

No. 1-14-2237

**NOTICE:** This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

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IN THE APPELLATE COURT  
OF ILLINOIS  
FIRST JUDICIAL DISTRICT

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*In re* MARRIAGE OF )  
YVONNE FOSTER, ) Appeal from the  
 ) Circuit Court of  
 ) Cook County  
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 )  
 ) Petitioner-Appellant, )  
 )  
 ) No. 09 D 230269  
and )  
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 )  
 ) JAMES FOSTER, ) Honorable  
 ) Jeanne M. Reynolds,  
 ) Judge Presiding.  
 ) Respondent-Appellee. )

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PRESIDING JUSTICE REYES delivered the judgment of the court.  
Justice McBride concurred in the judgment.  
Justice Gordon dissented.

**ORDER**

¶ 1 *Held:* The circuit court did not abuse its discretion in (i) granting attorney fees under section 508(b) of the Illinois Marriage and Dissolution of Marriage Act in an amount less than the amount requested in the fee petition or (ii) denying the petitioner's motion to reconsider; the judgment of the circuit court is affirmed.

¶ 2 Petitioner Yvonne Foster (Yvonne) filed a petition for attorney fees in the amount of \$35,297.64 pursuant to section 508(b) of the Illinois Marriage and Dissolution of Marriage Act

(the Act). 750 ILCS 5/508(b) (West 2012). The circuit court of Cook County ordered Yvonne's former spouse, respondent James Foster (James), to pay Yvonne's attorneys the amount of \$6,500 under section 508(b); the court denied Yvonne's motion to reconsider. On appeal, Yvonne contends the \$6,500 award "was not reasonable and was an abuse of discretion." For the reasons that follow, we affirm the judgment of the circuit court.

¶ 3

### BACKGROUND

¶ 4 After a trial,<sup>1</sup> the court entered a judgment on September 28, 2012 dissolving the marriage between the parties (the dissolution order). The dissolution order provided, in part: (1) Yvonne was "awarded permanent maintenance in a sum equal to 30% [of] [James'] gross income from all sources" and, among other things, he "shall tender to [Yvonne] a copy of all checks and/or all other documents evidencing gross income paid to [him] every month" and "a copy of his W-2's, 1099's, K-1's, and/or any other documentation evidencing gross income each year on or before April 15th"; (2) Yvonne was awarded "Schwab account #6275, with a value of \$486.68 as of 8/31/11[.]" "Schwab rollover IRS account #6286 with a value of \$5445.00 as of 8/31/11[.]" and the sum of \$115,695.45 representing 65% of the fair market value of the marital residence; (3) James was ordered to file the parties' tax returns for the years 2007-2011 and pay for all taxes and penalties owed "for failing to properly file such on a timely basis"; (4) James was responsible for the payment of various debts, including the balances on Nordstrom and Visa credit cards; and (5) James was ordered contribute \$25,000 toward payment of Yvonne's attorney fees.

¶ 5 On February 11, 2013, Yvonne filed a "Petition for Rule to Show Cause for Indirect Civil

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<sup>1</sup> Additional facts are set forth in our opinion in an earlier appeal involving the parties. *In re Marriage of Foster*, 2014 IL App (1st) 123078.

Contempt" against James (the first petition for rule<sup>2</sup>). In the five-count first petition for rule, Yvonne alleged that James willfully violated the dissolution order by his failure to: (1) provide Yvonne "all documents evidencing gross income paid to him every month"; (2) turn over to Yvonne the two Schwab accounts and the \$115,695.45; (3) file the 2007-2011 joint state and federal income tax returns; (4) pay the Nordstrom and Visa credit card balances; and (5) pay the \$25,000 contribution toward Yvonne's attorney fees. In addition to requesting the issuance of a rule to show cause and an order finding James in contempt, Yvonne sought attorney fees and costs associated with "the preparation, presentation and prosecution" of the first petition for rule pursuant to section 508(b) of the Act.

¶ 6 On February 19, 2013, the trial court entered an "Order on Rule to Show Cause," finding that a *prima facie* case of indirect civil contempt was shown by the petition for rule and ordering a rule against James to show cause why he should not be held in contempt of court for failure to comply with the specified provisions of the dissolution order.

¶ 7 In a response filed on April 10, 2013, James asserted that he "submitted all documents to [Yvonne] that demonstrate his gross income." With respect to "Schwab Rollover IRA acct. # 6286," he attached trial stipulations signed by the parties' respective counsel which listed the value as "545.00," not "5445.00," as provided in the dissolution order; he stated that the "value of the account was incorrectly transcribed" in the dissolution order. Discussing his failure to file the tax returns, James asserted, in part, that he "misunderstood the nature of the stay pending appeal and believed that when [Yvonne] filed" appeal number 1-12-3078, "all aspects of the judgment were stayed with the exception of payment of support." He stated that he

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<sup>2</sup> For ease of reference, we refer to the February 11, 2013 petition as the "first" petition for rule. We note, however, that the record on appeal includes an earlier petition for rule to show cause, filed by Yvonne on November 13, 2012; such petition was withdrawn and is not the subject of the instant appeal.

"anticipate[d] completing the outstanding tax returns on or before April 15, 2013 with the exception of 2008 as he is has not [*sic*] received the copy of his 2008 W2 from his employer." Regarding the Nordstrom and Visa credit cards, he claimed that Yvonne had testified to card balances that were significantly lower than the actual balances. James posited that "[i]f in fact the collection letters are for the accounts that were in existence at the time of the trial, [Yvonne] has either perjured herself or committed fraud as the court relied upon her testimony and evidence in determining the Judgment." Finally, James denied that he failed to pay the \$25,000 contribution toward Yvonne's attorney fees.

¶ 8 After "hearing the testimony of the parties" and "consider[ing] the evidence and argument of counsel," the circuit court entered an order on April 17, 2013 finding that, with respect to four counts of the first petition for rule, James's failure to comply with the dissolution order was "willful, contumacious and without compelling justification." The court found that his failure to pay the credit card balances was not willful because, among other things, "the documents provided to him by Yvonne did not contain enough information with which James could verify outstanding amounts and where to make payment." James was ordered to provide certain documentation, file the income tax returns, and pay \$486.68 "representing Yvonne's entire remaining interest in the Schwab accounts at issue"; Yvonne was ordered to tender documentation relating to her credit card debt. The court also granted Yvonne "leave to file her Petition for Attorneys [Fees] pursuant to Section 508(b)" of the Act. However, Yvonne did not file her section 508(b) petition for attorney fees until January 27, 2014, as discussed below.

¶ 9 The record on appeal reflects that, after the entry of the April 17, 2013 order, the circuit court held status hearings regarding, among other things, the filing of the parties' tax returns and the credit card payment issues.

¶ 10 On September 12, 2013, Yvonne filed a "Second Petition for Rule to Show Cause for Indirect Civil Contempt" (the second petition for rule), asserting two counts. In Count I, Yvonne alleged James "failed to tender to [Yvonne] her 30% share on his royalty income for payments which were to be made on July 31, 2013 and August 31, 2013." In Count II, Yvonne alleged James "has not paid the Visa and Nordstrom debts in accordance with the [dissolution order] despite having been given all of the pertinent information regarding same as required by the April 17, 2013 order." In both Counts I and II, she contended that James's failure to comply with the dissolution order was "willful and without compelling cause or justification." Yvonne sought section 508(b) attorney fees and costs associated with the "preparation, presentation and prosecution" of the second petition for rule.

¶ 11 In a response filed on October 15, 2013, James contended that he timely paid Yvonne on the first of the month following his receipt of certain royalties, in accordance with the dissolution order; he asserted that he provided Yvonne "with every payment in full since the Judgment was entered." With respect to the credit card debt, James claimed his counsel advised Yvonne's counsel that Yvonne "needed to give permission to the credit card company to permit [James] to speak directly with the companies." "To date," James stated, "[Yvonne's] counsels have not notified [James] that [Yvonne] has given permission."

¶ 12 In an order entered on November 19, 2013 regarding the second petition for rule, the trial court stated that "[w]ith respect to Count I \*\*\*, the Court finds that Respondent's actions were not willful and contumacious." Paragraph 2 of the order provides:

"With respect to Count II \*\*\*, James Foster shall pay in full the sums due to Nordstrom \*\*\* and Visa \*\*\* within 14 days. This Court reserves the issue of whether James' failure to pay is willful & contumacious."

The order continued the matter for status to December 12, 2013. The appellate record does not include any order indicating whether the trial court resolved the issue of whether James's failure to pay, as alleged in Count II of the second petition for rule, was willful and contumacious.

¶ 13 On January 27, 2014, Yvonne filed a "Petition for Attorneys' Fees Pursuant to 750 ILCS 5/508(b)" (the fee petition). In the fee petition, Yvonne contended that she filed the petition for rule in February 2013 "due to [James's] failure to comply with the" dissolution order. Yvonne stated that the court's order entered on April 17, 2013 "continued findings that [James's] failure to comply with certain portions of the [dissolution order] was without compelling cause or justification." The fee petition included language from the April 17, 2013 order directing James and Yvonne to take certain actions by specified dates, setting a status hearing regarding the tax filings, and granting Yvonne leave to file a section 508(b) fee petition. The fee petition further provided:

"On September 12, 2013, [Yvonne] filed a Second Petition for Rule to Show Cause for Indirect Civil Contempt, for [James's] continued refusal to comply with the Judgment for Dissolution of Marriage dated September 28, 2012 with respect to payment of certain debts. If not for [James's] refusal to comply with the Judgment for Dissolution of Marriage, [Yvonne] would not have incurred attorney's fees necessary to attempt to secure compliance with the Judgment for Dissolution of Marriage."

Stating that the second petition for rule "was resolved during the hearing date of November 19, 2013," the fee petition quoted the court's November 19, 2013 order, including the court's "reserv[ing] the issue of whether James failure to pay is willful and contumacious" and setting the matter for "status on payment on 12/12/13."

¶ 14 In the fee petition, Yvonne requested that the court "review the summary of fees and costs incurred relating to the within issues and award [her] the sum of \$35,297.64 from [James]." One of the attachments to the fee petition is a chart – apparently for the law firm of Rosenfeld Hafron Shapiro & Farmer (the Rosenfeld firm) – described in the fee petition as "[a] detailed listing of the fees and costs incurred with regard to the contempt issues herein." The chart provided the date, the billing attorney, the billing rate, the amount of time billed, an "explanation" of services and the total fees or costs incurred for each entry from January 2, 2013 through December 18, 2013. The total amount listed for the Rosenfeld firm was \$24,985.14. Another attachment to the fee petition provided similar billing information for "co-counsel," which appears to be the law firm of Levin & Rosen, Ltd. and/or attorney Jerome Levin (the Levin firm); the total amount listed for the Levin firm was \$10,312.50, incurred from February through December, 2013. No affidavit was filed in support of the fee petition,<sup>3</sup> and Yvonne did not request an evidentiary hearing therein.

¶ 15 In a response filed on March 10, 2015, James contended, in part:

"A review of the billing statements submitted by YVONNE's counsel demonstrates that YVONNE is requesting the court to order JAMES to pay for **all of her legal fees incurred since January 1, 2013**, although the vast majority of the fees are not related to the contempt proceedings held on April 10, 2013. An analysis of the billing statements is attached hereto as Exhibit A. Of the \$24,985.50 claimed by Yvonne for [the Rosenfeld firm], it appears at least \$17,235 in charges is unrelated to the contempt findings. Of the \$10,312.50 claimed by YVONNE for Jerome Levin, it appears that at least \$7,593.75 in

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<sup>3</sup> Yvonne's affidavit in support of the first petition for rule is included in the attachments to the fee petition.

charges is unrelated to the contempt findings." (Emphasis in original.)

With respect to the second petition for rule, James asserted that the court "found that [he] had not violated the Judgment with respect to payment of the support." He further asserted that the court "reserved the issue of whether [he] had willfully violated the Judgment with respect to the payment of the credit card balances." Referring to the first petition for rule, James contended that "the total amount of fees that the court finds to be reasonable and related to the finding of contempt should be further reduced as fees should not be awarded for the count [James] was held to not be in contempt of." Characterizing Yvonne's attorney fees as "excessive and not reasonable," James also asserted, among other things, that when "both counsel" – presumably meaning attorneys from both the Rosenfeld firm and the Levin firm – "charge for attendance at court, phone calls with each other and the like, the combined hourly rate for the legal work is \$725.00."

¶ 16 Attached to James's response were exhibits regarding the requested fees. The first exhibit was directed towards the fees and costs requested by the Rosenfeld firm. James indicated that any section 508(b) award should not include: (1) charges related to the credit card indebtedness (\$2,100.00); (2) entries that lacked information regarding the subject of the legal work performed (\$8,387.45); (3) entries that had no indication they were related to the contempt findings (\$4,534.36); (4) travel charges (\$2,012.50); and (5) expenses that contain no indication they are related to the contempt findings (\$290.71). In the second document, addressing the Levin firm fees, James detailed \$7,593.75 in entries that included no indication they were related to the contempt findings.

¶ 17 The appellate record does not contain a transcript of proceedings held on March 26, 2014.



A written order prepared by Yvonne's counsel and entered on March 26, 2014,<sup>4</sup> however, indicates that counsel for James and counsel for Yvonne appeared, the court heard arguments of counsel and considered the pleadings, and the court held that "the sum of \$6,500.00 is a reasonable and necessary fee" pursuant to section 508(b).

¶ 18 On April 28, 2014, Yvonne filed a motion to reconsider the circuit court's order awarding the \$6,500. Yvonne contended that the circuit court "erred in its application of existing law," as "the fees awarded in this matter were not reasonable." She stated the circuit court had "reasoned, *inter alia*, that the hourly rate charged by [Yvonne]'s attorneys (specifically [the Rosenfeld firm]) was unreasonable and that travel time charged by [Yvonne]'s attorneys was not appropriate for consideration in connection with a 508(b) petition." Yvonne argued the awarded fees were not reasonable because the sum of \$6,500 represents only 18% of the total fees incurred and because Yvonne's attorneys "billed a total of 97.05 hours in connection with [James's] contempt," and thus the trial court "[i]n effect \*\*\* set [Yvonne's] counsel's hourly rate at \$67.00 per hour for work performed in connection with this matter." Yvonne contended that "[u]pon information and belief, the aforementioned hourly rates are not in accordance with the prevailing hourly rate for experienced practitioners in this division and is therefore unreasonable." In a response filed on June 13, 2014, James asserted that the trial court "properly and correctly applied existing law."

¶ 19 On June 25, 2014, the circuit court held a hearing regarding Yvonne's motion to reconsider. Yvonne's counsel, Howard Rosenfeld from the Rosenfeld firm, argued, in part, that "[t]he Court has made no other findings, conducted no other hearings, heard no other evidence

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<sup>4</sup> The order contained in the record on appeal does not include a handwritten or stamped date. Yvonne has represented that the order awarding section 508(b) fees was entered on March 26, 2014; James has not indicated otherwise.

but read the time records." The following exchange occurred between the trial court, Mr. Rosenfeld, and James's attorney, Maureen Mitchel:

"THE COURT: \*\*\* There was a Rule to Show Cause filed in this matter.

Mr. Foster was not held to be in contempt on all of the counts.

MR. ROSENFELD: No, on four out of five.

THE COURT: He was not.

MR. ROSENFELD: He was.

Do you want me to show you the order, Judge?

THE COURT: I'm well aware of the order. He was not found to be in contempt on all of the counts.

MR. ROSENFELD: He was on four out of five.

THE COURT: You were not here for the last hearing we had in this matter with regards to this. The Court did review over \$35,000 in requests for attorneys' fees. This Court found that those fees and the amount for three attorneys to spend in this matter not to be reasonable and necessary based on what occurred in this case.

The Court ordered a \$6500 award which the Court feels was appropriate in this matter. I did order previously Mr. Foster to be 100 percent responsible for [the accountant] Mr. Epstein's fees, as well as the fees to get the tax returns properly submitted in accordance with the Judgment.

The Court does not believe that there is any new evidence that was not properly considered, and that the Court's ruling was appropriate under the parameters of [section 508(b)] which does require the Court to find that all fees

incurred were reasonable and necessary."

The trial court denied Yvonne's motion to reconsider on June 25, 2014. On July 16, 2014, Yvonne filed her notice of appeal seeking review of the orders of March 26, 2014 and June 25, 2014.

¶ 20

#### ANALYSIS

¶ 21 On appeal, Yvonne contends the circuit court abused its discretion when it awarded her \$6,500 in attorney fees and costs. Yvonne argues her request for \$35,297.64 was reasonable considering the number of hours her attorneys spent on the matter and the fact that the attorneys' hourly billing rates were customary and reasonable in light of the work performed. In addition, Yvonne asserts the circuit court abused its discretion when it denied her motion to reconsider "given that [the circuit court judge] had a mistaken belief as to the facts of the case when she ruled."

¶ 22 The parties agree that the applicable standard of review is abuse of discretion. See *In re Marriage of Michaelson*, 359 Ill. App. 3d 706, 715 (2005) ("An award of attorneys' fees will not be overturned in the absence of a clear abuse of discretion by the trial court"); see also *General Motors Acceptance Corp. v. Stoval*, 374 Ill. App. 3d 1064, 1078 (2007) ("The decision to grant or deny a motion for reconsideration lies with the discretion of the circuit court and will not be reversed absent an abuse of that discretion.").

¶ 23 Section 508(b) of the Act states, in pertinent part:

"In every proceeding for the enforcement of an order or judgment when the court finds that the failure to comply with the order or judgment was without compelling cause or justification, the court shall order the party against whom the proceeding is brought to pay promptly the costs and reasonable attorney's fees of

the prevailing party." 750 ILCS 5/508(b) (West 2012).

The order entered on April 17, 2013, regarding Yvonne's first petition for rule provided, in part, that, with respect to Counts I, II, III and V, James's failure to comply with the dissolution order was "willful, contumacious and without compelling justification." Such findings mandated the imposition of fees in accordance with section 508(b). "[T]he court has no discretion under section 508(b) except to determine if the failure to comply with an order was without compelling cause or justification; if it so finds, attorney fees must be imposed." *In re Marriage of Putzler*, 2013 IL App (2d) 120551, ¶ 37; *Michaelson*, 359 Ill. App. 3d at 715-16. A contempt finding is not necessary. *In re Marriage of Berto*, 344 Ill. App. 3d 705, 717 (2003) ("A finding of contempt is sufficient to require an award of fees under section 508(b), but such a finding is not necessary").

¶ 24 The circuit court's only discretion is awarding section 508(b) fees to Yvonne's attorneys extended to its determination of the amount of "reasonable" fees. See, e.g., *In re Marriage of Sanda*, 245 Ill. App. 3d 314, 319 (1993). "[A] trial court must impose [section 508(b)] fees without consideration of either party's ability to pay." *Putzler*, 2013 IL App (2d) 120551, ¶ 40. "Instead, the court considers only the reasonableness of the fee award, based on factors such as time spent, the ability of the attorney, and the complexity of the work." *Id.*; *In re Marriage of Walters*, 238 Ill. App. 3d 1086, 1098 (1992).

¶ 25 Yvonne raises a number of contentions on appeal. She asserts that, even "if one were to look *only* at the time from the inception of the case up until April 17, 2013" (emphasis in original) – the date of the order regarding the first petition for rule in which the court found that James willfully violated portions of the dissolution order – "the total billed by Yvonne's attorneys was \$10,854.86, representing \$7,761.11 for the fees of [the Rosenfeld firm] and

\$3,903.75 for the fees of Jerome Levin." Yvonne argues that "[g]iven that Judge Reynolds awarded *significantly less* in the entire case than the fees that were spent for only a small portion of the case dealing with the First Petition for Rule to Show Cause, it is clear that Judge Reynolds' award was not reasonable." (Emphasis in original.) Yvonne further contends that "it appears" that the circuit court "did not even apply the case law factors used in determining reasonableness of fees." She asserts that the number of hours billed was "in no way unreasonable," that the firm's billing rates were "customary given the usual charges in the community and the complexity of the issues" and that Yvonne received "a significant monetary outcome" as a result of the first petition for rule "that she might not have otherwise received." Yvonne also states that from April 17, 2013 to December, 2013, Yvonne's attorneys billed an additional \$24,442.78 in fees and costs; she argues that she was "forced to continue in the litigation process until December 2013 due to James' continual non-compliance."

¶ 26 The preliminary language in the March 26, 2014 order awarding \$6,500 in fees provided, in part, as follows: "This matter coming before the court for hearing on Yvonne's petition for 508(b) attorney fees; counsel for Yvonne appearing and counsel for James appearing; the Court hearing argument of counsel and considering the pleadings and being otherwise fully advised \*\*\*." As a threshold matter, we note that the record on appeal does not contain a transcript of the hearing on March 26, 2014, or a bystander's report or an agreed statement of facts regarding the hearing, as provided in Illinois Supreme Court Rule 323. Ill. S. Ct. R. 323 (eff. Dec. 13, 2005) (authorizing use of a bystander's report or an agreed statement of facts in lieu of reports of proceedings when the latter are unavailable). Pursuant to *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984), Yvonne, as the appellant, bears the burden to present a sufficiently complete record of the proceedings in the circuit court to support a claim of error. Any doubts arising

from the incompleteness of the record will be resolved against the appellant. *Id.* at 392. Because we are unable to review the arguments or evidence on which the circuit court based its decisions concerning Yvonne's attorney fees, or review the circuit court's findings made at the hearing, we will presume that the court's rulings were in conformity with the law and had a sufficient factual basis. See *id.* at 391-92.

¶ 27 Furthermore, even assuming *arguendo* that the appellate record provided an adequate basis for our review, we would conclude that the circuit court did not abuse its discretion in awarding the \$6,500 in fees pursuant to section 508(b). We have reviewed the billing records submitted by the Rosenfeld firm and the Levin firm. A significant number of time entries lack a sufficiently descriptive explanation of the work performed. For example, the Rosenfeld firm billing includes more than 40 separate time entries listed as "[t]elephone call from client," "[t]elephone call to client" or "[t]elephone call with client," totaling more than \$4,000. The Rosenfeld firm and Levin firm billing also includes an aggregate of more than 20 time entries regarding work relating to the credit card indebtedness; however, the circuit court did not find that James willfully violated any order with respect to such indebtedness.<sup>5</sup> In her motion to reconsider, Yvonne stated that, at the March 26, 2014 hearing, the circuit court had "reasoned *inter alia*, that the hourly rate charged by [Yvonne]'s attorneys (specifically [the Rosenfeld firm]) was unreasonable and that travel time charged by [Yvonne]'s attorneys was not appropriate for consideration in connection with a 508(b) petition." Based upon our review of the record, we conclude that the court did not abuse its discretion in awarding \$6,500 pursuant to section 508(b), *i.e.*, "no reasonable person would take the view adopted by the trial court." *In re*

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<sup>5</sup> In the order on the first petition for rule (Count IV), the court found that "James' failure to comply" with the dissolution order was "not willful." In the order on the second petition for rule (Count II), the court "reserve[d] the issue of whether James' failure to pay" was "willful & contumacious."

*Marriage of Schneider*, 214 Ill. 2d 152, 173 (2005); see, e.g., *In re Marriage of Walters*, 238 Ill. App. 3d 1086, 1099 (1992) (holding that trial court did not abuse its discretion in awarding significantly less than the amount requested in the petitioner's section 508(b) petition; court found, among other things, that "some of petitioner's attorney fees were not sufficiently defined").

¶ 28 Finally, Yvonne contends that the circuit court's denial of the motion to reconsider "was an abuse of discretion and should be overturned given that Judge Reynolds' had [*sic*] a mistaken belief as to the facts of the case when she ruled." We disagree. Nothing in the record regarding the hearing on the motion to reconsider causes us to question the circuit court's understanding of the fee petition and related issues. The court stated, among other things, that "[t]here was a Rule to Show Cause filed in this matter. Mr. Foster was not held to be in contempt on all of the counts." Whether referring to the first petition for rule, the second petition for rule, or both, the court's statement was accurate. While Yvonne posits on appeal that the trial judge's "[n]ot knowing, or remembering, that she herself found James' failure to comply with the parties' Judgment may have influenced her decision in denying Yvonne's Motion to Reconsider[.]" we do not view the record as supporting this contention. The court's decision to award *any* section 508(b) fees is consistent with – and mandated by – the court's findings that James failed to comply with certain provisions of the dissolution order. Furthermore, the court stated, in part, the following during the hearing on the motion to reconsider:

"The Court did review over \$35,000 in requests for attorneys' fees. This Court found that those fees and the amount for three attorneys to spend in this matter not to be reasonable and necessary based on what occurred in this case."

Contrary to Yvonne's contention, we do not view the circuit court as having had a

"misapprehension" or "misunderstanding" that "arguably influenced" its decision. *People v. Hurley*, 277 Ill. App. 3d 684, 687 (1996). Based upon our review of the record, we conclude that the circuit court did not abuse its discretion in awarding section 508(b) fees in the amount of \$6,500 or in denying the motion to reconsider such award.

¶ 29 CONCLUSION

¶ 30 For the reasons stated above, we affirm the judgment of the circuit court of Cook County.

¶ 31 Affirmed.

¶ 32 JUSTICE GORDON, dissenting.

¶ 33 I must respectfully dissent and I would remand the fee petition back to the trial judge for an evidentiary hearing to determine the amount of reasonable fees and costs due to Yvonne's attorneys.

¶ 34 In a post-dissolution case, section 508(b) requires the trial court to order the party against whom the proceedings is brought to pay promptly the costs and reasonable attorney's fees of the prevailing party when that party was without compelling cause or justification in failing to comply with an order or judgment. 750 ILCS 5/508(b) (West 2012). In the case at bar, Yvonne's attorneys requested \$35,297.64 in fees and costs. The trial court disregarded the costs, which consisted of photocopy charges and postage, and awarded fees of \$6,500.00. There is nothing in the court's order that explains how the trial court made its determination. In this case, Yvonne's attorneys did not request a hearing in the record before us until they filed a motion for reconsideration.

¶ 35 Where a party fails to request a hearing, a trial judge ordinarily may rely on the pleadings, affidavits on file, and the court's own experience to award attorney fees in a divorce case. *Kaufman v. Kaufman*, 22 Ill. App. 3d 1045, 1051 (1974). When a hearing is requested, we



have held that the trial court must provide an evidentiary hearing because the value of such services must be established [by proof] and that such proof must be preserved in the record, and that, upon a consideration of that record, the trial court will determine the reasonable, customary, and usual fees for the services rendered. *In re Marriage of Thompson*, 384 Ill. App. 3d 1, 3 (2008). Nonevidentiary hearings have been held to be procedurally a proper means of deciding fee petitions, as long as the decision-maker can determine, from the evidence presented in the petition and answer, what amount would be a reasonable award of fees and the opposing party has an opportunity to be heard. *Kaufman, Litwin and Feinstein v. Edgar*, 301 Ill. App. 3d 826, 837 (1998).

¶ 36 Without an evidentiary hearing in this case, there is nothing for the appellate court to review to determine if the trial court abused its discretion. The reduction the trial court made in reducing the fees from \$35,297.64 to \$6,500.00 is substantial. I do not believe that the trial court could determine, from what was presented in the petition, a reasonable award of fees. As a result of the unique circumstances of this case, I would remand for an evidentiary hearing.