[Cite as *Raymond v. Raymond*, 2011-Ohio-6173.]

IN THE COURT OF APPEALS OF OHIO

TENTH APPELLATE DISTRICT

Elizabeth Raymond,	:	
Plaintiff-Appellee,	:	
		No. 11AP-363
v.	:	(C.P.C. No. 09DR-08-3369)
John Raymond,	:	(REGULAR CALENDAR)
Defendant-Appellant.	:	

D E C I S I O N

Rendered on December 1, 2011

Jeffrey K. Lucas, for appellant.

APPEAL from the Franklin County Court of Common Pleas, Division of Domestic Relations.

FRENCH, J.

{¶1} Defendant-appellant, John Raymond ("John"), appeals the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, in this divorce action filed by plaintiff-appellee, Elizabeth Raymond ("Elizabeth"). For the following reasons, we reverse and remand for further proceedings.

I. BACKGROUND

{¶2} John and Elizabeth were married in 1973 and, as of the time of trial, one child born as issue of the marriage remained a minor. The parties stipulated that they are incompatible and lived separate and apart without cohabitation for more than 12 months. On that basis, the trial court granted each party a divorce. The parties agreed to, and the trial court adopted, a shared parenting plan that resolved all issues of parental rights and responsibilities. The parties also stipulated that neither sought spousal support. The trial court established a de facto termination date of January 7, 1999, the date Elizabeth permanently vacated the marital residence and retained divorce counsel.

{¶3} This case proceeded to trial, beginning February 28, 2011. The primary marital asset, and the major source of contention between the parties, was a home cleaning business, Mini-Maids Services of Columbus (the "business"), which the parties purchased in or around 1978. John, the only witness to testify at trial, attempted to offer his lay opinion regarding the value of the business, pursuant to Evid.R. 701, but Elizabeth objected to that testimony, and the trial court excluded it. The trial court permitted John to proffer the testimony and supporting evidence regarding the value of the business at the conclusion of his testimony. Elizabeth did not testify at trial, and no other evidence was offered to establish the value of the business. The trial court found that the business has a current stream of income but owns no "hard assets" or equipment.

{¶4} The trial court issued its Judgment Entry-Decree of Divorce on March 17, 2011. With respect to the business, the court stated that it "was left with [John's] sketchy and incoherent memories of the disputed cleaning business with no supporting documentation to back-up his allegations." The court also stated that it "was deprived of a legitimate opportunity to value [the business] through [John's] lackadaisical approach to trial readiness – likely spawned by his *frequently verbalized* desire to avoid having the Court terminate the parties' marriage altogether." (Emphasis sic.) The court did not assign a value to the business and did not purport to divide the business in its distribution of property.

II. ASSIGNMENTS OF ERROR

{¶5} John filed a timely notice of appeal, and he now raises the following assignments of error:

> I. The trial court committed error when it denied [John's] testimony and exhibits as to the value of [Elizabeth's] business based upon his own personal knowledge and pursuant to Evid. R. 701[.]
>
> II. The Trial Court committed error when it failed to properly value a material asset of the parties resulting in an inequitable distribution or distributive award pursuant [to] and in violation of [R.C.] 3105.171[.]
>
> III. The trial court committed error in its determination of the award of attorney fees in violation of the Fourteenth Amendment of the United States Constitution.
>
> IV. The trial court committed error in denying market quotations and tabulations contained in Exhibits 9 and Exhibits 16, into evidence in violation of Evid. R. 803.

III. DISCUSSION

A. FIRST ASSIGNMENT OF ERROR

{¶6} By his first assignment of error, John argues that the trial court erred by excluding his lay opinion testimony regarding the value of the business. John maintains that his testimony is admissible under Evid.R. 701, which states that "[i]f [a] witness is not testifying as an expert, the witness' testimony in the form of opinions or inferences is limited to those opinions or inferences which are (1) rationally based on the perception of the witness and (2) helpful to a clear understanding of the witness' testimony or the determination of a fact in issue." Evid.R. 701. The decision to admit or exclude evidence under Evid.R. 701 is a matter for the trial court's discretion and will be reversed only upon an abuse of that discretion. *Urbana ex rel. Newlin v. Downing* (1989), 43 Ohio St.3d 109, 113. An abuse of discretion connotes more than an error of law or judgment; it implies that the trial court's attitude is unreasonable, arbitrary or unconscionable. *Blakemore v. Blakemore* (1983), 5 Ohio St.3d 217, 219.

{¶7} The requirement that lay opinion testimony is rationally based on the witness' perception reflects a recognition of the limitation, embodied in Evid.R. 602, that a witness must have personal knowledge of matter to which he testifies.[1] See *Teen-Ed, Inc. v. Kimball Internatl., Inc.* (C.A.3, 1980), 620 F.2d 399, 403 (discussing the equivalent Federal Rule of Evidence). "Perception connotes sense: visual, auditory, olfactory, etc. Thus, opinion testimony under Evid. R. 701 must be based on firsthand,

[1] Evid.R. 602 states as follows: "A witness may not testify to a matter unless evidence is introduced sufficient to support a finding that the witness has personal knowledge of the matter. Evidence to prove personal knowledge may, but need not, consist of the witness' own testimony. This rule is subject to the provisions of Rule 703, relating to opinion testimony by expert witnesses."

sensory based knowledge." *Sec. Natl. Bank & Trust Co. v. Reynolds*, 2d Dist. No. 2007 CA 66, 2008-Ohio-4145, ¶17. The question of whether an opinion is rationally based on the witness' perception involves a preliminary question of admissibility, which is part of the trial court's gatekeeping function under Evid.R. 104.[2] Id. at ¶14.

{¶8} Generally, before a witness may testify as to his opinion of the value of property, the witness must qualify as an expert. *Tokles & Son, Inc. v. Midwestern Indemn. Co.* (1992), 65 Ohio St.3d 621, 625, citing *State Auto Mut. Ins. Co. v. Chrysler Corp.* (1973), 36 Ohio St.2d 151. The Supreme Court of Ohio, however, has recognized that, because "[s]ome items are complex and their value is intermingled with fact and opinion * * *, out of necessity, nonexperts are often permitted to enlighten the jury with their own opinions concerning the value of these items." *Tokles* at 625. Non-expert opinion testimony as to value must comply with Evid.R. 701. *Sec. Natl. Bank* at ¶17.

{¶9} Before offering a lay opinion about value, " '[t]he witness must show that he is familiar with the property itself and that he has current sufficient knowledge of the value of the item by, for example, demonstrating a firsthand knowledge of the characteristics of the property, its actual and potential uses and its condition or by showing other meaningful experience in dealing with the item.' " Id. at ¶18, quoting *Tokles* at 627. For example, a corporate officer and certified public accountant was permitted to estimate the cost of the corporation's business system and what another company would save if it were to obtain such a system where his testimony was

[2] Evid.R. 104(A) states, in part, that "[p]reliminary questions concerning the qualification of a person to be a witness, the existence of a privilege, or the admissibility of evidence shall be determined by the court."

rationally based on his perception and his familiarity with the corporation's financial history and the costs related to its business system. See *Patio Enclosures, Inc. v. Four Seasons Marketing Corp.*, 9th Dist. No. 22458, 2005-Ohio-4933, ¶63-64. On the other hand, where a witness does not establish first-hand knowledge of a business, the witness may not offer a lay opinion as to its value. See, e.g., *JGR, Inc. v. Thomasville Furniture Industries, Inc.* (C.A.6, 2004), 370 F.3d 519, 525-26.

{¶10} In Ohio, an owner of real or personal property may generally testify concerning the property's value without being qualified as an expert "because it is presumed that owners are generally quite familiar with their property and its value." *Tokles* at 625; *Smith v. Padgett* (1987), 32 Ohio St.3d 344, 347. Some Ohio courts have extended the owner-opinion rule to hold that a business owner is qualified to offer lay opinion regarding the value of the business. See *Jacobs v. Jacobs* (June 10, 1982), 8th Dist. No. 44104 (holding that an owner's opinion testimony, while not conclusive, constitutes some evidence of value); *Kelly v. Kelly*, 2d Dist. No. 19263, 2003-Ohio-612, ¶37. "[O]wners of property have been permitted to testify not merely because they are owners, but rather because, due to that ownership, they are presumed to have special knowledge of the value of their own property." *Tokles* at 626. Nevertheless, while ownership "may involve an intimate knowledge of the nature, quality, cost, and condition of * * * property," the Supreme Court of Ohio also recognized that, in some cases, "ownership of property may * * * constitute very little, if any, qualification to form an opinion as to the value of the property." Id.

{¶11} The Advisory Committee Notes for the 2000 Amendments to Fed.R.Evid. 701, which parallels the Ohio rule, explain as follows:

> * * * [M]ost courts have permitted the owner or officer of a business to testify to the value or projected profits of the business, without the necessity of qualifying the witness as an accountant, appraiser, or similar expert. * * * Such opinion testimony is admitted not because of experience, training or specialized knowledge within the realm of an expert, but because of the particularized knowledge that the witness has by virtue of his or her position in the business. * * *

Federal courts have held that an owner's lay testimony as to the value of a business must be limited to those opinions derived from the witness' personal knowledge of the business and simple calculations of lost profits by comparison with the business' historical results. See *In re MarketXT Holdings Corp.* (Jan. 7, 2011), Bankr. S.D.N.Y. No. 04-12078(ALG). There, the court held that testimony based on a model that incorporated the types of assumptions used in an expert report went beyond the witness' personal knowledge and his experience as president of the business and entered a realm of calculation beyond the pale of lay opinion. "A party must lay an adequate foundation and show that the officer or owner 'had sufficient personal knowledge of their respective businesses and of the factors on which they relied to estimate profits.' " *Nationwide Transport Fin. v. Cass Information Sys., Inc.* (Mar. 6, 2006), D.Nev. No. 2:04-CV-08-BES-LRL, quoting *LifeWise Master Funding v. Telebank* (C.A.10, 2004), 374 F.3d 917, 929. The owner "has to have personal knowledge of the information underlying the calculations and how that information is combined to achieve the bottom line." *Nationwide Transport Fin.*

{¶12} In *Tokles*, the Supreme Court of Ohio considered whether a corporate shareholder may testify as to the value of corporate property. Although holding that the shareholder was an owner for purposes of the owner-opinion rule, the Supreme Court stated, at 626, that "an officer or shareholder * * * is not presumed to be familiar with corporate property solely by virtue of occupying a corporate office or owning stock in the corporation." Thus, "[i]f an officer or shareholder of a closely held corporation is permitted to testify as to value without being qualified as an expert, it should not be solely because of his title or ownership of stock, but in the main because he, aided by his experience, has some particular means of forming an intelligent and correct judgment as to the value of the property in question beyond that which is possessed by people generally." Id. at 627. The witness must show that he is familiar with the property itself and has sufficient knowledge of its value by establishing meaningful experience in dealing with the property. Id.

{¶13} At least some Ohio appellate courts have similarly required some foundation beyond mere ownership to permit a property owner to testify about the value of his property. In *Francis v. Wilson* (Jan. 25, 1999), 4th Dist. No. 97CA40, the court held that a property owner's mere status as an owner was an insufficient basis for admitting lay opinion testimony, but her special knowledge gained, by virtue of her ownership, formed a sufficient basis for the trial court to exercise its discretion to admit the testimony. "[T]he ultimate question is whether the nature of the person's ownership * * * is of sufficient character to presume a familiarity with the nature, quality, cost, and condition of the property that allows a credible opinion on value." *State v. Heap*, 1st

Dist. No. C-040007, 2004-Ohio-5850, ¶21. But, see, *Cuyahoga Cty. Bd. of Commrs. v. McNamara*, 8th Dist. No. 95833, 2011-Ohio-3066, citing *Jones v. Dayton Power & Light Co.* (Dec. 14, 1994), 2d Dist. No. 94-CA-49 (holding that owner-opinion testimony of value does not require a specific foundation). Based on *Tokles*, we agree with those courts that require a foundation of familiarity and knowledge as a result of ownership before an owner may give lay opinion testimony as to the value of the business.

{¶14} In light of these legal authorities, we now turn to the evidence regarding John's ownership and knowledge of the business, as well as his proffered testimony regarding its value. John generally testified that he and Elizabeth purchased the business and that he had personal knowledge of the business operations. Elizabeth has not contested John's ownership interest in the business or the marital nature of the business, but she objected to John's opinion testimony. The trial court did not abuse its discretion by sustaining Elizabeth's objection and excluding the proffered evidence where John did not show knowledge or experience dealing with the business sufficient to presume a particular means of framing an intelligent and correct opinion as to the business' value. Although John qualified as an owner, his testimony revealed a lack of first-hand experience sufficient to satisfy the requirement under Evid.R. 701 that his opinion was rationally based on his perception.

{¶15} John's testimony regarding his knowledge of the business included only vague recollections of how the business was structured. He stated, "[t]here was really no business entity at [the beginning]. It was later [Elizabeth] doing business as DBA." (Tr. 98.) John's testimony regarding his involvement in the business was similarly

vague. He testified that, in the beginning, he "was responsible basically for answering the phones and stuff like that to try to get the existing business." (Tr. 58.) He generally claimed that he and Elizabeth talked about how money flowed through the business and tried to coordinate regarding expansion plans, advertising, and personnel issues. He stated that he tried to prepare business records to track the number of houses cleaned and the revenue generated and testified that he maintained a check register for the business.

{¶16} John's testimony of the business' gross revenue for 1997 and 1998 was based solely on Elizabeth's federal tax returns, at least one of which was a joint return. He did not know whether the business owed sales tax or owed money to the Bureau of Workers' Compensation in January 1999. He stated that Elizabeth "kept track of all of that and she handled most of that." (Tr. 166.) In response to questions posed by the trial court, John testified that he had never prepared a business valuation, never maintained the books for the business, never maintained profit and loss statements for the business, and had never completed a corporate or business income tax return. John's testimony revealed limited personal knowledge, without any specific recollections or supporting documentation, of the business operations and finances.

{¶17} As a preface to his proffered opinion of the business' value, John testified that he read a book from the Professional Association of Public Accountants that explained how a business would be evaluated for resale. John testified and/or proffered testimony regarding three methods he used to value the business. First, he looked at two websites to obtain an "industry multiplier" and, from those websites, determined that

40 percent of annual gross sales was a general business valuation for residential cleaning businesses. (Tr. 63.) He then averaged the business' annual revenue from 1997 and 1998, as stated on Elizabeth's tax returns, and calculated 40 percent of that average to reach a value. John next identified nine allegedly-comparable cleaning companies listed for sale online and divided each company's asking price by its annual revenue. By averaging those numbers, he obtained a multiplier of 87.81 percent, which he applied to the average of the annual revenues for 1997 and 1998 listed on Elizabeth's tax returns to determine a second value for the business. With respect to the third method, John consulted a book that listed selling prices and other data regarding sold businesses. He identified 19 allegedly-comparable cleaning companies and obtained a multiplier by dividing each company's actual sale price by its annual revenue and then averaging those results. This calculation resulted in a multiplier of 48.24 percent, which he applied to the average of the 1997 and 1998 annual revenue listed on Elizabeth's tax returns to reach a third value. Finally, John averaged his three value calculations to arrive at an opinion that the business was worth $274,299.11 as of the de facto termination date in January 1999.

{¶18} John argues that his testimony and the evidence supporting it were admissible because it consisted of mere mathematical calculations. To that end, he cites *United States v. Madison* (C.A.6, 2007), 226 Fed.Appx. 535, in which the court concluded that a financial analyst properly testified as a lay witness where he merely examined records of transactions and stated the origin and the destination of funds. The witness' conclusion—that the defendant would not have been able to make the

down payment on a property without converted funds—was "a matter of arithmetic 'within the capacity of any reasonable lay person.' " Id. at 544, quoting *United States v. Hamaker* (C.A.11, 2006), 455 F.3d 1316, 1331-32 (lay opinion testimony was permissible where the witness "simply added and subtracted numbers from a long catalogue of * * * records, and then compared those numbers in a straightforward fashion").

{¶19} In contrast to the testimony at issue in these cases, however, John's opinion testimony involved more than simple, mathematical calculations. Indeed, John's opinion is based on comparison of allegedly-comparable companies in different markets, the creation of multipliers based on assumptions regarding those other companies, and the application of those multipliers to the average revenue of the business. While the actual mathematics computed by John may be within the capacity of a reasonable lay person, the underlying assumptions, the validity of those assumptions, and the import of John's calculations, are not. Contrary to John's suggestion, an opinion based on these determinations goes beyond a simple mathematical calculation within the capacity of a reasonable lay person.

{¶20} A property owner may testify as to the underlying factors upon which he or she bases an opinion as to the value of property. *Columbus v. Papageorgiou* (Sept. 3, 1987), 10th Dist. No. 86AP-1157. Only an expert witness, however, may testify concerning the value of property when the witness' opinion is based, in whole or in part, on hearsay. *Proctor v. Bader*, 5th Dist. No. 03 CA 51, 2004-Ohio-4435, ¶30-31, citing *Weir v. Miller* (Apr. 13, 1983), 12th Dist. No. 82-04-0044; *Tippie v. Patnik*, 11th Dist. No.

2007-G-2787, 2008-Ohio-1653 (excluding testimony regarding the value of personal property based on hearsay in the form of appraisals by third-parties who were not called as witnesses). A non-expert owner, although he may have knowledge of the unique characteristics of his property, "is not an expert who can assimilate various asking prices of other similar property and render an unbiased, so-called 'expert' opinion as to the value of his property based upon these other figures." *Weir*. In *Weir*, the Twelfth District held that the trial court erred in allowing the owner of a car dealership to testify as to the selling prices of other car dealership properties in the general area. Similarly, in *Proctor*, the Fifth District held that the trial court properly excluded a property owner's lay opinion of his property's value based on what certain other tracts of land sold for and how those tracts compared to his property. See also *Proctor v. Hall*, 4th Dist. No. 05CA3, 2006-Ohio-2228, ¶36-37. Like the *Weir* court, we conclude that John is not an expert who can assimilate the asking prices and sales prices of cleaning businesses in other markets to reach an opinion as to the value of the business here. John did not establish personal knowledge of the information underlying his calculations and how that information combines to inform his opinion. Based on the evidence in the record, the trial court did not act arbitrarily, unreasonably or unconscionably by excluding John's opinion testimony. For these reasons, we overrule John's first assignment of error.

B. SECOND ASSIGNMENT OF ERROR

{¶21} By his second assignment of error, John maintains that the trial court erred by failing to properly value the business, a marital asset, and by, accordingly, issuing an inequitable distribution in violation of R.C. 3105.171. We agree.

{¶22} R.C. 3105.171(C)(1) mandates that a trial court divide marital property equally, or, if an equal division is inequitable, that the court divide the marital property equitably. To comply with its duty, the trial court must value and divide all marital property in a divorce, and in most cases, the failure to do so amounts to an abuse of discretion. *Beagle v. Beagle*, 10th Dist. No. 07AP-494, 2008-Ohio-764, ¶41; *Robinson v. Robinson* (Dec. 3, 1999), 2d Dist. No. 17562. Although a trial court possesses broad discretion to determine the value of marital property, it may not omit valuation altogether. *Beagle* at ¶41, citing *Casper v. DeFrancisco*, 10th Dist. No. 01AP-604, 2002-Ohio-623.

{¶23} A trial court must generally assign and consider the values of marital assets in order to equitably divide those assets. See *Hightower v. Hightower*, 10th Dist. No. 02AP-37, 2002-Ohio-5488, ¶22. A court cannot satisfy its duty without probative evidence of the value of marital assets. *Kelly* at ¶36.

{¶24} Nevertheless, a party's failure to put on any evidence of value does not permit the court to assign an unknown as the value of a marital asset. *Richardson v. Richardson*, 10th Dist. No. 01AP-1236, 2002-Ohio-4390, ¶45, citing *Willis v. Willis* (1984), 19 Ohio App.3d 45, 48. Where the trial court is not presented with evidence upon which to value marital property, the court should instruct the parties to provide that evidence. See *Beagle* at ¶41, 50. Furthermore, in *Kelly*, at ¶39, the court noted that "the [trial] court could perform its statutory charge to divide marital assets equally only by appointing a qualified, independent appraiser to provide the court a report on which it could rely. The appraiser's fee may be taxed as costs to the parties." There, the

appellate court remanded the matter so that the trial court could determine the value of a marital business and divide the assets in a manner consistent with R.C. 3105.171.

{¶25} There is no dispute in this case that the business constitutes a marital asset or that the trial court declined to assign a value to the business. Because the trial court did not assign a value to the business or consider that asset in effecting its property division and distribution, we conclude that the trial court abused its discretion. For this reason, we sustain John's second assignment of error and remand this matter for the trial court to value the business and issue a new distributive order, taking into account that value, consistent with R.C. 3105.171.

C. THIRD ASSIGNMENT OF ERROR

{¶26} In his third assignment of error, John asserts that the trial court erred by not awarding him attorney fees, pursuant to R.C. 3105.73, and that the trial court's denial of attorney fees violated the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution. Pursuant to R.C. 3105.73(A), in a divorce action, the trial court may award reasonable attorney fees and litigation expenses to either party if the court finds it equitable. In determining whether an award is equitable, the court may consider the parties' marital assets and income, any award of temporary spousal support, the parties' conduct, and any other relevant factors. Id. An award of attorney fees under R.C. 3105.73 lies within a trial court's sound discretion and will not be reversed absent an abuse of discretion. *Parker v. Parker*, 10th Dist. No. 05AP-1171, 2006-Ohio-4110. While we reject John's argument that the denial of attorney fees violates the Fourteenth Amendment because fees have been awarded in

other cases where the disparity between the parties' incomes was less, any further discussion of attorney fees is moot, given our determination of John's second assignment of error. Because we remand this matter for the trial court to issue a new division and distribution of marital property, after taking into account the value of the business, the trial court may also reconsider whether an award of fees would be equitable in this case.

D. FOURTH ASSIGNMENT OF ERROR

{¶27} In his final assignment of error, John argues that the trial court erred by excluding two exhibits he created in part and relied on in formulating his opinion as to the value of the business. Exhibit 9 consists of nine internet printouts, each of which purports to list a cleaning company for sale and includes information like the asking price, the company's annual revenue, and the year the company was established. A tenth page is John's compilation of the information contained on the other pages and his computation of the percentage of annual revenue represented by each company's asking price. Exhibit 16 consists of pages purportedly copied from BIZCOMPS 2008 Eastern States Study by Jack R. Sanders, CBA, CBI (the "BIZCOMPS book"), which lists statistics regarding completed sales of businesses. The first page of the exhibit sets forth John's compilation of statistics from 19 sold cleaning companies, as listed in the BIZCOMPS book, and John's computation of a sales-price-to-annual-revenue ratio for each of the 16 companies. John contends that the exhibits are admissible under Evid.R. 803(17).

{¶28} Evid.R. 803(17) states that "[m]arket quotations, tabulations, lists, directories, or other published compilations, generally used and relied upon by the public or by persons in particular occupations" are not excluded by the hearsay rule, even though the declarant is available as a witness. This court has held, for example, that the National Automobile Dealer Association ("NADA") handbook is a standard tool for determining the value of a vehicle and that an appraisal guide from the NADA website is admissible under Evid.R. 803(17). See *Hess v. Riedel-Hess*, 153 Ohio App.3d 337, 2003-Ohio-3912, ¶25. In contrast, this court has expressed doubt that a classified advertisement for an automobile falls within the hearsay exception set forth in Evid.R. 803(17). See *Umari v. Richardson* (Oct. 22, 1991), 10th Dist. No. 91AP-534.

{¶29} The admission of evidence pursuant to the hearsay exceptions in Evid.R. 803 is within the trial court's sound discretion and will be reversed only for an abuse of that discretion. See *Peters v. Ohio State Lottery Comm.* (1992), 63 Ohio St.3d 296, 299 (involving the business-record exception under Evid.R. 803(6)); *State v. Sanchez*, 8th Dist. No. 93569, 2010-Ohio-6153, ¶12 (involving the excited-utterance exception under Evid.R. 803(2)). In *Umari*, we held that, "even assuming that the advertisement could have been admitted [under Evid.R. 803(17)], we can find no abuse of discretion by the trial court in refusing to allow the advertisement to be admitted * * * [g]iven the fact that plaintiff had never seen the vehicle listed in the newspaper, did not know its physical condition, and did not know the actual price for which the vehicle was sold."

{¶30} Here, even assuming that the listings John printed from various websites and the BIZCOMPS book qualify as exceptions under Evid.R. 803(17), we conclude that

the trial court did not abuse its discretion by refusing to admit that evidence. Valuation of an ongoing business is far more complicated that the valuation of personal property, like an automobile. John had no first-hand knowledge of the other companies he utilized in determining multipliers and, as stated above, had no basis for assimilating the prices of those companies to formulate an opinion of the business' value. Given the trial court's exclusion of John's lay opinion testimony, which we have affirmed, we cannot conclude that the trial court abused its discretion by excluding this evidence, which served as a basis for that opinion. Accordingly, we overrule John's fourth assignment of error.

IV. CONCLUSION

{¶31} In conclusion, we overrule John's first and fourth assignments of error, sustain John's second assignment of error, and render John's third assignment of error moot. For the reasons stated in this decision, we reverse the judgment of the Franklin County Court of Common Pleas, Division of Domestic Relations, and remand this matter to that court for further proceedings consistent with this decision and the law.

Judgment reversed;
cause remanded with instructions.

TYACK and CONNOR, JJ., concur.