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5 pages

January 13, 1999

New York State Senate Judiciary Committee
The Capitol
Albany, New York 12247

ATT: Susan Zimmer, Committee Clerk

RE: Senate Judiciary Committee's December 17, 1998 "hearing" on the
confirmation of Albert Rosenblatt to the New York Court of Appeals

Dear Ms. Zimmer:

Confirming our phone conversation earlier today, this is to formally request a copy of the transcript of the Senate Judiciary Committee's December 17, 1998 confirmation "hearing" of Albert Rosenblatt's nomination to the New York Court of Appeals.

You stated that the transcript had not yet been received from the stenographer and that you did not know when it would be. Since you would not provide me with the stenographer's telephone number so that I could inquire about it directly, please find out from the stenographer the anticipated date when the transcript will be ready so that we may be guided accordingly.

CJA also formally requests a list of those who testified at the December 17th "hearing" or submitted written statements. In answer to my question as to whether the New York State Bar Association testified, you weren't sure whether it had or whether only a statement from it was read. Inasmuch as Mr. Gruenberg told me on December 16th that the confirmation "hearing" would be "by invitation only" -- which he then confirmed for Bruce Golding of Gannett's Journal News -- I assume that all persons and organizations testifying had been invited to do so. If the list of those invited is different from those who actually testified, we also request the identities of the invitees.

I would note that in our last phone conversation together, on December 16th, I first requested the identities of those invited to testify. This is reflected by the letter I faxed you on that date, a copy of which is enclosed for your convenience.

January 13, 1999

The December 16th letter also reflects my prior requests for publicly-available information about Justice Rosenblatt's nomination. Please advise as to when we can expect such information and the date on which the Committee finally received the "paperwork" on the nominee, including certification of the Governor's nomination.

The December 16th letter further reflects that in our December 16th conversation you did not know the date of the confirmation hearing and that I requested that you notify us as soon as the date was set. In our conversation today, I asked you why you had not notified us. Your response, before you stopped yourself mid-sentence, was that you had been told not to. You also admitted that it was not until you had already gone home on December 16th that you, yourself, were told that the hearing would be held on December 17th.

Needless to say, we would appreciate knowing who told you not to call us about the December 17th hearing. Indeed, not only did you not call us in the morning of December 17th -- but you did not return my phone message for you, left in the early afternoon of December 17th, after I had accidentally learned from a Capitol-based reporter that the hearing would be held at 3:30 that day. That message was left at about 12:40 p.m. with Sissy. This was followed up by my further message for you, left with Donna, at about 12:40 p.m. on December 18th, at which time I was told that you had already left for vacation.

Finally, and still on the subject of the Senate Judiciary Committee's no-notice, "by invitation only" confirmation "hearing", enclosed is a copy of my published Letter to the Editor in The New York Post, which you stated you had not seen.

Thanking you, in advance, for your prompt response to our informational requests.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator
Center for Judicial Accountability, Inc. (CJA)

Enclosures

NEW YORK POST

America's oldest continuously published daily newspaper

letters@nypost.com

An Appeal to Fairness: Revisit the Court of Appeals

•Your editorial "Reclaiming the Court of Appeals" (Dec. 18) asserts that Albert Rosenblatt will be judged by how well he upholds the democratic process "from those who would seek to short-circuit" it.

On that score, it is not too early to judge him. He permitted the state Senate to make a mockery of the democratic process and the public's rights when it confirmed him last Thursday.

The Senate Judiciary Committee's hearing on Justice Rosenblatt's confirmation to our state's highest court was by invitation only.

The Committee denied invitations to citizens wishing to testify in opposition and prevented them from even attending the hearing by withholding information of its date, which was never publicly announced.

Even reporters at the Capitol did not know when the confirmation hearing would be held until last Thursday, the very day of the hearing.

The result was worthy of the former Soviet Union: a rubber-

stamp confirmation "hearing," with no opposition testimony — followed by unanimous Senate approval.

In the 20 years since elections to the Court of Appeals were scrapped in favor of what was purported to be "merit selection," we do not believe the Senate Judiciary Committee ever — until last Thursday — conducted a confirmation hearing to the Court of Appeals without notice to the public and opportunity for it to be heard in opposition.

That it did so in confirming Justice Rosenblatt reflects its conscious knowledge — and that of Justice Rosenblatt — that his confirmation would not survive publicly presented opposition testimony. It certainly would not have survived the testimony of our non-partisan citizens' organization.

This is why we will be calling upon our new state attorney general as the "People's lawyer," to launch an official investigation. **Elena Ruth Sassower**
Center for Judicial Accountability
White Plains

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