NOTICE
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2026 IL App (5th) 250951-U

NO. 5-25-0951

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

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).

In re MARRIAGE OF	)	Appeal from the
	)	Circuit Court of
GEORGE R. FRITSCHLE,	)	Richland County.
	)	
Petitioner-Appellant and Cross-Appellee,	)	
	)	
and	)	No. 23-DN-32
	)	
JILL K. FRITSCHLE,	)	Honorable
	)	Lindsey D Waldrop,
Respondent-Appellee and Cross-Appellant.	)	Judge, presiding.

JUSTICE BOLLINGER delivered the judgment of the court.
Presiding Justice Cates and Justice Clarke concurred in the judgment.

ORDER

¶ 1 *Held*: (1) It was not an abuse of discretion for the trial court to order George to pay maintenance to Jill; (2) the trial court's determination of certain of Jill's bank accounts as nonmarital was not contrary to the manifest weight of the evidence; (3) the trial court's reliance on both appraisals of the marital residence was not against the manifest weight of the evidence; (4) the trial court did not abuse its discretion in its division of property; and (5) the trial court did abuse its discretion in ordering that Jill's attorney fees be paid from the marital estate prior to its distribution, requiring a reverse and remand of this issue.

¶ 2 After six days of trial regarding a dissolution petition, the trial court ordered the division of the marital and nonmarital estates, awarding Jill Fritschle what the trial court found to be her nonmarital bank accounts. It further ordered George Fritschle to pay maintenance to Jill, and that Jill's attorney fees be paid from the marital estate before its division, as outlined in its judgment.

For the following reasons, we affirm the trial court's division of assets and debts, its determination of marital and nonmarital assets, and the award of maintenance. We reverse and remand with directions on its determination regarding the payment of Jill's attorney fees.

¶ 3 I. BACKGROUND

¶ 4 Given that the arguments on appeal are confined to specific issues, only those filings and testimonies at trial relevant to the issues on appeal will be presented here. On November 20, 2023, George filed a petition for the dissolution of marriage against Jill. At the time of filing, he was 59 years old, and she was 68 years old, and they resided in Olney, Illinois. They were married on May 27, 2006, and no children were born of the union. The bench trial lasted six days, beginning on November 25, 2024, and ending on March 3, 2025.

¶ 5 A. Pretrial

¶ 6 On November 22, 2024, George filed a motion *in limine*. Concerning this appeal, count IV sought to prevent Jill from introducing documentation or testimony regarding her First National Bank account number ending in 8809 (FNB 8809), her Raymond James account number ending in 5836 (RJ 5836), and her Raymond James account number ending in W 475 (RJ W475). It was observed that in her response to interrogatory #22 dated January 17, 2024,[1] she identified these accounts as nonmarital; however, she failed to disclose all requested information. It was further argued that during her deposition, Jill stated she could provide documentation to substantiate the nonmarital status of these accounts, but she did not. Therefore, George requested an order prohibiting any testimony or documentation claiming that the three accounts were nonmarital.

[1]Jill's answers to interrogatories were signed and dated January 16, 2024, but the motion states January 17, 2024.

¶ 7 On the initial day of trial, the trial court addressed several motions prior to the commencement of testimony. Among these was the motion *in limine* concerning Jill's nonmarital accounts. George's oral arguments closely reflected the substance of his written motion. In response, Jill asserted that George had not filed any motion to compel and emphasized that she was examined "in detail" during her deposition. Jill further explained that she attempted to obtain bank records to substantiate her claim that the accounts in question were nonmarital; however, because the bank retains records for only seven years, she could not obtain any canceled checks. Additionally, Jill noted that during George's deposition, he was specifically questioned under oath regarding whether he claimed any interest in the items Jill identified as nonmarital property, and whether he concurred with her characterization of those accounts. George affirmed that he concurred that the accounts constituted Jill's nonmarital property. After considering counsel's arguments, the trial court denied the motion *in limine*, stating it would not preclude Jill's testimony or documentation concerning these accounts. The trial court further indicated that it could address any issues pertaining to these accounts during trial, as necessary.

¶ 8 B. Trial

¶ 9 The trial extended over a period of six days across several months.

¶ 10 1. George Fritschle

¶ 11 George testified that he resided at 2526 North Shell Road in Olney, and acquired the land for his residence in 1996 when his mother transferred the deed to him. He constructed the residence on that land in August 1996. He and his first wife divorced in May 2005. As a result of that divorce, he was granted exclusive possession over 120 acres, including 5 acres on which the house was situated. On October 26, 2006, he sold 40 acres of the property. The proceeds from this sale, totaling $84,000, were allocated towards the mortgage on the residence, which was paid off in

2009. He paid the mortgage with proceeds from the property sale and business dividends. On March 2, 2023, George executed a quitclaim deed transferring the house and five acres to Jill as they attempted to reconcile their marriage.

¶ 12 George is employed by Fritschle Incorporated, a company founded in 1992 and incorporated in the early 2000s. The corporation provided propane to residential clients and agricultural operations. He has maintained a 50% ownership interest in Fritschle Incorporated since 1995. On January 1, 2022, his cousin, Mike, sold his 50% ownership stake to his son, Christopher.

¶ 13 Throughout the year, he received a modest dividend and other supplementary payments. In 2022, he earned an additional $49,200 in rental income from Fritschle Incorporated; however, the average annual amount was $61,367.97. At the time of his marriage, Jill was employed at Stevens Chiropractic and has continued to work there part-time.

¶ 14 George testified about his marital and nonmarital assets and his financial affidavit. He did not include in the financial affidavit the property he asserted was nonmarital. Furthermore, he omitted items valued at over $100,000. From the commencement of the divorce proceedings to the date of trial, George paid more than $100,000 to his attorneys from the Fritschle Farms and Backhoe marital account.

¶ 15 Regarding Jill's three accounts that were the subject of his motion *in limine*, he stated that he now considered them to be marital property and was pursuing his equitable share. He claimed they were marital because she initially deposited the funds into a joint account at First National Bank, although he acknowledged that he lacked supporting documentation to substantiate this claim. Furthermore, he could not recall whether he told her that the funds he received from her first marriage were hers and that he would not claim them. He acknowledged that during his

deposition concerning these accounts, he had previously agreed that they constituted Jill's nonmarital property. Following his deposition, he collected certain financial documents to locate specific records. He retained these documents for approximately one week before returning them to the attic.

¶ 16 Regarding the residence, the parties were expected to submit names to conduct an appraisal, and Jill recommended Gary Lewis. He consented to utilize Gary's services for the appraisal but was unaware that Gary was not a certified appraiser. George regarded Gary's appraisal as "out of line" and excessively high. He estimated the value of the residence at $370,000, a valuation derived from the appraisal performed by Kay Stinson, whom he engaged. He confirmed that he and Jill initially agreed to engage Gary as the appraiser and had split his fee equally. He expressed dissatisfaction with Gary's appraised value.

¶ 17 2. Kay Stinson

¶ 18 Kay is a certified general real estate appraiser who appraised the property located at 2526 North Shell Road in Olney on April 26, 2024. She personally conducted a walkthrough of the property and stated that an appraiser must physically observe the property being appraised. She ascertained that the median home value in Olney was $90,000. With a reasonable degree of certainty, as an appraiser, she established the property's fair market value at $370,000.

¶ 19 She was also requested to review an appraisal conducted by Gary Lewis and prepared a report expressing her opinion regarding his appraisal. Gary was licensed as a trainee, had not attained full certification as an appraiser in Illinois, and was mandated to operate under a supervisory appraiser as a trainee.

¶ 20 To become a fully licensed appraiser, a trainee must complete the requisite coursework and accumulate the required hours in appraisal under the supervision of their designated supervising

appraiser before they are eligible to sit for the state examination. Upon successful passing of the examination, the appraiser is authorized to work independently. It was her ordinary business practice to personally inspect all properties on which she provided certification as a licensed appraiser. Regarding Gary's appraisal, Gary served as the appraiser, and Larry Lewis acted as the supervising appraiser. According to the appraisal report, Larry did not physically inspect the property as of the inspection date, March 16, 2024.

¶ 21 Gary used a financial lender form to complete his appraisal, a document typically used for financial institutions for Fannie Mae and Freddie Mac loans. The form Gary used stated that its intended purpose "is for the lender client to evaluate the property that is the subject of this appraisal for a mortgage-financed transaction." Conversely, Kay opted for the uniform residential appraisal report for her assessment. The distinction between the two forms primarily pertains to the scope of work. Each form has specific requirements regarding property coding, marketing time, and distance.

¶ 22 Gary stated that the predominant home value in Olney was $350,000 and used a comparable sale price for a residence located 29 miles away, whereas she referenced a comparable sale only 5.69 miles away. Gary's appraisal did not affect her assessed value of $370,000.

¶ 23 During cross-examination, she testified that her initial meeting with George took place in April 2024. She understood that George was dissatisfied with Gary's $419,000 appraisal. George was the only person present during the appraisal; she spent about one hour and 20 minutes there, with his company throughout the process.

¶ 24 She testified that it was incorrect to assert that there were no regulations or requirements mandating that the supervising appraiser personally visit the property to conduct a visual

inspection; however, she did not have the relevant regulation or rule with her. She never employed a trainee appraiser and never communicated with Gary regarding his appraisal.

¶ 25 3. Gary Lewis

¶ 26 Gary is a residential real estate appraiser with an 18-year tenure in the field, having conducted over 2,600 appraisals. He trained under three certified appraisers. His appraisal services primarily served the secondary market, with clients seeking loans. He was informed that approximately one in six of his reports undergo review by state authorities, with no issues arising from these reviews. His appraisals established the fair market value of properties at the time of assessment. He held the status of an associate real estate trainee appraiser. Although he completed the certification course, he did not pass the certification exam; he passed the licensing exam but not the certification exam. He retook the exam unsuccessfully and opted to remain licensed rather than pursue further certification. As a licensed associate real estate trainee appraiser, he worked under the supervision of his twin brother, a certified real estate appraiser. Gary performed the appraisals, which his brother reviewed and signed off on. No rules or regulations required his brother to personally inspect or review the properties. The State conducted periodic reviews of appraisals, and most banks employed an in-house reviewer. To date, none of his appraisals, whether reviewed by the State or on behalf of banks, had been rejected or questioned. He did not recall whether George or Jill contacted him. The appraisal's effective date was March 14, 2024. Both George and Jill attended the inspection.

¶ 27 Regarding comparables, he was trained to consider them when compiling a report. If the difference exceeded 25% plus or minus of the gross living area (GLA) relative to the subject property, it would not be deemed a suitable comparable. Consequently, he adhered to this limitation. He sought comparables with square footage close to the subject house in neighboring

towns. All of his comparables fell within a range of 10 to 25%, demonstrating that he used appropriate comparables. He prepared and completed the appraisal in accordance with the Uniform Standards of Professional Appraisal Practice. Within a reasonable degree of professional certainty, he opined that the property's fair market value was $419,000. The appraisal form he used was a widely accepted instrument for determining and conveying the estimated value of residential real estate.

¶ 28 Concerning Kay's report, he expressed concerns regarding her choice of comparable properties. He did not believe, within a reasonable degree of professional certainty, that the appraisal of $370,000 issued by Kay accurately reflected the fair market value of the property. This skepticism was based on the comparables used and discrepancies in square footage. He opined that her appraisal was "way off."

¶ 29 During cross-examination, he stated that he attempted the certification test twice and did not succeed on either attempt because he received the wrong test each time. Approximately 99% of his appraisals are conducted for bank lending purposes, with 1% or less for individual clients. As a trainee, his appraisals required his brother, Larry, to sign off on the appraisals. Larry did not personally inspect the subject property.

¶ 30 In his completed appraisal, he inadvertently noted that the definition of market value was defined by Freddie Mac and Fannie Mae. That should not have been included. Furthermore, his report inadvertently indicated that its intended purpose was for "lending purposes for a mortgage finance transaction." He used the wrong form; the appropriate form should have been the general practice form. The $57.93 per square foot figure in his report was an "error on the computer side." He stated that he did not input that figure and that the correct amount should have been $134.08.

¶ 31 On redirect, he testified that the form he utilized, which he customarily employed for bank appraisals, did not influence the methodology or the manner in which he determined the fair market value. He could have utilized the same data and entered it into a different form without affecting the outcome. During the appraisal process, both George and Jill accompanied him, and they shared his fee equally. He applied the same methodological approach whether appraising for a bank or an individual.

¶ 32 4. Jill Fritschle

¶ 33 Jill was previously married to Daryl Gayer before her marriage with George. Before marrying George, he instructed her to leave Daryl without taking any belongings. George assured Jill he would provide for her, include her name on the house and business, and that she would not need to take on any responsibilities. She believed him because she loved him. However, George did not fulfill these assurances. After their marriage, she discussed with him about including her name on the assets and he responded that he would do so when he had time. Over time, her repeated inquiries grew, and he told her that the more she persisted, the less likely he was to do it.

¶ 34 Before their marriage, George informed Jill that she was not obliged to work if she wished not to do so, a sentiment he reiterated after they were wed. She responded by saying she preferred to work and wanted to contribute. She was employed part-time as a receptionist at Stevens Chiropractic. She initially planned to retire in December 2023; however, after filing for divorce, she informed her employer that she would delay her retirement. Her preferred retirement date was now projected for May or June 2025. During her days off, she meticulously maintained the residence, performing chores such as laundry and lawn care. She also cultivated the garden and cared for the plants. Her household duties allowed George to focus fully on operating the business.

¶ 35 George told Jill she could retire; however, she chose not to because she was uncertain about her future. She remarked that she "could see some trouble brewing." In December 2022, George expressed his desire for a divorce and presented her with a document to sign, warning that if she refused, "his lawyer was going to have my ass thrown out of the house." She declined to sign the papers, and in January 2023, she filed a petition for dissolution of marriage. Five days after she filed her petition, George told her he no longer wanted a divorce. He professed his love for her and implored her to withdraw the divorce petition, promising to include her name on the house deed if she complied. During this period, she was contemplating her options and was being diagnosed with Graves' disease, a thyroid disorder that induces severe anxiety, impairs voice, and causes hand tremors. Jill took medication for this condition. George assured her that he understood the implications of the disease and pledged to support her through her treatment. Believing his assurances, she withdrew her petition. The couple reconciled and their relationship remained stable until approximately June or July, when tensions resumed. George expressed his inability to cope with her anxiety and Graves' disease, claiming he had given her four months to recover from the illness, which she did not do, leading him to seek a divorce. Subsequently, in November, she was served with divorce papers, and an officer told her she was "getting evicted from the house," requiring her to leave immediately. She lived with family members until her lawyer filed a motion to vacate, which allowed her to return to her residence; however, she could not enter the property because George had changed the locks.

¶ 36 In addition to her February 2023 Graves' disease diagnosis, Jill had an unsuccessful knee replacement surgery in 2022. She was further advised to undergo additional surgical intervention. She also suffered from anxiety and depression, for which she attended therapy and was prescribed medication.

¶ 37 Regarding her financial affidavit, Jill's monthly living expenses were what she expected them to be when establishing her own residence and maintaining her accustomed lifestyle. She intended to purchase a new vehicle, as her current vehicle was a 2011 Ford, which constituted her nonmarital property and she intended to acquire a residence at least comparable to her dwelling with George.

¶ 38 She randomly selected Gary from a list of approximately five names she had compiled to conduct an appraisal and simply called Gary to inquire whether he knew her or George; he did not. George consented to utilizing Gary. Both parties were present when Gary examined the house, and they agreed to share the payment equally. After receiving the appraisal, George refused to accept it because it did not align with his expectations. George contacted Kay. Jill was not present when Kay arrived because George did not inform her of Kay's arrival time.

¶ 39 She discussed her marital settlement agreement from her first husband which detailed the payments he was obligated to make to her, $150,000, payable in 10 annual installments of $15,000 each, beginning May 1, 2002. Copies of these checks were admitted as an exhibit, which George objected to on the grounds that they were produced after the close of discovery and had been the subject of a prior motion *in limine*. The parties discussed the prior motion *in limine* and the denial of a motion to reopen discovery. The trial court stated:

> "But from sitting through this trial, this being Day 5, I believe, the testimony was that Mr. Fritschle was not going to claim that as—or was going—not disputing that being her nonmarital property. And then it came out when he was testifying that, yes, he did. And we had extensive discussion about the depositions and what was stated during the depositions. And the fact that these were offered two weeks after the fact, still with plenty of time to cross-examine and present additional evidence, I don't think that there's any

surprise to anybody that these were going to come in after the fact. I don't think there was any bad faith on anybody's part of trying to hide them or claim or not claim this being marital or nonmarital.

And so for those reasons, that's why I denied the motion, and that's why I will deny the objection or overrule the objection, excuse me."

¶ 40 Jill clarified that she deposited these funds into multiple accounts solely in her name to prevent anyone else from accessing them. She had told George this, and he responded that such arrangements were acceptable and assured her he would not attempt to access the accounts. The accounts holding these funds were always in her name alone. Furthermore, even if she transferred or rolled over these funds into other accounts, the new accounts also bore only her name; she consistently ensured this.

¶ 41 The day following her deposition, Jill went to the residence's attic, where they stored their tubs containing financial documents. All six tubs were missing. She asked George about their whereabouts, and he said he had them and that she could have them once he finished with them. One week later, the boxes were returned to the attic, and upon inspection, she found they had been rummaged through, and all her account documents had been removed. She also tried to obtain records from 2006 onward by contacting the banks. First National Bank told her it could provide records only going back seven years, and Citizens National Bank said it could not retrieve the records without an account number.

¶ 42 She testified about an exhibit regarding a First National Bank account opened on May 15, 2008, in her name only, funded with money from her settlement with her previous husband. With that money, in 2013 she bought a $75,000 CD at Citizens National Bank, which she closed in 2018 and received a check for $80,022.93. She deposited that money into First National Bank on June

20, 2018, and then opened a Raymond James account (RJ W475) with $80,000 of it on June 21, 2018. As of June 28, 2024, it held a balance of $88,740.13.

¶ 43 She testified about exhibits showing the First National Bank money market account ending in 8809 (FNB 8809), which held a balance of $44,642 and originated from funds received from her first marriage; George had not been on this account.

¶ 44 The Roth IRA Raymond James account number 5836 (RJ 5836) contained $22,490, sourced from her first marriage, and as of June 28, 2024, had a balance of $21,961.62. Her life insurance policy with Country Life Insurance had a value of $10,160 and was established premaritally. She requested the full distribution of all her nonmarital property.

¶ 45 A judgment of dissolution of marriage was entered on July 25, 2025. Relevant to this appeal, the trial court determined that the appraisals conducted by both Gary and Kay were "consistent with the valuation practice standards" and accorded equal weight to both of their opinions and established the value of the marital residence at $394,500.

¶ 46 With respect to FNB 8809, the trial court acknowledged the parties' disagreement over whether it should be classified as nonmarital property, but both parties valued the account at $44,642. The trial court found Jill to be credible regarding "where the funds came from and where the funds were transferred." It noted that George's "testimony conflicted between his discovery deposition and at trial as to whether or not these funds were Jill's non-marital property." The trial court concluded that Jill met her burden of proof that the funds were nonmarital and assigned them a value of $44,642. The trial court applied the same analysis to RJ 5836, which it valued at $22,490 as Jill's nonmarital property. Additionally, the trial court deemed RJ W475 Jill's nonmarital property, valued at $88,740.

¶ 47 Regarding maintenance, the trial court noted that Jill requested a monthly amount of $1,591 until her retirement, thereafter increasing to $2,493 per month. George objected to her maintenance request. The trial court stated that, in evaluating the appropriateness of maintenance, it "expressly considered the testimony presented, duly admitted exhibits, and other relevant evidence related to the statutory factors outlined in 750 ILCS 5/504." It then listed the statutory factors and analyzed the relevant facts against them. After reviewing the statutory considerations, the trial court concluded that maintenance was warranted. To determine the appropriate amount, the court employed George's annual salary of $60,000, the average of his last three years of "rent/dividend" payments, and the average income from farming and backhoe operations over the same period, resulting in an annual income of $126,600 for George. For Jill, the trial court used her current income and Social Security benefits to establish her income at $38,000. Based on these figures, the trial court calculated a monthly maintenance amount of $1,322.42, payable for 11 years and 3 months. The trial court also specified that upon Jill's retirement, both parties should submit proposed maintenance calculations. If the parties could not agree on an amount, the trial court would recalculate maintenance based on the submitted information.

¶ 48 Regarding the contribution of attorney fees, the trial court stated that George had paid $110,000 in attorney fees as of the January 2025 trial date, and anticipated that he had paid considerably more since then. It noted that most, if not all, of the attorney fees were from the Fritschle Farms and Backhoe account, which was classified as a marital asset. Jill contributed $15,000 towards her attorney fees, leaving an outstanding balance of $56,691.81. The trial court observed that the parties possessed substantial marital assets, "including various cash accounts from which to pay Jill's attorney's fees." It further noted that George's attorney fees exceeded Jill's by more than double, which the trial court deemed excessive. The trial court stated that it

considered the statutory factors and ordered that $56,691.81 be paid from the parties' marital estate to Jill's attorney before the division of the marital assets.

¶ 49 With respect to the division of the marital estate, the trial court articulated that it considered all of the equitable distribution factors enumerated in section 503(d) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/503(d) (West 2022)) and indicated that "[d]ue to the significant disparity of non-marital property, the Court does not find that an equal distribution of the marital estate is appropriate." The trial court allocated the cash and investments, automobiles and personal property, and life insurance so that George's net value amounted to $800,607 and Jill's to $1,736,170.

¶ 50 C. Posttrial

¶ 51 The parties filed several posttrial motions. George's August 22, 2025, motion to reconsider contended that the trial court did not consider "the income or income producing capacity of the cash or cash equivalent amounts awarded" to Jill in determining whether maintenance was even appropriate, and thereby erred in its maintenance award. He also asserted that there was no "competent evidence" as to Jill's reasonable needs to maintain her standard of living. He also argued that Jill failed to rebut the presumption that her bank and investment accounts were marital property. He asserted that no documentary evidence established that the funds in her accounts originated from a nonmarital source. He objected to the trial court's valuation of the marital residence and its use of Gary's appraisal since he was not a "qualified, certified real estate appraiser." George contested the trial court's distribution of property, arguing that the trial court did not consider George's contribution to acquisition of the marital estate. He argued that he was entitled to "a majority of the marital estate because of his contribution." On August 25, 2025, Jill

filed a posttrial motion, arguing that her payment of attorney fees should not come from the marital estate and that it should be paid by George.

¶ 52 A hearing was conducted on October 17, 2025, and the trial court issued a written ruling on October 29, 2025. Regarding the motion to reconsider maintenance, the trial court denied that part of the motion. It stated that it considered all factors contained in section 504 of the Act, which it set forth in the judgment of dissolution of marriage (750 ILCS 5/504 (West 2022)). It stated that it "clearly considered" the factors with which George had an issue and even pointed out the paragraphs within its judgment where it discussed those contentions. The trial court indicated that it disagreed with the statement that there was no evidence of Jill's needs, as it found Jill's financial affidavit "served as an estimate as to what her living expenses would be once the parties no longer lived in the same residence." The trial court stated that her needs were "clearly established through" Jill's testimony and portions of the discovery deposition that George admitted into evidence.

¶ 53 The trial court denied George's motion to reconsider property classification. The trial court indicated that it found Jill to be a credible witness and that she traced the funds she received from her first husband through documentation she obtained from the bank or other financial institutions. It found that Jill met her burden by showing by clear and convincing evidence that the accounts constituted her nonmarital property.

¶ 54 The trial court denied George's motion to reconsider regarding the value of the marital home. It disagreed with George's assessment that it erred in considering Gary's appraisal. It found that Gary had years of experience and had prepared thousands of appraisals, and was hired by both parties. Kay was hired only by George, paid by him, accompanied him, and knew his concerns

about Gary's appraisal. The trial court found "both valuations consistent with valuation practice standards and therefore gave equal weight to both appraisals."

¶ 55 As to George's motion to reconsider the distribution of property, the trial court denied it. It stated that it clearly considered all of the equitable factors set forth in section 503(d) and that "because the Judgment of Dissolution of Marriage did not specifically set forth each factor, it should not be implied that the Court did not consider the factors." The trial court disagreed with George's assessment that Jill contributed nothing to the acquisition of the marital estate.

¶ 56 The trial court denied Jill's motion to reconsider contribution of attorney fees. The trial court indicated that it considered the statutory factors "including the significant amount of marital and non-marital property awarded" to the parties, as well as the financial resources of both parties, including the awarding of maintenance. George filed a notice of appeal on November 19, 2025.

¶ 57 II. ANALYSIS

¶ 58 On appeal, George raises four issues: (1) the trial court's award of maintenance was in error because it did not consider the financial impact of the marital property awarded to Jill and because it did not evaluate whether the award was necessary to meet Jill's reasonable needs; (2) the trial court erred in classifying certain accounts held by Jill as nonmarital property, George asserting that Jill failed to overcome, by clear and convincing evidence, the presumption that the accounts were marital; (3) the trial court erred in assigning equal weight to both appraisals; and (4) the trial court erred in its distribution of property by failing to consider George's contribution to the marital estate during the apportionment. Jill cross-appeals, arguing that the trial court erred by ordering her attorney fees to be paid from the marital estate rather than requiring George to bear sole responsibility for them. Each issue is addressed in turn.

¶ 59 A. Maintenance

¶ 60 George contends that the trial court failed to evaluate two of the factors specified in section 504(a) of the Act, specifically subsection (a)(1), which pertains to the consideration of marital and nonmarital property assigned, and subsection (a)(2), which concerns Jill's reasonable needs. In setting an award of maintenance, the trial court must first consider the 14 factors outlined in section 504(a) of the Act. 750 ILCS 5/504(a)(1)-(14) (West 2022). In considering these factors, the circuit court is not required to give them equal weight " 'so long as the balance struck by the court is reasonable under the circumstances.' " *In re Marriage of Bradley*, 2011 IL App (4th) 110392, ¶ 36 (quoting *In re Marriage of Miller*, 231 Ill. App. 3d 480, 485 (1992)). "No single factor is determinative when considering the duration and amount of a maintenance award." *In re Marriage of Heroy*, 385 Ill. App. 3d 640, 651 (2008). Additionally, although the circuit court must consider all the relevant statutory factors, it need not make specific findings as to the reasons for its decisions. *Bradley*, 2011 IL App (4th) 110392, ¶ 36. " 'The benchmark for determining the amount of maintenance is the recipient's reasonable needs in light of the standard of living established during the marriage.' " *Id.* (quoting *In re Marriage of Culp*, 341 Ill. App. 3d 390, 398 (2003)). A maintenance order will not be reversed on appeal unless the record shows an abuse of discretion. *In re Marriage of Breuer*, 259 Ill. App. 3d 94, 96 (1994). "A reversal is justified only when it is obvious that the trial court acted arbitrarily or without conscientious judgment." *In re Marriage of Schrimpf*, 293 Ill. App. 3d 246, 252 (1997).

¶ 61 In its order awarding Jill maintenance, the trial court articulated its findings in the judgment on each statutory subsection under section 504 of the Act, even though such a detailed analysis was not required. It enumerated each factor and then examined the evidence and testimony pertinent to each, including the two subsections George contests. Subsequently, in its order

denying George's motion to reconsider the trial court reaffirmed that it had considered all relevant factors.

¶ 62 Regarding the initial subsection, the trial court, in its original judgment, addressed several financial considerations, including that both parties were awarded substantial property in the allocation of marital assets, and that George possesses significant nonmarital property which generates income, while Jill also has nonmarital property, albeit of lesser significance than George's. Subsequently, in response to George's assertion that the trial court did not consider this subsection, and more specifically, the income-producing capabilities of the assets, it stated that "[a]lthough counsel for [George] argued that the Court did not take into consideration the allocation of marital and non-marital property, *along with the income or potential earning capacity of said property*, this Court clearly considered these factors" (emphasis added). In fact, the trial court identified specific pages and paragraphs of the original judgment where it examined and analyzed this factor. George's assertion that the trial court did not consider this subsection is clearly rebutted by the record.

¶ 63 In any event, we observe that while the trial court indicated that it considered the income-producing potential of awarded assets, Illinois courts have consistently held that the trial court is not required to make specific mathematical calculations or apply precise rates of return. In *In re Marriage of Mittra*, 114 Ill. App. 3d 627, 632 (1983), the Fourth District rejected the argument that a trial court's failure to calculate the income-generating potential of the petitioner's property with mathematical certainty evidenced a failure to consider this factor, holding that the fact that the court did not determine with mathematical certainty the amount of return does not indicate the court failed to consider this factor, among several, in fixing the award. The First District reinforced this in *Heroy*, a case involving a property award of $4,189,240, including nearly $2.8 million in

cash, and a permanent maintenance award of $35,000 per month. The husband argued that the trial court abused its discretion by failing to calculate the income-generating potential of the wife's property award. *Heroy*, 385 Ill. App. 3d at 655. The appellate court disagreed, holding that section 504(a)(1) requires the trial court to consider the income and property of each party, and that the trial court's order reflected that it had done so. *Id.* The court stated that the trial court was not required to apply various rates of return and make specific findings regarding the amount of income that the assets could produce. *Id.* at 656. The court cited *Mittra* and *In re Marriage of Zeman*, 198 Ill. App. 3d 722 (1990), in support, noting that the trial court's acknowledgment that the wife's assets were income-producing, even without specific calculations, was sufficient. *Id.* Similarly, the Fourth District held that the fact the trial court did not determine with mathematical certainty the income-generating potential of assets does not mean it failed to consider this factor in awarding maintenance. *In re Marriage of Nord*, 402 Ill. App. 3d 288, 295 (2010). Accordingly, here, the trial court's lack of a detailed calculation does not mean it failed to consider Jill's capacity to generate income from her awarded assets.

¶ 64 Regarding the second subsection, the trial court, in its original judgment, recognized that Jill would be allocated a substantial portion of both marital and nonmarital property. Nonetheless, it also acknowledged that she would still have needs related to acquiring and maintaining a new residence, especially "on greatly diminished income." Subsequently, in its order issued following the motion to reconsider concerning the same subsection, the trial court stated:

> "Counsel for [George] also argued that there was no evidence of [Jill's] needs. The court disagrees and finds that [Jill's] financial affidavit serves as an estimate as to what her living expenses would be once the parties no longer lived in the same residence. [Jill's] financial affidavit estimated her expenses based on the average expenses of the marital

> house. This was clearly established through [Jill's] testimony during the trial and the portions of the discovery depositions that were admitted into evidence by [George]. The needs of [Jill] were considered and addressed in the Judgment of Dissolution of Marriage (All Remaining Issues), specifically on pages 12 and 15."

¶ 65 "The trial court has wide discretion in determining what needs are reasonable and must decide the issue on a case-by-case basis." *In re Marriage of Kennedy*, 214 Ill. App. 3d 849, 858 (1991). Jill's financial affidavit delineated her anticipated expenses associated with maintaining a new residence. Her monthly expenditures are projected to significantly surpass her income by approximately $3,500, rendering her income inadequate to support her standard of living. Furthermore, her income is considerably lower than George's, and she will need to obtain a new domicile and furnishings. The trial court appropriately acknowledged and considered Jill's reasonable needs as presented when analyzing her request for maintenance.

¶ 66 Because the parties' combined income supports a guideline calculation, we note that the trial court's award of $1,322.42 per month for 11 years and 3 months reflects a guideline determination. The trial court applied the statutory formula to the parties' net incomes, and George does not challenge the amount or duration of the award as such—only whether the court considered subsections (a)(1) and (a)(2). Accordingly, the computation is not before us.

¶ 67 The trial court explicitly considered both subsections in its initial judgment and, after a request for reconsideration, reevaluated its decision. The trial court comprehensively addressed all relevant subsections, despite not being required to do so, and we find the relevant subsections collectively supported its maintenance decision. Based on our review of the trial court's detailed findings, we cannot say it abused its discretion in awarding Jill maintenance, as it clearly and carefully considered each applicable factor.

¶ 68 B. Jill's Nonmarital Accounts

¶ 69 George next challenges the trial court's conclusion that FNB 8809, RJ 5836, and RJ W475 constituted Jill's nonmarital property. He asserts that no evidence rebutted the presumption that these accounts were marital in nature and that the documents Jill submitted at trial to demonstrate their nonmarital status should not have been admitted because they were disclosed after discovery concluded.

¶ 70 All property acquired by either spouse after the marriage and before a judgment of dissolution of marriage is presumed to be marital property. 750 ILCS 5/503(b)(1) (West 2022). To overcome the presumption, the party claiming nonmarital character must prove by clear and convincing evidence that the property was acquired exclusively as enumerated in section 503(a) of the Act, which includes, among others, property acquired by gift, legacy, or descent; property acquired in exchange for property owned before the marriage; property acquired before the marriage; and property excluded by a valid premarital or postnuptial agreement. *Id.* § 503(a). "[A] trial court's classification of property as marital or nonmarital will generally not be disturbed on appeal unless it is against the manifest weight of the evidence." *In re Marriage of Budorick*, 2020 IL App (1st) 190994, ¶ 55. "A decision is against the manifest weight of the evidence only when the opposite conclusion is clearly apparent or when the court's findings appear to be unreasonable, arbitrary, or not based on the evidence." *In re Marriage of James*, 2018 IL App (2d) 170627, ¶ 20.

¶ 71 According to the settlement agreement from her previous marriage, Jill was entitled to receive a sum of $150,000, payable in annual installments of $15,000. These payments were disbursed to Jill over a 10-year period during her marriage to George. Jill contends that these funds are nonmarital property as they were acquired in exchange for assets acquired prior to the marriage.

Furthermore, she asserts that she maintained these funds separately and independently from any accounts held with George.

¶ 72 In her responses to interrogatories dated January 17, 2024, Jill indicated that the three accounts in question were her nonmarital property. The following month, after receiving these interrogatory responses and being aware that Jill was asserting them as nonmarital, George submitted his financial affidavit. He did not list these three accounts as assets or as accounts he held. Five months later, on July 18, 2024, during George's deposition, he stated that he was not claiming these accounts as marital and further affirmed that these three accounts were Jill's nonmarital property.

¶ 73 After the conclusion of discovery, George filed a position statement accompanied by several exhibits. In one such exhibit, George asserted for the first time that the three accounts were part of the marital estate. That same day, he filed a motion *in limine* seeking to exclude several witnesses and pieces of evidence, including any documentation or testimony concerning FNB 8809. In this motion, he contended that Jill claimed this account as her nonmarital property in her interrogatory responses but that her answers were incomplete and that she failed to provide all necessary documents and information regarding the account. The trial court subsequently denied the motion *in limine* on that matter.

¶ 74 On January 22, 2025, George testified at trial that he now asserted all three accounts as marital property and claimed a portion of them. On February 6, 2025, Jill served George with a supplemental disclosure containing copies of documents related to the accounts. During Jill's testimony, despite numerous overruled objections from George, she testified to copies of documents showing the tracing of deposits from her first husband to her nonmarital accounts.

Based on Jill's testimony, which the trial court found credible, the trial court concluded that all three accounts were Jill's nonmarital accounts.

¶ 75 One of the exhibits permitted by the trial court during Jill's testimony, despite George's objection, were copies of checks issued by Jill's former husband to her. On appeal, George contends the trial court erred in admitting this exhibit because it was produced after the discovery deadline. We review evidentiary matters for an abuse of discretion. *Snowstar Corp. v. A&A Air Conditioning & Refrigeration Service, Inc.*, 2024 IL App (4th) 230757, ¶ 57. " 'The court abuses its discretion when its rulings are "arbitrary, fanciful or unreasonable, or where no reasonable person would take the view adopted by the court." ' " *Id.* (quoting *Pister v. Matrix Service Industry Contractors, Inc.*, 2013 IL App (4th) 120781, ¶ 55, quoting *Auten v. Franklin*, 404 Ill. App. 3d 1130, 1151 (2010)). "Generally, '[a]n error in the admission or exclusion of evidence will not constitute reversible error unless one party has been prejudiced or the proceedings have been materially affected.' " *Id.* (quoting *Pister*, 2013 IL App (4th) 120781, ¶ 56, citing *Wilson v. Humana Hospital*, 399 Ill. App. 3d 751, 758 (2010)).

¶ 76 While the exhibit in question may have been produced after the discovery deadline, its production was prompted by George's change in position on the eve of trial. George has known since January 2024 that Jill maintained the accounts were nonmarital. In fact, he admitted under oath during his deposition that the accounts were Jill's nonmarital accounts. Not until he filed his position statement on the eve of trial—and later testified at trial, after the close of discovery—did George inform Jill that he was asserting the accounts were marital and claiming a portion of the proceeds. Both the submission of the position statement and George's testimony occurred after the discovery cutoff date. Therefore, prior to the discovery deadline, there was no need for Jill to produce these documents as their classification as nonmarital was never contested or questioned.

¶ 77 Subsequently, George reversed his stance on this matter when he testified at trial that he regarded the accounts as marital and that he was pursuing his "share" of the funds. Within 10 days, Jill submitted a supplemental disclosure comprising copies of bank account information and checks supporting her position that the accounts were nonmarital. George's change in position regarding the status of these accounts prompted Jill's disclosure. The disputed exhibit consisted solely of copies of checks from Jill's former husband to her, each for $15,000. George knew she had received these checks and never claimed or contended that her receipt of the checks was unbeknownst to him. George's full awareness of these payments, combined with his change in stance regarding the accounts' status after the close of discovery, did not render it an abuse of discretion for the trial court to admit copies of the checks.

¶ 78 Furthermore, the trial court's determination that the three accounts constituted Jill's nonmarital property was not contrary to the manifest weight of the evidence. Jill provided extensive, detailed testimony about opening these accounts in her name exclusively and later transferring the funds to other accounts. She affirmed that she consistently deposited checks from her former spouse into her own accounts and never into a joint account. At no point were these accounts commingled with George's, nor was his name ever appended to them. She traced the funds to the trial court's satisfaction through her comprehensive testimony, supplemented by exhibits pertaining to the various accounts. " ' "Tracing of funds is a procedure which allows the court to find that property which would otherwise fall within the definition of marital property is actually nonmarital property under one of the statutory exceptions." ' " *James*, 2018 IL App (2d) 170627, ¶ 32 (quoting *In re Marriage of Stuhr*, 2016 IL App (1st) 152370, ¶ 52, quoting *In re Marriage of Jelinek*, 244 Ill. App. 3d 496, 504 (1993)). " 'Tracing requires that the source of the funds be identified.' " *Id.* (quoting *In re Marriage of Davis*, 215 Ill. App. 3d 763, 770 (1991)). The

trial court noted in its written judgment that it found Jill to be credible while noting that George's "testimony conflicted between his discovery deposition and at trial." A "trial court's determination of witness credibility is entitled to great deference." *In re Marriage of Conopeotis*, 2022 IL App (2d) 191099-U, ¶ 49. Therefore, we do not consider the trial court's conclusion that these three accounts constitute Jill's nonmarital property to be against the manifest weight of the evidence.

¶ 79 C. Appraisals

¶ 80 George contends that the trial court erred by assigning equal weight to both appraisals. Specifically, he challenges Gary's appraisal, asserting that he was not certified, is merely a trainee, and made several errors. He maintains that the trial court should have relied exclusively on Kay's appraisal.

¶ 81 Gary valued the marital residence at $419,000, while Kay valued it at $370,000. Having determined that both appraisals were "consistent with the valuation practice standards" and applying equal weight to each, the trial court accorded each equal weight and set the value of the marital residence was $394,500—the precise average of the two appraisals.

¶ 82 George contends that the trial court should not have accorded equal weight to the appraisal testimony of Gary. "It is the trial court's function to resolve conflicting testimony by assessing the credibility of the witnesses and the weight to be accorded their testimony, and this court will not disturb the trial court's finding in this regard unless it is against the manifest weight of the evidence." *In re Marriage of Cerven*, 317 Ill. App. 3d 895, 903 (2000) "A trial court's finding is against the manifest weight of the evidence only when an opposite conclusion is apparent or when findings appear to be unreasonable, arbitrary, or not based on the evidence." *Dore v. Quezada*, 2017 IL App (1st) 162142, ¶ 21.

¶ 83 Although Gary is not a certified appraiser, he holds a license. Nevertheless, George has not explained how including the term "certified" before Gary's name would have affected the appraisal process or the valuation Gary established, apart from the requirement that Gary's brother endorse it. In essence, George has offered no evidence or argument that, if Gary had been "certified," his appraisal methodology or conclusion would have differed.

¶ 84 Gary has been conducting appraisals for 18 years and is a licensed appraiser in the State of Illinois. He has completed over 2,600 appraisals across six counties, with his brother signing off on each appraisal. The majority of Gary's appraisals are conducted for banking institutions, some of which are reviewed by the State of Illinois without any reported issues. Notably, both parties were present with Gary during the appraisal process, and both shared the associated fee. After receiving an appraisal with an unexpectedly high valuation and expressing dissatisfaction, George commissioned and paid for a second independent appraisal without informing Jill of the appointment time, ensuring he was the sole observer during Kay's home inspection. As a result, George obtained a valuation approximately $49,000 lower than Gary's.

¶ 85 The trial court heard Gary's testimony concerning his appraisal methods and the techniques employed to determine the appraised value. It was best positioned to assess the credibility and expertise of both Gary and Kay. "A reviewing court will not substitute its judgment for that of the trial court regarding the credibility of witnesses, the weight to be given to the evidence, or the inferences to be drawn." *Best v. Best*, 223 Ill. 2d 342, 350-51 (2006). It found both valuations "consistent with the valuation practice standards" and accorded them equal weight, fixing the value at the average of the two. We cannot say the trial court's decision to credit both appraisals equally and to adopt their average was against the manifest weight of the evidence.

¶ 86 D. Distribution of Property

¶ 87 George contends that the trial court erred in granting Jill a majority of the marital estate, asserting that a substantial portion of the marital estate was obtained through his efforts and gifts from his nonmarital estate. Therefore, he maintains that this fact, and solely this, necessitates that he be awarded a greater share of the marital estate.

¶ 88 The distribution of assets and debts is governed by section 503 of the Act, which states in part, "The court shall make specific factual findings as to its classification of assets as marital or non-marital property, values, and other factual findings supporting its property award." 750 ILCS 5/503 (West 2022). It also lists 12 factors the trial court must utilize in making its distribution determinations. " 'A reviewing court applies the manifest weight of the evidence standard to the factual findings for each factor on which a trial court may base its property disposition, but it applies the abuse of discretion standard in reviewing the trial court's final property disposition (and how the trial court considers those factors).' " *In re Marriage of LaRocque*, 2018 IL App (2d) 160973, ¶ 66 (quoting *In re Marriage of Vancura*, 356 Ill. App. 3d 200, 205 (2005)).

¶ 89 Here, the trial court stated in its judgment that it "considered all of the equitable distribution factors" as set forth in section 503 and, because of the great disparity in the award of nonmarital property, an equal distribution of the marital estate was not equitable. It is a well-established principle that "[a]n equitable division does not necessarily mean an equal division, and one spouse may be awarded a larger share of the assets if the relevant factors warrant such a result." *In re Marriage of Romano*, 2012 IL App (2d) 091339, ¶ 121.

¶ 90 Although Jill received a substantially larger share of the combined estate than George did, the trial court expressly grounded that allocation in the significant disparity in the parties' nonmarital property, and George offers no evidence beyond his dissatisfaction that the trial court

failed to consider his contribution to the marital estate. "[I]t is neither the function nor the obligation of this court to act as an advocate or search the record for error." *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993). Further, "a party's 'financial contribution to the acquisition of marital assets is only one of several factors to be considered by the trial court in determining the equitable distribution of marital assets.' " *In re Marriage of Brill*, 2017 IL App (2d) 160604, ¶ 61 (quoting *In re Marriage of Lee*, 246 Ill. App. 3d 628, 638 (1993)). " '[A] spouse's greater financial contributions do not necessarily entitle him or her to a greater share of the marital assets.' " *Id.* (quoting *In re Marriage of Scoville*, 233 Ill. App. 3d 746, 758 (1992)).

¶ 91 "The court's focus in effecting a property distribution is whether the distribution is equitable, and each case rests on its own facts." *In re Civil Union of Hamlin*, 2015 IL App (2d) 140231, ¶ 61. Merely disputing the trial court's apportionment, absent more than a conclusory, unsupported allegation by George, does not amount to an abuse of discretion by the trial court.

¶ 92 E. Attorney Fees

¶ 93 Jill filed a petition for contribution to fees and costs pursuant to section 503(j) of the Act. 750 ILCS 5/503(j) (West 2022). On her cross-appeal, Jill asserts that the trial court erred in directing that her attorney fees of $56,691.81 be paid from the marital estate before its division. She contends that George already incurred and paid more than $110,000 in attorney fees from a marital account, thereby reducing the marital estate by that amount. She argues that George should have been ordered to pay her attorney fees from his nonmarital estate. "A trial court's award of attorney fees will not be disturbed on review absent an abuse of discretion." *In re Marriage of Vance*, 2016 IL App (3d) 150717, ¶ 61.

¶ 94 A party's petition for contribution is governed by sections 508(a) and 503(j) of the Act; any award of contribution from the opposing party is based on the section 503 property-division

criteria and, where maintenance has been awarded, the section 504 criteria. 750 ILCS 5/508(a), 503(j) (West 2022). Where a spouse has paid his own attorney fees from marital funds, those payments are treated as an advance against his share of the marital estate. The court then reconsiders the division in light of that advance, and only then resolves the contribution petition—so that the other spouse is not required to fund a portion of her own fees. *In re Marriage of DeLarco*, 313 Ill. App. 3d 107, 112-14 (2000); *In re Marriage of Tworek*, 2017 IL App (3d) 160188, ¶ 18. Here, the trial court found that George paid the majority, if not all, of his attorney fees—exceeding $110,000, more than double Jill's—from the marital Fritschle Farms and Backhoe account, yet ordered Jill's $56,691.81 in fees paid from the marital estate before its division. Because George's payments depleted the marital estate by at least $110,000 and the challenged order would require Jill to bear a share of her own fees out of her portion of that same estate, we hold the order was an abuse of discretion. On remand, the trial court shall treat George's fee payments as an advance against his share of the marital estate and shall allocate responsibility for Jill's $56,691.81 in fees to George, to be paid from his share of the marital estate so that Jill does not fund any part of her own fees.

¶ 95 III. CONCLUSION

¶ 96 For the foregoing reasons, we affirm the judgment of the trial court, with the exception of the order relating to attorney fees. We reverse and remand with directions that the trial court amend its judgment to explicitly state that George shall be solely responsible for Jill's attorney fees of $56,691.81 from his share of the marital estate.

¶ 97 Affirmed in part; reversed and remanded in part with directions.