

What Are Our Rights As Grandparents to See Our Grandchildren?

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My son and his wife had a bitter divorce. We love our grandchildren, but do not like her and she will not let us see our grandchildren without her being present. We want to take the children out on our own without her being around. What can we do?

You can file an application with the Court for grandparent visitation rights. There is a statute in New Jersey that provides grandparents with visitation rights. However, you must be able to show that your grandchildren will be harmed if you are not granted visitation rights with them. Further, the harm has to be something more substantial than the harm that may be caused by children not having a relationship with their grandparents.

For example, such harm was found where after the parties were divorced, the children's mother died and their father refused to allow his children to have a relationship with their maternal grandparents. In this case, the Court held that if the children were denied visitation with their maternal grandparents they would be "destructive psychologically", because their maternal grandparents had an extensive relationship with their grandchildren, and their grandparents served as a linked to their children's mother, to whom they were very bonded and very distressed by her death.

Without knowing more about your situation, it is difficult to determine if such harm exists in your case. In each case, in which grandparents' rights are being established, there are various issues which would need to be explored, for example: (1) the reasoning as to why your former daughter in-law is not allowing you to see your grandchildren; (2) the extent and nature of your relationship with your grandchildren; and (3) you do not mention anything about your son such as, the extent and nature of your relationship with him, and whether or not he has parenting time with his children. If your son does not have parenting time with his children, then the reasoning for this lack of parenting time needs to be explored. If your son does have parenting time with his children, but you cannot see them during his

time, then this needs to be explored as well.

Deciding if you have grandparents' visitation rights under the statute is not an easy determination. It is very fact sensitive. As a result, you should consult with an attorney to determine if you have a basis to file a complaint for grandparents' visitation rights.