

**ELIZABETH HARING 210 CORNWALL STREET NW LEESBURG, VA 2017
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January 13, 2008

Re: Judge Gaylord Finch

Please vote to oppose the re-appointment of Judge Finch to the Fairfax County Circuit Court. My custody and visitation modification case (CL#2006-4166) was heard before Judge Finch on January 28-30, 2008. On March 6, 2008, Judge Finch read his ruling from the bench. Specifically, Judge Finch found that there was not a material change in circumstances and he denied my motion to modify custody and visitation. Judge Finch's ruling was contrary to established law, an abuse of discretion and plainly wrong.

The evidence in my case showed that the following changes in circumstances occurred: 1) My ex-husband remarried 2) My ex-husband moved and was attempting to change my daughter's school 3) I moved over 100 miles to Leesburg 4) I increased my income more than 5 times what it was at the time of the last order in 2005 and have the ability to make my own hours and take care of my daughter after school 5) My ex-husband became unstable, went through many jobs, had a lien on his condo, became dependent on his mother financially and borrowed \$100,000 from her 6) My ex-husband caused my daughter to have 75 tardies and 27 absences in 3 school years, lapsed her court ordered medical insurance, and he never took her to a child annual well checkup or dental cleaning/exam for almost 3 years. Her teeth had started to decay, she had been diagnosed with anxiety and oppositional defiant disorder and was in therapy, she became underweight and the medical records in evidence showed she had become unhealthy in the custody of my ex-husband (which included five bouts of acute bronchitis, three bouts of otitis media, one case of pneumonia, two urinary tract infections, etc...). However, Judge Finch ruled that my daughter was healthy.

In spite of the abundant evidence of many material changes in circumstances, Judge Finch ruled on March 6, 2008 that there was not a material change in circumstance and denied my motion to transfer primary custody. He said, "You put on a good case... Good luck to you." Judge Finch gave no explanation whatsoever as to how he arrived at his conclusion, specifically how he found that none of the above were material changes in circumstances. Virginia Code 20-124.3 requires a judge to communicate the basis of its decision either orally or in writing. Shortly thereafter, my attorney and I submitted over 30 pages of supplemental substantive objections. Judge Finch had every opportunity to provide a written opinion or explain his decision, but he did not. I would contend that he could not and did not do so because his decision was simply indefensible.

On April 4, 2008, Judge Finch sanctioned me \$1,000 for filing a motion to suspend the final order and leave to depose for a motion to grant a new trial on the basis of material fraud. Judge Finch refused to allow a hearing on the motion, refused to allow me to introduce evidence of the fraud and sanctioned me. Judge Finch's decision was contrary to Virginia Code 8.01-271.1 which only allows for

sanctions if a party files a motion not warranted by existing law or not in good faith or for an improper purpose such as to harass or cause unnecessary expense and delay. Moreover, Judge Finch did not find that I engaged in any action which would merit sanctions, he just sanctioned me. He made a comment from the bench that he was annoyed that I had asked for the order to be suspended three times to allow time to file objections in order to preserve those objections for appeal. He said, "Three strikes, you're out" as though the courtroom is governed by the rules of baseball. Rule 1:1 provides that an order may be suspended for good cause, and my asking was certainly good cause. Judge Finch violated Rule 4:14 when he did not require an affidavit of attorney's fees from my ex-husband's lawyer when he sanctioned me \$1,000. Judge Finch abused his power and sanctioned me without good cause and in violation of the law.

Judge Finch remarked from the bench that he did not intend to read many of the exhibits offered into evidence. On the first day of trial, he was not even paying attention (which may also explain why he missed the fact that there were many changes in circumstances).

Judge Finch violated my Due Process rights by excluding my expert Dr. Dwight Colley, who we proffered would testify only about me. Moreover, Dr. Colley had neither seen nor treated my ex-husband or daughter and my ex-husband had consented to his testimony in the 2004 trial.

There were many other legal errors Judge Finch made in my case --these are but a few. My case is presently pending review by the Virginia Court of Appeals. Judge Finch also erred in many other cases. The Virginia Supreme Court overturned several of Judge Finch's decisions recently finding multiple legal errors.

In Lewis vs. Hyman (VA Court of Appeals #2133-07-4), Judge Finch awarded custody to a man whose live-in girlfriend is a drug addict, contingent upon monthly drug testing of the girlfriend. His reasoning not to award custody to the mother: the child's mother was a diabetic!! In Judge Finch's logic, it would be better for a child to grow up in a dysfunctional home influenced by a drug addict than with a mother who has diabetes, a common medical condition that did not impair mother's parenting. Even though this decision was plainly wrong and the order was not enforceable because the girlfriend was not a party to the case, mother lost at the Court of Appeals. She could not afford to appeal to the Virginia Supreme Court.

In conclusion, our society is governed by the rule of law. We all have a fundamental right to a fair trial. Our judges have a duty to obey the laws when they make decisions. If judges do not, they should not sit on the bench any longer.

PLEASE VOTE TO OPPOSE JUDGE FINCH'S RE-APPOINTMENT

Elizabeth H. King
4/13/09
Leeds, VA