



NINTH JUDICIAL COMMITTEE

Box 70, Gedney Station
White Plains, New York 10605-0070
Tele: (914) 997-8105 / Fax: (914) 684-6554

By Fax and Mail
212-558-3855

January 18, 1993

William E. Willis, Chairman
ABA Standing Committee on Federal Judiciary
Sullivan & Cromwell
125 Broadway
New York, New York 10004

RE: May 1992 Critique of the Ninth Judicial Committee

Dear Mr. Willis:

As you know, last May, the Ninth Judicial Committee submitted to the ABA a comprehensive, fully-documented critique detailing serious deficiencies in the screening procedures of the Standing Committee on Federal Judiciary. Based thereon, we called for immediate corrective steps.

In the seven months that have since elapsed--with no corrective action from the ABA--we asked you and President McWilliams to confirm that our critique was presented to the members of the Standing Committee on Federal Judiciary for review by them.

Neither you nor President McWilliams would provide such confirmation. However, based upon the lack of action to date, we infer that the members of the Standing Committee on Federal Judiciary have not been afforded copies of our critique nor made aware of its contents.

We understand that the Standing Committee holds biennial meetings--and that the next meeting is scheduled for February in Boston. We, therefore, respectfully request that copies of our critique be distributed to each member of the Standing Committee in advance of that meeting and that our critique be added to the meeting's agenda--if it is not already on it.

We further request that the serious issues set forth in our correspondence with the ABA also be placed on the agenda. Such issues include the need for the ABA to meet its obligation to the public by rescinding a rating which has been fraudulently-procured by a judicial nominee.

January 18, 1993

We note that we have had no acknowledgment from President McWilliams to our most recent letters on this subject, which called his attention specifically to Rule 8.2(a) of the ABA's Model Rules of Professional Conduct. Copies of those letters, dated November 11, 1992 and December 18, 1992, are enclosed for your convenience.

We would greatly appreciate hearing from you before the end of this month. Members of the Ninth Judicial Committee would be most pleased to make an oral presentation for the benefit of the members of the Standing Committee on Federal Judiciary.

Although we certainly understand that you have many other matters on your agenda, we believe that the transcending importance of our critique deserves priority attention at this time.

Yours for a quality judiciary,



ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

Enclosures:

- (a) 11/11/92 ltr to President McWilliams
- (b) 12/18/92 ltr to President McWilliams

cc: J. Michael McWilliams, President, ABA
Chairman Joseph Biden, Senate Judiciary Committee
Irene R. Emsellem, ABA Staff Liaison



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November 11, 1992

President J. Michael McWilliams
American Bar Association
750 North Lake Shore Drive
Chicago, Illinois 60611

RE: Ninth Judicial Committee's Critique
of the Nomination of Andrew
O'Rourke to the District Court
(Second Circuit)

Dear President McWilliams:

Reference is made to your letter of October 21, 1992. Although you describe the Standing Committee's relationship with the Justice Department and with the Senate Judiciary Committee, you make no reference to its obligations to the public.

We refer you to the last paragraph of our October 6th letter to you, which stated:

"In the event you do not share our view that the ABA has an on-going obligation to the public to retract a rating when documentary evidence of a nominee's fraudulent conduct is presented to it, we wish a written statement to that effect."

Please articulate what--if any--are the ABA's on-going obligations when it receives irrefutable evidence as to the unfitness of a judicial candidate it has found qualified. Clearly, such policy statement is not "confidential".

We respectfully refer you to Rule 8.2(a) of the ABA's Model Rules of Professional Conduct:

"A lawyer shall not make a statement that the lawyer knows to be false or with reckless disregard as to its truth or falsity concerning the qualifications or integrity...of a candidate for election or appointment to judicial or legal office."

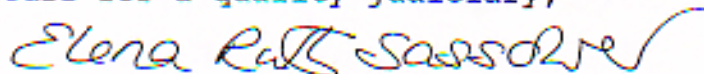
November 11, 1992

The ABA, which articulates "Model Rules of Professional Conduct" for individual lawyers, must--as an organization--be the exemplar of those standards.

In the event the ABA leadership does not recognize its obligation to retract a rating it knows to be false, we ask that you, as ABA President, refer our critique and all correspondence relative thereto to the ABA's Standing Committee on Ethics and Professional Responsibility with a request for a formal opinion.

Your expeditious response would be greatly appreciated.

Yours for a quality judiciary,



ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

cc: Chairman Joseph Biden, Senate Judiciary Committee
Irene R. Emsellem, Staff Liaison, ABA Standing Committee
on Federal Judiciary



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December 18, 1992

President J. Michael McWilliams
American Bar Association
750 North Lake Shore Drive
Chicago, Illinois 60611

RE: Ninth Judicial Committee's Critique of
the Nomination of Andrew O'Rourke to the
District Court (Second Circuit)

Dear President McWilliams:

We are surprised to have heard nothing from you regarding our November 11th letter--a copy of which is enclosed for your convenience.

Our request was extremely straightforward: whether Rule 8.2(a) of the ABA's Rules of Professional Conduct applies to the ABA's Standing Committee on Federal Judiciary.

As stated by our letter,

"In the event the ABA leadership does not recognize its obligation to retract a rating it knows to be false, we ask that you, as ABA President, refer our critique and all correspondence relative thereto to the ABA's Standing Committee on Ethics and Professional Responsibility with a request for a formal opinion."
(at p. 2, emphasis in the original)

Kindly advise us whether this matter has, in fact, been referred to the Standing Committee on Ethics and Professional Responsibility.

Yours for a quality judiciary,

ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

Enclosure: 11/11/92 ltr

cc: Chairman Joseph Biden, Senate Judiciary Committee
Irene R. Emsellem, Staff Liaison, ABA Standing Committee
on Federal Judiciary