

At an IAS Part of the Supreme Court of the State of New York, held in and for the County of Albany at the Courthouse, located at 16 Eagle Street, New York, New York on the 2nd day of September, 2016.

SUPREME COURT OF STATE OF NEW YORK
ALBANY COUNTY

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CENTER FOR JUDICIAL ACCOUNTABILITY, INC.
and ELENA RUTH SASSOWER, individually and
as Director of the Center for Judicial Accountability, Inc.,
acting on their own behalf and on behalf of the People
of the State of New York & the Public Interest,

Plaintiffs,

**ORDER TO SHOW CAUSE
WITH STAY & TRO**

-against-

Index #

ANDREW M. CUOMO, in his official capacity as Governor of the State of New York, JOHN J. FLANAGAN in his official capacity as Temporary Senate President, THE NEW YORK STATE SENATE, CARL E. HEASTIE, in his official capacity as Assembly Speaker, THE NEW YORK STATE ASSEMBLY, ERIC T. SCHNEIDERMAN, in his official capacity as Attorney General of the State of New York, THOMAS P. DiNAPOLI, in his official capacity as Comptroller of the State of New York, and JANET M. DiFIORE, in her official capacity as Chief Judge of the State of New York and chief judicial officer of the Unified Court System,

Defendants.

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Upon the annexed affidavit of ELENA RUTH SASSOWER, plaintiff *pro se*, sworn to on September 2, 2016, plaintiffs' September 2, 2016 verified complaint, and the record of the predecessor citizen-taxpayer action, *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Albany Co. #1788-2014),

LET defendants show cause before this Court at 16 Eagle Street, Albany, New York 12207 on the 16th day of September 2016 at 9:30 a.m. or as soon thereafter as the parties or their

counsel may be heard, why an order should not issue in this citizen-taxpayer action pursuant to State Finance Law Article 7-A (§123 *et seq.*):

(1) enjoining defendants from disbursing monies pursuant to Legislative/Judiciary Budget Bill #S.6401-a/A.9001-a; or, alternatively:

- (i) as to the legislative portion, enjoining disbursement of monies for its §1 appropriations and §4 reappropriations (at pp. 2-9; 25-48); and;
- (ii) as to the judiciary portion, enjoining disbursement of monies for its §3 reappropriations (at pp. 22-24), particularly for purposes of funding “the force of law” judicial salary increases recommended by the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation for fiscal year 2016-2017;

(2) enjoining defendants from disbursing monies pursuant to the appropriation item “For grants to counties for district attorney salaries” in the Division of Criminal Justice Services’ budget, contained in Aid to Localities Budget Bill #S.6403-d/A.9003-d (at pp. 72-73), and, additionally, pursuant to reappropriation items therein pertaining to previous “grants to counties for district attorney salaries” and “recruitment and retention” incentives (at pp. 94, 97, 100, 124-125);

(3) disqualifying Albany County Supreme Court Justice Roger McDonough as a judge eligible for assignment to this citizen-taxpayer action by reason of his demonstrated actual bias, born of financial interest, in the related and now concluded citizen-taxpayer action *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Albany Co. #1788-2014);

(4) for such other relief as may be just and proper, including \$100 motion costs pursuant to CPLR §8202.

In the event this case is assigned to Justice McDonough:

(5) an order that he disqualify himself for demonstrated actual bias, born of his financial interest – and, based thereon, that he vacate his August 1, 2016 amended decision and order in the prior citizen-taxpayer action (#1788-2014), including pursuant to CPLR §5015(a)(4): “lack of jurisdiction” by reason of his disqualification for interest and pursuant to CPLR §5015(a)(3), for “fraud, misrepresentation, [and] other misconduct” of defendants and their counsel.

~~SUFFICIENT CAUSE APPEARING THEREFORE, let a temporary restraining order issue pursuant to State Finance Law §123-e(2), enjoining defendants as hereinabove set forth pending hearing and determination of this motion.~~

RDM
9/2/16

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the 6th day of September 2016 upon the defendants herein by personal service be deemed good and sufficient service.



Supreme Court Justice

Hon. Roger D. McDonough, A.J.S.C.

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SUPREME COURT OF STATE OF NEW YORK
ALBANY COUNTY

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CENTER FOR JUDICIAL ACCOUNTABILITY, INC.
and ELENA RUTH SASSOWER, individually and
as Director of the Center for Judicial Accountability, Inc,
acting on their own behalf and on behalf of the People
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Plaintiffs,

-against-

ANDREW M. CUOMO, in his official capacity as Governor
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capacity as Temporary Senate President, THE NEW YORK
STATE SENATE, CARL E. HEASTIE, in his official capacity
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in his official capacity as Comptroller of the State of New York,
and JANET M. DiFIORE, in her official capacity as Chief Judge of the
State of New York and chief judicial officer of the Unified Court System,

Defendants.

-----x
STATE OF NEW YORK)
ALBANY COUNTY) ss.:

ELENA RUTH SASSOWER, being duly sworn deposes and says:

1. I am the above-named *pro se* individual plaintiff in this citizen-taxpayer action brought under State Finance Law Article 7-A [§123 *et seq.*] for declaratory judgment. I am fully familiar with all the facts, papers, and proceedings recited by plaintiffs' accompanying verified complaint, which I wrote and incorporate by reference in support of both the injunctive and disqualification relief sought by plaintiffs' order to show cause.

2. In view of the extensive nature of the verified complaint, any further recitation would be redundant.

3. The only prior application for the relief herein sought was in plaintiffs' prior citizen-taxpayer action, *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Albany Co. #1788-2014), concluded by Justice McDonough's August 1, 2016 amended decision and order (Exhibit D to the verified complaint herein) – and such did not include the second branch of injunctive relief:

“(2) enjoining defendants from disbursing monies pursuant to the appropriation item “For grants to counties for district attorney salaries” in the Division of Criminal Justice Services’ budget, contained in Aid to Localities Budget Bill #S.6403-d/A.9003-d (at pp. 72-73), and, additionally, pursuant to reappropriation items therein pertaining to previous “grants to counties for district attorney salaries” and “recruitment and retention” incentives (at pp. 94, 97, 100, 124-125)”.

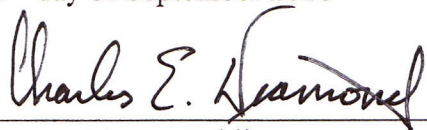
4. The facts entitling plaintiffs to this second branch of injunctive relief are set forth by the tenth cause of action of plaintiffs' verified complaint herein (¶¶85-110).

5. As to the facts pertaining to Justice McDonough's denial of the first branch of injunctive relief – as, likewise, pertaining to his denial of the disqualification relief herein sought – they are set forth by plaintiffs' analysis of Justice McDonough's August 1, 2016 amended decision and order, annexed as Exhibit G to plaintiffs' accompanying verified complaint (see, in particular, pp. 9, 11-14).



ELENA RUTH SASSOWER

Sworn to before me this
2nd day of September 2016



Notary Public

CHARLES E. DIAMOND
Notary Public, State of New York
Qualified in Albany County
No. 4802106
Commission Expires Oct. 31, 20 18.

SUPREME COURT OF STATE OF NEW YORK
ALBANY COUNTY

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Index #5122-16

Plaintiffs,

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and JANET M. DiFIORE, in her official capacity as Chief Judge of the
State of New York and chief judicial officer of the Unified Court System,

Defendants.

**ORDER TO SHOW CAUSE FOR STAY & TRO
& SUPPORTING AFFIDAVIT**

ELENA RUTH SASSOWER, Plaintiff *Pro Se*, individually
& as director of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York &
the Public Interest

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