Circuit Court for Calvert County
Case No. 04-C-15-001080

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2455

September Term, 2016

LAURI STRAUGHAN

v.

MICHAEL STRAUGHAN

Eyler, Deborah S.,
Arthur,
Shaw Geter,

JJ.

Opinion by Eyler, Deborah S., J.

Filed: February 22, 2018

Lauri Straughan, the appellant, and Michael Straughan, the appellee, were divorced in the Circuit Court for Calvert County.[1] The court ordered their marital property to be divided on a nearly 50-50 basis and declined to make a monetary award or to award attorneys' fees.

Both parties moved to alter or amend the divorce judgment. The court granted in part and denied in part the motions, amending the provisions concerning the parties' retirement assets and striking a provision about the division of the parties' bank accounts. It awarded Michael $937.50 in attorneys' fees incurred responding to Lauri's motion to alter or amend.

Lauri presents three issues on appeal, which we have rephrased slightly:

> I. Did the trial court err by not ordering Michael to pay Lauri directly for her one-half share of his pension that already was in pay status pending the execution of a qualified domestic relations order ("QDRO")?
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> II. Did the trial court err or abuse its discretion by declining to grant Lauri a monetary award as an adjustment of the equities?
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> III. Did the trial court err or abuse its discretion by denying Lauri's request for attorneys' fees and granting Michael's request for the fees incurred in responding to her motion to alter or amend?

For the following reasons, we answer the first two questions in the negative. We answer the third question in the negative with respect to the denial of Lauri's request for fees, but in the affirmative with respect to the award of fees to Michael. Thus, we shall

[1] For ease of discussion, we shall refer to the parties by their first names.

reverse the provision of the order granting Michael fees and otherwise affirm the judgment.

FACTS AND PROCEEDINGS

Lauri, age 50, and Michael, age 51, met in high school and married on November 6, 1992. They have two children, a daughter, S., age 21, and a son, M., age 11. During the marriage, the parties purchased the marital home in Owings and a vacation home in North Port, Florida.

Since 1988, Lauri has worked for the Amalgamated Transit Union ("ATU"). She is now the Senior Staff Director and Executive Assistant to the International President, earning $162,580 annually. She pays into a pension for ATU and also has a portion of her pay deducted for Railroad Annuity Benefits, which are divided into Tier I and Tier II benefits. The Tier I benefits are in lieu of social security, as ATU employees are exempt from contribution. The Tier II benefits are supplemental retirement benefits similar to a pension.

Michael began work as a police officer for the Prince George's County Police Department ("PGCPD") in 1990. He worked there for 23 years until retiring in 2013. He now works for the Prince George's County Office of Law. He collects a PGCPD pension of $113,052.88 annually, and earns $62,000 annually in his current job.

In 2010, the parties ceased having marital relations and began sleeping in separate bedrooms. According to Lauri, their marriage broke down because Michael was having

an affair. According to Michael, they grew apart in the aftermath of a traumatic pregnancy loss in 2003.[2] He admits that he committed adultery, however.

In 2014, the parties began maintaining separate bank accounts and splitting most of the joint expenses. In March of that year, Lauri ceased contributing to the mortgage payments for the marital home. Michael has paid that expense from his bank account ever since.

On September 8, 2015, Lauri filed a complaint for absolute divorce on the ground of adultery or, in the alternative, for limited divorce on the ground of constructive desertion. Michael filed an answer in which he asserted the Fifth Amendment in response to the allegation of adultery.

On January 1, 2016, Lauri moved out of the marital home.

On March 2, 2016, the court entered a consent order incorporating the terms of a parenting agreement the parties had reached regarding custody of M. As pertinent, they agreed to split custody on a 50/50 basis but did not agree on child support.

In July 2016, Lauri's attorney noted the deposition of a female police officer Lauri believed was having an affair with Michael. Michael responded by moving for a protective order and seeking to reschedule the deposition for a later date because his lawyer was not available on the date selected. That motion was granted. Ultimately, the

[2] After suffering multiple miscarriages, Lauri became pregnant in 2003. When the parties learned that the baby had genetic abnormalities, they decided to terminate the pregnancy. Labor was induced and their daughter, whom they named Faith, was stillborn on March 7, 2003.

deposition was taken in September 2016. Michael's alleged paramour invoked the Fifth Amendment in response to nearly one hundred questions.

The divorce trial went forward on November 1, 2016. At the outset, Michael amended his answer to the complaint to "reflect that [he was] no longer asserting [his] Fifth Amendment Privilege in response to the allegation of adultery and instead [was] admitting the allegation of adultery." Lauri's twin sister testified as a corroboration witness.

Lauri and Michael each testified in their cases. The testimony largely concerned marital property and reasons for the breakdown of the marriage. The Joint Statement Regarding Marital and Non-Marital Property ("9-207 Statement") established that the parties jointly owned the marital home, which they agreed was valued at over $500,000,[3] and was encumbered by a mortgage lien in the amount of $368,570. They also jointly owned the Florida property, which was valued at $130,000 and was unencumbered. The parties valued the furniture in the marital home at between $3,500 (Michael's assertion) and $6,000 (Lauri's assertion) and agreed that the furniture in the Florida property was worth $3,000. Their two joint bank accounts had balances totaling just over $100.

Michael's deferred compensation account with PGCPD was titled in his name and valued at $278,860. He also held title to a PGCPD pension currently in pay status with a

[3] Lauri asserted the marital home was worth $550,000 and Michael asserted it was worth $502,000.

$9,416 monthly annuity; an IRA valued at $30,153; a universal life insurance policy with a cash value of $9,497; two college savings plans with a balance of $64,668 for M. and a remaining balance of $12,000 for S.[4]; checking and savings accounts with balances totaling $3,547; and a 2004 Nissan Titan pick-up truck with a value of $6,000.

Lauri held title to her ATU pension; her USA Railroad Retirement Account;[5] a checking account with a balance between $1,462 (Lauri's assertion) and $3,340 (Michael's assertion); a 2013 Audi Q5 with a market value of $20,000 but encumbered by a $27,000 lien; $1,000 in furniture at her rental home; and $500 in jewelry.

At the conclusion of the trial, the court announced that it would be granting Lauri an absolute divorce on the ground of adultery and was reserving on the issues of marital property and attorneys' fees. The parties submitted written closing arguments.

On December 14, 2016, the court entered its Findings of Fact and Order of Court. It granted Lauri an absolute divorce based upon adultery, and made the following pertinent findings.

[4] The college savings plans were Maryland 529 College Trust plans, which allow parents to lock in the cost of in-state tuition at the time the plan is purchased. Michael had purchased a 2-year plan for S. and a 4-year plan for M.

When the divorce trial took place, S. was in her third year at Stevenson University. Michael had applied 25% of her 529 account to her annual tuition and had paid the remaining balance out of his bank accounts.

[5] As mentioned, Lauri did not pay into social security. Because her Tier I benefits are the equivalent of social security, they are not divisible or assignable. *See Dapp v. Dapp*, 211 Md. App. 323 (2013).

Michael's total gross annual income was $175,052, comprising his pension and his salary. Lauri's gross annual income was $162,580.[6] The parties' annual incomes put them "above the guidelines" for purposes of calculating child support. Using those income figures and, after crediting Michael for $560 per month in afterschool child care expenses[7] and Lauri for $249 per month in health insurance expenses, the court extrapolated from the guidelines and determined that Lauri was obligated to pay Michael $35 per month in child support. In making that calculation, the court did not include Lauri's share of Michael's pension as income. It reasoned that "in light o[f] the division of property and, more importantly, the shared custody arrangement herein," calculating child support based upon the parties' present incomes was a "fairer determination."

Michael was awarded use and possession of the marital home for six months, to give him time to apply to refinance the mortgage and determine whether he could afford to buy out Lauri's share. The court ordered that if that was not feasible, the marital home was to be sold and the proceeds divided evenly. Michael would be responsible for paying the mortgage and maintenance expenses for the property during the six month use and possession period.

[6] The court rejected Lauri's argument that because 12% of her gross annual income is automatically withheld for her Railroad Retirement benefits, that amount should not be included in her income for purposes of calculating child support and assessing her financial resources. She does not challenge the court's ruling to that effect in this appeal.

[7] Lauri had argued that M. did not require after school care, but the court found that the childcare expenses were reasonable.

With respect to the distribution of the remaining marital property, the court noted that the parties largely were in agreement about the marital status of their property and that the property should be "more or less equitably divided." The "main issue" was whether Lauri was entitled to a "monetary award as part of this division."

After reciting the pertinent law, the court found that all of the property listed in the 9-207 Statement was marital with the exception of a farm in Virginia that Michael had inherited from his parents. The court accepted the "values that the parties' [sic] themselves assigned to the marital property," finding them to be reasonable.[8] Turning to the monetary award factors in Md. Code (1984, 2012 Repl. Vol.), section 8-205(b) of the Family Law Article ("FL"), the court found that both parties "contributed significantly to the overall well-being of the family"; that the marital property was acquired by the parties' joint efforts; that both parties have "significant income and assets"; that Lauri's pregnancy loss in 2003 was "the catalyst for the parties' estrangement and [Michael]'s affair was a manifestation of that estrangement"; that the parties were married for 24 years; that Michael was 49 and Lauri was 50[9]; and that both parties were in good mental and physical health.

[8] As we shall discuss, the parties did not always agree about the precise value of the marital property.

[9] The court reversed the parties' ages. Michael was then 50, and Lauri was 49.

The court decided that the marital property should be "more or less evenly divided." Pursuant to FL section 8-205(a)(2), it ordered that Lauri would receive one-half of Michael's deferred compensation plan[10] and his IRA. It calculated the marital share of Michael's PGCPD pension as "248/279," describing it as "Wife's marital share." The court directed Lauri to "prepare appropriate [QDROs] to effectuate th[ose] transfer[s]."

The court ordered that Michael would receive one-half of the marital share of Lauri's ATU pension, "on an if, as, and when basis, pursuant to *Bangs* [*v. Bangs*, 59 Md. App. 350 (1984)]."[11] With respect to Lauri's Railroad Retirement Annuity benefits, the court noted that the parties were in agreement that the Tier I benefits were not subject to distribution, but that they disagreed as to the Tier II benefits. The court held that the Tier II benefits were subject to equitable distribution and ordered that Michael would receive 50% of the Tier II benefits. Michael was directed to prepare QDROs to effectuate those rulings.

The court ordered the Florida property sold and the proceeds divided evenly. Each party was to receive one-half of the balance in the other party's bank accounts as of the

[10] Lauri had argued that Michael had dissipated that asset by withdrawing funds from it (and suffering tax consequences as a result) to pay his attorneys' fees. The court rejected that argument.

[11] There was no dispute that Lauri had worked for the ATU for 49 months prior to the marriage, but the court did not calculate the marital share.

date of the divorce. Lauri was allowed to keep the Audi Q5 titled in her name, and Michael was allowed to keep the Nissan Titan titled in his name.

As the parties had agreed, the court awarded Michael the furniture in the marital home and Lauri the furniture in the Florida property and the home she was renting. The court found that this would be a "fair division of the parties' furniture."

With respect to the college savings accounts titled in Michael's name, and held in trust for the benefit of M. and S., the court ordered that those accounts should stay in place for the benefit of the children.

The court declined to make a monetary award, opining:

> The Court has divided the [parties'] marital property in an equitable manner. With this division both parties will equally share their marital assets, including pensions and retirement benefits, proceeds from the sale of [the Florida property], and either the buy-out or sale of the marital home and an equal distribution from that sale, among the division of other assets. The Court finds that this equitable distribution, taking into account factors listed in [FL] § 8-205(b), as discussed, does not necessitate the Court making a monetary award to either party.
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> Further, the Court understands [Lauri]'s anger at [Michael]'s liaison and his unwillingness to admit it until the morning of the merits [hearing]. This wrath cannot be the basis of a monetary award, however. The Court got the distinct impression that [Lauri] feels that she should receive a monetary award, in part, because of [Michael]'s deception. As discussed, a monetary award is an equitable adjustment that the Court may make after the division of the parties' marital property. . . . A monetary award should not be made to punish [Michael] for his infidelity. As the Court finds that it has fairly and equitably distributed the [parties'] marital property, a monetary award is not warranted under the circumstances.

Turning to the requests for attorneys' fees, the court addressed the factors set forth in FL section 8-214(a)(2). With respect to the issue of "substantial justification," the court explained that Lauri argued that Michael's "intransigence" in refusing to admit to

adultery until the morning of trial had caused her to incur unnecessary expenses, including the cost of taking the deposition of his alleged paramour. Michael responded that Lauri knew that his alleged paramour planned to invoke the Fifth Amendment at her deposition for all questions pertaining to adultery and, as such, it was a "fruitless exercise" that caused him to incur unnecessary expenses. Moreover, Michael emphasized that by noting that deposition without first clearing the date with his counsel, Lauri had caused him to incur the expense of filing a motion for protective order, which ultimately was granted.

The court found that the divorce was a "bitter and protracted process" and that "some of the litigation could have been avoided had [Michael] simply admitted to committing adultery, as he ultimately did." Lauri's decision to take the alleged paramour's deposition "knowing that she would assert her privilege against self-incrimination" also was a "needless cos[t]." The court found that "[o]n balance, . . . [b]oth sides had cause to either prosecute or defend the action" and the parties each had "sufficient resources to pay their own counsel fees."

The judgment of absolute divorce entered that same day incorporated those terms.

The next day, Michael filed a motion to revise and for clarification, arguing that the judgment should not describe Lauri's share of his pension as "248/279" but half that amount. Michael also asked the court to revise its judgment to eliminate the requirement that the parties split their bank accounts. He noted that in closing arguments each party had waived any interest in the other party's bank account and that ordering the accounts

divided equally as of the date of the divorce would be inequitable because the balances varied according to what expenses were paid throughout the month.

On December 16, 2016, Lauri also moved to alter or amend the judgment. She argued that the court had erred by not granting her a monetary award and by not ordering Michael to contribute to her attorneys' fees. Reiterating and supplementing positions she had taken in her written closing argument, she maintained that Michael had used marital assets to pay $40,000 in his attorneys' fees, whereas she had used $30,102 in marital assets to pay her attorneys' fees. She suggested that even if the court were not inclined to award attorneys' fees, it could "balance out the use of marital funds for the payment of attorney's fees" by making a monetary award. She further argued that the court had erred by not accounting for Michael's life insurance policy, with a cash value of nearly $10,000, when assessing whether to grant a monetary award. Lauri also asked the court to amend the judgment to order that any funds in the college savings plans that were not expended for the children would be divided equally. Finally, Lauri asked the court to revise the judgment to make clear that Michael only was entitled to one-half *of the marital share* of her Tier II Railroad Annuity benefits, not one half of the full amount of the benefits.

Michael consented to the revision of the judgment to award him one-half of the marital share of Lauri's Tier II Railroad Annuity benefits, but otherwise opposed her

motion to alter or amend.[12] Michael also asked the court to award him attorneys' fees incurred in preparing a response to Lauri's motion. He maintained that she "presented no new information on which the court should alter or amend the Judgment," with the exception of her "valid request" concerning the Tier II benefits, which "could have been addressed with minimal expense." He asserted that his counsel spent 2.5 hours reviewing, researching, and preparing his response, at a rate of $375 per hour.

By order entered on January 4, 2017, the court granted in part and denied in part Lauri's motion to alter or amend, revising the judgment with respect to Michael's share of the Tier II Railroad Annuity benefits but otherwise denying her requested relief. The court granted Michael's request for attorneys' fees, awarding him $937.50 to be paid directly to his attorneys.[13]

By order entered on January 6, 2017, the court granted Michael's motion to revise, ordering that Lauri would receive one-half of the marital share of his PGCPD pension and striking the provision of the judgment requiring the parties to split their bank accounts evenly.

This timely appeal followed.

[12] He argued, in part, that it would be inequitable for the court to award Lauri attorneys' fees because she had chosen to live lavishly since their separation, spending over $12,000 on dining out and what were, in his view, frivolous purchases during the first ten months of 2015.

[13] The court signed a proposed order submitted by Michael with his opposition to Lauri's motion. That order states that the motion is "Denied," but then proceeds to grant it, in part, by revising the judgment relative to the Tier II benefits.

STANDARD OF REVIEW

We review a case that has been tried to the court "on both the law and the evidence . . . [and] will not set aside the judgment of the trial court on the evidence unless clearly erroneous, . . . giv[ing] due regard to the opportunity of the trial court to judge the credibility of the witnesses." Md. Rule 8-131(c). "'If there is any competent evidence to support the factual findings below, those findings cannot be held to be clearly erroneous.'" *Friedman v. Hannan*, 412 Md. 328, 335–36 (2010) (quoting *Solomon v. Solomon*, 383 Md. 176, 202 (2004)). If a case involves "the application of Maryland statutory and case law, our Court must determine whether the lower court's conclusions are 'legally correct' under a *de novo* standard of review." *Walter v. Gunter*, 367 Md. 386, 392 (2002).

DISCUSSION

I.

Lauri contends the court erred by not ordering Michael to pay her a sum equal to one-half of the marital share of his monthly pension payment directly, every month, until the QDRO effectuating the transfer of her interest in his pension was executed. She maintains that because the court awarded her one-half of the marital share of Michael's pension on an "if, as, and when basis" and because the pension already is in pay status, she is entitled to immediate payments from Michael. She insists that because the court intended to divide the marital assets equally, any deviation from an exactly equal distribution of the marital assets—to the penny—was improper.

Michael responds that the court did not err or abuse its discretion by ordering that Lauri would begin receiving her share of his pension once the QDRO was executed. Michael notes that if the court had ordered otherwise, he would have been taxed on his full pension while paying 44 percent of it to Lauri. He points out that the court's decision was consistent with its child support determination, which did not include the $4,204 per month increase in Lauri's income that will occur when she begins receiving her share of the pension. He maintains that if the court had had any intention that Lauri immediately begin to receive a sum equal to the share of his pension she will receive when the QDRO is in place, it would have included that amount as income to her, and subtracted it from his income, in calculating child support.

"[T]he court has broad discretion in evaluating pensions and retirement benefits, and in determining the manner in which those benefits are to be distributed." *Welsh v. Welsh*, 135 Md. App. 29, 54 (2000). In the case at bar, the court made references in its memorandum opinion to equitable distribution of marital assets and also said that "an even division" of jointly titled marital property was "fair and equitable." With respect to Michael's pension, the revised divorce judgment provided:

> ORDERED, that the terms set forth in the December 8, 2016 Judgment of Absolute Divorce regarding [Lauri]'s interest in [Michael]'s [PGCPD pension] are hereby revised such that [Lauri] shall receive *one-half* of the marital share of [that pension], which marital share shall be determined by multiplying [Michael's] monthly benefit amount by 248/279, said payments to be made to [Lauri] on an if, as and when basis **effective with the entry of the appropriate [QDRO] or Pension Order[.]**

(Bolded emphasis added.)

We find no merit in Lauri's argument that the trial court pledged itself to an exacting equal division of the marital assets so as to abuse its discretion by not ordering Michael to directly pay Lauri a sum equal to one-half of the marital share of his monthly pension payments until such time as the QDRO was executed. Lauri had advocated for that in her written closing arguments. Clearly, the court considered her argument but rejected that approach. In its revised judgment, the court ordered that Lauri would receive her share of the pension "if, as and when . . . **effective with the entry of the appropriate [QDRO**.**]**" Thus, the court made clear that Lauri's share of Michael's pension was tied to the entry of the QDRO. The court understood that that necessarily would result in Lauri's receiving a monthly share beginning later than the date of divorce and therefore not equal to the total amount Michael will receive post-divorce. The court made known its familiarity with the equitable (not necessarily equal) distribution standard in Maryland, however, and in the exercise of its discretion, determined that it would be equitable for Lauri's payments to begin when the QDRO was executed. This was neither error nor an abuse of discretion.

II.

In the same vein, Lauri contends the court erred by not granting her a monetary award both because it mistakenly perceived that she was seeking a monetary award to punish Michael for his infidelity and because it failed to "value disputed property, failed to divide the property equally and omitted property." Michael responds that the court's

thorough and detailed findings applying the FL section 8-205(b) factors make clear that it did not err or abuse its discretion in declining to grant a monetary award.

In deciding whether to grant a monetary award, a trial court follows a three-step process. First, it determines what property is marital property; second, it values the property; and third, it decides whether to grant a monetary award "as an adjustment of the equities and rights of the parties[.]" FL §§ 8-203 – 8-205. As this Court has explained:

> "[T]he purpose of [a] monetary award . . . is to achieve equity between the spouses where one spouse has a significantly higher percentage of the marital assets titled [in] his [or her] name." *Long v. Long*, 129 Md. App. 554, 577-78, 743 A.2d 281 (2000). Granting a monetary award allows a court "to counterbalance any unfairness that may result from the actual distribution of property acquired during the marriage strictly in accordance with its title." *Ward v. Ward*, 52 Md. App. 336, 339, 449 A.2d 443 (1982). Consequently, when deciding whether to make an award, the court has broad discretion to reach an equitable result. *See Freese v. Freese*, 89 Md. App. 144, 153, 597 A.2d 1007 (1991. . . .

Hart v. Hart, 169 Md. App. 151, 160–61 (2006).

In the case at bar, Lauri maintains that the court clearly erred by failing to resolve a dispute over the value of the furniture in the marital home; failing to "account for the differences in the values of the parties' vehicles," and "omitt[ing] [Michael]'s life insurance policy" in assessing whether to make a monetary award.

The court stated that it was accepting "the values that the parties' [sic] themselves assigned to the marital property." While Lauri is correct that the parties disputed the value of the furniture in the marital home, the court's findings make clear that it accepted the lower value proffered by Michael. In the 9-207 statement, Michael asserted that the furniture in the marital home was worth $3,500, while Laurie asserted that it was worth

$6,000. On direct examination, when asked about the furniture in the marital home, Lauri responded that Michael could "have it" and that there was not "anything of major value in the home." In determining how to divide the parties' jointly titled furniture the court found that it would be a "fair division" for Lauri to keep the furniture in the Florida property ($3,000), and for Michael to keep the furniture in the marital home. Lauri also had furniture in her rental home worth $1,000. In light of this finding, we think it clear that the court accepted Michael's valuation of $3,500 for the furniture in the marital home.

With respect to the vehicles, the court ordered that each party would keep the vehicle titled in his or her name. Lauri's vehicle was a 2013 luxury SUV with an outstanding loan balance of $27,000, and a market value of $20,000. Thus, for purposes of valuing the marital property, its value was $0. Michael's vehicle was a 12-year-old pickup truck valued at $6,000.

Finally, Michael had titled in his name a life insurance policy with a cash value of $9,497. He had no plans to cash in the policy, however, and the parties' children were the named beneficiaries.

According to Lauri, after accounting for the value of the furniture, the truck, and the life insurance policy, Michael had "an additional $16,000.00 to $27,000.00 of marital property" and the court "should have awarded [her] a monetary award to adjust for this inequity[.]" This calculation is not correct. Accepting the values proffered by Lauri on

her Exhibit C to her written closing arguments,[14] as altered by certain findings made by the court that are not challenged on appeal and our determination that the furniture in the marital home was valued at $3,500, not $6,000,[15] we calculate that the total value of the parties' marital property was $649,062. After the court ordered the real property and the retirement assets divided, $332,823 was titled in Michael's name and $316,240 was titled in Lauri's name. Thus, had the court intended to make a precise 50/50 division of the marital property, it would have granted Lauri a monetary award of $8,291.50—just over one percent of the total marital property.

The court repeatedly made clear, however, that it intended to divide the parties' property "in an equitable manner," not equally. The distribution of the parties' property plainly was equitable. Michael received just over half of the parties' marital property, but included in that value was a 12-year-old vehicle that would need to be replaced and a non-liquid life insurance policy he intended to maintain for the benefit of the children. Lauri's luxury vehicle may have been worth less than the loan balance on it, but that was because it was relatively new. It would not need to be replaced imminently. Moreover,

[14] Exhibit C was a table reflecting the value of all of the marital property, divided by title, and the amount that each party would retain if the court accepted Lauri's proposed division of that property.

[15] For example, Lauri included $60,000 in allegedly dissipated monies in the tally of marital property titled in Michael's name, but the court rejected that argument, and she does not challenge that ruling on appeal. The court also rejected the argument that the college savings accounts titled in Michael's name, but held for the benefit of the children, should be included in the valuation of marital property. We perceive no error in the latter finding.

because Michael's pension already was in pay status, Lauri would receive the benefit of the division of that asset immediately upon execution of the QDRO, resulting in her having a monthly income in excess of Michael's. There simply was no error or abuse of the court's discretion in deciding not to grant a monetary award.

III.

Finally, with respect to attorneys' fees, Lauri contends the court erred both by denying her request and by granting Michael $937.50 in fees he incurred responding to her motion to alter or amend. We shall address each contention in turn.

Pursuant to FL section 7-107, the circuit court may award to either party in a divorce action "reasonable and necessary expense[s]" incurred in bringing or defending the action after considering the "financial resources and financial needs of both parties" and determining whether either party lacked "substantial justification for prosecuting or defending the proceeding." If the court finds that a party lacked "substantial justification . . . 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 the reasonable and necessary expense of prosecuting or defending the proceeding." FL § 7-107(d). "'When the case permits attorney's fees to be awarded, they must be reasonable, taking into account such factors as labor, skill, time, and benefit afforded to the client, as well as the financial resources and needs of each party.'" *Collins v. Collins*, 144 Md. App. 395, 447 (2002) (quoting *Petrini v. Petrini*, 336 Md. 453, 467 (1994)).

Lauri argues that the court erred by not awarding her attorneys' fees because "her fees and costs of approximately $70,000.00 were greater than they would have been if [Michael] had admitted the adultery from the outset." The court agreed with Lauri that she incurred costs for this reason, but found that Michael also incurred unnecessary costs as a result of Lauri's decisions to take the deposition of his alleged paramour without first clearing the date with Michael's counsel, and with the knowledge that the alleged paramour intended to assert her Fifth Amendment right not to answer any questions about the alleged adultery, the only issue upon which her testimony would have been relevant. We perceive no abuse of discretion by the court in its ultimate conclusion that, "on balance," both parties had reason to prosecute and/or defend the action and both had sufficient resources to pay their own fees.

We now turn to Lauri's contention that the court erred by granting Michael's request for attorneys' fees made in his opposition to her motion to alter or amend the divorce judgment. She asserts that the award was improper because the court did not make any of the required findings under FL section 7-107(b), nor did it find that Lauri had acted in bad faith, pursuant to Rule 1-341, by filing her motion to alter or amend.

Michael responds that it is implicit in the court's ruling granting his request for attorneys' fees that it found that Lauri lacked substantial justification in filing her motion to alter or amend and, consequently, the court was required pursuant to FL section 7-107(d) to order her to pay Michael's "reasonable and necessary expense[s]" incurred in responding to that motion. We disagree.

Lauri's motion to alter or amend was granted in part and denied in part. The court granted her request to revise the divorce judgment to reflect that Michael was entitled to one-half of *the marital share* of her Tier II Railroad Annuity benefits, not one-half of the benefits, but otherwise denied her request to revisit its determinations not to grant a monetary award or an award of attorneys' fees. The court did not make any findings in its order as to why an award of attorneys' fees was warranted. Given that the motion was partially granted, it is difficult to see how the court could have found that Lauri lacked substantial justification for filing it. Moreover, the court found at the time it entered the divorce judgment that both parties had sufficient financial resources to pay their own attorneys' fees. Accordingly, we shall reverse the award of attorneys' fees to Michael in the January 4, 2017 Order.

JANUARY 4, 2017 AWARD OF $937.50 IN ATTORNEYS' FEES TO THE APPELLEE REVERSED. JUDGMENT OTHERWISE AFFIRMED IN ALL RESPECTS. COSTS TO BE PAID ONE-HALF BY THE APPELLANT AND ONE-HALF BY THE APPELLEE.