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Harleysville, PA 19438
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House Judiciary Committee
State Capitol
Harrisburg, PA

Let me first extend my sincere thanks to you for providing me with this opportunity to share my experiences, and the experiences of my family relating to this bill.

The background of my case begins in December of 1986, when my first wife, Shirley Diesinger, died of liver cancer. The disease had been diagnosed in September and she died on December 23, 1986. We had been married for fourteen and one-half years. She left me with two girls, ages three and five (they are seven and nine now). After an extremely difficult period of mourning, I was able to "pick up the pieces" and move on with my life. In May of 1987, I met my present wife, and we were married in November. Nine days after our wedding my former mother-in-law, Nina Johnson of Frenchville, Clearfield County, had a conference with an attorney in King of Prussia, some 225 miles from her home.

I had written to her asking that there be a brief period without visitation so that we would have time to settle into our new family situation. My daughters were not only gaining a mother, but two new sisters as well. In January of 1988, the children spent five days visiting their grandmother. In February, they spent three days visiting. In March, their grandmother and her two daughters spent a day at my home visiting. In April, there were some difficulties with my new marriage and I phoned the children's grandmother to reschedule a planned visit. Two weeks after the phone call I was served papers informing me that I was being sued because I had denied her access to the children. On the advice of counsel, I then stopped all visitation.

Several court appearances occurred in the fall and winter of 1988, but it was not until February of 1989 that a full hearing took place. In May of that same year, a court order was issued by the Honorable Paul W. Tressler, Court of Common Pleas of Montgomery County. The Trial Court granted me primary physical custody with the following partial custody rights being granted to the maternal grandmother:

One weekend a month during the months of February, March, May, June, September, and October. With no contact permitted between the children and their father for these periods.

Every Labor Day extended weekend.

Every Christmas school vacation from 12/27 - 12/31.

Three consecutive week-days of every Easter/ Spring school vacation.

The Friday through Sunday following Thanksgiving each year.

Three weeks during the school summer vacation each year at the maternal grandmother's discretion. During this period the father's telephone access will be restricted to one call between 7 and 8:00PM Sunday evenings.

This order was appealed on June 3, 1988, with a decision vacating and remanding the order issued by the Superior Court on April 24, 1988. It is important to note that it took the lower court one year to write its opinion concerning this case.

This "thumb nail" sketch is the nightmare my family has lived through since April of 1988. The statute authorizing grandparents' visitation rights states explicitly, "... If a parent of an unmarried child is deceased, the parent or grandparents of the deceased parent may be granted reasonable partial custody or visitation rights or both, to the unmarried child by the court upon a finding that partial custody or visitation rights, or both would be in the best interest of the child...."

Could anyone consider it in the best interest of these children to take them from their home during every holiday and vacation that they have the right to share with their family and their new sisters? With the extensive travel, such as 430 miles in a two day week-end, and frequent night time travel with a senior citizen, our concern for the safety of the children became overwhelming. And because of the court order, we had

no right to know the children's whereabouts nor were they permitted to contact us. We were forced to make many poor parental decisions because of the restrictions placed on us by the court.

Laura's (the oldest child's) second grade teacher requested a conference to inform us that every child in the class was looking forward to Christmas, but ours. The anxiety and stress created in these children by this court case, and subsequent court order, coupled with the trauma of losing their mother at such an early age has taken such a toll, that I can't even begin to guess as to the long term consequences. The youngest child has suffered a regression in her speech development. The oldest seems to develop a new nervous twitch every day, from tossing imaginary hair out of her face, to pulling constantly on her clothing, to drawing circles in the air while she talks to you.

Some of you may ask why we don't get these children professional help. We have from time to time, but their mother's illness took some \$22,000 from the savings, and now we are well over \$30,000 paid to lawyers, private investigators, and court appointed psychologists. We have not ended our financial commitment to your legal system. I have been told that I will be forced to sign a promissory note before the next hearing or I will not have legal representation. At one point I was accused of being in contempt of court because I was using call forwarding and the court order specifically called for the children to take the call at our residence. The system worked, and the court did not recognize the allegation as reasonable. The contempt proceeding cost \$3200. Did I win? Did my family win?

Ladies and gentlemen of the committee, all that my children and I wanted after the tragic death of their mother and my wife was the right to move on with our lives, the right to reestablish a family unit and to once again be a whole family. We wanted to do the things that families do together without the interference of an angry grandmother. We wanted to be able to plan summer vacations and have my children spend time with my family and their Christmas gifts. To attend church and sing in their choir without being taken 215 miles away at the whim of the court. When I married Shirley Diesinger in 1972, I never realized I married her family. This court case has been nothing short of a divorce proceeding.

Surely, with the divorce rate as high as it is, and with people in my situation, blended families are becoming more and more common in the state. It is not an easy task to blend two families into one. Yet, it can be done. The nuclear family is, and has been the building block of our

society. Our laws should not interfere with the establishment of these new families. They represent a true hope for our children from the inherent pit falls of single parent homes. Yet, the law as it stands today is a powerful weapon for angry grandparents to attack a family both emotionally and financially.

In December of 1988, my present wife legally adopted my two children. The message that we hoped to convey to all four of our children by this adoption was loud and clear. We are a family unit! With the passage of bill 431 you can help to insure the integrity of these "new" families.

*Respectfully submitted,
Russell J. Diesinger
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