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Opinion: Family Court System Expensive, Inefficient And Abusive

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On Feb. 26, there was a historic vote at the state Capitol in which family court Judge Leslie Olear was only narrowly reappointed by the legislature. This vote came after public protests which gained media attention and after legislators were called into action to address the serious problems in our state's family courts. After this vote, some members of the legal community understandably rushed to defend Judge Olear, claiming that the votes against her were politically motivated and only in response to complaints being expressed by a "small number of family court critics." This is simply not the case.

This vote came after scores of parents, adult children of divorce, grandparents, attorneys and business executives testified until the early morning hours in front of a task force in January, after more than 630 parents signed a petition demanding legislative reforms of the family court's broken guardian ad litem (GAL) system, and after legislators were inundated with thousands of complaints about our family courts from parents, as consumers of the family court system's services.

In an op-ed piece submitted to the Law Tribune, Kimberly Knox, president of the Connecticut Bar Association, fell back on well-worn industry rhetoric trying to blame the actual victims in this scenario — the thousands of parents and families who have been financially devastated and unfairly denied access to their children solely due the problems in our family courts. The vote on Feb. 26 was not about a judge and what was in her best interests. The vote was about parents, children, families, citizens and taxpayers and what is in our best interests. The protests and the vote reflected how expensive, ineffective, abusive and damaging our family courts have become.

Unfortunately, Olear did not come before the legislature with a stellar record. In 2011, the state Supreme Court overturned a custody case ruling made by Olear where Chief Justice Chase Rogers expressed strong constitutional concerns. The opinions of the family law attorneys who testified in favor of Olear have a vested interest in doing so. The question should be asked how many parents and adult children of divorce testified – those impacted by the judge's rulings. It is quite unfortunate that these voices and opinions are seldom solicited or heard.

What legislators heard (and responded to) were complaints about children being arbitrarily separated from their parents and parents forced to pay for supervised visitations to see them. Parents being jailed for not being able to pay outlandish GAL fees. Parents losing their homes and jobs and being ordered to liquidate their retirement accounts and children's college funds. This same scenario has become the operational norm in our family courts, not one only associated with a small number of "high-conflict cases."

The majority of the family courts' time is consumed by the growing number of 3,400 or so custody cases it hears. It is the underlying politics and misguided policies of the family court itself which created this crisis – and one which is harming parents, children and families.

The vote signaled that citizens are no longer tolerating the status quo and expecting far better of our legislature and judiciary. It reflects a historic shift in attitudes and approaches towards family law happening not just here in Connecticut, but nationally and internationally as well. Connecticut is characteristically late to the game.

Many states have already enacted sweeping changes in their family laws and made shared parenting a standard. Maine reformed its GAL system last summer, following states such as Maryland, which eliminated GAL immunity. The chief justice of New York State and a task force in Delaware both proposed opening their family courts in order to "eliminate the atmosphere of corruption." The chief justice of Canada called the country's family courts "beyond the point of simple repair" and a Royal Commission is examining ways to replace their system with "something else."

Connecticut's family courts are in a state of operational dysfunction solely due to a self-inflicted legal monstrosity it created and of epic proportions. We have the largest Practice Book in the country, as our judiciary has essentially been allowed to write self-serving legislation.

None of the people in the fast growing family court reform movement deny that custody cases can be difficult. This is not the issue. The issue is that in this state, we have allowed a very small group of family law attorneys and GALs to directly and

adversely impact family court operations in a manner designed to personally enrich them at the expense of parents and families This has created a situation where 85 percent of the cases before the court involve a pro se party, as no one can afford the agenda being promoted by these individuals. To be clear, this group does not represent mainstream legal thought in this state and many attorneys are increasingly speaking out about this.

Our state's GALs are almost exclusively family law attorneys who enjoy complete immunity and been granted quasi-judicial authority – this is not common elsewhere in the country. Our GALs are not held to any standard of performance or excellence ar they are not licensed or monitored. They are allowed to bill with impunity with the expected results. GALs in this state legally trump a parent's right to be a parent as soon as they are assigned to case. These individuals are allowed to make life-altering decisions directly impacting children and families as judges routinely outsource their judicial authority to them – for the entire life of a case and child. This is misguided, unethical and simply wrong.

Too many of our judges operate with the misguided belief that parents are to blame and inherently flawed, invalid, and incapable of parenting solely because they have dared to approach the Court for help or have a dispute with the other parent. Instead of making effective rulings, even simple cases are allowed to drag on for months and years as children and families suffer and parents are literally bankrupted in process. Concerns for their clients expressed to the family court by well-meaning attorneys an professionals, fall of deaf ears as these people are shut out of the system.

Along with many others, I attended and watched the recent hearings of a task force assigned to study the costs of custody case Ms. Knox did not. This task force failed its legislative mandate as it was chaired by two "full-time GALs" who blocked every effor by other task force members to collect and analyze meaningful financial cost and operational metrics data related to custody cases. This may explain why many legislators have little faith in what the task force ultimately recommended.

In summary, the legal industry and judiciary need to recognize that the world has changed. As with many other movements, social media has brought together thousands of parents, progressive lawyers, former judges, concerned mental health professionals, business executives and legislators on Facebook, LinkedIn and Twitter, uniting us in a common cause. A cause which cuts across all political lines, all social and economic classes, all genders and race classifications.

We have three branches of government because when one of these branches goes astray and operates in a manner which violates the Constitution and ignores basic civil and due process rights, the other two must step in to take correction action. Having no other recourse, citizens have properly turned to the legislature and the legislature is responding – which mirrors what has happened in many other states.

Parents who have suffered for years due to the problems in our family courts are the actual experts and our voices must be hea – not just those of the legal industry. This is the very best way to run a government and court system – for the people, of the people, and by the people.

Peter T. Szymonik is a portfolio manager at UnitedHealthcare, where he works as a liaison between business technology executives and the legal and compliance teams. He is a former member of the executive board at Cummings & Lockwood and has served as the state chair of the Council of Litigation Management. He is also the father of two young sons and has been working with state legislators on family court reform for many years.