



**Office of the New York State
Attorney General**

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December 4, 2024

Hon. Heather Davis
Clerk of Court
New York State Court of Appeals
20 Eagle Street
Albany, New York 12207

Re: *Matter of Center for Judicial Accountability*
APL-2024-00149
Index No. 902654-24

Dear Ms. Davis:

Respondents submit this letter in response to this Court's November 6, 2024 letter inquiring whether the Court has subject matter jurisdiction to review as of right three orders entered by Supreme Court, Albany County (Sober, A.J.), on August 14, 2024. The Court should dismiss the appeal for the following reasons.

First, the appeal was not timely taken. A notice of appeal must be filed within 30 days after service of notice of entry. C.P.L.R. 5513(a). Here, respondents served notice of entry on August 14, 2024, by NYSCEF, giving appellants until September 13, 2024, to file a notice of appeal. Appellants did not file their notice of appeal to this Court until October 21, 2024, which was long after the deadline to appeal had passed. Thus, the appeal should be dismissed as untimely.

Second, an appeal to the Appellate Division is currently pending. Appellants filed a timely notice of appeal to the Appellate Division and have not withdrawn that appeal. Because "simultaneous appeals do not lie to the Appellate Division and the Court of Appeals," the appeal to this Court must be

dismissed. *Moody v. Sorokina*, 9 N.Y.3d 986 (2007); *see also Parker v. Rogerson*, 35 N.Y.2d 751, 753-54 (1974).

Third, only one of the three Supreme Court orders appealed here is final. Neither Supreme Court's order denying appellants' motion for a preliminary injunction nor Supreme Court's order denying appellants' motion for costs and sanctions, disqualification of the Office of the Attorney General, and transfer to federal court is final. Thus, this Court lacks jurisdiction to review those orders as of right. *See* C.P.L.R. 5601(b)(2).

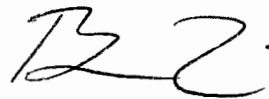
Fourth, no direct appeal lies to review the final judgment entered by Supreme Court under C.P.L.R. 5601(b)(2) because the constitutionality of a statute is not the only question involved on appeal. Supreme Court dismissed appellants' complaint on standing and ripeness grounds, and thus did not reach any constitutional challenge raised by appellants. Because this Court would have to address those justiciability issues first before addressing the merits of any such challenge, the constitutionality of a statute would not be the only question involved on appeal.

For all these reasons, the appeal should be dismissed sua sponte for lack of jurisdiction.

Respectfully submitted,

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