

relevant portion of the specific document, discovery response, transcript of testimony (by page and line), or other statement under oath that demonstrates the dispute.” Md. Rule 2-501(b). Alternatively, the non-moving party must file an affidavit explaining why “the facts essential to justify the opposition cannot be set forth,” in which case the court “may deny the motion or order a continuance to permit affidavits to be obtained or discovery to be conducted[.]”¹⁴ Md. Rule 2-501(d); *see also Clark v. O’Malley*, 169 Md.App. 408, 420-21 (2006) (affirming grant of summary judgment before the end of discovery where non-moving party failed to identify genuine disputes of material fact or file a Rule 2-501(d) affidavit).

In responding to the Woodfords’ motion for summary judgment, Ms. Gladden did not support her assertion that there was a genuine dispute of material fact with any citations to valid material under Rule 2-501(b). She also did not file a Rule 2-501(d) affidavit explaining why she could not set forth the essential facts. Instead, at the hearing, Ms. Gladden responded simply that her need for future discovery on her claims should preclude a grant of summary judgment in favor of the Woodfords.

That, however, is insufficient. If Ms. Gladden had wished to obtain that discovery, she could have sought it-and she had several months in which to do so. Specifically, Ms. Gladden filed her original complaint in January 2021 and amended it in July 2021, relying upon essentially the same alleged facts. The circuit court’s hearing on the Woodfords’ motion did not occur

¹⁴ The court may also “enter any other order that justice requires.” Md. Rule 2-501(d).

until September 2021. As such, Ms. Gladden had ample time to serve discovery material in an attempt to develop the facts necessary to oppose summary judgment, or at least to create a record supporting a Rule 2-501(d) affidavit.

For example, Ms. Gladden could have served interrogatories on the Woodfords, requests to produce documents, and requests for admissions. *See* Md. Rules 2-421, 2-422, 2-424; *see also* Md. Rule 2-401 (“[M]ethods of discovery may be used in any sequence[.]”). Had she done so, the Woodfords’ responses would have been due “within 30 days after service of the request or within 15 days after the date on which that party’s initial pleading or motion is required, whichever is later.” *See* Md. Rules 2-421(b), 2-422(c), 2-424(b).¹⁵ Ms. Gladden also could have

¹⁵ There appears to be some ambiguity in Rules 2-421(b), 2-422(c), and 2-424(b) as to the precise deadline for responding to discovery requests. To explain, we first summarize the relevant dates, then we note two possible interpretations of the relevant rules. Under either interpretation, however, Ms. Gladden was not precluded from at least seeking discovery here. As such, her decision not to do so defeats her argument that summary judgment was inappropriate because she needed time to conduct discovery. Ms. Gladden filed her original complaint on January 26, 2021, with service of process on February 16, 2021. The Woodfords then moved to dismiss on March 12, 2021. A hearing on that motion was held on May 10, 2021, and the circuit court entered an order that same day dismissing both of Ms. Gladden’s claims and granting her leave to amend (except as to her purported “self-dealing” claim). Ms. Gladden then filed her amended complaint on July 8, 2021, and the Woodfords filed another motion to dismiss (or for summary judgment) on July 23, 2021. The circuit court heard that motion on September 17, 2021. Bearing those dates in mind, one interpretation of the relevant discovery rules is that responses to interrogatories, requests for production, and requests for admissions are due on the later of

noticed the Woodfords' depositions, or noticed (and subpoenaed attendance at) the depositions of non-parties. *See* Md. Rule 2-411 (conferring the right to take depositions without leave of court after "the earliest day on which any defendant's initial pleading

30 days after service, or 15 days after "the date on which . . . [the] initial pleading or motion is required[.]" Here, the Woodfords were required to file an initial pleading or an initial motion by March 18, 2021. *See* Md. Rule 2-321(a). Thus, the Woodfords' responses to discovery requests would be due on the later of 30 days after Ms. Gladden served the requests, or on or about April 2, 2021. This means that Ms. Gladden could have served discovery requests such that the Woodfords' responses would have been due well before the September 2021 hearing. A second interpretation, however, would suggest that the Woodfords need not have responded to discovery requests before that hearing. Under this interpretation, because the filing of a motion to dismiss automatically extends the deadline for answering the complaint, *see* Md. Rule 2-321(c), it likewise extends the time for answering discovery requests under Rules 2-421, 2-422, and 2-424. Or, put in the language of the relevant discovery rules, responses are due on the later of the following: 30 days after service, 15 days after the "initial . . . motion is required[.]" or 15 days after the "initial pleading . . . is required[.]" The deadline for the Woodfords' initial pleading was automatically extended here by each of the Woodfords' motions to dismiss. *See* Rule 2-321(c). And in the period between May 10, 2021 and July 8, 2021—after the circuit court dismissed both counts of Ms. Gladden's original complaint, and before she filed her amended complaint—no answer could have been due because there was nothing to answer. As such, the Woodfords would not have been required to respond to discovery requests before the September 2021 hearing, regardless of when those requests were served. Here, however, we need not opine on the preferable interpretation of the relevant discovery deadlines. In the eight months between the filing of Ms. Gladden's initial complaint and the circuit court's September 2021 hearing, Ms. Gladden did not attempt to seek any discovery from any source. Thus, neither interpretation aids her argument.

or motion is required[,]” with some caveats not applicable here); Md. Rule 2-510 (use of subpoenas). Even if depositions could not have been scheduled before the circuit court's hearing, and even if Ms. Gladden had not yet received discovery responses, Ms. Gladden still would have been able to point to the pending depositions and responses in a Rule 2-501(d) affidavit, and request a denial of summary judgment so that the facts could be developed.

Nevertheless, there is no indication in the record that Ms. Gladden ever served any discovery material, including noticing or subpoenaing any depositions. *See* Md. Rule 2-401(d)(2) (a party serving discovery material “promptly shall file with the court a notice” that states the “the type of discovery material served,” “the date and manner of service,” and “the party or person served”). Indeed, at the hearing itself in September 2021, Ms. Gladden appeared to concede the point by referring only to prospective discovery in the future, rather than any discovery material that she had already served. In sum, Ms. Gladden did not identify the material facts supporting her opposition to summary judgment, she did not explain why she could not yet set forth such facts, and she did not even attempt to conduct any discovery. The circuit court was correct to reject Ms. Gladden’s alleged need for future discovery as a basis for denying summary judgment. *See* Md. Rule 2-501; *cf. Poole and Kent Co. v. Equilease Assocs. I*, 71 Md.App. 9, 19 (1987) (party was not entitled to a delay in ruling on certain motions when it “failed to avail itself of the discovery procedures”).

Ms. Gladden next argues that the circuit court erred in granting summary judgment because the

Woodfords' motion was not supported by any affidavit. Generally, a motion for summary judgment must be supported by affidavit if it is "based on facts not contained in the record."¹⁶ Md. Rules 2-501(a). The Woodfords did not attach an affidavit to their motion, but they were not required to do so because they did not rely on any facts not already contained in the record. Instead, they relied upon the allegations in Ms. Gladden's complaints and the documents attached by Ms. Gladden to her complaints, including the 2011 deed showing that Ms. Dixon had conveyed the Columbia Property so as to divest any interest held by Ms. Gladden's mother (and thus by Ms. Gladden herself as a beneficiary of her mother's estate). That is, the Woodfords relied only upon the existing record, including items placed into the record by Ms. Gladden.¹⁷

In sum, the undisputed facts in the record show that, in 2011, Ms. Dixon exercised her rights to convey the Columbia Property and executed a new will-thus divesting Ms. Gladden of any expected future or inheritance interest. And Ms. Gladden does not

¹⁶ An affidavit is also required if the motion for summary judgment is filed before the adverse party's initial pleading or motion is filed. Md. Rule 2-501(a).

¹⁷ We further note that the 2011 deed would also be a proper subject of judicial notice because it is "not subject to reasonable dispute" and is "capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned." See Md. Rule 5-201. For the same reasons, so would Ms. Dixon's 2011 will. That will had been filed with the Office of the Register of Wills for Howard County upon opening Ms. Dixon's estate. Further, Ms. Gladden made no challenge to the authenticity of the 2011 deed or will.

challenge Ms. Dixon's right to make that will and conveyance, nor does she challenge the authenticity of either. Of course, Ms. Gladden did allege that she enjoyed a good relationship with Ms. Dixon, and that there would be no reason for Ms. Dixon to fail to provide for Ms. Gladden in a will or otherwise, other than undue influence on the part of the Woodfords.¹⁸ But Ms. Gladden has not pointed to any facts in the record that might tend to support her theory, nor has she explained why she has failed to obtain any such facts through discovery. The circuit court did not err in granting summary judgment in favor of the Woodfords.

II. The Circuit Court Did Not Err in Amending Its Order to Grant Summary Judgment in Favor of the Woodfords

Ms. Gladden next contends that the circuit court erred in "revers[ing] its decision" by granting summary judgment in favor of the Woodfords. The Woodfords respond that the circuit court did not reverse any decision; it merely corrected a clerical mistake that erroneously indicated that summary judgment would be entered in favor of Ms. Gladden. The Woodfords further point out that Ms. Gladden did not file any

¹⁸ Ms. Gladden also levied several other allegations, including, among other things, unseemly conduct and threatened litigation by the Woodfords, eye-rolling by Ms. Woodford, and Ms. Dixon's 2011 changes to the disposition of her property (by will and conveyance) shortly after the death of Ms. Gladden's mother. Except for the timing of Ms. Dixon's will and conveyance, however, those allegations are not record facts. Further, it is not clear how Ms. Gladden's allegations, even if all were contained in the record, would generate a genuine dispute of material fact here.

motion for summary judgment that could have been granted. As such, they argue that the circuit court's original order must have been the product of a clerical mistake and was properly subject to correction at any time.

In Maryland, “[c]lerical mistakes . . . may be corrected by the court at any time on its own initiative, or on motion of any party after such notice, if any, as the court orders.” Md. Rule 2-535(d). This rule contemplates the “correction of clerical mistakes, deficiencies in form, inadvertent omissions or obvious mistakes as distinguished from judicial errors.” See *Gress v. ACandS, Inc.*, 150 Md.App. 369, 379, *rev’d on other grounds sub nom. Brown & Williamson Tobacco Corp. v. Gress*, 378 Md. 667 (2003) (cleaned up). The rule also recognizes that “a court of equity has inherent power to correct errors in its records whereby they fail to express the truth in regard to its proceedings[.]” and allows for corrections that “are necessary to express the court’s intention and give proper effect to the remedy intended[.]” *Bailey v. Bailey*, 181 Md. 385, 389 (1943); see also *Prince George’s Cnty. v. Commonwealth Land Title Ins. Co.*, 47 Md.App. 380, 386 (1980) (explaining that a correctible clerical mistake involves the failure “to preserve of record, correctly in all respects, the actual decision of the court”) (cleaned up).

Here, the circuit court did not act *sua sponte* in correcting the apparent clerical mistake in its original order granting summary judgment, although it had the power to do so. Instead, the circuit court’s correction was prompted by the Woodfords’ line notifying the court of the mistake. The circuit court also signed the proposed amended order that the Woodfords submitted

with their line. Because a request to correct a clerical mistake under Rule 2-535 must be made by motion, we presume that the circuit court treated the Woodfords' line as a motion and then granted that motion. The Woodfords' line, however, did not contain a certificate of service, and there was no indication that it was served upon Ms. Gladden. Additionally, Ms. Gladden apparently did not receive the line before the amended order issued. *See* Md. Rule 1-321(a);¹⁹ *see also* Md. Rule 20-205(d)(2) ("The filer is responsible for serving, in the manner set forth in Rule 1-321, persons entitled to receive service of the submission who . . . are not registered users [of MDEC.]").

Because there was no accompanying certificate of service, the circuit court erred either by accepting the Woodfords' line for filing, or by accepting the line

¹⁹ Maryland Rule 1-321(a) sets forth the general requirements for service of papers that are filed after the initial pleading:

Except as otherwise provided in these rules or by order of court, every pleading and other paper filed after the original pleading shall be served upon each of the parties. If service is required or permitted to be made upon a party represented by an attorney, service shall be made upon the attorney unless service upon the party is ordered by the court. Service upon the attorney or upon a party shall be made by delivery of a copy or by mailing it to the address most recently stated in a pleading or paper filed by the attorney or party, or if not stated, to the last known address. Delivery of a copy within this Rule means: handing it to the attorney or to the party; or leaving it at the office of the person to be served with an individual in charge; or, if there is no one in charge, leaving it in a conspicuous place in the office; or, if the office is closed or the person to be served has no office, leaving it at the dwelling house or usual place of abode of that person with some individual of suitable age and discretion who is residing there. Service by mail is complete upon mailing.

without issuing a deficiency notice. *See* Md. Rule 1-323 (“The clerk shall not accept for filing any pleading or other paper requiring service, other than an original pleading, unless it is accompanied by an admission or waiver of service or a signed certificate showing the date and manner of making service.”);²⁰ Md. Rule 20-201(g) (certificate of service requirements for electronic filings); Md. Rule 20-203 (requiring, among other things, striking or issuing notices of deficiency as to certain noncompliant electronic filings); *Lovero v. Da Silva*, 200 Md.App. 433, 453 (2011) (holding that a court clerk was required to refuse a notice of appeal that lacked a certificate of service under Maryland Rule 1-323).

Moreover, under Maryland Rule 2-311(b), a party against whom a motion is directed has 15 days to file a response. By treating the Woodford’s line as a motion, and by signing the Woodfords’ proposed amended order two days after their line was filed, the

²⁰ We note that Ms. Gladden’s letter correspondence, sent after the circuit court amended its order, did not implicate Maryland Rule 1-323 because it was not “filed” with the clerk. Instead, it appears to have been mailed directly to the judge’s chambers. Under such circumstances, the court, and not the clerk, may accept the paper for filing as provided by Maryland Rule 1-322(a):

The filing of pleadings, papers, and other items with the court shall be made by filing them with the clerk of the court, except that a judge of that court may accept the filing, in which event the judge shall note on the item the date the judge accepted it for filing and forthwith transmit the item to the office of the clerk. . . . [T]he clerk shall note on it that date it was received and enter on the docket that date and any date noted on the item by a judge.

circuit court effectively provided only two days (at most) in which Ms. Gladden could have responded. No motion to shorten time was filed, much less granted. This too was error.

Nevertheless, these errors are harmless here because the circuit court had the power to correct its clerical mistake at any time, upon its own motion. As we explained above, the circuit court's original order granted "Plaintiff's" motion for summary judgment. But the record here not only demonstrates that this language was erroneous, it shows that such a result would not even have been possible because Ms. Gladden had not filed any such motion. The circuit court was thus within its power to amend its order—and indeed, the circuit court's amendment merely conformed its written order to the actual substance of its decision. Contrary to Ms. Gladden's argument, the circuit court did not reverse any judgment.

Ms. Gladden was also not prejudiced by the failure to serve her with the Woodfords' line or allow her time to respond. Simply put, once the circuit court realized (or was alerted to) the clerical mistake in its order, even a prompt response by Ms. Gladden could not have staved off a correction under Maryland Rule 2-535(d), regardless of whether that correction occurred upon the Woodfords' motion or was made on the circuit court's own initiative.²¹

²¹ And in so concluding, we need not speculate about the effect that Ms. Gladden's response might have had. This is because Ms. Gladden's response and the circuit court's assessment of it are in the record. After the amended order was issued, Ms. Gladden sent multiple letters to the circuit court—totaling approximately ten pages with ten exhibits—detailing her arguments why the amended order should not have been entered. These letters and

JUDGMENT OF THE CIRCUIT COURT FOR
HOWARD COUNTY AFFIRMED; COSTS TO BE
PAID BY APPELLANT.

* At the November 8, 2022 general election, the voters of Maryland ratified a constitutional amendment changing the name of the Court of Special Appeals of Maryland to the Appellate Court of Maryland. The name change took effect on December 14, 2022.

** This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

exhibits were received well within 30 days of the amended order. *See* Md. Rule 3- 535(a) (permitting broader revisory power and control over a judgment, within 30 days after entry of the judgment, than provided for under Md. Rule 5-535(d)). Ms. Gladden did not request a hearing in either of her letters. Upon concluding its review, the circuit court declined to revise its judgment and concluded that no action should be taken. And upon our own review, we have reached the same conclusion: we do not perceive any reason why the circuit court should not (or would not) have entered the amended order had it received Ms. Gladden's responses to the Woodfords' line at an earlier time.

App.27a

**AMENDED ORDER, CIRCUIT COURT FOR
HOWARD COUNTY
(JANUARY 20, 2022)**

E-FILED;
Howard Circuit Court
Docket: 1/18/2022;
Submission 1/18/2022 7:35 AM

IN THE CIRCUIT COURT FOR
HOWARD COUNTY

MIRIAM GLADDEN,

Plaintiff,

v.

RAYNA WOODFORD, ET AL.,

Defendants.

Case No.: C- 13-CV-21-000064

Before: Timothy J. McCRONE, Judge,
Circuit Court for Howard County.

AMENDED ORDER

Defendants' Motion to Dismiss Amended Complaint or for Summary Judgment, and Plaintiff's Opposition thereto, having been heard, and considered, it is this 01/20/2022, by the Circuit Court of Howard County,

App.28a

ORDERED, that Defendants' Motion to Dismiss Amended Complaint or for Summary Judgment is hereby is GRANTED, and this matter is hereby dismissed with prejudice.

01/20/2022 4:33:34 PM

/s/ Timothy J. McCrone

Timothy J. McCrone

Judge

Circuit Court for Howard County

Entered: Clerk, Circuit Court for
Howard County, MD
January 21, 2022

Entered: Clerk, Circuit Court for
Howard County, MD
January 21, 2022

**ORDER, CIRCUIT COURT FOR
HOWARD COUNTY
(SEPTEMBER 20, 2021)**

IN THE CIRCUIT COURT FOR
HOWARD COUNTY

MIRIAM GLADDEN,

Plaintiff,

v.

RAYNA WOODFORD, ET AL.,

Defendants.

Case No. C-13-CV-21-000064

Before: Timothy J. McCRONE, Judge,
Circuit Court for Howard County.

Plaintiff's Motion for Summary Judgment, and any
Opposition thereto, having been read, or heard, and
considered, it is this 09/20/2021, by the Circuit Court
for Howard County,

App.30a

ORDERD, that Plaintiff's Motion for Summary Judgment, is hereby GRANTED, with prejudice.

09/20/2021 4:26:27 PM

/s/ Timothy J. McCrone

Timothy J. McCrone
Circuit Court Judge

Entered: Clerk, Circuit Court for
Howard County, MD
September 21, 2021

Entered: Clerk, Circuit Court for
Howard County, MD
September 21, 2021

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SUPREME COURT
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