

CENTER for JUDICIAL ACCOUNTABILITY, INC.*

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Elena Ruth Sassower, Director

By Fax: 518-694-3194 (12 pages)

March 31, 2014

TO: Albany County Supreme Court Justice Michael Lynch

FROM: Elena Ruth Sassower, *Plaintiff Pro Se*

RE: Supplement to Letter Request: Reconsideration of the Court's from-the-bench decision on March 28, 2014 on Plaintiffs' Order to Show Cause for a Stay with TRO in the Citizen-Taxpayer Action: Center for Judicial Accountability, Inc. and Elena Sassower...acting on their own behalf and on behalf of the People of the State of New York & the Public Interest v. Cuomo, et al., #1788-14

This follows the phone confirmation from Law Clerk, Amy Joyce, that the Court has received my letter request for reconsideration of the Court's March 28, 2014 from-the-bench decision denying plaintiffs' Order to Show Cause for a TRO in the above-entitled citizen-taxpayer action.

As briefly discussed with her, I wish to furnish two supplementary items for the Court's consideration:

(1) at the March 28th oral argument, I raised the threshold issue of plaintiffs' entitlement to the Attorney General's representation in this citizen-taxpayer action, citing Executive Law §63.1, which predicates the Attorney General's litigation posture on "the interest of the state". As evident from the Notice to Furnish Papers to the Court Pursuant to CPLR §2214(c), to which I referred and which the Court then had before it, the issues of unconstitutionality and unlawfulness of the Legislature's proposed budget, the Judiciary's proposed budget, and Budget Bill #S.6351/A.8551 are matters of documentary proof, evident from the face of those documents and from legislative records thereon. The Attorney General was duty-bound, on March 28th, to have produced the originals of these documents and records or certified copies so that the Court could have determined, right then, whether defendants have any merits defense, clearly germane to plaintiffs' entitlement to a TRO – indeed, to summary judgment.

That the Attorney General not only made no production, but misrepresented the law as to the TRO and then, without denying or disputing the accuracy of my fact-specific, law-supported oral presentation, instead baldly purported that the lawsuit was "meritless", and besmirched the exhibits

* Center for Judicial Accountability, Inc. (CJA) is a national, non-partisan, non-profit citizens' organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

EX 2-4

EXC-3

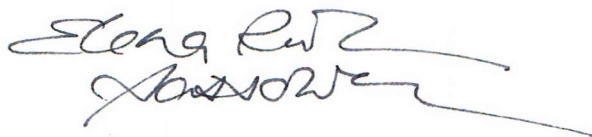
as “only correspondence” demonstrates that this is an Attorney General who needs to answer for his statutory duty to himself by bringing this citizen-taxpayer action, as State Finance Law §§123(a)(3) and 123(d) clearly contemplates.

Enclosed is plaintiffs’ March 26th Notice to Furnish Papers to the Court, with the e-mail message that transmitted it to the Attorney General on that date, together with the e-mail message sent earlier today enclosing my today’s letter to the Court and asking:

“Please advise your superiors – including Attorney General Schneiderman – that I wish to speak with them directly, including as to who is making the determination of ‘the interest of the state’, pursuant to Executive Law §63.1 – and plaintiffs’ entitlement to the Attorney General’s representation by reason thereof.” (underlining in the original).

(2) at the March 28th oral argument, the Attorney General failed to furnish the Court with ANY caselaw as to the interpretation of CPLR §6313(a) that no TRO is to issue “to restrain the performance of statutory duties”. Indeed, the Attorney General failed to even identify the statutes in this case germane to the so-called “statutory duties” that cannot be restrained by plaintiffs’ Order to Show Cause for a TRO.

Thank you.

A handwritten signature in black ink, appearing to read "James McGowan", with a long horizontal line extending to the right.

Enclosures

cc: Assistant Attorney General Adrienne Kerwin
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Assistant Attorney General James McGowan
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