

SUPREME COURT OF STATE OF NEW YORK
ALBANY COUNTY

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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' Interrogatories
& Document Demand**

Plaintiffs,

Index #1788-14

-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.

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INTERROGATORY QUESTIONS & DOCUMENT DEMAND

Plaintiffs' within Interrogatory Questions & Document Demand consists of four parts, as follows:

PART I

1. Legislative Law §32-a states:

“Budget; public hearings. After submission and prior to enactment of the executive budget, the senate finance committee and the assembly ways and means committee jointly or separately shall conduct public hearings on the budget. Such hearings may be conducted regionally to provide individuals and organizations throughout the state with an opportunity to comment on the budget. The committees shall make every effort to hear all those who wish to present statements at such public hearings. The chairs of the committees jointly or separately shall publish a schedule of hearings.”

- a. What was the span of days between the Governor's submission of the executive budget for fiscal year 2014-2015 and its enactment by the Legislature?
- b. What dates were announced by the Chairs of the Senate Finance Committee and Assembly Ways and Means Committee as the schedule for the public hearings to be held pursuant to Legislative Law §32-a for the executive budget for fiscal year 2014-2015.
- c. Were the Senate Finance Committee's other 36 members and the Assembly Ways and Means Committee's other 34 members consulted, and did they vote upon, the schedule announced by their Chairs? Was there no objection – or questioning by them – about combining the fiscal committees' public hearings for members of the public to testify, pursuant to Legislative Law §32-a, with the public hearings for agency and department heads to testify, pursuant to Article VII, §2 of the New York State Constitution and Legislative Law §31 – with the public's testimony relegated to the end?
- d. Why were no public hearings scheduled to be “conducted regionally”? Have the fiscal committees ever scheduled regional public hearings pursuant to Legislative Law §32-a?
- e. Why was no hearing separately scheduled for the Judiciary and Legislature's proposed budgets, consistent with the status of the Judiciary and Legislature as separate government branches whose budgeting is differentiated from the Executive branch by Article VII, §§1 and 4 of the New York State Constitution?
- f. Why was the hearing on the Judiciary's proposed budget placed within the hearing on “Public Protection”, rather than “Local Government Officials/General Government”?
- g. Would a hearing for the Legislature's proposed budget have also been in “Public Protection” inasmuch as the Legislature's lawmaking and oversight functions are “public protection” equal to the “public protection” of a functioning Judiciary branch?
- h. Why did the fiscal committees hold no hearing on the Legislature's proposed budget? Have they ever held a hearing on the Legislature's proposed budgets? Shouldn't the presiding officers of each house of the Legislature appear before the Legislature's fiscal committees to publicly justify the “itemized estimates of the financial needs” that Article VII, §1 of the New York State Constitution charges them with certifying – just as the Chief Administrative Judge appears before the fiscal committees in support of the Judiciary's “itemized estimates of...financial needs”, approved by the Court of Appeals and certified by its chief judge, pursuant to Article VII, §1?
- i. At what hearing did the fiscal committees believe the Governor's Executive budget appropriations for the Commission to Investigate Public Corruption should be heard? Would it be part of the hearing on “public protection”?

2. Explain how the Chair of the Senate Finance Committee complied with Legislative Law §32-a in denying plaintiffs' requests to testify in opposition to the Judiciary's proposed budget and the Governor's Legislative/Judiciary Budget Bill #S.6351/A.8551 embodying and expanding it. What was the basis for the denial? Supply all corroborative documents.

3. Explain how the Chair of the Senate Finance Committee and Chair of the Assembly Ways and Means Committee complied with Legislative Law §32-a in ignoring, without response, plaintiffs' requests to testify in opposition to the Legislature's proposed budget and the Governor's Legislative/Judiciary Budget Bill #S.6351/A.8551 embodying and expanding it. What was the basis for their doing so? Supply all corroborative documents.

4. Explain how the Chair of the Senate Finance Committee and Chair of the Assembly Ways and Means Committee complied with Legislative Law §32-a in ignoring, without response, plaintiffs' requests to testify in opposition to the Governor's appropriations for the Commission to Investigate Public Corruption, embedded in his Executive budget. What was the basis for their doing so? Supply all corroborative documents.

5. How many requests did the Senate Finance Committee and Assembly Ways and Means Committee receive from members of the public requesting to testify:

- (a) in opposition to the Judiciary's proposed budget and the Governor's Legislative/Judiciary Budget Bill #S.6351/A.8551?;
- (b) in opposition to the Legislature's proposed budget and the Governor's Legislative/Judiciary Budget Bill #S.6351/A.8551?; and
- (c) in opposition to the Governor's appropriations for the Commission to Investigate Public Corruption, embedded in his Executive budget?

How many members of the public were granted permission to testify? What was the criteria? Supply all corroborative documents.

6. How many requests did the Senate Finance Committee and Assembly Ways and Means Committee receive from members of the public to testify:

- (a) in support of the Judiciary's proposed budget and the Governor's Legislative/Judiciary Budget Bill #S.6351/A.8551?;
- (b) in support of the Legislature's proposed budget and the Governor's Legislative/Judiciary Budget Bill #S.6351/A.8551?; and
- (c) in opposition to the Governor's appropriations for the Commission to Investigate Public Corruption, embedded in his Executive Budget?

How many were granted permission to testify? What was the criteria? Supply all relevant documents.

7. What was the criteria for the Senate Finance Committee posting “Miscellaneous Testimonies” on its website,¹ including written statements of the New York County Lawyers’ Association and the New York State Bar Association in support of the proposed Judiciary budget and Budget Bill #S.6351/A.8551, while providing no opportunity to plaintiffs for the posting of any written statement of opposition? Having deprived plaintiffs of their right under Legislative Law §32-a to give live testimony at the February 5, 2014 “public protection” hearing, why did the Chairs and Ranking Members of the fiscal committees ignore plaintiffs’ February 28, 2014 e-mail (Exhibit L) for the posting of their February 21, 2014 letter of opposition, with its five substantiating enclosures?

8. Plaintiffs’ February 21, 2014 letter (Exhibit K-1)², addressed to the Chairs and Ranking Members of the Senate Finance Committee and the Assembly Ways and Means Committee, was entitled:

“Restoring Value to Your Sham and Rigged February 5, 2014 ‘Public Protection’ Budget Hearing on the Judiciary’s Proposed Budget by Appropriate Questioning of Chief Administrative Judge Prudenti”.

What did the Chairs and Ranking Members do with the “Questions for Chief Administrative Judge Prudenti” (Exhibit K-2)? – the most important of the letter’s five enclosures. Did they disagree with the letter’s assertion that “the state’s taxpayers are entitled to answers from Chief Administrative Judge Prudenti” and that her repetitively-stated readiness, at the February 5, 2014 “public protection” hearing, to answer questions and furnish information and her assertion “I want to be straightforward and honest with you at all times”, left them with “no excuse for not securing her answers”?

9. Did the Chairs and Ranking Members of the Senate Finance Committee and Assembly Ways and Means Committee forward the “Questions for Chief Administrative Judge Prudenti” to Chief Administrative Judge Prudenti for response?, as plaintiffs’ February 21, 2014 letter requested. And if not, why not?

10. And what about the rank and file members of the Senate Finance Committee and Assembly Ways and Means Committee, all indicated recipients of the February 21, 2014 letter (Exhibit K-1, p. 12)– to whom plaintiffs e-mailed the letter (twice) under the subject heading:

“(Again,) HEADS UP! -- What’s Been Happening with the Judiciary & Legislative Budgets – & Appropriations for the Commission to Investigate Public Corruption?” (Exhibit K-4).

Did they read the February 21, 2014 letter, alerting them to “willful misfeasance and nonfeasance” of their fiscal committee Chairs and Ranking Members with respect to plaintiffs’ requests to testify pursuant to Legislative Law §32-a – and stating that if their fiscal committee Chairs and Ranking Members did not forward the “Questions for Chief Administrative Judge Prudenti” to Chief

¹ <http://www.nysenate.gov/testimony/joint-legislative-public-hearing-2014-2015-executive-budget-proposal-miscellaneous-testimo>.

² Exhibits referred-to herein are annexed to plaintiffs’ Verified Complaint.

Administrative Judge Prudenti, we would ask them to do so? And did they not further see that their fiscal committee Chairs and Ranking Members had not responded to our requests for the fiscal notes and introducer's memoranda for Legislative/Judiciary Budget Bill #S.6351/A.8551, required by Senate Rule VIII, §7, Senate Rule VII, §1, and Assembly Rule III, §1(f) – the absence of which would prevent them from voting the bill out of committee. Did the rank and file members believe there was nothing they needed to do? If so, why was that?

11. What about the Chairs and Ranking Members of the other “appropriate committees” of the Senate and Assembly having oversight over the Judiciary and government integrity:

- the Chair and Ranking Member of the Senate Judiciary Committee;
- the Chair and Ranking Member of the Assembly Judiciary Committee;
- the Chair and Ranking Member of the Senate Committee on Investigations and Government Operations;
- the Assembly Committee on Governmental Operations;
- the Assembly Committee on Oversight, Analysis and Investigation?

To each of them plaintiffs addressed a March 4, 2014 letter (Exhibit M-1), enclosing the February 21, 2014 letter (Exhibit K-1) and its “Questions for Chief Administrative Judge Prudenti” (Exhibit K-2), and expressly stating:

“As will be immediately obvious upon your reading our enclosed ‘Questions for Chief Administrative Judge Prudenti’, these are the very types of questions any competent, unconflicted legislative committee with oversight over the Judiciary Committee and its budget would require Chief Administrative Judge Prudenti to answer. If you will not schedule committee hearings to get her live answers, what is your excuse for not forwarding her the questions for her written answers?”

By this letter, we request that individually, if not collectively, you promptly forward our ‘Questions for Chief Administrative Judge Prudenti’ to her for response so that, by the time your committees next meet, you will have her written answers for your rank and file committee members to review and discuss.” (Exhibit M-1, p. 2, underlining in the original).

Did these Chairs and Ranking Members of five additional “appropriate committees” of the Legislature forward the “Questions for Chief Administrative Judge Prudenti” (Exhibit K-2) to her for response. If not, why not?

12. And what did these Chairs and Ranking Members do with the “Questions for Temporary Senate President Skelos & Assembly Speaker Silver” (Exhibit M-2), which plaintiffs’ March 4, 2014 letter enclosed for them to forward to Senate President Skelos and Assembly Speaker Silver for

response? Did they forward them to Temporary Senate President Skelos and Assembly Speaker Silver? And, if not, why not?

13. How about the indicated recipients of the March 4, 2014 letter (Exhibit M-1, p. 6): the Chairs and Ranking Members of the Senate Finance Committee and Assembly Ways and Means Committee, the Senate and Assembly Leadership, these being, in addition to Temporary Senate President Skelos and Assembly Speaker Silver, Temporary Senate President Klein, Senate Minority Leader Stewart-Cousins, and Minority Leader Kolb, as well as plaintiffs' own Senator George Latimer (37th Senate District) and Assemblyman David Buchwald (93rd Assembly District)? Did none of them believe that the duties of their office required action on their part – the most minimal of which was that answers be furnished to the two sets of “Questions” enclosed with the March 4, 2014 letter?

14. Plaintiffs' 23 “Questions for Temporary Senate President Skelos & Assembly Speaker Silver” (Exhibit M-2) are attached and herein incorporated by reference as Interrogatory Question #14 for response by Temporary Senate President Skelos and Assembly Speaker Silver.

15. Plaintiffs' 32 “Questions for Chief Administrative Judge Prudenti” (Exhibit K-2) are attached and herein incorporated by reference as Interrogatory Question #15. If none of the defendant legislators saw fit to forward them to Chief Administrative Judge Prudenti for response – and to ensure that her response was forthcoming – they may be presumed capable of answering the Questions themselves. These should be answered, in the first instance, by the Chairs and Ranking Members of the Senate Finance Committee and Assembly Ways and Means Committee, to whom they were first furnished.

Part II

16. On or about November 27, 2013, defendants Temporary Senate President Skelos and Assembly Speaker Silver transmitted a proposed Legislative budget for fiscal year 2014-2015 to defendant Governor Cuomo. What did defendant Governor Cuomo do, upon receipt thereof, to ensure proper review and analysis, consistent with his/her constitutional, statutory, and rule responsibilities?

17. On or about November 29, 2013, Chief Administrative Judge A. Gail Prudential transmitted the Judiciary's two-part proposed budget for fiscal year 2014-2015 to 12 defendants herein: “Honorable Andrew M. Cuomo”; “Honorable Sheldon Silver”; “Honorable Dean G. Skelos”; “Honorable Jeffrey D. Klein”; Honorable Andrea Stewart-Cousins”; “Honorable Brian M. Kolb”; “Honorable John DeFrancisco”; “Honorable Herman D. Farrell, Jr.”; “Honorable Liz Krueger”; “Honorable Robert C. Oaks”; “Honorable John J. Bonacic”; and “Honorable Helene E. Weinstein”. What did defendant Governor and each of these 11 defendant legislators do, upon receipt of the Judiciary's proposed budget, to ensure proper review and analysis, consistent with his/her constitutional, statutory, and rule responsibilities?

18. Furnish a copy of the the Senate's “White Book” and “Blue Book” and the Assembly's “Yellow Book” and “Green Book” pertaining to the Executive Budget for fiscal year 2014-2015.

PART III

Senate Rule VII, §6 expressly states:

“When a bill is submitted or proposed by the Governor by authority of Article VII of the Constitution, it shall become, for all legislative purposes, a legislative bill and upon receipt thereof by the Senate it shall be endorsed ‘Budget Bill’ and be given a number by the Secretary and shall be referred to the Finance Committee and be printed. ...”

Assembly Rule III, §2(g) expressly states:

“When a bill is submitted or proposed by the Governor by authority of Article VII of the Constitution, it shall become, for all legislative purposes, a legislative bill, and upon receipt thereof by the Assembly it shall be endorsed ‘Budget Bill’ and be given a number by the Index Clerk, and shall be referred to the Committee on Ways and Means and be printed. ...”

* * *

19. Explain how Legislative/Judiciary Budget Bill #S.6351/A.8551, which was not accompanied by fiscal notes, fiscal impact statements, and introducer’s memoranda, complied with those requirements, set forth by Senate Rule VIII, §7, Senate Rule VII, §1, and Assembly Rule III, §1(f). [*cf.* Permanent Joint Rule I of the Senate and Assembly].

20. Explain how Legislative/Judiciary Budget Bill #S.6351/A.8551, whose unidentified and unitemized funding of the third-phase of the judicial salary increase modified Judiciary Law, Article 7-B, without identifying that fact, complied with the requirement that such be so-stated, set forth in Senate Rule VII, §4 “Title and body of bill” and in Assembly Rule III §1 “Contents”.

21. Explain how Legislative/Judiciary Budget Bill #S.6351/A.8551, which, on March 28, 2014, morphed into #S.6351-A/A.8551-A, complied with the requirements that an amended bill identify what the amendment consists of, set forth in Senate Rule, VII, §4(b), and Assembly Rule III, §6, and Assembly Rule IV, §6(f).

22. Identify by whom and how Legislative/Judiciary Budget Bill #S.6351/A.8551 was amended and the nature of the amendment [*inter alia*, Senate Rule IX, §4, Assembly Rule III, §6].

23. Explain when and in what fashion Legislative/Judiciary Budget Bill #S.6351/A.8551 complied with Senate Rule VIII, §§3, 4, 5 and Assembly Rule IV, §§2, 4, 6 regarding committee meetings, committee hearings, committee votes, and committee reports.

24. Explain how introduction and passage of Senate Resolution #4036 and Assembly Resolution #914 complied with pertinent Senate and Assembly Rules [*inter alia*, Senate Rule VII, §9, Senate Rule IX, §6].

25. Explain how the Legislature complied with Rule III of the Permanent Joint Rules of the Senate and Assembly, and, most specifically as to the votes, and reports of the Joint Budget Conference Committee and its Joint Subcommittee on “Public Protection”.

PART IV

INTERROGATORY QUESTIONS & DOCUMENT DEMANDS BASED ON DEFENDANTS’ VERIFIED ANSWER TO PLAINTIFFS’ VERIFIED COMPLAINT

26. Defendants’ Answer, by its ¶4, states that defendants:

“Deny knowledge or information sufficient to form a basis of belief to admit or deny the assertions in paragraphs 4, 6, 26, 32, 34, 39, 40, 41, 42, 43, 45, 46, 48, 49, 50, 63, 64, 65, 66, 73 and 74 of the complaint.”

Of these 21 paragraphs of the Complaint, 17 of them, ¶¶26, 32, 34, 39, 40, 43, 45, 46, 48, 49, 50, 63, 64, 65, 66, 73 and 74, pertain to plaintiffs’ letters to defendants – and assert that the defendants to whom the letters were addressed or who were their indicated recipients did not respond to them and that each such letter is “true and correct in all material respects”.

Defendants’ ¶4 is sham. Each defendant to whom the letters were addressed, or who was an indicated recipient thereof, or who subsequently received them, has “knowledge and information” as to: (1) whether he/she responded to the letters; and (2) whether the letters are “true and correct in all material respects”. These are now Interrogatory Question #26 – which plaintiffs direct to each such defendant with respect to the letters annexed to the Complaint as exhibits and referred-to by the cited paragraphs, *to wit*:

- plaintiffs’ December 30, 2013 letter – and its single enclosure – their August 21, 2013 letter to defendant Cuomo [Complaint: ¶26, Exhibits D, B]
- plaintiffs’ December 11, 2013 letter [Complaint: ¶32, Exhibit C]
- plaintiffs’ January 7, 2014 letters [Complaint: ¶34, Exhibits E-1, E-2]
- plaintiffs’ January 14, 2014 letter [Complaint, ¶40, 43, Exhibit F]
- plaintiffs’ January 29, 2014 letter [Complaint, ¶¶45-46, Exhibit G];
- plaintiffs’ February 3, 2014 e-mail [Complaint, ¶¶48-50, Exhibit H];
- plaintiffs’ February 21, 2014 letter – and its five enclosures, including plaintiffs’ “Questions for Chief Administrative Judge Prudenti” and “Analysis” and plaintiffs’ two February 11, 2014 letters [Complaint, ¶¶63-64, Exhibit K]
- plaintiffs’ February 28, 2014 e-mail [Complaint: ¶¶65-66, Exhibit L]

- plaintiffs’ March 4, 2014 letter – and its two enclosures, including its “Questions for Senate President Skelos & Assembly Speaker Silver” [Complaint: ¶¶73-74, Exhibit M)

Additionally, all defendants answering the above pertaining to ¶¶26, 32, 34, 39, 40, 43, 45, 46, 48, 49, 50, 63, 64, 65, 66, 73, 74 of the Complaint, are requested to substantiate their answers:

- (a) by specifying and furnishing evidence of their response to plaintiffs’ letters, if they responded, and
- (b) by explaining why, if they did not respond, they failed to do so; and
- (c) by specifying the respects in which they deny or dispute that each letter is “true and correct in all material respects”, if they do.

27. ¶4 of defendants’ Answer states they have no “knowledge or information sufficient to form a basis of belief...” as to the Complaint’s ¶¶41, 42. This also is sham. These two cited paragraphs of the Complaint pertain to the Governor’s Legislative/Judiciary Budget Bill #S.6351/A.8551 and his recommendations with respect thereto – and each defendant, the Governor, certainly, and the other defendants, all legislators, have “knowledge or information” to answer ¶¶41, 42.

28. Defendants’ Answer, by its ¶5, states that defendants:

“Deny the allegations contained in paragraphs 5, 15, 18, 19, 114, 116, 117, 118, 119, 120, 121, 125, 126.”

This bald denial is sham and would not enable defendants to move for summary judgment, as it does not meet the particularized allegations of the 13 paragraphs of the Complaint it purports to deny – 9 of which are within the Complaint’s Fourth Cause of Action: “Nothing Lawful or Constitutional Can Emerge From a Legislative Process that Violates its Own Statutory & Rule Safeguards” (¶¶114-126). Consequently, this Interrogatory Question #28 calls upon defendants to substantiate their bald and provably false denials of these 13 paragraphs, as follows:

As to ¶114: furnish facts demonstrating that defendant legislators did not willfully and deliberately violate express statutory and rule provisions with respect to defendant Governor’s Legislative/Judiciary Budget Bill #S.6351/A.8551;

As to ¶¶116-117: furnish facts demonstrating that defendant legislators did not violate Legislative Law §32-a by ignoring, without response, plaintiff Sassower’s repeated phone calls and written requests to testify – “with full knowledge that her testimony was not only serious and substantial, but dispositive”, violating both plaintiffs’ right to be heard and the public’s right to hear with respect to the Judiciary and Legislative budgets and the Commission to Investigate Public Corruption;

As to ¶118: furnish facts demonstrating that defendant legislators did not willfully and deliberately violate their own rules, as for instance, pertaining to fiscal notes and

introducer's memoranda (Senate Rule VIII, §7, Senate Rule VII, §1 and Assembly Rule III, §1(f), so as to unconstitutionally conceal from taxpayers the dollar amounts of Judiciary and Legislative budgets they do not know or will not reveal;

As to ¶119: furnish facts demonstrating that defendant legislators did not violate such rules as Senate Rule VII, §4 "Title and body of bill", which, if complied with, would have prevented Budget Bill #S.6351/A.8551 from funding the third phase of the judicial salary increase and superseding Judiciary Law Article 7-B without identifying such fact;

As to ¶120: furnish facts demonstrating that defendant legislators did not violate all substantive and procedural Senate and Assembly rules designed to ensure legitimate legislative process, as for instance, committee votes (Senate Rule VIII, §5), in tossing Legislative/Judiciary Budget Bill #S.6351/A.8551 into resolutions commencing the joint budget conference "process";

As to ¶¶121-123: furnish facts demonstrating that defendant legislators did not conceal their violations of legitimate legislative process and the public's rights by false declarations in introducing and fashioning their joint budget conference resolutions;

As to ¶124-125: furnish facts demonstrating that defendant legislators' joint budget conference "process" was not sham and violative of legitimate legislative process;

As to ¶126: furnish facts demonstrating that "behind-closed-door deal-making" by defendant Governor and legislative leaders does not violate Constitutional, statutory and Senate and Assembly rule provisions relating to openness, such as Article III, §10 of New York's Constitution; Public Officers Law, Article VI; Senate Rule XI, § 1; Assembly Rule II, §1.

29. Defendants' Answer, by its ¶6, states that defendants:

"Deny knowledge or information sufficient to form a basis of belief to admit or deny the assertions in paragraphs 9 and 11 of the complaint, except to respectfully refer the court to the document cited as the best evidence of what is stated and contained therein."

This is sham. ¶¶9 and 11 pertain to what the Senate and Assembly are, the number of their members, their largest committees, and their own budget narrative for fiscal year 2014-2015. All defendants – and certainly the legislative defendants – have "knowledge or information" to answer these two paragraphs.

30. Defendants' Answer, by its ¶7, states:

"As to the allegations contained in paragraphs 14, 17, 27, 31, 35, 36, 37, 47, 54, 58, 59, 68, 69, 75, 115 and 123 of the complaint, respectfully refer the court to the law,

document or exhibit cited as the best evidence of what is stated or contained therein, and deny the allegations to the extent they are inconsistent with said law, document or exhibit.”

This is sham. It denies the allegations of 16 paragraphs of the Complaint only “to the extent they are inconsistent with [the cited] law, document or exhibits”, without contending they are inconsistent.

Defendants, all of whom are the highest constitutional officers of New York’s Executive and Legislative branches, many of whom are attorneys, are as capable as any court, if not more so, of furnishing “the best evidence of what is stated or contained” in the paragraphs of the Complaint” and asserting inconsistencies with the cited “law, document, or exhibit”.

Consequently, this Interrogatory Question #30 seeks, as to each defendant, that they identify, as to each of the 16 cited paragraphs of the Complaint, whether they are denying them as “inconsistent with said law, document, or exhibit” and, if so, the specific respects in which each paragraph is “inconsistent”.

31. Defendants’ Answer, by its ¶8, states that defendants:

“Deny the allegations contained in paragraphs 16, 20, 21, 22, 23, 24, 28, 29, 30, 33, 38, 44, 51, 52, 53, 55, 56, 57, 60, 61, 62, 67, 70, 71, 72, 122 and 124 of the complaint, except to refer the court to the exhibit or document cited as the best evidence of what is stated and contained therein.”

This is sham. Virtually all of the cited 27 paragraphs of the Complaint merely summarize and quote the content of plaintiffs’ letters to defendants.

Consequently, this Interrogatory Question #31 seeks, as to each defendant who was a recipient of the letters, that they substantiate their conclusory denials by identifying the specific respects in which they deny that the content of those letters is accurately recited by the Complaint’s paragraphs.

The paragraphs of the Complaint to be addressed:

¶¶20-24 of the Complaint –
summarizing and quoting from plaintiffs’ December 30, 2013 letter (Exhibit D);

¶¶28-30 of the Complaint –
summarizing and quoting from plaintiffs’ December 11, 2013 letter (Exhibit C);

¶33 of the Complaint –
summarizing and quoting from plaintiffs’ January 7, 2014 letters (Exhibit E);

¶38 of the Complaint –
summarizing and quoting from plaintiffs’ January 14, 2014 letter (Exhibit F-1);

¶44 of the Complaint –
summarizing and quoting from plaintiffs’ January 29, 2014 letter (Exhibit G);

¶¶51-53, 55-57, 60-62 of the Complaint –
summarizing and quoting from plaintiffs’ February 21, 2014 letter and its enclosures
(Exhibits K, J-1, J-8);

¶¶67, 70-72 of the Complaint – summarizing and quoting from plaintiffs’ March 4,
2014 letter (Exhibit M).

Certainly, too, as to ¶¶122 and 124 of the Complaint, the defendant legislators are easily able to admit to the accuracy of the quotes from their own Assembly Resolution #914 and the statements made by Senators on the floor of the Senate “in the wee hours of March 14, 2014” in response to Senate Resolution #4036.

32. Defendants’ Answer, by its ¶9, states:

“As to the allegations contained in paragraph 7 of the complaint, admit that Defendant Cuomo is the Governor of the State of New York and deny the remaining allegations except to respectfully refer the court to the documents cited as the best evidence of what is stated and contained therein.”

This is sham. The Complaint’s ¶7 has five subparagraphs. Their accuracy of those subparagraphs, belying defendants’ conclusory denial, is established by the Governor’s July 2, 2013 Executive Order #106, his words at the July 2, 2013 press conference, and plaintiffs’ August 21, 2013 letter to him – all referenced by the subparagraphs.

As defendants, beginning with the Governor, are equally, if not better, able than the Court to assess this “best evidence of what is stated and contained” in the five subparagraphs of the Complaint’s ¶7, this Interrogatory Question #32 calls upon them to do so.

33. Defendants’ Answer, by its ¶10, states:

“As to the allegations contained in paragraph 12 of the complaint, admit that Eric T. Schneiderman is the Attorney General of the State of New York and deny the remaining allegations except to respectfully refer the court to the law or document cited as the best evidence of what is stated and contained therein.”

This is sham. The Complaint’s ¶12 has three subparagraphs. The accuracy of those subparagraphs, belying defendants’ bald denials, is established by the Governor’s Executive Order #106, the Attorney General’s words at the July 2, 2013 press conference, and Executive Law §63.8 – all referenced by the subparagraphs. As defendants are equally, if not better, able than the Court of assess this “best evidence of what is stated and contained” in the three subparagraphs, this Interrogatory Question #33 calls upon them to do so.

34. Defendants' Answer, by its ¶11, states that defendants:

“Deny knowledge or information sufficient to form a basis of belief to admit or deny the assertions in paragraph 25 of the complaint, except to deny that there was no response from Budget Director Megna.

The Complaint's ¶34 pertains to plaintiffs' December 30, 2013 letter (Exhibit D). It states:

“25. Defendants SKELOS and SILVER never responded. Nor was there any response from defendant CUOMO. Likewise, there was no response from Budget Director Megna or from the Chairs and Ranking Members of the many “appropriate committees of the legislature”, all indicated recipients.”

All defendant-recipients of the December 30, 2013 letter have “knowledge or information” as to whether they responded. Such is here requested by this Interrogatory Question #34, as likewise the particulars of Budget Director Megna's supposed response, including documentary proof of what it consisted of.



ELENA RUTH SASSOWER, Plaintiff Pro Se, *individually*
& as Director of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York &
the Public Interest

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Dated: White Plains, New York
December 8, 2014

THE LEGISLATURE'S PROPOSED BUDGET FOR FISCAL YEAR 2014-2015

* * *

**QUESTIONS FOR TEMPORARY SENATE PRESIDENT SKELOS
& ASSEMBLY SPEAKER SILVER**

- (1) Article VII, §1 of the New York State Constitution requires that “itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house” be transmitted to the Governor before December 1st of each year, is that correct?
- (2) By a one-sentence coverletter to the Governor, dated November 27, 2013, on a letterhead of the “New York State Legislature” and bearing your printed names, titles, and signatures, you stated: “Attached hereto is a copy of the Legislature’s Budget for the 2014-2015 fiscal year pursuant to Article VII, Section 1 of the New York State Constitution”. In so doing, you did not purport that such attached budget represented “itemized estimates of the financial needs of the legislature”, right? Nor did you purport to have certified it, right?
- (3) Your attached budget consisted of: (1) a five-page budget narrative, with a sixth page chart entitled “All Funds Requirements for the Legislature”; and (2) a ten-page “Schedule of Appropriations”. These 16 pages neither included a certification, nor referred to “itemized estimates” of the Legislature’s “financial needs” nor to Article VII, §1, right?
- (4) Would you agree that you did not furnish the Governor with “itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house” – and that you did not purport to be doing so?
- (5) Doesn’t the failure of your November 27, 2013 coverletter to even claim to be furnishing the Governor with “itemized estimates of the financial needs of the legislature” reflect your knowledge that your transmitted budget was not “itemized estimates of the financial needs of the legislature”. Isn’t that why you did not certify it?
- (6) The budget you transmitted to the Governor contained no “General State Charges” for the Legislature, *to wit*, the “fringe benefits” that are pension contributions, social security, health, dental, vision and life insurance, etc. for legislators and legislative branch employees, is that correct?
- (7) Where are the Legislature’s “General State Charges”? How much are they and did you certify them to be “itemized estimates” of the Legislature’s “financial needs” with respect to its “General State Charges”?

- (8) The figures in the chart of “All Funds Requirements for the Legislature” are identical to those in the charts of “All Funds Requirements for the Legislature” from the past three fiscal years – showing no change for four years – is that correct?
- (9) Can you explain how any cognizable “process” of ascertaining the Legislature’s actual “financial needs” could have produced four years of identical budgets?
- (10) What is the “process”, if any, by which the Legislature’s budget for fiscal year 2014-2015 was compiled?
- (11) Wouldn’t the process of compiling “itemized estimates of the legislature’s financial needs” require soliciting the Legislature’s 213 members and the 72 legislative committees as to their “financial needs”?
- (12) Were legislators and legislative committees solicited as to their “itemized estimates” of their “financial needs”?
- (13) Would you agree that more than half of the ten-page “Schedule of Appropriations” (pp. 5-10) is devoted to less than 10% of the budget?
- (14) With respect to this 10%, can you explain:
 - (a) Why the “Schedule of Appropriations” for the Legislative Ethics Commission (p. 5) conceals the shifting of \$2,000 in “Nonpersonal Service” by misrepresenting that “Supplies and Materials” were \$6,667 in fiscal year 2013-2014 – when they were \$5,677 – misrepresenting that “Travel” was \$6,000 for fiscal year 2013-2014 – when it was \$8,000 – and misrepresenting that “Contractual Services” were \$2,000 for fiscal year 2013-2014 – when they were \$1,000?
 - (b) Why the “Schedule of Appropriations” for the Legislative Library (p. 6) conceals the shifting of \$20,000 in “Nonpersonal Service” by misrepresenting that “Contractual Services” were \$126,500 for fiscal year 2013-2014 – when they were \$106,500 – and misrepresenting that “Equipment” was \$5,000 for fiscal year 2013-2014 – when it was \$25,000?
 - (c) Why the “Schedule of Appropriations” for the Legislative Task Force on Demographic Research and Reapportionment (pp. 7-8) conceals the shifting of \$3,000 in “Nonpersonal Service” by misrepresenting that “Travel” was \$3,000 for fiscal year 2013-2014 – when it was \$6,000 – and misrepresenting that “Contractual Services” for fiscal year 2013-2014 was \$7,402 – when it was \$4,402?

- (15) Aren't such misrepresentations, as verifiable from comparison of the "Schedule of Appropriations" for fiscal year 2014-2015 with the "Schedule of Appropriations" for fiscal year 2013-2014, part of a practice of similar misrepresentation in prior "Schedules of Appropriations", including in the "Schedule of Appropriations" for fiscal year 2013-2014, as follows:
- (a) Concealing the shifting of \$5,000,000 in "Nonpersonal Service" for the Senate by misrepresenting that \$9,068,485 had been appropriated for "Supplies and materials" for fiscal year 2012-2013 – when it was \$4,068,485 – and misrepresenting that \$11,897,989 had been appropriated for "Miscellaneous contractual services" for fiscal year 2012-2013 – when it was \$16,897,989;
 - (b) Concealing the shifting of \$5,000,000 in "Nonpersonal Service" for the Assembly by misrepresenting that \$7,075,000 had been appropriated for "Supplies and materials" for fiscal year 2012-2013 – when it was \$2,075,000 – and misrepresenting that \$12,111,000 in "Miscellaneous contractual services" had been appropriated for fiscal year 2012-2013 – when it was \$17,111,000.
- (16) Would you agree that most of the 90% balance of the "Schedule of Appropriations" for fiscal year 2014-2015 (pp. 1-5) relates to member offices, legislative committees, and central staff?
- (17) Would you agree that this 90% of the budget (pp. 1-5) lacks itemization sufficient for intelligent and meaningful review?
- (a) why are appropriations for member offices combined with appropriations for legislative committees? (pp. 1, 3) Doesn't this make it impossible to know total appropriations for member offices and total appropriations for legislative committees, let alone to evaluate appropriation levels of individual member offices and individual legislative committees?;
 - (b) why is the Assembly Ways and Means Committee the only legislative committee whose funding is identified (p. 4)? What about the funding of the Senate Finance Committee? How about the funding of the other 37 Assembly committees and the other 33 Senate committees? How many people do each of these committees employ and in what positions?;
 - (c) what is the funding for legislators' offices, cumulatively and individually? How many persons do they employ and in what positions?;
 - (d) what do "senate operations" and "[assembly] administrative and program support operations" (pp. 2, 3) consist of; how many persons work in them and in what capacities?

- (18) The budget that your November 27, 2013 coverletter transmitted to the Governor contained no legislative reappropriations, correct?
- (19) Do you agree that when the Governor combined the Legislature's budget with the Judiciary's budget in his Budget Bill #S.6351/A.8551, he was able to conceal 19 pages of legislative reappropriations (pp. 27-46) that were not part of your November 27, 2013 transmittal to him?
- (20) Do you agree that these 19 pages of legislative reappropriations are in an out-of-sequence section at the back of the Governor's Budget Bill #S.6351/A.8551?
- (21) Can you explain where these 19 pages of legislative reappropriations came from?
 - (a) When and in what fashion were they transmitted to the Governor?;
 - (b) Did you certify that the monies proposed for these legislative reappropriations were suitable for that purpose?;
 - (c) Are they?;
 - (d) What is the cumulative total of the legislative reappropriations?
- (22) The Governor's Budget Bill #S.6351/A.8551 contains no cumulative tally for its monetary allocations for the Legislature, is that correct? What is the dollar amount? Is it the addition of appropriations and reappropriations (pp. 1-9; 27-46)?
- (23) As the Governor's Budget Bill #S.6351/A.8551 identifies no appropriations of "General State Charges" for the Legislature – in contrast to the appropriations it identifies for "General State Charges" for the Judiciary (pp. 22-23) – where can they be found?

THE JUDICIARY’S PROPOSED BUDGET FOR FISCAL YEAR 2014-2015

“...there can be no doubt that the New York State Judiciary has shown itself to be a faithful steward of the public fisc...and a good partner with its co-equal branches of government...”

– Judiciary’s Executive Summary to its Proposed Budget, at p. iii

* * *

Examination of the Judiciary’s proposed budget for fiscal year 2014-2015 must begin with its total cost, especially as the Judiciary does not provide it – and the Governor’s Commentary, his Division of the Budget website, and the Legislature’s “White”, “Blue”, “Yellow” and “Green” Books diverge as to what that total is.

Certainly, too, ascertaining the total cost of the Judiciary’s proposed budget and its percentage of increase over last year are additionally essential as the Governor’s Commentary “urge[s] the Legislature and Judiciary to reduce it so that it is in line with the rest of State spending” – this being a spending increase of no more than 2%

* * *

QUESTIONS FOR CHIEF ADMINISTRATIVE JUDGE PRUDENTI

- (1) By two memoranda dated November 29, 2013, you transmitted to the Governor and Legislature the Judiciary’s two-part proposed budget. One part pertained to the Judiciary’s operating expenses and the other part pertained to “General State Charges” – these being “the fringe benefits of judges, justices and nonjudicial employees”. Neither memorandum identified the cumulative dollar amount of each part or of the two-part budget presentation taken together, is that correct? Why was that?
- (2) A single Executive Summary accompanied your transmitted two-part proposed budget, contained in the proposed budget presentation of operating expenses. It consisted of a four-page narrative followed by five pages of statistical tables. Neither the Executive Summary nor the statistical tables furnished a cumulative dollar amount of the Judiciary’s proposed budget, is that correct? Why is that?
- (3) Each of the two parts of the proposed budget contain a “Chief Judge’s Certification” and “Court of Appeals Approval”. The certification and approval for the part pertaining to operating expenses each state that they are certifying and approving that “the attached schedules” are “the itemized estimates of the financial needs of the Judiciary for the fiscal year beginning April 1, 2014”. Which are “the attached schedules” being referred-to?

- (4) The Judiciary also furnished “a single budget bill”, so-described by the memorandum transmitting the “General State Charges”. When was the “single budget bill” transmitted?
- (5) This “single budget bill” also did not identify the cumulative dollar total of the Judiciary’s proposed budget, is that correct? Why is that?
- (6) What is the cumulative dollar total of the “single budget bill”? Which are the specific figures in the bill that you added to arrive at that figure?¹ Is this the same cumulative dollar total as would be produced by adding the various figures in the Judiciary’s two-part budget presentation?
- (7) Do you agree that there is a disparity between the cumulative tally of figures in the Judiciary’s two-part budget presentation and the cumulative tally of figures in the “single budget bill”? Is the reason the Judiciary does not furnish cumulative budget tallies in these documents to conceal the disparity?
- (8) Where in the Judiciary’s two-part budget presentation are the \$41,525,000 reappropriations whose tally appears on the first page of the “single budget bill” and whose breakdown appears at its pages 14-16?
- (9) The Judiciary’s budget presentation for operating expenses identifies only a single reappropriation – the \$51 million “Capital Project” for the Court Officer Academy in Kings County (at p. 152), is that correct?
- (10) Why is the \$51 million “Capital Project” reappropriation not included in the \$41,525,000 tally of reappropriations appearing on the first page of the Judiciary’s “single budget bill”?
- (11) Are the \$41,525,000 in reappropriations properly designated as such – and is there any certification thereof?
- (12) According to the “Citizen’s Guide” on the Division of the Budget’s website,

“A reappropriation is a legislative enactment that continues all or part of the undisbursed balance of an appropriation that would otherwise lapse (see lapsed appropriation). Reappropriations are commonly used in the case of federally funded programs and capital projects, where the funding amount is intended to support activities that may span several fiscal years.”
http://www.budget.ny.gov/citizen/financial/glossary_all.html#r

¹ Is it the tally of “Appropriations” plus “Reappropriations” at page 1, plus “General State Charges” at page 12? What about the “New Appropriations (Supplemental)” at pages 10-11 and “Capital Projects-Reappropriations” at p. 17?

Can you identify what the various reappropriations, specified at pages 14-16 of the Judiciary's "single budget bill", were for when originally appropriated? Why was this money not used? And what is it now purported to be reappropriated for?

- (13) Is the reason the Judiciary's two-part budget presentation does not identify the \$41,525,000 in unused appropriations because they are not properly reappropriations and should be returned to the public treasury?
- (14) Would you agree that except for the last two reappropriations of \$10 million each (at p. 16), all the listed reappropriations in the "single budget bill" (at pp. 14-15) are pretty barren, essentially referring to chapter 51, section 2 of the laws of 2013, 2012, 2011, 2010, 2009 and also chapter 51, section 3 of those laws – which are the enacted budget bills pertaining to the Judiciary for those years, its appropriations and reappropriations, respectively. They furnish no specificity as to their purpose other than a generic "services and expenses, including travel outside the state and the payment of liabilities incurred prior to April 1..."; or "services and expenses as provided by section 94-b of the state finance law– Contractual Services"; or "Contractual Services".

A. Can you explain how these reappropriations are consistent with State Finance Law §25:

"Every appropriation reappropriating moneys shall set forth clearly the year, chapter and part or section of the act by which such appropriation was originally made, a brief summary of the purposes of such original appropriation, and the year, chapter and part or section of the last act, if any, reappropriating such original appropriation or any part thereof, and the amount of such reappropriation. If it is proposed to change in any detail the purpose for which the original appropriation was made, the bill as submitted by the governor shall show clearly any such change."

B. Are these reappropriations consistent with Article VII, §7 of the New York Constitution?

"No money shall ever be paid out of the state treasury or any of its funds, or any of the funds under its management, except in pursuance of an appropriation by law; nor unless such payment be made within two years next after the passage of such appropriation action; and every such law making a new appropriation or continuing or reviving an appropriation, shall distinctly specify the sum appropriated, and the object or purpose to which it is to be applied; and it shall not be sufficient for such law to refer to any other law to fix such sum."

C. Are they consistent with Article III, §16 of the New York State Constitution:

“No act shall be passed which shall provide that any existing law, or any part thereof, shall be made or deemed a part of said act, or which shall enact that any existing law, or part thereof, shall be applicable, except by inserting it in such act.”

D. How about the two reappropriations at page 16? Are they consistent with State Finance Law §25, with Article VII, §7, and with Article III, §16 of the New York Constitution?

(15) According to your transmitting memorandum for the Judiciary’s operating budget, the Judiciary’s “General Fund State Operations budget request” is \$1.81 billion representing “a cash increase of \$44.2 million, or 2.5 percent, over available current year funds.” This is repeated in the Executive Summary (p. iii), annotated by a footnote:

“The appropriation request associated with the requested increase in cash is \$1.82 billion, which represents at \$63 million, or 3.6 percent increase. The increase in the appropriation request is slightly higher than the increase in the cash request because of technical reasons that relate to the use of reappropriations to pay for the first two years of the judicial salary increase. The cash increase, rather than the appropriation request, is the true measure of the year-to-year increase sought by the Judiciary.” (fn. 2, underlining added).

Can you explain what this means?

(16) Looking at the Judiciary’s “single budget bill” from two years ago, for fiscal year 2012-2013, it contains a reappropriation reading:

“By chapter 51, section 2, of the laws of 2008, as reappropriated and amended by chapter 51, section 3 of the laws of 2009, and as reappropriated by chapter 51, section 3 of the laws of 2011: For expenses necessary to fund adjustments in the compensation of state-paid judges and justices of the unified court system and housing judges of the New York City civil court, and for such other services and expenses specified in section two of this act.”
– Personal service - regular ... 51,006,759 (re. \$31,000,000)”

The Executive Summary to the Judiciary’s two-budget presentation for fiscal year 2012-2013 identified the cost of the first phase of the judicial salary increase as \$27.7 million. Was that, in fact, how much was expended from the \$31 million reappropriation? And did that \$27.7 million include increases to “General State Charges” resulting from the judicial salary increase? Is it correct that there is no certification in the Judiciary’s proposed budget for fiscal year 2012-2013 as to the dollar cost of its “financial need” to fund the first phase of the

judicial salary increase?

- (17) Last year, for fiscal year 2013-2014, the Judiciary's Executive Summary, though identifying the second phase of the judicial salary increase, did not identify its dollar cost. Is that correct? Likewise, the balance of last year's Judiciary budget documents, though identifying the second phase, did not identify its dollar cost. Is that correct? There is thus no certification as to the dollar cost of the Judiciary's "financial need" to fund the second phase. What was the dollar cost of the second phase of the judicial salary increase?
- (18) Why did last year's "single budget bill" not specify the reappropriation from which the second phase of the judicial salary increase was to be funded?
- (19) Each phase of the judicial salary increase has to be funded not just for one year, but forever because of the non-diminution clause of the New York Constitution (Article VI, §25a), is that correct?
- (20) How was the second year of the first phase of the judicial salary increase funded in the Judiciary's "single budget bill" for fiscal year 2013-2014?
- (21) The Judiciary's proposed budget for fiscal year 2014-2015 requires funding for the third year of the first phase of the judicial salary increase and for the second year of the second phase of that judicial salary increase, is that correct? Where are the appropriations for those two phases in the Judiciary's "single budget bill"?
- (22) Now, a third phase of the judicial salary increase is scheduled to take effect on April 1, 2014, is that correct? Where in the Judiciary's two-part budget presentation for fiscal year 2014-2015 is there any reference to this third phase? There is none, right? Yet, the Judiciary is seeking funding for it, correct? How much will this third phase cost in fiscal year 2014-2015 – and where is it in the Judiciary's "single budget bill"? Why is this information nowhere to be found – and is it correct that there is no certification of the dollar cost of this third phase in the Judiciary's proposed budget for fiscal year 2014-2015?
- (23) You are familiar with Chapter 567 of the Laws of 2010, are you not? It created the 2011 Special Commission on Judicial Compensation, whose August 29, 2011 Final Report recommended the three-phase judicial salary increase. Would you agree that Chapter 567 of the Laws of 2010 included a safeguarding provision that the Commission's recommendations would not become law if modified or eliminated prior to April 1st of the year to which each recommendation applied? (§1h).
- (24) Isn't the reason the Judiciary failed to put any line-item in its "single budget bill", this year and last, for the second and third phases of the judicial salary increase to conceal the Legislature's power, as likewise the Governor's, to strike each phase of increase, pursuant to Chapter 567 of the Laws of 2010? Isn't this also the reason the Judiciary used an inappropriate reappropriation description/designation for the first phase?

- (25) Would you agree that if the Commission on Judicial Compensation did not comply with the statutory prerequisites for making judicial salary recommendations, set forth in Chapter 567 of the Laws of 2010, it would be the Legislature's duty and that of the Governor, to set its recommendations aside?
- (26) You are familiar with the October 27, 2011 Opposition Report of the Center for Judicial Accountability, are you not? Do you deny the accuracy of its showing that the Commission's recommendations for judicial salary increases flagrantly violated Chapter 567 of the Laws of 2010, including in the following respects:
- (a) *In violation of the statute*, the Commission's judicial salary increase recommendations were unsupported by any finding that current "pay levels and non-salary benefits" of New York State judges were inadequate (at pp. 1, 16, 31);
 - (b) *In violation of the statute*, the Commission examined only judicial salary, not "compensation and non-salary benefits" (at pp. 18-21, 25-31);
 - (c) *In violation of the statute*, the Commission did not consider "all appropriate factors" – a violation it attempted to conceal by transmogrifying the statutory language "all appropriate factors" to "a variety of factors" (at pp. 4-5, 21);
 - (d) *In violation of the statute*, the Commission made no findings as to five of the six statutorily-listed "appropriate factors" it was required to consider (at pp. 21, 23-24);
 - (e) *In violation of the statute*, the Commission did not consider and made no findings as to the "appropriate factors" which the Center for Judicial Accountability presented as disintitling the judiciary to any judicial pay raise. Among these,
 - (i) evidence of systemic judicial corruption, infesting appellate and supervisory levels and the Commission on Judicial Conduct – demonstrated as a constitutional bar to raising judicial pay (at pp. 10-13); and
 - (ii) the fraudulence of claims put forward to support judicial pay raises by judicial pay advocates (at pp. 13-15), including their concealment of pertinent facts, *inter alia*:
 - (a) that New York's state-paid judges are not civil-service government employees, but "constitutional officers" of New York's judicial branch;

- (b) that the salaries of all New York's "constitutional officers" have remained unchanged since 1999 – the Governor, Lieutenant Governor, Attorney General, and Comptroller, who are the "constitutional officers" of our executive branch – and the 6[3] Senators and 150 Assembly members who are the "constitutional officers" of our legislative branch;
- (c) that the compensation of New York's judicial "constitutional officers" is comparable, if not superior, to the compensation of New York's executive and legislative "constitutional officers", with the judges enjoying incomparably superior job security;
- (d) that New York's executive and legislative "constitutional officers" have also suffered the ravages of inflation, could also be earning exponentially more in the private sector; and also are earning less than some of their government-paid staff and the government employees reporting to them;
- (e) that as a co-equal branch, the same standards should attach to pay increases for judges as increases for legislators and executive branch officials – *to wit*, deficiencies in their job performance and governance do not merit pay raises;
- (f) that outside the metropolitan New York City area, salaries drop, often markedly – as reflected by the county-by-county statistics of what New York lawyers earn – and there is no basis for judges in most of New York's 62 counties to be complaining as if they have suffered metropolitan New York City cost-of-living increases, when they have not, or to receive higher salaries, as if they have;
- (g) that New York judges enjoy significant "non-salary benefits";
- (h) that throughout the 12 years of "stagnant" pay, New York judges overwhelmingly sought re-election and re-appointment upon expiration of their terms – and there was no shortage of qualified lawyers eager to fill

vacancies;

- (i) that the median household income of New York's 19+ million people hovers at about \$45,000 – less than one-third the salary of New York Supreme Court justices during the supposed “judicial pay raise crisis”.

Where are the Judiciary's findings of fact and conclusions of law with respect to this October 27, 2011 Opposition Report? As such are relevant to the lawfulness and constitutionality of the third phase of the judicial salary increase for which the Judiciary's proposed budget for fiscal year 2014-2015 seeks funding, will the Judiciary furnish these to us?

- (27) Based on this Opposition Report, the Judiciary is among the defendants in a declaratory judgment action, *Center for Judicial Accountability, Inc., et al. v. Cuomo, et al.* Upon being served with the verified complaint in April 2012, did the Judiciary make any findings of fact and conclusions of law with respect to its four causes of action? Again, as such are relevant to the lawfulness and constitutionality of the third phase of the judicial salary increase for which the Judiciary's proposed budget for fiscal year 2014-2015 seeks funding, will the Judiciary furnish these to us?
- (28) Are you aware that *Center for Judicial Accountability, et al. v. Cuomo, et al.* has been stalled in Supreme Court/New York County since September 2012 because the original verified complaint and all the exhibits thereto – most importantly, the Opposition Report – went missing, upon being transferred from Supreme Court/Bronx County? Are you aware that the Judiciary's Inspector General has failed and refused to investigate the record tampering that occurred and the misfeasance and nonfeasance of the New York County Clerk and his staff in connection therewith – the subject of repeated complaints?
- (29) By the way, the Judiciary's proposed budget for fiscal year 2014-2015 (at p. 64) seeks \$1,286,199 for the Office of Inspector General, is that correct? Is the Inspector General's handling of the complaints filed with it pertaining to *Center for Judicial Accountability, Inc., et al. v. Cuomo, et al.* illustrative of how it handles complaints, generally? Will the Judiciary produce the records of the Inspector General's disposition of that and other complaints for the Legislature's oversight inspection?
- (30) Will you, personally, as Chief Administrative Judge, report to us, within two weeks' time, as to the whereabouts of the original verified complaint and all exhibits in *Center v. Judicial Accountability, Inc., et al. v. Cuomo, et al.*?
- (31) Finally, the whole basis for funding the Judiciary is so that it can “fulfill its constitutional duty to the people of New York” “to provide timely and fair justice to every person who comes to our courthouses”, which is its “core mission”² – a claim paralleling why its

² Your memorandum transmitting the Judiciary's operating budget; Executive Summary, p. iii.

purportedly excellent judges deserved and required pay raises. What investigation has the Judiciary done to verify systemic corruption within its ranks, involving supervisory and appellate levels and the Commission on Judicial Conduct, such as attested to:

- (a) by witnesses testifying on June 8, 2009 and September 24, 2009 before the Senate Judiciary Committee, at public hearings conducted by its then Chairman John Sampson, which were aborted without investigation, findings, or committee report;
 - (b) by witnesses testifying on July 20, 2011 before the Special Commission on Judicial Compensation at its only public hearing – testimony to which the Commission made no reference in its August 29, 2011 Final Report extolling New York’s judiciary and recommending judicial salary increases;
 - (c) by witnesses testifying on September 17, 2013 before the Commission to Investigate Public Corruption, at its only public hearing at which members of the public were permitted to testify about the breadth of public corruption within their knowledge and experience – testimony to which the Commission made no reference in its December 2, 2013 interim report.
- (32) What steps will the Judiciary take to investigate this testimony – or to secure investigation by the appropriate public officers and agencies?

SUPREME COURT OF STATE OF NEW YORK
ALBANY COUNTY

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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,

Index #1788-14

-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.

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**PLAINTIFFS' INTERROGATORY QUESTIONS
& DOCUMENT DEMAND**

ELENA RUTH SASSOWER, Plaintiff *Pro Se*, individually
& as Director of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York &
the Public Interest

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