

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

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CAF 14-00798

PRESENT: SMITH, J.P., VALENTINO, WHALEN, AND DEJOSEPH, JJ.

IN THE MATTER OF MARGARET J. RICHARDSON,
PETITIONER-RESPONDENT,

V

MEMORANDUM AND ORDER

JILL LUDWIG, RESPONDENT-APPELLANT,
AND DANIEL LUDWIG, RESPONDENT-RESPONDENT.

TRACY L. PUGLIESE, CLINTON, FOR RESPONDENT-APPELLANT.

ROBERT C. BALDWIN, ATTORNEY FOR THE CHILDREN, BARNEVELD.

Appeal from an order of the Family Court, Herkimer County (Anthony J. Garramone, J.H.O.), dated April 8, 2014 in a proceeding pursuant to Family Court Act article 6. The order granted petitioner visitation with the subject children.

It is hereby ORDERED that the order so appealed from is unanimously affirmed without costs.

Memorandum: Petitioner, the maternal grandmother of the subject grandchildren, commenced this proceeding seeking visitation with them, and respondent mother appeals from an order that granted the petition, awarding the grandmother, inter alia, a minimum of six hours of visitation one weekend day per month with two of the subject grandchildren. We reject the mother's contention that Family Court erred in concluding that the grandmother had standing to seek visitation pursuant to Domestic Relations Law § 72 (1), inasmuch as the grandmother established that "conditions exist [in] which equity would see fit to intervene" (see *id.*; *Matter of E.S. v P.D.*, 8 NY3d 150, 157; *Matter of Hilgenberg v Hertel*, 100 AD3d 1432, 1433). We also reject the mother's contention that the court erred in granting the petition. We conclude that the record supports the court's determination, which was based in part upon the credibility of the witnesses (see generally *Hilgenberg*, 100 AD3d at 1434), that visitation is in the best interests of those subject grandchildren (see *Matter of Morgan v Grzesik*, 287 AD2d 150, 156; cf. *Hilgenberg*, 100 AD3d at 1434-1435).

Entered: March 27, 2015

Frances E. Cafarell
Clerk of the Court