



NINTH JUDICIAL COMMITTEE

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FAX COVER SHEET

11/11/92

4:30 p.m.

DATE

TIME

TO: EDITORIAL BOARD  
GANNETT SUBURBAN NEWSPAPERS

FAX NUMBER: 694-5018 (tele: 694-5014)

This fax consists of a total of 7 page. If there is a question as to the transmittal, please call (914) 997-8105.

FROM: Elena Ruth Sassower, Coordinator

Please direct this letter, with its enclosed "Guest Column", to each member of Gannett's Editorial Board.

Thank you very much.

*Elena Ruth  
Sassower*



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By Fax and By Hand  
694-5018

November 11, 1992

Gannett Editorial Board  
One Gannett Drive  
White Plains, New York

RE: Our Critique of the Federal Court  
Nomination of Andrew O'Rourke and the  
Judicial Screening Process

Dear Editors:

Enclosed is a copy of a proposed "Guest Column", which we request be printed in its entirety. We also request a meeting with the full Editorial Board--which, as a collective entity, bears responsibility for the September 6th editorial endorsement of Andrew O'Rourke for judicial office. As discussed in our September 16th letter to you, the Editorial Board has an obligation to correct the public misperception that has resulted from that editorial.

Frankly, we were not surprised by the recent poll--which Gannett reported twice in the month before the election (October 16th, October 30th)--giving high confidence ratings to Andrew O'Rourke. We believe such confidence derives from your promotion of Mr. O'Rourke's nomination for a life-time federal judgeship by the President of the United States, a high honor which the public has been led to believe has been accorded to an individual worthy of such office.

Gannett has nurtured that perception with stories repeating Mr. O'Rourke's ABA and City Bar approval ratings and reporting about a letter-writing campaign on Mr. O'Rourke's behalf by County Executives nationwide. Indeed, the September 6th "rave" editorial endorsement of Mr. O'Rourke prominently refers to both these facts to support its otherwise unjustified view that "O'Rourke Belongs on the Bench Now".

It is most ironic that Gannett's November 5th editorial opines that Senator D'Amato's re-election "is not at first glance a happy thought"--yet fails to consider Gannett's role in determining the election results. We refer you to Mr. Tagliaferri's November 4th front-page story:

"It probably didn't hurt that [D'Amato] had sponsored Westchester County Executive Andrew O'Rourke's nomination for a seat on the federal bench. Although Mr. O'Rourke's nomination stalled before the Senate, D'Amato had his name linked to a county Republican viewed favorably by more than half of likely voters, according to a recent Gannett Suburban Newspapers poll."

Such statement is absolutely extraordinary coming from Mr. Tagliaferri--the reporter who deliberately suppressed--and allowed to be suppressed--the major story about Mr. O'Rourke's nomination which we provided.

Almost six months ago, I hand-delivered a copy of our critique to Mr. Tagliaferri. He was well aware that our critique could powerfully impact upon the Senate race--since I discussed that fact with him at the outset. Indeed, on October 27th, I again discussed that fact with Mr. Tagliaferri who was belatedly writing the article "O'Rourke Listed Only 3 Cases For Senate", which appeared on November 2nd.

Yet Mr. Tagliaferri's article, in addition to soft-peddling Mr. O'Rourke's lack of judicial qualifications, omits totally all discussion of the issues most relevant to the election season. Those issues included:

(a) Senator D'Amato's payoff to the defeated 1986 Republican Party ticket for Governor and Lieutenant Governor: a recommendation for federal judgeships to both Andrew O'Rourke and Michael Kavanaugh--upon which the President thereafter acted (critique, pp. 30, 41);

(b) Senator D'Amato's documented refusal (as well as the President's) to supply requested information as to Mr. O'Rourke's credentials or his purported screening process (critique, pp. 30-33);

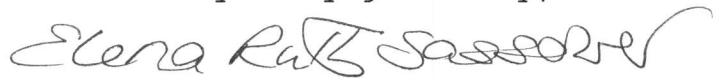
(c) other political figures behind Mr. O'Rourke's federal court nomination--including Anthony Colavita and the President's brother, Jonathan Bush (critique, at pp. 19-20, 22-23)

In view of Gannett's sponsorship of a forum which called upon citizens to "Reinvigorate Democracy", we would have expected our critique to have been proudly held up to the public as an example of what citizens can accomplish. Instead, Gannett, unabashedly kept our outstanding pro bono work an unreported "secret".

Mr. Beaupre's October 25th "Letter to the Reader" entitled "How Our Endorsements Are Decided" refers to interviews conducted by the Editorial Board. We are unaware whether Mr. O'Rourke was specifically interviewed as to his judicial qualifications. However, when we sought to address the Editorial Board on that subject seven weeks ago, such opportunity was denied us.

To enable you to better evaluate your obligations to the public, we earnestly reiterate that prior request.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator  
Ninth Judicial Committee

Enclosure

cc: Ed Tagliaferri

GUEST COLUMN

Exactly one year ago this week, President Bush nominated Andrew O'Rourke for a federal court judgeship. Since then, Gannett has printed story after story about that nomination. What it has not printed, however, is any story about the political deal-making that produced it or about Mr. O'Rourke's actual--rather than supposed--judicial qualifications.

We should know. The Ninth Judicial Committee, a citizens' group dedicated to a quality judiciary, spent half a year tracking Mr. O'Rourke's nomination. Our findings were set forth in a critique which we submitted to the Senate Judiciary Committee last May.

Our findings as to Mr. O'Rourke's unfitness for judicial office were based upon irrefutable evidence from the nominee's "own mouth": We used Mr. O'Rourke's own representations of his credentials, as he set them forth in writing to the Senate Judiciary Committee's questionnaire. Our investigation of Mr. O'Rourke's representations established a consistent pattern of falsification, distortion, and omission by him--which we meticulously documented for the Senate Judiciary Committee.

Such fundamental dishonesty--clearly disqualifying a judicial candidate--was particularly evident in Mr. O'Rourke's response to the key question relating to legal competence. That question--vital for a nominee with no prior judicial experience--requires the candidate to describe his "ten most significant

litigated matters". Mr. O'Rourke was able to describe only three cases--giving excuses for coming up short which we showed to be false. Yet, even more serious than the inexcusably inadequate number of cases was their content. Examination of the files of those cases--two of which we accessed from the Westchester County Clerk's Office--reveals Mr. O'Rourke to have been an incompetent and unethical practitioner when he practiced law--ten years ago.

Gannett has been in possession of a copy of our critique since last May. Yet, only last week--and only in response to intense pressure from us--did it grudgingly run a story. Entitled "O'Rourke Listed Only 3 Cases for Senate", Ed Tagliaferri's November 2nd story makes it appear that Gannett's review of Mr. O'Rourke's Senate Judiciary Committee questionnaire and the files of 1 case constitute original investigative work. In fact, Gannett has merely verified the smallest portion of the massive work done months ago by the Ninth Judicial Committee--which it used as its source, but which it neither credits nor fully reports.

Indeed, up until the end of September, Gannett refused to let the public know anything about our critique--even that it existed. Instead, Gannett ran story after story about Mr. O'Rourke's nomination being "stalled", speculating far and wide as to the reason, but never mentioning our critique once.

Such pretense enabled Gannett to wax eloquent about Mr. O'Rourke's supposed judicial qualifications in a September 6th editorial--and to cite Mr. O'Rourke's approval by the American

Bar Association and the Association of the Bar of the City of New York. In fact, Gannett was well aware that our critique exposed the failure of those organizations to conduct meaningful investigation and, in the case of the City Bar, the deliberate "screening out" of information adverse to Mr. O'Rourke. Mr. Tagliaferri's article omits any discussion of the evidence presented by our critique exposing the ABA and City Bar ratings of Mr. O'Rourke as indefensible.

It is now two months since that September 6th editorial appeared--and seven weeks since I personally met with the Editorial Page Editor and discussed our critique. Yet, Gannett's Editorial Board--which writes powerfully about everyone else's obligations--fails to recognize its own obligation to the public to confront the clear-cut evidentiary issues--which Gannett's newswriters continue to suppress.



ELENA RUTH SASSOWER  
Coordinator, Ninth Judicial Committee