MEMORANDUM DECISION

ATTORNEY FOR APPELLANT

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IN THE COURT OF APPEALS OF INDIANA

Abigail L. Parkes,
Appellant-Defendant,

v.

Daniel S. Borter
Appellee-Plaintiff

December 6, 2023

Court of Appeals Case No. 23A-JP-1101

Appeal from the Greene Circuit Court

The Honorable Kelsey B. Hanlon, Special Judge

Trial Court Cause No. 28C01-1509-JP-61

Memorandum Decision by Judge May
Judges Bailey and Felix concur.

May, Judge.

[1] Abigail L. Parkes ("Mother") appeals the trial court's order denying Mother's rule to show cause motion and granting a rule to show cause motion by Daniel S. Borter ("Father"). Mother presents three arguments for our consideration, which we restate as:

> 1. Whether the trial court abused its discretion when it determined Mother was in contempt because the evidence did not support some of the trial court's findings and the trial court's findings did not support its conclusions;
>
> 2. Whether the trial court abused its discretion when it determined Father was not in contempt because the evidence did not support some of the trial court's findings and the trial court's findings did not support its conclusions; and
>
> 2. Whether the trial court abused its discretion when it ordered Mother to pay $2,000.00 toward Father's attorney fees.

We affirm.

Facts and Procedural History

[2] Mother gave birth to M.B. ("Child") on June 15, 2015. Mother and Father were not married, and Father established paternity of Child on February 8,

2016. The trial court ordered the parties to share joint physical and legal custody of Child. The parties are exceedingly litigious.[1]

[3] On September 26, 2018, Mother filed a motion to modify child support. The trial court held a hearing on the matter on November 19, 2018. On November 27, 2018, the trial court issued its order modifying custody and parenting time. In that order, the court required the parties to "each pay one-half of out of pocket medical, dental, and vision expenses, one-half of educational expenses, one-half of extra-curricular expenses, and one-half of all fixed expenses as defined in the Indiana Child Support Guidelines." (App. Vol. II at 30.) The trial court also ordered the parties to "continue to provide health insurance if available at a reasonable cost, and shall work together to maximize best coverage for claim submission (e.g. primary vs. secondary)." (*Id*.)

[4] On January 3, 2019, Mother filed a rule to show cause asking the trial court to declare Father in contempt. On January 15, 2019, the trial court entered its order denying Mother's motion for rule to show cause and again modifying parenting time. In that order, the trial court stated: "For the remainder of [Child's] pre-k years, [Child's] pre-k calendar and not the public school calendar shall be used to determine holiday and school break guideline parenting time." (*Id*.)

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[1] None of the petitions or orders prior to January 2021 have been provided in the Appendix. We therefore rely on the Chronological Case Summary and the appealed order to provide this relevant background information.

[5] On February 12, 2020, Mother filed a petition for order on summer daycare. On February 19, 2020, Mother filed a petition to modify custody and parenting time. After a series of continuances, the trial court held a hearing on those matters on June 5, 2020. The trial court held a second hearing on those matters on August 3, 2020. On August 19, 2020, the trial court issued an order requiring, in relevant part "that [Child] shall attend Odon Christian Church Preschool ("OCC") for the 2020-2021 school year." (*Id.*)

[6] On October 6, 2020, Father filed a petition for rule to show cause. He asserted Mother was not taking Child to OCC as ordered and was instead homeschooling Child. Father also asked for attorney fees. On December 2, 2020, the trial court held a hearing on Father's petition. On December 7, 2020, the trial court issued an order declaring Mother in contempt for willfully disobeying the trial court's prior order requiring the parties to send Child to OCC for preschool.

[7] On January 7, 2021, Father's counsel sent Mother's counsel an email regarding the payment of Child's preschool expenses. Father asked Mother to reimburse him $150.00 by January 15, 2021. Mother did not pay Father as requested.

[8] On February 15, 2021, Father arrived at the location at which the parties exchanged Child for parenting time at the agreed-upon time, 4:00 p.m., but Mother did not arrive. Father messaged Mother to ask when she would be arriving, and Mother told him that President's Day was a holiday and she was entitled to parenting time with Child until 7:00 p.m. that day per the Indiana

Parenting Time Guidelines. Father reminded Mother they were to follow the holidays recognized by Child's preschool and not the local school district and Child's preschool did not observe President's Day. Mother refused to bring Child to the parenting time exchange location until 7:00 p.m.

[9] On February 25, 2021, Father filed a petition for rule to show cause and request for attorney fees. He argued Mother did not pay her share of Child's preschool expenses as ordered and had not allowed Father to make up parenting time as ordered. Father asked the court to require Mother to pay $150.00, which was her share of the preschool fees; allow Father three hours of missed parenting time; and award Father attorney fees.

[10] In March 2021, the parties agreed Child would attend North Daviess Elementary School for Kindergarten. In late July, Father attempted to coordinate with Mother so they could go together to the school to fill out paperwork, including an emergency contact form. Mother refused to meet Father and wanted to fill out the paperwork online. At some point, someone whose identity remains undetermined changed the contact information on the paperwork. On August 18, 2021, Mother filed a petition for rule to show cause. She asserted Father intentionally changed Child's school contact information. She also requested Father pay her attorney fees.

[11] On March 28, 2022, Father filed a second motion for rule to show cause. He alleged Mother made medical decisions, including scheduling appointments, without his consent. He further argued Mother did not use Father's health

insurance as ordered by the court; gave Child melatonin, an over-the-counter sleep aid, without Father's knowledge; and failed to Facetime Father during Child's eye doctor appointment. Father also requested Mother pay his attorney fees.

[12] Mother requested the trial court make findings and conclusions pursuant to Indiana Trial Rule 52(A). The trial court held hearings on the pending matters on September 2, 2022, and December 14, 2022. On April 18, 2023, the trial court issued an order that contained sixty-three factual findings and forty-four conclusions of law. The order decreed:

> 1. Father's Petition for Rule to Show Cause filed on February 25, 2021 is GRANTED in part.
>
> 2. Mother is in contempt of Court for violation [of] the Court's prior Orders regarding payment of [Child's] preschool expenses and parenting time.
>
> 3. Mother attempted to purge her contempt prior to trial as to the issue of daycare. Mother did purge her contempt as to parenting time make-up prior to trial. Accordingly the attorney fees associated with trial as to these issues should not be born [sic] by Mother.
>
> 4. Mother shall pay Father $150.00, her share of preschool expenses paid by Father, within 30 days.
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> 5. Mother's Petition for Rule to Show Cause filed on August 18, 2021 is DENIED.

> 6. Father's Petition for Rule to Show Cause filed on March 28, 2022 is GRANTED in part.
>
> 7. Mother is in contempt of Court for violating the prior Orders regarding the parties sharing joint legal custody, given that she made unilateral healthcare decisions for [Child].
>
> 8. The parties shall each provide their insurance information to any healthcare providers for [Child], including any pharmacy used for [Child], and request that the provider utilize the insurance in whichever order to provide the best financial benefits for payment of the claims. In the event that only one insurance can be used by a provider, then Father's insurance shall be used.
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> 9. Mother shall pay a partial amount of Father's attorney fees in the amount of $2,000.00 to be paid in installments of at least $250.00 per month, beginning on [sic] May, 2023 and the 1st of each month thereafter until paid in full.
>
> 10. Mother shall pay her own attorney fees incurred in this matter.

(*Id*. at 46-7.)

Discussion and Decision

[13] As an initial matter, we note Father did not file an appellee's brief. When an appellee fails to file a brief, we do not undertake the burden of developing arguments for them. *Destination Yachts, Inc. v. Fine*, 22 N.E.3d 611, 615 (Ind. Ct. App. 2014). We instead apply a less stringent standard of review and may

reverse the trial court's judgment if the appellant establishes prima facie error. *Id*. Prima facie error is "error at first sight, on first appearance, or on the face of it." *Penrod v. The Car Co.*, 832 N.E.2d 1020, 1021 (Ind. Ct. App. 2005).

1. Determination that Mother was in contempt

[14] Mother argues the trial court abused its discretion when it declared she was in contempt for willfully disobeying its order to pay preschool expenses and for making several unilateral healthcare decisions for Child in violation of the trial court's order that the parties exercise joint legal custody of Child. When considering domestic relations matters, we give deference to the determinations of the trial court "because of their unique, direct interactions with the parties face-to-face, often over an extended period of time." *Best v. Best*, 941 N.E.2d 499, 502 (Ind. 2011). As they are better able to "assess credibility and character through both factual testimony and intuitive discernment, our trial judges are in a superior position to ascertain information and apply common sense." *Id*.

[15] Contempt of court "involves disobedience of a court which undermines the court's authority, justice, and dignity." *Srivastava v. Indianapolis Hebrew Congregation, Inc.*, 779 N.E.2d 52, 60 (Ind. Ct. App. 2002), *trans. denied*. "Willful disobedience of any lawfully entered court order of which the offender had notice is indirect contempt." *Francies v. Francies*, 759 N.E.2d 1106, 1118 (Ind. Ct. App. 2001), *reh'g denied*, *trans. denied*. Indirect contempt proceedings are for the benefit of the party who has been injured or damaged by the failure

of another to conform to a court order. *P.S. v. T.W.*, 80 N.E.3d 253, 256 (Ind. Ct. App. 2017).

[16] "Whether a person is in contempt of a court order is a matter left to the trial court's discretion." *Mitchell v. Mitchell*, 785 N.E.2d 1194, 1198 (Ind. Ct. App. 2003). We will reverse only where an abuse of discretion has been shown. *Id*. An abuse of discretion occurs when the trial court's decision is clearly against the logic and effect of the facts and circumstances before it. *Id*. When we review a ruling on a petition for contempt, we neither reweigh the evidence nor judge the credibility of witnesses. *Id*.

[17] Mother requested the trial court make findings of fact and conclusions of law pursuant to Indiana Trial Rule 52(A). "When a trial court enters findings of fact and conclusions of law pursuant to Trial Rule 52, we apply the following two-tiered standard of review: (1) whether the evidence supports the findings; and (2) whether the findings support the judgment." *Id*. We will set aside the trial court's findings and conclusions only "if they are clearly erroneous, that is, if the record contains no facts or inferences supporting the judgment. A judgment is clearly erroneous when a review of the record leaves us with a firm conviction that a mistake has been made." *Id*. (internal citation omitted).

[18] When the trial court makes findings and conclusions subject to Indiana Trial Rule 52(A), we will disturb the judgment if there exists no evidence to support the trial court's findings. *Yoon v. Yoon*, 711 N.E.2d 1265, 1268 (Ind. 1999). "We do not reweigh the evidence; rather we consider the evidence most

favorable to the judgment with all reasonable inferences drawn in favor of the judgment." *Id*. We also give due regard to "the opportunity of the trial court to judge the credibility of the witnesses." Indiana Trial Rule 52(A).

[19] Mother challenges several of the trial court's findings and conclusions. Those findings Mother does not challenge are accepted as correct. *See Madlem v. Arko*, 592 N.E.2d 686, 687 (Ind. 1992) (unchallenged findings accepted as correct). If a finding challenged by a party is erroneous but does not significantly affect the trial court's decision, it is surplusage and not a ground for reversal. *Lasater v. Lasater*, 809 N.E.2d 380, 398 (Ind. Ct. App. 2004). We address Mother's challenges by topic below.

1.1 Payment of Preschool Expenses

[20] The trial court, in part, declared Mother in contempt for failing to pay $150.00 in preschool expenses owed to Father. Mother challenges Finding 13 and Finding 18 regarding the payment of Child's preschool expenses at OCC. Finding 13 states:

> 13. Father messaged Mother asking her to pay her share of the OCC expenses. Mother refused. Instead she argued with OCC staff that she did not owe the expenses. Father feared that [Child] would lose her spot at OCC if the fees remained unpaid, so Father paid Mother's share of expenses, $150.00.

(App. Vol. II at 32.) Finding 18 states, "Mother acknowledges that Father paid the total amount due [for Child's preschool fees], $300.00." (*Id*. at 33.) Mother argues, regarding Finding 13, that she never argued with OCC staff and instead

"talked to Daniel at OCC staff on several occasions because she believed there was a legitimate dispute to the charge[.]" (Br. of Appellant at 24.) Regarding Finding 18, Mother contends the record does not contain evidence that she acknowledged Father's full payment of the preschool fee.

[21] However, the trial court made multiple findings regarding this issue that Mother does not challenge. They are, in relevant part:

> 12. In December, 2020, Father learned that Mother had not paid her one-half of [Child's] preschool expenses due to OCC.
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> * * * * *
>
> 14. On January 7, 2021, counsel for Father sent and [sic] email to counsel for Mother regarding the payment of OCC expenses. Father requested reimbursement from Mother in the amount of $150.00 by January 15, 2021. Mother never reimbursed Father.
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> * * * * *
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> 16. Father filed a *Verified Petition for Rule to Show Cause and Request for Attorney Fees*, filed February 25, 2021, asserting that Mother failed to pay her share of [Child's] preschool expenses as Ordered[.] . . .
>
> 17. Mother claims that she didn't believe that she owed half of the OCC preschool expenses because [Child] was not attending full-time since Mother was homeschooling her on her parenting time days.
>
> * * * * *

> 19. After Father filed his rule to show cause, Mother did offer to pay Father. She initially offered to pay him only $60.00. She later offered to pay $150.00 after a contempt [petition] was filed. As of the date of the hearing, the $150.00 has not been exchanged by the Parties.

(App. Vol. II at 32-3) (italics in original). Based thereon, the trial court concluded:

> 66. Here, Mother's failure to pay her share of [Child's] OCC preschool expenses was a willful disobedience of the Court's Order.
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> 67. The Order clearly provided that [Child] was to attend preschool four days per week for the 2020-2021 school year. Mother failed to pay her share of the expense charged for the four-day program.
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> 68. The fact that Mother did not send [Child] to school four days per week did not relieve the parties from being billed for the program. Further, the court previously found Mother in contempt for failing to ensure that [Child] attended the four-day, full time, program.
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> 69. Mother claims that she offered to reimburse Father for her share of the expenses, and that offer should relieve her of any contempt finding.
>
> 70. While Mother may have offered to pay, it was only after Father filed his rule to show cause, for which he incurred attorney fees.
>
> 71. Mother is in contempt for failing to pay her share of [Child's] preschool fees as Ordered by the Court.

(*Id*. at 40.)

[22] The unchallenged findings here are sufficient to support the trial court's conclusion that Mother did not pay Father the $150.00 she owed him for reimbursement of one-half of the fees he paid OCC. The trial court's characterization of Mother's interaction with OCC's staff as argumentative and its statement that Mother acknowledged Father's full payment of the OCC fees are inconsequential to the conclusion that Mother did not pay her portion of Child's preschool fees after being asked multiple times to do so and therefore was in contempt. Further, the trial court's unchallenged conclusions indicate Mother willfully disobeyed the trial court's order because, even if she offered to pay Father $150.00, she did so only after Father filed his motion for rule to show cause, for which he incurred attorney fees. The portions of Finding 13 and Finding 18 that Mother challenges are superfluous and are not fatal to the trial court's determination. *See Lasater*, 809 N.E.2d at 397 ("To the extent that the judgment is based on erroneous findings, those findings are superfluous and are not fatal to the judgment if the remaining valid findings and conclusions support the judgment.").

1.2 Healthcare-related Decisions

[23] Mother challenges a number of the trial court's findings and conclusions regarding healthcare-related decisions. She also challenges the trial court's determination that she was in contempt for making unilateral healthcare decisions for Child in violation of the trial court's order that the parties share joint legal custody of Child. Mother argues three of the trial court's conclusions

are not supported by its findings. She challenges Conclusions 83, 89, and 93, which state:

> 83. Mother gave [Child] melatonin without any prior discussion with Father. Even when asked about it by Father, Mother failed to provide Father with accurate information about the dosage given or the reasons why she was giving [Child] the melatonin. While the Court would not expect Parents to relay information regarding over-the-counter medications in all circumstances, medicating the child for sleep disruption on a regular basis is something that joint legal custodians should jointly discuss.
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> * * * * *
>
> 89. Mother willfully violated the Court's prior Order awarding the parties joint legal custody by making unilateral healthcare decisions.
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> * * * * *
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> 93. Absent an emergency in the future, [Child] shall be treated only at Southern Indiana Pediatrics. If Mother does not desire to transport [Child] to Bloomington for an appointment, Father shall be given the opportunity to do so or [Child] may be seen elsewhere *when the parties agree*.

(App. Vol. II at 42-3) (emphasis in original).

[24] To support her challenge to those conclusions, Mother challenges Findings 36, 38, 39, 43, 44, 50, 51, and 60, which state:

> 36. On at least one occasion, Father had an appointment scheduled for [Child] to be seen by her normal pediatrician for

the same day that Mother advised she was taking [Child] to the walk-in clinic. Mother advised Father that she was not driving to Bloomington when she could just take [Child] to a closer location. Father was forced to cancel the appointment.

* * * * *

38. Many of the appointments where [sic] Mother had [Child] seen at the walk-in clinic were due to complaints of ear pain by [Child]. [Child] had a history of ear problems. Father thought it was important for her care to be seen by her regular physician. Mother thought it important that [Child] simply be treated without the necessity of driving the distance to the afterhours clinic at her regular pediatrician as [Child] did not feel well.

39. Just a few days prior to the last day of the hearing Mother again took [Child] to the walk-in clinic. Father again voiced his objection to that. Mother believed [Child] needed to be seen quickly due to a rash that had not improved. Mother acknowledged that she did not even check to see if [Child's] pediatrician had an appointment available that day.

* * * * *

43. Father has always attended [Child's] healthcare appointments.

44. Mother generally fills out the paperwork with [Child's] healthcare providers, and she does not always list Father's information. She includes only her phone number and email address. Father does not always have the log in information to view [Child's] records online and he does not receive appointment reminders since his information is not provided to providers.

* * * * *

50. During the summer of 2021, Mother advised Father that she had made an appointment for [Child] for an eye exam.

51. Mother did not discuss that with Father beforehand and had no discussion with Father to see if he agreed with the optometrist that Mother selected for the examination. She simply told Father that an appointment was scheduled.

* * * * *

54. Father recently learned that Mother was giving [Child] melatonin, as a sleep aid. Mother did not discuss that with Father prior to Father asking her about it. Even when Father asked her about it, Mother failed to provide Father information requested, including the dosage she was giving her and answering his question as to who had recommended it.

* * * * *

56. Mother claims [Child's] pediatrician had recommended the sleep aid. Father denies that, and he has attended all of [Child's] medical appointments.

* * * * *

60. Mother scheduled [Child's] surgery for the same day that Father's wife was being induced to deliver their son. Father requested that Mother reschedule the surgery, but Mother refused. Father was not able to attend [Child's] surgery since he was at the hospital with his wife for the birth of their son. Father was able to Facetime with [Child] for a short time.

(App. Vol. II at 36-8.) Mother argues these findings are not supported by the evidence. She claims that she did not refuse to take Child to Bloomington or to Child's regular pediatrician; that Father did not attend all of Child's healthcare appointments; that the medical paperwork competed for Child's dental appointment included Father's contact information; that her unilateral decision to give melatonin to Child did not need to be approved by Father because melatonin is an over-the-counter medication; and that she did not schedule Child's surgery on the same date Father's wife was being induced to keep Father from attending Child's surgery.

[25] Regarding these medical issues, the trial court also made several unchallenged findings:

> 34. During the fall and winter of 2021, Mother began taking [Child] to two different walk-in clinics when Mother believed [Child] needed to be seen by a doctor.
>
> 35. Father advised Mother that he did not agree that [Child] should be seen at the walk-in clinic, and instead requested Mother take [Child] to her pediatrician. [Child] had been seen at Southern Indiana Pediatrics in Bloomington since her birth.
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> * * * * *
>
> 37. On another occasion, Father took [Child] to her pediatrician following the visit to the walk-in clinic, to ensure continuity of care. The parties were billed by both parties.
>
> * * * * *

40. In July 2022, [Child] had surgery and tubes were placed in her ears, due to her many prior ear infections.

41. Mother continues to take [Child] to be seen at the walk-in clinic at times. Mother acknowledged that Father made it clear that he did not agree for [Child] to be seen at the walk-in clinic.

42. Father also was concerned as the walk-in clinic seemed to have none of [Child's] history of health issues.

* * * * *

45. In 2022, Father contacted Mother regarding prescription expenses for [Child], after he learned that his insurance information was not being provided to the pharmacy. As a result of his insurance not being used, the out-of-pocket expenses were much higher than what they would have been with applying his insurance.

46. Father requested that Mother provide his insurance information. Mother refused and said that only her insurance could be used since her birthday was before Father's and the pharmacy used the birthday rule. Father advised that he would contact the pharmacy and Mother told him that he was not allowed to do that.

47. Father contacted the pharmacy, provided his insurance information, and the out-of-pocket expense due was significantly decreased.

48. Father requests that his insurance be utilized as it provides better coverage for [Child].

49. Mother asserts that her insurance must be used since her birthday is before Father's birthday. The birthday rule documentation was provided as an exhibit, and Mother explained that since the parties share joint custody, and the Order didn't specify which insurance to use, then the birthday rule will apply and the insurance for the parent with the earlier birthday will be used. Mother acknowledged that Father's insurance generally provides better coverage than her insurance, and she didn't care which insurance was used. However, she believed that the birthday rule required that her insurance be used.

* * * * *

52. When Father asked about the [eye doctor] appointment time, Mother advised it was scheduled along with her daughter and herself, so the exact time was uncertain. Father contacted the optometrist's office and was provided with an appointment time. Father notified Mother of the appointment time he was provided, and that he would be arriving at that time for [Child's] appointment. As Father was enroute to the appointment, he received a text message from Mother advising that [Child's] appointment was completed.

53. Mother made no efforts to Facetime Father during the appointment. She claimed that her cell phone battery was dead.

* * * * *

55. [Child] has no issues with sleep at Father's home. Mother had never discussed with Father having an issue with [Child] sleeping at her home. Mother has never informed [Child's] doctors of the melatonin, even though the parties are always asked if [Child] is taking any medications. Father believes that Mother giving [Child] a sleep aid is different than other over the counter drugs that [Child] may need, as it affects her sleep.

Further, the parties generally have discussed even administering over the counter drugs such as Tylenol, etc.

* * * * *

57. Mother acknowledged that she schedules appointments for [Child] and her sister at the same time. Father does not attend the portion of the appointments regarding [Child's] sister.

58. Father requested that [Child's] appointments be scheduled separate from the appointments for her sister and from Mother's appointments. Father is required to sit in the waiting room during [Child's] sister's visit and wait for Mother to finish that appointment before [Childs'] next appointment can be scheduled. If Father does not wait, Mother will simply make an appointment without consulting Father to see if he is available for the appointment. Further, Mother admitted that at times she doesn't recall what recommendations are made for which of her children. She stated it was recommended for "her girls" to take melatonin. But again, Father disputes that anyone recommended melatonin for [Child].

59. Mother has refused to allow Father to change appointment times when requested to accommodate his calendar. Mother has cancelled appointments scheduled by Father.

* * * * *

61. Father filed a second motion for rule to show cause on March 28, 2022 regarding the issues with Mother including scheduling appointments for [Child] without discussions with him, taking [Child] to the walk in clinics, not using Father's insurance, giving [Child] melatonin, and failing to facetime him

> during the vision appointment. Father also requested that Mother pay his attorney fees.

(App. Vol. II at 35-40.)

[26] Any lack of evidence to support Mother's challenged findings is of no consequence because the trial court's unchallenged findings are sufficient to support the challenged conclusions. Conclusion 83 concerns Mother's continued administration of melatonin to Child despite Father's objection. Unchallenged Finding 55 states Child does not have sleep problems at Father's home, Mother had not consulted a doctor prior to giving Child melatonin, Father believed the use of melatonin was different than that of over-the-counter medications, and the parties have frequently discussed the use of other over-the counter medications in the past. Challenged Conclusion 89 states Mother willfully violated the trial court's order regarding joint legal custody by making unilateral health decisions. Unchallenged Findings 34, 35, 41, 42, 52, 53, 58, and 59 outline the times Mother made decisions regarding Child's healthcare such as taking her to a walk-in clinic, scheduling and attending an eye doctor appointment at which Father was not present, and scheduling appointments before consulting Father about his schedule.[2]

[2] Conclusion 93 seems to be the trial court's attempt to encourage the parties to work together and to discourage Mother from making unilateral healthcare decisions, a conclusion that was supported by several of the unchallenged findings.

[27] As these unchallenged findings support the conclusions that Mother challenges, we hold the challenged findings are superfluous. *See Lasater*, 809 N.E.2d at 397 ("To the extent that the judgment is based on erroneous findings, those findings are superfluous and are not fatal to the judgment if the remaining valid findings and conclusions support the judgment.").

[28] The challenged conclusions are not, as Mother characterizes them, "isolated or limited acts" of disobedience with the trial court's order. (Br. of Appellant at 30.) This is a pattern of behavior wherein Mother continually violated the trial court's order that the parties share legal custody of Child. We therefore hold the trial court's unchallenged findings support the challenged conclusions and the trial court's ultimate determination that Mother was in contempt. *See*, *e.g.*, *McCollum v. Indiana Fam. & Soc. Servs. Admin.*, 82 N.E.3d 368, 374 (Ind. Ct. App. 2017) (affirming trial court's determination mother was in contempt for willfully disobey trial court's order to make child support payments).

2. Determination that Father was not in contempt

[29] The trial court denied Mother's rule to show cause wherein she argued Father should be held in contempt of the trial court's order of joint legal custody because he changed Child's school contact information. Mother challenges Finding 26, which states:

> 26. Upon Father arriving at the school, he noticed that several things had been changed from the information that he and Mother had provided the school months earlier during kindergarten round up. Most significant was that Father's email address had been changed to an incorrect email address. Also,

> Father's grandmother was now listed as an emergency contact, when Father had not listed her previously, since she was not able to be an emergency contact due to a recent medical issue. Father's fiancé had been completely removed from the emergency contact list.

(App. Vol. II at 34.) Mother contends Finding 26 is not supported by the evidence because "it was reasonable for Mother to participate in [Child's] registration online since registration was done entirely online and in person registration was not required." (Br. of Appellant at 26.) In her statement of the facts, Mother also sets forth a timeline of events regarding the entry of the school contact information to suggest she did not make the relevant changes.

[30] To place the challenged finding into context, we set out the trial court's unchallenged findings:

> 22. The parents attended kindergarten round up for [Child] at North Daviess Elementary School in March, 2021. Together they filled out forms listing contacts and other information so that [Child] could begin kindergarten in August, 2021.
>
> 23. In late July, 2021, Father attempted to work with Mother so that the two of them could go to school together to finish enrollment paperwork for [Child]. Mother refused to meet Father at the school and instead wanted to fill out the paperwork online.
>
> 24. Father again requested that Mother attend in person with him, but she refused. The parties agreed to Facetime one another while Father was at the school so that they could complete the forms together.

25. A few days prior to completing the forms at the school Mother logged into to [Child's] school Harmony account. She later provided Father with that log in information.

* * * * *

27. Mother also claimed that changes had been made, including that her mother was removed as the first emergency contact for [Child] and that her mother's phone number was not correct. Mother's mother was still listed as an emergency contact, but she was not listed as the first emergency contact as Mother had selected. Mother was also upset that Father's girlfriend was listed as an emergency contact and identified as a stepparent.

* * * * *

29. Both Mother and Father deny changing any information prior to the Facetime session they did on August 2, 2021.

30. Mother also complained that [Child's] primary address was listed as Father's address, and not her address.

31. School personnel testified during the hearing on November 2, 2021, and reported that if a child has two different addresses, the address of the parent that lives in the district will be listed as the primary address for purposes of transportation.

32. Father lives in the school district, Mother does not.

33. On August 18, 2021, Mother filed a rule to show cause that Father had intentionally changed [Child's] school information. She requested that Father pay her attorney fees.

(App. Vol. II at 33-5.) Based thereon, the trial court concluded:

> 76. Mother and Father both claim that each made changes to [Child's] school information. Both deny making any such changes.
>
> 77. Father tried to get Mother to appear at school in person so that they could go through the information together and make any necessary changes. Mother refused to meet Father. Instead the two facetimed and each identified errors in the information that they had provided before.
>
> 78. Mother claims Father made the changes. It's doubtful that Father would have made changes to include an incorrect email address for himself – that was one of the changes made. Father was not even aware of some of the changes since he didn't receive the email confirmations of changes because the school did not have his correct address. Further, it's doubtful that Father would have removed his fiancé from the list, and added his grandmother, who was unavailable due to a medical issue.
>
> 79. It's also doubtful that Mother would have provided an incorrect phone number for her mother or an incorrect address for herself, which were also changes that were made.
>
> 80. The Court finds that Father is not in contempt, as Mother requests, as there is no evidence that Father willfully disobeyed a Court order. The Court also finds that there is no evidence to support any contention that Mother changed Father's contact information.

(*Id*. at 41-2.)

[31] The unchallenged findings are sufficient to support the trial court's conclusion that Father did not willfully disobey the trial court's order by changing Child's school contact information. Therefore, even if Finding 26 was not supported by the evidence, it is superfluous and not fatal to the trial court's decision to not hold Father in contempt. *See Lasater*, 809 N.E.2d at 397 ("To the extent that the judgment is based on erroneous findings, those findings are superfluous and are not fatal to the judgment if the remaining valid findings and conclusions support the judgment.").

3. Attorney Fees

[32] In its order, the trial court required Mother to pay $2,000.00 in Father's attorney fees. Our standard of review regarding an award of attorney fees is well settled:

> We review a trial court's award of attorney's fees, and the amount of any such award, for an abuse of discretion. *Daimler Chrysler Corp. v. Franklin*, 814 N.E.2d 281, 286 (Ind. Ct. App. 2004) (citing *Malachowski v. Bank One, Indpls., N.A.*, 682 N.E.2d 530, 533 (Ind. 1997)). "An abuse of discretion occurs when the trial court's award is clearly against the logic and effect of the facts and circumstances before the court." *Id*. at 286-87. "An award of attorney's fees will be reversed on appeal as excessive only where an abuse of the trial court's discretion is apparent on the face of the record." *Id*. at 287 (citing *Owen v. Vaughn*, 479 N.E.2d 83, 88 (Ind. Ct. App. 1985)). "We do not reweigh the evidence; rather, we determine whether the evidence before the trial court can serve as a rational basis for its decision." *DePuy Orthopaedics, Inc. v. Brown*, 29 N.E.3d 729, 732 (Ind. 2015) (citation omitted).

R.L. Turner Corp. v. Wressell, 44 N.E.3d 26, 38 (Ind. Ct. App. 2015), *trans. denied*.

[33] Mother argues the trial court abused its discretion when it ordered her to pay $2,000.00 in Father's attorney fees because the trial court's determination that Mother was in contempt was clearly erroneous and thus the requirement that she pay a portion of Father's attorney's fees is "in essence an improper punitive sanction." (Br. of Appellant at 32-3.) Mother contends her conduct "did not warrant the award of attorney's fees." (*Id*. at 33.) As we held above that the trial court did not abuse its discretion when it determined that Mother was in contempt, we also hold the trial court did not abuse its discretion when it ordered Mother to pay a portion of Father's attorney fees. *See*, *e.g.*, *McCallister v. McCallister*, 105 N.E.3d 1114, 1121 (Ind. Ct. App. 2018) (affirming award of attorney fees as sanction for contempt).

Conclusion

[34] The trial court's findings and conclusions supported its determinations that Mother was in contempt and that Father was not in contempt. As a result, the trial court did not abuse its discretion when it ordered Mother to pay $2,000.00 of Father's attorney fees. Accordingly, we affirm the trial court's judgment.

[35] Affirmed.

Bailey, J., and Felix, J., concur.