

NOT FOR PUBLICATION WITHOUT THE
APPROVAL OF THE APPELLATE DIVISION

SUPERIOR COURT OF NEW JERSEY
APPELLATE DIVISION
DOCKET NO. A-2330-11T1

GLADYS MITCHELL,

Plaintiff-Respondent,

v.

FREDDIE MITCHELL,

Defendant-Appellant.

Submitted September 18, 2013 — Decided February 12, 2015

Before Judges Lihotz, Maven and Hoffman.

On appeal from the Superior Court of New Jersey, Chancery Division, Family Part, Morris County, Docket No. FM-14-1086-10.

Maynard & Sumner, LLC, attorneys for appellant (Matthew A. Sumner, on the briefs).

Shauger & Friedland, LLC, attorneys for respondent (Holly M. Friedland, on the brief).

The opinion of the court was delivered by

MAVEN, J.A.D.

Defendant Freddie Mitchell appeals from the final judgment of divorce (FJD) entered following a default hearing conducted pursuant to Rule 5:5-10, subsequent to the entry of an order suppressing pleadings pursuant to Rule 4:23-5(a)(2). We

conclude the trial court erred in suppressing defendant's pleadings with prejudice and entering default. We reverse and remand for consideration, anew, of plaintiff Gladys Mitchell's motion to suppress defendant's pleadings with prejudice and defendant's cross-motion to reinstate his pleadings. In view of our conclusion, on remand, for the reasons that follow, the trial judge shall enter an order bifurcating the FJD leaving undisturbed the dissolution of the marriage, plaintiff's requested name change, and the award of custody of the children. We vacate the provisions of the FJD awarding equitable distribution of assets and liabilities, alimony, child support and counsel fees and costs.

I.

Plaintiff and defendant married on November 26, 1996. Two children were born of the marriage, a daughter born in 1999, and a son born in 2002. In 2009, the parties' relationship deteriorated amid financial strain and allegations of domestic violence. They separated when defendant moved out of the marital home in December 2009.

Plaintiff filed a pro se complaint for divorce in February 2010. Defendant filed a pro se appearance. The ensuing divorce and custody proceedings were very contentious and plaintiff's efforts to obtain discovery from defendant were met with

resistance. In June 2010, plaintiff, acting on her own, sent defendant interrogatories, which sought information regarding the family's monthly expenses, as well as information and records showing defendant's interest in Camelot Homes, Excalibur Media Marketing, Excalibur Financial Group, The Knob Shop, and Black Knight Investments (Black Knight), all of which were part of defendant's asserted real estate business. In August 2010, the court transferred residential custody of the children to defendant because plaintiff lacked stable housing.

On September 14, 2010, the court held a case management conference. Defendant provided answers to plaintiff's pro se interrogatories in which he denied owning any investments in real estate or other businesses. Plaintiff's counsel served defense counsel with a notice to produce documents and to answer additional interrogatories. That same day, the court entered a discovery scheduling order, which required the parties to "propound Interrogatories/Notices to Produce," produce "proof of bank account balances, pension(s) or other records," and to "complete [d]epositions" by October 28, 2010. The court also directed the parties to complete real estate, business and pension appraisals by October 12, 2010.

Thereafter, the court entered orders on October 28, 2010, January 21, February 22, and April 29, 2011, which addressed

continuing discovery issues between the parties. In particular, in the October 28, 2010 order, the court awarded plaintiff \$1500 monthly pendente lite support and \$2500 in counsel fees. The court denied defendant's request for child support and counsel fees, and ordered him to provide an accounting of the parties' 2009 income tax refund and proceeds he received from the surrender of plaintiff's Dodge vehicle.

Defendant moved for reconsideration of the October 28 order and plaintiff filed a cross-motion to compel defendant to produce the court-ordered accountings. On January 21, 2011, the court found defendant violated the October 28 order by failing to provide the accountings. The court again ordered defendant to provide the accountings, provide more specific answers to plaintiff's interrogatories, and to comply with plaintiff's Notice to Produce within ten days. The court awarded plaintiff \$1550 in counsel fees. The court denied defendant's cross-motion to alter the custody and visitation arrangement, as the parties had agreed to allow the Division of Youth and Family Services to address allegations of abuse or neglect by plaintiff.

In February 2011, defendant provided plaintiff his responses to the Notice to Produce, which plaintiff considered "grossly deficient." Plaintiff requested more complete answers.

The court held a second case management conference on February 22, 2011, after which the court ordered both parties to exchange case information statements (CISs) by March 7, 2011, and to provide complete discovery responses by March 18, 2011. According to plaintiff, as of March 29, 2011, defendant had not fully responded to plaintiff's discovery requests related to his assets and financial status.

In April, plaintiff moved to suppress defendant's pleadings without prejudice under Rule 4:23-5(a)(1) because of his failure to comply with orders to provide discovery and to pay attorney's fees. On April 29, 2011, the court heard oral argument. Plaintiff argued defendant's failure to provide complete discovery impeded her ability to proceed with her case. Defendant alleged plaintiff had stolen documents from their house; thus, she had all the documents she was requesting from him. He insisted he had provided plaintiff all of the discovery documents in his possession.

The court did not accept defendant's reason for his noncompliance stating, he had not

given any bank accounts, bank statements
credit card statements, anything for the
past year. And he says well, she took
everything. I can't believe that now.
She's out of the house over a year.
. . . there [is] nothing before me that
makes me believe that he's even attempting
to comply with discovery.

The court suppressed defendant's pleadings without prejudice for failure to provide discovery, as well as for his failure to comply with two orders to pay counsel fees. The court ordered defendant to pay plaintiff an additional \$1500 in counsel's fees. The court also granted defendant's cross-motion, in part, reducing his pendente lite spousal support obligation from \$1500 to \$1250 per month.

On June 29, plaintiff moved to dismiss defendant's pleadings with prejudice pursuant to Rule 4:23-5(a)(2). Defendant responded by filing a cross-motion to reinstate his pleadings and for other relief. Prior to the return date of this motion, defendant provided discovery to plaintiff including (1) a January 19, 2011, statement valuing his pension at \$216,014; (2) a December 3, 2010 pay check stub showing gross income of \$1087, but with net pay of \$141 after the deduction of mandatory pension contributions (\$328), mandatory union dues (\$162), and repayment of a pension loan (\$411); (3) a 2010 W-2 reporting annual gross income of \$73,238; (4) foreclosure documents showing pay-off amounts for two mortgages as of August 2010 of \$222,473 and \$32,901; (5) a January 5, 2011 Scaturro Appraisal valuing the marital home at \$265,000, and (6) a statement from his mother, dated April 14, 2011, that she and

her husband had owned property in Georgia, which she sold after her husband died.

The court heard oral argument on these motions on August 5, 2011. Plaintiff's counsel acknowledged having received some discovery from defendant and said:

For the discovery, yes they have produced about two phonebooks thick of documents that are for the most part worthless. There are three copies of about fifty pages' worth of mortgage records for intention to foreclose. They're produced three times in those papers.

There are notices about three properties in Arkansas, a property in Texas, a property on Phoenix Avenue, [Morristown, New Jersey,] a property in South Carolina, all the default notices about not paying taxes and assessment fees for 2009 but there are no records of the deeds or the acquisition. There are no records where the money came from to purchase all those. There's no records about what actually happened after those defaults were entered.

Plaintiff's counsel argued defendant omitted critical documents, such as ownership and financial records for six properties, credit card statements, household bills, and records regarding defendant's work hours, investments, pension and pension loan.

Defendant argued he fully complied with the April 29 discovery order and provided all of the documents he had in his possession. He maintained that delays in providing all of the information was caused by plaintiff's conduct taking records

from the home, and the cost of obtaining copies of the bank records. Finally, defendant implored the court to consider other actions short of default, such as drawing a negative inference from his failure to produce documents or barring the introduction of any of his documents not produced in discovery.

Upon conclusion of oral argument, the court found defendant inexcusably failed to comply with court orders to produce the requested discovery stating, "It [is] clear to the [c]ourt that [defendant] has not made his best efforts to comply with discovery, well overdue. The delay is only because of him." The court rejected defendant's plea for less onerous sanctions, finding that even if he were to bar the submission of evidence or draw a negative inference against any evidence defendant wanted to submit, it would not help plaintiff who needed the discovery to prove her claims for alimony and equitable distribution. Thus, the court suppressed defendant's pleadings with prejudice, and ordered defendant to pay plaintiff \$1090 for counsel fees. The court entered default and ordered plaintiff to file a notice of final judgment, pursuant to Rule 5:5-10.

On November 7, the court conducted a final hearing, at which both parties appeared with counsel. Other than testimony related to the grounds for divorce and her request to resume use of her maiden name, plaintiff offered no testimony on her claim

for equitable distribution.

Plaintiff's counsel presented the distribution plan as set forth in plaintiff's proposed notice of final judgment. Among the items identified for distribution, plaintiff listed the marital home, valued at \$265,000 and three businesses owned in part by defendant: Black Knight, Camelot Homes, and Excalibur. She claimed Black Knight owned property in Arkansas valued at \$15,562; South Carolina, valued at (-\$465); Texas, valued at \$7500; and Pennsylvania, valued at \$5000. Plaintiff also claimed Camelot Homes owned a property in Morristown valued at \$383,970. Plaintiff identified the Georgia property, which she valued at \$55,000 based upon her belief the property had been sold for that amount.

In her updated CIS, plaintiff reported marital expenses of \$7779; lifestyle expenses of \$5395; anticipated rent (\$2000); child support (\$500); and debt service (\$750). Plaintiff listed outstanding debts and court-ordered expenses in the amount of \$19,134, including counsel fees.

The equitable distribution plan proposed that plaintiff be relieved of all debt associated with the marital home. In exchange, she would sign a quitclaim deed transferring her interest in the marital home to defendant. In addition, plaintiff would waive her interest in defendant's real estate

business and the properties owned through those entities. She requested one-half of the value of: (1) the real estate located in Georgia; (2) the funds in the parties' bank accounts; (3) defendant's retirement account valued at \$86,000 as of the time of the complaint, according to defendant's CIS, with defendant solely responsible for \$43,000 in loans he took from the pension fund after plaintiff filed her complaint; (4) the parties' 2009 income tax refund valued at \$3135; (5) the trade-in value defendant received in exchange for plaintiff's Dodge of \$1385.60; and (6) the value of the household furnishings is \$10,000.

Plaintiff requested \$2500 in monthly alimony, and requested defendant pay the outstanding debts and counsel fees as supplemental alimony in the amount of \$500 per month, for a period of four-and-one-half years. With respect to child support, she offered to pay \$123 in weekly child support for six months, then an increased amount of \$196 per week.

Defense counsel objected to several of plaintiff's requests. He argued plaintiff failed to present evidence to support the values attributed to the bank account and credit card balances, or the marital assets and debts as of the date of the filing of the divorce complaint. He also objected to assuming full responsibility for the pension loan, arguing

defendant borrowed the monies to support the children since he received no child support from plaintiff. Though defendant did not contest the values provided for the trade-in of the Dodge and the 2009 tax refund, defense counsel argued those monies were also used to care for the children.

Defendant claimed the Georgia property was owned by his parents and not subject to equitable distribution. In support of this claim, defense counsel argued defendant had produced, in discovery, a signed statement from his mother saying that she and her husband had owned the property, and she sold it after he died. To rebut this claim, plaintiff produced e-mails from a real estate agent in Georgia addressed to plaintiff and defendant regarding the sale of the property. Defense counsel also challenged the valuation of \$10,000 for the household furnishings.

The court found plaintiff's proposed plan for equitable distribution to be fair and the values ascribed to the assets and debts to be reasonable. The court awarded equitable distribution in accordance with plaintiff's plan over defendant's objections. However, the court reserved decision on the calculation of alimony and child support and requested the parties to submit updated CISSs.

On December 2, the court issued a supplemental FJD and

statement of reasons. On the issue of alimony, the court referenced N.J.S.A. 2A:34-23(b). The court found the needs of the parties and defendant's ability to pay heavily weighted factors in determining the alimony award. The court noted although plaintiff had been out of the workforce raising the children, she was presently in school and had "significant educational credentials," which the court believed would allow her to obtain meaningful employment in the near future. The court imputed an annual income of \$30,000 to her, which the court expected plaintiff to earn within twenty-six weeks of the date of the divorce. The court found defendant, a policeman who had earned approximately \$97,886 in 2011, had the ability to pay alimony. The court characterized the marital lifestyle as modest, but higher than what the parties could independently maintain. The court determined living expenses reported by plaintiff on her CIS were "entirely appropriate and comparable to the standard of living" she enjoyed during the marriage. The court also considered other factors it deemed relevant such as the indebtedness on the marital home; the nature of the parties' relationship; and plaintiff's unstable residence.

The court awarded plaintiff monthly alimony of \$1935 for ten years. The court also ordered defendant to pay \$500 per month in supplemental alimony for fifty-four months,

representing his share of the enumerated debts, and the court ordered counsel fees owed to plaintiff, which plaintiff incurred as a result of defendant's actions with respect to discovery demands.

The court calculated plaintiff's child support obligation as \$75 per week, using the New Jersey Child Support Guidelines ("Guidelines"). The obligation was scheduled to increase to \$137 after twenty-six weeks, presuming plaintiff then would be employed on a full-time basis. The court granted plaintiff other ancillary relief as well. This appeal followed.

II.

Defendant raises twenty-three arguments to support his contention the trial court committed reversible error. Among the specific challenges, defendant includes the trial court erred (1) in striking his answer and counterclaim, and proceeding by default; (2) by awarding equitable distribution without considering proofs; (3) in the calculation of alimony, child support and the award of counsel fees; (4) by including judgment and acceleration clauses; and (5) by awarding plaintiff "supplemental" alimony as a means to collect overdue or outstanding debts.

Our standard of review is a limited one. Given the Family Part's special expertise in matrimonial and other family

disputes, appellate courts must accord particular deference to the factual determinations of trial judges hearing such cases. Cesare v. Cesare, 154 N.J. 394, 411-13 (1998). An appellate court "will accord deference unless the trial court's findings went so wide of the mark that a mistake must have been made." N.J. Div. of Youth & Family Servs. v. M.M., 189 N.J. 261, 279 (2007) (citations and internal quotation marks omitted). We are cognizant, however, that we owe no special deference to a Family Part judge's conclusions of law, which we review de novo. Manalapan Realty, L.P. v. Twp. Comm. of Manalapan, 140 N.J. 366, 378 (1995).

A.

Defendant argues that the court erred by striking his pleadings with prejudice because (1) he provided plaintiff a number of discovery responses and documents; (2) plaintiff was in possession of or had access to nearly all of the information she had requested from him; and (3) other remedies were available under Rule 4:23-2. Because of the limited findings by the court and the record presented, we have no basis to evaluate whether defendant satisfactorily responded to plaintiff's discovery demands, whether exceptional circumstances precluded his full compliance with those demands, or whether remedies other than suppression of his pleadings were more appropriate,

in light of what appears to be significant documentary evidence provided to plaintiff. Following our review of this record, we determine the trial judge order suppressing defendant's pleadings with prejudice is not supported and must be vacated.

Rule 4:23-5 addresses motions to dismiss a party's pleadings for failure to provide discovery and involves a two-step process. In relevant part, the Rule permits the party entitled to discovery to move, on notice, for an order dismissing or suppressing the pleading of the delinquent party without prejudice. R. 4:23-5(a)(1). If the required discovery is thereafter not provided within the requisite time period under the Rule, the party seeking the discovery may move for the entry of an order of dismissal or suppression with prejudice.

Rule 4:23-5(a)(2) provides:

The motion to dismiss or suppress with prejudice shall be granted unless a motion to vacate the previously entered order of dismissal or suppression without prejudice has been filed by the delinquent party and either the demanded and fully responsive discovery has been provided or exceptional circumstances are demonstrated.

The main objective of the Rule is to compel answers to interrogatories and production of documents, not to punish the delinquent party by "the loss of his cause of action or defense." Zimmerman v. United Servs. Auto. Ass'n, 260 N.J. Super. 368, 374 (App. Div. 1992). This objective is consistent

with a basic tenet of our jurisprudence that "resolution of disputes on the merits [is] to be encouraged rather than resolution by default for failure to comply with procedural requirements." Saint James AME Dev. Corp. v. City of Jersey City, 403 N.J. Super. 480, 484 (App. Div. 2008). See Adedoyin v. Arc of Morris Cnty. Chapter, Inc., 325 N.J. Super. 173, 180 (App. Div. 1999); Pressler & Verniero, Current N.J. Court Rules, comment 1.1 on R. 4:23-5(a) (2015). However, achievement of the Rule's goals requires meticulous attention to its prescriptions. Adedoyin, supra, 325 N.J. Super. at 180.

The record before us demonstrates that when plaintiff filed the motion to dismiss defendant's pleadings without prejudice defendant had provided plaintiff discovery, including responses to her pro se interrogatories, answers to custody interrogatories, more specific answers to interrogatories, responses to her Notice to Produce, and a certification indicating why defendant could not produce documents he claimed plaintiff had taken from the home. Prior to the return date of the motion to suppress defendant's pleadings with prejudice, defendant had provided additional discovery to plaintiff including amended interrogatories, a current credit report, and bank account information. Plaintiff globally argued, with

respect to both motions, the submission, while voluminous, were nonetheless incomplete, deficient, or "worthless."

Contrary to plaintiff's contentions, incomplete answers cannot be automatically considered as a failure to answer under the Rule. Ibid. It was therefore incumbent on the motion judge to determine whether the discovery was sufficiently responsive to preclude the dismissal motion. Id. at 181. "Even if not fully responsive in the eyes of plaintiffs, the motion judge must determine whether the answers are within the realm of a bona fide dispute," ibid., and whether "'the real discovery dispute is not a failure to answer, but rather an alleged failure to answer in a 'fully responsive' manner.'" Ibid. (quoting Zimmerman, supra, 260 N.J. Super. at 378). As we held in Adedoyin,

[w]henver there is a bona fide dispute over responsiveness or interrogatory answers that are insufficient, the judge should identify those questions which need to be answered more specifically, whether or not a motion to compel has also been made. In this way, the parties' subsequent actions, whether taken during the ninety day restoration period or in subsequent discovery, will be informed by a judicial determination and not the subjective view of either party.

[Adedoyin, supra, 325 N.J. Super. at 182.]

Consequently, "[i]f there is a bona fide dispute over the responsiveness of the answers, then it is error to dismiss the complaint." Ibid.

When a party moves for suppression with prejudice, the motion shall be granted "unless a motion to vacate the previously entered order of dismissal or suppression without prejudice has been filed by the delinquent party and either the demanded and fully responsive discovery has been provided or exceptional circumstances are demonstrated." R. 4:23-5(a)(2). The standard applicable to defeat the motion is extraordinary circumstances, not merely good cause. Pressler & Verniero, Current N.J. Court Rules, comment 1.5 on R. 4:23-5(a)(2).

Here, the motion judge did not appropriately assess the discovery defendant provided to plaintiff by the return date of the motion to dismiss without prejudice to determine whether the answers were "within the realm of a bona fide dispute." Likewise, the motion judge made no assessment of the additional discovery provided prior to the return date of the motion to dismiss with prejudice. Nor did the judge, with respect to both motions, identify the deficiencies found in defendant's responses or identify the particular discovery demand, which required additional or more specific responses. From this record, we cannot assess whether defendant's responses are

lacking or arguably insufficient. Therefore, we are compelled to vacate the order suppressing defendant's pleadings with prejudice and entering default. On remand, as detailed in our opinion, the judge must undertake a thorough review of the claimed discovery deficiencies against defendant's purported compliance to discern whether defendant actually failed to comply with legitimate and necessary discovery requests or whether the responses provided were limited and arguably incomplete. In the event the latter determination is made, the judge must articulate with specificity, the deficiencies and shall evaluate the most appropriate remedy pursuant to Rule 4:23-5.

This determination requires the FJD be vacated, in part. The parties do not dispute the dissolution of the marriage, plaintiff's requested name-change or the ordered custody arrangement. Consequently, on remand, the judge shall entered a bifurcated judgment leaving these determinations unchanged, and vacating the remainder of the provisions, which must be retried.

B.

Our review also noted deficiencies in the procedures followed in a hearing pursuant to Rule 5:5-10, following entry

of default. In an effort to provide guidance to the court for future proceedings, we add these comments.

"It is strictly a discretionary matter for [the] court to determine and delineate the extent of defendant's participation" in the default proceeding. Scott v. Scott, 190 N.J. Super. 189, 196 (Ch. Div. 1983) (citations omitted). Cf. Douglas v. Harris, 35 N.J. 270, 277-78 (1961). Cf. Perry v. Cruden, 79 N.J. Super. 285, 289-290 (Cty. Ct. 1963).

In a divorce action, as in any civil proceeding,

[p]laintiff's burden of proof is generally the preponderance of the evidence standard. See N.J.R.E. 101(b) (1); Liberty Mut. Ins. Co. v. Land, 186 N.J. 163, 168 (2006); State v. Seven Thousand Dollars, 136 N.J. 223, 238 (1994). Under this standard, a litigant must establish that a desired inference is more probable than not. Biunno, Current N.J. Rules of Evidence, comment 5a on N.J.R.E. 101(b)(1) (2014). Divorce is a civil action. Thus, it is logical to conclude that in a default divorce proceeding where plaintiff seeks a judgment of equitable distribution, plaintiff's burden is to establish by a preponderance of the available evidence that the proposed distribution of assets and debts is equitable, rather than inequitable.

[Clementi v. Clementi, 434 N.J. Super. 529, 535 (Ch. Div. 2013).]

See Pressler and Verniero, Current N.J. Rules, comment R. 4:43-2 (2015).

Where the trial court undertakes to exercise its discretion,

it may take such proceedings as it deems appropriate under Rule 4:43-2(b) to determine the truth of the allegations, it must also 'consider whether the refusal of a party to make the discovery was flagrant and contumacious and whether the undisclosed information demanded might go to the proof of plaintiff's case.'

[Scott v. Scott, 190 N.J. Super. 189 (Ch. Div. 1983) (quoting Douglas v. Harris, 35 N.J. 270, 277-278 (1961).]

In Fox v. Fox, 76 N.J. Super. 600 (Ch. Div. 1962), the court held that cross-examination by a defaulted defendant may be allowable to argue that the proofs are "insufficient in law or fact to support the judgment which the plaintiff seeks." Id. at 604. Although the entry of a default would preclude a defendant from offering testimony in defense, it does not obviate the obligation of plaintiff to furnish proof on the issues. Scott, supra, 190 N.J. Super. at 196.

When making an award of equitable distribution, the court must consider the overall fairness of a plaintiff's proposed distribution by applying the statutory criteria for analysis of equitable distribution set forth by the New Jersey Legislature in N.J.S.A. 2A:34-23.1. This process is required even when the analysis is based largely or exclusively upon the unopposed and uncontroverted testimony and evidence presented by the

participating plaintiff. Clementi v. Clementi, 434 N.J. Super. 529, 536 (Ch. Div. 2013).

Regardless of whether default is entered, "[t]rial judges are under a duty to make findings of fact and to state reasons in support of their conclusions. . . . Naked conclusions are insufficient." Heinl v. Heinl, 287 N.J. Super. 337, 347 (App. Div. 1996); R. 1:7-4. Thus, in order to achieve a "fair resolution of a case," it is necessary for the trial court to articulate the reasons for its decision. Schwarz v. Schwarz, 328 N.J. Super. 275, 282 (App. Div. 2000). This court "will affirm an [order for] equitable distribution as long as the trial court could reasonably have reached its result from the evidence presented, and the award is not distorted by legal or factual mistake." La Sala v. La Sala, 335 N.J. Super. 1, 6 (App. Div. 2000)(citation omitted).

These principles, likewise, hold true when establishing an award of alimony. The trial judge must apply the factors set forth in N.J.S.A. 2A:34-23(b), when determining eligibility for alimony, the type of alimony to be awarded, and the amount of any such award. When determining whether an award of alimony is warranted, a trial judge must issue specific findings on the evidence presented weighing the objective standards delineated

in N.J.S.A. 2A:34-23(b). Clark v. Clark, 429 N.J. Super. 61, 73 (2012).

C.


Given our determination to vacate the FJD, we need not address, in depth, the remaining arguments raised on appeal pertaining to child support, tax exemptions, life insurance and counsel fees. These matters may be presented to the trial court anew on remand. However, with respect to child support, we agree with defendant that, as currently presented, the court's calculation does not reflect consideration of defendant's mandatory payroll contributions and deductions, as required by the Guidelines contained in Appendix IX of the Court Rules. R. 5:6A. On remand, the court must recalculate the child support in accordance with the Guidelines and ensure that all eligible income, expenses, deductions and contributions are applied.

In sum, we reverse and remand for consideration, anew, the orders suppressing defendant's pleadings with prejudice and denying defendant's cross-motion to reinstate his pleadings. In addition, we vacate the provisions of the FJD awarding equitable distribution of assets and liabilities, alimony, child support and counsel fees and costs, and direct the trial court judge to bifurcate the FJD leaving undisturbed the dissolution of the marriage, plaintiff's requested name change and the award of

custody of the children.

Vacated in part, reversed and remanded in part. We do not retain jurisdiction.

I hereby certify that the foregoing
is a true copy of the original on
file in my office.


CLERK OF THE APPELLATE DIVISION