

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

---

**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Tuesday, July 24, 2018 3:22 PM  
**To:** 'Barbara.Underwood@ag.ny.gov'  
**Cc:** 'Brodie, Frederick'; 'Paladino, Victor'; 'Janet.Sabel@ag.ny.gov'; 'Kent.Stauffer@ag.ny.gov'; 'Meg.Levine@ag.ny.gov'; 'Jeffrey Dvorin'; 'Adrienne Kerwin'; 'Helena.Lynch@ag.ny.gov'; 'Brian.Mahanna@ag.ny.gov'; 'Alvin.Bragg@ag.ny.gov'; 'marty.mack@ag.ny.gov'; 'Matthew.Colangelo@ag.ny.gov'; 'Margaret.Garnett@ag.ny.gov'; 'manisha.sheth@ag.ny.gov'; 'Jane Landes'; 'ad3clerksoffice@nycourts.gov'  
**Subject:** CJA v. Cuomo -- NOTICE TO ATTORNEY GENERAL UNDERWOOD: your duty to withdraw Assistant Solicitor General Brodie's letter to the Appellate Division & to appear personally, or by a high-ranking deputy, at the oral argument of the TRO -- Friday, July 27th  
**Attachments:** 7.23.18 Letter to Clerk.pdf; Exhibits to 7.23.18 Letter.pdf

### TO: Attorney General Barbara Underwood

The below corrects a typographical error in the otherwise identical e-mail sent at 2:02 pm – and adds to and reformats the documentary EVIDENCE that you are reminded to bring to the oral argument of appellants' TRO.

Thank you.

Elena Sassower

---

### TO: Attorney General Barbara Underwood

This is to give you NOTICE that the above-attached July 23, 2018 letter that Assistant Solicitor General Frederick Brodie yesterday furnished to the Appellate Division, Third Department in opposition to appellants' order to show cause with preliminary injunction and TRO by the below e-mail is materially false and deceitful – and your duty is to withdraw it, forthwith.

CJA's website, [www.judgewatch.org](http://www.judgewatch.org), posts my finalized July 24, 2018 moving affidavit in support of the order to show cause and identifies Assistant Solicitor General Brodie's letter in its postscript (at p. 18) – stating that I will be responding to it in a separate affidavit and will seek sanctions pursuant to NYCRR 130-1.1 *et seq.* The direct link to the webpage on which it is posted is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/7-24-18-osc-with-TRO.htm>.

So that you will have sufficient time to discharge your supervisory duties and withdraw Assistant Solicitor General Brodie's letter – so as to spare me and the Court of having to deal with its deceptions – I have asked the Court—*via* its Chief Motion Attorney, Ed Carey -- to reschedule the oral argument on the TRO from tomorrow, July 25<sup>th</sup>, to Friday, July 27<sup>th</sup>. I will, nonetheless, drive up to Albany tomorrow, SOLELY for purposes of filing with the Court the ten copies of appellants' brief and reproduced record on appeal and, simultaneously, the order to show cause, with my moving affidavit, so that Associate Justice Eugene Devine – who was to hear the argument tomorrow -- will have sufficient time to review them – and to discern, *on his own*, the fraudulence of Assistant Solicitor General Brodie's letter – and the necessity of ascertaining, threshold, what you have done to evaluate “the interest of the state” on the appeal and on the order to show cause – and how you are addressing your conflicts-of-interest.

Again, I reiterate that it is you – and/or your highest supervisory/managerial attorneys – who must appear at the argument of the TRO -- NOT Assistant Solicitor General Brodie, who, by his yesterday's letter, has further demonstrated his unfitness for so important a task.

Finally, I take this opportunity to quote the two paragraphs of my moving affidavit to which Assistant Solicitor General Brodie's letter referred for the proposition that I was attempting to "shift the burden to respondents" of establishing appellants' entitlement to the TRO:

"48. Suffice to say, with respect to the requested TRO and preliminary injunction pertaining to the commission-based judicial salary increases – and the district attorney salary increases based thereon – Attorney General Underwood must demonstrate that Judge Hartman's dispositions of appellants' sixth, seventh, and eight causes of action [R.109-112 (R.187-201), R.112-114 (R.201-212), R.114 (R.212-213)], are defensible, which, based on the facts and law in the record before her – highlighted by the brief (at pp. 9-10, 14-17, 20, 26-27, 35-36, 37-38, 42, 44, 50-69) – she cannot do.

49. Indeed, in light of the enclosures to my May 16, 2018 NOTICE (free-standing Exhibit I (eye)), Attorney General Underwood should be expected to produce, at the oral argument of this TRO – at minimum:

- her findings of fact and conclusions of law as to the respects in which the Commission on Judicial Compensation's August 29, 2011 report, on its face, violates Chapter 567 of the Laws of 2010 – itemized by appellants' executive summary to their October 27, 2011 opposition report [See appellants' November 29, 2011 corruption complaint to public integrity bureau; March 2, 2012 letter: Exhibit A; March 30, 2012 order to show cause for a stay with TRO in declaratory judgment action];
- her findings of fact and conclusions of law as to the respects in which the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation [R.1083-1105], on its face, violates Chapter 60, Part E, of the Laws of 2015 [R.1080-1082] – summarized by appellants' 12-page "Statement of Particulars" and itemized by the fifteenth cause of action of their March 23, 2016 verified second supplemental complaint in the prior citizen-taxpayer action [R.212-213] on which the eighth cause of action of their September 2, 2016 verified complaint rests [R.114]. [See appellants' March 6, 2018 misconduct complaint against Albany District Attorney Soares, Exhibits B & C]."

As the most cursory examination of the record reveals, I long ago and repeatedly met my burden of EVIDENTIARILY proving the People's entitlement, *as a matter of law*, to the voiding of the commission-based judicial salary increases. Indeed, be sure to come to the oral argument with the EVIDENCE and, in particular:

- (1) Chapter 567 of the Laws of 2010;
- (2) Chapter 60, Part E, of the Laws of 2015;
- (3) a FULL copy of CJA's October 27, 2011 opposition report;

(4) the March 28, 2012 verified complaint in appellants' declaratory judgment action, *CJA v. Cuomo, et al* (Bronx Co. #302951/12/NY Co. #401988-12),

with its compendium of substantiating exhibits;

(5) the free-standing and compendium exhibits substantiating appellants' March 23, 2016 verified second supplemental complaint in the prior citizen-taxpayer action, *CJA v. Cuomo, et al*. (Albany Co. #1788-14) (inventoried by Exhibit G to my affidavit) – and, especially, my December 31, 2015 letter to Chief Judge DiFiore; my January 15, 2016 letter to Temporary Senate President Flanagan and Assembly Speaker Heastie; and my November 30, 2015 written statement and subsequent submissions to the Commission on Legislative, Judicial and Executive Compensation.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant  
on her own behalf 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

914-421-1200

[elena@judgewatch.org](mailto:elena@judgewatch.org)

---

**From:** Brodie, Frederick <[Frederick.Brodie@ag.ny.gov](mailto:Frederick.Brodie@ag.ny.gov)>

**Sent:** Monday, July 23, 2018 3:47 PM

**To:** 'jlandes@nycourts.gov' <[jlandes@nycourts.gov](mailto:jlandes@nycourts.gov)>

**Cc:** 'Center for Judicial Accountability, Inc. (CJA)' <[elena@judgewatch.org](mailto:elena@judgewatch.org)>; Paladino, Victor <[Victor.Paladino@ag.ny.gov](mailto:Victor.Paladino@ag.ny.gov)>

**Subject:** CJA v. Cuomo, letter regarding appellant's OSC

Dear Ms. Landes,

Attached is a letter concerning appellant's application for an Order to Show Cause in *Center for Judicial Accountability v. Cuomo*, Albany Cty. Index # 5122-16. Also attached is a pdf of the exhibits referenced in the letter. As noted in the letter, we respectfully request that these be provided to the Justice who will determine appellant's application.

Thank you very much for your assistance.

Respectfully submitted,

Frederick A. Brodie  
Assistant Solicitor General  
New York State Office of the Attorney General  
Appeals & Opinions Bureau  
The Capitol  
Albany, NY 12224-0341  
(518) 776-2317  
[Frederick.Brodie@ag.ny.gov](mailto:Frederick.Brodie@ag.ny.gov)