

STATE OF MICHIGAN  
COURT OF APPEALS

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ZEINA HAMMOUD,

Plaintiff-Appellee,

v

FADI HAMMOUD,

Defendant-Appellant.

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UNPUBLISHED  
March 8, 2012

No. 302619  
Wayne Circuit Court  
Family Division  
LC No. 09-109248-DM

Before: OWENS, P.J., and JANSEN and MARKEY, JJ.

PER CURIAM.

Defendant, Fadi Hammoud, appeals several provisions of his judgment of divorce, primarily focused on the payment of support and the distribution of marital property. We affirm in part, reverse in part and remand for further proceedings consistent with this opinion.

Defendant first contends that the trial court erred in awarding \$997 a month in child support for the three minor children. The trial court indicated that the child support award was based on the imputation of income to both parties and in accordance with the calculation and recommendation of the Friend of the Court. The support figure “includes a parental-time offset” to reflect defendant’s physical custody of the oldest son. The award of child support was designated by the trial court as not deviating from the child-support formula. “Generally, this Court reviews child support orders and orders modifying support for an abuse of discretion. Whether the trial court properly acted within the child support guidelines is a question of law that this Court reviews de novo.” *Malone v Malone*, 279 Mich App 280, 284; 761 NW2d 102 (2008) (citations omitted).

Defendant asserts that the child support award is overly burdensome. He does not argue that the award fails to comply with the child support guidelines or that the amount of income allegedly imputed by the trial court and the Friend of the Court is unreasonable. As noted previously by this Court:

In calculating the contributions to support that divorced parents must make, the trial court must generally follow the MCSF as developed by the Friend of the Court unless to do so would be “unjust or inappropriate” and the trial court makes findings “in writing or on the record” supporting a deviation by statute. MCL 552.605(2); *Stallworth*, [275 Mich App] at 283-284. . . . [T]he final

determination regarding the appropriateness of imputing income in an individual case is a judicial one. As this Court observed in *Stallworth* . . .:

[T]he MCSF grants a court the discretion to impute income to a parent, 2004 MCSF 2.10(B), which the manual defines as “treating a party as having income or resources that the individual does not actually have.” 2004 MCSF 2.10(A). “This usually occurs in cases where there is a voluntarily [sic] reduction of income or a voluntary unexercised ability to earn.” *Id.* [*Berger v Berger*, 277 Mich App 700, 724-725; 747 NW2d 336 (2008), quoting *Stallworth v Stallworth*, 275 Mich App 282, 283-284; 738 NW2d 264 (2007).]

Although the trial court verbally stated in its ruling that the child support award was premised on the imputation of income to both parties and specifically included an imputation of annual earnings to plaintiff of \$14,616, there is no indication in any of the Friend of the Court recommendations of any such imputation. All of the recommendations reviewed in the lower court file indicate that only defendant’s income was used for the calculation of child support.

Based on the trial court’s factual determination that plaintiff had a demonstrated ability to earn an income coupled with the absence of evidence that such imputation was included in the child support calculation, we remand this matter to the trial court for confirmation of the child support calculation to assure the proper inclusion of imputed income for both parties as “[i]mputation must be applied equally to payers and payees, and to men and women.” MCSF 2.10(F).

Although defendant also contends the trial court erred in failing to specify a parenting time schedule for the parties, he does not address or explicate the substance of his argument or provide any citation to law in support of his assertion of error. A trial court’s decision regarding parenting time is also reviewed for an abuse of discretion. *Matczak v Matczak*, 482 Mich 1022, 1024; 759 NW2d 645 (2008). “It is not enough for an appellant in his brief simply to announce a position or assert an error and then leave it up to this Court to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position.” *Mitcham v Detroit*, 355 Mich 182, 203; 94 NW2d 388 (1959).

The parenting provision contained within the divorce judgment did not specify a parenting time schedule, indicating only that the parties were to participate in counseling and that a review of parenting time would be conducted at a later date. In accordance with MCL 722.27a:

(1) Parenting time shall be granted in accordance with the best interests of the child. It is presumed to be in the best interests of a child for the child to have a strong relationship with both of his or her parents. Except as otherwise provided in this section, parenting time shall be granted to a parent in a frequency, duration, and type reasonably calculated to promote a strong relationship between the child and the parent granted parenting time.

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(3) A child has a right to parenting time with a parent unless it is shown on the record by clear and convincing evidence that it would endanger the child's physical, mental, or emotional health.

The trial court ordered the parties to participate, with the children, in counseling in an effort to facilitate a parenting time schedule indicating the importance of the children having a relationship with their siblings and parents. The trial court declined, however, to specify a parenting time schedule based on its anticipation that the parties would ignore or violate any such order based on their demonstrated inability to cooperate or follow the trial court's orders. While the trial court's frustration with the parties was understandable and its objective to facilitate improved relations through counseling reasonable, it was error for the trial court to abdicate responsibility for setting a parenting time schedule, given its recognized importance, merely in anticipation that enforcement would be problematic. MCL 722.27a(7) provides that "[p]arenting time shall be granted in specific terms if requested by either party at any time." The term "specific" has been defined as meaning "[e]xplicitly set forth; particular; definite." *Pickering v Pickering*, 268 Mich App 1, 6; 706 NW2d 835 (2005) (citation omitted).

Consistent with MCL 722.27a(8), the trial court had options in crafting a parenting time schedule that would facilitate compliance. While the concerns expressed by the trial court were relevant and realistic given the history and evident animosity displayed between the parties, the best interests of the children should have taken precedence, resulting in the specification of a parenting time schedule subject to enforcement to assure the children had access to their siblings. As such, the issue of parenting time is remanded to the trial court for the determination of a parenting time schedule for effectuation in conjunction with the participation of plaintiff, defendant and the children in counseling.

Next, defendant contends the trial court erred in its distribution of marital assets and in releasing a judgment lien on real property owned by the parties in conjunction with a third-party, defendant's brother-in-law, Ibrahim Nasser.

The standard of review applicable to property distribution is twofold. Initially, this Court is required to review the trial court's factual findings for clear error. *Sparks v Sparks*, 440 Mich 141, 151-152; 485 NW2d 893 (1992). This Court gives "special deference" to the trial court's credibility determinations. *Draggoo v Draggoo*, 223 Mich App 415, 429; 566 NW2d 642 (1997). Next, this Court must determine if the dispositive ruling by the trial court was fair and equitable under the facts and circumstances of the case. *Sparks*, 440 Mich at 151-152. "The court's dispositional ruling should be affirmed unless this Court is left with the firm conviction that the division was inequitable." *Pickering*, 268 Mich App at 7.

"Absent allegations of fraud, the trial court in a divorce action may only adjudicate the rights of the spouses whose marriage is being dissolved." *Kasben v Hoffman*, 278 Mich App 466, 474; 751 NW2d 520 (2008), quoting *Reed v Reed*, 265 Mich App 131, 157-158; 693 NW2d 825 (2005). As plaintiff and defendant were the litigants in this divorce, "the trial court had the authority to compel them to transfer assets to each other. But a trial court normally does not have the authority to adjudicate the rights of third parties." *Kasben*, 278 Mich App at 474.

The trial court corrected its previous ruling regarding the judgment lien interest retained by Ibrahim Nasser in the Schaefer Road property. As the trial court's correction of the ruling restored to Nasser the court-awarded lien, this portion of defendant's stated issue is rendered moot. "An issue becomes moot when a subsequent event renders it impossible for the appellate court to fashion a remedy." *Kieta v Thomas M Cooley Law Sch*, 290 Mich App 144, 147; 799 NW2d 579 (2010). In addition, while not raised by either party, we find that defendant lacks standing to pursue a claim regarding Nasser's interest in the property. *Miller v Chapman Contracting*, 477 Mich 102, 105-106; 730 NW2d 462 (2007). As enforcement of the judgment lien is a claim addressing Nasser's interest in the Schaefer Road property, any litigation pertaining to the lien was incumbent upon Nasser to initiate as the "real party in interest." "A plaintiff must assert his own legal rights and interests and cannot rest his claim to relief on the legal rights or interests of third parties." *Fieger v Comm'r of Ins*, 174 Mich App 467, 471; 437 NW2d 271 (1988).

Defendant further contends that the Schaefer Road property was not distributable as marital property. Defendant's contention is premised solely on the fact that the property was jointly owned with a third party. While defendant is correct in asserting that the trial court lacks the authority to adjudicate the rights of a third party in a divorce proceeding, *Reed*, 265 Mich App at 158, there is no restriction on the trial court's ability to adjudicate the parties' interest in the subject real estate. In the circumstances presented, "the trial court did not adjudicate the rights of third parties . . . or order that property be conveyed to third parties. . . . To the contrary, the trial court only determined the extent of defendant's interest in various properties for the purpose of adjudicating a fair and equitable division of marital property. The trial court need not ignore reality when defendant obfuscates his various property holdings through a maze of real or nonexistent entities." *Id.* In accordance with MCL 552.19, "the court may make a further judgment for restoring to either party the whole, or such parts as it shall deem just and reasonable, of the real and personal estate that shall have come to either party by reason of the marriage, or for awarding to either party the value thereof . . . in money." Consistent with the statutory language, this Court has indicated, "In general, assets a spouse earns during the marriage are properly considered part of the marital estate, and thus subject to equitable distribution." *Reed*, 265 Mich App at 152. In light of the absence of an actual contention or evidence that the subject property was not procured during the parties' marriage, it was properly subject to distribution as a marital asset.

Defendant also impliedly argues that the property distribution was inequitable. The factors that are typically deemed relevant to achieve an equitable property distribution include, but are not limited to:

- (1) duration of the marriage, (2) contributions of the parties to the marital estate, (3) age of the parties, (4) health of the parties, (5) life status of the parties, (6) necessities and circumstances of the parties, (7) earning abilities of the parties, (8) past relations and conduct of the parties, and (9) general principles of equity. [*McDougal v McDougal*, 451 Mich 80, 89; 545 NW2d 357 (1996) (citations omitted).]

When distributing marital property, a "trial court is given broad discretion in fashioning its rulings and there can be no strict mathematical formulations." *Id.* at 88. It has been consistently

recognized that, “while the division need not be equal, it must be equitable.” *Id.* Typically, a fairly equivalent division of marital assets is deemed to be an equitable distribution. “An equitable distribution of marital assets means that they will be roughly congruent. Any significant departure from that goal should be supported by a clear exposition of the trial court’s rationale.” *Jansen v Jansen*, 205 Mich App 169, 171; 517 NW2d 275 (1994) (citation omitted). In general, a trial court’s property award “will be affirmed unless we are left with the firm conviction that the distribution was inequitable.” *Hanaway v Hanaway*, 208 Mich App 278, 292; 527 NW2d 792 (1995). This Court will also defer to a trial court’s findings based on the credibility of witnesses. *Draggoo*, 223 Mich App at 429.

The trial court awarded plaintiff the Appoline property, subject to the existing mortgage, and the parties’ interest in the Schaefer Road property. In terms of personalty, plaintiff was awarded the items already in her possession, a stove and a refrigerator from another property owned by the parties and the Montero vehicle. Plaintiff was to assume responsibility for all debt maintained in her name. Defendant was awarded the various businesses, all remaining real properties in addition to their contents, and all associated debt. Defendant had the option of maintaining the leased vehicle and was to assume any other debt existing in his name.

Undisputed testimony indicated that, other than United Realty, the remaining businesses were not economically viable and generated no income. The most valuable real properties within the marital estate were comprised of the building located on Schaefer Road, the marital home on Miller and the property in Lebanon. Based on the figures presented by defendant, the marital home on Miller had a current value of \$275,000 with outstanding liens of \$320,000, resulting in a negative equity of \$45,000. Defendant was also awarded the Argyle property with a stated value of \$86,400 and an outstanding mortgage of \$25,513. While defendant disputed owning the property on Neckel, the deed was in his name and there was no debt demonstrated for this property valued at \$108,000. Although defendant also disputed owning the property in Lebanon, the purported value was \$224,350, and there was no debt or mortgage indicated for this property. While ownership of certain properties was disputed, this Court defers to the trial court’s credibility determinations. *Berger*, 277 Mich App at 705. Including the negative equity value of the marital home and the outstanding mortgage for the Argyle property, the award of real property to defendant equaled approximately \$348,237.

In contrast, the property on Appoline awarded to plaintiff was valued at \$118,500 but was subject to a mortgage of approximately \$60,000. While the Schaefer Road property was valued at \$374,998, the property was subject to outstanding debts, based on defendant’s evidence, of: (a) the \$155,000 judgment lien of Ibrahim Nasser, (b) a \$98,000 mortgage, and (c) \$31,700 in unpaid taxes and insurance, resulting in the value of the marital portion of this property being approximately \$90,298. The trial court ordered the property to be sold and the net proceeds realized after payment of all outstanding mortgages, commissions, costs of sale, taxes, etc., to be split equally between plaintiff and Nasser. If half of the net proceeds were insufficient to satisfy Nasser’s judgment lien, Nasser had the option of pursuing any outstanding debt owed him on the lien against defendant personally. Consequently, under the best case scenario, if the Schaefer Road property sold for its stated value, the highest amount that could be realized by plaintiff from the award of property is approximately \$208,798, not including a deduction for the Appoline mortgage. Thus, the distribution of the major marital assets favored defendant by \$139,259. Even taking into consideration the valuation of the vehicle as awarded to plaintiff,

defendant cannot sustain his contention that the property dispute was inequitable in plaintiff's favor.

We would note that the trial court did not specifically address the recognized factors or indicate a determination of fault in the breakdown of the marital relationship.<sup>1</sup> It has been repeatedly recognized that when a factor is relevant to the value of the property or the needs of the parties, a trial court is required to make a specific finding of fact on the relevant factor. *Sparks*, 440 Mich at 159. In a bench trial, a judge is required to make specific determinations of fact and separately state its conclusions of law. MCR 2.517(A)(1). Findings are deemed to be sufficient even if brief, as long as they are definite and pertinent. MCR 2.517(A)(2). A trial court's findings of fact are deemed to be sufficient if "it appears that the trial court was aware of the issues in the case and correctly applied the law." *Triple E Produce Corp v Mastronardi Prod, Ltd*, 209 Mich App 165, 176; 530 NW2d 772 (1995). While the trial court should have discussed the relevant factors, it would appear that the trial court was adequately advised of the parties' relevant history, contributions to the marital estate, life status and the issues involved. We find any failure of the trial court to specifically address the relevant factors to be harmless error, particularly as defendant has failed to demonstrate that the property distribution was inequitable.

Defendant next contends that the award of spousal support was excessive and improperly imposed as a sanction for defendant's refusal to grant plaintiff an Islamic divorce. Defendant also implies that the trial judge was biased and should be disqualified from participating in further proceedings in this matter.

While an award of spousal support is reviewed for an abuse of discretion, *Berger*, 277 Mich App at 726 (citation omitted), the trial court's factual findings underlying its decision are reviewed for clear error, *Gates v Gates*, 256 Mich App 420, 432; 664 NW2d 231 (2003). Unpreserved issues are reviewed for plain error affecting substantial rights. *Woolford v Duncan*, 279 Mich App 631, 641; 760 NW2d 253 (2008).

"The object in awarding spousal support is to balance the incomes and needs of the parties so that neither will be impoverished; spousal support is to be based on what is just and reasonable under the circumstances of the case." *Berger*, 277 Mich App at 726, citing *Moore v Moore*, 242 Mich App 652, 654; 619 NW2d 723 (2000). The factors traditionally to be considered by a trial court in awarding spousal support include:

- (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

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<sup>1</sup> As the trial court did not specifically address fault for the breakdown of the marital relationship in either its verbal ruling or the written judgment of divorce, it is presumed that the trial court attributed fault equally to both parties.

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. [*Olson v Olson*, 256 Mich App 619, 631; 671 NW2d 64 (2003).]

“The trial court should make specific factual findings regarding the factors that are relevant to the particular case.” *Korth v Korth*, 256 Mich App 286, 289; 662 NW2d 111 (2003).

The trial court awarded plaintiff modifiable spousal support in the amount of \$602 a month for a minimum of four years, with early termination upon the death or remarriage of plaintiff. The spousal support figure was based on the imputation of annual income of \$14,616 to plaintiff. The trial court imposed the continuation of modifiable spousal support, in this amount, for an indefinite period unless terminated by plaintiff's receipt of an Islamic divorce by defendant, her death or remarriage.

In awarding spousal support, “a judge's role is to achieve equity, not to ‘punish’ one of the parties.” *Sands v Sands*, 442 Mich 30, 36; 497 NW2d 493 (1993). For the length of this marriage and given the disparity in the parties' history of earning abilities, use of the spousal support prognosticator by the Friend of the Court indicated an appropriate case for short-term spousal support restricted to a period of “four and a half to five years.” Not only did the trial court exceed the recommended length of spousal support for this marriage, the implication of the trial court's ruling is that it was indeed attempting to pressure defendant to grant plaintiff an Islamic divorce, despite the trial court's acknowledgement that it had no authority or jurisdiction over the parties obtaining a religious divorce.

The trial court recognized that plaintiff was an intelligent and capable woman with a potential to earn monies now and into the future. Both the length of this marriage and plaintiff's potential ability to earn an income contraindicate an award of permanent spousal support. While the award is designated as being modifiable in accordance with MCL 552.28, the implication that the ongoing award of spousal support was for an indefinite duration and was designed by the trial court to force or pressure defendant to agree to an Islamic divorce is improper. Such an implication is further reinforced by the trial court's statement in response to the objections filed by defendant, indicating the indefinite nature of the duration of the support award.

While there is an argument for an award of rehabilitative spousal support in this matter, an award of permanent spousal support could result in defendant's ongoing obligation to support plaintiff for more years than the marriage lasted. As structured by the trial court, plaintiff has no incentive to become self-sufficient or to vigorously pursue an Islamic divorce as she is assured an ongoing income ad infinitum. The trial court also failed to address or seek further clarification of plaintiff's contention that she was in possession of a document that would permit others to assist or assure her the attainment of an Islamic divorce without defendant's consent. Plaintiff indicated that an agreement existed that would permit her brother and brother-in-law to authorize the Islamic divorce, potentially rendering it within plaintiff's control to prolong her receipt of spousal support.

We further note the existence of an additional concern with the spousal support award. While the trial court evaluated defendant's monthly expenses, it failed to balance this

information against plaintiff's demonstrated financial need and defendant's actual ability to pay in accordance with MCL 552.23(1). While the parties and their counsel were not particularly effective in the production of evidence and testimony regarding routine monthly expenses and debts, these are factors that should have been considered in evaluating plaintiff's need and defendant's ability to pay. The absence of an evaluation or discussion by the trial court precludes this Court from reasonably ascertaining defendant's actual ability to pay the amount of spousal support awarded, particularly given its unspecified duration. As a result, the trial court violated the underlying purpose of spousal support, which is to make certain that divorcing parties maintain a lifestyle approximating their previous standard of living but *without impoverishing either party*. *Magee v Magee*, 218 Mich App 158, 162; 553 NW2d 363 (1996).

Defendant further asserts the trial court failed to consider as an enforceable prenuptial agreement the alleged existence of a document in which plaintiff completely waived her rights to any marital assets should she file for divorce. Defendant presented a document in Arabic, without translation, contending it constituted a valid prenuptial or settlement agreement between the parties. Plaintiff denied signing the document. The trial court interpreted the document as an agreement in which plaintiff's father "waived away her rights to any property," which was construed as having no legal significance. While the trial court admitted the document into evidence, the court indicated its use was limited.

On appeal, the document in question was not accompanied by a certified translation from Arabic to English. There is also no indication that the document was "self authenticating" as required for admissibility, nor was there an accompanying attestation regarding the genuineness of the signatures on the document. Given our inability to confirm the content or authenticity of this document, we must rely solely on the trial court's assessment of the parties' testimony regarding the document's terms and authenticity. We give great deference to the trial court's assessment of the credibility of witnesses. MCR 2.163(C), *In re Miller*, 433 Mich 331, 337; 445 NW2d 161 (1989). Because the trial court is in a superior position to judge witness credibility, we must agree with the trial court's determination that the document was of very limited value. The trial court concluded that plaintiff's father entered into this agreement on her behalf. A parent has no authority merely by virtue of the parental relation to waive, release, or compromise claims by or against his child. citing 67 CJS, Parent & Child, § 58, at 764, and *Schofield v Spilker*, 37 Mich App 33; 194 NW2d 549 (1971). The trial court properly utilized this agreement for the limited purpose of providing background information about how the parties' marital union originated.

Defendant implies that the trial judge was biased and that this matter should be reassigned to another judge for all future proceedings. A review of the transcripts leaves no doubt regarding the frustration of the trial judge in dealing with these parties and their attorneys. This issue is unpreserved as neither party filed a motion seeking to disqualify the trial judge with the commensurate affidavit. MCR 2.003(D)(1), (2); *Cain v Dep't of Corrections*, 451 Mich 470, 494; 548 NW2d 210 (1996).

"A trial judge is presumed to be impartial, and the party asserting partiality has the heavy burden of overcoming that presumption." *Coble v Green*, 271 Mich App 382, 390; 722 NW2d 898 (2006). In order to obtain judicial disqualification, the proponent must demonstrate actual bias or prejudice. *Cain*, 451 Mich at 495; *Impullitti v Impullitti*, 163 Mich App 507, 514; 415

NW2d 261 (1987). A mere suspicion of possible bias is insufficient to prove partiality or prejudice. When the proponent of judicial disqualification cannot demonstrate actual bias, due process requires disqualification only “in situations where ‘experience teaches that the probability of actual bias on the part of the judge or decisionmaker is too high to be constitutionally tolerable.’” *Crampton v Dep't of State*, 395 Mich 347, 351; 235 NW2d 352 (1975) (citation omitted).

Defendant’s contention of bias centers on comments made by the trial judge during the proceedings. While the trial judge's remarks were critical and disapproving of defendant and his counsel and demonstrate a sense of frustration, the comments fail to show the actual bias or prejudice that is required for disqualification. MCR 2.003(D)(1); *Cain*, 451 Mich at 494–495.

Defendant also asserts his civil rights were violated by the trial court when his attorney was removed from the courtroom during defendant’s cross-examination by plaintiff’s counsel.

“[T]he constitutional provisions explicitly guaranteeing the right to counsel apply only in criminal proceedings. . . .” *In re CR*, 250 Mich App 185, 197; 646 NW2d 506 (2002). The exercise of a trial court’s authority to sanction litigants and their counsel “may be disturbed only upon finding that there has been a clear abuse of discretion.” *Maldonado v Ford Motor Co*, 476 Mich 372, 388; 719 NW2d 809 (2006). An abuse of discretion is found to occur only when the trial court’s decision is outside the range of “reasonable and principled outcome[s].” *Id.*

As noted by our Supreme Court:

[T]he contempt power is to be exercised with great restraint, and a court should use the least possible sanction adequate to achieve the proper end sought, a court necessarily has the inherent power to preserve or restore order by temporarily ejecting from the courtroom disruptive and disorderly persons, including attorneys. Every attorney or party has a full right to be heard.

However, the power to remove disruptive attorneys may not be used as an artifice or guise to eject counsel with whom a judge has a personal or professional disagreement, whose presence “inhibits” the court, or toward whom the judge entertains a personal animosity but who is not, in fact, disruptive or disorderly. [*In re Hague*, 412 Mich 532, 559; 315 NW2d 524 (1982) (citations omitted).]

Defendant’s counsel repeatedly interfered with the questioning of his client by plaintiff’s counsel and was more than suggestive to his client regarding what his response to inquiries should be. It is notable that the eviction of defendant’s counsel from the courtroom comprised a mere three minutes out of a five-day trial. Further, from the transcript it is evident that plaintiff’s counsel was exploring impeachment testimony as the question resulting in defense counsel’s ejection from the courtroom was merely seeking confirmation of defendant’s prior testimony at deposition and did not proceed into any new issues or territory. Reviewing the transcript shows that defendant still did not actually respond to the question posed by plaintiff’s counsel, in any meaningful manner, until his attorney was returned to the courtroom. As such, it cannot be demonstrated that counsel’s absence from the courtroom for a minimal duration caused any significant detriment or prejudice to defendant.

Finally, defendant contends that the trial court erred in refusing to enforce its contempt orders against plaintiff for failing to produce certain discovery materials comprised of audio and video recordings. We view this issue as involving a question of law, which is reviewed de novo. *Shinkle v Shinkle*, 255 Mich App 221, 224; 663 NW2d 481 (2003). To the extent that defendant also impliedly suggests that the issue concurrently involves the admission of evidence, we review that aspect of the issue under the abuse of discretion standard. *Persichini v William Beaumont Hosp*, 238 Mich App 626, 635; 607 NW2d 100 (1999).

While the lower court record fails to provide a clear description of the content of the alleged video and audio recordings made by plaintiff and sought for production as discovery, defendant contends the trial court's failure to hold plaintiff in contempt and enforce its order to provide these materials was improper and impeded defendant's ability to present material evidence. The failure of plaintiff to produce the recordings was the subject of frequent discussion and contention within the trial court. Plaintiff's counsel indicated that the recordings were relevant only to the issue of custody and that based on the stipulation "to parenting time and custody," defendant's continuing need for production was questionable. The trial court indicated that defense counsel had consistently asserted a need for the discovery material solely for evidence on the issues of custody and parenting time and that defense counsel had altered its position by asserting an alternative need for the materials. As a compromise, the trial court offered to view the recordings in camera to determine their bearing on other issues within the case. Defense counsel continued to vaguely assert that the requested discovery was "essential for us to prepare our case especially with the domestic violence or other financial issues that are coming up without that discovery."

This Court has stated that "[a] court possesses inherent authority to enforce its own directives. A divorce case is equitable in nature, and a court of equity molds its relief according to the character of the case; once a court of equity acquires jurisdiction, it will do what is necessary to accord complete equity and to conclude the controversy." *Draggoo*, 223 Mich App at 428 (citations omitted). The trial court determined that defendant's purported need for the requested discovery material was not relevant to the issues remaining in the case following the parties' stipulation to custody. Other than continuing to assert vague allegations of necessity, defendant failed to elucidate his need for the materials. Based on defendant's continued failure to explicate the relevance of the discovery materials, the trial court's declination to prolong these proceedings or to facilitate the filing of additional litigation was not an abuse of discretion.

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

/s/ Donald S. Owens

/s/ Kathleen Jansen

/s/ Jane E. Markey