



¶ 3

### BACKGROUND

¶ 4 Georgiana and James Glinos were married on June 20, 1993 and had three children. Both parties filed petitions for dissolution of marriage in May 2012, which were consolidated.

¶ 5 During the next two years, the parties, while represented by their respective attorneys, engaged in discovery and negotiations. On February 19, 2014, the parties answered ready for trial and presented their trial stipulations. There was discussion between the attorneys between February 19, 2014, and February 26, 2014, regarding modifications to be made to the proposed judgment for dissolution. On February 24, 2016, Georgiana's counsel Davis Friedman LLP, filed a notice of motion for leave to withdraw on the return date of February 26, 2014.

¶ 6 On February 26, 2014, both parties appeared in court and were represented by counsel. After a hearing, the court entered the judgment order for dissolution of marriage. The written judgment appears to be a document prepared in advance of the prove-up with the term "date of the Agreement" or "Agreement" stricken and the manual insertion of the word "judgment" in place of "agreement." The court entered a separate order stating that "over Petitioner's objections," "a judgment for dissolution of marriage, incorporating the court's final prove up shall be entered, *instanter*" and also "over Petitioner's objection," Davis Friedman LLP was permitted to withdraw as her counsel of record.

¶ 7 On March 28, 2014, Georgiana filed a *pro se* motion to vacate the judgment arguing that she was coerced into agreeing to the martial settlement agreement and that the terms of the martial settlement agreement were unconscionable. On September 19, 2014, Georgiana's new counsel filed a motion for leave to file a supplement to her motion to vacate. Georgiana also filed a motion for leave to file a supplement to her motion to vacate *instanter* on September 22,

2014. On September 22, 2014, the court denied the motion to vacate and both motions for leave to file motions to supplement the motion to vacate. This appeal followed.

¶ 8 ANALYSIS

¶ 9 Georgiana argues that the trial court erred in denying her motion to vacate the judgment for dissolution of marriage and in denying her motions to supplement her motion to vacate.

¶ 10 At the forefront we note that James argues that Georgiana improperly filed her motion to vacate in the trial court under section 2-1301(e) which provides relief from non-final orders of default or from a final default judgment within 30 days of its entry. 735 ILCS 5/2-1301(e) (West 2014); *Harnack v. Fanady*, 2014 IL App (1st) 121424. James argues that Georgiana should have filed her motion to vacate under section 2-1203 which allows for a party to move to vacate a final judgment within 30 days (735 ILCS 5/2-1203 (West 2014)), and therefore we should not consider her appeal. However, we need not consider this issue as our standard of review is the same, abuse of discretion, for motions filed under 2-1301 and 2-1203. *In re Marriage of Sutherland*, 251 Ill.App.3d 411, 414 (1993) (we review the trial court's denial of a posttrial motion to vacate under section 2-1203 for an abuse of discretion and determine whether the trial court's denial results in substantial justice being done between the parties.); *Standard Bank & Trust Co. v. Madonia*, 2011 IL App (1st) 103516, ¶ 8 (we review a trial court's denial of a section 2-1301 motion to vacate for an abuse of discretion.)

¶ 11 From the record presented, we are unable to determine whether the trial court abused its discretion in this case. As the appellant in this case, Georgiana bears the burden of providing a sufficient record for us to assess the trial court proceedings. Our supreme court “has long held that in order to support a claim of error on appeal the appellant has the burden to present a

sufficiently complete record.” *Webster v. Hartman*, 195 Ill. 2d 426, 431 (2001) (quoting *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984)).

¶ 12 The Illinois Supreme Court Rules set forth how the appellant must preserve the record. Relevant to the instant case, Illinois Supreme Court Rule 321 provides that “[t]he record on appeal shall also include any report of proceedings or bystander's report prepared in accordance with Rule 323.” *Id.* In turn, Rule 323(a) requires the report of proceedings to “include all the evidence pertinent to the issues on appeal.” Ill. S.Ct. R. 323(a) (eff. Sept.23, 1996). Pursuant to Rule 323(c), “[i]f no verbatim transcript of the evidence of proceedings is obtainable the appellant may prepare a proposed report of proceedings from the best available sources, including recollection.” Ill. S.Ct. R. 323(c) (eff. Sept.23, 1996). These rules are requirements, not guidelines. See *In re Marriage of Thomsen*, 371 Ill. App. 3d 236, 241 (2007).

¶ 13 Our review of the record in this case shows that, other than a written order dated September 22, 2014, which indicates Georgiana's "[m]otion to vacate (filed March 28, 2014) is denied," her "emergency motion to file [a] supplement is denied" and her "motion for leave to file supplement is denied," there is nothing in the record that indicates why the trial court denied these motions. There is no transcript of the hearing on the motion to vacate, or any reference thereto and there is no discussion in the record or the appellant's brief regarding the court's reasoning to deny Georgiana's motion to supplement. There similarly is no report of proceedings bystanders report from September 22, 2014. "As there is no transcript of the hearing on the motion to vacate here, there is no basis for holding that the trial court abused its discretion in denying the motion." *Foutch*, 99 Ill. 2d at 392. Because we have no record of the reasons underlying the circuit court's reasons for her ruling on these motions, we find that the trial court's

decision to deny Georgiana's motion to vacate and to deny her motion to supplement the motion to vacate was proper.

¶ 14 Georgiana also argues she was "effectively left without an attorney on this important date when the trial court erroneously granted leave to withdraw." Counsel from Davis Friedman, LLP, filed a motion to withdraw on February 24, 2014, for the return date of February 26, 2014, the day the prove-up began and the day the judgment was entered.

¶ 15 We find Georgiana's argument disingenuous and belied by the record, and point out the waste of judicial resources in addressing this issue. Georgiana was present in court on February 26, 2014, and the transcript shows that Georgiana was represented by counsel. The transcript from that date shows that Benton Page of Davis Friedman, LLP, appeared on Georgiana's behalf. Page engaged in a lengthy examination of Georgiana regarding her understanding and acceptance of the marital settlement agreement. He also participated in discussions with the court and opposing counsel. Likewise, the judgment for dissolution of marriage, entered February 26, 2014, states, "both parties appearing in open court in their own proper persons and by their respective attorneys, Benjamin Page of Davis Friedman, LLP for Georgia." Furthermore, the court's order from the same date reflects that "both parties appearing through counsel" and "Davis Friedman, LLP, is granted leave to withdraw as counsel of record for petitioner, Georgiana Glinos, instanter." Clearly, counsel was granted leave to withdraw at the conclusion of the proceedings on February 26, 2014. Therefore, this argument is without merit.

¶ 16

#### CONCLUSION

¶ 17 For the foregoing reasons, we affirm the judgment of the trial court.

¶ 18 Affirmed.