

Re L (Abduction: Consent)

[2008] FLR (forthcoming. [2007] EWHC 2181 (Fam)

14/09/2007

Barristers

Private: David Williams QC

Court

High Court

Summary

The Mother brought the 2 children on holiday to England in the summer of 2007. She refused to return them to the USA, their country of habitual residence. The Father issued proceedings under the Hague Convention. The Mother defended the application alleging that the Father had given his consent to their removal in the autumn of 2006. She alleged that the Father had agreed that if she, the Mother, was not happy with life in the USA at the end of the school year that she could return to live in England with the children. The Father denied that such an agreement had been reached. Bodey J ordered the return of the children to the USA holding that even if such an agreement had been reached it had been superceded by the subsequent agreement for the Mother to take the children on holiday. The Mother could not purport to act on a wide agreement which had been replaced by a narrower one. Bodey J held that there was no reason why a conditional agreement could not be reached but stated that this could be subsequently withdrawn or varied provided this was done before the agreement was acted upon by a removal or retention.