UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1325

September Term, 2014

MATTHEW S. WOLINS

v.

PAMELA COLE

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*Zarnoch,
Leahy,
Friedman,

JJ.

Opinion by Friedman, J.

Filed: March 16, 2016

*Zarnoch, Robert A., J., participated in the conference of this case while an active member of this Court; he participated in the adoption of this opinion as a retired, specially assigned member of this Court.

Matthew S. Wolins, M.D. ("Wolins") and Pamela Cole, Esquire ("Cole") are former spouses, parents of two emancipated children, and are here as cross-appellants on the issues of alimony, child support, and attorneys' fees.

BACKGROUND

The parties were granted a divorce by the Circuit Court for Montgomery County in 2007, which also entered an order regarding martial award, alimony, custody, and child support. Wolins appealed from the initial Order. This Court vacated and remanded on the award of indefinite alimony and award of child support. On remand in 2009, the circuit court made additional factual findings and awarded Cole $7,000 a month in rehabilitative alimony for five years, and $3,000 a month in indefinite alimony thereafter. Wolins again appealed; this Court in 2011 affirmed the judgment of the circuit court.

Cole then filed a Motion to Modify Alimony in November 2012 and argued that her alimony award should be increased. She argued that $3,000 per month in indefinite alimony was too little because: (1) debilitating pain and other health problems prevented her from becoming self-supporting in the manner envisioned by the trial court; (2) Wolins' income had increased despite his claims of poverty, exacerbating the trial court's previous finding of unconscionable disparity in income between the parties; and (3) the ongoing nature of the litigation between the parties had burdened her with insurmountable attorneys' fees. Wolins filed a Counter-Motion for Modification and/or Termination of Alimony in February 2013, and for Modification of Child Support in May 2013. Wolins argued that $3,000 per month in indefinite alimony was too much because: (1) since the divorce in

2007, his primary employer had terminated his employment contract as an anesthesiologist; (2) Cole had not, by her own admission, made any effort toward becoming self-supporting; and (3) Cole failed to use the knowledge that her alimony award would reduce from $7,000 to $3,000 a month in a proactive fashion that could have prepared her for the transition from rehabilitative to indefinite alimony.

The various motions were consolidated for a hearing in the Circuit Court for Montgomery County (Greenberg, J.). The trial court made oral findings in April 2014, and entered a written judgment in May 2014, which: (1) granted in part Cole's Request for Modification of Alimony, by increasing her indefinite alimony from $3,000 a month to $3,400 a month; (2) denied Wolins' Motion to Reduce or Terminate Alimony; (3) denied Wolins' Motion for Child Support; and (4) awarded to Cole $10,000 in attorneys' fees.

Feeling aggrieved, each party filed a motion to alter or amend, which the trial court denied. Wolins filed a timely appeal and Cole timely cross-appealed.[1] At issue are alimony, child support, and attorneys' fees.

I. Alimony

Wolins complains that the trial court erred when it increased his indefinite alimony obligation from $3,000 to $3,400 per month. Wolins alleges three errors that go to his

[1] Wolins, alleging non-compliance with Rule 8-501(d) governing production of a record extract, has filed a Motion to Strike or Disregard 37 Exhibits from Cole's Appendix. Having reviewed the motion, its opposition, and the contested exhibits, we hereby deny Appellant's Motion to Strike.

overall dissatisfaction with the alimony modification: (1) that the trial court included Cole's back-tax liability as a reasonable expense; (2) that the trial court credited Cole with $400 in psychotherapy expenses and $200 in prescription expenses without sufficient evidence to support those expenses; and (3) that the trial court, in his view, miscalculated Cole's gross monthly income. On the other hand, Cole also argues that the trial court erred in the alimony modification, asserting that her modified award of $3,400 per month was inadequate given the parties' income disparity. We reject all of these claims and affirm the circuit court's alimony award.

In Maryland, upon consideration of statutory factors the trial judge determines the amount and duration of alimony. FL §§ 11-106, 11-107; *Welsh v. Welsh*, 135 Md. App. 29, 39 (2000) (holding that a court need not provide a formal checklist for each factor, but must "however, demonstrate consideration of the required factors."). "In making the determination, the [trial] court shall consider all the factors necessary for a fair and equitable award, including:

> (1) the ability of the party seeking alimony to be wholly or partly self-supporting;
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> (2) the time necessary for the party seeking alimony to gain sufficient education or training to enable that party to find suitable employment;
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> (3) the standard of living that the parties established during their marriage;
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> (4) the duration of the marriage;
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> (5) the contributions, monetary and nonmonetary, of each party to the well-being of the family;

> (6) the circumstances that contributed to the estrangement of the parties;
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> (7) the age of each party;
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> (8) the physical and mental condition of each party;
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> (9) the ability of the party from whom alimony is sought to meet that party's needs while meeting the needs of the party seeking alimony;
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> (10) any agreement between the parties;
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> (11) the financial needs and financial resources of each party, including:
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> (i) all income and assets, including property that does not produce income;
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> (ii) any [marital property] award …;
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> (iii) the nature and amount of the financial obligations of each party; and
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> (iv) the right of each party to receive retirement benefits; and
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> (12) whether the award would cause a spouse who is a resident of a [nursing home] and from whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur."

FL §11-106(b).

A trial court's calculation of each factor may be informed by a full spectrum of evidence, including testimony and financial records. *Solomon v. Solomon*, 383 Md. 176, 196 (2004). Factors take two forms: (1) factors "relevant to the parties' relative financial situations;" and (2) factors that are "clearly equitable in nature, with little or no relation to the economic situations of the parties." *Blaine v. Blaine*, 336 Md. 49, 66-67 (1994). To

facilitate analysis of the financial factors, the Maryland Rules require each party to file a detailed financial statement "in substantially the form set forth in Rule 9-203(a)," summarizing that party's finances. That said, a party's Rule 9-203 statement is not dispositive of either the financial factors themselves, or of the alimony award as a whole. Instead, the trial court considers *all* of the evidence presented as to *all* of the alimony factors, including the parties' Rule 9-203 statements, to determine the amount and duration of a "fair and equitable [alimony] award.'" *Solomon*, 383 Md. at 196 (citing FL § 11-106(b)). Alimony is not simply a numbers game, equity plays a key role as well and "a court must be vested with the discretion necessary to tailor its decision in fairness." *Id.*

We will affirm an alimony award "if there is competent or material evidence in the record to support the court's conclusion." *Lemley v. Lemley*, 109 Md. App. 620, 628 (1996). "As long as the trial court's findings of fact are not clearly erroneous and the ultimate decision is not arbitrary, we will affirm it, even if we might have reached a different result." *Malin v. Miniberg*, 153 Md. App. 358, 415 (2003).

A. Consideration of Tax Liability in Alimony Modification

Wolins asserts that the trial court abused its discretion when it considered Cole's back-tax liability as an allowable expense on her Rule 9-203 financial statement form. In calculating allowable expenses for Cole, the trial court included a $1,325 line item captioned as "Other" in section "K" of Cole's Rule 9-203 financial statement form representing, in the trial court's own words: "back[-]taxes [arising out of alimony

payments] that had originally not been reported by [Cole]." Wolins argues that this expense is not a proper component of an alimony award, because: (1) alimony is tax deductible to the payor and taxable income to the recipient; and (2) the award violates equitable principles. Cole agrees that the trial court erred, but argues that the trial court's error is balanced out by the fact that she did not report her 2013 combined state-federal tax liabilities as an expense on her Rule 9-203 financial statement form and that, had she, her monthly expenses would have been higher and that Wolins would now be responsible for an even higher level of support.[2] Because no one factor is dispositive in making an alimony award, and because the trial court's error was, in effect, nullified by Cole's own omission, we conclude that the ultimate award by the trial court was not arbitrary and, therefore, that we may affirm. We explain.

[2] Wolins argues that Cole's omission at trial cannot now be used as a back-door fix to the trial court's inclusion of her back-tax liability because it is waived. We determine, however, that Cole's omission of her combined 2013 state-federal tax liability on her Rule 9-203 financial statement is not waiver. *Cave v. Elliott*, 190 Md. App. 65, 83 (2010) ("This Court […] does have the discretionary authority under Rule 8-131(a) to review issues not raised at trial."). In deciding whether to exercise our discretion "we are guided by Rule 8-131(a)'s 'twin goals' … : (1) whether the exercise of [our] discretion will work unfair prejudice to either of the parties, and (2) whether the exercise of [our] discretion will promote the orderly administration of justice." *Cave*, 190 Md. App. at 84 (internal citations omitted). In applying this test, we first conclude that because both parties had the opportunity to brief and present argument on this question neither party is prejudiced by the exercise of our discretion. On the second question, we determine that exercising our discretion will allow us to dispense with this issue expeditiously, "thereby saving time and expense and accelerating the termination of litigation." *Jones v. State*, 379 Md. 704, 715 (2004). Thus, in consideration of the "twin goals" of Rule 8-131(a), we choose to exercise our discretion, and review Cole's argument.

An alimony award is taxable income. *Malin v. Miniberg*, 153 Md. App. 358, 420-21 (2003) (holding that when a trial court designates a monthly payment as "alimony," it constitutes "gross income," and it is error, thereafter, to designate it as tax-free). "In the ordinary course, alimony payments are included as 'gross income' to the payee and are deductible by the payor for federal income tax purposes." *Id*. at 421; *see* I.R.C. § 71; 215(a) (authorizing an individual to include an itemized deduction "equal to the alimony [–as defined in § 71(b)), which is includible in the gross income of the recipient under § 71–] … payments paid during such individual's taxable year."). Thus, the trial court erred in considering Cole's back-tax liability.

Although it was error to consider Cole's back-tax liability, we determine that the trial court's ultimate alimony award was not an abuse of discretion. The back-tax liability was merely one data point relevant to one of the twelve non-exclusive factors considered. Moreover, the trial court's consideration of the back-tax liability was significantly, if not totally, offset by Cole's omission of her 2013 state-federal tax liability from her Rule 9-203 financial statement form, which we calculate should have been approximately $1,602.50 monthly.[3] Given that $1,602.50 per month is greater than the back-tax liability erroneously considered by the trial court, we find it is not arbitrary for us to allow the two items to

[3] We arrive at this figure by combining (1) Cole's 2011 combined state-federal tax liability of $21,588, or $1,799 monthly and (2) Cole's 2012 combined state-federal tax liability of $16,876, or $1,406 monthly to yield (3) an averaged combined state-federal tax liability in years 2011 and 2012 of $19,230 annually or $1,602.50 monthly.

roughly cancel each other out. After weighing the full spectrum of factors (of which this back-tax liability was just a small part), the trial court adjusted the previous alimony award by making a $400 monthly increase. In this context, the court's consideration of Cole's back-tax liability was not outcome-determinative. Therefore, we hold that there was no abuse of discretion.

B. Inclusion of Psychotherapy and Prescription Costs

Wolins next takes umbrage at the trial court's acceptance of Cole's medical expenses, specifically $400 in psychotherapy expenses and $200 in prescription expenses. He complains that the testimony asserting these expenses was uncorroborated.[4] Cole responds that she carries no burden of proving the reasonableness of medical expenses. We need not reach Cole's question of burdens, however, because we conclude that the evidentiary basis for accepting Cole's medical expenses is easily found in the record. Accordingly, we hold that the trial court did not abuse its discretion when it credited Cole with psychotherapy and prescription expenses.

[4] Wolins also argues that Cole's own evidence contradicts her claimed psychotherapy and prescription costs. Cole presented invoices for seven psychotherapy sessions with Kathleen Nardella between July 30, 2013, and October 8, 2013. Wolins argues that Nardella's invoice proves that she sees Cole infrequently and irregularly rather than on a regular, weekly basis. The trial court, however, need not have, and did not rely on the invoice alone to prove the legitimacy of Cole's expense. The invoice, together with Cole's testimony, were a sufficient evidentiary basis for the trial court to accept $400 per month as an allowable psychotherapy expense for Cole.

Determining whether there is sufficient evidence to support a party's claimed expenses in an alimony proceeding is a discretionary decision made by the trial court. *Corby v. McCarthy*, 154 Md. App. 446, 499 n.7 (2003). Wolins claims that *Corby* stands for the proposition that without a *specific* level of documentation, a court may not reasonably consider *in futuro* expenses. This is a misunderstanding of *Corby*. *Corby* stands for the proposition that "a court may consider [*in futuro*] expenses if sufficiently documented." *Id*. This Court in *Corby* held that it is wholly within the trial court's discretion to determine whether *in futuro* expenses are "sufficiently documented." *Id*. (holding that the "trial court acted within its discretion" after weighing available evidence and determined "that the expense was not properly documented."). Thus, there is no specific bar, no set type or quantity of evidence that a party must present for the trial court to approve that party's expenses. The key here is that the trial court, like the trial court in *Corby*, acted within its discretion because there was sufficient evidence in the record to support its finding.

The record provides support for Cole's claimed medical expenses. *First*, both Cole's testimony and that of her physician, Dr. Filner, affirm that she has been prescribed medication for hypertension, depression, and pain, and that she sees a therapist semi-regularly. Cole also testified about her hypertension and need for medication:

> [Cole's Counsel]: And who, do you see a doctor who prescribes medication for the hypertension?
>
> [Cole]: Yes, I do …

[Cole]: I see an endocrinologist because I am also diabetic. So I see Dr. John Maradino…

Dr. Filner then testified about Cole's need for medication to treat her depression:

[Cole's Counsel]: Are you aware of Ms. Cole being prescribed Paxil by Dr. Maradino?

[Dr. Filner]: I seem to recall that …I do recall that because she's exhibited some significant aspects of anxiety…

Dr. Filner also testified that Cole requires pain medication:

[Cole's Counsel]: Did there come a … time when you did prescribe medication for Ms. Cole?

[Dr. Filner]: Yes.

[Cole's Counsel]: And what kind of medication was that?

[Dr. Filner]: Continuous relief morphine sulfate …

Finally, Cole testified about her psychotherapy sessions:

[Cole's Counsel]: Do you see anyone for therapy now?

[Cole]: Yes.

[Cole's Counsel]: And who do you see?

[Cole]: I see Kathleen Nardella weekly.

Second, testimony from Dr. Filner supports Cole's assertions of necessity for medical expenses. Dr. Filner testified to Cole's overall physical decline, her inability to work, and her ongoing need for certain medications:

[Cole's Counsel]: What was the diagnosis of Ms. Cole?

[Dr. Filner]: My impression at that time [August 21, 2002] was that she had a myofascial pain syndrome causing most of her active pain problems…

* * *

[Cole's Counsel]: Did there come a … time when you did prescribe medication for Ms. Cole?

* * *

[Dr. Filner]: Continuous relief morphine sulfate …

* * *

[Cole's Counsel]: [D]id you render an opinion with respect to … whether or not Ms. Cole could be gainfully employed? …

[Dr. Filner]: My opinion was that it would be highly unlikely that she would be able to be gainfully employed in the foreseeable future related to the requirements of just about any job of sitting, standing, lifting, bending[,] or walking. And in her field of expertise that would require extra pain medication and might make her again not able to function in a way that would be acceptable in terms of dealing with clients so that it seemed to me that working in the field that she had been working in was not going to be occurring in the foreseeable future.

* * *

[Cole's Counsel]: What, if anything, have you observed with respect to any issues of depression with regard to Ms. Cole?

* * *

[Dr. Filner]: She[,] like just about every patient who has chronic pain[,] has been depressed ever since I've known her. … Usually

> what they have is what we call a secondary depression[,] meaning it is due to the problem that is ongoing.

Third, prescription receipts document a history of Cole's use of prescription medications. *Fourth*, the invoice from Cole's therapist Kathleen Nardella, LCSW-C ("Nardella") shows a continuing therapeutic relationship.

The above evidence: Cole's testimony, Dr. Filner's testimony, prescription records, and the billing statement from Cole's therapist all support the trial court's decision to accept Cole's psychotherapy and prescription expenses. We have no reason to doubt the trial court's determination. We certainly find no abuse of discretion.

C. Cole's Income Calculation

Wolins' third issue with the alimony award is the trial court's calculation of Cole's gross monthly income. The trial court found that Cole' gross monthly income was $577. Wolins challenges this finding, relying on the trial court's statement that Cole is "capable of earning more at the present time than she is." It is Wolins' belief that instead of $577, the trial court should have used a gross monthly wage of $1,916 to calculate the alimony award, which is the amount she reported on her Rule 9-203 Financial Statement Form.

The calculation of a party's income is but one factor utilized by the trial court to determine an appropriate alimony award. We will affirm an alimony award "if there is competent or material evidence in the record to support the court's conclusion." *Lemley* 109 Md. App. at 628. "The alimony statute in its entirety renounces an approach based on rote or formula." *Tracey v. Tracey*, 328 Md. 380, 389 (1992). Again, we will not disturb

an alimony award "unless the trial court's judgment is clearly wrong or an arbitrary use of discretion." *Blaine*, 97 Md. App. at 698.

The trial court acted within its discretion in calculating Cole's gross monthly income at $577. Though Wolins would have alimony be a derivative of a static formula—something like (a) + (b) = (c)—under Maryland law, an alimony calculation is a discretionary act by the trial court. The trial court considered Cole's physical capacity and used that to determine how many hours Cole is capable of working in a standard month. In balancing Cole's ability to work with her ongoing medical conditions, the trial court concluded that, while Cole has the ability to work as much as 76 hours as she did in November of 2013, it was far more likely that her ability to work was better reflected by the 23 hours she was able to work in December of 2013:

> So, I conclude that I think the plaintiff is capable of earning more at the present time than she is. She was able to work 76 hours for instance, in November of 2013, but that was followed by 23 hours the next month. Even if she maintained that schedule, she would be grossing roughly $23,000 a year, and I just don't know what effect that would have on her disability payment. I think to be candid at this point, and I, you know, never say never, I think [Cole has] made about as much medical progress as she's going to make, and I think indefinite alimony is awardable. The other factors are satisfied on that basis.

Cole's ability to work only these limited hours was corroborated both by her employer, Elizabeth Wainstein, and by her pain physician, Dr. Filner. Wainstein testified to Cole's diminished physical capacity: "sometimes she has to take breaks and go sleep,

go stretch out on the couch." Dr. Filner's testimony corroborated Wainstein's experiences with Cole, and articulated why Cole is unable to work full time:

> My opinion was that it would be highly unlikely that she would be able to be gainfully employed in the foreseeable future related to the requirements of just about any job of sitting, standing, lifting, bending[,] or walking. And in her field of expertise that would require extra pain medication and might make her again not able to function in a way that would be acceptable in terms of dealing with clients so that it seemed to me that working in the field that she had been working in was not going to be occurring in the foreseeable future.

We hold that the trial court's calculation of Cole's gross monthly income was supported by competent and material evidence.

Finally, we also reject Cole's assertion that the trial court's alimony award was insufficient given the parties' income disparity. A trial court's alimony calculation is discretionary, and upon consideration of factors set forth in FL §§ 11-106, 11-107, "a court must be vested with the discretion necessary to tailor its decision in fairness." *Blaine*, 336 Md. at 66-67. We hold that increasing the amount of alimony, but not by so much as Cole wanted, was neither clearly erroneous nor arbitrary given the record, and accordingly affirm.

On the whole, with respect to the parties' respective claims regarding the alimony award, we conclude that the trial court acted well within its rights. The trial court reviewed the financial statements of both parties, made findings, and went through the statutory alimony factors "implicated by virtue of this request for modification on both sides." A review of the evidence available on the record demonstrates that there was competent and

material evidence to support the trial court's award. Given this support, therefore, we hold that there was no abuse of discretion.

II. Child Support

Wolins argues that the trial court erred in denying his request for child support. Under the prior court orders, Wolins had paid child support to Cole when the parties' two children resided with her. After the couple's older child was emancipated, the couple's younger child moved in with Wolins. Wolins filed to reverse the flow of child support: instead of Wolins paying child support to Cole, Wolins wanted Cole to pay child support to him.

The trial court suspended Wolins' obligation to pay child support to Cole and made that suspension retroactive to June 30, 2013, the approximate date on which the couple's younger child moved in with Wolins. The trial court, however, rejected the suggestion that Cole should pay child support to Wolins:

> I decline to award child support to [Wolins]. This is not a guidelines case in my view, but extrapolating from the guidelines … And I think we're talking essentially about $1,100 that would be attributable to [the parties' younger son], per month, because [the parties' older son] has reached majority. And while I have not, and [the trial court in 2009] did not countenance the continued maintenance of Ed at Landon School, I think many would say, not all of us, and it's subjective, it's certainly in the view of many a prestigious education that he might not receive at a public school. But, I'm a public school graduate, so I don't want to offend anybody here, and it has benefitted him at [Cole's] cost. And I don't find it equitable to force [Cole] to pay child support for a relatively short period of time, in view of the benefit the child received.

The question of whether and by how much to modify child support "is left to the sound discretion of the trial court." *Smith v. Freeman*, 149 Md. App. 1, 21 (2002). The Maryland Child Support Guidelines, codified in FL §§ 12-201 – 12-204, are based on the premise that "a child should receive the same proportion of parental income, and thereby enjoy the standard of living, he or she would have experienced had the child's parents remained together." *Voishan v. Palma*, 327 Md. 318, 322 (1992). The trial court need not modify an award of child support where a child's level of support is not actually related to the moving party's alleged change in circumstance. *Petitto v. Petitto*, 147 Md. App. 280, 307 (2002) (concluding in part that to consider the modification of an award of child support the change in circumstance must be relevant to the level of support the child is actually receiving). We will not disturb the trial court's modification decision "so long as the [trial court's] discretion was not arbitrarily used or based on incorrect legal principles. *Tucker v. Tucker*, 156 Md. App. 484, 492 (2004).

We see no abuse of discretion here. Because this is an "above guidelines" case,[5] the trial court is allowed a great degree of discretion in awarding child support. See *Richardson v. Boozer*, 209 Md. App. 1, 17-18 (2012) (citing FL § 12–204(d)). Here, the couple's younger child moved in with Wolins for a relatively short period—the last year of high school. Moreover, by moving in with Wolins, the couple's younger child was moving into

[5] FL §12-204(e) sets forth child support amounts for combined adjusted actual incomes of up to $15,000 per month. Beyond that amount, is considered "above guidelines" and the child support amount may be awarded in the discretion of the court. FL §12-204(d); *Richardson v. Boozer*, 209 Md. App. 1, 17-18 (2012).

the custody of the parent with significantly greater means to support him. As a result, the trial court could have concluded that child support was not needed for the couple's younger child to "receive the same proportion of parental income, and thereby enjoy the standard of living, he … would have experienced had [his] parents remained together." *Voishan*, 327 Md. at 322. We see no error.

We also reject Wolins' argument that the amount of child support occasioned by the couple's younger child's private school tuition is *res judicata*. His argument is that in 2009, the trial court declined to make Wolins pay for the couple's younger child's tuition at the Landon School. As a result, for at least the initial years of school at Landon, Cole paid the tuition. From this, Wolins distills the principle that Cole is supposed to pay the couple's younger child's tuition, and demands that this principle is entitled to *res judicata* effect—binding the court in all future decisions. Of course it might instead be that the principle decided in 2009 was that the custodial parent is responsible for tuition payments and that that determination should be given preclusive effect, but Wolins doesn't mention that possibility.

But we don't think it works this way. It is true that child support decisions are final judgments and are generally entitled to preclusive effect. *Lieberman v. Lieberman*, 81 Md. App. 575, 597 (1990) (holding that "doctrine of *res judicata* applies in the modification of … child support and the court may not re-litigate matters that were or should have been considered at the time of the initial award."). This preclusive effect, however, is modified by FL §12-104(a), which allows re-litigation upon a "showing of a material change in

circumstances." And we think it is a necessary corollary of this rule that if a party demonstrates a material change of circumstances, then all aspects of the child support award are open again and subject to modification. A party cannot pick and choose, which components of a child support award are open and which are closed. All are closed until there is a material change in circumstances and then all are open. Thus, when Wolins demonstrated a material change in circumstances—and the couple's younger child's change in residence is clearly a material change—then all aspects of the award, including responsibility for tuition payments, are open for the court's review. And because it was open for review, and because it was not an abuse of discretion to deny the request for child support, we affirm.

III. Attorneys' Fees

Cole argues that the trial court's $10,000 award of attorneys' fees was insufficient given Wolins' high level of income and the amount of fees amassed during the course of all of this litigation. Cole does not specify a requested amount arguing only that, compared to her overall bill of $104,160, the $10,000 award was far too little. Wolins contends that Cole failed to show that a higher award would be reasonable given the "spare" nature of Cole's attorneys' fees entries, and given that the trial court should not be required to guess at the nature of services provided. We conclude that the trial court did not abuse its discretion when it awarded attorneys' fees.

Pursuant to FL § 11-110(c), a trial court may grant attorneys' fees in connection with an alimony award after considering: "(1) the financial resources and financial needs

of both parties; and (2) whether there was substantial justification for prosecuting or defending the proceeding." "The award of counsel fees is reviewed under the abuse of discretion standard. A circuit court's decision in this regard 'will not be reversed unless a court's discretion was exercised arbitrarily or the judgment was clearly wrong.'" *Meyr v. Meyr*, 195 Md. App. 524, 552 (2010) (quoting *Petrini v. Petrini*, 336 Md. 453, 468 (1994)).

In making the award of attorneys' fees to Cole, the court criticized Cole for prolonging the litigation:

> Now, [Cole's exhibit], which was the bill for legal services, that was submitted by [Cole's attorney] is admittedly quite spare on detail, as was pointed out by the defense, and … to judge the reasonableness of the fees, the court really is required to know with more particularity what was done. However, the hourly charge was below market, quite reasonable. The representation on both sides in my view was superb, nothing less that superb. There was probably 20 or more hours that the parties spent before me, and I, having practiced law myself at one time in the distant past, know that for every hour in court, there's probably five or six hours of preparation. So, I have no problem concluding that the amount of time totally spent was reasonable.
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> * * *
>
> But I've also taken into account the fact that I thought that some of the litigation was unnecessarily prolonged by virtue of the [Cole] with regard to the child support issue. $20,000 was awarded by [the trial court] for the underlying case, which was admittedly seven years ago, but based upon all that, I believe that the $10,000 is a reasonable sum for attorneys' fees, and I will award fees to the [Cole] from [ ] [Wolins] in that amount.

Given the trial court's analysis and resulting award of attorneys' fees, we determine there was no abuse of discretion.

In light of the factual findings articulated by the trial court and supported by the record, we conclude that the trial court did not abuse its discretion in resolving questions of alimony, child support, and attorneys' fees.

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