

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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September 20, 2021

TO: Chair Thomas D. Spain, Esq.  
Attorney Grievance Committee for the Third Judicial Department

FROM: Elena Ruth Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)

RE: I. Request for FULL Committee Reconsideration: Chief Attorney Monica Duffy's August 25, 2021 "Notice of Declination to Investigate a Complaint" – February 11, 2021 complaint against: (1) Senior Assistant Solicitor General Victor Paladino; (2) Assistant Solicitor General Frederick Brodie; and (3) Assistant Attorney General Christopher Liberati-Conant;  
II. FOIL Request: The May 4, 2018 letter of the Committee's then chair, Heidi Dennis, Esq., advising of the Executive Committee's confirmation of Chief Attorney Duffy's July 5, 2017 "Notice of Declination to Investigate a Complaint" – October 14, 2016 complaint against Albany D.A. Soares & 29 other current and former D.A.s

Pursuant to §1240.7(e)(3) of the Rules for Attorney Disciplinary Matters [22 NYCRR §1240.7(e)(3)], I file this written request for reconsideration of Chief Attorney Monica Duffy's August 25, 2021 letter entitled "Notice of Declination to Investigate a Complaint" belatedly informing me, after more than 4-1/2 months and my two follow-up e-mails, here, here, to which there was no response, the latter entitled "What's Happening?...". that my February 11, 2021 complaint, amplified, as she had required, by April 3, 2021 complaint forms with specifics as to three attorneys within the Committee's jurisdiction, has NOT been investigated and that the Committee is "unable to assist [me]".<sup>1</sup>

The three unspecified attorneys who Chief Attorney Duffy's August 25<sup>th</sup> letter has corruptly "protected" from having to even respond to my complaint pursuant to §1240.7(b)(2) and §1240.7(c) – because, as is obvious from it and the amplifying complaint forms: here, here, and here, all three attorneys would have to concede its truth<sup>2</sup> – are Senior Assistant Solicitor General Victor Paladino,

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<sup>1</sup> This written reconsideration/FOIL request and the mountain of open-and-shut, *prima facie* EVIDENCE on which it rests are accessible from CJA's webpage for the February 11, 2021 complaint, filed with the Third Department Attorney Grievance Committee, here: <http://www.judgewatch.org/web-pages/searching-nys/attorney-discipline/feb-11-21-complaint-3rd-dept.htm>.

<sup>2</sup> The disciplinary process that Chief Attorney Duffy has short-circuited is summarized by the Committee's posted "Overview of the Attorney Disciplinary Process", as follows:

Assistant Solicitor General Frederick Brodie, and Assistant Attorney General Christopher Liberati-Conant<sup>3</sup>.

To deter the filing of this written request for reconsideration pursuant to §1240.7(e)(3), Chief Attorney Duffy's August 25<sup>th</sup> letter advises that it **“must be based on information and/or argument not previously presented to the Committee.”** (bold in the original).

This is false – and knowingly so.<sup>4</sup> §1240.7(e)(3) contains NO such requirement – nor could it as the determination to “decline to investigate a complaint” pursuant to §§1240.7(d)(1)(i) – such as here – is made by Chief Attorney Duffy, without presentment to the Committee. Yet not only does she

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“When the Chief Attorney determines to investigate a complaint, the Chief Attorney shall forward a copy of the complaint to the attorney within sixty (60) days, along with a Notice of Complaint of Professional Misconduct. The attorney is directed to submit a detailed written response to the complaint addressing each allegation contained in the complaint, within twenty-five (25) days. In the event an attorney fails to respond to the initial Notice, a Second Notice is forwarded to the attorney directing them to submit a detailed written response within fifteen (15) days.

Pursuant to Rule §1240.7(b), the Chief Attorney is authorized to direct a respondent to provide a written response to a complaint, to appear and produce records before the Chief Attorney or staff attorney for a formal interview or examination under oath, to interview witnesses, to obtain records, materials and other information necessary to determine the validity of a complaint, to apply to the Clerk of the Court for a subpoena to compel the attendance of a person or the production of books and papers, and to take any other action deemed necessary for the proper disposition of a complaint.

Following the conclusion of Committee staff's investigation, the matter is then presented to the Committee for its review and determination in accordance with Rule §1240.7...” (at p. 3).

Upon information and belief, to facilitate examination of the complained-against attorney's “written response”, the Chief Attorney forwards it to the complainant for reply.

<sup>3</sup> This was identified by Committee investigator Sarah Lloyd, with whom I spoke by phone on September 17<sup>th</sup>. She confirmed that [Chief Attorney Duffy's separate August 25, 2021 letter](#) transferring my complaint against a fourth attorney to the Second Department Attorney Grievance Committee for the Tenth Judicial District was my complaint against Assistant Attorney General Helena Lynch, whose particulars I had also amplified by an [April 3, 2021 complaint form](#).

<sup>4</sup> Chief Attorney Duffy made the same false claim, in bold, in [her July 5, 2017 letter](#) declining to investigate my predecessor [October 14, 2016 complaint](#) against Albany County District Attorney Soares and 29 other current and former D.A.s within the Committee's jurisdiction – to which I had objected by a [July 28, 2017 written request for reconsideration to the Committee's then chair, Heidi Dennis, Esq.](#) According to [Chair Dennis' May 4, 2018 letter](#), the reconsideration request was reviewed by the Committee's Executive Committee.

Pursuant to §124 of the Chief Administrator's Rules [FOIL], I request records reflecting: (1) the membership of that Executive Committee; (2) the membership of the then FULL Committee; and (3) whether

conceal that my complaint was “not previously presented to the Committee”, her letter affirmatively misrepresents the situation by its many references to “the Committee” and “we”, as, for instance, her second paragraph:

“Please be advised that the function of the Committee is to investigate acts of professional misconduct committed by attorneys. When a complaint is received, we review it to determine it if (sic) involves behavior which could constitute professional misconduct by the attorney. An attorney may be found to have engaged in professional misconduct if it can be proven that an ethical rule or law was violated. If there is a sufficient basis to conduct an investigation, the Committee will do so. However, pursuant to Part 120. Rules for Attorney Disciplinary Matters, §1240.7(d)(1)(i), there are instances where the Committee, after initial screening, may decline to investigate a complaint due to other reasons.” (underlining added).

This generic second paragraph is fraudulent for a further reason. Eminently clear from my [February 11, 2021 complaint](#), the amplifying April 3, 2021 complaint forms, [here](#), [here](#), and [here](#), and my further [April 27, 2021 supplement](#) to the complaint against Senior Assistant Solicitor General Paladino, [here](#) – is that I do not need to be instructed as to “the function” of the Grievance Committee and had furnished Chief Attorney Duffy with a MOUNTAIN of open-and-shut, *prima facie* EVIDENCE of violations of ethical rules and law not only constituting “a sufficient basis to conduct an investigation”, but rendering §1240.7(d)(1)(i) inapplicable because, *inter alia*, the violations mandate disbarment – as to which this Committee is the EXCLUSIVE forum for attorneys registered within the Third Department, such as Senior Assistant Solicitor General Paladino,

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the “careful review and consideration” that the May 4, 2018 letter purported underlay the Executive Committee’s determination “that there is an insufficient basis upon which to conduct an investigation” had included [my March 6, 2018 supplement](#) to my July 28, 2017 reconsideration request.

Suffice to add that Chief Attorney Duffy also falsely claimed, in bold, that my “**written request for consideration must be based on information and/or argument not previously presented to the Committee**” in [her July 20, 2018 letter](#) declining to investigate my predecessor [September 16, 2017 complaint](#) against four attorneys of the Attorney General’s office within the Committee’s jurisdiction – Assistant Attorney General Helena Lynch, among them – also based solely, as here, on her assertion:

“After careful review, it has been determined that the issues you raise are more appropriate for resolution by a court of law or through other available legal remedies in the first instance”.

No reconsideration was sought for the simple reason that I was too busy trying to prevent the corrupting of the *CJA v. Cuomo...Schneiderman... DiFiore* citizen-taxpayer action at the Appellate Division, Third Department by Assistant Solicitor General Brodie, under the supervision of Solicitor General Paladino and Attorney General/Solicitor General Underwood – the subject of my February 11, 2021 complaint and April 3, 2021 particulars.

Assistant Solicitor General Brodie, and Assistant Attorney General Liberati-Conant, the disciplinary relief the complaint seeks.

Yet, without the slightest showing of applicability, Chief Attorney Duffy relies on §1240.7(d)(1)(i) to prevent the Committee from discharging its investigative and disciplinary “function” by purporting by a single conclusory sentence:

“After careful review, it has been determined that the issues you raise are more appropriate for resolution by a court of law or through other available legal remedies in the first instance.”

This sentence, the first of her three-sentence third paragraph, is utterly fraudulent. The unspecified “issues” raised by my complaint involve the corrupting of the judicial process by subordinate attorneys of the New York State Attorney General to defeat lawsuits in which there is NO legitimate defense, where, additionally, the Attorney General is a defendant and financially-interested – with the exemplifying lawsuit being the *CJA v. Cuomo...Schneiderman...DiFiore* citizen-taxpayer action, whose evidentiary record, supplied with the complaint, establishes that there are NO “available legal remedies” at ANY level of New York’s “court(s) of law”: not in Supreme Court/Albany County, not at the Appellate Division, Third Department, and not at the New York Court of Appeals because their judges are financially interested and obliterated ALL ethical and legal standards, rendering decisions they were without jurisdiction to render and which are each frauds.

Telling, Chief Attorney Duffy does NOT identify the “court of law” to which I should be turning “in the first instance” or specify “other available legal remedies”, because – as the complaint proves – there are none to perform fact-finding as to the complained-of violations of [New York’s Rules of Professional Conduct \(22 NYCRR Part 1200\)](#) that is the Committee’s “function” to investigate and prosecute pursuant to the [Rules for Attorney Disciplinary Matters \(22 NYCRR Part 1240\)](#).<sup>5</sup>

The two further sentences of Chief Attorney Duffy’s third paragraph are also fraudulent, designed to further conceal the indefensibility of what she has done:

“If it is your feeling that your legal rights need protection, we recommend that you consult with an attorney of your choosing. The Committee is not permitted to give you legal advice or act as your attorney.”

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<sup>5</sup> Nor does this Committee’s “function” pre-empt the courts or other bodies – and §1240.3 entitled “Discipline Under These Rules Not Preclusive”, makes that explicit, stating:

“Discipline pursuant to these Rules shall not bar or preclude further or other action by any court, bar association, or other entity with disciplinary authority.”

In other words, although the annihilation of my legal rights – and the rights of the 19-1/2 million People of the State of New York being championed by *CJA v. Cuomo...Schneiderman...DiFiore* – is ascertainable, readily, from “careful review” of the complaint, Chief Attorney Duffy here pretends that maybe it is just my “feeling” that I have “legal rights [that] need protection”. What an outrage – and even more so as the obliteration of my legal rights and those of New York’s 19-1/2 million would be established, swiftly, upon the Committee’s discharge of its “function” to investigate the ethical violations that are the subject of the complaint, which Chief Attorney Duffy has prevented by her single-sentence conclusory fraud.

Moreover, evident from the complaint, with its dispositive evidentiary PROOF of the corrupting of ANY semblance of judicial process by lawyers and judges in lawsuits pertaining to the integrity and constitutionality of state governance, is that it triggers Rule 8.3(a) of the Rules of Professional Conduct, “Reporting of Professional Conduct”:

“A lawyer who knows that another lawyer has committed a violation of the Rules of Professional Conduct that raises a substantial question as to the lawyer’s honesty, trustworthiness or fitness as a lawyer shall report such knowledge to a tribunal or other authority empowered to investigate or act upon such violation.”

In other words, IF Chief Attorney Duffy ACTUALLY believed that the complaint was “more appropriate for resolution by a court of law or through other available legal remedies in the first instance”, her duty pursuant to Rule 8.3(a) was to refer the complaints to such “tribunal or other authority empowered to investigate or act”, rather than purport “we are unable to assist you”, as she does by the first sentence of her final fourth paragraph.

Pursuant to §1240.7(e)(3), you have discretion as Committee chair, to refer this written reconsideration request “to the full Committee, or a subcommittee thereof, for whatever action it deems appropriate.” In view of the magnitude of what is here at issue – the corruption of judicial proceedings by the New York State Attorney General, in collusion with the Appellate Division, Third Department and other courts – and the fact that the Appellate Division, Third Department, which appoints Chief Attorney Duffy and Committee staff<sup>6</sup> and you as Committee chair and the Committee’s other members<sup>7</sup>, has HUGE financial and other interests in the complaint – I

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<sup>6</sup> 22 NYCRR §1240.5; 22 NYCRR §806.5(a) [[Appellate Division, Third Department implementing Rules](#)].

<sup>7</sup> 22 NYCRR §1240.4; 22 NYCRR §806.4(a). Although, pursuant to §1240.4, attorney grievance committee membership is required to be “at least 21 members” – with the Appellate Division Third Department’s §806.4(a) fixing that number at “twenty-one members” – [the roster of Committee members for 2021-2022](#), posted on the Committee’s website, reflects only 20 members: yourself, as chair, plus Joyce Q. Chupka, Esq.; David W. Meyers, Esq.; Jacqueline Ricciani, Esq.; Dennis B. Schlenker, Esq.; Brian M. Wang, Esq.; Michael E. Basile, Esq.; Maryanne Malecki, Esq.; Carrier McLoughlin Noll, Esq.; Dana D. Peck, Esq.; Elena J. Tastensen, Esq.; Joseph M. Sise, Esq.; D. Alan Wrigley, Jr., Esq.; Scott J. Clippinger, Esq.; Mark S. Gorgos, Esq.; James M. Hartmann, Esq.; Sheila C. Lindsey; R. James Miller, Esq.; Michelle C. Philpott, Esq.;

respectfully submit that this reconsideration request must be referred to the FULL Committee, so that all its members may be held accountable, including criminally, for the frauds being perpetrated in its name.

I am available to answer questions, including under oath. Meantime, I ask that you deem the foregoing as sworn by me as true under the penalties of perjury.

Thank you.

s/Elena Ruth Sassower