

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, March 19, 2019 9:48 AM
To: 'AD3ClerksOffice@nycourts.gov'
Subject: Informational Inquiry & FOIL/records request: Who has written the ORDERING sentence that follows, rather than precedes, the names of the justices in the "Memorandum and Order" in CJA v. Cuomo (#527081)? And where is your "written authorization" to sign?

TO: Appellate Division, Third Department Clerk Robert D. Mayberger

Reference is made to the December 27, 2018 "Memorandum and Order" disposing of the citizen-taxpayer action appeal *Center for Judicial Accountability, Inc., et al. v. Cuomo, et al.* (#527081), whose final sentence reads: "ORDERED that the judgment is affirmed, without costs."

Why does this ORDERING sentence follow – and not precede – the line reading "McCarthy, J.P., Clark and Mulvey, JJ., concur"? Is it because their concurrence is with the Memorandum portion that purports to be written by Justice Rumsey?

Who has written the ORDERING sentence, whose assertion "the judgment is affirmed" is implied, but not stated in the Memorandum itself. Is it you – or personnel in the Clerk's Office – and is that why your autopen signature is beneath it, rather than the signature of any of the justices?

Please also advise as to whether your signature is pursuant to CPLR §2219(b). If it is, I request, pursuant to FOIL (Public Officers Law, Article VI) and §124 of the Rules of the Chief Administrative Judge ("Public Access to Records"), a copy of the "written authorization by the presiding judge" that CPLR §2219(b) expressly requires for you to sign "An order of the appellate court".

Thank you.

Elena Sassower, Director
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