

whether such funds are subject to disgorgement. We affirm in part and vacate in part.

¶ 3 We initially note that no brief has been filed on appellee's behalf. Under the principles established in *First Capital Mortgage Corp. v. Talandis Construction Corp.*, 63 Ill. 2d 128, 133 (1976), we will address the merits of the appeal given that the claimed error raised by the appellant is such that it may be easily decided without the benefit of an opposing brief.

¶ 4 This cause arises from the underlying dissolution of marriage action between Todd and Tiffany Blastenbrei. Cordell represented Todd. Tiffany filed a petition for interim attorney fees and costs pursuant to section 501(c-1), known as the "leveling of playing field" provisions in the Act. The court ultimately awarded Tiffany interim attorney fees and directed Cordell to turn over to Tiffany's counsel the sum of \$4,945.50. Cordell filed a motion to intervene and for reconsideration. The court subsequently affirmed its earlier order awarding interim attorney fees and directing Cordell to turn over funds. Cordell then filed a motion for finding of indirect civil contempt requesting the court to find it in "friendly contempt." The court granted Cordell's motion finding it in "friendly" indirect civil contempt and further stated that the order was final and appealable. On appeal, Cordell argues that the court erred in ordering it to disgorge earned attorney fees which had already been transferred from the client trust fund to Cordell's general fund. Cordell argues that the funds have become Cordell's property and therefore are not subject to turnover.

¶ 5 Section 501(c-1) of the Act grants circuit courts authority to award interim attorney fees in predecree dissolution of marriage cases. 750 ILCS 5/501(c-1) (West 2012). Section 501(c-1) was enacted as part of the "leveling of playing field" amendments, allowing the court to assess an interim award against an opposing party in an amount necessary to enable the petitioning party to participate adequately in the

litigation. If the court finds that both parties lack the financial ability or access to assets or income for the payment of reasonable attorney fees and costs, the court is to allocate available funds for each party's counsel, including retainers or interim payments, previously paid, in a manner that achieves substantial parity between the parties. In other words, the Act allows a trial court to order disgorgement of previously paid funds to one attorney in the event that the court finds that both parties lack the financial ability and resources to pay reasonable attorney fees and costs.

¶ 6 Our supreme court recently addressed the very issue raised by Cordell in *In re Marriage of Earlywine*, 2013 IL 114779. Recognizing that the legislature's goal in enacting section 501(c-1) of the Act was to level the playing field by equalizing the parties' litigation resources, the court specifically held that even advance payment retainers in dissolution cases were subject to disgorgement pursuant to section 501(c-1) of the Act. It did not matter that the funds had become the property of the attorney upon payment and placed in his general account. *Earlywine*, 2013 IL 114779, ¶¶ 27-29. The court further noted that the statute also did not distinguish between marital property and nonmarital property for the purpose of disgorgement of attorney fees. *Earlywine*, 2013 IL 114779, ¶¶ 30-31. In other words, the statute contemplates that even retainers paid on behalf of a spouse may be disgorged. *Earlywine*, 2013 IL 114779, ¶¶ 29-30. In light of *Earlywine*, we find no error in the order of disgorgement entered here.

¶ 7 Given the recent pronouncement in *Earlywine*, we also vacate the order of contempt. See *In re Marriage of Beyer*, 324 Ill. App. 3d 305, 321-22 (2001) (when refusal to comply with court's order constitutes good-faith effort to secure an interpretation of an issue without direct precedent, it is appropriate to vacate contempt order on appeal). See also *Earlywine*, 2013 IL 114779, ¶ 36.

¶ 8 Accordingly, the judgment of the circuit court of Madison County is affirmed
in part and vacated in part.

¶ 9 Affirmed in part and vacated in part.