

April 3, 2021 Complaint Form for the February 11, 2021 Complaint
against ASSISTANT SOLICITOR GENERAL VICTOR PALADINO
revising, as required by Chief Attorney Monica Duffy's March 9, 2021 letter,
the prior submitted February 11, 2021 complaint form – plus updating

TO: Third Judicial Department Attorney Grievance Committee
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Complainant's Name: Elena Ruth Sassower,
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Albany, NY 12224

E-Mail & Telephone number: Victor.Paladino@ag.ny.gov (518-776-2317)

1. Have you filed a complaint concerning this matter with another attorney grievance committee, state attorney general's office or any other agency?

YES. I filed this identical February 11, 2021 conflict-of-interest/misconduct complaint with the Second Department Attorney Grievance Committee (for the Second, Eleventh, and Thirteenth Districts), with respect to Attorney General James, and with the First Department Attorney Grievance Committee, with respect to Solicitor General Underwood.

I also filed a related February 7, 2021 conflict-of-interest/misconduct complaint with the Commission on Judicial Conduct against the judges of the Court of Appeals, of the Appellate Division, Third Department, and against Chief Administrative Judge Marks for covering up the misconduct of the Attorney General and attorney staff who are the subject of this complaint. A copy was enclosed with the February 11, 2021 complaint.

On March 5, 2021, I additionally filed a conflict-of-interest/ethics complaint against Attorney General James with the Joint Commission on Public Ethics (JCOPE) and the Legislative Ethics Commission (LEC), furnishing, in substantiation, the February 11, 2021 complaint and its enclosed February 7, 2021 complaint. This March 5, 2021 complaint was filed at the advice/direction of Albany County District Attorney P. David Soares, to whom I had filed a June 4, 2020 grand jury/public corruption complaint pertaining to the fraudulent pay raises of which Attorney General James and her fellow constitutional officers of New York's three government branches are beneficiaries and the budget.

Based on the June 4, 2020 grand jury/public corruption complaint – and 61 materially-identical grand jury/public corruption complaints I thereafter filed with New York's 62 other district attorneys – I also filed a November 4, 2020 corruption complaint with Acting U.S. Attorney for the Northern District of New York Antoinette Bacon, which, by a December 19, 2020 letter, I then sent to the Acting U.S. Attorneys for the Southern, Eastern, and Western Districts of New York.

Action Taken: None, as yet, except that Chief Counsel of the Second Department Attorney Grievance Committee for the Second, Eleventh, and Thirteenth Districts Diana Maxfield Kearsse advised, by a March 3, 2021 letter, that although Attorney General James was admitted in the Second Department, she is “currently registered at a business address in Manhattan” and, “[a]s such, the appropriate Grievance Committee is the one in the First Department”.

2. Have you brought a civil action against this attorney? NO.
3. Are you represented by an attorney? NO.
4. Are you an attorney? NO.

**Details of the February 11, 2021 Complaint
against Assistant Solicitor General Victor Paladino**

Assistant Solicitor General Paladino was “the immediate supervisor” of Assistant Solicitor General Frederick Brodie, assigned to defend against the appeals of the citizen-taxpayer action *Center for Judicial Accountability, Inc. v. Cuomo...Schneiderman...DiFiore* (Albany Co. #5122-16) at the Appellate Division, Third Department, under then Attorney General Underwood,¹ and, thereafter, at the Court of Appeals, under Attorney General James.²

¹ Assistant Solicitor General Brodie identified this in a June 27, 2018 e-mail, to which Assistant Solicitor General Paladino was cc’d – annexed as Exhibit N-3 to plaintiff-appellants’ first motion in the Appellate Division, Third Department: their July 24, 2018 order to show cause, with preliminary injunction and TRO – in answer to my June 26, 2018 e-mail to him asking “By the way, who has succeeded Attorney General Underwood as Solicitor General – and is she/he your immediate supervisor, or do you have others?” – annexed to the order to show cause as Exhibit N-2. Assistant Solicitor General Brodie’s full response to this question was “Attorney General Underwood continues to serve as Solicitor General. My immediate supervisor on this particular appeal is Victor Paladino.” (Exhibit N-3, underlining added).

² ALL letters and court filings on both appeals were signed by Assistant Solicitor General Brodie. Assistant Solicitor General Paladino’s name and title are printed on key filings, as follows:

at the Appellate Division, Third Department, where Mr. Paladino’s title is identified, identically to Mr. Brodie’s, “Assistant Solicitor General”, on: (1) Attorney General Underwood’s September 21, 2018 “Brief for Respondents” and “Supplemental Record on Appeal”; (2) Attorney General Underwood’s September 24, 2018 “Memorandum in Response”; (3) Attorney General Underwood’s November 2, 2018 “Memorandum in Opposition”; and (4) Attorney General Underwood’s December 10, 2018 “Memorandum in Opposition”.

at the Court of Appeals, where Mr. Paladino’s title is identified, identically to Mr. Brodie’s, “Assistant Solicitor General”, on: (1) Attorney General James’ March 26, 2019 letter requesting that the Court *sua sponte* dismiss appellants’ appeal of right because “no substantial constitutional question is directly involved”; (2) Attorney General James’ June 27, 2019 “Memorandum in Opposition”; (3) Attorney General James’ August 19, 2019 “Memorandum in Opposition”; and (4) Attorney General James’ December 10, 2019 “Memorandum in Opposition”.

NOTE: at the Appellate Division, Third Department, Mr. Brodie’s initial August 3, 2018 “Memorandum in Opposition” did not bear Mr. Paladino’s name and title. Rather, on the cover and signature page was: “Jeffrey W. Lang” as “Deputy Solicitor General”. Moreover, on the cover, beneath the name and title “Barbara D. Underwood, Attorney General of the State of New York”, was printed “Attorney for Error! Reference source not found”. Thereafter, Mr. Lang’s name and title did NOT appear on subsequent filings.

at the Court of Appeals, Solicitor General Underwood’s name and title were dropped from Attorney General James’ final two “Memorand[a] in Opposition”: that of August 19, 2019 and of December 10, 2019 – and on each of these appears a new title for Mr. Paladino: “Senior Assistant Solicitor General”.

From my very first e-mail to him, on June 16, 2018, Assistant Solicitor General Paladino knew there was NO legitimate defense to the appealed-from November 28, 2017 decision and judgment of Acting Supreme Court Justice/Court of Claims Judge Denise Hartman in *CJA v. Cuomo...Schneiderman...DiFiore*, as the e-mail enclosed my May 16, 2018 and May 30, 2018 letters to then Attorney General Underwood on the subject,³ to which I had received no response. He ignored this – and his professional and ethical obligations in connection therewith – and then ignored Assistant Solicitor General Brodie’s flagrant litigation fraud before the Appellate Division, Third Department – to which I alerted him, at every juncture, by e-mailed notices and by my responsive court submissions, which I sent him, detailing Assistant Solicitor General Brodie’s fraudulent written and oral advocacy – and the Appellate Division, Third Department’s fraudulent, unconstitutional, and jurisdiction-less decisions covering it up – culminating in its December 27, 2018 memorandum and order “affirming” Judge Hartman’s November 28, 2017 decision and judgment.

To prevent review by the Court of Appeals, Assistant Solicitor General Paladino then allowed Assistant Solicitor General Brodie to continue his litigation fraud there, although plaintiff-appellants were constitutionally entitled to appeals, both by right and by leave. Here again, I gave him notice, including by furnishing him with plaintiff-appellants’ responsive submissions laying out the particulars of Assistant Solicitor General Brodie’s litigation fraud – and of the fraud and unconstitutionality of the Court of Appeals’ decisions – beginning with the threshold questions they each concealed, none more fundamental than whether the judges of the Court of Appeals, of the Appellate Division, Third Department, Judge Hartman, or any other New York judge had jurisdiction to render ANY decision in the case by reason of their HUGE financial and other interests, proscribed by Judiciary Law §14 and the Court of Appeals’ own interpretive caselaw, beginning with *Oakley v. Aspinwall*, 3 NY 547 (1850), other than to transfer/remove it to federal court, including pursuant to Article IV, §4 of the United States Constitution: “The United States shall guarantee to every State in this Union a Republican Form of Government”.

³ The May 16, 2018 and May 30, 2018 letters are annexed to the February 11, 2021 complaint as Exhibits A-1 and B-1. My June 18, 2018 e-mail furnishing them to Assistant Solicitor General Paladino is Exhibit M-1 to plaintiff-appellants’ July 24, 2018 order to show cause. His responding June 18, 2018 e-mail apprising me that “the attorney in the appeals bureau assigned to handle these appeals on behalf of the respondents is Frederick Brodie” is Exhibit M-2. The succession of subsequent e-mails between myself and Assistant Solicitor General Brodie spanning to July 24, 2018, to which Mr. Paladino was an indicated recipient are annexed to the order to show cause as Exhibits M-3 – M-7; Exhibits N-1-N-4; Exhibits O-1-O-6; Exhibits P-1 – P-4; Exhibits Q-1 – Q-5; Exhibits R-1 – R-6; Exhibit S-1; Exhibits T-1 – T-2. The recitation in my July 24, 2018 moving affidavit pertaining thereto is at pages 7-14 under the title heading: “Threshold Integrity Issues Pertaining to the Attorney General: Plaintiffs’ Entitlement to its Representation/Intervention & its Disqualification as Defense Counsel on Conflict of Interest Grounds”.

Exhibits E and D to the February 11, 2021 complaint furnish inventories of these responsive submissions at the Appellate Division, Third Department and at the Court of Appeals, respectively, with further particularity furnished by the February 7, 2021 judicial misconduct complaint to the Commission on Judicial Conduct, enclosed with the February 11, 2021 complaint (at p. 10).

By contrast, in the appeals of *Delgado v. New York State*, Assistant Solicitor General Paladino did not act through an underling, but in his own name, engaging in litigation fraud to deprive the *Delgado* plaintiffs of the direct appeal to the Court of Appeals, to which they were constitutionally entitled, and, at the Appellate Division, Third Department, to secure “affirmance” of Albany Supreme Court Justice Christina Ryba’s June 7, 2019 decision/judgment therein.

Assistant Solicitor General Paladino’s corrupting of the *Delgado* direct appeal to the Court of Appeals is particularized in *CJA v. Cuomo...Schneiderman...DiFiore* by plaintiff-appellants’ submissions to the Court of Appeals – at pages 13-19 of my affidavit in support of plaintiff-appellants’ November 25, 2019 motion for reargument/renewal/vacatur/disclosure/disqualification and, even more resoundingly, at pages 3-10 of my January 9, 2020 letter to the Court (at pp. 3-10). These references are furnished at footnote 4 of the February 11, 2021 complaint.

Assistant Solicitor General Paladino’s corrupting of the *Delgado* appeal at the Appellate Division, Third Department by the September 14, 2020 “Brief for Respondents” he signed (at p. 52)⁴ is specified by footnote 8 of the February 11, 2021 complaint, quoting pertinent text from his brief, beginning with its assertion: “As shown below, plaintiffs’ unlawful delegation claim is foreclosed by this Court’s decision in *Ctr for Judicial Accountability, Inc. v. Cuomo...*”.

At the February 5, 2021 oral argument, Assistant Solicitor General Paladino did not disavow this position. To the contrary, he opened with further fraud in affirmatively declaring the Appellate Division’s December 27, 2018 memorandum and order to be correct:

“Well, as I understood my opponent’s argument, there is no difference between this case and *Center for Judicial Accountability*. It took him about 10 minutes to finally acknowledge that and essentially say, you got it wrong. You didn’t get it wrong, you got it right.”
[VIDEO, at 13 mins, 30 secs].

⁴ The signature page and cover of the September 14, 2020 respondent’s brief identify Mr. Paladino’s title as “Senior Solicitor General”. Letitia James is identified as “Attorney General State of New York” and Barabara Underwood as “Solicitor General”. Also appearing is the name “Jeffrey W. Lang” and his title: “Deputy Solicitor General”. [Cf, fn. 2, *supra*].

On March 18, 2021, the Appellate Division, Third Department decided the appeal by an opinion and order, stating:

“...plaintiffs’ arguments are foreclosed by our decision in Center for Jud. Accountability, Inc. v Cuomo (167 AD3d at 1409-1412), wherein we upheld a nearly identical delegation of authority regarding judicial compensation...” (at p. 5).

CJA’s menu webpage for the February 11, 2021 complaint, at the Attorney Grievance Committee for the Third Judicial Department, from which the complaint and all referred-to substantiating EVIDENCE for it and this complaint form are accessible, is here: <http://www.judgewatch.org/web-pages/searching-nys/attorney-discipline/feb-11-21-complaint-3rd-dept.htm>.