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Daniel Meador, Executive Director  
and Commissioners  
Commission on Structural Alternatives  
for the Federal Courts of Appeals  
The Thurgood Marshall Federal Judiciary Bldg.  
One Columbus Circle, N.E.  
Washington, DC 20544

Dear Mr. Meador and Commissioners:

I am the head of the litigation practice for our fifty-five lawyer firm located in San Francisco and Los Angeles, California. I write on behalf of myself and our entire firm to urge that your deliberations result in a recommendation that the Ninth Circuit Court of Appeals remain in its current structure.

Our law firm approaches the question of the possible reorganization of the Ninth Circuit from many perspectives. A number of us were privileged to clerk on the Ninth Circuit Court of Appeals over the last twenty-five years. Others of us regularly practice before the Court, and one of our partners, Bill Norris, sat on the Ninth Circuit for seventeen years. These vantage points have afforded us the opportunity to work with the Court in many different capacities in a wide variety of activities. Indeed, we have had experience working with virtually all of the departments of the Ninth Circuit as well as interacting with the Ninth Circuit in the full panoply of its functions.

Obviously, the efficient and fair administration of justice is an acute concern in this country and warrants continual scrutiny of the efficacy of the organization of the country's judiciary. Moreover, the well-publicized delays in the adjudication of appeals on a nationwide basis is cause for concern. Nevertheless, we are firmly of the view that during the four decades which comprise our collective experience the Ninth Circuit has performed its functions in a manner which gives credit to the federal judiciary. Throughout this period the Ninth Circuit has been administratively responsive to the concerns of litigants. Moreover, the Court has consistently demonstrated in its opinions the conscientious deliberations which cause the public

and the bar to have great faith in the integrity and sagacity of our judicial institutions. In addition, the Court has been responsive to the needs of the public to be informed of its processes.

The Ninth Circuit has a long and much respected tradition in the states it serves. Litigants and lawyers throughout the Ninth Circuit have for generations relied on the consistency of the circuit's rulings as well as the responsiveness of the circuit's en banc procedures. Moreover, the Ninth Circuit has not been insular and unresponsive to the changing needs of litigants and the bar. Indeed, the Ninth Circuit has been quick to adopt procedures such as its appellate mediation program to respond to its constituencies' desires to incorporate alternative dispute resolution at every level of the litigation practice.

The most valuable component of the legitimacy of our court system is the respect that the public and the bar has for the court's ability to dispense justice. The members of the public and bar in the Ninth Circuit place great stock in the Ninth Circuit's traditional role as their primary federal appellate venue. To alter the current coverage of the Ninth Circuit is to call into question this stability and to shake the very foundation of the public and bar's faith in its appellate process by inserting a new feature of uncertainty and unpredictability in the process. There is great value in continuing the traditions of the Ninth Circuit especially in light of the extraordinary service of the circuit over at least the last four decades. We as participants in this system firmly believe that it is in the best interests of the citizens of the Ninth Circuit as well as in the best interests of the entire country for the Ninth Circuit to retain its current form.

We are aware that there are numerous issues that have been raised in connection with the possibility of breaking up the Ninth Circuit. We have evaluated these arguments and they have not altered our conclusion. We do not know in what areas the Commission desires further testimony or evidence. In that regard, we are ready, willing and able to provide whatever information you believe would be helpful in your important work. Judge Norris in particular stands ready to testify if you think that would be useful. Please contact the undersigned if you would like us to assist you further in any regard.

Thank you very much for considering our views.

Respectfully submitted,

  
Michael A. Kahn

MAK:mj