

SUPERIOR COURT OF ARIZONA
MARICOPA COUNTY

FC 2019-098271

06/27/2024

HONORABLE LISA S. WAHLIN

CLERK OF THE COURT
J. Calkins
Deputy

IN RE THE MATTER OF
MAUREEN G MULVANEY

CHRISTOPHER J TORRENZANO

AND

DAVID C OLESEN

DAVID C OLESEN
2616 HACKWORTH ST
ASHLAND KY 41101

ILYN OCANG OLESEN

ILYN OCANG OLESEN
SITIO PUNOD GAMAY
BRGY TINAGO, SAN ISIDRO
LEYTE
PHILIPPINES

JUDGE WAHLIN

MINUTE ENTRY

The Court held an evidentiary hearing on June 12, 2024 regarding Petitioner/Grandmother's *Amended Petition for Contempt Re: Grandparent Visitation* filed February 17, 2023 and Petitioner's *Petition to Modify Agreement and Final Order Re: Visitation Entered May 17, 2021* filed April 11, 2024.

Petition for Contempt Re: Grandparent Visitation

Respondent/Father and Grandmother entered into a Rule 69 Agreement beginning on May 1, 2021.

The Agreement provides that Grandmother shall have unsupervised visitation with minor child Mikayla beginning the Friday immediately preceding the first Saturday of every month

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starting at 5:00 p.m. and ending at 7:00 p.m. on Saturday. Grandmother shall have unsupervised visitation with minor child Matthew the first Saturday of every month starting at 9:00 a.m. through 7:00 p.m.

The Agreement further provides that Grandmother shall have not less than 40 video/telephone contacts with the children in any given calendar year, defined as May 1st through April 30th of the following year. The Agreement further provides that Grandmother shall have video/telephone contact with the children every Saturday at 9:00 a.m. that Grandmother does not have in-person visitation, unless a different day and time has been arranged in advance between the parties and memorialized in writing via email. If the video/telephone contact does not take place, the contact shall be rescheduled for the next earliest opportunity that Grandmother and the children are available. Further, the duration of the video/telephone contact may be up to 45 minutes, with the children determining the length of the video/telephone contact. Grandmother shall initiate the video/telephone contact to children and Father shall ensure the phone/device is turned on, available, and audible to the children. The parties further agreed to review the visitation and communication schedule between Grandmother and children no later than January 31, 2024. The Rule 69 Agreement was effective for three years. The parties agreed to review the visitation and communication schedule between Grandmother and the children no later than January 31, 2024.

From May 2021 to January 2023 Father facilitated Grandmother's visitation with the children. On February 3, 2023, Grandmother went to Father's house to pick up the children for her grandparent visitation and the children were not there. Grandmother contacted police. The police spoke with Father on the phone, who informed them that the children were in the Philippines with Mother. Father admitted that he did not provide Grandmother with 7 days' notice as required by the May 17, 2021 Stipulation and Final Order. The police spoke via video chat with Mother and confirmed that she and the children were in the Philippines.

THE COURT FINDS that Father had notice of the May 17, 2021 stipulation providing Grandmother with visitation with the children on the first weekend of every month, video/telephone contact on every Saturday that Grandmother does not have visitation and not less than 40 video/telephone contacts in the calendar year.

THE COURT FURTHER FINDS that Father and/or Mother intentionally withheld the children from Grandmother from on or about February 3, 2023.

THE COURT FURTHER FINDS that because of Father and/or Mother's withholding of the children from Grandmother, Grandmother was unable to exercise her visitation with the children.

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IT IS ORDERED that Grandmother shall be entitled to make-up visitation with the minor children as follows:

- 16 days with Mikayla for weekend visitation
- 10 days with Matthew for weekend visitation
- 50 phone/video calls with the children, with the children determining the length of the video/telephone call

Grandmother's makeup time shall occur wherever the children are living during the time that Grandmother is exercising the makeup-visitation. Grandmother's makeup time shall not interfere with the children's school. Grandmother shall provide 30 days' notice to Mother and Father of her intent to exercise visitation.

Petition to Modify Grandparent Visitation

Father attempted to communicate with Grandmother on February 3, 2023 regarding visitation. In Father's text string with Grandmother, Father states "I have repeatedly offered to talk to you but you won't call." On February 4, 2023, Grandmother texted Father, telling him that "I'm here to pick up Matthew for our court-ordered visit." Father responded, stating that the children "are not here." Father then asked, "Do you want to talk?" Grandmother did not respond. On February 11, 2023, Grandmother texted Father and asked why Father was preventing her access to the children. Father again stated, "You are always welcome to call me."

The Court is concerned by Grandmother's actions regarding the children's move to the Philippines. As noted above, Father offered to speak with Grandmother but Grandmother did not accept the offer. Father also informed Grandmother that the children were in the Philippines with Mother. When Grandmother asked, Father provided texts messages showing the children sightseeing. Nevertheless, Grandmother posted information online that was incorrect and invasive. The information posted on the internet was inflammatory and misleading, and intimated that Mother and Father had unlawfully absconded with the children and the children were in danger. (Ex. B13 and Ex. B15). Also concerning is the video that Father presented during trial, which shows Grandmother slowly driving down Father's street in Kentucky, despite the fact that she is aware that Mother and the children are in the Philippines.

The Court is also concerned with Grandmother's interactions with the children. In reviewing the video, the Court noted that Grandmother made no effort to validate the children's feelings. Specifically, when the older child stated, "We don't want to talk to you," Grandmother responded by stating "Oh, baby, I know that's not you." The child stated twice that she did not want to talk to Grandmother, and the second time she expressed that she did not want to talk to Grandmother, the child's voice showed annoyance. When the child told Grandmother that she did

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not want to talk to her, Grandmother inappropriately laughed. Grandmother addressed the younger child, who also stated, “I don’t want to talk to you.” Rather than asking the children why they did not want to talk to her, Grandmother invalidated the children’s statements. Grandmother showed no desire to understand why the children stated that they did not want to talk to her. Similarly, Grandmother does not honor Father or Mother’s wishes.

IT IS ORDERED that Grandmother shall have one 30-minute telephone or video call with the children every month. Grandmother shall propose six dates and times for these calls. Based on Grandmother’s proposed dates and times, Mother and Father shall choose a day and time for the children to have a phone or video call with Grandmother once each month (e.g. the third Saturday of each month at 3:00 p.m.). Given the time difference between Arizona and the Philippines, in deciding on a time for the children’s call with Grandmother, the parties shall be specific as to whether the call is scheduled in Philippines time or Arizona time.

IT IS FURTHER ORDERED that Mother and/or Father shall ensure that the children are available for the scheduled call.

Notice of Non-Compliance With the April 1, 2024 Minute Entry
and Request for Sanctions

Grandmother filed her *Notice of Non-Compliance with the Minute Entry dated April 1, 2024 and Request for Sanctions* on May 17, 2024. On September 28, 2023, Grandmother issued a *Notice of Deposition to Mother*, scheduling a deposition for October 10, 2023 at 1:00 p.m. Mother failed to attend the deposition. On April 15, 2024, Grandmother issued a new *Notice of Deposition* to Mother for April 19, 2014. On April 22, 2024, Grandmother issued an *Amended Notice of Deposition* to Mother for May 7, 2:30 p.m. Mother failed to appear for her deposition on May 7, 2024.

IT IS ORDERED that Grandmother is entitled to reasonable attorney fees associated with Mother’s failure to appear for the deposition scheduled for October 10, 2023 and the deposition scheduled for May 7, 2024.

All parties representing themselves must keep the Court updated with address changes. A form may be downloaded at: https://superiorcourt.maricopa.gov/llrc/fc_gn9/.