.

The Court finds that plaintiffs are entitled to supplement their verified complaint. Defendants have not made an adequate showing that the new causes of action are "palpably insufficient" or "patently devoid of merit" (Lucido v Mancuso, 49 AD3d 220, 229 [2nd Dept. 2008]). The Court's finding does not, of course, insulate the causes of action from a subsequent challenge to their merits via a CPLR §§ 3211 and/or 3212 motion.

Additionally, the Court finds no basis in the record, Judiciary Law, Administrative Code or any relevant statute or case law for recusal. Similarly, no rational basis exists for this Court to vacate its prior Decision and Order. The alleged financial conflict that plaintiffs describe is equally applicable to every Supreme and Acting Supreme Court Justice in the State of New York, rendering recusal on the basis of financial interest a functional impossibility (*see*, Matter of Maron v Silver, 14 NY3d 230, 248-249 [2010]).

Plaintiffs' remaining requests for relief have been considered and found to be lacking in merit.

Based upon the foregoing, it is hereby

ORDERED that plaintiffs' motion for leave to supplement their complaint is hereby granted; and it is further

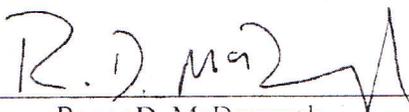
ORDERED that plaintiffs' remaining motion requests for relief, including their motion for this Court's recusal, are hereby denied in their entirety; and it is further

ORDERED that defendants are directed to answer or otherwise move with respect to the verified supplemental complaint within thirty-five (35) days of the date of this Order.

This shall constitute the Decision and Order of the Court. The original decision and order is being returned to the counsel for defendants who is directed to enter this Decision and Order without notice and to serve plaintiffs with a copy of this Decision and Order with notice of entry. The Court will transmit a copy of the Decision and Order and the papers considered to the Albany County Clerk. The signing of the decision and order and delivery of a copy of the decision and order shall not constitute entry or filing under CPLR Rule 2220. Counsel is not relieved from the applicable provisions of that rule respecting filing, entry and notice of entry.

ENTER.

Dated: Albany, New York
June 24, 2015



Roger D. McDonough
Supreme Court Justice

Papers Considered:

Plaintiffs' Notice of Motion, dated March 31, 2015;
Affidavit of Plaintiff Sassower, sworn to March 31, 2015, with annexed exhibits;
Plaintiffs' Proposed Verified Supplemental Complaint;
Affirmation of Adrienne J. Kerwin, Esq., dated April 9, 2015, with annexed exhibits;
Reply Affidavit of Plaintiff Sassower, received by the Court on April 17 2015¹, with annexed exhibits.

¹ The reply affidavit was erroneously dated as March 15, 2015. This date predates the Notice of Motion as well as the opposition papers the reply affidavit was presumably served in reply to.