

No. 1-23-2196

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 THE
APPELLATE COURT OF ILLINOIS
FIRST JUDICIAL DISTRICT

ALI ALI MUSA, MONIR AHMED, <i>et al.</i> ,)	Appeal from the
)	Circuit Court of
Plaintiffs-Appellees,)	Cook County.
)	
v.)	No. 17 CH 12357
)	
HAIL SAEED, individually and on behalf of)	
SALAAM PROPERTIES, LLC,)	Honorable
)	Michael T. Mullen,
Defendants-Appellants.)	Judge Presiding.

PRESIDING JUSTICE HOWSE delivered the judgment of the court.
Justices McBride and Cobbs concurred in the judgment.

ORDER

Held: We affirm the judgment of the circuit court of Cook County modifying its order denying a petition to enforce an attorney’s lien and award attorney fees; the court determined the lien was unenforceable; however, the court’s order was interlocutory, therefore on a motion for reconsideration the trial court had subject matter jurisdiction to modify its order to include the finding that the requested fees, though denied, were nonetheless reasonable and necessary.

¶ 1 This matter involves a petition for attorney fees. This court has previously addressed an appeal of the judgment in the underlying lawsuit. *Musa v. Saeed*, 2022 IL App (1st) 220209-U. None of the substantive issues concerning the underlying case are at issue in this appeal. Defendants’ former attorneys filed a petition in the underlying case to enforce an attorney’s lien and award attorney fees. The trial court denied defendants’ former attorneys’ petition, holding

there was no enforceable attorney's lien. On motion for reconsideration, the court granted the former attorneys' motion to amend the judgment to add the trial court's oral findings of fact that the fees were reasonable and proper. Defendants argue the trial court lacked jurisdiction to amend the order after it determined the attorneys did not prove a right to a statutory or equitable lien for fees. For the following reasons, we affirm.

¶ 2

BACKGROUND

¶ 3 In the underlying case, in September 2017, plaintiffs Ali Ali Musa and Monir Ahmed, and Salaam Properties, LLC, filed a complaint against defendants Hail Saeed, and Sufwan Laundries, Inc., related to the operation of an LLC formed for the purpose of operating a commercial property. Saeed, individually and on behalf of defendant Salaam Properties, LLC, filed a counterclaim against plaintiffs. *Id.* ¶¶ 4, 8. The trial court entered judgments in favor of plaintiffs and defendants on their various claims against each other. *Id.* ¶ 29. The trial court denied “ ‘all requests for attorney's [sic] fees and expenses’ ” and ordered each party to bear their own costs. *Id.* ¶ 30. In addition to awarding damages the trial court ordered the dissolution of the LLC and the liquidation of its assets. *Id.* Saeed appealed (*id.* ¶ 33) and this court affirmed the trial court's judgment (*id.* ¶ 68). The case returned to the trial court for further proceedings in compliance with the trial court's judgment.

¶ 4 The law firm Rosenson & Zuckerman LLC (R & Z) represented Saeed in the trial court from September 2019, before Saeed filed his counterclaim, through the appeal of the trial court's judgment. Following the appeal and in the midst of supplemental proceedings to enforce the judgement, Saeed discharged R & Z as its attorney. R & Z subsequently filed a Petition to Attach Attorney's Lien on the assets subject to a turnover order pursuant to the Attorneys Lien Act (770 ILCS 5/1 (West 2022)). The petition asked the trial court to “set a date to adjudicate [R & Z's]

rights under the Attorney's Lien." R & Z filed an amended petition seeking a lien "on all amounts due under the Judgment Order."

¶ 5 Saeed responded to the petition arguing that pursuant to section 5/1 of the Act, the attorney's lien was untimely and unenforceable and the fees sought are not reasonable. On April 11, 2023, R & Z filed a reply in which it conceded that Saeed was correct that the attorney's lien was unenforceable and, "[t]o the extent required, R&Z LLC releases that Attorney's Lien."

¶ 6 In the alternative, R & Z petitioned for an equitable lien against the judgment or a contractual fee award. The petition asserted that a "Fee Agreement [between the parties] comprises a promise by Saeed to pay [R & Z]" that was modified to assign a portion of the judgment to cover the balance of R & Z's fees. R & Z also petitioned for "a contractual fee award to be entered in its favor based on the outstanding amount of the fees owed by Saeed under the Fee Agreement." Shortly after filing its reply adding theories of relief to its claim for fees, R & Z filed a separate lawsuit against Saeed alleging breach of contract.

¶ 7 Saeed responded that R & Z was not entitled to an equitable lien because "there is no written assignment of any fund, or percentage thereof, which is necessary to establish an equitable lien," and R & Z has an adequate remedy at law and "has already filed a separate lawsuit against Saeed for breach of contract." Saeed asserted, "this Court does not have jurisdiction to enter any further order regarding amounts claimed to be owed to [R & Z]" and, because R & Z does not have a lien in this case, the trial court lacks jurisdiction to make any further determinations as to R & Z's claim for attorney fees. Specifically, Saeed argued that R & Z "cannot establish an equitable lien for its attorneys' fees" and "because [R & Z] has no enforceable lien rights *** this Court's jurisdiction as to any claim [R & Z] may have against Saeed in the underlying action is exhausted."

¶ 8 R & Z argued the trial court “has jurisdiction to grant R&Z, LLC equitable relief. [Citation.] While it may lack jurisdiction to award breach of contract damages, *** the Court can exercise its equitable powers to award fees “ ‘using equitable lien, *quantum meruit*, or [an]other equitable device.’ ” R & Z also argued that the fees sought are not unreasonable. R & Z specifically petitioned the trial court “to adjudicate its rights to an ‘equitable lien, *quantum meruit*, or other equitable device’ with respect to its fees.” On July 7, 2023, R & Z filed an “Amended Petition for Attorney’s Fees Award Under Equitable Lien or Other Equitable Device.” The amended petition argued, in pertinent part, that the trial court, “sitting in Chancery, has jurisdiction to grant the requested equitable relief.”

¶ 9 Saeed responded to the amended petition, in pertinent part, that R & Z has a remedy at law and had already filed a separate lawsuit against Saeed, that R & Z is not entitled to an equitable lien, and, in the absence of a statutory or equitable lien, the trial court does not have jurisdiction to enter any further order regarding amounts claimed to be owed to R & Z. Saeed argued the reasonableness of R & Z’s fees should not be determined by the trial court in this case, but by a jury. Saeed argued that because R & Z has an adequate remedy at law and has not sought to intervene, and because R & Z “has no enforceable lien rights,” the trial court’s jurisdiction as to any claim R & Z may have against Saeed in the underlying action is exhausted. Saeed also argued the fees R & Z sought were unreasonable.

¶ 10 On August 8, 2023, the trial court held a hearing on R & Z’s “amended petition for attorney’s fees seeking an award under either an equitable lien or other equitable device ***.” R & Z argued, in part, that the trial court has jurisdiction to “use its equitable power to award fees” when the statutory remedy is unavailable” and that the “relief requested is reasonable.” Saeed’s attorney responded, in pertinent part, that there “is no remedy in equity at this point, because

there is a remedy at law ***.” Saeed’s attorney argued “there’s no basis here for an equitable lien, and because there is no lien, the Court doesn’t have any further jurisdiction to fashion any other type of equitable remedy ***.”

¶ 11 Following the parties’ arguments the trial court made oral findings. The trial court stated that it was “going to start at the end of my decision and go backwards.” The trial court then stated as follows:

“I want to deal exactly with—I want to address the request for attorneys’ fees in this manner: There are arguments made that the time and task submissions *** were something less than appropriate; in other words, they were deficient in some manner. In my opinion, they were very detailed, and the time that was identified was very reasonable for the task at hand. *** I can tell the parties, and make this clear on the record, that the request for fees, the fee petition itself, in terms of the time, task, and the amount of hours put into the case, as well as the rate that is being requested is fair and reasonable in all requests—in all respects.”

¶ 12 The trial court went on to state that it had “addressed the issues *** in term of the time and task, but the equitable lien is problematic.” The court found it did “have the authority to impose an equitable lien” but based on the totality of the circumstances and the relevant case law, “it would be inappropriate to grant the requested relief.” On August 8, 2023, the trial court entered a written order. The trial court’s written order only stated that R & Z’s “Petition to Enforce Equitable Lien or to Otherwise Determine and Award is denied.” The order did not include the finding that R & Z’s fees were reasonable.

¶ 13 On October 4, 2023, R & Z filed a motion to reconsider or, in the alternative, to amend the trial court’s written order. The request to amend the written order asked the trial court to

“include Supreme Court Rule 304(a) language and an express finding that R&Z’s fees are reasonable and were necessarily incurred.” R & Z argued the Fee Ruling was not *dicta*, the court made the ruling after full briefing by the parties, and the court had jurisdiction to make the ruling.

¶ 14 On November 7, 2023, the trial court denied the motion for reconsideration “to the extent it seeks reconsideration of the August 8, 2023, Order that denied the Amended Petition.” The court granted the motion “to the extent it seeks to amend the August 8, 2023, Order to include the following Findings of Fact:

- “a. Attached as Group Exhibit 2 to the Amended Petition are R&Z LLC’s records reflecting the legal services performed by R&Z LLC for Saeed (Time Records);
- b. The legal tasks (Tasks) set forth in the Time Records were reasonable and necessary for R&Z, LLC to litigate this case on behalf of Saeed; and
- c. The hourly rate R&Z, LLC charged for the Tasks is reasonable and proper.”

The trial court stated 304 (a) language was unnecessary because the underlying case was settled after R&Z filed the motion for reconsideration and all other matters were now concluded.

¶ 15 This appeal followed.

¶ 16 ANALYSIS

¶ 17 This is an appeal from a judgment granting in part and denying in part a motion to reconsider and a motion to amend a prior judgment. It is within the trial court’s discretion whether to grant or deny a motion to modify a judgment. *Langone v. Schad, Diamond & Shedden, P.C.*, 406 Ill. App. 3d 820, 830 (2010) (citing 735 ILCS 5/2-1203 (West 2010) (“Motions after judgment in non-jury cases”)).

“We generally review a trial court’s ruling on a motion to reconsider for an abuse of discretion. [Citation.] As we have explained, however, under that ‘rubric’ of abuse of discretion, we must apply other standards of review, depending on whether the underlying issue is one of fact or law. [Citation.] ‘[W]here a motion to reconsider only asks the trial court to reevaluate its application of the law to the case as it existed at the time of judgment, for example, that is a legal question, and our standard of review is *de novo*.’ [Citation.]” *In re M.D.*, 2022 IL App (1st) 220017, ¶ 77.

¶ 18 The issue in this case is whether the trial court had jurisdiction to modify the August 8, 2023 order to include its findings in the November 7, 2023 order. “Whether a trial court has jurisdiction is a question of law, subject to *de novo* review.” *In re Marriage of Hall*, 404 Ill. App. 3d 160, 164 (2010).

¶ 19 Saeed’s sole argument on appeal is that the trial court did not have jurisdiction to make a ruling on the reasonableness and necessity of R & Z’s fees because R & Z is not a party to this case and has not sought to intervene, and, therefore, absent a lien on Saeed’s judgment the trial court lacked the subject matter jurisdiction required to make any further findings on R & Z’s claims on the petition for fees, including whether R & Z’s fees were reasonable and necessary. R & Z argues the trial court determined the reasonableness and necessity of R & Z’s fees “only after the parties had addressed the reasonableness of R & Z’s fees” in litigating R & Z’s fee petition in this case. R & Z argues the trial court had jurisdiction to grant the motion to amend the judgment to include the trial court’s determination that the fees were reasonable.

¶ 20 We initially determine that the trial court’s order denying the petition for a lien was an interlocutory order because other issues affecting the other parties remained pending. “A

judgment that does not dispose of all the claims in an action is not an appealable order without a finding under Supreme Court Rule 304(a).” *Martzaklis v. 5559 Belmont Corp.*, 157 Ill. App. 3d 731, 735-36 (1987) (holding petition for attorney fees as a discovery sanction is a claim subject to Illinois Supreme Court Rule 304(a)). In *Martzaklis*, the court held that “[the attorneys’] petition for fees as a sanction under Rule 219(c) and (d) was submitted during the pendency of the action [citation], and thus we hold it is a ‘claim’ as that term is used in Rule 304(a).” *Id.* at 736, see also *In re Marriage of Nash*, 2012 IL App (1st) 113724, ¶ 14 (“An order awarding interim attorney fees under section 501(c-1) of the [Illinois Marriage and Dissolution of Marriage] Act is not an appealable interlocutory order.”). “To be considered final for Rule 304(a) purposes, the order must dispose of the rights of the parties, either upon the entire controversy or upon some definite and separate part thereof. *** [T]he policy considerations underlying Rule 304(a) include discouraging piecemeal appeals in the absence of some compelling reason and *** removing the uncertainty as to the appealability of a judgment which was entered on less than all of the matters in controversy.” (Internal quotation marks omitted.) *In re Marriage of Arjmand*, 2024 IL 129155, ¶ 22. The trial court’s order denying R & Z’s petition for a lien was an interlocutory order because it did not dispose of the entire case.

¶ 21 Because it was an interlocutory order, the trial court also had jurisdiction to hear R & Z’s motion to reconsider seeking modification of the order denying its petition for a lien even though the motion was filed more than 30 days after the order denying the petition. *Ward v. Decatur Memorial Hospital*, 2019 IL 123937, ¶ 48 (“the trial court has inherent power to review, modify, or vacate interlocutory orders while it retains jurisdiction over the entire controversy”) (citing *Richter v. Prairie Farms Dairy, Inc.*, 2016 IL 119518, ¶¶ 25, 28). In *Richter*, our supreme court noted that “this court has repeatedly recognized the inherent power of the circuit court to review,

modify, or vacate interlocutory orders while the court retains jurisdiction over the entire controversy.” *Richter*, 2016 IL 119518, ¶ 28. In this case, the trial court retained jurisdiction over the entire controversy. Therefore, the trial court had jurisdiction to “review, modify, or vacate” the interlocutory order denying R & Z’s petition because we find that the trial court simply exercised its long recognized authority to modify its own interlocutory order.

¶ 22 In this appeal appellant does not argue the trial court abused its discretion or committed some other error when it amended the order; instead, appellant argues the trial court lacked subject matter jurisdiction to modify its order denying R & Z’s petition for a lien to find that the fees requested were reasonable. Our Supreme Court has defined subject matter jurisdiction as follows:

“*Belleville Toyota* thus held that [w]ith the exception of the circuit court’s power to review administrative actions, which is conferred by statute, a circuit court’s subject matter jurisdiction is conferred entirely by our state constitution. [Citation.] Subject matter jurisdiction refers to the power of a court to hear and determine cases of the general class to which the proceeding in question belongs [citation,] and this jurisdiction extends to all justiciable matters. [Citations.] To invoke the circuit court’s subject matter jurisdiction, a party need only present a justiciable matter, *i.e.*, a controversy appropriate for review by the court, in that it is definite and concrete, as opposed to hypothetical or moot, touching upon the legal relations of parties having adverse legal interests. [Citation.]” (Internal quotation marks omitted.) *People v. Castleberry*, 2015 IL 116916 ¶ 15.

¶ 23 Appellant argues that *Mordkovich* compels a finding that the trial court lacked jurisdiction to amend the order. We disagree, because *Mordkovich* is distinguishable from this

case. In *Mordkovich*, Warlick, a family law attorney, sought to collect fees his client owed him by enforcing a lien against the proceeds of a settlement of a separate personal injury case filed by its former client. *Mordkovich*, 2017 IL App (1st) 161609, ¶¶ 1-3. The trial court dismissed the personal injury case pursuant to a settlement. *Id.* ¶ 7. Warlick subsequently filed a "Motion to Vacate the Dismissal and For Leave to Intervene for Adjudication of Lien" in the personal injury case. *Id.* ¶ 8. Warlick also filed a motion to compel the former client and their attorney to place the proceeds of the settlement into escrow. *Id.* ¶ 11.

¶ 24 The trial court ordered a portion of the settlement to be placed in escrow. *Id.* The trial court found that Warlick “did not possess an equitable lien upon the proceeds of the settlement in this personal injury action.” *Id.* ¶ 13. Warlick filed a motion to reconsider the order finding that Warlick did not possess an equitable lien. *Id.* The former client filed a motion to dismiss Warlick's action for lack of jurisdiction. *Id.* ¶ 14.

¶ 25 The trial court denied Warlick’s motion to reconsider and dismissed Warlick’s motion to vacate the dismissal of the personal injury case and to adjudicate its lien for lack of subject matter jurisdiction. *Id.* ¶ 16. The appellate court ruled the trial court correctly found that Warlick did not possess an equitable lien on the proceeds of the settlement and that “in the absence of a lien on the proceeds, the trial court had no further jurisdiction in the intervention proceeding to determine any other right of action that [Warlick] may have against the parties to the [personal injury case.]” *Id.* ¶ 24. Because Warlick had “no enforceable lien rights” in the personal injury case, the trial court could not grant any other relief against any other party at the behest of Warlick, including Warlick’s request to place the funds in escrow and to vacate the dismissal and settlement of the underlying suit, because in the absence of a valid lien the trial court did not have jurisdiction.

¶ 26 In *Mordkovich*, Warlick sought to compel vacating the settlement and impounding the proceeds. *Id.* ¶ 16. Unlike in *Mordkovich*, the trial court's order here does not order any other party to take any action. The court only modified its own prior interlocutory order, as it had authority to do. The *Mordkovich* court did not hold that the trial court is precluded from making additional findings on a motion for reconsideration. Therefore, *Mordkovich* is distinguishable.

¶ 27 We find the trial court had jurisdiction to amend the order because R & Z invoked the trial court's jurisdiction by filing a petition for a lien in a court with authority over the proceeds of the supplemental proceedings in the underlying case and the court had authority to amend its own interlocutory order. "The trial court's jurisdiction to adjudicate an asserted lien is derived from its jurisdiction over the underlying proceeding ***. Having jurisdiction over the underlying action *** provides the requisite subject matter jurisdiction to adjudicate any claimed lien ***."

Mordkovich, 2017 IL App (1st) 161609, ¶ 24. (citing *Phillip Morris*, 198 Ill. 2d 87, 95-96 (2001)). In *Phillip Morris*, our supreme court addressed a statutory attorney's lien. *Phillip Morris*, 198 Ill. 2d at 93. The Attorney's Lien Act requires the attorney to "perfect the lien by serving notice, in writing, upon the party against whom the client has the claim." *Id.* at 95. Our supreme court held that once the lien is perfected, "upon petition 'any court of competent jurisdiction' may adjudicate the lien." *Id.* Our supreme court found that the client (the State of Illinois) "chose to sue *** in the circuit court," the attorneys perfected their lien pursuant to the statute, and "petitioned the circuit court to adjudicate it." *Id.* at 95-96. The court held that the circuit court had jurisdiction to adjudicate the lien, "either because it heard the underlying matter, or because it has jurisdiction over the settlement proceeds."

¶ 28 In this case, Saeed hired R & Z to represent him before the trial court that R & Z petitioned to adjudicate its petition for an equitable lien and the court had jurisdiction over the

proceeds of the supplemental proceedings. Neither *Mordkovich* nor *Phillip Morris* held that an attorney is required to intervene in the same underlying case that gave rise to the asserted lien.

See generally *Leroy v. ERA Valdivia Contractors, Inc.*, 2023 IL App (1st) 211323, ¶ 37

(adjudicating former attorney's petition for lien without discussing intervention).

¶ 29 The trial court had jurisdiction to adjudicate R & Z's fee petition because the trial court heard the case underlying the fee petition. *Phillip Morris*, 198 Ill. 2d at 96. The trial court entered an order in the underlying case denying the fee petition. That order was interlocutory because it did not dispose of all of the claims in the underlying case or a definite and separate part of the matters in controversy. The November 7, 2023 order modified the trial court's interlocutory order denying the petition for a lien. The trial court had jurisdiction to modify its interlocutory order because the court retained jurisdiction over the entire controversy.

¶ 30 The trial court had jurisdiction to modify its order on the fee petition. While we find the court had jurisdiction to amend the order we make no determination as to the legal significance of the amendment. Accordingly, we affirm the trial court's judgment.

¶ 31 **CONCLUSION**

¶ 32 For the foregoing reasons, the judgment of the circuit court of Cook County is affirmed.

¶ 33 Affirmed.