CENTER *for* JUDICIAL ACCOUNTABILITY, INC.*

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May 23, 2011

TO: Andrew M. Cuomo, Governor of the State of New York
Dean G. Skelos, Temporary President of the New York State Senate
Sheldon Silver, Speaker of the New York State Assembly
Jonathan Lippman, Chief Judge of the State of New York

FROM: Elena Ruth Sassower, Director
Center for Judicial Accountability, Inc. (CJA)

RE: (1) NYS's Commission on Judicial Compensation – Inoperative & Inaccessible to the Public;
(2) Evidence Disentitling NYS's Judiciary to Increased Compensation, Presented and Proffered by the Public at the NYS Senate Judiciary Committee's June 8, 2009 and September 24, 2009 Public Hearings – as to which There Has Been No Investigation, No Findings, and No Committee Report.

On December 10, 2010, lame-duck Governor David Paterson signed into law legislation he had submitted to the lame-duck Legislature on November 29, 2010, which it passed that very night, with no public input or true deliberative process, creating a Commission on Judicial Compensation to potentially hike compensation for New York State judges[1]

The law fixes April 1, 2011 as the date for the Commission's establishment, with the date of its dissolution being not later than 150 days thereafter, upon submission of a report to the Governor, Legislature, and Chief Judge containing its "findings, conclusions, determinations and recommendations". Such recommendations "have the force of law", unless modified or abrogated by statute prior to April 1st of the year to which the recommendations apply.

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[1] Governor Program No. 333; Assembly Bill A42010; Senate Bill S68010.

* **Center for Judicial Accountability, Inc.** (CJA) is a national, non-partisan, non-profit citizens' organization, working to ensure that the processes of judicial selection and discipline are effective and meaningful.

Of the Commission's seven members, the Governor appoints three, the Temporary President of the Senate appoints one, the Assembly Speaker appoints one, and the Chief Judge appoints two. From these seven, the Governor designates the chair.

On April 14, 2011, unable to find contact information for the Commission and aware of Chief Judge Lippman's appointment to the Commission of Robert Fiske, Jr. and Kathryn S. Wylde, which he announced in his February 15, 2011 State of the Judiciary address, I telephoned the Office of Court Administration. It had no phone number or other contact information for the Commission. Four days later, its counsel's office called me back, stating that the Commission didn't have an "actual office", didn't have any staff, and was "still being set up". It gave me the names of only two other Commission members: John R. Dunn and Milton Mollen – stated to be appointees of the Governor.

As of this date – 53 days into the Commission's 150-day existence – it appears that the Commission still doesn't have an "actual office", still doesn't have any staff, and is still "being set up". Indeed, neither the internet nor directory assistance has any contact information for the Commission. This includes directory assistance for New York State government: 518-474-2121.

On Friday, May 20th, upon telephoning Governor Cuomo's office, I learned that the Governor has not made any appointments to the Commission, nor, by reason thereof, designated its chair. Thereupon calling the legislature, I learned that Assembly Speaker Silver did not make his appointment to the Commission until April 29th – appointing James Tallon, Jr., unaccompanied by any press release or other statement. Likewise no press release or statement accompanied the appointment of Mark Mullholland by Temporary Senate President Skelos on February 14th.

In determining the adequacy of judicial compensation, the law charges the Commission with taking "into account all appropriate factors". Surely you would agree that topping the list of "appropriate factors" would be evidence that New York's state judiciary is, at all levels, pervasively corrupt and lawless. As to this, our New York-based nonpartisan, nonprofit citizens' organization, Center for Judicial Accountability, Inc. (CJA), intends to make a FULLY-DOCUMENTED presentation, vigorously opposing any increase in judicial compensation until mechanisms are in place and functioning to remove a multitude of miscreant judges who deliberately pervert the rule of law and any semblance of justice and whose decisions are nothing short of "judicial perjuries", being knowingly false and fabricated. Such judges, willfully destroying the lives of countless New Yorkers, the wellbeing of our state, and our democracy as a whole, are unworthy of their current salaries and benefits – being paid by hardworking New Yorkers.

The corruption and lawlessness of New York's state judiciary, infesting its supervisory and appellate levels, collusively condoned by the New York State Commission on Judicial Conduct, was the subject of testimony by more than two dozen New Yorkers, including lawyers, at

hearings held by the New York State Senate Judiciary Committee on June 8, 2009 and September 24, 2009. You can hear for yourselves what these New Yorkers had to say, as the full videos of both hearings are posted on CJA's website, www.judgewatch.org, accessible *via* the top panel "Latest News" and, additionally, *via* the sidebar panel "Judicial Discipline: State-NY".

As reflected by the videos –and by the transcripts of the hearings, which are also posted – the Senate Judiciary Committee could not accommodate all the members of the public who clamored to testify – and its then chairman, Senator John Sampson, promised that the Committee would hold additional hearings. He also endorsed a proposal by fellow Committee member Senator Eric Adams that a task force be appointed to assist the Committee in addressing the mountain of information and evidence the public was presenting of corruption.[2] Yet, no task force was appointed and the Senate Judiciary Committee's continued hearings were aborted. A third hearing, calendared for December 16, 2009 – at which CJA was slated to testify – was cancelled and not re-scheduled. To date, the Senate Judiciary Committee has NOT rendered any report nor made any findings with respect to the mountain of documentary evidence of systemic judicial corruption it received at the two hearings. Indeed, its 2009 annual report, purporting to "detail the activities of the Judiciary Committee" in 2009, contains no reference to the hearings – the first legislative hearings on the Commission in 22 years.

As the Commission on Judicial Compensation is empowered to "hold public hearings", CJA will be requesting that it do so – to ensure that its work is informed by evidence-based facts as to the supposed quality of our state judges entitling them to increased compensation, including the quality of those judges who have complained that they are underpaid.

There must be NO increase in judicial compensation UNTIL there is an official investigation of the testimony and documentation that the public provided and proffered to the Senate Judiciary Committee in connection with its 2009 hearings and UNTIL there is a publicly-rendered report with factual findings with respect thereto. CJA, therefore, calls upon you – our leaders of our three branches of New York State's government – to take steps to ensure that IF the Senate Judiciary Committee does not undertake the investigation and report, as is its duty to do – that you secure same, be it by a special prosecutor appointed by the Governor, by a task force appointed by the Legislature, or by the Chief Judge's appointment of an inspector general and commission for such purpose.

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2 Senator Adams' eloquent words, at the September 24, 2009 hearing, were as follows:

> "...This is extensive...The best way to resolve inefficiencies and corruption in government is to allow people who are personally touched by the matter to empower us with information. So I am going to ask the Chair if he will put in place a task force that will be comprised of individuals like yourself and those who are victims to assist us in navigating how this problem is being hidden from public view." (transcript at pages 37-38; video at 0:34:44).

A copy of this letter is being furnished to former Senate Judiciary Committee Chairman Sampson, who, as Senate Minority Leader, is a member of the Commitee *ex officio*, as well as to the Senate Judiciary Committee's current chairman, Senator John Bonacic, its ranking member, Senator Ruth Hassell-Thompson – as well as its 21 other members – Senator Adams among them – so that they may identify for you, for the Commission on Judicial Compensation, and for the public, what they intend to do with the information and documentation the public supplied and proffered the Senate Judiciary Committee for its June 8, 2009 and September 24, 2009 hearings – and aborted December 16, 2009 hearing.

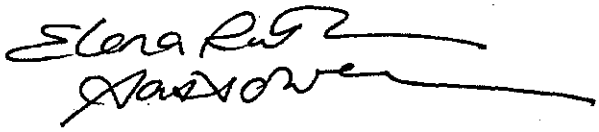
As the law creating the Commission on Judicial Compensation expressly entitles it to request and receive:

> "such facilities, resources and data of any court, department, division, board, bureau, commission, agency or public authority of the state or any political subdivision thereof…to carry out properly its powers and duties"

and to

> "reasonable assistance from state agency personnel as necessary for the performance of its functions",

the Commission is empowered to request your assistance in securing factual findings as to that testimony and documentation. Needless to say, such request should be the Commission's FIRST order of business.



cc: Appointed Members of the Commission on Judicial Compensation:
- Robert Fiske, Jr.
- Kathryn S. Wylde
- James Tallon, Jr.
- Mark Mullholland

Senate Minority Leader John L. Sampson
Senate Judiciary Committee
- Chairman John J. Bonacic
- Ranking Member Ruth Hassell-Thompson
- 21 Other Committee Members – including Senator Eric Adams

Witnesses at the 2009 Senate Judiciary Committee Hearings
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