

**CENTER for JUDICIAL ACCOUNTABILITY, INC.**

Post Office Box 8101  
White Plains, New York 10602

Tel. (914)421-1200

E-Mail: [mail@judgewatch.org](mailto:mail@judgewatch.org)  
Website: [www.judgewatch.org](http://www.judgewatch.org)

BY PRIORITY MAIL

March 18, 2019

New York Court of Appeals  
Clerk's Office  
20 Eagle Street  
Albany, New York 12207-1095

ATT: Court Attorney Susan Dautel

RE: Deputy Clerk Heather Davis' March 4, 2019 letter  
*Center for Judicial Accountability, et al. v. Cuomo, et al. – Citizen-Taxpayer Action*

Dear Court Attorney Dautel:

As indicated by my March 16, 2019 letter, herewith transmitted, by priority mail, is a copy of the record of appellants' four appellate motions designed to ensure the integrity of the appellate proceedings in the Appellate Division, Third Department – concealed by its December 27, 2018 Memorandum and Order.

Assistant Solicitor General Brodie has reviewed and approved the inventory of this transmittal – and the inventory and his confirmatory e-mail are annexed hereto.

Appellants' letter in support of their appeal of right, pursuant to Article VI, §3(b)(1) of the New York State Constitution and CPLR §5601(b)(1), is due on Thursday, March 21<sup>st</sup> – and will be express mailed on March 20<sup>th</sup>.

Thank you.



Elena Sassower, unrepresented plaintiff-appellant,  
acting on her own behalf, & as director of the Center for Judicial  
Accountability, Inc., & on behalf of the People of the State of New  
York & the Public Interest

Enclosures

cc: Assistant Solicitors General Frederick Brodie & Victor Paladino

SA A-2

**RECORD OF APPELLANTS' FOUR APPELLATE MOTIONS  
IN THE APPELLATE DIVISION, THIRD DEPARTMENT  
TO SAFEGUARD THE INTEGRITY OF THE APPELLATE PROCESS<sup>1</sup>**

**Appellants' 1<sup>st</sup> Order to Show Cause:**

Document #1: Assistant Solicitor General Frederick Brodie's July 23, 2018 letter to Appellate Division, Third Department Clerk Robert Mayberger, with attached two exhibits<sup>2</sup>

Document #2: Appellants' "Order to Show Cause with Preliminary Injunction & TRO", with appellant Sassower's July 24, 2018 moving affidavit and attached Exhibits A-U, plus free-standing exhibits in two file folders – signed on August 2, 2018, at oral argument of the TRO, by Associate Justice Eugene Devine

Document #3: Assistant Solicitor General Brodie's July 26, 2018 letter to Appellate Division, Third Department Clerk Mayberger

Document #4: Appellant Sassower's August 1, 2018 "Reply Affidavit in Further Support of Appellants' OSC, with Preliminary Injunction & TRO – & for Additional 'Other & Further Relief'", with attached Exhibits V-AA

Document #5: Assistant Solicitor General Brodie's August 3, 2018 "Memorandum in Opposition to Relief Sought in Appellants' Order to Show Cause", with attached Exhibit A of record excerpts<sup>3</sup>

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<sup>1</sup> *NOTE #1:* All filings by Assistant Solicitor General Frederick Brodie were on behalf of then Attorney General Barbara Underwood, representing all respondents. He, alone, signed the filings. With the exception of his August 3, 2018 memorandum in opposition to appellants' 1<sup>st</sup> order to show cause, which bears the name of Deputy Solicitor General Jeffrey W. Lang, acting with him "of Counsel", his other opposition memoranda – and his September 21, 2018 opposing brief on the appeal – each bear the name of his direct superior, Assistant Solicitor General Victor Paladino, identified with him as "of Counsel".

*NOTE #2:* Inventories of the exhibits, both attached and free-standing, substantiating appellant Sassower's moving and reply affidavits are annexed immediately following the signature/notarization page for those affidavits.

<sup>2</sup> Only Assistant Solicitor General Brodie's "Exhibit 2" is attached to the copy here provided, as "Exhibit 1" are pages from appellants' record on appeal:

R.1-2, 31-41 (*appellants' January 10, 2018 notice of appeal & appealed-from November 28, 2017 decision and judgment*);  
R.42-43, R.52-60 (*appellants' June 10, 2017 notice of appeal & appealed-from May 5, 2017 amended decision and order*);  
R.61-62, R.68-79 (*appellants' August 5, 2017 notice of appeal & appealed-from June 26, 2017 decision and order*);  
R.87-89, 91 (*pages from appellants' September 2, 2016 verified complaint*);  
R.527-535 (*December 21, 2016 decision and order*).

<sup>3</sup> The "Exhibit A" record excerpts, not here attached to the copy provided, are:

R.87, 100 (*pages from appellants' September 2, 2016 verified complaint*);  
R.315-325 (*August 1, 2016 amended decision and order in predecessor citizen-taxpayer action*);  
R.625-638 (*appellants' March 29, 2017 order to show cause with preliminary injunction & TRO*);  
R.1080-1082 (*Part E of Chapter 60 of the Laws of 2015, establishing Commission on Legislative, Judicial and Executive*

VIDEO of August 3, 2018 oral argument of the TRO,  
before Associate Justice Devine,  
posted on its own webpage of CJA's website,  
here: [http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-  
action/2nd/appeal/8-2-18-oral-argument.htm](http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/appeal/8-2-18-oral-argument.htm)

Document #6: Appellant Sassower's August 6, 2018 "Affidavit in Reply to 'Respondents' Memorandum in Opposition to Relief Sought in Appellants' Order to Show Cause", with attached Exhibits BB-EE

Document #7: Appellate Division's August 7, 2018 Decision and Order on Motion (Garry, P.J., Egan Jr., Devine and Pritzker, JJ., concur)

**Appellants' 2<sup>nd</sup> Order to Show Cause:**

Document #1: Appellants' "Order to Show Cause to Disqualify the Court for Demonstrated Actual Bias & Other Relief", with appellant Sassower's September 10, 2018 moving affidavit and attached Exhibits A-D – signed on September 12, 2018 by Appellate Division, Third Department Presiding Justice Elizabeth Garry

Document #2: Assistant Solicitor General Brodie's September 24, 2018 "Memorandum in Response to Appellants' Motion for Disqualification, Reargument, and Renewal"

Document #3: Appellant Sassower's October 9, 2018 "Reply Affidavit in Further Support of Appellants' Order to Show Cause to Disqualify the Court for Demonstrated Actual Bias & Other Relief", with attached Exhibits A-C

Document #4: Appellate Division's October 23, 2018 Decision and Order on Motion (Garry, P.J., Egan Jr., Devine and Pritzker, JJ., concur)

**Appellants' 3<sup>rd</sup> Order to Show Cause (Notice of Motion):**

Document #1: Appellants' "Notice of Motion to Strike Respondents' Brief, to Declare the Attorney General's Appellate Representation of Respondents Unlawful & for Other Relief", with annexed Order to Show Cause that Associate Justice Sharon A.M. Aarons declined to sign on October 22, 2018, and appellant Sassower's October 18, 2018 moving affidavit with attached Exhibits A-G

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Compensation);

R.1083-1105 (December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation).

Document #2: Assistant Solicitor General Brodie's November 2, 2018 "Affirmation in Opposition to Motion to Strike and Other Relief"

Document #3: Assistant Solicitor General Brodie's November 2, 2018 Memorandum in Opposition to Appellant's Motion to Strike Brief and for Other Relief"

Document #4: Appellant Sassower's November 13, 2018 "Reply Memorandum in Further Support of Appellants' Motion to Strike Respondents' Brief, for a Declaration that the Attorney General's Appellate Representation of Respondents is Unlawful, & for Other Relief", with attached Exhibits H-S

Document #5: Appellate Division's November 13, 2018 Decision & Order on Motion (McCarthy, J.P., Clark, Mulvey and Rumsey, JJ., concur)

**Appellants' 4<sup>th</sup> Order to Show Cause:**

Document #1: Appellants' "Order to Show Cause to Disqualify the Appeal Panel for Demonstrated Actual Bias, including its Willful Violation of Judiciary Law §14, for Certification of Questions to the Court of Appeals, & Other Relief", with appellant Sassower's November 27, 2018 moving affidavit and attached Exhibits A-E – signed on December 3, 2018 by Associate Justice Christine Clark

VIDEO of November 13, 2018 oral argument of the appeal,  
before the four-judge appeal panel,  
posted on its own webpage of CJA's website,  
here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/appeal/11-13-18-oral-argument.htm>

Document #2: Assistant Solicitor General Brodie's December 10, 2018 "Memorandum in Opposition to Appellants' Motion for Disqualification and Other Relief"

Document #3: Appellant Sassower's December 15, 2018 "Reply Affidavit in Further Support of Appellants' Order to Show Cause (#4)", with attached Exhibits F-K

Document #4: Appellate Division's December 19, 2018 Decision & Order on Motion (McCarthy, J.P., Clark, Mulvey and Rumsey, JJ., concur)

## Center for Judicial Accountability, Inc. (CJA)

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**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Monday, March 18, 2019 2:34 PM  
**To:** 'Brodie, Frederick'  
**Cc:** 'Paladino, Victor'; 'Barbara.Underwood@ag.ny.gov'  
**Subject:** CJA v. Cuomo Citizen-Taxpayer Action: Appeal of Right to the NY Court of Appeals, pursuant to Article VI, §3(b)(1) of the NYS Constitution and CPLR §5601(b)

Dear Asst. Solicitor General Brodie,

Thank you for your prompt response. I will send you the transmittal letter, as soon as I write it, as I'm still assembling the documents to be transmitted.

In view of the monumental constitutional issues directly involved in this appeal of right, pursuant to Article VI, §3(b)(1) of the New York State Constitution and CPLR §5601(b), wherein is "directly involved the construction of the constitution of the state....", Solicitor General Underwood herself should be signing the letter to be submitted in response to Deputy Clerk Heather Davis' March 4, 2019 letter pertaining to the Court's subject matter jurisdiction.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant  
on her own behalf, as director of the Center for Judicial Accountability, Inc.,  
& on behalf of the People of the State of New York & the Public Interest  
914-421-1200  
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**From:** Brodie, Frederick <Frederick.Brodie@ag.ny.gov>  
**Sent:** Monday, March 18, 2019 12:51 PM  
**To:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Cc:** Paladino, Victor <Victor.Paladino@ag.ny.gov>

**Subject: FW: CJA v. Cuomo Citizen-Taxpayer Action-Appeal of Right: Inventory of appellants' four appellate motions in the Appellate Division, Third Dept.**

Dear Ms. Sassower,

Your designations appear correct to me. Thank you for sending them.

Very truly yours,

Frederick A. Brodie  
Assistant Solicitor General  
New York State Office of the Attorney General  
Appeals & Opinions Bureau  
The Capitol  
Albany, NY 12224-0341  
(518) 776-2317  
[Frederick.Brodie@ag.ny.gov](mailto:Frederick.Brodie@ag.ny.gov)

**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
**Sent:** Monday, March 18, 2019 12:43 PM  
**To:** Brodie, Frederick <[Frederick.Brodie@ag.ny.gov](mailto:Frederick.Brodie@ag.ny.gov)>  
**Cc:** Paladino, Victor <[Victor.Paladino@ag.ny.gov](mailto:Victor.Paladino@ag.ny.gov)>  
**Subject:** CJA v. Cuomo Citizen-Taxpayer Action-Appeal of Right: Inventory of appellants' four appellate motions in the Appellate Division, Third Dept.

TO: Assistant Solicitor General Frederick Brodie  
Assistant Solicitor General Victor Paladino

Attached is the inventory I have prepared of the record of appellants' four appellate motions in the Appellate Division, Third Department. Please advise by 3:30 pm, if you have any comments, including if you prefer to file your own bound copies of your filings – instead of the stapled copies that I will otherwise be sending to the Court of Appeals.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant  
on her own behalf, as director of the Center for Judicial Accountability, Inc.,  
& on behalf of the People of the State of New York & the Public Interest  
914-421-1200

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**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
**Sent:** Sunday, March 17, 2019 3:53 PM  
**To:** 'Brodie, Frederick' <[Frederick.Brodie@ag.ny.gov](mailto:Frederick.Brodie@ag.ny.gov)>  
**Cc:** 'Paladino, Victor' <[Victor.Paladino@ag.ny.gov](mailto:Victor.Paladino@ag.ny.gov)>

**Subject: Will do -- RE: CJA v. Cuomo Citizen-Taxpayer Action: appellants' letter to Court of Appeals transmitting their brief, record on appeal, & reply brief**

Dear Assistant Solicitor General Brodie –

I have yet to prepare the contents of the record of each of the four appellate motions – and will do so by no later than noon tomorrow, so that you may advise, accordingly.

Thank you.

Elena Sassower

**From:** Brodie, Frederick <[Frederick.Brodie@ag.ny.gov](mailto:Frederick.Brodie@ag.ny.gov)>  
**Sent:** Sunday, March 17, 2019 2:56 PM  
**To:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
**Cc:** Paladino, Victor <[Victor.Paladino@ag.ny.gov](mailto:Victor.Paladino@ag.ny.gov)>

**Subject: RE: CJA v. Cuomo Citizen-Taxpayer Action: appellants' letter to Court of Appeals transmitting their brief, record on appeal, & reply brief**

Dear Ms. Sassower,

I have reviewed the electronic copy of your letter to the Court of Appeals, and have a question.

You indicate that you expect to transmit a "record of appellants' four appellate motions" on Monday, March 18. What is the proposed content of that record? As soon as practicable, please provide me with a proposed table of contents so that I may advise whether, in respondents' view, any particular documents need to be included or excluded.

Thank you in advance for your cooperation.

Very truly yours,

Frederick A. Brodie  
Assistant Solicitor General  
New York State Office of the Attorney General  
Appeals & Opinions Bureau  
The Capitol  
Albany, NY 12224-0341  
(518) 776-2317  
[Frederick.Brodie@ag.ny.gov](mailto:Frederick.Brodie@ag.ny.gov)

**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>

**Sent:** Saturday, March 16, 2019 9:11 AM

**To:** Brodie, Frederick <[Frederick.Brodie@ag.ny.gov](mailto:Frederick.Brodie@ag.ny.gov)>; Paladino, Victor <[Victor.Paladino@ag.ny.gov](mailto:Victor.Paladino@ag.ny.gov)>

**Subject: CJA v. Cuomo Citizen-Taxpayer Action: appellants' letter to Court of Appeals transmitting their brief, record on appeal, & reply brief**

**TO:** Assistant Solicitor General Frederick Brodie  
Assistant Solicitor General Victor Paladino

Attached is my letter of today's date to the Court of Appeals, transmitting appellants' brief, three-volume record on appeal, and reply brief.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant  
on her own behalf, as director of the Center for Judicial Accountability, Inc.,  
& on behalf of the People of the State of New York & the Public Interest  
914-421-1200

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