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JANEL SIMPSON *v.* ROBERT R. SIMPSON
(AC 44705)

Alvord, Prescott and Clark, Js.*

Syllabus

The defendant, whose marriage to the plaintiff previously had been dissolved, appealed and the plaintiff cross appealed to this court from the judgment of the trial court denying, inter alia, the plaintiff's postjudgment motions for contempt and for modification of alimony and child support. The parties' separation agreement, which was incorporated into the judgment of dissolution, required the defendant to pay set amounts of weekly child support and monthly alimony to the plaintiff as well as additional payments calculated as a percentage of the defendant's annual bonus but provided that he make no additional support payments on his gross earned income in excess of $700,000 per calendar year. In the plaintiff's motion for contempt, she alleged that the defendant had failed to pay her the proper amount of child support and alimony and also moved for an order regarding college education costs. She then filed a motion for modification of alimony and child support in which she alleged that there had been a substantial change in the defendant's compensation package since the date of the dissolution judgment and a motion for attorney's fees. The defendant filed a motion seeking a downward modification in child support on the basis that the older child of the parties' two children was reaching the age of eighteen. After a hearing on all of the motions, the trial court held that several portions of the separation agreement were unclear and ambiguous, calculated that the defendant owed the plaintiff more than $300,000 in arrearages, and ordered the defendant to pay the arrearages, awarded the plaintiff attorney's fees, and issued an educational support order in which it ordered the parties to share college education costs for their older child, with the defendant responsible for 90 percent of such costs, and concluded that such costs were not subject to the statutory (§ 46b-56c (g)) University of Connecticut in-state tuition cap. Following the parties' appeal and cross appeal, this court ordered the trial court to articulate how it calculated the additional child support and alimony payments it ordered the defendant to make under the provisions of the separation agreement, and the trial court issued an articulation, explaining its methodology of calculating such payments. On appeal, the defendant claimed, inter alia, that the court improperly interpreted the parties' separation agreement, improperly awarded attorney's fees to the plaintiff and exceeded its authority pursuant to § 46b-56c (g) in issuing its educational support order; on her cross appeal, the plaintiff claimed, inter alia, that the court improperly denied her motion for modification of alimony and child support. *Held*:

1. This court declined to address the merits of the parties' claim that the trial court's articulation improperly changed the calculation of the defendant's additional child support and alimony obligations as set forth in its original decision; having concluded on other grounds that the trial court misinterpreted the parties' separation agreement in both its original judgment and its articulation, this court remanded the case for a new hearing and new remedial orders, if warranted, and, thus, did not need to address further the parties' claim.
2. The trial court erred in determining that the language in several provisions of the parties' separation agreement, including for additional child support and alimony, was unclear and ambiguous: the separation agreement provided that the defendant's additional child support and alimony obligations did not extend to the defendant's gross earned income in excess of $700,000 and were not tied to the amount of his annual bonus, and the trial court's conclusion that the $700,000 cap applied only to the defendant's bonus was inconsistent with the plain meaning of the words used by the parties in the separation agreement; moreover, the separation agreement as a whole reflected the parties' clear understanding that the defendant's compensation package could change in the future and provided for a remedy of renegotiation of alimony in the event

that the defendant's compensation package materially changed, and the plaintiff failed to pursue that remedy; thus, the court's judgment denying the plaintiff's motion for contempt was reversed only with respect to its remedial orders, in particular its calculation of the arrearage owed by the defendant to the plaintiff and the case was remanded for further proceedings.

3. This court concluded that, because the trial court's postjudgment financial orders must be reversed and the trial court will reconsider such orders on remand, the trial court's award of attorney's fees must also be reversed.
4. The trial court's finding in its educational support order that the parties' agreed to exceed the costs of attendance at the University of Connecticut as provided in § 46b-56c (g) for their older child was clearly erroneous; although the plaintiff testified that the parties had agreed on the university that their older child would attend, there was no evidence in the record that they had ever agreed to provide educational support for the child in excess of the amount charged by the University of Connecticut for a full-time in-state student, and the plaintiff testified that she wanted the statutory cap followed.
5. This court, having reversed the trial court's other postjudgment financial orders, declined to reach the merits of the plaintiff's claim that the trial court improperly denied her motion for modification of alimony and child support, as the trial court's adjudication of that motion was interdependent with its other postjudgment orders, including its finding with respect to the child support and alimony arrearage and its educational support order; accordingly, the trial court's ruling on that motion was reversed, and a new hearing was ordered on remand.

(*One judge concurring in part and dissenting in part*)

Argued May 9—officially released November 28, 2023

Procedural History

Action for the dissolution of a marriage, and for other relief, brought to the Superior Court in the judicial district of Hartford, where the court, *Albis*, *J.*, rendered judgment dissolving the marriage and granting certain other relief in accordance with the parties' separation agreement; thereafter, the court, *M. Murphy*, *J.*, rendered judgment denying the plaintiff's postjudgment motions for contempt and for modification of child support and alimony and the defendant's postjudment motion for modification of child support and issued certain orders on the plaintiff's motions for order regarding college education costs and attorney's fees, from which the defendant appealed and the plaintiff cross appealed to this court; subsequently, the court, *M. Murphy*, *J.*, issued an articulation of its decision. *Reversed in part*; *further proceedings*.

Campbell D. Barrett, with whom were *Stacie L. Provencher*, and, on the brief, *Dana M. Hrelic*, for the appellant-cross appellee (defendant).

Steven R. Dembo, with whom were *Seth Conant*, and, on the brief, *Caitlin E. Kozloski* and *P. Jo Anne Burgh*, for the appellee-cross appellant (plaintiff).

Opinion

PRESCOTT, J. In this postjudgment dissolution matter, the defendant, Robert R. Simpson, appeals and the plaintiff, Janel Simpson, cross appeals from the judgment of the trial court resolving several postjudgment motions of the parties. Specifically, the defendant claims on appeal that the court improperly (1) modified its original decision on the postjudgment motions by way of a postappeal articulation, (2) construed provisions of the parties' separation agreement regarding child support and alimony, (3) awarded attorney's fees to the plaintiff, and (4) rendered an educational support order that failed to comply with General Statutes § 46b-56c. In her cross appeal, the plaintiff claims that the court improperly denied her motion seeking a modification of alimony and child support. Because we agree with the defendant's second claim that the court misinterpreted the parties' separation agreement regarding additional child support and alimony payments and rendered an improper educational support order, we conclude that it is unnecessary to resolve his first claim regarding the court's articulation. Furthermore, we conclude that, because the court's various financial orders and postjudgment rulings are inextricably linked, these errors necessarily also require the reversal of the court's award of attorney's fees to the plaintiff and its denial of the plaintiff's motion for modification of alimony and child support. Accordingly, we reverse the court's remedial orders attendant to its denial of the plaintiff's motion for contempt as well as its rulings on the plaintiff's motion for order re college expenses and her motion for modification of alimony and child support. The judgment is affirmed in all other respects, and the case is remanded for further proceedings in accordance with this opinion.

The following facts and procedural history are relevant to our resolution of the claims on appeal. The court, *Albis*, *J.*, dissolved the parties' marriage on October 28, 2013. At the time of dissolution, the parties had two minor children.[1] The judgment of dissolution incorporated by reference the parties' separation agreement dated October 24, 2013, and the addendum to the separation agreement dated October 28, 2013 (agreement).

Article IV of the agreement governs child support. Section 4.1 of the agreement provides: "The [plaintiff] is presently earning $135,000 per year. The [defendant's] present bas[e] draw from his employment is $298,686 per year. The [defendant] shall pay to the [plaintiff] as child support effective with the date of Judgment the sum of $420 per week. If either party's base income changes ($298,686 presently for the [defendant] and $135,000 for the [plaintiff]) such that there is a 15 [percent] or more differential in the amount of child support that should be paid in accordance with the Child Support Guidelines, then the parties will recalculate the

new amount of Child Support and modify the present amount."[2]

Section 4.2 of the agreement provides for the payment of additional child support as follows: "From the [defendant's] anticipated bonus or profit sharing from his employment received on or after January 1, 2016, which he usually receives in January of each year, once the back taxes for 2012 and 2013 are paid in full as described in this Agreement below, the [defendant] will pay to the [plaintiff] 9 percent of his gross bonus/profit sharing so long as the [defendant] is obligated to pay child support for two children; and, the sum of the 6 percent of his gross bonus/profit sharing when there is only one minor child for whom the [defendant] is obligated to pay child support. There will be no child support paid on the [defendant's] gross earned income in excess of $700,000 per calendar year. For the purposes of this paragraph, the bonus/profit sharing shall be considered as the total gross payment the [defendant] receives, less any portion that is part of his normal monthly draw and less any portion that is part of his normal quarterly tax payment draw he receives."

Article VI of the agreement governs alimony. Section 6.2 of the agreement provides: "Effective October 15, 2013, the [defendant] shall pay to the [plaintiff] as alimony the sum of $3,500 per month. Said alimony takes into the account that the [defendant] is presently paying $375 per month to the IRS for 2011 income taxes plus two 401 (k) loans against his 401 (k) plus moneys deducted from the [defendant's] regular or base paycheck for his 'capital account.' "[3] Section 6.3 of the agreement provides: "Once the family home . . . is sold (see provisions for the sale of the family home below), the [defendant] shall pay to the [plaintiff] as alimony the sum of $1,750 per month."

Section 6.4 of the agreement provides for the payment of additional alimony as follows: "Effective with his January 2016 bonus/profit sharing plan payment, the [defendant] shall pay to the [plaintiff] 20 percent of the [defendant's] gross bonus/profit sharing amount as additional alimony; however, there will be no alimony paid on the [defendant's] gross earned income in excess of $700,000 per calendar year. For the purposes of this paragraph, the bonus/profit sharing shall be considered as the total gross payment the [defendant] receives, less any portion that is part of his normal monthly draw and less any portion that is part of his normal quarterly tax payment draw he receives."

Finally, section 6.8 of the agreement provides: "If the [defendant's] compensation package materially changes, either because his base income and/or bonus/profit sharing structures changes within his present employment or at a future employment, the parties shall renegotiate the alimony and tax payment provisions in such a manner as to duplicate the alimony considera-

tions and intentions contained in this Agreement. In determining the amounts of child support and alimony to be paid and received for so long as the [plaintiff] remains unmarried, it is the parties' intention that until the family home is sold, the [plaintiff] shall have 55 [percent] and the [defendant] shall have 45 [percent] of the net after tax income using only the [plaintiff's] salary and the [defendant's] base draw or regular paychecks. Once the family home is sold, the parties' intention that they each have 50 [percent] of the net after tax income, using the [plaintiff's] salary and the [defendant's] base draw or regular paychecks, currently approximately $433,000 per annum in the aggregate."

On June 29, 2017, the plaintiff filed what she captioned a "motion to compel," in which she stated that the defendant had "neglected, refused and failed to pay the proper amount of his court-ordered percentage child support and alimony in direct contravention of the [dissolution] judgment" and asked the court "for an order compelling the defendant to pay all past due sums." Following extensive discovery disputes, the plaintiff withdrew the motion to compel on July 3, 2018.

On July 10, 2018, the plaintiff filed a motion for order regarding college education costs and a motion for contempt in which she reasserted her claim that the defendant had failed to pay her the proper amount of child support and alimony.[4] With respect to the plaintiff's motion for contempt, the defendant filed an objection arguing that the plaintiff "will not be able to sustain her burden of proof because she has not provided the defendant with information sufficient for him to determine why the plaintiff believes the defendant's calculation of support, pursuant to the formula described in the judgment, is allegedly erroneous."

On August 21, 2018, the plaintiff filed a motion for modification of child support and alimony, in which she alleged that "there has been a substantial change in the defendant's compensation package since the date of the [dissolution] judgment." The defendant objected to the plaintiff's motion for modification, arguing that his child support and alimony obligations should not be increased because there had not been a substantial change in circumstances of the parties. On October 24, 2018, the defendant filed his own motion seeking a downward modification in child support on the basis that the parties' older child was reaching the age of eighteen.

The court, *M. Murphy, J.*, held a hearing on these motions over the course of five dates in 2020, at which the parties and the defendant's accountant, Christopher Thomas Elliot, testified. On April 26, 2021, the court issued its memorandum of decision. In its findings of fact, the court found that, at the time of the dissolution judgment, the defendant was an equity partner at the law firm of Shipman & Goodwin, and his base annual

draw as defined in the agreement was $298,686. The court found that, at the time of the postjudgment hearing, the defendant was a shareholder with the law firm of Carlton Fields, PA, and his income from the law firm in 2019 was $1,037,220.[5]

With respect to the defendant's bonuses, the court found that his 2015 gross bonus was $360,346, his 2016 gross bonus was $457,771, his 2017 gross bonus was $731,149, and his 2018 gross bonus was $626,836.[6] Although each bonus was paid in January of the following year, the court found that the bonuses were accrued and included in the defendant's taxable income for the prior calendar year, and the court considered each bonus to have been earned in the prior calendar year for purposes of determining additional child support and alimony. The court found "that the defendant did not provide credible evidence of what part, if any, of the January bonus payments in 2016 through 2019 were allocated to his monthly base draw or the January portion of the quarterly tax payments." Thus, the court found that "the entire amount of such bonus payments would be eligible for additional child support pursuant to section 4.2 and additional alimony pursuant to section 6.4."

The court determined that several provisions of the parties' agreement were unclear and ambiguous, including sections 4.2, 6.4, and 6.8, and, therefore, it declined to hold the defendant in contempt. The court nonetheless indicated that it had the authority to issue remedial orders in conjunction with its denial of the motion for contempt. Because it found the relevant portions of the agreement to be ambiguous, the court also stated that it would look to extrinsic evidence of the parties' intentions "when defining the conditions for the payments of additional child support and alimony." The court gave no indication in its written decision of what extrinsic evidence, if any, it credited or relied on in resolving the purported ambiguities in the separation agreement.[7] The court did, however, highlight the language contained in sections 4.2 and 6.4 of the agreement, which provides that "[t]here will be no child support paid on the [defendant's] gross earned income in excess of $700,000 per calendar year" and "there will be no alimony paid on the [defendant's] gross earned income in excess of $700,000 per calendar year."

The court next set forth the parties' competing interpretations of the agreement. It rejected the defendant's interpretation that the phrase there will be no child support or alimony "paid on the [defendant's] gross earned income in excess of $700,000 per calendar year" means that, "once the defendant's base income reaches $700,000, the agreement no longer requires him to share any of his bonus." The court found the plaintiff's interpretation more persuasive, stating: "The plaintiff interprets the limitations in sections 4.2 and 6.4 on the defen-

dant's bonus for additional child support and alimony to mean that, at the time of the judgment, when the defendant's annual base draw was $298,686, that the share of the defendant's bonus was limited to the amount over $298,686 but not more than $700,000. Thus, the maximum amount of additional child support and alimony would be based on $700,000 less $298,686, which is equal to a maximum bonus of $401,314. Assuming the defendant's bonus was more than $401,314 (after reductions in the month the bonus was paid solely for any monthly base draw and the monthly share of the quarterly tax draw, if any), the plaintiff would be limited to additional child support and alimony based on $401,314. Thus, the maximum additional child support would be 9 percent of $401,314 (equal to $36,118.26) and the maximum additional alimony would be 20 percent of $401,314 (equal to $80,262.80). If the defendant's bonus was less than $401,314 (after reductions in the month the bonus was paid solely for any monthly base draw and monthly share of the quarterly tax draw, if any), the plaintiff would receive an additional 9 percent in child support and 20 percent in alimony of whatever the bonus was." Applying this formula, the court found an arrearage in the total amount of $332,692[8] and ordered the defendant to begin paying that arrearage at a rate of $10,000 per month beginning on June 1, 2021.

The court supported its agreement with the plaintiff's interpretation of the agreement by relying on section 6.8 as expressing an intention to equalize the parties' incomes at the time the agreement was entered. Specifically, the court stated that it "relies in part on section 6.8 of the agreement that states the parties' intention to share equally their net after tax income based on their regular salaries. The current scenario where the defendant claims the plaintiff is not entitled to additional child support and alimony despite his significant increases in income do[es] not support the parties' intention in section 6.8."

The court also noted, in further support of its adoption of the plaintiff's interpretation of the agreement, the "requirement in section 6.8 that the parties renegotiate the alimony if the defendant's compensation package materially changes." The court rejected the defendant's interpretation that section 6.8 was triggered only upon a change in his compensation "structure" and that, because his total compensation always had consisted of a base draw, tax payment draw, and bonus, his compensation structure had not materially changed. The court instead found that "a significant increase (or decrease) in the defendant's compensation alone could be a material change triggering section 6.8." Last, the court found that "the word 'structures' [in section 6.8] refers solely to the bonus/profit sharing as it is the singular form and right next to the words bonus/profit sharing. The word 'structures' does not refer to the word 'base income' in the sentence." Nevertheless, in

interpreting the agreement, the court did not fully account for the parties' failure to comply with sections 4.1 and 6.8 by renegotiating the support orders and/or seeking court help in doing so in light of the clear increase in the defendant's compensation.[9]

With respect to the plaintiff's motion for modification, despite acknowledging the substantial increase in the defendant's total compensation, the court declined to modify the existing $420 per week child support payment or the $1750 per month alimony payment ordered at the time of dissolution. With respect to the plaintiff's motion for order regarding college education costs, the court ordered the parties to share such costs, with the defendant being responsible for 90 percent and the plaintiff being responsible for 10 percent. The court concluded that the costs were not subject to the University of Connecticut (UConn) in-state tuition cap and declined to make its educational support order retroactive. The court also ordered the defendant to pay $57,625 of the attorney's fees and costs incurred by the plaintiff. The defendant subsequently filed the present appeal.

The plaintiff filed a motion to correct certain scrivener's errors and to clarify the court's orders regarding the payment of child support and alimony arrearages by the defendant, among other orders.[10] The plaintiff then filed a cross appeal. On July 19, 2021, the court issued a memorandum of decision, wherein it granted in part the plaintiff's motion to correct and for clarification.

After filing her cross appeal, the plaintiff filed a motion for articulation of the court's original decision, which the court denied on March 1, 2022. On March 11, 2022, the plaintiff filed with this court a motion for review of the denial of her motion for articulation. On May 25, 2022, this court granted the plaintiff's motion for review and granted, in part, the relief requested therein. This court ordered the trial court "to articulate how the 'ongoing' payments[11] it ordered the [defendant] to make for additional child support and alimony under sections 4.2 and 6.4 of the parties' [agreement] are to be calculated." (Footnote added.)

On June 17, 2022, the court issued its articulation. After setting forth the arrearages as corrected by its July 19, 2021 decision, the court articulated the methodology of calculating the additional child support and alimony. Specifically, it stated that the additional child support and alimony amounts were to be calculated by taking the lesser of $700,000 or the actual bonus amount, subtracting $298,686, and multiplying by the appropriate percentage. The court provided two examples. The first example stated: "[I]f the [defendant] earned $1,000,000 salary and a bonus of $800,000 for a taxable year, the [plaintiff] shall receive her usual $1750 per month alimony pursuant to section 6.3. In addition,

the [defendant] shall pay additional alimony of $80,263 (($700,000-$298,686) x 20 [percent] = $80,263)." The second example stated: "If the [defendant] earned $1,000,000 salary and a bonus of $400,000 for a taxable year, the [plaintiff] would receive her usual $1750 per month alimony pursuant to section 6.3. In addition, the [defendant] shall pay additional alimony of $20,263 (($400,000-$298,686) x 20 [percent] = $20,263)." Additional facts and procedural history will be set forth as necessary.

I

Both the defendant and the plaintiff claim on appeal that the court's June 17, 2022 articulation improperly changed the calculation of his additional child support and alimony obligations as set forth by the court in its original decision. Because, as we discuss in part II of this opinion, we conclude that the court improperly interpreted the parties' separation agreement and reverse and remand on that basis for a new hearing, it is unnecessary to resolve this claim.

"As a general rule, [a]n articulation is appropriate [if] the trial court's decision contains some ambiguity or deficiency reasonably susceptible of clarification. . . . An articulation may be necessary [if] the trial court fails completely to state any basis for its decision . . . or where the basis, although stated, is unclear. . . . The purpose of an articulation is to dispel any . . . ambiguity by clarifying the factual and legal basis upon which the trial court rendered its decision, thereby sharpening the issues on appeal. . . . An articulation is not an opportunity for a trial court to substitute a new decision nor to change the reasoning or basis of a prior decision. . . . If, on appeal, this court cannot reconcile an articulation with the original decision, a remand for a new trial is the appropriate remedy. . . . Such a remedy, however, is appropriate only [if] [t]he crucial findings of fact in the memorandum of decision are inconsistent and irreconcilable, and the articulation obfuscates rather than clarifies the court's reasoning." (Internal quotation marks omitted.) *Sabrina C.* v. *Fortin*, 176 Conn. App. 730, 750, 170 A.3d 100 (2017). "Insofar as we must construe the dissolution judgment and the court's articulations, our review is plenary." *C. D.* v. *C. D.*, 218 Conn. App. 818, 828, 293 A.3d 86 (2023).

In their appellate briefs, the parties point to an apparent inconsistency between the court's original decision and its articulation with respect to the calculation of additional child support and alimony. Specifically, the formula to calculate the maximum additional child support and alimony on the defendant's bonus/profit sharing (bonus), as set forth in the court's original decision, was $700,000 less the separation agreement's base draw of $298,686 to arrive at $401,314, which, according to the court, was the maximum bonus amount to which the additional child support and alimony percentages

would apply. The analysis and formula set forth in the court's articulation yields the same result when the defendant's bonus exceeds $401,314. If the defendant's bonus is less than $401,314, however, application of the formula as set forth in the example provided by the court in its articulation yields a different result because the court effectively subtracted the defendant's base salary from the bonus amount a second time.

Here, the claims regarding the articulation do not alter our conclusion that the court fundamentally misinterpreted the relevant provisions of the separation agreement in both its original judgment and its articulation. Because we remand for a new hearing and new remedial orders, if warranted, we do not need to address further whether the court's articulation materially altered the original judgment in a manner that rendered them irreconcilable or what remedy would be appropriate in this case in the absence of our reversal on other grounds.

II

We turn next to the defendant's claim that, in crafting remedial orders in response to the plaintiff's motion for contempt, the court improperly interpreted the separation agreement. Specifically, he contends that the plain and unambiguous language of the agreement provides that he "does not pay supplemental child support or alimony on 'gross earned income' in excess of $700,000 per calendar year," and that the trial court improperly misapplied the $700,000 cap to his bonus only. The plaintiff responds that the trial court correctly rejected the defendant's proposed interpretation of the agreement. We agree with the defendant.

We first set forth our standard of review. "Our interpretation of a separation agreement that is incorporated into a dissolution decree is guided by the general principles governing the construction of contracts. . . . A contract must be construed to effectuate the intent of the parties, which is determined from the language used interpreted in the light of the situation of the parties and the circumstances connected with the transaction. . . . [T]he intent of the parties is to be ascertained by a fair and reasonable construction of the written words and . . . the language used must be accorded its common, natural, and ordinary meaning and usage where it can be sensibly applied to the subject matter of the contract. . . . Where the language of the contract is clear and unambiguous, the contract is to be given effect according to its terms. A court will not torture words to import ambiguity where the ordinary meaning leaves no room for ambiguity . . . . Similarly, any ambiguity in a contract must emanate from the language used in the contract rather than from one party's subjective perception of the terms. . . . Moreover, the mere fact that the parties advance different interpretations of the language in question does not necessitate a conclusion

that the language is ambiguous. . . . If the language of a contract is clear and unambiguous, the intent of the parties is a question of law, subject to plenary review." (Citations omitted; internal quotation marks omitted.) *Eckert* v. *Eckert*, 285 Conn. 687, 692, 941 A.2d 301 (2008). A court's determination as to whether a contract is ambiguous also raises a question of law over which our review is plenary. See *Amica Mutual Ins. Co.* v. *Welch Enterprises, Inc.*, 114 Conn. App. 290, 294, 970 A.2d 730 (2009).

"It is hornbook law that courts do not rewrite contracts for parties. . . . Put another way, [a] court simply cannot disregard the words used by the parties or revise, add to, or create a new agreement." (Citation omitted; internal quotation marks omitted.) *Nassra* v. *Nassra*, 139 Conn. App. 661, 669, 56 A.3d 970 (2012). "[C]ourts do not unmake bargains unwisely made. Absent other infirmities, bargains moved on calculated considerations, and whether provident or improvident, are entitled nevertheless to sanctions of the law. . . . Although parties might prefer to have the court decide the plain effect of their contract contrary to the agreement, it is not within its power to make a new and different agreement; contracts voluntarily and fairly made should be held valid and enforced in the courts." (Internal quotation marks omitted.) *Nation-Bailey* v. *Bailey*, 316 Conn. 182, 200, 112 A.3d 144 (2015).

Applying the foregoing principles to the present matter, we conclude, and both parties agree, that the language of the relevant provisions is clear and unambiguous. As noted previously, section 4.2 of the agreement provides for the payment of additional child support, and expressly states that "[t]here will be no child support paid on the [defendant's] gross earned income in excess of $700,000 per calendar year." Section 6.4 of the agreement provides for the payment of additional alimony and expressly states that "there will be no alimony paid on the [defendant's] gross earned income in excess of $700,000 per calendar year."

The agreement, thus, provides in clear and unequivocal language that any additional child support and alimony obligations do not extend to the defendant's "*gross earned income* in excess of $700,000 per calendar year." Although the parties could have directly and expressly tied the defendant's obligation to make additional support payments to all or a portion of his *annual bonus*, the parties instead expressly agreed to tie the income cap to his *gross earned income*.

The term "gross earned income," although not expressly defined in the agreement, is a term that is readily understood in the context of the agreement as a whole. The parties in fact agree that the term encompasses all income earned by the defendant, including but not limited to both his base draw and his annual bonus. Because we conclude that the language at issue

is clear and unambiguous, and the court did not rely on any extrinsic evidence of the parties' intent, our review of the trial court's interpretation of what the parties' intended by this language is plenary.

The trial court determined that "portions of the agreement are not clear and unambiguous, particularly parts of sections 4.2 and 6.4." In so determining, the court stated that "[t]he defendant would have the court believe that the phrase: there will be no child support or alimony 'paid on the [defendant's] gross earned income in excess of $700,000 per calendar year' to mean that, [if] the defendant's *base income* reaches $700,000, the agreement no longer requires him to share any of his bonus. Under the defendant's logic, the support obligations that he owed when his income and bonuses were less would disappear once his income and bonuses increased beyond $700,000. This interpretation is nonsensical, and the court will not adopt the defendant's interpretation of sections 4.2 and 6.4." (Emphasis added.)

It is axiomatic, however, that "[a] court cannot ignore or disregard the language of the agreement because in hindsight an additional or more expansive term would have been better for one of the parties." (Internal quotation marks omitted.) *Brown* v. *Brown*, 199 Conn. App. 134, 151, 235 A.3d 555 (2020). In other words, the mere fact that one party is unhappy with the results that flow from the language they agreed to incorporate into an agreement, or the court now determines that the agreed upon language is no longer equitable under the circumstance as they have evolved, is not grounds for the court to rewrite the contract to provide what it determines to be a more equitable outcome.

In accepting the plaintiff's contention that the $700,000 cap applied only to the defendant's bonus, the court reached a conclusion that was inconsistent with the plain meaning of the words used by the parties in the agreement. The bar on additional support payments was expressly tied to the defendant's "gross earned income," which includes both his base income and any bonus, exceeding $700,000. The defendant's alimony and child support obligation with respect to the defendant's base pay was set at a defined amount based in part on the defendant's base pay of $298,686, and the parties could have agreed on different language that would have required the defendant to pay some portion of his annual bonus as additional alimony and child support *irrespective of any fluctuation in his base pay*. That is not, however, the language to which the parties agreed.

Furthermore, we disagree with the court that section 6.8 of the agreement supports the plaintiff's interpretation of the relevant provisions of the agreement. To the contrary, in our view, that provision supports an entirely different construction of the agreement. We recognize

that, when we interpret individual provisions of the agreement, we are mindful of its " 'construction as a whole.' " *Tannenbaum* v. *Tannenbaum*, 208 Conn. App. 16, 25, 263 A.3d 998 (2021). Section 6.8 uses language that reflects the parties' clear understanding that the defendant's overall compensation package could change in the future as a result of his changing jobs and/or a change in the composition or structure of his compensation package. It provides for the remedy of renegotiation of alimony in the event that the defendant's compensation package materially changes. It is the plaintiff's failure to pursue the remedy set forth in this agreed upon provision, and its analogue in section 4.1 regarding child support, that has caused any real or perceived inequity that has resulted from the increase in the defendant's base pay; see footnote 6 of this opinion; not the clear and unambiguous $700,000 gross income cap for purposes of additional support.

The plain language of the agreement addresses the defendant's additional child support and alimony obligations relating to his bonus. The bonus was identified in the agreement as "the total gross payment the [defendant] receives, less any portion that is part of his normal monthly draw and less any portion that is part of his normal quarterly tax payment draw he receives." The evidence at the hearing focused on these three types of income—normal monthly draw, quarterly tax payments, and bonus. The agreement expressly provides that the defendant would not pay child support or alimony on any gross earned income in excess of $700,000. Because the agreement set a fixed amount of alimony and child support tied to a defined base pay amount, once the defendant's base pay reached $700,000, any additional support payments would be in excess of the $700,000 cap.

The defendant argues, and we agree, that, in the absence of a modification of the additional alimony and child support provisions, as expressly provided for in the agreement, in any year in which his base income—normal monthly draw and quarterly tax payments—exceeded $700,000, his gross earned income reached the agreed upon cap, and he would not have accrued any obligation for additional child support or alimony. In years in which his base income is less than $700,000, and he received a bonus, he would have accrued an obligation to pay the agreement's specified percentage of additional child support and alimony on that portion of the bonus that is less than or equal to $700,000 minus his base income. Although, in hindsight, the plaintiff may wish that she had agreed to different language in crafting the additional support requirements, the court cannot remedy this by adopting a construction that has no basis in the language bargained for by the parties.

We reverse the judgment of the trial court denying the plaintiff's motion for contempt only with respect

to the court's remedial orders, in particular its calculation of the arrearage owed by the defendant to the plaintiff, and remand for further proceedings consistent with this opinion. The scope of those proceedings will involve application of the clear and unambiguous language of the agreement to calculate any additional alimony or child support obligation.[12]

III

The defendant next claims on appeal that the court improperly awarded attorney's fees to the plaintiff. The plaintiff responds that the court properly exercised its discretion in awarding attorney's fees. We conclude that, because we reverse the court's financial orders challenged on appeal, under the facts of this case, we necessarily also must reverse the court's award of attorney's fees.

The following additional procedural history is relevant. In its memorandum of decision, the court stated: "Although the court finds that the defendant breached the agreement, the court did not find him in civil contempt because the parties' agreement incorporated into the judgment was not clear and unambiguous. However, the court finds that the plaintiff was required to file motions to enforce the support provisions of the parties' agreement, and, ultimately, the plaintiff's interpretation of the agreement was deemed correct by the court. The court ordered the defendant to pay substantial arrearages of child support and alimony. The plaintiff has submitted a motion for attorney's fees. The court finds the attorney's fees of $68,180 and costs of $3851 (for a total equal to $72,031) submitted with the attorney's affidavit are reasonable for this lengthy postjudgment hearing, which was required to enforce the plaintiff's right to support for herself and the minor children. The court has reviewed the parties' financial affidavits and finds that, while the plaintiff has income and assets of her own, the plaintiff's income and assets are a small fraction in comparison to the defendant's. In addition, the plaintiff's assets consist mainly of retirement type assets that are not easily liquidated without penalty or taxes. Finally, the court finds that the failure to award attorney's fees to the plaintiff in this case would undermine the court's orders."

The court then issued the following order: "After considering the . . . respective abilities of the parties to pay attorney's fees pursuant to General Statutes § 46b-62 (a), the criteria of General Statutes § 46b-82 and relevant case law, the court orders the defendant to pay 80 percent (in the amount of $57,625) and the plaintiff to pay 20 percent ($14,406) of the plaintiff's attorney's fees and costs. The defendant shall pay such fees within ninety days of this decision."

We first set forth the relevant principles of law. "In dissolution and other family court proceedings, pursu-

ant to § 46b-62 (a), the court may order either [spouse] to pay the reasonable attorney's fees of the other in accordance with their respective financial abilities and the equitable criteria set forth in . . . § 46b-82, the alimony statute. . . . That statute provides in relevant part that the court shall consider the length of the marriage, the causes for the . . . dissolution of the marriage . . . the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate and needs of each of the parties and the award, if any, which the court may make pursuant to section 46b-81 . . . . General Statutes § 46b-82. Section 46b-62 (a) applies to post-dissolution proceedings because the jurisdiction of the court to enforce or to modify its decree is a continuing one and the court has the power, whether inherent or statutory, to make allowance for fees. . . .

"Our Supreme Court has articulated three broad principles by which these statutory criteria are to be applied. First, such awards should not be made merely because the obligor has demonstrated an ability to pay. Second, where both parties are financially able to pay their own fees and expenses, they should be permitted to do so. Third, where, because of other orders, the potential obligee has ample liquid funds, an allowance of [attorney's] fees is not justified. . . .

"[A]n award of attorney's fees in a marital dissolution case is warranted only when at least one of two circumstances is present: (1) one party does not have ample liquid assets to pay for attorney's fees; or (2) the failure to award attorney's fees will undermine the court's other financial orders." (Citations omitted; internal quotation marks omitted.) *Zakko* v. *Kasir*, 209 Conn. App. 619, 625–26, 269 A.3d 220 (2022).

In the present case, the court stated that its award of attorney's fees was made pursuant to § 46b-62. In making its award, the court referenced the parties' financial circumstances and determined that a failure to award attorney's fees to the plaintiff would undermine the court's financial orders. Because we reverse the court's postjudgment financial orders, we necessarily also must reverse the court's award of attorney's fees.[13] See *O'Brien* v. *O'Brien*, 138 Conn. App. 544, 557, 53 A.3d 1039 (2012) (reversing award of attorney's fees pursuant to § 46b-62 after reversing court's financial orders and remanding matter to trial court because "[n]ot until the parties' assets are finally divided and their respective rights and obligations to give or receive financial support to or from each other are finally determined can the parties' ability to pay for their own attorney's fees be ascertained; nor, if it is determined that the parties do have the ability to pay their own attorney's fees, can it finally be determined if the failure to award appellate attorney's fees to the defendant would undermine the court's other financial orders for her

maintenance and support"), cert. denied, 308 Conn. 937, 66 A.3d 500 (2013); see also *McTiernan* v. *McTiernan*, 164 Conn. App. 805, 831, 138 A.3d 935 (2016) (setting aside award of attorney's fees after reversing court's ruling on motion for contempt). Accordingly, because the court's postjudgment orders will be reconsidered on remand, its award of attorney's fees also must be reversed. "As always, the propriety of such an award is entrusted to the discretion of the trial court on remand." *McTiernan* v. *McTiernan*, supra, 831.

IV

The defendant's final claim on appeal is that the court's ruling on the plaintiff's motion for order with respect to college expenses was improper. He argues that the court exceeded its authority pursuant to § 46b-56c (g). Specifically, he contends, inter alia, that "there is no evidence in the record to support the trial court's finding that the parties agreed to exceed the cost of attendance at UConn . . . ." The plaintiff responds that the court's order was appropriate and supported by the record. We agree with the defendant.

The following additional facts and procedural history are relevant to this claim. Article V of the agreement contains an educational support provision, which provides: "The parties agree that this Court shall retain jurisdiction under the Connecticut Educational Support Act to enter an order regarding each child's four-year undergraduate college education as provided for in [§] 46b-56c . . . if the parties are unable to reach an agreement by themselves."

On July 3, 2018, the plaintiff filed a motion for order regarding college education costs. She alleged that the parties were unable to agree on "a fair and equitable division" of college costs for the parties' children, and she requested that the court determine "the extent to which each party should pay toward these expenses."

At the hearing, the plaintiff testified that the parties agreed that their older child would attend Clemson University (Clemson), the child began attending college at Clemson in August, 2018, and the defendant had paid the full tuition, including room and board, for the child's first two years of college. The plaintiff testified that she was seeking an order, retroactive to the date of her motion, that the parties divide the child's college costs based on their pro rata income, up to the UConn cap.[14] She acknowledged that Clemson tuition was $55,000, which was higher than the UConn tuition.

In its memorandum of decision, the court found that the parties agreed that their older child would attend Clemson and that the child began attending Clemson in fall, 2018. The court found that the cost of attending Clemson exceeded the cost of attending UConn and that the defendant paid the costs of tuition, room, and board for the child's freshman and sophomore years

at Clemson. The court took "judicial notice that the judgment reserves the jurisdiction of the court to determine whether to enter an educational support order and the terms thereof pursuant to . . . § 46b-56c."

The court ordered: "Based on the significant disparities in the parties' incomes and the court's findings that the defendant has not paid the additional alimony as required by the agreement, the court orders the defendant to pay 90 percent of [the child's] college expenses and the [plaintiff][15] shall pay 10 percent of such expenses pursuant to . . . § 46b-56c. The court finds that splitting college costs with a simple ratio of the plaintiff's and the defendant's incomes would not be equitable. A certain level of income is needed before the extra expense of college education can be afforded by parents.

"In addition, the court finds that the parties agreed to [the child's] attendance at Clemson University and they were aware that the college expenses exceeded the expenses of the cost of an in-state resident attendance at [UConn] as defined in . . . § 46b-56c (g). As a result, the court finds the parties agreed to exceed the cost of attendance at UConn and shall split such excess expenses 90 percent paid by the defendant and 10 percent paid by the plaintiff. The court shall not make this educational support order retroactive. Prior to this order the defendant is responsible for 100 percent of the college costs for [the child]. This order shall take effect for the next semester that starts after the date of this decision when the semester currently underway is finished."

We first set forth the relevant principles of law and our standard of review. Section 46b-56c provides in relevant part: "(a) For purposes of this section, an educational support order is an order entered by a court requiring a parent to provide support for a child or children to attend for up to a total of four full academic years an institution of higher education or a private career school for the purpose of attaining a bachelor's or other undergraduate degree, or other appropriate vocational instruction. An educational support order may be entered with respect to any child who has not attained twenty-three years of age and shall terminate not later than the date on which the child attains twenty-three years of age. . . . (g) The educational support order may include support for any necessary educational expense, including room, board, dues, tuition, fees, registration and application costs, *but such expenses shall not be more than the amount charged by The University of Connecticut for a full-time in-state student* at the time the child for whom educational support is being ordered matriculates, except this limit may be exceeded by agreement of the parents. . . ." (Emphasis added.)

"Appellate review of a trial court's finding of fact is

governed by the clearly erroneous standard of review. The trial court's findings are binding on this court unless they are clearly erroneous in light of the evidence and the pleadings in the record as a whole. . . . A finding of fact is clearly erroneous when there is no evidence in the record to support it . . . ." (Internal quotation marks omitted.) *Tobet* v. *Tobet*, 119 Conn. App. 63, 70, 986 A.2d 329 (2010).

In the present case, we agree with the defendant that the court's finding that "the parties agreed to exceed the cost of attendance at UConn" is clearly erroneous. Our review of the transcript reveals no evidence that either of the parties agreed to provide educational support for the child in excess of the amount charged by UConn for a full-time in-state student. Although the plaintiff testified that the parties agreed that their child would *attend* Clemson, this agreement as to the selection of a school to attend does not amount to an agreement to provide educational support in excess of the statutory cap.[16] In other words, although the parties agreed that their child should go to Clemson, there is no evidence that they ever discussed their respective financial willingness to pay for the costs of attendance in any percentage or beyond the UConn cap. Moreover, when asked during the hearing on her request for educational support whether she "want[ed] the UConn cap followed," the plaintiff responded in the affirmative. The court's finding, therefore, is clearly erroneous.

In the absence of an agreement to exceed the statutory cap, the court's order runs afoul of § 46b-56c.[17] Accordingly, we remand the matter for a new hearing on the plaintiff's motion for order regarding college education costs.

V

In her cross appeal, the plaintiff claims that the court improperly denied her motion for modification of alimony and child support. In his briefing to this court, the defendant argues, inter alia, that, "because this issue challenges the trial court's financial orders, and because the parties agree that the trial court's articulation improperly modified those orders, this court need not reach this issue should it reverse the matter and remand for new proceedings on that ground." We conclude that we must reverse the court's denial of the plaintiff's motion for modification of child support and alimony on the basis of our reversal of the court's other postjudgment financial orders challenged on appeal. Accordingly, we need not reach the merits of the plaintiff's claim.[18]

The following additional procedural history is relevant. After adjudicating the plaintiff's motion for contempt, the court addressed the plaintiff's request to modify alimony and child support. It stated: "The court finds that a substantial change in circumstances has

occurred because the defendant's income has increased substantially since the last court orders. The court has reviewed the child support guidelines, and the parties' combined net incomes continue to exceed the $4000 maximum support obligation amount as they did at the time of judgment. The court declines to modify child support from $420 per week because the difference in child support (even when the court considered the parties having two minor children or only one minor child) does not exceed a 15 percent differential required by section 4.1.

"The court considered the criteria in . . . § 46b-82. The court orders the defendant to pay additional child support and alimony based on the court's analysis of sections 4.2 and 6.4. The court's orders have resulted in significant arrearages and ongoing income sharing by the defendant until child support and alimony have run their course as defined by the agreement. The court has also made orders below regarding post high school education that reflect the disparity in the parties' incomes as well as the failure of the defendant to pay additional child support and alimony as required pursuant to sections 4.2 and 6.4. Because of the mosaic the court has created to provide equity for the plaintiff, the court will not modify the periodic alimony or other alimony provisions at this time.

"The court denies the plaintiff's and the defendant's requests to modify alimony or child support at this time. This order is made without prejudice unless and until such time as the parties experience a future substantial change in circumstances." The court also denied the defendant's motion to modify child support based on the parties' older child attaining the age of eighteen.

"[Section] 46b-86 governs the modification or termination of an alimony or support order after the date of a dissolution judgment. When, as in this case, the disputed issue is alimony [or child support], the applicable provision of the statute is § 46b-86 (a), which provides that a final order for alimony may be modified by the trial court upon a showing of a substantial change in the circumstances of either party. . . . Under that statutory provision, the party seeking the modification bears the burden of demonstrating that such a change has occurred. . . . To obtain a modification, the moving party must demonstrate that circumstances have changed since the last court order such that it would be unjust or inequitable to hold either party to it. Because the establishment of changed circumstances is a condition precedent to a party's relief, it is pertinent for the trial court to inquire as to what, if any, new circumstance warrants a modification of the existing order." (Footnote omitted; internal quotation marks omitted.) *Malpeso* v. *Malpeso*, 189 Conn. App. 486, 499, 207 A.3d 1085 (2019).

In the present case, the court's adjudication of the

plaintiff's motion for modification of child support and alimony was interdependent with its other postjudgment orders. Specifically, the court expressly stated that it would not modify alimony "[b]ecause of the mosaic the court has created to provide equity for the plaintiff," referencing its findings with respect to the child support and alimony arrearages and its educational support order. Moreover, any determination as to a substantial change in circumstances for purposes of modifying child support would be based on factors underlying the court's other postjudgment financial orders, which this court has reversed and remanded. Accordingly, we conclude that the court's ruling on the plaintiff's motion for modification of child support and alimony also must be reversed and remanded for a new hearing.

The judgment is reversed with respect to the postdissolution orders as to the plaintiff's motion for contempt, motion for order with respect to college expenses, request for attorney's fees, and motion for modification of child support and alimony, and the case is remanded for further proceedings consistent with this opinion; the judgment is affirmed in all other respects.

In this opinion, CLARK, J., concurred.

* The listing of judges reflects their seniority status on this court as of the date of oral argument.

[1] The parties' children were born in October, 2000, and August, 2004.

[2] Although not at issue in the present appeal, we note that parties generally cannot agree to modify court-ordered child support obligations on their own without involving the court. See *Eldridge* v. *Eldridge*, 244 Conn. 523, 530–32, 710 A.2d 757 (1998) (reiterating general proposition that court orders must be complied with until modified by court and upholding trial court's determination that provision in dissolution decree providing for modification upon specified increase in defendant's income not self-executing); *Behrns* v. *Behrns*, 80 Conn. App. 286, 289–90, 292, 835 A.2d 68 (2003) (applying *Eldridge* holding to provision in separation agreement and concluding that "party seeking to alter payments must seek the assistance of the court" rather than engaging in self-help), cert. denied, 267 Conn. 914, 840 A.2d 1173 (2004).

[3] Section 6.5 of the agreement provides that the defendant's obligation to pay "the base sum of alimony" would end on September 30, 2022. The additional alimony requirement as set forth in section 6.4, however, was to continue through 2024 and "the additional alimony term is non-modifiable."

[4] The plaintiff later amended her motion for contempt on July 5, 2019.

[5] The court found that the defendant's gross earned income in the years following the dissolution judgment was as follows: $716,023 in 2014, $861,355 in 2015, $1,223,407 in 2016, $1,716,777 in 2017, $1,904,710 in 2018, and $1,037,220 in 2019.

[6] If we utilize the figures found by the court and subtract gross bonus from gross earned income, this yields the defendant's approximate base income, which indisputably increased yearly from $501,009 in 2015, $765,636 in 2016, $985,628 in 2017, to $1,277,874 in 2018. Exhibits submitted by the parties show that in 2019, after the defendant had moved to Carlton Fields, PA, his base income (regular pay plus quarterly salary) had decreased to $732,219.80.

[7] Our review of the transcripts from the hearing on the postjudgment motions reveals that the parties did not offer, and the court did not admit, any extrinsic evidence of why the parties' chose to bar additional alimony and child support on the defendant's gross earned income in excess of $700,000 or the parties' intent in drafting the relevant provisions of their agreement.

[8] This amount reflects corrections that the court made to its original orders, in which it found an arrearage of $327,691, in response to a postjudgment motion to correct filed by the plaintiff. Specifically, and consistent

with its corrected figures, the court found that the defendant owed the plaintiff $38,888 of additional alimony related to his January, 2016 bonus ($72,069 less $33,181 that he already had paid to the plaintiff). The court concluded no additional child support was due with respect to the January, 2016 bonus because the defendant had shown that he had an outstanding tax obligation of $26,000 in January, 2016, and section 4.2 of the agreement provides that the defendant did not owe additional child support from his bonus until the tax debt was paid in full. With respect to his January, 2017 bonus of $457,771, the court found that the maximum amount of the bonus subject to additional alimony and child support was $401,314 and that the defendant owed a total of $116,381 in additional alimony and child support ($80,263 plus $36,118). The court subtracted $43,300, which the defendant already had paid, for a total of $73,081 attributable to the January, 2017 bonus. The January, 2018 bonus was $731,149, and the court again found that the maximum amount of the bonus subject to additional alimony was $401,314, resulting in additional child support and alimony due of $116,381. The January, 2019 bonus was $626,836. Because one of the children was no longer a minor at the time the payment was due, the court used the 6 percent figure rather than 9 percent to calculate additional child support with respect to the January, 2019 bonus. The court again used $401,314 as the maximum amount subject to additional support payments and found that the plaintiff was owed $104,342 ($80,263 plus $24,079). In sum, the court concluded that the defendant owed the plaintiff a total arrearage of $332,692 for additional child support and alimony attributable to the defendant's bonuses from January, 2016, through January, 2019.

[9] The court in fact made contradictory findings regarding efforts to comply with the agreement's provisions regarding renegotiation of support orders. As previously stated, the court found that a significant increase in the defendant's overall compensation should have been enough to trigger section 6.8 and that the plaintiff had failed to establish that the defendant had not provided her with required tax documentation, which would have provided her with notice of any increase in total compensation. Nevertheless, the court also found that the defendant had not provided the plaintiff with "sufficient" information about his bonus payments and that, "[i]f she had been given the correct information on a timely basis, she may have invoked section 6.8 and renegotiated the alimony." If the plaintiff believed that she was not receiving all necessary and required financial documentation from the defendant, it was incumbent on her to seek an order to compel compliance.

[10] The plaintiff also filed a motion for reargument, to which the defendant objected. The court denied the motion for reargument.

[11] In its original decision, the court stated that its orders "have resulted in significant arrearages and ongoing income sharing by the defendant until child support and alimony have run their course as defined by the agreement."

[12] We note that, in his appellate brief, the defendant provides calculations with respect to an amount that he contends should be found as an alimony arrearage, noting an improper calculation made by his accountant with respect to his 2016 profit sharing income. In other words, the defendant concedes that some arrearage exists.

[13] Because we reverse the award of attorney's fees on this basis, we need not address the defendant's arguments that the court's award of attorney's fees constituted an abuse of its discretion.

[14] The UConn cap is mentioned throughout the proceedings. For example, the plaintiff's testimony included the following exchange:

"[The Plaintiff's Counsel]: Now, your judgment calls for your respective obligations to be governed by a statute that's referenced in your judgment. Correct?

"[The Plaintiff]: Right, right. By the—

"[The Plaintiff's Counsel]: You're aware that that incorporates a UConn cap. Is that right?

"[The Plaintiff]: Exactly. Right, right, it's the UConn."

[15] In its July 19, 2021 memorandum of decision granting in part the plaintiff's request for clarification, the court, inter alia, corrected a typographical error in its order.

[16] We note the following exchange between the plaintiff's counsel and the plaintiff:

"Q. Now, you agreed that [the child] could go to Clemson. Is that right?

"A. Yes.

"Q. Okay. Did you agree that you would pay for Clemson?

"A. No."

[17] Because we reverse the court's educational support order and remand for a new hearing, we need not address the defendant's additional arguments, including his argument raised pursuant to General Statutes § 46b-66, and his contention that the court improperly failed to make its educational support order retroactive.

[18] In her reply brief, the plaintiff asserts that "it is likely that the issues presented in this cross appeal will arise upon retrial," and asks that we address them. We consider it speculative that the concerns raised by the plaintiff will arise on remand, and we decline to address them. See *Harrington* v. *Freedom of Information Commission*, 323 Conn. 1, 11 n.6, 144 A.3d 405 (2016); see also *Zheng* v. *Xia*, 204 Conn. App. 302, 308 n.10, 253 A.3d 69 (2021) (reversing judgment on basis that reason given for deviation from child support guidelines was improper and declining to reach plaintiff's remaining claims because they were not likely to arise on remand).