

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, December 17, 2019 8:35 AM
To: 'lmarks@nycourts.gov'; 'jshukin@nycourts.gov'; 'skerby@nycourts.gov'
Cc: 'nyscompensation@gmail.com'; 'rmaldonado@nycbar.org'; 'rmaldonado@sgrlaw.com'; 'hgreenberg@nysba.org'; 'greenbergh@gtlaw.com'
Subject: Housekeeping: Protecting the Commission on Legislative, Judicial & Executive Compensation from FRAUD: Have you responded to my Dec. 11th & Nov 26th e-mails?
Attachments: record-2-20-13-foil-compressed.pdf; record-12-9-15-foil-compressed.pdf; record-12-9-16-foil-compressed.pdf; record-10-7-19-foil-compressed.pdf; 2nd-cause-of-action-compressed.pdf; 2-19-19-questions-for-marks-10pp-compressed.pdf; 11-25-19-signed-ltr-to-marks.pdf

TO: Chief Administrative Judge Marks and Chief Judge DiFiore

I have received no response from you – or from the OCA's records access officer – to my below December 11, 2019 e-mail entitled "Protecting the Commission from FRAUD -- CJA's Second Supplemental Submission in Specific Rebuttal to Chief Administrative Judge Marks' Nov. 22, 2019 Supplemental Submission".

Did you respond to me or to the Commission? Please advise – and send me a copy of your response(s), if you did.

I also received no response from you to my November 26, 2019 e-mail – also below – transmitting my November 25, 2019 letter addressed to Chief Administrative Judge Marks entitled:

"Demand that You Withdraw Your Unsworn November 4, 2019 Testimony before the Commission on Legislative, Judicial and Executive Compensation as FRAUD, as Likewise Your Submission on which it was Based, Absent Your Denying or Disputing the Accuracy of My Sworn Testimony".

Did you respond to me or to the Commission? Here, too, please advise – and send me a copy of your response(s), if you did.

For your convenience, the attachments to those two below e-mails are above – and everything is posted on CJA's website, www.judgewatch.org, accessible from the prominent homepage link "NY's 'Force of Law' Commissions – Unconstitutionality & Fraud IN PLAIN SIGHT". The direct link to the menu page for the current Commission on Legislative, Judicial and Executive Compensation is here: <http://www.judgewatch.org/web-pages/searching-nys/force-of-law-commissions/part-e-chapter60-laws-2015/menu-2019-2020-commission.htm>.

Finally, as I inadvertently neglected to send my December 11th e-mail to New York City Bar Association President Maldonado and New York State Bar Association President Greenberg for their responses, I do so now, by this e-mail – relying on you to forward this same e-mail to the other judicial pay raise advocates who testified at the Commission's November 4th and November 14th hearings, ALL judges except for Fund for Modern Courts Executive Director Hawkins. This, I now expressly request you do, much as I did by my November 26th e-mail.

As the Commission is meeting at 4 pm tomorrow – and my December 11th and November 26th e-mails should TOP its agenda – responses by you and the other judicial pay raise advocates are required expeditiously.

Thank you.

Elena Sassower, Director

Center for Judicial Accountability, Inc. (CJA)

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Wednesday, December 11, 2019 9:23 AM
To: 'nyscompensation@gmail.com' <nyscompensation@gmail.com>
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Subject: Protecting the Commission from FRAUD -- CJA's Second Supplemental Submission in Specific Rebuttal to Chief Administrative Judge Marks' Nov. 22, 2019 Supplemental Submission

TO: Commission on Legislative, Judicial & Executive Compensation

Following up my below December 9, 2019 e-mail to you, identifying that “the reason Chief Administrative Judge Marks is able to propose that the Judiciary will self-fund COLAs from its own budget is because the Judiciary budget is a larcenous SLUSH-FUND, born of constitutional violations, statutory-violations, and fraud”, please deem that December 9th e-mail and this to be my second supplemental submission, in specific response to Chief Administrative Judge Marks’ November 22, 2019 supplemental submission. There, he makes the extraordinary statement:

“...since inception of the Salary Commission system in 2011, the Judiciary has consistently absorbed the costs of *all* judicial pay adjustments recommended by a Commission without asking for any additional funding to pay those costs. We did this even during the years for which prior Commissions were making salary recommendations when, because those recommendations were geared to help State judges catch up after a 13-year pay freeze, the cost of the increase, and therefore the impact of the Judiciary budget, was far greater. Those adjustments were much larger than even the largest salary adjustment that we might today imagine the Federal Judiciary will receive over the next several years. For example, during the 2012-2015 salary cycle, State Supreme Court Justices received a 17% pay increase for the 2012-13 fiscal year (with other State Judges receiving proportionate increases); a 4.3% increase for the 2013-14 fiscal year; and a 4.2% increase for the 2014-15 fiscal year. During the first fiscal year of the 2016-2019 salary cycle, the Justices received an 11% increase; and in 2018-19, another 6.7%.

We promised the prior commissions the Judiciary budget would absorb the costs of all of these increases without asking for additional funding and then proceeded to live up to that commitment, notwithstanding their size and the fiscal burden they presented...” (italics in the original).

As Chief Administrative Judge Marks’ scant 1-1/2 page supplemental submission identifies not a single dollar amount, the Commission must demand that he specify the dollar amounts he is claiming the Judiciary self-funded from its budget, arising from the August 29, 2011 report of the Commission on Judicial Compensation and the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation. Upon information and belief, the Judiciary only absorbed the first year of each COLA or judicial pay raise increase – and did this to avoid having to identify their dollar amounts, or even their existence, in its proposed “single-budget” bills – and the Legislature’s right to modify or strike them out.

In his original submission (at p. 21), Chief Administrative Judge Marks’ purports that the Judiciary’s proposed “series of four...cost-of-living adjustments for New York’s state-paid judges over the four fiscal years beginning April 1, 2020” is “very modest”, that “The cost of these adjustments in each fiscal year, and the aggregate cost over the full four years is almost certain to be de minimus” and in dollar terms would “cost the State \$13.9 million, or an average of \$3.46 million annually” . This is false. The \$3.46 million cost of each COLA increase, essentially repeated by Chief Administrative Judge Marks in testifying on November 4th (at pp. 7, 12), becomes, after the initial year, embedded as increased judicial