

609 of the Illinois Marriage and Dissolution of Marriage Act (the Act) (750 ILCS 5/609 (West 2008)) to remove the parties' minor child, Kendra Dolan-Descoteaux, to California. On appeal, Paulette argues that the trial court's denial of her removal petition was against the manifest weight of the evidence. We affirm.

FACTS

Paulette and the respondent, Mark Dolan, divorced after six years of marriage. During their marriage, they had one child, Kendra, who was five years old at the time of the removal petition. Pursuant to the judgment for dissolution of marriage, Paulette had primary residential custody of Kendra, and Mark had visitation every other weekend, one evening during the week, and alternating holidays and vacation periods.

On September 7, 2010, Paulette filed an emergency motion for removal, seeking to remove Kendra to California so that Paulette could pursue a job opportunity there. The trial court set the motion for a hearing, and the parties presented witnesses at the hearing.

Paulette testified that she resided with Kendra in Winnetka, Illinois, about 60 miles away from Mark. She was employed as an account sales manager with Oracle for two years, but she was advised in July 2010 that her position had been eliminated. Thereafter, Paulette received a job offer in the strategic

accounts division of Oracle, but it would require her to relocate to San Diego, California. The job paid the same base salary as her previous position, \$95,000, but it had a greater opportunity for commissions. Thus, Paulette filed her emergency motion for removal. When the trial court did not rule immediately, but set the motion for hearing, Paulette accepted the job but did not relocate at the time.

Paulette sought to move to a home in San Marcos, California, that was owned by friends. Paulette's parents, sisters, and other friends and relatives resided near San Marcos. Paulette had arranged for Kendra to attend a private school in California.

Paulette had changed jobs a number of times since 1994, working in each position for an average of one or two years, except for one position that she held from 2003 to 2007. After Paulette accepted the job in California, she did not look for any other Illinois positions within Oracle.

The flights between Chicago and California, 4½ hours each way, cost about \$250, if purchased in advance. Paulette testified that she would pay the cost of someone to accompany Kendra, and she would pay for half of Kendra's fare. In terms of visitation, Paulette proposed that Mark have seven weeks of visitation in the summer, and that they continue their alternating holiday schedule.

Mark testified that he worked full time in sales, and earned

approximately \$160,000 per year. He had three weeks of vacation from his job each year. He had regularly exercised his visitation with Kendra, and he had a close and loving relationship with her. He was involved with her school, in that he attended her first day of school and received school information via email. During their visitation time, Mark and Kendra engaged in various activities, and they visited friends and family.

The trial court denied the petition for removal. The trial court considered the factors suggested by *In re Marriage of Eckert*, 119 Ill. 2d 316 (1988), and found that the critical issue was the move's effect on the quantity and quality of contacts between Mark and Kendra. The trial court acknowledged that Paulette may become unemployed if she remained in Illinois, but she had not looked for other positions in Illinois and her work history made it questionable whether she would remain with Oracle even if she relocated. Thus, the trial court found that the quality of life was similar in Illinois and California. However, it found that it was not in the best interest of Kendra to move to California because of the potential for significant impairment of realistic and reasonable visitation with Mark. Paulette appealed, arguing that she met her burden of proving that the move would improve Kendra's quality of life and that the trial court abused its discretion in excluding the issue of employment

from its decision.

ANALYSIS

Section 609(a) of the Act governs requests for removal.

That section provides:

"The court may grant leave, before or after judgment, to any party having custody of any minor child or children to remove such child or children from Illinois whenever such approval is in the best interests of such child or children. The burden of proving that such removal is in the best interests of such child or children is on the party seeking the removal. When such removal is permitted, the court may require the party removing such child or children from Illinois to give reasonable security guaranteeing the return of such children." 750 ILCS 5/609(a) (West 2008).

The paramount question in a removal action is whether the move is in the best interests of the child. *Eckert*, 119 Ill. 2d 316. The burden is on the party seeking removal to establish that the move is in the child's best interest. *Eckert*, 119 Ill. 2d 316. A determination of a child's best interest must be made on a case-by-case basis, but there are several factors that can aid a trial court in making that determination. *Eckert*, 119 Ill. 2d 316. Those factors are: (1) whether the proposed move will enhance the quality of life for the custodial parent and the child; (2) the custodial parent's motives in seeking the move;

(3) the noncustodial parent's motives in resisting the move; (4) the effect of the move on the noncustodial parent's visitation rights; and (5) the opportunity for a realistic and reasonable visitation schedule if the move is allowed. *Eckert*, 119 Ill. 2d 316.

The trial court specifically considered all of the *Eckert* factors, and we cannot say that its denial of Paulette's petition for removal was against the manifest weight of the evidence. Although it acknowledged that Paulette may be unemployed if she remained in Illinois, it found that the quality of life factor was roughly equal in California and in Illinois. The trial court based this finding on the fact that Paulette had not looked further for positions in Illinois and she had a history of changing jobs every few years. In addition, it found that moving Kendra to California would drastically affect Mark's visitation right. The current visitation schedule and frequent contacts between Mark and Kendra could not be maintained from California. The time and expense of travel between California and Illinois were significant. Also, having Kendra for seven weeks in the summer, when Mark only had three weeks of vacation, was not a reasonable and realistic visitation schedule that would preserve and foster Kendra's relationship with Mark.

CONCLUSION

For the foregoing reasons, the decision of the circuit court

of Will County is affirmed.

Affirmed.