

Circuit Court for Prince George's County  
Case No. CAD18-02265

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2717

September Term, 2018

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MILAGRO LOURDES RAMOS

v.

RIGOBERTO RAMOS

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Friedman,  
Beachley,  
Wells,

JJ.

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Opinion by Beachley, J.

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Filed: April 8, 2020

\*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, Rigoberto Ramos (“Husband”), filed a Complaint for Absolute Divorce against appellee, Milagro Ramos (“Wife”), requesting, in addition to the divorce, joint physical and legal custody of their minor child and use and possession of the family home. Wife filed an answer and countercomplaint in which she requested an absolute divorce, joint physical and legal custody of the minor child, and “such other and further relief as the nature of her cause may require.” In her answer and countercomplaint, Wife alleged that she and her spouse “have multiple properties and debt that need to be divided,” including real estate, retirement accounts, and other property. Wife, however, did not request a monetary award in her prayers for relief. When the case was called for trial, Wife requested a continuance based in part on Husband’s failure to provide discovery related to the parties’ marital property. The trial court denied Wife’s continuance request, primarily because the court believed that Wife could not seek a monetary award based on a general prayer for “such other and further relief.”

We have condensed Wife’s appellate issues to a single question: Did the court abuse its discretion in denying Wife’s request for continuance?

We hold that, under the circumstances of this case, the circuit court abused its discretion in denying Wife’s request for a continuance. Accordingly, we shall vacate and remand for further proceedings.

#### **FACTUAL AND PROCEDURAL BACKGROUND**

Husband and Wife married on July 2, 1987. On January 25, 2018, Husband, as a self-represented litigant, filed a divorce complaint against Wife, in which he requested an absolute divorce, joint physical and legal custody of the minor child, and use and

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possession of the family home. Wife, through counsel, filed an answer and countercomplaint.<sup>1</sup> In her answer, Wife alleged: “My spouse and I have multiple properties and debt that need to be divided . . . : Retirement Accounts, Motor Vehicles, Debts, Furniture, Bank and investment accounts, Family Use Personal Property, among others. All the property is at issue.” In her countercomplaint, Wife further alleged: “There are 4 properties at issue located in El Salvador for which [Wife] claims marital property. . . . There are 401(k) and other retirement accounts for which [Wife] claims marital property.” In her prayers for relief, Wife requested an absolute divorce, joint legal and physical custody of the minor child, and “such other and further relief as the nature of her cause may require.”<sup>2</sup> Notably, in her prayers for relief, Wife did not specifically request a monetary award or any relief pertaining to the parties’ marital property.

The court issued a Scheduling Order dated April 10, 2018. The order required that the parties exchange financial information by May 4, 2018, complete discovery by July 2, 2018, and file a joint property statement by July 27, 2018. The order also scheduled the trial for five hours on August 16, 2018, delineating the issues as “Divorce, Property and Custody (if appropriately pled and at issue).”

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<sup>1</sup> This document was erroneously titled “Answer to Countercomplaint and Countercomplaint.” The parties and the circuit court treated this pleading as an answer to Husband’s complaint and a countercomplaint.

<sup>2</sup> The parties entered into a parenting agreement prior to trial, providing for joint legal custody, primary physical custody to Wife, and visitation to Husband.

On April 4, 2018, contemporaneously with the filing of her answer and countercomplaint, Wife sent interrogatories and a request for production of documents to Husband. Among other things, Wife requested information from Husband concerning “all property of every kind” in which Husband had “any interest whatsoever.” Because Husband did not respond to her discovery requests, Wife moved to compel discovery on June 18, 2018. On July 3, 2018, the court granted Wife’s motion to compel, ordering Husband to respond to Wife’s discovery within 14 days.<sup>3</sup>

After the case was called for trial on August 16, 2018, Wife’s counsel promptly advised the court that he believed the trial would require “two or three days” rather than the five hours established in the Scheduling Order. Wife’s counsel proffered that Husband’s attorney, who entered his appearance on July 31, 2018, provided “some” answers to interrogatories “this Monday” (presumably Monday, August 13, 2018, three days prior to trial). Wife’s attorney further asserted that Husband had provided only limited documents in response to the request for document production, requiring Wife to incur costs for private investigators and lawyers in El Salvador to research Husband’s property interests in that country. Based on Husband’s discovery failures, Wife sought sanctions, including attorney’s fees. When Husband’s counsel attempted to respond to Wife’s asserted discovery violations, the trial judge interjected, “Sounds like [Wife is] asking for a continuance,” and immediately referred the parties to the circuit court’s designated judge

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<sup>3</sup> The July 3, 2018 order also reserved Wife’s requests for sanctions “for the trial judge.”

to hear and rule on continuance requests.

The parties promptly appeared for a hearing before the continuance judge. Wife’s counsel reiterated that, despite the order granting Wife’s motion to compel discovery, Husband had provided insufficient answers to interrogatories a mere three days prior to the assigned trial date, and only “some documents, but not all of the documents” pursuant to the request for production of documents. Wife’s counsel also advised the continuance judge that Wife had expended funds on a private investigator and a lawyer in El Salvador, who were able to “locate property” owned by Husband that he had not disclosed. Finally, Wife’s counsel noted that the parties had been married for thirty-five years, stating “we cannot dissolve a 35-year-old marriage without taking into account all the property that they have acquired during the marriage.”

Husband responded that Wife’s failure to request in her pleadings a monetary award or any determination of marital property precluded her from obtaining such relief. Husband further noted that the parties had not filed the joint statement regarding marital and non-marital property required by Maryland Rule 9-207 as well as the court’s Scheduling Order. Husband therefore objected to any continuance.

Despite acknowledging that “there is something regarding these El Salvador properties,” the continuance judge denied Wife’s continuance request, concluding that Wife’s marital property claims were “not properly pled, not properly prosecuted.” The court further denied Wife’s request for a continuance to amend her pleading. The continuance judge then sent the parties back to the trial judge, limiting the issues to be

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adjudicated at trial to the grounds for divorce and disposition of the marital home.<sup>4</sup>

The parties returned to the trial judge’s courtroom. Soon after the proceeding began, the trial judge stated that she agreed with the continuance judge’s limitation of issues, stating: “[Wife’s] request to litigate other property issues is denied, and I agree that [‘]such other and further relief[’] does not give you the right to then expand the pleadings at trial[.] . . . And I just asked [the continuance judge to consider] the continuance, but I think that I’m in agreement with her ruling.” When Wife’s counsel then attempted to raise the issue of Husband’s 401(k), the trial judge stated:

No, sir. You have got to plead it[.] . . . [T]o the extent that you’re asking now for a 401k, they have the right to have notice of that[.] . . . You have not put them on notice in your pleadings that you’re even seeking that, and so I’m not going to -- I don’t have the -- I don’t believe that I have the authority to enlarge these pleadings to allow you to -- plus, her, -- it is limited to the marital home only. . . . [I]t’s clear to me divorce and marital home only. That’s not 401k.

During the trial, counsel for Wife attempted to question Husband about the marital home, to which Husband’s counsel objected. In sustaining the objection, the court noted that Wife had made no claims as to the marital home in her countercomplaint, and only specifically mentioned the properties in El Salvador and the 401(k).<sup>5</sup> The court noted that

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<sup>4</sup> At trial, Husband withdrew his request for use and possession of the family home. However, the continuance judge allowed the issue of disposition of the family home to proceed because the house was titled in both parties’ names and the issue “potentially would need to come back to court.” The court stated that “if the court resolves that marital property issue along with the divorce, that seems to be the best use of judicial resources.”

<sup>5</sup> We note that Wife did specifically mention the marital home in paragraph 13 of her answer, which was part of the same document as the countercomplaint.

Wife’s prayer for general relief “does not sufficiently put [Husband] on notice as to a request for marital property, monetary award, or any other relief[.]”

On August 24, 2018, the trial court issued a Judgment of Absolute Divorce in which it granted the parties an absolute divorce, approved the terms of the parties’ parenting agreement related to the minor child, and denied all relief Wife requested in her countercomplaint. Wife filed a “Motion to Strike Judgment and New Trial,” which the court denied on October 17, 2018, leading to this timely appeal.

### **DISCUSSION**

Wife argues that the court abused its discretion in denying her motion for continuance. In her view, the court based its refusal to grant a continuance on a “faulty application of law,” *i.e.* that Wife’s general prayer for relief was legally insufficient to request a monetary award pursuant to Md. Code (1984, 2019 Repl.), § 8-205 of the Family Law Article. Wife further argues that: (i) the court did not consider that Husband failed to comply with her discovery requests even after the court compelled Husband to answer Wife’s discovery; and (ii) that she exercised appropriate diligence by expending funds to locate and value real property owned by Husband in El Salvador. Husband responds that the court did not abuse its discretion in denying Wife’s continuance request because: (i) Wife’s pleadings demonstrated that she knew about the El Salvadoran properties in April 2018, yet she did not request a continuance until the day of trial; and (ii) that, in any event, Wife did not properly plead or request any relief concerning marital property. As we shall explain, the continuance court abused its discretion in denying Wife’s motion for a continuance.

“Generally, an appellate court will not disturb a ruling on a motion to continue ‘unless [discretion is] arbitrarily or prejudicially exercised.’” *Neustadter v. Holy Cross Hosp. of Silver Spring, Inc.*, 418 Md. 231, 241 (2011) (alteration in original) (quoting *Dart Drug Corp. v. Hechinger Co.*, 272 Md. 15, 28 (1974)). Abuse of discretion occurs when the court’s discretion is “manifestly unreasonable, or exercised on untenable grounds, or for untenable reasons.” *Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006) (quoting *Jenkins v. City of College Park*, 379 Md. 142, 165 (2003)). In analyzing abuse of discretion, an appellate court looks “to see whether the court applied correct legal principles and, if so, whether its ruling constituted a fair exercise of its discretion.” *Neustadter*, 418 Md. at 242 (quoting *Edwards v. State*, 350 Md. 433, 441–42 (1998)). As the Court of Appeals noted in *Alston v. Alston*, 331 Md. 496, 504 (1993), “even with respect to a discretionary matter, a trial court must exercise its discretion in accordance with correct legal standards.”

In this case, the continuance judge denied Wife’s request for a continuance in part because the court believed that Wife could not obtain a monetary award pursuant to a general prayer for relief. In that respect, the court erred. A party may obtain equitable relief under a prayer for general relief when the averments in the pleading inform the opposing party that the relief “is within the range of reasonable possibility if the complainant proves those averments.” *Terry v. Terry*, 50 Md. App. 53, 61 (1981). We tangentially addressed this issue in *Falise v. Falise*, 63 Md. App. 574, 582 (1985), noting that a prayer for “such other and further relief” in that case “was sufficient to permit the trial judge to render any necessary equitable adjustments *vis-à-vis* a monetary award.”

Husband cites *Huntley v. Huntley*, 229 Md. App. 484 (2016), to support his



argument that “a trial court can properly refuse to award equitable relief where a party fails to request such relief.” There, Ms. Huntley filed for divorce, requesting a monetary award, alimony, a portion of her husband’s retirement benefits, and attorney’s fees. *Id.* at 486. Mr. Huntley did not request any affirmative relief in his answer aside from granting the divorce. *Id.* Mr. Huntley’s answer made no mention of Ms. Huntley’s retirement benefits whatsoever, and he did not file a countercomplaint. *Id.* at 490. However, at trial, he requested a portion of Ms. Huntley’s retirement benefits. *Id.* at 486. The trial court denied this request and we affirmed the judgment. *Id.* at 487. We held that because Mr. Huntley failed to provide any notice to Ms. Huntley in his pleadings that he would be requesting a portion of her retirement benefits, the trial court did not err when it denied Mr. Huntley’s request for a division of those benefits. *Id.* at 490. We recently emphasized the importance of notice, holding in *Lasko v. Lasko*, \_\_ Md. App. \_\_, No. 2702, Sept. Term 2016, Slip Op. at 12 (Ct. of Spec. App. April 1, 2020), that the wife’s pleadings sufficiently put the husband “on notice that he was subject to the possibility of the grant of a monetary award.”

Here, Wife filed a countercomplaint, which included specific references to properties she alleged were marital property, and included a prayer for general relief. Moreover, in her answer, Wife alleged that “multiple properties . . . need to be divided,” and asserted that “All property is at issue.” We therefore conclude that Husband had adequate notice of Wife’s claim to marital property.<sup>6</sup>

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<sup>6</sup> We also find *Huntley* distinguishable on its facts because Mr. Huntley first requested a portion of Ms. Huntley’s retirement benefits during the divorce trial. Here, the continuance motion was heard prior to trial, allowing the court could fashion a remedy to eliminate the element of surprise that existed in *Huntley*.

Although we recognize that the determination whether to permit a party to seek relief pursuant to a general prayer is discretionary, *see McKeever v. Wash. Heights Realty Co.*, 183 Md. 216, 224 (1944), the continuance court abused its discretion because the court applied an incorrect legal principle in denying the continuance. Specifically, the court apparently believed that Wife’s general prayer was insufficient as a matter of law to allow the court to grant a monetary award.<sup>7</sup>

We further hold that, irrespective of the legal error that served as a basis for denying Wife’s continuance request, the court abused its discretion by denying the continuance in light of the particular circumstances of this case. In this regard, we find *Reaser v. Reaser*, 62 Md. App. 643 (1985) instructive. There, Ms. Reaser, the defendant in a divorce case, moved to continue the trial. *Id.* at 645. She had been represented by counsel until seven weeks before trial, “at which time the court signed an order striking the appearance of her counsel.” *Id.* at 649. She requested a continuance slightly more than one month before trial due to her difficulty in securing new counsel. *Id.* “That request was denied . . . six days before the trial date.” *Id.* On the day of trial, Ms. Reaser stated that she was not prepared to proceed, stating that she had not been able to secure new counsel and alleged misconduct by her prior counsel. *Id.* at 645–47. Despite the parties having been married for thirty-two years and the pleadings raising several “potentially complicated issues involving marital property,” “the trial judge perceived the issues to be rather simple.” *Id.*

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<sup>7</sup> The trial judge also ruled that Wife’s general prayer was insufficient to seek a monetary award.

at 649. The judge informed Ms. Reaser that she had no burden of proof and therefore did not need any witnesses, even though she raised issues in her countercomplaint concerning alimony, contempt, and marital property. *Id.* at 649–50. In holding that the trial court abused its discretion, this Court considered the factors used in *In re McNeil*, 21 Md. App. 484, 497–99 (1974), where this Court found an abuse of discretion in denying a continuance to a mother who could not attend a custody hearing because she was caring for a sick child. The *Reaser* Court stated:

We pointed out several factors as militating in favor of a continuance in [*In re McNeil*]: (1) the mother had acted responsibly throughout the proceedings; (2) the prior postponement of the case was requested by the other side; (3) the mother’s testimony would have been material to the issues in the case; and (4) there was no emergency.

*Reaser*, 62 Md. App. at 648. We also considered other factors specific to the circumstances that existed in *Reaser*. Although the case had been pending for three years when Ms. Reaser requested a continuance, we held that the age of the case, by itself, “would not provide sufficient justification for the denial of the continuance particularly when no prejudice to the other side was shown.” *Id.* at 649–50. We concluded that, “[a]fter 32 years of marriage, it is important that a partner to that marriage be afforded an opportunity to obtain a fair and equitable adjustment of the property interests accumulated during the marriage.” *Id.* at 650. We further echoed the *In re McNeil* Court’s observation that a “myopic insistence upon expeditiousness in the face of a justifiable request for delay can render the right to due process an empty formality.” *Id.* at 648 (quoting *In re McNeil*, 21 Md. App. at 499).

Here, the parties had been married for thirty-five years, and Wife alleged that she

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and Husband had acquired substantial marital property, including Husband’s ownership of four properties in El Salvador, all of which she claimed were marital property.<sup>8</sup> Wife’s counsel advised the continuance court that Wife hired a private investigator and a lawyer in El Salvador who successfully located property Husband owned in that country. Moreover, translators were required to interpret deeds and other documents written in Spanish. In short, this case involved “potentially complicated issues involving marital property,” which the circuit court did not take into consideration when determining whether to grant the continuance. *Reaser*, 62 Md. App. at 649.

Although Wife delayed in requesting a continuance until the day of trial despite knowing that marital property would be a primary issue when she filed her answer and countercomplaint, we must consider this delay in light of the other extant circumstances. Husband filed his complaint for divorce in January 2018 and Wife filed her answer and countercomplaint on April 4, 2018. Contemporaneous with the filing of her answer, Wife propounded interrogatories and a request for production of documents. Because Husband completely failed to provide discovery, Wife obtained an order compelling Husband to provide discovery by July 17, 2018. Husband failed to timely comply with the order to compel. He obtained counsel on July 31, 2018, and on August 13, just three days before trial, Husband provided allegedly insufficient answers to interrogatories. He also provided only “some documents” in response to the document request. Although Husband

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<sup>8</sup> Wife also asserted that she had discovered a fifth property in El Salvador on the eve of trial.

acknowledged in his answers to Wife’s interrogatories that he had partial ownership in four properties in El Salvador, he provided a deed to only one of the properties, and never provided the addresses of the properties or any estimation of their value. Husband apparently provided some 401(k) statements in response to the document request, but he failed to identify any interest in a 401(k) plan in his answers to interrogatories. Additionally, despite Husband’s request in his complaint that the marital home “be divided,” the court permitted Husband to withdraw that request at trial, further precluding Wife from seeking any equitable relief related to the marital home.

We conclude that the court abused its discretion in denying Wife’s request for a continuance. When the matter was called for trial on August 16, 2018, the case had been at issue for only four months and, despite timely submitted discovery, Husband failed to provide any discovery responses until the month of trial. Additionally, the case had not been previously postponed and there was no child access issue or other emergency. Although we acknowledge that many of our trial courts maintain extremely busy dockets, we reiterate that “myopic insistence upon expeditiousness in the face of a justifiable request for delay can render the right to due process an empty formality.” *In re McNeil*, 21 Md. App. at 499. Here, in the dissolution of a thirty-five-year marriage with potentially complicated marital property issues, Wife should be “afforded an opportunity to obtain a fair and equitable adjustment of the property interests accumulated during the marriage.” *Reaser*, 62 Md. App. at 650. Because we conclude that the court, under the circumstances

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of this case, abused its discretion in denying Wife’s request for a continuance, we shall order a new trial on the marital property issues raised in her countercomplaint.<sup>9</sup>

**JUDGMENT OF ABSOLUTE DIVORCE  
VACATED AS TO DENIAL OF RELIEF  
RELATED TO APPELLANT’S REQUEST  
FOR A MONETARY AWARD AND/OR  
OTHER EQUITABLE RELIEF RELATED  
TO MARITAL PROPERTY. CASE  
REMANDED TO THE CIRCUIT COURT  
FOR PRINCE GEORGE’S COUNTY FOR  
FURTHER PROCEEDINGS CONSISTENT  
WITH THIS OPINION. COSTS TO BE  
PAID BY APPELLEE.**

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<sup>9</sup> Because we are remanding for a new trial, Wife should be permitted to amend her pleadings as appropriate in accordance with Maryland Rule 2-341.