

CENTER for JUDICIAL ACCOUNTABILITY, INC.

Post Office Box 8101
White Plains, New York 10602

Tel. (914)421-1200

E-Mail: mail@judgewatch.org
Website: www.judgewatch.org

Elena Ruth Sassower, Director

January 9, 2025

New York Court of Appeals Clerk Heather Davis
20 Eagle Street
Albany, New York 12207-1095

RE: In Further Support of December 23, 2024 Motion (#2025-25):
for Enforcement of Court Rule 500.1(a) –
APL 2024-150 (appeal of right: *CJA v. JCOPE, et al.*)
APL 2024-149; APL 2024-175 (direct appeal of right:
CJA v Commission on Legislative, Judicial & Executive
Compensation... Wilson, Zayas, et al.)

Dear Clerk Davis:

This follows my yesterday's notification to Chief Motion Clerk MacVean that I had just received, by mail, a [January 6, 2025 letter](#) of Assistant Solicitor General Kiernan, addressed to you, responding to what he describes as "the motion, dated December 23, 2024 and returnable today" – and that, pursuant to [Court Rule 500.7](#), I wished to reply to prevent further fraud on the Court by reason of the false statement it contains in its final third sentence.

The referred-to [December 23, 2024 motion](#) seeks an order:

- (1) pursuant to [Court Rule 500.1\(a\)](#) and the referred-to "applicable statutes and rules, particularly the signing requirement of 22 NYCRR §130-1.1a", taking appropriate action against New York Attorney General Letitia James, Solicitor General Barbara Underwood, Deputy Solicitor General Andrea Oser, Assistant Solicitor General Beezly Kiernan, and other culpable attorney staff, for the two December 4, 2024 letters, signed by ASG Kiernan, responding to Court Clerk Heather Davis' two November 6, 2024 *sua sponte* jurisdictional inquiry letters;

(2) for such other and further relief as may be just and proper, including:

- (a) directing AG James to produce a sworn statement as to who, if anyone, made the determination, *if one was made*, as to the “interest of the state” pursuant to [Executive Law §63.1](#), on these two appeals of right, and determined appellants’ entitlement to the AG’s representation consistent therewith and pursuant to [State Finance Law, Article 7-A](#) (§123-a(3), §123-c-(3), §123-d, §123-e(2)), including *via* independent counsel, with such findings of fact and conclusions of law as supported same;
- (b) [pursuant to CPLR §8202](#), awarding appellants \$100 motion costs.

ASG Kiernan’s letter states, by its final third sentence:

“To the extent the motion seeks ‘appropriate action’ against respondents’ counsel, including sanctions and costs, the motion provides no basis for any such relief and should be denied.” (underlining added).

This is brazenly false. There is nothing “To the extent” about the motion’s request for “appropriate action”, as it is expressly requested by the motion’s first branch. Nor does the motion provide “no basis for such relief”. To the contrary, its **legal basis** is particularized by my [7-page moving affirmation](#) and its **factual basis** is particularized by my two [December 19th letters](#) to you (and [here](#)), exposing ASG Kiernan’s “fraud on the court” by his two December 4th letters responding to your November 6th *sua sponte* jurisdictional inquiry letters pertaining to APL-2024-149 and APL-2024-150.

ASG Kiernan does not contest the accuracy of either my moving affirmation or my two December 19th letters and, presumably, he was assisted and instructed by the lawyers of the Attorney General’s Office against whom the motion is directed by name, Deputy Solicitor General Oser and Solicitor General Underwood, if not Respondent AG James.

ASG Kiernan’s January 6th letter would be unacceptable, if submitted by a private attorney in a private case having no impact beyond the litigants. It is exponentially

more unacceptable here and the Court must forcefully demonstrate this by meting out a further dose of “appropriate action” pursuant to 22 NYCRR §130-1.2, for what is now a further “occurrence of frivolous conduct” before the Court in these two cases. Indeed, there must be two additional doses of maximum \$10,000 sanctions and costs pursuant to 22 NYCRR §130-1.2, as ASG Kiernan’s frivolous and fraudulent January 6th letter on this motion is on the heels of his frivolous and fraudulent January 3rd letter to your December 19th *sua sponte* jurisdictional inquiry letter for APL-2024-175 – the particulars of which are set forth by my [January 9th letter to you on the subject](#), herein incorporated by reference.

ASG Kiernan signs his January 6th letter “Respectfully submitted”. However, there is nothing “Respectfully submitted” about the above-quoted third sentence of his letter, established to be a flagrant fraud by appellants’ December 23rd motion.

Chief Motion Clerk MacVean stated that the December 23rd motion will be decided by the judges themselves and that this letter, although addressed to you, just as ASG Kiernan’s is, would be furnished to them.

The Court’s decision must be a “teaching moment” as to what is expected of attorneys practicing before the Court – and any court – consistent with the 1982 law review article “[The Judge’s Role in the Enforcement of Ethics - Fear and Learning in the Profession](#)”, [Santa Clara Law Review](#) (Vol 22, No. 1).

The foregoing substantially replicates [my January 3rd letter to you in Cuomo v. COELIG](#) in further support of appellants’ December 16th motion to file an *amicus curiae* brief to prevent fraud and for enforcement of Court Rule 500.1(a), [denied today](#).

I herein attest to the truth of the foregoing, under penalties of perjury, as if stated in an affirmation pursuant to [CPLR §2106](#).

Thank you.

s/ Elena Ruth Sassower

cc: Assistant Solicitor General Beezly Kiernan
for Attorney General Letitia James
Solicitor General Barbara Underwood
Deputy Solicitor General Andrea Oser