

Circuit Court for Montgomery County
Case No. 126593FL

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND

No. 1190

September Term, 2020

Gholam Motamedi

v.

Mina Adnani

Reed,
Ripken,
Battaglia,
(Senior Judge, Specially Assigned)

JJ.

Opinion by Reed, J.

Filed: January 10, 2023

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

** On December 14, 2022, the name of the Court of Special Appeals was changed to the Appellate Court of Maryland.

This case is an appeal of an indefinite alimony award following the Appellant-husband, Gholam Motamedi, and Appellee-wife, Mina Adnani's (collectively "the Parties"), divorce after a trial in the Circuit Court of Montgomery County on July 5-7, 2016. Appellee was awarded alimony and a marital award. Appellant appealed, and the case was reviewed by an *en banc* panel ("Panel"). The Panel vacated the rehabilitative alimony award and remanded the case back to the circuit court for further proceedings. Following the Panel's decision, the circuit court awarded Appellee three years of rehabilitative alimony.

A few years later, Appellee filed a motion to modify and extend alimony, followed by a supplemental filing. Through an oral opinion on October 29, 2020,¹ and a written order on November 24, 2020, the circuit court granted Appellee two additional years of rehabilitative alimony, as well as indefinite alimony thereafter. On December 18, 2020, Appellant timely appealed.

In bringing his appeal, Appellant presents two questions for appellate review, rephrased for clarity:²

¹ The oral opinion was administered remotely via an online teleconferencing service pursuant to preceding COVID-19 pandemic administrative orders.

² Appellant, in his brief, posed the two questions for this Court's consideration:

1. Did the trial court err in awarding indefinite alimony because (A) it did not and could not determine that indefinite alimony was necessary to avoid "a harsh and inequitable result" - where that result entailed wife achieving the income and standard of living that the court earlier found appropriate; (B) it failed to exercise "considerable restraint" as required by the Court of Appeals; (C) it awarded indefinite alimony to Dr. Adnani as a "lifetime

- I. Did the circuit court err in awarding indefinite alimony to Appellee?
- II. Did the circuit court err in awarding attorneys' fees to Appellee?

For the following reasons, we answer both questions in the negative and affirm the Circuit Court for Montgomery County's judgments.

FACTUAL & PROCEDURAL BACKGROUND

The Parties were married in Tehran, Iran in October of 1990. Shortly after their marriage, Appellant came to the United States of America to work as a medical doctor while Appellee lived with her parents in Iran. In 1992, their first child, Sam, was born. In 1997, Appellee and Sam joined Appellant in Texas after Appellant secured their visas for lawful entry into the United States. In 1998, the Parties had a second child, Sepehr, and moved to Maryland.³

During their marriage, Appellant worked as a physician at Johns Hopkins Medical Hospital, then at MedStar Georgetown University Medical School ("University") as a neurologist and professor of neurology. In 2007, Appellee received her permanent resident

pension" contrary to plain legislative intent; and (D) Dr. Adnani failed to satisfy her burden of proof for entitlement to indefinite alimony?

2. After the trial court found that the pursuit of one issue by Dr. Adnani was not justified, did the court err in awarding \$38,000 in attorneys' fees based on invoices that contained only generic entries such that the court could not differentiate time spent on different issues?

³ Appellee was the primary caregiver for the children during their minority. Both children are now emancipated.

card and began working at the National Institutes of Health (“NIH”). Appellee then applied and was accepted into a Microbiology Master of Science⁴ program at Johns Hopkins University. The NIH paid for Appellee’s tuition. Appellee earned her Master’s degree in microbiology from Johns Hopkins University in 2012 and continued working for NIH thereafter. In 2014, Appellee applied and was accepted into the Biochemistry and Molecular Biology Doctor of Philosophy (PhD) program at Georgetown University.⁵

The Parties separated on February 19, 2015 when Appellee filed an emergency admission petition (“EAP”) and a petition for a protective order, alleging Appellant was suffering from psychiatric illness. Appellant consented to a final protective order without findings.

Following a bench trial on July 5-7, 2016, before the Circuit Court for Montgomery County, the Parties were divorced. In its oral opinion on July 12, 2016 and written Order dated August 9, 2016, the court granted the absolute divorce, declined to give a marital alimony award, and awarded a rehabilitative alimony in the amount of \$2,100 per month

⁴ Appellee earned her bachelor’s degree in 1987 in biology before the Parties were married.

⁵ Appellee’s area of research centers around the study of new therapeutic solutions for patients with Ewing Sarcoma bone metastatic disease. “Ewing sarcoma [(ES)] is the second most prevalent malignant bone tumor in children and adolescents after osteosarcoma. At present, the main strategy for treatment for patients with metastatic ES is surgery, radiotherapy and chemotherapy. Unfortunately, the survival rate of ES patients with metastases, particularly to bone, is very poor even after these treatments. Thus, there is an increasing need for new therapeutic solutions for patients with ES bone metastatic disease.”

for three years.⁶ The court stated that the three years was sufficient to complete her doctorate and become self-sufficient.

On March 10, 2017, Appellee filed a memorandum in support of *en banc* review and requested a hearing. A little less than a month later, the Panel determined the circuit court's marital award was clearly erroneous because the circuit court

failed to adequately articulate the title and value of each item of marital property by the [Appellant]. If the trial court determined that there was no dissipation because it concluded [Appellant] did not make a *prima facie* showing of dissipation, such a decision was clearly erroneous; alternatively, if the trial court did not find dissipation based on consideration of the appropriate factors for dissipation, such considerations were not adequately set forth in the trial court's ruling.

Consequently, the Panel reversed the circuit court's marital award, vacated the rehabilitative alimony award, and remanded the matter for further proceedings.⁷

⁶ The circuit court also allocated the Parties' homes and retirement accounts. The property located in Gaithersburg, Maryland was given to Appellee and the property in Washington, D.C. was given to Appellant.

⁷ Judge Terrence J. McGann of the Circuit Court for Montgomery County filed a dissenting opinion stating that

[i]t is clear from the record that the trial court examined the parties' employment status, the Defendant's opportunity for future employment, their education, the length of the marriage, their contributions to the marriage, the reasons for the marital demise, their physical and mental fitness, their ages, their agreement with respect to the properties on Fleece Flower Drove and New York Avenue, the Plaintiff's income, the Plaintiff's debt, the Defendant's lack of debt, the Defendant's stipend, the parties' bank accounts, the Plaintiff's loans, the Defendant's lump sum payments of child support to her minor son, and the Defendant's claim of dissipation, the Defendant's education and ability to be self-supporting.

On remand, Appellee sought five years of rehabilitative alimony for \$3,000 per month while she completed her degree and a monetary award, but did not request indefinite alimony. Appellant requested the previous alimony amount of \$2,100 for three years be reinstated.

The circuit court quantified each party's annual income. The court determined that Appellant earned a salary of \$150,000 per year, as determined by the University. As a PhD student, in 2014-2015, Appellee received an annual stipend of \$28,500 from Georgetown University, and \$29,000 in 2015-2017 school years. The circuit court opined that Appellee chose not to work outside of her doctoral program; stating that Appellee "does not want to work while she is pursuing her doctoral degree, and that she has made the choice not to work during that time period."⁸ Finally, the circuit court stated that this was "choice made by the [Appellee] as she prefers educational pursuits to employment outside of the home."

The Parties disputed Appellee's potential earning capacity in her field before and after she graduated. Appellee contended that she could make \$40,000-\$50,000 due to her

Judge McGann concluded that the circuit court did not err in its original decision or commit any error of law, but the majority of the Panel would decide the case differently, and thus concluded otherwise.

⁸ Appellee argues in her brief that "Appellee had a stipend agreement with Georgetown University precluding such work," generally asserting that the Appellee did not simply choose not to work, but instead could not work per the stipulations of the stipend agreement. This Court recognizes that during 2014-2016 academic years, Appellee was to "devote their efforts fully to their studies, and therefore may not serve or work at Georgetown University" during that time. However, during the 2016-2017 academic year, Appellee was expected to work as a research or teaching assistant at Georgetown University for no more than twenty hours per week. The circuit court later credited Appellee's testimony that while she was at Georgetown University, she could not seek unemployment.

age and lack of experience. Appellee's expert witness, Steven Shedlin, stated after a six-to-twelve-month job search, Appellee could earn between \$42,000-\$44,000 per year if she left her PhD program and worked as an assistant microbiologist or assistant biochemist and \$70,000-74,000 per year in those same fields after she earned her PhD. However, according to the Appellant, Appellee was capable of earning \$60,000-\$75,000 if she left her PhD program and worked as an assistant microbiologist or assistant biochemist and \$95,160-105,070 per year in those same fields after she earned her PhD.

The circuit court revised its marital monetary award and Appellee was again awarded three years of rehabilitative alimony in the amount of \$2,100 per month. The circuit court determined the three-year timeframe based on Appellee's ability to earn her PhD within the allotted time.

On April 22, 2019, Appellee filed a motion to modify and extend alimony. Appellee based this request on the delay of the completion of her PhD program and her consequent inability to be self-sufficient during the three-year period and that Appellant was making considerably more money than he was at the time of the divorce. Appellant filed a motion to dismiss, which was granted without prejudice on September 6, 2019. The circuit court granted Appellee leave to file an amended motion and Appellee filed a supplemental motion to modify and extend alimony.

In Appellee's supplemental motion to modify and extend alimony, Appellee sought an extension of rehabilitative alimony for the time required to become self-sufficient or, in the alternative, indefinite alimony. During this post-divorce period, Appellant received a substantial increase in his income. Conversely, Appellee was still in the PhD program at

the time of divorce and at the time the motion to modify was filed and struggling to find the level of employment and reach the standard of living, anticipated by the court during the initial alimony award. Appellee stated that despite her diligent attempts to finish her PhD within the three years allotted by the circuit court, she was unable to citing unanticipated delays with the novel research methods she employed in her research. Appellee anticipated that it would take an additional eighteen to twenty-four months to obtain her degree and then an additional year to find gainful employment.

After the Appellant received a substantial increase in income, Appellee filed for modification of the award, seeking *inter alia*, indefinite alimony due to the “unconscionable disparity” in the Parties’ post-divorce standards of living. The circuit court held that Appellee’s failure to obtain her PhD and becoming self-sufficient was a change in circumstances that had arisen since the subsequent award for the court to consider an extension of alimony. The circuit court cited that, “pursuant to Maryland Code, Family Law [(“FL”) §] 11-107(a), the court may extend the period in which the alimony is awarded if circumstances arise during the period that would lead to harsh and inequitable result without an extension and the recipient petitions for extension during that period which has happened in this case.”

Since the original determination that Appellant made \$150,000, the circuit court held that between 2016-2019, Appellant earned:

<u>Year</u>	<u>Annual Income</u>
2016	\$299,910.80
2017	\$245,256.08
2018	\$286,253.00
2019	\$302,644.48

Halfway through 2020, Appellant's earned income for the year from January to July totaled \$168,538.44. The court determined that "[t]he average income of [Appellant] was \$287,918.28 per year if you were to use the last four and half years." The court considered financial and tax statements from Appellant's income from the University and his consulting business. The court also stated that Appellant's reported monthly expenses at \$10,906.11 was "excessive and not supported by the evidence."⁹ The court adjusted

⁹ The circuit court stated:

As to expenses detailed in the respective financial statements, I have made some adjustments based on testimony and review of exhibits. The defendant's reported monthly expenses were \$10,906.11. The court finds expenses set forth in the number of line items to be excessive and not supported by the evidence. In some instances, I find that he employed a good tax strategy deducting expenses from his income but did not reflect the benefits of that offset in his financial statement either by increasing his income or by reducing his expenses to give a more accurate picture of his income and expenses. And looking at Exhibits 12, 13 and 15, which are his tax return for 2017, 2018, in 2019 respectively, the court will note that there is a schedule C included. In the schedule C, the defendant claims a number of expenses against his consulting business thus lowering his income. It is shown each year that he consistently deducts money from his business profit for expenses. I will use an example of those reported in his 2019 tax return since that is the expense that he used to support his expenses in his most recent financial statement, Exhibit 17. He deducted car and truck expenses in 2019 in the amount of [\$]1,160, travel in the amount of [\$]1,815, meals in the amount of \$93, licenses and certificates in the amount of \$5,850, professional memberships and dues in the amount of \$4,930, and communications expenses in the amount of \$150. The total expenses deducted were \$14,848. To subtract this both from his income and to include it in expenses results in effective double dipping. In regard to actual expenses for his certifications and organizational fees, which he listed as \$2,000 a month, I do not believe that the defendant would have limited his expenses deducted from his consulting business on his income tax only so the lion share would have been deducted if it occurred. So I am not considering these expenses in his monthly financial statement and will make the adjustment. I

Appellant's monthly expenses to \$7,100.

In considering Appellee's finances, the court stated that she was a full-time student receiving a stipend from University until June 2020, which precluded her from seeking employment. She then applied for unemployment which she received at the rate of \$321 per week or \$1,284 a month. Appellee's monthly expenses, after being reviewed by the circuit court, was adjusted to \$5,800 monthly. The court declared that Appellee does not have sufficient resources to pay her bills and Appellant has the sufficient funds to assist in paying her bills.

just don't think it has been proved. There is also a deduction in his taxes for the use of home office as well as the depreciation in the amount of \$3,351 and \$589 respectively. There also is no corresponding change reflected in the monthly financial statement. The total amount to charities reflected in the schedule is \$366 which included \$300 of in-kind donation to the Salvation Army. Far less than the amount claimed . . . on his 1040 and I would not He indicated that on his schedule he had \$366 and \$300 in-kind. On his monthly financial report, he attributed much higher amounts than was claimed in his 1040 and I looked at the early tax years as well and they reflect a similar pattern. The gifts are extraordinarily high in the \$17,000 a year which is not supported by the evidence. Additional areas which the court finds are not supported by the evidence or are nonrecurring costs are auto accident, business suits, dental, painting, and there is a notation that he should paint the condo every three years. Honestly, he is the sole occupant. That can't be justified.

In addition, he cites replacing furniture when he just purchased in excess of \$30,000 according to Judge Rubin from marital funds in 2016. Hard to believe that he needs to replace anything. He also does not include any pretax savings from his HSA for medical and dental expenses. So the court has adjusted his expenses to \$7,100 which honestly is being conservative on adjustments. Assuming his net income is \$13,933.65, his excess income is \$1,633.65.

In considering Appellee's unemployment and Appellant's income doubling, the court ultimately granted Appellee two additional years of rehabilitative alimony, starting retroactively in July 2019 and ending in July 2021, with indefinite alimony thereafter. Rehabilitative alimony was awarded retroactively in the amount of \$3,050 from July 2019 through July 2020 and adjusted to \$3,900 for Appellee's loss of her stipend during the period of July 2020 to July 2021. On unemployment, Appellee's pay "only averages \$8 an hour." The court held that although Appellee could be expected to reach her anticipated standard of living within twenty-four months, there was nonetheless an unconscionable disparity in the parties' standards of living based on Appellant's new income. The court stated that

[Appellant] since 2016 has been able to extinguish his debts both from his family and creditors as well as begin to amass a considerable amount in savings and retirement. He has \$239,270.02 in his savings and checking. His retirement balance has been increased by \$138,000. The equity in his home is \$181,358. He has no debt to speak of outside of his mortgage of \$238,642 except his attorneys' fees which I think he listed as \$7,500.

Even if the [Appellee] becomes employed at the \$95,000 amount, she will not be able to invest any significant amount into either retirement or savings especially in the limited amount of time that she had before she ages out of the workforce. It is not lost on the court that [Appellant] is older as well than the [Appellee] and he will age out from the workforce in the not-too-distant future as well. The court has taken this into account. The [Appellee] has \$10,000 in an investment account and \$2,600 in savings. Other than her home which has \$170,877 in equity and her jewelry of \$8,000 she has no additional assets except for the \$176,500 in retirement assets which she was awarded [the previous circuit court judge]. I will note that that is not a significant resource for retirement. . . . I find that without of (sic) the award of indefinite alimony there would exist an unconscionable and disparate circumstance of the parties with respect to standards of living which justifies an award of definite alimony. I therefore award her an amount of \$2,600 in indefinite alimony to the [Appellee].

On December 18, 2020, Appellant timely appealed the award of indefinite alimony.

I. INDEFINITE ALIMONY

A. Standard of Review

Since the adoption of the Maryland Alimony Act in 1980, alimony may be awarded either for a fixed term, referred to as “rehabilitative alimony” or for an undefined amount of time, referred to as “indefinite alimony”. *Walter v. Walter*, 181 Md. App. 273, 281 (2008). “An alimony award will not be disturbed upon appellate review unless the trial judge’s discretion was arbitrarily used or the judgment below was clearly wrong.” *Boemio v. Boemio*, 414 Md. 118, 124-25 (2010) (citing *Solomon v. Solomon*, 383 Md. 176, 196 (2004) (quoting *Tracey v. Tracey*, 328 Md. 380, 385 (1992))). “[A]ppellate courts will accord great deference to the findings and judgments of trial judges, sitting in their equitable capacity, when conducting divorce proceedings.” *Tracey*, 328 Md. at 385. “Thus, absent evidence of an abuse of discretion, the trial court’s judgment ordinarily will not be disturbed on appeal.” *Solomon*, 383 Md. at 196.

B. Discussion

On the issue of alimony, Appellant first contends that the circuit court did not, and could not, determine that indefinite alimony was necessary to avoid “a harsh and inequitable result.” Appellant argues that the award of indefinite alimony was solely based on Appellant’s post-divorce increase in income, which Appellant contends is insufficient to modify a pre-existing alimony award. Appellant further contends that the circuit court failed to exercise “considerable restraint” in awarding indefinite alimony. Finally,

Appellant argues that Appellee failed to satisfy her burden of proof for entitlement to indefinite alimony. Appellant asserts that by the time of modification, the circuit court determined that Appellee had the ability – within twenty-four months – to reach the standard of living that the circuit court previously determined to be acceptable.

In determining alimony, the court must look to FL § 11-106 (b) which states:

(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 award made under §§ 8-205 and 8-208 of this article;
 - (iii) the nature and amount of the financial obligations of each party; and
 - (iv) the right of each party to receive retirement benefits; and
- (12) whether the award would cause a spouse who is a resident of a related institution as defined in § 19-301 of the Health-General Article and from whom alimony is sought to become eligible for medical assistance earlier than would otherwise occur.

Id. While the law prefers that the award be for a fixed term, the court has discretion to award indefinite alimony when one of two circumstances described in FL §11-106 (c) has been shown:

Award for indefinite period

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

(1) due to age, illness, infirmity, or disability, the party seeking alimony cannot reasonably be expected to make substantial progress toward becoming self-supporting; or

(2) even after the party seeking alimony will have made as much progress toward becoming self-supporting as can reasonably be expected, the respective standards of living of the parties will be unconscionably disparate.

Id.; *Walter*, 181 Md. App. at 281-282 (citing *Tracey*, 328 Md. at 391; *Whittington v. Whittington*, 172 Md. App. 317, 33-38 (2007); *Solomon*, 383 Md. at 195-96).

Appellant relies on *Blaine v. Blaine*, 336 Md. 49 (1994), which states that “there must be a change in the respective circumstances of the parties since the date of the original award which bears a substantial relation to the factors which were considered at the time of the original award.” The circuit court stated that Appellee’s failure to obtain her PhD and becoming self-sufficient, due to no fault of her own, was a change in circumstances that had arisen since the subsequent award. We agree.

As stated by the circuit court, Appellee was unable to finish her PhD study work citing unanticipated delays with the novel research methods she employed in her research. Appellee’s PhD research studies concern new therapeutic solutions for Ewing Sarcoma bone metastatic disease patients. Appellee’s research required preparing studies of specific cancer cell types and performance of mice experiments which ideally took at least a year

to prepare, and also obtaining the proper approvals prior to the actual experiments. The preparations for the experiments required numerous unanticipated adjustments and unplanned troubleshooting resulting in a substantial eighteen-to-twenty-four-month delay. These unforeseen delays in research posed a change in the respective circumstances requiring the reconsideration of alimony. The change occurred after the original award. The circuit court weighed these facts in determining whether there was a change in circumstances warranting reconsideration of alimony. For these reasons this Court holds that the circuit court did not err in considering Appellee's motion to modify and extend alimony.

Moreover, Appellant argues that, because Appellee was given more time to become self-sufficient, the only relevant factor used in reaching the indefinite alimony award was Appellant's increased income. Nonetheless, this Court has explained:

A [s]ubstantial change in one party's financial circumstances can, under appropriate circumstances, be legally sufficient to justify a change in spousal support. "What amounts to a substantial change in [one party's] financial circumstances is a matter to be determined in the sound discretion of the chancellor for which there are not fixed formulas or statutory mandate."

Campitelli v. Johnston, 134 Md. App. 689, 699 (2000) (quoting *Lott v. Lott*, 17 Md. App. 440, 445 (1973)). Thus, the circuit court was at liberty to consider the increased income of Appellant in determining whether to modify the alimony award. Where the circuit court's decision is outlined by a robust record and guided by legal principles, this Court cannot find an abuse of discretion.

Finally, this Court must address Appellant’s contention that *Blaine v. Blaine*, 336 Md. 49 (1994) supports his argument that the circuit court erred in awarding indefinite alimony. This Court finds that the opposite is true – the *Blaine* case instead supports the award of indefinite alimony in the case at Bar. *See Blaine v. Blaine*, 336 Md. 49 (1994). In *Blaine*, the ex-wife completed an advanced degree program, as anticipated at the time of the original award of rehabilitative alimony but could not find meaningful employment within her field due to an economic recession. *Id.* at 58-59. The Supreme Court of Maryland¹⁰ held that the ex-wife’s completion of an advanced degree, combined with her failure to secure employment in a new field, could provide sufficient basis for review of alimony to determine whether the award should be continued indefinitely. *Id.* at 75.

First, like the court in *Blaine*, the circuit court in this case held that Appellee’s circumstances surrounding the delay in completing her PhD program and obtaining employment were out of her control and not due in part to the Appellee’s lack of diligence. “The unanticipated difficulty were the in vitro and in vivo experiments as well as the strict rules with regards to animal studies that have been recently implemented in laboratory experiments, length of the time it took to complete her experiments.” The circuit court stated that as a result of,

COVID-19 pandemic considerations, [Appellee’s] ability to seek employment ha[d] been severely hampered. The Federal Government has ceased hiring at many of its agencies. Academic hiring as it relates to faculty, post [graduate] fellowships, and grants ha[d] been curtailed and, finally, the private sector has reduced its hiring and forgoing researching cases. Some of

¹⁰ At the time of the decision, the Supreme Court of Maryland was formerly named the Court of Appeals of Maryland. Maryland’s highest court’s name was changed on December 14, 2022 after a voter-approved change to the state constitution.

this is occurring because of the limitations of the COVID-19 brings to the physical workplace and others because of the economic impact COVID has had on business. COVID-19 has impacted an extraordinary number of people's ability to find and retain employment. I can say without reservation that this is despite all of [the previous circuit court judge]'s experience and intellect I doubt that he anticipated the pandemic and all of its fallout in the employment sector.

Next, like in *Blaine*, Appellant received a substantial increase in income. *See id.* at 57-58 (where the ex-husband made \$62,000 a year at the time of the divorce and later made \$140,000 annually). As stated in *Blaine*, the current financial considerations of each party can be appropriately considered. *Id.* at 73. In prior tabulations of Appellant's income, Appellant made \$150,000. However, according to his financial and tax statements from 2016-2019, Appellant almost doubled his income, earning an average of \$287,918.29 annually. Halfway through 2020, Appellant had already eclipsed his previously declared annual income of \$150,000, earning \$168,538.44 by July of 2020.

While Appellee had made much progress toward completing her PhD and becoming self-supporting, this Court notes that the respective standards of living are unconscionably disparate. Like the party in *Blaine*, Appellee had not achieved the level of employment anticipated at the time of the original award *and* Appellant received a substantial increase in income. *See Blaine*, 336 Md. at 58-59. Despite Appellee's efforts toward completing her PhD program, the circuit court held the delay was unforeseen due to Appellee's novel research methods. Moreover, the circuit court stated that Appellee could not afford to pay her bills, was making \$8 an hour on unemployment, and had a very limited amount of time to save for retirement before she ages out of the workforce. In contrast, Appellant has – since the divorce – eliminated outstanding debts, almost doubled his income, and carries

hundreds of thousands of dollars across his savings and bank accounts. These two changes in circumstances, in accordance with *Blaine*, provided the circuit court with a sufficient basis to modify the alimony to be indefinite in nature. Thus, this Court disagrees with Appellant's contentions that *Blaine* provides support for his efforts to overturn the circuit court's decision.

II. ATTORNEYS' FEES

On the issue of attorneys' fees, Appellant argues that if alimony is reversed or vacated, the award of attorneys' fees must be vacated as well. Separately, Appellant argues that the circuit court abused its discretion in awarding attorneys' fees in this case because: (1) the court found that one of the issues which Appellee litigated was not justified; and (2) the court awarded a portion of attorneys' fees to Appellee based on invoices that did not differentiate time spent on different issues. Stated differently, Appellant argues that a portion of the attorneys' fee award could have been based, in part, on time spent litigating the sole issue which the circuit court found to be unjustified.

“The award of fees and costs is within the sound discretion of the trial court, and such an award should not be modified unless it is arbitrary or clearly wrong.” *Barton v. Hirshberg*, 137 Md. App. 1, 32 (2001) (quoting *Rosenberg v. Rosenberg*, 64 Md. App. 487, 538, *cert. denied*, 305 Md. 107 (1985)). The court must also assess the reasonableness of the fees, “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 v. Petrini*, 336 Md. 453, 467 (1994). “An award of counsel fees is within the discretion of the presiding [circuit court] judge. Such awards are subject to appellate review, but will not be disturbed

unless it is shown that the discretion was exercised arbitrarily or the judgment was clearly wrong.” *Dave v. Steinmuller*, 157 Md. App. 653, 675 (2004).

Having held that the award of indefinite alimony was not error, attorneys’ fees connected with the award need not be vacated. Moreover, the circuit court’s award of fees in this case was not an abuse of discretion because it was based on the court’s determination that Appellee’s effort in bringing the action was “based on substantial justification.” FL § 11-110(c). The court considered the necessary factors in reaching the award and there is no evidence in the record that the court improperly considered the cost of the sole issue found to be “unjustified” in reaching its attorneys’ fees award.

CONCLUSION

Accordingly, we affirm the judgment of the Circuit Court for Montgomery County.

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