

UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF
CALIFORNIA

Pitz v. Gonzalez

Case No. 25-cv-04454-LJC · No. 25-cv-04454-LJC · Decided August 21, 2025

SUMMARY

The United States District Court for the Northern District of California ruled on Respondent’s second motion in limine in a Hague Convention proceeding. The court excluded evidence and testimony concerning German proceedings to the extent offered on habitual residence or custody rights, but permitted limited evidence concerning German law and potential protective or ameliorative measures upon return. The court denied further deposition discovery of Petitioner’s German attorney, while allowing limited trial questioning subject to the attorney’s asserted obligations under German law.

CASE DETAILS

COURT	United States District Court for the Northern District of California
WRITING FOR THE COURT	Lisa J. Cisneros
JURISDICTION	United States District Court for the Northern District of California
DECIDED	August 21, 2025
DOCKET	25-cv-04454-LJC
DISPOSITION	other
PROCEDURAL POSTURE	Order resolving Respondent's second motion in limine in a Hague Convention proceeding concerning the return of children, including requests to exclude evidence about German proceedings and to obtain further discovery concerning attorney-client privilege and work product.
STANDARD OF REVIEW	The Court applied relevance and cumulative-evidence principles under Federal Rules of Evidence 401 and 403, the federal privilege rules, the proportionality standard under Federal Rule of Civil Procedure 26(b) (1), and the trial court's broad discretion to control trial proceedings.
PRECEDENTIAL VALUE	unpublished

TOPICS

- family law procedure
- motion in limine
- evidence
- privilege
- foreign affairs

PRACTICE AREAS

family law

civil procedure

evidence

privilege

international law

QUESTIONS PRESENTED

1. Whether testimony and evidence concerning the German proceedings, including testimony about the German court's habitual-residence determination and Dr. Hanke's opinions on habitual residence and custody rights under German law, should be excluded at trial.
2. Whether German-law evidence and evidence concerning potential future German custody proceedings may be admitted to assist the Court in evaluating protective or ameliorative measures if return to Germany is ordered.
3. Whether Petitioner waived attorney-client privilege and work product protection by offering declarations from Dr. Hanke as an expert on German law.
4. Whether Respondent should receive a further deposition of Dr. Hanke concerning the German proceedings and his declarations.
5. Whether Respondent should be permitted to offer her own evidence concerning German law or future German custody proceedings despite not having previously designated that evidence.

HOLDINGS

1. Because habitual residence is for this Court to decide and no deference to the German courts' findings was requested or warranted, the Court excluded testimony about the German proceedings leading to the habitual-residence determination, how the German court reached that decision, and Dr. Hanke's opinions that the children were habitual residents of Germany.
2. The Court allowed documentary evidence concerning the German proceedings and testimony from Dr. Hanke about German law and custody proceedings that would occur if the children were returned, because that evidence could inform the Court's assessment of protective or ameliorative measures.
3. Although Petitioner's use of Dr. Hanke's opinions as a testifying expert could support a subject-matter waiver of privilege as to prior statements on the same legal issues, Respondent was not entitled to a further deposition because the burden of the proposed discovery outweighed its likely benefit under the circumstances.
4. Respondent may ask Dr. Hanke about prior statements to Petitioner concerning the subject matter of his declaration or trial testimony, but the Court will not order Dr. Hanke to answer if he asserts that German law or ethical rules prevent him from doing so, so long as his testimony remains limited to German law and potential future German proceedings.
5. Respondent may present her own witness or other evidence concerning German law or future German custody proceedings despite her earlier failure to designate such evidence, subject to specified notice, disclosure, and deposition conditions.

KEY QUOTATIONS

“Both parties agree that habitual residence—the primary issue in dispute in this case—is a matter for this Court to decide.” (at 2)

“Petitioner offers no authority for applying foreign privilege law under similar circumstances.” (at 7)

“the burden . . . of the proposed discovery” (at 9)

“outweighs its likely benefit” (at 9)

“trial court’s power to control the conduct of trial is broad.” (at 9)

FACTUAL BACKGROUND

The record included an interim German order concerning parental custody and later correspondence from the same German judge stating that the children had their habitual residence in Berlin. Petitioner sought to use declarations and anticipated testimony from German attorney Dr. Andreas Hanke concerning German law and German proceedings. Respondent sought to exclude that evidence or obtain further discovery based on an asserted waiver of attorney-client privilege and work product protection.

PROCEDURAL HISTORY

Petitioner filed a conditional motion in limine, and Respondent filed three motions in limine. Petitioner confirmed that his motion was moot; the Court had denied Respondent's first motion at the August 20, 2025 pretrial conference and deferred the third motion. This order grants in part and denies in part Respondent's second motion in limine.

DISPOSITION

other

CASES CITED

- *Golan v. Saada*, 596 U.S. 666, 678-79 (2022)
- *Cavaco Dias v. Cavaco Dias*, No. 24-cv-04471-EMC, ECF No. 153 at 6-7 (N.D. Cal. Oct. 18, 2024)
- *Herrick Co. v. Vetta Sports*, No. 94 Civ. 0905 (RPP), 1998 U.S. Dist. LEXIS 14544, at *7, *9 (S.D.N.Y. Sept. 14, 1998)
- *United States v. Panza*, 612 F.2d 432, 438 (9th Cir. 1980)
- *Magyar v. United Fire Ins. Co.*, 811 F.2d 1330, 1331 (9th Cir. 1987)

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