

CENTER for JUDICIAL ACCOUNTABILITY, INC. (CJA)

Post Office Box 8101
White Plains, New York 10602

Tel. (914)421-1200

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

WRITTEN TESTIMONY FOR THE LEGISLATURE'S FEBRUARY 11, 2019 BUDGET HEARING ON "LOCAL GOVERNMENT OFFICIALS/GENERAL GOVERNMENT"

February 19, 2019

My name is Elena Sassower. I am director and co-founder of the non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA), which for more than a quarter of a century has been furnishing the Legislature with EVIDENCE that New York's Judiciary is corrupt and "throws" cases by fraudulent judicial decisions, obliterating the most fundamental adjudicative standards – aided and abetted by a long list of governmental actors, including:

- (1) the monitor of New York's Judiciary, the state Commission on Judicial Conduct, which dumps, without investigation, facially-meritorious, judicial misconduct complaints, particularly when they are against high-level, politically-connected judges, as opposed to non-lawyer judges of the town and village courts;
- (2) New York's highest law enforcement officer, the state attorney general, whose *modus operandi* in defending lawsuits against the Commission on Judicial Conduct, the Judiciary, and other public officers and entities, sued for corruption, where he has NO legitimate defense, is to corrupt the judicial process with litigation fraud; and
- (3) New York's district attorneys, who ignore fully-documented public corruption complaints filed with them, relating to the Judiciary, the Commission on Judicial Conduct, the attorney general, and other public officers and entities.

Cases are "perfect paper trails" – and the EVIDENCE that CJA has furnished the Legislature has included litigation records from which the foregoing is readily verifiable. Among these:

- (1) Three Article 78 proceedings, suing the Commission on Judicial Conduct for dumping, without investigation, facially-meritorious judicial misconduct complaints, defended by the attorney general;
- (2) A federal action, suing New York's Judiciary for corrupting the attorney disciplinary system it controls and using it to retaliate against a judicial whistle-blowing attorney, defended by the attorney general, also a defendant therein;

- (3) A declaratory judgment action – to which the Legislature was a named defendant – challenging the commission-based judicial salary increases resulting from Chapter 567 of the Laws of 2010, defended by the attorney general, also a defendant therein;
- (4) A motion to intervene in the Legislature’s declaratory judgment action against the district attorney-stacked Commission to Investigate Public Corruption, defended by the attorney general, who had participated with the Governor in establishing the Commission;
- (5) Two citizen-taxpayer actions – to which the Legislature was and is a named defendant – challenging the commission-based judicial salary increases resulting from Chapter 567 of the Laws of 2010 and from its successor, Chapter 60, Part E of the Laws of 2015, and also challenging the judiciary, legislative, and executive budgets, including the budget “process” and its culminating behind-closed-doors “three-men-in-a-room” budget deal-making, defended by the attorney general, also a defendant therein.

The Legislature’s response to this and other EVIDENCE of systemic governmental corruption has been to willfully and deliberately ignore it. Indeed, it appears that the Legislature has NEVER held an oversight hearing of the function and functioning of the attorney general, nor of the role of the district attorneys in upholding public integrity, as, for instance, their handling of public corruption complaints and control of access to the grand jury.

As for New York’s Judiciary, including its attorney disciplinary system and the Commission on Judicial Conduct, the Legislature has, for decades, refused to hold oversight hearings at which the public could testify about what has been going on. The most recent oversight hearing was nearly ten years ago, on June 8 and September 24, 2009, when then Senate Judiciary Committee Chair John Sampson held two oversight hearings of the Commission on Judicial Conduct and of the court-controlled attorney grievance committees, at which nearly two dozen witnesses testified about the corruption. A third hearing, scheduled for December 16, 2009, was cancelled and not rescheduled. As for the oral and written witness testimony and substantiating EVIDENCE the Committee received, it went uninvestigated. The Senate Judiciary Committee made NO findings of fact, no conclusions of law, and rendered no committee report. This, even as the Judiciary was suing the Legislature and Governor for salary raises for its supposedly excellent, high-quality judges – securing, in February 2010, a fraudulent judicial decision by the New York Court of Appeals, intimidating the Legislature and Governor to enact, in November-December 2010, without legislative due process and in a lame-duck legislative session, Chapter 567 of the Laws 2010, establishing a quadrennial Commission on Judicial Compensation, whose “force of law” judicial salary increase recommendations of its subsequent August 29, 2011 report neither the Legislature, Governor, nor Judiciary would oversee, despite their fraud and violations of the statute pursuant to which they purport to be rendered.

With even less legislative due process, on March 31/April 1, 2015, the Legislature, in collusion with the Governor – and as part of their behind-closed-doors “three-men-in-a-room” budget deal-making – repealed Chapter 567 of the Laws of 2010 and replaced it with a materially identical statute, Chapter 60, Part E of the Laws of 2015, establishing the quadrennial Commission on Legislative, Judicial and Executive Compensation. Here, too, the Legislature, Governor, and Judiciary would discharge no oversight over that Commission’s December 24, 2015 report, whose “force of law” judicial salary recommendations were correspondingly fraudulent and violative of the statute pursuant to which they purport to be rendered.

Since 2012, the cost to New York taxpayers of the August 29, 2011 and December 24, 2015 commission reports, which, to date, have raised judicial salaries by approximately \$75,000 per judge – and, additionally, the salaries of district attorneys, which are statutorily-linked to judicial salaries – is on the order of \$400 million dollars and currently grows by about \$70 million a year. And whatever the exact figures are, they will increase in fiscal year 2019-2020 because the December 24, 2015 report contains final judicial salary increase recommendations, effective April 1, 2019 – and appropriations for it are embedded in the Judiciary’s proposed fiscal year 2019-2020 budget and in the Governor’s Legislative/Judiciary Budget Bill #S.1501/A.2001 embodying it. Identically to past years, there is no line-item for the increase – and the Judiciary’s proposed budget not only conceals any information about its cumulative dollar amount and its percent increase, but that the Legislature is statutorily-empowered to abrogate it, which is what it must do.

In holding these public hearings on the state budget, the Legislature affords the Judiciary’s proposed budget no hearing of its own, as would be consistent with its status as a separate government branch, constitutionally empowered, with the Legislature, to construct its own budget. Perhaps this is because, were it to do so, it would be more obvious that the Legislature holds no public hearing on its own proposed budget. Nor has it placed the Judiciary’s proposed budget in its “general government” budget hearing, as might be reasonably expected. Instead, it is in the “public protection” budget hearing, where the Chief Administrative Judge testifies first.

Since 2013, I have alerted the Legislature, over and again, that the Judiciary’s proposed budgets and the Chief Administrative Judge’s hearing testimony are materially false and misleading and obscure and conceal the most pertinent facts in its larceny of taxpayer money. And, repeatedly, I have supplied the Legislature with a list of questions to guide it in questioning the Chief Administrative Judge about the specifics of the Judiciary’s budget and the legislative/judiciary budget bill to which it relates. This the Legislature ignores, in favor of questioning the Chief Administrative Judge about “policy” – largely, but not necessarily, arising from the “policy” legislation that the Governor unconstitutionality places within the Executive budget.

To assist the Legislature in discharging its constitutional responsibilities with respect to the Judiciary’s proposed budget for fiscal year 2019-2020 and the Governor’s Legislative/Judiciary Budget Bill #S.1501/A.2001 – not remotely discharged when Chief Administrative Judge Marks testified at its January 29, 2019 “public protection” budget hearing – attached is a list of questions for Chief Administrative Judge Marks, modelled on the essentially identical questions I furnished last year, in advance of his testimony at the January 30, 2018 “public protection” budget hearing – not a

single one of which any legislator asked, either at that budget hearing or thereafter.

Two of the questions on that list are directly relevant to the Commission on Judicial Conduct, whose administrator and counsel, Robert Tembeckjian, this year, like last year, testified for increased funding, immediately following Chief Administrative Judge Marks' testimony at the "public protection" budget hearing. These two questions read:

- “39. How about Senate and Assembly Judiciary Committee oversight hearings of the Commission on Judicial Conduct, at which the public was given notice and the opportunity to testify and submit evidence? Do you know when they were last held – and what findings of fact and conclusions of law were made based thereon? Although the Commission is not funded through the Judiciary budget, it is among the agencies within the Legislature’s ‘public protection’ budgeting. Surely, Chief Judge DiFiore’s ‘Excellence Initiative’ recognizes the Judiciary’s obligation to ensure that the Commission on Judicial Conduct is adequately funded and properly functioning, does it not? What advocacy, if any, has it undertaken, with respect to funding, which in this year’s State Operations Budget Bill #S.1500/A.2000 (at p. 447) is \$5,696,000. And what has it done to advance an independent auditing of the Commission on Judicial Conduct’s handling of judicial misconduct complaints – the necessity of which was recognized nearly 30 years ago, in the 1989 report of the then state Comptroller Edward Regan, entitled Commission on Judicial Conduct – Not Accountable to the Public: Resolving Charges Against Judges is Cloaked in Secrecy, whose press release was equally blunt: ‘COMMISSION ON JUDICIAL CONDUCT NEEDS OVERSIGHT’.
40. Doubtless in the nearly three years since Chief Judge DiFiore announced her ‘Excellence Initiative’, many members of the public have complained to her about the lawlessness that prevails in the judiciary, resulting from a Commission on Judicial Conduct that is worthless, as well as the worthlessness of entities within the judiciary charged with oversight, including the court-controlled attorney disciplinary system and the Judiciary’s Office of Inspector General. What has she done to verify the situation?”

The attached list also includes questions – likewise repeated from last year – about the Judiciary’s “throwing” cases by fraudulent judicial decisions, such as:

- “28. Do you dispute the accuracy of CJA’s assertion, stated in its last year’s written and oral testimony for the Legislature’s January 30, 2018 and February 5, 2018 budget hearings, that both citizen-taxpayer actions were ‘thrown’ by fraudulent judicial decisions, upending ALL cognizable judicial standards to grant defendants relief to which it was not entitled, *as a matter of law*, and to deny plaintiffs relief to which they were entitled, *as a matter of*

law?

29. Would you agree that establishing that this is what happened – including with respect to the causes of action pertaining to the Judiciary’s budgets and the judicial salary increases – can be verified by examining the court record?
30. In view of Chief Judge DiFiore’s ‘Excellence Initiative’, referred to at the outset of the Judiciary’s Executive Summary (p. i), as being her ‘highest priority’ – with a goal of achieving ‘operational and decisional excellence in everything that we do’ – would the Judiciary be willing to demonstrate how its ‘Excellence Initiative’ works by evaluating the ‘decisional excellence’ in the citizen-taxpayer actions in which it was interested, furnishing the Legislature with its findings of fact and conclusions of law with respect to the judicial decisions, particularly as relates to the causes of action pertaining to the Judiciary’s budgets and the judicial salary increases?”

Suffice to say that at the January 29, 2019 “public protection” budget hearing, the legislators engaged Chief Administrative Judge Marks and Administrator Tembeckjian, as if completely unaware of any corruption problem relating to the Judiciary and Commission on Judicial Conduct, let alone of EVIDENCE establishing it, *prima facie*. Certainly, they expressed no awareness that Mr. Tembeckjian was responding to their questioning with brazen lies – as would have been obvious to them had they examined the EVIDENCE I handed up at last year’s “public protection” budget hearing, stating, as follows, at the conclusion of my testimony:

“There is no excellence in the Judiciary. The Judiciary is as dishonest in its budget as it is in its decisions. The Judiciary is throwing cases. That includes the lawsuit against you, suing you for your corruption with respect to the budget.

I leave with you – my time is up – I leave with you the evidence, the judicial misconduct complaint filed with the Commission on Judicial Conduct against the judge, and the complaint filed against Attorney General Schneiderman, who is your codefendant and has represented you with litigation fraud, because you had no defense to any of the causes of action.

Cases are perfect paper trails.

...

The last thing I will say is that DA Soares has been sitting on a corruption complaint involving what you have been doing with respect to the budget since 2013, and that is also the subject of a misconduct complaint filed with the attorney grievance committees.

Thank you.”

This statement was made in the presence of then Senate Finance Committee Ranking Member Krueger and Assembly Ways and Means Chair Weinstein, whose responsibility it was to alert the members of the fiscal committees, and of such other appropriate committees as the Assembly and Senate Judiciary and Codes Committees, of their duty to investigate and report on the truth of what I

had said – and the EVIDENCE I had provided in substantiation. Such EVIDENCE included Comptroller Regan’s 1989 report on the Commission on Judicial Conduct – the same as referred-to by the above-quoted question I had furnished the Legislature last year – in which the comptroller identified that without access to the records of the Commission’s handling of judicial misconduct complaints, which the Commission refused to give him, NO assessment could be made as to whether the Commission was doing the job the taxpayers were paying it to do.

That same principle – access to, and review of, EVIDENTIARY RECORDS – applies to:

- (1) the Judiciary’s handling of litigations by its judges and its handling of attorney misconduct complaints by its attorney grievance committees;
- (2) the district attorneys’ handling of public corruption complaints; and
- (3) the attorney general’s handling of public corruption/misconduct complaints.

And, of course, it applies to every other government entity, whose claim to taxpayer monies rests on doing the job they are paid to do, absent which any increased salaries and funding are an unconstitutional imposition on the taxpayers.

To further assist the Legislature in discharging its constitutional responsibilities, as laid out herein, and by my written and oral testimony at five prior legislative budget hearings: the first time, in 2013, then twice in 2017, and twice last year, plus at two local budget forums, in 2017 and 2018, sponsored by legislators from Westchester, CJA’s webpage for this written testimony¹ will post links for that EVIDENCE-supported testimony, and for the records of the above-itemized lawsuits, and for the records of the misconduct/corruption complaints I filed with the Commission on Judicial Conduct and the court-controlled attorney grievance committees, subsequent to my testimony at last year’s budget hearings. Suffice to say, that since furnishing the Legislature with the record EVIDENCE, last year, that CJA’s citizen-taxpayer actions had been “thrown” in Supreme Court/Albany County, by a double-whammy of litigation fraud by the attorney general and fraudulent judicial decisions, facilitated by the Commission on Judicial Conduct and the court-controlled attorney grievance committees – the record now establishes that the same double-whammy has been repeated at the Appellate Division, Third Department, aided and abetted by the Commission on Judicial Conduct and court-controlled attorney grievance committees. And the result? The budget for fiscal year 2019-2020 repeats, thus far, ALL the constitutional, statutory, and rule violations that those two citizen-taxpayer actions challenged – and to which, as the lawsuit records establish, the People of the State of New York were, and are, entitled to summary judgment.

Finally, since this year, as in previous years, the Legislature has not discharged any oversight over its own proposed budget – or of the legislative portion of the Governor’s legislative/judiciary budget bill

¹ CJA’s webpage for this written testimony is accessible from CJA’s homepage, www.judgewatch.org, via the center link for the “2019 Legislative Session”. The direct link is here: <http://www.judgewatch.org/web-pages/searching-nys/2019-legislative/feb-19-2019-written-testimony.htm>.

– also attached is a list of questions to facilitate its doing so. Such are rightfully answered by former Temporary Senate President Flanagan, Assembly Speaker Heastie – and by now Temporary Senate President Stewart-Cousins – each of whom should have come forward to testify in support of the Legislature’s proposed budget. The list of questions for them is likewise modelled on the questions I previously furnished, including last year, for the February 5, 2018 budget hearing on “local government officials/general government”.

Thank you.



Enclosures:

- (1) The Judiciary’s Proposed Budget for Fiscal Year 2019-2020...
Questions for Chief Administrative Judge Marks
- (2) The Legislature’s Proposed Budget for Fiscal Year 2019-2020...
Question for Former Temporary Senate President Flanagan,
Assembly Speaker Heastie, & Temporary Senate President Stewart-Cousins

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Elena Ruth Sassower, Director

THE JUDICIARY'S PROPOSED BUDGET FOR FISCAL YEAR 2019-2020 – AND THE GOVERNOR'S LEGISLATIVE/JUDICIARY BUDGET BILL #S.1501/A.2001

Examination of the Judiciary's proposed budget for fiscal year 2019-2020 must begin with its bottom-line, total cost, especially as it is not contained within its budget.

The Governor offered no written commentary to guide the Legislature and the Legislature's "White", "Blue", "Yellow" and "Green" Books diverge as to the relevant dollar figures and percentage increase over fiscal year 2018-2019.

* * *

QUESTIONS FOR CHIEF ADMINISTRATIVE JUDGE LAWRENCE MARKS¹

- (1) By two memoranda dated December 1, 2018, you transmitted to the Governor and Legislature the Judiciary's two-part budget for fiscal year 2019-2020. One part pertained to the Judiciary's operating expenses and the other part pertained to "General State Charges" – these being "the fringe benefits of judges, justices and nonjudicial employees". Neither memorandum identified either the cumulative dollar amount of the Judiciary's two-part budget presentation taken together or its cumulative percentage increase, is that correct?
- (2) Each of the two parts of the Judiciary's proposed budget contained a "Chief Judge's Certification" and "Court of Appeals Approval", pursuant to Article VII, §1 of the Constitution of the State of New York. The certification for the part pertaining to operating expenses stated that it was certifying that "the attached schedules" were "the itemized estimates of the financial needs of the Judiciary for the fiscal year beginning April 1, 2019". Which are the "attached schedules" referred-to?
- (3) Your December 1, 2018 memorandum transmitting the itemized estimate of "General State Charges" states: "The Judiciary will submit a single budget bill, which includes requests for funding for operating expenses and fringe benefits costs for the 2019-2020 Fiscal Year."
 - (a) Why did you use the word "will"? Were you implying that the "single-budget bill" was submitted subsequent to the

¹ The Judiciary's proposed budget, Legislative/Judiciary Budget Bill #S.1501/A.2001, and all referred-to documents are posted on CJA's website, www.judgewatch.org, accessible *via* the prominent homepage link: "2019 Legislative Session".

Judiciary's two-part budget presentation? If so, when did the Judiciary submit the "single budget bill" and was it certified to be accurate and true?; and

- (b) Why did you use the word "includes"? Were you implying that the "single budget bill" contains funding requests other than for "operating expenses and fringe benefit costs" – as, for instance, "reappropriations"?
- (4) The Judiciary's "single budget bill" also did not identify the cumulative dollar total of the Judiciary's proposed budget, is that correct? Why is that?
- (5) What is the cumulative dollar total of the "single budget bill"? Which are the specific figures in the bill that you add to arrive at that figure? Is it the tally of the figures, on page 1, for: "Appropriations" \$2,336,671,887, consisting of: \$2,197,800,718 for "state operations"; \$114,871,169 for "aid to localities"; and \$24,000,000 "capital projects", plus, also on page 1, the figure for "Reappropriations" \$63,180,000, plus, on page 10, the figure for "General State Charges": \$814,814,979?
- (6) Is this the same cumulative dollar total as would result from adding the various figures in the Judiciary's two-part budget presentation?
- (7) Do you agree that there is a disparity of \$63,180,000 between the cumulative tally of figures in the Judiciary's two-part budget presentation and the cumulative tally of figures in the "single budget bill"? Isn't this disparity the result of the \$63,180,000 in "Reappropriations" in the "single budget bill" that are not in the two-part budget presentation? Is the reason the Judiciary does not furnish cumulative budget tallies in these documents to conceal the disparity?
- (8) Where in the Judiciary's two-part budget presentation are the \$63,180,000 "Reappropriations" itemized in the "single budget bill" by the "Schedule" that appears at its pages 12-14 under the headings "State Operations and Aid to Localities – Reappropriations 2019-2020" and "Capital Projects – Reappropriations 2019-2020"?
- (9) Do you consider the Judiciary's budget to be reasonably clear and straightforward as to the cumulative amount of its request and its percentage increase over fiscal year 2018-2019? Have you examined the Legislature's analyses of the Judiciary's budgets?:
- (a) According to the Senate (Democratic) Majority's "Blue Book" (at p. 63) "The Judiciary request for SFY 2020 includes a total appropriation authority of \$3.2 billion, an increase of \$102 million or 3.4 percent compared to SFY 2019 available funds. This total includes All Funds appropriations of \$2.3 billion and \$814.8 million in General State Charges (GSC). The increase consists of \$70.9 million in All Funds appropriations and \$31.4 million in

General State Charges.” (see also chart at p. 54 and text at p. 55).

- (b) According to the Senate (Republican) Minority’s “White Book” (at p. 84), “The FY 2019 Executive Budget recommends All Funds spending at \$3.1 billion, an increase of \$91.7 million, or 3.0 percent.” (also chart at p. 85).
- (c) According to the Assembly (Democratic) Majority’s “Yellow Book” (at p. 153), “The Judiciary’s proposed budget request recommends All Funds appropriations of \$3.17 billion, which is an increase of \$102.19 million or 3.33 percent from the SFY 2018-19 level.”
- (d) According to the Assembly (Republican) Minority’s “Green Book”, “2.34 billion, \$76 million more than last year. This represents a 3.2% increase in spending.”

Which of these is correct as to the dollar figures and percentage increase from fiscal year 2018-2019?

- (10) By the way, why does your one-page December 1, 2018 memorandum transmitting the Judiciary’s proposed budget of general state charges not identify either dollar amounts or percentage increase for the transmitted general state charge budget, whereas, by contrast, your one-page December 1, 2018 memorandum transmitting the operating funds budget identifies: “The 2019-20 State Operating Funds budget request totals \$2.28 billion, a cash increase of \$44.7 million, or 2 percent, over available current-year funds”?
- (11) Why does the Judiciary furnish only a single Executive Summary for its two-part budget proposal? And why does this Executive Summary omit information about both “general state charges” and “reappropriations”?
- (12) Also, why does the Executive Summary omit mention of the judicial salary increase recommendations of the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation for fiscal year 2019-2020.
- (13) Wouldn’t you agree that the Executive Summary is the appropriate place for the Judiciary to have alerted the Governor, Legislature, and the public of the relevant statutory provision pertaining to the Commission on Legislative, Judicial and Executive Compensation’s judicial salary increase recommendations for fiscal year 2019-2020 which reads:

“...Each recommendation...shall have the force of law, and shall supersede, where appropriate, inconsistent provisions of article 7-B of the judiciary law..., unless modified or abrogated by statute prior to April first of the year as to which such determination applies to judicial compensation...” (Chapter 60, Part E, of the Laws of 2015: §3, ¶7)

Do you agree that the only reference to the Commission on Legislative, Judicial and Executive Compensation's judicial salary recommendations for fiscal year 2019-2020 is in the narrative of the Judiciary's operating budget which, in ten separate places, states: "Funding for judicial positions includes salary increases in compliance with the mandate of the Commission on Judicial and Legislative Salaries."²

- (14) Why does the Judiciary's budget narrative not refer to the Commission on Legislative, Judicial and Executive Compensation by its correct name – and what is the referred-to "mandate" that the Commission imposed on the Judiciary?
- (15) You do know the difference between "salary" and "compensation", right? Can you explain that difference – and how the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation addressed the compensation issue that its very name reflects and that the statute pursuant to which it purports to be rendered – Chapter 60, Part E of the Laws of 2015 – requires it address as a condition precedent for any recommendation?
- (16) What were the Commission on Legislative, Judicial and Executive Compensation's judicial salary increase recommendations for fiscal year 2019-2020? What do they translate to, in dollar amounts and percentage increase for the Judiciary's judicial salary appropriations, cumulatively and for each category of judge. And what does this translate to in additional general state charges for salary-based compensation benefits.
- (17) Is there any line item in the Judiciary's proposed operating budget for the dollar appropriations for the judicial salary increases – and in the Judiciary's proposed budget of general state charges for the increased dollar costs of salary-based, non-salary compensation benefits, such as pensions and social security? Why not? Did the Judiciary not believe such line items important for the Legislature and Governor in exercising their "mandate" to "modif[y] or abrogate[]", pursuant to Chapter 60, Part E, of the Laws of 2015: §3, ¶7.³

² (Courts of Original Jurisdiction") (at p. 5); "Supreme and County Courts Program" (at p. 18); "Family Courts Program" (at p. 21); "Surrogates Courts Program" (at p. 25); "Multi-Bench Courts Program" (at p. 28); "City and District Courts Program" (at p. 32); "New York City Housing Court Program" (at p. 35); "Court of Claims Program" (at p. 44); "Court of Appeals" (at p. 86); "Appellate Court Operations" (at p. 90).

³ Only the Senate (Democratic) Majority's "Blue Book" (at p. 63) makes any reference to the judicial salary increases embedded in the Judiciary's budget – but does not identify that same can be abrogated or modified. It states:

"The funding increase also supports salary adjustments for State Judges due to the recent change in salary for Federal District Judges. In 2015, the New York State Commission on Legislative, Judicial, and Executive Compensation recommended that the salary of State Supreme Court Judges be the same as Federal District Judges."

- (18) Can you furnish figures as to the cost, to date, of the judicial salary increase recommendations in the Commission on Legislative, Judicial and Executive Compensation's December 24, 2015 report – including as to increased salary-based benefits? How about cost figures for how much has been paid, to date, as a result of the August 29, 2011 report of the predecessor Commission on Judicial Compensation? Does the dollar amount approach \$400 million. Can you supply more exact figures?
- (19) Also, where can the Governor, Legislature – and public – find the current salary levels of the Judiciary's judges and justices? Would you agree that those salary levels are currently about \$75,000 higher than what appears in Article 7-B of the Judiciary Law, which has not been amended, at any time, since April 1, 2012 – the date the first phase of the salary increase recommendations of the Commission on Judicial Compensation's August 29, 2011 report took effect. And what has the Judiciary done, if anything, to alert the Legislature to amend Article 7-B so that no one is misled as to the heights to which judicial salaries have reached?
- (20) Also, what will be the increased salary levels of the Judiciary's judges and justices that will take effect on April 1, 2019, pursuant to the Commission on Legislative, Judicial and Executive Compensation's December 24, 2015 report unless “modified or abrogated” by the Legislature or Governor before then? Where can the Governor, Legislature – and public – find that information?
- (21) Similarly, where can the Governor, Legislature – and public – find the monetary value of the non-salary compensation benefits that each state-paid judge and justice receives, in addition to salary – both currently and, after April 1, 2019, should the Legislature and Governor not “modif[y] or abrogate[e]” the salary increases for fiscal year 2019-2020 recommended by the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation.
- (22) Does the Judiciary recommend that the Governor and Legislature allow the Commission on Legislative, Judicial and Executive Compensation's salary increase recommendations for fiscal year 2019-2020 to take effect – and on what basis?
- (23) As you know, immediately following the Commission on Legislative, Judicial and Executive Compensation's rendering of its December 24, 2015 report, CJA furnished then Chief Judge Nominee/Westchester District Attorney Janet DiFiore with correspondence⁴ demonstrating that it was even more statutorily-violative, fraudulent, and unconstitutional than the

⁴ This correspondence starts with CJA's December 30, 2015 letter to then Chief Judge Nominee/Westchester District Attorney DiFiore entitled “So, You Want to be New York's Chief Judge? – Here's Your Test: Will You Safeguard the People of the State of New York – & the Public Fisc?”. The succession of subsequent correspondence includes CJA's January 15, 2016 letter to Senate and Assembly majority and minority leaders – including chairs and ranking members of appropriate committees – entitled “IMMEDIATE OVERSIGHT REQUIRED” and CJA's February 2, 2016 e-mail entitled “Feb. 4th ‘Public Protection’ Budget Hearing: Questions for Chief Administrative Judge Marks”. These are Exhibits 37-44 to CJA's March 23, 2016 verified second supplemental complaint in the first citizen-taxpayer action.

predecessor August 29, 2011 report of the Commission on Judicial Compensation, on which it materially relies.

- (24) Did Chief Judge Nominee, later Chief Judge, DiFiore, ever deny or dispute the accuracy of that correspondence? How about you?
- (25) As you know, neither the Senate nor Assembly, by its Judiciary Committees or any other committee, has ever held an oversight hearing with respect to either the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation or the August 29, 2011 report of the Commission on Judicial Compensation. Does the Judiciary have no view on the subject?
- (26) As you know, as a result of Chief Judge DiFiore's willful failure and refusal to discharge any oversight responsibilities with respect to these two commission reports – and her complicity in the Legislature's willful failure and refusal to discharge oversight responsibilities with respect to these two commission reports – CJA filed, on March 23, 2016, a verified second supplemental complaint in its first citizen taxpayer action (#1788-2014) particularizing the facts and furnishing the relevant documents in support of three new causes of action: the thirteenth, fourteenth, and fifteenth, to void Chapter 60, Part E of the Laws of 2015, establishing the Commission on Legislative, Judicial and Executive Compensation and its December 24, 2015 report recommending judicial salary increases. Thereafter, on September 2, 2016, CJA embodied these three causes of action in a second citizen-taxpayer action (#5122-2016), naming Chief Judge DiFiore as a defendant "in her official capacity as Chief Judge of the State of New York and chief judicial officer of the Unified Court System", where they were the sixth, seventh, and eighth causes of action.
- (27) What steps have you and Chief Judge DiFiore taken to keep informed of the progress of the second citizen-taxpayer action to which Chief Judge DiFiore is a named defendant, upon whom the September 2, 2016 verified complaint was served on that date – where she, you and all the Judiciary's state-paid judges and justices have a HUGE and direct financial interest in the sixth, seventh, and eighth causes of action, as well as interests in the second cause of action challenging the constitutionality and lawfulness of the Judiciary budgets, including for the current fiscal year?
- (28) Do you dispute the accuracy of CJA's assertion, stated in its last year's written and oral testimony for the Legislature's January 30, 2018 and February 5, 2018 budget hearings that both citizen-taxpayer actions were "thrown" by fraudulent judicial decisions, upending ALL cognizable judicial standards to grant defendants relief to which it was not entitled, *as a matter of law*, and to deny plaintiffs relief to which they were entitled, *as a matter of law*?
- (29) Would you agree that establishing that this is what happened – including with respect to the causes of action pertaining to the Judiciary's budgets and the judicial salary increases – can be verified by examining the court record?

- (30) In view of Chief Judge DiFiore’s “Excellence Initiative”, referred to at the outset of the Judiciary’s Executive Summary (p. i), as being her “highest priority” – with a goal of achieving “operational and decisional excellence in everything that we do” – would the Judiciary be willing to demonstrate how its “Excellence Initiative” works by evaluating the “decisional excellence” in the citizen-taxpayer actions in which it was interested, furnishing the Legislature with its findings of fact and conclusions of law with respect to the judicial decisions, particularly as relates to the causes of action pertaining to the Judiciary’s budgets and the judicial salary increases?
- (31) Do you agree that this is now the third year in a row that Governor Cuomo has not furnished the Legislature with any written “Commentary of the Governor on the Judiciary”, with recommendations pursuant to Article VII, §1 of the New York State Constitution?
- (32) Going back to the \$63,180,000 in “Reappropriations” in the “single budget bill” (pp. 1, 12-14) – are they properly designated as such – and have they been approved by the Court of Appeals and certified by the Chief Judge, as required by Article VII, §1?
- (33) According to the “Citizen’s Guide” on the Division of the Budget’s website,

“A reappropriation is a legislative enactment that continues all or part of the undisbursed balance of an appropriation that would otherwise lapse (see lapsed appropriation). Reappropriations are commonly used in the case of federally funded programs and capital projects, where the funding amount is intended to support activities that may span several fiscal years.”
https://www.budget.ny.gov/citizen/financial/glossary_all.html#r

Can you identify what the reappropriations listed at pages 12-13 of the Judiciary’s “single budget bill” and totaling \$17,680,000, were for when originally appropriated? Why was this money not used? And what is it now purported to be reappropriated for?

- (34) Is the reason the Judiciary’s two-part budget presentation does not identify these unused appropriations because they are not properly reappropriations and should be returned to the public treasury?
- (35) Would you agree that the aforesaid reappropriations at pages 12-13 of the “single budget bill” are pretty barren, essentially referring to chapter 51, section 2 of the laws of 2018, 2017, 2016, 2015, 2014 – which are the appropriations of the enacted budget bills pertaining to the Judiciary for those years. They furnish no specificity as to their purpose other than a generic “services and expenses, including travel outside the state and the payment of liabilities incurred prior to April 1...”; or “Contractual Services”.
- A. Can you explain how these reappropriations are consistent with State Finance Law §25:

“Every appropriation reappropriating moneys shall set forth clearly the year, chapter and part or section of the act by which such appropriation was originally made, a brief summary of the purposes of such original appropriation, and the year, chapter and part or section of the last act, if any, reappropriating such original appropriation or any part thereof, and the amount of such reappropriation. If it is proposed to change in any detail the purpose for which the original appropriation was made, the bill as submitted by the governor shall show clearly any such change.”

- B. Are these reappropriations consistent with Article VII, §7 of the New York State Constitution?

“No money shall ever be paid out of the state treasury or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation action; and every such law making a new appropriation or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object or purpose to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum.”

- C. Are they consistent with Article III, §16 of the New York State Constitution:

“No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or part thereof, shall be applicable, except by inserting it in such act.”

- D. How about the last three reappropriations at pages 13-14 of the “single budget bill” – these being the two \$20,000,000 “Aid to Localities” reappropriations (at pp. 13-14) and the five “Capital Projects” reappropriations of \$2,000,000, \$1,000,000, \$2,000,000, \$1,000,000, and \$500,000 (at p. 14)? Are they consistent with State Finance Law §25, with Article VII, §7, and with Article III, §16 of the New York Constitution?

- (36) The Judiciary’s “single budget bill” – which the Governor’s Legislative/Judiciary Budget Bill #S.1501/A.2001 reproduces, *verbatim*, as its judiciary portion – consists of a §2, containing a “Schedule” of appropriations, followed by a §3, which are reappropriations. The text directly beneath the §2 title “Schedule” reads:

“Notwithstanding any provision of law, the amount appropriated for any program within a major purpose within this schedule may be increased or decreased in any amount by interchange with any other program in any other

major purpose, or any appropriation in section three of this act, with the approval of the chief administrator of the courts.”

This same text was in the Judiciary’s “single budget bill” for fiscal year 2018-2019, which the Governor reproduced, *verbatim*, in his Legislative/Judiciary Budget Bill #S.7501/A.9501. Pursuant thereto, in fiscal year 2018-2019, did you, as Chief Administrative Judge, approve any increases or decreases in the amounts set forth in the enacted Budget Bill #S.7501/A.9501 – or are you yet going to do so in the remainder of this fiscal year? If so, what are the particulars and why does the Judiciary’s proposed budget for fiscal year 2019-2020 fail to even identify this reshuffling of appropriations in fiscal year 2018-2019?

- (37) Can you explain why notwithstanding the September 24, 2015 report of former Chief Judge Lippman’s Commission on Statewide Attorney Discipline recommending an “Increase to funding and staffing across-the-board for the disciplinary committees” (Executive Summary, at p. 4), stating “Additional funding and staffing must be made available to the disciplinary committees” (at p. 57), the Judiciary’s proposed appropriation of \$15,435,741 for fiscal year 2019-2020 is almost \$80,000 less than the \$15,514,625 appropriation for fiscal year 2018-2019, which was LESS than its 2011-2012 request of \$15,547,143 – and not appreciably greater than the \$14,859,673 it was when the Commission on Statewide Attorney Discipline rendered its September 24, 2015 report.
- (38) The Senate and Assembly Judiciary Committees held no oversight hearing to review the Commission on Statewide Attorney Discipline’s September 24, 2015 report, is that correct? How about oversight hearings of the court-controlled attorney disciplinary system, at which the public was given notice and opportunity to testify and submit evidence? Do you know when such hearings were held by the Senate and Assembly Judiciary Committees to review the efficacy and fairness of the court-controlled attorney disciplinary that the state is funding – and what findings of fact and conclusions of law were made based thereon?
- (39) How about Senate and Assembly Judiciary Committee oversight hearings of the Commission on Judicial Conduct, at which the public was given notice and the opportunity to testify and submit evidence? Do you know when they were last held – and what findings of fact and conclusions of law were made based thereon? Although the Commission is not funded through the Judiciary budget, it is among the agencies within the Legislature’s “public protection” budgeting. Surely, Chief Judge DiFiore’s “Excellence Initiative” recognizes the Judiciary’s obligation to ensure that the Commission on Judicial Conduct is adequately funded and properly functioning, does it not? What advocacy, if any, has it undertaken, with respect to funding, which in this year’s State Operations Budget Bill #S.1500/A.2000 (at p. 447) is \$5,696,000. And what has it done to advance an independent auditing of the Commission on Judicial Conduct’s handling of judicial misconduct complaints – the necessity of which was recognized nearly 30 years ago, in the 1989 report of the then state Comptroller Edward Regan, entitled Commission on Judicial Conduct – Not Accountable to the Public: Resolving Charges Against Judges is Cloaked in Secrecy, whose press release was equally blunt: “COMMISSION ON JUDICIAL CONDUCT NEEDS OVERSIGHT”.

- (40) Doubtless in the nearly three years since Chief Judge DiFiore announced her “Excellence Initiative”, many members of the public have complained to her about the lawlessness that prevails in the judiciary, resulting from a Commission on Judicial Conduct that is worthless, as well as the worthlessness of entities within the judiciary charged with oversight, including the court-controlled attorney disciplinary system and the Judiciary’s Office of Inspector General. What has she done to verify the situation?
- (41) By the way, the Judiciary’s proposed budget for fiscal year 2019-2020 (at p. 60) seeks \$1,466,580 for the Office of Inspector General, is that correct? Does the Judiciary’s Office of Inspector General render annual reports of its activities to the Office of Court Administration? Will the Judiciary produce these or similar reports as to the number, type, and disposition of complaints received by its Inspector General? Is the Office of Court Administration unaware of evidence of the corruption of its Office of Inspector General, as for instance, its failure and refusal to investigate record tampering in the declaratory judgment action, *CJA v. Cuomo, et al* (Bronx Co. #302951-2012; NY Co. #401988-2012), and the misfeasance and nonfeasance of the New York County Clerk and his staff in connection therewith – whose consequence was to stall the case and prevent prompt determination of the statutory violations, fraud, and unconstitutionality of the Commission on Judicial Compensation’s August 29, 2011 report – which, to date, have yet to be declared.

CENTER for JUDICIAL ACCOUNTABILITY, INC. (CJA)

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

THE LEGISLATURE'S PROPOSED BUDGET FOR FISCAL YEAR 2019-2020 – AND THE GOVERNOR'S LEGISLATIVE/JUDICIARY BUDGET BILL #S.1501/A.2001

As in past years, there was NO legislative budget hearing at which the Temporary Senate President and Assembly Speaker – or anyone on their behalf – testified in support of the Legislature's proposed budget. Not in the "general government" portion of the Legislature's budget hearing on "local government officials/general government", not in the Legislature's budget hearing on "public protection" – where it hears from the Chief Administrative Judge about the Judiciary's proposed budget – and not in any separate budget hearing for the proposed budgets of the Legislature and Judiciary, consistent with their status as separate government branches, empowered by Article VII of the New York State Constitution to construct their own budgets.

Nor do the Legislature's four "color books" furnish ANY analysis of the Legislature's proposed budget. Indeed, as was the case last year, neither the "Blue Book" of the now Senate Majority Democrats, nor the "White Book" of the now Senate Minority Republicans even mention the Legislature's proposed budget. Likewise, the "Yellow Book" of the Democratic Assembly Majority. As for the "Green Book" of the Republican Assembly Minority, the sum total of what it says is as follows:

"Legislature:

\$230.8 million, \$4.6 million more than last year. This represents a 2% increase in spending. It should also be noted that this appropriation retains references to member allowances (Lulus) and appropriates a corresponding amount." (underlining added).

This, however, is not what is purported in the Legislature's proposed budget, as transmitted by Temporary Senate President Flanagan and Assembly Speaker Heastie to Governor Cuomo by a December 1, 2018 coverletter. It states, at the outset of its budget narrative:

"The recommended General Fund appropriation of \$233,445,104 for FY 2019-20 for the Legislature represents an increase of 2% or \$4,577,355 from the amount appropriated in FY 2018-19." (p. 1, underlining added).

\$233,445,104, rounded down, is not the "Green Book" figure of \$230.8 million. And plainly, the disparity between them of \$2,645,000 for the total appropriation request should result in a corresponding disparity in the dollar increase. Yet it does not – the \$4,577,355 identified by the

Legislature's proposed budget, rounded up, is the \$4.6 million represented by the "Green Book".

As for Governor Cuomo's Legislative/Judiciary budget bill for fiscal year 2019-2022, Budget Bill #S.1501/A.2001, it contains no cumulative dollar total for the Legislature's budget. Likewise, none for the Judiciary's budget. Nor does it give a cumulative dollar total for the two budgets which, to better conceal what is going on with each, are combined onto a single budget bill, rather than two separate budget bills, as would befit the Legislature and Judiciary as two separate government branches, not agencies. And, once again, as in prior fiscal years, Governor Cuomo has offered up no "commentary" on the Legislature's budget, as Article VII, §1 empowers him to do.

To assist legislators and the Legislature's "appropriate committees" in discharging their duties to scrutinize the Legislature's own budget – and to furnish New York taxpayers with accurate dollar figures – below are questions to ask former Temporary Senate President John Flanagan, Assembly Speaker Carl Heastie, and Temporary Senate President Andrea Stewart-Cousins about the Legislature's uncertified December 1, 2018 proposed budget – and what it did not include, *inter alia*: (1) the Legislature's general state charges; and (2) the 30 pages of untallied legislative reappropriations that appear in an out-of-sequence section at the back of Governor Cuomo's Legislative/Judiciary Budget Bill #S.1501/A.2001.

As for the unconstitutionality, unlawfulness, and fraud of the Legislature's proposed budget and of the out-of-thin-air untallied legislative reappropriations that have been popped into Legislative/Judiciary Budget Bill #S.1501/A.2001 – repeating what occurred in prior budget cycles – it is laid out by the first and third causes of action of each of plaintiffs' five pleadings in their citizen-taxpayer actions, suing the Temporary Senate President, the Assembly Speaker, and the Senate and Assembly – as well as Governor Cuomo, former Attorney General Schneiderman, and Comptroller DiNapoli – for "grand larceny of the public fisc" and other corruption with respect to the budget, spanning fiscal years 2014-2015, 2015-2016, 2016-2017, 2017-2018.

These five pleadings are all posted on CJA's website, www.judgewatch.org, accessible *via* the prominent homepage link: "CJA's Citizen-Taxpayer Actions to End NYS' Corrupt Budget 'Process' & Unconstitutional 'Three Men in a Room' Governance". Likewise, the record thereon – constituting a "perfect paper trail" from which you can *readily verify* plaintiffs' entitlement to summary judgment on their first and third causes of action of each pleading – and on all their other causes of action, as well. And you can also *verify, readily*, why plaintiffs have not obtained summary judgment, namely, that any semblance of a cognizable judicial process was obliterated by a double-whammy of litigation fraud by the attorney general and of fraudulent judicial decisions by judges of Supreme Court/Albany County and the Appellate Division, Third Department.

* * *

QUESTIONS
FOR FORMER TEMPORARY SENATE PRESIDENT JOHN FLANAGAN,
& ASSEMBLY SPEAKER CARL HEASTIE,
& FOR TEMPORARY SENATE PRESIDENT ANDREA STEWART-COUSINS¹

- (1) Article VII, §1 of the New York State Constitution requires that “itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house” be transmitted to the Governor before December 1st of each year, is that correct?
- (2) By a one-sentence coverletter to Governor Cuomo, dated December 1, 2018, on a letterhead of the “New York State Legislature” and bearing the printed names, titles, and signatures of then Temporary Senate President John Flanagan and Assembly Speaker Carl Heastie, you stated:

“Attached hereto is a copy of the Legislature’s Budget for the 2019-2020 fiscal year pursuant to Article VII, Section 1 of the New York State Constitution.”

In so doing, you did not purport that such attached budget represented “itemized estimates of the financial needs of the legislature”, right? Nor did you purport to have certified it, right?

- (3) Your attached budget consisted of a 4-1/4 page budget narrative, with a fifth page of “Budget Highlights – Joint Entities”, plus a sixth page chart entitled “All Funds Requirements for the Legislature”, followed by an eleven-page “Schedule of Appropriations”. These 17 pages neither included a certification, nor referred to “itemized estimates” of the Legislature’s “financial needs”, nor to Article VII, §1, right?
- (4) Would you agree that you did not furnish Governor Cuomo with “itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house” – and that you did not purport to be doing so?
- (5) Doesn’t the failure of your December 1, 2018 coverletter to even claim to be furnishing the Governor with “itemized estimates of the financial needs of the legislature” reflect your knowledge that your transmitted budget was not “itemized estimates of the financial needs of the legislature”. Isn’t that why you did not certify it?
- (6) The budget you transmitted to Governor Cuomo contained no “General State Charges” for the Legislature, *to wit*, the “fringe benefits” that are pension contributions, social security, health, dental, vision and life insurance, etc. for legislators and legislative branch employees, is that correct?

¹ The Legislature’s proposed budget, Legislative/Judiciary Budget Bill #S.1501/A.2001, and all referred-to documents are posted on CJA’s website, www.judgewidth.org, accessible *via* the prominent homepage link: “2019 Legislative Session”.

- (7) Where are the Legislature's "General State Charges"? How much are they and did you certify them to be "itemized estimates" of the Legislature's "financial needs" with respect to its "General State Charges"?
- (8) The figures in the chart of "All Funds Requirements for the Legislature" are identical to those in the charts of "All Funds Requirements for the Legislature" from the past six years – except that two years ago the Legislative budget contained an essentially across-the-board 3% increase and last year's contained an essentially across-the-board 2% increase, with a further essentially across-the-board 2% increase this year. Is that correct?
- (9) Can you explain how any cognizable "process" of ascertaining the Legislature's actual "financial needs" could have produced so many years of identical budgets and such a neat 3% increase, followed by neat 2% increases?
- (10) Do you agree that Article VII, §1 of the New York State Constitution does not vest you with the power to determine the "itemized estimates of the financial needs of the legislature", but only to certify same?
- (11) Do you agree that the logical reason why Article VII, §1 requires that the Judiciary's "certified" "itemized estimates" of its "financial needs" be transmitted to "the appropriate committees of the legislature" – in addition to the Governor – but does not require that the Legislature's "certified" "itemized estimates" of its "financial needs" be transmitted to "the appropriate committees of the legislature" is because "the appropriate committees of the legislature are presumed to have formulated the "itemized estimates" that the "presiding officer of each house" have "certified"?"
- (12) Do you agree that the Senate Committee on Investigations and Government Operations and Assembly Committee on Governmental Operations would be the "appropriate committees" of the Legislature to formulate the Legislature's budget?
- (13) Describe the "process", if any, by which the Legislature's budget for fiscal year 2019-2020 was compiled.
- (14) Wouldn't the process of compiling "itemized estimates of the legislature's financial needs" require soliciting the Legislature's 213 members and the 34 Senate standing committees and 37 Assembly standing committees as to their "financial needs"?
- (15) Were legislators and the standing committees solicited as to their "itemized estimates" of their "financial needs" for the fiscal year 2019-2020 Legislative budget?
- (16) Would you agree that more than half of the eleven-page "Schedule of Appropriations" (pp. 11-17) is devoted to less than 10% of the budget?

- (17) Would you agree that the five pages devoted to “Senate and Assembly Joint Entities” (pp. 11-15):
- (a) omits most of the joint entities that the Legislature is required to establish and fund pursuant to Legislative Law, Article 5-A (§§82, 83) – and, among these, the Legislative Commission on Government Administration and the Legislative Commission on State-Local Relations;
 - (b) omits the Administrative Regulations Review Commission, required to be established and funded pursuant to Legislative Law, Article 5-B (§§86-88).
- (18) Would you agree that most of the 90% balance of the “Schedule of Appropriations” for fiscal year 2019-2020 (pp. 7-10) relates to member offices, legislative standing committees, and central staff?
- (19) Would you agree that this 90% of the budget relating to member offices, legislative standing committees, and central staff (pp. 7-10) lacks itemization sufficient for intelligent and meaningful review?
- (a) why are appropriations for member offices combined with appropriations for legislative committees? (pp. 7, 9) Doesn’t this make it impossible to know total appropriations for member offices and total appropriations for legislative standing committees, let alone to evaluate appropriation levels of individual member offices and individual legislative standing committees?;
 - (b) why is the Assembly Ways and Means Committee the only legislative standing committee whose funding is identified (p. 10)? What about the funding of the Senate Finance Committee? How about the funding of the other 36 Assembly standing committees and the other 33 Senate standing committees?;
 - (c) what is the funding for the 213 legislators’ offices, cumulatively and individually?;
 - (d) what is the funding for the 71 standing committees, cumulatively and individually?;
 - (e) What do “senate operations” and “[assembly] administrative and program support operations” (pp. 8, 9) consist of?
- (20) The budget that your December 1, 2018 coverletter transmitted to Governor Cuomo contained no legislative reappropriations, correct?
- (21) Do you agree that when Governor Cuomo combined the Legislature’s budget with the Judiciary’s budget in his Budget Bill #S.1501/A.2001, he was able to conceal 30 pages of

legislative reappropriations (pp. 27-56) that were not part of your December 1, 2018 transmittal to him?

- (22) Do you agree that these 30 pages of legislative reappropriations are – as reflected by the end-page Table of Contents for Legislative/Judiciary Budget Bill #S.1501/A.2001 (p. 57) – in an out-of-sequence section at the back of the bill? And shouldn't the first page of these 30 pages (p. 27) be prominently marked "Reappropriations", just as the first page of the Judiciary's "Reappropriations" is (p.23)?
- (23) Can you explain where the 30 pages of legislative reappropriations (pp. 27-56) came from?
- (a) When and in what fashion were they transmitted to Governor Cuomo?;
 - (b) Did you certify the dollar amounts of these legislative reappropriations and, additionally, that they were suitable for designation as reappropriations?;
 - (c) Are they?;
 - (d) What is the cumulative total of these 30 pages of legislative reappropriations?
- (24) Do you expect that these legislative reappropriations will be changed? What will be the basis? By what process? Will these changed reappropriations be certified? By whom?
- (25) Governor Cuomo's Legislative/Judiciary Budget Bill #S.1501/A.2001 contains no cumulative tally for its monetary allocations for the Legislature, is that correct? What is the dollar amount? Is it the addition of appropriations in its §1 (pp. 1-9) and reappropriations in its §4 (pp. 27-56)?
- (26) As Governor Cuomo's Legislative/Judiciary Budget Bill #S.1501/A.2001 identifies no appropriations of "General State Charges" for the Legislature – in contrast to the appropriations it identifies for the Judiciary's "General State Charges" (pp. 21-22) – where can they be found, what is their total, and what is their dollar and percentage increase over fiscal year 2018-2019?
- (27) Can you explain why your budget narrative, transmitted by your December 1, 2018 letter, identically to your budget narrative, transmitted by your December 1, 2017 letter, significantly changes the text under the heading "FISCAL COMMITTEES" (at p. 3) that in prior years had read:

“...the Chairmen and ranking Minority Members of the Senate Finance Committee and the Assembly Ways and Means Committee function as an Audit Committee, with the responsibility to select an independent certified accountant to conduct an audit of the state's annual financial statements,

receive the results of such independent audit, and submit the resulting audit certification to the State Comptroller for the State's Comprehensive Annual Financial Report."

to the following:

"...the Chairmen and ranking Minority Members of the Senate Finance Committee and the Assembly Ways and Means Committee function as an Audit Committee, in order receive (sic) the results of each independent audit of the state's annual financial statement required pursuant to section eight of the State Finance Law."

In other words, why does it remove the language that had identified the responsibility of the chairs and ranking members of the Senate and Assembly fiscal committees to:

- (a) "select an independent certified accountant to conduct an audit of the state's annual financial statements"; and
- (b) "submit the resulting audit certification to the State Comptroller for the State's Comprehensive Annual Financial Report."