

At the Appellate Division, Third Department of the State of New York, located at the Robert Abrams Building for Law and Justice on State Street, Albany, New York 12223, on the ____ day of October, 2018.

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION, THIRD DEPARTMENT

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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-Appellants,

**ORDER TO SHOW CAUSE (#3)
to Strike Respondents' Brief,
to Declare the Attorney General's
Appellate Representation of
Respondents Unlawful,
& for Other Relief**

-against-

App. Div. 3rd Dept. Docket #527081
Albany Co. Index #5122-16

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-Respondents.

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Upon the annexed affidavit of the unrepresented individual plaintiff-appellant ELENA RUTH SASSOWER, sworn to on October 18, 2018, the exhibits annexed thereto, plaintiffs-appellants' perfected appeal, and upon all the papers and proceedings heretofore had,

LET defendants-respondents show cause before this Court at the Robert Abrams Building for Law and Justice on State Street, Albany, New York 12223, on the _____ day of _____ 2018 at 10:00 a.m. or as soon thereafter as the parties or their counsel may be heard, why an order should not issue:

1. striking the “Brief for Respondents”, signed by Assistant Solicitor General Frederick Brodie, on behalf of Attorney General Barbara Underwood, and bearing the name of Assistant Solicitor General Victor Paladino, as “a fraud on the court”, including by its pretense that the attorney general could properly represent respondents;
2. declaring Attorney General Underwood’s appellate representation of respondents unlawful for lack of any evidence – or even a claim – that it is based on a determination pursuant to Executive Law §63.1 that such is in “the interest of the state”, with a further declaration that such taxpayer-paid representation belongs to appellants;
3. pursuant to 22 NYCRR §130-1.1 et seq., imposing maximum costs and sanctions against Assistant Solicitor General Brodie, Attorney General Underwood, and such other supervisory/managerial attorneys as Assistant Solicitor General Paladino based on their frivolous and fraudulent respondents’ brief;
4. pursuant to Judiciary Law §487(1), making such determination as would afford appellants treble damages against Assistant Solicitor General Brodie, Attorney General Underwood, and such other supervisory/managerial attorneys as Assistant Solicitor General Paladino in a civil action based on their frivolous and fraudulent respondents’ brief;
5. pursuant to 22 NYCRR §100.3D(2), referring Assistant Solicitor General Brodie, Attorney General Underwood, and such other supervisory/managerial attorneys as Assistant Solicitor General Paladino to:
 - (a) appropriate disciplinary authorities for their knowing and deliberate violations of New York’s Rules of Professional Conduct for Attorneys and, specifically, Rule 3.1 “Non-Meritorious Claims and Contentions”; Rule 3.3 “Conduct Before A Tribunal”; Rule 8.4 “Misconduct”; Rule 5.1 “Responsibilities of Law Firms, Partners, Managers and Supervisory Lawyers”; and Rule 5.2 “Responsibilities of a Subordinate Lawyer”;
 - (b) appropriate criminal authorities for their knowing and deliberate violations of penal laws, including, Penal Law §496 “corrupting the government”; Penal Law §195 “official misconduct”; Penal Law

§175.35 “offering a false instrument for filing in the first degree”; Penal Law §195.20 “defrauding the government”; Penal Law §190.65: “scheme to defraud in the first degree”; Penal Law §155.42 “grand larceny in the first degree”; Penal Law §105.15 “conspiracy in the second degree; Penal Law §20 “criminal liability for conduct of another”;

6. granting such other and further relief as may be just and proper, including \$100 motion costs pursuant to CPLR §8202.

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the _____ day of October 2018 upon counsel for the defendants-respondents herein, by e-mail and first-class mail, be deemed good and sufficient service.

ANSWERING PAPERS, if any, are to be served by defendants-respondents, *via* e-mail and first-class mail, at least _____ days prior to the return date of this order to show cause, *to wit*, _____ October, 2018 – thereby affording plaintiffs-appellants a reasonable opportunity to reply thereto.

AND IT IS FURTHER ORDERED that the motion brought on by this order to show cause shall not be orally argued unless counsel and the unrepresented plaintiffs-appellants are notified to the contrary by the Clerk of the Court.

Associate Justice
Appellate Division, Third Department