



New London County Bar Association

# BENCH/BAR CLE PROGRAM

## Family, Probate and Juvenile

Procedures and protocols when there are cases  
which overlap and the best practices to unravel  
those complications, with Q&A session  
(2.0 credits)



Thursday, October 5, 2023



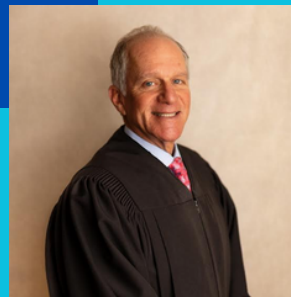
70 Huntington St., New London  
Courtroom 1



3:00 p.m. - 5:00 p.m.

**Registration:**  
**[newlondoncba@nlcba.org](mailto:newlondoncba@nlcba.org)**

**Join us after the program  
for happy hour at Tony D's!**



**Panelist**

Hon. Kenneth Shluger  
Family Court



**Panelist**

Hon. Mathew  
Greene  
Probate Court



**Panelist**

Hon. Barbara  
Hoffman  
Juvenile Court



**Moderator**

Attorney  
Paige Quilliam  
Gould.Larson.Bennet.  
McDonnell.Quilliam.Tukey



**Moderator**

Attorney  
Jonathan Lane  
Mariani Reck Lane, LLC

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### Hon. Mathew H. Greene

Judge Mathew H. Greene has served as Judge of Probate for the District of New London since 1992. He also formerly served as the Administrative Judge for the New London Regional Children's Probate Court, where he continues to hear cases. Judge Greene is a graduate of New London High School and obtained a Bachelor of Science in Business Administration degree from Bryant College in May of 1982. He received his law degree from University of Bridgeport School of Law, Juris Doctorate, December 1989.

Judge Greene is admitted to practice law in Connecticut. He is an attorney in general practice with Mueller Greene, Attorneys at Law, in New London. He was the General Counsel from 1998-2005 for the New London Development Corporation. He is an IAABO Eastern Board 8 Basketball Official and created the organization "ALS Soccer Cup Inc." which donates to families affected by ALS (Lou Gehrig's Disease).

**Hon. Barbara Hoffman**

Judge Hoffman's undergraduate degree is from Franciscan University, Steubenville, Ohio and law school is Regent University, Virginia Beach, Virginia. She was a prosecutor in Middletown for 32 years. She was appointed the Supervisor of the G.A. in 2011. She handled motor vehicle and criminal matters and all of the sexual assault cases in the G. A. and some Part A sexual assault cases. Since taking the bench in 2018, she has been continuously assigned to Juvenile and Child Protection Matters.



## **JUDGE KENNETH SHLUGER**

Kenneth Shluger was appointed a judge of the Superior Court in 2004. Since that time, he has had assignments in Criminal and Civil but most frequently in the Family Court, currently sitting in the New London Judicial District as a Senior Judge. Prior to his appointment, he had a general trial practice in Hartford and Glastonbury. He is a graduate of the University of Connecticut and the University of the Connecticut School of Law.

Judge Shluger continues to be active in bar association activities having chaired numerous committees and task forces including CBA Standing Committee on Professionalism, the CBA Statewide Mentoring Task Force, the CBA Task Force on the Future of Legal Education and the Hartford County Bar Bench Bar Committee. He has been an adjunct professor at Eastern Connecticut State University and has served on the boards of numerous civic organizations including the Hartford Marathon Foundation and the Niantic Bay Sailing Academy, currently serving as its President.

He frequently speaks to civic organizations, in schools and at bar association programs. For many years he has coached teams in statewide Mock Trial competitions.

**PROTOCOL FOR EFFICIENT AND CONSISTENT HANDLING OF  
MATTERS WHERE FAMILY AND JUVENILE COURTS HAVE  
CONCURRENT JURISDICTION**

1. Any party in family and juvenile cases who filed any action or motion that affects custody or visitation of a child shall be required to sign a custody affidavit that requests information on any pending OR pre-existing orders in any other court, including probate, in Connecticut or any other state affecting custody, guardianship or visitation of the child.
2. If a custody affidavit indicates there is a pending custody or visitation action, or a pre-existing custody or visitation order with respect to any child, the clerk of the court shall make an effort to locate and confirm the nature of such orders and provide such information to the court.
3. When a family judge hearing any action involving custody or visitation issues a "bench" order of temporary custody to the department of children and families, and the department of children and families, attorney or guardian ad litem for the child subsequently files a neglect or uncared for petition in the juvenile court, the family and juvenile court judges shall confer and determine whether to consolidate the custody/visitation issues for trial or stay the family proceeding pending disposition of the juvenile case. Any family judge issuing "bench" order of temporary custody should clearly indicate on the record the basis for such order.
4. When a family judge or family support magistrate hearing any action that seeks the initial establishment of custody or visitation orders is informed that a neglect, uncared for, abuse or termination of parental rights petition is pending in the juvenile court, orders in the family case, if any, shall be stayed pending the outcome of the juvenile petition.
5. When a juvenile judge hearing a neglect, uncared for, abuse or termination of parental rights petition is informed of the pendency of a case or the existence of prior Connecticut orders affecting the child in family court, the juvenile judge shall confer with the family judge or family support magistrate and determine whether to (1) stay the pending family proceeding pending the outcome of the juvenile case, or (2) consolidate both cases in either the family or the juvenile court if the custody/visitation issues are closely related to insure that final orders regarding custody and/or visitation are consistent. Files transferred to either court for a consolidated hearing will be returned to the court where the action initiated, with appropriate orders, upon conclusion of the hearing.
6. Whenever a family violence restraining order exists, the juvenile judge will not issue any orders that conflict with the restraining order or modify the restraining order until the juvenile judge has conferred with the judge in the family court that issued it.
7. All actions for child support orders shall be filed, determined and enforced in family court.

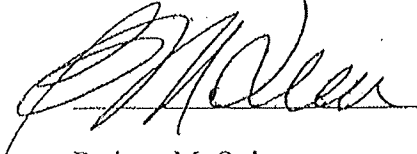
8. Family judges, family support magistrates and juvenile judges will share information in closed or pending court files with one another if necessary for the performance of their duties subject to the confidentiality provisions of the general statutes and the Practice Book.

10. Any motion filed in family court which seeks to modify an award of custody or guardianship granted in the juvenile court shall be referred to the juvenile court. Any motion seeking visitation from a custodian or guardian appointed by the juvenile court shall be heard in family court unless the juvenile court specifically indicated intent to retain jurisdiction of visitation issues at the time it granted custody or guardianship.

11. The originals of any paternity acknowledgments executed in juvenile court and copies of paternity adjudications by the juvenile court shall be filed with the paternity registry at the Department of Public Health.

This protocol is effective upon signing.

Chief Court Administrator

 August 14, 2012

Barbara M. Quinn

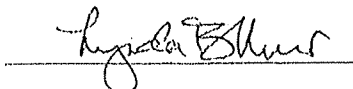
Chief Administrative Judge-Juvenile Matters

 August 20, 2012

Christine E. Keller

Chief Administrative Judge- Family Matters

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 August 8, 2012

Lynda B. Munro

**Protocol for Overlapping Jurisdiction in Children's Matters  
Between Superior Court-Family Division and Probate Court**

The undersigned parties agree as follows:

Section 1. Definitions. For purposes hereof the following terms shall have the meanings stated herein unless otherwise provided:

- (a) "Superior Court" shall mean the family division of the Connecticut superior court.
- (b) "Probate Court" shall mean the court of a probate district of the State of Connecticut or a Regional Children's Probate Court.
- (c) "Court" shall include the Superior Court and the Probate Court as herein defined.
- (d) "Order" shall mean a Custody Order or a Visitation Order.
- (e) "Custody Order" shall mean an order, decision, judgment or decree of a Court, whether temporary or final, concerning custody, guardianship, or parental rights as to a minor child.
- (f) "Visitation Order" shall mean an order, decision, judgment or decree of a Court, whether temporary or final, concerning visitation or access time with a minor child.
- (g) "Children's Matter" shall mean a case in which a Court has made, or has been requested to make, an Order.
- (h) "Judgment" shall mean a final Order of a Court in a Children's Matter, including but not limited to the following:
  - I. A Superior Court judgment of dissolution of marriage, legal separation, or annulment which includes orders regarding custody or visitation of a minor child;
  - II. A Superior Court judgment upon a complaint for custody or visitation.
  - III. A Probate Court decree granting or denying a Guardianship Application; and
  - IV. A Probate Court decree granting or denying a Termination Application.
- (i) "Custody Application" shall mean a petition, application, complaint, or motion filed in Superior Court seeking a Custody Order (including the modification of an existing Custody Order.)<sup>1</sup>
- (j) "Guardianship Application" shall mean an application filed in Probate Court seeking the removal of one or both parents or another person as guardian of a

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<sup>1</sup> A Custody Application may seek relief in addition to Custody Orders, such as a complaint for dissolution of marriage which also seeks orders as to the custody of children of the marriage.

minor child, and shall include an application seeking the appointment of a guardian, co-guardian or permanent guardian.

- (k) "Termination Application" shall mean an application filed in Probate Court seeking the termination of the parental rights of one or both parents of a minor child.
- (l) "Visitation Application" shall mean a petition, application, complaint, or motion filed in either Court seeking a Visitation Order (including the modification of an existing Visitation Order).
- (m) "Pending": an Application is Pending when it has been filed but not yet granted, denied, dismissed, withdrawn, or become stale by lapse of time under any applicable statute or rule.
- (n) "Prejudgment": a case in which Judgment has not entered.
- (o) "Postjudgment": a case in which Judgment has already entered.

Section 2. Guidelines for Specific Situations. Upon becoming aware that matters are pending in more than one Court concerning the same child, a Court may be guided by this Protocol. Subject to the other provisions hereof, the following shall be considered appropriate courses of action for each Court in the situations described. Unless otherwise indicated, the prescribed action shall be applicable regardless of which Application was filed first.<sup>2</sup>

- (a) ***Probate Termination Application, Prejudgment.*** If there is a Pending Termination Application in a Prejudgment Probate Court case, and in Superior Court there is:
  - i. A Pending Custody Application, then the Probate Court may proceed and the Superior Court should defer action pending the Probate Court decision;
  - ii. A Pending Visitation Application by a person with standing to seek visitation in the Probate Court and who does not have rights of visitation under any currently effective Superior Court Order, then the Probate Court may proceed and the Superior Court should defer action pending the Probate Court decision and without prejudice to the right of such person to seek a Visitation Order in Probate Court;

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<sup>2</sup> However, the sequence of filing may be a factor in considering whether a petition may have been filed frivolously or for purposes of delay. See Section 3(e).

- iii. A Pending Visitation Application by a person without standing to seek visitation in Probate Court, then both Courts may proceed;
- iv. A Pending Visitation Application concerning a currently effective Visitation Order , then both Courts may proceed; or
- v. No Pending Application, then the Probate Court may proceed even if there are currently effective Superior Court Orders.

(b) ***Probate Termination Application, Postjudgment.*** If there has been a Judgment in Probate Court terminating the parental rights of a parent, and in Superior Court there is

- i. A Pending Custody Application filed by the terminated parent, then Superior Court should dismiss said Application; or
- ii. A Pending Visitation Application filed by the terminated parent, then Superior Court should dismiss said Application except that the Superior Court should proceed if the terminated parent filed the Visitation Application pursuant to General Statutes § 46b-59; or
- iii. A Pending Visitation Application filed pursuant to General Statutes § 46b-59 by any person, including the terminated parent, then Superior Court may proceed.

(c) ***Probate Guardianship Application, Prejudgment.*** If there is a Pending Guardianship Application in a Prejudgment Probate Court case, and in Superior Court there is

- i. A Pending Custody Application, then the Probate Court may proceed and the Superior Court should defer action pending the Probate Court decision;
- ii. A Pending Visitation Application by a person with standing to seek visitation in the Probate Court and who does not have rights of visitation under any currently effective Superior Court Order, then the Probate Court may proceed and the Superior Court should defer action pending the Probate Court decision and without prejudice to the right of such person to seek a Visitation Order in Probate Court;
- iii. A Pending Visitation Application by a person without standing to seek visitation in Probate Court, then both Courts may proceed;
- iv. A Pending Visitation Application concerning a currently effective Visitation Order , then both Courts may proceed; or

- v. No Pending Application, then the Probate Court may proceed even if there are currently effective Superior Court Orders.
- (d) **Probate Guardianship Application, Postjudgment.** If there is a Judgment in Probate Court removing one parent as guardian and confirming the other parent as sole guardian or removing the parent(s) as guardian(s) and appointing a third party as guardian, and in Superior Court there is
- i. A Pending Custody Application filed by the removed parent, the Superior Court should dismiss said Application or defer action on it pending reinstatement of said parent as guardian by the Probate Court; or
  - ii. A Pending Visitation Application filed by the removed parent, the Superior Court should dismiss said Application or defer action on it pending reinstatement of said parent as guardian by the Probate Court, except that the Superior Court should proceed if the removed parent filed the Visitation Application pursuant to General Statutes § 46b-59; or
  - iii. A Pending Visitation Application filed pursuant to General Statutes § 46b-59 by any person, including the removed parent or guardian then the Superior Court may proceed.
- (e) **Probate Visitation Application.** If there is a Pending Visitation Application in a Probate Court case in which there is an underlying Termination Application or Guardianship Application, and in Superior Court there is also a Pending Visitation Application, then the Probate Court may proceed with its Visitation Application and the Superior Court should dismiss or defer action unless the Superior Court Visitation Application:
- i. concerns an existing Superior Court Visitation Order; or
  - ii. was filed pursuant to General Statutes § 46b-59; or
  - iii. was filed by a person who lacks standing to seek visitation in the Probate Court.

Section 3. General Principles. In addition to the provisions for specific situations, the following additional provisions shall apply.


- (a) Notwithstanding anything contained herein, the Probate Court shall make no Visitation Order which conflicts with a currently effective Superior Court Visitation Order.
- (b) Where the provisions hereof allow the Superior Court to proceed on a Visitation Application filed pursuant to General Statutes § 46b-59, the

applicant must still demonstrate the elements required with respect to such Application under applicable statutes and case law.

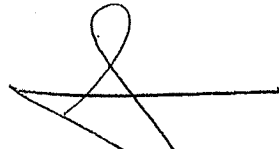
- (c) A temporary guardian appointed by the Probate Court in accordance with C.G.S section 45a-622 is not entitled to become, solely by virtue of said appointment, a party in a custody matter in the Superior Court between the parents, and is bound by an order of that court to the same extent as the appointing parent. However, a temporary guardian shall not be precluded from filing a motion to intervene in a Superior Court custody matter, or from filing a petition for visitation in Superior Court, subject to the same requirement of pleading and proving a parent-like relationship with the child as would apply to any non-parent movant or petitioner.
- (d) Each Court may take judicial notice of the relevant file and orders of the other Court in the manner and to the extent permitted by law. The Superior Court should do so in a manner which gives due consideration to the confidentiality of Probate Court records, including consideration of an order to seal any exhibits which consist of orders or records of the Probate Court.
- (e) Notwithstanding any provision herein, in its discretion either Court may decide to alter the usual protocol after considering any appropriate factors including but not limited the following:
  - i. Whether a Pending Application in Superior Court seeks relief in addition to Custody or Visitation Orders, such as a dissolution of marriage or orders of financial support, that can be heard only in Superior Court.
  - ii. Whether the respective applications seek conflicting relief.
  - iii. Whether one Court has pertinent information or evidence at its disposal which is not as readily available to the other Court, such as a report from the Department of Children and Families that is statutorily admissible into evidence in Probate Court.
  - iv. A Court's determination that an Application may have been filed frivolously or for purposes of forum shopping or delaying action in another Court.
- (f) When either Court becomes aware that matters are pending in more than one Court concerning the same child, the Courts may communicate with each other as follows:
  - i. The Courts may exchange information about the procedural status of the case, scheduling matters, and orders that have been entered, without making a record and without informing the parties of the communication.



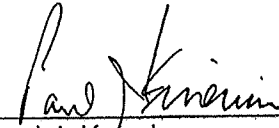
ii. If the judges of the respective Courts wish to confer about the appropriate method of proceeding in view of the nature of the case, and the specific allegations made and relief sought by the parties, they should do so in a manner which gives all due consideration to the confidentiality of Probate Court records and proceedings and any applicable due process rights of the parties to notice and a right to participate in such conference, and in a manner consistent with Rule 2.9(c) of the Code of Judicial Conduct. Subject to the requirement of confidentiality of Probate Court records and proceedings and any applicable rules of the Superior Court regarding confidentiality, each Court shall make an audio or stenographic recording of such conference and the parties shall have access to such recording.

  
\_\_\_\_\_  
Hon. Patrick L. Carroll, III  
Chief Court Administrator

9-21-16  
Date

  
\_\_\_\_\_  
Hon. Elizabeth Bozzuto  
Chief Administrative Judge  
Superior Court Family Division

9/22/16  
Date

  
\_\_\_\_\_  
Hon. Paul J. Knerim  
Probate Court Administrator

9-27-16  
Date

**QUICK REFERENCE GUIDE FOR SUPERIOR COURT JUDGES TO THE  
PROTOCOL ON OVERLAPPING JURISDICTION BETWEEN FAMILY AND  
PROBATE COURTS**

The goal of the Protocol is to provide guidance to both courts in as many specific scenarios as possible. As a result, it encompasses a myriad of factual situations which might confront a judge of either court.

The Protocol includes definitional sections and general principles which may apply in any situation. However, the following table is designed to direct a Superior Court judge in a family case to the Section of the Protocol that pertains to the particular case before him or her. Once directed to a Section the judge should determine which of the subsections therein applies most closely to the situation at hand.

<b>If you have a custody, dissolution of marriage with minor children, or visitation proceeding in Family Court, and</b>	
<b>the following Probate court Proceeding about the same child/ren exists:</b>	<b>then refer to the following section of the Protocol:</b>
A pending application for termination of parental rights	Section 2(a)
An application for termination of parental rights that has gone to judgment	Section 2(b)
A pending guardianship application	Section 2(c)
A guardianship application that has gone to judgment	Section 2(d)
A visitation application in a termination of parental rights or guardianship matter	Section 2(e)
A pending or granted application for appointment of a "temporary guardian" per CGS §45a-622	Section 3(c)

# REGIONAL CHILDREN'S PROBATE COURTS

C.G.S. §45a-8a



# Regional Children's Courts

- 6 RCPC's around state
- In addition to the 54 probate districts
- Collaborative effort of participating probate courts
- Judge of each participating district is a judge of the children's court
- RCPC staff specialize in children's matters



# Family Specialists

- Family Specialists are unique to children's courts
- Social work professionals (many are LMFTs)
  - Conduct family conferences
  - Assess family situation
  - Seek agreement re plan for child
  - Connect family with available services
  - Co-ordinate with DCF
  - File report and make recommendation to court
- C.G.S. §45a-8d



# REMOVAL OF PARENT AS GUARDIAN

C.G.S. §§45a-603 to 45a-625



# Filing

## C.G.S. §45a-614

- Removal petition may be filed by:
  - Any adult relative of child
  - A person with actual physical custody of child
  - Counsel for the child
- Petition filed in probate district where minor
  - Resides
  - Is domiciled, **or**
  - Is located at the time
- Petition / Removal of Guardian, PC-500



# Temporary Custody

## C.G.S. §45a-607

- Temporary custody petition cannot stand alone
  - Pending removal or termination
- Hearing required
  - Grounds found in C.G.S. §45a-610
  - Standard is preponderance of evidence
- Authority of temporary custodian
  - C.G.S. §45a-608
- Effective until removal or termination is decided, unless sooner modified or terminated by court
- Petition/Temporary Custody, PC-502



# Immediate Temporary Custody

C.G.S. §45a-607(b)

- Court may appoint *ex parte* if:
  - Child not taken or kept from parent and
  - Substantial likelihood child will be removed from jurisdiction
  - To return to parent would risk serious physical illness or injury or imminent physical danger
- If granted, hearing required within 5 days
- Petition/Immediate Temporary Custody, PC-501



# DCF Investigation

## C.G.S. §45a-619

- Court requests DCF to investigate and report
  - Mandatory if allegations of abuse / neglect
  - Otherwise required unless waived for cause shown
- To be completed within 90 days
- Report admissible in evidence
  - DCF worker may be called as witness and examined



# Removal Hearing

- To be held within 30 days of receipt of DCF report
- Following hearing court may remove parent upon finding one or more grounds
  - C.G.S. §45a-610
- Standard is clear and convincing evidence
- If only one parent removed, other is sole guardian
- If both parents removed, court may appoint another person as guardian



# Reinstatement

## C.G.S. §45a-611

- Removed parent may apply to court that removed for reinstatement
- After hearing court may reinstate if it finds that factors that caused removal have been satisfactorily resolved



# TERMINATION OF PARENTAL RIGHTS

C.G.S. §§45a-706 to 45a-719



# Filing

## PC-600

- Filed by:
  - Parent
  - Guardian
  - Relative if parents abandoned
  - Child-placing agency
  - DCF
- Filed in probate district where
  - Petitioner resides, or
  - Child resides, is domiciled or located at time



# DCF Investigation

## C.G.S. §45a-717(e)

- Court requests DCF to investigate and report
  - Mandatory if matter is contested
  - Otherwise discretionary
- To be completed in 90 days
- Report admissible in evidence
  - DCF worker may be called as witness and examined



# Hearing

- To be set within 30 days of filing or if requested, within 30 days of filing of DCF report
- Grounds for termination
  - C.G.S. §45a-717(g)
  - Court must find at least one ground
  - Must also find TPR in child's best interests
- Clear and convincing evidence required



# Post-TPR

- Any parent remaining after TPR is sole guardian of person
- If there is a court-appointed guardian, that person is sole guardian of person
- If the child has no guardian the court may appoint one
- If no remaining parents and adoption is contemplated, court may appoint statutory parent
  - C.G.S. §45a-718



# SPECIAL IMMIGRANT JUVENILE STATUS (“SIJS”)

C.G.S. §§45a-608n to 45a-608o



# Special Immigrant Juvenile Status (“SIJS”)

- Status created under federal immigration law for foreign-born child present in U.S. and in need of protection due to abuse, neglect or abandonment
- Requires certain findings by a state Juvenile or Probate Court on which child is “dependent”
- C.G.S. §§45a-608n to 45a-608o
- Petition/Special Immigrant Juvenile Findings under 8 USC 1101, PC-609



# SIJS

- A child is “dependent” on Probate Court for this purpose if court has:
  - Removed one or both parents
  - Appointed a guardian
  - Terminated parental rights of one or both parents
  - Approved an adoption



# SIJS Findings

- Findings include:
  - age and marital status of child
  - whether the child is dependent on court
  - whether reunification with one or both parents not viable due to statutory grounds other than consent
  - whether return to other country would be contrary to child's best interest
- Findings may be made at the time of removal, termination or adoption decree or later

## SELECTED FAMILY LAW STATUTES

**Sec. 46b-1. Family relations matters and domestic violence defined.** (a) Matters within the jurisdiction of the Superior Court deemed to be family relations matters shall be matters affecting or involving: (1) Dissolution of marriage, contested and uncontested, except dissolution upon conviction of crime as provided in section 46b-48; (2) legal separation; (3) annulment of marriage; (4) alimony, support, custody and change of name incident to dissolution of marriage, legal separation and annulment; (5) actions brought under section 46b-15; (6) complaints for change of name; (7) civil support obligations; (8) habeas corpus and other proceedings to determine the custody and visitation of children; (9) habeas corpus brought by or on behalf of any mentally ill person except a person charged with a criminal offense; (10) appointment of a commission to inquire whether a person is wrongfully confined as provided by section 17a-523; (11) juvenile matters as provided in section 46b-121; (12) all rights and remedies provided for in chapter 815j; (13) the establishing of parentage; (14) appeals from probate concerning: (A) Adoption or termination of parental rights; (B) appointment and removal of guardians; (C) custody of a minor child; (D) appointment and removal of conservators; (E) orders for custody of any child; and (F) orders of commitment of persons to public and private institutions and to other appropriate facilities as provided by statute; (15) actions related to prenuptial and separation agreements and to matrimonial and civil union decrees of a foreign jurisdiction; (16) dissolution, legal separation or annulment of a civil union performed in a foreign jurisdiction; (17) custody proceedings brought under the provisions of chapter 815p; and (18) all such other matters within the jurisdiction of the Superior Court concerning children or family relations as may be determined by the judges of said court.

(b) As used in this title, "domestic violence" means: (1) A continuous threat of present physical pain or physical injury against a family or household member, as defined in section 46b-38a; (2) stalking, including, but not limited to, stalking as described in section 53a-181d, of such family or household member; (3) a pattern of threatening, including, but not limited to, a pattern of threatening as described in section 53a-62, of such family or household member or a third party that intimidates such family or household member; or (4) coercive control of such family or household member, which is a pattern of behavior that in purpose or effect unreasonably interferes with a person's free will and personal liberty. "Coercive control" includes, but is not limited to, unreasonably engaging in any of the following:

(A) Isolating the family or household member from friends, relatives or other sources of support;

(B) Depriving the family or household member of basic necessities;

(C) Controlling, regulating or monitoring the family or household member's movements, communications, daily behavior, finances, economic resources or access to services;

(D) Compelling the family or household member by force, threat or intimidation, including, but not limited to, threats based on actual or suspected immigration status, to (i) engage in conduct from which such family or household member has a right to abstain, or (ii) abstain from conduct that such family or household member has a right to pursue;

(E) Committing or threatening to commit cruelty to animals that intimidates the family or household member; or

(F) Forced sex acts, or threats of a sexual nature, including, but not limited to, threatened acts of sexual conduct, threats based on a person's sexuality or threats to release sexual images.

**Sec. 46b-54. Appointment of counsel or guardian ad litem for a minor child. Duties. Best interests of the child.** (a) The court may appoint counsel or a guardian ad litem for any minor child or children of either or both parties at any time after the return day of a complaint under section 46b-45, if the court deems it to be in the best interests of the child or children. The court may appoint counsel or a guardian ad litem on its own motion, or at the request of either of the parties or of the legal guardian of any child or at the request of any child who is of sufficient age and capable of making an intelligent request.

(b) Counsel or a guardian ad litem for the minor child or children may also be appointed on the motion of the court or on the request of any person enumerated in subsection (a) of this section in any case before the court when the court finds that the custody, care, education, visitation or support of a minor child is in actual controversy, provided the court may make any order regarding a matter in controversy prior to the appointment of counsel or a guardian ad litem where it finds immediate action necessary in the best interests of any child.

(c) In the absence of an agreement of the parties to the appointment of counsel or a guardian ad litem for a minor child in the parties' matter and a canvassing by the court

concerning the terms of such agreement, the court shall only appoint such counsel or guardian ad litem under this section when, in the court's discretion, reasonable options and efforts to resolve a dispute of the parties concerning the custody, care, education, visitation or support of a minor child have been made.

(d) If the court deems the appointment of counsel or a guardian ad litem for any minor child or children to be in the best interests of the child or children, such appointment shall be made in accordance with the provisions of section 46b-12.

(e) Counsel or a guardian ad litem for the minor child or children shall be heard on all matters pertaining to the interests of any child, including the custody, care, support, education and visitation of the child, so long as the court deems such representation to be in the best interests of the child. To the extent practicable, when hearing from such counsel or guardian ad litem, the court shall permit such counsel or guardian ad litem to participate at the beginning of the matter, at the conclusion of the matter or at such other time the court deems appropriate so as to minimize legal fees incurred by the parties due to the participation of such counsel or guardian ad litem in the matter. Such counsel or guardian ad litem may be heard on a matter pertaining to a medical diagnosis or conclusion concerning a minor child made by a health care professional treating such child when (1) such counsel or guardian ad litem is in possession of a medical record or report of the treating health care professional that indicates or supports such medical diagnosis or conclusion; or (2) one or more parties have refused to cooperate in paying for or obtaining a medical record or report that contains the treating health care professional's medical diagnosis or conclusion. If the court deems it to be in the best interests of the minor child, such health care professional shall be heard on matters pertaining to the interests of any such child, including the custody, care, support, education and visitation of such child.

(f) When recommending the entry of any order as provided in subsections (a) and (b) of section 46b-56, counsel or a guardian ad litem for the minor child shall consider the best interests of the child, and in doing so shall consider, but not be limited to, one or more of the following factors: (1) The physical and emotional safety of the child; (2) the temperament and developmental needs of the child; (3) the capacity and the disposition of the parents to understand and meet the needs of the child; (4) any relevant and material information obtained from the child, including the informed preferences of the child; (5) the wishes of the child's parents as to custody; (6) the past and current interaction and relationship of the child with each parent, the child's siblings and any other person who may significantly affect the best interests of the child; (7) the willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship between the child and the other parent as is appropriate, including compliance with any court orders; (8) any manipulation by or coercive behavior of the parents in an effort to involve the child in the parents' dispute; (9) the



ability of each parent to be actively involved in the life of the child; (10) the child's adjustment to his or her home, school and community environments; (11) the length of time that the child has lived in a stable and satisfactory environment and the desirability of maintaining continuity in such environment, provided counsel or a guardian ad litem for the minor child may consider favorably a parent who voluntarily leaves the child's family home pendente lite in order to alleviate stress in the household; (12) the stability of the child's existing or proposed residences, or both; (13) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, shall not be determinative of custody unless the proposed custodial arrangement is not in the best interests of the child; (14) the child's cultural background; (15) the effect on the child of the actions of an abuser, if any domestic violence, as defined in section 46b-1, has occurred between the parents or between a parent and another individual or the child; (16) whether the child or a sibling of the child has been abused or neglected, as defined respectively in section 46b-120; and (17) whether a party satisfactorily completed participation in a parenting education program established pursuant to section 46b-69b. Counsel or a guardian ad litem for the minor child shall not be required to assign any weight to any of the factors considered.

**Sec. 46b-56. Orders re custody, care, education, visitation and support of children. Best interests of the child. Access to records of minor child by noncustodial parent. Orders re therapy, counseling and drug or alcohol screening.** (a) In any controversy before the Superior Court as to the custody or care of minor children, and at any time after the return day of any complaint under section 46b-45, the court may make or modify any proper order regarding the custody, care, education, visitation and support of the children if it has jurisdiction under the provisions of chapter 815p. Subject to the provisions of section 46b-56a, the court may assign parental responsibility for raising the child to the parents jointly, or may award custody to either parent or to a third party, according to its best judgment upon the facts of the case and subject to such conditions and limitations as it deems equitable. The court may also make any order granting the right of visitation of any child to a third party to the action, including, but not limited to, grandparents.

(b) In making or modifying any order as provided in subsection (a) of this section, the rights and responsibilities of both parents shall be considered and the court shall enter orders accordingly that serve the best interests of the child and provide the child with the active and consistent involvement of both parents commensurate with their abilities and interests. Such orders may include, but shall not be limited to: (1) Approval of a parental responsibility plan agreed to by the parents pursuant to section 46b-56a; (2) the award of joint parental responsibility of a minor child to both parents, which shall include (A) provisions for residential arrangements with each parent in accordance with the needs of the child and the parents, and (B) provisions for consultation between

the parents and for the making of major decisions regarding the child's health, education and religious upbringing; (3) the award of sole custody to one parent with appropriate parenting time for the noncustodial parent where sole custody is in the best interests of the child; or (4) any other custody arrangements as the court may determine to be in the best interests of the child.

(c) In making or modifying any order as provided in subsections (a) and (b) of this section, the court shall consider the best interests of the child, and in doing so, may consider, but shall not be limited to, one or more of the following factors: (1) The physical and emotional safety of the child; (2) the temperament and developmental needs of the child; (3) the capacity and the disposition of the parents to understand and meet the needs of the child; (4) any relevant and material information obtained from the child, including the informed preferences of the child; (5) the wishes of the child's parents as to custody; (6) the past and current interaction and relationship of the child with each parent, the child's siblings and any other person who may significantly affect the best interests of the child; (7) the willingness and ability of each parent to facilitate and encourage such continuing parent-child relationship between the child and the other parent as is appropriate, including compliance with any court orders; (8) any manipulation by or coercive behavior of the parents in an effort to involve the child in the parents' dispute; (9) the ability of each parent to be actively involved in the life of the child; (10) the child's adjustment to his or her home, school and community environments; (11) the length of time that the child has lived in a stable and satisfactory environment and the desirability of maintaining continuity in such environment, provided the court may consider favorably a parent who voluntarily leaves the child's family home pendente lite in order to alleviate stress in the household; (12) the stability of the child's existing or proposed residences, or both; (13) the mental and physical health of all individuals involved, except that a disability of a proposed custodial parent or other party, in and of itself, shall not be determinative of custody unless the proposed custodial arrangement is not in the best interests of the child; (14) the child's cultural background; (15) the effect on the child of the actions of an abuser, if any domestic violence, as defined in section 46b-1, has occurred between the parents or between a parent and another individual or the child; (16) whether the child or a sibling of the child has been abused or neglected, as defined respectively in section 46b-120; and (17) whether the party satisfactorily completed participation in a parenting education program established pursuant to section 46b-69b. The court is not required to assign any weight to any of the factors that it considers, but shall articulate the basis for its decision.

(d) Upon the issuance of any order assigning custody of the child to the Commissioner of Children and Families, or not later than sixty days after the issuance of such order, the court shall make a determination whether the Department of Children and Families made reasonable efforts to keep the child with his or her parents prior to

the issuance of such order and, if such efforts were not made, whether such reasonable efforts were not possible, taking into consideration the best interests of the child, including the child's health and safety.

(e) In determining whether a child is in need of support and, if in need, the respective abilities of the parents to provide support, the court shall take into consideration all the factors enumerated in section 46b-84.

(f) When the court is not sitting, any judge of the court may make any order in the cause which the court might make under this section, including orders of injunction, prior to any action in the cause by the court.

(g) A parent not granted custody of a minor child shall not be denied the right of access to the academic, medical, hospital or other health records of such minor child, unless otherwise ordered by the court for good cause shown.

(h) Notwithstanding the provisions of subsections (b) and (c) of this section, when a motion for modification of custody or visitation is pending before the court or has been decided by the court and the investigation ordered by the court pursuant to section 46b-6 recommends psychiatric or psychological therapy for a child, and such therapy would, in the court's opinion, be in the best interests of the child and aid the child's response to a modification, the court may order such therapy and reserve judgment on the motion for modification.

(i) As part of a decision concerning custody or visitation, the court may order either parent or both of the parents and any child of such parents to participate in counseling and drug or alcohol screening, provided such participation is in the best interests of the child.

**Sec. 46b-56c. Educational support orders.** (a) For purposes of this section, an educational support order is an order entered by a court requiring a parent to provide support for a child or children to attend for up to a total of four full academic years an institution of higher education or a private career school for the purpose of attaining a bachelor's or other undergraduate degree, or other appropriate vocational instruction. An educational support order may be entered with respect to any child who has not attained twenty-three years of age and shall terminate not later than the date on which the child attains twenty-three years of age.

(b) (1) On motion or petition of a parent, the court may enter an educational support order at the time of entry of a decree of dissolution, legal separation or annulment, and no educational support order may be entered thereafter unless the decree explicitly provides that a motion or petition for an educational support order may be filed by either

parent at a subsequent date. If no educational support order is entered at the time of entry of a decree of dissolution, legal separation or annulment, and the parents have a child who has not attained twenty-three years of age, the court shall inform the parents that no educational support order may be entered thereafter. The court may accept a parent's waiver of the right to file a motion or petition for an educational support order upon a finding that the parent fully understands the consequences of such waiver.

(2) A waiver of the right to file a motion or petition for an educational support order may be made in writing by either parent and accepted by the court, provided the parent making the writing attests, under oath, that the parent fully understands the consequences of such waiver, and that no restraining order issued pursuant to section 46b-15 or protective order issued pursuant to section 46b-38c, between the parties is in effect or pending before the court. The provisions of this subdivision shall not preclude the court from requiring that the parties attend a hearing and that findings be made on the record.

(3) On motion or petition of a parent, the court may enter an educational support order at the time of entry of an order for support pendente lite pursuant to section 46b-83.

(4) On motion or petition of a parent, the court may enter an educational support order at the time of entering an order of support pursuant to section 46b-61 or 46b-569, or similar section of the general statutes, or at any time thereafter.

(5) On motion or petition of a parent, the court may enter an educational support order at the time of entering an order pursuant to any other provision of the general statutes authorizing the court to make an order of support for a child, subject to the provisions of sections 46b-301 to 46b-425, inclusive.

(c) The court may not enter an educational support order pursuant to this section unless the court finds as a matter of fact that it is more likely than not that the parents would have provided support to the child for higher education or private career school if the family were intact. After making such finding, the court, in determining whether to enter an educational support order, shall consider all relevant circumstances, including: (1) The parents' income, assets and other obligations, including obligations to other dependents; (2) the child's need for support to attend an institution of higher education or private career school considering the child's assets and the child's ability to earn income; (3) the availability of financial aid from other sources, including grants and loans; (4) the reasonableness of the higher education to be funded considering the child's academic record and the financial resources available; (5) the child's preparation for, aptitude for and commitment to higher education; and (6) evidence, if any, of the institution of higher education or private career school the child would attend.

(d) Any finding required to be made by the court, pursuant to this section may be made on the basis of an affidavit, made under oath, by either party, provided that the party making the affidavit attests that no restraining order issued pursuant to section 46b-15 or protective order, issued pursuant to section 46b-38c, between the parties is in effect or pending before the court. Nothing in this subsection shall preclude the court from requiring that the parties attend a hearing and that findings be made on the record.

(e) At the appropriate time, both parents shall participate in, and agree upon, the decision as to which institution of higher education or private career school the child will attend. The court may make an order resolving the matter if the parents fail to reach an agreement.

(f) To qualify for payments due under an educational support order, the child must (1) enroll in an accredited institution of higher education or private career school, as defined in section 10a-22a, (2) actively pursue a course of study commensurate with the child's vocational goals that constitutes at least one-half the course load determined by that institution or school to constitute full-time enrollment, (3) maintain good academic standing in accordance with the rules of the institution or school, and (4) make available all academic records to both parents during the term of the order. The order shall be suspended after any academic period during which the child fails to comply with these conditions.

(g) The educational support order may include support for any necessary educational expense, including room, board, dues, tuition, fees, registration and application costs, but such expenses shall not be more than the amount charged by The University of Connecticut for a full-time in-state student at the time the child for whom educational support is being ordered matriculates, except this limit may be exceeded by agreement of the parents. An educational support order may also include the cost of books and medical insurance for such child.

(h) The court may direct that payments under an educational support order be made (1) to a parent to be forwarded to the institution of higher education or private career school, (2) directly to the institution or school, or (3) otherwise as the court determines to be appropriate.

(i) On motion or petition of a parent, an educational support order may be modified or enforced in the same manner as is provided by law for any support order.

(j) This section does not create a right of action by a child for parental support for higher education.

(k) An educational support order under this section does not include support for graduate or postgraduate education beyond a bachelor's degree.

(l) The provisions of this section shall apply only in cases when the initial order for parental support of the child is entered on or after October 1, 2002.

**Sec. 46b-56d. Relocation of parent with minor child. Burden of proof. Factors considered by court.** (a) In any proceeding before the Superior Court arising after the entry of a judgment awarding custody of a minor child and involving the relocation of either parent with the child, where such relocation would have a significant impact on an existing parenting plan, the relocating parent shall bear the burden of proving, by a preponderance of the evidence, that (1) the relocation is for a legitimate purpose, (2) the proposed location is reasonable in light of such purpose, and (3) the relocation is in the best interests of the child.

(b) In determining whether to approve the relocation of the child under subsection (a) of this section, the court shall consider, but such consideration shall not be limited to: (1) Each parent's reasons for seeking or opposing the relocation; (2) the quality of the relationships between the child and each parent; (3) the impact of the relocation on the quantity and the quality of the child's future contact with the nonrelocating parent; (4) the degree to which the relocating parent's and the child's life may be enhanced economically, emotionally and educationally by the relocation; and (5) the feasibility of preserving the relationship between the nonrelocating parent and the child through suitable visitation arrangements.

**Sec. 46b-82. Alimony.** (a) At the time of entering the decree, the Superior Court may order either of the parties to pay alimony to the other, in addition to or in lieu of an award pursuant to section 46b-81. The order may direct that security be given therefor on such terms as the court may deem desirable, including an order pursuant to subsection (b) of this section or an order to either party to contract with a third party for periodic payments or payments contingent on a life to the other party. The court may order that a party obtain life insurance as such security unless such party proves, by a preponderance of the evidence, that such insurance is not available to such party, such party is unable to pay the cost of such insurance or such party is uninsurable. In determining whether alimony shall be awarded, and the duration and amount of the award, the court shall consider the evidence presented by each party and shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate and needs of each of the parties and the award, if any, which the court may make pursuant to section 46b-81, and, in the case of a parent to whom the custody of minor children has been awarded, the desirability and feasibility of such parent's securing employment.

(b) If the court, following a trial or hearing on the merits, enters an order pursuant to subsection (a) of this section, or section 46b-86, and such order by its terms will terminate only upon the death of either party or the remarriage of the alimony recipient, the court shall articulate with specificity the basis for such order.

**Sec. 46b-84. Parents' obligation for maintenance of minor child. Order for health insurance coverage.** (a) Upon or subsequent to the annulment or dissolution of any marriage or the entry of a decree of legal separation or divorce, the parents of a minor child of the marriage, shall maintain the child according to their respective abilities, if the child is in need of maintenance. Any postjudgment procedure afforded by chapter 906 shall be available to secure the present and future financial interests of a party in connection with a final order for the periodic payment of child support.

(b) If there is an unmarried child of the marriage who has attained the age of eighteen and is a full-time high school student, the parents shall maintain the child according to their respective abilities if the child is in need of maintenance until such child completes the twelfth grade or attains the age of nineteen, whichever occurs first. The provisions of this subsection shall apply only in cases where the decree of dissolution of marriage, legal separation or annulment is entered on or after July 1, 1994.

(c) The court may make appropriate orders of support of any child with intellectual disability, as defined in section 1-1g, or a mental disability or physical disability, as defined in subdivision (15) of section 46a-51, who resides with a parent and is principally dependent upon such parent for maintenance until such child attains the age of twenty-one. The child support guidelines established pursuant to section 46b-215a shall not apply to orders entered under this subsection. The provisions of this subsection shall apply only in cases where the decree of dissolution of marriage, legal separation or annulment is entered on or after October 1, 1997, or where the initial support orders in actions not claiming any such decree are entered on or after October 1, 1997.

(d) In determining whether a child is in need of maintenance and, if in need, the respective abilities of the parents to provide such maintenance and the amount thereof, the court shall consider the age, health, station, occupation, earning capacity, amount and sources of income, estate, vocational skills and employability of each of the parents, and the age, health, station, occupation, educational status and expectation, amount and sources of income, vocational skills, employability, estate and needs of the child.

**Sec. 46b-15. Relief for victim of domestic violence. Application. Court orders. Duration. Service of application, affidavit, any ex parte order and notice of hearing. Copies. Expedited hearing for violation of order. Other remedies.** (a) Any family or household member, as defined in section 46b-38a, who is the victim of

domestic violence, as defined in section 46b-1, by another family or household member may make an application to the Superior Court for relief under this section. The court shall provide any person who applies for relief under this section with the information set forth in section 46b-15b.

## **THIRD PARTY CUSTODY AND VISITATION**

**Sec. 46b-57. Third party intervention re custody of minor children. Preference of child.** In any controversy before the Superior Court as to the custody of minor children, and on any complaint under this chapter or section 46b-1 or 51-348a, if there is any minor child of either or both parties, the court, if it has jurisdiction under the provisions of chapter 815p, may allow any interested third party or parties to intervene upon motion. The court may award full or partial custody, care, education and visitation rights of such child to any such third party upon such conditions and limitations as it deems equitable. Before allowing any such intervention, the court may appoint counsel for the minor child or children pursuant to the provisions of sections 46b-12 and 46b-54. In making any order under this section, the court shall be guided by the best interests of the child, giving consideration to the wishes of the child if the child is of sufficient age and capable of forming an intelligent preference.

**Sec. 46b-59. Petition for right of visitation with minor child. Order for payment of fees.** (a) As used in this section:

(1) "Grandparent" means a grandparent or great-grandparent related to a minor child by (A) blood, (B) marriage, or (C) adoption of the minor child by a child of the grandparent; and

(2) "Real and significant harm" means that the minor child is neglected, as defined in section 46b-120, or uncared for, as defined in said section.

(b) Any person may submit a verified petition to the Superior Court for the right of visitation with any minor child. Such petition shall include specific and good-faith allegations that (1) a parent-like relationship exists between the person and the minor child, and (2) denial of visitation would cause real and significant harm. Subject to subsection (e) of this section, the court shall grant the right of visitation with any minor child to any person if the court finds after hearing and by clear and convincing evidence that a parent-like relationship exists between the person and the minor child and denial of visitation would cause real and significant harm.



(c) In determining whether a parent-like relationship exists between the person and the minor child, the Superior Court may consider, but shall not be limited to, the following factors:

(1) The existence and length of a relationship between the person and the minor child prior to the submission of a petition pursuant to this section;

(2) The length of time that the relationship between the person and the minor child has been disrupted;

(3) The specific parent-like activities of the person seeking visitation toward the minor child;

(4) Any evidence that the person seeking visitation has unreasonably undermined the authority and discretion of the custodial parent;

(5) The significant absence of a parent from the life of a minor child;

(6) The death of one of the minor child's parents;

(7) The physical separation of the parents of the minor child;

(8) The fitness of the person seeking visitation; and

(9) The fitness of the custodial parent.

(d) In determining whether a parent-like relationship exists between a grandparent seeking visitation pursuant to this section and a minor child, the Superior Court may consider, in addition to the factors enumerated in subsection (c) of this section, the history of regular contact and proof of a close and substantial relationship between the grandparent and the minor child.

(e) If the Superior Court grants the right of visitation pursuant to subsection (b) of this section, the court shall set forth the terms and conditions of visitation including, but not limited to, the schedule of visitation, including the dates or days, time and place or places in which the visitation can occur, whether overnight visitation will be allowed and any other terms and conditions that the court determines are in the best interest of the minor child, provided such conditions shall not be contingent upon any order of financial support by the court. In determining the best interest of the minor child, the court shall consider the wishes of the minor child if such minor child is of sufficient age and capable of forming an intelligent opinion. In determining the terms and conditions of visitation, the court may consider (1) the effect that such visitation will have on the relationship between the parents or guardians of the minor child and the minor child,

and (2) the effect on the minor child of any domestic violence that has occurred between or among parents, grandparents, persons seeking visitation and the minor child.

(f) Visitation rights granted in accordance with this section shall not be deemed to have created parental rights in the person or persons to whom such visitation rights are granted, nor shall such visitation rights be a ground for preventing the relocation of the custodial parent. The grant of such visitation rights shall not prevent any court of competent jurisdiction from thereafter acting upon the custody of such child, the parental rights with respect to such child or the adoption of such child and any such court may include in its decree an order terminating such visitation rights.

(g) Upon motion, the court may order the payment of fees for another party, the attorney for the minor child, the guardian ad litem, or any expert by any party in accordance with such party's financial ability.

Connecticut Gen. statute section 46b-59 permits a third party, nonparent to file an independent petition for visitation. The petition must be verified and must allege with specificity to fundamental prongs:

That the petitioner has a parent child relationship with the child; and

That a denial of visitation would cause real and significant harm such as that stated in 46b-120 (abuse and neglect).

If these allegations are not pled, the matter should be dismissed. If these allegations are not proven, by clear and convincing evidence, the petition cannot be granted. The parties may not stipulate and agree as to jurisdiction, there must be evidence presented to substantiate the allegations.

Connecticut Gen. Statute section 46b-57 permits a third party, nonparent to file a motion to intervene into an existing case. The standard under this statute is simply the best interest of the child but it also must be proven by clear and convincing evidence.

Typically, we will see these cases from a grandparent, step parent or aunt or uncle. It is incredibly hard for the applicant to prevail as such interference between a parent and a child impacts a parents liberty interest in raising their own child free from government or outside interference.

**VERIFIED PETITION FOR VISITATION -  
GRANDPARENTS & THIRD PARTIES**

JD-FM-221 Rev. 12-21  
C.G.S. §§ 46b-56, 46b-59; P.A. 21-15; P.B. §§ 25-4, 25-5

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STATE OF CONNECTICUT  
**SUPERIOR COURT**

[www.jud.ct.gov](http://www.jud.ct.gov)



**Instructions:**

Attach Order to Show Cause and Notice to the Respondent (JD-FM-162), and  
Affidavit Concerning Children (JD-FM-164).

If you are a parent of the child or children, use the Custody/Visitation Application -  
Parent (JD-FM-161).

For information on ADA accommodations,  
contact a court clerk or go to: [www.jud.ct.gov/ADA](http://www.jud.ct.gov/ADA).

Docket number

Judicial District of

At (Town)

Petitioner's name (Last, first, middle initial)

Respondent's name (Last, first, middle initial)

Additional respondent's name (if applicable)

1. I am the child(ren)'s: ☐ Grandparent ☐ Other: (Specify) \_\_\_\_\_

2. The respondent(s) is/are the: ☐ Parent ☐ Grandparent ☐ Other: \_\_\_\_\_

3. I want visitation rights with the child(ren) listed below:

Child's name (First, middle, last)	Date of birth	Name(s) of parent(s) or guardian(s) (First, middle initial, last)

(Attach additional sheets if necessary)

4. Connecticut has the authority to decide this case and should decide this case because: (Select all that apply)

- a. ☐ Connecticut is the home state of the child(ren) at the time of the filing of this case.
- b. ☐ The child(ren) has or have lived in Connecticut for the past 6 months, or from birth if the child(ren) is or are younger than 6 months old.
- c. ☐ The child(ren) lived in Connecticut for at least 6 months but was or were taken from Connecticut less than 6 months ago by a person claiming custody, and a parent or guardian continues to live here.
- d. ☐ The child(ren) and at least 1 parent have a significant connection to Connecticut and there is substantial evidence in Connecticut concerning the child(ren)'s present or future care, protection, training and personal relationships.
- e. ☐ The child(ren) is or are in Connecticut now and has or have been abandoned or there is an emergency affecting the child(ren)'s well-being.
- f. ☐ No other state has an interest in hearing this case and it is in the best interest of the child(ren) for a Connecticut court to hear the case.



**Important Note:**

Your answers to questions 5 and 6 will determine whether you are eligible to make your request for visitation. If you need more space, add additional sheets.

5. ☐ I have a relationship with the child(ren) that is parent-like. (Explain **in detail** how your relationship is parent-like):

6. ☐ Denial of visitation will cause real and significant harm to the child(ren).  
(Explain **in detail** what harm would be caused to the child(ren) by a denial of visitation):

**Claim for Relief**

The Petitioner asks the Court for:

☐ Visitation as follows:

Upon motion, the court may order the payment of fees for another party, the attorney for the minor child, the guardian ad litem, or any expert by any party in accordance with such party's financial ability.

Signature of Petitioner	Print name of person signing at left	Date signed
Address		Telephone (Area code first)

**Verification**

I declare under penalty of perjury that this Petition for Visitation is true and correct.

Signed (Petitioner)	Subscribed and sworn to before me:	Signed (Clerk, Notary, Commissioner of Superior Court)	Date signed
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**MOTION FOR INTERVENTION IN  
FAMILY MATTERS**JD-FM-185 Rev. 8-17  
C.G.S. § 46b-57**STATE OF CONNECTICUT  
SUPERIOR COURT**

www.jud.ct.gov

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**Instructions:** Fill out the form below to intervene in an existing case and file it with the Court Clerk. You must also file an Appearance form (JD-CL-12).

Judicial District of	At (Town)	Docket number
Name of case		Return date (Month, day, year) (if applicable)
Intervenor's name (Last, first, middle initial)	Intervenor's address (Number, street, town, state, zip code)	

1. I am the (State relationship to child(ren), for example grandparent, aunt, uncle, etc.): \_\_\_\_\_
2. I have a relationship with the child(ren) that is similar in nature to a parent-child relationship. (State specifically how your relationship is similar to a parent-child relationship): \_\_\_\_\_

☐ (Check if asking for visitation) Denial of visitation will cause real and significant harm to the child(ren). (State specifically what harm would be caused to the child(ren)):

**Or**

☐ (Check if asking for custody) Parental custody clearly is detrimental to the child(ren) and giving me custody would be in the child(ren)'s best interests.

3. I want ("X" one): ☐ custody of the child(ren) listed below ☐ visitation rights with the child(ren) listed below

Child's Name (First, middle, last)	Child's Age	Name(s) Of Parent(s) Or Guardian(s) (First, middle initial, last)

☐ "X" here if additional children are listed on a separate sheet.

4. Briefly explain why you are asking to intervene in this case:

**I request the Court's permission to intervene in this case.**

**Certification**

I certify that a copy of this document was or will immediately be mailed or delivered electronically or non-electronically on (date) \_\_\_\_\_ to all attorneys and self-represented parties of record and that written consent for electronic delivery was received from all attorneys and self-represented parties of record who received or will immediately be receiving electronic delivery.

Name and address of each party and attorney that copy was or will be mailed or delivered to\*

*If necessary, attach additional sheet or sheets with name and address which the copy was or will be mailed or delivered to.		
Signed (Signature of filer/Connecticut Attorney)	Print or type name of person signing	Date signed
Mailing address (Number, street, town, state and zip code)		Telephone number

Print Form

Reset Form

## **UCCJEA-Uniform Child Custody Jurisdiction Enforcement Act**

**Sec. 46b-115k. Initial child custody jurisdiction.** (a) Except as otherwise provided in section 46b-115n, a court of this state has jurisdiction to make an initial child custody determination if:

(1) This state is the home state of the child on the date of the commencement of the child custody proceeding;

(2) This state was the home state of the child within six months of the commencement of the child custody proceeding, the child is absent from the state, and a parent or a person acting as a parent continues to reside in this state;

(3) A court of another state does not have jurisdiction under subdivisions (1) or (2) of this subsection, the child and at least one parent or person acting as a parent have a significant connection with this state other than mere physical presence, and there is substantial evidence available in this state concerning the child's care, protection, training and personal relationships;

(4) A court of another state which is the home state of the child has declined to exercise jurisdiction on the ground that this state is the more appropriate forum under a provision substantially similar to section 46b-115q or section 46b-115r, the child and at least one parent or person acting as a parent have a significant connection with this state other than mere physical presence, and there is substantial evidence available in this state concerning the child's care, protection, training and personal relationships;

(5) All courts having jurisdiction under subdivisions (1) to (4), inclusive, of this subsection have declined jurisdiction on the ground that a court of this state is the more appropriate forum to determine custody under a provision substantially similar to section 46b-115q or section 46b-115r; or

(6) No court of any other state would have jurisdiction under subdivisions (1) to (5), inclusive, of this subsection.

(b) Subsection (a) of this section is the exclusive jurisdictional basis for making a child custody determination by a court of this state.

(c) Physical presence of, or personal jurisdiction over, a party or a child is not necessary or sufficient to make a child custody determination.



**PROTOCOL FOR EFFICIENT AND CONSISTENT HANDLING OF  
MATTERS WHERE FAMILY AND JUVENILE COURTS HAVE  
CONCURRENT JURISDICTION**

1. Any party in family and juvenile cases who filed any action or motion that affects custody or visitation of a child shall be required to sign a custody affidavit that requests information on any pending OR pre-existing orders in any other court, including probate, in Connecticut or any other state affecting custody, guardianship or visitation of the child.
2. If a custody affidavit indicates there is a pending custody or visitation action, or a pre-existing custody or visitation order with respect to any child, the clerk of the court shall make an effort to locate and confirm the nature of such orders and provide such information to the court.
3. When a family judge hearing any action involving custody or visitation issues a "bench" order of temporary custody to the department of children and families, and the department of children and families, attorney or guardian ad litem for the child subsequently files a neglect or uncared for petition in the juvenile court, the family and juvenile court judges shall confer and determine whether to consolidate the custody/visitation issues for trial or stay the family proceeding pending disposition of the juvenile case. Any family judge issuing "bench" order of temporary custody should clearly indicate on the record the basis for such order.
4. When a family judge or family support magistrate hearing any action that seeks the initial establishment of custody or visitation orders is informed that a neglect, uncared for, abuse or termination of parental rights petition is pending in the juvenile court, orders in the family case, if any, shall be stayed pending the outcome of the juvenile petition.
5. When a juvenile judge hearing a neglect, uncared for, abuse or termination of parental rights petition is informed of the pendency of a case or the existence of prior Connecticut orders affecting the child in family court, the juvenile judge shall confer with the family judge or family support magistrate and determine whether to (1) stay the pending family proceeding pending the outcome of the juvenile case, or (2) consolidate both cases in either the family or the juvenile court if the custody/visitation issues are closely related to insure that final orders regarding custody and/or visitation are consistent. Files transferred to either court for a consolidated hearing will be returned to the court where the action initiated, with appropriate orders, upon conclusion of the hearing.
6. Whenever a family violence restraining order exists, the juvenile judge will not issue any orders that conflict with the restraining order or modify the restraining order until the juvenile judge has conferred with the judge in the family court that issued it.
7. All actions for child support orders shall be filed, determined and enforced in family court.

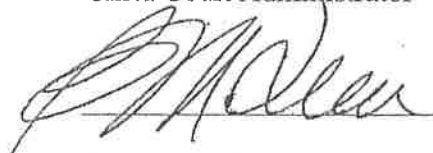
8. Family judges, family support magistrates and juvenile judges will share information in closed or pending court files with one another if necessary for the performance of their duties subject to the confidentiality provisions of the general statutes and the Practice Book.

10. Any motion filed in family court which seeks to modify an award of custody or guardianship granted in the juvenile court shall be referred to the juvenile court. Any motion seeking visitation from a custodian or guardian appointed by the juvenile court shall be heard in family court unless the juvenile court specifically indicated intent to retain jurisdiction of visitation issues at the time it granted custody or guardianship.

11. The originals of any paternity acknowledgments executed in juvenile court and copies of paternity adjudications by the juvenile court shall be filed with the paternity registry at the Department of Public Health.

This protocol is effective upon signing.

Chief Court Administrator

 August 14, 2012

Barbara M. Quinn


Chief Administrative Judge-Juvenile Matters

 August 20, 2012

Christine E. Keller

Chief Administrative Judge- Family Matters

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 August 8, 2012

Lynda B. Munro

**Protocol for Overlapping Jurisdiction in Children's Matters  
Between Superior Court-Family Division and Probate Court**

The undersigned parties agree as follows:

Section 1. Definitions. For purposes hereof the following terms shall have the meanings stated herein unless otherwise provided:

- (a) "Superior Court" shall mean the family division of the Connecticut superior court.
- (b) "Probate Court" shall mean the court of a probate district of the State of Connecticut or a Regional Children's Probate Court.
- (c) "Court" shall include the Superior Court and the Probate Court as herein defined.
- (d) "Order" shall mean a Custody Order or a Visitation Order.
- (e) "Custody Order" shall mean an order, decision, judgment or decree of a Court, whether temporary or final, concerning custody, guardianship, or parental rights as to a minor child.
- (f) "Visitation Order" shall mean an order, decision, judgment or decree of a Court, whether temporary or final, concerning visitation or access time with a minor child.
- (g) "Children's Matter" shall mean a case in which a Court has made, or has been requested to make, an Order.
- (h) "Judgment" shall mean a final Order of a Court in a Children's Matter, including but not limited to the following:
  - I. A Superior Court judgment of dissolution of marriage, legal separation, or annulment which includes orders regarding custody or visitation of a minor child;
  - II. A Superior Court judgment upon a complaint for custody or visitation.
  - III. A Probate Court decree granting or denying a Guardianship Application; and
  - IV. A Probate Court decree granting or denying a Termination Application.
- (i) "Custody Application" shall mean a petition, application, complaint, or motion filed in Superior Court seeking a Custody Order (including the modification of an existing Custody Order.)<sup>1</sup>
- (j) "Guardianship Application" shall mean an application filed in Probate Court seeking the removal of one or both parents or another person as guardian of a

<sup>1</sup> A Custody Application may seek relief in addition to Custody Orders, such as a complaint for dissolution of marriage which also seeks orders as to the custody of children of the marriage.



minor child, and shall include an application seeking the appointment of a guardian, co-guardian or permanent guardian.

- (k) "Termination Application" shall mean an application filed in Probate Court seeking the termination of the parental rights of one or both parents of a minor child.
- (l) "Visitation Application" shall mean a petition, application, complaint, or motion filed in either Court seeking a Visitation Order (including the modification of an existing Visitation Order).
- (m) "Pending": an Application is Pending when it has been filed but not yet granted, denied, dismissed, withdrawn, or become stale by lapse of time under any applicable statute or rule.
- (n) "Prejudgment": a case in which Judgment has not entered.
- (o) "Postjudgment": a case in which Judgment has already entered.

Section 2. Guidelines for Specific Situations. Upon becoming aware that matters are pending in more than one Court concerning the same child, a Court may be guided by this Protocol. Subject to the other provisions hereof, the following shall be considered appropriate courses of action for each Court in the situations described. Unless otherwise indicated, the prescribed action shall be applicable regardless of which Application was filed first.<sup>2</sup>

- (a) ***Probate Termination Application, Prejudgment.*** If there is a Pending Termination Application in a Prejudgment Probate Court case, and in Superior Court there is:
  - i. A Pending Custody Application, then the Probate Court may proceed and the Superior Court should defer action pending the Probate Court decision;
  - ii. A Pending Visitation Application by a person with standing to seek visitation in the Probate Court and who does not have rights of visitation under any currently effective Superior Court Order, then the Probate Court may proceed and the Superior Court should defer action pending the Probate Court decision and without prejudice to the right of such person to seek a Visitation Order in Probate Court;

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<sup>2</sup> However, the sequence of filing may be a factor in considering whether a petition may have been filed frivolously or for purposes of delay. See Section 3(e).

- iii. A Pending Visitation Application by a person without standing to seek visitation in Probate Court, then both Courts may proceed;
- iv. A Pending Visitation Application concerning a currently effective Visitation Order , then both Courts may proceed; or
- v. No Pending Application, then the Probate Court may proceed even if there are currently effective Superior Court Orders.

(b) **Probate Termination Application, Postjudgment.** If there has been a Judgment in Probate Court terminating the parental rights of a parent, and in Superior Court there is

- i. A Pending Custody Application filed by the terminated parent, then Superior Court should dismiss said Application; or
- ii. A Pending Visitation Application filed by the terminated parent, then Superior Court should dismiss said Application except that the Superior Court should proceed if the terminated parent filed the Visitation Application pursuant to General Statutes § 46b-59; or
- iii. A Pending Visitation Application filed pursuant to General Statutes § 46b-59 by any person, including the terminated parent, then Superior Court may proceed.

(c) **Probate Guardianship Application, Prejudgment.** If there is a Pending Guardianship Application in a Prejudgment Probate Court case, and in Superior Court there is

- i. A Pending Custody Application, then the Probate Court may proceed and the Superior Court should defer action pending the Probate Court decision;
- ii. A Pending Visitation Application by a person with standing to seek visitation in the Probate Court and who does not have rights of visitation under any currently effective Superior Court Order, then the Probate Court may proceed and the Superior Court should defer action pending the Probate Court decision and without prejudice to the right of such person to seek a Visitation Order in Probate Court;
- iii. A Pending Visitation Application by a person without standing to seek visitation in Probate Court, then both Courts may proceed;
- iv. A Pending Visitation Application concerning a currently effective Visitation Order , then both Courts may proceed; or

- v. No Pending Application, then the Probate Court may proceed even if there are currently effective Superior Court Orders.
- (d) **Probate Guardianship Application, Postjudgment.** If there is a Judgment in Probate Court removing one parent as guardian and confirming the other parent as sole guardian or removing the parent(s) as guardian(s) and appointing a third party as guardian, and in Superior Court there is
- i. A Pending Custody Application filed by the removed parent, the Superior Court should dismiss said Application or defer action on it pending reinstatement of said parent as guardian by the Probate Court; or
  - ii. A Pending Visitation Application filed by the removed parent, the Superior Court should dismiss said Application or defer action on it pending reinstatement of said parent as guardian by the Probate Court, except that the Superior Court should proceed if the removed parent filed the Visitation Application pursuant to General Statutes § 46b-59; or
  - iii. A Pending Visitation Application filed pursuant to General Statutes § 46b-59 by any person, including the removed parent or guardian then the Superior Court may proceed.
- (e) **Probate Visitation Application.** If there is a Pending Visitation Application in a Probate Court case in which there is an underlying Termination Application or Guardianship Application, and in Superior Court there is also a Pending Visitation Application, then the Probate Court may proceed with its Visitation Application and the Superior Court should dismiss or defer action unless the Superior Court Visitation Application:
- i. concerns an existing Superior Court Visitation Order; or
  - ii. was filed pursuant to General Statutes § 46b-59; or
  - iii. was filed by a person who lacks standing to seek visitation in the Probate Court.

Section 3. General Principles. In addition to the provisions for specific situations, the following additional provisions shall apply.

- (a) Notwithstanding anything contained herein, the Probate Court shall make no Visitation Order which conflicts with a currently effective Superior Court Visitation Order.
- (b) Where the provisions hereof allow the Superior Court to proceed on a Visitation Application filed pursuant to General Statutes § 46b-59, the



applicant must still demonstrate the elements required with respect to such Application under applicable statutes and case law.

- (c) A temporary guardian appointed by the Probate Court in accordance with C.G.S section 45a-622 is not entitled to become, solely by virtue of said appointment, a party in a custody matter in the Superior Court between the parents, and is bound by an order of that court to the same extent as the appointing parent. However, a temporary guardian shall not be precluded from filing a motion to intervene in a Superior Court custody matter, or from filing a petition for visitation in Superior Court, subject to the same requirement of pleading and proving a parent-like relationship with the child as would apply to any non-parent movant or petitioner.
- (d) Each Court may take judicial notice of the relevant file and orders of the other Court in the manner and to the extent permitted by law. The Superior Court should do so in a manner which gives due consideration to the confidentiality of Probate Court records, including consideration of an order to seal any exhibits which consist of orders or records of the Probate Court.
- (e) Notwithstanding any provision herein, in its discretion either Court may decide to alter the usual protocol after considering any appropriate factors including but not limited the following:
  - i. Whether a Pending Application in Superior Court seeks relief in addition to Custody or Visitation Orders, such as a dissolution of marriage or orders of financial support, that can be heard only in Superior Court.
  - ii. Whether the respective applications seek conflicting relief.
  - iii. Whether one Court has pertinent information or evidence at its disposal which is not as readily available to the other Court, such as a report from the Department of Children and Families that is statutorily admissible into evidence in Probate Court.
  - iv. A Court's determination that an Application may have been filed frivolously or for purposes of forum shopping or delaying action in another Court.
- (f) When either Court becomes aware that matters are pending in more than one Court concerning the same child, the Courts may communicate with each other as follows:
  - i. The Courts may exchange information about the procedural status of the case, scheduling matters, and orders that have been entered, without making a record and without informing the parties of the communication.

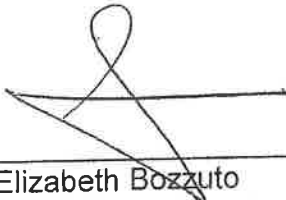
ii. If the judges of the respective Courts wish to confer about the appropriate method of proceeding in view of the nature of the case, and the specific allegations made and relief sought by the parties, they should do so in a manner which gives all due consideration to the confidentiality of Probate Court records and proceedings and any applicable due process rights of the parties to notice and a right to participate in such conference, and in a manner consistent with Rule 2.9(c) of the Code of Judicial Conduct. Subject to the requirement of confidentiality of Probate Court records and proceedings and any applicable rules of the Superior Court regarding confidentiality, each Court shall make an audio or stenographic recording of such conference and the parties shall have access to such recording.



Hon. Patrick L. Carroll, III  
Chief Court Administrator

9-21-16

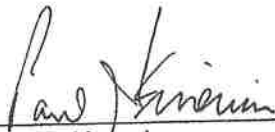
Date



Hon. Elizabeth Bozzuto  
Chief Administrative Judge  
Superior Court Family Division

9/22/16

Date



Hon. Paul J. Kmerim  
Probate Court Administrator

9-27-16

Date

# Recommended Practices

## 3<sup>rd</sup> Party Visitation General Statutes § 46b-59

1. Have the clerk identify cases first time on the docket.

You can track these cases on Edison:

- a. From home page, go to legend search
- b. Click your district
- c. Enter "petvis" after legend
- d. Click "family" after court and again after major.
- e. Submit (note you can sort by pending only, disposed only, or pending and disposed)

2. Review pleadings before sending to Family Services or appointing a GAL

- a. Must be a *verified* petition
- b. If the respondent is a guardian rather than a parent, ensure that the matter is before the proper court.
- c. Petitioner must allege a parent like relationship *with specificity*.
- d. Must allege denial of visitation would cause real and significant harm *with specificity*. The specificity must be harm as stated in 46b-120: that the child is neglected, who for reasons other than being impoverished, has been abandoned, is being denied proper care and attention, physically, educationally, emotionally, or morally or is being permitted to live under conditions, circumstances or associations injurious to the child's well-being; or the child is uncared for in that the child is homeless or the child's home cannot provide the specialized care that the physical, emotional, or mental condition of the child requires.

3. If these requirements are not met, cannot proceed even by agreement. No subject matter jurisdiction (Subject matter jurisdiction cannot be conferred by agreement.)
4. If pleading meets threshold requirement, refer to family relations appoint a GAL if necessary.
5. If parties have met the pleading requirements and reach an agreement, ensure that the jurisdictional requirements are specified in the agreement.
6. At trial, the parties must prove the allegations by clear and convincing evidence.
7. Subsection (g) of the statute allows the court to order the payment of fees (other party's, GAL's, expert's) by either party in accordance with such party's financial ability.



DOCKET NO. FST-FA-17-5016797-S : SUPERIOR COURT  
 JENNIFER DULOS : J.D. OF STAMFORD/NORWALK  
 VS. : AT STAMFORD  
 FOTIS DULOS : JUNE 3, 2019

**MOTION TO INTERVENE, PENDENTE LITE**

Pursuant to General Statutes § 46b-57, the moving party, GLORIA FARBER, hereby seeks to intervene in the above captioned matter for purposes of being awarded custody, at least on a temporary basis, of the minor children.<sup>1</sup> An award of custody to Mrs. Farber is in the minor children's best interests. Additionally, Mrs. Farber seeks to intervene for access/visitation rights with the minor children.<sup>2</sup> In support of her motion to intervene, Mrs. Farber alleges the following:

<sup>1</sup> The Connecticut Supreme Court has held that in custody proceedings in which a third party seeks to intervene, the third party must plead that: 1) she has a parent-like relationship with the child; 2) parental custody would be detrimental to the child; and 3) custody with the third party would be in the child's best interest. See Fish v. Fish, 285 Conn. 4, 89 (2008).

<sup>2</sup> The Court has also set forth a two-part test in determining whether to award visitation: 1) whether the intervening party had established a parent-like relationship with the child; and 2) whether the child would suffer real and significant harm if visitation were denied. See Roth v. Weston, 259 Conn. 202, 234-35 (2002).

Pullman & Comley, LLC  
 90 State House Square  
 Hartford, CT 06103-3702  
 Juris No. 4-09177

SUPERIOR COURT  
 STAMFORD-NORWALK  
 JUDICIAL DISTRICT  
 2019 JUN -4 A 9:23

1. On or about June 20, 2017, the plaintiff, Jennifer Dulos, initiated the above-captioned dissolution of marriage action against the defendant, Fotis Dulos. The parties have five minor children.

2. Mrs. Farber is the plaintiff's mother, and the minor children's maternal grandmother. She also holds a Power of Attorney on behalf of the plaintiff. As the children's maternal grandmother, Mrs. Farber has been actively involved with all five children since each was born.

3. The children have resided primarily with the plaintiff since the initiation of the dissolution action, in New Canaan, Connecticut. The current custodial orders provide that the parties share joint legal custody, with the plaintiff having final decision-making and sole physical custody of the five minor children. Since March 20, 2019, the defendant has been afforded only supervised access with the minor children in accordance with a schedule set forth in the Court's Memorandum of Decision, dated March 20, 2019.

4. The plaintiff has been missing since May 24, 2019, and remains missing as of the date hereof. The five minor children have resided with Mrs. Farber, at her residence in New York City; since May 24, 2019. The children's full-time caregiver for the past five years, Ms. Lauren Almeida, has remained with the children at Mrs. Farber's residence and she will continue to be their caregiver.

5. On June 1, 2019, the defendant and his girlfriend, Michelle Troconis, were both arrested by the New Canaan police in connection with the plaintiff's disappearance. The defendant has been charged with tampering with or fabricating physical evidence and first degree hindering prosecution. He is currently being held at the Bridgeport Correctional Facility with a bond set at \$500,000.

6. Mrs. Farber has a "close and substantial" parent-like relationship with the minor children, who are currently residing with her. See Fish v. Fish, 285 Conn. 4, 44 (2008); Roth v. Weston, 259 Conn. 202, 226 (2002).

7. The plaintiff and the children planned to be with Mrs. Farber on May 24, 2019, the date of plaintiff's last communication with the children or her family. The children have had regular and consistent contact with Mrs. Farber during the period of their parents' separation, and before. The children have taken vacations with Mrs. Farber, including to Florida a couple of months ago. They have also regularly stayed at Mrs. Farber's NYC residence, where they have their own sleeping arrangements and where they have kept toys, books, games, etc. over the years.

8. The Court has found that primary residence with the defendant would be detrimental to the minor children. See Fish, 285 Conn. at 71-72. Currently, the defendant is unable to care for the minor children and unable to make appropriate decisions about the minor



children. The children have resided exclusively with the plaintiff until her disappearance on May 24, 2019. Since then, they have resided with Mrs. Farber.

9 Pursuant to Court orders of January 18, 2018 and March 1, 2018, the defendant's access to the children was suspended. He had limited supervised access with the children between approximately June, 2018 and for several months thereafter. In suspending the defendant's access on March 1, 2018, the Court (Heller, J.) stated "[t]he court does not find the defendant to be credible. The defendant does not seem to appreciate in any respect the consequences of lying under oath and willfully violating a court order. His facility in testifying falsely to the court suggests that he is equally comfortable in encouraging the children to lie to achieve his desired outcome." The court further found that there was:

[A]n immediate and present risk of psychological harm to the children if they have unrestricted and unsupervised contact with the defendant. . . In view of the close bond among all five children, as described by the guardian ad litem, the court finds it likely that all five of the children have been adversely impacted by the breakdown of their parents' marriage, the defendant's relationship with Ms. Troconis, and the pressure that the defendant has placed on them to lie.

10. On March 20, 2019, the Court (Heller, J.) issued a decision<sup>3</sup> affording the defendant with certain ongoing supervised access with the minor children, which he exercised

<sup>3</sup> On April 5, 2019, the plaintiff filed a Motion to Reargue the Court's March 20, 2019 decision, which Motion to Reargue remains pending.

between approximately March 20, 2019 and May 24, 2019. The Court's March 20, 2019 orders set forth a variety of restrictions on the defendant's supervised access with the minor children, including but not limited to that he "shall not have private conversations with any of the children during his supervised weekend parenting time. No conversations shall take place in the supervisor's presence in a language which the supervisor does not speak or understand"; "the defendant shall not engage in or permit any disparagement of anyone involved in this dissolution action, including the plaintiff, her counsel, the guardian ad litem, and the other professionals, in the presence of the children"; and "[t]he prior orders of the court regarding recording all telephone conversations between the defendant and the children and providing transcript of such conversations remain in full force and effect . . ."

11. For so long as the defendant is incarcerated, the children should remain in Mrs. Farber's custody. However, even if the defendant is released, on bond or otherwise, it would be detrimental to the children, particularly in the midst of the investigation into the disappearance of their mother, to be forced to leave Mrs. Farber's custody and return to the defendant's custody, with whom they have not resided for more than two (2) years. The defendant has exhibited a history of being unable to appropriately tend to the children's physical, emotional and psychological needs.

12. Additionally, the minor children would suffer "real and significant harm" if they are removed from their grandmother's home, in which they are comfortable and well cared-for, and if they are removed from the care of their longtime caregiver, Ms. Almeida. See Roth, 259 Conn. at 235.

13. Mrs. Farber is an "integral part of the [minor] child[ren]'s regular routine," feelings of safety and the minor children have "close and substantial" emotional ties with Mrs. Farber. See id. at 225-26.

14. An award of custody or visitation to Mrs. Farber is in the minor children's best interests. See Fish, 285 Conn. at 89. The Court has the authority to award custody or visitation rights to Mrs. Farber pursuant to General Statutes § 46b-57 and/or §46b-59.

15. General Statutes § 46b-57 provides:

In any controversy before the Superior Court as to the custody of minor children, and on any complaint under this chapter or section 46b-1 or 51-348a, if there is any minor child of either or both parties, the court, if it has jurisdiction under the provisions of chapter 815p, may allow any interested third party or parties to intervene upon motion. The court may award full or partial custody, care, education and visitation rights of such child to any such third party upon such conditions and limitations as it deems equitable. Before allowing any such intervention, the court may appoint counsel for the child or children pursuant to the provisions of sections 46b-12 and 46b-54. In making any order under this section, the court shall be guided by the best interests of the child, giving consideration to the wishes of the child if the child is of sufficient age and capable of forming an intelligent preference.

WHEREFORE, Mrs. Gloria Farber respectfully request the Court to grant her motion to intervene and to award her temporary custody of the minor children and/or visitation with the minor children; and such other and further relief as the court deems fair and proper.

PROPOSED INTERVENOR,  
GLORIA FARBER



By: \_\_\_\_\_

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Her Attorneys

Pullman & Comley, LLC  
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Juris No. 409177



(4) A child may be found "neglected" who, for reasons other than being impoverished, (A) has been abandoned, (B) is being denied proper care and attention, physically, educationally, emotionally or morally, or (C) is being permitted to live under conditions, circumstances or associations injurious to the well-being of the child;

(5) A child may be found "abused" who (A) has been inflicted with physical injury or injuries other than by accidental means, (B) has injuries that are at variance with the history given of them, or (C) is in a condition that is the result of maltreatment, including, but not limited to, malnutrition, sexual molestation or exploitation, deprivation of necessities, emotional maltreatment or cruel punishment;

(6) A child may be found "uncared for" (A) who is homeless, (B) whose home cannot provide the specialized care that the physical, emotional or mental condition of the child requires, or (C) who has been identified as a victim of trafficking, as defined in section 46a-170. For the purposes of this section, the treatment of any child by an accredited Christian Science practitioner, in lieu of treatment by a licensed practitioner of the healing arts, shall not of itself constitute neglect or maltreatment;