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- Office of the Clerk of Superior Court, 14264 West Tierra Buena Lane, Surprise, Arizona, 85374

Mail a copy of your "Response" or "Answer" to the other party at the address listed on the top of this Summons.

3. If this "Summons" and the other court papers were served on you by a registered process server or the Sheriff, within the State of Arizona, your "Response" or "Answer" must be filed within TWENTY (20) CALENDAR DAYS from the date you were served, not counting the day you were served. If this "Summons" and the other papers were served on you by a registered process server or the Sheriff outside the State of Arizona, your Response must be filed within THIRTY (30) CALENDAR DAYS from the date you were served, not counting the day you were served. Service by a registered process server or the Sheriff is complete when made. Service by Publication is complete thirty (30) days after the date of the first publication.

4. You can get a copy of the court papers filed in this case from the Petitioner at the address listed at the top of the preceding page, from the Clerk of the Superior Court's Customer Service Center at one of the following:

- 601 West Jackson, Phoenix, Arizona 85003
- 18380 North 40th Street, Phoenix, Arizona 85032
- 222 East Javelina Drive, Mesa, Arizona 85210
- 14264 West Tierra Buena Lane, Surprise, Arizona, 85374

5. If this is an action for dissolution (divorce), legal separation or annulment, either or both spouses may file a Petition for Conciliation for the purpose of determining whether there is any mutual interest in preserving the marriage or for Mediation to attempt to settle disputes concerning legal decision-making (custody) and parenting time issues regarding minor children.

6. Requests for reasonable accommodation for persons with disabilities must be made to the office of the judge or commissioner assigned to the case, at least ten (10) days before your scheduled court date.

7. Requests for an interpreter for persons with limited English proficiency must be made to the office of the judge or commissioner assigned to the case at least ten (10) judicial in advance of your scheduled court date.

SIGNED AND SEALED this date _____

COPY
CLERK OF COURT

DEC 27 2019

By _____
Deputy Clerk



CLERK OF THE SUPERIOR COURT
DEPUTY CLERK

1 Elizabeth K. Brooks #033728
2 **MODERN LAW**
3 1744 S. Val Vista Drive, Ste. 205
4 Mesa, Arizona 85204
5 (480) 649-2905
6 (602) 814-0983 Fax
7 Elizabeth@mymodernlaw.com
8 Attorney for Petitioners

COPY

DEC 27 2019



CLERK OF THE SUPERIOR COURT
DEPUTY CLERK

9 **IN THE SUPERIOR COURT OF THE STATE OF ARIZONA**
10 **IN AND FOR THE COUNTY OF MARICOPA**

11 In Re the Matter of:

12 **MAUREEN G. MULVANEY,**

13 Petitioners,

14 and

15 **DAVID C. OLESEN,**

16 Respondents.

Case No.:

FC2019-098271

PETITION FOR *IN LOCO PARENTIS*
CUSTODY PRUSUANT TO
A.R.S. § 25-409

17 Petitioner, MAUREEN G. MULVANEY ("Maternal Grandmother") ("Petitioner") by
18 and through undersigned counsel, requests an order granting Petitioner *In Loco Parentis* Custody
19 pursuant to A.R.S. § 25-409. In support of this Petition, Petitioners allege the following:

20 1. Petitioner, MAUREEN G. MULVANEY, is the Maternal ("Grandmother") of

21 [REDACTED] and [REDACTED]

22 [REDACTED] Petitioner was born on October 2, 1950, currently resides
23 at 16026 S 36th Street Phoenix, Arizona, 85048 and is employed as a Author and Motivational
24 Speaker.

2. Respondent, DAVID CHARLES OLESEN ("Father"), is the Father of the
children. Mayre G Olesen ("Mother") the biological Mother was born on November 20, 1990.

1 Respondent's current known address is 3123 S Don Carlos Circle Mesa, Arizona, 85202 and is
2 employed as an IT Manger.

3
4 3. The children's Mother Mayre G Olesen ("Mother") passed away due to suicide on
5 September 16, 2019.

6 4. The parents were married on July 25, 2013. In December of 2017 the parents were
7 divorced by this Court, under Maricopa County cause No. FC2017-090737.

8 5. The minor children, [REDACTED] was born on [REDACTED]
9 [REDACTED] and [REDACTED] respectively.

10 6. Jurisdiction is proper in this case as Petitioners are current residents of Arizona
11 and has been for a period of time in excess of six (6) months.

12 7. Venue is proper in Maricopa County because Petitioners and the minor child reside
13 here.

14 8. The child has resided primarily with Petitioners since the child's birth. Petitioners
15 assert that there are no final orders for custody currently in place to protect the child.

16 9. Petitioner does have knowledge of a Maricopa County Superior Court matter
17 involving the Respondent and the children related to dissolution of marriage with children.

18 10. Petitioner do not have any knowledge of any other cases relating to legal decision-
19 making, parenting time, or visitation of the minor child other than this present matter.

20 11. On information and belief, no orders regarding legal decision-making authority or
21 parenting time of the child have been established by the Maricopa County Superior Court, or any
22 other legal body, and Petitioner are not aware of any person or jurisdiction with any pending
23 claims.

1 12. Petitioner is seeking In Loco Parentis of the children and meet the requirements of
2 standing in *loco parentis* as the children's Mother has died. For the children's entire life they have
3 formed a "meaningful parental relationship" with Grandmother. Petitioner has provided the
4 children with almost all of the care that a legal parent would provide.

5 13. The plain language of A.R.S. § 25-409, which governs this case, extend far beyond
6 the factors set forth in A.R.S. § 25-403, which governs custody actions between parents. For a
7 non-parent to gain custody of a minor child, the non-parent must establish all of the following:

- 8 1. The personal filing the petition stands in loco parentis to the child;
- 9 2. It would be significantly detrimental to the child to remain or be placed in the
10 custody of the child's living legal parents who wish to retain or obtain custody;
- 11 3. A court of competent jurisdiction has not entered or approved an order concerning
12 the child's custody within one year before the person filed a petition pursuant to this
13 section, unless there is reason to believe the child in this section, unless there is reason to
14 believe the child's present environment may seriously endanger the child's physical,
15 mental, moral or emotional health; and
- 16 4. One of the following applies:
 - 17 a) One of the legal parents is deceased
 - 18 b) The child's legal parents are not married to each other at the time the
19 petition is filed
 - 20 c) There is a pending proceeding for dissolution of marriage or for legal
21 separation of the legal parents at the time the petition is filed.

22 **Of these four (4) requirements, Petitioners meet all four of them**

23 14. Pursuant to A.R.S. § 25-401(1), Petitioner stand *in loco parentis* to the child. Prior
24 to the death of Mother, The children spent most of Mother's parenting time with Grandmother.

1 Since the children were born Grandmother has been the one constant in the children's lives. On
2 September 16, 2019, Mother died by suicide. Since Mother's death Father has dramatically
3 restricted Grandmother's access to the Children. Grandmother acknowledges that she is not the
4 children's biological parents, for all intents and purposes, she has functioned as the children's
5 parental figure since the children birth and has been treated by the children as such.

6 15. Pursuant to A.R.S. 25-409(A)(2), based on the following, it would be significantly
7 detrimental to the children to be placed full time in Father's care for the reasons stated herein.
8 During the marriage of the parents, Father was physically and sexually abusive towards Mother,
9 which is documented by the number of times the police were called to the parties residence. On
10 January 26, 2017, the police were called to Mother's home regarding Father's continuous abuse.

11 16. Father also has a history of alcohol abuse that is concerning to Grandmother.

12 17. As stated above on September 16, 2019, Mother died by suicide, leaving Father to
13 have sole legal decision-making authority over the children.

14 18. The children have benefited greatly from the consistent love, environment, and
15 support Petitioner have and is able to provide. Grandmother has played an integral role in the
16 children's lives since the day they were born. Before the children's Mother's untimely death,
17 Grandmother partook in weekly visits with the children including overnights, holidays, birthdays,
18 and school activities. Grandmother also took the children on adventures to the zoo, including
19 Father's son not in common to Mother, science museum, State Fairs, and Renaissance festivals.
20 Grandmother scheduled and participated with the children in 5k races specifically to introduce
21 the children to exercise in a fun and creative way. Furthermore, Grandmother also took the
22 children on trips to San Diego for Thanksgiving and to Disneyland for a fun. Lastly, Grandmother
23 was the children's main connection to religion, as the children with Mother's permission became
24

1 a part of their grandmother's church and looked forward to their Sunday spiritual time with their
2 Grandmother.

3 19. Since Mother's death Father has made statements to Grandmother that are deeply
4 concerning. Due to the sudden and traumatic nature of the children's mother's death
5 Grandmother inquired as to what Father's plan was with the children regarding counseling.
6 Father has refused grief counseling for the children. Father has informed Grandmother that "The
7 [children] have been discussing their Mother and her passing and are having very sophisticated
8 discussions between themselves." It is Grandmother's position that at age six and four
9 respectively the children are not equipped to handle such drastic changes by themselves.

10 20. Furthermore, Father's actions are causing additional trauma for the children.
11 Father has removed all pictures and items of Mother from the house. Though granddaughter has
12 asked for a picture of her Mother, Father has refused. Daughter has told Grandmother that "my
13 dad and [step-mother] throw them out. They don't like my mommy."

14 21. Father is also trying to force the children to accept his new wife as the children's
15 Mother less than three months after the children's Mother passed away. Father has informed
16 Grandmother that the children will transition to his new wife as there biological Mother is now
17 dead. That they are to call his new wife Momma, and that he will be taking steps for his new wife
18 to adopt the children. It is Grandmother's position that this is not in the best interest of the
19 children. The children have had numerous changes in an extremely short period of time and the
20 introduction of new wife to act as Mother as well as removing all evidence of the children's
21 Mother with no counseling to assist in any of these transitions is determinantal to the children.

22 22. Lastly Father has limited Grandmother's access to the children. The children went
23 from seeing Grandmother multiple days a week including overnights, to Father only allowing
24 Grandmother to only see granddaughter on Tuesdays, and no visitation at all regarding grandson.

1 Grandmother has also become aware that Father is attempting to alienate the children from
2 Grandmother.

3 23. Grandmother is requesting the Court order in loco parentis for grandmother to
4 have sole legal decision making authority, and be named primary residential parent It is
5 Grandmother's position that Father's actions have not been in the best interest of the children,
6 and as Mother is no longer alive, Grandmother should be a decision maker regarding the children.

7 24. In the alternative should the court not award in loco parentis Grandmother requests
8 the court order Grandparent's visitation. Grandmother requests a 5-2-2-5 visitation schedule as
9 that is in the best interest of the children and what the children were accustomed to prior to the
10 death of Mother.

11 25. Without Court intervention, Grandmother is without recourse to prevent the child
12 from being irreparably harmed by Father's actions.

13 26. Pursuant to A.R.S. § 25-403 and its sub-statutes as well as § 25-409, it is in the
14 child's best interest for Petitioner Maureen G. Mulvaney, to be awarded legal decision-making
15 authority, and residential primary parent.

16 27. **ATTORNEY'S FEES:** Each party should bear his or her own attorney's fees and
17 court costs, unless Father takes an unreasonable position, in which case Petitioner should be
18 awarded their reasonable attorney's fees and costs pursuant to A.R.S. §25-324.

19 **WHEREFORE,** Petitioner, Maureen G. Mulvaney, respectfully requests this Court enter
20 the following:

21 A. An Order finding that Petitioner stand *in loco parentis* to the child,

22 [REDACTED] and [REDACTED]

23 B. An Order granting Maureen G. Mulvaney legal decision-making authority,
24 and parenting time.

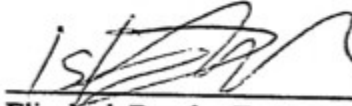
1 C. In the alternative, should the court not find that Petitioner stands in loco
2 parentis, grant petitioner Grandparent visitation in the form of a 5-2-2-5
3 visitation schedule.

4 D. Should Father take unreasonable positions An Order awarding attorney's
5 fees and costs pursuant to A.R.S. §25-324, as requested herein.

6 E. For any other Order this court deems just and appropriate.

7 **RESPECTFULLY SUBMITTED** this 27th day of December 2019.

8 **MODERN LAW**

9
10 By:  w/ permission
11 Elizabeth Brooks, Esq.
Attorney for Petitioners

12 **ORIGINAL** of the foregoing filed this 27th day
13 of December 2019 with the Clerk of the Superior Court.

14 **COPIES** of foregoing sent for service upon:

15 David C. Olesen
16 3123 S. Don Carlos Circle
Mesa, AZ, 852-2
Respondent/Father *pro per*

17
18 By: 
19 Amanda Thelwell

VERIFICATION

STATE OF ARIZONA) SS.
COUNTY OF MARICOPA)

Pursuant to Rule 14(B), Arizona Rules of Family Law Procedure, I, Maureen G. Mulvaney, am the Petitioner in this matter and declare (or certify, verify or state) under penalty of perjury that the foregoing **Petition to Establish Third Party Custody** is true and correct, and I approve of its form and content.

Maureen G. Mulvaney, MGM

Maureen G. Mulvaney

Dec 20, 2019

Date

Signature: Maureen G. Mulvaney, MGM

Maureen G. Mulvaney, MGM (Dec 20, 2019)

Email: mgm@mgmsuperstar.com






Mulvaney, Petition for In Loco Parentis

Final Audit Report

2019-12-20

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