IN THE
ARIZONA COURT OF APPEALS
DIVISION ONE

In re the Matter of:

JULIE ANNE BOWE, *Petitioner/Appellant*,

v.

GREGORY JAMES VOGEL, SR., *Respondent/Appellee*.

No. 1 CA-CV 16-0578 FC
FILED 2-6-2018

Appeal from the Superior Court in Maricopa County
No. FC2014-001952
The Honorable Ronee F. Korbin Steiner, Judge

AFFIRMED

COUNSEL

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MEMORANDUM DECISION

Judge Kent E. Cattani delivered the decision of the Court, in which Presiding Judge James P. Beene and Judge Randall M. Howe joined.

C A T T A N I, Judge:

¶1 Julie Anne Bowe ("Mother") appeals the dissolution decree dissolving her marriage to Gregory James Vogel ("Father"). Mother challenges the superior court's rulings on child support, property division, and attorney's fees. For reasons that follow, we affirm.

FACTS AND PROCEDURAL BACKGROUND

¶2 The parties married in 1995. By the time Mother filed for divorce in January 2014, they had three children—an adult son, a seventeen-year-old son, and a nine-year-old daughter.

¶3 In 18 years of marriage, the marital community accumulated significant wealth. Father is a successful land broker with the Arizona-based firm Land Advisors Organization ("LAO"), with most of his income derived from commissions and dividends. His income has fluctuated from year to year, varying from $1 million to $7 million per year. Mother has not worked outside the home since having children and does not have a college degree.

¶4 The parties reached some pretrial agreements outside of court concerning distributions, property division, and temporary family support payments of $30,000 per month to Mother. But they were unable to resolve other issues, and the court conducted a three-day trial in April 2016.

¶5 The court issued an 87-page decree in June 2016 ordering prospective spousal support of $25,000 per month for four years and $20,000 per month for an additional three years. The court also ordered Father to pay $1,202 in monthly child support, along with other expenses for the children. The court divided the parties' assets, including life insurance policies and retirement funds, as well as the parties' multi-million dollar homes in Paradise Valley and Flagstaff. The court valued Father's ownership interest in LAO at $3.5 million, of which Mother received half.

¶6 Mother timely appealed, and we have jurisdiction under Arizona Revised Statutes ("A.R.S.") § 12-2101(A)(1).

DISCUSSION

I. Child Support.

¶7 Mother contends the court erred in its determination of Father's child support obligation. She asserts that the court (1) should have assigned a higher income to Father for purposes of determining the support obligation, (2) failed to properly consider the children's pre-dissolution lifestyle, and (3) did not sufficiently show a basis for the final support obligation amount. We review the superior court's award of child support for an abuse of discretion. *Hetherington v. Hetherington*, 220 Ariz. 16, 21, ¶ 21 (App. 2008). "[W]e will uphold the award unless it is devoid of competent evidence, and for any reason supported by the record." *Nia v. Nia*, 242 Ariz. 419, 423, ¶ 7 (App. 2017) (quoting *Nash v. Nash*, 232 Ariz. 473, 478, ¶ 16 (App. 2013)).

¶8 Based on Father's $83,333 monthly income and on Mother's family support income, the court ordered Father to pay Mother $1,202 per month in child support. In addition, the court ordered Father to pay the full amount (rather than his proportionate share) of the minor children's reasonable expenses for tuition, tutoring, counseling, school uniforms, and health care. Noting that the minor son was almost 18 years old, the court found that the tuition obligation (approximately $20,000 per year) would only apply to the parties' nine-year-old daughter.

A. Father's Income.

¶9 Mother asserts that the court should have attributed to Father a higher income given that his average income over the four years before trial was $200,000 per month.

¶10 The Arizona Child Support Guidelines ("Guidelines"), A.R.S. § 25-320 app., broadly define gross income to include commissions, bonuses, and dividends. Guidelines § 5(A). But the court need not attribute income that "is not continuing or recurring in nature" as gross income. *Id.*

¶11 Here, the court's income determination is supported by the record. LAO's president testified that, as of the time of trial, Father's monthly commissions were approximately $60,000. Accepting that testimony, together with evidence that Father had a base salary of $10,000 per month, the court could have attributed to Father an income of $70,000 per month. Although the court recognized that Father's monthly income

has averaged around $200,000 in recent years, it also noted that Father only earned approximately $92,000 per month in 2015, the year before trial. The court also considered testimony from Mother's expert, who testified that Arizona's real estate market was on an upward growth trend; from a jointly-retained expert, who stated that Father's industry was "highly cyclical and volatile"; and from LAO's president, who indicated that commissions and distributions were likely to increase later in the year. By attributing an income amount ($83,333) that was higher than Father's then-current income, the court implicitly recognized that Father's income was likely to increase. Accordingly, the court based its income determination on a reasonable interpretation of the facts and did not abuse its discretion.

B. Children's Pre-Dissolution Lifestyle.

¶12 Relying on *Nash*, Mother contends that the court failed to conduct a lifestyle analysis for the two minor children. 232 Ariz. at 475, ¶ 1. She argues that instead of analyzing the children's needs, the court incorrectly based its decision on her spending habits, and as a result, did not apply an adequate upward deviation.

¶13 Under the Guidelines' "Schedule of Basic Support Obligations," a parent's presumptive support obligation increases in step with the parents' combined income up to $20,000 per month. If the combined income exceeds $20,000 per month, the court uses the $20,000 per month amount as a base, but may grant an upward deviation if it determines that the base amount would be "inappropriate or unjust." Guidelines §§ 3, 8, 20. The party seeking such an upward deviation has the burden to show that an increase would be in the children's best interests; relevant factors for these purposes include "the standard of living the children would have enjoyed if the parents and children were living together," the children's needs exceeding the base amount, significant disparity of income between the parties, and any other factor relevant to the circumstances of a particular case. Guidelines § 8. The court "must consider the expense of allowing children who have enjoyed [the] benefits [of significant wealth] to continue to receive them after the dissolution." *Nash*, 232 Ariz. at 480, ¶ 25. But the court is not required to "provide child support that matches historical spending patterns, dollar-for-dollar." *Id.* at ¶ 27. Further, the court must always consider the purpose of the Guidelines: "To establish a standard of support for children consistent with the reasonable needs of children and the ability of parents to pay." Guidelines § 1(A).

¶14 Mother argues that the facts in this case are like those in *Nash*, in which this court held that the superior court incorrectly interpreted the Guidelines to require granting either the entire requested deviated amount or nothing at all. *See* 232 Ariz. at 478–79, ¶¶ 18–19. Here, however, the court granted an upward deviation, but in an amount less than Mother had requested. The court found that "Mother has met her burden that application of the [G]uidelines is inappropriate at least as it relates to the additional costs" including the minor children's tuition, tutoring, and counseling. Thus, the court considered the children's pre-dissolution lifestyle in ordering an upward deviation of the child support obligation.

¶15 Mother asserts the evidence showed that the children need more money to maintain their pre-dissolution lifestyle, which included living in the parties' 9,000 square foot home near Camelback Mountain, a staff of nannies and housekeepers, and vacations in "mansions . . . , jets, [and] yachts." Mother requested $12,500 per month for approximately one year (until the minor son emancipates), and $10,000 per month thereafter. Mother explained that past necessary expenses included $8,000 per month for food because her home has always been the place her son's friends come after school and she keeps food out for them, $800 per month for keeping a horse, $2,143 per month for cars and car insurance, and $2,667 per month for vacations.

¶16 The court found Mother's justifications unpersuasive, giving two primary reasons for rejecting most of her requests: (1) even considering the children's past lifestyle, her requests were not consistent with their reasonable needs, and (2) the parties' income can no longer support such a lifestyle. The court stated that Mother's request for over $2,000 per month in transportation expenses when only one minor child drives was "excessive" and "not a reasonable [cost] to assert." And while discussing how both parents—but Mother in particular—had overspent in recent years, the court noted that Mother spent approximately $160,000 in vacation expenses in 2015 despite the costly pending divorce. The court further noted that Mother and Father did not agree to any specific luxuries that the children should retain post-dissolution, and ultimately concluded that "[t]here is no evidence that these expenses are necessary, warranted or appropriate to occur in the future." *Compare Nash*, 232 Ariz. at 479–80, ¶ 24 (noting the parents' agreement that the children should be able to continue to travel extensively).

¶17 Mother argues that the superior court improperly focused on her personal spending. But the superior court correctly considered her spending in the context of the parties' financial ability to maintain the pre-

dissolution lifestyle. *See* Guidelines § 1(A); *Nash*, 232 Ariz. at 480, ¶ 27. Before the divorce, the parties acknowledged that they needed to reduce their spending, and that even without separating, they likely would not have been able to sustain the same lifestyle they had in the past. The court thus reasonably concluded that "[t]he evidence reflects that it is not economically appropriate or feasible for the children to be supported in the manner Mother claims they should be supported." Accordingly, the court did not err in its analysis, and its award of child support was not an abuse of discretion.

C. Child Support Calculation.

¶18 Mother further contends that the court erred because it did not adequately detail how it reached Father's total obligation amount.

¶19 The superior court must make findings justifying an upward deviation and show what the support obligation would be both with and without the deviation. Guidelines § 20(A)(1)–(5). The court's findings must be detailed enough for an appellate court to discern how the court arrived at the upward deviation. *Stein v. Stein*, 238 Ariz. 548, 551, ¶¶ 11–12 (App. 2015).

¶20 The findings in this case were sufficient. First, the court filled out the child support worksheet using Mother's and Father's gross monthly income to find the basic support obligation under the Guidelines. The court made the proper adjustments for spousal support, age of the children, parenting time, and medical insurance. Showing its reasoning and calculations, the court found that Father owed a $1,202 monthly child support obligation under the Guidelines.

¶21 The court then found that application of the Guidelines would be unjust because of the income disparity between the parties and, considering the best interests of the children, ordered Father to pay additional costs including tuition, tutoring, and counseling. *See* Guidelines § 20(A)(1)–(2). The court, as required, made written findings as to these criteria. *See* Guidelines § 20(A)(3). The court detailed what the support obligation would have been without the deviation and listed exactly what costs were included in the upward deviation. *See* Guidelines § 20(A)(4)–(5). Although the court did not specify the exact amount of the minor daughter's tuition in the child support section of the decree, the court stated elsewhere in the decree, and also in a post-decree ruling, that tuition would be approximately $20,000 per year. The court also specified approximate

costs for healthcare, uniforms for the children, tutoring for the minor son, and counseling costs.

¶22 Although the court did not make specific mathematical calculations for each facet of the upward deviation, such specificity is not required. *Stein*, 238 Ariz. at 549, ¶ 1. The court's order that Father pay certain additional expenses and its findings that Mother's other requested expenses were inappropriate and financially untenable sufficiently detailed the basis for its decision. Accordingly, the court did not abuse its discretion in calculating the child support obligation.

II. Property Division.

¶23 Mother contends that the court erred by applying discounts in valuing the community's ownership interest in LAO. She also contends that the court erred by characterizing part of Father's 2014 commissions as his separate property.

A. Business Valuation.

¶24 Father founded LAO with several partners in 1987. At the time of the divorce, he owned a 58.32% interest of LAO, and managed a separate organization that owned 16% of LAO.

¶25 The LAO partners created an operating agreement that made it difficult for one of the founders to sell shares to an outsider. The operating agreement required that at least 60% of the shares and two or more members approve any major business decision, including the timing and amount of distributions and a decision to pursue a merger or acquisition.

¶26 To determine the community's interest in LAO, the superior court considered valuations from an expert Father retained and a jointly-retained expert. The court considered valuations with varying discounts for the shares' lack of marketability (marketability discount) and Father's lack of control (minority discount), and considered valuations with no discounts. Mother's expert did not provide a valuation, but offered an opinion regarding the most accurate valuation. The court found Father's expert's testimony reliable, and adopted his proposed valuation of $6,040,000, which included a 15% minority discount and a 25% marketability discount. The court then found that the community's share of LAO was $3,522,528, making Mother's 50% share $1,761,264.

¶27 Mother first contends that the superior court erred as a matter of law by applying minority and marketability discounts to the value of LAO when no evidence showed that Father planned to sell his shares in the foreseeable future. Mother argues that in such a circumstance, a discount is inappropriate, and that allowing Father to purchase the shares from Mother at a discounted price results in a windfall. Mother alternatively contends that even if the court did not err as a matter of law, it abused its discretion in applying the discounts.

¶28 We review for an abuse of discretion the superior court's business-valuation determination in a divorce proceeding. *Schickner v. Schickner*, 237 Ariz. 194, 197, ¶ 13 (App. 2015). "A court abuses its discretion if . . . it reaches a conclusion without considering the evidence . . . or the record fails to provide substantial evidence to support the trial court's finding." *Flying Diamond Airpark, LLC v. Meienberg*, 215 Ariz. 44, 50, ¶ 27 (App. 2007) (quotation omitted). We consider the evidence in the light most favorable to upholding the court's ruling. *Gutierrez v. Gutierrez,* 193 Ariz. 343, 346, ¶ 5 (App. 1998). To the extent Mother's challenge presents an issue of law, however, we review de novo. *See Hall v. Lalli*, 194 Ariz. 54, 57, ¶ 5 (1999).

1. Applying Discounts as a Matter of Law.

¶29 Mother argues that a minority share discount should only apply if a sale is planned, but that premise is contrary to Arizona law. *See Schickner*, 237 Ariz. 194. In *Schickner*, this court noted a split of authority on the propriety of applying a minority share discount in a domestic relations case and adopted the majority view that a court has discretion to apply this discount if appropriate. *Id.* at 198, ¶¶ 16–17; *see also Hayes v. Hayes*, 756 P.2d 298, 300 (Alaska 1988). *But see Brown v. Brown*, 792 A.2d 463, 478 (N.J. Super. Ct. App. Div. 2002) (holding that application of valuation discounts in marital dissolution cases is inappropriate). The *Schickner* court thus refused to adopt a bright-line rule like the one proposed by Mother, opting instead to apply a case-by-case analysis based on factors including the degree of ownership control, the degree of marketability, and the likelihood of a sale of the minority interest in the foreseeable future. *See* 237 Ariz. at 198, ¶ 17.

¶30 Although *Schickner* did not expressly apply its reasoning to marketability discounts, the same logic applies. *See* Stephen A. Hess, Annotation, *Use of Marketability Discount in Valuing Closely Held Corporation or Its Stock*, 16 A.L.R. 6th 693, §§ 2, 9–11 (2006). Mother cites to other types of cases to support her proposition that discounts are inappropriate as a matter of law when there is no evidence of a potential sale, but those cases

only support the likelihood of a potential sale as an important factor, not the bright-line rule she proposes. *See Mitchell v. Mitchell*, 152 Ariz. 317, 321–22 (1987); *Kohler v. Kohler*, 211 Ariz. 106, 108, ¶ 7 (App. 2005). Thus, consistent with *Schickner*, the superior court properly exercised its discretion by analyzing multiple factors to determine whether to apply minority and marketability discounts.

2. Court's Discretion in Applying Discounts.

¶31 "A discount for a minority interest is appropriate when the minority shareholder has no ability to control salaries, dividends, profit distribution, and day-to-day corporate operations." *In re Marriage of Davies*, 880 P.2d 1368, 1375 (Mont. 1994) (citation omitted). In determining whether a minority discount is appropriate, the court considers multiple factors, focusing primarily on the degree of control over important business operations and likelihood of a sale. *Schnicker*, 237 Ariz. at 198, ¶ 17. Because balancing degrees of control and foreseeability of a sale requires a complex factual analysis, "courts might reach different conclusions in similar cases without abusing their discretion." *See Flower v. Flower*, 223 Ariz. 531, 535, ¶ 14 (App. 2010). And although the likelihood of a sale is an important factor, its absence is not determinative. *Compare Schnicker*, 237 Ariz. at 198–99, ¶¶ 18–19, *with id.* at 199, ¶ 20.

¶32 Father noted significant limitations on his control over LAO. Although he held a majority interest in LAO, LAO's operating agreement required a supermajority—at least two members *and* 60% of the shares—for most important business decisions, including the timing and amount of distributions, declaring dividends, liquidation or dissolution of the company, and whether to pursue a merger or acquisition. Father alone does not control a supermajority. His control over the business's important functions is thus limited, and his interest would not offer a purchaser control over the business.

¶33 Father was also the manager and spokesperson of LAO Investors, LLC, an entity that owned 16.3% of LAO. But Father was only a manager of LAO Investors, and had a fiduciary duty to act in the best interest of the company when that interest conflicted with his personal interest. Additionally, Father could be removed from his position at any time by a supermajority of LAO Investors (he only owns 4.36% of LAO Investors). Because the evidence supported that Father's control over LAO Investors was only transitory, the court did not abuse its discretion by excluding the LAO Investors' shares in the control analysis, or by finding that Father's lack of control weighs in favor of a control discount.

¶34 Although Father acknowledged some intent to sell the business, he also stated that it was not a good time to sell, and that LAO was "not even close" to reaching the point where he believed it would be sellable. Further, LAO's operating agreement contemplated that the business would be kept within the ownership group and in fact created significant deterrents to just one member selling his interest.

¶35 After considering Father's degree of control and the likelihood of a sale, and after noting that the average industry discount is 24.7%, the court applied a 15% discount. Under the circumstances, the superior court did not abuse its discretion by applying this minority discount.

¶36 Similarly, the superior court did not abuse its discretion by applying the marketability discount. When determining whether to apply a marketability discount, the court focuses on the liquidity of the shares and the likelihood that the shares will be sold. *See, e.g.*, Hess, *Use of Marketability Discount*, 16 A.L.R. 6th 693, § 2; *In re Marriage of Tofte*, 895 P.2d 1387, 1392–93 (Or. Ct. App. 1995) (focusing on "the price that the hypothetical willing buyer would pay the hypothetical willing seller" for shares that the buyer could not swiftly convert back into cash).

¶37 The court heard testimony on relevant restrictions that would affect the marketability of LAO shares, including the first right of refusal by the remaining members and the risk that a buyer might not be accepted as a voting member by the remaining members. The court applied the business valuation standard proposed by multiple experts, and found that the shares had limited liquidity. Considering expert testimony on what would constitute a reasonable discount in this instance, the court applied a 25% discount. Accordingly, the court did not abuse its discretion.

B. 2014 Commissions.

¶38 Although property acquired during marriage is presumed to be community property, property acquired after service of the dissolution petition is separate property. A.R.S. §§ 25-211(A), -213(B); *Brebaugh v. Deane*, 211 Ariz. 95, 97–98, ¶ 6 (App. 2005). Thus, while any property earned by a spouse during marriage is community property, "compensation for a spouse's post-dissolution efforts is sole and separate property." *Brebaugh*, 211 Ariz. at 98, ¶ 7. Although Father's 2014 LAO commissions arrived mostly after the divorce petition was served in late January, the parties contested when the commissions were earned and thus whether they were community or separate property.

¶39 Mother and Father agreed in December 2015 to jointly retain a special master to determine the community's interest in Father's 2014 commissions. *See* Ariz. R. Fam. Law P. 72 (setting out procedures governing the appointment and role of a special master in family law proceedings, including the requirement that the special master file a report with findings, to which the parties may object and which the court may adopt). In late January 2016, Father sent the special master and Mother a letter with an attached spreadsheet listing each of Father's earned commissions, pertinent facts about each commission, and a conclusion on how that commission should be characterized (sole and separate, community, or a split of both). The cover letter suggested that Father was unwilling to disclose any materials that the special master requested, asserting that Mother had already received her share of the community commissions through other means.

¶40 In February, Father's attorney directly advised the special master and Mother that Father was not reasonably able to provide the requested records, and that gathering the requested information was "simply too time consuming." Although Mother's counsel deposed Father in February, Mother asserts that because she did not learn until late March that Father would not cooperate fully, her counsel did not question Father about his spreadsheet in February.

¶41 At trial in late April, Father testified about his 2014 commissions as characterized in his spreadsheet, and Mother's counsel objected multiple times on disclosure grounds, arguing that the spreadsheet was not relevant until Mother knew for certain in late March that Father would not cooperate. The court overruled the objections, but sanctioned Father for failing to cooperate with the special master, requiring Father to pay Mother's portion of the special master's expenses. The court still considered Father's testimony and spreadsheet, and ultimately found that Mother had already received her share of the commissions through temporary spousal support payments and other transfers throughout the litigation.

¶42 Mother argues that the court abused its discretion by (1) allowing Father to testify about the 2014 commissions after he refused to cooperate with the jointly-retained special master and (2) not treating all 2014 commissions as community property.

1. Father's Testimony About the 2014 Commissions.

¶43 We review decisions on the admission or exclusion of evidence for abuse of discretion. *John C. Lincoln Hosp. & Health Corp. v. Maricopa County*, 208 Ariz. 532, 543, ¶ 33 (App. 2004). We similarly review for abuse of discretion the court's decision regarding sanctions for discovery violations. *See Nienstedt v. Wetzel*, 133 Ariz. 348, 355 (App. 1982). A superior court abuses its discretion when its conclusions are not supported by the evidence or its reasoning is "clearly untenable, legally incorrect, or amount[s] to a denial of justice." *Searchtoppers.com, L.L.C. v. TrustCash LLC*, 231 Ariz. 236, 241, ¶ 20 (App. 2012) (citation omitted).

¶44 Although the court's sanctions were minimal for Father's failure to provide additional information to the special master, the limited sanctions did not result in a denial of justice because Father's conduct did not deprive Mother of an opportunity to present her case. Even if Mother believed at the time of Father's deposition that the special master would make findings as to the character of the commissions, Mother nevertheless had reason to question Father on the spreadsheet because Father's position remained relevant to any final determination of the issue. *See* Ariz. R. Fam. Law P. 72(F)–(G) (allowing parties to object to the special master's findings and for the court to then consider additional evidence and argument before issuing an order adopting, modifying, or rejecting, in whole or in part, the special master's report). Additionally, Mother's counsel had an opportunity to cross-examine Father at trial and knew—at the latest—approximately three weeks before trial that Father would rely on the spreadsheet.[1] Moreover, after Mother learned of Father's recalcitrance, she did not file a motion to compel disclosure or otherwise inform the court of her concern before trial even though the court made clear that it would make every effort to swiftly resolve any discovery disputes. Thus, the court's limited sanction did not result in a denial of justice to Mother and was not an abuse of discretion.

¶45 Mother also contends that the court incorrectly believed that it did not have authority to preclude Father's testimony as a sanction, as permitted under Rules 51(E) and 76(D) of the Arizona Rules of Family Law

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[1] And although Mother contends she did not know until late March, evidence suggests she had good reason to suspect that Father would not cooperate with the special master and would rely on the spreadsheet well before then. Emails in the record show that Father consistently and strongly suggested as early as January that he would not provide any of the documents requested by the special master.

Procedure. But the record does not support this assertion. Directly after Mother's objection on disclosure grounds, Father's counsel stated that the spreadsheet was already admitted into evidence. The court then stated, "I don't know how I can bar [Father] from talking about it. I mean you can cross-examine him on that issue." In context, the court's statement was not an assertion that it lacked authority to preclude testimony, but rather that Mother had a meaningful opportunity to prepare for Father's testimony. Accordingly, the court's statement reflected an exercise of its discretion, not an error of law.

2. Characterization of Father's Commissions.

¶46 Mother further contends that the superior court erred by finding that any portion of the 2014 commissions was Father's separate property. "We review the trial court's division of property for an abuse of discretion." *In re Marriage of Pownall*, 197 Ariz. 577, 581, ¶ 15 (App. 2000).

¶47 Although some of the properties were listed for sale before service of the dissolution petition, the labor to earn the commissions on the sale of those properties was performed after service. The court heard evidence that the largest 2014 commission was from the sale of Whetstone Ranch, resulting in a $640,917 commission. Father testified that 80% of his work on that sale was done after the previous owners of Whetstone Ranch completed their bankruptcy proceedings, which occurred after the divorce petition was served. This testimony was supported by an affidavit from the owner of the property. The court also heard uncontroverted evidence about other land sale commissions (totaling $440,000 from a single company), which arose from work that did not begin until after service of the divorce petition. Accordingly, the court's finding that a significant percentage of the 2014 commissions were Father's separate property was supported by the evidence, and was not an abuse of discretion.

III. Attorney's Fees in Superior Court.

¶48 After considering the parties' financial positions, the amount of fees incurred (over $1 million by each party), and the parties' conduct throughout the contentious proceedings, the superior court awarded Mother $4,222 in attorney's fees and $84 in costs. Mother contends that the court erred by not awarding her more attorney's fees.

¶49 The superior court may order a party to pay the other party's reasonable attorney's fees and costs after considering (1) the relative disparity of financial resources between the parties and (2) "the reasonableness of the positions each party has taken throughout the

proceedings." A.R.S. § 25-324(A). The court's decision to award or deny attorney's fees will not be disturbed on appeal absent an abuse of discretion. *Murray v. Murray*, 239 Ariz. 174, 179, ¶ 20 (App. 2016).

¶50 Here, the superior court found that Father was and would be in a better financial situation than Mother. The parties do not dispute that finding and instead focus on whether the court erred in its findings regarding the reasonableness of Mother's and Father's positions throughout the proceedings.

¶51 Relying on *In re Marriage of Williams*, 219 Ariz. 546, 548, ¶ 10 (App. 2008), Mother argues that the proper analysis concerns only the reasonableness of a party's *legal* positions. But *Williams* did not address whether the court could consider only "legal positions" as opposed to "positions" in the general context of litigation; its holding was directed to the appropriate standard (objective) for assessing reasonableness. *See id.*; *see also Viands v. Viands*, 1 CA-CV 16-0534 FC, 2017 WL 4248071, at *2, ¶¶ 7–8 (Ariz. App. Sept. 26, 2017) (mem. decision) ("A legal position is one asserted in relation to the litigation.").

¶52 Here, the court found that Mother had misappropriated funds and had unnecessarily expanded the scope of litigation by demanding bank records of Father's significant other. The court also found that Father took unreasonable actions that required Mother to file a motion to compel, and that Father unreasonably objected to simple requests by Mother. The court also considered both parties' failure to make progress during a January 2016 mediation, Father's unreasonable objection to some of Mother's legitimate claims for reimbursement, and both parties' inappropriate involvement of their children with their "adult issues."

¶53 After discussing evidence relevant to both § 25-324(A) factors, the court ordered that Father pay fees Mother incurred as a direct result of his unreasonable conduct, but declined Mother's request for additional fees. Under the circumstances, the court did not abuse its discretion by awarding Mother $4,222 in fees and $84 in costs. *See Myrick v. Maloney*, 235 Ariz. 491, 494, ¶ 9 (App. 2014).

IV. Attorney's Fees on Appeal.

¶54 Both parties request attorney's fees on appeal under A.R.S. § 25-324. After considering the relative financial resources of the parties and the reasonableness of their positions on appeal, we deny both parties' requests for fees.

CONCLUSION

¶55 For the foregoing reasons, the judgment is affirmed.

AMY M. WOOD • Clerk of the Court
FILED: AA