

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

Tel. (914)455-4373

E-Mail: cja@judgewatch.org
Website: www.judgewatch.org

February 21, 2014

TO: Senate Finance Committee Chair John A. DeFrancisco
Senate Finance Committee Ranking Member Liz Krueger

Assembly Ways and Means Committee Chair Herman D. Farrell, Jr.
Assembly Ways and Means Committee Ranking Member Robert C. Oaks

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

RE: Restoring Value to Your Sham and Rigged February 5, 2014 "Public Protection" Budget Hearing on the Judiciary's Proposed Budget by Appropriate Questioning of Chief Administrative Judge Prudenti

This is to protest your wilful misfeasance and nonfeasance as the Chairs and Ranking Members of the Senate Finance Committee and Assembly Ways and Means Committee with respect to:

- Our December 11, 2013 letter, dispositive of the fraudulence and unconstitutionality of the Judiciary's proposed budget;
- Our December 30, 2013 letter, dispositive of the unconstitutionality and fraudulence of the Legislature's proposed budget;
- Our January 7, 2014 letter enclosing our letter of that date to the Commission to Investigate Public Corruption, requesting that it investigate and report to you with respect to the "grand larceny of the public fisc", particularized by our December 11, 2013 and December 30, 2013 letters;
- Our January 14, 2014 letter requesting to testify, pursuant to Legislative Law §32-a, at the Legislature's joint budget hearings in opposition to the proposed Judiciary and Legislative budgets and requesting information/records as to the process, if any, by which the Legislature's proposed budget was compiled;
- Our January 29, 2014 letter requesting to testify, pursuant to Legislative Law §32-a, against the Governor's Budget Bill #S.6351/A.8551 containing an out-of-sequence section listing tens of millions of dollars in reappropriations for the Legislature, not part of the Legislature's proposed budget;

- Our February 3, 2014 e-mail requesting to testify, pursuant to Legislative Law §32-a, in opposition to any funding for the Commission to Investigate Public Corruption – and, specifically, the Governor’s proposed \$270,000 appropriation.¹

To date, in a brazen display of your conflicts of interest, both institutional and individual, you have scheduled no budget hearing on the Legislature’s own budget. As for your budget hearing on the Judiciary’s budget – at the February 5, 2014 budget hearing on “public protection”² – it was demonstrably sham and rigged, likewise reflective of your conflicts of interest.

Apart from excluding opposition testimony, such as mine, nothing could have been more obscene than your permitting Chief Administrative Judge Prudenti to testify in support of the Judiciary’s budget without addressing our December 11, 2013 letter, whose dispositive nature is evident from the most cursory examination of the evidence it presents – and which expressly stated that it was being furnished to her so she could prepare for your “interrogation” (at p. 8). Indeed, you did not even ask her to explain why she made no mention of the third phase of the judicial salary increase and its reported \$8.4 million cost in her oral and written hearing presentations – and why the Judiciary’s budget documents also conceal them.³

As you know, because I furnished you with the substantiating proof at last year’s February 6, 2013 “public protection” budget hearing,⁴ the third phase of the judicial salary increase must be stricken because the Commission on Judicial Compensation’s August 29, 2011 Report, on which it is based, violated the safeguarding conditions of Chapter 567 of the Laws of 2010 for a salary increase. Striking this third phase would suffice to bring the Judiciary’s budget within the Governor’s 2% cap

¹ All this prior correspondence, as well as this letter, are posted on our website, www.judgewatch.org, accessible *via* our prominent homepage hyperlink “CJA Leads the Way to NYS Budget Reform – & Competitive NYS Elections”.

² Our webpage for this letter posts the video of the February 5, 2014 “public protection” budget hearing and all other evidentiary materials referred to herein. Here’s the direct link: <http://www.judgewatch.org/web-pages/searching-nys/budget-2014-2015/feb-21-ltr.htm> .

³ Chief Administrative Judge Prudenti was the first to testify at the February 5, 2014 “public protection” budget hearing (at 1:41 mins.). Chairman DeFrancisco’s questioning of her followed (at 13:35 mins.). Ranking Member Krueger questioned last (at 1:30:56 hours), with Chairman Farrell’s questioning directly before (at 1:24:55 hours). Ranking Member Oaks was silent.

Also testifying at the hearing – five hours later (at 6:25:30 hours) – was the Administrator of the Commission on Judicial Conduct, Robert Tembeckjian, in support of the Commission’s own budget request, as to which he also furnished a written statement. [see fn. 13, *infra*]

⁴ Your duty to preserve that proof, pursuant to Legislative Law §67, was the subject of an April 2, 2013 letter to you, which, additionally, gave notice that it would be required in conjunction with our opposition to the third phase of the judicial salary increase this year and of our “request to testify in opposition to the budgets of all three government branches at [this] year’s hearings to be held pursuant to Legislative Law §32-a.” (underlining in original). A copy of the letter is enclosed.

– if, in fact, the Judiciary’s budget is only .5 beyond the cap, as Chief Administrative Judge Prudenti claimed, putting that .5 excess at about \$9 million of a \$44 million increase. You accepted these numbers from her, without question, notwithstanding the Governor’s Commentary to the Judiciary’s budget identified growth at 2.7% and the dollar increase as \$53 million. Certainly, too, freeing up the \$8.4 million would mean ample monies to fund the woefully under-budgeted Commission on Judicial Conduct – were it not, as it is, a corrupt façade, protecting, from accountability, judges who wilfully violate the most basic conflict of interest rules to “throw” cases by fraudulent judicial decisions, obliterating all adjudicative standards.

As at last year’s “public protection” hearing, you engaged in the most minimal and superficial “number-crunching” with respect to the Judiciary’s budget. Once again you allowed Chief Administrative Judge Prudenti to testify without identifying the total cost of the Judiciary’s budget, even as your own “White”, “Blue”, “Yellow”, and “White” Books wildly diverged as to the relevant figures:

- The Senate Majority’s “White Book”, under Chairman DeFrancisco’s auspices, states (at pp. 75, 85): The Judiciary’s “All Funds total” is \$2.03 billion”, “an increase of \$53 million” or “2.7 percent”. This is followed by a chart entitled “Public Protection Proposed Disbursements—All Funds” (at p. 86) listing a figure of \$2,723,103,000 for the Judiciary, constituting an increase of \$76,403,000, identified as 2.89%.
- The Senate Minority’s “Blue Book”, under Ranking Member Krueger’s auspices, furnishes (at p. 155) a chart containing a “Total All Funds” tally of \$2,706,142,084, representing a change of \$72,245,608, and a percentage change of 2.74%. No elaboration is provided in the brief accompanying text which instead states:

“The Judiciary’s General Fund Operating Budget request is \$1.82 billion. The request is an increase of \$63 million over the current fiscal year appropriation, or 3.6%.” On a cash basis, the requested increase is 2.5% (\$44.20 million), the difference relating to a prior year reappropriation technicality. When evaluating this budget, it is the 2.5% cash basis request that is primary.”

- The Assembly Majority’s “Yellow Book”, under Chairman Farrell’s auspices, states (at p. 141):

“The Judiciary’s proposed budget request, as submitted to the Governor, recommends appropriations of \$2.73 billion, which is an increase of \$77.25 million or 2.9 percent from the State Fiscal Year (SFY) 2013-2014 level.”

More precise figures appear in an “Appropriations” table immediately beneath: “\$2,726.14 in millions”, representing a dollar change of “\$77.25 in millions” and a percentage change of “2.92%”. Also, a “Disbursements” table, giving the figures: “\$2,723.10 in millions”, representing a dollar change of “\$76.40 in millions”, and a percentage change of “2.89%”.

- The Assembly Minority's "Green Book", under Ranking Member Oaks' auspices, gives two sets of untotaled figures: The first: "\$2 billion for the Judiciary, \$53 million more than last year. This represents a 2.7% increase in spending." The second: "\$669.1 million in General State Charges...\$8.5 million more than last year."

And, of course, the Governor's Commentary to the Judiciary's budget states:

"The Judiciary has requested appropriations of \$2.1 billion for court operations, exclusive of the cost of employee benefits. Disbursements for court operations from State Operating Funds are projected to grow by \$53 million or 2.7 percent."

As for the Division of the Budget, none of the Governor's numbers are on its webpage for the Judiciary's budget:

"The Judiciary's General Fund Operating Budget requests \$1.81 billion, excluding fringe benefits, for Fiscal Year 2014-2015. This represents a cash increase of \$44.2 million, or 2.5%. The associated appropriation request is \$1.82 billion, which represents a \$63 million, or 3.6% increase. The slightly higher appropriation increase is because of the technical reasons that relate to the use of reappropriation authority to fund the first two years of the judicial pay raise...."

The Judiciary's All Funds budget request for Fiscal Year 2014-2015, excluding fringe benefits, totals \$2.04 billion, an appropriation increase of \$63.8 million, or 3.2% over the 2013-2014 All Funds budget..."

In face of this mind-bending, metric-differing confusion, how is it that you said nothing at the hearing as to the lack of clarity in the Judiciary's budget? Or do you think that the Judiciary's budget is clearer and more capable of meaningful review this year than last – or than it was in 2012, 2011, and 2010, when Chairman DeFrancisco was among legislators including Senators Bonacic and Nozzolio complaining about the Judiciary's budgets?⁵

As pointed out by the sole enclosure to our December 11, 2013 letter, numbers as big as those in the Judiciary's budget, when rounded, can conceal tens and hundreds of millions of dollars: "a veritable slush fund" (our March 11, 2013 letter, at p. 10). Exemplifying this further are the Senate and Assembly Judiciary Committee Annual Reports for 2013, each rounding off the Judiciary's current budget – and diverging by \$50 million.⁶ Apparently, this is of no greater concern to you this year

⁵ Excerpts of their powerful statements, no less true today, are at pages 7-9 of our March 11, 2013 letter – the sole exhibit to our December 11, 2013 letter. The transcripts are posted on our budget resource webpage: "Library of Legal Authorities, Videos & Transcripts".

⁶ According to the Senate Judiciary Committee's 2013 Annual Report, "The Legislature adopted [for

than last. Nor, apparently, the tens of millions of dollars in “reappropriations” of doubtful constitutional and statutory sufficiency, in the Judiciary’s “single budget bill” and, identically, in the judicial portion of the Governor’s Budget Bill #S.6351/A.8551 – but not in the Judiciary’s two-part budget presentation. Obviously, too, you feel no responsibility to compile “White”, “Blue”, “Yellow” and “Green” books that meaningfully inform legislators – even after notice last March of the worthlessness of those books as guides to Senate and Assembly members, reiterated by our December 11, 2013 letter.

Over and again at the February 5, 2014 hearing, Chief Administrative Judge Prudenti put forward deceptions, to which you gave assent, either by silence or affirmative response. Had you allowed me to testify, I would have pointed these out, as assuredly you knew in excluding me from the witness list. As illustrative:

According to Chief Administrative Judge Prudenti: “The Judiciary does not live in a vacuum. We have worked diligently to be good partners with both the Executive and Legislative branches of government and share the pain during the past fiscal years of austerity.” (at 5:39 mins.)⁷

IN REALITY: the Judiciary has been the very opposite of a “good partner” in “shar[ing] the pain” during these “fiscal years of austerity”. This was demonstrated by our October 27, 2011 Opposition Report to the Commission on Judicial Compensation’s August 29, 2011 Report, detailing how, in the wake of fiscal crisis, the Judiciary was undeterred in seeking and securing, by fraud, salary increases for its judges – the ONLY “constitutional officers” of our three co-equal government branches to receive salary increases.⁸

The cost of the fraudulent judge-only salary increases appears to be at least \$70 million for the first two years. With this year’s third phase, the yearly cost will be \$50 million and become an annual recurring theft of public monies, in perpetuity.

fiscal year 2013-2014] a Unified Court System Budget of \$2.65 billion, which reflected an increase of \$94 million or 3.7%”. According to the Assembly Judiciary Committee’s 2013 Annual Report: “The 2013-2014 Judicial budget includes total appropriations of \$2.6 billion.” (underlining added).

⁷ See also Chief Administrative Judge Prudenti’s February 5, 2014 written statement: “There can be no doubt that the Judiciary has shown itself to be a good partner with the Executive and Legislative Branches in addressing the State’s fiscal crisis.” (at p. 1), and the Executive Summary to the Judiciary’s two-part budget presentation: “...there can be no doubt that the New York State Judiciary has shown itself to be a faithful steward of the public fisc...and a good partner with its co-equal branches of State government.” (at p. iii).

⁸ See, in particular, pp. 14-16, 22-23.

According to Chief Administrative Judge Prudenti, the 2.5% increase that the Judiciary requires for this year's budget is to ameliorate the "loss" of more than 1,900 employees resulting from five years of budgets that have "essentially been flat" (at 6:14 mins.; 6:42 mins.).

IN REALITY, the Judiciary's so-called "essentially...flat" budgets were achieved by its sacrificing its employees without which the judicial salary increases could not have been procured.⁹ Indeed, it is telling that Chief Administrative Judge Prudenti stated: "Four years ago, the Judiciary was the only branch to have layoffs." (at 7:08 mins.).

Had the Judiciary not given priority to the financial self-interest of its judges, aided and abetted by judicial pay raise advocates,¹⁰ the \$70 million cost of the first two years of judicial salary increases would have enabled it to retain, on its payroll, hundreds of employees to provide essential services and keep courtrooms open to the customary 5 p.m. Now, while totally concealing the third phase of the judicial salary increase, the Judiciary cries for help because it doesn't have the employees it needs.

According to Chief Administrative Judge Prudenti: the inclusion of a \$5 million request for 20 Family Court judges is "a stand-alone supplemental appropriation, put in to jump-start discussions over need and districts where they are most needed" (at 9:50 mins.) "to see what you thought" (at 28: 16 mins.) because "we are sensitive to the times we are living in, we are sensitive to the pressures that the Executive branch, as well as the Legislative branch, is under. And we are sensitive to the costs that go along with every time that a

⁹ This is also reflected by our Opposition Report (at p. 23, fn. 28), quoting from a June 16, 2011 article "*New York judges ask for 41-percent raise, retroactive pay*", which we had annexed to our June 23, 2011 letter to the Commission on Judicial Compensation (Ex. B), identifying "a \$170 million cut to the state court system's budget, which has led to the layoffs of 411 non-judicial court employees and the demotion or transfer of 241 others." To no avail, members of the public protested to the Commission on Judicial Compensation, to the Judiciary, and to the Senate Judiciary Committee the injustice of giving pay raises to judges at the expense of court employees. A sampling is posted on our webpage for this letter.

¹⁰ Exemplifying this is the New York County Lawyers' Association, which held its own hearing on budget cuts in December 2013, followed by a January 2014 report, referred to by Ranking Member Krueger at the February 5, 2014 budget hearing (at 1:32:45 hours) [fn. 17, *infra*]. During the Commission on Judicial Compensation's tenure, the Association issued an August 11, 2011 report on the impact of budget cuts and layoffs, while simultaneously advocating for judicial pay raises – though separately and with complete disregard of our showing that the judicial pay raise "crisis" was a fraud and that the Commission on Judicial Compensation was operating in violation of conflict of interest rules and Chapter 567 of the Laws of 2010. The Association's dishonesty on the judicial pay raise issue and Judiciary budget is documented by our Opposition Report – and has continued, to the present. Its written testimony for the February 5, 2014 budget hearing was in face of notice, repeatedly given, of our December 11, 2013 letter pertaining to the fraudulence and unconstitutionality of the concealed third-phase of judicial pay raises and the Judiciary budget. See, for instance, our January 2, 2014 letter to it and other judicial pay raise advocates, posted on the webpage for this letter.

Family Court judgeship is created. So keeping that in mind, to be fair and reasonable, we thought that, to start off the discussion with 20 additional Family Court judges, was a reasonable request in a supplemental appropriation form...this is a supplemental appropriation in our budget. It is not included in our budget. We would need additional funding for these judgeships.” (at 28:40 mins.).

IN REALITY, Family Court is in a state of emergency – and has been for decades – caused by too few Family Court judgeships and ballooning caseloads. This was the subject of a devastating October 30, 2009 report entitled “*Kids and Families Still Can’t Wait: The Urgent Case for New Family Court Judgeships*”, prepared for, and issued by, then Senate Judiciary Committee Chairman John Sampson. Page 31 of our October 27, 2011 Opposition Report quoted it as follows:

“...Family Court’s caseload crisis has grown beyond administrative remedies and short-term fixes. With calendars as large as those that many courts now typically experience, only a prompt infusion of new Family Court judgeships – commensurate with dockets – can ensure that New York’s family justice system does not collapse under its own weight.” (at p. 2, underlining in original 2009 report).

Yet, faced with the interests of families and children imperiled by swamped Family Courts and judicial and the financial interest of judges in salary increases, the Judiciary chose the latter – even purporting that increasing judicial salaries would somehow enable judges to handle beyond-human-capacity caseloads.

Any “sensitive” Judiciary would recognize that the \$8.4 million for the third phase of the judicial salary increase should go, instead, to funding the 20 Family Court judgeships. Indeed, an honest Judiciary would have forthrightly identified the cost of these 20 Family Court judgeships in its budget presentation, which this Judiciary does not do. According to the Senate Judiciary Committee’s 2009 report (at p. 23), the cost is “approximately \$750,000 per judgeship, on average”. Apparently, this sum is a full million dollars today, as may be inferred from the fact that the 20 Family Court judgeships are not to be established until January 1, 2015, meaning that the requested \$5 million will only be covering three months until the new fiscal year on April 1, 2015.

Certainly, too, for the Judiciary to propose only 20 Family Court judgeships is itself dishonest. As reflected by the 2009 Senate Judiciary Committee report, at the depths of the fiscal crisis, in 2009, Chief Judge Lippman proposed, and the Senate passed, a bill sponsored by Senator Sampson (#S.5968) to immediately establish 21 new Family Court judgeships. An identical bill awaited action in the Assembly (#A.8957). The report

recommended another 18 be phased in, so that a total of 39 Family Court judgeships would be created, consistent with a Judiciary request made two years earlier. This was deemed “the state’s down payment toward ensuring that the Family Court is equal to the heavy burdens placed on its shoulders.” (at p. 23). Indeed, at the hearing, Chief Administrative Judge Prudenti herself acknowledged, but only upon questioning by Senate Judiciary Committee Ranking Member Ruth Hassell-Thompson, that “many years ago there was a request for 70-something Family Court judges” (at 28:20 mins.).

The \$70 million stolen for the first two years of judicial salary increases would have paid for 70 Family Court judgeships. Striking the third phase of the judicial salary increase to free up \$8.4 million, plus additional monies from statutorily-linked district attorney and county clerk salaries,¹¹ would immediately suffice for the first three months of the 39 Family Court judgeships recommended by the 2009 Senate Judiciary Committee report.¹²

According to Chief Administrative Judge Prudenti, the Judiciary’s proposed budget is what it needs “to provide equal justice for all, all day long, and in all our courthouses” (at 12:00 mins.) – and the people she “works for and with are of the highest caliber and doing the very best they can” (at 1:10:30 hours) but “delay” erodes “public trust and confidence in the judiciary”, which she tries to instill “each and every day” (at 1:12:56 hours).

IN REALITY, the Judiciary is not providing “equal justice” or any justice at all in case, after case, after case – and the file records of these cases prove that. They establish not an excellent, quality judiciary fulfilling its constitutional mission to render justice – as purported by the Judiciary in its campaign for judicial salary increases, as likewise in support of its budget – but one that is systemically corrupt, with cases “thrown” by fraudulent judicial decisions, on both trial and appellate levels, aided and abetted by the Judiciary’s administrative and supervisory judges and staff and by the Commission on

¹¹ The “White Book” reflects the consequent district attorney salary increase resulting from the third phase of judicial salary increase – “\$350,000 to fund the April 2014 increase related to Judicial salaries.” (at p. 74). This same figure, though not its link to judicial salaries, appears in the “Blue Book” – “\$350,000 to fully fund statutory increases to district attorney salaries effective April 1, 2014” (at p. 24), as well as in the “Yellow Book” – “\$350,000 to support local district attorney salary increases” (at p. 106). The Assembly Minority has refused to furnish the relevant pages, if any, from its “Green Book”, pertaining to district attorney salaries.

¹² Because the Legislature’s Senate and Assembly Judiciary Committees do not function in any meaningful sense, they do not appear to have held any hearings on Family Court judgeships. None are reflected in the 2009 Senate Judiciary Committee report. The Judiciary Committees, having primary oversight jurisdiction over the Judiciary branch, should be immediately scheduling such hearings, either separately or jointly, so that, consistent with legitimate legislative process, proper legislation may be developed, introduced, debated, amended, and voted upon – accompanied by the fiscal notes and impact statements required by Senate Rule VII, §1, Senate Rule VIII, §7, and Assembly Rule III, §1(f).

Judicial Conduct. This systemic corruption was particularized by our October 27, 2011 Opposition Report, which included, as proof, the two final motions in our 1999 public interest lawsuit against the Commission on Judicial Conduct, establishing how in that case and two others, each suing the Commission for corruption, it was the beneficiary of a succession of fraudulent judicial decisions, without which it would not have survived.¹³ The Opposition Report and the two final motions are free-standing exhibits to the verified complaint in our People's lawsuit against the state on the judicial compensation issue, *Center for Judicial Accountability, Inc., et al. v. Cuomo, et al.* – to which Chief Judge Lippman and the Judiciary are named defendants, along with Temporary Senate President Skelos, Assembly Speaker Silver, the Senate, the Assembly, in addition to Governor Cuomo, Attorney General Schneiderman, and Comptroller DiNapoli – a full copy of which I handed up when I testified last year at the February 6, 2013 “public protection” budget hearing in opposition to the judicial salary increases and the Judiciary budget.

As Chief Administrative Judge Prudenti well knows, it is not “delay” that erodes “public trust and confidence in the judiciary”, but the kind of systemic judicial corruption chronicled by that verified complaint – about which she and other administrative and supervisory judges and court personnel routinely receive complaints, which they ignore.¹⁴

Obviously, the only constitutional basis for imposing upon taxpayers the cost of a Judiciary is if it is performing its constitutional mission. The proof that New York's state Judiciary is wilfully and deliberately not – and that the reason is largely because the Commission on Judicial Conduct is wilfully and deliberately not performing its own constitutional mission to investigate and remove corrupt state judges – has long been the duty of this Legislature, by its Judiciary Committees, to

¹³ The 1999 lawsuit, which spanned to 2002, concluding at the New York Court of Appeals, was *Elena Ruth Sassower, Coordinator of the Center for Judicial Accountability, Inc., acting pro bono publico v. Commission on Judicial Conduct of the State of New York*. The two other lawsuits it physically incorporated were: *Doris L. Sassower v. Commission on Judicial Conduct of the State of New York* (1995) and *Michael Mantell v. New York State Commission on Judicial Conduct* (1999-2001). Their relevance to the Commission on Judicial Conduct's budget request for increased funding may be seen in the February 5, 2014 written statement of its administrator, Robert Tembeckjian, asserting that since its establishment, the Commission has “successfully defended against every challenge to our procedures – over 100 lawsuits in all – initiated in the courts by either a complainant or an investigated judge.” (at p. 2). This enables Mr. Tembeckjian to purport that “For over 35 years, the Commission has been a model of ethics enforcement and judicial discipline...” (at p. 2) and “arguably...the most effective ethics agency in state government over the last 35 years” (at p. 10).

¹⁴ One such complaint, ignored by Chief Administrative Judge Prudenti when she was Presiding Justice of the Appellate Division, Second Department, and involving corrupt decisions by City Court judges and Appellate Term Judges in a landlord/tenant case, covered up by her own Appellate Division Second Department Justices, was furnished to the Commission on Judicial Compensation and is part of our October 27, 2011 Opposition Report. See Exhibit K-1, enclosure 2. The case is identified at ¶5(e) of the verified complaint in *CJA v. Cuomo*.

confront. In addition to the testimony of more than two dozen victims of judicial corruption at the Senate Judiciary Committee's June 8, 2009 and September 24, 2009 public hearings on the Commission on Judicial Conduct and court-controlled attorney disciplinary system, aborted without investigation, findings, or committee report, and the testimony of seven witnesses at the Commission on Judicial Compensation's July 20, 2011 public hearing, concealed by its August 29, 2011 Report recommending judicial pay raises, 16 victims of judicial corruption testified at the Commission to Investigate Public Corruption's September 17, 2013 public hearing – its first and only public hearing at which it allowed members of the public to testify about the breadth of public corruption within their knowledge and experience – and which it corruptly refuses to investigate, purporting it to be “outside our mandate”.¹⁵

To facilitate a belated proper discharge of your duties as guardians of the public fisc with respect to the Judiciary's budget, in recompense for your deficient, coddling performance on February 5, 2014, with Chairman DeFrancisco offering to accept the budget as if it is “a deal”¹⁶ and Ranking Member Krueger urging even greater funding to resolve “delays”, which, purportedly, are not the Judiciary's “fault”, but reflect a court system that “flunk[s] the test” in “address[ing] the needs of our people throughout the entire state of New York”¹⁷ – enclosed is a list of pertinent questions to which this

¹⁵ Of the 16 witnesses testifying about systemic judicial corruption at the Commission to Investigate Public Corruption's September 17, 2013 public hearing (at 1:52:50 hours), five expressly testified about the corruption in Family Court: Karlene Gordon (at 2:03:15 hours), Frederick Little (at 2:08:06 hours), Nora Drew Renzulli, Esq. (at 2:11:43 hours), Michael Krichevsky (at 2:42:36 hours), Barbara Stephenson Demeri (at 3:31:38 hours). The video of that hearing – and the hearings of the Senate Judiciary Committee and Commission on Judicial Compensation – are posted on the webpage for this letter.

¹⁶ Chairman DeFrancisco: “Could we make a deal? That if you get what you are looking for in this budget that you will keep the courts open ‘til 5 o’clock?” (at 21:28 mins.).

¹⁷ Ranking Member Krueger:

“...I come from New York County, that's the county I represent and the New York County Lawyers' Association had held a hearing in December...and then they released a report in early January and they submitted it to me, along with a number of people who testified at that hearing, and what I am hearing at home is, enormous delays, not just in the civil court system, in the family court, which so many people have gone over today, in the housing court system, and it's fairly appalling to me, not your fault, but appalling to me, that this state, even while we discuss, even though we debate the number of surpluses to be returned, that we are not recognizing that we, as a state, flunk the test if we don't have courts that can address the needs of our people throughout the entire state of New York.

So, I don't know the story in each and every county, I think I understand the story for New York City, overall, but, particularly after hearing many of my colleagues with their questions today, I simply would suggest that the court needs a more than a 2-1/2 percent increase, which should not be seen as an increase, but rather a recognition of attempting to get back to where you would be if we hadn't had to take an enormous cut from your budget during the years when we were facing \$10 billion deficits...

So it's mostly, not a question, but a plea to my colleagues who are here today, who are listening, that we need to make sure that New York State has the best court system we

state's taxpayers are entitled to answers from Chief Administrative Judge Prudenti. To further assist you in evaluating these questions, an analysis of the Judiciary's two-part budget presentation, its "single-budget bill", and the Governor's Budget Bill #S.6351/A.8551, Commentary, and pertinent Division of Budget webpage is also enclosed.

Inasmuch as Chief Administrative Judge Prudenti so repetitively professed readiness to answer questions and furnish information,¹⁸ also stating: "I want to be straightforward and honest with you at all times" (at 55:55 mins.), there can be no excuse for not securing her answers.

Please confirm by Wednesday, February 26, 2014, that you will be forwarding these questions to Chief Administrative Judge Prudenti for response, as we will otherwise request other legislators to protect the public purse and interest by so doing.

Meantime, this letter is being furnished to the rank and file members of the Senate Finance Committee and Assembly Ways and Means Committee, whose affirmative votes you will require if you are to report #S.6351/A.8551 out of committee – which you cannot do in the absence of the fiscal notes and introducer's memoranda required by Senate Rule VIII, §7, Senate Rule VII, §1, and Assembly Rule III, §1(f).


In that connection, enclosed are our February 11, 2014 letters to you requesting such fiscal notes and introducer's memoranda for budget bill #S.6351/A.8551. As we have not received your responses, did you wish us to ask your rank and file committee members, or other legislators, to obtain same for us, as well?

As always, I would be pleased to meet with you to discuss the foregoing.

possibly can and it won't happen unless we fund you adequately. So I thank you all very much for your service." (at 1:30:55 hours).

¹⁸ "...and address any questions you may have" (3:00 mins.); "I look forward to our candid discussions and will be available to meet with you in Albany this session, but I'd like you to always remember that I am always just a phone call away" (3:15 mins.); "...would like to answer any questions you may have" (3:40 mins.); "I will give you the information you request and that you need and I will assist you as you make your decision" (at 10:30 mins.); "I will be very happy to answer any of your questions" (at 13:01 mins.); "please just don't hesitate to contact my office..." (at 34:19 mins.); "I would be happy to forward that to you in a very timely fashion and I'll give you whatever information that we do have" (at 40:21 mins.); "we'd be happy to meet with you, as well" (at 41:38 mins.); "I can find out the answer and get back to you" (at 46:30 mins.); "...don't hesitate to contact us at the Office of Court Administration" (at 1:12:20 hours); "And I mean this to each and every person who sits here today. I would be happy to visit you and visit you personally and answer any question up close and personal. So please don't hesitate in following up and I will follow up with respect to this hearing and contact your office, as well." (at 1:19:50 hours).

Thank you.



Enclosures:

- (1) CJA's April 2, 2013 letter to Finance/Ways & Means Committee leadership
- (2) Questions for Chief Administrative Judge Prudenti
- (3) Analysis of the Judiciary's two-part budget presentation and "single budget bill", and of the Governor's Budget Bill #S.6351/A.8551, Commentary, and Division of the Budget webpage for the Judiciary's proposed budget
- (4) CJA's February 11, 2014 letter to Senate/Finance Committee leadership
- (5) CJA's February 11, 2014 letter to Assembly/Ways & Means Committee leadership

cc: Senate Finance Committee Rank & File Members:

Bonacic, Breslin, Diaz, Dilan, Espaillat, Farley, Flanagan, Gianaris, Golden, Griffo, Grisanti, Hannon, Hassell-Thompson, Kennedy, Lanza, Larkin, LaValle, Little, Marcellino, Montgomery, Nozzolio, O'Mara, Parker, Peralta, Perkins, Ranzenhofer, Rivera, Robach, Savino, Seward, Squadron, Stavisky, Valesky, Young

Assembly Ways & Means Committee Rank & File Members:

Aubry, Barclay, Benedetto, Cahill, Colton, Cook, Corwin, Crouch, Cusick, Duprey, Fitzpatrick, Gantt, Glick, Hawley, Heastie, Hooper, Jacobs, Lentol, Malliotakis, Markey, Millman, Nolan, Ortiz, Perry, Pretlow, Saladino, Scarborough, Schimminger, Thiele, Walter, Weinstein, Wright