Circuit Court for Queen Anne's County
Case No. C-17-FM-20-000030

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 0654

September Term, 2021

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JOHN H. HUBBARD, JR.

v.

AMANDA M. MACEY

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Shaw,
Ripken,
Harrell, Glenn T.
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Ripken, J.

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Filed: June 2, 2022

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

John Hubbard ("Father") comes before this Court appealing an order of child support and attorney fees to be paid to Amanda Macey ("Mother"). The Circuit Court for Queen Anne's County entered an order requiring Father to pay Mother (1) child support in the amount of $3,561.88 per month and (2) a contribution toward her attorney and expert fees in the amount of $23,375.74. On appeal, Father claims that the court erred in calculating the child support obligation and in awarding Mother attorney and expert fees. For the reasons to follow, we shall affirm.

## FACTUAL AND PROCEDURAL BACKGROUND

Father and Mother share one minor child, born in October 2013. The parties ended their relationship in May 2017. In January 2020, Father filed a complaint for child custody. The Complaint stated that the parties have followed a joint legal, shared physical custody arrangement since May 2017 and that Father voluntarily pays Mother $2,000 per month "for the support and maintenance of the minor child." Father sought to memorialize their agreement and practice into a court order. Mother filed an answer wherein she admitted that Father paid her $2000 per month, but stated that this amount was "far less than provided by an extrapolation of the Maryland [child support] [g]uidelines[.]" Mother subsequently filed a counter-complaint for child custody and child support. She requested that the court award her child support in an amount consistent with the Maryland child support guidelines, "plus any additional support necessary to further close the gap between living standards for the Child while with Mother and Father." Mother further requested that the court order Father to pay her attorney and expert fees.

On May 27, 2020, the parties attended a mediation conference, following which the court entered a consent custody order granting the parties "joint legal and shared physical custody of their minor child" per the parties' agreement. The order noted that the parties were "unable to resolve the [child] support issue which shall be reserved for further order of the court." A hearing was held before a magistrate on the issues of child support and attorney's fees on October 15, 2020, and November 12, 2020. The parties each submitted a financial statement documenting their income and expenses and testified as to the contents of their respective financial statements.

Mother testified to her itemized list of the minor child's expenses documented in her financial statement, including a mortgage payment, condo fee, groceries, school costs, vacations, and recreational activities. Mother also testified that she is "[un]able to provide [the minor child], at this time, while [the minor child] is in [her] custodial care, a lifestyle similar to the lifestyle he enjoyed prior to [her] separation from [Father]." She testified that, at Father's house, the child is able to play outside, has use of a private pool, dock, and boating, as well as other entertainment such as video games and movies. Mother testified that the child does not enjoy the same amenities at her residence. With respect to her housing expenses, Mother testified that although she does not currently have a mortgage payment, she included an estimate of that expense based on the costs of a new home should she sell her current one and purchase a home more consistent with the standard of living that the minor child enjoys at Father's residence.

During his testimony Father did not dispute the factual differences between the parties' residences. Father testified that he pays for the minor child's private school tuition,

healthcare, and extra-curricular activities in addition to the $2,000 per month he provides to Mother for child support. The parties stipulated to Father's income for the years of 2016, 2017, and 2018, and Father testified to his income and expenses as documented in his financial statement.

After the hearing, the Magistrate issued a Magistrate's Report, Recommendation, and Findings of Fact. In reviewing the parties' financial statements, and corresponding testimony, the Magistrate made findings as to the parties' monthly income. For the purposes of calculating child support, the Magistrate found Father's earnings to be "*at least* $548,263.56 annually, or $45,688.63 per month," and Mother's earnings to be "$22,880.00 annually, or $1,906.67 per month." The Magistrate noted that of Father's $20,797.95 asserted monthly expenses, Father attributed $1,635.27 to the minor child, and of Mother's $12,077.25 asserted monthly needs, Mother attributed $5,941.26 to the minor child. The Magistrate further noted that Father pays the minor child's medical expenses of $4,294.80 annually or $357.90 monthly, pays the minor child's private school tuition of $9,050.00 annually, or $754.17 monthly, and pays Mother $2,000 per month.

The Magistrate then addressed Mother's reasonable expenses for the minor child and made the following finding:

> Upon review of [Mother's] financial statement, and after making adjustments to school expenses, recreation and entertainment, transportation expense and gifts sections of the statement, she has reasonable expenses for the minor child in the amount of $3,710.29.

Using $3,710.29 as Mother's reasonable expenses for the minor child, the court calculated Father's child support obligation to be $3,561.88 per month:

> After considering the monthly adjusted actual income of the parties as well as the percentage of shared income, [Father's] child support obligation is established at $3,561.88 per month. This amount reflects 96% of the minor child's reasonable needs while in the physical custody of [Mother] every other week. The remaining $148.41 per month, or four percent (4%) is the responsibility of [Mother].
>
> With monthly income of at least $45,688.63 and total household expenses of approximately $21,000.00 (including costs for the minor child), [Father] is financial[ly] able to provide for the needs of the minor child while [] the child is in his care. [Father] is also financial[ly] capable of paying $3,561.88 per month to [Mother] for the support of the minor child.

In the Report, the Magistrate further stated that "having considered the testimony of the parties and the exhibits entered into evidence, the court agrees that the differences in their standard of living is reflected in the residences of each parent."

Finally, with respect to attorney and expert fees, the Magistrate found that Mother's attorney and expert witness fees totaled $47,811.48 and that Mother had assets of $247,000.00 and liabilities of $517,455.81. In the Magistrate's report, it was noted that Father's testimony indicated that he paid $11,000 in attorney's fees, but he did not know how much more he owes. Additionally, Father's "financial statement d[id] not include any assets and liabilities and [Father] did not provide any meaningful testimony or documentation regarding his debts other than those monthly obligations set forth on his financial statement and the attachment." The Magistrate concluded that "an award of attorney's/expert fees [was] appropriate" in the amount of $23,375.74 to Mother.

Father filed exceptions to the Magistrate's report in the Queen Anne's County Circuit Court. Father claimed that the Magistrate erred in the calculation of child support by allocating 50 percent of Mother's household expenses to the minor child; including the purchase price of a new home for Mother; and finding a difference in the child's standard

of living based exclusively on the parties' residences. Father also took exception with the decision to award Mother a portion of attorney's fees.

On June 17, 2021, the circuit court held an exceptions hearing. There, Father reiterated the arguments he made in his written exceptions to the Magistrate's child support calculations and award of attorney fees. He argued that the correct valuation of expenses attributable to the child was 25 percent of Mother's total expenses, and that the purchase of a new home was not the type of expense for which child support was owed. He further requested Mother's claim of attorney's fees be denied in full. On June 22, 2021, the court entered a Memorandum Opinion and Order that denied Father's exceptions and affirmed the Magistrate's recommendations.[1] The court concluded that contrary to Father's assertion, the Magistrate's report did not indicate that the child support obligation was fashioned to subsidize Mother's purchase of a new residence:

> Father's principal claim lacks basis in the record. Nowhere in the Report and Recommendations did the Magistrate state, either expressly or impliedly, that the prescribed child support award was fashioned, at least in part, to subsidize any costs that the Mother may incur for the purchase price, property taxes, and insurance costs of new residence. The Magistrate created a financial statement for [] Mother to establish the reasonable expenses to support the child, and she did include reasonable housing expenses that were supported by the record. Clearly, this was within her discretion as the most appropriate way to determine an above the guidelines award. She did not suggest, or direct, that the child support award was to be used by the Mother to purchase a new home.

The court further concluded that the award of child support and attorney's fees was within the Magistrate's discretion. The same day, the court entered a separate order establishing

[1] Mother also filed exceptions to the Magistrate's Report, which the court's final order denied. Mother did not appeal the court's order.

child support. The court ordered Father to pay Mother $3,561.88 per month in child support and $23,375.74 as a contribution toward Mother's attorney and expert fees. Father's timely appeal followed. Additional facts will be included as they become relevant to the issues.

## ISSUES PRESENTED FOR REVIEW

Father presents four questions for review, which we have rephrased and consolidated into two questions:[2]

I. Whether the court erred in affirming the Magistrate's determination of Father's child support obligation.

II. Whether the court abused its discretion in affirming the Magistrate's decision to award Mother's attorney and expert fees.

[2] Father presented his questions as follows:

I. Did the Court err when the Court allocated 50% of the "consumable" household expenses to the minor child when the parents share a 50/50 custodial arrangement?

II. Did the Court err when the Court included as a "reasonable expense" the purchase price, property tax and insurance costs of a new residence/asset not yet purchased and based upon speculative evidence; and while also maintaining the condominium fees the purchase would otherwise negate?

III. Did the Court err when it found that a different standard of living or lifestyle can be found in the value of the parties' respective residences *alone*, without consideration of the actual lifestyles, expenditures and priorities of each parent as they relate to and benefit the minor child as a proportion of their respective incomes?

IV. Did the Court err when it awarded [Mother] attorney fees under FL § 12-103 that were more than 4 times that of [Father]; and were pursued by [Mother] in contradiction of the parties' agreement and solely to seek subsidy for the purchase of a personal asset?

For the reasons discussed below, we hold that the court did not abuse its discretion in affirming the Magistrate's report with respect to calculating Father's child support obligation and awarding Mother attorney fees and costs.

## STANDARD OF REVIEW

In proceedings before a magistrate, the magistrate "assesses the credibility of the testifying witnesses and, after establishing a factual record, draws conclusions from the facts to make recommendations." *Prince George's Cnty. Office of Child Support Enf't ex rel. Polly v. Brown*, 236 Md. App. 626, 632 (2018). "[W]here a [magistrate] submits a proposed order to the circuit court, exceptions to the recommendation warrant an independent consideration by the trial court." *Leineweber v. Leineweber*, 220 Md. App. 50, 60 (2014) (internal quotation marks omitted) (quoting *Kierein v. Kierein*, 115 Md. App. 448, 453 (1997)). In conducting its review of the magistrate's report, "[t]he trial court may consider additional testimony or independently consider the report and recommendations of the [magistrate]." *Kierein*, 115 Md. App. at 453.

The trial court "should defer to the fact-finding of the [magistrate] where the fact-finding is supported by credible evidence, and is not, therefore, clearly erroneous." *Id.* (quoting *Wenger v. Wenger*, 42 Md. App. 596, 602 (1979)). "This deference does not extend, however, to every aspect of the case." *In re Priscilla B.*, 214 Md. App. 600, 623 (2013). A trial court "should exercise its independent judgment in applying the facts to the ultimate disposition because '[a] given set of facts does not lead mechanically to a single, automatic disposition but may support a range of discretionary dispositions.'" *Brown*, 236 Md. App. at 633 (quoting *Wenger*, 42 Md. App. at 602).

"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). "On the other hand, the reviewing courts give less deference to 'conclusory or dispositional' findings[.]" *Id.* (quoting *In re Priscilla B.*, 214 Md. App. at 624). "Finally, while 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." *Id.* (citations omitted).

When the parties combined adjusted actual income exceeds the highest level prescribed in the child support guidelines, the court is afforded "significant discretion" in determining the child support obligation. *Ruiz v. Kinoshita*, 239 Md. App. 395, 425 (2017). Accordingly, we review a trial court's discretionary determination of a child support obligation for an abuse of discretion and legal error. *Kaplan v. Kaplan*, 248 Md. App. 358, 385 (2020). So long as "the trial court's findings of fact are not clearly erroneous and the ultimate decision is not arbitrary, we will affirm it, even if we might have reached a different result." *Id.* (quoting *Malin v. Mininberg*, 153 Md. App. 358, 415 (2003)). We review a court's award of attorney's fees in family law cases, similarly, for an abuse of discretion. *Sang Ho Na v. Gillespie*, 234 Md. App. 742, 756 (2017). We will not disturb an award of attorney's fees unless the "court's discretion was exercised arbitrarily or the judgment was clearly wrong." *Id.* (quoting *Petrini v. Petrini*, 336 Md. 453, 468 (1994)).

## DISCUSSION

### I. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN AFFIRMING THE MAGISTRATE'S CALCULATION OF THE CHILD SUPPORT OBLIGATION.

Father argues that the court incorrectly calculated his child support obligation in three respects: (1) it allocated 50 percent of the household expenses to the minor child; (2) it included as a reasonable expense the purchase price, property tax, and insurance costs of a new home for Mother; and (3) it found a different standard of living and lifestyle based solely on the difference in the value of the parties' residences. These contentions are unavailing.[3]

[3] Father additionally argues that Mother's financial statement contains hearsay, speculation, and argument not in the record in violation of Maryland Rule 9-203(a). He claims that the exhibit corresponding to Mother's financial statement was not entered into evidence and that the court improperly relied on the financial statement.

Father's assertion is unsupported by the record. On July 23, 2020, Mother filed her financial statement with the court. Father filed a motion to strike Mother's financial statement and claimed it contained improper annotations and footnotes. The court denied Father's motion to strike. On October 5, 2020, Mother filed an amended financial statement. On October 15, at the beginning of the hearing, the court noted that six of Mother's pre-filed exhibits did not upload properly, among them was Mother's updated financial statement from October 5. Mother clarified that the financial statement was already part of the record, that she pre-filed the exhibit for convenience, and that nothing had since changed from the initial financial statement filed. The court agreed that Mother's financial statement was already part of the record.

Later in the hearing when Mother was testifying to the contents of her financial statement, Father objected to Mother's testimony for the same reasons articulated in his motion. The court overruled his objection and allowed Mother to testify. The court stated that it would give the annotations and footnotes "the weight that [is] appropriate under the circumstances." At the end of the hearing, Father requested that the court admit Mother's financial statement into the record. The court reiterated that Mother's financial statement was a required document already part of the court record. Father then asked the court whether the exhibit "is not entered or it is and [the court will] or take judicial notice of the file," to which the court responded: "It's part of the record and I'm going to take judicial notice of the file."

A trial court is required to use the child support guidelines in any proceeding to establish or modify child support. Md. Code, Family Law Article ("FL") § 12-202 (2019 Repl. Vol.). The child support guidelines set out a schedule for the calculation of child support when the parties combined monthly adjusted actual income ranges between $0 to $15,000. [4] FL § 12-204(e). However, "[i]f the combined adjusted actual income exceeds the highest level specified in the schedule . . . , *the court may use its discretion in setting the amount of child support*." FL § 12-204(d) (emphasis added). Such cases when the parties' combined monthly income exceeds the maximum bound ($15,000) of the child support guidelines are known as an "above the guidelines case," *Ruiz*, 239 Md. App. at 425.

In an above the guidelines case, the trial court "may employ any rational method that promotes the general objectives of the child support [g]uidelines and considers the particular facts of the case before it." *Malin*, 153 Md. App. at 410 (citations omitted). The trial court "need not use a strict extrapolation method to determine support in an above [the] [g]uidelines case." *Id.* In exercising its "significant discretion," *Ruiz*, 239 Md. App.

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Contrary to Father's claim, the court did not err by relying on Mother's financial statement. Pursuant to Maryland Rule 9-202, Mother was required to file her financial statement with the court, and it became part of the court record when the document was filed. Moreover, the court's judicial notice of a preexisting document in the same court record is not erroneous. *See Irby v. State*, 66 Md. App. 580, 587 (1986) ("We hold that when a trial judge takes judicial notice of an original court record from the circuit court wherein he or she presides, authenticity of the record is established. This relieves the party[,] seeking to admit the record[,] of proving its authenticity, provided that there is no objection indicating a substantive defect in the original record.").

[4] Beginning July 1, 2022, the upper limit will increase to $30,000. FL § 12-204(e) (2022).

at 425, to decide child support, the court must "balance the best interests and needs of the child with the parents' financial ability to meet those needs[,]" *Smith v. Freeman*, 149 Md. App. 1, 20 (2002) (quoting *Unkle v. Unkle*, 305 Md. 587, 597 (1986)). The court considers the reasonable expenses of the child and the parties' financial circumstances, station in life, age and physical condition, and expenses in educating their children. *Voishan v. Palma*, 327 Md. 318, 329–32 (1992).

The "conceptual underpinning" of the guidelines still applies in an above the guidelines case. *Freeman*, 149 Md. App. at 19. The guidelines "are founded on the premise 'that a child should receive the same proportion of parental income, and thereby enjoy the standard of living, [that] he or she would have experienced had the child's parents remained together.'" *Id.* (quoting *Voishan*, 327 Md. at 322). In *Jackson v. Proctor*, the court ordered Jackson, the father, to pay a monthly child support obligation of $2,500. 145 Md. App. 76, 83 (2002). Jackson appealed the court's order to this Court arguing such calculation was erroneous because, although the parties' combined monthly income exceeded the numerical guidelines values, Mother's financial statement and testimony represented the reasonable expenses of the child to be significantly less than $2,500. *Id.* at. 89. Jackson argued that the court improperly "speculated as to the appropriate award of child support." *Id.* We stated:

> Nice housing with quality furnishings, child care, private school tuition, tutoring, summer camp, lessons, recreational and cultural activities, toys, vacations, and other luxuries are among the privileges generally afforded to children in families with earnings comparable to the earnings in this case. Although these opportunities are often costly, children of middle class families sometimes enjoy many of these same luxuries.

*Id.* at 95. We rejected Jackson's argument and held that the court "properly balanced the best interests and needs of the child with the parents' respective financial abilities to meet those needs." *Id.*

Here, it is undisputed that the calculation of the child support obligation is an above the guidelines case. The circuit court, via the Magistrate's report, found that Father had an adjusted actual income of $45,688.63 per month and Mother had an adjusted actual income of $1,906.67 per month. As the parties combined monthly actual adjusted income exceeded $15,000, the guidelines do not apply strictly, and the Magistrate had significant discretion to calculate child support.

Turning to Father's contentions, Father's first claim, that the court should have allocated only 25 percent of the household expenses to the minor child, instead of 50 percent, is not convincing.[5] The court's adoption of the Magistrate's conclusion that Father is responsible for 50 percent of Mother's reasonable household expenses employed a rational method to ensure that the minor child is entitled to enjoy a proportionate share of Father's income. In *Voishan v. Palma*, the Court of Appeals explained that the child's expenses are often underestimated:

> Discussing the economic studies of spending in intact households, Robert G. Williams noted that because most expenditures made on behalf of children are intertwined with household expenses (i.e., food, shelter, and transportation), many costs of the children become hidden in the larger pool of household expenses. Consequently, Williams concludes "the full children's share of expenditures in those categories is generally not recognized, with the result that even parents may underestimate the true costs of bringing up their own children." Robert G. Williams, "Guidelines for

[5] In his brief, Father argued that it should be 33 percent. At oral argument, Father clarified the percentage to be 25.

> Child Support Orders," Family Law Quarterly, Volume XXI, No. 3, Fall 1987.

327 Md. 318, 334 n.9 (1992). Mother testified to the monthly expenses she estimated to provide a comparable home for the minor child and to other expenses including utilities, groceries, clothing, transportation, and entertainment. In reviewing Mother's asserted monthly expenses, the Magistrate determined those that were reasonably attributable to the minor child. Mother's testimony and financial statement justify her estimate of the household expenses. Therefore, the court did not abuse its discretion in affirming the Magistrate's recommendation in this respect.

Father's second and third claims of error are similarly unpersuasive. Father contends that the court's discussion of the expenses of a new home for Mother and the standard of living gap between the parties' residences indicate that the child support valuation was a means to provide Mother with funds to purchase a new property. Father claims that "it was an abuse of discretion to find that [Mother] required additional child support to afford her the opportunity to purchase a new residence in order to provide the child [a] standard of living that the Court found he already enjoys."

The Magistrate's determination of Mother's reasonable housing expenses (wherein the Magistrate considered mortgage, home insurance, and property taxes) is not clearly erroneous because it is supported by Mother's financial statement and her testimony thereto. In reviewing Mother's testimony, the Magistrate stated that "the figures on her financial statement represent reasonable monthly expenses if she were to sell her townhouse for $250,000.00 and use the money from that sale as down payment on the new

property, [costing $650,000].” Nowhere did the Magistrate indicate that the monthly expenses related to mortgage, home insurance, and property tax were intended to fund a new property purchase. The Magistrate’s report laid out in depth Mother’s represented monthly housing expenses and further specified that those represented expenses were reasonable with certain adjustments.

While acknowledging that Mother did not currently have a mortgage payment, it was within the Magistrate’s discretion to establish an amount that would entitle the minor child to a proportionate share of Father’s income. *See Jackson v. Proctor*, 145 Md. App. at 95 (holding that the court did not abuse its discretion when it awarded $2,500 in monthly child support when Mother’s financial statement and testimony represented the reasonable expenses of the child to be approximately $1,350). However, such acknowledgement is not akin to reserving money for purchasing a new property. The Magistrate discussed at length Mother’s poor financial decisions and excessive expenditures and concluded that despite her “lack of financial maturity,” the minor child should not be punished and is entitled to a standard of living consistent with that which the child would have enjoyed had the parties remained together in one household. The circuit court’s independent analysis of Mother’s monthly expenses for the minor child identified Mother’s testimony and the support in the record:

> The Magistrate created a financial statement for the Mother to establish the reasonable expenses to support the child, and she did include reasonable housing expenses that were supported by the record. Clearly, this was within her discretion as the most appropriate way to determine an above the guidelines award. She did not suggest, or direct, that the child support award was to be used by the Mother to purchase new home.

Therefore, we discern no abuse of discretion in the circuit court's review of the Magistrate's Report. As the circuit court noted, the Magistrate did not award Mother any portion of child support for the purchase of a new home. Of note, the Magistrate was critical of Mother's spending habits but remarked that the child should not be penalized and is nonetheless entitled to a certain standard of living. The circuit court was satisfied that the Magistrate employed a rational method to calculate Father's child support obligation, and we conclude that the circuit court did not abuse its discretion in affirming the Magistrate's conclusion.

## II. THE COURT DID NOT ABUSE ITS DISCRETION IN AFFIRMING THE MAGISTRATE'S AWARD OF MOTHER'S ATTORNEY AND EXPERT FEES.

Father next contends that the award of attorney's fees to Mother should be denied in full because her legal bill was excessive, particularly when compared to his legal fees. Mother responds that the court considered the requisite factors under FL § 12-103 and that the award should not be disturbed. We agree with Mother.

Pursuant to FL § 12-103, in an action to establish or modify child support, the court "may award to either party the costs and counsel fees that are just and proper under all the circumstances[.]" FL § 12-103(a). Before a court may award costs and counsel fees, it must consider three factors: "(1) the financial status of each party; (2) the needs of each party; and (3) whether there was substantial justification for bringing, maintaining, or defending the proceeding." FL § 12-103(b). Where the court decides to award attorney's fees, "they must be reasonable, taking into account such factors as labor, skill, time, and benefit afforded to the client, as well as the financial resources and needs of each party." *Petrini*,

336 Md. at 467. The parties' financial status and needs "must be balanced in order to determine ability to pay the award to the other; a comparison of incomes is not enough." *Davis v. Petito*, 425 Md. 191, 205 (2012).

Here, the Magistrate considered the three requisite factors and did not merely conduct a comparison of incomes. The Magistrate considered the documentation and testimony concerning the parties' financial circumstances, Mother's attorney and expert fees, and the financial resources and needs of each party. In addition to its analysis of the parties' income and expenses, the Magistrate, in the Report, identified that Mother's attorney and expert witness fees totaled $47,811.48 and that while Mother had assets of $247,000.00, she had liabilities of $517,455.81. It is further noted in the Report that Father paid $11,000 in attorney's fees and that his financial statement did not include any assets or liabilities. The Magistrate identified the applicable factors and stated that "after considering the financial status and needs of each party, and there being substantial justification for bringing and defending the action, an award of attorney's/experts fees is appropriate." The circuit court noted that "[w]hile counsel takes exception to the total costs of [] Mother's attorney's fees as being unreasonably excessive, that is not a position that the Court can take. Her choice in counsel and the fees generated was in her sole discretion." Therefore, because the Magistrate applied the requisite factors and balanced the entirety of the parties' needs and financial status, we hold that the circuit court did not abuse its

discretion in affirming the Magistrate's recommendation that Father contribute to Mother's attorney and expert fees.

**JUDGMENT OF THE CIRCUIT COURT FOR QUEEN ANNE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.**