

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

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**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Monday, March 22, 2021 10:17 AM  
**To:** 'marillar@nyassembly.gov'  
**Cc:** 'kleinf@nyassembly.gov'; 'Theresa Klein-Franke'  
**Subject:** CJA's April 15, 2020 FOIL/records request: Silver v. Pataki / Pataki v. Assembly & Senate  
**Attachments:** 4-22-20-assembly-acknowledgment.pdf; 5-20-20-assembly-extension.pdf

**TO: Assembly Records Access Officer Marilla**

I have no record of response from you to my below April 15, 2020 FOIL request for records pertaining to *Silver v. Pataki/Pataki v. Assembly & Senate* – other than an April 22, 2020 acknowledgment letter and a May 20, 2020 letter advising “We are still in the process of reviewing your request and will be in touch shortly”, both of which are above-attached.

Did you thereafter respond? If so, kindly re-send it to me – and, if not, kindly do so now.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
[www.judgewatch.org](http://www.judgewatch.org)  
914-421-1200

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**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Wednesday, April 15, 2020 9:57 AM  
**To:** 'records.access@exec.ny.gov' <records.access@exec.ny.gov>; 'foil@nysenate.gov' <foil@nysenate.gov>; 'marillar@nyassembly.gov' <marillar@nyassembly.gov>; 'Theresa Klein-Franke' <kleinfranket@nyassembly.gov>; 'FOIL' <FOIL@osc.ny.gov>

**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;
- (2) records reflecting the basis upon which Attorney General Spitzer represented none of the parties, except, initially, defendant Governor Pataki in *Silver v. Pataki*;



- (3) 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;
- (4) records pertaining to the requests for, and authorization of, independent counsel;
- (5) records reflecting the basis upon which independent counsel was selected – these being the law firms:
  - (a) Weil, Gotshal & Manges, representing LLP, representing Plaintiff Silver (*Silver v. Pataki*) and Defendant Assembly (*Pataki v. Assembly*);
  - (b) Hancock & Estabrook, LLP, representing (the belated) Plaintiff Senate (*Silver v. Pataki*) and Defendant Senate (*Pataki v. Assembly*);
  - (c) Cravath, Swaine & Moore, LLP, representing Defendant Pataki (*Silver v. Pataki*);
  - (d) Stillman & Friedman, P.C., representing Plaintiff Pataki (*Pataki v. Assembly*).
- (6) the signed and approved contracts retaining the above four law firms to represent the parties;
- (7) 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;
- (8) 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.

Thank you.

Elena Sassower, Director  
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