

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

THEODORE J. TRAMMEL,	:	APPEAL NO. C-070065
	:	TRIAL NO. DR-9902756
Plaintiff-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
LINDA A. TRAMMEL MOELLER,	:	
	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court.¹

Theodore Trammel and Linda Trammel Moeller were divorced in 2001. On April 25, 2006, Moeller filed a motion to show cause and a motion for attorney fees, alleging that Trammel, in violation of a shared-parenting agreement, had interfered with her parenting time, had failed to notify her about doctors' appointments, had failed to notify her about health-care treatment, and had failed to reimburse her for tax liabilities. A hearing date of October 24, 2006, was set. The parties attended mediation, which failed. At the October 24 hearing, Trammel moved for a continuance to obtain counsel. The magistrate denied the continuance. The magistrate found Trammel in contempt and ordered him to pay attorney fees to Moeller. The trial court overruled Trammel's

¹ See S.Ct.R.Rep.Op. 3(A), App.R. 11.1(E), and Loc.R. 12.

objections to the magistrate's decision and affirmed the contempt finding and the award of attorney fees. Trammel has appealed.

The first assignment of error alleges that the trial court erred in denying Trammel's motion for a continuance. Trammel argues that the court's denial of his motion deprived him of his right to counsel.

The trial court has broad discretion in ruling on a motion for a continuance.² The denial of a motion for a continuance will be reversed only for an abuse of the court's discretion.³

In overruling Trammel's objections to the magistrate's decision, the trial court stated that Trammel had had ample opportunity to obtain counsel. The court noted that the fact that Trammel had not done so prior to the hearing "was indicative that the motion for continuance was made for the purpose of delay." The record shows that the parties signed an agreed order, entered July 26, 2006, setting the case for hearing on October 24, 2006. The record supports the trial court's finding that Trammel had had sufficient time to retain counsel prior to the date of the hearing. We hold that the trial court did not abuse its discretion in denying the motion for a continuance. The first assignment of error is overruled.

The second assignment of error, alleging that the contempt finding was based upon insufficient evidence and against the manifest weight of the evidence, is overruled.

² See *State v. Unger* (1981), 67 Ohio St.2d 65, 423 N.E.2d 1078; *Tener v. Tener-Tucker*, 12th Dist. No. CA2004-05-061, 2005-Ohio-3892.

³ See *id.*

OHIO FIRST DISTRICT COURT OF APPEALS

The record supports the trial court's determination that contempt had been established by clear and convincing evidence.⁴

The third assignment of error, which alleges that the trial court erred in ordering Trammel to pay "excessive" attorney fees, is overruled. Moeller's counsel submitted an affidavit in support of the amount of fees awarded. Counsel also testified at the contempt hearing about the reasonableness and necessity of the attorney fees. At the hearing, Trammel did not question counsel about the fees or challenge the amount. The fees are supported by the testimony and exhibits in the record. We hold that the trial court did not abuse its discretion in awarding attorney fees to Moeller.⁵

Therefore, the judgment of the trial court is affirmed.

A certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App. R. 27. Costs shall be taxed under App.R. 24.

HILDEBRANDT P.J., SUNDERMANN and HENDON, JJ.

To the Clerk:

Enter upon the Journal of the Court on January 9, 2008
per order of the Court _____
Presiding Judge

⁴ See *Pugh v. Pugh* (1984), 15 Ohio St.3d 136, 472 N.E.2d 1085; *Blazic v. Blazic*, 1st Dist. Nos. C-040414 and C-040440, 2005-Ohio-4417.

⁵ See *Blazic v. Blazic*, supra at fn. 4; *Cavaleri v. Cavaleri* (July 6, 1995), 8th Dist. No. 68209.