

**Appellate Division Docket #CV-23-0115**

SUPREME COURT OF THE STATE OF NEW YORK  
APPELLATE DIVISION, THIRD DEPARTMENT

----- X

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,

Albany Co. Index #: 904235-22  
AD Docket #: CV-23-0115

Appellants,

-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.

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**RECORD ON APPEAL**  
**Volume II [R.422-R.596]**

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ELENA RUTH SASSOWER, unrepresented Appellant,  
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](mailto:elena@judgewatch.org)

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Stipulation in Lieu of Certification Pursuant to CPLR §5532

## **APPELLANTS' STATEMENT PURSUANT TO CPLR §5531**

1. The index number of the case in the court below is 904235-22.
2. The full names of the original parties are set forth in the caption. There have been no changes, other than that on July 8, 2022, pursuant to the “ethics commission reform act of 2022”, Respondent/Defendant Joint Commission on Public Ethics (JCOPE) was shut down – replaced by the Commission on Ethics and Lobbying in Government (COELIG).
3. The action was commenced in Supreme Court, Albany County.
4. This action was commenced on June 7, 2022 by the filing of a Verified Petition/Complaint, an RJL, and an Order to Show Cause for mandamus, declaratory relief, and a preliminary injunction to stay the “ethics commission reform act of 2022” from taking effect on July 8, 2022 and to enjoin JCOPE from closing on that date.

On June 23, 2022, all Respondents/Defendants were personally served with the Verified Petition/Complaint and a Notice of Petition, whose requested relief – based on what had occurred in connection with Petitioners/Plaintiffs’ OSC for a preliminary injunction and TRO – now included transfer/removal to federal court or certification of the question and directing Respondent/Defendant Attorney General Letitia James to identify:

- “i. that a determination has been made, pursuant to Executive Law §63.1 as to the ‘interest of the state’ herein; and
- ii. that a determination has been made that she can ethically, lawfully, and constitutionally represent her fellow respondents/defendants herein, where she is a party with direct financial and other interests, as in the March 5, 2021 complaint filed with JCOPE against her (Exhibit D to the verified petition/complaint)”.

On September 1, 2023, by a Verified Amendment to their Verified Petition/Complaint, served *via* NYSCEF, Petitioners/Plaintiffs supplemented their first and fifth causes of action to include the certiorari provided for by Article 78.

5. This is a hybrid Article 78 proceeding, CPLR §3001 declaratory judgment action, and State Finance Law Article 7-A citizen-taxpayer action against public officers and bodies who have violated mandatory statutory, constitutional, and rule provisions to corrupt New York state governance, misappropriate vast amounts of taxpayer monies, and insulate themselves from ethics complaints. In addition to the mandamus, certiorari, and other declarations the Verified Petition/Complaint seeks with respect to its ten causes of action, it additionally seeks an order:

“referring respondents to the Public Integrity Section of the U.S. Department of Justice’s Criminal Division for investigation and prosecution of their public corruption, obliterating constitutional, lawful governance and stealing taxpayer monies, documentarily-established by petitioners’ interrelated complaints to the New York State Joint Commission on Public Ethics, to the Legislative Ethics Commission, to the New York State Inspector General, to the New York State Commission on Judicial Conduct, to the Appellate Division attorney grievance committees, and to the Unified Court System’s Inspector General, among other ethics oversight and enforcement entities”.

6. These are two appeals: (1) from a November 23, 2022 “Decision, Order and Judgment” of Ulster County Supreme Court Justice David Gandin, entered on that date, which contains NO judgment; and (2) from Justice Gandin’s February 15, 2023 Decision and Order, entered on February 16, 2023.
7. These appeals are being perfected on a full, reproduced record.

SUPREME COURT OF 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 #:

Petitioners/Plaintiffs

**ORDER TO SHOW CAUSE  
FOR MANDAMUS,  
DECLARATORY RELIEF,  
& PRELIMINARY INJUNCTION**

-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.

-----X

Upon the annexed affidavit of the *pro se* individual petitioner/plaintiff Elena Ruth Sassower,  
sworn to on June 6, 2022, the accompanying verified petition/complaint, its exhibits and links, and  
upon all the papers and proceedings heretofore had

LET respondents/defendants show cause before this Court at the Albany County Courthouse, Room 102, 16 Eagle Street, Albany, New York 12207 on the \_\_\_\_\_ day of June 2022 at 10:00 a.m. or as soon thereafter as they may be heard, why an order should not issue:

(1) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §§94.13(a) and (b) with respect to petitioners' seven complaints – starting with the ministerial act of 15-day letters;

(2) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §94.9(l)(i) mandating that its annual reports contain “a listing by assigned number of each complaint and referral received which alleged a possible violation within its jurisdiction, including the current status of each complaint” – starting with its upcoming annual report for 2021 and such annual report as it will be rendering for 2022;

(3) directing that Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie comply with Legislative Law §80.1 and §80.4 mandating their joint appointment of the Legislative Ethics Commission's ninth member – this being the non-legislative member that makes non-legislators its majority;

(4) directing that the Legislative Ethics Commission comply with Legislative Law §80.7(l) pertaining to its annual reports – starting with rendering annual reports for 2020 and 2021;

(5) directing that the New York State Inspector General comply with the mandates of Executive Law Article 4-A and its own Policy and Procedure Manual, violated by its handling of petitioners' November 2, 2021 complaint – and declaring the provision of the Policy and Procedure Manual that allows the Inspector General to take “no action” on complaints involving “covered agencies” to be violative of Executive Law §53.1 and void;

(6) 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;

(7) declaring unconstitutional, unlawful, and void the FY2022-23 New York state budget, enacted in violation of mandatory provisions of the New York State Constitution, statutes, and legislative rules, and caselaw;

(8) declaring unconstitutional, unlawful, larcenous, and void Legislative/Judiciary Budget Bill #S.8001-A/A.9001-A, enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw;

(9) declaring unconstitutional, larcenous, and void the FY2022-23 appropriations for the New York State Commission on Judicial Conduct, the New York State Inspector General, the Appellate Division attorney grievance committees, and the Unified Court System's Inspector General – based on the evidence of their flagrant corruption in handling complaints furnished by petitioners at the Legislature's January 25, 2022 “public protection” budget hearing and again by their March 25, 2022 e-mail;

(10) declaring unconstitutional, *as written* and *as applied*, Public Officers Law §108.2(b), violating Article III, §10 of the New York State Constitution and legislative rules consistent therewith, by exempting the Legislature from the Open Meetings Law to enable it to discuss “public business” in closed-door party conferences, rather than openly in committees and on the Senate and Assembly floor;

(11) such other and further relief as may be just and proper and, specifically:

- (a) referring respondents to the Public Integrity Section of the U.S. Department of Justice's Criminal Division for investigation and prosecution of their public corruption, obliterating constitutional, lawful governance and stealing taxpayer monies, documentarily-established by petitioners' interrelated complaints to the New York State Joint Commission on Public Ethics, to the Legislative Ethics Commission, to the New York State Inspector General, to the New York State Commission on Judicial Conduct, to the Appellate Division attorney grievance committees, and to the Unified Court System's Inspector General, among other ethics oversight and enforcement entities;
- (b) \$100 motion costs to petitioners-plaintiffs pursuant to CPLR §8202.

SUFFICIENT CAUSE APPEARING THEREFORE, let a preliminary injunction issue staying Part QQ of the Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – from taking effect on July 8, 2022 which, pursuant to its §19, is “the ninetieth day after it shall have become a law”, pending final determination of this order to show cause and the verified petition/complaint, and enjoining respondent/defendant New York State Joint Commission on Public Ethics from closing.

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the \_\_\_\_\_ day of June 2022 upon respondents/defendants by \_\_\_\_\_ service be deemed good and sufficient service.

ANSWERING PAPERS, if any, are to be served via \_\_\_\_\_, at least \_\_\_\_\_ days prior to the return date of this order to show cause, *to wit*, June \_\_\_\_\_, 2022.

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Justice, Albany County Supreme Court



Petitioners' June 6, 2022 affidavit in support of OSC [R.426-432]

SUPREME COURT OF STATE OF NEW YORK  
COUNTY OF ALBANY

----- X  
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,

**AFFIDAVIT IN SUPPORT  
OF ORDER TO SHOW CAUSE  
FOR MANDAMUS,  
DECLARATORY RELIEF, &  
PRELIMINARY INJUNCTION**

Petitioners/Plaintiffs,  
-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.

-----X  
STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        ) ss.:

ELENA RUTH SASSOWER, being duly sworn deposes and says:

Petitioners' June 6, 2022 affidavit in support of OSC [R.426-432]

1. I am the above-named *pro se* individual petitioner/plaintiff, fully familiar with all the facts, papers, and proceedings that are the subject of the verified petition/complaint herein,<sup>1</sup> which I have written and to whose truth I have sworn.

2. Petitioners, acting on their own behalf and behalf of the People of the State of New York and the Public Interest, commence this hybrid Article 78 proceeding, declaratory judgment action, and citizen-taxpayer action on this, the 78<sup>th</sup> anniversary of D-Day, to secure the mandamus and declaratory relief compelled, *as a matter of law*, by the New York State Constitution, New York statutes, legislative rules, and caselaw.

3. As time is of the essence, we proceed electronically, *via* NYSCEF and by order to show. Apart from the vast amounts of taxpayer monies that have been misappropriated and are being dissipated by the unconstitutional, unlawful, and larcenous FY2022-23 state budget – entitling petitioners to relief pursuant to State Finance Law, Article 7-A (§123 *et seq.*)<sup>2</sup> – the “ethics commission reform act of 2022”, which is part of the budget and abolishes the JOINT COMMISSION ON PUBLIC ETHICS [hereinafter “JCOPE”], will take effect on July 8, 2022.

4. It is this “ethics commission reform act of 2022 ” that has triggered this lawsuit, being non-fiscal policy legislation that was unconstitutionally and unlawfully inserted as Part QQ into Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C, itself unconstitutional and fraudulently introduced as “A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution” and then three times “amended” unconstitutionally and by fraud.

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<sup>1</sup> For simplicity, hereinafter referred to as “petitioners” and “petition” – and respondents/defendants as “respondents”.

<sup>2</sup> State Finance Law §123-b(1) provides for equitable and declaratory relief for “a wrongful expenditure, misappropriation, misapplication, or any other illegal or unconstitutional disbursement of state funds or state property...” with State Finance Law §123-e(2) providing for the granting of a preliminary injunction.

Petitioners' June 6, 2022 affidavit in support of OSC [R.426-432]

5. To secure judicial determination of the constitutionality and lawfulness of Part QQ as immediately as possible and prevent the mooted of petitioners' first two branches of mandamus relief against JCOPE that would result from JCOPE's demise, petitioners seek the earliest reasonable return date for their order to show cause whose eleven branches of relief – the same as the petition's – culminate in a request for a preliminary injunction to prevent QQ from taking effect pending final determination of this order to show cause and the petition and enjoining JCOPE from closing.

6. Respondents will not be prejudiced by an expeditious return date. As reflected by the petition, all have had years in which to grapple with the constitutional and statutory issues pertaining to the New York state budget and JCOPE – issues concisely summarized by the petition's first exhibit: the April 13, 2022 complaint that petitioners filed with JCOPE ([Exhibit A-1](#)), and simultaneously furnished to the NEW YORK STATE INSPECTOR GENERAL ["NYS-IG"] whose jurisdiction extends to JCOPE as a "covered agency".

7. Upon the Court's signing of the order to show cause – which, excepting the insertion of expedited dates, is a strictly ministerial act – I will immediately e-mail respondents, all state officers and entities, the signed order to show cause and the underlying papers on which it is based, further furnishing them with the link to where everything is posted on the CENTER FOR JUDICIAL ACCOUNTABILITY's website<sup>3</sup> – and request that they accept same as service or promptly consent to service, *via* NYSCEF.

8. As obvious from even a superficial review of the petition, its exhibits, and the scores, if not hundreds, of evidentiary links they cumulatively furnish, petitioners' likelihood of success on the merits is 100%, assuming the Court is fair and impartial, guided by the facts and the law, as it is

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<sup>3</sup> The direct link to the menu webpage I have created for this lawsuit is here: <https://judgewatch.org/web-pages/lawsuit-jcope-et-al/menu.htm>.

## Petitioners' June 6, 2022 affidavit in support of OSC [R.426-432]

required to be pursuant to [§100.3E of the Chief Administrator's Rules Governing Judicial Conduct](#), and [Judiciary Law §14](#).

9. Judiciary Law §14<sup>4</sup> is, in fact, the threshold issue before this Court, as its judges all have HUGE direct financial and other interests in the petition's eleven branches of relief. This is manifest from the complaints annexed to the petition whose determination by JCOPE and the NYS-IG is sought to be compelled by mandamus. All the complaints involve the commission-based 'force of law' judicial pay raises that have boosted each judge's salary by approximately \$80,000 per year, the Judiciary's own budget, and the New York State Commission on Judicial Conduct. By reason thereof, the Court is without jurisdiction to proceed<sup>5</sup> – as to which “rule of necessity” cannot

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<sup>4</sup> Judiciary Law §14 entitled “Disqualification of judge by reason of interest or consanguinity” reads, in pertinent part:

“A judge shall not sit as such in, or take any part in the decision of, an action, claim, matter, motion or proceeding to which he is a party, or in which he has been attorney or counsel, or in which he is interested, or if he is related by consanguinity or affinity to any party to the controversy within the sixth degree. ...”

<sup>5</sup> See Appellate Division, Third Department's decision in *People v. Alteri*, [47 A.D.3d 1070 \(2008\)](#), stating:

“A statutory disqualification under Judiciary Law §14 will deprive a judge of jurisdiction (see *Wilcox v. Supreme Council of Royal Arcanum*, 210 N.Y. 370, 377, 104 N.E. 624 [1914]; see also *Matter of Harkness Apt. Owners Corp. v. Abdus-Salaam*, 232 A.D.2d 309, 310, 648 N.Y.S.2d 586 [1996]) and void any prior action taken by such judge in that case before the recusal (see *People v. Golston*, 13 A.D.3d 887, 889, 787 N.Y.S.2d 185 [2004], lv. denied 5 N.Y.3d 789, 801 N.Y.S.2d 810, 835 N.E.2d 670 [2005]; *Matter of Harkness Apt. Owners Corp. v. Abdus-Salaam*, 232 A.D.2d at 310, 648 N.Y.S.2d 586). In fact, “a judge disqualified under a statute cannot act even with the consent of the parties interested, because the law was not designed merely for the protection of the parties to the suit, but for the general interests of justice” ‘ (*Matter of Beer Garden v. New York State Liq. Auth.*, 79 N.Y.2d 266, 278–279, 582 N.Y.S.2d 65, 590 N.E.2d 1193 [1992], quoting *Matter of City of Rochester*, 208 N.Y. 188, 192, 101 N.E. 875 [1913])”. (underlining added).

Also, the Appellate Division, First Department's decision in *Matter of Sterling Johnson, Jr. v. Hornblass*, [93 AD2d 732, 733 \(1983\)](#):

“Section 14 of the Judiciary Law... is the sole statutory authority in New York for disqualification of a Judge. If disqualification under the statute were found, prohibition would lie, since there would be a lack of jurisdiction. There is an express statutory

## Petitioners' June 6, 2022 affidavit in support of OSC [R.426-432]

be invoked, because such is predicated on jurisdiction that Judiciary §14 divests from interested judges.<sup>6</sup>

10. As the same applies to every judge of New York's Unified Court System, the Court's only option is to transfer/remove the case to the federal courts, including pursuant to Article IV, §4 of the United State Constitution: "The United States shall guarantee every State in this Union a Republican Form of Government."

11. As the signing of the order to show cause is a ministerial act for relief that, but for an accelerated return date, petitioners could seek by notice of motion, the Court's refusal to even insert unaccelerated CPLR time parameters and so-sign the order to show cause would be inexplicable except as a manifestation of actual bias, born of interests and relationships. In such event, the Court's signed declination on the order to show must be accompanied by an explanation.

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disqualification. (See *Matter of Merola v. Walsh*, 75 AD2d 163; *Matter of Katz v. Denzer*, 70 AD2d 548; *People ex rel., Devery v. Jerome*, 36 Misc 2d 256.)" (underlining added).

*Oakley v. Aspinwall*, 3 NY 547, 548, 551 (Court of Appeals, 1850); 28 New York Jurisprudence 2nd §403 (2018).

<sup>6</sup> See 32 New York Jurisprudence §45 (1963), "Disqualification as yielding to necessity":

"...since the courts have declared that the disqualification of a judge for any of the statutory reasons deprives him of jurisdiction,<sup>fn</sup> a serious doubt exists as to the applicability of the necessity rule where the judge is disqualified under the statute.<sup>fn</sup>"

Conspicuously, when New York courts invoke the "rule of necessity" in cases involving judicial self-interest governed by Judiciary Law §14, they do NOT cite to Judiciary Law §14, which divests them of jurisdiction. Instead they cite, either directly or through other cases, to *United States v. Will*, [449 U.S. 200, 210-211 \(1980\)](#), wherein the U.S. Supreme Court **expressly and under the title heading "Jurisdiction"**, recited its jurisdiction and that of the lower federal judiciary to decide a case involving their own pay raises, there being no federal statute removing from them jurisdiction to do so.

Illustrating the New York courts' sleight of hand with respect to "rule of necessity" in cases of judicial self-interest: the Court of Appeals decisions in *Maresca v. Cuomo*, [64 NY2d 242, 247, n 1 \(1984\)](#), *Matter of Morgenthau v. Cooke*, [56 NY2d 24, 29, n 3 \(1982\)](#), as well as in *Maron v. Silver*, [14 NY3d 230, 249 \(2010\)](#) – this being its decision consolidating appeals in three lawsuits by New York judges suing for pay raises. Similarly, the Appellate Division, Third Department's decision in the *Maron* case, [58 AD3d 102, 106-107](#).

## Petitioners' June 6, 2022 affidavit in support of OSC [R.426-432]

12. No application for the same or similar relief has been made to this or any other Court, except by:

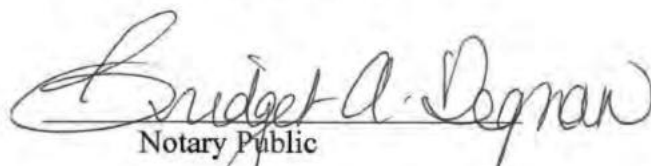
- [petitioners' two prior citizen-taxpayer actions](#), each bearing the shorthand caption, *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Albany Co. #1788-2014), (Albany Co. #5122-16), neither case involving the FY2022-23 state budget or seeking mandamus and declaratory relief against JCOPE, its statutory partner, the Legislative Ethics Commission (LEC), or against the NYS-IG;
- [petitioners' declaratory judgment action](#), also bearing the shorthand caption, *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Bronx Co. #302951-2012; transferred to New York Co. #401988-2012);
- [petitioners' April 23, 2014 order to show cause to intervene in the Legislature's declaratory judgment action against the Commission to Investigate Public Corruption](#) (New York Co. #160941-2013), whose proposed verified complaint annexed petitioners' June 27, 2013 complaint to JCOPE ([Exhibit G](#)) and their July 11, 2013 complaint to NYS-IG ([Exhibit H](#)).

13. As verifiable from [the records of all four litigations](#), they were each “thrown” by a double-whammy of litigation fraud by the New York Attorney General, rewarded by fraudulent decisions of New York judges. This is so-highlighted by petitioners' March 5, 2021 complaint to JCOPE ([Exhibit D-1](#)), resting on and annexing as exhibits their June 4, 2020 grand jury/corruption complaint to Albany County District Attorney P. David Soares and their June 13, 2020 grand jury/corruption complaint to then Montgomery County District Attorney Kelli McCoski, and furnishing further substantiation by petitioners' linked February 11, 2021 complaint against Attorney General JAMES, Solicitor General Underwood, and attorneys under their supervision, filed with the Appellate Division attorney grievance committees ([Exhibit D-2](#)) and petitioners' linked February 7, 2021 judicial misconduct complaint to the Commission on Judicial Conduct ([Exhibit D-3](#)), incorporated therein.

Petitioners' June 6, 2022 affidavit in support of OSC [R.426-432]

  
ELENA RUTH SASSOWER

Sworn to before me this  
6<sup>th</sup> day of June 2022 –  
(78<sup>th</sup> anniversary of D-Day)

  
Notary Public

**Bridget A. Degnan**  
Notary Public, State of New York  
No. 04DE6246735  
Qualified in Westchester County  
Commission Expires August 15, 2023



**REQUEST FOR JUDICIAL INTERVENTION**

Supreme COURT, COUNTY OF Albany

Index No: \_\_\_\_\_ Date Index Issued: \_\_\_\_\_

**For Court Use Only:****CAPTION**

Enter the complete case caption. Do not use et al or et ano. If more space is needed, attach a caption rider sheet.

Elena Ruth Sassower, Center for Judicial Accountability, Inc., 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

Plaintiff(s)/Petitioner(s)

-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, New York State Senate, Car...

Defendant(s)/Respondent(s)

IAS Entry Date

Judge Assigned

RJl Filed Date

**NATURE OF ACTION OR PROCEEDING:**

Check only one box and specify where indicated.

**COMMERCIAL**

- ☐ Business Entity (includes corporations, partnerships, LLCs, LLPs, etc.)  
☐ Contract  
☐ Insurance (where insurance company is a party, except arbitration)  
☐ UCC (includes sales and negotiable instruments)  
☐ Other Commercial (specify): \_\_\_\_\_

**NOTE:** For Commercial Division assignment requests pursuant to 22 NYCRR 202.70(d), complete and attach the **COMMERCIAL DIVISION RJl ADDENDUM (UCS-840C)**.

**TORTS**

- ☐ Asbestos  
☐ Child Victims Act  
☐ Environmental (specify): \_\_\_\_\_  
☐ Medical, Dental or Podiatric Malpractice  
☐ Motor Vehicle  
☐ Products Liability (specify): \_\_\_\_\_  
☐ Other Negligence (specify): \_\_\_\_\_  
☐ Other Professional Malpractice (specify): \_\_\_\_\_  
☐ Other Tort (specify): \_\_\_\_\_

**SPECIAL PROCEEDINGS**

- ☐ Child-Parent Security Act (specify): ☐ Assisted Reproduction ☐ Surrogacy Agreement  
☐ CPLR Article 75 - Arbitration [see **NOTE** in **COMMERCIAL** section]  
☒ CPLR Article 78 - Proceeding against a Body or Officer  
☐ Election Law  
☐ Extreme Risk Protection Order  
☐ MHL Article 9.60 - Kendra's Law  
☐ MHL Article 10 - Sex Offender Confinement (specify): ☐ Initial ☐ Review  
☐ MHL Article 81 (Guardianship)  
☐ Other Mental Hygiene (specify): \_\_\_\_\_  
☐ Other Special Proceeding (specify): \_\_\_\_\_

**MATRIMONIAL**

- ☐ Contested

**NOTE:** If there are children under the age of 18, complete and attach the **MATRIMONIAL RJl ADDENDUM (UCS-840M)**.

For Uncontested Matrimonial actions, use the Uncontested Divorce RJl (**UD-13**).

**REAL PROPERTY** Specify how many properties the application includes: \_\_\_\_\_

- ☐ Condemnation  
☐ Mortgage Foreclosure (specify): ☐ Residential ☐ Commercial  
 Property Address: \_\_\_\_\_

**NOTE:** For Mortgage Foreclosure actions involving a one to four-family, owner-occupied residential property or owner-occupied condominium, complete and attach the **FORECLOSURE RJl ADDENDUM (UCS-840F)**.

- ☐ Partition

**NOTE:** Complete and attach the **PARTITION RJl ADDENDUM (UCS-840P)**.

- ☐ Tax Certiorari (specify): Section: \_\_\_\_\_ Block: \_\_\_\_\_ Lot: \_\_\_\_\_  
☐ Tax Foreclosure  
☐ Other Real Property (specify): \_\_\_\_\_

**OTHER MATTERS**

- ☐ Certificate of Incorporation/Dissolution [see **NOTE** in **COMMERCIAL** section]  
☐ Emergency Medical Treatment  
☐ Habeas Corpus  
☐ Local Court Appeal  
☐ Mechanic's Lien  
☐ Name Change/Sex Designation Change  
☐ Pistol Permit Revocation Hearing  
☐ Sale or Finance of Religious/Not-for-Profit Property  
☐ Other (specify): \_\_\_\_\_

**STATUS OF ACTION OR PROCEEDING**

Answer YES or NO for every question and enter additional information where indicated.

**YES NO**

- Has a summons and complaint or summons with notice been filed? ☐ ☒ If yes, date filed: \_\_\_\_\_  
 Has a summons and complaint or summons with notice been served? ☐ ☒ If yes, date served: \_\_\_\_\_  
 Is this action/proceeding being filed post-judgment? ☐ ☒ If yes, judgment date: \_\_\_\_\_

**NATURE OF JUDICIAL INTERVENTION**

Check one box only and enter additional information where indicated.

- ☐ Infant's Compromise  
☐ Extreme Risk Protection Order Application  
☐ Note of Issue/Certificate of Readiness  
☐ Notice of Medical, Dental or Podiatric Malpractice  
☐ Notice of Motion  
☐ Notice of Petition  
☒ Order to Show Cause  
☐ Other Ex Parte Application  
☐ Partition Settlement Conference  
☐ Poor Person Application  
☐ Request for Preliminary Conference  
☐ Residential Mortgage Foreclosure Settlement Conference  
☐ Writ of Habeas Corpus  
☐ Other (specify): \_\_\_\_\_

Date Issue Joined: \_\_\_\_\_

Relief Requested: \_\_\_\_\_

Relief Requested: \_\_\_\_\_

Relief Requested: Article 78 (Body or Officer)

Relief Requested: \_\_\_\_\_

Return Date: \_\_\_\_\_

Return Date: \_\_\_\_\_

Return Date: \_\_\_\_\_



RELATED CASES				
List any related actions. For Matrimonial cases, list any related criminal or Family Court cases. If none, leave blank. If additional space is required, complete and attach the <b>RJI Addendum (UCS-840A)</b> .				
Case Title	Index/Case Number	Court	Judge (if assigned)	Relationship to instant case

PARTIES				
For parties without an attorney, check the "Un-Rep" box and enter the party's address, phone number and email in the space provided. If additional space is required, complete and attach the <b>RJI Addendum (UCS-840A)</b> .				
Un-Rep	Parties	Attorneys and Unrepresented Litigants	Issue Joined	Insurance Carriers
	List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3 <sup>rd</sup> party plaintiff, etc.)	For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	For each defendant, indicate if issue has been joined.	For each defendant, indicate insurance carrier, if applicable.
<input type="checkbox"/>	Name: Sassower, Elena R. Role(s): Plaintiff/Petitioner	Elena Sassower, 10 Stewart Place, Apt 2-DE , White Plains, NY 10603-3874, elena@judgewatch.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Center for Judicial Accountability, Inc. Role(s): Plaintiff/Petitioner	Elena Sassower, 10 Stewart Place, Apt 2-DE , White Plains, NY 10603-3874, elena@judgewatch.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input type="checkbox"/>	Name: Sassower, Elena R. Role(s): Plaintiff/Petitioner	Elena Sassower, 10 Stewart Place, Apt 2-DE , White Plains, NY 10603-3874, elena@judgewatch.org	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: New York State Joint Commission on Public Ethics Role(s): Defendant/Respondent	540 Broadway, Albany, NY 12207	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Legislative Ethics Commission Role(s): Defendant/Respondent	80 South Swan Street, Albany, NY 12210	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: New York State Inspector General Role(s): Defendant/Respondent	Empire State Plaza, Albany, NY 12223	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Hochul, Kathy Role(s): Defendant/Respondent	25 Eagle Street, Albany, NY 12224	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Stewart-Cousins, Andrea Role(s): Defendant/Respondent	25 Eagle Street, Albany, NY 12224	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: New York State Senate Role(s): Defendant/Respondent	25 Eagle Street, Albany, NY 12224	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: Heastie, Carl Role(s): Defendant/Respondent	25 Eagle Street, Albany, NY 12224	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

**I AFFIRM UNDER THE PENALTY OF PERJURY THAT, UPON INFORMATION AND BELIEF, THERE ARE NO OTHER RELATED ACTIONS OR PROCEEDINGS, EXCEPT AS NOTED ABOVE, NOR HAS A REQUEST FOR JUDICIAL INTERVENTION BEEN PREVIOUSLY FILED IN THIS ACTION OR PROCEEDING.**

Dated: 06/07/2022

Elena Ruth Sassower

Signature

Elena Ruth Sassower

Print Name

Attorney Registration Number

This form was generated by NYSCEF

**Caption Rider Sheet****Plaintiff(s)/Petitioner(s)****VS.**

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, New York State Senate, Carl Heastie in his official capacity as Assembly Speaker, 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

**Defendant(s)/Respondent(s)**

**Request for Judicial Intervention Addendum**

UCS-840A (7/2012)

Supreme COURT, COUNTY OF Albany

**Index No:****For use when additional space is needed to provide party or related case information.****PARTIES:** For parties without an attorney, check "Un-Rep" box AND enter party address, phone number and e-mail address in "Attorneys" space.

Un-Rep	Parties List parties in same order as listed in the caption and indicate roles (e.g., plaintiff, defendant, 3 <sup>rd</sup> party plaintiff, etc.)	Attorneys and Unrepresented Litigants For represented parties, provide attorney's name, firm name, address, phone and email. For unrepresented parties, provide party's address, phone and email.	Issue Joined For each defendant, indicate if issue has been joined.	Insurance Carriers For each defendant, indicate insurance carrier, if applicable.
<input checked="" type="checkbox"/>	Name: New York State Assembly Role(s): Defendant/Respondent	25 Eagle Street, Albany, NY 12224	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: James, Letitia Role(s): Defendant/Respondent	25 Eagle Street, Albany, NY 12224	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	
<input checked="" type="checkbox"/>	Name: DiNapoli, Thomas Role(s): Defendant/Respondent	110 State Street, Albany, NY 12236	<input type="checkbox"/> YES <input checked="" type="checkbox"/> NO	

**RELATED CASES:** List any related actions. For Matrimonial actions, include any related criminal and/or Family Court cases.

Petitioners' OSC, as signed by Justice Peter Lynch, June 7, 2022 [R.437-440]

SUPREME COURT OF STATE OF NEW YORK  
COUNTY OF ALBANY

----- X

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

Petitioners/Plaintiffs

**ORDER TO SHOW CAUSE  
FOR MANDAMUS,  
DECLARATORY RELIEF,  
& PRELIMINARY INJUNCTION**

-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.

-----X

Upon the annexed affidavit of the *pro se* individual petitioner/plaintiff Elena Ruth Sassower,  
sworn to on June 6, 2022, the accompanying verified petition/complaint, its exhibits and links, and  
upon all the papers and proceedings heretofore had

Petitioners' OSC, as signed by Justice Peter Lynch, June 7, 2022 [R.437-440]

LET respondents/defendants show cause before this Court at the Albany County Courthouse, Room 102, 16 Eagle Street, Albany, New York 12207 on the 24th day of June 2022 at 10:00 a.m. or as soon thereafter as they may be heard, why an order should not issue:

(1) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §§94.13(a) and (b) with respect to petitioners' seven complaints – starting with the ministerial act of 15-day letters;

(2) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §94.9(l)(i) mandating that its annual reports contain “a listing by assigned number of each complaint and referral received which alleged a possible violation within its jurisdiction, including the current status of each complaint” – starting with its upcoming annual report for 2021 and such annual report as it will be rendering for 2022;

(3) directing that Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie comply with Legislative Law §80.1 and §80.4 mandating their joint appointment of the Legislative Ethics Commission's ninth member – this being the non-legislative member that makes non-legislators its majority;

(4) directing that the Legislative Ethics Commission comply with Legislative Law §80.7(l) pertaining to its annual reports – starting with rendering annual reports for 2020 and 2021;

(5) directing that the New York State Inspector General comply with the mandates of Executive Law Article 4-A and its own Policy and Procedure Manual, violated by its handling of petitioners' November 2, 2021 complaint – and declaring the provision of the Policy and Procedure Manual that allows the Inspector General to take “no action” on complaints involving “covered agencies” to be violative of Executive Law §53.1 and void;

(6) 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;

(7) declaring unconstitutional, unlawful, and void the FY2022-23 New York state budget, enacted in violation of mandatory provisions of the New York State Constitution, statutes, and legislative rules, and caselaw;

(8) declaring unconstitutional, unlawful, larcenous, and void Legislative/Judiciary Budget Bill #S.8001-A/A.9001-A, enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw;

Petitioners' OSC, as signed by Justice Peter Lynch, June 7, 2022 [R.437-440]

(9) declaring unconstitutional, larcenous, and void the FY2022-23 appropriations for the New York State Commission on Judicial Conduct, the New York State Inspector General, the Appellate Division attorney grievance committees, and the Unified Court System's Inspector General – based on the evidence of their flagrant corruption in handling complaints furnished by petitioners at the Legislature's January 25, 2022 “public protection” budget hearing and again by their March 25, 2022 e-mail;

(10) declaring unconstitutional, *as written* and *as applied*, Public Officers Law §108.2(b), violating Article III, §10 of the New York State Constitution and legislative rules consistent therewith, by exempting the Legislature from the Open Meetings Law to enable it to discuss “public business” in closed-door party conferences, rather than openly in committees and on the Senate and Assembly floor;

(11) such other and further relief as may be just and proper and, specifically:

(a) referring respondents to the Public Integrity Section of the U.S. Department of Justice's Criminal Division for investigation and prosecution of their public corruption, obliterating constitutional, lawful governance and stealing taxpayer monies, documentarily-established by petitioners' interrelated complaints to the New York State Joint Commission on Public Ethics, to the Legislative Ethics Commission, to the New York State Inspector General, to the New York State Commission on Judicial Conduct, to the Appellate Division attorney grievance committees, and to the Unified Court System's Inspector General, among other ethics oversight and enforcement entities;

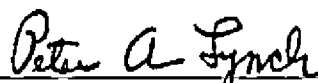
(b) \$100 motion costs to petitioners-plaintiffs pursuant to CPLR §8202.

~~SUFFICIENT CAUSE APPEARING THEREFORE, let a preliminary injunction issue staying Part QQ of the Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C the “ethics commission reform act of 2022” from taking effect on July 8, 2022 which, pursuant to its §19, is “the ninetieth day after it shall have become a law”, pending final determination of this order to show cause and the verified petition/complaint, and enjoining respondent/defendant New York State Joint Commission on Public Ethics from closing.~~

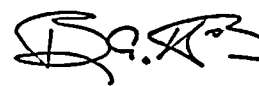
Petitioners' OSC, as signed by Justice Peter Lynch, June 7, 2022 [R.437-440]

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the 13th day of June 2022 upon respondents/defendants by personal service in accord with CPLR Article 3 be deemed good and sufficient service.

ANSWERING PAPERS, if any, are to be served via e-filing on or before June 21, 2022, and Reply papers, if any, are to be served via e-filing on or before June 23, 2022 at 5:00 PM.



Hon. Peter A. Lynch, J.S.C.  
Albany County Supreme Court



06/07/2022

SUPREME COURT OF STATE OF NEW YORK  
COUNTY OF ALBANY

----- x

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

Petitioners/Plaintiffs

**AMENDED**  
**ORDER TO SHOW CAUSE**  
**FOR MANDAMUS,**  
**DECLARATORY RELIEF,**  
**& PRELIMINARY INJUNCTION**

-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.

-----X

Upon the annexed affidavit of the *pro se* individual petitioner/plaintiff Elena Ruth Sassower,  
sworn to on June 6, 2022, the accompanying verified petition/complaint, its exhibits and links, and  
upon all the papers and proceedings heretofore had



LET respondents/defendants show cause before this Court at the Albany County Courthouse, Room 102, 16 Eagle Street, Albany, New York 12207 on the \_\_\_\_\_ day of June 2022 at 10:00 a.m. or as soon thereafter as they may be heard, why an order should not issue:

(1) for a preliminary injunction staying Part QQ of the Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – from taking effect on July 8, 2022 which, pursuant to its §19, is “the ninetieth day after it shall have become a law”, pending final determination of this order to show cause and the verified petition/complaint, and enjoining respondent/defendant New York State Joint Commission on Public Ethics from closing;

(2) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §§94.13(a) and (b) with respect to petitioners’ seven complaints – starting with the ministerial act of 15-day letters;

(3) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §94.9(l)(i) mandating that its annual reports contain “a listing by assigned number of each complaint and referral received which alleged a possible violation within its jurisdiction, including the current status of each complaint” – starting with its upcoming annual report for 2021 and such annual report as it will be rendering for 2022;

(4) directing that Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie comply with Legislative Law §80.1 and §80.4 mandating their joint appointment of the Legislative Ethics Commission’s ninth member – this being the non-legislative member that makes non-legislators its majority;

(5) directing that the Legislative Ethics Commission comply with Legislative Law §80.7(l) pertaining to its annual reports – starting with rendering annual reports for 2020 and 2021;

(6) directing that the New York State Inspector General comply with the mandates of Executive Law Article 4-A and its own Policy and Procedure Manual, violated by its handling of petitioners’ November 2, 2021 complaint – and declaring the provision of the Policy and Procedure Manual that allows the Inspector General to take “no action” on complaints involving “covered agencies” to be violative of Executive Law §53.1 and void;

(7) 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;

(8) declaring unconstitutional, unlawful, and void the FY2022-23 New York state budget, enacted in violation of mandatory provisions of the New York State Constitution, statutes, and legislative rules, and caselaw;

(9) declaring unconstitutional, unlawful, larcenous, and void Legislative/Judiciary Budget Bill #S.8001-A/A.9001-A, enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw;

(10) declaring unconstitutional, larcenous, and void the FY2022-23 appropriations for the New York State Commission on Judicial Conduct, the New York State Inspector General, the Appellate Division attorney grievance committees, and the Unified Court System's Inspector General – based on the evidence of their flagrant corruption in handling complaints furnished by petitioners at the Legislature's January 25, 2022 “public protection” budget hearing and again by their March 25, 2022 e-mail;

(11) declaring unconstitutional, *as written* and *as applied*, Public Officers Law §108.2(b), violating Article III, §10 of the New York State Constitution and legislative rules consistent therewith, by exempting the Legislature from the Open Meetings Law to enable it to discuss “public business” in closed-door party conferences, rather than openly in committees and on the Senate and Assembly floor;

(12) such other and further relief as may be just and proper and, specifically:

(a) referring respondents to the Public Integrity Section of the U.S. Department of Justice's Criminal Division for investigation and prosecution of their public corruption, obliterating constitutional, lawful governance and stealing taxpayer monies, documentarily-established by petitioners' interrelated complaints to the New York State Joint Commission on Public Ethics, to the Legislative Ethics Commission, to the New York State Inspector General, to the New York State Commission on Judicial Conduct, to the Appellate Division attorney grievance committees, and to the Unified Court System's Inspector General, among other ethics oversight and enforcement entities;

(b) \$100 motion costs to petitioners-plaintiffs pursuant to CPLR §8202.

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the \_\_\_\_\_ day of June 2022 upon respondents/defendants by \_\_\_\_\_ service be deemed good and sufficient service.

ANSWERING PAPERS, if any, are to be served via  
\_\_\_\_\_, at least \_\_\_\_\_ days prior to the return date  
of this order to show cause, *to wit*, June \_\_\_\_\_, 2022.

\_\_\_\_\_  
Justice, Albany County Supreme Court

OSC as signed by Justice Peter Lynch, June 9, 2022 [R.445-448]

SUPREME COURT OF STATE OF NEW YORK  
COUNTY OF ALBANY

----- x

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

Petitioners/Plaintiffs

**AMENDED**  
**ORDER TO SHOW CAUSE**  
**FOR MANDAMUS,**  
**DECLARATORY RELIEF,**  
**& PRELIMINARY INJUNCTION**

-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.

-----x

Upon the annexed affidavit of the *pro se* individual petitioner/plaintiff Elena Ruth Sassower,  
sworn to on June 6, 2022, the accompanying verified petition/complaint, its exhibits and links, and  
upon all the papers and proceedings heretofore had

OSC as signed by Justice Peter Lynch, June 9, 2022 [R.445-448]

LET respondents/defendants show cause before this Court at the Albany County Courthouse, Room 102, 16 Eagle Street, Albany, New York 12207 on the 15th day of July, 2022 at 10:00 a.m. or as soon thereafter as they may be heard, why an order should not issue:\*\*\*

(1) for a preliminary injunction staying Part QQ of the Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – from taking effect on July 8, 2022 which, pursuant to its §19, is “the ninetieth day after it shall have become a law”, pending final determination of this order to show cause and the verified petition/complaint, and enjoining respondent/defendant New York State Joint Commission on Public Ethics from closing;

(2) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §§94.13(a) and (b) with respect to petitioners’ seven complaints – starting with the ministerial act of 15-day letters;

(3) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §94.9(l)(i) mandating that its annual reports contain “a listing by assigned number of each complaint and referral received which alleged a possible violation within its jurisdiction, including the current status of each complaint” – starting with its upcoming annual report for 2021 and such annual report as it will be rendering for 2022;

(4) directing that Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie comply with Legislative Law §80.1 and §80.4 mandating their joint appointment of the Legislative Ethics Commission’s ninth member – this being the non-legislative member that makes non-legislators its majority;

(5) directing that the Legislative Ethics Commission comply with Legislative Law §80.7(l) pertaining to its annual reports – starting with rendering annual reports for 2020 and 2021;

(6) directing that the New York State Inspector General comply with the mandates of Executive Law Article 4-A and its own Policy and Procedure Manual, violated by its handling of petitioners’ November 2, 2021 complaint – and declaring the provision of the Policy and Procedure Manual that allows the Inspector General to take “no action” on complaints involving “covered agencies” to be violative of Executive Law §53.1 and void;

(7) 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;

\*\*\* Personal appearances are not permitted unless authorized by the assigned Justice.

OSC as signed by Justice Peter Lynch, June 9, 2022 [R.445-448]

(8) declaring unconstitutional, unlawful, and void the FY2022-23 New York state budget, enacted in violation of mandatory provisions of the New York State Constitution, statutes, and legislative rules, and caselaw;

(9) declaring unconstitutional, unlawful, larcenous, and void Legislative/Judiciary Budget Bill #S.8001-A/A.9001-A, enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw;

(10) declaring unconstitutional, larcenous, and void the FY2022-23 appropriations for the New York State Commission on Judicial Conduct, the New York State Inspector General, the Appellate Division attorney grievance committees, and the Unified Court System's Inspector General – based on the evidence of their flagrant corruption in handling complaints furnished by petitioners at the Legislature's January 25, 2022 “public protection” budget hearing and again by their March 25, 2022 e-mail;

(11) declaring unconstitutional, *as written* and *as applied*, Public Officers Law §108.2(b), violating Article III, §10 of the New York State Constitution and legislative rules consistent therewith, by exempting the Legislature from the Open Meetings Law to enable it to discuss “public business” in closed-door party conferences, rather than openly in committees and on the Senate and Assembly floor;

(12) such other and further relief as may be just and proper and, specifically:

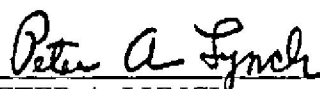
(a) referring respondents to the Public Integrity Section of the U.S. Department of Justice's Criminal Division for investigation and prosecution of their public corruption, obliterating constitutional, lawful governance and stealing taxpayer monies, documentarily-established by petitioners' interrelated complaints to the New York State Joint Commission on Public Ethics, to the Legislative Ethics Commission, to the New York State Inspector General, to the New York State Commission on Judicial Conduct, to the Appellate Division attorney grievance committees, and to the Unified Court System's Inspector General, among other ethics oversight and enforcement entities;

(b) \$100 motion costs to petitioners-plaintiffs pursuant to CPLR §8202.

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the 20th day of June 2022 upon respondents/defendants by personal service in accord with CPLR Article 3 be deemed good and sufficient service.

OSC as signed by Justice Peter Lynch, June 9, 2022 [R.445-448]

ANSWERING PAPERS, if any, are to be served  
*via e-filing, on or before July 11, 2022, and Reply papers, if any, are to be served via  
e-filing on or before 5:00 PM July 14, 2022.*



HON. PETER A. LYNCH  
Justice, Albany County Supreme Court



06/09/2022

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY****Center for Judicial Accountability, Inc. et al****Index No. 904235-22****Motion 1****- v. -****New York State Joint Commission on Public Ethics et al****COURT NOTICE**

Filing on Behalf of - Hon. Peter A. Lynch

On June 7, 2022 the undersigned issued an Order to Show Cause, returnable June 24, 2022, and struck the requested injunctive relief (labeled a preliminary injunction, but effectively a TRO). Petitioner proffered an Amended Order to Show Cause seeking a preliminary injunction, without temporary relief, which this Court issued this date. Petitioner has requested an opportunity to be heard on an application for a Temporary Restraining Order. The application has been scheduled for an in person proceeding to take place on Friday, June 10, 2022 at 1:00 PM. The application is subject to the express provision of CPLR Sec. 6313. Petitioner shall provide notice of this proceeding to all named Respondents on or before noon on June 9, 2022.

DATED 06/08/2022

FILED By Stehle Hetman



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



**Center for Judicial Accountability, Inc. et al**

**- v. -**

**New York State Joint Commission on Public Ethics et al**

**Index No. 904235-22**

**Motion 1**

**COURT NOTICE**

This Court Notice will amend the Court Notice filed earlier today.

The application has been rescheduled for an in person proceeding to take place on Friday, June 17, 2022 at 2:00 PM. The application is subject to the express provision of CPLR Sec. 6313. Petitioner shall provide notice of this proceeding to all named Respondents on or before noon on June 16, 2022.

DATED 06/08/2022

FILED By Stehle Hetman

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



**Center for Judicial Accountability, Inc. et al**

**- v. -**

**New York State Joint Commission on Public Ethics et al**

**Index No. 904235-22**

**COURT NOTICE**

Petitioner requested an in-person hearing to apply for a TRO. The hearing has been scheduled to take place on Friday, June 17, 2022 @ 2:00 p.m. (See NYSEF Doc Nos. 38 and 39). Petitioner's request (via e-mail dated June 15, 2022) to reschedule the hearing to next week is denied.

So Ordered,

Peter A. Lynch, J.S.C.

DATED 06/16/2022

FILED By Jaime Montarello

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



**Center for Judicial Accountability, Inc. et al**

**- v. -**

**New York State Joint Commission on Public Ethics et al**

**Index No. 904235-22**

**COURT NOTICE**

By e-mail dated June 16, 2022 Petitioner advised she would not attend the proceeding scheduled to take place on June 17, 2022 @ 2:00 p.m. The June 17, 2022 proceeding is cancelled, and the request for a TRO is deemed withdrawn.

So Ordered,

Peter A. Lynch, J.S.C.

DATED 06/16/2022

FILED By Jaime Montarello

SUPREME COURT OF STATE OF NEW YORK  
COUNTY OF ALBANY

----- X  
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

Petitioners/Plaintiffs

**ORDER TO SHOW CAUSE  
FOR TRANSFER/REMOVAL  
TO FEDERAL COURT, FOR A  
PRELIMINARY INJUNCTION,  
MANDAMUS, DECLARATORY &  
OTHER RELIEF – & A TRO**

-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.

-----X  
Upon the annexed affidavit of the *pro se* individual petitioner/plaintiff Elena Ruth Sassower,  
sworn to on June 21, 2022, the accompanying verified petition/complaint, its exhibits and links, and  
upon all the papers and proceedings heretofore had

LET respondents/defendants show cause before this Court at the Albany County Courthouse, Room 102, 16 Eagle Street, Albany, New York 12207, on the 22<sup>nd</sup> day of June 2022 at 2:00 p.m. or as soon thereafter as the parties may be heard, why an order should not issue:

(1) transferring/removing this case to federal court, including pursuant to Article IV, §4 of the United States Constitution: “The United States shall guarantee every State in this Union a Republican Form of Government”, inasmuch as the justices and acting justices of the Supreme Court of Albany County – and of the 61 other counties of New York State – are divested of jurisdiction to hear the case pursuant to Judiciary Law §14 and “rule of necessity” cannot be invoked by reason thereof;

(2) for a preliminary injunction staying Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – from taking effect on July 8, 2022 which, pursuant to its §19, is “the ninetieth day after it shall have become a law”, pending final determination of this order to show cause and the verified petition/complaint, and enjoining respondent/defendant New York State Joint Commission on Public Ethics from closing;

(3) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §§94.13(a) and (b) with respect to petitioners’ seven complaints – starting with the ministerial act of 15-day letters;

(4) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §94.9(l)(i) mandating that its annual reports contain “a listing by assigned number of each complaint and referral received which alleged a possible violation within its jurisdiction, including the current status of each complaint” – starting with its upcoming annual report for 2021 and such annual report as it will be rendering for 2022;

(5) directing that Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie comply with Legislative Law §80.1 and §80.4 mandating their joint appointment of the Legislative Ethics Commission’s ninth member – this being the non-legislative member that makes non-legislators its majority;

(6) directing that the Legislative Ethics Commission comply with Legislative Law §80.7(l) pertaining to its annual reports – starting with rendering annual reports for 2020 and 2021;

(7) directing that the New York State Inspector General comply with the mandates of Executive Law Article 4-A and its own Policy and Procedure Manual, violated by its handling of petitioners’ November 2, 2021 complaint – and declaring the provision of the Policy and Procedure Manual that allows the Inspector General

to take “no action” on complaints involving “covered agencies” to be violative of Executive Law §53.1 and void;

(8) 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;

(9) declaring unconstitutional, unlawful, and void the FY2022-23 New York state budget, enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw;

(10) declaring unconstitutional, unlawful, larcenous, and void Legislative/Judiciary Budget Bill #S.8001-A/A.9001-A, enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw;

(11) declaring unconstitutional, larcenous, and void the FY2022-23 appropriations for the New York State Commission on Judicial Conduct, the New York State Inspector General, the Appellate Division attorney grievance committees, and the Unified Court System’s Inspector General – based on the evidence of their flagrant corruption in handling complaints furnished by petitioners at the Legislature’s January 25, 2022 “public protection” budget hearing and again by their March 25, 2022 e-mail;

(12) declaring unconstitutional, *as written* and *as applied*, Public Officers Law §108.2(b), violating Article III, §10 of the New York State Constitution and legislative rules consistent therewith, by exempting the Legislature from the Open Meetings Law to enable it to discuss “public business” in closed-door party conferences, rather than openly in committees and on the Senate and Assembly floor;

(13) such other and further relief as may be just and proper and, specifically:

(a) an order directing respondent/defendant Attorney General James to identify:

- (i) that a determination has been made, pursuant to Executive Law §63.1 as to the “interest of the state” herein; and
- (ii) that a determination has been made that she can ethically, lawfully, and constitutionally represent her fellow respondents/defendants herein, where she is a party with direct financial and other interests, as in the

March 5, 2021 complaint filed with JCOPE against her (Exhibit D to the verified petition/complaint);

- (b) an order – in the event the Court denies transfer/removal to federal court – certifying the issue to the Appellate Division, Third Department and/or the Court of Appeals for determination;
- (c) an order referring respondents/defendants to the Public Integrity Section of the U.S. Department of Justice’s Criminal Division for investigation and prosecution of their public corruption, obliterating constitutional, lawful governance and stealing taxpayer monies, documentarily-established by petitioners’ interrelated complaints to the New York State Joint Commission on Public Ethics, to the Legislative Ethics Commission, to the New York State Inspector General, to the New York State Commission on Judicial Conduct, to the Appellate Division attorney grievance committees, and to the Unified Court System’s Inspector General, among other ethics oversight and enforcement entities;
- (d) \$100 motion costs to petitioners/plaintiffs pursuant to CPLR §8202.

PENDING THE HEARING OF THIS MOTION, SUFFICIENT CAUSE APPEARING THEREFORE, let a preliminary injunction issue staying Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – from taking effect on July 8, 2022 and enjoining respondent/defendant New York State Joint Commission on Public Ethics from closing.

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the \_\_\_\_\_ day of June 2022 upon respondents/defendants by \_\_\_\_\_ service be deemed good and sufficient service.

ANSWERING PAPERS, if any, are to be served *via* NYSCEF, at least \_\_\_\_\_ days prior to the return date of this order to show cause, *to wit*, June \_\_\_\_\_, 2022, with reply papers from petitioners/plaintiffs, also served *via* NYSCEF, by \_\_\_\_\_.

ORAL ARGUMENT SHALL BE HAD ON THE RETURN DATE OF THIS MOTION, with the parties ready to proceed to a hearing on the preliminary injunction pursuant to CPLR §6313(a).

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Justice, Albany County Supreme Court

Dated: June 21, 2022  
Albany, New York



Petitioners' June 21, 2022 affidavit in support of OSC [R.458-476]

SUPREME COURT OF STATE OF NEW YORK  
COUNTY OF ALBANY

----- X  
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,

**AFFIDAVIT IN SUPPORT**  
**OF ORDER TO SHOW CAUSE**  
**FOR TRANSFER/REMOVAL TO**  
**FEDERAL COURT, FOR A**  
**PRELIMINARY INJUNCTION,**  
**MANDAMUS, DECLARATORY**  
**& OTHER RELIEF -- & A TRO**

Petitioners/Plaintiffs,

-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.

-----X  
STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        ) ss.:

ELENA RUTH SASSOWER, being duly sworn deposes and says:

## Petitioners' June 21, 2022 affidavit in support of OSC [R.458-476]

1. I am the above-named *pro se* individual petitioner/plaintiff, fully familiar with all the facts, papers, and proceedings that are the subject of the [June 6, 2022 verified petition/complaint herein](#),<sup>1</sup> which I have written and to whose truth I have sworn.

2. Two weeks ago, on June 7, 2022, petitioners, “acting on their own behalf and behalf of the People of the State of New York & the Public Interest”, [filed](#) this hybrid Article 78 proceeding, declaratory judgment action, and citizen-taxpayer action to secure the mandamus and declaratory relief compelled, *as a matter of law*, by the New York State Constitution, New York statutes, legislative rules, and caselaw – and did so with an order to show cause because time was of the essence.

3. Supporting the order to show cause was my June 6, 2022 affidavit whose ¶¶3-8 particularized the reasons time was of the essence and the parties’ ability to effectuate the earliest return date the Court would designate. The balance of the affidavit, ¶¶9-13, presented the facts and law pertaining to what was not a branch of relief of that order to show cause, but which – as a result of what took place therein – is now the first branch of relief on this order to show cause, *to wit*:

“transferring/removing this case to federal court, including pursuant to Article IV, §4 of the United States Constitution: ‘The United States shall guarantee every State in this Union a Republican Form of Government’, inasmuch as the justices and acting justices of the Supreme Court of Albany County – and of the 61 other counties of New York State – are divested of jurisdiction to hear the case pursuant to Judiciary Law §14 and ‘rule of necessity’ cannot be invoked by reason thereof”.

4. For the convenience of the Court, below are ¶¶3-13 of my June 6<sup>th</sup> affidavit, with all its footnotes and substantiating links:<sup>2</sup>

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<sup>1</sup> For simplicity, the petitioners/plaintiffs are hereinafter referred to as “petitioners”; the verified petition/complaint is referred to as the “petition” – and respondents/defendants are referred to as “respondents”.

<sup>2</sup> This affidavit also has its own substantiating links. And just as the June 7<sup>th</sup> affidavit had its own substantiating webpage on CJA’s website, accessible from a menu page for the lawsuit: <https://www.judgewatch.org/web-pages/lawsuit-jcope-et-al/menu.htm>, so, too this affidavit. The direct link is here: <https://www.judgewatch.org/web-pages/lawsuit-jcope-et-al/june-21-osc.htm>.

Petitioners' June 21, 2022 affidavit in support of OSC [R.458-476]

“3. As time is of the essence, we proceed electronically, *via* NYSCEF and by order to show. Apart from the vast amounts of taxpayer monies that have been misappropriated and are being dissipated by the unconstitutional, unlawful, and larcenous FY2022-23 state budget – entitling petitioners to relief pursuant to State Finance Law, Article 7-A (§123 *et seq.*)<sup>fn2</sup> – the ‘ethics commission reform act of 2022’, which is part of the budget and abolishes the JOINT COMMISSION ON PUBLIC ETHICS [hereinafter ‘JCOPE’], will take effect on July 8, 2022.

4. It is this ‘ethics commission reform act of 2022’ that has triggered this lawsuit, being non-fiscal policy legislation that was unconstitutionally and unlawfully inserted as Part QQ into Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C, itself unconstitutional and fraudulently introduced as ‘A BUDGET BILL, submitted by the Governor pursuant to article seven of the Constitution’ and then three times ‘amended’ unconstitutionally and by fraud.

5. To secure judicial determination of the constitutionality and lawfulness of Part QQ as immediately as possible and prevent the mooted of petitioners’ first two branches of mandamus relief against JCOPE that would result from JCOPE’s demise, petitioners seek the earliest reasonable return date for their order to show cause whose eleven branches of relief – the same as the petition’s – culminate in a request for a preliminary injunction to prevent QQ from taking effect pending final determination of this order to show cause and the petition and enjoining JCOPE from closing.

6. Respondents will not be prejudiced by an expeditious return date. As reflected by the petition, all have had years in which to grapple with the constitutional and statutory issues pertaining to the New York state budget and JCOPE – issues concisely summarized by the petition’s first exhibit: the April 13, 2022 complaint that petitioners filed with JCOPE ([Exhibit A-1](#)), and simultaneously furnished to the NEW YORK STATE INSPECTOR GENERAL [‘NYS-IG’] whose jurisdiction extends to JCOPE as a ‘covered agency’.

7. Upon the Court’s signing of the order to show cause – which, excepting the insertion of expedited dates, is a strictly ministerial act – I will immediately e-mail respondents, all state officers and entities, the signed order to show cause and the underlying papers on which it is based, further furnishing them with the link to where everything is posted on the CENTER FOR JUDICIAL

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– as well as its own substantiating EVIDENTIARY webpage, posted on CJA’s website. The direct link is here: <https://www.judgewatch.org/web-pages/lawsuit-jcope-et-al/june-21-osc.htm>.

<sup>fn2</sup> State Finance Law §123-b(1) provides for equitable and declaratory relief for ‘a wrongful expenditure, misappropriation, misapplication, or any other illegal or unconstitutional disbursement of state funds or state property...’ with State Finance Law §123-e(2) providing for the granting of a preliminary injunction.”

## Petitioners' June 21, 2022 affidavit in support of OSC [R.458-476]

ACCOUNTABILITY's website<sup>fn3</sup> – and request that they accept same as service or promptly consent to service, *via* NYSCEF.

8. As obvious from even a superficial review of the petition, its exhibits, and the scores, if not hundreds, of evidentiary links they cumulatively furnish, petitioners' likelihood of success on the merits is 100%, assuming the Court is fair and impartial, guided by the facts and the law, as it is required to be pursuant to [§100.3E of the Chief Administrator's Rules Governing Judicial Conduct](#) and [Judiciary Law §14](#).

9. Judiciary Law §14<sup>fn4</sup> is, in fact, the threshold issue before this Court, as its judges all have HUGE direct financial and other interests in the petition's eleven branches of relief. This is manifest from the complaints annexed to the petition whose determination by JCOPE and the NYS-IG is sought to be compelled by mandamus. All the complaints involve the commission-based 'force of law' judicial pay raises that have boosted each judge's salary by approximately \$80,000 per year, the Judiciary's own budget, and the New York State Commission on Judicial Conduct. By reason thereof, the Court is without jurisdiction to proceed<sup>fn5</sup>

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<sup>fn3</sup> The direct link to the menu webpage I have created for this lawsuit is here: <https://judgewatch.org/web-pages/lawsuit-jcope-et-al/menu.htm>."

<sup>fn4</sup> Judiciary Law §14 entitled 'Disqualification of judge by reason of interest or consanguinity' reads, in pertinent part:

'A judge shall not sit as such in, or take any part in the decision of, an action, claim, matter, motion or proceeding to which he is a party, or in which he has been attorney or counsel, or in which he is interested, or if he is related by consanguinity or affinity to any party to the controversy within the sixth degree. ...'"

<sup>fn5</sup> See Appellate Division, Third Department's decision in *People v. Alteri*, [47 A.D.3d 1070 \(2008\)](#), stating:

'A statutory disqualification under Judiciary Law §14 will deprive a judge of jurisdiction (see *Wilcox v. Supreme Council of Royal Arcanum*, 210 N.Y. 370, 377, 104 N.E. 624 [1914]; see also *Matter of Harkness Apt. Owners Corp. v. Abdus-Salaam*, 232 A.D.2d 309, 310, 648 N.Y.S.2d 586 [1996]) and void any prior action taken by such judge in that case before the recusal (see *People v. Golston*, 13 A.D.3d 887, 889, 787 N.Y.S.2d 185 [2004], lv. denied 5 N.Y.3d 789, 801 N.Y.S.2d 810, 835 N.E.2d 670 [2005]; *Matter of Harkness Apt. Owners Corp. v. Abdus-Salaam*, 232 A.D.2d at 310, 648 N.Y.S.2d 586). In fact, "a judge disqualified under a statute cannot act even with the consent of the parties interested, because the law was not designed merely for the protection of the parties to the suit, but for the general interests of justice" (*Matter of Beer Garden v. New York State Liq. Auth.*, 79 N.Y.2d 266, 278–279, 582 N.Y.S.2d 65, 590 N.E.2d 1193 [1992], quoting *Matter of City of Rochester*, 208 N.Y. 188, 192, 101 N.E. 875 [1913]).' (underlining added)."

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– as to which ‘rule of necessity’ cannot be invoked, because such is predicated on jurisdiction that Judiciary §14 divests from interested judges.<sup>fn6</sup>

10. As the same applies to every judge of New York’s Unified Court System, the Court’s only option is to transfer/remove the case to the federal courts, including pursuant to Article IV, §4 of the United State[s] Constitution: ‘The United States shall guarantee every State in this Union a Republican Form of Government.’.

11. As the signing of the order to show cause is a ministerial act for relief that, but for an accelerated return date, petitioners could seek by notice of motion, the Court’s refusal to even insert unaccelerated CPLR time parameters and so-sign the order to show cause would be inexplicable except as a manifestation of actual bias, born of interests and relationships. In such event, the Court’s signed declination on the order to show must be accompanied by an explanation.

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Also, the Appellate Division, First Department’s decision in *Matter of Sterling Johnson, Jr. v. Hornblass*, [93 AD2d 732, 733 \(1983\)](#):

‘Section 14 of the Judiciary Law... is the sole statutory authority in New York for disqualification of a Judge. If disqualification under the statute were found, prohibition would lie, since there would be a lack of jurisdiction. There is an express statutory disqualification. (See *Matter of Merola v. Walsh*, 75 AD2d 163; *Matter of Katz v. Denzer*, 70 AD2d 548; *People ex rel., Devery v. Jerome*, 36 Misc 2d 256.)’” (underlining added).

*Oakley v. Aspinwall*, 3 NY 547, 548, 551 (Court of Appeals, 1850); 28 New York Jurisprudence 2nd §403 (2018).”

“fn6 See 32 New York Jurisprudence §45 (1963), ‘Disqualification as yielding to necessity’:

‘...since the courts have declared that the disqualification of a judge for any of the statutory reasons deprives him of jurisdiction,<sup>fn</sup> a serious doubt exists as to the applicability of the necessity rule where the judge is disqualified under the statute.<sup>fn</sup>’

Conspicuously, when New York courts invoke the ‘rule of necessity’ in cases involving judicial self-interest governed by Judiciary Law §14, they do NOT cite to Judiciary Law §14, which divests them of jurisdiction. Instead they cite, either directly or through other cases, to *United States v. Will*, [449 U.S. 200, 210-211 \(1980\)](#), wherein the U.S. Supreme Court **expressly and under the title heading ‘Jurisdiction’**, recited its jurisdiction and that of the lower federal judiciary to decide a case involving their own pay raises, there being no federal statute removing from them jurisdiction to do so.

Illustrating the New York courts’ sleight of hand with respect to ‘rule of necessity’ in cases of judicial self-interest: the Court of Appeals decisions in *Maresca v Cuomo*, [64 NY2d 242, 247, n 1 \(1984\)](#), *Matter of Morgenthau v Cooke*, [56 NY2d 24, 29, n 3 \(1982\)](#), as well as in *Maron v. Silver*, [14 NY3d 230, 249 \(2010\)](#) – this being its decision consolidating appeals in three lawsuits by New York judges suing for pay raises. Similarly, the Appellate Division, Third Department’s decision in the *Maron* case, [58 AD3d 102, 106-107.](#)”

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12. No application for the same or similar relief has been made to this or any other Court, except by:

- [petitioners' two prior citizen-taxpayer actions](#), each bearing the shorthand caption, *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Albany Co. #1788-2014), (Albany Co. #5122-2016), neither case involving the FY2022-23 state budget or seeking mandamus and declaratory relief against JCOPE, its statutory partner, the Legislative Ethics Commission (LEC), or against the NYS-IG;
- [petitioners' declaratory judgment action](#), also bearing the shorthand caption, *Center for Judicial Accountability, et al. v. Cuomo, et al.* (Bronx Co. #302951-2012; transferred to New York Co. #401988-2012);
- [petitioners' April 23, 2014 order to show cause to intervene in the Legislature's declaratory judgment action against the Commission to Investigate Public Corruption](#) (New York Co. #160941-2013), whose proposed verified complaint annexed petitioners' June 27, 2013 complaint to JCOPE ([Exhibit G](#)) and their July 11, 2013 complaint to NYS-IG ([Exhibit H](#)).

13. As verifiable from [the records of all four litigations](#), they were each 'thrown' by a double-whammy of litigation fraud by the New York Attorney General, rewarded by fraudulent decisions of New York judges. This is so-highlighted by petitioners' March 5, 2021 complaint to JCOPE ([Exhibit D-1](#)), resting on and annexing as exhibits their June 4, 2020 grand jury/corruption complaint to Albany County District Attorney P. David Soares and their June 13, 2020 grand jury/corruption complaint to then Montgomery County District Attorney Kelli McCoski, and furnishing further substantiation by petitioners' linked February 11, 2021 complaint against Attorney General JAMES, Solicitor General Underwood, and attorneys under their supervision, filed with the Appellate Division attorney grievance committees ([Exhibit D-2](#)) and petitioners' linked February 7, 2021 judicial misconduct complaint to the Commission on Judicial Conduct ([Exhibit D-3](#)), incorporated therein."

\* \* \*

5. It was in face of this presentation that the then Part 1 duty judge, Supreme Court Justice Peter Lynch, made no disclosure of facts of which I had no knowledge – most significantly, that he is the twin brother of now Appellate Division, Third Department Associate Justice Michael Lynch, who was this Court's Part 1 duty judge on March 28, 2014, before whom I appeared with an order to show cause with TRO, upon filing the first *CJA v. Cuomo et al.* citizen-taxpayer action –

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and whose misconduct, in connection therewith, flagrantly falsifying the law and the evidentiary record to deny the TRO to which the petitioners were there entitled, *as a matter of law*, I would lay out, before the Appellate Division, Third Department by a July 24, 2018 affidavit in support of an order to show cause, with TRO, to demonstrate his absolute disqualification from the appeal of the second *CJA v. Cuomo, et al.* citizen-taxpayer action (#527081) – and who thereafter absented himself from the five-judge panel hearing the appeal, of which he was a member, which then “threw” the case by a fraudulent December 27, 2018 decision, the particulars of which are presented by the above referred-to February 7, 2021 judicial misconduct complaint to the Commission on Judicial Conduct, [Exhibit D-3 to the petition](#), furnished to JCOPE by my March 5, 2021 complaint, [the petition’s D-1](#). This February 7, 2021 judicial misconduct complaint was then supplemented by my [April 26, 2021 further and supplementing judicial misconduct complaint](#) pertaining to Appellate Division Justice Lynch’s participation, thereafter, in the appeal of [Delgado v. New York State \(#529556\)](#) and authorship of the Appellate Division, Third Department’s fraudulent March 18, 2021 decision therein<sup>3</sup> – resting on its fraudulent December 27, 2018 decision in the *CJA v. Cuomo, et al.* second citizen-taxpayer action. Both the April 26, 2021 complaint and the February 7, 2021 judicial misconduct complaint are the subjects of my [November 24, 2021 complaint to JCOPE](#) – which is against the Commission on Judicial Conduct ([Exhibit C to the petition](#)).

6. Of all the exhibits to petitioners’ petition, Justice Peter Lynch – as any judge – may be presumed to have taken a special interest in Exhibits D-3 and Exhibit C – because they involve the Commission on Judicial Conduct – and to have recognized the financial and other consequences that state judges would face unless petitioners’ entitlement to mandamus against JCOPE was mooted by delaying, until after July 8, 2022, determination of the preliminary injunction relief sought by

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<sup>3</sup> The March 18, 2021 appellate decision in *Delgado*, resting on the December 27, 2018 appellate decision in the *CJA v. Cuomo, et al.* second citizen-taxpayer action, is presently before the Court of Appeals



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their June 7, 2022 order to show cause and to which they would be otherwise, entitled, *as a matter of law*.

7. What Justice Peter Lynch did with respect to that order to show cause, before him on Tuesday, July 8, 2022 as the Part 1 duty judge – and the course of the proceedings thereon culminating in this order to show cause – are, as follows:

(a) Disregarding that pursuant to [CPLR §2214\(b\)](#), the return date of a motion, personally served, is eight days – and if served 16 days before the noticed return date, the movant is afforded six days for reply papers – [Justice Lynch signed the order to show cause](#), fixing a return date 17 days later – June 24<sup>th</sup> – requiring petitioners to make “personal service in accord with CPLR Article 3” by June 13<sup>th</sup>, respondents to serve “*via e-filing*” their answering papers by June 21<sup>st</sup>, and petitioners’ reply to be served “*via e-filing*” by 5:00 pm June 23<sup>rd</sup>. He then struck out entirely what I had formatted as a TRO, but which – as plain from my affidavit – was intended as a preliminary injunction, so that now my motion papers contained neither relief.

(b) Upon receipt of the signed order to show cause, in the afternoon of June 7<sup>th</sup>, I immediately phoned Justice Lynch’s law clerk, Stehle Hetman – with whom I had spoken hours earlier, upon receipt of [e-mail notification](#) from the Clerk’s Office that the order to show cause was before Justice Lynch. I stated that I assumed that the reason the injunctive relief was stricken was because, as I now realized, I had formatted the preliminary injunction as if a TRO. I told her that it had not been my intent to seek a TRO because, with more than a month until July 8<sup>th</sup> when the “ethics commission reform act of 2022” was to take effect and JCOPE shut down, there was obviously ample time for a hearing on a preliminary injunction – especially with an expedited return date.

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on an appeal of right ([APL-2021-0080](#)) – a right the Court of Appeals did not recognize for *CJA v. Cuomo, et al.*, nor grant petitioners leave to appeal.



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(c) I thereupon [filed](#) and [e-mailed](#) an amended order to show cause, identical to the original, but now formatting the preliminary injunction as the first branch of relief. My expectation was that this amended order to show cause would be immediately signed – and that were Justice Lynch to retain his required “personal service” by June 13<sup>th</sup>, he would change the return date to eight days later, June 21<sup>st</sup> – with appearances on that date specifically for a hearing on the preliminary injunction, so that the preliminary injunction could be decided at such hearing, or promptly thereafter.

(d) It was not until the next day, Wednesday, June 8<sup>th</sup>, that [Judge Lynch signed the amended order to show cause](#) – and then in a fashion effectively mooted the preliminary injunction by now pushing the return date to July 15<sup>th</sup> and adding, “\*\*\* Personal appearances are not permitted unless authorized by the assigned Justice.” The other time parameters were also extended. The requirement that petitioners make “personal service in accord with CPLR Article 3” was now extended to June 20<sup>th</sup>, respondents’ answering papers “*via e-filing*” were not required until July 11<sup>th</sup>, and petitioners’ reply papers “*via e-filing*” by 5 p.m. July 14<sup>th</sup>.

(e) Again, I immediately phoned Ms. Hetman, now stating that I was not so stupid as to not understand the import of what Justice Lynch had done, which was to moot my preliminary injunctive relief by pushing the return date to after July 8<sup>th</sup>. I further stated that it now seemed clear to me that, although my premise had been that with an early return date the Court would have ample time to render decision on a fully-submitted motion for a preliminary injunction to which petitioners had an absolute entitlement, I now realized that a TRO was necessary as otherwise there would be nothing to prevent the Court from delaying decision until after July 8<sup>th</sup>, so as to then be able to deny the preliminary injunction on the only basis upon which it could be denied, *to wit*, as moot.

(f) Ms. Hetman stated – I believe after conferring with Justice Lynch – that he would hear oral argument on a TRO. However, she declined, several times, my offer to submit a new

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order to show cause for the TRO and preliminary injunction – presumably, as I now believe, to conceal that his duty was to hear the TRO, without any prior service of papers required – and immediately.<sup>4</sup> As it was, by then, Wednesday afternoon, June 8<sup>th</sup>, we initially agreed upon Friday, June 10<sup>th</sup>, at 1 p.m. for the argument. I then rushed to find a local car rental, only to discover that none were available. I called Ms. Hetman back immediately to request that argument on the TRO be scheduled for Monday or Tuesday, June 13<sup>th</sup> or June 14<sup>th</sup>, but she stated that Justice Lynch would be tied up with a jury trial and that only Friday, June 17<sup>th</sup> would be possible, to which I agreed.

(g) The [court notice](#) I thereafter received, *via* NYSCEF notification, contained the earlier – and already discarded June 10<sup>th</sup> date. It read:

“On June 7, 2022 the undersigned issued an Order to Show Cause, returnable June 24, 2022, and struck the requested injunctive relief (labeled a preliminary injunction, but effectively a TRO). Petitioner proffered an Amended Order to Show Cause seeking a preliminary injunction, without temporary relief, which this Court issued this date. Petitioner has requested an opportunity to be heard on an application for a Temporary Restraining Order. The application has been scheduled for an in person proceeding to take place on Friday, June 10, 2022 at 1:00 PM. The application is subject to the express provision of CPLR Sec. 6313. Petitioner shall provide notice of this proceeding to all named Respondents on or before noon on June 9, 2022.”

Upon my promptly calling Ms. Hetman about the incorrect date, a second [court notice](#) was issued, reading:

“This Court Notice will amend the Court Notice filed earlier today. The application has been rescheduled for an in person proceeding to take place on Friday, June 17, 2022 at 2:00 PM. The application is subject to the express provision of CPLR Sec. 6313. Petitioner shall provide notice of this proceeding to all named Respondents on or before noon on June 16, 2022.”

(h) On Friday afternoon, June 10<sup>th</sup>, I phoned Ms. Hetman to apprise her that I had advised all respondents of the Friday, June 17<sup>th</sup> oral argument on the TRO and, additionally, to request permission to have a videographer film the oral argument. She asked that I put the request in

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<sup>4</sup> See, for example, all four orders to show cause for TROs that I presented in the two *CJA v. Cuomo, et al.* citizen-taxpayer actions – and the order to show cause for a TRO in the citizen-taxpayer action *Delgado v New York State*, presented by the attorney for the plaintiffs therein (¶¶11-12 & fn.5, *infra*).

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writing, which I did by e-mail whose message, addressed to Justice Lynch, essentially repeated what

I had stated to Ms. Hetman. The [e-mail](#) read:

“Following up my telephone conversation with your Principal Law Clerk Stehle Hetman-Mika earlier this afternoon, this is to request permission for a videographer to film the oral argument to be held before you at 2 pm on June 17, 2022 of the TRO petitioners/plaintiffs are seeking to stay the ‘ethics commission reform act of 2022’ from taking effect on July 8, 2022 and to enjoin JCOPE from closing, pending final determination of their June 6, 2022 verified petition/complaint and its accompanying order to show cause.

[The TRO – and the case – are of obvious public importance and interest.](#) A video of the oral argument will enable the public to more directly understand the constitutional and legal issues and how our system of government provides for their resolution through the courts.

The videographer has background in filming court proceedings – and was previously engaged by me three times. Twice, in 2018, it was to film proceedings at the Appellate Division, Third Department in the citizen-taxpayer action, *CJA, et al. v. Cuomo, et al.* (3<sup>rd</sup> Dept App. Div. Docket #527081) – the first time being the [August 2, 2018 oral argument on a TRO](#). The third time was to film the [January 11, 2019 oral argument for a preliminary injunction](#) in a case in which I was NOT a party, *Delgado, et al. v. NYS, et al.* (Albany Co. #907537-18). After allowing the parties to be heard with respect thereto, permission for the filming was granted by Justice Christina Ryba, the justice assigned to the case.

Anticipating your favorable determination, I thank you.

Respectfully,...”

(i) Reinforcing the lawsuit’s obvious public importance, on Monday, June 13<sup>th</sup>, I [e-mailed Ms. Hetman](#), for Justice Lynch, a copy of [my June 12<sup>th</sup> letter](#) to the 15 deans of New York’s ABA-accredited law schools comprising the “independent review committee” of the “ethics commission reform act of 2022” – sought to be enjoined – calling upon them to furnish Justice Lynch with their opinion on the constitutional and other issues germane to the TRO by Thursday, June 16<sup>th</sup>.

(j) On Wednesday afternoon, June 15<sup>th</sup>, having not received any communication from Justice Lynch to my video request, I called chambers and spoke to his secretary, Jaime Montarello, thereupon forwarding her my June 10<sup>th</sup> e-mail, and stating: “I would appreciate confirmation that

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permission has been granted, as I know of no reason why it should not be.” 17 minutes later, Ms. Montarello [e-mailed](#) back, stating:

“The Judge will give everyone the opportunity to be heard on 6/17. You could have the videographer on standby if you wish.

Thank you!”

(k) So disconcerted was I by this non-confirmatory e-mail – and the possibility that oral argument on the TRO might not be videoed – that, for the first time, I googled Justice Lynch, pairing his name with the name of Michael Lynch, before whom I had appeared on March 28, 2014 to argue for a TRO in CJA’s first citizen-taxpayer action. It was then that I discovered, from a [March 10, 2016 Albany Times Union article](#), that they are not only related, but they are brothers – indeed, twin brothers.

(l) I thereupon immediately telephoned Ms. Montarello about what I had learned. She hesitated in answering whether it was true and I told her that I was assuming it to be true and that oral argument on the TRO would have to be put over as Justice Lynch was utterly without jurisdiction pursuant to Judiciary Law §14, because, in addition to his financial and other interests in the case, he had a direct interest arising from his twin brother.

(m) I believe Ms. Montarello deliberately disconnected the call – and when I immediately called back, got a machine recording, on which I left a voice mail message, thereupon following it by an [e-mail](#) to Ms. Montarello, with a cc to Ms. Hetman, which read:

“Following up my phone conversation with you, from which I was disconnected – and the voice message I immediately left on your line thereafter – the oral argument on the TRO that had been scheduled for Friday, June 17<sup>th</sup>, must be rescheduled for next week, before another justice – who I understand will be Justice Platkin.

I am still shaking from the discovery – upon doing some internet googling following receipt of your below unacceptable e-mail – that Justice Peter Lynch is not only related to Justice Michael Lynch, but is his twin brother. Pursuant to Judiciary Law 14, Justice Peter Lynch is without jurisdiction to hear this case – and his lack of fairness and impartiality has been evident, from the outset and by the below.

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Will set forth more tomorrow, but wanted to give the earliest possible notice that the June 17<sup>th</sup> argument on the TRO must be put over.”

(n) The next morning, Thursday, June 16<sup>th</sup>, I called the Albany County Supreme Court Clerk’s Office, requesting to speak to Deputy Chief Clerk Mary Grace Sullivan about the situation. Shortly before noontime, I succeeded in speaking with her – and at length – reciting most of the foregoing. I advised her that I would not be serving the amended order to show cause that Justice Lynch had signed, but, rather, would be submitting a new order to show cause that I had already drafted, which would now seek a TRO and – as a result of my experience with Justice Lynch – transfer/removal to federal court. I stated I would send the drafted order to show cause to her, along with my June 15<sup>th</sup> e-mail notifying Justice Lynch’s chambers that the June 17<sup>th</sup> oral argument could not go forward.

(o) The [June 16<sup>th</sup> e-mail](#) I then wrote to Deputy Chief Clerk Sullivan, was, as follows:

“Following up our phone conversation late this morning (518-285-8989) and then your call-back – for which I thank you – below, as discussed, is my e-mail chain with Justice Lynch’s chambers beginning with my June 10<sup>th</sup> request for permission to video the June 17<sup>th</sup> oral argument on the TRO [herein](#), culminating yesterday in my e-mail giving notice to Justice Lynch that the oral argument could not go forward as he is utterly without jurisdiction pursuant to [Judiciary Law §14](#).

So that respondents/defendants do not show up for oral argument that is not taking place, I will e-mail them notice that I will not be there and not be serving upon them the order(s) to show cause that Justice Lynch signed. Likewise, I will e-mail the press and others who I had alerted to the oral argument, such as the 15 law school deans who are the ‘independent review committee’ of the ‘ethics commission reform act of 2022’.

So that respondents/defendants may be fully prepared for what I hope to be **oral argument on the TRO on Wednesday, June 22<sup>nd</sup>**, I will additionally e-mail them an advance copy of the order to show cause that I will be [electronically filing, via NYSCEF](#), early in the morning on Tuesday, June 21<sup>st</sup>, for signature of the Part 1 duty judge, who will then be Acting Supreme Court Justice Richard Platkin.

As the TRO has to be granted, *as a matter of law*, because petitioners/plaintiffs have a 100% likelihood of success on the merits inasmuch as we have an open-and-shut entitlement to summary judgment based on prima facie documentary evidence and black-letter law – as well as clear irreparable injury that will be suffered if the ‘ethics commission reform act of 2022’ is not stayed because our mandamus relief against

## Petitioners' June 21, 2022 affidavit in support of OSC [R.458-476]

JCOPE will be moot, and because ALL the equities are in our favor, I will also e-mail respondents/defendants a [CPLR §2214\(c\) notice](#) to furnish papers to the Court, in conjunction with the oral argument on the TRO. Pursuant to [CPLR §6313\(a\)](#), the Court is required to set a hearing on the preliminary injunction 'at the earliest possible time' – and I would be willing for such hearing to be held immediately upon the granting of the TRO, on June 22<sup>nd</sup>.

My already drafted order to show cause, which I believe to be pretty close, if not identical, to what I will file on Tuesday, is above attached, for informational purposes.

Thank you.” (hyperlinking, bold, underlining, and italics in the original).

(p) Shortly after sending this e-mail to Ms. Sullivan – cc'ing both Ms. Hetman and Ms. Montarello – I received, in my inbox, e-mail notification of a [court notice](#), filed in NYSCEF, which read:

“Petitioner requested an in-person hearing to apply for a TRO. The hearing has been scheduled to take place on Friday, June 17, 2022 @ 2:00 p.m. (See NYSEF Doc Nos. 38 and 39). Petitioner's request (via e-mail dated June 15, 2022) to reschedule the hearing to next week is denied.

So Ordered,  
Peter A. Lynch, J.S.C.”

In other words, Justice Lynch was denying, without reasons and without making any disclosure, my June 15<sup>th</sup> e-mailed request for the rescheduling of oral argument on the TRO.

(q) Before I could respond, I received an e-mail of a second [court notice](#), also from Justice Lynch – now reflecting my June 16<sup>th</sup> e-mail, which he obviously received only after sending out the first notice. It read:

“By e-mail dated June 16, 2022 Petitioner advised she would not attend the proceeding scheduled to take place on June 17, 2022 @ 2:00 p.m. The June 17, 2022 proceeding is cancelled, and the request for a TRO is deemed withdrawn.

So Ordered,  
Peter A. Lynch, J.S.C.”

Petitioners' June 21, 2022 affidavit in support of OSC [R.458-476]

**THE POSTURE OF THE CASE, GOING FORWARD**

8. On June 16<sup>th</sup>, following receipt of Justice Lynch's court notice cancelling the June 17<sup>th</sup> oral argument of the TRO, I [e-mailed respondents](#), furnishing them with the link to it, atop my June 16<sup>th</sup> e-mail to which his notice referred, with its [attached draft of this order to show cause](#) and request for oral argument on the TRO on Wednesday, June 22<sup>nd</sup>, at 2 p.m. I similarly [e-mailed the 15 law school deans of the "independent review committee"](#). Likewise, the [press](#), the [New York State Bar Association](#), as well as the [New York City Bar Association](#), along with the ["JCOPE Must Go Coalition"](#) of which the City Bar is a member, instrumental in urging that a statutory repeal/replace of JCOPE be made part of the budget.

9. On Friday, June 17<sup>th</sup>, I confirmed with Deputy Chief Clerk Sullivan the procedure, going forward, asking, specifically – as I did not want to be improper – whether, in the order to show cause I would be filing today, I could include June 22<sup>nd</sup>, at 2:00 p.m., as the date and time for argument on the TRO. She stated I could – and that, if not convenient for Part 1 Duty Judge Platkin, he would change it. She further stated that he would decide my request for videoing the argument.

10. I had already discussed with Deputy Chief Clerk Sullivan, on Thursday, June 16<sup>th</sup>, whether, pursuant to the [Third Judicial District Rules, at the back of the Assignment Book](#), the order to show cause would be presented, not to Judge Platkin, but to District Administrative Judge Gerald Connolly, as it states that the District Administrative Judge "will: a) Make case assignments when judges are disqualified" – and, at bar, all the Court's judges, indeed, District Administrative Judge Connolly himself, are "disqualified", by reason of their Judiciary Law §14 financial and other interests, divesting them of jurisdiction. She stated, however, that inasmuch as I am presenting a new order to show cause to a new Part 1 duty judge, it would be up to Justice Platkin to decide how he was going to address the disqualification/Judiciary Law §14 issue.



## Petitioners' June 21, 2022 affidavit in support of OSC [R.458-476]

11. Suffice to conclude by stating that petitioners' *matter of law*, absolute entitlement to the granting of a TRO herein – because, as evident from their June 6, 2022 verified petition/complaint, they have a *prima facie*, documentary entitlement to summary judgment on their causes of action – replicates the identical situation in the *CJA v. Cuomo, et al.* two citizen-taxpayer actions when, on four separate occasions, I came to Albany County Supreme Court with orders to show cause for TROs. On each of those occasions, petitioners had an absolute *matter of law* entitlement to the requested TRO because they had a *prima facie*, documentary entitlement to summary judgment:

- [The first time, on March 28, 2014](#), was when petitioners commenced their first citizen-taxpayer action, by a March 28, 2014 verified complaint pertaining to the FY2014-15 state budget, brought on by an order to show cause for a TRO – and the Part 1 duty judge on that date was Albany Supreme Court Justice Michael Lynch;
- [The second time, on March 23, 2016](#), was when petitioners brought an order to show cause, with TRO, in their first citizen-taxpayer action, before Acting Supreme Court Justice/Court of Claims Judge Roger McDonough, the assigned judge – seeking leave to file their March 23, 2016 verified second supplemental complaint pertaining to the FY2016-17 state budget;
- [The third time, on September 2, 2016](#), was when – as a result of Judge McDonough's August 15, 2016 decision on plaintiffs' March 23, 2016 order to show cause – they were forced to commence a second citizen-taxpayer action, which they did by a September 2, 2016 verified complaint pertaining to the FY2016-17, brought on by a September 2, 2016 order to show cause, with TRO – with the Part 1 duty judge on that date being Judge McDonough;
- [The fourth time, on March 29, 2017](#), was when petitioners brought an order to show cause, with TRO, in their second citizen-taxpayer action, before Acting Supreme Court Justice/Court of Claims Judge Denise Hartman, the assigned judge – seeking leave to file a March 29, 2017 verified supplemental complaint pertaining to the FY2017-18 state budget.

12. In addition to the above links to the transcripts of the oral arguments of the four orders to show cause for TROs in the two *CJA v. Cuomo, et al.* citizen-taxpayer actions, [CJA's webpage for this order to show cause and affidavit](#) furnishes additional links to enable verification of



## Petitioners' June 21, 2022 affidavit in support of OSC [R.458-476]

the “double-whammy” of fraud committed by Albany County Supreme Court justices and acting justices in tandem with the Attorney General, a defendant representing himself and his fellow defendants, in connection with the TROs and preliminary injunctions petitioners sought therein and to which they were entitled, *as a matter of law*.<sup>5</sup>

13. Finally, I believe it appropriate to mention – and I did mention it to Deputy Chief Clerk Sullivan – that I had interactions with Acting Supreme Court Justice/Court of Claims Judge Platkin when he was a counsel to Governor Pataki. These related to the corruption of “merit selection” appointment to the New York Court of Appeals, resulting from the corruption of the Commission on Judicial Nomination and Commission on Judicial Conduct, in which bar associations were complicity, and, specifically, with regard to then Appellate Division, Second Department Justice Albert Rosenblatt’s candidacy for the Court of Appeals. It was Governor Pataki’s subsequent nomination of Justice Rosenblatt to the Court of Appeals in December 1998, while the Commission on Judicial Conduct was “sitting on” on an October 6, 1998 complaint against him based, *inter alia*, on his believed perjury on his publicly-inaccessible application for the Court of Appeals, for reasons therein particularized – a complaint that had been furnished to the Commission on Judicial Nomination and, thereafter, to the bar associations purportedly “vetting” the Commission

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<sup>5</sup> Sharply contrasting with what took place at the oral argument of petitioners’ orders to show cause for TROs in their two *CJA v. Cuomo, et al.* citizen-taxpayer actions is what took place in the citizen-taxpayer action [\*Delgado v. New York State \(Albany Co. #907537-2018\)\*](#), at the [oral argument before Justice Ryba](#) on the December 19, 2018 order to show cause for a TRO of Cameron MacDonald of the Government Justice Center, representing the plaintiffs therein, who sought a TRO, in the alternative, if a hearing on a preliminary injunction could not be held prior to the January 1, 2019 effective date of the legislative and executive pay raises recommended by the December 10, 2018 report of the Committee on Legislative and Executive Compensation. Based on the probative evidence she was presented by defendants on December 19, 2018, establishing no irreparable injury if the hearing on the preliminary injunction was held after January 1, 2019, Justice Ryba denied the TRO and scheduled the hearing on the preliminary injunction for January 11, 2019. This was the hearing that I, a non-party, requested be videoed, by a [January 9, 2019 e-mail to Justice Ryba](#), as to which, on that same date, she [e-mailed Mr. MacDonald and the other attorneys](#) asking that they advise as to their positions – and then, by a [January 10, 2019 e-mail](#), informed me that the request was granted. As for the [order to show cause Justice Ryba signed on December 19, 2018](#), returnable on January 11, 2019, she added the notation “ \* appearances are required \* ”.

## Petitioners' June 21, 2022 affidavit in support of OSC [R.458-476]

on Judicial Nomination's short-list of nominees – that gave rise to [CJA's Article 78 proceeding against the Commission on Judicial Conduct, commenced in April 1999 in Supreme Court/New York County \(#108551-1999\)](#) – whose two final motions, at the Court of Appeals, in 2002, I handed up to the Commission on Judicial Compensation, in support of [my testimony at its July 20, 2011 hearing](#) and which would be the [free-standing exhibits to CJA's October 27, 2011 opposition report to the Commission on Judicial Compensation's August 29, 2011 report](#) whose recommendations of 27% pay raises would have the “force of law”.

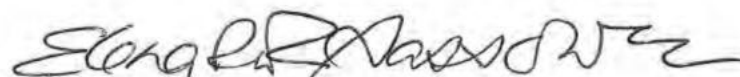
14. It was the Commission on Judicial Compensation's statutorily-violative, fraudulent, and unconstitutional August 29, 2011 report – and the funding of the pay raises that would be concealed in the budget – as to which executive and legislative officers, in violation of Public Officers Law §74, were refusing to discharge their constitutional duties so as to ultimately benefit themselves with comparably-procured pay raises<sup>6</sup> – that became [petitioners' complaint #1 to JCOPE, filed with it on July 27, 2013 \(Exhibit G to the petition\)](#) that JCOPE has been “sitting on” ever since, in violation of Executive Law §§94.13(a) and (b), and for which it has not accounted in its annual reports, in violation of Executive Law §94.9(l)(i).

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<sup>6</sup> Legislative and executive pay raises were ultimately procured *via* the Committee on Legislative and Executive Compensation, enacted as Part HHH of the FY2018-19 revenue budget bill. *Delgado v. New York State*, before Justice Ryba, was but the first of several cases challenging the December 10, 2018 report of the Committee on Legislative and Executive Compensation. Another case, *Barclay v. New York State Committee on Legislative and Executive Compensation (Albany Co. #901837-2019)*, an Article 78 proceeding brought by eleven legislators – including the current minority leaders of both Respondents Senate and Assembly – was before Justice Platkin. His [August 28, 2019 decision therein](#) cited the December 27, 2018 Appellate Division, Third Department decision in the *CJA v. Cuomo, et al.* second citizen-taxpayer action, in its footnote 10, whose first and last sentences read: “Like many budget bills, Part HHH is not a model of drafting clarity. ... In other words, courts should be cautious in construing doubtful language as effecting the type of extraordinary delegation made by Part HHH.”

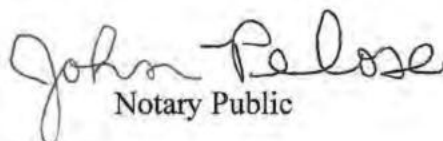
Petitioners' June 21, 2022 affidavit in support of OSC [R.458-476]

15. No application for the same or similar relief has been made, except as above recited.

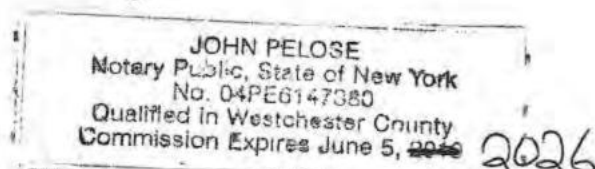


ELENA RUTH SASSOWER

Sworn to before me this 21<sup>st</sup> day of June 2022  
(1<sup>st</sup> day of summer & day of most sunlight)



Notary Public



Acting Supreme Court Justice Richard Platkin's June 21, 2022 recusal letter [R.477-478]

**Supreme Court  
State of New York****Richard Platkin  
Acting Justice****Albany County Courthouse  
16 Eagle Street, Room 256  
Albany, New York 12207  
(518) 283-8941  
Fax (518) 694-3193  
[PlatkinChambers@nycourts.ny.gov](mailto:PlatkinChambers@nycourts.ny.gov)**

June 21, 2022

David Cardona, Chief Clerk  
Albany County Supreme Court  
16 Eagle Street  
Albany, New York 12207

**RE: Albany County Supreme Court  
*Center For Judicial Accountability, Inc., 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 v. 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, New York State Senate, Carl Heastie in his official capacity as Assembly Speaker, 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*  
Index No.: 904235-22**

Dear Mr. Cardona:

On June 21, 2022, the above-captioned Part 1 matter was referred to me in connection with petitioners' proposed "Order to Show Cause for Transfer/Removal to Federal Court, For a Preliminary Injunction, Mandamus, Declaratory & Other Relief – & A TRO" (NYSCEF Doc No. 42).

In her "Affidavit in Support of Order to Show Cause for Transfer/Removal to Federal Court, For a Preliminary Injunction, Mandamus, Declaratory & Other Relief – & A TRO" (NYSCEF Doc No. 43), petitioner Elena R. Sassower refers to her prior interactions with me when I served as a counsel to Governor Pataki (*see id.*, ¶ 13). Specifically, petitioner Sassower maintains that I was involved in "the corruption of 'merit selection' appointment to the New York Court of Appeals, resulting from the corruption of the Commission on Judicial Nomination and Commission on Judicial Conduct, in which bar associations were complicit[]," through my work on the nomination of Hon. Albert Rosenblatt to the New York State Court of Appeals (*id.*).

904235-22 Acting Supreme Court Justice Richard Platkin's June 21, 2022 recusal letter [R.477-478] Page Two

Under the circumstances and in the exercise of discretion, I am recusing myself from any involvement in this proceeding, without regard to petitioners' contentions regarding statutory disqualification under Judiciary Law § 14.

Very truly yours,



Richard Platkin

cc: All Parties/Counsel of Record (via NYSCEF)

Justice L Michael Mackey's June 22, 2022 Decision and Order [R.479-480]

STATE OF NEW YORK  
SUPREME COURT

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 & the Public Interest,

**DECISION**  
**AND**  
**ORDER**

Petitioners/Plaintiffs

-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.

---

Index No: 904235-22

(Justice L. Michael Mackey, Presiding)

APPEARANCES: Elena Ruth Sassower  
Petitioner *Pro Se*  
Box 8101  
White Plains, New York 10601

Justice L Michael Mackey's June 22, 2022 Decision and Order [R.479-480]

MACKEY, J.

Petitioner's proposed Order to Show Cause with Temporary Restraining Order and Preliminary Injunction (NYSCEF Document No. 43), filed this date, has been presented to the undersigned as Acting Part I Judge.

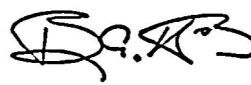
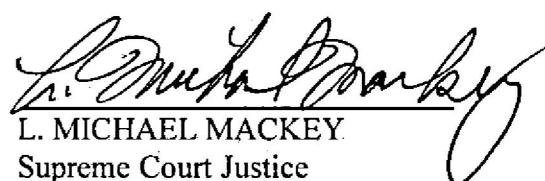
This court's examination of the instant proposed Order to Show Cause and the supporting papers reveals that the petitioner *pro se* previously moved, by Order to Show Cause dated June 8, 2022, for essentially the same relief sought here. The court (Lynch, J.) signed the Order Show Cause granting in part and denying in part the relief originally sought. In the within application, petitioner, in essence, seeks to reargue Judge Lynch's denial of certain temporary relief and seeks to change the return date of the motion.

With certain exceptions not relevant to the proceeding at bar, CPLR § 2221(a) provides, in pertinent part, that a motion to reargue a prior motion or to vacate a prior order "shall be made, on notice, to the judge who signed the order, unless he or she is for any reason unable to hear it." CPLR § 2221(c) further provides that "[a] motion made to other than a proper judge under this rule shall be transferred to the proper judge."

Accordingly, this proceeding and proposed Order to Show Cause shall forthwith be transferred to the Honorable Peter A. Lynch for review and determination pursuant to CPLR § 2221(c).

ENTER.

Dated: Albany, New York  
June 22, 2022

  
06/22/2022  
L. MICHAEL MACKEY  
Supreme Court Justice

This memorandum constitutes the Decision and Order of the court. The Court has uploaded the original Decision and Order to the case record in this matter maintained on the NYSCEF website, whereupon it is to be entered and filed by the Office of the County Clerk. Counsel is not relieved from the applicable provisions of CPLR § 2220 regarding service and notice of entry.

Papers Considered: NYSCEF Documents 42, 43

Petitioners' June 23, 2022 Notice of Petition for TRO, Preliminary Injunction, Removal/Transfer [R.481-485]

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

----- X  
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

**Oral Argument Requested**

Petitioners/Plaintiffs,

**Notice of Petition for TRO,  
Preliminary Injunction,  
Transfer/Removal to Federal  
Court, Mandamus, Declaratory,  
& Other Relief**

-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.

-----X  
**S I R S :**

PLEASE TAKE NOTICE that upon the accompanying June 23, 2022 affidavit of the individual petitioner/plaintiff *pro se* Elena Ruth Sassower, the exhibits thereto, the June 6, 2022 verified petition/complaint and its exhibits, and upon all the papers and proceedings heretofore had,



**Petitioners' June 23, 2022 Notice of Petition for TRO, Preliminary Injunction, Removal/Transfer [R.481-485]**

a motion will be made at the Albany County Courthouse, Room 102, 16 Eagle Street, Albany, New York 12207, on Friday, July 1<sup>st</sup>, 2022, at 9:30 a.m. – with oral argument thereon for an order:

- (1) granting petitioners/plaintiffs a TRO pending a hearing on, and determination of, their entitlement to a preliminary injunction to stay Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – from taking effect on July 8, 2022;
- (2) granting petitioners/plaintiffs an immediate hearing on their entitlement to a preliminary injunction staying Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – from taking effect on July 8, 2022 – and promptly determining same;
- (3) 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 –and enjoining the disbursement of monies for the Commission on Ethics and Lobbying in Government it establishes;
- (4) transferring/removing this case to federal court, including pursuant to Article IV, §4 of the United States Constitution: “The United States shall guarantee every State in this Union a Republican Form of Government”, inasmuch as the justices and acting justices of the Supreme Court of Albany County – and of the 61 other counties of New York State – are divested of jurisdiction to hear the case pursuant to Judiciary Law §14 and “rule of necessity” cannot be invoked by reason thereof;
- (5) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §§94.13(a) and (b) with respect to petitioners’ seven complaints – starting with the ministerial act of 15-day letters;
- (6) directing that the New York State Joint Commission on Public Ethics comply with Executive Law §94.9(l)(i) mandating that its annual reports contain “a listing by assigned number of each complaint and referral received which alleged a possible violation within its jurisdiction, including the current status of each complaint” – starting with its upcoming annual report for 2021 and such annual report as it will be rendering for 2022;
- (7) directing that Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie comply with Legislative Law §80.1 and §80.4 mandating their joint appointment of the Legislative Ethics Commission’s ninth member – this being the non-legislative member that makes non-legislators its majority;

## Petitioners' June 23, 2022 Notice of Petition for TRO, Preliminary Injunction, Removal/Transfer [R.481-485]

- (8) directing that the Legislative Ethics Commission comply with Legislative Law §80.7(l) pertaining to its annual reports – starting with rendering annual reports for 2020 and 2021;
- (9) directing that the New York State Inspector General comply with the mandates of Executive Law Article 4-A and its own Policy and Procedure Manual, violated by its handling of petitioners' November 2, 2021 complaint – and declaring the provision of the Policy and Procedure Manual that allows the Inspector General to take “no action” on complaints involving “covered agencies” to be violative of Executive Law §53.1 and void;
- (10) declaring unconstitutional, unlawful, and void the FY2022-23 New York state budget, enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw;
- (11) declaring unconstitutional, unlawful, larcenous, and void Legislative/Judiciary Budget Bill #S.8001-A/A.9001-A, enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw;
- (12) declaring unconstitutional, larcenous, and void the FY2022-23 appropriations for the New York State Commission on Judicial Conduct, the New York State Inspector General, the Appellate Division attorney grievance committees, and the Unified Court System's Inspector General – based on the evidence of their flagrant corruption in handling complaints furnished by petitioners at the Legislature's January 25, 2022 “public protection” budget hearing and again by their March 25, 2022 e-mail;
- (13) declaring unconstitutional, *as written* and *as applied*, Public Officers Law §108.2(b), violating Article III, §10 of the New York State Constitution and legislative rules consistent therewith, by exempting the Legislature from the Open Meetings Law to enable it to discuss “public business” in closed-door party conferences, rather than openly in committees and on the Senate and Assembly floor;
- (14) granting such other and further relief as may be just and proper and, specifically:
  - (a) an order directing respondent/defendant Attorney General James to identify:
    - (i) that a determination has been made, pursuant to Executive Law §63.1 as to the “interest of the state” herein; and
    - (ii) that a determination has been made that she can ethically, lawfully, and constitutionally represent her fellow respondents/defendants herein, where she is a party with direct financial and other interests, as in the

Petitioners' June 23, 2022 Notice of Petition for TRO, Preliminary Injunction, Removal/Transfer [R.481-485]

March 5, 2021 complaint filed with JCOPE against her (Exhibit D to the verified petition/complaint);

- (b) an order – in the event the Court denies transfer/removal to federal court – certifying the issue to the Appellate Division, Third Department and/or the Court of Appeals for determination;
- (c) an order referring respondents/defendants to the Public Integrity Section of the U.S. Department of Justice's Criminal Division for investigation and prosecution of their public corruption, obliterating constitutional, lawful governance and stealing taxpayer monies, documentarily-established by petitioners' interrelated complaints to the New York State Joint Commission on Public Ethics, to the Legislative Ethics Commission, to the New York State Inspector General, to the New York State Commission on Judicial Conduct, to the Appellate Division attorney grievance committees, and to the Unified Court System's Inspector General, among other ethics oversight and enforcement entities;
- (d) \$100 motion costs to petitioners/plaintiffs pursuant to CPLR §8202.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR §2214(b), answering papers are to be served on petitioners/plaintiffs two days before the return date, *to wit*, July 29, 2022, via NYSCEF.

Dated: White Plains, New York  
June 23, 2022

Yours, etc.



ELENA RUTH SASSOWER, petitioner/plaintiff, *pro se*,  
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](mailto:elena@judgewatch.org)

Petitioners' June 23, 2022 Notice of Petition for TRO, Preliminary Injunction, Removal/Transfer [R.481-485]

**TO: New York State Joint Commission on Public Ethics (JCOPE)  
Legislative Ethics Commission (LEC)  
New York State Inspector General (NYS-IG)  
Governor Kathy Hochul  
Temporary Senate President Andrea Stewart-Cousins & Senate  
Assembly Speaker Carl Heastie & Assembly  
Attorney General Letitia James  
Comptroller Thomas DiNapoli**

Petitioners' June 23, 2022 moving affidavit in support of TRO & preliminary injunction [R.486-489]

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

----- X  
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,

**Moving Affidavit in Support of  
TRO & Preliminary Injunction**

Petitioners/Plaintiffs,

-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,

LETTITIA 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.

-----X  
STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        ) ss.:

ELENA RUTH SASSOWER, being duly sworn deposes and says:

1. I am the above-named *pro se* individual petitioner/plaintiff, fully familiar with all the facts, papers, and proceedings herein.

Petitioners' June 23, 2022 moving affidavit in support of TRO & preliminary injunction [R.486-489]

2. On June 7, 2022, petitioners, “acting on their own behalf and behalf of the People of the State of New York & the Public Interest”, [filed via NYSCEF](#) this hybrid Article 78 proceeding, declaratory judgment action, and citizen-taxpayer action to secure the mandamus and declaratory relief compelled, *as a matter of law*, by the New York State Constitution, New York statutes, legislative rules, and caselaw – and did so with an order to show cause (#31) and accompanying June 6<sup>th</sup> supporting affidavit (#32) because time was of the essence.

3. The fate of that order to show cause at the hands of Albany County Supreme Court Justice Peter Lynch – the then Part 1 duty judge – defeating the very purpose of our proceeding by order to show cause so as to moot the mandamus relief we seek against respondent Joint Commission on Public Ethics (“JCOPE”) is recited by my June 21<sup>st</sup> affidavit (#43) in support of a new order to show cause (#42), seeking what the prior order to show cause did not, a TRO and transfer/removal to federal court. The [new order to show cause](#) and my [June 21<sup>st</sup> affidavit](#) are incorporated herein by reference<sup>1</sup> – the latter, with the [June 6, 2022 verified petition](#) (#1),<sup>2</sup> in evidentiary substantiation of petitioners’ entitlement to a preliminary injunction pursuant to CPLR §6312(a).

4. This motion is necessitated by what took place with respect to that dispositive new order to show cause – following the [June 21<sup>st</sup> recusal](#) of the current Part 1 duty judge, Acting Supreme Court Justice/Court of Claims Judge Richard Platkin (#44). According to Deputy Chief Clerk Mary Grace Sullivan, after other unidentified judges recused themselves, the order to show cause was given to Supreme Court Justice Mackey.

---

<sup>1</sup> This new order to show cause and my June 21<sup>st</sup> affidavit are, additionally, being furnished to respondents in hard copy, with the hard copy of this motion, as I had already duplicated them for service before the subsequent events that necessitated the motion.

<sup>2</sup> [CPLR §105\(u\)](#) entitled “Verified pleading” reads: “A ‘verified pleading’ may be utilized as an affidavit whenever the latter is required.”

Petitioners' June 23, 2022 moving affidavit in support of TRO & preliminary injunction [R.486-489]

5. Justice Mackey's response was a [June 22<sup>nd</sup> "Decision and Order"](#) (#45), concealing the entirety of [my affidavit](#)'s particularized recitation of Justice Lynch's actual bias, arising not only from the financial and others interests he shares with fellow judges – divesting all of them, including Justice Mackey, of jurisdiction pursuant to [Judiciary Law §14](#) – but the role of Justice Lynch's own twin brother in the underlying corruption exposed by my complaints to JCOPE, for which petitioners seek mandamus. Instead, Judge Mackey creates the fiction that the order to show cause “in essence, seeks to reargue Judge Lynch's denial of certain temporary relief and seeks to change the return date of the motion” – and that, therefore, “this proceeding and proposed Order to Show Cause shall forthwith be transferred to the Honorable Peter A. Lynch for review and determination pursuant to CPLR §2221(c)”. This is utter fraud, including because Justice Mackey affirmatively, if impliedly, purports that there is no disqualification for bias or interest making Justice Lynch “unable to hear” the supposed reargument motion.

6. Justice Lynch rendered no “order” that petitioners are rearguing or would have need to reargue, as it is but an order to show that because I did not serve it – and stated I would not serve it – is a nullity. *On its face*, such [June 8<sup>th</sup> order to show cause](#) (#37) is INDEFENSIBLE, setting a [July 15<sup>th</sup> return date](#) that cannot be explained other than as a demonstration of actual bias, born of interest, grossly depriving us of the [normal CPLR §2214\(b\) time parameters](#) available to us by notice of motion for no purpose other than to moot the preliminary injunctive relief to which our verified petition evidentially entitles us, *as matter of law*, and for which we sought the expedition of an order to show cause.

7. As is petitioners' right, we now proceed without expedited order to show cause time parameters to secure, if not a TRO, then an immediate hearing of our entitlement to an injunction to prevent the “ethics commission reform act of 2022” from taking effect on July 8<sup>th</sup> – and for prompt determination with respect thereto, consistent with [CPLR §6312](#):

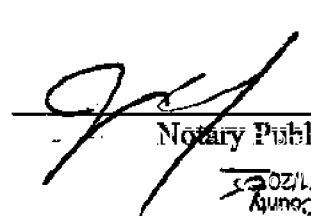
Petitioners' June 23, 2022 moving affidavit in support of TRO &amp; preliminary injunction [R.486-489]

"(a) Affidavit; other evidence. On a motion for a preliminary injunction the plaintiff shall show, by affidavit and such other evidence as may be submitted, that there is a cause of action, and either that the defendant threatens or is about to do, or is doing or procuring or suffering to be done, an act in violation of the plaintiff's rights respecting the subject of the action and tending to render the judgment ineffectual...

(c) Issues of fact. Provided that the elements required for the issuance of a preliminary injunction are demonstrated in the plaintiff's papers, the presentation by the defendant of evidence sufficient to raise an issue of fact as to any of such elements shall not in itself be grounds for denial of the motion. In such event the court shall make a determination by hearing or otherwise whether each of the elements required for issuance of a preliminary injunction exists."

  
ELENA RUTH SASSOWER

Sworn to before me this  
23<sup>rd</sup> day of June 2022

  
Notary Public  
JOSHUA T. ALEXANDER  
Notary Public, State of New York  
No. 04AL8357940  
Qualified in Albany County  
Commission Expires 5/1/2025



**AG**  
**Cristal Gazelone**  
 Legal Records Supervisor

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 & the Public Interest,

Petitioners/Plaintiffs,

-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.

SIRS:

PLEASE TAKE NOTICE that upon the accompanying June 23, 2022 affidavit of the  
 individual petitioner/plaintiff *pro se* Elena Ruth Sassower, the exhibits thereto, the June 6, 2022  
 verified petition/complaint and its exhibits, and upon all the papers and proceedings heretofore had,

2022 JUN 23 PM 1:02

Index #: 904235-22

**Oral Argument Requested**

**Notice of Petition for TRO,  
 Preliminary Injunction,  
 Transfer/Removal to Federal  
 Court, Mandamus, Declaratory,  
 & Other Relief**

*Joseph  
 NYS Senator  
 & Majority  
 Leader*  
 6/23/22

*Emma Muirhead*  
 6/23/22

*Executive Assistant  
 for  
 the*

*Governor*

*Tyler West  
 Received for  
 LEC.*

*Accepted for NYS IG Office  
 John Tupper - Investigative Counsel*  
*Received for Comptroller's  
 office  
 Victoria Lmo, Assistant  
 6-23-22*



Index No. 904235-22

STATE OF NEW YORK

COURT

COUNTY

*Center for Judicial Accountability, et al*  
*... and on behalf of the People of the State of NY & the Public Interest*  
 Plaintiff-Petitioner  
 Defendant-Respondent

STATE OF NEW YORK

COUNTY OF ALBANY

ss:

*Eleng R. Alexander* being duly sworn deposes and says that deponent is over the age of eighteen years and is not a party in this proceeding. Deponent served a true copy of Notice of Petition

attached hereto in the above entitled proceeding, such service having been made in the following manner, stated herein, and said person being the proper and authorized person to be served in this proceeding. (The name of said person, complete address, time, & date of service is as follows on line A.)

Line A

- \*1. by delivering to and leaving with personally \_\_\_\_\_ known to the deponent to be the same person mentioned & described in the above proceeding as the person to be served.
2. by delivering to and leaving with personally \_\_\_\_\_ on the \_\_\_\_\_ M. at the premises mentioned above in line (A), such person knowing the person to be served & associated with him & and after conversing with him, deponent believes him to be a person of suitable age & discretion, & by mailing a copy of the proceeding herein to said authorized person to the address & at the time stated above in line (A) which is his last known address, enclosed in a postpaid sealed wrapper in an official depository of the United States Postal Service.
3. by delivering to and leaving with Keith St. John, the agent for service on the person in this proceeding as designated under Rule 318 CPLR \_\_\_\_\_ Service having been made at \_\_\_\_\_ the place, time and date stated on line (A) above.
4. by affixing a true copy of the same to the door of the actual place of abode stated in line (A) above & by mailing a copy of the proceeding to the date and time stated on line (A) above.  
 Service was made in the manner stated in this paragraph (4) b to find the proper or authorized person to be served or a person business, dwelling place or usual place of abode stated in line times and dates:

NEW YORK STATE JOINT COMMISSION ON PUBLIC ETHICS



**KEITH C. ST. JOHN**  
 DIRECTOR OF ETHICS

540 BROADWAY  
 ALBANY, NEW YORK 12207

OFFICE: (518) 408-3976  
 FAX: (518) 474-8322

KEITH.STJOHN@COPE.NY.GOV  
 WWW.COPE.NY.GOV

5. by delivering to & leaving with the person named in line (A), a person served is an officer of the domestic corporation

named in this proceeding authorized to be served herein.

Deponent further states upon information and belief that said person so served is not in the Military Service of the State of New York or of the United States as the term is defined in either the State or Federal Statutes.

Deponent further states that he describes the person actually served as follows:

SEX	SKIN COLOR	HAIR COLOR	AGE (Approx.)	HEIGHT (Approx.)	WEIGHT (Approx.)
<input checked="" type="checkbox"/> Male	<input checked="" type="checkbox"/> Black	Light		6'4" plus	lbs.
<input type="checkbox"/> Female	<input type="checkbox"/> White	Med.			
		<input checked="" type="checkbox"/> Dark			

Sworn to before me, this

25<sup>th</sup> day of June, 2022

Notary Public—Commissioner of Deeds

*Joshua T. Alexander*  
 Notary Public

JOSHUA T. ALEXANDER  
 Notary Public, State of New York  
 No. 04418357940  
 Qualified in Albany County  
 Commission Expires 5/1/2025

\*Five means of service listed—complete applicable paragraph



**Cristal Gazelone**  
Legal Records Supervisor

SUPREME COURT OF STATE OF NEW YORK  
COUNTY OF ALBANY

2022 JUN 23 PM 1:02

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,

Petitioners/Plaintiffs,

-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.

TO THE SUPREME COURT OF THE STATE OF NEW YORK:

Petitioners/Plaintiffs, as and for their verified petition/complaint, state:

1. This CPLR Article 78 proceeding, combined with a CPLR §3001 declaratory  
judgment action and State Finance Law Article 7-A citizen-taxpayer action, is against public officers

and bodies who have violated mandatory statutory and constitutional provisions to corrupt New

*Joseph*  
Index #: *6/23*

VERIFIED  
PETITION/COMPLAINT

*Accepted  
for NYS  
Senate  
& Majority  
Leader*

*Emma, Executive  
Muirhead Assistant  
for the Governor*

*6/23/22*

*Paul Heastie  
received for  
Assembly and  
Speaker  
Heastie  
6/23/2022*

*Accepted for NYS IG Office  
John Tuppen - Investigative Counsel*

*Received for Comptroller's  
office  
Victoria JMD, Assistant  
6/23/22*

*Received for  
the LEC  
6/23/22*

R.492  
1 of 2



Index No. 904235-22

STATE OF NEW YORK

COURT

COUNTY

*Supreme*  
*Albany*  
 Center for Judicial Integrity, Inc. et al  
 vs  
 NCOPE, et al  
 Plaintiff-Petitioner  
 Defendant-Respondent  
 + the Public Interest

STATE OF NEW YORK  
COUNTY OF ALBANY

ss:

Long R. St. John being duly sworn deposes and says that deponent is over the age of eighteen years and is not a party in this proceeding. Deponent served a true copy of the Verified Petition *captioned*

having been made in the following manner, stated to be served in this proceeding. (The name of said person *Line A*.)

Line A

- \*1. by delivering to and leaving with personally M. a  
 be the same person mentioned & described in t  
 2. by delivering to and leaving with personally M. a

the person to be served & associated with him & person of suitable age & discretion, & by mailin the address & at the time stated above in line (A) wrapper in an official depository of the United States Postal Service.

3. by delivering to and leaving with Keith St. John, the agent for service on the person in this proceeding as designated under Rule 318 CPLR. Service having been made to such person at the place, time and date stated on line (A) above.  
 4. by affixing a true copy of the same to the door of the actual place of business, dwelling place or usual place of abode stated in line (A) above & by mailing a copy of the proceeding herein to said person to the address and on the date and time stated on line (A) above.

Service was made in the manner stated in this paragraph (4) because deponent was unable, with due diligence to find the proper or authorized person to be served or a person of suitable age & discretion at actual place of business, dwelling place or usual place of abode stated in line (A) above, having called ther at the following times and dates:

5. by delivering to & leaving with the person named in line (A), at said address, upon information & belief the person served is an officer of the domestic corporation named in this proceeding authorized to be served herein.

Deponent further states upon information and belief that said person so served is not in the Military Service of the State of New York or of the United States as the term is defined in either the State or Federal Statutes.

Deponent further states that he describes the person actually served as follows:

SEX	SKIN COLOR	HAIR COLOR	AGE(Approx.)	HEIGHT(Approx.)	WEIGHT(Approx.)
<input checked="" type="checkbox"/> Male	<input checked="" type="checkbox"/> Black	<input type="checkbox"/> Light		<u>6ft plus</u>	<u>lbs.</u>
<input type="checkbox"/> Female	<input type="checkbox"/> White	<input type="checkbox"/> Med			
		<input checked="" type="checkbox"/> Dark			

Sworn to before me, this 23<sup>rd</sup> day of Jul, 2022

Notary Public—Commissioner of Deeds

JOSHUA T. ALEXANDER

Notary Public, State of New York

No. 04AL6357940

Qualified in Albany County  
Commission Expires 5/1/2023

\*Five means of service listed—complete applicable paragraph

AG's June 27, 2022 Notice of Motion to Dismiss Petition [R.494-495]**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY**

---

In the Matter of the Application of  
ELENA RUTH SASSOWER, CENTER FOR  
JUDICIAL ACCOUNTABILITY, INC.,

Petitioners-Plaintiffs,

For a Judgment Pursuant to Article 78  
of the Civil Practice Law and Rules

**NOTICE OF MOTION**

Index No. 904235-22

-against-

NEW YORK STATE JOINT COMMISSION ON  
PUBLIC ETHICS, et al.,

Respondents-Defendants.

---

PLEASE TAKE NOTICE that upon the annexed Affidavit of Tyler Wuest, Affidavit of Emily Logue, Affirmation of Brian R. Haak, Affidavit Michael Kogut, Affirmation of Jellisa M. Joseph, Affidavit of Pauline Ross; Affidavit of Shane Bouchard, and the accompanying memorandum of law, Respondents-Defendants 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 President of the NYS Senate, 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, Thomas DiNapoli, in his official capacity as Comptroller of the State of New York will move at a Special Term of the Supreme Court, held in and for the County of Albany, at the Albany County Court House, Albany, New York on July 1, 2022 at 9:30 a.m., or as soon thereafter as counsel can be heard, for an order

AG's June 27, 2022 Notice of Motion to Dismiss Petition [R.494-495]

pursuant to CPLR 7804(c ) and(f); 3211(a)(7) and (8); 3014 and 304(a) granting dismissal of the petition, and alternatively, in the event that the motion is denied, for leave pursuant to CPLR 7804(f) to serve an answer, within thirty days, and for such other relief as may be just and proper.

Dated: Albany, New York  
June 27, 2022

LETITIA JAMES  
Attorney General of the State of New York  
Attorney for Respondents-Defendants  
The Capitol  
Albany, New York 12224

By: /s/ *Gregory J. Rodriguez*  
Gregory J. Rodriguez  
Assistant Attorney General, of Counsel  
Telephone: (518) 776-2612  
Fax: (518) 915-7738 (Not for service of papers)

TO: Petitioners Center for Judicial Accountability, Inc., and  
Elena Ruth Sassower (*via NYSECF*)

AG's June 27, 2022 Memorandum of Law to Dismiss Petition [R.496-503]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

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In the Matter of the Application of  
ELENA RUTH SASSOWER, CENTER FOR  
JUDICIAL ACCOUNTABILITY, INC.,

*Petitioners/Plaintiffs,*

Index No. 904235-22

For a Judgment Pursuant to Article 78  
of the Civil Practice Law and Rules

-against-

NEW YORK STATE JOINT COMMISSION ON  
PUBLIC ETHICS, et al.,

*Respondents/Defendants.*

---

**MEMORANDUM OF LAW IN SUPPORT OF  
RESPONDENTS'DEFENDANTS' MOTION  
TO DISMISS THE PETITION/COMPLAINT**

LETITIA JAMES  
Attorney General of the State of New York  
Attorney for Respondents/Defendants  
The Capitol  
Albany, New York 12224

Gregory J. Rodriguez  
Assistant Attorney General,  
of Counsel  
Telephone: (518) 776-2612  
Fax: (518) 915-7738 (Not for service of papers)

AG's June 27, 2022 Memorandum of Law to Dismiss Petition [R.496-503]

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## AG's June 27, 2022 Memorandum of Law to Dismiss Petition [R.496-503]

This Memorandum of Law is respectfully submitted on behalf of Respondents-Defendants 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 President of the NYS Senate; 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; and Thomas DiNapoli, in his official capacity as Comptroller of the State of New York (hereafter collectively “Respondents”); by their attorney, Letitia James, Attorney General of the State of New York, in support of Respondents’- Defendants’ motion to dismiss the Petition/Complaint, NYCEF No. 1, pursuant to CPLR 3211(a)(8) and 7804(a).

**STATEMENT OF FACTS**

In what appears to be Petitioners’ third attempt to commence this proceeding, see Dkt. Nos. 35, 37 and 46, Petitioners personally served the following documents on Respondents on June 23, 2022: (1) Notice of Petition for TRO, Preliminary Injunction, transfer/Removal to Federal Court, Mandamus, Declaratory, & Other Relief returnable July 1, 2022 [Dkt. No. 46]; (2) Moving Affidavit of Elena Sassower in Support of TRO & Preliminary Injunction [Dkt. No. 47]; and (3) an unsigned “Order to Show Cause for Transfer/Removal to Federal Court, For A Preliminary Injunction, Mandamus, Declaratory & Other Relief - - TRO” [Dkt. No. 42]; (4) “Affidavit in Support of Order to Show Cause For Transfer/Removal to Federal Court, For a Preliminary Injunction, Mandamus, Declaratory & Other Relief -- & A TRO [Dkt. No. 43]; and (5) Verified Petition/Complaint dated June 6, 2022 [Dkt. No. 1]. See Affidavit of Tyler Wuest dated June 27, 2022 (“Wuest Aff.”); Affidavit of Emily Logue, dated June 27, 2022 (“Louge Aff.”); Affirmation of Brian R. Haak, dated June 23, 2022 (“Haak Aff.”); Affidavit Michael Kogut, dated June 27,

## AG's June 27, 2022 Memorandum of Law to Dismiss Petition [R.496-503]

2022 (“Kogut Aff.”); Affidavit of Jellisa M. Joseph, dated June 27, 2022 (“Joseph Aff.”); Affidavit of Pauline Ross, dated June 24, 2022 (“Ross Aff.”); and Affidavit of Shane Bouchard, dated June 24, 2022 (“Bouchard Aff.”). Some respondents received an unsigned Notice of Petition for TRO, Preliminary Injunction, transfer/Removal to Federal Court, Mandamus, Declaratory, & Other Relief. See Joseph Aff. No summons was filed, or served on any Respondent. See Wuest Aff., Logue Aff., Haak Aff., Kogut Aff., Joseph Aff., Ross Aff., and Bouchard Aff.

**PROCEDURAL HISTORY**

On June 7, 2022, the Petitioners-Plaintiffs (“Petitioners”) filed a Verified Petition/Complaint. Dkt. No. 1. By Order to Show Cause dated June 7, 2022 the Court denied Petitioners’ request for injunctive relief. Dkt. No. 38. Thereafter, Petitioner sought an Amended Order to Show Cause seeking a preliminary injunction, without temporary relief, which the Hon. Peter Lynch issued on June 8, 2022. Dkt. No. 37. Pursuant to the Amended Order to Show Cause, Petitioner was to serve the Amended Order to Show Cause and supporting papers upon the respondents by June 20, 2022. Id. Petitioners then requested an opportunity to be heard on an application for a Temporary Restraining Order (“TRO”) and the Court scheduled the TRO application to take place on June 10, 2022, which was later re-scheduled to June 17, 2022. Dkt. Nos. 38, 39. On June 16, 2022 Petitioners advised the Court that they would not attend the June 17, 2022 proceeding and, therefore, the request for a TRO was deemed withdrawn by the Court. Dkt. No. 41. Petitioner did not serve the Amended Order to Show Cause or any papers upon respondents by June 20, 2022 as directed in the Amended Order to Show Cause. Petitioner then filed a further proposed Order to Show Cause on June 21, 2022. Dkt. No. 42. By letter dated June 21, 2022, Judge Platkin recused himself from any involvement in this proceeding. Dkt. No. 44. By Decision and Order dated June 22, 2022, the Hon. L. Michael Mackey held that this proceeding

## AG's June 27, 2022 Memorandum of Law to Dismiss Petition [R.496-503]

and proposed Order to Show Cause shall forthwith be transferred to the Honorable Peter A. Lynch for review and determination pursuant to CPLR§ 221( c). Dkt. No. 45.

Thereafter, Petitioners filed a “Notice of Petition for TRO, Preliminary Injunction, transfer/Removal to Federal Court, Mandamus, Declaratory, & Other Relief” and “Moving Affidavit in Support of TRO & Preliminary Injunction” on June 24, 2022. See Dkt. No.46.

**ARGUMENT****POINT I****PETITIONERS FAILED TO PROVIDE SUFFICIENT NOTICE  
OF THIS ARTICLE 78 PROCEEDING**

CPLR 7804(c) requires that a Notice of Petition, Petition, and any supporting affidavits “shall be served on any adverse party at least twenty days before the time at which the petition is noticed to be heard.” CPLR 7804(c). The Notice of Petition served by Petitioners provides that this proceeding is to be heard on July 1, 2022. Dkt. No. 46. The papers in this case were served upon Respondents on June 23, 2022 – eight days before the return date. *See* Wuest Aff., Logue Aff., Haak Aff., Kogut Aff., Joseph Aff., Ross Aff., Bouchard Aff..<sup>1</sup> Since the notice required by

---

<sup>1</sup> Petitioners filed documents styled as an acknowledgement of service on June 24, 2022 that consists of the cover page of the Notice of Petition (Dkt. No. 48) with various signatures and a purported affidavit of service of a Notice of Petition upon the Director of Ethics, signed by Petitioner Elena Sassower. There are no other “acknowledgement of service” forms or affidavits of service on the docket.

## AG's June 27, 2022 Memorandum of Law to Dismiss Petition [R.496-503]

CPLR 7804(c) was not provided, the Petition should be dismissed.<sup>2</sup> *Matter of Piacente v. DiNapoli*, 198 A.D. 3d 1026, 1028 (3d Dept 2021).

**POINT II****PETITIONERS FAILED TO OBTAIN PERSONAL JURISDICTION OVER RESPONDENTS IN CONNECTION WITH ANY PLENARY CLAIMS ALLEGED IN THE PETITION-COMPLAINT**

Although entitled a “Verified Petition-Complaint,” Petitioners failed to serve a summons on any party. A plenary action is commenced by the filing of a summons and complaint or summons with notice. CPLR 304(a). No summons or summons with notice was filed in this case, see generally NYCEF, and no summons or summons with notice has been served upon any Respondents. *See* Wuest Aff., Logue Aff., Haak Aff., Kogut Aff., Joseph Aff., Ross Aff., and Bouchard Aff.. As a result, Petitioners failed to commence a plenary action against the Respondents. *Collins v. Village of Head-of-the-Harbor*, 2018 U.S. Dist. LEXIS 1409, \*\*14-15 (Sup. Ct. Suffolk Co. Feb. 15, 2018) (“in hybrid actions-proceedings the pleading [should] be served with both a summons and notice of petition...The summons invokes jurisdiction for the

---

<sup>2</sup> Under CPLR 2103, except where otherwise prescribed by law or order of court, papers may be served by any person not a party of the age of eighteen years or over. Here, as set forth in Dkt. Nos. 48 and 49, the papers that were served upon respondents in this proceeding were served by Petitioner Elena Sassower. Therefore, under CPLR 2103, service is not proper.

## AG's June 27, 2022 Memorandum of Law to Dismiss Petition [R.496-503]

declaratory-judgment-action component while the notice of petition performs the same function for the Article 78 aspect of the case” (quoting Alexander, Practice Commentary, McKinney’s Cons Laws of NY, 2016 Electronic Update, CPLR 7804)). Accordingly, Petitioners’ claims for declaratory and injunctive relief must be dismissed.

**POINT III****THE PETITION-COMPLAINT FAILS TO COMPLY WITH CPLR 3014**

The CPLR requires, in pertinent part, that: “Every pleading shall consist of plain and concise statements in consecutively numbered paragraphs. Each paragraph shall contain, as far as practicable, a single allegation. ... Separate causes of action or defenses shall be separately stated and numbered ... .” CPLR § 3014. However, the pleading in this matter fails to comply with such pleading requirements. In addition to the rambling allegations contained in the document, the pleading also appears to attempt to link to documents on Petitioners’ website. See e.g. Verified Petition/Complaint, at. pp. 13, 14, 19, 21. The CPLR does not contemplate an incomplete pleading that an adversary must search the internet in order to make complete.

Given Petitioners’ failure to comply with CPLR 3014, the Petition should be dismissed. *Matter of Barnes v. Fischer*, 135 A.D.3d 1249, 1249-50 (3d Dept. 2016) (citations omitted) (affirming dismissal because the pleading did “not meet [the] standard [set forth in CPLR § 3014] as it contains overly broad and rambling allegations ...”).

## AG's June 27, 2022 Memorandum of Law to Dismiss Petition [R.496-503]

**CONCLUSION**

For the reasons discussed above, Respondents-Defendants' motion to dismiss the Petition-Complaint should be granted in its entirety.

Dated: Albany, New York  
June 27, 2022

LETITIA JAMES  
Attorney General of the State of New York  
Attorney for Respondents-Defendants  
The Capitol  
Albany, New York 12224

By: /s/ Gregory J. Rodriguez  
Gregory J. Rodriguez  
Assistant Attorney General, of Counsel  
Telephone: (518) 776-2612  
Fax: (518) 915-7738 (Not for service of papers)

TO: Petitioners (*via NYSCEF*)

**STATEMENT PURSUANT TO 22 NYCRR 202.8-b**

I, Gregory Rodriguez, affirm under penalty of perjury pursuant to CPLR 2106 that the total number of words in the foregoing memorandum of law, inclusive of point headings and footnotes and exclusive of pages containing the caption, table of contents, table of authorities, and signature block, is 1227. In determining the number of words in the foregoing memorandum of law, I relied upon the word count of the word-processing system used to prepare the document.

s/ Gregory Rodriguez  
Gregory Rodriguez

**Affidavit of Michael Kogut for Comptroller [R.504-505]**

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

**In the Matter of the Application of  
ELENA RUTH SASSOWER, CENTER FOR  
JUDICIAL ACCOUNTABILITY, INC.,**

**Petitioners,**

**For a Judgment Pursuant to Article 78  
of the Civil Practice Law and Rules**

**AFFIDAVIT**

**Index No. 904235-22**

**-against-**

**NEW YORK STATE JOINT COMMISSION ON  
PUBLIC ETHICS COMMISSION, et al.,**

**Respondents.**

**STATE OF NEW YORK            )  
  ) ss.:  
COUNTY OF ALBANY            )**

**Michael Kogut, being duly sworn, deposes and says:**

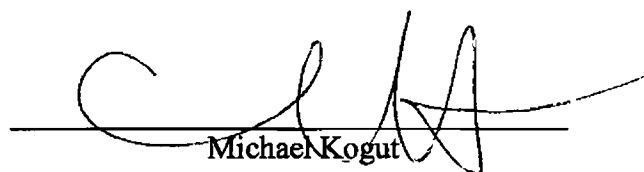
- 1. I serve as Counsel for State Audit and Litigation at the New York State Comptroller's Office (the "Comptroller").**
- 2. I make this affidavit with regard to the service of papers in the above referenced matter.**
- 3. In my role as Counsel for State Audit and Litigation, I am actively involved in litigation matters commenced against the agency, and am fully familiar with the policies and procedures for the Comptroller's receipt of service of process.**
- 4. On June 23, 2022, the Comptroller received the following papers: a signed "Notice of Petition for TRO, Preliminary Injunction, Transfer/Removal to Federal Court, Mandamus, Declaratory, & Other Relief," a signed "Moving Affidavit in Support of TRO & Preliminary**

## Affidavit of Michael Kogut for Comptroller [R.504-505]

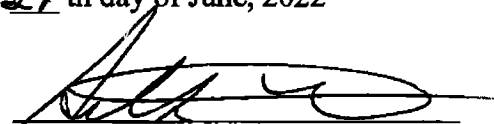
Injunction,” an unsigned “Order to Show Cause for Transfer/Removal to Federal Court, For A Preliminary Injunction, Mandamus, Declaratory & Other Relief -- TRO,” a signed “Affidavit in Support of Order to Show Cause For Transfer/Removal to Federal Court, For a Preliminary Injunction, Mandamus, Declaratory & Other Relief -- & A TRO,” and a signed “Verified Petition/Complaint” with Exhibits A- M.

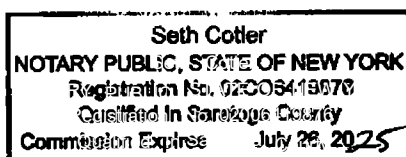
5. To date, these are the only papers that the Comptroller has been personally served with concerning this matter.

Dated: Albany, New York  
June 27, 2022

  
Michael Kogut

Sworn to before me this  
27 th day of June, 2022

  
Notary Public





Affidavit of Pauline Ross for IG [R.506-507]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

-----X

CENTER FOR JUDICIAL ACCOUNTABILITY, INC/SASSOWER ET AL.,

Petitioners/Plaintiffs,

AFFIRMATION

-against-

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

Index No: 904235/22

Respondent.

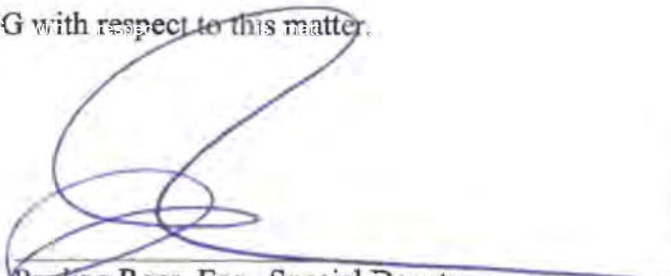
-----X

PAULINE ROSS, an attorney duly admitted to practice in the courts of the State of New York, affirms the following statements to be true under penalties of perjury:

1. I am the Special Deputy Inspector General for Operations for the Offices of the New York State Inspector General ("OIG"). In this role I am responsible for, amongst other things, receipt of service of process on behalf of OIG. I am familiar with the policies and procedures for OIG's receipt of service of process.
2. On June 23, 2022, OIG received for service a signed "Notice of Petition for TRO, Preliminary Injunction, transfer/Removal to Federal Court, Mandamus, Declaratory, & Other Relief," a "Moving Affidavit in Support of TRO & Preliminary Injunction" containing an "s/" notation in the signature line, an unsigned "Order to Show Cause for Transfer/Removal to Federal Court, For A Preliminary Injunction, Mandamus, Declaratory & Other Relief - & A TRO," a signed "Affidavit in Support of Order to Show Cause For Transfer/Removal to Federal Court, For a Preliminary Injunction, Mandamus, Declaratory & Other Relief -- & A TRO," and a signed "Verified Petition/Complaint" with Exhibits A-M.
3. To date, these are the only documents served on OIG with respect to this matter.

Dated: June 24, 2022

New York, New York



Pauline Ross, Esq., Special Deputy  
Inspector General for Operations

Affidavit of Pauline Ross for IG [R.506-507]

Affirmation of Emily Logue for JCOPE [R.508-509]SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

In the Matter of the Application of  
 CENTER FOR JUDICIAL ACCOUNTABILITY, INC.,  
 and ELENA SASSOWER

Petitioner-Plaintiffs,

**AFFIRMATION**

-against-

Index No. 904235-22

NYS JOINT COMMISSION ON PUBLIC ETHICS et  
 al.,

June 27, 2022

Respondents-Defendants.

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STATE OF NEW YORK     )  
                                   )ss.:  
 COUNTY OF ALBANY     )

EMILY LOGUE, an attorney duly admitted to practice in the courts of the State of New York, affirms the following statements to be true under penalties of perjury:

1. I am the Director of Investigations and Enforcement and the Co-Acting General Counsel for the New York State Joint Commission on Public Ethics (“JCOPE”) and submit this Affidavit in support of Respondent-Defendant JCOPE’s Motion to Dismiss.

2. I am familiar with the policies and procedures for JCOPE’s receipt, collection, and distribution of mail, correspondence, and legal papers.

3. I am informed by a JCOPE employee designated to receive legal papers for JCOPE that on June 23, 2022, inside the JCOPE offices at 540 Broadway, Albany, NY, he was personally handed papers referencing the above captioned matter, including a signed “Notice of Petition for

Affirmation of Emily Logue for JCOPE [R.508-509]

TRO, Preliminary Injunction, Transfer/Removal to Federal Court, Mandamus, Declaratory, & Other Relief,” dated June 23, 2022; an unsigned “Moving Affidavit in Support of TRO & Preliminary Injunction,” dated June 23, 2022; an unsigned “Order to Show Cause for Transfer/Removal to Federal Court, For A Preliminary Injunction, Mandamus, Declaratory & Other Relief - - TRO,” dated June 21, 2022; a signed “Affidavit in Support of Order to Show Cause For Transfer/Removal to Federal Court, For a Preliminary Injunction, Mandamus, Declaratory & Other Relief -- & A TRO,” dated June 21, 2022; and a signed “Verified Petition/Complaint” with Exhibits A-M, dated June 6, 2022.

4. To date, these are the only papers that JCOPE has been served with concerning this matter.

Dated: Albany, New York  
June 27, 2022



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Emily Logue

**Affidavit of Tyler Wuest for LEC [R.510-511]****SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY**

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**In the Matter of the Application of  
ELENA RUTH SASSOWER, CENTER FOR  
JUDICIAL ACCOUNTABILITY, INC.,****Petitioners,****AFFIDAVIT****For a Judgment Pursuant to Article 78  
of the Civil Practice Law and Rules****Index No. 904235-22****-against-****NYS LEGISLATIVE ETHICS COMMISSION, et al.,****Respondents.**

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**STATE OF NEW YORK            )  
  ) ss.:  
COUNTY OF ALBANY         )****TYLER WUEST, being duly sworn, deposes and says:****1. I am the Associate Counsel of the New York State Legislative Ethics Commission  
("LEC").****2. I make this affidavit with regard to the service of papers in the above referenced matter.****3. I am counsel for LEC and as such am authorized to accept service of process of behalf of  
LEC.****4. On June 23, 2022, I accepted the following papers: a signed "Notice of Petition for  
TRO, Preliminary Injunction, Transfer/Removal to Federal Court, Mandamus, Declaratory, &  
Other Relief," a signed "Moving Affidavit in Support of TRO & Preliminary Injunction," an  
unsigned "Order to Show Cause for Transfer/Removal to Federal Court, For A Preliminary**

## Affidavit of Tyler Wuest for LEC [R.510-511]

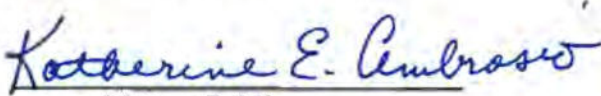
Injunction, Mandamus, Declaratory & Other Relief — & A TRO,” a signed “Affidavit in Support of Order to Show Cause For Transfer/Removal to Federal Court, For a Preliminary Injunction, Mandamus, Declaratory & Other Relief -- & A TRO,” and a signed “Verified Petition/Complaint” with Exhibits A-M.

5. To date, these are the only papers that the LEC has been served with concerning this matter.

Dated: Albany, New York  
June 27, 2022

  
Tyler Wuest

Sworn to before me this  
27 th day of June, 2022

  
Katherine E. Ambrosio  
Notary Public

KATHERINE E. AMBROSIO  
Notary Public, State of New York  
Reg. No. 02AM6309762  
Qualified in Columbia County  
Commission Expires August 18, 2022

Affirmation of Jellisa Joseph for Senate &amp; Temporary Senate President [R.512-513]

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

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**In the Matter of the Application of  
ELENA RUTH SASSOWER, CENTER FOR  
JUDICIAL ACCOUNTABILITY, INC.,****Petitioners,****For a Judgment Pursuant to Article 78  
of the Civil Practice Law and Rules****AFFIRMATION****Index No. 904235-22****-against-****NYS LEGISLATIVE ETHICS COMMISSION, aet al.,****Respondents.**

---

**STATE OF NEW YORK            )  
  ) ss.:  
COUNTY OF ALBANY         )**

Jellisa M. Joseph, an attorney duly admitted to practice in the courts of the State of New York, affirms the following statements to be true under penalties of perjury:

1. I am employed as Counsel to the Secretary of the Senate for the State of New York.
2. I am familiar with the policies and procedures for the collection and distribution of mail and other correspondence, including the receipt of service of process, for the Senate and the Temporary President of the Senate Andrea Stewart-Cousins.
3. I make this Affidavit with regard to the service of papers in the above referenced matter.
4. On June 23, 2022, the Temporary President of the Senate President Andrea Stewart-Cousins received for service a unsigned "Notice of Petition for TRO, Preliminary Injunction,

## Affirmation of Jellisa Joseph for Senate &amp; Temporary Senate President [R.512-513]

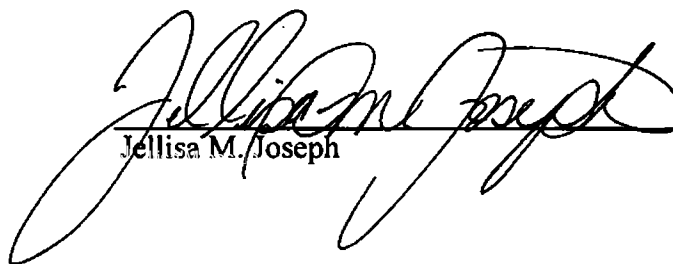
transfer/Removal to Federal Court, Mandamus, Declaratory, & Other Relief,” a signed “Moving Affidavit in Support of TRO & Preliminary Injunction,” an unsigned “Order to Show Cause for Transfer/Removal to Federal Court, For A Preliminary Injunction, Mandamus, Declaratory & Other Relief - - TRO,” a signed “Affidavit in Support of Order to Show Cause For Transfer/Removal to Federal Court, For a Preliminary Injunction, Mandamus, Declaratory & Othyer Relief -- & A TRO,” and a signed “Verified Petition/Complaint” with Exhibits A-



5. To date, these are the only papers that the Temporary President of the Senate Andrea Stewart-Cousins has been served with concerning this matter.

Dated: Albany, New York

June 27, 2022



Jellisa M. Joseph



## Affirmation of Brian Haak for Assembly &amp; Assembly Speaker [R.514]

STATE OF NEW YORK

SUPREME COURT ALBANY COUNTY

Center for Judicial Accountability, Inc., et al.,

Plaintiffs,

v.

ATTORNEY'S  
AFFIRMATIONNew York State Joint Commission on Public  
Ethics, et al.,

Index No. 904235-22

Defendants.

STATE OF NEW YORK )  
)ss:  
COUNTY OF ALBANY )

BRIAN R. HAAK, ESQ., an attorney admitted to practice in the courts of New York State,  
hereby states as follows:

1. I make this Affirmation with regard to the service of papers in the above referenced action.
2. I am Counsel to the Majority of the New York State Assembly and, in such capacity, am authorized to accept the service of process on behalf of the Assembly and Speaker Carl E. Heastie in his official capacity.
3. On June 23, 2022, I accepted a signed "Notice of Petition for TRO, Preliminary Injunction, Transfer/Removal to Federal Court, Mandamus, Declaratory, & Other Relief," an unsigned "Moving Affidavit in Support of TRO & Preliminary Injunction," an unsigned "Order to Show Cause For Transfer/Removal to Federal Court, For A Preliminary Injunction, Mandamus, Declaratory & Other Relief -- & A TRO," a signed "Affidavit in Support of Order to Show Cause For Transfer/Removal to Federal Court, For A Preliminary Injunction, Mandamus, Declaratory & Other Relief -- & A TRO," and a signed "Verified Petition/Complaint" with Exhibits on behalf of Speaker Carl E. Heastie and the Assembly.
4. To date, these are the only papers that I have been served with on behalf of Speaker Carl E. Heastie and the Assembly.

The undersigned affirms that the foregoing statements are true, under the penalties of perjury.

Date: June 23, 2022

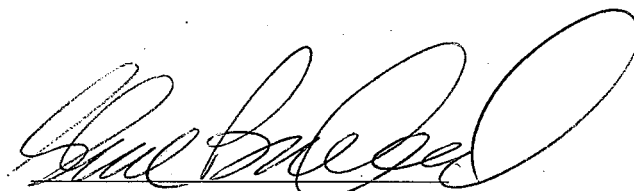
  
BRIAN R. HAAK



## Affidavit of Shane Bouchard for AG [R.515-516]

Injunction, transfer/Removal to Federal Court, Mandamus, Declaratory, & Other Relief,” a signed “Moving Affidavit in Support of TRO & Preliminary Injunction,” an unsigned “Order to Show Cause for Transfer/Removal to Federal Court, For A Preliminary Injunction, Mandamus, Declaratory & Other Relief - - TRO,” a signed “Affidavit in Support of Order to Show Cause For Transfer/Removal to Federal Court, For a Preliminary Injunction, Mandamus, Declaratory & Other Relief -- & A TRO,” and a signed “Verified Petition/Complaint” with Exhibits A- M from petitioners in connection with the above-named proceeding.

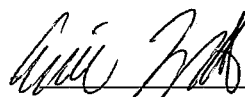
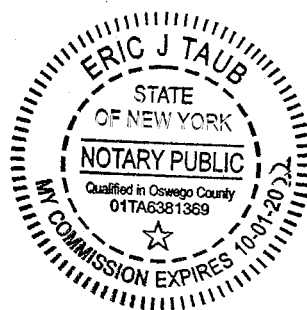
5. To date, these are the only papers that the Office of the Attorney General has been served with concerning this matter.



SHANE BOUCHARD

Office Assistant II

Sworn to before me this  
24<sup>th</sup> day of June 2022

  
\_\_\_\_\_  
Notary Public



**STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL**

LETITIA JAMES  
Attorney General

STATE COUNSEL DIVISION  
Litigation Bureau

Writer Direct: (518) 776-2612

June 27, 2022

Office of the Clerk of the New York State Supreme Court  
Supreme and County Courts  
Albany County Courthouse  
Albany, NY

Re: ***No Fee Authorization Letter in ...***

*Elena Ruth Sassower, Center for Judicial Accountability, Inc. v. New York State Joint  
Commission on Public Ethics, et al.*  
Index No. 904235-22

Dear Clerk:

Submitted herewith for electronic filing please find Respondents' Notice of Motion, Memorandum of Law and accompanying supporting affidavits/affirmations. As the Respondents are agencies of the State of New York or individuals sued in their capacity as agents of the State of New York, no fee is required to be paid for the filing of this motion.

Thank you kindly for your consideration of this matter.

Respectfully yours,  
/s/ Gregory J. Rodriguez  
Gregory J. Rodriguez  
Assistant Attorney General

cc: Petitioners (via NYSCEF)

Petitioners' June 28, 2022 CPLR §3214(c) Notice of Papers to be Furnished to the Court [R.518-527]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

----- X  
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

Petitioners/Plaintiffs,

**CPLR §2214(c) NOTICE**  
**of Papers to be Furnished**  
**to the Court**

-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.

-----X  
S I R S:

PLEASE TAKE NOTICE that upon the hearing of petitioners/plaintiffs' June 23, 2022 notice of petition for a TRO, preliminary injunction, transfer/removal to federal court, mandamus, declaratory & other relief in the above-entitled Article 78 proceeding/declaratory judgment action/citizen taxpayer action, you are hereby given notice, pursuant to [CPLR §2214\(c\)](#), to furnish:

Petitioners' June 28, 2022 CPLR §3214(c) Notice of Papers to be Furnished to the Court [R.518-527]

(1) all records of **findings of fact and conclusions of law** made with respect to petitioners' March 18, 2020 letter to then Governor Cuomo ([Ex A-5 to petition](#)), simultaneously furnished to the Legislature and Budget Director Mujica – identified at ¶82 of the June 6, 2022 verified petition as “the starting point for the declaration that Part QQ [of Education, Labor, Housing and Family Assistance Budget Bill #S.8006-C/A.9006-C – the ‘ethics commission reform act of 2022’] was unconstitutionally enacted”;

(2) all records of **findings of fact and conclusions of law** made with respect to petitioners' January 22, 2022 written statement in support of oral testimony ([Exhibit A-2 to petition](#)), January 25, 2022 written oral testimony ([Exhibit A-3 to petition](#)), and March 25, 2022 e-mail to 41 legislators – including to Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie ([Exhibit A-4 to petition](#)) – identifying petitioners' March 18, 2020 letter and specifying other constitutional, statutory, and legislative rule violations pertaining to the FY2022-23 state budget;

(3) all records of **discussions** of the aforesaid March 18, 2020 letter ([Ex A-5 to petition](#)), January 22, 2022 written statement in support of oral testimony ([Exhibit A-2 to petition](#)), January 25, 2022 written oral testimony ([Exhibit A-3 to petition](#)), and March 25, 2022 e-mail to 41 legislators Heastie ([Exhibit A-4 to petition](#)): (a) in any legislative committee meetings; (b) in any of the closed-door Senate and Assembly majority and minority party conferences;

(4) certified paper copies or electronic copies of Governor Hochul's “FY2023 Executive Budget Legislation”, such as posted on her [Division of the Budget website](#), consisting of:

(i) the Governor's five “FY 2023 Appropriations Bills”, introduced on January 18, 2022:

- [State Operations Bill #S.8000/A.9000](#)
- [Legislature and Judiciary Bill #S.8001/A.9001](#)
- [State Debt Service Bill #S.8002/A.9002](#)
- [Aid to Localities Bill #S.8003/A.9003](#)
- [Capital Projects Bill #S.8004/A.9004](#)

(ii) the Governor's five “FY Article VII Bills”, posted as draft bills, requiring Senate & Assembly sponsors

- [Education, Labor and Family Assistance \(ELFA\) Bill](#)  
& [Memorandum in Support](#)
- [Health and Mental Hygiene \(HMH\) Bill](#)  
& [Memorandum in Support](#)
- [Public Protection and General Government \(PPGG\) Bill](#)  
& [Memorandum in Support](#)

Petitioners' June 28, 2022 CPLR §3214(c) Notice of Papers to be Furished to the Court [R.518-527]

- [Transportation, Economic Development and Environmental Conservation \(TED\) Bill](#) & [Memorandum in Support](#)
  - [Revenue \(REV\) Bill](#) & [Memorandum in Support](#)
- (iii) the Governor's "Freestanding Article VII Legislation", posted as draft resolutions, requiring Senate & Assembly sponsors:
- [Private Sector Employment for Incarcerated Individuals Continuing Resolution](#) & [Memorandum in Support](#)
  - [Two-Year Term Limits on Statewide Elected Officials](#) & [Memorandum in Support](#)
- (iv) the Governor's "30-Day Amendments" – consisting of a "Narrative" and "Amendments" for each bill except for two "appropriations bills": Legislative/Judiciary and Debt Service;
- (5) certified paper copies or electronic copies from the Senate and Assembly websites of Governor Hochul's "FY2023 Executive Budget Legislation", reflecting the history of each bill from introduction through passage:

### **"APPROPRIATIONS BILLS"**

#### **State Operations Budget Bill**

[S.8000 – Senate webpage](#)

[A.9000 – Senate webpage](#) [A.9000 – Assembly webpage](#)

#### **Legislative/Judiciary Budget Bill**

[S.8001 – Senate webpage](#)

[A.9001 – Senate webpage](#) [A.9001 – Assembly webpage](#)

#### **State Debt Budget Bill**

[S.8002 – Senate webpage](#)

[A.9002 – Senate webpage](#) [A.9002 – Assembly webpage](#)

#### **Aid to Localities Budget Bill**

[S.8003 – Senate webpage](#)

[A.9003 – Senate webpage](#) [A.9003 – Assembly webpage](#)

#### **Capital Projects Budget Bill**

[S.8004 – Senate webpage](#)

[A.9004 – Senate webpage](#) [A.9004 – Assembly webpage](#)

Petitioners' June 28, 2022 CPLR §3214(c) Notice of Papers to be Furished to the Court [R.518-527]

**“ARTICLE VII BILLS”**

**Public Protection & General Government Budget Bill**

[S.8005 – Senate webpage](#)

[A.9005 – Senate webpage](#) [A.9005 – Assembly webpage](#)

**Education, Labor, Housing & Family Assistance Budget Bill**

[S.8006 – Senate webpage](#)

[A.9006 – Senate webpage](#) [A.9006 – Assembly webpage](#)

**Health & Mental Hygiene Budget Bill**

[S.8007 – Senate webpage](#)

[A.9007 – Senate webpage](#) [A.9007 – Assembly webpage](#)

**Transportation, Economic Development,  
& Environmental Conservation Budget Bill**

[S.8008 – Senate webpage](#)

[A.9008 – Senate webpage](#) [A.9008 – Assembly webpage](#)

**Revenue Budget Bill**

[S.8009 – Senate webpage](#)

[A.9009 – Senate webpage](#) [A.9009 – Assembly webpage](#)

(6) all records reflecting how Governor Hochul’s five so-called “FY 2023 Article VII Bills”, requiring Senate and Assembly sponsors – and so-posted on her [Division of the Budget webpage of her “FY2023 Executive Budget Legislation”](#) as proposed bills, with supporting memoranda – became actual bills purported to have been “submitted by the Governor pursuant to article seven of the Constitution”, bearing combined Senate-Assembly bill numbers S.8005/A.9005 to S.8009/A.9009 and a January 19, 2022 date of introduction;<sup>1</sup>

(7) all records pertaining to the formulation of Governor Hochul’s Part Z of her “[Public Protection and General Government Article VII Legislation](#)” and [supporting memorandum](#), thereafter becoming Part Z of her “[Public Protection and General Government” Budget Bill S.8005/A.9005](#) – including its deviation from the [original formulation announced on January 5, 2022 with her “State of the State” address](#) as creating an ethics commission to replace JCOPE, consisting of “a rotating board of five members made up of the 15 state-accredited law school deans or their designees”;

(8) all records reflecting how, following Governor Hochul’s 30-day amendments on February 22, 2022, amending three of her appropriation bills (excepting Legislative/Judiciary & Debt Service) and amending all five of her purported “FY 2023 Article VII Bills” – resulting in those eight bills having an “-A” suffix – the Senate and Assembly each “amended” them three weeks later on [days when neither house was in session](#):

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<sup>1</sup> Compare the Governor’s [Division of the Budget webpage of her “FY2023 Executive Budget Legislation”](#) with the Assembly webpage for the “[2022-2023 Executive Proposal](#)”.



Petitioners' June 28, 2022 CPLR §3214(c) Notice of Papers to be Furished to the Court [R.518-527]

- (i) On Saturday, March 12, 2022, when the Assembly “amended” all eight of the Governor’s aforesaid bills resulting in Assembly bills each bearing a “-B” suffix;
- (ii) On Sunday, March 13, 2022, when the Senate “amended” all eight of the Governor’s aforesaid bills resulting in Senate bills each bearing a “-B” suffix;

Specifically, who introduced each of the multitude of changes that produced these “amended” bills? At what committee meetings were they discussed and voted on? How many legislators voted on each of these changes and the ultimate “-B” bills? Who were they – and what were their votes? Why are none of these records posted on the Senate and Assembly websites?

(9) all records reflecting the introducer, discussion, and votes in the Senate of the amendment that eliminated the Part Z “Independent Ethics Reform Act” from [S.8005-A/A.9005-A](#), resulting in an “amended” [S.8005-B](#) where Part Z was “intentionally omitted”;

(10) all records reflecting the introducer, discussion, and votes in the Assembly of the amendment that eliminated the Part Z “Independent Ethics Reform Act” from [S.8005-A/A.9005-A](#), resulting in an “amended” [A.9005-B](#) where Part Z was “intentionally omitted”;

(11) a certified paper copy or electronic copy from the Senate’s website of [Resolution S-2081](#), introduced by Senate Majority Leader Stewart-Cousins on Sunday, March 13, 2022 – and any records of the time it was introduced and whether referred to any committee;

- (12) All records substantiating the text of [Senate Resolution S-2081](#), reading:

“RESOLUTION in response to the 2022-2023 Executive Budget submission (Legislative Bills S.8000-A, S.8001, S.8002, S.8003-A, S.8004-A, S.8005-A, S.8006-A, S.8007-A, S.8008-A, S.8009-A) to be adopted as legislation expressing the position of the New York State Senate relating to the 2022-2023 New York State Budget

WHEREAS, It is the intent of the Senate to effectuate the timely passage of a State Budget; and

WHEREAS, It is the intent of the Senate to engage in the Budget Conference Committee process, which promotes increased participation by the members of the Legislature and the public; and

WHEREAS, Article VII of the New York State Constitution provides the framework under which the New York State Budget is submitted, amended and enacted. The New York State Courts have limited the Legislature in how it may change the appropriations bills submitted by the Governor. The Legislature can delete or reduce items of appropriation contained in the several appropriation bills submitted by the Governor in conjunction with the Executive Budget, and it can add additional items of appropriation to those bills provided that such additions are stated separately and distinctly from the original items of the bill and refer each to a single object or purpose; and

Petitioners' June 28, 2022 CPLR §3214(c) Notice of Papers to be Furished to the Court [R.518-527]

WHEREAS, An extensive study and review of the Governor's 2022-2023 Executive Budget submission has revealed that the construction of the budget bills submitted to the Legislature by the Governor constrains the Legislature in its ability to fully effectuate its intent in amending the Governor's budget submission; and

WHEREAS, The Senate has amended the Governor's 2022-2023 Executive Budget submission to the fullest extent possible within the authority provided to it pursuant to Section 4 of Article VII of the New York State Constitution; and

WHEREAS, The Senate, in addition to the Governor's 2022-2023 Executive submission bills as amended by the Senate in the above referenced legislative bills, does hereby provide its recommendations as to provisions in the Governor's 2022-2023 Executive Budget submission which reflect those items the Senate is constrained from effectuating as amendments to the 2022-2023 Executive Budget appended hereto; and

WHEREAS, It is the intent of the Senate that upon the passage of the Governor's 2022-2023 Executive Budget submission as amended by the Senate, the incorporated Report on the Amended Executive Budget may provide a basis for both houses of the Legislature to convene Committees on Conference pursuant to Joint Rule III of the Senate and Assembly for the purpose of reconciling any differences between the amendments to the Governor's budget as proposed by each house of the Legislature; now, therefore, be it

RESOLVED, That the above referenced legislative bills (Legislative Bills S.8000-B, S.8001, S.8002, S.8003-B, S.8004-B, S.8005-B, S.8006-B, S.8007-B, S.8008-B, S.8009-B) be and are incorporated as part of this resolution and are hereby adopted as the New York State Senate's budget proposal for the 2022-2023 New York State Budget.”;

(13) all records establishing whether each of the positions/changes identified by the accompanying “REPORT ON THE AMENDED EXECUTIVE BUDGET” was already embodied in the Senate's above “-B” “amended” budget bills;

(14) all records substantiating the assertion in the Senate's “REPORT ON THE AMENDED EXECUTIVE BUDGET”, accompanying Temporary Senate President Stewart-Cousins Resolution S-2081:

“The Senate understands the Governor's responsibility to ensure that New York's budget is fiscally sound, but it is equally important to ensure that the constitutional limits on the Executive's powers are not exceeded. Failure to ensure reasonable limits on Executive authority would signal an irreversible abrogation of the Legislature's constitutionally guaranteed legislative responsibility.”

(15) a certified paper copy or electronic copy from the Assembly's website of [Resolution A-E00644](#), introduced by Assembly Speaker Heastie on Saturday, March 12, 2022 – and any records of the time it was introduced and whether referred to any committee;

Petitioners' June 28, 2022 CPLR §3214(c) Notice of Papers to be Furished to the Court [R.518-527]

(16) all records substantiating the text of [Assembly Resolution A-E00644](#), reading:

“in response to the 2022-023 Executive Budget submission (Bill Nos. A.9000-A, A.9001, A.9002, A.9003-A, A.9004-A, A.9005-A, A.9006-A, A.9007-A, A.9008-A, and A.9009-A) to be adopted as legislation expressing the position of the New York State Assembly relating to the 2022-2023 New York State Budget

WHEREAS, Article 7 of the constitution requires the Governor to submit an executive budget containing a plan of expenditures to be made before the close of the ensuing fiscal year and recommendations as to proposed legislation; and

WHEREAS, At the time of submitting the budget to the legislature the Governor is required to submit a bill or bills containing all the proposed appropriations and reappropriations included in the budget and the proposed legislation, if any recommended therein; and

WHEREAS, No provision may be embraced in any appropriation bill submitted by the Governor unless it relates specifically to some particular appropriation in the bill, and any such provision shall be limited in its operation to such appropriation; and

WHEREAS, Upon submission, pursuant to Joint Rule III, the Senate finance committee and the Assembly ways and means committee undertake an analysis and public review of all the provisions of the budget; and

WHEREAS, After study and deliberation, each committee makes recommendations in the form of bills and resolutions as to the contents thereof and such other items of appropriation deemed necessary and desirable for the operation of the government in the ensuing year; and

WHEREAS, All such fiscal committees' recommendations, when arrived at, are then to be placed before the members of the Legislature, individually and collectively, in their respective houses for their consideration and approval; and

WHEREAS, Each house thereupon considers and adopts legislation in bill format expressing its positions on the budget for the ensuing fiscal year; and

WHEREAS, Upon adoption thereof, a Conference Committee on the Budget, authorized by concurrent resolution of the Senate and Assembly pursuant to Joint Rule III, and such subcommittees thereof as may be deemed necessary are appointed by the Speaker of the Assembly and Temporary Preside of the Senate, respectively, will engage in negotiations designed to reach an accord on the contents of the budget for the ensuing fiscal year; and

WHEREAS, In order to commence a Legislative process of budget negotiations designed to reach a timely accord on the contents of the budget for the ensuing fiscal year, it is necessary that budget proposals be adopted by each house of the Legislature; be it now, therefore,

Petitioners' June 28, 2022 CPLR §3214(c) Notice of Papers to be Furished to the Court [R.518-527]

RESOLVED, That, this resolution, together with the New York State Assembly proposals for Executive budget resubmission contained in Assembly Bill Nos. A.9000-B, A.9001, A.9002, A.9003-B, A.9004-B, A.9005-B, A.9006-B, A.9007-B, A.9008-B, and A.9009-B, which are incorporated as if fully set forth in this resolution, herein constitute the legislation which expresses the budget proposals of the Assembly for the 2022-2023 New York State Budget.”

(17) all records pertaining to why the Senate and Assembly did not promulgate the budget schedule, required by their Joint Rule III within 10 days of the Governor’s submission of her budget<sup>2</sup> – referred to by both Senate and Assembly resolutions.

(18) the joint certificate establishing the Joint Budget Conference Committee, referred to by Assembly Speaker Heastie at [the first and only meeting of the Joint Budget Conference Committee on March 14, 2022](#);

(19) all records pertaining to why neither the Joint Budget Conference Committee, nor its subcommittees produced any reports;

(20) all records pertaining to the “ethics commission reform act of 2022” and its insertion as Part QQ into what became Education, Labor, Housing and Family Assistance Budget Bill [S.8006-C/A.9006-C](#) that emerged from the behind-closed-doors “three people in a room” budget “negotiations” following the first and only March 14, 2022 meeting of the Joint Budget Conference Committee and the first and only March 15, 2022 meetings of each of the ten budget conference subcommittees;

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<sup>2</sup> Joint Rule III reads:

“Section 1. Budget Consideration Schedule. In accordance with section 54-a of the Legislative Law, within ten days of the submission of the budget by the Governor pursuant to article VII of the Constitution, the Temporary President of the Senate and the Speaker of the Assembly shall promulgate a schedule of dates for considering and acting upon such submission. Such schedule shall include the dates for those actions required to be taken by the legislature pursuant to section 53 of the Legislative Law, dates for the convening of a joint budget conference committee or committees as provided herein, and a date by which such committee or committees shall issue a final report or reports.

§2. Joint Budget Conference Committee. In accordance with section 54-a of the Legislative Law, within ten days the submission of the budget by the Governor pursuant to Article VII of the Constitution, the Temporary President of the Senate and the Speaker of the Assembly shall jointly establish a Joint Budget Conference Committee and, as they deem necessary, any number of subcommittees subordinate to such Joint Budget Conference Committee, to consider and reconcile such budget resolutions or bills passed by, or as may be passed by, the Senate and Assembly. Such Joint Budget Conference Committee shall be constituted and conducted as prescribed in Joint Rule II and shall file its written report in accord with the schedule established pursuant to section 1 of this rule.”

Petitioners' June 28, 2022 CPLR §3214(c) Notice of Papers to be Furished to the Court [R.518-527]

(21) all records reflecting who made the determination and on what basis for adding \$2,467,286 for “Personal service-regular” plus inserting \$2,000,000 for a “Commission on Long Island Power Authority” – these constituting the changes to §1 of [Legislative/Judiciary Budget Bill S.8001/A.9001](#) by the “three people in a room”, which popped out from their behind closed doors as [S.8001-A/A.9001-A](#);

(22) all records pertaining to the insertion into what became Public Protection and General Government Budget Bill [S.8005-C/A.9005-C](#) of a Part JJ to enact the “Legislative Commission on the future of Long Island Power Authority” (a new [Legislative Law §83-N](#) – part of Legislative Law Article 5-A “Legislative Commissions”);

(23) Governor Hochul’s message of necessity for the two April 4, 2022 “extender” bills for emergency budget appropriations, introduced “at request of the Governor” by Senate Finance Committee Chair Krueger and Assembly Ways and Means Chair Weinstein, [S.8715](#) and [A.9766](#) – and, thereafter, the Governor’s messages of necessity for all nine of the “three people in a room”- “amended” FY2022-23 budget bills;

(24) all records of the discussions in the Senate and Assembly majority and minority party conferences on the FY2022-23 budget bills that emerged “amended” from the behind-closed doors of the “three people in a room”, prior to the Senate and Assembly votes;

(25) reports on the FY2022-23 “three people in a room”-“amended” budget bills that were furnished legislators before they voted, as Legislative Law §54 requires<sup>3</sup>.

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<sup>3</sup> [Legislative Law §54, entitled “Report on the budget”](#), reads, as follows, at its ¶¶2(b) and (c):

“(b) Before voting upon an appropriation bill submitted by the governor and related legislation, as amended, in accordance with article seven of the constitution, each house shall place on the desks of its members a report relating to each such bill and, preceding final action on all such appropriation bills and legislation, members shall be so provided with a comprehensive, cumulative report relating to all such bills and legislation.

(c) The reports prepared by each house shall include for the general fund a summary of proposed legislative revisions to the executive budget for the ensuing fiscal year, and shall separately identify and present all legislative additions, reestimates and other revisions that increase or decrease disbursements, and separately identify and present all legislative reestimates and other revisions that increase or decrease available resources. Such report shall, where practicable, display and separately identify and present all legislative additions, reestimates, and other revisions that increase or decrease state funds and all funds spending, including an estimate of the impact of the proposed revisions on local governments and the state workforce.”



Petitioners' June 28, 2022 CPLR §3214(c) Notice of Papers to be Furished to the Court [R.518-527]

PLEASE ADDITIONALLY TAKE NOTICE that your failure to make such production will entitle petitioners the granting of the relief sought by their June 23, 2022 notice of petition, starting the requested TRO, preliminary injunction, and declaration that Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – is unconstitutional, unlawful, and void as it was enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw.<sup>4</sup>

Dated: June 28, 2022  
White Plains, New York

Yours, etc.



ELENA RUTH SASSOWER,  
individual petitioner/plaintiff *pro se*  
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, Apt. 2D-E  
White Plains, New York 10603  
914-421-1200  
[elena@judgewidth.org](mailto:elena@judgewidth.org)

TO: New York State Joint Commission on Public Ethics (JCOPE)  
Legislative Ethics Commission (LEC)  
New York State Inspector General (NYS-IG)  
Governor Kathy Hochul  
Temporary Senate President Andrea Stewart-Cousins & Senate  
Assembly Speaker Carl Heastie & Assembly  
Attorney General Letitia James  
Comptroller Thomas DiNapoli

<sup>4</sup> See, *inter alia*, New York State Bankers Association, Inc. et al. v. Wetzler, as Commissioner of the Department of Taxation and Finance of the State of New York, 81 NY2d 98, 102 (1993) “The question concerns not what was enacted or its effect on the budgetary process, but whether there was authority to enact the provision at all. Our precedents clearly compel the conclusion that the controversy is justiciable...”

Petitioners' June 28, 2022 Affidavit in Opposition to AG's Dismissal Motion [R.528-538]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

----- X  
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,

**Affidavit in Opposition to  
Respondents' June 27, 2022  
Dismissal Motion & in Further  
Support of Petitioners' June 23,  
2022 Notice of Petition**

Petitioners/Plaintiffs,  
  
-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.

-----X  
STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        ) ss.:

ELENA RUTH SASSOWER, being duly sworn deposes and says:

Petitioners' June 28, 2022 Affidavit in Opposition to AG's Dismissal Motion [R.528-538]

1. I am the above-named unrepresented individual petitioner/plaintiff,<sup>1</sup> fully familiar with all the facts, papers, and proceedings in this hybrid Article 78 proceeding/CPLR §3001 declaratory judgment action/State Finance Law Article 7-A citizen-taxpayer action, expressly brought “on behalf of the People of the State of New York & the public interest”.

2. I submit this affidavit in opposition to the June 27, 2022 dismissal motion by Assistant Attorney General Gregory J. Rodriguez, acting “of Counsel” to Attorney General Letitia James, a respondent herein representing herself and her co-respondents, and in further support of petitioners’ June 23, 2022 notice of petition.

3. Having no defense, on the merits, to this fully-documented lawsuit, exposing the corruption of New York state governance by the respondent public officers and public entities – where time is of the essence – Mr. Rodriguez has made a time-wasting and frivolous dismissal motion by papers which:

- transmogrify the caption to conceal that petitioners are acting “on behalf of the People of the State of New York & the Public Interest”;
- conceal, *in toto*, the allegations of the verified petition;
- conceal, *in toto*, the EVIDENCE substantiating the petition, starting with its annexed exhibits;
- conceal the imperative for expedition, particularized by my [June 6<sup>th</sup> affidavit](#) and [June 21<sup>st</sup> affidavit](#) in support of orders to show cause and by my [June 23<sup>rd</sup> affidavit](#) in support of the notice of petition;
- conceal that this hybrid lawsuit includes a citizen-taxpayer action pursuant to [State Finance Law Article 7-A](#) which, by its terms, not only expressly contemplates the Attorney General’s involvement as plaintiff or on behalf of plaintiffs (§123-a(3); §123-c(3), §123-d; §123-e(2)), but commands expedition: that it “shall be heard upon such notice...as the court, justice, or judge shall direct, and shall be promptly determined. The action shall have preference over all other causes in all courts.” (§123-c(4)).

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<sup>1</sup> For simplicity, the petitioners/plaintiffs are hereinafter referred to as petitioners, the petition/complaint is referred-to as the petition, and respondents/defendants as referred-to as respondents.



## Petitioners' June 28, 2022 Affidavit in Opposition to AG's Dismissal Motion [R.528-538]

4. As hereinbelow demonstrated, Mr. Rodriguez's motion is not merely insufficient, but a fraud upon the Court. Its sole value is to demonstrate that Attorney General James must be disqualified for interest from representing her co-respondents – and from even determining the “interest of the state” pursuant to [Executive Law §63.1](#), which Mr. Rodriguez's motion does purport as having been done and which, were it done, would mandate the Attorney General's representation of petitioners, not respondents, *via* independent, outside counsel, retained for such purpose.

5. According to Mr. Rodriguez's June 27<sup>th</sup> notice of motion, filed at 11:14 pm – which, without referencing CPLR §2214 time provisions, he has made returnable on July 1<sup>st</sup> – he seeks:

“an order pursuant to CPLR 7804(c) and (f); 3211(a)(7) and (8); 3014 and 304(a) granting dismissal of the petition, and alternatively, in the event the motion is denied, for leave pursuant to CPLR 7804(f) to serve an answer, within thirty days, and for such other relief as may be just and proper.”

6. He supports his notice of motion with seven essentially identical affidavits or affirmations: six from attorneys for the Attorney General's co-defendants<sup>2</sup> and one from an employee of the Attorney General, which do not contest service made on June 23<sup>rd</sup>, but simply recite the papers that were served – a summons not being among them. He additionally furnishes a supporting memorandum of law, barely six pages in length. Its “Argument” for dismissal, consists of three “Points”, cumulatively less than three pages, each citing a single case. Below is a rebuttal of the three frivolous Points Mr. Rodriguez presents for dismissal – and my requests to the Court in connection therewith.

**Mr. Rodriguez's Frivolous Point I**  
**“Petitioners Failed to Provide Sufficient Notice of this Article 78 Proceeding”**

7. Mr. Rodriguez's one-paragraph Point I (at pp. 3-4) objects that petitioners served their June 23<sup>rd</sup> notice of petition, with a return date of Friday, July 1<sup>st</sup> – furnishing thereby eight days notice rather than the 20 days required by CPLR §7804(c).

## Petitioners' June 28, 2022 Affidavit in Opposition to AG's Dismissal Motion [R.528-538]

8. This is not a basis for dismissing the petition – and Mr. Rodriguez offers no case for such proposition. Indeed, the SOLE case he cites, [\*Matter of Piacente v. DiNapoli\*](#), 198 A.D. 3d 1026, 1028 (3d Dept 2021), has NOTHING to do with a notice of petition abridging time parameters.

9. The reason I made the June 23<sup>rd</sup> notice of petition returnable on July 1<sup>st</sup> is because I believed it to be the same as a notice of motion, which, pursuant to [CPLR §2214\(b\)](#), requires only eight days when personally served, which the notice of petition was. Indeed, the notice was originally titled “notice of motion” and I only changed it to “notice of petition”, after consulting with Albany County Supreme Court Deputy Chief Clerk Mary Grace Sullivan regarding procedure for bringing on the petition/complaint by ordinary motion, pursuant to CPLR §2214(b), rather than order to show cause, pursuant to [CPLR §2214\(d\)](#).

10. The facts impelling petitioners to proceed by notice of petition, rather than order to show cause – and requiring expedition to secure, if not a TRO, then preliminary injunction – are set forth by my June 23<sup>rd</sup> affidavit in support of the notice of petition, my June 21<sup>st</sup> affidavit in support of an order to show cause, and my June 6<sup>th</sup> affidavit in support of an order to show cause. No aspect of what is there set forth is contested by Mr. Rodriguez or by the attorneys and employee who signed for him affidavits and affirmations.

11. Nor does Mr. Rodriguez or the affidavit/affirmation-signing attorneys and employee allege any prejudice to respondents by the July 1<sup>st</sup> return date. This is not surprising, as there is no prejudice, in fact, as they have had the verified petition since June 9<sup>th</sup> – and with it my June 6<sup>th</sup> affidavit supporting petitioners’ original order to show cause, and the amended order to show cause that Justice Peter Lynch signed on June 8<sup>th</sup>, as I [e-mailed them on June 9<sup>th</sup>](#) with the NYSCEF link. Such followed communications mostly by phone, but also including e-mails [here](#) & [here](#), that began

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<sup>2</sup> There is no affidavit/affirmation for respondent Governor Hochul.

## Petitioners' June 28, 2022 Affidavit in Opposition to AG's Dismissal Motion [R.528-538]

on June 7<sup>th</sup>, wherein I attempted to make arrangements for service, including their agreement to service *via* NYSCEF. [On June 21<sup>st</sup> I e-mailed them](#) the further order to show cause and my moving affidavit, seeking the same relief as I would seek by the June 23<sup>rd</sup> notice of petition.

12. As there is absolutely no prejudice to respondents by the July 1<sup>st</sup> return date – by contrast to the substantial injury and dislocation that will be caused to the People of the State of New York and the public interest by allowing Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act” – to take effect on July 8<sup>th</sup> – which is what petitioners’ notice of petition and prior signed and unsigned orders to show cause were designed to avoid – **petitioners ask that, in the interest of justice and on an emergency basis, the Court hear the first two branches of their June 23<sup>rd</sup> notice of petition for a TRO and preliminary injunction – and that it schedule an evidentiary hearing for either Wednesday, July 6<sup>th</sup> or Thursday, July 7<sup>th</sup>.**

13. As for the other branches of the notice of petition, annexed hereto as [Exhibit A](#) is an amended notice of petition with a return date of Friday, July 22<sup>nd</sup> – 24 days from today, which, as reflected by the stamp and signature thereon, I have already served today on the Attorney General’s Westchester Regional Office. Because July 22<sup>nd</sup> is AFTER the July 8<sup>th</sup> date on which, absent a stay, the “ethics commission reform act” will have taken effect, the amended notice of petition omits the first two branches of the notice of petition: for a TRO and preliminary injunction. Instead, it inserts a new first branch, prompted by Mr. Rodriguez’s frivolous and fraudulent dismissal motion. What had been “other and further relief” in the notice of petition, is now phrased, in this new first branch, as:

“disqualifying Attorney General James, a respondent/defendant, from representing her co-respondents/defendants based on the absence of any sworn statement by her, personally: (a) that representing them, rather than petitioners/plaintiffs, is based on a determination that they have a “merits” defense to the lawsuit, such that representing them is in the “interest of the state”, as Executive Law §63.1 requires; and (ii) that her own direct financial and other interests in the lawsuit, as in petitioners/plaintiffs’

Petitioners' June 28, 2022 Affidavit in Opposition to AG's Dismissal Motion [R.528-538]

March 5, 2021 complaint against her filed with respondent/defendant Joint Commission on Public Ethics (Exhibit D to the petition/complaint), does not require that she secure independent, outside counsel to determine the ‘interest of the state’ pursuant to Executive Law §63.1 – and petitioners/plaintiffs’ entitlement to representation”.

14. Should the Court deem it necessary for petitioners to proceed pursuant to this June 28, 2022 amended notice of petition, I ask that the Court specify whether the aforesaid, already-made personal service on the Attorney General’s Westchester Regional Office is adequate – and whether it is deemed to cover the co-respondents.

15. I asked this question of Mr. Rodriguez, who I called shortly after 10 a.m. this morning and then again four hours later – and who thereafter returned my call. We had an amicable, constructive, and lengthy conversation, discussing most of the issues herein.<sup>3</sup> However, I was unable to get an answer from him concerning service of an amended notice of petition.

16. Among the important issues I discussed with Mr. Rodriguez was the realization I had made upon drafting the June 23<sup>rd</sup> notice of petition and, in so-doing, re-prioritizing the branches of the unsigned June 21<sup>st</sup> order to show cause and placing ALL the relief relating to JCOPE together, at

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<sup>3</sup> This includes his footnotes 1 and 2 to his Point I pertaining to service, which he does NOT make a basis for dismissal.

With respect his footnote 1, impugning my selection of the term “acknowledgment of service” as the description of the documents uploaded into NYSCEF, I told Mr. Rodriguez that prior to my uploading the service documents, I had telephoned both NYSCEF and the Albany County Clerk’s Office to inquire as to the difference between “acknowledgment of service” and “admission of service” – the two seemingly applicable choices on the NYSCEF drop-down menu, as to which I had been unable to find anything on the NYSCEF website or by googling. Neither the NYSCEF staff nor the Albany County Clerk’s Office knew the difference.

With respect to his footnote 2, that “the papers that were served upon respondents in this proceeding were served by Petitioner Elena Sassower. Therefore, under CPLR 2103, service is not proper”, none of the affidavits/affirmations of the attorneys and employee for respondents supporting Mr. Rodriguez’ motion identify, let alone object to, service having been made by me. Indeed, only my affidavits of service for the notice of petition and petition for JCOPE reflect personal service by me upon its Director of Ethics Keith St. John. As I stated to Mr. Rodriguez, following my service upon Mr. St. John – and to prevent any possibility of JCOPE raising a service objection on that ground – I returned to JCOPE with a non-party so that he could effect service upon Mr. St. John – including by a second set of the notice of petition and petition, if Mr. St John did not hand back the ones I had served him with. In the presence of JCOPE’s two female staffers who sit at desks in the reception area, as well as the non-party who was ready to effect service, Mr. St. John stated that such re-service was not necessary and that JCOPE would not contest the service I had made. I further advised Mr. Rodriguez that I had served the pleadings in all three of the *CJA v. Cuomo* lawsuits against the state that I had commenced in 2012, 2014, and 2016 – as well as the motion papers – as, likewise, in my 2014 motion to intervene in the Legislature’s declaratory judgment action against the Commission to Investigate Public Corruption – to which, as I recollect, there had been no objection.

## Petitioners' June 28, 2022 Affidavit in Opposition to AG's Dismissal Motion [R.528-538]

the outset of the notice, that petitioners' two mandamus causes of action against JCOPE will NOT, in fact, be mooted by the "ethics commission reform act of 2022" taking effect on July 8<sup>th</sup>. The reason is the petition's sixth cause of action (§§78-85) – the first of the petition's five causes of action for declaratory relief – for an order:

“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”.

As such declaration is a matter of open-and-shut, *prima facie*, documentary evidence – so-stated by the petition, obvious from its content, and reiterated by all three of my prior affidavits – the current Executive Law §94 and JCOPE, which the “ethics commission reform act of 2022” repeals, will, in the absence of an injunction before July 8<sup>th</sup>, be re-instated after, *as a matter of law*, by ANY fair and impartial tribunal – and, with it, petitioners' entitlement to mandamus against JCOPE based on that Executive Law §94 – the subject of their first and second causes of action (§§27-41; §§42-47).

17. As the shut-down of JCOPE on July 8<sup>th</sup> and its re-instatement shortly thereafter will cause substantial chaos and inconvenience for the public, for JCOPE staff and for ethics enforcement operations, it is imperative that the constitutionality and lawfulness of the enactment of the “ethics commission reform act of 2022” be determined as immediately as possible so that JCOPE's operations are not needlessly interrupted. To facilitate this, I told Mr. Rodriguez I had already completed a CPLR §2214(c) notice to respondents of papers to be furnished to the Court at the hearing of the notice of petition, which I would be serving and filing *via* NYSCEF – and annexing to this affidavit ([Exhibit C](#)).

18. I also alerted Mr. Rodriguez to “the starting point” for the declaration of unconstitutionality, identified at §82 of the petition's sixth cause of action: my March 18, 2020 letter to then Governor Cuomo ([Exhibit A-5 to the petition](#)) pertaining to non-appropriation, so-called “Article VII legislation” that, by fraud, is morphed into bills – and to the relevant case of [New York](#)

## Petitioners' June 28, 2022 Affidavit in Opposition to AG's Dismissal Motion [R.528-538]

State Bankers Association, Inc. et al. v. Wetzler, as Commissioner of the Department of Taxation and Finance of the State of New York, 81 NY2d 98, 102 (1993) wherein the Court of Appeals stated the matter succinctly: “The question concerns not what was enacted or its effect on the budgetary process, but whether there was authority to enact the provision at all.”

**Mr. Rodriguez’s Frivolous Point II****“Petitioners Failed to Obtain Personal Jurisdiction Over Respondents in Connection with any Plenary Claims Alleged in the Petition-Complaint”**

19. Mr. Rodriguez’s one-paragraph Point II (at pp. 4-5) objects that petitioners served their hybrid June 6, 2022 verified petition/complaint with a notice of petition and not, additionally, a summons.

20. This also is not a basis for dismissing the petition – and Mr. Rodriguez offers no case as precedent. Indeed, the SOLE case he cites, Collins v. Village of Head-of-the-Harbor, 2018 U.S. Dist. LEXIS 1409, \*\*14-15 (Sup. Ct. Suffolk Co. Feb. 15, 2018), is NOT to the contrary. Under the title heading “Summons”, it reads:

“It has been said that ‘[t]o avoid disputes over the acquisition of jurisdiction in hybrid actions-proceedings the pleading [should] be served with both a summons and notice of petition (or order to show cause). The summons invokes jurisdiction for the declaratory-judgment-action component while the notice of petition performs the same function for the Article 78 aspect of the case’ (Alexander, Practice Commentary, McKinney’s Cons Law of NY, 2016 Electronic Update, CPLR §7804; [internal citations omitted]). At least one trial court has found that ‘the notice of petition and petition are the functional equivalent of a summons and complaint for the declaratory judgment claim pleaded’ in a hybrid action (*see New York State Assemblyman Powell v. City of New York*, 16 Misc 3d 1113(A), 2007 Slip Op 51409(U) [Sup Ct NY Co 2007]). Neither the Court of Appeals nor any Appellate Division have ruled on this question.

Here, the respondents argue that the cause of action for declaratory relief should be dismissed because service of a summons is required pursuant to CPLR §304 for the matter to proceed as a hybrid action, and petitioners did not serve a summons with the petition. The petitioner faxed the court a copy of a summons on December 6, 2017 but did not provide evidence of service. It is unnecessary, however, to reach the question of whether the order to show cause and petition here serve as the functional equivalent of a summons and complaint, thereby providing the Court with jurisdiction to consider the declaratory judgment component of this hybrid action without the necessity of also requiring service of a summons, as the Court is

## Petitioners' June 28, 2022 Affidavit in Opposition to AG's Dismissal Motion [R.528-538]

dismissing both the Article 78 proceeding and declaratory judgment action on other grounds.”

21. In other words, *Collins v. Village of Head-of-the-Harbor* not only does not stand for the proposition that in a hybrid lawsuit a summons must be served, in addition to a notice of petition, but by its cited case of [Powell v. New York City](#) reveals that the legal precedent is in the other direction. As there stated:

“In this case, defendants-respondents argue that the cause of action for declaratory relief should be dismissed because no summons and complaint were served with the petition and notice of petition. This argument is unconvincing. Defendants-respondents submit no authority that a ‘hybrid’ Article 78 proceeding-action must be commenced by filing separate pleadings of both a special proceeding and action, followed by service of both sets of papers. The initiatory papers filed and served here, denominated as a notice of petition and petition, are the functional equivalent of a summons and complaint for the declaratory judgment claim pleaded as the second cause of action. The Court therefore deems them the summons and complaint.” (underlining added).

22. Deputy Chief Clerk Sullivan was plainly knowledgeable of this when, in response to my inquiries on June 22<sup>nd</sup> as to whether I needed to include a summons with the notice of petition I would be serving the next day, she told me I did not.

23. To further obviate this non-issue, I have today served a summons at the Attorney General’s Westchester Regional Office, annexed hereto as [Exhibit B](#), reflecting a receipt stamp and signature thereon. Here, too, I would request the Court’s guidance with respect to additional service, if such should be necessary.

**Mr. Rodriguez’s Frivolous Point III**  
**“The Petition-Complaint Fails to Comply with CPLR 3014”**

24. Mr. Rodriguez’ two-paragraph Point III (at p. 4-5) baldly purports that the June 6, 2022 petition contains “rambling allegations” and that because it “appears to attempt to link to documents on Petitioners’ website”, it is “an incomplete pleading that an adversary must search the internet in order to make complete”. This is utterly false. There is nothing “rambling” about the allegations of the petition – and Mr. Rodriguez’s failure to give a single example reflects as much.

## Petitioners' June 28, 2022 Affidavit in Opposition to AG's Dismissal Motion [R.528-538]

Nor is there anything “incomplete” about the petition because it furnishes links to the mountain of EVIDENCE substantiating its allegations. This includes “at pp. 13, 14, 19, 21” to which Mr. Rodriguez cities, without the slightest elaboration at to anything “incomplete” on those pages.

25. As for Mr. Rodriguez’s cited case *Matter of Barnes v. Fischer*, 135 A.D.3d 1249, 1249-50 (3d Dept. 2016), which I am unable to locate, it has no relevance, there being no “overly broad and rambling allegations” on which to predicate dismissal of the petition pursuant to CPLR §3014.

### CONCLUSION

26. As I stated to Mr. Rodriguez in our extensive phone conversation, his motion must be withdrawn – and his obligation is to refer this case “upstairs”, to his superiors, for review and determination of the “interest of the state” pursuant to Executive Law §63.1 and the Attorney General James’ duty to secure independent, outside counsel, as she is a respondent, directly interested, financially and otherwise. No one examining my March 5, 2021 complaint to JCOPE ([Exhibit D-1](#)), resting on – with respect to Attorney General James – the February 11, 2021 attorney misconduct complaint I filed against her with the Appellate Division attorney grievance committees ([Exhibit D-2](#)) and its included February 7, 2021 judicial misconduct complaint to the Commission on Judicial Conduct ([Exhibit D-3](#)) – could come to any other conclusion – and a sworn statement from Attorney General James, personally, is here mandated.



Petitioners' June 28, 2022 Affidavit in Opposition to AG's Dismissal Motion [R.528-538]

  
ELENA RUTH SASSOWER

Sworn to before me this  
28<sup>th</sup> day of June 2022

  
Notary Public

Jared Mailman  
Notary Public, State of New York  
NO. 04MA6131176  
Qualified in Westchester County  
Commission Expires on August 1, 2025

Ex. A to Petitioners' Affidavit: AG receipted Amended Notice of Petition [R.539-542]

JUN 28 PM 4:48

STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL  
WESTCHESTER REGIONAL OFFICESUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

----- x

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,

Petitioners/Plaintiffs,

Index #: 904235-22

Oral Argument Requested

Amended Notice of Petition for  
Determination of the "interest of  
the state" Pursuant to Executive  
Law §63.1, Disqualification of the  
Attorney General for Direct  
Financial and Other Conflicts of  
Interest, Transfer/Removal to  
Federal Court, Mandamus,  
Declaratory, & Other Relief

-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.

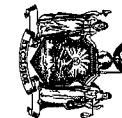
S I R S :

PLEASE TAKE NOTICE that upon petitioners/plaintiffs' June 6, 2022 verified  
petition/complaint, its exhibits, their June 23, 2022 notice of petition, and upon all the papers and

44 South Broadway  
White Plains, NY 10601

John Healey  
t: 914-422-8729  
JohnHealey@ag.ny.gov  
www.ag.ny.gov

JOHN M. HEALEY  
ASSISTANT ATTORNEY GENERAL  
WESTCHESTER REGIONAL OFFICE



STATE OF NEW YORK  
OFFICE OF THE ATTORNEY GENERAL  
LETITIA JAMES

Ex. A to Petitioners' Affidavit: AG receipted Amended Notice of Petition [R.539-542]

proceedings heretofore had, a motion will be made at the Albany County Courthouse, Room 102, 16

Eagle Street, Albany, New York 12207, on Friday, July 22, 2022, at 9:30 a.m., for an order:

- (1) disqualifying Attorney General James, a respondent/defendant, from representing her co-respondents/defendants based on the absence of any sworn statement by her, personally: (a) that representing them, rather than petitioners/plaintiffs, is based on a determination that they have a "merits" defense to the lawsuit, such that representing them is in the "interest of the state", as Executive Law §63.1 requires; and (ii) that her own direct financial and other interests in the lawsuit, as in petitioners/plaintiffs' March 5, 2021 complaint against her filed with respondent/defendant Joint Commission on Public Ethics (Exhibit D to the petition/complaint), does not require that she secure independent, outside counsel to determine the "interest of the state" pursuant to Executive Law §63.1 – and petitioners/plaintiffs' entitlement to representation;
- (2) transferring/removing this case to federal court, including pursuant to Article IV, §4 of the United States Constitution: "The United States shall guarantee every State in this Union a Republican Form of Government", inasmuch as the justices and acting justices of the Supreme Court of Albany County – and of the 61 other counties of New York State – are divested of jurisdiction to hear the case pursuant to Judiciary Law §14 and "rule of necessity" cannot be invoked by reason thereof;
- (3) 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 – and ordering that the reinstated Joint Commission on Public Ethics be furnished with the monies appropriated for the Commission on Ethics and Lobbying in Government by State Operations Budget Bill #S.8000-E/A.9000-E;
- (4) directing that the Joint Commission on Public Ethics comply with Executive Law §§94.13(a) and (b) with respect to petitioners/plaintiffs' seven complaints – starting with the ministerial act of 15-day letters;
- (5) directing that the Joint Commission on Public Ethics comply with Executive Law §94.9(1)(i) mandating that its annual reports contain "a listing by assigned number of each complaint and referral received which alleged a possible violation within its jurisdiction, including the current status of each complaint" – starting with its upcoming annual report for 2021 and such annual report as it will be rendering for 2022;
- (6) directing that Temporary Senate President Stewart-Cousins and Assembly Speaker Heastie comply with Legislative Law §80.1 and §80.4 mandating their joint appointment of the Legislative Ethics Commission's ninth member

## Ex. A to Petitioners' Affidavit: AG receipted Amended Notice of Petition [R.539-542]

- this being the non-legislative member that makes non-legislators its majority;
- (7) directing that the Legislative Ethics Commission comply with Legislative Law §80.7(1) pertaining to its annual reports – starting with rendering annual reports for 2020 and 2021;
- (8) directing that the New York State Inspector General comply with the mandates of Executive Law Article 4-A and its own Policy and Procedure Manual, violated by its handling of petitioners/plaintiffs' November 2, 2021 complaint – and declaring the provision of the Policy and Procedure Manual that allows the Inspector General to take “no action” on complaints involving “covered agencies” to be violative of Executive Law §53.1 and void;
- (9) declaring unconstitutional, unlawful, and void the FY2022-23 New York state budget, enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw;
- (10) declaring unconstitutional, unlawful, larcenous, and void Legislative/Judiciary Budget Bill #S.8001-A/A.9001-A, enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw;
- (11) declaring unconstitutional, larcenous, and void the FY2022-23 appropriations for the New York State Commission on Judicial Conduct, the New York State Inspector General, the Appellate Division attorney grievance committees, and the Unified Court System's Inspector General – based on the evidence of their flagrant corruption in handling complaints furnished by petitioners/plaintiffs at the Legislature's January 25, 2022 “public protection” budget hearing and again by their March 25, 2022 e-mail;
- (12) declaring unconstitutional, *as written* and *as applied*, Public Officers Law §108.2(b), violating Article III, §10 of the New York State Constitution and legislative rules consistent therewith, by exempting the Legislature from the Open Meetings Law to enable it to discuss “public business” in closed-door party conferences, rather than openly in committees and on the Senate and Assembly floor;
- (13) granting such other and further relief as may be just and proper and, specifically:
- (a) an order – in the event the Court does not disqualify the Attorney General and does not transfer/remove this case to federal court – certifying the issues to the Appellate Division, Third Department and/or the Court of Appeals for determination;
- (b) an order referring respondents/defendants to the Public Integrity Section of the U.S. Department of Justice's Criminal



Ex. A to Petitioners' Affidavit: AG receipted Amended Notice of Petition [R.539-542]

Division for investigation and prosecution of their public corruption, obliterating constitutional, lawful governance and stealing taxpayer monies, documentarily-established by petitioners/plaintiffs' interrelated complaints to the Joint Commission on Public Ethics, to the Legislative Ethics Commission, to the New York State Inspector General, to the New York State Commission on Judicial Conduct, to the Appellate Division attorney grievance committees, and to the Unified Court System's Inspector General, among other ethics oversight and enforcement entities;

(c) \$100 motion costs to petitioners/plaintiffs pursuant to CPLR §8202.

PLEASE TAKE FURTHER NOTICE that, pursuant to CPLR §2214(b), answering papers are to be served on petitioners/plaintiffs seven days before the return date, *to wit*, July 15, 2022, via NYSCEF.

Dated: White Plains, New York  
June 28, 2022

Yours, etc.



ELENA RUTH SASSOWER, petitioner/plaintiff, *pro se*,  
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](mailto:elena@judgewatch.org)

TO: New York State Joint Commission on Public Ethics (JCOPE)  
Legislative Ethics Commission (LEC)  
New York State Inspector General (NYS-IG)  
Governor Kathy Hochul  
Temporary Senate President Andrea Stewart-Cousins & Senate  
Assembly Speaker Carl Heastie & Assembly  
Attorney General Letitia James  
Comptroller Thomas DiNapoli

Ex. B to Petitioners' Affidavit: AG-receipted Summons [R.543-544]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

----- X  
 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

SUMMONS

Petitioners/Plaintiffs,

-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.

-----X  
 TO THE ABOVE-NAMED RESPONDENTS/DEFENDANTS:

You are hereby summoned to serve petitioners/plaintiffs an answer to their already served June 6, 2022 verified petition/complaint in this Article 78 proceeding/declaratory judgment action/citizen-taxpayer action within 20 days of service of this summons upon you, exclusive of the date of service, or within 30 days after service is complete if this summons is not personally delivered to you within the State of New York. In case of your failure to answer, judgment will be taken against you by default for the relief demanded in the verified petition/complaint.

2022 JUN 28 PM 4:47

 STATE OF NEW YORK  
 ATTORNEY GENERAL  
 WESTCHESTER  
 RECEIVED

 Jan M Healy  
 AAG

**Ex. B to Petitioners' Affidavit: AG-receipted Summons [R.543-544]**

The basis for the designated venue is the county in which the unconstitutional and unlawful disbursements have occurred, are occurring, and will be occurring and where respondent/defendant state officers have their principal offices.

Dated: June 28, 2022  
White Plains, New York



ELENA RUTH SASSOWER, petitioner/plaintiff, *pro se*,  
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](mailto:elena@judgewatch.org)

**Exhibit C to Petitioners' Affidavit:  
Petitioners' June 28, 2022 CPLR §2214(c) Notice of Papers  
to be Furnished to the Court**

See: R.518-527



**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY  
JUDGE GANDIN, DAVID**



**Center for Judicial Accountability, Inc. et al**

**- v. -**

**New York State Joint Commission on Public Ethics et al**

**Index No. 904235-22**

**COURT NOTICE**

Please note that this matter has been assigned to Judge David M. Gandin, JSC for determination. There is currently a pending motion which has a return date of July 1, 2022.

Kindly be advised that Judge Gandin's part rules require that a courtesy hard copy of all motions be submitted directly to Chambers. Inasmuch as Judge Gandin has caseloads in Albany, Sullivan and Ulster Counties but is physically located in Ulster County, please forward hard copies of all motion papers to:

Hon. David M. Gandin, JSC  
Ulster County Supreme Court  
285 Wall Street  
Kingston, New York 12401

Thank you.

Tara Buyl  
Secretary to the  
Hon. David M. Gandin, JSC  
Ulster County Supreme Court  
285 Wall Street  
Kingston, NY 12401  
(845) 481-9399  
tbuyl@nycourts.gov  
gandinchambers@nycourts.gov

DATED 07/01/2022

FILED By Tara Buyl

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

----- X  
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

Petitioners/Plaintiffs

**ORDER TO SHOW CAUSE**  
**for Determination of Petitioners'**  
***Matter of Law* Entitlement to a**  
**TRO/Preliminary Injunction**  
**Prior to July 8, 2022**

-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.

-----X  
Upon the annexed affidavit of the unrepresented individual petitioner/plaintiff Elena Ruth  
Sassower, sworn to on July 6, 2022, petitioners/plaintiffs' June 6, 2022 verified petition/complaint,  
their June 23, 2022 notice of petition, and their June 28, 2022 CPLR §2214(c) notice to

respondents/defendants to furnish papers to the Court, and upon all the papers and proceedings heretofore had

LET respondents/defendants show cause before this Court at the Ulster County Supreme Court, 285 Wall Street, Kingston, New York 12401, on the 7<sup>th</sup> day of July 2022 at 1:00 p.m. why this Court should not issue an immediate order:

- (1) granting petitioners/plaintiffs a TRO pending a hearing on, and determination of, their entitlement to a preliminary injunction to stay Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – from taking effect on July 8, 2022;
- (2) granting petitioners/plaintiffs a preliminary injunction, as a *matter of law*, based on the “papers” before the Court, establishing their summary judgment entitlement to a declaration that Part QQ – the “ethics commission reform act of 2022” – was enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw and must therefore be declared unconstitutional, unlawful, and void;
- (3) granting petitioners/plaintiffs such other and further relief as may be just and proper and, specifically, if the foregoing is denied:
  - (a) disclosure by the Court of its financial and other interests in this case, giving rise to the actual bias demonstrated by its failure to have already granted a TRO/preliminary injunction or to have scheduled oral argument on the TRO and an evidentiary hearing on the preliminary injunction – as sought by petitioners’ June 23, 2022 notice of petition – so as to render determination prior to July 8, 2022;
  - (b) transferring/removing this case to federal court, including pursuant to Article IV, §4 of the United States Constitution: “The United States shall guarantee every State in this Union a Republican Form of Government”, inasmuch as this Court and every justice and acting justice of the Supreme Court of the 62 counties of New York State are divested of jurisdiction to hear the case pursuant to Judiciary Law §14 because of their direct financial and other interests and “rule of necessity” cannot be invoked by reason thereof – or, alternatively, certifying the question to the Appellate Division, Third Department or to the New York Court of Appeals;

- (c) requiring Attorney General James, a respondent/defendant, to furnish a sworn statement that her representation of respondents/defendants, rather than petitioners/plaintiffs, is based on a determination that they have a “merits” defense to this case, such that representing them is in the “interest of the state”, as Executive Law §63.1 requires; and (ii) that her own direct financial and other interests in the case, as in petitioners/plaintiffs’ March 5, 2021 complaint against her filed with respondent/defendant Joint Commission on Public Ethics (Exhibit D to the petition/complaint), does not require that she secure independent, outside counsel to determine the “interest of the state” pursuant to Executive Law §63.1 – and petitioners/plaintiffs’ entitlement to representation;

PENDING, OR ABSENT, THE HEARING OF THIS MOTION, SUFFICIENT CAUSE APPEARING THEREFORE, let a TRO or preliminary injunction issue staying Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – from taking effect on July 8, 2022 and enjoining respondent/defendant New York State Joint Commission on Public Ethics from closing.

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the \_\_\_\_\_ day of July 2022 upon respondents/defendants by \_\_\_\_\_ service be deemed good and sufficient service.

ANSWERING PAPERS, if any, are to be served *via* NYSCEF by July \_\_\_\_\_, 2022, with reply papers from petitioners/plaintiffs, also served *via* NYSCEF, by July \_\_\_\_\_, 2022.

UPON ANY ORAL ARGUMENT, the parties shall be ready to proceed to a hearing on the preliminary injunction pursuant to CPLR §6313(a).

---

Justice, Ulster County Supreme Court

Dated: July 7, 2022  
Kingston, New York

Petitioners' July 6, 2022 Moving Affidavit in Support of OSC [R.551-559]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

----- X  
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,

**July 6, 2022 Moving Affidavit**  
**in Support of Petitioners' Order to**  
**Show Cause for Determination of**  
**their *Matter of Law* Entitlement to**  
**a TRO/Preliminary Injunction**  
**Prior to July 8, 2022**

Petitioners/Plaintiffs,  
-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.

-----X  
STATE OF NEW YORK                    )  
COUNTY OF WESTCHESTER        ) ss.:

ELENA RUTH SASSOWER, being duly sworn deposes and says:

## Petitioners' July 6, 2022 Moving Affidavit in Support of OSC [R.551-559]

1. I am the above-named unrepresented individual petitioner/plaintiff,<sup>1</sup> fully familiar with all the facts, papers, and proceedings heretofore had.

2. I submit this affidavit in support of an order to show cause to secure this Court's determination of petitioners' *matter of law* entitlement to a TRO and/or preliminary injunction to enjoin Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – from taking effect on Friday, July 8, 2022.

3. Petitioners' request for a TRO and/or preliminary injunction are the first two branches of their [June 23, 2022 notice of petition \(#46\)](#) – and our entitlement thereto, *as a matter of law*, rests on our summary judgment entitlement to the granting of our [verified petition](#)'s sixth cause of action (#1, at ¶¶78-85), which, additionally, is the third branch of our June 23<sup>rd</sup> notice of petition:

“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....”

4. Our summary judgment entitlement to the granting of the petition's sixth cause of action is obvious from the petition's specificity as to the constitutional, statutory, and legislative rule violations committed by respondents governor and legislators with respect to the FY2022-23 state budget and the “ethics commission reform act of 2022” they included in it – as to which, in addition to the evidentiary exhibits and links, petitioners have filed a [June 28, 2022 notice pursuant to CPLR §2214\(c\) \(#60, #64\)](#) for respondents to furnish papers to the Court at the hearing of the July 23<sup>rd</sup> notice of petition. Its concluding paragraph reads:

---

<sup>1</sup> For simplicity, the petitioners/plaintiffs are hereinafter referred to as “petitioners”; the verified petition/complaint is referred to as the “petition” – and respondents/defendants are referred to as “respondents”.

## Petitioners' July 6, 2022 Moving Affidavit in Support of OSC [R.551-559]

“PLEASE ADDITIONALLY TAKE NOTICE that your failure to make such production will entitle petitioners [to] the granting of the relief sought by their June 23, 2022 notice of petition, starting [with] the requested TRO, preliminary injunction, and declaration that Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill S.8006-C/A.9006-C – the ‘ethics commission reform act of 2022’ – is unconstitutional, unlawful, and void as it was enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw.<sup>fn4</sup>”

The annotating footnote 4 reads:

“See, *inter alia*, [New York State Bankers Association, Inc. et al. v. Wetzler, as Commissioner of the Department of Taxation and Finance of the State of New York](#), 81 NY2d 98, 102 (1993) ‘The question concerns not what was enacted or its effect on the budgetary process, but whether there was authority to enact the provision at all. Our precedents clearly compel the conclusion that the controversy is justiciable...’”

5. On Friday morning, July 1<sup>st</sup> – the return date of our June 23<sup>rd</sup> notice of petition – I called the Court, whose assignment to the case I was notified of in the evening of Thursday, June 30<sup>th</sup>, to make arrangements for an evidentiary hearing on the preliminary injunction, either for Wednesday, July 6<sup>th</sup> or Thursday, July 7<sup>th</sup>. Instead of a call back, I received from this Court’s principal law clerk, an e-mail, approximately four hours later, at 2:25 p.m., stating:

“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.” (capitalization in the original)

6. Upon discovering the e-mail, shortly before 4 p.m., I e-mailed back, *cc*’ing Assistant Attorney General Gregory Rodriguez, representing all respondents, as follows:

“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*.



Petitioners' July 6, 2022 Moving Affidavit in Support of OSC [R.551-559]

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 4<sup>th</sup> of July observances be meaningful.

Thank you.”

7. In fact, the “papers” before the Court were not only “more than sufficient for the granting of the TRO/preliminary injunction sought”, but the Court’s granting of the TRO/preliminary injunction was the ONLY decision it could make because Mr. Rodriguez had interposed NO opposition to it. Instead, and reflecting that he had NO basis upon which to oppose the TRO/preliminary injunction, he filed a paltry [June 27<sup>th</sup> motion to dismiss the petition \(#50\)](#), whose frivolous, fraudulent nature was resoundingly demonstrated by [my June 28<sup>th</sup> affidavit in opposition and in further support of the June 23<sup>rd</sup> notice of petition \(#61\)](#).

8. As a consequence, the ONLY way the Court could get out of the ONLY decision possible from the “papers” was to defer decision until AFTER July 8<sup>th</sup> so as to deny the TRO/preliminary injunction as moot. That this is what the Court was intending to do was apparent from Mr. Collado’s e-mail, which, conspicuously, did not state that the Court’s decision would be expeditious or prior to July 8<sup>th</sup>.

9. Instead of Mr. Collado’s non-committal “only as soon as possible” date for determination of the TRO/preliminary injunction, his e-mail to me should have stated “no later than Tuesday, July 5<sup>th</sup>” – as even the most cursory review of the “papers” on Friday, July 1<sup>st</sup> would have revealed that without oral argument and an evidentiary hearing, the Court would have NO grounds to do anything but issue a TRO/preliminary injunction, unless it was planning to trash, ENTIRELY, the controlling statutory provision for preliminary injunctions: [CPLR §§6312\(a\) and \(c\)](#).

## Petitioners' July 6, 2022 Moving Affidavit in Support of OSC [R.551-559]

10. CPLR §§6312(a) and (c) states:

“(a) Affidavit; other evidence. On a motion for a preliminary injunction the plaintiff shall show, by affidavit and such other evidence as may be submitted, that there is a cause of action, and either that the defendant threatens or is about to do, or is doing or procuring or suffering to be done, an act in violation of the plaintiff's rights respecting the subject of the action and tending to render the judgment ineffectual...

...

(c) Issues of fact. Provided that the elements required for the issuance of a preliminary injunction are demonstrated in the plaintiff's papers, the presentation by the defendant of evidence sufficient to raise an issue of fact as to any of such elements shall not in itself be grounds for denial of the motion. In such event the court shall make a determination by hearing or otherwise whether each of the elements required for issuance of a preliminary injunction exists.” (underlining added).

11. Indeed, page 4 of [my June 23<sup>rd</sup> affidavit in support of petitioners' June 23<sup>rd</sup> notice of petition \(#47\)](#) helpfully quoted these two paragraphs – thereby reminding the Court of the parties' evidentiary burdens and its duty with respect thereto. Examination of Mr. Rodriguez's “papers” – easily done within minutes – would have disclosed that they presented ZERO “evidence to raise an issue of fact” as to petitioners' sixth cause of action, or their other nine causes of action – and that there was NO argument, at all, in opposition to the granting of a TRO/preliminary injunction, as to which my four sworn affidavits in the “papers” dated [June 6<sup>th</sup> \(#32\)](#), [June 21<sup>st</sup> \(#43\)](#), [June 23<sup>rd</sup> \(#47\)](#), and [June 28<sup>th</sup> \(#61\)](#) particularized the requisite three factors, all favoring petitioners, overwhelmingly: (1) substantial likelihood of success on the merits; (2) immediate, irreparable injury; and (3) balance of equities – with no aspect contested by respondents.

12. Yesterday, July 5<sup>th</sup>, with no notification from the Court either as to its decision granting petitioners the TRO/preliminary injunction to which we are entitled, *as a matter of law*, nor of its scheduling of oral argument and an evidentiary hearing for July 6<sup>th</sup> or for the only other date possible, July 7<sup>th</sup>, it became apparent that an order to show cause to secure determination of the TRO/preliminary injunction on July 7<sup>th</sup> would be necessary. This morning, I called chambers to

## Petitioners' July 6, 2022 Moving Affidavit in Support of OSC [R.551-559]

make appropriate arrangements, explained the situation to the Court's secretary, Tara Buyl, and, at her request, sent an e-mail. It read:

"Dear Law Clerk Collado,

Following up my phone call to chambers at 9:15 this morning (845-481-9399) and the message I left with Tara, please call me, as immediately as possible, so that I can make arrangements with you for tomorrow, July 7<sup>th</sup> to physically present the Court with an order to show cause for a TRO/preliminary injunction – as on Friday, July 8<sup>th</sup>, the TRO/preliminary injunction, as to which petitioners have a matter of law entitlement based on the "papers" before the Court, will be moot, as presumably the Court is aware in not rendering the ONLY decision the 'papers' will allow it to make, namely, granting the TRO/preliminary injunction.

As I stated to Tara, I have already drafted the order to show cause and am working on my affidavit, which I will forward to you and Assistant Attorney General Rodriguez when done, but I wish to discuss them with you before doing so.

Thank you." (underlining and italics in the original).

13. I further stated to Tara my belief that the Court's attempt to moot petitioners' *matter of law* entitlement to a TRO/preliminary injunction by delaying decision until after July 7<sup>th</sup> could not be explained as other than a manifestation of actual bias, arising from its financial and other interests in the case.

14. The Court's duty, in response to this order to show cause, is to furnish such other explanation as it has – and, in any event, to make disclosure, pursuant to [§100.3F of the Chief Administrator's Rules Governing Judicial Conduct](#), of its financial and other interests.

15. Disclosure is especially requisite if the Court refuses to disqualify itself, based on the appearance and actuality of its interest and bias, refuses to confront its lack of jurisdiction arising from interest proscribed by [Judiciary Law §14](#), and refuses to address the additional threshold relief sought, with disclosure, by this order to show cause's branch of "other and further relief as may be just and proper", *to wit*,

## Petitioners' July 6, 2022 Moving Affidavit in Support of OSC [R.551-559]

“(b) transferring/removing this case to federal court, including pursuant to Article IV, §4 of the United States Constitution: ‘The United States shall guarantee every State in this Union a Republican Form of Government’, inasmuch as this Court and every justice and acting justice of the Supreme Court of the 62 counties of New York State are divested of jurisdiction to hear the case pursuant to Judiciary Law §14 because of their direct financial and other interests and ‘rule of necessity’ cannot be invoked by reason thereof – or, alternatively, certifying the question to the Appellate Division, Third Department or to the New York Court of Appeals;

(c) requiring Attorney General James, a respondent/defendant, to furnish a sworn statement that her representation of respondents/defendants, rather than petitioners/plaintiffs, is based on a determination that they have a ‘merits’ defense to this case, such that representing them is in the ‘interest of the state’, as Executive Law §63.1 requires; and (ii) that her own direct financial and other interests in the case, as in petitioners/plaintiffs’ March 5, 2021 complaint against her filed with respondent/defendant Joint Commission on Public Ethics (Exhibit D to the petition/complaint), does not require that she secure independent, outside counsel to determine the ‘interest of the state’ pursuant to Executive Law §63.1 – and petitioners/plaintiffs’ entitlement to representation”.

16. Suffice to say that notwithstanding the Court’s absence of jurisdiction, by reason of its proscribed Judiciary Law §14 interest, its *matter of law* granting of TRO/preliminary injunctive relief is a ministerial act – a “housekeeping” task, preserving the *status quo*, comparable to the Court’s ability to make an order transferring/removing the case to federal court, or certifying the question to the Appellate Division, Third Department or the New York Court of Appeals, both sought by the June 23<sup>rd</sup> notice of petition, as here on this order to show cause.

17. Finally, this Court’s yesterday’s inaction in failing to come forward with a decision on the *matter of law* TRO/preliminary injunction branches of the June 23<sup>rd</sup> notice of petition or to schedule oral argument and an evidentiary hearing for today or tomorrow must be seen in the context of my four e-mails to which I cc’d the Court and Mr. Rodriguez on Saturday night, July 2<sup>nd</sup>, and Sunday morning, July 3<sup>rd</sup>, all four bearing the identical title: “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)”. I am, therefor, making them exhibits to this affidavit, as follows:

## Petitioners' July 6, 2022 Moving Affidavit in Support of OSC [R.551-559]

Exhibit A-1: my July 2, 2022 e-mail to New York's 15 law school deans comprising the "independent review committee" of the "ethics commission reform act of 2022";

Exhibit A-2: the sole attachment to my July 2, 2022 e-mail to the 15 law school deans, *to wit*, my June 12, 2022 letter to them entitled "Lawsuit to VOID the 'ethics commission reform act of 2022', TRO to stay the statute from taking effect on July 8<sup>th</sup> – & your ethical, professional, and civic responsibilities with respect thereto".

Exhibit B: my July 2, 2022 e-mail to the "JCOPE Must Go" Coalition of supposed "good government groups";

Exhibit C: my July 3, 2022 e-mail to the New York City Bar Association, which is, additionally, a member of the "JCOPE Must Go" Coalition;

Exhibit D: my July 3, 2022 e-mail to the New York State Bar Association.

18. I have received no responses from any of the recipients of these e-mails – and it should be obvious that if they could deny or dispute the accuracy of the content of my e-mails – or of my June 12<sup>th</sup> letter to the law school deans it annexed – beginning with the flagrant unconstitutionality and unlawfulness of the enactment of the "ethics commission reform act of 2022" – the basis of petitioners' *matter of law* entitlement to the TRO/preliminary injunction – they would have done so.<sup>2</sup>

19. No other application for the same or similar relief has been previously sought, except as hereinabove described and particularized by my four prior affidavits, above cited at ¶11 and linked.


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<sup>2</sup> Although not parties, the relevant principles, applicable to summary judgment, are certainly known to the mostly lawyer recipients: "failing to respond to a fact attested in the moving papers... will be deemed to admit it", Siegel, New York Practice §281 (1999 ed., p. 442) – citing *Kuehne & Nagel, Inc. v. Baiden*, 36 N.Y.2d 599 (1975), itself citing Siegel, Practice Commentaries, McKinney's Cons. Laws of NY, Book 7B, CPLR 3212:16, p 437): "If key fact appears in the movant's papers and the opposing party makes no reference to it, he is deemed to have admitted it" *id.* Undenied allegations will be deemed to be admitted, *Whitmore v. J Jungman, Inc.*, 129 N.Y.S. 776, 777 (S.Ct., NY Co. 1911).

Petitioners' July 6, 2022 Moving Affidavit in Support of OSC [R.551-559]

  
ELENA RUTH SASSOWER

Sworn to before me this  
6<sup>th</sup> day of July 2022

  
Notary Public

PHILIP L. RODMAN  
Notary Public, State of New York  
No. 02RO6398593  
Qualified in Westchester County  
Commission Expires September 30, 2023

Ex. A-1 to Petitioners' Affidavit: July 2, 2022 e-mail to IRC law school deans [R.560-564]

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

**To:** 'aabramov@buffalo.edu'; 'deansoffice@law.cuny.edu';  
'eduardo.capulong@law.cuny.edu'; 'aouel@albanylaw.edu';  
'michael.cahill@brooklaw.edu'; 'glester@law.columbia.edu';  
'law.dean@cornell.edu'; 'DeanMatthewDiller@law.fordham.edu';  
'lawdean@hofstra.edu'; 'anthony.crowell@nyls.edu';  
'mckenzie@exchange.law.nyu.edu'; 'DeansOffice@mercury.law.nyu.edu';  
'handerson@law.pace.edu'; 'simonsm@stjohns.edu'; 'cmboise@syr.edu';  
'vaottman@syr.edu'; 'elangan@tourolaw.edu'; 'deansofficecardozo@yu.edu';  
'info@irc.ny.gov'

**Cc:** 'Gandin Chambers'; 'mcollado@nycourts.gov';  
'gregory.rodriguez@ag.ny.gov'; 'jcope@jcope.ny.gov';  
'Emily.Logue@jcope.ny.gov'; 'jose.nieveslaw@gmail.com';  
'glavine@bhlawpllc.com'; 'sgerstman@magavern.com';  
'marvin.jacob@retired.weil.com'; 'dmcnamara@phillipslytle.com'; 'Lisa Reid';  
'inspector.general@ig.ny.gov'; 'INTAKEUNIT'; 'records.access@exec.ny.gov';  
'josephj@nysenate.gov'; 'haakb@nyassembly.gov';  
'NYAG.Pressoffice@ag.ny.gov'; 'Aujla, Andy'; 'mkogut@osc.ny.gov';  
'blee@alm.com'; 'ccharnosky@alm.com'

**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)**

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

**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 12<sup>th</sup> letter to you entitled: "Lawsuit to VOID the 'ethics commission reform act of 2022', TRO to stay the statute from taking effect on July 8<sup>th</sup> – & your ethical, professional, and civic responsibilities with respect thereto".

Ex. A-1 to Petitioners' Affidavit: July 2, 2022 e-mail to IRC law school deans [R.560-564]

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 30<sup>th</sup>, the lawsuit was assigned to Ulster County Supreme Court Justice David Gandin. Below – and pertaining to petitioners' [June 23<sup>rd</sup> notice of petition for a TRO/preliminary injunction](#) – is my July 1<sup>st</sup> 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 23<sup>rd</sup> notice of petition, Justice Gandin has before him petitioners' [June 28<sup>th</sup> amended notice of petition](#), submitted in response to the Attorney General's frivolous and fraudulent June 27<sup>th</sup> dismissal motion, so-demonstrated by my [June 28<sup>th</sup> opposing affidavit in further support of the June 23<sup>rd</sup> 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 6<sup>th</sup>, 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 7<sup>th</sup>, 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 4<sup>th</sup> 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 12<sup>th</sup> 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 12<sup>th</sup> letter – and which, on June 13<sup>th</sup>, 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 17<sup>th</sup>, 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 17<sup>th</sup> article is largely based on [your June 15<sup>th</sup> press release](#), which, with [your website](#) posting it, I only discovered while writing this e-mail. In pertinent part, your press release states:



Ex. A-1 to Petitioners' Affidavit: July 2, 2022 e-mail to IRC law school deans [R.560-564]

"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 13<sup>th</sup> article. Did they tell you about my June 9<sup>th</sup> 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 ¶182) 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 12<sup>th</sup> 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 ¶182, 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

Ex. A-1 to Petitioners' Affidavit: July 2, 2022 e-mail to IRC law school deans [R.560-564]

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 5<sup>th</sup>.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
[www.judgewatch.org](http://www.judgewatch.org)  
914-421-1200  
[elena@judgewatch.org](mailto:elena@judgewatch.org)

---

**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
**Sent:** Friday, July 1, 2022 4:02 PM  
**To:** 'Gandin Chambers' <[gandinchambers@nycourts.gov](mailto:gandinchambers@nycourts.gov)>  
**Cc:** 'gregory.rodriguez@ag.ny.gov' <[gregory.rodriguez@ag.ny.gov](mailto:gregory.rodriguez@ag.ny.gov)>

**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 4<sup>th</sup> of July observances be meaningful.

Thank you.

Ex. A-1 to Petitioners' Affidavit: July 2, 2022 e-mail to IRC law school deans [R.560-564]

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

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**From:** Gandin Chambers <[gandinchambers@nycourts.gov](mailto:gandinchambers@nycourts.gov)>

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

**To:** [elena@judgewatch.org](mailto: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*

Principal Law Clerk to the  
Hon. David M. Gandin  
Ulster County Supreme Court  
285 Wall Street  
Kingston, NY 12401  
(845) 481-9399  
[mcollado@nycourts.gov](mailto:mcollado@nycourts.gov)

Ex. A-2 to Petitioners' Affidavit: June 12, 2022 letter to IRC law school deans [R.565-568]

## **CENTER *for* JUDICIAL ACCOUNTABILITY, INC.\***

Post Office Box 8101  
White Plains, New York 10602

Tel: 914-421-1200

E-Mail: [mail@judgewatch.org](mailto:mail@judgewatch.org)  
Website: [www.judgewatch.org](http://www.judgewatch.org)

*Elena Ruth Sassower, Director*

June 12, 2022

**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 University Law School Dean Matthew Diller  
Hofstra University Law School Dean A. 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 Dean Elena B. Langan  
Yeshiva University-Cardozo Law School Dean Melanie Leslie

**RE: Lawsuit to VOID the “ethics commission reform act of 2022”, TRO to stay the statute from taking effect on July 8<sup>th</sup> – & your ethical, professional, and civic responsibilities with respect thereto –**

*Center for Judicial Accountability, Inc., et al. v.*  
*New York State Joint Commission on Public Ethics, et al.*  
(Albany Co. #904235-22)

Pursuant to the “ethics commission reform act of 2022” – [Part QQ of enacted Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C \(at pp. 151-201\)](#) – you are the “independent review committee” of the nominations of the Governor, the Legislature’s two majority and two minority leaders, the Attorney General, and the Comptroller of the members of the Commission on Ethics and Lobbying in Government that replaces the Joint Commission on Public Ethics (JCOPE).

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\* **Center for Judicial Accountability, Inc.** (CJA) is a national, non-partisan, non-profit citizens’ organization working to ensure that mechanisms are in place to prevent judges from “throwing” cases by decisions that are judicial perjuries, obliterating and falsifying fact and law – and that processes of judicial selection and discipline are effective and meaningful.

Ex. A-2 to Petitioners' Affidavit: June 12, 2022 letter to IRC law school deans [R.565-568]

“independent review committee”

Page Two

June 12, 2022

I write you “on behalf of the People of the State of New York & the Public Interest”, for whom I have brought a lawsuit for a declaration that the “ethics commission reform act of 2022” is unconstitutional, unlawful, and void, as it was enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw. A TRO has been sought to stay the statute from taking effect on July 8<sup>th</sup>, pending final determination of the verified petition/complaint, brought on by order to show cause with a request for a preliminary injunction. Oral argument on the TRO is scheduled for this Friday, June 17<sup>th</sup>, at 2 p.m., before Albany County Supreme Court Justice Peter Lynch.

As you are each deans of New York’s 15 American Bar Association-accredited law schools with every possible legal resource at your disposal, including resources provided and amplified by monies from New York taxpayers – unlike myself, a non-lawyer, working alone to build what is an unfunded, unstaffed citizens’ organization striving to achieve some measure of judicial accountability, of which, in reality, there is none – I believe it to be your duty to furnish the People of the State of New York and Justice Lynch with your expert opinion as to the constitutionality and lawfulness of the enactment of the “ethics commission reform act of 2022” *via* the budget – and I call upon you to do so. The verified petition/complaint, the order to show cause, and my affidavit in support of the preliminary injunction are all accessible *via* NYSCEF. The direct link is [here](#).

Indeed, because you were made part of the “ethics commission reform act of 2022” to give credibility to a statute that cannot remotely be deemed “reform” because, *inter alia*, it wipes out existing rights of complainants and the public for no discernable reason other than to “protect” from accountability complained-against public officers – a fact both detailed by the verified petition/complaint and sought to be demonstrated by its requested Article 78 mandamus relief against JCOPE – I also call upon you to furnish your expert opinion as to the statute’s elimination of the specified mandatory provisions pertaining to: (1) JCOPE’s 15-day letters; (2) JCOPE’s notification to complainants; and (3) the requirement that JCOPE’s annual reports list, by their assigned numbers, all complaints received and referred to JCOPE and their “current status”.

Additionally, I call upon you to identify whether and to what extent you were each consulted about the “ethics commission reform act of 2022” AND asked if you consented to the role it assigns you prior to its being popped into the so-called “education, labor, housing and family assistance budget bill” by Governor Hochul, Temporary Senate President Stewart-Cousins, and Assembly Speaker Heastie, as part of their closed-door “three person in a room” deal-making on the FY2022-23 state budget – then sped to passage by the Legislature on a message of necessity from the Governor, at the Legislature’s behest, within hours of its being released.

Finally, inasmuch as outward appearances suggest that you have taken no steps to ensure faithful implementation of the “ethics commission reform act of 2022”, such that when JCOPE goes out of existence on July 8<sup>th</sup>, absent a stay, there will be NO operational successor entity taking its place, I call upon you to identify what actions you have taken to prevent that from happening.

Ex. A-2 to Petitioners' Affidavit: June 12, 2022 letter to IRC law school deans [R.565-568]

“independent review committee”

Page Three

June 12, 2022

Suffice to say that as of this date – more than two months since the statute’s April 9<sup>th</sup> enactment – and notwithstanding the statute’s Executive Law §94.3(c) command: “The independent review committee shall publish on its website a procedure by which it will review the qualifications of the nominated candidate and approve or deny each candidate.” – essentially repeated in its Executive Law §94.3(g) “... The independent review committee shall publish on the commission’s website a procedure by which it will review and select the commission members and other processes to effectuate its responsibilities under this section” – there is NO “website” either of the “independent review committee” or of the Commission on Ethics and Lobbying in Government and NO “procedure” governing your “review” and “responsibilities” “published” anywhere.

I request your responses by letter to Justice Lynch – cc’ing the parties – by 5 p.m. Thursday, June 16<sup>th</sup>. I do, however, invite you to make a motion for leave to intervene and/or to file an *amicus curiae* brief, either collectively as the “independent review committee” or individually as statutorily-designated and reputationally-affected law school deans.

I am available to assist you in meeting your ethical, professional, and civic responsibilities pertaining to the “ethics commission reform act of 2022”. Should you have any doubt as to what those responsibilities are, I request you obtain the guidance of your faculty who instruct your law school students on ethics and professional responsibility.

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).

Thank you.

s/ELENA RUTH SASSOWER

cc: see next page

Ex. A-2 to Petitioners' Affidavit: June 12, 2022 letter to IRC law school deans [R.565-568]

“independent review committee”

Page Four

June 12, 2022

cc: Albany Supreme Court Justice Peter Lynch  
Respondents/Defendants – *CJA, et al v. JCOPE, et al*:  
New York State Joint Commission on Public Ethics  
Legislative Ethics Commission  
New York State Inspector General  
Governor Hochul  
Temporary Senate President Stewart-Cousins & the Senate  
Assembly Speaker Heastie & the Assembly  
Attorney General James  
Comptroller DiNapoli  
New York Law Journal/ Brian Lee

Ex B to Petitioners' Affidavit: July 2, 2022 e-mail to "JCOPE Must Go" Coalition [R.569-574]

**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Saturday, July 2, 2022 10:40 PM  
**To:** 'edavis@cgsh.com'; 'edmurray3@gmail.com'; 'Maria Cilenti';  
'akocienda@nycbar.org'; 'Eric Friedman'; 'bhorner@nypirg.org';  
'jkaehny@reinventalbany.org'; 'info@reinventalbany.org'; 'laura@lwvny.org';  
'slerner@commoncause.org'; 'NYOffice@commoncause.org';  
'bweinberg@citizensunion.org'; 'ericavladimer@gmail.com';  
'gdreeher@maxwell.syr.edu'  
**Cc:** 'Gandin Chambers'; 'mcollado@nycourts.gov';  
'gregory.rodriguez@ag.ny.gov'; 'blee@alm.com'; 'ccharnosky@alm.com'  
**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)**  
**Attachments:** [6-12-22-ltr-to-independent-review-committee.pdf](#)

**TO: "JCOPE Must Go" Coalition Members:**

Committee to Reform the State Constitution (a.k.a. Evan Davis, Esq.)  
New York City Bar Association/Committee on Government Ethics & State Affairs  
NYPIRG  
Reinvent Albany  
NYS League of Women Voters  
Common Cause-NYS  
Citizens Union  
Sexual Harassment Working Group  
Syracuse University's Campbell Public Affairs Institute,  
Maxwell School of Citizenship and Public Affairs

I have received no responses from you to [my June 9<sup>th</sup> e-mail to you](#) entitled "NOTICE: Lawsuit vs JCOPE, et al. (#904235-22/Albany County) -- & your ethical and professional responsibilities to the People of the State of NY with respect thereto", as to which I sent you a further [June 16<sup>th</sup> e-mail](#).

Below is my self-explanatory e-mail to the 15 law school deans comprising the "independent review committee" of the "ethics commission reform act of 2022", to which you are cc'd.

TIME IS OF THE ESSENCE. Please send me your responses, individually or collectively, by noon, Tuesday, July 5<sup>th</sup>.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
[www.judgewatch.org](http://www.judgewatch.org)  
914-421-1200  
[elena@judgewatch.org](mailto:elena@judgewatch.org)  
-----



Ex B to Petitioners' Affidavit: July 2, 2022 e-mail to "JCOPE Must Go" Coalition [R.569-574]

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

**Sent:** Saturday, July 2, 2022 9:29 PM

**To:** 'aabramov@buffalo.edu' <[aabramov@buffalo.edu](mailto:aabramov@buffalo.edu)>; 'deansoffice@law.cuny.edu' <[deansoffice@law.cuny.edu](mailto:deansoffice@law.cuny.edu)>; 'eduardo.capulong@law.cuny.edu' <[eduardo.capulong@law.cuny.edu](mailto:eduardo.capulong@law.cuny.edu)>; 'aouel@albanylaw.edu' <[aouel@albanylaw.edu](mailto:aouel@albanylaw.edu)>; 'michael.cahill@brooklaw.edu' <[michael.cahill@brooklaw.edu](mailto:michael.cahill@brooklaw.edu)>; 'glester@law.columbia.edu' <[glester@law.columbia.edu](mailto:glester@law.columbia.edu)>; 'law.dean@cornell.edu' <[law.dean@cornell.edu](mailto:law.dean@cornell.edu)>; 'DeanMatthewDiller@law.fordham.edu' <[DeanMatthewDiller@law.fordham.edu](mailto:DeanMatthewDiller@law.fordham.edu)>; 'lawdean@hofstra.edu' <[lawdean@hofstra.edu](mailto:lawdean@hofstra.edu)>; 'anthony.crowell@nyls.edu' <[anthony.crowell@nyls.edu](mailto:anthony.crowell@nyls.edu)>; 'mckenzie@exchange.law.nyu.edu' <[mckenzie@exchange.law.nyu.edu](mailto:mckenzie@exchange.law.nyu.edu)>; 'DeansOffice@mercury.law.nyu.edu' <[DeansOffice@mercury.law.nyu.edu](mailto:DeansOffice@mercury.law.nyu.edu)>; 'handerson@law.pace.edu' <[handerson@law.pace.edu](mailto:handerson@law.pace.edu)>; 'simonsm@stjohns.edu' <[simonsm@stjohns.edu](mailto:simonsm@stjohns.edu)>; 'cmboise@syrr.edu' <[cmboise@syrr.edu](mailto:cmboise@syrr.edu)>; 'vaottman@syrr.edu' <[vaottman@syrr.edu](mailto:vaottman@syrr.edu)>; 'elangan@tourolaw.edu' <[elangan@tourolaw.edu](mailto:elangan@tourolaw.edu)>; 'deansofficecardozo@yu.edu' <[deansofficecardozo@yu.edu](mailto:deansofficecardozo@yu.edu)>; 'info@irc.ny.gov' <[info@irc.ny.gov](mailto:info@irc.ny.gov)>

**Cc:** 'Gandin Chambers' <[gandinchambers@nycourts.gov](mailto:gandinchambers@nycourts.gov)>; 'mcollado@nycourts.gov' <[mcollado@nycourts.gov](mailto:mcollado@nycourts.gov)>; 'gregory.rodriguez@ag.ny.gov' <[gregory.rodriguez@ag.ny.gov](mailto:gregory.rodriguez@ag.ny.gov)>; 'jcope@jcope.ny.gov' <[jcope@jcope.ny.gov](mailto:jcope@jcope.ny.gov)>; 'Emily.Logue@jcope.ny.gov' <[Emily.Logue@jcope.ny.gov](mailto:Emily.Logue@jcope.ny.gov)>; 'jose.nieveslaw@gmail.com' <[jose.nieveslaw@gmail.com](mailto:jose.nieveslaw@gmail.com)>; 'glavine@bhlawpllc.com' <[glavine@bhlawpllc.com](mailto:glavine@bhlawpllc.com)>; 'sgerstman@magavern.com' <[sgerstman@magavern.com](mailto:sgerstman@magavern.com)>; 'marvin.jacob@retired.weil.com' <[marvin.jacob@retired.weil.com](mailto:marvin.jacob@retired.weil.com)>; 'dmcnamara@phillipslytle.com' <[dmcnamara@phillipslytle.com](mailto:dmcnamara@phillipslytle.com)>; 'Lisa Reid' <[lreid@nysenate.gov](mailto:lreid@nysenate.gov)>; 'inspector.general@ig.ny.gov' <[inspector.general@ig.ny.gov](mailto:inspector.general@ig.ny.gov)>; 'INTAKEUNIT' <[emailreply@ig.ny.gov](mailto:emailreply@ig.ny.gov)>; 'records.access@exec.ny.gov' <[records.access@exec.ny.gov](mailto:records.access@exec.ny.gov)>; 'josephj@nysenate.gov' <[josephj@nysenate.gov](mailto:josephj@nysenate.gov)>; 'haakb@nyassembly.gov' <[haakb@nyassembly.gov](mailto:haakb@nyassembly.gov)>; 'NYAG.Pressoffice@ag.ny.gov' <[NYAG.Pressoffice@ag.ny.gov](mailto:NYAG.Pressoffice@ag.ny.gov)>; 'Aujla, Andy' <[Andy.Aujla@ag.ny.gov](mailto:Andy.Aujla@ag.ny.gov)>; 'mkogut@osc.ny.gov' <[mkogut@osc.ny.gov](mailto:mkogut@osc.ny.gov)>; 'blee@alm.com' <[blee@alm.com](mailto:blee@alm.com)>; 'ccharnosky@alm.com' <[ccharnosky@alm.com](mailto:ccharnosky@alm.com)>

**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

Ex B to Petitioners' Affidavit: July 2, 2022 e-mail to "JCOPE Must Go" Coalition [R.569-574]

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 12<sup>th</sup> letter to you entitled: "Lawsuit to VOID the 'ethics commission reform act of 2022', TRO to stay the statute from taking effect on July 8<sup>th</sup> – & 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 30<sup>th</sup>, the lawsuit was assigned to Ulster County Supreme Court Justice David Gandin. Below – and pertaining to petitioners' [June 23<sup>rd</sup> notice of petition for a TRO/preliminary injunction](#) – is my July 1<sup>st</sup> 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 23<sup>rd</sup> notice of petition, Justice Gandin has before him petitioners' [June 28<sup>th</sup> amended notice of petition](#), submitted in response to the Attorney General's frivolous and fraudulent June 27<sup>th</sup> dismissal motion, so-demonstrated by my [June 28<sup>th</sup> opposing affidavit in further support of the June 23<sup>rd</sup> 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 6<sup>th</sup>, 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 7<sup>th</sup>, 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 4<sup>th</sup> 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 12<sup>th</sup> 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 12<sup>th</sup> letter – and which, on June 13<sup>th</sup>, 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 17<sup>th</sup>, a front-page, above-the-fold article about you "[Committee](#)

Ex B to Petitioners' Affidavit: July 2, 2022 e-mail to "JCOPE Must Go" Coalition [R.569-574]

[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 17<sup>th</sup> article is largely based on [your June 15<sup>th</sup> 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 13<sup>th</sup> article. Did they tell you about my [June 9<sup>th</sup> 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 ¶182) 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 12<sup>th</sup> 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,](#)

Ex B to Petitioners' Affidavit: July 2, 2022 e-mail to "JCOPE Must Go" Coalition [R.569-574]

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 5<sup>th</sup>.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
[www.judgewatch.org](http://www.judgewatch.org)  
914-421-1200  
[elena@judgewatch.org](mailto:elena@judgewatch.org)

---

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

**Sent:** Friday, July 1, 2022 4:02 PM

**To:** 'Gandin Chambers' <[gandinchambers@nycourts.gov](mailto:gandinchambers@nycourts.gov)>

**Cc:** 'gregory.rodriguez@ag.ny.gov' <[gregory.rodriguez@ag.ny.gov](mailto:gregory.rodriguez@ag.ny.gov)>

**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.

Ex B to Petitioners' Affidavit: July 2, 2022 e-mail to "JCOPE Must Go" Coalition [R.569-574]

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 4<sup>th</sup> of July observances be meaningful.

Thank you.

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

---

**From:** Gandin Chambers <[gandinchambers@nycourts.gov](mailto:gandinchambers@nycourts.gov)>

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

**To:** [elena@judgewatch.org](mailto: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*

Principal Law Clerk to the  
Hon. David M. Gandin  
Ulster County Supreme Court  
285 Wall Street  
Kingston, NY 12401  
(845) 481-9399  
[mcollado@nycourts.gov](mailto:mcollado@nycourts.gov)

Ex. C to Petitioners' Affidavit: July 3, 2022 e-mail to NYC Bar Association [R.575-581]

**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Sunday, July 3, 2022 5:48 AM  
**To:** 'skohlmann@jenner.com'; 'hlevy@foleyhoag.com';  
'pscherwin@proskauer.com'; 'TSlome@cullenllp.com'; 'KSchwartz@wlrk.com';  
'mnatal@mayerbrown.com'; 'MCOLOM-BOSOLET@SIDLEY.COM';  
'Brian.Farkas@afslaw.com'; 'jhamid@debevoise.com'; 'jjain@lpgmlaw.com';  
'wrussell@stblaw.com'; 'mshulman@sarahlawrence.edu';  
'jwhiting@cssny.org'  
**Cc:** 'bparker@nycbar.org'; 'gwofff@nycbar.org'; 'Lauren Axelrod';  
'edmurray3@gmail.com'; 'edavis@cgsh.com'; 'Maria Cilenti'; 'Elizabeth Kocienda'; 'Eric Friedman'; 'Gandin Chambers'; 'mcollado@nycourts.gov';  
'gregory.rodriguez@ag.ny.gov'; 'blee@alm.com'; 'ccharnosky@alm.com'  
**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)**  
**Attachments:** [6-12-22-ltr-to-independent-review-committee.pdf](#)

**TO: The Officers Comprising the Leadership & Governance of the New York City Bar Association**

I have received no responses from you to [my June 14<sup>th</sup> e-mail](#) entitled "EMERGENCY ACTION REQUIRED: Request to NYC Bar Association Officers & Board of Directors: Lawsuit to VOID the 'ethics commission reform act of 2022' and for TRO...", as to which I sent you a further [June 16<sup>th</sup> e-mail](#). Did President Susan Kohlmann and Vice Presidents Harlan Levy and Peter Sherwin forward these to all 25 of the individuals listed on the [NYC Bar Association's "Leadership" webpage – these being "Officers & Members of Board of Directors"](#), as I had requested?

I have also received no responses to [my June 15<sup>th</sup> e-mail](#) to your general counsel, Lauren Axelrod, entitled "CLARIFICATION...", to which, *inter alia*, your Governmental Ethics and State Affairs Committee Chair Ed Murray and its presumed member former City Bar President Evan Davis were cc'd, just as, likewise, they were cc'd on my [June 13<sup>th</sup> e-mail](#) to her entitled "Request that the NYC Bar Association discharge [] its ethical, professional, & civic responsibilities: Lawsuit to VOID the 'ethics commission reform act of 2022' and for TRO...".

What are your responses?

Below, with the above-attached, is my self-explanatory July 2<sup>nd</sup> e-mail to the 15 law school deans comprising the "independent review committee" of the "ethics commission reform act of 2022", to which you are cc'd so that you can also "discharge some ethical and professional responsibility and civic duty and...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'".

As your expertise is no less than the 15 law schools and their deans, please also answer the specific question for which am seeking guidance:



Ex. C to Petitioners' Affidavit: July 3, 2022 e-mail to NYC Bar Association [R.575-581]

**"If, by Wednesday, July 6<sup>th</sup>, 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 7<sup>th</sup>, 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?"** (bold, underlining, capitalization, and italics in the original).

TIME IS OF THE ESSENCE. Please send me your responses by noon, Tuesday, July 5<sup>th</sup>.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
[www.judgewatch.org](http://www.judgewatch.org)  
914-421-1200  
[elena@judgewatch.org](mailto:elena@judgewatch.org)

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

**Sent:** Saturday, July 2, 2022 9:29 PM

**To:** 'aabramov@buffalo.edu' <[aabramov@buffalo.edu](mailto:aabramov@buffalo.edu)>; 'deansoffice@law.cuny.edu' <[deansoffice@law.cuny.edu](mailto:deansoffice@law.cuny.edu)>; 'eduardo.capulong@law.cuny.edu' <[eduardo.capulong@law.cuny.edu](mailto:eduardo.capulong@law.cuny.edu)>; 'aouel@albanylaw.edu' <[aouel@albanylaw.edu](mailto:aouel@albanylaw.edu)>; 'michael.cahill@brooklaw.edu' <[michael.cahill@brooklaw.edu](mailto:michael.cahill@brooklaw.edu)>; 'glester@law.columbia.edu' <[glester@law.columbia.edu](mailto:glester@law.columbia.edu)>; 'law.dean@cornell.edu' <[law.dean@cornell.edu](mailto:law.dean@cornell.edu)>; 'DeanMatthewDiller@law.fordham.edu' <[DeanMatthewDiller@law.fordham.edu](mailto:DeanMatthewDiller@law.fordham.edu)>; 'lawdean@hofstra.edu' <[lawdean@hofstra.edu](mailto:lawdean@hofstra.edu)>; 'anthony.crowell@nyls.edu' <[anthony.crowell@nyls.edu](mailto:anthony.crowell@nyls.edu)>; 'mckenzie@exchange.law.nyu.edu' <[mckenzie@exchange.law.nyu.edu](mailto:mckenzie@exchange.law.nyu.edu)>; 'DeansOffice@mercury.law.nyu.edu' <[DeansOffice@mercury.law.nyu.edu](mailto:DeansOffice@mercury.law.nyu.edu)>; 'handerson@law.pace.edu' <[handerson@law.pace.edu](mailto:handerson@law.pace.edu)>; 'simonsm@stjohns.edu' <[simonsm@stjohns.edu](mailto:simonsm@stjohns.edu)>; 'cmboise@syr.edu' <[cmboise@syr.edu](mailto:cmboise@syr.edu)>; 'vaottman@syr.edu' <[vaottman@syr.edu](mailto:vaottman@syr.edu)>; 'elangan@tourolaw.edu' <[elangan@tourolaw.edu](mailto:elangan@tourolaw.edu)>; 'deansofficecardozo@yu.edu' <[deansofficecardozo@yu.edu](mailto:deansofficecardozo@yu.edu)>; 'info@irc.ny.gov' <[info@irc.ny.gov](mailto:info@irc.ny.gov)>

**Cc:** 'Gandin Chambers' <[gandinchambers@nycourts.gov](mailto:gandinchambers@nycourts.gov)>; 'mcollado@nycourts.gov' <[mcollado@nycourts.gov](mailto:mcollado@nycourts.gov)>; 'gregory.rodriguez@ag.ny.gov' <[gregory.rodriguez@ag.ny.gov](mailto:gregory.rodriguez@ag.ny.gov)>; 'jcope@jcope.ny.gov' <[jcope@jcope.ny.gov](mailto:jcope@jcope.ny.gov)>; 'Emily.Logue@jcope.ny.gov' <[Emily.Logue@jcope.ny.gov](mailto:Emily.Logue@jcope.ny.gov)>; 'jose.nieveslaw@gmail.com' <[jose.nieveslaw@gmail.com](mailto:jose.nieveslaw@gmail.com)>; 'glavine@bhlawpllc.com' <[glavine@bhlawpllc.com](mailto:glavine@bhlawpllc.com)>; 'sgerstman@magavern.com' <[sgerstman@magavern.com](mailto:sgerstman@magavern.com)>; 'marvin.jacob@retired.weil.com' <[marvin.jacob@retired.weil.com](mailto:marvin.jacob@retired.weil.com)>; 'dmcnamara@phillipslytle.com' <[dmcnamara@phillipslytle.com](mailto:dmcnamara@phillipslytle.com)>; 'Lisa Reid' <[lreid@nysenate.gov](mailto:lreid@nysenate.gov)>; 'inspector.general@ig.ny.gov' <[inspector.general@ig.ny.gov](mailto:inspector.general@ig.ny.gov)>; 'INTAKEUNIT' <[emailreply@ig.ny.gov](mailto:emailreply@ig.ny.gov)>; 'records.access@exec.ny.gov' <[records.access@exec.ny.gov](mailto:records.access@exec.ny.gov)>; 'josephj@nysenate.gov' <[josephj@nysenate.gov](mailto:josephj@nysenate.gov)>; 'haakb@nyassembly.gov' <[haakb@nyassembly.gov](mailto:haakb@nyassembly.gov)>; 'NYAG.Pressoffice@ag.ny.gov'

Ex. C to Petitioners' Affidavit: July 3, 2022 e-mail to NYC Bar Association [R.575-581]

<[NYAG.Pressoffice@ag.ny.gov](mailto:NYAG.Pressoffice@ag.ny.gov)>; 'Aujla, Andy' <[Andy.Aujla@ag.ny.gov](mailto:Andy.Aujla@ag.ny.gov)>; 'mkogut@osc.ny.gov' <[mkogut@osc.ny.gov](mailto:mkogut@osc.ny.gov)>; 'blee@alm.com' <[blee@alm.com](mailto:blee@alm.com)>; 'ccharnosky@alm.com' <[ccharnosky@alm.com](mailto:ccharnosky@alm.com)>

**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 12<sup>th</sup> letter to you entitled: "Lawsuit to VOID the 'ethics commission reform act of 2022', TRO to stay the statute from taking effect on July 8<sup>th</sup> – & 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 30<sup>th</sup>, the lawsuit was assigned to Ulster County Supreme Court Justice David Gandin. Below – and pertaining to petitioners' [June 23<sup>rd</sup> notice of petition for a TRO/preliminary injunction](#) – is my July 1<sup>st</sup> 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 23<sup>rd</sup> notice of petition, Justice Gandin has before him petitioners' [June 28<sup>th</sup> amended notice of petition](#), submitted in response to the Attorney General's frivolous and fraudulent June 27<sup>th</sup> dismissal motion, so-demonstrated by my [June 28<sup>th</sup> opposing affidavit in further support of the June 23<sup>rd</sup> 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.



Ex. C to Petitioners' Affidavit: July 3, 2022 e-mail to NYC Bar Association [R.575-581]

**The specific question for which I am requesting guidance from them and you is: IF, by Wednesday, July 6<sup>th</sup>, 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 7<sup>th</sup>, 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 4<sup>th</sup> 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 12<sup>th</sup> 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 12<sup>th</sup> letter – and which, on June 13<sup>th</sup>, 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 17<sup>th</sup>, 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 17<sup>th</sup> article is largely based on [your June 15<sup>th</sup> 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

Ex. C to Petitioners' Affidavit: July 3, 2022 e-mail to NYC Bar Association [R.575-581]

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 13<sup>th</sup> article. Did they tell you about my June 9<sup>th</sup> 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 12<sup>th</sup> 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 5<sup>th</sup>.

Thank you.

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

Ex. C to Petitioners' Affidavit: July 3, 2022 e-mail to NYC Bar Association [R.575-581]

[elena@judgewatch.org](mailto:elena@judgewatch.org)

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**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>**Sent:** Friday, July 1, 2022 4:02 PM**To:** 'Gandin Chambers' <[gandinchambers@nycourts.gov](mailto:gandinchambers@nycourts.gov)>**Cc:** 'gregory.rodriquez@ag.ny.gov' <[gregory.rodriquez@ag.ny.gov](mailto:gregory.rodriquez@ag.ny.gov)>**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 4<sup>th</sup> of July observances be meaningful.

Thank you.

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

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**From:** Gandin Chambers <[gandinchambers@nycourts.gov](mailto:gandinchambers@nycourts.gov)>**Sent:** Friday, July 1, 2022 2:25 PM**To:** [elena@judgewatch.org](mailto: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*

Ex. C to Petitioners' Affidavit: July 3, 2022 e-mail to NYC Bar Association [R.575-581]

Principal Law Clerk to the  
Hon. David M. Gandin  
Ulster County Supreme Court  
285 Wall Street  
Kingston, NY 12401  
(845) 481-9399  
[mcollado@nycourts.gov](mailto:mcollado@nycourts.gov)

Ex. D to Petitioners' Affidavit: July 3, 2022 e-mail to NYS Bar Association [R.882-588]

**From:** Center for Judicial Accountability, Inc. (CJA) <elena@judgewatch.org>  
**Sent:** Sunday, July 3, 2022 6:15 AM

**To:** 'sherry@slevinesq.com'; 'rlewis@hhk.com'; 'domenick@napoletanolaw.com'; 'garensen@kaplanfox.com'; 'lsharkey@cswwlawfirm.com'; 'david@davidlouiscohenlaw.com'; 'orin@orincohenlaw.com'; 'Michael@mamarinacciolaw.com'; 'attorney@mampc.net'; 'tmaroney@maroneyoconnorllp.com'; 'mmay@lgtlegal.com'; 'mcnamara@sewkis.com'; 'mmoretti@phillipslytle.com'; 'Christopher.Riano@hklaw.com'; 'adamseiden2002@aol.com'; 'OFCCP-NE@dol.gov'; 'ksweet@gmclaw.com'; 'pyeung@gylawny.com'; 'rminkoff@fkks.com'; 'mirna@girlsrulethelaw.org'; 'Help@whittinghamlaw.com'; 'cbopst@aol.com'; 'ciparickc@gtlaw.com'; 'sagata@pbanys.org'; 'malcott@paulweiss.com'; 'cbucki@phillipslytle.com'; 'lclark@barclaydamon.com'; 'hfernandez@bsk.com'; 'mfinerty@getnicklaw.com'; 'glaserm@gtlaw.com'; 'jlebowitz@abramslaw.com'; 'atlevin@msek.com'; 'contact@lyons-mcgovern.com'; 'nmar@lsnyc.org'; 'davidevanmarkus@gmail.com'; 'ameyer@golawllp.com'; 'john.nonna@squirepb.com'; 'kpeters@ebglaw.com'; 'acrendo@rendolaw.com'; 'rrifk@albanylaw.edu'; 'nrobinson@law.pace.edu'; 'erosenthal@elderlawflg.com'; 'jarrodsmithlaw@gmail.com'; 'justinteff@kirkandteff.com'; 'it@treulaw.com'; 'spyounger@foleyhoag.com'; 'pmcdevitt@nysba.org'; 'gmcavey@nysba.org'; 'dmiranda@nysba.org'; 'kbaxter@nysba.org'; 'trichards@nysba.org'; 'hfj@jochmansconsulting.com'; 'cburke@nysba.org'

**Cc:** 'Gandin Chambers'; 'mcollado@nycourts.gov'; 'gregory.rodriquez@ag.ny.gov'; 'blee@alm.com'; 'ccharnosky@alm.com'

**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)**

**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](#)

I have received no responses from you to my [June 14<sup>th</sup> e-mail](#) entitled "EMERGENCY ACTION REQUIRED, consistent with ethical, professional, and civic responsibilities: Lawsuit to VOID the 'ethics commission reform act of 2022' and for TRO...", as to which I sent you a further [June 16<sup>th</sup> e-mail](#). Were these "forwarded to all State Bar officers, Executive Committee members, and members of the Committee on the New York State Constitution", as each e-mail had expressly requested?

What are your responses?

Below, with the above-attached, is my self-explanatory July 2<sup>nd</sup> e-mail to the 15 law school deans comprising the "independent review committee" of the "ethics commission reform act of 2022", to which you are cc'd so that you can also "discharge some ethical and professional responsibility

Ex. D to Petitioners' Affidavit: July 3, 2022 e-mail to NYS Bar Association [R.882-588]

and civic duty and...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'".

As your expertise is no less than the 15 law schools and their deans, please also answer the specific question for which I am seeking guidance:

**"IF, by Wednesday, July 6<sup>th</sup>, 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 7<sup>th</sup>, 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?"** (bold, underlining, capitalization, and italics in the original).

TIME IS OF THE ESSENCE. Please send me your responses by noon, Tuesday, July 5<sup>th</sup>.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
[www.judgewatch.org](http://www.judgewatch.org)  
914-421-1200  
[elena@judgewatch.org](mailto:elena@judgewatch.org)

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

**Sent:** Saturday, July 2, 2022 9:29 PM

**To:** 'aabramov@buffalo.edu' <[aabramov@buffalo.edu](mailto:aabramov@buffalo.edu)>; 'deansoffice@law.cuny.edu' <[deansoffice@law.cuny.edu](mailto:deansoffice@law.cuny.edu)>; 'eduardo.capulong@law.cuny.edu' <[eduardo.capulong@law.cuny.edu](mailto:eduardo.capulong@law.cuny.edu)>; 'aouel@albanylaw.edu' <[aouel@albanylaw.edu](mailto:aouel@albanylaw.edu)>; 'michael.cahill@brooklaw.edu' <[michael.cahill@brooklaw.edu](mailto:michael.cahill@brooklaw.edu)>; 'glester@law.columbia.edu' <[glester@law.columbia.edu](mailto:glester@law.columbia.edu)>; 'law.dean@cornell.edu' <[law.dean@cornell.edu](mailto:law.dean@cornell.edu)>; 'DeanMatthewDiller@law.fordham.edu' <[DeanMatthewDiller@law.fordham.edu](mailto:DeanMatthewDiller@law.fordham.edu)>; 'lawdean@hofstra.edu' <[lawdean@hofstra.edu](mailto:lawdean@hofstra.edu)>; 'anthony.crowell@nyls.edu' <[anthony.crowell@nyls.edu](mailto:anthony.crowell@nyls.edu)>; 'mckenzie@exchange.law.nyu.edu' <[mckenzie@exchange.law.nyu.edu](mailto:mckenzie@exchange.law.nyu.edu)>; 'DeansOffice@mercury.law.nyu.edu' <[DeansOffice@mercury.law.nyu.edu](mailto:DeansOffice@mercury.law.nyu.edu)>; 'handerson@law.pace.edu' <[handerson@law.pace.edu](mailto:handerson@law.pace.edu)>; 'simonsm@stjohns.edu' <[simonsm@stjohns.edu](mailto:simonsm@stjohns.edu)>; 'cmboise@syr.edu' <[cmboise@syr.edu](mailto:cmboise@syr.edu)>; 'vaottman@syr.edu' <[vaottman@syr.edu](mailto:vaottman@syr.edu)>; 'elangan@tourolaw.edu' <[elangan@tourolaw.edu](mailto:elangan@tourolaw.edu)>; 'deansofficcardozo@yu.edu' <[deansofficcardozo@yu.edu](mailto:deansofficcardozo@yu.edu)>; 'info@irc.ny.gov' <[info@irc.ny.gov](mailto:info@irc.ny.gov)>

**Cc:** 'Gandin Chambers' <[gandinchambers@nycourts.gov](mailto:gandinchambers@nycourts.gov)>; 'mcollado@nycourts.gov' <[mcollado@nycourts.gov](mailto:mcollado@nycourts.gov)>; 'gregory.rodriguez@ag.ny.gov' <[gregory.rodriguez@ag.ny.gov](mailto:gregory.rodriguez@ag.ny.gov)>; 'jcope@jcope.ny.gov' <[jcope@jcope.ny.gov](mailto:jcope@jcope.ny.gov)>; 'Emily.Logue@jcope.ny.gov' <[Emily.Logue@jcope.ny.gov](mailto:Emily.Logue@jcope.ny.gov)>;

Ex. D to Petitioners' Affidavit: July 3, 2022 e-mail to NYS Bar Association [R.882-588]

'jose.nieveslaw@gmail.com' <[jose.nieveslaw@gmail.com](mailto:jose.nieveslaw@gmail.com)>; 'glavine@bhlawpllc.com' <[glavine@bhlawpllc.com](mailto:glavine@bhlawpllc.com)>; 'sgerstman@magavern.com' <[sgerstman@magavern.com](mailto:sgerstman@magavern.com)>; 'marvin.jacob@retired.weil.com' <[marvin.jacob@retired.weil.com](mailto:marvin.jacob@retired.weil.com)>; 'dmcnamara@phillipslytle.com' <[dmcnamara@phillipslytle.com](mailto:dmcnamara@phillipslytle.com)>; 'Lisa Reid' <[lreid@nysenate.gov](mailto:lreid@nysenate.gov)>; 'inspector.general@ig.ny.gov' <[inspector.general@ig.ny.gov](mailto:inspector.general@ig.ny.gov)>; 'INTAKEUNIT' <[emailreply@ig.ny.gov](mailto:emailreply@ig.ny.gov)>; 'records.access@exec.ny.gov' <[records.access@exec.ny.gov](mailto:records.access@exec.ny.gov)>; 'josephj@nysenate.gov' <[josephj@nysenate.gov](mailto:josephj@nysenate.gov)>; 'haakb@nyassembly.gov' <[haakb@nyassembly.gov](mailto:haakb@nyassembly.gov)>; 'NYAG.Pressoffice@ag.ny.gov' <[NYAG.Pressoffice@ag.ny.gov](mailto:NYAG.Pressoffice@ag.ny.gov)>; 'Aujla, Andy' <[Andy.Aujla@ag.ny.gov](mailto:Andy.Aujla@ag.ny.gov)>; 'mkogut@osc.ny.gov' <[mkogut@osc.ny.gov](mailto:mkogut@osc.ny.gov)>; 'blee@alm.com' <[blee@alm.com](mailto:blee@alm.com)>; 'ccharnosky@alm.com' <[ccharnosky@alm.com](mailto:ccharnosky@alm.com)>

**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 12<sup>th</sup> letter to you entitled: "Lawsuit to VOID the 'ethics commission reform act of 2022', TRO to stay the statute from taking effect on July 8<sup>th</sup> – & 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 30<sup>th</sup>, the lawsuit was assigned to Ulster County Supreme Court Justice David Gandin. Below – and pertaining to petitioners' [June 23<sup>rd</sup> notice of petition for a TRO/preliminary injunction](#) – is my July 1<sup>st</sup> 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 23<sup>rd</sup> notice of petition, Justice Gandin has before him petitioners' [June 28<sup>th</sup> amended notice of petition](#), submitted in response to the Attorney General's frivolous and fraudulent June 27<sup>th</sup> dismissal motion, so-demonstrated by my [June 28<sup>th</sup> opposing affidavit in further support of the June 23<sup>rd</sup> notice of petition](#).



Ex. D to Petitioners' Affidavit: July 3, 2022 e-mail to NYS Bar Association [R.882-588]

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 6<sup>th</sup>, 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 7<sup>th</sup>, 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 4<sup>th</sup> 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 12<sup>th</sup> 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 12<sup>th</sup> letter – and which, on June 13<sup>th</sup>, 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 17<sup>th</sup>, 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 17<sup>th</sup> article is largely based on [your June 15<sup>th</sup> 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



Ex. D to Petitioners' Affidavit: July 3, 2022 e-mail to NYS Bar Association [R.882-588]

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 13<sup>th</sup> article. Did they tell you about my [June 9<sup>th</sup> 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 ¶182) 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 12<sup>th</sup> 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 ¶182, 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.

Ex. D to Petitioners' Affidavit: July 3, 2022 e-mail to NYS Bar Association [R.882-588]

Please let me hear from you by noon, Tuesday, July 5<sup>th</sup>.

Thank you.

Elena Sassower, Director  
Center for Judicial Accountability, Inc. (CJA)  
[www.judgewatch.org](http://www.judgewatch.org)  
914-421-1200  
[elena@judgewatch.org](mailto:elena@judgewatch.org)

---

**From:** Center for Judicial Accountability, Inc. (CJA) <[elena@judgewatch.org](mailto:elena@judgewatch.org)>  
**Sent:** Friday, July 1, 2022 4:02 PM  
**To:** 'Gandin Chambers' <[gandinchambers@nycourts.gov](mailto:gandinchambers@nycourts.gov)>  
**Cc:** 'gregory.rodriguez@ag.ny.gov' <[gregory.rodriguez@ag.ny.gov](mailto:gregory.rodriguez@ag.ny.gov)>

**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 4<sup>th</sup> of July observances be meaningful.

Thank you.

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

---

**From:** Gandin Chambers <[gandinchambers@nycourts.gov](mailto:gandinchambers@nycourts.gov)>  
**Sent:** Friday, July 1, 2022 2:25 PM  
**To:** [elena@judgewatch.org](mailto: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,

Ex. D to Petitioners' Affidavit: July 3, 2022 e-mail to NYS Bar Association [R.882-588]

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*

Principal Law Clerk to the  
Hon. David M. Gandin  
Ulster County Supreme Court  
285 Wall Street  
Kingston, NY 12401  
(845) 481-9399  
[mcollado@nycourts.gov](mailto:mcollado@nycourts.gov)

**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY  
JUDGE GANDIN, DAVID**



**Center for Judicial Accountability, Inc. et al**

**- v. -**

**New York State Joint Commission on Public Ethics et al**

**Index No. 904235-22**

**COURT NOTICE**

The Court is in receipt of Ms. Sassowers proposed Order to Show Cause containing a request for temporary injunctive relief (NYSCEF Doc. #66) filed last night, July 7, 2022. Please be advised that the Court has scheduled this matter for an in-person appearance for today July 7, 2022 at 2:00pm at the courthouse 285 Wall Street Kingston, New York 12402 for a hearing on petitioners application.

Thank you.

Tara Buyl  
Secretary to the  
Hon. David M. Gandin, JSC  
Ulster County Supreme Court  
285 Wall Street  
Kingston, NY 12401  
(845) 481-9399  
tbuyl@nycourts.gov

DATED 07/07/2022

FILED By Tara Buyl

Justice David Gandin's July 8, 2022 Signed Amended OSC [R.590-593]

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY

----- X  
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,

Petitioners/Plaintiffs

Index #: 904235-22

*Amended*  
**ORDER TO SHOW CAUSE**  
**for Determination of Petitioners'**  
**Matter of Law Entitlement to a**  
**TRO/Preliminary Injunction**  
**Prior to July 8, 2022**

-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.

----- X  
Upon the annexed affidavit of the unrepresented individual petitioner/plaintiff Elena Ruth  
Sassower, sworn to on July 6, 2022, petitioners/plaintiffs' June 6, 2022 verified petition/complaint,  
their June 23, 2022 notice of petition, and their June 28, 2022 CPLR §2214(c) notice to

Justice David Gandin's July 8, 2022 Signed Amended OSC [R.590-593]

respondents/defendants to furnish papers to the Court, and upon all the papers and proceedings heretofore had

LET respondents/defendants show cause before this Court at the Ulster County Supreme Court, 285 Wall Street, Kingston, New York 12401, on the 7<sup>th</sup> day of July 2022 at 1:00 p.m. why this Court should not issue an immediate order:

- (1) granting petitioners/plaintiffs a TRO pending a hearing on, and determination of, their entitlement to a preliminary injunction to stay Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill #S.8006-C/A.9006-C – the “ethics commission reform act of 2022” – from taking effect on July 8, 2022;
- (2) granting petitioners/plaintiffs a preliminary injunction, as a *matter of law*, based on the “papers” before the Court, establishing their summary judgment entitlement to a declaration that Part QQ – the “ethics commission reform act of 2022” – was enacted in violation of mandatory provisions of the New York State Constitution, statutes, legislative rules, and caselaw and must therefore be declared unconstitutional, unlawful, and void;
- (3) granting petitioners/plaintiffs such other and further relief as may be just and proper and, specifically, if the foregoing is denied:
  - (a) disclosure by the Court of its financial and other interests in this case, giving rise to the actual bias demonstrated by its failure to have already granted a TRO/preliminary injunction or to have scheduled oral argument on the TRO and an evidentiary hearing on the preliminary injunction – as sought by petitioners’ June 23, 2022 notice of petition – so as to render determination prior to July 8, 2022;
  - (b) transferring removing this case to federal court, including pursuant to Article IV, §4 of the United States Constitution: “The United States shall guarantee every State in this Union a Republican Form of Government”, inasmuch as this Court and every justice and acting justice of the Supreme Court of the 62 counties of New York State are divested of jurisdiction to hear the case pursuant to Judiciary Law §14 because of their direct financial and other interests and “rule of necessity” cannot be invoked by reason thereof – or, alternatively, certifying the question to the Appellate Division, Third Department or to the New York Court of Appeals;

Justice David Gandin's July 8, 2022 Signed Amended OSC [R.590-593]

- (c) requiring Attorney General James, a respondent/defendant, to furnish a sworn statement that her representation of respondents/defendants, rather than petitioners/plaintiffs, is based on a determination that they have a "merits" defense to this case, such that representing them is in the "interest of the state", as Executive Law §63.1 requires; and (ii) that her own direct financial and other interests in the case, as in petitioners/plaintiffs' March 5, 2021 complaint against her filed with respondent/defendant Joint Commission on Public Ethics (Exhibit D to the petition/complaint), does not require that she secure independent, outside counsel to determine the "interest of the state" pursuant to Executive Law §63.1 – and petitioners/plaintiffs' entitlement to representation;

34  
DMH

~~PENDING, OR ABSENT, THE HEARING OF THIS MOTION, SUFFICIENT CAUSE APPEARING THEREFORE, let a TRO or preliminary injunction issue staying Part QQ of Education, Labor, Housing, and Family Assistance Budget Bill AS 8006-C/A.9006-C – the "ethics commission reform act of 2022" – from taking effect on July 8, 2022 and enjoining respondent defendant New York State Joint Commission on Public Ethics from closing.~~

Amended  
in Court  
on 7/7/22

LET SERVICE of this order to show cause, together with the papers on which it is based, be made on or before the 13<sup>th</sup> day of July 2022 upon respondents/defendants by \_\_\_\_\_ service be deemed good and sufficient service.

ANSWERING PAPERS, if any, are to be served via NYSCEF by July 18, 2022, with reply papers from petitioners/plaintiffs, also served via NYSCEF, by July 19, 2022.

~~UPON ANY ORAL ARGUMENT, the parties shall be ready to proceed to a hearing on the preliminary injunction pursuant to CPLR §6313(a).~~

THE ORDER TO SHOW CAUSE SIGNED JULY 7, 2022 NOT STRIKING THIS PARAGRAPH WAS ISSUED IN ERROR. NO PROVISIONAL RELIEF HAS BEEN GRANTED.

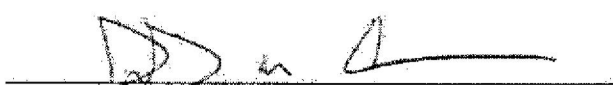
July 8, 2022

Justice David Gardin's July 8, 2022 Signed Affidavit OSC [R.593]

Kingston NY



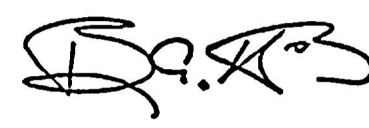
DAVID M GARDIN JSC



Justice, Ulster County Supreme Court

David M. Gardin

Dated: July 7, 2022  
Kingston, New York.



07/12/2022



Justice David Gandin's July 18, 2022 Decision and Order [R.594-596]**SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF ALBANY**

-----  
Elena Ruth Sassower, Center for Judicial Accountability, Inc.,  
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,

**DECISION AND ORDER**  
Index No. 904235-22

Petitioners/Plaintiffs,

-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, New York State Senate, et al,  
Respondents/Defendants.

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The following papers were read on respondent/defendants' Motion to Dismiss.

1. Notice of Petition dated June 23, 2022;
2. Affidavit in Support with exhibits;
3. Verified Petition/Complaint with exhibits A-M;
4. Notice of Motion;
5. Memorandum of Law in Support;
6. Affidavit of Shane Bouchard;
7. Affidavit of Tyler Wuest;
8. Affidavit of Michael Kogut;
9. Affirmation of Brian R. Haak;
10. Affirmation of Pauline Ross;
11. Affirmation of Emily Logue; and
12. Affidavit in Opposition with exhibits A-C.

This is a hybrid Article 78/Declaratory Judgment action alleging that public officers and bodies have violated state law and the New York State Constitution in connection with the handling of public ethics complaints and the enactment of the 2022-2023 State budget. Petitioners/plaintiffs ("petitioners") also challenge the constitutionality of Public Officers Law §108.2(b). The petition/complaint was filed on June 7, 2022. That same day petitioners moved by order to show cause for injunctive relief. After this Court (Lynch, J.) signed the order to show cause returnable on June 24, 2022, petitioners filed an amended order to show cause seeking a preliminary injunction without temporary relief. As a result the Court (Lynch, J.) signed the amended order to show cause

Justice David Gandin's July 18, 2022 Decision and Order [R.594-596]

made returnable July 15, 2022. The Court further scheduled the application for an in-person proceeding for June 17, 2022. By email dated June 16, 2022 petitioners advised they would not attend the June 17, 2022 proceeding. The Court (Lynch, J.) cancelled the hearing and deemed the motion withdrawn. On June 24, 2022 petitioners filed a Notice of Petition with a return date of July 1, 2022 seeking a temporary restraining order, preliminary injunction and a removal of the proceeding/action to federal court. Respondents/Defendants ("respondents") then filed a motion which was in effect a cross-motion to dismiss the petition. The motion to dismiss is premised on allegations that petitioners failed to afford twenty days notice of the petition as required by CPLR §7804(c), failed to serve a summons with the complaint and that the complaint does not contain plain and concise statements as required by CPLR §3104.

Petitioners do not dispute serving the Notice of Petition and Petition less than twenty days prior to the July 1, 2022 return date. In opposition to the Motion to Dismiss, petitioners assert that they inadvertently believed that they could use the eight day time frame applicable to the personal service of a notice of motion. They further allege that respondents have been on notice of the claims set forth in the petition since at least June 9, 2022 based on their filing of an order to show cause on or about that date.

Petitioners failure to properly notice the petition is not a jurisdictional defect. See *Brown v Casier*, 95 AD2d 574 (3<sup>rd</sup> Dept. 1983). If a respondent is properly served with a petition and notice of petition on less than the twenty day notice requirement of CPLR §7804(c), the defect is an irregularity which shall be disregarded in the absence of substantial prejudice to a party. *Id.* Based on the foregoing and because at oral argument before the court on July 7, 2022 the return date of the petition was adjourned on consent to September 19, 2022 with opposition papers due August 18th, dismissal of the Article 78 proceeding is not warranted. Wherefore, it is

ORDERED that respondent's motion to dismiss based on petitioner's failure to comply with the twenty day notice requirement of CPLR §7804(c) is denied. It is further

ORDERED that respondent's motion to dismiss based on petitioner's failure to serve a summons with the Verified Petition/Complaint is denied. Under CPLR 304, an action in Supreme Court is ordinarily commenced "by filing a summons and complaint or summons with notice." See CPLR 304(a). The failure to file the initial papers necessary to institute an action constitutes a nonwaivable, jurisdictional defect, rendering the action a nullity. *O'Brien v. Contreras*, 126 A.D.3d 958, 958, 6 N.Y.S.3d 273, 273 (2015) Petitioner filed a Verified Petition and Complaint on June 7, 2022 and paid the requisite filing fee. Petitioner then belatedly served and filed a summons on June 28, 2022. In light of the court having obtained jurisdiction over the proceeding and respondents in connection with the Article 78 proceeding, the fact that petitioners ultimately served and filed a summons and the related nature of the relief sought in the hybrid action, dismissal is not warranted based on a strict failure to comply with CPLR 304. See *Miller v. Waters*, 51 A.D.3d 113, 116 (3<sup>rd</sup> Dept. 2008) (holding CPLR §2001 gives court discretion to permit correction of a filing defect). It is further

## Justice David Gandin's July 18, 2022 Decision and Order [R.594-596]

ORDERED that respondent's motion to dismiss based on an claimed failure to comply with CPLR §3014 is denied. That rule requires that "[e]very pleading shall consist of plain and concise statements in consecutively numbered paragraphs." While not a model of clarity, the pleading adequately delineates the facts and legal theories underlying petitioners' claims.

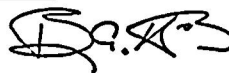
As agreed at the conclusion of the July 7<sup>th</sup> hearing on petitioners' claim for provisional relief, respondents' opposition papers are due by August 18, 2022 and any reply by September 19, 2022.

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: July 18, 2022  
Kingston, New York

ENTER:

  
DAVID M. GANDIN, J.S.C.

  
07/20/2022

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.