NOTICE
Decision filed 11/24/26. The text of this decision may be changed or corrected prior to the filing of a Petition for Rehearing or the disposition of the same.

2026 IL App (5th) 260349-U

NO. 5-26-0349

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

TRICIA D. MATZENBACHER,	)	Appeal from the
	)	Circuit Court of
Petitioner-Appellee,	)	Monroe County.
	)	
v.	)	No. 19-D-8
	)	
CRAIG D. FINKE,	)	Honorable
	)	Jeremy R. Walker,
Respondent-Appellant.	)	Judge, presiding.

JUSTICE SHOLAR delivered the judgment of the court.
Justice Clarke concurred in the judgment.
Presiding Justice Cates dissented.

ORDER

¶ 1 *Held*: We affirm the trial court's order denying Father's motion to enroll his children in a traditional school setting, thereby modifying an agreed parenting order, where the evidence supports the trial court's finding that an agreed prerequisite to request this relief did not occur.

¶ 2 Respondent, Craig D. Finke (Father), appeals an order of the circuit court of Monroe County denying his motion to enroll his children in a traditional school setting. An agreed parenting order allowed him to file such a motion if petitioner, Tricia D. Matzenbacher (Mother), or the parties' adolescent children failed to comply with the terms of the parenting plan and Father missed more than two scheduled visits with the children in a calendar year through no fault of his own. On appeal, Father argues that (1) the trial court's finding that he missed parenting time only

once was against the manifest weight of the evidence, and (2) the trial court erred in not enforcing the agreed order as written. For the reasons that follow, we affirm.

¶ 3 I. BACKGROUND

¶ 4 The parties were married in December 2002. Their two children, N.F. and H.F., were born in November 2008 and September 2010.

¶ 5 Mother filed a petition for dissolution of marriage on January 24, 2019. On March 29, 2023, the trial court entered an order dissolving the parties' marriage and reserving all ancillary issues, including those related to parenting.

¶ 6 On November 15, 2023, the court entered a supplementary order of dissolution. Pertinent to parenting issues, the court ordered the parties to attend "reunification counseling" with a specified counselor and not to disparage each other in the children's presence. The order further provided that if efforts "to reunify [Father] with the children fail to result in settlement of parenting issues on a permanent basis," the court would hold a hearing to resolve those issues. The children were to remain in homeschooling until parenting issues were resolved.

¶ 7 On November 21, 2024, the trial court entered a final allocation order regarding parental responsibilities and parenting time. Father was allocated sole responsibility for decision-making related to education, but he was "strongly encouraged" to allow the children to continue with homeschooling. The parties were allocated joint decision-making responsibility in all other areas. The order set forth a schedule allocating parenting time equally between the parties. Regarding transportation, it provided that each parent was responsible for transportation at the beginning of their parenting time; however, N.F. was permitted to provide transportation once she obtained her driver's license. The order required both parents to take necessary steps to allow the children to attend social functions during their respective parenting time.

¶ 8 On August 19, 2025, the court entered an agreed order on pending issues which incorporated the parties' agreements to modify the November 21, 2024, order. The agreed order set forth a new parenting time schedule, pursuant to which Father was to have parenting time on alternating weekends from 5 p.m. Friday to 7 p.m. Sunday as well as one weekday evening dinner per week. The order included certain conditions and exceptions pertaining to weekend parenting time. It provided that when the children had 4-H events on the Sunday of Father's weekend, they were to leave Father's home no earlier than 4 p.m. N.F. was allowed to play piano at her church on the first Sunday of each month, regardless of whose parenting time it was. With the exception of mandatory school, sports, and 4-H events, Mother and the children were not to schedule events for the children during Father's parenting time without his prior written approval.

¶ 9 Both parents were ordered to encourage and require the children to strictly comply with the parenting time schedule. The order further provided as follows:

> "If, through no fault of Father, the children refuse to follow this schedule strictly and Father misses more than two (2) visits in a calendar year, Father may file a motion with the court and a hearing on same shall be held on an expedited basis. If the Court finds that the children missed more than two (2) visits in a calendar year through no fault of Father, the Court shall reinstate the parenting time schedule set forth in the Parenting Plan entered on November 21, 2024[,] immediately."

¶ 10 The agreed order also modified the allocation of significant decision-making responsibility, giving the parties joint decision-making responsibility for education. The parties agreed that the children would continue with homeschooling "so long as they adhere to the parenting time schedule and rules associated with same." The agreed order further provided: "In the event they do not comply with same and miss more than two (2) scheduled visits with Father

during a calendar year (*** upon motion and showing of same), the Father shall be allowed to enroll the children in a traditional school setting."

¶ 11 On February 19, 2026, Father filed the Motion to Enroll Children in a Traditional School Setting at issue in this appeal.[1] In it, Father alleged that the children did not strictly adhere to the parenting time schedule set forth in the agreed order. He alleged that the children did not attend parenting time with him at all on the weekends of September 5, 2025, and January 23, 2026. They asked to skip the September weekend due to an invitation to a breakfast, and the parties attempted to agree to an alternative time for the January weekend due to forecast inclement weather that weekend; however, the parties did not reach an agreement for alternate parenting time either of those weekends. Father further alleged that the children left his home early during the first weekend of October 2025 to attend a wedding in Mother's family and did not return. In addition, he alleged that the children arrived on a Saturday morning instead of a Friday evening as scheduled for weekend parenting time in December 2025.

¶ 12 On March 27, 2026, the trial court held a hearing on Father's motion. Father testified that the children were scheduled to have parenting time with him the weekend of September 5 through September 7, 2025. Although the parties did not have a written agreement to change that schedule, the children did not spend that weekend with Father.

¶ 13 Father identified Respondent's Exhibit A as a printout of messages sent via the Talking Parents app. It was later entered into evidence. According to Father, the September 5, 2025, messages appearing in the exhibit were the only communications he had with Mother concerning

[1]Although the motion refers to both children, N.F. graduated from high school at some point before the matter came for a hearing. Thus, only H.F. would be affected by the trial court's ruling.

that weekend's parenting time. He testified that in that exchange, he told Mother that it was her responsibility to ask him to change the schedule, not the children's responsibility.

¶ 14 Father next testified concerning scheduled parenting time the weekend of October 3 through October 5, 2025. He noted that the children arrived for parenting time as scheduled on that Friday evening. Father's counsel directed his attention to the messages concerning that weekend contained in Respondent's Exhibit A. Father testified that Mother sent a message at 9:20 that Friday morning informing him that there was a family wedding the children wanted to attend the following afternoon. He stated that this was the first time Mother told him about the wedding. Mother offered him weekday parenting time in exchange for the time the children would miss to attend the wedding, but he was not available at the times she offered and indicated to her that he was only willing to exchange one weekend for another. The parties did not reach an agreement concerning any changes to the schedule that weekend. However, the children left Father's home on the morning of October 4 and did not return that weekend.

¶ 15 Father testified that he called the police and filed a report. He identified Respondent's Exhibits C and D as police reports resulting from that call. They were later entered into evidence. Father noted that the exhibits indicate that Mother sent an email to one of the officers saying that the children would be at Father's home two days that week to make up the time they missed with him over the weekend. He testified, however, that the parties had not agreed to this.

¶ 16 Next, Father testified about parenting time scheduled for the weekend of December 12 through December 14, 2025. He stated that the children arrived at his home on the morning of December 13 instead of arriving on the evening of December 12, when his parenting time began. He explained that N.F. had a volleyball game that Friday night. Although Father attended the game and offered to drive both children home, Mother drove the children home.

¶ 17 Lastly, Father testified concerning parenting time that was scheduled for the weekend of January 23 through January 25, 2026. He explained that he and Mother attempted to agree to a change in the schedule due to inclement weather forecast for that Saturday, January 24. He noted that Mother again offered weekdays in exchange for the weekend because she claimed that weekends would not work due to the children's scheduled activities. Father therefore offered to drive the children to and from his home that weekend if N.F. did not feel comfortable driving, and he told Mother that he had space for N.F.'s car in his garage if she chose to drive. He testified that the snow did not start until the morning of January 24. However, the children did not come to his home for parenting time that weekend.

¶ 18 Father later learned that the children attended a birthday dinner for their grandfather that Friday evening. He again called the police. He identified Respondent's Exhibit E, which was later entered into evidence, as a police report generated due to his call. Father noted that, according to the narrative in the police report, Mother admitted that N.F. did not want to attend parenting time with Father because he upset her during a phone conversation earlier. In his testimony, Father explained that N.F. had told him she was at a birthday party for her grandfather, and Father responded by saying, "You could have at least told me about it."

¶ 19 On cross-examination, Father testified that the children wanted to change the parenting time schedule the weekend of September 5 through September 7 so they could attend a breakfast for Monroe County Fair volunteers they had been invited to that weekend. He declined their request because it was his weekend with them pursuant to court order. Father acknowledged that the children spent additional time with him during the week to make up for the time they missed over the weekend. Father thought the amount of time they spent with him during the week was

"somewhere close to" the equivalent of the time they missed on the weekend. He testified, however, that the switch was not pursuant to an agreement.

¶ 20 Father was next questioned about the October weekend when the children left to attend a wedding. He reiterated his earlier testimony that he learned about the wedding only one day in advance. Father acknowledged that Mother offered him a specific makeup time in exchange for the time the children would miss that weekend. Asked to acknowledge that he refused to accept the exchange because the end time on the second day was earlier than 7 p.m., he replied, "Well that isn't anywhere near all of it."

¶ 21 Asked about the December weekend, Father testified that N.F.'s volleyball game was "in Chesterfield or somewhere in West County," a 75-mile drive from his home that takes approximately an hour and 5 minutes. According to Father, the game started at 9 or 10 p.m., and the games usually take about an hour. He acknowledged that Mother offered make-up parenting time. He testified that the children arrived at 9:25 that Saturday morning.

¶ 22 With respect to the January weekend, Father testified that 11 inches of snow fell that weekend, but he noted that it did not snow at all before the children were scheduled to arrive. He acknowledged that Mother offered him make-up parenting time, but he testified that the time she offered "was not acceptable."

¶ 23 On redirect examination, Father testified that the children did attend events during his parenting time, and there was no reason they could not have attended that county fair volunteer breakfast during his parenting time and returned to his house. He further testified that he wanted to take the children to N.F.'s volleyball game. Father further testified that Mother always offered weekday parenting time in exchange for weekends rather than offering alternative weekends. The

reason she always provided was that the children were busy. He stated, however, that there was no reason the children could not attend events and activities during his parenting time.

¶ 24 On further cross-examination, Father denied that he ever told the children not to come to his house after attending activities on his weekends.

¶ 25 The trial court then questioned Father, asking, "Why do you think if you pull the kids out of homeschooling, and really just talking about your son, that they're going to want to come over to your house?" Father replied, "I don't know whether it will or not, your Honor." The court asked why Father wanted the order he requested. In response, Father stated, "I have been told by professionals that this might be the only opportunity I have to save a relationship with them, and I agree with that 100 percent." Father then explained that he gave up sole decision-making for education because the children would not cooperate with him. He continued,

> "They still don't listen to anything I ask them to do. At some point in time, the rubber has to meet the road. I'm afraid at this point if the kids aren't shown that there's consequences for actions, that at some point in time, this is going to come back and bite them in the backside."

He further testified that he felt that he had been "excluded from everything" intentionally. He noted that N.F. graduated high school, and he did not even know she was eligible to do so yet. Finally, Father stated, "I'm a—a traditional education guy."

¶ 26 Mother first testified concerning the weekend of September 5 through September 7, 2025. Asked about the children's activities that weekend, she stated that both children were invited to a county fair volunteer breakfast that Saturday morning and N.F. was scheduled to play piano at her church that Sunday. Mother explained that pursuant to the parenting agreement, N.F. was permitted to play piano in church regardless of whose parenting time it was. According to Mother,

both of these activities had been put on the calendar. She testified that N.F. called Father that Friday to remind him that these activities were on the calendar. Mother explained that calling Father on Fridays was N.F.'s usual practice. She further testified that Father told N.F. not to come to his house after the breakfast. Mother noted that when N.F. brought the matter up with Father, her intent was to return to his house after the breakfast; she did not ask to switch weekends. Mother testified, "He's the one that told them not to come to his house."

¶ 27 Mother next testified concerning the weekend of October 3 through October 5, 2025. She noted that, in addition to the family wedding that Saturday, the children attended a church fundraiser that Sunday morning. Mother informed Father via the Talking Parents app that the children would leave his house at noon to attend the wedding and would return at 7 p.m. She further informed him that they would need to leave his house at 8:30 Sunday morning and would return by 1 p.m. She also reminded him that the children would need to leave early for a 4-H event. According to Mother, Father responded by saying he did not want them to come. She further testified that they made up the entire weekend—two full days—at a later date.

¶ 28 With regard to the December 2025 weekend, Mother testified that N.F.'s volleyball team had a double-header in Chesterfield, Missouri, that Friday night. The first game began at 6:30 p.m. and the second game ended at approximately 8:30 p.m. The children got home from the games at approximately 9:45 p.m. Before the games, Mother told Father that the children would drive to his home after returning from the game, but he said this was too late for them to be out driving. In response, she told him they would arrive Saturday morning instead. She testified that the children arrived at Father's home at 9:15 a.m. that Saturday. She acknowledged that they did not make up the lost time.

¶ 29 Mother next testified concerning efforts to reschedule Father's parenting time in January 2026. She noted that Father told her the dates she initially suggested did not work for him due to meetings, so they "tried to pick a different date." She then testified that N.F. called Father and told him the children were planning to come to his house "for those two days" to make up the missed weekend, but he told her not to come.

¶ 30 According to Mother, all the missed parenting time was made up with the exception of the January weekend and a "handful of hours" for N.F.'s volleyball games. She further testified that the children often returned home from Father's home early on Sunday afternoons because Father sent them home early.

¶ 31 On cross-examination, Mother testified that she had offered to exchange weekends with Father in the past, but he had not agreed to the proposed exchanges. She stated, however, that on the particular weekends at issue in this case, she offered to schedule weekdays in exchange for missed parenting time rather than alternative weekends. She explained, "I tried to pick days that they did not have any activities *** because whenever they do have activities during his time, it's almost, almost always turns into an issue."

¶ 32 Mother was asked why Father did not have the opportunity to drive the children to N.F.'s volleyball games. She replied, "So the girls typically try to travel together to the games. That's a team thing." She explained that the girls on the team left before 4 p.m. because they had to arrive by 6 p.m. and wanted to eat together before the game. Mother noted that Father's parenting time did not begin until 5 p.m. She acknowledged that Father could have driven N.F. and the other girls to the game "if the [other] parents would have let him." Mother did not recall which of the team parents drove N.F. and her teammates to the game. She indicated that H.F. traveled to the game with her.

¶ 33 Mother acknowledged that the children did not make up parenting time for the entire January weekend or for the "handful of hours" from the December weekend when the children attended N.F.'s volleyball games. When pressed, she acknowledged the "handful of hours" missed in December constituted a period from 5 p.m. on a Friday evening through 9 a.m. the following morning.

¶ 34 On redirect examination, Mother testified that when N.F. had activities such as volleyball or playing the piano, H.F. did not want to visit Father without his sister.

¶ 35 Addressing the parties and the children, the trial court stated on the record that it found that Mother was not "scheduling the kids for optional stuff that will benefit her" or using the children's schedule "as a weapon." Concerning the weekend in September 2025, when the children were invited to attend a breakfast for county fair volunteers, the court told Father, "It's not too much to let them come to your house and leave to go to that and come back." The court found that the September weekend did not qualify "as a miss." The court next addressed the weekends in October 2025, when the children attended a wedding, and December 2025, when N.F.'s volleyball team played a double header. Although the court told Father that he should be more flexible in accommodating the children when they have activities during his parenting time, it did not make specific findings regarding these weekends in its oral pronouncement. The court found that no makeup parenting time was offered for the weekend of January 23 through January 25, 2026, which constituted a violation of the agreed order. The trial court reset the matter for further proceedings in July 2026 "to see if there's any future strikes between now and July."

¶ 36 The trial court entered a written order the same day denying Father's motion. The order stated, "Court finds only one weekend was missed in the last year, without adequate make up time

(January 23-25, 2026). Therefore, the Motion/Petition is DENIED." Father filed a notice of appeal on April 23, 2026[2].

¶ 37 II. ANALYSIS

¶ 38 On appeal, Father argues that (1) the trial court's finding that the children missed parenting time only one weekend was against the manifest weight of the evidence, and (2) the trial court erred in failing to enforce the agreed order as written. In response, Mother contends that (1) because Father's motion sought a modification of an existing parenting order, Father was required to show that a substantial change in circumstances had occurred, a burden he did not satisfy here; (2) a trial court is not bound by an agreement concerning the allocation of parental rights absent a finding that the agreement is in the best interest of the children; and (3) to the extent Father's interpretation of the agreement requires the trial court to automatically allow traditional school enrollment without consideration of the children's best interest, it is against public policy. In his reply brief, Father argues that Mother incorrectly characterizes his motion as a request to modify a parenting order. Although we find neither party's contentions persuasive, we find no error in the trial court's ruling.

¶ 39 To promote the amicable resolution of disputes, the Illinois Marriage and Dissolution of Marriage Act provides that parties may enter into agreements concerning the distribution of property, maintenance, child support, and the allocation of parental responsibilities. 750 ILCS

[2]As a matter involving the custody of minors, this case is subject to expedited disposition under Illinois Supreme Court Rule 311(a)(5) (eff. July 1, 2028), which requires the appellate court to issue its decision within 150 days after the filing of a notice of appeal, except for good cause shown. Here, the notice of appeal was filed on April 23, 2026, making the decision due by September 21, 2026. Although every effort was made to comply with the deadline under Rule 311(a)(5), due to the complexity of the issues we find good cause exists for filing this decision beyond the deadline.

5/502(a) (West 2024). Terms of such agreements that do not involve child support or the allocation of parental responsibilities are binding on the trial court unless the court finds the agreement unconscionable. *Id.* § 502(b). An agreed parenting plan is binding on the trial court unless the court finds that the plan is not in the best interest of the children. *Id.* § 602.10(d). Here, the trial court did not make a finding that the parties' August 2025 agreed parenting order was not in the children's best interest. Thus, we find that the agreed order was binding on the trial court.

¶ 40 Ordinarily, as Mother points out, a parent seeking to modify an existing parenting order must demonstrate a substantial change in circumstances that makes the change necessary to serve the children's best interest. 750 ILCS 5/610.5(a) (West 2024). However, a parenting plan or order allocating parental responsibilities may be modified in accordance with the parties' agreement unless the trial court finds that the agreed modification is not in the children's best interest. *Id.* § 610.5(d). Here, as discussed above, the agreed order contains provisions allowing Father to seek two specific modifications of its terms under certain conditions. Specifically, it allows Father to enroll the children in a traditional school setting, altering the agreement that the children would remain in homeschooling, and it provides that the parenting plan set forth in the trial court's previous allocation order will be reinstated. Thus, we reject both Father's contention that his motion did not seek to modify a parenting order and Mother's argument that Father was required to demonstrate a substantial change in circumstances. See *In re Marriage of Brown & Sontag*, 2026 IL App (1st) 242009, ¶ 41; *Myers v. Robledo*, 2023 IL App (2d) 220375-U, ¶ 14. The question before us is whether the trial court correctly determined that the conditions triggering Father's right to request these modifications did not occur. We now turn our attention to that question.

¶ 41 An agreed order constitutes "a recitation of an agreement between the parties." *In re Marriage of Tutor*, 2011 IL App (2d) 100187, ¶ 13. It is therefore contractual in nature and subject

to the rules of contract interpretation. *Id.* Our objective is to effectuate the parties' intent. *Id.* The best indicator of that intent is the plain and ordinary meaning of the express language of the contract. *Id.* Thus, a court may not add terms that the parties did not include in their agreement. *Id.* An agreed order must be interpreted in its entirety. *In re Marriage of Watkins*, 2017 IL App (3d) 160645, ¶ 28.

¶ 42 Interpretation of the parties' agreement is a question of law subject to *de novo* review. *In re Marriage of Brown & Sontag*, 2026 IL App (1st) 242009, ¶ 35; *Watkins*, 2017 IL App (3d) 160645, ¶ 32. However, we review the trial court's findings of fact to determine whether they are against the manifest weight of the evidence. *In re Marriage of Andres*, 2021 IL App (2d) 191146, ¶ 77. A finding is against the manifest weight of the evidence if the opposite conclusion is clearly evident or the finding is unreasonable, arbitrary, or not based on the evidence in the record. *Best v. Best*, 223 Ill. 2d 342, 350 (2006).

¶ 43 In support of his challenge to the trial court's finding that he missed only one visit, Father argues that the finding was against the manifest weight of the evidence for two reasons: (1) the trial court erroneously considered the fact that Mother offered him makeup parenting time without taking into account the evidence that the parties did not agree to changes in the schedule in writing, as required under the agreed order; and (2) even if makeup parenting time is taken into consideration, the finding that he missed only one weekend was against the manifest weight of the evidence because Mother admitted there were two periods of time that were not made up—the Friday evening of the December 2025 weekend when N.F. had her volleyball games and the entire January 2026 weekend when there was a snowstorm. We reject both contentions.

¶ 44 The provision of the agreed order allowing Father to seek to enroll the children in a traditional school setting states:

> "The parties agree that the children shall be allowed to continue home school education through high school graduation for so long as they adhere to the parenting time schedule and rules associated with same set forth herein. In the event they do not comply with same and miss more than two (2) scheduled visits with Father during a calendar year (as previously set forth herein, upon motion and showing of same), the Father shall be allowed to enroll the children in a traditional school setting."

As discussed above, the rules associated with the parenting time schedule in the agreed order include a requirement that any modification to the schedule be agreed to in writing by Father and a requirement that both parties encourage the children to strictly comply with the schedule. Thus, Father contends that the trial court "erroneously took into consideration the fact that Father was offered makeup parenting time" he never agreed to. We disagree.

¶ 45 By its express terms, the pertinent provision of the agreed order allows Father to enroll the children in a traditional school setting if (1) the children fail to comply with the parenting schedule and the rules associated with it set forth in the order, *and* (2) Father misses more than two scheduled visits during a calendar year. Arguably, the first of these requirements was satisfied: the children altered the parenting time schedule without Father's written agreement. However, the conjunctive language indicates that before Father is allowed to enroll the children in a traditional school, he must also miss more than two scheduled visits in a calendar year. Our review of the record reveals that this condition was not satisfied.

¶ 46 We reach this conclusion for two reasons. First, as the trial court found, Father was offered—and received—parenting time in exchange for the weekend he missed in September and for the portion of the weekend he missed in October. Second, by its express terms, the provision is triggered only if Father misses more than two *visits* with the children in a calendar year, not if

he misses portions of his scheduled weekends more than twice. Father does not even allege that he missed more than two entire visits.

¶ 47 Father next contends that the trial court's finding that he missed only one weekend was against the manifest weight of the evidence because (1) the evidence showed that he missed parenting time during all four weekends, and (2) Mother admitted there was no makeup parenting time for the December 2025 or January 2026 weekends. We are not persuaded.

¶ 48 First, as we have just explained, the provision allowing Father to enroll the children in a traditional school setting is not triggered unless Father misses more than two scheduled visits with the children in a calendar year. He alleged that he missed visits with the children in September 2025 and January 2026 and that the children arrived late for a visit in December 2025 and left early after arriving for a visit in October 2025. Thus, even drawing all inferences in favor of Father and ignoring the evidence that the children made up the missed parenting time in September and October of 2025, the provision was not triggered.

¶ 49 Second, we must construe the agreed order by reading it in its entirety. See *Watkins*, 2017 IL App (3d) 160645, ¶ 28. The provision allowing Father to enroll the children in a traditional school setting requires a motion and hearing "as previously set forth herein." The preceding provision calls for a hearing to determine whether Father missed two or more visits in a calendar year through no fault of his own and mandates that, if he has, the parenting schedule will revert to the one set forth in the November 2024 allocation order.

¶ 50 There was conflicting evidence as to whether Father missed visitation through no fault of his own on each of the 2025 weekends at issue. With respect to the September 2025 weekend, Father testified that the children asked to change the schedule but that the parties did not agree to a modified schedule. Mother, however, testified that Father told the children not to come to his

home at all that weekend after they asked to attend a breakfast they had been invited to during his parenting time. Although the trial court did not make an express credibility determination or explicitly resolve this conflict, it did tell Father that the children's request to attend a breakfast during his parenting time was not unreasonable before finding that the September weekend was not "a miss."

¶ 51 There were similar conflicts in the evidence with respect to the weekends at issue in October and December of 2025. Mother testified that, after being informed that the children wanted to leave for a wedding and church fundraiser in October, Father said he did not want them to come. Father testified that he never told the children not to come to his home. The Talking Parents communications in Respondent's Exhibit A show that the parties eventually agreed that makeup parenting time for the October weekend could occur on two specific weekdays, but they disagreed over the time at which the children were to leave the second day. With regard to the December weekend, Mother testified that the children went to Father's home that Saturday morning because Father did not want N.F. driving after the volleyball games due to the late hour. Father, by contrast, testified that he offered to drive both children home from the game. The Talking Parents communications in Exhibit A show that Mother told Father N.F. was willing to drive to his home after the game but preferred to wait until the following morning.

¶ 52 To the extent the trial court resolved these conflicts in Mother's favor, we will not substitute our judgment for that of the trial court on matters such as the credibility of witnesses, the weight to be given to pieces of evidence, and the inferences to be drawn. *Best*, 223 Ill. 2d at 350-51. We give deference to the trial court because, as the finder of fact, it was "in the best position to observe the conduct and demeanor of the parties and witnesses." *Id.* at 350. On the record before us, we cannot conclude that the trial court's finding was against the manifest weight of the evidence.

¶ 53 Next, Father argues that the trial court erred in failing to enforce the agreed order as written. He points to language in the order stating that once the trial court determines that the children failed to comply with the terms of the parenting schedule and missed more than two visits, "Father *shall* be allowed to enroll the children in a traditional school setting." (Emphasis added.) He contends that the "use of mandatory language removed discretion from the trial court once the triggering condition occurred." In response, Mother argues that to the extent Father's interpretation of the agreed order requires the trial court to automatically allow Father to enroll the children in a traditional school setting without first considering their best interest, it is against public policy. Because we have already concluded that the trial court correctly found that the triggering condition had not occurred, however, we need not address either of these arguments.

¶ 54 III. CONCLUSION

¶ 55 For the foregoing reasons, we affirm the judgment of the trial court denying Father's motion to enroll the children in a traditional school setting.

¶ 56 Affirmed.

¶ 57 PRESIDING JUSTICE CATES, dissenting.

¶ 58 I write separately from my colleagues to remark upon a father who, for the past seven and a half years, has been relentless in his pursuit to have a relationship with his children. Through no fault of his own, he has been compelled to return to the circuit court repeatedly—not to gain an advantage, but simply to protect his fundamental right to maintain a relationship with his children. The decision to affirm the March 27, 2026, order entered by Judge J.W.,[3] will effectively end

[3]This case started on January 24, 2019, with the filing of Mother's "Verified Petition for Dissolution of Marriage." Over the years this case has been pending in the circuit court, there were several different judges assigned to the litigation. Therefore, initials have been used to identify the judge responsible for a particular order or event in the circuit court.

Father's arduous struggle to preserve a relationship with his children, as his daughter has now graduated high school, and his son is nearing that same benchmark.

¶ 59 A father's relationship with his children cannot be understood solely by measuring the time he has spent with them. The court must also consider the efforts he made to be present in their lives, the obstacles he encountered, and the circumstances that shaped the relationship as it exists today. To do otherwise risks judging the outcome without understanding the path that led to it.

¶ 60 I am compelled to write because, in my view, Judge J.W. erred when he failed to recognize that Father's "Motion to Enroll Children in Traditional School Setting" (Motion to Enroll) was an enforcement petition, filed pursuant to section 607.5 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/607.5 (West 2024)).[4] As such, the reasoning found in *In re Marriage of Williams*, 2026 IL App (5th) 241260, should be applied.

¶ 61 As this court explained in *In re Marriage of Williams*:

> "The legislature enacted section 607.5 of the Dissolution Act, setting forth expedited procedures for the enforcement of allocated parenting time. See 750 ILCS 5/607.5 (West 2022). A parent may commence such an action by the filing of a petition that includes the terms of the parenting plan or allocation judgment then in effect and the nature of the alleged violation."

Williams, 2026 IL App (5th) 241260, ¶ 23; see also 750 ILCS 5/607.5(b) (West 2024) (requiring that motions to enforce parenting time set forth the provisions of the parenting order in effect and the nature of the alleged violations of those terms). Motions brought under the statute to enforce parenting time must also include an allegation that "a reasonable attempt was made to resolve the dispute."

¶ 62 Father's ability to file the Motion to Enroll was based upon allegations that Mother and the children violated an "agreed order." The circumstances that gave rise to this order are explained

[4]The title of this enforcement statute is "Abuse of Allocated Parenting Time."

later in this dissent. The majority, however, does not appreciate the significance of this agreed order. Specifically, Mother and Father presented to the court a separate document that included, in part, an agreed parenting time clause, which the court adopted. This order was presented after the Final Allocation document had been entered by the circuit court. Therefore, this dispute was more akin to a breach of contract action. "An agreed order adopted by the court is not an adjudication of the parties' rights but, rather, a record of their private, contractual agreement and must be construed to give effect to the parties' intent, which is determined from the language of the order when there is no ambiguity in its terms. *In re Marriage of Watkins*, 2017 IL App (3d) 160645, ¶ 28.

¶ 63 Mother and Father entered into an agreement that specified visitation for Father, with additional terms requiring, for example, providing notice to Father of events on a joint calendar. The Motion To Enroll explicitly cites the agreed order entered August 19, 2025, and sets forth several of its provisions. The Motion to Enroll alleges several violations of those provisions, asserting that the children failed to strictly adhere to the parenting time schedule and that, as a result, Father was unable to exercise some or all of the parenting time allocated to him during four weekends. The Motion To Enroll provides dates and pertinent details, as required under the statute. See 750 ILCS 5/607.5(b)(iv) (West 2024). The motion further alleges that, although the parties had been able to reach agreements concerning changes to the parenting time schedule on other occasions, they were not able to reach such an agreement on any of the four weekends at issue. Thus, the allegations of the motion align with the substantive requirements of section 607.5.

¶ 64 Father's motion requests a finding that the children failed to strictly comply with the terms of the parenting time schedule. If the circuit court makes the findings Father requested, then Father seeks permission, as one form of relief, to enroll H.F. in a traditional school setting. Father

additionally asks for, attorney fees, and "such other relief as [the] Court may deem just and equitable."

¶ 65 The phrase "such other relief as [the] Court may deem just and equitable" is a broad request that allows for alternative remedies. The statute gives the circuit court the option to grant other forms of relief, such as sanctions for contempt, where the requested relief is consistent with the provisions of section 607.5(c). If the circuit court finds, by a preponderance of the evidence, that a parent has not complied with the terms of a parenting time order, the court may impose additional terms and conditions consistent with the previous parenting order if granting such relief is in the children's best interests. 750 ILCS 5/607.5(c)(1) (West 2024).

¶ 66 The agreed order of August 19, 2025, expressly contemplated that Father could seek to enroll the children in a traditional school setting in the event of parenting time violations that were specifically defined. Thus, Father's request to enroll H.F. in a public school was a form of relief that Mother and Father had agreed to in the event there were three "misses" under the parenting order. Father's requests for attorney fees and other relief which the court deems just and equitable are likewise consistent with the relief authorized by the statute, which also includes (1) requiring the non-complying parent to reimburse the other parent for reasonable expenses incurred as a result of the violation, and (2) "any other provisions that may promote the child's best interests." 750 ILCS 5/607.5(c) (8) & (9) (West 2024).

¶ 67 In addition, Father requested that his Motion to Enroll be heard on an expedited basis. This, too, is a requirement of the statute, as the party seeking enforcement is alleging a violation of parenting time pursuant to section 607.5. See 750 ILCS 5/607.5(a) (West 2024). Despite Father's professed claim that he be allowed to enroll his son, H.F., in a traditional school setting, in my view, Father's testimony revealed that Father only wanted leverage over Mother to establish

parenting time. This would allow Father the opportunity to have parenting time with his children without interference. Indeed, Father testified to as much during the March 27, 2026, hearing.

¶ 68 The majority recognizes that perhaps the agreed order is a private contract between the parties, and devotes an entire paragraph to that concept. But the rules of construction used by the majority to affirm the circuit court's disposition are flawed. The majority writes in the rule that partial performance is enough to satisfy the term "missed visit," although no such definition exists in the agreed order. Additionally, my colleagues excuse strict compliance by finding that an offer for alternative parenting time and acceptance of a few alternate hours here and there is compliance with the contract, or at least excuses non-compliance. In other words, there is no "missed visit" because a part is as good as the whole. Partial compliance would be the delivery of one half of a chocolate bar to the child promised a whole.

¶ 69 This interpretation of partial compliance is against the rules of contract construction where the intent of the contract controls and the parties have bargained for strict compliance. Indeed, one of the options of relief in section 5/607.5(c)(5)(A) of the Act suggests that makeup parenting time be of the same type that was missed. The reality here is that neither the circuit court, nor the majority, recognized the litigation instituted herein was an enforcement action, titled as a "Motion to Enroll Children in Traditional School Setting." The analysis of this proceeding should have occurred under section 5/607.5 of the Act.

¶ 70 Father's Motion to Enroll does not cite section 607.5, although, ideally, it would have been better to do so. However, it is the contents of a motion, rather than its label, which determines the character of the motion. *In re L.S.*, 2022 IL App (1st) 210824, ¶ 103; *Savage v. Mui Pho*, 312 Ill.

App. 3d 553, 559 (2000); *In re Marriage of Ervin*, 2026 IL App (5th) 250873-U, ¶ 59.[5] Whether a circuit court has applied the correct legal standard is a question of law subject to *de novo* review. *Reynolds v. Reynolds*, 2026 IL 132627, ¶ 34; *IRMO Izzo*, 2019 IL App (2d) 180623, ¶ 26. For the reasons that follow, I would find that the Motion to Enroll was, in substance, a motion seeking to enforce the agreed parenting time pursuant to section 5/607.5 of the Act. I would further find that the court's interpretation of a "missed visit," to the extent it made one, was contrary to the plain language of the agreed order, and Judge J.W. should have found that the children, through no fault of Father, missed more than 2 visits in a calendar year. More specifically, in my view, the missed visits for the 2025 calendar year were the weekend of the attendance at the county fair workers' breakfast, the volleyball weekend, and, especially the wedding weekend, were all "missed visits," as the children did not spend the quality time Father was entitled to under the terms of the agreed order. And by arriving at this conclusion, the children are not punished, as Father could have easily worked the logistics of attending these events with the children, had he been given the chance in advance of the designated weekend. For each of the events complained of, there should have been ample time for Father to have known, in advance, of the event which may interfere with his parenting time. Father could have worked with the children to make sure they did not miss their activities. Father was simply never given the opportunity.

¶ 71 Finally, even considering, *arguendo*, that there were not more than 2 missed visits, Father proved by a preponderance of the evidence that Mother failed to post the information, namely, the children's "events, activities, lessons, field trips, medical appointments and counseling appointments" in advance of the weekend visitation as required in the agreed order. Additionally, Mother

[5]This nonprecedential order is cited for persuasive purposes pursuant to Illinois Supreme Court Rule 23(e)(1) (eff. June 3, 2025).

interfered with Father's visitation during the volleyball weekend, as Father could have driven his son to and from the event. Further, Father could have made arrangements with his daughter to pick up her car, but this entire visitation was refused by Mother, who thereby intentionally interfered with Father's visitation.

¶ 72 Apart from the practical concerns, the circuit court's finding that Father only proved one "missed visit" was against the manifest weight of the evidence. The majority correctly notes that findings of fact are subject to review under the manifest weight of the evidence standard. *In re Marriage of Andres*, 2021 IL App (2d) 191146, ¶ 77. However, resolving the question of what constitutes a "missed visit" requires the court to construe the terms of the agreed order. Interpretation of an agreed order is a question of law subject to *de novo* review. *In re Marriage of Brown & Sontag*, 2026 IL App (1st) 242009, ¶ 35; *In re Marriage of Watkins*, 2017 IL App (3d) 160645, ¶ 32.

¶ 73 Construing "missed visits" to include nothing short of full weekends overlooks the potentially devastating impact that the cumulative loss of parenting time through late arrivals and early departures can have over time. For example, during the October 2025 weekend, the children left Father's home less than 24 hours into his scheduled weekend and did not return, thus depriving him of the majority of parenting time allocated to him that weekend. Similarly, Mother's failure to have H.F. attend N.F.'s volleyball game with Father during the December 2025 weekend deprived them of several hours of father-son bonding time. The lost opportunity to spend this time with his children is not insignificant, particularly in light of the circumstances surrounding the agreed order.

¶ 74 The agreed order resulted in a substantial reduction in Father's parenting time. At the hearing, Father explained to the court that he agreed to give up much of his parenting time as well

as sole decision-making responsibility for education because the arrangement was not working due to the children's unwillingness to cooperate with him. He explained further that he agreed to an order that "had teeth in it" because he wanted to be involved in his children's lives, an opportunity he felt had not been afforded to him. The narrow interpretation of "missed visits" adopted by both the circuit court and the majority fails to give Father the benefit of this bargain. See *In re Marriage of Coulter and Trinidad*, 2012 IL 113474, ¶ 31 (explaining that "when divorcing spouses present a signed [marital settlement agreement] or [joint parenting agreement] to the court, the document reflects a negotiated agreement [in which] [e]ach party has agreed to certain terms in exchange for other terms"). More importantly, it results in an even greater reduction in Father's parenting time. I would find that Father missed visits with the children each time they missed any significant portion of the parenting time allocated to him under the agreed order. Under this interpretation, a finding that he missed only one visit is contrary to the manifest weight of the evidence.

¶ 75 Further, I note that holding the non-complying parent in contempt is one of the possible remedies available under section 607.5. 750 ILCS 5/607.5(c)(6) (West 2024). However, the circuit court appeared to believe it could not find Mother in contempt unless she told the children not to go to Father's house for parenting time. During an exchange with Father, Judge J.W. stated, "I can only put [Mother] in jail if she's saying don't go." This is not the law. A parent may not disregard the requirements of a parenting order simply because the children do not want to visit the other parent. *In re Marriage of Charous*, 368 Ill. App. 3d 99, 111 (2006). This is true even where, as here, the children have expressed hostility toward the other parent. *Id.*at 112. Indeed, the parent's obligation to facilitate the other parent's court-ordered parenting time may be especially crucial under such circumstances. Parenting time gives family members an opportunity to communicate

and possibly reduce their animosity and repair their relationship. See *In re Marriage of Reed*, 100 Ill. App. 3d 873, 877 (1981).

¶ 76 Here, the agreed order required both parents to encourage and require the children to follow the schedule of parenting time set forth in the order. Mother cannot avoid her obligation to comply with this provision by "attempting to shift this burden to her children." *Doggett v. Doggett*, 51 Ill. App. 3d 868, 872 (1977). A parent's refusal to ensure that the children visit the other parent is a violation of the court's order and may therefore subject the non-complying parent to a finding of contempt. *Charous*, 368 Ill. App. 3d at 108, 111-113; 750 ILCS 5/607.5(c)(6) (West 2024). Judge J.W.'s apparent belief that Mother could only be found in contempt for telling the children not to visit Father was based on a misapprehension of the law.

¶ 77 Finally, as previously noted, the findings of the circuit court were pronounced at the conclusion of the evidence. After Judge J.W. concluded his findings, he announced his oral ruling. The majority does not reference this order. So, I write to complete the report of the proceedings, and to suggest another basis for why the subsequent written order was against the manifest weight of the evidence.

¶ 78 Prior to Judge J.W. pronouncing his findings, he indicated that he was not going to hear testimony from the children, He asked that the children be brought into the courtroom, and Judge J.W. introduced himself. The court then began issuing his oral findings by considering each weekend alleged to have been missed. Judge J.W. then indicated, as follows:

> "So what I'm going to do at this time is, is find that the weekend of January 23rd to January 25th there was no make-up visitation given; and it was in direct contradiction of the order. That's strike one. I am going to reset this case for a hearing in July. Nobody needs to file a new motion. If there's been a missed weekend, just have your attorney file a little piece of paper that says that a weekend was missed. That'll put them on notice, and we'll come back and do it again, okay?

> I don't want to go nuclear, and I am afraid that if I did, that's what I would be doing today."

¶ 79 After this ruling, the attorneys and Judge J.W. agreed on a July date. Father's attorney then asked the court if she could clarify a few matters outside the presence of the children. Judge J.W. answered affirmatively, and the children were removed from the courtroom. Father's attorney then began by asking Judge J.W. how she could obtain the information about the children that the agreed order was designed to allow. A discussion then occurred between the lawyers and Judge J.W. Finally, Father's attorney asked Judge J.W. why he never held Mother accountable. Judge J.W. responded,

> "I'm not holding her accountable for that because I knew from the get-go she wasn't going to do it. I tried to give him—do you want me to just give her sole everything?

The discussion continued briefly, and Mother joined in, as follows:

> "[Mother]: For the record, I am cooperating.
> [THE COURT]: I'm not saying that you're not.
> [Mother]:There is no way to there, to get agreement. There is no—it is not possible.
> [THE COURT]: I agree with that 110 percent, which is why I almost gave her sole on everything; but I was concerned that the sole would just lead to an absolute dictatorship where at least now he's got a fighting chance to be involved. I did the best that I could in an unworkable situation. You know, I was actually pretty optimistic ten minutes ago that this was maybe going to work. I'm less optimistic. Get the kids back in here. I made a decision. Okay, well, that spiraled quickly. So the Court is going to officially rule that there was one violation, petition denied. We'll go off the record."

¶ 80 Although it is unclear when the children arrived back into the courtroom, it is clear that a second oral ruling was made that denied the motion, rather than continuing the matter to July. I recognize that the court's oral pronouncements are not final and binding. "As such, prior to the filing of the signed judgment, the court is free, upon its own motion, or that of any party, to alter its oral pronouncements." *In re Marriage of Brooks*, 138 Ill. App. 3d 252, 267 (1985); see *In re Marriage of Weston*, 2025 IL App (5th) 231323-U, ¶ 130. This authority is properly exercised where the court leaves some matters undecided when announcing its ruling from the bench and

resolves those matters "after being presented with additional information" before it enters the final written order. *In re Marriage of Grauer*, 153 Ill. App. 3d 125, 130 (1987); see *Parello v. Parello*, 87 Ill. App. 3d 926 Ill. App. 3d 926, 930-31 (1980). Here, Judge J.W. was not presented with additional information between the time he announced he would leave the matter unresolved and the time he announced that he would deny Father's Motion to Enroll. The only basis for this change appears to be his frustration with the parties' attorneys. I do not believe this is a proper reason for a court to alter the ruling initially announced.

¶ 81 In conclusion, I would hold that the circuit court applied the wrong legal standard. I would reverse the order of the circuit court and grant Father's Motion To Enroll with a finding of missed visits as set forth herein, and find more than 3 misses in a calendar year. Further, I would remand this matter back to the circuit court for the appointment of a new judge and grant leave for Father to amend his Motion To Enroll to seek other forms of relief allowed pursuant to the statute, 750 ILCS 5/607.5. This would afford the circuit court an opportunity to determine whether any of the alleged violations of the parenting orders in effect entitled Father to relief rather than limiting its consideration to the narrow question of whether Father missed "more than two visits" with his children. In addition, it would allow the court to consider a broad range of relief consistent with the children's best interests.

¶ 82 And as I speak for the minority, this matter will not be returned to the circuit court. In the event, however, that this case is docketed before the court again, it is my impression that Judge J.W. should consider recusing himself from this matter.