

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

RICHARD KAPLON,	:	APPEAL NO. C-110311
	:	TRIAL NO. M-1001265
and	:	
MARSHA KAPLON,	:	JUDGMENT ENTRY.
	:	
Respondents,	:	
	:	
vs.	:	
	:	
SANTA BARBARA COTTAGE HOSPITAL, INC.,	:	
	:	
and	:	
	:	
MARK BOOKSSPAN, M.D.,	:	
	:	
Petitioners-Appellees.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 3(A); App.R. 11.1(E); Loc.R. 11.1.1.

Petitioners-appellees Santa Barbara Cottage Hospital, Inc., and Mark Booksspan, M.D., (hereinafter “appellees”) filed a motion for an out-of-state subpoena with the trial court seeking to depose appellant Barbara Williams. Williams, a resident of Hamilton County, was a witness in litigation commenced in California. After Williams failed to appear for the deposition, appellees’ counsel filed a motion for contempt for the failure to appear. Williams did not appear at the hearing, but had filed an unsworn “declaration” with the trial court. Counsel for appellees then sought admission pro hac vice to proceed with the motion. A hearing was conducted and the trial court ordered Williams to reimburse appellees for the costs of the failed deposition.

Two weeks later, William retained counsel. Ten days after that, Williams filed a motion for relief from judgment pursuant to Civ.R. 60(B), and a motion to disqualify appellees' counsel for failing to comply with the revised requirements for seeking pro hac vice admission. The trial court denied both motions, and Williams now appeals.

In her first assignment of error, Williams argues that the trial court erred in allowing counsel for appellees to participate in the case absent proper admission pro hac vice. Without citation to authority, Williams claims that counsel's failure to timely comply with the new requirements of Gov.Bar R. XII required disqualification. But, as appellees demonstrated, counsel had substantially complied with the requirements and, when notified of deficiencies, quickly rectified her noncompliance. She received notification from the Supreme Court of Ohio's Office of Attorney Services that stated:

Because you substantially secured a Certificate of Pro Hac Vice Registration and filed a Notice of Permission to Appear Pro Hac Vice with the Office of Attorney Services, however, an exclusion from practice will not be imposed against you. At this time, you are considered to be in compliance with the pro hac vice registration requirements set out in Rule XII.

As Williams concedes, the decision to admit an attorney pro hac vice is reviewed on an abuse-of-discretion basis. On the facts of this case, it was not an abuse of discretion for the trial court to allow counsel for appellees to continue to represent appellees. To have held otherwise, in light of counsel's subsequent compliance with the registration requirements, would have simply required counsel—now compliant—to re-file the pleadings that had already been filed.

Williams can show no prejudice from counsel's noncompliance, and the trial court did not abuse its discretion. We overrule Williams's first assignment of error.

In her second assignment of error, Williams argues that the trial court erred in denying her request for relief from the sanctions it ordered against her for failing to attend the noticed deposition. Williams alleged in her unsworn statement that she appeared at the hotel where the deposition was set, but could not find the venue. Appellees, on the other hand, presented evidence that Williams was informed of the location, and that there were signs directing Williams to the location of the deposition. Additionally, there was testimony that Williams may have never even entered the hotel, but may have sent someone in with a note left at the front desk claiming that she could not find the deposition. While Williams's account portrays an attempt to participate in the proceedings, the account presented by appellees portrays Williams as actively seeking to avoid the deposition. Faced with this conflicting evidence, the decision of the trial court to deny Williams's motion for relief from judgment was not an abuse of discretion, and we overrule her second assignment of error.

Having overruled both assignments of error, we affirm the judgment of the trial court.

A certified copy of this judgment entry is 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 DINKELACKER, JJ.

To the clerk:

Enter upon the journal of the court on April 27, 2012

per order of the court _____.

Presiding Judge