

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>
Sent: Thursday, April 2, 2020 5:43 PM
To: 'niouy@nyassembly.gov'; 'patelosm@nyassembly.gov'
Subject: Thank you, Assemblywoman Niou, for your principled opposition, on the floor of the Assembly, to the Gov's inclusion of policy in budget bills. Did your Assembly "Leaders" tell you such inclusion is UNCONSTITUTIONAL?
Attachments: 3-18-20-ltr-to-gov-revised-fn1.pdf

TO: Assemblywoman Yuh-Line Niou

This follows my phone conversation with your Albany office manager, Marie Patelos (518-455-3640), expressing my admiration for your remarks, on the floor of the Assembly, of principled opposition to Governor Cuomo's inclusion of policy in his budget bills.

Am I correct that Assembly's stipend-receiving Legislative Leaders did NOT inform you of the Center for Judicial Accountability's above-attached March 18, 2020 letter to the Governor – e-mailed, simultaneously, to them – detailing that the inclusion of policy in the budget is not only undesirable, but UNCONSTITUTIONAL. Below is an e-mail chain of relevant correspondence – including to rank-and-file fellow Assembly members.

Based on your remarks today – and your equally powerful remarks on March 2nd, when you also presented principled opposition to the expansion of emergency powers to the Governor – it appears you have the integrity to act, with other courageous legislators, to be among the "first responders" to rescue our New York State Constitution from the flagrant violations and subversions that have been taking place.

I am available to answer your questions and assist you. I would welcome your call.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewidth.org>
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Cc: 'palumboa@nyassembly.gov' <palumboa@nyassembly.gov>; 'noncarrowa@nyassembly.gov' <noncarrowa@nyassembly.gov>; 'lavalley@nysenate.gov' <lavalley@nysenate.gov>

Subject: Being a leader & "first responder" in defense of the NYS Constitution, being violated & subverted by your fellow public officers

TO: Assemblyman Michael LiPetri, Esq.

This follows up the voice mail message I left at your Albany office late this morning (518-455-5305) and my phone conversation, shortly thereafter, with your chief of staff, Lainie Altman, upon calling your district office (516-541-4598) –

occasioned by your magnificent remarks, on March 30th, on the floor of the Assembly, in opposition to the rules being enacted for remote voting by Assembly members:

https://nystateassembly.granicus.com/MediaPlayer.php?view_id=6&clip_id=5429. In pertinent part, you stated:

“Mr. Speaker, how am I going to go back to my constituents and tell them, all the police officers, the firefighters, the first responders, many of whom are in my family, or my best friends. How to tell the doctors and the nurses and the union workers that are still out there working who are classified as essential. Are we not essential? What is a leader if not somebody who steps up to be at the forefront, to make sure that the People have a voice during the hardest times, such as we are in today. Our job is to make sure the People have a voice in the People’s House, in the State of New York. Mr. Speaker... it makes it seem as if we are not leaders, we do not step up with the People that we seek to represent. I swore an oath, I swore an oath to represent my district and the South Shore of Long Island, to makes sure their voices are heard, here, in the People’s House.”

The People of the State of New York are in dire need of leaders as the very public officers who have sworn an oath to uphold and protect the New York State Constitution have been flagrantly violating and subverting it. Have your fellow legislators – and, in particular, the minority Assembly “leaders” who receive stipends for the “significantly more work” and “additional duties” they are expected to perform – alerted you to the Center for Judicial Accountability’s above-attached March 18, 2020 letter to Governor Cuomo detailing the unconstitutionality of his inclusion of policy in his FY2020-21 executive budget? What is your assessment of the letter – whose webpage posting the referred-to evidentiary proof is here: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/3-18-20-ltr-to-gov.htm>. Do you believe it could simply be ignored by the Governor – and your fellow legislators?

As you are a graduate of Albany Law School and of SUNY/Albany, will you reach out to their scholars of the New York State Constitution and the Court of Appeals for their evaluation of the letter’s analysis of the Court of Appeals’ plurality, concurring, and dissenting opinions in *Pataki v. Assembly/Silver v. Pataki*, 4 NY3d 75 (2004) – and for their evaluation of CJA’s citizen-taxpayer actions, suing Governor Cuomo, the Legislature, the Attorney General, the Comptroller, the Chief Judge for unconstitutionality, unlawfulness, and fraud with respect to the state budget – and the commission-based judicial pay raises it embeds: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/menu-2nd-citizen-taxpayer-action.htm>. Are you aware that the Assembly and Senate Judiciary Committees have, for decades, refused to effect ANY oversight over the Judiciary – a state of affairs known to the Assembly Judiciary Committee’s ranking member, Assemblyman Anthony Palumbo, Esq. – a fellow Long Island legislator – now running for election to the Senate, filling the seat held by retiring Senator Kenneth LaValle, Esq., a member of the Senate Judiciary Committee. The relevant correspondence sent to them in last year’s legislative session is here: <http://www.judgewatch.org/web-pages/searching-nys/2019-legislative/judiciary.htm> and to Ranking Member Palumbo in this year’s legislative session is here: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/2020-correspondence.htm>.

This is NOT a partisan issue – but one pertaining to constitutional governance. Below is my self-explanatory correspondence with your fellow legislators. Perhaps you and Assemblyman Barron will join forces as “first responders” in defense of the New York Constitution?

Please call me, at your earliest opportunity, so that we can speak, directly.

Thank you.

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

Sent: Wednesday, April 1, 2020 11:54 PM

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Subject: Bravo, Assemblyman Barron! Would you be willing to expose the unconstitutionality, unlawfulness & fraud of Gov. Cuomo's executive budget, particularized by 3 letters to him, to which he has not responded?

Bravo, Assemblyman Barron – on the forceful, principled statement you submitted with respect to the budget, read earlier this evening, on your behalf, by Assembly Speaker *Pro Tempore* Aubry. Bravo, too, on the powerful remarks you made, on March 2nd, on the floor of the Assembly, opposing the expansion of emergency powers to Governor Cuomo and memorably stating “at some point during this lengthy budget process, at some point we have to take him on, [and] say we will not be manipulated”.

In keeping with this, would you be willing to “take on” the Governor in a way that would be genuinely effective -- exposing the unconstitutionality, unlawfulness and fraud of his executive budget, laid out, *inter alia*, by the Center for Judicial Accountability’s above-attached March 18, 2020 letter to him – and by our predecessor February 18th and March 3rd letters to him.

All three letters – with their substantiating evidentiary proof -- are posted on CJA’s website, www.judgewatch.org, accessible from our webpage for the 2020 Legislative Session. The direct link is here: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/2020-session-menu.htm>

Below, with minor corrections, is the self-explanatory e-mail I sent this morning to Assemblyman Walczyk -- cc-ing other legislators, including the 15 legislative leaders who continue to receive stipends for the “significantly more work” and “additional duties” they are expected to perform. What, if anything, do they deny or dispute that they have not

themselves “blown the whistle” and “taken on” the Governor – which is the duty they owe the People of the State of New York, required by their oaths of office.

I would be pleased to answer your questions – and would welcome your call.

Meantime, I wish you and your wife a speedy and complete recovery from the coronavirus.

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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
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Subject: FY2020-21 Budget -- Call for Leadership: The Unconstitutionality of 6 of Gov. Cuomo's 7 "Article VII Bills"

TO: Assemblyman Mark Walczyk

This follows up my phone conversation with your Chief of Staff/Legislative Director Mike Schenk, earlier this morning, commending you on your intelligent and articulate presentation yesterday -- and on March 2, 2020, when the Legislature accorded Governor Cuomo emergency powers beyond those he already possesses.

If you want to be effective, however, you need to invoke the New York State Constitution which, with respect to Governor Cuomo's FY 2020-21 executive budget, you can easily do because the unconstitutionality of 6 of his 7 "Article VII Bills" is laid out by the Center for Judicial Accountability's above-attached March 18, 2020 letter to him – the

accuracy of which he has NOT denied or disputed. Nor has its accuracy been denied or disputed by any of the letter's other recipients.

Illustrative is my below March 25th e-mail to Assembly Minority Leader William Barclay, Esq. – to which I have received no response.

As this is NOT a partisan issue – but one of constitutional governance – please forward the March 18, 2020 letter to ALL Assembly and Senate members – minority and majority – together with the link to CJA's webpage for the letter on which its evidentiary substantiation is posted: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/3-18-20-ltr-to-gov.htm>. Any legislator who believes such serious and substantial letter can be simply ignored, without response from Governor Cuomo, from Budget Director Mujica, from the Legislative Bill Drafting Commission, and from Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie, among others, should NOT be seeking re-election or other elective office this year – or ever.

If you will show leadership – we will ALL be winners.

I am available to answer your questions – and would welcome your call.

Thank you.

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

Sent: Wednesday, March 25, 2020 10:31 AM

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Subject: Gov Cuomo's inclusion of policy in the budget is UNCONSTITUTIONAL -- "Will The New York State Budget Be Cuomo's Big Buzzkill?" (Spectrum News/Susan Arbetter March 24, 2020)

TO: Assembly Minority Leader William Barclay, Esq.

Yesterday's article by Susan Arbetter "[Will the New York State Budget Be Cuomo's Big Buzzkill?](#)" (Spectrum News), identifies you as having "caution[ed]" against the inclusion of "complex policies" in the budget – and quotes you as saying that "The state needs a bare-bones approach to the budget".

Why have you NOT asserted that Governor Cuomo's policy-packed budget is UNCONSTITUTIONAL?

Did you not read CJA's above-attached March 18, 2020 letter to Governor Cuomo on that subject, entitled "**GOOD NEWS DURING THE CORONAVIRUS EMERGENCY: You Can Chuck 6 of the 7 'Article VII Bills' Because They are Unconstitutional. Here's why...**". It analyzes the Governor's "Article VII Bills" for FY2020-21 and does so in the context of the Court of Appeals' seminal 2004 decision in *Pataki v. Assembly/Silver v. Pataki*, 4 NY3d 75, providing what appears to be the FIRST scholarship deconstructing its plurality, concurring, and dissenting opinions.

As reflected by the below, I e-mailed the letter to you – and to three members of your staff – twice last week, on March 18th and then, again, on March 20th.

Unless you deny or dispute the accuracy of the analysis contained therein, you already have the “bare-bones approach to the budget” you purport to want.

Finally, shouldn't you be correcting the assertion in Ms. Arbetter's article that Cuomo “already holds most of the cards during the budget process”. That is certainly not consistent with the “budget process”, laid out by Article VII, §§1-7 of the New York State Constitution.

Wouldn't the Assembly and Senate minority be more effective in protecting minority rights if they explicated the New York State Constitution for the press – and the public – and insisted on adherence to its provisions?

Your duty, to which you swore by your oath of office (Article XIII, §1), is to uphold the New York State Constitution. Such benefits ALL the People of the State of New York – and I would be happy to assist you in so-doing. Please feel free to call me with any questions.

Thank you.

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From: elena@judgewatch.org <elena@judgewatch.org>
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Subject: Executive Budget ... CJA's March 18, 2020 letter to Gov. Cuomo: "GOOD NEWS DURING THE CORONAVIRUS EMERGENCY: You Can Chuck 6 of the 7 'Article VII Bills' Because They are Unconstitutional. Here's why..."

MORE GOOD NEWS DURING THE CORONAVIRUS EMERGENCY –

CJA's March 18, 2020 letter to Governor Cuomo "...GOOD NEWS DURING THE CORONAVIRUS EMERGENCY", sent to you by the below March 18, 2020 e-mail, is now posted on CJA's website – on a webpage now reflecting the March 18, 2020 date. The direct link is here: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/3-18-20-ltr-to-gov.htm>. According to the U.S. priority mail delivery receipt (there posted), the letter was delivered to the Governor's office this morning.

The letter, with a revised footnote 1 updating the link for the webpage, is attached. Additionally attached is the letter's single enclosure – CJA's August 21, 2013 letter to the Governor on "Achieving...a Properly Functioning Legislature..."

Thank you.

Elena Sassower, Director
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From: elena@judgewatch.org <elena@judgewatch.org>
Sent: Wednesday, March 18, 2020 11:52 AM
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Subject: ...Executive Budget...GOOD NEWS DURING THE CORONAVIRUS EMERGENCY: You Can Chuck 6 of the 7 "Article VII BILLS" Because They are Unconstitutional. Here's why....

TO: Governor Andrew Cuomo, Esq.
Budget Director Robert Mujica, Esq.
Legislative Bill Drafting Commission
15 Stipend-Benefitting Legislative Leaders

Senate Majority Leader Andrea Stewart-Cousins
Assembly Speaker Carl Heastie
Senate Minority Leader John Flanagan, Esq.
Assembly Minority Leader William Barclay, Esq.
Deputy Senate Majority Leader Michael Gianaris, Esq.
Deputy Senate Minority Leader Joseph Griffo
Assembly Majority Leader Crystal Peoples-Stokes
Assembly Speaker *Pro Tempore* Jeffrion Aubry
Assembly Minority Leader *Pro Tempore* Andrew Goodell, Esq.
Senate Finance Committee Chair Liz Krueger
Senate Finance Committee Ranking Member James Seward
Assembly Ways and Means Committee Chair Helene Weinstein, Esq.
Assembly Ways and Means Ranking Member Edward Ra, Esq.
Assembly Codes Committee Chair Joseph Lentol, Esq.
Assembly Codes Committee Ranking Member Angelo Morinello, Esq.

Attached is my above-entitled letter of today's date to Governor Cuomo, the original of which will be mailed to him. All others are indicated recipients, for the reasons stated in the last paragraph (at p. 13).

Due to a catastrophic computer breakdown, on this end, I am presently unable to post the letter on CJA's website, www.judgewatch.org and to update the site. The webpage for the letter – which had been prepared two days ago, before the breakdown – is here – reflecting the letter's then March 16, 2020 date: <http://www.judgewatch.org/web-pages/searching-nys/2020-legislative/3-16-20-ltr-to-gov.htm>. From the webpage you can access the letter's referred to-documentary proof – and its sole enclosure: my August 21, 2013 letter to the Governor, entitled "Achieving BOTH a Properly Functioning Legislature & Your Public Trust Act (Program Bill #3) – the *Sine Qua Non* for 'Government Working' & 'Working for the People'", to which I received no response.

Thank you.

Elena Sassower, Director
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