



by Anita Gumm, Esq.

GRANDPARENTS' RIGHTS

One of the most recent and difficult issues for the courts to decide today is grandparent visitation. Does a grandparent have legal rights to visit his or her grandchildren? Yes, but the grandparent must jump through legal hoops to prove to the court that it is in the grandchildren's best interests to have visitation with their grandparents.

Before filing a lawsuit, the grandparent should first try to settle the conflict outside of court action for several reasons: a lawsuit is expensive and can damage family relationships. Communication between family members should remain open at all times, if possible. If the parties stop talking than it may be time for the grandparents to see an attorney.

An attorney can mediate the family problems to try and resolve visitation issues or recommend a family counselor who may be better equipped to solve family conflicts and ultimately visitation with the grandchildren. The attorney can write a letter requesting specific times and places for visitation with the grandchildren at a neutral meeting place to prevent further conflict. The letter to the non-cooperative parent may wake him or her up to the reality that the grandparent is serious about taking legal action to get visitation.

If the attorney's letter does not work with the non-cooperative parent, then the grandparent has

two avenues by which they may be granted visitation rights: (1) joinder in custody proceeding between the parents or (2) the grandparent's independent petition with the court. The court "may" grant reasonable visitation to a grandparent of a minor child provided the court determines grandparent visitation is in the child's best interest. The grandparent seeking visitation must give notice to each of the child's parents, any stepparent, and any person who has physical custody of the child. However, if both parents agree that visitation is not in the child's best interest, the grandparent will have a more difficult time convincing a court that they should be granted visitation with their grandchildren.

Anita Gumm is an attorney who practices family law, bankruptcy and criminal defense. The law offices of Gumm & Green is located at 5743 Corsa Avenue, Suite 223 in Westlake Village. Her phone number is (818) 707-4233 or (805) 577-7657.

