

## Center for Judicial Accountability, Inc. (CJA)

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**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>  
**Sent:** Wednesday, April 24, 2019 5:02 PM  
**To:** 'eric.lane@hofstra.edu'  
**Cc:** 'Laura.Lanzillotta@hofstra.edu'; 'lawlmk@hofstra.edu'; 'lawrence.norden@nyu.edu'; 'nordenl@brennan.law.nyu.edu'; 'douglas.keith@nyu.edu'; 'wendy.weiser@nyu.edu'; 'fritz.schwarz@nyu.edu'; 'fschwarz@cravath.com'; 'michael.waldman@nyu.edu'; 'brennancenter@nyu.edu'  
**Subject:** REQUEST FOR AMICUS CURIAE SUPPORT & OTHER ASSISTANCE: CJA's Citizen-Taxpayer Action, NOW AT THE COURT OF APPEALS, on an appeal of right on the issues of constitutional construction directly involved  
**Attachments:** 8-13-18-ltr-to-organizations-amicus.pdf; 3-30-16-email-to-lane-etc.pdf; 4-26-16-email-to-lane.pdf; 4-18-17-email-to-brennan-ctr-lane.pdf

### **TO: PROFESSOR ERIC LANE/Eric T. Schmertz Distinguished Professor of Law & Public Service-HOFSTRA LAW SCHOOL**

This follows my Monday's phone conversation with your secretary, Laura. I trust she informed you of what I told her: that CJA's citizen-taxpayer action – whose landmark causes of action build upon your scholarship and that of the Brennan Center – is NOW at the New York Court of Appeals on an appeal of right on the issues of constitutional construction directly involved. I told her that I would be e-mailing you a request for your *amicus curiae* support and scholarship – and this is that request.

In the interest of economy, annexed are my March 30, 2016, April 26, 2016, and April 18, 2017 e-mails to you and the Brennan Center, illustrative of my many, many past efforts to secure your expert opinion and leadership in building scholarship, dialogue, and intervention/*amicus* on the monumental constitutional issues then being litigated in Albany County/Supreme Court – indeed, even before they were there litigated.

Last year, upon perfecting an appeal to the Appellate Division, Third Department, I again turned to the Brennan Center for *amicus curiae* support and other assistance – sending it and other “good government” organizations and “scholarship” institutes an August 13, 2018 letter, which is attached. Yesterday, I re-sent that letter to them by the below e-mail, updating them on what had happened since and reiterating my request for *amicus curiae* and other assistance, now in the context of the appeal of right to the Court of Appeals – based on the facts and law set forth by my March 26, 2019 and April 11, 2019 letters to the Court of Appeals, in support of the appeal of right. Here are the direct links to CJA's webpages for those dispositive two letters – from which all the substantiating EVIDENCE, law, and law review articles are accessible: <http://www.judgewidth.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/3-26-19-ltr.htm> and <http://www.judgewidth.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/4-11-19-ltr-to-ct-appeals.htm>.

It will not take you long to confirm the magnitude of what is before the Court of Appeals: a cataclysmic subverting of the New York Constitution, including by the Court of Appeals itself, which has converted the constitutionally-guaranteed appeal of right on issues of constitutional construction directly involved to a discretionary grant. Please, therefore, read the March 26, 2019 and April 11, 2019 letters expeditiously – or, at very least, IMMEDIATELY forward to other scholars of our state Constitution, whose names I request so that I may know who you consider such scholars to be. I am cc'ing high-ranking attorneys of the Brennan Center, so that they can do the same.

I am available, no matter how early or late, and on weekends – and am eager to speak with you, at your convenience, as soon as possible. Please advise as to when you anticipate that might be.

Thank you.



Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
[www.judgewatch.org](http://www.judgewatch.org)  
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**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
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**Subject: CJA's WEBSITE & WEBPAGES NOW OPERATIONAL -- REQUEST FOR AMICUS CURIAE SUPPORT & OTHER ASSISTANCE: CJA's Citizen-Taxpayer Action, NOW AT THE COURT OF APPEALS, on an appeal of right on the issues of constitutional construction directly involved**

Dear ALL,

Good news! CJA's website, [www.judgewatch.org](http://www.judgewatch.org), is NOW operational – and from the prominent homepage link “CJA's Citizen-Taxpayer Actions to End NYS' Corrupt Budget 'Process' and Unconstitutional 'Three-Men-in-a-Room' Governance”, you can examine the full litigation record that was before the Appellate Division, Third Department – and which is now before the Court of Appeals.

For your convenience, the direct link to the webpage for my March 26<sup>th</sup> letter to the Court of Appeals is here: <http://judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/3-26-19-ltr.htm>. The direct link to the webpage for my April 11<sup>th</sup> letter to the Court of Appeals is here: <http://judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/4-11-19-ltr-to-ct-appeals.htm>. From these you can easily access the substantiating EVIDENCE, law, and law review articles, warranting your *amicus curiae* support and other assistance for our appeal of right on the issues of constitutional construction directly involved.

Thank you.

Elena Sassower, Director  
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**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
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**Subject: REQUEST FOR AMICUS CURIAE SUPPORT & OTHER ASSISTANCE: CJA's Citizen-Taxpayer Action, NOW AT THE COURT OF APPEALS, on an appeal of right on the issues of constitutional construction directly involved**

TO: [Empire Center for Public Policy](#) – ATT: E.J. McMahon, Tim Hoefler  
[Brennan Center for Justice](#) – ATT: Lawrence Norden, Esq.  
[Fiscal Policy Institute](#) – ATT: Ron Deutsch  
[Citizens Budget Commission](#) – ATT: David Friedfel  
[New York State League of Women Voters](#) – ATT: Laura Bierman  
[New York Public Interest Research Group](#) – ATT: Blair Horner, Russ Haven, Esq.  
[Common Cause-New York](#) – ATT: Susan Lerner, Esq.  
[Citizens Union](#) – ATT: Rachel Bloom; Ethan Geringer-Sameth  
[Reinvent Albany](#) – ATT: John Kaehny  
[Citizen Action of New York](#) – ATT: Bob Cohen, Esq.  
[Reclaim New York](#) – ATT: Brandon Muir

More than eight months ago, by the above-attached August 13, 2018 letter, sent by the below-email, I requested your help in “Achieving Our Shared Goal of an Accountable & Transparent State Budget Process & Budget” through your *amicus curiae* and other assistance for the perfected appeal of CJA’s ground-breaking citizen-taxpayer action – then before the Appellate Division, Third Department.

Although I furnished each of you with a hard copy of the appeal brief and three-volume record on appeal, so that you could each more easily verify that the People of the State of New York, on whose behalf we brought the citizen-taxpayer action, have an entitlement to summary judgment on all ten causes of action, including to declarations that “three men in a room” budget deal-making and the Legislature’s closed-door party conferences, substituting for open legislative committee meetings are unconstitutional, not one of you responded, affirmatively. As a result – and as my August 13, 2018 letter had predicted – the appeal was “thrown” by a double-whammy of litigation fraud by the Attorney General and a fraudulent December 27, 2018 Appellate Division decision – a state of affairs now before the Court of Appeals on an appeal of right on the issues of constitutional construction directly involved.

Once again, I am requesting your *amicus curiae* and other assistance – now, in support of the appeal of right to our state’s highest court. All the facts and law pertaining to the issues of constitutional construction directly involved are set forth by my March 26, 2019 letter to the Court of Appeals – and reinforced by my April 11, 2019 letter, which, in addition to demonstrating the fraud of the Attorney General’s opposition to the appeal of right, furnishes further facts that should especially interest you (at pp. 13-15).

Although CJA’s website, [www.judgewatch.org](http://www.judgewatch.org), posts these two letters and the entirety of the litigation record, accessible from the prominent homepage link: “CJA’s Citizen-Taxpayer Actions to End NYS’ Corrupt Budget ‘Process’ and Unconstitutional ‘Three-Men-in-a-Room’ Governance”, the website is currently down. Hopefully, it will be restored by tomorrow. As time is of the essence, I will send you, in successive e-mails:

(1) our February 26, 2019 preliminary appeal statement, annexing our January 26, 2019 notice of appeal and the Appellate Division’s December 27, 2018 decision;



- (2) my March 26, 2019 letter to the Court of Appeals in support of the appeal of right;
- (3) the Attorney General's March 26, 2019 letter to the Court of Appeals opposing the appeal of right; and
- (4) my April 11, 2019 letter to the Court of Appeals, responding to the Attorney General's opposition.

Suffice to note that my March 26, 2019 letter concludes, *without exaggeration*, as follows:

"What is before the Court, on this appeal of right, is catastrophic. Gone is the constitutional design of separation of executive and legislative powers – replaced by collusion of powers that has undone our State Constitution. And more than the budget is at issue. It is the very governance of this State, as the budget has become a pass-through for policy having nothing to do with the budget..." (at p. 21, underlining in the original).

I am available to answer your questions – and am eager to discuss the groundbreaking constitutional, legal, and evidentiary issues with you. Please let me hear from you, following your review – including as to how you can assist us with outreach to constitutional scholars, the bar associations, the media, other advocacy organizations, etc.

Finally, as none of you returned to me the three-volume record on appeal and appeal brief that I had furnished you last August, I assume you recognized that these documents were not only expensive to reproduce, but valuable by their content. If, however, you are not going to assist in any way, I would appreciate their return to me, so that I can make them available to others to whom I am turning for assistance.

Thank you.

Elena Sassower, Director  
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**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
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**Subject: Achieving our Shared Goal of an Accountable & Transparent State Budget Process & Budget -- Request for Your Amicus Curiae Participation & Other Assistance for Perfected Appeal -- Citizen-Taxpayer Action**

Following up my phone conversations and messages for you last week, requesting that, individually or collectively, your organizations file an *amicus curiae* brief in the perfected appeal of CJA's second citizen-taxpayer action pertaining to the state budget, attached is my letter to you of today's date, being mailed with our appellants' brief and three-volume reproduced record on appeal. The webpage on which the brief and three-volume record are posted is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/appeal/7-4-18-appellants-brief.htm>.

Kindly confirm that my letter will be promptly furnished to all those responsible for making *amicus curiae* decisions at your organizations – and the time frame within which I can expect a response, hopefully, positive and enthusiastic.

Thank you.

Elena Sassower, Director  
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