

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

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**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>  
**Sent:** Monday, November 5, 2018 11:42 AM  
**To:** 'Barbara.Underwood@ag.ny.gov'  
**Cc:** 'Brodie, Frederick'; 'Paladino, Victor'; 'Janet.Sabel@ag.ny.gov'; 'Kent.Stauffer@ag.ny.gov'; 'Meg.Levine@ag.ny.gov'; 'Jeffrey Dvorin'; 'Brian.Mahanna@ag.ny.gov'; 'Alvin.Bragg@ag.ny.gov'; 'marty.mack@ag.ny.gov'; 'Matthew.Colangelo@ag.ny.gov'; 'Margaret.Garnett@ag.ny.gov'; 'manisha.sheth@ag.ny.gov'; 'gary.brown@ag.ny.gov'; 'Adrienne Kerwin'; 'Helena.Lynch@ag.ny.gov'; 'ad3clerksoffice@nycourts.gov'; 'Edward Carey'; 'Jane Landes'  
**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.  
**Attachments:** 11.2.18 Mem. in Opp. to Mtn. to Strike.pdf; 11.2.18 Aff. in Opp. to Mtn. to Strike.pdf

### 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 23<sup>rd</sup>, by the below e-mail, I furnished you with appellants' motion to strike Mr. Brodie's September 21<sup>st</sup> 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 2<sup>nd</sup> opposing memorandum and affirmation.

As Mr. Brodie's November 2<sup>nd</sup> opposition papers are just as fraudulent as all his prior written submissions to the Appellate Division, Third Department and as his August 2<sup>nd</sup> oral argument on the TRO, your duty is to IMMEDIATELY withdraw them. Otherwise, I will lay out their brazen deceptions 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 2<sup>nd</sup> opposition papers so that I may know if I must continue drafting appellants' reply papers, returnable November 13<sup>th</sup> -- 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](http://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.

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**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>

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'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