

TO: Joint Committee on Judiciary || Connecticut General Assembly

- Co-Chairs: Sen. Eric D. Coleman, Esq. & Rep. William M. Tong, Esq.
- Vice Chairs: Sen. Paul R. Doyle, Esq. & Rep. Daniel J. Fox, Esq.
- Ranking Members: Sen. John A. Kissel, Esq. & Rep. Rosa C. Rebinbas, Esq.
- All Other Members-at-Large

DATE: Friday, April 10, 2015 (Public Hearing)

TESTIMONY IN OPPOSITION TO RE-NOMINATION OF CHASE T. ROGERS

I present this sworn testimony in opposition to the re-nomination of Chase T. Rogers, who seeks a second 8-year term as Chief Justice and head of our Judicial Branch, directing thousands of state employees and expenditures exceeding \$600 million annually.

Please do not mistake my strong opposition or critical comments as a sign of disrespect for our justice system. While it may have flaws that need fixing, it is still the best system in the world and I do not believe that this system, however flawed, is beyond repair. We share in the responsibility for these repairs and improvements, but this Committee has further responsibility and authority to act. Such authority rests with the entire 45-member body collectively, but also with each individual member as you cast your vote here and in the House or Senate.

I appeal to your sense of integrity and your oath as a legislator. Do not ignore the credible and serious problems you know exist – they must stop here. They must stop now.

It has been 2,908 days since our current Chief Justice was sworn in. I'm certain someone, somewhere is playing a highlight reel for you to celebrate purported achievements, but there are significant unresolved issues – some possibly criminal in nature – which are harming citizens of our state from within. I can speak to several of these from first hand experience:

1. Fundamental principles of the U.S. Constitution are ignored in favor of local rules
2. Our Courts actively discriminate against self-represented (*pro se*) litigants
3. Judicial retaliation is common practice in our courts (Superior, Appellate, Supreme)
4. Alleged remedies for Attorney & Judicial misconduct allow malfeasance to flourish
5. Appellate/Supreme Court review is being used to enrich the bar and intimidate litigants
6. The Judicial Branch does not comply with the Americans with Disabilities Act

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Respectfully submitted under oath,



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Subscribed and sworn to before me on



Friday, the 10th day of April, 2015

ROBERT L. DUNCAN
NOTARY PUBLIC
My Commission Expires 10/31/2019

1. Fundamental principles of the U.S. Constitution are ignored in favor of local rules

- a) **Supremacy Clause** – Article Six, Clause 2 of the U.S. Constitution establishes the U.S. Constitution, federal statutes, and treaties as “the supreme law of the land.” Judges of our Superior Court, Appellate Court, and Supreme Court do not following this mandate – which they took a sworn oath to uphold. I have witnessed many examples, but in my case alone have had appeals dismissed or denied (affirmed) based on alleged technical flaws in form or argument, even when federal caselaw makes it clear:

“The Courts have long held that Pro Se pleadings are to be read liberally and if there is relief available that they have failed to request, the Courts should be lenient and the Pro Se litigant should be afforded that available relief.” (emphasis added) *Moore v. Florida*, 703 F.2d 516 (11th Cir. 1983)

- b) **Due Process** – The Fifth and Fourteenth Amendments to the U.S. Constitution contain a due process clause, to preserve against (among other things) deprivation of life, liberty, or property. This includes a variety of things, but among them are notice, opportunity to be heard, and sufficient time to prepare. I have provided transcripts where many jurists are violating this basic right – Owens, Klatt, Adelman, Bellis, and also George Thim, JTR who presided over a 2014 civil jury trial when I was sued by my attorney.

“It is a fundamental premise of due process that a court cannot adjudicate a matter until the persons directly concerned have been notified of its pendency and have been given a reasonable opportunity to be heard in sufficient time to prepare their positions on the issues involved.”

Costello v. Costello, 186 Conn. 773, 776-777, 443 A.2d (1982)

One of the most blatant violations of my rights to due process (to say nothing of my ADA rights which were supposed to safeguard against discrimination), were on display in 2014 at Bridgeport when our Trial Court (*Judge Barbara N. Bellis, PJ*) ordered me to commence a civil jury trial in which I was an indigent, self represented litigant being sued by a former divorce attorney. That attorney, Daniel D. Portanova, (law firm of Portanova and Rutigliano, P.C.) was represented by two law firms at trial. Bellis ordered the trial to go forward, even knowing that the underlying divorce action was yet unresolved pending an appellate opinion as to same. How could any litigant defend against claims, present special defenses or pursue their counter claim without knowing if underlying matters would be reversed or affirmed. Required elements of a malpractice require a litigant to prove that, had it not been for the malpractice, the results would likely have been different. The Court removed my opportunity to even make such an argument. No surprise the jury was ordered not to consider my special defenses or counter claims, and that jury then found in favor of the law firm ordering nearly \$132,000. The matter is now on appeal – pro se – since the Court denied my motion for appointment of appellate counsel. Such is Connecticut justice.

- c) **Equal Protection** – The Fifth and Fourteenth Amendments to the U.S. Constitution also provide an “equal protection” clause. This item ties with anti-discrimination (ADA and otherwise), but also issues of bias against self represented parties.

By way of just one example, Judge Gerard I. Adelman, now presiding judge at Bridgeport Superior Court, has a record across many cases where he rules one way or the other, depending upon which party is represented by counsel. In my case, he denied a motion for contempt for failure to prosecute on 10/2/14, even after having granted a contempt motion against me in 2012 for orders which had been vacated 6 months before the contempt motion was even filed by opposing counsel.

2. Our Courts actively discriminate against self-represented (pro se) litigants

Listening to the presentation given by Chief Justice Chase Rogers at the July 15, 2012 Annual Judge Meeting, or reading the article she wrote for *The Hartford Courant* on March 7, 2014, it appears to have been declared open season on pro se litigants. In an environment of nearly unlimited judicial discretion, many subtle forms of discrimination (and retaliation) occur. Separate check in lines at some courts, preferential treatment by clerks and other court personnel, abusive litigation tactics and delays by members of the Bar allowed to go unchecked. These may all seem very subtle, but the message is clear – *pro se* are *persona non grata*.

In both family and civil matters at Bridgeport Superior Court, over an extended period of time, argument from opposing counsel are routinely treated as testimony and fact, with no other sworn testimony or documentary evidence presented to support same. The affirmations of these “officers of the Court” are accepted as Gospel, even from those attorneys who have a questionable disciplinary past.

3. Judicial retaliation is common practice in our courts (Superior, Appellate, Supreme)

- a) **Judge Howard T. Owens (11/19/2009)** – Just days after appealing 2009 financial orders in a divorce, I was ordered incarcerated in Bridgeport's North Ave prison, even though the transcript reflects the Courts own articulation that I was compliant and that the opposing party had engaged in self-help in changing the Courts orders. Judge Owens acquiesced to the aggressive demands of opposing counsel, a long-time divorce industry operative, Stanley M. Goldstein, and attorney with a history of disciplinary actions, including a one-year probation for lying to the Court. In 2012, he resigned from the bar while facing prosecution by the Office of Chief Disciplinary Counsel in four separate complaints.
- b) **Judge Howard T. Owens (12/10/2009)** – At the conclusion of the 11/19/2009 hearing, Owens coached opposing counsel Goldstein to file a motion regarding the living arrangements of the parties. We had all lived together by agreement during the 17-month pendency of the divorce. The 9/15/2009 final judgment preserved this arrangement post judgment. With 50/50 physical and legal custody of 2 minor children and a home-based office for more than a decade, Owens ordered me to vacate days before Christmas 2009 during a 12/10/2009 hearing. No change in parenting obligations, no financial modifications ever allowed in my favor. It was 31 months before his punitive and retaliatory financial orders were vacated.
- c) **Judge Howard T. Owens (12/16/2010)** – On 12/07/2010, I filed a Judicial Review Council complaint. On 12/14/2010, the JRC sent acknowledgement letter to me and copy of complaint to Owens. Just 2 days later, Owens issued a series of one-word orders in more than a half-dozen motions which had been awaiting decision for nearly three months. "Denied" as to my motions, "Granted" as to motions filed by the opposing attorney. Retaliation could not be more blatant. See additional detail under paragraph 4.
- d) **Judge Corinne Klatt (1/18/2012)** – The 34-page transcript of this hearing reveals blatant disregard for any rule of law and a disdain for pro se litigants, especially those who dare file an appeal (as is mentioned repeatedly in this short proceeding). The transcript doesn't capture the threatening, abusive, and totally unprofessional tone and demeanor of this jurist. Rulings by her fellow jurist that she worked so hard to protect were overturned just three months later. Further acts of retaliation by this jurist could fill a book.
- e) **Judge Gerard I. Adelman (5/20/2013)** – Just one of many retaliatory acts, finds me in willful contempt on the sole finding that I had paid required court fees and costs for taking an appeal. He then refuses to hear my motion for modification after having heard testimony and accepted evidence, transferring the case in violation of P.B. § 62-4, thereby delaying any potential financial relief for 8 more months.
- f) **Judge Barbara N. Bellis (5/20/2014 & 5/28/2014)** – At civil pre-trial hearings for which I had previously requested reasonable accommodations through established administrative ADA procedures, Judge Bellis threatened me with marshals, then made good on her threat when I merely stated for the record, "I do not appreciate the Court's threatening me with a marshal. I've been respectful to the Court..." Immediately upon returning to the Bench and reconvening with two marshals present, Judge Bellis swiftly retaliated with a denial of a meritorious motion for reargument which she had earlier indicated would not be heard. She would then proceed to ignore a pending appeal and statutory stays, order this indigent, pro se defendant with known disabilities to trial after discussing on the record and then denying his requests for reasonable accommodations – all in violation of ADA Title II mandates, 42 U.S.C. § 12134, et seq. This presiding judge then directed other Court personnel and officers of the Court to commence proceedings (e.g. – services, activities, programs) which further interfered with my rights, 42 U.S.C. § 12203.
- g) **Appellate Court (9/30/2014, 11/25/2014, 12/04/2014)** – An appellate panel (*Lavine, Bear, Borden*) published a 45-page opinion on 9/30/2014 which affirmed as to all claimed errors my pro se appeal following re-trial of financial orders in my 2009 divorce (following 2012 reversal and remand orders). The opinion made blatantly false factual findings/statements, then relied on same to affirm. It also violated well-established Federal caselaw regarding the rights of pro se litigants. Most egregious was this Court's statement that the appellant had not provided an accurate record for review, citing in particular the alleged absence of a 5/20/2013 hearing transcript from which they had even quoted in their opinion. Even after granting (in part) a post-opinion motion to correct opinion and publishing certain corrective pages on 11/25/2014, this Court then denied motion for reconsideration en banc on 12/04/2014, even after having acknowledged the entire record was perfected for review and at least four claimed errors had been affirmed based on the reliance that the record had not been perfected.
- h) **Supreme Court (2014-2015)** – In an effort to cover up corruption in our Trial Court, and similar protection of the Bar from the Appellate Court, our Supreme Court denied two separate petitions for certification, as well as dismissing a direct appeal (rather than transferring that matter to the Appellate Court for review.)

4. Alleged remedies for Attorney & Judicial misconduct allow malfeasance to flourish

The Statewide Grievance Committee ("SGC") and Judicial Review Council ("JRC") are little more than pacifiers for the overwhelming majority of litigants who file meritorious claims of misconduct. text line of some thing will be here, this is just dummy placeholder text for now but will become real later and will go from red to black. OK. Perfect, seems to be wrapping right.

a) **Judge Howard T. Owens, Jr. (2008-2012)** – As noted under ¶ 3c of this testimony, a judicial complaint was filed against this jurist on 12/07/2010. Rule 2.11 (Disqualification) and Practice Book § 1-22 (Disqualification of Judicial Authority) both outline specific requirements as to how a jurist is required to respond in such an instance. Judge Owens blatantly violated all such requirements, presiding over hearings on 1/13/2011 and 2/17/2011, issuing further punitive orders, and not once addressing the formal challenge to his impartiality (or even the appearance thereof). He only did so after my second complaint (amending the first) specifically highlighted his failures in this regard. On 3/17/2011 he would deny recusal and continue with his pattern of bias, discrimination, and punitive orders. My complaints against this jurist were met with repeated delays and excuses, ultimately denied a year after being filed.

b) **Atty. Stanley M. Goldstein (2008-2012)** – Admitted as an attorney in 1973, his first record of imposed discipline was in 1996. In 2008, the Court imposed one year of probation for multiple acts of misconduct, including lying to the Court and the Office of Chief Disciplinary Counsel. Even though the first condition of said probation was "1) Attorney shall comply with the Rules of Professional Conduct," he engaged in repeated and blatant acts of misconduct while representing my former wife in a divorce action, post judgment, and appeal. After dismissal of a first detailed complaint, a Local Grievance Panel reviewing my second complaint found "probable cause" for multiple violations of the Rules of Professional Conduct. On 11/14/2012, a public disciplinary hearing was held to review this and three other complaints pending against this attorney. Instead of appearing to respond to claims, he played in a golf tournament that day.

One month later, this attorney was allowed to quietly resign in exchange for all four pending disciplinary matters being dismissed without any other discipline or penalties being imposed. The Court (*Bellis, PJ*) accepted the resignation en absentia and with multiple grievance decisions due in just two weeks time. At least one complainant, a former Goldstein client, pursued a civil action and recovered more than \$586,350. I was prevented from bringing a similar civil action pursuant to *Simms v. Seaman*, 308 Conn. 523 (2013), which provided opposing counsel with absolute immunity from liability.

c) **Atty. Christopher T. Goulden (2011-2015)** – This Milford-area attorney is a member of the Statewide Grievance Committee. A detailed and meritorious Grievance Complaint (#12-0515) filed against him in July/Aug 2012 was dismissed. A review of that Complaint and supporting documents demonstrates just how far members of most Local Grievance Panels will go to protect their fellow attorneys. (Note that these Local Grievance Panel appointments are made by the Executive Committee of Superior Court Judges). Atty. Goulden's apparent belief that his appointed participation on the SGC enables him to act with impunity has emboldened his actions since.

In a most recent example of misconduct and fraud on the Court, Atty. Christopher T. Goulden filed documents with the Court in February 2015 (dated Jan. 10, 2015). He sought an order for Notice in the Connecticut Post, stating my whereabouts were unknown and that he had made all reasonable attempts to determine same. Never once did he call my phone to inquire (that number has never changed and remains in use), never once did he send an email (that address is the same and remains in use), never once did he send a letter to my post office box (that address is the same and remains in use). Instead, he lied to the Court to pursue his unethical legal strategy. All this while the very same Trial Court Judge had previously issued orders at the request of Atty. Goulden and above my objection to dispense with the use of marshal service or certified U.S. mail, directing all parties to use electronic mail only for service in this matter (orders contained in transcript of 5/01/2013). A criminal complaint for this most recent matter (#1500129883) was filed with the Connecticut State Police, Troop G, on March 9, 2015. Upon informing the Court (*Judge Gerard I. Adelman, PJ*) of these unethical and illegal acts (in a hearing on 3/12/2015), the Court took no action, but instead challenged my actions under the same local rules of conduct.

5. Appellate/Supreme Court review being used to enrich the bar and intimidate litigants

It is no secret that the Appeals process is complex, long, and expensive. Beyond the filing fees, an appellant must order and pay for transcripts, significant expense to produce copies of motions and briefs, and then be subject to possible incarceration at the Trial Court [See my Transcript of 5/20/2013 as cited in ¶ 3e. Some will qualify for fee waivers, many will not. The message to pro se litigants who dare step forward to seek review from our higher courts is clear – litigants who cannot afford to engage the Bar on their behalf cannot expect the same measure of justice on review as their represented counterparts.

Certain jurists (Judge Corinne L. Klatt, Judge Gerard I. Adelman, Judge Barbara N. Bellis to name just a few) have issued knowingly abusive orders and then made comments on the record, as if to dare me to pursue an appeal – they being all but certain their colleagues in Hartford will affirm. In certain cases, the jurists named above have made knowingly false statements on the record, in an attempt to control or distort the record, to thwart chances for success on appeal. As long as they can control the record, and refuse to articulate, they can make it easy for the reviewing court to affirm based on that record. (See Transcript of 5/14/2014, Judge Klatt)

6. The Judicial Branch does not comply with the Americans with Disabilities Act

The Federal mandates in Title II of the ADA as amended are very clear. All their claims of compliance notwithstanding, the Connecticut Judicial Branch **does not comply** with these clear Federal mandates to ensure full and equal participation by all those who use Branch services, programs, or activities.

"No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity." [Title 42 U.S.C. § 12134, et seq. and § 35.130 (a)]

The Branch touts compliance, as well as committees and procedures to give the appearance of compliance, but the reality is far from the perception they seek to convey. The Branch may have 'improved' with respect to translation services, physical access, and acceptance of service animals, but they are repeatedly and knowingly non-compliant in many other areas – most notably in their dealings with individuals with so-called *hidden disabilities* (or its perception that an individual may have one or more hidden disabilities, whether or not that individual does in fact have any).

Disgruntled – YES. Disrespectful – NO.

Some time ago, a group of about 60 or so, under the leadership of one man, were the catalyst for action that forever changed the course or history, on a National and worldwide scale. The year was 1773, the leader was Samuel Adams, the group was called the Sons of Liberty. Had this small, group of disgruntled men not had the courage to speak out and act out against their oppressors; I doubt any of us would be in this room today.

If our Chief Justice and others wish to label Court reform advocates as 'disgruntled' – so be it, I'll accept their compliment. The list of other disgruntled people throughout history, both men and women, is an impressive one indeed – Nelson Mandela, Rev. Dr. Martin Luther King, Jr., Rosa Parks, Susan B. Anthony and Elizabeth Cady Stanton, Harriet Beecher Stowe, the brave families from Sandy Hook . . . and so many others.