

Attachment 'A'

E-FILED; Prince George's Circuit Court
Docket: 1/10/2024 6:09 PM; Submission: 1/10/2024 6:09 PM
Envelope: 15054849
NB 1/11/2024

PHILLIP R. ZUBER*
THOMAS A. McMANUS
MARK T. FOLEY
FRANK R. JONES*
MICHAEL L. ADAMS
TAYLOR R. KONCEN*
VINAY S. KATAKAM

*ALSO ADMITTED IN D.C.
+ALSO ADMITTED IN PA



August 7, 2023

LANSDALE G. SASSCER (1893-1964)
HAL C.B. CLAGETT (1916-2010)
JAMES R. BUCHER (1929-2009)
WILLIAM N. ZIFCHAK (1942-2022)

OF COUNSEL:
SHEILA F. FLESHMAN*+

LA PLATA OFFICE:
102 Centennial Street, Suite 102
La Plata, MD 20646
301-934-2490

Writer's Direct Dial: (240) 510-9224

Writer's E-mail address:
Tmcmanus@scblawyers.com

VIA U.S. MAIL ONLY

Hon. Dwight Jackson
Senior Judges Chambers
14735 Main Street Room 3141
Upper Marlboro, Maryland 20772

RE: *Basso v. Rodriguez & Szuchman*
CAL 14-30313

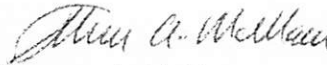
Dear Judge Jackson:

The Court's attention is respectfully directed to this matter which came before you for a hearing on July 21, 2023, and which you then took under advisement.

Among the submissions for counsel for the Plaintiff was a proposed Order for Courts review. On behalf of the Defendants Rodriguez and Szuchman, I have taken the liberty of enclosing a proposed Order for the your consideration.

Thank you for your attention to this matter.

Very truly yours,


Thomas A. McManus

cc: Michael Wein, Esq.

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

JOSEPH BASSO

Plaintiff

v.

JOSE RODRIGUEZ, et. al.

Defendants

Case No. **CAL14-30313**

ORDER

Upon consideration of the Plaintiff's Petition for Attorney's Fees, the Opposition filed thereto, and the arguments and testimony in open court at the hearing on July 21, 2023, the Court makes the following findings:

This matter is before the Court of Plaintiff's Second Supplement to Petition for Attorney's Fees. The Court has reviewed the applicable law in *Friolo v. Frankel*, 403 Md. 443 (2008), *Rochkind v Stevenson*, 229 Md. App. 442, (2016), (reversed on other grounds), related cases, and the factors enumerated in Md. Rule 2-703. The Court has also reviewed the affidavits and numerous billing logs submitted as exhibits. According to §13-408 of the Commercial Law Article, the court may award reasonable attorney's fees to a successful plaintiff for violations of this statute. Any such award is discretionary. The court is mindful that because of the "hybrid" fee agreement, Plaintiffs' counsel has received an amount of fees slightly over \$70,000.00.

In reviewing the numerous billing entries for the high volume of motions filed in this case, it is impossible for this court to determine a reasonable fee based upon the excessive, redundant and otherwise unnecessary hours that are part of this record. Moreover, the Court finds a lack of detail in the billing entries that would allow it to



determine what specific work was done to advance the claim under the Commercial Law Article.

In light of the manner in which this case has been litigated, the court is unable to determine what constitutes a "reasonable" attorney fee. For that reason, the court will utilize it's discretion and deny the Petition for Attorney's fees.

Judge

Thomas A. McManus, Esquire
CPF# 8011010255
5407 Water Street, Suite 101
Upper Marlboro, MD 20772
(301) 627-5500/ (301) 627-4156 fax
tmcmanus@sclawyers.com

Michael Wein, Esq.
Belle Point Office Park
7829 Belle Point Drive
Greenbelt, MD 20770



IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

JOSEPH BASSO

v.

Case No.: CAL14-30313

JOSE RODRIGUEZ, et al.

ORDER OF COURT

Upon consideration of the Plaintiff's Second Petition for Attorney's Fees, the Opposition filed thereto, and the arguments and testimony in open court at the hearing on July 21, 2023, and Plaintiff's Third Supplement On Petition For Attorney's Fees and Costs to Plaintiff and Plaintiff's Counsel for Defendants' Violations of Commercial Art. 13-301 and For Reasonable Statutory Attorney's Fees Under Commercial Law Article § 14-408 and Maryland Rule 2-703 filed on September 6, 2023, the Court makes the following findings:

This matter is before the Court of Plaintiff's Second and Third Supplement to Petition for Attorney's Fees in which Plaintiff seeks an award of attorney's fees in the amount of \$437,957.50. The Court has reviewed the applicable law in *Friola v. Frankel*, 403 Md. 443 (2008), *Rochkind v Stevenson*, 229 Md. App. 442, (2016), (*reversed on other grounds*), related cases, and the factors enumerated in Md. Rule 2-703. The Court has also reviewed the affidavits and numerous billing logs submitted as exhibits.

According to §13-408 of the Commercial Law Article, the court may award reasonable attorney's fees to a successful plaintiff for violations of this statute. Any such award is discretionary. The court is mindful that because of the "hybrid" fee agreement, Plaintiffs' counsel has received an amount of fees of slightly over \$70,000.00.

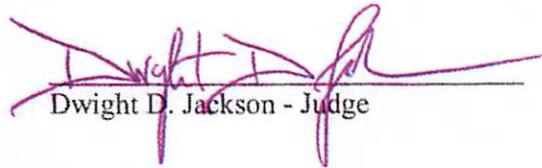
The Court has also been mindful of Rule 1.5 of the Maryland Rules of Professional Conduct, which requires that a lawyer's fee be reasonable

In reviewing the numerous billing entries for the high volume of motions filed in this case, the Court finds that many of the entries are excessive, redundant, and otherwise unnecessary hours the counsel asserts were expended in this matter. Moreover, the Court finds a lack of detail in the

billing entries that would allow it to determine what specific work was done to advance the claim under the Commercial Law Article.

Accordingly, it is this 14th day of December, 2023, by the Circuit Court for Prince George's County

ORDERED, that Plaintiff's Second and Third Supplement to Petition for Attorney's Fees is DENIED.



Dwight D. Jackson - Judge

Entered: Clerk, Circuit Court for
Prince George's County, MD
December 14, 2023

IN THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY, MARYLAND

JOSEPH BASSO

Plaintiff

v.

**JOSE RODRIGUEZ, and
JAVIER SZUCHMAN**

Defendants

*
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*
*
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*
*
*

Case No: CAL 14-30313

**LINE RE: COPY OF PREVIOUS FILING OF PROPOSED ORDER BY
DEFENSE COUNSEL, NOT IN ELECTRONIC CASE FILE RECORD**

Dear Clerk of the Court:

Please find enclosed a copy as "Attachment A" of a "Proposed Order" with a Cover Letter dated August 7, 2023 by Defendants' Counsel Thomas McManus. This was not electronically filed, was instead apparently delivered directly to Judge Dwight Jackson (Retired) and if in any way filed or considered by the Court, was requested to be stricken by Plaintiff in the Third Supplement [...] dated September 6, 2023. See Attachment A, Page 7. As Judge Jackson's One-gage Order denying Attorneys Fees and Costs to the Plaintiff and Plaintiff's Counsel, is for the most part, *verbatim* to this improper filing, a copy of said filing is included for review to the Appellate Court of Maryland (ACM).

Respectfully Submitted,

Michael Wein, Esquire
Law Offices of Michael A. Wein, LLC
7845 Belle Point Drive
Greenbelt, Maryland 20770
(301) 441-1151
(301) 441-8877 (fax)

weinlaw@hotmail.com
CPFN/AIS: 0212190286

Attorney for Plaintiff Basso

CERTIFICATE REGARDING LACK OF RESTRICTED INFORMATION

Plaintiff's Counsel, pursuant to Maryland Rule 20-201 (h)(1), certifies that the
aforementioned filing, with any attachments, does not contain any restricted information.

/s/

Michael Wein, Esquire

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 10th day of January 2024, a copy of the
foregoing Line was sent via the MDEC system to:

Thomas McManus, Esquire
Sasscer, Clagett, & Bucher
5407 Water Street, Suite 101
Upper Marlboro, MD 20772

Attorney for Defendants Szuchman and Rodriguez

/s/

Michael Wein, Esquire

Attachment 'B'

From: Jackson, Dwight D. </O=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOHF23SPDLT)/CN=RECIPIENTS/CN=6D606C6BEDEE48E9AEBD4F3CC0E9925C-JACKSON, DW>
Sent time: 09/14/2023 11:43:09 AM
To: Johnson, Shelley L. </o=ExchangeLabs/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Recipients/cn=18baf67403334e989e8c4e6356240946-Johnson, Sh>
Cc:
BCc:
Subject: RE: Surprise?

Ms. Johnson,

My schedule is clear that week so feel free to choose a time and venue and I will be there. Look forward to meeting you both!

DJ

From: Johnson, Shelley L. <sljohnson@co.pg.md.us>
Sent: Wednesday, September 13, 2023 4:24 PM
To: Jackson, Dwight D. <DDJackson@co.pg.md.us>
Subject: RE: Surprise?

Judge Jackson,

The County Attorney and I would like to schedule a meeting to discuss your interest in joining the Office of Law. Please advise me of your availability for the week of October 9th for a meeting with me and Mrs. Weaver.

Thank you,

Shelley L. Johnson
Deputy County Attorney
Prince George's County Office of Law
1301 McCormick Drive, Suite 4100
Largo, Maryland 20774
(301) 952-3932 – direct
(301) 952-5225 – main
(301) 952-3071 - fax

From: Jackson, Dwight D. <DDJackson@co.pg.md.us>
Sent: Friday, September 1, 2023 10:05 AM
To: Johnson, Shelley L. <sljohnson@co.pg.md.us>
Subject: RE: Surprise?

Ms. Johnson,

Sounds great. Look forward to hearing from you. Have a great weekend!

DJ

From: Johnson, Shelley L. <sljohnson@co.pg.md.us>
Sent: Thursday, August 31, 2023 1:45 PM
To: Jackson, Dwight D. <DDJackson@co.pg.md.us>
Subject: RE: Surprise?

Good afternoon Judge Jackson,

Yes. I am surprised and pleased to hear from you. I am going to share your email and interest with the County Attorney and will be in touch.

Shelley L. Johnson
Deputy County Attorney

Prince George's County Office of Law
1301 McCormick Drive, Suite 4100
Largo, Maryland 20774
(301) 952-3932 – direct
(301) 952-5225 – main
(301) 952-3071 - fax

From: Jackson, Dwight D. <DDJackson@co.pg.md.us>
Sent: Tuesday, August 29, 2023 7:55 PM
To: Johnson, Shelley L. <sjohnson@co.pg.md.us>
Subject: Surprise?

Greeting Ms. Johnson,

This is Judge Jackson. I'm just following up on the conversation we had earlier after your ADR conference. The more time I've had to think the more intrigued I am about eschewing my comfortably numb Senior Judge existence for the challenge of doing trial work in the federal courts. If your office is interested in someone who has done a few trials in both state and federal court, I will match your interest and hopefully explore the possibility of joining your team. I am at that stage in life where I still feel like I have gas in the tank for another career challenge. Should you and your office have any interest please feel free to contact me at your convenience. My preferred contacts are via my personal email, [REDACTED] or by cell phone c/o [REDACTED]

Sincerely,

Dwight Jackson

From: Jackson, Dwight D. <DDJackson@co.pg.md.us>
Sent time: 09/19/2023 10:33:09 PM
To: [REDACTED]
Cc:
BCc:
Subject: Fw: Meeting

From: Woods, Trisha L. <TLWoods@co.pg.md.us>
Sent: Tuesday, September 19, 2023 8:43 AM
To: Jackson, Dwight D. <DDJackson@co.pg.md.us>
Subject: RE: Meeting

Thank you. I will send an invite for the meeting. Have a great day!

From: Jackson, Dwight D. <DDJackson@co.pg.md.us>
Sent: Monday, September 18, 2023 10:45 PM
To: Woods, Trisha L. <TLWoods@co.pg.md.us>
Subject: Re: Meeting

Ms. Woods,

I am available and looking forward to meeting.

Dwight Jackson

From: Woods, Trisha L. <TLWoods@co.pg.md.us>
Sent: Saturday, September 16, 2023 6:15 PM
To: Jackson, Dwight D. <DDJackson@co.pg.md.us>
Cc: Johnson, Shelley L. <sljohnson@co.pg.md.us>; Weaver, Rhonda L. <RLWeaver@co.pg.md.us>; Crawford, Jacqueline F. <JFCrawford@co.pg.md.us>
Subject: Meeting

Good evening, Judge Jackson. Please advise if you are available the afternoon of October 13, 2023, to meet with Shelley Johnson and Rhonda Weaver at the Office of Law. Thank you.

Trisha L. Woods
Administrative Aide IV
Litigation Unit – Office of Law
301-952-5225
tiwoods@co.pg.md.us



**PRINCE GEORGE'S COUNTY GOVERNMENT
OFFICE OF LAW**

Angela D. Alsobrooks
County Executive

Rhonda L. Weaver
County Attorney

Deputy County Attorneys
Sean G. Dixon
Shelley L. Johnson
Joseph C. Ruddy

November 17, 2023

VIA ELECTRONIC MAIL

Dwight Jackson

Email address: [REDACTED]

RE: Associate County Attorney V (Litigation Division)

Dear Mr. Jackson:

I am pleased to offer you the position of Associate County Attorney V with the Prince George's County Office of Law. You will be assigned to the Litigation Division as a senior trial attorney. Upon successful processing by the Office of Human Resources Management, your annual salary upon appointment will be \$170,000. Your immediate supervisor and appointing authority will be Shellie L. Johnson, Deputy County Attorney. Your starting date will be December 18, 2023.

Please advise me of your decision to accept or decline this offer no later than November 22, 2023. Notification via electronic mail is acceptable. Please email me directly at rlweaver@co.pg.md.us. If you have any questions, please do not hesitate to contact me.

We look forward to the possibility of working with you as a member of the Office of Law team and continuing to serve the residents of this wonderful County.

Sincerely,

Rhonda Weaver

Rhonda L. Weaver
County Attorney

Copies to (via electronic mail):
Shellie L. Johnson, Deputy County Attorney
Jonathan E. Wynn, OOL Office Manager

From: [REDACTED]
To: [Weaver, Rhonda L.](#)
Subject: Acceptance
Date: Friday, November 17, 2023 10:20:54 PM

CAUTION: This email originated from an external email domain which carries the additional risk that it may be a phishing email and/or contain malware.

Ms. Weaver,

Thank you very much for the generous offer. I accept and look forward to joining your team. Please advise what steps I need to take to ensure a smooth transition.

Dwight Jackson

From: Johnson, Shelley L. <sljohnsun@co.pg.md.us>
Sent time: 12/19/2023 10:09:14 AM
To: Office of Law </o=ExchangeLabs/ou=Exchange Administrative Group
(FYDIBOHF23SPDLT)/cn=Recipients/cn=bf0ba409cc0343d18e17cf58aab9bb2f-Office of L>
Cc:
BCc:
Subject: Welcome Dwight Jackson to OOL

Good morning,

I am pleased to announce that Dwight Jackson has joined the Litigation Unit. He will be representing the County and its employees in complex litigation matters in State and Federal Court. His office is located in the Litigation Unit next to Dawn Barnett's office. Feel free to come by and say "Hi."

Shelley L. Johnson
Deputy County Attorney
Prince George's County Office of Law
1301 McCormick Drive, Suite 4100
Largo, Maryland 20774
(301) 952-3932 – direct
(301) 952-5225 – main
(301) 952-3071 - fax

Attached "C"

Circuit Court for Prince George's County
Case No.: CAL14-30313

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2100
September Term, 2019

&

No. 2167
September Term, 2023

JOSEPH BASSO

v.

CAMPOS & ASSOCIATES REALTY, ET AL.

Wells, C.J.
Leahy,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Hotten, J.

Filed: July 23, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This is a consolidated appeal from two orders of the Circuit Court for Prince George's County denying attorney's fees to appellant Joseph Basso. The first order, entered on October 24, 2019, denied Basso's request for attorney's fees under Maryland Rule 1-341. The second order, entered on December 14, 2023, denied Basso's petition for statutory attorney's fees under the fee-shifting provision of the Maryland Consumer Protection Act ("CPA"). Basso presents four questions for this Court's review,¹ which we have consolidated and rephrased as follows:

¹ Basso presented the following questions on appeal:

1. After a Statutory Attorneys' Fees and Costs Petition under Maryland Rule 2-703 was filed after the jury's favorable findings on fraud-related counts and the fee-shifting Maryland Consumer Protection Act, did the second retired trial Judge err in failing to issue a standard and required Memorandum discussing the 12 *Johnson* factors, lengthy affidavits, and time billing records in support, to then calculate and ascertain what are the "reasonable attorneys' fees" through its Lodestar value, but instead, awarded Appellant and Counsel zero (\$0) Attorney's Fees and Costs for a decade of litigation, in a conclusionary one-page Order six-months after a hearing, without specifics or findings given, said Order copied from Appellees who themselves barely contested nearly the entirety of billable work hours or the supportive and objective *Johnson* factors?
2. In addition to lacking any specifics to allow appropriate appellate review in Question Presented One, when the Plaintiff's attorney and client in the case, provided approximately 40 pages of affidavits, the Appellees deliberately did not contest as futile at least 11 of 12 *Johnson* factors or more than 2% of the supportive billing time records as challengeable of an appropriate Lodestar attorney's fee award, (including the most important factor of "excellent results"), and the Court was provided hundreds of billing records consistent with the case file detailing the actual work done during the (1) first trial, (2) first successful appeal, (3) oppositions to dispositive motions and post-trial motions, (4) discovery and depositions, and (5) a successful second trial, was the trial Court's award of zero dollars for both lodestar Attorney's Fees and about \$28,000 out of pocket costs, properly sustainable on appeal?
3. When Retired Judge Dwight Jackson, in potential violation of Article 33 of the Maryland Declaration of Rights and ethical concerns expressed in the published

(continued)

1. Did the circuit court err in denying Basso’s petition for statutory attorney’s fees without first engaging in a lodestar analysis?
2. Did the retired judge who decided Basso’s petition for statutory attorney’s fees lack the authority to issue a ruling?
3. Did the circuit court err in denying Basso’s request for attorney’s fees under Maryland Rule 1–341 solely on the basis of his being in a contingency fee arrangement?

For the reasons that follow, we affirm the judgments of the circuit court.

BACKGROUND

I. Underlying Facts and Basso’s First Appeal

On July 29, 2011, appellees Javier Szuchman and Jose Rodriguez, both licensed real estate agents, purchased a two-story single-family home in Hyattsville (“the Property”) for \$119,000 at a foreclosure sale. Szuchman and Rodriguez were agents of appellee Juan

Judicial Ethics Opinion of 2007-06, after being assigned to handle the Statutory Attorney Fee hearing, then in the record had three years of nonfeasance without a hearing, and then 6 months later issuing a conclusory one-page Order written by Appellees, yet failed to disclose he had either (1) already begun work as an associate county attorney for Prince George’s County, and thus acted ultra vires in the December 14, 2023 issued order, or (2) said Order was issued within days of the non-judicial “practice of law” attorney work, giving an appearance of impropriety in the ruling itself supporting this Court’s reversal and remand which nevertheless, should be explicitly reassigned to a different qualified judge?

4. Did Retired Judge Thomas Smith, after finding Appellees violated Maryland Rule 1-341, err in misapplying and misinterpreting *dicta* in *Seney v. Seney*, 97 Md. App. 544 (1993), that Plaintiffs’ counsels in any type of contingency fee agreement, cannot seek monetary relief for 1-341 Rule violations, ignoring subsequent and contrary precedent and public policy statements including the Maryland Supreme Court’s decisions in *Henriquez v. Henriquez*, 413 Md. 287 (2010) (awarding Attorney’s Fees and Costs to House of Ruth in *pro bono* family law case) and *Worsham v. Greenfield*, 435 Md. 349 (2013) (Defendants’ counsels in insurance cases can obtain Rule 1-341 monetary relief)?

Campos, d/b/a Campos & Associates Realty, a real estate broker. About two months later, Szuchman and Rodriguez listed the Property for sale and Basso purchased it for \$260,000 on October 2, 2011. That same day, Szuchman and Rodriguez signed the Maryland Residential Property Disclosure and Disclaimer Statement (“Disclosure Statement”), representing that they had owned the Property for three months and had no “actual knowledge” of any “leaks or evidence of moisture” in the basement. The sale closed on November 14, 2011, and Basso moved in with one housemate.

On December 7, 2011, the housemate called Basso to alert him that “there was water in the basement.” The housemate believed that the water was entering from under the exterior basement door jamb, at the bottom of the exterior stairwell. Basso hired a water remediation company to clean up the basement, but on March 1, 2012, Basso discovered more water infiltration in the basement. This time, he pulled up the carpet and could see “areas where there was obviously water seeping in from the foundation.” He also noticed upon pulling up the carpet that there was “an area of concrete that[was] a different color,” with some of the concrete appearing to be “newer.” Basso obtained an estimate for concrete work on the Property to address the water infiltration problems, but he decided not to go forward with the work at that time.

Throughout the rest of 2012 and 2013, the basement at the Property flooded “[e]very time there was a substantial rainstorm or, . . . continued [sic] rain over a few days, any time that . . . [it rained] a half inch . . . and up[.]” The water would “seep in from . . . numerous places along the back wall and the wall where the door was . . . [a]nd depending on the amount of rain or the amount of ground saturation, it would just keep going.” In July of

2013, Basso became concerned about mold in his basement and hired Larry Hammond, a certified home inspector and certified mold remediation contractor, to perform a “General Grading and Water Infiltration Inspection.”

On November 13, 2014, Basso sued Szuchman, Rodriguez, and Campos (collectively “the appellees”), and filed the operative third amended complaint on February 16, 2015. Basso alleged that when Szuchman and Rodriguez signed the Disclosure Statement on October 2, 2011, they had actual knowledge that the basement area flooded repeatedly and had attempted to conceal this defect by removing bushes that lined the side of the home and replacing them with poured concrete. Counts I and II asserted claims against Szuchman and Rodriguez for negligent and fraudulent misrepresentations, respectively; Counts III, IV, and V asserted claims for breach of the CPA; and Counts VI and VII asserted claims against Campos for vicarious liability and negligent hiring and supervision. On July 17, 2015, Basso designated two expert witnesses: Howard Phoebus, a real estate agent, as an expert on valuation of real property as well as the standard of care; and Hammond, as a standard of care and causation expert.

A jury trial commenced on March 28, 2016. Over two days, Basso testified and called five witnesses: Szuchman, Campos, Phoebus, Hammond, and Daniel Seger, a neighbor who lived directly across the street from Basso. Basso also introduced into evidence certified records from the Storm Events Database for the National Climatic Data Center, which reflected that there were multiple storm events involving significant rainfall during the period between July 29, 2011, when Rodriguez and Szuchman purchased the Property, and September 25, 2011, when the Property was listed for sale. During his direct

examination of Hammond, counsel for Basso repeatedly asked whether, based on Hammond’s observations of the Property in July of 2013, the Property would have had “flooding issues” prior to Basso’s purchasing it and, more specifically, during the period that Rodriguez and Szuchman owned it. Defense counsel objected to each of these questions, and the circuit court sustained the objections, explaining that Hammond’s opinion about whether the Property would have flooded in August and September 2011 was “nothing but speculation.”

At the close of Basso’s case, the appellees moved for judgment on all counts, arguing that Basso had not adduced any evidence, “circumstantial or otherwise, that [on October 2, 2011], [any of the appellees] were aware of or knew of any issues of flooding with that basement.” The circuit court agreed, ruling that Basso failed to meet his burden to show that any of the appellees had knowledge of “water or flooding conditions or a wet basement” during the time in which they held title to the Property. Therefore, the circuit court granted the appellees’ motion for judgment on all counts, and entered judgment in favor of the appellees on April 19, 2016.

Basso appealed the circuit court’s judgment on April 26, 2016, and this Court, in a reported opinion,² reversed. This Court held that the circuit court abused its discretion by precluding Hammond from expressing an expert opinion about whether the Property would have experienced flooding during the three-month period when Rodriguez and Szuchman held title to it. Additionally, this Court held that the erroneous exclusion of Hammond’s

² See *Basso v. Campos*, 233 Md. App. 461 (2017).

testimony was prejudicial because such testimony would have provided sufficient evidence to survive a motion for judgment. As a result, this Court remanded the case to the circuit court for further proceedings consistent with its opinion.

II. The Parties File Competing Motions for Sanctions

On May 13, 2016, after Basso noted his first appeal, but before this Court decided that appeal, the appellees filed a “Motion for Attorneys Fees” pursuant to Maryland Rule 1–341, arguing that Basso “brought this case knowing that it lacked substantial legal justification.”³ On June 7, 2016, the circuit court entered an order staying a ruling on the motion “until the appeal is resolved.” This Court resolved Basso’s first appeal in a reported opinion filed on July 27, 2017, and a mandate issued on August 28, 2017, reversing the circuit court’s grant of judgment in favor of the appellees. However, the appellees did not voluntarily withdraw their motion for attorney’s fees following the issuance of the mandate from this Court. Instead, they continued to prosecute their motion for attorney’s fees until it was denied without prejudice on April 10, 2018.

Following his win at this Court, Basso also filed motions for sanctions and attorney’s fees. On March 26, 2018, Basso moved for Rule 1–341 sanctions against the appellees for “maintaining [a] frivolous motion after [the] appellate court mandate is issued.” Additionally, that same day, Basso also moved for Rule 1–341 sanctions against

³ Rule 1–341 allows the court, if it “finds that the conduct of any party in maintaining or defending any proceeding was in bad faith or without substantial justification,” to “require the offending party or the attorney advising the conduct or both of them to pay to the adverse party the costs of the proceeding and the reasonable expenses, including reasonable attorneys’ fees, incurred by the adverse party in opposing it.” Md. Rule 1–341(a).

the appellees for their “bad faith filing claiming that [a] 3rd party witness they never spoke to was their ‘expert.’” Then, on July 16, 2018, the circuit court announced that it “is in receipt of various pleadings seeking or opposing Rule 1–341 sanctions and/or Attorneys’ Fees. The Court will resolve these motions after trial on the merits has concluded.”

III. Basso Wins a Jury Verdict on all Claims Against Szuchman and Rodriguez and Petitions for Statutory Attorney’s Fees

The parties went to trial again from June 10 through 12, 2019. This time, Basso won a favorable jury verdict on all his claims against Szuchman and Rodriguez. The jury awarded him \$135,000 in compensatory damages and another \$5,000 in punitive damages. On August 5, 2019, after trial had concluded, the circuit court partially granted Basso’s motion for Rule 1–341 sanctions against the appellees for “maintaining a proceeding without substantial justification,” based on the appellees’ further prosecution of their own Rule 1–341 motion after this Court’s mandate was received.⁴ However, upon discovering that Basso’s attorney’s fee arrangement was a contingency fee, the court denied Basso’s request for Rule 1–341 fees on October 24, 2019. Then, in denying Basso’s motion for reconsideration on November 13, 2019, the court explained that

Plaintiff’s counsel has claimed \$16,320 in attorney’s fees in opposing Defendants’ brief simplistic Motion for Attorney’s Fees, Docket Entry #93. All of these fees arose when Plaintiff and his counsel were under a contingent fee arraignment [sic] and are not recoverable under *Seney v. Seney* 97 MD App. 544.

⁴ The court denied Basso’s other Rule 1–341 motion for sanctions related to an alleged “bad faith filing claiming that 3rd party witness [the appellees] never spoke to was their ‘expert,’” relying primarily on this Court’s decision in *Levitsky v. Prince George’s County*, 50 Md. App. 484 (1982). Since Basso did not appeal the court’s decision on this motion, we will not address it further.

Basso timely noted an appeal of the court’s Rule 1–341 ruling on December 13, 2019.

Later, on January 2, 2020, Basso filed a petition seeking attorney’s fees under the statutory fee-shifting provision of the CPA. Basso filed supplemental petitions on February 8, 2020, July 13, 2023, and September 6, 2023. The circuit court heard arguments on the petition on July 21, 2023, and on December 14, 2023, the court denied Basso’s petition for statutory attorney’s fees. The court reviewed “the numerous billing entries for the high volume of motions filed in this case,” and found that “many of the entries are excessive, redundant, and otherwise unnecessary hours the counsel asserts were expended in this matter.” The court also found “a lack of detail in the billing entries that would allow it to determine what specific work was done to advance the claim under the Commercial Law Article.”

Basso noted a timely appeal of the circuit court’s statutory attorney’s fees ruling on January 10, 2024. The Rule 1–341 case and the statutory attorney’s fees case were consolidated for appeal.

STANDARD OF REVIEW

We review a trial court’s decision whether to award attorney’s fees in a statutory fee-shifting case for abuse of discretion. However, given the remedial nature of such fee-shifting provisions, we keep in mind that “courts should exercise their discretion liberally in favor of awarding a reasonable fee, unless the circumstances of the particular case indicate some good reason why a fee award is inappropriate in that case.” *Friolo v. Frankel*, 373 Md. 501, 518 (2003) (“*Friolo I*”).

This Court explained the standard of review for an award of attorney’s fees under Maryland Rule 1–341 in *Seney v. Seney*, 97 Md. App. 544 (1993):

[B]efore imposing sanctions in the form of costs and/or attorney’s fees under Rule 1–341, the judge must make two separate findings that are subject to scrutiny under two related standards of appellate review. First, the judge must find that the proceeding was maintained or defended in bad faith and/or without substantial justification. This finding will be affirmed unless it is clearly erroneous or involves an erroneous application of law. Second, the judge must find that the bad faith and/or lack of substantial justification merits the assessment of costs and/or attorney’s fees. This finding will be affirmed unless it was an abuse of discretion.

Id. at 549 (quoting *Inlet Assocs. v. Harrison Inn Inlet, Inc.*, 324 Md. 254, 267–68 (1991)).

DISCUSSION

I. The Circuit Court did not Err in Failing to Apply a Lodestar Analysis, nor did it Abuse its Discretion in Declining to Award Any Statutory Attorney’s Fees

Basso attacks the circuit court’s ruling on his petition for statutory attorney’s fees on three separate grounds. First, he argues that the court erred in failing to apply a lodestar analysis⁵ to his petition for statutory attorney’s fees. Second, he contends that the court issued a “bald and conclusionary Order,” which lacked any explanation of the “reasoning” or “process” behind the court’s decision. And third, he takes issue with the fact that the court’s order was “copied from a proposed order of Appellees.” We address each of Basso’s appellate arguments and conclude that they are without merit.

⁵ The “lodestar approach” is a method of computing attorney’s fees “by multiplying the reasonable number of hours expended by the attorney on the litigation by a reasonable hourly rate and then to consider appropriate adjustments to the product of that multiplication.” *Friolo-I*, 373 Md. at 504.

The General Assembly enacted the CPA in order to establish “minimum statewide standards for the protection of consumers across the State.” Md. Code Ann., Com. Law (“CL”) §§ 13–102(b)(1), 13–103(a). In 1986, the Act was amended to include a private cause of action “to improve the enforcement” of the Act for the benefit of those consumers. *See* Report of Senate Judicial Proceedings Committee concerning Senate Bill 551 (March 7, 1986); CL § 13–408(a).

Section 13–408(a) of the Commercial Law Article authorizes any person to “bring an action to recover for injury or loss sustained by him as the result of a practice prohibited by this title.” CL § 13–408(a). Furthermore, Section 13–408(b) provides that a person who brings an action “to recover for injury or loss under this section and who is awarded damages may also seek, and the court *may award*, reasonable attorney’s fees.” CL § 13–408(b) (emphasis added). As the language of this provision makes clear, the decision whether to award any attorney’s fees is discretionary, although “that discretion is to be exercised liberally in favor of allowing a fee.” *Friolo I*, 373 Md. at 512.

There are, as the Supreme Court of Maryland explained in *Friolo I*, two steps to granting attorney’s fees under the CPA. The first step is the discretionary decision whether to allow any award of attorney’s fees. *Id.* If the court determines that some fees should be awarded, then the second step is to determine the amount of those fees, which the court

must calculate using the lodestar approach.⁶ *Id.* Here, the circuit court decided that no fees should be awarded, so we review its decision for an abuse of discretion.⁷

In *Frazier v. Castle Ford, Ltd.*, 430 Md. 144, 166–67 (2013), the Supreme Court of Maryland considered the grant of an attorney’s fee award under Section 13–408(b). In a footnote, the Court explained:

If Mr. Frazier should seek an additional award of attorney’s fees in the future, the Circuit Court’s consideration of such a request should take into account the factors set forth in Rule 1.5(a) and this Court’s prior decisions concerning the award of attorney’s fees. *E.g.*, *Hoffman v. Stamper*, 385 Md. 1 (2005) (award of attorney’s fees permissible with respect to Consumer Protection Act count, but not fraud count); *Friolo v. Frankel*, 373 Md. 501 (2003) (method for determining reasonable fee).

Frazier, 430 Md. at 167 n.27.

Here, in denying Basso’s petition for statutory attorney’s fees, the circuit court did exactly as the Supreme Court of Maryland instructed in *Frazier*. The circuit court explained that, in reaching its decision, it “reviewed the applicable law in *Friol[o] v. Frankel*, 403

⁶ The Court later confirmed this “two-step” explanation in *Friolo v. Frankel*, 438 Md. 304 (2014) (“*Friolo V*”):

We acknowledged that there was no actual entitlement to attorneys’ fees under either statute, but noted that the court *did* award fees in this case and that no cross-appeal had been taken from that decision, so the exercise of that discretion was not before us. The only issue was the appropriate method of calculating the fee, and, as to that, we held that the lodestar approach, more-or-less as it had been applied in the Federal courts, was the proper method.

Id. at 310 (emphasis in original).

⁷ We disagree with Basso that the circuit court erred in failing to apply a lodestar analysis. Since the circuit court declined to award *any* fees, it never reached the second issue—calculation of fees—which is where the lodestar analysis is required.

Md. 443 (2008), *Rochkind v. Stevenson*, 229 Md. App. 442, (2016), (*reversed on other grounds*), related cases, and the factors enumerated in Md. Rule 2-703.” The court also noted that it was “mindful of Rule 1.5 of the Maryland Rules of Professional Conduct, which requires that a lawyer’s fee be reasonable.”⁸ After reviewing the “numerous billing entries for the high volume of motions filed in this case,” the court found that “many of the entries are excessive, redundant, and otherwise unnecessary hours[.]” Additionally, the court found “a lack of detail in the billing entries that would allow it to determine what specific work was done to advance the claim under the Commercial Law Article.” Based on these findings, the court denied Basso’s petition for statutory attorney’s fees. We review the court’s factual findings for clear error, and its ultimate decision to deny attorney’s fees for an abuse of discretion.

“A trial court abuses [its] discretion when it disregards established principles or adopts a position that no reasonable person would accept.” *Pinnacle Grp., LLC v. Kelly*, 235 Md. App. 436, 476 (2018). First, the circuit court clearly did not “disregard[] established principles” in reaching its decision. *Id.* To the contrary, the court cited several authoritative sources of law in its order, including a case decided by the Supreme Court of

⁸ Our appellate review is not hampered, as Basso contends, by the circuit court’s lack of detailed analysis in its order denying his petition for statutory attorney’s fees. “[A] judge is presumed to know the law, and thus is not required to set out in intimate detail each and every step of his or her thought process.” *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 426 (2007) (quoting *Kirsner v. Edelmann*, 65 Md. App. 185, 196 n. 9 (1985)). Thus, “[t]he fact that the court did not catalog each factor and all the evidence which related to each factor does not require reversal.” *Id.* (quoting *John O. v. Jane O.*, 90 Md. App. 406, 429 (1992)). For the same reason, we also reject Basso’s contention that the circuit court erred in “copying” its order from the appellees’ proposed order, as he supplies no evidence to rebut the presumption that the trial judge knew and applied the law correctly.

Maryland, another case decided by this Court, and two relevant Maryland Rules governing attorney’s fees. Thus, we must determine whether the circuit court, in applying the law, “adopt[ed] a position that no reasonable person would accept.” *Id.*

The first reason the circuit court gave for denying Basso’s request for statutory attorney’s fees was that “many of [his counsel’s billing] entries are excessive, redundant, and otherwise unnecessary hours[.]” This is a factual finding that we review for clear error. *See Cong. Hotel Corp. v. Mervis Diamond Corp.*, 200 Md. App. 489, 500 (2011) (“[T]he trial court’s determination of the reasonableness of attorneys’ fees ‘is a factual determination within the sound discretion of the court, and will not be overturned unless clearly erroneous.’” (quoting *Royal Inv. Grp., LLC v. Wang*, 183 Md. App. 406, 456 (2008))).

Here, the appellees point to numerous motions filed by Basso that they claim exemplify the court’s finding of unreasonableness. For example, the appellees point to a “Motion to Recuse or Reassignment” filed by Basso’s counsel, seeking the disqualification of the administrative coordinating judge prior to that judge’s presiding over a scheduling conference. This motion was apparently based on counsel’s dealings with the judge in a prior case, rather than any conduct of the judge in this case. The appellees also point to similar motions seeking the disqualification of Judge Thomas Smith, the trial judge in this

case, as well as a separate lawsuit filed against Judge Smith over his decision not to enter judgment on the jury verdict until a pending Rule 2–519 motion was decided.⁹

Basso’s counsel also filed several appeals and motions for reconsideration of rulings that were largely in his client’s favor. For example, after the circuit court denied the appellees’ motion for attorney’s fees without prejudice, Basso appealed that decision solely on the basis that the denial should have been *with* prejudice. Then, after this Court dismissed the appeal for lack of a final judgment, Basso filed a motion to reconsider the dismissal, which this Court denied, and a petition for writ of certiorari to the Supreme Court of Maryland, which was also denied. In his petition for statutory attorney’s fees, Basso seeks compensation from the appellees for all of these billing entries.

Other motions that the appellees point to as being frivolous include (1) a “Motion to Clarify the September 15 Hearing is No Longer On Docket”; (2) a Motion for Summary Judgment on the “Conceded Limited Matter” of whether the appellees were seeking “prevailing party” attorney’s fees; and (3) a Rule 1–341 Motion for Sanctions against the appellees “For Bad Faith Filing Claiming That Third Party Witness They Never Spoke To Was Their Expert.” The appellees claim that these motions were unnecessary and meritless legal work that no client or adversary should have to pay for.

When reviewing for clear error, the question for this Court is not whether we would have found counsel’s billing entries unreasonable, but rather, whether there was *any*

⁹ Although this issue is not before us here, Rule 2–519(d) does allow the circuit court, in a jury trial, to “submit the case to the jury and reserve its decision on [a] motion [for judgment] until after the verdict or discharge of the jury[,]” which is exactly what occurred in this case.

evidence to support such a position. *See EBC Proprs., LLC v. Urge Food Corp.*, 257 Md. App. 151, 165 (2023) (“If there is any competent and material evidence to support the factual findings of the trial court, those findings cannot be held to be clearly erroneous.” (citations omitted)). Considering (1) the volume of motions and other filings for which Basso’s counsel billed, (2) the fact that many of those filings were appeals or motions for reconsideration of minor issues in rulings that were largely favorable to Basso, and (3) the fact that many of the motions appeared to be motivated by counsel’s personal grievances against the judges involved in this case rather than the merits of their rulings, we hold that it was not clear error for the court to find that “many of the [billing] entries are excessive, redundant, and otherwise unnecessary hours[.]”

The circuit court’s second explanation for denying statutory attorney’s fees was “a lack of detail in the billing entries that would allow it to determine what specific work was done to advance the claim under the Commercial Law Article.” A fee award under the CPA “is limited to the CPA action and may not be based on additional recoveries under other causes of action.” *Hoffman*, 385 Md. at 49. In other words, if a plaintiff sues under multiple causes of action, including an action brought under the CPA, the fee-shifting provision of the CPA allows the plaintiff to recover attorney’s fees *only* for work performed on the CPA claim.

Here, Basso sued the appellees for negligent misrepresentation, fraudulent misrepresentation, and breaches of the CPA. Under *Hoffman*, Basso can only recover statutory attorney’s fees for work performed on the CPA claims. Thus, to award any statutory attorney’s fees, the court must first be able to determine what work was performed

on the CPA claims, as distinct from work performed on Basso’s other tort claims. The court here found that the billing entries of Basso’s counsel lacked sufficient detail to allow for such a determination. We review this finding for clear error.

This Court has reviewed the billing records provided by Basso’s counsel. Like the circuit court below, we also find that the records are unclear as to what specific work was performed to advance Basso’s CPA claims, as opposed to work done to advance his other tort claims. Thus, the circuit court did not commit clear error in making this finding.

When presented with a petition for statutory attorney’s fees, “courts should exercise their discretion liberally in favor of awarding a reasonable fee, unless the circumstances of the particular case indicate some good reason why a fee award is inappropriate in that case.” *Friolo I*, 373 Md. at 518. Here, we hold that the circuit court did not abuse its discretion in determining that this is one of those circumstances where a fee award was inappropriate. Considering the circuit court’s findings that (1) the hours for which Basso’s counsel billed were “excessive, redundant, and otherwise unnecessary,” and (2) the billing entries lacked detail “that would allow it to determine what specific work was done to advance the claim under the Commercial Law Article,” the court’s decision to deny an award of statutory attorney’s fees was reasonable.¹⁰

¹⁰ In a supplemental filing, Basso points to this Court’s recent decision in *Sugarloaf Alliance, Inc. v. Frederick County, Maryland*, 265 Md. App. 199 (2025), as support for his argument that the circuit court abused its discretion when it awarded no statutory attorney’s fees. However, *Sugarloaf* is distinguishable from this case. In *Sugarloaf*, which involved a request for records under the Maryland Public Information Act (“MPIA”), we held that the circuit court abused its discretion in denying Sugarloaf’s supplemental attorneys’ fees petition without first considering the requisite factors set forth in *Kline v. Fuller*, 64 Md. (continued)

II. Basso Provides Insufficient Evidence for this Court to Determine Whether Judge Jackson was Engaged in the Practice of Law at the Time of his Decision in this Case

As an alternative ground for reversing the circuit court’s denial of statutory attorney’s fees, Basso argues that the judge who decided his petition, Senior Judge Dwight Jackson, was practicing law at the time that he rendered his decision. This, if true, would violate Article 33 of the Maryland Declaration of Rights¹¹ and the Maryland Code of Judicial Conduct (“CJC”). *See* Md. Rule 18–100.2(c) (providing that the CJC applies to senior judges); Md. Rule 18–103.1(c) (prohibiting judges from participating in activities that would, among other things, “appear to a reasonable person to undermine the judge’s independence, integrity, or impartiality”); Md. Rule 18–103.9(b) (providing an exception for senior judges who “conduct alternative dispute resolution (ADR) proceedings in a

App. 375, 386 (1985) and *Stromberg Metal Works, Inc. v. University of Maryland*, 395 Md. 120, 128 (2006) (holding that, in exercising its discretion to award or deny attorneys’ fees under the MPIA, “a court must consider at least three factors: (1) the benefit to the public, if any, derived from the suit; (2) the nature of the complainant’s interest in the released information; and (3) whether the agency’s withholding of the information had a reasonable basis in law”). Here, on the other hand, Basso sought attorney’s fees under the fee-shifting provision of the CPA, *not* the MPIA. Therefore, it was not an abuse of discretion for the circuit court to deny Basso’s request for statutory attorney’s fees without first considering the factors set forth in the MPIA cases.

¹¹ Article 33 provides:

No Judge shall hold any other office, civil or military, or political trust, or employment of any kind, whatsoever, under the Constitution or Laws of this State, or of the United States, or any of them; except that a Judge may be a member of a reserve component of the armed forces of the United States or a member of the militia of the United States or this State; or receive fees, or perquisites of any kind, for the discharge of his official duties.

private capacity”). The appellees, however, contend that the evidence Basso offers to support his allegation is insufficient.

The only evidence Basso points to in support of his allegation is a LinkedIn update from December of 2023, purportedly showing that Judge Jackson began working as an associate county attorney for Prince George’s County. However, the LinkedIn update does not specify the date when Judge Jackson started his new job, nor does it actually indicate that Judge Jackson started his new position that month, as opposed to some future time.

In *Newsom v. Brock & Scott, PLLC*, 253 Md. App. 181 (2021), the appellant raised an issue that came to counsel’s attention after the trial in that case was over, namely, whether the judge had an undisclosed conflict of interest because of the relationship between the defense counsels’ law firm and the Prince George’s County Committee to Elect the Sitting Judges. *Id.* at 222. Although this Court held that the appellant’s “failure to move for recusal in the circuit court d[id] not preclude us from exercising our discretion to review the issue on appeal[,]” this Court ultimately concluded that there was “too little documentation to make a determination on this issue.” *Id.* The same is true in this case. Absent anything more than a LinkedIn post, there is simply no evidence to determine whether Judge Jackson was practicing law in violation of the CJC at the time he rendered the decision at issue in this case.

III. The Circuit Court did not Err in Denying Rule 1–341 Attorney’s Fees on the Basis of Basso’s Contingency Fee Arrangement

In his final question presented, Basso argues that the circuit court “was legally wrong” when it denied his motion for Rule 1–341 attorney’s fees solely on the basis of his

contingency fee agreement with counsel. The appellees, on the other hand, claim that Basso “incurred no fees or expenses”¹² in defending against their own Rule 1–341 motion because “his contractual financial obligation to his attorney were [sic] covered by a fee agreement that called for the attorney’s fees to be paid on a contingent basis.” In other words, the appellees argue that the mere fact of Basso’s being in a contingency fee relationship with his attorney means that he did not incur any fees or expenses and therefore cannot recover fees under Rule 1–341.

In *Seney*, we held that a party in a contingency fee agreement cannot recover Rule 1–341 attorney’s fees when they lose their case, because when a party in a contingency fee agreement loses their case they do not have to pay any fees. *See Seney*, 97 Md. App. at 550 (“Mrs. Seney lost the case, therefore, under her contract with Mr. Evans, she was not liable for any attorney’s fees.”); *see also id.* at 553 (explaining that Rule 1–341 attorney’s fees should not be available to attorneys “hired on the basis of contingencies” when “they cannot collect from their own clients whose cases they have lost”). That is the risk inherent in contingency fee agreements. *See id.* at 553 (“Maryland Rule 1–341 was not intended to reduce the risks inherent in contingent fee arrangements.”). Since the appellee in *Seney* lost her case, this Court held that she did not incur any fees or expenses and therefore could not recover attorney’s fees from the opposing party under Rule 1–341.¹³ *Id.*

¹² Rule 1–341 “only allows the court to award attorney’s fees actually incurred by the moving party[.]” *Seney*, 97 Md. App. at 553.

¹³ The logic behind this rule, as we explained in *Seney*, is simple. Unlike its federal counterpart, Maryland Rule 1–341 “does not provide for a monetary award to *punish* a
(continued)

Here, on the other hand, Basso overwhelmingly *won* his case and was awarded \$140,000 in total damages. As a result of the contingency fee agreement, Basso paid approximately \$72,000 of his recovery to his attorney as a fee. *See* Contingent Fee Definition, Black’s Law Dictionary (12th ed. 2024) (defining a contingent fee as a “fee charged for a lawyer’s services only if the lawsuit is successful or is favorably settled out of court” that is usually “calculated as a percentage of the client’s net recovery”). Thus, unlike the appellee in *Seney*, Basso did incur some attorney’s fees in this case. The problem, however, is that there is no way to determine how much of that approximately \$72,000 fee is attributable to, and therefore reimbursable for, the time counsel spent responding to the appellees’ sanctionable conduct.

Rule 1–341 requires a “direct correlation between the monetary sanction imposed and the actual fees incurred by the opposing party.” *Worsham v. Greenfield*, 435 Md. 349, 354 n.3 (2013); *see also Frison v. Mathis*, 188 Md. App. 97, 106 (2009) (“[P]ursuant to the plain language of Rule 1–341, the attorney’s fees recoverable are limited to those that *reimburse* the party for actual expenses incurred.” (emphasis added)). Thus, even when a party in a contingency fee agreement wins their case, they may be barred from recovering

party that misbehaves.” *Seney*, 97 Md. App. at 552 (emphasis added). Rather, the purpose of the rule is to “put a prevailing party in the same position as if the wrongful party’s offending conduct had not occurred.” *Id.* (emphasis removed). Thus, “[w]hen a party takes money out of her pocket and gives it to the court or to her attorney because of the opposing party’s substantially unjustified or bad faith actions, the court may order reimbursement of that money by the opposing party, or the opposing party’s attorney, to the aggrieved party.” *Id.* “When, however, a party does not incur any expense for attorney’s fees, those fees cannot be reimbursed.” *Id.*

Rule 1–341 attorney’s fees if there is no direct correlation between the fees incurred and the sanctionable conduct.¹⁴

Here, even though Basso won his case and incurred a contingent fee, there is no way to determine what amount of that fee is attributable to time spent by his counsel opposing the appellees’ sanctionable conduct. This is because a contingency fee is not billed by the hour. Unlike hourly fee agreements, which allow courts to draw a “direct correlation” between sanctionable conduct and the actual fees that are incurred in opposing that sanctionable conduct, a contingency fee agreement only allows for a lump sum payment at the end of the case if the client wins. Basso claims that his attorney spent approximately \$16,000 worth of time responding to the appellees’ Rule 1–341 motion that the court found sanctionable. However, since Basso entered into a contingency fee agreement and was not billed at an hourly rate, it does not matter how much his attorney *would* have billed for the time he spent responding to the appellees’ sanctionable conduct. Given the contingency fee agreement, there is no way of determining whether Basso actually incurred \$16,000—or any other amount of money—in responding to the appellees’ sanctionable conduct. Thus,

¹⁴ In a supplemental filing, Basso cites this Court’s recent decision in *Johnson v. Spireon, Inc.*, No. 317, Sept. Term 2024 (Md. App. June 27, 2025), in support of his argument that the circuit court erred in denying attorney’s fees under Rule 1–341. However, *Spireon* is distinguishable from the case at bar. In *Spireon*, this Court considered whether a company was barred from seeking attorney’s fees under Rule 1–341 when Section 7–301 of the Corporations and Associations Article prohibited the company from doing business in Maryland and maintaining a suit in this State. *Spireon*, slip op. at 34. Here, on the other hand, the issue we decide is whether a party can collect Rule 1–341 attorney’s fees when they are in a contingency fee arrangement. Therefore, we find *Spireon* unpersuasive and Basso’s reliance on it misplaced.

even though he ultimately won his case, we hold that Basso was barred from recovering attorney's fees under Rule 1–341 because he entered into a contingency fee agreement.

**JUDGMENTS OF THE CIRCUIT COURT
FOR PRINCE GEORGE'S COUNTY ARE
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**

Attachment 'D'

JOSEPH BASSO

v.

JOSE RODRIGUEZ, et al.

* IN THE
 * SUPREME COURT
 * OF MARYLAND
 * Petition No. 283
 * September Term, 2025
 * (No. 2100, Sept. Term, 2019 &
 * No. 2167, Sept. Term, 2023
 * Appellate Court of Maryland)
 * (Cir. Ct. No. CAL14-30313)

ORDER

Upon consideration of the petition for a writ of certiorari to the Appellate Court of Maryland, the respondents' answer to the petition, the *amicus curiae* brief filed by the Maryland Association for Justice, and the supplements to the petition, it is this 24th day of November 2025, by the Supreme Court of Maryland,

ORDERED that the petition is granted as to petitioner's question 4 as rephrased below:

Under Maryland Rule 1-341, where a court finds that the conduct of a party in maintaining or defending any proceeding was in bad faith or without substantial justification, may the court require the offending party and/or attorney to pay reasonable attorney's fees to the adverse party, where the adverse party is represented by counsel under the terms of a contingency fee agreement?

and a writ of certiorari shall issue to the Appellate Court of Maryland; and it is further

ORDERED that this case is transferred to the regular docket as No. 45, September Term, 2025 (SCM-REG-0045-2025); and it is further

ORDERED that the petitioner's brief and record extract shall be filed on or before

January 5, 2026. The respondents' brief(s) shall be filed on or before February 4, 2026. The petitioner's reply brief, if any, shall be filed on or before February 23, 2026. The parties' briefs and the record extract shall be filed through the MDEC system in accordance with Maryland Rules 8-501, 8-502, 20-403, 20-404, and 20-406¹; and it is further

ORDERED that this case is scheduled for argument during the March 2026 session of the Court. Arguments in the March session will be scheduled on March 5, 6, 9 and 10, 2026. Counsel should immediately notify the Clerk's Office in writing if they have conflicts on any of these dates.



/s/ Matthew J. Fader
Chief Justice

¹ Pursuant to Rule 20-406, on the first business day following the electronic filing of a brief, the filing party must deliver eight paper copies of the brief to the Court or place the copies in the U.S. Mail or with a third-party commercial carrier for delivery to the Court.

JOSEPH BASSO

v.

JOSE RODRIGUEZ, et al.

* IN THE
* SUPREME COURT
* OF MARYLAND
* Petition No. 283
* September Term, 2025
* (No. 2100, Sept. Term, 2019 &
* No. 2167, Sept. Term, 2023
* Appellate Court of Maryland)
* (Cir. Ct. No. CAL14-30313)

WRIT OF CERTIORARI

STATE OF MARYLAND, to wit:

TO THE HONORABLE JUDGES OF THE APPELLATE COURT OF MARYLAND:

WHEREAS, *Joseph Basso v. Campos & Associates Realty, et al.*, No. 2100, September Term, 2019 and No. 2167, September Term, 2023, were pending before your Court and the Supreme Court is willing that the records and proceedings therein be certified to it.

You are hereby commanded to have the records transmitted to the Supreme Court of Maryland on or before December 8, 2025, together with this writ, for this Court to proceed thereon as justice may require.

WITNESS the Chief Justice of the Supreme Court of Maryland this 24th day of November 2025.



/s/ Gregory Hilton
Clerk
Supreme Court of Maryland

Attachment 'E'

E-FILED
Gregory Hilton, Clerk,
Supreme Court of Maryland
12/31/2025 2:17 PM



In the Supreme Court of Maryland

December 31, 2025

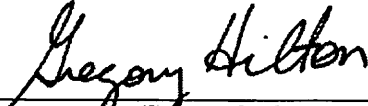
Re: *Joseph Basso v. Jose Rodriguez, et al.*
No. 45, September Term, 2025
SCM-REG-0045-2025

Notice Regarding Briefing

Dear Counsel:

I have received your December 31, 2025, stipulation for extension of time to file briefs. Pursuant to the stipulation, Petitioner's brief shall be electronically filed on or before **January 9, 2026**, the Respondents' brief shall be electronically filed on or before **February 9, 2026**, and the Petitioner's reply brief, if any, shall be electronically filed on or before **February 24, 2026**.

Paper copies of the briefs and the record extract must be placed in the U.S. Mail or with another carrier or hand delivered to the Clerk's Office the business day following the electronic filing. Rules 20-404 and 20-406.



Gregory Hilton, Clerk
Supreme Court of Maryland

A Handout 'F'

Circuit Court for Prince George's County
Case No. CAL14-30313

IN THE SUPREME COURT

OF MARYLAND

No. 45

September Term, 2025

JOSEPH BASSO

v.

JOSE RODRIGUEZ, et al.

Fader, C.J.,
Watts,
Booth,
Biran,
Gould,
Eaves,
Killough,

JJ.

PER CURIAM ORDER

Filed: January 23, 2026

JOSEPH BASSO

v.

JOSE RODRIGUEZ, et al.

*
IN THE
*
SUPREME COURT
*
OF MARYLAND
*
No. 45
*
September Term, 2025
*

PER CURIAM ORDER

On November 24, 2025, this Court granted in part Petitioner’s petition for writ of certiorari to address the following question:

Under Maryland Rule 1-341, where a court finds that the conduct of a party in maintaining or defending any proceeding was in bad faith or without substantial justification, may the court require the offending party and/or attorney to pay reasonable attorney’s fees to the adverse party, where the adverse party is represented by counsel under the terms of a contingency fee agreement?

Pursuant to the order granting the petition, argument was set for the March 2026 session of the Court, with arguments to be scheduled on March 5, 6, 9, and 10, and petitioner’s brief was due “on or before January 5, 2026.”

On December 19, 2025, the Clerk of Court sent notice that oral argument was scheduled for March 6, 2026.

On December 31, 2025, the parties filed a stipulation which purported to extend the time for the parties to file their briefs, including extending the deadline for Petitioner’s Brief from January 5 to January 9, 2026, the deadline for Respondents’ Brief from February

4 to February 9, 2026, and the deadline for Petitioners' Reply Brief from February 23 to February 24, 2026.

Pursuant to Rule 8-502(b), parties may extend the time for filing briefs by "joint stipulation filed with the clerk so long as the [petitioner's] brief and the [respondent's] brief are filed at least 30 days, and any reply brief is filed at least ten days, before the scheduled argument." Thirty days before the scheduled March 6 argument was February 4, 2026. Accordingly, the parties' stipulation was not authorized by Rule 8-502(b) and was, therefore, technically ineffective.

Petitioner did not file his opening brief on January 5, when it was due, or on January 9, when it would have been due if the stipulation had been effective. Petitioner also did not file a motion for extension of time in time for the Court to rule on it before either the original January 5 deadline or the purported stipulated stipulation deadline. Instead, Petitioner filed his brief on January 12, 2026, without an accompanying motion for approval of the late filing.

On January 13, 2026, Petitioner filed "Petitioner's Extension of Time to Monday, January 12, 2026 to File Petitioner's Brief." In that document, Petitioner explained that on January 9, 2026, his counsel "was still in the process of editing the Brief and incorporating the Joint Record Extract in the matter, to the Brief in this case." He further explained that his counsel was also involved in drafting three other briefs in appellate matters in other courts, that counsel for both parties had previously stipulated to extend deadlines when the appeal was pending before the Appellate Court of Maryland, and that he anticipated "that the prior course of conduct with attorneys in the same [opposing] law firm, would be

respected and agreed upon without difficulty.” Accordingly, after business hours on Friday, January 9, 2026, Petitioner’s counsel sent an email to opposing counsel seeking consent to a stipulation that would extend the deadline for Petitioner’s Brief to Monday, January 12, with a corresponding extension of the deadline for the Respondents’ brief until February 11.¹ Respondents’ counsel did not respond until a conversation between counsel on January 12, when Respondents’ counsel declined to consent. Petitioner’s motion requested that the Court grant an extension of time to file until “Monday, January 12, 2026, *nunc pro tunc*.”

Rule 1-204 permits a court “on motion of any party and for cause shown” to extend the period for any filing “if the motion is filed before the expiration of the period originally prescribed or extended by a previous order.” Md. Rule 1-204(a)(2). A court may also extend such a period “on motion filed after the expiration of the specified period,” but only “if the failure to act was the result of excusable neglect.” Md. Rule 1-204(a)(3).

Also on January 13, 2026, Respondents filed an opposition to Petitioner’s motion for extension of time or, in the alternative, a motion to dismiss. On January 16, 2026, Petitioner filed a reply to the opposition.

Pursuant to Rule 8-602(c)(5), the court may dismiss an appeal when “a brief or record extract was not filed by the [petitioner] within the time prescribed by Rule 8-502.” Rule 8-502(a)(1) provides that a petitioner’s brief is due “[n]o later than the date specified

¹ The stipulation for which Petitioner’s counsel sought consent on January 9 would have been ineffective, even had it been filed on that date, because it would have pushed the deadline for the Respondents’ Brief further past the date permitted by Rule 8-502(b).

in the notice sent by the appellate clerk” or as extended by valid stipulation under Rule 8-502(b)(1).

Although Petitioner phrases his request as for the Court to grant a motion for extension with retroactive effect, it is more properly treated as a request to permit the late filing of the brief. Pursuant to Rule 1-204(a)(3), that is appropriate only in a case of excusable neglect. Here, Petitioner appears to have been unaware that the deadline for filing his brief was January 5, due to the mistaken belief that the parties’ original stipulation was effective. However, Petitioner believed that the deadline for filing his brief was January 9. Operating under the impression that he could cure a failure to file the brief by that deadline—or to seek a timely extension of the deadline for doing so—by filing a retroactive stipulation the following week, and further operating under the expectation that opposing counsel would consent to such a belated stipulation, he let the deadline pass without filing the brief, a timely motion for an extension, or any other filing.

The Court does not find excusable neglect that would authorize the relief sought by Petitioner.

Accordingly, it is this 23rd day of January, 2026, by the Supreme Court of Maryland, a majority of the Court concurring,

ORDERED that Petitioner’s motion for extension of time is DENIED, and it is further

ORDERED that Respondents’ motion to dismiss is GRANTED, and it is further

ORDERED that the writ of certiorari is dismissed with costs and No. 45, September Term, 2025 is closed in this Court; and it is further

ORDERED, that costs are to be paid by Petitioner.

/s/ Matthew J. Fader
Chief Justice

Joseph Basso

PETITIONER

Jose Rodriguez
Javier Szuchman

RESPONDENTS

* IN THE MARYLAND
*
* SUPREME COURT
*
* No.: 45, SEPT. TERM 2025
*
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**PETITIONER’S MOTION FOR RECONSIDERATION UNDER
MARYLAND RULE 8-602 AND
REINSTATEMENT OF CASE GRANTED CERTIORARI**

Petitioner Joseph Basso, by and through Counsel Michael Wein, Esquire, of the Law Offices of Michael A. Wein, LLC, and pursuant to Md. Rules 8-431 and 8-502, and 8-602, does hereby respectfully request this Court Grant Reconsideration of the *per curiam* by a majority of this Court concurring, dismissal of the previously granted Certiorari petition, and thus (1) Grant *nunc pro tunc*, the Requested extension of time for filing the Petitioner’s Brief , from Friday, January 9, 2026 (previously granted by an Order dated December 31, 2025) to Monday, January, 12, 2026, (2) Accept the Brief as filed on January 12, 2026, (3) grant of the unopposed “Motion for Leave to File Brief of Amicus Curiae Maryland Association of Justice” “DENIED as moot”, and (4) for this Court to reschedule oral arguments without prejudice this Term in May or June 2026, and updated Schedule for Briefing, and states as follows in support of this request.

1. The original scheduling Order issued in the above-captioned appeal for Petitioner’s Brief, was due on Monday January 5, 2026. Previously, a Stipulation was filed without objection, with newly entered Respondent’s Counsel Mark Foley, Esquire representing the same Respondents as former Counsel (and law partner) Thomas McManus, Esquire, for an additional four (4) days’ time period for filing through Friday, January 9, 2026.

2. This Court entered a *Per Curiam* Order on January 23, 2026, by a “Majority of the Court concurring” to deny Petitioner’s requested “one business day” extension on the already filed Petitioner’s Brief and grant “Respondent’s motion to dismiss.” *Basso v. Rodriguez, et. al.*, Sept. Term, 2025, No. 45 (Per Curiam) (PC) *Slip. Op.* at 4.
3. This was done irrespective and despite the lack of prejudice and equities involving the important legal issues granted Certiorari (discussed further *infra*). This Court also made zero mention of the timely filed 22-page Amici Brief of the Maryland Association of Justice (MAJ).
4. The rationale given appears to be that of Maryland Rule 8-602 (c)(5), which is by no means a jurisdictional Rule, but solely on the timing of filing Briefs in this Court, in this Court’s discretion was violated and thereby the already concluded to be important Question Presented, after Certiorari was granted, was to be dismissed.
5. This Court then claims that there was no “valid stipulation” filed in this case, and even the originally filed January 9, 2026 Stipulation filing was “due to a mistaken belief that the parties’ original stipulation was effective.” *Slip. Op.* at 5. This Court earlier notes in the same PC Opinion, the concern wasn’t that of the “reply brief is filed at least ten days [before oral arguments]” but that the “respondent’s brief are to be filed at least 30 days [before oral arguments]. *Id.* at 2. There are multiple errors in this Court’s action and determination.

6. First, it's completely *sua sponte*. There was zero objection by the Respondents through Counsel Foley, with the January 9, 2026 Extension/Stipulation. There was zero indication that an additional business day (not incidentally, the same courtesy given Respondents' Counsel McManus in the same firm, at the ACM when requested on December 31, 2024 through January 2, 2025), would be fodder for a Motion to Dismiss.¹
7. The *entirety* of the Respondents' Motion, self-interestedly rejecting the Extension request on Monday, was Mr. Foley's perception he would have fewer days available (he would never have 30 because of the multi-week trial) because of a February Court trial to get the Respondent's Brief finalized. Mr. Foley acknowledged he would "only three weeks of available attorney time" to work on the Respondents' Brief. Par. 5. It had nothing to do with this Court's non-jurisdictional reference for the first time in the PC Opinion, that 8-502 (b) could not

¹ No less than four attempts to reach Counsel Foley specified in the email thread attached, to the Motion to Extend, from January 9, 2026 through January 12, 2026 on seeking a one business day consent Extension/Stipulation. It was discovered there might not be consent, after four days of attempts, only on the Monday, January 12, 2026, and a Motion filed after the Briefing was filed that day with this Court. Despite many previous cooperative efforts with prior counsel at the same firm, including prior Counsel McManus, *requesting the exact same relief* at the ACM, which Petitioner's Counsel consented to, a Majority of this Court instead dismissed the appeal. *See*, Attached "A." (Email thread with McManus) That there may have been a forbearance, was simply a matter of professional courtesy, both to the Respondents' Counsel, and that this Court shouldn't be burdened with a Motion filing, that would very likely be consented/Stipulated, as had been done many times throughout the lengthy appeal of this case. *Id.*

be “stipulated” to by the parties, as the Respondent’s Brief would be filed less than 30 days before oral arguments. *Slip Op.* at 2.

8. That issue never came up in the (1) Petitioner’s Extension of Time [for One Business Day], (2) “[Respondents’] Opposition to Petitioner’s Extension of Time, or in the Alternative, Motion to Dismiss”, and (3) Petitioner’s Reply. That issue, which this Court’s PC Opinion treats as a legal issue, which as a PC Order, would presumably have precedential value, is found *nowhere* in both the body and attachments by both parties. It is completely *sua sponte*, which should not be accepted by this Court as a matter of practice, and due process.
9. Additionally, as this Maryland Rule is not of jurisdictional importance, any “exceptions” that allow some level of *sua sponte* determinations and decision-making, is inapposite. *See e.g., Smith v. Taylor*, 285 Md. 143, 400 A. 2d 1130 (1979) (“Court will dismiss an appeal *sua sponte* when it notices that appellate jurisdiction is lacking.”); *Liberty Mut. Ins. Co. v. Wetzel*, 96 S. Ct. 1202, 1204 (1976) (United States Supreme Court stating “[t]hough neither party has questioned the jurisdiction of the Court of Appeals to entertain the appeal, we are obligated to do so on our own motion if a question thereto exists.”).
10. Thus, if this Court felt the issue was of sufficient legal importance to consider separate and apart from the merits of the granted Certiorari Question, the axiomatic and proper procedural manner and mechanism,

would have been to request input by the parties in this action, through some sort of Show Cause Order, giving both parties opportunity to file Memorandums on the topic, or perhaps given the circumstances, request an additional “Question Presented” to be addressed on the topic at oral arguments, with arguments in the Briefing itself.

11. And it is by no means “obvious” that this Court’s perception on “Stipulations” is accurate, or been properly communicated to the Members of the Maryland Bar. *See e.g., Houghton v. Cty. Comm'rs of Kent Cty.*, 307 Md. 216, 218 (1986) (On Motion for Reconsideration and Reargument) (“[P]laintiffs' motion for reconsideration begins with the assertion that, “[u]ntil publication of the majority's opinion in this case, it has been the perception of the Bar and the Judges of the Court of Special Appeals that it [an appeal] is 'permitted by law' after judgment has been *entered* with the use of the word 'judgment' on the docket.”[@] (Motion, pp. 4-5). The plaintiffs suggest that “[i]f this Court or its Standing Committee on Rules of Practice and Procedure had ever resolved that it was not necessary to have the word 'judgment' in the docket entry, someone neglected to inform [the bar and] the Court of Special Appeals.” [...]”²

² Judge McAuliffe, dissented in this Opinion on Reconsideration as well. *See Houghton v. Cty. Comm'rs of Kent Cty.*, 307 Md. 216, 232 (1986) (“Adhering to the views expressed in my earlier dissent, 305 Md. 414, 504 A.2d 1145, I would
Footnote Continued to Next Page

12. In addition to this not being the apparent actual practice of this Court's Clerk's office including in this very case, as discussed further *infra*, it's not a worry, as a matter of prejudice, or Rule, in pretty much every other analogous circumstance or iteration. The readiest comparison, of United States Supreme Court's Rule 25, for example has rules related to a "reply brief must actually be received by the Clerk not later than 2 p.m. 10 days before the date of oral argument." S.Ct. R. 25.3. The Rule on the merits brief of the Respondent merely notes that it's to be filed within 30 days of the Petitioner's Brief. S.Ct. R. 25.3. There has never been a concern apparently in a Reported Opinion by this Court, of a *prejudicial* nature, that a Stipulation, or brief Extension of Time, could not be agreed upon, based on a Respondents/Appellees Brief being at least 30 days before oral arguments.
13. The Appellate Court of Maryland would almost never have this circumstance play out, since oral arguments are, absent extenuating and

Footnote Continued from Previous Page

apply the principle of the "law of the case" to permit a decision on the merits. Additionally, I agree with petitioners and the Maryland State Bar Association that the "unique circumstances" doctrine may be applied to the facts of this case to avoid dismissal of the appeal."); *see also*, Michael Wein, "Mandatory Certiorari in the Maryland Court of Appeals," The Maryland Bar Journal, May 2004 (Attached "B")(Discussing *Houghton*, and recommending adopting Judge McAuliffe's dissenting Opinion).

expedited circumstances, a number of months earlier. Maryland Rule 8-432 on “Entry of Order” seems to confirm this as well, there’s significant discretion afforded in filings of Briefs, accounting for Counsels schedules, and can be granted by the Clerk of the Court so long as “granting the motion will not require a rescheduling of oral argument.” Md. Rule 8-432.

14. And while this Court’s PC Opinion claims that there were *zero circumstances* that any Extensions of Time could or would be granted to the parties that would push the “Respondent’s Brief” to be due past February 4, 2026 (*Slip. Op.* at pg. 2), this is *provably wrong*. One merely needs to consider this Court’s Order dated December 31, 2025, by Clerk of the Court Gregory Hilton, that “[p]ursuant to the stipulation,” Petitioner’s Brief would be due on January 9, 2026, and Respondents’ Brief on February 9, 2026. *See*, Attached “C.” No mention of this Court’s previous Order confirming the Stipulation is at all mentioned in the PC Opinion which was premised upon arguments *sua sponte* crafted by this Court, and thus allow a full and proper response to the claims made therein.
15. So not only are their reasonable *non-jurisdictional* arguments available, that this Court’s practice and procedures were not reflected by the PC Opinion, even a week or two earlier, this Court fails to consider, consistent with *Houghton’s* dissent by J. McAullife, that parties should

not be unfairly prejudiced. (Though *Houghton's* dismissal was distinguishable because it was jurisdictional), Nevertheless, Petitioner's Counsel had reasonable reliance that this Court accepted modest Stipulations and Extensions of Time.

16. Not accepting them, with zero flexibility as this Court seems to indicate in the PC Opinion, actual conflates the ability of Counsels to participate in arguments in the months they are scheduled. This Court could have quite easily scheduled this matter in April, or May 2026, but instead chose March 2026 instead, giving a minimum amount of time, without explaining to Petitioner or the Maryland Bar in general, that there are now a mine-field of Extensions being considered or granted, and hope that your opposing counsel doesn't shift their diametrically polar position to the extension you granted them without opposition earlier.
17. Now, instead, all parties in this Court shouldn't merely check to see if they have conflicts on the oral argument month, but also ensure (even though this used to be rarity), that two months prior to orals, you are also completely free of all deadlines and Court matters.³

³ Again, there was no indication that there was any objection by Respondents until January 12, 2026, and their actual filing in Opposition wasn't a few days later, until *after* the Petitioner's Brief was filed. Instead, the only statement was that of December 31, 2025 by Attorney Foley on the 4-day Stipulation filing, that "Michael. This is acceptable to the Appellee. I don't expect any reciprocal need on my end but anticipate the same professional courtesy if a need arises."

Furthermore, a review of the Attached A, email thread lasting years whilst the

Footnote continued to Next Page

18. Furthermore, this Court’s PC decision, which notes a Majority concurred, fails to appreciate the much greater potential consequences involved, if already-granted Certiorari Petitions which presumably had at least three Justices concurring, now, all of a sudden, could be simply dismissed based on a *Majority*, as the PC decision states, following the apparent wording of Maryland Rule 8-602(d). (Though the actual wording remains somewhat more amorphous of “number of justices or judges required by law to decide an appeal.”)
19. Petitioner would contend that’s the wrong standard, and even assuming *arguendo* in the right circumstances a case in this Court could be dismissed based on a simple motion (which a single business day extension filing never opposed before, and with a 22-page Amici Brief timely filed no matter what based on this Court’s earlier grant of the January 9, 2026 extension), the actual number would have to be a super-majority.
20. Otherwise, while strife in this Court wouldn’t be preferable and would be hard to forecast, a specific individual case may at any given time, have

Footnote continued from Previous Page

ACM appeal was pending, finds that it was Petitioner’s Counsel who took the lead in the complicated circumstances of the Circuit Court for Prince George’s County, multiple year refusal to have a hearing on the Attorneys Fees, including, rather than file a Motion with the ACM (then COSA), *forbearing* filing a Motion, because of an anticipated agreement with Counsel McManus. *See*, Email dated August 16, 2022; *see also*, Emails of December 31, 2024, Petitioner’s Counsel agreeing to permit Respondents/Appellees extension of time for additional few days, under almost identical circumstances.

(1) Certiorari granted with three Justices, and (2) any excuse for a Motion could result in a bare majority of four Justices dismissing the appeal in the Maryland Supreme Court.

21. Instead, this Court has just adopted in the *Basso* PC, what Petitioner would contend to be a “nuclear option” forewarned by Justice McDonald in *People's Ins. Counsel Div. v. State Farm Fire & Cas. Co.*, 442 Md. 55, 64-65 (2015).

“As an aside, I note that the five-vote majority in favor of dismissing this petition is the minimum that ought to be necessary for dismissing a petition. An explanation: Under the longstanding practice of this Court, consistent with the statute that sets forth our certiorari jurisdiction, a petition for certiorari is granted if three judges vote to do so (even if four judges do not favor granting the petition). *See* Inner Workings of the Court of Appeals of Maryland, <<http://www.mdcourts.gov/coappeals/coaoverview.html>>.1

If a petition, once so granted, could be immediately dismissed on an identical 4-3 vote, it would be at odds with the three-vote standard for granting petitions and with the statute that caps the requisite number of votes at three. *See* Maryland Code, Courts & Judicial Proceedings Article, §12-203 (“The Court of Appeals may by rule provide for the number of its judges who must concur to grant the writ of certiorari in any case, *but that number may not exceed three*”) (emphasis added). The upshot is that we should not dismiss a petition as improvidently granted unless we do so by a super-majority vote of at least 5-2.”

People's Ins. Counsel Div. v. State Farm Fire & Cas. Co., 442 Md. 55, 64-65

(2015). *See also*, *Peoples Ins.* Ftnt. 2 (J. McDonald, Dissenting from Dismissed as

Improvidently Granted (DIG) finding, and distinguishing Maryland with the United States Supreme Court’s “Rule of Four.”)

22. There is respectfully also no question there remains significant and important Questions Presented on the granted Certiorari issue in this case. The type of case that has a preserved issue that could help clarify and address the errant language and apparent holding adopted and followed by some courts from *Seney v. Seney*, 97 Md. App. 544 (1993), precludes a significant percentage of Maryland trial cases involving Plaintiffs in contingency fees, from *ever* having any remedies under Maryland Rule 1-341. This also as a matter of grave public policy, ensures a pervasive adversity against, protecting litigants and the Courts from bad faith or without substantial justification misconduct. *Basso*’s case, is the first since *Seney*, to have this issue squarely presented, having taken over 30 years to be before this Court, which itself took years to work though the lower courts. ⁴

⁴ The MAJ as an Amici, timely filed in this Court a Brief, has even located, the entire bases upon which the ACM’s decision against Plaintiff’s Counsels seeking such relief, is actually predicated upon a complete mistake, in this Court’s footnote in the *Worsham* opinion, which *portends* to quote *Seney*, for the “direct correlation” language. Except that’s completely wrong, *Seney* has no such language, it was an error quoting from a Brief. *See*, Attached “D,” Proposed Amici Brief of MAJ, Pg. 4-7.

WHEREFORE, it is respectfully requested that this Honorable Court grant the
aforementioned Petitioner's Motion for Reconsideration, including the reliefs of

1. Grant *nunc pro tunc*, the Requested extension of time for filing the Petitioner's Brief from Friday, January 9, 2026 (previously granted by an Order dated December 31, 2025) to Monday, January, 12, 2026; and
2. Accept the Petitioner's Brief as filed on January 12, 2026; and
3. Grant of the unopposed "Motion for Leave to File Brief of Amicus Curiae Maryland Association of Justice;" and
4. For this Court to reschedule oral arguments this Term in May or June 2026, and provided an updated Schedule for Briefing, and
5. If justified or necessary, request the parties provide additional briefing on the issues presented in this Court's PC Order, or the foregoing Motion for Reconsideration.

Respectfully Submitted,

/s/ Michael Wein
Michael Wein, Esquire

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Counsel for Petitioner
AIS/CPFN: 0212190286

CERTIFICATE OF COMPLIANCE WITH
MD. RULES 8-112, 8-303, and 8-502

1. This Brief or Motion complies with the type-volume limitation of Md. Rule 8-112, 8-303 and 8-502(e) because it contains in the body of the filing 2956 words.
2. This Brief or Motion complies with the type, space, and font requirements of Md. Rule 8-112 because this brief has been prepared in a proportionately spaced

typeface using the word processing system Microsoft Word in font size 13, type style Times New Roman.

/s/ Michael Wein
Michael Wein, Esquire

REQUEST FOR HEARING

Petitioner Joseph Basso respectfully requests a hearing on the foregoing Motion for Reconsideration.

/s/ Michael Wein, Esquire
Michael Wein, Esquire

CERTIFICATE REGARDING LACK OF RESTRICTED INFORMATION

Petitioner's Counsel, pursuant to Maryland Rule 20-201 (h)(1), certifies that the aforementioned filing, with any attachments, does not contain any restricted information.

/s/
Michael Wein, Esquire

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 12th day of February 2026, copies of the foregoing was electronically filed, along with a copy of this Notice to:

Mark T. Foley, Esquire
Sasscer, Clagett, & Bucher
5407 Water Street, Suite 101
Upper Marlboro, MD 20772

Counsel for Respondents

/s/
Michael Wein, Esquire

Attachment 'H'

JOSEPH BASSO

v.

JOSE RODRIGUEZ, et al.

* IN THE
* SUPREME COURT
* OF MARYLAND
* No. 45
* September Term, 2025

ORDER

Upon consideration of the petitioner's motion for reconsideration of the Court's January 23, 2026 per curiam order dismissing this case, it is this 20th day of February 2026, by the Supreme Court of Maryland, a majority of the Court concurring,

ORDERED that the motion for reconsideration is denied.



/s/ Matthew J. Fader
Chief Justice



Supreme Court of Maryland

No. 45

September Term, 2025

Joseph Basso v. Jose Rodriguez, et al.

MANDATE

Certiorari to the Appellate Court of Maryland (Circuit Court for Prince George's County)

On the 23rd day of January 2026, it was ordered and adjudged by the Supreme Court of Maryland, a majority of the Court concurring, per curiam, that Petitioner's motion for extension of time is DENIED, and it is further

ORDERED that Respondents' motion to dismiss is GRANTED, and it is further

ORDERED that the writ of certiorari is dismissed with costs and No. 45, September Term, 2025 is closed in this Court; and it is further

ORDERED, that costs are to be paid by Petitioner.

On the 20th day of February 2026, it was ordered and adjudged by the Supreme Court of Maryland, a majority of the Court concurring, that the motion for reconsideration is denied.

See attached Statement of Costs.



MANDATE - STATEMENT OF COSTS

Supreme Court of Maryland

SCM-REG-0045-2025

Joseph Basso v. Jose Rodriguez, et al.

Appellant

Joseph Basso

Motion for Reconsideration	61.00
Brief	94.08
Petitioner's Opening Brief	
Filing Fee - Petition for Writ of Certiorari	61.00
Appellant Total	216.08
Total Costs	216.08

STATE OF MARYLAND, ss:

I do hereby certify that the foregoing is truly taken from the records and proceedings of the said Supreme Court of Maryland.

In testimony whereof, I have hereunto set my hand as Clerk and affixed the seal of the Supreme Court of Maryland this 20th day of February, 2026.

A handwritten signature in black ink that reads "Gregory Hilton".

Gregory Hilton
Clerk of the Supreme Court of Maryland

**Costs shown on this Mandate are to be settled between
counsel and NOT THROUGH THIS OFFICE.**

Joseph Basso

PETITIONER

Jose Rodriguez
Javier Szuchman

RESPONDENTS

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IN THE MARYLAND

SUPREME COURT

No.: 45, SEPT. TERM 2025

PETITIONER’S MOTION FOR RECALL OF MANDATE ISSUED TWENTY-SEVEN (27 DAYS) FOLLOWING INITIAL ORDER, AND/OR TO “DE-CONSOLIDATE” APPEALS OF NO. 2167, SEPT. TERM 2023 (ON STATUTORY ATTORNEYS FEES UNDER MARYLAND RULE 2-703, (QUESTIONS PRESENTED 1, 2, AND 3), AND NO. 2100, SEPT. TERM 2019 (QUESTION PRESENTED 4)

Petitioner Joseph Basso, by and through Counsel Michael Wein, Esquire, of the Law Offices of Michael A. Wein, LLC, and pursuant to Md. Rules 8-431 and 8-502, 8-602, and 8-606, does hereby respectfully request this Court Recall the Mandate issued February 20, 2026, Twenty-Seven (27) Days After a Majority of this Court Concurred in Dismissing the Appeal on January 23, 2026, on Case No. 45, Sept. Term 2025, on granted February Question Presented Four and states as follows in support of these requests.

1. The original Appeal to the Maryland Appellate Court, involved two eventually Consolidated Appeals. The first appeal traced from 2019, from Retired Judge Thomas Smiths’ Denial of all Attorneys Fees and Costs under Maryland Rule 1-341 for Respondents/ Defendants “Without Substantial Justification” Filings based solely on Respondents’ Argument on *Seney v. Seney*, 97 Md. App. 544 (1993). (Question Presented Four) The second appeal was about four years later, after Retired Judge Dwight Jackson’s denial of all Statutory Attorneys Fees and Costs, under Maryland Rule 2-703, *despite* the jury’s

unanimous findings of Petitioner Basso as the prevailing Party for violations of Maryland's Consumer Protection Act which would provide reasonable attorney's fees. (Question Presented Two) There was at most a summary one-page Order issued by J. Jackson, drafted by Respondents, explaining this denial, rather than the "Memorandum" required under the Rule. (Question Presented One).

2. During the appeal, and no discovery being provided thus far, on the detailed nature of, it was discovered that Retired Judge Jackson may have been practicing law, at the time of this December 14, 2023 Order, which at present is supported *inter alia*, with the *inter alia* with the initial receipt of MPLA documents, confirming that Retired Judge Jackson had been hired by Prince George's County on November 18, 2023. *See* Supplemental Authority, Oct. 22, 2025. Notably, since the discovery of this was for lack of a better word, serendipitous, and incomplete, it was sought Certiorari on the issue as Question Presented Three of *the procedure* for it to be argued, when it was discovered after the fact, that the judge may have been unqualified to issue said Order, due to ethical constraints and Constitutional provisions (in this case, it's both, since the "practice of law" by Judges is prohibited under Maryland Constitution, Statutes, and Ethical Rules.)¹

¹ The facts of this case, Petitioner would argue, are less onerous in justifying relief, than the Federal Courts have for violation of their ethics rules, that prohibit

3. This procedural history is briefly recounted for this Court, because the Granted Certiorari Petition was limited to Question Presented Four only, on November 24, 2025. That doesn't respectfully mean the other Questions Presented are denied. They haven't been granted. There's a difference, particularly when new cases are issued, that potentially

Federal Judges from having financial involvement in the underlying litigation, which was never disclosed, should have been, and a Motion for Vacatur only filed 10 months after final judgment. *See, Liljeberg v. Health Servs. Acquisition Corp.*, 486 U.S. 847, 867-70 (1988). (“These facts create precisely the kind of appearance of impropriety that § 455(a) was intended to prevent. The violation is neither insubstantial nor excusable. Although Judge Collins did not know of his fiduciary interest in the litigation, he certainly should have known. In fact, his failure to stay informed of this fiduciary interest may well constitute a separate violation of § 455. See § 455(c). Moreover, providing relief in cases such as this will not produce injustice in other cases; to the contrary, the Court of Appeals' willingness to enforce § 455 may prevent a substantive injustice in some future case by encouraging a judge or litigant to more carefully examine possible grounds for disqualification and to promptly disclose them when discovered. It is therefore appropriate to vacate the judgment unless it can be said that respondent did not make a timely request for relief, or that it would otherwise be unfair to deprive the prevailing party of its judgment.”); *see also, Liljeberg*, Footnote 12 (noting disqualifications can be of constitutional dimension as violative of Due Process Clause).

Question Presented Three, therefore (potentially only because Plaintiff's Counsel has an office in Prince George's County), was focused on the *serendipitous* discovery during the direct appeal, in requesting Remand relief. *C.f., State v. Dowdell*, 55 Md. App. 512 (1983); *Newsom v. Brock & Scott, PLLC*, 253 Md. App. 181 (2021)(Appellate Court has ability to examine disqualifying ethics concerns, in potential Remand.) In fact, there's never been any argument presented thus far, either by Respondents or the ACM, that Judge Jackson was not legally or ethically qualified to render the One-page decision in *Basso*. *See, Basso Slip Op.* at 18. (Agreeing, though failing to specify ACM didn't find the trial judge shouldn't have been participating, but due to remand, not deciding issue without a hearing and evidence presented).

affect Certworthiness, or other interestingly related cases sought Certiorari with this Court.²

4. And in this particular case, the granted Certiorari Question Four, while important and justifying Certiorari, the grant of the Motion to Dismiss based on Maryland Rule 8-602 (b), creates open Questions Presented, some that were addressed in the Motion for Reconsideration timely filed, and ultimately denied on February 20, 2026.
5. Because of this Court's 27-Day entry of a Mandate, it's unclear what is the Rule in the *Basso* case. Even assuming *arguendo* Petitioner desired to keep to 30 days, this Court's issuing of the Mandate at 27 days, only one week after the Reconsideration Motion was filed, makes that virtually impossible, and/or at least not reasonably predictable. Petitioner would argue that a minimum is 30 days, and under the circumstances of this case, all the Four Questions Presented have this 30 day minimum. Alternatively this Court, should separate the Mandate

² One such interesting case, at the very least increasing the Certworthiness of Question Presented Three, would be the recent Certiorari Petition filed on or about January 29, 2026, in *Corenic Construction, v. Single Point Construction*, in SCM-PET-0467-2025. Not because of the arguments made, but because the Petitioners in that case, had Retired Judge Jackson, act at about the same time, in the same manner of issuing a summary Order (in that case two days earlier on December 12, 2023, with post-trial motions filed, and one of the parties apparently working for Prince George's County, as a Garnishee, whilst Judge Jackson had accepted appointment as a County Attorney. The D.C. attorneys, however, don't appear to be aware of this, despite arguing below, very similar concerns about the lack of any explanation by Judge Jackson, instead adopting wholesale the findings done by someone else, a few days before "officially" working for Prince George's County. See, Attached "A."

timeline for Question Presented Four granted Certiorari in the 2019 Appeal on Maryland Rule 1-341, from those of Questions Presented One, Two and Three, on the 2023 Appeal on Maryland Rule 2-703 and the Statutory Attorney's Fees.

6. This has in a different way, come up before, in circumstances granted *Certiorari*, but ultimately deciding that the Mandate Rule of the ACM, as related to a timely Petition for Writ of Certiorari, wasn't run afoul. (In that case, the complicating factor, was the ACM delayed inexplicably issuing a Mandate for 35 days, which ultimately gave the Petitioner 51 days to seek Certiorari) In the case of *Sterling v. Atl. Auto. Corp.*, 399 Md. 375, 385 (2007), it was repeated and recounted, that the *30 day rule* applies, as a typical minimum.

“Upon a voluntary dismissal, the Clerk shall issue the mandate immediately. In all other cases, unless a motion for reconsideration has been filed or the Court orders otherwise, the Clerk shall issue the mandate *upon the expiration of 30 days after the filing of the Court's opinion or entry of the Court's order.* (Emphasis added.)” *Id.* at 385.

7. This should be the minimum. *Sterling* involved a party, with some incongruity/ambiguity, nevertheless having *at least 51 days* to seek a timely Certiorari Petitioner with this Court. This is the opposite, and constitutes *fewer* days than 30. While Clerk of Court Greg Hilton, appears to have issued the denial of Reconsideration on the Motion for

Dismissal immediately, that Rule is respectfully either in conflict with other parts of the Mandate Rule, or at least in tension. As Justice Alan Wilner noting in his concurrence in *Sterling*,

“I would suggest that this Court's Standing Committee on Rules of Practice and Procedure give some thought to proposing an amendment to Rule 8-302(a), to provide an alternative period for the filing of a petition for *certiorari*: the later of 15 days after the issuance of the Court of Special Appeals mandate or 30 days after the filing of that court's opinion. In the great majority of cases, the time would remain precisely as it now is -- 15 days after issuance of the mandate. In those rare cases in which the mandate is issued less than 30 days after the filing of the opinion, the party would have at least those 30 days in which to file a petition.”

Sterling v. Atl. Auto. Corp., 399 Md. 375, 387 (2007).

8. Justice Wilner's concurrence is now in the Rule, as a minimal days alternative. That sort of treatment, under the circumstances of Maryland Rules 8-602, 8-605, and 8-606, does not exist (yet) in the Maryland Rules for circumstances like that of the *Basso* case.³ This Court, should

³ The Petitioner has already pointed in Reconsideration this Court's PC Order, was (1) premised on a legal issue, neither party ever argued or presented on the “30 days” before oral arguments and thus *sua sponte*, (2) ignored this Court's Order granting in writing the Joint Stipulation, and (3) not ironically, again just like in the Mandate concern *sub judice*, creates new Constitutional and policy concerns or difficulties going to the heart of this Court's Rules and Procedures on Certiorari votes, which at least two Justices of this Court directly brokered out of concern over the unusual and irregular “DIG” issued in *Peoples Ins. Counsel Div. v. State Farm Fire & Cas. Co.*, 442-Md. 55 (2015) (Justices McDonald and Adkins, Dissenting).

Recall the Mandate, and give Petitioner Basso a clear and definite minimum 30 days' time period in which to seek Reconsideration on the entirety of the matter, under Maryland Rules 8-605 and 8-606.

WHEREFORE, it is respectfully requested that this Honorable Court grant the aforementioned Motion, and

1. Grant the Motion to Recall Mandate, and provide a minimum of thirty (30) days time to seek Reconsideration on Questions Presented 1, 2, 3, and 4; and
2. Separate Out the Mandate for Question Presented Three on the Granted Certiorari Petition, from No. 2100, Sept. Term 2019, compared with Questions Presented One, Two, Three and Four, in No. 2167, Sept. Term 2023; and
3. If justified or necessary, request the parties provide additional briefing on the issues presented in this Court's PC Order of January 23, 2026, the Motion for Reconsideration on this Court's Ruling, and the Motion *sub judice*.

Respectfully Submitted,

/s/ Michael Wein
Michael Wein, Esquire

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**CERTIFICATE OF COMPLIANCE WITH
MD. RULES 8-112, 8-303, 8-431, 8-502, and 8-606**

1. This Brief or Motion complies with the type-volume limitation of Md. Rule 8-112, 8-303, 8-431, 8-502(e), and 8-606 because it contains in the body of the filing of 1744 words.

2. This Brief or Motion complies with the type, space, and font requirements of Md. Rule 8-112 because this brief has been prepared in a proportionately spaced typeface using the word processing system Microsoft Word in font size 13, type style Times New Roman.

/s/ Michael Wein
Michael Wein, Esquire

REQUEST FOR HEARING

Petitioner Joseph Basso respectfully requests a hearing on the foregoing Motion for Reconsideration.

/s/ Michael Wein, Esquire
Michael Wein, Esquire

CERTIFICATE REGARDING LACK OF RESTRICTED INFORMATION

Petitioner's Counsel, pursuant to Maryland Rule 20-201 (h)(1), certifies that the aforementioned filing, with any attachments, does not contain any restricted information.

/s/
Michael Wein, Esquire

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 23rd day of February 2026, copies of the foregoing was electronically filed, along with a copy of this Notice to:

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5407 Water Street, Suite 101
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Counsel for Respondents

/s/
Michael Wein, Esquire

Attachment 1

JOSEPH BASSO

v.

JOSE RODRIGUEZ, et al.

* IN THE
* SUPREME COURT
* OF MARYLAND
* No. 45
* September Term, 2025

ORDER

Upon consideration of the petitioner’s motion for recall of the Court’s mandate or to “de-consolidate” appeals, the respondents’ opposition to the motion, and the petitioner’s reply to the opposition, as supplemented, it is this 19th day of March 2026, by the Supreme Court of Maryland,

ORDERED that the petitioner’s motion for recall of mandate or to “de-consolidate” appeals is denied.¹



/s/ Matthew J. Fader
Chief Justice

¹ The mandate was issued in conformance with Rule 8-606(b)(4), which provides that “[i]f a timely motion for reconsideration is filed, unless the Court orders otherwise: . . . if the Court denies the motion . . . the Clerk shall issue the mandate immediately upon the filing of the order[.]”