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Joint Committee on Judiciary
Legislative Office Building, Room 2500
Hartford, CT 06106

BY EMAIL: JudTestimony@cga.ct.gov

Re: Nomination of Judge Robert Malone

Dear Joint Committee on Judiciary,

I am writing to oppose the nomination of Judge Robert Malone, currently a family court judge on the Superior Court, to be a State Referee. My family, like thousands of other in this state, has been completely devastated by corruption in the family court system. Mr. Malone played a significant role in harming my family, and I oppose his nomination to yet another judicial term both to prevent him from harming other families and because he needs to be held accountable for his malfeasance in my matter.

Before detailing Mr. Malone's actions, I first state my credentials and make an observation by the Connecticut family law system. I am a *magna cum laude* graduate of the University of Pennsylvania Law School, where I was awarded Order of the Coif and served as an editor on the Law Review. After graduation from law school and graduate school, I clerked for a federal judge before becoming a tax associate at a prestigious New York firm. Thereafter, I worked as an investment banker where I had daily contact with lawyers and the legal system. In my academic and professional careers, I have met many judges and have a thorough understanding of how a judge is supposed to act and how a legal system is supposed to work. Thus, I feel very qualified to comment on Mr. Malone's nomination.

The basic problem with the Connecticut family law system is a form of corruption in which judges improperly use government power to order payments to private individuals. In short, judges routinely appoint private individuals whose sole qualification appears to be having personal relationships with the judges and then the judges order the parents to pay *hundreds of thousands of dollars* to those individuals, supposedly for representing the interest of children or other nonsensical justification. In fact, the judges appear to make these appointments and order payment of fees to tax and punish families in difficult circumstances to force them out of the family law system. In my case, this has worked. I have so little faith in family law system that I avoid using it.

I filed for divorce in 2011. I still remain in absolute disbelief at the enormous level of corruption I have witnessed. In my matter, the judges appointed a bevy of private individuals who actively harmed my family for profit without any accountability or oversight by the judges, including Mr. Malone. In the years since then, I have met *hundreds if not thousands* of other families who have been similarly abused. I have hired overnight babysitters to watch my kids on numerous occasions to travel to Hartford to wait all night to speak for three minutes before this committee. I have watched hours of testimony by other parents and read countless pages of damning court transcripts and other documents which evidence the extreme absurdity of the Connecticut family court system. I have repeatedly spoken to legislators and watched in horror as judges and the Judicial Branch have blatantly ignored even the minimal legislative reforms that have been passed.

Notwithstanding the mountain of evidence demonstrating the corruption and the need for reform, no meaningful progress has been made. No family court judge has ever been held accountable for any level of malfeasance, no matter how egregious. Every single grievance filed against a family court judge has been dismissed. I have been advised, even by long-serving lawyers in this state, that there is no point in filing a judicial grievance. Likewise, no family court appointee (including GALs, AMCs, parenting coordinators, family therapists, and the myriad other appointees that the judges and divorce industry create without any legal authority) has ever been held accountable for any level of malfeasance.

To my amazement, the families who have been harmed by this rampant corruption have remained polite and courteous even though they have not been repaid, no one has been held accountable, and the system that destroyed their families remains in place. I fear, however, that patience is wearing thin. I am concerned for the continued existence of civil society in our state. I strongly encourage this committee to consider judicial nominations from the perspective of those who have been harmed by the corruption and are trying to reform the system. In the past, the committee has approved the re-nomination of every single family judge who has appeared before it. This year, notwithstanding the enormous public interest in family court corruption, the committee appears to have shortened public notice period for hearings on judicial re-nominations. This is inexcusable.

With that background I now turn to Mr. Malone's contribution to the harm to my family. I write this from memory and without the benefit of transcripts. However, I am confident that my recall of the broader themes is accurate. Like every parent who offers constructive criticism of the family law system but remains subject to it, I fear retaliation.

I first encountered Mr. Malone when he presided over calendar calls in Stamford family court. Having previously worked for the federal judicial system, I remain shocked at how family court judges are routinely late without apology to the courtroom full of parents and lawyers and yet dismiss instantly any pro se litigant who shows up slightly late. I saw Mr. Malone dismiss one parent's action, even when he said he had taken the day off work and he was late because he was directed to the wrong courtroom by the judicial marshal. I found Mr. Malone's actions unusually brusque and rude.

In my matter, I appeared before Mr. Malone to challenge the fees of the psychologist guardian ad litem who was supposedly representing the interests of our three children. In fact, the GAL represented only her own financial interest at great harm to our family. She was dishonest to the core and had a reputation for dishonesty and incompetence. When I appeared before Mr. Malone pro se to challenge her fees, he was dismissive of my effort even before I had a chance to explain my concerns. He read the order appointing the GAL from the file and said she was validly appointed. His observation was irrelevant to my claim. I told him I was challenging the reasonableness of her fees and not her appointment. He asked the GAL how much she had billed my family. She said \$80,000. Note that she had run up this bill at a time when my family was under great financial stress. I was a stay-at-home dad and my ex-wife was on long-term disability for non-physical reasons. To my shock, Mr. Malone did not object to the outrageous amount taken by the GAL from my family. The GAL told Mr. Malone that I had told her that I would declare bankruptcy before paying her fees. At that point, Mr. Malone told me – even without ever hearing my concerns about the reasonableness of the GAL's fees – that I would be ordered to pay the GAL and that my obligation to her would not be dischargeable even in the event of my bankruptcy.¹ I was dumbfounded.

As I recall, the hearing nominally left the issue to be resolved via some sort of future process. However, Mr. Malone's actions had made it very clear that I was not going to be treated fairly. Instead of holding the GAL accountable or providing any oversight whatsoever, Mr. Malone had empowered the GAL to rape financially my family into oblivion, and she did exactly that. Only months later was I able to get before another judge who removed the GAL from my matter for cause. However, in the intervening period, the GAL managed to extort huge sums from my family and essentially stole my parenting rights and charged me for doing so. That GAL is still attempting to collect from me money she believes I owe her, including for attending multi-day hearing at which she was removed. More absurdly, the \$850 per hour lawyer the GAL got the court to appoint for her, supposedly at the family's expense, to defend her from the allegations I made against her also believes I owe him money. None of this nonsense, and the related harm to my kids, whose father had to attend many court appearances and events required by the GAL, would have occurred if Mr. Malone had exercised even a minimal level of oversight of family court appointees.

When I researched Mr. Malone, I learned that his favoritism toward the GAL in my matter was not an outlier. For example, in *Clark v. Clark*, he apparently ordered the parents to pay \$175,691.24 to the AMC and \$8,800 to the GAL.² When one parent

¹ Subsequent research revealed that fees owed to a GAL are often treated similarly to child support payments in bankruptcy. Thus, in my situation, I could have ended up owing non-dischargeable pseudo-“child support” to my GAL even though I had sole legal custody of my children and physical custody of them seven nights a week, and even though I was not receiving any child support from my ex-wife.

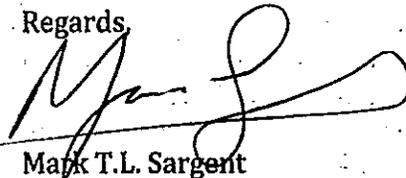
² An appellate opinion related to this matter appears at this link: <https://www.jud.ct.gov/external/supapp/Cases/AROp/AP127/127AP224.pdf>. There are several other appeals regarding this matter, which are provide insight into Mr. Malone's practices. One appeal criticized him for reversing the amounts payable to the

subsequently appealed that order, Mr. Malone granted the AMC's request to lift the stay on the order that would otherwise apply to the appeal. He subsequently gave the AMC a lien on real estate owned by the family to secure her fees and ordered that 10% interest apply to unpaid balances. Note that given market interest rates at the time, a rate of 10% on a loan secured by marketable real estate was usurious. Over time, the balance owed to the AMC grew to nearly \$400,000. I am also aware of orders in which Mr. Malone appointed his favorite family law practitioners by name, including those individuals that parents have found most abusive.

I also object to the manner in which Mr. Malone evaluated my requests for pro se issuances of subpoenas in my matter. In particular, while he eventually approved every subpoena I requested, he had a tendency to sit on the applications and approve them very close to the date of the hearings for which the subpoenas were requested. This made it practically impossible to run to court, get the signed subpoena and deliver it to a process server with sufficient time for him to serve the subpoenaed persons. In my mind, Mr. Malone was going through the motions, purporting to approve the subpoenas while defeating the entire purpose of the pro se subpoena process.

At this point, I have no faith in any part of the Connecticut government that has anything to do with the family law system. I fear that many other families, citizens, and even legislators have also lost faith in the family law system. I ask that this committee take a minor step in restoring hope by holding accountable the judges who have failed in their most basic obligation to enforce justice, including by properly overseeing family court appointees. In my matter, Mr. Malone failed to do this. From what I can tell, his malfeasance in my matter was not an isolated event. Thus, I oppose his nomination and ask that the committee not approve it.

Regards



Mark T.L. Sargent

GAL and AMC. The underlying Memorandum of Opinion and appeals do not indicate that Mr. Malone did *anything* to review the reasonableness of the fees.