2016 IL App (2d) 150095-U
No. 2-15-0095
Order filed June 16, 2016
Modified Upon Denial of Rehearing August 22, 2016

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re MARRIAGE OF ROBERT C. HEIST, Petitioner-Appellant and Cross-Appellee, and KENDELLE CORNETTE f/k/a, KENDELLE HEIST, Respondent-Appellee and Cross-Appellant.	)))))))))))))	Appeal from the Circuit Court of Lake County. No. 09-D-938 Honorable Jay W. Ukena, Judge, Presiding.

JUSTICE BURKE delivered the judgment of the court.
Justices Jorgensen and Birkett concurred in the judgment.

ORDER

¶ 1 *Held*: A partial reversal of the judgment and a remand are necessary in this marriage dissolution proceeding to correct certain financial factual findings that were against the manifest weight of the evidence.

¶ 2 Petitioner, Robert C. Heist, and respondent, Kendelle Cornette f/k/a Kendelle Heist, were married 19 years and had no children. Each party owned and operated a small business and the couple owned a house and a condominium in Lake Forest.

¶ 3 The trial court conducted a 14-day trial over 17 months and then took the matter under advisement for 20 months before entering a dissolution judgment. The court found all of the parties' assets and debts to be part of the marital estate, and with certain exceptions, Robert received 45% and Kendelle received 55% of the assets and debts. The court awarded Robert his law firm and awarded Kendelle her interior design business plus $6,000 per month in permanent maintenance.

¶ 4 On appeal, Robert challenges certain rulings regarding income, maintenance, dissipation, and property distribution. Robert also argues that the trial court's delay in rendering the judgment was so prejudicial that we must move up the effective date of the dissolution and order financial recalculations. On cross-appeal, Kendelle challenges the court's finding of the date of the "irretrievable breakdown" of the marriage, arguing that Robert began dissipating the estate earlier than the trial court found. She also contends that she is entitled to a share of the law firm and contribution toward her attorney fees. For the following reasons, we affirm the judgment in part, reverse it in part, and remand the cause to correct certain financial factual findings.

¶ 5 I. BACKGROUND

¶ 6 A. July 1, 2014, Judgment

¶ 7 On July 1, 2014, the trial court entered the judgment for dissolution, which included the following findings. The parties were married on June 3, 1995, when both were 31 years old. No children resulted from the marriage, and the parties were continuously employed, running their small businesses during the marriage. Neither party had any employer-contribution IRA, profit-sharing, or other retirement plan.

¶ 8 1. Assets

¶ 9 During the marriage, Robert became the sole owner of a law practice known as R. Connor & Associates, P.C. (RCA). The trial court found that Kendelle had failed to present competent evidence at trial of the fair market value of RCA, and therefore, it was impossible to assign a reasonable value to the law firm. The court determined that it could not equitably divide the firm's value between the parties, and therefore, Robert would keep the law firm. Kendelle would not receive a portion of the firm.

¶ 10 Kendelle became the sole owner of Interior Decorum & Antiques d/b/a Kendelle Cornette Interiors (KCI), which is an interior design and decorating firm established during the marriage. As in the case of RCA, the court found that there was no competent evidence of the fair market value of KCI, and the court found it impossible to assign a reasonable value to the business. The court determined that it could not equitably divide the value of the business between the parties, and therefore, Kendelle would keep the business. Robert would not receive a portion of KCI.

¶ 11 During the marriage, the parties acquired substantial marital assets: a single family house with personal property at 777 N. Green Bay Road in Lake Forest (the house); a condominium unit with personal property at 119 E. Laurel Avenue in Lake Forest (the condo); a Northwestern Mutual Life IRA; two Northwestern Mutual Life insurance policies; a MONY/AXA life insurance policy; KCI; RCA; all interest in ARCON Development, LLC, which engaged in real estate investment; a First Republic Bank account; a 2012 Land Rover; a 2006 Mercedes Benz; and a 2005 BMW X5.

¶ 12 The court determined that the parties had failed to provide any recent real estate appraisals of the values of the house and the condo. The court also found that ARCON had no value, which Robert explained was due to the downturn in the real estate market.

¶ 13 The court found that the "actual breakdown of the marriage" began in December 2008. Robert testified that, as recently as November 2008, the parties had reconciled their marital differences by engaging in regular marriage counseling, spending time together at the marital residences, dining and vacationing together, and having "sleepovers." The court found that, although the marriage experienced problems before 2008, they did not signify the beginning of the union's actual breakdown. The court noted that Kendelle's testimony confirmed that the parties' reconciliation broke down in December 2008, when they began dining together and attending counseling less often and canceled a vacation. A previous petition for dissolution was filed and dismissed, but the breakdown culminated in the filing of the second petition for dissolution in April 2009. The court concluded that, because the breakdown began in December 2008, no dissipation of assets could occur before then.

¶ 14 The court determined that all of the parties' assets and debts were marital. In dividing the property, the court found that the parties were married almost 20 years (see 750 ILCS 5/503(d)(4) (West 2014)), Robert was in a "far better economic situation" than Kendelle (see 750 ILCS 5/503(d)(5) (West 2014)), and Robert had a "far better opportunity to acquire assets and income in the future" (see 750 ILCS 5/503(d)(8), (d)(11) (West 2014)).

¶ 15 2. Income

¶ 16 The court found that Kendelle's tax returns showed that, from 2006 through 2010, her personal income averaged $26,098. The court also found that, from 2005 through 2008, Robert's "stated salary" was $223,538, but after the marriage broke down in December 2008, he arbitrarily and substantially reduced his salary, and thus, the court did not consider Robert's personal income as reported on his tax returns for 2009 and 2010. Moreover, RCA's credit cards and financial records and Robert's personal credit cards showed that he shifted many expenses

from himself to RCA. From 2006 to 2010, charges averaged $53,675 per year. The court found the expenses to be personal and not incurred to produce income for RCA. The court determined that one-half of the charges qualified as personal income. Further, after the filing of the petition for dissolution, but 20 months before the closing of proofs, Robert joined the board of directors of the Hershey Trust Company and the board of managers of the Hershey School (collectively, Hershey), for which he began receiving $100,000 in annual compensation. In sum, the court found Robert's average annual income to be $377,213; comprised of $233,538 in salary from RCA; $100,000 from Hershey, and $26,838 in additional income imputed from RCA's credit cards.

¶ 17 3. Dissipation

¶ 18 Robert alleged dissipation of marital assets in that Kendelle devalued her business immediately after the dissolution proceedings began. The court found no evidence of such dissipation by Kendelle, noting her testimony that the economic downturn that started in 2008 caused customers to drastically curtail spending on interior decorating.

¶ 19 Kendelle alleged that Robert dissipated marital assets when he used $150,000 to acquire three properties through ARCON that eventually became the subject of mortgage foreclosure proceedings. The liens securing the investment in those properties were extinguished, the borrower's investment obligation was discharged by a bankruptcy court, and Robert has no expectation of recovering his investment. The court found that the unprofitability of the investment was the result of the real estate market, not because of any effort by Robert to lessen the value of the marital estate.

¶ 20 Kendelle also argued that Robert's documented business expenses incurred in connection with RCA qualify as dissipation of marital assets. The trial court disagreed, finding that the

expenses were necessary to keep RCA functioning during the dissolution proceedings and actually contributed to the marital estate. However, the court concluded that, to the extent that RCA incurred certain expenses that benefited Robert personally, those expenses could be used to determine Robert's annual income.

¶ 21 However, the trial court found that Robert engaged in dissipation by means of several transactions. The trial court found that, in seven transactions from December 2008 through April 2009, Robert withdrew $31,000 from the joint checking account and that Robert gave no explanation for his disposal of the withdrawals. The court also found that Robert failed to explain his receipt of $36,980 resulting from the following transactions: $10,000 withdrawn from the joint checking account on February 24, 2010; $9,000 transferred to RCA's checking account when Robert closed the ARCON checking account; and $7,980 received after Robert intentionally made a double payment of his credit card. The court found Robert's total dissipation to be $67,980 and ordered him to pay Kendelle 55% of that amount.

¶ 22 4. Expenses of Real Estate Ownership

¶ 23 The trial court denied Robert a credit he sought for one half of the expenses he incurred to maintain the marital residences during the dissolution proceedings. First, the court found that, by living in one of the residences, Robert enjoyed the full benefit of the financial upkeep of that home. Second, the court found that Robert's contribution to the other residence was "implicit if not expressly paid in lieu of temporary maintenance" to Kendelle.

¶ 24 5. Maintenance

¶ 25 The trial court found Kendelle to be in need of "indefinite," or permanent, maintenance. The court observed that the parties were married nearly 20 years (see 750 ILCS 5/504(a)(7) (West 2014)) and that Robert had a far greater earning capacity at the time and in the future (see

750 ILCS 5/504(a)(3) (West 2014)). The court also noted that the parties had enjoyed a "very upper middle class" lifestyle (see 750 ILCS 5/504(a)(6) (West 2014)) and that each was about 50 years old (see 750 ILCS 5/504(a)(8) (West 2014)). The court concluded that, for Kendelle to maintain the lifestyle of the marriage, she would need approximately $100,000 in annual income, comprised of $26,000 in salary from KCI and $72,000 in maintenance, which was about 20% of Robert's gross income.

¶ 26 B. January 9, 2015, Reconsideration

¶ 27 On July 30, 2014, Kendelle moved for reconsideration of the judgment. In ruling on the motion, the trial court clarified and modified the property distribution. The court specifically stated that the marriage started to become irretrievably broken on December 1, 2008. The court awarded Kendelle the 2005 BMW X5 and awarded Robert the 2012 Land Rover and the 2006 Mercedes Benz, but the court ordered Robert to pay Kendelle $34,985 for her share of his vehicles that exceeded the value of her vehicle. The court also modified the finding of Robert's dissipation, concluding that he must pay Kendelle $113,072 for her 55% share of the value of the funds he dissipated. The court also distributed the funds held in trust from the Putnam & American Funds account and the First Republic Bank account.

¶ 28 C. Appeal and Cross-Appeal

¶ 29 On January 26, 2015, Robert filed a notice of appeal, challenging about 20 specific rulings, including findings regarding (1) the parties' income; (2) attorney fees; (3) dissipation; (4) expenses for maintaining the marital residences; (5) asset and debt allocation; (6) maintenance; and (7) court-ordered delays in the proceedings. On February 9, 2015, Kendelle filed a notice of cross-appeal, challenging two rulings as set forth in specific portions of the June 1, 2014, judgment and a subsequent order entered on January 9, 2015. First, Kendelle stated that

she is cross-appealing paragraph 2(G) of the judgment and paragraph 10 of the order, which each addressed the value and assets of RCA. Second, Kendelle stated that she is cross-appealing paragraph 4 of the judgment and paragraph G of the order, which made the parties responsible for their own attorney fees.

¶ 30 II. ROBERT'S APPEAL

¶ 31 In his appellate brief, Robert narrows his challenge to certain findings regarding the parties' income, maintenance, dissipation, and the distribution of the marital estate. Robert also argues that the trial court's delay in rendering the judgment was so prejudicial that we must move up the effective date of the dissolution and order financial recalculations.

¶ 32 A. Maintenance

¶ 33 Robert argues that the trial court's findings regarding the parties' respective incomes are against the manifest weight of the evidence, and therefore, the maintenance award of $6,000 per month is an abuse of discretion. In awarding maintenance, the trial court considers the following factors: (1) the income and property of each party; (2) the respective needs of each party; (3) the present and future earning capacity of each party; (4) any impairment to the parties' present or future earning capacity, resulting from domestic duties or delayed education or employment opportunities due to the marriage; (5) the time necessary for the party seeking maintenance to acquire the appropriate education, training, and employment and whether that party can support himself or herself through appropriate employment, or whether, as the custodial parent, it is not appropriate for the party to seek employment; (6) the standard of living during the marriage; (7) the duration of the marriage; (8) the age and physical and emotional condition of both parties; (9) the tax consequences of the property division; (10) the contributions by the party seeking maintenance to the education and career of the other party; (11) any valid agreement of the

parties; and (12) "any other factor that the court expressly finds to be just and equitable." 750 ILCS 5/504(a) (West 2014); *In re Marriage of Micheli*, 2014 IL App (2d) 121245, ¶ 19.

¶ 34 A trial court has wide latitude in considering what factors to use in determining reasonable needs, and the trial court is not limited to the factors listed in the Dissolution Act. *In re Marriage of Smith*, 2012 IL App (2d) 110522, ¶ 46. " 'No one factor is determinative of the issue concerning the propriety of the maintenance award once it has been determined that an award is appropriate.' " *Smith*, 2012 IL App (2d) 110522, ¶ 46 (quoting *In re Marriage of Murphy*, 359 Ill. App. 3d 289, 304 (2005)). A maintenance award is within the court's discretion, and the court's decision will not be disturbed absent an abuse of discretion, which exists only where no reasonable person would take the view adopted by the court. *Smith*, 2012 IL App (2d) 110522, ¶ 46. When a party challenges the factual findings underlying a maintenance determination, this court will not reverse the findings unless they are against the manifest weight of the evidence. *Smith*, 2012 IL App (2d) 110522, ¶ 46. A finding is against the manifest weight of the evidence only if it is clearly apparent from the record that the trial court should have reached the opposite conclusion or if the finding itself is arbitrary, unreasonable, or not based upon the evidence presented. *Best v. Best*, 223 Ill. 2d 342, 350 (2006). Here, Robert disputes the court's factual findings and also argues that the court abused its discretion in setting maintenance based on those findings.

¶ 35 1. Robert's Income

¶ 36 In determining the amount of maintenance, a trial court should consider the parties' respective incomes at the time of dissolution as well as their potential incomes. *In re Marriage of Foster*, 2014 IL App (1st) 123078, ¶ 120. A spouse is entitled to maintenance in an amount sufficient to maintain the standard of living the parties enjoyed during the marriage if the

providing spouse has the means to provide for the other spouse without compromising his own needs. *Foster*, 2014 IL App (1st) 123078, ¶ 120. An award of maintenance may be in the form of a percentage of income in lieu of a fixed amount. *Foster*, 2014 IL App (1st) 123078, ¶ 120.

¶ 37 Robert argues that the court should have used only his 2011 tax returns to establish his annual income. Where determining a party's income is difficult, the court may consider past earnings to establish current income. *In re Marriage of Hubbs*, 363 Ill. App. 3d 696, 706 (2006). Here, the court found that, from 2005 through 2008, Robert's "stated salary" was $223,538, but after the marriage broke down on December 1, 2008, he arbitrarily and substantially reduced his salary. The court reviewed Robert's personal income as reported on his tax returns for 2009 and 2010, but the court did not use them in calculating maintenance. The trial court's finding is not against the manifest weight of the evidence: Robert's salary was decreasing dramatically while he maintained his lifestyle. The court did not use Robert's 2011 tax return to determine maintenance, even though they were admitted into evidence. We agree with Kendelle that the trial court implicitly discounted the 2011 tax return because it was similar to the tax returns from 2009 and 2010.

¶ 38 It was not against the manifest weight of the evidence for the trial court to conclude that Robert's 2009 and 2010 tax returns reported "artificially deflated" RCA-related income, and therefore, his RCA-related income at the time of dissolution was best represented by his tax returns from 2005 through 2008. However, as Robert points out, the 2005 tax return was filed jointly by the parties and potentially reported Kendelle's income. To the extent that Kendelle's income was included in that return, the court erred in imputing her income to Robert, and a remand is necessary to address the potential error.

¶ 39 Moreover, our arithmetic shows that Robert's reported adjusted gross income was $328,037 for 2005, $161,635 for 2006, $201,517 for 2007, and $167,835 for 2008. These four amounts average $214,761, not $223,537.75, as the trial court found. Even if the court had intended to use the amounts reported for 2005, 2006, and 2007 only, the average would have been $230,403. Thus, we are puzzled by the trial court's statement that it "averaged his gross adjusted income from 2005 to 2008 tax returns and that was $223,537.75 per year." On remand, the trial court should clarify its calculations and remedy any arithmetical errors.

¶ 40 Robert also argues that he derived additional yearly income of $70,000 from Hershey, not $100,000 as the trial court found. Robert contends that (1) his individual tax return and the form 1099 issued by Hershey in 2011 showed that he was actually paid $94,166 and (2) the court failed to account for $24,000 he paid in taxes on the income.

¶ 41 Kendelle responds that the $100,000 amount is reasonable because Robert served as a director for only part of 2011, Robert acknowledge that his income from Hershey can fluctuate from year to year, and the maintenance award need not be based on a finding of net income. We agree with Kendelle.

¶ 42 First, the record shows that Robert served as a director for 10 months in 2011. Second, Robert admitted that he might earn $94,000 one year and as much as $105,000 in another, depending on the number of meetings he attends. Third, unlike the child support statute that requires consideration of net income (750 ILCS 5/505(a) (West 2014)), section 504(a)(1) of the Dissolution Act more generally provides for consideration of "the income" of each party. While Robert cites cases where courts used net income in setting maintenance, others show that gross income may be used as long as the determination has some basis in the evidence and is reasonable in light of all the evidence. See, *e.g.*, *In re Marriage of Foster*, 2014 IL App (1st)

123078, ¶ 122 (30% of gross income, including nonmarital income); *Sahs v. Sahs*, 48 Ill. App. 3d 610, 612 (1977) ("alimony award should be based on the husband's $27,000 taxable income"). Even using Robert's figures for 2011 – that he earned $70,000 in net income over 10 months – the trial court's finding that his Hershey-related income was $100,000 per year was reasonable, considering that income was one factor in determining maintenance.

¶ 43 Robert also argues that the trial court erred in finding that RCA's financial records and Robert's personal credit cards showed that he shifted many personal expenses to RCA. A court can impute income if a party is attempting to evade a support obligation. *In re Marriage of Lichtenauer*, 408 Ill. App. 3d 1075, 1089 (2011). Here, the court found the challenged expenses to be personal and not incurred to produce income for RCA. From 2006 to 2010, these charges averaged $53,675 per year, and the court found that one-half of the charges, or $26,838, were incurred for Robert's personal expenses and could be imputed as income.

¶ 44 The trial court explicitly relied on Kendelle's exhibit 43A through 43E in making the determination, but these exhibits are not part of the record on appeal. In his petition for rehearing, Robert argues that, because the exhibits were never admitted into evidence, they cannot serve as the basis for any of the trial court's rulings. Ordinarily, a trial court's finding may not be based on exhibits not admitted into evidence, but Robert has forfeited the issue by raising it for the first time in his petition for rehearing. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) ("Points not argued [in appellant's brief] are waived and shall not be raised in the reply brief, in oral argument, or on petition for rehearing").

¶ 45 First, he did not take the opportunity to alert the trial court that the judgment explicitly relied upon the exhibits, even though they were not in evidence. When Kendelle filed her motion to reconsider, Robert's memorandum in opposition did not make the argument that the

court's rulings were improperly based on evidence that had not been admitted. In fact, in his posttrial memorandum, Robert referred to the finding of $26,838 in imputed income approvingly to refute one of Kendelle's claims. See *Sakellariadis v. Campbell*, 391 Ill.App.3d 795, 800 (2009) (a party may not take one position at trial and another position on appeal). Second, Robert's appellate brief makes a different but related argument that his testimony does not support the trial court's findings. The brief mentions in passing, without citation to authority, that exhibit 43 through 43E were not admitted into evidence, but he does not contend that the court's explicit reliance on those exhibits is grounds for reversal. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) (argument in an appellant's brief "shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on). Under these circumstances, Robert has forfeited his challenge to the trial court's reliance on exhibit 43A through 43E.

¶ 46 We note that Kendelle further argues that her cross-examination of Robert yielded evidence supporting the court's determination regarding the challenged credit card expenses. However, Kendelle has not provided citation to the record of where this evidence can be found, and a reviewing court is not simply a depository into which a party may dump the burden of combing the record and fashioning an argument. See *People ex rel. Illinois Dept. of Labor v. E.R.H. Enterprises*, 2013 IL 115106, ¶ 56.

¶ 47 Robert argues that the determination of his income is unjust because it resulted from an impermissible "double accounting" in that $26,838 in additional income was imputed from personal expenses paid by RCA and the same amount was found to be dissipation of the marital estate. However, we agree with Kendelle that the determinations are mutually exclusive. A finding of dissipation is appropriate to reimburse the marital estate for expenses incurred before

dissolution while the parties' future incomes are determined to assess the need for maintenance following dissolution. Dissipation refers to assets previously spent while the imputation of income informs the determination of maintenance going forward.

¶ 48 In sum, the trial court found that Robert's annual income was $377,213; including $233,538 in salary from RCA; $100,000 from Hershey; and $26,838 in additional income imputed from RCA's credit cards. We find no reversible error in the amounts related to Hershey and the RCA credit cards, but we direct the trial court to revisit its calculations regarding Robert's salary from RCA.

¶ 49 2. Kendelle's Income

¶ 50 The court found that Kendelle's tax returns showed that, from 2006 through 2010, her personal income averaged $26,098. Robert argues that the finding is against the manifest weight of the evidence because Kendelle was the sole shareholder of KCI, and therefore, its income is her income. Robert cites evidence that, from 2006 through 2010, KCI had average gross revenues of 277,386, and from 2010 through 2011, the business paid a yearly average of $131,880 in credit card bills. The discrepancy in gross revenues and Kendelle's income is explained by Kendelle's testimony that she purchased furniture and furnishings for her clients and billed them for repayment.

¶ 51 Robert also argues that Kendelle's personal credit card statements from December 2008 through February 2011 are a better representation of her actual income than the tax returns. Robert contends that Kendelle "charged, and paid off, approximately $245,000 worth of personal expenses on her personal credit cards" during that period, which means that her annual income had to be at least $100,000 to maintain that lifestyle. Kendelle testified that she was very careful to keep her personal and business expenses separate so as not to pay personal expenses with her

business card. However, our review of Kendelle's personal credit cards reveals dozens of large expenses that appear related to her business. Although Kendelle apparently did not use the KCI credit card to pay personal expenses, she did use her personal credit card to purchase items for her KCI clients. The trial court's decision to rely on the tax returns and not the personal credit cards to ascertain Kendelle's income was not against the manifest weight of the evidence.

¶ 52 3. Ruling

¶ 53 The trial court found Kendelle to be in need of permanent maintenance and that maintaining the lifestyle of the marriage would require approximately $100,000 in annual income, comprised of $26,000 in salary from KCI and $72,000 in maintenance, which was about 20% of Robert's gross income. Robert argues that (1) the factual findings regarding the parties' income was against the manifest weight of the evidence, (2) Kendelle did not forego any employment opportunities to raise children during the marriage, (3) Kendelle can support herself through her business, (4) Kendelle received a disproportionate share of the marital estate, and (5) Robert supported Kendelle during the long dissolution proceedings. Because we have determined that a remand is necessary for the trial court to revisit Robert's RCA-related salary and to recalculate maintenance, we need not review the overall award.

¶ 54 B. Robert's Dissipation

¶ 55 Robert argues that the trial court erred in finding that he dissipated (1) specific amounts in 10 transactions after December 1, 2008, and (2) $26,838 per year from December 1, 2008, through July 1, 2014, by shifting personal expenses to the RCA credit card. Robert does not challenge the finding of an irretrievable breakdown on December 1, 2008, but he argues that there was no dissipation after that date.

¶ 56 A spouse dissipates marital assets when he or she uses marital property for his or her own benefit for a purpose unrelated to the marriage when the marriage is undergoing an irreconcilable breakdown. *In re Marriage of Foster*, 2014 IL App (1st) 123078, ¶ 108. In dividing the marital estate, the trial court may take into account a spouse's dissipation of marital and nonmarital assets. 750 ILCS 5/503(d)(2) (West 2014). The spouse charged with dissipation bears the burden of establishing by clear and convincing evidence how the funds were spent. *Foster*, 2014 IL App (1st) 123078, ¶ 108. Determining dissipation is generally a fact-intensive inquiry that calls upon the trial court to make a credibility determination as to the explanation given by the spouse charged with dissipation as to how the funds were used. *In re Marriage of Tietz*, 238 Ill. App. 3d 965, 983-84 (1992). The trial court's ruling on dissipation, therefore, will not be reversed on appeal unless it is against the manifest weight of the evidence. *In re Marriage of Vancura*, 356 Ill. App. 3d 200, 205 (2005); *Tietz*, 238 Ill. App. 3d at 983-84.

¶ 57 1. Tranactions

¶ 58 The trial court's July 1, 2014, judgment order set out 11 specific transactions that it determined to constitute dissipation by Robert. The court found Robert's total dissipation to be $67,980 and ordered him to pay Kendelle 55% of that amount. On January 9, 2015, the trial court vacated a dissipation finding regarding one transaction. Robert argues that the remaining 10 transactions, which amount to $57,980, were not dissipation.

¶ 59 The court found that Robert withdrew $31,000 from the parties' checking account in seven transactions from December 2008 through April 2009, and that Robert failed to adequately explain his disposal of the funds. The court found the transactions to be as follows: (1) $3,000 on December 9, 2008; (2) $2,500 on December 12, 2008; (3) $3,000 on December 22, 2008; (4) $10,000 on January 4, 2009; (5) $1,000 on March 5, 2009; (6) $8,500 on April 22, 2009; and

$2,000 on April 27, 2009. Robert contends that there is no evidence to support the December 12, December 22, and January 9 findings. Indeed, it appears that the court's findings regarding the dates do not match the withdrawals. However, the record shows evidence of the amounts withdrawn, and Robert admitted making withdrawals of $2,500 on December 22, $3,000 on December 24, and $10,000 on February 4. The trial court simply mixed up the dates, which apparently originated from a proposed judgment order prepared by one of the attorneys.

¶ 60 Regardless of the timing, there is evidence in the record of these three withdrawals and the trial court determined that they amounted to dissipation. Robert relies almost exclusively on his own testimony, but in its January 9, 2015, order, the trial court stated that Robert's explanations for the transactions were not credible:

> "After receiving and having reviewed the transcripts and having observed [Robert] testifying for many days, the court finds he has little credibility. Part of this finding is based on the answers he gave to questions asked of him. He gave half answers, no answers, was vague in his answers, did not answer the question asked or gave disingenuous answers."

¶ 61 The trial court was in the best position to assess the parties' credibility, and the court found Kendelle to be more credible than Robert. See *Tietz*, 238 Ill. App. 3d at 983-84 (determining dissipation is fact-intensive, requiring credibility determinations). Robert does not address the remaining withdrawals of $3,000, $1,000, $8,500, and $2,000 in his reply brief, and there is evidence supporting dissipation findings regarding those amounts too. Kendelle testified that she made only one withdrawal from the joint account since it was opened, and Robert either had no explanation for the withdrawals or his explanations were deemed not credible by the trial court.

¶ 62 The court also found that Robert failed to explain his receipt of $36,980 resulting from the following transactions: $10,000 withdrawn from the joint checking account on February 24, 2010; $9,000 transferred to RCA's checking account when Robert closed the ARCON account; and $7,980 received after Robert intentionally made a double payment of his credit card. Again, Robert does not dispute that these amounts were withdrawn. The court did not believe his testimony that he did not benefit personally from the transactions. However, transferring $9,000 from ARCON to RCA had the effect of adding funds to the law firm rather than diverting funds to Robert's personal use. Kendelle argues that Robert "openly admitted" to holding back the $9,000 for his personal benefit, but she fails to point out such an admission or any other evidence to that effect. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) (argument in appellate brief shall contain citation of the pages of the record relied on). We deem Kendelle's argument to be forfeited and vacate the finding of dissipation of $9,000 based on Robert's ARCON-to-RCA transfer.

¶ 63 2. RCA Credit Cards

¶ 64 Robert next challenges the trial court's finding that he dissipated $26,838 per year from December 1, 2008, to July 1, 2014, by paying personal expenses through the RCA credit card. The court did not address the issue in the July 1, 2014, judgment, but on reconsideration found that the amount could be imputed as additional income after the dissolution as well as dissipation before the dissolution. The $26,838 finding of yearly dissipation was based on Kendelle's exhibit 43A through 43E. The exhibits are not part of the record, but the parties represent that the exhibits consist of RCA credit card statements from 2006 through 2010.

¶ 65 The trial court apparently relied on the statements to determine dissipation from December 1, 2008, to July 1, 2014, even though no statements were presented to show charges

after 2010. To the extent that the trial court relied on evidence of past dissipation to speculate on Robert's dissipation after 2010, the decision is against the manifest weight of the evidence and a remand is necessary to revisit the issue.

¶ 66 We note that the trial court imputed $26,838 as additional future annual income for maintenance purposes and found the same amount to be yearly dissipation. Our partial reversal of the dissipation finding is not inconsistent with our affirmance of the imputation of additional income from the RCA credit cards. Setting maintenance is inherently speculative, as evidenced by the Dissolution Act's modification provisions that allow for changes in circumstance. A trial court may, in its discretion, fashion a maintenance order based on predicted income, including Robert's imputed income from the RCA credit cards. However, the same speculation is unnecessary and improper when finding dissipation because such a ruling is to be based on evidence of historical facts, not speculation as to what Robert might have done.

¶ 67 C. Distribution of Assets and Debts

¶ 68 Robert next argues that the trial court erred in (1) calculating the value of the First Republic account and awarding Kendelle 55% of its value; (2) declining to give him a credit for the expenses related to maintaining the marital residences; and (3) awarding Kendelle 55% of the value of the Range Rover.

¶ 69 All the property of the parties to a marriage belongs to one of three estates, namely, the estate of the husband, the estate of the wife, or the marital estate. *Foster*, 2014 IL App (1st) 123078, ¶ 68. Section 503 of the Dissolution Act requires the trial court to classify property as either marital or nonmarital to assign or divide it upon dissolution. 750 ILCS 5/503 (West 2014). As discussed, the trial court's classification will not be disturbed on appeal unless it is contrary to the manifest weight of the evidence. *Foster*, 2014 IL App (1st) 123078, ¶ 68; but see *In re*

Marriage of Abrell, 236 Ill. 2d 249, 255 (2010) (considering whether accumulated vacation and sick days are marital property *de novo* as the facts were undisputed and the credibility of witnesses was not at issue).

¶ 70 Generally, property acquired by either spouse after the marriage but before dissolution is presumed to be marital property regardless of how title is actually held, but the presumption may be rebutted by clear and convincing evidence that the property falls within one of the statutory exceptions. 750 ILCS 5/503(a), (b) (West 2014); *Foster*, 2014 IL App (1st) 123078, ¶ 69.

¶ 71 Section 503(d) of the Dissolution Act requires the trial court to divide marital property in "just proportions," considering the 12 relevant factors set forth therein. Those statutory factors include the following:

> "(1) the contribution of each party to the acquisition, preservation, or increase or decrease in value of the marital or non-marital property, including * * * the contribution of a spouse as a homemaker or to the family unit;
>
> (2) the dissipation by each party of the marital or non-marital property;
>
> (3) the value of the property assigned to each spouse;
>
> (4) the duration of the marriage;
>
> (5) the relevant economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home, or the right to live therein for reasonable periods, to the spouse having custody of the children;
>
> (6) any obligations and rights arising from a prior marriage of either party;
>
> (7) any antenuptial agreement of the parties;

(8) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each of the parties;

(9) the custodial provisions for any children;

(10) whether the apportionment is in lieu of or in addition to maintenance;

(11) the reasonable opportunity of each spouse for future acquisition of capital assets and income; and

(12) the tax consequences of the property division upon the respective economic circumstances of the parties." 750 ILCS 5/503(d)(1) to (d)(12) (West 2014).

¶ 72 The test of proper apportionment is whether it is equitable, and each case rests on its own facts. *In re Marriage of Smith*, 2012 IL App (2d) 110522, ¶ 71. An equitable division does not necessarily mean an equal division, and a spouse may be awarded a larger share of the assets if the relevant factors warrant such a result. *Smith*, 2012 IL App (2d) 110522, ¶ 71. A reviewing court applies the manifest-weight-of-the-evidence standard to the trial court's factual findings on each factor, but it applies the abuse-of-discretion standard in reviewing the trial court's final property disposition. *Smith*, 2012 IL App (2d) 110522, ¶ 71.

¶ 73 1. First Republic Bank Account

¶ 74 Robert mentions in passing that the trial court erred in classifying the First Republic account as marital. We deem the argument forfeited as Robert fails to develop his argument or cite to relevant legal authority. See Ill. S. Ct. R. 341(h)(7) (eff. Feb. 6, 2013) (argument in appellate brief shall contain contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on).

¶ 75 His primary claim of error is that, in its January 9, 2015, order, the court valued the account at $141,151 and awarded Kendelle 55% of its value, but noted that the value of the

account was supported by evidence dated November 13, 2012, at the latest. The court was free to order payment of 55% of the value the account to Kendelle, but we agree with Robert that the trial court erred in using stale evidence to assign a value to the account. Accounts vary in value over time, and the valuation was not based on timely evidence. The court's valuation was against the manifest weight of the evidence and a remand is necessary for a determination of the account's value as near as possible to July 1, 2014, the date of judgment.

¶ 76 2. Vehicle

¶ 77 Robert next argues that the trial court erred in valuing the Range Rover to be $57,000 and awarding Kendelle 55% of its value. Robert contends that there was "no evidence whatsoever" of its value, except his testimony that it was "heavily financed," and therefore, Kendelle should have been assessed 55% of the debt on the vehicle. The record confirms that Robert testified that his monthly debt obligation on the vehicle was about $1,200. We agree with Robert that the trial court's valuation of the Range Rover is against the manifest weight of the evidence and must be reversed. The finding was not based on any evidence adduced at trial. On remand, the trial court should revisit the distribution by ascertaining and equitably allocating the equity and debt in the vehicle.

¶ 78 3. Debt

¶ 79 Robert argues that the trial court erred in ordering him to pay $27,000 as his share of the parties' post-separation debt and declining to give him credits for expenses he incurred in maintaining the two martial residences. In its July 1, 2014, order, the trial court determined that Kendelle had incurred $60,000 in debt to support herself during the proceedings However, Kendelle testified that, during the proceedings, she incurred only $56,180 in debt, consisting of $8,500 owed to her sister, $2,180 owed to her former attorney, $40,000 owed to a friend, and

$5,500 owed to her mother. There is no basis for the court's $60,000 valuation of Kendelle's debt and it must be reversed as being against the manifest weight of the evidence. Moreover, the possibility exists that the trial court misallocated the debt between the parties. In its other rulings, the trial court awarded Kendelle 55% of the marital estate, but by ordering Robert to pay $27,000, the court made her responsible for 55% of the debt, not 45%.

¶ 80 Robert also asserts that he is entitled to a credit for his payment of the mortgage debt, real estate taxes, insurance, and association dues for the properties, which he says amounted to $6,000 per month, or $378,000 over the 63-month dissolution proceeding. We need not address this argument because the trial court's allocation of Kendelle's post-separation debt is against the manifest weight of the evidence and requires a recalculation on remand. The trial court, in its discretion, may revisit Robert's proposed credit, should it choose to do so.

¶ 81 D. Date of Judgment

¶ 82 Finally, Robert argues in his appeal that the trial court's orders and delay in resolving the matter caused substantial prejudice and "violated the principles of the [Dissolution Act]." Robert points out that the dissolution proceedings were not complicated with issues of child custody, visitation, or support. Yet, the petition for dissolution was filed on May 13, 2009, and the final order entered on reconsideration was not entered until January 9, 2015, a period of 5 years and 8 months. The 14-day trial lasted 17 months, commencing on June 23, 2011, and concluding on November 13, 2012. Then, the trial court took the matter under advisement for 20 months before entering the original judgment order. The trial court's delay in resolving this relatively straightforward marriage dissolution is inexcusable, especially considering the time-sensitive nature of the evidence. That said, Robert cites nothing in the record indicating that he objected to the trial court's handling of the case at the time.

¶ 83 Robert contends that the delay caused him substantial prejudice and gave Kendelle a windfall from the expenses that Robert incurred to maintain the marital residences. Relying on *In re Marriage of Mathis*, 2012 IL 113496, Robert asks us to arbitrarily move up the effective date of dissolution from July 1, 2014, to December 31, 2011, because the financial evidence related to tax returns, credit card charges, and statements from 2011 was the most recent admitted at trial. Robert cites *Mathis* for the proposition that "[i]f the dissolution date and the date marital assets were valued is too far apart, the reviewing court can order the trial court to recalculate the value of marital assets as of the date of the reviewing court's choosing."

¶ 84 In *Mathis*, the supreme court addressed the following certified question for interlocutory review: "In a bifurcated dissolution [of marriage] proceeding, when a grounds judgment has been entered, and when there is a lengthy delay between the date of the entry of the grounds judgment and the hearing on ancillary issues, is the appropriate date for valuation of marital property the date of dissolution or a date as close as practicable to the date of trial of the ancillary issues?" *Mathis*, 2012 IL 113496, ¶ 1. The supreme court observed that section 503(f) of the Dissolution Act provides that the valuation date for marital property must be "the date of trial or some other date as close to the date of trial as is practicable." *Mathis*, 2012 IL 113496, ¶ 21. The husband argued that the phrase "the date of trial" is ambiguous in dissolution proceedings that have been bifurcated under section 401(b) of the Dissolution Act (see 750 ILCS 5/401(b) (West 2010)), because a bifurcated dissolution proceeding involves two trials: one on grounds for dissolution and a later one on any reserved ancillary issues. In *Mathis*, the trial court made a docket entry dissolving the marriage on March 26, 2001, entered a written order to that effect on August 26, 2004, and conducted various hearings on other matters over 12 years. *Mathis*, 2012

IL 113496, ¶ 22. The supreme court held that, in bifurcated dissolution proceedings, marital property valuations should be set as of the date of dissolution:

> "[T]here are ways to allocate and adjust for postdissolution increases and decreases in the value of marital property to attain a just distribution. See, *e.g.*, 750 ILCS 5/503(c), (d)(1) (West 2010). Rather than adjust later, it is better to divide sooner, based on the value of the property on the date of dissolution. This rule encourages the parties to stop litigating, so they can receive and manage their proportion of the marital property, and discourages gamesmanship because the parties would be on notice that dilatory tactics would not aid either side. Accordingly, we hold that, in a bifurcated dissolution proceeding, the date of valuation for marital property is the date the court enters judgment for dissolution following a trial on grounds for dissolution (see 750 ILCS 5/401(b) (West 2010)) or another date near it. We believe this rule best serves the purpose of and the policy behind the [Dissolution] Act, and accordingly the legislature's intent." *Mathis*, 2012 IL 113496, ¶ 30.

¶ 85 Contrary to Robert's assertion, *Mathis* does not stand for the proposition that a reviewing court may arbitrarily set a property valuation date "of the reviewing court's choosing." Rather, the *Mathis* court held that, in a bifurcated dissolution proceeding, the date of property valuation should be the date of dissolution following a trial on the grounds for dissolution and not the date on which the ancillary matters are decided. Here, the dissolutions proceedings were not bifurcated, which makes *Mathis* procedurally distinguishable. Moreover, the trial court's financial determinations were ostensibly based on valuations from the date of dissolution, July 1, 2014.

¶ 86 Robert argues that "the trial court's overall conduct in handling this dissolution matter informs and contributes to almost all of the trial court's errors raised in [Robert's] appeal." We agree that the court's delay is very problematic. However, Robert offers no authority for modifying the effective date of the dissolution judgment to some point during the trial for the purpose of recalculating maintenance and distributing the marital estate. Instead, as the *Mathis* court observed, sections 503(c) and 503(d) provide ways to allocate and adjust for postdissolution increases and decreases in the value of marital property to attain a just distribution. The issues raised by Robert turn on the valuation of assets and whether the evidence adduced at trial supports various parts of the judgment. As discussed, we have determined that a number of valuations made by the trial court were against the manifest weight of the evidence and a remand is necessary to correct the errors. Some of those errors are rooted in the trial court's use of untimely evidence resulting from the delay in addressing this action.

¶ 87 III. KENDELLE'S CROSS-APPEAL

¶ 88 On cross-appeal, Kendelle challenges the court's finding of the date of the "irretrievable breakdown" of the marriage. She also contends that she is entitled to a share of the value of RCA and a contribution toward her attorney fees.

¶ 89 We note that Kendelle's counsel comingled his client's arguments on cross-appeal with the issues raised by Robert in his appeal. Although Kendelle's brief does not technically violate Rule 341, the better course would have been to make her arguments on cross-appeal in a section separate from her responses to the issues raised by Robert.

¶ 90 A. Irretrievable Breakdown and Dissipation

¶ 91 On cross-appeal, Kendelle argues that Robert dissipated more of the martial estate than found by the trial court. She frames the issue in terms of when the marriage began to suffer an

irretrievable breakdown, arguing that it began on January 1, 2003, and not on December 1, 2008, as found by the trial court. She concludes that she is entitled to an additional sum of 55% of all assets dissipated by Robert from January 1, 2003, to December 1, 2008.

¶ 92 Robert responds that Kendelle has forfeited the issue by failing to include it in her notice of cross-appeal. We agree. In her notice, Kendelle stated that she is cross-appealing two rulings as set forth in specific portions of the July 1, 2014, judgment and the subsequent January 9, 2015, order entered on reconsideration. First, the notice stated that Kendelle is cross-appealing paragraph 2(G) of the judgment and paragraph 10 of the order, which each addressed the value and assets of RCA. Second, the notice stated that she is cross-appealing paragraph 4 of the judgment and paragraph G of the order, which made the parties responsible for their own attorney fees. The trial court entered its written finding regarding the irretrievable breakdown of the marriage in paragraph 18 of the judgment and paragraph 2 of the order, and neither is mentioned in the notice of cross-appeal.

¶ 93 Illinois Supreme Court Rule 303(b)(2) (eff. May 30, 2008) provides that a notice of appeal, including cross-appeals, "shall specify the judgment or part thereof or other orders appealed from." In this case, Kendelle's notice of cross-appeal specified in detail two parts of the judgment and the reconsideration order without mentioning the finding of irretrievable breakdown.

¶ 94 An appeal from a final judgment draws into issue all previous interlocutory orders that produced the final judgment, and a notice of appeal is deemed to include an unspecified interlocutory order if that order was a step in the procedural progression leading to the judgment specified in the notice of appeal. *CitiMortgage, Inc. v. Hoeft*, 2015 IL App (1st) 150459, ¶ 8. If an order not listed in the notice of appeal was a step in the procedural progression, it may be

reviewed because it can be said to relate to the judgment specified in the notice of appeal. *CitiMortgage,* 2015 IL App (1st) 150459, ¶ 8. Although we construe notices of appeal liberally, we conclude that the notice of cross-appeal does not confer jurisdiction to consider the trial court's finding of an irretrievable breakdown of the marriage on December 1, 2008. The court's ruling on the matter was a finding of fact and not a step in the procedural progression leading to the judgment. We lack jurisdiction to review the issue.

¶ 95 B. RCA

¶ 96 Unlike the finding regarding the irretrievable breakdown of the marriage, the trial court's decision to award RCA to Robert was specifically addressed in Kendelle's notice of cross-appeal. Kendelle argues that the trial court erred in finding that RCA's value could not be ascertained and then awarding RCA to Robert without granting her a share of its value. Kendelle contends that the court heard adequate evidence to at least establish RCA's book value, which included (1) RCA tax returns from 2007 through 2011 and (2) RCA statements from January 1, 2007, through March 31, 2011, for bank accounts held by Northern Trust Company.

¶ 97 We conclude that the trial court's finding regarding RCA's value is not against the manifest weight of the evidence. The trial court found that the parties had failed to present competent evidence of the fair market value of RCA and KCI and that it was impossible to assign a reasonable value to either business. Concluding that it could not equitably divide the value of the businesses between the parties, the court ruled that Robert and Kendelle would retain their respective businesses without a portion going to the other. Apparently, Kendelle relied on financial documents that failed to satisfy the trial court. There is no indication from the record that Kendelle was prevented from gathering additional evidence as to the value of RCA. The parties are obliged to present the court with sufficient evidence of the value of the property.

In re Marriage of Reppen-Sonneson, 299 Ill. App. 3d 691, 693 (1998). The trial court determined that Kendelle failed to introduce competent evidence of the value of RCA. She did not present expert testimony of RCA's market value or any evidence of RCA's assets and liabilities, beyond the bank accounts. Under the circumstances, we agree with Robert that Kendelle should not be allowed to benefit from her failure to introduce evidence at trial as to the value of RCA. See *Reppen-Sonneson*, 299 Ill. App. 3d at 693; see also *In re Marriage of Leff*, 148 Ill. App. 3d 792, 802-04 (1986).

¶ 98 Kendelle contends that we must reverse the trial court's award of 100% of RCA to Robert because she is entitled to 55% of the value of RCA and all bank accounts in its name. Without competent evidence of the value of RCA or KCI, the trial court's decision to award each party his or her business was not an abuse of discretion. See *Smith*, 2012 IL App (2d) 110522, ¶ 71 (reviewing court applies the abuse-of-discretion standard in reviewing the trial court's final property disposition).

¶ 99 C. Attorney Fees

¶ 100 Finally, Kendelle argues that the trial court erred in failing to order Robert to contribute to her legal fees. Kendelle cites a disparity in the parties' post-dissolution incomes and Robert's avoidance of legal fees by using RCA for his representation. Robert responds that the trial court did not abuse its discretion because he had already contributed $70,000 toward Kendelle's fees, which he paid according to interim orders.

¶ 101 We review for an abuse of discretion a trial court's award of attorney fees under section 508(a) of the Dissolution Act (750 ILCS 5/508(a) (West 2014)). See *In re Marriage of Micheli*, 2014 IL App (2d) 121245, ¶ 44. A trial court abuses its discretion when it acts arbitrarily, without conscientious judgment, or, in view of all of the circumstances, exceeds the bounds of

reason and ignores recognized principles of law, resulting in substantial injustice. *Micheli*, 2014 IL App (2d) 121245, ¶ 44

¶ 102 Although attorney fees are generally the responsibility of the party who incurred them, section 508(a) of the Dissolution Act permits a trial court to order a party to contribute to the other party's reasonable attorney fees in light of the parties' respective financial situations. 750 ILCS 5/508(a) (West 2012); *Micheli*, 2014 IL App (2d) 121245, ¶ 45. At the conclusion of any prejudgment dissolution proceeding, a court may award contribution to attorney fees in accordance with section 503(j). 750 ILCS 5/508(a), 503(j) (West 2014). Section 503(j)(2) states that "[a]ny award of contribution to one party from the other party shall be based on the criteria for division of marital property under this Section 503 and, if maintenance has been awarded, on the criteria for an award of maintenance under Section 504." 750 ILCS 5/503(j)(2) (West 2014).

¶ 103 Section 501(c-1) allows the trial court to order interim awards of attorney fees and costs, which are assessed from time to time while a case is pending, in favor of the petitioning party's current counsel, for reasonable fees and costs either already incurred or to be incurred. 750 ILCS 5/501(c-1) (West 2014). Any assessment of an interim award of attorney fees and costs shall be without prejudice to any final allocation and without prejudice as to any claim or right of either party or any counsel of record at the time of the award. Any such claim or right may be presented at a hearing on contribution under section 503(j) or section 508(c). Unless otherwise ordered by the court at the final hearing between the parties or in a hearing under section 503(j) or section 508(c), interim awards, as well as the aggregate of all other payments by each party to counsel and related payments to third parties, shall be deemed to have been advances from the parties' marital estate. 750 ILCS 5/501(c-1)(2) (West 2014).

¶ 104 The parties cite three orders related to Kendelle's petitions for fees. Robert argues that, on March 17, 2011, the trial court ordered him to contribute $25,000 under section 501(c-1) of the Dissolution Act. In fact, the record shows that the trial court ordered Robert to "contribute the sum of $12,500 to Kendelle's attorney fees. Said payments shall be made directly to [Kendelle's] counsel in two equal installments." Contrary to Robert's interpretation, the plain language of the order directed him to make two payments of $6,250, not $12,500.

¶ 105 Robert also cites a June 14, 2011, order entered under section 501(c-1) directing that assets held by Robert in two funds be liquidated and "the sum of $42,600 shall be remitted to [Kendelle's] counsel as an advance to [Kendelle] subject to reallocation in the adjudication of this case." On November 13, 2012, the court entered a third order, stating "Kendelle's final petition for interim fees is granted and the sum of $27,500 shall be distributed from the funds held in escrow by [Robert's] counsel to [Kendelle's] attorney within seven days."

¶ 106 As the parties have not cited any other orders relating to attorney fees, it appears that the trial court awarded Kendelle $82,600 in interim fees. Kendelle contends that "the trial court deemed all fee distributions to constitute advances of marital property" and not contributions from Robert, and therefore, her share of the marital estate was unfairly diminished. We disagree.

¶ 107 The July 1, 2014, judgment states that "[e]ach [p]arty has the financial ability to pay their own fees, therefore each [p]arty will be responsible for their own attorney's fees." Consistent with the judgment, the January 9, 2015, order denied Kendelle's motion for reconsideration of the attorney fee issue. Thus, the record shows that the trial court awarded Kendelle interim fees of $82,600, but denied additional fees after November 13, 2012. We presume the trial court accounted for the interim fee awards when making the final allocation of assets and maintenance. Kendelle does not cite evidence of her total legal expenses, so this court has nothing with which

to compare the interim awards. Under these circumstances, the trial court did not abuse its discretion in declining to award Kendelle additional attorney fees and costs.

¶ 108 IV. CONCLUSION

¶ 109 For the reasons stated, the judgment entered by the circuit court of Lake County is affirmed in part, reversed in part, and the cause is remanded for further proceedings consistent with this disposition.

¶ 110 Affirmed in part, reversed in part; cause remanded.