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2014 IL App (3d) 110893-U

Order filed April 3, 2014

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IN THE  
APPELLATE COURT OF ILLINOIS  
THIRD DISTRICT

A.D., 2014

<i>In re</i> ESTATE OF GEORGE WASSON,	)	Appeal from the Circuit Court
	)	of the 12th Judicial Circuit,
An Alleged Disabled Person	)	Will County, Illinois.
	)	
(Lawrence F. Patterson, J.D.,	)	
	)	Appeal Nos. 3-11-0893
Petitioner-Appellant,	)	3-12-0432
	)	Circuit No. 10-P-938
v.	)	
	)	
George Wasson,	)	
	)	Honorable Jeffrey J. Allen,
Respondent-Appellee).	)	Judge, Presiding.

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JUSTICE SCHMIDT delivered the judgment of the court.  
Justice McDade concurred in the judgment.  
Presiding Justice Lytton concurred in part and dissented in part.

**ORDER**

¶ 1 *Held:* The guardian *ad litem* lacked standing to pursue a recovery citation on ward's behalf after the trial court dismissed the petition for appointment of guardian and adjudicated the ward competent. We reverse and remand for further proceedings.

¶ 2 Petitioner, Lawrence Patterson, filed a petition for appointment of guardian seeking guardianship over his then-client, George Wasson. On February 28, 2011, the Will County

circuit court denied Patterson's petition and adjudicated Wasson legally competent. At the hearing on the petition, the court-appointed guardian *ad litem* questioned whether or not Patterson had performed those legal services for which he had been retained.

¶ 3 On May 25, 2011, nearly two months after the trial court's dismissal of Patterson's petition for guardianship, the guardian *ad litem* filed a petition for recovery citation. The recovery citation alleged, among other things, that Wasson had paid Patterson to provide specified legal services that Patterson had not performed. Following an evidentiary hearing, the trial court ordered Patterson to deliver \$7,500 to the guardian *ad litem* to be held in her trust account on Wasson's behalf.

¶ 4 Several other pleadings were filed, including the guardian *ad litem*'s separate petition for fees. The trial court ultimately ordered Patterson to pay Wasson \$7,500, allowed the guardian *ad litem* to apply the \$7,500 held in her trust account to her fees, and directed Patterson to pay the guardian *ad litem* the remaining \$600 balance of her \$8,100 in total fees.

¶ 5 Patterson appeals, claiming, *inter alia*, that the trial court lost subject matter jurisdiction to enter any subsequent orders 30 days after the denial of the petition for appointment of guardian and that the guardian *ad litem* lacked standing to take any further action on Wasson's behalf once the trial court found Wasson competent.

¶ 6 We reverse and remand for further proceedings.

¶ 7 BACKGROUND

¶ 8 This appeal stems from the denial of petitioner's, Lawrence Patterson, petition for appointment of guardian over the person and estate of George Wasson. We note at the outset that the appellee did not file a brief.

¶ 9 Initially, Wasson retained Patterson, an attorney, for estate planning purposes and to assist Wasson in finding a suitable place for his disabled daughter to live upon his death. However, in early December of 2010, Wasson was hospitalized for several days following an incident in which he lost consciousness. Patterson filed a petition for appointment of guardian on December 17, 2010, requesting that the trial court appoint Patterson as temporary guardian and, following a psychiatric evaluation and adjudication of disability, plenary guardian of Wasson's person and estate. Patterson's petition alleged that Patterson observed Wasson's mental and physical deterioration and that Wasson was unable at that time to care for his needs. The petition further alleged that Patterson made arrangements for home healthcare services for Wasson, but that those services had been disrupted by certain members of Wasson's family.

¶ 10 At the initial hearing, the trial court appointed attorney Colleen Wengler as guardian *ad litem* (GAL). The hearing on the emergency petition was scheduled for December 23, 2010.

¶ 11 On that date, attorney Hanson appeared for the first time on Wasson's behalf. Hanson stated Wasson and his family had recently retained his services—both to handle the guardianship proceedings and to terminate Wasson's professional relationship with Patterson. Hanson advised the court that Wasson appeared alert, coherent and oriented during their meeting.

¶ 12 The GAL reported that she had visited Wasson and found him "alert, coherent, well-groomed, well-fed." She accordingly asked that the court deny the petition for emergency guardianship. The GAL did explain, however, that while Wasson was able to discuss "his affairs in the most general of terms," he was "fuzzy on the details on almost everything." The GAL acknowledged that Wasson needed assistance and should not be left alone. She explained that she was not prepared to say that a guardianship was not necessary, but that there was no need for

emergency measures. Finally, the GAL requested that the trial court freeze those funds in Patterson's Interest on Lawyers Trust Account (IOLTA) belonging to Wasson.

¶ 13 Based on those representations, the court denied the petition for emergency guardianship. Judgment on the petition for plenary guardianship was reserved. The trial court ordered Patterson to retain all funds presently on deposit in his IOLTA account for the benefit of George Wasson and to turn over all files, records and documents that were not attorney-work product to attorney Hanson as soon as reasonably possible.

¶ 14 On February 28, 2011, Hanson advised the court that Wasson underwent a neuropsychological examination which showed that Wasson was competent. In light of that examination and on the recommendation of both the GAL and Hanson, the trial court denied Patterson's petition for plenary guardianship and found Wasson legally competent. It was at this hearing that the GAL raised issues regarding the disposition of funds that had been paid by Wasson to Patterson and whether Patterson had performed the services for which he had been compensated. The trial court directed Patterson to provide to the GAL and Hanson a detailed billing statement showing the money received and billed by Patterson throughout the duration of his representation of Wasson, beginning in July of 2009. The court stated, "I am retaining jurisdiction in this case to have a full and complete accounting of any and all billing and funds received by Mr. Patterson. We can provide that. And we are going to find out where that money is, what it is used for and how it is going to be disposed of."

¶ 15 Based on the documentation Patterson provided, the GAL advised the court that she had concerns regarding Patterson's billing and performance. The GAL filed a petition for recovery citation on May 25, 2011. The petition alleged, *inter alia*, that: (1) Patterson received a \$2,500 retainer from Wasson for legal services that he never actually performed; (2) Patterson went to

Wasson's residence and took a check from Wasson on December 8, 2010, thereafter writing a check payable to himself for \$5,000 from Wasson's account at a time when he believed Wasson to be without capacity to transact his personal and financial affairs; and (3) Patterson applied those funds toward the filing of his petition for appointment of guardian and the attendant hearing.

¶ 16 The court conducted an evidentiary hearing on the citation petition on July 19, 2011. At the outset, the trial court found the burden was on Patterson to rebut the presumption of fraud or undue influence by clear and convincing evidence.

¶ 17 Both Wasson and Patterson testified. Wasson acknowledged hiring Patterson as his attorney and signing the security retainer agreement. Wasson testified that Patterson had never performed the services for which Wasson had originally retained him, *i.e.*, finding a suitable place for Wasson's daughter to live in the event of Wasson's death. Wasson denied ever asking Patterson to provide any additional services, but subsequently admitted that he had asked Patterson to assist him in connection with various tenant issues. In regard to his hospitalization, Wasson stated that he had never asked Patterson for any assistance relating to his illness, but later claimed that the only people who were giving him medication were the men Patterson "brought in there." Wasson also denied giving Patterson a supplemental retainer of \$5,000 for additional legal work.

¶ 18 Much of Patterson's testimony focused on a finalized statement for fees and costs, of which the trial court took judicial notice. In his response to the petition, Patterson alleged that Wasson had agreed to pay Patterson on an hourly basis. Patterson's hourly rate is \$225 per hour. For the period from July 24, 2009, through February 5, 2011, Patterson's draft statement showed 67.86 hours of work. The statement reflected fees totaling \$31,932.50, \$28,271.63 of which

remained outstanding after the application of the original \$2,500 retainer and the disputed supplemental retainer of \$5,000.

¶ 19 The statement showed that of the \$5,000 retainer, \$2,000 was applied to Wasson's outstanding balance, and \$271 had been used to pay filing and witness fees in connection with Patterson's guardianship petition. The balance remained in Patterson's IOLTA account.

¶ 20 Patterson admitted that he had not filed a petition of guardianship for the person and estate of Pamela Wasson as he was initially hired to do. Patterson maintained, however, that Wasson clearly needed assistance with day-to-day activities following his hospitalization.

¶ 21 At the conclusion of testimony, Hanson and the GAL moved for a directed verdict. The trial court concluded that no work had been performed with respect to Pamela Wasson, and that many of the "services listed or allegedly rendered had little to do with the agreement." The trial court also stated that Patterson had "over-reached" when he filed the petition for appointment of guardian. Accordingly, the trial court granted the GAL's recovery citation and directed Patterson to deliver \$7,500 to the GAL within 10 days to be held in the GAL's trust account on Wasson's behalf.

¶ 22 Patterson filed a motion to vacate the trial court's order on July 29, 2011. The circuit court denied the motion on August 1.

¶ 23 On August 1, 2011, the GAL filed a petition for rule to show cause, asserting that Patterson had not delivered the \$7,500 per the court's order. The trial court granted the GAL's petition and further ordered Patterson to mail \$2,820.90 to the GAL to be held in her trust account (which amount is presumably the remaining balance of Wasson's funds in Patterson's IOLTA account, though the record is unclear).

¶ 24 On August 15, 2011, Patterson filed his motion to vacate the rule to show cause order, which the trial court denied on August 23, 2011. Patterson argued that he believed the filing of his motion to vacate the July 19, 2011, order and his motion to vacate the rule to show cause order stayed his obligation to turn the funds over to the GAL.

¶ 25 Patterson additionally argued that subsequent to the dismissal of the petition for appointment of guardian, the GAL lost standing to continue to act on Wasson's behalf. Patterson pointed out that no other pleadings had been filed by Hanson, Wasson's private counsel.

¶ 26 The GAL acknowledged that Patterson had turned over \$2,820.90, but the outstanding balance of \$4,670.10 remained. Patterson testified that he did not have the balance. The trial court found Patterson in indirect civil contempt for failure to obey the court's order and gave him 21 days to purge the contempt by turning over \$4,679.10 to the GAL. On September 28, 2010, Patterson mailed a check for that amount.

¶ 27 As the GAL petitioned on Wasson's behalf for the recovery citation, she was simultaneously petitioning the court for her own fees in connection to the petition for appointment of guardian. On July 28, 2011, the GAL filed a petition for attorney fees, seeking an award of \$3,700 for services provided during the period from December 20, 2010, through July 19, 2011. The trial court granted the GAL's request for fees, but reserved the question of the allocation of payment of the fees. Later, the trial court allocated responsibility for the payment of the \$3,700 in fees solely to Patterson and ordered him to pay that amount within 30 days.

¶ 28 The GAL filed two additional petitions seeking attorney fees—the first requesting \$1,800 for the period from July 31, 2011, through August 30, 2011, and the second requesting \$2,600 for the period of September 14, 2011, through October 19, 2011. The trial court granted each of the petitions, again allocating sole responsibility for the fees to Patterson. The trial court

awarded attorney fees to the GAL totaling \$8,100. The court allowed the GAL to apply the \$7,500 held in her trust account for Wasson toward her fees. The court then ordered Patterson to reimburse Wasson in the amount of \$7,500 and to pay the GAL the \$600 balance owed within 28 days.

¶ 29 The trial court granted Patterson leave to file his memorandum of law in opposition. Patterson argued, among other things, that upon the denial of the petition for appointment of guardian, the circuit court had lost jurisdiction to enter any orders against Patterson and that the GAL had lost standing to provide additional services. The circuit court "denied and dismissed" Patterson's objections.

¶ 30 More than three months later on February 8, 2012, the GAL filed a petition for rule to show cause, requesting Patterson be held in contempt for failing to comply with the November 2, 2011, order requiring payment of \$7,500 to Wasson and \$600 to the GAL. At this point, Patterson had already appealed the court's orders of December 23, 2010, February 28, 2011, April 21, 2011, May 18, 2011, July 19, 2011, August 1, 2011, August 23, 2011, September 14, 2011, and November 2, 2011.

¶ 31 In response to the GAL's petition, Patterson sent the remaining \$600 "subject to" his pending appeal. The GAL acknowledged receipt, but proceeded to seek relief on Wasson's behalf. Patterson admitted that he had not reimbursed Wasson, and advised the court that he was unable to do so. As a result, the trial court, again, held Patterson in indirect civil contempt.

¶ 32 On May 16, 2012, Patterson, again, acknowledged that he had not remitted \$7,500 to the GAL because he was financially unable to do so, citing to his previously filed affidavit to that effect. The trial court imposed a sentence of incarceration of 150 days with mittimus stayed until



July 31, 2012, at which time Patterson was ordered to present himself to be taken into custody unless he had purged the contempt.

¶ 33 Patterson appeared before the court on July 31 and presented a check for \$7,500. On August 13, 2012, the circuit court entered an order discharging the rule to show cause and stating that the contempt finding as to Patterson had been purged.

¶ 34 This consolidated appeal followed.

¶ 35 ANALYSIS

¶ 36 I. Jurisdiction

¶ 37 Initially, Patterson contends that the trial court lacked subject matter jurisdiction over the GAL's petition for recovery citation and related pleadings. Specifically, he argues that 30 days after the trial court's February 28, 2011, order denying his guardianship petition and finding Wasson competent, the trial court lost jurisdiction to address the GAL's petition. Patterson also contends that the trial court lacked subject matter jurisdiction to award the GAL attorney fees for her efforts on Wasson's behalf after the February 28, 2011, order.

¶ 38 Subject matter jurisdiction permits a court to hear issues being litigated and to provide requested relief. *In re Estate of Gebis*, 186 Ill. 2d 188, 192 (1999). If a court attempts to hear issues or to provide relief beyond its jurisdiction, its orders are void and subject to attack at any time. *Id.* at 193; *In re Estate of Steinfeld*, 158 Ill. 2d 1, 12 (1994). However, once a court has jurisdiction over both parties and the subject matter, a court has " 'inherent power to enforce its orders by way of contempt' so long as the underlying orders are not void." *In re Estate of Ahern*, 359 Ill. App. 3d 805, 809 (2005) (quoting *Steinfeld*, 158 Ill. 2d at 19). Indeed, the supreme court has explained that "the *only* consideration is whether the alleged claim falls within the general class of cases that the court has the inherent power to hear and determine. If it does, then subject

matter jurisdiction is present." (Emphasis in original.) *In re Luis R.*, 239 Ill. 2d 295, 301 (2010).

This fundamental premise of procedural law applies to probate proceedings to the same extent that it does nonprobate proceedings. *In re Estate of Hall*, 234 Ill. App. 3d 780, 786 (1992). We review the issue of a circuit court's subject matter jurisdiction over a given set of proceedings *de novo*. *In re Marriage of Chrobak*, 349 Ill. App. 3d 894, 897 (2004).

¶ 39           Given the inherent broadness of subject matter jurisdiction, we find that despite Patterson's contention to the contrary, the trial court had subject matter jurisdiction to address the issue of the GAL's fees even after it found Wasson competent and dismissed the petition for guardianship.

¶ 40           We find *In re Estate of Ahern*, 359 Ill. App. 3d 805, instructive as it addressed the issue of subject matter jurisdiction in the context of a guardianship estate. In *Ahern*, the attorney who originally filed the guardianship petition on behalf of the ward and the guardian *ad litem* were both awarded attorney fees. *Id.* at 808. The ward, who suffered from advanced dementia, passed away on November 25, 2000. *Id.* The guardianship estate was closed on October 21, 2001. *Id.* Both the attorney and guardian *ad litem* filed two petitions for rule to show cause against the ward's trustee, the second of which was filed after the guardianship estate was closed. *Id.* at 808-09. The circuit court dismissed both petitions and the trustee's motion to strike, finding that it no longer had jurisdiction over the proceedings after the decedent's estate closed. *Id.* at 809.

¶ 41           The appellate court reversed, finding that the closing of the estate did not bar the attorney from collecting a portion of the assets she helped to protect. *Id.* at 811. Further, at the time the trial court dismissed for lack of subject matter jurisdiction, both the attorney and guardian *ad litem* had been awarded attorney fees and commenced enforcement proceedings against the

decedent's trust and the trustee to collect. *Id.* The trial court, therefore, had continuing subject matter jurisdiction over the enforcement proceedings. *Id.*

¶ 42 The facts in the instant case, while distinguishable, cut in favor of finding that the trial court had jurisdiction. Although the GAL did not specifically raise the issue of her fees at the February 28 hearing, the trial court is statutorily vested with discretion to allow a guardian *ad litem* reasonable compensation. 755 ILCS 5/11a-10(a) (West 2013). Furthermore, the trial court expressly stated in its order that it "reserves jurisdiction in this case" to address those issues. While a trial court generally retains jurisdiction for only a 30-day period after entry of a final judgment (see *Rehabilitation Consultants for Industry, Inc. v. Nowak*, 259 Ill. App. 3d 725 (1994); Ill. S. Ct. R. 303(a) (eff. June 2008)), there are limited circumstances in which a trial court may retain jurisdiction to enforce its own orders after the 30-day time period has lapsed. *Director of Insurance ex rel. State v. A&A Midwest Rebuilders, Inc.*, 383 Ill. App. 3d 721, 723-24 (2008) (citing *Brigando v. Republic Steel Corp.*, 180 Ill. App. 3d 1016, 1020 (1989)).

¶ 43 The issue of the GAL's fees was still outstanding. The trial court therefore retained jurisdiction to make a determination regarding those fees.

## ¶ 44 II. Standing

¶ 45 We agree with Patterson's contention that after February 28, 2011, the GAL lacked standing to continue to file pleadings, including, but not limited to, the petition for recovery citation on Wasson's behalf. It therefore goes without saying that she lacked standing to pursue her own attorney fees for those filings.

¶ 46 "[S]tanding is not merely a procedural technicality but, rather, is a component of justiciability which vests a court with subject matter jurisdiction over a case under our constitution." *In re Estate of Michalak*, 404 Ill. App. 3d 75, 83 (2010) (citing *In re Estate of*

*Henry*, 396 Ill. App. 3d 88, 93 (2009)). "The doctrine of standing requires that a party, either in an individual or representative capacity, have a real interest in the action brought and in its outcome. The purpose of the doctrine is to ensure that courts are deciding actual, specific controversies and not abstract questions or moot issues." *In re Estate of Wellman*, 174 Ill. 2d 335, 344 (1996). Moreover, a guardian *ad litem* functions as the " 'eyes and ears of the court' " and not as the ward's attorney. *In re Mark W.*, 228 Ill. 2d 365, 374 (2008) (quoting *In re Guardianship of Mabry*, 281 Ill. App. 3d 76, 88 (1996)). "The traditional role of the guardian *ad litem* is not to advocate for what the ward wants but, instead, to make a recommendation to the court as to what is in the ward's best interests." *Id.*

¶ 47 Two cases cited by Patterson are instructive on this issue: *In re Estate of Wellman*, 174 Ill. 2d 335, and *J.H. v. Ada S. McKinley Community Services, Inc.*, 369 Ill. App. 3d 803 (2006).

¶ 48 In *Wellman*, the trial court originally found John Wellman incompetent and appointed a plenary guardian on his behalf. *Wellman*, 174 Ill. 2d at 340. Later, the trial court dismissed the adjudication of mental disability and restored Wellman to competency. *Id.* at 342. The plenary guardian then filed a motion for leave to appeal the final judgment of competency on Wellman's behalf, which the trial court granted. *Id.* In deciding that the guardian no longer had standing to represent the interests of the former ward, the supreme court explained that "[f]ollowing the restoration of a ward, the now-competent former ward is capable of representing, and has the right to represent, his or her own interests. Thus, the guardian no longer has standing to represent in court the interests of the former ward." *Id.* at 347 (citing *In re Estate of Hayden*, 105 Ill. App. 3d 60, 65 (1982)).

¶ 49 *J.H. v. Ada S. McKinley Community Services, Inc.*, 369 Ill. App. 3d 803, while dealing with a slightly different issue, confirms that a guardian *ad litem* lacks standing to act on a ward's

behalf once the ward is declared competent—or as was the case here, never declared disabled. Relying on *Wellman*, the *J.H.* court recognized that "if an adult individual who has been restored to competency has the right to represent his own interests, then it follows even more clearly that one who has never been declared disabled has that right." *Id.* at 809.

¶ 50 Similarly, Wasson was never adjudicated incompetent. At all relevant times, Wasson objected to the guardianship proceeding instituted by Patterson. Wasson even hired his own counsel, Hanson, to object to the petition and represent his interests. We note that Wasson's private counsel never filed a single pleading on Wasson's behalf regarding the legal work Patterson collected on but allegedly never performed. The GAL's continued involvement in the case after the February 28, 2011, order clearly contravened Twelfth Judicial Circuit Court Rules 19.01 and 19.08. Rule 19.01 provides that "[u]nless otherwise specified at the time of appointment, a Guardian Ad Litem shall act only with respect to the matter immediately before the court for hearing and the appointment shall terminate upon its disposition." 12th Judicial Cir. Ct. R. 19.01 (June 23, 2010). Rule 19.08 states that "[u]nless previously discharged, the final order disposing of the issues resulting in the appointment shall act as a discharge of the \*\*\* Guardian Ad Litem \*\*\*." 12th Judicial Cir. Ct. R. 19.08 (June 23, 2010). These local court rules are not merely for guidance; compliance is mandatory. See *Premier Electrical Construction Co. v. American National Bank of Chicago*, 276 Ill. App. 3d 816, 834 (1995) ("A local rule has the force of a statute and is binding on the trial court as well as the parties.").

¶ 51 Accordingly, the GAL lacked standing to file the petition for recovery citation. The trial court erred when it ordered Patterson to reimburse Wasson \$7,500 for the legal fees allegedly never performed following an evidentiary hearing that the GAL could not legally institute. An action brought by the former GAL in this case was not the proper vehicle to settle any grievances

between Wasson and Patterson; Wasson is competent. See *Wellman*, 174 Ill. 2d at 350. He has private counsel. He may pursue whatever claims he may have on his own, if he so chooses. See *Wellman*, 174 Ill. 2d at 352. The trial court's order requiring Patterson to reimburse Wasson \$7,500 is reversed. We are not taking issue with the trial court's findings of fact of these proceedings, and likewise we are not condoning Patterson's conduct. There are procedural avenues for Wasson to recover his money and to address issues of Patterson's conduct. This action, brought by the GAL after the court found Wasson competent, is not one of them.

¶ 52 Predicated on that finding, the trial court's order regarding the GAL's fees after February 28, 2011, is also reversed. If the GAL lacked the authority to file such pleadings on Wasson's behalf, it necessarily follows that she cannot be compensated for work she lacked the authority to perform. We remand for the trial court to calculate those GAL fees for work reasonably performed within the proper course of the GAL's representation of Wasson.

¶ 53 Patterson also argues that the trial court erred in allocating sole responsibility for payment of the GAL's fees to him without hearing any evidence that Wasson was unable to pay. Section 11a-10(c) provides, in pertinent part, as follows:

"If the respondent is unable to pay the fee of the guardian ad litem or appointed counsel, or both, the court may enter an order for the petitioner to pay all such fees or such amounts as the respondent or the respondent's estate may be unable to pay." 755 ILCS 5/11a-10(c) (West 2012).

¶ 54 In *In re Estate of Bishop*, 333 Ill. App. 3d 1113, 1115 (2002), the court concluded that section 11a-10(c) clearly expressed that a court may assess guardian *ad litem* fees only against a respondent or his estate, or, in the event the respondent is unable to pay, against the petitioner.

The trial court, at the very least, was required to consider evidence that Wasson lacked the financial wherewithal to pay the GAL's fees. The record is devoid of any such showing.

Therefore in calculating the GAL's fees on remand, the trial court must also make a determination as to Wasson's ability to pay the GAL's fees. Of course, this is only for those fees which the GAL can rightfully assess, *i.e.*, those fees incurred prior to the trial court's February 28, 2011, dismissal of Patterson's petition for guardianship.

¶ 55 CONCLUSION

¶ 56 For the foregoing reasons, the judgment of the Will County circuit court is reversed and this cause is remanded for further proceedings consistent with this order.

¶ 57 Reversed and remanded.

¶ 58 PRESIDING JUSTICE LYTTON, concurring in part and dissenting in part.

¶ 59 The majority fails to make clear that Patterson made two \$7,500 payments. He made the first \$7,500 payment to the GAL's trust account, which was later applied to satisfy the GAL's outstanding fees, but he also made a second \$7,500 payment directly to Wasson in satisfaction of the contempt order.

¶ 60 The majority finds that we must reverse both \$7,500 payments. It concludes that the trial court's orders requiring Patterson to make the \$7,500 payments are "voidable" because the GAL lacked standing when those orders were entered. I agree with the majority that the trial court's order directing Patterson to pay the first \$7,500 to the GAL should be reversed; it was error for the trial court to order Patterson to make two \$7,500 payments.

¶ 61 I disagree, however, with the majority's decision to reverse the trial court's order directing Patterson to deliver the second \$7,500 payment to Wasson for two reasons.

¶ 62 First, the majority finds, without relevant citation, that the trial court's order directing

Patterson to make the second \$7,500 payment to Wasson is "voidable" and treats the order as a "void" judgment. A judgment is void only if it is entered by a court without subject matter jurisdiction. See *In re M.M.*, 156 Ill. 2d 53, 65 (1996). A circuit court's subject matter jurisdiction is conferred by our state constitution and extends to all "justiciable matters." *Belleville Toyota, Inc. v. Toyota Motor Sales, U.S.A., Inc.*, 199 Ill. 2d 325, 334 (2002) (quoting Ill. Const. 1970, art. VI, § 9). Subject matter jurisdiction does not depend on standing, the legal sufficiency of the pleadings, the validity of the demand, or the correctness of the decision. See *Lebron v. Gottlieb Memorial Hospital*, 237 Ill. 2d 217 (2010) (issues of standing do not implicate the court's subject matter jurisdiction); *Lyons v. Ryan*, 324 Ill. App. 3d 1094, 1102 (2001) (noting that while parties cannot waive subject matter jurisdiction, standing can be waived because the essence of standing is not subject matter *per se*); *Zaferopulos v. City of Chicago*, 206 Ill. App. 3d 904, 908-09 (1991) (foreclosure decree was not void for lack of subject matter jurisdiction even if it contained the wrong legal description of the foreclosed property); *In re M.W.*, 232 Ill. 2d 408, 422 (2009) (failure to comply with notice requirements of Juvenile Court Act did not deprive juvenile court of subject matter jurisdiction to render judgment); *Village of Ringwood v. Foster*, 2013 IL App (2d) 111221, ¶ 16 (failure to notify mortgagee of action seeking demolition did not render demolition judgment void for lack of subject matter jurisdiction).

¶ 63 Here, Patterson's claim that the GAL lacked authority to file a petition for recovery citation raises the issue of standing and challenges the legal sufficiency of the citation pleading. However, standing and the legal sufficiency of the pleading do not affect the circuit court's subject matter jurisdiction to enter an order directing Patterson to return the \$7,500 in fees to Wasson. Because the trial court had the power to decide the issue, the order is not void or



voidable. See *Lebron*, 237 Ill. 2d at 252; *Lyons*, 324 Ill. App. 3d at 1102. The trial court's order requiring Patterson to pay the second \$7,500 to Wasson is valid. See *Lyons*, 324 Ill. App. 3d at 1102.

¶ 64 Second, the majority's decision to return the second \$7,500 payment to Patterson would amount to unjust enrichment. The trial court found that Patterson was not entitled to the \$7,500 that Wasson paid him because Patterson did not complete any work on Wasson's behalf. As the trial court ruled, that \$7,500 belonged to George Wasson. See *Pekin Insurance Co. v. Precision Dose, Inc.*, 2012 IL App (2d) 110195, ¶ 71 (unjust enrichment is "when one obtains money to which he is not entitled, under circumstances such that in equity and good conscience he ought not retain it."). Further, requiring Wasson to again prove, through his own counsel, that Patterson was not entitled to the \$7,500 that Wasson paid him would be a waste of judicial resources. See *Quantum Chemical Corp. v. Hartford Steam Boiler Inspection & Insurance Co.*, 246 Ill. App. 3d 557, 562-63 (1993) (courts should avoid unnecessary duplicative litigation that will waste judicial resources).

¶ 65 The majority would have us take Wasson's money away from him and give it to Patterson even though the trial court found that Patterson was not entitled to it. That money belongs to Wasson, and Patterson has no right in it. On remand, the GAL should be required to return Patterson's first \$7,500 payment and reimburse Patterson for his additional \$600 payment to the GAL. The second \$7,500 payment, which Patterson made directly to Wasson, belongs to Wasson. However, Wasson must use some of those funds to pay the GAL. See 755 ILCS 5/11a-10(c) (West 2012); *In re Estate of Bishop*, 333 Ill. App. 3d 1113, 1115 (2002). Following a hearing to determine the appropriate amount of GAL fees, any amount not awarded to the GAL should remain in Wasson's possession.