

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>
Sent: Tuesday, December 19, 2023 1:51 PM
To: 'AD3ClerksOffice@nycourts.gov'

Subject: Records Retention/Return: Original Motion Papers for Appeal #527081, Center for Judicial Accountability v. Cuomo...DiFiore

TO: Appellate Division, Third Department Deputy Clerk Beth Lifshin-Clark

This follows up my phone conversation this morning with Jessica Ward and then with Filing Office Supervisor Marcus Hauf pertaining to appeal #527081, *Center for Judicial Accountability v. Cuomo...DiFiore*, decided by a December 27, 2018 "Memorandum and Order".

It was explained to me that of the nine copies of the appellants' brief, reply brief, and three-volume record on appeal that I filed with the Court, one was sent to the Albany County Clerk's Office for retention with the original lower court record – and the other eight were destroyed, after a micro-fiche was made of them. My question pertains to the four motions I made, prior thereto, which I understand are retained for five years – presumably five years from the date of the Court's appellate decision, which is eight days from today.

If the original motion papers for these four motions have not been destroyed, I request that the Court continue to retain them for reference in connection with the related [appeal #CV-23-0115, Center for Judicial Accountability v. JCOPE, et al.](#), wherein there is presently pending a motion to strike the respondents' brief as a fraud on the court, for sanctions, and for other relief ([#13](#)). In opposing the motion ([#18](#)), the Assistant Solicitor General stated in his paragraph 4:

"Notably, petitioners have sought—and been denied—such relief before. In *Center for Judicial Accountability, Inc. v. Cuomo*, 167 A.D.3d 1406 (3d Dep't 2018), petitioners moved to strike respondents' brief and to sanction respondents' counsel on the ground that respondents' brief was a fraud on the court. The Court denied that motion. (See Ex. A, Decision and Order on Motion.) The Court should do the same here."

It occurred to me that the Court might find it helpful to have the benefit of the original papers for the referred-to motion – and of the other three I made.

In any event, I do not wish the original motion papers in *CJA v. Cuomo...DiFiore* to be destroyed. Just as the Court of Appeals retains motion papers for five years and, if requested, returns them to the party – and without charge for postage – Mr. Hauf stated I could write to you requesting that my motion papers be returned, rather than destroyed. He did indicate that I might have to pay the postage, which I am happy to do.

Mr. Hauf also stated that I could request a copy of the Court's records retention policy, which I hereby request – and, if necessary, pursuant to §124 of the Rules of the Chief Administrator and Public Officers Law Article VI [FOIL].

Thank you.

Elena Sassower, unrepresented Appellant
Appeals #527081 & #CV-23-0115