

## Center for Judicial Accountability, Inc. (CJA)

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**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Wednesday, November 2, 2016 11:18 AM  
**To:** 'John O'Brien'  
**Cc:** 'william.gabor@madisoncounty.ny.gov'; 'msuben@cortland-co.org'; 'jeri@perfettilaw.com'  
**Subject:** The corruption-busting electoral significance of CJA's Oct 14, 2016 conflict-of-interest/misconduct complaint to the D.A. races in Madison & Cortland Counties

**TO: John O'Brien/Syracuse Post-Standard**

This follows our below e-mail exchange about CJA's October 14, 2016 conflict-of-interest/misconduct complaint against ALL New York's district attorneys – and our subsequent phone conversation in which I highlighted to you its electoral significance.

As discussed, in Madison County, District Attorney William Gabor is running, unopposed, for re-election. In Cortland County, District Attorney Mark Suben is running for re-election, opposed by Patrick Perfetti. Both candidates were e-mailed the complaint on October 14, 2016 – and the e-mail transmittal to them is posted on CJA's webpage for the complaint: <http://www.judgewatch.org/web-pages/searching-nys/budget/budget-2016-17/10-14-16-complaint-vs-soares-etc.htm>.

The October 14, 2016 complaint sets forth the pertinent facts. In brief, since 2012, virtually all district attorney salaries have been jacked up by approximately \$60,000 a year. This, based on the August 29, 2011 report of the Commission on Judicial Compensation and the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation – each “false instruments”, violative of multiple provisions of the penal law that the D.A.s are charged with enforcing, including the vaunted “Public Trust Act”. Not only were D.A.s Gabor and Suben put on notice of this months ago, they were each furnished with the substantiating EVIDENCE and called upon to do their duty to the hard-working taxpayers of their counties by repudiating the salary increases and advising their county governments to take appropriate steps to void the commission reports.

Madison and Cortland County voters are entitled to know – BEFORE THEY VOTE -- what these two incumbent D.A.s did upon getting CJA's notice to them – Exhibits E & F to the October 14, 2016 complaint. Where are their findings of fact and conclusions of law with respect to the EVIDENCE furnished by such notice? And what are their responses to the October 14, 2016 conflict-of-interest/misconduct complaint against them – including their answer as to the question on page 8: “What are your procedures for handling public corruption complaints, filed with your district attorney offices, where you have financial and other conflicts of interest?”

As for would-be Cortland County D.A. Perfetti, my recollection is that I called his law office on or about October 14, 2016 and had a lengthy phone conversation with his associate, attorney Fawn, about the conflict-of-interest/misconduct complaint and its location on CJA's website. He certainly is well able to review the complaint now and to comment upon it. What salary would he expect to be paid should Cortland County voters elect him as district attorney. As a lawyer, he is perfectly capable of making findings of fact and conclusions of law with respect to the SAME EVIDENCE as was before Cortland County D.A. Suben. Based thereon, will candidate Perfetti disavow the fraudulent, statutorily-violative, and unconstitutional \$60,000 salary increases of which he would otherwise benefit and advise Cortland County government to take appropriate steps to void them? And, if elected, what would his procedures be for handling public corruption complaints, filed with his district attorney office, where he has financial and other conflicts of interest?

Page 7 of the October 14, 2016 complaint identifies CJA's pending citizen-taxpayer action, whose 6<sup>th</sup>, 7<sup>th</sup>, and 8<sup>th</sup> causes of action are to void the two commission reports on which the D.A. salary increases are based:

<http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/menu-2nd-citizen-taxpayer-action.htm>. Have D.A. incumbents Gabor and Suben reviewed it? – and do they deny or dispute that plaintiffs are entitled to SUMMARY JUDGMENT, *as a matter of law*. If so, they must furnish their findings of fact and conclusions of law with respect to the posted record. What is D.A. candidate Perfetti's assessment of it?

**Any district attorney candidate who will not respond to the above straight-forward questions pertaining to conflicts-of-interest – and who will not furnish findings of fact and conclusions of law with respect to the EVIDENCE presented by CJA's October 14, 2016 conflict-of-interest/misconduct complaint and pending citizen-taxpayer action-- must be deemed UNFIT for so important a public office – or any other. To expedite their responses, I am sending this e-mail to incumbent district attorneys Gabor and Suben, and to would-be District Attorney Perfetti , simultaneously with my sending it to you.**

I am available to assist you to the max and will happily answer all questions. The ramifications of the October 14, 2016 complaint extends to all 12 of New York State's other district attorney races, on local county government races, on all 213 state senate and assembly seats – and on the charade that has been playing out with respect to the Commission on Legislative, Judicial and Executive Compensation and its upcoming report on legislative and executive compensation, due to be rendered AFTER the November 8, 2016 elections.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
914-421-1200  
[www.judgewatch.org](http://www.judgewatch.org)

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**From:** Center for Judicial Accountability, Inc. (CJA) [<mailto:elena@judgewatch.org>]  
**Sent:** Wednesday, November 2, 2016 9:28 AM  
**To:** 'John O'Brien' <[jobrien@Syracuse.com](mailto:jobrien@Syracuse.com)>  
**Cc:** 'gtkelder@law.syr.edu' <[gtkelder@law.syr.edu](mailto:gtkelder@law.syr.edu)>; 'Jeffrey Deskovic' <[j.deskovic@hotmail.com](mailto:j.deskovic@hotmail.com)>; 'jeffreydeskovicfoundation@gmail.com' <[jeffreydeskovicfoundation@gmail.com](mailto:jeffreydeskovicfoundation@gmail.com)>

**Subject: Great! -- RE: Follow-up to your article: "Ex-prosecutor: Cayuga County DA secretly withheld key evidence in 15 cases" (Syracuse Post-Standard/Syracuse.com: Oct. 31, 2016)**

But there is more, much more to the story than that – including whether a commission on prosecutorial conduct should be modelled on the Commission on Judicial Conduct, which is what the DeFrancisco-Perry bills do. See my October 5, 2016 e-mail to Assemblyman Perry's legislative director – referenced at footnote 1 to the October 14, 2016 complaint – and posted on the webpage for the complaint: <http://www.judgewatch.org/web-pages/searching-nys/budget/budget-2016-17/10-14-16-complaint-vs-soares-etc.htm>.

Thank you.

Elena Sassower, Director  
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914-421-1200

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**From:** John O'Brien [<mailto:jobrien@Syracuse.com>]  
**Sent:** Wednesday, November 2, 2016 9:17 AM  
**To:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>

**Subject: RE: Follow-up to your article: "Ex-prosecutor: Cayuga County DA secretly withheld key evidence in 15 cases" (Syracuse Post-Standard/Syracuse.com: Oct. 31, 2016)**

Thanks for writing. I plan to interview Sen. DeFrancisco about this case and how it might affect the push to establish a prosecutorial misconduct committee.

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

**Sent:** 11/2/2016 9:04 AM

**To:** John O'Brien <[jobrien@syracuse.com](mailto:jobrien@syracuse.com)>

**Cc:** [gtkelder@law.syr.edu](mailto:gtkelder@law.syr.edu); 'Jeffrey Deskovic' <[j.deskovic@hotmail.com](mailto:j.deskovic@hotmail.com)>; [jeffreyledskovicfoundation@gmail.com](mailto:jeffreyledskovicfoundation@gmail.com)

**Subject: Follow-up to your article: "Ex-prosecutor: Cayuga County DA secretly withheld key evidence in 15 cases" (Syracuse Post-Standard/Syracuse.com: Oct. 31, 2016)**

Dear Mr. O'Brien

RE: *"Ex-prosecutor: Cayuga County DA secretly withheld key evidence in 15 cases"* (Syracuse Post-Standard – Syracuse.com: October 31, 2016):

[http://www.syracuse.com/crime/index.ssf/2016/10/ex-prosecutor\\_cayuga\\_county\\_da\\_secretly\\_withholds\\_key\\_evidence\\_from\\_drug\\_defenda.html#incart\\_most-read\\_news\\_article](http://www.syracuse.com/crime/index.ssf/2016/10/ex-prosecutor_cayuga_county_da_secretly_withholds_key_evidence_from_drug_defenda.html#incart_most-read_news_article)

Your important article states:

"Domachowski filed complaints about Budelmann's practices with the state Attorney General's Office and the Grievance Committee for the Fourth Judicial Department, which investigates allegations of lawyer misconduct."

When were these misconduct complaints filed? And what is their status?

How the Fourth Department attorney disciplinary committee is handling Domachowski's complaint against Cayuga County District Attorney Budelmann is relevant to the question as to whether there should be a commission on prosecutorial conduct. Senator DeFrancisco introduced a Senate bill to establish such a commission – and held a public forum at the Capitol in Albany on June 8, 2016, together with Assemblyman N. Nick Perry, who sponsored an identical Assembly bill. This was opposed by the District Attorneys Association of the State of New York (DAASNY) – whose now president Oneida County District Attorney McNamara testified in opposition, along with other district attorneys and high-level D.A. staff. Among their claims was that the attorney disciplinary committees are adequate enforcers of ethical standards for district attorneys.

This proposition is expressly being tested by another misconduct complaint against D.A. Budelmann – and against ALL New York State's other district attorneys, including the 10 district attorney members, past and present, of the D.A.-stacked Commission to Investigate Public Corruption (Onondaga County D.A. Fitzpatrick among them) – filed with all eight of this state's attorney disciplinary committees. Dated October 14, 2016, the complaint is from our non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA), and pertains to all these district attorneys' willful and deliberate violation of conflict-of-interest rules and mandatory reporting obligations with respect to high-level governmental corruption involving their own district attorney salaries.

The October 14, 2016 misconduct complaint, together with the video of the June 8, 2016 public forum on the bills to establish a commission on prosecutorial conduct, are posted on CJA's website, [www.judgewatch.org](http://www.judgewatch.org), accessible *via* the prominent homepage link: "NO PAY RAISES FOR NEW YORK'S CORRUPT PUBLIC OFFICERS: The Money Belongs to their

Victims!” (see #14 on menu page). For your convenience, here’s the link directly: <http://www.judgewatch.org/web-pages/searching-nys/budget/budget-2016-17/10-14-16-complaint-vs-soares-etc.htm>.

I am available to answer your questions – and to be interviewed -- about this politically-explosive misconduct complaint against D.A. Budelmann and his fellow district attorneys and about the efficacy of the attorney disciplinary committees.

Thank you.

Elena Sassower, Director  
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