

# CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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October 24, 2024

TO: Appellate Division, First Department Attorney Grievance Committee  
Appellate Division, Third Department Attorney Grievance Committee

FROM: Elena Ruth Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)

RE: Conflict of interest/misconduct complaint against New York State Attorney General Letitia James and attorneys acting in her name for corrupting the appellate process at the Appellate Division, Third Department in [CJA v. Joint Commission on Public Ethics, et al. \(3<sup>rd</sup> Dept: CV-23-0115\)](#), in which she is a respondent/defendant, sued for corruption and as a beneficiary of corrupt “public protection” entities.

## **THE COMPLAINT**

New York’s attorney grievance committees are charged with protecting the public from attorneys who violate [New York’s Rules of Professional Conduct \(22 NYCRR Part 1200\)](#). No attorney’s violation of those Rules is of greater consequence to the People of the State of New York—and to the integrity of state governance – than violations by their highest legal officer, the New York State Attorney General.

This conflict-of-interest/misconduct complaint is against New York State Attorney General Letitia James and attorneys under her supervision and acting in her name – Solicitor General Barbara Underwood, Deputy Solicitor General Andrea Oser, and Assistant Solicitor General Beezly Kiernan – for their knowing and deliberate violation of New York’s Rules of Professional Conduct, *inter alia*:

Rule 1.7: “Conflict of Interests: Current Clients”;  
Rule 3.1: “Non-Meritorious Claims and Contentions”;  
Rule 3.3: “Conduct Before a Tribunal”;  
Rule 8.4: “Misconduct”;  
Rule 5.1: “Responsibilities of Law Firms, Partners, Managers and Supervisory Lawyers”;  
Rule 5.2: “Responsibilities of a Subordinate Lawyer”;  
Rule 8.3: “Reporting Professional Misconduct”.

Their violations spanned and permeated every aspect of their defense against the appeal in [CJA v. Joint Commission on Public Ethics, et al., \(CV-23-0115\)](#) in which – in the absence of ANY legitimate defense – they corrupted the appellate process at the Appellate Division, Third Department with litigation fraud – and were rewarded by fraudulent judicial decisions.

This is readily-verifiable from [Appellate Docket #CV-23-0115](#) and the [VIDEO of the April 22, 2024 oral argument](#). These are unimpeachable “witnesses”, fully substantiating this complaint against AG James, a named respondent/defendant sued, with nine other respondents/defendants, for corruption of constitutional state governance involving the state budget and the judicial pay raises it embeds – the subject of complaints to the first three respondents/defendants: the Joint Commission on Public Ethics (JCOPE), the Legislative Ethics (LEC), and the State Inspector General.

As established by the docket, CJA filed its Appellants’ Brief ([NYSCEF #9](#)) and three-volume record on appeal on August 15, 2023 – following which, on letterhead bearing AG James’ name and Solicitor General Underwood’s name, ASG Kiernan made two letter requests for two 30-day extensions for the filing of Respondents’ Brief ([NYSCEF #10](#), [NYSCEF #11](#)). On November 15, 2023, he signed and filed the Respondents’ Brief ([NYSCEF #12](#)) as “of counsel” to AG James. The cover and signature page bore Deputy Solicitor General Oser’s name, along with his.

This Respondents’ Brief was a “fraud on the court”, from beginning to end – and the facts pertaining thereto and to ASG Kiernan’s 30-second April 22, 2024 oral argument based on the Respondents’ Brief are particularized by CJA’s fully-documented motions addressed thereto, each denied by the Appellate Division, without decision, facts, or law.

These fully-documented motions, as to which CJA’s reply affidavits/affirmations furnished the Appellate Division with the “state of the record” on each, are:

### **MOTION #1**

**CJA’s November 25, 2023 motion ([NYSCEF #13](#))**, whose first five branches were for an order:

- “1. striking the ‘Brief for Respondents’, signed by Assistant Solicitor General Beezley J. Kiernan, on behalf of Attorney General James, and bearing the name of Deputy Solicitor General Andrea Oser, as a ‘fraud on the court’;
2. pursuant to 22 NYCRR §130-1.1 et seq., imposing maximum costs and sanctions against Assistant Solicitor General Kiernan, Attorney General James, and such other supervisory/managerial attorneys as Deputy Solicitor General Oser and Solicitor General Barbara Underwood based on their frivolous and fraudulent ‘Brief for Respondents’;

3. pursuant to Judiciary Law §487(1), making such determination as would afford appellants treble damages against Assistant Solicitor General Kiernan, Attorney General James, and such other supervisory/managerial attorneys as Deputy Solicitor General Oser and Solicitor General Underwood in a civil action based on their frivolous and fraudulent ‘Brief for Respondents’;
4. pursuant to 22 NYCRR §100.3D(2), referring Assistant Solicitor General Kiernan, Attorney General James, and such other supervisory/managerial attorneys as Deputy Solicitor General Oser and Solicitor General Underwood to:
  - (a) appropriate disciplinary authorities for their knowing and deliberate violations of New York’s Rules of Professional Conduct for Attorneys and, specifically, Rule 3.1 ‘Non-Meritorious Claims and Contentions’; Rule 3.3 ‘Conduct Before A Tribunal’; Rule 8.4 ‘Misconduct’; Rule 5.1 ‘Responsibilities of Law Firms, Partners, Managers and Supervisory Lawyers’; and Rule 5.2 ‘Responsibilities of a Subordinate Lawyer’;
  - (b) appropriate criminal authorities for their knowing and deliberate violations of penal laws, including, Penal Law §496 ‘corrupting the government’; Penal Law §195 ‘official misconduct’; Penal Law §175.35 ‘offering a false instrument for filing in the first degree’; Penal Law §195.20 ‘defrauding the government’; Penal Law §190.65: ‘scheme to defraud in the first degree’; Penal Law §155.42 ‘grand larceny in the first degree’; Penal Law §105.15 ‘conspiracy in the second degree’; Penal Law §20 ‘criminal liability for conduct of another’;
5. pursuant to Executive Law §63.1, determining Attorney General James’ appellate representation of Respondents to be unlawful, there being not even a claim that it is based on a determination of ‘the interest of the state’, with a further determination, pursuant to both Executive Law §63.1 and State Finance Law Article 7-A, that Appellants are entitled to the Attorney General’s representation, *via independent counsel*” (bold added);

CJA’s December 13, 2023 reply affidavit ([NYSCEF #19](#)) particularized the “state of the record” on the motion, demonstrating that ASG Kiernan’s opposition was further “fraud on the court”. This was not contested by the Appellate Division’s December 28, 2023 Decision and Order on Motion, denying the motion without decision, facts, or law. ([NYSCEF #22](#)).

**MOTION #2**

**CJA's May 1, 2024 motion** ([NYSCEF #41](#)), whose second branch was;

“2. for the findings of fact and conclusions of law that were the Court's duty to have made with respect to appellants' November 25, 2023 motion to strike Attorney General James' Respondents' Brief, signed by Assistant Solicitor General Beezley Kiernan, as a 'fraud on the court', and, based thereon, to hold him in contempt of court for his April 22, 2024 oral argument and to grant the motion's further branches pertaining to him and the Attorney General ([NYSCEF #13](#))”.

CJA's May 27, 2024 reply affirmation ([NYSCEF #49](#)) particularized the “state of the record” on the motion and that ASG Kiernan's opposition was further “fraud on the court”. This was not contested by the Appellate Division's June 3, 2024 Decision and Order on Motion, which denied the motion without decision, facts, or law ([NYSCEF #50](#)).

**MOTION #3**

**CJA's July 4, 2024 motion** whose fourth branch was for an order:

“4. pursuant to CPLR §5015(a)(3), making the determination necessary for a jurisdictionally-empowered tribunal to vacate the June 20, 2024 Memorandum and Order for 'fraud, misrepresentation, or other misconduct of an adverse party' – this being Respondent Attorney General Letitia James, representing herself and her fellow respondents, and here appearing by her 'of counsel' Assistant Solicitor General Beezly Kiernan”.

CJA's July 28, 2024 reply affirmation in further support of the motion ([NYSCEF #58](#)) particularized the “state of the record” on the motion and that ASG Kiernan's opposition was further “fraud on the court” mandating:

- (a) “‘appropriate action' against ASG Kiernan, Attorney General Letitia James, Solicitor General Barbara Underwood, and all other persons complicit in his perjurious opposing affirmation, by referring them to this Court's attorney grievance committee and the Albany County district attorney pursuant to [§100.3D\(2\) of the Chief Administrator's Rules Governing Judicial Conduct](#);
- (b) imposition of maximum \$10,000 sanctions and costs against them pursuant to [§130.1-1 et seq. of the Chief Administrator's Rules](#);
- (c) making such determination as would afford appellants treble damages in a civil action pursuant to [Judiciary Law §487\(1\)](#)”.

The Appellate Division's October 10, 2024 Decision and Order on Motion did not contest this, denying the motion without decision, facts, or law ([NYSCEF #62](#)).

### **THE "THROWN" APPEAL**

Substantiating CJA's above final July 4, 2024 motion ([NYSCEF #52](#)), whose second branches was for leave to appeal to the Court of Appeals, was its Exhibit A ([NYSCEF #54](#)) "legal autopsy"/analysis of the Appellate Division's June 20, 2024 Memorandum and Order ([NYSCEF #51](#)), "throwing" the appeal by adopting the frauds of the Respondents' Brief, regurgitated by AAG Kiernan's oral argument, and concocting its own. The "legal autopsy"/analysis is a "roadmap" of the record that was before the Appellate Division, encompassing, as well, the record of CJA's January 18, 2024 motion for the appeal to be heard together with AG James' appeal in *Cuomo v. Commission on Ethics and Lobbying in Government* ([CV-23-1778](#)) and to prevent fraud ([NYSCEF #28](#)) – a motion CJA made in both appeals and that AG James did not oppose

On October 21, 2024, CJA filed a notice of appeal to the Court of Appeals ([Albany S.Ct/NYSCEF #134](#)) for an appeal of right pursuant to [Article VI, §3\(b\)\(1\) of the New York State Constitution](#) and [CPLR §5601\(b\)\(1\)](#).

Although your rules do not require complainants to swear to the truth of their attorney misconduct complaints, I eagerly do so – using the attestation that Albany County District Attorney P. David Soares had used on the complaint form of his so-called "Public Integrity Unit":

"I understand that any false statements made in this complaint are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law."

Thank you.

The foregoing complaint, with substantiating hyperlinks,  
is affirmed as true under penalties of perjury, pursuant to CPLR §2106.

*signed on next page, to preserve live hyperlinks*

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ELENA RUTH SASSOWER

The foregoing complaint, with substantiating hyperlinks,  
is affirmed as true under penalties of perjury, pursuant to CPLR §2106.



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ELENA RUTH SASSOWER

October 24, 2024  
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