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IN THE  
APPELLATE COURT OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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IN RE MARRIAGE OF:	)	Appeal from the
	)	Circuit Court of
JONI SANTINI GALOWICH	)	Cook County.
Petitioner-Appellant,	)	
	)	No. 03 D 12638
and	)	
	)	The Honorable
JEFFREY A. GALOWICH,	)	Eileen M. Brewer,
Respondent-Appellee.	)	Judge Presiding.

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PRESIDING JUSTICE SALONE delivered the judgment of the court.  
Justices Neville and Murphy concurred in the judgment.

**ORDER**

*Held:* In a dissolution of marriage action, the trial court did not err in finding the stock options granted respondent were not property at the time of the parties' dissolution and, therefore, not divisible between the parties as marital property. The trial court properly exercised its discretion in awarding taxable maintenance to petitioner of \$10,000 per month. The trial court did not abuse its discretion in

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ordering petitioner to pay child support, as well as other child-related expenses and seek employment despite the court's award of permanent maintenance. The trial court did not abuse its discretion in requiring each party to pay their own attorney fees and costs.

¶ 1 Petitioner, Joni Santini Galowich, and respondent, Jeffrey A. Galowich, undertook costly and contentious litigation to dissolve their nineteen year marriage when they divorced in 2008. This appeal follows the final judgment for dissolution, and posttrial motions of their bench trial. Pursuant to the judgment for dissolution of marriage, respondent was granted sole custody of their two minor children, with petitioner being granted visitation/parenting time. The parties extensively litigated the issues, including child custody and visitation, maintenance, an assessment of marital and non-marital assets, the division of the marital estate, the assignment of debt and the payment of attorney fees.

¶ 2 On appeal, petitioner contends the trial court erred in holding that stock options granted to the respondent were not marital property where she contends the options were granted to respondent prior to the judgment for dissolution. Alternatively, petitioner contends the trial court erred in failing to consider the stock options in other financial rulings. Petitioner further contends the trial court erred in its findings as to her income, specifically in failing to impute income to respondent, in "ignoring [her] reasonable needs in excess of \$20,000 per month," and in ordering taxable maintenance of \$10,000 per month. Lastly, petitioner contends the trial court erred in ordering her to pay child support and other child-related expenses to respondent, as well as ordering her to seek employment, in light of the court's award of permanent maintenance. Petitioner contends the court should have ordered respondent to pay child support to her and

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assessed her attorneys fees' against him. We disagree and affirm the trial court's order in all respects.

¶ 3

### BACKGROUND

At the time of the dissolution, respondent, 49 years old, was a member of the Illinois bar and had passed the Certified Public Accounting exam, but was not a licensed CPA. In 1990, respondent was hired by Madison Realty Group (MRG), a real estate development and consulting firm owned by respondent's father, Ronald Galowich. Respondent receives a salary from MRG. In 1999, Initiate Systems, a software company, hired respondent. Respondent is Executive Vice President and a member of the Board of Directors of Initiate. He receives a salary, bonus income, and stock options from Initiate. Respondent's father is one of the founders of Initiate.

¶ 4 Petitioner, 50 years old at the time of the parties' dissolution, graduated in 1980 with a Bachelor of Science degree from UCLA. She became a certified paralegal the following year and worked for approximately six years. She also briefly worked in sales for Lexis/Nexus and earned about \$50,000 annually. Petitioner has been unemployed since 1996, when she became pregnant with the parties' first child. During the parties' marriage, petitioner was the primary caretaker of the parties' two minor children.

¶ 5 The parties' children attend a Jewish parochial elementary school in Chicago. Both children have curriculum support in school and tutoring outside. They are both under the care of psychiatrists, psychologists and therapists.

¶ 6 In 2003, petitioner filed for dissolution of the parties' marriage. In January 2005,

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respondent moved out of the parties' marital home and in to a townhouse purchased by his father. During the parties' divorce proceedings, they sold their marital home for \$3.8 million, with sale proceeds of \$2,421.23 available to the parties. The parties received advance distributions from the marital estate for attorneys' fees and costs and the purchase of separate residences. The remaining funds were deposited into two equal joint escrow accounts, each with a balance of \$152,884.

¶ 7 In the final judgment for dissolution of the parties' marriage, respondent was awarded sole custody of the children. The court delineated a parenting and visitation schedule. The court awarded petitioner 55% of certain marital assets, as well as previously awarded stock option grants from Initiate and any additional grants "awarded to [respondent] through the entry of Judgment for Dissolution of Marriage." The outstanding options were valued at \$977,950. The court valued respondent's non-marital assets at \$158,010 and petitioner's at \$422,732.

¶ 8 The trial court found "no divorce planning in regard to [respondent's] salary" and accepted as credible his explanation of the fluctuations in his total income between 2000 and 2006. The court rejected petitioner's contention that respondent's father manipulated his income because of the parties' pending divorce. The court accepted respondent's gross monthly income of \$28,464, net monthly income of \$19,534, as reported on his amended disclosure statement, dated October 1, 2007. The court rejected petitioner's disclosure statement, dated May 8, 2007, reporting total living expenses of \$24,588 per month. The court found many of the expenses to be "exaggerated and not credible." Additionally, the court noted that even if the expenses were

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accurate, respondent's income "cannot support these expenses as well as his own." The court awarded petitioner permanent maintenance of \$10,000 per month. In doing so, the court obliged petitioner "to find a job at a level appropriate to her education and prior employment experience."

¶ 9 The trial court found the parties expenses included "extraordinary children's costs," totaling about \$100,000 per year. The court ordered the parties to each pay 50% of these costs, which include the children's school tuition, tutoring, lessons, activities and summer camp. Respondent was ordered to pay all medical and therapy expenses for the children.

¶ 10 The trial court held each party responsible for their own attorney fees and costs, and ordered respondent to pay the outstanding costs and fees incurred by the children's representative.

¶ 11 Final judgment for dissolution of the parties' marriage was entered on October 27, 2008. Respondent filed a posttrial motion on November 26, 2008, which was granted, in part, on July 10, 2010. Petitioner filed her posttrial motion to reconsider that order and reopen proofs on August 2, 2010. Petitioner's posttrial motion was denied on December 8, 2010. Notice of appeal was timely filed.

¶ 12 ANALYSIS

¶ 13 We address the issues raised by petitioner in the order they appear in her brief.

¶ 14 Stock Options

¶ 15 Petitioner contends the trial court erred in holding certain stock options awarded to respondent were not marital property. She claims the stock options were granted to respondent

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prior to the final judgment for dissolution and, therefore, she is entitled to a share of their value.

¶ 16 The Board of Directors of Initiate approved two separate stock option grants to respondent, as well as approximately 30 other employees, as part of an employee retention policy. One to purchase 100,000 shares of Initiate common stock at \$2.67 per share, and the other, to purchase 22,000 shares of Initiate common stock at \$2.14 per share. The parties disagree as to the date the options were granted. Petitioner contends the stock options were granted on October 23, 2008, four days prior to the final judgment for dissolution of marriage, which was entered on October 27, 2008, and, therefore, claims the options are marital property to which she is entitled to a share. Respondent contends petitioner mistakenly considers the date of the Board's resolution to grant the stock options as the same as the actual grant of the options, which he contends occurred on January 9, 2009, following the execution of various agreements between petitioner and the Board. Respondent maintains because the stock options were not actually granted until after the parties' dissolution of marriage, the stock options are not marital property, but his alone. At trial, the evidence concerning the stock options was provided by respondent's trial testimony and Dan Kossmann's deposition testimony, which the parties stipulated to.

¶ 17 On August 13, 2008, Bill Conroy sent an email to respondent informing him that the Board had unanimously approved a stock option to him. Both respondent and Mr. Kossmann testified that Mr. Conroy was mistaken and the Board did not approve the option grant until October 23, 2008. On October 23, 2008, the Board passed a resolution granting a stock option

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award to petitioner and other employees, but did not prepare any documentation related to the resolution at that time. The resolution required the execution of various agreements in order to effect the option grants, including various restrictive covenants. Respondent testified he did not receive the stock option agreements as of the date of the marriage dissolution judgment, October 27, 2008, nor did any of the other employees granted the option. Respondent testified it is not the company's normal procedure for the required agreements to be prepared and distributed to the employees being granted the options within four days of an option grant resolution. Respondent testified that prior to the execution of the stock option agreement, he would not be entitled to the option grant if he resigned from Initiate or died. Additionally, prior to the signing of the stock option agreement, the Board could unilaterally rescind the resolution approving the option grant without recourse. Respondent testified the stock option grant notices were dated October 23, 2008, for tax purposes, but were not executed by the parties until January 9, 2009. The option grant notices, executed by the parties on January 9, 2009, expressly provided that the initial vesting date was November 15, 2008, for the 100,000 share option and January 23, 2009, for the 22,000 share option.

¶ 18 The trial court considered respondent's trial testimony, Mr. Kossmann's deposition and the documentary evidence, and concluded the resolution of October 23, 2008, clearly showed the award of stock options was contingent upon respondent and Initiate executing specified agreements. As such, prior to the execution of those various agreements, respondent had no interest in or right to receive either of the options. The required agreements for each of the options were not executed by respondent and Initiate until January 9, 2009. Accordingly, the

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trial court held that as of October 27, 2008, respondent did not have any contractual right to the stock options because the stock option agreement had not been executed. The court further held that any interest in the stock options prior to the execution of the option agreement on January 9, 2009, was "a mere expectancy." The court found the options were granted in consideration of future, not past services and, therefore, no share vested under either option as of October 27, 2008, the date of the judgment of dissolution. The court noted the future vesting remained entirely contingent upon the performance of services by respondent after October 27, 2008. The court held that because respondent had no property interest in either of the share options as of October 27, 2008, neither option could constitute marital property. The trial court held the 122,000 stock options were acquired subsequent to the entry of the dissolution of marriage and, therefore, were separate non-marital property of the respondent.

¶ 19 Section 503(3) of the Illinois Marriage and Dissolution of Marriage Act (Act) discusses the distribution of stock options, as marital property, where the options were granted to either spouse "after the marriage and before a judgment of dissolution of marriage." 750 ILCS 5/503 (West 2008). Generally, in a marriage dissolution action, the trial court's classification of property as marital or non-marital will not be reversed on appeal unless we can conclude that it was against the manifest weight of the evidence. *In re Marriage of Berger*, 357 Ill. App. 3d 651, 659–60 (2005). The trial court's decision is against the manifest weight of the evidence only where "the opposite conclusion is clearly evident or where it is unreasonable, arbitrary, and not based on the evidence." *In re Marriage of Berger*, 357 Ill. App. 3d at 660.

¶ 20 On appeal, petitioner cites *In Re Marriage of Peters*, 326 Ill. App. 3d 364 (2001), *Fisher*

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*v. Fisher*, 769 A.2d 1165 (Pa. 2001), and *Shorb v. Shorb*, 643 S.E. 2d 124 (Ct. App. S.C. 2007), to support her claim that respondent was granted the stock options on October 23, 2008, prior to the dissolution of the parties' marriage and, therefore, she is entitled to a share of their value where the property must be considered marital property. The cases are easily distinguishable because respondent here had no contractual right to the stock options at the time the dissolution judgment was entered.

¶ 21 Petitioner contends that in denying her motion for a directed finding on this issue, the trial court erred by failing to take evidence from her to establish the characterization and value of the options. Petitioner fails to cite to any portion of the record concerning a time when she sought to offer evidence with regards to the options issue, but was denied. Moreover, at the January 22, 2010, hearing, petitioner's counsel informed the court of his desire to withdraw and further stated, "[t]here were some issues that were presented to you that when you—when all is said and done, depends hardly on evidentiary matters, but on legal questions such as stock options and what they are and whether they are marital or not." Counsel continued, "I would endeavor to try and resolve the remaining issues with my client, short of proceeding to a resumption of the evidentiary hearing \*\*\*." Counsel later argued the options were "legal issues."

¶ 22 Lastly, petitioner argues the trial court erred in denying her motion to reopen proofs on this issue. However, proof of the value of the option as of the date of the dissolution could not have been produced because the stock option did not exist as property until January 9, 2009. As the trial court found, at most, the stock options were "a mere expectancy" and, therefore, not divisible as marital property. Accordingly, the trial court did not abuse its discretion by denying

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petitioner's motion to reopen the proofs. See *Chicago Transparent Products, Inc. v. American National Bank & Trust Co. of Chicago*, 337 Ill. App. 3d 931, 942 (2002) ("The denial of a motion to reopen proofs is within the sound discretion of the trial court and will not be disturbed absent a clear abuse of that discretion.")

¶ 23 The trial court's conclusion that the 122,000 of stock options was not marital property at the time the judgment of dissolution of marriage was entered was not against the manifest weight of the evidence and the decision not to reopen the proofs was not an abuse of discretion. The uncontroverted evidence established that the Board issued a resolution on October 23, 2008, granting stock options to respondent, contingent on the execution of specified agreements. The agreements were not executed prior to the dissolution of the parties' marriage. Therefore, the trial court properly found petitioner had no contractual right to the stock options at the time the dissolution judgment was entered and, therefore, the option could not be property, much less marital property, subject to division between the parties.

¶ 24 Maintenance

¶ 25 Petitioner contends the trial court erred in "ignoring [her] reasonable needs in excess of \$20,000 per month." Petitioner argues the maintenance award of \$10,000 per month was improper in light of the factual errors the trial court made in determining the award, specifically in its findings that petitioner exaggerated her expenses and that the reduction in respondent's income was not based on the impending divorce of the parties.

¶ 26 Section 504(a) of Act sets forth factors for the trial court to consider in deciding whether to grant a maintenance award, including:

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"(1) the income and property of each party, including marital property apportioned and non-marital property assigned to the party seeking maintenance; (2) the needs of each party; (3) the present and future earning capacity of each party; (4) any impairment of the present and future earning capacity of the party seeking maintenance due to that party devoting time to domestic duties or having forgone or delayed education, training, employment, or career opportunities due to the marriage; (5) the time necessary to enable the party seeking maintenance to acquire appropriate education, training, and employment, and whether that party is able to support himself or herself through appropriate employment or is the custodian of a child making it appropriate that the custodian not seek employment; (6) the standard of living established during the marriage; (7) the duration of the marriage; (8) the age and the physical and emotional condition of both parties; (9) the tax consequences of the property division upon the respective economic circumstances of the parties; (10) contributions and services by the party seeking maintenance to the education, training, career or career potential, or license of the other spouse; (11) any valid agreement of the parties; and (12) any other factor that the court expressly finds to be just and equitable."

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750 ILCS 5/504(a) (West 2008).

On review, we will not disturb a maintenance award absent an abuse of discretion. *In re Marriage of Schneider*, 214 Ill. 2d 152, 173 (2005). Generally, a trial court's determination as to the awarding of maintenance "is presumed to be correct." *In re Marriage of Krane*, 288 Ill. App. 3d 608, 618 (1997). An abuse of discretion exists only where we can conclude that no reasonable person would take the view adopted by the trial court. *In re Marriage of Schneider*, 214 Ill. 2d at 173. The party challenging the maintenance award bears the burden of showing an abuse of discretion. *In re Marriage of Schneider*, 214 Ill. 2d at 173.

¶ 27 In the present case, the trial court ordered respondent to pay petitioner permanent maintenance of \$10,000 per month. In doing so, the court acknowledged it "did not determine the amount of maintenance according to [petitioner's] reasonable needs in light of the standard of living established during the marriage" because "[w]hile respondent has the ability to earn substantial income currently and in the future, he cannot maintain himself, [petitioner] and the children in the lifestyle they enjoyed throughout their marriage; [t]he resources of the parties do not allow them to maintain the standard of living established during the marriage." The court further explained,

"[Respondent's] income did not meet the expenses of the parties and the children during this litigation. Indeed, [petitioner] admitted that she and [respondent] spent more than [respondent] earned. The parties were required to use marital assets to supplement the payment of these costs because [respondent's]

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income was insufficient to pay all of the children's expenses along with the temporary support and [respondent's] reasonable living expenses. [Respondent's] analysis of the parties' income and expenditures and the source of payment of the expenses was supported by the evidence."

The court noted that even though petitioner had been granted temporary support of \$7,500 per month based on the court's conclusion that respondent's monthly net income was \$30,000 per month, the trial evidence showed respondent's net income "has consistently been about \$20,000 per month." The trial court found respondent's testimony to be credible concerning the fluctuations in his total income between 2000 and 2006. The trial court rejected petitioner's claim that respondent's father manipulated respondent's income because of the parties' divorce. Moreover, the trial court found petitioner's Rule 13.31 disclosure statement, dated May 8, 2007, did not accurately reflect her expenses. Based on respondent's counsel's cross-examination of petitioner, the court found many of her expenses to be exaggerated and not credible.

¶ 28 Petitioner argues the trial court's award of \$10,000 per month in permanent maintenance was insufficient. She contends this court "must analyze whether realistically it is likely that [she] would be able to support herself in some reasonable approximation of the standard of living established during the marriage, especially when the marriage was of long duration and she has long been absent from the labor market."

¶ 29 We agree with respondent that the trial court did undertake such an analysis. However, rather than find in favor of petitioner's proffered standard of living, it concluded that "the

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resources of the parties do not allow them to maintain the standard of living established during the marriage." Accordingly, on review, the issue is whether the trial court abused its discretion in finding respondent was unable to maintain the lifestyle the parties enjoyed during their marriage. See *In re Marriage of Logston*, 103 Ill. 2d 266, 287 (1984).

¶ 30 "Ultimately a maintenance award, whether it is temporary or permanent, must be reasonable [citation omitted] and what is reasonable depends upon the facts of each individual case." *In Re Marriage of Heroy*, 385 Ill. App. 3d 640, 652 (2008). "When the primary complaint of the party seeking maintenance is that her life-style is not the same as it was, this court has pointed out that the resources of the parties dictate whether they can maintain their lifestyle after dissolution." *In re Marriage of Werries*, 247 Ill. App. 3d 639, 652 (1993) (Citing *In re Marriage of Wade*, 158 Ill. App. 3d 255, 269 (1987)).

¶ 31 In fashioning the maintenance award as it did, the trial court recognized it was unable to provide both parties with the standard of living they enjoyed during their marriage because that standard was not attainable based on their actual income. Both parties admitted at trial that they lived beyond their means during their marriage. To identify how the parties were able to maintain their lifestyle despite their admissions that their income did not meet their needs, the court noted that not all of the family income came from respondent's employment. The court found that during their marriage, the parties had additional sources of income to support their lifestyle, sources they no longer had as a divorced couple. The couple recognized capital gain and ordinary income from assets received as gifts from petitioner's family. Petitioner also received annual cash gifts of \$10,000 from her family, which were used to support the parties'

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lifestyle. The parties also received substantial income from certain real estate investments during those years, which no longer existed at the time of the parties' divorce. The maintenance awarded reflected the court's conclusion that the parties could not maintain their same lifestyle separately; a common fate of many divorced couples.

¶ 32 Petitioner stresses that in assessing her credibility as it related to her expenses, the trial court criticized her for filing purportedly false statements on her Bank of America loan application, even though she offered evidence the errors in the document were the fault of the bank, not her. She claims the court's mistake here "tainted the trial as to her assessment of [petitioner's] credibility." We disagree.

¶ 33 A review of the record shows the trial court's assessment of petitioner's credibility as it related to her expenses was not based only on the statements she made in the loan application, but also her testimony concerning her amended disclosure statement. The trial court found respondent's evidence regarding the parties' income and expenses to be more credible than petitioner's. As a reviewing court, we must accept the trial court's judgment regarding issues of credibility, the weight to be given the evidence and the inferences to be made, where the trial court, by virtue of its ability to view the witnesses in person, is in a better position to assess their credibility. *In re Marriage of Manker*, 375 Ill. App. 3d 465, 477 (2007).

¶ 34 Petitioner fails to offer any persuasive position, based on the facts of the case or her cited authority, to show the trial court abused its discretion by not awarding her \$20,000 per month in permanent maintenance. Her sole argument is that she is entitled to the increased amount based upon the standard of living the parties enjoyed during their marriage. However, as the trial court

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made clear, respondent is unable to financially meet that standard. Petitioner was awarded more than 35% of respondent's gross income in permanent maintenance. The trial court's findings and orders show it considered all of the factors outlined in section 504 of the Act and the evidence before it. 750 ILCS 5/504 (West 2008). We find it clear from the record that the trial court properly considered the reasonable needs of petitioner, in light of the standard of living enjoyed during the parties' marriage, in determining her maintenance award. The trial court properly used its discretion to determine what needs were reasonable, considering such factors as the parties' circumstances, the standard of living established during the marriage, and the duration of the marriage. The court's conclusion, reflected in the maintenance award, that the parties' could not enjoy the same standard of living they did while married, does not render the judgment improper as an abuse of the court's discretion where it was based on the evidence presented by the parties. Accordingly, we affirm the trial court's judgment awarding petitioner \$10,000 per month in permanent maintenance.

¶ 35 Petitioner argues the trial court "was internally inconsistent in his judgment" by awarding her permanent maintenance, but ordering her to seek employment. Petitioner argues that because she was awarded permanent, not rehabilitative maintenance, the court improperly ordered her to seek employment.

¶ 36 The trial court held petitioner "has an obligation to find a job at a level appropriate to her education and prior employment experience." However, in doing so, the court acknowledged, she "does not possess the necessary education, experience or skills to obtain a job that would enable her to earn income to support herself in the lifestyle to which she became accustomed

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during her marriage to [respondent] or to a lifestyle comparable to that which [respondent] would enjoy after the divorce if he were not required to pay maintenance." The court required petitioner to keep respondent apprised on a monthly basis of her efforts to secure employment and provide him with evidence of her income upon securing employment.

¶ 37 In awarding permanent maintenance, the trial court acknowledged petitioner has limited resources to meet her needs independently. The court recognized that because of the agreed-upon division of labor during the parties' marriage, petitioner stayed home and raised their two children. The court acknowledged that because of the length of the parties' marriage, petitioner would be attempting to resurrect her career after a significant time out of the workforce and with limited skills and experience. However, the court's recognition, in ordering permanent maintenance, that petitioner is likely unable to earn income to support herself in the lifestyle she enjoyed during the parties' lengthy marriage does not mean it abused its discretion in ordering her to seek reasonable employment. The two are not mutually exclusive. See *In re Marriage of Dunseth*, 260 Ill. App. 3d 816 (1994) (it is proper for the trial court to order the recipient of permanent maintenance to seek reasonable employment toward the goal of becoming self-sufficient.); See also *In re Marriage of Haas*, 215 Ill. App. 3d 959, 986 (1991) ("Permanent maintenance is appropriate where it is evident that the recipient spouse is either unemployable or employable only at an income substantially lower than the previous standard of living. Nonetheless, the recipient spouse has a good faith obligation to become self sufficient."); See also *In Re Marriage of Mitra*, 114 Ill App. 3d 627, 634 (1983)("Despite our affirmance of this indefinite award, we do note that [wife] is under an affirmative obligation to seek appropriate

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training and skills to become financially independent in the future.")

¶ 38 Under the abuse of discretion standard, the question is not whether as a reviewing court, we would have decided the issue differently, but whether any reasonable person could have taken the position adopted by the trial court. See *In re Marriage of Schneider*, 214 Ill. 2d at 173.

¶ 39 The trial court found petitioner was college-educated, had worked as a certified paralegal for six years in the early 1980's and then briefly worked in sales for Lexis/Nexus, earning \$50,000, before staying home permanently in 1996 to raise the parties' minor children. The trial court is in a better position than we are as a reviewing court to assess petitioner's education, training and skills, and, therefore, based on the record before us, we cannot conclude that the court's decision to order petitioner to seek reasonable employment and document her efforts to do so was unreasonable. We find no abuse of discretion.

¶ 40 Child Support

¶ 41 Petitioner argues the trial court improperly reduced her maintenance by requiring her to pay \$850 of the maintenance back to respondent as child support and pay 50% of the children's tuition, tutoring lessons, activities and summer expenses, which she claims reduces her net maintenance to \$5,580 per month.

¶ 42 Petitioner questions the trial court's decision to require her to pay child support at all. She contends that respondent, "given his superior income and ability to acquire assets, should be paying [her] child support, in an amount grater than the \$850.00 per month the trial court ordered [her] to pay to [respondent.]"

¶ 43 Addressing petitioner's concerns, we look to the trial court's basis for the award. In the

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judgment for dissolution of marriage, the court awarded respondent sole custody of the parties' two minor children, finding he "is best suited to be the legal custodian of the children." The court ordered respondent to pay 100% of the children's medical and therapy expenses, the children's legal fees and their Bar and Bat Mitzvah and any parties or celebrations after.

Respondent was also ordered to pay 50% of the children's tuition, tutoring lessons, activities and summer expenses. Both parties are responsible for the payment of their own living expenses and income taxes.

¶ 44 The trial court may order a parent to pay child support in an amount that is "reasonable and necessary" for the child's well-being. 750 ILCS 5/505(a) (West 2008). The award of child support lies within the sound discretion of the trial court and will not be set aside absent an abuse of that discretion. *In re Marriage of Partney*, 212 Ill. App. 3d 586, 590 (1991). In exercising its discretion, the trial court must consider the factors set forth in section 505(a)(2) of the Act. 750 ILCS 5/505(a)(2) (West 2008).

¶ 45 Based on the evidence presented, petitioner has not shown that the trial court's order requiring her to pay child support of \$850 per month to respondent was an abuse of discretion. The trial court stated its intent was "to equitably divide the income and assets between the parties." We find, based on the evidence, the trial court properly considered the factors discussed in section 505(a)(2) of the Act and was not unreasonable in ordering petitioner to pay child support to respondent in the amount of \$850. Accordingly, we uphold the award as a proper exercise of the trial court's discretion.

¶ 46

Attorney Fees

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¶ 47 The trial court required the parties' to pay their own attorney fees in this case. Petitioner contends the trial court erred in holding she had adequate income to pay her own attorney fees. As support, petitioner contends "[a] long line of Illinois cases holds that a spouse need not deplete part of her principal, liquidate her assets, deplete her savings or divest herself of assets in order to enable her to pay her attorney fees." Petitioner argues that is exactly what she had to do to pay her attorney fees at the conclusion of the parties' heavily litigated case. She contends respondent "has a greater superior ability to acquire assets and earn income" and, therefore, the court should have required him to pay her outstanding attorney fees.

¶ 48 In the judgment for dissolution, the trial court ordered each party to pay their own attorney fees and respondent to pay all of the attorney fees and costs incurred by the children's representative. In doing so, the court found petitioner "has the financial ability to pay her own fees and costs. She will receive a disproportionate share of the marital estate in the amount of \$1,568,205 (includes pre-dissolution distribution) and \$10,000 per month in permanent maintenance. [She] also has a non-marital estate of approximately \$422,732. Furthermore, [petitioner] has litigated this case to the fullest, apparently heedless of cost."

¶ 49 A trial court's order awarding or denying attorney fees will be reversed only where the trial court has clearly abused its discretion. *In re Marriage of Schneider*, 214 Ill. 2d at 174. Section 508 of the Act allows the trial court to award attorney fees to either spouse, where one party lacks the financial resources to pay and the other party has the ability to do so. 750 ILCS 5/508 (West 2008). The party seeking payment of their attorney fees must show their inability to pay and the other spouse's ability to do so. *In re Marriage of Vendredi*, 230 Ill. App. 3d 1061,

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1069 (1992). "Financial inability exists where requiring payment of fees would strip that party of her means of support or undermine her financial stability." *In re Marriage of Haas*, 215 Ill. App. 3d at 987 (citing *In re Marriage of Bentivenga*, 109 Ill. App. 3d 967 (1982)).

¶ 50 None of the cases petitioner cites for support persuade us to conclude that based on the facts presented here, the trial court's determination that she pay her own attorney fees was an abuse of discretion. The facts concerning the parties' ability to pay their attorney fees in the cases she cites are markedly different than those presented here and, thus, inapposite. We find the facts as presented to be more similar to those in *In re Marriage of Schneider*, authority respondent cites in his brief.

¶ 51 Similar to *In re Marriage of Schneider*, the trial court here properly considered each parties' financial situation, as well as their litigious behavior throughout the proceedings, before holding each party responsible for their own attorney fees. As the trial court did in *In re Marriage of Schneider*, the trial court here placed great significance on the fact that petitioner received a "disproportionate share of the marital assets," as well as a substantial permanent maintenance award, in finding it equitable that she pay her own attorney fees. See *In re Marriage of Schneider*, 214 Ill. 2d at 175. Petitioner has failed to show the trial court abused its discretion in determining that she had the ability to pay her own attorney fees and that doing so would not undermine her financial stability. Respondent's greater earning potential was taken into consideration by the court in awarding permanent maintenance and dividing the marital estate as the court did. Accordingly, we affirm the trial court's order requiring each party to pay their own attorney fees and costs.

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¶ 52

## CONCLUSION

¶ 53 The trial court's determination that the stock options were not marital property at the time of the judgment of dissolution was not against the manifest weight of the evidence. We further find the trial court's maintenance determination and its order requiring petitioner to pay child support to respondent and seek employment a proper exercise of the court's discretion, supported by the record evidence. Lastly, the trial court properly exercised its discretion in ordering the parties to each pay their own attorney fees and costs. Accordingly, we affirm the trial court's judgment.

¶ 54 Affirmed.