

**STATE OF MICHIGAN**  
**COURT OF APPEALS**

---

LENA R. ROBACH, also known as LENA R.  
NICHOLS,

Plaintiff-Appellant/Cross-Appellee,

v

JOSEPH F. ROBACH,

Defendant-Appellee/Cross-Appellant.

---

UNPUBLISHED  
December 16, 2021

No. 352077  
Oakland Circuit Court  
LC No. 2018-860777-DO

Before: SAWYER, P.J., and RIORDAN and REDFORD, JJ

PER CURIAM.

Plaintiff appeals as of right from a judgment of divorce, which dissolved the parties' marriage of approximately eight years. Defendant has also filed a cross-appeal from the judgment. For the reasons set forth in this opinion, we affirm.

**I. BACKGROUND**

The parties were married in October 2011. Their marriage did not produce any children. The issues on appeal pertain to the trial court's determination of certain property as either marital property or separate property not subject to division as part of the marital estate, the court's division of the marital estate, and the court's decision to decline plaintiff's request for spousal support.

Plaintiff and defendant first met in 2011, when they were both employed at ITC Holdings (ITC). At that time, plaintiff was a purchasing agent for ITC, and defendant was the manager of ITC's tax accounting department. Shortly after beginning a romantic relationship, the parties moved in together in June 2011, in defendant's home in Livonia. Plaintiff, who has an associate's degree in accounting and a bachelor's degree in mathematics, worked at ITC until August 2012, when she left to pursue an accounting position at RouteOne, LLC. When plaintiff left ITC, she was making \$50,000 a year; her starting salary at RouteOne was \$55,000 annually. In March 2017, plaintiff received a bonus of \$9,500 for her work in 2016. Plaintiff worked at RouteOne for approximately five years and left there to work for another company, Aria Energy, in June 2017, with a starting salary of \$75,000 a year. Plaintiff worked at Aria Energy until January 2018, when

she became unemployed and started to collect unemployment benefits. Plaintiff later returned to RouteOne as a part-time employee in the spring of 2018. At the time of trial in February 2019, she was a full-time employee at RouteOne, earning \$73,000 annually as a Senior Billing Analyst.

According to plaintiff, when she first moved into defendant's Livonia home, the home was sparsely furnished, and she contributed her income toward furnishing the home and finishing the basement. Plaintiff also contributed toward expenses, paying for the parties' pets, groceries, Christmas parties for defendant's employees, and family gatherings. After living in the Livonia home for approximately two years, the parties purchased vacant land on Buno Road in Milford, so they could construct a new home closer to defendant's work and plaintiff's family. The parties took out a construction loan to finance the construction of their home. The parties also purchased vacant land next to the Buno Road lot in order to have an extended wooded yard from their marital home lot.

Defendant has a bachelor's degree in business administration and a master's degree in accounting from the University of Michigan. Defendant is a licensed certified public accountant (CPA), and was last employed as a tax director. He had worked in accounting since 1995, and he began working at ITC in January 2010. After ITC was acquired by Fortis in 2016, defendant's position was eliminated and he was let go, although defendant also claimed that the new Chief Financial Officer "did not want me there." Defendant negotiated a severance in which he received six months' salary replacement and six months of "grossed up reimbursement for the employer portion of healthcare." Defendant's severance package and his vacation pay paid him thorough December 2018. Defendant applied for unemployment benefits approximately two weeks before trial began in February 2019. When defendant worked at ITC, his base salary was \$164,377, but he was also eligible for a potential bonus of 25%, dependent on the company's goals being achieved. Defendant's income was \$531,000 in 2016, \$253,000 in 2017, and \$214,000 in 2018. After the trial concluded, defendant obtained a new position with Ford Direct, with a starting annual salary of \$140,000. Proofs were reopened to address defendant's new employment.

The trial court later issued a written opinion and order determining the parties' separate and marital assets, and dividing the marital estate. After clarifying its opinion and order in subsequent opinions and orders at the requests of the parties, the trial court entered a judgment of divorce on December 12, 2019. The court mostly divided the marital estate equally between the parties, but denied plaintiff's request for spousal support.

## II. SEPARATE AND MARITAL PROPERTY

On appeal, plaintiff first challenges the trial court's determinations of certain assets as defendant's separate property. In his cross-appeal, defendant similarly argues that the trial court erred by characterizing certain property as marital property, rather than his separate property. After review, we find no error.

### A. STANDARD OF REVIEW

In reviewing a trial court's division of the marital estate, this Court reviews the trial court's factual findings for clear error. *Berger v Berger*, 277 Mich App 700, 717; 747 NW2d 336 (2008). A finding is clearly erroneous if, after a review of the entire record, this Court is left with a definite

and firm conviction that the trial court made a mistake. *Id.* This Court will afford substantial deference to the trial court’s factual findings, and this Court’s ultimate query is whether the trial court’s ruling was fair and equitable. *Id.* “If the trial court’s findings of fact are upheld, this Court must decide whether the trial court’s dispositional ruling was fair and equitable in light of those facts.” *Id.* “This Court will affirm the lower court’s discretionary ruling unless it is left with the firm conviction that the division was inequitable.” *Id.* at 717-718. To the extent that the trial court’s determinations regarding whether assets are marital or separate property involve questions of law, we review those questions de novo. *Foster v Van Buren Co*, 332 Mich App 273, 280; 956 NW2d 554 (2020).

## B. ANALYSIS

In a divorce action, the trial court’s first task in dividing the marital estate is to first determine what property is considered marital property and what is considered separate property. *Cunningham v Cunningham*, 289 Mich App 195, 200-201; 795 NW2d 826 (2010). This Court has described marital property as “that which is acquired or earned during the marriage,” and in contrast, separate property is best characterized as “that which is obtained or earned before the marriage.” *Id.* at 201, citing MCL 552.19. The general principle of law is that the marital estate is to be divided in a manner that each party takes with them their own separate property without the other party invading that property. *Cunningham*, 289 Mich App at 201. “The categorization of property as marital or separate . . . is not always easily achieved.” *Id.*

There are two exceptions to the “doctrine of noninvasion of separate estates[.]” *Reeves v Reeves*, 226 Mich App 490, 494; 575 NW2d 1 (1997). MCL 552.23(1) allows for the invasion of the parties’ separate estates by the other party if, following the division of the marital estate, the division of the estate is such that the award is insufficient to allow for the suitable support and maintenance of either party. *Reeves*, 226 Mich App at 494. Likewise, under MCL 552.401, invasion of a party’s separate estate is permitted if the other spouse “ ‘contributed to the acquisition, improvement, or accumulation of the property.’ ” *Korth v Korth*, 256 Mich App 286, 291-292; 662 NW2d 111 (2003), quoting MCL 552.401.

### 1. SALE OF ITC AND FORTIS STOCK AND CUNNINGHAM REPORT

Plaintiff first argues that the trial court erred in determining the scope of defendant’s interests in his ITC stock that constituted defendant’s separate property, not subject to division as part of the marital estate. Plaintiff also argues that the trial court erred by relying on the testimony and report of Joseph W. Cunningham in making this determination. We disagree.

As relevant to this issue, MCL 552.18 provides, in pertinent 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.

(2) Any rights or contingent rights in and to unvested pension, annuity, or retirement benefits payable to or on behalf of a party on account of service credit accrued by the party during marriage may be considered part of the marital estate subject to award by the court under this chapter where just and equitable.

At trial, defendant's financial expert, Joseph W. Cunningham, a CPA, testified regarding defendant's various stock options and grants of ITC stock, and defendant's purchase of additional shares under an Employee Stock Purchase Program, and offered his conclusions regarding the portion that should be considered defendant's separate property. On cross-examination by plaintiff's counsel, Cunningham conceded that in formulating his opinions and conclusions, he did not trace the origin and history of the stocks that defendant held, and instead relied on schedule documentation that defendant had provided to him, and he did not undertake any independent verification. At the conclusion of her cross-examination, counsel for plaintiff requested that the trial court strike Cunningham's testimony regarding defendant's ITC stock, because his report was "based on documents prepared by [defendant], and not independently verified or created by [Cunningham]." The trial court denied plaintiff's request, stating that it would allow the testimony and give it "appropriate weight," and allow the parties to further address the issue in their trial briefs.

Initially, we are not persuaded that the trial court erred by relying on Cunningham's testimony and reports because, while Cunningham did concede that he relied on underlying documentation provided by defendant, plaintiff has not demonstrated that Cunningham performed below "the skill and care ordinarily possessed and exercised by practitioners of the profession in the same or similar localities," which is the applicable standard of care for accountants. *Broz v Plante & Moran, LLC (On Remand)*, 331 Mich App 39, 49; 951 NW2d 64 (2020) (citation omitted). This is the applicable common-law standard of care for accountants. *Id.*

Additionally, the trial court did not clearly err by finding that defendant's rights to ITC equity were not part of the marital estate. We acknowledge that plaintiff's expert, John T. Alfonsi, CPA, that of the approximately 5,400 shares that defendant held a right to, all but the 318 he was awarded before the marriage, and the 453 he purchased before the marriage, vested during the parties' marriage. We acknowledge that MCL 552.18(1) provides that "[a]ny 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.) The equity interests at issue are not part of any vested pension, annuity, or retirement benefits as set forth in the statute, although they can be characterized as "accumulated contributions" in one of these entities. See MCL 552.18(1). However, as defendant points out, the equity interests at issue were not payable to him "on account of service credit accrued" by defendant during the parties' marriage. Instead, defendant either purchased or was awarded the equity interests at issue *before* the parties' marriage on October 22, 2011. Therefore, the trial court did not err by awarding the stocks at issue in the amount of \$207,346 to defendant as his separate property.

## 2. DEFENDANT'S ITC PENSION AND 401(k) ACCOUNT

Plaintiff next challenges the trial court's determination that a portion of defendant's 401(k) account with ITC was separate property, not subject to division as part of the marital estate.

The trial court found that defendant's ITC 401(k) account was valued at \$54,409 at the time of the marriage, but had a value of \$375,135.98 as of January 1, 2019. Cunningham was asked to calculate the portion of appreciation to defendant's 401(k) account related to the balance at the beginning of the marriage, and the portion of appreciation related to contributions made to the 401(k) after the marriage. Cunningham reviewed Fidelity statements for defendant's 401(k) account dating back to 2011 and as recent as 2018. Cunningham calculated the marital portion of the present value of the 401(k) account to be \$247,752, and the premarital portion to be \$127,394. Relying on Cunningham's testimony, the trial court awarded \$127,394 of the present value of the ITC 401(k) account to defendant as his separate property.

Plaintiff concedes that the premarital balance in the ITC 401(k) account was \$54,410, and agrees that defendant is at least entitled to that amount as his separate property. However, plaintiff argues that the trial court should have rejected Cunningham's calculations that \$127,394 represented the appreciated value of this premarital interest. Plaintiff relies on *McNamara v Horner*, 249 Mich App 177; 642 NW2d 385 (2002), in support of her argument.

In *McNamara*, the parties divorced after nine years of marriage and, before they married, both had retirement accounts and tax-deferred annuities (TDAs). *Id.* at 180-181. Throughout their marriage, both parties contributed to their respective retirement accounts and TDAs, resulting in a situation in which their "marital contributions to these accounts were commingled with their separate assets." *Id.* at 181. The defendant argued that the trial court erred by including the balance of each party's retirement fund and TDA in the marital estate, and by failing to exclude the portion of the appreciation attributed to their premarital contributions. *Id.* at 183-184. This Court disagreed with the defendant's contention that the parties' assets appreciated merely because of a "passive investment," and stated instead that the evidence showed that the parties continued to contribute a percentage of their income to their retirement plans, and \$9,500 each to their TDAs. *Id.* at 184. This Court further noted that the evidence showed that the funds at issue "were commingled with funds each party contributed before marriage." *Id.* Therefore, this Court held:

Thus, the assets in these "premarital accounts" did not increase in value because of "wholly passive" appreciation, *Reeves, supra*, but instead by additional contributions, as well as appreciation. *Thus, because of the parties' commingling of premarital and marital assets, it is not possible to accurately determine the premarital appreciation of these assets. Reeves, supra* at 496-497; see also *Dart v Dart*, 460 Mich 573, 585 n 6; 597 NW2d 82 (1999)] ("We recognize that, in certain situations, a spouse's separate assets, or the appreciation in their value during the marriage, may be included in the marital estate."). Accordingly, the trial court correctly held that the entire appreciation of the retirement funds and TDAs were part of the marital estate. [*McNamara*, 249 Mich App at 184-185 (emphasis added).]

In this case, plaintiff testified that, during the marriage, she contributed 10 to 15 percent of her earnings to her 401(k) account and increased her contributions with defendant's encouragement. Defendant agreed that he asked plaintiff to contribute to her 401(k) account. On the basis of defendant's Fidelity statements, Cunningham was able to calculate defendant's contributions to the ITC 401(k) account for the duration of the parties' marriage.

The trial court did not err by holding that the portion of defendant's 401(k) account, which Cunningham calculated was related to the appreciation of defendant's premarital interest in the account, was defendant's separate property. Notably, unlike the situation in *McNamara*, 249 Mich App at 184, where it was "not possible to accurately determine the premarital appreciation of these assets," Cunningham testified that he was able to accurately determine the premarital appreciation of the portion of defendant's 401(k) account value that existed before the parties married, and his report contained a detailed breakdown of the pertinent information. The trial court did not clearly err by accepting Cunningham's calculations and thereby determining that the \$127,394 appreciated value of defendant's premarital interest in his ITC 401(k) account was his separate property.

Plaintiff also argues that the trial court erred by concluding that a portion of defendant's ITC pension was a separate asset not subject to division as part of the marital estate. We again disagree.

Cunningham testified that under defendant's ITC plan documents, seven percent of defendant's earned income was deposited into the plan, and he reviewed defendant's pension plan in rendering his calculations. Cunningham calculated the marital portion of defendant's ITC pension to be \$101,395, and the premarital balance as \$25,482. Accepting Cunningham's calculations, the trial court held that \$25,482 of the ITC pension was defendant's separate property.<sup>1</sup>

As plaintiff observes, this Court has held that pension benefits that accrue before a marriage can be divided as part of the marital estate if "such treatment is '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.'" *Booth v Booth*, 194 Mich App 284, 291; 486 NW2d 116 (1992), quoting MCL 552.23(1). However, the thrust of plaintiff's challenge to the trial court's ruling is that it erred by crediting Cunningham's calculation that \$25,482 represented the value of defendant's separate property. Plaintiff maintains that this figure "cannot effectively be reconciled with the evidence produced at trial." We disagree, particularly because Cunningham produced a detailed document explaining how he calculated the appreciation on the premarital portion of defendant's pension. For example, Cunningham prepared a chart that highlighted the contributions attributable to marital compensation, and those attributable to his bonus earned before the marriage, and showed how he was able to calculate the marital and premarital share of defendant's ITC pension. The trial court credited Cunningham's findings and calculations, and plaintiff has not put forth a cognizable argument challenging Cunningham's specific calculations.

---

<sup>1</sup> The trial court determined that the remaining balance in defendant's 401(k) account and pension at the time of trial was to be considered marital property, to be divided equally between the parties.

Accordingly, we are not persuaded by plaintiff's assertion that the trial court clearly erred by finding that \$25,482 of defendant's ITC pension was his separate property.

### 3. PLAINTIFF'S CREDIT CARD DEBT

At the time of trial, plaintiff had an outstanding credit card debt of approximately \$30,000. The trial court characterized this debt as marital debt, to be allocated equally between the parties. Plaintiff now argues, however, that the trial court erred by failing to hold defendant equally responsible for the entirety of her \$58,000 in credit card debt incurred during the marriage. We disagree.

When apportioning debt, the trial court's task is to assess the credibility of each party with respect to the disputed debts, and determine whether the debts are joint or individual obligations. See *Lesko v Lesko*, 184 Mich App 395, 401; 457 NW2d 695 (1990).

The trial court did not err in concluding that defendant was only responsible for half of the remaining \$30,000 in credit card debt. While the record supports plaintiff's assertion that she incurred the credit card debt by purchasing furnishings and other items for the parties' marital home on Buno Road, the record also demonstrates that defendant was under the firm impression that plaintiff was immediately paying off her credit card purchases. Although defendant conceded that he was aware of some of plaintiff's purchases, he testified that plaintiff also hid her spending from him, and he was not aware of her burgeoning and significant credit card debt until he was contacted by creditors in the spring of 2018. Under the circumstances, the trial court did not clearly err by limiting defendant's responsibility for the credit card debt to half of the remaining \$30,000 balance.

### 4. LIVONIA HOME AND VACANT LOT

On cross-appeal, defendant argues that the trial court erred in its determination of the value of his separate property interest in the Livonia home. We disagree.

The trial court noted that just before plaintiff filed for divorce, the Livonia home sold for \$258,000, resulting in a net profit of \$177,572. The trial court took into account that plaintiff and defendant lived together in the home for six years before moving to Milford, and that plaintiff contributed her income to furnishing and improving the home. The trial court also determined that at the time the parties married in October 2011, the equity in the home was \$26,689, and it awarded that amount to defendant as his separate property. After deducting that amount from the \$177,572 net profit amount, the court found that the remaining proceeds of \$150,883 was marital property, to be divided equally between both parties.

At trial, defendant claimed a separate property interest of \$113,549 in the Livonia home on the basis of equity payments of \$80,473, as well as \$33,076 in improvements he made to the home before the parties' marriage. While defendant challenges the trial court's finding that the home had an equity value of \$26,689 at the time the parties married, he does not advance any persuasive challenge to this amount, but instead relies solely on the evidence of his equity payments and payments toward alleged improvements, but without showing how those payments correlated to the property's equity value. Therefore, defendant has not demonstrated any clear error in the trial

court's finding that the Livonia home had an equity value of \$26,689 at the time of the parties' marriage. Further, it is apparent that the trial court credited plaintiff's testimony that she contributed significantly to the improvement of the Livonia home, and furnishings for the home. Therefore, we are not persuaded that the trial court abused its discretion by awarding plaintiff one half of the remaining proceeds after awarding defendant \$26,689 for the value of his separate interest in the property.

The trial court also held that a vacant lot next to the Livonia home was valued at \$70,000. It found that defendant paid \$15,000 for the lot six months before the parties married and it awarded defendant that amount as his separate property, but it held that the remaining balance of \$55,000 was marital property to be divided equally between the parties. Defendant argues that because the vacant lot was not used for marital purposes, he should have been awarded the entirety of its value as his separate property. We disagree.

Roger Pray testified that he purchased the Livonia marital home from defendant and plaintiff, under a purchase agreement that gave him a one-year right of refusal to purchase the vacant lot next door. While the vacant lot was listed for \$84,900, which Pray thought was a "little high," he stood ready to pay \$70,000 for the lot. Defendant testified that he purchased the vacant lot in April 2011, before he met plaintiff, and the couple did not use the land. According to plaintiff, however, the couple paid jointly to have a home that was located on the land razed. And although the vacant lot was purchased by defendant before the marriage, it is apparent from the trial court's ruling that it considered the lot closely intertwined with the home itself, and that plaintiff contributed her time, energy, and income to improving both. Accordingly, we are not persuaded that the trial court erred by characterizing the increase in the equity value of the lot as marital property to be divided equally between the parties.

##### 5. BUNO ROAD PROPERTY AND VACANT LOT

On cross-appeal, defendant also argues that the trial court erred by holding that a vacant lot next to the Buno Road marital home was a marital asset, with a stipulated value of \$97,500, which was to be divided equally between the parties. We disagree.

While defendant held title to the vacant lot in his name only, and alleged that he used his separate grant equity funds from ITC to purchase a portion of the land, the trial court characterized the vacant lot as marital property. Plaintiff testified that she and defendant purchased the property jointly for \$95,000 so they could have an extended wooded yard next to their marital home. Defendant testified that he paid for an unspecified portion of the lot with proceeds from an ITC equity grant, but because the asset was purchased during the parties' marriage, was intended as an extension to the marital home property, and defendant's separate contribution is not clear from the record, we are not persuaded that the trial court erred by holding that the vacant lot should be considered a marital asset to be divided equally between the parties. *Cunningham*, 289 Mich App at 201. In a cursory one-sentence argument, defendant also claims that the trial court's division of the marital estate was inequitable, because the court divided the \$194,003 in equity in the Buno Road home equally between the two parties, although defendant testified that he contributed \$66,000 toward the purchase price of the home. Because defendant does not advance a meaningful argument in support of this claim, explaining why the court's division of the equity in the marital home as part of the overall division of the marital estate was inequitable and unfair, he has



effectively abandoned this challenge on appeal. See *Vanderwerp v Plainfield Charter Twp*, 278 Mich App 624, 633; 752 NW2d 479 (2008) (recognizing that failure to address the merits of an assertion of error amounts to abandonment of the issue). In any event, defendant has not met his burden of demonstrating that the trial court's disposition of this asset was inequitable.

## 6. GMC CANYON

On cross-appeal, defendant also argues that the trial court erred by holding that a 2015 GMC Canyon that he purchased during the marriage was a marital asset. We disagree.

At trial, defendant testified that he purchased the vehicle during the marriage with premarital assets consisting of proceeds of vehicles that he owned and sold before the marriage, as well as premarital savings. Specifically, defendant testified that he owned a Porsche 911 before the marriage, and he used the proceeds of the sale of that vehicle, and premarital savings, to fund the purchase of an Infinity vehicle in 2012, which he later traded in for the GMC Canyon. The parties stipulated that defendant purchased the GMC Canyon for \$35,196 and the value of the vehicle at the time of trial was \$19,930. While defendant claimed that he purchased the vehicle with his own separate funds, the trial court rejected this claim and held that the entire value of the vehicle was marital property; the court awarded the vehicle to defendant, but awarded plaintiff \$9,965 for her half share of the vehicle's value.

Because the GMC Canyon was purchased during the parties' marriage, we are of the view that the trial court did not err by finding that it was a marital asset. *Cunningham*, 289 Mich App at 201. Specifically, the trial court did not err by finding that defendant's reliance on alleged premarital funds to purchase prior vehicles that he later traded in toward the purchase of the GMC Canyon was too attenuated to make the GMC Canyon his separate property, particularly where the record is clear that the vehicle was purchased well after the parties' marriage. Accordingly, the trial court did not err by holding that the GMC Canyon was a marital asset.

## III. DIVISION OF THE MARITAL ESTATE

Plaintiff also argues that the trial court abused its discretion when dividing the marital estate. In particular, she challenges the trial court's valuation of the parties' Buno Road marital home and defendant's bank accounts, and refusal to award her a credit for defendant's alleged dissipation of marital assets. We find no error.

### A. STANDARD OF REVIEW

In a divorce action, this Court will first review the trial court's factual findings to determine whether they are clearly erroneous. *Sparks v Sparks*, 440 Mich 141, 151; 485 NW2d 893 (1992). "A trial court's valuation of an asset is a finding of fact that this Court will reverse only if found to be clearly erroneous." *Pelton v Pelton*, 167 Mich App 22, 25; 421 NW2d 560 (1988). "A finding is 'clearly erroneous' if, after a review of the entire record, the reviewing court is left with the definite and firm conviction that a mistake has been committed." *Id.* If this Court upholds the trial court's findings of fact, it must next decide whether, in light of the court's findings, the trial court's disposition ruling was fair and equitable. *Sparks*, 440 Mich at 152. The trial court's

ultimate dispositional ruling will be affirmed unless this Court is left with the definite and firm conviction that the trial court's division of the marital estate was inequitable. *Id.*

## B. ANALYSIS

In distributing the assets in the marital estate, the court's goal is to achieve an equitable distribution of the property given all of the circumstances. *Seifeddine v Jaber*, 327 Mich App 514, 522; 934 NW2d 64 (2019). While "mathematical equality" is not required, in dividing the marital estate, the trial court must articulate why it significantly departed from congruence. *Id.* The trial court may consider the following factors in its division of the marital estate:

(1) the duration of the marriage, (2) the contributions of the parties to the marital estate, (3) the age of the parties, (4) the health of the parties, (5) the life situation of the parties, (6) the necessities and circumstances of the parties, (7) the parties' earning abilities, (8) the parties' past relations and conduct, and (9) general principles of equity. [*Id.*, quoting *Berger*, 277 Mich App at 717.]

The trial court is to weigh all of the relevant factors, not assign disproportionate weight to any one factor, and make specific factual findings with regard to the relevant factors to aid meaningful appellate review. *McDougal v McDougal*, 451 Mich 80, 88; 545 NW2d 357 (1996).

### 1. VALUATION OF THE MARITAL HOME

Plaintiff first argues that the trial court erred by valuing the parties' marital home on Buno Road at \$600,000. We disagree.

As a "prelude" to a trial court's obligation to undertake a division of the marital estate in a divorce action, the court is required to make specific factual findings regarding the value of the property at issue. *Olson v Olson*, 256 Mich App 619, 627; 671 NW2d 64 (2003). "For the purposes of dividing property, marital assets are typically valued at the time of trial or the time judgment is entered, although a court may, in its discretion, use a different date." *Woodington v Shokoohi*, 288 Mich App 352, 364; 792 NW2d 63 (2010). When valuing marital assets, the trial court "may, but is not required to, accept either parties' valuation evidence." *Pelton*, 167 Mich App at 26. When divergent estimates are provided by experts, "the trial court has great latitude in arriving at a final figure." *Id.* As recognized in *Pelton*, when valuing marital assets, the trial court is best situated to assess the demeanor of the witnesses and weigh their credibility. *Id.*

In this case, plaintiff's expert, Robert Walker, appraised the Buno Road property at \$690,000. Defendant's expert, Leo Savoie, valued the property at \$590,000. The trial court ultimately valued the Buno Road property at \$600,000. Although plaintiff points out that Savoie's appraisal was conducted in June 2018, and other homes had later sold in the area, providing additional comparable data, at the time of trial only eight months had elapsed since Savoie performed his appraisal. And while Walker's January 2019 updated appraisal was more recent, Savoie criticized several aspects of Walker's appraisals of the Buno Road property, which the trial court was entitled to consider in evaluating the weight and reliability of the respective appraisals. The trial court's finding that the Buno Road property had a value of \$600,000 is within the range of values presented at trial. We are not left with a definite and firm conviction that the trial court

clearly erred by discounting the reliability of Walker's appraisal and adopting a valuation that was closer to the valuation estimate provided by Savoie.

## 2. DISSIPATION OF ASSETS

Plaintiff next argues that the trial court erred by using a valuation date of November 2019 for determining the value of defendant's bank accounts, rather than a uniform valuation date for all marital assets. Plaintiff argues that the trial court's use of a November 2019 valuation date for the bank accounts was inequitable because of defendant's dissipation of funds in the accounts. We disagree.

In *Woodington*, 288 Mich App at 368, this Court recognized that when a party to a divorce proceeding dissipates marital assets without the knowledge or fault of the other party, the trial court may consider the value of the dissipated assets when distributing the marital estate. If the court decides to include the value of dissipated assets in the marital estate, it is required to make pertinent factual findings to explain its decision. *Id.*

As the trial court observed, funds from defendant's accounts were used to pay for expenses to maintain the status quo, and for other expenses related to the divorce proceeding. The parties could not agree on the value of the assets held in the bank accounts, and plaintiff was alleging that defendant had engaged in improper dissipation of the assets. The trial court rejected plaintiff's claim that defendant had dissipated marital assets, observing that defendant had been held responsible for paying marital bills and temporary spousal support, all while unemployed, and had to use money from his severance package and savings to supplement his income. These circumstances influenced the trial court's decision to value the bank accounts as of November 2019, rather than dates it had used for other assets. *Gates v Gates*, 256 Mich App 420, 427; 664 NW2d 231 (2003). Given defendant's continued responsibility for marital expenses and the trial court's rejection of plaintiff's claim that defendant had dissipated marital assets, the trial court did not abuse its discretion by selecting the November 2019 valuation date. Although the trial court valued the parties' retirement assets as of the date of trial, these assets were not subject to plaintiff's dissipation claims against defendant. Therefore, the trial court did not abuse its discretion by using alternate valuation dates for the parties' retirement assets.

## 3. TRIAL COURT'S FACTUAL FINDINGS

We reject plaintiff's assertion that the trial court did not make adequate factual findings or consider the applicable factors when dividing the marital estate. For example, in deciding how to divide the parties' interest in the Livonia home, the trial court noted that plaintiff had contributed to the upkeep and maintenance of the home with her income. Similarly, the trial court found that both parties participated in financing the purchase of the Buno Road property. For the most part, the court awarded the parties equal shares of the marital assets, so it was not necessary to explain departures from congruence. The court also explained the bases for its determinations of which assets, or portions thereof, were awarded as separate property. Plaintiff's assertion that the trial court did not weigh and apply the applicable factors in its division of the marital estate is without merit.

#### IV. SPOUSAL SUPPORT

Finally, plaintiff argues that the trial court abused its discretion by denying her request for spousal support. We disagree.

##### A. STANDARD OF REVIEW

This Court reviews a trial court's decision regarding spousal support for an abuse of discretion, and reviews its underlying factual findings, which are considered "presumptively correct," for clear error. *Andrusz v Andrusz*, 320 Mich App 445, 452; 904 NW2d 636 (2017); *Olson*, 256 Mich App at 629. This Court will affirm the trial court's decision unless left with a firm conviction that the decision was inequitable. *Andrusz*, 320 Mich App at 452.

##### B. ANALYSIS

In *Olson*, 256 Mich App at 631, this Court explained the primary purpose of spousal support, as well as the principles of law that guide a trial court's decision whether to award spousal support:

The main objective of alimony is to balance the incomes and needs of the parties in a way that will not impoverish either party, and alimony is to be based on what is just and reasonable under the circumstances of the case. [*Moore v Moore*, 242 Mich App 652, 654; 619 NW2d 723 (2000).] Among the factors that should be considered are: (1) the past relations and conduct of the parties, (2) the length of the marriage, (3) the abilities of the parties to work, (4) the source and amount of property awarded to the parties, (5) the parties' ages, (6) the abilities of the parties to pay alimony, (7) the present situation of the parties, (8) the needs of the parties, (9) the parties' health, (10) the prior standard of living of the parties and whether either is responsible for the support of others, (11) contributions of the parties to the joint estate, (12) a party's fault in causing the divorce, (13) the effect of cohabitation on a party's financial status, and (14) general principles of equity. *Ianitelli v Ianitelli*, 199 Mich App 641, 644; 502 NW2d 691 (1993); *Thames v Thames*, 191 Mich App 299, 308; 477 NW2d 496 (1991).

The trial court did not abuse its discretion by declining to award plaintiff spousal support. Plaintiff is correct that she offered testimony in support of her assertion that she suffered from medical issues that required her to follow a specific diet and exercise regimen. Although the trial court did not expressly address the impact of plaintiff's health issues on her monthly expenses, the court did find that her testimony regarding her needs was "largely incredible," given that she earned a salary of \$73,000 annually, with the potential for bonuses. Plaintiff had an outstanding credit card debt of approximately \$30,000, but the trial court held defendant responsible for half of that debt. Plaintiff also received a significant division of the marital estate. The trial court noted that plaintiff was leaving the marriage with assets in the form of cash and retirement accounts, and that it was not realistic for plaintiff to expect defendant to pay spousal support to assist plaintiff in maintaining the same high standard of living that she had during the marriage. Contrary to plaintiff's assertion, the trial court did not ignore plaintiff's testimony regarding her needs

following the divorce, but rather found her testimony regarding her alleged needs to be “largely incredible.”

Considering the totality of the circumstances, particularly the duration of the marriage, that plaintiff was gainfully employed and earning \$73,000 annually, and that she had received an ample share of the marital estate, the trial court did not abuse its discretion by denying plaintiff’s request for spousal support.

Affirmed.

/s/ David H. Sawyer

/s/ Michael J. Riordan

/s/ James Robert Redford