NON-PRECEDENTIAL DECISION - SEE SUPERIOR COURT O.P. 65.37

GARRY HERDLER	:	IN THE SUPERIOR COURT OF
	:	PENNSYLVANIA
Appellant	:	
	:	
	:	
v.	:	
	:	
	:	
JENNIFER HERDLER	:	No. 903 EDA 2026

Appeal from the Order Entered February 20, 2026
In the Court of Common Pleas of Montgomery County Civil Division at No(s): 2019-06032

BEFORE: McLAUGHLIN, J., KING, J., and BECK, J.

MEMORANDUM BY KING, J.: **FILED NOVEMBER 20, 2026**

Appellant, Garry Herdler ("Husband"), appeals from the order entered in the Montgomery County Court of Common Pleas, which denied his *pro se* petition seeking to vacate the divorce decree that had been previously entered on November 5, 2025; and from the separate order finding him in contempt of the equitable distribution order and divorce decree, and directing him to pay $9,500.00 in attorney's fees and costs. We affirm on the basis of the trial court's opinion.

The trial court aptly summarized the relevant facts and procedural history of this matter and we adopt that opinion herein. (***See*** Trial Court Opinion, 5/14/26, at 1-6). By way of background, Husband and Jennifer Herdler ("Wife") were married on September 21, 1996, and are the parents of

two children.[1] The parties separated on March 26, 2017. On March 29, 2019, Husband filed a divorce complaint, asserting the marriage was irretrievably broken, and requesting equitable distribution of the marital property and shared physical and legal custody of the children. Wife subsequently moved to Chester County.

On March 12, 2025, the court entered an order scheduling a two-day equitable distribution hearing for July 14, 2025 and July 15, 2025. The order provided that continuance requests must be filed with the court and accompanied by certificates of service, as well as emailed to the hearing officer. Further, absent an emergency, the court stated that continuance requests should be made no less than 48 hours prior to the hearing.

On June 19, 2025, Wife filed a motion seeking a continuance and her request was granted. The court rescheduled the hearing for August 27, 2025 and August 28, 2025.

On August 27, 2025, Husband and Wife appeared before a hearing officer for an equitable distribution hearing. At that time, Husband requested a continuance and the request was denied. Husband attempted to argue issues he had with Wife's counsel, and other matters not appropriately before an equitable distribution hearing officer. When further questioned, Husband stated he would not participate in the hearing, both because of his issues with counsel, and because he had an important board meeting to attend. When

---

[1] As of the date of this memorandum, both Children are emancipated and custody is not at issue in this appeal.

the hearing officer pointed out that Husband had not formally requested a continuance, Husband claimed he had done so, but the request was not of record. Finally, Husband marked and entered into evidence two exhibits before leaving the courtroom. The hearing then proceeded in his absence on August 27, 2025 and August 28, 2025.

On October 14, 2025, the hearing officer filed a thorough report and recommendation; as well, the docket indicates that the order was emailed to Husband at his listed email address, gpherdler@hotmail.com, the same day.

On October 31, 2025, Husband filed a document entitled "Emergency Petition for Special Relief to Obtain Court Order Sealing All Filings, Documents, and Testimony in Support Hearing (And Divorce Hearings); And Directing [Wife] to Cooperate as Required in the 12/19/24 Confidentiality Agreement (Court Approved)," requesting that the case be placed under seal. Wife filed an answer and counterclaim on November 3, 2025.

As well, on November 3, 2025, Husband attempted to submit a filing to the prothonotary that was rejected because he had chosen an incorrect description for the filing and attempted to file it as an "Equitable Distribution Report."

On November 5, 2025, 22 days after the equitable distribution report was filed, the court entered a decree in divorce and accepted the hearing officer's recommendation for division of the marital property and noted that no exceptions had been filed within the requisite 20-day period.

On November 6, 2025, Husband untimely filed *pro se* exceptions to the

hearing officer's report and recommendation. On that document he set forth his email address as jpherdler@hotmail.com. The filing also listed several dates on which he claimed he had attempted to file exceptions.

On November 12, 2025, Husband filed a *pro se* emergency petition for special relief, seeking to stay enforcement of the equitable distribution order pending review of his exceptions and an upcoming short list conference scheduled for December 8, 2025. Wife filed an answer and counterclaim to the petition.

On November 13, 2025, Husband *pro se* filed an emergency petition, asserting that Wife's attorney was in contempt of a court order dated March 13, 2025.[2]

On December 8, 2025, Husband filed a *pro se* emergency petition to vacate the divorce decree and for leave to file exceptions *nunc pro tunc*, averring that the court had failed to mail the equitable distribution report to Husband's updated address; that Husband's stepfather had died suddenly, necessitating emergency travel; that the court had rejected his electronic filings and committed other alleged procedural irregularities; and premature issuance of a divorce decree while Husband's exceptions remained unresolved. Wife filed an answer and counterclaim to Husband's contempt petition.

---

[2] Husband referred to a stipulation signed by the parties, and entered as a court order, relating to a confidentiality agreement as to financial and other sensitive information concerning Husband's employment. The order provided that violating the confidentiality agreement would result in a finding of contempt of court.

On December 9, 2025, Husband filed an additional *pro se* petition, seeking vacatur of the divorce decree and leave to file exceptions *nunc pro tunc*, alleging extrinsic fraud, fatal defect, extraordinary cause, and hearing officer errors and omissions. Wife filed an answer and counterclaim.

On January 22, 2026, Wife filed a petition for contempt and enforcement. Ultimately, the court consolidated all outstanding matters for a hearing.

On February 18, 2026, the parties appeared before the court for a hearing, at which both Husband and Wife testified, and were each represented by counsel. Prior to testimony, Husband's counsel represented to the court that Husband was seeking to vacate the divorce decree pursuant to 23 Pa.C.S.A. § 3332, not to open the decree. Husband asserted that the hearing officer's refusal to grant him a continuance on August 27, 2025, constituted extrinsic fraud. In the alternative, Husband asserted that he had attempted to "submit" timely exceptions but that they were not accepted, and that this constituted either extrinsic fraud or a fatal defect of the record.

On February 20, 2026, the court denied Husband's *pro se* petition to vacate the divorce decree and declared that it lacked jurisdiction to review Husband's petition for leave to file exceptions *nunc pro tunc*. As well, the court entered an order finding Husband in contempt of the November 5, 2025 divorce decree and equitable distribution award, finding Husband had willfully refused to comply with the decree. Thus, the court ordered Husband to comply with the divorce decree and equitable distribution award and pay

$9,500.00 to Wife within 10 days of the order as reimbursement for her attorney's fees.

On March 19, 2026, Husband timely filed a counseled notice of appeal from the court's orders. On March 23, 2026, the court ordered Husband to file a Pa.R.A.P. 1925(b) statement of errors complained of on appeal. On April 10, 2026, Husband timely complied.

On appeal, Husband raises the following issues for review:

> The trial court erred and/or abused its discretion in denying Husband's petition to vacate the divorce decree based on extrinsic fraud and/or a fatal defect on the face of the record.
>
> The trial court erred/abused its discretion by violating Husband's due process rights in not allowing him to testify regarding all the petitions pending before the court on February 18, 2026.
>
> The trial court erred and/or abused its discretion in finding Husband in contempt of the equitable distribution order as Husband clearly demonstrated an inability to comply with the terms of the order.
>
> The trial court erred and/or abused its discretion in ordering Husband to pay attorney's fees and costs in the amount of $9,500.00.

(Husband's Brief at 5).

Initially, this Court has observed:

> We review an order denying a motion to open or vacate a divorce decree for an abuse of discretion. ***Danz v. Danz***, 947 A.2d 750, 752 (Pa.Super. 2008). "Petitions to open the decree must be filed within 30 days. During this 30–day period, the court holds wide discretion to modify or rescind its decree." ***Melton v. Melton***, 831 A.2d 646, 651 (Pa.Super. 2003) (internal citations omitted). "The trial

court's broad discretion is lost, however, if the court fails to act within 30 days. After this 30-day period, an order can only be opened or vacated if there is fraud or some other circumstance so grave or compelling as to constitute extraordinary cause justifying intervention by the court." ***Id.*** (citation and quotation marks omitted). Section 3332 of the Domestic Relations Code governs motions to open or vacate divorce decrees and states that, after 30 days, a petitioner must allege extrinsic fraud, lack of jurisdiction, or a fatal defect on the face of the record in order to obtain a vacatur of the divorce decree. 23 Pa.C.S. § 3332. Specifically, Section 3332 provides:

> A motion to open a decree of divorce or annulment may be made only within the period limited by 42 Pa.C.S. § 5505 (relating to modification of orders) and not thereafter. The motion may lie where it is alleged that the decree was procured by intrinsic fraud or that there is new evidence relating to the cause of action which will sustain the attack upon its validity. A motion to vacate a decree or strike a judgment alleged to be void because of extrinsic fraud, lack of jurisdiction over the subject matter or a fatal defect apparent upon the face of the record must be made within five years after entry of the final decree. Intrinsic fraud relates to a matter adjudicated by the judgment, including perjury and false testimony, whereas extrinsic fraud relates to matters collateral to the judgment which have the consequence of precluding a fair hearing or presentation of one side of the case.

23 Pa.C.S. § 3332.

In this context, "extrinsic or collateral fraud" refers to "conduct of the prevailing party which has prevented a fair submission of the controversy." ***Justice v. Justice***, [612 A.2d 1354, 1358 (Pa.Super.] 1992) (citations omitted) (*per curiam*). "The fraud in such case is extrinsic or collateral to the question determined by the court." ***Id.*** (citations omitted).

Maldonado v. Maldonado, 340 A.3d 1049, 1052, *appeal denied*, ___ Pa.

___, 352 A.3d 450 (2025) (emphasis in original omitted).

As well, regarding findings of contempt,

> "In reviewing a trial court's finding on a contempt petition, we are limited to determining whether the trial court committed a clear abuse of discretion. This Court must place great reliance on the sound discretion of the trial [court] when reviewing an order of contempt." ***P.H.D. v. R.R.D.***, 56 A.3d 702, 706 (Pa.Super. 2012), *appeal denied*, [626 Pa. 678,] 94 A.3d 1010 [(2014)].
>
> > "To be in contempt, a party must have violated a court order, and the complaining party must satisfy that burden by a preponderance of the evidence. Specifically, the complainant must prove certain distinct elements: (1) that the contemnor had notice of the specific order or decree which he[, or she,] is alleged to have disobeyed; (2) that the act constituting the contemnor's violation was volitional; and (3) that the contemnor acted with wrongful intent.
>
> [***J.M. v. K.W.***, 164 A.3d 1260, 1264 (Pa.Super. 2017) (*en banc*)] (citations, quotation marks, and original brackets omitted).

Rogowski v. Kirven, 291 A.3d 50, 57 (Pa.Super. 2023).

After a thorough review of the record, the briefs of the parties, the applicable law, and the well-reasoned opinion of the Honorable Raymond McGarry, we conclude Husband's issues merit no relief. The trial court opinion comprehensively discusses and properly disposes of the questions presented.

In his first issue, Husband argues that the court erred and abused its discretion by denying his petition to vacate the divorce decree. According to Husband, the hearing officer's denial of his same-day request for a continuance prevented him from attending the equitable distribution hearing

and constituted extrinsic fraud. Husband alleges that he provided extensive testimony regarding his *pro se* attempts to timely file his exceptions to the equitable distribution report, and that Wife would not have been prejudiced by the filing of the exceptions *nunc pro tunc*.

Here, the court explained that Husband did not file a request to open the divorce decree within 30 days, and that Husband sat on his rights at a time when the court had latitude to provide relief. (***See*** Trial Court Opinion, 5/14/26, at 7-19). As a result, Husband was required by statute to show either extrinsic fraud, or a fatal defect on the record. (***See id.***) The court concluded that Husband had failed to show extrinsic fraud because Wife did nothing to prevent a fair submission of the controversy; rather, Husband's own actions were to blame. (***Id.***) As well, there was no fatal defect on the face of the record. (***Id.***) Although Husband argued that the prothonotary's rejection of his November 3, 2025 filing constituted such a defect, it was not clear what Husband attempted to file on November 3, 2025, despite the court's attempts to have Husband clarify. (***Id.***) The court found Husband's testimony incredible and the evidence he presented unconvincing that he had attempted to file exceptions. (***Id.***) Rather, the evidence suggested that on November 3, 2025, Husband had attempted to file exhibits. (***Id.***) As a result, Husband could not prove that he timely filed exceptions to the equitable distribution order, but for an improper rejection by the prothonotary. (***Id.***) Therefore, the court properly denied Husband's petition to vacate the divorce decree. ***See Maldonado, supra***.

In Husband's second issue, he argues that the court erred and violated his due process rights by not allowing him to testify regarding all petitions pending before the court on February 18, 2026. The court explained that Husband did not preserve this issue for appeal, constituting waiver. Specifically, the trial court explained that Husband failed to seek the introduction of testimony or witnesses relevant to the various petitions. The record supports this conclusion. (***See*** Trial Court Opinion at 19-20). ***See also*** Pa.R.A.P. 302(a) (stating issues cannot be raised for first time on appeal). Even if not waived, the issue lacks merit. Because the court ruled that the decree could not be vacated, it lacked jurisdiction to review the merits of any other petitions, and it would have been improper to permit testimony on these subjects. (***See*** Trial Court Opinion at 19-20).[3]

---

[3] As well, we note that Husband has arguably waived this issue for purposes of appeal based on deficient briefing. The Rules of Appellate Procedure provide that an appellant's argument section "shall be divided into as many parts as there are questions to be argued; and shall have at the head of each part—in distinctive type or in type distinctively displayed—the particular point treated therein, followed by such discussion and citation of authorities as are deemed pertinent." ***See*** Pa.R.A.P. 2119(a). ***See also Iron Age Corp. v. Dvorak***, 880 A.2d 657, 665 (Pa.Super. 2005) (observing that this Court will not consider merits of argument which fails to cite relevant case or statutory authority); ***Eichman v. McKeon***, 824 A.2d 305 (Pa.Super. 2003), *appeal denied*, 576 Pa. 712, 839 A.2d 352 (2003) (observing that failure to cite relevant legal authority constitutes waiver of claim on appeal).

Here, Husband's brief raises four claims in his statement of questions, but his argument section contains only two sections. As well, Father has failed to cite to relevant legal authority concerning the alleged due process violations. Nor has Husband identified the witnesses he was prevented from presenting at the February 18, 2026 hearing. Thus, Husband has arguably waived his due process claim for these reasons as well.

In Husband's third issue and fourth issues combined, he argues that the court erred and abused its discretion in finding Husband in contempt of the equitable distribution order, as he had demonstrated an inability to comply with the terms of the order. Specifically, Husband references his testimony that if the order were carried out, he would be forced to file for bankruptcy, and further claims that the bank account referenced in the equitable distribution report was depleted by the time of the report. As well, Husband asserts the court erred by ordering him to pay attorney's fees and costs of $9,500.00 as a result of the contempt. Nevertheless, the court explained that Husband's testimony did not suggest an inability to pay but that he did not think it was the best use of his money. (***See*** Trial Court Opinion at 22-25). The court detailed Husband's history of objecting to and arguing with court orders and his "combative demeanor and his dismissive attitude" toward the equitable distribution order. (***See id.***) The court concluded: "The determination of contempt is fully supported by Husband's testimony. Husband did not show that he had an inability to pay. He just didn't agree with the order." (***Id.*** at 25). Thus, the court concluded that Husband had willfully failed to comply with the order, justifying the finding of contempt and imposition of attorney's fees and costs. On this record and for the reasons outlined in the trial court's opinion, we cannot say the court abused its discretion in finding Husband in contempt. ***See Rogowski, supra***. Accordingly, we affirm on the basis of the trial court's opinion.

Orders affirmed.

Judgment Entered.

Benjamin D. Kohler

Benjamin D. Kohler, Esq.
Prothonotary

Date: 11/20/2026

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

IN THE COURT OF COMMON PLEAS OF MONTGOMERY COUNTY, PENNSYLVANIA
CIVIL ACTION – FAMILY DIVISION

GARRY HERDLER	:	NO. 2019-06032
V.	:	
JENNIFER HERDLER	:	**903 EDA 2026**

1925(a) OPINION

McGARRY J. **MAY 14, 2026**

INTRODUCTION

Appellant/Plaintiff, Garry Herdler ("Husband"), has filed this appeal from two separate orders, both entered February 20, 2026,[1] after a Protracted Hearing was held.

On February 20, 2026, several orders were issued following a Protracted Hearing that resolved multiple petitions. Husband appeals from two of these orders. First, he appeals from the Order denying his Motion to Vacate the Divorce Decree, wherein he sought to vacate the divorce decree entered on November 5, 2025, pursuant to 23 Pa.C.S. §3332. Husband claimed that the divorce decree should be vacated based on extrinsic fraud and a fatal defect on the record. Having denied the Motion to Vacate, the Order also determined that this Court lacked jurisdiction to review Husband's Petition for Leave to File Exceptions

[1] This Court notes that filing a single notice of appeal from multiple orders is discouraged. Gen. Elec. Credit Corp. v. Aetna Cas. & Sur. Co., 263 A.2d 448, 452 (Pa. 1970). Nevertheless, "appellate courts have not generally quashed such appeals, provided that the issues involved are nearly identical, no objection to the appeal has been raised, and the period for appeal has expired." In Interest of P.S., 158 A.3d 643, 648 (Pa. Super. 2017).

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Nunc Pro Tunc, Husband's Emergency Petition in Divorce, and Husband's Answer/Response and Exceptions to Equitable Distribution.

Second, Husband appeals from the Order entered on February 20, 2026, granting Wife's Petition in Contempt and Enforcement and granting Wife's counterclaims requesting attorney's fees in the amount of $9,500.

On appeal, Appellant challenges the denial of his Motion to Vacate the Divorce Decree. He also contends that his due process rights were violated when he was allegedly not permitted to testify as to all of his petitions at the Protracted Hearing. Further, Husband asserts that this Court abused its discretion by granting Wife's Petition for Contempt and granting attorney's fees.

For the following reasons, Appellant's issues do not warrant relief and the February 20, 2026 Orders should be affirmed.

FACTUAL AND PROCEDURAL HISTORY

On March 29, 2019, Husband filed a divorce complaint which in part requested equitable distribution of the marital assets. On March 12, 2025, a two-day equitable distribution ("ED") hearing was scheduled for July 14, 2025 and July 15, 2025. The order provided that "[a]ll continuance requests shall be made by filing an ED Motion for Continuance with a Certificate of Service on the docket." The order further directed that any continuance request be emailed to the Hearing Officer ("HO"). The order warned that absent an emergency, continuance requests should be made no less than 48 hours prior to date of the hearing.

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

On June 19, 2025, Wife filed a motion for a continuance in the manner required, and a continuance was granted. The ED hearing was rescheduled for August 27, 2025 and August 28, 2025. See, ED Scheduling Order, filed 6/24/25.

As scheduled, the ED hearing was held on August 27, 2025 and August 28, 2025 in front of HO Lynn A. Snyder, Esquire. Husband appeared at the hearing, and he requested a continuance. Husband claimed that he had submitted a prior request, but the HO denied the continuance request having not received any such request prior to the start of the ED hearing.

A Report and Recommendation Upon Equitable Distribution, Alimony, Counsel Fees and Costs ("ED Order") was entered on the docket on October 14, 2025. The docket reflects that the ED Order was emailed to Husband at gpherdler@hotmail.com on that same day. The 20 days in which to file exceptions to the ED Order expired on November 3, 2025. On November 5, 2025, a divorce decree was entered, granting that divorce and approving and accepting the ED Order for the division of property.

In the interim, on October 31, 2025, Husband filed a *pro se* "Emergency Petition for Special Relief To Obtain Court Order Sealing All Filings, Documents, and Testimony in Support Hearing (And Divorce Hearings); And Directing [Defendant] to Cooperate as Required in the 12/19/24 Confidentiality Agreement (Cout Approved)", requesting that this case be placed under seal. Wife filed an Answer and Counterclaim on November 3, 2025. This was deemed not an emergency on November 5, 2025.

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Also, on November 3, 2025, Husband submitted a filing to the Prothonotary that was rejected. As discussed infra, it is unclear what Husband submitted for filing. The filing was rejected because Husband chose an incorrect description for the filing. He had tried to file it as "Equitable Distribution Report."

On November 6, 2025, Husband filed *pro se* "Exceptions to Hearing Officer's Report and Recommendations (Equitable Distribution)" the cover page of that filing the following in relevant part is set forth:

> **Date Exceptions Filed:**
>
> 1. October 28, 2025 for Emergency Hearing to Seal Case to Submit Exceptions;
>   a. Request for Hearing due to Inaccuracies of
> 2. October 31, 2025 for Emergency Hearings for Wife's Attorney's Contempt of 3/31/25 Court Order.
> 3. November 3, 2025 (most exhibits to Exceptions Report)
> 4. November 5, 2025 (remainder of report, and within the 20 days of receipt)-

Also on that cover page, Husband sets forth his email address as jpherdler@hotmail.com.

On November 12, 2025, Husband filed pro se an "Emergency Petition for Special Relief for (i) Motion to Stay Enforcement Pending Review of Exceptions; and (ii) Motion to Stay Enforcement Pending Upcoming "Short List Conference" Concerning Docket No. 2019-06032 Seq##76 And 79". Notably in paragraph 16, p. 4 of the filing Husband set forth as follows:

> 16. Plaintiff filed and served Exceptions to the Hearing Officer's Report as follows:

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

- **October 28, 2025**: Emergency Hearing to Seal Case and Submit Exceptions (requesting hearings due to inaccuracies).
- **October 31, 2025**: Emergency Hearing concerning Wife's Attorney's Contempt of the March 13, 2025 Court Order.
- **November 3, 2025**: Submission of written exhibits in support of Exceptions.
- **November 6, 2025**: Submission again of all written exhibits in support of Exceptions again (Exhibit #1 to Exhibit #44), as well as memorandum in legal format.

On November 13, 2026, Husband filed pro se an "Emergency Petition for Contempt of the Court Order Dated 3/13/25". On November 14, 2026, both emergency petitions were deemed not to be emergencies.

On December 8, 2025, Husband filed a pro se "Nunc Pro Tunc – Emergency Motion to Vacate Court Divorce Decree Dated 11/5/25 and Petition for Leave to File Exceptions Nunc Pro Tunc." Similarly, as Husband has set out in earlier filings, paragraph 11 notes that:

> 11. Specifically, Plaintiff filed and served Exceptions to the Hearing Officer's Report as follows:
> - **October 28th**: Emergency Hearing to Seal Case and Submit Exceptions (requesting hearings due to inaccuracies).
> - **October 31st**: Emergency Hearing concerning Wife's Attorney's Contempt of the March 13, 2025 Court Order.
> - **November 3rd**: Submission of written exhibits in support of Exceptions.
> - **November 5th**: Filing of the remainder of the Exceptions Report, within twenty (20) days of receipt

Wife filed an Answer and Counterclaim on February 3, 2026.

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

On December 8, 2025, Wife filed her Answer and Counterclaim to Husband's Emergency Petition for Contempt of Court Order Dated 3/13/25 and filed her Answer and Counterclaim to Husband's Emergency Petition for Special Relief to (1) Motion to Stay Enforcement Pending Review of Exceptions; and (II) Motion to Stay Enforcement Pending Upcoming "Short List Conference" Concerning Docket No. 2019-06032 Seq. ##76 and 79.

On December 9, 2025, Husband filed *pro se* an "Emergency Family Petition Extrinsic Fraud, Fatal Defect, Extraordinary Cause, ED Hearing Officer Errors/Omissions, and Concern for Family Matters – Additional Emergency Motion to (I) Vacate Divorce Decree Dated 11/5/25; and (II) Petition for Leave to File Exceptions Nunc Por Tunc". Wife filed her Answer and Counterclaim on February 3, 2026.

On January 22, 2026, Wife filed a Petition for Contempt and Enforcement.

All of these outstanding matters were consolidated and scheduled for a February 18, 2026 Protracted Hearing. Following the Protracted Hearing this Court entered several orders on February 20, 2026, among them are the two that Husband now appeals.

ISSUES

Appellant was directed to file a concise statement of errors complained of on appeal, and submitted the following issues for review, set forth verbatim as follows:

a. The trial court erred and/or abused its discretion in denying Husband's petition to vacate the divorce

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

decree based on extrinsic fraud and/or fatal defect on the face of the record.

b. The trial court erred/abused its discretion by violating Husband's due process rights in not allowing him to testify regarding all the petitions pending before the Court on February 18, 2026.

c. The trial court erred/abused its discretion in finding Husband in contempt of the Equitable Distribution Order as Husband clearly demonstrated an inability to comply with the terms of the order.

d. The trial court erred and/or abused its discretion in ordering Husband to pay attorney's fees and costs in the amount of $9,500.00.

See, 1925(b) Statement, filed 4/10/26.

DISCUSSION

I. Motion to Vacate Divorce Decree Was Properly Denied.

First on appeal, Husband contends that his Court abused its discretion in failing to vacate the divorce decree based on extrinsic fraud and/or a fatal defect on the record. For the following reasons, this issue lacks merit. Husband was unable to establish extrinsic fraud and/or a fatal defect on the face of the record.

"A trial court's exercise or refusal to exercise its authority to open, vacate, or strike a divorce decree is reviewable on appeal for an abuse of discretion." Bardine v. Bardine, 194 A.3d 150, 152 (Pa.Super. 2018) (citation omitted). "An abuse of discretion is not merely an error of judgment but is found where the law is overridden or misapplied, or the judgment exercised is manifestly unreasonable, or the result of partiality, prejudice, bias or ill will as shown by the evidence or the record." Fischer v. UPMC Northwest, 34 A.3d 115, 120 (Pa.Super. 2011).

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

To consider untimely-filed economic claims, the divorce decree must be either opened or vacated. Melton v. Melton, 831 A.2d 646, 651 (Pa.Super. 2003); Justice v. Justice, 612 A.2d 1354, 1357 (Pa.Super.1992). Petitions to open the decree must be filed within 30 days. Id., citing, 42 Pa.C.S.A. § 5505; see also, 23 Pa.C.S.A. § 3332. During this 30–day period, the court holds wide discretion to modify or rescind its decree. Justice, 612 A.2d at 1357. "The trial court's broad discretion is lost, however, if the court fails to act within 30 days. After this 30–day period, an order can only be opened or vacated if there is fraud or some other circumstance so grave or compelling as to constitute extraordinary cause justifying intervention by the court." Id. (citations omitted). After 30 days, the divorce decree may be vacated only as a result of extrinsic fraud, lack of subject matter jurisdiction, or a fatal defect apparent on the face of the record. 23 Pa.C.S.A. § 3332; Justice, supra.

In this case, Husband did not file a request to open the divorce decree within 30-days at which time this Court would have had broad discretion to do so. The divorce decree was entered November 5, 2025, and Husband knew as of that date his economic claims, i.e., his exceptions, were not going to be considered and that the ED Order was a final determination. Husband sat on his rights when this Court had wide latitude to provide relief. Husband could have also filed an appeal from the entry of the divorce decree. He did not do this. Rather, he waited until the 30-day window to either request this Court to open the decree or his right to appeal expired. At that posture this Court's authority was constrained and Husband's

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

burden was much greater, requiring a showing of "extraordinary cause" in which to vacate the divorce decree.

Section 3332, 23 Pa.C.S. governs a trial court's authority to open or vacate a divorce decree. The intent of Section 3332 is "to codify the extraordinary circumstances which will outweigh the interests of the parties and the court in finality, and to delimit the time periods which within such circumstances must be established." Bardine, 194 A.3d at 153 (citing Anderson v. Anderson, 544 A.2d 501, 505 (Pa.Super. 1988)). This "stringent standard" involves clear evidentiary requirements and time constraints on a court's authority to open or vacate a divorce decree. Pursuant to § 3332, 23 Pa.C.S., a divorce decree may be opened or vacated as follows:

> **§ 3332. Opening or vacating decrees**
>
> A motion to open a decree of divorce or annulment may be made only within the period limited by 42 Pa.C.S. § 5505 (relating to modification of orders) and not thereafter. The motion may lie where it is alleged that the decree was procured by intrinsic fraud or that there is new evidence relating to the cause of action which will sustain the attack upon its validity. A motion to vacate a decree or strike a judgment alleged to be void because of extrinsic fraud, lack of jurisdiction over the subject matter or a fatal defect apparent upon the face of the record must be made within five years after entry of the final decree. Intrinsic fraud relates to a matter adjudicated by the judgment, including perjury and false testimony, whereas extrinsic fraud relates to matters collateral to the judgment which have the consequence of precluding a fair hearing or presentation of one side of the case.

Prior to the start of the Protracted Hearing, Husband presented argument as to why the divorce decree should be vacated. Husband argued that the

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

divorce decree be vacated under Section 3332 on two bases. (N.T., Oral Argument/Petition for Special Relief in Divorce, 2/18/26, 7 – 8). One, Husband was not afforded a fair hearing on the equitable distribution claims because he was improperly denied a continuance; therefore, he was unable to attend the ED hearing. Husband suggested that this amounted to extrinsic fraud. Id. at 8 – 10. Second, Husband alleged that the divorce decree should be opened based on extrinsic fraud and/or fatal defect because his exceptions to the ED Order were timely filed on November 3, 2025, but for the prothonotary's improper rejection, i.e., it was rejected because Husband chose the wrong drop-down menu in the Montgomery County e-filing system. Id. at 11 – 13, 14. Husband relied on Mariano v. Rhodes, 270 A.3d 521 (Pa.Super. 2022) in support of his fatal defect argument. Id. at 15.

A. No Extrinsic Fraud

There were two arguments in support of the claim of extrinsic fraud. First, the assertion that the denial of his motion for a continuance amounted to extrinsic fraud and second, the improper rejection of his November 3, 2025 filing amounted to extrinsic fraud. However, neither is a basis for a finding of extrinsic fraud. Extrinsic fraud is defined as follows:

> **[S]ome act or conduct of the prevailing party which has prevented a fair submission of the controversy.** Among these are the keeping of the defeated party away from court by false promise or compromise, or fraudulently keeping him in ignorance of the action. Another instance is where an attorney without authority pretends to represent a party and corruptly connives at his defeat, or where an attorney has been regularly employed and corruptly sells out his client's interest. The fraud in such case is extrinsic or

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

> collateral to the question determined by the court. The reason for the rule is that there must be an end to litigation; and, where a party has had his day in court and knows what the issues are, he must be prepared to meet and expose perjury then and there. Where the alleged perjury relates to a question upon which there was a conflict, and it was necessary for the court to determine the truth or falsity of the testimony, the fraud is intrinsic and is concluded by the judgment, unless there be a showing that the jurisdiction of the court has been imposed up, or that by some fraudulent act of the prevailing party the other has been deprived of an opportunity for a fair trial.

Fenstermaker v. Fenstermaker, 502 A.2d 185, 188 (citations omitted) (emphasis added).

In this case, Husband failed to meet his burden because there was nothing the "prevailing party", the Wife, did to prevent a fair submission of the controversy. There were no false promises or ignorance of the action, and there were not any allegations of perjury. Neither the failure of the HO to grant a continuance at the start of the ED hearing and Husband's voluntary absence, nor the prothonotary's rejection, whether improper or proper, of Husband's November 3rd filing rises to this level. Husband knew there was an ED hearing scheduled 60 days prior to the hearing. Additionally, Husband knew when the deadline to timely his exceptions. Husband has only himself to blame. Wife as the prevailing party did nothing to prevent a fair submission of the controversy. Accordingly, there was no extrinsic fraud, and the divorce decree could not be vacated.

B. No Fatal Defect Upon the Face of the Record

Husband argued that the prothonotary's improper rejection of his November 3rd filing constituted a fatal defect on the face of the record that would

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

permit this Court to vacate the divorce decree. Husband relied on the Mariano case in support of his argument. However, this argument failed because even assuming the November 3rd filing was improperly rejected, Husband could not establish that his November 3rd filing were actually the exceptions to the ED Order.

Regarding this issue, this Court specifically noted, prior to the testimony, that it was not clear what was actually filed on the 3rd. (N.T., Oral Argument/Petition for Special Relief in Divorce, 2/18/26, p. 26). Husband alleged that what he filed on November 6th was what he had filed on the 3rd. However, upon review of the November 6th filing, it was unclear that the full exceptions were filed on the 3rd. Id. This Court specifically wanted testimony, in relevant part, as to what was it that Husband attempted to file on the 3rd. Id. at 25 - 27. Husband called many filings "exceptions" that were not really exceptions. Id. at 26. This Court asked counsel to walk Husband through the November 6th filing. Id. at 27.

Husband testified that on November 3rd he filed the exceptions to the ED Order electronically. Id. at 31 – 32, 33. He explained further:

> In the days leading up to it, the 28th, 29th, October 31st, November 3rd, I filed a series of what I'll call a pile, which I have a photograph of it there, and the actual pile is in my car, but I filed the exceptions report as well as the two items the Judge mentioned.

Id. at 32. He found out after the fact it was rejected. Id. at 33- 34. Husband attempted delivery of the filing on November 4th, but the Courts were closed. He then delivered the filing on November 5th, and he had proof of that delivery. The filing was docketed on November 6th. Counsel admitted into evidence, Exhibit P-1. Id. at 34. Exhibit P-1 was the filing docketed on November 6th, 2025, at 9:22 a.m.

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

The cover sheet of Exhibit P-1, is entitled "Cover Sheet - Exceptions to Hearing Officer's Report," in relevant part is sets forth:

> **Date Exceptions Filed:**
> 1. October 28, 2025 for Emergency Hearing to Seal Case to Submit Exceptions;
>   a. Request for Hearing due to Inaccuracies of
> 2. October 31, 2025 for Emergency Hearings for Wife's Attorney's Contempt of 3/31/25 Court Order.
> 3. November 3, 2025 (most exhibits to Exceptions Report)
> 4. November 5, 2025 (remainder of report, and within the 20 days of receipt)-

Looking at Exhibit P-1, Husband was asked to clarify what he actually filed on November 3rd because this cover sheet could not have been filed the 3rd. It references dates after the 3rd. Id. at 36. Husband stated that the cover sheet of the November 6th filing was new, after rejection; however, Husband identified page 3 of Exhibit P-1 as the cover memo on the filing he attempted on November 3rd. Id. at 38 – 39. He testified that "this thing that starts on page 3 refers to a number of exhibits which are all of the –what I call the pile." Id. at 39.

Husband's testimony was confusing and at times incoherent. This Court attempted to focus his testimony and stated, "What I'm trying to find out is what was filed." Id. at 43. After further failed attempts by Husband's attorney to have him testify clearly, this Court stated:

> I don't think you're answering the question. You're talking about who you served and what the courier did. I think the question was what did you file on the 3rd, and I still haven't really heard a full answer to that. What did you – did you personally file anything?

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Id. at 44. Husband stated that of Exhibit P-1, he filed from page 3 to the signature page. Id. at 46. After cross-examination, this Court expressed further need for clarity as to what was filed,

> Here's the issue that I'm having. Other than his testimony that he says he filed those ten pages, plus 46 exhibits on the 3rd the affidavit of service doesn't reference the exceptions anywhere. It only references some of the exhibits.
>
> His own document, that he filed on the 6th, says that on the 3rd he filed most exhibits to the report. That's his own language, and he still hasn't given an explanation. He doesn't even know what that means, he said.
>
> Some of the affidavits of service are dated by the notary on the 6th of November, which means they could not have been filed with the court on the 3rd. So to append them to this exhibit is somewhat disingenuous to say that its part of this exhibit filed on the - - I don't even know when - - if these were filed, but they certainly don't appear to be filed on the 3rd.
>
> ***
>
> The other thing is, it appears to me he was trying to file multiple documents, not just exceptions, that there was a contempt and there was this motion related to the sealing of the record. So there was at least three different motions that he was attempting to file. He's testified that he attempted to file things on the 29th, the 31st, and the 3rd.
>
> He's also testified that it's all in a big box. So I have no idea how any of this was actually presented to the prothonotary.

Id. at 61 - 62. Despite attempts by Husband's counsel to make sense of Husband's testimony for the Court, the record remained unclear what Husband actually tried

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

to file on November 3rd. Id. at 68 – 71. This Court explained its frustration with the conflicting testimony as follows:

> I said there's no evidence as to what was filed electronically. There's confusing evidence, let me say it that way.
>
> There's his testimony that he filed pages 3 through 13, the ten pages starting on page 3, and all of the exhibits. He testified to that. The rejection doesn't appear to have the rejection language related to the exhibits, so that seems to be incongruent what he said.
>
> He also on the 6th, when he filed this document, told the Court that on the 3rd he only filed most exhibits to the exceptions report. He doesn't say, I filed the exceptions report and most exhibits. Then on November the 5th, he says, I filed the remainder of the report – not the exhibits – remainder of the report. So I'm left with very inconsistent testimony and evidence, documentary evidence, that you submitted as to what actually was submitted on the 3rd. I have his testimony but there seem to be inconsistencies with the documents.

Id. at 71 – 72. Husband did not present any other witnesses that could provide evidence as to what was actually filed on the 3rd. Id. at 73, 74. This concluded Husband's evidence on this issue.

This Court found that Husband's testimony that what he filed on November 3rd, i.e., page 3 to the signature page which are exceptions to the ED Order of Exhibit P-1, not credible. The evidence did not support that Husband's November 3, 2025 filing was actually his exceptions to the ED Order. Id. at 75. On page 1 of Exhibit P-1, what was identified as having been filed on November 3, 2025 were most of the exhibits to the exceptions report. Id. at 77. This contradicted Husband's testimony when he stated he filed his exceptions on November 3rd.

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Importantly this Court noted that everything that Husband attempted to file between October 28th and November 6th, he referred to as exceptions. Husband could not prove that he in fact attempted to file exceptions on November 3rd.

Examples of the contradictions that Husband could not explain was that the cover page of Exhibit P-1, sets out that Husband filed exceptions on October 28th and October 31st; and according to the cover page, on November 3rd he filed "most exhibits to Exceptions Report." Not only does Husband refer to filings that are not exceptions, those filed on the 28th and 31st, as exceptions, he states that on November 3rd he filed most of the exhibits.

Husband repeatedly referred to filings that were not exceptions, those filed on October 28th and October 31st, as exceptions in his November 12th filing and his December 8th filing. Repeatedly he called other filings "exceptions." In addition, Husband repeatedly reiterated that what he filed on November 3rd were the exhibits to the exceptions in both his November 12th and December 8th filings. As mentioned earlier, Husband's testimony was at times incoherent and contradicted his claim that what he filed on November 3rd was page 3 to the signature page of Exhibit P-1.

Further, Husband attached multiple Affidavits of Service to Exhibit P-1; however, they do not support Husband's claim, and in fact bolster a determination that what Husband tried to file on November 3rd were exhibits. First, none of these Affidavits of Service set forth that his Exceptions to Hearing Officer's Report were served on any party. However, what is notable is that of those Affidavits of Service, the only one setting forth a filing was served on November 3rd, reads as follows:

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

DOCUMENTS SERVED: See attached "Exhibit A", EXHIBITS #1-22, EXHIBIT #21 HOUSE PROCEEDS, GH HELOC PAYDOWN (GH LOAN TO HOUSE PROCEEDS) COLLEGE/CSA PAYDOWN 529, $772k REPAYMENT WAS FOR LOANS BEFORE JEN FUNDED ANYTHING, GH LOANS TO HOUSE, EXHIBIT #22 COPY OF 11/3/2025 EMERGENCY RELIEF REQUEST FOR CONTEMPT OF COURT ORDER DATED 3/13/2025 MONTCO COURT ORDER, EXHIBITS #1-20, EXHIBIT #23 10/28/2025 CHESTERCO FILING APL EMERGENCY PETITION TO SEAL CASE POST - APL HEARING ON 10/20/2025 (AND TRANSCRIPT FROM HEARING REC'D), ALIMONY PENDENTE LITE HEARING RESPONSE AND TESTIMONY (BACKUP)
BY LEAVING WITH: Emily (person-in-charge)
DATE & TIME OF SERVICE: 11/03/2025 at 05:17 P.M.

This shows that only exhibits were served on counsel. This is consistent with what his November 6th filing, his November 12th filing and in his December 8th filing, all of which set forth that on November 3rd he filed exhibits.

At the Protracted Hearing, Husband had testified that what he attempted to file with the Courts on November 3rd was the same thing he delivered to Wife's counsel on the 3rd. (N.T., Oral Argument-Petition for Special Relief in Divorce, 2/18/26, pp. 32 – 33). Although Husband tried to frame this filing as exceptions in his testimony, this testimony is belied by this Affidavit of Service, which in fact bolsters the determination what Husband tried to file were exhibits and not the exceptions.

Husband heavily relied on the case of Mariano v. Rhodes, 270 A.3d 521 (Pa.Super. 2022) to support his fatal defect on the face of the record argument. In Mariano the Superior Court determined that a prothonotary exceeded its authority in rejecting a timely filed pleadings based on its local rules. This improper rejection created a fatal defect on the record that would permit a divorce decree to be vacated. Id. at 526.

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

In Mariano, the appellant-wife timely submitted pleadings challenging a division of assets, but that pleading was rejected by the prothonotary because counsel neglected to enter his appearance and pay the corresponding filing fee as required by the local rules. Id. at 524. The prothonotary crossed out the timestamp on the pleadings and informed counsel of his mistake. Id. Counsel did enter his appearance and pay the fee, however the deadline for a timely filing has passed. Id. The trial court deemed the filing untimely and issued the divorce decree. Id. Appellant-wife filed a motion to vacate the divorce decree under Section 3332, which the trial court denied. Id. at 525.

On appeal to the Superior Court, appellant-wife argued that the prothonotary's rejection of her pleadings constituted a fatal defect of the record under Section 3332 because the prothonotary should have either filed the pleadings after their initial receipt or in the alternative that the prothonotary should have reinstated the pleadings once counsel corrected the defects. Id. at 526.

The Mariano Court determined that the prothonotary's office had no authority to reject the appellant-wife's documents either for failure of counsel to enter his appearance or the paying of the fee. Id. The Mariano Court reasoned that the prothonotary had no power to reject the pleadings, in relevant part, based on Pa.R.C.P. 205.2 which requires: "No pleading or other legal paper that complies with the Pennsylvania Rules of Civil Procedure shall be refused for filing by the prothonotary based on a requirement of a local rule of civil procedure and judicial administration." Id. at 527. Applying this rule to the facts, the Mariano Court determined that the prothonotary exceeded its authority in rejecting appellant-wife's

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

pleadings based on a local rule. For the purpose of time computation, a document is filed when it was received by the prothonotary despite the document's nonconformity with regular procedure. Id. at 528. Thus, this improper rejection was a fatal defect on the record permitting the vacating of the divorce decree. Id. at 529.

The Mariano case is of no avail to Husband. Even assuming that the prothonotary exceeded its authority in this case by rejecting Husband's November 3rd filing because he did not choose the correct drop-down menu description, Husband could not prove that that November 3rd filing was his exceptions to the ED order. In Mariano, there was no dispute that the prothonotary rejected the appellant-wife's counter-affidavit and answer and counterclaim disputing the husband's averments and requesting equitable distribution. Id. at 525. There was a time stamped physical copy of the rejected pleadings, with the time stamp having then been crossed out. The nature of the pleadings was never in doubt. Unlike our case, the Mariano Court knew what pleadings were actually rejected by the prothonotary.

For these reasons, Husband could not prove that he timely filed exceptions to the ED Order, but for an improper rejection by the prothonotary. Husband could not prove what he tried to file.

II. Husband's Due Process Rights Were Not Violated

Husband second issue on appeal claims his due process rights were violated because he did not have the opportunity to testify as to all of his petitions. However, Husband did not preserve this issue for appeal; therefore, it is waived. See Pa.R.A.P. 302(a).

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

This Court noted that this matter was scheduled for the following sequence numbers, 76, 79, 84, 85, 86, 105, 106, 107, 109, 119, 124, and 125, and stated its intention of how the Protracted Hearing would proceed. N.T., Oral Argument/Petition for Special Relief in Divorce, 2/18/26, p. 4). This Court stated, "It's this Court's belief that if the plaintiff cannot meet the standard for vacating the divorce decree under Section 3332, then this Court does not have jurisdiction to decide sequences 84, 85, 105, 107, 109, and 124 except for the counterclaim and 125 except for the counterclaim." Id. at 5. Husband's counsel made no objection.

Additionally, after testimony was concluded on the motion to vacate the divorce decree, this Court put its ruling on the record with its reasoning. Ultimately, this Court denied the motion. Id. at 78. This Court then stated, "Having denied this motion to the divorce decree, this Court believes that it lacks jurisdiction to decide Sequences 84, 85, 105, 107, 109, and 124 except for the counterclaim for counsel fees, and 125 with the exception of the counterclaim for counsel fees." Id. at 79. No objection was made. In fact, Husband never requested that there be testimony on all of his petitions. For that reason, this issue is waived on appeal.

Even if this issue was preserved on appeal, it lacks merit. Husband couches this issue in terms of a due process violation; however, it is a matter of jurisdiction. Because this Court ruled that the divorce decree could not be vacated, this Court lacked jurisdiction to review the merits of these other petitions and it would have been improper to permit testimony.

III. Husband Was Properly Found in Contempt and Properly Sanctioned in the Amount of $9,500

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

Third, Husband contends that this Court abused its discretion in finding him in contempt of the ED Order as he clearly demonstrated an inability to comply with the terms of the Order, and lastly, he claims this Court abused its discretion in sanctioning him $9,500 in attorney's fees. These issues lack merit.

Under Section 3502(e), 23 Pa.C.S., a court can hold a party in contempt and assess attorney's fees as follows:

> **(e) Powers of the court.**--If, at any time, a party has failed to comply with an order of equitable distribution, as provided for in this chapter or with the terms of an agreement as entered into between the parties, after hearing, the court may, in addition to any other remedy available under this part, in order to effect compliance with its order:
> (1) enter judgment;
> (2) authorize the taking and seizure of the goods and chattels and collection of the rents and profits of the real and personal, tangible and intangible property of the party;
> (3) award interest on unpaid installments;
> (4) order and direct the transfer or sale of any property required in order to comply with the court's order;
> (5) require security to ensure future payments in compliance with the court's order;
> (6) issue attachment proceedings, directed to the sheriff or other proper officer of the county, directing that the person named as having failed to comply with the court order be brought before the court, at such time as the court may direct. If the court finds, after hearing, that the person willfully failed to comply with the court order, it may deem the person in civil contempt of court and, in its discretion, make an appropriate order, including, but not limited to, commitment of the person to the county jail for a period not to exceed six months;
> (7) **award counsel fees and costs**;
> (8) attach wages; or
> (9) **find the party in contempt.**

23 Pa.S.C. § 3502(e).

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

A. Contempt

When reviewing an appeal from a contempt order, the appellate court "must place great reliance upon the sound discretion of the trial judge." Godfrey v. Godfrey, 894 A.2d 776 (Pa.Super. 2006). The scope of review for the appellate court is very narrow, and the appellate court is limited to "determining whether the trial court committed an abuse of discretion." Id. The trial court abuses its discretion in a contempt case if it "misapplies the law or exercises its discretion in a manner lacking reason." Hopkins v. Byes, 954 A.2d 654 (Pa.Super. 2008).

In order to support a finding of civil contempt, the petitioner must prove that the contemnor had notice of the specific order or decree which is alleged to have been disobeyed; that the act constituting the contemnor's violation was volitional; and that the contemnor acted with wrongful intent. Harcar v. Harcar, 982 A.2d 1230 (Pa.Super. 2009). A party alleging contempt of a court order has the burden to show a party violated an order by a preponderance of the evidence. Hopkins, supra.

At the Protracted Hearing, Husband testified that he can't comply with the ED recommendations because to do so would force him to file for bankruptcy. (N.T., Oral Argument-Petition for Special Relief in Divorce, 2/18/26, p. 114). He claimed that the hearing officer made errors in the financial calculations. Id. at 114 – 119. However, most of Husband's testimony when questioned about specific assets designated in the ED Order was that he didn't want to follow the order because he didn't think that it was the best use of the money. He wanted to do it

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

his way, and the ED Order seemed to only be a suggestion rather than an order of the Court.

Husband was specifically asked about his son's 529 account which was supposed to be transferred to Wife. Husband stated that Owen's 529 account should have a balance of $40,000; however, it thought it best to transfer $7000 to an IRA rollover account for Owen. He did this in December of 2025. Id. at 123. Husband declared that this allows Owen to have tax-free growth of that money until he retires, for the next 30 years. Id. at 124. Husband stated that he did a similar transfer amount for his two other children, Ryan and Emma, insisting that he needed to preserve the character of the accounts. Id. at 124.

Under the ED Order, Husband was required to pay a lump sum to Wife. Husband said he could not pay the required payment of $570,298 because he has other financial obligations. Id. at 125 – 126. The ED Order determined that as of June 24, 2025, there was $639,103 in a Chase checking account; however, since that time he spent $350,000 in legal bills since that time. Id. at 127.

Husband believed that all of his emergency filings and non-emergency filings since that have required responses from Wife all relied on appropriate legal bases. Id. at 128 – 129, 131.

On cross-examination, Husband was dismissive of the ED Order. It was clear Husband wanted to do what he wanted to do with the assets regardless of what he was ordered to do. For instance, Husband testified that at the time of the hearing he had $102,432 in his bank account. Id. at 132. He was asked whether he could pay Wife $100,000 to partially satisfy the lump sum payment. Id. Husband

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

denied he could. He rationalized his disobedience of the court order and stated that if he gave Wife $100,000 he would not be able to defend himself in some other legal case. Id. at 132.

As to the ED Order directing him to transfer Owen's 529 account to Wife, he admitted he didn't want to do that and refused to sign the change of ownership paperwork Wife had emailed to him. Id. at 137. Husband testified, "I would rather give the other account that has the same amount of money, so I can preserve the character for giving Owen a retirement account." Id.

Husband was at times combative. For instance, when counsel questioned Husband about the money he transferred out of his other children's 529 accounts, Husband defensively declared, "So if you're going to start accusing me of harming children by making sure that they have retirement funds. - -". Id. at 135. The Court assured Husband no one was accusing him of anything. Id. In fact, this Court had to take a recess so Husband's counsel could get him under control. Id. at 136.

Husband was asked whether it was up to him to follow a court order or not, and his response was indicative of his attitude. He responded, "Its up to me to make sure that our kids are not harmed, and this would harm Owen. He would not have a growth retirement fund, so I'm asking you to allow me to do the Merrill Lynch 529 account for Owen instead. It's got the same amount of money." Id. at 137.

Husband was asked about the transfer of the marital IRA to Wife as required by the ED Order and whether he would sign the paperwork to do so. Wife

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

had sent him that paperwork. Id. at 138. Husband rejected this suggestion and stated, "I would want to seek counsel's advice because we have a pending appeal that's going to go up to the Supreme Court, so I think I would rather wait until the hearing is decided on that." Id. at 139 – 140.

Based upon the whole of Husband's testimony, his combative demeanor, and his dismissive attitude toward the ED Order, this Court found Husband in contempt. This Court was so struck by this blatant disregard of the ED Order it included the following paragraph in a footnote in the February 20, 2026 Order as follows:

> Plaintiff's position at the Protracted Hearing was that he had not willfully refused to comply with the Divorce Decree, but rather that he was not financially able to comply with the Decree without being bankrupted. Plaintiff's testimony at the Protracted Hearing was clear, however, that with respect to at least certain aspects of the Divorce Decree, his non-performance was not at all due to an inability to comply, but rather, an unwillingness to comply because he believed complying with the Order was not the best use of the money. For example, he testified that he has refused and would continue to refuse to transfer a 529 Plan Account to Defendant because he did not think it was wise to do so. He agreed that his unwillingness to do so was NOT because of an inability to comply with the Decree. This testimony made clear that Plaintiff has WILLFULLY REFUSED TO COMPLY with at least portions of the Decree.

See, Order entered 2/20/26, footnote. The determination of contempt is fully supported by Husband's testimony. Husband did not show that he had an inability to pay. He just didn't agree with the order.

Case# 2019-06032-155 Docketed at Montgomery County Prothonotary on 05/14/2026 2:41 PM, Fee = $0.00. The filer certifies that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

B. Attorney's Fees

After a finding of contempt and this Court's consideration that Wife had to expend a total of $9,500 to respond to Husband's many petitions and to file her motion for contempt to have Husband comply with the ED Order, Husband was properly sanctioned. Id. at 109- 110.

CONCLUSION

Based on the forgoing analysis, the two February 20, 2026 Orders should be affirmed.

BY THE COURT:

HON. RAYMOND McGARRY J.
COURT OF COMMON PLEAS
MONTGOMERY COUNTY
PENNSYLVANIA
38TH JUDICIAL DISTRICT

May 14, 2026

Copies sent via Prothonotary to:
Plaintiff/Plaintiff's counsel: Christipher Casserly, Esquire; Melissa D. Towsey-Rich, Esquire
Defendant/Defendant's counsel: Andrew Taylor, Esquire

Copies sent via Chambers to:
Court Administration – Family (*Interoffice*)

Judicial Assistant