

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Thursday, November 21, 2024 4:20 PM
To: 'foil@nycourts.gov'
Cc: '3rdjdadministration@nycourts.gov'; 'dcardona@nycourts.gov'
Subject: **FOIL/Records Request: Sept 16, 2024 "Memorandum"; Judicial Reassignment; "Article 78 Reassignment Wheel" -- CJA v. Commission on Legislative, Judicial & Executive Compensation (Albany Supreme Court #902654-24)**

TO: [Unified Court System FOIL Officer/Assistant Deputy Counsel Diane Turo](#)

By a [September 16, 2024 e-mail, sent at 9:42 am](#), you acknowledged receipt of my below September 10, 2024 FOIL request for records as to whether Rensselaer County Court Judge Jennifer Sober is an acting Supreme Court justice who could lawfully be assigned to *CJA v. Commission on Legislative, Judicial & Executive Compensation (Albany Supreme Court #902654-24)* – and compliance with court rules pertinent thereto.

[Five and a half hours later, at 3:14 pm, an unsigned “Memorandum” was uploaded to the NYSCEF docket of the case.](#) Printed on letterhead of the Clerk’s Office of the Albany County Supreme and County Courts, it was from Amy Searson, whose title was not given, and addressed to “Hon. Sara W. McGinty”. Its three sentences read:

“The Notice of Motion filed September 13, 2024 in the above-captioned proceeding must be reassigned. It has been reassigned to you from the Article 78 Reassignment Wheel.

If you have any questions, please feel free to contact me.”

Pursuant to [Public Officers Law Article VI](#) (“Freedom of Information Law”) and [Part 124 of the Chief Administrator’s Rules](#) (“Public Access to Records”), this is to request:

- (1) records as to who determined that the September 12, 2024 Notice of Motion ([NYSCEF #83](#)) “must be reassigned”, the reason for that determination – and whether this was communicated to “Hon. Sara W. McGinty”;
- (2) records as to whether Judge Sober had disqualified or recused herself, had stated why – and whether this was communicated to “Hon. Sara W. McGinty”;
- (3) records as to whether, if Judge Sober had NOT disqualified/recused herself, she was consulted as to why the “Notice of Motion...must be reassigned” and, if so, by whom, and her response – and whether this was communicated to “Hon. Sara W. McGinty”;
- (4) records as to how “the Article 78 Reassignment Wheel” works – and that it was appropriate for use for the [hybrid](#) Article 78 proceeding/declaratory judgment action/citizen-taxpayer action *CJA v. Commission on Legislative, Judicial and Executive Compensation, et al.*, commenced in Albany Supreme Court on March 18, 2024;

- (5) records as to whether “the Article 78 Reassignment Wheel” selected any other judge prior to “Hon. Sara W. McGinty” – and if so, why the assignment did not go to that judge;
- (6) records as to whether “Hon. Sara W. McGinty”, the Ulster County Surrogate judge, is an acting Supreme Court justice, including the date(s) she was so-designated, by whom, and for what periods – as she is NOT indicated to be an acting Supreme Court justice on the Unified Court System’s [webpage for her](#) nor on its [webpage for Ulster County Supreme and Court Courts](#);
- (7) records reflecting that the salary of “Hon. Sara W. McGinty” is that of an Ulster County Surrogate judge, not a Supreme Court justice, and that she receives and has received no additional compensation for work connected with Supreme Court assignments.

Thank you.

Elena Sassower, Director
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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, September 10, 2024 12:42 PM
To: 'foil@nycourts.gov' <foil@nycourts.gov>
Cc: '3rdjdadministration@nycourts.gov' <3rdjdadministration@nycourts.gov>; 'Amy Serson' <aserson@nycourts.gov>

Subject: FOIL/Records Request: Rensselaer County Court Judge Jennifer Sober, Compliance with Court Rules -- & CJA v. NYS Commission on Legislative, Judicial & Executive Compensation (Albany Supreme Court #902654-24)

TO: [Unified Court System FOIL Officer/Assistant Deputy Counsel Diane Turo](#)

The Unified Court System’s website has a [“Courts” webpage](#) linking to a [webpage for “County Court”](#), whose link for [Rensselaer County](#) combines Supreme and County Courts. It does not indicate who the Rensselaer County Court judges are – or that, pursuant to [Judiciary Law §182](#), there would be two. It does list three “Acting Supreme Court Justices”: Adam W. Silverman, Debra J. Young, and Jennifer Sober, whose profiles are not linked. The profiles are, however, accessible from the [Unified Court System website](#). They reflect:

- that [Adam Silverman](#) was appointed to the Court of Claims in 2020 by Governor Andrew Cuomo, and, from 2020-2022, was designated an acting Supreme Court justice by Chief Administrative Judge Lawrence Marks and, from 2023 to the present, so-designated by Acting Chief Administrative Judge Tamiko Amiker;

- that [Debra Young](#) was elected to Rensselaer County Court in 2013 and re-elected in 2023, and, from 2015 to the present, was designated to be an acting Supreme Court justice by Chief Administrative Judge Gail Prudenti, who also appointed her, in 2015 to the present, to be supervising judge for the 3rd Judicial District of the criminal term of the Rensselaer County Court; and
- that [Jennifer Sober](#) was elected to Rensselaer County Court in 2017.

Although [the Third Judicial District's website has not posted its 2024 Judicial Assignment Book](#), it does post its [2023 Judicial Assignment Book](#). It identifies (at its unmarked page 12) Judge Sober as “designated pursuant to article VI, section 26 of the New York State Constitution and 22 NYCRR Parts 22 and 121, as eligible for being selected by the District Administrative Judge for temporary assignments to Supreme Court during the calendar year 2023”, but states “These assignments are not to exceed 20 days without the approval of the Deputy Chief Administrative Judge and Presiding Justice of the Appellate Division.”

Pursuant to [Public Officers Law Article VI](#) (“Freedom of Information Law”) and [Part 124 of the Chief Administrator's Rules](#) (“Public Access to Records”), this is to request:

- (1) the 2024 Judicial Assignment Book for the 3rd Judicial District;
- (2) records pertaining to what 22 NYCRR Part 22 was – or where it now is – as [the Chief Judge's Rules on the Unified Court System's website](#) skips Part 22.
- (3) records reflecting the designation, if any, of Rensselaer County Court Judge Sober to be an acting Supreme Court justice and of her redesignation(s), pursuant to [Part 121 of the Chief Administrative Judge's Rules entitled “Temporary Assignment Of Judges To The Supreme Court”](#) and [Part 33 of the Chief Judge's Rules entitled “Temporary Assignment Of Justices And Judges”](#).
- (4) records reflecting that Judge Sober's salary is that of a Rensselaer County Court judge, not a Supreme Court justice, and that she receives and has received no additional compensation for work connected with Supreme Court assignments;
- (5) records of the “approval of the Deputy Chief Administrative Judge and Presiding Justice of the Appellate Division” of Judge Sober's assignment to the hybrid Article 78 proceeding/declaratory judgment action/citizen-taxpayer action [Center for Judicial Accountability, Inc., et al. v. New York State Commission on Legislative, Judicial and Executive Compensation, et al. \(Albany County Supreme Court, #902654-24\)](#) – an assignment that spanned 138 days from the March 29, 2024 return date of petitioners' March 19, 2024 order to show cause ([NYSCEF #17](#)) to the three decisions/orders/judgments she rendered on August 14, 2024 and signed as “Acting Supreme Court Justice” ([NYSCEF #79](#), [NYSCEF #80](#), [NYSCEF #81](#));
- (6) records of Judge Sober's compliance with [Part 04 of the Rules of the Chief Judge entitled “Reports Of Pending Matters”](#), whose Section 4.1 requires “a statement from every judge and justice of every court indicating the matters which have been pending undecided before such judge or justice for a period of 60 days after final submission and the reasons therefor”, and, specifically, of Judge Sober's compliance with respect to *CJA v. Commission on Legislative, Judicial and Executive Compensation*, wherein, by June 17, 2024 and July 30, 2024 letters ([NYSCEF #77](#)), ([NYSCEF #78](#)), to which Judge Sober did not respond, petitioners asserted that the only reason for

her violation of the 60-day time frame for determining motions pursuant to [22 NYCRR §202.8\(h\)](#) and violation of [State Finance Law §123-c\(4\)](#), requiring citizen-taxpayer actions to be “promptly determined” and “have preference over all other causes in all courts”, was her “actual bias arising from [her] direct financial interest in this lawsuit”, proscribed by [Judiciary Law §14](#) and divesting her of jurisdiction “as to which, in the absence of jurisdiction and because of the availability of federal judges, the judge-made ‘rule of necessity’ cannot be invoked”;

- (7) records of Judge Sober’s requests, if any, pursuant to [22 NYCRR §202.8\(h\)\(1\)](#), for an “automated open motion report of all motions pending before [her] which appear[ed] undecided 60 days after final submission”, to “assist [her] in preparing the quarterly report of pending civil matters required by section 4.1 of the Rules of the Chief Judge” for any portion of the period from May 29, 2024 to August 14, 2024 – this being “her official quarterly report”;
- (8) records of actions taken by supervising judges with respect to Judge Sober’s “official quarterly report” and Section 4.1 statement for any portion of the period from May 29, 2024 to August 14, 2024;
- (9) the Chief Administrative Judge’s written instructions and blank forms for Section 4.1 statements, pursuant to [Part 04 of the Chief Judge’s Rules](#), and for “official quarterly report(s)”.

Thank you.

Elena Sassower, Director
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