

# Custody & Access

## Access by Extended Family Members

### Activity

Review the summaries of the following grandparent access cases. You can read the entire cases online at the following links:

Goldstrand v. Goldstrand, 2009 MBQB 40 (CanLII), <<http://canlii.ca/t/22mnx>

Anderson v. Enns and Enns, 2012 MBQB 180 (CanLII), <<http://canlii.ca/t/frv5q>

Discuss the differences between the cases and provide reasons why grandparent access was ordered in one case but not the other.

### **Goldstrand v. Goldstrand 2009 MBQB 40 (CanLII)**

The father's parents requested court ordered access to their grandchild and step-grandchild, ages 5 and 12 respectively. The mother opposed access. The father of the step-grandchild did not participate in the court proceedings or take a position about access. The grandparents had fairly regular contact with both grandchildren, even during a trial separation between their son and the mother. The grandparent's son (father of one of the children) committed suicide in 2005 and the grandparents continued to have access for several months afterwards.

The mother and grandparents had a reasonable relationship with some disharmony and the mother blamed the grandparents for rumours in The Pas that she was to blame for their son's death. The grandparents denied being involved in spreading these rumours. The mother decided to end the relationship between her children and the grandparents and she moved from The Pas to Winnipeg. At the time of the court hearing, the grandparents had not seen their grandchildren for three years.

The court reviewed the sections of *The Child and Family Services Act*. As this was the first court case involving the sections of the Act dealing with grandparent access there were no previous cases to consider. The court confirmed that the onus was on the grandparents to prove that on the balance of probabilities it was in the best interests of the grandchildren to allow the access. The court found that the mother's decision to unilaterally discontinue access with the grandparents was not in the best interests of the children. The court held that the biological grandchild was entitled to know the family his father came from and to get to know his paternal grandparents. Access was ordered ten times per year gradually increasing from four hours to at least 8 hours at a time. The step-grandchild was allowed to participate during these access times if he chose to do so. The grandparents were also allowed to send gifts and cards to the grandchildren

on special occasions. Telephone and e-mail communication was allowed at least once a month and access could be increased after one year to overnight access.

**Anderson v. Enns and Enns 2012 MBQB 180 (CanLII)**

A grandmother (Anderson) applied for access to her 4 and 12 year old grandchildren. The mother opposed the application for access. One father opposed access and the other father did not respond to the court proceedings. Anderson did not raise her own daughter. The mother was raised by Anderson's parents in a different community with regular access with Anderson. The mother got married at 18 and along with her husband moved in with Anderson when they had their first child. The parents of the grandchild separated when he was six years old and the grandchild lived with Anderson for the summer before moving back in with the mother and her new partner. The new couple had the second grandchild soon after that.

The court noted that the relationship between Anderson and her daughter had not been particularly close and that there were several periods without any contact. There was also some involvement by Child and Family Services. The court felt that court ordered grandparent access would threaten the stability of the mother and her children and found that access was not in the children's best interests. The court considered the testimony of the parties and the focused assessment report, which included the wishes of the 12 year-old grandchild not to have access with the grandmother.