Circuit Court for Montgomery County
Case No. C-15-FM-23-004564

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 0467, September Term, 2025

&

No. 1553, September Term, 2025

CONSOLIDATED CASES

NATHAN M. F. CHARLES

v.

TIFFANY SUMMERFIELD CHARLES

Nazarian,
Shaw,
Eyler, Deborah S.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: May 18, 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 Maryland Rule 1-104(a)(2)(B).

On his fourth and fifth appeals from proceedings related to his divorce from Tiffany Summerfield, known formerly as Tiffany Summerfield Charles ("Wife"), Nathan Charles ("Husband") challenges several provisions of the monetary award, child support order, and attorney's fees award in the Judgment of Absolute Divorce ("Judgment") and Divorce Opinion entered by the Circuit Court for Montgomery County on May 23, 2025. He challenges also a September 2025 order of the circuit court granting Wife's motion for attorney's fees as a sanction under Maryland Rule 1-341 in connection with contempt proceedings she initiated after Husband didn't comply with the Judgment in a timely manner. For the reasons and purposes we explain, we vacate the monetary award, child support order, and both attorney's fees awards and remand the Judgment and September 2025 order for further (narrow) proceedings consistent with this opinion.

I. BACKGROUND

These consolidated appeals are the fourth and fifth in this divorce action. We recounted the background in our opinion resolving the first appeal, *Charles v. Charles*, No. 2240, Sept. Term 2024 (Md. App. July 2, 2025), and our consolidated opinion resolving the second and third appeals, *Charles v. Charles*, No. 1721, Sept. Term 2023 & No. 2388, Sept. Term 2023 (Md. App. July 23, 2025).[1] After summarizing the facts relevant to these fourth and fifth appeals, we pick up where our last opinion left off.

[1] We affirmed also the dismissal of a separate complaint and amended complaint filed by Husband against Wife alleging defamation, abuse of process, and malicious use of process and an attorney's fee award. *Charles v. Charles*, 265 Md. App. 631 (2025).

A. Initiation of Divorce Proceedings

Husband and Wife married in May 2011 and later had two children together: C and E. In 2020, long-standing tensions in the parties' relationship began to escalate due to Husband's work-related frustrations, erratic behavior, and infidelity, and in July 2023, Wife told Husband she wanted to end their marriage. The two then separated and Husband moved out of the marital home and went to live with his parents in Pennsylvania.

After the separation, on July 23, 2023, Husband filed a Complaint for Limited Divorce. Wife filed a Counter-Complaint for Absolute Divorce, or in the Alternative Limited Divorce, and Other Related Relief on September 18, 2023. She filed an Amended Counter-Complaint for Absolute Divorce and Other Relief (the "Amended Counter-Complaint") on July 25, 2024. In her Amended Counter-Complaint, Wife asked the court to grant her an absolute divorce; to "determine the ownership of all personal property and real property, regardless of how titled"; to identify all marital property of the parties and its value; and to grant her a monetary award "as an adjustment of the equities and rights of the parties in the marital property." She identified the parties' principal residence in Potomac, which they acquired during their marriage and owned as tenants by the entirety, as the "Marital Home." Wife requested also that the court order Husband to pay her child support for their minor children according to the child support guidelines and to transfer the Maryland 529 Plan college savings accounts that they opened in Husband's name for the benefit of each of the children to an account in her name. Finally, she asked that the court order Husband to pay her reasonable attorney's fees.

On July 30, 2024, Husband moved to dismiss his Complaint for Limited Divorce. He stated in his motion that Wife's Amended Counter-Complaint would "serve as the operative pleading in all further proceedings"; that he had "no desire to remain married to [Wife] and [was] anxious to marry his fiancée"; and that he had "no intention of asserting any fault against [Wife] and or proffering any evidence unrelated to a purely mathematical resolution of [the parties'] claims." The next day, Wife filed a motion consenting to the dismissal of Husband's complaint. But thirteen hours later, Husband filed a motion to withdraw his motion to dismiss, explaining that he had "recently retained outside counsel who [was] in the process of gaining admission pro hac vice" and had advised him to "leave his Complaint for Limited Divorce in Place."

The day after that, on August 1, 2024, Husband filed an Amended Complaint seeking absolute divorce from Wife and adding requests for relief beyond those in his original Complaint, including a monetary award. The circuit court ordered the dismissal of Husband's original Complaint for Limited Divorce on August 5, and on August 7, Wife moved to strike his Amended Complaint as untimely. Husband opposed the motion to strike on August 8, and on August 14 the court denied the motion and granted Husband leave retroactively to file his Amended Complaint. Ultimately, Husband dismissed his Amended Complaint voluntarily on the first day of trial, less than two weeks later.

In addition to their complaints, the parties filed statements of marital and

non-marital property under Maryland Rule 9-207.[2] Husband filed his Statement of Plaintiff Concerning Marital and Non-Marital Property on February 9, 2024, and Wife filed her Maryland Rule 9-207 Defendant's Statement Concerning Marital and Non-Marital Property on February 15, 2024. Wife amended her Rule 9-207 statement on August 15, 2024. Both parties agreed that certain assets, including the Marital Home; Husband's law firm, Nathan M.F. Charles, LLC (d/b/a Charles Legal Services) (the "Firm"); and a 2011 Toyota Prius (the "Prius") titled in Husband's name but in Wife's possession, were marital, but they disagreed as to the value of those assets. For example, Husband valued the Firm at negative $191.03, while Wife listed its value as "TBD." Additionally, Wife identified as marital property the Maryland 529 Plan accounts opened in Husband's name, Maryland 529 Plan accounts opened in her name for the benefit of each child, and M & T Bank Checking Account #6433 ("Account #6433"), the Firm's operating account. Husband didn't include these items in his Rule 9-207 statement.

B. Husband's Motion For Admission *Pro Hac Vice*

On July 24, 2024, Husband, who at the time was a Maryland-barred attorney[3] and who had been litigating the divorce action *pro se* since he initiated it in 2023, filed a motion

[2] Maryland Rule 9-207 requires the parties to a divorce action in which a marital award is at issue to file "a joint statement listing all property owned by one or both of them." *Id.* at 9-207(a). In footnotes to both her original and amended Rule 9-207 statements, Wife explained that she had "communicated with [Husband] so that" they could file a joint statement as required, but that Husband had "refused to provide his assertions or file jointly" despite her good faith efforts.

[3] Husband submitted a letter to the Supreme Court of Maryland on December 9, 2025 expressing his intent to resign from the Maryland Bar.

asking the circuit court to admit Theresa Caldwell, Arkansas-barred attorney and mother of his fiancée, to practice in Maryland "for the limited purpose of appearing and participating" at the divorce trial as his co-counsel under Maryland Rule 19-217. The July 24 motion did not include a written certification from Ms. Caldwell, the out-of-state attorney, as required under Rule 19-217(b). On July 30, 2024, Husband filed a motion to expedite his motion for *pro hac vice* admission. On August 1, without withdrawing the July 24 motion, he filed a new "Motion for Special Admission of Out-of-State Attorney Under Rule 19-217" that included the required certification.

Wife opposed Husband's July 24 motion on the grounds that it didn't comply with Rule 19-217(b) and that allowing Ms. Caldwell to serve as Husband's co-counsel would violate Rule 19-303.7 of the Maryland Rules of Professional Conduct ("MRPC"), which prohibits an attorney from acting as an advocate "at a trial in which the attorney is likely to be a necessary witness." *Id.* at 19-303.7(a). Wife contended that as the mother of Husband's fiancée, Ms. Caldwell "could be a necessary witness related to [Husband], [Husband's] relationship with a person not his spouse, [Husband's] spending, [Husband's] parenting, or [Husband's] relationship" with his fiancée. Eight days later, Wife opposed Husband's second August 1 motion, reiterating her MRPC 19-303.7 argument.

The circuit court entered an order on August 15, 2024 denying Husband's July 24 motion "for failure to comply with Md. Rule 19-217(b)." The court denied his August 1 motion summarily, in an order signed by a different judge, on August 23.

C. The Divorce Trial

The circuit court held a two-day bench trial on August 26 and 27, 2024. As a preliminary matter, on the first day of trial, Husband asked the court to reconsider the denial of his August 1 motion for special admission. He argued that unlike his July 24 motion for admission *pro hac vice*, the August 1 motion satisfied all of Maryland Rule 19-217's requirements. Wife countered by reiterating that Ms. Caldwell, as the mother of Husband's fiancée, could be called as a fact witness. She argued that although the rules don't prohibit an attorney from representing a family member or close friend expressly, they do advise against acting as an advocate in a case where the attorney is "potentially a fact witness." And she informed the judge that she'd served Ms. Caldwell that day with a trial subpoena for child custody proceedings related to the divorce action. Ultimately, the trial judge denied Husband's request to reconsider the denial of his motion for Ms. Caldwell's special admission *pro hac vice*.

After resolving several other preliminary issues, including Husband's motion to dismiss his Amended Complaint, the court and the parties moved forward with the merits trial on Wife's Amended Counter-Complaint. The parties gave their opening statements, then testified, beginning with Wife. As relevant to the present appeals, Wife testified *first* about her income. She testified that she made "about $180,000" per year working as a manager of intelligence analysts for the FBI's Counterintelligence Division, and she introduced into evidence pay stubs that corroborated her testimony. The pay stubs showed that as of May 2024, her annual salary was $180,359.00.

Wife testified *second* about several items of property, starting with the Marital Home. She testified that she and Husband purchased the Marital Home in 2019 and that they both held title to it as tenants by the entirety. She introduced into evidence a copy of the deed to the Marital Home that corroborated her testimony. Wife explained that in 2014, about three years after she and Husband married, they opened a joint savings account for the purpose of saving up money for a downpayment on a home. She stated that she contributed funds to the joint account from her personal bank accounts and that Husband contributed about $65,000 to the account from the sale of a property that he had owned in Virginia Beach. According to Wife, in 2015 they used funds from the joint account to put a downpayment on a home on Carter Road in Rockville. They sold the Carter Road property in 2019 and used the proceeds from that sale and additional funds from their joint savings account to purchase the Marital Home.

Next, Wife testified about the Prius, which she and Husband purchased together in 2013. She testified that only Husband's name was on the title of the Prius but that she had been driving, maintaining, and paying all costs associated with the car since 2019. She asked the court to order Husband to transfer title to the Prius, the value of which she estimated at $3,500, to her name, and stated that she was amenable to Husband retaining a Subaru titled in his sole name that the parties had purchased in 2020. Wife estimated that the Subaru was worth approximately $17,000. Later, during a break in the proceedings, Husband signed title to the Prius over to Wife. The court acknowledged the transfer, stating that Husband "did what he needed to do."

Wife testified about the Firm also, but she didn't provide an estimate of its value. She then sought to admit into evidence banking statements from several of Husband's M & T Bank accounts, which she received in part from M & T Bank via subpoena and in part from Husband. Among them were statements for Account #6433, the operating account titled to the Firm. The statements disclosed that as of July 31, 2024, Account #6433 had a balance of $23,509.60.

Husband objected to the admission of the statements for Account #6433, arguing that they weren't relevant because Account #6433 "[wasn't] owned by either party." Rather, he asserted, Account #6433 was an asset of the Firm, which was itself Husband's asset. He expressed concern that treating Account #6433 and the Firm as separate assets for the purpose of calculating a monetary award would result in "double counting." Counsel for Wife argued that the court should treat Account #6433 as an asset separate from the Firm because Husband used Account #6433 "practically as his personal account" and paid from that account, among other things, child support and "his [fiancée's] credit card statements." Husband agreed that he "[took] a lot of disbursements" from Account #6433 but maintained that the court should not treat the account as an asset distinct from the Firm. The court overruled Husband's objection and admitted the statements, explaining that it would "hear what the evidence is and look at other documents before [making] a determination about [what was] in [the] law firm account[], and whether that's . . . not truly a separate law firm account."

Wife then testified about the Maryland 529 Plan college savings accounts opened

by each party for the benefit of their two minor children. She moved into evidence her Rule 9-207 statement, which attached account statements for all four Maryland 529 Plan accounts. According to these statements, as of June 30, 2024, the account Husband opened for C contained $70,165.56, and the account Husband opened for E contained $19,903.51. As of that same date, the account Wife opened for C contained $29,076.14, and the account Wife opened for E contained $1,000.87. Wife asked that the court allow her to retain the two accounts opened in her name and stated that she intended to use the money in those accounts "[f]or the children's college education." She then testified about her concern that Husband would liquidate the two Maryland 529 Plan accounts opened in his name for his personal use. To show the reason for her concern, Wife introduced into evidence a March 2024 email from Husband to her attorneys. In that email, Husband said that he wanted to liquidate his Thrift Savings Plan ("TSP") account but needed Wife's consent to do so. He then stated that Wife was "going to give [him] that consent for the following reason: If [she didn't he would] be forced to liquidate the children's 529 plans titled to [his] name" because he was "financially destitute" and had "no other choice."

Finally, Wife testified about the attorney's fees she had incurred while defending the divorce action and prosecuting a related protective order matter against Husband. She introduced into evidence an attorney's fees packet containing a summary of the fees she had incurred, the biweekly itemized invoices prepared by her counsel, and the retainer agreements for the divorce action and protective order matter. Wife stated that as of August 15, 2025, she'd incurred $196,478.58 in attorney's fees, an amount that she felt "was fair

and reasonable given the amount of work that had to be done" across the two relevant matters. This number included fees for her counsel's work responding to, by Wife's calculation, approximately sixty-one motions and other filings by Husband in the life of the divorce action. It also included fees for her counsel's appellate work in the divorce action but didn't include fees for two other actions filed against her by Husband in which she was represented by different counsel.

During her testimony, cross-examination of Husband, and rebuttal testimony, Wife introduced into evidence several emails Husband sent to her and her attorneys over the course of the divorce litigation, many related to various settlement offers. In one such email from December 22, 2023, Husband stated that he wouldn't be making any more offers to settle and expressed a lack of concern over the financial impacts that prolonged litigation would have on Wife:

> I'm done extending olive branches. If you want to settle, it's time for you to start making some concessions. . . . I don't care if [Wife] burns through her life savings and her inheritance fighting this case . . . .
>
> If you think I've been a jerk up to this point – stand by.

In another, sent on December 30, 2023, Husband told Wife and her attorneys to "[m]ake an offer"; opined that Wife's claim for attorney's fees was "a nonstarter"; and said that if the circuit court did award attorney's fees, he would "take it to appeal—again," the Appellate Court would overturn it, and Wife "[would] have run up a slew of additional attorney's fees in the process." He told Wife and her counsel, "You can either negotiate with me or you can have me in your life forever—constantly wondering when you're going

to screw up enough for me to topple you."

On March 9, 2024, Husband made a new settlement offer and stated that "[t]he alternative [was] to keep litigating three separate cases that . . . will go exceptionally badly for [Wife]." He said also that he would "pursue . . . bar complaints against [Wife's counsel] regardless of any action on [that] offer." And on June 4, 2024, he responded to a settlement offer from Wife's counsel by saying, "If you think I'm going to accept [offer redacted], you are delusional. I don't think much of you, but I do not think you are that silly. . . . P.S. this offer is just insulting enough for me to [put] extra effort into this case." Husband made similar derogatory statements about the intelligence and ability of Wife's attorneys in other emails, stating in one that they knew "next to nothing about appellate litigation" and asserting in another that their poor judgment and misunderstanding of Maryland law was putting great financial strain on both him and Wife:

> The bottom line is that you **BADLY** misjudged this case and screwed over me and your own client because you don't understand the nature of our finances nor even the fundamentals of the Maryland law applicable to this case. [Wife] and I are **BOTH** going to be flat broke by the time this is over. And, it is entirely [your] fault.

(emphases in original). Finally, Wife admitted into evidence a series of text messages in which Husband referred to one of her attorneys as "a new level of stupid" and "a fucking train wreck," the other as "a man-hater," and told Wife that he would "pay for half of [her] attorney's fees if [she found] a lawyer—of [her] choosing—who [wasn't] a fucking idiot."

Husband testified on the second day of trial as both a witness for the defense and on his own behalf. Wife's counsel questioned him about a revenue report for the Firm that

covered the twelve months from August 2023 to August 2024 (the "revenue report"), which the court accepted into evidence. Husband agreed that, as the revenue report revealed, the Firm collected a total of $181,018.33 in gross receipts across those twelve months, but he clarified that "[m]ost of those revenues [were] from one single case that [he] won in federal court." He confirmed that he taught courses as an adjunct professor at American University ("AU") in spring and fall of 2023 and that the income he received from teaching those courses wasn't included in the Firm's revenue statement.[4] Counsel for Wife inquired also about Account #6433, the Firm's operating account. Husband agreed that he used Account #6433 to pay most of his personal expenses, including credit card bills, child support, and court judgments in the divorce action and other cases.

Husband then testified on his own behalf. He testified *first* about the value of the Firm and introduced into evidence a balance sheet prepared by his accountant. The balance sheet showed that as of December 31, 2023, the Firm's liabilities exceeded its assets by $93,024.07. According to Husband, after his accountant prepared that statement, he liquidated his Individual Retirement Account ("IRA") and used a portion of those funds "to pay off most of the business debts of [the Firm]." He testified that after he paid off those debts and as of trial, "the value of [the Firm was] approximately zero." Husband *then* testified about the Maryland 529 Plan accounts he and Wife opened for the children. He introduced into evidence statements for all four accounts that corroborated the values testified to by Wife.

[4] Husband began teaching at AU in 2021 and stopped after the fall 2023 semester.

Next, Husband attempted to admit into evidence a chart and other documents that he explained would represent "what [he] believe[d] to be the current value of the Marital Home that [was] traceable" to the $65,000 in "nonmarital funds" that he deposited in the parties' joint savings account in 2014 from the sale of his Virginia Beach property. Wife objected to the admission on the grounds that Husband hadn't disclosed until ten days before trial his intent to argue that the value of the Marital Home was traceable in part to nonmarital funds that he'd contributed. She explained to the court that until that point Husband had "represented time and again that the [M]arital [H]ome owned [as] tenants [by] the entirety [was] marital," including in his answers to interrogatories. Wife said also that Husband had supplemented his answers to interrogatories the day before he informed her of his intent to put on tracing evidence but didn't claim any portion of the Marital Home to be nonmarital in his updated answers. Husband acknowledged that Wife was correct about the timing. He explained the disclosure came late because he learned that litigants in divorce actions could trace the value of marital property to contributions of nonmarital funds only while doing legal research on the day he made the disclosure. The circuit court sustained Wife's objection, stating that it was going to exclude Husband's proffered tracing evidence because "it should have been raised at a much earlier time and . . . wasn't even raised in [Husband's] most recent interrogatory responses."

Finally, Husband testified about his income, which he determined by taking what he calculated as the Firm's gross monthly receipts from August 2023 to August 2024 and subtracting from those receipts what he calculated as the Firm's ordinary and necessary

expenses. With regard to the Firm's gross monthly receipts, he stated that of the $181,018.33 in gross annual receipts reflected in the revenue report, $115,320.85 came from a single fee that he earned in May 2024 from a judgment in favor of a client in a federal matter. The revenue report corroborated his testimony. Husband said that he'd worked for twenty-two months on that case and reasoned that factoring the entire $115,320.85 fee into the calculation of the Firm's gross receipts for the past year would make his income "extraordinarily high." Accordingly, he testified, to calculate the Firm's gross monthly receipts, he had (1) subtracted the $115,320.85 fee from the $181,018.33 in gross annual receipts; (2) divided that number by twelve; (3) divided the $115,320.85 fee by twenty-two, the number of months he worked on that case; and added the values from steps (2) and (3) to arrive at a total of $10,716.64.

As for the Firm's ordinary and necessary expenses, Husband testified that they totaled $6,445.20 per month. He broke down this total for the court by introducing into evidence invoices for several monthly expenses that he claimed were required to produce the Firm's income. Included in these monthly expenses were $1,138.10 for legal research tools ($155.87 for LexisNexis and $982.23 with taxes for Westlaw); $24 for Google Workspace (for three active users and one "[i]nactive seat"); $9 for Microsoft 365; $101.72 for four Adobe Acrobat licenses; $70.19 for Zoom; $417 for bookkeeping services; $314.82 for accounting software; $27.02 for software to help track his billable hours; $24.38 for the calendar software his clients used to schedule appointments with him; and $325 for a virtual receptionist service. Husband also included in the Firm's monthly

expenses $247.75 for an interpretation service he used to communicate with his immigration clients; $16 for Custody X Change, a "custody calendar-building tool" that he stated he used in family law matters, including his own; $103.58 in professional membership dues and registration fees ($21 for the Maryland State Bar Association, $25 for the Bar Association of Montgomery County, $24 for his registration fee to practice law in Pennsylvania, $28 for the American Immigration Lawyer Association, and $29.58 for ASISTA, another professional organization for immigration attorneys); $1,019.29 for legal malpractice insurance; $132.75 for continuing legal education courses; and $120.50 for Husband's car insurance. Finally, Husband testified that the Firm paid $750 per month for its commercial lease; an estimated $500 per month in ancillary office expenses; the equivalent of $743.41 per month in quarterly tax payments and $120.50 per month in unemployment insurance; and $165.50 per month in various marketing expenses ($21 for the Firm's website hosting; $100.14 for iStock, a stock image and video licensing service; $10 for CapCut, an application used to make videos for the Firm's YouTube channel; $26.39 for promotional materials from Vistaprint; and $6.97 for business cards). Husband summarized these expenses in a chart attached to his written closing statement.[5]

On cross, Wife's counsel questioned Husband about the necessity of several of these expenses. He confirmed that the invoice he'd admitted to support the $417 monthly figure

[5] Included in this chart but not discussed at trial or supported by any exhibit introduced at trial was a $50 monthly charge for "business clothing." The chart also included a $16.95 monthly charge for a QR code generator. Husband did testify at trial that the Firm paid for a QR code generator, but he didn't testify as to the monthly charge or introduce any supporting exhibits.

for the Firm's bookkeeping services was from 2023 and was from a service the Firm no longer used. He stated that the Firm had "switched to a new service" in the last month and hadn't yet received a bill, but that the $417 figure was an appropriate estimate of what the new service would charge. Wife's counsel asked Husband also why the Firm was paying for multiple licenses for its accounting software, Google Workspace, and Zoom. Husband responded that the three licenses for the accounting software and the three active Google Workspace licenses were for him (the sole owner and paid employee of the Firm), his mother (who worked without pay as his legal assistant), and the Firm's bookkeeper. He said that he didn't know how many Zoom licenses the Firm was paying for. Further, Husband testified that the Firm's iStock subscription was a reasonable and necessary ongoing expense because although he had already selected the photos for the Firm's website, he continued to use the service for making promotional videos. He agreed that the Firm paid for separate timekeeping and calendar software even though its accounting software had timekeeping and calendar functions but stated that this was because each application did "different things"—for example, his clients couldn't book appointments with him through the accounting software. And he maintained that the Firm still needed to pay unemployment insurance for two employees that it lost after he separated from Wife. According to Husband, although he purchased the Custody X Change software for his own divorce action and although the invoice he provided named him and Wife specifically as the users, he had "used it for other things." He confirmed that he would still be paying for car insurance "whether or not [he] had [his] own law firm" but said that he "wouldn't be

using [his] car nearly as much." Finally, Wife's counsel asked Husband why he had renewed his membership for the Maryland State Bar Association and the Bar Association of Montgomery County even though he'd moved his law practice to Pennsylvania after his separation from Wife. He testified that most of his clients were still Maryland clients and that although he'd stated previously that he didn't want to move back to Maryland, he might have to because of his fiancée's "professional situation."

Wife disputed Husband's calculation of his income in her written closing statement. To calculate the Firm's gross monthly receipts, she looked at Husband's average monthly deposits into Account #6433 from August 1, 2023 to July 31, 2024 instead of the revenue report. According to Wife, Husband deposited an average of $20,087.23 into the Firm's operating account each month for that one-year period. After adding to that number the payment Husband received for the courses he taught at AU in 2023—which she argued the court should impute to him "over and above his LLC income" because he'd voluntarily impoverished himself when he stopped teaching courses after 2023—Wife concluded that Husband's average monthly income was $20,633.00. Alternatively, she argued that if the circuit court decided to use the Firm's gross revenue statement to calculate its gross monthly receipts, it should divide the full $181,018.33 in annual gross receipts by twelve months to arrive at a figure of $15,084.86 per month, or $15,574.04 per month after adding Husband's AU income.

Wife disagreed as well with Husband's calculation of the Firm's monthly necessary and ordinary expenses. She asserted that many of the expenses Husband identified were

"not ordinary, necessary, or required to produce income, several [were] simply personal expenses and some [were] for multiple user licenses where [Husband was] the singular employee of his firm." And she prepared—in chart format—an itemized list of the claimed expenses that she felt weren't necessary or believed Husband had miscalculated. For example, she argued that it was only necessary for the Firm to pay for one license each for Google Workspace, Zoom, Adobe Acrobat, and the Firm's accounting software, and she adjusted the monthly cost for each of those services accordingly. She argued also that the Firm's calendar software and timekeeping software were unnecessary because the Firm's accounting software provided similar features and that the CapCut and iStock services were likewise unnecessary. Wife noted mathematical errors in Husband's calculation of the Firm's legal research and marketing expenses based on the invoices he provided and the bank statements for Account #6433. She stated that bookkeeping services weren't a current expense of the Firm because Husband hadn't provided a bookkeeping invoice "for any period after [July 1, 2023]"; that Husband shouldn't have included federal income taxes as an expense because child support is calculated based on gross, rather than net, revenues; and that the Custody X Change software and Husband's car insurance were personal expenses, not business expenses. Finally, Wife contended that Husband's Maryland bar association dues weren't a necessary business expense because Husband "does not practice in Maryland" and that his Pennsylvania attorney registration fee wasn't a necessary business expense because he had indicated on the registration form that he had "no Pennsylvania clients." According to Wife, the Firm's monthly ordinary and necessary

expenses totaled to $3,885.82. This figure didn't include, among other expenses identified by Husband, the $500 in ancillary office expenses or $120.50 for unemployment insurance.

All told, based on Wife's calculation of the Firm's gross monthly receipts and ordinary and necessary monthly expenses, she concluded that Husband made $12,496.96 per month "in the worst case" (if the court used the revenue report to calculate the Firm's gross monthly receipts) and $16,747.18 in the best case (if the court used Husband's average monthly deposits into Account #6433 to calculate the Firm's gross monthly receipts). At the end of her written closing statement, Wife stated that she would "reserve[] on her request for [the $28,811.75 in] fees and expenses in connection with the appellate matters" in the divorce action "until the disposition of the appeals."

D. The Divorce Opinion

On May 23, 2025, nine months after trial, the circuit court entered a fifteen-page Judgment of Absolute Divorce and issued a thirty-nine-page Divorce Opinion. In the Judgment, among other relief, the court granted Wife an absolute divorce from Husband; ordered Husband to pay Wife $2,503 in monthly child support starting on June 1, 2025 and to pay Wife $22,527 in retroactive child support; granted Husband a $106,282 monetary award; ordered that Husband retain the Subaru as his sole and separate property, that Wife retain the Prius as her sole and separate property, and that Husband execute and acknowledge all documents necessary to transfer title to the Prius to Wife; ordered that Husband "transfer all the funds in his Maryland 529 Plans for each Minor Child to a Maryland 529 account in [Wife's] name" and that funds in Wife's Maryland 529 Plan

accounts remain her sole property so long as she didn't use those funds for any purpose other than paying the children's future education expenses; and ordered Husband to pay directly to Wife's counsel "the sum of $68,588.39 as a reasonable contribution" toward [Wife's] attorney['s] fees."

The court explained the reasoning in the Divorce Opinion. *First*, the court addressed the child support award and devoted significant attention to its calculation of Husband's income. To determine the Firm's gross monthly receipts, the court relied on the revenue report. Analogizing to this Court's decision in *Johnson v. Johnson*, 152 Md. App. 609 (2003), the circuit court treated the $115,320.85 fee from May 2024 as a bonus. The court divided the entire $181,018.33 in gross receipts reflected in the Firm's revenue report, which included the May 2024 fee, by the twelve months between August 2023 to August 2024 to arrive at an average of $15,087.86 in gross monthly receipts over that one-year period. Because the court found that Husband hadn't impoverished himself voluntarily when he stopped teaching courses at AU in 2023, it didn't impute his past AU income to him, as Wife asserted it should.

As for the Firm's ordinary and necessary expenses, the court appeared to credit the assertions in Wife's written closing argument, and stated only that "Husband produced evidence that his monthly law firm expenses are $3,885.82." The court subtracted that $3,885.82 in ordinary and necessary expenses from the $15,087.86 in gross receipts to arrive at a monthly income for Husband of $11,204.04 before taxes. Based on Wife's testimony and the pay stubs she produced at trial, the court determined that her monthly

income was $15,030 before taxes. After considering all other factors required under the child support guidelines found at Md. Code (1999, 2019 Repl. Vol.), § 12-204 of the Family Law Article ("FL"), the court applied the guidelines and ordered Husband to pay Wife $2,503 per month in child support.

Second, the circuit court addressed the disposition of marital property and its decision to grant Husband a monetary award. The court characterized the Marital Home as "marital property owned by the Parties as tenants by the entirety." The court characterized both the Prius, which it found was worth $3,466, and the Subaru, which it found was worth $17,247, as marital property titled in Husband's name, and recognized that Husband since had signed over title to the Prius to Wife. Additionally, the court recognized that Wife "[was] amenable to Husband retaining the Subaru." In a chart the court created to summarize its factual findings regarding the parties' property, it listed both the Prius and Subaru as Husband's property.

As for the Firm, the court characterized it, too, as marital property owned by Husband but noted that "[n]o evidence was presented from which [it could] determine [the Firm's] value." After making a factual finding that the Firm was worth $0, the court concluded that the Firm's value, "if any, [was] not subject to equitable distribution." And the court characterized the $23,509.60 in Account #6433 as marital property owned by Husband. To support its decision to treat the Firm's operating account as a separate asset for equitable distribution purposes, the court relied on Wife's assertion that Husband "[ran] his personal expenses" through Account #6433 and Husband's concessions that he was the

Firm's sole owner and took "a lot of disbursements" from the operating account, including to pay child support and his fiancée's credit card bills. The court found further support for these assertions and concessions in the bank statements Wife produced at trial, which revealed also that Husband had deposited his AU income into Account #6433.

Lastly, as for the Maryland 529 Plan accounts, the court found that all four were marital property. The court credited Wife's testimony, which it found supported by the March 2024 email from Husband to her attorneys that she introduced into evidence, "that Husband threatened to withdraw the funds in the Minor Children's 529 accounts for his personal use." Relying on this Court's decision in *Abdullahi v. Zanini*, 241 Md. App. 372 (2019), the court considered the two Maryland 529 Plan accounts opened in Husband's name for E's and C's benefit as his separate assets for purposes of equitable distribution and determining a monetary award. Because the court found "[t]here [was] nothing to suggest that [Wife would] use the funds" in the Maryland 529 Plan accounts opened in her name for E's and C's benefit for any purpose other than paying their future education expenses, it treated them as joint assets rather than her separate assets. The court found that, in total, the parties had $1,247,199 in marital assets.

Next, the court walked through the eleven FL § 8-205(b) factors that courts must consider before granting a monetary award.[6] When considering each party's contributions to the acquisition of the Marital Home, the court found that there was no evidence from which it could determine "the extent to which either Party's contributions to the purchase"

[6] *See* FL § 8-205(b) factors in note 9 *below*.

of either the Carter Road property or the Marital Home "were from nonmarital funds." It did recognize, though, that Husband had contributed $65,000 from the sale of his Virginia Beach property to the purchase of the Carter Road property, which the parties later sold to purchase the Marital Home.

Based on its consideration of the FL § 8-205 factors, the court concluded that division of the parties' marital property according to title would be unfair and that it would be equitable to grant 65% of the marital property to Wife and 35% to Husband. The court noted that the parties had agreed that Wife would keep the Prius ($3,466) and her TSP ($254,647) and that Husband would keep the Subaru ($17,247), his TSP ($212,773), and $28,862 in funds that he had obtained by dissipating certain marital assets. The court determined also that Wife would keep the funds in her checking account ($5,678) and savings account ($349) and that Husband would keep the funds in Account #6433 ($23,510) and another M & T bank account ($34) and the funds in the Maryland 529 Plan accounts opened in his name for E and C ($19,791 and $70,142, respectively). After removing these assets from the equitable distribution analysis, the court distributed $396,968 of the remaining $610,720 in assets to Wife and $213,752 to Husband. Because the court found that Husband would be "keeping $107,470 . . . more in individually owned marital property than Wife," it reduced Wife's equitable distribution to Husband by that amount. And after ordering Husband to transfer his ownership interest in the Marital Home to Wife as agreed upon by the parties, it ordered Wife to pay Husband a $106,282 monetary award "to equitably distribute the marital estate."

Finally, the circuit court addressed Wife's request for attorney's fees under FL § 7-107, which requires the court to consider the parties' financial resources and needs and whether the parties had substantial justification for prosecuting or defending the action before ordering one party to pay for the other's reasonable and necessary expense of that prosecution or defense. *Id.* § 8-205(b)–(d). *First*, the court determined that there was no need to discuss the parties' financial resources and needs at length because it had already done so in its discussions of child support, equitable distribution of marital property, and its decision to grant a monetary award. The court did make a finding, though, that "Husband [had] sufficient financial resources to contribute towards Wife's attorney['s] fees."

Then the court moved on to the issue of substantial justification. The court found, after a lengthy discussion, "that Husband's prosecution and defense of [the divorce] action was largely without substantial justification." Relying on the several emails from Husband to Wife and her attorneys regarding his various settlement offers and the derogatory text messages that Wife introduced into evidence, the court determined that many of Husband's actions in prosecuting and defending the case were motived by "animus towards Wife's attorneys," by a "scorched earth litigation strategy" meant to hurt Wife financially, and by "a malicious desire to bully Wife and her counsel into a settlement he deemed favorable to him." The court noted that in the thirteen months between his initiation of the divorce action and the merits trial, Husband filed "approximately [forty-five motions] . . . plus many oppositions and replies," filed two other civil actions against Wife, noted five appeals to this Court, and filed three petitions for *certiorari* with the Supreme Court of Maryland. "A

glaring example of Husband's mostly meritless filings," the court opined, was his Amended Complaint. The court recounted how Husband had moved to dismiss his original complaint as moot on July 30, 2024 and filed his Amended Complaint just two days later, only to dismiss his Amended Complaint voluntarily "with no explanation" on the first day of trial after Wife's attorneys expended their resources on a motion to strike it as untimely.

The court found that, excluding any fees for appellate work and including the $28,300 in estimated fees incurred in preparing for and attending the merits trial, Wife had incurred $195,966.83 in attorney's fees and costs defending against Husband's claims and prosecuting her own in the divorce action. Based on its findings that Husband had the financial resources to contribute to Wife's attorney's fees and that he'd prosecuted and defended the action largely without substantial justification, the court determined that it would be equitable for Husband to pay Wife $68,588.39, thirty-five percent of the attorney's fees she incurred in prosecuting and defending the action.

Husband appealed timely from the Judgment.

E. The Contempt Proceedings

After the court entered the Judgment and issued the Divorce Opinion, a dispute arose over Husband's obligation to transfer the funds in the Maryland 529 Plan accounts in his name to an account in Wife's name, which the court had ordered him to do by June 20, 2025. On July 11, 2025, Wife filed a Verified Petition for Contempt in which she alleged that Husband had "willfully violated" the Judgment by refusing to transfer the funds by the date ordered. She attached as an exhibit to her petition a copy of a June 20,

2025 email exchange between her counsel and Husband. The exhibit showed that in response to an email from Wife's counsel reminding him of his obligation to transfer the funds in the Maryland 529 Plan accounts by the end of the day, Husband had stated that he "[would] not be transferring the 529 plans." He asserted further that "[t]he judge committed an egregious error in ordering the transfer of those funds." Wife's counsel responded that Husband was legally obligated to comply with the Judgment and suggested that he "follow the orders in place." Husband then replied, "No." Wife alleged in her petition that as of the date of filing, Husband still hadn't complied with the court's order to transfer the funds. She asked the court to find Husband in civil contempt, order Husband to transfer the funds in the Maryland 529 Plan accounts as a condition for purging the contempt, and award her attorney's fees due to Husband's "unjustifiable refusal to comply with the [Judgment]."

Husband answered Wife's contempt petition the same day. He denied that he had willfully violated the Judgment but admitted that he hadn't yet transferred the funds in the Maryland 529 Plan accounts as ordered by the court. Husband explained that his failure to comply with the court's order was based in "necessity." He asserted that the Judgment was "riddled with errors" and was "wholly incompetent," and he listed in his answer "a host of legal errors" in the Judgment that he stated were "currently on appeal to the Appellate Court of Maryland." According to Husband, "[b]ecause of [those] gross errors, it [was] a matter of necessity that [he] retain title of the 529 plans to avoid an onerous readjustment of the marital estate in the highly likely event that the Appellate Court of Maryland order[ed] a rehearing or adjustment" of the Judgment.

On July 21, 2025, the circuit court issued a show cause order. Two days later, on July 23, Wife's counsel emailed Husband to coordinate service of the contempt petition and show cause order. The same evening, Husband responded that he "[would] transfer [the] 529 plans."

Wife filed a Verified Supplemental Petition for Contempt (the "Supplemental Petition") on August 8, 2025. She attached as an exhibit to the Supplemental Petition a copy of the July 23 email exchange between her counsel and Husband and stated that a week later, on July 30, Husband had in fact transferred the Maryland 529 Plan funds as the Judgment required. Although Husband had complied eventually with the Judgment, Wife asked the court to order him to pay her attorney's fees as a sanction under Maryland Rule 1-341 for "unjustifiably refus[ing] to comply" with the order, for giving her "no other choice" but to file a contempt petition and incur attorney's fees in doing so, and for defending the contempt proceeding in "bad faith" or "without substantial justification."

Both parties appeared for a motions hearing on August 29. Wife's counsel referred to Wife's "pending" contempt petition and informed the court that Wife had supplemented the petition because Husband "ha[d] released the 529s, but not before telling [Wife and her counsel] that he would not . . . in violation of the [Judgment]." Counsel explained that Wife had "spent money . . . [she didn't] have" on filing the petition. Husband responded that the issue regarding the Maryland 529 Plan accounts was moot, because he had, "after some time for reflection . . . adhered with the [Judgment]" and transferred the funds despite his belief that the circuit court erred by stating in its Divorce Opinion that he would retain the

funds while ordering him also to transfer them. Later, when the court brought up the need to schedule a hearing on Wife's contempt petition, her counsel told the court that "the contempt issue [was] really an attorney[']s] fees issue now" because "[Husband] complied" with the Judgment. Counsel stated that Wife "didn't want to release the petition," though, because of her pending request for attorney's fees. The parties agreed that it would be appropriate for the court to address Wife's request for fees "on the papers." Six days later, on September 4, 2025, Wife filed an Affidavit in Support of Attorney's Fees in which her counsel affirmed that Wife had incurred $1,222.00 in attorney's fees for her counsel's work drafting and serving her contempt petitions.

The circuit court granted Wife's request and ordered Husband to pay her $1,222.00 in attorney's fees as a sanction under Rule 1-341 in an order and opinion entered September 17, 2025 (the "Rule 1-341 Order"). The court found that Husband had "willfully and flagrantly disregarded" its order that he transfer the funds in the Maryland 529 Plan accounts in his name to an account in Wife's name and that his "refusal to abide by the [Judgment] was in bad faith and without substantial justification." According to the court, Husband's argument that the Judgment was "riddled with errors" and "wholly incompetent," even if true, raised an issue to be resolved on appeal and wasn't "a defense for willful disobedience of a court order." The court found that Husband's defense of the contempt petition on this ground was "without any lawful justification" and that he refused initially but complied eventually with the Judgment "for the purpose of unreasonable delay and therefore, in bad faith." Because the court found also that the fees Wife requested were

reasonable, it exercised its discretion under Rule 1-341 and granted her request.

Husband appealed timely from the Rule 1-341 Order.

II. DISCUSSION

Husband presents a total of seven questions for our review, which we rephrase, reorder, and consolidate into five:

1. Did the circuit court violate his right to due process when it denied his motion to admit out-of-state counsel *pro hac vice*, issued the Judgment and Divorce Opinion nine months after trial, and excluded proffered evidence tracing purportedly his investment of nonmarital funds into the Marital Home?

2. Did the circuit court clearly err or abuse its discretion when calculating the monetary award?

3. Was the circuit court's calculation of his income for purposes of awarding child support clearly erroneous?

4. Did the circuit court abuse its discretion or violate his First Amendment rights when it awarded Wife attorney's fees in the divorce action?

5. Did the circuit court violate his due process rights or the procedural requirements of Maryland Rule 1-341 when it ordered him to pay Wife's attorney's fees as a sanction for defending against the contempt petition in bad faith and without substantial justification?[7]

[7] Husband phrases his Questions Presented as follows:

1. Whether the Circuit Court erred in calculating the distribution of the marital estate.
2. Whether the Circuit Court erred in refusing to admit tracing evidence for the marital home.
3. Whether the Circuit Court erred in calculating Appellant's actual income by adopting an unsupported figure opposing counsel and rejecting appellant's documented business expenses without explanation.
4. Whether the Circuit Court erred in awarding attorneys' fees.

Continued . . .

5. Whether the Circuit Court violated Appellant's due process rights by excluding his tracing evidence, denying him assistance of counsel at trial, and unreasonably delaying publication of a judgment.
6. Whether the Circuit Court committed clear error by imposing sanctions pursuant to a contempt petition that had been expressly withdrawn before any contempt finding, leaving no live pleading, no justiciable issue, and no legal basis on which sanctions could be imposed.
7. Whether the Circuit Court violated Appellant's procedural due process rights under the Due Process Clause of the Fourteenth Amendment and Article 24 of the Maryland Declaration of Rights by imposing Rule 1-341 sanctions sua sponte, without any motion or petition requesting such relief, and without providing Appellant notice or a meaningful opportunity to be heard on the sanctions theory.

Wife phrases her Questions Presented in the following manner:

1. Did the Circuit Court properly calculate the distribution of the marital estate?
2. Did the Circuit Court appropriately refuse to admit tracing evidence for the marital home?
3. Did the Circuit Court properly calculate Appellant's actual income?
4. Did the Circuit Court properly award attorneys' fees to Appellee?
5. Did the Circuit Court appropriately refuse to admit tracing evidence, appropriately address the right to counsel, and timely publish its judgment?
6. Where the Circuit Court awarded Appellee $1,222 in attorneys' fees pursuant to Maryland Rule 1-341, and where Appellee's Petition had not been withdrawn, and where the parties consented to the Circuit Court's consideration of fees on the papers, should this court affirm?
7. Where there was no violation of Appellant's procedural due process rights as Appellant was on notice of Appellant's request for fees and consented to the Circuit Court's consideration of same on the papers, should this Court affirm?

Husband appealed also from an order of the circuit court dated April 30, 2025 that denied his Second Motion for Leave to Substitute Anger Management Services. But he neither filed a separate brief nor raised any questions or arguments about the court's denial of his motion in his brief here. *See* Md. Rule 8-504(a)(3), (6) ("A brief shall . . . include . . . [a] statement of the questions presented . . . [and] [a]rgument in support of the party's position on each issue."). Because Husband raises no substantive challenge to the court's April 30, 2025 order for us to consider on review, we dismiss

Continued . . .

We hold *first* that the circuit court didn't violate Husband's due process rights when it denied his motion for special admission *pro hac vice* or when it issued the Judgment and Divorce Opinion nine months after trial, and that any error the court may have committed when it excluded Husband's proffered tracing evidence was harmless. *Second*, we hold that the circuit court didn't err in its characterization and valuation of the Prius, the Firm and Account #6433, or the Maryland 529 Plan accounts opened by Husband for the children's benefit, but that the court abused its discretion when it both counted the Maryland 529 Plan accounts as Husband's property for purposes of calculating the monetary award and ordered him to transfer the funds in those accounts to an account in Wife's name. We must, therefore, vacate the monetary award and remand to the circuit court for further proceedings consistent with this opinion.

Third, we hold that the circuit court's calculation of the Firm's monthly gross receipts when determining Husband's actual income for purposes of child support wasn't

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that appeal on our own motion. Md. Rule 8-504(c) ("For noncompliance with this Rule, the appellate court may dismiss the appeal . . . .").

We note that Husband has committed multiple Rules violations that could serve as grounds to dismiss his appeal from the Judgment as well, specifically Husband's failure—indeed, refusal—to file paper copies of his record extract as required by Maryland Rule 20-403(b) and failure to respond to the show cause order issued by this Court on January 23, 2026. *See* Md. Rule 8-501(m) (stating that "[o]rdinarily, an appeal will not be dismissed for failure to file a record extract" but that if the Court issues an order directing a party to file a proper extract within a specified time, the Court "may dismiss the appeal for non-compliance" with that order). Because this appeal involves issues of child support that bear on the interests and welfare of the parties' minor children, however, we will exercise our discretion not to dismiss it and to reach the merits. We caution Mr. Charles, however, that our reaction to future Rules violations likely won't be so restrained.

clearly erroneous. But because we must vacate the monetary award, we vacate the child support order also, and we order the court on remand to make additional factual findings explaining its decision to credit Wife's calculation of the Firm's ordinary and necessary expenses over Husband's. *Fourth*, because we vacate both the monetary award and the child support award, we must vacate the court's award of attorney's fees to Wife in the divorce action under FL § 7-107 as well.

Fifth and finally, because the circuit court didn't give Husband a full fifteen days after the filing of Wife's Affidavit in Support of Attorney's Fees to respond to her Rule 1-341 motion—as the Rule requires—before it entered its Rule 1-341 Order, we vacate and remand that order with instructions for the court to allow Husband fifteen days to file a response to Wife's motion.

Although the broad ordering language of this opinion and the mandate that will follow vacates the Judgment, the result of the remand needn't, and shouldn't in our view, be dramatically different than the terms of the Judgment itself. As we will explain, we affirm the overwhelming majority of the circuit court's reasoning and calculations—the few items compelling us to vacate and remand are comparatively minor in scope but would be inappropriate for us as an appellate court to fix directly. Because the law commits the ultimate decisions, individually and as a package, to the discretion of the circuit court, the judgments about how to adapt its decisions to our appellate opinion lie properly with the circuit court in the first instance. The fact that we are compelled to vacate the judgment and remand is, most emphatically, not an invitation to the parties to re-litigate issues this

opinion resolves or, for that matter, anything other than those we specifically have identified for resolution on remand.

A. The Circuit Court Didn't Violate Husband's Due Process Rights By Denying His Motion For Admission *Pro Hac Vice*, By Issuing The Judgment and Divorce Opinion Nine Months After Trial, Or By Excluding Proffered Tracing Evidence.

First, Husband argues that the circuit court violated his due process rights under the Fourteenth Amendment to the United States Constitution and Article 24 of the Maryland Declaration of Rights when it (1) denied his motion to admit Ms. Caldwell *pro hac vice*; (2) issued the Judgment and Divorce Opinion nine months after trial; and (3) excluded proffered evidence tracing purportedly his investment of nonmarital funds into the Marital Home. We disagree on all three counts.

The Fourteenth Amendment prohibits state actors from depriving "any person of life, liberty, or property, without due process of law." U.S. Const. amend. XIV, § 1. As interpreted by the Supreme Court of Maryland, Article 24 of the Maryland Declaration of Rights has the "same meaning" as the federal Fourteenth Amendment and confers an equivalent right to due process. *Pitsenberger v. Pitsenberger*, 287 Md. 20, 27 (1980) (citation omitted). "At '[t]he core of due process is the right to notice and a meaningful opportunity to be heard.'" *Roberts v. Total Health Care, Inc.*, 349 Md. 499, 509 (1998) (*quoting LaChance v. Erikson*, 522 U.S. 262, 266 (1998)); *Pickett v. Sears, Roebuck & Co.*, 365 Md. 67, 81 (2001) ("This Court has long held that procedural due process requires that litigants must receive notice, and an opportunity to be heard."). This Court reviews claims of alleged due process violations *de novo*. *Regan v. Bd. of Chiropractic Exam'rs*,

120 Md. App. 494, 509 (1998) ("The question of whether a party is deprived of the right to due process involves an issue of law and not of fact. As such, the standard of review applied by an appellate court is *de novo*."), *aff'd*, 355 Md. 397 (1999).

1. The circuit court didn't violate Husband's due process rights when it denied his motion for admission pro hac vice.

Husband asserts that the circuit court violated his due process rights when it denied his motion to admit Ms. Caldwell *pro hac vice* to serve as his co-counsel in the divorce proceedings. Although he recognizes that the Sixth Amendment to the United States Constitution doesn't grant a right to counsel in civil cases, *see Turner v. Rogers*, 564 U.S. 431, 441 (2011) ("[T]he Sixth Amendment does not govern civil cases."), he contends that the court's denial of his motion violated his right to due process because it deprived him of the "'meaningful opportunity to be heard'" guaranteed by the Fourteenth Amendment and Article 24. *See Roberts*, 349 Md. at 509 (*quoting LaChance*, 522 U.S. at 266).

Maryland Rule 19-217 permits a member of the Maryland Bar who is an attorney of record in an action pending in any Maryland court to move for the admission of "an attorney who is a member in good standing of the Bar of another state" to practice in Maryland "for the limited purpose of appearing and participating in the action as co-counsel with the movant." *Id.* at 19-217(a)(1). A motion for admission *pro hac vice* under Rule 19-217 must be in writing and include the name, address, phone number, and email address of the attorney to be specially admitted. *Id.* at 19-217(a)(3). Additionally, the attorney to be admitted specially must file a written certification of (1) "the number of times the attorney has been specially admitted during the five years immediately preceding

the filing of the motion, the courts that granted admission, and, for each case in which the attorney was specially admitted, the case number and the names of the parties," and (2) "each unique identifying number previously issued to the attorney by the Attorney Information System, Client Protection Fund, or Maryland Judicial Information Systems (JIS) for use with Maryland Electronic Courts (MDEC)." *Id.* at 19-217(b). The decision to either grant or deny the motion is committed to the trial court's discretion. *See id.* at 19-217(c) ("The court . . . may admit specially or deny the special admission of an attorney.").

Husband argues that the circuit court's denial of his motion for admission *pro hac vice* violated his due process rights by "forcing him to proceed without counsel." He claims that the "disqualification" of his counsel was a "draconian sanction" that the court imposed improperly without considering "diligence, prejudice, and whether prejudice could be cured by alternatives such as a continuance." In addition, Husband takes issue with Wife's assertion that Ms. Caldwell couldn't represent him at trial without violating MRPC 19-303.7 because she was "likely to be a necessary witness." He contends that the "necessary witness" argument is baseless because Ms. Caldwell "had no prior involvement with the case and no personal knowledge of the parties, their children, or the underlying facts," and because Wife never identified Ms. Caldwell as a witness in advance of the divorce trial. Wife asserts that the circuit court didn't force Husband to proceed without counsel, as he contends. She counters that Husband "could have retained a Maryland attorney to represent him" but chose not to, and that his "choice in representing himself

cannot be contorted into a due process violation." We agree with Wife, but for different reasons.

Husband's argument fails for two reasons. *First*, the circuit court didn't disqualify Ms. Caldwell from representing Husband as sanction for violating a Rule of Professional Conduct. The court denied his request to admit her *pro hac vice*. Even if a movant satisfies the requirements of Maryland Rules 19-217(a) and 19-217(b), the decision whether to grant or deny a motion for admission *pro hac vice* is committed entirely to the court's discretion. *See* Md. Rule 19-217(c) ("The court . . . *may* admit specially or deny the special admission of an attorney." (emphasis added)). Contrary to Husband's assertion, the circuit court wasn't required to consider "diligence, prejudice, and whether prejudice could be cured by alternatives such as a continuance" when exercising that discretion as it would be when, for example, imposing a sanction for a discovery violation. *See, e.g.*, *Maddox v. Stone*, 174 Md. App. 489, 503 (2007) ("'Principal among the relevant factors [to consider before imposing a discovery sanction] . . . are . . . the degree of prejudice to the parties . . . [and] whether any resulting prejudice might be cured by a postponement . . . ." (*quoting Taliaferro v. State*, 295 Md. 376, 390–91 (1983))).

Moreover, the circuit court's exercise of its discretion to deny Husband's motion was reasonable under the circumstances. *See Maddox*, 174 Md. App. at 502 ("[W]e . . . will reverse a decision that is committed to the sound discretion of a trial judge if we are unable to discern from the record that there was an analysis of the relevant facts and circumstances that resulted in the *exercise* of discretion."). After Wife informed the court at trial that she

might call Ms. Caldwell as a fact witness and that she had served Ms. Caldwell with a subpoena that morning to testify at a later child custody hearing, it was reasonable for the court to deny Husband's motion to admit Ms. Caldwell *pro hac vice* to avoid any potential future violations of the MRPC.

Second, Husband's motion may not have satisfied Maryland Rule 19-217's requirements in the first instance. Rule 19-217(a) provides specifically that only "an attorney of record" in a pending action may move for the admission of an out-of-state attorney to practice in Maryland *pro hac vice* "for the limited purpose of appearing and participating in the action as co-counsel with the movant." Md. Rule 19-217(a)(1). As noted above, Husband has been litigating his divorce action *pro se* since he initiated the action in 2023. Although Husband was a Maryland-barred attorney when he filed his motion, he never entered an appearance in the divorce action, and it's unclear that he qualified as "an attorney of record" able to file a motion under Rule 19-217. And if Husband *was* an attorney of record in the action, his claim that the circuit court "forced [him] to proceed *pro se*" rings hollow. Under that theory, Husband *was* represented by an attorney, even if that attorney was Husband himself. Regardless, as Wife points out, Husband had the option to hire another Maryland-barred attorney to represent him and the circuit court didn't preclude him from doing so.

We find no error in the court's denial of Husband's motion for special admission *pro hac vice*, and we hold that the denial didn't violate his right to due process by depriving him of a meaningful opportunity to be heard. *See Roberts*, 349 Md. at 509.

2. The circuit court didn't violate Husband's right to due process when it issued the Judgment and the Divorce Opinion nine months after trial.

Husband argues *next* that the circuit court violated his due process rights by issuing the Judgment and the Divorce Opinion nine months after trial. According to Husband, this "extraordinary delay" left him "unable to access $250,000–$300,000 in marital assets" that he could have used "to secure a residence near his children or fortify his [legal] practice" and allowed Wife "to continue using and enjoying marital property that, once distributed, should have belonged to [him]." Because of the delay, husband says, "[h]is relationship with his children was further constrained, he surrendered opportunities to invest in his growing firm, and his capacity to plan for his family's future was undermined."

We appreciate Husband's frustration and we recognize that he may have had other options or opportunities had he received these decisions sooner. However, the effects he describes don't amount to a denial of due process. As we explained previously, "[a]t '[t]he core of due process is the right to notice and a meaningful opportunity to be heard.'" *Roberts*, 349 Md. at 509 (*quoting LaChance*, 522 U.S. at 266). Husband doesn't contend that the nine-month delay between trial and the court's issuance of the Judgment and Divorce Opinion deprived him of either of these core protections. He doesn't assert either that he suffered any prejudice because the delay caused the valuation of certain items of marital property at issue to become distorted. *See Green v. Green*, 64 Md. App. 122, 141 (1985) (recognizing that "unreasonable delays between the close of the evidence and the rendering of the judgment may in some cases cause distortion in the valuation of certain

highly volatile marital property, resulting in prejudice to one of the parties"). And, as Wife points out, he cites no authority—and this Court is unable to identify any—supporting the proposition "that a [nine-month] period between hearing and judgment," on its own, "is a constitutional due process violation."

It's true, as Husband notes, the Maryland Code of Judicial Conduct requires that judges "perform judicial and administrative duties competently, diligently, [and] promptly." Md. Rule 18-102.5(a). But there is no basis on which this Court could find that the circuit court didn't abide by these requirements in this case. The circuit court's Judgment is a fifteen-page order accompanied by a thirty-nine-page Divorce Opinion that lays out in detail all the court's factual findings; its application of the relevant statutory factors to those facts; and the complex calculations it engaged in to determine the marital award. To expect the circuit court to craft such a thorough and detailed judgment and opinion without some delay would be, as this Court recognized in *Green*, "highly impractical." 64 Md. App. at 140 ("[T]o require that there be no delay whatsoever between the presentation of testimony and the judgment of divorce which embodies the marital award . . . . [would be] highly impractical."). We hold that the court committed no error by taking the time it took to issue its Judgment of Absolute Divorce and that the delay didn't violate Husband's right to due process.[8]

[8] Husband argues further that we could remedy the alleged harm he suffered due to his inability to access his marital award in the nine months between trial and judgment by awarding post-judgment interest at the rate prescribed under Md. Code (1974, 2020

Continued . . .

3. Any error the circuit court may have committed when it excluded Husband's proffered tracing evidence was harmless.

Finally, Husband contends that the circuit court abused its discretion and violated his due process rights when it excluded, as a discovery sanction, evidence that would have purported to trace his investment of nonmarital funds into the Marital Home. Generally, trial courts enjoy "[a] large measure of discretion . . . in applying sanctions for failure to comply with the rules relating to discovery." *Tydings v. Allied Painting & Decorating Co.*, 13 Md. App. 433, 436 (1971). We disturb the circuit court's decision to impose a discovery sanction only when the court abuses that discretion. *Maddox*, 174 Md. App. at 502 ("'Discretion is abused, for example, if the judge in his exercise of it is arbitrary or capricious, or without the letter or beyond the reason of the law.'" (*quoting Nelson v. State*, 315 Md. 62, 70 (1989))).

When the circuit court exercises its discretion to exclude evidence as a discovery sanction, it must consider the five factors identified by the Supreme Court of Maryland in *Taliaferro v. State*:

(1) whether the disclosure violation was technical or substantial;

Repl. Vol.), § 11-107 of the Courts & Judicial Proceedings Article. *See id.* § 11-107(a) ("[T]he legal rate of interest on a judgment shall be at the rate of 10 percent per annum on the amount of judgment."). But even if we did find some harm in need of remedy, post-judgment interest doesn't start accruing until judgment is entered and wouldn't apply retroactively to the nine months between trial and judgment in this case. *See* Md. Rule 2-604(b) ("A money judgment shall bear interest at the rate prescribed by law from the date of entry."); *Medical Mut. Liab. Ins. Soc'y of Md. v. Davis*, 389 Md. 95, 109 (2005) ("Post-judgment interest begins to run on a money judgment from the date of the entry of that judgment . . . .").

> (2) the timing of the ultimate disclosure;
>
> (3) the reason, if any, for the violation;
>
> (4) the degree of prejudice to the parties respectively offering and opposing the evidence; and
>
> (5) whether any resulting prejudice might be cured by a postponement and, if so, the overall desirability of a continuance.

Heineman v. Bright, 124 Md. App. 1, 8 (1998) (*quoting Taliaferro*, 295 Md. at 390–91); *Joyner v. State*, 208 Md. App. 500, 524 (2012). As the Court recognized in *Taliaferro*, these factors overlap frequently and "do not lend themselves to a compartmental analysis." 295 Md. at 391. A trial court's consideration of the *Taliaferro* factors helps ensure that its decision to impose a discovery sanction is "supported by circumstances that warrant the exercise of [its] discretion in such a manner." *Maddox*, 174 Md. App. at 502 (noting that this Court "will reverse a decision that is committed to the sound discretion of a trial judge if we are unable to discern from the record that there was an analysis of the relevant facts and circumstances that resulted in the *exercise* of discretion").

Husband argues that the circuit court abused its discretion by excluding the tracing evidence without considering all five *Taliaferro* factors. Specifically, he asserts that the court relied solely on the timing of his disclosure of the evidence to Wife (ten days before trial) and didn't consider, most notably, the respective degree of prejudice that excluding or admitting the evidence would cause him and Wife. This error wasn't harmless, he contends, because by classifying as marital property the "$65,000 plus appreciation" in the Marital Home's value that was traceable to his contribution of nonmarital funds, the court

"artificially inflated the distributable pool and skewed the final [monetary] award." And, Husband argues, the circuit court violated his due process rights and prevented him from supporting his claim "with relevant, probative evidence" that "was disclosed in advance, presented in good faith, and went to the central question of how the marital estate should be distributed."

Wife counters that the circuit court didn't err by excluding the tracing evidence as a sanction for Husband's discovery violation. She contends that she would have suffered significant prejudice had the court allowed the evidence to come in because Husband's disclosure ten days before trial didn't give her "a reasonable opportunity to complete her own analysis" to rebut his tracing argument. In any case, she argues, any error committed by the court in excluding the tracing evidence was harmless because the parties held the Marital Home as tenants by the entirety, and any such property is entirely marital regardless of whether one or both parties contributed nonmarital funds to its purchase.

Initially, we note that Husband informed the court before it excluded his proffered tracing evidence that he'd disclosed that evidence to Wife after the discovery period because he learned that litigants in divorce actions could trace the value of marital property to contributions of nonmarital funds only while doing legal research ten days before trial. So in addition to the timing factor, we are satisfied that the court considered the reason for Husband's discovery violation before it made its ruling. We note also that Husband didn't propose a continuance as an alternative to exclusion when the court made its ruling at trial. Regardless, though, we need not decide whether the court abused its discretion by not

considering all five *Taliaferro* factors—the factor of prejudice in particular—explicitly on the record when it excluded Husband's tracing evidence because we hold that even if it did, that error was harmless.

"It has long been the policy in this State that [an appellate court] will not reverse a [circuit] court judgment if the error is harmless." *Flores v. Bell*, 398 Md. 27, 33 (2007). Generally, in a civil action, the complaining party bears the burden of proving both that the circuit court erred and that the error prejudiced them in some way. *Id.* (citations omitted); *see Barksdale v. Wilkowsky*, 419 Md. 649, 659–60 (2011) (explaining that for "more egregious civil errors, Maryland employs a presumption of prejudice," but that "[o]ther than [those] limited circumstances, the burden . . . is on the appealing party to show that an error caused prejudice"). To show prejudice, the complaining party must demonstrate "that the error was likely to have affected the [result] below." *Crane v. Dunn*, 382 Md. 83, 91 (2004). Appellate courts are reluctant to disturb circuit court rulings "'for errors in the admission or exclusion of evidence'" absent a showing of substantial prejudice or injustice. *Id.* at 92 (*quoting Hance v. State Rds. Comm'n*, 221 Md. 164, 176 (1959)).

Any error committed by the circuit court in excluding Husband's tracing evidence was harmless because the evidence wouldn't have affected the classification of the Marital Home or the final monetary award. Before granting a monetary award in a divorce action, the circuit court must follow "a three-step process." *Sims v. Sims*, 266 Md. App. 337, 354 (2025); *Alston v. Alston*, 331 Md. 496, 499–500 (1993). *First*, the circuit court must "determine which property is marital property." FL § 8-203(a). *Second*, the circuit court

must "determine the value of all marital property." *Id.* § 8-204(a). *Finally*, after identifying and valuing all marital property, the circuit court may grant a monetary award "as an adjustment of the equities and rights of the parties concerning marital property." *Id.* § 8-205(a). When determining the amount of the monetary award, the circuit court must consider the eleven factors enumerated under FL § 8-205(b).[9]

The statute defines "marital property" as "the property, however titled, acquired by [one] or both parties during the marriage." FL § 8-201(e)(1). Marital property doesn't

[9] These factors are:

(1) the contributions, monetary and nonmonetary, of each party to the well-being of the family;

(2) the value of all property interests of each party;

(3) the economic circumstances of each party at the time the award is to be made;

(4) the circumstances that contributed to the estrangement of the parties;

(5) the duration of the marriage;

(6) the age of each party;

(7) the physical and mental condition of each party;

(8) how and when specific marital property or interest in property described in subsection (a)(2) of this section, was acquired, including the effort expended by each party in accumulating the marital property or the interest in property described in subsection (a)(2) of this section, or both;

(9) the contribution by either party of property described in § 8-201(e)(3) of this subtitle to the acquisition of real property held by the parties as tenants by the entirety;

(10) any award of alimony and any award or other provision that the court has made with respect to family use personal property or the family home; and

(11) any other factor that the court considers necessary or appropriate to consider in order to arrive at a fair and equitable monetary award or transfer of an interest in property described in subsection (a)(2) of this section, or both.

FL § 8-205(b).

include property "(i) acquired before the marriage; (ii) acquired by inheritance or gift from a third party; (iii) excluded by valid agreement; or (iv) directly traceable to any of these sources." *Id.* § 8-201(e)(3). Marital property does include, though, "any interest in real property held by the parties as tenants by the entirety," regardless of the source of funds used to acquire it, unless excluded by valid agreement. *Id.* § 8-201(e)(2); *Karmand v. Karmand*, 145 Md. App. 317, 341 (2002) (one spouse's contribution of nonmarital funds to purchase the marital home "could not mean that a portion of that property was non-marital" because "the source of funds theory does not apply to an interest in real property held by the parties as tenants by the entirety").

Under the "source of funds theory," a party who invests nonmarital funds into a marital asset "is entitled to an interest in the property in the ratio of the nonmarital investment to the total nonmarital and marital investment in the property." *Harper v. Harper*, 294 Md. 54, 80 (1982). In essence, the party who invested the nonmarital funds receives a credit for the "portion of the net equity which is attributable" to that investment. *Wilen v. Wilen*, 61 Md. App. 337, 350 (1985). The remaining portion is considered marital property and is subject to equitable distribution. *Harper*, 294 Md. at 80.

According to Husband, the circuit court's exclusion of his tracing evidence was prejudicial because it precluded him from receiving a credit for the portion of the net equity in the Marital Home traceable to the $65,000 in nonmarital funds he contributed to the purchase of the Carter Road property, which he and Wife later sold to purchase the Marital Home. The proffered evidence, he argues, would have shown that he was entitled to a credit

of approximately $100,000. Because the circuit court excluded the tracing evidence erroneously, he asserts, that $100,000 was instead characterized as marital property, which "inflated the marital estate," "skewed the final [monetary] award," and "rendered the property distribution inequitable."

But as Wife points out, correctly, the source of funds theory doesn't apply to real property held by the parties as tenants by the entirety. *See* FL § 8-201(e)(2); *Karmand*, 145 Md. App. at 341. At trial, Wife offered into evidence the deed to the Marital Home, which conveyed the property to Husband and Wife "as tenants by the entirety." And based on this evidence, the court made a factual finding in its divorce opinion that the Marital Home was marital property owned by the parties as tenants by the entirety. Accordingly, the entire value of the Marital Home was marital property under the statutory definition *regardless of whether Husband could put forward evidence proving that he contributed nonmarital funds to its purchase*. *See* FL § 8-201(e)(2); *Karmand*, 145 Md. App. at 341. In addition, the court *did* consider Husband's $65,000 contribution to the purchase of the Carter Road property when it considered the effort expended and the nonmarital property contributed by each party to acquire the Marital Home for purposes of deciding whether to grant a monetary award. *See* FL § 8-205(b)(8)–(9). The court's decision to exclude the tracing evidence thus did not cause Husband substantial prejudice or injustice because it couldn't have "affected the [result] below." *Crane*, 382 Md. at 91. Any error in the court's decision was harmless and we don't disturb it. *See Flores*, 398 Md. at 33.

B. The Circuit Court's Findings In Regard To The Prius, The Firm And Account #6433, And The Maryland 529 Plan Accounts In Husband's Name Weren't Clearly Erroneous, But The Court Abused Its Discretion When It Ordered Husband To Transfer The Funds In The Maryland 529 Plan Accounts To An Account In Wife's Name And Treated The Funds As His Separate Assets.

Husband's *second* set of arguments pertains to the circuit court's characterization of certain marital property and its calculation of the monetary award. As we explain above, the circuit court follows a three-step process when granting a monetary award. *Sims*, 266 Md. App. at 354. Before granting a monetary award, the court must determine (1) which property is marital under FL § 8-203(a); (2) the value of the marital property under FL § 8-204; and (3) whether division of the marital property according to title would be unfair to either party. *Alston*, 331 Md. at 498–500; *Flanagan v. Flanagan*, 181 Md. App. 492, 519–20 (2008); *Hoffman v. Hoffman*, 93 Md. App. 704, 712 (1992). If the court finds that division of the marital property according to title would result in inequity, it may grant a monetary award as an "adjustment of the equities and rights of the parties" concerning the marital property after considering the statutory factors under FL § 8-205. *Hoffman*, 93 Md. App. at 712; *Flanagan*, 181 Md. App. at 519–20; *Alston*, 331 Md. at 499.

When reviewing challenges to the court's execution of this three-step process, we apply three different standards of review. *Sims*, 266 Md. App. at 353–54. *First*, whether an asset is marital and, if so, the value of that marital asset are questions of fact that we review for clear error. *Id.* at 353 (*citing Flanagan*, 181 Md. App. at 521); Md. Rule 8-131(c) ("[A]n appellate court . . . will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the

credibility of the witnesses."). "When the trial court's findings are supported by substantial evidence, the findings are not clearly erroneous." *Innerbichler v. Innerbichler*, 132 Md. App. 207, 230 (2000). *Second*, "we review the circuit court's legal conclusions *de novo*." *Sims*, 266 Md. App. at 354. *Third*, we review the ultimate decision of the circuit court to grant a monetary award and its calculation of that award for abuse of discretion. *Id.* When we apply the abuse of discretion standard, "'we may not substitute our judgment for that of the factfinder, even if we might have reached a different result.'" *Flanagan*, 181 Md. App. at 521 (*quoting Innerbichler*, 132 Md. App. at 230). But "[a]lthough our review for abuse of discretion is deferential," we will vacate a monetary award if the circuit court doesn't "'exercise its discretion in accordance with correct legal standards.'" *Id.* at 522 (*quoting Alston*, 331 Md. at 504).

Husband doesn't challenge the circuit court's classification of any asset as marital. He contends that the court (1) erred when it attributed the value of the Prius to him despite acknowledging that he'd signed over title to Wife, (2) erred when it treated Account #6433 as a personal asset separate from the Firm for monetary award and equitable distribution purposes without subtracting the account's value from that of the Firm, and (3) erred when it characterized the two Maryland 529 Plan accounts opened in his name for the benefit of the children as his personal assets when distributing the marital estate and calculating the monetary award and abused its discretion when it ordered him to transfer those funds simultaneously to an account in Wife's name. We hold that the court didn't commit clear error in its handling of the Prius, in its treatment of the Firm and Account #6433 as separate

assets, or in its treatment of the funds in the Maryland 529 Plan accounts as Husband's personal assets; but the court did abuse its discretion when it both credited the funds in the Maryland 529 Plan accounts to Husband and ordered him to transfer those funds. Accordingly, we vacate the monetary award and remand to the circuit court for further proceedings consistent with this opinion.

1. The circuit court didn't attribute the Prius's value to Husband despite acknowledging that he'd signed over title to Wife, so it didn't commit clear error.

Husband's *first* argument about the circuit court's disposition of marital property is that the court committed clear error by attributing the Prius's value to him despite acknowledging that he had signed the title to the vehicle over to Wife on the first day of trial. By attributing $3,466 to him that it should have attributed to Wife, he alleges, the court reduced his monetary award improperly. Wife counters that Husband "appears to be confused about how the [c]ircuit [c]ourt calculated the monetary award" and asserts that the court attributed the Prius's value to her, not Husband, when calculating that award. In his reply, Husband acknowledges his confusion and contends that it stems from the court's failure to "show its work." Husband's confusion is understandable, but Wife is correct.

Our review of the Divorce Opinion reveals that the court did "show its work," although this question ends up harder to follow. The court characterized the Prius as marital property titled to Husband based on Wife's assertion in her Rule 9-207 statement, which she filed before trial and introduced into evidence at trial. In the same paragraph, the court acknowledged that "Husband [had] signed over to Wife title to the Prius."

The source of Husband's confusion seems to be the chart that the court created to summarize its findings about the parties' property. In the chart, the court put the Prius's $3,466 value in Husband's column, so that it would appear from looking at the chart that the court was attributing the vehicle's value to Husband for purposes of calculating the monetary award. But in its later discussion of its equitable distribution of the parties' marital property, the court noted *ultimately* that the parties had "agree[d] that Wife should get the Prius," credited the car's value to her, and removed it from the equitable distribution analysis. The circuit court's findings with regard to the Prius weren't clearly erroneous.

2. The circuit court didn't clearly err when it treated Account #6433 as a separate asset from the Firm because it didn't double count the account's value against Husband.

Husband's *second* marital property contention involves the court's handling of the Firm and Account #6433, the Firm's operating account. He doesn't challenge the court's characterization of the Firm as marital property or dispute that Account #6433 is an asset of the Firm, and he doesn't challenge necessarily the court's decision to treat Account #6433 as an asset separate from the Firm based on evidence that he used the account for both business and personal reasons. He argues instead that the circuit court erred when it treated Account #6433 and the Firm as separate assets for purposes of equitable distribution and calculating the monetary award without adjusting its valuation of the Firm to account for that separation. Husband explains that he factored the value of Account #6433 into his valuation of the Firm, which the court adopted, and asserts that the court "double counted" the account's value against him and reduced his monetary award improperly when it treated

the account as a separate asset without subtracting its value from the Firm's value. Wife asserts that the court didn't double count the value of Account #6433 against Husband. After reviewing the Divorce Opinion, we agree with Wife.

At trial, Husband introduced into evidence a balance sheet prepared by the Firm's accountant that showed that as December 31, 2023, its liabilities exceeded its assets by $93,024.07. He testified that he later liquidated his IRA and used the proceeds to pay off the Firm's liabilities, leaving it with a value of "approximately zero" dollars. In its Divorce Opinion, the circuit court stated that "[n]o evidence was presented from which [it could] determine [the Firm's] value." Despite that statement, the court seemed to credit Husband's testimony when it found as a matter of fact that "the value of [the Firm was] $0."

The critical point for this analysis, though, lies in the following sentence from the Divorce Opinion: "[The Firm's] value, if any, is not subject to equitable distribution." In other words, after explaining the difficulty in its attempt to ascertain the Firm's value and after finding that it in fact had no value for purposes of equitable distribution, the court removed the Firm from the analysis entirely. Even if Husband factored the value of Account #6433 into the valuation of the Firm that the court adopted, the court didn't double count the value of Account #6433 against him because it didn't *count* the value of the Firm against him. The court counted the $23,509.60 in Account #6433—a figure that it pulled from a July 2024 bank statement introduced into evidence by Wife—against Husband separately, and only once, because it found based on evidence in the record at trial that he used the account to pay personal expenses and deposited into the account income unrelated

to the Firm's operations. That finding wasn't clearly erroneous.

3. The circuit court's finding that the funds in the Maryland 529 Plan accounts in Husband's name were his personal assets wasn't clearly erroneous, but the court abused its discretion when it credited those funds to him and ordered him to transfer them to an account in Wife's name simultaneously.

Third and finally, Husband argues that circuit court committed clear error when it found that the funds in the Maryland 529 Plan accounts opened in Wife's name for the children's benefit were jointly held assets but that the funds in the accounts opened in his name were his separate assets. And, he contends, the court then abused its discretion when it both credited those funds to him and ordered him to transfer those funds to an account in Wife's name. According to Husband, the error "reduced his [monetary] award by $90,000."

To support its finding crediting to Husband the funds in the two Maryland 529 Plan accounts opened in his name, the circuit court relied on this Court's decision in *Abdullahi v. Zanini*, 241 Md. App. 372 (2019). In *Abdullahi*, on appeal from a judgment of absolute divorce, the appellant challenged the circuit court's determination that Maryland 529 Plan accounts titled in her name for the benefit of the parties' son were her property for purposes of calculating a monetary award. *Id.* at 383, 410–11. Relying on a decision by the Indiana Court of Appeals, we stated that "[w]here there is nothing to suggest that the custodian of 529 college accounts, which are held for the benefit of a child's college education, will use the funds for another purpose, it is improper to consider the funds as assets of that parent in determining a monetary award." *Id.* at 412. Because there was no evidence that the appellant intended to use the funds in the Maryland 529 Plan accounts for any reason other

than payment of her son's future college expenses, we held that it wasn't appropriate for the court to treat those funds as her separate assets for monetary award purposes. *Id.* at 411.

Here, the circuit court found evidence in the record that Husband had threatened to use the funds in the Maryland 529 Plan accounts held in his name for E's and C's benefit for personal reasons unrelated to the children's education. This evidence took the form of an email that Husband sent to Wife and her counsel in March 2024, in which he stated that if Wife didn't give consent for him to liquidate his TSP, he would "be forced to liquidate the children's 529 plans titled to [his] name." Based on that evidence, the court treated the funds in those accounts as Husband's separate assets when calculating the monetary award. And because there was no evidence of similar threats by Wife to liquidate the Maryland 529 Plan accounts in her name for personal use, the court treated the funds in those accounts as jointly held assets.

Husband doesn't dispute "that he stated he *might* have had to liquidate the 529 plans." He argues, though, that the court committed clear error when it found that the accounts were his separate assets because it found only "that he was likely to dissipate the accounts—but not that he had dissipated the accounts." As Wife points out, however, this distinction has no bearing on the propriety of the circuit court's finding because under *Abdullahi*, evidence suggesting that a parent *might* use the funds in a Maryland 529 Plan account for purposes other than a child's education is all that's required for a court to treat those funds as that parent's separate property. *See Abdullahi*, 241 Md. App. at 412 ("*Where there is nothing to suggest* that the custodian of 529 college accounts . . . will use the funds

for another purpose, it is improper to consider the funds as assets of that parent . . . ." (emphasis added)). Evidence that a parent *has* used the funds for such purposes isn't required. Nor, as Husband implies, is evidence of malicious intent. Because the court's decision to treat the funds in the Maryland 529 Plan accounts in Husband's name as his separate assets was supported by "substantial evidence" in the record, it wasn't clearly erroneous. *Innerbichler*, 132 Md. App. at 230.

Husband argues further that once the circuit court determined that the combined $89,933.60 in funds in those two accounts were his separate property and that he would keep those funds, it abused its discretion by ordering him to transfer them to an account in Wife's name. On this point, Husband is correct. Although neither party disputes the court's authority to order the transfer of the funds, Husband is right that the court's decision to do so after attributing their value to him for equitable distribution and monetary award purposes resulted in a mismatch. Based on its consideration of the FL § 8-205(b) factors, the court found that it would be equitable to award Wife 65% of the $610,720 in marital property subject to distribution ($396,968) and to award the remaining 35% ($213,752) to Husband. The $610,720 figure didn't include the $113,477 in individually owned marital property that the court determined Husband would keep or the $6,007 in such property that it determined Wife would keep, but the $113,477 attributed to Husband did include the $89,933.60 from the Maryland 529 Plan accounts. After concluding that Husband "[would] be keeping $107,470 ($113,477 - $6,007) more in individually owned marital property than Wife," the court subtracted that amount from Husband's distribution and ordered Wife

to pay him a monetary award of $106,282 to adjust the equity between the parties. Put differently, the court's decision to credit the $89,933.60 in funds in the Maryland 529 Plan accounts to Husband as his separate assets reduced his monetary award. And that outcome would have been fine if Husband actually had kept those funds, but he didn't. On remand, because Husband has complied with the order to transfer the funds in the Maryland 529 Plan accounts in his name to an account in Wife's name, the circuit court should not treat those funds as his separate asset when calculating the appropriate monetary award.[10]

C. The Circuit Court's Calculation Of The Firm's Gross Monthly Receipts For Purposes Of Determining Husband's Actual Income Wasn't Clearly Erroneous, But Additional Factual Findings As To The Firm's Ordinary And Necessary Expenses Are Required.

Husband's *third* claim of error relates to the court's calculation of his income to determine child support. A court determining child support must do so according to the guidelines in FL § 12-204(e) and based on the parties' monthly "actual incomes." *Id.* § 12-204(a)(1), (e). Ascertaining each party's actual income is the "central factual issue" involved in the calculation of the parties' financial obligations under the child support guidelines. *Reuter v. Reuter*, 102 Md. App. 212, 221 (1994). We review the circuit court's

[10] In Wife's brief, she asks, "[i]n the event the Appellate Court determines to remand on the issue of the 529 accounts," that we hold also that the circuit court committed clear error when it included the two accounts opened in her name for the children's benefit in the marital estate. She relies on *Abdullahi* to support her request, but her reliance is misplaced. In *Abdullahi*, we agreed with the parties' stipulation that the Maryland 529 Plan accounts opened by the appellant were marital property "[b]ecause the amounts in the account[s] were acquired during the marriage." 241 Md. App. at 411. The same is true here. Because Wife acquired the funds in the Maryland 529 Plan accounts she opened for E's and C's benefit while she and Husband were married, the court included them in the marital estate properly.

factual findings regarding the parties' incomes for clear error. *See* Md. Rule 8-131(c).

Section 12-201 of the Family Law Article defines "actual income" as "income from any source." FL § 12-201(b)(1). For a party who is self-employed or is the proprietor of a business, the statute defines "actual income" more specifically as "gross receipts minus ordinary and necessary expenses required to produce income." *Id.* § 12-201(b)(2). Among other sources, "actual income" includes "bonuses." *Id.* § 12-201(b)(3)(iv). Parties to an action involving child support must verify their income with "suitable documentation" such as pay stubs or, if self-employed, statements of receipts and expenses. *Id.* § 12-203(b)(2)(i).

Husband, who is self-employed and derives his income from his sole ownership and operation of the Firm, argues that the circuit court committed clear error by miscalculating both the Firm's gross monthly receipts *and* ordinary and necessary expenses. We hold that the court's calculation of the Firm's gross monthly receipts wasn't clearly erroneous, and we reach no conclusion with respect to its calculation of the Firm's ordinary and necessary expenses. Instead, we vacate the child support order with instructions for the circuit court, on remand, to make additional findings about which of Husband's claimed expenses are in fact ordinary and necessary expenses required to produce income.

1. The circuit court included the entire $115,320.85 fee from the May 2024 federal judgment in the Firm's 2024 gross receipts properly.

First, Husband argues that the court erred by factoring a "one-time contingency fee" into its calculation of the Firm's monthly gross receipts. This error, he asserts, attributed to him for purposes of calculating child support "a level of income [he] could not reasonably sustain." We find no clear error in the court's calculation of the Firm's gross receipts.

As described above, the circuit court relied on a revenue report prepared by the Firm's accountant to calculate the Firm's monthly average gross receipts from August 2023 to August 2024, the year leading up to the divorce trial. According to the revenue report, the Firm's gross receipts over that year totaled $181,018.33. Of that total, $115,320.85 came from a single fee that Husband earned in May 2024. Husband testified at trial that a fee of this size was unusual for the Firm, such that dividing the fee by twelve and including it in the Firm's monthly average gross receipts for the past year would make his income for child support purposes "extraordinarily high." Because he'd worked for twenty-two months on the case for which he'd earned the fee, he asked that the court adopt a $10,716.64 figure for the Firm's monthly average gross receipts that he arrived at by (1) subtracting the fee from the $181,018.33 in annual gross receipts reflected in the revenue report; (2) dividing the remainder by twelve; (3) dividing the fee by twenty-two; and adding one twenty-second of the fee to the value obtained in step (2). The court declined to adopt Husband's calculation. Instead, it treated the $115,320.85 fee as a bonus and divided the entire $181,018.33 in receipts reflected in the revenue report—including the fee—by twelve to arrive at a $15,087.86 figure for the Firm's monthly average gross receipts.

To support its calculation, the court relied on our decision in *Johnson v. Johnson*, 152 Md. App. 609 (2003), a case where the appellant, despite the legislature's express inclusion of "bonuses" in the definition of "actual income" under FL § 12-201(b), challenged the circuit court's decision to include a bonus his employer had paid him in its calculation of his actual income because "it [was] too speculative as to what bonus, if any,

he [would] receive in the future." *Id.* at 615–16. We rejected this argument, stating that "it is oftentimes necessary to calculate child support based on currently existing circumstances, even though the Court and the parties are fully aware that there is a significant possibility that in the future conditions might change." *Id.* at 621. And we noted that because the appellant had received his bonus from his employer at the time the trial court calculated his child support obligation, there was "no doubt" at that time that his actual income for the year included the bonus. *Id.* at 617–18. We held that "bonuses already paid to a parent should be used to calculate child support even though it is unknown whether such a bonus will be paid in the future." *Id.* at 622. To hold otherwise, we explained, would violate the "basic principle" that a "'child is entitled to a standard of living that corresponds to the economic position of the parents.'" *Id.* at 620 (*quoting Smith v. Freeman*, 149 Md. App. 1, 23 (2002)). And if the appellant didn't receive a bonus the following year or received a bonus that was significantly smaller, we reasoned, he could file a petition for child support modification with the circuit court. *Id.*

The circuit court reasoned here that although it wasn't dealing with a bonus in the literal sense, the fee at issue was like a bonus in that, as Husband asserted, it was "aberrational and [would] not be earned again." The court thus found this Court's reasoning in *Johnson* to be "instructive and persuasive" and included the entire fee in its calculation of Husband's actual monthly income for the period from August 2023 to August 2024, noting that "given that Husband's resources may diminish in the future, it [was] appropriate to allow the Minor Children to share in Husband's resources while they exist."

This finding by the circuit court that the "aberrational" $115,320.85 fee was akin to a bonus and should be included in its entirety in Husband's actual gross monthly income for purposes of calculating child support wasn't clearly erroneous. As with the appellant's bonus in *Johnson*, 152 Md. App. at 617–18, Husband had received the fee from the client already at the time that the court calculated his child support obligation, so there was "no doubt" at that time that the fee was part of his income from the previous year. If Husband doesn't earn a comparable amount in future years as he predicts, he may petition to modify child support. *Id.* at 620. The circuit court's determination that E and C are entitled to a level of support commensurate with the inclusion of the entire fee in Husband's actual gross monthly income while he has access to those funds wasn't improper. *See id.* (*quoting Freeman*, 149 Md. App. at 23).

2. The circuit court must make additional factual findings explaining its decision to adopt Wife's calculation of the Firm's ordinary and necessary expenses required to produce income.

Second, Husband asserts that the circuit court erred in its calculation of the Firm's ordinary and necessary expenses. To calculate the income of a self-employed party, the court must subtract from that party's monthly gross receipts the ordinary and necessary expenses required to produce those receipts. FL § 12-201(b)(2). Put simply, ordinary and necessary expenses are business expenses "incurred to earn money." *Cohen v. Cohen*, 162 Md. App. 599, 614 (2005). They don't include, for example, funds set aside for a party's retirement, *id.*, or capital investments to enhance or preserve an asset's value. *Guidash v. Tome*, 211 Md. App. 725, 746 (2013). Moreover, by statute, ordinary and necessary

expenses don't include "amounts allowable by the Internal Revenue Service for the accelerated component of depreciation expenses or investment tax credits *or any other business expenses determined by the court to be inappropriate for determining actual income for purposes of calculating child support*." FL § 12-201(l) (emphasis added).

Husband argues that the circuit court erred by adopting Wife's $3,885.82 estimate of the Firm's monthly ordinary and necessary expenses, which she provided in her written closing statement, instead of the $6,445.20 estimate he offered in his testimony. Unlike his figure, which included monthly expenses for "legal research tools, malpractice insurance, bookkeeping, virtual receptionist [services], [an] office lease, bar dues, continuing legal education, marketing . . . , interpretation services, [and] taxes" and which he "supported [with] testimony and documentary exhibits," Husband asserts that Wife's figure was grounded in factual assertions raised for the first time in her written closing statement and unsupported by any evidence produced at trial. Husband contends Wife "[c]ite[d] few exhibits" in the record, [i]dentif[ied] no witness testimony," and "[o]ffer[ed] no explanation" to support her assertions that many of the ordinary and necessary business expenses he identified at trial were personal, unnecessary, or miscalculated. He concludes that the circuit court erred by allowing Wife "to make new factual assertions in [her] closing statement [when he had] no remaining chances to rebut those assertions" and by relying on those assertions to calculate his income for child support purposes.

In addition, Husband argues that the evidence introduced at trial refutes many of Wife's arguments contesting his claimed business expenses. He asserts that by accepting

Wife's $3,885.82 figure, the court disregarded his documentary evidence of the Firm's monthly business expenses without clear factual findings, "leav[ing] no basis for meaningful appellate review."

Wife doesn't disagree with Husband's statement that a litigant may not make new factual assertions in their closing argument but counters that she didn't do so in this case. Rather than making new factual assertions, she contends, she used her closing statement to explain her interpretations of Husband's testimony and the evidence he put forward at trial regarding the Firm's ordinary and necessary expenses. Contrary to Husband's argument, she asserts that the chart in which she organized her interpretations was "full of references to testimony, admitted exhibits, and indications where [Husband] made math errors." And, she adds, Husband had the opportunity to rebut her arguments in his written closing statement, which he filed ten days after she filed hers.

We needn't opine on whether it would have been improper for Wife to make new factual assertions in her written closing statement, because we agree that she didn't. She made arguments challenging several of Husband's claimed business expenses in a chart appended to her closing statements and supported those arguments by reference to evidence in the trial record, such as exhibits and Husband's testimony. For example, to support her argument that the Firm pays $926.63 each month for legal research services through Westlaw as opposed to the $982.23 testified to by Husband, Wife referred to the bank statements for Account #6433 that she introduced at trial. And to support her argument that Husband's car insurance is a personal expense rather than an ordinary and necessary

expense required to produce the Firm's income, she relied on his testimony that he would pay for car insurance regardless of whether he owned the Firm. The rest of Wife's arguments followed a similar pattern. The circuit court was empowered to credit those arguments if it found they were correct based on the evidence presented at trial.

But as Husband points out, to allow for "meaningful appellate review," the circuit court must explain *why* it decided to credit one party's argument over the other's argument. And here, the court seemed to adopt Wife's calculation when it stated only that "Husband produced evidence that his monthly law firm expenses are $3,885.82," but didn't explain its rationale for crediting Wife's view of Husband's business expenses. For example, we don't know why the court decided to credit Wife's argument that it was unnecessary for the Firm to pay for more than one license for Google Workspace and accounting software over Husband's testimony that he, his mother (who serves as his legal assistant), and the Firm's bookkeeper all regularly use these services for their work. Nor did the court explain why it decided to credit Wife's argument that bookkeeping services were not a current expense of the Firm despite Husband's testimony that the Firm had just switched to a new provider that would charge an amount comparable to what the Firm paid its last provider, or why it credited Wife's argument that the Firm was paying for "redundant" timekeeping and calendar software over Husband's testimony that despite having some similar features, the applications each did "different things." And the court didn't explain why it agreed with Wife that Husband's Pennsylvania bar registration, his Maryland bar association memberships, or the Firm's advertising costs weren't necessary business expenses.

To be sure, the circuit court isn't required to include in its calculation of a party's necessary and ordinary expenses "any . . . business expenses determined by the court to be inappropriate for determining actual income for purposes of calculating child support." FL § 12-201(l). And it may be as simple as the court finding Husband's explanations not credible against his bank records and Wife's theories to be more credible. But whatever the basis, the court must explain the reason for its determination that a claimed expense isn't appropriate for determining a party's actual income. The circuit court didn't provide that explanation here, so we are unable to determine whether its calculation of the Firm's ordinary and necessary expenses was "supported by substantial evidence" or was the product of clear error. *Innerbichler*, 132 Md. App. at 230.

Monetary awards, child support, and attorney's fee awards "involve overlapping evaluations of the parties' financial circumstances." *St. Cyr v. St. Cyr*, 228 Md. App. 163, 198 (2016). "The factors underlying such awards 'are so interrelated that, when a trial court considers a claim for any one of them, it must weigh the award of any other.'" *Id.* (*quoting Turner v. Turner*, 147 Md. App. 350, 400 (2002)). "'Therefore, when this Court vacates one such award, we often vacate the remaining awards for reevaluation.'" *Id.* (*quoting Turner*, 147 Md. App. at 401). Because we already must vacate the monetary award and remand this case on that basis, we must vacate the child support award too, and that will create an opportunity on remand to explain these conclusions. The circuit court can address this on the existing record or, if it finds appropriate, make additional factual findings that explain why it adopted Wife's calculation of the Firm's ordinary and necessary expenses.

D. The Circuit Court Didn't Abuse Its Discretion Or Violate Husband's Rights Under The First Amendment When It Ordered Him To Pay Wife's Attorney's Fees Under FL § 7-107.

Next, Husband argues that the circuit court abused its discretion when it awarded attorney's fees to Wife. Under FL § 7-107, the court may, at any point in a divorce proceeding, "order either party to pay to the other party an amount for the reasonable and necessary expense of prosecuting or defending the proceeding." *Id.* § 7-107(b). "Reasonable and necessary expense" includes attorney's fees. *Id.* § 7-107(a)(2). Before ordering either party to pay the other party's attorney's fees under FL § 7-107, the court must consider (1) both parties' financial resources and needs and (2) "whether there was substantial justification for prosecuting or defending the proceeding." *Id.* § 7-107(c). If the court makes a finding that either party lacked substantial justification for prosecuting or defending the divorce proceeding, the court *must* award attorney's fees to the other party unless it finds good cause not to do so. *Id.* § 7-107(d).

The decision whether to award attorney's fees is committed to the circuit court's discretion. *Abdullahi*, 241 Md. App. at 425 (*citing Petrini v. Petrini*, 336 Md. 453, 468 (1994)). We determine if the court exercised that discretion properly, or if it abused its discretion, "'by evaluating [the court's] application of the statutory criteria set forth in [FL § 7-107]'" and its "'consideration of the facts of the particular case.'" *McCleary v. McCleary*, 150 Md. App. 448, 466 (2002) (*quoting Petrini*, 336 Md. at 468). And we reverse a court's decision to award attorney's fees under FL § 7-107 only if that decision "'was arbitrary or clearly incorrect or both.'" *Abdullahi*, 241 Md. App. at 425 (*quoting*

Huntley v. Huntley, 229 Md. App. 484, 497 (2016)).

Husband asserts *first* that the circuit court determined incorrectly, after considering the parties' financial resources and needs for purposes of calculating the monetary award and child support, that Husband had "sufficient financial resources to contribute to Wife's attorney['s] fees." We can dispose of this claim quickly. Because we have decided to vacate both the monetary award and the child support order, we vacate the attorney's fees award also. *See St. Cyr*, 228 Md. App. at 198; *Turner*, 147 Md. App. at 400; *Sims*, 266 Md. App. at 390 ("[W]here we vacate . . . a monetary award, alimony, or child support, we shall also vacate the attorney['s] fees award."). On remand, after recalculating the monetary award and making additional factual findings about Husband's actual income for child support purposes, the circuit court should make a new finding on whether Husband has the financial ability to contribute to Wife's attorney's fees.

Second, though, as Wife notes correctly, regardless of the court's findings on remand in regard to the parties' financial resources and needs, if the court finds on remand—as it did in its Divorce Opinion—that Husband lacked substantial justification for prosecuting and defending the divorce action, it must reinstate an attorney's fees award unless it finds good cause not to do so. *See* FL § 7-107(d) ("Upon a finding by the court that there was an absence of substantial justification of a party for prosecuting or defending the proceeding, and absent a finding by the court of good cause to the contrary, the court *shall* award [attorney's fees] to the other party." (emphasis added)); *Davis v. Petito*, 425 Md. 191, 206 (2012) ("The only time that the relative amounts of the parties' attorney['s]

fees should be considered is when both are determined to have a substantial justification for their positions . . . ."); *see also George v. Bimbra*, 265 Md. App. 505, 526 (2025) (holding that the court "abused its discretion in finding [the] parties' relative financial status . . . constitute[d] good cause" not to order an award of attorney's fees "under FL § [7-107(d)] because such finding [was] inconsistent with the purpose of FL § [7-107(d)] to limit judges' discretion in awarding attorneys' fees when a party lacks substantial justification in prosecuting or defending a claim").[11]

Although we vacate the attorney's fees award and remand for further consideration, we note that we find no error in the circuit court's finding that Husband prosecuted and defended the divorce action "largely without substantial justification." On this point, Husband contends that the court erred in finding that he lacked a substantial justification for prosecuting and defending the divorce action because the court identified no specific "litigation misconduct" by Husband that justified the fee award. We disagree.

In its Divorce Opinion, the circuit court found that Husband's conduct "was driven by a combination of malicious desires to cause Wife to suffer financially . . . and her counsel to experience personal embarrassment and potential damage to their professional reputations." To support its finding, the court relied on emails and text messages from

[11] *George* involved a claim for attorney's fees under FL § 12-103, which governs claims for costs and counsel fees in child custody and support actions. 265 Md. App. at 517. The language of FL § 12-103(c), which we interpreted in *George*, is identical substantially to the language of FL § 7-107(d), requiring the court to award attorney's fees to a party when the opposing party prosecuted or defended an action without substantial justification.

Husband to Wife and her counsel that Wife introduced into evidence at trial. In one such email, Husband told Wife and her attorneys that he "[didn't] care if [Wife] burns through her life savings and her inheritance fighting this case." In another, he told Wife and her attorneys that they could "either negotiate with [him] or [they could] have [him] in [their] life forever—constantly wondering when [they're] going to screw up enough for [him] to topple [them]." And in yet another, he told them, "If you think I've been a jerk up to this point—stand by." Finally, in response to a settlement offer from Wife's counsel, Husband said, "this offer is just insulting enough for me to [put] extra effort into this case."

The court relied also on Husband's filing of over forty motions, two civil claims, five appeals to this Court, and three petitions for writ of *certiorari* to the Supreme Court of Maryland in the life of the divorce action as evidence of his "scorched earth litigation approach." According to the court, "Husband chose to repeatedly file motions, civil actions, and appeals which did very little, if anything, to efficiently and cost-effectively resolve the divorce action that he filed and claimed that he promptly wanted to resolve" when he moved to dismiss his original complaint less than a month before trial, only to reverse course two days later and file an amended complaint that he then dismissed voluntarily on the first day of trial.

Lastly, the court relied on emails and text messages in which Husband made "personal and derogatory comments" about Wife's attorneys. In one email, he stated that Wife's attorneys knew "next to nothing about appellate litigation." In another, he asserted that Wife's counsel had "**BADLY** misjudged this case" because they lacked an

understanding of Maryland law and that he and Wife were "**BOTH** going to be flat broke by the time [the case was] over" (emphases in original) due to Wife's counsel's poor judgment. And in an email regarding one of his many settlement offers, he said that he would be seeking "[d]isbarment" of Wife's attorney's and would "pursue [his] bar complaints against [them] regardless of any action" on the settlement offer. Finally, in a series of text messages he sent to Wife, Husband referred to one of her attorneys as "a new level of stupid" and "a fucking train wreck" and the other as "a man-hater" and told Wife that he would "pay for half of [her] attorney's fees if [she found] a lawyer—of [her] choosing—who [wasn't] a fucking idiot."

Husband argues that the circuit court's fee award "was actually based on the tone and tenor of [his] private communications with defense counsel." In other words, he asserts that the court's reliance on his emails and text messages to support its attorney's fees award amounted to an unconstitutional, content-based restriction on his free speech under the First Amendment to the United States Constitution and Article 40 of the Maryland Declaration of Rights. "The First Amendment, as applied to the states by the Fourteenth Amendment, prohibits the states from passing laws 'abridging the freedom of speech.'" *Nefedro v. Montgomery Cnty.*, 414 Md. 585, 594 (2010) (*quoting* U.S. Const. amend. I). The Supreme Court of Maryland has interpreted the free speech protections afforded by Article 40 of the Maryland Declaration of Rights "to be co-extensive with the freedoms protected by the First Amendment." *Jakanna Woodworks, Inc. v. Montgomery Cnty.*, 344 Md. 584, 595 (1997). As Husband states correctly, "[c]ontent-based laws—those that target

speech based on its communicative content—are presumptively unconstitutional" under the First Amendment. *Reed v. Town of Gilbert*, 576 U.S. 155, 163 (2015).

But the circuit court didn't order Husband to pay attorney's fees in this case as a sanction for the tone or content of his communications with Wife and her attorneys. The court simply relied on statements he made to Wife and opposing counsel as evidence that he was motivated to litigate the divorce action in the manner that he did—making an "extraordinary number of filings" that Wife needed to respond to at great personal cost—by "animus towards Wife's attorneys" and a "desire to bully Wife and her counsel into a settlement he deemed favorable to him" rather than any substantial, good faith justification. Thus, the circuit court's ruling on attorney's fees didn't violate Husband's rights under the First Amendment or Article 40, and we see no error in the court's finding that Husband lacked a substantial justification for prosecuting and defending the divorce action as he did. On remand, if the court finds again that Husband prosecuted and defended the proceeding without substantial justification, it must reinstate an attorney's fee award in Wife's favor "absent a finding . . . of good cause to the contrary." FL § 7-107(d).

E. The Circuit Court Issued Its Order Awarding Wife Attorney's Fees Under Rule 1-341 Before Husband's Fifteen-Day Window For Filing A Response Had Elapsed.

Finally, Husband contends that the circuit court violated Maryland Rule 1-341 and his procedural due process rights under the Fourteenth Amendment and Article 40 when it ordered him to pay Wife's attorney's fees as a sanction for defending the contempt proceedings over the court's order to transfer the funds in the Maryland 529 Plan accounts

"in bad faith and without substantial justification." As with claims of alleged due process violations, *Regan*, 120 Md. App. at 509, we review claims involving interpretation of the Maryland Rules *de novo*. *Stevens v. Tokuda*, 216 Md. App. 155, 167 (2014).

Husband asserts that the court exceeded its authority by imposing a Rule 1-341 sanction *sua sponte* after Wife withdrew her contempt petition on the record at the August 29 motions hearing, issued a civil contempt sanction improperly without a contempt finding or purge provision, and entered its Rule 1-341 Order without giving him notice that it was considering sanctions or giving him a meaningful opportunity to respond to Wife's allegations. Wife responds that the court didn't impose an improper *sua sponte* Rule 1-341 sanction but rather entered the sanction properly based on her motion for attorney's fees, which she didn't withdraw at the August 29 hearing. She argues further that Husband was on notice of her request for attorney's fees under Rule 1-341 and that he waived his right to a hearing on that motion when he agreed at the August 29 hearing that it would be appropriate for the court to decide the motion on the pleadings. Although Husband mischaracterizes the events surrounding the contempt proceedings and the court's entry of the Rule 1-341 Order significantly, he is right that he didn't receive the opportunity to respond to Wife's motion that Rule 1-341 guarantees.

Maryland Rule 1-341 allows the court, on motion by a party in any civil action, to order an adverse party to pay the moving party's "reasonable attorney's fees" if it finds that the conduct of the adverse party in maintaining or defending a proceeding "was in bad faith or without substantial justification." *Id.* at 1-341(a). The moving party must support

their fee request with a verified statement of attorney's fees, which they may file with their Rule 1-341 motion or separately. *Id.* at 1-341(b). The adverse party has fifteen days after the filing of the statement of attorney's fees to respond to the motion. *Id.* at 1-341(c).

Husband is incorrect on multiple fronts. *First*, the court doesn't need to find a party in contempt as a prerequisite to awarding attorney's fees under Maryland Rule 1-341. A petition for constructive civil contempt under Rule 15-206 and a motion for attorney's fees under Rule 1-341 are two distinct filings with two distinct purposes. The purpose of the former "is to coerce or facilitate compliance with court orders," *Dodson v. Dodson*, 380 Md. 438, 449 (2004), while the purpose of the latter is to deter abusive litigation. *Charles v. Charles*, 265 Md. App. 631, 657 (2025) (*citing Christian v. Maternal-Fetal Med. Assocs. of Md., LLC*, 459 Md. 1, 19 (2018)); *cf. Bahena v. Foster*, 164 Md. App. 275, 292 (2005) (noting that "the bad faith for which Md. Rule 1-341 permits the recovery of attorney's fees and costs is in 'maintaining or defending any proceeding,' not in violating a court order, though the latter may be evidence of the former." (*quoting* Md. Rule 1-341(a))). Accordingly, compliance with a court order isn't a complete defense to a Rule 1-341 motion like it is to a contempt petition, *see Dodson*, 380 Md. at 444, 451–52 (holding that contempt finding against appellant for past failure to comply timely with a court order after he complied belatedly was improper), and because an order to pay attorney's fees under Rule 1-341 isn't coercive, such an order doesn't need to include a purge provision like a contempt order does. *See id.* at 449 ("[B]ecause the purpose of civil contempt is to coerce or facilitate compliance with court orders, the sanction imposed for civil contempt 'must

provide for purging.'" (*quoting State v. Roll & Scholl*, 267 Md. 714, 728 (1973))). This means that the absence of a contempt finding against Husband in this case didn't preclude the court from entering the Rule 1-341 Order, and the absence of a purge provision from that order didn't render it improper.

Second, Husband's assertion that the court ordered him to pay Wife's attorney's fees under Maryland Rule 1-341 "[d]espite the absence of an operative pleading" misstates the facts. Wife's counsel informed the court expressly at the August 29 hearing that Wife had a "pending petition for contempt" that she'd supplemented because Husband had complied with the Judgment but that she "didn't want to release" because of her outstanding request for attorney's fees. Although Wife made clear that she was no longer asking the court to find Husband in contempt, she made clear also that her motion for attorney's fees under Rule 1-341 was still very much alive.

Third, and despite his claim to the contrary, Husband had adequate notice of Wife's Rule 1-341 motion. The procedural due process rights protected by the Fourteenth Amendment and Article 40 guarantee, at a minimum, "'notice and a meaningful opportunity to be heard.'" *Roberts* 349 Md. at 509 (*quoting LaChance*, 522 U.S. at 266); *Pickett*, 365 Md. at 81. Due process "is a flexible concept that calls for such procedural protection as a particular situation may demand." *Wagner v. Wagner*, 109 Md. App. 1, 24 (1996). "Just what process is due is determined by an analysis of the particular circumstances of the case, including the functions served and interests affected." *Id.* at 23. Due process "does not mean that a litigant need be satisfied with the result" of a proceeding;

it "merely assures *reasonable* procedural protections, appropriate to the fair determination of the particular issues presented in a given case." *Id.* at 23–24; *see McAllister v. McAllister*, 218 Md App. 386, 406 (2014).

Maryland Rule 1-341 ensures that a party receives adequate notice that the court is considering imposing sanctions against them by requiring that the court impose such sanctions only "on motion by an adverse party." Md. Rule 1-341(a). Wife satisfied that requirement here when she filed her Supplemental Petition, which included an attorney's fees request under Rule 1-341 and alleged that Husband "acted in bad faith by deliberately violating the Judgment, which forced additional litigation in this matter that would not have been needed if [he] had just complied with the transfer of the 529 accounts in the first place." Wife served her Supplemental Petition on Husband on July 26, 2025. Moreover, although neither the parties nor the court specifically referred to Rule 1-341 at the August 29 motions hearing, Husband acknowledged Wife's outstanding request for attorney's fees when, after Wife's counsel explained to the court that "the contempt issue [was] really an attorney's fees issue now," Husband agreed that it would be appropriate for the court to address the issue "on the briefs." Husband had adequate notice of Wife's allegations and the possibility that the court could impose Rule 1-341 sanctions against him if it found those allegations to be sufficient to warrant such imposition.

Husband is correct, though, that he didn't receive the "'opportunity to be heard'" on Wife's motion that due process guarantees. *See Roberts* 349 Md. at 509 (*quoting LaChance*, 522 U.S. at 266); *Pickett*, 365 Md. at 81. Rule 1-341 provides that a party

against whom another party files a motion for attorney's fees may respond to the motion "[w]ithin 15 days after the filing of the statement [of attorney's fees]." Md. Rule 1-341(c). This language indicates a decision by the Rule's framers that the "reasonable procedural protections, appropriate to the fair determination" of a motion for sanctions under Rule 1-341, *see Wagner*, 109 Md. App. at 24; *McAllister*, 218 Md App. at 406, included a fifteen-day window for the non-movant to respond, beginning on the date that the movant files the required statement of attorney's fees. Husband didn't receive the full fifteen-day response window here. Wife filed her Affidavit in Support of Attorney's Fees on September 4, 2025. The circuit court entered the Rule 1-341 Order on September 17, only thirteen days later.

We note that this error was most likely the result of (understandable) confusion given the timeline of events, where Wife filed her original contempt petition, which included a request for attorney's fees but not an express request for Rule 1-341 sanctions, on July 11; Husband answered that petition the same day; Wife filed her Supplemental Petition, in which she invoked Rule 1-341 as the basis for her attorney's fees request for the first time and to which Husband never responded, on August 8; the parties attended a hearing on August 29 and agreed that the court should resolve the attorney' fees issues on the pleadings; and Wife filed her statement of attorney's fees on September 4, nearly a month after filing her Supplemental Petition. Despite the reasonableness of the court's confusion, though, we must vacate the Rule 1-341 Order for failure to comply with the procedural requirements of Maryland Rule 1-341(c) and order a limited remand. On

remand, the circuit court shall allow Husband fifteen days from entry of this opinion to respond to Wife's attorney's fees motion before issuing a new order ruling on the motion.[12]

JUDGMENT OF ABSOLUTE DIVORCE AND SEPTEMBER 17, 2025 ATTORNEY'S FEES ORDER OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY VACATED AND REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. MAY 1, 2025 APPEAL DISMISSED. COSTS TO BE DIVIDED EQUALLY.

[12] In her brief, Wife asks this Court to order Husband to pay her attorney's fees incurred in relation to this appeal, which she asserts is "itself an extension of [Husband's] bad faith." Because we vacate and remand the Rule 1-341 Order, we deny Wife's request.