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GREENE COUNTY, OHIO
FILED

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TERRI A. MAZUR, CLERK
COMMON PLEAS COURT
GREENE COUNTY, OHIO

IN THE COMMON PLEAS COURT OF GREENE COUNTY, OHIO
DOMESTIC RELATIONS DIVISION

QUENTIN DURSTEIN	:	CASE NO. 02DR207
	:	
Plaintiff,	:	Judge Steven L. Hurley
	:	
-vs-	:	
	:	
	:	
	:	Judgment Entry Finding
MARIE DURSTEIN	:	Technical Default and
Nka Tuttle	:	Order to Prepare Cost
Defendant.	:	Summary
	:	

This matter is before the Court upon the Plaintiff's contempt motions filed on April 5, 2007 and June 20, 2007. A hearing was held on August 16, 2007. Both parties appeared and were represented. David McNamee appeared for the Plaintiff and the Defendant was represented by Richard P. Arthur.

Branches one, four, and five of the Plaintiff's April 5, 2007 contempt motion were withdrawn. Branch two requests the Defendant be found in contempt for her failure to notify the Plaintiff that she moved and her failure to provide him with her new address. The motion is **OVERRULED**. The Defendant was ordered to notify CSEA of any

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address changes and she did so. The Defendant was not under a court order to notify the Plaintiff.

Branch three is also **OVERRULED**. The Plaintiff is requested the Defendant be found in contempt for being outside of the house when he picks the children up "curbside" for parenting time. The Court does not have enough information before it to warrant a contempt finding. It is the Plaintiff's burden to prove the Defendant's contempt and he failed to meet the burden.

Plaintiff's June 20, 2007 Show Cause Motion is also requesting the Defendant be found in willful contempt for denying the Plaintiff parenting time on May 17, 2007 through May 20, 2007 and for failing to pay her 50% portion of the children's uninsured medical expenses, for her failure to take the children to their scheduled activities and for not signing one of the children up for soccer.

The Court finds the Defendant is technically in default for failing to pay her portion of the children's medical expenses but the Plaintiff's accusation regarding the medical expenses do not rise to the level of contempt. The Court finds from the evidence presented the Defendant owes the Plaintiff **\$37.85**. This amount was arrived at by deducting Dr. Williams' out of network services and the October 6, 2006 eye care expense that should have been submitted to Care Source. The Defendant will pay the \$37.85 through the Plaintiff's attorney **forthwith**.

The Court finds the Plaintiff is taking the children to an out of network medical provider. The Court agrees the Plaintiff has the right to take the children to any medical provider he chooses but it also finds any amount owed over the amount the children's medical insurance would cover for a network provider is the Plaintiff's sole financial

responsibility. The Defendant is responsible for 50% of the uninsured medical expenses owed to a **network provider**. The Court finds it is equitable to order the Defendant to pay 50% of the uninsured expense **after** the Plaintiff presents credible evidence to prove the amounts the Defendant would pay if a network provider had been used to provide the medical services.

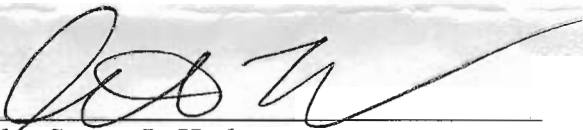
The Plaintiff is **ORDERED** to prepare an expense summary of the amounts the Defendant would owe to a network provider and present the summary to the Defendant's attorney within fourteen (14) days of this entry's time-stamped date. The Defendant will then have Sixty (60) days from the date she receives the summary to reimburse the Plaintiff for her share of the out of pocket medical expenses.

The Plaintiff is not permitted to include in the summary any medical services obtained **after** the June 20, 2007 motion was filed. Further, the Court will not consider the Plaintiff's request for reimbursement for the Wal-Mart eye exam that took place on October 7, 2006. The expense would have been fully covered had the Plaintiff submitted it to the children's medical insurance provider. The children were covered by Care Source during that period and the Plaintiff did not use the insurance. The Court finds it is not in the children's best interest to order the Defendant to take necessary funds out of the household that could be used their food, clothing, and shelter to reimburse the Plaintiff for a fully covered medical expense.

The Plaintiff's motion to find the Defendant in contempt for failing to provide parenting time from May 17, 2007 through May 20, 2007 is **OVERRULED**. The children were protected parties under a Montgomery County protection order during that time. The protection order denied the parenting time, the Defendant did not.

The Plaintiff's contempt motion for the Defendant's failure to register the minor child for soccer is **OVERRULED**. The Defendant was not given enough time to sign the child up. The Plaintiff's motion for contempt for failing to take the children to their scheduled activities is also **OVERRULED**. The evidence failed to prove the Defendant willfully and knowingly withheld the children from any activities. Each party will be solely responsible for any fees or costs incurred to prosecute his or her case. Since there is no need for further delay, this may be a **FINAL APPEALABLE ORDER**.

SO ORDERED.



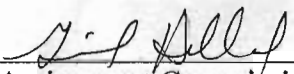
Judge Steven L. Hurley

Service of Copy Upon:

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DR Court/ Denise Unger



Clerk or Assignment Commissioner

08-01-1850