

IN THE COURT OF APPEALS OF GEORGIA

CHELSEA BISHOP,  
Appellant,

vs.

ELIZABETH ARROYO and  
ELIZABETH FIGUEROA,  
Appellee[s]

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Case No. A26A0016

**BRIEF OF APPELLANT**

COMES NOW Appellant, CHELSEA BISHOP, Defendant below, and files this brief on appeal.

Appellant, Chelsea Bishop, is the biological mother of the child, L.B., born 2019. L.B. has several medical issues and has been diagnosed with autism. L.B. resides with his mother, two half-siblings and his stepfather, Nichloas Mimms (a.k.a. Nicholas Bishop) in Georgia. Appellees are the paternal grandmother and paternal aunt of L.B., both who reside outside of the State of Georgia. The child’s biological father, Edwardo Figueroa, was legitimated in 2021. Appellees had no contact nor relationship with L.B. prior to the trial court awarding them visitation pursuant to a *Temporary Order For Grandparent Visitation* (hereinafter *Temporary Order*) entered on November 21, 2022. (V2 1752-1777)

Appellees jointly petitioned for visitation pursuant to O.C.G.A. §19-7-3 and Appellee paternal grandmother, Elizabeth Arroyo, for custody pursuant to O.C.G.A.

§19-7-1(b.1) on September 28, 2021 soon after Appellant's husband, Mimms (a.k.a. Bishop), shot and killed Mr. Figueroa in August 2021. Mimms (a.k.a. Bishop) has been criminally charged in that shooting, is awaiting trial and is out on bond. Neither Appellant nor L.B. were present during the shooting. (V2 1752-1777)

This case arises from the entry of an *Order On Plaintiff's Motion For Modification Of Temporary Order To Change Custody To Paternal Grandparent And On Plaintiffs' Motion For Citation Of Contempt* entered in Civil Action No. 21107315 by the Cobb County Superior Court on November 14, 2024, in which the trial court temporarily awarded Appellees expanded visitation, found Appellant in willful contempt of the prior *Temporary Order* entered on November 21, 2022 because Appellant cancelled Appellees June 2024 visit due to safety concerns, awarded Appellees actual costs for that missed visitation and attorney's fees pursuant to O.C.G.A. § 9-15-14(b).

Prior to the entry of the *Temporary Order* entered on November 21, 2022, the trial court denied Appellant's separately filed motions for summary judgement and dismissal, appointed a Guardian ad Litem and ordered a custody evaluation. Prior to the entry of the *Order* on November 14, 2024, the trial court denied Appellant's motion to sever the visitation from the custody claims pursuant to O.C.G.A. § 9-11-42(b).

## **I. JURISDICTIONAL STATEMENT**

- (i) The basis for this Court appellate jurisdiction is OCGA § 5-6-34(a)(11).
- (ii) This Court, rather than the Supreme Court, has jurisdiction of this case on appeal for the reason that the Supreme Court does not have exclusive jurisdiction pursuant to Ga. Const. Art. VI, Sec. VI, Pars. II, III, because this case involves visitation and custody of a child. *See also*, O.C.G.A. §15-3-3.1 (2022) and Ga. Const. Art. VI Sec. V, Pars. III, IV.
- (ii) Appellant's *Notice Of Appeal* was timely filed on December 13, 2024 (V1 1-2) and her *Amended Notice of Appeal* was filed on July 31, 2025.

## II. ENUMERATION OF ERRORS

1. Did the trial court err by not dismissing Appellees' claims for visitation?
2. Did the trial court err in concluding that its Findings of Fact were sufficient to authorize visitation to paternal relatives pursuant to OCGA § 19-7-3(c) or 19-7-3(d) over the objections of Appellant?
3. Did the trial court err in denying Appellant's *Motions To Sever Plaintiffs' Custody And Visitation Claims And For Expediated Hearing And Judgment On Visitation And/Or Modification Of The Temporary Order Of Visitation Pending A Final Hearing* pursuant to O.C.G.A. § 9-11-42(b) to avoid prejudice to both the Defendant and the Child?
4. Did the trial court err in ordering Appellant not to allow unsupervised contact between L.B. and his stepfather?

5. Did the trial court err in finding Appellant in willful contempt of the *Temporary Order of Grandparent Visitation* and award Appellees fees pursuant to O.C.G.A. §9-15-14(b)?

### **III. STANDARD OF REVIEW**

1. Abuse of discretion.
2. Abuse of discretion
3. Abuse of discretion
4. Abuse of discretion
5. Abuse of discretion

### **IV. SUMMARY OF THE CASE AND PROCEDURAL HISTORY**

On September 28, 2021, Appellees filed a *Petition For Custody And/Or Visitation, Request To Transfer To Juvenile Court, And Request For Expediated Hearing* pursuant to O.C.G.A. § 19-7-1(b.1) and/or O.C.G.A. § 19-7-3 essentially alleging that paternal grandmother should be awarded custody of L.B. and/or she and paternal aunt should be awarded visitation due to Appellant's alleged physical and mental health issues, her potential involvement in the killing of Mr. Figueroa by her husband Mr. Mimms (a.k.a Bishop), and the potential dangers posed to L.B. were Mr. Mimms (a.k.a Bishop) to reside with the child and Appellant. (V2 3-81)

On October 13, 2021, Appellant filed an *Answer To Petition For Custody And/Or Visitation, And Jury Demand*, asserting that Appellees failed to state a claim for relief upon which relief can be granted and that Appellees could not meet the governing legal standards for custody pursuant to O.C.G.A. § 19-7-1(b.1) nor visitation pursuant to O.C.G.A. § 19-7-3.(V2 253-257) Appellant also filed a *Motion for Summary Judgement And Frivolous Litigation Sanctions And Memorandum Of Law In Support Thereof*, essentially argued that the Appellees had no pre-existing relationship with LB, the alleged harm L.B. will suffer is based on speculation, and if true, their allegations failed to establish that Appellees met their burden of proof as required pursuant to O.C.G.A. § 19-7-3 or O.C.G.A. § 19-7-1(b.1). (V2 235-258) Appellant also filed *Defendant's Memorandum Of Law Opposing Petitioners' Request To Transfer To Juvenile Court And Request For Expediated Hearing*. Thereafter, the matter remained before the Superior Court and pursuant to an *Assignment Order* entered on October 25, 2021, Juvenile Court Judge Amber N. Patterson was assigned as an Assisting Superior Court Judge to hear all custody and visitation matters. (V1 384-385)

On November 23, 2021, Appellees filed *Plaintiffs' Response To Defendant's Motion for Summary Judgement And Frivolous Litigation Sanctions* asserting that that there were material issues of fact a to whether L.B. will suffer harm if remains in Appellant's custody, will suffer long-term emotional harm from his stepfather killing his father, whether Appellant precipitated the killing of L.B.'s father, whether Appellant's physical and mental health makes her an appropriate caregiver, and sought

sanctions pursuant to O.C.G.A. §§ 9-15-14 (a) and (b). (V2 594-615)

On December 3, 2021, Appellant filed *Defendant's Reply Memorandum Of Law In Further Support Of Motion For Summary Judgment And Frivolous Litigation Sanctions*, arguing Appellees failed to meet their burden to show clear and convincing evidence of their prior relationship with L.B. and that he will suffer physical or long-term emotional harm if Appellant retains custody and if they are denied visitation. Appellant argued that Appellees demonstrated nothing more than a desired relationship with the child, unspecified dangers the stepfather (who is legally presumed innocent) poses to L.B., any evidence of past abuse or neglect suffered of L.B. by the stepfather or Appellant, and fail to cite any evidence or authority that L.B. is likely to suffer long-term emotional trauma if he someday learns of the circumstances of his father's death or harmed by the loss of a relationship with paternal relatives he has never met or knows exist. Appellant also argued that Appellees rely on pure speculation to assert Appellant's unfitness and immaterial evidence of purported mental health issues prior to L.B.'s birth. (V2 748-766)

At the motions' hearing on December 14, 2021, the trial court orally denied said *Motion* and Appellant filed *Defendant's Request For Immediate Review* on December 27, 2021. (V2 781-784)) Thereafter on January 10, 2022 the trial court enter a written *Order* denying summary judgment and determining that the lack of a pre-existing relationship resulted because Appellant blocked all visitation attempts by Appellees and that it was unclear why Stepfather shot Mr. Figueroa and unclear as to Appellant's

role in that shooting and that concludes pursuant to O.C.G.A §19-7-3(c)(1), courts must consider if “[a]ny other circumstance exists in indicating that emotional or physical harm would be reasonably likely to result if such visitation is not granted”. (V2 793-800)

On February 11, 2022, the Parties filed a *Consent Order Appointing Guardian Ad Litem* to represent the best interests of the child. (V2 814-819)

On June 1, 2022, upon completion of Appellees depositions of Appellant, Appellees filed a *Motion For Temporary Visitation* containing additional allegations concerning Appellants physical and mental health issues. Appellees alleged that Appellant raised spousal privilege with respect to Mr. Figueroa’s death, that she made various allegations about trauma and sexual abuse suffered in past relationships prior to L.B.’s birth, that she has received little to no mental health treatment to address her significant alleged trauma, and that she had contacted suicide hotlines over thirty (30) times in the past. They also alleged that Appellant’s deposition provided detailed information related to her physical health challenges, L.B.’s health concerns, including suspected autism, and likelihood that Appellant could not provide for L.B.’s needs as there were two (2) other children in the home, Appellant had limited financial resources and fears that Mr. Mimms (a.k.a. Mr. Bishop) might harm L.B. Appellees alleged that if denied visitation, it is reasonably likely L.B. will suffer emotional harm from having no contact with his paternal family and due to being raised in the home of his father’s killer and that the Guardian ad Litem finds it is in L.B.’s best interest to

have visitation with Plaintiffs. (V2 837-846)

On June 29, 2022, Appellant filed a *Response To Motion For Temporary Visitation: Motion To Dismiss and Motion For Attorney's Fees; Or In The Alternative, For Temporary Attorney's Fees*. In said *Response and Motions*, Appellant asserted that mother's fitness is not relevant to the issue of visitation pursuant to O.C.G.A. § 19-7-3(c)(1), that Petitioners had no pre-existing relationship with the Child and cannot provide clear and convincing evidence that any of the factors of O.C.G.A. 19-7-3(c)(1)(A)-(D) authorize an intrusion and interference with Appellant's fundamental rights as a biological parent. Appellant also requested attorney fees pursuant O.C.G.A. § 19-9-3(g) and O.C.G.A. § 9-15-14(a). (V2 955-971)

On July 29, 2022 Appellees filed their *Response To Defendant's Response To Motion For Temporary Visitation: Motion To Dismiss and Motion For Attorney's Fees; Or In The Alternative, For Temporary Attorney's Fees*.(V2 1123-1130) Appellees argued that the trial court should deny the *Motion To Dismiss* as it "regurgitates arguments from Defendant's *Motion For Summary Judgment* previously denied and because the Guardian ad Litem must complete her findings for the Court to evaluate Plaintiffs' claims under § 19-7-3 and that the broad language of O.C.G.A. § 19-7-3(c)(1)(D) authorizes a court to grant third-party visitation where "any other circumstance exists indicating that emotional or physical harm would be reasonably likely to result if such visitation is not granted." (V2 1124-1125) Appellees further argued that dismissal of the custody claim was not proper because the custody

evaluation had not yet been completed, that completion should be required as it will give the Court valuable insight into the parties and the potential for long-term emotional or physical harm to the child. (V2 1126).

On August 9, 2022, the trial court denied Appellant's said *Motions* for dismissal and fees upon the grounds that "it seeks for this Court to repeat its prior hearing on Defendant's Motion for Summary Judgment". The trial court "reiterated its prior Order issued January 10, 2022", denying Defendant's Motion for Summary Judgment and ordered the parties to complete a full custody evaluation. (V2 183-1186)

Appellees filed another *Motion For Visitation With A Minor Child And Order Seeking Compliance Of Defendant With Previously Ordered Custody Evaluation* and *Brief in Support* based upon evidence from depositions of Appellant's relatives, alleging essentially that L.B. was being medically neglected and sought visitation rights and the ability to take the minor child, L.B. to medical evaluations and treatment, and seeking an Order compelling Appellant to comply with the requests of Dr. Kim Oppenheimer (V2 1213-1290) Appellees argued that mother created false narratives about Mr. Figueroa and raised concerns about Appellant's mental fitness and ability to parent and care for Leo. (V2 1221)

On October 22, 2022, Appellant filed *Defendant's Response to Plaintiffs' Motion for Visitation with Minor Child and Order Seeking Compliance of Defendant with the Previously Order Custody Evaluation* arguing that Appellees allegations do

not conclusively demonstrate nor establish that L.B. is medically neglected or Appellant's current mental health. (V2 1349-1351)

After a Hearing held on November 9, 2022, the trial court awarded Appellees visitation with L.B., a three (3) year old autistic child whom they never met and entered a *Temporary Order For Grandparent Visitation on November 21, 2022*. (V2 1354-1364) The trial court found clear and convincing evidence that L.B suffers from several serious medical conditions and that Appellant's testimony demonstrates that she suffers from possible physical, emotional, and mental illnesses that have not been treated, and she shows a history involving very dramatic narratives about past male paramours and relationships. raising concerns about present fitness that need to be further investigated by Dr. Oppenheimer, the custody evaluator, and the GAL. Based on these findings, the trial court holds that Plaintiffs have shown sufficient, clear, and convincing evidence that it would be harmful for the child not to have temporary visitation with the paternal side of his family, have additional needed socialization, and get needed medical evaluations and treatment. (V2 1354-1365)

On January 11, 2023 and prior to first 3 hour visit, Appellant filed a *Motion For Modification of Temporary Order Of Visitation and For Expediated Hearing*. alleging that Appellee, Ms. Arroyo, and her paramour, Mr. John Kojack, were inappropriate during visitation and the LB. was having adverse reactions after the two previous one-hour visits at the courthouse. (V2 1370-1385)

On February 15, 2025, the trial court entered an *Order on Defendant Motion*

*for a Modification of the Temporary Order of Visitation and for an Expediated Hearing.* (1407-1410) determining that said *Motion* did not raise new issues sufficient to require another hearing prior to a final hearing or credible concerns sufficient to prohibit Mr. Kojak from being present for ongoing visitations between Appellees and L.B. (V2 1407-1410)

On March 6, 2023, Appellant filed her *Motions To Sever Plaintiffs' Custody And Visitation Claims And For Expediated Hearing And Judgment On Visitation And/Or Modification Of The Temporary Order Of Visitation Pending A Final Hearing* pursuant to O.C.G.A. § 9-11-42(b) to avoid prejudice to both the Defendant and the Child, were the claims not to be severed. (V2 1412-1425)

On April 3, 2023, Appellees filed their *Response Motions To Sever Plaintiffs' Custody And Visitation Claims And For Expediated Hearing And Judgment On Visitation And/Or Modification Of The Temporary Order Of Visitation Pending A Final Hearing* (V2 1458-1490), asserting that “[t]he affidavit of the Defendant shows very clearly that she cannot be trusted with this child, and that she will be completely unable to be trusted with any level of care over the child.” (V2 1459), reiterated portions of the trial court findings related to concerns raised about Appellant's mental health, physical health, credibility, and her failure to get proper care for L.B. (V2 1461). Appellees also alleged that Appellant is fabricating lies and it is hurting L.B. and his ability to build a loving and lasting relationship with his paternal his family. They further alleged that Appellant’s “lies have already contributed to the murder of

L.B.'s. father, that she will only continue to escalate her vile accusations until someone else gets hurt or killed... and current situation is not safe for Leo or for us”.

(1473)

On April 26, 2023, the trial court entered an *Order* denying severance, finding that on August 9, 2022, all parties agreed to a custody evaluation and thereafter Appellant refused to cooperate, thereby delaying final resolution in this matter and preventing Appellees access to the child.(V2 1525), and that Appellant's prior *Motion* seeking a modification of the *Temporary Order* was denied. Without addressing the issue of prejudice, the trial court ordered that custody and visitation will be heard together to avoid unnecessary costs or delay, that a custody evaluation is pending, and that Plaintiffs' temporary visitation ordered previously remains appropriate and in the best interest of the child pending the final hearing in this matter. (1524-1526)

On May 10, 2024, Appellees filed a *Motion For Modification Of Temporary Order To Change Custody To Paternal Grandparent and For Expediated Hearing* alleging that Appellant has coached and programmed L.B. to make false allegations of abuse by Appellees, Arroyo and Mr. Kojak. (R p.1580) in an effort to alienate them and that “only cure is to limit Defendant's time with the minor child and change custody to Plaintiff, Elizabeth Arroyo, Paternal Grandmother, of the minor child or at a minimum, give the Paternal Grandmother substantial time each month with the child so that the alienation may be more limited, and the child might have a clearer

view of his father's relatives and their love and concern for this child, giving a chance at a counteracting effect of the Defendant's clear insidious efforts to poison the child against his grandmother.” (V2 1578-1583)

On June 10, 2024, a *Rule Nisi* was issued indicating the custody evaluation has been completed. (V2 1620)

On June 11, 2024, Appellant filed her *Response to Plaintiffs’ Motion for Modification of Temporary Order to Change Custody to Paternal Grandparent and for Expedited Hearing* (V2 1622-1639) joining that portion of Plaintiffs’ Motion seeking an expedited hearing and a modification of the Temporary Order granting Plaintiffs visitation and dated November 21, 2022. (V2 1622) asserting that fails to comply with U.S.C.R. 6.1, reasserted that Appellants’ original *Petition* seeking custody and/or visitation lacked the legal basis for an award of visitation and/or custody to Appellees for all the reasons set forth in Appellant’s prior Motions filed herein, and that Appellees’ *Motion* fails to state a claim supporting the relief requested therein, and further denied the visits are going well. (V2 1623)

On June 13, 2024, Appellees filed a *Motion for Citation of Contempt for Blatantly Refusing to Allow Court Ordered Visitations* because Appellant cancelled the June visit via text message the morning of the scheduled visit. (V2 1657-1661)

On July 15, 2024, Appellant filed her *Response To Plaintiffs' Motion for Citation of Contempt for Blatantly Refusing to Allow Court Ordered Visitations*. (V2 1701-1705) alleging that a report to DFAC was made by L.B. therapist in March 2024, Appellees voluntarily agreed to supervised visitation in April 2024, that given the nature of the allegations of the report and statements made by L.B., she had concerns for his safety during unsupervised visits in May and June. Prior to cancelling the June visit Appellant, via text message, offered Appellees two additional hours of visitation time if they would agree to another supervised visit at her expense. (V2 1679) Said text was admitted into admitted evidence. (V2 1742)

On November 11, 2024 a *Order On Plaintiffs' Motion for Modification of Temporary Order to Change Custody to Paternal Grandparent and for Expedited Hearing and Plaintiffs' Motion for Citation of Contempt for Blatantly Refusing to Allow Court Ordered Visitations* was entered in which the trial court granted significantly expanded visitation with overnights and Christmas and Summer vacations (V2 1775) upon finding “that the mother’s untreated mental health issues and behaviors are causing real harm to the child, that she frustrated court-ordered visitation with the father, that she made serious accusations of abuse toward Appellees and Mr. Kojak, which affected how L.B. behaved toward them. The trial court found that Appellant brought the child to unnecessary medical visits, which led to unnecessary examinations, including a CT scan in late March 2024. The trial court found L.B. repeated inconsistent statements alleging abuse to medical providers and

his therapist, the latter of which resulted in a referral to DFCS and the police. The trial court found that none of the allegations had been corroborated by the child's doctors, DFCS, law enforcement, or any other witnesses as reported by Dr.

Oppenheimer and the GAL. The trial court concluded that Appellant's behaviors have caused the child stress and confusion. and that "Appellant's behaviors are emotionally damaging to L.B. and the only way to mitigate that harm is to provide [Appellants with ---increased visitation. (V2 1752-1777)

However, the trial court also found that L.B is making progress with services and receiving special education services at school. The trial court also determined that although no pre-existing relationship existed, Appellees had expressed an interest in a relationship with L.B. as sufficient. (V2 1752-1777)

## V. ARGUMENT AND CITATION OF AUTHORITIES

Parents have a constitutional right under the United States and Georgia Constitutions to the care and custody of their children See *Troxel v. Granville*, 530 U.S. 57, 120 S. Ct. 2054, (2000); *Clark v. Wade*, 273 Ga. 587, 596 (IV) (544 SE2d 99) (2001). (2018).

An award of visitation to a non-parent family member against the wishes of a parent who has not lost parental power pursuant O.C.G.A. § 19-7-1, is only constitutionally authorized under the provisions of O.C.G.A. § 19-7-3 and only upon a threshold showing of harm were the visitation not awarded. See *Patten v. Ardis* 304 Ga. 140, 816 S.E.2d 633, (2018). Absent clear and convincing evidence that the child

would experience actual physical, mental, or emotional harm if visitation was denied, the trial court cannot justify mandating grandparent visitation over the objections of the parents. Id.

In considering whether the health or welfare of the child would be harmed without such visitation, the court shall consider and may find that harm to the child is reasonably likely to result when, prior to the original action or intervention:

- (A) The minor child resided with the family member for six months or more;
- (B) The family member provided financial support for the basic needs of the child for at least one year;
- (C) There was an established pattern of regular visitation or child care by the family member with the child; or
- (D) Any other circumstance exists indicating that emotional or physical harm would be reasonably likely to result if such visitation is not granted.

O.C.G.A. § 19-7-3(c)(1) and O.C.G.A. § 19-7-3(c)(1).

1. The trial court erred in denying dismissal of Appellees visitation claims.

As demonstrated by the trial court's Findings upon the completion of two temporary hearings, Appellees did not have any pre-existing relationship satisfying factors (A) – (C) and thus could not establish harm from a denial of visitation under this statute authorizing an award of visitation and Appellees raised no other factor

related to a pre-existing relationship satisfying factor (D).

2. The trial court abused it's discretion by incorporating Findings related to Appellant's concerning behaviors as any other circumstances indicating harm as set forth in factor (D).

Finding no pre-existing relationship, the loss of which is reasonably likely to result in harm to L.B., the trial court abused it's discretion by concluding that Appellant's concerning behaviors are causing harm rather than the loss of any substantial relationship between L.B. and Appellees. Creditability, suggestive language, physical or mental health may be relevant to the issue of custody but are not factors for courts to consider under the plain and ordinary meaning of this statutory provision. *Bell v. Hargrove*, 313 Ga. 30, 867 S.E.2d 101 (Ga. 2021). Thus an award of visitation is not authorized and an abuse of discretion.

Absent clear and convincing evidence that the child would experience actual physical, mental, or emotional harm if visitation was denied, the trial court cannot justify mandating grandparent visitation over the objections of the parents.

It is well established that "Georgia law expressly provides that while a parent's decision [regarding family-member visitation] shall be given deference by the court, the parent's decision shall *not* be conclusive when failure to provide grandparent contact would result in emotional harm to the child." *Keith v. Callahan*, 332 Ga.App. 291, 292-293, 772 S.E.2d 386) (2015)

3. Appellant is extremely prejudiced and harmed by the trial court's denial of severance of the custody claims from the visitation claims

O.C.G.A. § 9-11-42(b) empowers courts to sever multiple claims and order separate trials for each claim in furtherance of convenience or to avoid prejudice. Although severance is largely a matter of discretion for the trial judge, a clear and manifest abuse of that discretion may be addressed on appeal." *Wheels Brakes v. Capital Ford Truck Sales*, 167 Ga. App. 532, 307 S.E.2d 13, (1983).

Pursuant to O.C.G.A § 19-7-1(b.1) Appellee, Arroyo, must demonstrate that L.B. will suffer long-term emotional or physical harm if custody were to remain with Appellant, thus necessitating an inquiry into the Appellant's ability to provide care and necessities to the child. Pursuant to O.C.G.A § 19-7-3(c)and (d) Appellees must demonstrate that L.B will be harmed if visitation is not awarded, thus necessitating an inquiry into the relationship and bonding between L.B. and Appellees. It is evident from the record that the custody claim necessitating the evaluation conducted by Dr. Oppenheimer and the recommendations of the GAL concerning L.B.'s best interests prejudiced any deference to Appellant and provided the basis for the trial court to erroneously conclude these were the "any other factors" to consider when making a determination as to potential harm if visitation were not granted. The trial court did not even consider prejudice when denying severance.

The abuse of discretion is especially egregious because the trial court in

awarding Appellees visitation, has afforded Appellees a significantly better factual basis to claim that L.B. could be harmed by the loss of a relationship with them, which they did not have when they initially petitioned for visitation. Indeed over a year of visitation had occurred from the request to sever in March 2022 until the custody evaluation was completed as set for in the *Rule Nisi* in June 2024.

4. Neither O.C.G.A § 19-7-1(b.1) or O.C.G.A § 19-7-3 authorizes a court to substitute it's judgement for that of a parent concerning who may have unsupervised contact with her child.

These statutes only authorize an intrusion upon a parent's constitutional rights with respect to custody and visitation under compelling circumstances significant enough to rebut the presumption that parents make determinations as to the best interests of their child. See *Patten v. Ardis* 304 Ga. 140, 816 S.E.2d 633, (2018) Therefore, the trial court was not authorized to mandate that Appellant not permit unsupervised contact between L.B. and his Stepfather.

5. It was an abuse of discretion for the trial court to award fees pursuant to O.C.G.A. § 9-15-14(b)

It is incumbent upon the trial court to specify the conduct upon which the award is made *Ga. Dept. of Transp. V Douglas Asphalt Co.* 295 Ga App 421,424, 671 S.E. 2d 899 (2009). Trial court's order cannot be too vague and conclusory such as where it fails to cite examples of conduct that authorize the award *Reid v. Reid* 348 Ga. App. 550, 553-554, 823 S.E. 2d 806 (2012). The trial court did not identify how

Appellant's conduct lack substantial justification, was intended for purposed harassment or delay, or unnecessarily expanded the proceedings and is therefore in error.

## VI. CONCLUSION

Absent clear and convincing evidence that the child would experience actual physical, mental, or emotional harm if visitation was denied, the trial court cannot justify mandating grandparent visitation over the objections of the parents. The Findings articulated in both *Temporary Orders* of visitation fall short of what is required by OCGA § 19-7-3 (c) (1). See Davis, 356 Ga. App. at 876877 (2).

**This submission does not exceed the word count imposed by Rule 24.**

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ELIZABETH FIGUEROA )  
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**CERTIFICATE OF SERVICE**

I certify that I have this day, served Charles M. Medlin, Esq. with a copy of this *Appellant's Brief* by: Electronic Mail.

I certify that there is a prior agreement with Mr. Charles M. Medlin to allow documents in a PDF format sent via email to suffice for service to him at:

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Served by me on this 31st day of September 2025.

/s/ Martha Fineman-Sowers  
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