

Hague Convention Task Force IACP Presentation Fact Pattern

Mother, Astrid, is a resident and citizen of Switzerland. Father, Adam, is a former resident of Switzerland and a current resident and citizen of the United States. The parties were in a romantic relationship for 15 years, which ended 5 years ago. They were never married. They have two children together, Ella, age 9 and Hugo, age 11, who are both citizens of Switzerland. The couple registered each child's paternity with the civil registry office in their Swiss town before the birth of each child and applied for joint legal custody in each case, which was granted.

During the children's minority, the parents and children lived primarily in Switzerland and spent time in the United States visiting with Father's family members and in his hometown, Charlotte, North Carolina. 3 years ago, Father returned to Charlotte, North Carolina for employment. At the time Father moved to the United States, the parents worked out a written time-sharing arrangement where the children would go back and forth between Switzerland and the United States based on the school year, summer, holidays, etc. and the parents have navigated their time-sharing arrangement well and have made joint decisions related to the children since the end of their relationship.

This year, Father informed Mother at the end of July before the children were supposed to return to Switzerland to start school in early August, that he believed that remaining in the United States was in the children's best interest. Father indicated he has arranged for the children to stay in the United States at the end of their summertime visit. The children living primarily in the United States is not contemplated in the parties' time-sharing arrangement and is contrary to its terms.

Father shared some of the reasons he thinks the children should remain as follows: they have great friends in his new neighborhood, Mom has a new boyfriend they do not like, Mom leaves them with the boyfriend because she works until after they are home from school, the children have toured and have already been enrolled in a top-tier private school in Father's neighborhood where he knows they will thrive and they are excited about the school, the children have a pediatrician they have seen on prior visits to the United States, the children's grandparents are right down the street, are in good health, and love spending time with their grandchildren, they have

no extended family in Switzerland, Father has a very flexible work schedule, but Father's sister is available to care for the children at times when Father has work obligations and the children have told Father they love living in North Carolina and want to stay with him here and prefer to visit with Mother in Switzerland.

Father has heard about the conflict resolution process called the Collaborative law process where he and Mother could have a team helping them resolve the issues without fighting it out in Court. He has recently consulted with a Collaborative attorney. Mother consulted with a litigator who advised her of the process of filing a petition for return in the Western District of North Carolina pursuant to the Hague Convention. Mother, at Father's urging, consulted with a Collaborative attorney. Mother ultimately decides to hire the Collaborative attorney and both parties agree to engage in the Collaborative law process.