

IN THE NEBRASKA COURT OF APPEALS

MEMORANDUM OPINION AND JUDGMENT ON APPEAL

HOKOMOTO V. TURNBULL

NOTICE: THIS OPINION IS NOT DESIGNATED FOR PERMANENT PUBLICATION
AND MAY NOT BE CITED EXCEPT AS PROVIDED BY NEB. CT. R. APP. P. § 2-102(E).

LORI HOKOMOTO, FORMERLY KNOWN AS LORI TURNBULL,
APPELLEE AND CROSS-APPELLANT,

v.

ADAM G. TURNBULL, APPELLANT AND CROSS-APPELLEE.

Filed July 10, 2012. No. A-11-704.

Appeal from the District Court for Douglas County: THOMAS A. OTEPKA, Judge.
Affirmed in part as modified, and in part reversed and remanded with directions.

Kelly T. Shattuck, of Vacanti Shattuck, for appellant.

Philip B. Katz, of Koenig & Dunne Divorce Law, P.C., L.L.O., for appellee.

INBODY, Chief Judge, and IRWIN and SIEVERS, Judges.

SIEVERS, Judge.

I. INTRODUCTION

Adam G. Turnbull (Adam) appeals from an order in the district court for Douglas County allowing Lori Hokomoto, formerly known as Lori Turnbull (Lori), to remove the party's minor child to Oregon. Lori cross-appeals to the extent the order allows an abatement in Adam's monthly child support obligation for airfare and lodging expenses in any month he visits the child in Oregon.

II. FACTUAL BACKGROUND

Lori and Adam were divorced by a decree of dissolution filed in the Douglas County District Court on May 16, 2006. Under the terms of the decree, Lori and Adam were granted joint legal custody of their only child together, Lillian Turnbull, born in August 2003, and Lori was granted primary physical custody. A parenting plan was included in the decree, under which Adam was given regular parenting time Monday, Wednesday, and Friday from 4 to 8 p.m., and

overnight parenting time on whichever of those days he did not have to work. The decree states that if Adam is not working on the weekend, he may have parenting time with Lillian as long as he gives Lori advanced notice. The decree orders the parties to remain flexible so as to ensure that Adam has sufficient parenting time with Lillian, because he is an Omaha Police Department officer without a set work schedule. Lori and Adam were each given 3 weeks of consecutive parenting time in the summer. Adam was ordered to pay \$600 per month in child support for Lillian.

The evidence presented at trial was that Adam has consistently worked a rotating schedule for the Omaha Police Department of 4 days on and 2 days off, which translates to working 20 days and having 10 days off per month. Throughout his career, Adam has generally worked the "A" shift, which is from midnight to 8 a.m., but at the time of trial, he was working the "C" shift, which is from 4 p.m. to midnight. Adam testified that he is currently working in a "specialty" position, so his hours can also be from 8 p.m. to 5 a.m.

In February 2008, Lori married Benjamin Coffman (Ben), with whom she had a second child, a son, who was 22 months old at the time of trial. Ben works from home as an editor for an online medical journal. Lori testified that Lillian and her half brother are extremely close and that he is Lillian's favorite person. Lillian's only extended family in Nebraska is her maternal grandmother who lives in Omaha. Lillian has several maternal cousins who live in central Iowa and Wisconsin. Adam's mother lives 4 hours from Omaha in Clear Lake, Iowa, and Lillian visits her every summer.

Lillian experiences serious seasonal allergies which require the use of various medications. She also has allergy-induced asthma, for which she uses an inhaler, as well as eczema. Lori, Ben, and their son also experience seasonal allergies. Lori and Ben both testified that since they moved to Oregon, they have not experienced any allergy symptoms. Lori testified that their son has exhibited many of the same allergy symptoms as Lillian, but that he has not had any such symptoms since moving to Oregon.

Lori testified that Adam has not been as involved as he could have been with Lillian since the divorce and that he has not exercised his parenting time to its full extent. Specifically, when he did not have to work on the weekend, instead of taking Lillian for 2 days, he would take her for only 1 day. And according to Lori, the longest summer parenting time he has exercised has been 1 week, although he was granted 3 weeks per summer in the decree. Lori testified about various times that she traveled out of the country with Ben and asked Adam in advance if he would like to care for Lillian. Adam's response was always that he had to work and that he could not watch Lillian, except for 1 week out of a 2-week vacation Lori and Ben took to Honduras. Adam testified that he has accumulated 37 days of vacation time, which can be used "with a little bit of notice." Adam testified that in retrospect, he wishes he would have spent more time with Lillian.

Lori was employed in Omaha as a data integration manager with a company called Offwire for 6 years. Lori testified that the turnover at Offwire was very high and that she had "hit her ceiling" in terms of advancement and pay. She testified that although she received a 3-percent raise in 2009 and a 4-percent raise in 2010, her understanding was that those were merely cost-of-living adjustments. Her typical schedule was 8 a.m. to 5:30 p.m., with a half-hour commute to and from work. She testified that she was very dissatisfied with her position at

Offwire and wanted to find employment with better job security and increased pay. Lori's salary when she left Offwire was \$56,100. Offwire did not provide her with a pension, but it did provide her with a 401K plan into which it made monetary contributions.

Lori testified that she began searching for other employment in Omaha approximately 2 years prior to trial. She testified that she looked at "hundreds" of job postings in Omaha over the course of those 2 years, but she did not apply for any jobs. When asked to explain why, Lori testified that she ruled out any job that did not have a salary range listed in the job posting. She further testified that it was difficult to find a job that would allow her to narrow the focus of her career path without taking a pay cut or without additional training that she did not have at that time.

Lori testified that she tried to focus her job search on a growing industry or a field with security, "something that wouldn't be going away next year." Her research told her that the health care industry, "with the movement toward electronic medical records and the move towards a higher IT push, along with all the regulations that go with that and information security," was ideal for her job search. Lori testified that her research showed that individuals trained in the "EPIC database system" make a good salary, ranging from \$60,000 to \$125,000. Lori testified that EPIC is commonly used for electronic medical records in medium- and larger-sized hospitals. Lori testified that she was unaware of any hospital in Omaha that used EPIC, and in terms of job openings in Omaha, "there really wasn't anything that fit [her] skill set."

After what she described as an unsuccessful job search in Omaha, Lori expanded her search outside Nebraska. She testified that she looked at certain criteria in choosing a city, including that it had an airport equal in size or larger than the Omaha airport, employment opportunities for Lori as well as Ben, an environment where Lillian's allergies would not be aggravated, a good public school system, and activities for the children. Lori testified that she looked at Salt Lake City, Utah; Boulder, Colorado; Portland, Oregon; and Albuquerque, New Mexico.

After sending out "five or six" resumes for positions in the aforementioned cities, Lori was offered a job at Legacy Health Systems (Legacy) in Portland, which position she accepted on August 2, 2010. Lori testified that she accepted the job before she told Adam about it because she thought "it was easier to call up Legacy and say, oh, never mind, I don't want the job [in the event Adam did not support the move]." Lori testified that she called Adam the next evening, August 3, and told him she had accepted a position in Portland and wanted to get his thoughts on moving Lillian out there with her. She testified that Adam's response was, "That's great," and then he immediately started talking about summer plans for the following summer. Lori testified that nothing in the conversation gave her the impression Adam was not agreeable to the move. Ben testified that Lori spoke with him after her conversation with Adam and that she was "elated" by Adam's response.

Adam's testimony was that he did not give Lori permission for the move because "it wasn't asked for." Adam testified, "I didn't know what my rights were at that time and . . . I wasn't sure if I did have the ability to say, no, you can't do that or -- or [to] stop her." Adam testified that a day or so after the August 3 telephone conversation with Lori, he was at Lillian's basketball practice and he approached Lori and told her he had looked up some information on

the Internet and learned that she had to ask for permission from the court to move Lillian out of state. At that point, Adam apparently expressed to Lori that he did not approve of the move. Adam sought legal counsel shortly thereafter, as did Lori.

III. PROCEDURAL HISTORY

On August 17, 2010, Lori filed an application to modify the divorce decree in which she requested court approval to remove Lillian to Oregon. The application recites that a material change in circumstances has occurred since the entry of the decree in that (1) the parties have, by agreement, in large part not followed the parenting plan set forth in the decree, with Adam exercising substantially less parenting time than he was entitled to; (2) the most summer parenting time Adam has exercised is 1 week, although he was granted 3 weeks; (3) Lillian has been diagnosed with severe allergies and asthma, which are exacerbated by where she lives; and (4) Lori has received a job offer in Oregon that would increase her immediate earnings and offer long-term advancement opportunities not available in Omaha.

On August 27, 2010, Lori filed a motion for temporary removal of Lillian to Oregon, as well as waiver of a local district court rule so as to avoid having to complete an advanced parenting class and mediation session with Adam as directed by the parenting plan. The district court denied both of Lori's requests.

On October 7, 2010, Adam moved for temporary custody of Lillian and an abatement of his child support obligation beginning October 1, as well as attorney fees and costs. The district court granted Adam temporary custody of Lillian during the pendency of the removal proceeding, granted him the requested abatement in child support, and ordered Lori to pay \$300 per month in child support. The court noted that \$300 per month is a downward deviation from the Nebraska Child Support Guidelines due to travel expenses incurred by Lori to exercise parenting time. Lori was given 10 days to amend her application for modification, which she did. Her amended application of November 16 includes the additional facts that Lori accepted the job offer in Portland and has been working there since September 13 and that both parties' incomes have changed such that their current incomes would likely result in at least a 10-percent change in child support upward or downward.

Adam filed an answer and cross-complaint on December 9, 2010. In the cross-complaint, he asserts that due to a material change in circumstances, it is in Lillian's best interests he be awarded primary physical custody, and that if Lori chooses to return to Omaha, the parties should be awarded joint physical custody subject to a "50/50" parenting time schedule.

An order of modification was filed in the district court on May 3, 2011. The court found that Lori had shown a legitimate reason to leave the state with Lillian and that it was in Lillian's best interests for Lori to retain physical custody and remove Lillian to Oregon. The court found that Lori's proposed parenting plan was reasonable and should be adopted, which includes Adam's being awarded 9 weeks of consecutive parenting time in the summer. Adam was ordered to pay child support in the amount of \$798.87 per month. Adam was awarded a 100-percent abatement in child support for each consecutive 4-week period of summer parenting time. Additionally, Adam was awarded an abatement in child support equal to the airfare and lodging expenses he incurs for any month in which he travels to Oregon to visit Lillian, not exceeding

\$798.87. Lori was ordered to pay for two round trip flights for Lillian to visit Adam annually so that he can exercise his parenting time as allotted in the parenting plan.

On May 6, 2011, Adam moved for a new trial, to withdraw rest, to present additional evidence, and to alter or amend the judgment. An August 15 order reflects that a hearing was held on these matters on July 1, although a record of such was not made. The order recites that Adam's counsel withdrew the motion with the exception of the issues related to child support. The court overruled the motion without additional comment. Adam now appeals.

IV. ASSIGNMENTS OF ERROR

Adam alleges that the trial court erred in finding (1) that Lori had a legitimate reason to remove Lillian from Nebraska and (2) that removal was in Lillian's best interests.

On cross-appeal, Lori alleges that the abatement in Adam's child support for airfare and lodging expenses when he visits Lillian in Oregon was an abuse of discretion.

V. STANDARD OF REVIEW

Child custody determinations, and visitation determinations, are matters initially entrusted to the discretion of the trial court, and although reviewed de novo on the record, the trial court's determination will normally be affirmed absent an abuse of discretion. *Vogel v. Vogel*, 262 Neb. 1030, 637 N.W.2d 611 (2002). A judicial abuse of discretion requires that the reasons or rulings of the trial court be clearly untenable insofar as they unfairly deprive a litigant of a substantial right and a just result. *Id.*

VI. ANALYSIS

The Nebraska Supreme Court in *Farnsworth v. Farnsworth*, 257 Neb. 242, 249, 597 N.W.2d 592, 598 (1999), stated:

To prevail on a motion to remove a minor child, the custodial parent must first satisfy the court that he or she has a legitimate reason for leaving the state. . . . After clearing that threshold, the custodial parent must next demonstrate that it is in the child's best interests to continue living with him or her. . . . Of course, whether a proposed move is in the best interests of the child is the paramount consideration.

1. LEGITIMATE REASON TO LEAVE STATE

Adam argues that Lori has not shown a legitimate reason to leave the state. Adam claims that these facts are analogous to *Wild v. Wild*, 13 Neb. App. 495, 696 N.W.2d 886 (2005), in which we reversed the district court's grant of removal, finding that the mother failed to demonstrate that the out-of-state employment opportunity provided a reasonable improvement in her career or an opportunity for career advancement. The *Wild* opinion recites:

[The mother] presented no evidence that would indicate that the new position afforded any opportunities for stability, benefits, or advancement superior to those of the position she had in Nebraska. As such, we conclude that the district court abused its discretion in finding that "[the mother] obtained a position in Ohio at a substantial increase in pay, and with what appears to be a job with a future and not subject to reassignment."

13 Neb. App. at 507-08, 696 N.W.2d at 897-98.

We find the present facts distinguishable. Lori testified that not only was she miserable at her job in Omaha, but that she had hit her ceiling in terms of advancement and pay. She worked 8 a.m. to 5:30 p.m.; had a half-hour commute to and from work, which she paid for out-of-pocket; and did not have a pension. At Legacy, Lori has not only received an \$8,000 increase in salary, but she is certified in the EPIC database system (which Legacy values at \$10,000); Legacy pays for Lori's commute to and from work through subsidized mass transit; it offers her a 403B plan similar to the 401K plan she had at Offwire; and it also provides her with a pension.

Additionally, Lori testified that Legacy offers flexible hours. She testified that she is always home by 4 p.m. Monday through Friday and that she never works on weekends. Lori is allowed to work from home 6 days of her choosing per month. Lori's research showed that a job at Legacy doing database work in the growing health care field would provide her with better job security. Lori testified that EPIC-trained employees make a good salary ranging from \$60,000 to \$125,000. Thus, it can be inferred from her starting salary at Legacy of \$64,000 that Lori has the potential for advancement in pay. In sum, unlike the scenario in *Wild*, the benefits and stability provided by Lori's position in Portland are clearly an improvement over her job in Omaha.

Adam also asserts that Lori did not genuinely attempt to find employment in Omaha before expanding her search outside Nebraska. However, as Adam concedes in his brief, in determining the legitimacy of a custodial parent's motives for petitioning to move out of the jurisdiction with the minor child, Nebraska does not require the custodial parent to exhaust all possible job leads locally before securing a better position in another state. See *Farnsworth v. Farnsworth*, 257 Neb. 242, 597 N.W.2d 592 (1999). Lori testified that she spent 2 years searching for jobs in Omaha but none matched her search criteria--only then did she begin searching outside Nebraska. Absent some aggravating circumstance, such as an ulterior motive to frustrate the noncustodial parent's visitation rights, significant career enrichment is a legitimate motive in and of itself. *Id.* Adam does not assert that any such aggravating circumstance applies and we find none.

On our de novo review, we find that the district court did not abuse its discretion in determining that Lori has established a legitimate reason for removal. We now turn to Lillian's best interests.

2. CHILD'S BEST INTERESTS

In determining whether removal to another jurisdiction is in the child's best interests, the trial court considers (1) each parent's motives for seeking or opposing the move; (2) the potential that the move holds for enhancing the quality of life for the child and the custodial parent; and (3) the impact such a move will have on contact between the child and the noncustodial parent, when viewed in the light of reasonable visitation. *McLaughlin v. McLaughlin*, 264 Neb. 232, 647 N.W.2d 577 (2002). See, also, *Farnsworth v. Farnsworth*, *supra* (sets forth definitive roadmap for analysis of such cases).

(a) Each Parent's Motives

The record is convincing that both parents are acting in good faith. Lori wants to move to Oregon to advance her career. Adam does not want Lori to move Lillian to Oregon because the

move would materially affect the parenting time that he has with Lillian. Thus, this consideration is not a factor of consequence in our analysis.

(b) Quality of Life

The *Farnsworth* court set forth a number of factors to assist trial courts in assessing whether the move will enhance the quality of life for the child and the custodial parent. Factors to be considered include (1) the emotional, physical, and developmental needs of the child; (2) the child's opinion or preference as to where to live; (3) the extent to which the custodial parent's income or employment will be enhanced; (4) the degree to which housing or living conditions would be improved; (5) the existence of educational advantages; (6) the quality of the relationship between the child and each parent; (7) the strength of the child's ties to the present community and extended family there; (8) the likelihood that allowing or denying the move would antagonize hostilities between the two parents; and (9) the living conditions and employment opportunities for the custodial parent because the best interests of the child are interwoven with the well-being of the custodial parent. See *Farnsworth v. Farnsworth, supra*.

(i) *Emotional, Physical, and Developmental Needs*

In the instant case, there is evidence that the emotional, physical, and developmental needs of Lillian can be met in either Nebraska or Oregon. It is clear both Lori and Adam love Lillian very much and are fit parents. However, Lillian suffers from severe seasonal allergies causing her to experience symptoms including asthma and eczema. Although no expert testimony was offered with regard to Lillian's allergies, there was anecdotal evidence from Lori and Ben (who are lifelong allergy sufferers) that their allergy symptoms have dramatically improved since the move to Oregon. Thus, the district court did not abuse its discretion in finding that this factor weighs in favor of removal due to the potential for Lillian to experience relief from her allergy-related medical issues.

(ii) *Children's Preference*

After hearing Lillian testify at an in-camera review hearing, the district court found, "[Lillian] is certainly a sweet, intelligent girl but still, of such tender years that it is questionable that she fully comprehends the situation and this factor does not weigh in favor or against removal." We agree.

(iii) *Enhancement of Income and Employment*

As we addressed fully in the context of the legitimacy of the move, Lori's employment and income will be enhanced in Oregon. This factor weighs in favor of removal.

(iv) *Housing and Living Conditions*

At the time of trial, Lori was living in a two-bedroom leased apartment in Beaverton, Oregon. Lori testified that she and Ben plan on buying a larger home in Oregon than they had in Omaha, but that they had not done so yet because everything was "put on hold" due to this litigation. Lori testified that Oregon would provide greater opportunities for one of Lillian's favorite outdoor activities, hiking, and a climate that is more moderate year round. This factor weighs slightly in favor of removal.

(v) Educational Advantages

Lori testified that she researched the public school system in Portland and it was comparable to Omaha. There was no evidence that Omaha's school system provides advantages or benefits that are not available in Beaverton. This factor does not militate one way or another.

*(vi) Quality of Relationship Between
Children and Parents*

Lillian appears to have a quality relationship with both Lori and Adam. However, the evidence presented at trial was that Lori has been the primary caregiver of Lillian since her birth and that she has provided approximately 80 percent of Lillian's physical care since the divorce in 2006. Although the parties agreed to be "flexible" with Adam's parenting time due to his work schedule, the testimony from both parties was that Adam has not taken advantage of many opportunities to parent Lillian, although he has accumulated enough vacation time at work to be able to do so. This factor weighs in favor of the move.

(vii) Ties to Community and Extended Family

Lillian has only one extended relative in Nebraska, her maternal grandmother. Lori testified that her mother has spent months vacationing in Oregon in the past, and we assume that testimony was meant to imply that she would visit her grandchildren, Lillian and her half brother, in Oregon as well. Lillian has maternal cousins in Iowa and Wisconsin and a paternal grandmother 4 hours away from Omaha, in Iowa. As the district court pointed out, under the terms of the modified parenting plan, Lillian's summer visits to Iowa to visit her paternal grandmother should not be disturbed. Moreover, as a general rule, efforts should be made to not separate siblings. *Shaffer v. Shaffer*, 231 Neb. 910, 438 N.W.2d 507 (1989). Lori testified that Lillian's half brother is Lillian's favorite person and that they are very close. We are mindful of the importance of keeping that sibling bond intact. This factor weighs in favor of removal.

(viii) Hostilities Among Parents

The potential for antagonizing hostilities between the parents exists whether the move is allowed or denied. Although Lori and Adam both testified that their relationship was very cooperative previously, this move has clearly caused a great deal of tension. Our hope is that, moving forward, Lori and Adam will work together to promote Lillian's best interests and in doing so resume the flexible and accommodating relationship they were able to build in the past. As the parties have some work to do to rebuild their positive relationship regardless of the outcome of this case, we cannot say that the avoidance of hostilities weighs one way or the other.

(c) Impact on Noncustodial Parent's Visitation

"[T]his consideration focuses on the ability of the noncustodial parent to maintain a meaningful parent-child relationship." *Farnsworth v. Farnsworth*, 257 Neb. 242, 251, 597 N.W.2d 592, 599 (1999). And "[w]hen looking at this consideration, courts typically view it in the light of the potential to establish and maintain a reasonable visitation schedule." *Id.* The *Farnsworth* court noted that the frequency and the total number of days of visitation and the distance traveled and expense incurred go into the calculus of determining reasonableness, citing

In re Marriage of Herkert, 245 Ill. App. 3d 1068, 615 N.E.2d 833, 186 Ill. Dec. 29 (1993). In *Farnsworth*, the court noted that while a move from Omaha to Denver would necessarily lessen the frequency of the noncustodial parent's visits with the child, the distance between the two cities was not such as would prevent the noncustodial parent from seeing his child on a regular basis.

It seems inherent in any removal case that the noncustodial parent's visitation will be negatively affected by such things as lengthy car trips, the need for air travel, reduced frequency of visits, and increased expense associated with visitation, and perhaps all of such things. However, we suggest that because these inherent adverse effects on visitation are likely present in any removal case to a greater or lesser degree dependent on distance and travel options, the *Farnsworth* opinion emphasizes whether a reasonable visitation schedule can be established and maintained. Thus, the issue, as a practical matter, shifts from simply whether there is an adverse impact on visitation by removal, and becomes more nuanced--whether frequency, total days, distance, and expense after removal prevent a reasonable visitation schedule.

Adam will necessarily lose his weekly visitation schedule with Lillian. However, the modified parenting plan expands Adam's 3-week summer parenting time to 9 consecutive weeks, during which he will receive a 100-percent abatement in child support. Lillian will have continuous access to telephone and e-mail contact with both parents. Lori must arrange a weekly "Skype" video chat solely involving Lillian and Adam. With regard to holidays, Adam was awarded parenting time with Lillian during the summer and either winter or spring break, alternating Thanksgivings, and alternating holidays of Memorial Day and Labor Day, as long as Adam provides Lori with advanced notice. Lori offered to pay for two round trip flights for Lillian to Omaha each year to facilitate Adam's parenting time, a suggestion the court adopted. Adam also receives an abatement in child support for airfare and lodging expenses when he visits Lillian in Oregon--which we will discuss in more detail immediately below. The court's order allows Adam to maintain reasonable visitation with Lillian. Therefore, we must conclude that this factor does not prevent the removal of Lillian to Oregon.

In view of all of the aforementioned factors after our de novo review, we find that the district court did not abuse its discretion in allowing Lori to remove Lillian to Oregon. Thus, we affirm that portion of the trial court's decision.

3. CROSS-APPEAL

On cross-appeal, Lori argues that the district court abused its discretion by awarding Adam a child support abatement equal to airfare and lodging expenses he incurs for any visit he makes to Oregon to see Lillian, not to exceed his monthly child support obligation of \$798. Lori asserts that this provision could lead to Adam effectively not having any child support obligation whatsoever, if, for example, "[d]uring the eight to nine months of the year that Adam does not have [Lillian], he could choose to visit [her] every month for [as] little as one to two days, stay at an expensive hotel, and obtain a \$798 child support abatement." Brief for appellee at 37. Although, the record does not suggest Adam would abuse this provision of the parenting plan, Lori's point has validity. And, orders of this nature should be drawn with an eye to the avoidance of future problems and litigation.

We find that the language in the modified parenting plan should be modified so that there are some limits on this abatement provision. The first limitation is that only reasonable airfare and lodging would count to abate Adam's child support. Although we recognize that "reasonableness" of the expenses was likely implicit in the trial court's order, we simply make that condition explicit. Clearly, first-class airfare and five-star hotels would not be reasonable, and the hotel expense should correspond with the time that Adam spends with Lillian. For example, 7 days of lodging expense in Oregon but with a 1-day visit with Lillian would limit the abatement to only the lodging expense necessary for the 1-day visit.

Moreover, on our de novo review, we find that it would be fundamentally unfair to allow Adam to completely or substantially avoid his child support obligation, which he could do by taking a monthly trip to Oregon in the months when Lillian is not in Nebraska. Allowing such unlimited abatement to the point that Lori receives substantially reduced or no child support would be contrary to Lillian's best interests. Given the lengthy summer visitation and the two trips that Lori will be paying for, we find it proper that the trial court's abatement of child support for Adam's airfare and hotel expenses be limited to a reasonable number of months. However, we do not believe we are in the best position to determine the parameters of such limitations, and thus, we remand this issue for determination by the trial court, including the receipt of such additional evidence as the court finds relevant and material on the issue.

VII. CONCLUSION

For the reasons stated above, we find that Lori has a legitimate reason for wanting to move to Oregon and that it is in Lillian's best interests to make such a move. Therefore, we affirm the decision of the district court allowing Lori to remove Lillian to the State of Oregon. However, we modify the terms of the parenting plan in that any abatement in child support for lodging and airfare expenses related to a trip to Oregon to visit Lillian must be for reasonable expenses. Lodging expenses that qualify for such abatement are limited to those that reasonably correlate with the time Adam spends with Lillian. We also remand the cause to the district court with directions to determine and impose a limitation on the number of months that child support may be abated because of trips that Adam takes to Oregon to visit Lillian, and the court may receive such additional evidence as it deems necessary to determine such issue.

Finally, both parties have filed motions requesting that we make an award of attorney fees to them for this appeal. We deny both motions, finding that each party should bear his or her own litigation costs.

AFFIRMED IN PART AS MODIFIED, AND IN PART
REVERSED AND REMANDED WITH DIRECTIONS.