2018 IL App (2d) 180381-U
No. 2-18-0381
Order filed August 2, 2018

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re MARRIAGE OF WILLIAM GEORGE CONOPEOTIS,	)	Appeal from the Circuit Court of Lake County.
Petitioner-Appellee,	)	
and	)	Nos. 17-D-289 18-OP-780
LYDIA ANN CONOPEOTIS,	)	Honorable Raymond D. Collins,
Respondent-Appellant.	)	Judge, Presiding.

PRESIDING JUSTICE HUDSON delivered the judgment of the court.
Justices Burke and Birkett concurred in the judgment.

ORDER

¶ 1 *Held*: The trial court properly dismissed respondent's emergency verified petition for order of protection pursuant to section 2-619(a)(9) of the Code of Civil Procedure (735 ILCS 5/2-619(a)(9) (West 2016)) where the agreed judgment allocating parental responsibilities and parenting time resolved the allegations at issue and therefore barred further litigation of the same claims.

¶ 2 Respondent, Lydia Ann Conopeotis, appeals from the trial court's dismissal of her emergency verified petition for order of protection. The trial court held that the allegations in Lydia's petition predating entry of the agreed judgment allocating parental responsibilities and parenting time were resolved by the judgment and that allegations arising subsequent to entry of

the judgment were legally insufficient to warrant an order of protection. For the following reasons, we affirm.

¶ 3 I. BACKGROUND

¶ 4 The underlying action is a dissolution of marriage proceeding. The parties were married in 1994 and have twin 12-year-old daughters (F.C. and V.C.). Lydia filed a dissolution petition on December 22, 2016, in Cook County, which was transferred to Lake County after William filed a dissolution petition there on February 17, 2017.

¶ 5 The trial court appointed a guardian *ad litem* on March 24, 2017. The record demonstrates that in the ensuing months, the guardian *ad litem* met with F.C. and V.C. on several occasions and conducted multiple meetings and telephone calls with Lydia and William. Meanwhile, on April 18, 2017, the trial court entered an agreed order for a temporary allocation of parental responsibilities and parenting time, which included a provision that the "children will be granted exclusive use of the bathroom and changing areas for purposes of privacy." The guardian *ad litem* submitted her report and recommendation on June 5, 2017. The report and recommendation addressed what the guardian *ad litem* described as Lydia's "immediate concerns" including William's "practice of being present with the girls during shower time (although she [Lydia] indicated this was more a comfort and new age issue—not of anything disturbing)." According to the report and recommendation, when the issue was raised, William "agreed the girls were too old for dad to be present when they were showering, respecting their privacy."

¶ 6 In the following months, the trial court conducted several pretrial conferences with the parties, their counsel, and the guardian *ad litem* and entered orders adjusting at times the temporary allocation of responsibilities and parenting time, requiring the parties to cooperate in

scheduling the children's therapy, and setting a status date for the entry of a judgment allocating parental responsibilities and parenting time.

¶ 7 On September 21, 2017, Lydia filed an amended petition for rule to show cause against William (which supplanted an initial petition for rule to show cause filed a week earlier), alleging that William violated the April 18, 2017, temporary allocation order's provision that the children be granted exclusive use of the bathroom and changing areas. Specifically, Lydia alleged that on September 7, 2017, William sat on V.C.'s bed while V.C. was getting dressed after her shower. Lydia further alleged that prior to entry of the April 18, 2017, temporary allocation order, William "repeatedly intruded upon the personal privacy of [F.C. and V.C.] by, among other things, insisting on being present while they took showers or changed clothes despite the objections of Lydia" and that the conduct "was evidenced by a photograph taken by Lydia of William seated upon the bathroom toilet with his cell phone while one of the girls was taking a shower."

¶ 8 Following a pretrial conference with the parties, their counsel, and the guardian *ad litem* on September 26, 2017, the trial court entered an order resetting all pleadings for a hearing/pretrial on October 26, 2017, and continuing the case to September 28, 2017, for entry of an allocation judgment. On September 28, 2017, the trial court entered an order stating that a draft allocation judgment had been circulated and continuing the case to October 3, 2017, for entry of an allocation judgment and "limited pretrial on any remaining parenting issues."

¶ 9 The trial court conducted a pretrial conference with the parties, their counsel and the guardian *ad litem* on October 3, 2017. On October 6, 2017, the trial court entered an "Allocation Judgment Allocation of Parental Responsibilities and Parenting Plan" (Allocation Judgment) pursuant to the Illinois Marriage and Dissolution of Marriage Act (Dissolution Act) (750 ILCS

5/600 *et seq.* (West 2016)). The Allocation Judgment provides that the "parties have reached an agreement regarding child related issues in this case" and expressly states the parties' intention "to resolve all issues of allocation of parental responsibilities, including allocation of parenting time." The Allocation Judgment includes provisions regarding allocation of significant decision-making responsibilities and parenting time. The judgment also includes the provision that the "children will be granted exclusive use of their bathroom and changing areas for purposes of privacy." The trial court subsequently discharged the guardian *ad litem*.

¶ 10 The litigation continued throughout 2017 and early 2018, with William filing a petition to modify the Allocation Judgment and a petition for adjudication of indirect civil contempt (and supplemental petition), alleging Lydia's ongoing attempts to interfere with his parenting time, as well as Lydia filing an emergency petition for exclusive possession of the marital residence (and amended petition) based upon William's alleged harassing and threatening behavior. During this time frame, the trial court entered several orders addressing discovery and property issues and generally continuing all pending matters, pleadings, and motions. On December 11, 2017, William filed a response to Lydia's September 21, 2017, amended petition for rule to show cause, arguing that the allegations were previously presented to and dismissed by both the guardian *ad litem* and the trial court.

¶ 11 On May 4, 2018, Lydia filed a verified petition for an emergency order of protection under the Illinois Domestic Violence Act of 1986 (Domestic Violence Act) (750 ILCS 60/101 *et seq.* (West 2016)). Lydia alleged that William repeatedly "intruded, if not trampled on the privacy of [F.C. and V.C.], presently age 12, who are going through puberty and developing physically, by deliberately placing himself in situations so that he could view them naked." Specifically, Lydia alleged: (1) on March 23, 2017, William sat on the toilet of the girls'

bathroom, relieving himself, with his cell phone in his hand (despite five other bathrooms in the marital residence), while watching both F.C. and V.C., who were taking a shower together in a shower with a transparent glass door; (2) on September 7, 2017, William laid down on V.C.'s bed while V.C. was showering; unaware of William's presence, V.C. entered the bedroom wearing only underwear with a towel covering the front of her body; and (3) on May 1, 2018, V.C. returned to her bedroom after showering but before dressing, asked Lydia to mend her shirt; while Lydia was mending the shirt, William walked upstairs towards V.C.'s room at which point V.C. immediately wrapped a towel around herself for cover. Lydia further alleged that there were numerous other similar incidents, both before and after the entry of the April 18, 2017, temporary parenting allocation order in which William deliberately viewed or attempted to view F.C. and V.C. naked. Lydia described William's conduct as "perverted behavior" and alleged that she feared William may be sexually abusing F.C. and V.C.

¶ 12 Lydia also alleged in her order of protection petition that on January 19, 2018, V.C., F.C., and a friend were on the second floor of the marital home doing "makeovers" during William's parenting time (the parties still lived together in the marital home at this time). The friend, while apparently wearing just a robe, asked Lydia for the home's Wi-Fi password, but William said "I got this" and took the friend into F.C.'s bedroom. When they emerged a moment later, Lydia admonished William "to never take another family's child behind closed doors." William yelled at Lydia to "shut up."

¶ 13 Lydia further alleged that at the time the trial court entered the Allocation Judgment, the trial court lacked knowledge that William has a severe anger-management problem with frequent angry outbursts directed at V.C., F.C., and Lydia, which has resulted in fear of William and emotional damage to the children. Lydia alleged that the trial court also was unaware at the time

the Allocation Judgment was entered that William "attempted to relegate [V.C. and F.C.] to the role of being his cook and housekeeper." Lydia recounted an April 4, 2017, email from William to Lydia directing Lydia: "Please begin teaching your daughters how to clean their father[']s clothes, fold and iron them, put them in my drawers and start to take care of household duties so that they[']re prepared for the future. *** I will also discuss this with them. Also they need to shop for my food when you have them out since you[']re not getting food for me anymore and be home to start cooking meals for their father after a long day at work. No more play nights with friends like last night given their current night time and Saturday schedules as these household duties and life changes need to begin to occur to get them used to it."

¶ 14 In addition to the preceding allegations, Lydia's petition for an order of protection stated that William is "emotionally unstable, incapable of caring for the children, and oblivious to their needs or unwilling to place their needs above his own"—additional information unknown to the trial court at the time the Allocation Judgment was entered. In support, Lydia alleged: (1) William's failure to feed V.C. and F.C. healthy meals, failure to make lunches for school, and inconsistent preparation of breakfast; (2) his rigid dictation of the children's activities without regard for their schedules, needs, or wishes and his belligerent behavior toward them on the subject, including an April 28, 2018, incident where William screamed at V.C. for an hour and threatened to leave her alone at his empty apartment when she objected to being taken "downtown to client meeting" on a Saturday morning because she had homework; (3) William's opposition to taking the children to their tennis and other regularly scheduled activities and refusal to bring them to church and Sunday school beginning December 17, 2017; (4) William's refusal to pay for the children's food, medical, and school expenses and their regularly scheduled activities; (5) his "slovenly and filthy" maintenance of his portion of the marital residence; (6)

William's resistance to the children's weekly appointments with their court-appointed therapist; (7) his frequent instruction to the children to keep secrets from Lydia; (8) William's constant "dump[ing]" of the children on his relatives whom he uses as "free babysitters"; (9) William's "forc[ing]" of the children to go to Michigan against their wishes rather than allowing them to participate in their regularly scheduled activities; (10) his attempts to prevent Lydia from interaction with the children in the marital residence during his parenting time; (11) William's refusal to consult the "Family Wizard" calendar regarding the children's regularly-scheduled activities and "badger[ing]" of the children regarding their schedule; (12) William's "interrogat[ion]" of F.C. about the summer camp schedule rather than checking the calendar; (13) William's refusal to communicate with Lydia regarding the children's schedules through "Family Wizard" and refusal to contact Lydia before contacting the parenting coordinator to resolve parenting issues as required by the Allocation Judgment; and (14) William's practice of telephoning the children during school hours and communicating irritation when they failed to answer.

¶ 15 Lydia alleged that, in light of the foregoing, William poses a serious endangerment to the children's mental, moral, or physical health or significantly impairs the children's emotional development and that William's conduct constitutes emotional and physical abuse of the children, interference with their personal liberty, and intimidation of minor dependents as defined by the Domestic Violence Act. Accordingly, Lydia sought to vacate and modify the Allocation Judgment and sought an order of protection to enjoin William from intimidation of minors and from harassment, interference with personal liberty, physical abuse, or stalking. She requested a "stay away" order, barring William's contact with the children and prohibiting him from the marital residence and the children's school. She also requested exclusive possession of

the marital residence, restriction and supervision of William's visitation with the children, as well as William's turnover of all firearms to the police.

¶ 16 On May 4, 2018—the same day she filed the petition for an emergency order of protection—Lydia also filed an emergency motion to vacate or modify the Allocation Judgment. She reiterated the allegations in the verified petition for an emergency order of protection regarding William's conduct. She argued that once she petitioned for a rule to show cause against William in September 2017 (alleging that he violated the temporary parenting allocation order's provision that the children be granted exclusive use of the bathroom and changing areas by sitting on V.C.'s bed while V.C. was getting dressed after her shower), the trial court should have sought the advice of a qualified professional to evaluate whether F.C. and V.C. were being abused by William's conduct and should have conducted an *in camera* examination of the children to determine whether the children were being abused or endangered. See 750 ILCS 5/604.10(a)-(b) (West 2016)). Rather, in what Lydia described as "the misplaced focus of the case [] on achieving finality as to a parenting agreement," Lydia's allegations were "swept under the rug" and the trial court was "deprived of critical information it needed to ensure that the safety and well-being of the minor children were being adequately protected." Lydia sought appointment of a child psychiatrist to evaluate the parties and the children as well as a reduction in and supervision of William's parenting time.

¶ 17 Hearings on both of Lydia's May 4, 2018, emergency pleadings occurred that day. Lydia presented her petition for an emergency order of protection to the judge assigned to Domestic Violence Act petitions. The judge denied Lydia's request for emergency relief as well as her request to place the case under seal, consolidated the case with the dissolution proceeding, and transferred the matter to the judge presiding over the dissolution proceeding. Later that day, the

trial court in the dissolution proceeding held a hearing, found that the matter was not an emergency, set a briefing schedule on the petition for order of protection, and continued the petition for order of protection to May 17, 2018, for a hearing. In doing so, the trial court stated, "Here is the problem. The allegations are at least reprehensible if any of this is going on. The problem is I feel like we have discussed this many, many times, including before entering the allocation judgment which now she [Lydia] claims she was coerced into doing." The trial court further stated, "No one has ever proven the allegations against him for me to remove him." Regarding the particular allegation that William sat on V.C.'s bed while V.C. was getting dressed after her shower (and the photograph that Lydia took of the incident), the trial court pointed out, "We dealt with this before," and "I know. We have seen it. We have gone over it."

¶ 18 William moved to strike and dismiss Lydia's order of protection petition pursuant to sections 2-615(a) and 2-619(a)(9) of the Code of Civil Procedure (735 ILCS 5/2-615(a), 5/2-619(a)(9) (West 2016)). He argued that the claims in Lydia's petition were "barred by other affirmative matter avoiding the legal effect of or defeating the claim" under section 2-619(a)(9). Specifically, he contended that the crux of Lydia's claims arose from allegations that occurred *before* entry of the Allocation Judgment. According to William, Lydia's claims "merged" into the Allocation Judgment and were therefore barred by the merger doctrine. William also argued, pursuant to section 2-615(a), that Lydia's allegations were conclusory statements insufficient to state a claim for abuse under the Domestic Violence Act.

¶ 19 Lydia filed a memorandum in opposition to William's motion to strike and dismiss. She argued, *inter alia*, that the merger doctrine was not applicable because the Allocation Judgment did not purport to resolve prior claims of domestic abuse and even if it did, the judgment would be void as a matter of public policy. Regarding William's argument that her allegations failed to

state a claim for abuse, Lydia responded that William failed to specify the alleged defects in her petition as required by section 2-615(a).

¶ 20 At the May 17, 2018, hearing on William's motion to strike and dismiss Lydia's petition, the parties argued about the applicability of the merger doctrine as well as the doctrine of *res judicata*. In response to Lydia's counsel's contention that the "subject of abuse was never litigated," the trial court stated: "It was—it was brought up in court many, many, many times. And everybody knew the facts. The pictures were displayed. And it ended in an agreed allocation judgment on October 6 of 2017." The trial court further refined the issues:

> "The argument is that the facts or the allegations before the allocation judgment was entered are not going to be viewed because they were discussed and they were taken care of in an allocation judgment which everybody agreed to and everybody signed, including myself.
>
> So then we have to take the allegations, which I believe there is two, him walking up the stairs and him momentarily going behind the door which happened after October 6, 2017.
>
> Do those rise to the level on their face as taken as true on the allegations to an order of protection?"

¶ 21 The trial court concluded:

> "The Court is not attempting to bar any evidence that was presented because it has been presented. It was presented many, many times by both counsels and the guardian *ad litem* before October 6, 2017. Those allegations today are not going to be considered by the Court.

> The only allegations that are pled in the order of protection petition [are] the two incidents that have happened since then. Giving truth to the matter that was stated does not rise to the level of an order of protection, a plenary—emergency order of protection based on those allegations alone.
>
> Based on that, the Court is going to dismiss the petition based on 2-619."

¶ 22 The trial court entered an order dismissing Lydia's petition with prejudice "[f]or the reasons stated in the record." Lydia timely appealed pursuant to Illinois Supreme Court Rule 307(a)(1) (eff. Nov. 1, 2017).

¶ 23 II. ANALYSIS

¶ 24 Lydia argues that the trial court erred in dismissing her order of protection petition. She contends that the trial court improperly found that the merger doctrine precluded litigation of claims that arose prior to the Allocation Judgment. According to Lydia, the entry of a judgment allocating parental responsibilities and parenting time pursuant to the Dissolution Act is not an "omnibus catch-all or judgment that envelopes and settles any claims the parties may have with respect to domestic abuse." She also contends that, to the extent the trial court based the dismissal of her petition on the doctrine of *res judicata*, the trial court erred because there was never a final judgment on the merits, there was no identity of causes of action, and there was no identity of parties or their privies.

¶ 25 Initially, in distilling the parties' arguments on appeal, we note that Lydia does not present any argument to challenge the trial court's finding that the allegations arising subsequent to entry of the Allocation Judgment were legally insufficient on their own to warrant an order of protection. Accordingly, the sole issue for our review is whether the trial court properly

dismissed Lydia's petition pursuant to section 2-619 on grounds that her claims were resolved by the Allocation Judgment.

¶ 26 We review *de novo* the dismissal of a pleading under section 2-619. *Czarobski v. Lata*, 227 Ill. 2d 364, 369 (2008). A dismissal pursuant to section 2-619 may be affirmed on any grounds called for by the record regardless of whether the trial court relied upon those grounds and regardless of whether the trial court's reasoning was correct. *Wright v. City of Danville*, 174 Ill. 2d 391, 399 (1996).

¶ 27 That brings us to the legal basis of the trial court's ruling. The parties' briefing in the trial court addressed the merger doctrine although they also raised the applicability of the doctrine of *res judicata* during the hearing on William's motion to strike and dismiss the order of protection petition. A review of the hearing transcript demonstrates that the trial court dismissed Lydia's petition on grounds that her claims were resolved by the Allocation Judgment, but the trial court did not state the particular legal basis upon which it based the dismissal.

¶ 28 On appeal, the parties address both the merger doctrine and the doctrine of *res judicata.* The merger doctrine provides that once a judgment based upon a contract or instrument is entered, all prior claims from that instrument are merged into the judgment. *Apollo Real Estate Investment Fund, IV, L.P. v. Gelber*, 403 Ill. App. 3d 179, 187 (2010); *Poilevey v. Spivack*, 368 Ill. App. 3d 412, 414 (2006). By the court's judgment, the instrument loses its vitality, and no further action may be maintained on the instrument. *Doerr v. Schmitt*, 375 Ill. 470, 472 (1941); *Poilevey*, 368 Ill. App. 3d at 414. William's position is that Lydia's claims regarding William's conduct "merged" into the Allocation Judgment and were therefore barred by the merger doctrine. There is a missing rung in this analysis, namely, specification of the contract or instrument upon which the Allocation Judgment is purportedly based and upon which no further

action may be maintained by virtue of the Allocation Judgment. The parties do not address this element.

¶ 29 The doctrine of *res judicata* applies when a final judgment on the merits has been rendered by a court of competent jurisdiction; an identity of cause of action exists; and the parties or their privies are identical in both actions. *Hudson v. City of Chicago*, 228 Ill. 2d 462, 467 (2008). Lydia disputes the existence of a final judgment, the identity of the causes of action, and the identity of the parties or their privies. What the parties do not address is whether the doctrine of *res judicata* is even applicable here where the trial court dismissed the petition in the very same proceeding in which the Allocation Judgment was entered. See, *e.g.*, *Heller Financial, Inc. v. Johns-Byrne Co.*, 264 Ill. App. 3d 681, 694 (1994) (stating that the doctrine of *res judicata* was not applicable where the prior judgment at issue was rendered in the same proceeding).

¶ 30 We need not resolve the applicability of either the merger doctrine or the doctrine o*f res judicata* to this case. We hold that the trial court properly dismissed Lydia's petition because her claims were resolved by the agreed Allocation Judgment and therefore barred from relitigation under the principles set forth by our supreme court in *In re Marriage of Coulter*, 2012 IL 113474. William cites *Coulter*, albeit in support of his argument that the merger doctrine bars Lydia's petition. Lydia does not address the case.

¶ 31 In *Coulter*, the parties entered into a joint parenting agreement, which was incorporated into the dissolution judgment. *Id.* ¶ 3. In the joint parenting agreement, the parties agreed that the mother could remove the children to California with notice to the father after 24 months elapsed from entry of the dissolution judgment (unless the father requested mediation or discussion of the issue—a request he did not make). *Id.* A few days before the expiration of the 24-month waiting

period, the mother informed the father of her intention to remove the children to California. *Id.* ¶ 4. The father petitioned for a preliminary injunction prohibiting the removal. *Id.* ¶ 5. The trial court denied the father's petition, and the appellate court reversed. *Id.* ¶¶ 7-9.

¶ 32 Our supreme court reversed the appellate court's judgment and affirmed the trial court's denial of the father's petition on grounds that the appellate court failed to give effect to the parties' joint parenting agreement. *Id.* ¶ 38. A joint parenting agreement is a contract between the parties reflecting a negotiated agreement where each party has agreed to certain terms in exchange for other terms. *Id.* ¶¶ 19, 31. The parties explicitly agreed in the joint parenting agreement to the permissibility of the children's removal to California after 24 months. *Id.* ¶ 20. The joint parenting agreement was incorporated into the dissolution judgment and was therefore enforceable as a contract as well as an order of the court pursuant to section 502 of the Dissolution Act (750 ILCS 5/502 (West 2010)), which governs the incorporation of the parties' agreement into a dissolution judgment. *Coulter*, 2012 IL 113474, ¶¶ 16-17.

¶ 33 The father in *Coulter* nevertheless argued that, despite the joint parenting agreement, no court ever made a determination that removal would be in the children's best interests as required by statute. *Id.* ¶ 23. Our supreme court rejected the argument, reasoning that the joint parenting agreement evinced the parties' agreement that removal was in the children's best interests provided the children remained in Illinois for at least 24 months following their parent's divorce. *Id.* ¶ 24. Although a trial court should question the terms to which parents have agreed if there is reason to believe that the terms would adversely affect the children, "the right of fit parents to decide what is in their children's best interests is of constitutional magnitude." *Id.* ¶ 25 (citing *Troxel v. Granville*, 530 U.S. 57, 69 (2000) (plurality opinion) (referring to the traditional presumption that fit parents will act in their children's best interests) and *Wickham v. Byrne*, 199

Ill. 2d 309, 320 (2002) (citing *Troxel* for the traditional presumption)). "This presumption is not weakened by the fact that the parents are divorcing. Their considered opinion regarding the best interests of their children, as reflected by their agreements regarding custody, visitation, and removal, is entitled to great deference by the court." *Coulter*, 2012 IL 113474, ¶ 25. Accordingly, the question of the children's best interests was resolved by the parties, and the trial court properly deferred to their resolution in denying the husband's request for injunctive relief. *Id.* ¶ 28. As a final matter, our supreme court pointed out that the father was not without recourse. *Id.* ¶ 35. If circumstances changed, the father could seek modification of custody pursuant to the procedures set forth in the Dissolution Act. *Id.*

¶ 34 Likewise, here, the Allocation Judgment resolved the allegations that Lydia raised in her order of protection petition. The record demonstrates that, prior to entry of the Allocation Judgment, Lydia repeatedly raised claims about William's alleged misconduct regarding V.C. and F.C. The claims were the impetus for the provision in the April 18, 2017, temporary parenting allocation order that the "children will be granted exclusive use of the bathroom and changing areas for purposes of privacy." Lydia likewise raised the claims to the guardia*n ad litem* who reported Lydia's "immediate concern" about William's "practice of being present with the girls during shower time (although she [Lydia] indicated this was more a comfort and new age issue—not of anything disturbing)." Lydia's September 21, 2017 amended petition for rule to show cause against William raised the claim that William intruded on the children's privacy and included the allegation that on September 7, 2017, William sat on V.C.'s bed while V.C. was getting dressed after her shower. The record reflects multiple pretrial conferences at which the parties, their counsel, and the guardia*n ad litem* discussed the allegations. As the trial court

found, the allegations were presented "many, many, many times" before entry of the Allocation Judgment on October 6, 2017.

¶ 35 The Allocation Judgment is explicit in its agreement and resolution. The judgment provides that that the "parties have reached an agreement regarding child related issues in this case" and expressly states the parties' intention "to resolve all issues of allocation of parental responsibilities, including allocation of parenting time." Toward that end, the Allocation Judgment includes a provision that the "children will be granted exclusive use of their bathroom and changing areas for purposes of privacy." The Allocation Judgment also includes extensive provisions regarding allocation of significant decision-making responsibilities and parenting time. The Allocation Judgment reflects a negotiated, enforceable agreement between the parties, and approved by the trial court, and therefore bars continued litigation of the same claims. See *Coulter*, 2012 IL 113474, ¶¶ 16-17, 19.

¶ 36 Lydia contends that it would violate public policy to allow parents to "bargain away" their children's best interests in an allocation of parental responsibilities judgment. But there is nothing in the record to support that this was an alternative. Lydia and William are presumed to act in their children's best interests, and their opinions regarding the best interests of their children, as reflected by their agreements regarding allocation of parental responsibilities and parenting time, are entitled to deference. See *id.* ¶ 25. Moreover, in entering the Allocation Judgment, the trial court was required to allocate decision-making responsibilities and parenting time in accordance with the children's best interests. See 750 ILCS 5/602.5, 5/602.7 (West 2016)).

¶ 37 That is not to say that Lydia does not have any recourse. She may seek to modify the Allocation Judgment pursuant to section 610.5 of the Dissolution Act (750 ILCS 5/610.5 (West

2016)). Indeed, Lydia sought this precise remedy. On the same day she filed her verified petition for emergency order of protection, she filed an emergency petition to vacate or modify the Allocation Judgment. The status of Lydia's emergency petition to vacate or modify the Allocation Judgment is unclear from the record.

¶ 38 The record demonstrates that the allegations that Lydia raises in her petition for order of protection have been litigated repeatedly throughout this proceeding and were resolved by the agreed Allocation Judgment. The trial court, therefore, properly dismissed Lydia's petition.

¶ 39 III. CONCLUSION

¶ 40 For the foregoing reasons, we affirm the trial court's dismissal of Lydia's emergency verified petition for order of protection.

¶ 41 Affirmed.