

From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Monday, July 4, 2022 10:19 PM

To: 'jheaney@investigativepost.org'; 'gkelly@investigativepost.org';
'mscheer@investigativepost.org'; 'ldowdall@investigativepost.org'

Subject: **July 4th ALERT -- TIME IS OF THE ESSENCE -- TRO/Preliminary Injunction:
"ethics commission reform act of 2022" -- CJA, et al. v. JCOPE, at al. (Albany
Co. #904235-22)**

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

TO: INVESTIGATIVE POST --

Jim Heaney, Geoff Kelly, March Scheer, Layne Dowdall

This Friday, July 8th, the “ethics commission reform act of 2022” will take effect, replacing the Joint Commission on Public Ethics (JCOPE) with a Commission on Ethics and Lobbying in Government. The statute, enacted *via* the state budget, is NO “reform” – and is markedly INFERIOR to the statute that had created JCOPE because it strips complainants and the public of enforceable rights for no purpose other than to better “protect” New York’s statewide executive officers – the Governor, Lt. Governor, Attorney General, and Comptroller – and New York’s 213 state legislators – from meritorious complaints.

To demonstrate the important rights that the “ethics commission reform act of 2022” eliminates – and to VOID the statute because it was enacted in flagrant violation of the New York State Constitution, statutes, legislative rules, and caselaw – the non-partisan, non-profit citizens’ organization Center for Judicial Accountability, Inc. (CJA), acting “on behalf of the People of the State of New York & the Public Interest”, has brought suit against JCOPE, against its statutory partner, the Legislative Ethics Commission (LEC), and against JCOPE’s statutory monitor, the New York State Inspector General (NYS-IG), plus those responsible for, and benefitting from, eliminating JCOPE and for corrupting constitutional, lawful state governance by the budget and otherwise, *to wit*, Governor Hochul, Temporary Senate President Andrea Stewart-Cousins, the Senate, Assembly Speaker Heastie, the Assembly, Attorney General James, and Comptroller DiNapoli.

The lawsuit, commenced by a [June 6th verified petition/complaint](#), is now before Ulster County Supreme Court Justice David Gandin by a [June 23rd notice of petition](#). The record is accessible *via* the New York Court’s electronic filing system – and the direct link to the NYSCEF docket is [here](#).

Below is my July 2nd e-mail to New York’s 15 deans comprising the “independent review committee” of the “ethics commission reform act of 2022” and pertains to my above-attached June 12th letter to them, to which I have received no responses. The e-mail highlights the lawsuit’s current status and reiterates their ethical, professional, and civic responsibilities with respect thereto – and to my June 12th letter.

How about getting the law school deans’ responses to the June 12th letter and what has been unfolding in the lawsuit since? Also the responses of others to whom I sent the letter, all of whom have kept mum:

- (1) the supposed “good government groups” of the “JCOPE Must Go” Coalition, such as NYPIRG, Common Cause, Reinvent Albany,

League of Women Voters, Citizens Union, the Sexual Harassment Working Group;

- (2) the New York City Bar Association, also a "JCOPE Must Go" Coalition member;
- (3) the "Committee to Reform the State Constitution", headed by former New York City Bar President Evan Davis, also a "JCOPE Must Go" Coalition member;
- (4) Syracuse University's Maxwell School of Citizenship and Public Affairs of its Campbell Public Affairs Institute, also a "JCOPE Must Go" Coalition member; and
- (5) the New York State Bar Association.

The webpage from which you can access my e-mails to them is [here](#), entitled: "**'TIME IS OF THE ESSENCE' -- SECURING THE PUBLIC'S 'MATTER OF LAW' ENTITLEMENT TO A TRO & PRELIMINARY INJUNCTION TO PREVENT THE 'ETHICS COMMISSION REFORM ACT OF 2022' FROM REPLACING JCOPE WITH SOMETHING WORSE**".

I am available to assist you, to the max, in investigating and reporting on this monumental corruption-eradicating lawsuit, requiring and requesting criminal referrals of Governor Hochul, Attorney General James, Comptroller DiNapoli, and New York's 213 state legislators, most running for re-election or higher offices – all the subject of fully-documented complaints, filed with JCOPE, for which the lawsuits seeks enforcement. It would be especially meaningful if you would contact me today, this 4th of July, "[Ancestor Appreciation Day](#)" – and I invite you to do so, even if it is only an e-mail that you will be phoning me tomorrow.

Thank you.

Elena Sassower, Director
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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
Sent: Saturday, July 2, 2022 9:29 PM

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Subject: TIME IS OF THE ESSENCE -- TRO/Preliminary Injunction: "ethics commission reform act of 2022" -- CJA, et al. v. JCOPE, at 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 Dean Sudha Setty
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

I have received no responses from you to my above-attached June 12th letter to you entitled: "Lawsuit to VOID the 'ethics commission reform act of 2022', TRO to stay the statute from taking effect on July 8th – & your ethical, professional, and civic responsibilities with respect thereto".

What are your answers? Here, as previously, is the [NYSCEF link to the docket of the lawsuit](#) so that you can see what has been happening.

Most recently, on June 30th, the lawsuit was assigned to Ulster County Supreme Court Justice David Gandin. Below – and pertaining to petitioners' [June 23rd notice of petition for a TRO/preliminary injunction](#) – is my July 1st e-mail exchange with Justice Gandin's principal law clerk, to which I cc'd the assistant attorney general who is representing ALL ten respondents, including respondent Attorney

General James. In addition to the June 23rd notice of petition, Justice Gandin has before him petitioners' [June 28th amended notice of petition](#), submitted in response to the Attorney General's frivolous and fraudulent June 27th dismissal motion, so-demonstrated by my [June 28th opposing affidavit in further support of the June 23rd notice of petition](#).

As your 15 law schools ALL have law professors teaching (1) ethics and professional responsibility; (2) New York civil procedure; (3) federal civil procedure; and (4) constitutional law, including, presumably, the New York State Constitution, state governance, and the role and functioning of the state Attorney General, please IMMEDIATELY forward this e-mail to them for their opinions and scholarship – and furnish me with their names so that I can just as IMMEDIATELY consult with them on how best to protect “the People of the State of New York & the Public Interest” in this important case expressly brought for that purpose.

The specific question for which I am requesting guidance from them and you is: IF, by Wednesday, July 6th, Justice Gandin does not grant a TRO/preliminary injunction, as a matter of law, based on the “papers” before him, or schedule an evidentiary hearing for Thursday, July 7th, can I, on Thursday, seek an EMERGENCY TRO/preliminary injunction in federal court, based on Article IV, §4 of the U.S. Constitution “The United States shall guarantee every State in this Union a Republican Form of Government”? What other constitutional and statutory provisions should be cited? And would the lawsuit be required to be filed in the U.S. District Court for the Northern District of New York, as opposed to the U.S. District Court for the Southern District of New York?

I am sending this to you today – the weekend of our cherished 4th of July, as fireworks are exploding – because TIME IS OF THE ESSENCE and so that, by your actions, you can give meaningful commemoration of, and tribute to, our nation's founding and founders.

As [my June 12th letter to you](#) cc'd the then Part 1 “duty judge”, Albany County Supreme Court Justice Peter Lynch, and also respondents, I believe it appropriate to here cc assigned Justice Gandin, the assistant attorney general representing the respondents, and the respondents. Likewise to cc the [New York Law Journal](#), also cc'd on my June 12th letter – and which, on June 13th, published a front-page, above-the-fold article about the lawsuit “[Citizens' Group Seeks To Void Repeal And Replacement of NY Ethics Watchdog](#)” – devoid of ANY comment about it by ANY legal experts or other authorities – thereafter publishing, on June 17th, a front-page, above-the-fold article about you “[Committee Comprising 15 NY Law Deans Breaks Down Review Process for Ethics Panel](#)” – devoid of ANY reference to the lawsuit, let alone comment from you about it. There is no subsequent reporting by the [Law Journal](#) either about the lawsuit or about you.

The [Law Journal's](#) June 17th article is largely based on [your June 15th press release](#), which, with [your website](#) posting it, I only discovered while writing this e-mail. In pertinent part, your press release states:

“The State's Law Deans did not participate in the legislative negotiations that led to the statutory creation of the IRC. The IRC's procedures were developed independently and exclusively by its members. After they were drafted, the IRC advised counsel to the nominating elected officials, as well as good government groups, on what the procedures require.”

While I commend you on your independently-developed procedures whose seven-day public comment period you presumably included so as to prevent yourselves from being completely used as “window dressing” – as the “ethics commission reform act of 2022”, *as written*, potentially enabled – your salutary procedures can easily be transposed to a statute that is constitutionally and lawfully enacted, which the “ethics commission reform act of 2022” is not. Or are you maintaining that it is – and, if so, where are your findings of fact and conclusions of law with respect to the [verified petition](#)’s sixth cause of action: “Declaring Unconstitutional, Unlawful, and Void Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the ‘ethics commission reform act of 2022’ – Enacted in Violation of Mandatory Provisions of the New York State Constitution, Statutes, Legislative Rules, and Caselaw” (¶¶78-85).

As for the “good government groups” to whom you furnished your procedures, in draft, these presumably are the groups comprising the “JCOPE Must Go” Coalition whose lawyers include “Evan Davis, former counsel to Gov. Mario Cuomo, and manager of the Committee to Reform the State Constitution; Edward Murray, who chairs the New York City Bar Association (sic); and Susan Learner, executive director of Common Cause/New York State” – so identified by the [Law Journal](#)’s June 13th article. Did they tell you about my [June 9th e-mail](#) apprising them of the lawsuit and asking if they would forward it to you for your evaluation.

So that the “JCOPE Must Go” Coalition, starting with its lawyers and, especially, the New York City Bar Association, can discharge some ethical and professional responsibility and civic duty and – like yourselves – come forward with findings of fact and conclusions of law as to the [verified petition](#)’s sixth cause of action as to the unconstitutionality and unlawfulness of the enactment of the “ethics commission reform act of 2022”, I will separately forward this e-mail to them and, additionally, to the New York State Bar Association, to which, presumably, you are all members, your faculty are all members or virtually so, and which doubtlessly you encourage your law students to join.

It is on the sixth cause of action that petitioners’ open-and-shut, *matter of law* entitlement to a TRO/preliminary injunction rests and it specifies (at ¶82) the “starting point” for the declaration of unconstitutionality to be my March 18, 2020 letter to then Governor Cuomo. This is the same letter as the last paragraph of my June 12th letter to you refers in stating:

“Lastly, as I am unaware of ANY scholarship on the [Court of Appeals’ 2004 plurality, concurring, and dissenting opinions in Pataki v. Assembly/Silver v. Pataki, 4 NY3d 75](#), pertaining to the state budget, as to which I did my own analysis, set forth by my March 18, 2020 letter to then Governor Cuomo, *cc’ing, inter alia*, Division of the Budget Director Mujica, Temporary Senate President Stewart-Cousins, and Assembly Speaker Heastie – the same letter as is [Exhibit A-5 to the petition/complaint](#) because, as identified at the petition’s ¶82, it is ‘the starting point for the declaration that Part QQ was unconstitutionally enacted’— please furnish me with the names of your faculty who are scholars of Article VII of the New York State Constitution pertaining to the state budget and necessarily familiar with *Pataki v. Assembly/Silver v. Pataki*, so that I may call them as ‘expert witnesses’ on the hearing on the preliminary injunction to which [CPLR §6313\(a\)](#) entitles me ‘at the earliest possible time’ upon the granting of the TRO, to which I am entitled, *as a matter of law*, based on the mountain of flagrant constitutional, statutory, and legislative rule violations pertaining to the budget that the petition specifies (¶¶81-82, 87-89).” (capitalization, italics, hyperlinking in the original, cited paragraph numbers corrected).

As for the particulars pertaining to the FY2022-23 budget – as opposed to the particulars of the FY2020-21 budget, recited by my March 18, 2020 letter – and, specifically, the FY2022-23 budget enactment of the “ethics commission reform act of 2022”, here’s petitioners’ [CPLR §2014\(c\) notice to respondents of papers to be furnished to the Court](#), referred-to by my below e-mail to Justice Gandin’s law clerk.

Please let me hear from you by noon, Tuesday, July 5th.

Thank you.

Elena Sassower, Director
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From: Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>
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Subject: TRO/Preliminary Injunction -- RE: Center for Judicial Accountability, Inc., et al. v. NYS Joint Commission on Public Ethics at al. (904235-22)

Dear Law Clerk Collado,

Thank you for your response, disappointing as it is. Fortunately, I believe the verified petition, its exhibits, and my sworn affidavits in support of petitioners’ notice of petition & orders to show cause to be more than sufficient for the granting of the TRO/preliminary injunction sought – and *as a matter of law*. Should the Court decide that it will entertain not just argument, but petitioners’ requested EVIDENTIARY hearing (¶12 of my 6/28/22 affidavit) – substantiated by their CPLR §2214(c) notice – it will only confirm as much.

Meantime, I have packed up a hard copy of petitioners’ papers to send to the Court, as required -- and will be leaving shortly for the post office.

May your 4th of July observances be meaningful.

Thank you.

Elena Sassower, unrepresented petitioner/plaintiff
914-421-1200

From: Gandin Chambers <gandinchambers@nycourts.gov>

Sent: Friday, July 1, 2022 2:25 PM

To: elena@judgewatch.org

Subject: Center for Judicial Accountability, Inc., et al. v. NYS Joint Commission on Public Ethics at al. (904235-22)

Good Afternoon Ms. Sassower,

Thank you for your patience, this message is in response to your phone call to chambers from this morning. This matter was recently assigned to Judge Gandin and we have been reviewing the parties' moving papers. At this time, the Court will NOT hear oral arguments. Any pending applications for temporary injunctive relief, petitions and motions before the Court will be decided on papers only as soon as possible.

Michael Collado

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