

SUPREME COURT OF THE STATE OF NEW YORK
Appellate Division, Fourth Judicial Department

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CA 21-00413

PRESENT: SMITH, J.P., CENTRA, LINDLEY, CURRAN, AND WINSLOW, JJ.

MATTHEW A. BURNS, PLAINTIFF-RESPONDENT,

V

MEMORANDUM AND ORDER

JENNIFER A. GRANDJEAN, DEFENDANT-APPELLANT.

WALTER BURKARD, ESQ., ATTORNEY FOR THE CHILDREN,
APPELLANT.
(APPEAL NO. 2.)

MICHAEL STEINBERG, ROCHESTER, FOR DEFENDANT-APPELLANT.

WALTER BURKARD, MANLIUS, ATTORNEY FOR THE CHILDREN, APPELLANT PRO SE.

AFFRONTI, LLC, ROCHESTER (FRANCIS C. AFFRONTI OF COUNSEL), FOR
PLAINTIFF-RESPONDENT.

Appeals from an order of the Supreme Court, Monroe County (Richard A. Dollinger, A.J.), entered March 12, 2021. The order, inter alia, granted in part the motion of defendant for leave to reargue and, upon reargument, adhered to two prior contempt determinations.

It is hereby ORDERED that said appeal from the order insofar as it denied leave to reargue is unanimously dismissed (*see Empire Ins. Co. v Food City*, 167 AD2d 983, 984 [4th Dept 1990]) and the order is modified on the law by denying those parts of plaintiff's June 18, 2020 order to show cause seeking to hold defendant in contempt based on allegations that she violated court orders by allowing the children's maternal grandmother to tutor them and allowing the children to be present when the maternal grandparents visited her, denying plaintiff's October 23, 2020 cross motion, vacating the third ordering paragraph and subparagraph B (2) of the fourth ordering paragraph, and reinstating the motion of the Attorney for the Children, and as modified the order is affirmed without costs and the matter is remitted to Supreme Court, Monroe County, for further proceedings in accordance with the same memorandum as in *Burns v Grandjean* ([appeal No. 1] - AD3d - [Nov. 18, 2022] [4th Dept 2022]).

Entered: November 18, 2022

Ann Dillon Flynn
Clerk of the Court