

Circuit Court for Baltimore City  
Case No. 24-D-15-001022

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2892

September Term, 2018

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WANDA K. BOBIAN

v.

CALVIN K. BOBIAN

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Meredith,  
Kehoe,  
Leahy,

JJ.

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Opinion by Kehoe, J.

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Filed: March 4, 2020

\*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. *See* Md. Rule 1-10

This appeal arises out of a judgment of the Circuit Court for Baltimore City, entered in a proceeding for absolute divorce between Wanda Bobian and Calvin Bobian. Ms. Bobian raises eight issues, which we have consolidated and rephrased as follows:

1. Did the trial court err in finding that the marital home was a marital asset?
2. Was the trial court's finding that the marital home was marital property inconsistent with its ruling denying Ms. Bobian's request for a monetary award?
3. Was the trial court's ruling denying a monetary award legally inconsistent with its ruling ordering that Mr. Bobian's retirement benefits be transferred by qualified domestic-relations order?
4. Did the trial court err in denying Ms. Bobian indefinite alimony and awarding her rehabilitative alimony, in the amount of \$3,300 per month for three years, instead?
5. Did the trial court err in denying Ms. Bobian's motions *in limine* for discovery sanctions?
6. Did the trial court abuse its discretion in denying Ms. Bobian's claim for contribution towards her attorney's fees?

Additionally, Mr. Bobian asserts that there is no final judgment in this case.

As to the merits, we find no error in the trial court's conclusion that the marital home was marital property. However, for reasons that we will explain, we will vacate all aspects of economic relief granted, or denied as the case may be, to the parties and remand this case for further proceedings. Therefore, we will affirm the judgment in part, vacate it in part, and remand the case for additional evidentiary proceedings.

### **Background**

The parties were married in 1993. Ms. Bobian filed a complaint for absolute divorce in March 31, 2015, on the basis of twelve-month separation and adultery, and requesting a division of marital property, a monetary award, indefinite alimony, or, in the alternative, rehabilitative alimony, and attorney's fees. Mr. Bobian responded with a countercomplaint for absolute divorce, in which he requested an absolute divorce on the basis of a twelve-month separation and a monetary award based on the division of marital property.

Trial was held on August 29, 2018. Before the trial, the court heard argument on two motions *in limine* filed by counsel for Ms. Bobian. These motions sought sanctions for Mr. Bobian's failure to timely respond to discovery requests. The court denied both motions. The main issues at trial revolved around the nature of the parties' respective interests in the former marital home, Ms. Bobian's requests for alimony and a monetary award, and Ms. Bobian's claim that she was entitled to a share of Mr. Bobian's accrued retirement benefits.

On October 31, 2018, the court entered a judgment that (1) granted Ms. Bobian an absolute divorce on the basis of a twelve-month separation; (2) found that the marital home, which was titled in Ms. Bobian's name, was marital property; (3) denied Ms. Bobian's request for a monetary award; (4) denied Ms. Bobian's request for indefinite alimony, but awarded her rehabilitative alimony in the amount of \$3,300 per month for three years; (5) ordered that a portion of Mr. Bobian's retirement assets be transferred to Ms. Bobian by qualified domestic-relations order; and (6) ordered that each party pay his or her own attorney's fees. The court explained its reasoning in an accompanying memorandum

opinion. What follows is the court’s summary of the background to the parties’ appellate contentions:

Testimony revealed that the parties were married on December 21, 1993 in a civil ceremony in Baltimore City, Maryland. In July, 1996, twins were born to the union. . . . The children are emancipated. The marriage was not without controversy. Testimony showed that while [Mr. Bobian] was guilty of adultery early in the relationship, [Ms. Bobian] forgave [Mr. Bobian]’s conduct and resumed the marriage until they separated permanently in August, 2012. They have lived separately and apart from one another and have not resumed marital relations since August 12, 2012. This last separation has been without interruption or cohabitation.

Pursuant to their separation agreement, [Mr. Bobian] has paid [Ms. Bobian] \$3,300 in spousal support according to [Ms. Bobian]’s Financial Statement. Further, [Ms. Bobian] continues to live at [the marital home]. Her daughters lived with her until they graduated from high school.

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[Ms. Bobian] completed a year and a half of college. She has worked part-time as a substitute teacher in the city public schools since 2003, as an aerobics instructor, and as a secretary. [Ms. Bobian] was married to [Mr. Bobian] 19 years and provided child care during that time. In December of 2016, after the parties were separated [Ms. Bobian] sustained an injury involving a lumbar herniated disc and experiences radiating nerve pain into her back and legs. She has had multiple operations and is awaiting another operation, which prevents her from working at the present time.

According to [Mr. Bobian]’s W-2, he earns well over \$100,000 annually as a service operator in large scale outages for Baltimore Gas & Electric. From 1985-1987 he served in the United States Army and joined the Army Reserve in 1987. He retired from the Reserves in 2015.

We will provide additional facts as necessary in our analysis.

## **Analysis**

### 1. Appellate Jurisdiction

In his brief, Mr. Bobian contends that there is no final judgment because the trial court failed to explicitly assign a percentage of his retirement assets to Ms. Bobian. As a result, he says, this Court lacks appellate jurisdiction and Ms. Bobian’s appeal should be dismissed. Mr. Bobian is not correct.

First, at closing argument, counsel for both parties agreed that Ms. Bobian was entitled to 50 percent of Mr. Bobian’s retirement benefits, but this agreement was not reflected in either the court’s memorandum opinion or the judgment. It certainly would have been preferable for the court to have referenced counsel’s agreement on this important issue in either the memorandum opinion, the judgment of divorce, or both. However, in its judgment, the trial court did reserve jurisdiction over Mr. Bobian’s retirement benefits until a qualified domestic-relations order was “approved by the Plan Administrator for each investment vehicle.”

The trial court’s reservation of jurisdiction notwithstanding, the judgment of the divorce was unquestionably final for purposes of appellate jurisdiction. Maryland Code, § 8-213(b) of the Family Law Article provides that “[a]ny decree of annulment or of limited or absolute divorce in which the court reserves any power under this subtitle is final and subject to appeal in all other respects.” The judgment was therefore final for purposes of appeal, even though the court had not yet entered the qualified domestic-relations order.

See also Kevin Arthur, *Finality of Judgments and Other Appellate Trigger Issues* 33 (2d ed. 2018).

## 2. The Martial Home

In its memorandum opinion, the court made a determination of marital assets and made a number of findings as to marital property. Most of them, *e. g.*, ownership of motor vehicles and bank accounts, are not now in dispute. The court found that the marital home was marital property with a value of \$86,052.81.<sup>1</sup> Additionally, the court concluded that Mr. Bobian’s retirement assets were marital property, but the court did not assign them any value. Ms. Bobian contends that the trial court erred in ruling that the marital home was marital property. We do not agree.

Marital property is “property, however titled, acquired by 1 or both parties during the marriage.” Fam. Law § 8-201(e)(1); *see also Melrod v. Melrod*, 83 Md. App. 180, 185 (1990). However, marital property does not include property “excluded by valid agreement.” Fam. Law § 8-201(e)(2), (e)(3)(iii). The court may resolve ownership disputes concerning both real and personal property upon divorce. Fam. Law § 8-202(a); *see also Hoffman v. Hoffman*, 93 Md. App. 704, 711–13 (1992).

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<sup>1</sup> The \$86,052.81 value represents the equity in the marital home (the property itself is valued at \$198,490, but is subject to a mortgage of \$112,457.19).

“Ordinarily, it is a question of fact as to whether all or a portion of an asset is marital or non-marital property.” *Flanagan v. Flanagan*, 181 Md. App. 492, 521 (2008) (citing Md. Rule 8-131(c); *Noffsinger v. Noffsinger*, 95 Md. App. 265, 285 (1993)). Thus, we review the trial court’s findings as to marital property under the clearly-erroneous standard. *Id.* at 521; *Richards v. Richards*, 166 Md. App. 263, 271–72 (2005). With these principles in mind, we turn to the evidence before the court.

The marital home was purchased in October 2005 during the marriage. At that time, the parties and their two minor daughters lived together in the home. The marital home was titled in Mr. Bobian’s name only and he was the sole obligor on the purchase money mortgage. The evidence showed that the mortgage loan application would not have been approved if Ms. Bobian, who had a bad credit rating at the time, had been a co-signor. The monthly mortgage payments amounted to about \$1,500 per month, which were paid by Mr. Bobian.

When the parties separated, Mr. Bobian moved out of the marital home. At that time, Ms. Bobian assumed responsibility for the mortgage payments, although Mr. Bobian’s name alone remained on the title and the loan documents. In a separate action, Mr. Bobian was ordered to pay Ms. Bobian a total of \$1,650 per month for child support and the same amount as *pendente lite* alimony. Ms. Bobian put a significant portion of the \$3,300 monthly payments towards the mortgage. At trial, she testified that, in discussion with a representative of the mortgage company, she learned that she could reduce the monthly

mortgage payments through a loan modification, but such a modification could only occur if the property were titled in her own name. According to Ms. Bobian:

I spoke with the mortgage company and asked what could be done, because I couldn't afford [the mortgage]. And I explained to them that I was currently filing and going through a divorce. So they proceeded and said that I could— if I got the deed, then I could go into a (indiscernible) program, or get a modification of the loan.

Ms. Bobian spoke to Mr. Bobian regarding retitling the property, and testified to their conversation:

When speaking with Mr. Bobian, that he didn't want the house. That he wanted the girls and I to stay in the house. And I explained to him the only way I could stay in the house and afford the house if I went through the modification program. And in doing that, I need you to transfer the deed from Mr. Bobian to myself. And so he agreed to that because I told him that would help me pay the mortgage.

As a result of those conversations, Ms. Bobian's attorney (who was not her attorney at trial or in this appeal) prepared a quitclaim deed transferring title of the marital home from Mr. Bobian to Ms. Bobian. Across the top of the first page of the deed, the following legend appears: "NO CONSIDERATION; NO TITLE SEARCH PERFORMED PURSUANT TO MARITAL DISSOLUTION OF PROPERTY." On May 5, 2014, two years after the parties separated, Mr. Bobian executed the deed, and Ms. Bobian subsequently obtained a loan modification, reducing the monthly mortgage payments to \$767. At this point, the marital home was titled solely in Ms. Bobian's name, but Mr. Bobian remained as the only party liable on the loan. Ms. Bobian also testified that, despite the loan modification, she was two months behind on the mortgage payments. She noted that, on several occasions, Mr. Bobian had stepped in to pay the mortgage when she was unable to do so.



For his part, Mr. Bobian testified that it was not his intention to waive his property rights in the marital home by signing the quitclaim deed. He explained his purpose in signing the quitclaim deed was not to give Ms. Bobian the marital home, but rather:

to ensure that she was able to continue to afford the house because . . . the original mortgage of \$1,600 . . . was burdensome for her. So in an effort to allow her to a get a loan modification, she told me and I believed that by signing over the deed to her that she would be able to get the loan modification, which she was able to do.

When asked what he would prefer the court do with the marital home, Mr. Bobian testified that he wanted it to be considered marital property, and that, if Ms. Bobian could not afford to pay the mortgage, then the property should be sold and the proceeds divided between the parties.

Based on this testimony, the trial court concluded that the marital home was marital property. In its memorandum opinion, the court explained its reasoning:

The testimony revealed that the [marital home] was purchased during the marriage. [Fam. Law § 8-201] does not focus on how the property is titled, but when the property was acquired and under what circumstances. The evidence in this case shows that the couple purchased the home in 2005 during the marriage. The parties were still married in May 2014, when the quitclaim deed was signed and [Mr. Bobian’s] name was removed from the title. The testimony from both parties is that the mortgage company would only renegotiate the amount of the monthly mortgage payment if [Mr. Bobian’s] name was removed from the title of the property. Other than a notation on the deed that “no title search was performed pursuant to marital dissolution of property,” there was no evidence that the parties intended for the deed to affect the status of the real property as it related to marital distribution. Further, [Ms. Bobian] used marital funds or family maintenance funds to pay expenses associated with the home and the mortgage. For these reasons, the Court finds that the [marital home] is marital property.

Ms. Bobian argues that the trial court erred in finding that the marital home was marital property because the quitclaim deed was a valid agreement that had the legal effect of excluding the home from the parties' marital assets. For factual support, Ms. Bobian asserts that Mr. Bobian's intent to relinquish his rights to the marital home is evidenced by the phrase printed on the top of the quitclaim deed, stating: "No consideration. No title search performed pursuant to marital dissolution of property." Additionally, Ms. Bobian points to her own testimony in which she stated that Mr. Bobian expressed to her that he didn't want the house and that he wanted Ms. Bobian and their children to continue living there. Ms. Bobian cites *McGeehan v. McGeehan*, 455 Md. 268, 302 (2017), for the proposition that the quitclaim deed constituted "a valid postnuptial agreement which sufficiently excluded [the marital home] from consideration as marital property."

In light of the evidence presented at trial, we cannot say the trial court's resolution of the parties' marital property dispute was clearly erroneous. Ms. Bobian's argument focuses on how the marital home is titled, but title is not dispositive of whether property is marital property. *See* Fam. Law § 8-201(e)(1). It was undisputed that the marital home was purchased during the marriage. Thereafter, Ms. Bobian, Mr. Bobian, and their children resided in the home until the parties' separation. Thus, by those facts, the marital home was clearly marital property even though it was titled in Mr. Bobian's name.

Certainly, parties can agree that property acquired during marriage should not be treated as marital property in the event of divorce, and Ms. Bobian argues that the quitclaim deed had the legal effect of extinguishing Mr. Bobian’s marital interest in the marital home. The argument is not persuasive.

Initially, we note that Ms. Bobian’s argument is inconsistent with what was settled Maryland law at the time that the deed was executed. *See* Cynthia Callahan & Thomas C. Ries, *Fader’s Maryland Family Law* (6th ed. 2016) at 13–29 (“In order to exclude property by valid agreement from constituting marital property, the parties must *specifically provide* that the subject property is to be considered ‘non-marital,’ or in some other terms *specifically exclude* the property from the scope of the Marital Property Act.”) (emphasis added). Even though the 2014 deed from Mr. Bobian to Ms. Bobian refers to the parties’ anticipated divorce, there is nothing in the deed that specifically states that, in making the transfer, Mr. Bobian intended to waive his claim that the residence was marital property.

Ms. Bobian is correct that in *McGeehan*, the Court of Appeals held that, at least as to postnuptial transfers, parol evidence can be used to show that the parties intended to extinguish a spouse’s marital interest in what would otherwise be marital property. *McGeehan*, 455 Md. at 299–302. But the testimonial and documentary evidence in that case showed unequivocally that the two spouses intended that the husband would have no interest in the properties transferred to Ms. McGeehan. *Id.* at 273–77, 301–02. In contrast, in the present case there was certainly substantial evidence to support the trial court’s conclusion that the parties retitled the property as a means of reducing the monthly

mortgage payment and not to extinguish Mr. Bobian's marital interest. The trial court's findings as to the parties' intentions were not clearly erroneous and we have no basis to disturb the court's ruling as to the marital home.

Although we do not believe that the trial court was clearly erroneous when it found that the marital home was marital property, there is one aspect of the court's handling of this matter which requires further comment.

At the close of the court's otherwise-unexceptional marital property analysis, the court stated:

The court finds in this case that no monetary award is appropriate. It appears from the testimony that both parties made meaningful contributions to the well-being of the family. [Ms. Bobian] took care of two babies until they reached maturity, while [Mr. Bobian] supplied financial support working two jobs. When examining the value of the marital property, including the [\$86,052] equity in [the marital home], which is titled in [Ms. Bobian's] name, it appears the total values of the property that is titled to each party are very comparable. Each party has a car and various bank accounts that [are] equitably valued without the Court's intervention. Further, as to the termination of this 19 year marriage,<sup>[2]</sup> while there were fidelity problems earlier in the marriage, the circumstances that contributed to the final estrangement of the parties was not based on the conduct of any one person.

Notwithstanding these findings, in the judgment of absolute divorce, the court required Ms. Bobian to:

remove [Mr. Bobian's] name from the mortgage of [the marital home] no later than November 1, 2019. If [Ms. Bobian] cannot renegotiate the mortgage without [Mr. Bobian's] participation by [that date], the property shall be sold and the proceeds shall be split evenly.

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<sup>2</sup> In fact, the parties had been married for more than twenty-four years by the time of the trial.

There is an apparent inconsistency between the court's findings and the terms of the judgment. To be sure, if the equity in the house is to be awarded to Ms. Bobian to balance out other marital assets titled in Mr. Bobian's name, then there is no reason for him to remain obligated on the mortgage. If Ms. Bobian is unable to renegotiate the mortgage within thirteen months of the date of the judgment, then steps should be taken to release Mr. Bobian from his obligation. Sale of the house is a logical way (and perhaps the only realistic way) to accomplish this result. However, we can see no reason why Ms. Bobian should forfeit one-half of the equity in the marital home if she is unable to refinance it.

Therefore, although we will affirm the trial court's finding that the marital home is marital property, we will vacate that portion of the judgment pertaining to the division of equity in the event that Ms. Bobian is unable to refinance the mortgage.

### 3. Alimony

We next address Ms. Bobian's challenge to the court's ruling denying her indefinite alimony. As to this issue, the trial court stated:

[Ms. Bobian] completed a year and a half of college. She has worked part-time as a substitute teacher in the city public schools since 2003, as an aerobics instructor, and as a secretary. [Ms. Bobian] was married to [Mr. Bobian] 19 years and provided child care during that time. In December of 2016, after the parties were separated [Ms. Bobian] sustained an injury involving a lumbar herniated disc and experiences radiating nerve pain into her back and legs. She has had multiple operations and is awaiting another operation, which prevents her from working at the present time.

According to [Mr. Bobian]'s W-2, he earns well over \$100,000 annually as a service operator in large scale outages for Baltimore Gas & Electric. From 1985-1987 he served in the United States Army and joined the Army Reserve in 1987. He retired from the Reserves in 2015.

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[Ms. Bobian] is a 57-year-old woman who currently is unable to work because of a disc issue in her back. She expects that this condition will be improved after the next medical procedure in approximately 18 months. She has some college and has worked as a substitute teacher for the Baltimore City Schools. While she reports that no teaching certificate is necessary to substitute teach, the job does require that she be mobile and able to maintain discipline in the classroom. The parties' financial resources allowed them to have a comfortable standard of living while they were married. [Ms. Bobian] can remain in the marital home if she can continue to pay the mortgage. She has received \$3,300 in support from [Mr. Bobian] since the separation. It appears from the record that [Mr. Bobian] can meet his needs while at the same time pay [Ms. Bobian] \$3,300 monthly for the next three years, so that she can prepare to be self-supporting. Her health, with proper treatment, will improve over the next three years and she can obtain further education to enable her to obtain other employment if she chooses to do so.

Ms. Bobian raises two challenges to the court's alimony determination. First, she argues that the trial court erred in denying her request for indefinite alimony. She contends she is entitled to indefinite alimony because her limited education, employment skills, and physical abilities restrict her future earning capacity. Ms. Bobian points to Mr. Bobian's own earning capacity, as he has made over \$100,000 for the past several years and admitted that the expenses listed on his financial form were high. Finally, Ms. Bobian contends that there is an unconscionable disparity between the parties' respective standards of living. Along with the differences in yearly incomes over the years, Ms. Bobian notes that Mr. Bobian took three vacations in the year before the trial, lent her \$500 to visit their children in college, and was able to pay his own attorney's fees.

Second, Ms. Bobian challenges the court’s rehabilitative alimony award. She indicates that there was no evidence presented by either party that she is capable of rehabilitation, and that any possibility of future self-sufficiency is dependent on the success of her surgery. She also argues that the \$3,300 monthly award for rehabilitative alimony for three years was inadequate because her monthly expenses amount to \$5,522. Ms. Bobian asserts that she cannot make up the difference, citing her current lack of income. Although we do not agree entirely with Ms. Bobian, many of her points are valid.

Maryland’s statutory provisions regarding alimony are found in Title 11 of the Family Law Article. *Durkee v. Durkee*, 144 Md. App. 161, 173 (2002). Those statutes enable trial courts “to ensure an appropriate degree of spousal support after the dissolution of a marriage.” *Id.* (cleaned up). The purpose of rehabilitative, that is, fixed-term, alimony is to enable the economically dependent spouse to become economically self-supporting. *See, e.g., Whittington v. Whittington*, 172 Md. App. 317, 335 (2007). “Self-supporting” in this context does not mean that a spouse will earn enough “to keep body and soul together [but rather that] the party’s income exceeds the party’s reasonable expenses, as determined by the court.” *St. Cyr v. St. Cyr*, 228 Md. App. 163, 186 (2016) (cleaned up).

However, “F.L. § 11–106(c)(2) permits a court to award indefinite alimony . . . if the respective standards of living of the parties would be unconscionably disparate after the party seeking alimony has made as much progress toward becoming self-supporting as can reasonably be expected.” *Boemio v. Boemio*, 414 Md. 118, 137–38 (2010) (cleaned up). “[S]elf-sufficiency *per se* does not bar an award of indefinite alimony under [Fam. Law]

§ 11-106(c), if there nonetheless exists an unconscionable disparity in the parties' standards of living after divorce." *Turner v. Turner*, 147 Md. App. 350, 389 (2002) (cleaned up). An appellate court reviews a trial court's decision to grant or deny a request for an alimony award for abuse of discretion. *Boemio*, 414 Md. at 124–25 (2010) (cleaned up).

The standards for assessing requests for alimony are set out in F.L. § 11-106.<sup>3</sup> As this Court has observed, the plain text of § 11-106 requires a trial court to “consider *all* the

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<sup>3</sup> The statute states in pertinent part:

(b) In making the determination, 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 [marital property] 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;

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(c) The court may award alimony for an indefinite period, if the court finds that:



factors necessary for a fair and equitable award.” *St. Cyr*, 228 Md. App. at 179 (emphasis added). The facts in *St. Cyr* are analogous in some significant ways to the facts in the present case.

In *St. Cyr*, the parties had been married for approximately twenty years prior to their divorce and the wife stopped working in order to raise the parties’ minor children. *Id.* at 171. At the time of the divorce trial, the wife asserted that she was unable to work because of health reasons but—although the wife disputed the point—the trial court imputed income to her in the amount of \$1,733.33 per month on the basis that the wife could return to the workforce. Based on this, the trial court awarded wife rehabilitative alimony in the amount of \$1,800 per month for fifteen years but denied her request for indefinite alimony. *Id.* at 176. We vacated the court’s award of rehabilitative alimony because the trial court had failed to “explicitly compare” the wife’s imputed monthly income with her reasonable needs. *Id.* at 186.

The *St. Cyr* trial court also rejected the wife’s request for indefinite alimony stating that:

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- (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.

there was a lack of evidence on what [wife's] earning growth could be expected to be, and it seems that both parties want the Court to speculate about wife's earning potential or lack thereof. This Court will not do that.

*Id.* at 188.

We vacated that court's denial of indefinite alimony as well:

Although the court's refusal to speculate is perfectly understandable . . . , the problem is that the law still requires the court to project forward in time to the point when the requesting spouse will have made maximum financial progress, and compare the relative standards of living of the parties at that future time. In other words, the law puts the trial court in a conundrum: it cannot speculate, but it must project. The conundrum is particularly acute in a case like this, where the recipient spouse has taken the position that she is unable to work and has refused to put on evidence about the financial progress that she is likely to make. Nevertheless, by making an inconclusive finding on the issue of when Wife will have made maximum financial progress, the court compounded the earlier difficulty that arose from the lack of a clear finding regarding the income Wife needed to become self-sufficient.

*Id.*

Returning to the case before us, it is clear that we must vacate the court's rehabilitative alimony award for many of the same reasons cited in *St. Cyr*. In the present case, as in *St. Cyr*, the trial court did not make a finding as to what Ms. Bobian's reasonable expenses were. Nor did the court make a finding as to Ms. Bobian's earning potential when, or if, she returns to the workforce. Returning to the case before us, it is clear that we must vacate the court's rehabilitative alimony award for many of the same reasons cited in *St. Cyr*. In the present case, as in *St. Cyr*, the trial court did not make a finding as to what Ms. Bobian's reasonable expenses were. Nor did the court make a finding as to Ms. Bobian's earning potential when, or if, she returns to the workforce. Without these findings, the court's

conclusion that Ms. Bobian would become self-supporting in three years does not appear to have been based on an adequate factual foundation.

We must also vacate the court's *sub silentio* denial of Ms. Bobian's request for indefinite alimony because the court did not make any findings whatsoever as to that issue. The trial court's oversight with regard to Ms. Bobian's request for indefinite alimony was not a matter of formality. At the time of the trial, Mr. Bobian and Ms. Bobian had been married for just under twenty-five years.<sup>4</sup> For most of the marriage, Ms. Bobian's primary role was that of a homemaker and the day-to-day caregiver for the parties' minor children. This arrangement was agreed upon by both parties, but, according to Ms. Bobian, was due to Mr. Bobian's preference that she stay at home to care for the children.<sup>5</sup> Even when Ms. Bobian worked outside of the home, she was employed in various entry-level positions, including sales and telemarketing. Then, beginning in 2003, Ms. Bobian started working as a substitute teacher, a part-time position that required no certification or education beyond Ms. Bobian's several semesters of college. At the time of trial, she was unable to

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<sup>4</sup> See *Boemio*, 414 Md. at 142–43 (Section 11–106 “itself directs that judges must consider the length of the marriage as part of their evaluations. It is obvious, then, that the legislature decided that a long marriage called for more alimony than a short one.”).

<sup>5</sup> See *Boemio*, 414 Md. at 145–46 (“The family model of one parent serving as the primary caregiver and the other serving as the primary breadwinner can work well, with benefits to all, until divorce. But when divorce occurs, the primary breadwinner is likely to suffer less monetary loss than the caregiver parent, while both will share in the priceless benefit of having children. This asymmetry is certainly a legitimate consideration in determining unconscionability.”).

work at all because of her back condition. In light of the paucity of the trial court’s findings, we can only speculate as to whether Ms. Bobian, in light of her physical condition, education, and employment history, will ever attain the “comfortable” standard of living the trial court found that the parties were accustomed to, and to which Mr. Bobian continues to enjoy.<sup>6</sup>

#### 4. The Pre-Trial Motions for Sanctions

On the morning of trial, Ms. Bobian filed a motion *in limine* to prevent Mr. Bobian from offering any testimony into evidence concerning his monthly and yearly expenses as a sanction for his failure to (1) provide a copy of his long-form financial statement to Ms. Bobian’s counsel within 10 days of trial, and (2) actually file the financial statement with the court. Ms. Bobian filed a second motion *in limine* requesting that the court sanction Mr. Bobian for numerous discovery violations which concerned his tax returns and military income records. The trial court denied these motions on the ground that they were not timely filed.

Because we remand for additional evidentiary proceedings, Ms. Bobian’s appellate contentions as to the trial court’s disposition of these motions are essentially moot. In any

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<sup>6</sup> At the time of trial, Mr. Bobian was earning over \$100,000 a year, and had done so for the past three years. Mr. Bobian has been able to take several international vacations within the year prior to trial, while Ms. Bobian has had to borrow money to visit her daughters in college.

event, Ms. Bobian’s counsel currently has a copy of Mr. Bobian’s financial statement, which will need to be timely updated prior to trial.

### **Appellate Disposition**

Because we vacate the trial court’s rulings on Ms. Bobian’s request for alimony, we will also vacate the court’s denial of Ms. Bobian’s requests for a monetary award and an award of attorney’s fees. *See Whittington v. Whittington*, 172 Md. App. 317, 349 (2007) (“The counsel fee award also must be vacated on account of our vacating the alimony and monetary award judgments.”); *Malin v. Mininberg*, 153 Md. App. 358, 425 (2003) (“When an alimony award is vacated, any monetary award also must be vacated, as the two are interrelated.”); *Simonds v. Simonds*, 165 Md. App. 591, 608 (2005) (“[T]he factors underlying alimony, a monetary award, and counsel fees are so interrelated that, when a trial court considers a claim for any one of them, it must weigh the award of any other.”). Additionally, we will vacate that portion of the judgment requiring Ms. Bobian to forfeit one-half of the equity in the marital home if she is unable to remove Mr. Bobian as an obligor on the mortgage.

We affirm the trial court’s grant of the parties’ divorce and its conclusion that the marital home is marital property.

On remand, the trial court should hold an evidentiary hearing to permit the parties to provide updated information as to their current expenses and income; Ms. Bobian’s health status and the prospects for her future employment; the current status of the loan on the marital home; changes, if any, to Mr. Bobian’s employment status and health; updated

financial statements; and other relevant matters. The court should make findings that fully address the parties' respective requests for relief and then enter judgment accordingly.

**THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY IS AFFIRMED IN PART AND VACATED IN PART AND THIS CASE IS REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION.**

**COSTS TO BE DIVIDED EQUALLY BETWEEN THE PARTIES.**