2026 IL App (1st) 251688-U
Nos. 1-25-1688 and 1-25-2184 (consolidated)
Order filed November 25, 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NOTICE: This order was filed under Illinois Supreme Court Rule 23(b) and is not precedential except in the limited circumstances allowed under Rule 23(e)(1).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

FIFTH DIVISION

In re the Former Marriage of

JULIE SMITH PENN, Petitioner-Appellee,

and

KURT PENN, Defendant-Appellant.

Appeal from the Circuit Court of Cook County.
Honorable Jeanne M. Reynolds, Judge, Presiding.
No. 2016 D 230540

JUSTICE C.A. Walker delivered the judgment of the court.
Justices Pucinski and Hyman concurred in the judgment.

ORDER

¶ 1 *Held*: We dismiss respondent's consolidated appeals because he failed to provide sufficient records from which this court can ascertain its jurisdiction.

¶ 2 In these consolidated appeals, arising from postdissolution litigation in the former marriage of respondent Kurt Penn and petitioner Julie Smith Penn, respondent appeals *pro se* from the trial court's orders that he (1) reimburse petitioner for their children's out-of-state education expenses and thereafter pay 50% of their children's college-related expenses and (2) pay petitioner's attorney fees. Because we cannot ascertain our jurisdiction, we dismiss these appeals.

¶ 3 I. BACKGROUND

¶ 4 The following background is derived from the common law records. No reports of proceedings are included for any hearings relevant to the issues on appeal.

¶ 5 Petitioner and respondent married on December 29, 2000, and had two children. On November 30, 2016, petitioner filed for dissolution of marriage pursuant to the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/401(a) (West 2016)). The trial court granted the petition on December 27, 2018, in a judgment that incorporated a Marital Settlement Agreement (MSA).

¶ 6 The MSA stated, *inter alia*, that petitioner and respondent would contribute to their children's college education expenses and defined those expenses. It also provided that each child's choice of school would be, "to the fullest extent possible," determined by mutual agreement of the parties with "due consideration" for the child's preference. The section governing school choice stated that the "parties agree that by way of limitation" college education expenses "shall not exceed those provided for in the catalog of the University of Illinois—Champaign/Urbana campus" for the applicable year and course of study unless the parties agreed otherwise in writing.

¶ 7 The MSA additionally provided that petitioner and respondent would "each be responsible for their own respective attorney's fees and costs" and would "indemnify and hold the other harmless from payment of the same."

¶ 8 On January 28, 2025, petitioner filed a petition for allocation of college expenses pursuant to section 513 of the Act (750 ILCS 5/513 (West 2024)). The petition stated that both children were enrolled in an out-of-state school by the parties' agreement, but respondent was "outright refusing to contribute to the children's outstanding college expenses."

¶ 9 In respondent's *pro se* response, he denied agreeing to the children attending an out-of-state college. Respondent argued that the MSA limited college expense obligations to the cost of attendance at the University of Illinois at Urbana-Champaign.

¶ 10 On April 21, 2025, petitioner filed a motion for sanctions and other relief pursuant to Illinois Supreme Court Rules 201 (eff. Mar. 17, 2023) and 219 (eff. July 1, 2002), stating that respondent "intentionally manipulated his discovery production to make it more time consuming for [petitioner's] counsel to access." Among other relief, she requested that the trial court order respondent to pay her attorney fees and costs accrued in accessing and reviewing his discovery production and in preparing the sanctions motion.

¶ 11 Respondent filed his own motion for Rules 201 and 219 sanctions on April 22, 2025, asserting that petitioner and her counsel had engaged in, among other things, discovery-related misconduct including producing misleading financial documentation. Among other relief, respondent requested that the trial court order petitioner to pay attorney fees "for all the time he is needing to spend on this case."

¶ 12 In an order dated May 23, 2025, the court noted that the parties had appeared before it on their sanctions motions. The court continued the matter for "status regarding settlement."

¶ 13 The trial court scheduled a hearing on August 13, 2025. On June 18, 2025, respondent moved to change the venue for that hearing, which the court denied. On August 29, 2025, this court denied respondent's petition for leave to appeal the denial of his motion for change of venue. *In re the Former Marriage of Penn*, No. 1-25-1514 (Aug. 29, 2025) (unpublished dispositional order). The record does not disclose whether the trial court disposed of the sanctions motions.

¶ 14 On August 26, 2025, the trial court entered an order indicating that, on August 13, 2025, the parties appeared, and the court heard their testimony and considered the evidence. The court

ordered respondent to reimburse petitioner $8,864.22 for educational expenses. Starting with the fall 2025 academic term, respondent would be obligated pay "fifty percent (50%) of all college-related expenses for the children," which included "tuition and mandatory fees, room and board whether on-campus or off-campus, required books and course materials, and expenses related to study-abroad programs approved by the college or university." The order additionally provided that respondent remained responsible for half of all automobile, cell-phone, and health-related expenses petitioner incurred on the children's behalf. Finally, the court granted petitioner's counsel leave to file a petition for contribution to attorney fees and costs pursuant to section 508 of the Act (750 ILCS 5/508(b) (West 2024)). The order lacked Illinois Supreme Court Rule 304(a) (eff. Mar. 8, 2016) language.

¶ 15 Respondent timely filed a notice of appeal from the judgment of August 26, 2025 (appeal number 1-25-1688).

¶ 16 On September 23, 2025, petitioner filed in the trial court a petition for attorney fees and costs pursuant to section 508 of the Act (750 ILCS 5/508(a)(3), (b) (West 2024)). In response, respondent asserted, *inter alia*, that petitioner presented a fraudulent document at the August 13, 2025, hearing. The trial court granted petitioner's petition on October 1, 2025, ordering respondent to pay petitioner's counsel $10,806.50 under section 508(b) and $10,000 for "interim [a]ppellate fees" under section 508(a)(3.1). This order also lacked Illinois Supreme Court Rule 304(a) (eff. Mar. 8, 2016) language.

¶ 17 Respondent timely filed a notice of appeal from the judgment of October 1, 2025 (appeal number 1-25-2184).

¶ 18 On our own motion, we consolidated respondent's appeals.

¶ 19 II. ANALYSIS

¶ 20 In the consolidated appeals, respondent contends that the trial court erred in ordering him to further contribute to the children's college education expenses, arguing the court incorrectly interpreted the MSA and section 513 of the Act. He also asserts that the court erred in awarding petitioner attorney fees where the MSA provided that each party was responsible for his or her own attorney fees and that he should not have to pay fees related to the "fraudulent" documents.

¶ 21 At the outset, this court has an independent duty to ascertain its jurisdiction. *People v. Smith*, 228 Ill. 2d 95, 104 (2008). This court cannot presume its jurisdiction based on records "insufficient to show [its] jurisdiction." *McCorry v. Gooneratne*, 332 Ill. App. 3d 935, 941 (2002). Rather, we must dismiss an appeal where jurisdiction is lacking or where we cannot determine our jurisdiction. See *Knox v. Taylor*, 2012 IL App (2d) 110686, ¶¶ 3-4; see also *Bridges v. JEHM Financial LLC*, 2025 IL App (1st) 242452-U, ¶¶ 21-22; Ill. S. Ct. R. 23(e)(1) (eff. June 3, 2025) (nonprecedential orders entered under Illinois Supreme Court Rule 23(b), on or after January 1, 2021, may be cited as persuasive authority). Respondent, as appellant, bears the burden of establishing this court's jurisdiction. *Carr v. City of Chicago*, 2025 IL App (1st) 241639, ¶ 9.

¶ 22 Generally, our jurisdiction is limited to appeals from final judgments entirely fixing and ascertaining the parties' rights. *Pnevmatikos v. Pappas*, 2025 IL App (1st) 230739, ¶ 37; see also Ill. S. Ct. R. 301 (eff. Feb. 1, 1994). Where an action "involves multiple claims," an order that does not dispose of all claims may be appealed where the trial court makes a written finding pursuant to Illinois Supreme Court Rule 304(a) (eff. Mar. 8, 2016) "that there is no just reason for delaying enforcement, appeal, or both." *Pnevmatikos*, 2025 IL App (1st) 230739, ¶ 38. Our supreme court has "defined a claim as any right, liability, or matter raised in an action." (Internal quotation marks omitted.) *In re Marriage of Gutman*, 232 Ill. 2d 145, 151 (2008). A request for attorney fees

constitutes a claim for Rule 304(a)'s purposes. *Taylor v. Highline Auto Sales, Inc.*, 2023 IL App (1st) 221590, ¶ 34. This includes a request for attorney fees as sanctions. *In re Marriage of Teymour & Mostafa*, 2017 IL App (1st) 161091, ¶ 43.

¶ 23 Before a marriage is dissolved under the Act, issues are "generally related and part of a single claim"—the dissolution—"requiring the entire matter to be resolved" before a reviewing court is vested with jurisdiction. (Internal quotation marks omitted.) *In re Marriage of Crecos*, 2021 IL 126192, ¶ 43. After a marriage is dissolved, simultaneously pending but unrelated matters "constitute separate claims." *Id.* ¶ 45. Consequently, "a final order disposing of one of several claims may not be appealed without a Rule 304(a) finding." *Id.*

¶ 24 Here, petitioner and respondent both filed motions for sanctions pursuant to Rules 201 and 219, requesting attorney fees and other relief. The records on appeal do not disclose whether the trial court disposed of either motion. The October 1, 2025, order granting petitioner attorney fees only referenced and awarded attorney fees under section 508 of the Act, without addressing Rules 201 and 219 or whether the awarded fees included those sought in petitioner's sanctions motion. As stated, "[a] request for attorney fees is a claim within the meaning of Rule 304(a)." *Taylor*, 2023 IL App (1st) 221590, ¶ 34. An order that resolves one postdissolution matter—but not a pending Rule 219 motion requesting attorney fees—is not appealable without Rule 304(a) language. *Teymour*, 2017 IL App (1st) 161091, ¶ 43. If the sanctions motions remain pending, no other matters may be appealed without Rule 304(a) language.

¶ 25 Here, neither the August 26, 2025, order nor the October 1, 2025, order—which ordered respondent to pay 50% of the children's college expenses and petitioner's attorney fees, respectively—includes Rule 304(a) language. Because we do not know whether the motions for sanctions under Rules 201 and 219 were resolved, we do not know whether the August 26, 2025,

or October 1, 2025, orders require Rule 304(a) language to be appealable. We are unable to discern whether we have jurisdiction to review the appealed-from orders. Therefore, we must dismiss this consolidated appeal where respondent failed to provide a record from which we could fulfill our duty to ascertain our jurisdiction. See *Knox*, 2012 IL App (2d) 110686, ¶¶ 3-4 (dismissing appeal where the court could not determine its jurisdiction).

¶ 26 III. CONCLUSION

¶ 27 For the foregoing reasons, we dismiss both consolidated appeals.

¶ 28 Appeals dismissed.