

COURT OF COMMON PLEAS
DOMESTIC RELATIONS DIVISION
HAMILTON COUNTY, OHIO

[REDACTED]

Plaintiff,

vs.

[REDACTED] JOESEPH [REDACTED]

Defendant.

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[REDACTED]

JUDGE
MAGIS

[REDACTED]

PLAINTIFF'S WRITTEN CLOSING
ARGUMENT

This matter came before the Court on September 8, 25, and 30, 2025 on the following motions: 1) Defendant's ("Father") Verified Motion for Contempt file February 28, 2025; 2) Father's Motion for Make-Up Time, filed April 11, 2025; 3) Plaintiff's ("Mother") Motion for Contempt filed June 5, 2025; 4) Father's Motion to Modify Parenting Time, filed June 25, 2025; 5) Father's Motion to Enforce Parenting Time, Motion for Contempt and Motion for Fees filed July 29, 2025; 6) Mother's Motion to Modify Parenting Time and Motion for Temporary Order filed August 26, 2025; and 7) Father's Motion to Dismiss, Motion for Attorney Fees, and Motion for Sanctions, filed August 27, 2025.

The evidence presented at trial and the relevant case law supports the following:

1) Father's Verified Motion for Contempt, filed February 28, 2025 and Motion for Make-Up Time, filed April 11, 2025:

Father's above referenced motions must fail because Father is not entitled to the time he is alleging Mother withheld, and because Mother did not violate an order of the court and is not in contempt, Father is not be entitled to compensatory parenting time, as R.C. [REDACTED] allows the Court to award such time when a parent is found in

contempt. Both of Father's motions hinge on the question of whether the school year parenting time schedule contained in the Magistrate's Decision of August 15, 2022 (Decision") is effective for all school years or only for the [REDACTED] school year.

The Decision states that "unless parents mutually agree otherwise, they shall adhere to the following schedule for the school year beginning immediately" before setting forth the school year parenting time schedule. Decision, pg. 25. It does not state that this revised schedule is temporary for any particular school year or that it expires on any certain date or event upon the conclusion of a particular school year. Interpreting the order any other way ignores its plain language and reads a term into it which simply is not there.

At trial, Father testified as to the schedule he believes that the Decision entitles him to, but also testified that the order is unclear and that this lack of clarity has led to conflict between him and Mother. An order that is indefinite or uncertain in its meaning cannot be enforced in contempt. In re Ayer, 119 Ohio App.3d 571, 576, 695 N.E.2d 1180 (1st [REDACTED] State ex rel. Cincinnati Enquirer v. [REDACTED] [REDACTED] 3 N.E.3d 179, ¶ 25. If a contempt charge is premised on a party's failure to obey an order of the court, then the order must be clear and definite, unambiguous, and not subject to dual interpretations. Hurst v. Hurst, 5th Dist. Licking No. [REDACTED] 2013-[REDACTED] 2013 WL 3280021, ¶ 53; Perkins v. Gorski, 8th Dist. Cuyahoga No. 98478, [REDACTED] 2013 WL [REDACTED] Mother and finds the school year schedule to be unclear, Father's motions still must fail as by his own admission, the meaning of the order is uncertain.

Father's requests for make-up parenting time contained in his 02/28/25 Motion and his 04/11/25 Motion must similarly be denied because 1) Father is not entitled to "make up time" when he the Decision did not entitle him to the time he complains he was deprived of, and 2) because granting Father make up time would not be in the child's best interest.

R.C. [REDACTED] allows the Court to award reasonable compensatory parenting time or visitation, if such compensatory parenting time or visitation is in the best interest of the child." R.C. [REDACTED] Granting Father compensatory visitation as requested in his 02/28/25 Motion and his 04/11/25 Motion would not be in the child's best interest for the reason set forth in Section 3 below.

2) Mother's Motion for Contempt filed June 5, 2025:

The evidence established that on Wednesday, May 28, 2025, [REDACTED] had an appointment scheduled with her therapist at 4:00 p.m., during Father's parenting time. Father was aware of the appointment because Mother informed him of it. **Exhibit 12, pg. 11.** The Decision states in relevant part that the parents "shall cooperate with [REDACTED] therapeutic services and follow the recommendations of Ms. [REDACTED] therapist]." Decision, pg. 25. Despite the clear language of the Decision, Father refused to take [REDACTED] to her appointment. Therefore, Mother's motion should be granted, and Father should be held in contempt and ordered to pay Mother for the filing fee associated with her motion.

3) Mother's Motion to Modify and Father's Motion to Modify:

Mother has asked the Court to further reduce Father's parenting time to be supervised, with a goal of building back to a schedule of every other weekend and one

evening every other week. Father has asked the Court to increase his parenting time to a “2-2-5” schedule. The evidence supports Father’s motion being denied and Mother’s motion being granted as it is in the best interest of the child to do so.

In 2022, Father’s parenting time was modified. The evidence established that since 2022, things improved for a little while, but that at present, the child’s relationship with Father is worse now than it ever was and that this breakdown in Father and the child’s relationship is due to Father’s actions. Even more concerning is the fact that Father took zero responsibility for his own actions that led to this decline in the child’s mental health and this breakdown in her relationship with Father, instead blaming Mother, the child’s therapist, and his ex-girlfriend for any issues in his relationship with

██████████ was diagnosed with post traumatic stress disorder (“PTSD”) and separation anxiety disorder in January, 2022. ██████████ PTSD is a result of Father’s past actions, including engaging in acts of domestic violence against past paramours in front of the child. **Exhibit 20, pg. 27.** Father has been aware of this diagnosis and the cause thereof for years, as evidenced by the Magistrate’s Decision of August 15, 2022. Despite this, in the summer of 2025, Father began a new relationship with ██████████ (“Ms. ██████████ almost immediately moved her into his home and introduced her to ██████████ and then repeatedly exposed ██████████ to conflict and violence between himself and Ms. ██████████

Father denied exposing ██████████ to this unhealthy environment, but the overwhelming evidence supports the finding that this violence and conflict did occur in front of the child, and that Father was simply not honest about it. ██████████ told her

therapist on July 10, 2025 that Father had frequently been angry, yelling, and being mean to Ms. [REDACTED] that she was experiencing stress and anxiety as a result of this behavior, and that she was afraid for both herself and Ms. [REDACTED] **Exhibit 21.** On July 19, 2025, [REDACTED] told her therapist that during her last visit with her father she had witnessed a disturbing fight between Father and Ms. [REDACTED] which lasted for hours, and which was so concerning and upsetting that she cried and debated calling the police. **Exhibit 22.** [REDACTED] was so afraid of Father, that she did not follow through on her attempt to seek help from Mother. **Exhibit 22, pg. 2; Exhibit 17.**

Ms. [REDACTED] testified that Father was angry and violent towards her and that she was afraid of Father. Ms. [REDACTED] testimony on this point was consistent with her emails to Father sent on July 23, 2025 and July 25, 2025, and with her texts to the minor child sent in early July, 2025. **Exhibit 23; Exhibit 24; Exhibit 25.** Notably, these emails and texts were all sent before Mother filed anything to restrict Father's time or made Father aware of her concerns. Ms. [REDACTED] testified that Father was physically violent with her in front of [REDACTED] and that she and Father engaged in loud arguments in front of [REDACTED]

This testimony was consistent with accusations in Ms. [REDACTED] prior emails to Father. **Exhibit 24; Exhibit 25.** It was also consistent with the child's statements to her therapist and to Mother, and with Mother's observations of behavioral changes in the child. Mother testified that in July, 2025 the child was tearful, emotional, clingy, and visibly upset on multiple occasions when she picked her up from her father's at the end of his parenting time.

The evidence established that Father has also directed his anger at the minor child. Ms. [REDACTED] testified to a concerning story about Father becoming angry at the

smell of the snack [REDACTED] was eating in his car, expressing his anger in a manner that caused [REDACTED] to cry. Ms. [REDACTED] email to Father of July 25, 2025, references this same incident. **Exhibit 25, pg. 9.** The child has reported to her therapist for years that Father has spanked, hit, and smacked her while angry, and that he angers very easily. **Exhibit 20, pg. 42; Exhibit 22.**

When considering Ms. [REDACTED] credibility, the Court should consider the timing of much of the evidence presented, as it simply does not fit Father's narrative that Ms. [REDACTED] made everything up to hurt Father after they broke up. The evidence shows that Ms. [REDACTED] began expressing a fear of Father and his anger well before Mother had filed anything to restrict Father's time or made Father aware of her concerns. [REDACTED] also began telling her therapist as early as July 10, 2025, that Father had frequently been angry, yelling, and being mean to Ms. [REDACTED] and that she was afraid for herself and for Ms. [REDACTED]. **Exhibit 21.**

It is also important to note that Ms. [REDACTED] was forthcoming in her testimony that she had previously not been honest when she testified to certain events in the proceedings on Mother's Petition for Domestic Violence Civil Protection Order, and that multiple emails between Father and Ms. [REDACTED] supported Ms. [REDACTED] assertion that Father threatened her to compel her testify dishonestly in those proceedings. **Exhibit 25, pg. 2, 5, 7, 12; Exhibit 27.**

Finally, even in the emails where Ms. [REDACTED] threatens Father to tell the Court about his behavior, she repeatedly references the fact that the negative things she has to share about Father are in fact true. For example, in Father's Exhibit X, Ms. [REDACTED] in part states "all that's going to do is make the truth come out" and "the difference

between me and you is my stuff is all true". **Exhibit X.** In other messages Ms. [REDACTED] states that "I think you're just afraid for others to know what you do" and in others, references going to "Hamilton County" and numerous other people and being honest, stating "you're afraid of me being honest" and "You're only going to make it worse on yourself by continuing to act like I'm in the wrong for standing up for myself, asking you not to hurt me (especially in front of your kid)." **Exhibit Y, pg. 4.; Exhibit AA.**

Ultimately regardless of whether the Court believes Ms. [REDACTED] the evidence established that by his on admission, Father brought an individual into the child's life and acted in a manner that caused the child great stress and anxiety, that Father allowed this situation to continue for months, and that when Mother intervened to protect the child, rather than acknowledging the incredibly negative impact of his behavior on the child, Father discounted the child's feelings and blamed Mother for the situation he created. Given the evidence presented, it is really alarming that Father sees himself as the victim in this situation.

This poor judgment on Father's part and its destructive impact on [REDACTED] is part of an unfortunate pattern conduct that has negatively impacted the child for years, which Father apparently just does not see. [REDACTED] ("Ms. [REDACTED] the child's therapist, has prepared multiple detailed reports documenting what the child has shared in therapy and how Father's behavior impacts the child. **Exhibit 20.** Ms. [REDACTED] has shared these reports with Father and has made specific recommendations to Father for things he can do to help the child for years. **Exhibit 20, pg. 36, 38.** She testified and the child's reports established that Father has simply not followed these recommendations.

Not only does Father not follow the recommendations of the child's therapist, he also actively interferes in her treatment. Father tells the child not to share with her mother or her therapist about things that occur at his house because he will have less time with her if she does. **Exhibit 20, pg. 19, 25.** For the past two summers, Father has refused to accommodate the child's regularly scheduled therapy appointments, forcing the child to miss appointments, demanding that Mother move the appointments to her own time, and calling the therapist all sorts of inappropriate names to justify his behavior. **Exhibits 13, 14, 15, and 16.**

Father regularly involves the child in conflict between him and Mother as well and again did not seem to comprehend or care that in doing so he causes the child anxiety and distress. The child routinely reports that Father speaks poorly of Mother to her, calling Mother things like "psychopath" and "lazy." **Exhibit 20, pg. 43.** Father has shared his negative opinion of Ms. [REDACTED] with the child, telling her that her mother is abusing her by forcing her to see a criminal therapist. **Exhibit 20, pg. 45.** In February and March, 2025, when the parties disagreed about the controlling schedule for routine parenting time, Father also texted the child and told her that her Mother was not letting him see her for their normal time. **Exhibit 9.**

Ms. [REDACTED] testified that Father is still the sole source of [REDACTED] anxiety and that [REDACTED] is afraid of her father. She testified to a severe decline in [REDACTED] mental health in the summer of 2025, which coincided with Mother's observations of the child experiencing distress after her parenting time with Father, and with [REDACTED] reports to her Mother and Ms. [REDACTED] of witnessing violence and arguing between Father and Ms. [REDACTED]

█████ Father admitted that even though █████ herself literally told her therapist that she is afraid of Father, that he did not believe the child.

Father's mental health is concerning. Ms. █████ testified that Father threatened to commit suicide on multiple occasions, once putting the barrel of a gun in his mouth in front of her. Father's email to Ms. █████ on July 25, 2025 supports this testimony. In it he states "Tell █████ her daddy loves her and I'm sorry. Tell her she's amazing and will have a wonderful life." Father admitted he wrote this message and did not offer any explanation as to why he would be making these statements to Ms. █████ if he wasn't implying that he was going to kill himself. Father's long history of abuse of his significant others as reported by the child, also suggests that Father has unresolved mental health and/or anger issues. Additionally, Father's view of reality and his relationship with his daughter raises concerns as to his mental health in that, Father's apparent reality simply does not match the overwhelming evidence presented.

In addition to the plethora of evidence presented which supports the finding that Father is an active danger to the mental health and the safety of the child, the evidence established that Father's requested modifications to the parenting time schedule are simply not feasible for the child or for Father himself. Mother and Father live approximately 40 to 50 minutes from each other. █████ attends school in Mother's district, specifically Maderia. Her school starts at 7:15 a.m. Father lives 40 to 50 minutes from █████ school.

Father testified that he works three days a week on Monday, Wednesday, and Friday, but the evidence showed that in December, 2024 through February, 2025, Father was working different hours than those he testified to and that his hours did

interfere with his ability to exercise parenting time and his ability to get the minor child to school at an appropriate time. **Exhibit 4, Exhibit 6, Exhibit 7.** The evidence showed that Father's solution to his own lack of availability was to rely on the woman he was dating to meet his obligations for parenting and transportation, or to demand that Mother accommodate his ever-changing schedule by changing the parenting time schedule at his demand. Subjecting the minor child, who struggles with uncertainty in the schedule and transitions, to a constantly changing schedule is not in her best interest.

Father's actions and his testimony demonstrated a complete and total lack of understanding of [REDACTED] needs, the mental health struggles that [REDACTED] is facing, and of the impact of his behavior on [REDACTED]. It is concerning that even after years of hearing the child's reports of her fears of Father and knowing that his child was diagnosed with PTSD, Father still acts in a manner that actively retraumatizes the child, accepts no responsibility for his relationship [REDACTED] denies her feelings and concerns, and sees himself as the victim. It is clear from the evidence presented that without this Court issuing an order reducing Father's time to protect the child, that Father's behavior will continue and that the child will continue to suffer. Ultimately, the evidence established that a reduction in Father's parenting time is only in the best interest of the child, but that it is also necessary to protect the child's health, safety, and wellbeing from Father.

3) Father's Motion for Contempt and To Enforce Parenting Time, filed on July 29, 2025:

Mother does not dispute that from July 25, 2025 through the hearing, she withheld the minor child, with the exception of the weekend of August 22, 23, and 24, 2025. However, when a residential parent has a reasonable, good faith belief that compliance with an order would jeopardize the safety of the child, that constitutes a

defense to an action for contempt. In re E.J.M., 1st Dist. No. [REDACTED]

¶ 21. Also, the exclusion of a child from a protective order is not dispositive of the reasonableness of a parent's belief that they must deny time to protect a child. In re E.J.M. at 24.

Father's Motion for Contempt should be denied as Mother had a reasonable, good faith belief that it was necessary to deny Father visitation to protect the safety of [REDACTED]. The evidence established [REDACTED] has already spent years in therapy and been diagnosed with multiple disorders due to the things that Father has done to her and exposed her to. The child has reported in the past that Father has been physically violent towards the child herself, and that she is afraid of Father.

Mother only began withholding [REDACTED] after the child reported to both Mother and her therapist that she was increasingly afraid of Father and that she had again witnessed violence and conflict between Father and his girlfriend on multiple occasions. Both Mother and the child's therapist observed the child exhibiting signs of severe distress when recounting the events she had witnesses during Father's parenting time. Ms. [REDACTED] also testified that she observed a significant decline in the child's mental health, coinciding with the child reports of Father's actions to Mother and the therapist.

Mother testified that when she was unsuccessful in obtaining a Protection Order on behalf of the child, she did facilitate Father's time for a weekend, but that that child again returned to her distraught, reporting concerning things. In the middle of the period in which Mother withheld the child, she also learned from Ms. [REDACTED] that Father himself had threatened suicide on multiple occasions, even going so far as to take a gun and put the barrel in his mouth.

These facts go beyond the child experiencing mere anxiety or discomfort during Father's parenting time. Given the history of this case, and the things being reported to Mother, it was reasonable for her to believe that complying with the order for visitation would endanger the child. Mother should not be penalized for taking action to protect the child from further danger and trauma. Father's motion should be denied.

4) Father's Motion to Dismiss, Motion for Attorney Fees, and Motion for Sanctions, filed August 27, 2025.

Father's motion is not supported by law or fact and should be denied. Father fails to cite to any rule of procedure, local rule, statute, or case law in Ohio dictating that a court should summarily dismiss a motion pertaining to the modification of parenting time, due to one parties' opinion of the credibility of a witness. This is because no such authority exists. Similarly, the authorities' Father vaguely cites to in his motion do not support the proposition that a party and/or their counsel should be sanctioned for relying in part on a witness who the other party believes not to be credible.

The credibility of a witness is a matter for the trier of fact to determine. State v. Reg., [REDACTED] 260 N.E.3d 1166, ¶ 33, (8th Dist.). Father's personal opinion of Ms. [REDACTED] credibility is not determinative of the issue, and it certainly isn't grounds to sanction the other party because they hold an opinion different than Fathers. The communications between Father and the emails he himself wrote support much of Ms. [REDACTED] testimony. Father admitted he wrote an email in which he instructs Ms. [REDACTED] his intended witness, with what he "came up with" for her to testify to. **Exhibit 27.** Father admitted that his email outlining Ms. [REDACTED] testimony contained statements that were not true, such as the statement that him and Ms. [REDACTED] no longer live at the same residence, when in fact they still did live together.

Father also threatened Ms. [REDACTED] to try to keep her from testifying against him in this matter, after Ms. [REDACTED] had already testified on his behalf. **Exhibit Y, pg. 3.** If Father threatened Ms. [REDACTED] to impact her testimony once, it is logical to believe that he threatened her before she first testified, as Ms. [REDACTED] claimed he did. Ms. [REDACTED] emails with Father of July 25, 2025 also support her statements on this point as in them, she makes multiple references to him telling her that she needed to lie in court, under oath, and referenced Father threatening her, stating "And then tell me to lie or else?" **Exhibit 25, pg. 2, 5, 7, 12.** Father was dismissive of Ms. [REDACTED] accusations in her emails of the 25th, but four days later on July 29th, he then coached Ms. [REDACTED] on what he wanted her to testify to, providing Mother's filing to Ms. [REDACTED] and outlining the testimony he wanted her to present. **Exhibit 27.**

Ultimately, in order to find that Mother filed a baseless and/or frivolous motions warranting sanctions as Father requested, Father would have needed to prove that there was no evidence supporting Mother's motion and that she knew of this when she filed her motion. Not only did Father fail to prove this, but a preponderance the evidence presented actually established that Father engaged in the exact conduct Ms. [REDACTED] accused him of, that he repeatedly tampered with a witness and threatened them so as to impact their testimony, and when that didn't work, he then attempted to intimidate Mother by filing a baseless motion. Therefore, Fathers motion of August 27, 2025 should be denied in its entirety.

Respectfully submitted

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CERTIFICATE OF SERVICE

I hereby certify that the foregoing Closing Argument has been served upon
[REDACTED]
day of October, 2025.

[REDACTED] _____
Attorney for Plaintiff