

## CENTER for JUDICIAL ACCOUNTABILITY, INC.

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September 16, 2017

TO: First Judicial Department Attorney Grievance Committee  
ATT: Jorge Dopico, Chief Attorney

Third Judicial Department Attorney Grievance Committee  
ATT: Monica Duffy, Chief Attorney

FROM: Elena Ruth Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)

RE: Testing the efficacy of New York's attorney grievance committees in policing New York's top attorney – The New York State Attorney General:  
Conflict-of-interest/misconduct complaint against New York State Attorney General Eric Schneiderman and his complicit attorney staff for their knowing and deliberate violations of New York's Rules of Professional Conduct, corrupting the judicial process in the citizen-taxpayer action *Center for Judicial Accountability, Inc. v. Cuomo, ...Schneiderman, et al.* (Albany Co. #5122-16) – & in its predecessor (Albany Co. #1788-14)

New York's attorney grievance committees are charged with protecting the public from attorneys who violate New York's Rules of Professional Conduct (22 NYCRR Part 1200). No attorney's violation of those Rules is of greater consequence to the People of the State of New York than that of their highest legal officer, the New York State Attorney General.

According to the Attorney General's website, <https://ag.ny.gov/>, he is the "People's Lawyer", who has "taken on the tough fights to protect New Yorkers – because he believes there has to be one set of rules for everyone, no matter how rich or powerful."<sup>1</sup> Does "one set of rules for everyone" apply to the attorney grievance committees' enforcement of New York's Rules of Professional Conduct?

This fully-documented conflict-of-interest/misconduct complaint is against Attorney General Eric Schneiderman (registration #1890037/NYC/1983) for knowingly and deliberately violating New York's Rules of Professional Conduct to corrupt the judicial process in a lawsuit in which he is a defendant, representing himself and his fellow defendants, all public officers, sued for corruption in connection with the New York State budget.

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<sup>1</sup> See, Attorney General Schneiderman's website, at <https://ag.ny.gov/our-office> and <https://ag.ny.gov/about-attorney-general>.

The lawsuit is the citizen-taxpayer action *Center for Judicial Accountability, Inc. v. Cuomo, ...Schneiderman, et al.* (Albany Co. #5122-16) – the successor to the citizen-taxpayer action *Center for Judicial Accountability, Inc. v. Cuomo, ...Schneiderman, et al.* (Albany Co. #1788-14) – in which Attorney General Schneiderman was also a defendant, likewise representing himself and his co-defendant public officers, sued for corruption in connection with the New York State budget. There, identically, defendant Attorney General Schneiderman corrupted the judicial process by knowingly and deliberately violating New York’s Rules of Professional Conduct.<sup>2</sup>

You are already familiar with these two citizen-taxpayer actions, as they underlie and substantiate CJA’s October 14, 2016 conflict-of-interest/misconduct complaint against Albany County District Attorney P. David Soares and his fellow district attorneys for “grand larceny of the public fisc” with respect to the state budget and increases in their own district attorney salaries. Indeed, the October 14, 2016 complaint identified (at p. 7) that the district attorney salary increases are completely unlawful as they rest on judicial salary increases that are fraudulent, statutorily-violative, and unconstitutional – so demonstrated by the sixth, seventh, and eighth causes of action of the September 2, 2016 verified complaint in the second citizen taxpayer action, as to which plaintiffs are entitled to SUMMARY JUDGMENT.

In substantiation, the October 14, 2016 complaint furnished plaintiffs’ September 30, 2016 reply memorandum of law in the second citizen-taxpayer action, accessible, with the entirety of the record of that citizen-taxpayer action and its predecessor, from CJA’s webpage for the October 14, 2016 complaint: <http://www.judgewatch.org/web-pages/searching-nys/budget/budget-2016-17/10-14-16-complaint-vs-soares-etc.htm>.

If you examined the September 30, 2016 reply memorandum of law – and its footnote 1 listing of plaintiffs’ five reply memoranda of law in their first citizen-taxpayer action, dated May 16, 2014, June 6, 2014, September 22, 2015, November 5, 2015, and April 22, 2016 – you know that these six reply memoranda of law particularize defendant Attorney General Schneiderman’s unremitting litigation fraud throughout the first citizen-taxpayer action and continuing to the second.

Subsequent to that September 30, 2016 reply memorandum of law, defendant Attorney General Schneiderman’s litigation fraud has been unabated, sabotaging the second citizen-taxpayer action, as it had the first. Consequently, I now file this conflict-of-interest/misconduct complaint against defendant Attorney General Schneiderman and his culpable staff, *to wit*:

- (1) his “of counsel” Assistant Attorney General Adrienne Kerwin (registration #2941110/Albany/1999), who litigated for defendant Attorney General Schneiderman in both the first and second citizen-taxpayer actions – interrupted only by a brief parachuting in of Assistant Attorney General Helena Lynch (registration

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<sup>2</sup> The particulars of what transpired in the first citizen-taxpayer action are chronicled by plaintiffs’ analysis/“legal autopsy” of the August 1, 2016 decision of Acting Supreme Court Justice/Court of Claims Judge Roger McDonough, annexed as Exhibit G to their September 2, 2016 verified complaint in the second citizen-taxpayer action.

#4383642/Albany/2006) in the second citizen-taxpayer action, likewise designated “of counsel”, who replicated AAG Kerwin’s *modus operandi* of litigation fraud;

- (2) his supervisory and managerial personnel who, with defendant Attorney General Schneiderman, ignored my notice to them of the litigation fraud being committed by AAG Kerwin and AAG Lynch and their duty to take corrective steps. Among them:
- Litigation Bureau Chief Jeffrey Dvorin (registration #1844562/Albany/1983);
  - Deputy Attorney General Meg Levine (registration #1846153/Albany/1983);
  - Executive Deputy Attorney General for State Counsel Kent Stauffer (registration #1043926/NYC/1975);
  - Chief Deputy Attorney General Janet Sabel (registration #2000248/NYC/1985); and
  - Chief Deputy Attorney General Jason Brown (registration #2931442/NYC/1988).

The specific provisions of New York’s Rules of Professional Conduct knowingly and deliberately violated by defendant Attorney General Schneiderman and his supervising, managerial, and underling attorneys include:

- Rule 1.7: “Conflict of Interests: Current Clients”;<sup>3</sup>  
Rule 3.1: “Non-Meritorious Claims and Contentions”;  
Rule 3.3: “Conduct Before a Tribunal”;  
Rule 8.4: “Misconduct”;  
Rule 5.1: “Responsibilities of Law Firms, Partners, Managers and Supervisory Lawyers”;  
Rule 5.2: “Responsibilities of a Subordinate Lawyer”;  
Rule 8.3: “Reporting Professional Misconduct”.

Plaintiffs cited these and other provisions to Acting Supreme Court Justice/Court of Claims Judge Denise Hartman – the assigned judge – in support of requests for sanctions and disciplinary and criminal referrals of AAG Kerwin, AAG Lynch, and those in defendant Attorney General Schneiderman’s office responsible for supervising them. However, because Judge Hartman has a HUGE financial interest in the lawsuit and multitudinous relationships with the defendants arising

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<sup>3</sup> See also, Rule 1.11: “Special Conflicts of Interest for Former and Current Government Officers and Employees” and Rule 3.7 “Lawyer as Witness”. Defendant Attorney General Schneiderman was, prior to becoming attorney general, a member of the Legislature, participating in its constitutional, statutory, and rule violations with respect to the state budget and serving on “appropriate committees”, whose willful abandonment of oversight responsibilities, recited by the pleadings – as, for instance, the Senate Judiciary Committee. Certainly, too, pursuant to Rule 1.13, “Organization as Client”, the divergent interests of the “three men in a room” – defendants Flanagan, Heastie, and Cuomo – and defendants Senate and Assembly made it additionally improper for defendant Attorney General Schneiderman to represent both these individual and institutional defendants.

from the 30 years she worked in the Attorney General's office, including under defendant Attorney General Schneiderman and, before him, under then Attorney General, now Governor, defendant Andrew Cuomo, who appointed her to the bench in May 2015, she colluded with defendant Attorney General Schneiderman in corrupting the judicial process. She has ignored his litigation misconduct, without adjudication – concealing this threshold issue from her fraudulent judicial decisions, ALL denying plaintiffs relief to which they are entitled, *as a matter of law*.

Judge Hartman's demonstrated actual bias, "protecting" defendant Attorney General Schneiderman from the consequences of his brazen violations of New York's Rules of Professional Conduct in order to "throw" the case to benefit herself and defendants is the subject of plaintiffs' June 16, 2017 conflict of interest/misconduct complaint against Judge Hartman, filed with the New York State Commission on Judicial Conduct (Exhibit A) – and of their September 11, 2017 supplement thereto (Exhibit B).

Suffice to say that Judge Hartman's concealment of, and willful failure to adjudicate, ALL threshold integrity issues pertaining to defendant Attorney General Schneiderman which plaintiffs' September 30, 2016 reply memorandum of law and subsequent advocacy presented, *to wit*:

- (1) plaintiffs' entitlement to sanctions and disciplinary and criminal referrals of AAGs Kerwin and Lynch and those responsible for their litigation fraud in supervisory and management levels of defendant Attorney General Schneiderman's office;
- (2) plaintiffs' entitlement to the disqualification of defendant Attorney General Schneiderman from representing his co-defendants on conflict-of-interest grounds;
- (3) plaintiffs' entitlement to the Attorney General's representation and/or intervention pursuant to State Finance Law Article 7-A and Executive Law §63.1,

reinforces the Committees' duty to proceed upon the *prima facie* evidence of disciplinary violations that Judge Hartman has corruptly refused to determine. Indeed, the Committees' duty, over and beyond commencing disciplinary proceedings against defendant Attorney General Schneiderman and his culpable lawyer staff, is to refer them to criminal authorities for prosecution of the fraud and other penal law violations that their disciplinary violations embrace – as these violations were all in furtherance of the "grand larceny of the public fisc" and other governmental corruption which is the gravamen of the citizen-taxpayer action.

No costly, time-consuming efforts are necessary to verify this conflict-of-interest/misconduct complaint. The *prima facie* proof of defendant Attorney General Schneiderman's litigation fraud by his culpable attorney staff – and of Judge Hartman's collusion therein to deny plaintiffs the SUMMARY JUDGMENT to which they are entitled, *as a matter of law*, on all ten causes of action

of their September 2, 2016 verified complaint – and on the reiterated ten causes of action of their March 29, 2017 verified supplemental complaint – is readily-available from CJA’s website, [www.judgewatch.org](http://www.judgewatch.org). It posts the full record of the second citizen-taxpayer action, as likewise of the first, *via* the prominent homepage link: “CJA’s Citizen-Taxpayer Actions to End NYS’ Corrupt Budget ‘Process’ and Unconstitutional ‘Three Men in a Room’ Governance” – to which a subtitle has been added: “A PAPER TRAIL OF LITIGATION FRAUD BY AG SCHNEIDERMAN, REWARDED BY FRAUDULENT JUDICIAL DECISIONS”. Indeed, verification could not be simpler, as the litigation fraud of AAG Kerwin and AAG Lynch by their written submissions and oral advocacy is laid out, with near line-by-line precision, by plaintiffs’ reply memoranda of law and my affidavits, annexing the transcripts of oral arguments and my notices to Attorney General Schneiderman and his supervisory and managerial attorneys.<sup>4</sup>

Accessible from the aforesaid link is a webpage for this conflict-of-interest/misconduct complaint against Attorney General Schneiderman and his culpable staff, which, for your convenience, posts plaintiffs’ particularized analyses of AAG Kerwin and Lynch’s written submissions – these being:

- (1) plaintiffs’ September 30, 2016 reply memoranda of law – plus plaintiffs’ four memoranda from their first citizen-taxpayer action, referred to by its footnote 1;
- (2) plaintiffs’ May 15, 2017 reply memorandum of law;
- (3) plaintiffs’ Exhibit E analysis, annexed to my moving affidavit in support of plaintiffs’ June 12, 2017 order to show cause;
- (4) plaintiffs’ August 25, 2017 reply memorandum of law.

The accuracy of these four analyses, each a road-map of the state of the record before Judge Hartman, is entirely undenied and undisputed by AAG Kerwin, by AAG Lynch, by defendant Attorney General Schneiderman, and by his supervisory and managerial attorneys. Their accuracy is also entirely undenied and undisputed by Judge Hartman, excepting the analysis presented by plaintiffs’ August 25, 2017 reply memorandum of law, still *sub judice* before her. Needless to say, hard copies of these and all other documents constituting the record of plaintiffs’ two citizen-taxpayer actions are available, upon request.

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<sup>4</sup> With respect to my notices to supervisory/managerial attorneys, see, in particular, my May 15, 2017 reply affidavit, at ¶¶11-14 and its referred-to annexed Exhibits 6 and 7 – and Exhibit 4; my August 25, 2017 reply affidavit, at ¶¶2-4 and its referred-to annexed Exhibit H-1. Also, see, in particular, in the first citizen-taxpayer action: my May 16, 2014 opposition affidavit, at ¶¶4, 26-36 and referred-to Exhibit AA; and my June 16, 2014 reply affidavit, at ¶¶3-10 and its referred-to annexed Exhibits CC and DD.

To expedite the Committees' handling of this easily-verified, fully-documented, conflict-of-interest/misconduct complaint against defendant Attorney General Schneiderman and his culpable attorney staff, a copy has already been furnished to them so that they can each be ready for your requests for a written response pursuant to 22 NYCRR §1240.7(b)(2). The e-mail receipt is annexed (Exhibit C).

Finally, consistent with the "Instructions for Filing a Complaint for Professional Misconduct against an Attorney", posted on the Third Department's Attorney Grievance Committee website, which state:

"Making a complaint against an attorney is a very serious matter. Before taking that step it is often wise for the complainant to first communicate with the attorney, preferably in writing, in an attempt to mutually work out a solution to existing problems or disputes..., if available. Once a complaint is filed, it cannot be withdrawn." (underlining added),

please be advised that the last document posted on CJA's website as comprising the record in the second citizen-taxpayer action is my August 28, 2017 e-mail to all the complained-against attorneys, from defendant Attorney General Schneiderman on down. Entitled "...NOTICE TO WITHDRAW YOUR OPPOSITION/CROSS-MOTION, returnable Sept. 1<sup>st</sup>", it concluded, as follows:

"I hereby reiterate the NOTICE that I gave you, on July 27, 2017, to WITHDRAW AAG KERWIN's OPPOSITION/CROSS-MOTION – which is your duty to do, as, likewise, to join in plaintiffs' application, by their August 25<sup>th</sup> reply papers, for Judge Hartman's disqualification and vacatur of her decision/orders – all fraudulent.

I am available to discuss this with you, directly, so that you can appropriately address the serious situation that is before you.

Thank you.

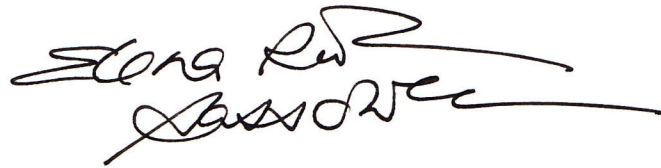
Elena Sassower, unrepresented plaintiff,  
acting on her own behalf  
& on behalf of the People of the State of New York & the Public Interest  
914-421-1200"

I received no response.

Although your rules do not require complainants to swear to the truth of their attorney misconduct complaints, I eagerly do so – furnishing, as well, the attestation that Albany County District Attorney Soares includes on the complaint form of his so-called “Public Integrity Unit”:

“I understand that any false statements made in this complaint are punishable as a Class A Misdemeanor under Section 175.30 and/or Section 210.45 of the Penal Law.”

Thank you.

A handwritten signature in black ink, appearing to read "Eric Schneiderman". The signature is written in a cursive, flowing style with a long horizontal line extending to the right.

Enclosures:

- Exhibit A: CJA’s June 16, 2017 conflict-of-interest/misconduct complaint against Judge Denise Hartman, filed with the NYS Commission on Judicial Conduct
- Exhibit B: CJA’s September 11, 2017 supplement to the complaint
- Exhibit C: September 16, 2017 e-mail receipt to the complained-against attorneys, listed below as cc’s

cc: New York State Attorney General Eric Schneiderman  
Chief Deputy Attorney General Jason Brown  
Chief Deputy Attorney General Janet Sable  
Executive Deputy Attorney General for State Counsel Kent Stauffer  
Deputy Attorney General Meg Levine  
Litigation Bureau Chief Jeffrey Dvorin  
Assistant Attorney General Adrienne Kerwin  
Assistant Attorney General Helena Lynch

New York State Commission on Judicial Conduct