IN THE FAMILY COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

G------ B-------,	)	
	)	
Petitioner,	)	File No. CN25-02519
	)	Case No. 25-18033
v.	)	
	)	
J-------- B-------,	)	
	)	
Respondent.	)	

ORDER ON MOTION TO DISMISS
PURSUANT TO FAMILY COURT CIVIL RULE 12(b)(6)

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ARRINGTON, Judge.

The Delaware General Assembly has vested the Family Court with equitable authority over matters ancillary to divorce, statutorily defined as dividing marital property, awarding permanent and temporary alimony during a period of dependency, and requiring a party to pay all or part of the cost to the other party of maintaining or defending the divorce proceedings. Petitioner contends that the Family Court's equitable powers in ancillary proceedings extend beyond this statutory grant of authority. To this end, Petitioner requests the Court to judicially recognize independent doctrines of equitable reimbursement and unjust enrichment in the divorce context, and grant her declaratory relief. Petitioner, in essence, seeks to change the statutory confines for divorce proceedings by expanding the marital estate through a claw-back of funds that the parties decided to apply to Respondent's law school loans, and by requiring Respondent to pay Petitioner from future non-marital earnings that she expects he will receive.

The Delaware Legislature has provided detailed guidelines for determining the equitable distribution of the marital estate and awarding alimony to a dependent former spouse. The Supreme Court of Delaware has limited prior Family Court decisions expanding the marital estate to include debts incurred "in anticipation of marriage." This Court declines to override these clear definitions and limitations absent direction from the Legislature or Supreme Court.

I. BACKGROUND[1]

Petitioner G------ B------- and Respondent J-------- B------- married on June 11, 2017, and divorced on July 29, 2025.[2] Prior to marrying Petitioner, Respondent had graduated from law school with "approximately $300,000" of student loan debt.[3] After the date of marriage, the parties "decided to aggressively pay down" Respondent's non-marital law school loans.[4] The parties also purchased their marital home in 2018, funded in part by a $100,000 contribution from Petitioner's Father.[5]

By the time Respondent filed for divorce on April 22, 2025, the parties had "paid down [Respondent]'s law school loans almost if not completely."[6] The parties intended to purchase a bigger home after the law school loans were paid.[7] As of the date of separation, the parties' marital estate consisted of "the equity in the home…, minimal savings, and some retirement savings."[8]

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[1] For purposes of this Motion to Dismiss, the Court accepts all well-pleaded factual allegations as true, and draws all reasonable inferences in favor of the Petitioner as the non-moving party.
[2] Pet. for Equitable Reimbursement, Unjust Enrichment, and Declaratory Relief ¶ 1 (hereinafter "Petition"); Dkt. 11.
[3] Petition at ¶ 4.
[4] *Id.* at ¶ 9.
[5] *Id.* at ¶ 8.
[6] *Id.* at ¶ 10.
[7] *Id.* at ¶ 11. Petitioner confirms in her Response to Motion to Dismiss that the parties did, in fact, start their search for a larger home shortly before the Petition for Divorce was filed.
[8] *Id.* at ¶ 12.

Respondent "earned over $218,000 in 2024 working as an associate [lawyer] at Bayard, P.A."[9] Petitioner "earns less than $40,000 annually" through part-time employment as a clinical psychologist.[10] Petitioner alleges that Respondent "anticipates making partner at Bayard within the next year or two, where, upon information and belief, his earnings would increase substantially."[11]

The parties were married for eight years and do not have any children.[12] Petitioner's period of eligibility to receive alimony is statutorily limited to four years, and Petitioner cannot receive any child support.[13] Petitioner will receive an equitable distribution of marital property (yet to be determined), and seeks "additional sums [ ] awarded to [her] to achieve a holistically fair result."[14]

II. ANALYSIS

Respondent moves to dismiss the suit on procedural and substantive grounds, relying on Family Court Civil Rule 12(b) and binding Supreme Court case law. He argues that filing this action is duplicative of the pending case in which Petitioner invokes similar equitable relief, and that Petitioner's request exceeds the Family Court's authority.

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[9] *Id.* at ¶ 5
[10] *Id.* at ¶ 7.
[11] *Id.* at ¶ 6.
[12] Petition at ¶¶ 1, 2; Dkt. 11.
[13] Petition at ¶ 17; 13 *Del.C.* § 1512(d).
[14] Petition at ¶ 17.

a. Standard of Review

"The standard of review for a Motion to Dismiss for failure to state a claim is well established in Delaware: (i) all well-pleaded factual allegations are accepted as true; (ii) even vague allegations are 'well-pleaded' if they give the opposing party notice of the claim; (iii) the Court must draw all reasonable inferences in favor of the non-moving party; and (iv) dismissal is inappropriate unless the plaintiff would not be entitled to recover under any reasonably conceived set of circumstances susceptible of proof."[15]

b. Petitioner's Claim is Duplicative of the Ancillary Case

Respondent asserts that the Court should not recognize independent "equitable reimbursement" or "unjust enrichment" claims as pleaded, because they are duplicative of the statutorily authorized claims for property division and alimony currently pending before the Court. Petitioner has already requested property division, alimony, attorney's fees and costs in her answer and counterclaim to the divorce petition. She will receive an equitable portion of the marital estate and, if dependent, alimony for her period of statutory eligibility.

Respondent argues that allowing Petitioner to proceed separately with her petition "would allow for duplicative claims."[16] He suggests that "[a] disgruntled

[15] *L.M.S. v. C.M.G.*, No. CN04-08601, 2006 WL 5668820, at *12 (Del. Fam. Ct. June 27, 2006) (citing *Savor, Inc. v. FMR Corp.,* 812 A.2d 894, 896-97 (Del.2002)) (internal quotation marks omitted).
[16] Mot. to Dismiss at ¶ 22.

party… could… raise…claims for equitable relief in the form of a disproportionate division of the marital estate…Then, after receiving the benefits of those arguments, that same party would be able to use those very same arguments again to seek an even greater recovery."[17]

The Delaware General Assembly already requires the Family Court to consider the duration of the marriage; prior marriages; the physical condition of both parties; the employability of each party; whether the property award is in lieu of or in addition to alimony; the opportunity of each for future acquisitions of capital assets and income; the contribution or dissipation of marital property by the parties, the value of property set apart to each party; the economic circumstances of each party at the effective date of property division; whether property was acquired by gift, the debts of the parties; and tax consequences.[18] These statutorily mandated considerations duplicate the separate analysis for equitable reimbursement and unjust enrichment, if allowed.

Respondent correctly notes that the Court already "considers [the claims] together – at the same time – and is able to weigh all of the equities consistently across the spectrum of claims and relief" without recognizing a distinct and separate equitable doctrine.[19]

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[17] *Id.*
[18] 13 *Del.C.* § 1513(a).
[19] Resp't Reply in Supp. of Mot. to Dismiss p. 8.

Delaware case law supports Respondent's position as well. In reviewing this argument, the Court looks to *Condon v. Neighborcare, Inc.*[20] In *Condon,* the Superior Court rejected the plaintiff's argument that filing of a second suit against the same defendant would be duplicative of the first and would have to be dismissed. In this case, the parties are the same. The facts are the same. The arguments are the same. The only difference here is that Petitioner asks the Court to expand the marital estate by negating *the parties' joint decision* to pay a portion, or all, of the primary breadwinner's debt -- a debt that provided sufficient income to enable the parties to qualify for a loan on their marital home, to accumulate their (admittedly limited) savings, and to prepare them to search for a larger home.

Petitioner is not prejudiced by requiring her to present her claims in the divorce action. The marital estate must be divided equitably, without regard to marital misconduct (if there is any in this case), in such proportions as the Court deems just and equitable after considering all of the relevant factors. Among those factors are the length of the marriage; the age, health station, amount and sources of income; the amount of alimony to be awarded; the value of property set aside to each party; the gift status of the contribution from Petitioner's father toward purchase of the home; and the debts of the parties. Allowing Petitioner to proceed

[20] *Condon v. Neighborcare, Inc.*, 2006 WL 307501, at *4 (Del. Super. Feb 3, 2006).

on her additional suit would negate the equitable division of the marital estate, and granting her "additional sums of money"[21] above any alimony and her share of the property division would be contrary to the intent of applicable statutes.

Following *Condon*, this Court finds that the complaint is duplicative of Petitioner's earlier filed counterclaim seeking relief, and the suit must be dismissed. The Court is conscious of the Delaware Divorce and Annulment Act[22] and the Delaware Supreme Court's interpretation of the Act, and declines to expand those limitations absent direction from the Legislature or Supreme Court. Equitable reimbursement and unjust enrichment is not an independent avenue to a monetary award beyond the marital estate, and Petitioner must assert her position in the pending case.

c. <u>Petitioner Failed to State a Claim</u>

i. <u>Equitable Reimbursement</u>

Petitioner incorrectly claims that "the doctrine of equitable reimbursement appears to neither have been endorsed nor rejected by the Family Court or the Delaware Supreme Court." The Court discusses three relevant cases in this analysis.

[21] Petition at ¶ 17 (Prayer for Relief).
[22] 13 *Del.C.* § 1501 *et seq.*

In *Scott v. Scott*, the Delaware Supreme Court affirmed the Family Court denial of the husband's claim for equitable reimbursement.[23] In the Family Court, "Husband contend[ed] that he [was] entitled to equitable reimbursement for some of the proceeds of the sale of Wife's premarital residence" because he made financial contributions towards improving the property prior to its sale.[24] The Family Court denied the request as the financial contributions were comingled in a marital account, and fully addressed the claim in the divorce proceedings.

In the trial court decision, recognized by the Supreme Court as well-reasoned and supported by the record, the Family Court adhered strictly to the statutory definitions of marital assets and debts, rejecting the husband's separate claim for equitable reimbursement. On appeal, the Supreme Court confirmed that the Family Court's wide discretion applies to "divid[ing] marital property under title 13, section 1513 of the Delaware Code."[25]

In the later decided case of *Garrison v. Downing,*[26] the Delaware Supreme Court reversed a Family Court decision that included non-marital debts in the division of the marital estate because they were incurred "in anticipation of marriage." Prior to *Garrison*, "all of the cases where the Family Court has applied the 'contemplation of marriage' rule involve[d] real property acquired by one of

[23] *Scott v. Scott*, 12 A.3d 1155, 2011 WL 378901, at *2 (Del. 2011).
[24] *W.D.S. v. S.A.S*, No. CN08-32950, 2010 WL 1443900, at *1 (Del. Fam. Ct. Mar 1, 2010).
[25] *Scott*, 2011 WL 378901, at *1.
[26] *Garrison v. Downing*, 226 A.3d 195 (Del. 2020).

the parties prior to the marriage which was not titled in both parties' names."[27] Thus, the *Garrison* Court was presented with the question of whether the contemplation of marriage doctrine extended to pre-marital debts. In answering the question in the negative, the Court explained:

> Due regard must be given to the fact that the rule is an exception to the Family Court's statutory jurisdiction. In the future, the Family Court should limit the equitable exception to cases involving real property where the evidence shows that it was the parties' intention that the property, although acquired in the name of one party prior to marriage, was to become marital property upon their marriage. Any enlargement of the equitable exception beyond that must come from the General Assembly.[28]

The *Garrison* Court clearly and definitively stated that the Courts are proscribed from extending the contemplation of marriage doctrine in the absence of approval from the General Assembly. Here, the Petitioner is asking for an even greater alteration of the statutory scheme. If merely extending an existing equitable exception requires a grant of authority from the legislature, recognition of an entirely new equitable cause of action certainly does as well.

In the case of *Snyder v. Scott*,[29] the Family Court considered wife's request for reimbursement that she made during the marriage toward husband's student loans and other non-marital items. The Court considered the argument in the divorce ancillary case and denied it, stating,

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[27] *Id.* at 199 (internal citations omitted).
[28] *Id.*
[29] *Snyder v. Scott*, No. CV97-08632, 1999 WL 1456944 (Del. Fam. Ct. July 12, 1999).

> This Court generally does not go back and compensate spouses for financial decisions made during the course of the parties' marriage and will not do so in this situation.... The Court could have taken into consideration Wife's contribution in allocating the percentage distribution of the marital assets and debts but since Wife has agreed to a 50%-50% distribution of assets and debts, the Court will not disturb that agreement.[30]

As evidenced in *Snyder,* Petitioner is not without a legal avenue of redress. Petitioner already has staked her position in her counterclaim and prayers for property division, alimony, attorney's fees, and court costs in the divorce case currently scheduled for trial. Petitioner's claim that resolving her ancillary requests exclusively through the Chapter 15 statutory framework would necessarily contravene "principles of basic fairness" is incorrect. Rather, Petitioner's "factual allegations may be heard in the routine course of a claim for the equitable division of marital property...She does not need...to seek a second action."[31]

To the extent that Petitioner's claims may be considered in the division of marital property, the Court is positioned to receive testimony and consider the facts in the pending divorce case. Taken in a light most favorable to the Petitioner, there is no reasonably conceived set of circumstances susceptible of proof that would entitle Petitioner to recover, and the petition fails to state a claim upon which relief may be granted.

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[30] *Id.* at *4.
[31] Resp't Reply in Supp. of Mot. to Dismiss p. 7-8.

ii. Unjust Enrichment

"Unjust enrichment is the unjust retention of a benefit to the loss of another, or the retention of money or property of another against the fundamental principles of justice or equity and good conscience."[32] A party claiming unjust enrichment must prove "(1) an enrichment, (2) an impoverishment, (3) a relationship between the enrichment and the impoverishment, (4) the absence of justification, and (5) the absence of a remedy provided by law."[33]

Petitioner's claim for unjust enrichment has problems similar to the equitable reimbursement claim. The allegations in the complaint, presumed to be true for purposes of this motion, do not address these elements. For sake of argument, the Court will assume that Petitioner is claiming that payment of Respondent's law school debts constitutes an enrichment; that payment using marital funds constitutes an impoverishment; and that the two are related. However, justification *is* present as shown in Petitioner's admission that the parties "decided to aggressively pay down Husband's law school debt." Respondent was justified in paying down his student loan debt because, as Petitioner concedes, *both* parties "*decided*" to make the loan payments. In other words, "[t]he repayment was made with [Petitioner's] knowledge and consent."[34]

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[32] *In re Verizon Ins. Coverage Appeals*, 222 A.3d 566, 577 (Del. 2019) (internal citations and quotation marks omitted).
[33] *Otto v. Gore*, 45 A.3d 120, 138 (Del. 2012).
[34] *Id*.

As in *Snyder,* the Court generally does not go back and compensate spouses for financial decisions made during the course of the parties' marriage. Petitioner admits that the decision to pay the school loans was made during the marriage as part of their marital strategy. It cannot be reasonably inferred from any of Petitioner's allegations that the parties' decision resulted from Respondent's wrongdoing. If the parties made a joint decision to pay down school loans when they were married, it is illogical to allege at the same time that only one party is responsible for the decision. Justification defeats the claim in this case.

Taken in a light most favorable to the Petitioner, there are no reasonably conceived set of circumstances susceptible of proof that would entitle Petitioner to recover. Consequently, the petition fails to state a claim upon which relief may be granted.

III. CONCLUSION

Today, the Court is yet again reminded that its role is to interpret the law rather than create it. Any recognition of causes of action in the Family Court for equitable reimbursement and unjust enrichment beyond the scope of marital property must be authorized by the Delaware General Assembly. Under the facts of this case, there is no reasonably conceived set of circumstances under which the Court can find that Petitioner is fairly due compensation outside of the marital

estate, or that there was no justification for the parties' decision to pay off Respondent's student loans. Thus, the Petition for equitable reimbursement, unjust enrichment, and declaratory relief is **DISMISSED.**

IT IS SO ORDERED this 31st day of December 2025.

THIS IS A FINAL ORDER.

/s/Michael W. Arrington
Honorable Michael W. Arrington
Judge

Date of Written Order: 12/31/2025
Date E-Mailed to Counsel: 12/31/2025