

**GANNETT**  
Suburban Newspapers

**FAX TRANSMISSION COVER SHEET**

**TO**  
NAME DORIS SASSOWER

DEPARTMENT \_\_\_\_\_

PHONE \_\_\_\_\_

FAX 684-6554 428-4974

PAGES SENT (INCLUDING COVER) 6

**FROM**  
NAME RON PATAFIO

PHONE 694-5031

**MESSAGE**

*Follows...*

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Mrs. Sassower:

What follows is an edited, then the original, version of your latest submission. In the original, I have underlined and numbered four things I either omitted or rewrote. Here is the explanation for each:

1. An official's performance of public duties is pretty wide open for criticism, but this language pertained to O'Rourke's performance as a lawyer. Asserting lying, incompetence and unethical behavior, in my opinion, would make the newspaper, and you, vulnerable to a libel suit. I've rewritten the sentence, which I believe is adequate, particularly since you detail your criticisms later.

2 and 3. We have never said we filed suit because the divorce files are relevant to his judicial qualifications, only that we wanted to determine if they contained any information pertinent to his performance of public duties.

4. We do not acknowledge any defamation -- permitting this language could be construed as such an acknowledgement. We have acknowledged and corrected the error.

Gannett Suburban Newspapers' Dec. 27 article, "Judicial reform group challenges O'Rourke judgeship," did not truthfully report the facts about the Center for Judicial Accountability Inc., its efforts to stop former County Executive Andrew O'Rourke's Court of Claims nomination, the basis of its opposition, or my status at the bar.

CJA, successor to the Ninth Judicial Committee, formed more than eight years ago, is a national, nonpartisan, nonprofit citizens' organization, working to reform our dysfunctional, politicized processes of judicial selection and discipline on national, state and local levels so that only the most qualified lawyers become, and remain, judges.

Our achievements include a 50-page critique of O'Rourke's judicial qualifications, submitted to the U.S. Senate Judiciary Committee and Senate leadership in May 1992. It challenged O'Rourke's description of his credentials and his record when he practiced law, which was not since 1983. Gannett suppressed that well-documented critique, which was the death-knell to O'Rourke's federal judgeship. Instead, it wrote about O'Rourke's "stalled" nomination, which it attributed to and continues to attribute to election-year politics. This, notwithstanding other Southern District judicial nominees were confirmed by the Senate.

The critique's centerpiece was our analysis of the three cases O'Rourke described in response to the committee's question asking him about his "ten most significant litigated matters." Your article misrepresents that we opposed him then to as now to for "lack of litigation experience," as reflected by his failure to supply 10 cases. You uncritically repeat O'Rourke's 1992 pretense that he supplied only three cases because the records of his law practice were "lost, misplaced or thrown out by his former law partner," ignoring that the question did not call for case files and that such files were obtainable from other sources, including permanently maintained court files. This was highlighted by our critique.

Plainly, the readily accessible court files of O'Rourke's law practice are relevant to his judicial qualifications and portions of those files are exhibits to our critique. Yet, Gannett has steadfastly concealed from the public any information about what they show and what our critique said about them.

The public has been told that the State Judicial Screening Committee found O'Rourke "highly qualified" for the Court of Claims judgeship. They have not been told that there is no substantiation for that rating. By law, the committee is required to make a "written report" about a candidate's qualifications, which becomes "available for public inspection" once the governor has announced the appointment. It is now almost a month since O'Rourke's appointment was announced, and neither the governor nor the screening committee has released the report, although CFA has demanded it. Indeed, your Dec. 27 article indicated that the governor's spokesman admitted there might not be a report. The law also requires that a "thorough inquiry" into a candidate's qualifications by the screening committee precede its rating. This would have required the committee to contact us about our critique, which it never did.



**CENTER for JUDICIAL ACCOUNTABILITY, INC.**

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January 7, 1998

Gannett Suburban Newspapers  
One Gannett Drive  
White Plains, NY 10604

Att: Ron Patafio, Editorial Page Editor

**IN REPLY**

Gannett's article "*Judicial Reform Group Challenges O'Rourke Judgeship*" (December 27th) did not truthfully report the facts about CJA (Center for Judicial Accountability, Inc), its efforts to stop O'Rourke's Court of Claims nomination, the basis of its opposition, or my status at the bar.

CJA, successor to the Ninth Judicial Committee, formed more than eight years ago, is a national, nonpartisan, nonprofit citizens' organization, working to reform our dysfunctional, politicized processes of judicial selection and discipline on national, state, and local levels so that only the most qualified lawyers become, and remain, judges.

Our achievements include a 50-page critique of O'Rourke's judicial qualifications, submitted to the U.S. Senate Judiciary Committee and Senate leadership in May 1992. It documented that O'Rourke repeatedly lied about his credentials and that he had been an "incompetent and unethical practitioner when he practiced law, which was not since 1983." Gannett suppressed that well-documented critique, which was the death knell to O'Rourke's federal judgeship. Instead, it wrote about O'Rourke's "stalled" nomination, which it attributed--and continues to attribute--to election year politics. This, notwithstanding other Southern District judicial nominees were confirmed by the Senate.

The critique's centerpiece was our analysis of the three cases O'Rourke described in response to the Committee's question asking about his "ten most significant litigated matters." Your article misrepresents that we opposed him then -- as now -- for "lack of litigation experience", as reflected by his failure to supply ten cases. You uncritically repeat O'Rourke's 1992 pretense that he supplied only three cases because the records of his law practice were "lost, misplaced or thrown out by his former law partner", ignoring that the question did not call for case files and that such files were obtainable from other sources, including permanently maintained court files. This was highlighted by our critique.

Plainly, the readily-accessible court files of O'Rourke's law practice are relevant to his judicial qualifications -- and portions of those files are exhibits to our critique. Yet, Gannett has steadfastly concealed from the public any information about what they show and what our critique

said about them. This, even while Gannett has unsuccessfully sued to open O'Rourke's sealed divorce files on the ground they are relevant to his judicial qualifications.

The public has been told that the State Judicial Screening Committee found O'Rourke "highly qualified" for the Court of Claims judgeship. They have not been told that there is no substantiation for that rating. By law, the Committee is required to make a "written report" about a candidate's qualifications, which becomes "available for public inspection" once the Governor has announced the appointment. It is now almost a month since O'Rourke's appointment was announced and neither the Governor nor the Screening Committee have released the report, although CJA has demanded it. Indeed, your December 27 article indicated that the Governor's spokesman admitted there might not be a report. The law also requires that a "thorough inquiry" into a candidate's qualifications by the Screening Committee precede its rating. This would have required the Committee to contact us about our critique, which it never did.

CJA has called upon O'Rourke, the Governor, and the State Judicial Screening Committee to provide substantiation of the rating and verification that proper procedures were followed. They have not done so. This deserves front-page coverage -- with an editorial demand that substantiation be given. Since Gannett has already litigated for access to O'Rourke's matrimonial files which it deemed relevant to his judicial fitness, it should not hesitate to immediately commence a lawsuit against the Governor for the Committee report on O'Rourke's qualifications, if it exists. If there is no report, the nomination is a nullity, and there is nothing for the Senate to confirm.

Likewise deserving of coverage is CJA's round-the-clock efforts to get the Governor to withdraw the nomination and the Screening Committee to retract its rating. Instead, Gannett has buried these important stories and gratuitously defamed me. So that the record is clear, Gannett's false assertion that I am "disbarred" is an outright lie. I am not and never have been "disbarred". Nor was I "suspended in 1991... for failing to undergo a court-ordered competency test." The 1991 suspension order contains no findings, no reasons, and there is no factual or legal basis for it. No written charges or hearing relating thereto preceded or followed it, nor was I afforded any right of appeal. It is a vicious and heinous retaliation against me for my judicial "whistle-blowing". This story, too, Gannett has covered up, even while my civil rights lawsuit against the judges who suspended me heads to the U.S. Supreme Court. Gannett has also refused to report that I recently won the Giraffe award, a national honor to individuals who "stick their necks out for the public good". Gannett got that announcement at about the same time it was reporting O'Rourke's nomination.

**DORIS L. SASSOWER** is director and co-founder of the Center for Judicial Accountability, Inc.