Illinois Official Reports

Appellate Court

In re Marriage of Buonincontro, 2022 IL App (2d) 210380

Appellate Court Caption	*In re* MARRIAGE OF ROBERT BUONINCONTRO, Petitioner and Counterrespondent-Appellant, and PARIDHI BUONINCONTRO, Respondent and Counterpetitioner-Appellee.
District & No.	Second District No. 2-21-0380
Filed	August 15, 2022
Decision Under Review	Appeal from the Circuit Court of McHenry County, No. 19-DV-201; the Hon. Mark R. Facchini, Judge, presiding.
Judgment	Affirmed.
Counsel on Appeal	Paul L. Feinstein, of Paul L. Feinstein, Ltd., of Chicago, and Michael H. Minton, of Schaumburg, for appellant. Paulette M. Gray, of Gray & Gray LLC, of Crystal Lake, for appellee.
Panel	JUSTICE BRENNAN delivered the judgment of the court, with opinion. Justices Jorgensen and Schostok concurred in the judgment and opinion.

OPINION

¶ 1 Following a dissolution-of-marriage judgment, petitioner, Robert Buonincontro, filed a petition for contribution to attorney fees and costs from respondent, Paridhi Buonincontro, in the amount of $194,281.16. Following a hearing, the trial court denied the petition. For the reasons set forth below, we affirm.

¶ 2 I. BACKGROUND

¶ 3 The parties were married on September 6, 2004, and had three minor children. On March 13, 2019, Robert petitioned for dissolution of marriage; Paridhi counterpetitioned on April 2, 2019. At the time, Robert was 56 years old, and Paridhi was 43 years old. A guardian *ad litem* was appointed, and litigation ensued. The matter was set for a June 2020 trial, but the parties ultimately settled the case.

¶ 4 The trial court entered a dissolution-of-marriage judgment on August 11, 2020. The dissolution judgment incorporated a marital settlement agreement and a judgment of allocation of parental responsibilities and parenting plan. According to the marital balance sheet submitted by Robert, the net value of the marital estate (excluding cars) was $590,060.49. Robert was awarded monthly maintenance of $4100 for eight years and seven months and 55% of the marital estate. The allocation judgment set forth the parties' agreement as to joint decision-making responsibilities with respect to the children and Robert's parenting time schedule.

¶ 5 The dissolution judgment reserved the issue of contribution to attorney fees and costs, providing:

> "Each party has 30 days after entry of Judgment to file a fee petition or petition seeking contribution to attorney fees. Failure to file such pleading within 30 days means that party shall pay his or her own attorney's fees and costs without contribution from the other and knowingly and voluntarily waive his or her right to contribution from the other. If a party files such a pleading, it shall be heard by this court in the normal course."

¶ 6 A. Contribution Petition

¶ 7 On September 10, 2020, Robert filed a petition for contribution to attorney fees and costs, pursuant to sections 503(j) and 508(a) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/503(j), 508(a) (West 2020)). He asserted that he incurred a total of $194,281.16 in attorney fees and costs during the course of the litigation, of which he already had paid $88,668.75. Robert sought an order requiring Paridhi to pay the outstanding fees and costs of $105,612.41 and to reimburse Robert the fees and costs already paid.

¶ 8 Robert argued that his payment of the fees and costs would undermine his financial stability. During the parties' marriage, he "was a stay-at-home parent whose primary responsibilities included caring for the parties' children," and he had "not been in the workforce" since 2010. Robert stated that Paridhi's average annual income for the prior three-year period was $388,457.34 and that her expected 2020 annual income was $373,906.34. Attached to the petition for contribution were (1) the curriculum vitae of Robert's counsel (Michael H. Minton, The Minton Firm, P.C.); (2) the written engagement agreement setting

forth the terms of Robert's retention of Minton and his firm, including hourly rates for Minton, associates, and paralegals; (3) Robert's supporting affidavit (which, although neither party mentions it, is not notarized); (4) Minton's supporting affidavit; and (5) a marital balance sheet summarizing the division of property and the allocation of debt.

¶ 9 B. Hearing

¶ 10 Following briefing, a hearing on Robert's contribution petition proceeded on June 11, 2021. Minton testified regarding the underlying litigation and fees incurred; no other witnesses testified. Admitted exhibits included Minton's billing statements, Minton's firm's daily calendar sheets, both parties' trial exhibit lists and witness list/disclosures, Robert's trial memorandum, and the parties' financial affidavits. The billing statements reflected entries by Minton, an associate, and a paralegal, as well as entries by attorney Richard Miller of The Miller Law Firm PC. Prior to his testimony, Minton tendered a supporting affidavit from Miller. However, the trial court sustained Paridhi's counsel's objection on hearsay and relevance grounds to the admission of the affidavit.

¶ 11 C. Trial Court's Ruling

¶ 12 Following the hearing, on June 11, 2021, the trial court entered a written order, denying Robert's petition for the reasons stated on the record. At the inception of its oral findings, the trial court noted that the amount of fees Robert sought, $194,280—for the 17-month time period between the March 13, 2019, filing of his dissolution petition and the August 11, 2020, dissolution judgment—amounted to an average of about $11,428 in monthly fees. In contrast, it was undisputed that Paridhi "was billed a total of $67,603 to engage in the same litigation."

¶ 13 The trial court proceeded to state that it had considered Minton's testimony and reviewed the pleadings and attachments, both the redacted and unredacted versions of the billing statements, the financial affidavits, and all other exhibits. Citing *In re Marriage of Heroy*, 2017 IL 120205, the trial court noted that section 508(a) of the Act requires consideration of the parties' financial resources and a decision in accordance with section 503(j) of the Act and, also, that an inability-to-pay showing is not limited to situations "in which a party could show a zero bank balance." Rather, a party may be found unable to pay the fees if, "after consideration of all the relevant statutory factors, the court finds that requiring the party to pay the entirety of their fees[ ] would undermine his or her financial stability." The trial court elaborated that, in analyzing the parties' financial needs and resources, it "considers the factors set forth in Section 503(d) [(750 ILCS 5/503(d) (West 2020))], which are those 12 factors [(the statutory criteria for dividing marital property)]. And because this is a maintenance case, the Court is also to consider the 14 factors set forth in Section 504 [((*id.* § 504) the statutory criteria for a maintenance award)]." The trial court stated that it had considered each of the foregoing factors in ruling on Robert's petition.

¶ 14 The trial court turned to the factors applicable to assessing the reasonableness and necessity of the fees incurred. Regarding consideration of counsel's skill and standing, the trial court found Minton to be a skilled attorney and "of fine standing in the family law community." Next, the trial court discussed what it considered the relatively straightforward nature of the underlying case. Paridhi worked as a W-2 wage earner. There were no "elusive assets"; rather, all assets and liabilities were recorded in bank, retirement account, and credit card statements.

The marital estate, with a net value under $600,000, included a house in Algonquin and a condominium in Florida.

¶ 15 Turning to the novelty and/or difficulty of the issues and the work involved, apart from the difficulty due to the parties' acrimonious relationship, the trial court noted that, "maybe what would have been novel is that *** [Robert] was a stay-at-home parent with a full-time nanny working in the house. He was very involved in his daughter's math, to the GAL's recommendation, perhaps over involved. And he was very involved in having these children play baseball." In addition, "the other novelty might have been *** [that] I think Paridhi worked odd hours because she worked[,] did a lot of business overseas," and also "worked out of the home a lot." Thus, the case "was unique in the sense that, you know, we had a stay-at-home parent. We had a nanny. We had a couple kids that were heavily involved in extracurricular activities as well as extracurricular academics. The children would get up in the morning and do homework in the basement. Then go to school."

¶ 16 As for the importance of the case, the trial court pointed out that "clearly the case was important to both parties, very important." Turning to the degree of counsel's responsibility, the trial court noted that Minton "was primarily responsible unless he delegated it to Mr. Miller at times."

¶ 17 Regarding the usual and customary charges for comparable services, the trial court found that Minton failed to establish that his hourly rates of $500 to $550 were reasonable for "a marriage of this type in McHenry County." Specifically, the trial court reasoned, "I'm not saying that Mr. Minton isn't a good lawyer and a fine gentleman. But for McHenry County[,] for a divorce with three kids, one spouse working, two pieces of real estate and some debt and some retirement, 500 to 550 I don't think is reasonable." The trial court further reasoned that, "in the four years and three months I have been a judge, in the three and a half years I have been in this courtroom, I have never had anyone present a bill or a fee petition where they have billed at $500 an hour. I have never had anyone bill $550 for in court time." Rather, "the vast majority of attorneys that practice in front of me bill somewhere between 275 to 350, for attorneys that in this Court's opinion are just as good as Mr. Minton at $350 an hour."

¶ 18 Addressing the benefit to the client, the trial court noted that Robert did not testify and the trial court did not know "what his benefit was." The trial court elaborated, "I do know [Robert] got 55 percent of the marital assets[,] 150,000 of which was liquid. He got the majority in that he got the 55 percent of the retirement assets." Robert also received maintenance, and "[n]o money was used to impute to him. So he is getting $4100 a month tax free." The trial court further noted that, consistent with the guardian *ad litem*'s recommendations, Robert received joint decision-making responsibility with respect to the children, one night of weekly overnight parenting time, biweekly overnight parenting time from Thursday to Monday, and additional parenting time in the summer.

¶ 19 And finally, turning to the reasonable connection between the fees incurred and the amount involved in the litigation, the trial court stated, "that's where the Court needs to go through the specific billing entries where the Court has issues." Overall, the fees and costs incurred were $194,281.16, which included billing from Minton, Minton's associate, Minton's paralegal, and "an attorney that [Robert] didn't retain named Richard Miller who was not a party to this petition for fees." The trial court concluded:

> "Essentially, if I find $350 an hour to be a reasonable rate, *** that's a 30 percent reduction. So for simplicity sake, if I simply reduce the total amount billed by that 30

percent, that is a reduction of about $58,284. That takes the total fees incurred down to about $135,997.

When I apply the $88,868 that has been paid in real dollars to this law firm, that leaves, using that analysis, only a balance of [$]47,128.50 left, which is a big difference from [$]105,612.

But then *** I need to look at the reasonable connection and the necessity of the fees."

¶ 20 The trial court proceeded to itemize the entries for which it found a failure to prove reasonableness or necessity to the litigation. The entries included "bulk billing without a breakdown of what was spent on what," extensive charges for review and receipt of e-mails from Robert and for conferences without information as to their connection to the litigation, inexplicably lengthy entries for court preparation and other tasks, and erroneous entries for court appearances. The trial court also noted that the billing entries included, without explanation, fees and costs incurred in litigating a case in Florida state court. The trial court noted the lack of information provided regarding the Florida proceeding but was aware that "ultimately a judge found an emergency [order of protection] was appropriate *** based on [Robert's] conduct."

¶ 21 Regarding the fees incurred by Miller, the trial court found, "I do not believe Mr. Minton can come into court on behalf of [Robert] and try to obtain fees for a third-party attorney that is not participating in this particular fee litigation." The trial court noted that there was no retainer agreement between Robert and Miller and that Miller filed an independent appearance in the case.

¶ 22 And finally, the trial court found that Robert failed to prove the reasonableness of the paralegal fees incurred. For instance, in addressing a $75 paralegal fee to draft a proof of service, the trial court reasoned, "I think high billing attorneys can't have it both ways. You can't justify that you're going to charge someone 500 bucks an hour but then charge them for administrative fees of 75. What—What are you paying and charging your client that exorbitant hourly rate if you're then going to have paralegal fees be billed?"

¶ 23 Moreover, the trial court stated that the petition was for attorney fees, not paralegal fees, and that it did not believe it had authority to award paralegal fees. Nonetheless, the trial court proceeded to identify and discuss various entries for paralegal fees in assessing the reasonableness of the fee request. For instance, the trial court stated, "I have a paralegal billing $4,875 for trial preparation. Thirty-two and a half hours to prepare for trial by a paralegal. That is patently unreasonable." In a subsequent bill, "[w]e have 26 hours by a paralegal now to do more trial preparation. *** I don't know to prepare what or how that was necessary."

¶ 24 Accordingly, the trial court reasoned:

"When I go through your billing statement of $194,281.16, I find specifically you failed to prove the reasonableness or necessity of $83,878 of your billing. So that after the $88,868.50 that the marital estate has paid you, sir. That only leaves a balance of $21,734.

So the balance that I think is reasonable and necessary is somewhere between 21,734, if I take a billing entry approach; or it's 47,128.50 if I take a reasonable fees for McHenry County approach for a case of this nature."

¶ 25 However, the trial court found that Robert failed to prove an inability to pay the outstanding fees. Robert neither testified at the hearing nor presented any evidence to explain his inability to pay the fees. Moreover, while Minton suggested that Robert was unable to work because of his age and criminal history, there was no such evidence presented. The trial court took judicial notice of the strong job market and the lack of any testimony regarding the reasons for Robert's unemployment.

¶ 26 In addition, the trial court reasoned that Robert was "living well above his means," including, according to his financial affidavit, paying $5080 a month to live in a hotel rather than renting a more affordable apartment. The trial court further stated that Robert has about $82,500 in liquid funds and owns a 2019 unencumbered Tesla with an approximately $27,000 value. The trial court found it "curious" that Robert did not list any retirement assets in his financial affidavit, given his receipt of 55% of the marital retirement assets.

¶ 27 In sum, the trial court reasoned, "[W]hen I consider all of that, the lack of his testimony here today; his unemployment, which appears to be all but voluntary; the fact that by his financial affidavit he is living well above his means when according to him his only source of income is the $4100 a month of tax free income; I don't believe [Robert] has proven to this Court an inability to pay the reasonable fees that are due to Mr. Minton."

¶ 28 The trial court concluded:

> "And I'll finally say this because I think it is really important to say. Neither party in this case could afford Mr. Minton's legal services. This was about a half a million dollar estate. [Robert] chose to spend—engaged his attorney to the services of almost 195,000—over $194,000. Neither party could afford that. This litigation diminished a significant portion of these parties' estate, and I don't think either party can afford Mr. Minton's fees."
>
> [Paridhi's counsel's] fees were extremely expensive for a 17-month case. But $194,000 billed in 17 months ***, when I've gone through the billing statements and what I think of attorneys of a similar standing and ability in McHenry County, overall, I don't find Mr. Minton's billing rates of five to $550 an hour to be reasonable, usual or customary charges. I find about $350 to be usual and customary charges.
>
> All of the statements on entries that I just went through, I find Mr. Minton did not prove the reasonableness and necessity of those fees or the reasonable connection between those fees and the amount that was charged for the litigation."

¶ 29 Accordingly, the trial court denied Robert's petition for contribution to attorney fees. Robert timely appealed.

¶ 30 II. ANALYSIS

¶ 31 Robert argues that the trial court abused its discretion in denying his petition for contribution to attorney fees. He contends that the trial court's ruling amounted to a denial of due process rights and that he met his burden of establishing the reasonableness of the fees and his inability to pay. Robert's position is that, minimally, he was entitled to a discounted fee award. Paridhi responds that the trial court properly denied Robert's petition in its entirety where Robert failed to prove that the fees were reasonable or justified. Moreover, Paridhi argues that, regardless of the reasonableness of the fees, Robert failed to prove an inability to

pay his own attorney fees. Before turning to the arguments, we address the scope of our review.

¶ 32 A. Scope of Review

¶ 33 Both parties cite violations of Illinois Supreme Court Rule 341(h) (eff. Oct. 1, 2020). Paridhi contends that Robert's statement of facts contains argumentative statements unsupported by record citation, in violation of Rule 341(h)(6). Ill. S. Ct. R. 341(h)(6) (eff. Oct. 1, 2020). Paridhi requests that we strike Robert's brief or, alternatively, disregard the statement of facts. Robert, in turn, contends that portions of Paridhi's argument lack citation to either the record or legal authority, in violation of Rule 341(h)(7). Ill. S. Ct. R. 341(h)(7) (eff. Oct. 1, 2020). Robert requests that we strike or disregard these portions of Paridhi's argument.

¶ 34 The rules of procedure regarding appellate briefs are not mere suggestions, and when procedural violations interfere with our review of the issues on appeal, it is within our discretion to, *inter alia*, strike the brief for failure to comply with the rules. See *Parkway Bank & Trust Co. v. Korzen*, 2013 IL App (1st) 130380, ¶ 10. Nevertheless, where, as here, violations of supreme court rules are not so flagrant as to hinder or preclude our review, we decline the request to strike and simply disregard any noncompliant statements. See *In re Marriage of Wendy S.*, 2020 IL App (1st) 191661, ¶ 15. We turn to the merits of Robert's challenges to the trial court's ruling.

¶ 35 B. Section 508(a)

¶ 36 Although attorney fees and costs are generally the responsibility of the party who incurred them, section 508(a) of the Act allows the trial court to order a party to contribute to the other party's attorney fees and costs after consideration of the parties' respective financial resources. 750 ILCS 5/508(a) (West 2020); *In re Marriage of Faber*, 2016 IL App (2d) 131083, ¶ 40. Section 508(a) provides in relevant part:

> "The court from time to time, after due notice and hearing, and after considering the financial resources of the parties, may order any party to pay a reasonable amount for his own or the other party's costs and attorney's fees. *** At the conclusion of any pre-judgment dissolution proceeding under this subsection, contribution to attorney's fees and costs may be awarded from the opposing party in accordance with subsection (j) of Section 503 and in any other proceeding under this subsection." 750 ILCS 5/508(a) (West 2020).

¶ 37 Accordingly, the determination of whether to award fees and costs requires the trial court to consider the parties' financial resources and render its decision on the contribution petition in accordance with section 503(j) of the Act. *Heroy*, 2017 IL 120205, ¶ 19. Under section 503(j)(2), a contribution award must be based on the criteria for division of marital property under section 503(d) of the Act and, if maintenance has been awarded, the criteria for an award of maintenance under section 504 of the Act. 750 ILCS 5/503(j)(2) (West 2020).

¶ 38 Section 503(d) sets forth, generally, the following 12 factors to consider in dividing marital property: (1) each party's contribution to the acquisition, preservation, or increase or decrease in value of the marital or nonmarital property, including the contribution of a spouse as a homemaker or to the family unit; (2) dissipation of marital property; (3) the value of the property of each spouse; (4) the marriage's duration; (5) the relevant economic circumstances of each spouse; (6) any obligations and rights arising from prior marriages; (7) any prenuptial

or postnuptial agreement of the parties; (8) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of the parties; (9) custodial provisions for any children; (10) whether 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. *Id.* § 503(d).

¶ 39 Section 504(a) sets forth 14 factors to consider in awarding maintenance, some of which overlap with the factors set forth in section 503(d). *Id.* § 504(a)(1)-(14). Additional factors enumerated in section 504(a) include, generally, (1) any impairment of present and future earning capacity due to devoting time to domestic duties or having forgone education, training, employment, or career opportunities due to marriage; (2) the time necessary to acquire appropriate education, training, or employment; (3) the standard of living established in the marriage; (4) contributions and services to the education, training, career, or career potential of the other spouse; and (5) any other factor that the court expressly finds to be just and equitable. *Id.*

¶ 40 The party seeking attorney fees must establish his or her inability to pay and the other party's ability to pay. *Heroy*, 2017 IL 120205, ¶ 19; *In re Marriage of Schneider*, 214 Ill. 2d 152, 174 (2005). The foregoing statutory factors "provide[ ] a framework within which to compare the relative means of parties to pay their attorney fees." *In re Marriage of Sobieski*, 2013 IL App (2d) 111146, ¶ 49.

¶ 41 We review for an abuse of discretion the trial court's ruling on a petition for contribution to attorney fees. *Heroy*, 2017 IL 120205, ¶ 13. "An abuse of discretion occurs when the trial court's ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the trial court." (Internal quotation marks omitted.) *Id.* ¶ 24.

¶ 42 1. Reasonableness of Fees

¶ 43 Robert contends that the trial court's "procedure" in questioning each time entry after proofs had closed violated his due process rights. Robert posits that, "without contrary evidence, the court could not Monday morning quarterback by merely assuming and speculating that the time spent was unreasonable." Robert suggests that the trial court was obliged to question Minton regarding the fee entries and "Mr. Minton would have been able to answer those questions which would have been evidence." Robert's argument is flawed. He fails to appreciate that it was *his* burden, not the trial court's, to establish the reasonableness of the fees incurred. See *In re Marriage of Agostinelli*, 250 Ill. App. 3d 492, 503 (1993).

¶ 44 Moreover, Robert's argument is belied by the record. A fee award must be reasonable. See 750 ILCS 5/508(a) (West 2020) (after considering the parties' financial resources, the court may order a party to pay a "reasonable" amount of the other party's attorney fees and costs). To justify fees, more must be presented than "a mere compilation of hours multiplied by a fixed hourly rate." *In re Marriage of Kane*, 2016 IL App (2d) 150774, ¶ 25. Rather, the petition must provide "sufficiently detailed time records that were maintained throughout the proceeding, and those records must specify the services performed, by whom they were performed, the time expended thereon, and the hourly rate charged." *Id.*

¶ 45 Once presented with the foregoing information, the trial court should consider several additional factors in assessing the reasonableness of the fees, such as the attorney's skill and standing, the nature of the case, the novelty and/or difficulty of the issues involved, the matter's importance, the degree of responsibility required, the usual and customary charges for similar

work, the benefit to the client, and whether there is a reasonable connection between the fees requested and the amount involved in the litigation. *Id.* The trial court may also rely upon its own experience in assessing the reasonableness of fees. *Id.*

¶ 46 Here, the trial court explicitly considered each of the foregoing factors in assessing the reasonableness of the fee request. Of note, the trial court discussed the relatively straightforward nature of the underlying case and the lack of evidence regarding the benefit Robert obtained through the fees incurred. The trial court also noted Minton's noncustomary hourly rate. The trial court recounted that it had never been presented with a fee petition in which the attorney billed at $500 to $550 an hour. Rather, the trial court noted that, in its experience, the average hourly billing rate was $275 to $350. Ultimately, the trial court conducted an extensive review of the time entries and itemized multiples entries for which it found a failure to prove a reasonable connection between the fees requested and the amount involved in the litigation. Robert presents no persuasive basis upon which to conclude that the trial court employed an improper procedure in denying his fee petition.

¶ 47 Robert nonetheless argues that the trial court abused its discretion in disallowing fees related to the Florida proceeding ($26,625), "co-counsel" fees ($4725), and paralegal fees ($11,385). Paridhi responds that the trial court properly determined that Robert failed to prove the reasonableness of these fees and that any purported error in its ruling was harmless. See *In re Marriage of Weinstein*, 128 Ill. App. 3d 234, 248 (1984) ("A trial court's error is not grounds for reversal and remandment where it was of insignificant importance and did not unduly affect the trial court's discretion.").

¶ 48 Regarding the Florida proceeding, Robert represents that the "proceeding involved the parties and their children." Thus, Robert argues that the fees were recoverable pursuant to section 508(a)(6) of the Act (750 ILCS 5/508(a)(6) (West 2020)), which allows a fee award for "[a]ncillary litigation incident to, or reasonably connected with, a proceeding under this Act." Paridhi responds that the trial court merely found that Robert failed to prove the reasonableness of the fees incurred due to the Florida proceeding, not that it lacked authority to award fees for ancillary litigation. We agree that denial of the fees related to the Florida proceeding was not an abuse of discretion, as the record reflects that Robert failed to establish the reasonableness of the fees. As Paridhi argues, it was reasonable to disallow fees that Robert incurred by virtue of his own conduct in taking the children to Florida without her consent. It was undisputed that Paridhi obtained an order allowing her to pick up the children in Florida and returned with them to Illinois.

¶ 49 Regarding "co-counsel" fees, Robert contends that the trial court erroneously disallowed the fees of Miller. According to Robert, "The Minton Firm's contract with the client allowed Mr. Miller's services to be obtained"; thus, a separate fee petition for his services was not required. In support, Robert cites section 9 of the engagement agreement, titled "Associate Counsel," which provides: "In addition to COUNSEL's personal services, COUNSEL may ask certain additional attorneys and other professionals *associated* with COUNSEL to work on CLIENT'S matter. Any other attorney so employed is also designated to appear on CLIENT'S behalf." (Emphasis added.) However, the record reflects that Miller was not associated with The Minton Firm, P.C. Rather, Miller was a principal at The Miller Law Firm PC. Also, as the trial court pointed out, Miller filed his own separate appearance in this case.

¶ 50 With respect to paralegal fees, while we agree with Robert that paralegal fees are recoverable (see *In re Marriage of Ahmad*, 198 Ill. App. 3d 15, 23 (1990)), the record

demonstrates that the trial court's concern was that the paralegal fees were not warranted given Minton's high hourly rate. Indeed, the trial court proceeded to review billing entries for paralegal fees in assessing the overall reasonableness of the fee petition in determining that Robert had not established the reasonableness of the fees in their entirety.

¶ 51 In sum, based upon our review of the record, we cannot say that the trial court's determination as to Robert's failure to establish the reasonableness of the fees was arbitrary, fanciful, or unreasonable, or that no reasonable person could take the view adopted by the trial court.

¶ 52 2. Inability to Pay Fees

¶ 53 In addition to finding that Robert failed to establish the reasonableness of the fees incurred, the trial court also found that Robert failed to establish his inability to pay the fees. Robert argues that he established his inability to pay the fees, given the unrebutted income disparity between the parties. He cites a litany of cases in which income disparity was a factor in granting a petition for contribution. Paridhi responds that Robert failed to meet his burden of proving his inability to pay, as he neither testified at the hearing nor offered any evidence as to the basis for his unemployment.

¶ 54 While the party seeking attorney fees must establish his or her inability to pay and the other spouse's ability to pay, the inability-to-pay standard does not limit attorney fee awards to "those situations in which a party could show a $0 bank balance." *Heroy*, 2017 IL 120205, ¶ 19. Rather, "a party is unable to pay if, after consideration of all the relevant statutory factors, the court finds that requiring the party to pay the entirety of the fees would undermine his or her financial stability." *Id.*

¶ 55 Here, notwithstanding the income disparity, the trial court highlighted the dearth of evidence as to the reason for what appeared to be Robert's voluntary unemployment. The trial court explicitly recognized the standard set forth in *Heroy* and stated that it had considered the parties' financial resources and the statutory factors and found that Robert failed to establish his inability to pay. The trial court noted Robert's assets, share of the marital estate, and monthly maintenance of $4100 and noted that Robert's financial affidavit reflected that he was "living well above his means," including a monthly payment of $5080 to live in a hotel. Robert cites no evidence to contradict these findings and presents no basis upon which to conclude that the trial court's ruling was an abuse of discretion.

¶ 56 III. CONCLUSION

¶ 57 For the reasons stated, we affirm the judgment of the circuit court of McHenry County.

¶ 58 Affirmed.