

ALBUQUERQUE DIVORCE LAWYER BLOG

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Visitation for Extended Family Only If In Best Interests of Child

When parents get divorced, or break up, and a child custody dispute ensues over their child, there may be people in the child's life, such as grandparents, aunts, uncles or stepparents who want to protect their relationship with the child.

In New Mexico, these extended family members do not have rights to custody, however, they may be able to establish visitation. In *Rhinehart v. Nowlin*, the New Mexico Court of Appeals upheld the district court's decision awarding visitation to a stepmother when she and the father of her stepchildren got divorced.

In the *Rhinehart* opinion, the Court reiterated that the New Mexico district courts have exclusive jurisdiction over all matters related to the guardianship, custody, care and maintenance of children. Given that exclusive jurisdiction, the district court may grant visitation to a person other than the parent of a child, if the court determines that such visitation is in the best interests of the child.

While the *Rhinehart* ruling does not grant extended family members an absolute right to visitation, it does provide a means for them to pursue an order allowing them to maintain contact with the child in their life. That family member will have to show that maintaining that relationship is in the child's best interest and not every relationship will meet the court's standards. In fact, it is often an uphill battle.

However, when an important and close relationship exists between the extended family member and the child, and maintaining that relationship is important to the child, it may be a battle worth pursuing. Consultation with a family law attorney can help family members determine whether or not they have a basis to pursue visitation and what procedural requirements they must follow to do so.

DISCLAIMER

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