Circuit Court for Prince George's County
Case No. CAD19-36485

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2420

September Term, 2024

JAHVON GORDON

v.

TEMICA HUNT

Ripken,
Kehoe, S.,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: September 4, 2025

In January 2021, the Circuit Court for Prince George's County entered a judgment of absolute divorce between appellant, Jahvon Gordon ("Father"), and appellee, Temica Hunt ("Mother"). The divorce decree incorporated a memorandum of understanding ("MOU") between the parties, which resolved custody of and access to their two minor children. In September 2023, Father filed a petition for contempt against Mother and a motion to modify visitation. Mother responded with a counterclaim seeking, *inter alia*, sole physical custody of the children, an award of child support, and attorney's fees.

On July 24, 2024, the circuit court held a consolidated hearing on the parties' pleadings. When the proceeding did not conclude that day, the court scheduled it to resume—over Father's objection—on August 22. Father appeared for the first day of the hearing but failed to attend the second. In an order entered on September 18, the court (1) denied Father's petition for contempt and motion to modify, (2) granted Mother sole legal custody as to decisions pertaining to the children's education, and (3) awarded her attorney's fees in the amount of $44,773.45. The order was silent, however, with respect to Mother's requests for sole physical custody and child support. Father challenged the attorney's fee award in a motion to alter or amend, which the court denied after a hearing.

Father noted a timely *pro se* appeal and presents two questions for our review, which we have rephrased slightly as follows:

1. Did the circuit court abuse its discretion in scheduling the continued merits hearing?

2. Did the circuit court err in awarding Mother attorney's fees?

We answer both questions in the negative and will therefore affirm the judgments of the circuit court.[1]

BACKGROUND

A. The Marriage & Divorce

Mother and Father were married on July 10, 2010. During their marriage, the parties had two children: J., born in 2011, and K., born in 2013 (collectively, "the children"). The parties separated on or around June 13, 2019, and entered into the MOU on October 28, 2020, in which they agreed to joint legal and shared physical custody of the children. The MOU also established a child access schedule and provided, in pertinent part:

> Each of the parties shall participate as much as possible in making all decisions with respect to education, medical treatment, illness, operations (except in emergencies), health, welfare[,] and other matters of similar importance affecting the [c]hildren. Decisions with respect to the aforesaid matters shall not be made by either party in such manner as to exclude the other from participation therein . . . . The parties agree that in the event the parties disagree with respect to a significant decision affecting the respective [c]hild, . . . [Mother] shall have tie-breaking authority[.]

The circuit court entered a judgment of absolute divorce on January 27, 2021. The court incorporated, but did not merge, the terms of the MOU into the judgment.

B. The Motions to Modify

On September 8, 2023, Father filed a petition for contempt, alleging that Mother had violated the divorce decree by failing to make a good-faith effort to engage in joint decision-making regarding the children, and by disregarding his communications

[1] Mother did not file a brief or otherwise participate in this appeal.

concerning their education, medical care, and extracurricular activities. As relief, Father requested that the court revoke Mother's tie-breaking authority. That same day, Father filed a motion to modify visitation, in which he further alleged that Mother had interfered with the court-ordered access schedule and had misused her tie-breaking authority. In that motion, Father reiterated his request that the court remove Mother's tie-breaking authority, asking that it instead grant the children "the right and authority to make decisions on their own with [his] guidance[.]" Finally, Father sought "access to the . . . children during [Mother's] scheduled time as long as it is in '[their] best interest[.]'"

On January 8, 2024, Mother counterclaimed for an award of child support and modification of physical custody. In that filing, she alleged, among other things, that Father had (1) repeatedly "refused to pick up the children for his one week period of access"; (2) dropped them off in the lobby of her residence "without [her] knowledge or consent," leaving them unattended; (3) violated the access schedule by taking them to New York "without Mother's permission or consent"; and (4) "refused to send the children to school [for] the entire first week of [classes] during the 2022-2023 academic . . . year." Based on these allegations, Mother sought (1) "primary physical custody of the minor children and reasonable access to Father"; (2) modification of child support "retroactive to the date of . . . filing"; and (3) an award of "reasonable attorney's fees, suit money[,] and court costs incurred by her in connection with th[e] matter[.]"

C. Discovery

Contemporaneously with the filing of her counterclaims, Mother propounded to Father interrogatories and a request for production of documents. On February 16, 2024, she filed a motion to compel discovery and for sanctions, asserting that Father had failed to respond to her request for production of documents and that several of his interrogatory answers were deficient. Mother requested that the court compel Father to supplement his interrogatory answers, respond to her request for production, and produce "all responsive documents." Based on Father's alleged discovery violations, Mother also sought various sanctions and an award of reasonable attorney's fees "caused by the failure."

On February 28, 2024, Mother, through counsel, filed a supplement to her motion to compel discovery and for sanctions. In that supplement, she advised the court that Father had served her attorney with a response to the request for production of documents on February 22nd and had provided her with "19 pages of responsive documents[.]" Mother further asserted that her attorney had sent Father a letter the following day "setting forth all of the deficiencies in [both his] Response to Request for Production of Documents" and the responsive documents he had provided. She then proceeded to enumerate each such deficiency. Finally, Mother claimed that she had not yet received Father's supplemental interrogatory answers or additional responses to her request for production of documents. Mother concluded by renewing her requests for sanctions and attorney's fees.

In an order entered on March 28, 2024, the circuit court directed Father to "provide [Mother] with his complete discovery responses within ten (10) days[.]" When Father

failed to timely comply with that order, Mother filed yet another motion for sanctions, wherein she also sought an award of "reasonable expenses, including attorney's fees, caused by the failure." By an order entered on May 10th, the court deferred ruling on the matter, writing: "[S]anctions may be imposed by the trial judge as they deem appropriate for [Father's] failure to respond to [Mother's] Motion to Compel."

D. The Merits Hearing

On July 24, 2024, the circuit court conducted a consolidated hearing on Father's contempt petition, his motion for modification, and Mother's counterclaims. Both parties appeared, with Mother represented by counsel and Father proceeding *pro se*. Without objection, the court departed from the customary order of proof and permitted Mother, as the counterclaimant, to present her case first. Mother testified at length on her own behalf. After counsel concluded her direct examination of Mother, Father commenced his cross-examination.[2]

When it became apparent that the hearing could not be completed that day, the court set about scheduling a continuance. It proposed several dates on which to complete the hearing. Each party identified dates on which he or she could appear. Those dates, however, did not overlap. Indeed, each party expressly stated that he or she was unavailable on the dates selected by the other. Over Father's objection, the court ultimately set the continued hearing for August 22, 2024—a date that purportedly conflicted with Father's work schedule.

[2] In view of the issues on appeal, we need not recount Mother's testimony.

On the morning of that hearing, Father submitted a letter advising the circuit court that he would be unable to appear due to "work obligations." The court declined to postpone the matter, however, and the hearing proceeded in Father's absence. Following a brief redirect examination of Mother, counsel called Necothia Bowens-Robinson, Mother's own mother as a witness. After examining Ms. Bowens-Robinson, Mother rested her case, and the merits hearing concluded.

On September 18, 2024, the circuit court entered an order denying Father's contempt petition and his motion for modification. By that same order, the court granted Mother sole legal custody as to education, awarded her $44,773.45 in attorney's fees, and made a minor modification to the access schedule. It tacitly denied her requests for sole physical custody and child support.

E. The Motion to Alter or Amend

On September 27, 2024, Father filed a timely motion to alter or amend the attorney's fee award.[3] In that motion, he argued that the award was unreasonable and "could not have been based on the [relevant statutory] factors[.]" On January 10, 2025, the circuit court held a hearing on Father's motion and denied it from the bench. The court memorialized that oral ruling in a written order entered on January 24.[4] This appeal timely followed.

[3] Father's motion to alter or amend tolled the time for noting an appeal until thirty days after the circuit court ruled on the motion. *See White v. Prince George's Cnty.*, 163 Md. App. 129, 139 ("When, as here, a motion to alter or amend is filed within ten days after entry of judgment, the filing of the motion stays the time for filing an appeal until thirty days after the court rules on the revisory motion."), *cert. denied*, 389 Md. 401 (2005).

(continued . . .)

We shall include additional facts as necessary in our discussion of the issues presented.

DISCUSSION

I.

Father contends that the circuit court abused its discretion by scheduling the continued merits hearing for August 22, 2024—a date on which he was purportedly unavailable. As note above, in response to the court's proposed dates for continuing the hearing, Mother and Father identified mutually exclusive dates of availability. The court ultimately selected a date that accommodated her schedule but not his. In so doing, Father claims that the court mistakenly treated counsel's representation regarding *Mother's* unavailability as relating to counsel's *own* unavailability. He posits that if the court had inquired into the reasons for Mother's unavailability—rather than those of her attorney—it would have found them wanting.

A. Standard of Review

"Except as limited by statute or rule, a trial court has inherent authority to control its own docket." *Goins v. State*, 293 Md. 97, 111 (1982). *Accord Neustadter v. Holy Cross Hosp. of Silver Spring, Inc.*, 418 Md. 231, 241 (2011); *see also Zdravkovich v. Siegert*, 151 Md. App. 295, 305 n.11 ("[T]he court has the authority and obligation to move cases forward and to manage the court's docket."), *cert. denied*, 377 Md. 114 (2003);

[4] During the pendency of this appeal, the circuit court reduced the attorney's fee award to judgment in an order entered on July 11, 2025.

Hossainkhail v. Gebrehiwot, 143 Md. App. 716, 728 (2002) (recognizing a trial court's "inherent authority to manage its affairs and achieve an orderly and expeditious disposition of cases"). That broad authority encompasses both the routine task of scheduling proceedings—such as setting the date for a reconvened hearing—and the determination of whether to grant a continuance.

Maryland Rule 2-508 governs continuances in civil cases and provides, in pertinent part: "On motion of any party or on its own initiative, the court may continue or postpone a trial or other proceeding as justice may require." Md. Rule 2-508(a). As is evident from the Rule's use of the permissive verb "may," the decision to grant or deny a continuance "'lies within the sound discretion of the trial judge'" and will not be disturbed on appeal absent a clear abuse thereof. *Neustadter*, 418 Md. at 241 (quoting *Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006)). *See also Anne Arundel Cnty. Ethics Comm'n v. Dvorak*, 189 Md. App. 46, 83 (2009) ("[T]he word 'may,' when used in a statute, usually implies some degree of discretion." (quotation marks and citation omitted)); *Shpak v. Schertle*, 97 Md. App. 207, 225 ("Under Rule 2-508, the trial court has wide latitude in determining whether to grant a continuance."), *cert. denied*, 333 Md. 201 (1993). An abuse of discretion occurs "where no reasonable person would take the view adopted by the trial court or where the court acts without reference to any guiding rules or principles[.]" *Prince v. State*, 216 Md. App. 178, 203-04 (cleaned up), *cert. denied*, 438 Md. 741 (2014).

B. Pertinent Procedural History

As the first day of the merits hearing drew to a close, the circuit court observed that a second day of proceedings would be necessary. While the court attempted to identify dates in August on which it could reconvene, Father noted that the academic year would begin around that timeframe, which, he cautioned, could present a scheduling conflict given that his employment was "school-based." The court responded: "[Y]ou're going to have to take off from work to come in because . . . we don't have a date before school starts, so it's going to be during the school year." It then proposed August 19-22 and 26-29 as potential dates to resume the hearing.

With the court's permission, Mother's counsel called her office to ascertain her availability. When the call concluded, counsel advised the court that both she and Mother were available on August 19-22 and 28-29. Turning to Father, the court asked whether any of those dates were acceptable to him. He answered that August "28th or 29th . . . sound[ed] really good."

After apparently conferring with her client, Mother's counsel advised the court that Mother would not, in fact, be available on either August 28th or 29th but could appear in court on any day during the preceding week. When the court then inquired as to his availability during the week of the August 19th, Father responded: "I cannot do that timeframe" and attributed his unavailability to his employment. The following colloquy ensued:

> [MOTHER'S COUNSEL]: Right. Well, I think the [c]ourt indicated that you might have to take off work.

[FATHER]: But [the court] also gave you the leniency to call your whole job.

THE COURT: That's because she's an attorney. She has other cases and work is -- everybody has work.

[FATHER]: Yes.

THE COURT: She has to take off work, but her work is different than your work because she's representing other people so that's why we consider the attorney -- when we have two attorneys, we consider both of their schedules.

[FATHER]: Understood.

THE COURT: When we have one attorney and one person who's self-represented, we consider the attorney's schedule because the attorney's work is working for other people.

[FATHER]: I understand that, but in this case, the client said that she's not available during the time frame that I'm available, the 28th.

THE COURT: Right, but I'm going off of what her attorney is saying because she's representing her.

[FATHER]: I appreciate that. Thank you.

THE COURT: If you had an attorney, I'd do the same.

[FATHER]: No, no, I appreciate it.

THE COURT: Because right now . . . you're representing yourself.

[FATHER]: But I know that my attorney is not going to be available during that time frame.

* * *

THE COURT: It's continued and, first of all, you're unrepresented. If you do get an attorney, . . . you can tell your attorney this . . . will not get a postponement . . . to get up to speed and I don't know if an attorney will take

this because they haven't had the opportunity to cross-examine her and you are getting your one and a half hours of that and then you've got to testify and then there's cross. So[,] there's going to be no redo.

[FATHER]: Yeah, I appreciate that.

THE COURT: So[,] we're going to start with the 28th -- or the 21st or 22nd, what did you say?

[MOTHER'S COUNSEL]: We're available the 19th, 20th, 21st and 22nd.

* * *

THE COURT: . . . [W]e're going on the 22nd, the 22nd of August.

* * *

[MOTHER'S COUNSEL]: That works for us, Your Honor.

THE COURT: August 22nd, that gives you enough time to get off or take leave or whatever you have to do. . . . I'm not saying that you can't get counsel, but I'm saying . . . you have to let your attorney know this case will not be postponed because they're entering their appearance.

[FATHER]: I appreciate that and I'm not trying to make anything above anybody. But the beginning of the school year for what I actually do for work is very important. . . . I would not suggest it -- in the beginning, yes, ma'am. If I wasn't, like, a stable position for what I have to do for that week. If I'm not there, it just changes a lot of things for what I do.

THE COURT: I understand. I understand it's an inconvenience.

[FATHER]: Okay. I understand.

THE COURT: . . . I go off of the attorney's calendar. I try to work with both of your calendars, but if we can get an earlier date than October --

* * *

THE COURT: I don't want this lingering on because you all are in limbo. . . . So[,] we'll set it for August 22nd. Is that good?

[MOTHER'S COUNSEL]: Yes.

[FATHER]: No.

[MOTHER'S COUNSEL]: Yes, Your Honor.

THE COURT: Okay. See everybody August 22nd at 9:00 a.m.

Shortly after this exchange, the court adjourned for the day.

At the outset of the continued hearing on August 22, 2024, the circuit court addressed an email and accompanying letter that Father had sent it and opposing counsel hours earlier:

> THE COURT: . . . [T]he court's chambers received an email from [Father] . . . today on the 22nd at 2:02 a.m. saying that he is not going to be in court today and he attached a letter and the letter says -- well, I'll mark it as an exhibit, I guess, for the postponement. He said: He's writing to inform the [c]ourt that he regrettably -- I will be unable to schedule the hearing scheduled for August 22[,] 2024[,] due to unavoidable work obligations. As the primary provider for my children, missing work would result in the loss of my job which would severely impact my abilities to support them. I sincerely apologize for any inconvenience this may cause the [c]ourt.
>
> He then . . . stated that he proposed a settlement to [Mother] through counsel and he put down what his settlement -- what he'd like to settle and then he says given the circumstances and my inability to be present in court, I respectfully request that the [c]ourt take these points into consideration. I trust the [c]ourt, along with the opposing party, will act in good faith to reach a resolution based upon the terms I proposed. My goal remains to ensure that the best interests of our children . . . and I believe this settlement achieves that and he can be reached at school.

In opposing Father's motion to postpone the hearing, Mother's counsel reminded the court of its prior refusal to delay the proceeding based upon a conflict with his work schedule. Consistent with its earlier scheduling determination, the court denied Father's eleventh-

hour request for a continuance, finding no good cause to grant one. With respect to Father's proposed settlement, it added: "[T]he [c]ourt is not involved in that settlement agreement. I don't think he really understands that[.]" Mother then resumed her case-in-chief.

C. Analysis

Father contends that the court erroneously conflated Mother's schedule with that of her attorney and, in so doing, inadvertently accorded Mother's availability undue weight when setting the date for the continued hearing. The record does not support that contention. After calling her office, counsel advised the court that both she and Mother would be available on August 19-22 and 28-29. Upon conferring with her client, however, counsel revised her initial representation, stating that Mother would, in fact, be unavailable on August 28 and 29. The court's subsequent remarks did not pertain to this unavailability, but were made in response to Father's objection that it had given counsel's calendar greater weight than his own by permitting her to consult her office regarding potential scheduling conflicts. The court explained that it had allowed counsel to do so because she, as an attorney, owed professional obligations to other clients. When Father later emphasized that it was Mother—not counsel—who was unavailable on August 28-29, the court replied that it was relying on counsel's representation regarding Mother's availability. Accordingly, we are satisfied that the decision to schedule the continued hearing for August 22 reflected the court's discretionary balancing of the parties' respective calendars, rather than a misunderstanding of whose availability was at issue.

Father also appears to argue that the court abused its discretion by relying on counsel's statement that Mother could not attend a hearing on August 28 or 29 without first ascertaining the basis for her asserted unavailability—as it had when considering his own. We are not persuaded. "As officers of the court, lawyers occupy a position of trust[,] and our legal system relies in significant measure on that trust." *Com. Union Ins. Co. v. Porter Hayden Co.*, 116 Md. App. 605, 643, *cert. denied*, 348 Md. 205 (1997). A trial court may, therefore, generally rely upon an attorney's representations when making procedural determinations. *See id.* (endorsing the trial court's statement, "I rely on counsel and if counsel makes a representation, . . . counsel's word is counsel's bond"). Although it may have been preferable for the court to elicit an explanation for Mother's unavailability on August 28-29, it did not abuse its discretion by crediting counsel's assertion without further inquiry. This is particularly so given the importance of ensuring the expeditious resolution of cases—especially those involving child custody.[5]

Finally, Father directs us to the letter he submitted to the circuit court on the morning of the continued hearing, advising it that he would be unable to attend due to "unavoidable work obligations" and claiming that missing work would result in his termination. Notably, although the court treated it as a motion to postpone the hearing, the letter did not request any such relief. Instead, Father asked that, in his absence, the court consider a proposed settlement agreement in resolving the case. Thus, Father's letter did not constitute a motion

[5] As noted above, Mother's available dates preceded Father's by approximately one week.

to postpone, and the court could not have erred by declining to grant relief he did not request. *See Miller v. Mathias*, 428 Md. 419, 442 n.15 (2012) ("'[T]he nature of a motion is determined by the relief it seeks and not by its label or caption.'" (quoting *Hill v. Hill*, 118 Md. App. 36, 44 (1997), *cert. denied*, 349 Md. 103 (1998))).

Even if we were to construe Father's letter as a motion to continue or postpone the proceedings, which we do not, the circuit court would not have abused its discretion by denying it. The Supreme Court of Maryland "has consistently affirmed denials of motions to continue . . . in the absence of unforeseen circumstances to cause surprise that could not have been reasonably mitigated, where untimely requests were made, [and] where procedural rules were ignored[.]" *Neustadter*, 418 Md. at 242-43. Although Father was aware of the complication posed by his work schedule approximately one month before the continued hearing, his letter to the court did not reflect that he made reasonable efforts to resolve the apparent conflict or to mitigate the consequences (e.g., by obtaining counsel to appear on his behalf). Moreover, Father submitted the letter fewer than eight hours before the continued hearing was scheduled to begin. *See Dart Drug Corp. v. Hechinger Co., Inc.*, 272 Md. 15, 28 (1974) ("It would be hard to find an abuse of discretion when an eleventh hour request for a continuance is denied in a case which has been pending for 26 months."). Finally, the court could have readily interpreted Father's prior discovery deficiencies as demonstrating a "pattern of unconcern," which weighed against granting a postponement. *In re McNeil*, 21 Md. App. 484, 496, 498 (1974). Thus, even if Father's letter constituted

a motion to postpone the proceeding, we are not persuaded that its denial would have amounted to an abuse of discretion.

II.

Father also contends that the circuit court abused its discretion in awarding Mother $44,773.45 in attorney's fees by failing to assess the financial status and needs of each party. He argues that the court's disregard of his financial status is evident from its remark at the hearing on his motion to alter or amend that "the [c]ourt is not required to consider [Father's] financial position[.]" Father further claims that the court could not have considered the parties' respective needs because "there [was] no evidence put forth of either party's needs anywhere in the record." Finally, Father asserts that "he was substantially justified in bringing and maintaining the action[.]"

A. Applicable Law

Maryland Code (1984, 2019 Repl. Vol.), § 12-103 of the Family Law Article ("FL") governs awards of attorney's fees in child support and custody cases, and provides, in pertinent part:

> (a) *In general.* — The court may award to either party the costs and counsel fees that are just and proper under all the circumstances in any case in which a person:
>
> (1) applies for a decree or modification of a decree concerning the custody, support, or visitation of a child of the parties; or
>
> (2) files any form of proceeding:
>
> * * *
>
> (iii) to enforce a decree of custody or visitation.

> (b) *Required considerations.* — Before a court may award costs and counsel fees under this section, the court shall consider:
>
> (1) the financial status of each party;
>
> (2) the needs of each party; and
>
> (3) whether there was substantial justification for bringing, maintaining, or defending the proceeding.
>
> (c) *Absence of substantial justification.* — Upon a finding by the court that there was an absence of substantial justification of a party for prosecuting or defending the proceeding, and absent a finding by the court of good cause to the contrary, the court shall award to the other party costs and counsel fees.

"FL § 12-103(b) . . . gives courts discretion in awarding . . . counsel fees." *George v. Bimbra*, 265 Md. App. 505, 520 (2025). Before exercising that discretion, however, the court must consider each of the three statutory factors, lest it commit legal error. *See McMorrow v. King*, 264 Md. App. 708, 737 (2025) ("If the court grants an award of attorney's fees without considering all three criteria, it commits legal error."); *Malin v. Mininberg*, 153 Md. App. 358, 435 (2003) ("Failure of the court to consider the statutory criteria constitutes legal error."). Thus, under FL § 12-103(b), "substantial justification is but one . . . in the triad" of statutory factors courts are required to consider before making such a discretionary award. *Davis v. Petito*, 425 Md. 191, 201 (2012). "[F]inancial status

and needs of each of the parties must [also] be balanced in order to determine [one party's] ability to pay the award to the other[.]"[6] *Id.* at 205.

While FL § 12-103(b) vests courts with broad discretion in deciding whether to award attorney's fees in child custody proceedings, FL § 12-103(c), "makes [such an] award . . . *mandatory* if the court finds no substantial justification for the prosecution or defense of the proceeding and absent a finding by the court of good cause to the contrary."[7] *George*, 265 Md. App. at 520 (emphasis retained; quotation marks and citation omitted). *See also Davis*, 425 Md. at 206 ("If the [c]ircuit [c]ourt determines that [a party] lacked substantial justification for bringing [a] child custody modification claim and absent a finding of good cause to the contrary, then under [FL §] 12-103(c), the reasonableness of [the] attorneys' fees would then be the only consideration."). Thus, while courts must consider the financial resources and needs of the parties when making an attorney's fee award pursuant to FL § 12-103(b), those factors "are not part of the calculus for an award under FL § 12-103(c)." *Guillaume v. Guillaume*, 243 Md. App. 6, 27 (2019).

[6] The court need not "'specifically recite the statutory factors in its award of attorney['s] fees' provided the evidence in the record indicates that the court engaged in the requisite analysis." *Sayed A. v. Susan A.*, 265 Md. App. 40, 90 (2025) (quoting *Meyr v. Meyr*, 195 Md. App. 524, 553 (2010)).

[7] "[G]ood cause under FL § 12-103(c) means a substantial reason to not award a party all of their reasonable attorneys' fees[.]" *George*, 265 Md. App. at 523. "'[T]his definition is a flexible one, and its application will vary with the facts and circumstances of the individual case.'" *Id.* (quoting *Meek v. Linton*, 245 Md. App. 689, 723 (2020)). "Good cause" does not include, however, the "parties' relative financial status and relative fees and expenses incurred[.]" *Id.* at 526.

In summation, in determining whether FL § 12-103(b) or FL § 12-103(c) applies to a request for attorney's fees in a child custody case, a court must first assess whether the party from whom such fees are sought was substantially justified in prosecuting or defending the proceeding. "[S]ubstantial justification, under both subsections (b) and (c) of Section 12-103, relates solely to the merits of the case against which the judge must assess whether each party's position was reasonable." *Davis*, 425 Md. at 204. *See also Inlet Assocs. v. Harrison Inn Inlet, Inc.*, 324 Md. 254, 268 (1991) ("[T]o constitute substantial justification, the part[y's] position should be 'fairly debatable' and 'within the realm of legitimate advocacy.'" (citation omitted)). If a court finds substantial justification, it "must proceed to review the reasonableness of the attorneys' fees, and the financial status and needs of each party" pursuant to FL § 12-103(b). *Davis*, 425 Md. at 204. Absent substantial justification, however, a court is required to award reasonable fees under FL § 12-103(c) unless it finds good cause to the contrary.

B. Pertinent Procedural History

In her opening statement at the merits hearing, Mother's counsel advised the court that her client was seeking attorney's fees incurred in successfully defending against multiple petitions filed by Father. During her case-in-chief, Mother testified that she earned roughly $107,000 in 2023 but had since received a raise. As evidence of her current income, she introduced an earnings statement for the pay period spanning June 2, 2024, to June 15, 2024. That statement reflected a gross biweekly income of $4,521.60. Consistent with that statement, Mother confirmed that she earned slightly more than $9,000 per month.

Although Father neither testified on the first day of the merits hearing nor appeared on the second, Mother introduced his earnings statement for approximately the same two-week period, which showed a gross biweekly income of $2,291.67.

During closing argument on August 22, 2024, Mother's counsel reiterated her request for an award of attorney's fees, stating:

> [Father] had no substantial justification in bringing . . . his petition for contempt or his petition to modify custody. Pursuant to [FL §] 12-103, upon a finding by the court that there is an absence of substantial justification of a party for prosecuting or defending the proceeding and absent a finding by the court of good cause to the contrary, the court shall award . . . the other party costs and counsel fees.
>
> [Mother] did not violate . . . any of the orders. And . . . it's clearly not in the best interest of the children to be awarded additional access to [Father]. Further, the evidence shows that [Mother] has incurred significant legal fees for having to defend against [Father's] numerous and frivolous filings since September 2021.

In addition to seeking attorney's fees incurred in defending against Father's September 8, 2023, filings, Mother sought to recover those expended in responding to earlier motions and petitions he had filed:

> Since the Judgment of Absolute Divorce was entered, [Father] filed two other petitions for contempt and modifications of custody against [Mother], other than the most recent petition. Both times[,] the petitions were dismissed. [Father] also filed a petition for protection against [Mother] in September 2021, [which] she had to defend against[.]

Counsel then requested that the court award Mother attorney's fees in the aggregate amount of $40,000, to reimburse her for fees incurred in defending against Father's filings from September 2, 2021, through July 22, 2024. Although that figure included preparation for

the July 24 hearing, counsel added that it "did not include any prep for today and today's appearance."

In support of the requested award, Mother's counsel referred the court to an affidavit of attorney's fees, which had been admitted into evidence during Mother's direct examination. The affidavit recited, in relevant part: "From September 2, 2021[,] through July 22, 2024, [Mother] has incurred attorney's fees and costs in the amount of $40,916.75."[8] Although the court agreed to award Mother attorney's fees arising from the petition for contempt and the motions to modify then before it, it declined to do so with respect to Father's previously dismissed filings:

> THE COURT: I think I can use [the affidavit] as evidence, but I don't think I can use the fees. . . . [I]f you could give the [c]ourt whatever the fee was for this action here, in preparation for [it], I think those are definitely compensable.
>
> * * *
>
> The [c]ourt doesn't find any basis at all to say that [Mother] is in contempt or that . . . the [c]ourt should grant his modification of custody.
>
> And so[,] the [c]ourt would award you the attorney's fees for this action. The other two[,] I don't think I can.

After the court announced its rulings from the bench, the following colloquy occurred:

> [MOTHER'S COUNSEL]: . . . Your Honor, how did you want me to get the amount of attorney's fees to you?
>
> THE COURT: You can do it by -- I wanted to know if you can draft the order?

[8] On direct examination, Mother affirmed that she believed that "the fees provided by [counsel] are fair and reasonable[.]"

[MOTHER'S COUNSEL]: I'm happy to draft the order.

THE COURT: . . . [A]nd then you can provide the attorney's fees affidavit at that point. . . . [H]ow much is he making a year?

[MOTHER'S COUNSEL]: It's 55,000.

THE COURT: Yeah, 55,000 per year. So[,] he has the ability to pay.

Per the circuit court's request, Mother's counsel submitted an amended attorney's fees affidavit and a proposed order on September 4, 2024. In the affidavit, counsel attested that "[f]rom September 8, 2023[,] through August 29, 2024, [Mother] has incurred attorney's fees and costs in the amount of $44,773.45."[9] The proposed order included a corresponding attorney's fee award to Mother. The court subsequently adopted that proposed order and awarded Mother the full amount she sought.

In his September 27, 2024, motion to alter or amend, Father contended that the attorney's fee award was "unreasonable and . . . could not have been based on the factors set forth in [FL] § 12-103." Specifically, he argued that his "financial status [was] significantly less than that of [Mother]," and that his financial needs were "significantly greater[,]" as evidenced by his inability to afford counsel and his resulting *pro se* status.

[9] The circuit court ultimately awarded attorney's fees in excess of the $40,000 requested at the August 22, 2024, hearing. As Mother's counsel advised the court, however, the $40,000 figure did not include any preparation for or the appearance at the August 22 hearing. Invoices accompanying the fee affidavit corroborated counsel's assertion that Mother incurred an aggregate $44,773.45 in attorney's fees between September 8, 2023, and August 29, 2024. Per the court's ruling at the hearing, moreover, that figure excluded fees arising from Father's previously dismissed filings.

Finally, Father claimed, without elaboration, that he had been "substantially justified in bringing the proceeding."

Both parties appeared with counsel at the January 10, 2025, hearing on Father's motion. There, Father's attorney argued that the attorney's fee award was unreasonable in light of the disparity between the parties' incomes and Father's existing financial obligations. He also asserted that the contempt proceeding had been substantially justified, alleging that Mother had violated the MOU by failing to communicate adequately with Father regarding the children's school enrollment. The court responded that it "didn't really find [Father's] basis for contempt meritorious" but nevertheless convened the hearing to permit Father to testify about his income and ability to pay, remarking: "[W]hen you're determining attorney's fees, you do have to consider that." Mother's counsel then interjected that, under FL § 12-103(c), the court was not required to consider the parties' financial resources if it determined that Father "lack[ed] . . . substantial justification for bringing the proceedings[.]" Father's counsel responded that his client "was justified in bringing the action" and that the scheduling conflict had prevented him from presenting "any evidence with respect to his ability to pay."

In opposing Father's motion, Mother's counsel argued that FL § 12-103(c) "unambiguously makes any party who prosecutes or defends a proceeding without substantial justification responsible for paying the costs and counsel fees of another party." Construing the court's denial of Father's contempt petition and motion to modify as reflecting a determination that they lacked substantial justification, she concluded that the

award was properly made under that subsection. As to the reasonableness of the fees awarded, counsel reminded the court that it had directed her to amend her affidavit to reflect only the fees incurred between September 2023 and the date of the merits hearing. She therefore concluded that the court had properly exercised its discretion in determining the reasonableness of the fees awarded.

In denying Father's motion, the court reasoned, in relevant part: "[G]iven the statute and . . . the fact that the [c]ourt found that the contempt proceeding and the motion to modify [were] not meritorious, the [c]ourt is not required to consider [Father's] financial position. And for that reason, the [c]ourt is going to deny [Father's] motion to amend."

C. Analysis

Father contends that the circuit court committed reversible error by disregarding the parties' respective financial resources and needs. That contention is unavailing. As discussed above, a court is required to consider those factors only when making a discretionary award under FL § 12-103(b). By contrast, when a proceeding is brought or maintained without substantial justification, FL § 12-103(c) mandates the award of reasonable attorney's fees absent good cause to the contrary. Under that subsection, the parties' financial circumstances are immaterial. On this record, we are satisfied that the court made its award pursuant to FL § 12-103(c).

At the conclusion of the merits hearing, the circuit court expressly found that Father's contempt petition and motion to modify were utterly baseless, stating: "The [c]ourt *doesn't find any basis at all* to say that [Mother] is in contempt or that . . . the [c]ourt should

grant his modification of custody." (Emphasis added.) At the subsequent hearing on Father's motion to alter or amend, the court acknowledged that it had not specified which subsection of FL § 12-103 it had relied upon in awarding attorney's fees. The court then clarified its earlier ruling, stating: "I do recall . . . making the finding that *there was no substantial justification*, based upon the evidence that I saw, that [Mother] . . . was in contempt or that there was a substantial justification for modification." (Emphasis added.) Any remaining ambiguity regarding the basis for the award was dispelled when the court denied Father's motion from the bench, explaining: "[G]iven the statute and . . . the fact that the [c]ourt found that the contempt proceeding and the motion to modify [were] not meritorious, the [c]ourt is not required to consider [Father's] financial position. And for that reason, the [c]ourt is going to deny your motion to amend."

Because the circuit court determined that Father lacked substantial justification for prosecuting the proceeding and did not find good cause to the contrary, we conclude that the fee award in this case was made pursuant to FL § 12-103(c).[10] The court was not

[10] In his brief, Father relies on *Lemley v. Lemley*, 109 Md. App. 620, *cert. denied*, 343 Md. 679 (1996), in support of the proposition that it was inequitable for the court to require him to pay attorney's fees for Mother when he, as a *pro se* litigant, lacked the means to retain counsel for himself. Father's reliance on *Lemley* is understandable, but ultimately misplaced.

The appellant in *Lemley* challenged a divorce decree that, among other things, ordered him to pay the appellee "$10,000 as contribution for her attorney's fees." *Id.* at 626. We vacated the attorney's fee award, holding that the court's decision was unreasonable and clearly erroneous. In reaching that conclusion, we observed that "Mrs. Lemley earned approximately twice as much income as Mr. Lemley[,]" indicating that she was "better able to pay her attorney's fees than Mr. Lemley." *Id.* at 633. We further (continued . . .)

therefore required to balance the "financial status and needs of each of the parties." *Davis*, 425 Md. at 205. Rather, the reasonableness of the attorney's fees was "the only [remaining] consideration." *Id.* at 206.

Father does not contest the reasonableness of the attorney's fees. He contends, however, that he was substantially justified in bringing and maintaining the proceedings but was unable to present evidence demonstrating that justification because the court scheduled the continued merits hearing for a date on which he could not appear. Father similarly asserts that he "would have been able to demonstrate good cause to the contrary had the [c]ourt not abused its discretion when it scheduled the continued hearing[.]"

These arguments do not directly challenge either the court's finding of a lack of substantial justification or the absence of a finding of good cause as such. Rather, Father essentially reiterates his contention that the circuit court abused its discretion by scheduling the continued merits hearing, over his objection, for August 22, 2024. In other words, his challenge is not to the substance of the court's determinations, but to its antecedent

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reasoned that, given Mr. Lemley's *pro se* status throughout much of the litigation, it was "unreasonable to require [him] to pay for the benefit of professional counsel for the opposing party, while being unable to afford that benefit for himself." *Id.* at 634.

Despite their superficial similarities, *Lemley* and the instant case diverge in one critical respect. The award in *Lemley* was entered under FL § 12-103(b), which requires the court to consider the parties' financial resources. In this case, by contrast, the award was made pursuant to FL § 12-103(c), which turns on whether the proceeding was brought or maintained with substantial justification. Thus, whereas the court in *Lemley* erred by failing to adequately weigh the parties' financial circumstances, such considerations were immaterial here.

scheduling decision. We have already addressed that contention and found it unavailing. Thus, Father's argument fails for the reasons articulated in Section I of this opinion.

For the foregoing reasons, we affirm the judgments of the circuit court.

JUDGMENTS OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.