

At the Appellate Division, Third Department of the State of New York, located at the Robert Abrams Building for Law and Justice on State Street, Albany, New York 12223, on the ____ day of July, 2018.

SUPREME COURT OF THE STATE OF NEW YORK
APPELLATE DIVISION, THIRD DEPARTMENT

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CENTER FOR JUDICIAL ACCOUNTABILITY, INC.
and ELENA RUTH SASSOWER, individually and
as Director of the Center for Judicial Accountability, Inc.,
acting on their own behalf and on behalf of the People
of the State of New York & the Public Interest,

Plaintiffs-Appellants,

**ORDER TO SHOW CAUSE
WITH PRELIMINARY INJUNCTION
& TRO**

-against-

Albany Co. Index # 5122-16

ANDREW M. CUOMO, in his official capacity as Governor of the State of New York, JOHN J. FLANAGAN in his official capacity as Temporary Senate President, THE NEW YORK STATE SENATE, CARL E. HEASTIE, in his official capacity as Assembly Speaker, THE NEW YORK STATE ASSEMBLY, ERIC T. SCHNEIDERMAN, in his official capacity as Attorney General of the State of New York, THOMAS P. DiNAPOLI, in his official capacity as Comptroller of the State of New York, and JANET M. DiFIORE, in her official capacity as Chief Judge of the State of New York and chief judicial officer of the Unified Court System,

Defendants-Respondents.

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Upon the annexed affidavit of the unrepresented individual plaintiff-appellant ELENA RUTH SASSOWER, sworn to on July 24, 2018, the exhibits annexed thereto, plaintiffs-appellants' accompanying perfected appeal, and upon all the papers and proceedings heretofore had in Supreme

Court/Albany County in this citizen-taxpayer action and in the prior citizen-taxpayer action, *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Albany Co. #1788-14) which it incorporates,

LET defendants-respondents show cause before this Court at the Robert Abrams Building for Law and Justice on State Street, Albany, New York 12223, on the _____ day of _____ 2018 at 10:00 a.m. or as soon thereafter as the parties or their counsel may be heard, why an order should not issue:

- (1) pursuant to §100.3F of the Chief Administrator’s Rules Governing Judicial Conduct, disclosing, on the record, the financial interests of this Court’s justices in this appeal and in the TRO and preliminary injunction herein sought, as well as their personal, professional, and political relationships impacting upon their fairness and impartiality; and, pursuant to §100.3E of the Chief Administrator’s Rules, disqualifying Associate Justice Michael Lynch for demonstrated actual bias;
- (2) directing that Attorney General Barbara D. Underwood identify who has determined “the interest of the state” on this appeal – and plaintiffs-appellants’ entitlement to the Attorney General’s representation/intervention pursuant to Executive Law §63.1 and State Finance Law, §123 *et seq.*, including *via* independent counsel, and how, if at all, she has addressed her own conflicts of interest with respect thereto;
- (3) pursuant to State Finance Law §123-c(4), expediting this appeal by an accelerated schedule for briefing, oral argument, and decision, as likewise for answering papers and determination of this order to show cause;
- (4) issuing a subpoena *duces tecum* to the Albany County Clerk directing delivery to this Court of the record of this citizen-taxpayer action and of its incorporated record of the predecessor citizen-taxpayer action for purposes of confirming plaintiffs-appellants’ evidentiary entitlement to summary judgment on each of their causes of action, as well as to the granting, in its entirety, of their March 29, 2017 order to show cause with preliminary injunction and TRO;
- (5) pursuant to State Finance Law §123-e(2), enjoining defendants-respondents from disbursing any further monies to pay the judicial salary increases resulting from the December 24, 2015 report of the Commission on Legislative, Judicial and Executive Compensation and the August 29, 2011 report of the Commission on Judicial Compensation – and from reimbursing counties for the district attorney salary increases based thereon;
- (6) pursuant to §800.24-b of the Third Department Rules of Practice, directing that a pre-calendar conference be held “to consider settlement, the limitation of issues and any

other matter which...may aid in the disposition of the appeal or resolution of the action”;

- (7) granting such other and further relief as may be just and proper, including: (a) investigating the handling of plaintiffs-appellants’ September 16, 2017 and October 14, 2016 attorney misconduct complaints, germane to this appeal and this order to show cause, filed with the Third Department Attorney Grievance Committee; and (b) \$100 motion costs to plaintiffs-appellants pursuant to CPLR §8202.

SUFFICIENT CAUSE APPEARING THEREFORE, let a temporary restraining order (TRO) issue pursuant to State Finance Law §123-e(2), enjoining defendants-respondents as hereinabove set forth pending hearing and determination of this motion.

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the _____ day of July 2018 upon counsel for the defendants-respondents herein by personal service be deemed good and sufficient service.

ANSWERING PAPERS, if any, are to be served by defendants-respondents, *via* e-mail and regular mail, at least _____ days prior to the return date of this order to show cause, *to wit*, July _____, 2018.

Ordered that the motion brought on by this order to show cause shall not be orally argued unless counsel are notified to the contrary by the Clerk of the Court.

Presiding/Associate Justice
Appellate Division, Third Department