

STATE OF OHIO)
)ss:
COUNTY OF MEDINA)

IN THE COURT OF APPEALS
NINTH JUDICIAL DISTRICT

CARRIE FULLER

Appellant

v.

BLAKE KREUER

Appellee

C.A. Nos. 2025CA0027-M
 2025CA0028-M
 2025CA0072-M

APPEAL FROM JUDGMENT
ENTERED IN THE
COURT OF COMMON PLEAS
COUNTY OF MEDINA, OHIO
CASE No. 2023DR0028

DECISION AND JOURNAL ENTRY

Dated: September 30, 2026

FLAGG LANZINGER, Presiding Judge.

{¶1} Plaintiff-Appellant/Cross-Appellee, Carrie Fuller, and Defendant-Appellee/Cross-Appellant, Blake Kreuer, separately appeal the judgments of the Medina County Court of Common Pleas, Domestic Relations Division. For the reasons that follow, this Court reverses and remands for further proceedings consistent with this decision.

I.

{¶2} Fuller and Kreuer were married in August 2011. Two minor children were born of the marriage. Fuller filed a complaint for divorce on April 4, 2023, and Kreuer filed a counterclaim for divorce on May 9, 2023. The matter proceeded through the pretrial process. The procedural and substantive facts relevant to our resolution of this matter are summarized below.

{¶3} The trial court scheduled the matter for a two-day trial and filed an order providing how the trial court would allot time during the trial. Relevant here, the order stated as follows:

Time allotment: This matter will be heard in a total of twelve (12) hours. No additional[.]

- a. Evidence will begin at 9:00 a.m. each day and conclude at 4:00 p.m., with one (1) hour for a lunch break. A delaying party or untimely party will have that party's presentation time reduced by the delay.
- b. The Court is the sole time-keeper.
- c. Guardian ad litem will begin testimony promptly at 9:00 a.m. on November 6, 2024. The time required for his presentation will be charged one-half against the time for each party. Cross-examination will be charged against the party's time allotment. Guardian ad litem will be dismissed upon completion of his testimony and any examination by the parties.
- d. Each party will be allotted one-half of the remaining time after the direct presentation by the Guardian ad litem.
- e. The calculation of time allocated to each party will include but is not limited to any opening or closing statements, direct or cross-examination, and objections. Each party is instructed to develop their case strategy appropriately. **NO ADDITIONAL TIME WILL BE PROVIDED.**
- f. Time for negotiation will NOT be provided during the time allotted for Trial.

(Emphasis in original.)

{¶4} Before the trial commenced on the first day, Kreuer filed a document titled "Defendant's Written Proffer," objecting to the trial court's time limitations. Therein, Kreuer argued that the trial court's six-hour time limitation was insufficient to allow him a meaningful opportunity to present his claims and defenses in light of the severity of the parenting and children's issues in the case. It appears from the record that the court and the parties addressed pretrial matters off the record before the trial commenced. However, there is no indication in the record that the trial court addressed Kreuer's objection.

{¶5} The matter then proceeded to trial on issues related to the allocation of parental rights and responsibilities, the division of the parties' property, and spousal support. Both parties

focused the vast majority of their allotted trial time on parenting and children's issues. Throughout the trial, Kreuer objected to the trial court's calculation of time. When the trial court recessed at the end of the second day, both parties had time remaining. A magistrate had scheduled the parties to appear before the magistrate on a collateral matter a few weeks later. Consequently, the trial court ordered the trial would continue on that date.

{¶6} A week before the commencement of the continued trial, Kreuer filed a motion requesting additional trial time. Kreuer claimed the trial court imposed the original time limits without input from the parties or their legal counsel. Kreuer further claimed that the trial court did not take into consideration the amount of time each party would reasonably need to present their case. Kreuer argued the time restrictions violated his due process rights and that he needed additional trial time to present his claims and defenses. He noted the trial court had indicated he only had 39 minutes remaining to present testimony and evidence. However, he still had multiple witnesses to call and evidence to present concerning pending issues. He also asserted he had additional cross-examination to conduct of both Fuller and an expert that had testified during the first day of trial. The trial court denied the motion on the basis that (1) the trial was set by notice of hearing almost six months earlier, (2) the trial had already commenced, and (3) the parties were granted equal time to present his/her case.

{¶7} Immediately preceding the commencement of the final day of trial, Kreuer filed a written proffer of witness testimony. Kreuer asserted the proffer was necessary "[d]ue to the unreasonable time restrictions and [the trial court's] preclusion of [Kreuer]'s ability to call witnesses to testify[.]" Kreuer named several witnesses and their expected testimony in his proffer. Following the completion of the final day of trial, both parties proffered excluded evidence. Kreuer included his written proffer of witness testimony filed prior to the final day of trial.

{¶8} Approximately four months later, the trial court filed a judgment entry decree of divorce. The decree granted the parties a divorce and provided for the division of the parties' assets and liabilities, a spousal support obligation from Kreuer to Fuller, and the allocation of parental rights and responsibilities of the parties' two minor children. Kreuer subsequently filed a motion for a new trial, which the trial court denied.

{¶9} Both parties appealed. Kreuer raises four assignments or error. Fuller raises one.

II.

KREUER'S ASSIGNMENT OF ERROR I

THE TRIAL COURT ERRED AS A MATTER OF LAW AND ABUSED ITS DISCRETION BY IMPOSING UNREASONABLE AND ARBITRARY TIME RESTRICTIONS WHICH VIOLATED [KREUER]'S DUE PROCESS RIGHTS AND PREVENTED HIM FROM PRESENTING HIS CLAIMS AND DEFENSES AT THE FINAL TRIAL.

{¶10} In his first assignment of error, Kreuer contends the trial court erred by imposing arbitrary and unreasonable time restrictions on the presentation of evidence at trial that violated his due process rights. Kreuer further contends the trial court erred in the way it tracked the parties' allotted trial time. For the reasons that follow, we sustain Kreuer's assignment of error.

{¶11} This Court has "previously acknowledged a trial court's inherent authority to control its own docket and manage the cases before it." *Holsopple v. Holsopple*, 2020-Ohio-1210, ¶ 18 (9th Dist.), citing *Bohannon v. Bohannon*, 2018-Ohio-2919, ¶ 10 (9th Dist.). This Court reviews a trial court's exercise of its authority to control its own docket for an abuse of discretion. *Bohannon* at ¶ 10. An abuse of discretion means more than an error of law or judgment; it implies that the trial court's attitude was unreasonable, arbitrary, or unconscionable. *Blakemore v. Blakemore*, 5 Ohio St.3d 217, 219 (1983).

{¶12} Kreuer contends the trial court’s time restrictions were unreasonable and violated his right to due process because they prevented him from adequately addressing (1) the best interests of the children in allocating parental rights and responsibilities, (2) the identification, valuation, and tracing of marital and separate property, and (3) Fuller’s request for spousal support. Kreuer also contends that the time restrictions were unreasonable because any objection, discussion on objections, and ruling on objections counted against the objecting party’s time. Kreuer asserts this punished the parties for raising proper objections.

{¶13} “An essential principle of due process is that a deprivation of life, liberty, or property be preceded by notice and opportunity for hearing appropriate to the nature of the case.” *J.J. v. J.A.*, 2013-Ohio-5729, ¶ 8 (9th Dist.), quoting *Cleveland Bd. of Edn. v. Loudermill*, 470 U.S. 532, 542 (1985). “It is equally fundamental that the right to notice and an opportunity to be heard must be granted at a meaningful time and in a meaningful manner.” *J.J.* at ¶ 8, quoting *Fuentes v. Shevin*, 407 U.S. 67, 80 (1972). “The right to a hearing includes the right to present evidence.” *J.J.* at ¶ 8, citing *Gonzales v. United States*, 348 U.S. 407, 414, fn. 5 (1955). “[W]hile the opportunity to cross-examine witnesses is an important aspect of due process, it is not a direct substitute for the opportunity to present evidence.” *J.J.* at ¶ 10.

{¶14} In a divorce proceeding, a trial court must determine what constitutes marital property and/or separate property and divide that property equitably between the spouses. R.C. 3105.171. Upon the request of either party, a trial court may also award reasonable spousal support. R.C. 3105.18. In determining whether spousal support is appropriate and reasonable, a trial court is required to consider all relevant factors, including those outlined in R.C. 3105.18(C)(1). A trial court must also consider the best interests of any minor child and allocate

the parental rights and responsibilities for his or her care. R.C. 3109.04(A), (B). In doing so, a trial court must consider all relevant factors, including those outlined in R.C. 3109.04(F)(1).

{¶15} Kreuer objected to the trial court's time limitations prior to the start of the trial, asserting the time limits were insufficient considering the significant parenting and children's issues in this case. Kreuer argued the limits would prevent each party from presenting necessary and relevant testimony and evidence concerning factors a trial court is required to consider in a divorce case. There is no indication in the record that the trial court addressed the concerns Kreuer raised in his objection.

{¶16} Kreuer also filed a motion for additional trial time a week before the commencement of the final day of trial. Kreuer asserted the trial court's initial time restrictions did not take into consideration the amount of time each party would reasonably need to present their case. He noted he still had multiple witnesses to call and evidence to present concerning pending issues and that he had additional cross-examination to conduct. In denying his motion, the trial court did not address whether the allotted time was sufficient in light of the issues before the court. The trial court also did not address whether any of the testimony and evidence Kreuer sought to present was material to the issues it was required to address. Instead, the trial court denied the motion solely on the basis that the trial was scheduled for two days, had already commenced, and the parties were granted equal time.

{¶17} A trial court's "proceedings must be managed in a manner that fulfills the court's duty to promote the accuracy and fairness of the hearing." *J.J.*, 2013-Ohio-5729, at ¶ 9 (9th Dist.), quoting *Loewen v. Newsome*, 2012-Ohio-566, ¶ 15 (9th Dist.). Nonetheless, a party may not predicate an error upon a ruling that excluded evidence unless a substantial right of the party was affected and the substance of the evidence was made known to the court. Evid.R. 103(A)(2). Here,

Kreuer asserts that the trial court's time limit on the presentation of evidence, combined with the trial court's deductions for proper objections, resulted in the exclusion of relevant and necessary testimony concerning the best interests of the children and Kreuer's separate property claim. Kreuer points to his written proffer of witness testimony filed prior to the commencement of trial.

{¶18} In his proffer, Kreuer identified several potential witnesses, including an expert appraiser concerning his expert report and valuation of the marital residence and an expert concerning his report and Kreuer's claim of a separate property interest in a certain retirement account. Both experts were listed on Kreuer's witness list filed prior to trial and both expert reports were listed on Kreuer's exhibit list filed prior to trial. Kreuer also proffered both expert reports. Kreuer has sufficiently pointed to at least some expected testimony and/or evidence material to the issues before the court that the time restrictions prevented him from presenting.

{¶19} Upon review, we cannot say that the outcome of this case would have been the same if Kreuer was permitted to present this evidence. Regarding the expert appraiser, Kreuer expressly stated the appraiser was expected to testify regarding his expert report concerning the value of the marital home. The trial court determined the fair market value of the marital home was \$515,000. However, according to the expert's report, the appraiser determined that value of the marital home within a few months of trial was \$450,000. Regarding the expert concerning Kreuer's claim of a separate property interest, Kreuer expressly stated the expert was expected to testify regarding his expert report concerning a passive growth analysis of Kreuer's separate property in a specific retirement account. Kreuer stated that the expert was expected to testify that \$119,750.87 of the \$190,808.24 balance consisted of Kreuer's separate property. The trial court concluded the entire account was marital property.

{¶20} Under the specific circumstances here, we conclude the trial court abused its discretion when it unreasonably limited the time for trial and unreasonably denied Kreuer's request for additional time to present his case. It is plain from the record here that the parenting and children's issues in this case were significant and complex. Indeed, both parties used the vast majority of their allotted trial time addressing those issues. Yet, there is no indication that the trial court considered the issues and evidence the parties sought to present before limiting the trial to two days. Kreuer objected to the time allotted prior to the commencement of trial, expressly pointing to the complexity of the issues involved. Kreuer also filed a motion requesting additional trial time before the trial concluded and expressly identified the additional testimony and evidence he sought to present. The trial court denied the motion without addressing the complexity of the issues and without addressing the additional testimony and evidence Kreuer sought to present. At least some of the evidence was material to the issues before the court. Finally, there is no indication in the record that the trial court limited any witness testimony during the trial to avoid the needless consumption of time. *See* Evid.R. 403(B) (trial court may exclude evidence if its probative value is substantially outweighed by considerations of undue delay or the needless presentation of cumulative evidence); Evid.R. 611(A) (requiring a trial court to exercise reasonable control over the interrogation of witnesses so as to avoid needless consumption of time); Evid.R. 611(B) (limiting cross-examination to relevant matters and/or matters affecting credibility).

{¶21} Kreuer's first assignment of error is sustained. This matter is remanded to the trial court for further proceedings consistent with this decision. This decision should not be read to limit the trial court's discretion in exercising reasonable control over the mode and order of interrogating witnesses and presenting evidence on remand.

KREUER’S ASSIGNMENT OF ERROR TWO

THE ALLOCATION OF PARENTAL RIGHTS AND RESPONSIBILITIES ISSUED BY THE TRIAL COURT IS CONTRARY TO THE BEST INTEREST OF THE PARTIES’ MINOR CHILDREN AND CONSTITUTES AN ABUSE OF DISCRETION.

KREUER’S ASSIGNMENT OF ERROR THREE

DIVISION OF MARITAL PROPERTY FAILED TO ACCOUNT FOR [KREUER]’S SEPARATE PROPERTY CLAIMS AND CONSTITUTES AN ABUSE OF DISCRETION.

KREUER’S ASSIGNMENT OF ERROR FOUR

THE TRIAL COURT ERRED AS A MATTER OF LAW AND ABUSED ITS DISCRETION BY DENYING [KREUER]’S MOTION FOR NEW TRIAL.

FULLER’S ASSIGNMENT OF ERROR

THE TRIAL COURT ERRED WHEN IT DOUBLE-COUNTED MS. FULLER’S CLEVELAND CLINIC 403(B) SIP PLAN AND INDIVIDUAL PENSION PLAN ACCOUNTS IN THE PROCESS OF DIVIDING THE PARTIES’ MARITAL ESTATE.

{¶22} In his second assignment of error, Kreuer contends the trial court abused its discretion in its allocation of parental rights and responsibilities. In his third assignment of error, Kreuer contends the trial court abused its discretion when it determined certain assets were marital property. In his fourth assignment of error, Kreuer asserts the trial court abused its discretion when it denied his motion for new trial. In light of our resolution of Kreuer’s first assignment of error, we conclude his second, third, and fourth assignments of error either premature or moot and we decline to address them.

{¶23} In her sole assignment of error, Fuller contends the trial court erred when it valued her Cleveland Clinic 403(b) SIP Plan and her Cleveland Clinic Individual Pension Plan. Kreuer’s legal counsel conceded the error during oral argument. Nonetheless, we do not reach the merits

of her argument because our resolution of Kreuer's first assignment of error renders consideration of Fuller's assignment of error premature.

III.

{¶24} Kreuer's first assignment of error is sustained. Kreuer's second, third, and fourth assignments of error are either premature or moot. Fuller's sole assignment of error is premature. The judgment of the Medina County Court of Common Pleas, Domestic Relations Division, is reversed, and this matter is remanded for further proceedings consistent with this decision.

Judgment reversed,
and cause remanded.

There were reasonable grounds for this appeal.

We order that a special mandate issue out of this Court, directing the Court of Common Pleas, County of Medina, State of Ohio, to carry this judgment into execution. A certified copy of this journal entry shall constitute the mandate, pursuant to App.R. 27.

Immediately upon the filing hereof, this document shall constitute the journal entry of judgment, and it shall be file stamped by the Clerk of the Court of Appeals at which time the period for review shall begin to run. App.R. 22(C). The Clerk of the Court of Appeals is instructed to mail a notice of entry of this judgment to the parties and to make a notation of the mailing in the docket, pursuant to App.R. 30.

Costs taxed equally to both parties.

JILL FLAGG LANZINGER
FOR THE COURT

SUTTON, J.
STEVENSON, J.
CONCUR.

APPEARANCES:

TODD A. MAZZOLA, Attorney at Law, for Appellant.

KELLEY R. TAURING, Attorney at Law, for Appellee.