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By Fax: 212-556-3622 (4 pages)
By Hand

February 18, 1997

Letters to the Editor
The New York Times
229 West 43rd Street
New York, New York 10036

ATT: George Gustines
Inell Willis

Dear George and Inell:

I trust you saw the article in last Thursday's Times "Bar Group Calls Screening for Judges Too Political" (2/13/97, page B-3). It describes the report of the Association of the Bar of the City of New York, criticizing Governor Pataki's continued use of a temporary judicial screening panel.

But for your publication months ago of my Letter to the Editor, "On Choosing Judges, Pataki Creates Problems" (11/16/96) -- which first exposed the Governor's use of the temporary judicial screening panel, rather than permanent screening committees -- I believe the City Bar would not have issued such report. Therefore, the credit belongs to you for the City Bar's report, as well as for the constructive, albeit incremental, moves by the Governor's office.

Enclosed is another Letter to the Editor, this one about what is taking place on the federal level. It is a situation which also affronts democracy and endangers the public by unfit judges. We earnestly hope that Times' publication of this second Letter will, likewise, spark inquiry and change.

Because everything we do is meticulously documented -- and because the documentation shows a situation that is more horrific, by far, than anything we could summarize in our Letter -- we would be most pleased to transmit to you a copy of our submission to the Senate leadership, calling for a moratorium and official investigation. Let me know if you would like to see it and I will whisk it over to you.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc.

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Dear Editor:

You decry as a "disservice" to the nation that the Republican-controlled Senate in the second session of the 104th Congress failed to confirm 22 of President Clinton's judicial nominees to the bench ("Too Many Federal Court Vacancies", editorial, Feb. 14).

However, the nation is more disserved by the manner in which this same Senate session confirmed, by your statistics, 17 district court nominees. All 17 confirmations were without any discussion or vote on the Senate floor -- such democratic formalities having been rendered superfluous by behind closed-door "agreements" between Republican and Democratic Senate leadership.

Last session, our non-partisan citizens organization tried to stop one of these 17 judicial confirmations. We provided both the Republican and Democratic leaders of the Senate

with evidence of that nominee's unfitness, as well as of the Senate Judiciary Committee's wilful refusal to discharge its duty to evaluate that evidence. Indeed, we called for a moratorium of all Senate confirmation of judicial nominees pending an official investigation of the serious breakdown of the pre- and post-nomination judicial screening process we documented.

As to the failure of post-nomination judicial screening, our submission presented a frightening case study of how the Senate Judiciary Committee responds to citizen opposition to lower federal court nominees: by failing to interview those citizens, by failing to request substantiating documentation, and by denying, without reasons, requests to testify in opposition to such nominations at the confirmation hearings. We described how the Senate Judiciary Committee ignored our request for reconsideration of its denial of our hearing request and that when it informed us of the hearing, it gave us only four hours notice to make the trip from New York to Washington.

We also detailed the harassment and intimidation to which we were subjected by Committee staff when, against the odds, we arrived in time for the confirmation hearing and the sham nature of the hearing we observed: six nominees introduced amid the self-congratulations of the sponsoring Senators, with the five district court nominees called up, en masse, to answer generic questions in assembly-line fashion by 2 of the 18 Senate Judiciary Committee members then present. There was no

opposition testimony of any sort.

Your editorial identifies Senator Kyl as trying to assert greater Republican control over judicial nominations. Senator Kyl was the presiding chairman at that confirmation hearing. When we stood up and requested an opportunity to testify as to our citizen opposition, he refused to allow it. At the same time, he stated that the record would remain open for three days for written submissions. Yet a day and a half later, Senator Kyl, sitting in executive session with other Senate Judiciary Committee members, allowed those six nominees, whose hearings had just been held, to be passed on to the Senate for confirmation.

We quite agree that vacancies on the federal bench result in "delayed justice" for litigants. However, better a moratorium on judicial confirmations than the injustice resulting from unfit nominees elevated to the federal bench. Alas, both the Republican and Democratic sides of the Senate are too busy playing politics to care about the qualifications of our lower federal judges, let alone respect proper procedure or the democratic process.

ELENA RUTH SASSOWER, COORDINATOR
Center for Judicial Accountability, Inc.