NOTICE
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2019 IL App (5th) 170087-U

NO. 5-17-0087

IN THE

APPELLATE COURT OF ILLINOIS

FIFTH DISTRICT

NOTICE
This order was filed under Supreme Court Rule 23 and may not be cited as precedent by any party except in the limited circumstances allowed under Rule 23(e)(1).

In re MARRIAGE OF	)	Appeal from the
	)	Circuit Court of
ELIZABETH ROY,	)	St. Clair County.
n/k/a Elizabeth Scott,	)	
	)	
Petitioner-Appellant,	)	
	)	
and	)	No. 09-D-499
	)	
	)	Honorable
PATRICK D. ROY,	)	Zina R. Cruse and
	)	Julia R. Gomric,
Respondent-Appellee.	)	Judges, presiding.

JUSTICE CHAPMAN delivered the judgment of the court.
Presiding Justice Overstreet and Justice Barberis concurred in the judgment.

ORDER

¶ 1 *Held*: Where the trial court's allocation of parental responsibility for extracurricular activities to the father was not contrary to the manifest weight of the evidence, we affirm. Where the trial court was able to assess credibility of witnesses, we find no basis to conclude that the court erred in holding the mother in contempt of court and affirm the order. Where the court's contempt order did not list the sanction that the mother can purge with compliance, we remand for an additional order. Where portions of the parties' oral marital settlement agreement were definite, certain, not disputed, and included in the trial court's written judgment, we find no error in the court's judgment that was based in part upon this settlement. Where the trial court's determination that the mother was responsible for two alleged loans and a resulting judgment was not based upon the oral

settlement, we affirm the court's order. Where the trial court did not abuse its discretion in assigning the debt from the alleged loans and judgment to the mother, we affirm.

¶ 2 Elizabeth Scott (Elizabeth) appeals from two judgments in this dissolution of marriage case: the supplemental judgment of dissolution entered on April 29, 2013, and the second supplemental judgment of dissolution of marriage entered on December 12, 2016. Elizabeth appealed the supplemental judgment of dissolution to this court, but we found that there was no appellate jurisdiction to consider anything but the issue of custody and the issue of substitution of judge. *In re Marriage of Roy*, 2014 IL App (5th) 130260-U. We reversed the trial court's order of joint custody and remanded for a determination of sole custody. On remand, the trial court entered its second supplemental judgment of dissolution of marriage on December 12, 2016. In this appeal, Elizabeth argues that the trial court erred in awarding Patrick D. Roy (Patrick) parental responsibility for extracurricular activities; in finding Elizabeth in civil contempt for failure to produce items of personal property awarded to Patrick; in finding that there had been an earlier, but still valid, partial settlement between the parties; and in the court's distribution of marital debt. For the reasons that follow in this order, we affirm the orders of the trial court and remand the case to the trial court for an additional order regarding the finding of contempt.

¶ 3 BACKGROUND

¶ 4 As noted in our previous order, this has been a contentious and protracted divorce case because of the ongoing acrimony between the parties. *Marriage of Roy*, 2014 IL App (5th) 130260-U, ¶ 4. The record also reflects significant animosity between

Elizabeth's parents and Patrick. In a separate case, Elizabeth's parents filed suit against Patrick and Elizabeth to collect upon two loans they made to the then-married couple. That case, *Bollmeier v. Roy*, 2019 IL App (5th) 160066-U, was also appealed to this court. On August 31, 2017, we consolidated the record in *Bollmeier v. Roy* with the 2017 record in *In re Marriage of Roy* because the cases are intertwined by the alleged marital debt held by the Bollmeiers. The factual background for this appeal necessarily contains factual references from the record in *Bollmeier v. Roy*.

¶ 5 Patrick and Elizabeth married in July 1997. Two children were born during the marriage: a daughter born in December 1997 and a son in September 2000.

¶ 6 In June 2009, Elizabeth filed a petition for dissolution of her marriage and Patrick filed a counterpetition the following month. Elizabeth was represented by attorney Patrick Foley. On February 24, 2011, Mr. Foley filed a motion to withdraw, stating the attorney-client relationship had deteriorated. The trial court granted that motion on February 25, 2011.

¶ 7 Custody was a contested issue from the beginning. Numerous orders were entered by the trial court in response to the parties' failure to comply with various terms. Elizabeth had physical custody and Patrick had the right to liberal visitation. Mediation was attempted in late December 2010 but terminated without an agreement, and the mediator reported that additional attempts would not be beneficial. Patrick testified that a major conflict was Elizabeth's lack of communication about the children's activities. Elizabeth would not consult with Patrick prior to registering the children for recreational, school, and competitive sports and camps. Many of the activities/camps chosen were

expensive and interfered with Patrick's visitation schedule. Oftentimes, Elizabeth would send the children to Patrick for visitation without essential items related to their sports, clothing appropriate for the weather, and/or miscellaneous items Patrick had requested for the children's entertainment.

¶ 8 On May 3, 2011, James and Ellen Bollmeier, Elizabeth's parents, filed suit against Elizabeth and Patrick seeking repayment of alleged loans made to the couple during their marriage. The Bollmeiers alleged that they lent the Roys $23,065.38 on or about February 6, 1999. This loan was memorialized by a typed note, presumably signed by both Elizabeth and Patrick, that states: "We, Elizabeth Roy and Patrick Roy, owe James and Ellen Bollmeier $23,065.38. Payments will be made monthly starting on February 6th, 2000. The interest rate is 6.6%." The Bollmeiers also alleged that they lent the Roys $26,000 on or about October 22, 2000. A handwritten note memorializing the loan, presumably signed by both Elizabeth and Patrick, states: "Patrick Roy and Elizabeth Roy owe James and Ellen Bollmeier $26,000 Payable over 5 years in payments of $478.83." Some payments were allegedly made on each loan.

¶ 9 On July 19, 2011, Elizabeth confessed judgment in the *Bollmeier v. Roy* case, and the order and a judgment order was entered on July 19, 2011, for $54,797.82. The Bollmeiers filed a memorandum of judgment in that amount against Elizabeth with the St. Clair County Recorder of Deeds on September 21, 2011.

¶ 10 Elizabeth and Patrick have different views of the two "loans" from the Bollmeiers. Elizabeth testified at trial that the $26,000 loan was used to pay the down payment on their first marital residence, while the $23,065.38 loan was used to purchase a Honda

Odyssey minivan. Elizabeth was adamant that the two loans were never meant as gifts, and that she and Patrick would be responsible for repayment. Patrick testified that Elizabeth's mother told him that the notes constituted insurance that Patrick would do two things: treat their daughter in a good manner and send the children to Catholic schools. Patrick testified that Elizabeth frequently asked her parents for money to pay credit card bills, and on one occasion to pay for a 2007 vacation to Mexico. As far as Patrick knew, the Bollmeiers were never reimbursed. In addition to the frequent apparent gifts of money, the Bollmeiers would "hire" Elizabeth and Patrick to do lawn care or similar tasks at rental properties they owned. Patrick testified that the Bollmeiers would pay extraordinarily high amounts of money, well in excess of what he believed to be the standard rate for such services. The Bollmeiers also took Elizabeth and Patrick and the children on all-expenses-paid vacations.

¶ 11 Given this common practice between Elizabeth and her parents, Patrick testified that he never understood that the notes he signed actually represented a legitimate loan and that the Bollmeiers expected repayment. Patrick actually only recalls signing the Honda minivan document, but he does not dispute that the signature on the home downpayment document appeared to be his own. Patrick testified that it was his opinion that the Bollmeiers had no intention of collecting any of the alleged loan amounts from their daughter, and that the timing of the complaint was directly influenced by his allegation that he was entitled to one-half of the equity from the marital residence.

¶ 12 On May 10, 2011, attorney Melroy B. Hutnick entered his appearance on Elizabeth's behalf.

¶ 13 On October 4, 2011, at the conclusion of hearings about the marital residence, the trial judge verbally awarded the marital residence to Elizabeth. The approximate equity in the house in October 2011 was $70,359.01. The judge stated that the equity would be divided equally when all property assets and debts were divided. Elizabeth was granted 90 days to refinance the house, with refinancing costs to be subtracted from the equity. The court ordered that the resulting equity funds were to be temporarily deposited in the escrow account of Elizabeth's attorney, Hutnick, pending resolution of all outstanding issues. The trial judge advised Elizabeth that the $54,552.83 judgment she confessed was in her name alone, and that she was then solely responsible for repayment. Elizabeth, apparently presuming that the judgment amount would be subtracted from the marital residence equity, asked the court: "Aren't we a marriage though? Like I don't understand that." Elizabeth also told the judge that she admitted to the judgment "for both of us." The judge corrected Elizabeth's misunderstanding by telling her that she had no ability to admit to a judgment for Patrick. The judge stated that when the title company conducts its search, the memorandum of judgment against Elizabeth would be found and a mortgage company would require that the judgment be paid off or otherwise released before agreeing to refinance the mortgage. The judge warned attorney Hutnick that if the Bollmeiers's judgment is satisfied out of the equity, Elizabeth would be charged with paying Patrick for the balance of his half of the equity.

¶ 14 On October 12, 2011, the parties read a settlement agreement into the record regarding all issues, as follows:

1. A judgment of dissolution will be entered;

2. The marital residence and its contents will be awarded to Elizabeth except specific items included in a list provided by Patrick;
3. The marital residence will be placed on the market by December 1, 2011, and the remaining equity will be divided equally upon its sale;
4. The judgment against Elizabeth in *Bollmeier v. Roy* case will not be satisfied from the equity derived from the sale of the marital residence;
5. Custody of the two children will be shared pursuant to a joint parenting agreement with Elizabeth receiving primary residential custody and Patrick awarded reasonable visitation;
6. Statutory child support at 28% of Patrick's net income;
7. All noncovered medical bills of the children will be equally divided;
8. Neither party owes the other for past-due medical or activities bills for the children;
9. If the children's dental care is no longer provided without cost by Elizabeth's mother, the related dental bills will be equally divided;
10. Each party will waive maintenance;
11. Each party will be responsible for his or her own attorney fees and costs;
12. Each party will retain his or her own retirement fund;
13. Any accounts in the name of and/or for the benefit of the children will stay the same;
14. Insurance policies in place with the two children listed as beneficiaries will remain in place;

15. A Wells Fargo account will be equally divided;
16. Each party will retain his or her own vehicle;
17. All contempt proceedings will be dismissed with prejudice;
18. Each party is responsible for his or her debts incurred since separation;
19. Each party will receive his or her income tax refunds for 2010 and 2011;
20. The guardian *ad litem* fees will be divided equally with each party receiving credit for the amount(s) previously paid; and
21. The *Bollmeier v. Roy* case will be dismissed with prejudice.

¶ 15 After the terms of the settlement agreement were read into the record, both Elizabeth and Patrick were sworn in and testified that the terms were correctly stated and were fair and reasonable. The trial judge then stated that "the settlement that you've reached at this point is fair and equitable and not unconscionable." The judge found that irreconcilable differences caused the irretrievable breakdown of the marriage and granted the requested dissolution. Although James and Ellen Bollmeier were not parties in this case, attorney Hutnick informed the court that it was his understanding that the Bollmeiers were in agreement to dismiss their complaint against Elizabeth and Patrick.

¶ 16 On December 12, 2011, the trial court entered its order resolving current issues including mandating that the marital residence be listed for sale, that Patrick would have access to remove his personal items for one week, and that Elizabeth would be responsible for all expenses associated with the marital residence except for any repairs necessary for sale. The trial court also established the Christmas visitation schedule. Attached to the court's order was a two-page list of Patrick's personal property that he

was allowed to remove from the marital residence. Included in this list was "children's hockey equipment (including but not limited to all sticks, chest protectors, shoulder pads, gloves, elbow pad[s], shin guards, jerseys, pants (breathers), socks, bags, and skates)."

¶ 17 Attempts to sell the marital residence began to unravel when Patrick would not sign the listing agreement. Patrick alleged that Elizabeth vacated the house in an unmarketable condition by alleged deliberate or careless actions and/or inactions. Attorney Hutnick wrote a letter to Patrick's attorney on January 27, 2012, advising that the Bollmeiers had reversed their decision and would not dismiss their complaint and would not vacate the lien judgment filed against the marital residence. On February 3, 2012, the trial judge ordered the parties to execute the listing agreement.

¶ 18 On April 24, 2012, the trial court entered its first judgment of dissolution of marriage. The order dissolved the marriage, confirming its oral pronouncement on October 12, 2011, but did not include rulings on custody and marital debt division.

¶ 19 On May 21, 2012, the trial court held another hearing about the October 2011 settlement. The trial judge noted that the settlement had not been finalized. Patrick's attorney stated that he was willing to adhere to the terms of the settlement, but that the primary problem with the settlement was that the settlement could not legally bind the Bollmeiers when they were not parties in this case. The trial judge acknowledged this issue but stated that the court had the ability to remedy this issue by its property award–to ensure that Patrick had the money to address the lawsuit he still faced from the Bollmeiers. At the hearing, the parties announced that they had a buyer for the marital residence. Patrick and his attorney informed the court that some of the personal items he

was allowed to retrieve from the marital residence were missing. Patrick told the judge that he emailed Elizabeth immediately in December 2011 about the missing items. In particular, certain hockey sticks were missing–two white Sher-Wood brand sticks that belonged to their daughter. Elizabeth stated: "I gave him all the sticks. *** I went through his mother. And I carried like 50,000 sticks over to his mother's house, so if they weren't in there, I don't know where they are. I don't have anything." In addition, the trial judge made the following statement on the record about the Bollmeiers's claim against Elizabeth and Patrick, including specific comments directed, by inference, to Elizabeth:

> "THE COURT: [L]et me just go ahead and let you all know something that I have not said before and I believe that this lawsuit was filed not because the Plaintiff in that case really wanted to sue their daughter and her husband for whatever this amount is over these loans. I believe it was calculated and is being used–
>
> Don't even have that look on your face because you're a smart girl.
>
> MR. HUTNICK: Don't do it. Just don't say anything.
>
> THE COURT: I think it was a legal maneuver, and I think it was intended to do just what it's doing, which is to put a damper on–or have some control in terms of negotiation, in terms of one-upsmanship in this divorce.
>
> And, ma'am, you don't even get to sit there and shake your head no. Okay.
>
> Now, I have sat here and watched Mr. or Dr. Bollmeier Dad, and I see how he feels about his daughter, and I see that he loves her and wants her happy, and I see the pain in him when she's upset in this room. So that tells me he's not gonna sue her for $55,000.
>
> I've also seen the ire on his face at the Respondent at various times throughout this litigation. And I believe he would sue him for $55,000."

Although Elizabeth's position was that there had been no settlement on October 12, 2011, the trial judge determined that many sections of the settlement could be enforced. The trial court stated that certain sections of the settlement were not enforceable: sale of the

marital residence, marital debt, custody and visitation, Patrick's missing personal property, and the Bollmeiers's claim.

¶ 20 After Elizabeth and Patrick came to an agreement with the prospective buyers of the house, problems arose with the title insurance company because of the Bollmeiers's recorded judgment against Elizabeth. The first title company expressed concerns about the legal legitimacy of the Bollmeiers's judgment against Elizabeth. According to attorney Hutnick, that title company backed out of the sale after receipt of a legal letter threatening litigation for defamation of the Bollmeiers's characters. Upon the request of a different title insurance company, on June 2, 2012, the trial court entered an order that the memorandum of judgment the Bollmeiers filed with the St. Clair County Recorder of Deeds on September 21, 2011, was not a lien on the marital residence. More specifically, the court held that the memorandum was not an enforceable lien against the sale of the marital residence. The court entered this order in an effort to facilitate the closing of the sale on the house set for June 15, 2012. The court repeated its earlier order that the sales proceeds were to be deposited in attorney Hutnick's trust account until further order of the court. As the closing date for the sale of the marital residence approached, the title insurance company also requested a judicial release of the memorandum of judgment. Patrick then filed a motion to strike memorandum of judgment lien in the *Bollmeier v. Roy* case. On June 14, 2012, the *Bollmeier v. Roy* court granted this motion over the Bollmeiers's objection.

¶ 21 On June 15, 2012, Elizabeth and Patrick did not appear at the closing. A second closing was set for June 29, 2012. Patrick and his attorney were present but could not go

forward as Elizabeth did not attend the closing. The prospective buyers of the house petitioned the court to intervene in the *In re Marriage of Roy* case but later withdrew the petition. In a pleading filed by attorney Hutnick on Elizabeth's behalf, Hutnick stated that the intended buyers discontinued efforts to buy the house because a third title company would not insure the title.

¶ 22 The dissolution case went to trial on October 10 and October 11, 2012. On April 29, 2013, the trial court entered its supplemental judgment of dissolution. The court noted that the marriage was dissolved on April 24, 2012, and that some of the issues in this case were settled on October 12, 2011. The court referenced the Bollmeiers's claim against Elizabeth and Patrick, and the fact that Elizabeth immediately admitted the allegations that resulted in the entry of the judgment against her. The court noted that the Bollmeiers backed out of their agreement to dismiss the civil suit, and the judge made the following statements:

> "Since [Elizabeth] admitted to the debt allegedly owed in the lawsuit by her parents, it became a marital debt[.] [W]hether or not there were loans and the balances owed are not wholly supported by credible testimony or evidence which was sometimes sketchy, at best.
>
> This Court is convinced that [Elizabeth's] and her parents' (Bollmeiers's) actions were calculated and intended to bind [Patrick], with no actual intention of binding [Elizabeth].
>
> This Court is convinced that [Elizabeth's] parents have no intention of seeking to enforce the judgment against her, but only against [Patrick]."

¶ 23 The court first bound the parties to any part of the settlement announced in court that could be effectuated. With respect to custody, the court found that it was in the best interests of the children that custody remain joint with Elizabeth having primary residential custody. Although the parties could obviously not get along, the court stated

that without joint custody, she believed that Patrick would experience alienation of affection. The court awarded Elizabeth the marital residence with an equity award to Patrick, awarded each party his or her own debt incurred since separation, awarded no maintenance, awarded no attorney fees, denied Elizabeth's request for declaratory relief that the settlement was not final because no judgment was entered, ordered Elizabeth to pay the judgment entered in the *Bollmeier v. Roy* case and to hold Patrick harmless and indemnify him, dismissed all contempt and sanction petitions, and directed both parties to obtain an independent appraisal of the marital residence within 45 days. The judgment did not address Patrick's missing property.

¶ 24 On October 14, 2013, Elizabeth's motion for rehearing and/or a new trial was denied.

¶ 25 Elizabeth appealed. She alleged that the trial court should have granted her motion to disqualify Judge Cruse for cause, and she also appealed from the April 29, 2013, supplemental judgment of dissolution. On appeal, this court concluded that the supplemental judgment of dissolution was not final, and therefore this court lacked appellate jurisdiction except for the denial of Judge Cruse's disqualification and the order of joint custody. We affirmed the court's denial of the motion to disqualify Judge Cruse but reversed the joint custody order. In ruling against joint custody, we noted the multitude of conflicts throughout the procedural history of the divorce. Many of the trial court's visitation orders reflected that micromanagement was necessary in order to ensure compliance. Accordingly, because the evidence did not demonstrate that the parties could cooperate, the children could ultimately be harmed. We reversed the joint custody award

and remanded the case to the trial court with instructions for further proceedings to make a solo custody determination. *Marriage of Roy*, 2014 IL App (5th) 130260-U.

¶ 26 The case returned to St. Clair County circuit court in August 2014. On July 2, 2015, the case was assigned to Judge Julia R. Gomric. Numerous pleadings were filed by both parties while the case was pending in this court. Elizabeth sought a protective order to preclude the guardian *ad litem* from further participation in the case because he had not believed her claims about Patrick's involvement with the children. On October 16, 2015, the court denied the motion. Elizabeth filed several pleadings asking to receive full credit for the mortgage payments and maintenance bills she paid since the 2009 separation and stating that her parents' judgment would need to be satisfied out of the sale proceeds.

¶ 27 On October 20, 2015, the trial judge in *Bollmeier v. Roy* granted summary judgment for the Bollmeiers and entered judgment against Patrick in the amount of $54,479.15. On January 15, 2016, the trial court in *Bollmeier v. Roy* dismissed Patrick's cross-claim against Elizabeth for contribution, stating that although the court had concurrent jurisdiction with the divorce court on the issue of contribution between Elizabeth and Patrick, the issue belonged solely in the divorce case.

¶ 28 On March 2, 2016, the trial judge ruled that valuation of the marital home would ultimately be based on the date of the supplemental judgment of dissolution that was entered on April 29, 2013. Furthermore, because Elizabeth had exclusive control of the marital residence throughout the duration of this case, the court stated that she would receive no credit for any mortgage payments made after that date.

¶ 29 On March 11, 2016, the trial judge entered an order about the *Bollmeier v. Roy* judgments against Elizabeth and Patrick. The court found that the judgment was a marital debt and assigned the total amount of the debt to Elizabeth. Elizabeth was ordered to indemnify Patrick for any monies her parents collect from Patrick.

¶ 30 On May 3, 2016, Patrick's attorney was allowed to withdraw from the divorce case over Elizabeth's objection. From that date forward, Patrick was *pro se*.

¶ 31 The trial judge ordered mediation on May 31, 2016, on the issue of setting out a parenting plan. Elizabeth objected, and the trial court denied that objection. The mediation was held on June 23, 2016. No report is in the record, but from testimony at trial, the parties had agreed during mediation that Elizabeth had the authority over religion and healthcare, and that the joint parenting order dated April 29, 2013, contained a workable parenting schedule that had been followed for years, and was acceptable for the remaining two years until their son turned 18 years of age.

¶ 32 An additional trial was held in late July 2016 on the following outstanding issues–Patrick's petition for contempt because Elizabeth had not returned all of his personal property, parenting responsibility for education and extracurricular activities, and division of marital debts. On December 12, 2016, the trial court entered its second supplemental judgment of dissolution of marriage.

¶ 33 After all evidence was heard and entered, the trial judge ruled against Patrick on claims in his contempt motions about the missing comic books, Star Wars ornaments, and the children's hockey jerseys because he had no specific evidence other than his general argument that he had not removed the items from the marital residence, that only

Elizabeth had access to the home, and that the items were never returned to him. Patrick introduced evidence regarding some of the missing hockey sticks. Patrick testified about photographs he had recently taken of the inside of Elizabeth's current garage and argued that the photos established that Elizabeth still possessed some of the hockey sticks. Patrick also testified that he was 100% certain that a white Sher-Wood hockey stick was depicted in the photograph, along with two other hockey sticks sticking out of a garbage can.

¶ 34 After the mediation at which Elizabeth and Patrick were able to agree about religion, healthcare, and visitation, the only two outstanding parental responsibility determinations were education and extracurricular activities. Elizabeth, Patrick, and the guardian *ad litem*, Anthony Garavalia (GAL), testified about the education and extracurricular aspects of the children's lives.

¶ 35 Elizabeth testified that she had been a high school teacher for 20 years, that she had helped the children with homework after the parties separated, that her son selected his own classes in high school, and that he had maintained all As and Bs in high school. Elizabeth had advised Patrick during the mediation that she and her current husband may have to move out of state in order for him to secure employment. Patrick was upset at the possibility that their son could be removed from O'Fallon Township High School before he graduated. At the hearing, the parties stipulated that their son would not be removed from his current high school at any time before graduation. The GAL recommended that Elizabeth remain in charge of the son's education. In closing, Patrick conceded that

Elizabeth should be in charge of education so long as she did not deviate from her stated intention of not changing their son's high school.

¶ 36 Patrick asked to be given the opportunity to manage extracurricular activities. He testified that before the parties separated, both of the children had played ice hockey for years. He had always played hockey himself and hockey was a passion that he shared with the children. Immediately after the parties separated, Elizabeth unilaterally removed both children from ice hockey on the basis that hockey was too expensive and too time-consuming. Patrick testified that Elizabeth then signed both children up for select competitive soccer teams. In his opinion, the select soccer cost about the same as ice hockey but was more time-consuming than hockey. After their daughter turned 18, she resumed playing ice hockey and Patrick testified that she planned to try to "walk-on" her college women's ice hockey team. The GAL testified that he found that the daughter's return to ice hockey was revealing. He testified that ice hockey had been an important part of the lives of the children and was an activity that they shared with their father, but that the mother ended that shared experience. The GAL testified that the daughter came to speak with him after she turned 18 and provided insight into the negative attitude the Bollmeiers had about Patrick–an attitude that was frequently verbalized. The daughter was happy to have been able to return to ice hockey and was playing with her father as much as she could. She told the GAL that if she was not able to walk onto a college team, then she planned to play in an intramural league. The GAL also testified that although the son told him that he really did not want to play ice hockey any longer, he "never felt like that was completely an independent decision on his part or an honest answer from him."

He attributed this stated decision to the son's young age at the time he was removed from ice hockey, and believed that had he been older when he was switched to soccer, he may have been able to stick up for himself with his mother. Furthermore, the GAL stated that Patrick would be very capable of interacting with Elizabeth about scheduling, whereas he did not believe that Elizabeth was capable of interacting with Patrick on scheduling based in part upon his observations of Elizabeth's emotive reactions to Patrick in the courtroom. Accordingly, the GAL recommended that Patrick be awarded decision-making with regard to the son's extracurricular activities.

¶ 37 The trial court stated that it considered all statutory factors from section 503(d) of the Act as well as the findings made in the April 2013 supplemental judgment. The trial court awarded the marital residence to Elizabeth, granted Elizabeth credit for all mortgage payments from July 2009 until April 2013, and divided the equity equally after subtracting the mortgage payments made solely by Elizabeth. Using the April 29, 2013, date set for valuation of the marital residence in its previous order and the two appraisals Patrick entered into evidence at the July 2016 trial, the court concluded that the value of the marital home was $202,500. The trial court did not credit Elizabeth with any mortgage payments made after April 2013 because she was awarded the house and would therefore receive any increased equity in the house after that date. Using the mortgage company's account activity statements, the court determined that the principal balance when the dissolution petition was filed in June 2009 was $129,159.53 and the principal in late April 2013 was $116,858.70. The trial court concluded that Elizabeth was entitled to a $12,300.83 credit for the mortgage payments. Using the value of the house in late April

2013 of $202,500 and subtracting the principal balance owed at that same time frame of $116,858.70, the court determined that there was $85,641.30 in equity. The court subtracted Elizabeth's $12,300.83 credit for the mortgage payments she made from the $85,641.30 equity total, and concluded that the resulting divisible equity was $73,340.47. The court evenly divided the equity and awarded each party $36,670.23.

¶ 38 The court ordered Elizabeth to pay Patrick $36,670.23 within 30 days and to refinance the mortgage within that same time period in order to remove Patrick's name from the mortgage and property records. Patrick was ordered to sign a quitclaim deed and/or any documents necessary to facilitate the transfer.

¶ 39 The trial court denied Elizabeth's motion seeking to overturn the trial court's March 11, 2016, order holding her solely responsible for any debt owed to her parents in *Bollmeier v. Roy* and ordering her to indemnify Patrick if her parents collected from him.

¶ 40 ANALYSIS

¶ 41 Elizabeth timely appeals from the trial court's April 29, 2013, supplemental judgment of dissolution (Judgment 2) and the trial court's December 12, 2016, second supplemental judgment of dissolution of marriage (Judgment 3). On appeal, Elizabeth raises issues about the trial court's allocation of parental responsibility for extracurricular activities; about its civil contempt citation; about its finding that portions of the parties' October 11, 2011, settlement were valid; and about its distribution of marital debt.

¶ 42 Parental Responsibility

¶ 43 Elizabeth first argues that the trial court's ruling that Patrick should have parental responsibility over their son's extracurricular activities was erroneous. The parties

separated in June 2009 when their son was 8; Patrick was awarded responsibility for extracurricular activities when their son was 16; and in September 2018, their son, presently a high school senior, turned 18. Although the child is now 18, we do not find that the issue is moot. Legal emancipation contemplates a demonstration that a minor has the "ability and capacity to manage his own affairs and to live wholly or partially independent of his parents ***." 750 ILCS 30/2 (West Supp. 2017). Although here the child is no longer a minor, he continues to reside with Elizabeth in her home and he will continue to receive child support from Patrick until he graduates from high school. 750 ILCS 5/505(g) (West Supp. 2015). Although the duration of the extracurricular parental responsibility will be short, the issue remains important to the parents and must be considered in this appeal.

¶ 44 The best interests of the child is the primary consideration–the "guiding star"–in all child-related decisions that include the allocation of parenting time and the determination regarding parental decision-making responsibilities. See *In re Parentage of J.W.*, 2013 IL 114817, ¶ 41, 990 N.E.2d 698. Trial courts have broad discretion to determine the most appropriate allocation of parenting time and decision-making responsibilities. *In re Marriage of Whitehead*, 2018 IL App (5th) 170380, ¶ 21, 97 N.E.3d 566. "A trial court's findings as to a child's best interest are entitled to great deference because the trial judge is in a better position than we are to observe the personalities and temperaments of the parties and assess the credibility of the witnesses." *Id.* "We will overturn such a determination only if it is against the manifest weight of the evidence, is manifestly unjust, or is the result of an abuse of

discretion." *Id.* "A judgment is against the manifest weight of the evidence only if an opposite conclusion is apparent or if the findings appear unreasonable, arbitrary, or not based on the evidence." *Id.*

¶ 45 In addition to case law, the Illinois legislature also identified that the best interests of the child is the primary consideration in a trial court's allocation of the four significant decision-making parental responsibilities (education, health, religion, and extracurricular activities). 750 ILCS 5/602.5(a), (b) (West Supp. 2015). If the parties are not able to agree, the court shall make the allocations. *Id.* § 602.5(b). To determine the best interests of the child for purposes of allocating parental decision-making responsibilities, the trial court must consider all relevant factors, including:

> "(1) the wishes of the child, taking into account the child's maturity and ability to express reasoned and independent preferences as to decision-making;
>
> (2) the child's adjustment to his or her home, school, and community;
>
> (3) the mental and physical health of all individuals involved;
>
> (4) the ability of the parents to cooperate to make decisions, or the level of conflict between the parties that may affect their ability to share decision-making;
>
> (5) the level of each parent's participation in past significant decision-making with respect to the child;
>
> (6) any prior agreement or course of conduct between the parents relating to decision-making with respect to the child;
>
> (7) the wishes of the parents;
>
> (8) the child's needs;
>
> (9) the distance between the parents' residences, the cost and difficulty of transporting the child, each parent's and the child's daily schedules, and the ability of the parents to cooperate in the arrangement;

(10) whether a restriction on decision-making is appropriate under Section 603.10 [(750 ILCS 5/603.10(a) (West 2016) (where a parent is engaged in conduct that seriously endangers the child's mental, physical, or emotional health or development, the court can enter any order necessary to protect the child))];

(11) the willingness and ability of each parent to facilitate and encourage a close and continuing relationship between the other parent and the child;

(12) the physical violence or threat of physical violence by the child's parent directed against the child;

(13) the occurrence of abuse against the child or other member of the child's household;

(14) whether one of the parents is a sex offender, and if so, the exact nature of the offense and what, if any, treatment in which the parent has successfully participated; and

(15) any other factor that the court expressly finds to be relevant." *Id.* § 602.5(c).

¶ 46 In Judgment 3, the trial court concluded that Patrick would fully serve the minor son's best interests as the parent responsible for his extracurricular activities. Elizabeth's lengthy argument contends that Judge Gomric previously made a series of rulings favoring Patrick over Elizabeth and that therefore she violated various judicial canons. Elizabeth also asserts that the GAL's opinion testimony about which parent was best suited for extracurricular responsibilities was inappropriate because the opinion lacked foundational factual, psychological, or psychiatric support.

¶ 47 The trial court's order specifically noted that the minor had not made his specific wishes known to the GAL; that the child was well-adjusted in his school and community; that Patrick was mentally and physically capable; that the parties were incapable of joint decision-making; that Patrick had assisted the children in extracurricular activities since

the separation; that after the separation Elizabeth unilaterally terminated the children's ice hockey involvement and substituted soccer as an athletic activity for both children; that ice hockey was a shared activity enjoyed by Patrick with the children; that the parents' daughter immediately resumed ice hockey upon turning 18 years of age; that the daughter enjoyed spending time playing hockey with her father and intended to attempt to walk-on her college team; that both parents desired the opportunity to have sole responsibility for their son's extracurricular activities; that both parents could meet their son's physical and emotional needs; that the parents live geographically close to each other; and that neither parent is willing to facilitate and encourage a close and continuing relationship between the other parent and the child. Finally utilizing the catchall "any other relevant factor," the trial court found that the GAL's testimony on the extracurricular responsibility issue was important. Attorney Garavalia had been the GAL in this case since 2009 and had interviewed the parents, the children, and others on numerous occasions. He recommended that Patrick have sole responsibility for extracurricular activities.

¶ 48 Given the deference we must afford the trial court's findings, and based upon our independent review of the record and briefs on appeal, we find no basis to overturn this responsibility allocation decision. Elizabeth removed the children from ice hockey and substituted select soccer. The record is full of conflicts and resulting motions between Elizabeth and Patrick when Elizabeth had the sole responsibility for extracurricular activities. Patrick testified that he was denied the opportunity to question or veto any decisions that Elizabeth made but was then expected to financially support Elizabeth's

decisions. The GAL was well aware of these interpersonal dynamics. At the time of the 2016 order, the daughter had already graduated from high school and the son was set to graduate from high school in 2019. Given the daughter's immediate return to a sport that she loved when Elizabeth could no longer dictate her extracurricular activities, the GAL felt that Elizabeth had purposefully kept the children from ice hockey. We find no basis to conclude that the GAL's recommendation was flawed. Furthermore, the trial court did not solely base its decision upon the GAL's recommendation. We hold that the judgment is not contrary to the manifest weight of the evidence and is not unjust.

¶ 49 Civil Contempt

¶ 50 Elizabeth next argues that the trial court should not have entered its order holding her in contempt of court. The trial court found Elizabeth to be in indirect civil contempt of its earlier order. The court ordered her to return three hockey sticks to Patrick within seven days in order to purge the contempt.

¶ 51 Civil contempt is coercive in nature and is designed to obtain compliance with the court's order. *In re Marriage of Depew*, 246 Ill. App. 3d 960, 966, 616 N.E.2d 672, 677 (1993). Indirect contempt refers to contempt that occurs outside of the courtroom. *In re Marriage of Charous*, 368 Ill. App. 3d 99, 107, 855 N.E.2d 953, 961 (2006). Civil contempt is not considered a punishment. *Id.* Civil contempt has two fundamental requirements. First, the contemnor must have the ability to do what the court asked, and second, after complying with the order, the trial court cannot impose any further sanctions. *In re Marriage of Sharp*, 369 Ill. App. 3d 271, 279, 860 N.E.2d 539, 547 (2006).

¶ 52 The party seeking the contempt order has the burden to prove that there was an obligation pursuant to a court order and that the alleged contemnor did not comply with the court order. *In re Marriage of Hartian*, 222 Ill. App. 3d 566, 570, 584 N.E.2d 245, 248 (1991). After the moving party makes his *prima facie* case, the burden of proof shifts to the alleged contemnor. *Id.* The alleged contemnor must establish that his noncompliance with the trial court's order was not willful, *i.e.*, that he has a valid reason for failing to comply with the court's order. *In re Marriage of Tatham*, 293 Ill. App. 3d 471, 480, 688 N.E.2d 864, 871 (1997). We will not overturn a trial court's finding of contempt unless that finding is contrary to the manifest weight of the evidence. *In re Marriage of Charous*, 368 Ill. App. 3d at 108, 855 N.E.2d at 961; *Pryweller v. Pryweller*, 218 Ill. App. 3d 619, 628, 579 N.E.2d 432, 439 (1991).

¶ 53 In this case, the trial court heard testimony from Elizabeth and Patrick, and also viewed photographs Patrick took of the inside of Elizabeth's garage. The photographs clearly depicted some of the missing hockey sticks within Elizabeth's garage. The trial court previously ordered Elizabeth to return the hockey sticks on December 12, 2011, and the contempt petition stemmed from her failure to do so. In a bench trial, the trial judge is able to assess each witness's credibility, and so courts of review will rarely overturn that judgment unless the trial court's judgment is clearly contrary to the manifest weight of the evidence. *Jackson v. Bowers*, 314 Ill. App. 3d 813, 818, 731 N.E.2d 1252, 1257 (2000).

¶ 54 We have reviewed all of the evidence and the testimony of the parties as well as the briefs on appeal and find no basis to reverse the finding of contempt in this case.

Although Elizabeth testified that she delivered all hockey sticks she possessed to Patrick's mother, the photograph contradicts that assertion. While we affirm the finding of contempt, the trial court's contempt order listed no sanction in the event that Elizabeth refused to comply. "If the contempt sanction is incarceration, the respondent's circumstances should be such that he may correctly be viewed as possessing the 'keys to his cell.' " *In re Marriage of Betts*, 200 Ill. App. 3d 26, 44, 558 N.E.2d 404, 416 (1990) (quoting *In re Marriage of Logston*, 103 Ill. 2d 266, 289, 469 N.E.2d 167, 177 (1984)). The sanction serves to encourage compliance and must be vacated when the party complies. Therefore, we remand this issue to the trial court to enter a supplemental order that contains the appropriate sanction to "bring about compliance with the court's order" by encouraging Elizabeth to purge her contempt. *In re Estate of Hayden*, 361 Ill. App. 3d 1021, 1029, 838 N.E.2d 93, 100-01 (2005).

¶ 55 Settlement

¶ 56 Elizabeth also argues that the trial court erred in finding that portions of the settlement reached by the parties and read into the record on October 12, 2011, were enforceable. In Judgment 2, the court noted that the parties were unable to reach the finer points of the settlement, but that the parties were still bound to any parts of that verbal and agreed-to settlement that could be effectuated. The court did not bind the parties to the settlement provisions related to disposition of the marital residence and allocation of marital debts.

¶ 57 Elizabeth argues that the settlement was never validated in writing, and that even if the oral settlement was valid, the written April 29, 2013, Judgment 2 did not

incorporate the settlement terms. Elizabeth also argues that Judgment 3 makes reference to the verbal settlement in its denial of various posttrial motions, and thus, improperly relied upon the "settlement."

¶ 58 "A marital settlement agreement is a contract." *In re Marriage of Haller*, 2012 IL App (5th) 110478, ¶ 26, 980 N.E.2d 261 (citing *In re Marriage of Bohnsack*, 2012 IL App (2d) 110250, ¶ 9, 968 N.E.2d 692). Therefore, a marital settlement agreement is determined using contract law principles. *Id.* (quoting *K4 Enterprises, Inc. v. Grater, Inc.*, 394 Ill. App. 3d 307, 313, 914 N.E.2d 617, 624 (2009)). Oral marital settlement agreements are still binding upon the parties so long as there was an offer, an acceptance, and a meeting of the minds as to the terms. *Id.*; see also *In re Marriage of Lakin*, 278 Ill. App. 3d 135, 139-40, 662 N.E.2d 617, 620 (1996). If a property settlement agreement is disputed by the parties, and if that portion is not definite and certain and could result in additional litigation, then the oral property settlement will not be enforced. *Marriage of Lakin*, 278 Ill. App. 3d at 139-40. In reverse, if the oral settlement could "routinely be reduced to written judgment" and the parties raise no concerns about the terms, then an oral settlement can be binding upon the parties. *Id.*

¶ 59 Every case involving interpretation of a marital settlement agreement is unique and decided upon its own facts. *In re Marriage of Farrell*, 2017 IL App (1st) 170611, ¶ 21, 96 N.E.3d 516. The court's primary objective in interpreting the terms of a marital settlement agreement is to give effect to the intent of the parties. *Id.* ¶ 12. We review this issue on a *de novo* basis because the interpretation of a marital settlement agreement

presents a question of law. *Blum v. Koster*, 235 Ill. 2d 21, 33, 919 N.E.2d 333, 340 (2009).

¶ 60 In Judgment 2, the trial court excluded any aspect of the agreement that dealt with disposition of the marital residence and allocation of marital debt. The settlement contained 21 resolutions. Of those 21 resolutions, the following resolutions did not involve disposition of the marital residence and allocation of marital debt:

1. Elizabeth will receive all property in the marital residence with the exception of the collectible items owned by Patrick;
2. Custody of the two children will be joint;
3. Child support will follow statutory guidelines;
4. Future unpaid medical bills will be evenly divided;
5. Past unpaid medical bills will not be reimbursed by either party;
6. If Elizabeth's mother no longer provides free dental care to the children, all dental bills will be divided evenly;
7. Maintenance is waived;
8. Each party will pay his or her own attorney fees and costs;
9. Each party will retain his or her own retirement fund;
10. Accounts in the name of the two children will remain unchanged;
11. Insurance policies naming the two children as beneficiaries will remain the same;
12. A Wells Fargo debt will be equally divided;
13. Each party will retain his or her own vehicle;

14. All contempt proceedings will be dismissed with prejudice;
15. Each party is responsible for his or her own debts incurred since separation;
16. Each party will receive his or her own income tax refunds for 2010 and 2011; and
17. The GAL fees will be equally divided.

On appeal, Elizabeth does not object to any of the above-listed provisions, and therefore those provisions are not in dispute in this appeal. Nevertheless, in reviewing Judgment 2, contrary to Elizabeth's assertions, the trial court restated and ordered all 17 of these agreed-to provisions. The trial court modified items 5 and 17, ordering Patrick to pay Elizabeth $53.06 within 90 days (item 5) and dividing Dr. Cuneo's fees in addition to the GAL fees on an equal basis (item 17). We find that the 17 agreed-to items are routine and could easily have been reduced to a written settlement. See *Marriage of Lakin*, 278 Ill. App. 3d at 139-40. Even if the trial court had not restated these items in the written judgment, we find that the oral settlement was definite and certain and is binding as to those 17 items. See *Marriage of Haller*, 2012 IL App (5th) 110478, ¶ 26.

¶ 61 Elizabeth's primary issue is with the court's orders (both Judgment 2 and Judgment 3) equally dividing the equity in the marital residence. She contends that because she disputed the division of equity, the court could not hold her to this earlier settlement.

¶ 62 Elizabeth's argument presumes that Judgment 2 was based upon the original settlement. In that order, the trial court awarded the marital residence to Elizabeth with an unspecified equity award to Patrick. The court's order did not divide the equity because

the house could not then be sold because of the *Bollmeier v. Roy* judgment that clouded the title. Instead, the court reserved ruling about the value and the equity in the marital residence and ordered each party to obtain an independent appraisal. Therefore, Elizabeth's argument regarding Judgment 2 is without merit.

¶ 63 Elizabeth also claims that the equal split of equity in Judgment 3 was based upon the original settlement. She bases this claim upon an exchange during the July 26, 2016, trial between Elizabeth's attorney Melroy Hutnick and Judge Julia Gomric. The following exchange took place after Hutnick and Judge Gomric discussed that portion of the original settlement regarding Patrick's right to his collectible items and hockey sticks and the court's incorporation of the original attachment outlining the missing items:

> "MR. HUTNICK: From what your Honor just shared with us about thirty seconds ago it sounds as if we're proceeding on the basis that there was a settlement.
>
> THE COURT: I've said that many, many times in the last handful of times that we've convened here.
>
> MR. HUTNICK: And I understand. I just want to be certain because the record now is the trial that I have to preserve which mean that the purported judgment would not govern, it's the settlement agreement.
>
> THE COURT: Well, we can play cat and mouse about this all day. But I know you don't believe that there was a settlement. *** But Judge Cruse found that there was a settlement and her judgment sought to enforce a settlement. So we have to go from there, okay, because I'm not going to let you reargue those issues."

Although we agree that Judge Gomric was adamant that previously settled issues would not be relitigated, the specific issue discussed involved Patrick's personal property and had nothing to do with division of the equity. However, before ruling on the equity division and credits for mortgage payments Elizabeth made, Judge Gomric stated that "the parties agreed and it has been ordered that the equity in the marital home be split

equally." We find that Judge Gomric's statement in Judgment 3 about the agreement was factually incorrect. Despite this factual inaccuracy, Judge Gomric independently determined that Elizabeth and Patrick should evenly split the equity after Elizabeth was granted credit for the mortgage payments she solely made. The court stated:

> "after consideration of the 503(d) factors, the findings made in the Supplemental Judgment entered on April 29, 2013, and having heard no other suggestion to the contrary at trial in 2016, the Court ORDERS that the equity be split equally after credit is given to Elizabeth for certain mortgage payments ***."

We find that the trial court carefully considered all of the 503(d) factors and concluded that the equity should be evenly divided after subtraction of the credit for mortgage payments. Elizabeth's argument that the trial court only based its order on the settlement agreement is without merit.

¶ 64 Elizabeth also objects to that portion of Judgment 3 that reaffirmed its March 11, 2016, order holding her solely responsible for the debt owed to her parents in the St. Clair County civil case. The March 11, 2016, order reaffirmed the court's earlier holding in Judgment 2. Elizabeth asks this court "to find anything to even remotely suggest [Elizabeth] was willing to permit Judge Cruse to enter a Judgment in the event the attempt at settlement failed [because] [n]either [Elizabeth] or her attorney had any trust in Judge Cruse." She argues that Judge Cruse's holding, that she was exclusively responsible for the judgment because she voluntarily agreed to its entry against her, was based on matters outside of the record. Elizabeth does not articulate the nature of "matters outside of the record."

¶ 65 After reviewing the record on appeal, we conclude that Judge Cruse's order that Elizabeth was responsible for the judgment amount in *Bollmeier v. Roy* was not based upon the original settlement. From a reading of Judge Cruse's order, she based that order on her assessment of the witnesses as well as the series of factual events in *Bollmeier v. Roy*. When the settlement was originally read into the record, Elizabeth's attorney informed the court that although he did not represent the Bollmeiers, it was his understanding that the Bollmeiers would agree to dismiss the suit. In addition, the settlement provided that the judgment against Elizabeth would not be satisfied out of the equity resulting from the sale of the marital residence. Furthermore, the parties had then agreed that the equity was going to be equally divided after the house was sold. Thereafter, the Bollmeiers refused to dismiss the suit, and Judge Cruse noted that their refusal, coupled with Elizabeth's admission to the judgment in favor of her parents, "thwarted any agreement the parties had as to the allocation of debt and the marital residence." Judge Cruse noted that the judgment against Elizabeth made the alleged debt marital in nature. Judge Cruse concluded that testimony presented by Elizabeth at trial did not credibly support the existence of an actual debt owed to her parents, and did not establish that she had made several payments on the two "loans." On the basis of the evidence at trial, Judge Cruse opined that the Bollmeiers had no intention of collecting the debt from their daughter but had pursued litigation in order to attempt to enforce the judgment against Patrick. Accordingly, Judge Cruse allocated all of the debt resulting from the alleged loans to Elizabeth and ordered Elizabeth to pay the judgment "she

voluntarily and unilaterally entered into in [the *Bollmeier v. Roy* suit], holding [Patrick] harmless thereto and indemnifying him from the debt thereof."

¶ 66 Subsequent to Judgment 2, the Bollmeiers obtained a judgment against Patrick in the full amount of the "loans." On March 11, 2016, Judge Gomric noted this additional fact and reiterated Judge Cruse's earlier holding, directing that the judgments against Elizabeth and Patrick were Elizabeth's responsibility and that Elizabeth must indemnify Patrick for any monies her parents collected from him. The court later denied Elizabeth's motion to set aside the March 2016 order and reaffirmed that order in Judgment 3.

¶ 67 We find that the Judgment 2 holding that Elizabeth was responsible for the judgment was not based upon the settlement. Therefore, we hold that the March 11, 2016, order and Judgment 3 reaffirming that order are also not based upon the settlement.

¶ 68 Distribution of Marital Debt

¶ 69 Finally, Elizabeth argues that the trial court abused its discretion in its distribution of marital debt by ordering her to reimburse her parents for the judgment and to indemnify Patrick if her parents collect any money from him. She asserts that Judge Cruse abused her discretion because Judgment 2 was based upon matters outside of the record–the judge's opinion that the Bollmeiers had no intention of collecting the judgment from their daughter.

¶ 70 Section 503(d) of the Act requires marital property and debt division in just proportions. 750 ILCS 5/503(d) (West Supp. 2015). Division of marital assets in just proportions does not require mathematical equality, but it does require equitability. *In re Marriage of Roberts*, 2015 IL App (3d) 140263, ¶ 12, 53 N.E.3d 17; *In re Marriage of*

Zweig, 343 Ill. App. 3d 590, 599, 798 N.E.2d 1223, 1232 (2003). The trial court may award an unequal distribution of property and debt if it properly considered and applied the section 503(d) guidelines. 750 ILCS 5/503(d) (West Supp. 2015); *Marriage of Zweig*, 343 Ill. App. 3d at 599-600. The section 503(d) guidelines to be considered in determining a marital property division include:

> "(1) each party's contribution to the acquisition, preservation, or increase or decrease in value of the marital or non-marital property ***;
>
> (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." 750 ILCS 5/503(d)(1)(12) (West Supp. 2015).

¶ 71 The trial court has broad discretion in dividing marital debts. *Marriage of Roberts*, 2015 IL App (3d) 140263, ¶ 13 (citing *In re Marriage of Wojcik*, 362 Ill. App. 3d 144, 161, 838 N.E.2d 282, 297 (2005)). On appeal, we will not reverse the trial court's division of debts unless we find the division to constitute an abuse of discretion. *Id.* "An abuse of discretion occurs when no reasonable person would take the view adopted by the trial court." *Id.*

¶ 72 In reviewing the record on appeal, we do not concur with Elizabeth's claim that Judge Cruse based her judgment on matters outside of the record. In Judgment 2, Judge Cruse noted the existence of the *Bollmeier v. Roy* case and Elizabeth's immediate confession of judgment. Both Elizabeth and Patrick testified about the case at trial. *Bollmeier v. Roy* was repeatedly referenced in pleadings and during court hearings. Patrick even filed a motion in March 2012 seeking to add the Bollmeiers as parties to this dissolution case so the court could easily adjudicate issues about the "loans" and equity in the marital residence. At trial, Elizabeth testified that she believed that by confessing judgment in her parents' case, she was binding Patrick to that judgment. Judge Cruse found that based upon the documentary and testimonial evidence at trial, Elizabeth did not adequately establish that the "loans" were legitimate and were designed to be repaid. We find that there was sufficient evidence and testimony about the nature and timing of the *Bollmeier v. Roy* case, as well as evidence in this divorce case, in order for Judge Cruse to form her opinions and to conclude that there was inadequate evidence supporting the legitimacy of the "loans" and Elizabeth's intent to repay the loans. Finding

that the legitimacy of the debt was specious, the court had the authority to assign the "debt" to Elizabeth alone.

¶ 73 After an extensive review of the record and briefs on appeal, we find no basis to conclude that the trial court abused its discretion in assigning this marital "debt" solely to Elizabeth.

¶ 74 CONCLUSION

¶ 75 For the reasons stated in this order, we affirm the judgment of the circuit court of St. Clair County and remand for further proceedings.

¶ 76 Affirmed and remanded.