

CENTER for JUDICIAL ACCOUNTABILITY, INC.

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Elena Ruth Sassower, Director

January 3, 2025

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

RE: Motion #2024-847: for Leave to File *Amicus Curiae* Brief to Prevent Fraud
& for Enforcement of Court Rule 500.1(a) – APL 2024-76 – Cuomo v. COELIG

Dear Clerk Davis:

This follows my yesterday's notification to Chief Motion Clerk MacVean that I had just received, by mail, a three-sentence [December 30, 2024 letter of Assistant Solicitor General Brockner](#), addressed to you, responding to what he describes as "the motion, dated December 16, 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 third sentence.

The referred-to December 16, 2024 motion seeks an order:

- (1) pursuant to [Court Rule 500.23](#), granting Elena Ruth Sassower leave to file her *amicus curiae* brief to prevent fraud;
- (2) pursuant to [Court Rule 500.1](#) and its referred-to "applicable statutes and rules, particularly the signing requirement of 22 NYCRR §130-1.1a", taking appropriate action against the parties and their counsel for the frauds and deceits sought to be perpetrated on the Court by the signed briefs of Appellant COELIG, Respondent Cuomo, and the "good government"/New York City Bar Association *amici*;
- (3) for such other and further relief as may be just and proper.

Although ASG Bruckner's letter does NOT oppose the first branch, it states as to the second:

“To the extent the motion seeks ‘appropriate action against the parties and the counsel,’ 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 second branch, nor is it unsupported. The **legal basis** for its requested “appropriate action” is particularized by [my 5-page moving affirmation](#), with the **factual basis** particularized by my [15-page “Amicus Curiae Brief to Prevent Fraud on the Court”](#), substantiated by a profusion of evidentiary hyperlinks and 175 pages of exhibits. ASG Brockner does not contest the accuracy of any of it – and, presumably, he was assisted by supervisory lawyers of the Office of the Attorney General, certainly Solicitor General Underwood, if not Attorney General James, as well as by COELIG and, quite likely, its “independent review committee” of New York’s law school deans.

ASG Brockner’s 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 second “occurrence of frivolous conduct” before the Court in this case by the Attorney General’s Office, the first being the “material factual statements that are false” in its August 14, 2024 brief and November 15, 2024 reply brief that my *amicus curiae* brief highlights (at pp. 11-13).

ASG Brockner signs his letter “Respectfully submitted”. However, there is nothing “Respectfully submitted” about the letter’s above-quoted third sentence, established by the motion to be a flagrant fraud.

The more “respectful” course was taken by Attorney Dubinsky, representing former Governor Cuomo, and Attorney Schaffer, representing the “good government”/New York City Bar Association *amici*. Recognizing they had no defense to the motion, they opted not to further affront the Court and filed NO responding papers.

That being said, Attorneys Dubinsky and Schaffer have NOT discharged their duties to this Court, any more than ASG Brockner has. Having NOT denied or disputed that the “ethics commission reform act of 2022” is NOT “a duly enacted statute” and that, absent invocation of exceptions to mootness, this moots the question of its constitutionality, *as written* – the SOLE issue on the COELIG appeal – they were each duty-bound to have so-advised the Court, pursuant to [Court Rule 500.6](#), which states, in mandatory terms:

“Counsel shall timely inform the Clerk’s Office and each other party by letter of all developments affecting appeals... including...circumstances or facts that could render the matter moot...” (underlining added).

This was their obligation to have done, as, likewise, to have requested leave to amend their briefs to remove the frauds and deceits my *amicus curiae* brief identified, with evidentiary proof, without contradiction from them.

Chief Motion Clerk MacVean stated that the December 16th motion will be decided by the judges themselves, as early as next Thursday, January 9th, and that this letter, although addressed to you, just as ASG Brockner’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). A similar “teaching moment” will be the [January 7th oral argument of the Cuomo v. COELIG appeal](#).

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 Dustin Brockner, for COELIG
Attorney Gregory Dubinsky, for former Governor Cuomo
Attorney Frederick Schaffer, for “Good Govt”/NYC Bar Association *Amici*

NEW YORK COURT OF APPEALS

APL 2024-76

Cuomo v. Commission on Ethics and Lobbying in Government

AFFIRMATION OF SERVICE

ELENA RUTH SASSOWER, affirms the following to be true
under penalties of perjury, pursuant to CPLR §2106:

On the 3rd day of January 2025, I served the within:

January 3, 2025 letter to Clerk Heather Davis,
pursuant to Court Rule 500.7,
in further support of the December 16, 2024 motion
for leave to file an *amicus curiae* brief to prevent fraud
& for enforcement of Court Rule 500.1(a)

by e-mail, with consent thereto, upon:

Attorney General Letitia James, attorney for Appellant Commission on Ethics
and Lobbying – to Assistant Solicitor General Dustin Brockner
Dustin.Brockner@ag.ny.us, and

Frederick Schaffer, Esq., attorney for *Amici* “Good Government” Orgs/New
York City Bar Association – frederick.schaffer@gmail.com, and

by mail, as required by:

Gregory Dubinsky, Esq. of Holwell Shuster & Goldberg, LLP, attorney for
Respondent Andrew M. Cuomo, at 425 Lexington Avenue, 14th Floor, New York,
New York 10017 (with additional transmittal by e-mail to gdubinsky@hsgllp.com).

Attached is the transmitting e-mail reflecting same.


Elena Ruth Sassower, Movant

Dated: White Plains, New York
January 3, 2025

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, January 3, 2025 1:14 PM
To: 'Brockner, Dustin'; 'frederick.schaffer@gmail.com'; 'Gregory J. Dubinsky'
Subject: SERVICE -- Jan 3, 2025 Letter to Clerk Davis Pursuant to Court Rule 500.7, in Further Support of Dec 16, 2024 Motion -- Cuomo v. COELIG (APL 2024-76)
Attachments: 1-3-25-reply-ltr.pdf

TO: Assistant Solicitor General Dustin Brockner
Frederick P. Schaffer, Esq.
Gregory Dubinsky, Esq.

Above-attached & herewith served is my letter of today's date to Clerk Davis pursuant to Court Rule 500.7.

A hard copy has already been mailed to Attorney Dubinsky.

Thank you.

Elena Sassower