MEMORANDUM DECISION

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IN THE COURT OF APPEALS OF INDIANA

Clifton Anthony Johnson,
Appellant-Respondent,

v.

Alicia Marie Johnson,
Appellee-Petitioner

December 3, 2021

Court of Appeals Case No. 21A-DC-585

Appeal from the Marion Superior Court

The Honorable Marie Kern, Magistrate

Trial Court Cause No. 49D14-1811-DC-46592
49D13-1811-DC-46592

Vaidik, Judge.

Case Summary

[1] Clifton Anthony Johnson ("Father") appeals the trial court's order granting Alicia Marie Johnson ("Mother") physical custody of their daughter, M.J. ("Child"), finding him in contempt, and ordering him to pay Mother's legal fees. As the evidence supports the trial court's order, we affirm.

Facts and Procedural History

[2] Father and Mother (collectively "Parents") were married in 2008 and adopted Child shortly after her birth in 2012. In November 2018, Parents, neither of whom were represented by counsel, filed for divorce. When filling out the divorce decree, Parents wrote that they "shall share joint legal and joint custodial (physical) custody" of Child. Appellant's App. Vol. II p. 59. However, Parents were later informed by the court that "someone had to check the box for parenting time [g]uidelines" and had Mother check the box that stated she "Shall have parenting time with the minor child(ren), at a minimum, as set out by the Parenting Time Guidelines." Appellant's App. Vol. III p. 17; Appellant's App. Vol. II p. 59. The marriage was dissolved in February 2019.

[3] Parents maintained a custody schedule they felt was approximately "50/50"—during the school year Child, age seven, lived with Father during the week and Mother during the weekend, with Mother having mid-week visits, and during the summer Child lived with Mother during the week and Father during the weekend. Tr. Vol. II p. 64.

[4] In late summer 2019, Child was about to start a new school and Mother to begin graduate school. To allow them both to adjust to these changes, Parents suspended Mother's mid-week visitation. Also around this time, Father began dating Devon Moore ("Stepmother"). In October, Mother requested the mid-week visits begin again, and Father refused. Despite their earlier arrangement, Father insisted Mother have only the parenting time afforded to her under the Parenting Time Guidelines and began facilitating parenting time only on alternating weekends. In December, Mother moved to modify custody, acknowledging the parties were in dispute as to the division of custody and asking the court to enforce the "initial agreement of joint physical and legal custody." Appellant's App. Vol. II p. 72. The next month, Father also moved to modify custody, asking he be granted physical custody of Child and that Mother receive parenting time according to the Parenting Time Guidelines.

[5] At this point, communication had broken down between Parents. Father, who had recently moved in with Stepmother, refused to communicate with Mother without Stepmother present. In January 2020, when Mother arrived to pick up Child an hour earlier than Stepmother believed the Parenting Time Guidelines allowed, Stepmother refused to let Child go with Mother. A confrontation ensued, and Stepmother alleged Mother entered her garage without permission. Stepmother called the police, and Child saw them interviewing Mother. Father then arrived and allowed Child to leave with Mother. In February, Mother found out Stepmother and her teenage daughter were watching Child without Father present and complained to Father that this violated her Opportunity for

Additional Parenting Time (OAPT).[1] Within a week, Stepmother and Father announced they were engaged and got married, eliminating any issue with OAPT. Father and Stepmother's wedding reception occurred eight months later.

[6] In March 2020, when Child did not answer her phone while at Mother's, Father and Stepmother called the police, who went to Mother's home to conduct a welfare assessment.[2] That same month, Child began therapy with Ellen Knapp. Also around this time, Father and Stepmother started documenting various ailments they alleged Child presented with after parenting time with Mother. The day after Child's first therapy appointment with Knapp, the Department of Child Services (DCS) in Marion County received a report that Mother was "cussing" at Child, "spanks" and "punches" her, and that Child had received scratches at Mother's home and was exhibiting "sexualized behaviors." Appellant's App. Vol. VI p. 99. DCS interviewed Mother, Father, Stepmother, Mother's boyfriend, and Child. Father and Stepmother relayed many of the allegations in the report, including that Child exhibits sexualized behaviors (asking to take her shirt off), has scratches, and told them Mother "punches her butt." *Id.* Mother denied physically disciplining Child or injuring

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[1] The Parenting Time Guidelines state, "When it becomes necessary that a child be cared for by a person other than a parent or a responsible household family member, the parent needing the child care shall first offer the other parent the opportunity for additional parenting time, if providing the child care by the other parent is practical considering the time available and the distance between residences." Ind. Parenting Time Guidelines § I(C)(4).

[2] The parties do not tell us the outcome of this assessment.

her in any way. Child indicated she felt safe at Mother's home and denied being spanked, touched inappropriately, or otherwise harmed by Mother or Mother's boyfriend. DCS closed the report and noted the allegations were unsubstantiated. DCS received two other reports, in April and May respectively, with similar allegations. Again, neither Mother nor Child indicated anything inappropriate or harmful was happening in the home, and the reports were closed out as unsubstantiated.

[7] In May, Mother filed a motion for rule to show cause, alleging Father was in contempt for unilaterally changing their custody agreement, and another motion to modify custody, this time requesting she be given "primary physical custody of [Child]." Appellant's App. Vol. II p. 77. The next month, Father took Child to the emergency room following a visit with Mother. Father stated Child was complaining of back pain and had scratches. Doctors at the hospital noted Child presented with "incredibly benign lesions" and had no complaints of pain. Appellant's App. Vol. V p. 146. Nonetheless, Father insisted he wanted a report, the police were called, and a fourth DCS report was made.[3] Again, this report was later closed out as unsubstantiated.

[3] There is conflicting evidence in the record as to who made the four DCS reports. Father testified he did not make any of the reports and assumed it was Child's doctors, yet doctor's notes from Child's emergency-room visit indicate Father told the doctors the police were on their way and that he insisted a report be done. Stepmother later told the guardian ad litem that she called in two of the reports and Knapp called in the other two. Knapp testified she filed only one report based on facts she heard from Stepmother.

[8] On July 3, Father filed a petition for an emergency order for Mother's parenting time to be supervised, alleging that for over four months Child had presented with injuries including scratches, bruises, and a black eye following parenting time with Mother and that, in at least one instance, Child told him Mother had hit her with a hairbrush.[4] A hearing was held on the emergency petition later that month. Father admitted several photos of scratches and bruises he alleged Child presented with after visits with Mother. Knapp testified she was concerned about Child's safety because Child had bruises and was "evasive" about how she received them. Tr. Vol. II p. 10. Mother testified Child would often get scratches from their pet kittens and bruises from normal kid activities including riding her bike. Mother testified the only injury that concerned her was the black eye and that she had taken Child to the doctor to have it examined. Mother also testified that four DCS reports had been filed and found to be unsubstantiated. Nonetheless, the trial court had "concerns about the repeated, unexplained injuries to" Child and ordered Mother's parenting time be supervised at Mother's expense. Appellant's App. Vol. II p. 86.[5]

[9] Supervised visitation began in September and was conducted by Marli Emenhiser from Neutral Ground Solutions. No safety or parenting concerns were noted by Emenhiser, and she reported Mother and Child were bonded and

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[4] Father did not report to the court any of the sexual-abuse concerns he previously alleged to DCS.

[5] The trial court did not rule on the parties' motions to modify custody or on Mother's motion for rule to show cause.

Child appeared comfortable around Mother, Mother's boyfriend, and Mother's extended family. In November, Child's guardian ad litem (GAL), Portland Schnitzius, began observing and interviewing the family.

[10] That winter, both Parents again filed separate motions to modify custody, with Mother renewing her request for sole physical custody and Father requesting sole legal and physical custody. Mother again filed a motion for rule to show cause, alleging Father should be held in contempt for violating the divorce decree by failing to keep Mother informed of Child's educational and medical care and for violating the emergency order by not cooperating with supervised visitation.

[11] A final hearing was held in February and March 2021. GAL Schnitzius testified and recommended Mother have full legal and physical custody with Father exercising parenting time, and that Father's parenting time be supervised when Stepmother is present. GAL Schnitzius testified she believes Stepmother is a "danger" to Child because Stepmother creates a "narrative that misrepresents mother" and "impedes the mother-daughter relationship" between Child and Mother. Tr. Vol. II pp. 146-47. Specifically, GAL Schnitzius testified Stepmother had made at least two of the DCS reports and her accusations against Mother to Knapp apparently caused a third, and that in these reports Stepmother "exaggerated and mischaracterized [Child's] injuries." *Id.* at 151. GAL Schnitzius also testified Stepmother and Father often mischaracterized Mother and the ongoing court case to others: Stepmother emailed Child's teachers and told them the court ordered supervised visitation due to Mother's

abuse and attached the confidential DCS reports; Father told Child's Girl Scouts leader that Mother had been accused of abuse, resulting in Mother being banned from all activities; and Stepmother falsely told Knapp that Mother had lost legal custody of Child.

[12] Emenhiser also testified as to her observations conducting Mother's supervised parenting time. She testified the visits went well, but she often encountered issues with Father's cooperation. Most notably, she testified Father would not respond to her communications, objected to Mother having visitors during parenting time (such as extended family on Christmas and friends at Child's birthday party), was inflexible with scheduling, told Child she had to wear a mask in Mother's home due to the COVID-19 pandemic, discouraged Child from being physically affectionate with Mother, and had unrealistic expectations of safety. Dr. Sean Samuels, an expert clinical psychologist, testified he conducted a "parental competency evaluation" on Mother and found that while she presented with some anxiety and depression, there was no evidence these would "impair[] [Mother's] ability to discharge her duties as a custodial parent." *Id.* at 237; Ex. Vol. V p. 124.

[13] After the second day of the hearing, the parties filed a joint motion agreeing to submit all pending issues for binding arbitration. Kimberley Mattingly ("the Arbitrator"), the magistrate judge who presided over the first two days of the hearing, agreed to be the family-law arbitrator. The parties met with the Arbitrator in March and, among other procedural matters, agreed to waive the right to record the arbitration proceedings. The Arbitrator took notice of the

two days' worth of testimony and exhibits, and during the proceeding both Mother and Father testified.[6] Mother testified she was requesting full legal and physical custody of Child, as well as legal fees. In support of her motion for rule to show cause, Mother stated Father changed Child's healthcare providers without her knowledge or input. Mother also testified Child recently had a root canal and needed oral surgery because Father neglected to take her to the dentist. Father testified he was seeking full legal and physical custody as well. He stated he believed Child was in danger while in Mother's care.[7]

[14] The Arbitrator then submitted its decision with written findings of fact and conclusions of law to the trial court, which the trial court signed and made an order of the court. The order granted sole legal and physical custody to Mother and granted Father parenting time. However, if Stepmother is present during Father's parenting time then it must be supervised by Neutral Ground Solutions. The order also found Father in contempt "with regard to joint legal custody as he unilaterally changed the parenting time schedule and unilaterally selected or changed [Child's] medical providers." Appellant's App. Vol. II p. 53. Father was also ordered to pay $20,000 of Mother's "attorney[']s fees,

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[6] Because the parties waived their right to record the arbitration proceedings, there is no formal record of this testimony. Instead, for the purposes of appeal, both parties submitted "reconstructed" records of the proceedings. Appellant's App. Vol. III p. 4. The trial court approved these reconstructions and ordered them to be added to the appellate record.

[7] Father's response to the allegations regarding unilateral medical decisions and Child's dental needs are unknown, as he did not include it in his reconstructed testimony.

supervision fees, GAL fees and expert costs and expenses incurred during this case." *Id.* at 57.

[15] Father now appeals.

I. Custody Modification

[16] Father argues the trial court erred in modifying custody. Consistent with statutory mandate, *see* Ind. Code § 34-57-5-7, the Arbitrator made findings of fact and conclusions of law, which were then entered as a judgment by the trial court. On appeal, we will not set aside the findings or judgment unless clearly erroneous, and due regard shall be given to the opportunity of the trial court or family-law arbitrator to judge the credibility of the witnesses. *See Masters v. Masters*, 43 N.E.3d 570, 575 (Ind. 2015). In reviewing findings of fact and conclusions of law, an appellate court applies a two-tiered standard of review by first determining whether the evidence supports the findings and then whether the findings support the judgment. *Id.* Here, Father challenges both the findings and conclusions.

A. Findings of Fact

[17] Father first argues the trial court's findings were "inadequate" for not acknowledging certain evidence, including the effect of the pandemic on the case and how Child's schooling would be affected by modification. Appellant's Br. p. 23. However, although the trial court must consider all relevant factors when making a custody modification, it does not have to make specific findings. *Russell v. Russell*, 682 N.E.2d 513, 515 (Ind. 1997). That the findings do

not touch on every issue important to Father does not make them "inadequate."

[18] Father then challenges a variety of the trial court's findings as clearly erroneous. "Findings of fact are clearly erroneous when the record lacks any evidence or reasonable inferences from the evidence to support them." *Steele-Giri v. Steele*, 51 N.E.3d 119, 125 (Ind. 2016).

[19] Father argues the court's finding "that Father's concerns for [Child's] [s]afety were unfounded" is not supported by the record. Appellant's Br. p. 16. To support this argument, Father cites six findings: Findings 3-6 and 22-23. We first note that none of these findings, nor any of the findings, state that Father's safety concerns were "unfounded." Furthermore, although Father contends all six findings are erroneous, the only finding he challenges with any actual argument is a portion of Finding 4, stating Child's therapist did not "raise a concern about [Child's] safety when she is with Mother." Appellant's App. Vol. II p. 52. We will address only his argument as to this finding, as the rest are waived for lack of cogent argument. *See* Ind. Appellate Rule 46(A)(8)(a) ("The argument must contain the contentions of the appellant on the issues presented, supported by cogent reasoning."). During the final hearing, Knapp, Child's therapist, was asked if she believed Child "is in physical danger in her mother's home?" and Knapp replied, "Not currently." Tr. Vol. II p. 188. This supports the finding that Knapp no longer raises a concern regarding Child's safety with Mother. Father asserts that Knapp raised other concerns about Mother, but this is a request to reweigh evidence, which we do not do.

[20] Father then challenges the portion of Finding 7 stating he failed "to adequately and timely address [Child's] dental needs." Appellant's App. Vol. II p. 52. Father first argues he did not fail to adequately or timely address Child's dental needs. However, there was evidence presented that Child, age eight, underwent oral surgery because Father had not taken her to the dentist quickly enough. Father then argues that even if he "delayed in having [Child] seen by a dentist, it was during the period of supervision and during the Pandemic" and Child was not harmed by this delay. Appellant's Br. p. 38. Both of Father's arguments here are requests to reweigh evidence, which we do not do.

[21] Father also challenges Finding 10, which states he "demonstrated his inability to coparent by choosing new medical providers and changing existing providers without consulting Mother." Appellant's App. Vol. II p. 53. However, he again does not argue this finding is erroneous; rather, he argues he had to choose new providers because Child got new insurance and some of her previous providers had moved or retired. Again, these justifications do not change the fact that he chose new healthcare providers for Child without input from Mother. This is a request to reweigh evidence, which we do not do.

[22] Father next challenges Finding 12. He alleges only one portion of this Finding is erroneous—that he "incorrectly interpreted the Supervisor's guidelines" regarding Mother's supervised visits. *Id.* at 54. But Emenhiser testified there was an ongoing "miscommunication" with Father because he believed "that any visitor had to be agreed upon by both the visiting parent and the non-

visiting parent." Tr. Vol. III p. 16. This supports the finding he misinterpreted the guidelines.

[23] Father finally challenges a portion of Finding 15, which states Stepmother "consent[ed] to a marriage that appeared to be a method for denying Mother additional time with [Child]." Appellant's App. Vol. II p. 55. The record shows Father and Stepmother legally married a week after Mother found out Stepmother and her daughter routinely watched Child without Father present in violation of OAPT. Father and Stepmother married without any prior announcement or engagement period and held a reception that occurred much later in the year. And Mother testified she believed Father and Stepmother married quickly to deny her OAPT. Thus, there is evidence in the record to support the finding that this marriage appeared to be done to prevent Mother's complaint regarding OAPT.

[24] None of the findings challenged by Father is clearly erroneous.

B. Conclusions of Law

[25] Father also challenges whether the findings support the decision to modify custody. "Modification of custody is an area committed to the sound discretion of the trial court, and we are constrained to neither reweigh evidence nor judge the credibility of witnesses." *Albright v. Bogue*, 736 N.E.2d 782, 787 (Ind. Ct. App. 2000). Custody modifications will be reversed "only upon a showing of abuse of discretion, or where the decision is clearly against the logic and effect of the circumstances before the court." *Id.* To modify an existing custody order,

the trial court must find that modification is in the best interests of the child and that there is a substantial change in one or more of the factors to be considered by the court. I.C. § 31-17-2-21. The court is to consider the following factors:

> (1) The age and sex of the child.
>
> (2) The wishes of the child's parent or parents.
>
> (3) The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age.
>
> (4) The interaction and interrelationship of the child with:
>
> > (A) the child's parent or parents;
> >
> > (B) the child's sibling; and
> >
> > (C) any other person who may significantly affect the child's best interests.
>
> (5) The child's adjustment to the child's:
>
> > (A) home;
> >
> > (B) school; and
> >
> > (C) community.
>
> (6) The mental and physical health of all individuals involved.

> (7) Evidence of a pattern of domestic or family violence by either parent.
>
> (8) Evidence that the child has been cared for by a de facto custodian, and if the evidence is sufficient, the court shall consider the factors described in section 8.5(b) of this chapter.
>
> (9) A designation in a power of attorney of:
>
> (A) the child's parent; or
>
> (B) a person found to be a de facto custodian of the child.

I.C. § 31-17-2-8.

[26] Father argues the trial court's order includes "no finding at all of a substantial change in circumstances." Appellant's Br. p. 19.[8] It is true the order does not use the words "substantial change in circumstances" or reference the relevant statute. It would have been the better practice to do so. However, our Supreme Court has not held such explicit findings are required. *See Wilson v. Myers*, 997 N.E.2d 338, 341 (Ind. 2013) (noting where the trial court modified custody without mentioning best interests or a substantial change in circumstances, that it is unclear "whether such explicit findings are required or not"); *In re Paternity*

[8] In his reply brief, Father also argues the trial court's order did not make an explicit finding as to best interests. However, because he did not assert this in his original brief, he has waived that argument for our review. *Showley v. Kelsey*, 991 N.E.2d 1017, 1021 n.2 (Ind. Ct. App. 2013) ("[I]t is well settled that grounds for error may only be framed in an appellant's initial brief and if addressed for the first time in the reply brief, they are waived."), *trans. denied*.

of P.R., 940 N.E.2d 346, 351 (Ind. Ct. App. 2010) (although the trial court's findings did "not explicitly determine that the change in custody was in the best interests of the children," this Court affirmed because it was clear from the findings that the trial court had nonetheless made that determination). And here, the order's findings clearly show a substantial change in circumstances.

[27] The order's findings note that, in the months leading up to Mother's final motion to modify custody, Mother had been accused of child abuse or neglect by Father, an emergency hearing was held, Mother's visitation was ordered supervised, and a parenting coordinator, GAL, expert clinical psychologist, and DCS have all since been involved with Mother and Child. None of the entities has reported Mother is a danger to Child, yet Father continues to insist that Child is not safe with Mother. Father also unilaterally changed the parties' previous custody schedule. This is a major change in circumstances from the spring of 2019, when, by all accounts, the parties were amicably co-parenting and each had custody of Child approximately half the time. *See Hanson v. Spolnik*, 685 N.E.2d 71, 78 (Ind. Ct. App. 1997) (finding substantial change in circumstances where the mother made repeated allegations that the father was sexually abusing the child, all of which were unsubstantiated, and the parents could not communicate with each other), *trans. denied*. And both Parents asserted to the court there had been a substantial change in circumstances. *See* Appellant's App. Vol. II pp. 97-99 (Father's November 2020 Verified Petition for Modification of Legal Custody), 100-01 (Mother's December 2020 Verified Petition for Modification of Custody and Parenting Time).

[28] The trial court did not err in modifying physical custody of Child.

II. Supervised Parenting Time

[29] Father next argues the trial court should not have ordered his parenting time to be supervised when Stepmother is included. When we review a trial court's determination of a parenting-time issue, we reverse only when the court manifestly abused its discretion. *J.M. v. N.M.*, 844 N.E.2d 590, 599 (Ind. Ct. App. 2006), *trans. denied*. A trial court abuses its discretion when its decision is clearly against the logic and effect of the facts and circumstances before the court. *Hatmaker v. Hatmaker*, 998 N.E.2d 758, 760 (Ind. Ct. App. 2013).

[30] The trial court ordered Father's parenting time to be supervised when Stepmother is included to "prevent [Child] from suffering additional emotional harm." Appellant's App. Vol. II p. 55. To support this conclusion, the trial court found the following:

> 14. After review of the GAL's report and recommendations, the Arbitrator has grave concerns about the influence of [Stepmother] on [Child] and her relationship with Mother. A review of the parties' communications prior to Father's involvement with [Stepmother] and after show a marked change in Father's tone and ability to work with Mother after he became involved with [Stepmother].
>
> 15. Examples of [Stepmother's] concerning behavior are her calls to [DCS] about injuries suffered during Mother's parenting time, consenting to a marriage that appeared to be a method for denying Mother additional time with [Child], delivering a notebook of photos and [DCS] reports to [Child's] doctor,

> insisting that [Child] call her "Mamma," the appearance that she is overly-involved in completion [of Child's] school work (she was overheard in a video presentation prompting [Child] constantly and teachers noted that [Child] needs to complete her work herself), communicating with the school and other entities involved in [Child's] life and omitting Mother, and pointedly calling [Child] a liar in a joint Zoom call with Mother, [Child], Father and [Stepmother] all participating.

Id.

[31] A trial court may impose restrictions, such as supervision, on parenting time where it makes a finding that the parenting time without the restriction would "endanger the child's physical health or emotional development." *Hatmaker*, 998 N.E.2d at 761. And here, the trial court found a deviation from typical parenting time was needed to protect Child from the emotional harm of Stepmother's behavior. This is supported by the record, including the GAL's conclusion that Stepmother impedes the relationship between Child and Mother. *See Lasater v. Lasater*, 809 N.E.2d 380, 402 (Ind. Ct. App. 2004) (trial court did not abuse its discretion in ordering a mother's visitation supervised where her animosity toward the child's father posed a risk of emotional harm to the child). Father points to evidence that Child and Stepmother had a positive relationship, but this is a request to reweigh evidence, which we do not do.

[32] As such, the trial court did not abuse its discretion in ordering Father's parenting time to be supervised when Stepmother is present.

III. Calling Law Enforcement

[33] Father then argues the trial court abused its discretion in issuing Finding 22, which states,

> The Arbitrator noted at the end of the March 2, 2021 session that no one should involve law enforcement in their disputes in the future. Father and [Stepmother's] repeated calls to law enforcement were completely unnecessary and have caused [Child] to fear both police and firefighters.

Appellant's App. Vol. II p. 56.

[34] Father argues the trial court abused its discretion because this prohibits him from reporting "suspected abuse." Appellant's Br. p. 34. But we do not interpret this finding to do so. The finding states, "no one **should** involve law enforcement in **their** disputes." (Emphases added). Rather than a blanket prohibition against calling law enforcement for legitimate criminal concerns, we see this more as a reminder to the parties to not use law enforcement to solve civil custody disputes between the adult parties. Notably, two of the three times Father called police were not because Father suspected abuse but because: (1) Mother showed up to collect Child an hour early and allegedly entered his garage without permission and (2) Child did not answer her phone during parenting time with Mother. The third time police were involved was during Child's trip to the emergency room, in which Father demanded police be called even though Child complained of no pain and had only "incredibly benign lesions." As such, the record supports that these calls were "unnecessary," and

the trial court's instruction that parties avoid these situations is not an abuse of discretion.

IV. Contempt

[35] Father next argues the trial court erred in finding him in contempt. The trial court found Father in contempt "with regard to joint legal custody as he unilaterally changed the parenting time schedule and unilaterally selected or changed . . . Child's medical providers." Appellant's App. Vol. II p. 53. Father argues his actions "do not support a finding of contempt." Appellant's Reply Br. p. 21.

[36] Indiana Code section 34-47-3-1 provides,

> A person who is guilty of any willful disobedience of any process, or any order lawfully issued:
>
> > (1) by any court of record, or by the proper officer of the court;
> >
> > (2) under the authority of law, or the direction of the court; and
> >
> > (3) after the process or order has been served upon the person;
>
> is guilty of an indirect contempt of the court that issued the process or order.

Consistent with this statutory provision, our courts have long held that indirect contempt is the willful disobedience of any lawfully entered court order of which the offender has notice. *Swadner v. Swadner*, 897 N.E.2d 966, 972 (Ind. Ct. App. 2008). "[C]ontempt of court involves disobedience of a court which undermines the court's authority, justice, and dignity." *Id*.

[37] The trial court first found Father in contempt for unilaterally changing the parenting-time schedule. It is undisputed that, after Parents' divorce, they initially maintained a schedule giving them each physical custody approximately half the time. And then, in late 2019, Father refused to abide by this schedule and instead insisted Mother receive only the parenting time afforded to her under the Parenting Time Guidelines. However, the divorce decree seemingly allowed both of these schedules, as it stated both that the parties would have joint physical custody and that Mother would have parenting time as laid out in the guidelines. Given this ambiguity, Father cannot be held in contempt for unilaterally changing the parenting-time schedule. *See id.* at 973 ("A party may not be held in contempt for failing to comply with an ambiguous or indefinite order." (citation omitted)).

[38] But the trial court also found Father in contempt for unilaterally changing Child's healthcare providers. Here, the parties had joint legal custody of Child. Under Indiana Code section 31-9-2-67, the parties must have shared "authority and responsibility for the major decisions concerning the child's upbringing, including the child's education, health care, and religious training." The trial court found Father unilaterally changed Child healthcare providers without

notice or input from Mother. This is sufficient to find him in contempt. *See Steele-Giri*, 51 N.E.3d at 129 (noting the father's unilateral decision to enroll the child in summer school without involving the mother could have supported a finding of contempt).

V. Fees

[39] Finally, Father contends the trial court erred by ordering him to pay $20,000 of Mother fees. Indiana Code section 31-17-7-1(a) provides that the trial court "may order a party to pay a reasonable amount for the cost to the other party of maintaining or defending any proceeding [in a child-custody action]." While this includes fees for attorneys, "the trial court has broad discretion to award other types of fees associated with maintaining or defending the action." *Pitcavage v. Pitcavage*, 11 N.E.3d 547, 567 (Ind. Ct. App. 2014), *reh'g denied*. Reversal is proper only where the trial court's award is clearly against the logic and effect of the facts and circumstances before the court. *Julie C. v. Andrew C.*, 924 N.E.2d 1249, 1261 (Ind. Ct. App. 2010). In assessing fees, the trial court may consider such factors as the resources of the parties, the relative earning ability of the parties, and other factors bearing on the reasonableness of the award. *Id.* Any misconduct by a party that directly results in the other party incurring additional fees may be considered. *Id.*

[40] Here, the trial court found the following:

> Father shall reimburse Mother $20,000 of her attorney[']s] fees, supervision fees, GAL fees and expert costs and expenses incurred during this case. While the Arbitrator shared Father's

> initial concern related to unexplained injuries suffered by [Child,] Father's behavior and his failure to limit or control his wife's behavior led to Mother expending unnecessary sums to resolve these issues. While divorced parents can expect some legal fees throughout the years before their children reach the age of emancipation, Mother should not have had to incur extensive litigation costs after the various investigations failed to validate Father's concerns.

Appellant's App. Vol. II p. 57.

[41] Father argues his concerns regarding Child's safety with Mother were supported by the record, so much so that the trial court had the "same concerns" and ordered supervised parenting time, and it was therefore an abuse of discretion to now punish him for those concerns. Appellant's Br. p. 45. We disagree.

[42] Father and Stepmother's actions clearly caused Mother to incur extensive costs. While the trial court did have concerns regarding Child's safety with Mother, these concerns stemmed from Father and Stepmother's allegations—their photographs, testimony, statements made to Child's therapist—and the fact that four DCS reports had been made. At least three of the DCS reports can be traced back to Stepmother, which was unknown to the trial court at the time. Father also appeared to have caused the fourth report to be made, when he took Child to the emergency room—where she presented with no pain and "incredibly benign lesions"—and insisted the police be called. All four of these reports were unsubstantiated. GAL Schnitzius reported these claims by Father and Stepmother were exaggerated and that they mischaracterized Mother and

the custody case. These exaggerations and mischaracterizations not only harmed the relationship between Mother and Child but also forced Mother to incur the expense of over a year of litigation and six months of supervised visitation, as well as hiring a parenting coordinator, GAL, and expert clinical psychologist, all to refute Father and Stepmother's claims.

[43] The trial court did not abuse its discretion in awarding Mother legal fees.

[44] Affirmed.

May, J., and Molter, J., concur.