

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Friday, August 17, 2018 11:27 PM
To: 'tpersico@gmail.com'; 'info@maloneyfornewyork.com'
Subject: Demonstrating to Voters -- & to the Other AG Candidates -- the Integrity & Independence Requisite for NY's Attorney General
Attachments: 8-8-18-message-to-maloney.pdf; 8-14-18-message-to-maloney.pdf; 8-16-18-albany-times-union.pdf; 5-18-18-ltr-to-interim-ag-candidates.pdf

TO: Tim Persico – Senior Advisor to the Campaign of Sean Patrick Maloney for the Democratic Nomination for New York State Attorney General

Thank you for the generous amount of time you gave to our phone conversation earlier today, following the voice mail message I had left a few hours before at the campaign number 845-475-8509 and my call to the congressional district office, 845-561-1259. Attached are copies of the messages I had sent, on August 8th and August 14th, *via* Candidate Maloney's AG campaign website, without response.

Also attached is yesterday's Albany Times Union article "*Maloney sees AG's office as key post for checks, balances*", to which I referred at the outset of our conversation, pertaining to Candidate Maloney's meeting with the Albany Times Union editorial board, at which he "praised current Attorney General Barbara Underwood who was appointed by the state Legislature to fill out Schneiderman's term" and said that "he would not be running if she were seeking the office".

That was the context in which I showed you, from CJA's website, www.judgewatch.org, my May 16th NOTICE to then Acting Attorney General Underwood, inquiring as to whether she was unaware of the *modus operandi* of litigation fraud that the attorney general's office engages in when it has NO legitimate defense to lawsuits – and calling upon her to take investigative and remedial steps, beginning with reviewing the record of CJA's citizen-taxpayer action, suing Governor Cuomo, Comptroller DiNapoli, the Legislature, former Attorney General Schneiderman, and Chief Judge DiFiore for constitutional and other violations with respect to the state budget and the commission-based judicial salary increases it embeds, wherein the attorney general's office and the lower court judge, a 30-year veteran of the attorney general's office, colluded to obliterate any semblance of "the rule of law". As discussed, Attorney General Underwood did NOT respond to that May 16th NOTICE nor to any of my subsequent correspondence to her, thereby burdening me with having to perfect an appeal that it was her duty to perfect or obviate. And more egregious than that, upon my filing the appeal at the Appellate Division, with an order to show cause, with preliminary injunction and TRO, the attorney general's office engaged in the same *modus operandi* of litigation fraud as I had complained of by my NOTICE, now corrupting the judicial process at the Appellate Division.

Consequently, if Candidate Maloney believes himself to be "the best qualified candidate to address all the challenges that confront the attorney general's office, legal as well as political and managerial" – which is what the Albany Times Union article states -- he needs to stop praising Attorney General Underwood – and, instead, "blow the whistle" on what she and her predecessor attorneys general have been doing, namely, corrupting the judicial process with litigation fraud to defeat meritorious citizen lawsuits to which the state has NO legitimate defense – lawsuits which are, in fact, the attorney general's duty to himself take over and prosecute, pursuant to Executive Law §63.1 and such other statutes as State Finance Law §123 *et seq.*, consistent with the attorney general's constitutional function, which is – FIRST AND FOREMOST -- to ensure

that the state and its public officers comply with the New York State Constitution and laws promulgated in conformity therewith.

This “whistle-blowing” is, of course, not only incumbent on Candidate Maloney, but on his fellow attorney general candidates, each also asserting himself/herself to be the most qualified to be attorney general. I stated this, publicly, when I rose with a comment and question at the July 16th White Plains forum of Democratic attorney general candidates – Letitia James, Zephyr Teachout, and Leecia Eve. The question I asked the three of them – all three touting themselves as courageous and independent of Governor Cuomo and the *status quo* – was whether they would demonstrate this courage and independence by verifying the truth of my public comment that the attorney general actively aids and abets the corruption of our state government by litigation fraud, which they could readily do from the appeal brief and three-volume record on appeal in the citizen-taxpayer action I had brought. Letitia James, to her credit, publicly stated she would – and, upon the conclusion of the forum, I gave to her – and also to Zephyr Teachout -- a copy of the appeal brief and three-volume record, as well as the May 16th NOTICE to Ms. Underwood, which, by a May 18th letter, I had furnished to interim attorney general candidates seeking appointment by the Legislature, of which Ms. Underwood was one. Leecia Eve, who had applied to the Legislature as an interim attorney general candidate – but then withdrew from consideration – and who I had been unable to obtain an e-mail address for, at that time, took only the May 18th letter and its enclosed May 16th NOTICE from me, declining to take the substantiating appeal papers.

As Candidate Maloney was not at the July 16th candidate forum, I could not also give him a copy of the perfected appeal and my May 18th letter, with its May 16th NOTICE. Nor could I give these to him at the August 15th candidate forum, held on Manhattan’s Upper West Side, as he was not there.

I reiterate my offer to mail the appeal brief and three-volume record to Candidate Maloney to aid in his verification of the attorney general’s lead role in this state’s “culture of corruption” so that he can “whistle-blow” NOW – and demonstrate, as a candidate, his independence of Governor Cuomo, Comptroller DiNapoli, and a huge swath of legislative incumbents, Democratic and Republican both – all of whom, based on the record, must be indicted for their “grand larceny of the public fisc” and other corruption. This includes pursuant to “The Public Trust Act” (Penal Law §496), as the May 16th NOTICE expressly requests. Unless Candidate Maloney asks me to mail him the appeal brief and three-volume record, I will assume he is reviewing these from CJA’s webpage for the appeal, here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/record-app-div.htm> – or that he is borrowing from Candidate James or from Candidate Teachout the copies I furnished to each of them.

Meantime, attached is the May 18th letter with its enclosed May 16th NOTICE. The menu webpage posting them – and my subsequent correspondence to Attorney General Underwood – is here: <http://www.judgewatch.org/web-pages/searching-nys/2018-legislature/underwood.htm>. Suffice to quote the May 18th letter – which, referring to the May 16th NOTICE, states:

“no candidate may be deemed qualified [for attorney general] who takes no investigative and remedial action upon being given NOTICE AND EVIDENTIARY PROOF that the attorney general’s office not only fails in its duty to uphold the law, but actively subverts the law and abets corruption at the highest levels of our state government.” (bold in the original).

Thank you.

Elena Sassower, Director
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