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Minn. Stat. § 480A.08, subd. 3 (2006).*

**STATE OF MINNESOTA  
IN COURT OF APPEALS  
A07-1894**

In re the Marriage of:  
Christal Lee Erickson, petitioner,  
Appellant,

vs.

Brent Allan Erickson,  
Respondent.

**Filed September 2, 2008  
Reversed  
Hudson, Judge**

Cook County District Court  
File No. 16-F8-04-000193

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Considered and decided by Schellhas, Presiding Judge; Toussaint, Chief Judge;  
and Hudson, Judge.

**UNPUBLISHED OPINION**

**HUDSON, Judge**

On appeal from the district court's change to a stipulated parenting-time schedule  
in a dissolution judgment, appellant-mother argues (1) the change substantively modifies,  
rather than merely clarifies, the parties' stipulated agreement and reflects a

misunderstanding of that agreement and that respondent-father's allegations do not support the modification; and (2) the district court failed to make findings reflecting its consideration of the effect of the change on the child's best interests. We reverse.

## **FACTS**

The district court dissolved the ten-year marriage of appellant/mother Christal Lee Erickson and respondent/father Brent Allan Erickson by stipulated judgment in December 2004. The parties, representing themselves, signed a written stipulation agreeing to share legal and physical custody of their three-year-old child, with (1) mother having parenting time on weeknights or after school and on school-release days; (2) the parties alternating parenting time on the child's birthday and holidays; and (3) the parties having parenting time "jointly" during the summer. At the default hearing, mother stated that she believed the parties would be "basically sharing [the child] half and half," and that the proposed schedule was "the same" as the parties' arrangement for the six months preceding the hearing. Father testified that he agreed to the same parenting-time arrangement. The court stated that "[s]ometimes people put down in writing different than what they're doing, and . . . it's important that that be on the record, but that's not the case here."

By the summer of 2006, the parties, without court approval, implemented a revised informal parenting-time schedule by which mother had parenting time Monday through Wednesday and every Saturday, and father had parenting time Wednesday evening to Saturday and every Sunday. When the 2006–07 school year started, mother objected to continuing the revised schedule because of difficult midweek transitions for

the child during the school year. Father wished to continue the revised schedule. The parties argued about custody issues, and mother obtained an order for protection (OFP) preventing father from having contact with mother, except for telephone communication about the child. At the OFP hearing, the court stated that if father wished to change the provisions of the judgment concerning parenting time, he needed to file documents to request a change, and the court recommended that he contact an attorney.

In February 2007 father, through his attorney, moved to amend the judgment to obtain parenting time from Saturday at 5:00 p.m. to Wednesday at 8:00 a.m. In his supporting affidavit, father alleged that the judgment had an “undefined schedule” concerning parenting time. Mother moved for denial of father’s requested relief and enforcement of the parenting-time schedule in the judgment, or, in the alternative, mediation or a parenting-time study.

At a May 2007 hearing, father requested parenting time with the child “half-time,” defined as the Saturday through Wednesday schedule, which he claimed represented the parties’ original intent. Mother’s attorney argued that father failed to show it was in the child’s best interests to modify the stipulated parenting-time schedule.

In its August 3, 2007 order, the district court found that the parties in the judgment had “agreed to an equal division of parenting time,” and that “no circumstances have been presented showing that this agreement should be modified.” But the court stated that it “is concerned that a rotation of half a week at a time is unduly disruptive for the child and does believe a weekly rotation, at least on an interim basis, is more appropriate.” The court issued an order amending the findings of fact and judgment to

provide for a parenting-time schedule different from that requested by either party: during the school year, the parties would alternate parenting time on a weekly basis, with the week beginning on Friday afternoon after school and ending at the same time the following Friday. This appeal follows.<sup>1</sup>

## DECISION

### I

The parties disagree as to whether the district court's August 2007 order regarding parenting time merely clarified the stipulated judgment or substantively modified it. Father argues that the order clarified the parties' stipulated agreement, and that the district court properly interpreted that stipulation. On the other hand, mother argues that the order substantively modified the judgment, and that the district court abused its discretion by changing the parenting-time schedule without evidence showing that modification was in the child's best interests. Determining the proper statutory standard to apply presents a legal question, which this court reviews de novo. *Ayers v. Ayers*, 508 N.W.2d 515, 518 (Minn. 1993).

A dissolution judgment is final when it is entered and may be reopened only for the reasons listed in Minn. Stat. § 518.145, subd. 2 (2006). Minn. Stat. § 518.145, subd. 1 (2006). But a district court may issue orders to implement, enforce, or clarify the provisions of an ambiguous judgment, so long as the parties' substantive rights are not altered. *Kornberg v. Kornberg*, 542 N.W.2d 379, 388 (Minn. 1996); *Halverson v.*

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<sup>1</sup> Following the August 3 order, the district court conducted further proceedings, which we do not address in this appeal.

*Halverson*, 381 N.W.2d 69, 71 (Minn. App. 1986). Whether a dissolution judgment is ambiguous is a question of law reviewable de novo. *Halverson*, 381 N.W.2d at 71. “[I]f language is reasonably susceptible to more than one interpretation, there is ambiguity.” *Id.*

Father maintains that the district court’s August 2007 order properly interpreted the parties’ stipulation consistent with testimony at the default hearing that they wished to share parenting time “half and half.” But we conclude that the written parenting-time stipulation unambiguously expresses the parties’ agreement that the child spend weeknights during the school year with mother and weekends with father. By the terms of the stipulated judgment, the parties agreed to a more specific parenting-time schedule during the school year than during the summer, when they agreed to share parenting time “jointly.” Further, the district court established at the default hearing that the written stipulation accurately reflected the parties’ agreement on parenting time. We also note that in father’s affidavit supporting his motion, he asks the district court “to *modify* and enforce the terms of the parties’ dissolution decree” (emphasis added). Therefore, because the stipulated school-year parenting-time schedule was unambiguous, it was not subject to further interpretation or clarification by the district court, and the August 2007 order amounted to a modification, not a clarification, of the stipulated arrangement.

## II

“If modification [of parenting time] would serve the best interests of the child, the [district] court shall modify the decision-making provisions of a parenting plan or an order granting or denying parenting time, if the modification would not change the

child's primary residence." Minn. Stat. § 518.175, subd. 5 (2006). The district court has extensive discretion in determining parenting-time issues and will not be reversed absent an abuse of that discretion. *See Olson v. Olson*, 534 N.W.2d 547, 550 (Minn. 1995) (noting breadth of district court's discretion with respect to visitation issues). Nonetheless, "[i]t is well established that the ultimate question in all disputes over visitation is what is in the best interest of the child." *Clark v. Clark*, 346 N.W.2d 383, 385 (Minn. App. 1984), *review denied* (Minn. June 12, 1984). The party seeking modification of a previous order granting or denying parenting time has the burden to establish that the proposed modification is in the child's best interests. *Griffin v. Van Griffin*, 267 N.W.2d 733, 735 (Minn. 1978).

The district court's August 2007 order modified the parties' school-year parenting-time schedule by reducing mother's parenting time and increasing father's parenting time correspondingly. In so modifying the schedule, the district court considered evidence: (1) that, at least during summer 2006, the parties attempted to extrajudicially agree to a schedule in which the child switched homes mid-week; and (2) that mother believed a mid-week switch during the school year was disruptive to the child. But father presented no evidence to show that modifying the school-year schedule in the stipulated judgment to grant him additional parenting time during the school year was in the child's best interests. Without such evidence, the record does not support such a modification, and the district court abused its discretion in modifying the school-year parenting-time schedule.

Mother also argues that the district court failed to make the required best-interests findings in support of the modification. We agree. Significant modifications of parenting time must be supported by best-interests findings. *See Chapman v. Chapman*, 352 N.W.2d 437, 441 (Minn. App. 1984) (holding that expansion of father’s holiday visitation and elimination of requirement that he take children to religious services were significant modifications and must be supported by best-interests findings). Father argues that no best-interests findings are required because the parenting-time modification was insignificant. *See Funari v. Funari*, 388 N.W.2d 751, 753 (Minn. App. 1986) (stating that mere clarifications or insubstantial modifications of a visitation schedule need not be supported by written best-interests findings). But the district court’s modification of mother’s school-year parenting-time was a significant reduction. Pursuant to the judgment, during the academic year mother had parenting time on weeknights or after school and on school-release days. The district court, however, reduced that so that the parties each had physical custody about half of the time. In making this reduction, the district court found only that the mid-week rotation in the parties’ unapproved, extrajudicial parenting schedule was “unduly disruptive” to the child. This finding does not relate to the district court’s significant reduction of mother’s school-year parenting time as set out in the judgment. Therefore, we conclude that the district court failed to make the required findings reflecting its consideration of the child’s best interests in modifying the judgment.

On this record, we conclude that the district court abused its discretion by modifying parenting time without evidence to show that the child’s best interests required

such a modification and by failing to make the necessary findings on the child's best interests. We note that the parties are free to seek further relief from the district court because of any change in circumstances, including mother's relocation, which would support modification of the school-year parenting time schedule based on the best interests of the child.

**Reversed.**