

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

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**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Tuesday, April 30, 2019 9:48 AM  
**To:** 'Berit Berger'  
**Cc:** 'capi@law.columbia.edu'; 'etp2113@columbia.edu'; 'jrodgers@law.columbia.edu'; 'rb34@columbia.edu'  
**Subject:** What Time are You Available TODAY for our Phone Conversation? -- Request for Amicus Curiae Support & Scholarship: Citizen-Taxpayer Action, NOW at the Court of Appeals, Suing All 3 NYS Gov't Branches for Corruption with respect to the NYS budget --

Dear Berit,

What happened to our yesterday's phone conversation? At 12:28 pm yesterday, I sent you the below e-mail. I received no response. Did you not receive it? When I thereafter telephoned, at approximately 2:20 pm, to the phone number you had indicated, I only got your voice mail. Did you not get my message? I received no call back – nor voice mail message, nor e-mail. Did you not try to reach me?

What time today would be convenient for our phone conversation together? Obviously, tomorrow, May 1<sup>st</sup>, will not fit your schedule, as you will be in Albany for the forum “Finding Our Way: Rebuilding Ethics in New York State” – at which you and Professor Jennifer Rodgers are “keynote” speakers – and Professor Richard Briffault a participant in the panel on preventing conflicts of interest: <https://www.eventbrite.com/e/finding-our-way-rebuilding-ethics-in-new-york-state-tickets-59328622507?aff=ebdssbdestsearch>.

**By the way, have you shared my below April 16<sup>th</sup> and April 26<sup>th</sup> e-mails with Ms. Rodgers and Professor Briffault, each members of CAPI's advisory board. How about with CAPI's other advisory board members? Who is it, at CAPI, who will be determining my request for its *amicus curiae* support and other assistance for CJA's citizen-taxpayer action – and for scholarship. What disclosure have they – and you – made, consistent with CAPI's “Conflict of Interest and Disclosure Policies”, set forth on its website: <https://www.law.columbia.edu/public-integrity/about/conflict-interest-policy> and embracing that of Columbia University: <http://www.columbia.edu/cu/vpaa/handbook/appendix.html>.**

Suffice to say, the citizen-taxpayer action now before the Court of Appeals arises from Professor Briffault's violation of his scholarly and ethical obligations in 2012 – inexplicable except as a manifestation of conflict of interest – thereafter compounded in 2013-2014 by his complicity, as a member of the Commission to Investigate Public Corruption, in its flagrant violation of conflict of interest rules.

To date, there has been NO investigative scholarship of the Commission to Investigate Public Corruption. That CAPI did NONE during the five years of Ms. Rodgers' tenure as executive director may reflect her knowledge – based upon my contact with CAPI in its early years – that ANY competent scholarship would reveal the Commission's unconstitutionality, fraudulence, and violation of conflict of interest rules – such as particularized by my April 23, 2014 order to show cause to intervene in the Legislature's declaratory judgment action against the Commission: <http://www.judgewatch.org/web-pages/searching-nys/commission-to-investigate-public-corruption/holding-to-account/intervention-declaratory-judgment.htm>. Certainly, this was already evident from the VIDEO of my September 17, 2013 testimony before the Commission and my August 5, 2013 letter to which I referred in testifying – both accessible, since 2013, from CJA's homepage [www.judgewatch.org](http://www.judgewatch.org), along with the primary-source, EVIDENCE I furnished the Commission in substantiation. Indeed, clear from the description of my prior contact with Professor Briffault in my August 5, 2013 letter (at pp. 7-8), is that scholarship of the Commission would not reflect well on him.

So that Professor Briffault and Ms. Rodgers may respond as to the disclosure appropriate to my below request for CAPI's *amicus curiae* support and other assistance for the citizen-taxpayer action and for scholarship, a copy of this e-mail is being sent to them. For their convenience and yours, the direct link to CJA's webpage of my substantial correspondence with Professor Briffault, commencing in 2012, is here: <http://www.judgewatch.org/web-pages/searching-academia/briffault-richard.htm> and the direct link to CJA's webpage with the VIDEO of my September 17, 2013 testimony before the Commission to Investigate Public Corruption, at which Professor Briffault was present, is here: <http://www.judgewatch.org/web-pages/searching-nys/commission-to-investigate-public-corruption/people-evidence/sassower-elena.htm>

Thank you.

Elena  
914-421-1200

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**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
**Sent:** Monday, April 29, 2019 12:28 PM  
**To:** 'Berit Berger' <[berit.berger@law.columbia.edu](mailto:berit.berger@law.columbia.edu)>  
**Cc:** 'etp2113@columbia.edu' <[etp2113@columbia.edu](mailto:etp2113@columbia.edu)>

**Subject: Today's Phone Conversation -- RE: Wonderful! -- RE: STATUS? -- Request for Amicus Curiae Support & Scholarship: Citizen-Taxpayer Action, NOW at the Court of Appeals, Suing All 3 NYS Gov't Branches for Corruption with respect to the NYS budget --**

Dear Berit,

I believe you may have inadvertently misread my e-mail stating that I would not be available from 12:30 – 2:30 pm today. Are you available to speak with me by phone between 2:30 and 3 pm?

Thanks.

Elena  
914-421-1200

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**From:** Berit Berger <[berit.berger@law.columbia.edu](mailto:berit.berger@law.columbia.edu)>  
**Sent:** Friday, April 26, 2019 9:46 PM  
**To:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
**Subject:** Re: Wonderful! -- RE: STATUS? -- Request for Amicus Curiae Support & Scholarship: Citizen-Taxpayer Action, NOW at the Court of Appeals, Suing All 3 NYS Gov't Branches for Corruption with respect to the NYS budget --

Elena,

I could speak Monday around 2:00 PM. You can reach me at 212-854-8379.

Warm regards,

Berit Berger

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On Fri, Apr 26, 2019 at 9:14 PM Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)> wrote:

Thank you. I will accommodate whatever time works best for you. I am available throughout the day on Monday – except for an engagement from 12:30 – 2:30 pm. Just e-mail me the time that is most convenient – and whether I should call you or you will call me.

So that you can see what's been happening with my other outreach efforts – including with regard to the “reform-oriented civil society organizations” referred-to at page 3 of CAPI's 2018 report on “Oversight and Enforcement of Public Integrity” in New York State – here's the link to the webpage where it's all posted: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/ct-appeals-outreach-for-amicus.htm>.

With you and CAPI leading the way – with scholarship, *amicus curiae*, and journalism – the citizen-taxpayer action can EASILY achieve the HUGE corruption-eradicating potential that is evident from the record: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/record-ct-of-appeals.htm>. I so look forward to discussing it, with you – starting with the ninth cause of action pertaining to the unconstitutionality of three-men-in-a-room budget deal-making, *as unwritten and as applied*, discussed at pages 19-21 of my March 26, 2019 letter to the Court of Appeals, in support of the appeal of right – and annexed thereto as Exhibit B: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/3-26-19-ltr.htm>.

Again, thank you.

Elena

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**From:** Berit Berger <[berit.berger@law.columbia.edu](mailto:berit.berger@law.columbia.edu)>  
**Sent:** Friday, April 26, 2019 8:01 PM  
**To:** [elena@judgewatch.org](mailto:elena@judgewatch.org)

**Subject: Fwd: STATUS? -- Request for Amicus Curiae Support & Scholarship: Citizen-Taxpayer Action, NOW at the Court of Appeals, Suing All 3 NYS Gov't Branches for Corruption with respect to the NYS budget -- & the commission-based pay raises it gives them**

Elena,

I understand you reached out. I would be happy to speak with you about your requests. Is there a good time on Monday?

Best regards,

Berit

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Begin forwarded message:

**From:** "Center for Judicial Accountability, Inc. \CJA\" <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
**Date:** April 26, 2019 at 1:46:31 PM EDT  
**To:** <[etp2113@columbia.edu](mailto:etp2113@columbia.edu)>  
**Subject: STATUS? -- Request for Amicus Curiae Support & Scholarship: Citizen-Taxpayer Action, NOW at the Court of Appeals, Suing All 3 NYS Gov't Branches for Corruption with respect to the NYS budget -- & the commission-based pay raises it gives them**

Re-sent. Let's see if it arrives!

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

**Sent:** Friday, April 26, 2019 1:42 PM

**To:** '[etp2113@law.columbia.edu](mailto:etp2113@law.columbia.edu)' <[etp2113@law.columbia.edu](mailto:etp2113@law.columbia.edu)>

**Cc:** '[capi@law.columbia.edu](mailto:capi@law.columbia.edu)' <[capi@law.columbia.edu](mailto:capi@law.columbia.edu)>

**Subject:** STATUS? -- Request for Amicus Curiae Support & Scholarship: Citizen-Taxpayer Action, NOW at the Court of Appeals, Suing All 3 NYS Gov't Branches for Corruption with respect to the NYS budget -- & the commission-based pay raises it gives them

**TO: Center for the Advancement of Public Integrity (CAPI)/Columbia University Law School**

Research Fellow Edward Popovici, Esq.

Following up our phone conversation this morning, below is the e-mail I sent ten days ago to Executive Director Berit Berger – to which I received no response – and about which I called, two days ago, leaving a voice mail message, to which I received no response.

Did she respond? And if not, why not.

As discussed, it is not difficult to END the systemic public corruption that plagues New York state government. What it requires is that academic institutes – such as CAPI – engage in **scholarship based on primary source, empirical EVIDENCE – and build advocacy and strategies based thereon**. Illustrative of the kind of rock-solid EVIDENCE I am talking about is that which our non-partisan, non-profit citizens' organization, Center for Judicial Accountability, Inc. (CJA), has offered to CAPI. It "blows to smithereens" CAPI's superficial, assumption-laden 2018 report on "*Oversight and Enforcement of Public Integrity*" in New York State, whose annotating footnotes are mostly to news reporting and commission/committee reports, whose accuracy, methodologies, and integrity it does not investigate: <https://www.law.columbia.edu/capi-map#capi-mapinfo>. Likely, CJA's treasure-trove of EVIDENCE would have the same effect with regard to your article on the Commission on Prosecutorial Conduct – and CAPI's February 2019 program about DAASNY's lawsuit against it, featuring DAASNY President Albany County D.A. Soares. Perhaps you will send me links so I can verify this.

So that you can begin your *own* verification – and the necessary scholarship flowing therefrom – here are some links from CJA's website, [www.judgewatch.org](http://www.judgewatch.org), that will surely be relevant – and which will lead you to scores of other valuable links, with EVIDENCE galore:

**My FULLY-DOCUMENTED October 14, 2016 conflict-of-interest/misconduct complaint against Albany District Attorney Soares and his fellow New York district attorneys** – including those, like himself, who were members of the Commission to Investigate Public Corruption, filed with New York's attorney grievance committees: <http://www.judgewatch.org/web-pages/searching-nys/oct-14-2016-district-attorney-complaint/menu-oct-14-2016-complaint.htm> – whose beginning recitation is about the district attorneys' opposition to the then-proposed Commission on Prosecutorial Conduct at the Legislature's June 8, 2016 public forum on the Commission on Prosecutorial Conduct – & whose links include to CJA's webpage for the VIDEO of that public forum & my October 5, 2016 e-mail to Assemblyman Nick Perry's Legislative Director about it:

<http://www.judgewatch.org/web-pages/searching-nys/2017-legislature/full-time-legislators/comm-prosecutorial-conduct.htm>;

**My FULLY-DOCUMENTED March 6, 2018 corruption complaint against all the public officers that D.A. Soares has been “protecting” since 2013, filed with him and seeking enforcement of “The Public Trust Act” (Penal Law §496 “corrupting government”) – which, like my prior July 19, 2013, January 7, 2014, and June 21, 2016 corruption complaints – D.A. Soares has been “sitting on”:** <http://www.judgewatch.org/web-pages/searching-nys/2018-legislature/enforcing-public-trust-act.htm>.

All this underlies – and has led to – the citizen-taxpayer action that is now before the New York Court of Appeals, on an appeal of right – for which I am seeking CAPI’s *amicus curiae* support and other assistance, as set forth by the below.

Thank you.  
Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
[www.judgewatch.org](http://www.judgewatch.org)  
914-421-1200

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**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
**Sent:** Tuesday, April 16, 2019 4:15 PM  
**To:** '[capi@law.columbia.edu](mailto:capi@law.columbia.edu)' <[capi@law.columbia.edu](mailto:capi@law.columbia.edu)>

**Subject: Request for Amicus Curiae Support & Scholarship: Citizen-Taxpayer Action, NOW at the Court of Appeals, Suing All 3 NYS Gov’t Branches for Corruption with respect to the NYS budget -- & the commission-based pay raises it gives them**

**TO:** Center for the Advancement of Public Integrity (CAPI)/Columbia University Law School  
Executive Director Berit Berger

This follows up my phone conversation this morning with Program Officer Rosie Fatt, who spoke with me at fair length, doing the necessary intake to assist you.

The reason for my call was, in the first instance, to speak with you about a monumental citizen-taxpayer action, now at the New York Court of Appeals, suing the constitutional officers of New York’s three government branches for corruption with respect to the state budget and the commission-based salary increases it embeds -- of which they are all now beneficiaries.

The lawsuit, presenting ten causes of action – including the first-ever-cause of action to challenge the constitutionality of “three-men-in-a-room” budget deal-making – is before the Court of Appeals on an appeal of right – and I am requesting that CAPI file an *amicus curiae* brief in support. As I showed Rosie, the full lawsuit record is accessible from CJA’s website, [www.judgewatch.org](http://www.judgewatch.org), via the prominent center link: “CJA’s Citizen-Taxpayer Actions to End NYS’ Corrupt Budget ‘Process’ and Unconstitutional ‘Three-Men-in-a-Room’ Governance”. For your convenience, the direct link to the webpage for my March 26, 2019 letter to the Court of Appeals in support of the appeal of right is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/3-26-19-ltr.htm>. It furnishes all the relevant facts and law. However, as I showed Rosie, you

will also want to examine my April 11, 2019 letter to the Court: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/4-11-19-ltr-to-ct-appeals.htm>, as it not only details the state of the record, *vis-à-vis* the Attorney General's opposition to the appeal of right, but identifies an issue impacting on CAPI's work to secure public campaign financing, namely, the unconstitutionality of the commission on public campaign financing, inserted into the 2019-2020 revenue budget bill, following this year's "three-men-in-a-room" budget deal-making.

I also explained to Rosie that quite apart from my *amicus curiae* request, the second reason for my call was to furnish CAPI with primary-source, empirical evidence for scholarship – as it is plain that its 2018 study of "Oversight and Enforcement of Public Integrity" in New York is not so-based: <https://www.law.columbia.edu/capi-map#capi-mapinfo>. Indeed, the record of CJA's citizen-taxpayer action – and the underlying documentary evidence on which it rests: <http://www.judgewatch.org/web-pages/judicial-compensation/menu-ny-judicial-compensation.htm> – "blows to smithereens" CAPI's 2018 New York study, beginning with the entities it identifies as part of New York's "substantial anti-corruption system" and "Oversight Structure": the Attorney General and Comptroller. This, because the Attorney General and Comptroller are each defendants-appellants in the citizen-taxpayer action, with the Attorney General, additionally, counsel.

Obviously, time is of the essence with regard to this *amicus curiae* request. Inasmuch as CAPI's study asserts:

"New York State's corruption issues have received unusual attention from scholars and activists, due to the state's position as a financial, cultural, and intellectual hub. Factors commonly cited as contributing to corruption in the state include: concentration of power – particularly budgetary discretion – in the 'three men in a room' (governor, senate majority leader, and assembly speaker)...and the lack of press coverage of Albany",

can CAPI assist us in building a coalition of such "scholars and activists" who, together with CAPI, will file an *amicus* brief on the corruption and constitutional issues – including as to the unconstitutionality of "three men in a room" budget deal-making? Will CAPI contact them, on our behalf? How about New York's bar associations – and, additionally, the "many reform-oriented civil society organizations" in New York, so-identified by CAPI's study. How about press coverage? Certainly, CAPI can easily reach out to Columbia's journalism programs, including its Graduate School of Journalism, to find student journalists to investigate and report on CJA's extraordinary, corruption-ending case, could it not?

I look forward to hearing from you, as soon as possible.

Thank you.

Elena Sassower, Director  
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