

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

P.O. Box 69, Gedney Station  
White Plains, New York 10605-0069

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## FAX COVER SHEET

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DATE: 1/8/98 TIME: 9:40am FAX #: 212-969-2900

TO: Claire Jutekunt

Prostaner, Rose

RE: State Judicial Screening Committee

FROM: ELENA RUTH SASSOWER, Coordinator

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MESSAGE: Enclosed is an letter to

Chief Judge Judith Kaye.

Kindly fax it to her NY office

(telephone # 212-661-6787), which

does not make such fax numbers

generally available. The office is

expecting receipt of the letter\* from

you, as you may confirm with

Susan Krupps, deputy counsel Rose.

Thank you.

CENTER for JUDICIAL ACCOUNTABILITY, INC. is a national, non-partisan, non-profit citizens' organization documenting how judges break the law and get away with it.

\* an earlier version - now superseded - was hand-delivered yesterday.  
Ex "D-1"

# PROSKAUER ROSE LLP

1585 Broadway  
New York, NY 10036-8299  
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<b>Sender</b> Claire P. Gutekunst	<b>Date</b> January 8, 1998	<b>Client-Matter</b> 99999/602
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**Fax Transmittal**

<b>Sender's Voice Number</b> 212.969.3421	<b>Main Fax Operator's Number</b> 212.969.5050 (Voice)	<b>Room Number</b> 18-54	<b>Pages (incl. cover)</b>
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<b>To</b> Elena Ruth Sassower	<b>Company</b> Center for Judicial Accountability, Inc.	<b>Fax Number</b> 914.428.4994	<b>Voice Number</b> 914.421.1200
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**Message**

Dear Ms. Sassower:

As you requested, I have faxed a copy of your letter to Chief Judge Kaye to her chambers.

Sincerely,

*Claire P. Gutekunst*

Claire P. Gutekunst

18 12 01 04 11 01

202101

EX "D-2"

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# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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## FAX COVER SHEET

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DATE: 1/12/98 TIME: 10<sup>20</sup> am FAX#: 212-969-2900

TO: Claire Gutkunst, Esq.  
Proskauer, Rose

RE: State Judicial Screening Committee

FROM: ELENA RUTH SASSOWER, Coordinator

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MESSAGE: Thank you for transmitting by fax  
on 1/7/98 to Chief Judge Kaye.

Kindly transmit <sup>by fax</sup> the enclosed two  
published pieces to her NY chambers.

This has already been discussed with  
Chief Judge Kaye's deputy counsel, Susan Kripper.

tel. # (212-661-6787), who is expecting them.  
The situation is EXIGENT - Senate

confirmation is scheduled for tomorrow.

Please do something to protect the public's  
rights

which  
are severely  
shamelessly  
violated by all  
involved.

CENTER for JUDICIAL ACCOUNTABILITY, INC. is a national, non-partisan, non-profit citizens' organization documenting how judges break the law and get away with it.

Ex "D-3"



One Gannett Drive, White Plains, NY 10604  
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# Judicial group: Article misstated facts

By Doris L. Sassower

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 federal, state and local levels so



Doris L. Sassower

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 — 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 court files in 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 — as now — for "lack of litigation experience," as

## IN REPLY

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. This, even while Gannett has unsuccessfully sued to open O'Rourke's sealed divorce files on the ground they might be 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 a month since O'Rourke's appointment was announced, and neither the governor nor the screening committee has released the report, although CJA 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.

CJA has called upon O'Rourke, the governor and the 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, it should not hesitate to 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.

So that the record is clear, Gannett's false assertion that I am "disbarred" is an outright lie. I am not and have never 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."

The writer, a White Plains resident, is director of the Center for Judicial Accountability Inc.

# Judicial reform group challenges O'Rourke judgeship

By Bill Dentzer and David McKay Wilson  
Staff Writers

A self-styled judicial reform group is challenging outgoing County Executive Andrew O'Rourke's pending appointment to the state Court of Claims and wants the report of a judicial screening committee that recommended him made public.

It is the same group, led by a disbarred lawyer and her daughter, that produced a 50-page critique of O'Rourke's nomination to the federal bench in 1991. Its opposition, as then, is based on what it cites as O'Rourke's lack of litigation experience.

O'Rourke was nominated for the judgeship by Gov. George Pataki on Dec. 12 and is expected to win confirmation in the Republican-controlled state Senate early next month. He would sit in White Plains but would hear cases originating in Dutchess and Orange counties.

The Center for Judicial Accountability has written to the governor's office requesting the report of the screening committee that rated O'Rourke "highly qualified" for the post. It cited a state law that makes such reports public after an appointment is announced.

Michael McKeon, a Pataki spokesman, said no written report was produced.

"I don't think there is a report," McKeon said. "They interviewed him and they voted, and then they communicated that to the governor."

The reform group and its predecessor, the Ninth Judicial Committee, have been led by Doris Sassower, a disbarred lawyer, and her daughter, Elena Ruth Sassower. Doris Sassower, a former head of the state Women's Bar Association, was suspended in 1991 for failing to undergo a court-ordered competency test.

The group had challenged O'Rourke's earlier nomination based on his responses to a Senate Judiciary Committee questionnaire. Asked to list the 10 most significant legal cases he worked on, O'Rourke listed only three.

At the time, O'Rourke noted that he had not actively practiced

**"I've been involved in hundreds of lawsuits. I never thought that not being a practicing lawyer would be a detriment to becoming a judge."**

— Andrew O'Rourke,  
Westchester county executive

law since becoming county executive in 1983. He said most of his records were lost, misplaced or thrown out by his former law partner.

O'Rourke's nomination was blocked by unrelated political maneuvering in the Democrat-controlled Senate.

Elena Sassower said O'Rourke could only have cited the same three cases in the review for the state judgeship. The group is seeking a copy of the questionnaire given to prospective judicial appointees.

In a letter she delivered to O'Rourke yesterday, she also asked him to waive confidentiality and give her group a copy of his completed questionnaire, "assuming you completed a questionnaire."

"At the present moment, the process is all but hermetically sealed," Sassower said.

O'Rourke declined to respond directly to Sassower's criticisms yesterday but addressed the issue of his qualifications in an interview Wednesday. He said he was qualified, noting that he was involved with "every facet of the law" as county executive.

"I've been involved in hundreds of lawsuits," O'Rourke said. "I never thought that not being a practicing lawyer would be a detriment to becoming a judge."

He acknowledged that he may be rusty on legal procedure, but expected that he could get up to speed quickly. He also planned to hire a knowledgeable aide for assistance.

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Claire P. Gutekunst	January 12, 1998	99999/602

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Ms. Elena Ruth Sassower	Center for Judicial Accountability, Inc.	914.428.4994	914.421.1200

**Message**

Dear Ms. Sassower:

As you requested, I faxed the articles to Chief Judge Kaye's chambers today.

Sincerely,

*Claire P. Gutekunst*

Claire P. Gutekunst

Ex "D-4"

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