

*This opinion is nonprecedential except as provided by
Minn. R. Civ. App. P. 136.01, subd. 1(c).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A21-1510**

In re the Marriage of: Sneha Singh, petitioner,
Respondent,

vs.

Ashok Kumar Goyal,
Appellant.

**Filed September 19, 2022
Affirmed in part, reversed in part, and remanded
Slieter, Judge**

Hennepin County District Court
File No. 27-FA-19-1908

Debra J. Hilstrom, Debra J Hilstrom Attorney at Law, PLLC, St. Paul, Minnesota (for respondent)

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Considered and decided by Bjorkman, Presiding Judge; Slieter, Judge; and Bryan, Judge.

NONPRECEDENTIAL OPINION

SLIETER, Judge

In this marital-dissolution appeal, appellant challenges the district court's (1) classification of various corporate assets as marital property; (2) failure to award him part of respondent's nonmarital rental property income; and (3) award to respondent of conduct-based attorney fees. Because the parties failed to provide the district court with

evidence specifically describing each party's ownership shares of corporate assets, and the corporations were not parties to this proceeding, the district court's division of those corporate assets was improper. We reverse on this issue. We also conclude that appellant forfeited his argument that respondent's rental property produces nonmarital income and that the district court acted within its discretion in awarding respondent conduct-based attorney fees. Therefore, we affirm on those two issues.

FACTS

Appellant Ashok Kumar Goyal (husband) and respondent Sneha Singh (wife) married in February 2017 and separated in September 2018. Wife petitioned to dissolve the marriage in March 2019.¹ Following discovery, the district court held a three-day dissolution trial.

At trial, the district court learned that husband's businesses operate as several different corporate entities. Husband has stock ownership interests in the four businesses at issue in this appeal: Restoration Handyman of Atlanta LLC (Restoration Handyman), Corporate Office USA LLC (Corporate Office), New Ulm Hospitality (New Ulm), and SMK Ventures LLC (SMK). In the resulting dissolution judgment, the district court divided the assets of each of those businesses between the parties. In this appeal, husband challenges the district court's division of the assets of those businesses. There are five other corporate entities not at issue in this appeal. In dividing the assets of those

¹ This matter was heard by a referee, who made recommendations adopted by the district court. We treat a referee's recommendations, as adopted by the district court, as the district court's order. Minn. R. Civ. P. 52.01.

corporations, the district court awarded all assets of each of those five corporations to either husband or wife.²

During his trial testimony, husband admitted that he disclosed to wife only certain assets which were, in his opinion, marital. The district court found that husband failed to properly disclose “evidence of income,” “expenses for any of the businesses,” “evidence of debts,” tax filings for himself and the businesses, and evidence of other business assets. Instead, husband only disclosed two pages of profit and loss statements for each corporation. Husband also admitted that he disclosed certain exhibits late which led to the district court excluding these late disclosures.

In response to these incomplete disclosures, the district court made several negative inferences against husband. In its dissolution judgment and decree (J&D), the district court found that these corporate-owned assets were, in part, marital property and awarded wife one-half of the value of those assets. Additionally, the district court found that husband dissipated certain corporate assets. The total value of corporate-owned assets distributed to wife was \$911,968.96.

The district court also awarded wife \$30,000 in conduct-based attorney fees due to husband’s failure “to make proper and forthcoming disclosures required by statute,” which “unreasonably contributed to the length and expense of this proceeding.” Husband appeals.

² These five corporations are JS Impact LLC, RSB Systems Inc., Andaaz Entertainment, Rajasthan Associated of Georgia, and Redwood Hotel LLC. The district court found these corporations were the parties’ nonmarital property except Redwood Hotel and JS Impact. The district court awarded wife \$45,200 from Redwood Hotel because husband failed to trace the assets to a nonmarital source and also awarded wife exclusive use of JS Impact.

DECISION

Husband raises three issues on appeal. First, husband argues the district court made errors in classifying certain corporate-owned assets as marital. Second, husband argues the district court erred by failing to award him part of wife's rental property income. Third, husband argues the district court erred by awarding wife conduct-based attorney fees.

I. The district court erred by dividing corporate-owned assets.

When the district court dissolves a marriage, it “shall make a just and equitable division of the marital property of the parties.” Minn. Stat. § 518.58, subd. 1 (2020). “Whether property is marital or nonmarital is a question of law, but a reviewing court must defer to the [district] court’s underlying findings of fact.” *Olsen v. Olsen*, 562 N.W.2d 797, 800 (Minn. 1997). “A [district] court has broad discretion in evaluating and dividing property in a marital dissolution,” and we “will affirm the [district] court’s division of property if it had an acceptable basis in fact and principle even though we might have taken a different approach.” *Antone v. Antone*, 645 N.W.2d 96, 100 (Minn. 2002). We review property division for an abuse of discretion. *Id.* “A district court abuses its discretion by making findings of fact that are unsupported by the evidence, misapplying the law, or delivering a decision that is against logic and the facts on record.” *Woolsey v. Woolsey*, 975 N.W.2d 502, 506 (Minn. 2022) (quoting *Bender v. Bernhard*, 971 N.W.2d 257, 262 (Minn. 2022)).

In its J&D, the district court treated the following corporate-owned assets as at least partially marital property, and awarded wife the following:

- From Restoration Handyman: one-half of the amount husband paid from the Restoration Handyman account towards his personal mortgage; one-half of the income earned on rental properties from the marriage to the valuation date; one-half of the funds in Restoration Handyman's bank accounts; one-half of the increase in value of several properties sold by Restoration Handyman during the parties' marriage; and one-half of the assets dissipated by husband. This totaled \$317,847.29.
- From Corporate Office: one-half of the increase in value of one home sold by Corporate Office during the parties' marriage. This totaled \$13,000.
- From New Ulm: one-half of the rental income earned by the New Colonial Inn during the parties' marriage. This totaled \$224,500.
- SMK: one-half of the rental income earned by the Madelia Hotel during the parties' marriage; one-half of the increase in value of a home in Lake Crystal, Minnesota; and one-half of the increase in value of a home in Stone Mountain, Georgia. This totaled \$212,159.37.³

It appears that, in district court, the parties ignored the separate legal existence of their businesses and failed to recognize that they did not personally own the assets of those businesses. Because this question was not presented to the district court, that court, understandably, did not address it. As a result, the J&D's property division purports to divide, as marital property, property that not only was not marital, but also was not owned by a party to the dissolution case. When an appeal involves a doctrine that is neither novel nor questionable, "it is the responsibility of appellate courts to decide cases in accordance with law, and that responsibility is not to be diluted by counsel's oversights, lack of

³ We note that, in reviewing the district court's award of cash payments to wife, the district court identifies the amount of wife's cash payment from corporate-owned assets as \$911,968.96. However, when adding the assets comprising that amount, it totals \$812,968.96—a difference of \$99,000. Neither party raises this discrepancy on appeal but, because we remand the issue of division of corporate-owned assets, the district court will have an opportunity to address it.

research, failure to specify issues or to cite relevant authorities.” *State v. Hannuksela*, 452 N.W.2d 668, 673 n.7 (Minn. 1990) (quotation omitted). This responsibility applies to appellate courts deciding civil and family cases. *Moorhead Econ. Dev. Auth. v. Anda*, 789 N.W.2d 860, 875 (Minn. 2010) (civil appeal); *County of Dakota v. Blackwell*, 809 N.W.2d 226, 230 (Minn. App. 2011) (family appeal).

And there is nothing novel or questionable about the doctrine of corporate ownership of corporate assets. *See Blohm v. Kelly*, 765 N.W.2d 147, 153 (Minn. App. 2009) (stating that “[c]orporate assets do not belong to the stockholders, but to the corporation”) (quotation omitted); *see also Baldwin v. Canfield*, 1 N.W. 261, 272 (Minn. 1879) (stating that “[s]tockholders [of a corporation] do not have an ‘interest’ in the corporate real estate, in the sense in which the word ‘interest’ is commonly used in that connection, for such real estate is the property of the corporation”). Therefore, even though this question was argued to neither the district court nor this court, we will—in this unique case—exercise our discretion to address the point. *See Minn. R. Civ. App. P. 103.04* (noting that appellate courts can address questions in the interest of justice).

As noted above, corporate assets are owned by the corporation, not the shareholders of that corporation. *Blohm*, 765 N.W.2d at 153; *see also Baldwin*, 1 N.W. at 272. Thus, the assets of the corporations—admittedly corporations owned by these parties—were not owned by the parties themselves, but by the corporations. Those corporations were not parties to this dissolution proceeding. And generally, “in a dissolution proceeding, a district court lacks personal jurisdiction over a nonparty and cannot adjudicate a nonparty’s property rights.” *Danielson v. Danielson*, 721 N.W.2d 335, 339 (Minn. App. 2006); *see*

also *Sammons v. Sammons*, 642 N.W.2d 450, 457 (Minn. App. 2002) (stating that the “district court may not exercise jurisdiction over a nonparty” and “[lacked] personal jurisdiction to enter a judgment affecting [the property rights of a nonparty]”); *Fraser v. Fraser*, 642 N.W.2d 34, 38 (Minn. App. 2002) (noting that Minn. Stat. § 518.58, which provides for the division of marital property, “does not authorize the district court to adjudicate the interests of third parties”).

Thus, when the district court divided the assets of the nonparty corporations as if those assets were the marital property of the parties themselves, it erred both because the property of the corporations was not marital, and because the district court lacked personal jurisdiction over the corporations that actually owned those assets. The interest in the business owned by either or both parties—often in the form of shares of stock—is subject to division, however, if that interest is marital in nature. See *Prahl v. Prahl*, 627 N.W.2d 698, 706-07 (Minn. App. 2001) (addressing a dissolution court’s division of an ownership interest in a business); *Amundson v. Amundson*, 414 N.W.2d 473, 475 (Minn. App. 1987) (noting that “the shares themselves may be considered personal property, classifiable as marital or nonmarital”).

For these reasons, we conclude that the district court abused its discretion by dividing the assets owned by the corporations rather than the interests in those corporations that were actually owned by the parties, and we remand to the district court to divide only assets owned by the parties.

As we previously stated, the parties did not raise the issue of nonparty corporate-owned assets with the district court. Further, the record is devoid of any evidence presented

by the parties to the district court regarding their specific ownership interest in these corporations. As to husband's interest in these corporations, this lack of evidence is, in no small part, due to his refusal to respond to discovery requests regarding these corporations. For this, the district court acted within its discretion to apply negative inferences to husband's testimony. *Solon v. Solon*, 255 N.W.2d 395, 396 (Minn. 1977) (concluding that failure to make a full and accurate disclosure of assets and liabilities "justifies inference adverse to the party who conceals or evades"). Additionally, the district court, at times, found him not credible, and found husband dissipated assets. Nothing in our opinion should be construed to disrupt these findings.

We reiterate that, though the district court may not distribute assets of nonparty corporations, it may divide the parties' marital *interests* in the corporations. *See Petterson v. Petterson*, 366 N.W.2d 685, 688 (Minn. App. 1985) (treating part of spouses' interest in corporation as marital property); *see also* Minn. Stat. § 518.58, subd. 1 ("[T]he court shall make a just and equitable division of the marital property of the parties . . . after making findings regarding the division of the property."). Thus, we reverse and remand the portion of the district court's J&D which distributed assets of the nonparty corporations. We leave to the district court's discretion whether to reopen the record to allow additional evidence.

II. Husband has forfeited the issue involving wife's rental income.

Husband argues that, because the district court purportedly erred by designating corporate-owned assets as marital and distributing a portion to wife, it should have likewise designated wife's nonmarital property as marital and distributed one-half to him. However, because husband failed to raise this argument to the district court, it is forfeited. *Annis v.*

Annis, 84 N.W.2d 256, 261 (Minn. 1957) (“[L]itigants are bound [on appeal] by the theory or theories, however erroneous or improvident, upon which the action was actually tried below.”); *see also Thiele v. Stich*, 425 N.W.2d 580, 582 (Minn. 1988) (stating that an appellate court seldom considers matters not argued to and considered by the district court). Therefore, we do not consider this issue.⁴

III. The district court acted within its discretion by awarding wife conduct-based attorney fees.

A district court may award, “in its discretion, additional fees, costs, and disbursements against a party who unreasonably contributes to the length or expense of the proceeding.” Minn. Stat. § 518.14, subd. 1 (2020).⁵ The party moving for attorney fees has the burden to show that the conduct of the other party warrants an award. *Baertsch v. Baertsch*, 886 N.W.2d 235, 238 (Minn. App. 2016). The district court must make findings that explain the basis for an award of conduct-based attorney fees. *Brodsky v. Brodsky*, 733 N.W.2d 471, 477 (Minn. App. 2007). We review the award of conduct-based attorney fees for an abuse of discretion. *Sanvik v. Sanvik*, 850 N.W.2d 732, 737 (Minn. App. 2014). The district court’s award of conduct-based attorney fees is supported by the record.

⁴ And even if we were to consider the merits of his argument, it would fail. As we explained in section I, the error of the district court was not in its identification of the marital share of assets, but in the distribution of assets owned by nonparties.

⁵ Husband argues that Minn. Stat. § 518.14, subd. 1, does not authorize an award of conduct-based attorney fees. *See Anderson v. Anderson*, No. A16-2006, order at 2 (Minn. Aug. 6, 2018) (holding that the supreme court has “never squarely held . . . that section 518.14 provides a substantive basis for conduct-based fees on appeal”). However, husband forfeited this argument by failing to raise it to the district court. *Thiele*, 425 N.W.2d at 582 (stating that a party cannot raise a new issue on appeal, “[n]or may a party obtain review by raising the same general issue litigated below but under a different theory”).

Husband disputes the district court’s conclusion that he failed “to make proper and forthcoming disclosures required by statute,” which “unreasonably contributed to the length and expense of this proceeding.” The district court explicitly found that husband failed to disclose information about his income, expenditures, taxes, and debts. And based upon its conclusion that husband unreasonably contributed to the length and expense of the proceeding, the district court implicitly found credible wife’s testimony that husband was “an obstruction” to trial, that he evaded service of papers, did not properly disclose discovery, and that she only received documents from him after pursuing a subpoena. And, because we defer to the district court’s credibility determinations unless clearly erroneous, we reject husband’s argument. *See Sefkow v. Sefkow*, 427 N.W.2d 203, 210 (Minn. 1988); *see also Pechovnik v. Pechovnik*, 765 N.W.2d 94, 99 (Minn. App. 2009) (noting that district court’s findings “implicitly indicate[d]” that it found certain evidence credible). The district court acted within its discretion to award wife conduct-based attorney fees.

In sum, we affirm in part, reverse in part, and remand. We reverse the district court’s distribution to the parties of nonparty corporate-owned assets. We affirm the award to wife of conduct-based attorney fees, and we affirm the district court’s allocation to wife of her nonmarital rental income.

On remand, the district court has discretion to reopen the record for additional evidence as it deems necessary.⁶ This remand does not affect the dissolution of the parties' marriage, or any other provision of the J&D herein affirmed or issues not raised on appeal.

Affirmed in part, reversed in part, and remanded.

⁶ Also on remand, the district court is not precluded from readdressing its distribution of other corporate-owned assets not addressed by the parties in this appeal and which are identified in footnote two.