

Circuit Court for Montgomery County
Case No. C-15-FM-24-003955

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 781

September Term, 2025

V. KUMARAN VADIVELU

v.

RENUKHA SELVAKUMARAN

Graeff,
Friedman,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Graeff, J.

Filed: April 29, 2026

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

This appeal arises from an order issued by the Circuit Court for Montgomery County requiring appellant, V. Kumaran Vadivelu (“Father”), to pay *pendente lite* alimony and *pendente lite* child support to appellee, Renukha Selvakumaran (“Mother”), as well as *pendente lite* attorneys’ fees and costs.

On appeal, appellant presents the following questions for this Court’s review, which we have rephrased slightly, as follows:

1. Did the magistrate err in imposing *pendente lite* alimony and child support and abuse her discretion in making both awards retroactive?
2. Did the magistrate err in awarding attorneys’ fees and costs by making clearly erroneous factual findings and failing to adequately consider substantial justification?
3. Did the magistrate abuse her discretion in construing Father’s deferral of salary as an attempt to shield money from Mother?
4. Was Father so prejudiced by the highly flawed process that that the only reasonable cure is to overturn the *pendente lite* order in its entirety?

For the reasons set forth below, we shall affirm the judgments of the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

Mother and Father were married on July 1, 2006, in Malaysia. They have two children together, R.K., age 17 at the time of the November 2024 *pendente lite* hearing, and S.K., age 13.¹ The parties and their children are citizens of Malaysia and are living in the United States as a result of Father’s employment as a research scientist with GlaxoSmithKline (“GSK”). The family came to the United States in August 2022 on non-

¹ In the interest of privacy, we will refer to the children by their initials.

immigrant L-1 and L-2 visas. Prior to August 2022, the family lived in Italy for Father's employment. Mother is a medical doctor who is also employed by GSK.

I.

Protective Order

On June 15, 2024, Mother filed a petition for a protective order against Father. On June 18, 2024, the court entered a protective order by consent, which provided that Father would vacate the home and pay Mother emergency family maintenance of \$1,000 per month. The parties agreed to additional terms on the record at the hearing on the final protective order, which later was formalized in a Consent Order entered on November 14, 2024. The parties agreed, in relevant part, that Mother would retain possession of the children's passports, and Father would pay "all necessary and reasonable expenses to maintain the household and family." Father also agreed that he would not take any action to jeopardize Mother's immigration status, and he would "not move any marital assets to offshore accounts."

II.

Complaint for Divorce and *Pendente Lite* Relief

On June 19, 2024, Mother filed a Verified Complaint for Absolute Divorce, Custody, Child Support, and for Other Relief, alleging irreconcilable differences and extreme cruelty as grounds. In her prayer for relief, she requested, among other things, *pendente lite* child support and *pendente lite* alimony retroactive to the filing date of the complaint, as well as *pendente lite* counsel fees and costs.

On August 23, 2024, Father filed a Counter-Complaint for divorce, alleging that Mother had an extra-marital affair while they lived in Italy and the parties had been living separate and apart with no reasonable expectation of reconciliation. His request for relief included an award of joint physical and legal custody and attorneys' fees and costs.

III.

Hearing

On November 25, 2024, a magistrate held a hearing on the *pendente lite* issues, including counsel fees, costs, child support, custody, and alimony. The parties agreed that Mother would remain in the marital home pending finality of the divorce. They also stipulated to the accuracy of 2024 Bank of America records, including Father's account application, and to Mother's monthly income of \$13,593.00. The parties did not agree on the amount of Father's monthly income.

A.

Expert Witness on Counsel Fees and Costs

Glenn Marshall Cooper testified as an expert on attorneys' fee and suit costs. Based on his review of the pleadings and documents produced, further discovery was necessary. This discovery would be complicated because it involved tracing overseas property and transferred money and unresolved issues regarding the use of those funds. Mr. Cooper explained that Mother's intent to call three financial experts on these issues seemed appropriate. Mr. Cooper testified that Mother would incur, on the low side, an estimated \$280,000 in legal fees based on further discovery and two anticipated trials lasting at least

four days each.² He estimated that fair and reasonable counsel costs for the *pendente lite* hearing would be \$5,450, and the custody and divorce trials would each cost \$78,200. Mother also would incur costs for deposition preparation (\$20,120), discovery preparation and responses (\$8,060), settlement and pre-trial hearings (\$2,720), financial statement updates (\$5,220), mediation (\$7,200), general services (\$49,920), expert deposition fees (\$7,500), and transcript fees (\$5,000). The total estimate of \$279,262 did not include fees and costs related to exceptions, discovery disputes, additional depositions, and pre-trial motions. Mr. Cooper reviewed the bills for Mother's counsel and testified that the hourly rate charged and all but \$340 of the fees were fair and reasonable.

B.

Father's Testimony

Father testified that he was employed at Corixa Corporation, a subsidiary of GSK. His office was located in Rockville, Maryland, but as of the end of November 2024, he would be working in the Boston office. Father's bi-monthly income was \$15,000 in 2022, when he began working in the U.S., and he received several increases in 2023, eventually earning \$17,309.17 in bi-monthly base pay. He received an annual bonus every year in March. In March 2023, Father received a bonus of \$80,000, and then another bonus of \$8,905.90. In March 2024, Father received a bonus of \$206,054, and he anticipated

² Mr. Cooper based his cost estimates on a four-day custody hearing and a separate four-day divorce proceeding.

receiving a bonus of approximately \$109,048 in 2025. Father received reimbursement for relocation expenses and taxes paid relating to his employment in Italy.

Mother's counsel introduced into evidence Father's W-2s from 2022 and 2023, as well as pay stubs from August 1, 2022, to November 15, 2024. Father testified that he elected to defer 80% of his 2024 bonus to a long term savings and pension plan that would not mature until 2031. He explained that GSK requires him to defer at least 10% of his salary and bonus, but any additional deferral was voluntary. In the review years, he deferred only 10% of his salary. Father agreed that the long term savings and pension plan was a marital asset that would be divided equally in the divorce. Father received a \$71,721.73 payment from a share value plan that vested in 2024.

In response to the court's questioning, Father explained that he deferred only 10% of his bonus in 2023 because the parties "wanted to raise cash to pay for the family home, and now [they] are in a much better financial situation." Because they did not have any "big expenses coming up" in 2024, he "thought it was an appropriate move to defer [the] bonus into [a] long term savings plan." Father had accumulated \$400,000 in his long term savings plan, and he had deferred income "for the last couple of years," not just this year. He acknowledged, however, that he deferred only 10 percent of his salary and none of his bonus in 2023, and he could not remember the deferral amount in 2022.

Father testified that he deposited his 2023 and 2024 bonuses into a Bank of America account held jointly with Mother. He opened a separate personal account with Bank of America on June 17, 2024, after entry of the protective order, in which all of his income is

now deposited. Counsel for Mother noted, however, that Father's first bank statement from the new account was dated June 10, 2024, which was prior to entry of the protective order. Father also had a bank account with Chase and a separate investment account. Between December 2023 and June 2024, Father transferred approximately 40,000 euros to someone outside the United States. He explained that he was repaying his brother money that he had borrowed to "settle [a] penalty that [Mother] incurred for leaving a job in Malaysia." After making that payment, he did not have "any cash either in the U.S. or anywhere else at [that] point in time," and he had accumulated more than \$30,000 in credit card debt.

Father paid Mother \$1,000 per month via Zelle pursuant to the terms of the protective order. He testified that he never missed a payment. On the notation field of the bank statement, Father referred to the \$1,000 payment as an "allowance" for Mother, stating that he could not send the payment via Zelle "without adding a narrative." Father stated that he was up to date with all payments required under the protective order for "necessary and reasonable expenses to maintain the household and family," including homeowner's insurance, lawn care, home maintenance fees, and expenses for the children. There was a lapse in payment of the homeowner's insurance for six days because he wanted to switch insurance companies, but Mother decided to immediately reinstate the policy. Father had not missed a payment since the policy was reinstated on June 18, 2024.

Father testified that, as of the date of the hearing, he had not applied for a green card, and his nonimmigrant visa would expire on June 12, 2025. He estimated that he had paid \$60,000 in counsel fees so far, which he paid by credit card, incurring significant debt.

Father rented an apartment in the children's school district, and he contributed approximately \$2,600 per month for expenses related to the marital home. He also paid for all the children's school expenses, totaling \$1,875 per month. Father objected, however, to the appointment of a parent coordinator, citing cost concerns and lack of necessity.

Father testified that he disclosed all assets on his financial statement, including the marital home and property he owned in Malaysia. He stated that the marital home, which the parties paid \$1.35 million in cash for in 2023, was the only "substantial asset" he and Mother owned. The parties liquidated all their assets, including stocks, to purchase the home. Father also owned a \$200,000 property in Malaysia that his mother lived in and that the family used as a vacation home.

C.

Mother's Testimony

Mother testified that she and Father entered into a consent agreement pursuant to which Father agreed to pay for certain household expenses and expenses for the children. Father, however, refused to pay for certain agreed upon expenses, including the homeowner's insurance, the lawn service fees, and monthly home maintenance service costs. The homeowner's insurance was cancelled for a period of time and the lawn service company stopped coming. Mother testified that, after two months and repeated emails, she had to pay her attorney to get Father to reimburse her for expenses related to a garage

repair. Mother was not sure whether Father was paying for the expenses he agreed to cover in the consent order because she did not “see his bank statements.”

Mother and Father began having major disagreements in December 2023. Father threatened to divorce Mother at that time and called Mother’s brother to tell him that Father wanted a divorce. Mother confronted Father after learning that he had not included her in the green card application for the family. He told her she would be deported and would not be able to stay with her children. He later sent her a message stating that, “if [she] slept with him, he might consider including [her]” in the green card application. Mother retained an immigration attorney to assist her in understanding her immigration options, which cost \$5,000.

Mother was not very aware of the finances until her attorney subpoenaed Father’s bank records and she discovered he was transferring money without her knowledge. Beginning in January 2024, Father reduced the money in their Bank of America joint account, which was used to pay household expenses, by transferring \$300,000 to a Schwab account. Mother did not have online access to this account. Mother testified that, prior to their separation and without her knowledge, Father transferred money from the Schwab account to an offshore account in Malaysia, which he then claimed was not within the court’s jurisdiction, and to a JP Morgan Chase account.

Mother’s expenses increased \$7,000 in one month because she needed to purchase a car and take driving lessons. Father did not allow her to drive and damaged her credit for a car loan and car insurance by taking out store credit cards in her name and defaulting

on payments. She testified that her and her children's L-2 visas were set to expire on June 12, 2025, and they had not yet secured a different visa or green card.

Father reduced his bimonthly take home salary from \$14,000 to \$8,000 by electing to defer his 2024 bonus to a nontaxable savings plan. Mother hired a financial expert, with a retainer fee of \$5,000, to better understand the extent and nature of Father's financial transactions. Mother reviewed the counsel fee statements received from her attorney and testified that the statements fairly and accurately represented the fees charged thus far in the litigation. Mother shared custody of the children with Father, but sometimes she had them more than her allotted time, causing her to incur additional expenses. Mother anticipated incurring more fees in the litigation, including costs related to a parent coordinator, who she felt was necessary because Father used the children to negotiate, which upset them.

Mother requested monthly alimony in the amount of \$10,000 and \$4,000 a month in child support, effective December 1, 2024. She requested \$100,000 in attorneys' fees to cover legal costs she had already incurred, and requested that Father pay her legal fees directly in the future. Based on her review of documents obtained during discovery, Father had access to funds to pay the requested support and fees, and she was not able to meet her and her children's needs based on her current income alone.

D.

Written Closing Statements

The parties submitted written closing statements. Mother argued that Father's annual income for 2024 was \$809,599.02, which included his base salary, annual bonus, annual award of GSK shares, and 401K and deferred compensation plan employer matching funds. Although the Maryland Child Support Guidelines recommended a monthly child support payment of \$3,407, Mother requested \$4,000 per month due to additional costs incurred when Father traveled for work.

With regard to alimony, Mother argued that the vast majority of the marital assets were titled in Father's sole name, and she could not access them to pay litigation costs, retain an immigration attorney, purchase a vehicle, or support herself. Father elected to defer 80% of his 2024 bonus, but Mother could not obtain a credit card or loan due to her low credit score. Father testified that he accumulated \$400,000 in long term savings, and records showed he spent \$16,960 towards an executive training program, demonstrating that he had the ability to pay support and alimony.

Mother contended that, contrary to Father's testimony, he opened an account solely in his name *before* entry of the Protective Order, and he transferred money from their joint account so Mother could not access it. Father threatened divorce as early as December 2023 and began moving money then. Mother argued that Father received wire transfers of significant sums from two other previously undisclosed bank accounts, and Father transferred \$40,000 to an off-shore account in violation of the Protective Order.

Mother alleged that Father had not abided by the requirement in the protective order that he pay all costs associated with the marital home, specifically, homeowner's insurance, regular maintenance fees, and lawn care costs. She asserted that Father was attempting to control her by manipulating their financial resources for his own gain, failing to fulfill his financial obligations, threatening her immigration status, and referring to court-ordered payments as an allowance. Mother requested that the court award her alimony so she could pay the expenses directly without Father's involvement, noting that the Protective Order would expire on June 18, 2025.³

Regarding attorneys' fees, Mother asserted that her expert witness estimated that she would incur \$279,262.50 in litigation costs through the merits trial, including the retention of an expert witness to trace marital assets that Father had been attempting to shield from her. Mother argued that Father was paying his attorneys' fees from marital assets while Mother had to borrow money from family and friends. She stated that she was substantially justified in maintaining the action because both parties alleged irreconcilable differences as grounds for divorce and she was "at a significant financial disadvantage in th[e] litigation."

In his written closing argument, Father raised due process objections to the amount of time allotted to him at the hearing. He alleged that Mother "materially exceeded her 50%" time allotment during the three-hour hearing, causing him to have "less than one

³ Mother explained that she was in the process of applying for extended status for her and the children and would not be leaving on June 12, 2025.

hour” to present his case, which materially prejudiced him. He argued that temporary alimony was unnecessary because Father paid all household expenses and an additional \$1,000 per month to Mother in accordance with the final protective order, and the family would have to depart the country prior to the order’s expiration. He argued that he had no ability to pay temporary alimony or Mother’s attorneys’ fees after making these payments.⁴

On the issue of income, Father asserted that his deferred salary and bonus was unrealized income which could not be considered for child support purposes. He stated that his actual gross income was \$31,156.51 per month, based on 90% of his current base salary, and he stipulated that Mother’s income was \$13,593. Based on the guidelines, Father argued that the child support award should be \$1,720 per month. He argued that Mother’s expenses must be reduced by \$4,868.25 because he was paying all school and household expenses, and her financial statement included “inflated, invented, and aspirational expenses” related to camp, vacations, ride share and automobile use, haircuts, and clothes. He asserted that Mother could not show two of the required elements for temporary alimony: need and Father’s ability to pay.

Father argued that the court should not award Mother attorneys’ fees because Father had no ability to pay them and the only asset the parties could liquidate was the marital home, which Mother refused to sell. He asserted that the case did not warrant significant attorneys’ fees because the parties’ assets were “clear and non-contentious and limited in

⁴ Father stated that temporary use of the marital home and custody were not at issue.

scope” and “[a]ll assets and bank accounts ha[d] been disclosed.” He stated that Mother’s request for litigation costs was without substantial justification.

E.

Oral Recommendations

On January 30, 2025, the magistrate gave her oral recommendations on the record. The magistrate explained that Maryland law permits the court to provide *pendente lite* alimony to an economically dependent spouse after considering the reasonable needs of the party seeking alimony compared to the other parties’ ability to meet those needs. She noted that any child support award would begin as of the date of the initial pleading, which was June 19, 2024. With regard to counsel fees, the magistrate stated that she had considered “the financial resources and needs of both parties and whether there was substantial justification for prosecuting or defending the proceeding.”

The magistrate found that the parties entered into a final protective order that was incorporated into a consent order, which provided for the payment of expenses and limited the parties’ ability to transfer assets and travel with the children. She then went through each category of expenses on Mother’s financial statement, finding most expenses reasonable and necessary, with some exceptions.

The magistrate found Mother’s testimony that Father did not want her to drive during the marriage and she now needed a driver’s license and car to be credible. The magistrate reduced the total auto expense, however, to reflect either Uber or a car payment,

finding that there was no reason for Mother to incur expenses for both, and reduced repairs to zero because Mother planned to purchase a new vehicle.

The magistrate found Mother's reasonable and necessary monthly expenses to be \$11,522 and the children's expenses to be \$5,058. She credited Mother's testimony that she incurred additional expenses for the children when the children were with her more than her scheduled time.

With regard to Father, the magistrate found Father's reasonable and necessary expenses to be \$10,764 and \$2,348 for the children. She stated that Father's business travels resulted in an increase in household expenses for Mother and a reduction in Father's costs.

The magistrate next addressed Father's income, noting that the parties could not reach a stipulation as to the amount. The magistrate calculated Father's base monthly income to be \$34,618, with "additional compensation in the form of bonuses, foreign compensation, awards, retirement benefits, and other benefits provided by his employer." She found that his year-to-date gross pay for the period ending November 15, 2024, totaled \$809,599.

The magistrate found that Father received "in excess of \$20,000 per month in additional compensation," excluding relocation payments. In 2024, Father received two raises, increasing his base pay to \$17,309 every two weeks, as well as bonus income of \$229,000 and foreign wages in excess of \$12,000. She found Father's monthly income for *pendite lite* purposes to be \$54,840. The magistrate found that Father elected to defer 80%

of his bonus into a long-term investment account “in an attempt to shield that money from being considered for support purposes in this case and to make it unavailable to [Mother] and the children.” She further determined that Father was reasonably expected to receive a bonus of greater than \$100,00 in March 2025.

The magistrate found that Father exhibited a pattern of disrespectful and controlling behavior toward Mother, including use of the term “allowance” when paying Mother support, not wanting her to drive, and routinely engaging in financial transactions affecting the family without informing Mother. She stated that Father hid financial transactions from Mother with the intent to conceal them, noting that he transferred tens of thousands of dollars into his own accounts and to Malaysia without informing Mother. The magistrate found that Father did not tell Mother that he elected to defer 80% of his bonus, and Mother learned of the election from discovery. Father took out credit cards in Mother’s name and delayed payment, adversely affecting her credit.

The magistrate credited the opinion of Mother’s expert as to anticipated fees of \$280,00 for the parties’ divorce proceeding, as well as litigation costs incurred thus far. Noting that Father’s compensation and company benefits were the main issue in dispute, the magistrate found that Father was “in a far superior position in this case.” Father was “in sole possession of most of the parties’ financial records,” therefore, he did not need to issue subpoenas or note any depositions. Mother, on the other hand, wanted to retain a finance expert but was unable to pay his retainer fee. Father’s positions on his financial circumstances were inconsistent and self-serving. He stated that he deferred his bonus

income because the parties were in an improved financial position, but then was unsure if he had sufficient funds to pay for a parent coordinator.

Regarding the need and ability to pay *pendente lite* support, the court stated:

[Father] is in a far superior financial position.

I find [Mother] has borrowed funds to pay her counsel fees. [Father] had paid his counsel fees without borrowing funds. I find [Father] has been able to save money. I find [Mother] has not. I find [Mother] is in need of support. I find [Father] has the ability to pay support.

The magistrate recommended that, beginning February 1, 2025, Father pay \$2,600 in monthly child support, plus \$19,240 in child support arrears, and \$6,000 in monthly alimony, plus \$63,640 in alimony arrears. She credited Father for the \$1,000 monthly emergency family maintenance payments and expenses he already paid related to the children and marital home, noting that Mother still operated “at a deficit, even after considering [his] contributions to these expenses from the time of filing through the [*pendente lite*] hearing.” The net arrears due after accounting for expenses paid was \$32,560, and the magistrate recommended Father pay \$2,000 per month toward the arrears until they were paid in full.

The magistrate denied Mother’s request for Father to pay her monthly legal bills going forward. Instead, she recommended that Father contribute \$100,000 towards Mother’s *pendente lite* counsel fees and \$25,000 for costs. She noted that the court “must determine the financial needs and resources available at the time an award of counsel fees is made, and the [c]ourt must determine whether the fees are fair and reasonable.”

IV.

Exceptions

A.

Father's Exceptions to the Magistrate's Recommendations

On February 10, 2025, Father filed four exceptions to the magistrate's oral recommendations. In Exception No. 1, Father argued that the magistrate failed to provide him with an equal amount of time to present his case in violation of his due process rights. He asserted that the unequal amount of time materially prejudiced him and was not harmless error because the magistrate "made credibility determinations and factual findings without allowing [him] enough time to challenge multiple points in Mother's testimony."

In Exception No. 2, Father argued that the magistrate's child support and alimony calculations were based on erroneous findings regarding Mother's expenses and Father's income. He stated that, had the magistrate given him equal time, he would have presented testimony and evidence to refute Mother's expense claims related to replacement appliances, repairs, HOA fees, telephone/internet, therapy, ophthalmologist fees, medical and school-related expenses for the children, extracurricular activities, camp, alterations/dry cleaning, clothing expenses, yoga, accounting and tax preparation, on-line subscriptions, and haircuts. He asserted that many of Mother's expenses were either not supported by the evidence or were expenses that he paid. Father argued that, had he had equal time at the hearing, he would have presented testimony that Mother also travelled

during her custodial time, which increased Father's expenses and decreased hers, and that the utility bills were in Mother's name and Father had reimbursed her for all utility payments. He also asserted that Mother chose not to drive because she preferred using Uber.

Father next argued that the magistrate made erroneous factual findings regarding his income. He asserted that Mother filed for divorce *after* he elected to defer 80 percent of his bonus, and therefore, he could not have shielded the money. He denied taking out credit cards in Mother's name and stated that the court erred in concluding that Father earned four times Mother's income. He also argued that Mother failed to disclose assets she held in Malaysia.

In Exception No. 3, Father challenged the magistrate's recommendation with regard to counsel fees and costs. He stated that, had he had equal time, he would have testified that he already paid \$20,000 toward Mother's counsel fees, and he had incurred debt paying his own fees. In Exception No. 4, Father asserted that the magistrate erred in crediting Mother's testimony regarding the green card application because it was not truthful.

B.

Mother's Opposition to Father's Exceptions

Mother filed an opposition to Father's exceptions. With regard to Father's due process challenge, Mother argued that Father improperly attributed his own objections and cross-examination to Mother's allotted time and actually concluded his case-in-chief early,

without requesting additional time to present evidence or testimony. She asserted that Father was seeking “a second bite at the apple” because he was unhappy with the outcome of the *pendente lite* hearing.

Regarding Exception No. 2, Mother asserted that her expenses were based on a sworn financial statement, and Father failed to question them during the hearing. She further argued that Father waived any objection to Mother’s expenses by failing to object to them in his written closing statements.

With respect to Father’s income, Mother asserted that Father knew the parties were headed for separation beginning in December 2023, and the record showed that Father began to take financial action in preparation for divorce as early as May 2024. She alleged that Father did not address the allegations of improper and clandestine money transfers at the hearing and instead claimed that Mother “contributed nothing financially to the marital home,” despite it being titled in both parties’ names. Mother stated that she properly disclosed her Malaysian assets in her Amended Financial Statement.

In opposition to Exception No. 3, relating to the magistrate’s award of counsel fees and costs, Mother argued that Father waived his opportunity to present evidence of his alleged \$20,000 contribution to Mother’s attorneys’ fees by not requesting additional time at the hearing and not addressing the issue in written closing statements. His financial records demonstrated that he “had ample funds” to pay Mother’s counsel fees and costs.

In opposition to Exception No. 4, Mother noted that the magistrate acknowledged testimony from both parties regarding the green card application. Father, however, chose

not to provide additional evidence on the issue or address it in closing argument. Mother argued that he waived any exceptions to the court's finding on this issue.

C.

Exceptions Hearing

On March 12, 2025, the court held a hearing on Father's exceptions. It granted Father's exception on the issue of due process. It remanded to allow Father an additional 26 minutes to present his case and Mother an additional five minutes for cross-examination. The court stated, however, that it was "not vacating all that's happened," and it found that the magistrate's findings of fact based on the evidence presented were not clearly erroneous. The court explained that, on remand, Father was limited to presenting evidence as delineated in the exceptions and nothing outside of that. When asked whether Father would be "foreclosed from filing further exceptions," the court stated that Father was not precluded from filing further exceptions, but if he was bringing exceptions on factual issues that the court had already reviewed, there could be an issue whether they were brought in good faith and Father "may need to open up his checkbook." The court reiterated that it could not preclude Father from filing future exceptions, but they would need to be filed in good faith and with substantial justification and not simply relitigate issues the court had already decided.

On March 18, 2025, the court issued an order on Father's exceptions. It found: "[F]or the reasons stated on the record: (a) that [Father] set forth with particularity the additional evidence he would offer to the magistrate and the reason why the evidence was

previously not offered and (b) that the additional evidence should be considered before a final recommendation.” It scheduled a hearing on remand for April 1, 2025, and it ordered that Father would have 26 additional minutes to present his case-in-chief and Mother would have five additional minutes for cross-examination.⁵

V.

April 1, 2025 Hearing on Remand

At the outset of the hearing on remand, the magistrate stated that it wanted “to hear from [Father] . . . on the specific issues that were raised in the exceptions.” She noted that, if any portion of her ruling changed, the parties had the right to file exceptions to her recommendations.

Father challenged many of the expenses listed in Mother’s amended financial statement. He stated that Mother misstated the amount she paid for telephone/internet and duplicated the expense for internet and yoga classes in her financial statement. With regard to Mother’s claimed expense of \$650 for repairs, Father testified that the parties spent \$150,000 to remodel and furnish the home after its purchase in September 2023, and since then, on average, spent only \$200 to \$250 monthly on repairs, which he had reimbursed to his wife. Father stated that the Homeowners Association Fee was only \$69 per month, not \$200 as Mother claimed, and he paid all the children’s medical expenses.

⁵ Although Father prevailed below on his exceptions, we note that due process is not measured in minute increments. Nothing in this opinion should be understood to establish a constitutional entitlement to any particular number of minutes or ratio of minutes for the presentation of arguments.

Father testified that Mother did not produce any discovery verifying her \$2,000 monthly therapist expense, and based on bank records, Mother paid only \$580 per month for therapy. Since he had known Mother, she had never worn glasses or seen an ophthalmologist, despite claiming \$150 a month for ophthalmology expenses, and she produced no documentation verifying these claimed expenses. Father challenged the expenses Mother claimed for the children's extracurricular activities, camps, and clothing, stating that he paid for expenses for extracurricular activities and clothing directly, with the exception of one purchase for which he provided immediate reimbursement to Mother. Father testified that the family used dry cleaning services infrequently, at a maximum monthly expense of \$50 per month, not \$200, as Mother estimated. Father also refuted Mother's expense estimates for tax preparation and haircut expenses. Father stated that Mother's expenses should be reduced to approximately \$1,400 per month.

Father testified that the divorce "was completely unexpected" because the parties purchased their new home "with the hope of strengthening the relationship" and as a commitment to their marriage. He stated that he "wasn't aware about anything" when he elected to defer his bonus and salary on June 6, 2024. He first learned that Mother had filed for divorce when he was served on June 29, 2024. At the time of the deferral, the marital home was paid off, the parties had no debt, and there was \$100,000 in their stock account. Because the parties spent \$1.4 million in cash to purchase the marital home, Father deferred most of his bonus to "replenish [their] retirement account" and "defer taxes

to a later time point.” With regard to the \$100,000 in stocks, Father stated that he used \$60,000 to set up the new home and \$20,000 to pay to Mother’s legal fees.

Father stated that Mother had full access to their joint account, and she went to the bank alone to withdraw \$1.3 million to purchase the marital home. He denied opening credit cards in Mother’s name and stated that Mother owned property titled solely in her name in Malaysia, including a retirement account worth \$100,000, but she had not produced any recent statements regarding the property. Father also denied conditioning her green card application on Mother sleeping with him.

Father sought to introduce into evidence Mother’s most recent paystubs through March 21, 2025, produced after the exceptions hearing. He argued that “child support, whether it’s in a modification case, an exceptions case, a PL case, is always considered by a court at the time of the hearing.” Mother objected, arguing that the remand was limited to allowing Father extra time, not the introduction of new income evidence, which would significantly prolong the hearing. The court sustained Mother’s objection, based on the scope of the remand order.

On cross-examination, Father acknowledged that he had not “been inside the marital home” or had any conversations with Mother regarding her medical, vision, or therapeutic needs since June 2024.⁶ He also had not discussed the children’s camps with his wife since

⁶ Based on Father’s objection to the scope of the question, the court limited the response to the time period of June 2024 through the date of the first *pendente lite* hearing, November 25, 2024.

June 2024. Father conceded that he did not “have any knowledge of [Mother’s] expenses between June of 2024 and November of 2024.”

In response to Father’s testimony denying that he threatened to withdraw Mother from the green card application, Mother’s counsel presented a text message purportedly from him to Mother. Father denied sending the message, which was not admitted into evidence. He testified that Mother had access to his phone and “repeatedly sent such text messages” from his phone. Mother’s counsel admitted into evidence an email from Father to his employer asking that Mother be removed from the visa application. Father explained that he postponed her application to expedite the process for his son, who was applying to college, and because Mother had recently traveled to Italy, which delayed the process. He did not submit a green card application for anyone in the family.

Father testified that, on March 26, 2024, he moved \$100,000 from the parties joint account to a separate savings account solely in his name to pay income taxes. On April 22, 2024, he and Mother consulted Malaysian attorneys, and on April 24, 2024, Father rented an apartment, but he immediately canceled the lease.

A.

Oral Finding and Recommendations

On April 17, 2025, the magistrate presented her oral recommendations on the record after considering, “[a]s directed by the Court, . . . evidence that is relevant to, and probative

of, the specific points raised in [Father's] exceptions."⁷ With regard to Mother's expenses, the magistrate found that, at the time of the *pendente lite* hearing, Father had not been inside the home since June 2024, and Mother was unable to pay certain expenses, including attorneys' fees. She reiterated her prior findings that Mother borrowed funds to pay counsel fees and had not be able to save money, while Father was able to pay litigation costs and save money.

With the exception of the monthly homeowner's association fee, which she reduced by \$131, the magistrate reaffirmed her earlier findings regarding Mother's reasonable and necessary monthly expenses. She found that Father paid certain monthly expenses late, and therefore, Mother's request for alimony to pay the bills directly was reasonable. The magistrate found that Father and Mother had not discussed Mother's *pendente lite* needs during the relevant time period, and she properly credited Mother's testimony on the expenses, despite the absence of supporting documentation. She did not credit Father's testimony that Mother did not want to drive.

On the issue of Father's income, the magistrate "disbelieve[d] [Father's] testimony" that he did not "see the divorce coming until he was served with the complaint in June,

⁷ The magistrate began by noting that Father's exception relating to due process had been resolved by virtue of the remand hearing allowing him 26 additional minutes. The magistrate disagreed, however, with Father's calculation of the amount of time he was owed, noting that he used more than seven minutes objecting or presenting argument, which was not properly accounted for in his time calculation. She further found that Father used 31 minutes on remand, going five minutes beyond his allotted time.

2024,” and therefore, did not defer his bonus in an attempt to shield money.⁸ The magistrate stated that the evidence belied Father’s claim, and she found that Father “knew the marriage was broken and that divorce was impending when he made the decision to defer 80 percent of his bonus.” The magistrate explained:

First, plaintiff testified credibly at the PL hearing that defendant threatened to divorce her in December 2023 in her brother’s presence. Second, I find defendant opened an account in his sole name in December 2023. Third, I find that in March 2024, defendant moved \$100,000 from the parties’ joint account to an account in his sole name. Fourth, I find defendant began talking to Malaysian lawyers in April 2024. Fifth, I find defendant rented an apartment in April 2024. Sixth, I find plaintiff filed a petition for protection from domestic violence on June 15th, 2024, just nine days after defendant made that election. The final protective order was entered by consent.

Defendant’s argument that he had no idea the parties were moving toward divorce is not credible. Seventh, I find that in June 2024, he moved \$40,000 to Malaysia. I find defendant knew divorce proceedings were imminent at the time he made the deferral.

The magistrate rejected Father’s claim that he did not have the money to pay an award of fees and costs, reiterating her earlier finding that he “unilaterally, and to shield money from [Mother] and the children, elected to make funds unavailable for the payment of support fees and costs.”

The magistrate explained that Mother was forced to subpoena documentation of Father’s income and expenses and that he produced certain bank records on the day of trial. Mother was entitled to subpoena these records, “particularly when, as here, [Father] was

⁸ The magistrate also disbelieved Father’s testimony that Mother took his phone to send herself text messages, as well as his testimony regarding issues involving the visa and green card application process.

not forthcoming with the necessary information.” The magistrate credited the expert’s testimony regarding Mother’s litigation costs, and she used her “own experience as a practitioner, and as a magistrate,” as permitted under case law. She noted that parties had just completed a four-day custody trial. The magistrate reiterated her findings that Father attempted to control Mother’s conduct and exclude her from financial decisions impacting their family, and that Father had a “superior financial position and ability to pay support and fees.”

The magistrate stated that it declined to consider Mother’s 2025 paystubs on remand “as that would have required her to consider additional income, including bonus income received by [Father], essentially retrying the entire PL hearing,” which was “beyond the scope of the mandate contained in the remand order” and would further delay a *pendente lite* order, which was not in the children’s best interest. The magistrate found that the reduction of \$131 per month in Mother’s expenses due to the corrected homeowner’s association fee was “nominal and d[id] not change the outcome of any” of the *pendente lite* findings.

B.

Pendente Lite Order and Further Motions

On May 16, 2025, the court signed the Magistrate’s proposed order based on the magistrate’s findings of fact and recommendations. It ordered, among other things, that, beginning February 1, 2025, Father pay *pendente lite* child support of \$2,600 per month and *pendente lite* alimony of \$6,000 per month. It also ordered Father to pay child support

arrears in the amount of \$9,800 and alimony arrears in the amount of \$22,760, with payments to Mother of \$2,000 per month until the arrears were paid in full. The court ordered Father to pay Mother \$100,000 for *pendente lite* counsel fees and \$25,000 for *pendente lite* costs within 30 days, but it denied Mother's request for ongoing monthly payment of counsel fees. The order required Father to provide Mother with all information for service providers so she could timely pay the bills.

This appeal followed.⁹

DISCUSSION

I.

Motion to Dismiss

We begin by addressing Mother's motions to dismiss the appeal. On June 23, 2025, Mother filed a motion to dismiss the appeal, arguing that an order granting *pendente lite* alimony was not an immediately appealable order for the payment of money based on *Adelakun v. Adelakun*, 490 Md. 201 (2025). Father opposed the motion, asserting that the holding in *Adelakun* applied only to orders denying *pendente lite* alimony, not orders granting it. On July 9, 2025, we denied Mother's motion to dismiss.

On September 22, 2025, Mother filed a Renewed Motion to Dismiss Appeal. She argued that all but one of Father's issues on appeal challenged factual findings that were

⁹ Father filed his notice of appeal on June 13, 2025. On June 14, 2025, he filed a motion for reconsideration of the *pendente lite* order and a motion to stay its enforcement. On July 15, 2025, the court denied both motions.

unreviewable because Father did not file exceptions to the magistrate’s April 24, 2025 Report and Recommendation. With regard to the remaining issue, whether the magistrate was required to consider new evidence on remand, Mother asserted that Father cited no authority in support of his argument. Mother also renewed her argument that the *pendente lite* order was not immediately appealable under *Adelakun*.

On October 6, 2023, we issued an order denying the motion without prejudice, allowing Mother to argue in her brief that Father forfeited his right to challenge findings of fact. We noted, however, that her argument that the order granting *pendente lite* alimony was not immediately appealable was contrary to established Maryland law.

In her brief, Mother alleges that Father’s appeal should be dismissed because he did not file exceptions to the magistrate’s factual findings from the remand hearing. Father disagrees. He argues that the appeal is proper because it raises errors of law, which are reviewable regardless of whether new exceptions were filed. He further asserts that the decision not to file new exceptions after the remand hearing was based on the circuit court’s statements, which “deterred additional filings.”

When a case is assigned to a family magistrate, the magistrate hears evidence and makes factual findings and recommendations, which “inform the trial court’s final judgment in certain circumstances.” *Barrett v. Barrett*, 240 Md. App. 581, 586 (2019). “The magistrate must notify the parties of his or her recommendations, ‘either on the record at the conclusion of the hearing or by written notice served pursuant to Rule 1-321.’” *Id.* (emphasis omitted) (quoting Md. Rule 9-208(e)(1)).

Rule 9-208(f) provides that a party who wishes to contest the magistrate’s findings or recommendations must file exceptions “[w]ithin ten days after recommendations are placed on the record or served.” If a party does not file timely exceptions, “the court may direct the entry of the order or judgment as recommended by the magistrate.” Rule 9-208(i)(1)(B). “A party’s failure to timely file exceptions forfeits ‘any claim that the [magistrate’s] findings of fact were clearly erroneous.’” *Barrett*, 240 Md. App. at 587 (quoting *Miller v. Bosley*, 113 Md. App. 381, 393 (1997)). A party is not precluded, however, from challenging the court’s “adoption of the [magistrate’s] application of the law to the facts.” *Id.* (quoting *Green v. Green*, 188 Md. App. 661, 674 (2009)).

When a case is remanded based on the granting of a party’s exceptions, parties generally must again file exceptions to the magistrate’s subsequent findings and recommendations in order to preserve challenges to factual findings on appeal. *Dillon v. Miller*, 234 Md. App. 309, 316-17 (2017) (challenge to factual findings regarding the amount of child support and amount paid for medical insurance could not be challenged because Father failed to file exceptions to magistrate’s second report and recommendations after remand). Failure to file exceptions to a magistrate’s second report of findings and recommendations is “fatal to . . . challenges to the facts found by the Magistrate that were accepted by the circuit court.” *Id.* at 316.

Here, Father did not file exceptions to the magistrate’s April 17, 2025 findings or recommendations after the remand hearing. The magistrate, however, stated that the new evidence presented at the remand hearing did not change the outcome of her earlier

findings, from which Father had filed exceptions, and the court had found these factual findings to not be clearly erroneous and cautioned Father that relitigating those findings was not appropriate. Accordingly, we deny Mother's motion to dismiss the appeal.

II.

Pendente Lite Alimony and Child Support

Father contends that the magistrate erred in several ways in its recommendations regarding *pendente lite* alimony and child support. First, he argues that the court erred in failing to base recommendations on current financial information at the time of the remand hearing. Second, he contends that the magistrate erred "in utilizing unrealized gains in attributing income to [F]ather for child support purposes." Third, he argues that the magistrate erred "in awarding retroactive alimony and child support for the entire period that Father was paying all household expenses and the children's school-related expenses."

Pendente lite orders are "temporary court orders, pertaining to matters such as child support and alimony." *Adelakun*, 491 Md. at 5. A *pendente lite* order focuses on the immediate interests of the parties and its purpose is to "maintain the status *quo* of the parties pending the final resolution of the divorce proceedings." *Bussell v. Bussell*, 194 Md. App. 137, 160 (2010) (quoting *Guarino v. Guarino*, 112 Md. App. 1, 11 (1996)). *Pendente lite* alimony and alimony are governed by two distinct legal standards. Md. Code Ann., Fam. Law ("FL") §§ 11-102, 11-106 (2019 Repl. Vol.). *Accord Guarino*, 112 Md. App. at 11. The factors set forth in § 11-106 do not apply to awards of *pendente lite* alimony. *Id.* Both *pendente lite* child support and alimony are "subject to modification during the pendency

of the action” and do not “bind the court when it comes to fashioning the ultimate judgment.” *Adelakun*, 491 Md. at 5. A final judgment of divorce terminates a *pendente lite* order. *Payne v. Payne*, 73 Md. App. 473, 482, *cert. denied*, 312 Md. 411 (1988).

With that background, we turn to Father’s specific contentions.

A.

Scope of Remand

As indicated, Father contends that the magistrate erred in failing to based her findings and recommendations on financial information as it existed at the time of the remand hearing. He contends that, under the relevant statutory factors, the magistrate was required to consider Father’s increased expenses related to his relocation to Boston, as well as Mother’s updated income at the remand hearing. He asserts that the “the remand hearing was one where new findings of fact as of the date of the hearing were to be made based on new evidence on the issues previously raised.”

Mother contends that the magistrate properly limited the scope of the evidence on remand to that which was specifically set forth in Father’s exceptions. Because Father did not raise the issue of Mother’s income or his new employment location in his exceptions, the magistrate did not err in refusing to allow additional evidence on these issues on remand.

Maryland Rule 9-208(h)(1) governs the allowance of additional evidence when a party files exceptions. It provides that

exceptions shall be decided on the evidence presented to the magistrate unless: (A) the excepting party sets forth with particularity the additional

evidence to be offered and the reasons why the evidence was not offered before the magistrate, and (B) the court determines that the additional evidence should be considered. If additional evidence is to be considered, the court may remand the matter to the magistrate to hear and consider the additional evidence or conduct a *de novo* hearing.

Md. Rule 9-208(h)(1). There is “no per se right to present additional evidence at an exceptions hearing,” and the court has “broad discretion to rely on the record or conduct a *de novo* hearing.” *Lemley v. Lemley*, 102 Md. App. 266, 287 (1994). “Exceptions shall be in writing and shall set forth the asserted error with particularity” and “[a]ny matter not specifically set forth in the exceptions is waived unless the court finds that justice requires otherwise.” Md. Rule 9-208(f).

Here, Father raised four exceptions to the Magistrate’s initial factual findings and recommendations: (1) unequal time; (2) erroneous findings as to Mother’s *expenses* and Father’s attempt to shield assets; (3) erroneous findings as to Father’s contribution to Mother’s legal fees; and (4) erroneous findings regarding Father’s actions with regard to the green card application. He did not raise any exceptions relating to Mother’s income or expenses related to his employment relocation.

In ordering a remand, the court determined that Father was entitled to additional time to present his case-in-chief, but it expressly limited the scope on remand to “evidence as delineated in [Father’s] exceptions.”¹⁰ It did not order a *de novo* hearing. Adhering to

¹⁰ Contrary to Father’s assertion, the court did *not* vacate all of the magistrate’s findings of fact and recommendations. Rather, the court expressly stated that its was “not vacating all that’s happened,” that the “factual findings stand,” and it was “not finding that any of [the factual findings] [we]re clearly erroneous.”

the order on exceptions, the magistrate properly limited the evidence to “the specific issues that were raised in [Father’s] exceptions” and went through them one by one. In her oral recommendations she noted that considering additional evidence not identified in the exceptions would “essentially [involve] retrying the entire PL hearing,” which was “beyond the scope of the scope of the mandate contained in the remand order.”

We agree with the magistrate that, based on the court’s express remand order, consideration of changed circumstances was beyond the scope of the remand hearing. Under the circumstances, the magistrate did not err or abuse her discretion in declining to hear evidence not raised in the exceptions.¹¹

B.

Calculation of Father’s Income for Child Support

Father next argues that the magistrate erred in considering “unrealized gain or legally unavailable funds” when calculating Father’s income for child support purposes. He further asserts that the magistrate miscalculated the amount of relocation expenses excluded from Father’s income, improperly included foreign wages as income despite Father’s testimony that they were reimbursement for taxes paid on foreign wages, and erred in treating Father’s share value plan as realized income.

¹¹ This is consistent with our interpretation of Maryland Rule 8-604(d), which addresses remand after appeal. As we have explained, if a remand order “‘*specifically limits* the proceedings on remand,’ the agency or remand court must adhere to those limitations.” *In re Homick*, 256 Md. App. 297, 311 (2022) (quoting *Powell v. Md. Aviation Admin.*, 336 Md. 210, 222 (1994)).

Mother argues that the magistrate properly exercised her discretion in determining the amount of child support. She asserts that Father did not take exceptions to the magistrate’s calculation of Father’s monthly income as \$54,840, and the magistrate correctly determined that Father earned four times as much as Mother. She contends that the magistrate properly determined that Father unilaterally shielded money from her and the children.

Generally, when establishing child support, whether *pendente lite* or permanent, the court must use the child support guidelines set for in FL § 12-204. *Matter of Marriage of Houser*, 490 Md. 592, 620-21 (2025). “[I]n cases where the ‘combined adjusted actual income exceeds the highest level specified in the schedule . . ., the court may use its discretion in setting the amount of child support.’” *Kaplan v. Kaplan*, 248 Md. App. 358, 386 (2020) (quoting FL § 12-204(d)). *Accord Houser*, 490 Md. at 622. In these “above-Guidelines case[s], ‘the court may employ any rational method that promotes the general objectives of the child support Guidelines and considers the particular facts of the case before it.’” *Kaplan*, 248 Md. App. at 387 (quoting *Malin v. Mininberg*, 153 Md. App. 358, 410 (2003)). At the time of the hearing, the parties combined adjusted income amounted to more than \$67,000 per month, which was, at the time, in excess of the highest level of the guidelines, which was \$30,000 per month. *See* FL § 12-204(e). The determination of the appropriate amount of child support in an above-guidelines case is reviewed for an abuse of discretion. *Houser*, 490 Md. at 622.

We begin with Father’s argument that the magistrate erred in considering Father’s deferred bonus as income. In determining each parent’s “[a]ctual income,” the court considers “income from any source.” FL § 12-201(b)(1). “Actual income” includes:

- (i) salaries;
- (ii) wages;
- (iii) commissions;
- (iv) bonuses;
- (v) dividend income;
- (vi) pension income;
- (vii) interest income;
- (viii) trust income;
- (ix) annuity income;
- (x) Social Security benefits;
- (xi) workers' compensation benefits;
- (xii) unemployment insurance benefits;
- (xiii) disability insurance benefits;
- (xiv) for the obligor, any third party payment paid to or for a minor child as a result of the obligor's disability, retirement, or other compensable claim;
- (xv) alimony or maintenance received; and
- (xvi) expense reimbursements or in-kind payments received by a parent in the course of employment, self-employment, or operation of a business to the extent the reimbursements or payments reduce the parent's personal living expenses.

(4) Based on the circumstances of the case, the court may consider the following items as actual income:

- (i) severance pay;
- (ii) capital gains;
- (iii) gifts; or
- (iv) prizes.

(5) “Actual income” does not include benefits received from means-tested public assistance programs, including temporary cash assistance, Supplemental Security Income, food stamps, and transitional emergency, medical, and housing assistance.

FL § 12-201(b)(3)–(5).

This Court previously held that deferred income is included in the child support calculation, even though it may not be available until a future date. *Leineweber v. Leineweber*, 220 Md. App. 50, 62 (2014) (deferred income included in child support calculation during year it was earned, not during the year it is actually received), *cert. denied*, 441 Md. 668 (2015). We explained that, “if we adopt the . . . belief that deferred income should be included only when the . . . parent actually receives the money, then that parent would be able to decrease his or her child support obligation by shifting income earned presently into the future.” *Id.* That is exactly what the magistrate found that Father was trying to do; he voluntarily elected to defer his bonus income to prevent it from being considered for child support and alimony. Under *Leineweber*, Father cannot decrease his child support obligation by electing to defer 80% of his bonus into a long term savings plan, even if the election was irrevocable.

The magistrate’s determination that Father attempted to shield his bonus income was a factual finding based on credibility. The magistrate relied on the following evidence in support of her finding that Father attempted to shield the bonus money from consideration for purposes of child support: Mother’s testimony that Father threatened to divorce her in 2023, Father’s sole bank account opened in 2023, his transfer of money to an account in Father’s sole name in March 2024, Father’s engagement of Malaysian lawyers and apartment rental in April 2024, Mother’s June 15, 2024 petition for protective order, and Father’s movement of \$40,000 to Malaysia in June 2024. The magistrate’s

finding was supported by competent evidence in the record, and therefore, it was not clearly erroneous. *See McAllister v. McAllister*, 218 Md. App. 386, 407 (2014) (trial court and appellate court defer to first-level findings, including credibility, unless they are clearly erroneous).¹²

We next address Father’s contentions that the magistrate erred in her calculation of relocation expenses to be deducted from Father’s income, that she improperly counted the share value plan money as income instead of an asset, and that she failed to treat foreign wages as reimbursement expenses for taxes paid. The magistrate’s calculation of the amount of Father’s deductible reimbursement expenses and her treatment of “foreign wages” as income based on Father’s financial statement are factual challenges that Father did not initially raise in his exceptions or address on remand. Accordingly, they are waived for this Court’s review. Md. Rule 9-208(f).¹³

¹² Moreover, we note that, based on our holding in *Leineweber v. Leineweber*, 220 Md. App. 50, 62 (2014), *cert. denied*, 441 Md. 668 (2015), the deferred income must be considered as income regardless of Father’s intentions.

¹³ With respect to the “foreign comp wages,” we note that this was listed as income on his financial statement. Although Father testified that this was reimbursement for taxes paid while he was employed in Italy, not actual income, the magistrate was free to disbelieve this testimony, and the record does not have any corroborating evidence to show the foreign wages were, in fact, reimbursement. *See Att’y Grievance Comm’n v. Kreamer*, 387 Md. 503, 526 n.16 (2005) (hearing judge free to disbelieve testimony). The foreign compensation wages are listed on Father’s pay stubs as “Wages,” and the magistrate did not err in treating them as such.

C.

Retroactive Alimony and Child Support

Father contends that the magistrate abused her discretion in awarding retroactive alimony and child support and in calculating aggregate arrears in the amount of \$32,560, given that he paid household and school expenses during that period. He further asserts that “Maryland law confines [retroactive alimony] to periods of proven unmet need.” Mother contends that the magistrate properly awarded retroactive alimony and child support in accordance with the statute.

By statute, the court is permitted to award both *pendente lite* alimony and child support retroactive to the filing date of the request. With respect to alimony, FL § 11-106(a)(2) provides that the “court may award alimony for a period beginning from the filing of the pleading that requests alimony.” A court’s decision to award retroactive *pendente lite* alimony is within the discretion of the court. *Guarino*, 112 Md. App. at 18-19. With respect to child support, FL § 12-101(a)(1), requires that an award of *pendente lite* child support be retroactive to the date the request of was filed, unless “the court finds from the evidence that the amount of the award will produce an inequitable result.” *Accord Sims v. Sims*, 266 Md. App. 337, 390 (2025) (“The statute’s language is unambiguous. The court must award the child support retroactively . . . unless the court finds that the award would create an inequitable result.”).

Here, in the absence of evidence that it would produce an inequitable result, which Father did not argue, the magistrate was obligated by statute to award retroactive child

support. *See id.* With regard to the retroactive alimony award, the magistrate credited Father for the \$1,000 monthly Emergency Family Maintenance fee and all additional expenses he paid since Mother filed her *pendente lite* request for relief. After considering Father's contributions to the expenses, the magistrate found that Mother "still operate[d] at a deficit." Thus, contrary to Father's assertion, the award did not duplicate support and the magistrate did find an "unmet need."

The magistrate found that Father was "in sole possession of most the parties' financial records," that he earned four times Mother's income, and he was in a far superior financial position. Based on the evidence, including financial statements and Mother's testimony, the magistrate concluded that Father had the ability to pay support and that Mother was in need of support, noting that "[i]t defies logic a spouse in an economically superior position in a divorce case may unilaterally cause money to be unavailable for support and fees, and then claim they cannot pay support and fees." We perceive no error or abuse of discretion in the magistrate's decision to award retroactive *pendente lite* alimony and child support.

III.

Counsel Fees and Costs

Father next contends that the magistrate "made clearly erroneous findings and committed reversible legal error in awarding \$100,000 in *pendente lite* counsel fees and \$25,000 in costs" to Mother. He asserts that the magistrate's finding that Father did not incur debt to pay his legal fees was clearly erroneous, and she abused her discretion in

failing to consider Father's \$20,000 payment toward Mother's counsel fees. Father also argues that the magistrate did not "demonstrate that she considered Mother's substantial justification in bringing the proceeding."

Mother contends that the magistrate properly awarded counsel fees and costs. She asserts that Father did not go into debt to pay his attorney's fees, and the magistrate was not obligated to credit Father for the \$20,000 he allegedly paid toward Mother's fees. Mother argues that nearly all 21 pages of the magistrate's report and recommendations details Mother's substantial justification for bringing her request for legal expenses.

FL § 12-103(a) provides that, in a case involving an order of custody, support, or visitation of a child, a circuit court "may award to either party the costs and counsel fees that are just and proper under all the circumstances." In deciding an award of costs and counsel fees, the court shall consider: (1) the financial status of each party; (2) the needs of each party; and (3) whether there was substantial justification for bringing, maintaining, or defending the proceeding. FL § 12-103(b). With regard to alimony, FL § 11-110(b) similarly provides for the payment of "reasonable and necessary expenses of prosecuting . . . the proceeding." The court must consider: (1) the financial resources and financial needs of both parties; and (2) whether there was substantial justification for prosecuting or defending the action. FL § 11-110(c).

If the court finds, pursuant to §§ 12-103(b) & 11-110(c), that both parties had substantial justification for bringing or defending their respective positions in the proceeding, it must then value the legal services afforded to both parties, and after determining the reasonableness of the legal fees, it must assess the parties’ respective financial status and needs. *Davis v. Petito*, 425 Md. 191, 204 (2012); *see* FL §§ 12-103(b), 11-110(c).¹⁴ “So long as the parties were substantially justified in bringing, maintaining, or defending the proceeding, the [] court has significant discretion in applying the factors.” *Ruiz v. Kinoshita*, 239 Md. App. 395, 438 (2018). “Its failure to consider those factors, however, is legal error.” *Id.* The court does not need to “recite any ‘magical’ words so long as its opinion, however phrased, does that which the statute requires.” *Horsley v. Radisi*, 132 Md. App. 1, 31 (2000) (quoting *Beck v. Beck*, 112 Md. App. 197, 212 (1996)).

Father first argues that the magistrate’s finding that he did not go into debt to pay his legal fees was clearly erroneous. We note, however, that the magistrate found significant that Father *elected* to defer 80% of a \$206,084.70 bonus in June 2024, and then claimed he could not pay legal fees. Based on the record, we do not conclude that the magistrate was clearly erroneous in determining the financial resources and needs of the parties.

Father next argues that the magistrate did not adequately consider that Mother lacked substantial justification for proceeding with the *pendente lite* hearing. He contends that the magistrate’s statement that she “considered th[e] [required] factors in making [her]

¹⁴ The reasonableness of the fees is not at issue here.

recommendations” does not satisfy the statutory requirement of FL §§ 12-103(b) & 11-110(c). We disagree. Although the magistrate did not expressly state that Mother had substantial justification in bringing the action for support, both her November 2024 and January 2025 recommendations are replete with evidence that she thoroughly considered the factor before awarding fees. She found that Father elected to defer his bonus in an attempt to shield the money from Mother and the children for child support, he hid financial transactions from Mother and transferred money to his individual bank account or overseas, and he failed to pay bills on time or at all. The magistrate noted that Father was in sole possession of the parties’ financial records, and he could “simply provide his counsel with the documents . . . regarding his compensation and benefits and the marital funds he has placed in his sole name,” whereas Mother had to subpoena financial documents and witnesses for deposition. The magistrate found Father was in “a far superior financial position,” earning four times the salary of Mother, and Mother had to borrow funds to pay Mother’s counsel fees and was unable to pay the retainer fee for an expert witness. Father, on the other hand, “had paid his counsel approximately \$60,000 as of the date of the PL hearing, and . . . had placed an additional retainer with the firm the Friday before the hearing.” The record reflects that the magistrate adequately considered the issue of substantial justification.

IV.

Pattern of Animus and Due Process

Father's final argument is that the magistrate "demonstrated a pattern of animus" toward him, and "the highly flawed process violated [his] due process rights." Mother contends that Father's due process concerns were resolved by allowing him to present additional evidence at the remand hearing, and the magistrate properly limited the scope of the remand hearing. She asserts that Father did not cite any authority in support of his contention that the magistrate failed to comply with statutory requirements on remand. We agree with Mother that Father's contentions are without merit.

Father questions the magistrate's findings that his use of the term "allowance" reflected an "overall pattern of behavior" of disrespect and control, and that Father improperly directed his income without consulting Mother. As indicated, however, these are findings of fact that are unreviewable because Father did not include these allegations in exceptions he initially filed. Nevertheless, even if they were reviewable, we give great deference to a magistrate's factual findings, particularly with regard to credibility, because the magistrate hears the witness and observes the witness' demeanor. *McAllister*, 218 Md. App. at 407.

Here, the magistrate found that Father was controlling and disrespectful based on testimony in the record that he did not want Mother to drive, and he engaged in significant financial transactions without informing Mother, including transferring tens of thousands of dollars into an account in his name only, transferring money overseas, and voluntarily

deferring 80% of his bonus into a long-term savings account. The magistrate's disbelief of Father's testimony did not constitute animus toward Father, but rather, the magistrate made credibility findings based on her observation of the parties, a role to which she is afforded great deference. A review of the record shows that Father's contention, that the magistrate displayed "anger" or "a pattern of animus towards" Father is without merit.

**JUDGMENTS OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**