



NINTH JUDICIAL COMMITTEE

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March 17, 1992

Conrad Harper, President
Association of the Bar
of the City of New York
New York, New York 10036

Re: Nomination of Andrew O'Rourke

Dear President Harper:

Your March 5th response to our February 24th letter makes a distinction between the confidentiality attaching to the City Bar's evaluation of candidates for appointive and elective judgeships--without explaining the basis for that distinction. We believe that the public should be equally informed as to the City Bar's evaluations of appointive judicial nominees, including those nominated to the federal bench.

We are not seeking substantive disclosure that would compromise the confidentiality of City Bar's evaluative process. What we seek is minimal information consisting of: (a) the date of Mr. O'Rourke's interview; (b) whether there was a rating of this nominee; and (c) if so, whether and when he was notified of it, in accordance with your published procedures.

It may be noted that the Senate Judiciary Committee's questionnaire is in two parts--one designated as "public" and the other "confidential".

A pertinent page from the public portion of Mr. O'Rourke's questionnaire, dated January 10, 1992, was included by us as part of our February 24th letter. That page, titled "III. GENERAL (PUBLIC)", included the following question as Q3:

Ex "XX-3"

"Is there a selection commission in your jurisdiction to recommend candidates for nomination to the federal courts? If so, did it recommend your nomination? Please describe your experience in the entire judicial selection process, from beginning to end (including the circumstances which led to your nomination and interviews in which you participated)."

The presence of such question in the public portion of the questionnaire indicates that the Senate Judiciary Committee views such information as being within the public domain.

Mr. O'Rourke's response thereto, likewise, asserts no privilege relative to any aspect of that question and specifically identifies his appearance before the City Bar's Committee on the Judiciary, as to which rating he states he has not been informed--even after the passage of a year's time.

Since we are currently preparing a critique of Mr. O'Rourke's public questionnaire for the Senate Judiciary Committee, your expeditious response would be greatly appreciated. We will be pleased to furnish you with a copy of our critique when it is finalized.

We thank you in advance for your anticipated cooperation in this important endeavor.

Yours for a quality judiciary,
Elena Ruth Sassower
ELENA RUTH SASSOWER
Coordinator, Ninth Judicial Committee

cc: Dean John D. Feerick, President-Elect
Association of the Bar of the City of New York