



STATE OF CONNECTICUT

SUPREME COURT
APPELLATE COURT

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October 19, 2023¹

THE SUPREME COURT IS SOLICITING AMICUS CURIAE BRIEFS IN:

SC 20882

R. H. v. M. H.

The Court invites amici curiae to file briefs in the above-captioned matter that address the following question:

"Did the trial court improperly delegate its judicial authority when the defendant mother alleged that the trial court's visitation order gave the plaintiff father the authority to decide the nature and scope of the defendant's visitation with the parties' minor child insofar as it allowed the plaintiff to change the defendant's visitation if the plaintiff reasonably determined, after consultation with the child's therapist, that the child was negatively impacted by the visitation?"

As this is a Court-initiated request, an application for permission to file as amicus curiae is not required. If you accept the Court's invitation, you must file the amicus brief limited to 4000 words on or before **December 1, 2023**, in compliance with Practice Book § 67-7, including the disclosure required in the first footnote on the first page of text. No extensions of time or argument will be permitted for amicus curiae, and responsive briefs by the parties will not be allowed.

Please find the case summary that was prepared for the general public by court staff attached to this invitation. It does not represent the Court's view of this case.

If you have any questions, please call 860-757-2200.

¹ Amended to set the amicus brief due date to December 1, 2023, from October 19, 2023.

R.H. v. M.H., SC 20882
Judicial District of Middlesex

Custody and Visitation; Whether Trial Court Improperly Delegated Judicial Authority by Ordering That Plaintiff Father Could Change Defendant Mother's Visitation with Child if He Made Reasonable Determination in Consultation with Child's Therapist That Visitation Negatively Impacted Child. The defendant mother filed an appeal in the Appellate Court from the judgment of the trial court granting the plaintiff father's motion for modification of custody and access. The defendant made three claims; the second was that the trial court improperly delegated its judicial authority by giving decision-making authority to the plaintiff over her access to the parties' children. The Appellate Court (219 Conn. App. 716) issued a memorandum of decision that affirmed the trial court's judgment as to the defendant's first and third claims. A majority of the deciding panel, however, reversed the judgment as to her second claim. The majority noted that the trial court had ordered supervised, in-person visitation between the defendant and the parties' son if she completed specified mental health treatment and had further ordered: "Unless the [plaintiff] reasonably determines, after consultation with [the child's] therapist, that the supervised visits are causing negative . . . consequences for [the child], then the [defendant] shall thereafter be entitled to reasonable, incrementally increased, unsupervised visitation with [the child] If at any time the [plaintiff] reasonably determines, after consultation with [the child's] therapist, that the unsupervised visits are causing negative . . . consequences for [the child], then the [plaintiff] may either suspend the [defendant's] visitation or reinstate the requirement of supervision of the visits" The defendant claimed that the trial court improperly delegated its judicial authority because it authorized the plaintiff to decide the nature and scope of her visitation with the child, and the majority agreed. It posited that General Statutes § 46b-56 expressly authorizes the trial court alone to make and modify orders in dissolution actions regarding the parties' children and specifically directs the trial court to consider the best interests of the children in entering such orders. The majority then reviewed recent case law on the improper delegation of judicial authority in the custody and visitation context before concluding that the order here improperly delegated the trial court's authority to suspend or terminate the defendant's visitation with the child and make the attendant best interests determination to the plaintiff, in consultation with the child's therapist. The third judge on the deciding panel wrote a separate opinion dissenting as to the majority's decision on the defendant's second claim. The dissent argued that § 46b-56 gives broad discretion to a trial court to award custody and craft visitation orders and that the order here was entered in accordance with such discretion. The dissent also disagreed with the majority's interpretation of the case law at issue and expressed its concern that the majority's decision "will result in trial judges denying visitation rather than ordering a gradual visitation schedule that could be paused in the discretion of the custodial parent on that parent's reasonable determination that the visits are negatively affecting the child." The plaintiff filed a motion for reconsideration en banc, which the Appellate Court granted as to the parts of the majority and dissenting opinions addressing the defendant's second claim. The Supreme Court thereafter transferred this appeal to itself under Practice Book § 65-1 and will decide this appeal in accordance with the order granting the motion for reconsideration en banc.