

## OPINION SUMMARY

### MISSOURI COURT OF APPEALS EASTERN DISTRICT

GAVIN T. MEIER, Appellant,	)	No. ED92400
	)	
vs.	)	Appeal from the Circuit Court of
	)	St. Louis County
CHRISTINE D. MEIER, Respondent/Cross-	)	
Appellant.	)	Filed: March 23, 2010

### OPINION SUMMARY

Gavin Meier (Husband) appeals and Christine Meier (Wife) cross-appeals from the judgment of the Circuit Court of St. Louis County dissolving their marriage. Husband claims that the trial court erred by: (1) using property values and income and expense statements that were over one year old when dividing the parties' marital property and awarding Wife maintenance and attorney's fees; (2) including as Husband's gross income the depreciation deduction reported for Husband's S corporation, Meier Environmental Services & Associates, Inc. (MESA); (3) awarding Wife a disproportionate share of the marital property; (4) valuing Husband's corporation at \$0 instead of negative \$139,902.00; and (5) awarding Wife \$130,858 in dividends and interest from Husband's Charles Schwab brokerage account (Schwab account) instead of a percentage of the account as required by the parties' stipulation. In her cross-appeal, Wife asserts that the trial court erred in finding that only the interest and dividends generated by the Schwab account, rather than the Schwab account itself, constituted marital property.

### AFFIRMED IN PART AND REVERSED AND REMANDED IN PART

Division Two Holds: With respect to Husband's points on appeal, the trial court erred in relying on stale valuation evidence of Husband's separate property and the parties' respective income and expenses when dividing the marital estate. The trial court, however, acted within its discretion when including MESA's non-cash depreciation deduction in Husband's gross income and valuing MESA at \$0. Because our resolution of Husband's first point requires reversal of the trial court's division of marital property and awards of maintenance and attorney's fees, we decline to reach the merits of Husband's third and fifth points regarding Wife's share of the marital property and the trial court's failure to award the marital portion of MESA in accordance with the parties' stipulation. With respect to Wife's cross-appeal, the trial court erred in finding that the Schwab account, except the interest and dividends, was Husband's separate property when the trial court also found that a portion of the account was marital property and Husband failed to prove which portion of the account was traceable to his separate property.

Opinion by: Patricia L. Cohen, J.      Sherri B. Sullivan, P.J., and Robert G. Dowd, Jr., concur.

Attorney for Appellant: James C. Ochs

Attorney for Respondent: Joseph J. Kodner

Guardian Ad Litem: Mark W. Kiesewetter

**THIS SUMMARY IS NOT PART OF THE OPINION OF THE COURT. IT HAS BEEN PREPARED FOR THE CONVENIENCE OF THE READER AND SHOULD NOT BE QUOTED OR CITED.**