

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Thursday, February 2, 2017 4:34 PM
To: 'goodella@nyassembly.gov'; 'assembly150@gmail.com'
Cc: 'friendc@nyassembly.gov'; 'estys@nyassembly.gov'; 'PeopleC@nyassembly.gov'; 'haltonl@nyassembly.gov'; 'johnsm@nyassembly.gov'; 'BuchwaldD@nyassembly.gov'; 'roithmayra@nyassembly.gov'
Subject: Request for IMMEDIATE action by Assemblyman Goodell germane to his membership on the Assembly Committee on Gov't Operations & Assembly Judiciary Committee -- & essential to the Chautauqua County budget
Attachments: 4-1-15-assembly-floor-colloquy.pdf

TO: Elisabeth Rankin, Chief of Staff to Assemblyman Andy Goodell

Thank you for speaking with me at length earlier this afternoon. Below is the January 20th e-mail I sent to Assemblyman Goodell for the reasons it particularizes and that I discussed with you. I received no response.

Assemblyman Goodell is not only a lawyer-member of the Assembly Committee on Government Operations, but of the Assembly Judiciary Committee. As such – and because of the leadership he already showed on the floor of the Assembly in the wee morning hours of April 1, 2015 by his amazing colloquy with Way & Means Committee Chairman Farrell concerning the unconstitutionality of the provision in the budget for fiscal year 2015-2016 establishing the Commission on Legislative, Judicial and Executive Compensation – and the subsequent bill he sponsored to amend the Commission statute, with its UNPRECEDENTED sponsor's memo – I request that Assemblyman Goodell assist his fellow members of both Committees – and such other legislators as Assemblyman Christopher Friend, who greatly respect his legal and constitutional knowledge -- by confirming for them that the state of the record in the Center for Judicial Accountability's citizen-taxpayer action, commenced by a September 2, 2016 verified complaint, is one of SUMMARY JUDGMENT for the plaintiffs on ALL ten of its causes of action – including, of course, the sixth cause of action which quotes from his sponsor's memo, in challenging the constitutionality of the 2015 budget statute establishing the Commission on Legislative, Judicial, and Executive Compensation.

As the significance of the citizen-taxpayer action was focal to my testimony at the Legislature's January 30th budget hearing on "Local Government Officials/General Government" and at its January 31st budget hearing on "Public Protection", I ask that Assemblyman Goodell view the VIDEOS of my testimony on those successive dates. They are conveniently posted on CJA's website, www.judgewatch.org, accessible *via* the prominent homepage link entitled "2017 Legislative Session". Here, directly, is the webpage, which, additionally posts the evidentiary proof to which I referred when I testified: <http://www.judgewatch.org/web-pages/searching-nys/2017-legislature/new-year.htm>.

Assemblyman Friend, who is ranking member of the Assembly Committee on Local Governments, was present when I testified on January 30th. He would doubtless appreciate – and greatly benefit from -- Assemblyman Goodell's expert evaluation of the constitutional and legal issues presented by the verified complaint's tenth cause of action pertaining to state reimbursement to the counties for district attorney salaries contained in the Aid to Localities budget bill, about which I testified at length. Then, too, district attorney salary reimbursement and the Aid to Localities budget bill directly concerns Chautauqua County, which Assemblyman Goodell represents. Last year, as a result of the Commission on Legislative, Judicial and Executive Compensation's "force of law" recommendation raising judicial salaries, Chautauqua County, like other counties, paid out approximately \$30,000 for increased district attorney compensation. Not only will Chautauqua County be paying this out again, this year, but it will pay out MORE because of the Commission's further "force of law" judicial salary raise recommendation for this year. The \$4,212,000 appropriation in the Aid to Localities budget bill for fiscal year 2017-2018, like the identical \$2,412,000 appropriation for fiscal year 2016-2017, provides NO RELIEF to Chautauqua County. As I stated when I testified on January 30th, legislation must be passed to sever the

statutory link between district attorney and judicial salaries – Judiciary Law 183-a. This – like oversight and amendment of County Law 700.10 and 700.11 pertaining to district attorney salary reimbursement -- is properly a matter over which any number of Assembly committees have jurisdiction – and among these: the Committee on Governmental Operations and the Assembly Judiciary Committee, of which Assemblyman Goodell is a lawyer-member, as likewise my own Assemblyman, David Buchwald, who additionally is a member of the Assembly Committee on Local Governments.

I have already spoken with Leah Halton, legislative director to Assemblywoman Crystal Peoples-Stokes, chair of the Committee on Government Operations, and to Sean Delahanty, chief of staff to Ranking Member Mark Johns, requesting of each, that the VIDEOS of my January 30th and January 31st testimony be placed on the agenda of the next meeting of the Committee on Government Operations – and that such meeting be scheduled ASAP. I respectfully request that Assemblyman Goodell add his strong support – as the situation, laid out by CJA's citizen-taxpayer action pertaining to prior budgets – replicating itself in the budget now before the Legislature – requires IMMEDIATE, responsive action. I have requested the same of Assemblyman Buchwald through his chief of staff, Alex Roithmayr.

I am available to answer Assemblyman Goodell's questions and to assist him to the fullest.

Thank you.

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

Sent: Friday, January 20, 2017 12:23 PM

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Subject: Request for Your Personal Review, a Meeting, & Action by the Committee on Governmental Operations: Citizen-Taxpayer Action establishing the unconstitutionality & unlawfulness of the Budget & Commission on Legislative, Judicial & Executive Compensation

**TO: Assembly Committee on Governmental Operations Chair Crystal Peoples-Stokes
Assembly Committee on Governmental Operations Ranking Member Mark Johns**

This follows up my yesterday's phone conversations with your staff – alerting them to the Center for Judicial Accountability's unfolding citizen-taxpayer action challenging a multitude of constitutional, statutory, and legislative rule violations pertaining to the Legislative budget, the Judiciary budget, and the Executive budget. It is directly relevant to the oversight responsibilities of the Assembly Committee on Governmental Operations – and to the role the Committee should be playing, but does not, in fashioning the Legislature's budget. I have requested that each of you PERSONALLY review the lawsuit so that you can each recognize the necessity of placing it on the Committee's agenda for discussion by the members – and vote on appropriate action. Indeed, action by the Committee – and by each of the Committee's members, individually -- is urgent, lest ALL the violations the September 2, 2016 verified complaint chronicles with respect to the Legislative budget, Judiciary Budget, and the Executive budget for fiscal year 2016-2017 be repeated for fiscal year 2017-2018. Already the violations have been substantially replicated.

There is yet another reason why the September 2, 2016 verified complaint is important for your review – and for discussion and vote by the Committee's members. Its sixth cause of action (¶¶59-68) – challenging the constitutionality of the budget legislation that established the Commission on Legislative, Judicial, and Executive Compensation – is

based, in the first instance on the extraordinary, if not unprecedented, sponsors' memo to Assembly Bill A.7997, which laid out six respects, based on the New York State Constitution, why the "force of law" provision for the Commission's salary raise recommendations is unconstitutional – and, by its timing for legislative and executive salary raise recommendations, after election day, is "a devious and underhanded means of [legislators] obtaining a salary increase without accepting any responsibility therefor." This, in addition to the memo's pointing out that the Commission statute – Chapter 60, Part E, of the Laws of 2015 – was unrelated to any budget appropriation and, therefore, an unconstitutional rider, violating Article VII, §6 of the state Constitution. Yet, notwithstanding this – and the fact that A.7997, upon introduction on June 3, 2015, was committed to the Assembly Committee on Governmental Operations and then again on January 6, 2016 and the fact that three of its five sponsors were Committee members – its principal sponsor Andrew Goodell, the Committee's then ranking member, Janet Duprey, and the Committee's now ranking member Johns – A.7997 never made it to the Committee agenda for discussion by Committee members.

This sixth cause of action, challenging Chapter 60, Part E, of the Laws of 2015, as *written* and the unconstitutional and fraudulent manner in which it was introduced and enacted in less than a day is the SOLE cause of action that a corrupt December 21, 2016 Albany Supreme Court decision preserved when it threw out the verified complaint's nine other causes of action – giving defendants 30 days from the date of the decision to answer. Today is that 30th day – and the Senate and Assembly, among the other public officer defendants, must now confront the devastating A.7997 sponsors' memo – and the other dispositive grounds of unconstitutionality and fraud laid out in the sixth cause of action's five separate subsections.

The record of the unfolding citizen-taxpayer action – and of CJA's predecessor citizen-taxpayer action on which it rests – is accessible from CJA's website, www.judgewatch.org, via the prominent homepage link "CJA's Citizen-Taxpayer Actions to End NYS' Corrupt Budget 'Process' and Unconstitutional 'Three Men in a Room' Governance". In addition to the sponsors' memo to A.7997, which is part of the lawsuit record – CJA's website also posts the Assembly video of the candid statements of Assemblymen Goodell and Johns and their colloquy with Assembly Ways and Means Chair Denny Farrell – presided over by Assembly Speaker Carl Heastie, in the wee morning hours of April 1, 2015, on the Assembly floor in opposing the Commission statute being enacted in the budget. Here is the video, directly – http://nystateassembly.granicus.com/MediaPlayer.php?view_id=6&clip_id=2240 (at 1:02 hours) and attached is my transcription thereof. The sponsors' memo to A.7997, which failed to impel Committee action – but which has fortified the citizen-taxpayer action -- is here:

http://assembly.state.ny.us/leg/?default_fld=&leg_video=&bn=A07997&term=2015&Summary=Y&Actions=Y&Committee%26nbspVotes=Y&Floor%26nbspVotes=Y&Memo=Y&Text=Y&LFIN=Y&Chamber%26nbspVideo=Y. And here, directly, is CJA's webpage for the September 2, 2016 verified complaint: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2016/9-2-16-osc-complaint/9-2-16-osc-verified-complaint.htm>.

I am requesting to meet with each of you, preferably together, so that we can directly discuss the serious and substantial issues presented by the citizen-taxpayer action, including its challenge to behind-closed-doors, three-men-in-a-room budget deal-making and behind-closed-doors party conferences – all of which are within the jurisdiction of the Assembly Committee on Governmental Operations. My own Assembly member – Assemblyman David Buchwald – is a Committee member, with a Harvard law degree and degree from Harvard's Kennedy School of Government. As such -- and by copy of this e-mail to him -- I request that he confirm for you that the state of the record before Albany Supreme Court when it rendered the December 21, 2016 decision was one of summary judgment for plaintiffs on all 10 causes of action. To that end, Assemblyman Goodell – a magna cum laude graduate of Cornell Law School -- and Committee member Assemblyman Kieran Lalor, also a lawyer – should likewise lend their legal skills to confirm for you the state of the record – and by this e-mail to them, I am also requesting that they do so.

Thank you.

Elena Sassower, Director
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