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**Testimony regarding the nomination of Andrew J. McDonald, Esq. to the
Connecticut Supreme Court**

Senator Coleman, Representative Fox, and members of the Judiciary Committee:

I am here today to express serious concerns regarding Governor Malloy's nomination of former Senator Andrew McDonald to the Connecticut Supreme Court. I am an autistic adult and an advocate for people with disabilities, and it is in this context that I speak here. Let me note at the outset that we in the disability community fully understand diversity, we give bigotry no sanction, and a judicial nominee's private life is entirely a non-issue.

On June 28, 2012, there was a hearing in Hartford Superior Court in *Ludlum et al. v. Malloy* regarding Governor Malloy's controversial Executive Order 10 regarding the unionization of personal care attendants. After the hearing, Senator McDonald was quoted by Hugh McQuaid in *CT News Junkie* as saying, "This was the first time in 20 years of practicing law I've watched the radical Right in the courtroom. It was a surreal and bizarre experience."

http://www.ctnewsjunkie.com/ctnj.php/archives/entry/judge_questions_whether_legislation_makes_executive_orders_moot/

This statement shows a clear lack of respect for people with disabilities in general and Cathy Ludlum, the lead plaintiff, in particular. Former Senator Edith Prague called Cathy "a truly remarkable person" during Senate debate on this issue. http://articles.courant.com/2012-05-04/news/hc-legis-wrap-0504-20120503_1_personal-care-attendants-care-workers-executive-orders For Andrew McDonald to call a well-respected disability advocate like Cathy Ludlum "radical Right" for advocating self-direction in attendant care is a sign of truly remarkable ignorance.

Appointing Andrew McDonald to the Supreme Court also means that he may well be in a position to judge any future legal case brought by Cathy or others with disabilities regarding Public Act 12-33. At the very least, he ought to be required to recuse himself from any case on this issue, as he has already demonstrated his bias.

This is not the only case of Senator McDonald's lack of sensitivity toward people with disabilities. Back in 2009, he sponsored a bill, SB 1138, to legalize assisted suicide, something strongly opposed by every major national disability-rights

organization, including Not Dead Yet, the Disability Rights Education and Defense Fund, ADAPT, the Autistic Self-Advocacy Network, the National Council on Independent Living, the National Spinal Cord Injury Association, and many others. We view assisted suicide as lethal discrimination against people with disabilities and seniors, and less obviously, people in poverty, African-Americans, and Latinos. You will hear much more from disability-rights advocates in opposition to assisted suicide legislation during this session.

By promoting this legislation, Senator McDonald once again showed a lack of awareness of the civil rights of people with disabilities. When SB 1138 became highly controversial, Senator McDonald then boxed it; the public was then told it was a "clerical error." Many of us find it hard to believe this was a mere clerical error.

Senator McDonald's issues with basic civil rights also extend to the issue of religious liberty. Again, in 2009, he promoted SB 1098, a clearly unconstitutional measure to regulate the internal affairs of the Catholic Church. I am Jewish, not Catholic, and I have my differences with Catholic theology, but an attack on the religious liberty of one group is an attack on the religious liberty of all. When anti-circumcision activists targeted Jewish *brit milah* and Islamic religious male circumcision in San Francisco two years ago, putting a no-exceptions circumcision ban on the ballot, leaders of every religious faith came out strongly against the proposed ban. Even the Sikh community, whose religious practice forbids circumcision as it forbids haircutting, came out in strong defense of religious liberty. Like the proposed San Francisco circumcision ban, this nomination is a litmus test of whether we of different faiths and political persuasions will or will not stand together for First Amendment and Fourteenth Amendment freedoms.

It also should be noted that six of the current seven justices on the state Supreme Court have previously served as judges at the Superior Court and Appellate Court levels. The only justice who has not, Richard N. Palmer, was US Attorney for Connecticut prior to his nomination. Senator McDonald comes from a political background with no judicial experience and would normally be considered for a Superior Court judgeship before being elevated to Connecticut's highest court.

I realize it may be very difficult for many of you to say no to a former co-chair of this committee whom you have served with. Sometimes we need to make that difficult choice and stand up for justice. In this case, justice for people with disabilities, and justice for people of all religious faiths. Justice also requires a nominee with a moderate temperament and not someone with an axe to grind. I urge you to set aside this nomination and encourage Governor Malloy to appoint someone who is better qualified in terms of judicial temperament and experience, and who has a greater respect for the civil rights and civil liberties of all of Connecticut's citizens.