

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2267

September Term, 2014

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EDWARD J. NORRIS

v.

KATHLEEN K. KENNEDY  
f/k/a KATHLEEN K. NORRIS

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Wright,  
Kehoe,  
Nazarian,

JJ.

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Opinion by Wright, J.

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Filed: January 19, 2016

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

On May 1, 2013, appellee/cross-appellant, Kathleen Kennedy, filed a complaint in the Circuit Court for Baltimore County seeking an absolute divorce from appellant/cross-appellee, Edward Norris.<sup>1</sup> On August 21, 2013, Norris filed a counter-complaint for limited divorce. On December 4, 2013, the parties entered into a *pendente lite* consent order directing, in pertinent part, “that in Lieu of *Pendente Lite* Alimony [Kennedy] may continue to utilize funds that she segregated from joint accounts at the time of separation[.]”

A trial was held on March 10, 11, 24, 25, and 26, 2014. In lieu of closing arguments, the parties submitted written memoranda to the court. On June 12, 2014, the circuit court granted Kennedy an absolute divorce from Norris and ordered Norris to pay Kennedy indefinite alimony in the amount of \$5,000.00 per month, as well as \$26,000.00 “representing retroactive alimony in the amount of \$2,000 per month for 13 months.” In so ruling, the court found that neither party dissipated assets. In its judgment, the court also ordered that “neither party shall be awarded any attorneys’ fees.”

On June 23, 2014, Norris filed a motion for reconsideration, and on August 26, 2014, Kennedy filed a petition to enforce judgment, the sale of the marital home, the sale of disputed personal property, and for reconsideration of the amount of retroactive alimony. Following a motions hearing on October 20, 2014, the circuit court issued a revised memorandum opinion and order on December 1, 2014, addressing those matters.

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<sup>1</sup> Kennedy would later file a first and second amended complaint.

On December 31, 2014, Norris filed his appeal, and on January 9, 2015, Kennedy cross-appealed.

### Questions Presented

Norris presents the following questions:

1. Where the parties entered into a *pendente lite* consent order in which [Kennedy] waived her claim for *pendente lite* alimony, did the trial court err and/or abuse its discretion in awarding thirteen months of retroactive alimony?
2. Did the trial court err and/or abuse its discretion when it awarded indefinite alimony where there was no factual showing that [Kennedy's] standard of living would be unconscionably disparate without indefinite alimony?

In her cross-appeal, Kennedy adds the following questions for our review:

3. Did the trial court err in finding that [Norris] did not dissipate any marital assets?
4. Did the trial court abuse its discretion in denying [Kennedy's] request for an award of attorney's fees?

We answer both of Norris's questions in the affirmative. Accordingly, we reverse the portion of the circuit court's judgment that granted Kennedy thirteen months of retroactive alimony, vacate the portion that granted Kennedy \$5,000.00 per month in indefinite alimony, and remand the case for a reconsideration of Kennedy's indefinite alimony claim. Because we are remanding for that purpose, we shall also remand on the issue of Kennedy's attorney's fees. We otherwise affirm the remainder of the circuit court's judgment, including its finding that Norris did not dissipate any marital assets.

## Facts<sup>2</sup>

The parties to this appeal were married in a religious ceremony on September 12, 1987, in Williamsport, Pennsylvania. Subsequently, the parties had two sons, both of whom had reached the age of majority by the time of the divorce filing. In her second amended complaint, Kennedy alleged, in pertinent part:

12. That since the parties' separation [on February 14, 2013], [Norris] has spent or otherwise depleted marital funds or property without any family use purpose, but with the principal purpose of reducing the amount of funds that would be available for equitable distribution at the time of divorce.

13. That [Norris] is gainfully employed as an anesthesiologist, making a salary in excess of \$300,000.00 annually.

14. That [Kennedy] is gainfully employed at this time making a salary in excess of \$80,000.00 annually, however she makes substantially less than [Norris], and even with [Kennedy's] employment, the respective standards of living of the parties will be unconscionably disparate.

15. That [Norris] makes nearly four times what [Kennedy] makes and he can contribute to her fees.

While the divorce was pending, the parties entered into a *pendente lite* consent order, which provided:

1. In lieu of *pendente lite* alimony, [Kennedy] may continue to utilize funds that she segregated from joint accounts at the time of separation for paying personal expenses, and [Norris] shall not claim that same was a prepayment of her share of marital property.

2. Both parties may also access and use non-retirement liquid marital assets for the purpose of paying personal expenses.

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<sup>2</sup> Because the parties challenge the circuit court's ruling only as to rehabilitative alimony, indefinite alimony, dissipation of marital assets, and attorney's fees, we shall include only those facts that are relevant to our review of the disputed issues.

3. Neither party shall liquidate and use their respective retirement assets for the purpose of paying their personal expenses.
4. Neither party shall claim that the possession by either party of any funds that were or became in their control as of the date of their separation limits their respective claims for a monetary award, provided that both parties preserve their right to claim that the other party dissipated marital property.
5. Both parties reserve their respective claims for attorney's fees.
6. The parties shall engage in good faith settlement discussions for the purpose of resolving the issue of the disposition of the marital home, located at 11524 Hunters Run Drive, Hunt Valley, Maryland 21030, and in anticipation of the settlement conference scheduled for December 4, 2013.
7. [Norris] shall maintain health insurance coverage (including vision and dental) for the benefit of [Kennedy] until the parties are awarded a judgment of absolute divorce.
8. The terms of this agreement shall be in force during the *pendente lite* period (until the earlier of such time as the parties reach a settlement on the merits or the court enters a Judgment of Absolute Divorce).

Nonetheless, in her closing memorandum following the trial, Kennedy requested “some retroactive alimony” pursuant to Md. Code (1984, 2012 Repl. Vol.), § 11-106(a) of the Family Law Article (“FL”). According to Kennedy, she agreed to the terms of the consent order “based on the representation and agreement by [] Norris that they would work in good faith toward listing the home for sale,” but “Norris did nothing to further that promise” as he “continued to live rent-free in the marital home.” As a result, Kennedy sought “only what she paid in rent each month since the separation as an equitable amount of retroactive alimony, an expense that [] Norris did not have.” She alleged that this totaled \$2,000.00 per month for thirteen months.

After a five-day trial in March 2014, the circuit court issued its memorandum opinion and order on June 12, 2014. While analyzing the facts pursuant to FL § 11-106(b)(10), the circuit court found that “[t]he parties ha[d] no agreement regarding alimony.” In granting Kennedy’s requests for both retroactive and indefinite alimony, the court concluded:

The above analysis of the statutorily mandated factors clearly shows that [Norris] can afford an alimony payment to [Kennedy] while maintaining the ability to pay off credit card balances in full each month and grow his savings.

While the parties’ spending habits since the separation suggest that both can meet their basic needs, it is also clear that without support being given to [Kennedy], the respective standards of living of the parties will become unconscionably disparate.

[Kennedy] is approaching retirement age. The parties planned for her to retire as early as sixty-two years of age. Her retirement date will need to be delayed due to their divorce. Having considered all of the evidence, including the arguments and submissions of counsel regarding the use of alimony guidelines, and having applied the statutory factors of 11-106(b), this Court finds that the respective standards of living of the parties will be unconscionably disparate even after the marital property is divided. Therefore, [Kennedy] will be awarded indefinite alimony in the amount of \$5,000 per month. Furthermore, pursuant to 11-106(a), [Kennedy] will be awarded retroactive alimony in the amount of \$2,000 per month for thirteen (13) months.

In analyzing the parties’ marital property for the purpose of determining whether a monetary award is appropriate, the circuit court found that “no assets have been

dissipated for purposes of avoiding dividing them.”<sup>3</sup> Lastly, as to the parties’ requests for attorney’s fees, the court ruled:

Both parties have substantial non-retirement assets that, combined with their considerable incomes and the alimony provided in this case, can meet their expenses related to this litigation. This suit was instituted in 2013 and, despite counsel’s best efforts, settlement attempts were unsuccessful resulting in a protracted evidentiary hearing. To everyone’s credit, expenses were kept to a minimum including avoiding unnecessary expert testimony.

In light of the alimony and monetary award, the claims for attorney’s fees, costs and expenses are denied.

Additional facts will be included, below, as they become pertinent to our discussion.

## Discussion

### I. Retroactive Alimony

Norris first argues that the circuit court erred or abused its discretion in awarding thirteen months of retroactive alimony because the parties had previously entered into a *pendente lite* consent order wherein Kennedy waived her claim for *pendente lite* alimony. In support of his argument, Norris points to Maryland cases that have recognized that “alimony in general, and specifically, alimony *pendente lite*, may be waived.” *See Turrisi v. Sanzaro*, 308 Md. 515, 530 (1987) (holding that party waived alimony and therefore trial court was precluded from awarding it); *Frey v. Frey*, 298 Md. 552, 562 (1984) (rejecting rule that waiver of alimony is “void per se as contrary to public policy).

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<sup>3</sup> In its revised order issued on December 1, 2014, the circuit court ordered Kennedy to pay Norris a monetary award of \$16,612.07.

Norris also notes that such a waiver is valid so long as the underlying agreement is “just and equitable.” *Frey*, 298 Md. at 564 (citations omitted).

In response, Kennedy contends that the court’s award of retroactive alimony was proper. According to Kennedy, Norris’s argument is flawed because “the trial court did not in fact award alimony *pendente lite* . . . but rather rendered an award for retroactive alimony.” We are not persuaded by the distinction that Kennedy attempts to create.

“When reviewing a trial court’s award as to alimony, an appellate court will not reverse the judgment unless it concludes that ‘the trial court abused its discretion or rendered a judgment that was clearly wrong.’” *Malin v. Mininberg*, 153 Md. App. 358, 414-15 (2003) (quoting *Crabill v. Crabill*, 119 Md. App. 249, 260 (1998)). Likewise, “[t]he award of temporary alimony is left to the sound discretion of the chancellor upon a consideration of the circumstances in each particular case[.]” *Moore v. Moore*, 218 Md. 218, 222 (1958). “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*, 153 Md. App. at 415 (citing *Reese v. Huebschman*, 50 Md. App. 709, 712 (1982)). “A finding of a trial court is not clearly erroneous 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) (citations omitted).

In this case, it is undisputed that a consent order was entered on December 4, 2013, wherein Kennedy agreed to “continue to utilize funds that she segregated from joint accounts at the time of separation for paying personal expenses” in “lieu of *pendente*

*lite* alimony.” We have previously defined “an award of alimony *pendente lite*” as “a monetary payment pending the outcome of litigation which has been instituted but which has not been concluded.” *Maynard v. Maynard*, 42 Md. App. 47, 49 (1979). Here, the circuit court awarded retroactive alimony to account for precisely that time period – between the filing of the initial complaint and the issuance of the judgment of divorce. And, because the court erroneously found that “[t]he parties ha[d] no agreement regarding alimony,” in granting retroactive *pendente lite* alimony to Kennedy, then it abused its discretion in making that award.

On appeal, Kennedy repeats her argument that “Norris did nothing to further [his] promise” pursuant to their agreement and, therefore, it should not be enforced with regard to her concessions. The circuit court, however, did not make a finding as to the enforceability of the agreement or the parties’ fulfillment of their obligations under the agreement. As previously explained, the court’s sole finding in this matter was its erroneous conclusion that no agreement existed regarding alimony. Accordingly, we reverse the court’s grant of retroactive alimony.

## **II. Indefinite Alimony**

Next, Norris argues that the circuit court erred or abused its discretion in awarding indefinite alimony “where there was no factual showing that [Kennedy’s] standard of living would be unconscionably disparate without indefinite alimony.” In advancing this argument, Norris notes that “a percentage disparity alone cannot justify a finding of unconscionable disparity which would justify indefinite alimony.” According to Norris,

“there must be evidence and fact finding to support the judicial conclusion that the post-divorce lifestyles of the parties would be unconscionably disparate.”

In response, Kennedy argues that the circuit court’s award of indefinite alimony was proper because even after Kennedy has “made as much progress toward becoming self-supporting as can be reasonably expected, the respective standards of living of the parties would still be unconscionably disparate.” Moreover, Kennedy avers that “because the court properly considered all of the relevant statutory factors in finding that the parties’ standards of living would be unconscionably disparate in the absence of indefinite alimony, the court did not abuse its discretion in making that award.”

In deciding whether to make an award of alimony and, if so, in what amount and for what duration, the 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;
- (2) the time necessary for the party seeking alimony to gain sufficient education or training to enable that party to find suitable employment;
- (3) the standard of living that the parties established during their marriage;
- (4) the duration of the marriage;
- (5) the contributions, monetary and nonmonetary, of each party to the well-being of the family;
- (6) the circumstances that contributed to the estrangement of the parties;
- (7) the age of each party;
- (8) the physical and mental condition of each party;
- (9) the ability of the party from whom alimony is sought to meet that party’s needs while meeting the needs of the party seeking alimony;
- (10) any agreement between the parties;
- (11) the financial needs and financial resources of each party, including:

- (i) all income and assets, including property that does not produce income;
  - (ii) any award made under §§ 8-205 and 8-208 of this article;
  - (iii) the nature and amount of the financial obligations of each party; and
  - (iv) the right of each party to receive retirement benefits; and
- (12) whether the award would cause a spouse who is a resident of a related institution as defined in § 19-301 of the Health - General Article and from whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur.

FL § 11-106(b).

“The court has discretion . . . to award indefinite alimony in exceptional cases,”

*id.*, if it finds that:

- (1) due to age, illness, infirmity, or disability, the party seeking alimony cannot reasonably be expected to make substantial progress toward becoming self-supporting; or
- (2) even after the party seeking alimony will have made as much progress toward becoming self-supporting as can reasonably be expected, the respective standards of living of the parties will be unconscionably disparate.

FL § 11-106(c). With regard to the second factor:

There are several cases in which Maryland appellate courts found unconscionable disparity based on the relative percentage the dependent spouse’s income was of the other spouse’s income. *See Tracey [v. Tracey]*, 328 Md. 380, 393 (1992), 614 A.2d at 597 (28 percent); *Caldwell v. Caldwell*, 103 Md. App. 452, 464, 653 A.2d 994, 999 (1995) (43 percent); *Blaine v. Blaine*, 97 Md. App. 689, 708, 632 A.2d 191, 201 (1993), *aff’d on other grounds*, 336 Md. 49, 646 A.2d 413 (1994) (23 percent); *Rock v. Rock*, 86 Md. App. 598, 613, 587 A.2d 1133, 1140 (1991) (20 - 30 percent); *Broseus v. Broseus*, 82 Md. App. 183, 186, 570 A.2d 874, 880 (1990) (46 percent); *Bricker v. Bricker*, 78 Md. App. 570, 577, 554 A.2d 444, 447 (1989) (35 percent); *Benkin v. Benkin*, 71 Md. App. 191, 199, 524 A.2d 789, 793 (1987) (16 percent); *Zorich v. Zorich*, 63 Md. App. 710, 717, 493 A.2d 1096, 1099 (1985) (20 percent); *Kennedy v. Kennedy*, 55 Md. App. 299, 307, 462 A.2d 1208, 1214 (1983) (33 percent). Although we do

not adopt a standard that unconscionable disparity exists based on a particular percentage comparison of gross or net income, the relative percentages in these cases offer some guidance here in assessing whether the amount of the indefinite alimony award alleviated adequately the unconscionably disparate situation found to exist in the present case.

*Solomon v. Solomon*, 383 Md. 176, 198 (2004). In addition, the Court of Appeals has stated:

To award indefinite alimony in a twenty-year marriage is not at all unusual. There has long been a pattern in Maryland cases reflecting the implied statutory directive that a long marriage is more likely to result in indefinite alimony. Indeed, it is fair to say that length of the marriage is a key factor, outweighing several of the others listed in FL § 11-106(b), in determining what is unconscionably disparate. Thus, the trial court’s use of the twenty-year benchmark from the AAML [American Academy of Matrimonial Lawyers] guidelines for its award of indefinite alimony is not at all inconsistent with Maryland law.

*Boemio v. Boemio*, 414 Md. 118, 143 (2010) (footnote omitted).

When awarding indefinite alimony, the court must discuss how, in its opinion, the “living standards would be unconscionably disparate absent [the] award[.]” *Lee v. Andochick*, 182 Md. App. 268, 288 (2008) (citation omitted). “A trial court’s finding of unconscionable disparity under subsection (c) is a question of fact, and we review it under [a] clearly erroneous standard[.]” *Roginsky v. Blake-Roginsky*, 129 Md. App. 132, 143 (1999). “Additionally, a trial court has broad discretion in making an award of alimony, and a decision whether to award it will not be disturbed unless the court abused its discretion.” *Id.* Generally, we give “great deference to the findings and judgments of trial judges, sitting in their equitable capacity, when conducting divorce proceedings.”

*Tracey*, 328 Md. at 385 (1992) (citation omitted). The court’s ultimate decision, however, cannot be arbitrary. *Malin*, 153 Md. App. at 415.

*Lee, supra*, is instructive. In that case, the trial court granted Andochick’s request for indefinite alimony after finding, in pertinent part:

[T]he relative percentages in unconscionable disparity cases offer some guidance in identifying an unconscionable disparity. [Andochick’s] current income is \$267,000.00 per year and the court declines to impute additional income. [Lee’s] projected 2006 income is \$1,760,282.00. [Andochick’s] income is 15% of Defendant’s income. The disparity of income between [the parties] is greater than the disparity of incomes in cases cited by the Court of Appeals in *Solomon* (16%-46%) where an unconscionable disparity was found.

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The parties have enjoyed an income which has enabled them to live without significant limitation on their discretionary spending. While [Andochick] can clearly be self-supporting, she can resume a portion of the standard of living of the parties only with alimony from [Lee].

*Lee*, 182 Md. App. at 285-86.

On appeal, we reversed the award of indefinite alimony, noting that “the court’s opinion provides only one clue as to how it arrived at that [implied] finding, *viz*: the huge differences in the parties’ gross incomes.” *Id.* at 286. In addition, we went on to conclude that “even if the trial judge impliedly made a finding of unconscionable disparity in the standards of living of the two litigants and even if the court had explained that finding, reversal would still be required because [] Andochick did not meet her burden of producing evidence to support a finding that post-divorce the living standards of the parties would be unconscionably disparate.” *Id.* at 288. Specifically:

it is significant that [] Andochick did not testify as to anything that would be missing from her prior lifestyle, if she could put into effect her aspirational budget. Nor did she produce evidence (other than the showing as to each party's gross income) that could conceivably lead to the conclusion that her post-divorce standard of living would be unconscionably disparate to that of [] Lee without the grant of indefinite alimony. What the evidence showed was that the current lifestyle of Lee is not in any way superior to the standard reflected in Andochick's aspirational budget.

*Id.* at 289.

In this case, the circuit court concluded that “[w]hile the parties’ spending habits since the separation suggest that both can meet their basic needs, it is also clear that without support being given to [Kennedy], the respective standards of living of the parties will become unconscionably disparate.” Other than mentioning Kennedy’s need to delay her retirement and summarily referring to “all of the evidence, including the arguments and submissions of counsel regarding the use of alimony guidelines, and . . . [FL] 11-106(b),” the court explained nothing else before stating that “the respective standards of living of the parties will be unconscionably disparate even after the marital property is divided.”

As in *Lee*, 182 Md. App. at 287-88, “[n]othing in the record causes us to doubt that the trial judge knew the applicable law[,]” but “it would have been useful if the court had given us the benefit of its analysis as to how it arrived at the conclusion that, without an award of alimony, the parties’ respective standards of living would be unconscionably disparate.” For example, the circuit court could have determined the amount of the parties’ actual expenses post-divorce, in order to determine whether the “modest standard

of living” that the parties’ enjoyed during the marriage could be maintained by both Norris and Kennedy. If the circuit court wanted to factor in the ability to save for retirement, it could have mentioned this factor.

As in *Lee*, there was no testimony from Kennedy, that on her own income, she would now have to give up certain amenities or activities that she enjoyed prior to separation. Moreover, other than to demonstrate a disparity in incomes, Kennedy presented no evidence that she would be living less than a modest lifestyle. *Compare Brewer v. Brewer*, 156 Md. App. 77, 104 (2004) (stating that even if “the trial court correctly found that there was a ‘great disparity’ in the parties’ assets, that is not a sufficient basis for awarding indefinite alimony”), *with Boemio*, 414 Md. at 145 (stating that “the trial court’s decision here was based on more than just income differential”). We agree with Norris that without this factual foundation, the circuit court could not have possibly determined that Kennedy needed additional funds in order to maintain the standard of living to which she was accustomed.

For these reasons, we vacate the circuit court’s award of indefinite alimony to Kennedy and remand the case. Upon remand, the court should reevaluate this issue in light of FL § 11-106(c) and the relevant cases, and in so doing, further explain its ruling.<sup>4</sup>

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<sup>4</sup> To be clear, in vacating the award of indefinite alimony, we are not necessarily concluding that the circuit court erred in applying the FL § 11-106(b) factors, in granting a monthly amount of \$5,000.00, or even in granting alimony for an indefinite period. Our holding today is simply that the court abused its discretion in awarding indefinite alimony *without explaining* “how it arrived at the conclusion that, without an award of alimony, the parties’ respective standards of living would be unconscionably disparate.” *Lee*, 182 Md. App. at 288.

### **III. Dissipation of Marital Assets**

In her cross-appeal, Kennedy argues that the circuit court erred in finding that Norris did not dissipate marital assets. According to Kennedy, Norris “made unnecessary expenditures, numerous cash withdrawals, transfers and other unnecessary financial actions,” evidenced by the fact that he had approximately \$390,913.00 in three bank accounts at the beginning of the separation period, but he had a total balance of only \$215,960.00 at the time of trial.

“[D]issipation [occurs] where one spouse uses marital property for his or her own benefit for a purpose unrelated to the marriage at a time where the marriage is undergoing an irreconcilable breakdown.” *Omayaka v. Omayaka*, 417 Md. 643, 651 (citation omitted). To consider property that was disposed of during the marriage as marital property, “the trial court must be persuaded that there is evidence of dissipation, and the party alleging dissipation has the initial burden of production and burden of persuasion.” *Id.* at 653 (citation omitted). “A trial court’s judgment regarding dissipation is a factual one and, therefore,” we review it under a clearly erroneous standard. *Id.* at 652. “If there is any competent evidence to support the factual findings below, those findings cannot be held to be clearly erroneous.” *Id.* (citations omitted).

A review of the record in this case reflects that there was competent evidence to support the circuit court’s finding that there was no dissipation on Norris’s part. Norris testified in detail as to each of his accounts, transfers between the accounts, and withdrawals that he made. He explained that many of the transfers were made in order to

pay bills, including attorney’s fees, and that a new account was opened due to an identity theft problem. Norris’s other expenses included purchasing an Audi automobile to replace his 1995 Mercedes and purchasing a Kia automobile for one of the parties’ children, both of which were considered by the court to be marital property. In addition, Norris bought furniture for himself after Kennedy removed most of the furniture from the family home, prepaid for his moving expenses because the family home was scheduled to be sold, and he was required to move. Finally, it is worth noting that the consent order between the parties authorized both Norris and Kennedy to “access and use non-retirement liquid marital assets for the purpose of paying personal expenses.”

Based upon this evidence, we cannot say that the circuit court was clearly erroneous in finding that Norris did not dissipate marital assets.

#### **IV. Kennedy’s Attorney’s Fees**

Kennedy’s second contention is that the circuit court abused its discretion in denying her request for an award of attorney’s fees. In particular, Kennedy alleges that the court incorrectly found her to have a “considerable income[],” thus allowing her to meet her litigation expenses. In support of this argument, Kennedy notes that “her income is merely one-fourth of [Norris’s] income and requires indefinite alimony to maintain the status quo.”

Under Maryland law, the court may order either party to pay the other party’s attorney’s fees, but only 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.” FL §§ 7-107, 8-214 & 11-110. “The standard of review for the award of counsel fees and costs in a domestic case is that of whether the trial judge abused his discretion in making or denying the award.” *Steinhoff v. Sommerfelt*, 144 Md. App. 463, 487 (2002) (citations omitted). Because the circuit court must consider the parties’ financial resources before awarding attorney’s fees and because we are remanding this case for a reconsideration of alimony, we also direct the circuit court to reconsider Kennedy’s request for attorney’s fees upon remand.

For all of the foregoing reasons, we reverse the circuit court’s judgment regarding retroactive alimony, and we vacate as to indefinite alimony and Kennedy’s attorney’s fees. We remand the case so that the court can reconsider its grant of indefinite alimony and any effect that its ruling on that issue, if modified, may have on Kennedy’s attorney’s fees.

**JUDGMENT OF THE CIRCUIT COURT FOR  
BALTIMORE COUNTY AFFIRMED IN PART,  
REVERSED IN PART, AND VACATED IN PART.  
CASE REMANDED FOR PROCEEDINGS NOT  
INCONSISTENT WITH THIS OPINION.  
COSTS ASSESSED AS FOLLOWS: ¼ TO BE PAID BY  
APPELLANT/CROSS-APPELLEE AND ¾ TO BE PAID  
BY APPELLEE/CROSS-APPELLANT.**