IN THE SUPREME COURT OF THE STATE OF DELAWARE

RITA VIOLA,[1]	§	
	§	
Petitioner Below-Appellant,	§	No. 125, 2012
	§	
	§	
v.	§	Court Below—Family Court
	§	of the State of Delaware,
NANCY VIOLA,	§	in and for New Castle County
	§	File No. CN10-05673
Respondent Below-Appellee.	§	Pet. No. 10-36865
	§	

Submitted: July 20, 2012
Decided: August 16, 2012

Before **STEELE**, Chief Justice, **HOLLAND** and **BERGER**, Justices.

O R D E R

This 16th day of August 2012, upon consideration of the parties' briefs[2] and the record below, it appears to the Court that:

(1) The petitioner-appellant, Rita Viola ("the Grandmother"), filed this appeal from an order of the Family Court dated February 16, 2012. The February 2012 order denied the Grandmother's petition to hold the respondent-appellee, Nancy Viola ("the Mother"), in contempt of a prior

[1] The Court has assigned pseudonyms to the parties and the minor child in this case. *See* Del. Supr. Ct. R. 7(d).

[2] The appellant filed a motion to strike the appellee's answering brief on the grounds that the brief fails to conform to the Court's rules, contains materials that are not part of the record, and contains personal attacks on appellant's counsel's integrity. We deny the motion to strike for failure to conform to the Court's rules. Nonetheless, we do not consider any materials contained in the brief that are beyond the scope of the record on appeal.

order of the Family Court. The prior order, dated November 30, 2011, entered, as an order of the court, the parties' agreement to resolve the Grandmother's petition for visitation with her grandson by attending joint family counseling and abiding by the counselor's recommendations regarding visitation. We find no merit to this appeal. Accordingly, we affirm the Family Court's judgment.

(2) The record reflects that Freddy Viola was born on March 4, 2004. Freddy's father is unknown. From March 2004 until April 2006, Freddy and his mother lived in the Grandmother's home. In April 2006, the Mother moved into her own home with Freddy. The Mother is not employed and receives Social Security disability benefits. The Grandmother continued to be involved in Freddy's life after the Mother and Freddy moved out of her house. In April 2010, however, the Mother and the Grandmother were involved in a physical altercation in Freddy's presence. The Mother struck the Grandmother in the mouth, damaging two of her veneers. The Mother was arrested and later pled guilty to a misdemeanor charge of offensive touching and was placed on probation. As a result of this incident, the Mother was ordered to have no contact with the Grandmother, which was later modified to no *unlawful* contact.

(3) In November 2010, the Grandmother filed a petition for visitation with Freddy. Following a hearing in July 2011, the parties reached an agreement to resolve the case. Apparently, however, the Mother refused to sign the agreement. Her attorney, therefore, moved and was permitted to withdraw as the Mother's counsel. Thereafter, the Family Court held a hearing on November 30, 2011, at which both the Mother and the Grandmother appeared. Following that hearing, the Family Court entered an order reflecting that the parties had agreed to attend family counseling to address the Grandmother's request for visitation and that the parties had agreed to abide by the counselor's recommendation for visitation. The Family Court also scheduled a future hearing on the Grandmother's petition to hold the Mother in contempt. In January 2012, the Family Court held a hearing on the Grandmother's contempt petition. On February 16, 2012, the Family Court denied the petition for contempt and reaffirmed the parties' agreement to abide by the counselor's future recommendations regarding visitation. This is the Grandmother's appeal from the Family Court's February 16, 2012 order.

(3) In her opening brief on appeal, the Grandmother contends that: (i) the Family Court erred in finding that grandparent visitation would substantially interfere with the parent/child relationship; (ii) even if

grandparent visitation would interfere with the parent/child relationship in this case, the interference is not substantial because it is based solely on the "unreasonable and irrational prejudices of the parent;" and (iii) the trial court's error is not harmless because all of the other factors favored grandparent visitation in this case.

(4) After careful consideration of the parties' briefs and the record on appeal, we find it manifest that the judgment of the Family Court should be affirmed. The Family Court did not abuse its discretion by entering, as an order of the court, the parties' agreement to attend family counseling on the issue of the Grandmother's request for visitation and to abide by the counselor's future recommendations regarding visitation. The Grandmother agreed to this process. She therefore has waived any right to argue that the Family Court erred in failing to grant her petition for visitation.[3]

NOW, THEREFORE, IT IS ORDERED that the judgment of the Family Court is AFFIRMED.

BY THE COURT:

/s/ Randy J. Holland
Justice

[3] *Williams v. Williams*, 2011 WL 181415 (Del. Jan. 14, 2011).