

**Oral Testimony of Center for Judicial Accountability Director Elena Sassower
at the November 30, 2018 hearing of the New York State Compensation Committee**

Transcription from VIDEO by Elena Sassower – at 25 minutes/45 seconds

Thompson: Our next speaker is Elena Sassower, director of the Center for Judicial Accountability.

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Sassower: Before beginning, and before my time begins to run, I'd like to protest the restricted nature of this hearing, curtailing testimony so that it's no more than five minutes, no matter how serious and substantial. The fact is you had, at your last hearing, two days ago, you had only three registrants, plus an additional person, four. Here, you also have only a handful. There is no reason that you shouldn't relax the time restrictions, so that people who have taken their time and made the effort to prepare testimony can give you the benefit of what they have prepared.

That being said I am and have tried to limit my remarks.

My name is Elena Sassower. I am director and cofounder of the Center for Judicial Accountability, a nonpartisan, nonprofit citizens' organization that, for the past seven years, has "chronicled that the constitutional officers of our state's three government branches have been colluding to secure for themselves undeserved, unconstitutional pay raises by an unconstitutional commission scheme."

That is the opening of the written statement that I have prepared and that has been distributed to you – as well as distributed a selection from our New York State Constitution relating to the budget and to the openness that the Constitution prescribes for the activities of the Legislature.

The written statement identifies that our website, www.judgewatch.org, has posted on it the evidence substantiating the written presentation that you have been provided and furnishes the proof of what has been going on with respect to these commission-based, these commission, compensation commissions.

It identifies that posted are, in addition to the evidence, are three lawsuits that have been brought, that we have brought, challenging what's been going on with these commissions and their "force of law" recommendations.

These three lawsuits, the first was a declaratory judgment action, in 2012, and the subsequent two lawsuits were citizen-taxpayer actions that not only addressed the unconstitutionality and unlawfulness of the statutes that created these compensation commissions, but, additionally, laid out the unconstitutionality and the unlawfulness of the budget.

The second of the citizen-taxpayer actions is still live and unfolding and at the Appellate Division, Third Department. And, as identified in the written statement, it is essential that each of the committee members here and your counsel review the record of that second citizen-taxpayer action, so that you can know, for a certainty, that you have nowhere to go with, insofar as recommendations.

Firstly, because the second citizen-taxpayer action establishes that this commission scheme, this committee scheme, is unconstitutional for a myriad of reasons.

The second reason that the citizen-taxpayer action is so important, so critical, so dispositive, is that it, it establishes the first criteria, the first factor that you are required to take into account in making your recommendations. And you have skipped over that factor – because all the financial, economic factors don't come to bear, are completely irrelevant where you haven't met the first criteria. And what is that? The statute requires that, the statute requires, that – I'm sorry – that the parties' performance and timely fulfillment of their Constitutional and statutory responsibilities be taken into account .

What the citizen-taxpayer action demonstrates is that the budget is off the constitutional rails, is rife with constitutional violations, statutory violations, rule violations – and this is illustrative, it's not just the budget, but the legislative branch is not operating at any kind of constitutional level. All of this is laid out in the citizen-taxpayer action.

Mr. Heastie testified, without any evidence.

Thompson: Ms. Sassower, I'm going to have to ask you to conclude

Sassower: He made self-serving claims all of which are rebutted.

Thompson: I am going to have to ask you to conclude.

Sassower: Okay, then I will –

Thompson: We have copies of your testimony.

Sassower: I understand, so –

Delgado: I want to hear it, I want to hear the rest of your testimony

Sassower: Thank you.

Thompson: You guys can have a conversation outside.

Sassower: I am, I am identifying what I am furnishing you --

Thompson: Okay.

Sassower: – and that is the appeal briefs and the three-volume record on appeal that is presently before the Appellate Division, en route to the Court of Appeals, in the

second citizen-taxpayer action, suing the Governor, the Legislature, Mr. Heastie, by name, Mr. Flanagan, by name, as the Temporary Senate President, the Senate, Comptroller DiNapoli, former Attorney General Schneiderman, the Chief Judge – who was supposed to be among you, but I understand has recused herself.

Thompson: Ms. Sassower, I am going to have to ask you to conclude, right now.

Sassower: Alright. So –

Stringer: Thank you.

Sassower: – this establishes is that what Mr. Heastie had to say, about how hard-working, how responsive the Senate –

Thompson: Ma'am.

Sassower: – and the Assembly are, is fraud, is deceit.

Thompson: There are other people waiting, there are other people waiting to speak.

Sassower: And with respect, okay

Thompson: Thank you.

Stringer: Thank you.

McCall: Thank you.

Sassower: Now, additionally, additionally, I am handing up, because the citizen-taxpayer action chronicles the unconstitutionality and the lawlessness with respect to the state budget –

Thompson: Okay, Ms. Sassower, that's it. Thank you.

Stringer: Thank you.

Thompson: Thank you, so much.

Sassower: – but the Brennan Center for Justice issued reports, going back to 200[4], then 2006, 2008, where they chronicled that the Legislature is the most dysfunctional in the country –

Thompson: Ms. Sassower.

Sassower: – and they attributed it to the rules,

Thompson: Ma'am, please.

Sassower: They did not examine the budget. And so –

Stringer: Do you want to adjourn just for five minutes?

Thompson: No.

McCall: No.

Thompson: No.

Sassower: – and so the citizen-taxpayer action is actually a companion to the important Brennan Center reports,

Stringer: Ma’am, Ma’am, ma’am, thank you very much.

Sassower: Your comparisons to other states –

Stringer: Thank you.

Thompson: Thank you. Thank you.

Sassower: – well maybe other states are functional, maybe their legislatures and public officers are not corrupt.

[committee aide removes microphone from podium where Sassower is speaking]

McCall: Thank you very much.

Stringer: You should call up the next speaker.

Sassower: And by the way, the legislation that created this commission is an unconstitutional rider. Okay?

McCall: Okay. Thank you.

Sassower: And you are concealing that it is part of the revenue bill.

Thompson: The next person is Alex Camarta, Senior Policy Advisory from Reinvent Albany.

Sassower: What revenue is produced by this, this Part HHH?

Thompson: Ma’am.

McCall: Thank you.

Thompson: Excuse me. There’s someone else waiting to sp –

Stringer: Thank you.

Sassower: It was inserted after behind-closed-doors, three-men-in-a-room dealmaking –

McCall: Thank you.

Stringer: Thank you.

Sassower: – completely unlawful, unconstitutional.

[committee aide restores microphone as Alex Camarta comes up]

McCall: Thank you.

Sassower: And you need evidence and the legislators need to come and deny and dispute what is, what is laid out in the citizen-taxpayer action.

Delgado: It's a done deal.

McCall: Thank you, very much.

Sassower: Lastly,

Thompson: No, we've already lastly.

Sassower: – as to what is going on in this current, fiscal year budget, I testified, twice, in January and in February, regarding the Legislative budget, the Judiciary budget.

Thompson: There's someone right behind you, waiting to speak, please, right there.

Delgado: He can wait.

Stringer: Thank you.

Sassower: It's all there. It's evidence.

McCall: Thank you very much.

Sassower: Thank you.