

# CENTER *for* JUDICIAL ACCOUNTABILITY, INC.

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## FAX COVER SHEET

This fax transmission consists of a total of 4 page(s) including this cover page. If you have not received all the pages, please call (914) 421-1200.

DATE: 2/3/98 TIME: 1:35 pm FAX #: 578-432-6178

TO: Blair Hovner Legislative Director  
NYPIRG

RE: Alliance/Coalition - O'Rourke waiver

FROM: ELENA RUTH SASSOWER, Coordinator

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MESSAGE: Enclosed is my letter  
to Rachel Cora -  
Common Cause  
of today's date

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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*Elena Ruth Sassower, Coordinator*

By Fax: 212-349-8724

32 pages 1:10 p.m.

February 3, 1998

Rachel Leon, Executive Director  
Common Cause  
150 Nassau Street, Suite 1823  
New York, New York 10038-1516

RE: Building a Public Interest Coalition on Judicial Selection/Discipline Issues

Dear Rachel:

You may recall that we met last November in Albany on the day following the defeat of the Constitutional Convention. For those of us who believed -- with Bob Schulz -- in the possibility of a People's Convention, it was a sorry day. I certainly did not share the optimism of the panel on which you participated as to the possibilities of bringing about reforms that you had all not succeeded in bringing about previously.

At the time we spoke, I proposed that Common Cause and NYPIRG -- neither of which have a unit dealing with judicial selection/discipline issues -- form an alliance/coalition with our non-partisan citizens organization, the Center for Judicial Accountability, Inc. (CJA), whose focus are those issues *exclusively*. Unfortunately, a barrage of work, including, most particularly, our campaign to block the Senate confirmation of Andrew O'Rourke to the Court of Claims, delayed my follow-up with you.

It would not surprise me if you were unaware of CJA's extraordinary efforts to stop Mr. O'Rourke's confirmation, indeed, to get the Governor to withdraw the nomination and the State Judicial Screening to withdraw Mr. O'Rourke's supposedly "highly-qualified" rating, since Gannett gave it the most minimal coverage and The New York Times none at all. This, notwithstanding our unrelenting efforts to obtain coverage for our opposition to Mr. O'Rourke's nomination/confirmation, which rested on *independently-verifiable* evidence showing Mr. O'Rourke to be "thoroughly unfit" for any judicial office and the dysfunction of the Governor's judicial screening process<sup>1</sup>. Ultimately, these publications used

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<sup>1</sup> A two-page summary of our citizen opposition, which we distributed to the Senators in Albany on January 13th, is included among the exhibits to our enclosed 4-page January 30th letter

Common Cause and NYPIRG to help conceal their suppression of the more significant story as to our citizen opposition by getting you to comment on the Gannett-generated story of Mr. O'Rourke's use of campaign monies to purchase office furniture. This is highlighted by the Times' January 14, 1998 article, "*Westchester Leader is Confirmed for Seat on Court of Claims*". The writer who wrote the Times article was not in Albany, but used an A.P. feed which had included my public comments at the Senate Judiciary Committee's meeting that the nomination was *not* properly before the Senate and was a *nullity* because there was *no* screening committee report on Mr. O'Rourke's qualifications, as required by law. These were deleted in favor of your comments (from New York) on the furniture issue -- an issue which was not going to stop the confirmation whereas ours -- as a matter of law -- would have, were the Senate confirmation "process" more than the sham that it is. Surely had you and Blair Horner known about the nature of our opposition, you would have redirected press attention to it<sup>2</sup>.

I don't know whether Blair has discussed with you my communications with him about building a working alliance/coalition between NYPIRG, Common Cause, and CJA on judicial selection/discipline issues. However, I raised it with him when I was up in Albany at the January 13th confirmation and, thereafter, in a January 16th follow-up letter to him, a copy of which I enclose.

Since the Times has yet to cover it, you may be unaware of the fact that last week the Office of Court Administration granted Mr. O'Rourke approval to receive an \$80,000 a-year government pension on top of his \$113,000 salary as a Court of Claims judge. CJA's has taken the lead in protesting against this outrage -- which was accomplished by the OCA's deliberate misrepresentation of the law on the subject. This is set forth in CJA's January 30, 1998 letters to the Office of Court Administration, calling upon Chief Administrative Judge Lippman to reconsider the waiver, rescind it, and to investigate the misconduct of his counsel's office by its misrepresentation of the law. You, as Executive Director of Common Cause/NY and Blair, as Legislative Director of NYPIRG are indicated recipients. Both Common Cause and NYPIRG should be adding their support to such request.

I faxed Blair a copy of those letters on Friday, January 30th and yesterday faxed him a copy of Gannett's extraordinary lead editorial in its Saturday, January 31st newspaper, "*Governor Should Explain Double-Dip*". Copies are enclosed for you. You will note that the Gannett editorial works its way to accusing

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to John Eiseman, Deputy Counsel of the Office of Court Administration.

<sup>2</sup> The reason I did not contact Common Cause or NYPIRG during our campaign against the O'Rourke nomination/confirmation -- although it concerned the public's right to *basic* information about the Governor's judicial appointments process and to participate therein -- was because we had received *no* response from either organization to our June 12, 1997 letter which sought their assistance and support on these issues of the public's rights and the integrity of the process. If you do not have our June 12, 1997 letter in your files -- and with it our June 2, 1997 letter to Governor Pataki -- please let us know so that we can provide you with duplicates

February 3, 1998

Senators Dollinger and Leichter of playing politics by their opposition to Mr. O'Rourke's waiver -- when they did not oppose his confirmation. Such accusation is a function of Gannett's misapprehension of the law -- based, we believe, on its having been sold the same "bill of goods" that the OCA unsuccessfully tried to sell us.

Chief Administrative Judge Lippman has not yet responded to our January 30th letters -- but he has responded to the January 27th letter from Senator Dollinger and Leichter. A copy of that disingenuous response, misrepresenting the law and sidestepping the actual waiver issue, is also enclosed. We have already contacted Senators Dollinger and Leichter's offices about, likewise, joining in our request for reconsideration and retraction of the waiver, etc.

Please let us hear from you ASAP. Thanks.

Yours for a quality judiciary,



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

Enclosures

cc: Blair Horner, Legislative Director/NYPIRG