Circuit Court for Baltimore County
Case No.: 03-C-14-007592

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 141

September Term, 2016

BEN BRODY

v.

NECHAMI ROSENDORFF

Friedman,
Shaw Geter,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Shaw Geter, J.

Filed: September 14, 2017

This is an appeal from an order of the Circuit Court for Baltimore County granting child support, a monetary award, and a transfer of marital property. Following a bifurcated divorce hearing, the court ordered that ownership of the parties' marital home be transferred to appellee, on the condition that it be sold; the proceeds used to pay off the mortgage, home equity line of credit, outstanding private school tuition, and attorney's fees; and the remaining proceeds be granted to appellee as a monetary award. Additionally, the court awarded appellee alimony, child support, and ordered both parties to pay their pro rata share of the children's mental health treatment, camp costs, and extracurricular activities. Thereafter, appellant filed a Motion to Alter, Amend or Revise Judgment, which was denied. In this appeal, he presents the following questions for our review, which we have consolidated and rephrased[1]:

I. Did the court err in its finding of fact as to appellant's income?

II. Did the court err in calculating child support?

III. Did the court err in transferring the marital home to appellee and, after payment of debts, ordering the remaining proceeds be granted to her as a monetary award?

IV. Did the court err in denying appellant's Motion to Alter or Amend Judgment?

For the reasons set forth below, we shall affirm, in part, and remand, in part.

[1] Appellant originally presented us with the following seven questions: 1) Did the Circuit Court err in its finding of fact as to Mr. Brody's income; 2) Did the Circuit Court err in transferring the marital home to Ms. Brody for sale; 3) Did the Circuit Court err in ordering the payments of debts from sale of the marital home after transfer to Ms. Brody; 4) Did the Circuit Court err in ordering the unliquidated net proceeds from the marital home paid to Ms. Brody as a marital property award; 5) Did the court err in calculating child support; 6) Did the Circuit Court err in denying the Motion to Alter or Amend Judgment as to Mr. Brody's income; and 7) Did the Circuit Court err in denying the Motion to Alter or Amend Judgment as to the value of the marital home and for discovery?

BACKGROUND

Appellant Ben Brody and appellee Nechami Rosendorff were married on June 9, 1999 and have two minor children, born in 2002 and 2006. The parties started a small business in 2001, which was incorporated as Brody Pest Control Services, Inc. (BPCS). Beginning in 2007, BPCS constituted the sole source of income for the family. Both parties worked for the company and they typically used the business's bank account to pay for business and personal expenses.

In November 2013, the parties separated. Appellee filed a Complaint for Limited Divorce and Alimony on July 16, 2014 in the Circuit Court for Baltimore County, which she later amended. Appellant filed a Counterclaim for Absolute Divorce on October 7, 2014. The divorce, custody, and child visitation issues were heard by the circuit court on November 17-20 and 23, 2015. In an order dated December 7, 2015, the court granted a judgment of absolute divorce and awarded sole custody of the children to appellee. The court reserved the issues of property disposition, alimony, and child support for a merits hearing, which occurred on December 15 and 16 of 2015.

At the hearing, both parties presented testimony and evidence. Following closing arguments by counsel, the court issued an oral ruling, which was memorialized into a written order, dated January 8, 2016. Relevant to this appeal, the court held that the parties' marital home (2309 Hanway Road) had a gross value of $401,500; the home was subject to a $144,991.10 mortgage and a $57,614 Home Equity Line of Credit (HELOC); thus, the home had a net value of $198,894.86. The court also found the business was marital property, worth $100,000. The court then granted appellee a monetary award, ruling:

> The Court has characterized the property. The Court has valued the property. The monetary award, this Court must consider the contributions, monetary and non-monetary, of each party; the value of all property; interest of each party; the economic circumstances of each party; the circumstances that contributed to the estrangement of the parties; the duration of the marriage; the age of each party; the physical and mental condition of each party; how and when specific marital property or interest in property described above was acquired; the contribution by either party on property of the subtitle to the acquisition of real property; any award of alimony may make; and any other factor that I've considered necessary or appropriate to consider in order to arrive at a fair and equitable monetary award.
>
> It is this Court's responsibility to fairly and equitably adjust the property interests of the spouses at the time of the marriage is dissolved. The Court is troubled by the running up of [appellee's] credit card. Very troubled by that. This Court is of the opinion that the monetary award should come and be satisfied from the sale of the house. This Court orders that the house be sold, the mortgage and the HELOC be paid and that the proceeds be given to [appellee] with the understanding that she will be paying the past due tuition to Beth Tfiloh for both years.

Regarding child support, the court held:

> [Appellee] makes $2,478 a month. There is no dispute. I find that Mr. Brody's annual income consists of the normalized income of $31,000 and change plus the $26,000 net income, the distributions, and the personal expenses paid for a total of $104,915.61 a year. I do not find that the payments to Discover or Chase or the food or the rent contribute to income.
>
> * * *
>
> We apply a $2,000 a month alimony, we apply $415 in health insurance, [for] a monthly child support of $1,118.
>
> * * *
>
> The respective proportions for the pro rata share is 60 percent/40 percent when you take into account the alimony.

On February 17, 2016, appellant filed a Motion to Alter or Amend Judgment, and a Motion for Leave to Conduct Depositions as to the Sale of the Marital Home, which appellee

opposed on March 1, 2016. The court denied both motions. Appellant noted this timely appeal.

DISCUSSION

Child Support

It is well established that parents are "jointly and severally responsible for (their) child's support, care, nurture, welfare, and education[.]" Md. Code, Fam. Law, § 5-203(b). Child support obligations are calculated by determining each parent's monthly income, using the guidelines found in § 12-204(e) and "dividing this obligation between the two parents in proportion to their incomes." *Gladis v. Gladisova*, 382 Md. 654, 663 (2004) (internal citations omitted). Courts are required to "consider actual income and expenses based on the evidence" presented. *Ley v. Forman*, 144 Md. App. 658, 670 (2002). "Actual income" includes "salaries [and] wages." Md. Code, Fam. Law § 12-201(b)(3). For "income from self-employment…'actual income' means gross receipts minus ordinary and necessary expenses required to produce income." *Id.* at § 12-201(b)(2). For income from an S Corporation,[2] the "burden is on the parent seeking to exclude pass-through income from actual income to persuade the court that the pass-through income is not available for child support purposes." *Walker v. Grow*, 170 Md. App. 255, 281 (2006).

[2] An S Corporation, such as Brody Pest Control Services, Inc., is defined as "a company that is able, under federal tax law, to enjoy the benefits of incorporation but avoid the taxation of both the corporate entity and its shareholder…[t]hus, with few exceptions, the corporation does not pay tax at the corporate level, but its earnings 'pass through' to the shareholders who must report profit or losses on their federal and state individual income tax returns." *Walker v. Grow*, 170 Md. App. 255, 267–68 (2006) (internal citations omitted).

"Child support orders ordinarily are within the sound discretion of the trial court." *Shenk v. Shenk*, 159 Md. App. 548, 554 (2004). Likewise, the question of whether to modify child support is "left to the sound discretion of the trial court, so long as the discretion was not arbitrarily used or based on incorrect legal principles." *Tucker v. Tucker*, 156 Md. App. 484, 492 (2004) (internal citations omitted).

I. Did the court err in its finding of fact as to appellant's income?

In the case at bar, appellant argues the circuit court erred in its findings regarding his income, for purposes of the child support calculations. While he concedes that he had a normalized annual income of $31,284 and a five year average distributable net income of $26,056, he disagrees with the Court's ultimate finding that he had an annual income of $104,915.61. He contends that his normalized income and distributable net income "are being double counted."

Appellee, conversely, argues that appellant "ignored the straightforward instruction of § 12-203(b)" by failing to produce any evidence of his 2015 income. At the hearing, appellee asked the court to examine the inordinate amount of "Mr. Brody's payment of personal expenses directly from the BPCS account." She argued that those payments were not related to the business and thus, should be included in determining appellant's annual income. The court agreed, adding $47,575.61 of personal expenses to appellant's annual income, and declining to include expenses for appellant's credit card payments, food, and rent. As a result, the court calculated appellant's annual income to be $104,915.61.

When asked about his bank statements, the following exchange with appellee's counsel on cross-examination occurred:

> [Appellee's counsel]: Do you keep copies of the checks?
>
> [Appellant]: My bank would, I guess.
>
> [Appellee's counsel]: Okay. And you haven't provided copies of any checks you issued from March 1, 2015 to the present, is that right?
>
> [Appellant]: March 15, 2015?
>
> [Appellee's counsel]: Yes.
>
> [Appellant]: I haven't from this bank account, no. My First Mariner Bank has copies of the checks on the back of the statements.
>
> [Appellee's counsel]: That's your personal checking account?
>
> [Appellant]: Correct.
>
> [Appellee's Counsel]: I'm talking about from the business.
>
> [Appellant]: Oh, so, I didn't provide copies of checks from the business.

Appellant explained that he kept his business records in Quick Books and had no other documentation to offer at the hearing. When asked how the accuracy of his entries could be verified, the following exchange occurred:

> [Appellee's counsel]: So, in other words, aside from your personal memory on how you paid those bills, there is no way to decipher how many checks are included or how many payments are included in these amounts under credit?
>
> [Appellant]: From this register, no.

As such, appellant's income could not be calculated based on the usual documentation, i.e. pay stubs, receipts, bank statements, copies of checks, etc. Further, when appellant's expert opined on the company's value and appellant's average salary, he testified that he did not make any adjustments for the payment of personal expenses because he was unaware that

such expenses were being paid from BPCS funds. Thus, the court's use of the alternative method suggested by appellee was not error. The court examined the evidence presented, namely: a list of personal expenses gleaned from the joint bank account shared by the parties; the check register and financial statement prepared by appellant; his testimony; and credit card payments. The court included the expert's conclusions regarding appellant's normalized annual income figure and average income from the business. The circuit court then subtracted the personal expenses for credit card payments, food, and rent; and determined that appellant had a total annual income of $104,915.61. This calculation, in our view, was fully supported by the evidence and was within the sound discretion of the court.

II. Did the court err in calculating child support?

In calculating child support, a court must add "any actual cost of providing health insurance coverage for a child for whom the parents are jointly and severally responsible" and "any extraordinary medical expenses incurred on behalf of a child" to the Guidelines, to be paid pro rata by each parent. Md. Code, Fam. Law, § 12-204(h).

The court's order, in the present case, provided:

> [T]hat effective December 1, 2015, and on the first of each and every month thereafter, [appellant] shall pay directly to [appellee] the sum of One Thousand One Hundred Eighteen Dollars ($1,118.00) as child support, in accordance with the attached Maryland Child Support Guidelines worksheet. Said child support payments shall cease and terminate upon the first to occur of any of the following events: (1) death of the child; (2) marriage of the child; (3) the child's becoming self-supporting; or (4) the child's arrival at the age of 18 years; however, if the child is a full-time high school student after he attains the age of 18, child support shall terminate upon the child's arrival at the age of 19 or graduation from high school, whichever occurs sooner; and it is further

> ORDERED, that Defendant shall continue providing health and dental insurance coverage for the parties' children until the youngest child turns eighteen (18) years of age; and it is further
>
> ORDERED, that the parties shall divide the cost of family therapy, therapy for the children, extraordinary medical expenses for the children, camp expenses, and expenses for extracurricular activities for the children in proportion to their income as reflected within the attached Maryland Child Support Guidelines worksheet, specifically, with [appellant] to pay 60% of such expenses and [appellee] to pay 40%. These percentages reflect the parties' proportions of income with the inclusion of Defendant's alimony payments[.]

Appellant takes several exceptions to the circuit court's ruling regarding child support. He argues it was error to include the cost of the children's insurance in the guidelines' calculation as there was no proof submitted regarding the cost. He asserts the court erred in ordering payment of the children's health insurance until the youngest child turns 18. Further, according to him, the court went beyond its statutory authority in ordering him to pay a pro rata share of the children's mental health treatment, camp, and extracurricular activities.

Regarding the issue of health insurance, it appears from the record, that the cost of the children's health insurance was expressly provided by appellant. Defendant's Exhibit 60 was admitted into evidence and was appellant's financial statement, which stated that $647.94 per month was paid for the family's health insurance. Appellant's counsel reduced this figure during closing argument to include only the costs for the children's health and dental insurance. Both sides agreed and this amount formed the basis for the court's guidelines calculations.

> [Appellant's Counsel]: Now, the financial statement was introduced, Your Honor, as Defendant's Exhibit 60. In there it shows he pays for the health insurance to the children…
>
> [The Court]: So you're claiming $415.00 a month for health insurance?
>
> [Appellee's Counsel]: Yes, sir.
>
> [Appellant's Counsel]: Yes, sir. And then I would suggest the guidelines be calculated, I didn't do them because I wasn't sure how you were going to do it, but I would suggest that the ratio between the salaries would be approximately, it's either 66 or 70 percent I did it in my head, but it would be--I forgot what it was. It was 60, 40 something over 28. I think it's 61 percent, but I'm not sure."

Appellant's claim, therefore, that no proof was presented is meritless.

Appellant next contends that the court erred in holding that he was responsible for child support for the oldest child past his age of majority, which is eighteen years. He points to the court's written order, which stated that appellant "shall continue providing health and dental insurance coverage for the parties' children until the youngest child turns eighteen (18) years of age[.]" We note, however, the preceding paragraph of the court's order, establishes the parameters for the child support payments. It provides that:

> [S]aid child support payments shall cease and terminate upon the first to occur of any of the following events: (1) death of the child; (2) marriage of the child; (3) the child's becoming self-supporting; or (4) the child's arrival at the age of 18 years; however, if the child is a full-time high school student after he attains the age of 18, child support shall terminate upon the child's arrival at the age of 19 or graduation from high school, whichever occurs sooner[.]

Thus, the language of the second paragraph is limited by the first paragraph's wording. As we see it, the court's intention was to reiterate to appellant his responsibility to maintain

health insurance coverage for his children.[3] It appears the order to continue paying insurance for both children "until the youngest child turns eighteen (18) years of age" was a typographic error. As written, appellant would be required to maintain payments for the eldest child beyond the age of majority. We believe the court meant to order payment of insurance until *each* child turns eighteen years of age. Thus, we will remand for clarification.

Regarding mental health treatment, appellant argues "the average monthly cost of mental health treatment [should have been] added [to] the guidelines if it exceeded, on average, $100 per month." Appellee contends "there was no evidence presented that the costs of court-ordered therapy for the children constituted extraordinary medical expenses per the language of the statute," and, further, that including such costs in the Guidelines would be "impractical because…if the therapists change and the prices increase or decrease, we're going to have to come back for a modification every single time."

At the hearing on the merits, neither party argued that the costs of therapy constituted "extraordinary medical expenses." Further, no evidence was presented regarding the length of time needed for the therapy. In addition, there was a discussion regarding whether the costs of therapy would be covered under appellant's health insurance. As such, this case is similar to *Frankel v Frankel*, where the children's

[3] Maryland Code, Family Law § 12-102(b) authorizes a court to "include in any support order a provision requiring either parent to include the child in the parent's health insurance coverage if: 1) the parent can obtain health insurance coverage through an employer or any form of group health insurance coverage; and 2) the child can be included at a reasonable cost to the parent in that health insurance coverage."

extraordinary therapy costs were not included in the support award. 165 Md. App. 553 (2005). In *Frankel*, four children were receiving therapy from two different therapists. *Id.* at 578. Health insurance only covered 50 percent of the costs for the first 20 visits. *Id.* The court found the costs were "not going to continue indefinitely, at least not for all four children." *Id.* Thus, it was "reluctant to build them into the child support obligation because any change could result in further and frequent litigation." *Id.* We held that it was appropriate for the court to order the parties to simply pay their pro rata share. *Id.* For the same reasons, we view the court's order, in the case at bar, as appropriate under the circumstances.

Appellant also argues the court erred in ordering him to pay for camp and extracurricular activities. He agrees the court can order that costs for such activities be paid if they constitute "actual child care expenses incurred on behalf of a child due to employment or job search of either parent." However, in the present case, the court made no such determination. We agree. While desirable, parents cannot be required to pay the costs of a child's extracurricular and/or camp activities. *See Horsley v. Radisi*, 132 Md. App 1, 29 (2000) ("[A] court has discretion to depart from the Guidelines in a given case, if it is satisfied that an academically challenged or gifted student requires remedial tutoring or advanced programming to meet the child's particular educational needs. Such expenses clearly do not have the character of ordinary extracurricular activities that are otherwise included in the basic child support obligation."). For these reasons, we remand for further proceedings, to determine whether the children's camp and extracurricular activities

qualify as "child care" under F.L. § 12-204(g) or, because of their nature, require consideration as a departure from the Guidelines.

III. Did the court err in transferring the marital home to appellee and, after payment of debts, ordering the remaining proceeds be granted to her as a monetary award?

When a court grants an absolute divorce, it may resolve any dispute between the parties with respect to personal and real property. Md. Code, Fam. Law, § 8-202(a). To determine the disposition of marital property, courts must look to the three-step process delineated in Sections 8-203 through 8-205 of the Family Law Article of the Maryland Code. The court must determine: first, what is marital vs. non-marital property; second, the value of all marital properties; and third, whether to transfer ownership of an interest in marital property, grant a monetary award, or both, as an "adjustment of the equities and rights of the parties." Md. Code, Fam. Law § 8-205(a)(1).

In deciding whether to transfer marital property or grant a monetary award, the court considers the following factors:

1. The contributions, monetary and nonmonetary, of each party to the well-being of the family;
2. The value of all property interests of each party;
3. The economic circumstances of each party at the time the award is to be made;
4. The circumstances that contributed to the estrangement of the parties;
5. The duration of the marriage;
6. The age of each party;
7. The physical and mental condition of each party;
8. How and when specific marital property or interest in property described in subsection (a)(2) of this section, was acquired, including the effort expended by each party in accumulating the marital property or the interest in property described in subsection (a)(2) of this section or both;

> 9. The contribution by either party of property described in § 8-201(e)(3) of this subtitle to the acquisition of real property held by the parties as tenants by the entirety;
> 10. Any award of alimony and any award or other provision that the court has made with respect to family use personal property or the family home; and
> 11. Any other factor that the court considers necessary or appropriate to consider in order to arrive at a fair and equitable monetary award or transfer of an interest in property described in subsection (a)(2) of this section, or both.
>
> Md. Code, Fam. Law § 8-205(b).

"[T]he purpose of the monetary award…is to achieve equity between the spouses where one spouse has a significantly higher percentage of the marital assets titled [in] his name." *Long v. Long*, 129 Md. App. 554, 577–78 (2000). When granting a monetary award, the court must "determine the amount and the method of payment." Fam. Law § 8-205(b). Further, when deciding whether to grant an award or transfer, "the court has broad discretion to reach an equitable result." *Hart v. Hart*, 169 Md. App. 151, 161 (2006) (internal citations omitted).

In the case *sub judice*, appellant argues that the court erred in ordering the transfer of the marital home to appellee for sale and in ordering the payment of debts from the sale. Appellant avers that the court lacks such authority; however, the Family Law statute specifies that a court "may transfer ownership of an interest in [marital] property", including "real property jointly owned by the parties and used as the principal residence of the parties when they lived together." Md. Code, Fam. Law § 8-205(a)(1–2). Further, in the case at bar, the court acted in accordance with the agreement of the parties. Appellant's counsel stated:

> I think I have the authority to stipulate that Mr. Brody would also agree that out of the proceeds the mortgages and the HELOC get paid, the cost of expenses of selling the property, with means the transfer of taxes, the real estate commission, if any, get paid. Then to pay the [Best Interest Attorney] what you order and to pay [the private school]. What you order for those 2 years. Then to pay, not the Freedom credit card. I'm very tired. To pay Chase Freedom credit card and the other credit card. Then anything which is left over get divided between the parties.
>
> Do I have your authority to do that?
>
> (Pause in the Proceedings)
>
> I have his authority.

Appellee testified:

> [Appellee's counsel]: And what is it that you want the Court to order regarding the house?
>
> [Appellee]: I would like – I'd like the house to be sold.
>
> [Appellee's counsel]: Okay. And what do you want to happen with the proceeds?
>
> [Appellee]: I would like the Court to order that I should get the proceeds.
>
> [Appellee's counsel]: And I've explained to you what a monetary award is, correct?
>
> [Appellee]: Yes.
>
> [Appellee's counsel]: Are you asking the Court to award you all of the proceeds from the sale of the house to you as a monetary award?
>
> [Appellee]: I am, yes.

In addition, the parties' agreement that Howard Milliman would serve as appointed trustee of the sale was incorporated into the court's order, which read:

> ORDERED, in accordance with the parties' agreement, stated on the record in open court, that Howard Milliman, Esquire (hereinafter "Trustee") is

> appointed trustee of the sale of the marital home, and that he will not charge any fees for his services in this capacity[.]

It is, thus, clear both parties consented to the sale of the marital home and the payment of debts from the proceeds. Further, the court was well within its statutory authority to order the house transferred fully to appellee. It is undisputed that the marital home was "real property jointly owned by the parties and used as the principal residence of the parties when they lived together." Additionally, by ordering that the remaining mortgage and HELOC be paid off out of the proceeds, the court properly "[obtained] the release of the other party from any lien against the real property." Appellant's argument, thus, is meritless because both parties agreed to the sale.

Appellant next contends that the court erred in ordering the unliquidated net proceeds from the marital home be paid to appellee as a marital property award. Following closing argument of counsel, the court began by stating that it had considered the statutory factors and thus, ordered:

> [T]hat [appellee] is awarded all of the net proceeds from the sale of the home as a monetary award pursuant to Md. Code Ann. [Fam. Law] § 8-205[.]

The court clearly followed the required three-step process for disposition of marital property, as required by Family Law Article §§ 8-203 through 8-205. First, it determined what was considered marital property. Then it assigned a value to each piece of marital property. The court made the following relevant valuations:

Marital Home	$401,500
Remaining Mortgage	-$144,991.10
Home Equity Line of Credit Debt	-$57,614

Outstanding Tuition for Beth Tfiloh	-$30,041.20
Credit Card Debt	-$39,170.83
Best Interest Attorney Fees Owed	-$21,059.04
Balance:	$108,623.83

Finally, it ordered the transfer of property, as well as a monetary award to appellee. Although the court determined the method to pay the monetary award, it did not specify the amount of the award. While we might speculate that it was the court's intention to award appellee the balance, after paying the agreed upon debts, without further clarity we are unable to ascertain the total of the award. Section 8-205 of the Family Law Article states "[w]hen granting a monetary award," the court must determine "the amount and the method of payment." Fam. Law § 8-205(b). We therefore remand this matter for further clarification.

IV. Did the court err in denying appellant's Motion to Alter or Amend Judgment?

On motion of either party, within ten days after entry of judgment, the court may "open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment, or may enter a new judgment." Md. Rule 2-534 (2017). On appeal, "the denial of a motion to alter or amend…is reviewed by appellate courts for abuse of discretion." *Miller v. Mathias*, 428 Md. 419, 438 (2012) (internal citations omitted). "[T]he discretion of the trial judge is more than broad; it is virtually without limit." *Steinhoff v. Sommerfelt*, 144 Md. App. 463, 484 (2002) ("The trial

judge has boundless discretion not to indulge this all-too-natural desire to raise issues after the fact that could have been raised earlier. Losers do not enjoy *carte blanche*, through post-trial motions, to replay the game as a matter of right.").

In the present case, appellant filed a Motion to Alter or Amend on three grounds relevant to these proceedings. First, he argued the court erred in relying on the testimony of Mr. Hallengren, appellant's own expert witness on business valuation, in determining his income. He claims the court incorrectly added personal expenses paid from his business account, in order to calculate his annual income. Second, appellant maintained the court erred as to the value of the marital home, contending "the order to transfer title without satisfaction of the lien was error and the order for disposition of the proceeds was error." Finally, he contended the court erred in denying his post-trial motion requesting records and depositions relating to the sale of the marital home. He also raised issues in the Motion to Alter regarding child support calculation, however, he does not presently contend the court erred in denying the motion regarding these issues.

Appellee, conversely, claimed appellant "does not simply wish to present additional evidence; he wishes to re-litigate this entire case." She argues appellant had the burden to establish his own income and he failed to "produce financial records for Brody Pest Control Services" or "produce any expert testimony at trial regarding his income, nor did he introduce any records of his own to corroborate, clarify, or dispute the records introduced by [appellee]." She also contended appellant had "every opportunity at trial to present evidence as to the value of the marital home, but elected not to do so."

In *Steinhoff v. Sommerfelt*, this Court reviewed the denial of a Motion to Alter or Amend the Judgment, filed in relation to a divorce case. 144 Md. App. at 463 (2002). Husband filed the motion, arguing that the court erred by not funding wife's monetary award using a Qualified Domestic Relations Order (QDRO). *Id.* at 483. However, husband failed to preserve this issue at the hearing, bringing it up for the first time in the motion to alter. *Id.* Husband appealed the denial. *Id.* We affirmed the judgment of the lower court, finding that appellant could not use an appeal of the denial of the Motion to Alter "as a device to outflank the non-preservation bar to an appeal from a trial procedure." *Id.* We found the trial judge thoroughly considered the motion and decided "a granting of the appellant's Motion would have sent the entire disposition of this case back to square one." *Id.* at 485. Thus, the trial court was well within the "boundless discretion" awarded to trial judges in deciding Motions to Alter.

In the case at bar, appellant had the burden to prove that income from his S Corporation was not available for child support purposes. *Walker*, 170 Md. App. at 281. At the merits hearing, he did not seek to admit evidence clarifying which expenses from his business bank account were personal. He claims that Mr. Hallengren included these income adjustments in his expert report. However, on cross-examination, Mr. Hallengren admitted that he was not able to testify to whether, and if so, which, personal expenses were included in the business's distributions. Further, appellant did not provide updated bank statements from the business account. Thus the circuit court, in its sound discretion, denied the motion.

Appellant also contends the circuit court erred in denying his motion to alter with respect to the value of the marital home, for three reasons: 1) the court did not allow the testimony of Avi Grunhaus, a real estate agent from RE/MAX working for appellee, who had allegedly listed the marital home for $499,000; 2) the "windfall" received by appellee due to the sale of the house was unconscionable because "it is black letter law in Maryland that a court may not dispose of debt;" and 3) the court abused its discretion in denying the motion.

As pointed out by appellee in her opposition to the motion to alter, the court did not exclude appellant from calling Mr. Grunhaus as a fact witness. The court appropriately prohibited Mr. Grunhaus from testifying as an expert witness in real estate valuation, because appellant did not give proper notice. Appellant could have called Mr. Grunhaus to attest to the fact that he listed the house for $499,000 and he could have hired his own expert witness to testify to the value of the marital home. He did not.

Appellant's contention that the court is not allowed to transfer ownership and a sale of the marital home, with debts paid out of the proceeds, is similarly without merit. Family Law Article § 8-205(b) specifically authorizes the court to transfer full ownership of marital real property to one of the parties, as long as transferee obtains the release of the other party from any liens against the property. The circuit court's ruling on this matter is fully in accordance with the law and the agreement of the parties.

Finally, appellant argues the circuit court erred in denying his motion regarding discovery. As he states in his motion, "there is no rule" in the State of Maryland authorizing "post-judgment discovery." Yet on February 14, 2014, more than a month

after the court entered its judgment in the case, appellant filed a "Motion for Leave to Conduct Depositions as to Sale of Marital Home." He requested records from appellee's real estate broker, as well as to take depositions of agents involved in the sale.

Appellant asserts the court erred because the case law is "replete with examples of the court's inherent authority to regulate discovery." He looks to *Wilson v. N.B.S.* for the proposition that a court may order post-judgment discovery. In *Wilson*, a minor was exposed to lead-based paint and her next friend brought suit against her former landlord. 130 Md. App. 430 (2000). In that case, the plaintiff failed to attend court-ordered mental evaluations and the court granted a motion for sanctions and thereafter, a motion to dismiss. The plaintiff was ordered to pay a "no-show" fee to the psychiatrist. We found that "even though the court did not have rule-based authority to impose sanctions," the action was within the trial court's "inherent authority to regulate the discovery process." The *Wilson* case, however, did not involve ordering post-judgment discovery, and thus, is not applicable to the case at hand.

While it is true that a judge has inherent authority to regulate discovery, the decision to exercise such authority is left up to the "sound discretion of the trial court, which will not be interfered with by an appellate court unless such discretion was manifestly abused." *Wilson*, 130 Md. App. at 449 (quoting *United Rys. & Elec. Co. v. Cloman,* 107 Md. 681 (1908) (finding the court properly exercised its inherent authority to regulate discovery, when it compelled a plaintiff in an action for personal injuries to submit to a physical examination, despite lacking statutory authority to do so). In this case, the court did not "manifestly abuse" its discretion.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED IN PART AND REMANDED IN PART FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. COSTS TO BE DIVIDED EQUALLY BETWEEN THE PARTIES.