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IN THE  
APPELLATE COURT OF ILLINOIS  
SECOND DISTRICT

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JOHN ARKO,	)	Appeal from the Circuit Court
	)	of Du Page County.
	)	
Petitioner-Appellee,	)	
	)	
v.	)	No. 03-F-378
	)	
CARLEEN FORD,	)	Honorable
	)	Linda E. Davenport,
Respondent-Appellant.	)	Judge, Presiding.

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JUSTICE SPENCE delivered the judgment of the court.  
Justices Hutchinson and Jorgensen concurred in the judgment.

**ORDER**

¶ 1 *Held:* The trial court's decision to grant John's petition to modify custody and award sole custody to him was not against the manifest weight of the evidence. Therefore, we affirmed.

¶ 2 Petitioner, John Arko, petitioned to modify custody of the parties's child, Leah Ford, and grant sole custody to him. The trial court granted John's petition. Respondent, Carleen Ford, appeals, arguing that the trial court's decision was against the manifest weight of the evidence. We affirm.

¶ 3 I. BACKGROUND

¶ 4 Carleen gave birth to Leah on July 13, 2003, when she was 16 years old. John, who is about two years older than Carleen, filed a petition to establish parentage on August 6, 2003. On August 4, 2004, the parties entered a joint parenting agreement in which Carleen was designated as the residential parent. John lived with his parents, Robert and Jean Arko, in Hanover Park. Carleen also lived with her parents, Connie and Tom, in Hanover Park, not far from John's family's house.

¶ 5 A. Pretrial

¶ 6 On November 7, 2006, John filed a petition for temporary custody and to modify permanent custody. John made numerous allegations in this petition, including that Leah was unsupervised in the park on one occasion; that there was a lot of turmoil and fighting at Carleen's family's residence; that Tom hit Leah in the face; and that unrelated males or "paramours" of Carleen were spending the night.

¶ 7 1. Dr. Goldstein's 2007 Custody Evaluation

¶ 8 Dr. Mark Goldstein was appointed and submitted a child custody evaluation on August 14, 2007. Dr. Goldstein found that Leah was equally attached to both John and Carleen, and that both parents should share joint legal custody. In addition, he determined that Carleen should continue as the "primary residential parent, given several conditions." The conditions included weekly counseling for six months; abstinence from alcohol or drugs; a psychiatric evaluation to determine if medication was necessary; and that Carleen (as opposed to other family members) be primarily responsible for Leah when Carleen was not in school or at work. If Carleen failed to comply with these conditions, Dr. Goldstein recommended that John become the primary residential parent. Finally, Dr. Goldstein stated that John's visitation should be expanded and that he would likewise benefit from individual counseling.

¶ 9

2. 2007 Agreed Order

¶ 10 On October 18, 2007, the parties entered an agreed order directing them both to comply with Dr. Goldstein's report and expanding John's visitation. John's visitation with Leah was scheduled for Tuesday evenings and alternating weekends, beginning on Thursday at 4 p.m. to Sunday at 7 p.m.

¶ 11

3. Emergency Motion/Appointment of GAL

¶ 12 On June 19, 2009, Carleen filed an emergency motion for restricted/supervised visitation, alleging as follows. John, age 24, continued to take showers with Leah, age 5; Leah had bruising around on her legs, hip area, and around her vaginal area on several occasions; and Leah had an abnormal infatuation with placing her hands down her pants and had also placed her hands down another's child's pants. John responded, in part, that Carleen and her family had made identical allegations in September 2006, and that those allegations had been investigated by the Department of Children and Family Services (DCFS) and deemed unfounded.

¶ 13 The court appointed Sean McCumber as Leah's guardian *ad litem* (GAL). The GAL prepared a report stating that Carleen had not been allowed to act as Leah's parent due to Connie's influence. The GAL noted that when questioned alone, Carleen did not believe that John had sexually abused Leah. Rather, Carleen thought that Leah's troubling behavior stemmed partly from tensions between she and Connie. The report stated that Connie was responsible for the September 2006 sexual abuse allegations against John. DCFS records related to that investigation indicated that there was no evidence of sexual abuse and that Connie made the allegations "out of hatred" for John. The GAL opined that Connie was "obsessed with finding sexual abuse to" Leah, and that Connie's actions could have caused the aggressive behaviors exhibited by Leah. The GAL found no credible

evidence of abuse but was “unclear” as to what behaviors Leah was exhibiting; thus, he ordered a mental health evaluation.

¶ 14 4. Dr. Shapiro’s 2009 Mental Evaluation of Leah

¶ 15 Dr. Robert Shapiro conducted the mental health evaluation and prepared a report dated December 29, 2009. At the time he evaluated Leah, she was 6 years old, John was 24 years old, and Carleen was 22 years old. According to the report, Leah was exhibiting “personalized sexual behavior” by pressing objects against her genitals and putting her hands down other children’s pants. Leah was also exhibiting severe temper tantrums and oppositional behavior. Dr. Shapiro concluded as follows:

“Leah was in the primary care of [Carleen] although [Carleen] finished [high] school and Leah was raised largely by [Connie], [Leah’s] aunt, and [Carleen]. For the first two years of her life she was with [Carleen] and [John] a great deal and even lived with the two of them together for a period of time when the couple lived in John’s parents’ home. Then just prior to [Carleen’s] graduation from high school, when Leah was approximately two years old, John and [Carleen] split up. Leah lost [John] on a day to day basis and then became separated from [Carleen] first when they all went to Florida and secondly when [Carleen] went to South America [for a trip]. Leah was left in the care of [Connie]. It was at this time that she began wetting her pants. [Connie] attributed this behavior combined with Leah pushing objects against her genitals as signs of possible sexual abuse. However the occurrence of these behaviors at the time Leah experienced such significant loss and separation seems to be consistent with an increase in anxiety (separation anxiety) and a compensatory need for attention seeking behavior.”

¶ 16 Dr. Shapiro further stated that Leah was initially taken to a child psychologist, Dr. Allison Paddock, who determined that she had no sexual problems. However, Leah's temper tantrums had gotten worse in the past two years. Leah was then taken to Dr. Donna Amstutz, who did not believe that Leah had been sexually abused. While Leah's sexualized behavior had stopped, Leah's hyperactivity, temper tantrums, and hitting had been more of a problem in the past year and a half.

¶ 17 Dr. Shapiro noted that Carleen's inability to specify any of Leah's developmental milestones suggested a less than optimal parental involvement with Leah. In addition, Leah's parenting was inconsistent, in that she was parented by Connie and Carleen. Critical to Leah's self-control was a unified structure of parenting between Carleen and John. Dr. Shapiro recommended that Carleen, her fiancé Eric, and John return to counseling with Dr. Amstutz, who could aid the parents in effective parenting strategies. Finally, Leah needed to be assessed for Attention Deficit Hyperactivity Disorder (ADHD).

¶ 18 On January 27, 2010, Carleen's emergency motion for restricted/supervised visitation was withdrawn.

¶ 19 On January 11, 2012, Carleen sought an emergency order of protection against John based on an incident at school in which Leah acted out sexually. Leah had two classmates join her in the bathroom at school, where she demanded that they "lick her." Carleen alleged that Leah was not exposed to this behavior in her house, meaning that she learned it elsewhere, likely from John. The court denied that it was an emergency and scheduled a hearing for January 27, 2012. On January 27, 2012, Carleen withdrew the petition for the emergency order of protection.

¶ 20 5. John's Petition for Change in Custody

¶ 21 On February 6, 2012, John filed a petition for temporary and permanent modification of custody, alleging that many “changes” had occurred. The petition alleged that: on January 1, 2012, John received a frantic call from Carleen involving the police and Mark, Carleen’s boyfriend at the time; Carleen never advised John that Leah had been suspended from school one day based on an age-inappropriate sexual incident; Carleen interfered with John’s visitation on January 10, 2012, by prohibiting him seeing Leah; on January 16, 2012, Carleen hospitalized Leah at the Streamwood Behavioral Center (Streamwood) without consulting him; Carleen repeatedly and secretly changed Leah’s mental health providers; there was a pattern of school tardiness when Leah was in Carleen’s care; Carleen’s numerous relationships with different men had emotionally harmed Leah; and Carleen’s residence with her family was “turbulent” whereas John’s residence with his family was stable.

¶ 22 6. Dr. Shapiro’s 2012 Custody Evaluation

¶ 23 Dr. Shapiro prepared a 21-page custody evaluation and submitted it to the court on September 23, 2012. Dr. Shapiro’s report stated that Carleen had a close relationship with Leah and that Leah loved her mother and was very attached to her. However, their relationship, while close, lacked “many parental attributes in the sense that [Carleen] [did] not have control over Leah’s behavior and [did] not always exercise good judgment.” Dr. Shapiro continued that both parents were loving, well-intentioned, and devoted to Leah. However, there were “serious judgment concerns and maturity issues” on Carleen’s part that needed to be considered in determining what was in Leah’s interest.

¶ 24 Dr. Shapiro stated:

“It is this evaluator’s opinion and belief that John would be far more supportive of [Carleen’s] relationship with Leah than [Carleen] has been of John’s relationship with Leah. It is also this evaluator’s belief that John is more stable and would not be exposing Leah to multiple relationships.” However, “the problem with making this change in custody is the extremely close bond and attachment that Leah has with her mom. In part it is this evaluator’s opinion that a lot of Leah’s anxiety and problems have been the result of Leah’s uncertainty about her mother and the reliability of her mother as a consistent parent. The evaluator cannot predict what kind of emotional reaction/trauma Leah would experience if residential custody was changed. That being said there has to be more of a safety net for Leah and that safety net can no longer be [Carleen’s] parents.”

¶ 25 Dr. Shapiro recommended that Carleen receive therapy, and that John and Carleen get involved with a parenting coordinator on a regular basis to discuss parenting issues. In particular, Carleen needed to focus on Leah’s physical, psychological, and educational needs before playing with Leah or giving her what she wanted. Carleen needed guidance in this respect, not from Connie, but from a mental health professional so that she and John could “get on the same page with regard to appropriate parenting.” Dr. Shapiro noted that Leah was approaching adolescence, and without consistent boundaries and environmental stability over the next couple of years, it would likely be a “very troubling time” for Leah. Dr. Shapiro concluded that if these recommendations were not followed, then the court was advised to transfer residential custody of Leah to John.

¶ 26 B. Trial

¶ 27 Beginning on January 29, 2013, the court conducted a three-day trial on John’s petition for a modification custody.

¶ 28

1. Carleen

¶ 29 Carleen, who was called as an adverse witness, testified first as follows. Carleen and Eric Illingsworth got engaged in 2007 and then married in November 2009. They lived together in Elk Grove Village with Leah and their son, Ethan, born on December 10, 2008. Because Eric cheated on her, however, Carleen moved back in with her parents in Hanover Park in May 2011. She and Eric were divorced in February 2012.

¶ 30 From May 2011 to February 2012, Carleen had two boyfriends, Steve King and Mark Krush. Steve lived in Wisconsin, and she took Leah there for a weekend trip without telling John. Carleen dated Steve for two or three months and then started dating Mark in October 2011. Carleen and Mark got engaged, and she became pregnant but later miscarried in 2012. Mark had stayed overnight at her parents' house a couple of times.

¶ 31 Since June 2012, Carleen had been living with Eric, Ethan (age four), and Leah (age nine), in an apartment in Elk Grove Village. In November 2012, Carleen and Eric appeared in court to remarry, and the court vacated their divorce. Since moving out, Leah had stayed over at Connie and Tom's house four or five times. Carleen admitted that she did not advise John of this despite a "right of first refusal" clause in the agreed order entered October 18, 2007. That clause provided that if Leah was going to be out of her care for a period of six hours or overnight, Carleen had to advise John of that fact to allow him the right of first refusal.

¶ 32 On January 1, 2012, Carleen and Mark were intoxicated at her parents' house, and they got into an argument. Mark threatened to kill himself and then left. Carleen called the police. She also called Eric, who had Ethan in his care at the time. Carleen was scheduled to have parenting time with Ethan later that evening but did not think it was a good idea for Eric to bring Ethan with the

police around. As a result, Eric came over without Ethan. That evening, Carleen also called John and asked to talk to Leah. Carleen was crying on the phone, and Leah started crying as well. Carleen asked John to bring Leah back early, but he brought her back at the normal time. Carleen and Leah then went to bed. She and Mark got engaged not long after this incident.

¶ 33 On January 3, 2012, Leah was suspended from school for one day based on sexual activity. Carleen did not tell John about the suspension, and Leah went to John's house for her regular weekend visitation. However, prior to John's next visitation on January 10, Carleen went to the police station to obtain an emergency order of protection. Carleen testified that her previous lawyer had told her to take this action to prevent John's visitation. Carleen's basis for the emergency order of protection was that John had sexually abused Leah, although she did not believe that he had done so. The order of protection was not granted.

¶ 34 Carleen testified that Leah was admitted to Streamwood on January 16, 2012. At Streamwood, Carleen told the staff that Leah had recently pushed Connie and punched Carleen. In her May 30, 2012, deposition testimony, however, Carleen said that the incident was between Connie and Leah only. Currently, Carleen could not remember if Leah had hit her. Mark, Carleen's fiancé at the time, accompanied Carleen when she first brought Leah to Streamwood. Mark told the staff that Leah had written down questions about sex and handed them to him in secret. Carleen thought that Leah had written down two notes, one of which was about whether Mark was having sex with Carleen. Carleen did not keep the notes and thought Mark had them. After Carleen brought Leah to the hospital, it was up to the staff to determine whether she needed to be hospitalized. Leah stayed at Streamwood for 10 days and was released on January 25, 2012. According to Carleen, she "told John that day that [Leah] was getting hospitalized."

¶ 35 According to Dr. Shapiro's 2012 custody evaluation, when Carleen sought the emergency order of protection on January 10, 2012, she told the police officers that she had a hospitalization scheduled for Leah at Streamwood on January 16, 2012. Dr. Shapiro noted that "this was significant because all along" Carleen had insisted that Leah's hospitalization on January 16, 2012, was "unplanned," and that Leah was being hospitalized as a result of an incident with Connie.

¶ 36 When Leah returned to school after her hospitalization at Streamwood, she got in trouble for wearing make-up. Carleen knew Leah was not allowed to wear make-up at school.

¶ 37 Leah went to first grade at Horizon School in Hanover Park; second grade at Claremont School in Elk Grove Village; third grade at Horizon School; and fourth grade at Claremont School. During her third grade (2011-2012), Leah missed 16 full days and 6 half-days of school and had 12 tardies. Carleen thought some of the absences and tardies occurred when Leah was in John's care.

¶ 38 The October 18, 2007, agreed order provided that each parent was to notify the other in writing of any doctor's appointments as soon as that parent was aware of an appointment. Carleen did not notify John that Leah had been seeing Dr. Webster, a sexual abuse therapist. At first, Carleen denied that Connie had taken Leah to see Dr. Webster, and she had no idea if Connie had communicated with him. Carleen then admitted that in a May 30, 2012, deposition, she said that Connie had taken Leah to see Dr. Webster three or four times, and that Connie had talked to him about Leah's tantrums. A September 4, 2009, agreed order stated that "neither grandparent" shall participate in Leah's medical appointments or counseling. Carleen admitted that Connie took Leah to see Dr. Webster after the September 2009 order was entered. Carleen thought it was acceptable for Connie to take Leah to doctors' appointments but not communicate with mental healthcare providers. Leah stopped seeing Dr. Webster in 2011.

¶ 39 Every six months, Leah saw Dr. Puga, a psychiatrist, who prescribed Leah medication. Carleen did notify John of some of these appointments.

¶ 40 On June 17, 2009, Carleen filed a petition to restrict John's visitation and to modify custody on the basis that John had sexually abused Leah or had been sexually inappropriate with her. Carleen admitted filing the petition even though she did not believe it was true.

¶ 41 Dr. Shapiro's 2012 custody evaluation recommended that Carleen undergo therapy, but as of trial, she had not done so.

¶ 42 2. Officer Kozenczak

¶ 43 Officer Michael Kozenczak testified that Carleen came to the Hanover Park Police Department on January 10, 2012, seeking an emergency order of protection. Specifically, Carleen wanted to prevent John from having visitation that day. Carleen advised Officer Kozenczak that she had already scheduled a hospitalization for Leah on January 16, 2012, at Streamwood. On January 10, 2012, Officer Kozenczak went to Carleen's residence to wait for John, who was denied visitation.

¶ 44 3. John

¶ 45 John, age 27, testified next as follows. John lived with his parents, Jean and Robert, in Hanover Park. He had lived with them nearly his entire life.

¶ 46 Currently, John worked part-time as a UPS package handler from 4:30 a.m. to 8:30 a.m. Robert had been taking Leah to school given his UPS work schedule. John was not currently enrolled in school but planned to attend Universal Technical Institute (UI). The UI program went from 6:30 a.m. to 2:30 p.m., which would overlap with Leah's schooling. Though John would not be able to take her to school while in the program, he would be home before she got out of school.

If John attended UI, he would continue to work but would change his shift so that he worked after Leah went to bed.

¶ 47 John testified that he told Dr. Shapiro of his plan to attend UI, although Dr. Shapiro's 2012 report did not reflect that information. John did not remember telling Dr. Shapiro that he was still in the process of completing an Associate of Arts degree at College of Du Page. However, John admitted that he had not attended classes at College of Du Page for the past 2½ years, since 2010. Since first enrolling in College of Du Page in 2004, John did not know how many courses he had completed, withdrawn from, or passed. The transcripts showed that he had withdrawn from seven classes.

¶ 48 John had not sought full-time employment since working for his dad's landscaping company, which had gone out of business. He had not sought full-time employment because at UPS, he was union, had health insurance, and would receive school reimbursement. John currently worked "20 or so" hours at \$11.50 per hour. When asked if he remembered telling Dr. Goldstein in August 2007 that he was currently taking night classes but intended to take on-line classes in order to be with Leah, John did not recall saying that. John did not take any on-line classes in 2007 but did take night classes that year at College of Du Page.

¶ 49 John's parenting time consisted of Tuesday evenings and alternating weekends (Thursday evening through Sunday). Leah had gymnastics on Tuesdays and Fridays, and he took her to class every Tuesday. During his weekends with Leah, she liked to swim in the pool in the backyard or the neighborhood pool, roller blade, ride bikes, go fishing, and do arts and crafts. Sometimes, they went to Starved Rock to hike. John admitted that during his parenting time, he had not enrolled Leah in any extracurricular activities. However, he had taken her to the library, the movie theater, and a

museum. In addition, Leah had friends in John's neighborhood, and Leah had play dates at John's parent's house, where she had her own room. During John's parenting time, Leah did not come with a bag of clothes; she had clothing and incidentals in the closet of her bedroom.

¶ 50 John and Leah were close and spent a lot of time together. She was very well-behaved and did not need a lot of disciplining, but when she did, John gave her time-outs or restricted her TV time. Leah had come to his house wearing make-up 10 to 15 times. John made her wash it off because she was only nine years old.

¶ 51 John did not believe that Leah had an issue of throwing tantrums. However, Leah had thrown a tantrum a few weeks before when he dropped her off at Carleen's house after they had been at the doctor's office. Leah did not want to go inside Carleen's house, and Carleen reacted in a negative way. Other than that, John had not witnessed tantrums in the past four years that Leah had been in his care.

¶ 52 John testified regarding the January 1, 2012, incident. That day, Carleen called John around 5 or 6 p.m. Carleen told John the police were there and she did not want to be alone; she asked if Leah could come home early. Carleen also asked to talk to Leah, and Leah became hysterical and started crying after talking to Carleen. John brought Leah home at the regular time, and the police were gone.

¶ 53 John first learned of Leah's hospitalization at Streamwood after she was admitted. Leah was admitted in the morning on January 16, 2012. Later that day, at 4:15 p.m., Carleen sent him an email, which he received on his phone around 5 or 6 p.m. Carleen's email stated that Leah "had one of her big tantrums today," so she was brought to Streamwood. Carleen provided Streamwood's address and phone number. After receiving Carleen's email, John collected his court documents and

went to Streamwood but was not allowed to see her. John “believed” that he texted Carleen about the hospitalization but she did not respond. John sent Leah two notes while she was in Streamwood. One of the notes said that he did not know why Leah was there, and she should be home with her family. John called Carleen the day Leah was released from Streamwood, but Carleen did not answer. John then texted Carleen the next day to see how Leah’s first day back at school had gone.

¶ 54 Leah was on three medications: Trilepto (a mood stabilizer), Tenex, and Adderall, which was for ADHD. Dr. Hoffman, Leah’s pediatrician, and Dr. Puga, Leah’s psychiatrist, had prescribed Adderall for Leah. John did not think it was appropriate, although he had not sought a second opinion or contacted Dr. Puga. John did not think Leah needed to be medicated, and he did not believe that ADHD was an appropriate diagnosis because she had no problem concentrating when she was with him. Also, there were times that she did not take Adderall and was fine. One time, for example, Leah had come for a weekend visitation but did not have enough Adderall because that prescription had not been filled.

¶ 55 Regarding the medications prescribed for Leah, John had complied with administering those. Four or five times, John had picked up Leah’s prescriptions for Tenex and Trilepto; he did not let her go without the medication. If he received custody, he would continue Leah’s treatment with Dr. Puga and then find a “new psychologist to get her reassessed.”

¶ 56 John referred to an email he sent to Carleen on November 30, 2012. The email concerned Ethan’s birthday party, which was to occur during his parenting time. Because Leah wanted to attend, John allowed her to but told Carleen not to plan events during his time. Prior to that, Carleen’s baby shower for Ethan had also been scheduled during his parenting time with Leah, as well as a birthday and a concert. However, Carleen did not allow Leah to attend John’s grandfather’s

90th birthday party because it was during her parenting time. There was also an occasion where John's brother was in town, and John left Carleen a message about having Leah a few extra hours, and Carleen never returned the call. However, Carleen did allow Leah to attend a wedding with him even though it was during her parenting time.

¶ 57 The parties stipulated that during the 2011-2012 school year at Horizon Elementary School, Leah had 13 excused and 3 unexcused absences, 6 half-day excused absences, and 12 tardies. There were no tardies during John's parenting time. Several of the absences occurred during Leah's hospitalization at Streamwood. Currently, Leah was attending Claremont school Elk Grove Village. She was doing "fairly well" in her studies, but needed to improve in reading. As far as her behavior, she had been "doing great." If John received custody, Leah would go to Greenbrook School in Hanover Park.

¶ 58 John admitted that Dr. Goldstein's 2007 report recommended that he and Carleen would benefit from therapy. John never attended counseling or therapy. The 2007 agreed order also required both parties to receive individual counseling.

¶ 59 John was seeking to be Leah's residential parent because he could give her a more stable environment. By stability, he meant not continually changing doctors, going to school on time, not changing schools and residences, and not exposing her to different relationships. In the past four years, John had one or two girlfriends but did not introduce Leah to them. Also, John did not think Carleen spent enough time with Leah. John admitted that Leah was closely bonded to her brother, Ethan.

¶ 60 Carleen never gave him the right of first refusal if Leah was going to stay overnight at Connie and Tom's house. In addition, Carleen never told John that Leah was seeing Dr. Webster, and John

did not understand why she was seeing a sexual therapist. Finally, Carleen never told John that Leah was suspended from school. John did not find out until he picked Leah up from school the following Friday during his weekend parenting time.

¶ 61 4. Robert

¶ 62 John's father, Robert Arko, testified next. Currently, Leah was in fourth grade and attending Claremont School in Elk Grove Village. Robert took Leah to school in the mornings because John's shift at UPS ended about the time they left for school. When in John's care, Leah was never late and never missed school, except once in second grade when she was throwing up.

¶ 63 Robert described John's parenting of Leah as good, firm, and consistent; he provided discipline. John had rules and boundaries that did not change. Robert described Leah's bond with John as good and strong; she counted on him and loved him. John gave Leah all of his attention, and she was happy there. When John had parenting time, Leah was well-behaved and knew what she was supposed to do. Robert and Jean would play board games with Leah. They were not involved in her medical care, however. John would provide Leah with a stable environment if he got custody.

¶ 64 Every month or so, Carleen would stop in for a visit, and she was always welcome at their house. They did not talk negatively about Carleen in Leah's presence. Also, John encouraged a close relationship between Leah and Carleen and would continue to do so. For holidays, John always insisted that Leah make Carleen a card.

¶ 65 5. Jean

¶ 66 John's mother, Jean Arko, testified next. She was a manager at Fed Ex Trade Networks. The routine during John's parenting time of Leah was Robert making breakfast; John making lunch; and she and Robert making dinner. After breakfast, Leah would play for a while, doing either crafts or

coloring, and then she would shower. After that, there would be a planned activity or Leah would get to pick what she wanted to do.

¶ 67 John's relationship with Leah was adoring, loving, wonderful, and happy. She and Robert also had a loving relationship with Leah. Jean did not discipline Leah because John was the parent. Mainly, John would discipline Leah for talking back if she did not want to do something. John would instruct her to do whatever it was and not give him attitude about it. There was no corporal punishment. Jean would not describe Leah's behavior as temper tantrums. The most that had happened was one occasion eight months ago when Leah wanted to cry and ran up the stairs. John told her not to slam the door, and she listened. Leah sat in her room and stewed a few minutes and then came out. That was "as far as it's gone," which Jean attributed to John's consistency with Leah. John also gave her "little time-outs," as needed, but now that she was older, she did not need these.

¶ 68 Jean thought it was in Leah's best interest to live with John because Carleen's decisions during Leah's 9½ years had hurt her and were affecting her mentally. Jean confirmed that John always administered Leah's medications as prescribed.

¶ 69 6. Carleen

¶ 70 Carleen testified on her own behalf as follows. She was about to turn 26 years old and lived in Elk Grove with Eric (age 25), their son Ethan, and Leah. Carleen was not working but was in school at the Illinois Institute of Art (AI), pursuing a degree in Applied Science in Culinary. She hoped to have an associate's degree in 2014. Carleen had also attended Elgin Community College, where she did not pass a couple of classes. She was re-taking those classes at AI.

¶ 71 Leah first started seeing Dr. Hoffman, a pediatrician, in 2009. He diagnosed her with Attention Deficit Disorder (ADD) and ADHD in 2010 and prescribed Adderall, which she took

daily. Two or three times, Carleen ran out of the Adderall prescription and therefore could not send the medication with Leah during John's parenting time. Leah was also on Tenex and Trileptal. All three medications were filled at Walgreens. The longest Leah went without Adderall was four days. However, Dr. Shapiro's 2012 report indicated that Leah had gone without Adderall for 7 to 10 days. Carleen testified that she called Dr. Puga for the prescription and had to be wait for it to mailed to her. In response to the court's inquiry, Carleen testified that Dr. Puga's office was in Inverness, which was about 20 to 25 minutes from she lived. Carleen admitted that she could have picked up the prescription at his office as opposed to waiting for it to be mailed.

¶ 72 Leah went to Dr. Allison Paddock due to her behavior of throwing tantrums. Sometimes, Connie drove Carleen and Leah to these appointments because Carleen did not have a car. Carleen emailed John about seeing Dr. Paddock, which was usually how she communicated with John. Exhibit 4 contained an email from Carleen to John explaining why she was taking Leah to see Dr. Paddock and providing Dr. Paddock's information. Leah saw Dr. Paddock once a week for about one year, and then Dr. Paddock went on maternity leave. About two weeks later, Leah began seeing Dr. Amstutz, a referral from Dr. Paddock. Carleen emailed John about Leah seeing Dr. Amstutz. Even though Connie drove Leah to some of these appointments with Drs. Paddock and Amstutz, Carleen was present for each appointment.

¶ 73 In Dr. Goldstein's 2007 report, he recommended that Carleen, Eric, and John meet with Dr. Amstutz to create a more unified parenting plan. Carleen followed through on that recommendation, but there was no joint session held with Eric and John.

¶ 74 Currently, Leah was seeing Dr. Puga, a psychiatrist who prescribed her medication, every six months. Leah was covered under Kid Care Illinois, although it did not cover Dr. Puga's services.

Carleen knew that John had insurance for Leah, but it did not cover mental health disorders. Carleen submitted Dr. Puga's last bill to John but he had not paid it.

¶ 75 Dr. Puga had recommended that Leah see Dr. Webster. For Leah's weekly appointments with Dr. Webster, Carleen picked Leah up from school 15 minutes early. Carleen did not inform John that she was leaving school early on those days. In addition, Carleen did not advise John that Leah was seeing Dr. Webster until she had been going for a couple of months. Leah's last appointment with Dr. Webster was in 2011, which was the last time Connie had taken Leah to a doctor appointment. Carleen felt that Leah had benefitted from seeing Dr. Webster.

¶ 76 Carleen learned of Streamwood through Dr. Puga, who recommended that Leah receive one-on-one care if her tantrums did not subside. Carleen had contact with Leah while she was in Streamwood during three, one-hour visitation periods. Carleen emailed John the day Leah was placed at Streamwood. She did not call John or provide Streamwood with his contact information. John never contacted Carleen by email, phone, or text during Leah's stay at Streamwood. John did not contact Carleen until Leah was released. John texted Carleen about how Leah's first day back at school had gone.

¶ 77 Carleen testified that Leah's behavior was much better after being at Streamwood; she had had only one tantrum since staying there. During that tantrum, Leah had thrown Carleen's computer, and Carleen disciplined her by not allowing her to use it for two weeks. On cross-examination, Carleen admitted that shortly before the instant hearing, on January 17, 2013, she sent John a text message saying that Leah had "punched" her. However, Carleen still stood by her testimony that Leah had had only one tantrum in which she threw the computer.

¶ 78 Carleen was aware of the no make-up policy at Horizon school. Leah violated this policy one time only by wearing eye shadow and lip gloss. The school made Leah remove the make-up.

¶ 79 When communicating with John, Carleen preferred email over talking on the phone because then there was a record of the conversation. Sometimes, she would send John a text message. In the past two years, John had called Tom five or six times to discuss issues about Leah without calling her first.

¶ 80 Carleen had enrolled Leah in gymnastics, and classes were on Tuesdays and Fridays. Carleen watched for at least one hour because “she liked to see what they’re doing.” Carleen also signed Leah up for day camps, such as tennis, soccer, and tumbling. In addition, Carleen volunteered at both Claremont and Horizon schools. She also attended parent-teacher conferences and Individualized Education Program (IEP) meetings.

¶ 81 Dr. Shapiro prepared a custody evaluation for the court on September 23, 2012. According to the report, Carleen had indicated that Leah was a good student, receiving all 4’s and 3’s. However, Dr. Shapiro’s review of Leah’s first and second trimesters during the 2011 to 2012 year showed that she had only received grades of 2’s and 3’s. Leah also had 14 absences and nine tardies. Regarding the report, Carleen testified that Dr. Shapiro’s assessment of Leah’s academic progress at Horizon was accurate. However, Leah was currently in fourth grade at Claremont, and Dr. Shapiro had not yet seen those report cards. Leah was currently doing better academically, receiving 3’s and 4’s, which exhibit 3 reflected. Carleen helped Leah with her homework on a daily basis, and once in a while Eric helped out. In addition, Leah had not been late to school this year during Carleen’s parenting time.

¶ 82 When Carleen lived with her parents in Hanover Park, Leah had her own room. Leah also had her own room now in their Elk Grove apartment. Leah's room was "all Hello Kitty" and pink, with a big dresser and mirror, and a desk where she worked on art projects.

¶ 83 Ethan also had his own room at the Elk Grove apartment. Ethan and Leah were five years apart. They were very close, doing everything together, such as coloring, playing school, playing on the computer, watching TV, and cooking. Carleen described Leah's bond with Ethan as inseparable.

¶ 84 Carleen's bond with Leah was also inseparable. They did everything together, such as coloring, scrapbooking, or watching a TV show. Recently, Carleen and Leah had gone to a concert together at Allstate Arena and also a movie.

¶ 85 Carleen testified that Eric and Leah had a good relationship as well. He helped her with her homework, got her books at the library, and watched TV with her. If Eric bought Ethan a toy, he would buy one for Leah too. Eric, Carleen, Leah, and Ethan would swim together, go to the library, go bowling, go mini-golfing, and go to the zoo. Also, Leah had friends in the Elk Grove area, and she had play dates nearly every day during the summer.

¶ 86 The routine for a typical school day was everyone getting up at 7:30 a.m. Carleen would make waffles while Leah and Ethan watched a show. After that, Leah would get ready for school. Carleen would take her to the bus stop by 7:50 a.m. , and then Ethan would also go to school. Back at home, Carleen would walk the dog and do the dishes. Then, Carleen would pick Ethan up from school, and they would play until Leah got home at 3:30 p.m. Once Leah was home, she would have a snack and watch a show or play a game on the computer. After that, she had to do her homework. Leah went to bed at 8 p.m. and showered every other day. Regarding discipline, Carleen would give

Leah a warning. If Leah persisted in the behavior, then she would receive a time-out, which was nine minutes of sitting on her bed.

¶ 87 Carleen and John had dated prior to Leah's birth. Then, after Leah was born on July 13, 2003, Carleen lived with John's family for a while. Carleen then moved back in with her family after she graduated from high school in 2005. Carleen lived with her family until 2010.

¶ 88 Most of Carleen's extended family lived in Hanover Park; she had three sisters and three brothers. Two of Carleen's nieces were the same ages as Leah and Ethan. Currently, Carleen saw Connie every six to eight weeks. Carleen's relationship with Leah had improved since she moved out of her parent's house because it was a lot quieter. Now, Carleen's sisters were not coming in and yelling for whatever reason. In the past month, Connie had seen Leah two or three times. Ethan had wanted to have a sleep over at Connie and Tom's house. Leah had wanted to go too, so Carleen said she could. Carleen and her parents were not critical of John in front of Leah.

¶ 89 In addition, Carleen and Eric had worked out their issues. Instead of yelling and lashing out, they were more open and honest with each other. Carleen also had a car, which enabled her to take Leah to her doctors' appointments.

¶ 90 When asked if Leah had a close bond with Mark when she dated him, Carleen said "not really." However, her answer in the May 30, 2012, deposition was that "[t]hey had a close bond." Carleen admitted that when she and Mark were together, Mark and Leah developed a close bond.

¶ 91 If John were granted custody, Carleen did not think he would be as supportive of her relationship with Leah because "he wouldn't let her do the stuff that she wants to do," such as signing up for camps, getting involved at school, "stuff like that." Also, if John were granted

custody, Leah would no longer go to Claremont School, where she was doing well and had lots of friends.

¶ 92 Unlike John, Carleen felt that Leah had ADHD and anxiety. Carleen's view was based on "doctors' recommendations," and she supported Leah taking medication. There was an occasion about five months ago, when Leah returned from parenting time with John, where her pill box contained pills she should have taken. Leah took medication twice a day, which Carleen monitored with a pill box.

¶ 93 Carleen was supportive of John's relationship with Leah; Carleen always asked what Leah did while at John's house. Carleen also encouraged Leah to do things for John on holidays. Carleen thought that she was able to provide stability for Leah because she lived on her own, paid her own bills, taught Leah "new stuff," and rearranged her schedule around her children. Carleen felt she was better able to provide a loving and nurturing environment for Leah because she, Eric, Leah, and Ethan did things "as a family." Carleen did not exclude the rest of the family and just focus on Leah "all the time."

¶ 94 In November 2012, John asked if Leah could accompany him to a wedding during Carleen's parenting time. Carleen agreed to the scheduling change and did not remember John requesting other accommodations.

¶ 95 Dr. Goldstein's 2007 report recommended individual counseling. Carleen saw a counselor named Jennifer Duff for six months prior to that 2007 report, and then for eight months after the report. The sessions were weekly. Dr. Goldstein also recommended that Carleen abstain from alcohol. Carleen testified that on average, she drank one or two beers every two months.

¶ 96

7. Dr. Shapiro

¶ 97 Dr. Shapiro, a licensed clinical psychologist, testified that he was appointed to perform a custody evaluation for Leah. Dr. Shapiro interviewed several people for his September 23, 2012, report to the court, including Connie. However, he did not interview John's parents, even though John lived with them. Dr. Shapiro explained that Connie had acted as a surrogate mother for the majority of Leah's life. He also admitted that he had not reviewed Leah's current report cards from Claremont School. Dr. Shapiro had no recollection of John telling him that he planned to attend UI in the future to obtain a mechanic's degree.

¶ 98 Dr. Shapiro observed Carleen's interaction with Leah in his office. Leah had a "very warm, loving attachment" with Carleen that was "playful, interactive." "There was good behavioral control, not that a lot was really needed." Carleen was clearly knowledgeable about Leah, and Leah really enjoyed the attention. "Competent and capable parenting skills were observed and a very positive attachment between" the two of them was observed. When asked about Leah's bond with Carleen, Dr. Shapiro stated:

"[T]here's a very strong attachment that [Carleen] has with her daughter, more importantly that Leah has with her mother. Part of that, as I think I emphasized throughout the evaluation report, is that Leah has experienced some loss of her mother at various times, and so she's hungry for that attachment, and she gets upset when she feels that that attachment is going to be either severed or minimized or jeopardized, to the extent that [Carleen] and her mother have had difficulty even getting her to go to school because the separation from her mother, even to go to school, has created, in my opinion, some anxiety in her."

¶ 99 Leah was also attached to Ethan in a “sisterly” and “motherly” kind of way. When asked about her favorite thing to do, Leah said “hang out with my mom and my brother.” During the session that Dr. Shapiro observed Carleen playing with Leah and Ethan, Dr. Shapiro had to encourage Carleen to play because she was observing them for the first 10 minutes instead of playing with them. Carleen then played with the children.

¶ 100 Regarding Dr. Shapiro’s observation of John and Leah’s interaction, it was “identical” to what he said about Leah and Carleen. John and Leah had a “close, loving relationship,” and Leah clearly enjoyed the attention. John played well with her and was more parental than Carleen in some regards; John had better boundaries. When asked what she would like to do differently with John, Leah said that she like to play with him more when she was there. However, after saying that, Leah then gave Dr. Shapiro a litany of things that they did together, so it seemed to Dr. Shapiro that their time together was “pretty rich.”

¶ 101 Dr. Shapiro further stated in his report that John treated Leah as a little girl whereas Carleen routinely exposed Leah to adult content and activities. At ages nine and ten, Leah did not have the maturity or experience to understand “adult life, breaking up with people, other people coming into [their] lives.” Dr. Shapiro also reported that Leah’s tardiness and absenteeism was “primarily” a result of Carleen’s failure to take her to school.

¶ 102 Dr. Shapiro interviewed Eric but did not observe him interact with Leah. Eric “seemed like a fairly together young man moving forward with his career”; he had a responsible job. Eric recognized that he was ill-prepared for marriage when he married Carleen. However, after the separation, Eric realized that he missed his family, and that his family was more important to him

than remaining single. According to Dr. Shapiro, Eric seemed “fairly mature” during the one-hour interview.

¶ 103 Dr. Shapiro stated in his report that John would be far more supportive of Carleen’s relationship with Leah than Carleen had been of John’s relationship with Leah. Dr. Shapiro based this opinion in part on Leah’s hospitalization at Streamwood, in which Carleen inaccurately told the staff that she had an order of protection against John and that he was not allowed to see Leah. It took John three days to get past “that distortion.” Even though Carleen had not received the order of protection, she “offered it as if it existed and that John should somehow be kept away.” Carleen had told Dr. Shapiro on a number of occasions that she did not believe that John had ever been inappropriate with Leah. However, Carleen had behaved, at various times, as if she did believe it by keeping him away from doctor’s appointments.

¶ 104 Regarding the order of protection, Carleen had explained to Dr. Shapiro that Leah had acted out sexually at school with some girls in the bathroom, and that “she was beyond believing that it could have been anything other than something that [Leah] had picked up at John’s house.” While Carleen was not “exactly accusing” John of doing anything, “it had to be at John’s house” because there were only women in her house. Dr. Shapiro noted that Carleen’s perspective was not accurate given that Carleen lived with Tom; Eric had been in and out of Carleen’s family’s house; Mark had slept over at the house; and Carleen had dated other men in that house.

¶ 105 Dr. Shapiro also opined that John was more stable in that his background was more stable; he had a stable job; he lived in the same house with the same people; and Leah had never met any of his girlfriends. Exposing Leah to multiple relationships was important because Leah formed attachments to people; when those attachments were threatened, it created anxiety in her.

¶ 106 Going back to when Leah was two years old, she was separated from John after Carleen and John stopped living together; Leah was separated from Carleen when she went to Florida with a friend; and then Carleen went to Equador for a couple of weeks, and Connie was her exclusive caretaker. Dr. Shapiro opined that at a very sensitive age of two, Leah experienced a number of separations and started wetting her pants again, for which she was reprimanded. Whereas a lot of two-year-olds are not even toilet trained yet, Leah started pressing toys up against her genitals. Dr. Shapiro explained that that is what little kids do when they have to go to the bathroom, they grab hold of themselves or press up against something. The “anxiety starts there, and it just goes forward.” However, Leah’s behavior “got really sexualized by” Connie and even Carleen. Dr. Shapiro thought that Leah’s anxiety and acting out (including sexually) was a combination of the separation anxiety and ADHD.

¶ 107 Dr. Shapiro further testified that going forward to Carleen’s marriage to Eric, Leah started calling him “dad” on her own, and then Eric was “gone from the picture.” After that, Mark entered her life; Carleen became engaged to him; Leah liked Mark; and then he disappeared. Leah formed attachments to people who had a history of disappointing her by not staying around at the level to which she was accustomed.

¶ 108 Dr. Shapiro further testified that as part of his 2009 evaluation of Leah, he recommended that Carleen, Eric, and John return to counseling with Dr. Amstutz to focus on effective parenting strategies. Dr. Shapiro was unaware whether John had done so. Dr. Shapiro also reviewed Dr. Goldstein’s 2007 report recommending counseling for John and Carleen. To Dr. Shapiro’s knowledge, John had not done so. Likewise, Dr. Shapiro was not aware that Carleen had complied

with Dr. Goldstein's 2007 recommendation of meeting with a psychiatrist to determine whether she needed medication.

¶ 109 When asked about his recommendation as to who would be the more appropriate residential parent, Dr. Shapiro felt that custody in this case was a "very close call." Dr. Shapiro testified that "John would be a more appropriate parent for Leah, but under the circumstances of Leah's condition and with certain things that I hoped would take place, I recommended that Leah stay in the residential care of her mother." With his primary concern of Leah's well-being, Dr. Shapiro "felt that under the circumstances where [Leah's] attachments could be better guaranteed than they have in the past, and that with some mental health assistance" for Carleen, Leah should be left in Carleen's residential care.

¶ 110 Dr. Shapiro believed that John, Carleen, and Eric would benefit from sessions with a parenting coordinator, so that everyone was on the same page regarding parenting strategies, especially with Leah's special needs related to ADHD. If Carleen did not go to therapy or did not intend to go to therapy in the future, then Dr. Shapiro opined that it was in Leah's best interest to live with John. Dr. Shapiro stated that "I'd like to think I made it pretty clear in my recommendations that if those recommendations about counseling and a parenting coordinator were not implemented, then I thought that the Court should seriously consider John as the residential parent." Dr. Shapiro thought Leah would have some difficulty making that transition, but as long as there was a lot of parenting time with Carleen, and Carleen was available during that parenting time, then Leah "would get past it in time."

¶ 111 At this point, the court posed some questions to Dr. Shapiro. Specifically, the court asked Dr. Shapiro whether he was aware that Leah had written some letters to Mark of a sexual nature,

such as whether Mark was having sex with Carleen. Dr. Shapiro indicated that he was never advised of any letters, which he found unusual. Dr. Shapiro also found it “odd” that Carleen would not have kept the letters but would have allowed Mark to keep them. Dr. Shapiro agreed with the court that it supported his theory of Leah’s attachments to people. It also raised “a whole other level of concern about what that attachment was like and how sexualized,” though Dr. Shapiro was not suggesting any impropriety on Mark’s part. When the court inquired about the incident of Leah wearing make-up to school the day after she was released from Streamwood, Dr. Shapiro relayed that Carleen felt incapable of controlling Leah; it was enough just to get her to go school. In letting the school deal with it, Dr. Shapiro stated that Carleen abdicated her parental role at that point.

¶ 112

8. Tom

¶ 113 Tom Ford, Carleen’s dad, testified next. Tom and Connie had seven children, ranging in ages from 25 to 43. Tom worked for the Chicago Trolley Company and also worked as a behavior disorder teacher for 20 years. Two daughters, Megan and Kimberly, lived with them in Hanover Park. Up until last summer, Carleen, Leah, and Ethan had lived there too. Kimberly’s boyfriend Davis had also been living with them since the past November. Since the time that Carleen and Leah had moved out, Leah had spent the night four or five times, most recently one month ago.

¶ 114 Tom had five grandchildren, ages 4 to 16. At their house, Leah had a pink room that she shared with her cousins if they also stayed over; it was a six-bedroom house. Carleen, Leah, and Ethan participated in extended family activities. They spent last Christmas together and traveled to Florida together the year before. Tom also spent one-on-one time with the children. That month, Tom had gone swimming with Leah, Leah’s friends, and Ethan.

¶ 115 Tom knew Mark because they had worked together at the Chicago Trolley Company. Tom was aware that Mark had given Carleen a ring in the fall of 2011 but was not sure if they were “officially engaged.” Mark stayed at their house “maybe twice.” Tom was aware of the January 1, 2012, incident involving Mark. Connie was out of town that night, so Tom was the only one home. He woke up around midnight and spoke to Carleen, who said she was worried about Mark committing suicide. Mark had some psychological issues after serving as a Marine in Afghanistan. Carleen told Tom that Mark had left and was with the police at Walgreens. Tom could not tell that Carleen was under the influence of alcohol; she “didn’t seem to be.” Tom saw one policeman outside, in front of their house, but none inside. Tom talked to the officer, who said Mark was at the Walgreens with two other officers. Tom drove over to Walgreens, less than one mile away. Mark was there with his car and two officers. Tom explained to the officers who he was and offered to help. The officers said that they could not let Mark drive because he was too upset. The officers did not say anything about Mark being intoxicated. Tom testified that if Mark were intoxicated, the officers would have given him a ticket. Mark ended up going home to Arlington Heights. Tom did not think the incident occurred on New Year’s Eve “because there would have been stuff going on” and nothing was happening that night.

¶ 116 Tom described Carleen’s interaction with Leah as very warm and caring. Carleen paid a lot of attention to Leah and her activities, such as her homework. Carleen got Leah ready for school and spent one-on-one time with her. Carleen’s bond with Leah was “as close as imaginable,” and Leah relied on Carleen for “the stability in her life.” Carleen coached Leah’s soccer team, took her to gymnastics and tennis lessons, and helped with her schoolwork. When Ethan came along, Carleen spent a lot of time with both Leah and Ethan.

¶ 117 Since giving birth to Leah at age 16, Carleen, who was now age 25, had grown up and become much more patient. Tom had observed Carleen discipline Leah by grounding her. Tom believed that Carleen could provide a stable environment for Leah because she had gone through a tumultuous time in her life and come through it in good shape; Carleen had matured tremendously over the last couple of years. Whereas Leah had been almost uncontrollable, Tom had not seen that behavior in over one year. He credited it to the stability of having a family and living with Carleen, Eric, and Ethan, who loved Leah dearly. Tom thought Leah “would go to pieces without that.”

¶ 118 The court also posed some questions to Tom, and he responded as follows. Leah had lived in his house for the first six years of her life, plus one more year after Carleen and Eric broke up, for a total of seven years. When Leah was about three years old, she would get out of control, although not very often. When she reached the ages of five and six, however, her behavior escalated and Tom was worried about her physical safety because she would do things like hit the wall. Tom described a tantrum as a child not being able to control herself. When the court asked if she was having tantrums every day, Tom replied, “Oh, no, not every day.” In response to the court’s question of whether Leah would have multiple tantrums in one day, Tom answered, “Not - no, not that I recall.” The last tantrum Tom witnessed a tantrum was about one year ago, when Leah was still living with him.

¶ 119 The court’s questioning continued. Tom first learned of Leah’s hospitalization the afternoon it occurred because “what precipitated it was an absolutely horrible episode.” Due to the escalation of Leah’s behavior, they had finally decided to try hospitalization, which was the approach that Dr. Puga had recommended the month before. Even before Dr. Puga had recommended it, however, Tom had told Carleen that if Leah continued “to go off to the point” that she could injure herself,

then hospitalization needed to be considered. After Tom came home from work, he found out that Leah had been hospitalized.

¶ 120

8. Eric

¶ 121 Eric Illingsworth, Carleen's husband, testified next as follows. Eric worked as a senior quality assurance analyst at DeVry, Inc. Currently, Eric had an associates degree and was working towards a bachelor's degree and a master's degree. Eric worked from 8 a.m. to 5 p.m. but could work flex time and occasionally from home.

¶ 122 Eric was first married to Carleen in 2009. They had Ethan, now four, and then were divorced in early 2012. Eric and Carleen remarried at the end of 2012. Eric took the blame for the break-up; he was young and married and felt like he was missing out on his life, so he had two affairs. Carleen discovered one of the affairs, and they parted ways. They never took the time to talk through it as they should have. Leah, however, was not aware of the affairs. Eric and Carleen had not gone to marriage counseling, though they knew this was an option.

¶ 123 Even when Carleen and Eric were separated, he "felt perfectly safe" letting Carleen care for Ethan. During that period when Carleen, Leah, and Ethan moved back in with Tom and Connie, Eric had "great communication" with Carleen regarding visitation and care of Ethan. However, Eric also admitted communicating with John when he and Carleen were getting divorced.

¶ 124 On July 20, 2011, Eric sent John an email saying that he and "psycho," meaning Carleen, were "done" and that there were things he and John could "share with each other" that could be beneficial; Eric was "sick of dealing with [Carleen] being 12 years old and her family's BS." Eric admitted that he was angry about the divorce at the time he wrote that email to John.

¶ 125 On October 30, 2011, Eric sent John an email inviting him and Leah to the lake house where he and Ethan were staying. Eric's email said that the kids could hang out in an environment without Carleen and her parents; the "bull sh\*\*" John had experienced from Carleen and Connie was now going to be happening to Eric; and Eric wished to send Leah presents through John rather than Carleen.

¶ 126 Eric also admitted sending texts to John on January 13, 2012, that Leah would be living with John "soon enough." Eric explained that John was trying to get full custody of Leah and wanted Eric to help his case by saying that Carleen was unfit. Eric did not believe that Carleen was unfit, but John "sold" Eric on the idea that Eric could get full custody of Ethan, just as John could get full custody of Leah.

¶ 127 Eric's memory of the January 1, 2012, incident was that Carleen's boyfriend Mark was drunk and had tried to hit her "or something." Leah and Ethan were not present for that incident. Eric was supposed to drop Ethan off at Carleen's house around 7:30 p.m. but Eric ended up keeping him that night. When Eric went to Carleen's house, Carleen appeared sober. Eric could not recall whether the police were there.

¶ 128 Eric, Carleen, Leah, and Ethan now lived in a three-bedroom, two-bathroom apartment in Elk Grove Village. Carleen was a great mom and always had the children's best interests at heart; she worried about their activities and schooling. Currently, Leah was in fourth grade at Claremont. Typically, Eric helped her with math, and Carleen helped her with English, reading, and spelling. Carleen and Leah spent one-on-one time together, doing their nails, going to the mall, or most recently going to a concert. Carleen also had one-on-one time with Ethan, and Eric had one-on-one time with Leah. As a family, they enjoyed bowling, swimming, water parks, mini-golf, and

Gameworks. Leah took gymnastics twice a week, and Eric had gone to some of her classes. In addition, Leah and Ethan had a great relationship, always playing together and rarely ever fighting.

¶ 129 Regarding the daily routine, Eric testified that he got up around 6 a.m. and never made breakfast before leaving for work; Carleen was the one who cooked.

¶ 130 The last time Carleen disciplined Leah was one month ago when Leah refused to do her homework, so Carleen took away the computer. Carleen gave Leah a nine-minute time-out, because that was Leah's age, just like Ethan would get a four-minute time-out. Eric was asked if Carleen told him about a text she sent to John regarding a January 17, 2013, incident, two weeks prior to the instant hearing. The incident involved Leah telling Carleen she was a terrible mother and punching her. Eric did not remember particulate dates but had seen Leah punch Carleen before. Eric remembered "I hate you or something like that" but it was over with "relatively quick." Leah might have thrown the computer but John did not see what happened; he only heard it. Leah then shut her door and cooled off. Since Carleen and Eric had moved back in together, Leah had not exhibited any huge tantrums.

¶ 131 Eric was aware that Leah had ADHD and was seeing Dr. Puga. Leah was "always bouncing off the walls" until she took her medication, which she took daily.

¶ 132 Eric, Carleen, Leah, and Ethan used to spend more time with Carleen's family, but now it was mostly around holidays. Carleen was busy with school and getting good grades.

¶ 133 Eric believed that Leah was in a stable environment. They were a family and ate dinner together. Leah was so attached to Carleen that taking her away would probably "kill her." Also, Leah was doing really well in school and had five or six friends who lived in the area. Finally, Leah

called Eric “daddy,” which was her choice, and Eric did not discourage it. Leah knew that John was her “daddy,” and she referred to John as “daddy” in front of Eric as well.

¶ 134

C. Trial Court’s Decision

¶ 135 On February 19, 2013, the court issued a written decision. The court found, by clear and convincing evidence, that the current 2007 joint custody order was not in Leah’s best interest and that there had been a change in the parties’s circumstances warranting a modification. The court named John as sole custodian with Carleen receiving reasonable visitation. In particular, the court gave Carleen visitation every Wednesday evening through Thursday morning, and alternating weekends, from Friday to Sunday. The order further stated that Leah “must be in counseling immediately,” and that John was to “select a therapist within 14 days and schedule an appointment.”

¶ 136 Regarding the credibility of the witnesses, the court found Carleen “evasive, not credible, and contradictory.” Also, Carleen failed to remember many important events and details. The court further found that: (1) while John routinely had Leah make cards and buy gifts for Carleen for holidays, Carleen did not reciprocate; (2) both Robert and Jean were credible in their testimony of John’s relationship with Leah and the provisions for Leah in their home; (3) Tom’s testimony was not credible in that he gave consistently different answers than those given by Carleen; and (4) Eric admitting to sending John multiple texts and emails about “dirt” on Carleen and how they could work together to get custody of their respective children; and (5) Eric became “quite upset and wanted the court to intervene to stop the reading of his personal emails and texts.” Other specific findings made by the trial court are discussed in the analysis portion of the disposition.

¶ 137 On February 25, 2013, Carleen moved to stay enforcement of the court’s decision modifying custody in favor of John. The trial court denied this motion on March 4, 2013. Carleen timely

appealed, filing an emergency motion to stay transfer of custody, which this court denied on March 19, 2013.

¶ 138

## II. ANALYSIS

¶ 139

### A. Motion to Strike

¶ 140 Before turning to the merits of Carleen's appeal, we address her request that we strike several portions of John's statement of facts. In her reply brief, Carleen argues that John's statement of facts does not comport with Illinois Supreme Court Rule 341(h)(6) (eff. Sept. 1, 2006) because it contains statements that are inaccurate, not supported by the record, or lack citations to the record. The striking of an appellate brief, in whole or in part, is a harsh sanction; it is appropriate only when the alleged violations of procedural rules interfere with or preclude review. *In re Detention of Powell*, 217 Ill. 2d 123, 132 (2005). Because the improprieties here do not significantly hinder our review, we decline Carleen's motion. However, we will disregard any inaccurate or unsupported statements.

¶ 141 In a motion taken with the case, Carleen also requests that this court strike John's appendix based on it not being tendered to her in a timely fashion. John's appendix consists of two reports by Dr. Shapiro and one report by Dr. Goldstein. Because these reports are contained in the record on appeal, and because John's references to the various reports in his brief are easily understood, we deny Carleen's motion as moot. See *Mekertichian v. Mercedes-Benz U.S.A., LLC*, 347 Ill. App. 3d 828, 836 (2004) (motion to strike appendix was moot and need not be considered).

¶ 142

### B. Modification of Custody

¶ 143 A trial court's determination of child custody rests largely within its discretion, and we will not disturb its decision on appeal unless it is against the manifest weight of the evidence or the court abused its discretion. *In re Marriage of Smithson*, 407 Ill. App. 3d 597, 600 (2011). The court's

decision is afforded great deference because it is in a superior position to judge the credibility of witnesses and determine the best interest of the child. *In re Marriage of Debra N. and Michael S.*, 2013 IL App (1st) 122145, ¶ 45.

¶ 144 Section 610(b) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/610(b) (West 2010)) applies to the modification of custody arrangements. It provides:

“The court shall not modify a prior custody judgment unless it finds by clear and convincing evidence, upon the basis of facts that have arisen since the prior judgment or that were unknown to the court at the time of entry of the prior judgment, that a change has occurred in the circumstances of the child or his custodian, or in the case of a joint custody arrangement that a change has occurred in the circumstances of the child or either or both parties having custody, and that the modification is necessary to serve the best interest of the child. \*\*\* The court shall state in its decision specific findings of fact in support of its modification \*\*\* if either parent opposes the modification \*\*\*.” 750 ILES 5/610(b) (West 2010).

Therefore, to modify a custody order, a petitioner must show by clear and convincing evidence that (1) a change of circumstances of the child or his custodian has occurred, and (2) a modification is necessary to serve the best interest of the child. *In re Marriage of Smithson*, 407 Ill. App. 3d at 600. Stability and continuity are major considerations in custody decisions, and a presumption exists in favor of the present custodian. *In re Marriage of Spent*, 342 Ill. App. 3d 643, 652 (2003); see also *In re Marriage of Wycoff*, 266 Ill. App. 3d 408, 414 (1994) (“Under section 610 there is a strong presumption in favor of the present custodian.”).

¶ 145 When making child custody determinations and determining what custodial order serves the child's best interest, the trial court should consider all relevant factors, including those listed in section 602 of the Act. *In re Marriage of Spent*, 342 Ill. App. 3d at 652. Section 602 states:

“(a) The court shall determine custody in accordance with the best interest of the child. The court shall consider all relevant factors including:

- (1) the wishes of the child's parent or parents as to his custody;
- (2) the wishes of the child as to his custodian;
- (3) the interaction and interrelationship of the child with his parent or parents, his siblings and any other person who may significantly affect the child's best interest;
- (4) the child's adjustment to his home, school, and community;
- (5) the mental and physical health of all individuals involved;
- (6) the physical violence or threat of physical violence by the child's potential custodian, whether directed against the child or directed against another person;
- (7) the occurrence of ongoing or repeated abuse \*\*\* whether directed against the child or directed against another person;
- (8) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child;
- (9) whether one of the parents is a sex offender; and
- (10) the terms of a parent's military family-care plan that a parent must complete before deployment if a parent is a member of the United States Armed Forces who is being deployed.” 750 ILCS 5/602(a) (West 2010).

¶ 146 Carleen makes three arguments as to why the trial court’s decision to modify custody in favor of John was against the manifest weight of the evidence. First, Carleen argues that there was no change in circumstances. Second, she argues that the court made no specific findings regarding the statutory factors in section 602(a). Finally, Carleen argues that many of the court’s findings were either inaccurate or against the manifest weight of the evidence. We consider each argument in turn.

¶ 147 1. Change in Circumstances

¶ 148 In arguing that there was no change in circumstances, Carleen points out the following: John continued to live with his parents, work part-time, and not be self-supporting; though Carleen had married, divorced, and remarried Eric, her “family unit” had been consistent for the six months prior to trial; the January 1, 2012, incident occurred one year prior to trial, with no incidents since; and Leah had a long history of tantrums and acting out sexually. Carleen argues that if anything, Leah’s tantrums had greatly subsided, and her grades at Claremont School had improved. In addition, Leah was very bonded to Ethan, and Dr. Shapiro recommended that Carleen retain residential custody.

¶ 149 The relevant time period for assessing a change in circumstances stems from the date of the previous judgment. See 750 ILCS 5/610(b) (West 2010). While Carleen focuses largely on Leah’s circumstances during the six months prior to trial, the relevant time period is from the 2007 agreed order until the January 2013 trial. The record shows several changes in circumstances from 2007 to 2013.

¶ 150 Carleen’s relationships during the relevant time period constituted a change in circumstances. Carleen got engaged to Eric in 2007 and married him in 2009. Because Eric was cheating on her, Carleen moved back in with her parents in May 2011. Dr. Shapiro noted that Leah started calling

Eric “dad” on her own, and then he was “gone from the picture.” While away from Eric, (May 2011 to February 2012), Carleen had two boyfriends, Steve and Mark. Carleen admitted taking Leah with her to Wisconsin to visit Steve, thus exposing her to that relationship. Carleen then began dating Mark, and the two became engaged and then broke up. Dr. Shapiro testified that Leah liked Mark, and then he also disappeared when Carleen and Mark broke up.

¶ 151 Initially, Carleen testified that Leah did “not really” have a close relationship with Mark. However, her deposition testimony indicated that they did have a close bond, which she then acknowledged at trial. The January 1, 2012, incident in which Carleen was worried that Mark was suicidal was evidence of Leah’s attachment to Mark. When Carleen called Leah during John’s parenting time, Leah became hysterical and cried on the phone. Moreover, when questioned by the court, Dr. Shapiro agreed that Leah’s letters of a sexual nature to Mark supported his theory that Leah developed attachments to people.

¶ 152 Following Carleen’s relationship with Mark, Carleen then moved back in with Eric in June 2012. In November 2012, the court vacated their divorce.

¶ 153 While it is true that changed conditions alone do not warrant modification in custody without a finding that such changes affected the welfare of the child (*In re Marriage of Nolte*, 241 Ill. App. 3d 320, 325-26 (1993)), Dr. Shapiro explained the impact of these relationships on Leah. He stated that exposing Leah to multiple relationships was important because Leah formed attachments to people, and when those attachments were threatened, it created anxiety in her. According to Dr. Shapiro, Leah formed attachments to people who had a history of disappointing her by not staying around at the level to which she was accustomed. He stated that at ages nine and ten, Leah did not have the maturity or experience to understand the breaking up of relationships and the forming of

new ones with other people. Unlike John, Carleen exposed Leah to a series of romantic relationships that Leah was too young to process.

¶ 154 A side effect of Carleen's on-and-off relationship with Eric was multiple changes in residence and schools. During the relevant time period, Carleen, Leah, and Ethan lived with Carleen's parents, then Eric, then Carleen's parents, and then Eric again. These changes in residence resulted in school changes.

¶ 155 In four years, Leah attended four schools: first grade at Horizon School in Hanover Park; second grade at Claremont School in Elk Grove Village; third grade at Horizon School; and fourth grade at Claremont School. During the 2011 to 2012 school year at Horizon School, Leah had 12 tardies and several absences. The tardies were a reflection of Leah's attachment issues and separation anxiety over being away from Carleen. As Dr. Shapiro explained, Leah's attachment to Carleen and fear of separation made it hard for Carleen to get her to school.

¶ 156 Yet another change in circumstance was Carleen's failure to apprise John of important incidents and decisions regarding Leah. Carleen argues that the school incident in which Leah acted out sexually was not a change in circumstance because Leah had a history of sexually acting out. Regardless, Carleen's reaction to the incident did create a change in circumstances. Not only did Carleen not inform John of the incident, she tried to obtain an order of protection against him based on allegations that he had sexually abused Leah. Even though Carleen admitted that she did not believe that John had ever acted inappropriately, Carleen blocked John's visitation by having a police officer present when John came to exercise his visitation. See *In re Marriage of Dullard*, 176 Ill. App. 3d 817, 818-19 (1988) (changed circumstance included the mother becoming uncooperative with the father's visitation). Carleen also arranged for Leah to be hospitalized at Streamwood

without John's knowledge, and this was a planned hospitalization as opposed to unplanned one, as Carleen claimed. Furthermore, as the trial court found, Carleen told the Streamwood staff that there was an order of protection against John, which prohibited him from having any contact with Leah during her 10 days of hospitalization. Carleen also arranged for Leah to see Dr. Webster, a sexual abuse therapist, without John's knowledge.

¶ 157 Dr. Shapiro expressed concern over Carleen's handling of the hospitalization, her keeping John away from doctor's appointments, and her perspective of the school incident. Carleen believed that Leah's acting out sexually at school was something she had picked up at John's house, even though she consistently denied that John had acted inappropriately with Leah. In addition, Carleen's statement that Leah could not have picked up such behavior at her parents' house because only women lived there was inaccurate. Dr. Shapiro noted that Tom lived there, Eric had been in and out of the house, and Mark had stayed over on occasion.

¶ 158 In sum, exposing Leah to different relationships, schools, and residences; blocking John's visitation on baseless allegations of sexual abuse; and withholding important information regarding Leah's behavior and treatment all constituted changes in circumstances that affected Leah's well-being.

¶ 159 2. Section 602(a) Factors

¶ 160 Next, Carleen finds fault with the trial court for not making specific findings as to the statutory factors in section 602(a). While these factors are relevant to a finding of custody, the court was not required to make findings with respect to each factor. Instead, the court correctly analyzed whether a change in circumstance had occurred, and whether a modification of custody was in

Leah's best interest under section 610(b). In any event, four of the factors are relevant to this case, and these factors support the trial court's decision to modify custody.

¶ 161 Factor three is an assessment of Leah's interaction and interrelationship with her parents, siblings, and any other person who may significantly affect her best interest. The evidence showed that Leah was bonded to both Carleen and John. Both parents described their attachment to and time spent with Leah, and Dr. Shapiro noted that she was bonded to both of them. In addition, she was bonded to her paternal grandparents Robert and Jean, her sibling Ethan, her maternal grandparent Tom, and Eric. With the exception of Ethan, all of these witnesses testified regarding their attachment to Leah. Leah's bond with Connie was not discussed because Connie did not testify. Leah's relationship with her parents and these other individuals was positive on both sides. For this reason, Dr. Shapiro testified that determining custody was a "very close call."

¶ 162 Though he thought John was a more appropriate parent and more stable, he recommended that Carleen retain custody as long as she underwent therapy and implemented a parenting coordinator. If Carleen did not comply with these conditions, then Dr. Shapiro thought that Leah would have some difficulty making the transition of living with John but "would get past it in time." It is undisputed that Carleen had not sought counseling or implemented a parenting coordinator by the time of trial.

¶ 163 Dr. Shapiro's recommendations for Carleen were based on some "parenting weaknesses that needed to be addressed." He stated that Carleen admitted having little control over Leah, and her ability to appropriately discipline and set boundaries was at times lacking. Dr. Shapiro testified that Carleen felt incapable of controlling Leah; it was difficult enough just to get her to go to school. For example, Carleen did not stop Leah from wearing make-up to school but instead let the school

handle it. Dr. Shapiro further noted in his report that in addition to being tardy and absent, Leah was also sometimes unprepared for class. He stated that Carleen needed to learn to focus on Leah's physical, psychological, and educational needs before playing with her or giving her what she wanted. Accordingly, although Carleen's bond with Leah was strong, her failure to obtain counseling to address these parenting issues results in this factor favoring John.

¶ 164 Factor four assesses Leah's adjustment to her home, school, and community. At the time of trial, Leah had lived with Eric in Elk Grove Village for six months and attended fourth grade at Claremont School. Though she was doing better at Claremont School than she had the year before at Horizon School, she had experienced repeated changes in school and residence that left her with no long-term connection to any particular school or community. Conversely, John's parents' home in Hanover Park remained constant from the beginning. Furthermore, John testified that Leah had friends in the neighborhood, and that she had play dates at the house. Thus, factor four favors John.

¶ 165 Factor five is the mental and physical health of all individuals involved. At the outset, Carleen is correct that Dr. Goldstein's 2007 report and the 2007 agreed order required both of them to receive individual counseling. Carleen claimed to have done so but John did not. However, Carleen did not meet with a psychiatrist to determine whether she needed medication, as recommended by Dr. Goldstein. In addition, she did not receive counseling as recommended in Dr. Shapiro's 2012 report. We have already summarized Carleen's parenting issues that led Drs. Goldstein and Shapiro to recommend that she receive counseling. Dr. Shapiro testified that if Carleen did not go to therapy or did not intend to go to therapy in the future, then it was in Leah's best interest to live with John. Carleen did not do so, and thus this factor favors John.

¶ 166 The last applicable factor, factor eight, is the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child. In his 2012 report, Dr. Shapiro stated that it was his “opinion and belief that John would be far more supportive of [Carleen’s] relationship with Leah than [Carleen] has been of John’s relationship with Leah.” He noted that Carleen had not abided by the terms of the 2007 agreed order by failing to notify John of Leah’s doctors’ appointments; missing visitation; and requesting an order of protection to keep him “out of the hospitalization process with Leah.” Carleen had also accused John of sexually abusing Leah on more than one occasion, despite not believing such accusations. In Dr. Shapiro’s opinion, Carleen had “not supported Leah’s relationship with her father.” John, on the other hand, had a history of encouraging Leah to make cards for Carleen on holidays and inviting Carleen into his parents’ home. Therefore, this factor favors John.

¶ 167

### 3. Trial Court’s Findings

¶ 168 Finally, Carleen argues that many of the court’s findings were either inaccurate or against the manifest weight of the evidence. While we agree with some of Carleen’s contentions, the errors were harmless in that they were minor and would not have affected the outcome. See *In re Marriage of Wojcik*, 362 Ill. App. 3d 144, 153 (2005) (the effect of the trial court’s erroneous findings was harmless because the minor discrepancies would not have altered the outcome).

¶ 169 First, Carleen argues that it was “unfathomable” for the court to allow John to select a new therapist for Leah when he did not believe she needed medication and had never sought a second opinion from any other doctor. In its February 2013 order, the court stated that Leah “must be in counseling immediately” and that within 14 days, John was to select a therapist and make an appointment.

¶ 170 Dr. Puga prescribed Leah's medications and recommended that Leah see Dr. Webster, a sexual abuse therapist, based on Carleen's allegations of sexual abuse. John was not told that Leah was seeing Dr. Webster and therefore had no input in the counseling. Given that Carleen herself did not believe that John had ever been inappropriate with Leah, it made sense for the trial court to allow John to select a new therapist for Leah to assess her condition and needs. Though John did not believe that Leah needed to be medicated or that ADHD was an appropriate diagnosis, he still complied with administering the medications that had been prescribed to Leah, even refilling prescriptions at Walgreens. John testified that if he received custody, he would continue Leah's treatment with Dr. Puga and find a "new psychologist to get her reassessed." The court's order directing John to proceed in this manner was consistent with awarding him sole custody and was not against the manifest weight of the evidence.

¶ 171 Second, Carleen argues that the incident at school in which Leah acted out sexually was not a change in circumstances because Leah had a history of acting out sexually. However, this finding was contained in the court's summary of the evidence; the court did not designate it as a change in circumstances. Also, this incident was not disputed, as John had no knowledge of it until Leah told him of it during his parenting time.

¶ 172 Third, Carleen challenges the court's finding that Tom's testimony regarding the January 1, 2012, incident contradicted her testimony. However, the court's finding was correct. Tom testified regarding what happened with Mark on January 1, 2012, and then testified that he did not believe it happened on that date. Carleen argues that Tom's testimony that the incident did not occur on January 1 was not contradictory but was likely referring to a separate event. Carleen's argument lacks merit in that there was no evidence of a separate event involving Mark. On the contrary,

Carleen, John, and Eric all testified consistently regarding the January 1, 2012, incident with Mark, except on the issue of whether Carleen was intoxicated. While Carleen testified that she was intoxicated, Tom testified that she did not “seem” to be drinking, and Eric also testified that Carleen appeared sober that night. While we agree with Carleen that Tom’s testimony was not necessarily contradictory on the issue of drinking, it was up to the trial court to assess the witnesses’s credibility. The court did not find Tom to be a credible witness, and we afford deference to the trial court’s credibility determinations. See *In re Marriage of Bates*, 212 Ill. 2d 489, 516 (2004) (a custody determination, especially, is afforded great deference because the trial court is in a superior position to judge the credibility of the witnesses and determine the best interests of the child).

¶ 173 Fourth, the court found that “Carleen testified she contacted John about the [Streamwood] hospitalization that afternoon, but her testimony was impeached when it became clear she never telephoned John, but merely sent him a text late that afternoon.” As an adverse witness, Carleen testified that she “told John that day that [Leah] was being hospitalized.” On direct examination, Carleen testified that she emailed John the day Leah was placed at Streamwood, and John testified that Carleen’s email was sent to him at 4:15 p.m. It appears that by testifying that she “told” John, the court inferred that Carleen called him, which was a fair inference but also an incorrect one.

¶ 174 While we agree with Carleen that she was not impeached in this respect, any error was harmless in light of the other evidence surrounding Leah’s hospitalization. Carleen’s testimony that Leah’s hospitalization at Streamwood was not planned was impeached by Officer Kozenczak and Dr. Shapiro, and it was impeached by her deposition testimony as to why Leah was being admitted, in that it was unclear whether Leah had hit her as well. Also, the court correctly found that Carleen told the staff at Streamwood that there was an order of protection against John, thereby preventing

John from having any contact with Leah. It is undisputed that John had no notice of Leah being hospitalized at Streamwood prior to her admission, and the court's error was harmless.

¶ 175 Fifth, the court found that Carleen misrepresented Leah's grades in school to Dr. Shapiro. According to the court, "Carleen told Dr. Shapiro that Leah was a good student and receive[d] all 3's and 4's, but Dr. Shapiro's review of the school records did not bear this out to be true. Leah received no 4's and reported numerous absences." The trial court's finding was correct. Although Carleen argues that Leah received some 4's in second grade and was doing much better in fourth grade, Dr. Shapiro specifically referenced the 2011 to 2012 school year (third grade) as the period in which he based his finding. It was undisputed that Leah received no 4's during this period and had had numerous absences.

¶ 176 Sixth, Carleen takes issue with the court's finding that she had never given John the right of first refusal to care for Leah when she was unavailable. A clause in the 2007 agreed order provided that if Leah was going to be out of her care for a period of six hours or overnight, then Carleen was required to advise John of that fact and give him the right of first refusal. Carleen testified that since she had moved out to live with Eric in June 2012, Leah had stayed over at Connie and Tom's house four or five times. Carleen explained that Ethan had wanted to have a sleep over, and because Leah wanted to go too, she allowed it.

¶ 177 While we agree with Carleen that a sleep over is hardly "nefarious," Carleen did not explain the circumstances regarding the other times that Leah spent the night at her grandparents' house. Moreover, the court's finding is in line with Dr. Shapiro's 2012 report in which he stated that Carleen's actions constituted a "series" of violations of the 2007 agreed order. Accordingly, the court's finding was not against the manifest weight of the evidence.

¶ 178 Seventh, the court found that Carleen’s testimony about her daily routine was “incredible” in that she testified that Leah would get up at 7:30 a.m., watch a show, eat breakfast made by Eric, and then catch the 7:50 a.m. bus. According to the court, Eric impeached this testimony as to the “alleged family routine.”

¶ 179 We agree with Carleen that the court’s finding was incorrect. Eric never testified that he made breakfast; rather, he testified that Carleen was the cook in the house. (It is possible that the court confused this testimony with Jean’s testimony in which she described the routine of Robert being the one to make breakfast). It is also possible that Carleen misspoke as to the relevant times of getting up or catching the bus, or that there was an error in the transcript. In any event, the court made numerous factual findings, and this one error is harmless. In addition, it does not impact the trial court’s overall credibility determination as to Carleen. As the court identified, there were numerous instances in which Carleen’s testimony was evasive or contradictory.

¶ 180 Eighth, Carleen disputes the court’s finding that she routinely scheduled events on John’s parenting time despite his request that she stop doing so. John testified that he sent an email to Carleen not long before trial, on November 30, 2012, in regard to Ethan’s birthday party, which was scheduled during his parenting time. Leah wanted to attend the party, so John agreed. According to John, other events that had been scheduled during his parenting time included Ethan’s baby shower, a birthday, and a concert. John testified that although he could not name other instances “off the top of [his] head,” he was “pretty sure” there were other occasions. Based on this testimony, the court could have inferred that John was describing an overall pattern of behavior as opposed to a few, isolated events. See *In re Marriage of Bates*, 212 Ill. 2d at 516 (where the evidence permits

multiple reasonable inferences, the reviewing court will accept those inferences that support the court's order).

¶ 181 Moreover, we note that John's flexibility was not reciprocated by Carleen, who did not allow Leah to attend John's grandfather's 90th birthday party. In addition, John testified that Carleen did not return his call when he left a message about keeping Leah a few extra hours due to his brother being in town. John testified that there was one time in which Carleen allowed Leah to attend a wedding with him during her parenting time. Therefore, we cannot say that the finding was against the manifest weight of the evidence.

¶ 182 Ninth, Carleen contests the trial court's finding that Leah was routinely late to or absent from Horizon School. Once again, Carleen focuses on Leah's attendance and record during her fourth grade at Claremont School, which is much better than her third grade at Horizon School. However, the court's finding was based on Leah's third grade at Horizon School, and its finding is correct. The parties stipulated that during the 2011 to 2012 school year in which Leah attended Horizon School, she had 13 excused absences, 3 unexcused absences, and 12 tardies. Much of the absence resulted from Leah's hospitalization at Streamwood. As for the tardies, none of them occurred during John's parenting time.

¶ 183 Dr. Shapiro offered insight as to Carleen's ability to get Leah to school. He stated that Leah had "experienced some loss" of Carleen at various times, and that Leah would get upset if the attachment was jeopardized. According to Dr. Shapiro, Carleen had difficulty getting Leah to go to school because it created "some anxiety in her." Dr. Shapiro also stated in his report that Leah's tardiness and absenteeism was "primarily" a result of Carleen's failure to take her to school. Therefore, the trial court's finding was not against the manifest weight of the evidence.

¶ 184 Tenth, Carleen challenges the court's finding regarding the lapse in Leah's prescription. According to the court, Carleen testified that Leah had gone without her medication when Carleen allowed the prescription to run out. Then, rather than go to the nearby doctor's office to get a new prescription, Carleen waited four to five days for the prescription to be mailed to her home. Carleen testified that the longest that Leah had gone without Adderall was four days. However, Dr. Shapiro's 2012 report indicated that Leah had gone without Adderall for 7 to 10 days. While Carleen testified that she called Dr. Puga for the prescription and had to wait for it to be mailed to her, the court questioned Carleen about this matter specifically. Based on the court's inquiry, Carleen testified that Dr. Puga's office was in Inverness, which was about 20 to 25 minutes from she lived. Therefore, contrary to Carleen's assertion, there was evidence regarding the proximity of Dr. Puga's office. Moreover, Carleen admitted that she could have picked up the prescription at his office as opposed to waiting for it to be mailed. Therefore, the court's finding was not against the manifest weight of the evidence.

¶ 185 Eleventh, Carleen finds fault with the trial court's lack of assessment of John's credibility. According to Carleen, the court did not even question his credibility despite the fact that he misrepresented his schooling. There is no evidence that John misrepresented his schooling, and the court's statement regarding John's schooling was correct. According to the court, John had attended College of Du Page on and off over the last few years but was not currently enrolled. Also, the fact that John did not recall telling Dr. Goldstein in 2007 that he was currently taking night classes but intended to take on-line classes does not amount to a misrepresentation. John was taking night classes at the time, and his memory of what he told Dr. Goldstein five years later regarding an unfulfilled intention to take on-line classes did not cause the court to question his credibility. Also,

the fact that John had not been enrolled in classes since 2010 did not mean that he was not working toward his degree, as he told Dr. Shapiro in 2012. As stated, it was up to the trial court to assess the witnesses's credibility, and we give deference to the trial court's credibility determinations.

¶ 186 Twelfth and last, we agree with Carleen's argument that the court erred in its summary of Tom's testimony. The court stated that Tom testified that Leah had "multiple tantrums per day while she was living" with Carleen. This was inaccurate. In response to the court's questioning, Tom testified that Leah's behavior escalated when she was five and six years old; he worried about her safety because she would do things like hit the wall. However, when the court specifically asked if Leah had tantrums every day, Tom replied that it was *not* a daily occurrence. In addition, he testified that Leah did not exhibit multiple tantrums per day. Therefore, we agree that the court's finding was against the manifest weight of the evidence. Even so, the trial court's error in this respect was harmless in that the court's order contained multiple findings that support its decision. As stated, these minor discrepancies would not have changed the outcome of the court's custody determination.

¶ 187

### III. CONCLUSION

¶ 188 For all of these reasons, the trial court's decision to modify custody by awarding sole custody to John was not against the manifest weight of the evidence. The judgment of the Du Page County circuit court is affirmed.

¶ 189 Affirmed.

