

CENTER for JUDICIAL ACCOUNTABILITY, INC.*

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April 2, 2013

TO: Senate Finance Committee
Chairman John A. DeFrancisco
Ranking Member Liz Krueger
Assembly Ways and Means Committee
Chairman Herman D. Farrell, Jr.
Ranking Member Robert Oaks

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

RE: GIVING NOTICE:

- (1) The Mandatory Statutory Duty of the Legislature's Fiscal Committees to Preserve Evidence, Pursuant to Legislative Law §67;
- (2) CJA's Request to Testify in Opposition at Next Year's Legislative Hearings on the Budget for Fiscal Year 2014-2015, Pursuant to Legislative Law §32-a

In view of the willful and deliberate violation of the New York State Constitution, statutory law, and the Legislature's own rules by Senate and Assembly passage, last week, of budget bill S.2601-A/A.3001-A, appropriating monies for the Judiciary and Legislature, this is to put you on notice of your mandatory statutory duty under Legislative Law §67.

Entitled "Data for financial committees to be preserved", Legislative Law §67 states:

"All books, papers, transcripts of records, pamphlets, statements, reports, documents, data, memoranda and written or printed matter used by or submitted to the finance committee of the senate and ways and means committee of the assembly during any session of the legislature shall be preserved until the adjournment of the next ensuing annual session of the legislature, in the senate finance committee room. All such matters and things in the committee room of the ways and means committee of the assembly at the close of an annual session of the legislature shall be transferred to the committee room of the senate finance committee. The duty of caring for such matters and things, and keeping them intact, between sessions of the legislature shall devolve on the superintendent of public buildings."

* **Center for Judicial Accountability, Inc.** (CJA) is a national, non-partisan, non-profit citizens' organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

Please confirm that the documentary materials I handed up at the Legislature's February 6, 2013 budget hearing on "public protection" to substantiate my testimony in opposition to the Judiciary's budget and the judicial salary increases recommended by the Commission on Judiciary Compensation, will be, as Legislative Law §67 requires, preserved and kept "intact". The volume of these materials can be visibly seen on the video of my testimony. They consist of:

(1) CJA's October 27, 2011 Opposition Report to the Commission on Judicial Compensation's August 29, 2011 Report, with our Executive Summary thereof;

(2) the March 30, 2012 verified complaint and exhibits in CJA's People's lawsuit against New York's highest constitutional officers and three government branches for collusion against the People in connection with the judicial salary increases, *Center for Judicial Accountability, Inc., et al. v. Andrew M. Cuomo, in his official capacity as Governor of the State of New York, et al.*;

(3) CJA's correspondence with our highest constitutional officers in our three government branches in the week and a half preceding the February 6, 2013 budget hearing on "public protection" – such being:

to the Legislative branch: (i) CJA's January 30, 2013 letter to Temporary Senate President Skelos and Assembly Speaker Silver; (ii) CJA's January 30, 2013 letter to the Chairs & Ranking Members of the Senate Finance Committee, Assembly Ways & Means Committee, and Senate and Assembly Judiciary Committees;

to the Judicial branch: (i) CJA's January 29, 2013 letter to Chief Administrative Judge Prudenti, with a copy to Chief Judge Lippman; (ii) CJA's February 2, 2013 e-mail to the Office of Court Administration; (iii) CJA's February 4, 2013 e-mail to the Office of Court Administration;

to the Executive branch: (i) CJA's February 1, 2013 letter to Governor Cuomo; (ii) CJA's February 1, 2013 letter to Attorney General Schneiderman & Comptroller DiNapoli; (iii) CJA's February 5, 2012 e-mail to the Governor's Division of the Budget.

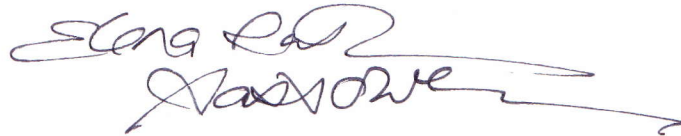
(4) pages 103-107 of the transcript of the Legislature's January 31, 2012 budget hearing on "public protection", containing colloquy as to the cost to the state of the increases in district attorney salaries resulting from the judicial salary increases, to which they are statutorily tied.

Please further confirm that CJA's extensive subsequent correspondence based thereon, spanning from February 26, 2013 to March 28, 2013, all of which I sent you electronically, by e-mail, will further be preserved and kept "intact".

Apart from the evidentiary significance of the foregoing documentary materials in establishing the Legislature's "grand larceny of the public fisc" by its funding, through S.2601-A/A.3001-A, of unidentified and unitemized taxpayer monies for the second phase of the judicial salary increase recommended by the Commission on Judicial Compensation's statutorily-violative, fraudulent, and unconstitutional August 29, 2011 Report – justifying criminal, disciplinary, and impeachment proceedings against ALL involved – such materials will be required, next year, in conjunction with CJA's opposition to the Judiciary's request for funding of the third phase of the judicial salary increase recommended by the Commission's August 29, 2011 Report.

Indeed, by this letter, CJA hereby gives notice of its request to testify in opposition to the budgets of all three government branches at next year's hearings to be held pursuant to Legislative Law §32-a.¹

Thank you.

A handwritten signature in black ink, appearing to read "Steven R. D'Amore". The signature is written in a cursive style with a long horizontal flourish extending to the right.

cc: Superintendent of Public Buildings, referred to by Legislative Law §67
The Public & The Press

¹ Legislative Law 32-a "Budget; public hearings":

"After submission and prior to enactment of the executive budget, the senate finance committee and the assembly ways and means committee jointly or separately shall conduct public hearings on the budget. Such hearings may be conducted regionally to provide individuals and organizations throughout the state with an opportunity to comment on the budget. The committees shall make every effort to hear all those who wish to present statements at such public hearings. The chairs of the committees jointly or separately shall publish a schedule of hearings."

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, April 02, 2013 10:37 AM
To: 'jdefranc@nysenate.gov'; 'lkrueger@senate.state.ny.us'; FarrelH@assembly.state.ny.us; 'OaksR@assembly.state.ny.us'
Cc: luther@nysenate.gov; usher@nysenate.gov; 'cburke@nysenate.gov'; johnsonm@assembly.state.ny.us; dagatir@assembly.state.ny.us; mertzj@assembly.state.ny.us; foustt@assembly.state.ny.us; Heather Sousa (sousah@assembly.state.ny.us); mujica@nysenate.gov
Subject: Giving Notice: Your Mandatory Statutory Duty to Preserve Evidence Pursuant to Legislative Law §67, etc.
Attachments: 4-2-13-fiscal-committees.pdf

Attached is CJA's self-explanatory letter of today's date.

It is already posted on CJA's website, www.judgewatch.org, on our NEW webpage entitled "Holding Government Accountable for its Grand Larceny of the Public Fisc", accessible *via* our "Latest News" top panel. For your convenience, here's the direct link: <http://www.judgewatch.org/web-pages/judicial-compensation/grand-larceny-of-public-fisc.htm> .

Thank you.

Elena Sassower, Director
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