

**IN THE COURT OF APPEALS OF OHIO
ELEVENTH APPELLATE DISTRICT
LAKE COUNTY**

MARK DICELLO,

Plaintiff-Appellee,

- vs -

RITA T. DICELLO,

Defendant-Appellant.

CASE NO. 2026-L-0009

Civil Appeal from the
Court of Common Pleas,
Domestic Relations Division

Trial Court No. 2019 DR 000332

OPINION AND JUDGMENT ENTRY

Decided: October 13, 2026

Judgment: Affirmed

Kenneth P. Abbarno, DiCello Levitt, L.L.P., 8160 Norton Parkway, Mentor, OH 44060, and *Anne C. Fantelli*, Meyers, Roman, Friedberg & Lewis, 28601 Chagrin Boulevard, Suite 600, Cleveland, OH 44122 (For Plaintiff-Appellee).

James L. Lane, Rosenthal Lane, L.L.C., North Point Tower, 1001 Lakeside Avenue, Suite 1720, Cleveland, OH 44114 (For Defendant-Appellant).

SCOTT LYNCH, J.

{¶1} Defendant-appellant, Rita DiCello, appeals from the judgment of the Lake County Court of Common Pleas, Domestic Relations Division, granting objections to the magistrate's decision and setting a property value for plaintiff-appellee, Mark DiCello's, interest in his law firm. For the following reasons, we affirm the decision of the lower court.

{¶2} On June 11, 2019, Mark filed a complaint for divorce.¹ Mark and Rita were married on September 4, 1999, and had two children. During the course of the proceedings, the parties settled issues relating to parental rights, support, and most of the property division. A trial was held before the magistrate in June 2022 on the issue of the valuation of Mark's law firm. The parties presented the following pertinent testimony and evidence at trial.

{¶3} Mark DiCello, an attorney, started a law firm, DiCello Levitt Casey in 2017, which has since become DiCello Levitt Gutzler (DLG). DLG represents plaintiffs and takes cases on a contingency fee basis. Mark testified that the firm only recovers if a lawsuit leads to a judgment, the firm advances the costs of the litigation, and that it can take ten years or more to achieve a recovery. Mark testified that the firm has had variable financial success. He testified that the firm had recently prevailed in a case (the Arnold Black matter) against East Cleveland for a large recovery, but questioned the ability to recover on this judgment given issues with East Cleveland being in an "economic emergency," stating: "we don't have case law that shows a judgment ever being paid by a city in financial distress."

{¶4} Adam Levitt testified regarding the costs of running the firm, indicating that the firm has a large line of credit. He noted that the firm had expanded its staff and offices in recent years. He testified that DLG had recently had a large attorney fee recovery in a

1. We note that an agreed confidentiality protective order was issued in the lower court relating to the confidential financial records of Mark's law firm, DLG. On appeal, this court granted appellant's motion for an order to seal the parties' briefs consistent with this order. Our opinion excludes references to specific financial information and we thus find no basis to file it under seal. See *Hardy v. The Andersons, Inc.*, 2022-Ohio-3357, ¶ 1, fn. 1 (6th Dist.) ("[a]s our decision avoids reference to sensitive matters, the decision is not filed under seal"). While references to specific valuations and financial records of DLG are excluded from this opinion, this court has carefully reviewed all of these facts in reaching its decision.

case against Equifax, noting that there had been questions of whether they would recover in that matter due to settlement objectors.

{¶5} Joseph Silvaggio, of Sustin Bartell & Fitzgerald, provides financial services for DLG. He testified that DLG currently has a large line of credit which is used to cover the firm's expenses and presently has a balance outstanding on that line of credit, observing that the firm had a significant monthly payroll expense. Silvaggio observed that a large portion of the Equifax judgment, recovered in early 2022, had been used to pay down debt. He reviewed the firm's tax returns and profit and loss statements, indicating years of profit and loss.

{¶6} Robert Ranallo, a partner in valuation litigation services at Marcum LLP and a managing partner of the law firm Ranallo and Aveni, was hired by Mark to give his opinion on the fair market value of his interest in DLG. Ranallo reviewed the matter using the American Institute of Certified Public Accountants' Statement on Standards for Valuation Services (SSVS), utilizing the fair market standard of value. Fair market value is defined in the SSVS as "value in cash or cash equivalence at which a hypothetical willing and able buyer would purchase from a hypothetical willing and able seller in an open and unrestricted market when both have equal knowledge of all of the relevant facts and neither is under any compulsion to buy or sell." In valuing the firm, Ranallo took into account that Mark had a noncontrolling interest since he could not make unilateral decisions about the firm. He also found DLG to be "nonmarketable" or not readily tradeable given encumbrances such as the limited market and the Rules of Professional Conduct. Ranallo also testified that having the line of credit personally guaranteed by the owners impacts the fair market value of the business, as well as their lack of ability to

individually control their compensation. He found the contingent fee nature of the firm to be important in the valuation since its value comes from successful case outcomes and fee collectability.

{¶7} In valuing DLG, Ranallo considered the need for normalizing adjustments, or adjustments to DLG's financial statements to account for its economic performance, and made one adjustment for expenses incurred in 2021 which would not be paid until 2022. He considered the assets and liabilities in arriving at his valuation, and then applied a 10% lack of control discount and 35% marketability discount.

{¶8} Ranallo testified that he did not assess a value to cases that were pending or "in the pipeline" because, based on his research, there is no way to value potential contingent fees in a manner that would meet business valuation standards since they are speculative. He indicated there is no correlation between recoverable case expenses and the value of outstanding cases. As to the Equifax judgment, he indicated that this was not booked as receivable because it was still on appeal to the United States Supreme Court as of the valuation date, December 31, 2021, and under SSVS, a subsequent event, unless known as of the valuation date, is not included as normalizing adjustment. He testified that it was impossible to utilize an adjustment when it was not known if the appeal would be granted. He also did not include the value of the Black judgment because he believed it was unlikely to be recovered due to the economic status of the city of East Cleveland. He testified that under the SSVS, these would be considered subsequent events and should not be considered for normalizing adjustments.

{¶9} Section 43 of the SSVS states, in pertinent part, that a valuation analyst "should consider only circumstances existing at the valuation date and events occurring

up to the valuation date.” Events that occur subsequent to that date which could affect the value are “subsequent events.” Such events are “indicative of conditions that were not known or knowable at the valuation date, including conditions that arose subsequent to the valuation date.” According to this provision, a valuation report typically would not include a discussion of those events “because a valuation is performed as of a point in time – the valuation date – and the events described in this subparagraph, occurring subsequent to that date, are not relevant to the value determined as of that date.”

{¶10} John Stark, a certified public accountant with Applied Business Strategy, was Rita’s expert on the valuation of DLG. He concluded, upon completing a valuation under a fair market value standard, as of December 31, 2021, that DLG’s value was significantly higher than Ranallo had found. In reaching this conclusion, he reviewed various documents from the firm including balance sheets, ledgers, bank and credit card statements, and income tax returns.

{¶11} Stark made several normalizing adjustments to the financial records of DLG to account for items of value. He made an adjustment giving credit for attorney fees from the Equifax judgment which was received by the firm on January 31, 2022. He testified that as of the valuation date of December 31, 2021, it was expected this payment would be received soon, the amount of the judgment was known, and since it had already been earned, and was “known or knowable” as of the valuation date, he considered it an asset of the company. He added an adjustment for a Fubo TV recovery which was paid in stock because it was a judgment that was again issued in its favor although it was not paid to DLG until early 2022. As to the Black judgment, a normalizing adjustment was made because the appeals process had been completed and the judgment is collectable.

Further, he made an adjustment for the value of “outstanding cases” based on DLG’s recoverable case expenses and its historical percentage of recovered case expenses income compared to gross receipts. He believed no deductions were needed for lack of control or marketability, opining that Mark controls his practice and compensation and there was no economic disadvantage in his position. Further, he did not believe Mark would be willing to sell his share at Ranallo’s valuation when his share if he left the business was much more than that given the value of his capital account.

{¶12} On February 27, 2023, Rita filed a notice of submission of documents. Attached was the Ohio Supreme Court’s decision in *State ex rel. Hunt v. East Cleveland*, 2023-Ohio-407, wherein the court granted relators’ writ and ordered the city of East Cleveland to satisfy a civil judgment and comply with R.C. 2744.06(A) to satisfy the judgment. *Id.* at ¶ 27. R.C. 2744.06(A) provides for a political subdivision’s fiscal officer to certify the amount of unpaid judgments to the taxing authority “for inclusion in the next succeeding budget and annual appropriation measure and payment in the next succeeding fiscal year.” The trial court granted Mark’s motion to strike the filing.

{¶13} A magistrate’s order was issued on March 30, 2023. It concluded: “the magistrate does not completely agree with the reasoning set forth in either expert’s report” but noted it was constrained to using these valuations and could not use an intermediate value in their place. It found that Ranallo’s “generalized” approach to valuing DLG’s cases was “unconvincing” and that, given that Mark’s capital account was valued at more than Ranallo’s valuation, such a valuation was not credible. It based its valuation on an amount contained in Stark’s report which related to “the value of the Company’s cases outstanding as of December 31, 2021 [which] include[d] only those fees subsequently

collected by the Company prior to the date of this report.” Both parties filed objections to the magistrate’s decision.

{¶14} The trial court issued a July 31, 2025 judgment entry finding the objections to be with merit in part and finding Mark’s interest in DLG to be the valuation set forth by Ranallo. The court found the magistrate’s valuation to be unsupported by Stark’s testimony. Further, it found it “disingenuous” that Stark represented the final outcome of the Equifax judgment as “known or knowable” as of the valuation date since the Supreme Court could have granted certiorari, which would result in more expenses and litigation and the potential for a loss. It found the Fubo recovery as well as the Equifax judgment to be subsequent events in the SSVS not subject to inclusion in the valuation. It concluded that Stark treated DLG like a traditional law firm rather than a contingency firm, providing speculative values for cases and failing to account for the financial risks of contingency cases. It found the partners’ business agreement “severely reduces any outside buyer’s interest in the LLC” given that it was not possible to make unilateral decisions and disagreed with the failure to give discounts for lack of control and marketability. It found Ranallo’s report “was extremely comprehensive to support his DLG valuation and the valuation of the Plaintiff’s . . . interest in the firm.” The trial court subsequently issued a January 14, 2026 judgment entry of divorce.

{¶15} Rita timely appeals and raises the following assignments of error:

{¶16} “[1.] The trial court erred and abused its discretion in determining . . . the fair market value of DLG . . .”

{¶17} “[2.] The trial court erred and abused its discretion in failing to consider evidence of DLG’s value after December 31, 2021.”

{¶18} In her first assignment of error, Rita argues that the trial court erred in its valuation of DLG and in its rejection of the magistrate's conclusions on this issue.

{¶19} Generally, "[t]he trial court's judgment regarding whether to adopt, reject, or modify a magistrate's decision is reviewed for abuse of discretion." *Hezebicks v. Hezebicks*, 2026-Ohio-2463, ¶ 26 (11th Dist.). An abuse of discretion is the trial court's "failure to exercise sound, reasonable, and legal decision-making." *State v. Beechler*, 2010-Ohio-1900, ¶ 62, quoting *Black's Law Dictionary* (8th Ed. 2004).

{¶20} "When determining the value of marital assets, a trial court is not confined to the use of a particular valuation method, but can make its own determination as to valuation based on the evidence presented" and "we must affirm a trial court's determination if it is supported by competent, credible evidence and is not otherwise an abuse of discretion." (Citations omitted.) *Berger v. Berger*, 2015-Ohio-5519, ¶ 20 (11th Dist.); *Davis v. Davis*, 2013-Ohio-211, ¶ 41 (11th Dist.), quoting *McLeod v. McLeod*, 2002-Ohio-3710, ¶ 61 (11th Dist.), quoting *James v. James*, 101 Ohio App.3d 668, 681 (2d Dist.1995) ("when a 'value' question is raised on appeal, the task of the appellate court "is not to require the adoption of any particular method of valuation, but to determine whether, based on all relevant facts and circumstances, the [trial] court abused its discretion in arriving at a value"""). Further, "[w]hile the trial court is not bound to use one valuation method over another, it is nonetheless restricted to the valuations in evidence. A trial court cannot devise its own value that falls between the parties' respective expert's testimony." *Berger* at ¶ 21.

Trial Court's Determination as to Experts' Credibility/Analysis Can Differ From Magistrate's Decision

{¶21} In the first issue under the first assignment of error, Rita argues that the

magistrate found Ranallo to lack credibility and the trial court should have deferred to her on this finding.

{¶22} “Where a case is tried to a magistrate, a trial court, when conducting its independent review of objections, *may* defer to the magistrate’s credibility determinations.” (Emphasis added.) *Shafer Indus. Servs., Inc. v. A and M Towing and Road Serv., Inc.*, 2025-Ohio-3197, ¶ 38 (11th Dist.). However, while the court may defer to such determinations, it is not required to do so. Civ.R. 53(D)(4)(b) provides that “a court may adopt or reject a magistrate’s decision in whole or in part, with or without modification” and, if objections are filed, the court shall rule on the objections and “undertake an independent review as to the objected matters to ascertain that the magistrate has properly determined the factual issues and appropriately applied the law.” Civ.R. 53(D)(4)(d). This court has rejected an appellant’s argument that the trial court should defer to the magistrate’s findings of fact under a manifest weight of the evidence standard, noting “that it is the responsibility of the trial court to perform a de novo review of the magistrate’s decision where objections have been filed, and that it is the prerogative of the trial court to substitute its judgment for that of the magistrate” and “the trial court was also privileged to make its own judgment concerning the credibility of the witnesses.” *W.R. Martin, Inc. v. Zukowski*, 2006-Ohio-6866, ¶ 35-36 (11th Dist.). *Also Aban v. Schaeffer*, 2009-Ohio-6621, ¶ 24 (5th Dist.) (“[c]ontrary to the trial court’s belief, it need not defer to a magistrate’s determinations regarding witness credibility”); *T.O. v. T.G.*, 2024-Ohio-4510, ¶ 51 (2d Dist.) (“the trial court ultimately is not bound by the magistrate’s credibility determinations” and there is a “long history of allowing trial courts to conduct their own credibility determinations without deferring to a magistrate”).

{¶23} It is evident from the trial court’s judgment entry that it did not agree with the magistrate’s valuation or its assessment of the testimony presented by Stark as credible. The court provided detailed reasoning for these conclusions as outlined above, including questioning Stark’s conclusions to make normalizing adjustments on items that were unpredictable, speculative, unrecovered judgments. As held in the above authority, the trial court is not required to agree with the magistrate’s analysis, factual findings or credibility determinations. It is also significant here that, while Rita argues that the magistrate was in the best position to observe the witnesses and their demeanor, the issue lies less in observing the truthfulness of the witness because of his behavior in court and more in the basis for the reasoning on how to determine a contingent law firm’s value. The trial court is equally able to assess expert witness credentials and the reasoning process from a review of the transcripts and evidence. The court is required to conduct an independent review of the evidence, including both expert’s testimony and reports, which is properly did here. See Civ.R. 53(D)(4)(d).

Existence of Valid Evidence Supporting the Valuation of DLG

{¶24} In her second issue, Rita argues that Ranallo’s conclusion as to the valuation was flawed and, thus, the trial court had no valid basis to support its valuation of DLG.

{¶25} As an initial matter, we observe that the trial court did not err in selecting a valuation supported by Ranallo’s expert report. As we recognized above, a court generally “cannot devise its own value that falls between the parties’ respective expert’s testimony.” *Berger*, 2015-Ohio-5519, at ¶ 21 (11th Dist.). However, the court may reach a different valuation than the experts in certain circumstances if it is supported by the

record. For example, in *Berger*, this court noted: “if wife’s expert testifies that husband’s expert used an improper multiplier in reaching his valuation and then provides an opinion as to the proper multiplier, the court could use either multiplier in determining valuation, thereby reaching a differing value supported by the evidence.” *Id.* at ¶ 22. Nonetheless, in the present matter, we find no error in the trial court ultimately selecting the same valuation as Ranallo. It provided extensive analysis in support of its decision, reviewing the items it found credible in Ranallo’s report versus Stark’s, such as consideration of the speculative value of cases in contingency fee matters and issues relating to recovery of fees in the future versus the date of the property valuation. It supported its decision with references to Ranallo’s analysis. It was entitled to accept this testimony and find it credible. In addition to accepting Ranallo’s evaluation, the trial court also expressed concerns with Stark’s failure to take into account other relevant considerations such as lack of marketability and lack of control. Both of Ranallo’s deductions on this issue were supported by testimony demonstrating how they decreased the value of the firm. This lent further credence to the court’s decision that Ranallo’s valuation was credible.

{¶26} Rita provides several reasons in support of her argument that Ranallo’s valuation could not support the court’s decision. First, she argues that it was error not to accept Stark’s assignment of value to the Black case because it was collectible. However, there was testimony from Mark and Ranallo that it was unlikely the judgment could be collected due to a variety of factors relating to East Cleveland’s insolvency and that it would require following various legal steps to pursue collection of such funds. Even presuming that it was collectable, it was unclear at what point this would be the case as well as what amount of fees would be expended by the firm in order to attempt to collect

this judgment. The trial court judge determined that it was unknown when the collection would occur or when the Supreme Court might grant a mandamus action providing for collection of such fees. Ranallo testified that, following the AICPA valuation standards utilized for properly reviewing the property value, it is necessary to only account for amounts that are known or knowable as of the date of the property valuation. We do not find the court abused its discretion when it chose to accept the interpretation that collection of this judgment, without taking into account any costs that would have to be expended attempting to file actions to collect the funds, was not known or knowable at the time of the property valuation and was properly excluded from the firm's value. Rita cites no authority that this interpretation was contrary to law or valuation standards.

{¶27} In her second issue, Rita argues that the trial court erred in failing to assign value to pending contingency fee cases. Similarly, in her fourth issue, Rita argues that the trial court improperly accepted that Ranallo failed to make normalizing adjustments for known and knowable events including the pending recoveries in the Equifax, Black, and Fubo cases.

{¶28} Ranallo testified that assigning values to pending cases would be speculative while Stark gave credit to some pending cases as having value to the firm. Again, the trial court provided detailed analysis of its reasons for not accepting Stark's determination on this issue, noting the speculative nature of contingency fee cases and the difficulty of assigning them a specific and accurate value as of the valuation date of the firm. Rita argues that Stark's methodology was thorough and noted his testimony that he believed Ranallo did not perform a thorough analysis. Ranallo disagreed and described the basis for his rationale. The trial court found Ranallo's report "was extremely

comprehensive to support his DLG valuation and the valuation of the Plaintiff's . . . interest in the firm." We emphasize that where a court hears testimony from differing experts and the court concludes one to be more credible, accurate, and reliable, as long as there is some competent, credible evidence to support this decision, there is no abuse of discretion. *Fordeley v. Fordeley*, 2023-Ohio-261, ¶ 46 (11th Dist.); see *Berger*, 2015-Ohio-5519, at ¶ 86 (11th Dist.) ("[t]he trial court was free to credit [the expert's] testimony" on whether tax returns demonstrated fair market value of stocks).

{¶29} Regarding the Equifax case, as of the valuation date, an appeal was pending before the United States Supreme Court. Rita notes that there was less than a 1% chance of it being accepted on appeal and, thus, the amount of the Equifax judgment should have been included in the valuation. Ranallo testified that he believed this would still be a speculative determination and, under the SSVS guidelines used to perform evaluations, subsequent events such as the Equifax recovery in 2022 could not be counted unless recovery was known or knowable, which he believed was not the case while an appeal is pending. While Rita argues that the trial court improperly accepted the testimony that the value was not "known or knowable," this is a conclusory statement. The experts provided differing testimony as to their beliefs regarding how known or knowable should apply in these circumstances. Rita provides no authority requiring interpretation of this phrase in a way that justifies reversal. We do not find the trial court erred in accepting testimony that where there is potential that a judgment could be reversed on appeal it is possible expenditure of additional funds may be incurred to litigate the matter, and, thus, it should not be counted toward the business valuation.

{¶30} As to the Fubo recovery, we recognize that Stark testified it was known or

knowable as of the date of valuation, with which Ranallo disagreed. While the record demonstrates there was a stock payment sometime in early 2022, there is limited evidence to demonstrate what occurred relating to this case, any possible appeals or objections that may have occurred, and when the payment might have been expected at the time of the valuation. We cannot say that the trial court abused its discretion in finding the evidence did not support a normalizing adjustment on this case.

{¶31} As discussed above, the trial court also provided a supportable rationale as to its reasons for accepting Ranallo's determination not to credit the value of the Black recovery toward DLG's valuation.

{¶32} Rita also argues that Ranallo's testimony regarding the valuation of pending contingency fee cases was inconsistent with testimony he provided in *Longo v. Longo*, 2005-Ohio-2069 (11th Dist.), and that the court's acceptance of his testimony was contradicted by "well-established and binding precedent in" *Longo*. A review of *Longo* does not demonstrate that it requires a value be placed on all contingency fees at the time they were earned or a judgment was awarded. Instead, *Longo* merely notes Ranallo's testimony that "one cannot earn contingent fees until a settlement or verdict has been reached." *Id.* at ¶ 19. Further, Ranallo's testimony, in context, was addressing that contingent fee cases cannot be given value based on hypothetical future earnings. The case did not discuss a judgment pending on appeal or otherwise uncollected and so did not give a definitive answer on this issue. *Longo* simply held that the trial court was entitled to accept Ranallo's testimony to find his valuation of contingency fee cases more credible than the other expert who included "hypothetical accounts receivable projects." *Id.* at ¶ 21. Similarly, here, the trial court expressed concern with a valuation including

cases that had not yet been fully resolved. *Longo* does not preclude the trial court from accepting Ranallo's testimony in this matter as credible.

{¶33} Rita's third argument under this issue is that the trial court failed to consider that Mark's capital account value was worth more than Ranallo's entire firm valuation. It is inaccurate, however, that the trial court did not consider this. The court noted that the capital account was an accumulation of the prior year's income that was not distributed and "is not to be confused with the Plaintiff's . . . interest in DLG on a fair market value standard." The court did not consider this as part of the valuation because it is only an indication of profits that were made in a given year and not indicative of the overall value of the business. It demonstrates that the business made a profit at a point in time but does not take into account the entire review of DLG as was completed in the business valuations.

{¶34} In Rita's final argument under this issue, she contends that the court erred in failing to consider that, in 2019, DLG's accountant valued DLG at significantly more than the amount awarded by the trial court, arguing that courts have taken into account reported income on a loan application as evidence of an asset's value. *See Snyder v. Snyder*, 2011-Ohio-1372, ¶ 72 (8th Dist.).

{¶35} We do not find that the firm's value in 2019 as affirmed by Silvaggio in a loan application is determinative of its value at the end of 2021. There is no question that any business, including a contingency fee law firm, can have a decrease or fluctuations in its valuation over time. Further, it is evident the experts performed a thorough investigation of the value and the fair market value for sale which the court was able to consider, which differs from the limited evidence before the court as to Silvaggio's basis

for the valuation in the 2019 loan application.

“Sanity Check” on Court’s Valuation

{¶36} In her third issue, Rita argues that the decision does not pass a “sanity check” given that the firm has won more than \$18 billion in fees for clients and has over 50 attorneys in seven offices. Further, she argues that the trial court’s calculations that the firm has a negative value is inconsistent with its profits over the years.

{¶37} Consistent with our analysis above, we find no abuse of discretion. The size of the firm and amount of recoveries for clients does not dictate whether it has been profitable or its overall value. It is evident from the testimony presented that the firm has spent large amounts of money obtaining and litigating cases as well as in expansion costs. The court was entitled to take all of this into account in devising a value. Further, regardless of whether it made additional calculations outside of those presented by the experts, it ultimately issued a judgment consistent with and supported by Ranallo’s expert report. We decline to find its judgment did not pass a “sanity check” where the valuation was supported by a detailed valuation from an experienced accountant and attorney which was found to be credible by the trial court.

{¶38} The first assignment of error is without merit.

{¶39} In her second assignment of error, Rita argues that the court should have allowed her February 27, 2023 submission of a Supreme Court opinion ordering the city of East Cleveland to pay a money judgment against it, showing the Black judgment is collectible and likely to be paid soon. Further, she contends that the court should have considered the award in the Equifax matter since it was collected only a month after the valuation date and was “known or knowable” as of that date.

Failure to Attach Judgment Entry to Notice of Appeal

{¶40} As an initial matter, Mark contends that this argument should be disregarded because it was not raised in the supplemental objections to the magistrate's decision and the April 17, 2023 judgment entry in which the court struck the notice of submission was not referenced in or attached to the notice of appeal.

{¶41} The notice of appeal stated that Rita was appealing the January 14, 2026 judgment entry of divorce and attached that entry. It did not include or reference the April 17 entry. However, this does not preclude consideration of the merits of this assignment of error. "In general, a temporary or interlocutory order pertaining to a domestic relations case will merge into the final decree of divorce." *Zamos v. Zamos*, 2006-Ohio-6497, ¶ 15 (11th Dist.). Where a judgment merges with a final order, it becomes subject to review on appeal. *Behrens v. Behrens*, 2024-Ohio-1121, ¶ 10 (11th Dist.). While App.R. 3(A) provides that an appellant "must attach to the notice of appeal a time-stamped copy of the judgment or order from which the appeal is taken," appellate courts have often held that this rule does not require an appellant to attach or identify each interlocutory order issued prior to final judgment and the court may still consider errors relating to such judgments on appeal. *O'Connor v. Fairview Hosp.*, 2013-Ohio-1794, ¶ 20 (8th Dist.); *Chapman v. O'Shaughnessy*, 2024-Ohio-2926, ¶ 1, fn. 1 (10th Dist.).

{¶42} We recognize that this court's local rules provide that the appellant "shall attach to the Notice of Appeal . . . a copy of the judgment entry or entries being appealed." Loc.App.R. 3(A)(2). However, this court has noted that this rule is not jurisdictional and has chosen to address an appellant's arguments on appeal where he has not attached the correct judgment entry. *Smith v. Partlow*, 2025-Ohio-607, ¶ 14 (11th

Dist.). While Rita also contends that the alleged error was not included in the objections to the magistrate's decision, the ruling striking this document was issued by the trial court and thus, there was no basis to object to the magistrate's decision on this ground. Under these circumstances, we find it appropriate to consider the merits of this assignment.

Consideration of Events Occurring After Trial

{¶43} First, as to the Equifax judgment, this was addressed in the first assignment of error. We find no error in the trial court accepting testimony that it was not known or knowable as of the date of the property valuation. Courts have found that the mere fact that an asset's value changed between the date of the valuation report and/or magistrate's decision and the final judgment does not automatically render the property division in error. See *Rehfeldt v. Rehfeldt*, 1986 WL 1818, *5 (1st Dist. Feb. 12, 1986) (finding that a decline in the value of stock between the date of the valuation report and the date of the divorce decree did not render the property division inequitable, noting that "[m]any assets involved in a typical property division are subject to fluctuating values"); *Kimmey v. Kimmey*, 2001 WL 1338847, *6 (3d Dist. Oct. 31, 2001) ("[t]he mere fact that the value of property has allegedly fluctuated between the date a magistrate's report was written and the date the divorce decree was journalized, does not render the entire property division inequitable").

{¶44} It has been held that a trial court abuses its discretion in failing to grant a request to consider an alternate valuation date and evidence of a decreased value when there was a significant decrease in business due to the banking collapse. *Grow v. Grow*, 2012-Ohio-1680, ¶ 41 (12th Dist.). However, we do not find this applies in the present case. This is not the case where an unforeseen event caused a significant and possibly

permanent drop in the value of the asset. There was ample testimony that the value of the firm was constantly fluctuating. Its value is subject to consistent fluctuation given the nature of its business and it is necessary to cut off the valuation date at some point. It was not inequitable to determine that additional assets acquired after the valuation date should not be added to the business valuation.

{¶45} Significantly, as stated in Rita's objections to the magistrate's decision, "the parties agreed to a valuation date of December 31, 2021." Courts have found that the agreement of the parties to utilize a specific date for the valuation limits later arguments in favor of a different valuation date. See *Green v. Green*, 1998 WL 363840, *5 (4th Dist. June 30, 1998) ("[i]f appellant did not want the trial court to use the December 1995 valuation, perhaps appellant should not have presented expert testimony regarding the value of [husband's business] on that date"); *Rogers v. Rogers*, 1995 WL 461262, *6 (2d Dist. Aug. 2, 1995) ("where the parties have stipulated to a valuation date, and the court accepts the stipulation, the parties should be able to try the case in reliance on the agreement"). The fact that Rita chose to agree to a valuation date makes it difficult to conclude that it was inequitable or an abuse of discretion by the trial court to cut off its consideration of evidence of events occurring after that valuation date.

{¶46} As to the Black matter, similar analysis applies. Further, the additional submission that the court struck was the case of *State ex rel. Hunt v. East Cleveland*, 2023-Ohio-407, involving a writ ordered by the Supreme Court for East Cleveland to pay another party, not Black. It is not directly pertinent to the Black matter and, as noted above, does not demonstrate when a collection against East Cleveland will be achieved and how much will be expended to achieve it.

{¶47} In support of her arguments, Rita cites *K.L.B. v. M.T.B.*, 2025-Ohio-2445 (8th Dist.), for the proposition that a trial court abused its discretion in failing to consider additional evidence filed between the objections to the magistrate’s decision and the judgment. In *K.L.B.*, the court found that the fair market value of the husband’s interest in his business was not known at the time of trial and he presented new evidence as to the value of his interest which became available after trial. The court found that the trial court abused its discretion in overruling the motion to consider evidence “[b]ecause the domestic relations court applied the incorrect standard.” *Id.* at ¶ 21. It did not, however, rule that the court was required to accept the new evidence. *K.L.B.* cited Civ.R. 53(D)(4)(d), which provides that before conducting an independent review “the court may hear additional evidence but may refuse to do so unless the objecting party demonstrates that the party could not, with reasonable diligence, have produced that evidence for consideration by the magistrate.” While it is accurate that the Supreme Court decision that Rita sought to introduce did not exist at the time of trial, since we find it would not have impacted the outcome for the reasons discussed above, we find no error in failing to consider it.

{¶48} The second assignment of error is without merit.

{¶49} For the foregoing reasons, the judgment of the Lake County Court of Common Pleas, Domestic Relations Division, is affirmed. Costs to be taxed against appellant.

MATT LYNCH, P.J.,

JOHN J. EKLUND, J.,

concur.

JUDGMENT ENTRY

For the reasons stated in the Opinion of this court, the assignments of error are without merit. The order of this court is that the judgment of the Lake County Court of Common Pleas, Domestic Relations Division, is affirmed.

Costs to be taxed against appellant.

JUDGE SCOTT LYNCH

PRESIDING JUDGE MATT LYNCH,
concur

JUDGE JOHN J. EKLUND,
concur

THIS DOCUMENT CONSTITUTES A FINAL JUDGMENT ENTRY

A certified copy of this opinion and judgment entry shall constitute the mandate pursuant to Rule 27 of the Ohio Rules of Appellate Procedure.