

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Thursday, April 30, 2020 4:39 PM
To: 'malcolm.seymour@foster.com'; 'jeffweaver@berniesanders.com';
'mattberg@berniesanders.com'; 'paco@ourrevolution.com'; 'jeff@kurzon.com'
Cc: 'snaemeka@workingfamilies.org'; 'dmcmanus@workingfamilies.org';
'zteacherout@gmail.com'; 'zteacherout@law.fordham.edu'; 'mjvolpe23@gmail.com';
'mjvolpe@venable.com'; 'estone@paulweiss.com'; 'btannenbaum@paulweiss.com';
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@gmail.com'; 'frankmackay@yahoo.com'; 'Bob Schulz'
Subject: GOOD NEWS: You can EASILY reinstate NYS' Democratic presidential primary -- &
simultaneously, return NYS' corrupted budget "process" to the constitutional rails from
which it has been driven by the Democratic & Republican Parties
Attachments: 3-18-20-ltr-to-gov-revised-fn1.pdf; 1st-lawsuit-16th-cause-of-action-3-men-in-a-
room.pdf; 2nd-lawsuit-9th-cause-of-action-3-men-in-a-room.pdf

TO: FORMER PRESIDENTIAL CANDIDATE BERNIE SANDERS

ATT: Malcolm Seymour, Esq. – Attorney to the Sanders Campaign
Jeff Weaver – Senior Advisor, Sanders Campaign
Larry Cohen – Chair, Our Revolution

Reference is made to the April 27th New York Times' article "*New York Board of Elections Cancels Democratic Presidential Primary*" (Stephanie Saul, Nick Corasaniti), which quotes you, as saying:

"[The] decision by the State of New York Board of Elections is an outrage, a blow to American democracy, and must be overturned by the D.N.C." (Jeff Weaver);

"Senator Sanders wishes to remain on the ballot, and is concerned that his removal from the ballot would undermine efforts to unify the Democratic Party in advance of the general election" (Malcolm Seymour);

"We will not stand by and allow New York Democrats to be denied the opportunity to influence their party and its platform at the convention in August" (Larry Cohen).

Not revealed by the article is that the Board of Elections' reliance on the "New York law adopted on April 3 providing that candidates should be removed from ballots if they suspend or terminate their campaigns" was enacted through the FY2020-21 state budget: Part TT of Governor Cuomo's so-called "Article VII" budget bill #S.7506-B/A.9506-B.

The GOOD NEWS is that you can EASILY win a lawsuit to strike down Part TT as UNCONSTITUTIONAL, as the Center for Judicial Accountability, Inc. (CJA) can provide you with the dispositive law and legal argument you need, based on the New York State Constitution. This includes:

(1) that Part TT is policy legislation that could not be constitutionally included in Governor Cuomo's executive budget – over and beyond its violation of Article VII, §6 because it pertains to no appropriation in the FY2020-21 budget and is not limited thereto;

(2) that Governor Cuomo's so-called "Article VII" Budget Bill #S.7506-B/A.9506-B, allegedly for "Education, Labor and Family Assistance" – into which Part TT was inserted – was itself unconstitutional;

(3) that Governor Cuomo's behind-closed-doors, "three-men-in-a-room" budget deal-making with Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie, by which the Governor purported to "amend" his "Article VII" Bill #S.7506-A/A.9506-A, was unconstitutional;

(4) that the Legislature's "passage" of the "amended" "Article VII" Bill #S.7506-B/A.9506-B was unconstitutional and rife with statutory and legislative rule violations.

EVEN BETTER, the law and legal argument that CJA is able to provide is all embodied in open-and-shut, substantiating evidence – whose accuracy is uncontested. As illustrative, CJA's above-attached March 18, 2020 letter to Governor Cuomo, sent to him and Democratic and Republican Legislative Leaders by two e-mails, which are below. Entitled "GOOD NEWS DURING THE CORONAVIRUS EMERGENCY: You Can Chuck Six of Your Seven 'Article VII Bills' Because They are Unconstitutional. Here's why...", it analyzes the Governor's "Article VII Bills" for FY2020-21 and does so in the context of the Court of Appeals' seminal 2004 decision in *Pataki v. Assembly/Silver v. Pataki*, 4 NY3d 75, providing what appears to be the FIRST scholarship deconstructing its plurality, concurring, and dissenting opinions. As for CJA's citizen-taxpayer actions suing Governor Cuomo and his "'Partners in Government' for unconstitutionality, unlawfulness, and fraud with respect to the budget" – to which the letter refers (at p. 2) – attached are the two cited causes of action (at fn. 3) pertaining to the unconstitutionality of "three-men-in-a-room", behind-closed-doors budget-deal-making, *as unwritten and as applied*.

CJA's website, www.judgewatch.org, posts the evidence, in full. For your convenience, it is accessible from a webpage I created for this e-mail. As this e-mail has already been sent to Jeffrey Kurzon, attorney for Former Presidential Candidate Andrew Yang in an already commenced federal lawsuit – which I only discovered as I was completing the drafting of this e-mail – and with whom I have already spoken by phone -- the webpage bears the title: "**GOOD NEWS FOR FORMER PRESIDENTIAL CANDIDATES YANG & SANDERS**". The direct link is here: <http://www.judgewatch.org/web-pages/elections/2020/good-news-for-yang-and-sanders.htm>.

One final note. Your verification of the above GOOD NEWS is further simplified because you can rely on the ten-day head-start of New York's six third parties whose ballot lines are jeopardized by Part ZZZ of Governor Cuomo's "Article VII" Bill #S.7508-B/A.9508-B which raises the thresholds for ballot access. For that reason, I sent them an April 20th e-mail, furnishing them with precisely what I am now furnishing you. As none denied or disputed its accuracy, I am cc'ing them on this e-mail, so that they can give you the benefit of their verification of its truth. My April 20th e-mail to them is below, as is my further April 22nd e-mail to the New York Working Families Party – both e-mails also sent to lawyer and constitutional scholar Zephyr Teachout.

As Senator Sanders aspires to make revolutionary change, the proposed lawsuit challenge to Part TT will enable him to do just that, here in New York, by returning the New York State budget to the anchors and safeguards of the New York State Constitution. Indeed, it will strike a fatal blow to Albany's "culture of corruption", which is fed from the state budget and perpetuated by the collusion of the Democratic and Republican Parties. To that salutary end, I would be pleased to assist you, to the max. I am available by phone and by e-mail.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
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914-421-1200

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Wednesday, April 22, 2020 12:39 PM
To: 'snaemeka@workingfamilies.org' <snaemeka@workingfamilies.org>
Cc: 'dmcmanus@workingfamilies.org' <dmcmanus@workingfamilies.org>; 'reply@workingfamilies.org' <reply@workingfamilies.org>; 'jdinkin@workingfamilies.org' <jdinkin@workingfamilies.org>; 'dlangenbucher@workingfamilies.org' <dlangenbucher@workingfamilies.org>; 'zteachout@gmail.com' <zteachout@gmail.com>; 'zteachout@law.fordham.edu' <zteachout@law.fordham.edu>

Subject: GOOD NEWS FOR NY's THIRD PARTIES: You can EASILY challenge -- & win -- a lawsuit throwing out Part ZZZ of Budget Bill #S.7508-B/A.9508-B as UNCONSTITUTIONAL

TO: Working Families Party-New York State Director Sochie Nnaemeka

This follows up my telephone messages to Working Families Party (718- 222-3796) on April 14th and April 15th , requesting to speak with you concerning the heightened ballot access requirements for political parties, enacted *via* the FY2020-21 state budget, that will likely eliminate Working Families Party from the ballot. Inasmuch as news articles had quoted you on the subject, including about a legal challenge that you predicted Working Families Party would win, just as it had won its challenge to the Public Campaign Financing and Election Commission, I hoped for a prompt return call. Indeed, I stated that I had helpful information to provide for such upcoming lawsuit and inquired as to who your attorney(s) would be, in light of the death of Richard Brodsky, Esq., who had represented you in the lawsuit against the Public Campaign Financing and Election Commission.

Perhaps you did not get the messages. However, I received no return call from anyone else at Working Families Party.

Below is the e-mail I sent two days ago to New York's six ballot-qualified third parties – Working Families Party, among them. As no e-mail address for you is posted on the Working Families Party website, <https://workingfamilies.org/states/new-york/>, I sent the e-mail to the only posted e-mail address that seemed remotely relevant: reply@workingfamilies.org – and, additionally, to the e-mail address for Deputy Director Dahlia McManus— which I had, from two years ago. I also sent the e-mail to Zephyr Teachout, Esq., to whom I believed the Working Families Party might turn for advice and/or representation in the upcoming lawsuit. I have received no response.

About 2-1/2 hours ago, I followed-up with yet two more voice mail messages, including at the x217 extension for “Press Inquiries”: <https://workingfamilies.org/states/new-york/?sec=contact>. On a guess that your e-mail is – like that of your “Press Inquiries” person, Joe Dinkin, and of your person for “inquiries about our questionnaire or endorsement in 2019”, Daniel Langenbucher, and of Ms. McManus -- your first initial, your last name, and then workingfamilies.org, I am sending this e-mail to that surmised address.

I look forward to speaking with you, directly.

Thank you.

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
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'info@joinsam.org' <info@joinsam.org>; 'dmcmanus@workingfamilies.org' <dmcmanus@workingfamilies.org>;
'reply@workingfamilies.org' <reply@workingfamilies.org>; 'zteachout@gmail.com'
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<chair@gpny.org>; 'chair2@gpny.org' <chair2@gpny.org>; 'secretary@gpny.org' <secretary@gpny.org>;
'treasurer@gpny.org' <treasurer@gpny.org>; 'dunleamark@aol.com' <dunleamark@aol.com>;
'sussman1@frontiernet.net' <sussman1@frontiernet.net>; 'tdorazio@lpny.org' <tdorazio@lpny.org>;
'tcoburn@lpny.org' <tcoburn@lpny.org>; 'akolstee@lpny.org' <akolstee@lpny.org>; 'larry@neo-sage-forum.com'
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Subject: GOOD NEWS FOR NY's THIRD PARTIES: You can EASILY challenge -- & win -- a lawsuit throwing out Part ZZZ of Budget Bill #S.7508-B/A.9508-B as UNCONSTITUTIONAL

TO: NEW YORK'S THIRD PARTIES WITH BALLOT LINES

Serve America Movement Party
Working Families Party
Conservative Party
Green Party
Libertarian Party
Independence Party

As you know, the “force of law” recommendations of the Public Campaign Financing and Election Commission – which the Conservative and Working Families Parties succeeded in striking down in their two coordinated state court lawsuits – are now, nonetheless, “the law”, enacted by Part ZZZ of Budget Bill #S.7508-B/A.9508-B.

§10 of Part ZZZ imposes a significantly higher hurdle for parties to maintain their ballot lines – threatening the viability of each of you, except for the Conservative Party, which can seemingly meet its more rigorous qualification requirements. Yet because Part ZZZ contains a non-severability clause (§11), tying all sections together as an indivisible package, the Conservative Party would presumably join, if not lead, a lawsuit challenging Part ZZZ, so as to knock out its public campaign financing provisions, as it rightfully should.

THE GOOD NEWS, which is the purpose of this e-mail, is to advise you that it is a slam-dunk for you to bring and win a lawsuit throwing out Part ZZZ as unconstitutional, as the Center for Judicial Accountability, Inc. (CJA) can provide you with the dispositive law and legal argument you need, based on the New York State Constitution. This includes:

- (1) that Part ZZZ is policy legislation that could not be constitutionally included in Governor Cuomo’s executive budget – over and beyond its violation of Article VII, §6 because it pertains to no appropriation in the FY2020-21 budget and is not limited thereto;
- (2) that Governor Cuomo’s so-called “Article VII” Budget Bill #S.7508-A/A.9508-B, allegedly for “Transportation, Economic Development, and Environmental Conservation” – into which Part ZZZ was inserted -- was itself unconstitutional;
- (3) that the Governor Cuomo’s behind-closed-doors, “three-men-in-a-room” budget deal-making with Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie, by which the Governor purported to “amend” his Article VII Bill #S.7508-A/A.9508-A, was unconstitutional;
- (4) that the Legislature’s “passage” of the “amended” Article VII Bill #S.7508-B/A.9508-B was unconstitutional and rife with statutory and legislative rule violations.

EVEN BETTER, the law and legal argument that CJA is able to provide is all embodied in open-and-shut, substantiating evidence – whose accuracy is uncontested. As illustrative, CJA’s above-attached March 18, 2020 letter to Governor

Cuomo, sent to him and Legislative Leaders by the below two e-mails. Entitled "GOOD NEWS DURING THE CORONAVIRUS EMERGENCY: You Can Chuck Six of Your Seven 'Article VII Bills' Because They are Unconstitutional. Here's why...", it analyzes the Governor's "Article VII Bills" for FY2020-21 and does so in the context of the Court of Appeals' seminal 2004 decision in *Pataki v. Assembly/Silver v. Pataki*, 4 NY3d 75, providing what appears to be the FIRST scholarship deconstructing its plurality, concurring, and dissenting opinions. As for CJA's citizen-taxpayer actions suing Governor Cuomo and his "'Partners in Government' for unconstitutionality, unlawfulness, and fraud with respect to the budget" - to which the letter refers (at p. 2) - attached are the two cited causes of action (fn. 3) pertaining to the unconstitutionality of "three-men-in-a-room", behind-closed-doors budget-deal-making, *as unwritten and as applied*.

CJA's website, www.judgewatch.org, posts the evidence, in full. For your convenience, it is accessible from a webpage I created for this e-mail entitled "AGAIN, HELPING THE THIRD PARTIES, this time in a successful lawsuit to strike down Part ZZZ of Budget Bill #S.7508-B/A.9508-B as unconstitutional". This is part of a series of CJA's webpages for the 2020 Legislative Session, accessible from our homepage's prominent center link: "LEGISLATIVE SESSIONS: Comparing NY's Legislature BEFORE & AFTER its Fraudulent Pay Raise". The direct link is here: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/third-parties-good-news.htm>.

I look forward to discussing the foregoing with you, to answering your questions, and to working collaboratively on winning strategies, of nominal cost, based on law and evidence, benefiting ALL the People of the State of New York.

Needless to say, in this important 2020 election year when ALL New York's 213 legislative seats are on the ballot, no third party should endorse or confer its valuable party line to legislative incumbents whose gross nonfeasance and misfeasance in the performance of official duties, beginning with the unconstitutionality of the FY2020-21 budget, gives rise to the lawsuit. Indeed, now, more than ever, the third parties have an opportunity to demonstrate their vital function by fielding candidates who will "blow the whistle" on the corruption of Democratic and Republican legislators, in collusion with each other. This "whistle-blowing" requires no "big bucks" or public campaign financing. It requires only that candidates honored by your party lines use the "bully-pulpits" they command by reason of their candidacies to alert voters to the self-dealing and posturing of the Democratic and Republican incumbents, as established by the evidence posted and accessible from CJA's webpages for the 2020 Legislative Session: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/2020-session-menu.htm>. Suffice to say, there is nothing complex that the voters would not understand - and especially as to the larceny perpetrated by the Legislature's *own* budget and the legislators' *own* pay raises.

Thank you.

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From: elena@judgewatch.org <elena@judgewatch.org>
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'haltonl@nyassembly.gov' <haltonl@nyassembly.gov>; 'aubryJ@nyassembly.gov' <aubryJ@nyassembly.gov>;
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<goodella@nyassembly.gov>; 'lkrueger@nysenate.gov' <lkrueger@nysenate.gov>; 'usher@nysenate.gov'
<usher@nysenate.gov>; 'seward@nysenate.gov' <seward@nysenate.gov>; 'davie@nysenate.gov'
<davie@nysenate.gov>; 'WeinstH@nyassembly.gov' <WeinstH@nyassembly.gov>; 'wamchair@nyassembly.gov'
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<beavers@nyassembly.gov>; 'peakec@nyassembly.gov' <peakec@nyassembly.gov>; 'rae@nyassembly.gov'
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Subject: Executive Budget ... CJA's March 18, 2020 letter to Gov. Cuomo: "GOOD NEWS DURING THE CORONAVIRUS EMERGENCY: You Can Chuck 6 of the 7 'Article VII Bills' Because They are Unconstitutional. Here's why..."

MORE GOOD NEWS DURING THE CORONAVIRUS EMERGENCY –

CJA's March 18, 2020 letter to Governor Cuomo "...GOOD NEWS DURING THE CORONAVIRUS EMERGENCY", sent to you by the below March 18, 2020 e-mail, is now posted on CJA's website – on a webpage now reflecting the March 18, 2020 date. The direct link is here: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/3-18-20-ltr-to-gov.htm>. According to the U.S. priority mail delivery receipt (there posted), the letter was delivered to the Governor's office this morning.

The letter, with a revised footnote 1 updating the link for the webpage, is attached. Additionally attached is the letter's single enclosure – CJA's August 21, 2013 letter to the Governor on "Achieving...a Properly Functioning Legislature..."

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
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From: elena@judgewatch.org <elena@judgewatch.org>

Sent: Wednesday, March 18, 2020 11:52 AM

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'PeopleC@nyassembly.gov' <PeopleC@nyassembly.gov>; 'haltonl@nyassembly.gov' <haltonl@nyassembly.gov>;
'aubryJ@nyassembly.gov' <aubryJ@nyassembly.gov>; 'hernandezd@nyassembly.gov' <hernandezd@nyassembly.gov>;
'goodella@nyassembly.gov' <goodella@nyassembly.gov>; 'lkrueger@nysenate.gov' <lkrueger@nysenate.gov>;
'usher@nysenate.gov' <usher@nysenate.gov>; 'seward@nysenate.gov' <seward@nysenate.gov>; 'davie@nysenate.gov'
<davie@nysenate.gov>; 'WeinstH@nyassembly.gov' <WeinstH@nyassembly.gov>; 'wamchair@nyassembly.gov'
<wamchair@nyassembly.gov>; 'ancowitzr@nyassembly.gov' <ancowitzr@nyassembly.gov>; 'beavers@nyassembly.gov'
<beavers@nyassembly.gov>; 'peakec@nyassembly.gov' <peakec@nyassembly.gov>; 'rae@nyassembly.gov'
<rae@nyassembly.gov>; 'derocht@nyassembly.gov' <derocht@nyassembly.gov>; 'lentolj@nyassembly.gov'
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**Subject: ...Executive Budget...GOOD NEWS DURING THE CORONAVIRUS EMERGENCY: You Can Chuck 6 of the 7
"Article VII BILLS" Because They are Unconstitutional. Here's why....**

TO: Governor Andrew Cuomo, Esq.
Budget Director Robert Mujica, Esq.
Legislative Bill Drafting Commission
15 Stipend-Benefitting Legislative Leaders

Senate Majority Leader Andrea Stewart-Cousins
Assembly Speaker Carl Heastie
Senate Minority Leader John Flanagan, Esq.
Assembly Minority Leader William Barclay, Esq.
Deputy Senate Majority Leader Michael Gianaris, Esq.
Deputy Senate Minority Leader Joseph Griffo
Assembly Majority Leader Crystal Peoples-Stokes
Assembly Speaker *Pro Tempore* Jeffrion Aubry
Assembly Minority Leader *Pro Tempore* Andrew Goodell, Esq.
Senate Finance Committee Chair Liz Krueger
Senate Finance Committee Ranking Member James Seward
Assembly Ways and Means Committee Chair Helene Weinstein, Esq.
Assembly Ways and Means Ranking Member Edward Ra, Esq.
Assembly Codes Committee Chair Joseph Lentol, Esq.
Assembly Codes Committee Ranking Member Angelo Morinello, Esq.

Attached is my above-entitled letter of today's date to Governor Cuomo, the original of which will be mailed to him. All others are indicated recipients, for the reasons stated in the last paragraph (at p. 13).

Due to a catastrophic computer breakdown, on this end, I am presently unable to post the letter on CJA's website, www.judgewatch.org and to update the site. The webpage for the letter – which had been prepared two days ago, before the breakdown – is here – reflecting the letter's then March 16, 2020 date: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/3-16-20-ltr-to-gov.htm>. From the webpage you can access the letter's referred to-documentary proof – and its sole enclosure: my August 21, 2013 letter to the Governor, entitled "Achieving BOTH a Properly Functioning Legislature & Your Public Trust Act (Program Bill #3) – the *Sine Qua Non* for 'Government Working' & 'Working for the People'", to which I received no response.

Thank you.

Elena Sassower, Director
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