

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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BY E-MAIL & EXPRESS MAIL

August 7, 2018

Chief Motion Attorney Edward J. Carey
Appellate Division, Third Judicial Department
Robert Abrams Building for Law and Justice
State Street, Room 511
Albany, New York 12223
(Tel: 518-471-4779)

RE: *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Citizen-Taxpayer Action)
Appellate Division, 3rd Dept #: 527081
Order to Show Cause for Preliminary Injunction & Other Relief:
Returnable August 7, 2018

Dear Chief Motion Attorney Carey,

Yesterday, at 4:50 p.m., I e-mailed to the Court my signed reply affidavit with exhibits, stating in my transmitting e-mail that I would furnish "a notarized affidavit" this morning. I hereby do so, attaching both the notarized signature page, as well as the same reply affidavit with exhibits as I had e-mailed yesterday, but with the notarized signature page replacing the unnotarized signature page. Later today, as I confirmed with your office this morning, I will express mail the original reply affidavit to the Court and mail a copy to Assistant Solicitor General Brodie.

It was not easy for me to complete my reply papers – and, in fact, I did not quite complete them. As reflected by the final page (p. 15) of my "legal autopsy"/analysis of Assistant Solicitor General Brodie's August 3rd "memorandum", annexed as Exhibit DD to my reply affidavit, there are blank spaces where my reply should be to his opposition to the seventh branch of the order to show cause, for "other and further relief", and to his Point II, entitled "Appellants' Allegations of Fraud are Baseless, and her Request for Sanctions Should be Denied".

Fortunately, the four-judge panel deciding the motion does not need my explication to discern, on its own – and readily – the deceptions, fraud, and shameful nature of what Assistant Solicitor General has stated to them in those sections, without my reply. However, I would appreciate if you would furnish the panel with this letter, so that the justices will know that the only reason I did not respond was that I ran out of time.

ED-1

There are two additional reasons why I request that you furnish this letter to the panel – and ask that it be made part of the record:

- (1) my Exhibit DD “legal autopsy/analysis” (at pp. 2-3) identified that Assistant Solicitor General Brodie, in arguing, for the first time (at pp. 1, 6 of his “memorandum”) that the New York State Constitution bars diminution of judicial compensation, had incorrectly cited to Article VII, §7. I further stated that the correct citation should have been to Article VI, §25. the constitutional provision pertaining to judicial compensation. This is true. However, if – and notwithstanding Assistant Solicitor General Brodie’s quotation is from Article VI, §25(a) – he intended to cite to Article XIII, §7, which is a generic provision pertaining to compensation of “the state officers named in this constitution”, that provision contains prefatory language about compensation “to be fixed by law” analogous to the prefatory language of Article VI, §25(a) that he had omitted, *to wit*, compensation “established by law”;
- (2) my Exhibit DD “legal autopsy/analysis” (at p. 9) pertaining to Assistant Solicitor General Brodie’s argument (at pp. 7-9 of his “memorandum”) under the heading “*The Case Includes No Claim for the Current Year*”, contains a space where I had intended to insert text that had originally been in my reply affidavit, but which, upon removing from the affidavit, I forgot to insert, *to wit*, Justice Devine’s interruption of Assistant Solicitor General Brodie’s oral argument:

“Let’s break for a minute. The Constitution prohibits reducing a judges’ salary so, we’ll still have that raise next year. It’s not that we may not get it. It’s there.”

and the commentary I had written:

“Assistant Solicitor General Brodie responded to Justice Devine with pure gobbledy-gook evasion and deceit – thereafter replicating this in his August 3rd ‘memorandum’, by its Point I-E(3) (at pp. 7-9) entitled ‘*The Case Includes No Claim for the Current Year*’”.

Finally, my yesterday’s transmitting e-mail referred to “the link to the video of the August 2nd hearing on the TRO”. That was error. It was a link to the video of the August 2nd oral argument on the TRO.

Thank you.


Elena Ruth Sassower

Enclosures

cc: Assistant Solicitor General Frederick Brodie
Attorney General Barbara Underwood –& supervisory/managerial attorneys