

## LEGAL FACT SHEET

### POST ADOPTION, GRANDPARENTS MAY HAVE RIGHTS\*

#### Under Certain Circumstances, Grandparents' Rights Survive the Adoption of their Grandchildren

In general, once children are adopted, the adoptive parents are the absolute parents of adoptive children. Only a few circumstances are so important that courts will consider intruding upon the new parents' rights. One of these circumstances is grandparent visitation, another is when the adoption process involved fraudulent statements that the court relied upon.

#### Grandparents' Rights to Seek Visitation Post Adoption

Under "proper" circumstances, a natural grandparent may have right of visitation with one's grandchildren, even after the adoption of the child. *Moorhead v. Coss*, 17 A.D.3d 725, 792 N.Y.S.2d 709

Even when the adoptive family doesn't like the grandparents or the child might learn about the adoption from the grandparents, courts may consider awarding visitation, so long as there was no evidence that contact with grandparents had ever harmed or would harm the child's emotional or physical well-being. *Y.A.D. 3 Dept.*, 2005; *Layton v. Foster*, 95 A.D.2d 77, 466 N.Y.S.2d 723 N.Y.A.D. 3 Dept., 1983.

As a general rule, courts should consider the grandparent in adoptive families as in the same roles as in a traditional family, and apply the best interests of the child with favorably weight because the preservation of the grandparent and grandchild relationship is viewed as in the best interest of children.

#### Grandparents May, Under Special Circumstances, Seek to Void Adoption Orders where they were Obtained by Fraud

As a rule, courts won't reverse an order of adoption. Yet, there are certain circumstances when they will consider it. In the *Matter of Kevin G. (Anonymous)* 227 A.D.2d 622, 643 N.Y.S.2d 590 (1996). Courts will consider reversal when there is evidence of fraud, newly discovered evidence, or other sufficient causes." Domestic Relations Law Sections 112-3. (Adoption from an Authorized Agency; Order of Adoption.); *Matter of Adoption of Baby Girl S.*, 141 Misc.2d 905, 535 N.Y.S.2d 676, (1988). However, because permanency and stability are favored, it is necessary to assert this right as soon as possible.

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