

COURT OF APPEALS
STATE OF NEW YORK

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ANDREW M. CUOMO,

Respondent,

APL 2024-0076

-against-

December 16, 2024

**NOTICE OF MOTION
for Leave to File *Amicus
Curiae* Brief to Prevent Fraud
& for Enforcement of Court
Rule 500.1**

NEW YORK STATE COMMISSION ON ETHICS
AND LOBBYING IN GOVERNMENT,

Appellant.
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PLEASE TAKE NOTICE that upon the annexed affirmation and accompanying proposed *amicus curiae* brief, Elena Ruth Sassower, Director of the Center for Judicial Accountability, Inc. and the unrepresented individual appellant in *Center for Judicial Accountability, et al. v. JCOPE, et al.* (APL 2024-150), acting on her own behalf, on behalf of the Center for Judicial Accountability, Inc., and on behalf of the People of the State of New York & the Public Interest, will make a motion before the New York Court of Appeals at Court of Appeals Hall, 20 Eagle Street, Albany, New York 12207 on Monday, December 30, 2024, or as soon thereafter as the parties or their counsel can be heard, for 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 deceptions 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.

PLEASE TAKE FURTHER NOTICE that pursuant to Court Rule 500.21(c), opposition papers, with proof of service, are required to be filed with the Court, on or before the December 30, 2024 return date.



ELENA RUTH SASSOWER, movant
Director of the Center for Judicial Accountability, Inc. (CJA),
on her own behalf, on CJA’s behalf, and on behalf of the People
of the State of New York & the Public Interest

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TO: Attorney for Appellant COELIG
Attorney General Letitia James
ATT: Assistant Solicitor General Dustin Brockner

Attorney for Respondent Cuomo
Howell, Shuster & Goldberg, LLP
ATT: Gregory Dubinsky, Esq.

Attorney for “Good Government/New York City Bar Association Amici
Frederick P. Schaffer, Esq.

Dated: White Plains, New York
December 16, 2024
20th Anniversary/*Pataki v. Assembly/Silver v. Pataki*, 4 NY3d 75
80th Anniversary/Battle of the Bulge (Ardennes, Belgium)

COURT OF APPEALS
STATE OF NEW YORK

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ANDREW M. CUOMO,

Respondent,

APL 2024-0076

December 16, 2024

-against-

**MOVING AFFIRMATION
for Leave to File *Amicus
Curiae* Brief to Prevent Fraud
& for Enforcement of Court
Rule 500.1**

NEW YORK STATE COMMISSION ON ETHICS
AND LOBBYING IN GOVERNMENT,

Appellant.
-----X

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

1. I am the director of the Center for Judicial Accountability, Inc. (CJA) and the unrepresented individual appellant in *CJA, et al. v. JCOPE, et al.* (APL 2024-150), fully familiar with all the facts, papers and proceedings therein – and sufficiently familiar with the facts, papers, and proceedings of the *Cuomo v. COELIG* appeal herein (APL 2024-0076).

2. This affirmation is submitted in support of the relief sought by my accompanying notice of motion.

3. As for the first branch of relief, leave to file an *amicus curiae* brief to prevent fraud, this Court's [Rule 500.23\(a\)\(4\)](#) requires that I

“demonstrate that the parties are not capable of a full and adequate presentation and that movant could remedy this deficiency; movant could identify law or arguments that might otherwise escape the Court's consideration; or the proposed amicus curiae brief otherwise would be of assistance to the Court”.

4. Every aspect of this criteria I meet overwhelmingly – and the facts, law, and argument establishing this are furnished by my accompanying *amicus curiae* brief and its substantiating exhibits, demonstrating that the parties and *amici*, by their briefs, are committing “fraud on the court”,¹ replicating, essentially *verbatim*, the same frauds as they committed by their briefs before the Appellate Division, Third Department.

5. The threshold fraud by the parties and the “good government”/New York City Bar Association *amici* is their concealment that the “ethics commission reform act of 2022” [ECRA] is unconstitutional *by its enactment*, through the budget and by

¹ “Fraud on the court” is defined by Black’s Law Dictionary (7th ed. 1999) as:

“A lawyer’s or party’s misconduct in a judicial proceeding so serious that it undermines or is intended to undermine the integrity of the proceeding.”

See, also this Court’s unanimous 6-0 decision in [*CDR Creances S.A.S. v Cohen, et al.*](#), 23 N.Y.3d 307 (May 8, 2014), by Associate Judge Rivera:

“Fraud on the court involves willful conduct that is deceitful and obstructionist, which injects misrepresentations and false information into the judicial process ‘so serious that it undermines . . . the integrity of the proceeding’ (*Baba-Ali v State*, 19 NY3d 627, 634... [2012] [citation and quotations omitted]). It strikes a discordant chord and threatens the integrity of the legal system as a whole, constituting ‘a wrong against the institutions set up to protect and safeguard the public’ (*Hazel-Atlas Glass Co. v. Hartford-Empire*, 322 U.S. 238, 246... [1944]; *see also Koschak v Gates Const. Corp.*, 225 AD2d 315, 316... [1st Dept 1996][‘The paramount concern of this Court is the preservation of the integrity of the judicial process’]).”

fraud, and that this moots the question as to its unconstitutionality, *as written*, the subject of the appeal herein, absent the Court’s invocation of exceptions to mootness.

6. Additionally, Appellant COELIG and its allied *amici* have infused their briefs with fraud as to the high motives and benefits of the ECRA statute, concealing that it was motivated by the self-interest of Governor Hochul and the Legislature to insulate themselves from ethics complaints, which is exactly what it has achieved, under the guise of reform.

7. My *amicus curiae* brief also demonstrates that the Appellate Division, Third Department’s appealed-from May 9, 2024 Opinion and Order is itself a fraud as to these issues – and is so flagrantly non-responsive to the arguments of Appellant COELIG and the *amici* as to be completely unacceptable as the work-product of a single appellate judge, let alone five. Nonetheless, because the Opinion and Order is in Respondent Cuomo’s favor, his brief to this Court (at p. 4) commits the further fraud of purporting it to be “a thorough and well-reasoned decision”. Appellant COELIG and the *amici*, for their part, cover up the outrage of the Opinion and Order that has found against them.

8. The second branch of my notice of motion is for “appropriate action” against the parties and their counsel, pursuant to this Court’s [Rule 500.1\(a\)](#), which reads:

“All papers shall comply with applicable statutes and rules, particularly the signing requirement of 22 NYCRR 130-1.1a.”

By this FIRST rule, the Court was not simply stating, as it could have, that all papers must be signed. Rather, it was drawing attention to the meaning of signing pursuant to [22 NYCRR §130-1.1](#), namely that it is a certification

“that, to the best of that person’s knowledge, information and belief, formed after an inquiry reasonable under the circumstances, (1) the presentation of the paper or the contentions therein are not frivolous as defined in section 130-1.1(c) of this Subpart”.

§130-1.1(c) defines conduct as frivolous if:

“(1) it is completely without merit in law and cannot be supported by a reasonable argument for an extension, modification or reversal of existing law;

(2) it is undertaken primarily to delay or prolong the resolution of the litigation, or to harass or maliciously injure another; or

(3) it asserts material factual statements that are false.”

All three are here met with respect to the explicit and implicit² frauds and deceptions of the parties and *amici* by their briefs and such would be further found upon the Court’s consideration – as §130.1.1(c) expressly requires – of:

“(1) [the] circumstances under which the conduct took place, including the time available for investigating the legal or factual basis of the conduct; and (2) whether or not the conduct was continued when its lack

² 60A New York Jurisprudence 2d (2001), §91 – Concealment: Generally:

“Fraud may be committed by suppression of the truth, that is, by concealment, as well as by positive falsehood or misrepresentation.^{fn} Where a failure to disclose a material fact is calculated to induce a false belief, the distinction between concealment and affirmative misrepresentation is tenuous; both are fraudulent.^{fn} Thus, the suppression of material facts which a person is, in good faith, bound to disclose is evidence of and equivalent to a false representation.^{fn}”

of legal or factual basis was apparent, should have been apparent, or was brought to the attention of counsel or the party.”

The facts and circumstances mandating costs and sanctions upon both counsel and the parties, pursuant to [22 NYCRR §130-1.1\(a\)](#), are also furnished by my *amicus curiae* brief— and costs and sanctions are but the bare minimum of what is warranted.

9. New York’s Rules of Professional Conduct, 22 NYCRR Part 1200, adopted by the Appellate Divisions – and which the [Appellate Division, Third Department Attorney Grievance Committee posts with the New York Bar Association’s commentary](#) – have been flagrantly violated by counsel and the lawyer-parties and lawyer-*amici* they represent, specifically, [Rule 3.1](#) “Non-Meritorious Claims and Contentions”; [Rule 3.3](#) “Conduct Before A Tribunal”; [Rule 8.3](#) “Reporting Professional Misconduct”; and [Rule 8.4](#) “Misconduct”.

10. [§100.3D\(2\) of the Chief Administrator’s Rules Governing Judicial Conduct](#) states, in mandatory terms,

“A judge who receives information indicating a substantial likelihood that a lawyer has committed a substantial violation of the Rules of Professional Conduct (22 NYCRR Part 1200) shall take appropriate action.”

The “appropriate action” here mandated is disciplinary, if not criminal referrals, of all the lawyers involved.



ELENA RUTH SASSOWER

Dated: White Plains, New York

December 16, 2024

20th Anniversary/*Pataki v. Assembly/Silver v. Pataki*, 4 NY3d 75

80th Anniversary/Battle of the Bulge (Ardennes, Belgium)

APL 2024-0076
Albany County Index #903759-23
Appellate Division, Third Dept. #CV-23-1778

NEW YORK STATE COURT OF APPEALS

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-against-

NEW YORK STATE COMMISSION ON ETHICS
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Appellant.

**MOTION FOR LEAVE TO FILE AMICUS CURIAE BRIEF
TO PREVENT FRAUD & FOR ENFORCEMENT OF COURT RULE 500.1**

Center for Judicial Accountability, Inc. (CJA)
by Elena Ruth Sassower, Director,
acting on her own behalf, on CJA's behalf, &
on behalf of the People of the State of New York
& the Public Interest

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