

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY

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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,

Index #: 904235-22

February 23, 2023

Petitioners/Plaintiffs,

NOTICE OF APPEAL

-against-

NEW YORK STATE JOINT COMMISSION ON PUBLIC ETHICS,
LEGISLATIVE ETHICS COMMISSION,
NEW YORK STATE INSPECTOR GENERAL,

KATHY HOCHUL, in her official capacity as
GOVERNOR OF THE STATE OF NEW YORK,

ANDREA STEWART-COUSINS, in her official capacity as
TEMPORARY SENATE PRESIDENT, & the NEW YORK STATE SENATE,

CARL HEASTIE, in his official capacity as
ASSEMBLY SPEAKER, & the NEW YORK STATE ASSEMBLY,

LETITIA JAMES, in her official capacity as
ATTORNEY GENERAL OF THE STATE OF NEW YORK,

THOMAS DiNAPOLI, in his official capacity as
COMPTROLLER OF THE STATE OF NEW YORK,

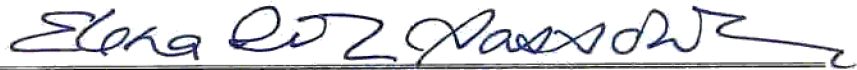
Respondents/Defendants.

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PLEASE TAKE NOTICE that petitioners/plaintiffs hereby appeal to the Appellate Division,
Third Department, at the Justice Building, 5th Floor, Empire State Plaza, Albany, New York 12223,
from the Decision and Order of Ulster County Supreme Court Justice David M. Gandin, dated
February 15, 2023 and entered in the Albany County Clerk’s Office on February 16, 2023. It is
attached herewith, together with petitioners’ “legal autopsy”/analysis thereof.

**Dated: White Plains, New York
February 23, 2023**

Yours, etc.



**ELENA RUTH SASSOWER, unrepresented petitioner/plaintiff,
individually & as Director of the Center for Judicial Accountability, Inc.,
and on behalf of the People of the State of New York & the Public Interest**

10 Stewart Place, Apartment 2D-E
White Plains, New York 10603
914-421-1200
elena@judgewatch.org

**TO: Attorney General Letitia James
The Capitol
Albany, New York 12224-0341**

ATT: Assistant Attorney General Gregory Rodriguez

**SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF ALBANY**

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 and the Public Interest,

Petitioners,

-against-

NEW YORK STATE JOINT COMMISSION ON PUBLIC
ETHICS, LEGISLATIVE ETHICS COMMISSION, NEW
YORK STATE INSPECTOR GENERAL, KATHY HOCHUL,
in her official capacity as GOVERNOR OF THE STATE OF
NEW YORK; ANDREA STEWART-COUSINS, in her official
capacity as TEMPORARY SENATE PRESIDENT and
THE NEW YORK STATE SENATE, CARL HEASTIE, in
his official capacity as ASSEMBLY SPEAKER and THE
NEW YORK STATE ASSEMBLY, LETITIA JAMES, in her
official capacity as ATTORNEY GENERAL OF THE STATE
OF NEW YORK, and THOMAS DiNAPOLI, in his official
capacity as COMPTROLLER OF THE STATE OF NEW
YORK,

Respondents.

DECISION AND ORDER

Index No. 904235-22

Present:

Hon. David M. Gandin, JSC

The following papers were read and considered on petitioners' motion to reargue and for other relief:

1. Notice of Motion with Exhibit;
2. Affirmation in Opposition;
3. Memorandum of Law;
4. Reply Affidavit with Exhibit.

Petitioners initiated this CPLR Article 78 special proceeding alleging that certain public officers and bodies violated State law and the New York State Constitution in connection with the handing of petitioners' public ethics complaints and the enactment of the 2022-2023 State budget. In a November 23, 2023 Decision, Order and Judgment the Court granted respondents' motion to dismiss the petition. Petitioners move, *inter alia*, for reargument on the motion or alternatively to vacate the Decision on grounds of lack of jurisdiction and fraud.

A motion for leave to reargue pursuant to CPLR §2221 is addressed to the sound discretion of the Court and may be granted only upon a showing that the court overlooked or misapprehended the facts or the law or for some reason mistakenly arrived at its earlier decision. *Schneider v. Solowey*, 141 A.D.2d 813 (2d Dept 1988). Reargument is not designed to afford the unsuccessful party successive opportunities to reargue issues previously decided or to present arguments different from those originally asserted. *Foley v. Roche*, 68 A.D.2d 558 (1st Dept 1979). "A motion to vacate a prior judgment ... is addressed to the court's sound discretion, subject to reversal only where there has been a clear abuse of that discretion." *Luderowski v. Sexton*, 152 AD3d 918, 920 (3d Dept 2017) (internal citation omitted).

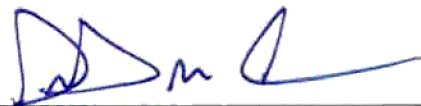
In moving to reargue petitioners merely reiterate claims previously raised in their petition and opposition to respondents' motion to dismiss. Their papers contain the same arguments previously heard and rejected by the Court. As such, petitioners have not demonstrated grounds for reargument. Similarly, petitioners fail to articulate grounds for vacatur based on a lack of jurisdiction or fraud. The Court has considered petitioners' remaining contentions and finds them to be without merit. Wherefore, it is

ORDERED that petitioners' motion is denied.

The foregoing constitutes the decision and order of the Court. The signing of this decision and order shall not constitute entry or filing under CPLR §2220. Counsel is not relieved from the applicable provisions of that rule regarding notice of entry.

Dated: February 15, 2023
Kingston, New York

ENTER:



DAVID M. GANDIN, J.S.C.

Pursuant to CPLR §5513, an appeal as of right must be taken within thirty (30) days after service by a party upon the appellant of a copy of the judgment or order appealed from and written notice of its entry, except that when the appellant has served a copy of the judgment or order and written notice of its entry, the appeal must be taken within thirty (30) days thereof.



02/16/2023

**“LEGAL AUTOPSY”¹/ANALYSIS OF THE FEBRUARY 15, 2023 DECISION AND ORDER
OF ULSTER COUNTY SUPREME COURT JUSTICE DAVID M. GANDIN**

**Center for Judicial Accountability, et al. v. JCOPE, et al.,
Albany Co. #904235-2022**

Very little need be said about Justice Gandin’s February 15, 2023 Decision and Order ([NYSCEF #130](#)) – his last judicial act in [CJA v. JCOPE, et al.](#) — other than that it is *prima facie* proof of his corruption, in office, on par with his prior decisions.

The indefensibility of those prior decisions, culminating in his November 23, 2022 “Decision, Order and Judgment” (NYSCEF [#111- #116](#)) – the subject of petitioners’ December 16, 2022 motion for reargument, vacatur, transfer/removal/certification that his February 15, 2023 decision denies – is summarized and particularized by petitioners’ 31-page, single-spaced “legal autopsy”/analysis that is Exhibit 1 ([NYSCEF #121](#)) to the motion ([NYSCEF #119](#)).

Justice Gandin’s February 15, 2023 decision makes no mention of the “legal autopsy”/analysis” – nor that its accuracy was undenied and undisputed by respondents, nor that this was highlighted by petitioners’ January 19, 2023 reply affidavit ([NYSCEF #128](#)), reciting the state of the record before him on the motion.

Indeed, notwithstanding the decision lists the motion, opposition, and reply as the “papers” that were “read and considered”, it conceals the ENTIRETY of their content. The extent of what it reveals – and this with respect to the December 16, 2022 motion – is that it was “*inter alia*, for reargument... or alternatively to vacate the [November 23, 2022] decision on grounds of lack of jurisdiction and fraud”. It furnishes NONE of the facts, law, or legal argument upon which petitioners’ motion was based, NOTHING about what respondents had to say in opposition, and NOTHING about what petitioners had to say in reply.

Instead, after a completely generic, boiler-plate, three-sentence paragraph of legal propositions: the first two sentences pertaining to reargument, each citing a single case, followed by a third sentence pertaining to vacatur – but not on grounds of lack of jurisdiction or fraud, but, rather, as its cited case reveals, relating to default – the decision baldly purports and decrees:

“In moving to reargue petitioners merely recite claims previously raised in their petition and opposition to respondents’ motion to dismiss. Their papers contain the same arguments previously heard and rejected by the Court. As such, petitioners have not demonstrated grounds for reargument. Similarly, petitioners fail to

¹ The term “legal autopsy” is taken from the law review article “*Legal Autopsies: Assessing the Performance of Judges and Lawyers Through the Window of Leading Contract Cases*”, 73 Albany Law Review 1 (2009), by Gerald Caplan, recognizing that the legitimacy of judicial decisions can only be determined by comparison with the record (‘...Performance assessment cannot occur without close examination of the trial record, briefs, oral argument and the like...’ (p. 53)).

articulate grounds for vacatur based on lack of jurisdiction or fraud. The Court has considered petitioners' remaining contentions and finds them to be without merit. Wherefore it is

ORDERED that petitioners' motion is denied.”

This is utter fraud by Justice Gandin – and petitioners' Exhibit 1 “legal autopsy”/analysis and January 19, 2023 reply affidavit establish this resoundingly, open-and-shut.

Suffice to add that the ONLY retreat from the fraud of Justice Gandin's two prior written decisions is that finally, with this third and last decision, he has used the proper case caption, though perhaps not because of petitioners' objection to his prior expurgated captions, set forth by the “legal autopsy”/analysis (at p. 9), but because of the additional length that the full caption gives to his short, short decision.²

² Included on page 1 of his barely two-page decision are two deceits that the “legal autopsy”/analysis” detailed, at length: (1) that petitioners' lawsuit is a “CPLR Article 78 special proceeding”, concealing that it is also a citizen-taxpayer action and declaratory judgment action; and (2) that respondents made a “motion to dismiss the petition”, when it was a cross-motion.