

**From:** FOIL <FOIL@nycourts.gov>  
**Sent:** Tuesday, December 10, 2024 11:53 AM  
**To:** FOIL; Center for Judicial Accountability, Inc. (CJA)  
**Subject:** **RE: 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)**

**Attachments:** [2024-AnnualOrder-3rdJD.pdf](#);  
[Payroll.pdf](#);  
[UndecidedMattersAudit Q2 2024.pdf](#);  
[AO-370-2023.pdf](#);  
[1985-0439 \(2\).pdf](#);  
[Instructions.pdf](#);  
[Reports - New Item.pdf](#)

This e-mail responds to your correspondence dated 9/10/2024 which pursuant to FOIL, requested:

- (1) the 2024 Judicial Assignment Book for the 3<sup>rd</sup> 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)”.

Attached please find records responsive to your request for:

- (1) the 2024 Judicial Assignment Book for the 3<sup>rd</sup> Judicial District: **2024-AnnualOrder-3rdJD.pdf**
- (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”](#). **AO-370-2023.pdf**
- (4) records reflecting that Judge Sober’s salary: **Payroll.pdf**
- (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)”: **Instruction.pdf and Reports - New Item.pdf**

Regarding request number 2, please be advised that the request is overly broad and does not reasonably describe records in a manner consistent with record-keeping practices for purposes of locating and identifying responsive records. *See* Public Officers Law § 89(3); [Matter of Konigsberg v. Coughlin](#), 68 N.Y.2d 245, 249 (1986); [Matter of Farbman & Sons v. NYC Health & Hospitals Corp.](#), 62 N.Y.2d 75, 82-83 (1984); [Matter of Pflaum v. Grattan](#), 116 A.D.3d 1103, 1104 (3<sup>rd</sup> Dept. 2014); [Matter of Irwin v. Onondaga Resource Recovery Agency](#), 72 A.D.3d 314, 318 (4<sup>th</sup> Dept. 2010); [Matter of Lebron v. Smith](#), 40 A.D.3d 515 (1<sup>st</sup> Dept. 2007). Similarly, the request is not reasonably described where it would require an unreasonable effort to interpret and attempt to locate responsive records that might be implicated by the request. The broad scope of your request does not sufficiently identify the types of records sought to enable the Office of Court Administration to facilitate a search and locate responsive records. This denial is without prejudice to submit a new request that reasonably describes the records sought.

Regarding request number 5, records of the “approval of the Deputy Chief Administrative Judge (DCAJ) 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](#)); the Chief Administrative Judge designed the temporary assignments of justices and judges to the Administrative Judge of each District pursuant to Administrative Order 439/85 (see attached **1985-0439 (2).pdf**). Therefore, the record requested is a record the Judiciary which are not subject to FOIL (See Public Officers Law § 86(1)).

Regarding request number 6, the portion of the request “...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...”” Your request is denied pursuant to Public Officers Law § 89(3) which requires a request for records to be “reasonably described.” Whether a request is reasonably described may be dependent upon the nature of an agency’s filing or record keeping system and agency employees are not required to engage in herculean or unreasonable efforts to locate records (see [Konigsberg v. Coughlin](#), 68 N.Y.2d 245 (N.Y. 1986) and the NYS Committee on Open Government’s FOIL Advisory Opinions 18949 and 18863).

Your request seeks records *without reference to a specific time period*, it does not “reasonably describe” the records requested. See Public Officers Law § 89(3)(a). The Committee on Open Government has explained that “a request for ‘all’ records, without limitation, that include a certain name, for example, might not be found to reasonably describe the records.” (COOG AO- 18863 (Aug. 20, 2012)). The broad scope of your request does not sufficiently identify the types of records sought to enable the Office of Court Administration to facilitate a search and locate responsive records. This denial is without prejudice to submit a new request that reasonably describes the records sought, specifically please include named custodians to be searched.

Regarding request number 6, attached please find a record for the portion of the request for:

“...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” – **UndecidedMattersAudit Q2 2024.pdf**

Regarding request number 7, records that respond to your request are exempt from disclosure because they constitute “inter-agency or intra-agency materials” which are not: statistical or factual tabulations or data; instructions to staff that affect the public; final agency policy or determinations; or external audits. Public Officers Law § 87(2)(g).

Regarding request number 8, all requested records are records of the Judiciary; which are not subject to FOIL (See Public Officers Law § 86(1)).

Pursuant to Public Officers Law § 89(4)(a), you have thirty (30) days to take a written appeal of this determination. You may appeal by writing:

Michael Siudzinski, Assistant Deputy Counsel

FOIL Appeals Officer

25 Beaver Street, 10th Floor

New York, NY 10004

Or you may submit such appeal by email to: [FOILappeal@nycourts.gov](mailto:FOILappeal@nycourts.gov)

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**From:** FOIL <[FOIL@nycourts.gov](mailto:FOIL@nycourts.gov)>

**Sent:** Monday, September 16, 2024 9:42 AM

**To:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>; FOIL <[FOIL@nycourts.gov](mailto:FOIL@nycourts.gov)>

**Cc:** 3rd JD Administration <[3rdjdadministration@nycourts.gov](mailto:3rdjdadministration@nycourts.gov)>; Amy Serson <[aserson@nycourts.gov](mailto:aserson@nycourts.gov)>

**Subject: RE: 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)**

The Office of Court Administration acknowledges receipt of your FOIL request dated 9/10/2024, seeking:

- (1) the 2024 Judicial Assignment Book for the 3<sup>rd</sup> 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”;
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- (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)”.

We have begun to process your request and we will provide you with a status update on or before October 15, 2024.

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**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>

**Sent:** Tuesday, September 10, 2024 12:28 PM

**To:** FOIL <[FOIL@nycourts.gov](mailto:FOIL@nycourts.gov)>

**Cc:** 3rd JD Administration <[3rdjdadministration@nycourts.gov](mailto:3rdjdadministration@nycourts.gov)>; Amy Serson <[aserson@nycourts.gov](mailto: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 3<sup>rd</sup> Judicial District of the criminal term of the Rensselaer County Court;
- [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 3<sup>rd</sup> 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.
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[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”;
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- (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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[www.judgewatch.org](http://www.judgewatch.org)  
914-421-1200  
[elena@judgewatch.org](mailto:elena@judgewatch.org)