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By Fax and Mail
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October 31, 1991

Hon. Mario Cuomo
Executive Chamber
Albany, New York 12224

Dear Governor Cuomo:

Your October 28, 1991 letter to the legislative leadership of both houses stated:

"During the past month, we have heard from judges, court personnel, lawyers and outside observers about the rampant waste in our judicial system. These reports, although troubling, are not surprising, because we have all believed for a long time that the courts are inefficient." (emphasis added)

Frankly, we are surprised that your letter fails to identify what our letter--faxed to you four days earlier--specifically pointed out as a major source of that inefficiency: incompetent and corrupt judges, who sit on the bench by virtue of their political ties. Our letter was detailed and specific, and spoke of a situation so serious as to warrant your appointment of a Special Prosecutor. Yet, no reference was made by you to this fundamental problem which often results in sloppy, patently biased and wrong decisions requiring appeals by litigants hoping to find justice in the appellate courts.

We strongly disagree with the statements of the Chief Administrator of the Courts, Matthew T. Crosson, quoted on the front page of the October 29, 1991 New York Law Journal, describing your letter as "asinine" and accusing you of "trying to threaten and intimidate the Legislature into not resolving this matter". We do not see it that way at all. We see no reason why the judiciary should be exempt from the obligation to account for wasteful mismanagement. It is bad enough that judicial immunity protects judges individually from the horrendous damage their erroneous decisions inflict upon litigants--without denying the public the right to know the cost-impact of such incompetence and/or misconduct on the system as a whole.

When I served as the first woman appointed to the Judicial Selection Committee of the New York State Bar Association from 1972-1980, we observed high standards before giving our approval to any judicial aspirant. Those standards were designed not only to ensure a quality judiciary, but with an eye to cost-efficiency as well. It was our view, for example, that approval should not be given to a candidate who, due to age, was unable to serve out more than half his elected term of office. The reason for this was precisely because it represented too high a cost to the State when such individual stepped down. Just as in the private sector, it is more economical not to have frequent turnover. Indeed, what we are talking about here is not just the replacement and retraining of the judge involved--but his support staff as well--all of whom the judge himself hires. In addition, the cost of pension, health, and other benefits to older judicial candidates can only be absorbed economically if it can be amortized over the full term--or, at least, a major portion thereof.

It might be well for Mr. Crosson to develop some statistical data on the cost to the system of judges serving only a fractional part of their term or of being of advanced age when they commence a term. When I attempted to gain such information from the Office of Court Administration this morning, the principal analyst I spoke with thought it was "a very interesting perspective", but said they had "no studies on the subject". It would seem obvious that fundamental cost-effective principles can, and should, be applied to running the State court system.

It should also be obvious that a judiciary whose judges are not chosen on merit is necessarily wasteful and inefficient. The collapse of the system is directly attributable to the failure to require nominations of judges to conform to reasonable standards of pre-nominating screening selection. It is no longer the litigants alone who are suffering from unfit judges--which has been ignored year after year--but the system itself which is now faltering because it can no longer keep up with the caseloads that these judges have generated.

In too many parts of this State merit selection of judges remains an alien concept. This is exemplified in the Ninth Judicial District where Democratic and Republican party leaders brazenly traded seven judgeships in the infamous 1989 Three-Year Deal: nominating candidates to Supreme Court office who could not, by virtue of their age, serve even half their terms, or who, by virtue of contracted-for resignations, were obligated to resign from their fourteen year posts--after eight months in office.

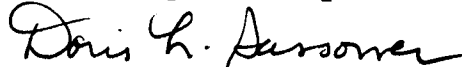
Where judges quit the bench because they have contracted to resign to create judicial vacancies for other candidates to fill, the cost of such politically-dictated turnover is clearly being borne by the public to serve private ends. The cost becomes even higher where the nominee has no judicial experience before taking the bench.

We applaud the statement in your October 28, 1991 letter to legislative leaders:

"I am prepared to work with you to conduct an exhaustive study of waste in the judiciary--calling on anyone who has direct knowledge of areas of waste and investigate their claims." (emphasis added)

We intend to hold you to that commitment--and will support your effort in the legislature to the fullest extent. In the interest of an independent, non-political, and affordable judiciary, we eagerly await the opportunity to make our testimonial and documentary contribution to assist you in implementing "new strategies to better utilize constrained resources more effectively".

Most respectfully



DORIS L. SASSOWER

Director, NINTH JUDICIAL COMMITTEE

cc: Chief Judge Sol Wachtler, Court of Appeals
Matthew T. Crosson, Chief Administrator of the Courts
Hon. Ralph Marino, President Pro Tem and Majority Leader
Hon. Mel Miller, Speaker, N.Y. State Assembly
Hon. Christopher J. Mega
Chairman, N.Y. State Senate Judiciary Committee
Hon. G. Oliver Koppell
Chairman, N.Y. State Assembly Judiciary Committee
Hon. Manfred Orenstein, N.Y. State Senate Minority Leader
Hon. Clarence Rappleyea, N.Y. State Assembly Minority Leader
Hon. Saul Weprin, Chairman, Ways and Means Committee
Hon. Sheldon Silver, Assembly Codes Committee
Dr. M. L. Henry, Director, Fund for Modern Courts