STATE OF MICHIGAN

COURT OF APPEALS

CAROL S. JACOBSEN,

Plaintiff-Appellant,

v

ROBERT B. JACOBSEN,

Defendant-Appellee.

UNPUBLISHED
August 17, 1999

No. 211172
Washtenaw Circuit Court
LC No. 95-003785 DO

Before: Hood, P.J., and Fitzgerald and Collins, JJ.

PER CURIAM.

A judgment of divorce was entered on March 23, 1998. The trial court determined that defendant was at fault for the divorce, and, therefore, it decided to award plaintiff fifty-five percent of the marital estate while requiring her to pay only forty-five percent of the marital debt. Plaintiff appeals as of right the distribution of property, the award of alimony, and the trial court's ruling that she was required to pay her own attorney fees and one-half of the cost of the court appointed expert. We affirm in part and reverse in part.

Plaintiff and defendant married in 1962 when they were both in college. The marriage produced one son in 1964. Plaintiff supported defendant until he successfully completed college and went to work for Ford Motor Company. For a time, plaintiff was a homemaker, but she eventually returned to school and received a bachelor's degree, and later, in 1980, received a master's degree in fine arts. She became a notable artist, author and lecturer, and has served as a visiting artist and professor at numerous institutions, including directing a program in Florence, Italy. In 1995, while defendant was living in England as part of his employment assignment, plaintiff, who was residing in the couple's Ann Arbor home, confronted him about having an affair. Defendant admitted that while on his previous employment assignment in France, he had developed a relationship with a French woman, which relationship was ongoing in spite of defendant's move to England. Plaintiff was devastated by the news of defendant's infidelity and filed for divorce.

Plaintiff makes numerous arguments on appeal with regard to the overall divorce judgment, only two of which have merit. Specifically, we find that the trial court erred in its ruling with regard to the Ford Motor Company Saving and Stock Investment Plan (SSIP) and defendant's Ford Motor

Company Retirement Plan. And, we find that the trial court abused its discretion by including plaintiff's interest in her family's cottage in the marital estate. In all other respects, we find no error on appeal.

In reviewing a divorce judgment, we review the trial court's findings of fact for clear error and then determine whether the ultimate dispositional ruling was fair and equitable in light of the facts. *Byington v Byington*, 224 Mich App 103, 109; 568 NW2d 141 (1997), citing *Sands v Sands*, 442 Mich 30, 34; 497 NW2d 493 (1993). We will reverse the disposition only if we are left with the firm conviction that the distribution was inequitable. *Byington*, *supra*.

> The goal of the court when apportioning an marital estate is to reach an equitable division in light of all the circumstances. Each spouse need not receive a mathematically equal share, but significant departures from congruence must be explained clearly by the court. When dividing the estate, the court should consider the duration of the marriage, the contribution of each party to the marital estate, each party's station in life, each party's earning ability, each party's age, health and needs, fault or past misconduct, and any other equitable circumstance. [*Byington, supra* at 114-115, citing *Sparks v Sparks*, 440 Mich 141, 158-160; 485 NW2d 893 (1992).]

I. The SSIP and the Retirement Plan

The trial court awarded plaintiff fifty-five percent of the retirement plan "as of March 20, 1996" and a fifty-five percent share of the SSIP, which share was calculated by "effectively valu[ing] the accounts as of March 20, 1996." March 20, 1996, a date two years before the divorce judgment was entered, was apparently chosen by the trial court because it was the approximate date that plaintiff started receiving temporary alimony; because, by that date, there was clearly an irrefutable breakdown in the marriage with no possibility of reconciliation; and because there was considerable delay from the filing of the divorce complaint to the judgment[1].

We believe that the trial court's act of "valuing" the SSIP and retirement plan as of March 20, 1996 was improper because it effectively excluded marital assets from the marital estate. In *Byington, supra* at 109-110, the Court stated:

> Marriage is a status that legally terminates only upon the death of a spouse or upon entry of a judgment of divorce. There is no de facto divorce and Michigan jurisprudence does not recognize consensual divorce. Michigan law permits only de jure divorce in accordance with the statutory authority conferred on the circuit courts, including a requirement of judicial imprimatur to make even a mutually agreed-upon divorce effectual. When determining property rights, the court may apportion all property that has "come to either party by reason of the marriage . . . ." The property that is subject to apportionment is referred to as "marital property," and it is this property that comprises the marital estate. *Assets earned by a spouse during the marriage are properly considered part of the marital estate.* This is true where the assets are received ruing the existence of the marriage, but also where the assets are received after the judgment of divorce. [Citations omitted; emphasis added.]

In *Byington, supra* the defendant earned a significant compensation package prior to the entry of the judgment of divorce, but well after the parties started living separate lives and started divorce proceedings. The trial court found that the compensation package was not part of the marital estate. *Id.* at 110. This Court reversed. In doing so, this Court distinguished between determining what property is part of a marital estate and determining how marital property should be apportioned.

> The inquiry regarding which assets comprise the marital estate is distinct from the question of valuation of those assets. For purposes of dividing the property, marital assets are typically valued at the time of trial or at the time judgment is entered, *Kilbride v Kilbride*, 172 Mich App 421, 436; 432 NW2d 324 (1988), though the court may, in its discretion, use a different date. *Thompson v Thompson*, 189 Mich App 197, 199-200; 472 NW2d 51 (1991). When dividing assets incident to a divorce, the court must first consider whether an asset is properly considered a marital asset. Where the court determines that a particular asset is, in fact, a marital asset, it must then value the asset as of either the date of trial, the date of judgment, or a more appropriate date.
>
> As a practical matter, this process creates conflicting motivations as between the parties to a divorce regarding its finalization. An early valuation date encourages parties to postpone potentially economically beneficial contractual relationships to avoid having to share such accessions of wealth with a spouse. A later valuation date encourages those who think the other spouse is in line for such a financial asset to delay the proceedings in hopes of securing for themselves a portion of such asset. A related public policy complication is that if a valuation date is regarded as fixed, a party with an expectancy of entering into a potentially economically beneficial contractual relationship would be provided with an incentive not to attempt to reconcile. Hence, in determining the valuation date, the circuit court must and does retain considerable discretion to see that equity is done, thereby limiting to whatever extent feasible any artificial impetus to file for, delay, hasten, or finalize a divorce. Further, an important goal of the process by which marital assets are divided properly ought to be to limit the extent to which the process skews ordinary financial arrangements and incentives. [*Byington*, *supra* at 114, n 4 (some citations omitted).]

In making its ruling, the *Byington* panel rejected a previous suggestion by this Court that events other than death or entry of the divorce judgment may be sufficient to "render property earned subsequently [to the breakdown of the marriage] by a spouse the separate property of that spouse." *Id.* at 111.

> The obvious implication of the *Wilson* [*v Wilson*, 179 Mich App 519, 46 NW2d 496 (1989)] decision is that an "external public manifestation" of the intent to divorce could, at least in some circumstances, be sufficient to create a separate estate with respect to assets subsequently earned. In fact, the *Wilson* Court intimated that the marital estate effectively ended when the parties in that case took up separate residences in 1987.

> While we agree with *Wilson* that the manifestation of the intent to lead separate lives, as evidenced by the filing of a complaint for divorce or the maintenance of separate homes, may be of crucial significance when *apportioning* the marital estate, we are hesitant to construe *Wilson* as standing for the more rigid proposition that property earned after such a manifestation is separate property. Our reticence is founded on several grounds . . . .
>
> Second, and more directly, property earned by one spouse during the existence of a marriage is presumed to be marital property. See *Vollmer* [*v Vollmer*, 187 Mich App 688, 690; 468 NW2d 236 (1991).] This Court has gone so far as to state that, when apportioning the marital estate incident to a divorce, the court must strive for "an equitable division of any increase in net worth that may have occurred between the beginning and the end of the marriage." We are aware of no authority corroborating the inference in *Wilson* that events short of death or the entry of the judgment of divorce may abbreviate the existence of the marital estate.
>
> Thus, while the emphasis of the *Wilson* decision on the external public manifestation of the intent to lead separate lives may not have been misplaced in the context *dividing* a marital estate, we decline to endorse *Wilson* to the extent that it may be interpreted as standing for a broader rule of law that property acquired after a public manifestation of the intent to lead separate lives is not part of the marital estate. [*Byington, supra* at 111-113 (citations omitted; emphasis added).]

In this case, the voluntary contributions by defendant to the SSIP after March 20, 1996 were made out of income earned by defendant during the marriage and were thus, made with marital assets. See *Byington*, *supra* at 112 (property earned by one spouse during the existence of the marriage is presumed to be marital property). There is no authority to support that because defendant was paying temporary alimony pursuant to a court order, everything he earned above that amount belonged solely to him and should not be considered as a marital asset. We find that the trial court erred where it purported to apportion the estate fifty-five percent to plaintiff and forty-five percent to defendant, but then excluded post March 20, 1996 contributions to the SSIP from the marital estate when making the division. Thus, plaintiff correctly complains that she was given less than the fifty-five percent of the marital estate, which the court had indicated it was awarding to her.

Similarly, the money being put into the retirement plan between March 20, 1996 and the judgment of divorce should be treated as a marital asset. The pension plan was continually augmented up to the time of judgment by property earned during the marriage. This result comports with MCL 552.18; MSA 25.98, which provides in part:

> (1) Any rights in and to vested pension, annuity, or retirement benefits, or accumulated contributions in any pension, annuity, or retirement system, payable to or on behalf of a party *on account of service credit accrued by the party during marriage* shall be considered part of the marital estate subject to award by the court under this chapter. [Emphasis added.]

On remand, the trial court needs to treat all contributions to the retirement plan and SSIP up to the time of the entry of the judgment as marital assets because they were property earned and received during the marriage. In addition, all stock received into the SSIP as a result of Ford Motor Company's sale of its interest in Associates First Capital Corporation is to be considered part of the marital estate because that stock was received prior to the entry of the judgment of divorce. After including all of the marital assets in the SSIP and retirement plan, the trial court must then value and apportion those two assets according to the equities of the situation. We emphasize, as indicated before, that the trial court is not limited by the judgment date when *apportioning* the marital estate.

II. The marital home

On appeal, plaintiff also argues that it was inequitable for the trial court to value the marital home as of the time of trial while valuing the other two major assets as of March 20, 1996. Because, the trial court erred with regard to the SSIP and retirement plan, the basic inequity will be corrected on remand when the court re-determines the marital assets and re-values and apportions them. However, we find that it was not improper for the trial court to value the house as of the time of trial and on remand, the trial court should not alter its determination in this regard. The parties stipulated that the home should be valued as of December 8, 1997 and plaintiff concedes that assets may be valued at the time of trial. Thus, there is no error requiring reversal on this issue.

III. The marital debts

Plaintiff next argues that it was error for the trial court to determine that all debts incurred after February 12, 1996 were individual debts for which the parties were individually responsible. We disagree.

Early in the process of the case, a hearing referee considered several of the issues. He recommended that all debts accumulated after February 12, 1996, the date of the referee hearing, should be the sole responsibility of the accumulating party. The parties were well aware of the referee decision. In fact, plaintiff filed objections to it. Notably, however, plaintiff did not object to the February 12, 1996 date for severing the marital debt from individual debt. Because the parties were aware that all debt *incurred* after February 12, 1996 was individual debt and because plaintiff has failed to demonstrate that she suffered any harm from the use of that date, we find no error in the trial court's ruling.

IV. Setoffs made to the SSIP

Plaintiff next argues that the manner in which the trial court set off the SSIP account was improper. We disagree.

Defendant received a setoff for his portion of the value of the marital home from the SSIP account. This was done because plaintiff did not want to sell the house. The trial court, recognizing her desire to keep the home, awarded it to her, but gave defendant an off-setting forty-five percent value of the house from the SSIP account. The setoff took into consideration the tax consequences suffered by

defendant for receiving his share of the house through the SSIP instead of from the proceeds of a sale. There is nothing inequitable about this where the setoff calculation apparently placed defendant in the same position as if the house had been sold and defendant given forty-five percent of its value.

Plaintiff also argues that the trial court erred when it provided that defendant, in effect, only had to pay one-half of the ten percent penalty that he will incur if he removes a portion of the SSIP account to pay off his portion of the marital debt. The other half of the penalty is to be retained by plaintiff in the SSIP and not subject to the SSIP division. We disagree that this was improper. If the house had been sold and the marital debts paid off from the parties' respective shares, defendant would arguably not be in a position where he needs to prematurely withdraw money from the SSIP to pay off marital debts. Allowing defendant to retain one-half of the amount of the ten percent penalty keeps the parties in the same relative position as they would have been had the debts been paid out of the proceeds of the sale of the home.

V. Alimony

Plaintiff also argues that her alimony award was insufficient and that it was improperly calculated because the trial court failed to take consider defendant's complete income. An award of alimony is within the trial court's discretion. *Demman v Demman*, 195 Mich App 109, 110; 489 NW2d 161 (1992). "This Court reviews an alimony order de novo, but will not modify an award unless convinced that, had it been in the position of the trial court, it would have reached a different result." *Id.*

In February 1996, the hearing referee concluded that plaintiff should receive $38,671 per year in alimony, which is roughly 3,000 per month. In reaching this conclusion, the referee estimated plaintiff's income at $5,000 per year based on her historical earnings and the fact that her degree, a Master's in Fine Arts, was not worth very much. Based on this conclusion, presumably, the trial court ordered $3,000 per month in temporary alimony.

At trial, the testimony revealed that plaintiff made $25,106.43 in 1996 and apparently, she made approximately $30,000 the following year. Therefore, it was obvious that the $5,000 figure utilized by the hearing referee was woefully incorrect[2]. The trial court calculated spousal support based on the testimony at trial. It considered the income data, the ages of the parties, the health of the parties, the length of the marriage and education. It awarded plaintiff 1,800 per month for fifteen years with the provision that support could not be modified for five years and thereafter, it could be modified only upon a showing of a change of circumstances, i.e. employment status changes or a change in Carol's marital status ("although such a change in status will not *per se* terminate Robert's spousal support obligation").

The trial court determined defendant's income, for purposes of calculating alimony, in accordance with the testimony of the court appointed expert, John Harrison. Harrison had worked for thirty-six years at Ford Motor Company in all areas of Human Resources and was intimately familiar with the way income is paid to employees being stationed overseas. The trial court based defendant's income for the purpose of calculating spousal support on his base income and his average, annual profit sharing bonus only. It did not include housing and living-cost adjustments received by defendant, which

adjustments were designed to place defendant in the same position that he would be in if he lived in the United States. It also did not include, as income, defendant's below market rate car lease or flexible benefit plan, which allowed him to choose the benefits he wished and, if available, keep any remaining dollars. Contrary to Harrison's testimony, plaintiff's expert testified that all of the aforementioned "perks" or adjustments should have been included as income to defendant and spousal support should have been calculated based upon the greater income to defendant.

In support of her argument that the aforementioned benefits and allowances should be included as income, plaintiff cites to her expert's testimony and ignores the testimony of Harrison. The trial court, as the trier of fact, was responsible for determining credibility and we give due regard to the trial court's opportunity to determine credibility. *In re Hardin*, 184 Mich App 107, 109; 457 NW2d 347 (1990). In other words, we will not discredit Harrison's testimony and give credence to plaintiff's expert testimony when the trial court did not. The trial court's conclusions were supported by the record and it appears that the trial court correctly calculated spousal support[3].

Plaintiff also complains, however, that the spousal support was inadequate in light of the fact that she now has to make her own car payments, take care of the parties' son, include COBRA payments made on her behalf as income for tax purposes, and suffer from retroactive credits defendant is receiving from having paid too much in temporary alimony. We disagree with all of these propositions.

With regard to the car payments, the trial court required plaintiff to support herself, including her transportation costs, on the properly determined amount of spousal support plus any of her own earned income. Plaintiff cites to no authority to support that her transportation needs should be provided for by defendant separately from spousal support.

With regard to the parties' adult son, there was no requirement that plaintiff's alimony award should include any amount to care for him. Plaintiff's son was born prematurely and apparently had some developmental disabilities. However, the son was thirty-four years old at the time of judgment and had a high school degree as well as some college credits. In addition, the record reveals that his most pressing problem appears to be substance abuse. Clearly, the award of alimony did not and should not have to provide for him.

We also disagree that it was inequitable for the trial court to allow defendant to take tax deductions for COBRA payments that he is required to make for plaintiff's health insurance, while requiring plaintiff to include those payments as part of her income. Plaintiff fails to cite any authority for the proposition that defendant should make her payments and the payments should not be attributable as income to her. The COBRA payments are in addition to her spousal support and are a direct economic benefit to her.

Finally, with regard to defendant's receipt of retroactive credit for having overpaid for spousal support during the pendency of the divorce, we find no error. The temporary spousal support calculations were based on the assumption that plaintiff did not have a marketable degree and had only been capable of making $5,000 per year prior to the divorce. The trial court, obviously anticipating that a discrepancy could arise between the temporary amount and the amount established at trial, included a

"retroactivity" provision in the Order for Temporary Spousal Support. Pursuant to that order, the trial court gave defendant a retroactive credit. Plaintiff cites no authority and sets forth no valid reasons for the proposition that the retroactive provision is improper.

VI. Tax liability

Plaintiff next argues on appeal that the trial court improperly required her to pay a portion of unpaid French taxes and improperly ordered that if she did not wish to re-file her 1994-1997 tax returns as joint returns, she was liable for one-half of any excess tax liability suffered by defendant for having to file individual returns.

While defendant resided in France, 1992 to 1995, for his employment, no taxes were withheld from his income. He learned that there was an enormous amount owed in back taxes to the French government when he was preparing to move back to England for his job in early 1995. During the time that defendant resided in France, the parties remained married and plaintiff shared fully in defendant's income. The record evidences that plaintiff clearly benefited from the greater income received by defendant during this time period. Because the taxes were accrued prior to the separation of the parties and because plaintiff benefited from the failure to pay those taxes, we agree with the trial court that she is properly liable for them in the share of forty-five percent as determined by the trial court.

With regard to the tax returns, there was testimony that plaintiff filed separate returns after 1994. There was also testimony that joint returns may have limited the parties' overall tax liability and that plaintiff could re-file her taxes jointly with defendant for the years prior to the judgment. The trial court determined that if plaintiff refused to re-file her taxes jointly, she would be responsible for one-half of the excess tax caused by her failure to do so. There is nothing inequitable about this ruling, and certainly, contrary to plaintiff's argument, the trial court had evidence to make a ruling on this issue and had authority to decide this issue as part of the divorce judgment. We also note that plaintiff has failed to cite any authority for the proposition that the trial court could not order her to re-file her taxes jointly or pay one-half of the cost of refusing to do so.

VII. Plaintiff's inheritance

Plaintiff next argues that the trial court should not have included in the marital estate any part of her inheritance from her father. We agree in part.

"[T]he decision to include inheritance in the valuation of marital assets is discretionary and is dependent upon the particular circumstances of a given case." *Demman, supra* at 112.

> [A] wife's inheritance may be treated as part of the marital estate to be divided by the court "if the husband had contributed to the 'acquisition, improvement or accumulation of such property' or if an award otherwise was insufficient to maintain either party. [*Grotelueschen v Grotelueschen,* 113 Mich App 395, 400; NW2d (1982), quoting *Charlton v Charlton,* 397 Mich 84, 94; 243 NW2d 261 (1976).]

Plaintiff's father died in 1966 after the parties were married and approximately twenty years prior to their separation. He left a stock portfolio that was divided between plaintiff's mother, plaintiff and her siblings. Plaintiff apparently added defendant's name to her share of the stocks. There was testimony that after the death of plaintiff's father, plaintiff and defendant treated the stocks as a joint asset. Defendant testified that he and plaintiff made a decision in 1973 not to contribute to Ford's contributory retirement plan because of the stocks. Apparently, decisions about future savings for the couple were made based on the stocks. There was also testimony that defendant traded the stocks, thereby increasing their value, and that the parties paid the taxes on the stock dividends. The stocks did not belong to plaintiff's mother as intimated by plaintiff. Based on the testimony, it was not an abuse of discretion for the trial court to consider the stocks as a marital asset where defendant contributed to the improvement and accumulation of the stocks in the portfolio. We note that the referee reached a similar conclusion when he analyzed the issue two years prior to the judgment of divorce.

We also disagree with plaintiff's argument that the trial court's judgment with regard to the inherited stocks was improper because it amounted to an adjudication of the rights of a third party. The testimony revealed that after plaintiff's father died and left the stocks, an informal agreement was reached between the siblings and defendant, and later the siblings' spouses, that plaintiff's mother would be given all of the dividends from the stocks to maintain her needs as long as she lived. The trial court, in attempt to maintain the status quo with respect to the use of the dividends while protecting defendant's residual interest in the stocks, ordered that the parties formalize the arrangement via a trust to provide for plaintiff's mother while she lived and to divide the stocks after her death. The trial court did not adjudicate the rights of any third party, but only entered an order with regard to the stock held jointly by the parties.

With regard to the cottage, however, there was no evidence that defendant did anything to increase its value, had any legal interest in it, or had any expectations with regard to it. In fact, there was no testimony upon which the trial court could have determined that the cottage was a marital asset other than the length of time the parties were married and plaintiff held her share. And, we note that on appeal, defendant offers no argument in favor of upholding the trial court's award with regard to the cottage. Because there was no testimony to support that the cottage was a marital asset, the trial court abused its discretion when it included plaintiff's interest in the cottage as a marital asset.

VIII. The disparity in Social Security benefits

Plaintiff also argues on appeal that "the trial court did not appropriately take into consideration the disparate social security benefits of the parties in dividing the property." The record does not support this argument. In fact, the trial court took specific note of the fact that there was a significant disparity in the anticipated social security payments.

IX. Attorney fees and expert cost.

Finally, plaintiff argues that it was inequitable for the trial court to require her to pay her own attorney fees plus one-half of the cost of the court appointed expert. We disagree.

This Court reviews the trial court's decision with regard to attorney fees for an abuse of discretion. *Hanaway v Hanaway*, 208 Mich App 278, 298; 527 NW2d 792 (1995).

> Attorney fees in a divorce action are awarded only as necessary to enable a party to prosecute or defend a suit, and this Court will not reverse the trial court's decision absent an abuse of discretion. Attorney fees also may be authorized when the requesting party has been forced to incur expenses as a result of the other party's unreasonable conduct in the course of litigation. A party should not be required to invade assets to satisfy attorney fees when the party is relying on the same assets for support. [*Id.* (citations omitted).]

In this case, the trial court adopted defendant's statement with regard to the outrageous attorney fees incurred in this case. Defendant noted that the amount of fees was a tragedy in light of the overall value of the marital estate and that plaintiff's behavior in the course of litigation significantly increased the attorney fees. Under the circumstances, we find that there was no abuse of discretion where the trial court refused to require defendant to pay all or part of plaintiff's attorney fees. First, plaintiff is being provided support by way of alimony payments and thus, if she needs to invade the principle associated with her home or stocks, as defendant will have to, she is not invading assets needed for support. This is unlike the case of *Maake v Maake*, 200 Mich App 184, 189; 503 NW2d 664 (1993) where the plaintiff was not awarded alimony and would have had to invade the assets upon which she was relying to support herself and her children to satisfy attorney fees. Second, there was an ample record that plaintiff actively contributed to the exorbitantly high attorney fees in this case. Moreover, once the judgment is corrected to divide all of the marital assets, the parties will be in relatively similar positions and it appears that both will have to invade their assets to pay for their own attorneys.

Similarly, with regard to the expert fee, there was no abuse of discretion. Plaintiff and defendant agreed to the use of the court appointed expert at trial and there is no authority to support that plaintiff should not have been required to pay under the circumstances. Moreover, we discount plaintiff's argument that even if she had to pay a portion, it should only have been forty-five percent and not fifty percent. This was not a marital debt because it was incurred well after the February 12, 1996 cut-off for marital debts.

X. Conclusion

In conclusion, we find that the trial court improperly failed to include all contributions to the SSIP and retirement plan up to the time of the judgment of divorce as marital assets. On remand, the trial court must include all of the contributions, including the Associates First proceeds, to those accounts as marital assets. It must then value and reapportion those two assets based on its consideration of the equities of the case. In addition, on remand, the trial court needs to exclude plaintiff's interest in her family's cottage as a marital asset. In all other respects, the trial court's judgment is affirmed.

Affirmed in part, reversed in part and remanded for further proceedings consistent with this opinion. We do not retain jurisdiction.

/s/ Harold Hood
/s/ E. Thomas Fitzgerald
/s/ Jeffrey G. Collins

[1] In its opinion following trial, the trial court did not attribute the delay to either party, but rather, it stated:

> The case has taken a good deal of time getting to trial. This is in part due to the complexity of issues presented, the fact the case has been assigned to a number of judges during the time it has been pending, the fact that Mr. Jacobsen has been abroad during the pendency of the case, and the fact Carol has retained three attorneys while the case has been pending.

It appears that this case had been assigned to four different trial judges, two of whom took action on it, prior to it being assigned to the judge who ultimately acted as the trier of fact. It was reassigned because of a demonstration project in the court. It is interesting while the trial court, in its opinion following trial, did not blame the majority of delay on either party, it took a different view when issuing an opinion on a post-trial motion brought by plaintiff:

> It is also believed by the Court that considerable delay, but not all of the delay, in this case was caused by the Plaintiff, absent which the divorce would have concluded some period of time before it did.

[2] We note that plaintiff attempts to portray herself as a highly educated and successful woman with no marketable skills who is unable to support herself financially. We find that this portrayal does not match the testimony or an objective view of the evidence.

[3] In so holding, we acknowledge that plaintiff also cites to the Michigan Child Support Guideline Manual to support that housing allowances given by an employer can be considered as income. The Child Support Manual has no bearing on this case and plaintiff cites to no authority that the Child Support Manual should be considered when determining alimony.