

NOTICE: NOT FOR OFFICIAL PUBLICATION.  
UNDER ARIZONA RULE OF THE SUPREME COURT 111(c), THIS DECISION IS NOT PRECEDENTIAL  
AND MAY BE CITED ONLY AS AUTHORIZED BY RULE.

IN THE  
**ARIZONA COURT OF APPEALS**  
DIVISION ONE

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In re the Matter of:

RODRIGO DIOSDADO, *Petitioner/Appellee*,

*v.*

ANNA JANET TREJO, *Respondent/Appellant*.

No. 1 CA-CV 21-0169 FC  
FILED 12-14-2021

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Appeal from the Superior Court in Maricopa County  
No. CV2019-009513, FC2017-009421  
The Honorable Gregory Como, Judge

**AFFIRMED**

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COUNSEL

Rodrigo Diosdado, Phoenix  
*Petitioner/Appellee*

Tiffany & Bosco PA, Phoenix  
By Kelly Mendoza,  
*Counsel for Respondent/Appellant*

**MEMORANDUM DECISION**

Judge Jennifer M. Perkins delivered the decision of the Court, in which Presiding Judge Cynthia J. Bailey and Judge Maria Elena Cruz joined.

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**P E R K I N S**, Judge:

¶1 Anna Trejo (“Wife”) challenges the superior court’s division of property in its dissolution decree. For the following reasons, we affirm.

**FACTUAL AND PROCEDURAL BACKGROUND**

¶2 We view the evidence in the light most favorable to sustaining the superior court’s decision. *Cullum v. Cullum*, 215 Ariz. 352, 354, ¶ 9 (App. 2007). Rodrigo Diosdado (“Husband”) and Wife married in June 1997 and have one minor child. They bought a home on Tamarisk Street in 2004. The parties began living apart in 2010 but remained married. Wife incurred significant student loan debt to further her nursing career after the parties separated. Wife bought a home on Dunbar Drive in May 2015.

¶3 Husband petitioned for dissolution in March 2020. After a two-day dissolution trial, the superior court issued a 20-page decree dissolving the parties’ marriage and dividing their assets and liabilities. Per the parties’ agreement, Husband received the Tamarisk property and Wife received the Dunbar property. Because of a disparity in the properties’ equities, the court ordered Husband to make a \$36,207.50 equalization payment. The parties agreed to split Husband and Wife’s respective retirement accounts, allocate two of the parties’ three vehicles to Husband, and grant their timeshare to Wife.

¶4 The superior court equally divided the parties’ liquid assets by awarding two of the parties’ three bank accounts to Wife and ordering her to make a \$2,343.98 equalization payment. The court characterized Wife’s \$161,103 student loan liabilities as community property and allocated 100% of the student loan debts to Wife. The court then divided the community’s other debts equally, finding the division of debt “fair and equitable under the circumstances” and requiring “no further adjustments.”

¶5 Wife timely appealed, and we have jurisdiction under A.R.S. § 12-2101(A)(1).

## DISCUSSION

¶6 Wife argues the superior court abused its discretion by allocating to her the entire student loan debt. We review the division of community debt for an abuse of discretion. *In re Marriage of Flower*, 223 Ariz. 531, 535, ¶ 14 (App. 2010).

¶7 The superior court must equitably divide the parties' assets and debts. A.R.S. § 25-318(A); *see also Birt v. Birt*, 208 Ariz. 546, 552, ¶ 25 (App. 2004). We presume debt incurred by either spouse during marriage is a community obligation. *See Flower*, 223 Ariz. at 535, ¶ 12. "Although the family court must divide community and jointly held property equitably upon dissolution of the marriage, a substantially equal division is not required if a sound reason exists to divide the property otherwise." *Id.* at 536, ¶ 18. The court may consider any factors bearing on a case's equities, including the statutory factors in A.R.S. § 25-318(C). *See In re Marriage of Inboden*, 223 Ariz. 542, 546, ¶ 14 (App. 2010).

¶8 The superior court determined generally that "this case does not present a unique set of facts or circumstances. Therefore, an equal division of community property is appropriate to achieve equity." The court thus ordered equalization payments to equally divide the parties' liquid assets and real property and allocated the parties' remaining assets pursuant to their agreement. The court allocated the parties' debts equally, except for Wife's student loans.

¶9 Despite characterizing Wife's student loans as community property, the superior court allocated the loan debt "solely to Wife as a matter of equitably [dividing] the parties' assets and liabilities." But it explained this division in the first paragraph of the decree:

With respect to Wife's student loans (all of which were incurred after 2010), the court finds it would be inequitable to divide them equally because the value of Wife's professional degree to the community is minimal, whereas the value to Wife personally is significant. Wife incurred the student loan debt from 2012-2018. The parties lived separately during these years - indeed, for the entire time Wife attended school to obtain her professional degree, and they remained separate after she obtained the degree. The parties kept separate bank

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accounts, separate debts and maintained separate households during this time. For this reason, it would be inequitable to burden Husband with Wife's large student loans when the community's benefit from Wife's degree will be dwarfed by Wife's personal benefit from it. Accordingly, the Court finds, by clear and convincing evidence, that Wife shall be solely responsible for her student loans. All of other [sic] property and debt incurred during the marriage is treated as community property and allocated accordingly.

¶10 Wife asserts she received a portion of her student loans before the parties separated, contrary to the court's determination that she incurred all of this debt after 2010. But no competent record evidence supports her assertion. More importantly, the superior court's general finding that this case lacks unique facts or circumstances justifying an unequal division of property does not contradict its specific allocation of Wife's student loans.

¶11 The court properly articulated a sound reason to divide Wife's student loan debt unequally, and so the court's division of that liability need not be substantially equal. *See Toth v. Toth*, 190 Ariz. 218, 221 (1997). The court allocated nearly identical shares of the parties' assets and debts, except for Wife's student loan balance and it explained the basis for that departure. We find no abuse of discretion.

¶12 Wife requests attorneys' fees under A.R.S. § 25-324. In our discretion, we decline to award attorneys' fees. Husband is entitled to costs upon compliance with ARCAP 21.

CONCLUSION

¶13 We affirm.



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