

1 TO: THE TASK FORCE ON CHILD CUSTODY CASES
2 CC: THE STATE OF CONNECTICUT - JUDICIARY COMMITTEE
3
4 FROM: PETER T. SZYMONIK
5 GLASTONBURY, CT
6
7 DATE: 09 JANUARY 2014
8 RE: TESTIMONY
9

10 My name is Peter Szymonik, I am a Polish immigrant and have lived in
11 Connecticut most of my life. I have spent most of my career working in or
12 for the legal industry and worked for six years as part of the Executive
13 Board of Cummings & Lockwood, the law firm that produced Sen. Blumenthal,
14 Justice Bright, Supreme Court Justice McLachlan and Chief State Justice
15 Rogers. Our law firm prided and distinguished itself by requiring the
16 highest possible level of ethical standards and professional behavior from
17 our partners, attorneys and staff.

18 I sit before you as someone with a diverse background, set of
19 experiences, and expertise, directly related to the issues before this Task
20 Force. Over the course of my career, I have worked with literally hundreds of
21 law firms and attorneys and sat on and chaired many local and national legal
22 industry committees. I am an expert in legal operations, legal bill review,
23 legal spend management and business process improvement.

24 I am Polish immigrant whose family came to this country, worked very
25 hard, and always placed family and education first. I am a father of two
26 wonderful young boys; my older son is on the autistic spectrum. Since my
27 divorce in 2008, I became engaged. My fiancé and I combined households and
28 are raising our three sons together as a new family. My fiancé came to this

1 country 17 years ago, also from Eastern Europe, and raised a son by herself
2 as a single mother. Her son is attending UCONN and we are very proud of him.
3 Where we come from, family, children and education are always first. No one
4 in my family has ever divorced.

5 I have joined with hundreds of other parents, business leaders,
6 concerned legislators, progressive family law attorneys and mental health
7 professionals in this state. We all met and organized using the power of
8 social media to tell our stories, exchange ideas and to promote positive
9 reforms of our state's family court system. As Attorney Rutkin noted in a
10 recent CT Law Tribune article, our family court system is broken, and no
11 longer working for the people of this state.

12 I became part of this effort because for over seven years, my sons, my
13 family, and I, have been financially and otherwise devastated by the problems
14 in our family court system. This not due to the result of any "high
15 conflict" between myself and my former spouse, but due to the operational
16 dysfunction, violations of due process, and inherent patronage and corruption
17 which have undermined and crippled our state's family court system.

18 Speaking frankly and with some authority on this subject, this
19 operational dysfunction was self-inflicted by the divorce industry and family
20 court system in this state, on itself. What the divorce industry has done in
21 this state is not only to the detriment of our state, to our children, and to
22 our families, but also to the detriment of the practice of family law itself.
23 It is a direct result of the undue influence a private corporation known as
24 the AFCC, and its members, have had on family court operations in this state.

25 The AFCC in Connecticut is comprised of a very small group of family
26 law attorneys, GALs and "court appointed experts." This small group of
27 individuals has worked directly with family court judges to control court
28 operations and to establish court policies. They have dictated how

1 legislation favorable to them is drafted and written. They control the flow
2 of millions of dollars' worth of state and federal dollars. And they make
3 payments to a select few vendors and "court appointed experts" they opt to
4 engage - and who agree to promote the AFCC's agenda in this state.

5 All of this has happened with absolutely no input from the legislature,
6 parents or citizens of this state. Parents and taxpayers who are the
7 consumers of the court's services and paying for court operations with a very
8 reasonable expectation of very high performance standards, adherence to the
9 word and intent of our laws, to promote ethical and professional behavior,
10 and excellence, and to do good - especially since children are involved.

11 Instead, family court policy and practice has been driven by horribly
12 dated divorce industry funded "studies" which have no real scientific or
13 empirical evidence behind them, all of which have been repeatedly debunked by
14 the scientific and medical communities as being based on junk science.

15 The Bar Association in this state has unfortunately done very little
16 except work to protect the personal financial interests of these select few
17 individuals, and simply repeating the now well-worn divorce industry slogans.
18 The Bar Association is not promoting the best interests of family law
19 attorneys and the legal industry in this state as whole. Contrast this to
20 the New York State Bar, which pro-actively conducted its own study and made
21 very positive recommendations for reform to that state's legislature.

22 As the Task Force Chairs have tried to do - any attempt to gather
23 meaningful information and current and concrete data and metrics to examine
24 the actual facts and evidence, is immediately attacked and deemed irrelevant
25 and "not needed."

26 These dated policies have accomplished very little across this country
27 to promote the welfare of children and to support families. They have
28 instead created a generation of children of divorce who grew up without the

1 benefit of having both parents in their lives for no good reason, other than
2 that this condition was used to promote and encourage conflict the divorce
3 industry could exploit in the name of profit and greed. Many of these adult
4 children of divorce are here testifying today.

5 Frankly speaking - the blame for what is happening in our family court
6 system rests entirely and squarely in the shoulders of the AFCC and its
7 membership in this state. Parents, citizens and taxpayers - are not the ones
8 to blame. Well-meaning and progressive family law attorneys, whose primary
9 focus is on the actual best interests of their clients and their children and
10 their families, are not to blame.

11 "High conflict" cases are not to blame. Courts have dealt with "high
12 conflict" cases for decades without 85% of parents being Pro Se. Family
13 courts in many other states also deal with "high conflict" cases, many more
14 than Connecticut does in terms of number and volume - and yet their family
15 courts have not broken down and they do not have the same operational
16 problems we do here in Connecticut. 85% of the parents in those states are
17 not Pro Se. Their hearing wait times have not approached 4-5 months as they
18 have here in Connecticut.

19 In fact, the term "high conflict case" is nothing more than another
20 stale divorce industry slogan that should stop being used and be forever
21 relegated to the dustbin of history. Just as the term "custody" should also
22 be forever stricken from our vocabulary and law books.

23 What caused the problems in our state's family courts is that our
24 family courts have been co-opted by AFCC members - a very small group of
25 attorneys, GALs, and "court appointed experts." These individuals have
26 worked in concert to funnel business to each other, as they are desperately
27 been trying to maintain their cash flows and lifestyles in the wake of long-
28 term aftermath of the implosion of Wall Street.

1 They are doing this because the number of parents who can pay their
2 outrageous and unrealistic hourly fees is shrinking each and every year.
3 This perfectly mirroring what happened in the corporate legal world after
4 2008 and as corporations dramatically cut back their outside counsel legal
5 spends. This small group of attorneys was left untouched by the economic
6 downturn. They seem completely oblivious to the fact that millions of
7 parents lost their jobs, lost their retirements and lost their homes during
8 the last recession - a recession unlike anyone our nation has experienced
9 before. A recession from which our state has not even come close to
10 recovering from.

11 This is what caused all of the money that once used to fuel the
12 dysfunction, to literally vanish overnight. Gone are the days when people
13 could tap easy money home equity loans, max out their credit cards, or borrow
14 money from the elderly parents to pay their attorneys and the costs the court
15 imposed on them. The same house of cards that caused Wall Street to collapse
16 - has had a ripple effect. It is what is causing the divorce industry to
17 collapse across the country today.

18 This is why 85% of all parents are now Pro Se. It's not because, as
19 the Task Force Chairs have tried to portray - that parents "do not want to
20 hire attorneys" or that the courts have "made it too easy for Pro Se parents
21 to divorce" - it is because no one can afford to hire attorneys anymore.

22 Now add to this equation the family court's piling on GALs and AMCs and
23 "court appointed experts" and their draconian costs on any custody case which
24 comes their way and involves a parent showing up with an attorney by their
25 side - the assumption being that there is money to be made.

26 We heard testimony from the Task Force Chair that if a parent has an
27 attorney - then the parents can afford a GAL. Nothing could be further from
28 reality and the truth. All of the hundreds of family law attorneys out there

1 who have lost clients or been forced to leave the practice of family law
2 because their clients could no longer afford to pay them - know this full
3 well. That the engagement of an AMC and/or GAL, means they will never be
4 paid. That given the horrendous delays in court caused by Pro Se parties,
5 the parent is very likely to be bankrupted or be forced to go Pro Se
6 themselves before their attorney is paid.

7 Chief Justice Rogers recently gave a speech where she mentioned the
8 threat the public court system faces because it is perceived as being "too
9 costly, too inefficient and too slow". Nowhere is this more true than in the
10 family court system.

11 By promoting the AFCC agenda in this state, this small group of AFCC
12 affiliated attorneys and the GALs they work with, and how they have directly
13 influenced judges and court operations in this state, have in fact destroyed
14 the livelihoods of own their peers and forced them to leave the practice of
15 family law. This has created a vicious death spiral which has made the
16 situation in the family courts progressive worse each and every year.

17 We have already lost an entire generation of young and eager family law
18 attorneys who enter and quickly leave the practice of family law. They are
19 shunned and shut of "the club" and the inner workings of the family court.
20 They quickly become dismayed and disgusted at what the family courts have
21 become and the very real harm they see being done to their clients and
22 especially their families and children.

23 The industry has openly admitted a widespread problem with depression
24 and substance abuse impacting the legal profession - and this is one major
25 reason why. My praise goes out to those who remain in spite of the monumental
26 challenges they find themselves facing.

1 As the number of parents who can afford legal services has dropped
2 dramatically and keeps dropping, the court system has not responded in a
3 positive manner, but instead accelerated the problem.

4 The court system has worked in concert with the AFCC and its membership
5 to advantage of the ever shrinking number of parents who have any assets left
6 by extracting as much money as possible from them. In part, by needlessly
7 prolonging their cases so they can profit from them - children and families
8 be damned.

9 As soon as a case is labelled "high conflict" - the court system is on
10 auto-pilot and automatically begins to engage AMCs, GALs, conflict managers,
11 therapists for both parents, therapists for the children, court ordered
12 evaluators, add an attorney for the GAL for good measure and if the parents
13 dare to file an appeal.

14 This has created a "perfect storm" as the number of custody cases has
15 increased by 20% and from 3,000 to 3,600 in just a few short years. This has
16 as more and more parents want to be equal parts of their children's lives and
17 as more fathers have opted to stay home to raise their children due to the
18 poor economy and societal changes.

19 This means more opportunity for the attorneys to encourage disputes and
20 "high conflict" and more money to be made by everyone the court forces onto a
21 case. As Judge Dolan once wisely remarked: 'These people can barely afford
22 their own attorneys, who do you think is going to pay for all of this crap?'

23 We heard testimony that the court believes that financially devastating
24 and punishing parents is a means to an end and perhaps the best way to cause
25 parents to stay out court or to encourage them to agree. I would argue that
26 financially devastating parents, jailing them for being unable to pay the
27 draconian costs imposed on them, costing them their jobs due to the
28 requirements of constantly having to be in court, and taking their children

1 from them unless they pay, is horribly misguided, unethical, immoral and just
2 plain wrong.

3 And what is truly unfortunate is that if any real effort were made to
4 examine them, the majority of so called "high conflict" cases, in fact
5 reflect that one parent is trying to do the right thing, has moved on, and is
6 trying to focus on the best interests of their children and the future. But
7 that the other parent is continually forcing them to return to Court in
8 endless custody grabs - encouraged by their attorneys, who are trying to keep
9 the case activity going as they exploit the system and use it against the
10 other parent.

11 For the unfortunate parents who are targeted in this manner, there is
12 no way out of the system - no way to stop the financial terrorism and
13 bleeding imposed on them by the courts. They are damned if they follow the
14 court's orders, they're children are taken from them if they don't.

15 We heard testimony from Attorney Oldham that many attorneys like and
16 encourage this. This behavior by attorneys and Officers of the Court should
17 not be tolerated by our judges or our family courts, at all. Instead, it's
18 dismissed way, if not encouraged and supported. Very often the well-meaning
19 parent will find themselves being asked to pay every court cost imaginable,
20 especially and most notably the GAL's fees (which are somehow labelled 'in
21 the nature of child support') - *even if the other parent is repeatedly found*
22 *to be at fault or just keeps filing baseless motion after baseless motion.*

23 The AFCC and divorce industry's answer to all of this is direct blame
24 and any accountability away from themselves. They hold themselves and their
25 unethical behaviors, and the Judiciary, blameless and harmless. They instead
26 blame the one group that has never had a vice in any of this: parents,
27 citizens and taxpayers. Parents are somehow blamed for everything that ails
28 the family court system.

1 It is like watching a home improvement show where the focus of the show
2 is pity for the shady contractor who destroyed a homeowner's kitchen and left
3 it in shambles, as he walks away with all of the homeowner's money and blames
4 the homeowner for hiring him.

5 It is simply unacceptable that BOTH parents are automatically and
6 immediately deemed by the family courts and everyone involved of **being**
7 **invalid and incapable of being parents** and in such dire need of all of the
8 "experts" engaged on their case, solely for daring to approach the court to
9 ask for help and resolution.

10 The state and court automatically assumes it is a better parent, than
11 either parent is. Regardless of whether or not one (or both) of the parents
12 are otherwise loving, caring and responsible parents for their children, in
13 spite of the disputes that may exist between them.

14 This would be akin to the courts deeming that two businesspeople who
15 are engaged in a business dispute in the civil court, are somehow unable to
16 continue conducting business simply because of the litigation - so the court
17 system takes over their companies and send in "business experts" to drain all
18 of their company's assets to pave for their services and as they drive their
19 companies into bankruptcy.

20 What we have in this state is a family court system that is purposely
21 designed to take advantage of and financially exploit already suffering
22 parents, children and families - not to offer them meaningful and effective
23 resolution or closure, and certainly not in a timely manner.

24 The most serious problem we face in this state is the manner in which
25 Guardian ad Litem are allowed to operate and charge what one judge recently
26 described in a case as a "King's Ransom."

27 Outrageous sums of money taken from parents with no measureable benefit
28 to their children of any kind, as most Guardian ad Litem spend the vast

1 majority of their time in cases talking with the attorneys about the disputes
2 between the parents, not with the children they have been assigned to
3 represent.

4 They charge thousands of dollars sitting and listening to testimony as
5 witnesses, which is not otherwise allowed of any other witness in a court
6 proceeding. They spend almost no time at all with the children they have
7 been assigned to, while performing completely cursory and generic
8 "evaluations" and "investigations" costing tens of thousands of dollars. Is
9 any person's opinion based on spending two hours with a child worth \$25,000+,
10 the cost of a year in college, or the price of a new car? These GALs
11 essentially hit the lottery each and every time they are assigned to a case.

12 They are deemed immune and somehow infallible - simply for taking a few
13 days' worth of state funding training classes. At the end of which there is
14 no test and everyone passes just for showing up. With no follow up of kind
15 to determine if they are doing what they are supposed to do or how good of a
16 job they are doing. And yet we unleash these people without any kind of
17 management oversight, licenses, or operational safeguards in place - to work
18 with and make life altering decisions directly impacting children!

19 And as soon as they are assigned to a case, both parents are
20 automatically deemed to be invalid and incapable of being parents from a
21 legal perspective - which is never explained to the parents before the
22 assignment is made. GALs typically remain on the case for the life of the
23 child - regardless of actual need, with no way to remove them no matter how
24 egregious their behavior, and no matter how poor their performance. There is
25 no one to complain to, no one to turn to, and no one cares to hear the
26 complaints of the parent, or in many cases - the child.

27 There are numerous documented cases where children themselves have
28 questioned who the GAL is, why they need to meet with these strangers, and

1 why they are asking them such personal questions about themselves and their
2 parents. Many older children do not want to and even refuse to meet with
3 their "guardians." This speaks volumes about how bad the system is. This in
4 and of itself, is damaging to children, the emotional stability, and their
5 relationships with their parents, and not in their or anyone's best interests
6 - save for the GAL charging \$250+/hour for this.

7 Money is forcibly taken from parents by judges (most of whom used to be
8 GALs) under the threat of imprisonment and without any consideration of a
9 parent's actual ability to pay, or the very damaging long term financial
10 implications on them and their children. These are forced liquidations of
11 retirement and savings accounts and even children's college funds -
12 children's college funds - which took the parent's years to amass. Many
13 parents leave the courthouse not even understanding what has happened to them
14 until days later. Then they go through the five stages of denial and emotion
15 and are left in a state of shock. If they dare complain or challenge any of
16 this - they are ordered into therapy as if their anger about what just
17 happened to them, reflects poorly on them and they are somehow flawed for
18 daring to show any emotion or to question any of this.

19 The court's opinion is that "these funds can be replenished" - which is
20 outrageous, unacceptable, and beyond any realm of common sense and reason
21 given the other draconian and very long term costs the courts routinely
22 impose on parents. In behaving as it does, our family court has itself
23 become a source of abuse - causing permanent damage to parents and preventing
24 any opportunity for financial recovery. This is simply not sound public or
25 social policy. Nor is it reflective of any action which is in the best
26 interests of a child.

27 Judges are automatically forcing the liquidation of any and every asset
28 a parent may have available to them, without any prior warning or notice to

1 the parties, without any regard to the long term financial damage this
2 causes. All solely in order to funnel money to GALs and the "court appointed
3 experts" they associate with in AFCC gatherings and meetings.

4 These forced payments are funneled to GALs and "court appointed
5 experts" for services they either do not perform, perform poorly, or perform
6 in direct violation of every known professional code of conduct and standard,
7 and in violation of the GAL training recently established at taxpayer expense
8 and which Quinnipiac University profits from.

9 This is also in violation of due process as the family courts hand GALs
10 quasi-judicial authority, as judges automatically order whatever a GAL may
11 recommend without any opportunity for critical review by either parent or
12 their attorneys. The court protects these GALs and their personal financial
13 interests first and foremost, rather than protecting the best interests' of
14 parents, children, families, citizens and taxpayers.

15 This situation and "shake down" of parents has spiraled so completely
16 out of control - judges have ordered that grandparents, who are not parties
17 to cases, pay Guardian ad Litem fees when their children's assets are
18 exhausted and the parents can no longer pay.

19 Elderly grandparents and retirees have given up their own life savings
20 and retirements in order to try and help their children. There are notable
21 cases where GALs have told grandparents that unless they paid them directly -
22 they would not be able to help them see their grandchildren. This is beyond
23 exploitation and horrific. And yet knowing this, our judges turn a blind eye
24 and deaf ear to all of this and parent's complaints.

25 Judges have recently started assigning attorneys to represent GAL-
26 attorneys to "protect" them - forcing parents to pay for even a fourth
27 attorney assigned to a custody case (or fifth of the case also has an AMC.)
28 Judges are ordering that GALs be paid even ahead of child support.

1 FIVE attorneys, engaged on a custody case, at rates of \$250/hour or
2 more. And then we wonder why 85% of parents in court are Pro Se, why parents
3 are routinely being jailed solely for an inability to pay, why they are
4 unable to assuming the devastating financial burdens and recurring costs the
5 court imposes on them and as their cases drag on for months and even years.
6 One wonders what will be next - an attorney for the attorney for the GAL?
7 When will this end? At what point does it become too much?

8 All of this under the outrageous claim that any of this is being
9 ordered or done "in the best interests of a child" or that "the court will
10 always protect the children first." Not as a court financially devastates
11 both parents and eliminates their ability to provide for their child,
12 liquidates their retirement accounts and savings, liquidates all of a child's
13 college funds, causes parents to lose their jobs due to all of the time away
14 from work to attend endless court hearings and status conferences, and costs
15 them their homes - all because the sole focus of the court is demanding that
16 parents pay the attorneys and small army of "court appointed experts" the
17 court piles into custody cases in this state.

18 The focus and incentive of the attorneys, the GAL and the courts is
19 unfortunately not to resolve the issues between the parents. It is not to
20 seek and issue effective rulings that would help make a difference and offer
21 the parents and their families even some sense of closure or resolution. It
22 is to completely ignore parents when they often have the very best solutions.
23 It is prolong cases. It is to become insulted if a parent dares challenge or
24 offers anything which may actually be constructive or help.

25 In many cases, even when parents are in agreement and want orders
26 issued they both want for themselves and their children - the GAL and
27 attorneys and court will change them so they don't work and so that the
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1 parents will need to return to court time and time again to make even simple
2 corrections and changes.

3 As a result, there is absolutely no focus on the children and what they
4 are made to suffer. Children who are not suffering because of disputes
5 between the parents, but suffering because of the very real trauma and harm
6 the court system itself imposes on their parents as a matter of standard
7 court practice and policy.

8 This is also having the impact of throwing parents and children into
9 state aid programs by the hundreds and thousands, which is directly contrary
10 to the court's sole statutory mandate and mission - which is to ensure that
11 both parties and their children do not become wards of the state.

12 How this possible and how did this all happen? Because there are
13 absolutely no legislatively mandated operational standards, license
14 requirements, certifications in regards to Guardian ad Litem and "court
15 appointed experts" in Connecticut. There is no independent management or
16 oversight over the engagement, costs, performance and operations of Guardian
17 ad Litem or "court appointed experts" in this state. There is no place for
18 any parent with a grievance to turn and have it properly heard and addressed
19 in a timely and cost effective manner.

20 Instead, any compliant a parent may file, involves the GAL continuing
21 to bill the parent for the privilege to respond to the compliant. In what
22 other professional practice is this allowed?

23 Judge Murphy very recently noted that there isn't even a functional
24 description of what a "Guardian ad Litem" is in statutes which judges and
25 parents could to use and refer to.

26 Imagine the impact this has on the faith parents, citizens and
27 taxpayers, and legislators have in our state's judiciary and the legal
28 industry to act and issue orders which reflect the actual best interests of

1 children and families. Imagine the impact when what parents experience in
2 the court system, represents anything but people in positions of authority
3 and responsibility and in cases involving children, operating and being held
4 to the highest possible level of ethical standards and professional behavior.

5 The crisis in our state's family court mirrors what is also happening
6 in New York, New Jersey and Ohio - other states where Guardian ad Litem are
7 also allowed to operate with impunity, in an ineffective manner, and without
8 any system of checks and balances or meaningful oversight in place. Other
9 states where the AFCC has had an undue influence on judges and family court
10 operations.

11 Yet, not every state has this issue or problem - with the notable
12 difference that their GALs are monitored and do not report to the judiciary.
13 In these states, the role of a GAL has not been co-opted by the divorce
14 industry and attorneys. GALs in these states are largely citizen and parent
15 volunteers from all walks of life with no financial interest in prolonging
16 cases. In these states, GALs spend the majority of their time with the
17 children and their families - not talking with attorneys and sitting in
18 court.

19 (Because after all, the only real requirements a GAL needs to be a very
20 effective and powerful advocate for a child, is to be of sound ethical and
21 moral character, have experience being a parent, and being able spend time
22 listening to a child and what concerns them. One veteran family law attorney
23 recently told me she remembers the days when children knew their GALs by
24 their first name and would ask to call and speak with them - that is not true
25 today.)

26 In these states, GALs are paid per diem like jurors, and do not bill
27 endlessly at attorney rates. In these states, the role of an AMC or GAL and
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1 what they may (and may not) do is very clearly defined by statute and
2 judicial discretion has been moderated by legislation.

3 In these states, shared parenting has become a standard and the norm -
4 rather than something which divorced parents are forced to fight for to the
5 point of being permanently financially devastated, which is the case in this
6 state.

7 Our state can and must be far better in the actual best interests of
8 our children, parents, grandparents and families. Our state can and must be
9 far better for our citizens and taxpayers.

10 If we wish to make positive changes to the benefit of parents,
11 families, children, citizens and taxpayers in this state, we must do what
12 other states have already done and not remain a legal backwater and near the
13 bottom of the list in this country and in fact, internationally when it comes
14 to family court reform.

15 Israel is about to make shared parenting a national standard and has
16 completely re-written their family laws based on the United Nations
17 International Rights of a Child.

18 The Chief Justice of Canada has publically stated that their family
19 court is "beyond the point of simple repair and needs to be replaced by
20 something else." A Royal Commission is now working on what that "something
21 else" may be and how it would operate.

22 Food for thought, and thank you.
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