

Center for Judicial Accountability, Inc. (CJA)

From: Senate Foil <foil@nysenate.gov>
Sent: Wednesday, April 22, 2020 6:21 PM
To: Center for Judicial Accountability, Inc.(CJA)
Subject: Re: FOIL/records request: Silver v. Pataki / Pataki v. Assembly & Senate
Attachments: Rules and Regulations relating to Public Inspection and Copying of Legislative Records - January 2019_blue.pdf

April 22, 2020

Ms. Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc.
Post Office Box 8101
White Plains, NY 10602
cja@judgewatch.org

Dear Ms. Sassower:

This is to acknowledge receipt of your email dated April 15, 2020 pursuant to the Freedom of Information Law.

Your request included, "the following with respect to Silver v. Pataki (1998-2004) and Pataki v. Assembly & Senate (2001-2004): records pertaining to requests, if any, by the Assembly, Senate, or Governor Pataki for an opinion from then Attorney General Spitzer as to the constitutionality of Governor Pataki's budget bills for FY1998-1999 and FY2001-2002 and of the Legislature's proceedings thereon – whether prior to or after commencement of the litigations; records reflecting the basis upon which Attorney General Spitzer represented none of the parties, except, initially, defendant Governor Pataki in Silver v. Pataki; reflecting why, with respect to the constitutional issues, Attorney General Spitzer did not intervene as plaintiff or defendant in either litigation, at any point, nor file a single amicus curiae brief; records pertaining to the requests for, and authorization of, independent counsel; records reflecting the basis upon which independent counsel was selected – these being the law firms: Weil, Gotshal & Manges, representing LLP, representing Plaintiff Silver (Silver v. Pataki) and Defendant Assembly (Pataki v. Assembly); Hancock & Estabrook, LLP, representing (the belated) Plaintiff Senate (Silver v. Pataki) and Defendant Senate (Pataki v. Assembly); Cravath, Swaine & Moore, LLP, representing Defendant Pataki (Silver v. Pataki); Stillman & Friedman, P.C., representing Plaintiff Pataki (Pataki v. Assembly) the signed and approved contracts retaining the above four law firms to represent the parties; records reflecting total payments to each of the law firms for the litigations at each court level – Supreme Court; Appellate Division; and Court of Appeals; records reflecting why, following the Court of Appeals' December 16, 2004 decision (4 N.Y.3d 75), neither of the two law firms representing the Senate and Assembly made a motion for reargument/reconsideration thereof or filed a petition for a writ of certiorari to the U.S. Supreme Court – and why, under such circumstances, Attorney General Spitzer did not do so, including *via* a motion to intervene on behalf of the People of the State of New York."

Please be advised the New York State Senate Record Retention Policy for internal administrative purposes is seven (7) years. In terms of your request for answers to various questions, Freedom of Information Law is not a vehicle to answer questions but rather to produce records.

I have attached a copy of the Senate's Rules and Regulations Relating to the Public Inspection and Copying of Legislative Records for your information.

Sincerely,

Alejandra N. Paulino, Esq.
Secretary of the Senate

From: "Center for Judicial Accountability, Inc.\(CJA\)" <elena@judgewatch.org>
To: <records.access@exec.ny.gov>, <foil@nysenate.gov>, <marillar@nyassembly.gov>, "Theresa Klein-Franke" <kleinfranket@nyassembly.gov>, "FOIL" <FOIL@osc.ny.gov>
Date: 04/15/2020 09:57 AM
Subject: FOIL/records request: Silver v. Pataki / Pataki v. Assembly & Senate

TO: Records Access Officers of the Governor, Senate, Assembly, Attorney General, Comptroller

Pursuant to Public Officers Law VI ("Freedom of Information"), Senate Rule XIV ("Freedom of Information"), and Assembly Rule VIII ("Public Access to Records"), this is to request the following with respect to *Silver v. Pataki* (1998-2004) and *Pataki v. Assembly & Senate* (2001-2004):

1. records pertaining to requests, if any, by the Assembly, Senate, or Governor Pataki for an opinion from then Attorney General Spitzer as to the constitutionality of Governor Pataki's budget bills for FY1998-1999 and FY2001-2002 and of the Legislature's proceedings thereon – whether prior to or after commencement of the litigations;
1. records reflecting the basis upon which Attorney General Spitzer represented none of the parties, except, initially, defendant Governor Pataki in *Silver v. Pataki*;
1. records reflecting why, with respect to the constitutional issues, Attorney General Spitzer did not intervene as plaintiff or defendant in either litigation, at any point, nor file a single *amicus curiae* brief;