

CASE NO. 129155

IN THE SUPREME COURT OF ILLINOIS

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IN RE THE MARRIAGE OF:	)	
	)	
MASUD M. ARJMAND,	)	
Petitioner,	)	Appeal from:
	)	
vs.	)	DuPage County Circuit
	)	2009 D 1168
MUNEEZA R. ARJMAND,	)	
n/k/a MUNEEZA R. RAHMAN,	)	and
	)	
Respondent.	)	Appellate Court 2 <sup>nd</sup> District
	)	2-21-0285

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Masud Arjmand,	)
Plaintiff,	)
	)
v.	)
	)
Morgan Stanley Smith Barney, LLC	)
Morgan Stanley & Co., LLC	)
Morgan Stanley & Co., Inc.	)
Morgan Stanley Investment Management, Inc.	)
Bryan Estes; and Stogsdill Law Firm, P.C.	)
	)
Defendants.	)

**BRIEF AND ARGUMENT FOR RESPONDENT/APPELLEE**

**MUNEEZA RAHMAN**

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**TABLE OF CONTENTS****BRIEF AND ARGUMENT OF RESPONDENT/APPELLEE**

Points and Authorities .....	i
Statement of Facts .....	1
Argument .....	7
I.    735 ILCS 5/2-1001 Does Not Provide That An Evidentiary Hearing is Required in Petitions for Substitution of Judge, or Motions for Substitution and/or Recusal .....	7
II.   Arjmand’s Notice of Appeal does not invoke appellate jurisdiction	11
III.  The Orders of June 3, 2020 and April 28, 2021 Are Not Reviewable Until a Final Judgment for Dissolution of Marriage May Be Entered .....	16
IV.  Appellate Jurisdiction is Exclusively Invoked by Virtue of the Illinois Supreme Court Rules .....	21
V.   The Order Denying Arjmand’s Petition for Substitution of Judge and Motions for Substitution of Judge and Recusal are not Orders in the “Procedural Progression” of the April 28, 2021 Order Dismissing Arjmand’s Third Party Complaint Against the Morgan Stanley Defendants and The Stogsdill Defendants .....	22
VI.  Nothing in the judicial code says anything that would give the impression its provisions could be used by a party or his lawyer as a means to force a judge to recuse himself .....	28
Conclusion .....	31

**POINTS AND AUTHORITIES**

**ARGUMENT**

<b>I.</b>	<b>735 ILCS 5/2-1001 Does Not Provide That An Evidentiary Hearing is Required in Petitions for Substitution of Judge, or Motions for Substitution and/or Recusal</b> .....	7
	<i>Sandholm v. Kuecker</i> , 356 Ill.Dec. 733, 962 N.E.2d 418 (2012) .....	7
	<i>People v. Ellis</i> , 199 Ill.2d 28, 262 Ill.Dec. 383 (2002) .....	8
	<i>Mabry v. Boler</i> , 362 Ill.Dec.1, 972 N.E.2d 716 (2012) .....	8
<b>II.</b>	<b>Arjmand’s Notice of Appeal does not invoke appellate jurisdiction</b> .....	11
	<i>Vines v. Village of Flossmoor</i> , 418 Ill.Dec.507, 90 N.E.3d 996 (2017) .....	11
	<i>People v. Knapp</i> , 450 Ill.Dec.523, 181 N.E.3d 875 (2020) .....	11
	<i>In Re Marriage of O’Brien</i> , 354 Ill.Dec.715, 958 N.E.2d 647 (2011) ...	11, 12
	<i>Blumenthal v. Brewer</i> , 410 Ill.Dec.289, 69 N.E.3d 834 (2016) .....	13
	<i>In Re Marriage of Crecos</i> , 451 Ill.Dec.21, 183 N.E.2d 67 at 78 (2021) ....	14
	<i>McGrath v. Price</i> , 342 Ill.App.3d 19, 793 N.E.2d 801 at 813 (2003) .....	15
	<i>In Re J.B.</i> , 789 N.E.2d 1259, 204 Ill.2d 382, 273 Ill.Dec. 827 (2003) .....	16
<b>III.</b>	<b>The Orders of June 3, 2020 and April 28, 2021 Are Not Reviewable Until a Final Judgment for Dissolution of Marriage May Be Entered</b> .....	16
	<i>Vines v. Village of Flossmoor</i> , 418 Ill.Dec.507, 90 N.E.3d 996 (2017) ...	16
	<i>People v. Knapp</i> , 450 Ill.Dec.523, 181 N.E.3d 875 (2020) .....	16
	<i>Sarah Bush Lincoln Health Center v. Berlin</i> , 268 Ill.App.3d 184, 643 N.E.2d 276 (4th Dist., 1994) .....	16, 17
	<i>Partipilo v. Partipilo</i> , 331 Ill.App.3d 394, 770 N.E.2d 1136 (2002) .....	17
	<i>In Re Marriage of Padilla v. Kowalski</i> , 2022 IL App (1st) 200815 .....	18

	<i>Marriage of O'Brien</i> , 354 Ill.Dec.715, 958 N.E.2d 647 (2011) .....	18, 19
<b>IV.</b>	<b>Appellate Jurisdiction is Exclusively Invoked by Virtue of the Illinois Supreme Court Rules</b> .....	21
	Illinois Constitution 1970, Art. VI, §6 .....	21
	<i>EMC Mortgage Corp. v. Kemp</i> , 367 Ill.Dec. 474, 982 N.E.2d 152 (2012)	21
	<i>Elkins v. Huckelberry</i> , 267 Ill.App.3d 1073, 659 N.E.2d 462 (1995) .....	22
<b>V.</b>	<b>The Order Denying Arjmand's Petition for Substitution of Judge and Motions for Substitution of Judge and Recusal are not Orders in the "Procedural Progression" of the April 28, 2021 Order Dismissing Arjmand's Third Party Complaint Against the Morgan Stanley Defendants and The Stogsdill Defendants</b> .....	22
	Illinois Constitution 1970, Art. VI, §6 .....	24
	<i>In Re Marriage of O'Brien</i> , 354 Ill.Dec.715, 958 N.E.2d 647 (2011) .....	25
<b>VI.</b>	<b>Nothing in the judicial code says anything that would give the impression its provisions could be used by a party or his lawyer as a means to force a judge to recuse himself</b> .....	28
	<i>In Re Marriage of Romano</i> , 360 Ill.Dec.36, 968 N.E.2d 115 (2012) .....	29
	<i>In Re Marriage of O'Brien</i> , 354 Ill.Dec.715, 958 N.E.2d 647 (2011) ..	30, 31

**STATEMENT OF FACTS**

Arjmand filed his Petition for Dissolution of Marriage against Muneeza on June 3, 2009 (C 234 – C 240). This Petition resulted in the entry of a Judgment for Dissolution of Marriage on July 22, 2009 (C 248 – C 278). Thereafter, Muneeza filed a Petition to Vacate the Judgment, which was granted by the circuit court on February 17, 2012 (C 538).

Arjmand then appealed the order vacating the Judgment. This was appellate court #2-12-0639. The Second District affirmed the order vacating Judgment and the Mandate was returned to the circuit court on July 10, 2012 (C 682).

Since the issuance of the appellate court mandate on July 10, 2012, Arjmand has prosecuted the following appeals of rulings made by the Honorable Timothy McJoynt of the circuit court in the ongoing dissolution proceedings.

In addition to thirty-six motions (listed below), Arjmand has prosecuted no less than nine appellate actions, including the instant appeal in the case sub judice.

**9th** appeal is case No. 3–23-0032

Date of Notice of Appeal: 1/25/2023

Date of Orders Appealed: 9/8/2021, 12/22/2022

Pending in Third Appellate District

**8th** appeal is case No. 2-21-0285

Date of Notice of Appeal: 5/27/2021 (C 14703, V8 – C 14704, V8)

Date of Orders Appealed: 4/28/2021

Reversed in part and dismissed in part; remanded subject of the case sub judice

**7th** appeal is case No. 2-21-0574

Date of Notice of Appeal: 10/4/2021

Date of Orders Appealed: 9/2/2021

Dismissed 10/28/2021

**6th** appeal is case No. 2-16-0631 re: order of Aug 4, 2016 (turnover of \$230,000)

Date of Notice of Appeal: 8/5/2016 (C 6170, V4)

Date of Orders Appealed: 8/4/2016

Our motion to dismiss was denied

Dismissed 3/29/17 for lack of jurisdiction; overruling the previous denial of appellee's motion to dismiss

**5th** appeal is case 2-16-0332 re: order of April 22, 2016

Dismissed for lack of jurisdiction on June 29, 2016

Masud's motion for leave to appeal to the Supreme Court was denied

Date of Notice of Appeal: 5/2/16 (C 5596, V4)

Date of Orders Appealed: 4/22/16 granting our motion to dismiss his motion to vacate 5/14/12 order

Dismissed 6/29/16

**4th** Appeal case No. 2-15-0483

Date of Notice of Appeal: 5/7/15 (C 4487, V2)

Date of Orders Appealed: 4/14/15

Dismissed for lack of jurisdiction on 7/14/15

**3rd** Appeal case No. 2-15-0274

Date of Notice of Appeal: 3/18/15 (C 4385, V2)

Date of Orders Appealed: 3/10/15

Dismissed for lack of jurisdiction on 5/21/15

**2nd** Appeal case No. 2-15-0111

Date of Notice of Appeal: 1/30/15 (C 4311, V2)

Date of Orders Appealed: 2/4/13 and 10/9/14

Dismissed for lack of jurisdiction on 3/12/15

**1st** Appeal case No. 2-12-0639

Date of Notice of Appeal: 6/12/12 (C 619)

Date of Orders Appealed: 5/14/12 granting motion to vacate

Decision: Trial Court affirmed 10/28/13

The circuit court, after conducting trial in this matter on December 18, 2019, entered an order setting a briefing schedule for written closing arguments (C 10557, V7 – C 10559, V7). However, Arjmand, shortly after December 18, 2019, caused to be filed approximately thirty-six (36) motions in the circuit court prior to the filing of his Notice of Appeal in 2-21-0285 on May 27, 2021, none of which was a motion to reconsider the final Judgment for Dissolution of Marriage, as there is no final Judgment for Dissolution yet entered.

Arjmand has effectively forestalled the entry of a final Judgment for Dissolution of Marriage, despite the trial court having entered an order on December 18, 2019, closing the proofs in the dissolution proceedings and setting a briefing schedule for submission of written closing arguments. Almost immediately after the close of evidence, Arjmand engaged in a course of conduct calculated to delay the determination of the dissolution proceedings, but also to provoke and to harass Judge McJoynt. Arjmand filed no less than thirty-six (36) motions subsequent to the entry of the December 18, 2019 order up to May 27, 2021:

- 1        1/9/2020        Motion for Leave to Amend and File Instant Third Petition for Substitution of Judge for Cause and for Assignment to a Judge in a Different Appellate District. (C 10840, V7 – C 11102, V7)
- 2        1/10/2020        Motion to Suspend Briefing Schedule for Closing Arguments (C 11103, V7 – C 11106, V7)
- 3        1/16/2020        Motion to Vacate Part of the April 22, 2016 Order Dismissing His Petition Due to Res Judicata (C 11120, V7 – C 11332, V7)
- 4        1/17/2020        Motion to Clarify and Modify Court Order and for a Parallel Briefing Schedule on Each Party's Case-In-Chief (C 11333, V7 – C 11360, V7)
- 5        2/25/2020        Verified Motion to Rectify Procedural Oversights in February 10, 2020 Order; or Alternatively Transfer to J. McJoynt for Appropriate Action (C 11871, V7 – C 11904, V7)
- 6        3/2/2020        Motion for Leave to Request Honorable J. McJoynt's Affidavit in response to Third Petition for Substitution of Judge for Cause (C 12246, V8 – C 12253, V8)
- 7        3/11/2020        Verified Amended Third Petition for Substitution of Judge for Cause and for Assignment to a Judge in a Different Appellate District (C 12288, V8 – C 12552, V8)

- 8 3/27/2020 Counter-Affidavit (C 12805, V8 – C
- 9 5/11/2020 Motion for a Finding that Facts Pled in SOJ3 are Deemed Admitted (C 12828, V8 – C 12837, V8)
- 10 5/14/2020 Two-Count Motion for Briefing and Hearing Schedule on Motion for Admission and for Leave to Opt Out of Zoom Hearing (C 12840, V8 – C 12854, V8)
- 11 5/26/2020 Motion to Set Hearing on Masud's Motion for Admissions on June 3, 2020 Before Hearing on SOJ3 (C 12872, V8 – C 12902, V8)
- 12 6/17/2020 Motion to Sever Claims and Transfer Severed Claims to Law Division (C12912, V8 – C 12970, V8)
- 13 7/6/2020 Motion to Reconsider June 3, 2020 Order Denying SOJ3 (C 12983, V8 – C 12999, V8)
- 14 7/6/2020 Request to Allow Motion to Reconsider June 3, 2020 Order Which Denied the SOJ3 to Exceed 10 Pages (C 12982, V8)
- 15 7/6/2020 Motion for Substitution of Judge as of Right or Alternatively for Recusal as to MSSB Complaint (C 13000, V8 – C 13004, V8)
- 16 7/20/2020 Motion for Leave to File Instanter, Plaintiff's Combined Response to Defendant's Motions to Dismiss MSSB Complaint (C 13049, V8 – C 13074, V8)
- 17 8/17/2020 Motion to Reconsider August 6, 2020 Order (C 13100, V8 – C 13150, V8)
- 18 9/8/2020 Motion to Vacate August 25, 2020 Order and to Set Date Certain for Hearing on Motion to Reconsider June 3, 2020 Order (C 13178, V8 – C 13214, V8)
- 19 9/9/2020 Motion to Continue Hearings Set for September 11, 2020 (C 13215, V8 – C 13219, V8)
- 20 9/16/2020 Motion to Allow Time to File Motion for Rule 383 Supervisory Order Pursuant to Supreme Court Opinion - In Re Estate of Wilson (C 13277, V8 – C 13290, V8)



- 21 10/23/2020 Motion to Set Date Certain for Hearing on Petitioner's Motion to Vacate Turnover Order Entered August 4, 2016 Alternatively, to Hold Section 508(A) Unconstitutional (C 13300, V8 – C 13323, V8)
- 22 10/23/2020 Affidavit (C 13298, V8 – C 13299, V8)
- 23 10/23/2020 Request for a Rule 63(C)(1) Finding
- 24 11/4/2020 Motion to Vacate Part of December 22, 2017 Order as Void and for Finding that Atty. Estes' Representations to Holders of Petitioner's Assets Were Improper (C 13486, V8 – C 13497, V8)
- 25 12/18/2020 Motion to Reconsider and Reverse November 19, 2020 Order (C 14204, V8 – C 14213, V8)
- 26 1/28/2021 Verified Second Motion for a Rule 63(C)(1) Finding and for Recusal from Further Proceedings as to the MSSB Matter (C 14370, V8 – C 14407, V8)
- 27 2/1/2021 Verified Motion for Continuance (C 14417, V8 – C 14421, V8)
- 28 2/9/2021 Motion to Clarify November 19, 2020 Order, Alternatively for Leave to Supplement Motion to Reconsider (C 14424, V8 – C 14448, V8)
- 29 3/9/2021 Motion to Reconsider Court Order of February 17, 2021 (C 14453, V8 – C 14518, V8)
- 30 3/15/2021 Verified Motion to Hold Security Arrangement Between Atty. Estes and Respondent Void and Sanction Atty. Estes for Egregious Discovery Misconduct (C 14521, V8 – C 14556, V8)
- 31 4/2/2021 Verified Motion to Hold Void and Vacate \$100,000 Interim Fee Award Made on April 22, 2016 (C 14593, V8 – C 14608, V8)
- 32 4/7/2021 Verified Motion to Reconsider and Reverse the March 11, 2021 Order (C 14615, V8 – C 14626, V8)
- 33 4/7/2021 Motion Requesting Written Closing Arguments on His Motion to Reconsider Dismissal of His MSSB Complaint (C 14611, V8 – C 14614, V8)

- 34 4/13/2021 Verified Motion to Dismiss Atty. Estes' Motion for Injunctive Relief (C 14628, V8 – C 14638, V8)
- 35 5/4/2021 Objection/Motion to Strike Motion for Temporary Relief for Entry of an Order to Promote Orderly Administration of Proceeding and Prohibit Frivolous, Fruitless Pleadings; Alternatively, Order Atty. Estes to Make the Motion More Certain (C 14664, V8 – C 14672, V8)
- 36<sup>1</sup> 5/27/2021 Notice of Appeal (C 14703, V8 – C 14704, V8)

Petitioner also filed several Motions to Reconsider the circuit court's rulings:

**Motions to Reconsider**

- 1 9/14/2011 Motion to Reconsider (C 479 – C 481)
- 2 5/29/2013 Motion to Reconsider Court Order of May 14, 2013, Denying Petitioner's Motion to Compel Respondent to Produce a Full Accounting of All Social Security Benefits Received for the Benefit of the Children and a Full Accounting of the Income and Disbursements from the Anees Pardesi Children's Education Trust (C 1306 – C 1341)
- 3 11/13/2014 Petitioner's Motion for Reconsideration of Court's Interim Attorney Fees Findings and Award or in the Alternative, Motion to Vacate Judgment and for New Hearing, Finding of Friendly Contempt with Nominal Sanctions and/or Supreme Court Rule 304(a) Finding and Stay of Enforcement of Award (C 4088, V2 – C 4128, V2)
- 4 10/11/2017 Motion to Reconsider Court's Order Dated September 11, 2017, Granting Motion to Quash Petitioner's Subpoena Issued on Bryan Estes and Issuing Sanctions Against the Petitioner (C 8530, V6 – C 8536, V6)
- 5 6/13/2018 Motion to Reconsider the Order of May 14, 2018 (C 9303, V7 – C 9307, V7)
- 6 7/24/2018 Motion to Reconsider Evidentiary Ruling Denying Admission of Bank Records Made on July 19, 2018 (C 9365, V7 – C 9370, V7)

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<sup>1</sup> It should be noted that the Record on Appeal ends with the filing of Arjmand's Notice of Appeal in 2-21-0285 and does not encompass filings which Arjmand has submitted to the circuit court since May 27, 2021.

- |    |            |  |
|----|------------|--|
| 7  | 9/13/2018  | Motion to Reconsider Ruling of August 14, 2018 Denying the Motion to Vacate Part of the April 22, 2016 Order (C 9426, V7 – C 9518, V7) |
| 8  | 8/2/2019   | Emergency Motion to Reconsider and in the Alternative to Withdraw as Counsel of Record (C 9848, V7 – C 9853, V7)                       |
| 9  | 7/6/2020   | Motion to Reconsider June 3, 2020 Order Denying "SOJ3" (C 12983, V8 – C 12999, V8)   |
| 10 | 8/17/2020  | Motion to Reconsider August 6, 2020 Order (C 13100, V8 – C 13150, V8)  |
| 11 | 12/18/2020 | Motion to Reconsider and Reverse November 19, 2020 Order (C 14204, V8 – C 14213, V8)   |
| 12 | 3/9/2021   | Petitioner's Motion to Reconsider Court Order of February 17, 2021 (C 14453, V8 – C 14518, V8)   |
| 13 | 4/7/2021   | Petitioner's Verified Motion to Reconsider and Reverse the March 11, 2021 Order (C 14615, V8 – C 14626, V8)                            |

### ARGUMENT

#### **I. 735 ILCS 5/2-1001 Does Not Provide That An Evidentiary Hearing is Required in Petitions for Substitution of Judge, or Motions for Substitution and/or Recusal**

The interpretation of a statute presents a question of law subject to de novo review. *Sandholm v. Kuecker*, 356 Ill.Dec. 733, 962 N.E.2d 418 (2012).

Arjmand claims that he was not provided an evidentiary hearing as required by 735 ILCS 5/2-1001. These claims are without merit.

Arjmand fails to emphasize the particular language of 735 ILCS 5/2-1001 wherein the words "evidentiary hearing" appear.

A court of review will not imply nor substitute terms in a statute, as this is the function of the legislature. A statute should be read as a whole and construed so that no word, phrase or section is rendered meaningless or superfluous, and we must not depart from the statutes plain language by reading into it, exceptions,

limitations or conditions, the legislature did not express. *People v. Ellis*, 199 Ill.2d 28, 262 Ill.Dec. 383 (2002).

Arjmand does not provide any proof that he requested an evidentiary hearing when he appeared before Judge Kleeman on June 3, 2020 for hearing on his so-styled Third Petition for Substitution and Motion for Substitution and for Recusal. In fact, Judge Kleeman gave Arjmand ample opportunity to request an evidentiary hearing and to call witnesses to support his claims; however, Arjmand agreed to the non-evidentiary nature of the hearing suggested by Judge Kleeman. Arguments not preserved in the trial court cannot be raised for the first time on appeal. *Mabry v. Boler*, 362 Ill.Dec.1, 972 N.E.2d 716 (2012).

#### **No Evidentiary Hearing is Required Under 735 ILCS 5/2-1001**

On page fourteen (14) of the Appellant's brief, he writes:

"In denying the petition, (*in reference to the Petitioner's so-styled Third Motion for Substitution of Judge for Cause*) Judge Kleeman refused to grant Plaintiff an evidentiary hearing, as required by the statute. The petition was based, in part, on the fact that Judge McJoynt was partially responsible for the damages incurred by Plaintiff that he was seeking to recover in this action against Defendants." See Appellant's Brief, page fourteen (14).

However, the Appellant provides no authority for his statements that an evidentiary hearing is required by 735 ILCS 5/2-1001. In fact, Appellant's brief includes reproduction of 735 ILCS 5/2-1001, "Substitution of Judge," quoted in its entirety, but provides no specific reference to the section of the statute which indicates that an evidentiary hearing is required. Furthermore, the Appellant provides no Illinois citation for his proposition that an evidentiary hearing is required in petitions for substitution of judge. Also, the court transcript of the

proceedings conducted by the Honorable Robert Kleeman on June 3, 2020, is found at SUP R 197 – SUP R 261 and nowhere throughout the course of the hearing conducted by Judge Kleeman, did the Appellant request an evidentiary hearing. In fact, on June 3, 2020, Judge Kleeman gave both parties an opportunity to suggest a preferred method of proceeding with the Third Motion for Substitution of Judge for Cause.

“COURT: So, what I'd like to do is give Mr. Arjmand a chance to be heard. I will give Mr. Estes and Mr. Sammarco 15 minutes to respond. They can split it up however they want. And Mr. Arjmand will get a chance to reply.

Mr. Arjmand, your 15 minutes is going to be divvied up however you want. So, if you use 12 on the front end, I am going to limit you to three. And I know everybody doesn't care about my problems. But we are -- we are very, very busy over here. In addition to my normal work, I have got meetings all day long about you can imagine. So, I have got to have a reasonable timeframe put on this. And I do think 15 minutes a side is reasonable.

Mr. Arjmand, do you have any problem with that mode of procedure?

MR. ARJMAND: Your Honor, if that's what the court wishes --

COURT: Yeah.

MR. ARMAND: -- I am okay with it.

(SUP R 209)

The Appellant omitted any direct quotation from the report of proceedings conducted on his Third Motion for Substitution of Judge for Cause. It is the burden of the Appellant, Mr. Arjmand to provide correct citation to the record on appeal for

the arguments raised. The Appellant raises no logical argument nor one supported by any Illinois citation for the proposition that an evidentiary hearing is required by the statute. For these reasons, the Appellant's argument should be forfeited. An argument is forfeited if the Appellant makes an argument on review that he did not make in the trial court.

Arjmand's brief points to the allegations of his petition for substitution; however, he fails to illustrate with a citation to the record or reliance upon an Illinois appellate court authority, how these allegations were proven by a preponderance of the evidence. Allegations are not sufficient without proof to prevail on the claims raised. This portion of Arjmand's brief lacks substantive content. There is no argument which is actually directed at Judge Kleeman's rationale for denying the petition for substitution and motion for recusal.

Arjmand puts the blame on Judge Kleeman for the denial of his petition for substitution and motions for substitution and recusal, yet he fails to point to any place in the record on appeal where he was prepared to proceed on an evidentiary hearing, or that he had certain witnesses available for trial. There is no reference in the reports of proceedings that he asked Judge Kleeman to call any of his attorneys as witnesses. Arjmand himself conceded that there would be no evidentiary hearing conducted on June 3, 2020. Arjmand points to no citation to the record on appeal where Judge Kleeman may have made an incorrect ruling based on the evidence presented to him. Setting aside for a moment, that Arjmand makes a very weak argument that Judge Kleeman had committed any error whatsoever, Arjmand's brief is not in compliance with Illinois Supreme Court Rule

341(h)(7) with respect to discussing whether or not Judge Kleeman committed error. Arjmand has omitted any citation of the authorities or the pages of the record which he relies on.

**II. Arjmand's Notice of Appeal does not invoke appellate jurisdiction**

The question of jurisdiction presents a question of law which the appellate court reviews de novo, performing the same analysis that a trial judge would perform. *Vines v. Village of Flossmoor*, 418 Ill.Dec.507, 90 N.E.3d 996 (2017). The supreme court reviews de novo, the appellate court's decision on jurisdiction. *People v. Knapp*, 450 Ill.Dec.523, 181 N.E.3d 875 (2020).

In *In Re Marriage of O'Brien*, 354 Ill.Dec.715, 958 N.E.2d 647 (2011), the husband took an appeal from the final judgment entered by the circuit court on February 6, 2007 and all prior orders of court culminating therein, to the appellate court, Second District. See *O'Brien*, *id.* at page 653, ¶23. *O'Brien* did not entail the appeal of a decision on a Petition for Substitution of Judge for Cause taken in conjunction with another interlocutory appeal. Mr. O'Brien had to wait until entry of the final divorce judgment to appeal the circuit court's ruling on the denial of his Petition/Motion for Substitution of Judge for Cause. See *O'Brien* at 653.

In the appellate court, Mrs. O'Brien raised the issue of whether the Second District Appellate Court had jurisdiction to review the denial of her husband's Petition for Substitution, as Mr. O'Brien did not specifically state or list the order denying his Petition for Substitution in his Notice of Appeal; he had made reference in his Notice of Appeal, that in addition to the final dissolution judgment, he was also appealing all prior orders. Mr. O'Brien indicated clearly, that he was taking an

appeal from “the judgment entered by the Circuit Court for the Nineteenth Judicial Circuit, Lake County, Illinois, on February 6, 2007 and all prior orders of court culminating therein.” See *O’Brien, id.* at 653.

The Second District indicated that John O’Brien’s Notice of Appeal was sufficient to invoke appellate jurisdiction on the denial of his Petition for Substitution.

In the case sub judice, there is no final dissolution judgment, making the review of the June 3, 2020 order inappropriate.

Arjmand argues (see page 22 of appellant’s brief) that the Petition for Substitution and Motions for Substitution and Recusal are “related” to the complaint that is the subject of this appeal that was filed against the Morgan Stanley Defendants and the Stogsdill Defendants.

Arjmand chose to file this third party complaint in the dissolution proceedings, and when he filed it with the Clerk of the Circuit Court, he himself, assigned to it, the case number 2009 D 1168 (C 10560, V7). Arjmand did so knowing that Judge McJoynt had made many substantial rulings, knowing that he had at that point in time, prosecuted eight appeals, and knowing that the Petition for Substitution and Motions for Substitution and Recusal he filed shortly thereafter (C 12288, V8), would be heard by the court first and that he had created “the perfect storm” for this court to address his request for review.

The third party complaint, whose claims are for the most part, barred by the Illinois Statue of Limitations, serves only as an intended “fielder’s choice” in an effort to obtain an final order reviewable pursuant to Illinois Supreme Court Rule



303, so that he might wrongfully persuade this court to exercise its jurisdiction to review the denial of his Petition for Substitution and his Motions for Substitution and Recusal. This review cannot and should not serve as a substitute for the exercise of appellate jurisdiction in conformity with the Illinois Constitution and the Illinois Supreme Court Rules.

Arjmand characterizes the denial of his Petition for Substitution of Judge and Motion for Substitution and Recusal as being “related to” the dismissal of the complaint that is the subject of this appeal.

Although these denial orders are related, there is no final dissolution judgment, and if there is no final dissolution judgment, there logically can be no order entered in the procedural progression of the final order appealed from. As a result, there is no right to appeal pursuant to any Illinois Supreme Court Rules until the underlying dissolution proceedings are concluded by entry of a final judgment. The orders referenced above may be related to the dismissal of the third party complaint; however, they are not yet subject to review by the appellate court or this court.

In *Blumenthal v. Brewer*, 410 Ill.Dec.289, 69 N.E.3d 834 (2016), the circuit court made a Rule 304(a) finding on the denial of the substitution of judge and recusal requests. In the case sub judice, the appellate court would have no jurisdiction when the dissolution case is ongoing and no Rule 304(a) language was contained in Judge Kleeman’s order denying Arjmand’s Petition for Substitution of Judge and Motions for Substitution and Recusal. Nor has Judge McJoynt made

any order wherein he includes 304(a) language when denying any of Arjmand's Motions for Substitution or Recusal.

When a challenge is made for substitution of judge or recusal, that does not constitute a "claim between the parties" for specific relief incident to the Illinois Marriage and Dissolution of Marriage Act. Arjmand's request for substitution or recusal is not a claim between himself and Muneeza. Notably, Muneeza is not even a party to the third party complaint filed by Arjmand. Although this court and the lower courts have used the term "claims" and actions interchangeably, we now clarify that for purposes of appellate jurisdiction, unrelated post dissolution matters constitute separate claims, so that a final order disposing of one of several claims may not be appealed without a 304(a) finding. *In Re Marriage of Crecos*, 451 Ill.Dec.21, 183 N.E.2d 67 at 78 (2021).

The order denying Arjmand's Petition for Substitution of Judge and his Motions for Substitution of Judge and Recusal preceded the 2-619 dismissal order, however, the substitution of judge and recusal orders are not steps in the procedural progression leading to the dismissal order.

There is no tie or connection between the substitution orders or the recusal order and the dismissal order, sufficient to characterize them as steps in the procedural progression leading to the ultimate dismissal order.

The substitution of judge related orders and the dismissal order deal with totally different subject matter and claims.

The substitution of judge request encapsulates Arjmand's right, given the appropriate circumstances (which of course are not present in the case sub judice),

to a new judge on the basis of prejudice, and as such, have nothing to do with his claims against the Morgan Stanley Defendants and/or the Stogsdill Defendants or any claims between himself and Muneeza.

“It is not enough merely that the unspecified order (referring to those not specifically stated a Notice of Appeal) precedes the specific order. Rather, the two orders must be sufficiently intertwined so as to make the preceding unlisted order a step in the procedural progression leading to the subsequent identified order.” *McGrath v. Price*, 342 Ill.App.3d 19, 793 N.E.2d 801 at 813 (2003). The subject matter of the substitution of judge and recusal requests and resulting orders are not sufficiently related to the subject matter of the dismissal order, hence, the earlier dated orders cannot be part of the procedural progression of the later date order. For these reasons, the appellate court’s ruling that it did not have jurisdiction should not be revisited. The appellate court does not have jurisdiction over the substitution or recusal requests because those orders were not specifically listed in the appellant’s Notice of Appeal, nor are they orders in the procedural progression of the dismissal order.

Nor does Arjmand squarely argue that the dismissal order was sufficiently intertwined with the rulings of the circuit court on substitution and/or recusals; he does not argue that the substitution rulings could be considered to be in the logical progression of the dismissal order so as to make the omission of the substitution of judge orders in his Notice of Appeal benign. Arjmand’s Notice of Appeal does not invoke appellate jurisdiction.

Although Muneeza did not advance this Notice of Appeal argument in the appellate court, the lack of appellate jurisdiction may be raised at any time in any proceeding. *In Re J.B.*, 789 N.E.2d 1259, 204 Ill.2d 382, 273 Ill.Dec. 827 (2003). The questions affecting a court's authority to hear a given controversy may be raised at any time. *J.B.*, *id.* at 1262.

**III. The Orders of June 3, 2020 and April 28, 2021 Are Not Reviewable Until a Final Judgment for Dissolution of Marriage May Be Entered**

The question of jurisdiction presents a question of law which the appellate court reviews de novo, performing the same analysis that a trial judge would perform. *Vines v. Village of Flossmoor*, 418 Ill.Dec.507, 90 N.E.3d 996 (2017). The supreme court reviews de novo, the appellate court's decision on jurisdiction. *People v. Knapp*, 450 Ill.Dec.523, 181 N.E.3d 875 (2020).

The Appellant goes on to argue, in reliance on *Sarah Bush Lincoln Health Center v. Berlin*, 268 Ill.App.3d 184, 643 N.E.2d 276 (4th Dist., 1994), that a ruling on a Motion for Substitution of Judge which was denied before the court issued the second preliminary injunction, can be reached in an appeal. *Berlin*, 268 Ill.App.3d at 186 as cited on page (16) of the Appellant's brief.

In the case sub judice, Arjmand has sought review of the order of the Honorable Robert Kleeman of the circuit court, which denied his so-styled Third Motion for Substitution of Judge for Cause on June 3, 2020 (C 12903, V8 – C 12904, V8). The defendant in *Berlin*, *id.*, filed an appeal asserting the Judge who heard the Motion for Preliminary Injunction on appeal erred by hearing the case after previously denying a timely motion by defendant for substitution of judge as a matter of right. (emphasis added). Obviously, there is a huge difference between

submitting appellate review of a Motion for Substitution as a Matter of Right as opposed to a Petition for Substitution of Judge for Cause. The case sub judice does not involve a Motion for Substitution of Judge as a Matter of Right in conjunction with the authorized review, pursuant to Illinois Supreme Court Rules, of an interlocutory order. Appellant also relies on *Partipilo v. Partipilo*, 331 Ill.App.3d 394, 770 N.E.2d 1136 (2002) for the proposition that the denial of a Petition for Substitution of Judge for Cause is subject to review if accompanied by another appealable interlocutory order. However, the Appellant in *Partipilo* was appealing the denial of her Motion for Substitution of Judge as of Right. In *Partipilo, id.*, the wife filed a Motion for Substitution of Judge as of Right in a chancery case in which the husband and wife were also parties. Partipilo argued to the trial judge in the divorce case, that he had not ruled on any substantial matter in the case and asked that the case be assigned to another judge. Following a hearing, the divorce judge denied the motion, stating that he had previously made a substantial ruling when he denied the wife's June 2021 Motion to Stay the divorce proceedings. The divorce judge also denied Ms. Partipilo's motion to enjoin her husband from proceeding with the divorce case and also denied her Motion for Substitution of Judge for Cause. Partipilo relied in part on *Sarah Bush Lincoln Health Center v. Berlin*, 268 Ill.App.3d 184, 643 N.E.2d 276 (4th Dist., 1994), see *Partipilo* at 1140. Both *Partipilo* and *Berlin, id.*, involved the ruling on a Motion for Substitution of Judge as a Matter of Right, as opposed to a ruling on a Petition for Substitution of Judge for Cause.

Another Illinois citation relied upon by the Appellant is *In Re Marriage of Padilla v. Kowalski*, 2022 IL App (1st) 200815. The First District took the appeal of the denial of Mr. Kowalski's Petition for Substitution of Judge when reviewing the trial court's ruling on a Order of Protection proceeding as well as a Motion for Substitution of Judge. The Appellant in *Padilla, id.*, argued that the Order of Protection was the product of a biased judge which also served as the basis for him seeking the substitution of the trial judge more than once on the basis of cause. Thus, the review of Respondent's claims with respect to the Order of Protection, necessarily involved consideration of the substitution of judge proceedings. The case sub judice does not present any similar issues. The underlying order which serves as the Appellant's pretext is an order dismissing a third party complaint against the Respondent's attorneys, The Stogsdill Law Firm, P.C. (hereinafter referred to as the Stogsdill Defendants) and Morgan Stanley (hereinafter referred to as the Morgan Stanley Defendants).

Arjmand illustrates his awareness that a Motion for Substitution is as a matter of right and that a Petition for Substitution of Judge involves cause where actual prejudice must be shown (Arjmand illustrated this in footnote (4) of his brief). However, Arjmand's reliance on the *Marriage of O'Brien*, 354 Ill.Dec.715, 958 N.E.2d 647 (2011) is sorely misplaced. Despite the fact that Arjmand quotes O'Brien on page (19) by stating:

"The denial of John's petition to substitute was a step in the procedural progression leading to the final judgment specified in John's notice of appeal, the appellate court therefore had jurisdiction to review the order." (Citations omitted). O'Brien, 2011 IL 109039, ¶23.

Arjmand provides no analysis of how *O'Brien, id.*, authorizes an appeal of the denial of a Petition for Substitution of Judge without having a final Judgment for Dissolution of Marriage entered. The quotation taken from *O'Brien, id.*, by Arjmand is dicta; the court was addressing the validity of appellant's Notice of Appeal, not the substantive issue on appeal.

In *O'Brien, id.*, the husband took an appeal from the final judgment entered by the circuit court on February 6, 2007 and all prior orders of court culminating therein, to the appellate court, Second District. See *O'Brien, id.* at page 653, ¶23. *O'Brien* did not entail the appeal of a decision on a petition for substitution of judge taken in conjunction with a separate appealable interlocutory order. Mr. O'Brien had to wait until entry of the final divorce judgment to appeal the circuit court's ruling on the denial of his motion for substitution of judge. See *O'Brien, id.* at 653.

This court should not entertain Arjmand's appeal of the denial of his petition for substitution of judge, nor his motions for substitution/recusal. To do so would enable Arjmand to continue in his barrage of motions and motions to reconsider denials of those motions referenced in Muneeza's Statement of Facts, while the close of evidence had occurred on December 18, 2019 and the court had entered a briefing schedule for closing arguments (C 10557, V7 - C 10559, V7). Arjmand's desire is to prolong the entry of a Judgment for Dissolution of Marriage; he actually rather would prefer that the litigation go on ad infinitum rather than to comply with the December 18, 2019 order of court, submit his closing argument, receive a ruling from the court and appeal whatever components of the ruling he desires; but

no, Arjmand marches on, undaunted by the dismissal of seven (7) previous appeals, in an effort to start all over with a new judge. A clearer case of judge shopping has likely never been before this court.

The better policy argument, one which Arjmand totally ignores, is that despite the denial of a petition for substitution of judge, the aggrieved party might be pleased with the final judgment ultimately entered. It is very unlikely then that the aggrieved party would appeal the judgement or the substitution of judge decision. Arjmand's argument does not include a discussion of how the Illinois Supreme Court rules, currently work to ensure fairness in the appeal of various orders under Rule 304(a) and 307. To authorize or invoke the appellate court's jurisdiction for review of the orders on review to this court ignores the right of the appellee to have a determination and final Judgment for Dissolution of Marriage in a case that has been languishing for nearly thirteen years. Of course, Arjmand provides no argument as to why judicial resources should continue to be spent to prolong the litigation that could have been over sometime early in January of 2020 had he complied with an order requiring him to provide a closing memorandum.

If this court were to expand the scope of appellate jurisdiction as Arjmand requests, such an expansion will open the floodgates to appellate challenges by both petitioners and respondents alike, who seek to upend the progress of their dissolution cases for one reason or another.

In dissolution cases, it would be easy to advance a request for an injunction or for an order of protection or for modification of either of these orders, which



would serve as the "pretext" petition and simultaneously file a petition or motion for substitution of judge.

Once the request for substitution is denied, the decision on the pretext petition would follow and then the matter would be ripe for appeal, while the non-moving party expends additional fees, runs the risk of devaluation of the marital estate pending appeal, and become subject to untoward economic and emotional pressure to settle on less than equitable terms or worse yet, to start all over. These factors not only have a detrimental effect on the non-moving party, but also make the non-moving party emotionally less available to care for minor children who may also be implicated in some cases.

#### **IV. Appellate Jurisdiction is Exclusively Invoked by Virtue of the Illinois Supreme Court Rules**

The Illinois Constitution confers on the appellate court, the jurisdiction to hear appeals from all final judgments entered in the circuit court. See Illinois Constitution 1970, Art. VI, §6 (providing that appeals "from final judgments of a circuit court are a matter of right to the appellate court"). The Constitution also grants this court the right to "provide by rule for appeals to the appellate court from other than final judgments." *Id.* Accordingly, absent a Supreme Court Rule, the appellate court is without jurisdiction to review judgments, orders or decrees that are not final. *EMC Mortgage Corp. v. Kemp*, 367 Ill.Dec. 474, 982 N.E.2d 152 (2012). There are no Illinois Supreme Court Rules which provide for the interlocutory appeal of the grant or the denial of a motion for substitution of judge,

a petition for substitution of judge, or a ruling denying a request for a judge's recusal. Although Illinois Supreme Court Rule 304(a) provides:

**“(a) Judgments As To Fewer Than All Parties or Claims–Necessity for Special Finding.** 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. Illinois Supreme Court Rule 304(a).”

An order may not be subject to appeal under Rule 304(a), despite the trial court having made specific findings required thereby. The mere presence of that language does not make a non-final order final and appealable. *Elkins v. Huckelberry*, 267 Ill.App.3d 1073, 659 N.E.2d 462 (1995). The trial court's finding under Rule 304 in the case sub judice, was in reference to the dismissal of the third party action against The Stogsdill Defendants and the Morgan Stanley Defendants. The appellant does not argue that the trial court made a special finding under Rule 304(a) in reference to the denial of his motion for substitution of judge, his petition for substitution of judge or his motion for recusal.

This brings us then to the analysis of whether the order of June 3, 2020 which denied the Appellant's motion and petition for substitution of judge and recusal was in fact an order entered in the logical progression or procedural progression of the dismissal of the third party complaint order.

**V. The Order Denying Arjmand's Petition for Substitution of Judge and Motions for Substitution of Judge and Recusal are not Orders in the "Procedural Progression" of the April 28, 2021 Order Dismissing Arjmand's Third Party Complaint Against the Morgan Stanley Defendants and The Stogsdill Defendants**

The trial court conducted a lengthy hearing on the Motion to Dismiss filed by The Stogsdill Defendants on the 2-615 Motion to Strike and the 2-619 Motion to Dismiss advanced by the Morgan Stanley Defendants on November 19, 2020.

On April 28, 2021, the circuit court entered an order denying Arjmand's Motion to Reconsider and Reverse the November 19, 2020 Order (C 14,218, V8 – C 14219, V8); this order included findings that there was no just reason for delaying enforcement or appeal of the court's order of December 29, 2020 nunc pro tunc, as of November 19, 2020.

The April 28, 2021 order by its terms, does not address any of the claims raised by Arjmand and/or his former wife, Muneeza, in the dissolution proceedings.

The April 28, 2021 order speaks only to the dismissal of Arjmand's Complaint against the Morgan Stanley Defendants and The Stogsdill Defendants. In fact, Muneeza, the Respondent in the dissolution proceedings, is not a named party in Arjmand's third party complaint.

The dissolution of marriage proceedings remained pending with no final judgment having been entered prior to April 28, 2021; sadly, the dissolution proceedings still remain pending in the circuit court, despite the close of evidence having occurred in December of 2019.

Prior to the December 29, 2020 nunc pro tunc, to November 19, 2020 order of dismissal, on June 3, 2020 (C12903, V8) the circuit court entered and order denying Arjmand's so-styled Third Petition for Substitution of Judge for Cause and for Assignment to a Different Appellate District.

The dismissal order is between Arjmand, the Morgan Stanley Defendants and The Stogsdill Defendants, and when the circuit court denied Arjmand's Third Petition for Substitution in the dissolution proceedings, although that order preceded the dismissal order, it was not an order in the logical or procedural progression thereof; the parties are different and the relief requested in the Complaint is not focused or directed against Muneeza. The dismissal order has nothing to do with the dissolution proceedings. At best, the Third Party Complaint served its purpose as a pretext to obtain this court's review of an order which there is no appellate jurisdiction to review.

The order of June 3, 2020 (C 12903, V8 – C 12904, V8) entered by the Honorable Robert Kleeman of the circuit court does not include any required findings pursuant to Rule 304, and since the underlying dissolution proceeding remains pending and undetermined, the Second District correctly indicated that it lacked jurisdiction to review the substitution and recusal orders.

Jurisdiction of the appellate court is conferred by the Illinois Constitution. "The Illinois Constitution confers on the appellate court, the jurisdiction to hear appeals from all final judgments entered in the circuit court." See Illinois Constitution 1970, Art. VI, §6. If we consider the third party complaint to be a specific proceeding, the denial of Arjmand's Substitution of Judge Petition and Motions for Substitution and for Recusal, is a final order.

However, Arjmand chose to file his Third Party Complaint in the context of the dissolution proceedings. Arjmand has never sought leave to add the Morgan Stanley Defendants, nor The Stogsdill Defendants as parties to the dissolution

proceedings. Under this set of facts, it can only be assumed that Arjmand intends the claims against the Morgan Stanley Defendants and The Stogsdill Defendants to be part and parcel of the dissolution proceedings.

These dissolution proceedings are still ongoing after the circuit court order vacating the initial judgment of 2019 (C 248 – C 278) which was entered on May 14, 2012 (C 555 – C 569), and as of today's date, no final judgment has been entered.

The order denying Arjmand's so-styled Third Petition for Substitution of Judge and Motions for Substitution and Recusal entered by Judge Kleeman on June 3, 2020, is absent any Illinois Supreme Court Rule 304 findings which can invoke appellate jurisdiction. For these reasons, the appellate court did not have jurisdiction to review the denial of Arjmand's Substitution of Judge Petition, nor his Motions for Substitution and Recusal; this was the position taken by The Stogsdill Defendants in the appellate court, and this position is correct.

It is clear from the record, that Arjmand's motivation is to do whatever he can in order to prevent or forestall Judge McJoynt from entering a final judgment in the dissolution proceedings.

This court in *In Re Marriage of O'Brien*, 354 Ill.Dec.715, 958 N.E.2d 647 (2011), noted that "and it is almost certain that judges in dissolution of marriage cases would see the greatest increase in judge shopping." *O'Brien, id.* at 659.

Arjmand's litigiousness has not served its veiled objective, but to his credit, the myriad number of motions and petitions advanced by him in the circuit court and his 10 appellate actions, have been a successful delay tactic and as a means

of attempts to provoke the trial court into saying something that Arjmand might use in attempts to have Judge McJoynt removed.

Arjmand's attempts to avoid and/or to indefinitely forestall the conclusion of the dissolution proceedings by an order from Judge McJoynt, have now come to a major crossroad. Arjmand has chosen the path to spoiling years of litigation and orders by the circuit court toward completion of the dissolution proceedings, hoping that his court will reverse the circuit court's ruling denying Arjmand's request for substitution and/or recusal so that Judge McJoynt will in effect be taken off this case.

However, Arjmand's arguments in favor of substitution and/or recusal are weak and must be rejected by this court.

Contrary to what Arjmand argues, the appellate court was correct in declining to review the denial of his request for substitution and/or recusal. Arjmand can point to no Illinois Supreme Court Rule(s) which confer appellate jurisdiction in the case sub judice. Arjmand's brief provides panic as opposed to valid policy arguments for this court's exercise of jurisdiction and/or reversal of the trial court's decision. Arjmand's stated policy is that absent immediate appellate review of orders denying requests for substitution or recusal, the parties and circuit court, run an untoward risk of dealing with void orders; as any order entered after the point where the trial judge should have been substituted or recused would be void.

Arjmand goes on to state that void orders would necessarily require the parties to be provided with a repeat action of all aspects of the proceedings,

suggesting a back to the drawing board approach, which also involves additional costs and attorney's fees.

If Arjmand truly had judicial economy and efficiency at heart, he certainly would have been able to submit his written closing argument as ordered by the court on December 18, 2019. If Arjmand adhered to the briefing schedule, the dissolution proceedings would have been ready for decision soon after the December 18, 2019 order of the circuit court.

Arjmand also overlooks consideration and fails to provide an argument on the possibility that the ultimate decision of the trial court might not be unfavorable to him. Despite his perceived prejudice on the part of Judge McJoynt, there is a possibility that Arjmand could be pleased with the final Judgment for Dissolution entered by him. If he is not, then he may proceed with attempts to reverse or remand the final judgment for further proceedings.

Arjmand's opponent, his former wife, Muneeza, does not yet have a final Judgment for Dissolution. The order vacating the original Judgment was entered February 17, 2012 (C 538).

From Muneeza's standpoint, her desire for a final Judgment and distribution of the assets which may be awarded to her should be one of the primary policy considerations in the case sub judice.

If this court were to expand the scope of appellate jurisdiction as requested by Arjmand, such a determination will open the floodgates to appellate challenges by petitioner and respondent alike who seek to upend the progress of their dissolution cases if an unfavorable ruling is anticipated.

In dissolution cases it would be easy to advance a request for injunction or for an order of protection or for modification of either, which would serve as the "pretext" petition, and simultaneously a petition or motion for substitution.

Once the request for substitution is denied, the decision on the pretext petition would then be up for appeal; while the non-moving party expends additional fees, runs the risk of devaluation of the marital estate, pending appeal and becomes subject to untoward economic and emotional pressure to settle on less than equitable terms.

These factors not only have a detrimental effect on the non-moving party, but also make him/her emotionally less available for minor children who may also be present in some cases.

**VI. Nothing in the judicial code says anything that would give the impression its provisions could be used by a party or his lawyer as a means to force a judge to recuse himself**

Arjmand's argument that Judge McJoynt should have been disqualified by way of recusal, is not well-founded. On page (40) of appellant's brief, Arjmand begins his argument alleging that Judge McJoynt applied the incorrect standard in denying his motion for recusal. However, as and in impartiality, and rulings should not be characterized as the product of bias or prejudice without consideration of the evidence and arguments heard by the court in making the ultimate order challenged. Arjmand states four orders, but fails to identify them in the record. Commencing on page (42), Arjmand lists several alleged fouls committed by Judge McJoynt:



- i. He refused to hear plaintiff's motion relating to the freeze on his account until after those assets had already been liquidated. Arjmand provides no references to the reports of proceedings and no references to the common law record to assist in the determination that this ruling was the product of bias or impartiality.
- ii. He ordered a liquidation of a portion of the assets to pay hundreds of thousands of dollars in attorney's fees to The Stogsdill Law Firm, P.C. while denying plaintiff access to the same funds. Again, Arjmand provides no reference to the record on appeal wherein a specific order supporting his allegation may be found. Arjmand also provides no accounting of his actions in attempting to access funds and has neglected to include any discussion of *In Re Marriage of Romano*, 360 Ill.Dec.36, 968 N.E.2d 115 (2012) which authorized an advance from the husband's non-marital estate for wife's attorney's fees which interim attorney's fees may be advanced from marital as well as non-marital funds.
- iii. Arjmand alleges he ultimately determined that plaintiff Accenture founder shares were non-marital property and that the order of February 2013 never applied to Morgan Stanley at all, but did so only after substantially all off the assets were liquidated. Again, Arjmand makes no reference in the record

or the reports of proceedings as to what his efforts were in attempting to access the funds on deposit with Morgan Stanley.

- iv. Finally, he alleges that Judge McJoynt “aligned himself with Respondent’s position without regard to its accuracy.”

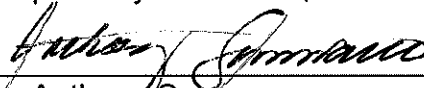
If Judge McJoynt entered these orders sua sponte, we can assume that Arjmand’s brief would have stated so; but it doesn’t. One can only assume that Judge McJoynt’s orders were entered after hearing, argument, the opportunity to introduce evidence and that Arjmand in fact “had his day in court.” The court has previously held in *In Re Marriage of O’Brien, id.*, that actual prejudice standard would not be abandoned in favor of the appearance of impropriety standard when assessing the propriety of an order for recusal or denying recusal. This court has done so as a means of preventing successful judge shopping by creating an “easier to meet standard.” See *O’Brien, id.* at 659. The judicial code was designed to provide guidance to judges and to provide a structure for regulating conduct through disciplinary agencies, it was not intended to be invoked by lawyers for mere tactical advantage. *O’Brien* also held that there was no need to engraft Rule 63(c)(3) standards on to section 2-1001(a)(3) in order to guard against a due process violation. The fact that a second judge will examine any for cause allegations, allows and preserves an independent, neutral assessment of the allegations against the challenged judge that comports with due process concerns. See *O’Brien, id.* at 660.

In other words, the Code of Civil Procedure provides adequate means for challenges based on cause and also as a matter of right. As such, there is no need to invoke or attempt to invoke, the tenets of the judicial code as a basis to achieve disqualification or recusal. As Justice Karmeier stated in his special concurrence: "The standard set forth in Rule 63(c)(1) of the Code of Judicial Conduct, Illinois Supreme Court Rule 63(c)(1), may also be taken into account when determining whether a petition for substitution for cause should be allowed." Nothing in *O'Brien, id.*, mandates the standard set forth in Rule 63(c)(1) of the Code of Judicial Conduct be applied when considering requests for substitution or recusal.

### CONCLUSION

For the reasons stated herein, the appellee, Muneeza Rahman, asks the court to affirm the decision of the Second District Appellate Court entered on October 27, 2022 in Case No. 2-21-0285 indicating that the Appellate Court had no jurisdiction to review the orders denying appellant's Petition for Substitution of Judge and his Motions for Substitution and/or for Recusal.

Respectfully Submitted,



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Atty. No. 6183501

CASE NO. 129155  
IN THE SUPREME COURT OF ILLINOIS

IN RE THE MARRIAGE OF:	)	
	)	
MASUD M. ARJMAND,	)	
Petitioner,	)	Appeal from:
	)	
vs.	)	DuPage County Circuit
	)	
	)	2009 D 1168
MUNEEZA R. ARJMAND,	)	
n/k/a MUNEEZA R. RAHMAN,	)	and
	)	
Respondent.	)	Appellate Court 2 <sup>nd</sup> District
	)	2-21-0285

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Masud Arjmand,	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Morgan Stanley Smith Barney, LLC	)	
Morgan Stanley & Co., LLC	)	
Morgan Stanley & Co., Inc.	)	
Morgan Stanley Investment Management, Inc.	)	
Bryan Estes; and Stogsdill Law Firm, P.C.	)	
Defendants.	)	

**CERTIFICATE OF COMPLIANCE**

I certify that this brief conforms to the requirements of Rules 341(a) and (b). The length of this brief, excluding the pages or words contained in the Rule 341(d) cover, the Rule 341(h)(1) table of contents and statement of points and authorities, the Rule 341(c) certificate of compliance, the certificate of service, and those matters to be appended to the brief under Rule 342(a), is 31 pages.

  
\_\_\_\_\_  
Anthony Sammarco  
Attorney for Respondent/Appellee

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**CASE NO. 129155  
IN THE SUPREME COURT OF ILLINOIS**

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<b>IN RE THE MARRIAGE OF:</b>	)	
	)	
MASUD M. ARJMAND,	)	
Petitioner,	)	Appeal from:
	)	
vs.	)	DuPage County Circuit
	)	2009 D 1168
MUNEEZA R. ARJMAND,	)	
n/k/a MUNEEZA R. RAHMAN,	)	and
	)	
Respondent.	)	Appellate Court 2 <sup>nd</sup> District
	)	2-21-0285

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Masud Arjmand,	)
Plaintiff,	)
	)
v.	)
	)
Morgan Stanley Smith Barney, LLC	)
Morgan Stanley & Co., LLC	)
Morgan Stanley & Co., Inc.	)
Morgan Stanley Investment Management, Inc.	)
Bryan Estes; and Stogsdill Law Firm, P.C.	)
	)
Defendants.	)

**NOTICE OF FILING**

TO: Bryan M. Sims, Sims Law Firm, Ltd., 1700 Park Street, Suite 206, Naperville, Illinois 60563; [bsims@simslawfirm.com](mailto:bsims@simslawfirm.com)


Robert Radasevich, Neal, Gerber, Eisenberg, Two North LaSalle Street, Suite 1700, Chicago, Illinois 60602; [rradasevich@nge.com](mailto:rradasevich@nge.com)

PLEASE TAKE NOTICE that on April 28, 2023, we electronically filed with the Illinois Supreme Court, the following document: Brief of Respondent/Appellee, a copy of which is provided herein.

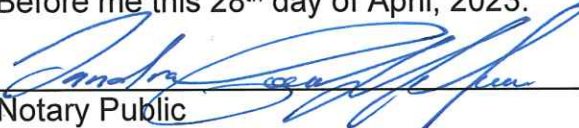
  
 \_\_\_\_\_  
 THE STOGSDILL LAW FIRM, P.C.  
 Anthony Sammarco  
 Attorney for Respondent/Appellee

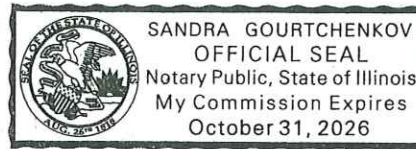
**PROOF OF SERVICE**

I, the undersigned, a non-attorney, being first duly sworn upon oath, depose and state that a copy of the aforementioned Brief of Respondent/Appellee was served upon the above named by electronic mail and Priority U.S. mail at the electronic mail address and mailing address set forth above on April 28, 2023.

  
\_\_\_\_\_  
Amanda Gerharz, Paralegal

SUBSCRIBER AND SWORN TO  
Before me this 28<sup>th</sup> day of April, 2023.

  
\_\_\_\_\_  
Notary Public



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Atty. No. 6183501

**CASE NO. 129155  
IN THE SUPREME COURT OF ILLINOIS**

---

<b>IN RE THE MARRIAGE OF:</b>	)	
	)	
MASUD M. ARJMAND,	)	
Petitioner,	)	Appeal from:
	)	
vs.	)	DuPage County Circuit
	)	2009 D 1168
MUNEEZA R. ARJMAND,	)	
n/k/a MUNEEZA R. RAHMAN,	)	and
	)	
Respondent.	)	Appellate Court 2 <sup>nd</sup> District
	)	2-21-0285

---

Masud Arjmand,	)	
Plaintiff,	)	
	)	
v.	)	
	)	
Morgan Stanley Smith Barney, LLC	)	
Morgan Stanley & Co., LLC	)	
Morgan Stanley & Co., Inc.	)	
Morgan Stanley Investment Management, Inc.	)	
Bryan Estes; and Stogsdill Law Firm, P.C.	)	
	)	
Defendants.	)	

**APPENDIX TO**  
**BRIEF OF RESPONDENT/APPELLEE**

Anthony Sammarco, Esq.  
 The Stogsdill Law Firm, P.C.  
 ARDC No.: 6183501  
 1776 S. Naperville Rd., B-202  
 Wheaton, IL 60189  
 (630) 462-9500  
[tony@stogsdilllaw.com](mailto:tony@stogsdilllaw.com)

**APPENDIX**



**TABLE OF CONTENTS****APPENDIX TO RESPONDENT/APPELLEE'S BRIEF**

- A-1. Notice of Appeal (C 14703, V8 – C 14704, V8)
- A-2. Order of December 29, 2020 (C 14218, V8 – C 14219, V8)
- A-3. Order of June 3, 2020 (C 12903, V8 – C 12904, V8)
- A-4. Order of August 25, 2020 (C 13154, V8)
- A-5. Order of December 18, 2019 (C 10557, V7 – C 10559, V7)
- A-6. Order of April 28, 2021 (C 14659, V8 – C 14660, V8)

APPEAL TO THE APPELLATE COURT OF ILLINOIS  
SECOND JUDICIAL DISTRICT

FROM THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS

IN RE THE MARRIAGE OF:

MASUD M. ARJMAND,

Petitioner,

and

MUNEEZA R. ARJMAND, N/K/A MUNEEZA R.  
RAHMAN,

Respondent.

Candice Adams  
e-filed in the 18th Judicial Circuit Court  
DuPage County  
ENVELOPE: 13479998  
2009D001168  
FILEDATE: 5/27/2021 8:38 AM  
Date Submitted: 5/27/2021 8:38 AM  
Date Accepted: 5/27/2021 10:24 AM  
EM

Case No. 09 D 1168

MASUD ARJMAND,

Plaintiff,

v.

MORGAN STANLEY SMITH BARNEY, LLC;  
MORGAN STANLEY & CO., LLC; MORGAN  
STANLEY & CO., INC., MORGAN STANLEY  
INVESTMENT MANGEMENT, INC., BRYAN  
ESTES; AND STOGSDILL LAW FIRM, PC.,

Defendants.

**NOTICE OF APPEAL**

Plaintiff, Masud Arjmand, appeals from an order of the Circuit Court of DuPage County, Illinois, entered on April 28, 2021, and all orders in procedural progression leading to it. This order denied Plaintiff's Motion to Reconsider the dismissal of his complaint. The dismissal was entered on November 19, 2020.



The order of April 28, 2021 contains a finding pursuant to Supreme Court Rule 304(a) that no just reason exists to delay the appeal or enforcement of the order. Plaintiff seeks the reversal of the order of April 28, 2021, as well as the dismissal order entered on November 19, 2020.

Respectfully Submitted,  
MASUD ARJMAND,

By: 

MASUD ARJMAND, Plaintiff

Masud M. Arjmand  
415 White Oak Dr  
Naperville, IL 60540  
masud.rrg@gmail.com  
630.961.3200

AD 325

ORDER

2009D001168-0

UNITED STATES OF AMERICA

STATE OF ILLINOIS

COUNTY OF DU PAGE

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

IN RE: THE MARRIAGE OF  
MASUD M ARJMAND

Plaintiff

AND

MUNEEZA R ARJMAND

Defendant

2009D001168  
CASE NUMBER

**\*FILED\***  
DEC 29, 2020 02:39 PM

*Candice Adams*

CLERK OF THE  
18TH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS

ORDER

THIS CAUSE coming on for hearing on the Motion to Dismiss filed by The Stogsdill Law Firm, P.C.; Bryan E. Estes; and ~~Muneeza Bahman~~; and the Motion to Dismiss filed by Morgan Stanley Smith Barney;

IT IS HEREBY ORDERED AS FOLLOWS:

1. The Motion to Involuntarily Dismiss Pursuant to 735 ILCS 5/2-619 filed by The Stogsdill Law Firm, P.C., Bryan E. Estes; and ~~Muneeza Bahman~~ is granted and Masud Arjmand's Complaint filed on December 23, 2019 in the above captioned dissolution of marriage proceed is dismissed with prejudice due to *res judicata* as stated on the record on November 19, 2020.
2. The Motion to Involuntarily Dismiss filed by Morgan Stanley Smith Barney Stanley Barney, *et al* is granted and the Complaint filed by Masud Arjmand on December 23, 2019 in the above captioned dissolution of marriage proceeding is dismissed with prejudice due to *res judicata* as stated on the record on November 19, 2020.
3. The Motion to Strike filed by Morgan Stanley Smith Barney, *et al* for failure to state a cause of action is granted and the Complaint filed by Masud Arjmand on December 23, 2019 in the above captioned dissolution of marriage proceeding is stricken for the reasons stated on the record on November 19, 2020.
4. Masud Arjmand's Motion to Sever and Transfer Severed Claims to the Law Division is rendered moot and said motion is denied.
5. The above cause is continued to December 29, 2020 at 11:00 AM in Courtroom 3009 for status and setting, hearing on motions previously filed. The hearing on December 29, 2020 shall be conducted remotely via Zoom.

Submitted by: BRYAN E. ESTES  
Attorney Firm: STOGSDILL LAW FIRM PC  
DuPage Attorney Number: 45250  
Attorney for: RESPONDENT

*[Signature]*

Entered:  
JUDGE TIMOTHY J MCJOYNT

Date: 12/29/2020 Nunc Pro Tunc as of 11/19/2020

CANDICE ADAMS, CLERK OF THE 18TH JUDICIAL CIRCUIT COURT ©  
WHEATON, ILLINOIS 60187-0707

Page 1 of 2



C 14218 V8

ORDER

2009D001168-0

Address: 1776 S NAPERVILLE RD, SUITE 202B  
City/State/Zip: WHEATON, IL, 60189  
Phone number: 630-462-9500  
Email : doreen@stogsdilllaw.com

CANDICE ADAMS, CLERK OF THE 18TH JUDICIAL CIRCUIT COURT  
WHEATON, ILLINOIS 60187-0707

Page 2 of 2

C 14219 V8

16  
129155

**\*FILED\***  
JUN 03, 2020 01:18 PM  
*Chus Kachurabas*  
CLERK OF THE  
18TH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS

2270  
1040

STATE OF ILLINOIS )  
COUNTY OF DUPAGE ) SS:

**IN THE CIRCUIT COURT FOR THE 18<sup>TH</sup> JUDICIAL CIRCUIT  
DUPAGE COUNTY, WHEATON, ILLINOIS**

**IN RE THE MARRIAGE OF:**

MASUD M. ARJMAND,  
Petitioner,

vs.

MUNEEZA R. ARJMAND,  
n/k/a MUNEEZA R. RAHMAN,  
Respondent.

Case No. 2009 D 1168

**ORDER**

THIS CAUSE coming to be heard on MASUD ARJMAND'S Amended Third Petition for Substitution of Judge for Cause and for Assignment to a Different Appellate District via Zoom hearing in Courtroom 2014 before the Honorable Robert Kleeman, MASUD ARJMAND appearing on his own behalf and Attorneys, Bryan S. Estes and Anthony S. Sammarco of The Stogsdill Law Firm, P.C. appearing on behalf of MUNEEZA RAHMAN, the Court having considered the Pleadings, Responses, Memorandum of Law, Affidavits, Exhibits, applicable case authority and oral argument presented by each party, and otherwise being fully advised:

**IT IS HEREBY ORDERED AS FOLLOWS:**

1. MASUD ARJMAND'S Amended Third Petition for Substitution of Judge for Cause and for Assignment to a Different Appellate District and all relief requested therein is denied;

HEA WUOJONING


EXHIBIT  
A-3  
tabbles



129155

2. The above cause is continued to July 15, 2020 at 9:00 a.m. in Courtroom  
3009 for status.

**ENTERED:**

  
\_\_\_\_\_  
JUDGE

June 3, 2020

\_\_\_\_\_  
Date

Prepared By:  
THE STOGSDILL LAW FIRM, P.C.  
Attorneys for Respondent  
1776S. Naperville Rd., Suite 202B  
Wheaton, Illinois 60189  
(630) 462-9500  
Atty. No. 45250  
bryan@stogsdilllaw.com  
Order re SOJ(3) 08 03 20 BSE/amg

HEA0000000000

C 12904 V8

UNITED STATES OF AMERICA

COUNTY OF DU PAGE

STATE OF ILLINOIS

IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

MASUD M ARJMAND

-VS-

MUNEEZA R ARJMAND

2009D001168  
CASE NUMBER

**FILED**

20 Aug 25 AM 11: 09

*Chris Kachiroubas*  
CLERK OF THE  
18TH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS

ORDER

For the reasons stated on the record, Petitioner's motion to reconsider the denial of his motion for substitution of judge is denied.

Submitted by: JUDGE ROBERT G KLEEMAN

DuPage Attorney Number:

Attorney for:

Address:

City/State/Zip:

Phone number:

Entered: *Robert Kleeman* File Date: 08/25/2020

JUDGE ROBERT G KLEEMAN

Validation ID : DP-08252020-1109-5393

Date: 08/25/2020

CHRIS KACHIROUBAS, CLERK OF THE 18TH JUDICIAL  
WHEATON, ILLINOIS 60187-0707

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ORDER - BLANK

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STATE OF ILLINOIS UNITED STATES OF AMERICA COUNTY OF DU PAGE  
IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

In re The Marriage of  
Masud M. Arjmand

vs

Muneeza R. Arjmand  
w/k/a Muneeza Rahman

09D 1168  
CASE NUMBER

**e-FILED**  
DEC 18, 2019 02:50 PM  
Chris Kachiroubas  
CLERK OF THE  
18TH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS

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ORDER

pg 1 of 3

This cause coming before the Court, the Court being fully advised in the premises, and having jurisdiction of the subject matter, ~~IT IS HEREBY ORDERED:~~ Attorney fees and Trial on Plaintiff's presentation of rebuttal evidence, Plaintiff appearing but unrepresented, Plaintiff made oral motion to continue all matters and trial, The Court having considered the arguments by both parties and considering the record and otherwise fully advised

It is hereby ordered As follows:

1. Masud Arjmand's oral motion to continue all matters and trial and Masud Arjmand's request one (1) week continuance to file Motion for Substitution of Judge for Cause are denied for the reasons stated and spaced of record on December 18, 2019

2. Muneeza Rahman's Third Motion for Tribunal Attorney Fees is denied for the reasons stated and spaced of record on December 18, 2019. Each party is free to bring request for contribution for attorney fees which are filed in closing arguments.

Name: Estes, B/Law firm, PC  PRO SE  
DuPage Attorney Number: 45250  
Attorney for: Muneeza Rahman  
Address: 776 S. Algonquin Rd. Ste 202B  
City/State/Zip: Wheaton, IL 60189  
Telephone Number: (630) 462-9500  
Email: bryan@estesbillard.com

ENTER: \_\_\_\_\_  
Judge  
Date: \_\_\_\_\_

CHRIS KACHIROUBAS, CLERK OF THE 18th JUDICIAL CIRCUIT  
WHEATON, ILLINOIS 60187-0700

EXHIBIT  
A-5

STATE OF ILLINOIS UNITED STATES OF AMERICA COUNTY OF DU PAGE  
IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

In re The Marriage of  
Masad M. Arjmand

09D1168

CASE NUMBER

vs

Muneera R. Arjmand

Un/K/A Muneera Rahman

Combined  
ORDER

File Stamp Here

Pg 2 of 3

This cause coming before the Court; the Court being fully advised in the premises, and having jurisdiction of the subject matter, ~~IT IS HEREBY ORDERED:~~

3. The Court providing Masad Arjmand the opportunity to present further evidence in rebuttal and additional evidence Masad Arjmand not presenting and further evidence because Masad Arjmand indicated that he is unrepresented. The Court closed the proofs at trial and provides a briefing schedule for both parties to submit written closing arguments as follows:

A. Petitioner, Masad Arjmand is granted thirty (30) days to file a written closing argument not to exceed 50 pages in the body of the argument which is due on January 17, 2020;

B. Respondent, Muneera Rahman is granted sixty (60) days to file a written closing argument not to exceed 50 pages in the body of the argument which is due February 18, 2020 due to Court holiday;

Name: \_\_\_\_\_  PRO SE

ENTER:

DuPage Attorney Number: \_\_\_\_\_

Attorney for: \_\_\_\_\_

Address: \_\_\_\_\_

Judge

City/State/Zip: \_\_\_\_\_

Date: \_\_\_\_\_

Telephone Number: \_\_\_\_\_

Email: \_\_\_\_\_

STATE OF ILLINOIS UNITED STATES OF AMERICA COUNTY OF DU PAGE  
IN THE CIRCUIT COURT OF THE EIGHTEENTH JUDICIAL CIRCUIT

In Re the ~~Marriage of~~

Masud M. Ajimani

vs

Muneza Rahman

09D1168

CASE NUMBER

Continued  
ORDER

File Stamp Here

pg 3 of 3

This cause coming before the Court; the Court being fully advised in the premises, and having jurisdiction of the subject matter, IT IS HEREBY ORDERED:

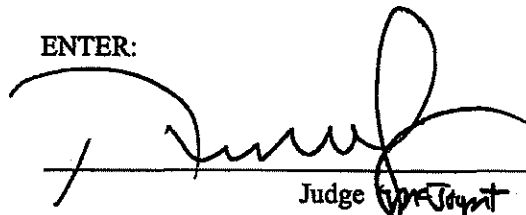
3. Petitioner Masud Ajimani is granted fifteen (15) days from date of Muneza Rahman's closing argument on (75) days from today's date which is due March 3, 2020 due to prior court holiday to file a response to Muneza Rahman's closing argument

4. Cause is continued to March 9, 2020 at 9:25 am in Courtroom 3029 for status of Court's ruling and opinion.

5. The above provisions of this Order are entered over Masud Ajimani's objection being unrepresented

Name: Edes, B / Stogsdill  PRO SE  
DuPage Attorney Number: 45250  
Attorney for: Muneza Rahman  
Address: 1776 S. Naperville Rd  
De 2023  
City/State/Zip: Wheaton, IL 60189  
Telephone Number: (630) 462-9500  
Email: bryan@stogsdilllaw.com

ENTER:

  
Judge Porter

Date: December 18, 2019



**\*FILED\***  
APR 28, 2021 02:11 PM  
*Candice Adams*  
CLERK OF THE  
18TH JUDICIAL CIRCUIT  
DUPAGE COUNTY, ILLINOIS

IN THE CIRCUIT COURT FOR THE 18<sup>TH</sup> JUDICIAL CIRCUIT  
DUPAGE COUNTY, WHEATON, ILLINOIS

2270  
3775-2260

IN RE THE MARRIAGE OF: )

MASUD M. ARJMAND, )  
Petitioner, )

vs. )

MUNEEZA R. ARJMAND, )  
n/k/a MUNEEZA R. RAHMAN, )  
Respondent. )

Case No. 2009 D 1168

Masud Arjmand, )  
Plaintiff, )

v. )

Morgan Stanley Smith Barney, LLC )  
Morgan Stanley & Co., LLC )  
Morgan Stanley & Co., Inc. )  
Morgan Stanley Investment Management, Inc. )

Bryan S. SLF )  
The Stogsdill Law Firm, P.C. )

Defendants. )

COMPLAINT

**ORDER**

THIS CAUSE coming to be heard for the continuation of the oral argument on Masud Arjmand's Motion to Reconsider and Reverse November 19, 2020 Order, the Court having considered the pleadings, case authority submitted, applicable authority, and oral arguments by the parties, and the Court being otherwise fully advised in the premises,

**IT IS HEREBY ORDERED AS FOLLOWS:**

1. Masud Arjmand's Motion to Reconsider and Reverse November 19, 2020

Order is denied for the reasons stated and spread of record on April 28, 2021;



2. Pursuant to Illinois Supreme Court Rule 304(a), there is no just reason for delaying enforcement or appeal of the Court's Order entered on December 29, 2020 *nunc pro tunc* as of November 19, 2020.

3. Pursuant to Illinois Supreme Court Rule 304(a), there is no just reason for delaying enforcement or appeal of this Order.

ENTERED:



JUDGE TIMOTHY MCJOYNT  
Date: April 28, 2021

Robert Radasevich  
NEAL, GERBER & EISENBERG LLP  
Two N. LaSalle Street, Suite 1700  
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(312) 269-8039  
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DuPage County Attorney No. 5105

Attorney for Morgan Stanley Defendants