2018 IL App (2d) 170858-U
No. 2-17-0858
Order filed December 3, 2018

IN THE

APPELLATE COURT OF ILLINOIS

SECOND DISTRICT

In re MARRIAGE OF COREY A. SEVERYNS, Petitioner and Counter-Respondent, Appellee, and ELIZABETH SEVERYNS, Respondent and Counter-Petitioner, Appellee (Laura M. Dominiak, Intervenor-Appellant).	))))))))))))	Appeal from the Circuit Court of Lake County. No. 16-D-1485 Honorable Elizabeth M. Rochford, Judge, Presiding.

JUSTICE SPENCE delivered the judgment of the court.
Justices Hutchinson and Zenoff concurred in the judgment.

ORDER

¶ 1 *Held*: (1) The circuit court did not abuse its discretion in denying mother's petition to intervene in marital dissolution action between father of her child and his wife, or in denying mother's motion to reconsider; (2) appellate court lacked jurisdiction to consider circuit court's order denying mother's motion for a Rule 304(a) finding, because the order was not specified in the notice of appeal and was not a step in the procedural progression leading to any of the orders that were specified; and (3) mother lacked standing to appeal judgment of dissolution of marriage to which she was not a party. Therefore, we affirmed.

¶ 2 Laura M. Dominiak appeals *pro se* from orders denying her motion to intervene in certain

dissolution of marriage proceedings between her child's father, Corey Severyns, and his wife, Elizabeth Severyns. Laura argues that intervention should have been allowed because she was concerned that the dissolution proceedings would be used to reduce Corey's net income and thus impair her efforts to obtain child support in her parentage case against Corey and to collect on an outstanding debt. Because the circuit court did not abuse its discretion in denying intervention, we affirm.

¶ 3 I. BACKGROUND

¶ 4 Corey and Elizabeth were married in 1999, had three children (including twins), and separated in 2002. Some years later, Corey commenced a relationship with Laura. Corey and Laura began cohabitating in 2009, and they had a child in October 2010. Corey continued to provide financial support to Elizabeth and their children during their separation and Corey's relationship with Laura. In July 2016, following the deterioration of her relationship with Corey, Laura filed a complaint to determine parentage and support in Lake County.[1]

¶ 5 On August 12, 2016, Corey filed in Lake County a petition for legal separation or, in the alternative, dissolution of his marriage to Elizabeth. On August 29, 2016, Elizabeth filed a counter-petition, as well as a petition seeking temporary maintenance and child support.

¶ 6 On September 8, 2016, Laura filed a motion to intervene as of right pursuant to section 2-408(a) of the Code of Civil Procedure (Code) (735 ILCS 5/2-408(a) (West 2016)). She sought to intervene in "all proceedings regarding temporary and permanent maintenance and child

[1] A copy of the parentage petition is absent from the record on appeal. Petitioner's motion to intervene purports to have attached it as an exhibit, but no exhibits were included. Nevertheless, we assume that a parentage petition was indeed filed, as both parties reference it in their briefs.

support." Laura asserted that she should be allowed to intervene because both she and Elizabeth were seeking support from "the same stream of [Corey's] income." Pointing to the definition of "net income" for purposes of calculating child support (750 ILCS 5/505(a)(3) (West 2016)), she also stated that Corey's support obligation for their child might be reduced "[i]f inflated amounts are ordered to be paid by [Corey to Elizabeth] for maintenance and child support," or "if misrepresentations and omissions of facts lead to payments *** for maintenance that would not have otherwise been granted." She also stated that she believed that negotiations between Corey and Elizabeth would lead to an agreed order providing Elizabeth with inflated maintenance and child support payments that would reduce Corey's income and his corresponding support obligation for Laura's child.

¶ 7 The motion to intervene was accompanied by a proposed response to Elizabeth's petition for temporary maintenance and child support. Therein, Laura either admitted or pleaded insufficient knowledge to admit or deny each of Elizabeth's allegations. The response included an "affirmative statement" that Corey "has a duty to pay child support for [their minor child], which will be affected by any award" of maintenance or child support. The prayer for relief requested that the circuit court "allow only such support to be paid by [Corey] to [Elizabeth] that would not impair or reduce child support to be paid by him to [Laura]."

¶ 8 Corey filed a motion to dismiss pursuant to section 2-619(a)(9) of the Code (735 ILCS 5/2-619(a)(9) (West 2016)), contending that Laura lacked standing to intervene based on *In re Marriage of Potts*, 297 Ill. App. 3d 110 (1998), and *People ex rel. Collins v. Burton*, 282 Ill. App. 3d 649 (1996).

¶ 9 A hearing was apparently held on Laura's motion to intervene on October 31, 2016, but no transcript of the hearing appears in the record. The circuit court entered an order denying

intervention and made the following written findings: "[t]he child support statute protects the support rights of subsequent born children and the court will follow the case of *In re Marriage of Potts*, 297 Ill. App. 3d 110 (1998)." The order did not contain a finding pursuant to Illinois Supreme Court Rule 304(a) (eff. Mar. 8, 2016) that there was no just reason for delaying either enforcement or appeal or both. Following the ruling, the circuit court entered an agreed order between Corey and Elizabeth providing for temporary maintenance, child support, and other expenses relating to their children.

¶ 10 Laura filed a motion to reconsider on November 30, 2016, arguing that the circuit court erred in interpreting *Potts* and that the agreed order between Corey and Elizabeth was newly discovered evidence that was not available at the time of the hearing. She also alleged, for the first time, that "[t]here exists a past due obligation for almost $70,000 due to [Laura] from a series of loans provided for the support of the [*sic*] Corey and Elizabeth's children and the marital home."

¶ 11 The circuit court denied the motion to reconsider after a hearing on January 11, 2017, finding that it correctly applied *Potts* and that the agreed order for support was not new evidence. A transcript of this hearing appears in the record. Regarding the alleged unpaid loan, the circuit court stated that although Laura could make an argument that the loans were marital debt, the issue was not before the court. It also stated that Laura was free to file a separate breach of contract action if she desired.[2] Like the order denying Laura's motion to intervene, the order denying reconsideration did not include a Rule 304(a) finding.

[2] It appears petitioner filed a complaint for breach of contract and fraudulent transfer against Corey and Elizabeth in Cook County in October 2017, as it appears in the record as an attachment to a motion filed by Laura to stay enforcement of the Severyns' dissolution judgment.

¶ 12 On February 10, 2017, Laura filed a notice of appeal with respect to the denial of her motion to intervene and the subsequent denial of her motion to reconsider. That appeal was docketed in this court as case no. 2-17-0124. Corey filed a motion to dismiss the appeal for lack of jurisdiction, which we granted on May 17, 2017.

¶ 13 Two days later, on May 19, 2017, Laura filed in the circuit court a motion for a finding pursuant to Rule 304(a) that that there was no just reason for delaying the appeal. Corey filed a response in opposition on July 3, 2017, arguing, in part, that the order denying intervention was not a final order and, even if it was, there was just reason for delaying the appeal because her motion for intervention "concern[ed] theoretical future conduct" and her parentage case advanced the same claims made in her motion to intervene. After a hearing, the circuit court denied Laura's motion for a 304(a) finding, and indicated that "the court is not inclined to make 304(a) findings in this case." No transcript of this hearing appears in the record.

¶ 14 On October 3, 2017, the circuit court entered a judgment dissolving Corey and Elizabeth's marriage. Incorporated into the judgment was a marital settlement agreement and an order allocating parental responsibilities and parenting time. Therein, Corey agreed to pay Elizabeth $2,000 per month for the support of their three children. In lieu of maintenance, Elizabeth was awarded 75% of Corey's 401(k) account, which had an approximate value of $180,000. Elizabeth was also awarded the marital residence, which had no equity, as well as her business. Corey's interest in stock, if and when vested, was to be split between the parties. Corey and Elizabeth each retained all other accounts held in their respective sole names. In apportioning their debts and liabilities, the agreement provided that Corey would be responsible for an IRS debt of approximately $28,000. The agreement also acknowledged Corey's long-term

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Laura did not appeal the denial of that motion.

relationship with Laura and their child in common, as well as Laura's claim that she "lent monies to [Corey], [Elizabeth], and/or an entity controlled by [Corey] and/or [Elizabeth]." Corey agreed to indemnify, defend, and hold Elizabeth harmless with respect to any such claim, and Elizabeth waived any and all claims against Corey for dissipation, contribution, or reimbursement related to marital funds he spent on Laura.

¶ 15 Laura filed a new notice of appeal on October 25, 2017, commencing this appeal.

¶ 16 II. ANALYSIS

¶ 17 A. Scope of Our Review

¶ 18 As a threshold issue, we must first define the scope of our review. Although neither party has specifically addressed whether we have jurisdiction over the various issues raised in Laura's brief, we have an independent duty to ensure that jurisdiction is proper. *In re Marriage of Knoerr*, 377 Ill. App. 3d 1042, 1043 (2007). Illinois Supreme Court Rule 303(b)(2) (eff. July 1, 2017) provides that the notice of appeal "shall specify the judgment or part thereof or other orders appealed from and the relief sought from the reviewing court." "The appellate court does not acquire jurisdiction to review other judgments not specified in the notice of appeal." *Diocese of Quincy v. Episcopal Church*, 2014 IL App (4th) 130901, ¶ 35.

¶ 19 Here, Laura's notice of appeal specified three orders: (1) the order denying her motion to intervene entered on October 31, 2016; (2) the order denying her motion to reconsider entered on January 11, 2017; and (3) the Severyns' judgment for dissolution of marriage entered on October 3, 2017. Absent from the notice is any reference to the July 11, 2017, order denying Laura's motion for a Rule 304(a) finding—an issue which Laura identifies in her brief and devoted several paragraphs to. We acknowledge that notices of appeal are to be construed liberally (see *Daniels v. Anderson*, 162 Ill. 2d 47, 62 (1994)), and that the failure to specify a particular order

in a notice of appeal does not preclude our review of that order so long as the order that is specified directly relates back to the judgment or order from which review is sought (*In re F.S.*, 347 Ill. App. 3d 55, 68 (2004)). In other words, an order that is not specified in a notice of appeal may be reviewed if it is a step in the procedural progression leading to the judgment specified in the notice of appeal. *Burtell v. First Charter Service Corp.*, 76 Ill. 2d 427, 434-35 (1979). As such, we would have jurisdiction to review this order only if it was a step in the procedural progression leading to the orders that are specified in Laura's notice of appeal.

¶ 20 Even viewing her notice of appeal liberally, as we must, it cannot be said that the denial of Laura's motion for a Rule 304(a) finding was a step in the procedural progression leading to any of the orders specified therein. Notably, the orders denying her motion to intervene and motion to reconsider preceded the order denying her motion for a Rule 304(a) finding. Although the July 11, 2017, order denying her request for a Rule 304(a) finding preceded the judgment of dissolution of marriage, which was specified in her notice of appeal, it plainly was not a step in the procedural progression leading to said judgment. Accordingly, we lack jurisdiction to consider this claim of error.

¶ 21 This leads us to Laura's purported appeal of the Severyns' judgment for dissolution of marriage. As noted above, she specified the Severyns' dissolution judgment in her notice of appeal. In the concluding paragraph of her appellate brief, she requests that we "reverse the trial court's marital settlement agreement," yet her brief contains no argument on this point. Indeed, her discussion of the marital settlement agreement is largely limited to a single paragraph in her statement of facts. Ordinarily, we would deem this issue forfeited under Illinois Supreme Court Rule 341(h)(7) (eff. May 25, 2018). However, our review of this issue is precluded for a more basic reason—Laura lacks standing to appeal the judgment of dissolution. Notably, she was not

an original party to the dissolution proceeding, she was denied intervention by the circuit court, and she was not a party when the judgment was entered. Also, the Severyns' dissolution judgment does not adjudicate any of Laura's substantial rights. She therefore lacks standing to appeal from the judgment of dissolution of marriage. See *Strader v. Board of Education*, 413 Ill. 610, 613-14 (1954) (noting that a petitioner seeking review of denial of intervention may not raise issues relating to the final judgment); *In re Marriage of Perkinson*, 147 Ill. App. 3d 692, 699 (1986) (entity lacked standing to appeal order other than denial of its motion to intervene).

¶ 22 Accordingly, the only orders properly before us are the circuit court's denial of Laura's motion to intervene and the denial of her motion to reconsider. We will evaluate Laura's fraudulent conveyance and due process arguments within the context of the denial of said motions, rather than as independent causes of action as argued in her brief.

¶ 23 B. Deficiencies in Laura's Appellate Brief

¶ 24 We are also compelled to comment on Laura's non-compliance with several requirements set forth in Illinois Supreme Court Rule 341(h) (eff. May 25, 2018), which governs the form and contents of an appellant's brief. Rule 341(h)(1) mandates that the appellant's brief contain "[a] summary statement, entitled "Points and Authorities," of the points argued and the authorities cited in the Argument. This shall consist of the headings of the points and subpoints as in the Argument, with the citation under each heading of the authorities relied upon or distinguished, and a reference to the page of the brief on which each heading and each authority appear. Cases shall be cited as near as may be in order of their importance." Ill. S. Ct. R. 341(h)(1) (eff. May 25, 2018). Laura's points and authorities section contains no headings of the points into which her argument is organized, nor does it provide the page numbers of her brief that correspond with the authority cited. Rather, her points and authorities section merely lists the cases in the order

in which they appear in her brief, rather than "as near as may be in the order of their importance" as required by Rule 341(h)(1).

¶ 25 The headings that do appear in Laura's brief appear only in her argument section, and many of them are unrelated to her statement of the issues presented for review under Rule 341(h)(3). Rule 341(h)(3) requires that the appellant state the standard of review for each issue, with citation to authority. Ill. S. Ct. R. 341(h)(3) (eff. May 25, 2018). Although Laura offers a standard of review for each of her identified issues, she provides no citation to any authority in support.

¶ 26 We also observe noncompliance with Rule 341(h)(6), which requires that an appellant's brief contain a "Statement of Facts, which shall contain the facts necessary to an understanding of the case, stated accurately and fairly without argument or comment, and with appropriate reference to the pages of the record on appeal." Ill. S. Ct. R. 341(h)(6) (eff. May 25, 2018). Laura's statement of facts improperly contains argument. For example, she argues that the trial court either ignored or prohibited her from presenting various arguments, and she characterizes the Severyns' marital settlement agreement as "unequitable [*sic*] property distribution."

¶ 27 Our supreme court's rules governing appellate briefing are rules, not mere suggestions. *Hall v. Naper Gold Hospitality LLC*, 2012 IL App (2d) 111151, ¶ 7. These rules are in place so that parties will present clear and orderly arguments and thus enable the reviewing court to ascertain the issues and dispose of them properly. *Id.* Where a brief does not substantially conform to applicable supreme court rules, we may strike the brief. *Id.* Although Laura filed her brief *pro se*, she nevertheless "must comply with the same rules of procedure required of attorneys," and "this court will not apply a more lenient procedural standard." *Harvey v. Carponelli*, 117 Ill. App. 3d 448, 450 (1983).

¶ 28 These various deficiencies in Laura's brief undoubtedly hinder our review, and we could strike her brief due to its nonconformance with these rules. However, meaningful review is not completely precluded by Laura's brief, as the record on appeal is relatively straightforward and we have the benefit of a cogent joint brief filed by appellees. See *Twardowski v. Holiday Hospitality Franchising, Inc.*, 321 Ill. App. 3d 509, 511 (2001). Also, appellees have not requested that any part of Laura's brief be stricken. We therefore elect not to strike Laura's brief, but rather, address the issues raised therein to the extent that we are able to understand them and where jurisdiction is proper.

¶ 29 C. Intervention

¶ 30 Turning to the merits, we first address Laura's contention that the circuit court erred in denying her motion to intervene. Section 2-408 of the Code (735 ILCS 5/2-408) (West 2016)) governs the rules for intervention in civil proceedings, where two types of intervention are recognized: intervention as of right and permissive intervention. As relevant here, intervention as of right is governed by subsection (a). It provides as follows:

> "Upon timely application anyone shall be permitted as of right to intervene in an action: (1) when a statute confers an unconditional right to intervene; or (2) when the representation of the applicant's interest by existing parties is or may be inadequate and the applicant will or may be bound by an order or judgment in the action; or (3) when the applicant is so situated as to be adversely affected by a distribution or other disposition of property in the custody or subject to the control or disposition of the court or a court officer." 735 ILCS 5/2-408(a) (West 2016).

¶ 31 The purpose of intervention is to expedite litigation by disposing of the entire controversy among the persons involved in one action to prevent a multiplicity of actions. *Bishop v. Village*

of Brookfield, 99 Ill. App. 3d 483, 487 (1981). Intervention statutes are remedial in nature and should be construed liberally "to allow a person to protect an interest jeopardized by pending litigation to which he is not a party or to avoid relitigation in another suit of issues which are being litigated in a pending suit." *City of Chicago v. John Hancock Mutual Life Insurance Co.*, 127 Ill. App. 3d 140, 143 (1984). In ruling on a petition to intervene as of right, the "trial court's discretion is limited to determining timeliness, inadequacy of representation and sufficiency of interest." *Id*. at 144. All provisions of the intervention statute must be met. *Soyland Power Co-op. v. Illinois Power Co.*, 213 Ill. App. 3d 916, 918 (1991).

¶ 32 As framed by her brief, it appears that Laura's primary claims of error concerning the denial of her motion to intervene are that the circuit court "failed to consider [her] standing based upon fraudulent transfer law" and "ignore[d] her allegations of fraud on the court and fraudulent transfer." In support, she draws our attention to the Uniform Fraudulent Transfer Act (UFTA) (740 ILCS 160/1 *et seq*. (West 2016)), which she contends provides "protection against this form of fraud." According to Laura, the Severyns' dissolution proceeding was "suspiciously timed" because she had recently filed a parentage action seeking support from Corey and had asked him to repay a personal loan, which she considered a loan to his marital estate. She also stresses that neither Corey's petition for dissolution of marriage nor Elizabeth's counter petition acknowledged their long-term separation or the existence of Corey's child with Laura. She states that these circumstances "fit the criterion for [the] 'badges of fraud' " under the UFTA. According to Laura, the closest authority she could locate is *Mejia v. Reed*, 31 Cal. 4th 657, 669 (2003), wherein the California Supreme Court held that the UFTA applies to property transfers under marital settlement agreements.

¶ 33 Laura's arguments in this portion of her brief are difficult to follow. As best we can discern, much of it appears to do no more than explain what motivated her decision to seek intervention rather than argue that the circuit court abused its discretion in denying it. She states that she sought intervention "due to concerns that Corey and Elizabeth were using the judicial system as a means to dramatically reduce Corey's child support obligation to [Laura's] child." Similarly, she states that "the justification for intervention was clearly concern for fraudulently evading a financial obligation," that "ripe conditions exist[ed] to deprive a child of justly adjudicated support," and that she "attempted to intervene due to concerns that her rights were in danger." She contends that "virtually all of the badges of fraud are met," which was "the driving force behind her motion to intervene."

¶ 34 To the extent that Laura references the UFTA as a basis for relief, we find that this argument is forfeited. Rule 341(h)(7) requires that an appellant's brief contain "[a]rgument, which shall contain the contentions of the appellant and the reasons therefor, with citation of the authorities and the pages of the record relied on." Ill. S. Ct. R. 341(h)(7) (eff. Nov. 1, 2017). The rule is not a mere suggestion, but has the force of law. *Rodriguez v. Sheriff's Merit Comm'n of Kane County*, 218 Ill. 2d 342, 353 (2006). Rule 341(h)(7) requires the appellant to present clear and cohesive legal arguments with pertinent authority cited. *Obert v. Saville*, 253 Ill. App. 3d 677, 682 (1993). The failure to elaborate on an argument, cite persuasive authority, or present a well reasoned argument violates Rule 341(h)(7) and results in forfeiture of that argument. *Sakellariadas v. Campbell*, 391 Ill. App. 3d 795, 804 (2009).

¶ 35 Laura cites the UFTA extensively throughout her brief but fails to provide any argument that it is relevant to this case. Put simply, the matter before us does not involve an action to set aside a conveyance alleged to be fraudulent under the UFTA. In her motion to intervene, Laura

made no reference to the UFTA or alleged that she was a creditor thereunder. The motion to intervene contained no allegation that she loaned money to either Corey, Elizabeth, or their marital estate. Indeed, the first reference in the record to an unpaid loan appears in a one-sentence paragraph in the "background" section of Laura's motion to reconsider. Also, on appeal, Laura makes no argument that her motion to intervene included allegations sufficient to state a cause of action under the UFTA.

¶ 36 Although Laura's motion to intervene demonstrates that she was concerned that Corey would agree to provide Elizabeth "inflated amounts" of maintenance and child support, it included no specific allegations of fraud or fraudulent conveyance. We observe that, in her statement of facts, Laura concedes that her fears of inflated child support and maintenance between Corey and Elizabeth did not come to fruition, stating "the settlement agreement cured the fraudulent transfer involving unconscionable maintenance agreements," and that they "abandoned unconscionable maintenance and child support." Instead, she contends on appeal that the settlement agreement resulted in "unequitable [*sic*] property distribution" between Corey and Elizabeth, which "negatively impacts [her] on-going parentage action and loans litigation." However, she failed to identify on appeal what asset she believes Corey fraudulently conveyed to Elizabeth by way of the marital settlement agreement.

¶ 37 Laura contends that the circuit court "failed to consider standing based upon fraudulent transfer law" and "ignored allegations of fraud and the badges of fraud," but she cites no case law or other authority to support her assertion that the UFTA provides standing to intervene in the dissolution proceedings of others in the absence of an action to set aside a conveyance under the UFTA—as is the case here. Put simply, all of Laura's arguments concerning the UFTA stray

far from addressing whether the trial court abused its discretion in denying her motion to intervene. We deem them forfeited.

¶ 38 In a related argument, Laura argues that the trial court deprived her of due process when it "failed to consider" or otherwise "ignored" her allegations of fraud, the badges of fraud, and fraudulent transfer when it denied intervention. She states that the court should have considered the impact the Severyns' marital settlement agreement would have on her ability "to protect herself from an illegal act of fraud." According to Laura, the circuit court made no reference to these issues in making its ruling, "[d]espite nine separate references to [the words] 'fraud, fraudulent or fraudulently' in the transcript."

¶ 39 We must reject this argument, as Laura failed to provide us with an adequate record to review this claim of error. Her assertion that the trial court simply disregarded or ignored her arguments when it denied her motion to intervene depends entirely on what transpired at that hearing. It was therefore incumbent upon her to include in the record a transcript or an acceptable substitute, but she failed to do so. See *In re Marriage of Abu-Hashim*, 2015 IL App (1st) 122997, ¶ 15 (noting that the sufficiency of the record to address a claim of error turns on the particular error claimed). Without a transcript or an acceptable substitute, we simply do not know what legal arguments Laura made or whether the circuit court "ignored" them. Notwithstanding her mention of "the transcript" in her appellate brief, she cites only the transcript from the hearing on her motion to reconsider—this does not aid us in evaluating this particular claim of error. As the appellant, Laura bore the burden to present a sufficiently complete report of proceedings to support her contentions of error. *Foutch v. O'Bryant*, 99 Ill. 2d 389, 391-92 (1984). In the absence of a transcript, we must presume that the order was in conformity with the law and had a sufficient factual basis. *Id.* Any doubts that may arise from

the incompleteness of the record must be resolved against Laura, the appellant on appeal. *Id*. We also note that nothing in the record suggests that the circuit court "ignored" Laura or otherwise fell short of its duty to fairly evaluate her arguments.

¶ 40 We next turn to Laura's argument that the trial court erred by relying on *In re Marriage of Potts*, 297 Ill. App. 3d 110 (1998). According to Laura, the circuit court improperly relied on *Potts* "at every stage in the denial of intervention" and did not consider the statutory factors for intervention as of right. She contends that the circuit court ruled "as though *Potts* created a blanket prohibition against second families intervening in dissolutions involving the first family and visa [*sic*] versa."

¶ 41 In *Potts*, we concluded that a former spouse's interest in maximizing the sum available for the support of her child was insufficient to have a right to intervene in a dissolution proceeding between her former husband and his second wife. Specifically, Jeffrey and Jennifer Potts had one child (first child) during their marriage, and they later divorced in 1991. *Id*. at 111. The following year, Jeffrey married Julie, with whom he had two children during their marriage. In January 1997, custody of the first child was transferred to Jennifer by the Winnebago County circuit court, and the issue of child support was reserved. Thereafter, in Boone County, Julie filed a petition to dissolve her marriage to Jeffrey, and they entered an agreed order dissolving the marriage and awarding maintenance and child support. *Id*. The Boone County court was apparently unaware of the proceedings in Winnebago County. *Id*. at 112.

¶ 42 At the hearing on Jennifer's motion for child support in Winnebago County, Jeffrey presented the Boone County orders for maintenance and child support. Reasoning that these orders were prior obligations of child support and maintenance under section 505(a)(3) of the Illinois Marriage and Dissolution of Marriage Act, the Winnebago County court deducted the

amounts from Jeffrey's net income and calculated his child support obligation for the first child based on his reduced net income.[3] *Id.* Jennifer then sought to intervene in the Boone County proceedings for the purpose of vacating the child support and maintenance awards, arguing that these orders deprived the first child of the appropriate amount of support. The circuit court there ultimately denied Jennifer's motion to intervene. *Id*. at 112-13.

¶ 43 On appeal, we held that the circuit court of Boone County properly denied Jennifer's motion to intervene, as she did not meet the requirements for either permissive intervention or intervention as of right. *Id*. at 113. We noted that it was not uncommon for a former spouse from a subsequent marriage to seek child support, and concluded that "Jennifer's interest in the outcome of the Boone County litigation [was] too remote to grant her a right to intervene." *Id*. at 114. We stated that "if we allowed a former spouse from a prior marriage to intervene in litigation involving support payments to the children from a subsequent marriage every time the firstborn child might be affected, then a former spouse from the subsequent marriage should also have the right to intervene any time an issue arose where the children from the subsequent marriage might be affected. We cannot encourage such disruption." *Id*. at 114. Indeed, we determined that intervention was not appropriate even in light of our observation that Jeffrey concealed from the Boone County court the existence of his first child and the support action

[3] We reversed the Winnebago County court's child support order on appeal and directed the court to recalculate child support without regard to the orders entered in Boone County because "prior obligations of support or maintenance" under section 505(a) of the Marriage Act referred to a family that is "first in time" in relation to another family. *Potts*, 297 Ill. App. 3d at 115-116.

pending there, as well as that he purposefully depleted his income available for Jennifer's child by agreeing to a high level of support for Julie and her children. *Id.* at 115.

¶ 44 In denying intervention, we were persuaded by *People ex rel. Collins v. Burton*, 282 Ill. App. 3d 649 (1996), wherein the fourth district held that a father who was ordered to pay child support did not have a sufficient interest to intervene in a paternity action between the mother and another man with whom she had a child. The father argued that the other man had colluded with the State to keep his child support payments low, and that the support paid by both men was necessarily combined by the mother to provide food, shelter, and other necessities for both children. He argued that he had an interest in seeing that the total child support received by the mother was as ample as possible. *Id.* at 651. Although the appellate court agreed that his child was indirectly affected by the amount of child support paid by the other man, it determined that the father's interest was not sufficient to have a right to intervene. *Id.* "To permit the other noncustodial parents to intervene each time that an issue arises as to the support payments that are to be paid by one of them would be an invitation to confusion." *Id.*

¶ 45 We agree with the reasoning in *Potts* and *Burton* and conclude that the trial court did not err in relying on *Potts* in denying Laura's motion to intervene. Indeed, the scenario we contemplated and rebuked in *Potts*, where a mother from a subsequent relationship seeks to intervene in proceedings involving support payments which may affect her child, presents itself here. Just as the court in *Burton* noted that it was not uncommon for a custodial parent to receive child support from more than one noncustodial parent, it is also not uncommon for a noncustodial parent, such as Corey, to pay child support to more than one custodial parent. Laura's interest in the Severyns' divorce proceedings was too remote to warrant intervention and would have caused unduly disruption, unnecessary delay, and confusion.

¶ 46 Laura attempts to distinguish *Potts* by noting that her interest in intervention was to protect against excessive maintenance and child support orders rather than interfere with the sequence in which Corey's financial obligations to both families was satisfied. We reject Laura's characterization of her interest in the dissolution proceeding, as it is undercut by her own motion to intervene. Although her motion included concerns Corey would agree to pay Elizabeth "inflated amounts *** for maintenance and child support," Laura's explicit basis for intervention was premised on the fact that both she and Elizabeth were seeking support "from the same stream of [Corey's] income." This purpose was buttressed in her proposed response to Elizabeth's petition for temporary maintenance and child support. Therein, Laura noted that any receipt of child support from Corey would "be affected by any award" of maintenance or child support to Elizabeth, and prayed that the court "allow only such support to be paid by [Corey] to [Elizabeth] that would not impair or reduce child support to be paid by him to [Laura]." Here, as in *Potts*, the possibility that her receipt of child support may be affected by child support proceedings involving the child support obligor and another family was insufficient to allow Laura to intervene in that proceeding. Further, as noted above, Laura concedes that the Severyns' settlement agreement "abandoned unconscionable maintenance and child support."

¶ 47 In a related argument, Laura contends that the circuit court erred in relying on *Potts* rather than applying the factors for intervention as of right under section 408(a) of the Code. In ruling on a petition to intervene as of right, the "trial court's discretion is limited to determining timeliness, inadequacy of representation and sufficiency of interest; once these threshold requirements have been met, the plain meaning of the statute directs that the petition be granted." *John Hancock Mutual Life Insurance Co.*, 127 Ill. App. 3d at 144. In pointing to these factors, Laura states that timeliness "was a non issue," and that her interests were not adequately

represented by either Corey or Elizabeth in their dissolution proceeding. She advances no argument in this segment of her brief that she has a sufficient interest to have a right to intervene.

¶ 48 The argument that the circuit court did not consider the statutory factors for intervention as of right, like many of Laura's other arguments, hinges on what transpired at the hearing on her motion to intervene. Without a transcript or an acceptable substitute, we would have no basis to conclude that the circuit court failed to consider these factors. We have no way of knowing what arguments were made by the parties or how the circuit court evaluated those arguments. Also, Laura points to no authority that the circuit court was required to articulate whether or how it weighed each factor in evaluating her motion to intervene as of right. Without a proper report of proceedings, the only insight into the circuit court's reasoning for denying intervention is set forth in its written findings, wherein it stated that "the child support statute protects the support rights of subsequent born children and the court will follow the case of *In re Marriage of Potts*, 297 Ill. App. 3d 110." It cannot reasonably be argued that either finding was in error. Indeed, the circuit court's explicit reliance on *Potts* in denying intervention signals that it found that Laura, like Jennifer in *Potts*, did not have a sufficient interest to warrant intervention as of right. *Id*. at 113-114. The right to intervene is not unqualified, and all of the provisions for intervention as of right must be met. *Soyland Power Co-op. v. Illinois Power Co.*, 213 Ill. App. 3d 916, 918 (1991). Because the record contains no transcript of the proceedings in which the circuit court denied Laura's motion to intervene, we must presume that the order entered was in conformity with the law and had a sufficient factual basis. *Foutch*, 99 Ill. 2d at 391-92.

¶ 49 D. Reconsideration

¶ 50 Finally, we turn to Laura's contention that the circuit court erred in denying her motion to reconsider. She argues that the circuit court "failed to consider" the agreed order for temporary

maintenance and child support entered between Elizabeth and Corey that was entered after it denied Laura's motion to intervene. She states that the agreed order was "new evidence of fraudulent transfer," in that it effectively awarded Elizabeth 75% of Corey's net income and impaired her efforts to obtain child support in the parentage proceeding.

¶ 51 The "purpose of a motion to reconsider is to bring to the court's attention newly discovered evidence which was not available at the time of the hearing, changes in the law or errors in the court's previous application of existing law." *Pence v. Northeast Illinois Regional Commuter R.R. Corp.*, 398 Ill. App. 3d 13, 16 (2010). A motion to reconsider is not an opportunity to simply reargue the case and present the same arguments the court has already considered. See *Chesrow v. Du Page Auto Brokers*, 200 Ill. App. 3d 72, 78 (1990). The decision to grant or deny a motion to reconsider lies within the sound discretion of the trial court, and we will not reverse that decision on appeal absent an abuse of discretion. *State Farm Mutual Automobile Insurance Co*., 2015 IL App (1st) 140447, ¶ 69. An abuse of discretion occurs when the trial court's ruling is arbitrary, fanciful, unreasonable, or where no reasonable person would take the view adopted by the court. *Blum v. Koster*, 235 Ill. 2d 31, 36 (2009).

¶ 52 We find that the trial court did not abuse its discretion in denying Laura's motion to reconsider. Contrary to her primary argument, the circuit court did consider the agreed order for support and the related arguments she raised, as evidenced by the transcript of the hearing on her motion to reconsider. Specifically, the court stated that "[a]s far as the order of child support being new evidence that would be relevant to her ability to intervene in this matter, the court finds that that is not the new evidence that is described or defined in a motion to intervene." Thus, the transcript of the hearing belies Laura's claim that the circuit court did not consider the support order. Also, her brief provides no argument that the circuit court erred in finding that the

agreed order of support was not "newly discovered evidence." Accordingly, we conclude that the circuit court did not abuse its discretion in denying Laura's motion to reconsider its order denying intervention.

¶ 53 III. CONCLUSION

¶ 54 For the reasons stated, we affirm the Lake County circuit court's order denying intervention and Laura's motion to reconsider.

¶ 55 Affirmed.