

IN THE COURT OF APPEALS OF TENNESSEE
AT NASHVILLE
May 16, 2023 Session

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Appellate Courts

TRACY DARRELL ADKINS v. RHONDA FORLAW ADKINS

**Appeal from the Chancery Court for Williamson County
No. 15CV-44288 Michael Binkley, Judge**

No. M2022-00986-COA-R3-CV

This is an appeal from a divorce decree that was initially entered in 2017, but the divorce action was not finalized until 2022. In this appeal, Wife argues that the trial court should not have divorced the parties because there were no valid grounds for divorce. Because the parties executed a valid marital dissolution agreement agreeing to be divorced on the ground of irreconcilable differences, we affirm the trial court’s decision to declare the parties divorced. We modify the divorce decree, however, to provide that Wife is awarded the divorce on that ground, consistent with the parties’ agreement. We further award Husband his attorney’s fees as required under the marital dissolution agreement.

**Tenn. R. App. P. 3 Appeal as of Right; Judgment of the Chancery Court Affirmed
as Modified and Remanded**

J. STEVEN STAFFORD, P.J., W.S., delivered the opinion of the court, in which ARNOLD B. GOLDIN, and KENNY ARMSTRONG, JJ., joined.

Jonathan Jackson Pledger and Charles G. Blackard, III, Franklin, Tennessee, for the appellant, Rhonda Forlaw Adkins.

Larry Hayes, Jr. and Rachel M. Thomas, Nashville, Tennessee, for the appellee, Tracy Darrell Adkins.

MEMORANDUM OPINION¹

¹ Rule 10 of the Rules of the Court of Appeals of Tennessee provides:

This Court, with the concurrence of all judges participating in the case, may affirm, reverse or modify the actions of the trial court by memorandum opinion when a formal opinion would have no precedential value. When a case is decided by memorandum opinion it

I. FACTUAL AND PROCEDURAL HISTORY

This case involves a long-standing divorce action. Despite a long and tortuous history in the trial court and on appeal,² this is the first appeal of this case to result from a final judgment. Still, the issues properly presented in this appeal are narrow. For the sake of judicial economy, we will therefore only discuss those facts and filings necessary to adjudicate this appeal.

A divorce was first initiated in 2014 by Defendant/Appellant Rhonda Forlaw Adkins (“Wife”) against Plaintiff/Appellee Tracy Darrell Adkins (“Husband”). During the course of that case, on or about May 28, 2015, the parties entered into a signed Marital Dissolution Agreement (“MDA”) that provided for the division of marital property, spousal support, and child custody based on the desire of the parties to:

settle all issues in the pending divorce and further desire to enter into a binding written contract in full and complete settlement of all of their respective rights and obligations related thereto, it being their intention that such written contract will govern and address all such rights and obligations and other matters of concern.

The MDA further stated that “Wife shall be awarded an absolute divorce from Husband on the grounds of irreconcilable differences.” The MDA was signed by both parties and notarized.

According to Husband, the parties agreed that Wife would voluntarily dismiss the initial divorce filing and re-file in an effort to “clean up” the divorce record. The initial divorce action was dismissed, but Wife did not immediately file a new action. Instead, Husband filed a complaint for divorce on June 26, 2015. The only ground for divorce alleged was irreconcilable differences. Husband asked that the previously executed MDA be approved and incorporated into the final divorce decree. On September 4, 2015, Husband filed a motion to compel Wife to file the original MDA and to enforce the terms thereof.

Eventually, Wife filed an answer and counterclaim on October 5, 2015. Therein, Wife denied that the MDA was valid due to the dismissal and expunction of the prior divorce proceeding. Wife further asserted that Husband had committed unspecified breaches of the MDA, thereby estopping him from enforcing it, and that she had also repudiated the MDA. Wife also asserted that the MDA did not make adequate provision

shall be designated “MEMORANDUM OPINION,” shall not be published, and shall not be cited or relied on for any reason in any unrelated case.

² The technical record alone in this case spans nearly 9,000 pages.

for herself and the parties' children. Finally, Wife denied that irreconcilable differences existed.

The dispute concerning whether the MDA should be enforced lasted for years. Eventually, on January 7, 2017, the Williamson County Chancery Court (“the trial court”) entered a lengthy Memorandum and Order that enforced the MDA. Therein, based on the evidence and testimony presented, the trial court found that the parties had mutually agreed to the procedure whereby the initial divorce proceeding would be dismissed in order to “clean up” the record, with a new divorce being promptly filed and then resolved via the executed MDA. The purpose of this action was apparently to remove from the public record certain “scandalous allegations” that had been made in the original proceeding. Indeed, this agreement was memorialized in the parties’ tentative agreement titled “General Terms of Settlement.”³ The trial court further found that following the extensive negotiations between the parties, Wife “was aware everyone expected her to re-file her divorce action[,]” and her testimony otherwise was “less than credible.” Based on these facts, the trial court found that “it was never the intention of the parties or their attorneys to invalidate or otherwise negatively affect the MDA or [parenting plan] through the dismissal/expungement procedure; but instead, this procedure was merely utilized in order to ‘clean up’ the original divorce record.”

Thus, the trial court ruled that the MDA was valid and enforceable despite the dismissal of the first divorce action. Moreover, the trial court concluded that Wife’s repudiation of the MDA did not affect its enforceability, citing *Barnes v. Barnes*, 193 S.W.3d 495 (Tenn. 2005). Likewise, the trial court rejected Wife’s contention that Husband repudiated the MDA through his conduct or that of his attorneys. The trial court further found that the MDA made adequate provision for Wife, the accompanying parenting plan was in the best interests of the parties’ children, and that Wife was not under duress when she signed it. Finally, the trial court briefly addressed a number of other arguments that Wife lodged in her effort to avoid the MDA, rejecting each one.

Proceedings in the trial court continued with little abatement. Beginning little more than a month after the trial court’s ruling, Wife filed the first of three motions to recuse the trial judge. The trial judge denied each motion, except to the extent that he removed himself from a single issue relative to the second motion to recuse. Wife filed accelerated interlocutory appeals as to her first and third motions. We affirmed the judgments of the trial court. *See Adkins v. Adkins*, No. M2021-00384-COA-T10B-CV, 2021 WL 2882491 (Tenn. Ct. App. July 9, 2021); *Adkins v. Adkins*, No. M2017-00495-COA-T10B-CV, 2017 WL 1960549 (Tenn. Ct. App. May 11, 2017).

³ Specifically, this document stated that “[f]ollowing execution of a Marital Dissolution Agreement and Parenting Plan, the parties shall take the necessary steps to expunge their current divorce action, re-file under Irreconcilable Differences and have the Court approve their agreements.” Wife, however, did not sign this document.

Based on concerns that the case was not final due to outstanding issues, the trial court issued an order on September 10, 2018, purporting to certify fourteen orders as final under Rule 54.02 of the Tennessee Rules of Civil Procedure. Wife then filed an appeal to this Court of those orders. We, however, dismissed the appeal based on our finding that the divorce proceeding was non-final and that the trial court could not utilize Rule 54.02 to authorize a piecemeal appeal of that nature. *See Adkins v. Adkins*, No. M2018-00890-COA-R3-CV, 2020 WL 9602029, at *5 (Tenn. Ct. App. Dec. 22, 2020). Upon remand, the trial court asked the parties to specify those issues that were outstanding. The trial court then entered an order stating the remaining issues and ruling that all issues that were not listed were waived and dismissed. Eventually, on July 19, 2022, the trial court issued a final order resolving all the remaining issues in the case. In this order, the trial court did not alter its enforcement of the parties' MDA pursuant to its January 2017 order, over five-and-one-half years prior. Wife thereafter filed a timely appeal of that ruling.

II. ISSUES PRESENTED

Wife raises the following issues, which are taken from her appellate brief and slightly restated:

1. Whether the Trial Court erred in declaring the parties divorced, when no contested grounds were pleaded, and there was no proof of grounds, or joint stipulation by the parties; thus, the Trial Court having no authority and/or jurisdiction to grant a divorce pursuant to T.C.A. § 36-4-129.
2. Whether the Trial Court erred in awarding an “Irreconcilable Differences” divorce when the only grounds for divorce alleged was “Irreconcilable Differences” and “Irreconcilable Differences” was Denied, and no other Ground for Divorce was pleaded.
3. Whether the Trial Court erred in proceeding to divorce upon a document entitled “Marital Dissolution Agreement” when such document was “rescinded”, “retracted”, and/or “repudiated” prior to approval and/or ratification by the Trial Court, and otherwise not in compliance with statutory law (i.e., T.C.A. 36-4-103), and/or in accord with Tennessee Supreme Court case law set forth in *Barnes v. Barnes*, and/or Tennessee Appellate Court decision of *Olson v. Beck*.
4. Whether the Trial Court erred in statutory procedures for granting a divorce upon grounds of “Irreconcilable Differences”, as set forth and mandated by T.C.A. 36-4-103; especially when allegation of “Irreconcilable Differences” is affirmatively Denied under oath, and there is no “subsequent” “Marital Dissolution Agreement”.
5. Whether the alleged “Marital Dissolution Agreement” fails, (i.e., is “void”), as it fails to award a condition precedent of awarding the Wife a divorce from Husband.

6. Whether the divorce being granted based on “Irreconcilable Differences” is a condition precedent to enforcing a Marital Dissolution Agreement.
7. Whether the Trial Court erred in granting a “Partial Recusal” of himself in the divorce proceedings, and then subsequently resuming his role as the trier of fact.

In the posture of Appellee, Husband asks that the MDA be enforced on the basis of Husband’s performance and detrimental reliance. He also asks to be awarded attorney’s fees incurred in defending this appeal.

III. STANDARD OF REVIEW

Because this is an appeal from a decision made by the trial court following a bench trial, the now familiar standard in Rule 13(d) of the Tennessee Rules of Appellate Procedure governs our review. Rule 13(d) provides: “Unless otherwise required by statute, review of findings of fact by the trial court in civil actions shall be de novo upon the record of the trial court, accompanied by a presumption of the correctness of the finding, unless the preponderance of the evidence is otherwise.” “The presumption of correctness in [Rule] 13(d) applies only to findings of fact, not to conclusions of law. Accordingly, appellate courts review a trial court’s resolution of legal issues without a presumption of correctness and reach their own independent conclusions regarding these issues.” *Nashville Ford Tractor, Inc. v. Great Am. Ins. Co.*, 194 S.W.3d 415, 425 (Tenn. Ct. App. 2005). “Both the interpretation of statutes and the interpretation of contracts are questions of law[.]” *State ex rel. Pope v. U.S. Fire Ins. Co.*, 145 S.W.3d 529, 533 (Tenn. 2004).

IV. ANALYSIS

A. GROUNDS FOR DIVORCE

The majority of Wife’s issues concern the trial court’s decision to grant Husband a divorce on the ground of irreconcilable differences notwithstanding her subsequent denial of that ground for divorce.⁴ Tennessee Code Annotated section 36-4-101 lists the grounds

⁴ Wife argument is somewhat difficult to understand, as her appellate brief does not address each of her seven issues separately, but as one global argument. Indeed, her variously designated issues as to the enforceability of the MDA and the validity of the divorce essentially bleed into a single argument without much distinction.

As noted above, Wife also raised a number of other theories to invalidate the MDA in the trial court, including duress, that the MDA did not make an adequate provision for Wife or the children, that the expunction of the initial divorce invalidated the MDA, and that the MDA was invalid due to repudiation and/or breach by Husband. Wife does not raise any of these theories in her initial brief to this Court. To some extent, however, Wife does attempt to raise additional issues in her reply brief. In this appeal, however, we limit our review only to those issues properly designated as issues and argued in Wife’s initial appellate brief. See *Childress v. Union Realty Co.*, 97 S.W.3d 573, 578 (Tenn. Ct. App. 2002) (requiring that issues be both designated as issues and properly argued); see also *Guth v. Suntrust Bank, Inc.*, No.

for divorce that are recognized in Tennessee. The only ground cited in the divorce petition was irreconcilable differences under section 36-4-101(14), which provides a ground when there are “[i]rreconcilable differences between the parties[.]” Tennessee Code Annotated section 36-4-103 goes on to provide specific procedural requirements when a divorce is granted on this ground. Among these requirements is that

No divorce shall be granted on the ground of irreconcilable differences unless the court affirmatively finds in its decree that the parties have made adequate and sufficient provision by written agreement for the custody and maintenance of any children of that marriage and for the equitable settlement of any property rights between the parties.

Tenn. Code Ann. § 36-4-103(d). Here, the trial court granted the divorce based upon the MDA executed by the parties in 2015. But Wife argues that the trial court was not permitted to grant a divorce based upon this ground due to Tennessee Code Annotated section 36-4-103(e), which provides as follows:

If there has been a contest or denial of the grounds of irreconcilable differences, no divorce shall be granted on the grounds of irreconcilable differences. However, a divorce may be granted on the grounds of irreconcilable differences where there has been a contest or denial, if a properly executed marital dissolution agreement is presented to the court.

According to Wife’s interpretation of this statute, when one party has denied the ground of irreconcilable differences, a divorce based on this ground is only available where the parties *subsequently* enter into a properly executed marital dissolution agreement. Because there is no dispute that Wife signed the MDA *prior to* her denial of the ground of irreconcilable differences, she asserts that this was not a proper ground for divorce. And because no other ground was alleged, she asserts that the divorce is invalid.

In order to resolve this issue, we look to the familiar rules of statutory construction. Of paramount importance are the words employed by the legislature. *See Mills v. Fulmarque, Inc.*, 360 S.W.3d 362, 368 (Tenn. 2012). We interpret those words based on “their natural and ordinary meaning in the context in which they appear and in light of the statute’s general purpose.” *Id.* (citing *Lee Med., Inc. v. Beecher*, 312 S.W.3d 515, 526 (Tenn. 2010)). When ambiguous, we may look beyond the statutory text, including public policy and “the background and purpose of the statute”; however, external sources cannot provide a basis for departing from the clear statutory language. *Id.*

E2006-00212-COA-R3-CV, 2007 WL 1135488, at *2 (Tenn. Ct. App. Apr. 17, 2007) (holding that the appellant “is not entitled to raise new or different issues in his reply brief”); *Caruthers v. State*, 814 S.W.2d 64, 69 (Tenn. Crim. App. 1991) (“An appellant cannot . . . advance a new argument to support an issue in the reply brief.”).

The Tennessee Supreme Court has further acknowledged the “importance of verb tense in a phrase” when construing a statute, but has cautioned that such words must be read in the context of the statute as a whole. *Amos v. Metro. Gov. of Nashville & Davidson Co.*, 259 S.W.3d 705, 714 (Tenn. 2008) (citing *Baker v. Donegan*, 164 Tenn. 625, 52 S.W.2d 152, 153 (1932)); *see also Nationwide Mut. Fire Ins. Co. v. Memphis Light, Gas & Water*, 578 S.W.3d 26, 35 (Tenn. Ct. App. 2018) (“[I]n construing statutes, we must consider the grammar employed by the legislature.”). As an example, in *Baker*, the Tennessee Supreme Court noted that the future tense of the verb at issue indicated that the statute applied to some event taking place in the future. *Baker*, 52 S.W.2d at 153.

Applying these rules, we respectfully do not agree with Wife’s interpretation of section 36-4-103(e). Here, the relevant verb is “has been[,]” which utilizes the present perfect tense. *See Padilla-Romero v. Holder*, 611 F.3d 1011, 1013 (9th Cir. 2010) (characterizing the verb “has been” as the present perfect tense);⁵ *Com. v. Giulian*, 636 Pa. 207, 218, 141 A.3d 1262, 1268 (Pa. 2016) (characterizing the phrase “has been free of arrest” as using the present perfect tense). “The present perfect tense ‘refers to (1) a time in the indefinite past . . . , or (2) a past action that comes up to and touches the present.’” *Dobrova v. Holder*, 607 F.3d 297, 301 (2d Cir. 2010) (quoting *Chicago Manual of Style* ¶ 5.119 (15th ed. 2003)); *see also Padilla-Romero*, 611 F.3d at 1013 (holding that the present perfect tense of “has been” “can connote either an event occurring at an indefinite past time . . . or continuing to the present”).

Of course, in deciding whether only the more limited of these two available definitions is intended, we must consider the context of the statute as a whole. *Amos*, 259 S.W.3d at 714. Clearly, the purpose of section 36-4-103(e) is to allow the parties to be divorced via marital dissolution agreement on the ground of irreconcilable difference even when one party has denied that ground. The only question is whether that denial must occur before or after the execution of the agreement. In order to resolve this dispute, it is important to take into account the fact that marital dissolution agreements of the type referenced in section 36-4-103(e) are binding contracts that may not be repudiated after execution. *See Barnes v. Barnes*, 193 S.W.3d 495, 498 (Tenn. 2005).

In *Barnes*, the trial court enforced an executed marital dissolution agreement despite the husband’s subsequent disavowal of it. *Id.* at 497. As such, the trial court granted a divorce on the ground of the wife’s admitted inappropriate marital conduct. We reversed the judgment of the trial court, but the Tennessee Supreme Court reinstated the trial court’s ruling. *Id.* at 498–99. As our Supreme Court explained, “[a] marital dissolution agreement may be enforceable as a contract even if one of the parties withdraws consent prior to the entry of judgment by the trial court, so long as the agreement is otherwise a validly

⁵ The specific statutory language in *Padilla-Romero* provided that the Attorney General could cancel removal of “an alien” if the alien “has been an alien lawfully admitted for permanent residence for not less than 5 years” coupled with two additional requirements. *Id.* at 1013 (quoting 8 U.S.C. § 1229b(a)).

enforceable contract.” *Id.* at 499. Since *Barnes*, Tennessee courts have consistently held that marital dissolution agreements should be enforced notwithstanding one party’s later repudiation of the contract. *See, e.g., Polster v. Polster*, No. M2020-01150-COA-R3-CV, 2021 WL 4167927, at *3 (Tenn. Ct. App. Sept. 14, 2021), *perm. app. denied* (Tenn. Jan. 12, 2022); *Olson v. Beck*, No. M2013-02560-COA-R3-CV, 2015 WL 899381, at *4 (Tenn. Ct. App. Feb. 27, 2015). Thus, absent some fraud, mistake, or other reason not presented in this appeal, Wife is not entitled to avoid the consequences of a contract that she freely signed, even if that contract dissolves her marriage. *See Cummings v. Vaughn*, 911 S.W.2d 739, 742 (Tenn. Ct. App. 1995) (“In the absence of fraud or mistake, a contract must be interpreted and enforced as written.”).

Wife seeks to avoid this rule by arguing that it is not her repudiation of the MDA itself that is fatal to the enforcement of the MDA, but her denial of the ground of irreconcilable differences, despite expressly agreeing to be divorced via that ground in the MDA. And because her denial occurred *after* the execution of the MDA, she asserts that section 36-4-103(e) does not allow for a divorce on the ground of irreconcilable differences. Finally, without irreconcilable differences—the only ground alleged by Husband—Wife contends that there could be no divorce. But as previously discussed, section 36-4-103(e) may be reasonably read to state that a marriage may be dissolved via marital dissolution agreement when one party’s denial or contest of the ground of irreconcilable differences is “continuing to the present” so long as there is a validly executed marital dissolution agreement in which the spouse, at one point, did agree to that ground for divorce. *Padilla-Romero*, 611 F.3d at 1013. Indeed, this reading of section 36-4-103(e) is most consistent with the well-settled law preventing a spouse from repudiating a marital dissolution agreement after its execution. Whether Wife repudiates the parties’ MDA, or simply her agreement to the ground of irreconcilable differences, is a distinction without a difference. To hold otherwise would allow an exception to essentially swallow the rule set forth in *Barnes* by allowing one spouse to unilaterally avoid an executed contract simply because they no longer agree with one specific provision contained therein. Clearly, the *Barnes* court did not countenance this result. Thus, Wife’s express agreement that the parties would be divorced on the ground of irreconcilable differences is valid and enforceable regardless of her later withdrawal of consent to that ground. And under section 36-4-103(e), the trial court was permitted to grant the parties a divorce based on the ground of irreconcilable differences due to the properly executed MDA, notwithstanding the fact that Wife later denied that such a ground for divorce existed.

In addition to arguing that the trial court could not have awarded a divorce on the ground of irreconcilable difference given her later denial, Wife also posits essentially the opposite argument: that the divorce is invalid because the MDA was conditioned on Wife being awarded a divorce on the ground of irreconcilable differences, but the trial court chose to award Husband a divorce on this ground. In support, Wife points to several cases where similar arguments have been raised by a party, but in which the appellate courts have essentially avoided answering that question. *See, e.g., Barnes*, 193 S.W.3d at 499 (noting

that the divorce was awarded on the basis of inappropriate marital conduct, rather than irreconcilable differences);⁶ *Olson*, 2015 WL 899381, at *4 (holding that the husband waived his argument that the MDA required that the divorce be granted on the ground of irreconcilable differences); *see also Polster*, 2021 WL 4167927, at *3 (holding that the trial court had no notice that Husband had withdrawn his consent to the divorce on the ground of irreconcilable differences). Under this theory, Wife submits, the grant of an irreconcilable differences divorce to her was an express condition precedent of the MDA and without that condition being met, the divorce decree is void.

Respectfully, this argument is somewhat difficult to understand. Importantly, unlike some other cases, the divorce in this case was granted on the exact ground that the parties agreed to in the MDA. And we have determined that the trial court was authorized by section 36-4-103(e) to rely on that agreed-upon ground notwithstanding Wife's change of heart. Thus, the only deviation between what the contract called for and what actually occurred in this case was that the divorce was granted to Husband rather than Wife. In our view, it appears that this argument stems from a fundamental misunderstanding as to the ground of irreconcilable differences. Importantly, "[a] divorce may be obtained on the ground[] of irreconcilable differences, without a showing of fault on the part of either part[y]." *Cary v. Cary*, 937 S.W.2d 777, 781 (Tenn. 1996) (citing Tenn. Code Ann. § 36-4-101). As such, Tennessee Code Annotated section 36-4-129(b) provides that the trial court need not even grant a divorce to one party when irreconcilable differences is the applicable ground, but may simply "declare the parties to be divorced." So it appears to have little practical impact who was awarded the divorce when the ground is not based on fault.⁷ And this Court is empowered to set aside a trial court's judgment only when "considering the whole record, error involving a substantial right more probably than not affected the judgment or would result in prejudice to the judicial process." Tenn. R. App. P. 36(b).

Still, as previously discussed, we cannot rewrite the parties' contract, and Husband is bound by it as equally as Wife. Here, Husband agreed that Wife was to be awarded the divorce on the ground of irreconcilable differences. Although the trial court apparently decided to award the divorce to Husband based on Wife's conduct in contesting the divorce proceedings, if the MDA is to be enforced, it should be enforced in full. By its terms, then, Wife is entitled to a divorce on the ground of irreconcilable differences. The divorce decree is therefore modified to provide that Wife is awarded the divorce on the ground of irreconcilable differences. This modification, however, does not denote that any party is at

⁶ To the extent that Wife argues that no marital dissolution agreement can ever be enforced without the prior granting of an irreconcilable differences divorce, *Barnes* clearly holds otherwise. 193 S.W.3d at 499.

⁷ In her reply brief, Wife asserts vaguely that a desire to be awarded a divorce may be "[r]eligious or otherwise" or impact issues of alimony. Of course, alimony was decided by the parties in the MDA. And Wife points to no evidence in the record that there were religious or other reasons that she should have been awarded the divorce.

fault, nor does this modification have any impact on the issues in this appeal. Husband's argument that the MDA should be enforced due to performance and/or detrimental reliance is pretermitted.

B. OTHER ISSUES

Each party presents at least one additional issue. Wife argues that the trial court erred in its partial recusal, as such is not authorized by Tennessee law. For his part, Husband argues that Wife should be sanctioned for misrepresentations made in her brief. He also argues that he is entitled to attorney's fees incurred in defending this appeal. Of the three arguments presented, we conclude that the first two are waived.

For an issue to be properly presented, it must be both designated as an issue and argued in more than a skeletal fashion within the body of the party's brief. *See Sneed v. Bd. of Pro. Resp. of Sup. Ct.*, 301 S.W.3d 603, 615 (Tenn. 2010); *Childress v. Union Realty Co.*, 97 S.W.3d 573, 578 (Tenn. Ct. App. 2002). Wife's argument that the trial court erred in its partial recusal order is designated as an issue and mentioned in the conclusion to her appellate brief,⁸ but is not argued in any fashion in the argument section of her appellate brief. It is waived. Husband argues in the facts section of his brief that Wife should be sanctioned for misrepresentations in her brief and raises this request again in the conclusion section of his brief. However, this request is not designated as an issue and is addressed in no more than a conclusory fashion. It is also waived.

Husband's argument that he should be awarded attorney's incurred on appeal, however, is designated as an issue and addressed in a more than conclusory fashion in his brief. As such, we will address this issue. Here, Husband asserts alternative bases for the award of attorney's fees: (1) the MDA; and (2) that Wife's appeal was frivolous. We conclude that the MDA provides a proper basis for the award of fees in this case.

The MDA provides for the award of attorney's fees as follows:

Husband and Wife agree that if it becomes reasonably necessary for Husband or Wife to institute or defend legal proceedings to enforce any of the provisions of this Agreement, the unsuccessful party of said proceedings shall pay the reasonable attorney's fees, court costs and litigation expenses of the successful party of said proceedings.

⁸ In her conclusion section, Wife argues that a partial recusal is "unheard of in Tennessee law" and essentially argues that recusal is an all or nothing proposition. Wife, however, cites no law, Tennessee or otherwise, to support these statements. Wife submits additional argument on this point in her reply brief, but again cites no legal authority to support her contentions. *Cf. Augustin v. Bradley Cnty. Sheriff's Off.*, 598 S.W.3d 220, 227 (Tenn. Ct. App. 2019) ("Reply briefs . . . are generally not a vehicle to correct deficiencies in initial briefs.").

Here, Husband has successfully defended against Wife's effort to avoid enforcement of the MDA. As such, he is entitled to fees under the MDA. *See Eberbach v. Eberbach*, 535 S.W.3d 467, 478 (Tenn. 2017) (holding that a similar provision in an MDA provided for mandatory fees to the prevailing party). As such, he is entitled to reasonable attorney's fees, court costs, and litigation expenses incurred in defending against this appeal. This case is remanded to the trial court for the calculation of those fees, costs, and expenses.

V. CONCLUSION

The judgment of the Williamson County Chancery Court is affirmed as modified. This matter is remanded to the trial court for the calculation of Appellee Tracy Darrell Adkins' reasonable attorney's fees, costs, and expenses. Costs of this appeal are taxed to Appellant, Rhonda Forlaw Adkins, for which execution may issue if necessary.

s/ J. Steven Stafford
J. STEVEN STAFFORD, JUDGE