

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Wednesday, May 1, 2019 4:49 PM
To: 'seymour.lachman@wagner.edu'; 'carey.institute@wagner.edu'
Cc: 'capi@law.columbia.edu'; 'berit.berger@law.columbia.edu'; 'etp2113@columbia.edu'
Subject: Your today's Daily News column -- Albany's "boss-driven 'democracy'" is UNCONSTITUTIONAL & the "fix" is NOW before the NY Court of Appeals on an appeal of right on the constitutional issues directly involved
Attachments: 4-23-19-email-civic-orgs-2.pdf; 8-13-18-ltr-to-organizations-amicus.pdf

TO: Seymour Lachman, Dean Emeritus/Hugh Carey Institute for Government Reform at Wagner College

On April 24, 2019, occasioned by the reference to the Hugh Carey Institute for Government Reform at Wagner College as "advocat[ing] for legislative reforms in New York State to make government more effective" at page 3 of the 2018 report on New York's "Oversight and Enforcement of Public Integrity" by Columbia University Law School's Center for the Advancement of Public Integrity (CAPI): <https://www.law.columbia.edu/capi-map#capi-mapinfo>, I telephoned the Institute (718-420-4131). No person picked up – and I left a voice mail message indicating the foregoing and stating that I was calling in regard to a request for *amicus curiae* support and other assistance and scholarship for a citizen-taxpayer challenge to the constitutionality of "three-men-in-a-room" budget deal-making, now before the New York Court of Appeals, on an appeal of right.

This is the identical challenge to which I alerted you and other scholars and "good government" organizations three years ago, when, to no avail, I sought expert opinion and *amicus curiae* and other support. In the event you have not preserved that e-mail correspondence, spanning from March to May 2016 – or my prior e-mail correspondence to you, stretching back to 2012 – you can find it all posted on the webpage I created for you and the Hugh Carey Institute for Government Reform on CJA's website. The direct link is here: <http://www.judgewatch.org/web-pages/searching-academia/lachman-seymour.htm>. I have no record of any e-mail response from you to any of it – and no recollection of any phone conversation with you, since our first conversation in late June 2012, identified by my August 21, 2012 e-mail to you.

Unfortunately, I also received no return call to my April 24, 2019 voice mail message. However, today – "Law Day", May 1st – I was thrilled to see that the Daily News has printed a column from you entitled "[Now, fix NY's Legislature: Albany is still a boss-driven 'democracy'](#)". What I do not understand, though, is why your objections to the "three-men-in-a-room" culmination of the budget and to legislative rules vesting power in leadership make no mention of their unconstitutionality. Nor do I understand why you seem to suggest that the public is dependent on legislators to "fix" the situation, when the "fix" can be achieved through litigation, such as CJA long ago brought and which is now at the Court of Appeals. Indeed, I also don't understand why you believe that legislators who did not "fix" a situation that was unconstitutional a "generation" ago, when you were in the Senate, nonetheless "deserve" a salary increase, or why you believe that policy changes that you favor, such as criminal justice reform and public campaign financing, belong in the budget.

There is much I would like to discuss with you – and so, this morning, upon reading your column, I left a further voice mail message for you. Will you call me? – preferably after you have read my March 26, 2019 letter to the Court of Appeals, in support of the appeal of right. Its pages 19-21 discuss the "three-men-in-a-room" budget deal-making cause of action – and a copy of the cause of action is itself annexed, as Exhibit B, to the letter. Here's the webpage for it: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/3-26-19-ltr.htm>.

Meantime, below is my April 16, 2019 e-mail to CAPI, requesting its *amicus curiae* support, assistance, and scholarship – including its help in building a coalition of "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”. Assumedly, you could easily join such coalition in an individual capacity. What is the procedure for the Hugh Carey Institute for Government Reform at Wagner College to join? According to your today’s column, you are “Dean Emeritus” of the Institute, which, seemingly has no director or staff, as none are identified on its website.

In the same paragraph of CAPI’s report as identifies the Hugh Carey Institute for Government Reform, other “reform-oriented civil society organizations” are cited. From them I have already requested *amicus curiae* support, assistance, and scholarship – and my April 23, 2019 e-mail to them is attached, together with my August 13, 2018 letter to them that accompanied it.

Finally, are you planning to attend the Empire Center’s May 30th policy forum honoring Governor Carey entitled “*New York’s Budget Process: Time for a Rebalance?*”. Particularly in light of your book “*The Man Who Saved New York: Hugh Carey and the Great Fiscal Crisis of 1975*”, featured by E.J. McMahan’s July 25, 2010 New York Post column “Debt Defying Feat”, you surely could add an important dimension to the discussion. As I’ve requested an invitation for the forum, I hope to be able to meet you in person then.

Please let me hear back from you, soon.

Thank you.

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