

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

CENTER FOR JUDICIAL ACCOUNTABILITY,
INC., and ELENA RUTH SASSOWER, individually
and as Director of the Center for Judicial
Accountability, Inc., acting on their own behalf and on
behalf of the People of the State of New York & the
Public Interest,

Plaintiffs,

-against-

ANDREW M. CUOMO, in his official capacity as
Governor of the State of New York, DEAN SKELOS
in his official capacity as Temporary Senate President,
THE NEW YORK STATE SENATE, SHELDON
SILVER, in his official capacity as Assembly Speaker,
THE NEW YORK STATE ASSEMBLY, ERIC T.
SCHNEIDERMAN, in his official capacity as Attorney
General of the State of New York, and THOMAS
DiNAPOLI, in his official capacity as Comptroller of
the State of New York,

Defendants.

AFFIRMATION

Index No. 1788-14

May 16, 2014

Adrienne J. Kerwin, an attorney licensed to practice in the State of New York, affirms the following under penalty of perjury pursuant to CPLR 2106:

1. I am an Assistant Attorney General of counsel in this matter to Eric T. Schneiderman, Attorney General of the State of New York, attorney for defendants Governor Andrew M. Cuomo, the New York State Senate, the New York State Assembly, Dean Skelos, Sheldon Silver, Eric T. Schneiderman and Thomas DiNapoli in the above-captioned action.

2. I submit this affirmation in support of defendants' motion to dismiss the complaint pursuant to CPLR 3211(a)(1), (a)(2) and (a)(7), and for summary judgment on plaintiffs' fourth cause of action pursuant to CPLR 3212..

3. This action was commenced by the filing of a summons and complaint on or about March 28, 2014. A copy of the summons and complaint, without exhibits, is annexed hereto at **Exhibit A**.

4. Respondents' motion to dismiss the complaint was granted as to plaintiffs' first three causes of action, and denied only as to plaintiffs' fourth cause of action. A copy of the court's October 8, 2014 Decision and Order is annexed hereto at **Exhibit B**.

5. Respondents thereafter served an answer to the complaint on or about November 6, 2015. A copy of that Answer is annexed hereto at **Exhibit C**

6. With the permission of the court, plaintiffs filed a supplemental complaint. A copy of the supplemental complaint, without exhibits, is annexed hereto at **Exhibit D**.

7. Although voluminous, the supplemental complaint in this action challenges only the initial steps taken toward the enactment of the 2014-15 and 2015-16 Legislative and Judiciary budgets.

8. Specifically, plaintiffs allege that (1) the Legislature did not provide a certified estimate of its financial needs for the 2015-16 fiscal years as required by Article VII, section 1 of the New York State Constitution; (2) the certified estimates of financial needs submitted by the Legislature and Judiciary were not properly itemized pursuant to Article VII, section 1 of the New York State Constitution; (3) the Governor failed to present the certified estimates of the Legislature and Judiciary in his Executive Budget "without revision" as required by Article VII,

section 1 of the New York State Constitution; and (4) the Legislature failed to follow its own rules and procedures and Legislative Law 32-a. See Exh. D.

9. A copy of the Legislature's certified estimate of its financial needs for the 2014-15 fiscal year is annexed hereto at **Exhibit E**.

10. A copy of the Judiciary's certified estimate of its financial needs for the 2014-15 fiscal year is annexed hereto at **Exhibit F**.

11. A copy of the Legislative and Judiciary Budget included in the Governor's 2014-15 Executive Budget (budget bill S.6451-A/A.8551-A) is annexed hereto at **Exhibit G**.

12. A copy of the enacted 2014-15 Legislative and Judiciary Budget (budget bill S.6451-A/A.8551-A) is annexed hereto at **Exhibit H**. This document is supplied here to the extent that the original complaint is read to challenge the enacted, instead of the proposed, budget.

13. A copy of the Legislature's certified estimate of its financial needs for the 2015-16 fiscal year is annexed hereto at **Exhibit I**.

14. A copy of the Judiciary's certified estimate of its financial needs for the 2015-16 fiscal year is annexed hereto at **Exhibit J**.

15. A copy of the Legislative and Judiciary Budget included in the Governor's 2015-16 Executive Budget (budget bill S.2001-A/A.3001-A) is annexed hereto at **Exhibit K**.

16. A copy of the enacted 2015-16 Legislative and Judiciary Budget (budget bill S.2001-A/A.3001-A) is annexed hereto at **Exhibit L**. This document is supplied here to the extent that the supplemental complaint is read to challenge the enacted, instead of the proposed, budget.

17. Exhibits E through L are either annexed to the original or supplemental complaint, or otherwise incorporated by reference in the original or supplemental complaint. As a result, defendants respectfully request that the court take judicial notice of these documents pursuant to CPLR 4511.

18. For the reasons discussed in the court's October 9, 2014 Decision and Order and defendants' memorandum of law submitted herewith, plaintiffs' fifth, sixth and seventh causes of action should be dismissed.

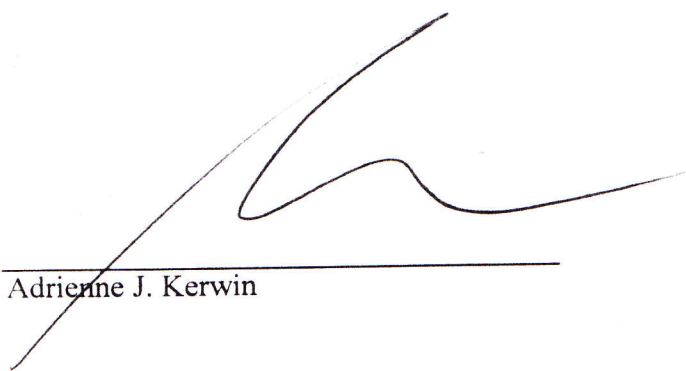
19. The public hearing in connection with budget bill S.6351-A/A.8551-A was held on February 5, 2014. A copy of the 2014-15 press release and public hearing schedule is annexed hereto at **Exhibit M**. A copy of the agenda for the February 5, 2014 public hearing is annexed hereto at **Exhibit N**. A transcript of the public hearing is annexed hereto at **Exhibit O**.

20. The public hearing in connection with budget bill S.2001-A/A.3001-A was held on February 26, 2015. A copy of the 2015-16 press release and public hearing schedule is annexed hereto at **Exhibit P**. A copy of the agenda for the February 26, 2015 public hearing is annexed hereto at **Exhibit Q**. A transcript of the public hearing is annexed hereto at **Exhibit R**.

21. For the reasons discussed in defendants' memorandum of law submitted herewith, plaintiffs' fourth, fifth, sixth, seventh and eighth causes of action should be dismissed.

WHEREFORE, the defendants respectfully request that the court issue an order (1) granting defendants' motion to dismiss the supplemental complaint in its entirety, with prejudice, (2) granting defendants' summary judgment on plaintiffs' fourth cause of action, and (3) granting defendants any further relief that the court deems just, proper and equitable.

Dated: Albany, New York
July 28, 2014



Adrienne J. Kerwin