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Honorable Ted Stevens
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Dear Mr. Chair:

It has come to our attention that a provision to restructure the U.S. Court of Appeals for the Ninth Circuit into three separate circuits may be added to the pending FY 2005 omnibus appropriations bill. I am writing to convey the American Bar Association's staunch objection to such an action 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. Congress has even declined to act on the circuit reorganization recommendations of the congressionally appointed 1998 Commission on Structural Alternatives for the Federal Courts of Appeals.

These proposals repeatedly have failed to become law because there is no consensus within Congress or among the affected state bars or judges 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 proposed novel three-way split, which has not been thoroughly examined by academic scholars or fully deliberated in the halls of Congress; it was quietly added as an amendment to a bill just prior to passage by the House last month without the benefit of any hearings or committee action on it. We urge the Senate not act with the same haste.

Circuit restructuring is a remedy of last resort and should only be used if there is compelling evidence that justice is being denied to individual litigants and the integrity of the law of the circuit is threatened. The ABA firmly believes that there is no compelling evidence to suggest that the Ninth Circuit is failing to deliver quality justice or that any of the perceived problems identified by supporters of the legislation would be remedied by circuit division.

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Our justice system would be ill-served by a last-minute legislative attempt to append provisions to split the Ninth Circuit to the omnibus appropriations bill or to any other “must-do” legislation during this lame-duck session. 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 unequivocally needed. We urge you to reject any attempt to circumvent full debate and consideration of this complex issue.

Sincerely,

A handwritten signature in cursive script that reads "Robert D. Evans". The signature is written in black ink and is positioned below the word "Sincerely,".

Robert D. Evans

CC: Honorable Bill Frist
Honorable Robert C. Byrd
Honorable Diane Feinstein