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IN THE
APPELLATE COURT OF ILLINOIS
SECOND DISTRICT

<i>In re</i> MARRIAGE OF JANE LAY,)	Appeal from the Circuit Court
)	of Lake County.
Petitioner-Appellee,)	
)	
and)	No. 03-D-2040
)	
WILLIAM LAY,)	Honorable
)	Christopher B. Morozin,
Respondent-Appellant.)	Judge, Presiding.

JUSTICE BIRKETT delivered the judgment of the court.
Justices Burke and Hudson concurred in the judgment.

ORDER

- ¶ 1 *Held:* Respondent failed to show any error in the trial court’s award of attorney fees: the award had a statutory basis, specifically section 508(b), and the record demonstrated respondent’s improper purpose under that section; given the incomplete record, we could not say that petitioner’s attorney failed to provide sufficient specifics to support the invoice; the trial court had jurisdiction to enter the award, regardless of any defect in the pleadings.
- ¶ 2 William Lay, the respondent in a dissolution-of-marriage proceeding, appeals, seeking review of attorney fees that the court awarded in relation to a group of post-decree enforcement proceedings. He argues (1) that the court lacked a statutory basis for the award of fees, (2) that the record does not support the award of fees, (3) that counsel’s billing statement was

insufficiently specific to support the award, and (4) the court lacked jurisdiction to enter the fee order, thus making the order void. We reject the first three arguments in large part because the record is not sufficiently complete to support William's claims of error. We further hold that the court had jurisdiction to enter the award. William also raises other points against the fee award, but does so so incomprehensibly that we cannot address those points. As William has not stated any basis for reversal, we affirm.

¶ 3

I. BACKGROUND

¶ 4 On October 3, 2003, Jane Lay, filed a petition for the dissolution of her marriage to William. The two had been married since 1998 and had two sons, William (Billy) and Charles, born in 2000 and 2002. Jane was not then employed. On August 10, 2005, the court entered a parenting order that gave Jane sole custody. This order also set out a detailed protocol for exchanges for visitation that was designed to minimize contact between Jane and William. The court entered a dissolution judgment on October 13, 2006. William appealed, and this court ultimately affirmed on all issues (*In re Marriage of Lay*, No. 2-06-1290 (2008) (unpublished order under Supreme Court Rule 23)).

¶ 5 On January 4, 2011, the court entered an agreed order resolving various matters then pending. This order required that transfers of the children for visitation take place at the Libertyville police station. The order further provided that, if either or both of the children had a "school function" that interfered with a fixed transfer time and if both parties agreed that participating was in the best interest of the child or children, then the parties had the option to agree to transfer the children at the function with "limited contact." A letter agreeing to the specifics of the transfer was to be "sufficient under the terms of this Order without the necessity of an additional Court Order for each school function where this may be necessary." In the event

that the parties could not agree to the specifics of the transfer at the function, the transfer would take place at the Libertyville police station “immediately following the school function.”

¶ 6 On May 7, 2015, William, who acted *pro se* throughout the relevant period, filed a “Petition for Adjudication of Indirect Civil Contempt of Court and Relief.” The gist of the claim appears to be that William and Jane both attended a school function on May 6, a transfer day. The parties did not have an agreement allowing transfer at the function, but Jane became angry and confrontational when William insisted that the transfer take place at the police station. It appears that William’s objection was the lack of an exchange of letters in advance. An e-mail exchange documented in William’s exhibits shows him informing Jane, “Your behavior is inconsistent with the Agreed Order regarding the children exchange at Libertyville Police Station shy of written agreement to modify.”

¶ 7 William filed a second “Petition for Adjudication of Indirect Civil Contempt of Court” on May 18, 2015. The gist of this was that William was not receiving the medical information about the children to which the various orders entitled him. Jane responded, asserting that she had provided him with all information as the children acquired new providers.

¶ 8 On May 28, 2015, Jane, through counsel, filed a “Petition for Adjudication of Indirect Civil Contempt” relating to William’s underpayment by \$182 of an earlier \$39,000 lump-sum settlement of child-support claims between them. (In this appeal, Jane argues that the grant of this award was the trigger for William’s multiple contempt petitions against her.)

¶ 9 Jane also filed a petition to modify the visitation order to require transfers at school functions when those occurred on transfer days. She stated that the parties generally had been successful with such transfers, typically agreeing orally. However, she claimed that William sometimes arbitrarily or maliciously rejected them.

¶ 10 William filed an amended version of the visitation-related contempt petition. Among other things, he asked for the opportunity to question other parents present at the May 6 event. He also sought to modify the visitation order to revert to requiring that all exchanges take place at the police station. He further asserted that Jane had taken the children to Wisconsin without the week's notice required for out-of-state trips.

¶ 11 Jane responded to this, asserting that the parties had been successfully transferring the children at events for about a year before May 6. She asserted that, on May 6, William had disrupted the children's conversations with friends, saying that he had to take them to the police station to deliver them to their mother. She asserted that William routinely refused to switch weekends for visitation so as to aid the children in attending events such as Billy's confirmation or a family wedding.

¶ 12 William filed a third contempt petition on June 1, 2015. This asserted that Jane had failed to adequately comply with the requirement that he be listed as a parent with medical care providers and receive the names of all such providers. William asserted that he was not listed as a "contact" with some providers. The background to his objections was Jane's obtaining of duplicative insurance coverage for the children in her name, with the result that William no longer received insurance statements.

¶ 13 William filed what appears to be a fourth petition on June 8, 2015. This petition also related to Jane's alleged failure to list him as a parent in the records of medical providers. He filed what appears to be a fifth petition on June 15, 2015. This was based on Jane's alleged failure to list William as a parent or contact with a driving school in which she had enrolled Billy.

¶ 14 On June 15, 2015, William filed a document in which he stated that, with respect to the medical-care-related issues, his desired relief was that Jane be prohibited from using the insurance she had obtained for the children. This was so that William would see all of the documents sent to an insured person.

¶ 15 On June 17, 2015, Jane filed a petition to quash a subpoena issued to her employer. She asserted that the documents that William sought were unrelated to any issue before the court. She further noted that William had filed other subpoenas associated with his pleadings. She asserted that these served no purpose but harassment. She also objected to a notice to produce from William that sought all communication between the two of them; she noted that William had equal access to that communication. William, in his response, asserted that Jane was abusing child-support payments by using them to pay for litigation.

¶ 16 On June 30, 2015, William filed a “Motion to Compel the Petitioner to Disclosure [sic] Medical Recommendations by the Doctor to Parties’ Children.” This filing also sought to bar Jane from using child-support money to pay her lawyer. Attached to the filing was a medical provider’s record of describing receiving a call from William “as [she] often [did] after well check ups.”

¶ 17 On June 30, 2015, the court had a status date for all pending matters. Jane withdrew her petitions, as William had paid his child support and had withdrawn his subpoena and record request. Jane thereafter filed responses to the remaining petitions. She asserted that the current “barrage” of pleadings from William appeared to be designed to harass her and deplete her funds in response to an earlier grant of lump-sum child support. She asserted that she had attempted to make sure that providers were willing to give information to William, but that those requests frequently had to be made anew after administrative changes.

¶ 18 On July 28, 2015, the court heard argument on all matters then pending. It ordered that, when visitation exchanges occurred on nights of school events, the children could arrive with one parent and leave with the other, with no interaction between the parents required. It further found that William had not met his burden as to the visitation-transfer petition and that the petitions relating to parental notification and listing were moot. The court specifically permitted Jane to file a petition for attorney fees.

¶ 19 On August 25, 2015, Jane filed a petition under sections 508(a) and (b) of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/508(a), (b) (West 2014)), in which she sought attorney fees of \$8,764.39. She asserted that, before filing the series of pleadings at issue here, William had been resistant to paying the \$39,000 support settlement and had proposed that she pay \$39,000 in settlement for her “ ‘misdeeds.’ ” She argued that the confusing and illogical structure of William’s filings required more time to address than would better-structured filings. Jane asserted in passing that the court had heard testimony at the hearing on the pleadings. She noted that William had a higher base pay than she did and often received large bonuses. She stated that she had only retirement savings to cover her legal expenses.

¶ 20 William responded to the fee petition. He asserted that Jane had failed to meet the burden under section 508(a) of showing that she was unable to pay the fees. In particular, he suggested that Jane had jewelry with an appraised value of \$63,176 that she could sell to cover attorney fees. (The appraisals, attached as an exhibit, were for replacement cost.) He further asserted that Jane had equity in the house where she and the children lived. The response is 47 pages long, with 52 pages of exhibits; we thus cannot easily summarize it.

¶ 21 On October 8, 2015, the court partially granted Jane's fee petition, awarding \$4,500 in fees. The order implied reliance on section 508(b) of the Act:

“This cause coming on for hearing on Jane's Petition for Attorney Fees filed on 8/25/15 *** the court taking time to review pleadings & William's 47 page response, the court finding that William unnecessarily increased the costs of litigation by his positions taken in his filings, It is Hereby ordered

1) That Jane's request for attorney fees under 508a is denied.

2) That due to the increased costs of litigation, William shall pay to counsel for Jane the sum of \$4500 ***.”

¶ 22 William filed a notice of appeal on October 20, 2015. He stated that the appeal was from the October 8 fee order and the July 28 order giving Jane leave to file a fee petition.

¶ 23 Included in the reports of proceedings is a document captioned “Bystander's Report,” which bears a November 6, 2015, file stamp, but which is not certified. In the first section of the “Report,” William asserts that he served Jane with the “Report” and that she did not object to it. The body of the report states that, on the dates of the orders at issue here, Jane's counsel “drafted a court order which accurately reflected an inclusive reference to material evidence not stated or attached by exhibit to a pleading (if any) and the findings and reasons of Judge Morozin.” Based on William's briefs, we interpret this phrase as an attempt to state that everything material to the court's decisions appears in the written order.

¶ 24 On November 13, 2015, the parties filed a “Proposed Joint Bystander's Report” that simply stated that counsel for Jane drafted the orders of May 28, June 30, July 28, September 1, and October 8, 2015, and that those orders “accurately reflected the findings of Judge Morozin.” The court entered an order stating that the “Proposed Joint Bystander's Report” could be entered

as a “Stipulation between the parties” and thus did not require the court’s certification. This document appears to have been originally quite similar to the November 6 “Bystander’s Report.” However, the filed version has portions crossed out so that it reads as we have quoted it. The record on appeal does not contain verbatim transcripts from any proceedings later than October 17, 2008.

¶ 25

II. ANALYSIS

¶ 26 At the outset, we hold that William has forfeited all but four of his arguments by failing to present them in a coherent and readable form. See *BMO Harris Bank N.A. v. Towers*, 2015 IL App (1st) 133351, ¶ 45 (noting that arguments inadequately presented on appeal are forfeited); see also *Spinelli v. Immanuel Lutheran Evangelical Congregation, Inc.*, 118 Ill. 2d 389, 401 (1987). The failure here is one of intelligibility. We have already quoted William’s uncertified bystander’s report, which stated that Jane’s counsel “drafted a court order which accurately reflected an inclusive reference to material evidence not stated or attached by exhibit to a pleading (if any) and the findings and reasons of Judge Morozin.” That quotation is representative. We thus deem that much of William’s brief is too incoherent for us to address. We often quote our decision in *Pecora v. Szabo*, 109 Ill. App. 3d 824, 825-26 (1982), to make a closely related point: “A reviewing court is entitled to have the issues clearly defined with pertinent authority cited and is not simply a depository in which the appealing party may dump the burden of argument and research.” We do not do appellants’ work for them. As *Pecora* teaches, we are not appellants’ research staff; similarly, neither are we their expositors, decoders, or copy editors.

¶ 27 Jane, responding, makes essentially this argument for the forfeiture of William’s claims of error. In reply, William attempts to distinguish the cited decisions on their facts. We

recognize that most decisions on the issue are superficially different: typically, when a party forfeits an argument through poor development, the failure is one of overly sparse argument and too few citations. That is not the problem here. Both of William's briefs are near the maximum permitted length (see Ill. S. Ct. R. 341(b)(1) (eff. Feb. 6, 2013)), have arguments that run for pages, and contain scores of citations. They are also poorly structured, much too long for what they say, and impenetrably written. We do not require litigants to be good writers, but we do expect them to write with the purpose of making themselves understood. We cannot know William's mind, but the results before us here suggest that his purpose was to exhaust and overwhelm. The forfeiture here is worse than a typical forfeiture—one resulting from an underdeveloped argument. This is because reading William's briefs requires significant time and effort, whereas the vacuity of an underdeveloped argument is immediately apparent.

¶ 28 To be clear, our deeming that certain of William's arguments are forfeited is not a penalty or sanction. Rather, the forfeiture is the consequence of the briefs' unreadability and the limits of our willingness to guess at William's meaning. We thus will consider only William's intelligibly presented arguments. Despite the forfeitures, we conclude that William has made three claims with adequate clarity. One, William argues that the court lacked a statutory basis for the award of fees. Two, he makes the related claim that the record does not support the award of fees. Three, he argues that counsel's billing statement was insufficiently specific to support the award. As we will discuss, we reject those arguments largely because the record is not sufficiently complete to support William's claims of error. We will also address William's claim that the court lacked jurisdiction to enter the fee order, thus making the order void (see *LVNV Funding, LLC v. Trice*, 2015 IL 116129, ¶ 27). We have a duty independent of the parties' arguments to vacate void orders. *Delgado v. Board of Election Commissioners of City of*

Chicago, 224 Ill. 2d 481, 486 (2007). Because William asserts that the fee order was void, we address whether the court had jurisdiction to enter the fee order, even though William's argument on that point is completely obscure.

¶ 29 Before we consider the substance of the three nonforfeited arguments, we must address the state and completeness of the record. We conclude that only the "Proposed Joint Bystander's Report" of November 13, 2015, is properly a part of the record and in a form capable of substituting for a verbatim transcript. We note that, by contrast, the document that William filed on November 6, 2015, which he captioned "Bystander's Report," cannot serve that purpose. Illinois Supreme Court Rules 323(c) and 323(d) (eff. Dec. 13, 2006) provide for two forms of record that can serve as a substitute for verbatim transcripts. Rule 323(c) permits a party to file a proposed bystander's report; the party proposing the report must serve it on the opposing party *and* the court must certify the report for it to become part of the record as a transcript substitute. Rule 323(d) permits the parties to stipulate to an agreed statement of facts. Such a statement becomes a substitute for a verbatim transcript without certification. William's "Bystander's Report" of November 6, 2015, is not proper under either Rule 323(c) or (d), as it is neither certified nor agreed. The "Proposed Joint Bystander's Report," on the other hand, was agreed and thus did not need certification. We note, however, that the agreed statement says nothing more than that the orders of May 28, June 30, July 28, September 1, and October 8, 2015 "accurately reflected the findings of Judge Morozin."

¶ 30 William relies on the "Joint Bystanders' Report" to argue that all facts and findings that were material to the court's decisions are included in the text of the court orders. That argument would make some sense if the agreed statement contained the language of William's uncertified "Bystander's Report" of November 6, 2015, which we take as an attempt to make the orders all-

encompassing by so declaring them. But the actual agreed statement did not include any language suggesting comprehensiveness. We thus cannot take the agreed statement to tell us what did not happen. For example, although William would apparently have us read the statement to bar the possibility that the court inquired into the specifics of counsel's invoice and received a satisfactory answer, we cannot read the agreed statement that way. Moreover, regardless of the language used, an agreed statement of facts cannot serve as a vehicle to change facts that are otherwise apparent from the record. *Village of Mundelein v. Thompson*, 341 Ill. App. 3d 842, 846 (2003). The court had all of William's filings and appearances from which to form an impression of his purposes; the agreed statement cannot modify that procedural fact.

¶ 31 Because the record here lacks a proper substitute for verbatim transcripts of the hearings that produced the fee order, the principles of *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984), are relevant to our decision. Under *Foutch*, we must resolve any uncertainty that arises from the incompleteness of the record against the appellant. *Foutch*, 99 Ill. 2d at 392. Further, unless the record positively shows the contrary, we must presume that the trial court's decision was in accord with the law and had a proper factual basis. *Foutch*, 99 Ill. 2d at 392. That said, the *Foutch* presumptions do not logically rule out the possibility that an incomplete record may be sufficient to show that an error of law or logic made the decision unsustainable.

¶ 32 We now turn to the three arguments of William's that we can address on their merits: that the court lacked a statutory basis for the award of fees; that the record does not support the award of fees; and that counsel's billing statement was insufficiently specific to support the award. We consider each in turn.

¶ 33 We do not agree that the award of fees lacks a statutory basis. To the extent that William's argument is understandable, it relies on a claim that the record does not establish the

section under which the court awarded the fees. This is not so; the record establishes that the court awarded the fees under section 508(b) of the Act. That section provides in part:

“If at any time a court finds that a hearing under this Act was precipitated or conducted for any improper purpose, the court shall allocate fees and costs of all parties for the hearing to the party or counsel found to have acted improperly. Improper purposes include, but are not limited to, harassment, unnecessary delay, or other acts needlessly increasing the cost of litigation.” 750 ILCS 5/508(b) (West 2014).

Here, Jane requested fees under both section 508(a) (requiring financial need) and section 508(b). The court denied fees under section 508(a), but granted fees with a mention of increased costs of litigation. Although the court did not explicitly cite section 508(b) in the order, the record is clear that the court made the award under that section.

¶ 34 William argues that the record does not support a finding that he acted with an improper purpose. Again, we do not agree. On this point, we give William the benefit of *de novo* review, as the relevant authority is unclear on the proper standard. For instance, in *In re Marriage of Harrison*, 388 Ill. App. 3d 115, 119-20 (2009), states that abuse-of-discretion review is required, but also states that an award of fees is mandatory if the court makes the relevant finding. But a manifest-error standard is the usual standard applicable to review of findings of fact made by a trial judge. *Webster v. Hartman*, 195 Ill. 2d 426, 432 (2001). Concerning the finding, we understand William again to argue that the agreed statement of facts precludes our looking beyond the words in the orders for facts supporting a finding of improper purpose. As we have explained, that is incorrect: the agreed statement of facts does not eliminate the requirement that we apply *Foutch* principles here.

¶ 35 In any event, William's filings do most of the needed work in establishing an improper purpose. First, although William's trial court filings are somewhat more intelligible than his appellate briefs, they still are not written in a way that suggests an interest in expediting the litigation—rather the contrary. Furthermore, based on the record we have, and on William's filings in particular, we could only agree with a conclusion that William intended to increase Jane's litigation burden.

¶ 36 The issues William raised in his pleadings were consistent with a desire more for enforcement for its own sake than for enforcement for his benefit or that of the children. His pleadings allow us to infer that the transfer of the children after school functions became a matter of conflict only because William chose to make it so by refusing to make consent to such transfers a matter of routine. William's pleadings relating to the enforcement of medical-record sharing allow similar conclusions. The pleadings support the conclusion that William's quest for more access to information went beyond what he needed to aid him in his compliance with the decisions that Jane made in her role as custodial parent or what he needed to understand his children's basic health status. The filings allow the conclusion that William was engaging in a fishing expedition for material to challenge her custodial power or that the litigation was intended to harass Jane and increase his control of her actions. In short, based on what is before us, we agree with the trial court that William needlessly increased the costs of litigation.

¶ 37 William's third argument is that the invoice filed by Jane's counsel was not specific enough to justify much of the time allowed by the fee award. In particular, he objects to numerous calls and e-mails between counsel and Jane, most of which were billed at the minimum time unit, and asserts that fees for none of these were permissible without their relating to a specific filing. We hold that the record is insufficient to support William's claim of error on

this point. On this argument, we once again reject William's claim that the agreed statement of facts requires us to presume that nothing relevant occurred at the fee hearing. William has cited 15 cases (the citation of 3 of which is barred by Illinois Supreme Court Rule 23 (eff. July 1, 2011)), all of which affirm the court's authority to deny fees based on insufficient specificity. However, William does not show that the trial court *must* deny fees when the invoice, taken alone, lacks specificity. He does not address whether the court may consider the particulars of the litigation to infer detail that counsel did not explicitly include. He does not address whether the court may consider any representations by counsel at a hearing in deciding the propriety of a fee request. In short, William has shown only that, if a complete record would not add further specificity to the request, the court would *not necessarily* have erred in denying portions of the request. To persuade us to reverse or modify the award, William would have to show that, even if counsel addressed every possible unclear entry in the invoice at the hearing, the court would still have had no choice but to deny the petition. He has not done that, but has again merely relied on the agreed statement of facts in a futile attempt to negate other information on which the court could have properly relied.

¶ 38 Last, William suggests that the fee order is void. He asserts that something relating to the pleadings divested the court of jurisdiction. We find no jurisdictional failure, either based on some flaw in the pleadings or from some other source. An initial pleading that places an issue before a court is a general requirement for the court to gain subject-matter jurisdiction, but for the pleading to be adequate, it need merely raise a justiciable matter. *Nationstar Mortgage, LLC v. Canale*, 2014 IL App (2d) 130676, ¶ 12. The view that faults in pleadings (or in the proceedings) can divest a court of subject-matter jurisdiction is decades outdated. *Canale*, 2014

IL App (2d) 130676, ¶ 12. Further, no issue of personal jurisdiction is present in this case. We thus reject the suggestion that the fee order is void.

¶ 39

III. CONCLUSION

¶ 40 For the reasons stated, we affirm the award of fees in favor of Jane.

¶ 41 Affirmed.