

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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

Tel (914) 421-1200  
Fax (914) 428-4994

E-Mail: [judgewatch@aol.com](mailto:judgewatch@aol.com)  
Web site: [www.judgewatch.org](http://www.judgewatch.org)

BY FAX: 212-556-3717 (4 pages)

TO: Jack Kadden, Metro Editor  
New York Times

FROM: Elena Ruth Sassower, Coordinator

RE: Governor Pataki's manipulation of judicial appointments

DATE: December 19, 1997

12/23/97  
To: ~~Jack~~ Jerry Gray  
Metro Editor

Fax: 212-556-3717

Thanks!  
will call back with  
info about getting you  
the critique  
ASAP.

This Tuesday's Times' editorial, "Governor Pataki's Message to Judges" (12/16/97) concludes by raising the question as to whether the Governor will "politicize the court system yet further by appointing an undeserving crony" to be presiding justice of the Appellate Division, First Department.

In fact, Governor Pataki's latest "crony" was appointed just within the past week by his nomination of Westchester County Executive Andrew O'Rourke to the Court of Claims (NYT, 12/13/97, Metro).

As discussed, I am enclosing my two letters, published in the New York Times, pertinent to Mr. O'Rourke's utter lack of legal qualifications and the Governor's use of judicial "screening" committees to manipulate judicial appointments:

- (1) "Untrustworthy Ratings?", 7/17/92: describing our six-month investigation of the federal judicial screening process through a case study example -- which was Andrew O'Rourke
- (2) "On Choosing Judges, Pataki Creates Problems", 11/16/97: describing the Governor's continued use throughout the first half of his administration of a "temporary" judicial screening committee, as to which virtually no information was available. The unexpurgated letter, as submitted to the Times, stated that based upon our direct, first-hand experience, the Governor's temporary screening committee was controlled by the Governor's office, which was "rigging" the ratings.

Also enclosed is New York Magazine's blurb (6/22/92) about Mr. O'Rourke's lack of judicial qualifications. Entitled "Credentials Gap: The Case of the Missing Cases", it was based on our critique -- a copy of which we provided to the magazine.

The *only* way Mr. O'Rourke will not be sitting on the state bench is if the press does its part. Please let us hear from you, ASAP, as we are mounting a citizens' campaign against confirmation.

Elena R. Sassower

## Untrustworthy Ratings?

To the Editor:

"We have good, quality judges. I think I'd take that as a significant accomplishment." You quote that comment by President Bush in the sixth article of "The Bush Record" (July 1), about his appointment of conservative judges. The reality behind this is that one of every six of President Bush's judicial nominees has been rated "not qualified" by a minority vote of the American Bar Association's evaluating panel.

We believe the real story is not the conservative court built by President Bush but the mediocrities he has nominated for lifetime Federal judgeships. Our grass-roots citizen group recently submitted a critique to the Senate Judiciary Committee documenting the unfitness of one of President Bush's nominees to the Southern District of New York. That nominee also received a "not qualified" minority rating by the Bar Association panel.

You state that "in no case has a majority of the evaluating panel found a Bush nominee unqualified." Yet our critique, based on six months of investigation, found no basis for the Bar Association's majority rating of "qualified" for the nominee we studied. The evidence strongly suggests that the rating of that nominee was not the result of any meaningful investigation at all.

Because of the danger of Senate confirmation of unfit nominees to lifetime Federal judgeships, we have called on the Senate leadership to halt all judicial confirmations pending investigation and the setting up of safeguards.

ELENA RUTH SASSOWER  
White Plains, July 10, 1992

*The writer is coordinator of the Ninth Judicial Committee, a nonpartisan citizen group.*

# The New York Times

**EDITORIALS/LETTERS** SATURDAY, NOVEMBER 16, 1996

## On Choosing Judges, Pataki Creates Problems

To the Editor:

Our citizens' organization shares your position that Gov. George E. Pataki should take the lead in protecting the public from processes of judicial selection that do not foster a quality and independent judiciary ("No Way to Choose Judges," editorial, Nov. 11). However, the Governor is the problem — not the solution.

A Sept. 14 news article described how Governor Pataki had politicized "merit selection" to New York's highest court by appointing his own counsel, Michael Finnegan, to the Commission on Judicial Nomination, the supposedly independent body that is to furnish him the names of "well qualified" candidates for that court.

More egregious is how Governor Pataki has handled judicial appointment to the state's lower courts. Over a year and a half ago, the Governor promulgated an executive order to establish screening commit-

tees to evaluate candidates for appointive judgeships. Not one of these committees has been established. Instead, the Governor — now almost halfway through his term — purports to use a temporary judicial screening committee. Virtually no information about that committee is publicly available.

Indeed, the Governor's temporary committee has no telephone number, and all inquiries about it must be directed to Mr. Finnegan, the Governor's counsel. Mr. Finnegan refuses to divulge any information about the temporary committee's membership, its procedures or even the qualifications of the judicial candidates Governor Pataki appoints, based on its recommendation to him that they are "highly qualified."

Six months ago we asked to meet with Governor Pataki to present him with petitions, signed by 1,500 New Yorkers, for an investigation and public hearings on "the political manipulation of judgeships in

the State of New York." Governor Pataki's response? We're still waiting.

ELENA RUTH SASSOWER  
Coordinator, Center for Judicial  
Accountability Inc.  
White Plains, Nov. 13, 1996

# INTELLIGENCER

BY JEANNETTE WALLS

## CREDENTIALS GAP...

### THE CASE OF THE MISSING CASES

Westchester County Executive Andrew O'Rourke apparently has a sketchy memory when it comes to his own credentials.

O'Rourke, who was a Republican candidate for governor in 1986, was recently nominated by George Bush to be a judge in U.S. District Court. In a Senate Judiciary questionnaire on his professional background, O'Rourke was asked to provide "in detail" the ten most significant cases "which [he] personally handled" as a lawyer.

O'Rourke cited only three, one of which was reversed on appeal.

"Hey, I gave it the best effort I could," says O'Rourke. He says he wasn't able to locate his old legal files because they're with a former partner who had moved to Florida. The partner has, in fact, since moved back to New York. O'Rourke insists the point is moot because the American Bar Association and the city bar have approved him for



ANDREW O'ROURKE

the federal appointment.

"It was unfortunate that I could not come up with more," says O'Rourke. "I haven't practiced law in ten years. You can't do that as county executive. I don't remember every single case. Do you keep your notes after twenty years?"