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IN THE COURT OF APPEALS OF NORTH CAROLINA

No. COA17-791

Filed: 15 May 2018

Mecklenburg County, No. 14-CVD-1152

JEANNETTE ANN HEWITT, Plaintiff,

v.

CHRISTOPHER AARON HEWITT, Defendant.

Appeals by Plaintiff and Defendant from order entered 29 September 2016 by Judge Alicia D. Brooks in Mecklenburg County District Court. Heard in the Court of Appeals 8 March 2018.

Jonathan G. McGirt, for plaintiff-appellee/cross-appellant.

Hamilton Stephens Steele + Martin, PLLC, by Amy E. Simpson, for defendant-appellant/cross-appellee.

HUNTER, JR., Robert N., Judge.

Jeannette Ann Hewitt ("Plaintiff") and Christopher Aaron Hewitt ("Defendant") appeal from an order entered 29 September 2016 deciding child support, alimony, equitable distribution of the parties' property, and attorney's fees.

On appeal, Defendant argues the trial court: (1) erred in calculating child support; (2) erred in its determination of alimony; (3) failed to award him credit of

post-separation payments on marital property; and (4) failed to make proper findings to support an unequal distribution of marital property. Plaintiff argues the trial court: (1) erred in denying her request for attorney's fees; and (2) abused its discretion in its award of alimony. We affirm in part and vacate and remand in part.

I. Factual and Procedural Background

The parties married on 15 May 1999. The couple had two children born during the marriage. From the beginning of the marriage until July 2011, they lived together in New Jersey. Then, in July 2011, Defendant moved to Charlotte, North Carolina for a job opportunity at Belk Corporation. In August 2012, Plaintiff and the two children joined Defendant in Charlotte. The parties did not immediately sell their home in New Jersey and, instead, rented it to others.

On 17 January 2014, Plaintiff filed a complaint for child custody, temporary and permanent child support, equitable distribution, post-separation support, alimony, interim distribution, injunctive relief, temporary parenting arrangement, and attorney's fees. Plaintiff alleged the parties separated on 8 September 2013. Plaintiff requested legal and physical custody of the children, with Defendant having visitation rights. Plaintiff also requested an unequal distribution of marital property.

In support of her request for post-separation support, Plaintiff alleged Defendant earned approximately $115,000 annually. At the time of the complaint, Plaintiff worked as an administrative assistant, earning $14 per hour. Accordingly,

Plaintiff contended she was a dependent spouse and Defendant was a supporting spouse, as defined by N.C. Gen. Stat. § 50-16.1A (2017). With regard to the claim for alimony, Plaintiff asserted that soon after moving to Charlotte in August 2012, Defendant admitted to affairs with several women. Plaintiff discovered naked photographs in Defendant's email and a profile on www.adultfriendfinder.com.

On 9 April 2014, Defendant filed a complaint for absolute divorce. On 13 May 2014, Defendant filed his answer and asserted the following defenses: (1) Plaintiff abandoned Defendant; (2) Plaintiff committed marital misconduct; (3) Plaintiff intentionally depressed her income; and (4) Plaintiff wasted marital assets. Defendant denied Plaintiff's calculation of his income and contended he earned $109,000 annually. Defendant denied having any affairs during the marriage. He asserted counterclaims for child custody, child support, and equitable distribution. He requested joint legal and physical custody of the children and an equal distribution of marital property.

The parties divorced on 23 December 2014. On 9 February 2015, the trial court entered an order for post-separation support, temporary child support, and an interim distribution of marital property. The trial court ordered Defendant to pay Plaintiff $700 of monthly post-separation support, beginning on 1 December 2014. The trial court awarded Plaintiff an interim distribution of the marital home in

Charlotte. The trial court ordered Defendant to pay child support and healthcare for the children.

The court called the case for trial on 19 May 2016.[1]

Plaintiff testified on her own behalf. Defendant moved to North Carolina in July 2011.[2] In early 2012, the parties rented out their New Jersey home to one of Defendant's friends, and Plaintiff moved in with her parents.[3] During a trip to Charlotte in either April 2012 or 2013,[4] Plaintiff found "incriminating" photographs in Defendant's email. The photographs were linked to an online profile, where Defendant advertised "he was married but he was young, he was up for anything and everything." The two attended therapy together, but Defendant refused to discuss the online account. Defendant denied "act[ing] on anything[.]"

On 8 September 2013, Plaintiff and Defendant separated. Around 20 November 2013, Defendant confessed to dating six other women during the parties' marriage.

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[1] The parties called several witnesses in support of their claims for child custody. Because child custody is not at issue on appeal, we exclude those witnesses' testimonies in the interest of brevity.

[2] During Plaintiff's testimony, she stated Defendant moved to Charlotte in July 2012 and she moved to Charlotte with the children in 2013. However, a review of the full record makes clear Defendant moved in July 2011, and Plaintiff moved with the children in 2012.

[3] Plaintiff testified she moved in with her parents in either January or February of 2013.

[4] As stated *supra*, Plaintiff's testimony of the timeline of the parties' history is confusing and did not always match the other evidence in the record.

At the time of trial, Plaintiff worked at the front desk of Keller Williams, a real estate company, earning $2,333.33 monthly. Plaintiff asserted her shared family expenses were $3,622.88 monthly, her individual expenses were $1,164.03 monthly, and the children's expenses were $1,292.24 monthly. Per Plaintiff's knowledge, Defendant received a yearly bonus from Belk, typically in March or April. For example, in 2013, Defendant received a $13,267 bonus.[5] Although not guaranteed, Defendant received a bonus every year he worked for Belk, and while working at previous companies.

From the parties' separation in September 2013 to the trial court's interim distribution in November 2014, Defendant paid the mortgage on the parties' Charlotte home. Defendant also typically paid Plaintiff $150 a month, but did not pay any child support or post-separation support.[6] The $150 per month was insufficient for Plaintiff's and the children's living expenses.

Plaintiff called Defendant. For approximately the last five years, Defendant worked as a merchandise financial planner for Belk. He earned, including a bonus, $11,037.10 monthly. Although the bonus was not guaranteed, Defendant received a bonus from 2011 to 2015. However, Defendant clarified the most recent bonus was not based on performance and "was strictly change in control[.]" Defendant

[5] Plaintiff estimated the bonus at $20,000, with a take home amount of $13,267.

[6] Plaintiff described Defendant's payments as "[u]p to $150 every other week, some weeks he didn't pay any, some weeks it was $100[.]"

calculated his shared family expenses at $2,792.83 per month. Including his "extensive" credit card debt, Defendant had total monthly expenses of $3,148.93.

Defendant admitted to having a profile on Adult Friend Finder, a website. However, Defendant denied cheating on Plaintiff. He lied to Plaintiff in November 2013 about the six other women, in an attempt to show her "what it feels like to be cheated on[.]"

Plaintiff rested her case, and Defendant testified again, this time on his own behalf. Following the parties' separation, Defendant made payments on the former marital home in New Jersey. Specifically, he paid $582 a month, to cover the difference between the rent income and mortgage payment owed. Sometime before the trial, the parties sold the home in New Jersey and rendered a $25,126 profit, held in trust. Prior to the trial court's award of post-separation support, Defendant paid "[e]very expense" for Plaintiff and their children.

On 29 September 2016, the trial court entered an order on child support, alimony, equitable distribution, and attorney's fees. The trial court found Plaintiff earned $28,696 annually ($2,391.33 monthly) and Defendant earned $131,626 annually ($10,968.83 monthly). The trial court further found Defendant maintained medical insurance for the children, at $150 per month. The trial court ordered Defendant to pay $1,844.82 per month in child support in accordance with Worksheet A and required Defendant to maintain the health insurance policies for the children.

The trial court concluded: (1) Defendant was the supporting spouse; (2) Plaintiff was a dependent spouse; and (3) Plaintiff was entitled to $904 a month in alimony, for seven years. In addition to prospective alimony in the amount of $904, the trial court ordered Defendant to pay $904 a month "for the period of January 2014 through November 2014[.]" The trial court concluded an equal distribution of marital property was *not* equitable and based its conclusion "upon the evidence presented and in consideration of the distributive factors set forth in N.C.G.S. § 50-20(c) (1-12)[.]"[7] The trial court denied Plaintiff's claim for attorney's fees.

On 7 October 2016, Defendant filed notice of appeal. In an order entered 6 January 2017, the trial court awarded Plaintiff primary physical custody of the children, with Defendant having visitation. On 10 February 2017, Plaintiff filed notice of appeal.[8]

II. Defendant's Appeal

B. Standards of Review

In reviewing the trial court's order of child support, "our review is limited to a determination whether the trial court abused its discretion." *Spicer v. Spicer*, 168

[7] The trial court did not explicitly state the percentages of the estate it awarded either party. In his brief, Defendant asserts he received only forty-four percent of the marital estate, with Plaintiff receiving the remaining fifty-six percent.

[8] Neither party argues the other filed untimely notice of appeal. We note Defendant filed his notice of appeal following the 29 September 2016 order. However, at that point, the trial court still had not decided custody of the children. In an order entered 6 January 2017, the trial court entered an order regarding custody. Then Plaintiff filed her notice of appeal on 10 February 2017. Regardless of any possible defects in either parties' notice of appeal, we treat the appeals as petitions for writ of certiorari. In our discretion, we grant the petitions and address the merits of both parties' appeals.

N.C. App. 283, 287, 607 S.E.2d 678, 682 (2005) (citing *Leary v. Leary*, 152 N.C. App. 438, 441, 567 S.E.2d 834, 837 (2002)). Our Court is bound by the trial court's findings if there is competent evidence to support them. *Monds v. Monds*, 46 N.C. App. 301, 302, 264 S.E.2d 750, 751 (1980) (citation omitted). "The trial court must, however, make sufficient findings of fact and conclusions of law to allow the reviewing court to determine whether a judgment, and the legal conclusions that underlie it, represent a correct application of the law." *Spicer*, 168 N.C. App. at 287, 607 S.E.2d at 682 (citation omitted).

We review a trial court's equitable distribution for abuse of discretion. *Wiencek-Adams v. Adams*, 331 N.C. 688, 691, 417 S.E.2d 449, 451 (1992) (citation omitted). "Only a finding that the judgment was unsupported by reason and could not have been a result of competent inquiry, or a finding that the trial judge failed to comply with the statute, will establish an abuse of discretion." *Id.* at 691, 417 S.E.2d at 451 (internal citations and citation omitted).

We review entitlement to alimony *de novo*. *Rickert v. Rickert*, 282 N.C. 373, 379, 193 S.E.2d 79, 82 (1972). We review the amount of alimony awarded for abuse of discretion. *Alvarez v. Alvarez*, 134 N.C. App. 321, 323, 517 S.E.2d 420, 422 (1999) (citation omitted).

B. Analysis

Defendant argues the trial court: (1) erred in calculating child support; (2) erred in determining alimony; (3) failed to award him credit of post-separation payments on marital property; and (4) failed to make proper findings to support an unequal distribution of marital property. We address his arguments in turn.

1. Child Support Award

Defendant contends the trial court committed two errors in calculating the amount of child support. First, he argues the trial court erred in determining his income. Second, he argues the trial court erred in its completion of Worksheet A by failing to credit his monthly payment for the children's health insurance. We agree.

Ordinarily, for child support, the trial court uses a parent's actual income at the time the trial court enters its order. *Holland v. Holland*, 169 N.C. App. 564, 568, 610 S.E.2d 231, 234 (2005) (citations omitted). However, bonuses earned are included in the North Carolina Child Support Guidelines' definition of income. *Hinshaw v. Kuntz*, 234 N.C. App. 502, 505, 760 S.E.2d 296, 299 (2014) (quoting N.C. Child Support Guidelines, 2012 Ann. R. N.C. 51).

Here, the trial court found Defendant earned $10,968.83 per month. At trial, Defendant testified he earned $11,037.10, including a non-guaranteed bonus. In a financial affidavit, Defendant stated he earned $9,895.60 in salary and $1,141.50 in a non-guaranteed bonus. The trial court's finding is neither Defendant's stated salary amount nor the amount to which Defendant testified at trial. Although Plaintiff

provides this Court with methodologies the trial court *may have used*, our review is limited to the trial court's order, and Plaintiff's guesses as to the calculation of Defendant's income are insufficient.[9] Indeed, Plaintiff admits there is a difference between Defendant's financial affidavit and the trial court's finding on Defendant's income, but characterizes the difference as "a negligible difference[.]" We conclude the finding is not supported by competent evidence. We vacate the finding and remand for further findings regarding Defendant's income.

Second, Defendant contends the trial court erred by failing to properly apply a $150 credit for health insurance payments. Plaintiff concedes the trial court failed to properly account for this payment in its child support calculation using Worksheet A. The trial court found Defendant "maintains medical insurance for the minor children at a rate of $150.00 per month." However, the trial court failed to enter this expense as a non-custodial parent adjustment in Worksheet A. Accordingly, we vacate the amount of child support calculated pursuant to Worksheet A and remand for a recalculation.

In conclusion, we vacate the trial court's calculation of Defendant's income and amount of child support owed under Worksheet A. We remand for further findings

[9] Additionally, Plaintiff argues in her appellee brief that the trial court erred in reducing Defendant's income by the amount of spousal support paid. However, Plaintiff did not raise this issue in her cross-appeal, and any appellate argument on this basis is not properly before this Court for review.

regarding Defendant's income and a recalculation, with proper credit given for Defendant's health insurance payments, under Worksheet A.

2. Alimony

Defendant presents several arguments regarding alimony. First, Defendant argues the trial court erred in determining Plaintiff to be a dependent spouse. We disagree.

"A dependent spouse must be either actually substantially dependent upon the other spouse or substantially in need of maintenance and support from the other spouse." *Carpenter v. Carpenter*, 245 N.C. App. 1, 4, 781 S.E.2d 828, 832 (2016) (internal quotation marks and citation omitted). "If the trial court determines that a party's reasonable monthly expenses exceed her monthly income, and that she has no other means with which to meet those expenses, it may properly conclude the party is dependent." *Id.* at 4, 781 S.E.2d at 833 (citing *Beaman v. Beaman*, 77 N.C. App. 717, 723, 336 S.E.2d 129, 132 (1985)). When determining whether a party is substantially in need of maintenance, the "trial court must look at the parties' income and expenses in light of their accustomed standard of living when determining whether a party is properly classified as a dependent spouse." *Id.* at 4, 781 S.E.2d at 833 (quotation marks and citations omitted). When determining dependency, the trial court considers parties' accustomed standard of living. *Williams v. Williams*, 299 N.C. 174, 180, 182-84, 261 S.E.2d 849, 854-56 (1980).

Here, the trial court found:

> 25. Throughout the marriage, the parties maintained a comfortable lifestyle . . . .
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> …
>
> 27. [Plaintiff]'s shared monthly family expenses are $1,943.63, which the Court finds are reasonable.
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> 28. [Plaintiff]'s individual expenses are $586.20, which the Court finds are reasonable.
>
> 29. [Plaintiff]'s average debt service expenses are $764.00 per month, which the Court finds are reasonable.
>
> 30. The total of [Plaintiff]'s monthly expenses is $3,294.83.
>
> 31. [Plaintiff]'s income is $2,391.00 per month, leaving a deficit of $903.83 per month.
>
> 32. [Plaintiff] is in need of $904.00 per month to meet her reasonable needs and expenses.
>
> 33. Considering [Defendant]'s income and [Defendant]'s reasonable needs and expenses, [Defendant] has the ability to pay [Plaintiff] alimony in the amount of $904.00 per month and shall be ordered to pay said amount.

Defendant argues the trial court's finding regarding the parties' standard of living is unsupported by the evidence. Defendant also contends the trial court's findings regarding the parties' standard of living are "overly broad and insufficient" to support the conclusion Plaintiff is the dependent spouse.[10] Finding of Fact Number

[10] Defendant does not present any argument regarding any other possible missing findings for whether Plaintiff was a dependent spouse. "It is not the duty of this Court to supplement an

25 states the parties maintained a "comfortable" standard of living during marriage. Upon review of the record, we conclude this finding is supported by competent evidence.

Additionally, Findings of Fact Numbers 27, 28, and 29 discuss Plaintiff's income and expenses, all of which the trial court found to be "reasonable." Defendant does not challenge these findings, and they are binding on appeal. *Koufman v. Koufman*, 330 N.C. 93, 97, 408 S.E.2d 729, 731 (1991) (citations omitted) (holding unchallenged findings of fact are presumed to be supported by competent evidence and are binding on appeal). We conclude: (1) the record contains competent evidence to support the findings; (2) the supported findings and unchallenged findings support the trial court's conclusion Plaintiff was a dependent spouse; and (3) the trial court properly concluded Plaintiff was a dependent spouse. Accordingly, we affirm this portion of the order.

Second, Defendant argues the trial court erred in determining him to be a supporting spouse. We agree.

A supporting spouse "means a spouse . . . upon whom the other spouse is actually substantially dependent for maintenance and support or from whom such spouse is substantially in need of maintenance and support." N.C. Gen. Stat. § 50-

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appellant's brief with legal authority or arguments not contained therein." *Goodson v. P.H. Glatfelter Co.*, 171 N.C. App. 596, 606, 615 S.E.2d 350, 358 (2005). Accordingly, we only address the standard of living findings and the supporting spouse conclusion.

16.1A(5) (2017). "Just because one spouse is a dependent spouse does not automatically mean the other spouse is a supporting spouse." *Barrett v. Barrett*, 140 N.C. App. 369, 373, 536 S.E.2d 642, 645 (2000) (citation omitted). "A surplus of income over expenses is sufficient in and of itself to warrant a supporting spouse classification." *Id.* at 373, 536 S.E.2d at 645 (citing *Beaman*, 77 N.C. App. at 723, 336 S.E.2d at 132). "If the trial court fails to make findings regarding the parties' expenses, we must remand for entry of additional findings." *Kabasan v. Kabasan*, ___ N.C. App. ___, ___, 810 S.E.2d 691, ___ (Jan. 18, 2018) (No. COA17-254) (citing *Rhew v. Rhew*, 138 N.C. App. 467, 531 S.E.2d 471 (2000)).

In the order, Finding 33 states, "Considering [Defendant]'s income and [Defendant]'s reasonable needs and expenses, [Defendant] has the ability to pay [Plaintiff] alimony in the amount of $904.00 per month and shall be ordered to pay said amount." Other findings in the order indicate Defendant's income, but the order contains no findings regarding Defendant's expenses or needs. Thus, the conclusion Defendant was a supporting spouse is unsupported by the findings. *Id.* at ___, 810 S.E.2d at ___ (citation omitted). Therefore, we vacate the trial court's determination Defendant was a supporting spouse and remand for further findings.

In his remaining issues regarding alimony, Defendant argues the trial court erred in its calculation of Defendant's income, failed to make the required findings of fact to support the award of alimony, and erred in ordering Defendant to pay alimony

arrears. Because we vacate the trial court's determination of Defendant as the supporting spouse, we also vacate the trial court's award of alimony. Thus, we need not address Defendant's remaining arguments regarding alimony here and decline to do so.

3. Post-Separation Payments on Marital Property

Defendant next contends the trial court erred by failing to credit Defendant for post-separation payments made on the parties' home in New Jersey. We agree.

Generally, a spouse is entitled to some consideration for any post-separation payments made by that spouse for the benefit of the marital estate. *Edwards v. Edwards*, 110 N.C. App. 1, 11, 428 S.E.2d 834, 838 (1993). The trial court may treat the payments as a distributional factor under N.C. Gen. Stat. § 50-20(c) or as a direct credit. *Walter v. Walter*, 149 N.C. App. 723, 731-32, 561 S.E.2d 571, 577 (2002) (citing *Hendricks v. Hendricks*, 96 N.C. App. 462, 467, 386 S.E.2d 84, 87 (1989)). *See* N.C. Gen. Stat. § 50-20(c) (2017). If the trial court distributes the marital property to the spouse who did not make payments or have post-separation use of the property, then the payments must be considered as a credit or distributional factor. *Id.* at 732, 561 S.E.2d at 577 (citations omitted). However, if the paying spouse receives the property, then the consideration of the payments is within the trial court's discretion, after weighing the equities of the case. *Id.* at 732, 561 S.E.2d at 577 (citation omitted).

Here, the parties stipulated their home in New Jersey was marital property, subject to distribution. Prior to distribution, the parties sold the New Jersey home. At trial, Defendant testified about the payments he made on the New Jersey home mortgage. In its order, the trial court found and concluded it "was without sufficient evidence to classify, value[,] and distribute" Defendant's payments. The trial court split the proceeds equally.

We conclude the trial court, at least in part, distributed the marital property to Plaintiff, who did not make the payments or have post-separation use of the property. Under our case law, the trial court is required to either consider Defendant's payments as a credit or a section 50-20(c) factor—to the extent the trial court distributed the property to Plaintiff. *Walter*, 149 N.C. App. at 732, 561 S.E.2d at 577 (citations omitted). While we note Defendant testified to the amount of the payments, the trial court is not required to find Defendant's testimony to be credible. *In re Whisnant*, 71 N.C. App. 439, 441, 322 S.E.2d 434, 435 (1984) (citation omitted) (stating in non-jury proceedings it is the trial judge's duty to "weigh and consider all competent evidence, and pass upon the credibility of the witnesses, the weight to be given their testimony and the reasonable inferences to be drawn therefrom"). However, our appellate review is frustrated because the trial court did not find Defendant's testimony was *not* credible regarding the payments. Thus, there is

evidence of Defendant's payments, no finding regarding credibility, and a failure to either credit Defendant or consider the payments under section 50-20(c).

Based on the evidence presented, we conclude the trial court erred by failing to properly credit Defendant's payments or consider the payments as a section 50-20(c) factor, to the extent the trial court distributed the property to Plaintiff. Accordingly, we vacate the trial court's equitable distribution award and remand for findings and conclusions in accordance with this opinion.[11]

4. Unequal Distribution

Finally, Defendant contends the trial court erred by failing to make the requisite findings for an equitable distribution under N.C. Gen. Stat. § 50-20(c). Because we vacate the trial court's award of equitable distribution, we need not address this issue, as the additional findings we require may alter the trial court's calculations.

III. Plaintiff's Appeal

A. Standards of Review

Whether a party meets the statutory eligibility requirements for attorney's fees is a question of law, subject to *de novo* review. *Barrett*, 140 N.C. App. at 374, 536 S.E.2d at 646 (citation omitted). However, the amount of attorney's fees awarded are

[11] We emphasize it is within the trial court's province, as the fact finder, to determine the weight and credibility of Defendant's testimony. We make no conclusions regarding these issues. However, without a finding that the trial court did *not* find Defendant's testimony was credible, there was evidence of Defendant's post-separation payments on marital property.

within the trial court's discretion. *Ellis v. Ellis*, 238 N.C. App. 239, 243, 767 S.E.2d 413, 416-17 (2014) (citation omitted); *Barrett*, 140 N.C. App. at 375, 536 S.E.2d at 647 (citing *Spencer v. Spencer*, 70 N.C. App. 159, 169, 319 S.E.2d 636, 644 (1984)).

As stated *supra*, we review the amount of alimony awarded for abuse of discretion. *Alvarez*, 134 N.C. App. at 323, 517 S.E.2d at 422 (citation omitted).

B. Analysis

Plaintiff presents two arguments on appeal: (1) whether the trial court erred in denying her request for attorney's fees; and (2) whether the trial court erred in its determination of alimony and post-separation support. We address her arguments in turn.

1. Attorney's Fees

Plaintiff first argues the trial court erred in denying her request for attorney's fees. We conclude the trial court's denial is unsupported by findings of fact. Accordingly, we vacate the denial and remand for further findings.

Under N.C. Gen. Stat. § 50-16.4, "At any time that a dependent spouse would be entitled to alimony . . . the court may, upon application of such spouse, enter an order for reasonable counsel fees, to be paid and secured by the supporting spouse in the same manner as alimony." N.C. Gen. Stat. § 50-16.4 (2017). "Before granting an award of attorney's fees, the trial court must determine, as a matter of law, that the spouse seeking the award is dependent, and that the spouse is without sufficient

means to subsist during the prosecution of the suit and to defray the necessary expenses." *Owensby v. Owensby*, 312 N.C. 473, 475, 322 S.E.2d 772, 773-74 (1984) (citation omitted).

While the trial court is not required to award attorney's fees, the trial court's award or denial of attorney's fees must be supported by sufficient findings of fact. *Friend-Novorska v. Novorska*, 143 N.C. App. 387, 396-97, 545 S.E.2d 788, 795, *aff'd per curiam*, 354 N.C. 564, 556 S.E.2d 294 (2001) (remanding for further findings regarding whether plaintiff possessed sufficient means to defray the suit and concluding the trial court's denial of her request for attorney's fees was unsupported by the findings). *See also George v. George*, No. COA07-66, 2007 WL 4105882, at *5 (unpublished) (N.C. Ct. App. Nov. 20, 2007) (remanding for further findings regarding whether plaintiff was a dependent spouse and concluding the denial of attorney's fees was unsupported by the findings).

Here, the trial court concluded Plaintiff was a dependent spouse and entitled to alimony. The trial court then denied Plaintiff's request for attorney's fees. However, the trial court made no findings regarding whether she possessed sufficient means to pay her own attorney's fees. As such, the conclusion denying Plaintiff's request for attorney's fees is unsupported by the findings of fact. *Friend-Novorska*, 143 N.C. App. at 396-97, 545 S.E.2d at 795.

Plaintiff asks this Court to find the fact that she had insufficient means to defray the expenses of the suit and reverse the trial court's denial of her request for attorney's fees. However, the trial court, as the fact-finder, should make the findings. Accordingly, we vacate this portion of the order and remand for further findings consistent with this opinion.

2. Alimony and Post-Separation Support

Plaintiff next contends the trial court failed to properly "set forth the reasons for its award or denial of alimony and, if making an award, the reasons for its amount, duration, and manner of payment[,]" pursuant to N.C. Gen. Stat. § 50-16.3A(c) (2017). As stated above, we vacate the trial court's award of alimony, due to the lack of findings to support the conclusion that Defendant is the supporting spouse. Accordingly, the trial court's award of alimony is also vacated. Thus, we need not address Plaintiff's argument regarding the trial court's award of alimony.

IV. Conclusion

For the reasons stated above, we affirm the trial court's determination of Plaintiff as the dependent spouse. We vacate the following: (1) the determination of Defendant as the supporting spouse; (2) the award of alimony; (3) the calculation and award of child support; (4) the equitable distribution award; and (5) the denial of Plaintiff's request for attorney's fees. We remand for findings and analysis consistent

with this opinion. In its discretion, the trial court may take additional evidence on these issues.

VACATED AND REMANDED IN PART; AFFIRMED IN PART.

Judges DIETZ and ZACHARY concur.

Report per Rule 30(e).