Testimony of Robert D. Zaslow
For the
Task Force to Study Legal Disputes Involving the Care & Custody of Minor Children

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Attorney Dornfeld, Attorney Cousineau and members of the Task Force, thank you for the opportunity to present testimony to you all today.

My name is Robert Zaslow. While I am the Chair of the Family Law Section of the Connecticut Bar Association for this year, I am not here speaking for the CBA, nor for the Family Law Section, nor anyone or any group. I am here to speak for myself only. I have been an attorney in Connecticut for nineteen years, and the majority of my time as an attorney has been as a family lawyer. As a family court attorney, perhaps half of my caseload is devoted to serving as a guardian ad litem or attorney for children. My testimony is based upon my own experience and observations based on my work in, and for, the family courts as a lawyer for parents, a child advocate, a mediator, an arbitrator, as well as my years volunteering as a Special Master for both the Regional Family Trial Docket in Middletown and the Early Intervention Program in Hartford.

It is my understanding that there are three issues the Task Force is to consider. The first issue is to study the role of the Guardian Ad Litem (GAL) and Attorney for the Minor Child (AMC). Reading between the lines, it appears that the

underlying question is: Do we need GALs and AMCs? The short answer is an emphatic, yes.

The role of the GAL or AMC is fundamental and essential to the functioning of the family courts. If the importance is difficult to understand, place yourself in the shoes of a judge on the family bench.

A case comes before you where there is no agreement between the parents as to how to resolve significant child-related issues. You hear one side from one parent. You hear a significantly different view from the other parent. How do you know what is in the best interest of the child? How are you going to know? How will you obtain unbiased information?

You need to appoint someone to investigate. You need an unbiased person trained in child development and family dynamics. This is a GAL.

GALs, in particular, gather, examine, and reconcile a tremendous amount of information in their efforts to help families resolve child-related issues. We meet with and gather information from each parent. We also follow up and gather information from third party providers or witnesses including, but not limited to: teachers, school personnel, therapists, DCF workers, police officers, doctors, and daycare providers. We are expected to perform home visits – traveling to all corners of the state (and sometimes beyond) usually after business hours to accommodate work and school hours. We are expected to be prepared to speak to each and every child-related motion and to appear in court whenever those child-related motions appear on the court's docket.

An undercurrent within the Task Force's examination of this first issue has been the issue of cost. It is, and has been, my experience that child advocates are not getting rich doing this work as GALs and AMCs. We often are the last to be paid, when paid at all. We are asked routinely – by litigants and the courts – to compromise our bills. We continually chase after litigants who refuse to abide by court orders to pay for the work that was done.

Certainly, I have seen too many cases that are over-litigated with unnecessary motions, countless trips to court over trivial matters, etc. These cases are the result of litigious parties – one or both. The child advocate, remember, is simply along for the ride – he/she has to be prepared for each and every child-related motion. My experience leads me to believe that the cases in which complaints of GAL fees being excessive are made from those cases in which one or both of the litigating parents is churning the litigation.

I return to the importance of GALs and AMCs by observing an essential, unspoken role that child advocates serve. Child advocates mediate issues and resolve cases. The child advocate's efforts to mediate most often yield final and lasting agreements. Agreements cease the litigation. Agreements cease the emotional turmoil for both parents and children. Agreements cease the cost for the parents (e.g., their own attorney fees, the GAL fees, their time away from work). Statistics indicate that approximately 95% of family cases settle before trial. I am proud to be a child advocate that helps contribute to that 95% resolution rate.

The second issue for this Task Force to address is the extent of non-compliance with the provisions of CONN. GEN. STAT. §46b-56(c)(6). This, as the Task

Force knows, is one of sixteen enumerated factors upon which a court decides a custody dispute. This particular factor calls upon the court to weigh, as part of its decision, "the willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship between the child and the other parent[.]" To many, this is the so-called "child alienation" factor.

Certainly, there are many instances in which a parent comes to court believing and asserting that their relationship with their child is being, or has been, irreparably damaged by the poisonous actions of the other parent. Whether the judge finds that the claims of alienating behavior are accurate or not, I have yet to participate in a contested hearing in which the judge did not take the claims and assertions of alienating behavior seriously.

Judges are appointed to serve as neutral fact finders and arbiters. Regardless as to whether they find alienating behavior – it is and has been my experience that each and every family judge I have been in front of (and that is quite a list) takes this statutory factor seriously – perhaps most seriously of all. And, it has been my experience, that if a judge makes a factual finding that alienating behavior is occurring, that judge will render orders to properly address the issue.

Finally, the Task Force is faced with the question of a presumption of shared custody in any case in any action involving the care, custody and upbringing of a child. In my many years of working in the family courts – seeing the range of families from those that need little to no assistance to those of the most dysfunctional dynamics – a few facts are clear to me. Each and every family is different. Each and every child within each family is different.

General Statute §46b(c) has sixteen enumerated factors – and in fact, the statute indicates that a judge entering child access orders should consider those sixteen factors, but not be limited to only those enumerated sixteen – to help a judge evaluate the very special circumstances for each child of each family that comes before the court. Some cases hinge upon a need to address physical abuse in the home. Some cases hinge upon the geographic distance between otherwise good parents. Many cases have multiple applicable statutory factors to consider.

When I am asked to serve as a GAL, or whether I volunteer my time to pre-try custody cases, I do not have a preconceived notion that mother should be the primary caretaker, that father should be the primary caretaker, or that there should be a shared custody plan. I let the facts guide me to where I believe the best resolution would be. I believe the judges of the Superior Court presently do the same.

Thank you for the opportunity to share this testimony with the Task Force.