NOTICE
This Order was filed under Supreme Court Rule 23 and is not precedent except in the limited circumstances allowed under Rule 23(e)(1).

2026 IL App (4th) 260660-U

NO. 4-26-0660

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED
November 10, 2026
Carla Bender
4th District Appellate
Court, IL

In re MARRIAGE OF KATHLEEN E. BORGENS,	)	Appeal from the
Petitioner-Appellee,	)	Circuit Court of
v.	)	Scott County
JOHN C. BORGENS,	)	No. 22DC8
Respondent-Appellant.	)	
	)	Honorable
	)	Christopher G. Perrin,
	)	Judge Presiding.

JUSTICE ZENOFF delivered the judgment of the court.
Presiding Justice Steigmann and Justice Grischow concurred in the judgment.

ORDER

¶ 1 *Held*: The appellate court dismissed the appeal for lack of jurisdiction.

¶ 2 After 14 years, the marriage of petitioner, Kathleen E. Borgens, and respondent, John C. Borgens, was dissolved on grounds only, *i.e.*, irreconcilable differences caused the irretrievable breakdown of the marriage and all attempts at reconciliation resulted in failure. Subsequently, the parties were awarded equal parenting time with their three children and shared significant decision-making authority for them. After petitioner had emergency brain surgery, the parenting plan was modified, and the trial court ordered petitioner to draft a parenting plan based on the original and modified orders. Before the revised parenting plan was filed, respondent filed a motion for substitution of judge. The court denied the motion. Several months later, the court entered the parenting plan petitioner prepared. The next day, respondent filed a motion seeking a clarification of facts, orders, the report from the guardian *ad litem* (GAL), and various specified

and unspecified provisions in the parenting plan. The court denied the motion. Respondent appeals, taking issue with the (1) parenting plan and (2) denial of his motion for substitution of judge. We dismiss the appeal for lack of jurisdiction.

¶ 3 I. BACKGROUND

¶ 4 In October 2022, petitioner, who was represented by counsel, petitioned to dissolve her marriage to respondent, who proceeded *pro se*. A judgment dissolving the marriage on grounds only was entered. The trial court then ordered that the parties have equal custody of their three children.

¶ 5 Respondent subsequently filed a motion to modify the parenting plan when petitioner underwent emergency brain surgery. On November 1, 2024, the trial court ruled on that motion, finding, in relevant part, the following:

> "The Court's Parenting Plan [was] prepared by [petitioner's attorney] at the direction of the Court[and] represent[s] an equal division of time for each of the parties' Parenting Time using a recurring two-week schedule ***. Both parties may examine the Court's Parenting Plan entered this date and move to Modify it if changes are requested[ ] on or before January 15, 2025 at 10:30 a.m. The said parenting plan entered by this Court becomes effective forthwith."

The parenting plan, which the court signed, consisted of a filled out preprinted form prepared pursuant to section 602.10(f) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/602.10(f) (West 2024)). The parenting plan outlined the recurring two-week custody schedule and indicated, among other things, that the parties shared significant decision-making authority as to the children. The parenting plan did not address other matters related to the children, such as the child tax credit, child support, or expenses the children incurred.

Respondent never asked for any changes to the parenting plan on or before January 15, 2025.

¶ 6 Several months later, respondent filed an emergency petition for legal and physical custody of the children, claiming the condition which caused petitioner to undergo emergency brain surgery significantly impacted her cognitive abilities. On June 2, 2025, the trial court found that a substantial change in circumstances warranted modifying the November 1, 2024, parenting plan so that, as relevant here, (1) petitioner's parenting time, which remained equal to respondent's, was supervised by a third-party adult at all times and (2) "[i]n the event the Petitioner ha[d] a medical emergency, the Petitioner's parenting time [would] be given to Respondent" with the "right to first refusal on custody of the children."

¶ 7 Subsequently, the GAL filed her report. She suggested respondent have significant decision-making authority for the children and custody during most of the school week, with petitioner's responsibilities for and custody of the children increasing as her health improved. The report also indicated that the parties' children wanted to keep in place the recurring two-week custody schedule.

¶ 8 On November 20, 2025, the trial court held a hearing. According to the bystander's report filed in this court, petitioner and respondent answered ready to begin the hearing, and the GAL, who was not subpoenaed and had a conflict, was excused by the court. In presenting her case, petitioner advised the court that the parties, since the fall of 2022, shared equal parenting time and significant decision-making authority. The November 1, 2024, parenting plan was modified on June 2, 2025, after petitioner's neurologist told the court petitioner was receiving treatment; improving neurologically; and could, despite her condition, care for the children "in the presence of other help." In presenting his case, respondent urged the court to enter a parenting plan consistent with the GAL's recommendations. After the court

asked petitioner a series of questions about her condition and limitations, confirmed she had the ability to comprehend and communicate effectively, heard from her guardian (her mother), and reviewed the entire case file, it found that the parenting plan entered on November 1, 2024, and modified on June 2, 2025, was in the best interest of the children. The court noted these orders, which provided for equal parenting time and sharing significant decision-making authority, had been implemented for a substantial amount of time and reflected what the children wanted. The court then asked petitioner to draft a parenting plan consistent with the court's ruling.

¶ 9 Before petitioner could do so, respondent filed a motion for substitution of judge for cause, which was not the first such motion he filed in this case. He also moved to modify parenting time. On November 25, 2025, the trial court denied respondent's motion to modify parenting time, finding the children were well-adjusted and thriving, petitioner's health was steadily improving, and despite some of the GAL's recommendation to the contrary, maintaining the parenting plan entered on November 1, 2024, and modified on June 2, 2025, was in the best interest of the children.

¶ 10 Thereafter, petitioner filed the parenting plan the trial court directed her to file in the November 20, 2025, order. That plan addressed other matters related to the children, such as child support, the child tax credit, and the allocation of uncovered medical, educational, and extracurricular expenses. Rather than addressing child custody and significant decision-making authority, the proposed parenting plan adopted by reference the order entered on November 1, 2024, and modified on June 2, 2025, and attached those orders to the proposed parenting plan. The court never signed and respondent never responded to this proposed parenting plan.

¶ 11 Respondent's motion for substitution of judge for cause was subsequently denied on December 17, 2025. Respondent sought a supervisory order from our supreme court on that

denial, and the parties agreed to stay the proceedings until our supreme court ruled.

¶ 12 On December 22, 2025, before our supreme court ruled, respondent filed a motion to vacate or reconsider the November 20, 2025, order, which set a final allocation of parenting time and significant decision-making authority. In the motion, respondent essentially challenged his notice for the hearing, the GAL's absence from the hearing, and the fact the trial court did not adopt all of the GAL's recommendations.

¶ 13 Our supreme court subsequently denied respondent's request for a supervisory order, and approximately one month later, petitioner filed a motion to enter the proposed parenting plan she filed more than 30 days earlier. On February 11, 2026, the trial court denied respondent's motion to vacate or reconsider, noting the motion was not a proper postjudgment motion because it did not concern newly discovered evidence, changes in the law, or errors in the court's application of existing law. The court then ordered the parties to confer and submit an agreed parenting plan consistent with the court's rulings.

¶ 14 Instead of doing so, respondent and petitioner each filed parenting plans. The trial court e-mailed both parties and asked respondent to identify specific provisions in petitioner's parenting plan that required modification or refinement. Instead of e-mailing the court with changes, respondent filed a 14-page response. Petitioner moved to strike that filing, arguing it was improper and inconsistent with the court's directive.

¶ 15 On April 7, 2026, the trial court signed and entered the latest parenting plan submitted by petitioner. That parenting plan incorporated the order entered on November 1, 2024, and modified on June 2, 2025, and resolved all the other issues related to the children, such as the child tax credit, child support, and expenses for the children. (The parenting plan filed on April 7, 2026, consisted of only the odd numbered pages. A complete parenting plan, containing

all the pages, was filed the next day, on April 8, 2026.)

¶ 16 Respondent filed a motion he titled "Respondent's Motion to Reconsider Entry of Parenting Plan" on April 8, 2026. Respondent argued the 14-page response to the parenting plan he filed was done pursuant to the trial court's directive. He then sought "clarification" of several matters in the parenting plan, including (1) sharing significant decision-making authority with petitioner when no evidence indicated she had the capacity to make decisions, given that her mother still served as her guardian; (2) the right of first refusal to custody of the children when petitioner's health prevented her from exercising her right to custody; (3) various unspecified medical and supervisory provisions; (4) the implementation and enforcement of unspecified provisions; (5) the status and applicability of the June 2, 2025, order modifying the November 1, 2024, order; and (6) the GAL's recommendations. The court denied the motion on May 15, 2026, finding the motion was an improper successive postjudgment motion and procedurally inappropriate.

¶ 17 One month later, on June 8, 2026, respondent filed a notice of appeal, asserting he was appealing the orders entered on November 20, 2025, November 25, 2025, December 17, 2025, February 11, 2026, April 7, 2026, April 8, 2026, and May 15, 2026. Thereafter, the case was set for further proceedings on other issues, such as the division of marital property.

¶ 18 This appeal followed.

¶ 19 II. ANALYSIS

¶ 20 The dispositive issue raised here is whether this court has jurisdiction over this appeal. Although respondent does not question this court's jurisdiction, petitioner does. Regardless, we have an independent obligation to verify our jurisdiction over every appeal. See *In re Marriage of Duggan*, 376 Ill. App. 3d 725, 727 (2007). We review *de novo* whether we

have jurisdiction over an appeal. *In re Marriage of Arjmand*, 2024 IL 129155, ¶ 20.

¶ 21 "The Illinois Constitution grants the appellate court jurisdiction to hear appeals from final judgments of the [trial] courts." *Id.* ¶ 19. "A final judgment is a determination by the [trial] court on the issues presented by the pleadings which ascertains and fixes absolutely and finally the rights of the parties in the lawsuit." *Big Sky Excavating, Inc. v. Illinois Bell Telephone Co.*, 217 Ill. 2d 221, 232-33 (2005). "A judgment is final if it determines the litigation on the merits so that, if affirmed, nothing remains for the trial court to do but to proceed with its execution." *Id.* at 233. That said, "[t]he [Illinois] constitution further allows [our supreme] court to provide by rule for appeals to the Appellate Court from other than final judgments [of all parties or claims] of [Trial] Courts." (Internal quotation marks omitted.) *Arjmand*, 2024 IL 129155, ¶ 19. This means that "the appellate court lacks jurisdiction to review judgments, orders, or decrees that are not final [as to all parties or claims], unless an Illinois Supreme Court rule provides for jurisdiction." *Id.*

¶ 22 This case involves an appeal in a dissolution of marriage action. Dissolution of marriage cases present unique jurisdictional issues when it comes to deciding whether a final and appealable order has been entered. See *In re Marriage of Teymour*, 2017 IL App (1st) 161091, ¶ 19. Resolving the issue turns, at least in part, on whether the appeal is from a predissolution or postdissolution of marriage case. See *id.*

¶ 23 "[A] predissolution [of marriage] action generally consists of only one claim." *Id.* That one clam "is[ ] a request for an order dissolving the parties' marriage." *In re Marriage of Leopando*, 96 Ill. 2d 114, 119 (1983). "The numerous other issues involved, such as custody, property disposition, and support are merely questions which are ancillary to th[at] cause of action." (Emphasis omitted.) *Id.* "They do not represent separate, unrelated claims; rather, they

are separate issues relating to the same claim." (Emphasis omitted.) *Id.* Thus, an order dissolving a marriage but not resolving all the other ancillary issues is not a final and appealable order as to those ancillary issues. See *Claxton v. Reeves*, 2019 IL App (5th) 170200, ¶ 10 (noting that "a bifurcated judgment dissolving a marriage allows the reviewing court to consider only the judgment of dissolution and the bifurcation itself, and the reviewing court has no jurisdiction to consider other issues"). In contrast, postdissolution of marriage cases involve multiple separate claims that are final and appealable in and of themselves. See *Teymour*, 2017 IL App (1st) 161091, ¶¶ 19, 26.

¶ 24 With these principles in mind, we turn to the jurisdictional issues in this case. Respondent seeks appellate review of two matters: (1) the parenting plan and (2) the December 17, 2025, denial of his motion for substitution of judge for cause. We address in turn our jurisdiction over each.

¶ 25 We first consider whether we have jurisdiction over the parenting plan. In addressing that issue, we note this case concerns a judgment entered in a predissolution of marriage action. The trial court entered a judgment for dissolution on grounds only and subsequently entered a parenting plan. No other ancillary issues were resolved. Ordinarily, as noted above, we do not have jurisdiction over a separate final claim raised in a predissolution of marriage case until a final judgment dissolving the marriage, dividing the marital property, awarding or denying support and/or maintenance, apportioning costs and fees, and allocating child custody, if need be, is entered. See *id.* ¶ 17. However, there is at least one issue we may address in the absence of a final dissolution judgment on all such ancillary matters. See *id.* Under Illinois Supreme Court Rule 304(b)(6) (eff. Mar. 8, 2016), we may consider "[a] custody or allocation of parental responsibilities judgment or modification of such judgment entered

pursuant to the [Act].” Ill. S. Ct. R. 304(b)(6) (eff. Mar. 8, 2016).

¶ 26 When a final judgment concerning a parenting plan entered in a predissolution of marriage case qualifies as a final appealable order pursuant to Rule 304(b)(6), the appealing party must file a notice of appeal in compliance with Illinois Supreme Court Rule 303(a)(1) (eff. July 1, 2017). See Ill. S. Ct. R. 304(a) (eff. Mar. 8, 2016). Rule 303(a)(1) provides, as relevant here,

> “[t]he notice of appeal must be filed with the clerk of the [trial] court within 30 days after the entry of the final judgment appealed from, or, if a timely posttrial motion directed against the judgment is filed, *** within 30 days after the entry of the order disposing of the last pending postjudgment motion directed against that judgment or order, irrespective of whether the [trial] court had entered a series of final orders that were modified pursuant to postjudgment motions.” Ill. S. Ct. R. 303(a)(1) (eff. July 1, 2017).

¶ 27 We see many potential jurisdictional pitfalls for respondent. For example, the orders entered on November 1, 2024, June 2, 2025, or November 20, 2025, could each be construed as a final order for custody or allocation of parental responsibilities if such an appealable order need not (1) resolve issues like the child tax credit, child support, and expenses the children incur and/or (2) be signed by the trial court (see *Northern Illinois Gas Co. v. Martam Construction Co.*, 240 Ill. App. 3d 988, 991 (1993) (“[T]he filing of a notice of appeal before the entry of the signed written order does not confer jurisdiction on an appellate court.”). If that is the case, respondent’s appeal is untimely and does not vest this court with jurisdiction because his notice of appeal was filed many months after those orders were entered and/or the postjudgment motions challenging them were denied. That said, for purposes of this appeal, we

will (1) presume the April 7, 2026, judgment was the final order on child custody or allocation of parental responsibilities and (2) focus on whether respondent's April 8, 2026, motion was a proper postjudgment motion.

¶ 28 Section 2-1203 of the Code of Civil Procedure (Code) (735 ILCS 5/2-1203 (West 2024)) defines "postjudgment motion" as "a motion for a rehearing, or a retrial, or modification of the judgment or to vacate the judgment or for other relief." "A motion seeks 'other relief' within the meaning of the statute only if it is similar in nature to the enumerated motions." *Welton v. Ambrose*, 351 Ill. App. 3d 627, 631 (2004). A motion seeking "clarification" is not a postjudgment motion as defined in section 2-1203 of the Code. *Id.*; *Giammanco v. Giammanco*, 253 Ill. App. 3d 750, 756-57 (1993). Thus, such a motion does not toll the 30 days within which a notice of appeal must be filed. *Heiden v. DNA Diagnostics Center, Inc.*, 396 Ill. App. 3d 135, 138 (2009).

¶ 29 Here, presuming the final order for child custody or allocation of parental responsibility was entered on April 7, 2026, respondent had until May 7, 2026, 30 days later, to file a notice of appeal or a postjudgment motion. On April 8, 2026, respondent filed what he titled a motion to reconsider the April 7, 2026, parenting plan. This motion fell well within the time he had to file a postjudgment motion. However, although the title of respondent's motion may fall within section 2-1203's definition of what a proper postjudgment is, we are guided not by the title of a motion but by its substance. See *People v. Helgesen*, 347 Ill. App. 3d 672, 677 (2004) ("[I]t is a motion's substance, not its title, that controls its identity."). The substance of respondent's motion sought "clarification" of facts, specified and unspecified provisions in the parenting plan, trial court orders, and the GAL's recommendations. This motion for "clarification" is not a proper postjudgment motion. Thus, it did not toll the time in which

respondent had to file a notice of appeal. Because the motion did not toll that time, respondent's notice of appeal, filed on June 8, 2026, 62 days after the court entered the April 7, 2026, parenting plan, was too late and does not vest this court with jurisdiction. See *MidFirst Bank v. McNeal*, 2016 IL App (1st) 150465, ¶ 28 ("An untimely notice of appeal does not vest jurisdiction in [the appellate court].").

¶ 30 Having determined we lack jurisdiction over the parenting plan, we now consider whether we have jurisdiction over the December 17, 2025, denial of respondent's motion for substitution of judge for cause. Instructive in resolving this issue is *Arjmand*.

¶ 31 There, in the midst of a dissolution of marriage case, the husband filed a complaint against the wife's attorney and a financial institution that held some of the parties' investments and restricted the husband's access to them. *Arjmand*, 2024 IL 129155, ¶¶ 6, 8, 11. Thereafter, the husband moved and petitioned several times for substitution of judge. *Id.* ¶¶ 12-13. The trial court denied the husband's requests for substitution of judge, and many months later, it dismissed the husband's complaint and entered a finding pursuant to Rule 304(a). *Id.* ¶ 14. Rule 304(a) provides:

> "If multiple parties or multiple claims for relief are involved in an action, an appeal may be taken from a final judgment as to one or more but fewer than all of the parties or claims only if the trial court has made an express written finding that there is no just reason for delaying either enforcement or appeal or both." Ill. S. Ct. R. 304(a) (eff. Mar. 8, 2016).

The husband timely appealed, citing the date his motion to reconsider the dismissal of the complaint was entered and " 'all orders in [the] procedural progression leading to it.' " *Arjmand*, 2024 IL 129155, ¶ 14.

¶ 32 On appeal, our supreme court considered whether the denial of a motion or petition for substitution of judge was also appealable under the trial court's Rule 304(a) finding. See *id.* ¶ 23. It found it was not. *Id.* ¶ 30. In so finding, the court observed "substitution of judge rulings *** [are] not 'final' in that they [do] not dispose of the parties' rights as to a separate part of the controversy." *Id.* ¶ 23. The court determined this is true even if the appealing party "expressly listed the substitution of judge rulings in his notice of appeal along with the orders specified in the Rule 304(a) findings." *Id.* ¶ 30. Although the court suggested it could be "argue[d] that review of certain orders appealed under Rule 304(a) could require review of prior rulings in order to address the merits of the particular order appealed," "[r]ulings on petitions and motions for substitution of judge do not fall into this category, as they are independent of the substantive merits of the order at issue in a Rule 304(a) appeal." *Id.* ¶ 31. The court explained, "Whether a substitution request should have been granted is not intertwined with the merits of the final judgment subject to Rule 304(a) review." *Id.* Moreover, the court noted that "[p]rinciples of judicial economy may not trump the jurisdictional barrier erected by an Illinois Supreme Court rule." (Internal quotation marks omitted.) *Id.* ¶ 33. Thus, because "[t]here is no Illinois Supreme Court rule that independently allows for an appeal from an interlocutory order resolving a petition or motion for substitution of judge," our supreme court found the appeal of the orders denying the husband's requests for substitution of judge were properly dismissed for lack of jurisdiction. *Id.* ¶¶ 33, 35.

¶ 33 Although this appeal concerns an appeal under Rule 304(b)(6), not Rule 304(a), *Arjmand* clearly controls. Pursuant to that case, we find the December 17, 2025, order denying respondent's motion for substitution of judge is not a final and appealable order, as other matters, like the division of marital property, remain pending in the trial court. On that point, it is

immaterial that respondent listed the date his motion for substitution of judge was denied, *i.e.*, December 17, 2025, as the date of an order from which he was appealing. Moreover, we note respondent's motion for substitution of judge was not so intertwined with the merits of the final judgment on custody or allocation of parental responsibilities that it is subject to review under Rule 304(b)(6). Indeed, because Rule 304(b)(6) applies only to appeals of child custody or allocation of parental responsibility orders, instead of the broader basis for appeal under Rule 304(a), this appeal presents an even stronger basis for holding that we lack jurisdiction over the denial of respondent's motion for substitution of judge. Accordingly, like in *Arjmand*, respondent may appeal the December 17, 2025, denial of his motion for substitution of judge when all the ancillary issues raised in this dissolution of marriage case are resolved.

¶ 34 In sum, we conclude we lack jurisdiction over the (1) parenting plan and (2) December 17, 2025, order denying respondent's motion for substitution of judge. Concerning the parenting plan, if nothing else, respondent's motion for clarification was not a proper postjudgment motion tolling the time he had to file a notice of appeal. Because it was not, respondent's notice of appeal, filed more than 30 days after the April 7, 2026, final order, was untimely and did not vest this court with jurisdiction. Regarding the December 17, 2025, order denying respondent's motion for substitution of judge, it was neither a final and appealable order nor so intertwined with the final judgment assessing child custody or allocation of parental responsibilities that Rule 304(b)(6) confers jurisdiction in this court.

¶ 35 III. CONCLUSION

¶ 36 For the reasons stated, we dismiss this appeal for lack of jurisdiction.

¶ 37 Appeal dismissed.