APPENDIX

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APPENDIX A

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

Case No.: CAL14-30313

JOSEPH BASSO

v.

JOSE RODRIGUEZ, *et al.*

ORDER OF COURT

Upon consideration of the Plaintiffs 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 Plaintiffs 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 Plaintiffs Second and Third Supplement to Petition for Attorney's Fees is DENIED.

/s/ Dwight D. Jackson
Dwight D. Jackson - Judge

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

APPENDIX B

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

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*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:

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[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 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)?

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 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 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

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

"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 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."

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[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).

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 recon-sideration 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 justifycation. 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 analysis[5] to his petition for

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[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.

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.

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

[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, moreor-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.

> 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 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

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[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.

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 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

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[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.

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* evidence to support such a position. *See EBC Props., 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]

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

[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. 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.

time that he rendered his decision. This, if true, would violate Article 33 of the Maryland Declaration of Rights[11] 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 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

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[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.

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

[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.

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 ("Mary-land 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.*

Here, on the other hand, Basso overwhelmingly *won* his case and was awarded $140,000 in total

[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 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.*

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

[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

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, 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.

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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.

APPENDIX C

From:	Jackson, Dwight D. </0=EXCHANGELABS/OU=EXCHANGE ADMINISTRATIVE GROUP (FYDIBOIlF23SPDLT)/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 (FYDIROHF23SPDLTV/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.oe.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. <sljohnson@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, l 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:	
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
tlwoods@co.pg.md.us

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

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. <sljohnson@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 =bffiba409cc0343d18e17cf58aab9bb2f-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

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

Wayne K. Curry Administration Building, 1301 McCormick Drive, Suite 4100
Largo, Maryland 20774
Phone (301) 952-5225 Fax (301) 952-3701
www.princegeorgescountymd.gov

APPENDIX D

IN THE SUPREME COURT OF MARYLAND

No. 283
September Term, 2025
SCM-PET-0283-2025

JOSEPH BASSO,

Petitioner,

v.

JOSE RODRIGUEZ AND JAVIER SZUCHMAN,

Respondents.

Certiorari to the Appellate Court of Maryland,

No. 2100—Sept. Term, 2019 (MDEC No. ACM-REG-2100-2019) and *No. 2167—Sept. Term,* 2023 (MDEC No. ACM-REG-2167-2023)

SUPPLEMENTAL AUTHORITIES BRIEF

(1) Ethics Opinion 2025-32 (Nov. 7, 2025) and
(2) Citations Updates with *Barufaldi* Line of Cases.

(QUESTIONS PRESENTED ONE, TWO, and THREE)

MICHAEL WEIN, ESQUIRE
CPFN/AIS No. 0212190286
LAW OFFICES OF MICHAEL A. WEIN, LLC
7845 Belle Point Drive
Greenbelt, MD 20770
(301) 441-1151
weinlaw@hotmail.com
Counsel for Petitioner Joseph Basso

Petitioner Joseph Basso, by and through attorney Michael Wein, Esquire, of the Law Offices of Michael. A. Wein, LLC, submits the foregoing Supplemental Authorities Brief of (1) Maryland Ethics Opinion 2025-32 ("Administrative Judges May Request Judges Disclose Their Grounds for Recusal in a Case or Proceeding, but May Not Require Disclosure" on November 7, 2025 (Attachment "A") and (2) Printout Documents on the quoted *Barufaldi* Reported cases cited in the presently pending *Sugarloaf Alliance Inc. v. Frederick Co.,* 265 Md. App. 199 (May 1, 2025), *Cert. granted* Sept. 19, 2025, No. 32, Sept. 2025 Term, but with the Appellate case dockets, apparently for the most part, not located on CaseSearch or MDEC. (Attachment "B")(Barufaldi/B-1 to B-9)

Question Presented Three seeks Certiorari on the procedural and legal processes which apply, when due to the unusual but important circumstances here, for the first time on appeal, substantial evidence is discovered a trial judge, violated judicial, constitutional, and ethical norms not reasonably discoverable until after the single page judgment Order dated December 14, 2023. This concern reflects the same or similar Constitutional prohibition norms against "practice of law," inscribed in Maryland Declaration of Rights 33. *See also,* Md. Rule 18-203.10 "Practice of Law" ("[a] judicial appointee shall not practice law"); Cts. Jud. Proc., § 1-302(c)(4) ("A former judge may not be recalled for temporary assignment if the judge: [...] [i]s engaged in the practice of law."

The recent Ethics opinion, seeks to address a potential dichotomy between trial and administrative judges, when potential recusals or disqualifications are involved. Thus, to what functional level are Administrative Judges permitted to inquire or otherwise should have disclosed to them, the potential basis and bias for recusal or disqualification, generally, specifically, even though it may be of a personal or confidential nature?

In the foregoing *Basso* matter, multiple concerns, some going back years on the "temporary" assignment being done without any paperwork approval for over 3 years from 2020 to 2023, others going toward also a lack of paperwork approval for the months of August 2023 to January 2024, when Retired Judge Jackson was already negotiating and approved for a County attorney position. All the concerns invoked give the appearance to the public, of an utter lack of oversight and "cooperation" which are invoked by the Ethics Opinion, especially given the severity of the Disqualification for "Practice of Law" under Maryland Constitution, Statute, and Ethics Rules. The trial court, by Retired Judge Jackson, was permitted by the now-Retired Administrative Judge Sheila Tillerson-Adams, to be the assigned judge for almost 3 1/2 years, from July 30, 2020 through at least December 2023. No explanations at all are given for this assignment, why Judge Jackson was still allowed to be trial judge despite nothing being done by the Court in the record of the second half of 2020, all of 2021, all of 2022, into at earliest, Spring of 2023.[1] Despite the restriction of "temporary assignment" in Section 3A of Md. Const. Art. IV, and more specific implementation

[1] There may be reference in the docket entries Record to a "postponed" Status hearing in March 2023, but no party received any notice of said hearing more than a day in advance, to attend. The first status hearing was instead via zoom on or about May 8, 2023. (E. 982)

language in Cts. & Jud. Proc. § 1-302, encompassed no less than *three* years.

This is all while unobjected requests for a Rule 2-703 hearing with appropriate notice were filed by the parties, and the ACM expressed concerns on the trial court's delays. There is zero explanation in this record the Prince George's County Administrative Judge, paid any heed to ensuring there was any timely adjudication, of the singular motion before Retired Judge Jackson, including reviewing the 3 or 4 years in a row, that is required under a plain meaning of § 1-302 (d), (e), and (f). One would reasonably assume the Maryland voters' enactment of temporary assignment of retired judges, and the Legislature's codification equating "temporary" to require any "extension" was meant to establish standards and help reduce any unnecessary delays in decision making by active judges in Circuit Courts. It was not to involve perpetual appointment to cases, whilst allowing motions to be pending for years. *See also,* Md. Const. Art. IV, § 23 ("Section 23: Judges to render decisions within two months of argument or submission; The Judges of the respective Circuit Courts of this State shall render their decisions, in all cases argued before them, or submitted for their judgment, within two months after the same shall have been so argued or submitted.")[2]

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[2] Though a number of cases by the Maryland appellate Courts, have found this to be directory, for lack of remedy specified, and despite the word "shall." *See, e.g. AMT Homes, LLC v. Fishman*, 228 Md. App. 302, 313 (2016); *Myers v. State*, 218 Md. 49, 51 (1958) (Art. IV, Sec. 23 language directing a circuit court decision "within two months . . . is not mandatory, but directory.") That said, Retired judges "recalled" are only *permitted* to render judicial decisions, on a slender reed of authority, well less than active judges, by the Maryland Constitution. Numer-

More directly related to the recent Ethics Committee Opinion, if one were to just focus on the period from July 21, 2023 through the signed Order of December 14, 2023 into January 2024, there exists a number of specific ethics and/or Constitutional violations, particularly involving the potential "practice of law" prohibited by Constitutional and Ethical Rules. This conduct by the "Senior Judge" in this case, was not ordinarily discoverable by the parties, but at the very least, should have been known or reasonably known by the Administrative Judge, on top of former Judge Jackson. Under the partially provided MPIA documents received, former Judge Jackson had in the about 90 days between the August 2023 email refer-

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ous portions of the enacting Statute of 1-302, appear to have been ignored by the trial Court and/or Administrative Judge, in this case, including notifying the Judiciary that "Senior" Judge Dwight Jackson was working full time practicing law, and thus *ineligible* for recall under Maryland's Constitution. Certiorari Petition, Attachment L2. By necessary implication, the trial and administrative judges, should have notified the Judiciary, when "Senior" Judge Jackson was engaged in serious attorney negotiations, and *especially* when on November 17, 2023, he accepted new employment as an attorney.

So while the original 2-703 Attorney Fee petition here was pending since filing on January 2, 2020, without ruling for four years by former Judges Smith and Jackson, and this Court has held the contrary language Maryland Constitutional provision to be "directory," the good public policy of reasonable time limits for keeping matters pending is not wrong. Separately, both the Voters and Legislature, concluded proper oversight was required, and should matters not be decided by the "end of the 180-period" there was to be presumably a *specific extension* of the Term for those cases, to prevent exactly what happened here. Judge Jackson was permitted as in the Record here, for at least 3 consecutive "Terms" to keep the motion pending, without any administrative explanation ever given by Prince George's County.

encing his "numb Senior Judge existence" through securing a job offer on or about November 17, 2023 which could have included payment and/or signing bonus once the forms with Human Resources were complete, this already constitutes the "practice of law."[3] (M-13, M-15) It would also be extraordinary to believe no such detailed discussions and legal work had begun before November 17, 2023, for the full-time position already accepted. *Id.*

The new Ethics Opinion 2025-32, seeks to broaden the administrative responsibilities involved, and bridge the gap and expand knowledge, to reduce and prevent both disqualifying and ethical lapses by trial judges. It notes the prohibitions against perceptions of bias from "financial, or other interests" under Rule 18-102.1. Additionally, 18-102.4. may have been violated at the time of working as an attorney for Prince George's County Law Department, even if the "start date" was two business days later. *Id.* at pg. 2. Administrative Judges under 18-102.12 notes that "supervisory duties" include "reasonable measures to ensure that those judges properly discharge their judicial responsibilities, including the *prompt disposition of matters before them*." [Emphasis Added] *Id.* at 4. As noted in the Petition for Certiorari, former Judge Jackson kept presiding in the case, and apparently both failed to tell the judiciary and/or the Adminis-

[3] Signing bonuses or other benefits may have already begun and imbued, particularly as after filling out the "processing forms" with Human Resources, the $170,000 salary would begin "*upon appointment.*" (M-15) This paperwork could have easily been approved before Thanksgiving 2023. The actual MPIA sent and served in May 2025 on Prince George's Human Resources, requested a copy (permitting redaction for confidential information like Social Security numbers), of these same forms, but have yet to be provided in the past 6 months. (M-2)

trative Judge, of his new job. This was done regardless of significant publicity directly only a few months earlier, over Judge Boynton's manner of beginning work for the Montgomery County State's Attorneys' office while presiding over criminal cases about the same time. Petition, pg. 7-8, 14-15.

After cold-emailing the County to consider practicing law as an attorney, and even accepting a salaried position 27 days prior to signing the December 14, 2023 One-Page Summary Order, as the Maryland Ethics Opinion 2025-32 states, there now existed, quoting United States Supreme Court precedent, of a "probability of actual bias on the part of the judge...is too high to be constitutionally tolerable." *Id.* at 5. Noting the Ethics Opinion are Maryland cases upholding "the concepts of disclosure and recusal are inextricably linked." *Id.* at 7. In this case, the record shows there was no disclosure to the parties, which recusal/disqualification became mandatory Petitioner contends, when the job offer and appointment was made and accepted what appears to be 27 days before a *judgment* Order which was not necessarily a *final judgment* Order or any sort of *enrolled Order,* given the significantly less than 30 day time period involved, but less than two business days break. *See,* e.g. *Mona v. Mona Elec. Group, Inc.,* 176 Md. App. 672, 711-712 (2005)(Discussing enrolled judgments, and "broad revisory power" authority, even *sua sponte* by trial judges in Maryland).

The recent Ethics Opinion notes some sympathy to "very personal" or "confidential" reasons for disclosure, and appears to tolerate how these should be respected. *Id.* at 8. On one hand, allowing for recusals to be kept confidential, allows for judges to better respect the duties of "appearance of impartiality" and that not every judge necessarily has to handle every appointed case, especially when new information arises that supports recusal or disqualification.[4] On the other hand, some judicial luminaries, have con-

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[4] However, none of this should apply to what's objective, *like former Judge Jackson accepting a new job practicing law,* that would offend not merely ethical, but Maryland Constitutional provisions, which was obviously going to happen in such a close timeframe, for an Order signed by Retired Judge Jackson on a *Thursday,* which by *Monday,* he was no longer even a retired judge, but a full-time attorney practicing law, *defending* cases involving substantial Statutory Attorney's Fees. *See,* e.g. *Liljeberg. v. Health Servs. Acquisition Corp.,* 486 U.S. 847 (1998)(Federal Disqualification Statute 28 U.S.C. § 455 (a), allows for vacatur of decision by Federal Judge who was a Trustee of the university party, failed to recuse when a substantial financial interest existed based on the outcome of the litigation, which the Supreme Court found definitely should have been known and disclosed within the ten days of the initial judgment decision, thus allowing vacatur and a new trial. This was required, despite a lack of remedy circumstances or factors specified in § 455 (a), about ten months after an otherwise final judgment, in "extraordinary circumstances" under FRCP 60(b)(6), when the financial interest involved, would cause a "reasonable person, knowing the relevant facts, would expect that a judge, judge, or magistrate know of circumstances creating an appearance of partiality, notwithstanding a finding that he judge was not actually conscious of those circumstances" and characterizing this as a necessary corollary of the Federal Disqualification Rule "whenever such action is appropriate to accomplish justice." *Liljeberg,* at 850, 868-869, 875. The fact that Petitioner discovered this potential problem created by former Judge Jackson, on appeal, and argued it to the ACM, means there's not a need to ascertain if what former Judge Jackson did here, would have been void, all-together, whenever reasonably discovered. Thus the posture of this legal issue, is ideal for Certiorari review, as despite no hearing ever held yet on whether the actions were legally and ethically permissible here to justify reversal, is actually less procedurally complex than the United State's Supreme Court's determination in *Liljeberg.*

cluded that judges (or justices), should disclose the bases for their disqualifications and not keep this secret, lest the judiciary itself be blamed, in the spirit of transparency and the public being wrongly left out. *See, Public Utilities Comm'n v. Pollak,* 343 U.S. 451, 466-467 (1952)(J. Frankfurter (Taking no part in Decision))([On case about subway cars playing radio broadcasts that would play news content not approved or agreed upon by passengers], "I am explicit as to the reason for my non-participation in this case because I have for some time been of the view that it is desirable to state why one [Justice] takes himself out of a case.").

This case, potentially involves the Question of First Impression on Courts and Judicial Proceedings § 1-302, of "recalled" Senior Judges. "Senior" Judges are meant to be "temporary" and because they are not subject to the same political pressures and requirements of active judges, such as that of election, be beyond reproach. As relates specifically to this case which involved almost entirely appointed retired "senior" judges from 2016 through 2025, under Courts and Jud. Proc. § 1-302 ("Recall of former judge for temporary assignment"), which states with a concurrence by a majority of this Court, the Chief Justice "may assign any former judge to sit temporarily in any court if the temporary assignment is approved by the administrative judge of the circuit in which the former judge is to be assigned..."[5]

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[5] This delegation is not found in the Maryland Constitution, but by statute "at law." While the Constitutionality of the delegation has not been argued below, in part, because there was no direct way to anticipate or expect that from July 30, 2020, and for nearly three years, not a single hearing in the matter would transpire despite multiple written requests notifying the Ad-

ministrative Judge of the years delay with Judge Jackson, (E. 972-979), it appears that the only Reported case that discusses the statutory provision §1-302 in any depth, (on whether "senior" judges could be part of a quorum for an *en banc* ACM opinion), is *Dep't of Human Res. v. Howard,* 397 Md. 353 (2007). *Howard,* meanwhile, is fairly succinct on the topic, though noting the distinguishment of "temporary" was meant to apply to assignment. *Id.,* at 367 ("The constitutional provision and statute governing the sitting of retired judges, as well as the constitutional provision addressing the sitting of judges from other courts, both speak in terms of a temporary *assignment* rather than a temporary *appointment*. MD. CONST. art. IV, § 3A(a)(1) (permitting any former judge to be "*assigned* by the Chief Judge of the Court of Appeals, upon the approval of the majority of the court, to sit temporarily . . . .") (emphasis added); Cts. & Jud. Proc., § 1-302(b) (same); MD. CONST. art. IV, § 18(b)(2) (permitting the Chief Judge of the Court of Appeals to "*assign* any judge . . . to sit temporarily . . . .") (emphasis added).")

This makes some sense, once one is confronted with the *actual* Constitutional provision of Section 3A of Article IV of the Maryland Constitution, Maryland voters approved as an *exception* to allow actively engaged and qualified former Judges to participate judicially as a "Senior Judge." "*Temporary* Assignment of Former Judges" as noted in the heading "to sit *temporarily* in any Court of this State." Assuming *arguendo* that "assignment" for 180 days, is meant not merely to be a bookkeeping measure, (which may be how some jurisdictions are handling it so long as the Retired Judge does not work more than 49% of their time as a compensated judge), as it goes, without any discussions outside of *Howard,* some jurisdictions may conclude, once "approved," that's all that counts.

Respectfully, that's not what *Howard* states, nor MD. Const. art. IV, § 3A(a)(1), and to the extent Cts. & Jud. Proc., § 1-302(b) is being used as to codify the Constitutional permission position, it should be clarified. There's no reason on this Record why multiple Retired judges, delayed rulings on important Motions, not merely many months, but on at least two occasions, (Md. Rule 1-341 and 2-703) *for multiple years.* If this Court has "terms" of office, and "180 days period" is more appropriately reviewed as a "term"—then why was Judge Jackson kept on the foregoing 2-

The prohibitions in 1-302 are ordinarily meant to be objectively discernable including (1) "removed or involuntarily retired" judges; (2) "voluntarily retired [judges] by reason of disability," (3) being "defeat[ed]" and losing election or "rejection of confirmation by the Senate," (4) censure by this Court, and directly applicable and important for this case, or (5) "**is engaged in the practice of law."** [Emphasis Added] The first four, would presumably be immediately and predictably ascertainable based on prior public information, including Orders of this Court. What is not automatic and public information, was serendipitously discovered from the "LinkedIn" Re-sume, and whose details in this case, for all intents and purposes was undisclosed and/or concealed, and took

703 Petition for Statutory Attorney's Fees, when the Rule can only be legislatively read to support accountability from this Court and Administrative Judges. There should have been an "on the record" explanation how and why (1) the "time [...] was extended" and (2) specific reasons given on the Record, for what justification existed for such an Extension, especially two years after the Courts reopened after COVID closures. In this case, there are none whatsoever. Instead, Senior Judge Jackson was appointed to replace Senior Judge Thomas Smith on July 30, 2020, and there wasn't any hearing on the merits of the only Motion pending, until July 21, 2023, and a single page summary Order copied nearly *verbatim* from the Respondents, dated on Thursday, December 14, 2023. Based on recently received MPIA information from October 10, 2025, well incomplete and taking months to obtain, this Order transpired almost a month after former Judge Jackson had already accepted a job as a Prince George's County Attorney, a single business day before he "officially" began practicing law there, primarily defending civil rights cases, state and federal, seeking statutory attorney's fees.

months to even receive any documents on, is the issue on Question Presented Three.[6]

Thus, the "Recusal Policy" indicated by 2025-32, should not be adopted for "non-disclosure" of "practice of law." The matter is solely within the province of the sitting active or "senior" judge but is always a matter of significant public interest, adversely impacting Constitutional Rules, regulations (include-ing those for "senior" Retired Judges who signed agreements to be "recalled"), ethical Rules, and Statutes. All which disavow even the possibility of this occurring in cases, and the severity of these ethical lapses, should be sufficient not merely to reverse the single page Summary Order of December 14, 2023, but would be potentially voidable, even outside of an appeal, as necessarily found in *Liljeberg. v. Health Servs. Acquisition Corp.,* 486 U.S. 847 (1998) by the

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[6] At least two recent examples of judges (the other Judge being David Boynton), either violating the prohibition, or being so close in time, that it deserves significant Court review through Certiorari, and a full evidentiary hearing. This was not possible previously, because of the timing solely done by Retired Judge Jackson, and the Administrative Judge, (if they knew about it, but failed to notify all parties with pending cases as of at least November 17, 2023). The Administrative Office of the Courts, has a database system which appears to confirm, they were not once notified. (Attachment L-2) In this circumstance, with serious Maryland Constitutional implications, and ethical and disqualification concerns is paramount with the "practice of law" disqualification concern, since not only is there a specific Ethical Rule against the "practice of law," but it's also specifically delineated under Cts. And Jud. Proc. §1-302, there should have been a full and candid disclosure made by the Court and Retired Judge Jackson, *without prompting.* In other words, it's a judicial error of law, whenever and wherever, there's a distinct possibility the trial judge was practicing law when presiding over cases, especially for "recalled" Senior judges.

United States Supreme Court on the Federal Disqualification Statute 28 U.S.C. § 455.[7]

In this case, the Administrative Judge appears to have been not informed even on the basic facts related to Retired Judge Jackson: (1) was now practicing law for Prince George's County, (2) the Maryland Judiciary should have been notified, (3) Retired Judge Jackson was not permitted to be "recalled" from inactive status, and (4) all cases in any way pending and assigned "Senior" Judge Jackson since at least November 17, 2023 (if not much earlier since at least

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[7] While the legal error invoked in Question Presented 3, is not the only basis for reversal, as Questions Presented 1 and 2 also go towards former Judge Jackson's December 14, 2023 Order, because this issue is a Question of First Impression, appropriately brought to the ACM's attention during the direct appeal, there may (operative word) already be sufficient basis for reversal on the issue of Judge Jackson's "practice of law" in this case. However, as noted in the Question Presented, it was unknown what "standard of review and procedure" applies. All the ACM stated, was that the "LinkedIn update" was not sufficient as "too little documentation" but failing to address how such issues, should be addressed for this and future cases. *Slip. Op.* at 18.

One possibility would be Maryland Rule 8-604(d). In *Williams v. State,* 394 Md. 98 (2006), the Majority of the Court found reversible error, for a juror's non-disclosure of a job that clearly would create a disqualification, but no determination was made or testimony taken as to whether it was "intentional or inadvertent." *Id.* at 114, 118. Petitioner would contend the information is sufficient for reversal before this Court, but *if not,* then the *Williams'* Minority's determination written by Justice Raker that "[t]his case fits well within [Maryland Rule 8-604(d) of a Limited Remand...] which took place after trial, when the trial judge failed to make the appropriate factual inquiry in response to appellant's motion for a new trial," is a reasonable alternative. *Id.* at 549-550. (Cleaned up). *See also, Walker v. State,* 484 Md. 375 (2022)(Rule 8-604(d) Limited Remand approved, on DNA Statute, over objections by both parties).

August 2023 when the job discussions began), should have been re-assigned, and especially after November 17, 2023, the *basis* of the "practicing law" rationale was to be disclosed to the parties and the general public.

The issues related to this situation created by the Prince George's County Court, do not appear to involve any "cooperation" or otherwise appropriate oversight of this case, as recommended by the Ethics Opinion. Not only was there not "prompt disposition" for years-long pending matters by Judge Jackson, lasting multiple "180 day" terms, requests by both the parties and the ACM for adjudication were ignored. About 3 years after being assigned the Md. Rule 2-703 matter there was a first hearing, and about a month later, retired Judge Jackson acknowledged he had a "numb Senior judge existence" in wanting to practice law instead, and then kept that matter, not secret from the County Attorney's Officer, but secret from both parties herein, plus the Administrative Judge. This Court by and through the Administrative Office of the Courts, which maintains a list of "qualified" Judges for Recall, also presumably was not adequately notified through at least October 2024, about the contemplated actions and inactions taken here by Retired Judge Dwight Jackson.

Barufaldi v. Ocean City, Maryland Chamber of Commerce Trio of Appellate Cases, Are Not Fully Locatable in Maryland.

In an effort to be thorough, an irregularity appears to affect the easy access and review of the appellate cases of *Barufaldi*,[8] which has three Reported appel-

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[8] 1. *Barufaldi v. Ocean City, Chamber of Commerce, Inc.*, 196 Md. App. 1 (2010);

late decisions, whose docketed case are missing and/or not easily locatable on Maryland CaseSearch.

In *Barufaldi,* the Maryland Supreme Court decision was cited to by Petitioner Basso at the ACM level in the Appellant's Brief, and the ACM Opinion from 2010, in the Supplemental Authority noting the recent Published Opinion of *Sugarloaf Alliance v. Frederick Co.,* 265 Md. App. 199 (2025). This was cited, for *Sugarloaf's* lengthy dissertation of the favorable case law applies to Basso for when the jury finds statutory violations, but the trial judge fails to appropriately apply the jury's findings and did not make any specific findings in support. *See, e.g. Sugarloaf, supra,* ("*Cf. Barufaldi v. Ocean City, Chamber of Com., Inc.*, 196 Md. App. 1, 36 [...](2010) (vacating an order denying the plaintiff's motion for attorneys' fees because it failed "to set forth particular circumstances militating against any award of fees"), *aff'd*, 434 Md. 381, 75 A.3d 952 (2013))."

A possible error on the *Barufaldi* case was noted in the recent previous Supplement on the Certiorari Grant by this Court, how the 2013 case cited by Judge Glenn Harrell, was actually, a subsequent decision of the *2012 Barufaldi* case from COSA, not 2010. *See, Barufaldi*, 206 Md. App. 282 (2012). Since the second case was actually from the 2012 ACM (then COSA) appeal, technically Judge Harrell's citation was incorrect, though on-point from the positions made by Petitioner Basso below. *Barufaldi* was unmentioned by the ACM's *Slip. Op.,* and the only men-

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[2.] *Barufaldi v. Ocean City, Chamber of Commerce, Inc.,* 206 Md. App. 282 (2012); and

[3.] *Ocean City, Chamber of Commerce, Inc., v. Barufaldi,* 434 Md. 381 (2013).

tion given *Sugarloaf,* was a generalization given by the Court, with little relationship to the Supplement.[9]

Instead, in Attachment "B" there is at least a partial explanation for how and why Judge Harrell may have gotten the citation to the correct *Barufaldi* case incorrect...they curiously aren't regularly locatable. As noted in B-1 through B-4, CaseSearch, using variations of Barufaldi (it's not also shown, but names of the attorneys or other parties, did not appear to remedy the matter either), that *none* of the three Reported Appellate opinions are locatable from CaseSearch on the appeals originating from the Worcester County Circuit Court. (The last name of Daniel Barufaldi is in one case misspelled as *Barifaldi,* but that too, does not have any appellate decisions listed) (B-3 to B-4) On Odyssey, as part of the MDEC system,

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[9] *Sugarloaf,* in the meantime, has been accurately stated in a published opinion by the Virginia Court of Appeals, as being part of the "thirteen" States adopting *de novo* appellate review on trial Court attorneys fees determinations. While Retired Judge Jackson, does not mention "prevailing-party" or pretty much everything else as ordinary "factors" in the one-page summary opinion Order, the ACM below at *Slip. Op.* at 15-16, appears to have out of whole cloth, and erroneously presumed that the standard is instead, "clear error" without any sourcing on this for Statutory Attorneys Fees, including contrary detailed sourcing in *Sugarloaf.*

"Of the State courts to address the question, most (18) apply the abuse-of-discretion standard to a trial court's prevailing-party determination. ***15*** *Thirteen apply de novo review.****16*** *A couple treat the trial court's prevailing-party determination as a factual finding reviewable only for clear error.* ***17*** *Although the United States Supreme Court has not yet weighed in, the federal circuits almost uniformly apply de novo review to that question."*

Av Auto., L.L.C. v. Bavely, 85 Va. App. 559, 594-95, ftnt. 16 (2025) (citing Sugarloaf Alliance v. Frederick Co., 265 Md. App. 199 (2025)).

there's a bit more information, as the second ACM opinion from 2012, is locatable there, but not the other two opinions. (B-6) The Reported Opinions are locatable on the Lexis and Westlaw databases. Additionally, the Appellate Briefs, are locatable (citations included in the "Attachment B") from 2010 to 2013. (B-7 to B-9) This is also, at present, apparently the only place to location the information as to who were the authors of the Amici Briefs from this Court's 2013 *Barufaldi* case. *See* 2013 Md. App. Ct. Briefs LEXIS 51. (Noting *inter alia,* Public Justice's role as lead *Amici* counsel) (B-8)

While this Court's grant of Certiorari in *Sugarloaf,* would be potentially significantly constrained to a narrow legal issue of (1) "abuse of discretion" on the amount of Attorneys Fees, and (2) just the Statutory Definitions applicable for MPIA requests, Petitioner Basso's Certiorari Petition and the well-developed, interesting, and important issues below, which would be assisted by interested Amici groups, provides significantly greater flexibility and range to productively apply and assist on: (1) the lack of uniformity in Maryland Rule 2-703 Statutory Attorneys Fees (post *Friolo*) being granted especially after fully won merits as found by the jury, (2) through providing appropriate Memorandums of Law, an issue not presented in *Sugarloaf* even though a means to resolve that case positively both as to the award and amount determination, (3) the vast majority of normally argued Statutory Fee cases, do not have additional potential "factors" which were judicially created in MPIA cases, from Watergate-Era FOIA legislative history, and (4) support uniformity in the same vein as has existed now for decades, in the Federal Courts.

Respectfully Submitted,

/s/Michael Wein

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Counsel for Petitioner Basso

APPENDIX E

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)

JOSEPH BASSO

v.

JOSE RODRIGUEZ, et al.

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 20-406.1; 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

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[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.

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)

JOSEPH BASSO

v.

JOSE RODRIGUEZ, et al.

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

APPENDIX F

IN THE SUPREME COURT OF MARYLAND

December 8, 2025
NOTICE

VIA MDEC
Michael Wein, Esquire
Law Offices of Michael A. Wein, LLC

Thomas A. McManus, Esquire
Sasscer, Clagett, & Bucher

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

On December 8, 2025, in accordance with Rule 8-412(c) and 20-402(a)(2), I received the record in this case from the Circuit Court for Prince George's County pursuant to the writ of certiorari.

This case has been scheduled for oral argument during the March Session of Court. Arguments in the March 2026 Session will be held on the following days: **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.

The brief of the petitioner shall be electronically filed on or before **January 5, 2026,** the brief of the respondent shall be electronically filed on or before **February 4, 2026,** and the reply brief of the petitioner, if any, shall be electronically filed on or before **February 23, 2026**.

/s/Gregory Hilton
Gregory Hilton, Clerk
Supreme Court of Maryland

APPENDIX G

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.

/s/Gregory Hilton
Gregory Hilton, Clerk
Supreme Court of Maryland

APPENDIX H

IN THE SUPREME COURT OF MARYLAND

No. 45

September Term, 2025

JOSEPH BASSO

v.

JOSE RODRIGUEZ, et al.

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 Janu-

[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).

ary 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 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

APPENDIX I

IN THE MARYLAND SUPREME COURT

No.: 45,
SEPT. TERM 2025

JOSEPH BASSO

Petitioner

v.

JOSE RODRIGUEZ JAVIER SZUCHMAN

Respondents

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]

[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 fil-

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 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

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ing, that would very likely be consented/Stipulated, as had been done many times throughout the lengthy appeal of this case. *Id.*

(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. Commis 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 Com-

mittee 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]

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.

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[2] Judge McAuliffe, dissented in this Opinion on Reconsideration as well. *See Houghton v. Cty. Commis 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 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).

13. The Appellate Court of Maryland would almost never have this circumstance play out, since oral arguments are, absent extenuating and 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 <u>Stipulation</u> 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 ACM appeal was pending, finds that it was Petitioner's Counsel who took the lead in the

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 forcast, a specific individual case may at any given time, have (1) Certiorari granted with three Justices, and (2) any excuse for a Motion could result in a bare

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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.

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

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APPENDIX J

SUPREME COURT OF MARYLAND

No. 45

JOSEPH BASSO

v.

JOSE RODRIGUEZ, *et al.*

September Term, 2025

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.

/s/ 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.

APPENDIX K

IN THE MARYLAND SUPREME COURT

No.: 45, SEPT. TERM 2025

JOSEPH BASSO

Petitioner

v.

JOSE RODRIGUEZ
JAVIER SZUCHMAN

Respondents

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 2703, (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 Re-

tired 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 MPIA 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 Judg-

es 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 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).

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 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

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[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 SCMPET-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."

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 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, never-

theless 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 recall the

[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 ar-

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
Law Offices of Michael A. Wein, LLC

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guments 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).

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APPENDIX L

IN THE SUPREME COURT OF MARYLAND

No. 45

JOSEPH BASSO

v.

JOSE RODRIGUEZ, *et al.*

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

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[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[.]"

APPENDIX M

SUGARLOAF ALLIANCE, INC. V. FREDERICK COUNTY, MARYLAND, NO. 32, SEPTEMBER TERM, 2025

MARYLAND PUBLIC INFORMATION ACT – ATTORNEYS' FEES – DETERMINATION OF AWARD – REMAND – Where trial court determined amount of attorneys' fees to be awarded to substantially prevailing complainant under Md. Code Ann., Gen. Provisions (2014, 2019 Repl. Vol.) § 4-362(f), but it was not clear that trial court applied Maryland Rule 2-703(f)(3), governing lodestar approach to calculation of attorneys' fees, and court appeared to rely on improper factors in reducing amount of award, Supreme Court of Maryland reversed Appellate Court of Maryland's judgment affirming award and remanded case to that Court with instructions to vacate trial court's award and to remand case to trial court for it to reconsider petition for attorneys' fees.

IN THE SUPREME COURT OF MARYLAND

No. 32

September Term, 2025

SUGARLOAF ALLIANCE, INC.

v.

FREDERICK COUNTY, MARYLAND

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

JJ.

Opinion by Watts, J.

Gould, Eaves, and Killough, JJ., dissent.

Filed: July 14, 2026

Circuit Court for Frederick County
Case No. C-10-CV-22-000369

Argued: March 10, 2026

This case involves an issue as to an award of attorneys' fees under the Maryland Public Information Act ("MPIA"), Md. Code Ann., Gen. Provisions (2014, 2019 Repl. Vol.) ("GP") §§ 4-101 to 4-601. "The MPIA governs access to public records"[1] and "reflects the legislative intent that citizens of the State of Maryland be accorded wide-ranging access to public information concerning the operation of their government." *Trs. of Walters Art Gallery, Inc. v. Walters Workers United,* 492 Md. 92, 119, 340 A.3d 786, 802 (2025) (citation modified). The MPIA provides that "[a]ll persons are entitled to have access to information about the affairs of government and the official acts of public officials and employees" and "unless an unwarranted invasion of the privacy of a person in interest would result," the MPIA "shall be construed in favor of allowing inspection of a public record," with the least cost and delay to the person that requests the inspection. GP § 4-103(a), (b). A custodian of records, however, shall deny inspection of a public record or any part of a public record under circumstances specified in the statute, such as where, by law, the public record is privileged or confidential. *See* GP § 4-301(a).

Typically, a person who wants to inspect a public record submits a written application to the custodian. *See* GP § 4-202(a). Under GP § 4-203(a)(1), "the custodian shall grant or deny the application promptly, but not more than 30 days after receiving the application." Pursuant to GP § 4-203(b)(1), "[a] custodian who approves the application shall produce the public record

[1] Under GP § 4-101(k)(1)(i), a "public record" is defined as the original or any copy of any documentary material that "is made by a unit or an instrumentality of the State or of a political subdivision or received by the unit or instrumentality in connection with the transaction of public business[.]"

immediately or within a reasonable period that is needed to retrieve the public record, but not more than 30 days after receipt of the application." Under GP § 4-203(b)(3), "[fJailure to produce the public record in accordance with this subsection constitutes a denial of an application that may not be considered the result of a bona fide dispute unless the custodian has complied with paragraph (2) of this subsection and is working with the applicant in good faith."[2]

Where "a person or governmental unit is denied inspection of a public record or is not provided with a copy, printout, or photograph of a public record as requested, the person or governmental unit may file a complaint with the circuit court." GP § 4-362(a)(1). Under that circumstance, the defendant has the burden of sustaining a decision to deny inspection of a public record or to deny providing a copy, printout, or photograph of a public record. *See* GP § 4-362(b)(2). Where needed, the circuit court is permitted to examine the public record at issue *in camera* "to determine whether any part of the public record may be withheld" under the MPIA. GP § 4-362(c)(2).

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[2] GP § 4-203(b)(2) provides:

If the custodian reasonably believes that it will take more than 10 working days to produce the public record, the custodian shall indicate in writing or by electronic mail within 10 working days after receipt of the request:

(i) the amount of time that the custodian anticipates it will take to produce the public record;

(ii) an estimate of the range of fees that may be charged to comply with the request for public records; and

(iii) the reason for the delay.

Under the MPIA, a defendant governmental unit may be liable to a complainant for statutory damages and actual damages as follows:

> (1) A defendant governmental unit is liable to the complainant for statutory damages and actual damages that the court considers appropriate if the court finds that any defendant knowingly and willfully failed to:
>
> > (i) disclose or fully to disclose a public record that the complainant was entitled to inspect under this title; or
> >
> > (ii) provide a copy, printout, or photograph of a public record that the complainant requested under § 4-205 of this title.
>
> (2) An official custodian is liable for actual damages that the court considers appropriate if the court finds that, after temporarily denying inspection of a public record, the official custodian failed to petition a court for an order to continue the denial.
>
> (3) Statutory damages imposed by the court under paragraph (1) of this subsection may not exceed $1,000.

GP § 4-362(d).

Pursuant to GP § 4-362(f), if the circuit court "determines that the complainant has substantially prevailed, the court may assess against a defendant governmental unit reasonable counsel fees and other litigation costs that the complainant reasonably incurred." Where fee-shifting statutes such as the MPIA are involved, determining the prevailing party's attorneys' fee award is generally done by using the lodestar approach, under which factors listed in Maryland Rule 2-703(f)(3) are to be considered. *See Monmouth Mead-*

ows Homeowners Ass'n, Inc. v. Hamilton, 416 Md. 325, 334, 7 A.3d 1, 6 (2010). Generally, the lodestar approach involves multiplying the number of hours reasonably spent on a case by a reasonable hourly rate, with adjustments made based on factors set forth in Maryland Rule 2-703(f)(3). *See id.* at 333-34, 7 A.3d at 6.

Sugarloaf Alliance, Inc. ("Sugarloaf"), Petitioner, is a non-profit organization "dedicated to preserving, protecting, and restoring the unique natural and historical aspects of the Sugarloaf Mountain area and its environment[.]" In October 2021, Sugarloaf filed two MPIA requests with Frederick County, Maryland ("the County"), Respondent. After acknowledging receipt of Sugarloaf's requests, the County took no apparent action and produced no documents for Sugarloaf. Eight months later, in June 2022, Sugarloaf filed a complaint in the Circuit Court for Frederick County, alleging that the County violated the MPIA by failing to timely produce the requested records.

Almost two months later, the County filed an answer to the complaint and sent 20 documents to Sugarloaf in response to the MPIA requests, but withheld 136 other items, claiming they were exempt from disclosure under various privileges. Following a bench trial, in June 2023, the circuit court issued an oral ruling, directing the County to submit 13 of the withheld documents for *in camera* review and to provide Sugarloaf with the remaining documents. The County complied with the order.

In August 2023, Sugarloaf filed a petition for attorneys' fees, costs, and expenses, seeking a total of $48,813.62. At a hearing on the petition, before addressing the request for attorneys' fees, as to the withheld documents it reviewed *in camera*, which ended up being 15 documents, the circuit court ruled that 14 of the documents were properly withheld and that it would not order disclosure of the documents. After receiving evidence and hearing argument from the parties about Sugarloaf's petition for attorneys' fees, the circuit court took the matter under advisement. Thereafter, Sugarloaf filed a supplemental petition for attorneys' fees, seeking an additional $6,648. At the end of September 2023, the circuit court issued a written opinion and order, awarding Sugarloaf attorneys' fees in the amount of $25,000. In a separate order issued the same day, the circuit court denied Sugarloaf's supplemental petition for attorneys' fees, with a notation that the request should have been presented at the hearing on the original petition.

Sugarloaf noted an appeal to the Appellate Court of Maryland, and the County noted a cross-appeal. On May 1, 2025, in a reported opinion, the Appellate Court affirmed the circuit court's judgment awarding Sugarloaf $25,000 in attorneys' fees, but vacated the order denying Sugarloaf's supplemental petition for attorneys' fees and remanded the case for further proceedings on the supplemental petition. *See Sugarloaf All., Inc. v. Frederick County,* 265 Md. App. 199, 204, 244, 246-47, 334 A.3d 1150, 1153, 1177, 1178 (2025). The Appellate Court concluded that the circuit court had not arbitrarily exercised its discretion or clearly erred in adjusting downward the amount of attorneys' fees awarded, and affirmed the $25,000 in attorneys' fees awarded to Sugarloaf in response to its initial petition. *See id.* at 244, 334 A.3d at 1177.[3]

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[3] The Appellate Court held, however, that the circuit court abused its discretion in denying the supplemental petition based solely on Sugarloaf's failure to raise it at the hearing on the orig-

Sugarloaf filed a petition for a writ of *certiorari*, which we granted. *See Sugarloaf All., Inc. v. Frederick County,* 492 Md. 410, 344 A.3d 675 (2025).

In this Court, Sugarloaf contends that the circuit court correctly applied the lodestar approach to the initial calculation of fees but abused its discretion by cutting the award of attorneys' fees almost in half for reasons that, according to Sugarloaf, are inconsistent with the purpose of the MPIA. Sugarloaf argues that in determining the $25,000 award, the circuit court considered factors beyond those that are set forth in Maryland Rule 2 703(f)(3), and that the circuit court's use of the factors was "without reference to any guiding rules or principles" and constituted an abuse of discretion. (Citation modified). Sugarloaf requests that the $25,000 award of attorneys' fees be vacated and that the case be remanded to the circuit court "for a proper analysis of the attorneys' fee award consistent with the requirements of the MPIA[.]" The County responds that the circuit court determined a reasonable award of $25,000 in attorneys' fees and requests that we affirm the award.[4]

Upon review of the circuit court's opinion and order in which it awarded $25,000 in attorneys' fees to Sugarloaf, we conclude that in determining the amount of the attorneys' fee award, the circuit court

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inal petition. *See Sugarloaf All., Inc.,* 265 Md. App. at 247, 334 A.3d at 1178.

[4] The County raises no issue with respect to the Appellate Court vacating the circuit court's denial of the supplemental petition for attorneys' fees and remanding the matter for reconsideration and has not filed a cross-petition concerning the matter. As such, the Appellate Court's remand of the case to the circuit court for consideration of the supplemental petition for attorneys' fees is not in dispute.

considered circumstances not included in the factors set forth in Maryland Rule 2-703(f)(3) and that at least two of the factors discussed by the court were not relevant or appropriate for consideration under the lodestar approach namely, that it would not ascribe an evil motive to County officials and that the citizens of the County would bear the burden of the attorneys' fees award.

In its opinion, after finding that Sugarloaf's attorneys' fees, totaling $48,813.62, were "customary and reasonable[,]" and discussing the two objectionable factors, without further explanation, the circuit court announced an award of $25,000. We are unable to conclude that the circuit court followed established principles or the Maryland Rules in determining the award, given that, after observing that the number of hours expended and hourly fees charged by Sugarloaf were reasonable, the circuit court forsook application of Maryland Rule 2-703(f)(3) and considered circumstances that were not appropriate for determination of an attorneys' fee award. Under these circumstances, we conclude that the circuit court did not follow the established standard for determining an attorneys' fee award and abused its discretion in determining the amount of the award. We reverse the Appellate Court's judgment affirming the award of $25,000 in attorneys' fees and remand the case to that Court with instructions to vacate the circuit court's award and to remand the case to the circuit court for it to reconsider the petition for attorneys' fees.[5]

* * *

[5] Nothing in our holding alters the Appellate Court's judgment vacating the circuit court's denial of Sugarloaf's supplemental petition for attorneys' fees and remanding for the circuit court to reconsider the supplemental petition.

The Circuit Court's Ruling on the Petition and Award of Attorneys' Fees

On September 28, 2023, the circuit court issued a written "Opinion and Order Regarding Attorneys' Fees," awarding Sugarloaf attorneys' fees in the amount of $25,000. The opinion and order consisted of six full single-lined pages with sections having the following headings, "Background and Factual Find-ings," "Statutory and Case Law Relevant to Attorneys' Fees Entitlement," "Plaintiff's Request for Attorneys' Fees," "Defendant's Opposition," "Analysis," and "Award of Attorneys' Fees," and a seventh page with two lines stating that the County was ordered to pay Sugarloaf "the sum of $25,000.00 as attorneys' fees, within 30 days of docketing of this order." (Bolding and some capitalization omitted). In the statutory and case law section, the circuit court explained that, under GP § 4-362(f), after a lawsuit, if an MPIA "complainant has substantially prevailed, the court may assess against a defendant governmental unit reasonable counsel fees and other litigation costs that the com-plainant reasonably incurred." The circuit court noted that, in *Kline v. Fuller,* 64 Md. App. 375, 496 A.2d 325 (1985), the Appellate Court set forth a non-exhaustive list of factors for a court to consider in determining an award of attorneys' fees, including: (1) the benefit to the public 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.

In the section of the opinion and order labeled "Analysis," the circuit court determined that "the filing of this lawsuit was necessary to obtain the documents sought[,]" and explained:

> [T]he court does not believe that if [Sugarloaf] had brought the matter to the attention of the [C]ounty prior to filing suit such action would have resulted in production of the records sought. No reason has been advanced to suggest that those records ordered to be produced on June 8 would have been produced without protracted struggle. If that were the case, the [C]ounty would have produced them when suit was filed. This is especially so in light of the court's review, above, of the content of certain key documents.[6] Nor does the court believe those documents would have been revealed after rezoning had occurred, absent further pursuit by citizen requestors.

The circuit court concluded that "[k]ey documents" produced "were of legitimate public interest, and did not personally benefit" Sugarloaf. The circuit court stated that there was "significant public benefit to the disclosure of these documents."

The circuit court determined that GP § 4-362(f), the section of the statute under which Sugarloaf sought attorneys' fees, "exists independently of its companion subsection (d)(1)-(3), which requires a finding of knowledge and willfulness before 'damages' – including attorneys' fees – can be awarded." The circuit court concluded that the filing of the lawsuit was necessary and that, "in its discretion and for the reasons stated[,]" it found that Sugarloaf was "entitled to recovery of reasonable attorneys' fees."

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[6] The circuit court stated that "the documents that were produced after the court's order [of] June 8 strongly suggest that potential embarrassment to [C]ounty officials could have motivated the reluctance to disclose them."

The circuit court's determination of the amount of the attorneys' fees award consisted of the following three paragraphs on the last full page of the opinion, under the section titled "Award of Attorneys' Fees":

The court took testimony on September 6 regarding the amount and reasonableness of [Sugarloaf's] attorneys' fees, totaling $48,813.62. Using the lodestar method, and considering the factors set forth in the applicable Maryland Rules of Procedure, the court finds the fees to be customary and reasonable. The time and labor required were extensive, and the services were performed skillfully. The number of hours expended and the hourly fees were also reasonable, and the results obtained by [Sugarloaf] were favor-able.

At the same time, there were 14 documents that were justifiably withheld by [the County] on the grounds of either attorney-client or confidential commercial information privilege. Unfortunately, some of those documents have already been produced because the [C]ounty in its *Vaughn* indices also sought to withhold them based upon the assertion of discretionary privileges which were not accepted by the court.

The court has the discretion to award attorneys' fees in an amount that it believes appropriate. It has taken into account that a substantial portion of the documents produced were drafts, cover emails, and redundant in nature. It also ascribes no evil motive to [C]ounty officials, some of whom were uncomfortably caught in the middle of an attempt to

> land a large national corporation who might enhance the [C]ounty's stature and add to its tax base, while maintaining the confidentiality [Amazon Web Services] re-quired. Unfortunately for the [C]ounty, dur-ing this quest, some county citizens questioned the transparency of the process and ultimately acquired important information that was of interest to the public. As the [C]ounty has pointed out in its submission, ultimately – and unfortunately [–] the citizens of Frederick County will bear the burden of an award of attorneys' fees, an irony that is not lost on the court.

After this, the circuit court stated, "[t]aking all of these factors into consideration," it was "ORDERED, that Defendant Frederick County shall pay to Plaintiff the sum of $25,000.00 as attorneys' fees, within 30 days of docketing of this order." (Bolding omitted).[7]

On October 18, 2023, Sugarloaf noted an appeal to the Appellate Court of Maryland, and on October 27, 2023, the County noted a cross-appeal.

Opinion of the Appellate Court of Maryland

On May 1, 2025, the Appellate Court of Maryland affirmed the circuit court's judgment awarding $25,000 in attorneys' fees. *See Sugarloaf All., Inc.,* 265 Md. App. at 244, 334 A.3d at 1177.[8] The Appellate

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[7] In a separate order issued the same day, September 28, 2023, the circuit court denied Sugarloaf's supplemental petition, with the notation: "This request should have been presented at the 9/6/23 hearing."

[8] In the Appellate Court, the County raised five issues:

Court held that the circuit court did not arbitrarily exercise its discretion or clearly err "in adjusting the lodestar amount downward." *Id.* at 244, 334 A.3d at 1177. The Appellate Court concluded that the circuit court's determination that the County properly withheld 14 documents as privileged "was relevant in assessing Sugarloaf's degree of success in obtaining the injunctive relief it sought (to wit, an order compelling the County to produce the records responsive to its MPIA request)." *Id.* at 241, 334 A.3d at 1175 (citation modified). The Appellate Court determined that the

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I. Did the Circuit Court abuse its discretion by allowing Sugarloaf Alliance to proceed on its unpleaded and unparticularized challenge to the County's record production and indices?

II. Did the Circuit Court err in finding that the County failed to meet its burden of justifying its "discretionary" denials of responsive records?

III. Did the Circuit Court abuse its discretion by ordering that the County produce all records not withheld on the basis of attorney-client privilege or confidential commercial privilege without conducting an *in camera* review or allowing for supplementation of the Vaughn indices?

IV. Did the Circuit Court err in finding that Sugarloaf Alliance substantially prevailed in this litigation?

V. Did the Circuit Court properly conclude that Sugarloaf Alliance was not entitled to all of the attorneys' fees sought?

The Appellate Court consolidated the five issues into the following issue: "Did the circuit court err in determining that Sugarloaf had 'substantially prevailed' in its suit and therefore was eligible for an attorneys' fees award under the MPIA?" *Sugarloaf All., Inc.,* 265 Md. App. at 204, 334 A.3d at 1153. On that issue, the Appellate Court concluded: "If the County wished to contest the court's order to produce the records at issue, it could have noted an appeal from that judgment and sought a stay. Instead, it produced promptly the documents, thereby mooting any appellate challenge and cementing ultimately Sugarloaf's status as a substantially prevailing party." *Id.* at 234, 334 A.3d at 1170-71.

circuit court properly considered that a substantial portion of the documents produced were drafts, cover emails, and redundant, explaining: "[W]hether a complainant recovers key documents is a binary determination essential only to whether one is eligible for an award of attorneys' fees. Gauging a party's degree of success, by contrast, requires a more nuanced comparison of the success attained to the relief sought." *Id.* at 241, 334 A.3d at 1175 (citation modified).

The Appellate Court rejected Sugarloaf's contention "that the circuit court erred" in considering the absence of an evil motive on the part of County officials, noting that in addition to seeking an award of attorneys' fees under GP § 4-362(f), in its complaint Sugarloaf also included a claim for actual and statutory damages under GP § 4-362(d), so "the absence of evidence that the County violated knowingly and willfully the MPIA was fatal to Sugarloaf's damages claim[, but] it was relevant, albeit indirectly, to its level of success in the litigation." *Id.* at 242-43, 334 A.3d at 1176. Although the Appellate Court agreed with Sugarloaf that the source of funds used to pay an attorneys' fees award "is irrelevant to the degree of success obtained by a plaintiff" or any other applicable factor, it characterized the circuit court's mention of the citizens of the County paying the award as a "passing reference[,]" which it did "not perceive" as having "informed [the circuit court's] downward adjustment of the lodestar amount." *Id.* at 244, 334 A.3d at 1176-77.

In contrast, the Appellate Court held that the circuit court "abused its discretion by denying the supplemental petition based exclusively on Sugarloaf's failure to raise it at the September 6 hearing on the original petition" because, "[i]n doing so, the court failed to consider the requisite factors[.]" *Id.* at 247, 334 A.3d at 1178. The Appellate Court vacated the denial of Sugarloaf's supplemental petition for attorneys' fees and remanded the case for reconsideration of the supplemental petition. *See id.* at 247, 334 A.3d at 1178.

Petition for a Writ of *Certiorari*

On June 18, 2025, Sugarloaf petitioned for a writ of *certiorari*, raising the following issue:

> Whether a court abuses its discretion by reducing a prevailing plaintiff's reasonable attorneys' fees for reasons inconsistent with the purposes of the MPIA[.]

On September 19, 2025, we granted the petition. *See Sugarloaf All., Inc.,* 492 Md. 410, 344 A.3d 675.

DISCUSSION

The Parties' Contentions

Sugarloaf contends that, although the circuit court correctly determined that it was entitled to attorneys' fees and correctly applied the lodestar approach in determining the initial amount of the attorneys' fees award, the circuit court abused its discretion by cutting the award in half for reasons that are inconsistent with the MPIA. Sugarloaf argues that instead of applying Maryland Rules, the circuit court apparently developed its own considerations in reducing the attorneys' fees award and improperly considered, contrary to the purpose of the MPIA, that: (1) 14 documents were justifiably withheld; (2) a substantial portion of the documents produced were drafts or cover emails and were redundant in nature; (3) there was no evil motive on the part of County officials; and (4) the citizens of the County would bear the burden of the attorneys' fees award.

The County responds that, in reducing the award of attorneys' fees, the circuit court was permitted to consider the results that Sugarloaf obtained and thus did not abuse its discretion in considering that the County properly withheld some documents and that a substantial portion of the produced documents were drafts, cover emails, and redundant in nature. The County also asserts that the circuit court properly considered that County officials did not have an evil motive because there was no knowing and willful violation of the MPIA. The County maintains that the circuit court's reference to the financial burden on the citizens of the County was a passing reference, acknowledging the reality that an award of attorneys' fees would be paid out of the public coffers.

Standard of Review

"Generally, the decision whether to award counsel fees to an eligible party under the MPIA rests within the sound exercise of discretion by the trial judge." *Caffrey v. Dep't of Liquor Control for Montgomery Cnty.,* 370 Md. 272, 289, 805 A.2d 268, 278 (2002) (citations omitted). "The standard that a trial court applies in evaluating whether to award attorneys' fees and costs is a legal decision; the conclusion that the court arrives at after applying that standard to the facts of the particular case is an exercise of discretion." *Ocean City, Md., Chamber of Com., Inc. v. Barufaldi,* 434 Md. 381, 391, 75 A.3d 952, 958 (2013) (citing *Wilson-X v. Dep't of Human Res.,* 403 Md. 667, 675, 944 A.2d 509, 514 (2008)). "[A]bsent a showing of abuse of that discretion or a predicate erroneous legal conclusion, the determination to award or deny such fees generally will not be disturbed on appeal." *Caffrey,* 370 Md. at 290, 805 A.2d at 278.

An abuse of discretion "occurs where no reasonable person would take the view adopted by the trial court, or when the court acts without reference to any guiding rules or principles." *Dabbs v. Anne Arundel County,* 458 Md. 331, 347, 182 A.3d 798, 807 (2018) (citation modified). An appellate court "will find an abuse of discretion when the ruling is clearly against the logic and effect of facts and inferences before the court, . . . when the ruling is violative of fact and logic, or when it constitutes an untenable judicial act that defies reason and works an injustice." *Id.* at 347, 182 A.3d at 807 (citation modified).

Relevant Law

As explained above, under the MPIA, "[i]f the court determines that the complainant has substantially prevailed, the court may assess against a defendant governmental unit reasonable counsel fees and other litigation costs that the complainant reasonably incurred." GP § 4-362(f). Where a court "determines that the complainant has substantially prevailed, that litigant becomes eligible but not entitled to an award of reasonable attorney fees and costs." *Caffrey,* 370 Md. at 299, 805 A.2d at 284 (citation modified). As we explained in *Caffrey, id.* at 299, 805 A.2d at 284, with respect to the MPIA:

> [A]lthough an actual judgment in claimant's favor is not required to meet the threshold of substantial prevailance, it must be demonstrated that prosecution of the lawsuit could reasonably be regarded as having been necessary in order to gain release of the information, that there was a causal nexus between the prosecution of the suit and the agency's surrender of the requested information, and that the complainant recovered

> key documents. Then, once the court determines that the complainant has substantially prevailed, that litigant becomes eligible but not entitled to an award of reasonable attorney fees and costs.

(Citation modified).

"Generally, the decision whether to award counsel fees to an eligible party under the MPIA rests within the sound exercise of discretion by the trial judge." *Id.* at 289, 805 A.2d at 278 (citations omitted); *see also Kline,* 64 Md. App. at 388, 496 A.2d at 332 ("A decision on whether to award counsel fees to an eligible party resides in the discretion of the trial judge."). Our case law and Rules instruct how a court must apply its discretion. Simply put, in determining whether to award attorneys' fees, the court's discretion is constrained by standards outlined in our case law. We have set forth the following non-exhaustive list of factors that courts must consider when exercising that discretion: "(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." *Stromberg Metal Works, Inc. v. Univ. of Md.,* 395 Md. 120, 128, 909 A.2d 663, 668 (2006) (citation modified); *see also Caffrey,* 370 Md. at 299, 805 A.2d at 284 (same); *Kirwan v. Diamondback,* 352 Md. 74, 96, 721 A.2d 196, 206-07 (1998) (same); *Kline,* 64 Md. App. at 386, 496 A.2d at 331 (same). Although not exclusive, these are "three important considerations in determining whether counsel fees should be awarded[.]" *Kirwan,* 352 Md. at 96, 721 A.2d at 206-07. If a court finds that a complainant is not only eligible for, but also entitled to, an award of attorneys' fees, the court must determine the appropriate amount of the award.

In actions under fee-shifting statutes, courts generally employ the "lodestar method" in calculating what attorneys' fees and costs are to be awarded. *Monmouth,* 416 Md. at 333-34, 7 A.3d at 5-6; *see also Friolo v. Frankel,* 373 Md. 501, 504-05, 819 A.2d 354, 356 (2003) ("[I]n actions under fee-shifting statutes, . . . the lodestar approach is ordinarily the appropriate one to use in determining a reasonable counsel fee."). "The lodestar approach has public policy goals and is designed to reward counsel for undertaking socially beneficial litigation in cases where the expected relief has a small enough monetary value that other methods would provide inadequate compensation." *E. Shore Title Co. v. Ochse,* 453 Md. 303, 337, 160 A.3d 1238, 1258 (2017) (citation modified).

The starting point for determining a reasonable fee under the lodestar approach is to multiply "the number of hours reasonably expended on the litigation [] by a reasonable hourly rate." *Friolo,* 373 Md. at 523, 819 A.2d at 367 (citation modified). "This amount is then adjusted by the court, depending on the effect of numerous external factors bearing on the litigation as a whole." *E. Shore Title Co.,* 453 Md. at 337, 160 A.3d at 1258 (citation modified). The factors the court must consider are set forth in Maryland Rule 2-703(f),[9] which provides, in pertinent part:

> *(2) If Award Permitted or Required*. . . . If the court determines that a permitted award should be made . . ., the court shall apply the standards set forth in subsection (f)(3) of this Rule and determine the amount of the award.

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[9] Maryland Rule 2-703(a) provides that the Rule "applies to claims for attorneys' fees allowable by law to a party in an action in a circuit court."

(3) Factors to Be Considered.

(A) the time and labor required;

(B) the novelty and difficulty of the questions;

(C) the skill required to perform the legal service properly;

(D) whether acceptance of the case precluded other employment by the attorney;

(E) the customary fee for similar legal services;

(F) whether the fee is fixed or contingent;

(G) any time limitations imposed by the client or the circumstances;

(H) the amount involved and the results obtained;

(I) the experience, reputation, and ability of the attorneys;

(J) the undesirability of the case;

(K) the nature and length of the professional relationship with the client; and

(L) awards in similar cases.[10]

Pursuant to Maryland Rule 2-703(g), the circuit court "shall state on the record or in a memorandum filed in the record the basis for its grant or denial of an award." We have explained that Maryland Rule 2-703(g) "is necessary because it is otherwise impossible

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[10] The Committee note for Maryland Rule 2-703(f)(3), citing *Monmouth Meadows Homeowners Ass'n, Inc.,* 416 Md. at 333-34, 7 A.3d at 6, states: "The factors listed in subsection (f)(3) of this Rule have been approved by the Supreme Court in statutory fee-shifting cases, where the 'lodestar method' is applied in determining an award."

for an appellate court to review the reasons for the denial." *Lockett v. Blue Ocean Bristol, LLC,* 446 Md. 397, 426, 132 A.3d 257, 273 (2016) (citations omitted). In addition, we have held that "a trial court commits legal error if it considers the wrong factors when deciding whether to award attorneys' fees" and have stated that "there must be sufficient information in the record to enable a reviewing court to follow the reasoning of the trial court[.]" *Id.* at 426, 132 A.3d at 273 (citation modified).

Analysis

Here, in the written opinion and order awarding $25,000 in attorneys' fees to

Sugarloaf, after determining that Sugarloaf was entitled to an award, although the circuit court purported to apply the lodestar approach and factors set forth in the Maryland Rules, the court considered factors not set forth in Maryland Rule 2-703(f)(3) and, without sufficient information in the record for us to follow its reasoning, adjusted the amount of the attorneys' fee award downward from $48,813.62 to $25,000.

In the last three paragraphs of its opinion, in the section labeled "Award of Attorneys' Fees," the circuit court determined the attorneys' fee award. In this section, the circuit court considered circumstances that are not relevant or appropriate factors for determining the amount of an attorneys' fee award, without providing a clear explanation of how it determined the amount to be awarded, or even mentioning an amount other than the $48,813.62 requested by Sugarloaf. In the ordered paragraph on the last page of the opinion, the circuit court ordered that the County pay Sugarloaf $25,000 in attorneys' fees, without having provided a reasonable explanation for its determination.

Under these circumstances, we reverse the Appellate Court's judgment affirming the award of $25,000 in attorneys' fees and remand the case to that Court with instructions to vacate the circuit court's award and to remand the case to the circuit court for it to reconsider the petition for attorneys' fees.

In reaching this decision, we review the circuit court's opinion to ascertain whether the circuit court employed the correct legal standard in reaching its decision and whether it abused its discretion in applying that standard to the facts of the case. *See Wilson-X,* 403 Md. at 675, 944 A.2d at 514 ("[T]rial judges do not have discretion to apply inappropriate legal standards, even when making decisions that are regarded as discretionary in nature.").

From the first paragraph of the section of the opinion labeled "Award of Attorneys' Fees," it would appear that the circuit court had decided that Sugarloaf was entitled to an attorneys' fee award and intended to award Sugarloaf the amount it requested in attorneys' fees, $48,813.62. In the first paragraph, the circuit court stated that it heard testimony concerning the amount and reasonableness of Sugarloaf's attorneys' fees, which totaled $48,813.62, and that, using the lodestar approach and considering the factors "set forth in the applicable Maryland Rules of Procedure"—presumably referring to Maryland Rule 2 703(f)(3)—it found "the fees to be customary and reasonable." The circuit court found that "[t]he time and labor required were extensive, and the services were performed skillfully." The circuit court explained that "[t]he number of hours expended and the hourly fees were also reasonable, and the results obtained by [Sugarloaf] were favorable."

These factors appear to correspond with those set forth in Maryland Rule 2 703(f)(3)(A), (C), and (H), and there is no indication that the circuit court determined that any of the circumstances it discussed counted against Sugarloaf's request. To the contrary, the circuit court's discussion of the factors that corresponded with Maryland Rule 2 703(f)(3)(A), (C), and (H) appeared to inure to Sugarloaf's benefit. From these findings and the circuit court's mention of the lodestar approach and applicable factors, along with the circumstance that, at this point, the circuit court had mentioned nothing on the negative side of the ledger with respect to an award of attorneys' fees, it appears that the circuit court was headed in the direction of awarding the full amount of fees requested by Sugarloaf.

This brings us to Sugarloaf's contention that, after initially appropriately deploying the lodestar approach, the circuit court considered four factors that are not set forth in Maryland Rule 2-703(f)(3) and that are not appropriate for consideration in determining an attorneys' fee award in an MPIA case. First, the circuit court stated that "[a]t the same time" as the circumstances previously discussed, there were 14 documents that "were justifiably withheld" by the County based on privilege but that, unfortunately, some of the documents were disclosed. Second, the circuit court stated that it took "into account that a substantial portion of the documents produced were drafts, cover emails, and redundant in nature." Third, the circuit court stated that it "ascribe[d] no evil motive to [C]ounty officials, some of whom were uncomfortably caught in the middle of an attempt to land a large national corporation who might enhance the [C]ounty's stature and add to its tax base, while maintaining the confidentiality [Amazon Web Services] required." Fourth, the circuit court stated that, "[a]s the County pointed out in its submission, ultimately – and unfortunately [–] the citizens of Frederick County will bear the burden of an award of attorneys' fees, an irony that is not lost on the court."

With respect to the first factor, we see nothing inherently unacceptable about the circuit court considering that not all of the documents responsive to Sugarloaf's requests were ordered to be produced. That factor seems to relate to "the results obtained," which is appropriately considered under Maryland Rule 2-703(f)(3)(H). However, we caution that ordinarily the results obtained in an MPIA lawsuit will not best be assessed based purely on the number of documents or pages of records obtained as compared to the number sought. Instead, a court should consider the significance of the information that was obtained. A requester who receives significant information sought in documents that are produced has obtained excellent results, regardless of whether other documents were properly withheld. Relatedly, a requester who obtains documents, but only documents that lack any useful or new information, has obtained poor results.

In addition, the circuit court did not indicate one way or another whether the circumstance that 14 of the 136 documents at issue were justifiably withheld was a factor that affected its determination of the attorneys' fee award. However, after saying that 14 of the documents were justifiably withheld, the circuit court's discussion took a different turn. The circuit court stated that it had "the discretion to award attorneys' fees in an amount that it believes appropriate[,]" and proceeded to discuss the second, third, and fourth factors that Sugarloaf contends are objectionable. Stated otherwise, at this point, the circuit court explained that it would exercise its discretion to award the attorneys' fees it deemed appropriate and next discussed the factors that it considered.

The circuit court expressly stated that it had "taken into account that a substantial portion of the documents produced were drafts, cover emails, and redundant in nature." There can be no dispute that redundancies in the documents produced is a factor that the circuit court considered in determining the attorney's fee award. One possible theory for the circuit court considering that some of the documents produced were redundant is that, as the County argues, the court viewed the production of redundant documents as a factor to be considered under Maryland Rule 2-703(f)(3)(H), as relevant to the nature of the results obtained by the prevailing party. However, this would be only a guess. And even if that were so, the circuit court did not identify how the production of drafts, cover emails, and redundant documents impacted "the results obtained." As observed above, the focus of an inquiry into the results obtained should be on the information received. The inclusion of documents or pages of little value in a production set does not reduce the value of other documents or pages in that set. Moreover, the court's reference does not identify why the inclusion of drafts, cover emails, and redundant documents should be counted against Sugarloaf in this analysis. The County, not Sugarloaf, knew the content—or absence of content—of the documents, and yet it still fought to withhold them, and lost. Finally, although the circuit court stated that it had taken the circumstance into account, the court did not explain whether or how the production of redundant documents had resulted in an adjustment of the award of attorneys' fees and, if redundancies in the documents had been a factor that led to a reduction in the amount awarded, the nature of any adjustment that may have been warranted.

More troubling are the circuit court's statements about the lack of evil motive on the part of the County and the citizens of the County bearing the burden of an attorneys' fee award. These statements give the impression that, despite having determined the requested attorneys' fees to be customary and reasonable, the circuit court made an adjustment to the award because it had not assigned an evil motive to the County and did not want the citizens of the County to have to pay a large award. Neither of the considerations is listed as a factor in Maryland Rule 2-703(f)(3) or reasonably encompassed within one of these factors, and both, on their face, are not relevant factors to be considered in assessing an attorneys' fee award under the lodestar approach in an MPIA case. *See Stromberg,* 395 Md. at 133, 909 A.2d at 671

We are mindful of the County's argument that the circuit court's award of attorneys' fees should "be viewed in its entirety, not as a series of isolated statements" and that, at oral argument, the County contended that, so long as the circuit court properly relied on even one pertinent factor, the circuit court properly exercised its discretion in calculating the attorneys' fee award. We are not persuaded by either of the County's positions. Although we agree with the County that the circuit court's opinion should be viewed in its entirety and not as a series of isolated statements, when viewing the circuit court's opinion in its entirety, it is not possible to determine that the court applied the factors set forth in Maryland Rule 2-703(f)(3) and that it did not rely on irrelevant and inappropriate considerations that resulted in an abuse of discretion.

It is evident that Maryland Rule 2-703 and our case law differ from the County's position that as long as the circuit court relied on one appropriate factor, the court properly exercised its discretion in calculating the award, regardless of what may be concluded with respect to other factors applied by the court. This stance is simply not consistent with Maryland Rule 2-703(f)(2), which requires that a court apply the standards set forth in subsection (f)(3), or our case law. In *Friolo v. Frankel,* 438 Md. 304, 312, 91 A.3d 1156, 1161 (2014), we observed that earlier, in *Friolo,* 373 Md. 501, 819 A.2d 354, "the trial court failed to provide an explanation of how the lodestar factors affected the amount of the award," and that the case had been remanded "so that the court could apply the lodestar factors," "'so that the parties and any reviewing appellate court can follow the reasoning and test the validity of the findings.'" (Quoting *Friolo v. Frankel,* 403 Md. 443, 454-55, 942 A.2d 1242, 1248-49 (2008)).

In this case, the circuit court awarded Sugarloaf approximately half of the amount of attorneys' fees that it requested and the only considerations, discussed by the court, that seemingly weighed against granting Sugarloaf an award of the full amount sought consisted of the circuit court's statements that 14 of the documents sought were not required to be disclosed, that it took into account that many of the documents produced were redundant, that it ascribed no evil motive to County officials, and that the taxpayers of the County would bear the burden of the award of attorneys' fees. In the context of its opinion, the circuit court's discussion of not assigning an evil motive to the County and citizens bearing the burden of an award of attorneys' fees can be perceived as the consideration of inappropriate factors that affected the court's decision to award $25,000 in attorneys' fees. It is simply not possible to conclude from the circuit court's written opinion and order of $25,000 in attorneys' fees that it applied the lodestar approach using the factors set forth in Maryland Rule 2-703 and that it determined the attorneys' fee award in a manner that was not an abuse of discretion.

For all of the reasons discussed above, we reverse the judgment of the Appellate Court affirming the $25,000 award of attorneys' fees and remand the case to that Court with instructions to vacate the circuit court's award and to remand the case to the circuit court for it to reconsider the petition for attorneys' fees. On remand, the circuit court should reconsider the petition for attorneys' fees using the lodestar approach and the factors set forth in Maryland Rule 2-703(f)(3). If the circuit court intended the factors it identified in its opinion to relate to any of the factors set forth in Maryland Rule 2-703(f)(3), the court should identify the connection on remand.

As a final observation, in *Friolo,* 373 Md. at 505, 819 A.2d at 356, we stated that "it is necessarily incumbent upon the trial judge to give a clear explanation of the factors he or she employed in arriving at the end result." In other words, a court is required to provide a clear explanation of the factors it relied on in arriving at an attorneys' fee award, even though the court is not necessarily required to show its work. Although a court is not necessarily required to show its work, it is a best practice for the court to itemize and explain the basis of an award, identifying the bases for any reductions and the associated amounts, and linking the amount awarded to the work performed and the reasons why the award is appropriate under the lodestar approach as adjusted by application of the factors set forth in Maryland Rule 2-703(f)(3).

JUDGMENT OF THE APPELLATE COURT OF MARYLAND REVERSED IN PART AS STATED IN THE OPINION. CASE REMANDED TO THAT COURT WITH INSTRUCTIONS TO VACATE THE JUDGMENT OF THE CIRCUIT COURT FOR FREDERICK COUNTY AND TO REMAND THE CASE TO THE CIRCUIT COURT FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. RESPONDENT TO PAY COSTS.

IN THE SUPREME COURT OF MARYLAND

No. 32
September Term, 2025

SUGARLOAF ALLIANCE, INC.

v.

FREDERICK COUNTY, MARYLAND

Fader,

C.J.,

Watts,

Booth,

Biran,

Gould,

Eaves,

Killough,

JJ.

Dissenting Opinion by Gould, J.,
which Eaves, J., joins.

Filed: July 14, 2026

The Majority holds that the trial court abused its discretion by awarding Sugarloaf Alliance, Inc. $25,000 in attorneys' fees. I disagree. The trial court explained that it arrived at that amount after performing a lodestar analysis and after considering the factors relevant in that analysis. I would credit it with having done so. The Majority instead finds objectionable that the court may have reduced the award because the County's taxpayers would bear the burden of the award, because it ascribed no evil motive to County officials, and because it found that certain documents produced were redundant. Read in context, however, the court's discussion of the burden on the County's taxpayers was a response to arguments the County had made and an acknowledgement of an unavoidable feature of the Maryland Public Information Act ("MPIA")—that taxpayers are, in the end, on the hook for any fee award. Because courts are required to look to the benefit to the public when calculating a fee award, a court's recognition that the public will bear the cost of the award cannot be error. Moreover, reviewing the court's opinion with the deference that this discretionary decision is owed, the Majority should have affirmed. Because it did not, I respectfully dissent.

My analysis proceeds in three parts. *First*, I show that the trial court's consideration of the taxpayers' burden was not, as the Majority alleges, legal error; to the contrary, courts *should* be assessing the extent to which the taxpayers would be receiving appropriate value when assessing a fee petition under the MPIA. *Second*, as to the trial court ascribing no evil motive to the County, I show that the Majority errs by failing to accord the trial court the deference it is due. And *third*, I explain why the Majority's concern that the trial court reduced the award because some documents were redundant is misplaced.

* * *

petition, relying in part on the number of records it obtained, Sugarloaf argued that it had substantially prevailed, and that "[t]he result obtained was total vindication for the Sugarloaf Alliance." The court responded to that argument when it noted that a substantial portion of the documents produced were duplicates and drafts. That observation bears on "the amount involved and the results obtained" under Rule 2-703(f)(3)(H)—a factor the Majority agrees is a proper one. The court did not abuse its discretion by making a comment that addresses a party's argument as to one of the enumerated factors.

C

Although the Majority acknowledges that a court "is not necessarily required to show its work[,]" it still faults the trial court for the award because, according to the Majority, it is "not possible" to tell whether the court applied the lodestar method and the factors set forth in Rule 2-703(f)(3) because the court did not explain how each consideration adjusted the award up or down. But neither the Rule nor our case law requires such an accounting. Rule 2-703(g) requires the court to "state on the record or in a memorandum filed in the record the basis for its grant or denial of an award." The trial court did so in a six-page, single-spaced opinion. The record need only contain "sufficient information" "to enable a reviewing court to follow the reasoning of the trial court[.]" *Lockett v. Blue Ocean Bristol, LLC*, 446 Md. 397, 426 (2016) (quoting *Bd. of Trustees, Cmty. Coll. of Balt. Cnty. v. Patient First Corp.*, 444 Md. 452, 486 (2015)). Here, it did.

The circuit court's reasoning does not need to be reduced to a calculation, and for good reason: It would be impractical to expect as much of trial courts. Section 4-362(f) provides that the court "may assess" reasonable fees that the complainant "reasonably incurred." The factors our cases identify—the benefit to the public, the nature of the complainant's interest, and whether the agency's withholding had a reasonable basis in law, *Caffrey*, 370 Md. at 299—are not readily quantifiable. The same goes for the factors in Rule 2-703(f)(3). The decision to award fees is committed to the trial court's discretion for that reason. The court needs only to consider and weigh these factors and determine the amount it finds reasonable. The court did that here.

III

Read deferentially (as required), the trial court's opinion reflects a permissible exercise of discretion. The court named the correct method, applied the correct factors, responded to the arguments the parties raised, and arrived at an amount it found reasonable. I would, therefore, affirm the judgment of the Appellate Court. Justice Eaves has authorized me to state that she joins this dissent.

IN THE SUPREME COURT OF MARYLAND

No. 32
September Term, 2025

SUGARLOAF ALLIANCE, INC.

v.

FREDERICK COUNTY, MARYLAND

Fader, C.J.

Watts,

Booth,

Biran,

Gould,

Eaves,

Killough,

JJ.

Dissenting Opinion by Killough, J.,
which Eaves, J., joins.

Filed: July 14, 2026

I respectfully dissent. The circuit court found Sugarloaf eligible for an award of attorneys' fees, applied the lodestar method, found the hourly rates and hours expended to be customary and reasonable, considered the results obtained, and exercised its discretion to award $25,000 of the $48,813 requested. That is not an abuse of discretion. I would affirm.

Abuse of discretion is a high standard. It "occurs where no reasonable person would take the view adopted by the [trial] court, or when the court acts without reference to any guiding rules or principles." *Dabbs v. Anne Arundel Cnty.*, 458 Md. 331, 347 (2018) (internal citations and quotation marks omitted). "[T]he decision whether to award counsel fees to an eligible party under the MPIA rests within the sound exercise of discretion by the trial judge[,]" and "absent a showing of abuse of that discretion or a predicate erroneous legal conclusion, the determination to award or deny such fees generally will not be disturbed on appeal." *Caffrey v. Dep't of Liquor Control for Montgomery Cnty.*, 370 Md. 272, 289–90 (2002). The question is not whether another court would have settled on a different amount. The question is whether the circuit court's decision was so far beyond the pale that no reasonable judge could have reached it.

The circuit court's decision was well within the range of reasonable outcomes. The court expressly invoked the lodestar method, cited the factors in the Maryland Rules, and made findings on the factors it discussed. It found the time and labor extensive, the services skillfully performed, and the hourly rates reasonable. It then considered the results obtained—including that 14 of the 136 documents at issue were justifiably withheld and that many of the produced documents were drafts, cover emails, and redundant material—and made a downward adjustment. That is what the lodestar approach contemplates. As we have explained, the lodestar method "is broader than simply hours spent times hourly rate but also includes careful consideration of appropriate adjustments to that product, which, in almost all instances, will be case-specific." *Friolo v. Frankel*, 373 Md. 501, 505 (2003). The discretion to adjust the initial calculation, up or down, is built into the method itself; indeed, we recognized in *Friolo* that "the adjustments, up or down, may well produce a result that, in the end, has little relationship to the actual time spent on the case" and that such adjustments are "largely case-specific[.]" *Id.* at 529.

The Court concludes that the circuit court "forsook application of Maryland Rule 2 703(f)(3) and considered circumstances that were not appropriate for determination of an attorneys' fee award." Maj Op. at 7. I read the circuit court's opinion differently—and, more importantly, I believe that the Court's reading reflects a degree of scrutiny that is difficult to reconcile with deferential review.

Consider how the Court treats each of the four considerations identified in the circuit court's memorandum opinion. The first—that fourteen documents were justifiably withheld—the Court concedes is not "inherently unacceptable." Maj Op. at 32–33. The second—that many produced documents were drafts, cover emails, and redundant—the Court acknowledges could be understood as relevant to "the results obtained" under Rule 2-703(f)(3)(H) but calls this interpretation "only a guess[,]" because the circuit court did not explain precisely how redundancies affected the award. Maj Op. at 34–35. The third the circuit court's statement that it "ascribe[d] no evil motive to [C]ounty officials"—the Court concedes is "possibly susceptible to different interpretations" and that "[a]nything is possible." Maj Op. at 36. The fourth—the circuit court's reference to the burden on Frederick County taxpayers—the Court characterizes as "clearly an improper consideration[,]" rejecting the Appellate Court's view that it was merely a "passing reference." Maj. Op. at 40–41. Yet, where the Court itself concedes that the circuit court's reasoning can be read more than one way, it adopts a reading that condemns—rather than one that sustains—the circuit court's discretionary authority. And where the Court finds no such ambiguity—the taxpayer reference, for example—it treats a single observation in a six-page memorandum opinion as sufficient grounds for reversal. Maj Op. at 35–40. That is not extending deference to the circuit court's exercise of discretion. Rather, it is effectively deciding that the result is wrong.

The Court's word choices reinforce the point. In the Court's own words, the circuit court "purported to apply the lodestar approach[.]" Maj Op. at 31. With respect, those are not the words of a court extending deference. They are the words of a court that has already concluded that it disagrees with the result reached. But nothing in the record supports that characterization. The circuit court presided over this case for two years, conducted a bench trial, reviewed documents *in camera*, heard testimony on the fee petition, and issued a six-page memorandum opinion explaining its reasoning. Whatever else may be said of the circuit court's analysis, it was not unreasonable in light of "the amount involved and the results obtained." *See* Maryland Rule 2-703(f)(3)(H).

As for the circuit court's observation that it "ascribe[d] no evil motive to [C]ounty officials," the Court acknowledges that this statement is "possibly susceptible to different interpretations" and that "[a]nything is possible." Maj. Op. at 35. I do not find the circuit court's statement ambiguous. The Court reasons that the circuit court's use of "County officials" in the plural indicates that it was not referring to the disposition of the knowing-and-willful claims against the County's MPIA Coordinator, Andrew Ford. Maj. Op. at 37 38. But the complaint itself alleged knowing-and-willful violations of GP § 4-362(d) against "Defendants"—both the County and Mr. Ford. The circuit court's plural phrasing tracks the complaint's plural phrasing. I read the statement in context as the circuit court's way of acknowledging the mixed results of the litigation. Sugarloaf pursued knowing-and-willful claims against the County's MPIA coordinator through trial and lost. That was a significant component of the case. A trial court considering the overall results obtained can reasonably note that a plaintiff did not prevail on everything it sought. But even if the statement were ambiguous, under the abuse of discretion standard, the question is not whether a trial court's reasoning is susceptible to more than one interpretation. It is whether no reasonable person could take the trial court's view. The circuit court's phrasing was perhaps imprecise, but imprecision is not abuse of discretion.[1] *Cf. Cook v. State*, 488 Md. 354, 382 (2024) (noting that while the post-conviction court, in one place of its memorandum

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[1] The Court draws a distinction between "evil motive" and knowing-and-willful conduct, noting that the former is typically associated with the standard for punitive damages. Maj. Op. at 38 n.20. That distinction exists in our case law for intentional torts and medical malpractice claims, but it exists nowhere in the MPIA, nor have we ever said as such. Furthermore, there is no indication that the circuit court was invoking the distinction that the Court cites. I understand the circuit court as using the term "evil motive" as a colloquial description of the knowing-and-willful claims that Sugarloaf pursued and lost—not as a legal standard it was applying to the fee determination. In my view, to reverse a trial court's exercise of discretion because it used an imprecise phrase in a written opinion, when its meaning is apparent from context, is unwarranted.

opinion, noted an incorrect standard of review and was "inaccurately worded," that its substance was not "doom[ed,]" because it later stated and applied the correct standard).

The Court is on firmer ground with respect to the circuit court's reference to the burden on Frederick County taxpayers. That is a fair point, and I agree that, standing alone, that would be a problematic basis for reducing a fee award under a fee-shifting statute, such as the MPIA. The General Assembly enacted the fee-shifting provision knowing that governmental entities—and by extension taxpayers—would bear the cost. But it was one observation among several in a written opinion that otherwise rested on permissible considerations. We do not ordinarily reverse a trial court's exercise of discretion because one sentence in its opinion could have been better worded or better, omitted. *See id.*

Having said that, even if I shared the Court's concerns about the circuit court's reasoning, I would not remand this case. We are not directing the circuit court to apply a different legal standard. We are not telling it that any particular factor was given too much or too little weight. We are telling it to do what it already did—apply the lodestar method and weigh the factors under Rule 2-703(f)(3). If the practical effect of the remand is that the Court is telling the circuit court to award substantially more in attorneys' fees, we should say so openly.

Finally, as if to confirm that the Court is reversing simply so the circuit court can award a higher fee, the Majority protests that "[w]ithout speculation or conjecture, there is no apparent rational basis for the adjustment of the $48,813.62 requested, which the circuit court described as reasonable, to the $25,000 awarded." Maj. Op. at 40. I disagree. A circuit court that found mixed results—substantial prevailing on document production, but a loss on knowing-and-willful claims; fourteen documents justifiably withheld; many of the produced documents redundant—could reasonably conclude that the full amount requested overstated the appropriate award. One need not reconstruct the precise arithmetic to recognize $25,000 as a result within the range of reasonable outcomes. That the circuit court found the requested fees "customary and reasonable" is not the same as finding that the full amount must be awarded. The lodestar method expressly contemplates adjustment after that threshold determination. *See Friolo*, 373 Md. at 504–05; *E. Shore Title Co. v. Ochse*, 453 Md. 303, 337 (2017).

The Court acknowledges that "a court is not necessarily required to show its work." Maj Op. at 49. But the effect of today's decision is to require exactly that if the trial judge deviates downward from $48,813. The circuit court's opinion identified the method it applied, the factors it considered, and the result it reached. The Court's objection is that the court's written explanation does not allow us to verify, factor-by-factor, that each consideration was proper and properly weighted. That level of appellate scrutiny is more exacting than abuse-of-discretion review, and its practical consequence will be to require trial courts to produce fee opinions that resemble detailed findings of fact and conclusions of law—a requirement that neither Rule 2-703 nor our case law has imposed. What is more, such a standard undercuts the wisdom that "the language of an opinion is not always to be parsed as though we were dealing with language of a statute." *Reiter v. Sonotone Corp.*, 442 U.S. 330, 341 (1979); *see also Fooks v. State*, 490 Md. 458, 554 (2025) (Biran, J., dissenting) ("[J]udicial opinions are not statutes, and we don't dissect them word-by-word as if they were." (quoting *Kanter v. Barr*, 919 F.3d 437, 454 (2019) (Barrett, J., dissenting))).[2]

In sum, Sugarloaf requested $48,813 in attorneys' fees. The circuit court awarded $25,000. That is not a denial of fees. It is not a token award. It is a considered judgment by the court that watched this litigation unfold from complaint to fee petition. A different judge might have awarded more. A different judge might have awarded less. But that a different judge might have reached a different result is the definition of discretion, not the definition of an abuse of that discretion. I would affirm.

Justice Eaves has authorized me to state that she joins in this opinion.

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[2] In fact, the Court suggests that "it is a best practice for the court to itemize and explain the basis of an award linking the amount awarded to the work performed and the reasons why the award is appropriate under lodestar approach as adjusted by application of the factors set forth in Maryland Rule 2-703(f)(3)." Maj. Op. at 43. I submit that was done in this case. To the extent what the circuit court did here is insufficient, then what the Court envisions is something to which contested litigation does not lend itself. Claims overlap, unsuccessful efforts contribute to ultimate success in ways that resist quantification, and billing entries rarely map neatly onto discrete outcomes. A trial court cannot reasonably be expected to sift through each entry, segregate the meritorious from the unsuccessful, and produce a written explanation linking every dollar of the award to specific work that bore fruit. That is an unworkable standard that we should not require.