2013 IL App (2d) 120782-U
No. 02-12-0782
Order filed July 23, 2013

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re MARRIAGE OF MARY PAT DOMAS,	)	Appeal from the Circuit Court of Lake County.
Petitioner-Appellee and Cross-Appellant	)	
and	)	No. 07-D-2116
EDWARD DOMAS,	)	
Respondent-Appellant and Cross-Appellee.	)	Honorable David P. Brodsky, Judge, Presiding.

JUSTICE HUDSON delivered the judgment of the court.
Justices Hutchinson and Schostok concurred in the judgment.

ORDER

¶ 1 *Held:* Respondent failed to establish that trial court did not consider distribution of $150,000 to petitioner that occurred during litigation when it divided marital property; trial court had authority to enter judgment against respondent for $19,000 support arrearage after entry of judgment for dissolution of marriage; petitioner did not establish trial court abused discretion in not sanctioning respondent for discovery violations; trial court's ruling regarding dissipation is not contrary to the manifest weight of the evidence; award of $5,000 per month maintenance was not an abuse of discretion; petitioner did not show trial court's classification or division of property was erroneous; and trial court did not abuse its discretion in ordering respondent to contribute only $30,000 to attorney fees incurred by petitioner.

¶ 2 I. INTRODUCTION

¶ 3 Respondent, Edward Domas, appeals an order of the circuit court of Lake County dissolving his marriage to petitioner, Mary Pat Domas. Petitioner has filed a cross appeal. Respondent raises two issues, and petitioner raises seven more. For the reasons that follow, we affirm.

¶ 4 II. BACKGROUND

¶ 5 We set forth the following general background to facilitate an understanding of this appeal. The parties were married in August 1983. They adopted two children, who are now emancipated. Petitioner is a registered nurse. By agreement of the parties, she has not worked outside the house since approximately 1988, working as a homemaker since that time. Respondent is part owner of a family business, Domas Mechanical Contractors (DMC), as well as a number of other closely-held business entities.

¶ 6 The parties maintained a marital residence in Kildeer, Illinois. By agreement, petitioner vacated the residence in September, 2009. At this time, petitioner received a $150,000 distribution from the marital estate. Respondent was ordered to pay petitioner support during the pendency of these proceedings ($4,000 per month after January 2010, a lesser amount before that time). He also was required to maintain insurance for the parties and pay uncovered medical and dental expenses.

¶ 7 Petitioner testified that the parties' marriage started to break down in January 2006. However, she did not begin to seek a divorce attorney until summer 2007, and, additionally, she asked respondent to attend marriage counselling during that year. Ultimately, she filed a petition for dissolution of marriage on October 26, 2007.

¶ 8 Respondent characterizes these proceedings as "contentious," and he admits that he was responsible for some of the "extensive length of pre-decree litigation" because of his failure to fully

comply with discovery (he asserts that his noncompliance was adequately addressed by the trial court). Trial lasted 12 days. Respondent was awarded his nonmarital assets. The trial court found that respondent had withheld $260,000 in draws to which he had been entitled from DMC during the pendency of this litigation and classified that money as marital property. Petitioner was awarded indefinite maintenance of $5,000 per month. A $30,000 judgment in favor of petitioner's attorneys was entered against respondent. Petitioner was awarded all of the marital financial accounts, 50% of the parties "Disney Vacation points," and the $260,000 that had been withheld by DMC . The $150,000 distribution petitioner received when she vacated the marital residence is not mentioned in the section of the judgment for dissolution of marriage addressing the division of marital property, though it is discussed in the section addressing dissipation. In ruling on a motion to reconsider, the trial court stated that it did consider this distribution in arriving at its final judgment. An unresolved rule to show cause, which concerned respondent's purported arrearage in paying support during the proceedings, was not addressed in the judgment for dissolution of marriage (JDM). Twenty-nine days after the entry of the JDM, the trial court dismissed the rule to show cause and entered judgment against respondent for the amount of the arrearage ($19,000).

¶9 Respondent now appeals, and petitioner has filed a cross-appeal. They raise numerous issues, some of which concern substantive matters and others regarding the conduct of the proceedings below. As these issues are relatively discrete, we will not set forth additional background information at this point; rather, we will discuss pertinent facts as we analyse the issues raised by the parties in the course of this appeal.

¶ 10 III. ANALYSIS

¶ 11 We will first address the issues raised by respondent, and then we will turn to petitioner's cross-appeal. The majority of the issues raised by the parties concern matters that are either within the discretion of the trial court or concern matters of fact, thus we are required to give deference to the trial court's rulings. Regarding discretionary decisions, we will disturb the decision of the trial court only if the trial court has abused that discretion. *In re Marriage of Abrell*, 236 Ill. 2d 249, 275 (2010). That is, we will reverse only if no reasonable person could agree with the trial court's decision. *Ferro v. Griffiths*, 361 Ill. App. 3d 738, 742 (2005). Factual questions are reviewed using the manifest-weight standard. *In re Marriage of Wojcik*, 362 Ill. App. 3d 144, 151-52 (2005). Thus, we will overturn such decisions only where an opposite conclusion to the trial court's is clearly apparent. *Kupkowski v. Board of Fire & Police Commissioners of the Village of Downers Grove*, 71 Ill. App. 3d 316, 323 (1979). Questions of law are reviewed *de novo*. *Cook County Board of Review v. Property Tax Appeal Board*, 395 Ill. App. 3d 776, 784-85 (2009). It is axiomatic that, on appeal, the party claiming error in the proceedings below bears the burden before the reviewing court of clearly establishing the occurrence of the error from the record. *TSP-Hope, Inc. v. Home Innovators of Illinois, LLC*, 382 Ill. App. 3d 1171, 1173 (2008). Finally, before proceeding to the merits, we remind both parties' attorneys that, in accordance with Supreme Court Rule 341(h)(7) (eff. February 6, 2013), every factual assertion in the argument section of a brief should be substantiated with appropriate citation to the record.

¶ 12 A. RESPONDENT'S APPEAL

¶ 13 Respondent raises two issues on appeal. First, he contends that the trial court erred in failing to consider the $150,000 distribution petitioner received when she vacated the marital home when it distributed marital property. Second, he asserts that, once the trial court entered the JDM, it could

no longer enter a $19,000 judgment against him for an arrearage that arose during the pendency of the litigation.

¶ 14 1. The $150,000 Distribution

¶ 15 Respondent first contends that the trial court abused its discretion by failing to account for the $150,000 distribution when it divided marital property. It is true that the JDM made no express mention of the distribution, including in an attached schedule distributing various specific assets. Initially, we note that, in dividing marital property, "Although the trial court must consider all relevant statutory factors, it need not make specific findings as to the reasons for its award." *In re Marriage of Swanson*, 275 Ill. App. 3d 519, 528 (1995). Thus, the mere fact that the JDM did not expressly mention the distribution provides us with no reason to disturb the trial court's distribution of marital property. Moreover, in response to a motion to reconsider, the trial court explained that it did consider this distribution and that it did not intend the schedule attached to the JDM to be a "balance sheet." Respondent claims there is no "evidence" in the JDM that the trial court considered this distribution, but he does not explain why we cannot accept the trial court's explanation in its ruling on his motion to reconsider (notwithstanding the above-cited case law stating that such an explanation is unnecessary). Respondent cites *In re Marriage of Heroy*, 385 Ill. App. 3d 640, 669 (2008), in support of his position. However, that case is distinguishable in that there, the trial court overlooked a credit the husband should have received–a fact which the wife did not dispute. *Id*. at 668. Conversely, in this case, respondent has failed to persuade us that the trial court overlooked the $150,000 distribution. As such, *Heroy* provides little guidance here.

¶ 16 Respondent concludes this argument by complaining of the trial court's division of assets, which he characterizes as "punitive." However, he cites no case law showing that a division of

property such that occurred in the instant case constitutes an abuse of discretion (thereby forfeiting this portion of the argument (see *In re Marriage of Petrik*, 2012 IL App (2d) 110495, ¶ 38)). Respondent does cite section 504 of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/504 (West 2006)) for the proposition that petitioner has an obligation to seek self sufficiency. Respondent does not explain how this general principle of law renders the trial court's detailed ruling erroneous. Indeed, the statute cited by respondent sets forth a myriad of considerations a trial court must assess in awarding maintenance. He also cites section 503(d) of the Act (750 ILCS 5/503(d) (West 2006)) for the proposition that marital property should be divided without regard for marital misconduct. Curiously, he then points out that he was adequately sanctioned for his misconduct during litigation. It is not apparent to us how respondent's misconduct during litigation has any relationship to the law respondent cites from section 503(d), as that concerns marital misconduct, and respondent makes no attempt to clarify this point.

¶ 17 In sum, we find respondent's arguments regarding the $150,000 distribution unpersuasive and that, in turn, respondent has not carried his burden of establishing the trial court erred on this issue.

¶ 18 2. The $19,000 Judgment

¶ 19 Respondent next alleges error in the trial court's entry of a judgment against him reflecting an arrearage in payment of support pursuant to temporary orders that had been in effect during the litigation. He makes two attacks upon the trial court's ruling. First, he contends that the trial court lacked the authority to enter this judgment because it did not do so until after the JDM was entered. Second, he contends that the trial court's actions were barred by *res judicata*. Before proceeding further, we here reiterate the well-established principles that we review the result the trial court

arrived at rather than the reasoning that produced it. *In re Marriage of Ackerley*, 333 Ill. App. 3d 382, 392 (2002). Moreover, we may affirm on any basis apparent in the record. *Alpha School Bus Co. v. Wagner*, 391 Ill. app. 3d 722, 734 (2009).

¶ 20 We will first address respondent's argument that the trial court lacked the authority to enter the judgment against him. He notes that the trial court relied on section 501 (750 ILCS 5/501 (West 2006)) of the Act as its authority to enter this judgment. The authority to enter a judgment implicates the jurisdiction of a court. *In re Estate of Steinfeld*, 158 Ill. 2d 1, 12 (1994). Outside of the area of administrative review, the authority of Illinois courts flows from the state constitution rather than the legislature. *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 334 (2002). The trial court is a court of general jurisdiction. *Steinbrecher v. Steinbrecher*, 197 Ill. 2d 514, 530 (2001); hence, we have little doubt that the trial court had the authority to enter judgment against respondent. Moreover, we note that the trial court entered judgment against respondent on July 12, 2012, and that the JDM was entered on June 13, 2012. It is well-established that a trial court retains jurisdiction to modify its judgments within 30 days of a final judgment. *In re Marriage of Breslow*, 306 Ill. App. 3d 41, 49 (1999); see also *Director of Insurance v. A & A Midwest Rebuilders, Inc.*, 383 Ill. App. 3d 721, 723 (2008); *Phillips v. Gannotti*, 327 Ill. App. 3d 512, 517 (2002). Thus, the trial court still had jurisdiction over this case at the time it entered the $19,000 judgment, and it clearly had the inherent authority to enter such a judgment.

¶ 21 We note that respondent does not dispute the underlying facts or contend that he was current on the payments required under the temporary support order. Respondent's arguments suggest that he believes that the entry of the JDM somehow extinguished his previously-existing obligation to pay support during the litigation. He properly points out that the temporary support order was

superceded by the JDM. Indeed, the trial court recognized that respondent could no longer be held in contempt for violating the order. However, it does not follow that pre-existing obligations ceased to exist when the temporary order did. In short, the order was in effect during the pendency of this litigation, and respondent did not comply with it when he was obligated to do so. Quite plainly, he still owes that money.

¶ 22 Finally, we note that respondent's *res judicata* argument is not tenable given the fact that the trial court entered the judgment within 30 days of the JDM. See *In re M.D.*, 220 Ill. App. 3d 998, 1004 (1991) ("As no timely appeal was taken and no post-trial motion was made, the order became *res judicata* 30 days after its entry."). Having rejected both of respondent's arguments, we affirm this portion of the trial court's judgment.

¶ 23 B. PETITIONER'S CROSS-APPEAL

¶ 24 We now turn to petitioner's cross-appeal, in which she raises seven issues. First, she contends that the trial court abused its discretion in declining to impose an appropriate discovery sanction against respondent. Second, petitioner argues that it was an abuse of discretion for the trial court to fail to find respondent dissipated various sums of money. Third, she complains that the trial court awarded her only $5,000 per month in maintenance. Fourth, petitioner asserts that the trial court improperly classified certain assets as nonmarital. Fifth, she claims that, contrary to the trial court's findings, certain purportedly nonmarital assets of respondent's had been commingled with and transmuted into marital property. Sixth, she insists that the trial court's overall division of property was an abuse of discretion. Seventh, petitioner maintains that it was an abuse of discretion to award her only $30,000 in attorney fees. We will address these issues in the order petitioner presented them.

¶ 25 1. Discovery Sanctions

¶ 26 Petitioner first contends that the trial court erred when it "failed to enter an appropriate discovery sanction against [respondent] pursuant to Illinois Supreme Court Rule 219" (eff. July 1, 2002). The decision regarding whether to impose a particular sanction is a matter within the discretion of the trial court. *Rosen v. Larkin Center, Inc.*, 2012 IL App (2d) 120589, ¶ 16. Only a clear abuse of discretion will warrant a reversal of the trial court on this issue. *Id.* Thus, we will not reverse the trial court's decision on such matters unless no reasonable person could agree with that decision. *Ferro*, 361 Ill. App. 3d at 742. Petitioner argues that "it was an abuse of discretion for the trial [c]ourt to fail to enter a discovery sanction against [respondent] barring his testimony or the testimony of his agents." Petitioner has undertaken a daunting task. To prevail, she must show that no reasonable person could conclude that respondent should be allowed to offer any testimony at trial and that this bar should also extend to his agents.[1] Notably, petitioner does not limit her proposed sanction to excluding certain portions of respondent's testimony as they pertain to various discovery violations. Rather, it is her position that respondent's discovery violations were so pervasive that he should not be allowed to testify about anything.

[1]We note that in the conclusion section of her brief, claimant makes a general request for "an appropriate sanction, including, but not limited to barring [respondent's] testimony from being considered by the [trial court]." We do not read the reference to "an appropriate sanction" as significantly limiting the scope of the relief sought by petitioner where the only concrete request she makes is to completely bar respondent form testifying–though here she omits reference ro respondent's agents.

¶ 27 Illinois Supreme Court Rule 219 allows a trial court to impose sanctions against a party who unreasonably refuses to comply with discovery orders. *Shimanovsky v. General Motors Corp.* 181 Ill. 2d 112, 120 (1998). The goal of imposing sanctions under Rule 219 is to coerce compliance with discovery orders rather than to punish the offending party. *In re Marriage of Booher*, 313 Ill. App. 3d 356, 359 (2000). Severe sanctions such as the dismissal of a case or the entry of a default judgment should be imposed only where "the party's actions exhibit a deliberate, contumacious, or unwarranted disregard of the court's authority and after all the other court's enforcement powers have failed to advance the litigation." *Id*. Generally, the sanction must be related to the specific misconduct at issue. *Dyduch v. Crystal Green Corp.*, 221 Ill. App. 3d 474, 480-81 (1991). To that end, Rule 219(c) provides:

> "If a party, or any person at the instance of or in collusion with a party, unreasonably fails to comply with any provision of part E of article II of the rules of this court (Discovery, Requests for Admission, and Pretrial Procedure) or fails to comply with any order entered under these rules, the court, on motion, may enter, in addition to remedies elsewhere specifically provided, such orders as are just, including, among others, the following:
>
> (I) That further proceedings be stayed until the order or rule is complied with;
>
> (ii) That the offending party be debarred from filing any other pleading *relating to any issue* to which the refusal or failure relates;
>
> (iii) That the offending party be debarred from maintaining any particular claim, counterclaim, third-party complaint, or defense *relating to that issue*;
>
> (iv) That a witness be barred from testifying *concerning that issue*;

> (v) That, as to claims or defenses asserted in any pleading *to which that issue is material*, a judgment by default be entered against the offending party or that the offending party's action be dismissed with or without prejudice; or
>
> (vi) That any portion of the offending party's pleadings *relating to that issue* be stricken and, if thereby made appropriate, judgment be entered as to that issue.
>
> (vii) That in cases where a money judgment is entered against a party subject to sanctions under this subparagraph, order the offending party to pay interest at the rate provided by law for judgments for any period of pretrial delay *attributable to the offending party's conduct*.
>
> In lieu of or in addition to the foregoing, the court, upon motion or upon its own initiative, may impose upon the offending party or his or her attorney, or both, an appropriate sanction, which may include an order to pay to the other party or parties the amount of reasonable expenses incurred as a result of the misconduct, including a reasonable attorney fee, and when the misconduct is wilful, a monetary penalty."

The sanctions set forth in Rule 219(c) are not exclusive, and a trial court may enter any order required by justice. *Dyduch*, 221 Ill. App. 3d at 480.

¶ 28 Thus, Rule 219(c) expressly lists barring a witness "from testifying concerning that issue" as a potential sanction. As the list of sanctions set forth in Rule 219(c) is not exclusive, we do not read the rule as precluding petitioner's requested relief of completely barring respondent from testifying. Nevertheless, we do recognize that petitioner's request seeks relief beyond that generally contemplated by Rule 219. As such, petitioner seeks extraordinary relief, more in the nature of a default judgment of the dismissal of a case. As noted above, severe sanctions like these are

appropriate only if the offending party's conduct constitutes "a deliberate, contumacious, or unwarranted disregard of the court's authority *and* *** the other court's enforcement powers have failed to advance the litigation." *In re Marriage of Booher*, 313 Ill. App. 3d 356, 359 (2000). Keeping in mind the standard of review, a reasonable person could conclude that the severe sanction sought by petitioner was not warranted in this case.

¶ 29 We agree with petitioner that respondent's conduct of discovery was troubling. The trial court observed that "for some two years that there ha[ve] been continuous and incessant discovery delays." Later, the trial court stated, "[T]his case is no further along in two years than it was when I got it two years ago because of [respondent's] discovery violations." It also noted, "This violation of discovery is ongoing, it's pervasive, and I find that it's extreme."

¶ 30 Petitioner's claims of prejudice, however, are somewhat problematic. For example, petitioner cites the following portion of the trial court's ruling regarding certain United States bonds, treasury bills, and accounts receivable as evidence of prejudice:

> "There was no evidence presented to verify the existence of ownership of any US Bonds, Dreyfus Treasury Bills or 'Accounts & Notes Receivable ***.' Based on the above, and even considering respondent's evasiveness concerning this document and other evidence regarding his finances, this Court finds there are insufficient indicia of reliability to confirm the existence of the amounts claimed by [petitioner] to have been dissipated in this instance. Consequently, this Court cannot find that the amounts alleged to have been contained in any US Bonds, Dreyfus Treasury Bills or 'Accounts & Notes Receivable' were fraudulently and intentionally concealed or-dissipated [*sic*]."

Two things are noteworthy here. First, the trial court expressly considered "respondent's evasiveness" in making its ruling; thus, as respondent's conduct was factored in to the trial court's decision, it is not apparent to us how petitioner was prejudiced. Second, the court stated that it could not find that (taking respondent's evasiveness into account) any of the amounts at issue were "fraudulently and intentionally concealed." Petitioner does not contend that this finding is contrary to the manifest weight of the evidence. If nothing were fraudulently and intentionally concealed, it is also not apparent to us what respondent could have produced. To show prejudice, petitioner would have to point to something to show that the documents she sought actually existed (and the trial court's ruling to the contrary is against the manifest weight of the evidence).

¶ 31 Indeed, many of petitioner's claims of prejudice amount to mere question begging. For example, petitioner complains of the following ruling of the trial court concerning the parties' Options Express account:

> "[Respondent] testified that this money was transferred from EDB properties into the Options Express account after which [respondent] proceeded to incur approximately $87,000 in trading losses. First, there was no evidence that the Options Express account was used in the manner alleged by [petitioner]. There is likewise no evidence that any of the Domas brothers has received money that was transferred to them out of this account."

Petitioner claims the reason no such evidence existed was that respondent did not disclose the Options Express account until 12 days before trial. However, petitioner sets forth nothing to indicate what she believes she could have uncovered had this disclosure occurred earlier. See *Smith v. Chicago Board of Education*, 176 Ill. App. 3d 109, 116 (1988) ("[S]he is not entitled to speculation that she could have proved Lebres' testimony incredible had she been afforded the opportunity to

review the documents in a timely manner."). Further, the trial court observed that there was no documentary evidence concerning alleged loans from respondent to his business. Petitioner claims this as evidence of prejudice, explaining the respondent "gained a considerable advantage at trial as a result of his repeated discovery violations [and] his insistence that no documents existed to reflect the source of the funds paid into the corporations." For petitioner to have been prejudiced, these documents would have to exist. Petitioner points to corporate ledgers that showed sizable influxes from shareholders; however, that is not such strong evidence of the existence of the documents sought by petitioner that we could conclude that the trial court erred. In short, petitioner's claims of prejudice are speculative and insufficient to establish that the trial court abused its discretion in not barring respondent from testifying. *In re Karen E.*, 407 Ill. App. 3d 800, 811 (2011) ("We cannot find prejudice based entirely on speculation."). Quite simply, a reasonable person could disagree with petitioner request that respondent should be barred from offering any testimony.

¶ 32 2. Dissipation

¶ 33 Petitioner next contests three of the trial court's ruling regarding dissipation. She alleges error in the trial court's decisions pertaining to $367,000 in personal funds, funds in the Options Express account, and funds consisting of "a substantial portion of the $5,396,000 in personal assets that [respondent] testified existed in 2006." Whether dissipation occurred is a question of fact, which we review using the manifest-weight standard. *In re Marriage of Holthaus*, 387 Ill. App. 3d 367, 374 (2008). It is defined as the use of marital property for a purpose that is not related to the marriage and benefits but one spouse after the point at which the marriage has undergone an irreconcilable breakdown. *In re Marriage of O'Neill*, 138 Ill. 2d 487, 498-99 (1990). The complaining spouse may shift the burden of proof by making out a *prima facie* case of dissipation.

In re Marriage of Tabassum and Younis, 377 Ill. App. 3d 761, 779 (2007). In such cases, the burden then rests with the party charged with dissipation to show that expenditures were made for a purpose related to the marriage. See *In re Marriage of Partyka*, 158 Ill. App. 3d 545, 549-50 (1987). The spouse charged with dissipation must meet this burden with clear and convincing evidence. *In re Marriage of Hubbs*, 363 Ill. App. 3d 696, 700 (2006). Petitioner believes that the trial court erroneously placed the burden of proving dissipation on her. However, the trial court recited the proper burden in the course of its ruling, so it is clear that the trial court was well aware that the ultimate burden was on respondent.

¶ 34 The trial court found that the parties' marriage began to irrevocably breakdown in "the days and weeks just prior to the filing of" petitioner's petition for dissolution of marriage. The petition was filed on October 26, 2007. In her reply brief, petitioner contends that a court should not attempt to "determine the 'pinpoint' date on which the parties [*sic*] marriage irretrievably broke down," and should instead consider the point at which the marriage *began* its irretrievable breakdown. See *Holthaus*, 387 Ill. App. 3d at 375. However, this is precisely what the trial court did—it found "the marriage began to breakdown" shortly before the filing of the petition for dissolution. Petitioner notes that respondent's actions indicate he was preparing for the divorce by secreting assets prior to October 2007. However, as petitioner did not start looking for a divorce attorney until summer 2007 and asked respondent to participate in marital counseling that year, the trial court's finding is not against the manifest weight of the evidence. Accordingly, for the purposes of resolving this issue, we will assume that the parties' marriage started to undergo an irretrievable breakdown in October 2007.

¶ 35 Our review is made difficult by petitioner's failure to present her various claims of dissipation in a clear manner and support them with appropriate citation to the record. For example, rather than segregating various claims, she simply states that respondent's testimony regarding five individual financial accounts was vague. She does not identify any of that testimony with specificity or explain why it was insufficient under the law (outside of the general claim of vagueness).

¶ 36 The failure to present these claims in an organized manner is particularly problematic given the trial court's finding that the marriage did not undergo an irreconcilable breakdown until October 2007. Given this finding, no dissipation could have occurred prior to this time. *O'Neill*, 138 Ill. 2d at 498-99. Nevertheless, petitioner complains of loans made to DMC in 2006. Similarly, regarding another claim of dissipation, the trial court found that there was no evidence "regarding whether the remaining $59,000 in the MetLife 6339 account was spent before or after the breakdown of the marriage." Regarding yet another account, the trial court found both that it had been depleted prior to the start of the breakdown of the marriage and that its depletion coincided with a tuition payment for the parties' son (petitioner does not argue that this finding was contrary to the manifest weight of the evidence). The same can be said of petitioner's claim that respondent dissipated "a substantial portion of the $5,396,000 in personal assets that [respondent] testified existed in 2006." It is unclear to us whether such assets were disposed of–assuming that they were–before or after the marriage began its break down.

¶ 37 As respondent prevailed on these issues before the trial court, the burden is now on petitioner (as appellant regarding these issues) to show that the trial court erred. *TSP-Hope, Inc.*, 382 Ill. App. 3d at 1173. Having reviewed petitioner's argument on dissipation, we cannot conclude that she carried that burden. Rather than identifying assets with particularity and setting forth evidence

showing that the given asset was dissipated, petitioner has chosen an all-or-nothing approach, claiming generally that all such assets were dissipated. As explained above, the trial court's ruling was clearly not contrary to the manifest weight of the evidence regarding a number of the assets. We will not segregate other assets that were purportedly dissipated for petitioner and sift through the record searching for evidence relevant to each; that task was for petitioner. *People v. Jung*, 192 Ill. 2d 1, 21 (2000) ("A reviewing court is entitled to have issues clearly defined with pertinent authority cited and coherent arguments presented."). In short, petitioner has not established that an opposite conclusion to that drawn by the trial court is *clearly* apparent, the trial court's ruling is not contrary to the manifest weight of the evidence. *Kupkowski*, 71 Ill. App. 3d at 323.

¶ 38 3. Maintenance

¶ 39 Petitioner further asserts that the trial court erred when it only awarded her $5,000 per month for maintenance. See 750 ILCS 5/504 (West 2006). Maintenance awards are generally reviewed using the abuse-of-discretion standard. *In re Marriage of Rogers*, 352 Ill. App. 3d 896, 899 (2004). Moreover, it is well-established that we review the result to which the trial court came rather than its reasoning. *Ackerley*, 333 Ill. App. 3d at 392. Furthermore, if a trial court makes no explicit finding of fact on an issue, we presume that the trial court found that issue in favor of the prevailing party. *Larkin v. Sanelli*, 213 Ill. App. 3d 597, 604 (1991); *Century 21 Castles By King, Ltd. v. First National Bank of Western Springs*, 170 Ill. App. 3d 544, 549 (1988). Additionally, "all reasonable presumptions will be extended in favor of the order under review." *Sheldon v. Colonial Carbon Co.*, 116 Ill. App. 3d 797, 800 (1983).

¶ 40 Petitioner claims that the trial court did not consider her needs (750 ILCS 5/504(a)(2) (West 2006)) in fashioning its award of maintenance in this case. She bases this claim on the fact that the

trial court did not expressly mention her needs when it ruled on maintenance (contrary to petitioner's position, the trial court expressly stated it considered all of the factors contained in the statute after setting forth the text of the statute in the JDM). Absent an express finding, we presume the trial court found that petitioner's needs would be met by the maintenance award. See *Larkin*, 213 Ill. App. 3d at 604. Further, petitioner simply asserts that her needs should have been given more weight. She does not explain why $5,000 is insufficient or identify an amount that the evidence would show was necessary to meet her needs. Indeed, petitioner does not even explain what her needs are. Finally, without citation to authority, petitioner asserts that respondent should be required to maintain life insurance for her benefit. This final point is waived. *In re Marriage of Wassom*, 352 Ill. App. 3d 327, 332-33 (2004) (holding that the failure to support an argument with citation to pertinent authority results in the forfeiture of the argument). To conclude, we find neither of petitioner's contentions persuasive.

¶ 41 4. Classification of Assets as Nonmarital

¶ 42 Petitioner also challenges the trial court's classification of respondent's interest in certain properties (the Abbott Court properties) as nonmarital. We will disturb a trial court's classification of marital assets only if it is contrary to the manifest weight of the evidence. *Heroy*, 385 Ill. App. 3d at 649. Property acquired during the course of a marriage is presumed to be marital unless proven to be otherwise by clear and convincing evidence. *In re Marriage of Werries*, 247 Ill. App. 3d 639, 642 (1993).

¶ 43 The Abbott Court properties were acquired during the parties' marriage; hence, the burden at trial was on respondent to show by clear and convincing evidence that they were nonmarital (the burden on appeal is, of course, on petitioner to establish error in the trial court's decision (*TSP-Hope,*

Inc., 382 Ill. App. 3d at 1173)). Petitioner asserts that respondent failed to establish both that the loans to acquire this property were not secured by marital assets and that the loans were paid entirely with nonmarital assets. We disagree.

¶ 44 Initially, petitioner asserts that the trial court misapplied the law and placed the burden on her to show that these properties were marital assets. However, the trial court expressly found that "the series of transfers and exchanges tracing the acquisition of the Abbott Court properties back to their non-marital sources is clear and convincing." Thus, the trial court based its ruling on the fact that there was clear and convincing evidence in the record showing the property was nonmarital rather than the absence of evidence indicating that property was marital. Why petitioner believes that the trial court placed the burden on her is not clear to us.

¶ 45 Moreover, petitioner's main argument on this point consists of the bare claim that respondent's "simple blanket assertion that no personal marital funds were contributed to the Domas business entities [to pay the loans] is not clear and convincing evidence." Petitioner ignores the trial court's detailed ruling. Through seven paragraphs spanning over two full pages, the trial court detailed the acquisition of the Abbott Court properties. Thus, the trial court's ruling was not based on respondent's so-called "simple blanket assertion." Respondent makes no effort to explain which, if any, of the trial court's factual findings made in the course of resolving this issue are contrary to the manifest weight of the evidence. As such, she has not carried her burden on appeal of establishing error on this issue.

¶ 46 5. Allegedly Commingled Assets

¶ 47 Petitioner next charges that it was an abuse of discretion by the trial court to determine that respondent's interest in DMC had not been commingled with and transmuted into marital property.

See 750 ILCS 5/503(c) (West 2006). Actually, as this issue concerns the classification of assets, the manifest-weight standard of review applies. See *In re Marriage of Mouschovias*, 359 Ill. App. 3d 348, 355-56 (2005). Section 503(c)(1) of the Act provides, in pertinent part, "When marital and non-marital property are commingled by contributing one estate of property into another resulting in a loss of identity of the contributed property, the classification of the contributed property is transmuted to the estate receiving the contribution." 750 ILCS 5/503(c)(1) (West 2006). Note that this section requires in addition to the commingling of property, that the commingling results in the loss of identity of the property at issue.

¶ 48 Petitioner identifies several assets that she contends were commingled with respondent's interest in DMC. Specifically, she points to "numerous loan and other transactions"; respondent's deferral of distributions he was entitled to from DMC; that his salary was found by the trial court to be "clearly inadequate" to compensate him for his work for DMC; and the "fluidity" of the assets held by respondent and DMC. Assuming, *arguendo*, that petitioner has established that assets were commingled, she points to nothing to show that the assets lost their identity, as required by section 503(c)(1). Petitioner has, in essence, only addressed half the statute.

¶ 49 Moreover, we note that the trial court awarded petitioner $260,000 due to respondent's manipulation of his distributions from DMC. The trial court concluded that respondent was deferring his income from DMC until after divorce proceedings concluded. It identified six specific distributions that were withheld (which totaled the $260,000). Obviously, these sums did not lose their identity. Petitioner's brief and incomplete argument fails to persuade us that the trial court erred at this juncture.

¶ 50 6. Division of Marital Property

¶ 51 Petitioner also argues that the trial court's property division was an abuse of discretion, which is the proper standard of review for this issue (*In re Marriage of Parker*, 252 Ill. App. 3d 1015, 1018 (1993)). Petitioner begins her argument by complaining that the trial court did not specifically address each element set forth in section 503(d) of the Act. See 750 ILCS 5/503(d) (West 2006). However, it is well-established that a trial court need not make express findings on every such factor. *In re Marriage of Swanson*, 275 Ill. App. 3d 519, 528 (1995); *In re Marriage of Davis*, 215 Ill. App. 3d 763, 774 (1991). Hence, petitioner's first complaint is misplaced (we also note that the trial court set forth the text of section 503(d) and expressly stated its decision was based upon the factors set forth therein). Furthermore, as noted above, we review the trial court's decision and not the reasoning that produced it. *Ackerley*, 333 Ill. App. 3d at 392. Petitioner's burden here is to demonstrate that the *result* the trial court came to was an abuse of discretion, not to attack its reasoning. See *TSP-Hope, Inc.*, 382 Ill. App. 3d at 1173. Additionally, outside of a citation supporting the general proposition of law that marital assets should be divided in just proportions, petitioner supports her argument with no authority. We deem this issue forfeited. *In re Marriage of Wassom*, 352 Ill. App. 3d 327, 332-33 (2004); see also *In re Marriage of Auriemma*, 271 Ill. App. 3d 68, 72-73 ("The only authority cited was a single cite to a case on an undisputed general principle of law.").

¶ 52 Even if we were to consider this issue, we would not find petitioner's argument persuasive. By her own calculations, she was awarded $617,000 plus whatever was left over from the $150,000 distribution she received during the course of proceedings (the record does not indicate a specific amount). Respondent was awarded assets worth $1,050,000 and liabilities totaling $617,000 for a net award of $433,000. Thus, petitioner received about 60% of net marital assets and respondent

received approximately 40% those assets. Moreover, that petitioner is receiving $5,000 per month for maintenance is relevant to this issue. 750 ILCS 5/503(d)(10) (West 2006). Given that petitioner is receiving a substantially greater portion of marital assets as well as significant maintenance, we cannot conclude that no reasonable person could agree with the trial court's division of marital property. Therefore, the trial court's decision is not contrary to the manifest weight of the evidence. *Kupkowski*, 71 Ill. App. 3d at 323.

¶ 53 7. Attorney Fees

¶ 54 Finally, petitioner disagrees with the trial court's ruling regarding attorney fees. We review this issue applying the abuse-of-discretion standard of review. *In re Marriage of Plotz*, 229 Ill. App. 3d 389, 392 (1992). Generally, each party is responsible for his or her attorney fees. *In re Marriage of Mantei*, 222 Ill. App. 3d 933, 941 (1991). Here, the trial court ordered respondent to contribute $30,000 toward petitioner's attorney fees. Interim fees paid from the marital estate to petitioner's attorneys totaled about $180,000. Having reviewed the record and the parties' briefs, we cannot conclude that no reasonable person could agree with the trial court that an award of $30,000 for attorney fees was adequate in this case.

¶ 55 Section 503(j)(2) directs that the criteria used for dividing property (750 ILCS 5/503(d) (West 2006)) and, when maintenance is granted, the factors relevant to awarding maintenance (750 ILCS 5/504(a) (West 2006)) shall be used to assess whether one party should be ordered to contribute to the attorney fees of the other party. 750 ILCS 5/503(d) (West 2006). Citing *Auriemma*, 271 Ill. App. 3d at 73 ("In the case at bar, it is clear from the record that a significant portion of the attorney fees run up in this case were due to numerous breaches of restraining orders by respondent."), and *In re Marriage of Hassiepen*, 269 Ill. App. 3d 559, 570-71 (1995), petitioner focuses her argument on two

considerations: respondent's failure to comply with discovery orders and his further failure to comply with court orders generally. Initially, we note that in *Auriemma*, 271 Ill. App. 3d at 73, the reviewing court affirmed the trial court's decision to award attorney fees based on the respondent's violation of certain court orders. Thus, *Auriemma* does not exemplify facts upon which an abuse of discretion was found and consequently provides only general guidance here.

¶ 56 In *Hassiepen*, 269 Ill. App. 3d at 564, the petitioner requested an award of attorney fees of $35,165.50, which represented all of the fees that had accumulated, and the trial court awarded $1,693.75. Thus in *Hassiepen*, the respondent was required to contribute a relatively minor amount of total attorney fees despite his "egregious" conduct during discovery. Here, conversely, respondent was required to contribute $30,000 toward petitioner's attorney fees. Petitioner contends that she had to file 25 motions to compel and rules to show cause based on respondent's conduct. She sets forth nothing to establish that these filings resulted in more than $30,000 in attorney fees. We also note that *Hassiepen* was a proceeding on a petition to increase child-support payments rather than a dissolution proceeding. *Hassiepen*, 296 Ill. App. 3d at 560. In this case, a substantial portion of petitioner's legal fees were paid by the marital estate (about $180,000). Petitioner also sets forth nothing to establish that none of the payments from the marital estate went toward fees incurred due to the conduct of which she now complains.

¶ 57 In sum, we agree that a substantial award of attorney fees was warranted in this case. However, given what petitioner has presented to us, we cannot say that a reasonable person could not conclude that $30,000 was a sufficiently substantial contribution on the facts of this case. As such, petitioner has not shown that the trial court abused its discretion. *Ferro*, 361 Ill. App. 3d at 742; see also *In re Marriage of Bentivenga*, 109 Ill. App. 3d 967, 975 (1982).

¶ 58 IV. CONCLUSION

¶ 59 In light of the foregoing, the judgment of the circuit court of Lake County is affirmed in its entirety.

¶ 60 Affirmed.