STATE OF MINNESOTA
IN COURT OF APPEALS
A16-2049
A17-0300

In re the Marriage of:
Alexander K. Antzaras, petitioner,
Appellant,

vs.

Triantafilia Rose Moshou-Antzaras,
Respondent.

Filed October 2, 2017
Affirmed
Halbrooks, Judge

Ramsey County District Court
File No. 62-FA-14-1922

Erik F. Hansen, Patrick C. Burns, Elizabeth M. Cadem, Burns & Hanson, P.A., Minneapolis, Minnesota (for appellant)

Lisa M. Elliott, Elliott Law Offices, P.A., Minneapolis, Minnesota (for respondent)

Considered and decided by Peterson, Presiding Judge; Halbrooks, Judge; and Smith, Tracy M., Judge.

U N P U B L I S H E D O P I N I O N

HALBROOKS, Judge

In this consolidated appeal regarding the division of property following a marriage dissolution, appellant argues that the district court erred by excluding evidence and

testimony from his expert appraiser on the premarital value of the homestead before improvements were made during the marriage. He also challenges the division of property, arguing that the district court erred in its (1) calculation and valuation of the parties' marital equity in the homestead, (2) division of the parties' financial accounts and debts, (3) disposition of nonmarital property, (3) determination to include a no-contact provision against him in the judgment and decree, and (4) award of conduct-based attorney fees to respondent. We affirm.

FACTS

Appellant Alexander Antzaras and respondent Triantafilia Rose Moshou-Antzaras were married on November 24, 2012. Prior to the marriage, Antzaras owned a homestead in Shoreview. Remodeling of the homestead was done following the wedding. The parties separated on June 3, 2014, and Antzaras petitioned for dissolution.

The district court ordered that discovery "was to be completed by August 28," and scheduled trial on November 18, 2015. An expert appraiser retained by Moshou-Antzaras valued the homestead at $220,000 as of the time of separation, and both parties stipulated to that valuation. Two weeks before trial, Antzaras disclosed that he had hired an expert to appraise the value of the homestead and informed Moshou-Antzaras that he planned to have his expert testify at trial. Moshou-Antzaras moved to exclude his expert's opinions and testimony based on late disclosure. After hearing argument on the first day of the bench trial, the district court granted the motion.

During trial, the district court heard testimony from Antzaras, Moshou-Antzaras, and Moshou-Antzaras's expert. Antzaras and Moshou-Antzaras testified to the extent of

the home improvements made during the marriage; bank and retirement accounts, and expenses; Moshou-Antzaras's nonmarital property that remained in the homestead; Moshou-Antzaras's request for inclusion of a no-contact provision in the dissolution judgment and decree; and the merits of a conduct-based attorney-fee award. Moshou-Antzaras's expert testified to the valuation of the marital equity in the homestead based on the improvements made during the marriage.

The district court concluded that the marital equity in the homestead was $38,000 and awarded the homestead to Antzaras. The district court ordered Antzaras to return Moshou-Antzaras's nonmarital property to her and to permit her to enter the homestead to search for any nonmarital items not returned. The district court also included a no-contact provision in the judgment and decree, awarded Moshou-Antzaras $6,129 in conduct-based attorney fees, and ordered Antzaras to pay Moshou-Antzaras a cash equalizer amount of $30,031.62.

Antzaras moved to stay enforcement of the property division and requested that the district court amend its findings of fact. Following a hearing, the district court amended the finding of fact that described the homestead but denied the remainder of the motion. This appeal follows.

D E C I S I O N

I.

Antzaras argues that the district court erred by excluding his expert's testimony and opinions regarding the value of the homestead. "When a party seeks to introduce expert testimony not previously noticed, determination of the appropriate remedy is within the

[district] court's discretion." *Quill v. Trans World Airlines, Inc.*, 361 N.W.2d 438, 445 (Minn. App. 1985). The district court's determination "will not be disturbed unless it is based on an erroneous view of the law or constitutes an abuse of discretion." *Kroning v. State Farm Auto. Ins. Co.*, 567 N.W.2d 42, 45-46 (Minn. 1997) (quotation omitted).

In general, "expert testimony should be suppressed for failure to make a timely disclosure of the expert's identity only where counsel's dereliction [in failing to make the disclosure] is inexcusable and results in disadvantage to his opponent." *Dennie v. Metro. Med. Ctr.*, 387 N.W.2d 401, 405 (Minn. 1986) (alteration in original) (quotation omitted); *see Quill*, 361 N.W.2d at 445 (concluding that exclusion of expert testimony disclosed "one week before trial" was not an abuse of discretion). The crucial question is whether the party against whom the evidence is offered "has been prejudiced to any appreciable degree by the late disclosure." *Dennie*, 387 N.W.2d at 405.

Antzaras submitted his trial exhibit list on November 5, 2015, which, for the first time, disclosed that he had retained an expert to appraise the value of the homestead and that he intended to call the expert as a witness and offer his report into evidence.[1] In response to Moshou-Antzaras's motion to exclude, Antzaras argued that the disclosure was timely; he did not request a continuance. The district court considered the matter on the first day of trial and, after hearing the parties' arguments, excluded the evidence and the testimony of Antzaras's expert on the ground that it "was a discovery violation."

[1] The expert's report was dated November 3, 2015.

Antzaras contends that his disclosure was timely because the scheduling order set the final discovery date as November 4, 2015. The record does not support his argument. Following the pretrial conference on September 17, 2015, the district court issued a final scheduling order that directed the parties to confer and disclose the witnesses and evidence they planned to use at trial. The district court stated that "discovery was to be completed by August 28, following the parties' telephone conference on August 8, 2015." Based on the district court's discovery deadline of August 28, 2015, Antzaras's disclosure was not timely.

Citing Minn. R. Civ. P. 26.05, which addresses supplementation of discovery responses, Antzaras contends that he had no obligation to update his discovery responses until he had obtained the appraisal. But this argument fails to address the fact that his initial disclosure occurred *after* the close of discovery. This was not a circumstance of updating previous discovery responses as contemplated by the rule.

Antzaras contends, alternatively, that even if his disclosure was not timely, Moshou-Antzaras was not prejudiced by his late disclosure because she had sufficient time to prepare her expert to respond to it. Although the district court did not explicitly address prejudice, prejudice can reasonably be inferred based on the timing of the decision on the day of trial.

On appeal, Antzaras argues for the first time that the district court should have granted a continuance to permit Moshou-Antzaras time to prepare a response to his expert instead of excluding his expert. Because Antzaras failed to make this argument to the district court, we decline to address it on appeal. *See Thiele v. Stich*, 425 N.W.2d 580, 582

(Minn. 1988). We conclude that the district court did not abuse its discretion by excluding Antzaras's expert.

II.

Antzaras contends that the district court erred in its determination that the marital equity of the homestead was $35,842.06. "A [district] court has broad discretion in evaluating and dividing property in a marital dissolution and will not be overturned except for abuse of discretion." *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002). Appellate courts will affirm a district court's property division if it has an acceptable basis even though a different approach may also be reasonable. *Id.*

Upon dissolution of a marriage, the district court must "make a just and equitable division of the marital property." Minn. Stat. § 518.58, subd. 1 (2016). Property acquired before the parties' marriage is nonmarital property. Minn. Stat. § 518.003, subd. 3b (2016). But property can have "both marital and nonmarital aspects." *Schmitz v. Schmitz*, 309 N.W.2d 748, 750 (Minn. 1981).

A. Factual Findings Regarding Marital Equity in the Homestead

A district court's valuation of an item of property is a finding of fact, and it will not be set aside unless it is clearly erroneous on the record as a whole. *Maurer v. Maurer*, 623 N.W.2d 604, 606 (Minn. 2001). But we do not require the district court to be exact in its valuation of assets; "it is only necessary that the value arrived at lies within a reasonable range of figures." *Johnson v. Johnson*, 277 N.W.2d 208, 211 (Minn. 1979) (citing *Hertz v. Hertz*, 304 Minn. 144, 145, 229 N.W.2d 42, 44 (1975)). The district court stated that

Antzaras "believes the marital equity in the home is only approximately $8,000, based solely on the increase in market value and not on any of the improvements."

Antzaras argues that he never claimed an increase in the value of the homestead based on market forces alone. But he testified at trial as follows:

> Q What do you estimate the value [of the homestead] to have been on the date of your marriage?
> A Around 210,000.
> Q And what do you base that estimate on?
> A On page 7, the market data that was supplied under District 621—that's the closest comparison for my home—has a May 2013 median sales price of 220,00[0], which is about six months after the date of marriage.
> Q And what else about that information is your basis for that $210,000?
> A In the last sentence, you know, comments that the prices increased slightly into 2013 and have leveled off, so taking into account the 220, backing out, you know, the improvements we've talked about and some appreciation, I think around a $10,000 increase over 18 months would be reasonable for a home.

Although Antzaras's testimony that the value of the homestead increased $10,000 is greater than the $8,000 the district court found, we conclude that the district court's finding is not clearly erroneous. It is supported by the record, and the valuation need only be within a reasonable range.

B. Calculation of the Marital Interest in the Homestead

Antzaras contends that the district court erred in its calculation of the marital equity in the homestead because there was no finding of the value of the homestead at the time of marriage. The Minnesota Supreme Court has instructed district courts to use the following formula to calculate the marital and nonmarital interests in property:

> The present value of a nonmarital asset used in the acquisition of marital property is the proportion the net equity or contribution at the time of acquisition bore to the value of the property at the time of purchase multiplied by the value of the property at the time of separation. The remainder of equity increase is characterized as marital property . . . .

Antone, 645 N.W.2d at 102 (quotation omitted); *accord Schmitz v. Schmitz*, 309 N.W.2d 748, 750 (Minn. 1981). "[T]he increase in the value of nonmarital property attributable to the efforts of one or both spouses during their marriage, like the increase resulting from the application of marital funds, is marital property." *Nardini v. Nardini*, 414 N.W.2d 184, 192 (Minn. 1987). And a "spouse claiming that property is nonmarital must prove the necessary underlying facts by a preponderance of the evidence." *Johnson v. Johnson*, 388 N.W.2d 47, 49 (Minn. App. 1986).

Here, the parties stipulated, based on the appraisal of Robert Lear, Moshou-Antzaras's expert, that the homestead was properly calculated to be $220,000 as of the dissolution valuation date. Lear also made a hypothetical appraisal of the value of the homestead on June 3, 2014, assuming no improvements to the homestead had been made. He opined that that value of the homestead was $190,000. Lear testified, and the district court subsequently found, "that the improvements to the home made during the marriage increased the value of the home by $30,000."

Antzaras argues that the district court erred by failing to follow the *Schmitz* formula and that he alone provided evidence that the value of his homestead at the date of marriage was "[a]round [$]210,000." But that value was based on his opinion alone. Antzaras failed to provide any credible evidence of the homestead valuation at the time of marriage. *Cf.*

Eisenschenk v. Eisenschenk, 668 N.W.2d 235, 243 (Minn. App. 2003) (concluding that the district court's disposition on the propriety of income was not clearly erroneous because the appellant lacked credible evidence to support her claim), *review denied* (Minn. Nov. 25, 2003). Because the district court did not have a valuation of the homestead at the time of marriage, we conclude that the district court did not err by using the *Nardini* calculation and calculating the marital portion of the homestead based on the improvements made during the marriage.

Finally, Antzaras argues that the district court erred in concluding that all appreciation during the marriage was marital because it should have split the appreciation between marital and nonmarital interests. "[A]n increase in the value of nonmarital property attributable to inflation or to market forces or conditions, retains its nonmarital character." *Nardini*, 414 N.W.2d at 192. Because Antzaras did not provide evidence of the increase in value based on market forces alone, the district court did not err. We conclude the district court did not abuse its discretion in the calculation and disposition of the marital equity in the homestead.

III.

Antzaras argues that the district court erred in its division of financial accounts and debts of the parties. We review a district court's evaluation and division of marital property for an abuse of its discretion. *Antone*, 645 N.W.2d at 100. Antzaras challenges the district court's findings with respect to three different financial accounts, which we address in turn.

A. Patriot Bank Account

The Patriot Bank account was a joint account held by Moshou-Antzaras and her mother that "contain[ed] funds from a premarital gift [Moshou-Antzaras] received from her grandmother." It accumulated $1,174.66 in passive interest during the marriage. The district court found that "only half of the interest could be construed as marital," but that "it is fair that the interest [Moshou-Antzaras] earned on this premarital asset not be included" because Antzaras refused to file a joint tax return in 2014.

Antzaras argues that the district court erred in awarding Moshou-Antzaras all interest generated from this account because one-half of the interest was a marital asset, and both parties paid taxes on most of the interest. "[I]ncome from a nonmarital investment is marital property." *Johnson*, 388 N.W.2d at 49. Income includes "any passive appreciation in value." *Swick v. Swick*, 467 N.W.2d 328, 331 (Minn. App. 1991), *review denied* (Minn. May 16, 1991). But we do not require the district court to be exact in its valuation of assets; "it is only necessary that the value arrived at lies within a reasonable range of figures." *Johnson*, 277 N.W.2d at 211.

The district court found that Antzaras "refused to file a joint return in 2014, and claimed all of the interest and real estate taxes on the parties' homestead on his 'head of household' return." It also found that Moshou-Antzaras's tax liability greatly increased because she was forced to file her taxes separately. Because Antzaras claimed both parties' interest and real estate tax on his 2014 tax returns, which increased her tax liability, we conclude that the district court did not abuse its discretion in deciding that it was equitable to award the interest from this account to Moshou-Antzaras.

B. Wells Fargo Account

The parties had a joint Wells Fargo checking account that was "used to pay household expenses during the marriage." The parties each withdrew funds from this account after their separation—Antzaras withdrew a total of $30,000 and Moshou-Antzaras withdrew a total of $14,821. The district court captured those withdrawals in its equalizer-payment calculation. With the exception of her withdrawals, Moshou-Antzaras did not use this account after June 3, 2014.

Antzaras asserts that the calculation of the equalizer payment is erroneous because the district court did not account for various joint expenses that he incurred prior to the parties' separation. He challenges the following expenses:

Description	**Date**	**Amount**
Credit card balance paid for May expenses	7/1/14	$4,948
Utilities payments	7/1/14	$738
Payment to clear negative balance	8/13/14	$704
Overdraft fees payment	7/30/14	$70

Although the district court did not mention these expenses specifically, it did state that it would not include "various overdraft charges and transfers from [Antzaras's] individual account to this account in order to cover expenses paid after the valuation date." It reasoned that "the additional deductions from [his] individual account cannot be tied to any particular marital expense, and it appears [he] is attempting to 'double dip' for the withdrawals and/or expense already addressed elsewhere." Because Antzaras failed to provide documentation that established that these expenses were incurred during the marriage, we conclude that the district court did not err by excluding these expenses from its calculation.

Antzaras also claims the district court erred by failing to include a $500 drywall expense that was incurred prior to the parties' separation. Moshou-Antzaras argues that the drywall expense should not be included in the calculation because the district court awarded Antzaras $6,000 "for the premarital purchase of material used in the remodel during the marriage," which included drywall materials. Because this expense was for labor—not material—and because it was not a premarital expense, the calculation should have been included in the equalizing payment. But we "refus[e] to remand for a de minimis error." *See Risk ex rel. Miller v. Stark*, 787 N.W.2d 690, 694 n.1 (Minn. App. 2010), *review denied* (Minn. Nov. 16, 2010) (concluding that a $400 error in calculation by the district court was de minimis). We conclude that because the $500 error by the district court in the calculation of the equalizer payment is de minimis, it is not a sufficient basis for a remand.

C. Fairview Health Services Retirement Account

Antzaras had a retirement savings account that he contributed to before and during the marriage. The parties dispute the exact balance of the account on the date of their marriage on November 24, 2012, and Antzaras did not provide one. But he did provide a quarterly statement from October 1, 2012 to December 31, 2012. The district court concluded:

> It would not be fair to use the balance of this account as of December 31, 2012, simply because [Antzaras] failed to provide the actual balance as of the date of marriage, over a month earlier. It is fair and equitable to use the estimate[d] balance as of the date of marriage based on the total contributions during the three months shown on the statement [he] provided.

The district court deducted $1,141.08 as Antzaras's nonmarital interest, rather than $1,614.78, the amount that he requested.

Antzaras asserts that the district court abused its discretion by treating his quarterly statement differently at the time of marriage versus the time of separation, but he cites no authority to support his assertion. The district court stated that it was not fair to view the evidence in his favor because he failed to provide a balance of the account on the date of marriage. We conclude that the district court's decision is not an abuse of its discretion.

Antzaras also argues that the district court erred in its division of the retirement savings account because it did not include in his nonmarital interest the increase in appreciation due solely to his premarital shares. But because he did not raise this issue in his posttrial motion to the district court, we have no finding to review.

We conclude that the district court did not abuse its discretion in its division of the parties' financial accounts and debts and that any error in the district court's calculations was de minimis.

IV.

Antzaras argues that the district court abused its discretion in its valuation and disposition of Moshou-Antzaras's nonmarital property. A district court abuses its discretion in dividing property if it resolves the matter in a manner "that is against logic and the facts on record." *Rutten v. Rutten*, 347 N.W.2d 47, 50 (Minn. 1984). A district court's valuation of an item of property is a finding of fact, and it will not be set aside unless it is clearly erroneous on the record as a whole. *Maurer v. Maurer*, 623 N.W.2d

604, 606 (Minn. 2001). The district court's valuation of property must be "within a reasonable range of figures." *Johnson*, 277 N.W.2d at 211.

At the time of their separation, Moshou-Antzaras left the homestead with only her purse and iPad—she left the rest of her nonmarital property in the homestead. She returned to the homestead two times to recover some of her nonmarital property and prepared a list of her nonmarital property remaining at the homestead that she presented to the district court that included an Apple MacBook laptop, a Canon Rebel Digital SLR camera, and diamond earrings.

The district court found credible Moshou-Antzaras's testimony regarding her nonmarital property. And we "defer to the district court's credibility determinations." *Kremer v. Kremer*, 827 N.W.2d 454, 458 (Minn. App. 2013), *review denied* (Minn. Apr. 16, 2013). The district court also concluded that Moshou-Antzaras's proposed division of the parties' wedding shower and wedding gifts was fair and equitable. Because Antzaras claimed at trial that he did not have many of these items, the district court ordered:

> Wife is awarded all items of personal property identified on the list attached hereto as Exhibit B. Husband shall search for all items on the list and return them to Wife in good condition within ten (10) days of the date of the Order. If all items are not returned to Wife within ten (10) days, Wife shall be allowed a period of four hours, on a date to be chosen by Wife, to have access to Husband's home to search for the remaining items on the Exhibit B. For those items not returned nor found by either party, Wife may replace them, to the extent possible, and provide receipts to Husband. Husband shall reimburse Wife for the replacement costs within ten (10) days of being provided a copy of the receipt.

Antzaras contends that the district court's order is an abuse of its discretion because it permits Moshou-Antzaras to replace *used* items with *new* ones. We conclude that the district court acted within its discretion because replacement of these items is "within a reasonable range of figures." *See Johnson*, 277 N.W.2d at 211. The majority of the items on her list are either family heirlooms or were purchased as engagement gifts prior to the wedding, and the remainder of items are clothing.

Antzaras also argues that Moshou-Antzaras's list of personal-property descriptions is not sufficiently specific and enables her to, at any time she may remember an additional item of clothing, force him to pay for it. But the district court's order awards her only "all items of personal property identified" in the list attached to its judgment. The list of her nonmarital property includes specific details about each item and its last known location in the homestead. Because the ruling is not against logic and reasonably identifies the nonmarital property at issue, the district court did not abuse its discretion in its disposition of Moshou-Antzaras's nonmarital property.

V.

Antzaras contends that the district court erred by including a no-contact order in the judgment and decree that was based on a stipulation he did not agree to. We review a district court's determination of parties' stipulations for an abuse of discretion. *Pekarek v. Wilking*, 380 N.W.2d 161, 163 (Minn. App. 1986). "Courts favor stipulations in dissolution cases as a means of simplifying and expediting litigation, and to bring resolution to what frequently has become an acrimonious relationship between the parties." *Shirk v. Shirk*, 561 N.W.2d 519, 521 (Minn. 1997).

Stipulations are "accorded the sanctity of binding contracts." *Id.* An enforceable contract "requires merely that the parties' intent as to the fundamental terms of the contract can be ascertained with reasonable certainty." *Anderson v. Sommer*, 381 N.W.2d 22, 24 (Minn. App. 1986) (quotation omitted).

In its order following the initial case-management conference, the district court stated that "the parties will be filing a stipulation and proposed order which dismissed the Order for Protection and Orders no contact in this the family court proceeding."[2] In exchange, Antzaras would agree to inclusion of a no-contact order in the dissolution judgment. The record reflects that counsel for Antzaras agreed to draft a stipulation but did not follow through. On appeal, Antzaras maintains that he never agreed to a stipulation.

At trial, Antzaras did not deny that he agreed to a stipulation but he disagreed with the purported duration or restrictions, testifying as follows:

> Q The no contact request they're making, what is your recollection of the agreement that was made at the ICMC regarding the OFP and continuing this into the family court? What's your recollection?
> A Well, from the ICMC and actually from the beginning of the initial hearing in front of [the referee], it was going to be dismissed and no contact language be put in, basically, you know, for the duration of the period, June 6th of 2016.
> Q No contact between the two of you?
> A Yeah, no contact—that was my understanding—no contact between us. It would be dismissed and language would be put into the divorce decree.
> Q But you don't agree that—you never agreed to being restrained from attending your church?
> A No, I never agreed to that.

[2] Moshou-Antzaras had previously obtained an ex parte order for protection that was in effect until June 5, 2016.

> Q And you never agreed to be restrained from your place of employment because you guys are at the same place of employment, the same building sometimes, are you not?
> A We're in different buildings, but sometimes I could have meetings at the building she's at, so that's one of the reasons I asked for an exception throughout this, you know, last year.
> Q Is there any type of no contact language you would agree to that would be within your comfort zone of this proceeding?
> A Yeah, I mean, I thought it made sense and my understanding that there would be no contact between us, but both of us.

Moshou-Antzaras also testified regarding her understanding of the parties' stipulation and the no-contact provision:

> Specifically, the no contact clauses that require [Antzaras] to have no direct or indirect contact with me, to not be found within a quarter-mile radius of where I am; to be forbidden to be at the place where I live, or at my place of business or with the place where I work.

The district court included the following provision in the dissolution judgment:

> Husband, Alexander K. Antzaras, shall not have any contact with Wife, Triantafilia Rose Moshou-Antzaras, whether in person, by telephone, mail, or electronic mail or message, through a third party or by any other means. Husband is also prohibited from calling or entering Wife's place of employment or to be within a two city block o[r] ¼ mile radius, whichever is greater, of Wife's current or future home and workplace. Husband may enter the building where Wife works only to attend meetings required by his employer.

We defer to the district court's credibility determinations and finding that Moshou-Antzaras is in continued fear of Antzaras. *See Kremer*, 827 N.W.2d at 463. The district court did not abuse its discretion by including the no-contact provision in the decree.

VI.

Antzaras contends that the district court abused its discretion by awarding conduct-based attorney fees to Moshou-Antzaras. We review an award of conduct-based fees for an abuse of discretion. *Szarzynski v. Szarzynski*, 732 N.W.2d 285, 295 (Minn. App. 2007); *see Reinke v. Reinke*, 464 N.W.2d 513, 516 (Minn. App. 1990) (stating that an award of attorney fees will rarely be reversed). A district court may award conduct-based fees "against a party who unreasonably contributes to the length or expense of the proceeding." Minn. Stat. § 518.14, subd. 1 (2016).

The district court concluded that Antzaras's "actions resulted in unnecessarily increasing the length and costs in th[e] proceeding" and ordered him to pay Moshou-Antzaras $6,129 in conduct-based attorney fees. It found that Antzaras (1) failed to provide Moshou-Antzaras with documentation vital to the financial early neutral evaluation (FENE) process, (2) failed to respond to informal and formal discovery requests, (3) withheld other relevant information and documentation, and (4) attempted to abandon his agreement to draft and include a no-contact provision in the judgment and decree. It also found that Moshou-Antzaras unreasonably incurred additional attorney fees to prepare a motion in limine objecting to Antzaras's expert's appraisal and testimony because he informed her and the district court of this evidence "well after discovery was closed." Finally, the district court found that Antzaras's actions surrounding the return of Moshou-Antzaras's personal property provided a basis for the conduct-based fee award because he (1) denied her access to the homestead to prepare an inventory of her personal property, (2) failed to return "a large number" of her items of personal property that included

"heirloom jewelry and bedding, and an antique clarinet," (3) refused her access to any joint marital household goods and furnishings, (4) claimed certain property as marital despite "strong evidence" that the items were hers prior to the marriage, and (5) in bad faith delivered "essentially four boxes of garbage" to her attorney's office.

Antzaras contends that the record does not support the district court's conclusion and findings and that the findings related to the FENE proceeding are improper because the FENE was confidential. The district court's order appointing an evaluator for an FENE proceeding states that "[e]vidence produced during the FENE not otherwise discoverable remains confidential. Impressions or opinions made by the evaluator or any other neutral who participates in the process shall remain confidential." The order also directs the parties to provide specific documentation to facilitate the proceeding. We conclude that the district court did not abuse its discretion by considering Antzaras's failure to provide this documentation in its decision to award attorney fees.

Antzaras argues that he did not delay discovery unnecessarily or unreasonably; rather, he was confused about the timing of Moshou-Antzaras's requests because discovery was suspended when the parties agreed to return to FENE. He also asserts that he did not violate the district court's scheduling order. We disagree.

As previously discussed, Antzaras's late disclosure of his expert was a discovery violation that caused Moshou-Antzaras to incur additional costs. The district court found that his disclosure was "well after discovery was closed." In addition, the district court concluded that Antzaras withheld relevant information and documents, including the parties' gift registries, which he disclosed for the first time at trial. The district court "found

this surprise 'discovery' extremely troubling" and concluded that Antzaras "lacked credibility as he tried to explain how he got the parties' gift registries at the eleventh hour if he wasn't deliberately disregarding the Court's discovery order." Because we defer to the district court's credibility determinations, we conclude the district court did not abuse its discretion in determining that Antzaras unnecessarily delayed the proceedings. *See Kremer*, 827 N.W.2d at 463.

Antzaras contends that he permitted Moshou-Antzaras to enter the homestead multiple times following their separation and voluntarily returned significant personal property to her. Specifically, he refers to a number of boxes of property that he claims he returned in good faith to her attorney. But the district court found that Antzaras "refused to allow [Moshou-Antzaras] access to the home to do an inventory" of her nonmarital property. The district court, after personally inspecting the contents of one of the boxes that Antzaras delivered, stated that Antzaras delivered five boxes of "useless junk," one of which contained "a bed skirt covered in feces." The record well supports the district court's determination.

Finally, Antzaras argues that Moshou-Antzaras failed to provide sufficient supporting documentation for her requested award of attorney fees. "A detailed itemization of all amounts sought for disbursements or expenses, including the rate for which any disbursements are charged and the verification that the amounts sought represent the actual cost to the lawyer," Minn. R. Gen. Pract. 119.02.3, must accompany a party's motion seeking an award of attorney fees in excess of $1,000. Minn. R. Gen. Pract. 119.01. But "[a] district court has discretion to strictly enforce or to waive the requirements of rule 119

when considering a motion for attorney fees." *Kalenburg v. Klein*, 847 N.W.2d 34, 41 (Minn. App. 2014) (quotation omitted).

Moshou-Antzaras's attorney prepared an affidavit that included hourly rates, a description of each item of work performed, and the amount of time spent on each item of work. Because Antzaras never challenged the sufficiency of this affidavit before the district court, we do not address his argument on appeal. *See Thiele*, 425 N.W.2d at 582. We do note, however, that even if this argument had been properly raised, the district court has broad discretion to waive the requirement in its entirety. *See Kalenburg*, 847 N.W.2d at 41. The district court did not abuse its discretion in awarding Moshou-Antzaras conduct-based attorney fees.

Affirmed.