

AFFIDAVIT OF SERVICE

STATE OF NEW YORK)
COUNTY OF ALBANY) ss:

ELENA RUTH SASSOWER, being duly sworn, deposes and says:

I am the unrepresented individual plaintiff-appellant herein, over 18 years of age, and reside in the State of New York.

On November 13, 2018, I served a copy of Appellants' reply affidavit in further support of their motion to strike respondents' brief, for a declaration that the attorney general's appellate representation of respondents is unlawful, & for other relief, by e-mail upon:

Assistant Solicitor General Frederick Brodie
Assistant Solicitor General Victor Paladino
Attorney General Barabara Underwood
& supervisory/managerial attorneys, including the "Senior Legal Staff"

The transmitting e-mail is attached.

Additionally, also on November 13, 2018, I hand-delivered a copy to the Attorney General's Appeals & Opinions Bureau at the Robert Abrams Building for Law & Justice, on State Street, in Albany, New York.


ELENA RUTH SASSOWER

Sworn to before me this
13th day of November 2018


Notary Public

Jessica Whiting
Notary Public, State of New York
Registration # 01WH5049863
Qualified in Schenectady County
Commission Expires Sept. 25, 2021

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, November 13, 2018 7:26 AM
To: 'Edward Carey'; 'Jane Landes'; 'ad3clerksoffice@nycourts.gov'
Cc: 'Brodie, Frederick'; 'Barbara.Underwood@ag.ny.gov'; 'Paladino, Victor';
'Brian.Mahanna@ag.ny.gov'; 'Alvin.Bragg@ag.ny.gov'; 'Janet.Sabel@ag.ny.gov';
'gary.brown@ag.ny.gov'; 'Matthew.Colangelo@ag.ny.gov';
'Margaret.Garnett@ag.ny.gov'; 'manisha.sheth@ag.ny.gov'; 'Kent.Stauffer@ag.ny.gov';
'Meg.Levine@ag.ny.gov'; 'Jeffrey Dvorin'; 'marty.mack@ag.ny.gov'; 'Adrienne Kerwin';
'Helena.Lynch@ag.ny.gov'
Subject: CJA v. Cuomo, et al. (#527081) -- appellants' motion to strike respondents brief,
disqualify AG, etc. -- returnable today: please deliver immediately to appellate panel
Attachments: 11-13-18-reply-affidavit-merged-compressed.pdf

TO: Appellate Division, Third Dept. Chief Motion Attorney Edward Carey & Court Attorney Jane Landes

Attached is my reply affidavit (with exhibits) in further support of appellants' October 23, 2018 motion to strike respondents' brief, for a declaration that the attorney general's appellate representation of respondents is unlawful, & for other relief. The webpage on which it is posted is here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/appeal/11-13-18-reply.htm>.

As discussed, please promptly forward this e-mail/ or print out & deliver it to the appellate panel so that, optimally, the judges can decide the motion, returnable at 10 am today, before today's oral argument of the appeal at 1 pm – as the attorney general is NOT properly before the Court, representing the respondents and the respondents' brief, from which Mr. Brodie intends to argue (per para. 20 of his Nov. 2 opposing affirmation & his opposing memo, pp. 3-4), is fraudulent. I will endeavor to deliver the original reply affidavit to the Court by 10 am. I will be leaving White Plains shortly.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant

On her own behalf, on behalf of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York and the Public Interest.

914-421-1200

From: Brodie, Frederick <Frederick.Brodie@ag.ny.gov>
Sent: Monday, November 5, 2018 1:43 PM
To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Cc: Paladino, Victor <Victor.Paladino@ag.ny.gov>

Subject: RE: EMERGENCY NOTICE TO ATTORNEY GENERAL UNDERWOOD, "SENIOR LEGAL STAFF", & OTHER SUPERVISORY/MANAGERIAL ATTORNEYS -- Citizen-Taxpayer Action CJA v. Cuomo, et al. (Appellate Division, Third Dept. #527081)

Dear Ms. Sassower,

As previously indicated, I am the person assigned to represent respondents in defending against your appeal. Therefore, all correspondence should be directed to me.

I do not expect you will receive any answer from the persons to whom you sent the email immediately below. You have already received your answer from me. The answer is that the Office of the Attorney General will not withdraw respondents' opposition to your motion to strike. If you disagree with what was written in that motion, you have a right to file reply papers, within the constraints of applicable rules.

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

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

Sent: Monday, November 05, 2018 1:26 PM

To: Underwood, Barbara <Barbara.Underwood@ag.ny.gov>; Mahanna, Brian <Brian.Mahanna@ag.ny.gov>; Bragg, Alvin <Alvin.Bragg@ag.ny.gov>; Sabel, Janet <Janet.Sabel@ag.ny.gov>; Brown, Gary <Gary.Brown@ag.ny.gov>; Colangelo, Matthew <Matthew.Colangelo@ag.ny.gov>; Garnett, Margaret <Margaret.Garnett@ag.ny.gov>; Sheth, Manisha <Manisha.Sheth@ag.ny.gov>; Stauffer, Kent <Kent.Stauffer@ag.ny.gov>; Levine, Meg <Meg.Levine@ag.ny.gov>; Dvorin, Jeffrey <Jeffrey.Dvorin@ag.ny.gov>

Cc: Brodie, Frederick <Frederick.Brodie@ag.ny.gov>; Paladino, Victor <Victor.Paladino@ag.ny.gov>; marty.mack@ag.ny.gov; Kerwin, Adrienne <Adrienne.Kerwin@ag.ny.gov>; Lynch, Helena <Helena.Lynch@ag.ny.gov>; ad3clerksoffice@nycourts.gov; 'Edward Carey' <ecarey@nycourts.gov>; 'Jane Landes' <jlandes@nycourts.gov>

Subject: EMERGENCY NOTICE TO ATTORNEY GENERAL UNDERWOOD, "SENIOR LEGAL STAFF", & OTHER SUPERVISORY/MANAGERIAL ATTORNEYS -- Citizen-Taxpayer Action CJA v. Cuomo, et al. (Appellate Division, Third Dept. #527081)

TO: Attorney General Barbara Underwood -- & her "Senior Legal Staff" and, additionally, supervisory/managerial attorneys: Deputy Attorney General/Division of State Counsel Levine and Litigation Bureau Chief Dvorin

There MUST be IMMEDIATE supervisory oversight over Assistant Solicitor General Brodie & Assistant Solicitor General Paladino. Have you read appellants' October 4th reply brief, DISPOSITIVE of the October 23rd motion? Here's the webpage on which it is posted: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/appeal/10-4-18-reply-brief.htm>.

Please advise, promptly. Response from the complained-against Assistant Solicitor General Brodie is UNACCEPTABLE.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant

On her own behalf, on behalf of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York and the Public Interest.

914-421-1200

From: Brodie, Frederick <Frederick.Brodie@ag.ny.gov>
Sent: Monday, November 5, 2018 12:54 PM
To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Cc: Paladino, Victor <Victor.Paladino@ag.ny.gov>; Sabel, Janet <Janet.Sabel@ag.ny.gov>; Stauffer, Kent <Kent.Stauffer@ag.ny.gov>; Levine, Meg <Meg.Levine@ag.ny.gov>; Dvorin, Jeffrey <Jeffrey.Dvorin@ag.ny.gov>; Mahanna, Brian <Brian.Mahanna@ag.ny.gov>; Bragg, Alvin <Alvin.Bragg@ag.ny.gov>; marty.mack@ag.ny.gov; Colangelo, Matthew <Matthew.Colangelo@ag.ny.gov>; Garnett, Margaret <Margaret.Garnett@ag.ny.gov>; Sheth, Manisha <Manisha.Sheth@ag.ny.gov>; Brown, Gary <Gary.Brown@ag.ny.gov>; Kerwin, Adrienne <Adrienne.Kerwin@ag.ny.gov>; Lynch, Helena <Helena.Lynch@ag.ny.gov>; ad3clerksoffice@nycourts.gov; 'Edward Carey' <ecarey@nycourts.gov>; 'Jane Landes' <jlandes@nycourts.gov>; Underwood, Barbara <Barbara.Underwood@ag.ny.gov>

Subject: RE: AGAIN -- NOTICE TO ATTORNEY GENERAL UNDERWOOD: Your Duty to Withdraw Mr. Brodie's Fraudulent Nov 2nd Opposition to Appellants' Oct. 23rd Motion to Strike Respondents' Brief, to Declare the AG's Representation of Respondents Unlawful, Etc.

Dear Ms. Sassower,

I write in response to your second email to Attorney General Underwood, below.

As previously indicated, this matter has been assigned to me. Therefore, I speak for the Office of the Attorney General when I say that the papers in opposition to your motion will not be withdrawn. There is no need for others in the Office – or the Court – to be copied on your email correspondence with me regarding your appeal.

I am copying “all” on this particular email, but in the future will resume my practice of not doing so.

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

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Monday, November 05, 2018 12:46 PM
To: Underwood, Barbara <Barbara.Underwood@ag.ny.gov>
Cc: Brodie, Frederick <Frederick.Brodie@ag.ny.gov>; Paladino, Victor <Victor.Paladino@ag.ny.gov>; Sabel, Janet <Janet.Sabel@ag.ny.gov>; Stauffer, Kent <Kent.Stauffer@ag.ny.gov>; Levine, Meg <Meg.Levine@ag.ny.gov>; Dvorin, Jeffrey <Jeffrey.Dvorin@ag.ny.gov>; Mahanna, Brian <Brian.Mahanna@ag.ny.gov>; Bragg, Alvin <Alvin.Bragg@ag.ny.gov>; marty.mack@ag.ny.gov; Colangelo, Matthew <Matthew.Colangelo@ag.ny.gov>; Garnett, Margaret <Margaret.Garnett@ag.ny.gov>; Sheth, Manisha <Manisha.Sheth@ag.ny.gov>; Brown, Gary <Gary.Brown@ag.ny.gov>; Kerwin, Adrienne <Adrienne.Kerwin@ag.ny.gov>; Lynch, Helena <Helena.Lynch@ag.ny.gov>; ad3clerksoffice@nycourts.gov; 'Edward Carey' <ecarey@nycourts.gov>; 'Jane Landes' <jlandes@nycourts.gov>

Subject: AGAIN -- NOTICE TO ATTORNEY GENERAL UNDERWOOD: Your Duty to Withdraw Mr. Brodie's Fraudulent Nov

2nd Opposition to Appellants' Oct. 23rd Motion to Strike Respondents' Brief, to Declare the AG's Representation of Respondents Unlawful, Etc.

TO: Attorney General Barbara Underwood –

As Assistant Solicitor General Brodie's below e-mail to me does not cc you or any other supervisory/managerial attorneys of your office, other than Assistant Solicitor General Paladino, please advise, IMMEDIATELY, whether you and they agree with his assertion that his November 2nd opposition papers to appellants' October 23rd motion are "proper in both form and substance, and will not be withdrawn" – and whether you are intending to have him appear, on your behalf, at the November 13th oral argument, putting forth argument based on his September 21st respondents' brief.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant

On her own behalf, on behalf of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York and the Public Interest.

From: Brodie, Frederick <Frederick.Brodie@ag.ny.gov>

Sent: Monday, November 5, 2018 12:09 PM

To: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>

Cc: Paladino, Victor <Victor.Paladino@ag.ny.gov>; ad3clerksoffice@nycourts.gov; ecarey@nycourts.gov; 'Jane Landes' <jlandes@nycourts.gov>

Subject: RE: CJA v. Cuomo Citizen-Taxpayer Action Appeal # 527081-- NOTICE: Your Duty to Withdraw Mr. Brodie's Fraudulent Nov 2nd Opposition to Appellants' Oct. 23rd Motion to Strike Respondents' Brief, to Declare the AG's Representation of Respondents Unlawful, Etc.

Dear Ms. Sassower,

I write in response to your email to Attorney General Underwood, which was copied to numerous other recipients. Because I am the person assigned to represent respondents in this matter, please direct your communications to me and not the Attorney General. There is no need for you to email anyone else in the Office of the Attorney General regarding this matter, except for Victor Paladino.

Respondents' papers in opposition to your motion to strike were proper in both form and substance, and will not be withdrawn. You should proceed with preparing reply papers, if any, in compliance with applicable rules.

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

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Monday, November 05, 2018 11:42 AM
To: Underwood, Barbara <Barbara.Underwood@ag.ny.gov>
Cc: Brodie, Frederick <Frederick.Brodie@ag.ny.gov>; Paladino, Victor <Victor.Paladino@ag.ny.gov>; Sabel, Janet <Janet.Sabel@ag.ny.gov>; Stauffer, Kent <Kent.Stauffer@ag.ny.gov>; Levine, Meg <Meg.Levine@ag.ny.gov>; Dvorin, Jeffrey <Jeffrey.Dvorin@ag.ny.gov>; Mahanna, Brian <Brian.Mahanna@ag.ny.gov>; Bragg, Alvin <Alvin.Bragg@ag.ny.gov>; marty.mack@ag.ny.gov; Colangelo, Matthew <Matthew.Colangelo@ag.ny.gov>; Garnett, Margaret <Margaret.Garnett@ag.ny.gov>; Sheth, Manisha <Manisha.Sheth@ag.ny.gov>; Brown, Gary <Gary.Brown@ag.ny.gov>; Kerwin, Adrienne <Adrienne.Kerwin@ag.ny.gov>; Lynch, Helena <Helena.Lynch@ag.ny.gov>; ad3clerksoffice@nycourts.gov; 'Edward Carey' <ecarey@nycourts.gov>; 'Jane Landes' <jlandes@nycourts.gov>

Subject: CJA v. Cuomo Citizen-Taxpayer Action Appeal # 527081-- NOTICE: Your Duty to Withdraw Mr. Brodie's Fraudulent Nov 2nd Opposition to Appellants' Oct. 23rd Motion to Strike Respondents' Brief, to Declare the AG's Representation of Respondents Unlawful, Etc.

TO: Attorney General Barbara Underwood –

This is to give you NOTICE – yet again -- that Assistant Solicitor General Frederick Brodie, acting on your behalf and under the direct supervision of Assistant Solicitor General Victor Paladino, is engaged in flagrant litigation fraud before the Appellate Division, Third Department to corrupt the judicial process in the appeal of the citizen-taxpayer action, *CJA v. Cuomo, et al*, to which you have NO legitimate defense.

On October 23rd, by the below e-mail, I furnished you with appellants' motion to strike Mr. Brodie's September 21st respondents' brief, for a declaration that the attorney general's appellate representation of respondents is unlawful, and other relief. Attached, above, are Mr. Brodie's November 2nd opposing memorandum and affirmation.

As Mr. Brodie's November 2nd opposition papers are just as fraudulent as all his prior written submissions to the Appellate Division, Third Department and as his August 2nd oral argument on the TRO, your duty is to IMMEDIATELY withdraw them. Otherwise, I will lay out their brazen deceits in reply papers and seek additional costs and sanctions against you, against Messrs. Brodie and Paladino, and against the complicit supervisory/managerial attorneys who are your "Senior Legal Staff", for this further "occurrence" of frivolous conduct, pursuant to 22 NYCRR §130-1.2.

To assist you in doing your duty, here's an excerpt from the reply papers I have begun to draft:

“3. The basis for appellants' instant motion – on which all its requested relief rests – is that Mr. Brodie's September 21, 2018 respondents' brief is, 'from beginning to end, 'a fraud on the court'', so-stated by the very first sentence of appellants' October 4, 2018 reply brief and demonstrated by its ensuing 55 pages.

4. Respondents' opposition – consisting of Mr. Brodie's affirmation and memorandum – does not deny or dispute ANY of the facts, law, or legal argument presented by appellants' 55-page reply brief. This makes respondents' opposition to the motion frivolous, *as a matter of law*. Indeed, in order to fashion opposition, Mr. Brodie conceals the ENTIRE content of the reply brief – including the very fact that it concerns respondents' 'fraud on the court' by his opposition brief. Thus, his memorandum and affirmation only reference fraud obliquely, in the context of purporting that 'counsel acted in subjective good faith', with 'no intent to defraud the Court' (memo, at p. 3) – conclusory declarations whose brazen falsity is established, *prima facie*, by the 55-page reply brief, chronicling Mr. Brodie's willful and deliberate misleading of the Court, both as to fact and law, with respect to the entirety of what is before it on this appeal." (italics and underlining in the original).

Please advise, WITHOUT DELAY, whether you will be withdrawing Mr. Brodie's November 2nd opposition papers so that I may know if I must continue drafting appellants' reply papers, returnable November 13th -- the same day as oral argument on the appeal, which, you should be preparing to argue, PERSONALLY.

As you know, the entire record before the Appellate Division, Third Department is posted on CJA's website, www.judgewatch.org. Here's the link, once again: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/record-app-div.htm>.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant

On her own behalf, on behalf of the Center for Judicial Accountability, Inc., and on behalf of the People of the State of New York and the Public Interest.

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

Sent: Tuesday, October 23, 2018 2:12 PM

To: 'Barbara.Underwood@ag.ny.gov' <Barbara.Underwood@ag.ny.gov>; 'Brodie, Frederick' <Frederick.Brodie@ag.ny.gov>; 'Paladino, Victor' <Victor.Paladino@ag.ny.gov>

Cc: 'Janet.Sabel@ag.ny.gov' <Janet.Sabel@ag.ny.gov>; 'Kent.Stauffer@ag.ny.gov' <Kent.Stauffer@ag.ny.gov>;

'Meg.Levine@ag.ny.gov' <Meg.Levine@ag.ny.gov>; 'Jeffrey Dvorin' <Jeffrey.Dvorin@ag.ny.gov>;

'Brian.Mahanna@ag.ny.gov' <Brian.Mahanna@ag.ny.gov>; 'Alvin.Bragg@ag.ny.gov' <Alvin.Bragg@ag.ny.gov>;

'marty.mack@ag.ny.gov' <marty.mack@ag.ny.gov>; 'Matthew.Colangelo@ag.ny.gov' <Matthew.Colangelo@ag.ny.gov>;

'Margaret.Garnett@ag.ny.gov' <Margaret.Garnett@ag.ny.gov>; 'manisha.sheth@ag.ny.gov'

<manisha.sheth@ag.ny.gov>; 'Adrienne Kerwin' <Adrienne.Kerwin@ag.ny.gov>; 'Helena.Lynch@ag.ny.gov'

<Helena.Lynch@ag.ny.gov>; 'Edward Carey' <ecarey@nycourts.gov>; 'Jane Landes' <jlandes@nycourts.gov>;

'ad3clerksoffice@nycourts.gov' <ad3clerksoffice@nycourts.gov>

Subject: CJA v. Cuomo Citizen-Taxpayer Action Appeal: #527081 -- Notice of Motion to Strike Respondents' Brief, to Declare the Attorney General's Representation of Respondents Unlawful, & for Other Relief

TO: Attorney General Barbara Underwood/ Assistant Solicitor General Frederick Brodie/ Assistant Solicitor General Victor Paladino

As Associate Justice Sharon A.M. Aarons has, without reasons, declined to sign appellants' October 18, 2018 order to show cause to strike your respondents' brief, to declare your representation of respondents unlawful, and for other relief -- and it is not possible to submit it to another judge -- I have informed Chief Motion Attorney Ed Carey that appellants will proceed by notice of motion.

The full motion is attached. Also attached, if more convenient for you, is just the 3-page notice of motion with its annexed 3-page declined osc -- and a new back. Everything is posted on CJA's website here: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/appeal/10-23-18-motion.htm>.

I will be mailing you a hard copy of the notice of motion, with declined osc -- and the new back. You already have the moving affidavit and exhibits.

Thank you.

Elena Sassower, unrepresented plaintiff-appellant

On her own behalf, on behalf of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York and the Public Interest

914-421-1200