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November 9, 2005

Honorable J. Dennis Hastert  
Speaker  
U.S. House of Representatives  
Washington, DC 20515

Honorable Nancy Pelosi  
Minority Leader  
U.S. House of Representatives  
Washington, DC 20515

**RE: NINTH CIRCUIT REORGANIZATION AMENDMENT TO H.R. 4241**

Dear Speaker Hastert and Minority Leader Pelosi:

Last Friday, a provision to restructure the U.S. Court of Appeals for the Ninth Circuit into two separate circuits was added at the last minute to H.R. 4241 prior to approval by the Budget Committee. The House will debate the bill shortly. I am writing to convey the American Bar Association's opposition to this provision's inclusion in H.R. 4241 on both substantive and procedural grounds.

From time to time over the last 30 years, Congress has considered – and rejected – many legislative proposals to split the Ninth Judicial Circuit into various configurations. These proposals repeatedly have failed to become law because there is no consensus within Congress or among members of the bench and bar of the Ninth Judicial Circuit that circuit division is either necessary or beneficial. Furthermore, even within the ranks of those who favor division, no consensus has emerged over the best way to divide the Circuit. Certainly none exists over the two-way split proposed in Title V, Subtitle D of H.R. 4241, which would retain California, Hawaii, Guam and the Northern Mariana Islands in the Ninth Circuit and would create a new Twelfth Circuit covering Alaska,

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Arizona, Idaho, Montana, Nevada, Oregon and Washington. Over 70 percent of the current Circuit's caseload would be handled by the new Ninth Circuit. Neither academics nor Congressional supporters have offered evidence that this lop-sided division would improve the quality or administration of justice.

Inclusion of this amendment in H.R. 4241 is an attempt to circumvent the normal legislative process and stifle discussion and debate on a controversial issue of great importance to the justice system; indeed, six bills proposing various divisions of the Ninth Circuit are currently under consideration by this Congress. It also is both ironic and unfortunate that this amendment, which will be costly to implement, has been added to a spending-cut proposal. The Administrative Office of the U.S. Courts has estimated that a two-way division of the Ninth Circuit will cost as much as \$96 million initially and an additional \$13-16 million annually thereafter.

Our justice system would be ill-served by a last-minute legislative attempt to append provisions to split the Ninth Circuit to the budget reconciliation bill or to any other "must-do" legislation. Circuit restructuring is a costly and momentous venture that should not be undertaken unless a clear consensus has developed within the Ninth Judicial Circuit and among Members of Congress that it is unquestionably needed.

We urge you to reject this attempt to circumvent full debate and consideration of legislative proposals to restructure the Ninth Circuit.

Sincerely,

A handwritten signature in cursive script that reads "Robert D. Evans".

Robert D. Evans

cc: Members of the House of Representatives