

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2010

September Term, 2014

DEBORAH J. STEADMAN

v.

RODNEY E. STEADMAN

Woodward,
Friedman,
Wilner, Alan M.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Woodward, J.

Filed: March 8, 2017

*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.

Appellant, Deborah J. Steadman, filed a Complaint for Absolute or Limited Divorce against appellee, Rodney E. Steadman, on August 8, 2012, in the Circuit Court for Baltimore County. Appellee filed a Counter-Complaint for Absolute Divorce against appellant on October 22, 2012. On September 3, 2014, a one-day trial was held on the issues of absolute divorce, alimony, monetary award, and attorney's fees. On October 21, 2014, the trial court issued an order granting an absolute divorce to the parties, ordering appellee to pay appellant rehabilitative alimony in the amount of \$2,500 per month for five years, denying appellant's request for a monetary award, and denying an award of attorney's fees to either party.

On appeal, appellant presents three questions for our review, which we have slightly rephrased:

1. Did the trial court err or abuse its discretion in denying appellant's request for indefinite alimony?
2. Did the trial court err or abuse its discretion in denying appellant's request for attorney's fees?
3. Did the trial court err or abuse its discretion in denying appellant's request for a monetary award?

We answer questions one and three in the negative. We hold, however, that the trial court erred by not properly considering appellant's request for attorney's fees, and accordingly, vacate the court's order denying appellant's request for attorney's fees.

BACKGROUND

On October 1, 1988, appellant and appellee were married in Anne Arundel County, Maryland. The parties had two children together, one born prior to the marriage and one

born during the marriage. Both of the parties' children were emancipated at the time of trial. During the marriage, the parties enjoyed a comfortable, middle-class lifestyle. They owned a home, a business, a timeshare, and several vehicles.

Appellant was fifty-three years old at the time of trial. Appellant is a high school graduate, and at the beginning of the marriage, she worked as an account processor. Appellant stopped working for a brief period after giving birth to the parties' second child. She then went to cosmetology school and obtained her cosmetology license. Appellant opened up a hair salon in 1997. In 2004, appellant and appellee bought real property located at 4910 Liberty Heights Avenue ("Liberty Heights property") to house appellant's salon business.

In 2006, appellant developed tendinitis, which caused nerve damage to her right arm. Appellant subsequently underwent unsuccessful surgery on her right arm. As a result of the nerve damage to her arm, appellant was unable to continue working as a hair stylist.

During the marriage, appellant accumulated credit card debt in the amount of \$16,000, nearly half of which was incurred to make repairs to the roof and siding of the Liberty Heights property. The rest of appellant's debt was incurred after appellee denied appellant access to the parties' joint bank account, which was funded by appellee's earnings and which was used by appellant for household and personal needs.

In 2009, appellant made efforts to begin a new career by opening a consignment business on the second floor of the Liberty Heights property, called "A Unique Boutique." Appellant also rented out the first floor of the Liberty Heights property, formerly used for her salon, to another salon owner.

During the marriage, appellee's employment was the primary source of income for the family. Appellee held a Master's Degree in Business Administration. In January 2014, appellee began working for Sentara Northern Virginia Medical Center as the operations manager. Appellee made approximately \$105,000 a year at the time of trial.

Appellee had multiple affairs throughout the marriage. The parties attended counseling after each time appellant committed adultery. In 2012, a private investigator, hired by the husband of appellee's then paramour, conducted surveillance that revealed that appellee and the paramour had spent the night at a hotel together and took shopping trips together. This evidence led the private investigator to conclude that "adulterous activity [was] going on." Thereafter, appellant discontinued marital relations with appellee, and the parties slept in separate bedrooms in the marital home. Appellee moved out of the marital home in December 2013 and began living with the woman from the 2012 affair. At the time of trial, appellee was still living with the woman, which reduced his living expenses to virtually nothing. At trial, appellee admitted to having an intimate relationship with other women at multiple times during the marriage. When asked the number of women with whom he had affairs during his marriage to appellant, appellee responded "I don't know."

After a one-day trial on September 3, 2014, the trial court on October 21, 2014, granted a Judgment of Absolute Divorce. In its order, the court declined to grant appellant indefinite alimony, but awarded her rehabilitative alimony in the amount of \$2,500 per month for five years. The court also denied appellant's request for a monetary award and

each party's request for attorney's fees. On November 19, 2014, appellant timely filed a Notice of Appeal.

Additional facts will be included below as necessary to the resolution of the questions presented in the instant appeal.

DISCUSSION

I. Indefinite Alimony

When reviewing alimony awards on appeal, “we review the trial court’s factual findings for clear error, while each ultimate award is reviewed for abuse[] of discretion.” *Reynolds v. Reynolds*, 216 Md. App. 205, 218-19 (2014).

A trial court’s determination of a request for alimony is governed by Maryland Code (1984, 2012 Repl. Vol.), § 11-106 of the Family Law Article (“FL”). FL § 11-106(b) sets forth twelve factors that the trial court must consider:

- (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.

FL § 11-106(c) gives a trial court the discretion to award indefinite alimony under two specific circumstances:

- (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.

“Maryland law favors rehabilitative alimony over indefinite alimony. Indefinite alimony should be awarded only in exceptional circumstances.” *Dave v. Steinmuller*, 157 Md. App. 653, 673 (2004) (citation omitted). The language of FL § 11-106(c) places “strict limits on a trial court’s ability to grant indefinite alimony and requires a comprehensive case-by-case analysis.” *Solomon v. Solomon*, 383 Md. 176, 196, *cert. denied*, 383 Md. 570 (2004). “Generally speaking, alimony awards, though authorized by statute, are founded upon notions of equity[]; equity requires sensitivity to the merits of each individual case without the imposition of bright-line tests.” *Tracey v. Tracey*, 328 Md. 380, 393 (1992) (citations omitted).

Appellant argues that the trial court was required to consider the twelve factors under FL § 11-106(b) and make factual findings “to support each” factor. Although the trial court did exactly that in its Judgment of Absolute Divorce, appellant claims error in the court’s findings on several of the factors. As to the first two factors, appellant contends that the court conducted “no analysis on how long it would take for [her] to ‘eventually’ be capable of earning a living running a small business[,]” nor “whether [she] would require re-training or further education” to do so. Furthermore, appellant asserts that “[t]he record was devoid of any testimony that suggested that at some point in the future, [a]ppellant would be fully self-supporting.” As to the fourth factor, appellant notes that, although the court acknowledged that the parties had a “relatively lengthy marriage of nearly twenty-six years[,]” the court “did not state any reasons or facts to support that this length[y] marriage only warranted a five (5) year award of rehabilitative alimony.”¹ As to the seventh and eighth factors, appellant contends that the court made no factual findings, and that, in any event, there was no evidence to support a finding that within five years appellant would become self-supporting, “regardless of her age and physical limitations and her educational limitations.” Appellant argues that in analyzing factor eleven, the trial court failed to “make a determination of how [a]ppellant’s financial needs affected her need for alimony[,]” in light of her credit card and attorney’s fees debts.

¹ Appellant also claims that the trial court did not engage in any analysis to support its conclusion that the contributions to the well-being of the family, the fifth factor, was a “‘neutral’ factor.” In our view, the court adequately explained why this factor was neutral. The court stated that appellee provided the primary source of income for the family, while appellant was the primary care-giver for the children and the one who maintained the family home.

Appellant also argues that the trial court abused its discretion in determining that the factors listed under FL § 11-106(c) did not support an award of indefinite alimony. According to appellant, there was nothing in the record to support the court’s conclusion that appellant is “a bright, articulate, high-energy person plainly capable [of] retraining and of securing meaningful employment and significant earnings in a sedentary job.”

Appellee counters that the trial court provided a thorough analysis of all the required factors under FL § 11-106. Appellee argues that there was sufficient evidence in the record to support the court’s finding that appellant is “plainly capable [of] retraining and of securing meaningful employment and significant earnings.” (Alteration in original). Moreover, appellee directs this Court to appellant’s own testimony that it takes about five years for a business to become profitable, which is the exact duration of alimony that the court awarded appellant. Finally, appellee contends that cases relied upon by appellant, in which indefinite alimony was awarded, are clearly distinguishable from the instant case.

Here, the trial court conducted an analysis of each of the applicable alimony factors under FL § 11-106(b). In its analysis, the court found that appellant was currently unable to be self-supporting in the manner to which she had been accustomed during the marriage. The court found that appellant made a minimal amount of income while engaged as a hair stylist and would not “be able to earn a meaningful living styling hair because of her physical limitations.” Looking forward, the court determined that, although appellant had only earned “some income” from the consignment business that she had recently started, “she would eventually [be] capable of earning a living running a small business or working for a small business.” The court further noted that “prior to the parties’ marriage, [appellant

had] worked for [a] financial services firm” and that appellant “is intelligent, articulate[,] and enjoys experience in the business world.”

After reviewing all of the applicable alimony factors one-by-one,² the trial court concluded:

[I]ndefinite alimony is not warranted in this case, but rather that rehabilitative alimony is in order. At age fifty-three and with physical difficulties from performing hair styling which were not fully remedied by surgery, the Court cannot reasonably expect [appellant] to make meaningful progress toward becoming self-supporting as a hairstylist. However, [appellant] is a bright, articulate, high-energy person plainly capable [of] retraining and of securing meaningful employment and significant earnings in a sedentary job.

After considering all of the above factors set forth in [FL] § 11-106(b), as well as those noted in [FL] § 11-106(c), the Court concludes that [appellant] is entitled to rehabilitative alimony in the amount of \$2,500.00 per month to be paid for a period of five (5) years[.]

In our view, the trial court’s findings regarding alimony are not clearly erroneous, and its denial of indefinite alimony was not an abuse of discretion. Appellant’s career as a hairstylist was effectively ended when she developed tendinitis. Nevertheless, appellant testified that around 2010, she made efforts to start a consignment shop, without any help from appellee. To set up the business, appellant testified that she “did a lot of research,” “drove around to different consignment shops[,]” “talked to people[,]” and “then [] did [her] own business plan” When asked by appellee’s counsel if it would take five years for her business to be profitable, appellant responded that “it could take even less than that

² The court did not conduct an analysis of factor twelve, as it had no application to the facts of the instant case.

if you, it depends on, if you have the support and the means . . . the support and if I had the taxes to pay what I needed to do in order to get that business up and running” When asked what she needed to get the business up and running, she said, “Financial support[,]” in the amount of \$16,000, which was apparently available via an income tax refund. More importantly, appellant admitted in her brief to this Court that “she had recently started a consignment business and that she felt that she would soon be able to earn a living off of the business.”

The trial court’s award of rehabilitative alimony for a period of five years is consistent with appellant’s own testimony that her consignment business would be profitable within five years or less. Appellant’s claim of abuse of discretion in the court’s denial of indefinite alimony is, in essence, based on FL § 11-106(c)(1), because she claims that there was no evidence in the record “that suggested that at some point in the future, [a]ppellant would be fully self-supporting.” Such argument is belied by appellant’s admission “that she would soon be able to earn a living off of the [consignment] business[,]” and the trial court’s finding that appellant “will be eventually capable of earning a living running a small business.”

Nevertheless, appellant cites to *Reynolds v. Reynolds*, 216 Md. App. 205 (2014), and *Boemio v. Boemio*, 414 Md. 118 (2010), for support. Both cases involve circumstances in which indefinite alimony was awarded. *Boemio*, 414 Md. at 146; *Reynolds*, 216 Md. App. at 222-23. In *Reynolds*, the husband’s net monthly income was estimated to be \$46,421.83, and his yearly gross income was \$850,365. 216 Md. App. at 216-17. This income “was so much greater than [the] [w]ife’s income of \$69,758 per year, [that] the

[trial] court found a gross disparity between them.” *Id.* at 217. Notably, the wife in *Reynolds* testified that she had been unemployed for “over twenty years [], [had] continuing medical difficulties, and [had] a luxurious standard of living for many years preceding this divorce.” *Id.* at 215, 222. In the instant case, appellant’s outlook is much better. Appellant remained employed throughout the majority of the marriage and testified that she believed that she was capable of running a successful business within five years, as long as she had the financial support to get the business off the ground.

The *Boemio* case is similar to the instant case in that prior to the divorce, the parties had a lengthy marriage of over twenty-one years. 414 Md. at 127. The husband in *Boemio* earned four times what the wife earned, and the trial court found that the wife “was unlikely to be capable of earning substantially more than that.” *Id.* at 145. The Court of Appeals in *Boemio* determined that the trial court’s “decision to find that the disparity in the standards of living was unconscionable was consistent with [] settled law” and did not abuse its discretion in awarding indefinite alimony. *Id.* at 145-46. The prospects of appellant in the instant case are much different. Appellant has a business that she acknowledged can succeed within five years or sooner. In response, the court awarded her rehabilitative alimony for the exact period necessary for the business to become profitable. Unlike the wife in *Boemio*, appellant can reasonably be expected to become self-supporting.

Appellant’s circumstances and rationale for requesting indefinite alimony are distinguishable from *Boemio* and *Reynolds* where indefinite alimony was clearly warranted. Appellant’s own testimony and admission directly support the trial court’s

conclusion that she can reasonably be expected to become fully self-supporting. Accordingly, the trial court’s decision to deny appellant’s request for indefinite alimony is supported by the record and is not an abuse of discretion.

II. Attorney’s Fees

When granting or denying an award of attorney’s fees, the trial court must take several factors into consideration. This Court has held:

Although the circuit court is vested with a high degree of discretion in making an award of attorney’s fees, [] the trial judge must **consider and balance**[] the required considerations as articulated by the General Assembly in Sections 7-107(c) and [12-103(b)] of the Family Law Article, which provide consideration of (a) the financial status of both parties, (b) their respective needs, and (c) whether there was substantial justification for instituting or defending the proceeding.

Reichert v. Hornbeck, 210 Md. App. 282, 368 (2013) (emphasis in original) (citations and internal quotation marks omitted). “The trial court does not have to recite any magical words so long as its opinion, however phrased, does that which the statute [] requires.” *Collins v. Collins*, 144 Md. App. 395, 447 (2002) (citation and internal quotation marks omitted). We review a trial court’s award of attorney’s fees, or denial of such award, under the abuse of discretion standard. *Petrini v. Petrini*, 336 Md. 453, 468 (1994).

Appellant argues that, although she requested an award of attorney’s fees, “[t]he trial court made no determination regarding attorney’s fees whatsoever in its Judgment of Absolute Divorce.” Appellant contends that the trial court’s complete failure to consider appellant’s request for fees was clearly erroneous. Appellee counters that “[t]he Judgment of Absolute Divorce specifically state[d] that . . . ‘both parties’ claims for attorneys’ fees

[were] denied.’’ Appellee argues further that implicit in its award of rehabilitative alimony was a consideration of the financial resources and needs of the parties. Moreover, according to appellee, substantial justification for moving forward with the proceedings was never contested.

Contrary to appellant’s contention, the trial court’s order did make a determination regarding attorney’s fees. The Judgment of Absolute Divorce specifically states: “It is further ordered, that both parties’ claims for attorneys[’] fees are denied.”

The trial court, however, provided no analysis in its order of the statutory factors that must be considered before granting or denying an award of attorney’s fees. Although appellee correctly asserts that “substantial justification” for the action was never a contested issue, such assertion does not excuse the court’s obligation to analyze the other relevant factors. Given appellee’s equity in the marital property that was to be sold, his significantly higher income, his lack of living expenses, and appellant’s debt, the court needed to conduct an analysis of the financial status and respective needs of the parties in order to justify its denial of attorney’s fees to appellant. *See Kierein v. Kierein*, 115 Md. App. 448, 459 (1997). The court’s order contained no such analysis. Accordingly, we shall vacate that part of the Judgment of Absolute Divorce denying appellant’s request for attorney’s fees.

III. Monetary Award

In early 2004, appellant received a personal injury claim settlement check in the amount of \$14,228.09 from a car accident. In October 2004, appellant and appellee signed a contract for the purchase of the Liberty Heights property, which listed the names of both

appellant and appellee as the purchasers. The contract stated that a down payment of \$3,000 had been made at the time that the contract was signed, and a second down payment, with a combined total equal to 10% of the purchase price, \$8,700, was due three business days after the signing.³ On the Joint Statement of Parties Concerning Marital and Non-Marital Property (“9-207 Form”) submitted at trial, appellant and appellee listed the Liberty Heights property as “marital property,” jointly owned.

During her opening statement, appellant stated that she could prove that she put \$14,000 of non-marital money, consisting of the proceeds from her personal injury claim towards the down payment on the purchase of the Liberty Heights property. Appellant claimed that she was therefore “entitled” to a monetary award in that amount. During closing argument, the trial court interrupted appellant’s argument to state:

There is an issue of commingling if, if the other documentary proof in the case is is that there was only a \$3,000 down payment made [on the Liberty Heights property]. Is there any other evidence that there was a contribution towards the purchase price of the Liberty Heights property beyond the, a, a cash contribution beyond that \$3,000 down payment?

Appellant responded that the initial down payment of \$3,000 was paid, and for the second down payment, appellant sought to pay more than 10% of the purchase price, a total of \$14,000, “to reduce the amount of the mortgage[.]” Following this argument, the trial court stated that, if within a week, appellant “is able to discover some corroborative proof with regard to her assertion that the \$14,000 that, that was in the bank account as a

³ The balance on the purchase price was financed through a second mortgage on the marital home.

consequence [of the] car accident was used exclusively to fund the acquisition of the [Liberty Heights property,]” appellant should notify appellee’s counsel and the court, and the court would decide if additional testimony on the matter was necessary. There is nothing in the record to indicate that any corroborative evidence was produced by appellant.

In its Judgment of Absolute Divorce, the trial court ordered, among other things, (1) “that the real property known as . . . Liberty Heights . . . ([] which constitute[s] marital property) will be listed for sale[,]” (2) “that the proceeds of the sale of 4910 Liberty Heights Property shall be divided equally between the parties[,]” and (3) “that the credible evidence introduced at trial does not establish entitlement to a [monetary] award.”⁴

“[T]he ultimate decision regarding whether to grant a monetary award, and the amount of such an award, is subject to review for abuse of discretion.” *Flanagan v. Flanagan*, 181 Md. App. 492, 521 (2008). “This means that we may not substitute our judgment for that of the fact finder, even if we might have reached a different result.” *Innerbichler v. Innerbichler*, 132 Md. App. 207, 230, *cert. denied*, 361 Md. 232 (2000).

“When a party petitions for a monetary award, the trial court must follow a three-step procedure.” *Malin v. Mininberg*, 153 Md. App. 358, 428 (2003). That procedure is:

⁴ The trial court’s order stated that the credible evidence did not establish entitlement to a “marital award.” We consider this to be a typographical error and read the order to indicate that the credible evidence did not establish entitlement to a *monetary* award. See FL § 8-205.

First, for each disputed item of property, the court must determine whether it is marital or non-marital. Second, the court must determine the value of all marital property. Third, the court must decide if the division of marital property according to title will be unfair; if so, the court *may* make an award to rectify any inequity.

Id. (emphasis in original) (citations omitted).

“‘Marital property’ means the property, however titled, acquired by [one] or both parties during the marriage.” § FL 8-201(e)(1). “[M]arital property’ does not include property [that is]: (i) acquired before the marriage; (ii) acquired by inheritance or gift from a third party; (iii) excluded by valid agreement; or (iv) directly traceable to any of these sources.” FL § 8-201(e)(3). “‘Marital property’ includes any interest in real property held by the parties as tenants by the entirety unless the real property is excluded by valid agreement.” FL § 8-201(e)(2).

FL § 8-205(b) provides the factors that the trial court is to consider regarding a monetary award. Although the trial court need not expound on each of the required factors, the record must contain some indication that the required factors were considered. *See Imagnu v. Wodajo*, 85 Md. App. 208, 221-22 (1990).

Most of the factors in FL § 8-205(b) are identical or similarly-worded to those factors enumerated in FL § 11-106 for the determination of an award of alimony. The factors to be taken into consideration by the trial court when determining whether to make a monetary award are:

- (1) the contributions, monetary and nonmonetary, of each party to the well-being of the family;^[5]
- (2) the value of all property interests of each party;^[6]
- (3) the economic circumstances of each party at the time the award is to be made;^[7]
- (4) the circumstances that contributed to the estrangement of the parties;^[8]
- (5) the duration of the marriage;^[9]
- (6) the age of each party;^[10]
- (7) the physical and mental condition of each party;^[11]
- (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.

FL § 8-205(b) (emphasis added).

⁵ Identical to FL § 11-106(b)(5).

⁶ Similar to FL § 11-106(b)(11)(i).

⁷ Similar to FL § 11-106(b)(11).

⁸ Identical to FL § 11-106(b)(6).

⁹ Identical to FL § 11-106(b)(4).

¹⁰ Identical to FL § 11-106(b)(7).

¹¹ Identical to FL § 11-106(b)(8).

At trial, appellant limited her request for a monetary award to \$14,000, which represented her alleged non-marital contributions to the purchase of the Liberty Heights property. Appellant claimed that such contributions were non-marital, because the money came from a settlement that she received from a personal injury claim.¹² On appeal, appellant claims only that the trial court abused its discretion by failing to set forth any findings of fact or analysis when it denied her a monetary award. We are not persuaded.

In the Judgment of Absolute Divorce, the only specific mention of a monetary award is when the trial court “ordered[] that the credible evidence introduced at trial [did] not establish entitlement to a [monetary] award.” Nevertheless, as previously indicated, the court set forth in the judgment an extensive analysis of all the applicable factors under FL § 11-106(b)¹³ when the court awarded appellant rehabilitative alimony. Because “a [trial] judge is presumed to know the law and is presumed to have performed his [or her] duties properly[,]” we conclude that in denying a monetary award to appellant, the court considered the same or similar factors under FL § 8-205(b) that it had already considered

¹² Personal injury claims that arise during a marriage are not “marital property” subject to equitable distribution upon divorce, unless “payment of the claim would produce monies which would replenish marital assets previously diminished through payment of medical expenses and the loss of wages.” See *Unkle v. Unkle*, 305 Md. 587, 596 (1986) (“[A personal injury] claim is uniquely personal to the holder. And while it may have some attributes of personal property, the claim was not, within the ambit of the statutory language, ‘acquired’ during the marriage by one or both spouses. It arose from purely fortuitous circumstances and not from any on-going marital initiative to acquire marital assets. The claim simply accrued to the injured spouse as a result of an accident and was his separate property. Nothing in the statute suggests that the General Assembly intended that such a claim would constitute marital property subject to equitable distribution upon divorce by a monetary award.”).

¹³ The trial court did not consider FL § 11-106(b)(12). See footnote 2, *supra*.

under FL § 11-106(b). *See Olson v. Olson*, 64 Md. App. 154, 159 (1985) (citations and internal quotation marks omitted).

More importantly, appellant based her claim to a monetary award of \$14,000 on FL § 8-205(b)(9). That section directs the trial court to consider the contribution by either party of non-marital property to the acquisition of real property held by the parties as tenants by the entirety, which is marital property under FL § 8-201(e)(2). Here, appellant testified that the Liberty Heights property was titled as tenants by the entirety with appellee, and the parties agreed on the Rule 9-207 Form that the Liberty Heights property was marital property. Appellant then argued in her closing “that one of the factors that certainly can be looked at is [FL §] 8-205, number 9 which is . . . any non-marital monies that are, that contribute to the purchase of real property.”

The trial court, however, challenged appellant’s testimony about a contribution of \$14,000 in non-marital funds toward the purchase of the Liberty Heights property by stating that “[t]here is an issue of com[m]ingling” and that the only “documentary proof in the case is . . . a \$3,000 down payment.” The court then gave appellant the opportunity within one week “to discover some corroborative proof with regard to her assertion that the \$14,000 that, that was in the bank account as a consequence to this car accident was used exclusively to fund the acquisition of [the Liberty Heights property].” When appellant failed to make such discovery, the court concluded in the Judgment of Absolute Divorce that there was no “credible evidence introduced at trial” to support appellant’s request for a monetary award. Without credible evidence of a contribution of non-marital property toward the acquisition of real property held as tenants by the entirety and with the trial

court's consideration of the other factors under FL § 8-205(b), we conclude that there was no abuse of discretion in the trial court's denial of a monetary award to appellant.

**JUDGMENT OF THE CIRCUIT COURT
FOR BALTIMORE COUNTY AFFIRMED
IN PART AND VACATED IN PART; CASE
REMANDED TO THAT COURT FOR
FURTHER PROCEEDINGS CONSISTENT
WITH THIS OPINION; COSTS TO BE
PAID TWO-THIRDS BY APPELLANT
AND ONE-THIRD BY APPELLEE.**