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2019 IL App (4th) 180256-U

NO. 4-18-0256

IN THE APPELLATE COURT

OF ILLINOIS

FOURTH DISTRICT

FILED

February 1, 2019

Carla Bender

4th District Appellate Court, IL

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|--------------------------|---|---------------------|
| <i>In re</i> MARRIAGE OF |) | Appeal from the |
| FADI ANNABA, |) | Circuit Court of |
| Petitioner-Appellee, |) | Sangamon County |
| and |) | No. 14D18 |
| RASHA ALAHDAB, |) | |
| Respondent-Appellant. |) | Honorable |
| |) | Esteban F. Sanchez, |
| |) | Judge Presiding. |

JUSTICE HARRIS delivered the judgment of the court.
Justices DeArmond and Turner concurred in the judgment.

ORDER

¶ 1 *Held:* (1) Appellee’s motions to strike portions of appellant’s brief and reply brief are granted with respect to appellant’s reference to documents not admitted as evidence before the trial court during the dissolution proceedings and matters that did not arise until after the trial court entered its dissolution judgment.

(2) The trial court’s findings of fact relative to dissipation of marital assets and the value of the parties’ property were not against the manifest weight of the evidence, and the court did not abuse its discretion in dividing marital property.

(3) The trial court did not abuse its discretion in its award of maintenance.

¶ 2 Petitioner, Fadi Annaba, filed a petition seeking to dissolve his marriage to respondent, Rasha Alahdab. In December 2016, the trial court entered a judgment of dissolution of marriage, and in March 2018, it entered an order amending its dissolution judgment. Rasha appeals, arguing the court erred in its division of marital property and its award of maintenance.

We affirm.

¶ 3

I. BACKGROUND

¶ 4

The record reflects both parties are from Syria. They were married on August 28, 1999, and had three children born in September 2000, February 2006, and September 2009. On January 13, 2014, Fadi filed his petition for dissolution of marriage. On June 26, 2014, the trial court entered a temporary relief order in the matter. It noted that Fadi worked as a physician and earned a substantial income while Rasha was unemployed and took care of the household and the parties' children. The court ordered that Rasha would have exclusive possession of the marital residence and temporary primary custody of the parties' minor children subject to Fadi's reasonable visitation. It further determined that Fadi's net monthly income was \$23,291 and ordered him to pay Rasha \$12,500 per month "for unallocated maintenance and support for the children."

¶ 5

In August 2015 and March 2016, the trial court conducted hearings in the matter. The record reflects that following the direct examination of Fadi during a hearing on August 14, 2015, the matter was continued for further hearing on October 9, 2015. However, at the October 9 hearing, Rasha moved for a continuance, asserting she no longer wanted her attorney to represent her. Rasha's attorney, Kevin Linder, filed a motion to withdraw, alleging an irreparable breakdown in the attorney-client relationship had occurred that went beyond issues of trial strategy. The court allowed Linder's motion to withdraw and continued the matter for further hearing. Following several additional continuances, hearings on the petition for dissolution of marriage resumed on March 3 and 4, 2016. The record reflects Rasha secured different counsel following the October 2015 hearing date; however, she was once again represented by Linder during the March 2016 hearings.

¶ 6

At trial, Fadi testified he was 41 years old and worked as a gastroenterologist. He

was also a partner of the Springfield Clinic. Fadi stated he resided with a woman named Andrea, whom he described as his “future wife.” Fadi testified that, “religiously speaking,” he considered himself divorced from Rasha in December 2013 and married to Andrea in April 2015.

¶ 7 Fadi testified that at the time the temporary order was entered, he was an associate with the Springfield Clinic and not yet a partner. As an associate, he had a guaranteed, fixed salary of \$450,000 per year. He worked as an associate for two years before becoming a partner on January 1, 2015. As a partner, Fadi’s earnings were based on revenue he brought in to the clinic in the course of caring for his patients.

¶ 8 At the August 2015 hearing, Fadi testified on direct examination that his gross bimonthly income from his work as a physician was \$13,454.08, and that he had a net monthly income of \$18,759.57. He expected that his gross income for 2015 would be \$322,897, and, after taxes, his net income for 2015 would be \$225,114.84. Fadi submitted a financial affidavit listing his expected tax debt for 2015 as \$97,782.16. He testified he was supposed to pay his 2015 taxes on a quarterly basis but had only paid \$10,000 toward the \$97,782.16 he was expected to owe for that year. Further, he stated that his 2015 net income was calculated based on having tax exemptions for himself and the parties’ three children.

¶ 9 During continued hearings in March 2016, Fadi testified on cross-examination and identified pay stubs he received in January 2016 and December 2015. He agreed that his January 2016 pay stub showed gross biweekly earnings of \$17,155.50 and gross monthly earnings of \$34,311. Income tax was not deducted from his gross earnings because he was a partner in the clinic. However, his pay stubs did reflect deductions in his gross income for his 401(k) in the amount of \$750 biweekly, or \$1500 per month. It also showed deductions for health, life, and disability insurance and a deduction to the State Disbursement Unit for Fadi’s child support and

maintenance obligation. After all of these deductions, the pay stub showed Fadi received a net biweekly income of \$8691.22.

¶ 10 Fadi further acknowledged that his last pay stub from 2015 reflected gross yearly earnings for 2015 of \$372,550.66. The pay stub also showed a net yearly earning—after total yearly deductions for his 401(k) (\$18,000), insurance (\$8391.02), and to the State Disbursement Unit (\$82,500)—of \$263,659.64. Fadi agreed that his 2015 pay stub reflected the same net biweekly income as his 2016 pay stub—\$8691.22. Fadi testified his paychecks did not vary from week to week. Rather, his pay was reviewed every six months. Fadi testified his January 2016 pay stub represented what he would be paid for the following six months.

¶ 11 During his cross-examination in March 2016, Fadi testified that he did not know how much he owed for his 2015 taxes but estimated that the amount was over \$100,000. According to Fadi, he had only paid \$25,000 toward that amount.

¶ 12 Fadi testified that as a partner of the Springfield Clinic, he was required to purchase a minimum of 12 shares in the clinic. He purchased 12 shares for \$77,000 and as of the August 2015 hearing date, the shares had a value of \$77,509.80. Fadi asserted he obtained a loan from Illini Bank to purchase the shares and had a minimum monthly payment toward that loan of \$1403.10. Regarding dividends from the his shares, Fadi testified as follows:

“For the 12 shares I have, I get paid \$583 a month, approximately, dividend, but then I have to—I don’t know what they call it, but I have to pay back to the dividend for the clinic for the others who have a huge share about [\$2800] a month, so in effect, I’m losing [\$2300] net every month.”

¶ 13 Fadi testified that the former marital residence was approximately 5000 square feet and had four bedrooms. He stated the residence was purchased for \$520,000 and \$365,000

was still owed on the mortgage. On his financial affidavit, Fadi claimed that the fair market value of the marital residence was \$450,000 with a mortgage of \$365,000, resulting in equity in the home of \$85,000. Evidence presented regarding an appraisal on the marital residence reflected that it had a fair market value of \$490,000.

¶ 14 Fadi testified he and Rasha also owned a limited liability company named “Cozy Homes, LLC.” They formed that company for the purpose of holding title to their former residence in Bolingbrook, Illinois. Fadi testified the Bolingbrook house was purchased for \$360,000 but “[w]hen the [housing] crash happened, [the value of the house] was down to almost [\$250,000].” He stated the housing market had improved and estimated that the home’s current value was approximately \$300,000. The record contains an appraisal for the Bolingbrook property, identifying its fair market value as \$273,000. Further, Fadi testified the mortgage on the home was \$184,000, resulting in equity of approximately \$116,000. He asserted that the parties rented the Bolingbrook house for \$2200 per month. According to Fadi, he and Rasha received \$2043 per month after a management company took 7% of the rent. He testified he also had to pay a mortgage on the residence of \$1413 per month, \$12,000 per year in property tax, and approximately \$1200 for insurance. Fadi estimated that he lost \$500 to \$700 per month on the Bolingbrook house.

¶ 15 Fadi stated that only his name was on the mortgage of both the marital residence and the Bolingbrook house. Under the temporary order, Rasha was ordered to pay the mortgage associated with the marital residence; however, Fadi had been notified by the bank that the mortgage had not been paid since May 8, 2015. Fadi stated he was responsible for paying all real estate taxes under the temporary order. He paid real estate taxes twice a year, and for his first installment on both the marital residence and the Bolingbrook house, he paid approximately

\$13,000.

¶ 16 Aside from real estate, Fadi asserted his assets included a checking account with an approximate value of \$3000, a mutual fund with a fair market value of \$5002.50, an individual retirement account (IRA) with a fair market value of \$13,344.58, a 401(k) valued at approximately \$29,726.05, and a Bright Start college fund with a value of \$68,000. On direct examination in August 2015, Fadi testified that he also had credit card debt totaling \$58,000. In March 2016, he estimated he had credit card debt totaling \$40,000.

¶ 17 In his financial affidavit, Fadi asserted that he had monthly living expenses totaling \$8548. He listed expenses of \$2000 for rent; \$110 for electricity; \$120 for gas; \$150 for car insurance; \$200 for “Gas/Oil/Repairs”; \$100 for medical and hospital expenses; \$70 for water; \$180 for telephone; \$15 for trash collection; \$1000 for groceries; \$250 for restaurants; \$600 for charitable contributions; \$25 for haircuts; \$1200 for babysitting; \$500 for personal items; \$50 for doctor visits; \$50 dentist visits; \$50 for school expenses; \$75 for cleaning and laundry; \$50 for entertainment; and \$100 for gifts, toys, and books. Fadi also included expenses associated with the Bolingbrook residence, including \$1413 per month for the mortgage, \$200 per month for repairs and maintenance, \$12,000 per year in property taxes, and \$1200 per year in insurance. Fadi asserted he received income from renting the Bolingbrook residence of \$2046 a month but, due to expenses associated with the residence, the Bolingbrook residence produced a “[n]egative income” of \$500.

¶ 18 On direct examination, Fadi explained that the \$600 charitable contributions set forth in his affidavit were mandatory under his Muslim faith. Further, he acknowledged that he no longer had any expenses associated with hiring a babysitter as both Andrea and his mother helped watch the children. Fadi further asserted that under the temporary order requiring him to

pay Rasha \$12,500 per month, he was left with approximately \$950 per month. He maintained that he had to borrow money from family members and that the “[o]nly reason [he was] actually able to eat and drink and support [his] kids [was] because [he was] not paying taxes.”

¶ 19 On direct examination, Fadi additionally testified that, throughout the marriage, the parties had provided financial assistance to their family members. He stated that Rasha traveled to Syria during the marriage and carried money with her, sometimes thousands of dollars, to give to family. Fadi asserted that his 70-year-old mother currently resided in the United States and was retired and had absolutely no income. His mother also had no place to live except with Fadi or his brothers. Fadi testified that one of his brothers, Bilal, was a dentist in Syria. Bilal recently came to the United States and had to re-enroll in dental school so that he could practice dentistry in this country. Fadi stated that he assisted his brother financially when he could. He further testified that he had another brother named Mohammed who worked as a hospitalist. Mohammed owned the house in which Fadi currently lived. He testified the house had four bedrooms and consisted of approximately 1800 square feet. Fadi testified he paid Mohammed \$2000 a month to live in the house, which Mohammed used to pay the mortgage and the taxes on the residence.

¶ 20 On cross-examination, Fadi identified bank statements that showed regular transfers of money to his brother Bilal, as well as transfers to his brother Mohammed, Andrea, and a friend named Anas Alakkam. Fadi asserted he gave Bilal money to care for his mother and had been sending his family money “since [he] set foot in America.” Bank statements submitted by the parties in a joint exhibit showed multiple monthly transfers of money from Fadi to Bilal beginning in April 2012 and continuing until June 2015. The dollar amount of the transfers increased over time and the record reflects Fadi transferred a total of \$18,350 to Bilal from April to

December 2012, \$32,700 to Bilal from January 2013 to December 2013, \$54,000 to Bilal from January to December 2014, and \$22,000 to Bilal from January to June 2015.

¶ 21 Fadi acknowledged that bank statements showed he transferred \$1000 to Anas in August 2013. According to Fadi, Anas was his lab partner at the University of Illinois and he sent Anas money because Anas had “just joined medical school and he needed help with payment.” Fadi testified the transfer represented a loan that Anas was expected to pay back when he graduated and began working; however, Fadi was not really concerned with whether Anas ever paid him back. Fadi acknowledged that he made other transfers of money to Anas and the bank statements submitted by the parties showed additional \$1000 transfers from Fadi to Anas in September, October, and November 2013, and January, February, March, April, May, July, and October 2014.

¶ 22 Fadi also acknowledged transferring money to both Andrea and his brother Mohammed. Fadi’s bank statements reflect transfers to Andrea totaling \$700 in March 2015, \$750 in April 2015, \$1000 in May 2015, and \$800 in June 2015. Additionally, those statements showed Fadi transferred \$2000 a month to Mohammed from August 2014 to June 2015. On redirect, Fadi testified the \$2000 transfers to Mohammed represented rent payments for the house in which Fadi was residing.

¶ 23 Fadi testified that his marriage to Rasha had been contentious from the beginning but he would “try to reconcile all the time.” He stated that in his religion a man could divorce his wife by telling her “it’s over, we’re separating.” Fadi asserted he made that statement to Rasha in December 2013. He acknowledged that before that time, they would fight but then reconcile. Fadi testified he had “zero intention of divorcing [Rasha] in 2013 until the end of *** December.” On redirect examination, Fadi stated that he and Rasha gave money to family members

from “day one” of their marriage and that providing financial assistance to family members was “partly cultural.”

¶ 24 Rasha, age 39 at the time of the March 2016 hearings, testified she was born in Syria and received a law degree in that country. In 1999, she moved to the United States. In 2004 or 2005, she taught Arabic at a school in Chicago, and while living in Sangamon County, she did some work as an interpreter. Rasha had also taken some college courses after moving to the United States, but she did not earn any additional degrees.

¶ 25 Rasha acknowledged that she had not looked for work or applied for any jobs since the petition for dissolution of marriage was filed in 2014. Further, she agreed that since the temporary order was entered, she had received \$242,500 from Fadi. She submitted a financial affidavit that showed total monthly living expenses of \$14,871.84. Rasha claimed total household expenses of \$9876.84, including \$2773.84 for the mortgage associated with the marital residence; \$200 for heat/fuel; \$151 for her cell phone; \$164 for cable; \$290 for water, sewer, and electricity; \$107 for computer/internet; \$15 for garbage removal; \$100 for laundry/dry cleaning; \$171 for household maintenance; \$2600 for food and household supplies; \$350 for eating out; \$2515 for a housekeeper and cleaning supplies; \$192 for landscaping expenses; \$45 for snow removal; \$43 for “[s]ecurity contract”; \$40 for aquarium upkeep; \$20 for drinking water; and \$100 for tools.

¶ 26 Rasha claimed monthly transportation expenses totaling \$428, and she asserted that she had personal expenses totaling \$1717. Rasha specifically set forth personal expenses of \$350 for clothing; \$300 for grooming; \$656 for medical expenses; \$70 for the gym; \$50 for accessories; and \$291 for hospital bills. Further, she reported miscellaneous expenses totaling \$1106, which included \$50 for clubs and entertainment; \$40 for newspapers, magazines, and

books; \$100 for gifts; \$200 for donations; \$416 for vacations; and \$300 for “vitamins, office supplies, feminine protection, mail, Walgreens, Wal-Mart, deodorant, over-the-counter medicine, bathing things, batteries, electronic repair, [and] personal hygiene products.” Finally, Rasha claimed that her separate expenses for the children totaled \$1744 and included \$350 for clothing; \$50 for grooming; \$185 for tuition, books, and lunches; \$92 for lessons and supplies; \$417 for vacation; \$150 for entertainment; \$100 for babysitting; and \$400 for “video[]games, toys[,] online orders for kids, electronic repair, *** accessories, allowance, body care, bathing things, vitamins, personal hygiene, batteries, etc.”

¶ 27 On examination by Fadi’s counsel, Rasha testified that the \$2600 figure she claimed for food and household supplies was overstated. She estimated her actual cost was \$1500 to \$2000 per month. Rasha also testified that her claimed expense for a housekeeper was overstated. She indicated she thought there should be “a lot of change with [her] affidavit,” asserting it had been filled out “without preparation.” Rasha further testified that under the current visitation schedule, the children spent almost an equal amount of time with both parents. Also, she acknowledged that since August 2015, she employed a nanny or housekeeper who worked four or five hours a day, five days a week. Rasha asserted that from May to August 2015, she employed someone who worked eight hours a day, five days a week. She testified that during the marriage, the parties also employed housekeepers.

¶ 28 Rasha acknowledged that she was responsible for making the house payments associated with the marital residence. She agreed that she had fallen three months behind in her payments but asserted she was caught up with her payments. Rasha further testified that she had credit card debt of approximately \$14,000 and that she owed money to her family totaling \$31,547.67. In her financial affidavit, Rasha also claimed that she owed \$3116.35 to Synchrony

Bank.

¶ 29 Rasha claimed assets that included the parties' real estate at unknown values, her vehicle valued at \$6900, Fadi's vehicle valued at \$6000, and a checking account with a balance of \$1603.32. Further, Rasha asserted in her affidavit that she owed legal fees to four separate law firms.

¶ 30 Rasha acknowledged that during the marriage, she took money with her to give to Fadi's family when she traveled out of the country. She denied that the parties had ever given money to her family but agreed that giving money to Fadi's family was "something [she had] always participated in and knew about." Rasha testified it would have been customary for Fadi to financially support his mother but she was "shocked" when she discovered that Fadi had given money to his brothers. Rasha testified that in her mind, the parties' marriage broke down in 2007. She acknowledged, however, that the parties' youngest child was not born until 2009. Rasha testified that the parties discussed divorce many times and on five occasions Fadi declared that he "divorced" her.

¶ 31 Following the hearings, the parties submitted written arguments to the trial court, setting forth their respective positions. On December 14, 2016, the trial court entered its judgment of dissolution of marriage. It found Fadi was employed as a physician with a gross annual income that exceeded \$375,000 a year. On the other hand, Rasha was unemployed and her sole source of income was the \$12,500 a month that she received from Fadi under the temporary order. In discussing the issue of child support, the court noted that the parties agreed that Fadi's current annual net income was \$176,704 and that its judgment allocated the majority of parenting time with the parties' three minor children to Rasha. The court ordered Fadi to pay child support of \$4712 per month, beginning January 15, 2017.

¶ 32 With respect to the distribution of marital property, the court awarded Fadi any personal property in his possession and control and any bank accounts that were exclusively in his name. It also awarded him the Bolingbrook residence, which it found to have a fair market value of \$273,000, a mortgage with an approximate balance of \$173,000, and a net equity of \$100,000. The court ordered that Fadi was responsible for paying the mortgage on the Bolingbrook residence and all other expenses associated with that residence. The court further awarded Fadi a Vanguard Account valued at \$5354.88; half of the present value of two retirement accounts, or \$15,000 and \$10,000; 6 of his 12 shares of Springfield Clinic stock; and his 2009 Hyundai Sonata.

¶ 33 The trial court awarded Rasha any personal property in her possession and control, including a 2007 Mazda CX9, and all bank accounts that were exclusively in her name. It further awarded Rasha the marital residence, which it found had a fair market value of \$490,000, a mortgage with an approximate balance of \$365,000, and a net equity of \$125,000. The court ordered Rasha responsible for paying the mortgage on the marital residence along with all other expenses associated with the property. The court further awarded Rasha a Vanguard Account with a value of \$7500; half of the present value of two retirement accounts, or \$15,000 and \$10,000; 6 of the parties' 12 shares of Springfield Clinic stock.

¶ 34 Additionally, the trial court ordered that each party was responsible for the payment of debts that were in the party's name, as well as debts incurred by each party individually since January 2014. Further, the court awarded Rasha maintenance of \$8000 per month beginning January 15, 2017, for a period of 12 years, at which time it would be subject to review. It stated that Rasha "shall have the burden of proof of establishing a good[-]faith effort in seeking education or employment and/or the need for continued maintenance." In reaching its decision,

the court discussed factors relevant to a maintenance award and indicated that it based its determination on the evidence presented as to Fadi's income, Rasha's role in the family as "caretaker," Rasha's lack of employment prospects, the length of time it would require Rasha to be reeducated or retrained for a new profession or career, the length of the marriage, and the parties' standard of living during the marriage.

¶ 35 Finally, the trial court addressed Rasha's claim that Fadi dissipated marital assets. It noted that the parties had a turbulent marriage and found that, although Fadi declared he was divorcing Rasha several times "under Muslim tradition," the parties "would reconcile each time until January 2014 when Fadi filed his Petition for Dissolution of Marriage." The court further found that the evidence supported a finding that both parties regularly assisted their families financially during the marriage. Ultimately, the court concluded that Fadi did not dissipate marital assets by sending money to his brothers, stating it did not believe Rasha's claim that she did not know Fadi had been financially assisting his brothers. Instead, it believed Fadi's testimony that the "practice of providing financial assistance to family [was] culturally expected of them and was an important part of their lives during their marriage and had been ongoing well before May of 2012." The court also found Rasha's claim of dissipation to "an unknown person" was unsupported by the evidence. However, it determined that Fadi did dissipate marital assets when he transferred money to Andrea. The court found the total amount transferred to Andrea was \$3250 and ordered Fadi to return one half of that amount (\$1625) to Rasha.

¶ 36 On January 13, 2017, Rasha filed a postjudgment motion for clarification, reconsideration, and miscellaneous relief. Relevant to this appeal, she asked the trial court to make certain clarifications regarding its distribution of the Springfield Clinic stock and Fadi's tax debt. Rasha also asked for a supplementary hearing to determine maintenance on the basis that the ev-

idence presented at trial showed Fadi would have his salary reset at the first of the year. Finally, Rasha asked the court to reconsider the beginning date of maintenance and child support, as well as the issue of dissipation relative to the transfers of money to Fadi's brothers.

¶ 37 On February 8, 2017, Rasha filed a motion for modification of maintenance and child support. She maintained that Fadi's salary had increased since the trial court's judgment was entered, warranting an increase in both his maintenance and child support obligations.

¶ 38 On December 12, 2017, Rasha filed an amended and/or consolidated motion for postjudgment relief. She complained that the trial court made various errors in its distribution of property and argued that the court improperly failed to identify what percentage of property was allocated to either party, as well as the value of each asset or debt that it allocated. Rasha also contended that the court's judgment failed "to account for many of the identified items of marital property testified to" and that the judgment was "highly disproportionate *** in favor of Fadi." Rasha asked the court to reconsider and clarify its distribution of property.

¶ 39 In connection with her motion, Rasha also asked the trial court to reopen the evidence as to the issue of maintenance. She maintained that Fadi's income was "significantly higher" than the \$375,000 figure upon which the court based its December 2016 child support and maintenance awards. In particular, Rasha maintained that following the entry of the court's judgment, she obtained Fadi's 2015 tax return, which showed Fadi's 2015 income totaled \$417,164. She further argued the court did not adequately consider various statutory factors when awarding maintenance. Additionally, Rasha asked the trial court to reconsider the effective date of his support award and award support retroactive to the date of the filing of the petition for dissolution and to modify child support and maintenance based upon substantial changes to Fadi's income.

¶ 40 On December 21, 2017, the trial court conducted a hearing on the pending postjudgment motions. On January 12, 2018, the court entered a written order addressing Rasha's postjudgment motions. The court stated as follows:

“In her Motion, Rasha seeks a redetermination of this Court's allocation of the marital property, a redetermination of the parental decision making authority, a redetermination of [the] maintenance award, and a redetermination of the start of [Fadi's] child support obligation. She asks the Court to re-open the evidence and allow her to re-litigate anew matters properly considered by the Court and which were resolved in the Judgment of Dissolution of Marriage and the Parenting Order. She wants to introduce new evidence which was not in existence at the time of the hearing or at the time of the entry of the Judgment and Parenting Order. Rasha seeks to present evidence of [the] current value of assets, of [the] current debts, and of circumstances which have developed in the year since the entry of the Judgment. Evidence acquired as a result of the passage of time since the entry of the order is not a basis to reopen and re-litigate the case. There is a legitimate legal interest in bringing finality to this case. The Motion to Re-open the evidence is denied.

Despite Rasha's assertions otherwise, the court considered all relevant evidence and statutory factors relating to the division of the marital property and debt. The Court identified and determined the value of each asset based on the evidence presented at the evidentiary hearing and divided the property and debts in a fair manner. Likewise, the Court considered the factors for the determination of the maintenance award as fully set forth in the Judgment of Dissolution of Mar-

riage. *** [Rasha] offers no real basis for reconsideration of evidence in this case. As stated above, the passage of time between the entry of the Judgment and the filing of Rasha’s consolidated Motion is not a reason for reopening the case and allowing [Rasha] a second bite at the apple by re-litigating the case.”

¶ 41 The trial court, however, did revisit the issue of the six shares of Springfield Clinic stock awarded to Rasha, noting clinic guidelines did not allow a person who was not a physician to own shares of Springfield Clinic stock. Therefore, the court awarded Fadi “all of the shares of Springfield Clinic stock he owned at the time of the entry of the Judgment of Dissolution of Marriage,” and it awarded Rasha “an amount equal to the market value of half of the Shares of Springfield Clinic stock owned by Fadi as of December 14, 2016.” On March 6, 2018, the court entered an order amending the judgment of dissolution of marriage. It amended the dissolution judgment to award Fadi sole ownership of his 12 shares of Springfield Clinic stock, to order that Fadi was solely responsible for the debt incurred for the purchase of the shares, and to order Fadi to pay Rasha a sum equal to one half of the value of the shares. The court specifically ordered Fadi to pay Rasha \$38,622.20, in four installments of \$9665.55, due on or before December 31 of each year.

¶ 42 This appeal followed.

¶ 43 II. ANALYSIS

¶ 44 A. Motions to Strike

¶ 45 On appeal, Rasha argues the trial court erred in its division of marital property and award of maintenance. Initially, however, we note that Fadi has filed motions to strike portions of Rasha’s appellant’s brief and reply brief, which we ordered taken with the case. In his motions, Fadi argues that Rasha’s briefs improperly reference and discuss documents that were

not admitted as evidence at trial and matters that did not arise until after the court entered its judgment of dissolution of marriage. In particular, he challenges Rasha's references to his 2015 tax return, a financial affidavit he filed in 2017, and the trial court's December 2017 suspension of his child support obligation.

¶ 46 On review, this court cannot consider evidence that was not presented to the trial court when the court rendered its decision. *Colburn v. Mario Tricoci Hair Salons & Day Spas, Inc.*, 2012 IL App (2d) 110624, ¶ 29, 972 N.E.2d 266; See also *In re Marriage of Micheli*, 2014 IL App (2d) 121245, ¶ 21, 15 N.E.3d 512 (declining to consider any evidence that was not presented to the trial court and stating that “the introduction of new evidence on appeal is improper”); *Ruiz v. Walker*, 386 Ill. App. 3d 1080, 1081, 900 N.E.2d 372, 374 (2008) (“The general rule is that material which was not part of the court record or considered by the trial court is not part of the record on appeal and should not be considered by the appellate court.” (Internal quotation marks omitted.)).

¶ 47 Here, there is no dispute that Fadi's 2015 tax return was not admitted as evidence at the hearings on the petition for dissolution of marriage. Additionally, Fadi's filing of a financial affidavit in 2017 and the trial court's suspension of his child support obligation the same year are matters that did not arise until well after the close of evidence in the case and the court's entry of the dissolution judgment. Accordingly, because these matters were not considered by the court when it rendered its decision, we may not properly consider them on review.

¶ 48 Rasha maintains that these “[i]ssues of new evidence are properly before this [c]ourt” because they occurred or were raised during postjudgment proceedings and in connection with a motion she made to reopen the evidence. However, the record reflects that the trial court denied Rasha's motion to reopen the evidence and rejected her request that it consider new

real consideration to the debts shown in the evidence to exist.” Further, she contends the court’s ultimate division of marital property was an abuse of discretion in that she should have been awarded a disproportionate and much greater share of the parties’ marital assets.

¶ 52 Under section 503(d) of the Act (750 ILCS 5/503(d) (West 2016)), the trial court “shall divide *** marital property without regard to marital misconduct in just proportions considering all relevant factors[.]” Factors for consideration include:

“(1) each party’s contribution to the acquisition, preservation, or increase or decrease in value of the marital or non-marital property, including *** the contribution of a spouse as a homemaker or to the family unit; ***

(2) the dissipation by each party of the marital property[;] ***

(3) the value of the property assigned to each spouse;

(4) the duration of the marriage;

(5) the relevant economic circumstances of each spouse when the division of property is to become effective, including the desirability of awarding the family home, or the right to live therein for reasonable periods, to the spouse having the primary residence of the children;

(6) any obligations and rights arising from a prior marriage of either party;

(7) any prenuptial or postnuptial agreement of the parties;

(8) the age, health, station, occupation, amount and sources of income, vocational skills, employability, estate, liabilities, and needs of each of the parties;

(9) the custodial provisions for any children;

(10) whether the apportionment is in lieu of or in addition to maintenance;

(11) the reasonable opportunity of each spouse for future acquisition of

capital assets and income; and

(12) the tax consequences of the property division upon the respective economic circumstances of the parties.” *Id.*

¶ 53 Ultimately, “[t]he goal of apportionment of marital property is to attain an equitable distribution.” *In re Marriage of Price*, 2013 IL App (4th) 120155, ¶ 44, 986 N.E.2d 236. On review, the trial court’s factual determination on issues of dissipation and the valuation of marital property are subject to a manifest-weight-of-the-evidence standard of review. *In re Marriage of Hubbs*, 363 Ill. App. 3d 696, 699-700, 843 N.E.2d 478, 482 (2006). However, the court’s ultimate determination on the division of marital property, which “depends upon [the trial court’s] view of the facts in conjunction with prevailing relevant statutory factors,” is reviewed for an abuse of discretion. *Id.* at 700.

¶ 54 We first address Rasha’s claim that the trial court’s findings as to dissipation were against the manifest weight of the evidence. “ ‘Dissipation refers to a spouse’s use of marital property for his or her sole benefit for a purpose unrelated to the marriage at a time when the marriage is undergoing an irreconcilable breakdown.’ ” *In re Marriage of Berberet*, 2012 IL App (4th) 110749, ¶ 50, 974 N.E.2d 417 (quoting *Hubbs*, 363 Ill. App. 3d at 700). “Whether the use of marital property amounts to dissipation depends on the facts of the case.” *In re Marriage of Asher-Goettler*, 378 Ill. App. 3d 1023, 1031, 883 N.E.2d 564, 570 (2008). “If the spouse charged with dissipation cannot show by clear and specific evidence that the funds were spent for a legitimate family expense, a finding of dissipation is appropriate.” *Id.*

¶ 55 Dissipation of marital assets is one factor for the trial court to consider when dividing marital property. *Berberet*, 2012 IL App (4th) 110749, ¶ 51. Where dissipation is established, the trial court may charge the amounts dissipated against the offending party, but the

court is not required to do so. *Id.*

¶ 56 The record shows that Rasha filed a notice of intent to claim dissipation prior to trial. She alleged the parties' marriage had been irretrievably broken down since May 2012 and that Fadi had dissipated marital assets by transferring money to his brothers, Bilal and Mohammed; his friend, Anas; and Andrea. In her posttrial memorandum, Rasha claimed dissipation from those transfers from May 2012 to July 2015, totaling \$163,502. In particular, she alleged transfers to Bilal totaling \$123,150; transfers to Mohammed totaling \$30,000; transfers to Anas totaling \$3000; and transfers to Andrea totaling \$7352.

¶ 57 In addressing the issue of dissipation, the trial court first rejected Rasha's assertion that the parties' marriage was irretrievably broken since May 2012. Specifically it stated as follows:

“The evidence showed that the parties['] marriage was a turbulent one[.] *** Rasha testified[.] and Fadi did not deny[.] that several times during the course of the marriage Fadi declared that he was divorcing her under Muslim tradition[.] However[.] the parties would reconcile each time until January 2014 when Fadi filed his Petition for Dissolution of Marriage[.] The court awarded Rasha exclusive possession of the marital home in June 2014 and Fadi had moved out of the home by July 2014[.]”

The court further determined that only transfers to Andrea totaling \$3250 amounted to dissipation. In so holding, it found that Fadi credibly testified that the “practice of providing financial assistance to family is culturally expected of them and was an important part of their lives during their marriage ***.”

¶ 58 On appeal, Rasha argues the trial court's findings as to dissipation do not coincide

with the evidence. Initially, we address Rasha’s contention that the court erred in finding the marriage was not irretrievably broken down until January 2014 when the petition for dissolution was filed. In support of that argument, Rasha points to Fadi’s testimony that he considered himself “religiously” divorced from Rasha in December 2013. However, as the trial court determined, evidence supported a finding that Fadi declared himself “divorced” from Rasha several times during the course of the marriage and that the parties always reconciled until January 2014 when the petition for dissolution was filed. Accordingly, we do not find it was against the manifest weight of the evidence for the court to find an irretrievable breakdown beginning when the petition for dissolution was filed. Additionally, even if we were to find that December 2013 represented a more appropriate time for finding an irretrievable breakdown of the marriage, such a determination, resulting in a difference of only a few weeks, would have no practical effect on the remainder of the trial court’s dissipation findings.

¶ 59 Rasha further contends it was error for the trial court to reject a claim of dissipation “to an unknown person” through a transfer in the amount of \$4102. Rasha maintains that it is not clear what the court was referring to, as she only asserted dissipation through transfers to specified individuals—Bilal, Mohammed, Anas, and Andrea. However, the record shows that in her posttrial memorandum, Rasha included a chart setting forth the transfers that she claimed represented dissipation. Contained within that chart under the list of transfers to Andrea, was a transfer in the amount of \$4102, which Rasha labeled as “Unk Transfer.” Although the record indicates Rasha was claiming that the \$4102 was an additional unsanctioned transfer of money to Andrea, the court apparently viewed it as a claim of dissipation “to an unknown person.”

¶ 60 Nevertheless, despite the apparent confusion regarding this transfer, we disagree that it demonstrates that the trial court’s dissipation findings were without evidentiary support.

Rather, the record ultimately supports the trial court's determination that dissipation related to an "unknown" transfer was "unsupported by the evidence." As stated, the trial court determined Fadi made transfers to Andrea totaling \$3250, which amounted to dissipation of marital assets. Bank statements submitted by the parties supported a finding that Fadi transferred a total of \$3250 to Andrea from March to June 2015. Specifically, Fadi's bank statements reflect transfers to Andrea totaling \$700 in March 2015, \$750 in April 2015, \$1000 in May 2015, and \$800 in June 2015. To the extent Rasha argues dissipation through an additional \$4102 transfer to Andrea, we would agree that such a claim was "unsupported by the evidence."

¶ 61 Rasha next suggests that the trial court erred in failing to find \$11,000 in dissipation by Fadi through transfers to Anas from August 2013 to October 2014. First, in her posttrial memorandum setting forth her arguments to the trial court, Rasha argued that only three \$1000 transfers to Anas in November 2013, August 2014, and November 2014 constituted dissipation of marital assets. Moreover, as noted by Fadi, Rasha "made no argument to suggest to the trial court that payments to 'Anas' presented any issues different from payments to [Fadi's brothers]." Additionally, although Rasha challenged the court's dissipation findings as to Fadi's brothers in her postjudgment motions, she did not raise the issue of any of the specific transfers to Anas. Accordingly, we agree with Fadi that Rasha has forfeited her claim of \$11,000 in dissipation through transfers to Anas by failing to raise that issue with the trial court. See *In re Marriage of Minear*, 181 Ill. 2d 552, 564, 693 N.E.2d 379, 384 (1998) ("Issues not raised in the trial court are waived and cannot be argued for the first time on appeal."); See also *In re Marriage of Romano*, 2012 IL App (2d) 091339, ¶ 85, 968 N.E.2d 115 (finding a party was precluded from arguing dissipation of specific sums on appeal where the issue had not been argued in her written closing argument before the trial court).

¶ 62 Second, even if we were to excuse Rasha's forfeiture of this issue, we note that several of the transfers to Anas that she challenged on appeal occurred prior to the breakdown of the parties' marriage. It would not have been against the manifest weight of the evidence for the trial court to find Fadi's transfers to Anas after the breakdown of the marriage were an extension of his practice of assisting his friend financially during the marriage. See *In re Marriage of Stuhr*, 2016 IL App (1st) 152370, ¶ 66, 56 N.E.3d 525 (finding the trial court's conclusion that a spouse's religious donations were an extension of an established marital practice was not against the manifest weight of the evidence).

¶ 63 Finally, regarding the issue of dissipation, Rasha argues the trial court's decision did not "coincide" with the evidence because Fadi's transfers of money to Bilal "changed significantly in late 2013." Ultimately, however, the record supports the trial court's determination that the parties had a practice during the marriage of providing financial assistance to Fadi's family. Rasha agreed during her testimony that giving money to Fadi's family was "something [she had] always participated in and knew about." Further, bank statements reflect multiple monthly transfers of money, in increasing amounts, from Fadi to Bilal beginning in April 2012 and continuing to June 2015. Accordingly, we do not find the trial court's findings as to dissipation were against the manifest weight of the evidence.

¶ 64 On appeal, Rasha next challenges the trial court's finding as to Fadi's income. She notes that, in the judgment of dissolution of marriage, the trial court stated the parties were "in agreement that Fadi's current annual net income is \$176,704." Rasha claims she does not "underst[and] what the trial court was talking about[.]" as there was no stipulation between the parties regarding net income in the record.

¶ 65 First, the trial court's dissolution judgment clearly identified Fadi's gross annual

income as approximately \$375,000. That amount is supported by the record. In particular, Fadi's December 2015 pay stub was submitted into evidence at trial and showed that he received a gross income for 2015 of \$372,550.66. Evidence further showed that Fadi began 2016 earning the same amount he earned in the last half of 2015 and that his pay would remain the same for at least the first six months of 2016.

¶ 66 Second, as noted by Rasha, the trial court also found that the parties were in agreement that, for child support purposes, Fadi's annual net income was \$176,704. Again, the court's finding is supported by the record. Specifically, in their written posttrial arguments, both parties argued that child support should be set at 32% of Fadi's net income, *i.e.*, \$4712 per month. As determined by the court, that \$4712 figure requires an annual net income of \$176,704. The court's judgment reflects that it ordered Fadi to pay child support in the amount suggested by the parties and Rasha does not challenge that portion of the court's judgment.

¶ 67 Rasha additionally claims that the trial court failed to properly value the parties' limited liability company, Cozy Homes, LLC; allocate or distribute any bank accounts or operating accounts associated with that entity; or consider the tax consequences associated with the entity. At trial, the only evidence presented with respect to Cozy Homes, LLC, was that it was formed for the purpose of holding title to the Bolingbrook residence, which the evidence showed had a fair market value of \$273,000. Rasha fails to cite to any portion of the record that would support any additional evidence as to value of Cozy Homes, LLC; any bank accounts associated with that entity; or any evidence as to tax consequences. The trial court could not have made additional findings without evidence presented by the parties. Accordingly, we find no error.

¶ 68 Rasha next argues that the trial court erroneously gave "no real consideration to" the parties' debts when dividing the marital property. However, the court's judgment contradicts

this assertion. The court explicitly addressed the parties' mortgage debt and the debt associated with Fadi's purchase of Springfield Clinic stock in its December 2016 judgment and its March 2018 order amending that judgment. Additionally, it noted that the parties "incurred significant financial obligations in their individual names" after their separation. It ordered that the parties would each be responsible for debts held in their own names. Finally, the court ordered that "[i]n light of the property allocation and maintenance awards *** each party shall be responsible for the payment of their own attorney fees." Thus, the court clearly did not ignore the parties' debt obligations when reaching its decision.

¶ 69 Additionally, the record does not reflect the trial court abused its discretion in its allocation of marital debt. Although Rasha complains about the debt assigned to her in the court's judgment, the record also shows that Fadi was responsible for significant amounts of debt under the judgment. Like Rasha, Fadi was responsible for mortgage debt on the property awarded to him. Further, the court allocated all of the debt associated with the purchase of the Springfield Clinic stock to Fadi even though that asset was otherwise evenly split between the parties. At trial, Fadi also asserted that he continued to owe approximately \$75,000 associated with his 2015 taxes and that he had approximately \$40,000 in credit card debt. Given the evidence presented, we can find no error by the trial court.

¶ 70 As stated, Rasha ultimately claims that the trial court abused its discretion in dividing the marital property and that she should have received a much greater share of the marital assets. Here, the record shows the court did award a disproportionate share of the marital assets to Rasha, in that it awarded her the residence possessing the higher market value and in which the parties held a greater amount of equity, as well as the Vanguard account with the greater value. The court equally divided the pension accounts identified by the parties and the Springfield

Clinic stock, ordering Fadi to pay Rasha \$38,662.20 for those shares in four installments. Additionally, under the court's judgment, Fadi was responsible for paying child support of \$4712 per month and maintenance of \$8000 per month to Rasha. The court's judgment further reflects that it considered the circumstances of the parties when rendering its decision. Based on the record presented and the arguments of the parties, we reject Rasha's contention that the court abused its discretion in dividing the marital estate.

¶ 71 With respect to property distribution, Rasha finally maintains that, contrary to the requirements of the Illinois Marriage and Dissolution of Marriage Act (Act) (750 ILCS 5/501 *et seq.* (West 2016)), the trial court failed to make specific findings as to the value of all marital property. Rasha also challenges the court's order on the basis that it did not state what percentage of property was being allocated to each party and because it neglected to make specific findings as to each factor for consideration under section 5/503(d). She maintains the court's failure to value specific assets resulted in an arbitrary ruling.

¶ 72 The Act provides that "[t]he court shall make specific factual findings as to its classification of assets as marital or non-marital property, values, and other factual findings supporting its property award." 750 ILCS 5/503(a) (West 2016). "The primary goal of statutory construction, to which all other rules are subordinate, is to ascertain and give effect to the intention of the legislature." *In re Marriage of Goesel*, 2017 IL 122046, ¶ 13, 102 N.E.3d 230. "The best indication of legislative intent is the statutory language, which must be given its plain and ordinary meaning." *Id.*

¶ 73 Here, the plain language of section 503(a) does not require the trial court to make specific findings as to the percentage of the marital property awarded to each party nor does it require explicit findings as to each section 503(d) factor. We agree with Fadi that the purpose of

the language at issue in section 5/503(a) is for the trial court to make a sufficient record upon which its property award may be reviewed and understood. In this instance, the court made specific factual findings as to the value of assets and debts that were significantly in dispute between the parties and that were the focus of the parties' evidence and arguments. Additionally, the court's judgment, in fact, contains specific findings relative to each section 503(d) factor for which evidence was presented by the parties.

¶ 74 Rasha specifically complains that the dissolution judgment "on its face doesn't value such things as personal property, vehicles, bank accounts, debts, tax obligations, and attorney' [sic] fees being awarded." She also argues that the court made no valuation of Cozy Homes, LLC. However, these were matters that were either not seriously in dispute between the parties, not the subject of conflicting evidence of value by the parties, or not the subject of any evidence presented at trial. Accordingly, we find the trial court's judgment was sufficient to comply with statutory requirements under the circumstances presented and that no reversible error occurred.

¶ 75 C. Maintenance

¶ 76 On appeal, Rasha next argues that the trial court erred in setting the amount and duration of maintenance.

¶ 77 "A trial court's determination as to the propriety of a maintenance award is presumed to be correct and will not be reversed on appeal absent an abuse of discretion." *Price*, 2013 IL App (4th) 120155, ¶ 30. "An abuse of discretion occurs only where no reasonable person would take the view adopted by the trial court." *Id.* "When a party challenges a trial court's factual findings regarding a maintenance determination, this court will not reverse a trial court's findings unless the findings are against the manifest weight of the evidence." *In re Marriage of Sturm*, 2012 IL App (4th) 110559, ¶ 3, 970 N.E.2d 117. Findings are against the manifest weight

of the evidence where the opposite conclusion is clearly evident or where the court's findings are unreasonable, arbitrary, and not based on any of the evidence. *Id.*

¶ 78 Section 504(a) (750 ILCS 5/504(a) (West 2016)) of the Act sets forth various factors for the trial court to consider when determining whether to award maintenance, including:

“(1) the income and property of each party, including marital property apportioned and non-marital property assigned to the party seeking maintenance as well as all financial obligations imposed on the parties as a result of the dissolution of marriage;

(2) the needs of each party;

(3) the realistic present and future earning capacity of each party;

(4) any impairment of the present and future earning capacity of the party seeking maintenance due to that party devoting time to domestic duties or having forgone or delayed education, training, employment, or career opportunities due to the marriage;

(5) any impairment of the realistic present or future earning capacity of the party against whom maintenance is sought;

(6) the time necessary to enable the party seeking maintenance to acquire appropriate education, training, and employment, and whether that party is able to support himself or herself through appropriate employment or any parental responsibility arrangements and its effect on the party seeking employment;

(7) the standard of living established during the marriage;

(8) the duration of the marriage;

(9) the age, health, station, occupation, amount and sources of income, vo-

cational skills, employability, estate, liabilities, and the needs of each of the parties;

(10) all sources of public and private income including, without limitation, disability and retirement income;

(11) the tax consequences of the property division upon the respective economic circumstances of the parties;

(12) contributions and services by the party seeking maintenance to the education, training, career or career potential, or license of the other spouse;

(13) any valid agreement of the parties; and

(14) any other factor that the court expressly finds to be just and equitable.”

Under the statutory provisions in effect when the trial court entered its judgment, the court was authorized to enter a non-guideline award of maintenance because the parties had a combined gross income that exceeded \$250,000. *Id.* § 504(b-1)(1). The Act provides that “[a]ny non-guidelines award of maintenance shall be made after the court’s consideration of all relevant factors set forth in [section 504(a)].” *Id.* § 504(b-1)(2).

¶ 79 Here, the trial court awarded Rasha maintenance of \$8000 per month that was reviewable after a period of 12 years. The court’s judgment reflects that it noted and addressed each statutory factor for consideration. Specifically, the court made many of the same findings regarding the parties’ circumstances that Rasha emphasizes throughout her brief. In particular, the court found that Rasha was unemployed and had no income. Although she had been trained as a lawyer in Syria, she was not a graduate of an accredited law school in this country and was unable to practice law. The court determined “Rasha put her career aside” so that Fadi could pur-

sue his medical education and training. By contrast, the court found Fadi earned a significant income as a practicing physician and that his income was only expected to increase over time. To the extent Rasha contends the court ignored these or other relevant factors, we find the record demonstrates otherwise.

¶ 80 The record further shows that the trial court determined both parties had “approximately the same financial needs,” stating as follows:

“The parties['] expenses consists [*sic*] primarily [of] the usual and customary living expenses[, *i.e.*,] expenses associated with their individual residences and expenses relating to the children[.] Fadi and Rasha are in good health and there are no special medical needs[.]”

Rasha contends the trial court’s finding as to the parties’ financial needs was contradicted by the evidence presented. Specifically, she points to the parties’ financial affidavits, showing that Fadi claimed over \$8000 in monthly living expenses while Rasha claimed monthly expenses over \$14,000. However, the record reflects that both parties admitted that there were ways in which their monthly living expenses had been overstated in their affidavits. In particular, Rasha acknowledged that she claimed too much for food and household supplies and housekeeping-related expenses. Additionally, she admitted that there should be “a lot of change with [her] affidavit” and that it had been filled out “without preparation.” Further, the testimony of both parties reflected that their financial needs included typical household and family-related expenses. Accordingly, we find the trial court’s factual determinations were supported by the record and an opposite conclusion from that reached by the court is not clearly apparent.

¶ 81 Finally, Rasha claims that the applicable factors for consideration in this case justified an award of permanent maintenance. “An award of permanent maintenance may be appro-

priate where one spouse is not employable or is only employable at a lower income as compared to the parties' standard of living during the marriage." *Price*, 2013 IL App (4th) 120155, ¶ 30. On the other hand, "[r]ehabilitative maintenance may be appropriate where the spouse is or may become employable at an income that would provide the same standard of living the parties enjoyed during their marriage." *Id.*

¶ 82 Here, the record reflects Fadi earned a significant income as a physician. Rasha did not work outside the home during the marriage and the trial court found it would take her a considerable amount of time to either pursue a legal career in this country or be trained in another field. Nevertheless, the court also determined that Rasha was young, noting she was 40 years old at the time its judgment was entered, and "employable." On appeal, Rasha does not contend that she is unemployable. Further, we find that her future employment opportunities and earning potential are speculative. As a result, we find no abuse of discretion by the court in awarding maintenance that is reviewable after a period of 12 years.

¶ 83 Given the circumstances presented, we find the trial court's factual findings as to maintenance were supported by the record and its ultimate maintenance award was not an abuse of discretion.

¶ 84 III. CONCLUSION

¶ 85 For the reasons stated, we affirm the trial court's judgment.

¶ 86 Affirmed.