SUPREME COURT OF STATE OF NEW YORK
ALBANY COUNTY

--- x

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,

SUMMONS

Plaintiffs,

-against-

Index #5122-16

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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TO THE ABOVE NAMED DEFENDANTS:

You are hereby summoned to serve upon plaintiffs an answer to the verified complaint in this action within 20 days of service of this summons on you, exclusive of the date of service, or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the verified complaint.

The basis for the designated venue is the county in which the unconstitutional and unlawful disbursements have occurred, are occurring, and will be occurring and where defendant state officers have their principal offices.

Dated: September 2, 2016
White Plains, New York

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

10 Stewart Place, Apartment 2D-E
White Plains, New York 10603
914-421-1200
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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.,
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Plaintiffs,

-against-

VERIFIED COMPLAINT
Index #5122-16

JURY TRIAL DEMANDED

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
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State of New York and chief judicial officer of the Unified Court System,

Defendants.

-- x

> "It is the purpose of the legislature to recognize that each individual citizen and taxpayer of the state has an interest in the proper disposition of all state funds and properties. Whenever this interest is or may be threatened by an illegal or unconstitutional act of a state officer or employee, the need for relief is so urgent that any citizen-taxpayer should have and hereafter does have a right to seek the remedies provided for herein."
>
> State Finance Law Article 7-A, §123: "Legislative purpose"

Plaintiffs, as and for their verified complaint, respectfully set forth and allege:

1. By this citizen-taxpayer action pursuant to State Finance Law Article 7-A [§123 *et seq.*], plaintiffs seek declaratory judgments as to the unconstitutionality and unlawfulness of the Governor's Legislative/Judiciary Budget Bill #S.6401/A.9001, both the original bill and the enacted amended bill #S.6401-a/A.9001-a. The expenditures of the enacted budget bill – embodying the

Legislature's proposed budget for fiscal year 2016-2017, the Judiciary's proposed budget for fiscal year 2016-2017, and tens of millions of dollars in uncertified and nonconforming legislative and judicial reappropriations – are unconstitutional, unlawful, and fraudulent disbursements of state funds and taxpayer monies, which plaintiffs hereby seek to enjoin.

2. Plaintiffs also seek declarations voiding the judicial salary increases recommended by the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation because they are statutorily-violative, fraudulent, and unconstitutional, with further declarations striking the budget statute establishing the Commission – Chapter 60, Part E, of the Laws of 2015 – as unconstitutional and itself fraudulent – and injunctions to prevent further disbursement of state money pursuant thereto.

3. Additionally, plaintiffs seek declarations that the "process" by which the State budget for fiscal year 2016-2017 was enacted is unconstitutional, specifically including:

- the failure of Senate and Assembly committees and the full chambers of each house to amend and pass the Governor's appropriation bills and to reconcile them so that they might "become law immediately without further action by the governor", as mandated by Article VII, §4 of the New York State Constitution;
- the so-called "one-house budget proposals", emerging from closed-door political conferences of the Senate and Assembly majority party/coalitions;
- the proceedings of the Senate and Assembly joint budget conference committee and its subcommittees, conducted by staff, behind-closed-doors, based on the "one-house budget proposals"; and
- the behind-closed-doors, three-men-in-a-room budget deal-making by the Governor, Temporary Senate President, and Assembly Speaker.

4. Finally, plaintiffs seek declarations as to the unconstitutionality and unlawfulness of the appropriation item entitled "For grants to counties for district attorney salaries" in the Division of Criminal Justice Services' budget for fiscal year 2016-2017, contained in Aid to Localities Budget

Bill #S.6403-d/A.9003-d and of items of reappropriation therein pertaining to previous "grants to counties for district attorney salaries" and "recruitment and retention" incentives – and enjoining disbursement of state monies pursuant thereto.

5. For the convenience of the Court, a Table of Contents follows:

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* * *

VENUE

6. Pursuant to State Finance Law §123(c)(1), this action is properly venued in the Albany County Supreme Court, as Albany County is where the unconstitutional, unlawful, and fraudulent disbursements sought to be enjoined are occurring and where defendant state officers have their principal offices.

THE PARTIES

7. Plaintiff CENTER FOR JUDICIAL ACCOUNTABILITY, INC. (CJA) [hereinafter "CJA"] is a national, non-partisan, non-profit citizens' organization, headquartered in White Plains, New York and incorporated in 1994 under the laws of the State of New York. In addition to the taxes it pays to the State of New York, its New York members pay taxes to the State of New York.

8. Plaintiff ELENA RUTH SASSOWER [hereinafter "SASSOWER"] is a New York-born resident, citizen, and taxpayer of the State of New York. She is co-founder and director of the Center for Judicial Accountability, Inc. (CJA).

9. Defendant ANDREW M. CUOMO [hereinafter "CUOMO"] is Governor of the State of New York and charged with the duty to "take care that the laws are faithfully executed" (New York Constitution, Article IV, §3).

(a) Defendant CUOMO's powers with respect to the state budget are set forth in, and limited by, the New York State Constitution, statutory provisions, and Senate and Assembly rules.

(b) Pursuant to Chapter 60, Part E, of the Laws of 2015 – which arose from defendant CUOMO's behind-closed-doors "three-men-in-a-room" budget deal-making in March 2015 – defendant CUOMO is also the appointing authority of three of the seven members of the Commission on Legislative, Judicial and Executive Compensation, including its chair – and benefits from all its salary increase recommendations.

10. Defendant JOHN J. FLANAGAN [hereinafter "FLANAGAN"] is Temporary Senate President of defendant NEW YORK STATE SENATE.

(a) As Temporary Senate President, defendant FLANAGAN's powers with respect to the state budget are set forth in, and limited by, the New York State Constitution, statutory provisions, and Senate rules.

(b) Pursuant to Chapter 60, Part E, of the Laws of 2015, defendant FLANAGAN, as Temporary Senate President, is also the appointing authority for one of the seven members of the Commission on Legislative, Judicial and Executive Compensation – and benefits from its salary increase recommendations.

11. Defendant NEW YORK STATE SENATE [hereinafter "SENATE"] is the upper house of the New York State Legislature, consisting of 63 members.

(a) According to the Legislature's budget narrative for fiscal year 2016-20157 (at p. 2): "Each Senator represents approximately 308,000 constituents. The Senate conducts its legislative business through the operation of 34 Standing Committees".

(b) The largest Senate committee – and the only one identified in the Legislature's budget narrative (at p. 3) – is the Senate Finance Committee.

(c) Defendant SENATE's powers with respect to the state budget are set forth in, and limited by, the New York State Constitution, statutory provisions, and Senate rules.

(d) All defendant SENATE's 63 members benefit from salary increase recommendations made by the Commission on Legislative, Judicial and Executive Compensation.

12. Defendant CARL E. HEASTIE [hereinafter "HEASTIE"] is Speaker of defendant NEW YORK STATE ASSEMBLY.

(a) As Assembly Speaker, defendant HEASTIE's powers with respect to the state budget are set forth in, and limited by, the New York State Constitution, statutory provisions, and Assembly rules.

(b) Pursuant to Chapter 60, Part E, of the Laws of 2015, defendant HEASTIE, as Assembly Speaker, is also the appointing authority for one of the seven members of the Commission on Legislative, Judicial and Executive Compensation – and benefits from its salary increase recommendations.

13. Defendant NEW YORK STATE ASSEMBLY [hereinafter "ASSEMBLY"] is the lower house of the New York State Legislature, consisting of 150 members.

(a) According to the Legislature's budget narrative for fiscal year 2016-2017 (at p. 2): "Each member of the Assembly represents approximately 129,000 constituents. The Assembly conducts its legislative business through the operation of 38 standing committees".

(b) The largest Assembly committee – and the only one identified in the Legislature's budget narrative (at p. 3) – is the Assembly Ways and Means Committee.

(c) Defendant ASSEMBLY's powers with respect to the state budget are set forth in, and limited by, the New York State Constitution, statutory provisions, and Assembly rules.

(d) All of defendant ASSEMBLY's 150 members benefit from salary increase recommendations made by the Commission on Legislative, Judicial and Executive Compensation.

14. Defendant ERIC T. SCHNEIDERMAN [hereinafter "SCHNEIDERMAN"] is Attorney General of the State of New York.

(a) As Attorney General, defendant SCHNEIDERMAN heads New York's department of law (New York Constitution, Article V, §4). His duty is to "prosecute and defend all actions in which the state is interested"; and to "protect the interest of the state"; where "in his opinion the interests of the state so warrant" (Executive Law §63.1), for which he has extensive investigative and prosecutorial powers (Executive Law §63). Pursuant to State Finance Law Article 7-A, he is expressly empowered to bring citizen-taxpayer actions or to represent/intervene on behalf of plaintiffs. State Finance Law Article 13 also empowers him to bring actions under the false claims act or to represent/intervene on behalf of plaintiffs.

(b) In violation of his duty, defendant SCHNEIDERMAN has colluded in and facilitated all the statutory violations, fraud, and unconstitutionality that have given rise to the instant citizen-taxpayer action. This is chronicled by the records of two prior lawsuits brought by plaintiffs naming him as a defendant – and which, in the absence of any legitimate defense, he corrupted with litigation fraud. These two lawsuits are:

(1) a declaratory action brought in Supreme Court/Bronx County on March 30, 2012 (Bronx. Co. #302951-2012) and transferred to Supreme Court/New York County (NY Co. #401988-2012), entitled:

> 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, ERIC T. SCHNEIDERMAN, in his official capacity as Attorney General of the State of New York, THOMAS DiNAPOLI, in his official capacity as Comptroller of the State of New York, DEAN SKELOS, in his official capacity as Temporary President of the New York State Senate, THE NEW YORK STATE SENATE, SHELDON SILVER, in his official capacity as Speaker of the New York State Assembly, THE NEW YORK STATE ASSEMBLY, JONATHAN LIPPMAN, in his official capacity as Chief Judge of the State of New York, the UNIFIED COURT SYSTEM, and THE STATE OF NEW YORK;

(2) a citizen-taxpayer action brought in Supreme Court/Albany County on March 28, 2014 (Albany Co. #1788-2014) entitled:

> 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.

(c) As Attorney General, defendant SCHNEIDERMAN benefits from the salary increase recommendations made by the Commission on Legislative, Judicial and Executive Compensation.

15. Defendant THOMAS P. DiNAPOLI [hereinafter "DiNAPOLI"] is Comptroller of the State of New York.

(a) As Comptroller, defendant DiNAPOLI heads New York State's "department of audit and control" (New York Constitution, Article V, §§1, 4), is "responsible for ensuring that the taxpayers' money is being used effectively and efficiently to promote the common good" (Comptroller's website: www.osc.state.ny.us/about/response.htm), and disburses the state monies that plaintiffs are seeking to enjoin.

(b) As Comptroller, defendant DiNAPOLI also benefits from salary increase recommendations made by the Commission on Legislative, Judicial and Executive Compensation.

16. Defendant JANET M. DiFIORE [hereinafter "DiFIORE"] is Chief Judge of the State of New York, heading both the New York Court of Appeals and the Unified Court System (New York Constitution, Article VI, §28(a); Judiciary Law §210), having been appointed by defendant CUOMO in December 2015 and confirmed by defendant SENATE in January 2016.

(a) As Chief Judge, defendant DiFIORE directly benefits from the judicial salary increases recommended by the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation.

(b) In her prior capacity as Westchester County District Attorney, which she occupied until her Senate confirmation as Chief Judge, defendant DiFIORE also benefited from judicial salary increases – these being the judicial salary increases recommended by the August 29, 2011 report of the predecessor Commission on Judicial Compensation, of which she was a beneficiary because Judiciary Law §183-a statutorily links district attorney and judicial salaries.

FACTUAL ALLEGATIONS

17. The facts, as of March 23, 2016, pertaining to the proposed legislative and judiciary budgets for fiscal year 2016-2017, Governor Cuomo's Legislative/Judiciary Budget Bill #S.6401/A.9001, and the "force of law" judicial salary increases recommended by the Commission on Legislative, Judicial and Executive Compensation are set forth by plaintiffs' March 23, 2016 verified second supplemental complaint in their prior citizen-taxpayer action, *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Albany Co. #1788-2014) (Exhibit A).

18. The March 23, 2016 verified second supplemental complaint, which plaintiffs brought on by order to show cause seeking leave to supplement and a preliminary injunction with TRO, presented eight causes of causes of action, numbered ninth through sixteenth (Exhibit A: ¶¶301-470), detailing violations of constitutional, statutory, and rule provisions pertaining to fiscal year 2016-2017. These replicated identical constitutional, statutory, and rule violations in fiscal year 2014-2015, which plaintiffs' March 28, 2014 verified complaint embodied in four causes of action, numbered first through fourth (Exhibit B: ¶¶76-126), and which their March 31, 2015 verified

supplemental complaint, pertaining to fiscal year 2015-2016, embodied in four causes of action, numbered fifth through eighth (Exhibit C: ¶¶169-236).

19. By an August 1, 2016 amended decision and order (Exhibit D), Albany Supreme Court Justice Roger McDonough stated as follows under the title heading "Leave to Serve a Second Supplemental Complaint":

> "The Court has considered the parties' respective arguments as to the issue of plaintiffs' request for leave to serve a second supplemental complaint. Plaintiffs' second supplemental complaint asserts eight new causes of action. The Court denies leave to serve a second supplemental complaint as to causes of action 9-12, based on the Court's dismissal of plaintiffs' original eight causes of action. Under these circumstances, the Court finds that causes of action 9-12 are 'patently devoid of merit' (Lucido v. Mancuso, 49 AD3d 220, 229 [2nd Dept. 2008]). As to causes of action 13-16, the Court finds that the allegations therein arise out of materially different facts and legal theories as opposed to the original four causes of action and the additional four causes of action set forth in the supplemental complaint. Accordingly, the Court finds that defendants have adequately established the prejudice that would flow from allowing a second supplemental complaint setting forth entirely new facts, theories and causes of action several years after service of the original complaint (*see generally*, Brunetti v Musallam, 59 AD3d 220, 223 [1st Dept. 2009]).
>
> Finally, the Court finds no basis in the record, Judiciary Law, Administrative Code or any relevant statute or case law, for recusal. The Court again notes that the alleged financial conflicts that plaintiffs describe is equally applicable to every Supreme and Acting Supreme Court Justice in the State of New York, rendering recusal on the basis of financial interest a functional impossibility (*see*, Matter of Maron v Silver, 14 NY3d 230, 248-249 [2010])." (Exhibit D: at pp. 7-8).

20. Consequently, the factual allegations and eight causes of action of plaintiffs' March 23, 2016 second supplemental complaint in their prior citizen-taxpayer action are here presented as a separate and new citizen-taxpayer action.

21. Pursuant to CPLR §3014, "A copy of any writing which is attached to a pleading is a part thereof for all purposes". Therefore, in the interest of economy, plaintiffs' March 23, 2016 verified second supplemental complaint is annexed hereto (Exhibit A) and incorporated herein by

reference as if more fully set forth. Likewise, annexed and incorporated by reference as if more fully set forth are plaintiffs' March 28, 2014 verified complaint (Exhibit B) and March 31, 2015 verified supplemental complaint (Exhibit C).[1] The eight causes of action of plaintiffs' March 23, 2016 verified second supplemental complaint each repeat, reiterate, and reallege the paragraphs of these earlier pleadings.

22. Facts subsequent to March 23, 2016 bearing on the eight causes of action are set forth herein in the cause of action to which they are germane – and in the two additional causes of action here presented: the first relating to the violations of Article VII, §§4, 5, 6 of the New York State Constitution in enacting the budget for fiscal year 2016-2017 and the second pertaining to the violations of County Law §§700.10 and 700.11 and Judiciary Law §183-a in the budget's funneling of state aid to the counties for district attorney salary increases resulting from the August 29, 2011 report of the Commission on Judicial Compensation.

CAUSES OF ACTION

AS AND FOR A FIRST CAUSE OF ACTION

The Legislature's Proposed Budget for Fiscal Year 2016-2017, Embodied in the Governor's Budget Bill #S.6401/A.9001, is Unconstitutional & Unlawful

23. Plaintiffs repeat, reiterate, and reallege ¶¶ 1-22 herein with the same force and effect as if more fully set forth.

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[1] Justice McDonough's October 9, 2014 decision, addressed to plaintiffs' complaint, and his June 24, 2015 decision, addressed to their supplemental complaint, are annexed as Exhibits E and F, respectively.

As the record of the prior citizen-taxpayer action is in the possession of the Albany County Clerk's Office, readily accessible to the Court, and also in the possession of defendants, plaintiffs incorporate it by reference – beginning with the voluminous exhibits substantiating the pleadings annexed herein as Exhibits A, B, and C. The record is additionally accessible from plaintiff CJA's website, www.judgewatch.org, *via* the prominent homepage link: "CJA's Citizen-Taxpayer Actions to End NYS's Corrupt Budget 'Process' & Unconstitutional 'Three Men in a Room' Governance".

24. Plaintiffs' first cause of action herein is the ninth cause of action of their March 23, 2016 verified second supplemental complaint in their prior citizen-taxpayer action (Exhibit A: ¶¶301-316). Such is not barred by Justice McDonough's August 1, 2016 decision (Exhibit D) – nor could it be as the August 1, 2016 decision is a judicial fraud, falsifying the record in all material respects to conceal plaintiffs' entitlement to summary judgment on causes of action 1-4 of their verified complaint and causes of action 5-8 of their verified supplemental complaint and, based thereon, to the granting of their motion for leave to file their verified second supplemental complaint with its causes of action 9-16.

25. Establishing that the August 1, 2016 decision is a judicial fraud – and that Justice McDonough was duty-bound to have disqualified himself for pervasive actual bias born of his financial interest in the litigation – is plaintiffs' analysis of the decision, annexed hereto (Exhibit G).

26. As highlighted by the analysis (Exhibit G: pp. 24-28), plaintiffs' first and fifth causes of action (Exhibit B: ¶¶76-98; Exhibit C: ¶¶169-178) – which correspond to their ninth cause of action (Exhibit A: ¶¶301-316) – were each dismissed by Justice McDonough in the same fraudulent way: by completely disregarding the fundamental standards for dismissal motions, distorting the few allegations he cherry-picked, baldly citing inapplicable law, and resting on "documentary evidence" that he did not identify – and which does not exist.

27. Plaintiffs analysis is accurate, true, and correct in all material respects.

28. In addition to the facts set forth by plaintiffs' ninth cause of action establishing that the Legislature's proposed budget, *on its face*, is not 'itemized estimates of the financial needs of the legislature" is yet a further fact: its section entitled "Senate and Assembly Joint Entities" (at pp. 11-15) omits most of the joint commissions that the Legislature is required to establish and fund pursuant to Legislative Law, Article 5-A (§§82, 83). Among these, the Legislative Commission on

State-Local Relations and the Legislative Commission on Government Administration. Additionally, the Administrative Regulations Review Commission, required to be established and funded pursuant to Legislative Law, Article 5-B (§§86-88) is omitted.

29. Upon information and belief, the Legislature's joint entities, mandated by Legislative Law Articles 5-A and 5-B, to the extent they exist, have only appointed chairs, collecting stipends. They have no funding, or virtually none – a fact concealed by the legislative budget's violation of the Article VII, §1 requirement of "itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house".

30. The consequence of the Legislature's facial violation of Article VII, §1 by its budget is the unconstitutionality of that budget, *as applied*. Without funding, the joint legislative commissions are not functioning – and cannot function – as Legislative Law Article 5-A and 5-B intended them to[2]. They are sham, just as the Legislature's standing committees, which, excepting the Senate Finance Committee and Assembly Ways and Means Committee, have no appreciable funding.

31. As illustrative, neither the Legislative Commission on State-Local Relations, nor the Legislative Commission on Government Administration, nor any of the Legislature's standing committees, such as the Senate Committee on Local Government, the Assembly Committee on Local Governments, the Senate Judiciary Committee, or the Assembly Judiciary Committee have engaged in <u>any</u> oversight of the statutory link between judicial salaries and district attorney salaries, established more than 40 years ago by Judiciary Law §183-a, or of the related provisions of County Law §§700.10 and 700.11 pertaining to district attorney salaries and state aid to the counties for

[2] Likewise not functioning, for lack of funding, is another commission established by the Legislative Law: the Law Revision Commission, established by Legislative Law Article 4-A.

those salaries, or of the outpouring of state dollars to the counties, *via* the budget, for district attorney salary reimbursement that violates these express statutory provisions.

32. Nor are these legislative committees and commissions – or the Senate Finance Committee and Assembly Ways and Means Committee – remotely responsive and responsible, upon being given notice of their duty to protect the counties and the state from the costs of district attorney salary increases having absolutely no basis other than Judiciary Law §183-a and whose consequence is to compound the theft of taxpayer monies resulting from the Commission on Legislative, Judicial and Executive Compensation's December 24, 2015 report. The legislative defendants are perfectly willing to countenance and continue a run-away "gravy train" of district attorney salary increases that are the by-product of the statutorily-violative, fraudulent, and unconstitutional December 24, 2015 report.

33. As stated by ¶94 of the verified complaint (Exhibit B) – and reiterated by ¶315 of the verified second supplemental complaint (Exhibit C):

> "In every respect, defendants SENATE and ASSEMBLY have fallen beneath a constitutionally acceptable threshold of functioning – and it appears the reason is not limited to Senate and Assembly rules that vest in the Temporary Senate President and Speaker strangulating powers, the subject of the Brennan Center's 2004, 2006, and 2008 reports on the Legislature. Rather, it is because – without warrant of the Constitution, statute, or Senate and Assembly rules, as here demonstrated, the Temporary Senate President and Speaker have seized control of the Legislature's own budget, throwing asunder the constitutional command: 'itemized estimate of the financial needs of the legislature, certified by the presiding officer of each house'."

AS AND FOR A SECOND CAUSE OF ACTION

The Judiciary's Proposed Budget for 2016-2017, Embodied in the Governor's Budget Bill #S.6401/A.9001, *is Unconstitutional & Unlawful*

34. Plaintiffs repeat, reiterate, and reallege ¶¶ 1-33 herein with the same force and effect as if more fully set forth.

35. Plaintiffs' second cause of action herein is the tenth cause of action of their March 23, 2016 verified second supplemental complaint in their prior citizen-taxpayer action (Exhibit A: ¶¶317-331). Such is not barred by Justice McDonough's August 1, 2016 decision (Exhibit D) – nor could it be as the August 1, 2016 decision is a judicial fraud, falsifying the record in all material respects to conceal plaintiffs' entitlement to summary judgment on causes of action 1-4 of their verified complaint and causes of action 5-8 of their verified supplemental complaint and, based thereon, to the granting of their motion for leave to file their verified second supplemental complaint with its causes of action 9-16.

36. Establishing that the August 1, 2016 decision is a judicial fraud -- and that Justice McDonough was duty-bound to have disqualified himself for pervasive actual bias born of his financial interest in the litigation – is plaintiffs' analysis of the decision, annexed hereto (Exhibit G).

37. As highlighted by the analysis (Exhibit G: pp. 24-28), plaintiffs' second and sixth causes of action (Exhibit B: ¶¶99-108; Exhibit C: ¶¶179-193) – which correspond to their tenth cause of action (Exhibit A: ¶¶317-331) – were each dismissed by Justice McDonough in the same fraudulent way: by completely disregarding the fundamental standards for dismissal motions, distorting the few allegations he cherry-picked, baldly citing inapplicable law, and resting on "documentary evidence" that he did not identify – and which does not exist.

38. Plaintiffs analysis is accurate, true, and correct in all material respects.

39. In addition to the facts set forth by the tenth cause of action of plaintiffs' March 23, 2016 verified second supplemental complaint (Exhibit A: ¶¶317-331) is the further fact, anticipated by its ¶331, namely, that the Judiciary is funding the 2016 phase of the judicial salary increase recommended by the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation from its §3 reappropriations, *via* its §2 interchange provision. Such reinforces the unconstitutionality of the interchange provision and the reappropriations, detailed at ¶¶320-331– key features of the Judiciary's slush-fund budget.

AS AND FOR AN THIRD CAUSE OF ACTION

The Governor's Budget Bill #S.6401/A.9001 is Unconstitutional & Unlawful Over & Beyond the Legislative & Judiciary Budgets it Embodies "Without Revision"

40. Plaintiffs repeat, reiterate, and reallege ¶¶ 1-39 herein with the same force and effect as if more fully set forth.

41. Plaintiffs' third cause of action herein is the eleventh cause of action of their March 23, 2016 verified second supplemental complaint in their prior citizen-taxpayer action (Exhibit A: ¶¶332-335). Such is not barred by Justice McDonough's August 1, 2016 decision – nor could it be as the August 1, 2016 decision is a judicial fraud, falsifying the record in all material respects to conceal plaintiffs' entitlement to summary judgment on causes of action 1-4 of their verified complaint and causes of action 5-8 of their verified supplemental complaint and, based thereon, to the granting of their motion for leave to file their verified second supplemental complaint with its causes of action 9-16.

42. Establishing that the August 1, 2016 decision is a judicial fraud – and that Justice McDonough was duty-bound to have disqualified himself for pervasive actual bias born of his financial interest in the litigation – is plaintiffs' analysis of the decision, annexed hereto (Exhibit G).

43. As highlighted by the analysis (Exhibit G: pp. 24-28), plaintiffs' third and seventh causes of action (Exhibit B: ¶¶109-112; Exhibit C: ¶¶194-202) – which correspond to their eleventh cause of action (Exhibit A: ¶¶332-335) – were each dismissed by Justice McDonough in the same fraudulent way: by completely disregarding the fundamental standards for dismissal motions, distorting the few allegations he cherry-picked, baldly citing inapplicable law, and resting on "documentary evidence" that he did not identify – and which does not exist.

44. Plaintiffs analysis is accurate, true, and correct in all material respects.

45. Plaintiffs' third cause of action herein pertains to the tens of millions of dollars in reappropriations for the Legislature that were never part of the Legislature's proposed budget for fiscal year 2016-2017 transmitted by the December 1, 2015 letter of defendants FLANAGAN and HEASTIE to defendant CUOMO, but which appear in an out-of-sequence section at the back of defendant CUOMO's Legislative/Judiciary Budget Bill #S.6401/A.9001, spanning 24 pages. The only difference from plaintiffs' eleventh cause of action is the supervening fact that on March 31, 2016 Legislative/Judiciary Budget Bill #S.6401/A.9001 was amended to alter almost 90 of these legislative reappropriations – most of which were reduced, sometimes dramatically.

46. As plaintiffs' eleventh cause of action (¶335) asked whether the legislative reappropriations in Legislative/Judiciary Budget Bill #S.6401/A.9001 would be changed by an amended bill, that question has now been answered. However, the further questions indicated therein are now applicable to Legislative/Judiciary Budget Bill #S.6401-a/A.9001-a – and yet to be answered:

> (a) what is the dollar difference in the cumulative totals of the legislative reappropriations in the unamended bill and in the amended one?
>
> (b) why were the legislative reappropriations so significantly changed– and by what process were the changes determined? Were these changed legislative reappropriations certified? And by whom?

(c) why were the changed legislative reappropriations in Budget Bill #S.6401-a/A.9001-a not flagged by the safeguarding device identified on the first page of #S.6401-a/A.9001-a by its pre-printed "EXPLANATION – Matter in italics (underscored) is new; matter in brackets [] is old to be omitted". Were such changes flagged in any introducer's memo, as required by Senate Rule VII, §4(b) and Assembly Rule III, §1(f) and §6?

47. These questions are additional to the basic questions about the 24 pages of legislative reappropriations in the unamended bill:

(a) Where they came from?;

(b) Who in the Legislature, if anyone, certified that the monies proposed for reappropriations were suitable for that purpose?;

(c) What is the cumulative total of the legislative reappropriations in Budget Bill #S.6401/A.9001?; and

(d) What is the cumulative total of the legislative reappropriations and appropriations in Budget Bill #S.6401/A.9001?

As stated by plaintiffs' ¶¶334-336, absent answers to these basic questions, the legislative reappropriations are unconstitutional and unlawful.

AS AND FOR A FOURTH CAUSE OF ACTION

Nothing Lawful or Constitutional Can Emerge From a Legislative Process that Violates its Own Statutory & Rule Safeguards – and the Constitution

48. Plaintiffs repeat, reiterate, and reallege ¶¶ 1-47 herein with the same force and effect as if more fully set forth.

49. Plaintiffs' fourth cause of action herein is the twelfth cause of action of their March 23, 2016 verified second supplemental complaint in their prior citizen-taxpayer action (Exhibit A: ¶¶336-384). Such is not barred by Justice McDonough's August 1, 2016 decision – nor could it be as the August 1, 2016 decision is a judicial fraud, falsifying the record in all material respects to

conceal plaintiffs' entitlement to summary judgment on causes of action 1-4 of their verified complaint and causes of action 5-8 of their verified supplemental complaint and, based thereon, to the granting of their motion for leave to file their verified second supplemental complaint with its causes of action 9-16.

50. Establishing that the August 1, 2016 decision is a judicial fraud – and that Justice McDonough was duty-bound to have disqualified himself for pervasive actual bias born of his financial interest in the litigation – is plaintiffs' analysis of the decision, annexed hereto (Exhibit G).

51. As highlighted by the analysis (Exhibit G: pp. 21-23, 28-29), plaintiffs' fourth and eighth causes of action (Exhibit B: ¶¶113-126; Exhibit C: ¶¶203-236) – which correspond to their twelfth cause of action (Exhibit A: ¶¶336-384) – were each dismissed by Justice McDonough in the same fraudulent way: by completely disregarding the fundamental standards for dismissal motions, distorting the few allegations he cherry-picked, baldly citing inapplicable law, and resting on "documentary evidence" that he did not identify – and which does not exist.

52. Plaintiffs analysis is accurate, true, and correct in all material respects.

53. Subsequent events confirm predictions made at ¶¶381-383 of the twelfth cause of action that the same constitutional, statutory, and rule violations as had occurred in fiscal years 2014-2015 and 2015-2016 would be repeated in fiscal year 2016-2017. Thus, as predicted:

a. the Joint Budget Conference Committee and joint "public protection" conference subcommittee produced no reports, in violation of Legislative Law §54-a and the Legislature's own Permanent Joint Rules III, §1 and II, §1;

b. the "real action" took place out of public view, largely by the so-called professional staff, and culminated in behind-closed-doors, "three-men-in-a-room" budget deal-making by defendants CUOMO, FLANAGAN, and HEASTIE;

c. Following the "three-men-in-a-room" huddle, the unamended Legislative/Judiciary Budget Bill #S.6401/A.9001– without discussion or vote by any committee or on the floor of the Senate and Assembly – turned

into an amended bill, #S.6401-a/A.9001-a, with significant alterations to legislative reappropriations, in particular. Indeed, the ONLY changes made to the original bill were to the legislative reappropriations;

d. In violation of Legislative Law §54.2(b), there was NO report on amended Legislative/Judiciary Budget Bill #S.6401-a/A.9001-a, and, in violation of Legislative Law §54.1, there was (i) NO "introductory memoranda or fiscal committee memoranda" furnishing "summary of changes" or "description of changes" for it *prior* to its passage; and (ii) NO "summary of changes" or "description of changes" to it "upon passage...by both the senate and assembly";

e. in violation of State Finance Law §22-b, entitled "Report of the legislature on the enacted budget", there is NO report on the enacted budget pursuant to State Finance Law §22-b, replicating the absence of any such reports in 2014 and 2015.

AS AND FOR A FIFTH CAUSE OF ACTION

The "Process" by which the State Budget for Fiscal Year 2016-2017 was Enacted Violated Article VII, §§4, 5, 6 of the New York State Constitution

54. Plaintiffs repeat, reiterate, and reallege ¶¶ 1-53 herein with the same force and effect as if more fully set forth.

55. By the March 23, 2016 verified second supplemental complaint (Exhibit A), which plaintiffs brought on by an order to show cause with TRO, defendants were furnished with particularized notice that the "process" by which the state budget was being enacted was violative of Article VII, §§4, 5, 6 of the New York State Constitution in a succession of material respects.

56. These respects were laid out, in the main, by plaintiffs' twelfth cause of action and, in particular, by its ¶¶362-383 and by their sixteenth cause of action, in its entirety (¶¶458-470).

57. Nevertheless, in the full week that defendants had prior to the April 1, 2016 start of fiscal year 2016-2017, they took no remedial steps to correct the specified violations of Article VII, §§4, 5, 6 of the New York State Constitution that had already occurred, were then occurring, and which plaintiffs predicted would occur relating to:

- the failure of the Senate and Assembly, by their committees and by their full chambers, to amend and pass the Governor's appropriation bills and to reconcile them so that they might "become law immediately without further action by the governor", as mandated by Article VII, §4 of the New York State Constitution;
- the so-called "one-house budget proposals", emerging from closed-door political conferences of the Senate and Assembly majority party/coalitions;
- the proceedings of the Senate and Assembly Joint Budget Conference Committee and its subcommittees, conducted by staff, behind-closed-doors, based on the "one-house budget proposals";
- the behind-closed-doors, three-men-in-a-room budget deal-making by the Governor, Temporary Senate President, and Assembly Speaker.

58. The specified violations of Article VII, §4, 5, 6 of the New York State Constitution, particularized by and comprising this separate cause of action, pertaining to the "process" by which the fiscal year 2016-2017 budget was enacted, are accurate, true, and correct.

AS AND FOR A SIXTH CAUSE OF ACTION

Chapter 60, Part E, of the Laws of 2015 is Unconstitutional, *As Written* – and the Commission's Judicial Salary Increase Recommendations are Null & Void by Reason Thereof

59. Plaintiffs repeat, reiterate, and reallege ¶¶ 1-58 herein with the same force and effect as if more fully set forth.

60. Plaintiffs' sixth cause of action herein is the thirteenth cause of action of their incorporated March 23, 2016 verified second supplemental complaint in their prior citizen-taxpayer action, Exhibit A: ¶¶385-423. It is accurate, true, and correct in all material respects.

A. <u>Chapter 60, Part E, of the Laws of 2015 Unconstitutionally Delegates Legislative Power by Giving the Commission's Judicial Salary Recommendations "the Force of Law"</u>

61. Plaintiffs' showing as to the unconstitutionality of the statute's delegation of "force of law" legislative power is set forth by the incorporated <u>Exhibit A: ¶¶388-393</u>. It is accurate, true, and correct in all material respects.

62. Also true and correct is the constitutional significance of ¶392. Containing underscoring and capitalization for emphasis, it reads, in full:

> "392. This outsourcing to an appointed seven-member commission of the duties of examination, evaluation, consideration, hearing, recommendation, which Chapter 60, Part E, of the Laws of 2015 confers upon it, are the duties of a properly functioning Legislature, acting through its committees – and <u>there is NO EVIDENCE that any legislative committee has ever been unsuccessful in engaging in such duties and in producing bills based thereon that could not then be enacted by the Legislature and Governor.</u>" (underlining and capitalization in the original).

B. <u>Chapter 60, Part E, of the Laws of 2015 Unconstitutionally Delegates Legislative Power Without Safeguarding Provisions</u>

63. Plaintiffs' showing as to the unconstitutionality of the statute's delegation of legislative power without safeguarding provisions is set forth by the incorporated <u>Exhibit A: ¶¶394-402</u>. It is accurate, true, and correct in all material respects.

64. Also accurate, true, and correct is the constitutional significance of ¶¶400-402. Containing underscoring and italics for emphasis, it reads, in full:

> "400. <u>It is unconstitutional to raise the salaries of judges who should be removed from the bench for corruption or incompetence – and who, by reason thereof, are not earning their current salaries.</u> *Consequently, a prerequisite to any judicial salary increase recommendation must be a determination that safeguarding appellate, administrative, disciplinary and removal provisions of Article VI of the New York State Constitution are functioning.*
>
> 401. <u>Likewise, it is unconstitutional to raise the salaries of other constitutional officers and public officials who should be removed from office</u>

for corruption – and who, by reason thereof, are not earning their current salaries. *Consequently, a prerequisite to any salary increase recommendation as to them must be a determination that mechanisms to remove such constitutional and public officers are functional, lest these corrupt public officers be the beneficiaries of salary increases.*

402. The absence of explicit guidance to the Commission that corruption and the lack of functioning mechanisms to remove corrupt public officers are 'appropriate factors' for its consideration in making salary recommendations renders the statute unconstitutional, *as written*."

65. As Judiciary Law §183-a statutorily links district attorney salaries with judicial salaries, the failure of the Commission statute to include an express provision requiring the Commission to take into account such "appropriate factor" means that district attorneys become the beneficiary of judicial salary increase recommendations, without ANY evidence, or even claim, that existing district attorney salaries are inadequate – and, likewise, without ANY evidence, or even claim, that district attorneys are discharging their constitutional and statutory duties to enforce the penal law and that mechanisms to remove them for corruption are functional. Such additionally renders the Commission statute unconstitutional, *as written*.

C. Chapter 60, Part E, of the Law of 2015 Violates Article XIII, §7 of the New York State Constitution

66. Plaintiffs' showing that the Commission statute violates Article XIII, §7 of the New York State Constitution is set forth by the incorporated Exhibit A: ¶¶403-406. It is accurate, true, and correct in all material respects.

D. Chapter 60, Part E, of the Law of 2015 Violates Article VII, §6 of the New York State Constitution – and, Additionally, Article VII, §§2 and 3

67. Plaintiffs' showing that the Commission statute violates Article VII, §6, 2, 3 of the New York State Constitution is set forth by the incorporated Exhibit A: ¶¶407-412. It is accurate, true, and correct in all material respects.

E. <u>Chapter 60, Part E, of the Laws of 2015 is Unconstitutional because Budget Bill #4610-A/A.6721-A was Procured Fraudulently and Without Legislative Due Process</u>

68. Plaintiffs' showing that the Commission statute is unconstitutional because it was procured fraudulently and without legislative due process is set forth by the incorporated Exhibit A: ¶¶413-423. It is accurate, true, and correct in all material respects.

AS AND FOR A SEVENTH CAUSE OF ACTION

Chapter 60, Part E, of the Laws of 2015 is Unconstitutional, *As Applied* – & the Commission's Judicial Salary Increase Recommendations are Null & Void by Reason Thereof

69. Plaintiffs repeat, reiterate, and reallege ¶¶ 1-68 herein with the same force and effect as if more fully set forth.

70. Plaintiffs' seventh cause of action herein is the fourteenth cause of action of their incorporated March 23, 2016 verified second supplemental complaint in their prior citizen-taxpayer action (Exhibit A: ¶¶424-452). It is accurate, true, and correct in all material respects.

71. The first and overarching ground upon which Chapter 60, Part E, of the Laws of 2015 is unconstitutional, *as applied*, was set forth at ¶425. Its importance was such that its pertinent words were capitalized and the whole of it was underscored, as follows:

> "Defendants' refusal to discharge ANY oversight duties with respect to the constitutionality and operations of a statute they enacted without legislative due process renders the statute unconstitutional, *as applied*. Especially is this so, where their refusal to discharge oversight is in face of DISPOSITIVE evidentiary proof of the statute's unconstitutionality, *as written and as applied* – such as plaintiffs furnished them (Exhibits 38, 37, 39, 40, 41, 42, 43, 44, 46, 47, 48)."

72. Subsequent events reinforce this key ground of unconstitutionality. Thus, even upon being given notice of, and furnished with, plaintiffs' March 23, 2016 verified second supplemental

complaint (Exhibit A), the legislative defendants have continued to willfully and deliberately refuse to discharge ANY oversight duties with respect to the constitutionality and operations of the statute:

> a. On April 1, 2016, with full knowledge that the judicial salary increases recommended by the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation are statutorily-violative, fraudulent, and unconstitutional for all the multitude of reasons particularized by the verified second supplemental complaint (¶¶385-457), the legislative defendants allowed its judicial salary recommendations for fiscal year 2016-2017 to take effect.
>
> b. Since mid-April 2016, the legislative defendants have sought to have the state reimburse the counties for the district attorney salary increases resulting from the April 1, 2016 fraudulent, statutorily-violative, and unconstitutional judicial salary increases, disregarding notice from plaintiffs on the subject, including as to the necessity of repealing Judiciary Law §183-a, statutorily-linking district attorney and judicial salaries – as to which there had been no oversight by the legislative defendants since its enactment 40 years ago.

A. *As Applied*, a Commission Comprised of Members who are Actually Biased and Interested and that Conceals and Does Not Determine the Disqualification/ Disclosure Issues Before it is Unconstitutional

73. Plaintiffs' showing is set forth by the incorporated Exhibit A: ¶¶428-432. It is accurate, true, and correct in all material respects.

B. *As Applied*, a Commission that Conceals and Does Not Determine Whether Systemic Judicial Corruption is an "Appropriate Factor" is Unconstitutional

74. Plaintiffs' showing is set forth by the incorporated Exhibit A: ¶¶433-435. It is accurate, true, and correct in all material respects.

C. *As Applied*, a Commission that Conceals and Does Not Determine the Fraud before It – Including the Complete Absence of ANY Evidence that Judicial Compensation and Non-Salary Benefits are Inadequate – is Unconstitutional

75. Plaintiffs' showing is set forth by the incorporated Exhibit A: ¶¶436-444. It is accurate, true, and correct in all material respects.

D. *As Applied*, a Commission that Suppresses and Disregards Citizen Input and Opposition is Unconstitutional

76. Plaintiffs' showing is set forth by the incorporated Exhibit A: ¶¶445-452. It is accurate, true, and correct in all material respects.

AS AND FOR AN EIGHTH CAUSE OF ACTION

The Commission's Violations of Express Statutory Requirements of Chapter 60, Part E, of the Laws of 2015 Renders its Judicial Salary Increase Recommendations Null and Void

77. Plaintiffs repeat, reiterate, and reallege ¶¶ 1-76 herein with the same force and effect as if more fully set forth.

78. Plaintiffs' eighth cause of action herein is the fifteenth cause of action of their March 23, 2016 verified second supplemental complaint in their prior citizen-taxpayer action, Exhibit A: ¶¶453-457. It is accurate, true, and correct in all material respects.

79. A further "appropriate factor" that the Commission failed to "take into account", in violation of §2, ¶3 of the Commission statute, is the statutory link between judicial salaries and district attorneys, plainly impacting upon "the state's ability to fund increases in compensation and non-salary benefits" – one of the six factors enumerated by §2, ¶3 of the Commission statute.

80. The Commission's disregard of this "appropriate factor" for its consideration was not inadvertent. Plaintiffs' advocacy alerted the Commissioners to the statutory link between judicial salaries and district attorney salaries and its financial impact to the state.[3]

[3] Plaintiffs' October 27, 2011 opposition report (at p. 24); the video of plaintiff Sassower's testimony before the Legislature at its February 6, 2013 "public protection" budget hearing, accessible from the links plaintiffs furnished.

AS AND FOR AN NINTH CAUSE OF ACTION

Three-Men-in-a-Room Budget Dealing-Making is Unconstitutional,
As Unwritten* and *As Applied

81. Plaintiffs repeat, reiterate, and reallege ¶¶ 1-80 herein with the same force and effect as if more fully set forth.

82. Plaintiffs' ninth cause of action herein is the sixteenth cause of action of their March 23, 2016 verified second supplemental complaint in their prior citizen-taxpayer action, Exhibit A: ¶¶458-470. It is accurate, true, and correct in all material respects.

A. **Three-Men-in-a-Room Budget Deal-Making is Unconstitutional, *As Unwritten***

83. Plaintiffs' showing is set forth by the incorporated Exhibit A: ¶¶459-466. It is accurate, true, and correct in all material respects.

B. **Three-Men-in-a-Room Budget Deal-Making is Unconstitutional, *As Applied***

84. Plaintiffs' showing is set forth by the incorporated Exhibit A: ¶¶467-470. It is accurate, true, and correct in all material respects.

AS AND FOR A TENTH CAUSE OF ACTION

The Appropriation Item Entitled "For grants to counties for district attorney salaries", in the Division of Criminal Justice Services' Budget, Contained in Aid for Localities Budget Bill #S.6403-d/A.9003-d, Does Not Authorize Disbursements for Fiscal Year 2016-2017 and is Otherwise Unlawful and Unconstitutional. Reappropriation Items are also Improper, if not Unlawful

85. Plaintiffs repeat, reiterate, and reallege ¶¶ 1-84 herein with the same force and effect as if more fully set forth.

86. Defendant CUOMO's Aid to Localities budget bill for fiscal year 2016-2017, #S.6403/A.9003, was over 900 pages. In addition to the first two amendments to the Aid to

Localities budget bill – and to seven other budget bills – recounted at ¶¶354-382 of plaintiffs' March 23, 2016 verified second supplemental complaint – the Aid to Localities budget bill was amended twice on March 31, 2016 following the three-men-in-a-room budget deal-making by defendants CUOMO, FLANAGAN, and HEASTIE. The second time, the Aid to Localities budget bill, now designated #S.6403-d/A.9003-d, was 1,212 pages.

87. The amending of the bill on March 31, 2016, as likewise on March 11/12, 2016, was completely opaque, not reflected by any votes of legislators introducing and approving the amendments.

88. Within the massive bill, which defendants SENATE and ASSEMBLY passed on March 31-April 1, 2016, on a "message of necessity", is the Division of Criminal Justice Services' budget, at pages 72-130. It begins with a tally of the appropriations, whose "All Funds" total is $205,775,000, and a tally of the reappropriations, whose "All Funds" total is $299,384,451 (Exhibit H, at p. 72).

89. The $205,775,000 in appropriations is itemized by the first 14 pages of the Division of Criminal Justice Services' nearly 60-page budget. Among the items is one entitled "For grants to counties for district attorney salaries", appropriating $4,212,000. It reads, as follows:

> "**Notwithstanding the provisions of subdivisions 10 and 11 of section 700 of the county law or any other law to the contrary**, <u>for state fiscal year 2014-15</u> the state reimbursement to counties for district attorney salaries shall be equal to the amount received by a county for such purpose in 2013-14 and 100 percent of the difference between the minimum salary for a full-time district attorney established pursuant to section 183-a of the judiciary law prior to April 1, 2014, [and] the minimum salary on or after April 1, 2014. **For those counties whose salaries are not covered by section 183-a of the judiciary law**, the state reimbursement for these counties will be pursuant to a plan prepared by the commissioner of criminal justice services and approved by the director of the budget (20244)." (Exhibit H: pp. 72-73, bold and underlining added)

90. So little scrutiny is given to the disbursement of state money to the counties for district attorney salaries, that no one noticed – or no one cared – that the above item of appropriation is erroneous, *on its face*. Apart from its omission of the word "and", without which it makes no sense, it also makes no sense because it provides for reimbursement "for state fiscal year 2014-15". Indeed, this *verbatim* identical item, excepting the "(20244)", was originally in defendant CUOMO's Aid to Localities Budget Bill for state fiscal year 2014-2015 – and replicated in last year's Aid to Localities bill, without any updating of the fiscal year to 2015-2016.

91. Consequently, *as written*, there is NO item in Aid to Localities Budget Bill #S.6403-d/A.9003-d authorizing disbursements of state money to the counties for district attorney salaries for this fiscal year – not $4,212,000 or any other sum.

92. Yet, apart from this obvious error, repeating the same obvious error as was in last year's Aid to Localities budget bill, the aforesaid "grants to counties for district attorney salaries" is both unlawful and unconstitutional, *as written*:

> (a) it violates and overrides three specific statutory provisions: "subdivision 10 and 11 of section 700 of the county law"; AND "section 183-a of the judiciary law" – and does so without any stated explanation or justification;
>
> (b) it violates and overrides "any other law to the contrary" – which, apart from being unconstitutionally vague, would include the New York State and United States Constitutions, which it cannot constitutionally supersede;
>
> (c) it unconstitutionally rests on "the amount received by a county for such purpose in 2013-14" – without specifying the amount each county received "for such purpose in 2013-14" or the document containing that straight-forward information;
>
> (d) it unconstitutionally rests on "a plan prepared by the commissioner of criminal justice services and approved by the director of the budget" – seemingly not then existent.

93. The "grants to counties for district attorney salaries" item is also unlawful and unconstitutional, *as applied* – as the information as to how much state aid each county received for

district attorney salary in fiscal year 2013-14 and how much each county is slated to receive in fiscal year 2016-17 – which should be readily available – is not.

94. Indeed, upon plaintiffs' July 13, 2016 FOIL request to defendant Comptroller for such information (Exhibit I-1), based on his statutory duty under County Law §700.11(c), which states:

> "...the comptroller shall annually determine the amount of state aid payable to each county pursuant to paragraphs (a) and (b) hereof for each calendar year and shall pay such amount on his audit and warrant to the chief fiscal officer of each such county during the month of September in each such year. Where a county first becomes entitled to state aid pursuant to paragraphs (a) and (b) hereof on a day other than January first, nineteen hundred ninety-nine or January first of any other year thereafter, the amount of state aid payable to such county in the year it first becomes entitled to such state aid shall be prorated accordingly",

his response, on July 22, 2016, was that "after a diligent search, [the Comptroller is] unable to locate any records" (Exhibit I-3).

95. Likewise upon plaintiffs' July 11, 2016 FOIL requests to the Division of Criminal Justice Services and Division of the Budget for the referred-to "plan prepared by the commissioner of criminal justice services and approved by the director of the budget" (Exhibit J-1), their responses were to defer production to the end of October (Exhibits J-2, J-3).

96. The only thing clear about the appropriation is that for counties covered by Judiciary Law §183-a, whatever they get includes:

> "100 percent of the difference between the minimum salary for a full-time district attorney established pursuant to section 183-a of the judiciary law prior to April 1, 2014 [and] the minimum salary on or after April 1, 2014."

97. April 1, 2014 is the date on which the third and final phase of the judicial salary increases recommended by the Commission on Judicial Compensation's August 29, 2011 report took effect. Consequently, the meaning is that the state is paying for the FULL "100 percent" increase in

district attorney salaries resulting from the Commission on Judicial Compensation's August 29, 2011 report.

98. Whether and by how much the counties should be reimbursed for the district attorney salary increases that took effect on April 1, 2014, April 1, 2013, and April 1, 2012 because of the Commission on Judicial Compensation's August 29, 2011 report are POLICY DETERMINATIONS. They do not belong in a budget bill, but, rather, in the statute governing state aid for district attorney salaries: County Law §700.10 and §700.11.

99. When district attorney salaries were previously increased in 1999 as a result of the increase in judicial salaries, County Law §700.11 was amended to reflect the aid the state would be providing the counties based thereon. The amendment, County Law §700.11(b), reads as follows:

> "(b) In addition to the state aid provided in paragraph (a) of this subdivision, each county, the salary of the district attorney of which is determined pursuant to section one hundred eighty-three-a of the judiciary law, shall be entitled to receive state aid in the amount of forty-one percent of the difference between the amount required to be paid to such district attorney pursuant to section one hundred eighty-three-a of the judiciary law on and after January first, nineteen hundred ninety-nine and the amount required to be paid pursuant to such section immediately prior to such date, except that in the county of Dutchess the amount shall be forty-two percent of such difference in the county of Putnam the amount shall be forty percent of such difference in the county of Monroe the amount shall be thirty-nine percent of such difference and in the counties of Erie, Nassau, Suffolk and Westchester the amount shall be thirty-six percent of such difference." (underlining added).

100. In other words, for the prior district attorney salary increase resulting from the increase in judicial salaries, the state did not pick up the full 100% tab, but, rather between 36-42%.

101. County Law §700.11 controls – and it does not authorize state aid "after January first, nineteen hundred ninety-nine" at a rate beyond 36-42%.

102. Moreover, the predicate for state aid under County Law §700.11 is that a county is covered by Judiciary Law §183-a. Absent amendment to Judiciary Law §183-a or to County Law

§700.8 which it incorporates, it is unlawful for the state to provide aid to a county not within the purview of these two statutes.

103. The unspecified counties not covered by Judiciary Law §183-a are counties with populations of less than 40,000. Nothing in Judiciary Law §183-a or County Law §700.8 dictates the salaries of the district attorneys of those counties, irrespective of whether their district attorneys are part-time or full-time. Their boards of supervisors are free to set the salaries of their full-time district attorneys at whatever levels they deem appropriate to the county budgets and local conditions. Consequently, there is no basis for the state to reimburse those counties for their district attorney salaries.

104. The state budget has become a backdoor to securing what should be, but, apparently, cannot be, secured through normal legislative channels – in this case, 100% reimbursement to the counties for the district attorney increases resulting from the Commission on Judicial Compensation's August 29, 2011 report and inclusion of counties of less than 40,000 in state aid for district attorney salaries.

105. The budget is also a slush fund – particularly by its reappropriations – and most of the Division of Criminal Justice Services budget in Aid for Localities Budget Bill #S.6403-d/A.9003-d is reappropriations (pp. 86-130).

106. New York's Division of Budget website has a "Citizen's Guide": https://www.budget.ny.gov/citizen/index.html, with a glossary of "Financial Terminology". Its definition of "reappropriation", for which it also furnishes an example, is as follows:

> "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.

For example, funds for capital projects are customarily recommended and appropriated in amounts sufficient to cover the total estimated cost of each phase of a specific project (such as land acquisition, design, construction and equipping). As contracts within each phase are established, portions of the capital construction appropriation are allocated. However, disbursements are made only to meet the actual costs incurred as each phase of the project progresses. In ensuing years, the balances not disbursed are reappropriated to cover the costs of subsequent construction phases in the project."

107. The hyper-linked definition of "lapsed appropriation" is as follows:

"A lapsed appropriation is an appropriation which has expired and against which obligations can no longer be incurred, nor payment made. An appropriation lapses, and is no longer available to authorize any encumbrance or cash payments, on June 30 for State operations and on September 15 for aid to localities, capital projects, and debt service."

108. Based upon these definitions, it appears that a substantial number of reappropriation items in the Division of Criminal Justice Services budget should have lapsed. Among them:

"By chapter 53, section 1, of the laws of 2013:

"For grants to counties for district attorney salaries. Notwithstanding the provisions of subdivisions 10 and 11 of section 700 of the county law or any other law to the contrary, for state fiscal year 2012-13 the state reimbursement to counties for district attorney salaries shall be equal to the amount received by a county for such purpose in 2011-12 and 100 percent of the difference between the minimum salary for a full-time district attorney established pursuant to section 183-a of the judiciary law prior to April 1, 2012, and the minimum salary on or after April 1, 2013. ....$3,862,000....................(re. $56,000)" (Exhibit H: at p. 94).

"By chapter 53, section 1, of the laws of 2012:

...

For additional grants to counties for district attorney salaries. Notwithstanding the provisions of subdivisions 10 and 11 of section 700 of the county law or any other law to the contrary, for state fiscal year 2012-13 the state reimbursement to counties for district attorney salaries shall be equal to the amount received by a county for such purpose in 2011-12 and 100 percent of the difference between the minimum salary for a full-time district attorney established pursuant to section 183-a of the judiciary law prior to April 1, 2012, and the

minimum salary on or after April 1, 2013. ....$700,000...(re. $56,000)" (Exhibit H: at pp. 96-97).

"By chapter 50, section 1, of the laws of 2008, as amended by chapter 53, section 3, of the laws of 2008:

For additional grants to counties for district attorney salaries pursuant to subdivisions 10 and 11 of section 700 of the county law.

Notwithstanding the provisions of any other law to the contrary, for state fiscal year 2008-2009 the liability of the state and the amount to be distributed or otherwise expended by the state pursuant to subdivisions 10 and 11 of section 700 of the county law shall be determined by first calculating the amount of the expenditure or other liability pursuant to such law, and then reducing the amount so calculated by two percent of such amount ....2,869,000..(re. $113,000)" (Exhibit H: at p. 100).

"By chapter 50, section 1, of the laws of 2008:

For recruitment and retention of district attorneys in counties located outside a city of a population of 1,000,000 or more persons to be distributed in accordance with a formula based upon the population of each county receiving a grant of a portion of such funds, provided that no county shall receive an award of less than $4,000 1,500,000..(re. $550,000)" (Exhibit H: at p. 124)

"By chapter 50, section 1, of the laws of 2007, as amended by chapter 50, section 1, of the laws of 2008:

For services and expenses related to the district attorney loan forgiveness program and the recruitment and retention of district attorneys, pursuant to the following sub-schedule:

sub-schedule

For recruitment and retention of district attorneys in counties located outside a city of a population of 1,000,000 or more persons 11 to be distributed in accordance with a formula based upon the population of each county receiving a grant of a portion of such funds, provided that no county shall receive an award of less than $4,000 .... 1,500,000 ....(re. $55,000)" (Exhibit H: at p. 125).

109. The very outset of Aid to Localities Budget Bill #S.6403-d/A.9003-d, states as follows in its section 1, paragraph d:

> "No moneys appropriated by this chapter shall be available for payment until a certificate of approval has been issued by the director of the budget, who shall file such certificate with the department of audit and control, the chairperson of the senate finance committee and the chairperson of the assembly ways and means committee." (Exhibit H: at p. 2).

110. Plaintiffs September 1, 2016 FOIL request for such filed certificate of approval from the director of the budget for the Division of Criminal Justice Services' budget for fiscal year 2016-2017– and for any certification of the Division of Criminal Justice Services' budget by the Division of Criminal Justice Services itself – is annexed (Exhibit K).

PRAYER FOR RELIEF

WHEREFORE, plaintiffs respectfully pray:

1. **For a declaratory judgment pursuant to State Finance Law §123 *et seq.* – Article 7-A, "Citizen-Taxpayer Actions":**

A. that the Legislature's proposed budget for fiscal year 2016-2017, embodied in Legislative/Judiciary Budget Bill #S.6401-a/A.9001-a, is a wrongful expenditure, misappropriation, illegal, unconstitutional – and fraudulent – because: **(1)** it is not based on "itemized estimates of the financial needs of the legislature, certified by the presiding officer of each house", as Article VII, §1 of the State Constitution expressly mandates; **(2)** it is missing "General State Charges"; **(3)** its section of "Senate and Assembly Joint Entities" is materially incomplete; and **(4)** its budget figures, identical to the past five budgets, are contrived by the Temporary Senate President and Assembly Speaker to fortify their power and deprive members and committees of the monies they need to discharge their constitutional duties;

B. that the Judiciary's proposed budget for fiscal year 2016-2017, embodied in Legislative/Judiciary Budget Bill #S.6401-a/A.9001-a, is a wrongful expenditure, misappropriation, illegal and unconstitutional – and fraudulent – because: **(1)** the Judiciary budget is so incomprehensible that the Governor, the Senate majority and Senate minority, and Assembly majority and Assembly minority cannot agree on its cumulative cost and percentage increase; **(2)** its §3 reappropriations were not certified, including as to their suitability for that purpose, and violate Article VII, §7 and Article III, §16 of the New York State Constitution and State Finance Law §25; and **(3)** the transfer/interchange provision in its §2 appropriations, embracing its §3 reappropriations, undermines the constitutionally-

required itemization and violates Judiciary Law §215(1), creating a "slush fund" and concealing relevant costs; **(4)** it has *sub silentio* enabled the funding of judicial salary increases that are statutorily-violative, fraudulent, and unconstitutional;

C. that Legislative/Judiciary Budget Bill #6401-a/A.9001-a is a wrongful expenditure, misappropriation, illegal, unconstitutional – and fraudulent – by its inclusion of reappropriations for the Legislature that were not part of its proposed budget and not certified either as to their suitability as reappropriations or as to their amounts;

D. that Legislative/Judiciary Budget Bill #6401-a/A.9001-a is a wrongful expenditure, misappropriation, illegal, unconstitutional – and fraudulent – because nothing lawful or constitutional can emerge from a legislative process that violates Article VII, §§1-7 and Article IV, §7 of the New York State Constitution pertaining to the budget, and from statutes based thereon, including Legislative Law §32-a (*hearings for the public*); Legislative Law §53 and §54-a (*joint budget schedule; joint budget conference*), Legislative Law §54 (*summary of/description of changes*); State Finance Law §22-b (*report on enacted budget*), and from Senate and Assembly rules, *inter alia*: **(1)** Senate Rule VIII, §7, Senate Rule VII, §1, and Assembly Rule III, §1(f) and §2(a) (*fiscal notes, fiscal impact statements, and introducer's memoranda*), applicable to defendant Governor by Senate Rule VII, §6 and Assembly Rule III, §2(g); **(2)** Senate Rule VII, §4 and Assembly Rule III, §§1, 2, 8 (*bills*); **(3)** Senate Rule VIII, §§3, 4, 5 and Assembly Rule IV, §§2, 4, 6, (*public meetings, recorded votes, committee reports*); **(4)** Senate Rule VII, §4(b); and Assembly Rule III, §§1(f) and 6 (*amendments*); **(5)** Senate Rule VIII, §4(c) and Assembly Rule IV, §1(d) (*committee oversight*); **(6)** Senate and Assembly Permanent Joint Rule III (*budget*); **(7)** Senate and Assembly Joint Rule II, §1 (*conference committee*).

Also, nothing lawful or constitutional can emerge from a legislative process that violates New York State Constitution, Article III, §10: "Each house of the legislature shall keep a journal of its proceedings, and publish the same.... The doors of each house shall be kept open..."; Public Officers Law, Article VI; Senate Rule XI, §1, and Assembly Rule II, §1.

E. that the behind-closed-doors Senate and Assembly majority and minority political conferences, which serve as the venue for discussing, debating, and voting on bills that are not being discussed, debated, voted on, and amended in committee are unconstitutional, as is Public Officers Law, §108.2 exempting them from the Open Meetings Law and FOIL;

F. that three-men-in-a-room, budget dealing-making is unconstitutional, *as unwritten and as applied.* Neither the Constitution, nor statute, nor Senate and Assembly rules authorize the Governor, Temporary Senate President, and Assembly Speaker to huddle together for budget negotiations and the amending of budget bills – and it violates Article VII, §§3, 4 and Article IV, §7, transgressing the separation of powers, for them to do so. That it takes place behind-closed-doors, out of public view, is a further constitutional violation.

G. that the "process" by which the state budget for fiscal year 2016-2017 was enacted violates Article VII, §§4, 5, 6 of the New York State Constitution by the failure of Senate and Assembly committees and the full chambers of each house to amend and pass the Governor's appropriation bills and to reconcile them so that they might "become law immediately without further action by the governor", as Article VII, §4 mandates, substituting instead one-house budget proposals, emerging from closed-door political

conferences of the Senate and Assembly majority party/coalitions, and serving as the basis for convening the Senate and Assembly budget conference committee and its subcommittees, whose proceedings, behind-closed-doors by staff, are then supplanted and cut short by behind-closed-doors deal-making by the Governor, Temporary Senate President, and Assembly Speaker to produce amended budget bills, sped to adoption on messages of necessity;

H. that Chapter 60, Part E, of the Laws of 2015, establishing the Commission on Legislative, Judicial and Executive Compensation – is unconstitutional, *as written* – and the Commission's "force of law" judicial salary increase recommendations are null and void by reason thereof because: **(1)** the statute unconstitutionally delegates legislative power by giving the Commission's judicial salary recommendations "the force of law"; **(2)** the statute unconstitutionally delegates legislative power without safeguarding provisions; **(3)** the statute violates Article XIII, §7; **(4)** the statute – a budget statute – violates Article VII, §6 (*anti-rider*) and, additionally, §§3 and 4 (*timeliness, content*); **(5)** the statute was fraudulently procured and without legislative due process;

I. that Chapter 60, Part E, of the Laws of 2015, establishing the Commission on Legislative, Judicial and Executive Compensation is unconstitutional, *as applied* – and the Commission's "force of law" judicial salary increase recommendations are null and void by reason thereof because: **(1)** the legislative defendants willfully and deliberately failed and refused to discharge their oversight duties with respect to the statute's constitutionality and operation; **(2)** the Commission concealed and did not determine the disqualification/disclosure issues before it pertaining to its members' actual bias and interest; **(3)** the Commission concealed and did not determine whether systemic judicial corruption is

an "appropriate factor" barring judicial salary increases; **(4)** the Commission concealed and did not determine issues of fraud, including the complete absence of evidence to justify a salary increase; **(5)** the Commission suppressed and disregarded the "appropriate factor" of citizen input and opposition;

J. that the Commission on Legislative, Judicial and Executive Compensation violated the express statutory requirements of Chapter 60, Part E, of the Laws of 2015 – and that its "force of law" judicial salary increase recommendations are null and void by reason thereof because, in violation of the statute: **(1)** the Commission made no finding and furnished no evidence that current "compensation and non-salary benefits' or "pay levels and non-salary benefits" of New York State judges are inadequate; **(2)** the Commission examined only judicial salary, not "compensation and non-salary benefits"; **(3)** the Commission did not "take into account all appropriate factors", such as systemic judicial corruption and citizen opposition – and made no claim that it had; **(4)** the Commission did not "take into account three of the six statutorily-listed "appropriate factors"; **(5)** the Commission's appointing authorities – defendants CUOMO, FLANAGAN, HEATIE, and former Chief Judge Lippman – constituted the Commission four months late, such that it had less than two months to execute its statutory charge; **(6)** the Commission did not utilize its significant investigative powers and available resources; .

K. that Chapter 60, Part E, of the Laws of 2015, establishing the Commission on Legislative, Judicial and Executive Compensation – is unconstitutional, *as written* – and the Commission's "force of law" judicial salary increase recommendations are null and void by reason thereof because: **(1)** the statute unconstitutionally delegates legislative power by giving the Commission's judicial salary recommendations "the force of law"; **(2)** the statute

unconstitutionally delegates legislative power without safeguarding provisions; **(3)** the statute violates Article XIII, §7; (4) the statute – a budget statute – violates Article VII, §6 (*anti-rider*) and, additionally, §§3 and 4 (*timeliness, content*); **(5)** the statute was fraudulently procured and without legislative due process;

L. that Chapter 60, Part E, of the Laws of 2015, establishing the Commission on Legislative, Judicial and Executive Compensation is unconstitutional, *as applied* – and the Commission's "force of law" judicial salary increase recommendations are null and void by reason thereof because: **(1)** the legislative defendants willfully and deliberately failed and refused to discharge their oversight duties with respect to the statute's constitutionality and operation; **(2)** the Commission concealed and did not determine the disqualification/disclosure issues before it pertaining to its members' actual bias and interest; **(3)** the Commission concealed and did not determine whether systemic judicial corruption is an "appropriate factor" barring judicial salary increases; **(4)** the Commission concealed and did not determine issues of fraud, including the complete absence of evidence to justify a salary increase; **(5)** the Commission suppressed and disregarded the "appropriate factor" of citizen input and opposition;

M. that the Commission on Legislative, Judicial and Executive Compensation violated the express statutory requirements of Chapter 60, Part E, of the Laws of 2015 – and that its "force of law" judicial salary increase recommendations are null and void by reason thereof because, in violation of the statute: **(1)** the Commission made no finding and furnished no evidence that current "compensation and non-salary benefits' or "pay levels and non-salary benefits" of New York State judges are inadequate; **(2)** the Commission examined only judicial salary, not "compensation and non-salary benefits"; **(3)** the Commission did not

"take into account all appropriate factors", such as systemic judicial corruption and citizen opposition – and made no claim that it had; **(4)** the Commission did not "take into account three of the six statutorily-listed "appropriate factors"; **(5)** the Commission's appointing authorities – defendants CUOMO, FLANAGAN, HEATIE, and former Chief Judge Lippman – constituted the Commission four months late, such that it had less than two months to execute its statutory charge; **(6)** the Commission did not utilize its significant investigative powers and available resources;

N. that the appropriation item entitled "For grants to counties for district attorney salaries", in the Division of Criminal Justice Services' budget for fiscal year 2016-2017, contained in Aid to Localities Budget Bill #S.6403-d/A.9003-d does not authorize any disbursement of state monies for that purpose for this fiscal year and is otherwise unlawful and unconstitutional in that: **(1)** it violates and overrides three specific statutory provisions: County Law §700.10 and §700.11 and Judiciary Law §183-a; **(2)** it violates and overrides "any other law to the contrary" – which is unconstitutionally vague and would include the New York State and United States Constitutions, which it cannot constitutionally supersede; **(3)** it unconstitutionally rests on "the amount received by a county for such purpose in 2013-14" – without specifying the amount each county received "for such purpose in 2013-14" or the document containing that information; **(4)** it unconstitutionally rests on "a plan prepared by the commissioner of criminal justice services and approved by the director of the budget" – seemingly not then existent. Further, that items of reappropriation in Aid to Localities Budget Bill #S.6403-d/A.9003-d pertaining to previous "grants to counties for district attorney salaries" and "recruitment and retention" incentives are not proper for reappropriation, if not unlawful.

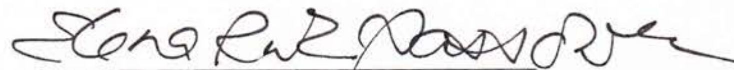
2. **Pursuant to State Finance Law §123-e, for entry of a judgment permanently enjoining defendants:**

(a) from disbursing monies pursuant to Legislative/Judiciary Budget Bill #S.6401-a/A.9001-a, or, alternatively: (i) as to the legislative portion, enjoining disbursements pursuant to its §1 appropriations and §4 reappropriations (pp. 2-9; 25-48); and; (ii) as to the judiciary portion, disbursements of its §3 reappropriations (pp. 22-24) and, in particular, to fund "the force of law" judicial salary increase for fiscal year 2016-2017 recommended by the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation and disbursement of monies pursuant thereto;

(b) from disbursing monies pursuant to the appropriation item "For grants to counties for district attorney salaries" in the Division of Criminal Justice Services' budget contained in Aid to Localities Budget Bill #S.6403-d/A.9003-d (at pp. 72-73) or pursuant to reappropriation items therein pertaining to previous "grants to counties for district attorney salaries" and "recruitment and retention" incentives (at pp. 94, 97, 100, 124-125);

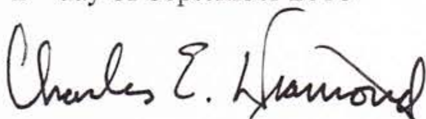
3. **Pursuant to State Finance Law §123-g, for costs and expenses, including attorneys' fees;**

4. **For such other and further relief as may be just and proper**, including restoring public trust by referring to prosecutorial authorities the evidence particularized by this verified complaint as it establishes, *prima facie*, grand larceny of the public fisc and other corrupt acts, requiring that the culpable public officers and their agents be criminally prosecuted and removed from office, without further delay.



ELENA RUTH SASSOWER

Sworn to before me this
2nd day of September 2016



CHARLES E. DIAMOND
Notary Public, State of New York
Qualified in Albany County
No. 4802106
Commission Expires Oct. 31, 20 18.

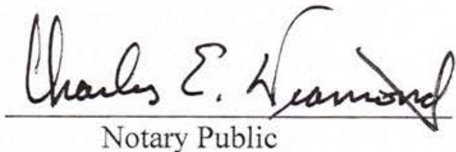
VERIFICATION

STATE OF NEW YORK)
COUNTY OF ALBANY) ss:

I am the individual plaintiff in the within action and director of the corporate plaintiff, Center for Judicial Accountability, Inc. I have written the annexed verified complaint and attest that same is true and correct of my own knowledge, information, and belief, and as to matters stated upon information and belief, I believe them to be true.

ELENA RUTH SASSOWER

Sworn to before me this
2nd day of September 2016



Notary Public

CHARLES E DIAMOND
Notary Public, State of New York
Qualified in Albany County
No 4802106
Commission Expires Oct. 31, 20 18

TABLE OF EXHIBITS

Exhibit A: Plaintiffs' March 23, 2016 verified second supplemental complaint in prior citizen-taxpayer action, *CJA v. Cuomo* (Albany Co. #1788-2014)

Exhibit B: Plaintiffs' March 28, 2014 verified complaint in prior citizen-taxpayer action, *CJA v. Cuomo* (Albany Co. #1788-2014)

Exhibit C: Plaintiffs' March 31, 2015 verified supplemental complaint in prior citizen-taxpayer action, *CJA v. Cuomo* (Albany Co. #1788-2014)

Exhibit D: Justice McDonough's August 1, 2016 amended decision and order

Exhibit E: Justice McDonough's October 9, 2014 decision and order

Exhibit F: Justice McDonough's June 24, 2015 decision and order

Exhibit G: Plaintiffs' analysis of Justice McDonough's August 1, 2016 amended decision and order

Exhibit H: Aid to Localities Budget Bill #S.6403-d/A.9003-d: pages 1-2, 72-73, 94, 96-97, 100, 124-125

Exhibit I-1: Plaintiffs' July 13, 2016 FOIL request: "State Aid to the Counties for District Attorney Salaries for Calendar Years 2010-2016"

Exhibit I-2: July 20, 2016 letter from Comptroller's records access officer

Exhibit I-3: July 22, 2016 letter from Comptroller's records access officer

Exhibit J-1: Plaintiffs' July 11, 2016 FOIL request: "The 'plan' to reimburse counties not covered by Judiciary Law 183-a for district attorney salaries: fiscal years 2016-17, 2015-16, and 2014-15"

Exhibit J-2: July 15, 2016 e-mail from Division of Criminal Justice Services' records access officer

Exhibit J-3: August 12, 2016 e-mail from Division of Criminal Justice Services' records access officer

Exhibit J-4: July 25, 2016 letter from Division of the Budget records access officer

Exhibit K: Plaintiffs' September 1, 2016 FOIL request: "Director of the Budget's certificate of approval of the Division of Criminal Justice Services' budget for fiscal year 2016-2017, contained in Aid to Localities Budget Bill #S.6403-d/A.9003-d – & any certification by the Division of Criminal Justice Services of its own budget"

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,

Index #

Plaintiffs,

-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,

Defendants.

SUMMONS & VERIFIED COMPLAINT

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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