May 27, 1998

Commission on Structural Alternatives
for the Federal Court of Appeals
Thurgood Marshall Federal Judiciary Building
One Columbus Circle, N.E.
Washington, D.C. 20544

Re.: Proposed Split of 9th Circuit

Dear Commission Members:

As a member of the State Bar of California, Debtor-Creditor
Committee, and long standing bankruptcy law practitioner, I have am
greatly concerned about the proposed split of the 9th Circuit Court
of Appeal, which split will divide the State of California. The
consequence of the division will be two separate appellate courts
in federal cases.

For bankruptcy practitioners, this is most unfortunate. Although
bankruptcy law is federal law, most of the substantive law
regarding property rights is based on California State Law. Should
the circuit be split, the appeals will go to different appellate
circuits which are not bound by each other’s prior interpretations.
This will reduce the predictability in the law. It will create
inconsistency as to the rights of California citizens who file for
bankruptcy relief in Los Angeles and the rights of those who file
in San Francisco. One must presume that the drafters of the
proposal to split the circuit have failed to consider this effect.
Thus, they have proposed a most undesirable system for the citizens
of California.

The 9th Circuit functions well. The practitioners know the law, and
the cases are efficiently processed, to the extent that judges are
confirmed and ready to handle the case law. The reversal rate by
the Supreme Court becomes rather meaningless when one knows how few
cases are appealed. It appears that the only effect of the division
would be to create new jobs for the additional number of staff that
will be required to handle the separate circuits, and to benefit
landlords for the new courts that will be needed. The split is not
a good idea.

Sincerely,

Reidun Strømsheim