

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,

**NOTICE OF APPEAL
with pre-calendar statement**

-against-

Index #5122-16
RJI # 01-16-122174

ANDREW M. CUOMO, in his official capacity as Governor
of the State of New York, JOHN J. FLANAGAN in his official
capacity as Temporary Senate President, THE NEW YORK
STATE SENATE, CARL E. HEASTIE, 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, THOMAS P. DiNAPOLI,
in his official capacity as Comptroller of the State of New York,
and JANET M. DiFIORE, in her official capacity as Chief Judge of the
State of New York and chief judicial officer of the Unified Court System,


Defendants.
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PLEASE TAKE NOTICE that plaintiffs hereby appeal to the Appellate Division, Third
Department, Justice Building, 5th Floor, Empire State Plaza, Albany, New York 12223, from two
interconnected decisions and orders of Acting Supreme Court Justice Denise A. Hartman, each dated
May 5, 2017 and entered in the Albany County Clerk's Office on May 9, 2017:

- (1) Judge Hartman's May 5, 2017 decision and order (Exhibit A), denying, "in its entirety", plaintiffs' order to show cause for her disqualification, vacatur of her December 21, 2016 decision and order, disclosure, reargument/renewal, and other relief; and
- (2) Judge Hartman's May 5, 2017 amended decision and order (Exhibit B), identical to her original December 21, 2016 decision and order, except for its inclusion of a CPLR §2219(a) recitation of "papers used on the motion".

Dated: White Plains, New York
June 10, 2017

Yours, etc.



ELENA RUTH SASSOWER, unrepresented plaintiff,
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

10 Stewart Place, Apartment 2D-E
White Plains, New York 10603
914-421-1200
elena@judgewatch.org

TO: Albany County Clerk
Albany County Court House, Room 128
16 Eagle Street
Albany, New York 12207-1077

Attorney General Eric T. Schneiderman
The Capitol
Albany, New York 12224-0341

ATT: Assistant Attorney General Adrienne J. Kerwin/of Counsel

PRE-CALENDAR STATEMENT
State of New York
Supreme Court – Appellate Division
Third Judicial Department

Albany County Index #5122-16
RJI #: 01-16-122174
Commencement Date: September 2, 2016

1. Case Title:

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,

-against-

ANDREW M. CUOMO, in his official capacity as Governor
of the State of New York, JOHN J. FLANAGAN in his official
capacity as Temporary Senate President, THE NEW YORK
STATE SENATE, CARL E. HEASTIE, 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, THOMAS P. DiNAPOLI,
in his official capacity as Comptroller of the State of New York,
and JANET M. DiFIORE, in her official capacity as Chief Judge of the
State of New York and chief judicial officer of the Unified Court System.

2. Parties Involved: Set forth the full names of the original parties and any change in parties:

Party Name	Original Status	Appellate Status
Center for Judicial Accountability, Inc.	Plaintiff	Appellant
Elena Ruth Sassower, individually and as Director	Plaintiff	Appellant
Governor Andrew M. Cuomo	Defendant	Respondent
Temporary Senate President John Flanagan	Defendant	Respondent
New York State Senate	Defendant	Respondent

Assembly Speaker Carl Heastie	Defendant	Respondent
New York State Assembly	Defendant	Respondent
Attorney General Eric T. Schneiderman	Defendant	Respondent
Comptroller Thomas DiNapoli	Defendant	Respondent
Chief Judge Janet DiFiore	Defendant	Respondent

3. Counsel for Appellants:

Set forth the name, address, e-mail address, telephone number and facsimile telephone number of counsel for appellant(s).

Plaintiffs/appellants are without counsel – Acting Supreme Court Justice Denise Hartman having failed to rule on the threshold issue of their entitlement to representation/intervention by the New York State Attorney General, which they sought pursuant to Executive Law §63.1 and State Finance Law, Article 7-A [§123 *et seq.*], based on their *prima facie*/summary judgment entitlement to declarations, in their favor, on the ten causes of action of their September 2, 2016 verified complaint. Plaintiff/appellant Elena Sassower appears herein, unrepresented, 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.

Address: 10 Stewart Place, Apt. 2D-E
White Plains, New York 10603
E-Mail Address: elena@judgewatch.org
Telephone: 914-421-1200
Fax: --

4. Counsel for Respondent(s) and Counsel for Other Parties:

Set forth the name, address, e-mail address, telephone number and facsimile telephone number of counsel for respondent(s) and for each other party.

Name: Attorney General Eric T. Schneiderman
Asst. Attorney General Adrienne J. Kerwin, of Counsel
Address: The Capitol
Albany, New York 12224-0341
Telephone: 518-776-2608
Fax: 518-915-7738

5. Court, Judge and County:

Identify the court, judge or justice, and the county from which the appeal is taken.

Supreme Court, Acting Supreme Court Justice Denise A. Hartman, Albany County

6. Nature and Object of Action or Proceeding:

Concisely set forth the nature and object of the underlying action or proceeding.

This is a citizen-taxpayer action, pursuant to State Finance Law, Article 7-A [§123, *et seq.*], whose September 2, 2016 verified complaint, brought in the public interest and on behalf of the People of the State of New York, seeks declaratory and injunctive relief with respect to the New York State budget for fiscal year 2016-2017 by reason of its unconstitutionality, unlawfulness, and fraud – the repetition of which, with respect to the state budget for fiscal year 2017-2018, is the subject of a March 29, 2017 verified supplemental complaint, likewise seeking declaratory and injunctive relief, as to which leave to supplement is *sub judice* before Judge Hartman.

7. Appellate Issue(s):

Set forth a clear and concise statement of the issue(s) to be raised on the appeal, the grounds for reversal or modification to be advanced and the specific relief sought on the appeal.

This appeal involves Judge Hartman’s actual bias born of her financial interest and personal and professional relationships with defendants, as to which she made no disclosure, notwithstanding requested to do so. Such actual bias took the form of:

(a) Judge Hartman’s concealment and failure to adjudicate threshold integrity issues involving defense counsel, the New York State Attorney General, for whom she worked for 30 years before being appointed to the bench in 2015 by former Attorney General, now Governor, Andrew Cuomo – the first named defendant, sued for corruption with the other named defendants, Attorney General Eric Schneiderman, among them;

(b) Judge Hartman’s obliteration of all cognizable adjudicative standards to “protect” and save defendants – public officers all – from ten causes of action to which they have no defense and as to which the record establishes plaintiffs’ summary judgment entitlement, *as a matter of law*, with sweeping declaratory and injunctive relief in their favor, consistent with such definitive caselaw as *Korn v. Gulotta*, 72 NY2d 363 (1988); *New York State Bankers Assn v. Wetzler*, 81 NY2d 98 (1993); *King v. Cuomo*, 81 NY2d 247 (1993); *Pataki v. New York State Assembly, New York State Senate/Silver v. Pataki*, 4 NY3d 75 (2004). All such declaratory judgments, germane to the New York State budget, are being sought on the appeal.

8. Additional Information:

Please set forth any information you deem relevant to the determination of whether the matter is appropriate for a Civil Appeals Settlement Program (CASP) Conference.

State Finance Law §123-c(4) commands that citizen-taxpayer actions be “promptly determined”. The speediest means to resolve the far-reaching, constitution-vindicating issues on this appeal and prevent further dissipation and theft of billions of dollars in taxpayer monies from a state budget that will have to be declared unconstitutional (see above caselaw) is *via* a settlement conference. That defendants/respondents have no defense to the record herein, establishing that Judge Hartman’s appealed-from decisions are criminal acts, flagrantly falsifying the record and obliterating the law, makes the holding of such settlement conference all the more compelled.

9. Other Related Matters:

Indicate if there is another related action or proceeding, identifying and briefly describing same.

The facts giving rise to, and additionally substantiating, this citizen-taxpayer action are chronicled in plaintiffs’ prior citizen-taxpayer action, which the record herein incorporates and whose record, likewise, establishes plaintiffs’ entitlement to summary judgment on all causes of action and declaratory and injunctive relief in their favor:

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,

-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,

Submitted by:



Signature

Print Name: Elena Ruth Sassower

Date: June 10, 2017

10. Attachments

Check:

- | | |
|--|--|
| 1. Copy of order or judgment appealed from | <input checked="" type="checkbox"/> attached |
| 2. Copy of opinion or decision. | <input checked="" type="checkbox"/> attached |
| | <input type="checkbox"/> does not exist |
| 3. Copy of notice of appeal or order granting leave to appeal. | <input type="checkbox"/> attached |

Attach copies, not originals.

File this original form with attachments when original notice of appeal is filed in the office where the judgment or order of court of original instance is entered.

A copy of this document must be served upon all counsel and *pro se* parties.

The Civil Appeals Settlement Program (CASP) functions independently of the appeals function of the Appellate Division, Third Department with the intent to assist the parties in pragmatically resolving their disputes by agreement. The progress of and communications of matters in CASP are not shared with the Court as part of the appeal and play no role in the Court's resolution of an appeal. The communications and opinions expressed at a CASP conference are considered confidential and may not be communicated to the Court as part of the merits of an appeal. The consideration of an appellate matter by CASP does not excuse compliance with any Appellate Division, Third Department rule concerning the timely perfection of the appeal.