

**From:** Mark Sargent  
**Sent:** Sunday, March 30, 2014 11:01 PM  
**To:** Jud Testimony; Rep. Vargas, Edwin; Rep. Gonzalez, Minnie  
**Subject:** Written Testimony for Raised Bill SB 494/Mark Sargent

Dear Sir or Madam:

Please find attached documents in support of the oral testimony I expect to give tomorrow at the LOB regarding SB 494, which purports to regulate guardians ad litem appointed in family law matters.

1. Motion to Dismiss Dr. Joan Oppenheim as GAL as filed by Attorney Norm Pattis. See, in particular, paragraph 7 (threat to place children in foster care).
2. Federal Civil Rights Complaint filed by Attorney Norm Pattis regarding actions by Judge Jane Emons and GAL Dr. Joan Oppenheim as well as failings of the CT GAL system.
3. Motion to Recusal Judge Jane Emons (draft of final filing). Following this motion, Judge Emons *sua sponte* transferred the matter to another judge.
4. Motion to Compel and Sanction Dr. Howard Krieger. His "expedited" report was months overdue.
5. A 2-page excerpt from a court transcript quoting Attorney Gary Cohen, who was appointed by Judge Emons as counsel for GAL Dr. Joan Oppenheim to defend her from allegations of malfeasance. Attorney Cohen requested and secured, at a status conference (not a hearing) with no written motion, prior notice, evidence *or even having to state a reason why*, an order prohibiting a father with sole legal custody and near total physical custody, from communicating with or being present with the GAL supposedly representing three minor children without Attorney Cohen's involvement. Thereafter, in order to speak with the GAL supposedly representing the children, the father had: to call his lawyer, who called Attorney Cohen (the GAL's lawyer), who called the GAL, who set up a date and time. The court expected the family (and the father in particular) to pay for all of this nonsense. Attorney Cohen subsequently delivered an affidavit in court stating that he would be billing the family his "normal" rate of \$850 per hour. Note: CT family law judges routinely appoint and/or otherwise require parents to pay for counsel to defend GALs when the parents accuse them of malfeasance.

I look forward to discussing these documents during my oral testimony.

Regards,  
Mark Sargent

D.N. FST-FA 11-4020533 S

MARK SARGENT

v.

PAMELA SARGENT

) SUPERIOR COURT  
) FOR THE JUDICIAL DISTRICT OF  
) STAMFORD/NORWALK AT  
) STAMFORD  
) June 17, 2013

**PLAINTIFF'S MOTION TO DISMISS MS. JOAN OPPENHEIM AS GUARDIAN  
AD LITEM FOR THE MINOR CHILDREN, POST-JUDGMENT**

The Plaintiff and Father, Mark Sargent, hereby respectfully moves the Court for an order to dismiss for cause Ms. Joan Oppenheim from her role as guardian ad litem for the minor children. In support thereof, the following is respectfully represented:

1. The Father is currently engaged in post-judgment motions litigation in a divorce action. Ms. Joan Oppenheim has been the court-ordered guardian ad litem for the minor children. Although the divorce decree was executed in August 2012, Ms. Oppenheim remains very actively involved in this litigation and continues to bill enormous amounts to the family.
2. The Father believes that Ms. Oppenheim has acted (and, in situations where she should have acted on behalf of the minor children, failed to act) in a fashion that is unethical, in violation of the ethical guidelines of the American Psychological

Association, contrary to the best (or even minimal) standards of guardianship, tortious, possibly criminal, in violation of court orders and contrary to the best interests of the minor children.

3. The Father believes that Ms. Oppenheim has violated the Father's sole legal custody of the minor children and not objected when the Defendant and her lawyers have violated the Father's sole legal custody of the minor children. The Father believes the same is true with respect to the Father's specific right pursuant to the Divorce Decree to make all medical decisions (including behavioral health decisions) with respect to the minor children.
4. The Father believes that Ms. Oppenheim has acted in our own financial interest, including by causing, through her acts and omissions, this litigation to continue, and by causing the family to incur significant expenses to various parts of the Fairfield County Divorce Machine with whom Ms. Oppenheim has on-going business relationships. The Father believes that Ms. Oppenheim's bills have been and remain unconscionable, particularly in light of the lack of value of, and harm created by, her participation in this matter.

5. The Father believes that Ms. Oppenheim's acts and omissions have harmed her wards and their parents.
6. The Father believes that Ms. Oppenheim has ignored or otherwise failed to follow the advice and recommendations (particularly those intended to protect the minor children) of other professionals, including mental health professionals, involved in this matter.
7. The Father believes that Ms. Oppenheim has retaliated against the Father for the Father's good-faith objections to her practices and bills. Most egregiously, the Father believes that Ms. Oppenheim's statement to the Father's counsel that she may recommend that the minor children (over whom the Father has sole legal and nearly total physical custody) should be placed in foster care was in retaliation of the Father's efforts to hold her accountable for her egregious misdeeds.
8. The Father believes that Ms. Oppenheim's on-going involvement in this matter would be contrary to the best interests of the minor children, the interests of justice and common sense.

FOR THE PLAINTIFF & FATHER,  
MARK SARGENT

By:



---

Norman Pattis, Esq.  
649 Amity Road  
Bethany, CT 06524  
(203)393-3016  
Juris Number 408681

FST-FA11-4020533-S : SUPERIOR COURT  
MARK SARGENT : J.D. OF NEW HAVEN  
V. : At NEW HAVEN  
PAMELA SARGENT : OCTOBER 11, 2013

**PLAINTIFF'S MOTION FOR CONTEMPT, TO COMPEL, AND FOR ORDERS  
POST JUDGMENT**

The Plaintiff, Mark Sargent, respectfully moves the Court, as follows:

1. By prior court order, Dr. Howard Krieger was appointed late last spring to complete an update Relocation and Custody Study on an expedited basis.
2. Dr. Krieger was appointed only because Dr. Kenneth Robson, who completed the prior Custody Study in this matter could not update his prior Custody Study and complete a Relocation Study prior to the July 1, 2013 delivery date required by the family's situation. Dr. Robson would have been available, however, if the report could have delivered at a later date.
3. Dr. Krieger has not yet delivered his report, which is now more than three months late. Dr. Krieger has failed to meet the July 1, 2013 deadline and all of the revised later delivery dates the court has relied upon, as provided by Dr. Joan Oppenheim, who relayed such dates to the court and the parties on Dr. Krieger's behalf.

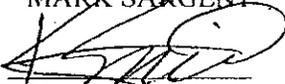
4. The plaintiff also wishes to bring certain other aspects of Dr. Krieger's misconduct to the court's attention.
5. As a result of Dr. Krieger's failure to deliver timely the report as ordered by the court, and as the result of his misconduct, the family has incurred significant costs, losses, and harm.

WHEREFORE, the Plaintiff respectfully requests that the Court order the following:

1. That Dr. Krieger produce his report immediately and without further delay; and
2. That Dr. Krieger compensate the Plaintiff and his family for the costs, losses and harms they have suffered as a result of Dr. Krieger's contempt and misconduct.

Respectfully submitted,

THE PLAINTIFF  
MARK SARGENT

BY 

KELVIN SMITH, ESQ.  
HIS ATTORNEY

129 Church Street, Ste. 400  
New Haven, CT 06510  
203-980-7559

fax:866-236-5477

Email: [Kevinsmithlaw@gmail.com](mailto:Kevinsmithlaw@gmail.com)

Juris No. 427828

**ORDER**

The foregoing motion having been heard, it is hereby ORDERED:  
GRANTED/DENIED.

And it is FURTHER ORDERED that:

---

Judge/Clerk

CERTIFICATION

This is to certify that a copy of the foregoing was delivered in hand or via fax on the above date to the following counsel of record and pro se parties:

Norman A. Pattis  
649 Amity Road  
Bethany, CT 06524

Melissa Needle  
830 Post Road East, Ste. 101  
Westport, CT 06880

Gary Cohen  
100 Summer Street, Third Floor  
Stamford, CT 06905

  
Kevin Smith, Esq.



4. Defendant Jane Emons is a judge of the Superior Court presiding over family court matters in the Judicial District of Norwalk/Stamford at Stamford. She is sued in her official capacity only.

5. Defendant Judicial Branch, State of Connecticut, is an independent and coordinate branch of the Government of the State of Connecticut. Judges presiding over the Superior Courts of the State of Connecticut are members of the branch. The branch sets policies and procedures followed in courts throughout the State of Connecticut, including the Judicial District of Norwalk/Stamford.

6. Mr. Sargent was the plaintiff in a divorce action bearing docket number FA 11-402053533S filed and adjudicated in the Judicial District of Norwalk/Stamford at Stamford. A judgment entered granting the divorce and awarding sole legal custody of the three minor children of the divorcing parties to Mr. Sargent in August 2012.

7. For the past six years, Mr. Sargent has been a stay-at-home parent and the primary caregiver for the children. During much of the period since he filed for divorce, Mr. Sargent has had sole physical custody of the minor children. The mother has been absent from the children's lives for extended periods as she struggles with serious and well-documented mental illnesses, as diagnosed by her treating physicians and a court-appointed psychiatric evaluator. The mother's contact with the minor children has been subject to significant restrictions, including supervision. At present, the mother is entitled to see the children for a few hours three times a week after she has been evaluated by a social worker. The mother has not been permitted to have overnight visits with the children for many months.

8. Mr. Sargent was awarded sole legal custody and primary physical custody of the minor children given his demonstrated ability to care for them, even under the extreme present circumstances. The significant limitations on the Mother's contact with the minor children were

imposed as a result of her mental illness, the prior impact of such illness on the minor children, and the threat of future harm to the children.

9. Mr. Sargent has retained two therapists to help the minor children address issues raised by their mother's illness and the divorce. He has developed close working relationships with them in order to maximize the benefit of their care to the minor children. Mr. Sargent's has instructed the therapists pursuant to his sole legal custody of the minor children and the ability to make medical decisions on their behalf inherent in such custody.

10. Throughout the divorce action, Mr. Sargent has filed multiple motions challenging the ethics, professionalism, competence and excessive fees of the court-appointed guardian ad litem for the minor children, Dr. Joan Oppenheim. Mr. Sargent believes that Dr. Oppenheim has acted (and continues to act) in her own financial interest in lieu of the best interests of the minor children. On multiple occasions, Mr. Sargent and his lawyers have communicated their concerns about Dr. Oppenheim's reprehensible conduct, failure to follow court orders and violations of Mr. Sargent's sole legal custody of the minor children. Mr. Sargent understands one of the minor children's therapists has communicated with Dr. Oppenheim concerning Dr. Oppenheim's breach of the ethics rules of the American Psychological Association.

11. Notwithstanding Mr. Sargent's best efforts to minimize or procure proper court oversight over Dr. Oppenheim's role, Dr. Oppenheim remains involved in the divorce litigation (even though the divorce was finalized months ago), continues to bill the family enormous sums, and continues to require Mr. Sargent to employ various other professionals supposedly on behalf of the minor children.

12. In October 2012 the mother apparently established a domicile in Florida. In March 2013, the Mother reappeared in Connecticut and sought, through post-judgment motions, to increase her parenting time with the minor children. The parties have been engaged in intermittent

motions practice before the Superior Court for Judicial District of Norwalk/Stamford since then. Mr. Sargent has filed motions and made arguments seeking to clarify the rights and responsibilities of each parent as to the minor children, to protect the minor from the mother's mental illness, to object to Dr. Oppenheim's actions and fees, and to move the minor children to be closer to his family in Ohio.

13. Mr. Sargent has also filed motions seeking to limit and govern the minor children's contact with one specific individual associated with the mother whom Mr. Sargent, the minor children's therapists, the minor children's guardian ad litem and others have identified may pose a significant risk to the health and safety of the minor children (such individual, the "Person of Concern").

14. During the course of recent motion practice, defendant Emons has ordered the parties to appear before the Court at periodic "status conferences." The parties are not given notice about topics defendant Emons may consider at these conferences. The "status conferences" are not evidentiary hearings. But defendant Emons frequently permits the parties and Dr. Oppenheim to introduce facts relevant to the care of the minor children at the status conferences. However, such information is collected in an ad hoc fashion. The status conferences are not governed by any rules of law or procedure. At times defendant Emons welcomes information (even hearsay) from one party (e.g., the mother or Dr. Oppenheim) while rejecting information from the other party (e.g., Mr. Sargent).

15. Notwithstanding the lack of notice of the topics to be addressed at the status conferences, the lack of any right to be heard at such conferences, and the ad hoc nature of such conferences, defendant Emons has issued significant orders impacting the parties, their parenting rights and the health, safety and care of the minor children at such conferences. Defendant Emons has issued orders at such conferences even absent any showing of exigent circumstances.

16. At the most recent status conference on June 11, 2013, defendant Emons, without any finding of or consideration of exigent circumstances, ordered, inter alia:

- a. That Dr. Oppenheim, as guardian ad litem for the minor children, develop — apparently without the participation of Mr. Sargent -- a plan with the minor children's therapists to introduce the minor children to the Person of Concern;
- b. That Mr. Sargent not take the minor children across state lines for any purpose;
- c. That Mr. Sargent provide the ex-wife with insurance and medical information necessary for her to arrange medical care for the children, despite the ex-wife's lack of legal custody regarding the minor children and in the absence of lawful authority for her to make healthcare decisions for the minor children.

17. Mr. Sargent was not given any notice that these topics would be addressed at the status conference. Mr. Sargent was denied a meaningful opportunity to be heard on the merits. When Mr. Sargent, through his counsel, requested a hearing at which he could present facts necessary for defendant Emons to make a proper decision about these issues, defendant Emons summarily denied the request.

18. Notwithstanding the significance of the orders issued by defendant Emons without notice or hearing, the orders were not issued in writing. Instead, they remain vague verbal statements spoken by defendant Emons from the bench. Mr. Sargent can only obtain written copies of such orders by purchasing a transcript, which can take days and is expensive. As a result, neither Mr. Sargent nor third parties (particularly the therapists for the minor children) can clearly understand and implement such orders. Instead, third parties are dependent upon others, including Dr. Joan Oppenheim, to convey and interpret the orders. This is particularly concerning to Mr. Sargent given his adversarial relationship with Dr. Oppenheim as a result of the concerns about her ethics, professionalism, competence and excessive billing as communicated by Mr. Sargent, his counsel, and the therapists he has retained for the minor children.

19. Defendant Emons's order, without notice or a hearing, directing the court appointed guardian ad litem to develop (and perhaps execute) a plan to introduce the Person of Concern to the minor children without the consent (or even the involvement of) Mr. Sargent deprives Mr. Sargent of his constitutionally protected familial and parenting rights, his rights as sole legal custodian of his children, and his ability to provide for and monitor the safety and welfare of the minor children in violation of the First and Fourteenth Amendments of the Constitution of the United States. Defendant Emons's order effectively transforms children over whom he has sole legal custody into wards of the state. Defendant Emons's order contravenes the judgment of the court which dissolved the marriage and awarded sole legal custody of the minor children to Mr. Sargent. This is offensive to the public policy of the state of Connecticut and violates Mr. Sargent's rights under the First, Fifth and Fourteenth Amendments.

20. By ordering the therapists of the minor children to act without the benefit of information known only by Mr. Sargent about the minor children and the Person of Concern, defendant Emons has created an exigent risk to the health and safety of the minor children, in violation of Mr. Sargent's parental and familial rights to protect them. Defendant Emons's actions have left Mr. Sargent without any effective and practical legal remedy or ability to exercise his constitutionally protected familial and parenting rights and his status as sole legal custodian to protect the minor children.

21. Defendant Emons's order, without notice or a hearing, that Mr. Sargent provide his ex-wife with insurance cards and other information necessary for her to access healthcare for the minor children without Mr. Sargent's knowledge or involvement, even though she has no legal right to do so, also violates Mr. Sargent's rights under the First, Fifth and Fourteenth Amendments and his status as sole legal custodian over the minor children. Such unwritten order also risks confusing the care providers of the minor children, many of whom have been notified of Mr. Sargent's sole legal custody of the minor children.

22. Defendant Emons's order, without notice or a hearing, prohibiting Mr. Sargent from transporting the children out of state violates Mr. Sargent's parenting and familial rights under the First, Fifth and Fourteenth Amendments. Mr. Sargent occasionally takes the children out of state (e.g., to New York City) to attend educational, social, cultural, family and entertainment events. Prior to defendant Emons's order, Mr. Sargent had planned such a trip at the request of the one of the minor children. In addition, as Mr. Sargent cares for the minor children by himself, without the help of nearby relatives or childcare providers. Given his near-total physical custody of the minor children, Mr. Sargent typically takes the children with him when he travels out of state for his own reasons. Thus, defendant Emons's order, without notice or a hearing, effectively limits Mr. Sargent's ability to leave the state, in violation of his constitutionally protected fundamental right to travel.

23. The family courts of defendant Judicial Branch have a practice and policy of using "status conferences" to hold hearings on, and issue rulings with respect to, significant matters without providing the parties notice or a right to be heard and without a showing of exigent circumstances. These policies result in the abridgement of fundamental rights of familial association and parenting rights without due process in violation of the First, Fifth and Fourteenth Amendments.

24. In such "status conferences" (and otherwise) the family courts of defendant Judicial Branch have a practice and policy of seizing rights held by parents with legal custody of their children (including parents with sole legal custody in post-judgment divorce actions) and delegating such rights to private individuals appointed by the court to act on behalf of minor children (typically as purported guardians for the minor children). Such courts have a policy or practice of doing this even when one or both of the parties and/or their counsel and advisors have expressed (and filed motions regarding) significant concerns about the ethics, professionalism, competency and excessive billings of such private individuals. The family courts of defendant Judicial Branch have a practice and policy of allowing such court-appointed private individuals to

exercise the rights that legally belong to the custodial parent(s) without any effective oversight and without monitoring or limiting their ability to bill the victimized family.

25. As a direct and proximate result of the defendant Judicial Branch's statewide practices and policies regarding "status conferences," of defendant Emmons's use of said conferences, and seizure of the parenting rights lawfully possessed only by Mr. Sargent as sole legal custodian of his children, all without notice, a hearing, or demonstration of exigent circumstances, Mr. Sargent's constitutional rights to freedom of familial association and parenting rights his rights to procedural and substantive due process have been abridged, and it is foreseeable that unless the defendants are ordered to desist from engaging in similar unlawful conduct, his rights will continue to be abridged.

26. The family courts of the defendant Judicial Branch do not provide parties with any ability to object to, or otherwise raise concerns about, the actions of guardians ad litem without fear of reprisal. The courts routinely abdicate their responsibility for deciding issues regarding the best interest of the children to guardians ad litem, effectively transforming children into constructive wards of the state. In so doing, the guardians ad litem transform family litigation into a self-perpetuating and unreviewable annuity, which a party can challenge only at the cost of incurring further expense, and, potentially, lack of access to their children.

WHEREFORE, Mr. Sargent seeks declaratory and injunctive relief as follows:

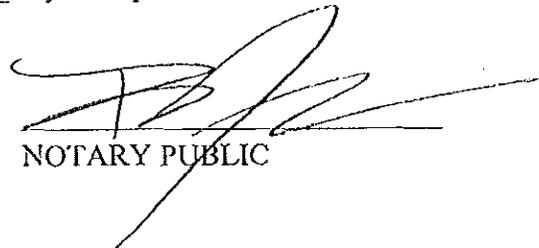
- A. Declaratory relief requiring that before judicial officers or other members of the Judicial Branch of the State of Connecticut issue orders altering the rights of parties previously set forth in final judgments, the parties be afforded adequate notice and a meaningful opportunity to be heard;
- B. An order enjoining the defendants from using "status conferences" as a vehicle for altering fundamental rights of litigants without affording them notice and an opportunity to be heard;
- C. An order enjoining the defendants from seizing parenting rights held by parents, particularly those with sole legal custody of their children, without notice and a hearing and delegating such rights to court-appointed private individuals who act without oversight and without limitations on their ability to force the family to pay them;

- D. An order directing defendant Emons to vacate the orders issued on June 11, 2013, prohibiting Mr. Sargent from transporting his children out of state;
  - E. An order directing defendant Emons to vacate orders vesting in the Guardian Ad Litem the ability to instruct the therapists to the minor children or any of their other care providers;
  - F. An order directing defendant Emons to vacate orders depriving Mr. Sargent of his rights to determine who, and by whom, his children, over whom he has been granted fully and sole legal custody, shall consult for medical treatment, including the order requiring him to furnish health insurance cards to his ex-wife; and
  - G. Appointment of a special master to review the policies and practices regarding the training, selection, appointment, retention of, the powers granted to, guardians ad litem.
- G. Attorney's fees and costs arising under 42 U.S.C. Section 1983.

G.  
C. H

  
MARK SARGENT

Subscribed to and sworn before me this 15<sup>th</sup> day of September 2013.

  
NOTARY PUBLIC

FST-FA11-4020533-S

MARK SARGENT

v.

PAMELA SARGENT

: SUPERIOR COURT  
: J.D. of STAMFORD/  
: NORWALK  
: at STAMFORD  
:  
:  
: SEPTEMBER 13, 2013

**MOTION FOR RECUSAL OF JUDICIAL AUTHORITY**

The plaintiff, Mark Sargent, herewith requests that The Honorable Jane Emons recuse herself from further proceedings in this manner pursuant to Canon 3 of the Code of Judicial Conduct and Practice Book Section 1-23. The grounds for recusal are that the comments and conduct of Judge Emons, together with the fact that the plaintiff has filed a federal civil rights law suit against Judge Emons, raise substantial questions about whether a reasonable person would question the her impartiality based on all the circumstances.

I. Factual Basis for the Motion

This is an action arising post-judgment in a divorce proceeding that resulted in an order of full-legal custody to the father of the parties' three minor children. Unfortunately, the mother suffered serious and disabling psychiatric illness and disappeared from the lives of the children for some period after the divorce. She has now resurfaced, with a new husband, and opposes the plaintiff's desire to relocate to the couple's native hometown in Ohio. She also seeks joint custody of the children. The court has been waiting now for since early summer for a court-ordered evaluation to be completed.

The Court has adopted a practice of requiring the parties to attend periodic status conferences. At these conferences, the Court issues orders modifying the rights and responsibilities of the parties. Offended by this practice of altering his rights to raise his children without the hand of the State seeking to rock the cradle, the plaintiff has filed a federal law suit claiming that his rights to familial association are being deprived without due process of law. He has named Judge Emons individually, raising a cognizable claim for injunctive relief against her arising under Ex Parte Younger. The action is currently pending before the federal district court.

Although initially prepared to waive any claim of conflict arising from his suit against Judge Emons for fear that the suit would be regarded as a species of judge shopping, the plaintiff now raises a motion for recusal. He has submitted herewith a required affidavit from his counsel, Attorney Norman Pattis, and a transcript of a hearing before the Court on August 29, 2013. The transcript is replete with snide, sarcastic and hostile comments directed by Judge Emons at the plaintiff. Judge Emons also continues to engage in a slap-dash pattern of issuing orders, sua sponte, in the absent of notice of hearings or of meaningful opportunities to be heard.

The plaintiff's ex-wife did not attend the hearing on August 29, 2013. Mr. Sargent did, with counsel, Attorney Kevin Smith. At various times during the hearing, the Court made comments and statements to the plaintiff and his counsel that call into question whether any reasonable person would question her impartiality.

In particular, the Court at one point suggested to Mr. Sargent's counsel that it would resort to removing Mr. Sargent's children from his custody as a disciplinary sanction if he did

not follow her orders. (Affidavit, para. ) The Court also instructed the GAL to tell a court-ordered evaluator that Mr. Sargent waived any objections to the evaluator's report because Mr. Sargent and his counsel did not want to attend a pre-publication conference with the evaluator, this after the record made clear that the basis for not attending was to expedite production of a report now long overdue. (Affidavit, para. )

Throughout the proceedings, the Court has repeatedly admonished Mr. Sargent for speaking to his counsel during hearings and argument. After overhearing part of Mr. Sargent's confidential communication with counsel, the Court then published what it overheard and engaged in the following colloquy with Mr. Sargent:

"Would you like my robe, Mr. Sargent? Would you like to give orders in this case?"

Mr. Sargent replied by stating: "No more would I like your robe than you should have my parenting rights over my children."

The Court responded: "Oh, thank you for your input. I'm sure your lawyer is very proud of you." (Affidavit,

This sarcastic sniping calls into question whether the Court can maintain a demeanor consistent with the appearance of impartiality.

When counsel for the plaintiff persisted in efforts to persuade the Court to hear from a witness who observed the mother of the children arrive to pick up her children while apparently intoxicated, the court said: "I know you so badly wanted to get that into the record." (Affidavit,

## II. Legal Basis for Granting Relief

"Canon 3 of the Code of Judicial Conduct 'requires a judge to disqualify himself or herself in a proceeding in which the judge's impartiality might reasonably be questioned. The reasonableness standard is an objective one. This, the question is not only whether the particular judge is, in fact, impartial, but whether a reasonable person would question the judge's impartiality on the basis of all the circumstances.'" Rosado et al., v. Bridgeport Roman Catholic Diocesan Corporation et al., 292 Conn. 20-21 (2009). The inquiry requires "a sensitive evaluation of all the facts and circumstances..." Id. See also, LaBow v. LaBow, 13 Conn. App, 334 (1988).

## III. Conclusion

There is no question that the instant litigation is difficult, even this incipient stage of the proceedings. The Court has yet to act on the various motions filed by the parties, preferring to sculpt the proceedings in a trial-by-ambush manner, in which it, and it alone, decides what to hear and when. Any reasonable observer of the August 29, 2013, would conclude that the Court had prejudged the issues in this case. The Court's sarcasm, threat and evident disgust at the sole parent who appeared at the hearing cannot but create the conclusion that the judge is impartial. The comments reported in the transcript would no doubt warrant an admonishment, or perhaps even a contempt citation, if engaged in by counsel. It is difficult to fathom why Mr. Sargent, who is fighting to vindicate what the Court has already granted him – his right to act as sole legal custodian of his children – should be expected to sit passively by while the Court behaves in a manner that would not be tolerated by an interested party.

1. I represent Mr. Sargent in the post-judgment phase of his matrimonial case. He was, during the proceedings that led to the entry of judgment, a pro se litigant.
2. I have appeared before Judge Jane Emons in this matter, and I have read certified court transcripts of a hearing on August 29, 2013, that I was unable to attend.
3. I filed a law suit on behalf of Mr. Sargent against, among others, Judge Emons in the United States District Court for the District of Connecticut. The case is pending before United States District Court Judge Janet Bond Arteron. It challenges the practice in this case of issuing substantive orders in family cases involving fundamental familial rights without a meaningful notice and opportunity for the parties to be held.
4. I immediately after the suit was filed, I stated on the record that the plaintiff was not seeking recusal of Judge Emons as we did not want to create the impression of judge-shopping by filing federal writs.
5. At the time I made the aforesaid statement, I did not believe that Judge Emons either partial or appeared to be partial in violation of Code of Judicial Conduct 3. Based on her comments from the bench since that time, I now believe that a reasonable person would question the judge's impartiality.
6. I based the aforesaid assessment, in part, on the following grounds.
7. At the status conference on August 29, 2013, the Court told the parties the purpose of the conference was to update the Court on where things were. (Transcript, 2:18-20.)
8. At the conference, the parties discussed with the Court when a certain report by a certain Dr. Kreiger would be "published by September 22, 2013. (Id., 3:9-15)
9. The Court was informed that the undersigned was unwilling to attend a pre-publication conference with Dr. Kreiger. Counsel for the plaintiff made clear to the court that the reason the undersigned did not wish to attend a pre-publication conference was because it would, in his view, occasion further delay and would not be helpful. (Id., 33:21-24) The Court then insisted that the plaintiff "waive" the right to attend any such hearing. When he did so, the Court then instructed the GAL to tell Dr. Kreiger that the plaintiff has waived "Their objection to any of the discussion or anything that he puts in his report, because they haven't agreed to input." Counsel then corrected the Court and informed it that avoiding pre-publication conferences would expedite production of the report that was long overdue. (Id., pp. 7:22 – 8:6) The report pertains to custody of the parties' three minor children.
10. No reasonable jurist could possibly construe a party's decision not to attend a non-mandatory at a pre-publication conference with a court evaluator to entail a waiver of the right to object to the contents of a report. Counsel made clear that the purpose of the waiver was to expedite production of a report that was already long-overdue.
11. Not long before this strained and unnatural reading of the waiver, the Court instructed counsel to take his client out into the hallway and discuss with him his refusal to permit the GAL to meet with his children outside of his presence. Mr. Sargent had previously placed the Court on notice of the fact that the GAL had made certain material misrepresentations of fact, and he wanted to be present at any meetings she had with his children. The Court told his counsel: "I want you, Attorney Smith, to go out and have a heart-to-heart with Mr. Sargent, because I will make orders in this case that be anywhere from admonishment to removing custody." (Id. 6:11-15) Mr. Sargent was previously awarded sole legal custody of his children.
12. Suggesting that removal of custody might be regarded as a sanction for non-compliance

- with a Court order is a suggestion repugnant to societal norms.
13. Although no party filed a motion requesting such relief, the trial Court ordered that Mr. Sargent could not contact the GAL except through her lawyer, effectively denying him any direct contact with the court officer ostensibly acting in the best interests of his children. The Court also ordered that Mr. Sargent not attend any meeting his children have with the children's therapists. No such restrictions were placed on the mother of the minor children, who did not even attend the hearing. (Id., 18: 4-8)
  14. The Court also rejected without argument or evidence any kind the plaintiff's motion to remove the GAL and the lawyer appointed for by the court. (Id., 20:15– 21:6)
  15. When the plaintiff tried to show the court a police report regarding an auto accident in which the children's mother caused, and which caused the children to be taken to the hospital, the court refused to look at it. (Id, 22:19-14)
  16. During hearings, the Court has repeatedly admonished Mr. Sargent for communicating with his counsel while Court was in session. On August 29, 2013, the Court overheard part of what Mr. Sargent said to his counsel, and said, in open court, and on the record: "Would you like my robe, Mr. Sargent? Would you like to give orders in this case?" Mr. Sargent replied by stating: "No more would I like your robe than you should have my parenting rights over my children." The Court responded: "Oh, thank you for your input. I'm sure your lawyer is very proud of you." Id, 29:21 – 30: 2)  
This unnecessary taunting and sarcasm constitute an abandonment of a judicial role and evinces hostility toward Mr. Sargent. Had a litigant spoken in such a manner to an adversary in open court, the litigant would have risked a contempt citation. (Id., 29:21-24)
  17. On August 29, 2013, despite much fanfare about the best interests of the children, the Court refused to hear testimony from a witness who observed the children's mother moments before the aforementioned auto accident and who had concerns that the mother's fitness to drive. (Id. 32: 22-26; 34: 4-23; 35: 16-22) When counsel informed the Court the mother might have been intoxicated, the Court interrupted him and stated: "I know you so badly wanted to get that into the record." This sarcasm evinces an appearance of impartiality.

INSTRUCTIONS

1. See the back/page 2 for Procedures and Technical Standards for Electronic Filing.
2. Do not fax the back/page 2 of this form to the court.
3. Type or print legibly. One cover sheet must be submitted for each document.
4. The filing party shall keep the signed copy of the pleading, document or other paper while the action is pending, during any appeal period and during any applicable appellate process.
5. The transmission record of each filing shall be the filing party's confirmation of receipt by the Court. Please do not call the Clerk's Office to confirm receipt.

TO: The Superior Court named below.

<input checked="" type="checkbox"/> Judicial District at: <u>New Haven</u>	<input type="checkbox"/> Geographical Area No.: _____
<input type="checkbox"/> Housing Session at: _____	<input type="checkbox"/> Juvenile Matters at: _____
<input type="checkbox"/> Small Claims Area at: _____	<input type="checkbox"/> Child Protection Session at Middletown

Fax number of above Court <u>203-503-6885</u>
Docket number <u>FST-FA-114020533</u> (Include prefix: for example, CI, CP, CR, CV, FA, HC, JV, MI, MV, SC, SP)
Title of document faxed <u>Plaintiff's Motion for Contempt, to Compel, and for Orders Post Judgment</u>
Number of pages <u>4</u> (Unless otherwise directed by the court, documents shall not be more than 20 pages (including cover sheet).)

The filing party assumes the risk of incomplete transmission or other factors that result in the document not being accepted for filing.

From:	Name (Print or type full name of person to be contacted, if necessary) <u>Kevin Smith, Esq.</u>	Date <u>10-11-2013</u>
	I am an attorney or law firm excluded from e-filing: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Juris number: <u>427828</u>
	Telephone number (include area code) <u>203-980-7559</u>	Fax number (include area code) <u>866-236-5477</u>

To Be Completed By The Court Only

The document was not filed by the clerk's office for the following reason(s):

- The document is not in compliance with procedures and technical standards established by the Office of the Chief Court Administrator. See the Judicial Branch procedure at [www.jud.ct.gov](http://www.jud.ct.gov).
- The document is longer than 20 pages.
- The document is:  incomplete.  illegible.
- The document was not accompanied by the required fax cover sheet.
- The document was faxed to the wrong court.
- Other \_\_\_\_\_

Under the Procedures and Technical Standards for Electronic Filing set up by the Office of the Chief Court Administrator, the documents will not be returned by the clerk.

From (Print name and title)	Date
-----------------------------	------

The information contained in this facsimile message may be privileged and confidential and is intended only for the use of the individual or entity named above. If the reader of this is not the intended recipient, you are hereby notified that any dissemination, distribution or copying of this communication is strictly prohibited. If you receive this communication in error, please notify the sender immediately.

Print Form

Reset Form

ORDER

The foregoing PLAINTIFF'S MOTION TO DISMISS MS. JOAN OPPENHEIM AS GUARDIAN AD LITEM FOR THE MINOR CHILDREN, POST-JUDGMENT having been heard by the Court, it is hereby ORDERED: GRANTED / DENIED.

And it is ORDERED that:

1. Ms. Oppenheim is hereby removed for cause from her role as guardian ad litem of the minor children.
2. Ms. Oppenheim is ordered to preserve all materials (including e-mails) related to this litigation for subsequent litigation.
3. To the extent Ms. Oppenheim's acts or omissions have been contrary to the best interests of the minor children or the best practices of guardianship, Ms. Oppenheim may not claim, in this matter or any litigation related thereto, any immunity or limitation on her liability as a result of her role as guardian ad litem.
4. The Father may provide a copy of this Order to the ethics review committees of any professional organizations to which Ms. Oppenheim belongs (including the American Psychological Association) and any state licensing board that may have oversight of Ms. Oppenheim.
5. Ms. Oppenheim shall bear all costs associated with this Motion.

---

Judge of the Superior Court

ATTY. SMITH: She has.

THE COURT: Show them to her first.

ATTY. SMITH: Your Honor, we showed them to Ms. Needle when we were just down in the conference room.

THE COURT: Show them to her first.

ATTY. SMITH: Fine. They're the same pictures that you and Ms. Oppenheim just saw.

ATTY. NEEDLE: When Mr. Sargent opened the folder and closed it again.

ATTY. SMITH: No --

ATTY. NEEDLE: Is that what you're referring to, Attorney Smith?

THE PLAINTIFF: --

ATTY. SMITH: She had the ability to see these pictures.

THE COURT: We will not be speaking out.

THE PLAINTIFF: I apologize. I seek only to protect my children. And I hope --

THE COURT: Sir.

THE PLAINTIFF: I'm sorry.

THE COURT: If you can't control yourself, you'll wait in the hall while we conduct the rest of this status conference.

ATTY. COHEN: Excuse me, Your Honor, while Ms. Needle is looking at the pictures, this may be an appropriate time for me to make a statement.

THE COURT: I need you to speak up.

ATTY. COHEN: This maybe an appropriate time for me to ask the Court to enter an order that Mr. Sargent may not contact or be in the presence of my client without my being present. There's no reason for me to give reasons, but my client is represented by counsel. She chooses not to engage with Mr. Sargent unless I am present during that engagement.

THE COURT: Okay.

ATTY. COHEN: I ask the Court can make it so ordered.

THE COURT: So ordered.

ATTY. COHEN: Thank you.

ATTY. SMITH: Your Honor, we would object to that order, just wanted to put that on the record.

THE COURT: Your objection is noted for the record.

ATTY. SMITH: Thank you, Your Honor.

THE COURT: Thank you. Okay, let me see what you're giving me.

(Pause)

THE COURT: Okay. All right.

ATTY. SMITH: Your Honor, if I may?

THE COURT: Yes.

ATTY. SMITH: As to the reason that we bring that to the Court's attention. This car crash occurred on, around 6:30.

THE COURT: I'm making this a court exhibit.