Circuit Court for Baltimore County
Case No. C-03-FM-20-004074

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2243

September Term, 2025

KAYLA SARGENT

v.

ALFRED BROWNLEE

Tang,
Kehoe, S.,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: June 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).

Appellant, Kayla Sargent ("Ms. Sargent"), and Appellee, Alfred Brownlee ("Mr. Brownlee"), were divorced on August 12, 2021 by the Circuit Court of Baltimore County. By consent agreement, Mr. Brownlee was awarded primary physical custody and sole legal custody of the parties' minor child (hereinafter, the "Child"). On July 1, 2024, Ms. Sargent filed a complaint to modify custody alleging material changes in circumstances requiring the modification of custody for the best interests of the Child, and seeking primary physical custody and sole legal custody, or alternatively joint legal custody with tie-breaker authority. Mr. Brownlee filed an answer in opposition and a motion to modify child support. A two-day modification hearing was heard before the Magistrate on May 20 and 21 of 2025.

The Magistrate recommended that custody be modified to award primary physical custody to Ms. Sargent and joint legal custody with tie-breaking authority awarded to Ms. Sargent. Mr. Brownlee filed exceptions to the Magistrate's report and recommendations. On October 3, 2025, the circuit court heard oral argument from the parties. The court disagreed with the Magistrate's recommendation, sustained Mr. Brownlee's exceptions, and denied Ms. Sargent's complaint for modification of custody by order entered on November 19, 2025. The court's order also granted Mr. Brownlee's motion to modify child support.

On December 18, 2025, Ms. Sargent filed this appeal.

I. QUESTIONS PRESENTED

Ms. Sargent presents the following questions for our review:

1) Did the trial court err by sustaining Father's exceptions on issues not raised with particularity in his written exceptions pursuant to Maryland Rule 9-208(f), and by making its own determination based [on] an incomplete review of the record?

2) Did the trial court err by concluding that there was no material change in circumstances affecting the welfare of the minor child, despite the Magistrate's findings of fact, credibility determinations, and evidence to the contrary?

3) Did the trial court err by failing to apply the Sanction Order imposing a rebuttable presumption that, had Father provided discovery responses as required by the Maryland Rules and orders of the court, the responses would have demonstrated that the minor child's best interests would be served by a modification of the physical custody to reside primarily with Mother?

4) Did the trial court err by modifying child support without a finding of a material change in circumstances?

For the reasons stated herein, we affirm in part, vacate in part, and remand for further proceedings.

II. FACTUAL & PROCEDURAL BACKGROUND

The parties were married on February 17, 2015 in Killeen, Texas. One child was born of the marriage in July of 2015. The parties separated in March of 2017. After the separation, Mr. Brownlee and the Child moved into Mr. Brownlee's father's home in Georgia. In 2019, Mr. Brownlee and the Child moved to Maryland and began residing with Ms. Sargent's mother, Sibao Dunham ("Ms. Dunham"), at 5464 Whitlock Road in

Baltimore. In March of 2020, Mr. Brownlee moved into his own apartment at 1001 Coleridge Court in Baltimore.

A. Judgment of Absolute Divorce

On October 6, 2020, Mr. Brownlee filed a Complaint for Absolute Divorce against Ms. Sargent, additionally seeking primary physical custody and sole legal custody of the Child, then five years of age at the time. Ms. Sargent filed a Counter-Complaint for Absolute Divorce on December 28, 2020, followed by an Amended Complaint on March 17, 2021, also seeking primary physical custody and sole legal custody of the Child. At the time of the filings, Mr. Brownlee resided in Baltimore, Maryland with the Child and Ms. Sargent resided in Temple, Texas.

On April 28, 2021, the parties reached a settlement agreement. A Judgment of Absolute Divorce and initial custody order was entered on August 12, 2021. Mr. Brownlee was awarded primary physical custody and sole legal custody of the Child, with visitation granted to Ms. Sargent. The custody order granted Ms. Sargent "daily video [] calls with the minor child at 5 p.m. to [Ms. Sargent's] mother's number[.]" Beginning in the summer of 2023, Ms. Sargent was to have three weeks of access with the Child and for the summer of 2024, the parties were to "have good faith discussions about increasing from three (3) weeks of summer access[.]" Ms. Sargent was required to notify Mr. Brownlee of the weeks she intended to exercise her access. Per the custody order, the parties would alternate access with the Child on holidays, school breaks, and the Child's birthday.

The custody order did not specifically order the payment of child support. Rather, the parties agreed that "due to the current income of the parties, and the significant expense of travel in this matter, that child support should be charged generally to the parties, and that each party shall be responsible for caring for the child when the child is with that party[.]"

B. Complaint for Modification of Custody

On June 11, 2024, Mr. Brownlee filed a Petition to Modify Custody, stating that he was "unable to adhere to the current custody arrangement in place due to [his] work schedule and financial challenges which [were] preventing [him] from providing the care needed for [the Child] to include medical appointments, transportation to and from school/daycare and educational needs." Mr. Brownlee requested that the court grant the Child's maternal grandmother, Ms. Dunham, and aunt, Naiya Sargent ("Naiya"),[1] shared physical and legal custody of the Child. Mr. Brownlee stated the reasons for the requested change in custody as follows:

> [The Child] has been physically living between his grandmother's home (Sibao Dunham) and his aunt's home (Naiya Sargent) for several years. Initially I, [Mr. Brownlee] lived in the grandmother's home with [the Child], but I moved out to an apartment within walking distance. [The Child's] grandmother has moved approximately 10 miles away and with my overnight work schedule, [the Child] is unable to live with me full-time. [Ms. Sargent] (mother) lives in Texas and the same visitation right would apply to [the Child] as in the original agreement. I want [the Child] to be in the custody of [Ms. Sargent's] mother and sister to maintain consistency for [the Child]. This custody change will allow them to provide the support [the Child] needs.

[1] To avoid confusion with the Appellant, Ms. Sargent, we will refer to Naiya Sargent as "Naiya." This designation is solely for clarity and no disrespect is intended.

The next day, June 12, 2024, Mr. Brownlee withdrew the petition.

On July 1, 2024, Ms. Sargent filed a Complaint for Modification of Custody, alleging that Mr. Brownlee was "unable to provide the necessary care needed for [the Child] including but not limited to being unable to provide the care necessary for medical appointments, school, general well-being, and financial support." The complaint referred to Mr. Brownlee's Petition to Modify Custody filed on June 11, 2024, in support of the allegation that Mr. Brownlee "has abdicated his role as a parent to third parties[.]" Ms. Sargent further alleged in the complaint that Mr. Brownlee denied her summer access with the Child by failing to transport the Child to the airport for a flight to Texas for which she paid. The complaint requested that Ms. Sargent be awarded primary physical custody and sole legal custody or, alternatively, joint legal custody.

Mr. Brownlee filed an answer on August 13, 2024, requesting the court to dismiss the complaint. On December 31, 2024, Mr. Brownlee filed a motion to modify child support, alleging that, despite the parties agreeing to general support of the Child and Ms. Sargent receiving a monthly Veterans Affairs ("VA") benefit on behalf of the Child, Ms. Sargent has not provided monthly child support for the Child. Mr. Brownlee further alleged that he "has been the sole caretaker of the minor child, with limited involvement by [Ms. Sargent]." Mr. Brownlee requested that the court award him child support based on Maryland Child Support Guidelines.

C. Motion to Compel Discovery and Request for Sanctions

On December 31, 2024, while pending trial on the merits, Ms. Sargent filed a Motion to Compel Discovery and Request for Sanctions, alleging that Mr. Brownlee was deficient in his responses to interrogatories and failed to produce information regarding his finances, and correspondence regarding the Child, particularly his correspondence with third parties who primarily care for the Child.

On January 30, 2025, Ms. Sargent's motion was granted in part and denied in part, ordering Mr. Brownlee to provide relevant documents and answers to interrogatories. However, the court did not compel Mr. Brownlee to provide documentation regarding his communications with third parties, primarily those with the Child's grandmother and aunt. Ms. Sargent filed a Motion for Reconsideration requesting that the court compel Mr. Brownlee to provide such documentation, which was granted on February 20, 2025.

On March 11, 2025, Ms. Sargent filed a motion for sanctions as a result of Mr. Brownlee's failure to comply with the court's order regarding discovery and to provide requested financial documentation and documentation of his communications with the Child's grandmother and aunt. Among other requested sanctions, Ms. Sargent requested that the court "[i]mpose a rebuttable presumption that had [Mr. Brownlee] provided discovery responses as required [] that the responses would have demonstrated that the minor child's best interests would be served by a modification of physical custody to provide for the minor child to reside primarily with [Ms. Sargent.]" Mr. Brownlee filed a response in opposition.

On April 3, 2025, the circuit court granted Ms. Sargent's motion for sanctions, imposing a rebuttable presumption that the minor child's best interests would be served by a modification of physical custody to provide for the minor child to reside primarily with Ms. Sargent, and reserving on attorney's fees for the consideration of the trial court. Mr. Brownlee filed a motion to alter, amend, or vacate the sanction order, and supplemental answers to interrogatories and responses to requests for documents on April 12, 2025. Ms. Sargent filed a response in opposition. On May 6, 2025, the court denied Mr. Brownlee's motion.

D. Modification Hearing before the Magistrate

A two-day modification hearing was held before the Magistrate on May 20 and May 21, 2025. On June 3, 2025, the Magistrate issued a written report and recommendation.

1. Material Change in Circumstances

The Magistrate found that changes in circumstances had occurred since the original custody order of August 21, 2021, and identified those changes in her report. First, the Magistrate found that in 2022, Naiya petitioned the court for guardianship of the Child, with Mr. Brownlee's consent but without Ms. Sargent's knowledge. The court denied the petition and thereafter, Mr. Brownlee executed a Power of Attorney and Designation of Temporary Guardian for Minor Child, authorizing Naiya, or alternatively Ms. Dunham, to act on his behalf as it related to the Child.

At the time of the original custody order, Mr. Brownlee had recently moved from Ms. Dunham's residence on Whitlock Road into his own apartment on Coleridge Court,

approximately a quarter of a mile away and within the same school zone—Edmonson Heights Elementary School. Mr. Brownlee relied heavily on Ms. Dunham and Naiya for the care of the Child. However, in May of 2024, Ms. Dunham moved to 4246 Pinefield Court in Randallstown, approximately ten miles away and within a different school zone—Woodholme Elementary School. Moreover, in August of 2024, the Child began attending Woodholme Elementary School.

The Magistrate found that Naiya and Ms. Dunham attempted to obtain Ms. Sargent's signature on Mr. Brownlee's June 11, 2024 petition to modify custody, by advising her it was paperwork that needed to be signed to register the Child for a new school. Ms. Sargent refused to consent to modification of custody.

The Magistrate further found that Ms. Sargent was denied her 2024 summer access with the Child. In response to Ms. Sargent's refusal to share custody with Ms. Dunham and Naiya, Naiya advised Ms. Sargent to cancel the Child's upcoming flight to Texas. When the Child did not arrive in Texas as scheduled, Ms. Sargent questioned Mr. Brownlee, who denied knowledge of the Child's trip. The Magistrate did not find Mr. Brownlee's testimony credible, finding that he knew about the summer trip. Moreover, since the summer of 2024, Ms. Sargent has been unable to have consistent video calls with the Child, as awarded in the original custody order.

Lastly, the Magistrate found that Mr. Brownlee worked two jobs—full-time at the United States Postal Service ("USPS") and part-time at TV Vapor, a retail store. Additionally, he drove for Uber, a ride-share service, in 2023.

Pursuant to these findings, the Magistrate was "persuaded that there was sufficient evidence of changes relating to the welfare of the child to justify a full consideration of whether a modification of access is required[.]" Next, the Magistrate considered whether it would be in the best interests of the child to modify custody.

2. Best Interests of the Child

The Magistrate found both parties to be fit and proper parents with employment and appropriate housing. On the character and reputation of the parties, the Magistrate found that the "parties seem to be inherently decent people." However, Mr. Brownlee relied heavily on Ms. Dunham and Naiya for the Child's care, with the Child spending most nights at Ms. Dunham's house. As a result, the Magistrate found that Mr. Brownlee "made a fictious [sic] lease to get [the Child] into Ms. Dunham's zoned school in June 2024." Moreover, the Magistrate did not find Mr. Brownlee or his witnesses credible regarding Mr. Brownlee's unawareness of the Child's summer 2024 trip to Texas. Nothing additional was noted about Ms. Sargent's character and reputation.

Regarding the desire of the parents and willingness of the parents to share custody, the Magistrate noted that Ms. Sargent sought primary physical custody and sole legal custody, or alternatively joint legal custody with tie-breaker authority, while Mr. Brownlee sought to maintain primary physical custody and sole legal custody. The Magistrate found that each party seemed sincere in their request. The preference of the Child was not considered. At the time of the report, the Child was nine years of age, with no significant health issues except for asthma.

With respect to the ability of the parents to communicate and reach shared decisions affecting the child's welfare, the Magistrate found that the parties communicated via text message and, prior to June 2024, communicated through Naiya. Mr. Brownlee, with sole legal custody, has not made reasonable efforts to keep Ms. Sargent informed of developments and activities related to the Child. The Magistrate noted that this "factor does not support joint custody."

As for the potential for maintaining natural family relations, the Magistrate indicated that Ms. Sargent does not have extended family in Texas, while Mr. Brownlee and the Child have a close relationship with Ms. Sargent's extended family in Maryland, Ms. Dunham and Naiya. Again, the Magistrate noted that the Child spends five to six nights a week at Ms. Dunham's home. Naiya purchases clothing for the Child, takes the Child to his medical appointments, and speaks with the Child's school regarding the Child. Naiya, not Ms. Sargent, is listed as the secondary guardian of the Child on his school forms. The Magistrate found that both parties appear to have a good relationship with the Child.

Regarding the financial status of the parties and material opportunities affecting the future life of the child, the Magistrate found that both Ms. Sargent and Mr. Brownlee have the financial means to support the Child. Ms. Sargent receives VA benefits and Mr. Brownlee maintains two jobs. The Magistrate did note that, despite his two jobs, Mr. Brownlee has faced eviction several times and has asked for funds from Ms. Sargent in the past. However, the Magistrate indicated that this "factor does not support awarding custody to one party over the other."

With respect to the demands of the parties' employment, the Magistrate found that Ms. Sargent does not work but rather is enrolled in nursing school, attending classes three days per week from 8:00 a.m. to 12:00 p.m. or 4:00 p.m. Mr. Brownlee works full-time for the USPS, Monday through Thursday and Saturday from 1:30 p.m. to 9:30 a.m., provided he is not working overtime. Mr. Brownlee has a second job working at TV Vapor on Wednesdays and Fridays from 12:45 p.m. to 7:00 p.m.

As for the residences of the parties, the Magistrate found that both parties have appropriate sleeping accommodations for the Child. Ms. Sargent has a single-family home in Temple, Texas, while Mr. Brownlee has a one-bedroom apartment in Baltimore, Maryland. However, the Magistrate noted that the Child primarily resides at Ms. Dunham's home, which also has appropriate sleeping accommodations for the Child. Ms. Sargent has another son (five years of age) with her current partner, who has two children (a son, twelve years of age, and a daughter, nine years of age), that reside in their household. Mr. Brownlee does not have any other children residing in his home. Regarding the opportunity for visitation and geographic proximity of the parties, the Magistrate indicated that they live approximately 1,500 miles from one another.

Regarding the length of separation of the parties and whether there was a prior voluntary abandonment or surrender of custody of the child, the Magistrate noted that the parties were divorced in 2021 and found that, at that time, the Child had been residing with Mr. Brownlee and that Ms. Sargent had not exercised any access to the Child in years. Moreover, pursuant to the divorce settlement agreement, Ms. Sargent consented to Mr.

Brownlee's having primary physical custody and sole legal custody of the Child. The Magistrate indicated that this "factor affects the issue of custody."

The Magistrate summarized her findings as follows:

> [Mr. Brownlee] has "had" primary physical custody of [the Child] for many years. However, this Magistrate does not believe that [Mr. Brownlee] is the one primarily caring for [the Child]. [Ms. Sargent's] family – Ms. Dunham and [Naiya] – are providing care and necessities for [the Child]. Curiously, neither Ms. Dunham nor [Naiya] moved to intervene in this matter. Therefore, this Court is simply left to determine whether it is in [the Child's] best interests to be in [Mr. Brownlee] or [Ms. Sargent's] primary care.
>
> [Ms. Sargent] is fit. She has a stable and appropriate home and the financial ability to maintain it. [Mr. Brownlee] is fit. There is no question that he is extremely devoted to the child and wants what is best for him. However, he cannot care for [the Child] on his own. He needs <u>significant</u> help from Ms. Dunham and [Naiya] – more than just work-related childcare. The child is living [five] to [six] days in Ms. Dunham's home. [Mr. Brownlee] is incapable of purchasing the child's clothing. He (and [Naiya]) claimed it is because he does not know the area. He has lived in Baltimore, Maryland for over six [] years. Despite having sole legal custody, [Mr. Brownlee] has needed [Naiya] for medical and educational decisions.

Pursuant to these findings, the Magistrate recommended that the parties be awarded joint legal custody with Ms. Sargent having tie-breaker authority, and that Ms. Sargent be awarded primary physical custody of the Child. Per the recommendation, Mr. Brownlee would have access to the Child every Thanksgiving, spring break, and summer, with one week during the holiday/winter break, and liberal access in Texas with thirty days of notice to Ms. Sargent.

3. Child Support

Regarding the income of the parties, the Magistrate found that Mr. Brownlee's gross monthly income was $6,850, while Ms. Sargent's gross monthly income was $4,765. The

Magistrate found that there were no work-related child-care expenses. While Mr. Brownlee provides health insurance for the Child and pays $280.99 per month for coverage, he was not able to testify as to the portion attributable to the Child. With the assistance of Ms. Sargent's testimony, the Magistrate found that flights round-trip average $300 to $500. As Mr. Brownlee will be responsible for at least four round-trip flights, the Magistrate found that there should be a reduction in Mr. Brownlee's support obligation in order to afford the flights to access his time with the Child.

Per the Maryland Child Support Guidelines, the Magistrate found that Ms. Sargent's child support obligation should have been $662 per month and therefore, incurred child support arrears of $3,310 for the time period between January 1, 2025 and May 31, 2025. Starting August 1, 2025, Mr. Brownlee's child support obligation would be $675 per month.

E. Exceptions to the Magistrate's Report and Recommendation

Mr. Brownlee filed exceptions to the Magistrate's Report and Recommendation on June 11, 2025, followed by amended exceptions on June 12, 2025, requesting a hearing for oral argument. Mr. Brownlee argued that there was no evidence to support a finding that Ms. Sargent had the ability to maintain a stable and appropriate home for the Child, and that the Magistrate failed to consider each party's ability to maintain family relationships, the financial status of the parties, and other relevant custody factors. Instead, the evidence presented demonstrated that the Child was being properly cared for in Mr. Brownlee's custody, and that due to Ms. Sargent's prior long-term absence from the Child's life, it was

not in the Child's best interest to be placed in her primary custody. Mr. Brownlee argued that the Magistrate "abused her discretion by awarding an extreme modification on custody that was not supported by the facts presented" nor in the best interests of the Child.

Ms. Sargent filed a response to Mr. Brownlee's amended exceptions on July 28, 2025, arguing that there was substantial evidence regarding her ability to maintain a stable and appropriate home for the Child, and that the Magistrate properly applied the facts to the custody factors. Ms. Sargent countered that the evidence demonstrated Mr. Brownlee abdicated his parenting responsibilities as the Child was not living with him, and that Mr. Brownlee was unable to care for the Child as he had faced multiple evictions and swore under oath that he was "unable to adhere to the current custody arrangement [. . .] due to [his] work schedule and financial challenges [. . . .]" Ms. Sargent argued that the Magistrate did not err in recommending a modification to the custody order, which was supported by the evidence.

The court heard oral argument on the exceptions on October 3, 2025 and issued its written ruling on November 14, 2025. The court concluded that there had been no material changes in circumstances that affected the welfare of the Child. The court addressed each of the seven changes in circumstances that the Magistrate found and concluded that the Magistrate failed to address how said changes were material, in other words, how said changes affected the welfare of the Child.

The Magistrate did not explain how the petition for guardianship of the Child filed by Naiya or the power of attorney executed by Mr. Brownlee, in and of themselves,

constituted a material change in circumstances affecting the welfare of the Child. While the move of Ms. Dunham ten miles from Mr. Brownlee constituted a change, there is no assertion that the new home is unsuitable for the Child, nor did the Magistrate find that the change itself affected the Child.

With respect to Mr. Brownlee's June 11, 2024 petition to modify custody, the court "believe[d] that the import of this Petition must be tempered by the fact that [Mr. Brownlee] withdrew the Petition the day after filing it," and that he testified that it was not his intention to abdicate his parental responsibilities. Moreover, the petition highlighted that the Child had been living with Ms. Dunham for several years, and thus such arrangement was not a material change in circumstance.

The Magistrate did not address how the cancellation of the Child's summer 2024 visitation to Texas constituted a material change in circumstance, or how the cancellation justified "the radical change in custody from the original order." The court concluded that it was more appropriate to reschedule the missed summer visitation. Similarly, the Magistrate did not address how Ms. Sargent's inability to have consistent video calls with the Child constitutes a material change in circumstance affecting the welfare of the Child.

Although the Child changed schools, the Magistrate did not address how such change affected the welfare of the Child. There is no evidence to suggest that the change in schools negatively disrupted the Child's educational or social activities. On the contrary, the evidence demonstrated that the Child adjusted well and was excelling at the new school. In a footnote, the court stated that it did "not condone the use of 'factitious' [sic] leases for

school enrollment, if that was the intent, however, there is no evidence in the record that the Minor Child's enrollment at Woodholme is presently in jeopardy."

Regarding Mr. Brownlee's employment, there was no evidence that his work schedule was substantially different from the time of the original custody order. Mr. Brownlee testified that he has worked overnight hours since 2019, and thus not a material change in circumstance. Similarly, the Magistrate found that the Child spent five to six nights a week at Ms. Dunham's home, however, this was the same arrangement at the time of the original custody order. Mr. Brownlee has always relied heavily on Ms. Dunham and Naiya for the care of the Child.

In a footnote, the court acknowledged the rebuttal presumption—that the Child's best interests would be served by a modification of physical custody and for the Child to reside primarily with Ms. Sargent—that was imposed as a discovery sanction. However, the court noted that it did not appear that the Magistrate relied upon that presumption in her report. Moreover, Ms. Sargent did not take cross-exceptions to the Magistrate's failure to rely on the presumption, nor did Ms. Sargent argue the presumption in her written response to Mr. Brownlee's exceptions, although she mentioned the presumption in her oral argument before the court. Alternatively, the court concluded that any presumption was rebutted.

The court concluded that the evidence demonstrated that the Child was "thriving, on honor roll and in advanced classes[, . . .] a happy energetic, athletic, smart child and there [] was no evidence to the contrary." In sum, "there is no evidence that a change in

custody is necessary to accommodate the future best interest of the child." The court further concluded that

> The Minor Child has resided in Maryland the entire relevant period since the divorce, and also primarily resided with [Mr. Brownlee] prior to the divorce. Under these circumstances, this [c]ourt disagrees with the Magistrate's ultimate conclusion that it is necessary or in the best interests of the child to disrupt the current stability in the life of the Minor Child by flipping the custody arrangements, awarding primary physical custody of Minor Child to [Ms. Sargent], and requiring the Minor Child to move to Texas, away from [Mr. Brownlee], extended family, the current favorable school environment, the child's athletic activities and social structure.

As such, the court sustained Mr. Brownlee's exceptions concerning the modification of physical and legal custody and denied Ms. Sargent's complaint for modification of custody. The court did, however, order that the three weeks of missed summer visitation in 2024 be rescheduled by awarding Ms. Sargent one additional week of visitation for each of the next three summers beginning in 2026.

Additionally, the court granted Mr. Brownlee's motion to modify child support and ordered Ms. Sargent to pay child support to Mr. Brownlee in the amount of $662 per month, consistent with the Maryland Child Support Guidelines drafted by the Magistrate, effective January 1, 2025.

On December 18, 2025, Ms. Sargent filed this appeal.

Additional facts may be included in the discussion as they become relevant.

III. DISCUSSION

We conclude that the circuit court did not err in sustaining Mr. Brownlee's exceptions or in exercising its independent judicial obligation to determine whether a

material change in circumstances existed to modify custody. Although the court deferred to the Magistrate's first-level factual findings, it properly reached its own dispositional conclusion that the identified changes did not constitute material changes affecting the Child's welfare. As a result, the court correctly declined to address the best-interests-of-the-child custody factors. Moreover, the court did not err in refusing to apply the discovery sanction presumption that the child's best interest, which becomes relevant only after a material change is found, would be served by a modification of physical custody.

However, the court erred in modifying child support without making the required findings—including whether a material change occurred—necessitating vacatur of the child support modification and remand for further findings.

A. Standard of Review

The standard of review for child custody determinations, including modifications, can be summarized as follows:

> We review the case on both the law and the evidence: we will not set aside the judgment of the trial court unless it is clearly erroneous, and we give due regard to the opportunity of the trial court to judge the credibility of the witnesses. In summary, when we scrutinize factual findings, we apply the clearly erroneous standard; when we review issues of law, we do so *de novo*; and, finally, we disturb the trial court's ultimate conclusion on the question of custody "only if there has been a clear abuse of discretion."

Karen P. v. Christopher J.B., 163 Md. App. 250, 264 (2005) (citations omitted); *see also In re Yve S.*, 373 Md. 551, 585–86 (2003) ("[I]t is within the sound discretion of the chancellor to award custody according to the exigencies of each case, and [] a reviewing court may interfere with such a determination only on a clear showing of abuse of that

discretion."); *McCready v. McCready*, 323 Md. 476, 482 (1991) (in discussing whether custody modifications should be reversed, "[t]he scope of appellate review of this question is narrow."); Md. Rule 8-131(c) (reiterating the scope of review for actions tried without a jury).

B. The Circuit Court Did Not Err by Sustaining Mr. Brownlee's Exceptions Nor by Making Its Own Independent Judgment Based on Its Review of the Relevant Facts in the Record.

1. Parties' Contentions

Ms. Sargent argues that the circuit court erred by granting exceptions not raised with particularity, by failing to resolve Mr. Brownlee's specific exceptions, and by relying on a selective review of the record rather than the entire record. Mr. Brownlee failed to challenge the Magistrate's factual findings with respect to the material change in circumstances issue in his written exceptions, and the circuit court granted exceptions on that issue which was waived. The circuit court failed to resolve each exception with particularity and failed to consider the entire record.

Mr. Brownlee counterargues that the circuit court properly exercised its independent authority to identify and resolve the material change in circumstances issue, and therefore, no procedural error occurred. The circuit court has an independent obligation to apply the correct legal framework, and a material change in circumstances is a legal prerequisite to the modification analysis, not eligible to be waived. Lastly, there was no prejudice to Ms. Sargent, as argument on this issue was based solely on the existing record.

2. Exceptions to a Magistrate's Recommendation

A party seeking to challenge a magistrate's recommendation must file exceptions within ten days of the recommendation being placed on the record or served on the parties. Md. Rule 9-208(f). "Exceptions shall be in writing and shall set forth the asserted error with particularity. Any matter not specifically set forth in the exceptions is waived unless the court finds that justice requires otherwise." Md. Rule 9-208(f). Unless a request for a hearing is filed, the court may decide the exceptions, based on the evidence presented to the magistrate, without a hearing. Md. Rule 9-208(h)(1). If the court determines that additional evidence should be considered, it may remand the case to the magistrate or conduct a de novo hearing. Md. Rule 9-208(h)(1).

"When reviewing a [magistrate's] report, both a trial court and an appellate court defer to the [magistrate's] first-level findings (regarding credibility and the like) unless they are clearly erroneous." *McAllister v. McAllister*, 218 Md. App. 386, 407 (2014) (citing *In re Priscilla B.*, 214 Md. App. 600, 623–24 (2013)). First-level fact finding does not resolve the legal issues in the case. *Kierein v. Kierein*, 115 Md. App. 448, 454 (1997). Less deference is given to the magistrate's second-level or "conclusory or dispositional" findings, which carry legal significance. *McAllister*, 218 Md. App. at 407 (citing *Wenger v. Wenger*, 42 Md. App. 596, 607 (1979)); *see also Kierein*, 115 Md. App. at 454. "[W]hile the circuit court may be "guided" by the [magistrate's] recommendation, the court must make its own independent decision as to the ultimate disposition, [] which the appellate court reviews for abuse of discretion." *McAllister*, 218 Md. App. at 407 (citations omitted).

The court is free to disregard the recommendation of the magistrate. *Levitt v. Levitt*, 79 Md. App. 394, 399 (1989). "It is the [judge's] role, not the [magistrate's], to determine the ultimate rights of the parties." *Lemley v. Lemley*, 102 Md. App. 266, 277 (1994).

3. Analysis

First, Ms. Sargent argues that the trial court erred by granting Mr. Brownlee's exceptions that were not raised with particularity, as required by Maryland Rule 9-208(f). However, "[i]f the court is reasonably able to rule on the exception, and the opposing party is reasonably able to frame a response, then the exception is sufficiently 'particular' to satisfy the requirements of the Rule." *Lemley*, 102 Md. App. at 276. The trial court was able to rule on the exception and Ms. Sargent framed a response both before the trial court and before this Court. We, therefore, see no error on behalf of the trial court in this regard.

Next, Ms. Sargent argues that because Mr. Brownlee did not take exception, in his written exceptions, to the Magistrate's determination that there were material changes in circumstances, the court erred in "*sua sponte* identif[ying] a 'dispositive issue,' whether there was a material change in circumstances[.]" However, Mr. Brownlee took exception to the Magistrate's overall recommendation that custody be modified. Therefore, the court in reviewing the Magistrate's report and recommendation must make its own judgment whether custody modification is appropriate. *See McAllister*, 218 Md. App. at 407 ("the court must make its own independent decision as to the ultimate disposition[.]"). Custody modification requires two steps: 1) a determination of a material change in circumstances; and if a material change in circumstances is found, 2) whether the best interests of the child

warrant a modification in custody. *McMahon v. Piazze*, 162 Md. App. 588, 593–94 (2005). As such, the court did not err and, in fact, was required to make its own judgment as to whether a material change in circumstances existed.

Ms. Sargent also argues that the court failed to resolve each of Mr. Brownlee's exceptions to the Magistrate's factual findings related to the best interests of the child custody factors. It is true, "[w]hen the [magistrate's] fact-finding is challenged, the [judge] must state for the record how each challenge was resolved." *Lemley*, 102 Md. App. at 278. However, if no material change is found, the court need not address the best-interests-of-the-child custody factors. *See McCready*, 323 Md. at 482 ("[T]he absence of a showing of a change in circumstances ordinarily is dispositive, and [] the [trial court] does not weigh the various factors to determine the best interest of the child."). The court here concluded that there were no "material" changes in circumstances and therefore it did not need to address the best interests of the child custody factors, which include Mr. Brownlee's exceptions to the Magistrate's specific factual findings related to these factors. We conclude that the trial court did not err in this regard.

We conclude that the trial court did not err in addressing Mr. Brownlee's exceptions because the exceptions were sufficiently particular for both the court to rule on and for Ms. Sargent to respond to. We further hold that, because Mr. Brownlee had excepted to the magistrate's ultimate recommendation to modify custody, the trial court was required to make its own independent determination as to whether a material change in circumstances existed. Finally, because the trial court found no material change in circumstances, it was

not required to resolve each factual exception related to the best-interests custody factors, and thus committed no error in declining to do so.

C. The Circuit Court Did Not Err by Making an Independent Conclusion That There Was No Material Change in Circumstances Affecting the Welfare of the Child, While Deference Was Given to the Magistrate's Factual Findings.

1. Parties' Contentions

Next, Ms. Sargent argues that the circuit court erred by concluding there were no material changes in circumstances affecting the welfare of the Child to then consider a modification of custody. The circuit court did not defer to the factual findings and credibility determinations made by the Magistrate, but instead made its own factual findings inconsistent with the evidence. Ms. Sargent asserts that the circuit court should have found a material change in circumstances, which would then have allowed the court to consider the best interests of the child factors.

Mr. Brownlee counterargues that the circuit court's finding of no material change in circumstances is supported by the record and was not an abuse of discretion. The current childcare arrangement predates the 2021 Judgment of Absolute Divorce, and thus does not constitute a change in circumstances. The circuit court properly considered each change in circumstance and found that none were a "material" change that affected the welfare of the Child that would justify a modification of custody. Moreover, the Child is thriving in school, sports, and friendships, which, when combined with the absence of demonstrable harm, outweighs the disruption that custody modification would cause. Per Mr. Brownlee's

view, the abuse of discretion standard of review for ultimate legal questions here favors affirmance.

2. Modification of Child Custody

Pursuant to § 9-202 of the Family Law Article,

> [t]he court may modify [] a child custody or visitation order if the court determines that there has been a material change in circumstances since the issuance of the order that relates to the needs of the child or the ability of the parents to meet those needs and that modifying the order is in the best interest of the child.

Md. Code Ann., Fam. Law § 9-202(a). As such, when a party seeks to modify the terms of a current custody order, the court must conduct a two-step analysis. *McMahon*, 162 Md. App. at 593–94. First, the court must determine whether there has been a material change in circumstances. *Id.* A change is "material" when it affects the welfare of the child. *Id.* at 594. If, and only if, the court finds that there has been a material change in circumstances, then the court will consider whether it is in the best interests of the child to modify the custody order. *Id.* at 593.

A material change in circumstances affecting the welfare of the child is required before the court can modify a custody order because:

> The desirability of maintaining stability in the life of a child is well recognized, and a change in custody may disturb that stability.
>
> Stability is not, however, the sole reason for ordinarily requiring proof of a change in circumstances to justify a modification of an existing custody order. A litigious or disappointed parent must not be permitted to relitigate questions of custody endlessly upon the same facts, hoping to find a chancellor sympathetic to his or her claim. An order determining custody must be afforded some finality, even though it may subsequently be modified when changes so warrant to protect the best interest of the child.

McCready, 323 Md. at 481; *see also McMahon*, 162 Md. App. at 596 ("The requirement is intended to preserve stability for the child and prevent relitigation of the same issues."). Therefore, "[t]he burden is then on the moving party to show that there has been a material change in circumstances since the entry of the final custody order and that it is now in the best interest of the child for custody to be changed." *Sigurdsson v. Nodeen*, 180 Md. App. 326, 344 (2008).

3. Analysis

Ms. Sargent argues that the circuit court erred because it did not defer to the factual findings and credibility determinations made by the Magistrate. With respect to the facts related to the changes in circumstance, the circuit court did defer to the Magistrate's first-level factual findings. Rather, it was the second-level, dispositional findings of the Magistrate with which the court took issue—that the changes in circumstances constituted "material" changes.

While the Magistrate's first-level fact finding is owed deference unless clearly erroneous, the second-level, dispositional findings are not entitled to deference. *Domingues v. Johnson*, 323 Md. 486, 494 (1991). Whether a change in circumstance is "material" constitutes a second-level, dispositional finding because such finding carries legal significance. *See Kierein*, 115 Md. App. at 454 ("Second-level fact finding [. . .] connotes that conclusory or dispositional fact finding that has ultimate legal significance—the mixed question of law and fact.") (internal quotation marks and citation omitted). A change is "material" when it affects the welfare of the child. *McMahon*, 162 Md. App. at 594. If there

is no "material" change in circumstances, there can be no modification of custody. *See id.* at 593–94. Therefore, to find that a change is material or not is a legally significant finding as it determines whether the analysis continues—assessing whether it is in the best interests of the child to modify custody—or whether the analysis ends.

The circuit court did not dispute the Magistrate's first-level factual findings: 1) that Naiya petitioned the court for guardianship with Mr. Brownlee's consent and that Mr. Brownlee executed a power-of-attorney authorizing Naiya to act on his behalf in regard to the Child; 2) that Ms. Dunham moved approximately ten miles away from Mr. Brownlee, as opposed to living a quarter mile away; 3) that Mr. Brownlee filed a petition to modify custody stating that his work schedule and financial situation prevented him from providing the care needed for the Child; 4) that Ms. Sargent was denied her summer 2024 visit; 5) that Ms. Sargent has been unable to have consistent video calls with the Child since summer of 2024; 6) that the Child is attending a new school; and 7) that Mr. Brownlee works the night shift at the USPS and a second job.

For the majority of these changes, however, the circuit court noted that the Magistrate did not explain how these changes, "in and of themselves, constituted a material change in circumstance affecting the welfare of the child." For example, there was no allegation that Ms. Dunham's move negatively impacted the Child or that the new home was unsuitable for the Child to stay in. Although, as a result of the move, the Child changed schools, there was no allegation that the change disrupted the Child's educational or social life. Rather, the evidence demonstrated that the Child was "thriving and excelling at the

new school." Again "[a] change in circumstances is 'material' only when it affects the welfare of the child." *McMahon*, 162 Md. App. at 594. Changes are not material where the evidence reflects that the Child is "thriving, on honor roll and in advanced classes" and described as a "happy energetic, athletic, smart child" despite the changes mentioned above. We conclude that the circuit court did not err in determining that these changes were not material.

Moreover, the Magistrate did not explain how Ms. Sargent's denial of access during the summer of 2024 and inconsistent access to video calls with the Child, constitute "material" changes in circumstances affecting the welfare of the child. The circuit court further noted that these factors did not justify "the radical change in custody from the original order." Instead, the circuit court determined it was more appropriate to order that the visitation be rescheduled, pursuant to § 9-105 of the Family Law Article.[2] We agree and conclude that the circuit court did not err in this regard.

[2] Section 9-105 reads:

> In any custody or visitation proceeding, if the court determines that a party to a custody or visitation order has unjustifiably denied or interfered with visitation granted by a custody or visitation order, the court may, in addition to any other remedy available to the court and in a manner consistent with the best interests of the child, take any or all of the following actions:
>
> (1) order that the visitation be rescheduled;
>
> (2) modify the custody or visitation order to require additional terms or conditions designed to ensure future compliance with the order; or
>
> (3) assess costs or counsel fees against the party who has unjustifiably denied or interfered with visitation rights.

Md. Code Ann., Fam. Law § 9-105.

Some of the changes that the Magistrate found were not necessarily changes at all, according to the circuit court. Mr. Brownlee's work schedule was substantially the same as it was when the original custody order was entered, and therefore, not a material change in circumstances. Mr. Brownlee worked overnights at the USPS five days a week when the original custody order was entered, as he does now. The only difference in Mr. Brownlee's schedule from the time of the original custody order would be his part time second job. However, again, there is no evidence that this change affected the welfare of the child.

The circuit court indicated, "a parent who is required to work overnight and arranges appropriate overnight care of a child is, in theory, no different from a parent who works during the day and arranges appropriate daytime care of the child." We agree. Moreover, we are not surprised that Mr. Brownlee, a single parent, works two jobs. Many single parents do, as they do not have the benefit of a double income household. We do not consider a parent undeserving of primary custody simply because they work the night shift or work two jobs.

With respect to Mr. Brownlee's petition to modify custody, the circuit court first indicated that "the import of this Petition must be tempered by the fact that [Mr. Brownlee] withdrew the Petition the day after filing it." More importantly, the petition stated that the Child had been living with Ms. Dunham and Naiya for *several* years, "suggesting this was the case at the time the original order was entered, not a material change in circumstance." The circuit court also noted that "it has always been the case that that Minor Child spends significant time with the grandmother and aunt, predating the entry of the original custody

order" and even the Magistrate found that, "dating back to the time [Mr. Brownlee] obtained his own apartment (prior to the entry of the [Judgment of Absolute Divorce]), he relied '*heavily* on [Ms. Sargent's] extended family for childcare.'" Mr. Brownlee's reliance on others for childcare has not changed since the original custody order was entered.

The circuit court concluded that the Magistrate's recommendation for a custody modification appeared to stem from Mr. Brownlee's substantial reliance on others for the care of the Child. However, because this reliance existed at the time of the original custody order, it does not constitute a material change in circumstances. We see no abuse of discretion in the circuit court's independent conclusion here. *See McAllister*, 218 Md. App. at 407 (citations omitted) ("the court must make its own independent decision as to the ultimate disposition, [] which the appellate court reviews for abuse of discretion."). We further conclude that the circuit court did not err in declining to address the best interests of the child custody factors. *See Braun v. Headley*, 131 Md. App. 588, 610 (2000) ("[U]nless a material change of circumstances is found to exist, the court's inquiry must cease."). Furthermore, we reject the notion that a parent is undeserving of primary custody because they rely on others for assistance in caring for a child. Afterall, "it takes a village to raise a child."[3]

[3] The phrase "it takes a village to raise a child" originates from an African proverb and conveys the message that it takes many people ("the village") to provide a safe, healthy environment for children, where children are given the security they need to develop and flourish, and to be able to realize their hopes and dreams. This requires an environment where children's voices are taken seriously and where multiple people (the "villagers") including

"Having determined which facts are properly before [them], and utilizing accepted principles of law, the [judge] must then exercise judgment to determine the proper result." *Domingues*, 323 Md. at 496. Here, the court considered the principles of law related to custody modification, first considering whether there was a material change in circumstances, determined which facts were relevant for that question by enumerating in its written opinion each change in circumstance that the Magistrate found, and then made its own judgment on whether each of those changes were material, a second-level conclusionary finding, based on the first-level facts found by the Magistrate. While the Magistrate found there were material changes in circumstances, conversely, the circuit court concluded the changes were not material. "A given set of facts does not lead mechanically to a single, automatic disposition but may support a range of discretionary dispositions." *Bagley v. Bagley*, 98 Md. App. 18, 32 (1993) (quoting *Wenger*, 42 Md. App. at 402). The court exercised its independent judgment in reaching its own conclusion and explained the rationale for its conclusion, thus we see no abuse of discretion.

D. The Circuit Court Did Not Err by Declining to Apply the Discovery Sanction Presumption That the Child's Best Interests

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> parents, siblings, extended family members, neighbors, teachers, professionals, community members and policy makers, care for a child. All these 'villagers' may provide direct care to the children and/or support the parent in looking after their children.

Andrea Reupert, et al., *It Takes a Village to Raise a Child: Understanding and Expanding the Concept of the "Village"*, Front. Public Health (March 10, 2022), https://www.frontiersin.org/journals/public-health/articles/10.3389/fpubh.2022.756066/full.

Would Be Served by a Modification of Physical Custody Where There Was No Material Change in Circumstances.

1. Parties' Contentions

Ms. Sargent argues that the circuit court erred by not applying the discovery sanction presumption that the child's best interest would be served by a modification of physical custody to reside primarily with her. While the presumption is rebuttable, the circuit court made no findings that Mr. Brownlee rebutted the presumption. Despite the Magistrate's recommendation without reliance on the presumption, the circuit court in its independent review should have applied the presumption, according to Ms. Sargent. The court erred in finding that the presumption was waived because Ms. Sargent did not file a cross-exception to the Magistrate's failure to apply the presumption, as Ms. Sargent asserts that she was not required to file an exception to the Magistrate's recommendation in her favor.

Mr. Brownlee counterargues that the discovery sanction presumption was rebuttable and, alternatively, not applicable. The presumption was rebutted by the extensive evidentiary record showing that the child's best interests would not be served by a modification of custody. Furthermore, the Magistrate did not rely on the presumption in its recommendation for modification, and Ms. Sargent did not file a cross-exception challenging the Magistrate's failure to apply the presumption; therefore, this issue is not preserved and thus waived.

2. Analysis

We conclude that the presumption that the child's best interest would be served by a modification of physical custody to reside with Ms. Sargent is inapplicable where there was no material change in circumstances found. Only when the court finds a material change in circumstances does it consider the best interests of the child to modify the custody order. *See McCready*, 323 Md. at 482. Therefore, only when the court considers the best interests of the child would the presumption apply. Because we concluded that the circuit court did not err in finding that there was no material change in circumstances *supra*, we further conclude that the circuit court did not err by failing to apply the presumption. We need not address the parties' additional arguments on this subject.

E. The Circuit Court Erred by Modifying Child Support Without Making the Requisite Finding of a Material Change in Circumstances, Needs, and Financial Condition of the Parties.

1. Parties' Contentions

Last, Ms. Sargent argues that the circuit court erred by granting Mr. Brownlee's motion to modify child support and ordering her to pay child support, without finding a material change in circumstances, or giving any basis for the award. The Magistrate's recommendation that Mr. Brownlee pay child support to Ms. Sargent was based on the change in physical custody. When the circuit court rejected the Magistrate's recommendation regarding physical custody, the court should have reconsidered child support. The circuit court's modification of child support while finding no change in circumstances for custody modification is a "legal contradiction that requires remand."

Mr. Brownlee counterargues that the modification of child support is supported by the record. Mr. Brownlee's motion to modify child support expressly alleged a material change impacting the best interests of the child. The record establishes a change in financial circumstances, primarily that Ms. Sargent is receiving a VA benefit on behalf of the child while not paying support. Moreover, the Magistrate's guideline calculation based on the parties' current incomes, which was adopted by the circuit court, is appropriate. However, Mr. Brownlee asserts that if this Court concludes that the circuit court's findings are insufficient, a remand for further findings is appropriate rather than vacation of the order.

2. Modification of Child Support

Pursuant to § 12-104 of the Family Law Article, the "court may modify a child support award subsequent to the filing of a motion for modification and upon a showing of a material change of circumstance." Md. Code Ann., Fam. Law § 12-104(a); *see also Kierein*, 115 Md. App. at 456 ("a trial court may modify child support only upon a "material" change in circumstances, needs, and pecuniary condition of the parties from the time the court last had an opportunity to consider the issue."). A change is "material" when: 1) the change is "relevant to the level of support a child is actually receiving or entitled to receive[;]" and 2) the change is "of sufficient magnitude to justify judicial modification of the support order." *Wheeler v. State*, 160 Md. App. 363, 372 (2004) (quoting *Wills v. Jones*, 340 Md. 480, 488–89 (1995)). Changes that affect the level of support a child needs or changes that affect the income of the parents are relevant and material. *See Petitto v. Petitto*,

147 Md. App. 280, 307 (2002). In sum, to modify child support, first, the court must find a "material" change in circumstances since the last time the court considered the issue.

Secondly, the court must use the child support guidelines to establish the appropriate amount of child support. *See* Md. Code Ann., Fam. Law § 12-202(a)(1) ("[I]n any proceeding to establish or modify child support, whether pendente lite or permanent, the court shall use the child support guidelines set forth in this subtitle."). There is a presumption that the amount calculated by the child support guidelines is the appropriate amount of child support to be awarded; however, this presumption may be rebutted by evidence that such calculation using the guidelines is "unjust or inappropriate in a particular case." Md. Code Ann., Fam. Law § 12-202(a)(2).

Lastly, if the court deviates from the guidelines, the court must make a finding stating its reasoning, which must include:

> A. the amount of child support that would have been required under the guidelines;
>
> B. how the order varies from the guidelines;
>
> C. how the finding serves the best interests of the child who is the subject of the order; and
>
> D. in cases in which items of value are conveyed instead of a portion of the support presumed under the guidelines, the estimated value of the items conveyed.

Md. Code Ann., Fam. Law § 12-202(a)(2)(iv)(2). The court's decision to modify child support "will not be disturbed on appeal unless the court acted arbitrarily or its judgment was clearly erroneous." *Lieberman v. Lieberman*, 81 Md. App. 575, 595 (1990).

3. Analysis

The Judgment of Absolute Divorce, which memorialized the verbal custody agreement of the parties, ordered "that the parties agree and acknowledge that due to the current income of the parties, and the significant expense of travel in this matter, the child support should be charged generally to the parties, and that each party shall be responsible for caring for the child when the child is with that party[.]" Furthermore, it was ordered that Ms. Sargent "shall be responsible for all travel costs of the minor child for her scheduled access[.]"

When the Magistrate recommended the modification of custody, granting Ms. Sargent primary physical custody, it recommended that Mr. Brownlee be ordered to pay child support to Ms. Sargent based on the change in physical custody. Pursuant to the Maryland Child Support Guidelines, Mr. Brownlee's recommended child support obligation was $925 per month. However, the Magistrate found, because Mr. Brownlee will be responsible for at least four round-trip airline tickets per year, that "a downward deviation would be appropriate, and in the child's best interests." To that end, the Magistrate recommended that Mr. Brownlee pay $675 in child support per month.

When the circuit court rejected the Magistrate's recommendation and denied Ms. Sargent's motion to modify custody, it granted Mr. Brownlee's motion to modify child support, ordering Ms. Sargent to pay child support in the amount of $662 per month. The amount of $662 per month originates from the Maryland Child Support Guidelines as calculated by the Magistrate. However, the circuit court did not make any of the requisite

findings related to child support, such as whether there was a material change in circumstance to support the modification of child support. In fact, the court's written opinion mentioned nothing about child support. Moreover, there is no discussion of whether a downward deviation is appropriate considering Ms. Sargent's responsibility to pay for "all travel costs of the minor child for her scheduled access[.]" We, therefore, vacate the circuit court's order granting Mr. Brownlee's motion to modify child support, and remand for the circuit court to make additional findings, and if necessary, based on those findings, reconsideration of the amount of the child support award.

IV. CONCLUSION

For the foregoing reasons, we affirm the circuit court's order sustaining Mr. Brownlee's exceptions and denying Ms. Sargent's complaint for modification of custody. However, we vacate the circuit court's order granting Mr. Brownlee's motion to modify custody support, and remand for the court to make additional findings.

Pursuant to Maryland Rule 8-607,[4] we allocate the appellate costs to reflect that Ms. Sargent prevailed on one of the four issues she raised on appeal.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED IN PART AND VACATED IN PART. CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. APPELLANT TO PAY 75% OF COSTS. APPELLEE TO PAY 25% OF COSTS.

[4] Maryland Rule 8-607(a) on the allowance and allocation of appellate costs states, "[u]nless the Court orders otherwise, the prevailing party is entitled to costs. The Court, by order, may allocate costs among the parties."