

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, April 26, 2019 4:28 PM
To: 'mmiller@nysba.org'
Subject: Misconduct by NYSBA General Counsel Baxter: request for amicus curiae support & scholarship for citizen-taxpayer challenge to the constitutionality of the NYS budget, NOW at the NY Court of Appeals on an appeal of right on the constitutional issues
Attachments: 4-15-16-email-from-baxter.pdf; 4-25-16-email-nysba.pdf

New York State Bar Association President Michael Miller

Thank you for your prompt call-back to the message I left with your service.

Here, with slight adjustments, is the e-mail I was composing on your law office email feature, summarizing the situation, when you called. If you do not receive it, *via* your above NYSBA.ORG email address that you provided me, it is because General Counsel Baxter has – without any explanation or notice to me – “blocked” all my e-mails from being received by NYSBA.ORG e-mails. The facts are as follows:

On April 18, 2019, after receiving no call-backs to three phone messages I had left, inquiring about the procedures for securing *amicus curiae* support & scholarship for a citizen-taxpayer action, challenging the constitutionality and lawfulness of the NYS budget, NOW before the NY Court of Appeals on an appeal of right on the issues of constitutional construction directly involved, I e-mailed General Counsel Baxter the below e-mail, with the above two attachments.

Instead of responding by telephoning or e-mailing me – or directing that such be done by other State Bar staff – Counsel Baxter apparently placed or authorized a “block” on my e-mail address so that all future e-mails from me would not be received by her or any other NYSBA.ORG recipients. I only discovered this yesterday – and today – upon sending such further e-mails. These are posted, with the receipts reflecting the “blocking”, on the webpage I created for my 2019 outreach for *amicus curiae* support and scholarship of the appeal of right, here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/ct-appeals-outreach-for-amicus.htm>.

In view of the serious, substantial, and time-sensitive nature of my request for *amicus curiae* support and scholarship – as evidenced by my below April 18, 2019 e-mail and the further e-mail I attempted to send yesterday – kindly forward the request to all members of the State Bar’s Executive Committee without delay – or take such other steps as are consistent with the State Bar’s procedures in cases of this far-reaching magnitude and consequence to the People of the State of New York.

To ensure your receipt, I will additionally send this – with the necessary adaptations – via your office e-mail.

Thank you.

Elena Sassower, Director
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www.judgewatch.org

914-421-1200

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>

Sent: Thursday, April 18, 2019 3:56 PM

To: 'kbaxter@nysba.org' <kbaxter@nysba.org>

Cc: 'rkennedy@nysba.org' <rkennedy@nysba.org>; 'kmchargue@nysba.org' <kmchargue@nysba.org>; 'rrifkin@nysba.org' <rrifkin@nysba.org>; 'richardrifkin54@gmail.com' <richardrifkin54@gmail.com>; 'kkerwin@nysba.org' <kkerwin@nysba.org>; 'bmahan@nysba.org' <bmahan@nysba.org>

Subject: Request for Amicus Curiae Support & Scholarship: Citizen-taxpayer action challenging NYS budget -- NOW at the NY Court of Appeals on an appeal of right on the issues of constitutional construction directly involved

TO: Kathleen Baxter, General Counsel – New York State Bar Association

This follows up my phone conversation a short time ago with Barbara Mahan, to whom my call was routed when I phoned the State Bar to verify whether Kevin Kerwin was still the State Bar's Deputy Director for Government Relations – and whether Richard Rifkin was still Special Counsel. Ms. Mahan identified that Mr. Kerwin had recently left the State Bar to work with a lobbying firm and that Mr. Rifkin continues in something of a consultant capacity. The reason I was inquiring was because both Messrs. Kerwin and Rifkin had been recipients of my above-attached April 25, 2016 e-mail – and I wanted to include them as cc's to this e-mail. I recounted to Ms. Mahan much of what the below e-mail summarizes – and now I am furnishing her, you, and the other cc's with it.

The reason for this e-mail is that it is now three days since I left a voice mail message for you – on Monday, April 15, 2019, at approximately 1:45 p.m. – asking to speak with you about my request for the State Bar's *amicus curiae* support for an appeal of right to the New York Court of Appeals in CJA's citizen-taxpayer action challenging the constitutionality and lawfulness of the state budget. In so doing, I identified that I had already left two prior messages on the voice mail of your senior assistant, Melissa O'Clair, to which I had received no call-back. These were on Thursday, April 4th, at approximately 3:40 pm, and on Friday, April 5th, at approximately 3:30 pm. Did you or she call me back?

Three years ago, I also received no call back from you – or anyone else – when I phoned seeking the State Bar's *amicus curiae* assistance and intervention in Supreme Court/Albany County for CJA's March 23, 2016 order to show cause and verified second supplemental complaint in our prior citizen-taxpayer action. Instead, following phone messages I left for you, for Ronald Kennedy, and for Mr. Kerwin – after leaving several voice mail messages for Kim McHargue, all unreturned – you sent me an April 15, 2016 e-mail entitled "Telephone Message", stating:

"Ms. Sassower – I received your message. The Association does not have a committee that is charged with reviewing state budget issues."

For your convenience, attached is that April 15, 2016 e-mail, as well as my responding April 25, 2016 e-mail – to which I received no response. Did you respond? What about the other State Bar staff to whom I sent my April 25, 2016 e-mail: Kim McHargue, Executive Assistant to the State Bar's Executive Director; Mr. Kennedy, Director of Government Relations; his administrative assistant, Ms. Mahan; Mr. Kerwin; and Mr. Rifkin. If there was a written response, I ask that you send me a copy. And if there was no response, please advise why.

As for my voice mail message to you three days ago, it followed upon my phone conversation, several hours earlier, with New York City Bar Association Senior Legal Counsel Lauren Axelrod. My e-mail to her, later that afternoon, entitled "Request for Amicus Curiae Support – CJA's second citizen-taxpayer action, with ten causes of action challenging the NYS budget & the 'force of law' commission pay raises, etc", is below. In the interest of economy, I refer you to it in support of the identical request I am now formally making for the State Bar's *amicus curiae* support of CJA's appeal of right to the New York Court of Appeals. This replicates what I did by my April 25, 2016 e-mail, also furnishing a prior e-mail I had

sent to the City Bar, in support of the request I was then making for the State Bar's *amicus curiae* support and intervention.

As CJA's March 23, 2016 verified second supplemental complaint in the prior citizen-taxpayer action – which was the subject of my April 25, 2016 e-mail to you – became, in material part, the September 2, 2016 verified complaint in CJA's instant citizen-taxpayer action, now before the Court of Appeals, you are already familiar with its serious and substantial nature. All the facts, law, and substantiating proof as to what transpired in the ensuing three years – mandating the State Bar's *amicus curiae* support NOW for our appeal of right on the issues of constitutional construction directly involved – are furnished by CJA's webpage for my March 26, 2019 letter to the Court, which is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/3-26-19-ltr.htm>. And reinforcing what is there presented is the webpage for my April 11, 2019 letter to the Court, which is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/4-11-19-ltr-to-ct-appeals.htm>.

By any and every standard, what the March 26, 2019 and April 11, 2019 letters chronicle is catastrophic – requiring not only the State Bar's IMMEDIATE *amicus curiae* support for the appeal of right on constitutional grounds – as to which time is of the essence – but EMERGENCY scholarship and activism by its committees. Therefore, please confirm, without delay, that you will be furnishing this e-mail – or at very least the links to the two webpages for those letters – to the State Bar's leadership and appropriate committees. This would include, in addition to the State Bar's Executive Committee, such other State Bar committees as: (1) its Committee on the New York State Constitution; (2) its Committee on State and Federal Constitutional Law; (3) its Committee on Courts of Appellate Jurisdiction; (4) its Committee on Legislative Policy; (5) its Committee on Civil Practice Law and Rules; (6) its Committee on Professional Ethics; (7) its Committee on Attorney Professionalism (with its Subcommittee on Government); (8) its Committee on Standards of Attorney Conduct; (9) its Committee on Professional Discipline; and (10) its Committee on Procedures for Judicial Discipline.

I am available to make a personal presentation in support of this request, to furnish hard copies of all documents, and to answer all questions, including under oath, so that the State Bar can discharge its civic, professional, and ethical duty to uphold and safeguard the rule of law, completely obliterated in the record of the citizen-taxpayer action, NOW before the Court of Appeals.

Thank you.

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Monday, April 15, 2019 3:56 PM
To: 'LAXELROD@NYC BAR.org' <LAXELROD@NYC BAR.org>
Cc: 'mcilenti@nycbar.org' <mcilenti@nycbar.org>

Subject: Request for Amicus Curiae Support -- CJA's second citizen-taxpayer action, with ten causes of action challenging the NYS budget & the "force of law" commission pay raises, etc.

TO: Lauren Axelrod/Senior Legal Counsel – New York City Bar Association

Thank you for your call – and for giving me the opportunity to furnish you with the background to CJA’s second citizen-taxpayer action, NOW before the Court of Appeals on an appeal of right – for which I am requesting an *amicus curiae* brief from the City Bar Association, from the New York State Bar Association, and from other bar associations.

As you saw, everything is accessible from CJA’s website, www.judgewatch.org, by its prominent center link: “CJA’s Citizen-Taxpayer Actions to End NYS’ Corrupt Budget ‘Process’ and Unconstitutional ‘Three-Men-in-a-Room’ Governance”. For your convenience, the direct link to CJA’s webpage for my March 26, 2019 letter to the Court of Appeals, in support of our appeal of right in CJA’s second citizen-taxpayer action is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/3-26-19-ltr.htm>. As discussed, the letter highlights the City Bar’s 2007 devastating *amicus curiae* brief in the *McKinney* case – and transmitted a copy to the Court of Appeals, together with such other parts of the *McKinney* record as I was able to recover: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/inventory-mckinney-st-joseph.htm>.

As soon as I can, I will furnish a further presentation to you. However, I did want you to have the above direct links now – as they are the starting point for my request to the City Bar for what you will rapidly conclude to be a monumental case, worthy of the scholarship and advocacy I sought three years ago in the context of CJA’s March 23, 2016 verified second supplemental complaint in our first citizen-taxpayer action: <http://www.judgewatch.org/web-pages/searching-nys/budget/budget-2016-17/outreach-good-gov-academia.htm>. As discussed, the second citizen-taxpayer action arises from that March 23, 2016 verified second supplemental complaint.

Thank you, earnestly.

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