

Q&A By John T. Syrtash, Associate, Garfin Zeidenberg LLP

Answers to pressing questions on Family Law.

Legal rights of grandparents

Question: I was reading the article regarding child access – my son has been a single for a few years now. The court has given my son access to his child every two weeks and on Tuesdays. Due to his work at the time he could not always make Tuesdays but my ex daughter-in-law had called me to pick up my three grandchildren (sometimes they spent weekends with me.) In the past three months she will not answer my phone calls to my grandchildren. It was my grandson’s tenth birthday on Nov 3rd and I was denied a call to him. It is pretty sad when you are unable to see your own grandchildren. How much right does a grandparent have to have access in her grandchildren.

Answer: None. At least not in Ontario according to our Court of Appeal. Ontario courts do not give grandparents special rights of access to children over and above the time you see them when your son is allowed to see them. It is true that any person can attempt to obtain special rights of access in theory under Ontario’s Children’s Law Reform Act so long as the court determines that it is in the child’s “best interests.” But the Court of Appeal has minimized the right of grandparents to have rights in such cases over the past few years to the schedule during which the non-custodial parent already visits the child usually according to his schedule. The Court has defined the child’s “best interests” from the vantage and what circle of persons they wish to build around their child, even if they are “wrong.” (What if grandpa happened to be Osama Bin Laden?) However, if a child has built up a particular strong relationship with a grandparent akin to “primary” or parental type relationship then the court may well take a different view. In such cases, the child’s welfare may then become detrimentally affected if he developed a nurturing bond over a period of time. On that basis, a court may well wish to protect a child but not because he happened to be a “grandparent.” The individual could have been the kid’s uncle who raised him and was suddenly wrenched out.

Question: How do I obtain an Ontario Marriage certificate to remarry if I were divorced outside Canada?

Answer: You will need a legal opinion in a prescribed form written by an Ontario lawyer delivered to the Registrar-General of Ontario. Cost? About \$450-\$750.

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