



## Just VISITING THE GRANDPARENTS??

By David Melusky

Children's visits with grandparent(s) are something to be remembered forever. Sleep-overs, dinners out, trips to the zoo, longer stays while Mom & Dad get away. Everyone gets along and the children have the benefit of extended family, with experiences they would not have otherwise.

It doesn't always work out that way though. Sometimes parents decide that their children cannot go visit certain grandparents. Parents have a variety of reasons for making decisions in the best interests of their child. As a general rule now, grandparents have no remedy to change a parental decision.

In the event of a divorce or death of one of the parents the legislature has devised a statutory scheme by which a grandparent can ask the Court to enter an enforceable visitation order. It acknowledges that relations between in-laws and parents may be sufficiently strained under these circumstances, wherein parents may be making decisions for reasons that are selfish to them and contrary to the best interests of the children. Under the circumstances of a divorce or death of one of the parents, grandparents do

have the right to file a Petition for Grandparent Visitation, notwithstanding objections of a parent.

Until 2000, the Court's in Colorado would hear both sides of the dispute. In that year, the U.S. Supreme Court addressed this issue in *Troxel v. Granville*, 530, U.S. 37 (on the internet). The Supreme Court asserted that parents have a fundamental liberty interest in the care, custody and control of the children and that it is presumed that they make decisions with regard to their children in their best interest.

Because of *Troxel*, grandparents now have a heavier burden to convince the Court that their opinions should outweigh the parents. The Court would be required to presume that the parent's decisions were sound and in the best interest of the children. If a parent is fit there is generally no reason for the state to involve itself in their decision making.

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