

Ontario Court Orders Children Returned to United Kingdom

In *Courtney v. Springfield* (available [here](#)) the parties had cohabitated as a same-sex couple for nine years in the United Kingdom and the defendant had adopted two children (the couple could not legally adopt them as a couple). The defendant separated from the plaintiff in 2003 and moved to Ontario with the children in 2007. The plaintiff sought the return of the children, based on the Hague Convention on the Civil Aspects of International Child Abduction. She won: the court ordered the return of the children to the United Kingdom.

The case concerns the following issues: (a) did the plaintiff, who had not adopted the children, have “rights of custody” over the children; (b) was the plaintiff exercising those rights at the time of removal (since the parties had been separated for four years), (c) were there other reasons the court should nonetheless decline to order the return of the children. The answers: yes, yes, and no. The most complex analysis is on the first of these issues, and the case contains several interesting factual wrinkles.