

# Children's Law Center of Indiana



## Custody and Parenting Time

9/4/2018

In **Perez v. Mounce**, 110 N.E.3d 404 (Ind. Ct. App. 2018), the Court held that under the facts of this case, Father was not entitled to a reduction of his child support payments based on make-up parenting time. The Court affirmed the trial court.

Father and Mother had a child while married, and divorced the same year the child was born. Mother was awarded custody, Father was given parenting time pursuant to the Indiana Parenting Time Guidelines, and Father was ordered to pay child support. Several years later, Father filed a petition for contempt, alleging that Mother would frequently and unreasonably withhold parenting time. Father was awarded make-up parenting time after a hearing. The trial court denied Father's concurrent petition to modify custody, but did admonish Mother that if she continued to deny Father parenting time, the trial court would consider modifying custody. The parties continued to litigate the matter of child support for several more months. While in court for a hearing, there was a dispute over the amount of Father's credited overnights. Father's attorney argued that Father should receive credit for his make-up parenting time. Mother's attorney acknowledged that Father had received make-up parenting time, but argued that Father received credit for overnights he had never been able to exercise in earlier years, giving him credit for the make-up parenting time would double his credits in an impermissible way. The trial court did not award Father the make-up parenting time credits, among other items, and Father appealed.

**Since Father already received credit for overnights which were withheld and are now being made up, giving Father credits for the make-up parenting time would result in Father receiving an impermissible double credit.** Id. at 408. Father argued that he should have been given credit for all the parenting time he was exercising, which included make-up parenting time, not just his yearly designated amount of overnights. Id. at 408. However, Father did not dispute Mother's claim that Father already received parenting time credits, even when that parenting time was withheld from him. Id. Since Father received those credits, was not able to exercise the parenting time, and was now making the parenting time up, it would give Father an impermissible double credit. Id.