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March 29, 2005

VIA FACSIMILE AND U.S. MAIL

The Honorable F. James Sensenbrenner, Jr.
Chairman, Committee on the Judiciary
United States House of Representatives
2449 Rayburn HOB
Washington, DC 20515-4905
Facsimile: (202) 225-3190

The Honorable John Conyers, Jr.
Ranking Minority Member
Committee on the Judiciary
United States House of Representatives
2426 Rayburn HOB
Washington, DC 20515-2214
Facsimile: (202) 225-0072

The Honorable Lamar S. Smith
Chairman, Subcommittee on Courts,
the Internet, and Intellectual Property
Committee on the Judiciary
United States House of Representatives
2231 Rayburn HOB
Washington, DC 20515-4321
Facsimile: (202) 225-8628

The Honorable Howard L. Berman
Ranking Member, Subcommittee on Courts,
the Internet, and Intellectual Property
Committee on the Judiciary
United States House of Representatives
2221 Rayburn HOB
Washington, DC 20515
Facsimile: (202) 225-3196

Re Ninth Circuit Court of Appeals Judgeship and Reorganization Act of 2005
(H.R. 211 and 212) - OPPOSE

Dear Gentlemen:

Please accept this letter on behalf of the Executive Committee of the Litigation Section of the State Bar of California.

The Executive Committee of the Litigation Section of the State Bar of California on behalf of the Litigation Section opposes H.R. 211 and 212, the latest in a series of proposals to split the Ninth Circuit. There is no sound reason to split the Ninth Circuit, and certainly no reason to incur the very substantial costs that such a split would generate.

This position is only that of the Executive Committee of the Litigation Section of the State Bar of California. This position has not been adopted by the State Bar's Board of Governors, its overall membership, or the overall membership of the Litigation Section, and is not to be construed as representing the position of the State Bar of California. Membership in

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the Litigation Section and its Executive Committee is voluntary and funding for section activities, including all legislative activities, is obtained entirely from voluntary sources.

Founded in 1983, the Litigation Section of the State Bar of California has over 9,000 members and is one of the largest of the State Bar of California Sections. Litigation Section members practice before the courts of the Ninth Circuit, and are an important constituency of the Circuit. The mission of the Litigation Section is to promote excellence and civility in litigation and alternative dispute resolution. The Litigation Section gives effect to its mission by (a) furthering the knowledge of Section members in all aspects of litigation, whether before judicial, quasi-judicial, or administrative tribunals, and in aspects of alternative dispute resolution, (b) assisting in the formulation, administration and implementation of programs, forums and other activities for the education of members of the State Bar in the area of litigation, and (c) assisting with the formulation, administration and implementation of regulations and legislation which impact the quality of justice.

The proposed split of the Ninth Circuit has a direct, substantial and negative effect on the quality and cost of justice. Thus, we write this letter in opposition to the proposal.

As both Chief Judge Mary M. Schroeder and Senior Judge Clifford Wallace testified on April 7, 2004, splitting the Ninth Circuit lacks the support of a consensus of the judges and lawyers in the Ninth Circuit. Moreover, the proposed division serves no legitimate interest and will, in fact, hamper the effective and consistent administration of justice in the western United States.

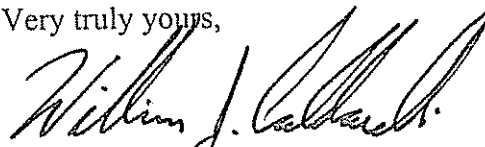
Dividing the Ninth Circuit would do away with the important advantages that flow from a large circuit. The Ninth Circuit currently enjoys significant economies of scale in its administrative and managerial functions. A divided circuit would have to duplicate many of those functions: splitting the Ninth Circuit, as proposed by H.R. 211 and 212, would cost an estimated \$100 million, plus \$10 million per year in added administrative costs. At a time when our federal government is facing significant deficits, and our federal courts are struggling to secure adequate funding, our efforts should be directed at lowering costs, not increasing them—particularly where, as here, the increased costs will do nothing to improve the administration of justice in the circuit.

As the nation's largest federal circuit, the Ninth Circuit has consistently been at the forefront of technological and administrative innovation. As caseloads grow in all of the nation's Courts of Appeals, efficient administration will become ever more essential. As Senior Judge Wallace pointed out in his testimony last year, simply splitting a large circuit confers no such benefit; that path will lead only to fragmented federal law and increased inter-circuit conflicts. Even in the face of an increasing workload, the Ninth Circuit has been delivering coherent, consistent circuit law. An undivided Ninth Circuit will continue to serve as a model of effective administration of a large appellate court for the rest of the country.

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The Ninth Circuit has been consistently and effectively serving the western United States for over 110 years. Dividing this venerable institution will yield no benefits, and will squander the significant economies of scale that the circuit currently enjoys. We urge you and your colleagues to reject H.R. 211 and 212, as well as any other proposals to split the Ninth Circuit.

Very truly yours,



William J. Caldarelli
Chairman, Litigation Section of the State Bar

WJC:etc