



International Custody Disputes: What Judges and Lawyers Want (and Need) to Know about the Hague Convention

Written by Judge Scott Bernstein | sbernstein@jud11.flcourts.org

Sean Goldman was four years old when he went with his mother to Brazil for a two-week “vacation.” His mother refused to return him. Sean’s New Jersey-based father obtained a New Jersey court order that Sean had been wrongfully retained in Brazil. The mother filed in Brazil for divorce from the father, then remarried a new husband in Brazil, and later died in Brazil while giving birth to another child with her new husband. The Brazilian husband claimed custody of Sean, even though Sean’s father was alive and well, and desperately wanted Sean back. Brazil is a signatory to the Hague Convention, yet the courts there failed to order Sean’s return. The situation turned into a heated diplomatic crisis between Brazil and the United States, and it took the intervention of then-Secretary of State Hilary Clinton to get Sean home to his father. Sean’s two-week vacation turned into a five-and-a-half-year ordeal. While the latest news reports indicate Sean is now doing well emotionally, imagine the impact of this trauma on a little boy.

The Hague Convention on the Civil Aspects of International Child Abduction was specifically designed for cases like this and should have resulted in Sean’s immediate return to New Jersey. And Brazil signed the Convention treaty. Yet the Court system in Brazil is known for failing to follow the Convention its government signed.

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The Hague Abduction Convention: Not Your Typical Custody Case



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Many parents accused of abducting their children in violation of the Hague Convention on the Civil Aspects of International Child Abduction are not sure how to respond. That’s because parents treat their Convention case as just another custody case, confident the best interest of the child is the standard. This article briefly discusses why those parents are wrong, and what defenses are available under the Convention.

The Hague Abduction Convention

The Convention has become the primary mechanism to ensure the return of children who have been wrongfully removed or retained from their country of habitual residence. The two main purposes behind the Convention are to protect children from the harm of an international abduction and secure the left behind parent’s rights of access to their child.

However, many parents confuse the purposes of the Convention, mistakenly thinking their defense rests on proving who the better parent is. It comes as a surprise to many people to learn that the judge in a Convention case does not have jurisdiction to hear a child custody dispute.

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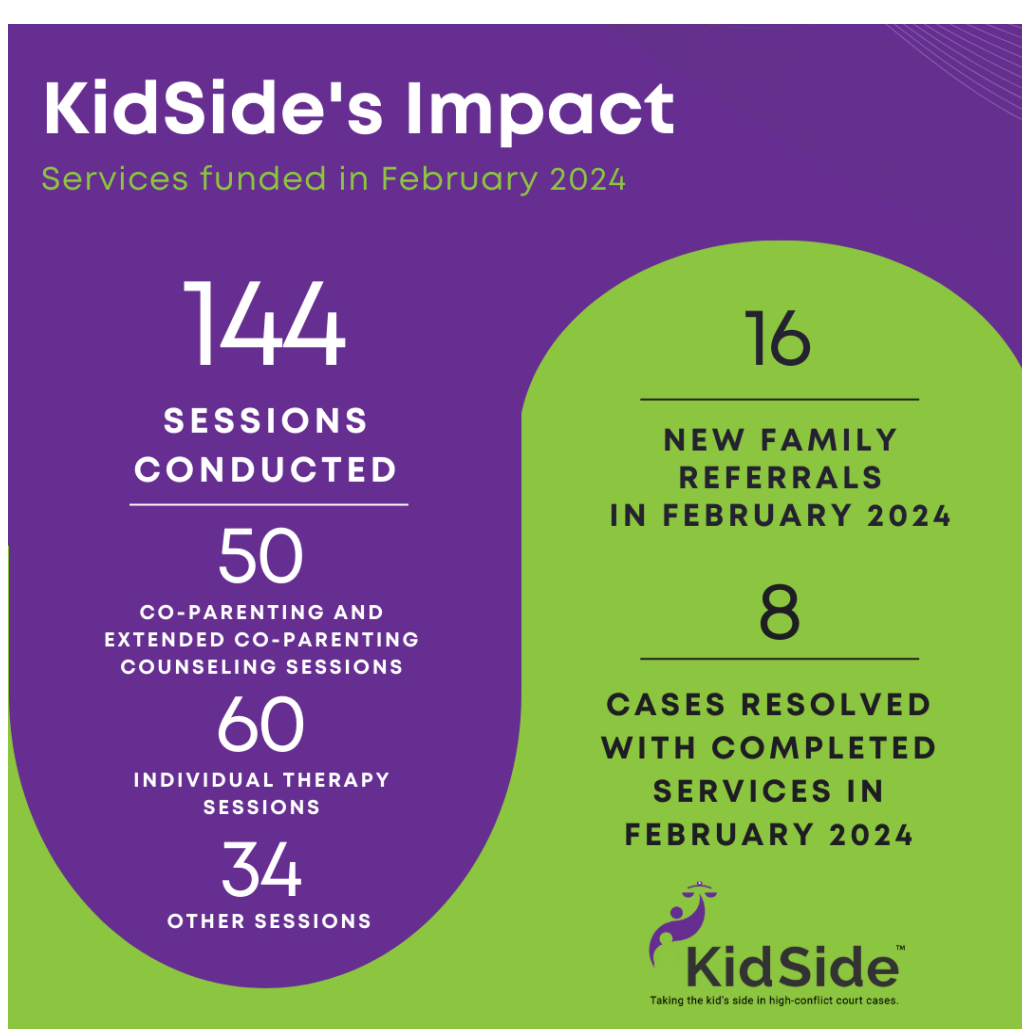
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Making a monthly donation to KidSide through the Friendship Circle is a convenient way to support KidSide by spreading my annual commitment over the year. Because the donation is set up as an automatic charge to my credit card, I also don't have to remember to take the extra step of initiating the payment each month. This is such an easy way to support the important work done by KidSide!

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A big shoutout to our wonderful friend Patricia Young for being an incredible part of the KidSide Friendship Circle! Patricia, your dedication and support mean the world to us, and we're incredibly grateful to have you on board.

Your presence in the Friendship Circle helps us create a warm and inclusive community where children feel valued, supported, and empowered to thrive. Your kindness and commitment inspire us all to continue spreading love and compassion.

To everyone else who's considering joining the KidSide Friendship Circle, we invite you to be a part of this incredible journey! Together, we can make a meaningful difference in the lives of children in need. Your participation and support will help us create even more opportunities for growth, happiness, and friendship.

Come, join us in making a positive impact that lasts a lifetime! Let's build a brighter future together, one friendship at a time.

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