2026 IL App (1st) 260390-U
No. 1-26-0390
Order filed November 19, 2026

NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).

IN THE

APPELLATE COURT OF ILLINOIS

FIRST DISTRICT

FOURTH DIVISION

In re THE PARENTAGE OF:

MILENA COBIC, Petitioner-Appellee,

and

BOGDAN SAVICEVIC, Respondent-Appellant.

Appeal from the Circuit Court of Cook County, Domestic Relations Division.
Honorable Jill Rose Quinn, Judge, Presiding.
No. 19 D 80288

JUSTICE MITCHELL delivered the judgment of the court.
Justice Navarro and Justice Ocasio concurred in the judgment.

ORDER

¶ 1 *Held*: The circuit court abused its discretion in ordering respondent to pay petitioner's attorney fees where it found that petitioner was able to pay her own fees. The fee award is reversed and the matter remanded with instructions.

¶ 2 Respondent Bogdan Savicevic appeals from an order granting petitioner Milena Cobic's third petition for attorney fees and ordering his contribution of $50,000 toward those fees. Respondent contends that the circuit court abused its discretion by entering the award despite expressly finding that petitioner had the ability to pay her own fees. For the following reasons, we reverse and remand with instructions.

¶ 3 I. BACKGROUND

¶ 4 Petitioner and respondent, a couple never married and now separated, have three minor children together. In 2019, petitioner commenced parentage proceedings. After roughly four years of proceedings over child support and parenting responsibilities, the parties reached an agreed judgment mid-trial allocating parental responsibilities.

¶ 5 Following the agreed judgment, trial continued on the remaining parenting and related financial issues. The court heard testimony from both parties and reviewed their financial records. Before the trial concluded, petitioner filed a third petition for interim and prospective attorney fees. The petition requested $235,150.22 in attorney fees and alleged that respondent's repeated failure to comply with court orders had forced petitioner to file multiple petitions.

¶ 6 In its July 2025 post-trial order, the circuit court made several findings regarding the parties' financial circumstances. First, it found that petitioner was fit and able to work, and that her husband provided for her and her minor children's necessities as well as comforts such as vacations and entertainment. Second, it found that petitioner's financial condition had improved since her initial filing of these proceedings as a result of her engagement and marriage. Third, it found that since 2023, petitioner had an equal or greater ability than respondent to satisfy child-related expenses. Fourth, it found that petitioner's most recent financial affidavit showed $0.00 in income and an unspecified contribution to her expenses by her husband.

¶ 7 The circuit court made findings on respondent's economic position to the extent the record allowed. While the circuit court stated it had insufficient information as to respondent's present income largely due to his own failure to provide necessary financial information, the court found that respondent's financial condition had deteriorated since petitioner's initial filing of these

proceedings. Critically, the court expressly found that "[n]either party has an inability to pay their attorney's fees in this matter."

¶ 8 The order granted petitioner's third petition for attorney fees and ordered respondent to contribute $50,000, stating that the sum was "reasonable in light of the resources of the parties and the nature and complexity of the litigation." Respondent's subsequent motion to reconsider was denied.

¶ 9 When respondent filed his notice of appeal, petitioner's tenth petition for rule to show cause remained pending, and neither the July 2025 order nor the order denying reconsideration contained a Rule 304(a) finding. The circuit court resolved that petition, the only pending claim, on March 17, 2026. Respondent's notice of appeal therefore became effective that day, and this court has jurisdiction. Ill. S. Ct. R. 303(a)(2) (eff. July 1, 2017); *In re Marriage of Kane*, 2016 IL App (2d) 150774, ¶¶ 17-20.

¶ 10 II. ANALYSIS

¶ 11 Respondent contends that the circuit court abused its discretion in awarding petitioner $50,000 in attorney fees under section 508(a) of the Illinois Marriage and Dissolution of Marriage Act because the award directly contradicts the circuit court's finding that petitioner was able to pay her own fees. 750 ILCS 5/508(a) (West 2024). Petitioner argues that the circuit court acted within its discretion and that any inconsistency does not amount to an abuse of discretion.

¶ 12 "[A] circuit court's decision to award attorney fees will not be disturbed absent an abuse of discretion." *In re Marriage of Heroy*, 2017 IL 120205, ¶ 13. That deference, however, presupposes the application of correct legal principles, and "it is always an abuse of discretion to base a decision on an incorrect view of the law." *Myrick v. Union Pacific R.R. Co.*, 2017 IL App (1st) 161023, ¶ 21. Discretion must be exercised "within the bounds of the law" (*Clemons v.*

Mechanical Devices Co., 202 Ill. 2d 344, 351 (2002)), and an award that cannot be reconciled with the court's own finding falls outside those bounds. See *In re Marriage of Eltrevoog*, 92 Ill. 2d 66, 69-71 (1982) (circuit court's findings that were "totally inconsistent and wholly irreconcilable" could not stand together).

¶ 13 Attorney fees are generally the responsibility of the party who incurred them. *In re Marriage of Lugo*, 2025 IL App (1st) 231478, ¶ 120. Section 809(a) of the Illinois Parentage Act of 2015, however, authorizes a court to order reasonable attorney fees "in accordance with the relevant factors specified in Section 508" of the Marriage Act. 750 ILCS 46/809(a) (West 2024). Section 508(a), in turn, permits a court to order one party to contribute to the other's reasonable attorney fees after "considering the financial resources of the parties." 750 ILCS 5/508(a) (West 2024).

¶ 14 A party seeking contribution must show both their own inability to pay and the other party's ability to pay. *In re Marriage of Schneider*, 214 Ill. 2d 152, 174 (2005). The inability to pay standard does not require a party to demonstrate destitution or an inability to pay any portion of the fees. *Heroy*, 2017 IL 120205, ¶ 19. Rather, the inquiry is whether, after consideration of the relevant statutory factors, "requiring the party to pay the entirety of the fees would undermine his or her financial stability." See *id.* ¶¶ 19, 30 (explaining that "[t]he statutory factors are the tools used by the court to decide whether a party is unable to pay and whether the other party is able to do so").

¶ 15 The circuit court's finding that neither party has an inability to pay is an express determination that *Schneider*'s threshold requirement was not satisfied. In *In re Custody of C.C.*, 2013 IL App (3d) 120342, ¶ 43, the Third District concluded that the circuit court abused its discretion where it made no specific finding on the respondent's ability to pay, and its suggestion

that the respondent take out a loan to cover the fees implied that he could not pay, rendering the award inconsistent with the court's own reasoning. The situation here is more direct. The circuit court did not merely fail to make a finding concerning petitioner's inability to pay; it expressly found that petitioner had no such inability. That finding necessarily establishes that requiring petitioner to pay her own attorney fees would not undermine her financial stability. *Heroy*, 2017 IL 120205, ¶ 19. Having resolved that essential statutory inquiry against petitioner, the circuit court could not consistently order respondent to contribute to those same fees under section 508(a). The award therefore cannot be reconciled with the court's express finding and constitutes an abuse of discretion.

¶ 16 Petitioner contends that the record supported her inability to pay because her husband's payment of ordinary household expenses does not increase her individual ability to pay. Although a new spouse has no legal obligation to pay a party's attorney fees (see *In re Marriage of Ziemer*, 189 Ill. App. 3d 966, 968-69 (1989)), the circuit court did not find that her husband's support enabled petitioner to pay her own fees. While the July 2025 order references that support, the court also found that petitioner is fit, able-bodied, and capable of maintaining employment, and that her ability to meet child-related expenses equaled or exceeded respondent's. The circuit court was permitted to consider "any other factor that the court expressly finds to be just and equitable." 750 ILCS 5/501(c-1)(1)(I) (West 2024).

¶ 17 Petitioner's reliance on *In re Parentage of A.H.*, 2023 IL App (1st) 190572, is likewise misplaced. Although the *A.H.* court considered the support the petitioner received from a spouse as evidence of an inability to pay, it ultimately based its decision on "the gross disparity in the parties' financial conditions and respondent's ability to pay." *Id.* ¶ 133. The circuit court here made no comparable finding of disparity. To the contrary, it expressly found that neither party was unable

to pay. The critical distinction is that *A.H.* did not dispense with the requirement that the party seeking contribution show an inability to pay. Rather, the court's determination rested on the financial circumstances of the parties considered as a whole. *Id.* Here, the circuit court expressly found that petitioner did not satisfy that threshold requirement.

¶ 18 Petitioner argues that respondent cannot rely on the incomplete record of his current finances because the circuit court attributed that gap largely to respondent's own failure to produce information. That argument concerns only respondent's ability to pay and has no bearing on the circuit court's express finding that petitioner can pay her own fees. While the partial award reflects careful consideration, it cannot be reconciled with that finding and therefore cannot stand.

¶ 19 Although petitioner alleged that respondent's repeated noncompliance with court orders necessitated the filing of multiple petitions, those allegations do not alter the section 508(a) analysis. An award under that provision requires consideration of the parties' financial resources and satisfaction of the inability-to-pay standard. 750 ILCS 5/508(a) (West 2024); *Heroy*, 2017 IL 120205, ¶ 19. Any fees attributable to enforcement proceedings under section 508(b) present a separate statutory question not before this court. 750 ILCS 5/508(b) (West 2024).

¶ 20 III. CONCLUSION

¶ 21 For the reasons stated, the judgment of the circuit court awarding petitioner $50,000 in attorney fees is reversed. The cause is remanded with instructions to vacate that award and deny petitioner's third petition for attorney fees to the extent it seeks contribution under section 508(a) of the Illinois Marriage and Dissolution of Marriage Act.

¶ 22 Reversed and remanded with instructions.