

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Sunday, September 25, 2022 10:51 AM

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Subject: **WANTED: your scholarship, expertise, & independent expert opinion as to the state of the record in CJA v. JCOPE, et al -- starting with the 6th cause of action to VOID the "ethics commission reform act of 2022"**

Attachments: [6-12-22-ltr-to-independent-review-committee.pdf](#)

TO: [New York State Bar Association Officers, Executive Committee Members & Members of the Committee on the New York State Constitution](#)

On this, what would have been the 90th birthday of CJA's co-founder, my beloved mother [Doris L. Sassower, Esq., a leader of the bar](#) who took her leadership and attorney responsibilities seriously, I share with you the happy news that [CJA has made a motion for summary judgment](#) on all ten causes of action of the [June 6, 2022 verified petition/complaint](#) in its *pro bono*, public interest lawsuit [CJA v. JCOPE, et al.](#), as to which I sought your intervention, *amicus curiae* support, scholarship, and other assistance, first by a [June 14th e-mail](#), and then by a [July 3rd e-mail](#), particularly with regard to its sixth cause of action to void the "ethics commission reform act of 2022".

I received not a single response to either e-mail – and last week, with the above attachment, sent the below e-mail to Bennett Liebman, Esq., a member of your Committee on the New York State Constitution, who, as "Government Lawyer in Residence" at Albany Law School's Government Law Center, wrote what purports to be an "explainer" entitled "[Explaining the Ethics Commission Reform Act of 2022](#)," making no mention of the *CJA v. JCOPE, et al.* lawsuit or any of the issues therein. My e-mail to him inquired whether, following receipt of my June 14th and July 3rd e-mails by members of the Committee on the New

York State Constitution, there was NO discussion about them and NO communications with the State Bar's officers and Executive Committee. I requested Mr. Liebman's response before today, but have received nothing. It is therefore appropriate that you read my serious and substantial September 21st e-mail to him so that you may know what is happening – and not happening – on the scholarship front, *vis-à-vis* the *CJA v. JCOPE, et al.* lawsuit. Is this acceptable to you?

Please advise what scholarship and other appropriate action you will be taking with respect to the *CJA v. JCOPE, et al.* lawsuit – and, specifically, whether, with so many litigation experts and experts on constitutional and ethics issues among you, you will provide me with independent expert opinion that I can submit to the Court before the October 6th return date of the summary judgment motion – including as to the branches relating to Attorney General James' disqualification, Justice Gandin's disqualification, and transfer/removal to federal court.

Inasmuch as I do not have e-mail addresses for everyone, I ask, as I have previously, that State Bar President Wallach ensure that this e-mail is forwarded to all State Bar officers, Executive Committee members, and members of the Committee on the New York State Constitution, including those disqualified for interest, who – pursuant to ethical rules – are mandated to step aside from any determination herein, and, absent their doing so, to make disclosure to their colleagues who then can address the situation appropriately.

I am available to answer questions – and would welcome the opportunity to do so.

Thank you.

Elena Sassower, Director
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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Wednesday, September 21, 2022 3:45 PM
To: 'blieb@albanylaw.edu' <blieb@albanylaw.edu>

Subject: EXPLANATION REQUIRED: Your Sept. 15th "Explaining the Ethics Commission Reform Act of 2022" -- & the foreseeability of "What comes next in New York State's pursuit of ethics reform"

TO: Bennett Liebman, Esq./Albany Law School adjunct professor and "Government Lawyer in Residence" of its Government Law Center

Explanation is required for your "[Explaining the Ethics Commission Reform Act of 2022](#)" with its conclusion: "It is not possible to predict with any certainty the life cycle of the [Commission on Ethics and Lobbying in Government (CELG)]...What comes next in New York State's pursuit of ethics reform is not foreseeable."

As you make NO mention of CJA's *pro bono*, public interest lawsuit to void the "ethics commission reform act of 2022" – from which "the life cycle" and "what comes next" are eminently "foreseeable" – is it possible you are unaware of it?

By the below June 14, 2022 e-mail I alerted the New York State Bar Association's officers, its Executive Committee members, and the members of its Committee on the New York State Constitution, yourself among them, to the lawsuit, then already publicized by a [front page, above-the-fold June 13th New York Law Journal article](#). With it, I furnished the above-attached June 12th letter that I had sent to the "independent review committee" of New York's 15 law school deans, including Albany Law School Dean Ouellette.

The e-mail described the "ethics commission reform act of 2022" as "a regressive statute enacted, unconstitutionally, *via* the state budget, to 'protect' complained-against public officers from accountability by stripping complainants and the public of rights enforceable by mandamus". Had you examined [the lawsuit](#), it would have been obvious to you that there was NO defense to it and that CJA had a *matter of law* entitlement to the granting of summary judgment to void the "ethics commission reform act of 2022", thereby ending CELG. Indeed, on September 15th – the same day as your "explainer" was publicized by a [news release](#) – CJA made just such a summary judgment motion ([#93](#)).

Tellingly, your "explainer" skirts everything presented by my June 14th e-mail, its attached June 12th letter, and the linked-to lawsuit. Thus, you not only make no assessment of the constitutionality of the enactment of the "ethics commission reform act of 2022", *via* the budget, but you conceal that there is any issue concerning same – uncritically reciting, at the outset: "The legislation was passed on April 8, 2022, as part of the Governor's overall budget legislation, the same day the Governor issued messages of necessity to each house to advance the legislation."

You also explain away, as if not itself an indicia of unconstitutionality and unlawfulness, the absence of "Particularly Pertinent Legislative Background Materials", stating:

...Given the swiftness with which the ECRA was passed, there are no significant legal materials explaining the legislation. There is also no sponsor's memo for Chapter 56. However, in announcing the 2022 budget agreement, Governor Hochul issued a press release, stating: 'The Budget will improve ethics and restore New Yorkers' trust in state government by creating a new entity, the "Commission on Ethics and Lobbying in Government," to replace the broken Joint Commission on Public Ethics. Nominees for the 11-member Commission will be put forward by the Governor, Senate, Assembly, Comptroller, and Attorney General and then reviewed by law school deans for approval or denial. ..."

Although my June 14th e-mail furnished information and evidence with which to rebut the Governor's press release, you allow it to stand, unchallenged. Where is your comparison of the changes made by the "ethics commission reform act of 2022" to how the public's ethics complaints are to be handled? And why have you not explored how the law school deans came to be part of the "ethics commission reform act of 2022" or how they have discharged their vetting responsibilities – the latter relevant to the conflict-of-interest information you have relegated to your footnote 2:

"The vetting ... is intended to ensure the nominees have demonstrated an ability to be impartial, independent, fair and able to 'decide matters based solely on the law and facts presented.'" Brendan J. Lyons, *Law School Deans Unveil New York's New Ethics System*, Times Union (June 15, 2022), <https://www.timesunion.com/state/article/New-York-s-new-ethics-system-unveiled-17243646.php>. It should be noted that law schools are not totally independent. The universities that operate law schools and the independent law schools (e.g. New York, Albany, and Brooklyn) are members of the Commission on Independent Colleges and Universities (CICU), which regularly lobbies the legislature, the Governor, and executive agencies on behalf of higher education interests. The public law

schools (e.g. CUNY and Buffalo) have their funding tied to government budgets. Most of the universities operating law schools, besides utilizing CICU as a lobbyist, also employ their own separate lobbyists. Besides that, law schools are regularly searching for grants from the legislature and from executive agencies. See Kevin Tampone, *Tech Law Center Aims for Permanent Funding*, Central N.Y. Bus. J. (November 9, 2012), <https://www.cnybj.com/tech-law-center-aims-for-permanent-funding>; Larry Rulison, *Albany Law School to Start Securities Arbitration Center*, Times Union (December 14, 2006), <https://blog.timesunion.com/business/albany-law-school-to-start-securities-arbitration-center/556>; Ann Davis, *To Some, Santa Has a New Name: Spitzer*, Wall St. J. (December 24, 2003), <https://www.wsj.com/articles/SB107222416260644200>."

And what is it to be made of your unexplained assertion:

"While there was significant media coverage about the workings of JCOPE during its decade of existence, there have been few legal reviews. ... In sum, there are surprisingly few legal discussions of New York's ethics code."

Implicit from its placement immediately following the reference to JCOPE's "broken[ness]" in the Governor's press release is that scholarly assessment of JCOPE is a predicate for assessment of the "ethics commission reform act of 2022". But you offer no explanation for the "surprising" dearth of scholarship – even though the most obvious explanation is the multitude of conflicts of interest that NY's 15 law schools and countless universities, colleges, and academic institutes have in scholarly examination of JCOPE. Indeed, do you have any explanation, other than conflicts of interest, for why Albany Law School's [Government Law Center](#), of which you have been "Government Lawyer in Residence" for years, has not engaged in scholarly examination of JCOPE – or of NY's ethics entities most pertinent to the judiciary and lawyers: the NYS Commission on Judicial Conduct and the court-controlled attorney grievance committees – or pertaining to the "force of law" commission statutes through which the constitutional officers of NY's three government branches have gotten pay raises, or as to the state budget and the Court of Appeals' 2004 decision in *Pataki v. Assembly/Silver v. Pataki*, 4 N.Y.3d 75 – all of which are embraced in the *CJA v. JCOPE, et al.* verified petition/complaint, whose [Exhibit D-3](#) is CJA's February 7, 2021 complaint to the Commission on Judicial Conduct against judges including then Court of Appeals Judge Leslie Stein, the [now director of the Government Law Center](#), arising from these issues.

And aren't conflicts of interest the only explanation for why, with respect to the [NYS Law Revision Commission](#) whose purpose is such scholarly examination – and which is housed at Albany Law School – you yourself have undertaken no follow-up scholarship since [your July 11, 2016 article "Defunding the New York State Law Revision Commission"](#), notwithstanding the e-mails I sent you on [May 21, 2021](#) and [December 1, 2021](#) on the subject of its funding and operations, including as relates to Albany Law School, its [Government Law Center](#), its [Center for Judicial Process](#), and its [Justice Center](#).

Certainly, is there any explanation, other than conflicts of interest, for your referring to "the New York Ethics Review Commission report of 2015" as the "Most significant" legal review of JCOPE. Are you unaware that two of the eight members of the JCOPE/LEC Review Commission responsible for the report were law school deans – New York Law School Dean Anthony Crowell, the now chair of the "independent review committee", and [Patricia Salkin](#), the then-dean of Touro Law School, who, before taking that position, had been professor and associate dean at Albany Law School and director of the Government Law Center, a position you would fill in 2016 on an interim basis. And are you unaware of the superficiality and fraud of the report – even without the benefit of the evidence pertaining thereto embodied by CJA's December 17, 2021 complaint to JCOPE and November 2, 2021 complaint to the NYS Inspector General –

[Exhibit B](#) and [Exhibit I \(eye\)](#) to the [verified petition/complaint](#). I assume you are unaware of [my August 4, 2022 letter to the "independent review committee"](#), with particulars as to Dean Crowell, former Dean Salkin, and the 2015 report, posted on [CJA's webpage for the "independent review committee" and how it has been operating](#).

Please advise before [September 25th](#) with respect to the foregoing – and also advise as to whether there was NO discussion among the members of the State Bar's Committee on the New York State Constitution and NO communications with the State Bar's officers and Executive Committee following receipt of my June 14th e-mail. By the way, on July 3rd, I sent a second [e-mail](#), inadvertently not including you. Were you unaware of it – and unaware of the July 6th order to show cause I brought for a TRO/preliminary injunction ([#66](#), [#67](#)), to which my June 12th letter and that July 3rd e-mail were exhibits ([#69](#), [#72](#)), along with my July 2nd e-mail to the "independent review committee" of law school deans ([#68](#)).

TIME IS OF THE ESSENCE. [CJA's September 15th motion for summary judgment is returnable on October 6th](#). Who, among Albany Law School's scholars or at the State Bar, will be furnishing the Court with expert opinion on the issues before it, determinative of CELG's "life cycle" and the future of this state's ethics enforcement? Will you?

Thank you.

Elena Sassower, Director
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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Tuesday, June 14, 2022 3:42 PM
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Subject: EMERGENCY ACTION REQUIRED, consistent with ethical, professional & civic responsibilities: Lawsuit to VOID the "ethics commission reform act of 2022" and for TRO -- CJA, et al. v. JCOPE, et al. (Albany Co. #904235-22)

TO: [New York State Bar Association Officers, Executive Committee Members & Members of the Committee on the New York State Constitution](#)

This is to request the New York State Bar Association's intervention, *amicus curiae*, and other assistance, including a lawyer to represent the presently unrepresented corporate petitioner/plaintiff Center for Judicial Accountability, Inc. (CJA) in its *pro bono*, public interest lawsuit to VOID the "ethics commission reform act of 2022", a regressive statute enacted, unconstitutionally, *via* the state budget, to "protect" complained-against public officers from accountability by stripping complainants and the public of rights enforceable by mandamus. This Friday, June 17th, at 2 p.m., I, as the individual petitioner/plaintiff will be arguing for a TRO before Albany County Supreme Court Justice Peter Lynch. **TIME IS OF THE ESSENCE.**

The verified petition/complaint, the OSC, and my moving affidavit in support of a preliminary injunction/TRO are accessible *via* NYSCEF, [here](#).

I respectfully request that each of you "eyeball" the case – as once you do, you will know, for a certainty, that, consistent with ethical, professional, and civic responsibilities, the State Bar must take IMMEDIATE ACTION. At minimum this must be – and I here request – endorsing my above June 12th letter to New York's 15 law school deans comprising the "independent review committee" of the "ethics commission reform act of 2022".

Below is the e-mail I sent yesterday to the 15 law school deans, with the above-attached June 12th letter, here also [linked](#), cc'ing Justice Lynch, the respondents/defendants, and the [New York Law Journal](#).

As I do not have e-mail addresses for everyone, I ask State Bar President Sherry Levin Wallach to ensure that this e-mail is forwarded to all State Bar officers, Executive Committee members, and members of the Committee on the New York State Constitution, including those disqualified for interest, who – pursuant to ethical rules – are mandated to step aside from any determination herein, and, absent their doing so, to make disclosure to their colleagues who then can address the situation appropriately.

I am available to answer questions – and would welcome the opportunity to do so.

Thank you.

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

Sent: Monday, June 13, 2022 9:50 AM

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Subject: Lawsuit to VOID the "ethics commission reform act of 2022", TRO to stay the statute from taking effect on July 8th -- & your ethical, professional, & civic responsibilities with respect thereto -- CJA, et al. v. JCOPE, et al. (Albany Co. #904235-22)

TO: The "independent review committee" of the "ethics commission reform act of 2022"

SUNY-Buffalo Law School Dean Aviva Abramovsky
CUNY-Queens College Law School Interim Dean Eduardo R.C. Capulong
Incoming Dean Sudha Setty (July 1, 2022)
Albany Law School Dean Alicia Ouellette
Brooklyn Law School Dean Michael T. Cahill
Columbia University Law School Dean Gillian Lester
Cornell University Law School Dean Jens David Ohlin
Fordham Law School Dean Matthew Diller
Hofstra Law School Dean Gail Prudenti
New York Law School Dean Anthony Crowell
New York University Law School Dean Troy McKenzie
Pace University Law School Dean Horace E. Anderson, Jr.
St. John's University Law School Dean Michael A. Simons
Syracuse University Law School Dean Craig M. Boise
Touro College Law School Elena B. Langan
Yeshiva University Cardozo Law School Dean Melanie Leslie

Following up my yesterday's e-mailing to you of the above attached, [here](#) & [here](#), inadvertently omitting SUNY-Buffalo Law School Dean Abramovsky, I am sending it again to you this morning – Monday, June 13th – to further ensure that it is not overlooked, again sending it to the other cc's, from which I yesterday also inadvertently omitted Albany County Supreme Court Justice Lynch.

Below is my June 9th e-mail giving notice to respondents/defendants of the Friday, June 17th oral argument before Justice Lynch on the TRO.

Thank you.

Elena Sassower, individual petitioner/plaintiff *pro se*

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Thursday, June 9, 2022 11:35 AM
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Cc: 'shetman@nycourts.gov' <shetman@nycourts.gov>

Subject: June 17, 2022 oral argument on TRO -- CJA, et al. v. JCOPE, et al. (#904235-22/Albany County)

TO: **New York State Joint Commission on Public Ethics (JCOPE) –**
ATT: Sanford Berland/Executive Director
Emily Logue/Director of Investigations & Enforcement
Chair Jose Nieves
Commissioners: Gary Lavine, Sharon Gerstman,
Marvin Jacob, David McNamara
Legislative Ethics Commission (LEC) – ATT: Lisa Reid/Executive Director
New York State Inspector General (NYS-IG) – ATT: Lucy Lang/NYS-IG
Governor Kathy Hochul – ATT: [FOIL officer](#)
Temporary Senate President Andrea Stewart-Cousins & Senate –
ATT: Jellisa Joseph/Counsel to Secretary of the Senate
Assembly Speaker Carl Heastie & Assembly – ATT: Brian Haak/Counsel
Attorney General Letitia James – ATT: [AG-press](#); [Westchester Bureau Chief Andy Aujla](#)
Comptroller Thomas DiNapoli – ATT: Mike Kogut/Associate Counsel

This follows my phone and e-mail communications with you and/or your offices on Tuesday, Wednesday, and today concerning the lawsuit against you, *Center for Judicial Accountability, Inc., et al. v. New York State Joint Commission on Public Ethics, et al.*, filed in Albany County (#904235-22).

Next Friday, June 17th, at 2 p.m., oral argument will be had, in Albany County Supreme Court at 16 Eagle Street, before Justice Peter Lynch, on petitioners/plaintiffs' request for a TRO to stay the "ethics commission reform act of 2022" – Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – from taking effect on July 8, 2022 and to enjoin JCOPE from closing, pending final determination of the lawsuit's June 6, 2022 verified petition/complaint and its accompanying order to show cause. At issue is the sixth cause of action (¶¶78-85) that Part QQ was enacted unconstitutionally, unlawfully, and by fraud.

On June 17th, I will serve you with hard copies of the papers. In the meantime, you will not be hampered in the slightest in preparing, **fully**, for the oral argument, as all the papers are available electronically, *via* NYSCEF (New York State Courts Electronic Filing). The direct link to the electronic docket of the case is [here](#). You can also access the verified petition/complaint, the order to show cause, and my accompanying affidavit from CJA's website, www.judgewatch.org – and the direct link is [here](#). Indeed, accessing the case *via* NYSCEF and CJA's website will enable you to access the scores, if not hundreds, of substantiating links petitioners/plaintiffs' papers contain, not accessible from the hard copies.

So that I might be guided accordingly in the number of copies to reproduce – a not inconsiderable expense – please advise if you will waive service of the hard copies, as superfluous.

Justice Lynch's principal law clerk, Stehle Hetman-Mika, is herewith cc'd, as discussed with her.

Thank you.

Elena Sassower, individual petitioner/plaintiff *pro se*
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