

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 0285

September Term, 2025

MELANIE EITELMAN

v.

MICHAEL EITELMAN

Wells, C.J.,
Beachley,
Battaglia, Lynne A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Battaglia, J.

Filed: November 18, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This family law case involves custody, visitation, and child support for four minor children, whose parents are Melanie Eitelman, Appellant, and Michael Eitelman, Appellee, who married in 2008. We have been asked to determine whether the trial court erred in several elements of its disposition of the parents' cross-petitions to modify custody. Namely, six issues, which we have rephrased and reordered, are presented for our review: (1) whether the trial court abused its discretion in admitting the testimony of a court-appointed psychological expert as to his mental health evaluation of the Appellant; (2) whether the trial court exceeded its authority in ordering supervised visitation of the children for the Appellant since it was not requested by the Appellee; (3) whether the trial court erred in not adjudging the Appellee in contempt of court for his alleged noncompliance with the parties' then-existing Custody Consent Order during the modification proceedings; (4) whether the trial court abused its discretion by declining to specify a particularized summer and holiday visitation schedule in its order entered March 11, 2025; (5) whether the trial court erred by not considering the Appellant's request that she be awarded child support; and (6) whether the trial court abused its discretion in ordering the Appellant and her mother to pay all the outstanding fees incurred by the Best Interest Attorney.¹

¹ The questions as presented by the Appellant are:

- I. Whether the Court committed reversible error of law by admitting and relying on the expert report and opinion of Dr. Lefkowitz because the expert report and opinions violates the Daubert principles and furthermore his custody recommendations exceed the scope of the Court Ordered psychological evaluation?

For the reasons set forth below, we remand this case to the trial court for reconsideration of the amount of child support and to whom it should be awarded, as well as for reassessment of the fees for the Best Interest Attorney with respect to the Appellant.² We affirm the findings of the trial court in all other respects.

BACKGROUND

Melanie Eitelman, Appellant, (“Mother”) married Michael Eitelman, Appellee, (“Father”) in Middleburg, Virginia on November 1, 2008, and later welcomed four children: M.E. (born 2009), M.E. (born 2011), S.E. (born 2012), and G.E. (born 2013) (“Children” when referred to collectively). In April of 2017, Father filed for divorce in the Circuit Court for Howard County. During the proceedings, Mother’s parents, Barnard

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- II. Whether the Court committed reversible error of law by ordering the Appellant’s visitation be supervised, at all times, when the Appellee did not file a pleading requesting supervised visitation?
 - III. Whether the Court committed reversible error by assessing 100% of the costs for Best Interest Attorney to Appellant?
 - IV. Whether the Court committed reversible error by not considering Appellant’s request for child support?
 - V. Whether the Court committed reversible error in failing to find Appellee in contempt for not abiding by the in-place custody order during the pendency of the custody modification proceeding?
 - VI. Whether the Court committed reversible error in failing to provide for a specific Summer and Holiday schedule and reducing Appellant’s visitation from the current court order?

² Margaret Walsh, referred to herein as “Grandmother,” did not appeal the trial court’s Best Interest Attorney fee assessment nor the denial of the motion she and Appellant filed to alter or amend the assessment. Grandmother was a party to the action when the fees were initially assessed on February 6, 2025. The motion she and Appellant filed to alter or amend the assessment of the Best Interest Attorney’s fees was filed on February 14. Grandmother’s motion to be removed as a party was granted on March 11. The motion to alter or amend was denied on March 19. As a result, the fee assessment against Grandmother remains as a judgment.

Walsh (“Grandfather”) and Margaret Walsh (“Grandmother”) (“Grandparents,” when referred to collectively) were granted a guardianship over Mother’s person and property after Mother was determined to be a “disabled adult.” In April of 2018, Grandparents, acting as Mother’s guardians, entered into a Marital Settlement Agreement with Father, which was ultimately incorporated, but not merged into the couple’s Judgment of Absolute Divorce that the Circuit Court issued on November 5, 2018. The Marital Settlement Agreement provided for shared physical custody of the Children between Father and Grandparents, with Mother’s access to the Children being determined by Grandparents.

Father married Megan Mason on April 24, 2021. In March of 2021, Father filed a Petition to Modify Child Custody, Child Support, and Other Further Relief, alleging both that his home life and financial situation had improved and that the Grandparents’ ability to care for the Children had declined. Father and Grandparents, who were still serving as Mother’s guardians, entered into a Custody Consent Order in May of 2022, which vested Father with primary physical and sole legal custody over the Children. Grandparents were granted visitation and retained control over Mother’s access to the Children.

Over the course of the next year, the co-parenting relationships deteriorated, as did Mother’s relationship with M.E., the oldest child. Subsequently, in August of 2023, Father filed a Complaint for Modification of Custody, which forms the basis for this appeal. Father’s complaint alleged that Grandparents had failed to supervise Mother during visitation with the Children and that Mother’s conduct jeopardized the Children’s emotional wellbeing. Father requested that Grandparents’ and Mother’s visitation be eliminated.

After Father had prevented Mother and Grandparents from seeing the Children, Mother and Grandparents filed a Petition for Contempt against Father in September of 2023 for allegedly violating the 2022 Custody Consent Order. Mother and Grandparents subsequently filed a similar Amended Petition for Contempt and then a Second Amended Petition for Contempt in November of 2023, which made many of the same allegations and sought Father's incarceration. In March of 2023, the court terminated Grandparents' guardianship of Mother's property, and in October of 2023, the court terminated Grandparents' guardianship of her person.

In December of 2023, Craig J. Little, Esq. was appointed as the Best Interest Attorney to represent the oldest child, M.E., because of the high level of conflict between the parties. In January of 2024, Mother filed her own Counter-Motion to Modify Custody, Child Support, and for Other Relief which included requests for joint legal custody and shared physical custody, as well as arguments that Father should be held in contempt for withholding the Children. Thereafter, in May of 2024, Mr. Little's representation was expanded to include all four of the Children. The order expanding his representation required the parties to each pay a \$2,500 retainer for Mr. Little's services and specified that he was to bill \$200 per hour for the first ten hours of work and his standard hourly rate for any additional fees.

In May of 2024, the trial court also ordered that a mental health evaluation of Mother be undertaken by Dr. John Lefkowits, a forensic psychologist. Dr. Lefkowits provided his report to all parties on July 22, 2024. He diagnosed Mother with bipolar disorder in partial remission and generalized anxiety disorder and concluded that Mother lacked higher order

parenting skills and was not ready to have fully unsupervised parenting time with the Children. The following week, Mother filed a motion to preclude Dr. Lefkowits's recommendations pertaining to custody, arguing that his recommendations were outside the scope of a mental health evaluation, and that Dr. Lefkowits's evaluation lacked the necessary elements of a custody evaluation. The trial court overruled Mother's objection to the admission of the report into evidence and specifically overruled Mother's objection to Dr. Lefkowits's testimony regarding Mother's ability to parent. Several weeks after Dr. Lefkowits testified, Mother filed a motion to strike Dr. Lefkowits's report and testimony in their entirety, arguing that Dr. Lefkowits's opinion was unreliable under the standard set forth by the United States Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), because he did not use the generally accepted definition of bipolar disorder in partial remission from the DSM-5.³ This motion was denied.

The merits hearing regarding Father's Complaint for Modification of Custody, Mother's Counter-Motion to Modify, and Mother's Second Amended Petition for Contempt was held over the course of three days on August 8, August 9, and November 4, 2024. The court heard testimony from Mother, Father, Grandmother, Father's wife, Dr. Lefkowits, and Mother's psychiatric expert, Dr. Patrick Harmon, as well as friends and other family members of the parties.

³ "DSM-5" refers to the fifth edition of the Diagnostic and Statistical Manual of Mental Disorders, a manual published by the American Psychiatric Association to diagnose mental disorders by providing criteria for symptoms. *See Diagnostic and Statistical Manual of Mental Disorders (DSM-5-TR)*, Am. Psychiatric Ass'n, <https://perma.cc/RQ53-UTM4>.

The Best Interest Attorney filed a motion for payment of his outstanding fees.⁴ He asserted that there were \$9,850 in fees still outstanding and deferred to the court to determine their allocation. Mother and Grandmother filed a joint reply to Mr. Little's motion, as did Father; no party objected to the amount of fees, but each claimed that the other should be responsible for the entirety of the remaining balance.

On February 6, 2025, the trial judge gave an oral opinion putting the court's findings and decisions on the record. The court awarded exclusive primary physical and sole legal custody to Father, with Mother having supervised overnight visitation every other weekend: for the first four months, a minimum of four hours of each visitation during the weekend was to be supervised by a professional supervisor; otherwise, visitation would be supervised by Grandmother or another agreed-upon adult.

The oldest child, M.E., was given discretion as to whether she wished to attend visitation and was empowered to end any visitation early. Mother was to have holiday and summer visitation with the Children, according to a reasonable schedule set by Father. No child support was awarded to either party. Mother and Grandmother were deemed jointly and severally liable for the entirety of Mr. Little's outstanding attorneys' fees, and Mother's Second Amended Petition for Contempt was denied. Grandparents were removed as parties from the case.

On February 6, 2025, the court also entered an order assessing the balance of the

⁴ Based on the invoice attached to Mr. Little's motion, he spent a total of 73.4 hours working on this matter and incurred a total of \$17,850 in fees. At the time the motion was filed, Father and Grandmother had each already paid \$4,000 toward those fees.

Best Interest Attorney’s fees against Mother and Grandmother, who then filed a motion to alter or amend on February 14. Father opposed this motion.

The court’s remaining rulings were set forth in a written order entered on March 11, 2025. Mother’s motion to alter or amend was denied by the trial judge on March 19. Mother timely noted her appeal on April 7, 2025.

STANDARD OF REVIEW

Although Mother styles her challenges as legal error, each of the issues she has raised are reviewed by this Court for an abuse of discretion. Concerning the trial court’s decision to admit Dr. Lefkowitz’s testimony, “[a]ppellate courts review a trial court’s decision concerning the admissibility of expert testimony under Maryland Rule 5-702 for abuse of discretion.” *State v. Matthews*, 479 Md. 278, 305 (2022). A trial court’s action in admitting or excluding such testimony “will seldom constitute ground for reversal.” *Roy v. Dackman*, 445 Md. 23, 38–39 (2015). *See also Wilson v. State*, 370 Md. 191, 216 (2002) (“Trial judges have ‘wide latitude in deciding whether to qualify a witness as an expert or to admit or exclude particular expert testimony.’”) (quoting *Massie v. State*, 349 Md. 834, 850–51 (1998)).

Child custody and visitation awards are predicated on the “best interest” of the children. *Petrini v. Petrini*, 336 Md. 453, 468 (1994). Accordingly, the standard of review in custody cases is whether the trial court abused its discretion in making its custody determination. *Id.* at 470 (citing *Davis v. Davis*, 280 Md. 119, 125 (1977)).

“[C]hild support orders are within the sound discretion of the trial court.” *Reichert v. Hornbeck*, 210 Md. App. 282, 316 (2013). Likewise, the decision to modify a child

support award is left to the sound discretion of the trial court, provided that the discretion was not arbitrarily used or based on incorrect legal principles. *Walker v. Grow*, 170 Md. App. 255, 266 (2006).

Finally, “when a court appoints counsel for a child and assesses the cost against a party to the action, that assessment will not be disturbed on appeal unless the appellate court finds that it constituted an abuse of discretion.” *Carroll Cnty. Dep’t of Soc. Servs. v. Edelmann*, 320 Md. 150, 177 (1990) (citing *Lopez v. Lopez*, 206 Md. 509, 520–21 (1955)).

DISCUSSION

DR. LEFKOWITS’S EXPERT OPINION

Mother’s first argument on appeal is that the trial court erred in admitting the testimony of Dr. John Lefkowits because his opinion was not sufficiently reliable pursuant to the standard articulated by the United States Supreme Court in *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579 (1993), and adopted by our Supreme Court in *Rochkind v. Stevenson*, 471 Md. 1 (2020). In his report, Dr. Lefkowits diagnosed Mother with “Bipolar Disorder, with psychotic features in partial remission” and “Generalized Anxiety Disorder,” and offered the opinion that Mother was not ready to have fully unsupervised parenting time with the Children. He also made recommendations as to Mother’s continued treatment and supervision. During his testimony, Dr. Lefkowits clarified that his recommendations with respect to supervision were not dependent upon whether Mother reached partial or full remission with her bipolar disorder, saying “I think [Mother’s] stability with her mental illness is a necessary but insufficient condition in order to immediately begin unsupervised parenting time with the minor children[.]”

Prior to the hearing, Mother filed a motion to preclude portions to Dr. Lefkowitz's testimony and the admission of his report, challenging his recommendations relating to custody and supervision. The trial judge took no action on the motion, and Mother again raised the objection when Dr. Lefkowitz's report was offered into evidence at the merits hearing on August 8, 2024, again challenging only the recommendations. Her objection was overruled, and the motion was identified as "moot" on the record.

After Dr. Lefkowitz had testified as to his mental health evaluation of Mother at the merits hearing on August 8, 2024, that she was only in "partial remission," Mother filed a motion on September 20, 2024, to strike Dr. Lefkowitz's report and testimony. In her motion to strike, Mother alleged that Dr. Lefkowitz's opinion fell short of the *Daubert-Rochkind* standard because his diagnosis that Mother had bipolar disorder in partial remission did not conform to the definition of that condition provided in the DSM-5. She contended that, in order to be reliable, Dr. Lefkowitz would have needed to use the precise definition from the DSM-5, which would have identified Mother as being in full remission.⁵ Father opposed Mother's motion, noting that the request for a *Daubert* analysis was inappropriate, as it was made after Dr. Lefkowitz had testified and after the trial court

⁵ The DSM-5, which Mother relied upon in her *post hoc Daubert* challenge, does not create a required methodology for psychological evaluations. When asked at oral argument for support for the assertion that the DSM-5 creates a standard of reliability for psychological evaluations, Mother's counsel could point to none; likewise, we have found none. The DSM-5 itself cautions against its use in legal proceedings, saying that, "the definition of mental disorder included in DSM-5 was developed to meet the needs of clinicians, public health professionals, and research investigators rather than the technical needs of the courts and legal professionals." Am. Psychiatric Ass'n, *Diagnostic and Statistical Manual of Mental Disorders*, at 29 (5th ed., text rev. 2022).

had already decided to admit his testimony and report. The trial court denied Mother's motion to strike without opinion, but, after Mother's counsel renewed the motion at the subsequent hearing in November, the judge stated:

So, I do believe that Dr. Lefkowitz properly explained what you're talking about is straying from I think that the definition that's in the DSM, . . . I think it was properly explained and, certainly, I will give his testimony and his report the weight that I believe to be appropriate. So, I'll deny the motion.

On appeal, Mother challenges both the reliability of Dr. Lefkowitz's testimony under *Daubert* and his inclusion of recommendations concerning supervision.

Expert testimony is governed by Rule 5-702 of the Maryland Rules. The Rule provides that, "[e]xpert testimony may be admitted, in the form of an opinion or otherwise, if the court determines that the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue." In making such a determination, the Rule directs a court to assess the expert's qualifications, the appropriateness of the expert's testimony on the particular subject, and whether there is a sufficient factual basis to support the testimony. Md. Rule 5-702. In *Rochkind*, our Supreme Court emphasized that the appropriate focus when evaluating expert testimony is the overall reliability of the expert's methodology, rather than solely the methodology's general acceptance in the field. 471 Md. at 30-31 ("General acceptance remains an important consideration in the reliability analysis, but it cannot remain the *sole* consideration.").

The admissibility of expert testimony is, generally, best resolved prior to trial, and is essential to be resolved prior to the testimony of the expert and/or the admission of his report. See *Blackwell v. Wyeth*, 408 Md. 575, 593 n.13 (2009) (citing *Clemons v. State*, 392

Md. 339, 347–48 (2006)). The focus of a challenge under Rule 5-702 requires a trial court to rule prior to the expert’s testimony at trial, or “at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent. Otherwise, the objection is waived.” Md. Rule 2-517(a).

Here, the only challenge Mother filed pre-trial and pre-testimonial to Dr. Lefkowits’s report concentrated on the portion regarding whether Mother needed to be supervised during visitation, which Mother alleged was outside the scope of a court-ordered mental health evaluation. Mother’s argument, however, did not preserve the *Daubert* challenge to Dr. Lefkowits’s testimony, nor did the *post hoc* motion to strike filed forty-three days after Dr. Lefkowits testified satisfy Mother’s obligation to raise the *Daubert* objection prior to Dr. Lefkowits’s testimony on August 8, 2024. This is so especially since Mother had been in possession of Dr. Lefkowits’s report—which contained the partial remission diagnosis—since July of 2024.

Even were there to have been a timely *Daubert* challenge to Dr. Lefkowits’s partial remission evaluation of Mother, the trial court did not rely upon that diagnosis. Rather, the trial judge found that Mother was “either clinically in remission or does not currently suffer from debilitating symptoms due to her ongoing treatment compliance and her medication and therapy.” Additionally, the judge declared, “[t]here was a disagreement between the experts on whether or not the Mother is in full remission.”^[6] And there was a good amount

⁶ Mother’s expert, Dr. Patrick Harmon, diagnosed Mother with “bipolar 1 disorder, currently in full sustained remission[,]” and opined that, “there is no reason to question her ability to participate in the normal activities and relationships that one might have during

of time spent on that. But to me, it's not dispositive of what is in the best interests of the children." The judge, therefore, did not rely upon Dr. Lefkowitz's opinion regarding partial remission.

Mother further takes issue with the fact that Dr. Lefkowitz's report included an opinion that Mother should be supervised when with the Children, which she claims exceeded the scope of the court's order for a psychological evaluation and thereby risked prejudicing the court's determination of custody and visitation. Mother claims she was in fact prejudiced because the trial court "adopted the remedy of supervision and professional coaching recommended by Dr. Lefkowitz[.]"

The trial judge, however, made her own findings relative to the need for supervised visitation based upon her own observations. The judge noted:

The Mother, although capable of caring for the children at their current ages, still needs significant support from her own family, most importantly, her own parents. She lives with her parents and relies on them for housing and support. The Mother suffers from mental illness and undergoes regular and ongoing treatment, including medication management. Her mental illness is controlled with the treatment, and she has not had significant issues with her mental illness over the last three years.

Having well treated and controlled bi-polar does not make her an unfit parent, but neither does the fact that it is well controlled automatically render her a fit parent or one on equal footing with the fit Father. Her mental illness is one factor in a larger evaluation of her ability to parent.

The Court did order a psychological evaluation, and as I said, the Court did consider the testimony of Dr. Lefkowitz and also the psychiatrist that evaluated the Mother as well. I went over what his recommendations were already.

this stage of their life. She has the ability to succeed in a career of her choosing. She is capable of excelling as a parent or a relational partner."

It is the finding of the Court as regards to Mother's fitness that she's not fully capable at this time of independently parenting the children. She is a fit parent to have some access with the children. She should generally have her parenting time supervised by another appropriate adult. The Mother seems to the Court to be fragile and unable to regularly handle the social and emotional functioning that generally comes along with parenting children, especially older children and teens.

The Mother has the diagnosis that I already went over and was under a six-year guardianship. It took her years to get to ongoing consistent compliance with her medication regime, and she's to be commended for the work that she has done. Her last hospitalization for her disorder was in 2021. Two years later, her guardianship was lifted.

I note also that she, the Mother, relied on the present [sic] of her parents during her own testimony. She looked to them for support and guidance. Of note also was her inability or her unwillingness to remain in the courtroom during the testimony of the Father's new wife.

She permitted, also, her own parents to create a scene at the children's home on Thanksgiving holiday while she waited up the street in a car. This is not the actions of an in-charge parent, but the actions of a child-like adult who's use [sic] to allowing her own parents to make decisions and choices for not only her but for her children.

The record supports the trial judge's factual findings, which, in turn, support her determination of supervised visitation. The trial judge did not err.

ORDER FOR SUPERVISED OVERNIGHT VISITATION

Mother challenges the trial court's order that all her overnight visitation with the Children must be supervised because, she alleges, Father did not request supervised visitation in his Complaint for Modification of Custody. Father had requested that he have sole physical custody of the Children and that Mother's visitation be eliminated. Mother claims that it was outside the court's authority and a violation of her due process rights for

the trial court to order supervised visitation, when Father did not specifically request that relief in his pleadings.

After making factual findings regarding Mother’s ability to parent, the trial judge determined:

Considering all the facts and circumstances and the factors that I must consider, it is in the best interests of the children that the Father be granted the primary physical and sole legal custody of the children, subject to some access granted to the Mother.

The Maternal Grandparents are to be removed as parties from the case.

I’m not ordering reunification, but I’m noting that the Father should consider reunification therapy between any of his children and the Mother when the time is right. I note the advocacy of the Best Interest Attorney on this issue.

Mother’s access is to be every other weekend from Saturday at ten until Sunday at five. All of the access shall be supervised by either a professional supervisor, by the Maternal Grandmother, or by another adult that is mutually agreed to.

For the first four months of access, there shall be a professional supervisor present with Mother and the children for four hours of every Saturday access, paid for by the Mother. All other access shall be supervised by the Maternal Grandmother. If she is unable or unwilling to supervise Mother’s access, then another supervisor, who is mutually agreeable to the Mother and Father, can be selected. And if there’s no agreement, then it must be by a professional supervisor.

The authority of a court to order supervised visitation is a power explicitly provided by statute. Section 9-101 of the Family Law Article (“FL”) of the Maryland Code (1984, 2019 Repl. Vol., 2025 Supp.) empowers a court to “approve a supervised visitation arrangement that assures the safety and the physiological, psychological, and emotional well-being of the child.”

Mother, though, argues that she was not on notice that supervised visitation could be awarded since Father did not include that specific remedy in his pleadings. Under the rules of pleading, however, a plaintiff need only state such facts in his or her complaint as are necessary to show entitlement to relief. *Johns Hopkins Hosp. v. Pepper*, 346 Md. 679, 698 (1997); Md. Rule 2-303(b) (“A pleading shall contain only such statements of fact as may be necessary to show the pleader’s entitlement to relief or ground of defense.”). Relief, though, need not be so specific, though Father asked for no visitation at all.

Mother, nevertheless, relies on our decision in *Ledvinka v. Ledvinka*, 154 Md. App. 420 (2003), for the premise that a trial court’s authority to act is limited by the issues framed by the pleadings. In *Ledvinka*, an annulment proceeding, we reversed the trial court’s order setting aside the fraudulent conveyance of real property because it was “beyond the scope of the pleadings and beyond the court’s authority.” 154 Md. App. at 430. The trial court in *Ledvinka* had concluded that the husband had fraudulently conveyed property “as a means of limiting his assets in anticipation of the divorce litigation.” *Id.* The wife, however, had not pled a cause of action in fraudulent conveyance. *Id.* at 428.

Ledvinka is readily distinguishable from the case at bar. In his Complaint for Modification of Custody, Father gave notice of the bases for his request to modify custody and specified facts to show his entitlement to relief. Father alleged that leaving the Children alone with Mother had caused them emotional harm and also that “Mother is simply not able to use good judgment and decision-making, and should not be left alone with the Minor Children for any period of time.” Father’s complaint was sufficient to conform with

pleading requirements. He also had asked for Mother’s visitation to be completely revoked. Accordingly, we find no error.

MOTHER’S PETITION FOR CONTEMPT

In September of 2023, Mother and Grandparents filed a Petition for Contempt alleging that Father unilaterally withheld the Children from Mother and Grandparents in contravention of the parties’ 2022 Custody Consent Order and that Father “ha[d] engaged in a scheme to alienate and disparage” Mother and Grandparents to the Children. In November of 2023, Mother and Grandparents filed an Amended Petition for Contempt and then a Second Amended Petition for Contempt seeking Father’s incarceration, making the same allegations, with the addition that Father stated at his deposition that he need not comply with the custody order because he had sole legal custody of the Children. Father responded in June of 2024 denying the allegations and stating that Mother and Grandparents’ recitation of the facts was oversimplified and taken out of context.

In ruling on Mother’s petition, the trial judge noted that:

[C]ontempt is a tool the Court uses to enforce compliance with an existing order. A purge provision is set in order to compel compliance. A purge provision is set in order to have the contemnor comply with the order—to force them to comply with the order in order to avoid a sanction that is set by the Court.

The order, however, that was sought to be enforced was being modified through this litigation. And of particular note, the litigants were changing. The Mother, at the time of the hearing, was no longer under legal disability, and the Grandparents were asking to be removed as parties from the case. So, they were seeking to enforce an order that granted to them custody, or access but seeking no access rights as a result of the hearing. The tool of contempt, therefore, is useless in this matter, and the Court does not believe that the Father can be found in contempt of Court.

When discussing the merits of Mother’s contentions, the judge stated:

I believe that the Father, as the sole custodial parent, had a bona fide belief that he was withholding the children and doing what was best for them. He was not, importantly, taking the action that he took in order to thwart the authority of the Court. He hired a lawyer and filed for modification, and he continued to negotiate and participate and prepare for the ultimate litigation. His actions were not contemptuous of the Court’s authority. The Court denies the Petition for Contempt.

Mother now attempts to challenge the trial court’s denial of her petitions for contempt.

“The right to appeal in this State is wholly statutory.” *Pack Shack, Inc. v. Howard Cnty.*, 371 Md. 243, 247 (2002). The general right of appeal is contained in Section 12-301 of the Courts and Judicial Proceedings Article (“CJ”) of the Maryland Code (1973, 2020 Repl. Vol.). It provides that “[e]xcept as provided in § 12-302 of this subtitle, a party may appeal from a final judgment entered in a civil or criminal case by a circuit court.” (Emphasis added). Section 12-302(b) then specifies that “[s]ection 12-301 of this subtitle *does not apply to appeals in contempt cases*, which are governed by § 12-304 of this subtitle and § 12-402 of this title.” (Emphasis added). Section 12-304(a) provides: “Any person may appeal from any order or judgment passed to preserve the power or vindicate the dignity of the court and *adjudging him in contempt of court*, including an interlocutory order, remedial in nature, adjudging any person in contempt, whether or not a party to the action.” (Emphasis added).

Our Supreme Court has stated that Section 12-304 “clearly and unambiguously limits the right to appeal in contempt cases to persons adjudged in contempt.” *Pack Shack*, 371 Md. at 254. Accordingly, “where the circuit court has *not* adjudged any person or entity in contempt of court, issues pertaining to a petition for contempt are not appealable[.]”

Trusted Sci. and Tech., Inc. v. Evancich, 262 Md. App. 621, 655 (2024). Mother, however, alleges that special circumstances here, such as the deprivation of time with the children, justify an exception to the *Pack Shack* rule, without any citation to authority. The denial of a contempt petition cannot be appealed.

SUMMER AND HOLIDAY VISITATION SCHEDULE

When setting the visitation schedule for the parties, the trial judge stated that, in addition to having access every other weekend, “Mother shall have access during the holidays that is on a reasonable schedule that is set by the Father after consultation with the Mother.” Concerning summer visitation, the judge further stated that she “made no changes in regard to summer. The parties are free to come up with something if they believe it’s appropriate.” The court’s order reflected the same, stating: “Defendant Mother shall have Holiday and Summer Access with the Minor Children according to a reasonable schedule set by Plaintiff [Father] following consultation with Defendant Mother[.]”

Mother argues that this order was not specific and alleges that the trial court “abused its discretion by failing to order a detailed summer and holiday access schedule.” She claims that the absence of such a schedule “creates uncertainty and increases the likelihood of disputes between the parties.” Without citing any authority, Mother contends that “Maryland courts have consistently emphasized the importance of providing clear and specific visitation schedules to avoid ambiguity and ensure compliance with court orders.” This Court has iterated that, “the best interests of the children are better served by a structure . . . that permits flexibility if the parents are able to handle it.” *Meyr v. Meyr*, 195

Md. App. 524, 550 (2010) (internal citations omitted). To that effect, our Supreme Court has stated:

[T]here is a great deal of flexibility permitted in visitation orders. They run a gamut—a proper gamut. In the divorce, or post-divorce, setting, they may simply provide for “reasonable,” but otherwise unspecified, visitation, or they may set out a rather detailed schedule with respect to times, places, and conditions, or they may be somewhere between those poles, depending on the circumstances and the ability of the parties to agree to a mutually acceptable arrangement.

In re Justin D., 357 Md. 431, 447 (2000).

“‘[R]easonable,’ but otherwise unspecified” visitation is precisely what was provided for here. It was within the trial court’s discretion to determine that the parties here could communicate effectively enough to be able to create a reasonable summer and holiday schedule. We find no error.

MOTHER’S REQUEST FOR CHILD SUPPORT

Mother argues that the trial court erred by failing to consider her request for child support. Father concedes that the trial court should have conducted a child support analysis, pursuant to Section 12-202 of the Family Law Article, but asserts that he would be the likely recipient of any support awarded.

In her Counter-Motion to Modify Custody, Child Support, and for Other Relief, Mother requested that Father be ordered to pay child support, retroactive to the date of filing her motion. Father denied Mother’s allegation in his response but did not otherwise address the issue of child support.

In awarding Father primary physical custody and Mother supervised overnight visitation, the trial judge did not make any findings of fact on the record relating to child

support or the amount to be awarded. The court stated only: “In consideration of the limited income of the Mother and the requirement that I’m putting on her for professional services, it’s better for the children that the Mother not be ordered to pay child support at this time.”⁷ The court did not otherwise address the impact of the child support guidelines provided in Section 12-204 of the Family Law Article to Mother’s overnight supervised visitation when making its decision.⁸

Parents of minor children “are jointly and severally responsible for the child[ren]’s support, care, nurture, welfare, and education[.]” FL § 5-203(b)(1). “This legal obligation to support a minor child is also a ‘moral obligation[.]’ which ‘is [a] well-settled [principle]

⁷ It is important to note that the trial court here ordered that “child support for the Minor Children shall be charged generally among [Father] and [Mother.]” Our Supreme Court recently has held that such “general charges” of child support, unless followed by the applicable child support framework, “violate the mandatory nature of the child support guidelines and potentially the child’s right to child support.” *Matter of Marriage of Houser*, 490 Md. 592, 623 n.20 (2025).

⁸ It is unclear whether the trial judge applied the child support guidelines at all in this case. When asked by Mother’s counsel, Linda M. Brown, Esq., at the February 6 hearing, the following exchange occurred:

MS. BROWN: Okay. And then the other thing is did you run child support guidelines?

THE COURT: Umm, maybe back at the time of the hearing.

MS. BROWN: Okay, do you have a copy of those guidelines?

THE COURT: Did you submit them?

MS. BROWN: I thought I did. I had run them before.

THE COURT: All right. I don’t know the answer to your question, Ms. Brown.

MS. BROWN: Okay. So, child support—I mean you indicated to—to the opposing counsel that child support was denied, so I did want have you look [sic] at those guidelines.

THE COURT: I did indicate that it is denied at this time.

MS. BROWN: Okay. And you didn’t run child support guidelines?

THE COURT: I didn’t say that.

in Maryland [law].’ Because the obligation is to support the child, Maryland courts have long recognized that the right to child support is a right held by the minor child—not a right held by the parent to whom the child support is paid.” *Matter of Marriage of Houser*, 490 Md. 592, 607 (2025) (citations omitted).

“The calculation of a child support award is governed by FL § 12-204” *Kaplan v. Kaplan*, 248 Md. App. 358, 386 (2020). In cases such as this one, where the parents’ combined adjusted actual income is less than \$30,000.01 per month,⁹ the Maryland child support guidelines control the calculation of each parent’s child support obligation. FL § 12-202(a)(1) (“[I]n any proceeding to establish or modify child support . . . the court *shall use* the child support guidelines set forth in this subtitle.”) (emphasis added); FL § 12-204(e) (providing a basic child support obligation schedule for parents with a combined adjusted actual income up to \$30,000.00 per month). A parent’s entitlement to child support payments is determined by the number of overnights each of the children has with each parent. FL § 12-201(o) (defining “shared physical custody” based on the number of overnights a parent keeps a child per year and permitting a court to base a child support award “(i) solely on the amount of visitation awarded; and (ii) regardless of whether joint custody has been granted”).

On remand, the trial court must apply the child support guidelines and determine a support obligation in compliance with Sections 12-201 *et seq.* of the Family Law Article of the Maryland Code.

⁹ Mother reported a monthly income of \$1,535.78. Father reported a monthly income of \$10,850.00.

ASSESSMENT OF BEST INTEREST ATTORNEY'S FEES

Mother takes issue with the trial court's assessment that she and Grandmother were to be jointly and severally liable for the outstanding fees for the Children's Best Interest Attorney. She argues that the trial court failed to properly evaluate the factors provided for in Section 12-103(b) of the Family Law Article. We agree.

In his Motion for Payment, Mr. Little (the Best Interest Attorney) included an affidavit affirming that he billed \$200 per hour for ten hours and his customary rate of \$250 per hour for all remaining hours in accordance with the court's orders, with an attached invoice reflecting the same. He further affirmed that, less the payments already made, he was owed a balance of \$9,850. Mother and Grandparents then filed a reply asking the trial court to order Father to pay the entire balance, citing the disparity in incomes between Mother and Father. In response, Father filed his own motion in which he requested that Mother and Grandparents be solely responsible for the fee balance, arguing primarily that Mother and Grandparents maintained their causes of action without substantial justification.

In making her assessment of counsel fees, the trial judge said only that:

Considering all the facts and circumstances regarding this case and the financial resources of both parties, considering the litigiousness of the Defendants, the contempt actions, the separate civil case, the Grandparents have apparently gifted to the Mother her cost of pursuing all of the litigation. She's also not ordered to pay any child support at this time based on things I've already said.

I am awarding the full amount of outstanding Best Interest Attorney fees and requiring that the Defendants, Margaret [Walsh] and Melanie Eitelman, be jointly and severally responsible for the \$9,850.00.

The judge made no further findings of fact as to the financial resources and needs of the parties, or whether the parties were substantially justified in maintaining and defending their respective causes of action. The court entered a written order memorializing its fee assessment on February 6, 2025, and on February 14, Mother and Grandmother filed a motion to alter or amend the assessment. While the motion was pending, the court entered an order on March 11 removing Grandmother as a party to the case, and thereafter denied Mother’s motion to alter or amend on March 19.

“A court order providing that one of the parties involved in a custody dispute pay counsel fees to a best interest attorney is clearly authorized by statute.” *Meyr*, 195 Md. App. at 555. Section 1-202 of the Family Law Article provides, in relevant part:

(a) In an action in which custody, visitation rights, or the amount of support of a minor child is contested, the court may:

...

(1)(ii) appoint a lawyer who shall serve as a best interest attorney to represent the minor child and who may not represent any party to the action; and

(2) impose counsel fees against one or more parties to the action.

“Thus the statute expressly provides that the court may, in its discretion, impose attorney’s fees against either or both parties as is just and proper under the circumstances.” *Van Schaik v. Van Schaik*, 200 Md. App. 126, 137 (2011). However, the court “ought to state the basis for [its] decision so it can be reviewed, if necessary, on appeal.” *Randolph v. Randolph*, 67 Md. App. 577, 589 (1986).

Section 1-202 alone does not set forth specific factors to consider in apportioning attorneys’ fees between the parties, but Maryland courts generally apply the factors set

forth in Section 12-103(b) of the Family Law Article. *Meyr*, 195 Md. App. at 555–56 (“This statute, . . . does not set forth the specific factors that a court should consider in awarding counsel fees for a best interest attorney. The Court of Appeals has indicated, however, that the factors set forth in F.L. § 12-103(b), are relevant to the analysis.”). “Section 12-103 contemplates a systematic review of economic indicators in the assessment of the financial status and needs of the parties, as well as a determination of entitlement to attorneys’ fees based upon a review of the substantial justification of each of the parties’ positions in the litigation, mitigated by a review of reasonableness of the attorneys’ fees.” *Davis v. Petito*, 425 Md. 191, 206 (2012).

When assessing fees, the court need not specifically recite the statutory factors so long as “the evidence in the record indicates that the court engaged in the requisite analysis.” *Sayed A. v. Susan A.*, 265 Md. App. 40, 90 (2025). *See, e.g., Gillespie v. Gillespie*, 206 Md. App. 146, 179 (2012) (vacating an award of the best interest attorneys’ fees where there was “no indication that the court expressly considered any of the factors listed in FL § 12-103(b)”); *Ledvinka*, 154 Md. App. at 432–33 (remanding for a determination of attorneys’ fees in accordance with the statute where “the trial court failed to make findings of fact to justify the award of attorney’s fees”); *Painter v. Painter*, 113 Md. App. 504, 528–29 (1997) (vacating an attorneys’ fee award where the court was “unable to discern whether the trial court considered the then current ability of appellant to pay counsel fees” and could not “discern upon which basis the award of counsel fees was made”).

Turning to the case *sub judice*, it is unclear from the record that which the trial court relied upon in determining that Mother and Grandmother would be fully liable for all of Mr. Little’s outstanding fees. As such, we cannot properly review the decision. *Gillespie*, 206 Md. App. at 179 (“Because the court did not state the basis for its determination, however, we are unable to properly review the decision.”).

We vacate the trial court’s order assessing the Best Interest Attorney’s fees against Mother and remand for the court to make the requisite findings and reconsider its assessment.

CONCLUSION

For the foregoing reasons, the judgment of the Circuit Court for Howard County modifying custody is vacated only as to child support and affirmed in all other respects. The order granting fees for the Best Interest Attorney is separately vacated as to Mother and remanded for reconsideration.¹⁰

**JUDGMENTS OF THE CIRCUIT
COURT FOR HOWARD COUNTY
MODIFYING CUSTODY ARE
AFFIRMED IN PART AND
VACATED IN PART AND
REMANDED FOR FURTHER
PROCEEDINGS WITH RESPECT**

¹⁰ In our mandate, we have separated the order granting the Best Interest Attorney’s fees, because assessment of the Best Interest Attorney’s fees was collateral to the merits of the modification of child custody and child support issues; the court’s order assessing the \$9,850.00 in fees against Mother and Grandmother, then, was independently appealable from the court’s March 11 order on the merits. *See Blake v. Blake*, 341 Md. 326, 336 (1996). Moreover, an order for the payment of money, such as attorneys’ fees in a domestic case, may be considered an interlocutory order immediately appealable under Section 12-303(3)(v) of the Courts and Judicial Proceedings Article. *See Lieberman v. Lieberman*, 81 Md. App. 575, 582 (1990).

**TO CHILD SUPPORT. ORDERS
GRANTING FEES FOR BEST
INTEREST ATTORNEY VACATED
AS TO APPELLANT AND
REMANDED FOR FURTHER
PROCEEDINGS CONSISTENT
WITH THIS OPINION. COSTS TO
BE DIVIDED EQUALLY BETWEEN
THE PARTIES.**