

# CENTER for JUDICIAL ACCOUNTABILITY, INC.

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## FAX COVER SHEET

This fax transmission consists of a total of 3 page(s) including this cover page. If you have not received all the pages, please call (914) 421-1200.

DATE: 1/12/98 TIME: 9<sup>435</sup> AM FAX #: 212-695-7735

TO: Patricia Hynes, 2<sup>nd</sup> Circuit Representative  
ABA Study Committee on Fed. Judiciary

RE: 1/9/98 ltr to President Shestack

FROM: ELENA RUTH SASSOWER, Coordinator

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MESSAGE: According to my notes, the  
date of my unreturned phone  
call to your office was Tuesday,  
Dec. 23<sup>rd</sup>.

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.

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BY FAX: 215-977-2346 5 pages  
AND BY MAIL

January 9, 1998

Jerome J. Shestack, President  
American Bar Association  
c/o Wolf, Block, Schorr & Solis-Cohen  
12th Floor Packard Building  
S.E. Corner 15th & Chestnut Streets  
Philadelphia, Pennsylvania 19102-2678

Dear President Shestack:

Following up our yesterday's fax requesting that the ABA notify the New York State Senate Judiciary Committee that it is reviewing the favorable rating it conferred on Mr. O'Rourke in connection with his candidacy for a federal judgeship and/or seeking an advisory opinion from its Standing Committee on Ethics and Professional Responsibility as to its duty to withdraw that rating, based on our 1992 critique, enclosed is our letter of today's date to the State Senate Judiciary Committee. The Committee's telephone number is 516-455-2071.

Later today, if not already, you should be receiving the materials we express mailed to you yesterday. In addition to a "hard copy" of the fax, we enclosed: (1) CJA's December 23rd letter to the Governor's counsel, James McGuire, calling upon the Governor to withdraw Mr. O'Rourke's nomination; (2) CJA's December 26th letter to Mr. O'Rourke, calling upon him to substantiate the "highly qualified" rating he received from the State Judicial Screening Committee; (3) CJA's December 29th letter to the members of the State Judicial Screening Committee, calling upon them to retract that rating; and (4) CJA's January 7th letter to New York State Chief Judge Judith Kaye, calling upon her assistance and intervention.

For your convenience, we also enclosed our "Correspondence Compendium II": collecting our correspondence to and from the ABA from May 1992 through November 1993 on the subject of our 1992 critique and its obligation to retract its favorable rating of Mr. O'Rourke. This, in addition to its obligation to take corrective steps to address the severe dysfunction of the judicial screening process which our critique documented. That Compendium is one of three Correspondence Compendia which we transmitted to the U.S. Senate Judiciary Committee as part of our May 27, 1996 letter, addressed to Chairman Hatch. A copy of that letter, as it appears in the official record of the Senate Judiciary Committee's May 21, 1996 Hearing on "The Role of the American Bar Association in the Judicial

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Selection Process", was additionally enclosed with our transmittal to you. Should you wish to see the other two, consisting of our collected correspondence with the Senate Judiciary Committee and Senate Leadership (Correspondence Compendium I) and with the Association of the Bar of the City of New York and the Federal Bar Counsel (Correspondence Compendium II), we will gladly provide them.

Our 1992 critique is just the "tip" of a huge iceberg of dysfunction in the processes of judicial selection and confirmation on the federal level. If you have not seen our June 28, 1996 letter to Chairman Hatch on the subject -- a copy of which we sent to Irene Emsellem -- you should ask her to provide it to you. Indeed, you should ask her to provide you with the entirety of the file of our communications with her.

So that the record is clear, I have always behaved toward Ms. Emsellem in a completely professional manner -- which is more than I can say for her. That professionalism is overwhelmingly evident from the file. Moreover, there is nothing that would justify Ms. Emsellem's failure to fax us the name, telephone number, and address of the current chairman of the Standing Committee on Federal Judiciary -- which is what I requested she provide us with weeks ago in a recorded telephone message I left for her after she hung up on me because I complained that as a result of the ABA's failure to meet its ethical and professional responsibilities years ago, we were now facing an "emergency situation" in New York by reason of Mr. O'Rourke's state court nomination. I would note that thereafter, in an attempt to obtain such information, I telephoned Patricia Hynes, the Second Circuit representative on the ABA's Standing Committee on Federal Judiciary. She was not in and I left an urgent message with her secretary, requesting a faxed list of the committee members. We received no response.

Both Ms. Hynes and Ms. Emsellem are referred to and/or named in our May 27, 1996 letter to Chairman Hatch -- not favorably.

Should you have any questions, don't hesitate to call. As you will see, there is a real need for leadership -- and honesty -- in the upper echelons of the ABA.

Yours for a quality judiciary,



ELENA RUTH SASSOWER, Coordinator  
Center for Judicial Accountability, Inc.

Enclosure: CJA's 1/9/98 ltr to the N.Y.S. Senate Judiciary Committee

cc: Irene Emsellem, Liaison, ABA Standing Committee on Federal Judiciary  
Patricia Hynes, Second Circuit Representative, ABA Standing Committee on Federal Judiciary