

Circuit Court for Montgomery County  
Case No. 101781

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 402

September Term, 2016

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IAN DAVIS

v.

NADA DAVIS

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Nazarian,  
Leahy,  
Friedman,

JJ.

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Opinion by Nazarian, J.

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File: August 10, 2017

\* This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

After Ian Davis (“Husband”) and Nada Davis (“Wife”) first divorced in 2014, Wife appealed the Circuit Court for Montgomery County’s alimony award, and we vacated it and remanded for further proceedings. After a hearing on remand, the court entered a new alimony award, ordered Husband to contribute to Wife’s attorneys’ fees, and made a marital property award in her favor as well. Husband challenges several elements of the circuit court’s decisions and the denial of his motion to alter or amend. We affirm.

## I. BACKGROUND

### A. History Of The Marriage And Family Leading To The Separation

Husband and Wife married on April 10, 1994. They had their first child in 1997 and their second in 2001.

At the start of the marriage, Wife was a successful hairstylist who earned around \$100,000 a year. In those first few years, Husband “earned a relatively smaller annual income working for the Commerce Department and, later, for private employers.” *Davis v. Davis*, No. 78, Sept. Term 2014 (Md. App. Mar. 25, 2015), slip op. at 2. After the children were born, Wife reduced her working hours at first, then stopped working altogether. Husband, meanwhile, ascended to an executive position with Occidental Petroleum Corporation, and eventually earned an annual income in excess of \$1 million.

Once Husband’s salary made a significant leap, so too did the family’s standard of living, as the circuit court found in its January 2014 ruling:

I would best characterize [the marital standard of living] as opulent but completely unaffordable. These were two people – and the blame gets shared – who became fueled by some desire to live in a large house and to conspicuously consume.

And they did that by having dinner out three or four times [a] week, clothing themselves very nicely, driving fine automobiles, and most especially, buying homes they could not afford.

The testimony was somewhat unclear to me, but at the very bottom, they were at one point about a million dollars in debt. And there was a suggestion that it was close to \$2 million all during this period of time. So, you know, it's one thing to say, "Our standard of living is that we lived in a large house." But it's another to say, "We lived in that house, but it was a house of cards. We couldn't afford it." And I find that even with a rather substantial salary that in the latter years [Husband] was making, they were living far beyond their means.

Husband and Wife also purchased, renovated, and resold a series of expensive homes in Chevy Chase. Around 2011, arguments over renovation costs, a new combination of prescription medications Wife was taking, and increasingly hostile interactions within the family led to a rapid deterioration of the marriage. Back in 2014, the circuit court assigned most of the blame to Wife:

The treatment of at least one of the . . . children was a large factor in the marital break up. And it's not to minimize the fact that during the course of the marriage, I find that the defendant continually belittled her husband. . . . This was constant during the marriage.

And if it were just the two parties coming in, pointing the finger at one another, it might be a little bit harder to believe. But I found particular significance of the testimony of [the parties' neighbor and friend.] . . . He did not want to be here. He had regard for both of these parties. And he recited a litany of things that he witnessed including verbal abuse of the [older child]. Verbal abuse of [Husband] by [Wife], which I found extremely compelling, and again he has no reason to come in here and lie. And so I find the circumstances that contributed to the estrangement of the parties . . . I think most of it laid with [Wife] and her conduct.

. . . .  
. . . I must say, after having listened to the testimony, that the [Wife’s efforts in] child rearing in many respects left a lot to be desired. . . . I find that much of the relationship, especially between [Wife] and the older child was just horrible. And it was fueled in large part by [Wife’s] behavior.

Now you may have had some emotional issues that contributed to this, and to the extent that you were not able to help that, I understand it. But much of it was inexcusable.

. . . Much of the child rearing that she did was very damaging. And it’s a factor that needs to be considered when I talk about the contributions that each of you made to the family.

*Davis*, No. 78, slip op. at 12–13.

#### **B. The Separation, The First Trial, And The First Appeal**

Husband and Wife separated in 2012. Anticipating divorce, the parties came to agreements on custody and the disposition of some of their jointly-held assets. But they weren’t able to agree on how to divide everything, so the court conducted an evidentiary hearing on January 13–16, 2014, in conjunction with the divorce proceeding, to determine an appropriate alimony award. On January 31, 2014, the circuit court orally granted an absolute divorce and awarded Wife a monetary award of \$8,113, \$20,000 in attorneys’ fees, and one-half of Husband’s interests in various retirement accounts. The court also directed Husband to pay rehabilitative alimony for three years, \$8,600 per month for the first year and \$7,000 per month for the following two years.

Wife filed a notice of appeal on March 21, 2014. She challenged the circuit court’s alimony award, arguing that the court had made clearly erroneous findings of fact and

abused its discretion in determining the amount of alimony and by refusing to award indefinite alimony. We vacated the circuit court judgment on March 25, 2015 and remanded for further proceedings. *Davis*, No. 78, slip op. at 1. In an unreported opinion, we found no error in the circuit court’s core factual findings:

1. Wife was able to return to her former profession, hairdressing, after spending a year retraining and becoming recertified;
2. Wife could earn, within two years, a \$51,000 annual salary;
3. Husband and Wife’s standard of living while married was “completely unaffordable;”
4. Husband and Wife were both to blame for living beyond their means; and
5. Wife was primarily to blame for the estrangement of the parties and damage to the marital and parent-child relationships.

We agreed with Wife, however, that the court had not fully explained the basis of its alimony award and connected the dots between the evidence and its alimony calculations. Accordingly, we vacated the alimony award and directed the circuit court to address four questions on remand:<sup>1</sup>

1. To “articulate the basis for its findings concerning [Wife]’s financial needs, including the need to fund her tax obligations;”
2. To fix or recalculate Husband’s income, because the original order contained “a number of computational errors, which appear, in turn, to have led to an understatement of [Husband]’s income;”
3. To “clearly state what [Wife]’s income was likely to be when she has made maximum progress toward self-sufficiency;” and

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<sup>1</sup> We vacated the monetary award and attorneys’ fees award as well, and ordered the alimony provisions to continue as *pendente lite* alimony pending remand. *Id.*, slip op. at 43–44.

4. To “make the required comparison between the parties’ respective standards of living at the hypothetical, future point at which [Wife] will have made maximum progress toward becoming self-supporting” in order to determine whether indefinite alimony should be awarded.

*Id.*

### **C. The Remand Hearing, New Alimony Order, And Motions**

The circuit court held an evidentiary hearing on December 15 and 16, 2015, and heard closing arguments on January 8, 2016. During the evidentiary phase, the court took new testimony about Husband and Wife’s financial circumstances since the first hearing in January 2014. Husband’s income was a point of contention—historically, a substantial portion of his income came in the form of a variable performance bonus that fluctuated over the years. Husband called Occidental Petroleum’s executive compensation chair to testify about his income and benefits, and Wife testified about her financial situation.

Husband’s attorneys sought to limit the remand hearing to the four listed tasks, but the court allowed new testimony on Wife’s ability to work and her ability to earn a living. Wife’s counsel urged the court to award indefinite alimony, to find that Wife is not able to return to work, and that the future disparity between the parties’ standard of living would be unconscionable. Wife testified that despite her desire to return to work, she is unlikely to find gainful employment because most social environments trigger her extreme anxiety, and she called two psychiatric experts in support.

On March 2, 2016, the court filed its order and an accompanying memorandum opinion explaining its decisions (the “March 2 Order”). The court projected Husband’s

2016 income to be \$705,460.00: “\$350,000.00 in base salary, a projected \$93,750.00 bonus, \$108,033.00 in annual benefits, and an estimated stock payout of \$153,677.00.” (Record citation omitted.) The court disagreed with Wife’s assertion that she cannot work, finding that with retraining, she would be able to return to work as a hairdresser and eventually make \$75,000. Even so, the court awarded indefinite alimony based on a finding that because of Wife’s age, her income will not cover a “middle-class” standard of living:

There is nothing morally unacceptable or shocking about [Wife]’s determination to lead a middle-class lifestyle where all of her needs are satisfied, and she wants for nothing. On page 2 of her Remand Hearing Memorandum, she states expressly: “The expenses on the Projected Financial Statement do not seek to replicate the lifestyle that the parties lived during the prosperous years of their marriage . . . but rather provides for a reasonable and modest lifestyle that the parties did live during their marriage.” Nor does the court feel compelled to award [Wife] a sum greater than what she claims she needs to support her desired lifestyle going forward.

The court does find, however, that due to age [Wife] will not be able to make substantial progress toward becoming *completely* self-supporting. Assuming she tops out at \$75,000.00 per year in her fifth year, she will run a monthly deficit of more than \$4,000.00 per month. So as to bridge that monthly deficit, it is necessary to award her indefinite alimony.

. . . This court wishes to emphasize, however, that there can be no *unconscionable* disparity when one party indicates its satisfaction with a more modest lifestyle than might otherwise be sought under the facts of a particular case. It is for that reason that indefinite alimony here is [based on a finding that wife is too mature in age to make income sufficient to meet her expenses], and not [because there is an unconscionable disparity between the standard of living of the parties].

(Emphases in original.) The court ordered Husband to pay Wife \$11,774 each month for a year starting on March 1, 2016, \$5,941 each month for the following three years, and \$4,128 every month thereafter. The circuit court also reinstated the January 31, 2014 order's monetary award of \$8,113 and its direction that Husband pay \$20,000 toward Wife's attorneys' fees, all to be paid within 30 days of the March 2 Order. The court also awarded Wife additional attorneys' fees in the amount of \$30,000, to be paid within 90 days of the order.

Husband filed a Motion to Alter and Amend the Judgment Entered on March 2, 2016. The circuit court denied Husband's motion on April 13, 2016. Husband filed a timely appeal on April 14, 2016. We will discuss additional evidence, findings, and decisions as necessary for our analysis.

## II. DISCUSSION

Husband challenges many aspects of the circuit court's March 2 Order, and we have organized his arguments into three groups.<sup>2</sup> *First*, Husband challenges the new alimony

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<sup>2</sup> Husband phrased the Questions Presented in his brief as follows:

1. Did the Circuit Court err and/or abuse its discretion in awarding Ms. Davis \$11,774.00 per month for the first twelve months, \$5,941.00 per month for the next thirty-six months and \$4,128.48 indefinitely?
2. Did the Circuit Court abuse its discretion in awarding \$50,000.00 in attorneys' fees to Ms. Davis?
3. Did the Circuit Court err and/or abuse its discretion in granting Ms. Davis a monetary award?

award, particularly the amounts and duration, which were derived from calculations he disputes. *Second*, Husband challenges the attorneys’ fee awards, both the reinstated \$20,000 award and the new \$30,000 award, and the reinstated \$8,113 monetary award, and objects to the tight payment deadline. *Third*, Husband challenges the court’s denial of his Motion to Alter and Amend the Judgment. Because all three challenged decisions involved the exercise of discretion by the circuit court, Husband argues in each instance that the court abused its discretion.

**A. Standard Of Review**

Alimony awards, awards of attorneys’ fees, and denials of motions made by a circuit court are all reviewed by this Court for abuse of discretion. *Boemio v. Boemio*, 414 Md. 118, 141 (2010); *Henriquez v. Henriquez*, 185 Md. App. 465, 475–76 (2009) (citations omitted), *aff’d*, 413 Md. 287 (2010); *see also Miller v. Mathias*, 428 Md. 419, 438 (2012) (reviewing a denial of a motion to alter or amend judgment for abuse of discretion). This is a deferential standard that recognizes the full range of potentially reasonable decisions a court can make from a disputed record:

“Abuse of discretion” is one of those very general, amorphous terms that appellate courts use and apply with great frequency but which they have defined in many different ways. It has been said to occur where no reasonable person would take the

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4. Did the Circuit Court abuse its discretion in requiring Mr. Davis to pay the monetary award and attorneys’ fee awards within the timeframes specified?
  5. Did the Circuit Court abuse its discretion in denying Mr. Davis’ Motion to Alter or Amend?

view adopted by the trial court or when the court acts without reference to any guiding rules or principles. It has also been said to exist when the ruling under consideration appears to have been made on untenable grounds, when the ruling is clearly against the logic and effect of facts and inferences before the court, when the ruling is clearly untenable, unfairly depriving a litigant of a substantial right and denying a just result, when the ruling is violative of fact and logic, or when it constitutes an untenable judicial act that defies reason and works an injustice.

*North v. North*, 102 Md. App. 1, 13–14 (1994) (internal quotations and citations omitted). “[A] failure to consider the proper legal standard in reaching a decision” is an abuse of discretion, *Wilson-X v. Dep’t of Human Res.*, 403 Md. 668, 675 (2008) (citation omitted), but “we will not reverse the trial court unless its decision is ‘well removed from any center mark imagined by the reviewing court,’” *Santo v. Santo*, 448 Md. 620, 626 (2016) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 313 (1997)).

When reviewing factual findings, we “will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.” Md. Rule 8-131(c). We view all the evidence in the light most favorable to the prevailing party and decide whether the circuit court’s factual findings were supported by substantial evidence in the record. *See Liberty Mut. Ins. Co. v. Md. Auto. Ins. Fund*, 154 Md. App. 604, 609 (2004). “If there is any competent evidence to support the [circuit court’s] factual findings[], those findings cannot be held to be clearly erroneous.” *Solomon v. Solomon*, 383 Md. 176, 202 (2004) (citation omitted).

**B. The Alimony Award Fell Within The Circuit Court’s Discretion.**

*First*, Husband challenges several aspects of the alimony award, including the figures the court used to arrive at the award, how it weighed its calculations against other competing considerations, and the indefinite duration of the award.

“[A]limony awards, though authorized by statute, are founded upon notions of equity.” *Boemio*, 414 Md. at 141 (quoting *Tracey v. Tracey*, 328 Md. 380, 393 (1992)).

The statute lists twelve factors courts must consider when determining whether to award alimony, how much, and for how long:

- (1) the ability of the party seeking alimony to be wholly or partly self-supporting;
- (2) the time necessary for the party seeking alimony to gain sufficient education or training to enable that party to find suitable employment;
- (3) the standard of living that the parties established during their marriage;
- (4) the duration of the marriage;
- (5) the contributions, monetary and nonmonetary, of each party to the well-being of the family;
- (6) the circumstances that contributed to the estrangement of the parties;
- (7) the age of each party;
- (8) the physical and mental condition of each party;
- (9) the ability of the party from whom alimony is sought to meet that party’s needs while meeting the needs of the party seeking alimony;
- (10) any agreement between the parties;

(11) the financial needs and financial resources of each party, including:

(i) all income and assets, including property that does not produce income;

(ii) any award made under §§ 8-205 and 8-208 of this article;

(iii) the nature and amount of the financial obligations of each party; and

(iv) the right of each party to receive retirement benefits; and

(12) whether the award would cause a spouse who is a resident of a related institution as defined in § 19-301 of the Health - General Article and from whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur.

Md. Code (1996, 2006 Repl. Vol.), § 11-106(b) of the Family Law Article (“FL”). Some factors are purely factual, others are equitable, and none get special or determinative weight. *See Whittington v. Whittington*, 172 Md. App. 317, 341 (2007). A court may award indefinite alimony if it finds either of two conditions are met:

(1) due to age, illness, infirmity, or disability, the party seeking alimony cannot reasonably be expected to make substantial progress toward becoming self-supporting; or

(2) even after the party seeking alimony will have made as much progress toward becoming self-supporting as can reasonably be expected, the respective standards of living of the parties will be unconscionably disparate.

FL § 11-106(c). And we recognize that “[t]he knowledge, experience and judgment of the circuit court judges are the best determinants for making alimony awards. . . .” *Boemio*, 414 Md. at 137.

We begin with Husband’s challenges to the more fact-based elements and work our way to the court’s discretionary decisions. “The standard of review differs for these varied conclusions, and we look at the decisions through different lenses depending on their character.” *Bryant v. Bryant*, 220 Md. App. 145, 158 (2014). “First-level facts” of the circuit court, or baseline findings such as a party’s income or how the parties fare on any one of the FL § 11-106(b) factors, are purely factual findings and are reviewed under the clearly erroneous standard. *Wenger v. Wenger*, 42 Md. App. 596, 607 (1979). “Second-level facts,” or facts that “necessarily rest[] upon the court’s first-level factual findings,” but also upon “how much weight the court chooses to give to its various first-level factual findings,” have a discretionary element and are reviewed under the abuse of discretion standard. *Bryant*, 220 Md. App. at 160–161 (distinguishing between standards of review for different types of factual conclusions under an “unconscionable disparity” finding).

**1. The court did not err in including a \$93,750 annual bonus in Husband’s income.**

Husband challenges the circuit court’s first-level factual finding that his projected 2016 income included a \$93,750 bonus. He contends that because he did not actually get a bonus in 2016, the circuit court’s order, in retrospect, was clearly erroneous. Wife counters that in this alimony dispute, courts can rely on evidence of previous bonus payments and other circumstances to project future bonus income when calculating support

payments. See *Johnson v. Johnson*, 152 Md. App. 609, 619–20 (2003). To ignore the potential bonus, as Husband would have us do, would grant “[p]arents who receive large bonuses . . . a huge advantage over parents who earn the same amount but receive the money as part of their base salary.” *Id.* at 620.

Although we know now, with hindsight, that Husband didn’t actually receive the bonus, substantial evidence in the record before the circuit court supported its decision to project that Husband would receive a \$93,750 bonus in 2016. In arriving at the figure, the court balanced Husband’s history of receiving much larger bonuses against the decreased price of oil, the capital expenditure reduction at Occidental, and the testimony from Occidental’s Director of Global Compensation that bonuses have become subject to stricter internal regulation. The history of Husband’s bonuses revealed volatility over the years, and 2016’s down year could well be followed by a much larger bonus in 2017. Whether or not that occurs, the circuit court’s projection was reasonable given the evidence before it at the time of the hearing, and we see no error in the way the court resolved the uncertainty.

**2. The court did not abuse its discretion in including \$108,033 in benefits in Husband’s income.**

*Second*, Husband challenges the circuit court’s inclusion of non-cash benefits valued at \$108,033 in his income. He doesn’t dispute the value of these benefits as such, but by including these benefits in his income for purposes of awarding alimony, he contends, the court inflated his income well beyond what he receives, and awarded alimony he can’t pay. Wife counters by citing *Walker v. Grow*, 170 Md. App. 255, 284 (2006), for

the proposition that in-kind benefits count as income for purposes of determining child support, and should count as income for the purpose of determining alimony payments as well. In that case we applied FL § 12-201(b) and held that “[e]xpense reimbursements or in-kind payments’ received from an employer ‘that reduce the parent’s personal living expenses’ are required by statute to be included in the actual income calculation.” *Id.* (quoting FL § 12-201(b)(3)(xvi)).

Child support calculations are governed by a separate statutory provision that doesn’t apply here, but we agree with the circuit court that Husband’s benefits were treated properly as income rather than expenses. We might view it differently if Husband paid out of pocket for these benefits from his salary income. But he didn’t—his employer paid them on his behalf, above and beyond his salary. The complexity of Husband’s compensation package, *see Bryant*, 220 Md. App. at 163–164, required the court to approximate its value as best it could. Again, to fail to account for such benefits would grant Husband “a huge advantage over parents who earn the same amount but receive the money as part of their base salary.” *Johnson*, 152 Md. App. at 620. And the evidence was not in dispute—it all came from Husband and his employer. The circuit court did not act “without reference to any guiding rules or principles,” *North*, 102 Md. App. at 13 (citation omitted), in counting these benefits as income, but as we directed in our earlier opinion, tied its calculations to the evidence before it.

Husband argues that the alimony award exceeds his monthly income less reasonable expenses, that he literally doesn’t have the money to pay it. But his calculation, and his

monthly deficit, depend on assumptions about his 2016 and future income that he argued in the circuit court and that the court rejected. Our concern the first time around was that we could not see the connection between the court’s factual findings, which we affirmed, and the analysis leading to the court’s alimony award. This time, we can see it, and the court’s decision is not “well removed from any center mark,” but rather falls within the range of reasonable outcomes the record supports. *Santo*, 448 Md. at 626 (citation omitted).

**3. The circuit court did not abuse its discretion by omitting expenses paid for Husband’s adult-age child from the calculation of Husband’s reasonable expenses.**

Husband next challenges the circuit court’s decision not to include the parties’ adult child’s rehabilitation and schooling expenses among his reasonable expenses. This omission, he argues, drains his monthly cash flow and leaves him without the ability to pay the alimony award. He faults Wife for conduct that led to their daughter’s need for rehabilitation, and points to the circuit court’s findings backing him up. Even so, the circuit court agreed with Wife that expenses for the adult-age daughter cannot be counted as a reasonable expense, citing *Reynolds v. Reynolds*, 216 Md. App. 205 (2014).

The circuit court excluded the adult daughter’s support because, as we held in *Reynolds*, “there is no general common law or statutory duty to support an adult child who is not ‘destitute’ as defined in FL § 13-101(b).” *Id.* at 225. It is true, as Husband points out in his reply brief, that *Reynolds* suggests that a court can count payments for a non-destitute adult child as reasonable expenses if there was a preexisting agreement between these parties as to these payments, or if the standard of living of the parents before divorce

contemplated continuing to support their adult children. *Id.* But in the event that, as here, there was no preexisting agreement between the parties to support their adult children, Husband would need to prove that that the parties’ standard of living “contemplate[d] continuing support of [their] adult children.” *Id.* (“As we have often pointed out, the party making an argument bears the burden of finding and indexing factual support in the record or extract. . . .”). And there was otherwise no support in the record to support a conclusion that the parties’ marital standard of living contemplated supporting their children into adulthood.

The circuit court also could have accounted for these expenses in the way it balanced the equities and in considering its January 2014 first-level factual finding that Wife was at fault for creating the adult child’s emotional issues. But the weight to give each factor is a decision committed to the discretion of the trial court, and the court performed a complicated balance here and showed its work. In the absence of an agreement to support the adult daughter, we find no abuse of the court’s discretion in its decision to exclude the expenses Husband paid for their adult child from the calculation of his reasonable expenses for purposes of alimony.

**4. In light of the factual findings of the circuit court, its decision to award indefinite alimony to Wife was not an abuse of discretion.**

Next, Husband challenges the ultimate award of indefinite alimony. He predicates his challenge on the errors he alleges in the component calculations of income and expenses which we have already discussed. Because we have found no abuse of discretion with the

income- and expense-related findings of the circuit court and take no issue with its methodology in calculating the ultimate award, we affirm.

In calculating the alimony award on remand, the circuit court requested and received estimates of the parties' assets, liabilities, incomes, and expenses. As directed by our earlier opinion, the court determined Husband's future annual income and Wife's future annual income (after a year of recertification and three years of resuming work as a hairstylist at a lesser salary). The court then pared down what it deemed were unnecessary expenses for Wife and what expenses Husband was not permitted to count, and arrived at cost figures of comparable standards of living for both parties. Next, the court compared the cost of Wife's standard of living (\$104,088 after taxes) with the salary it concluded Wife could make (\$75,000). Accounting for Wife's tax liability, the court checked the additional money needed for Wife to live at a comparable standard of living against Husband's available income (his income minus his reasonable expenses). The court found that Husband was able to pay, and awarded alimony in the amount of \$11,774 each month for a year starting on March 1, 2016, \$5,941 each month of the following three years, and \$4,128 every month thereafter.

The circuit court short-circuited the possibility of finding a FL § 11-106(c)(2) unconscionable disparity between the parties' standard of living by calculating the cost of Wife's appropriate standard of living up front, then determining how much additional money she required in order to bridge the gap between her income and her standard of living. The court found instead, under FL § 11-106(c)(1), that Wife's age prohibits her

from advancing in her field past an income of \$75,000, and that the disparity between her future income and appropriate standard of living justified an award of indefinite alimony.

The circuit court’s methodology may have been slightly unconventional, but it was explained in sufficient detail and is legally sound. The court considered the equitable factors in FL § 11-106(b), balanced the evidence in the record, and accounted logically for all of the many pieces of the parties’ financial picture. Moreover, the circuit court satisfied the unresolved issues we identified in our 2015 opinion, and we discern no abuse of discretion in the way the circuit court carried out these directives.

**C. The Circuit Court Did Not Abuse Its Discretion By Reinstating The Attorneys’ Fees And Monetary Award From The January 2014 Proceedings Or By Awarding Additional Attorneys’ Fees.**

*Second*, Husband disputes the reinstated \$8,113 monetary award, the reinstated \$20,000 attorneys’ fees award, and the new award of \$30,000 in attorneys’ fees. He challenges both the validity of the awards themselves and the strict time limit imposed on satisfying them.

**1. All three awards were valid exercises of the circuit court’s discretion.**

Husband contends that the circuit court “failed to take into consideration [his] ability to pay the \$50,000 award of attorneys’ fees in conjunction with his ability to pay the award of alimony and monetary award.” He doesn’t challenge the amounts themselves, but argues that equitable considerations require us to vacate the fee awards. We disagree.

Attorneys’ fees in alimony disputes are governed by FL § 11-110. Before ordering a party to “pay to the other party an amount for the reasonable and necessary expense of

prosecuting or defending [a] proceeding,” the circuit court must consider “the financial resources and financial needs of both parties” and “whether there was substantial justification for prosecuting or defending the proceeding.” FL § 11-110(b)–(c). “[T]he general rule in Maryland is that a party to a divorce proceeding may be required to pay reasonable counsel fees for services rendered to his or her spouse, both in the trial court and on appeal, when it appears that the spouse’s income is insufficient to care for his or her needs.” *Ridgeway v. Ridgeway*, 171 Md. App. 373, 390 (2006). And a circuit court can award a monetary award pursuant to FL § 8-205(a)(1) for a different purpose: “as an adjustment of the equities and rights of the parties concerning marital property.” “[A]fter the court determines which property is marital property, . . . the court may transfer ownership of an interest in property, . . . grant a monetary award, or both.” *Id.*

In its original January 31, 2014 order, the circuit court awarded Wife a monetary award of \$8,113 and \$20,000 in attorneys’ fees. We vacated both in our 2015 decision in light of our decision to vacate the original alimony award, and we directed the court to “reconsider the effect, if any, of its revised alimony determination upon the monetary award and the award of attorney’s fees that were part of its original judgment.” *Davis*, No. 78, slip op. at 45. On remand, the circuit court reinstated the \$8,113 monetary award and \$20,000 attorneys’ fees award from January 2014, and added an additional award of \$30,000 attorneys’ fees.

We vacated the original attorneys’ fees award and monetary award because we were required to do so after vacating the alimony award, but found no other fault with them. *Id.*,

slip op. at 44 (citing *Turner v. Turner*, 147 Md. App. 350, 400 (2002), as support). The purpose of the mandatory *vacatur* is to allow the circuit court to reconsider, in light of a newly-fashioned alimony award and the parties’ updated financial pictures, whether the same or different awards are appropriate. *See Turner*, 147 Md. App. at 400. The circuit court did exactly that, and fully accounted for the financial situations of the parties and Mr. Davis’s ability to pay the awards of attorneys’ fees in conjunction with his ability to pay the other awards. Most of the remand hearing was spent considering Mr. Davis’s financial picture and his ability to pay awards. In its memorandum opinion, the circuit court explained the new award of attorneys’ fees by saying “[t]he court has considered the financial circumstances of the parties which are discussed herein and finds [Wife]’s request for approximately one-half of the fees incurred post-appeal to be appropriate.” We are satisfied, given the extensive discussion of the parties’ finances in this case, that the financial situations of both parties were considered sufficiently to reinstate the January 2014 awards and award an additional contribution toward Wife’s attorneys’ fees in the time since.

**2. The circuit court did not abuse its discretion in setting the timeframes for Husband’s payments.**

Husband contends that the circuit court abused its discretion when it imposed a 30-day deadline on the reinstated monetary award and attorneys’ fees award and a 90-day deadline on the new award of attorneys’ fees. He contends that he simply does not have sufficient cash on hand to pay these awards, such that he would need to incur debt to pay them off within the court’s timeframe. His arguments to the contrary are essentially the

same arguments we have rejected above, and would require us to conclude that the court's first- and second-order fact-finding regarding Husband's income was clearly erroneous. For the reasons we already have explained, we discern no error or abuse of the court's broad discretion.

**D. The Circuit Court Did Not Abuse Its Discretion By Denying Husband's Motion To Alter And Amend Judgment.**

*Finally*, Husband contends that the circuit court abused its discretion by denying the motion, in light of new, material financial information that became available shortly after the December 2015 and January 2016 hearings. We disagree for the same reason that we affirmed the court's projection of his annual bonus. Courts can rely on evidence of previous bonus payments and other relevant circumstances to determine a definite bonus income amount for the purpose of support payments. *See Johnson*, 152 Md. App. at 619–20. The circuit court was not *required* to alter its alimony order just because new information had come to light, so long as, in the reasonable judgment of the court, that new information didn't establish a material change in circumstances between the parties. The record supports the court's conclusion that even with Husband's updated bonus information in hand, and even in the absence of a cash bonus for 2016, the March 2, 2016 Order still fairly projected his future income. We see no abuse of the court's discretion in denying Husband's Motion to Alter and Amend Judgment.

**JUDGMENT OF THE CIRCUIT COURT  
FOR MONTGOMERY COUNTY  
AFFIRMED. APPELLANT TO PAY  
COSTS.**