

# Court of Appeals, State of Michigan

## ORDER

Todd M Bell v Kourtney Malmberg

Docket No. 320618

LC No. 13-028035-DZ

Michael J. Kelly  
Presiding Judge

Donald S. Owens

Stephen L. Borrello  
Judges

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The Court orders that the motion for immediate consideration is GRANTED.

The motion for peremptory reversal is GRANTED, and the circuit court's February 11, 2014 order is VACATED. Plaintiffs failed to allege facts sufficient to overcome the statutory presumption that defendant's decision to deny grandparenting time does not create a substantial risk of harm to the minor child's mental, physical, or emotional health. MCL 722.27b(4)(b); *Book-Gilbert v Greenleaf*, 302 Mich App 538, 544; 840 NW2d 743 (2013). In light of the presumption favoring defendant's decision, and the absence of any evidence to rebut the presumption, the court abused its discretion in ordering defendant to submit the child for a therapeutic and diagnostic interview.

In all other respects, the application for leave to appeal is DENIED for failure to persuade the Court of the need for immediate appellate review.

This matter is REMANDED for further proceedings consistent with this order. We do not retain jurisdiction.



A true copy entered and certified by Jerome W. Zimmer Jr., Chief Clerk, on

**MAR - 7 2014**

Date

Chief Clerk