STATE OF MICHIGAN

COURT OF APPEALS

DEBORAH M. CORCORAN,

Plaintiff-Counterdefendant-Appellee,

v

MARTIN L. CORCORAN,

Defendant-Counterplaintiff-Appellant.

UNPUBLISHED
November 9, 1999

No. 215484
Genesee Circuit Court
LC No. 95-180431 DM

Before: Kelly, P.J., and Jansen and White, JJ.

PER CURIAM.

Defendant appeals as of right from the judgment of divorce entered on October 14, 1998. We affirm.

The parties were married on May 23, 1980 and had four children during the marriage. Plaintiff stayed at home, taking care of the children and the household, while defendant worked long hours—often out of town—for a corporation originally owned by his parents, Wolverine Fire Protection Company, which had offices in Michigan and several other states. Between 1986 and 1988, plaintiff obtained an associate's degree in interior design, but never earned more than $10,000 annually. Plaintiff filed a complaint for separate maintenance in August 1995, and in October 1995, defendant filed a countercomplaint for divorce. On appeal, defendant challenges the provisions concerning custody and visitation of the parties' four children, property division, alimony, child support, and attorney fees and costs.

I

Defendant first challenges the trial court's custody and visitation orders, arguing that the trial court's failure to make specific findings of fact on the record pursuant to the Child Custody Act, MCL 722.21 *et seq*.; MSA 25.312(1) *et seq*., constitutes error. The Child Custody Act applies to disputed actions in which child custody, support, or visitation is at issue. *Daniels v Daniels*, 165 Mich App 726, 730; 418 NW2d 924 (1988). A trial court in a child custody determination must make specific findings of fact regarding each of the twelve factors enumerated in MCL 722.23; MSA 25.312(3) that are to be taken into account in determining the best interests of the child. *McCain v McCain*, 229 Mich App

123, 124; 580 NW2d 485 (1998); see also *Bowers v Bowers*, 198 Mich App 320, 328; 497 NW2d 602 (1993) (the trial court must consider each of the factors set forth in § 3 and explicitly state its findings and conclusions regarding each factor). In deciding a disputed custody or visitation matter, the trial court's failure to make specific findings and state a conclusion on each of the statutory factors constitutes error requiring reversal. *Schubring v Schubring*, 190 Mich App 468, 470; 476 NW2d 434 (1991); *Snyder v Snyder*, 170 Mich App 801, 806; 429 NW2d 234 (1988).

The trial court awarded joint legal custody of all four children, joint physical custody of the two older children, Benjamin and Brandon, and physical custody of the two younger children, Connor and Maggie, to plaintiff. The trial court failed to set forth factual findings or conclusions with respect to the best interests of Benjamin and Brandon when it ordered joint physical custody of these children, and with respect to the best interests of Maggie and Connor when it determined defendant's visitation schedule with them. However, the trial court's findings, although not explicitly made, can be gleaned from the record.

The court had considerable involvement with this case, and there were numerous in-chambers discussions. It is clear from the lower court record that there was no dispute regarding the physical custody of the two youngest children, Connor and Maggie. Both parties requested physical custody of Brandon in their trial briefs, filed after the next to the last day of trial on May 5, 1998. Regarding Benjamin, plaintiff's trial brief requested shared physical custody with his primary residence being with defendant. Defendant's trial brief requested physical custody of Benjamin:

> During the two and three-quarter years that this matter has been pending, the parties' oldest son, Ben, has been residing almost exclusively with his father, except for sporadic visits with his mother. . . .
>
> The parties' . . . child, Brandon, age 14, has spent the majority of the time since the divorce action was filed in his father's home with his brother Ben, but has had significantly more parenting time with his mother as compared to his older brother.
>
> The Court has indicated that it might grant both of the parties hereto the joint care, custody, and control of the four minor children, granting the father the physical custody of Ben, the mother the physical custody of Connor and Maggie, and entertain some form of shared physical custody regarding Brandon.
>
> Defendant would respectfully request that the Court consider granting the Defendant the physical custody of Brandon, inasmuch as he is 14 years of age and will be attending Powers High School with his brother Ben. The two boys share a lot in common and it would be in the best interest of Brandon to go back and forth to school with his older brother and to live with him.

Thus, during trial, Benjamin was living with defendant and Brandon was living with both, but was, according to defendant, spending more time with defendant and Benjamin. Defendant's argument in favor of physical custody of Brandon was based on Brandon's relationship with Benjamin.

However, in July, when the parties returned to court to conclude the trial, both parties acknowledged that the living arrangements had changed, and that Benjamin's primary residence had been with plaintiff:

> [*Plaintiff's Counsel*]: In regards to the most important issue in the case it is the children and in chambers on so many occasions we have spoken about what was in the best interest of the children, and it seems like every time we have spoken to this Court either in motions or—or whatever else there has been change in what the Court thought and everyone else thought was the living arrangements of the children, particularly the two oldest boys. There has [sic] been so many changes that it's—it's difficult for the litigants to know where their children are gonna be next month let alone for this Court to make an order that best suits what—what's in these children's best interest.
>
> You have our brief. What I have asked the Court to do in the brief is really somewhat in opposite [sic]of what the current situation is because Benjamin, the oldest child, is currently residing with Mrs. Corcoran and that's different than when we were here for trial.
>
> I would ask the Court to possibly consider entering an order that indicates that the parties have joint physical custody of the two older children, and that the—that as to Brandon I would still ask that there be a one week with the mom and one week with the dad to give him the structure that we talked about on the witness stand, *but as to Benjamin to leave that open and allow the parties to decide where Benjamin is going to live as time passes. I think it would probably be in his best interest right now to not have the pressure of a court order saying where he has to live, and under those circumstances I would ask that when the Court gets to the issue of child support that we look at child support as three children with the mother and one with the father. That might be more representative of what is actually happening.*
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> * * *
>
> [*Defendant's counsel*]: . . . what we're here to talk about today, first and foremost is what's gonna happen with the children. When I wrote my brief to this Court I was making reference to the situation that existed at that time, and there was a history of a strained relationship between the oldest son and his mother. You don't have the testimony in front of you as to what happened in the last two months, but I think we're trying to make a decision based upon what happened at the time this case was concluded, and I think that the recommendations that I have made in that portion of my brief are appropriate, and I think that as a result of many of our in-chambers discussions and so forth that it has been fairly clear that the two youngest children were going to be in the physical custody of their mother, the older two was [sic] up for discussion and has [sic] been for some period of time.

> It strikes me that it is important that all four of the children be together on occasions and we have seriously asked this Court in addition to the alternate major holidays, alternate weekends and so forth that Mr. Corcoran be allowed to have all four children with him for extended visitation from Wednesday afternoon after school on the week – of the weekend when he is suppose [sic] to have the children in his [sic], all four of the children until Monday morning when they go back to school. It's for the purpose of the four children being together with their father and to continue to build a relationship and I don't think it's at all unreasonable and it makes sense, it's predictable. It is something that he can adjust with his work schedule knowing full well that he has it and that he will have the children, hopefully, all four of them together for a four- or five-day period, and we would certainly like that and would ask the Court to seriously consider it and allow him to have a chance to be with all of his children as a family unit for the four- to five-day period that we are talking about.

The trial court awarded the parties shared physical custody of Brandon and Benjamin, the divorce judgment stating regarding the two boys that "[d]uring the school year the parties shall share weeks where Brandon Corcoran is concerned. Otherwise the parties shall share as they see fit between the boys [Benjamin and Brandon], giving obvious preference as the boys get older."

Although the court did not state its findings, it seems clear that the court concluded that given Benjamin's age and his history of living with both parents for periods of time, and given that neither parent argued that this arrangement was not in his best interests, it was in Benjamin's best interest to order a loose custody arrangement, with both parents to determine his living situation on an ongoing basis, in consultation with Benjamin.[1] As to Brandon, defendant's argument against the alternating weeks arrangement had lost its factual underpinnings when Benjamin went to live with his mother. Although defense counsel stated in closing argument regarding custody that "I think that the recommendations that I have made in that portion of my brief are appropriate," no argument was offered in support of that position in light of the altered living arrangements. Regarding visitation, defendant asked for extended visitation from Wednesday after school to Monday morning on his alternate weekends so that all four children and defendant could spend time together. The court ordered alternate weekend visitation, Friday after school until Monday morning, with all four children being together alternate weekends. The court obviously considered and rejected defendant's request for visitation beginning Wednesday afternoon, concluding that the traditional weekend visitation with all four children together would be sufficient to address the concern expressed in defendant's argument in favor of extended visitation, i.e. the need for more family time. In sum, we conclude that while the court should have made specific findings, the record in this case and the issues as framed by the parties make remand on this issue unnecessary.

II

Next, defendant challenges the trial court's treatment of his interests in Wolverine and Cork in apportioning the parties' assets and the trial court's valuation of those interests. In reviewing a dispositional ruling in a divorce case, this Court first reviews the trial court's findings of fact for clear error. *Sands v Sands*, 442 Mich 30, 34; 497 NW2d 493 (1993). Next, we must decide whether the dispositional ruling was fair and equitable in light of the facts. *Id*. A dispositional ruling should be affirmed unless the appellate court is left with the firm conviction that it was inequitable. *Id*. at 34.

A

In 1979, as part of their estate plan, defendant's parents began making gifts of Wolverine stock to their eleven sons. Defendant received a gift of three hundred shares, with a book value of $13.31 each, in 1979. In 1986, defendant received an additional gift of 2,838 shares, with a book value of $25.50 each. The stock was owned by defendant only; plaintiff was not named on the stock certificates. As of December 31, 1995, the book value of defendant's stock was $43.06. At the time of trial, defendant was president of the corporation, whose shareholders included his parents, his ten brothers, and two of his cousins. Aside from his salary and bonuses, plaintiff earned "undistributed taxable income" from the corporation. These earnings—which were taxable in the year they were earned, but were not actually distributed until several years later—were reported to the Internal Revenue Service on a K-1 form. At the time of trial, defendant's undistributed (K-1) earnings from Wolverine totaled $104,000.

In 1980, defendant's parents made a gift of several parcels of real estate in various states, having a total value of $153,000, to their eleven sons. Cork Associates, a partnership of the eleven brothers, was formed to hold this real estate, most of which was used to house Wolverine's corporate offices. The partnership, which had never made a cash distribution to any of the partners, later acquired two family cottages. Defendant's undistributed earnings from Cork totaled approximately $131,000 at the time of trial.

At trial, each party presented a certified public accountant to provide expert testimony regarding the valuation of defendant's interests in the two family businesses. Both used a valuation date of December 31, 1995. Plaintiff's expert, Thomas Zorn, used a method of evaluation known as the holder's interest concept. He testified that this method was appropriately used in this case, as opposed to a fair market value method, because there was no indication that defendant would be selling his interests in the businesses. Applying a ten percent minority interest discount, which accounted for defendant's lack of control over the business as a minority shareholder, Zorn determined that the value of defendant's 6.267 percent ownership interest in Wolverine was $226,000. Also applying a ten percent minority interest discount to the total value of Cork, Zorn determined that defendant's 9.1 percent interest in the partnership had a value of $125,800.

Defendant's expert, David Milhouse, who had been the CPA for Wolverine since 1985 and for Cork since 1995 or 1996, used a fair market value approach in evaluating the two businesses. He testified that the holder's interest concept utilized by Zorn was only appropriately used in evaluating

professional businesses, such as law firms and medical practices. Applying a larger (twenty percent) minority interest discount, plus an additional fifty percent marketability discount to account for the lack of marketability of defendant's stock, Milhouse determined that the value of defendant's ownership interest in Wolverine was $38,600. Applying the same discount rates in evaluating Cork, Milhouse determined that the value of defendant's interest in the partnership was $55,900.

The trial court recognized that defendant's interests in the family businesses were gifts from his parents. However, it held that both exceptions to the rule of non-invasion of a party's separate estate were applicable. The court found that the assets in the marital estate would be insufficient for plaintiff's suitable support, and that plaintiff had contributed to the improvement or accumulation of defendant's interests in the businesses. Accordingly, the trial court determined that plaintiff was entitled to a share of the value of these interests.

Regarding the valuation of these interests, the trial court stated:

> [T]he Court [has] always been of a mind in this case that the two extremes were not appropriate and I have added up the numbers that Mr. Zorn . . . has put forth for Wolverine at [$]226,000 and [at] [$]104,000 of the retained earnings or retained monies in any event, and [for Cork] of $125,800 with a retained amount of $131,000, and I added that up to be an amount of $586,800.
>
> Contrasted with the amount apparently suggested by . . . Mr. Milhouse for the values of those assets at $94,500. So one can see readily we have a huge disparity of $492,300 in the value assigned to these assets by the respective accountants.
>
> I added them up and divided by two and I'm assigning the values at $340,655, and that is the amount Mrs. Corcoran accordingly should receive. . . . $100,000 to be paid within 90 days and that leaves I believe [$]24,000 a year thereafter for the next 10 years for her property distributions.[2]

Thus, the trial court found that there was a "huge disparity" in the evaluations of the businesses as presented by Zorn and Milhouse, the opposing expert witnesses in this case, and that "the two extremes were not appropriate." The trial court then determined that the value of defendant's interests in the businesses was $340,655, the average of the values espoused by the opposing parties.

B

Defendant argues that the trial court erred in awarding plaintiff one-half of the value of his interests in Wolverine and Cork. Defendant contends that his interests in the two businesses are separate property and not marital property. The goal of the trial court when apportioning a marital estate is to reach an equitable division in light of all the circumstances. *Byington v Byington*, 224 Mich App 103, 114; 568 NW2d 141 (1997); *Ackerman v Ackerman*, 163 Mich App 796, 807; 414

NW2d 919 (1987) (hereafter *Ackerman I*). The trial court may divide all property that came "to either party by reason of the marriage," MCL 552.19; MSA 25.99, and it 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.'" *Byington*, *supra* at 113, quoting *Bone v Bone*, 148 Mich App 834, 838; 385 NW2d 706 (1986). "The trial court's first consideration when dividing property in divorce proceedings is the determination of marital and separate assets." *Reeves v Reeves*, 226 Mich App 490, 493-494; 575 NW2d 1 (1997). There are two statutorily-created exceptions to the doctrine of noninvasion of separate estates. MCL 552.23; MSA 25.103; MCL 552.401; MSA 25.136; *Reeves*, *supra* at 494. MCL 552.23(1); MSA 25.103(1) provides that separate assets may be invaded "if the estate and effects awarded to either party are insufficient for the suitable support and maintenance of either party." In order to qualify for this exception, a party must demonstrate additional need. *Reeves*, *supra* at 494. A second exception is found at MCL 552.401; MSA 25.136, which provides for the invasion of one party's separate assets if it appears from the evidence that the other party "contributed to the acquisition, improvement, or accumulation of the property."

The trial court in the instant case held that both exceptions were applicable, finding that plaintiff had contributed to the growth of defendant's interests in the family businesses by way of her services as a homemaker and caretaker of the couple's children, and that a division of the marital assets would be insufficient for plaintiff's suitable support and maintenance. These findings are not clearly erroneous. Like the plaintiff wife in *Hanaway v Hanaway*, 208 Mich App 278; 527 NW2d 792 (1995), plaintiff in this case clearly contributed to the development and improvement of Wolverine and Cork "by remaining at home to care for the house and children while defendant applied himself" to the companies. *Id*. at 292. Therefore, the trial court did not clearly err in determining that the invasion of these separate assets was warranted pursuant to MCL 552.401; MSA 25.136. See *Hanaway*, *supra* at 294-295. Likewise, the evidence fully supports the trial court's conclusion that the assets of the marriage were worth "virtually nothing." Under these circumstances, the trial court appropriately found that plaintiff had demonstrated additional need, and that she was, therefore, entitled to invasion of defendant's separate assets pursuant to MCL 552.23(1); MSA 25.103(1). *Reeves*, *supra* at 494. We are not left with the firm conviction that the trial court's dispositional ruling was inequitable.

C

Defendant further contends that, in arriving at a valuation of the businesses by simply taking the average of the two figures presented by the parties' experts, the trial court abdicated its responsibility to make factual findings. MCR 2.517(A) requires the trial court to make brief, definite, and pertinent findings and conclusions on the contested matters without over elaboration of detail or particularization of facts. Fact findings are adequate under MCR 2.517(A) if it is manifest that the trial court was aware of the factual issues and resolved them and it would not facilitate appellate review to require further explication of the path the trial court followed in reaching the result. *In re Hensley*, 220 Mich App 331, 334; 560 NW2d 642 (1996); see also *Fletcher*, *supra*, p 883.

Regarding the valuation of the businesses in which defendant was part owner, we conclude that the trial court should have been more explicit in its fact finding but that the court's statement of its

reasoning is adequate to permit review. Both experts took extreme positions. Plaintiff's expert allowed very little discount for defendant's status as a minority shareholder, and evaluated the business only as a going concern. Defendant's expert applied a very high discount based on the lack of marketability, and virtually ignored that the business was valuable as a successful ongoing business, wholly owned by family members.

In the face of this testimony, the court explicitly found that neither extreme was appropriate. While the court did not go on to explicitly state that it found that an average of the two approaches would yield the fairest approximations of accurate values of the businesses, such a finding was implicit in the court's statement and decision. Where the court's determination was within the range of values established by the proofs, *Rickel v Rickel*, 177 Mich App 647, 650; 442 NW2d 735 (1989), and it is apparent that the court was aware of the factual issues and resolved them as indicated above, we conclude that remand for further explanation of the court's decisional path is unnecessary.

III

Defendant next contests the trial court's award of alimony to plaintiff. A court has wide discretion to award alimony as it considers "just and reasonable, after considering the ability of either party to pay and the character and situation of the parties, and all the other circumstances of the case." MCL 552.23(1); MSA 25.103(1); see also *Magee v Magee*, 218 Mich App 158, 162; 553 NW2d 363 (1996); *Ackerman I, supra* at 803. Principles similar to those of property distribution apply in determining whether to award alimony. *Hanaway, supra* at 295. The main objective of alimony is to balance the incomes and needs of the parties in a way that would not impoverish either party. *Id.*; *Ackerman v Ackerman*, 197 Mich App 300, 302; 495 NW2d 173 (1992) (hereafter *Ackerman II*).

In making its determination whether to award alimony, the trial court should consider several relevant factors, including the following: (1) the past relations and conduct of the parties; (2) the length of the marriage; (3) the ability of the parties to work; (4) the source of and amount of property awarded to the parties; (5) the age of the parties; (6) the ability of the parties to pay alimony; (7) the present situation of the parties; (8) the needs of the parties; (9) the health of the parties; (10) the prior standard of living of the parties and whether either is responsible for the support of others; and (11) general principles of equity. *Magee, supra* at 162; *Ackerman I, supra* at 803.

We reject defendant's arguement that the trial court failed to consider the applicable factors pursuant to *Ackerman I* before awarding plaintiff alimony. The trial court noted that plaintiff's earnings were very low, and that she would not be in a position to achieve higher earnings until she graduated from college. The trial court also acknowledged its belief that plaintiff's earnings would never reach the level of defendant's.

Defendant also contends that the trial court should have limited the award of alimony to a three-year period. The parties were married for over fifteen years before their separation. Plaintiff devoted virtually her entire married life to working within the marital home and to raising the parties' four children. Defendant's net after-tax income in 1997—not including his undistributed income from the two businesses—was $125,000, while plaintiff's gross income that year was less than $10,000. As the

trial court noted, it is highly unlikely that plaintiff's earnings, even after she earns her teaching degree, will come close to reaching parity with defendant's. It is apparent that plaintiff would be unable to maintain her prior standard of living following the divorce without a grant of alimony. We find that the award of alimony in the amount of $300 per week until the youngest child graduates from high school, or until plaintiff cohabitates with another man, remarries, or dies, is just and reasonable under the circumstances. *Magee*, *supra* at 164.

Next, defendant contends that the trial court erred in determining his child support obligation. Fixing the amount of child support is a dispositional ruling. *Beason v Beason*, 435 Mich 791, 798; NW2d (1990). In reviewing a dispositional ruling, this Court must first review the trial court's factual findings under the clearly erroneous standard. *Sparks v Sparks*, 440 Mich 141, 151; NW2d (1992). If the factual findings are upheld, the appellate court must decide whether the dispositive ruling was fair and equitable in light of those facts. *Id.* at 152.

Defendant argues that, because his undistributed income was included in the valuation of his interests in the two family businesses for purposes of the property distribution between the parties, the trial court erred in considering these earnings as income for purposes of calculating his child support obligation.

MCL 552.16; MSA 25.96 provides in relevant part:

> (1) Upon annulling a marriage or entering a judgment of divorce or separate maintenance, the court may enter such orders as it considers just and proper concerning the care, custody, and support of the minor children of the parties. . . .
>
> (2) Except as otherwise provided in this section, the court shall order support in an amount determined by application of the child support formula developed by the state friend of the court bureau. . . .
>
> * * *
>
> (5) For the purposes of this section, "support" may include payment of the expenses of medical, dental, and other health care, child care expenses, and educational expenses. . . .

MCL 552.602(i); MSA 25.164(2)(i) defines the term "income" as any of the following:

> (i) Commissions, earnings, salaries, wages, and other income due *or to be due in the future* to an individual from his or her employer and successor employers. [Emphasis supplied.]
>
> (ii) A payment due or to be due in the future to an individual from a profit-sharing plan, a pension plan, an insurance contract, an annuity, social security, unemployment compensation, supplemental unemployment benefits, or worker's compensation.

> (iii) An amount of money that is due to an individual as a debt of another individual, partnership, association, or private or public corporation, the United States or a federal agency, this state or a political subdivision of this state, another state or a political subdivision of another state, or another legal entity that is indebted to the individual.

The trial court did not err in considering one-half of any undistributed distributions actually made by Wolverine, and one-half of any undistributed earnings from Cork Associates, as income for purposes of calculating a reasonable rate of child support. See *Nellis v Nellis*, 211 Mich App 226, 230; 535 NW2d 240 (1995). The undistributed earnings clearly constitute income pursuant to MCL 552.602(d)(i); MSA 25.164(2)(d)(i), as earnings which are "to be due in the future." Furthermore, including one-half of the undistributed earnings in defendant's income for this purpose does not, as defendant maintains, result in taking a "double dip" from defendant's earnings where less than one-half of these undistributed earnings were actually included in plaintiff's property award.

Defendant also argues that the trial court erred in requiring him to pay his children's parochial school tuition, contending that such an order is a violation of the First Amendment's restriction requiring the separation of church and state. Defendant failed to cite authority to support this contention. A party may not leave it to this Court to search for authority to sustain or reject its position. *City of Troy v Papadelis (On Remand)*, 226 Mich App 90, 95; 572 NW2d 246 (1997). Where a party fails to cite any supporting legal authority for its position, the issue is effectively abandoned. *Schellenberg v Rochester Lodge No 2225*, 228 Mich App 20, 49; 577 NW2d 163 (1998).

MCL 552.16(5); MSA 25.96(5) provides that the trial court has the authority to order the payment of educational expenses. The parties in this case are Catholic; they both attended Catholic schools; they decided early in their marriage that they wanted their children to receive a Catholic education; and all four children have always attended Catholic schools. The trial court did not err in ordering defendant to continue financing the education that he and plaintiff had agreed the children should have.

Lastly, defendant argues that the trial court abused its discretion in ordering him to pay plaintiff's attorney fees and expenses in the amount of $17,500. A trial court may award a party in a divorce action "any sums necessary to enable the . . . party to carry on or defend the action, during its pendency." MCL 552.13(1); MSA 25.93(1); *Hawkins v Murphy*, 222 Mich App 664, 669; 565 NW2d 674 (1997). The party requesting the fees must allege facts sufficient to show that he or she is unable to bear the expense of the action, and that the other party is able to pay. MCR 3.206(C)(2); *Kosch v Kosch*, 233 Mich App 346, 354; 592 NW2d 434 (1999). We review a trial court's decision to award attorney fees for abuse of discretion. *Id*.

Defendant first contends that the trial court abused its discretion in finding that $17,500 was a "proper and appropriate" amount to cover plaintiff's attorney fees and the cost of her expert witness. However, defendant failed to raise this issue at trial, and an objection to the reasonableness of the amount of an award of attorney fees may not be raised for the first time on appeal. *Jansen, supra* at 173. Accordingly, this issue is not properly before this Court. *Id*.

Defendant additionally argues that the trial court abused its discretion in failing to properly determine whether plaintiff was unable to bear the expense of the action, in light of the property settlement and large alimony award. We find that the trial court properly determined that plaintiff was, in fact, unable to bear the expense of the action, and that she should not be required to invade the assets awarded to her as part of the property settlement and alimony award. "A party should not be required to invade assets to satisfy attorney fees when the party is relying on the same assets for support." *Hanaway*, *supra* at 298.

Accordingly, we cannot conclude that the trial court's award of attorney fees and costs to plaintiff was an abuse of discretion.

Affirmed.

/s/ Michael J. Kelly
/s/ Helene N. White

[1] We note that Benjamin is now 18 years old.

[2] The trial court subsequently contacted the parties' respective counsel and indicated that it had made a mathematical error in that it had not divided the $340,655 figure in half, which was required to determine plaintiff's award. Accordingly, plaintiff's award as ordered in the judgment of divorce was $170,327.50, $50,000 to be paid within ninety days of entry of the judgment and $12,032.75 to be paid annually for the following ten years.