

Center for Judicial Accountability, Inc. (CJA)

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Monday, April 15, 2019 12:18 PM
To: 'mmcandrew@buffnews.com'
Cc: 'tprecious@buffnews.com'; 'McCarthy, Robert'; 'citydesk@buffnews.com'
Subject: NOW at the NY Court of Appeals: The unconstitutionality & unlawfulness of the state budget -- including "three men in a room" budget deal-making & the commission-based pay raises
Attachments: constitutional-provisions.pdf

TO: Buffalo News Watchdog Team Editor Mike McAndrew

Following up the voice mail message I left for you a short time ago (716-849-3448), below is the e-mail I sent yesterday to Buffalo News Albany reporter Tom Precious, whose voice mail indicates that he is away until April 29th and that callers should phone the City Desk, 716-849-4444.

Before doing so, I decided to call you – as the first and only reporter, to date, to have written anything about CJA's first-ever constitutional challenge to "three-men-in-a-room" budget deal-making, which you did on March 28, 2016, when you were at the Syracuse Post-Standard:

https://www.syracuse.com/state/2016/03/nonprofit_sues_cuomo_ny_legislature_over_3_men_in_a_room_budget_making.html. That ground-breaking challenge was part of CJA's first citizen-taxpayer action, suing the Governor, Legislature, Attorney General, Comptroller for corruption and "grand larceny of the public fisc" with respect to the budget – and is reiterated, *verbatim*, by CJA's second citizen-taxpayer action, whose defendants include the Chief Judge. It was to that second citizen-taxpayer action that I alerted you, last year, when we spoke together on May 2, 2018, following which I sent you a substantiating e-mail.

CJA's second citizen-taxpayer action is NOW at the Court of Appeals – and is the perfect touchstone for exposing the hypocrisy and deceptions of New York's posturing politicians, such as the 11 or so legislators quoted or referred-to in Mr. Precious' yesterday's article "*Upstate's political influence has declined. But does it show in the budget?*". My investigative proposal to him – perfect for the Buffalo News' Watchdog Team you head – is below.

Kindly e-mail me as to when I can expect your call about this time-sensitive proposal – whose innumerable explosive ramifications include knocking out the pay raises of the constitutional officers of our three government branches, consistent with what I stated on November 30, 2018 about the citizen-taxpayer action, in publicly testifying before the Committee on Legislative and Executive Compensation. CJA's webpage posting the VIDEO of my testimony, AND the evidence supporting it, is here: <http://www.judgewatch.org/web-pages/searching-nys/2018-legislature/hhh-compensation-committee/cja-testimony-11-30-18.htm>.

Meantime, I am also copying Buffalo News political reporter/columnist, Robert McCarthy, to whose line I was transferred by the City Desk, following my description of the nature of the story I was calling to pitch, in the absence of Mr. Precious. Mr. McCarthy's voice mail indicates that he is out of the office until tomorrow.

Thank you.

Elena Sassower, Director
Center for Judicial Accountability, Inc. (CJA)
www.judgewatch.org
914-421-1200

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

Sent: Sunday, April 14, 2019 10:43 AM

To: 'tprecious@buffnews.com' <tprecious@buffnews.com>

Subject: Getting to the Truth -- "Upstate's political influence has declined. But does it show in the budget?" -- 4/14/19 Buffalo News

TO: Tom Precious/Buffalo News

It is hard to get a clear answer to the question posed by your today's article, "*Upstate's political influence has declined. But does it show in the budget?*": <https://buffalonews.com/2019/04/14/upstates-political-influence-has-declined-does-it-show-in-the-budget/>. And contributing to that is your sentence: "The state budget is intentionally made to be too complex for most to understand."

You do not say who is responsible for making the state budget "too complex for most to understand". Is it the Governor, the Legislature, the Judiciary – and to what degree each? Nor do you clarify who the "most" is that cannot understand it. Are you including the legislators themselves? Or are you meaning only the public – and the press which is supposed to be informing the public?

Have you ever read Article VII, §§1-7 of the New York State Constitution pertaining to the state budget – and Article III, §10 pertaining to the openness of legislative proceedings? For your convenience, these provisions are attached so that you can discern, for yourself, that the budget is "OFF THE CONSTITUTIONAL RAILS" – and a slush-fund. That is why, for years, our non-partisan, non-profit citizens' organization has been suing the Governor, Legislators, Attorney General, Comptroller, and Chief Judge for their corruption and "grand larceny of the public fisc" with respect to the budget in two citizen-taxpayer actions. The second, encompassing the first, is NOW at the Court of Appeals, on an appeal of right. Among its unprecedented ten causes of action is a challenge to "three-men-in-a-room", behind-closed-doors budget deal-making AND a challenge to the behind-closed-doors legislative party conferences that substitute for open legislative committee debates and votes.

As there is nothing "too complex...to understand" about the ten causes of action of the citizen-taxpayer action – and about the lawsuit record culminating in the appeal of right, why don't you get responses to it all from the legislators – including those you quoted for your article. Are there any differences between the responses of: (1) upstate versus downstate legislators; (2) Republican versus Democratic legislators; (3) "conservative" versus "progressive" legislators; (3) lawyer-legislators versus those who are not; (4) "part-time" legislators with outside earned income versus "full-time" legislators with none; (5) newbie legislators versus the veterans?

And why not also get responses from constitutional scholars from upstate and downstate, bar associations from upstate and downstate, and "good government" groups also reflecting an upstate and downstate spread?

The full record of the citizen-taxpayer action is accessible from our homepage, www.judgewatch.org, via the prominent center link "CJA's Citizen-Taxpayer Actions to End NYS' Corrupt Budget 'Process' and Unconstitutional 'Three-Men-in-a-Room' Governance". The direct link to what is unfolding NOW at the Court of Appeals is here:

<http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/record-ct-of-appeals.htm>.

May I suggest you start with CJA's March 26, 2019 letter to the Court of Appeals in support of the appeal of right: <http://www.judgewatch.org/web-pages/searching-nys/budget/citizen-taxpayer-action/2nd/ct-appeals/3-26-19-ltr.htm>. Indeed, its concluding words (at pp. 21-22) are themselves a fertile ground for your questioning:

"What is before the Court, on this appeal of right, is catastrophic. Gone is the constitutional design of separation of executive and legislative powers – replaced by collusion of powers that has undone our State Constitution. And more than the budget

is at issue. It is the very governance of this State, as the budget has become a pass-through for policy having nothing to do with the budget – the ‘proposed legislation, if any’ of Article VII, §3 having become separated from its meaning in Article VII, §2: ‘proposed legislation, if any, which the governor may deem necessary to provide moneys and revenues sufficient to meet such proposed expenditures [of the budget],^[fn] further foisted by constitutionally unauthorized ‘non-appropriation’ Article VII budget bills.’^[fn]’. (underlining in the original).

I am available to assist you to the max in reporting on CJA’s historic citizen-taxpayer action to restore constitutional, fiscally-responsible, accountable governance for the benefit of ALL parts and People of this state. When will you be calling me?

Thank you.

Elena Sassower, Director
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