

**2025 FAMILY PRACTICE UPDATE**

**LEGISLATION AND CASE LAW DEVELOPMENTS**

**Maryland State Bar Association  
August 21, 2025**

**Presenters: Paul Reinstein, Heather Sweren &  
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**Table of Contents**

**TABLE OF CASES** ..... 7

**I. INTRODUCTION**..... 9

**II. 2025 LEGISLATION** ..... 9

**A. CUSTODY**..... 9

**B. MARRIAGE**..... 9

**C. CHILD SUPPORT** ..... 10

**D. DOMESTIC VIOLENCE** ..... 11

**E. ADOPTION** ..... 11

**F. REAL ESTATE** ..... 12

**G. FINANCIAL – MORTGAGES** ..... 12

**H. 2025 NEW MARYLAND RULES** ..... 12

**I. PROPOSED RULE CHANGE – REMAND TO RULES COMMITTEE** ..... 13

**III. CASE LAW DEVELOPMENTS**..... 13

**A. MARRIAGE – GROUNDS FOR DIVORCE – ANNULMENT – None.**

**B. ADOPTION – GUARDIANSHIP – CINA – TPR**..... 13

**C. DOMESTIC VIOLENCE**..... 18

**D. CUSTODY – VISITATION – PATERNITY** ..... 23

**E. CHILD SUPPORT** ..... 27

**F. ALIMONY – None.**

**G. MONETARY AWARD**..... 33

**H. CONTEMPT**..... 35

**I. ATTORNEY’S FEES** ..... 40

<b>J. AGREEMENTS .....</b>	<b>42</b>
<b>K. APPEALS – None.</b>	
<b>L. MISCELLANEOUS .....</b>	<b>48</b>
<b>IV. APPENDIX .....</b>	<b>59</b>

## Table of Cases

<i>Adelakun v. Adelakun</i> , 263 Md. App. 356, 323 A.3d 499 (2024) .....	31
<i>Adelakun v. Adelakun</i> , 490 Md. 201, 333 A.3d 1203 (2025) .....	32
<i>Adelakun v. Adelakhun</i> , __ Md. __, __ A.3d __ (2025), 2025 WL 1804903 .....	32
<i>AGC v. Donnelly</i> , 486 Md. 454, 310 A.3d 1110 (2024) .....	48
<i>AGC v. Whitted</i> , 487 Md. 501, 319 A.3d 1116 (2024) .....	50
<i>Augustine v. Wolf</i> , 264 Md. App. 1, 327 A.3d 120 (2024).....	19
<i>Bajaj v. Bajaj</i> , 262 Md. App. 435, 319 A.3d 435 (2024).....	24
<i>Charles v. Charles</i> , 265 Md. App. 631, 336 A.3d 728 (2025).....	20
<i>Esposito v. State</i> , 264 Md. App. 54, 328 A.3d 830 (2024).....	55
<i>Francis v. Francis</i> , 263 Md. App. 307, 323 A.3d 471 (2024) .....	30
<i>Freeman v. State</i> , 487 Md. 420, 318 A.3d 1241 (2024) .....	49
<i>George v. Bimbira</i> , 265 Md. App. 505, 335 A.3d 252 (2025) .....	40
<i>Harrod v. State</i> , 261 Md. App. 499, 314 A.3d 415 (2024) .....	49
<i>Hollabaugh, v MRO Corporation</i> , __ Md. __, __ A.3d __ (2025), 2025 WL 1903601....	58
<i>Houser v. Houser</i> , 262 Md. App. 473, 319 A.3d 1186 (2024).....	27
<i>Hripunovs v. Maximova</i> , 263 Md. App. 244, 322 A.3d 813 (2024) .....	18
<i>In re: Estate of Schappell</i> , 260 Md. App. 532, 310 A.3d 1181 (2024) .....	13
<i>In re: Estate of Schappell</i> , 489 Md. 654, 331 A.3d 471 (2025).....	14
<i>In re: I.Q.</i> , 264 Md. App. 265, 329 A.3d 517 (2025) .....	16
<i>In re M.Z.</i> , 490 Md. 140, 333 A.3d 580 (2025) .....	17
<i>In re: Z.A., K.P.</i> , 261 Md. App. 293, 312 A.3d 879 (2024).....	15
<i>In re: Z.F. &amp; B.F.</i> , __ Md. App. __, __ A.3d __ (2025), 2025 WL 1805471.....	21

<i>Issar v. Robertson</i> , 265 Md. App. 435, 335 A.3d 212 (2025) .....	56
<i>Johnson v. Spireon</i> , __ Md. App. __ A.3d __ (2025), 2025 WL 1778990 .....	41
<i>Jun v. State</i> , 265 Md. App. 459, 335 A.3d 225 (2025).....	57
<i>Matter of Batchelor</i> , 260 Md. App. 456, 310 A.3d 1136 (2024) .....	42
<i>Matter of Bodhi Sico Becker</i> , 265 Md. App. 301, 335 A.3d 133 (2025) .....	47
<i>Matter of Marriage of Houser</i> , __ Md. __, __ A.3d __ (2025), 2025 WL 1779189 .....	28
<i>Matter of Isely</i> , 489 Md. 374, 330 A.3d 682 (2025) .....	46
<i>Matter of the Honorable April T. Ademiluyi</i> , 488 Md. 45, 321 A.3d 142 (2024) .....	51
<i>McMorrow v. King</i> , 264 Md. App. 708, 332 A.3d 691 (2025).....	25
<i>Mergner v. Estate of John G. Mergner</i> , 264 Md. App. 423, 330 A.3d 1151 (2025) .....	45
<i>Parks v. State</i> , 263 Md. App. 83, 321 A.3d 1240 (2024) .....	29
<i>Pattison v. Pattison</i> , 262 Md. App. 504, 319 A.3d 1204 (2024).....	43
<i>Pattison v. Pattison</i> , __ Md. __, __ A.3d __ (2025), 2025 WL 2057986 .....	45
<i>Sayed A. v. Susan A.</i> , 265 Md. App. 40, 333 A.3d 941 (2025).....	37
<i>Shapiro v. Hyperheal Hyperbarics, Inc.</i> , 263 Md. App. 424, 323 A.3d 1202 (2024) .....	53
<i>Sims v. Sims</i> , __ Md. App. __, __ A.3d __ (2025), 2025 WL 1792885 .....	34
<i>Smith v. Smith</i> , 266 Md. App. 106, 337 A.3d 162 (2025) .....	33
<i>Trusted Science and Technology Inc. v. Evancich</i> , 262 Md. App 621, 320 A.3d 474 (2024) .....	35
<i>Velasquez v. Fuentes</i> , 262 Md. App. 215, 318 A.3d 18 (2024) .....	23

## **I. INTRODUCTION**

**These materials focus on the legislation passed in 2025 and cases decided from January 1, 2024 through July 31, 2025.**

## **II. 2025 LEGISLATION**

Editor's Note: The following are summaries of family law legislation (and related bills) passed in 2025. House bills are designated HB and Senate bills are designated SB. All bills may be viewed by going to the Maryland General Assembly's website and typing in the bill number on the homepage. Unless otherwise indicated, these bills go into effect October 1, 2025. A copy of the bills (with amendments noted) is attached hereto as part of the Appendix.

Many thanks to Michelle D. Smith of Trainer, Billman, Bennett, Milko and Smith, LLP for her bill summaries.

### **A. CUSTODY:**

#### 1. HB 1191/SB 548 Child Custody -Determinations

Synopsis: Authorizes the court, in determining legal and physical custody in child custody proceedings, to consider certain factors and requiring the court to articulate its findings of fact on the record or in a written opinion, including the consideration of each of the factors and any other factor the court considered. Establishes that the court may modify a child custody order if the court determines that there has been a material change in circumstances that relates to the needs of the child or ability of the parents to meet those needs and the modification is in the best interest of the child. Establishing that a parent's proposal to relocate the residence of the child which would cause physical custody to be impracticable constitutes a material change in circumstances (see attached custody factors).

Result: Passed; Amends FL §§ 9-101, 9-101.1, 9-101.2, 9-201 and 9-202. Effective date October 1, 2025.

### **B. MARRIAGE:**

#### 1. HB 323/SB 286 Domestic Partnership and Marriage – Required Information

Synopsis: Requires a declaration of domestic partnership filed with Register of Wills to include the date of birth and social security number of each party and restricts the disclosure of the social security number as a public record.

Result: Passed; Amends E&T §§2-214(a) and (d); 2-402. Effective date October 1, 2025.

2. HB241/SB 142 Marriage – Confidential Communications

Synopsis: Establishes that a spouse (including former spouse) who is the alleged victim is competent to disclose a confidential communication between spouses occurring during their marriage in a criminal action in which one spouse is charged with a crime against the other spouse. Clarifies that a spouse may not be compelled to testify to a confidential communication by the State.

Result: Passed; Amends C&JP §9-105. Effective date October 1, 2025.

**C. CHILD SUPPORT:**

1. HB 275 Child Support – Multifamily Adjustment

Synopsis: Alters the definition of “adjusted actual income” under the guidelines to include an allowance for support for each child (not subject to the support order) living in a parent’s home to whom the parent owes a legal duty of support if the child is spending more than 92 overnights in the home per year. The allowance is calculated using only the actual income of the parent entitled to the deduction and then multiplied by 75% and that sum is subtracted from the parent’s actual income before the court determines the amount of a child support award. Permits the court to use discretion to consider the allowance or disallow the allowance in the best interests of the child for whom support is being determined.

Result: Passed; Amends FL §§10-119, 12-202, 16-203(b). Effective date October 1, 2025.

2. HB 681 Child Support – Driver’s License Suspension for Arrearages and Court Orders

Synopsis: Alters the circumstances under which Child Support Administration may notify the MVA of an individual’s child support arrearages for the purpose of suspending his/her privilege to drive. Changes the time period for the obligor being out of compliance from 60 days to 120 days and excepts out obligors whose individual income for the current year is not greater than 250% of the Federal Poverty Guidelines unless he/she was found to be voluntarily impoverished under the most recent child support order.

Result: Passed; Amends FL §§10-119, 12-202, 16-203(b). Effective date October 1, 2025.

3. HB 261 Estates and Trusts – Priority of Claims on an Estate – Unpaid Child Support

Synopsis: Prioritizes the payment of unpaid child support over certain other claims on an estate of a decedent with insufficient assets to pay all claims in full.

Result: Passed; Amends ET §8-105. Effective date October 1, 2025.

**D. DOMESTIC VIOLENCE:**

1. HB 929 / SB 721 Permanent Protective Orders – Consent

Synopsis: Specifies that an individual may consent to the issuance of a permanent protective order against him/herself.

Result: Passed; Amends FL §4-506(k). Effective date October 1, 2025.

2. HB 533 / SB 273 Peace Orders and Protective Orders – Military Protection Orders

Synopsis: Authorizes a judge to consider whether a military protection order has been issued against a respondent when determining whether to grant a temporary peace or protective order with similar acts. Requires a law enforcement officer, in certain circumstances, to notify the agency that entered the military protective order that it may have been violated by the service member.

Result: Amends C&JP §§3-105, 3-1504(a)(1), 3-1508, 4-501, 4-505 (a)(1) and 4-509. Effective date October 1, 2025.

3. HB 236 / SB 92 Peace Orders and Criminal Harassment – Intentional Visual Surveillance

Synopsis: Alters the acts that constitute criminal harassment to include certain intentional visual surveillance of a residence in which the other person has a reasonable expectation of privacy. Expands the relief that may be included in a Peace Order, such as removing the device or ordering the respondent to refrain from visual surveillance.

Result: Passed; Amends C&JP §§ 3-105 (a), (i), (a) (d)(1), and 3-1503 (a) (1) and CR § 3-803. Effective date October 1, 2025.

**E. ADOPTION:**

1. HB 243 Adoption of an Adult

Synopsis: Authorizing a petitioner's spouse to join in the petition for adoption if the adoptee is an adult, and certain sections that do not apply if the adoptee is an adult such as parental consent and certain investigations that apply to adoptee minors.

Result: Passed; Amends §§ FL 5-3B-13, 5-3B-15, 5-3B-16, and 5-3B-20. Effective date October 1, 2025.

## **F. REAL ESTATE:**

### **1. HB 767 Real Property – Landlord and Tenant – Procedures for Tenant Holding Over**

Synopsis: Requires a landlord to provide certain notice to a tenant holding over under certain circumstances; establishing certain procedures and requirements for the execution of a warrant of repossession. After a court has issued a warrant of restitution, the landlord has 6 days before the repossession to provide written notice to the tenant, which is done by sending a certified letter, posting on the door, and sending an email/text message to the tenant if the landlord knows the tenant's email address or cell phone number. Also addresses the contents of the notice requirements.

Result: Passed; Amends RP §§8-401(f), (g) and (h); 8-402(b); 8-402.1 and 8-407. Effective date October 1, 2025.

## **G. FINANCIAL – MORTGAGES:**

### **1. SB 689 – Financial Institutions – Conventional Home Mortgage Loans – Assumption**

Synopsis: Requires banking institutions, credit unions and/or mortgage lenders to include a provision in conventional home mortgage loans authorizing any of the existing borrowers to purchase the property interest of another borrower on the loan by assuming the seller's portion of the mortgage if the assumption is in connection with the granting of a decree of absolute divorce and the bank/mortgage lender determines that the assuming borrower qualifies for the loan.

Result: Passed; Amends FI §§5-514, 6-601.1, 6-606, 11-501(a), (b-1), (c), (k), (l), (n), and (r), 11-522, 11-601(a) and (q). Effective date: The operative sections apply retroactively to any loan entered into prior to the effective date of October 1, 2025. Loans that exceed the lending limits of the FHFA, entered into prior to October 1, 2025, shall be deemed to include the same provision for divorce decrees entered on or after October 1, 2025.

## **H. 2025 NEW MARYLAND RULES**

Editor's Note: The following are summaries of the relevant Maryland Rules that shall take effect and apply to all actions commenced on or after January 1, 2025 as indicated and, insofar as practicable, to all actions then pending, unless otherwise indicated. A copy of the Rules (with amendments noted) is attached hereto as part of the Appendix.

### **1. RULE 9-205.3 – Custody and Visitation Related Assessments**

Synopsis: Adds continuing education, licensure and training requirements that conform to guidelines established by the Judiciary and expands the topics for which the

evaluator must have demonstrated experience and knowledge of including new topics: family violence, trauma and its impact on children and adults. Amended Rule effective date January 1, 2025.

2. RULE 19-301.15: Rules of Professional Conduct – Safekeeping Property

Synopsis: Amends subsection (c) to eliminate the ability of client to consent to allow attorney to withdraw escrow funds before fees are earned or expenses incurred. Effective date July 1, 2025.

**I. PROPOSED RULE CHANGE - REMANDED TO RULES COMMITTEE**

1. RULE 2-510.2: Subpoenas – Financial Information

Synopsis: New proposed rule requiring filing of military service affidavit when issuing subpoena compelling production of financial records under Financial Institutions Article § 1-304. Remanded by Order September 13, 2024.

**III. CASE LAW DEVELOPMENTS**

Editor’s Note: The following are summaries of reported cases from January 1, 2024 through July 31, 2025, in the area of family law and in other areas of the law that may provide guidance to all practitioners generally. The Appellate Court of Maryland is referred to as AC and the Supreme Court is referred to as SC. In addition to the presenters, thank you to Maureen Renehan, Esq., Samantha H. Pollin, Esq., Kayleigh Anselm, Esq., and Madison Tse, Esq. all of Brodsky, Renehan, Pearlstein & Bouquet, Chartered, for their summaries of the cases.

**A. MARRIAGE – GROUNDS FOR DIVORCE – ANNULMENT – None.**

**B. ADOPTION – GUARDIANSHIP – CINA – TPR**

1. *In re: Estate of Schappell*, 260 Md. App. 532, 310 A.3d 1181 (2024). Filed February 28, 2024. Eyler, S.J. Circuit Court for Montgomery County (Hessler, J.), vacated and remanded.

**A. FACTS:**

(1) Stepdaughter of decedent who died intestate, leaving no surviving spouse, biological children, siblings, parents, or grandparents, petitioned for judicial probate and for determination of heir, seeking to be treated as the child of the decedent for purposes of intestate succession based on equitable adoption doctrine. The Court denied intestate heir’s petition for summary judgment and granted stepdaughter’s petition to transfer issues to Circuit Court. Intestate heir appealed.

**B. HOLDING: MD PRECEDENT DOES NOT REQUIRE HOLDING THAT CONTRACT/AGREEMENT TO ADOPT, EXPRESS OR IMPLIED IN FACT, IS REQUIRED.**

(1) Equitable adoption has continued to develop since 1997, when the most recent case was decided. In that time, it has been recognized by courts applying principles of fairness, looking to the intention of the decedent, and all relevant circumstances.

(2) If a person seeks to establish that he/she is an intestate decedent's equitable child and heir, that person must prove that he/she and the decedent, objectively and subjectively, intended to and did live as child and parent. It is insufficient merely to prove that a close familial relationship existed between them.

**C. HOLDING: EQUITABLE ADOPTION NOT TANTAMOUNT TO EQUITABLE INHERITANCE OR EQUITABLE ESTATE PLANNING.**

**D. HOLDING: COURT COULD ONLY TRANSFER ISSUE OF EQUITABLE ADOPTION TO CIRCUIT COURT BECAUSE IT WAS A MIXED QUESTION OF LAW AND FACT.**

**E. HOLDING: COURT WITHIN ITS DISCRETION TO DENY SUMMARY JUDGMENT AND DEVELOP A FULL RECORD AT TRIAL.**

**But see...**

2. *In re: Estate of Schappell*, 489 Md. 654, 331 A.3d 471 (2025). Filed February 11, 2025. Watts, J. AC vacated and remanded Circuit Court for Montgomery County (Hessler, J.), SC reversed and remanded AC with instructions.

**A. FACTS: SEE ABOVE**

**B. HOLDING: WHERE DECEDENT DIES INTESTATE AND HAS NO SURVIVING SPOUSE OR DOMESTIC PARTNER, BIOLOGICAL OR LEGALLY ADOPTED CHILDREN, PARENTS, SIBLINGS, OR GRANDPARENTS, CLAIMANT MAY ESTABLISH THE RIGHT TO INHERIT UNDER THE DOCTRINE OF EQUITABLE ADOPTION BY DEMONSTRATING CLEAR AND CONVINCING PROOF OF DECEDENT'S INTENT TO ADOPT AND THAT DECEDENT ACTED IN ACCORD WITH THAT INTENT.**

(1) The Court held:

[T]he intent-based test approach is a two-step one involving, first, proof of a decedent's intent to adopt through evidence of a direct expression of the intent and, second, proof that the decedent acted in a manner consistent with that intent by holding the claimant out to the public as the decedent's natural or legally adopted child and treating the claimant as a natural or legally adopted child.

We note that the two-step test that we adopt today differs from the test that the Appellate Court used in this case, which focused on the decedent's intent to treat the claimant as a natural or legally adopted child and not on the decedent's intent to adopt the claimant. As we see it, because the purpose of the doctrine of equitable adoption is to effectuate equitable inheritance where an individual dies intestate, see, e.g., *Browning*, 333 Md. at 287-88, 635 A.2d at 377, it makes sense that a decedent's intent to adopt should govern the analysis.

...

***Our holding is limited to the circumstance of this case***—inheritance from an intestate decedent who died with no surviving spouse, registered domestic partner, surviving issue, parents, siblings, or grandparents—where a claimant, such as a stepchild, can satisfy the two-part test we adopt today.” At 699 (emphasis added).

3. *In re: Z.A., K.P.*, 261 Md. App. 293, 312 A.3d 879 (2024). Filed March 28, 2024. Wells, C.J. Circuit Court for Montgomery County (Burrell, J.), affirmed in part and vacated in part.

**A. FACTS:**

(1) CINA proceedings wherein, after permanency plan was changed from adoption to reunification, Court ordered the department to pay for mother to travel by train to North Carolina as well as for hotel accommodations to facilitate mother's monthly visitation with the children, who were placed in foster care there, as part of permanency plan of reunification. The department appealed.

**B. HOLDING: NON-FINAL ORDER DIRECTING DEPARTMENT TO PAY FOR MOTHER'S TRAIN TICKETS AND HOTEL ACCOMMODATIONS TO FACILITATE VISITATION WAS COLLATERAL ORDER APPROPRIATE FOR INTERLOCUTORY REVIEW.**

**C. HOLDING: NO FREE-STANDING LIMITATION UPON COURTS THAT PREVENTS FROM ORDERING THE SPENDING OF MONEY ON SPECIFIC PRIVATE PARTY.**

**D. HOLDING: MD SEPARATION OF POWERS DOCTRINE NOT IMPLICATED BY ORDER DIRECTING DEPARTMENT TO PAY FOR MOTHER'S TRANSPORTATION TO NORTH CAROLINA AND OVERNIGHT ACCOMMODATIONS.**

**E. HOLDING: REGULATIONS SPECIFYING REQUIREMENTS FOR DEPARTMENTS' DEVELOPMENT OF PERMANENCY PLAN FOR COURT'S**

**REVIEW IN CINA CASE DID NOT CONFER ON DEPARTMENT SOLE DISCRETION TO DETERMINE HOW IT WOULD PROVIDE SERVICES.**

(1) Although juvenile court acted within its authority in ordering department to pay for mother's transportation to North Carolina and accommodations to facilitate visitation with children, it abused its discretion by directing that mother's transportation be by train, and that she be provided with hotel room, as opposed to other form of overnight accommodations.

4. *In re I.Q.*, 264 Md. App. 265, 329 A.3d 517 (2025). Filed January 3, 2025. Nazarian, J. Circuit Court for Baltimore City (Dorsey, III, J.) affirmed.

**A. FACTS:**

(1) On January 9, 2019, a 3-month-old child was hospitalized with serious and severe injuries caused by abuse and neglect. These injuries, which remain unexplained, but for which mother and father were responsible, left the child blind permanently and at risk for developmental delays. On January 10, 2019, the Court, sitting as the juvenile court, found the child to be a CINA and committed him to the DSS. Once released from the hospital, the child was placed in a foster home for medically fragile children.

(2) The juvenile court has held several CINA review hearings over the past 5 years to revisit and, in some instances, modify the child's permanency plan and visitation schedule. DSS also initiated TPR proceedings in 2021 that have followed a parallel path alongside the CINA case in the juvenile court.

(3) On December 13, 2023, the CINA court ordered a change in the child's permanency plan to reunification and granted Mother unsupervised visits. The Child appealed this decision. DSS filed a notice of appeal as well. This CINA review hearing, and the December 13, 2023 order that followed it, are the subject of the first appeal in this case.

(4) While the CINA appeal was pending in this Court, Mother filed a motion in the TPR case to dismiss the TPR petition or to hold it sub curia until the CINA appeal was resolved. The juvenile court held a hearing on May 30, 2024. The parties presented their arguments on the motion and Mother requested, for the first time, that the court expand Mother's visitation rights to include monthly overnight visits. The Court decided to hold the TPR petition sub curia until this Court issued an opinion in the CINA case. At the end of the hearing, the Court granted Mother 1 overnight visit per month with the condition that an Applied Behavior Analysis specialist be present for part of the visit. Both the child and DSS appealed, which is the 2nd appeal in this case.

**B. HOLDING: DSS AND CHILD CAN APPEAL CINA COURT'S RULINGS UNDER CJP § 12-303(3)(X).**

**C. HOLDING: OPINION IN A TPR CASE IS NOT LAW OF THE CASE IN A CINA CASE INVOLVING THE SAME PARTIES.**

**D. HOLDING: COLLATERAL ESTOPPEL DOES NOT BAR JUVENILE COURT FROM RULING ON SIMILAR ISSUES IN THE CINA CASE.**

**E. HOLDING: CINA COURT HAS AUTHORITY TO CONDUCT ONGOING HEARINGS AND MAKE DETERMINATIONS CONCERNING PERMANENCY PLANS AND VISITATION STRUCTURE NOTWITHSTANDING AN ONGOING TPR CASE.**

**F. HOLDING: DSS AND THE CHILD CAN APPEAL THE TPR COURT'S RULINGS UNDER CJP § 12-303(3)(X).**

**G. HOLDING: AC'S STANDARD OF REVIEW IS WHETHER THE FACTUAL FINDINGS OF TPR COURT WERE CLEARLY ERRONEOUS IN DETERMINING VISITATION.**

5. *In re M.Z.*, 490 Md. 140, 333 A.3d 580 (2025). Filed March 24, 2025. Killough, J. Circuit Court for Baltimore County (Battista, J.). AC's dismissal of appeal reversed and remanded by SC.

**A. FACTS:**

(1) This case first came before the AC in an unreported opinion, whereby the AC denied Mother's appeal. The SC granted certiorari to address the question of "when a circuit court terminates its jurisdiction in a CINA case over the objection of a parent, is the parent "aggrieved" by the court's judgment such that the parent is entitled to appeal?"

(2) This case concerns a teenager, M.Z., who started receiving services through DSS in 2019. M.Z. exhibited troubling behavior, including running away from the home, sexual relationships with adults, alcohol abuse, and physically attacking Mother. In October 2022, Mother stated she was concerned for M.Z. and felt she could not manage her daughter's behavior in a Family Team Decision Meeting with the Department.

(3) On October 21, 2022, a social worker from the Department and Mother got M.Z. placed in The Children's Home. At some point following completion of a 90-day diagnostic program at the Children's Home, M.Z. eventually returned home to Mother, but still exhibited some of her prior behaviors. Mother considered requesting another at-home placement but ultimately did not follow through and M.Z. wished to remain home.

(4) At an initial permanency plan review hearing, the magistrate continued the case for 90 days. At the next permanency plan review hearing, Mother renewed her request for the CINA case to continue, while DSS supported termination. The magistrate denied closing the case and ordered a review in 90 days, to which DSS filed exceptions. At the exceptions hearing, the Court sustained DSS's exceptions, and jurisdiction over M.Z. was terminated. The issue at hand is whether Mother is able to appeal the court's decision to terminate jurisdiction and return M.Z. into Mother's care.

**B. HOLDING: MOTHER IS ENTITLED TO APPEAL CLOSURE OF CINA CASE. EVEN THOUGH MOTHER “PREVAILED” BY GETTING FULL CUSTODIAL RIGHTS OVER M.Z., SHE MAY APPEAL AS SHE DID NOT RECEIVE THE FULL RELIEF SHE REQUESTED.**

(1) Determining a parent cannot appeal closure of a CINA case would undermine the CINA statute’s underlying goal of keeping children safe. The Court held: “Affirming the Appellate Court’s decision in this case would allow the termination of a CINA case over a parental objection to evade appellate review, based on the premise that parents are not ‘aggrieved’ once their ‘unfettered right to raise’ their child is restored. This outcome is not only unjust to a parent who properly seeks judicial relief but is then denied appellate review; it also risks serious consequences—such as forcing a concerned parent to accept the closure of a CINA case despite ongoing safety concerns for their child in the home.”

**C. DOMESTIC VIOLENCE**

1. *Hripunovs v. Maximova*, 263 Md. App. 244, 322 A.3d 813 (2024). Filed September 3, 2024. Leahy, J. Circuit Court for Montgomery County (McGuckian, J.) affirmed.

**A. FACTS:**

(1) Wife filed a petition for protection from domestic violence against Husband, claiming he had severely punched, grabbed, and kicked her. An Interim Protective Order was granted, as was the Temporary Protective Order (TPO). Wife’s request for a Final Protective Order (FPO) was denied. Husband subsequently filed for divorce.

(2) 5 days later, Wife filed a new petition, which contained the same allegations as the previous petition, but with additional claims, including death threats by Husband and Husband killing her kittens. A TPO was granted. At the FPO hearing, the Court directed Wife to focus her testimony on events since the denial of her previous protective order. At the conclusion of the hearing, the Court extended the TPO for 2 weeks and set in a second FPO hearing.

(3) The circuit court found that there was a history of abuse and that Wife’s testimony was credible to support further allegations of abuse since the last FPO was denied. Wife was granted an FPO and Husband’s appeal followed.

**B. HOLDING: COURT WAS NOT BARRED BY RES JUDICATA AND COLLATERAL ESTOPPEL FROM ENTERING PROTECTIVE ORDER. ALTHOUGH THE PARTIES WERE THE SAME, WIFE’S 2ND PETITION CONSTITUTED A DIFFERENT CAUSE OF ACTION.**

2. *Augustine v. Wolf*, 264 Md. App. 1, 327 A.3d 120 (2024). Filed November 22, 2024. Ripken, J. Circuit court for Cecil County (Brown, J.) reversed in part, vacated in part, and remanded in part.

**A. FACTS:**

(1) In March 2018, the parties consented to an initial custody order, which granted them joint legal and physical custody of their minor child, B. In January 2021, a TPO was entered, which granted Mother temporary custody of the minor child. The TPO was following allegations of sexual assault of B. by Father and directed DSS to do an investigation.

(2) B. made statements during a forensic interview with a CPS assessor and certified forensic interviewer, which DSS found revealed abuse. In February 2021, the DSS investigation made a finding of “indicated” sexual abuse.

(3) On March 9, 2021, a FPO hearing (“2021 hearing”) was held. The Court denied Mother’s petition stating that though it had reviewed the DSS report which contained B.’s statement that Father anally penetrated B., the statements were not substantiated by a medical examination of B.

(4) Following the outcome of the FPO hearing, Mother continued to allege to 3rd parties that Father had abused B. Mother filed for a new trial and was denied and sought *en banc* review, but a 3-judge panel affirmed the protective order court’s decision.

(5) Between 30-40 reports were submitted to DSS on B’s behalf by Mother and B’s teachers and healthcare providers. None of them resulted in findings of abuse. DSS also retroactively ruled out their finding from February of 2021.

(6) In 2022, Mother filed to modify custody alleging that Father’s past and continuing sexual abuse of B. was a material change in circumstances. At some point during the custody modification case, a BIA was appointed for B.

(7) Father filed a motion *in limine* requesting that mother be precluded from arguing that Father abused B. prior to March 9, 2021, since her prior protective order petition was denied. In a hearing to address the motion *in limine*, the Court found that *res judicata* did not apply, but that Mother was collaterally estopped from introducing evidence that Father abused B. before 2021, unless it was relevant for purpose other than determining Father abused B. The Court stated that Mother had already had a fair opportunity to be heard on that issue.

(8) Following the hearing on the motion to modify custody, the court modified custody by vesting Father with tie breaking authority. The Court did not find by a preponderance of the evidence that B. had been sexually abused following the 2021 hearing, and stated it was concerned about the impact Mother’s mental health and certainty the minor child had been abused would have on B. Mother filed this appeal.

**B. HOLDING: “A COURT’S DENIAL OF A FPO DOES NOT LATER PRECLUDE EVIDENCE, ARGUMENT, OR JUDICIAL FINDINGS OF ABUSE IN SUBSEQUENT CUSTODY PROCEEDINGS.”**

(1) The court recognized the importance of the doctrine of collateral estoppel but noted that full consideration of the best interest of the child is an “indefeasible right” in a custody proceeding.

**C. HOLDING: COLLATERAL ESTOPPEL WAS NOT APPLICABLE IN THIS CASE AS THE MINOR CHILD WAS NOT A PARTY WHO WAS FULLY REPRESENTED IN THE PROTECTIVE ORDER PROCEEDING.**

(1) B. had independent representation at the custody hearing but not during the protective order hearing. As such, B. was not “fully represented, with the same incentives, by another party in the prior matter [.]” so collateral estoppel did not apply.

**D. HOLDING: CHILDREN ARE NOT CONSIDERED INHERENTLY TO BE IN PRIVACY WITH THEIR PARENTS.**

(1) Mother’s judgment could be clouded due to the nature of the dispute in the custody hearing. Also, Mother did not have the ability to waive privilege for B’s therapist in the protective order hearing, unlike the BIA in the custody hearing. As such, Mother is seemingly unable to fully represent B.’s position during the protective order proceeding.

3. *Charles v. Charles*, 265 Md. App. 631, 336 A.3d 728 (2025). Filed May 30, 2025. Nazarian, J. Circuit Court for Montgomery County, Maryland (Acosta, J.) affirmed.

**A. FACTS:**

(1) The parties were married and had 2 children together. After making 2 prior requests for a divorce, Wife made a 3<sup>rd</sup> request on July 3, 2023. Husband did not wish to proceed with a divorce and came to Wife’s bedroom to attempt to reconcile with her. He touched her in what she considered to be a sexual manner, which Wife did not approve of. Following Wife’s rejection of these advances, Husband filed a Complaint for Divorce. That same evening, Wife filed a petition for protection from domestic violence based on Husband’s sexual touching. A TPO was issued on July 24, 2023, and a hearing on the FPO was scheduled for August 7, 2023. The parties reached an agreement on custody before the FPO Hearing, and Wife dismissed her petition.

(2) On August 21, 2023, Husband filed a defamation suit against Wife based on what he alleged were false statements in her petition. On September 14, 2023, counsel for Wife emailed Husband informing him that an absolute privilege applied to statements made by Wife in the protective order case. That did not dissuade Husband. Instead, soon after, he amended his Complaint to add abuse of process, malicious use of process, negligence, and intentional infliction of emotional distress. He then voluntarily dismissed all but 2 counts, leaving abuse of process and malicious use of process.

(3) Wife filed a motion to dismiss Husband's defamation suit, and after a hearing, the Court dismissed the suit with prejudice. A hearing as to Wife's request for counsel fees was then scheduled for the following month. 3 days before the scheduled hearing, Husband requested to participate remotely. The request was denied, Husband did not appear at the hearing, and the Court ordered Husband to pay Wife \$12,693 in fees. Husband appealed.

**B. HOLDING: COURT DID NOT ERR IN DISMISSING HUSBAND'S DEFAMATION CLAIM BECAUSE HE FAILED TO PLEAD SUFFICIENT FACTS TO SUPPORT HIS CLAIM.**

**C. HOLDING: COURT DID NOT ERR IN AWARDING WIFE COUNSEL FEES BECAUSE RECORD SUPPORTS BAD FAITH FINDING.**

4. *In re: Z.F. & B.F.*, \_\_ Md. App. \_\_, \_\_ A.3d \_\_ (2025), 2025 WL 1805471. Filed July 1, 2025. Leahy, J. Circuit Court for Baltimore County (Ballou-Watts, J.) affirmed.

**A. FACTS:**

(1) The parents were divorced. Mother had primary physical custody of the children (Z.F., born in July 2012, and B.F., born in April 2016). Mother and the children were living together with the children's half-sister, L.R. (born in October 2008).

(2) In December 2022, Mother exhibited signs of paranoia and made the children and L.R. stand outside in freezing weather. L.R. ran away and contacted their grandmother. Grandmother took L.R. to the hospital, and it was determined that L.R. had sustained various assault injuries, which were allegedly caused by Mother.

(3) It was ultimately recommended that Mother be taken for a psychological evaluation, and the children were placed in emergency shelter care with Grandmother. DSS then filed a CINA petition and requested continued shelter care. The juvenile court granted the request, placing the children in DSS's custody pending a hearing on the CINA petition, and the court granted temporary limited guardianship to DSS and Grandmother. Mother was granted liberal and supervised visitation.

(4) Mother was arrested for the assault of L.R. and eventually released under a no-contact order pending resolution of the criminal case.

(5) The court declared the children CINA and determined that Mother suffered from untreated mental health issues making the home unsafe. The court ordered that custody of the children would be with DSS and granted DSS and Grandmother temporary limited guardianship with Mother having liberal and supervised visitation. Reunification was the sole permanency plan, and related hearings were scheduled.

(6) Mother completed court-ordered parenting classes and anger management classes, and she followed the no-contact order. She continued to contact Grandmother to stay informed regarding the children. Mother did not sign a release for information from Bloom Health, her mental health provider, and she provided no employment verification. DSS recommended that

the permanency plan be reunification concurrent with custody and guardianship to a relative, but he court denied the request, finding that DSS made reasonable efforts to finalize the permanency plan.

(7) Information regarding Mother's employment status and mental health treatment remained elusive. The criminal matter resulted with a PBJ, and she was no longer restricted from contact with the children. Notwithstanding, Mother did not respond to attempts to schedule visits. Over an approximately 6-month period, Mother had 2 virtual visits and sporadic phone calls. Meanwhile, the children were thriving with Grandmother. In late September 2023, Mother left her home and failed to provide information regarding her address to Grandmother and to report to her probation agent. A bench warrant was issued. Grandmother testified that Mother was living for 6 months in California and was then in Georgia for a few weeks. Mother denied this.

(8) At the permanency plan review hearing in December 2023, DSS again requested the change to reunification concurrent with custody and guardianship to relative. The magistrate recommended the change, and Mother filed exceptions (including her claim that DSS did not make reasonable efforts by failing to provide Mother with ADA accommodations for her autism). At the hearing on exceptions, Mother withdrew the exception regarding reasonable efforts. The juvenile court denied the exceptions.

(9) In the months that followed, Mother made some progress, but they were limited and short-lived. Her visits remained inconsistent. She was presented with a service plan to sign, but she never did. At the final permanency hearing, which concluded in September 2024, a home study was positive as to the grandparents. DSS requested that custody and guardianship be awarded to Grandmother. The juvenile court found that DSS made reasonable efforts to achieve the permanency plan and that it was in the children's best interest to award custody and guardianship to the grandparents, with Mother having weekly supervised visits. Mother appealed.

**B. HOLDING: DSS IS GENERALLY REQUIRED UNDER ADA TO MAKE REASONABLE ACCOMMODATIONS FOR PARENTS WITH DISABILITIES IN RENDERING REUNIFICATION EFFORTS IN CINA CASES, AS LONG AS PARENTS MAKE DISABILITIES AND ACCOMMODATIONS REQUIRED, KNOWN TO DSS.**

(1) Mother argued that DSS did not satisfy its *reasonable efforts* requirement by failing to meet the definition of the ADA's *reasonable accommodations* requirement.

(2) Mother failed to specify the extent of her disability or accommodations required. Notwithstanding, DSS made efforts to assist with what it could given the limited information it had.

(3) Juvenile court's finding of reasonable efforts was not clearly erroneous.

**C. HOLDING: WHETHER REUNIFICATION SERVICES REASONABLY ACCOMMODATED PARENT'S DISABILITY IS ALREADY GENERALLY INCLUDED WITHIN QUESTION OF WHETHER DSS MET CINA'S REASONABLE EFFORTS REQUIREMENT.**

**D. HOLDING: JUVENILE COURT DID NOT ABUSE ITS DISCRETION IN DETERMINING IT WAS IN CHILDREN’S BEST INTEREST TO TERMINATE CINA PROCEEDINGS AND AWARD CUSTODY AND GUARDIANSHIP TO GRANDPARENTS.**

(1) Mother failed to make sufficient progress toward reunification. Her untreated mental health issues made her home unsafe, she was uncooperative, and she received only sporadic mental health services. On the other hand, Grandparents cared for the children’s needs and provided a stable home.

**D. CUSTODY – VISITATION – PATERNITY**

1. *Velasquez v. Fuentes*, 262 Md. App. 215, 318 A.3d 18 (2024). Filed June 26, 2024. Wells, C.J. Circuit Court for Prince George’s County (Killough, J.) reversed.

**A. FACTS:**

(1) The parties are the parents of GC, born in November 8, 2018 and they were never married. No custody order was in place until the MD proceedings. Father lived in MD, Mother lived in Texas. At some point, GC came to MD to live with Father. Father filed a complaint for custody on 9/21/21, and Mother never filed an answer, despite being properly served. At Father’s request, the court entered an order for default on 2/15/22, and after a hearing on 3/21/22, enrolled a custody order on 4/7/22. Mother had notice of the hearing but did not appear. The custody order provided for joint legal custody, Father to have primary physical custody, and Mother to have a specific access schedule.

(2) Mother did not appeal but instead, on 7/18/22, moved to modify custody. Mother claimed that she was moving to MD. A magistrate denied Mother’s motion based on a finding that she failed to show a material change in circumstances – her move to MD was not a material change, and it was questionable whether Mother was intending to stay in MD.

(3) Mother timely filed exceptions, and after a hearing nearly a year later, on October 6, 2023, the court sustained Mother’s exceptions, and without notice to either party, *sua sponte* vacated the custody order and set the matter for hearing before a magistrate to redetermine custody. Weeks later, Mother moved to set aside the order of default, which the court granted.

(4) Father appealed, raising the issues of whether the court erred in vacating the default order and in granting Mother’s exceptions.

**B. HOLDING: CUSTODY ORDERS, LIKE OTHER JUDGMENTS, ARE FINAL; THUS, ONCE ENTERED THEY CANNOT BE ALTERED/AMENDED, ABSENT COURT ACTION UNDER RULE 2-535, CJP 6-408, OR AT DIRECTION OF THE AC.**

**C. HOLDING: TRIAL COURT DOES NOT HAVE BROAD DISCRETION TO VACATE DEFAULT ORDERS.**

**D. HOLDING: TRIAL COURT MAY REVISE A JUDGMENT *SUA SPONTE* WITHIN 30 DAYS OF ENROLLMENT; THEREAFTER, TRIAL COURT IS PRECLUDED FROM DOING SO EXCEPT IN THE CASE OF FRAUD, MISTAKE, OR IRREGULARITY.**

**E. HOLDING: COURT ERRED WHEN IT RULED MAGISTRATE WAS REQUIRED TO DO BEST INTEREST ANALYSIS.**

(1) The Magistrate determined that there had been no material change in circumstances. That is the threshold determination before considering the best interest of the child and the relevant custody factors. This means that if the court determines there has not been a material change in circumstances, it does not consider the best interest of the minor child.

**F. HOLDING: BECAUSE CUSTODY ORDER WAS VIABLE, DOCTRINE OF RES JUDICATA BARRED MOTHER FROM LITIGATING ISSUES AT EXCEPTIONS HEARING.**

2. *Bajaj v. Bajaj*, 262 Md. App. 435, 319 A.3d 435 (2024). Filed July 31, 2024. Wells, C.J. Circuit Court for Montgomery County (Schweitzer, Burrell, and Cummins, JJ.), judgment of *In Banc* Panel affirmed and remanded for further proceedings.

**A. FACTS:**

(1) The parties were married in India on 3/31/12 and had twins in 2015 (boy and girl). Father was employed as a chief executive of White Star Investments and a volunteer fire fighter, and Mother stayed home with the kids.

(2) In 2021, the marital relationship began to suffer, and on 2/14/22, Father filed for divorce. Mother and the children left the marital home in March 2022. Mother claimed Father had hit the children and attempted to drown their son. Father claimed Mother had withheld overnight access until August 2022, which Mother denied. The trial court did not credit Mother's testimony and ultimately determined that Mother had deliberately estranged the children from Father.

(3) The trial court ultimately found as follows on 12/12/22:

Mother's having denied the children overnights with Father, and "coach[ing]" the children in order to "manufacture[ ]" fear of Father, created a "loyalty bind" between the children and Mother which aligned the children against Father.... Mother's "anxiety" and "hypervigilance" were detrimental to the best interests of the minor children. But due to the strength of the minor children's alienation from Father, the trial court denied Father's requested 50-50, 2-2-5-5 division of physical custody, and granted Father visitation with the minor children on Wednesday nights until 7:00 p.m. and overnight custody on alternating weekends. The trial court ordered a holiday schedule, granting the parties custody for two

weeks of the summer, and dividing the Christmas, Thanksgiving, and spring break holiday periods into two halves.

(4) Father requested an *in banc* review on 12/23/22. Mother filed a motion to dismiss, claiming that the *in banc* panel lacked jurisdiction to hear the matter. Mother's motion was denied. The *in banc* panel questioned the trial court's findings in that it held the children could not spend long periods of time away from Mother, but it also ordered extended periods of visitation with Father on holidays. The panel remanded to the trial judge for an explanation as to why this arrangement was in the children's best interest.

**B. HOLDING: IN BANC PANEL HAS JURISDICTION OVER INTERLOCUTORY CUSTODY ORDER, AND FATHER WAS DEPRIVED OF CUSTODY SINCE HE DID NOT RECEIVE 50-50 CUSTODIAL ARRANGEMENT HE REQUESTED.**

(1) Mother argued that an *in banc* panel lacks jurisdiction to consider a custody order because it is a non-final order, since the divorce issues had not been resolved. Alternatively, Mother argues that the custody order did not entirely deprive Father of custody so it is not appealable.

(2) The AC held that an *in banc* panel has jurisdiction to review an interlocutory custody order. And, Father was deprived of custody because his custody was limited to less than the 50-50 arrangement he requested.

**C. HOLDING: IN BANC PANEL'S REMAND TO OBTAIN A FULLER EXPLANATION BY TRIAL JUDGE AND, IF NECESSARY, RECONSIDERATION OF ACCESS SCHEDULE WAS APPROPRIATE.**

(1) Mother argued there was sufficient evidence in the record for the *in banc* panel to assess the trial court's ruling. However, the AC determined that the issue was not the evidence presented but rather the trial court's reasoning that the panel questioned.

(2) "At the heart of abuse of discretion review is the notion that the trial court errs when it issues an unreasonable order. In matters of child custody, that typically means articulating the logical nexus between the court's factual findings regarding the best interests of the minor child and its custody order." There was a disconnect between the trial court's reasoning given its finding that the children could not be away from Mother for long periods of time but yet ordering extended vacation time for the children with Father. The *in banc* panel's remand for reexplanation and reconsideration of its order was appropriate.

3. *McMorrow v. King*, 264 Md. App. 708, 332 A.3d 691 (2025). Filed March 5, 2025. Hotten, J. Circuit Court for Washington County (Dwyer, J.), affirmed in part, reversed in part, and remanded.

**A. FACTS:**

(1) Mother had the child with Father when she was 19 and Father was 18. Both parents were in college at the time. Before the child's birth on February 10, 2011, it was agreed that the child would live with the paternal grandparents while the parties were in college. The paternal grandparents were the primary caregivers for the child until the child was 7 ½ years old. Father passed away soon after the child was born, on August 17, 2013.

(2) On August 26, 2018, the child began residing primarily with Mother. Shortly after, Mother's relationship with the paternal grandparents became strained. In December 2018, the paternal grandparents filed a Verified Complaint for Custody, or in the Alternative, for Visitation in Montgomery County, alleging among other things that they were de facto parents. The Court granted de facto parenthood status to paternal grandparents. While Mother was granted primary physical and sole legal custody, the paternal grandparents were awarded liberal visitation with the child.

(3) In 2020, Mother got married. In 2022, Mother file a Complaint ("2022 Complaint") for Custody and to Terminate "De Facto Parent Rights" in Washington County, in which she argued that the paternal grandparents' de facto parent status affected her constitutional right to parent the child. The paternal grandfather prevailed on a Motion to Dismiss claiming that Mother was barred by res judicata from relitigating his status as a de facto parent.

(4) Before dismissal of Mother's 2022 Complaint, Mother's husband began adoption proceedings for the child. The paternal grandfather objected, dissuading Mother's husband from adopting the child due to anticipated expensive litigation costs.

(5) In 2023, again in Washington County, Mother filed another Complaint attempting to terminate the paternal grandfather's de facto parenthood status, and in the alternative requesting child support and a modification of custody. The Court dismissed Mother's request to declare de facto parenthood unconstitutional and terminate the paternal Grandfather's de facto parent status as barred due to res judicata. The Court also made small adjustments to paternal grandfather's schedule and denied Mother's child support request. Mother took an appeal which leads us to the instant case.

## **B. HOLDING: MOTHER'S ATTEMPT TO TERMINATE PATERNAL GRANDFATHER'S DE FACTO PARENTHOOD STATUS BARRED BY RES JUDICATA.**

(1) Mother's claim that Grandfather's objection to Mother's husband's adoption petition is not a subsequent fact or changed condition that allows her to relitigate her claim that paternal Grandfather's de facto parenthood status is unconstitutional.

(2) Mother should have originally raised her claim to terminate Grandfather's de facto parenthood status during the litigation in 2018. She failed to do so. Additionally, when she raised the argument that Grandfather's de facto parenthood status interfered with her constitutional parental rights in 2022, it was dismissed. Mother failed to appeal

the rulings in either case, and the decisions became final, barring her from relitigating the issue of Grandfather's de facto parenthood status.

**C. HOLDING: DE FACTO PARENTS MAY BE ORDERED TO PAY CHILD SUPPORT.**

(1) The court held: "But as with any other parent, whether biological or adoptive, a de facto parent who exercises his rights to custody and visitation with a minor child must shoulder a corresponding duty to support that child."

**D. HOLDING: WHEN COURT DENIES REQUEST FOR ATTORNEY'S FEES UNDER FL § 12-103, IT IS NOT REQUIRED SPELL OUT ITS FINDINGS AS TO THE 3 MANDATORY PARTS OF § 12-103(B).**

**E. CHILD SUPPORT**

1. *Houser v. Houser*, 262 Md. App. 473, 319 A.3d 1186 (2024). Filed August 1, 2024. Arthur, J. Circuit Court for Anne Arundel County (Wachs, J.) affirmed.

**A. FACTS:**

(1) The parties were married in 2012 and had 1 child together, born in 2018. The parties separated on 2/14/20. Mother initiated divorce proceedings on 9/18/20, requesting sole custody and child support retroactive to the date of filing. Father filed a counterclaim on 10/13/20. He also requested sole custody and child support retroactive. The parties were able to reach an agreement regarding pendente lite custody and access, but were unable to resolve other issues. The merits hearing was scheduled for 1/24/23.

(2) On 1/19/23, the parties entered into 3 agreements – "Property Settlement Agreement" [PSA], "Custody and Parenting Agreement", and "Child Support Agreement" [CSA]. In the PSA, Mother retained the family home (with approximately \$20,000 of equity), and Father waived his interest in the home. Both parties waived alimony and an interest in the other's retirement assets. In the Custody Agreement, the parties agreed to joint legal custody, Mother having primary physical custody, and Father having 5 of 14 overnights. In the CSA, the parties determined that the child support arrears were \$41,708, but Mother waived all arrears. The parties also agreed that this was an above-guidelines case, and Mother waived the right to receive child support. They further agreed that child support could not be modified for at least 24 months, and that it would not be in the child's best interest to modify within the 24-month period. If either party moved to modify child support within that time, that action would immediately constitute a material change in circumstances entitling a parent to seek a modification of the custody provisions under the Custody Agreement.

(3) Additional provisions under the CSA included Father maintaining health insurance for the child, but Mother was responsible for the first \$6,000 per year in extraordinary medical expenses. Any amount above and beyond \$6,000 would be divided equally. Lastly, Mother was solely responsible for all extracurricular activities and work-related childcare expenses.

(4) The parties appeared for the merits hearing on 1/23/23. After the court learned that pursuant to the MD Child Support Guidelines, Father would owe child support to Mother in excess of \$2,000 per month, the court did not agree to the child support waiver, determining it was not in the child's best interest.

(5) Mother argued that the parties have a constitutional right to decide how to raise their child, and the court should not second-guess the decision of fit and proper parents that it is not in the child's best interest to order child support. The Court disagreed based on the court's obligation to protect the best interest of the child and having found no reason that Father should pay no child support. Ultimately, the Court ordered Father to pay monthly child support of \$2,105. The Court also found that Father owed arrears of \$41,708 and ordered him to pay toward those arrears at the rate of \$195 per month. Both parties appealed and requested that the order be vacated and allow Mother to waive child support.

**B. HOLDING: CHILD SUPPORT GUIDELINES APPLY IN ALL CASES, INCLUDING THOSE THAT ARE UNCONTESTED.**

**C. HOLDING: PARENTS MAY NOT BARGAIN AWAY THEIR DUTY TO SUPPORT THEIR CHILD.**

**D. HOLDING: PARENTS HAD NO CONSTITUTIONALLY PROTECTED LIBERTY INTEREST IN AGREEING THAT FATHER HAD NO OBLIGATION TO PAY CHILD SUPPORT. *TROXEL* ADDRESSED THE INTEREST OF FIT PARENTS IN THE CARE, CUSTODY, AND CONTROL OF THEIR CHILDREN; NOT THE ABILITY TO WAIVE THE LEGAL OBLIGATION TO SUPPORT CHILDREN.**

**AND SEE...**

2. *Matter of Marriage of Houser*, \_\_ Md. \_\_, \_\_ A.3d \_\_ (2025), 2025 WL 1779189. Filed June 27, 2025. Eaves, J. Appellate Court (which affirmed Circuit Court for Anne Arundel County (Wachs, J.)) affirmed.

**A. FACTS: SEE ABOVE.**

**B. HOLDING: REQUESTS MADE IN DIVORCE PLEADINGS FOR CHILD SUPPORT PUT THE ISSUE BEFORE THE COURT.**

(1) The parties argued that the issue of child support was not before the court because neither requested child support. The SC disagreed because both parties included a request for child support in their divorce pleadings. They only sought to withdraw the issue the morning of trial.

**C. HOLDING: "THE SPERE OF A PARENT'S FUNDAMENTAL RIGHTS TO DICTATE THE CARE, CUSTODY, AND MANAGEMENT OF THEIR MINOR CHILD DOES NOT INCLUDE THE RIGHT TO BILATERALLY – AFTER A DIVORCE AND CUSTODY PROCEEDING HAS BEEN INITIATED – WAIVE THE CHILD'S RIGHT TO SUPPORT."**

**D. HOLDING: “A PARENT’S INABILITY TO WAIVE THE ISSUE OF CHILD SUPPORT DOES NOT INFRINGE ON A PARENT’S RIGHT TO DETERMINE THEIR CHILD’S UPBRINGING BECAUSE THE PARENTAL RIGHTS PROTECTED BY THE FOURTEENTH AMENDMENT DO NOT INCLUDE THE RIGHT TO EVADE A LEGAL OBLIGATION TO SUPPORT ONE’S MINOR CHILD.”**

**E. HOLDING: “TRIAL COURT DID NOT ABUSE ITS DISCRETION WHEN IT DECLINED TO ADOPT THE PARTIES’ REQUEST TO AWARD NO CHILD SUPPORT IN AN ABOVE-GUIDELINES CASE BECAUSE THE PARTIES FAILED TO PROFFER ANY REASON SUFFICIENT TO THE TRIAL COURT TO JUSTIFY THAT DETERMINATION.”**

3. *Parks v. State*, 263 Md. App. 83, 321 A.3d 1240 (2024). Filed August 28, 2024. Tang, J. Circuit Court for Kent County (Murphy, J.) affirmed.

**A. FACTS:**

(1) This consolidated appeal involved 2 cases in which Brandon Parks was convicted of willfully failing to provide child support for 2 of his children (with 2 separate women). The sole issue in each case was whether there was sufficient evidence of willfulness.

(2) Parks had a baby with Mother 1 but she did not allow him access with the child. Parks was ordered to pay Mother 1 \$780 per month in child support beginning in May 2021. He made no payments for 1 year despite working part time doing home improvement projects. During this time, Parks was paying rent of \$800 per month. A jury convicted Parks of willful failure to pay child support, and he was sentenced to 1 year, suspended all but 90 days to be served on weekends, plus 5 years of probation.

(3) Parks had a 13-year-old with Mother 2. Parks and Mother 2 had been previously married for 7 years. He saw the child 1-2 weekends per months. In June 2010, Parks was ordered to pay Mother 2 \$282 per month in child support. He made some payments in 2019, but no payments were made from October 2021 through May 2022. Parks often offered Mother 2 help with clothing and school supplies, which Mother 2 did not accept. Parks was working part time during the non-payment period, as discussed above. The judge found Parks guilty of willful failure to pay child support, and he was sentenced to 1 year, suspended all, to run consecutive to the sentence in the first case, followed by 5 years of probation. This appeal followed.

**B. HOLDING: TO SUPPORT CONVICTION FOR WILLFUL FAILURE TO PAY CHILD SUPPORT UNDER FL § 10-203(A), THERE MUST BE EVIDENCE FROM WHICH THE TRIER OF THE FACT CAN DETERMINE THAT OBLIGOR PARENT INTENTIONALLY REFUSED TO SUPPORT THE CHILD DESPITE HAVING THE CAPACITY TO DO SO.**

(1) Willful failure to support presupposes the existence of, or the ability to obtain, the means of support by the parent. In other words, the payor parent must have

the means of paying support or the capacity to obtain the means of paying support. Willfulness is proven by circumstantial evidence and by inferences drawn therefrom.

(2) In the instant case, although there was no evidence about the exact amount of his monthly income, the jury could have concluded that Parks earned or otherwise had the means to pay \$800 monthly rent. Despite having money to pay rent, none was used for child support.

3. *Francis v. Francis*, 263 Md. App. 307, 323 A.3d 471 (2024). Filed September 25, 2024. Tang, J., Circuit Court for Baltimore County (Truffer, J.) affirmed.

#### **A. FACTS:**

(1) The parties were divorced in July 2021. They agreed to joint legal and shared residential custody of the child. Father was ordered to pay child support in the amount of \$957 per month retroactive to December 2020. In April 2022, Father filed a Motion to Modify Custody and Child support alleging a material change in circumstances resulting from his medical retirement from the US Army, which enabled him to care for the child without the need for childcare. He sought primary residential custody and a reduction in child support. In January 2023, Father filed another Motion to Modify stating a decrease in income that impacted his ability to pay support and claiming that Mother had voluntarily impoverished herself. In March 2023, Mother filed her own Motion to Modify Custody and Child Support. She sought sole legal and residential custody and an adjustment to child support. Mother also filed a Petition for Contempt. In October 2021, the Court found Father was in arrears of \$10,777 for unpaid child support and ordered him to pay \$50 per month toward the arrears beginning in December 2021. Father did not pay as ordered.

(2) After a hearing in September 2023, the Court found Father's income to be \$4,149 per month, which included his veteran disability benefits of \$3,986 and an additional payment from the Army in the amount of \$163. The Court imputed income to Mother in the amount of \$2,227 per month. The Court ordered Father to pay Mother prospective child support in the amount of \$926 and declined to modify child support retroactive to the date of filing in April 2022. The court held Father in contempt for failing to pay \$24,745.81 in child support and ordered Father to pay \$100 per month towards the arrears. Father's appeal followed.

**B. HOLDING: VETERANS' DISABILITY BENEFITS ARE CONSIDERED INCOME FOR PURPOSES OF CALCULATING CHILD SUPPORT AND FALL WITHIN THE STATUTORY DEFINITION OF "ACTUAL INCOME" UNDER FL § 12-201(B).**

**C. HOLDING: COURT DID NOT ABUSE ITS DISCRETION BY INCREASING FATHER'S CHILD SUPPORT OBLIGATION DESPITE HIS DECREASED INCOME BECAUSE FATHER CITED TO NO RELEVANT CASE LAW ON THE ISSUE IN HIS BRIEF AND THUS DID NOT COMPLY WITH RULE 8-504.**

**D. HOLDING: COURT CORRECTLY HELD THAT FATHER DID NOT MEET HIS BURDEN OF PROVING HIS DEFENSE TO CONTEMPT CLAIM. ALTHOUGH HE**

**PROVED A DECREASE IN INCOME, HE FAILED TO PROVE HE COULD NOT PAY MORE THAN HE WAS ACTUALLY PAYING.**

3. *Adelakun v. Adelakun*, 263 Md. App. 356, 323 A.3d 499 (2024). Filed September 26, 2024. Graeff, J. Circuit Court for Howard County (Porter, J.). Appeal dismissed.

**A. FACTS:**

(1) The parties participated in a *Pendente Lite* (PL) Hearing on the issues of custody, use and possession, alimony, child support and attorneys' fees. Mother was an attorney and had an ownership interest in her law firm. She was also a CEO and project manager at an IT consulting firm and had an ownership interest in a daycare. Lastly, she owned 4 investment properties. Notwithstanding, she testified that she only earned \$520 per month and did not receive any additional income, owner's draws, commissions, or bonuses. Father was a psychiatrist and owed his own practice, however he had lost multiple clients due to protective orders Mother had filed against him.

(2) The Magistrate denied Mother's request for PL alimony and child support, finding that Mother lacked credibility regarding her income and employment and that her testimony and evidence presented did not prove by a preponderance of evidence that she had a PL financial need. The Magistrate found Father to be more credible, but he also lacked substantial evidentiary support. Therefore, the Magistrate recommended that neither party pay support to the other on a PL basis. She further recommended that the parties be awarded joint legal custody and shared physical custody of the children and that they share the family home on alternate weeks, with each party paying 1/2 of the mortgage.

(3) Mother filed exceptions arguing that the Magistrate erred by not making a finding as to the parties' respective incomes and expenses, and that she abused her discretion in denying Mother PL alimony and child support. Following a hearing, Mother's exceptions were denied by the Court and an Order was signed adopting the Magistrate's recommendations. This appealed followed.

(4) Prior to oral argument, the AC issued a Show Cause Order asking the parties to address why the interlocutory appeal should not be dismissed for lack of jurisdiction.

**B. HOLDING: APPEAL WAS NOT PROPER PURSUANT TO CJ § 12-303(3)(V), WHICH AUTHORIZES AN INTERLOCUTORY APPEAL OF AN ORDER FOR THE PAYMENT OF MONEY.**

(1) Cases involving interlocutory appeals for the payment of PL child support and alimony are appealable since they are Orders for the payment of money. In this case, however, the Court did not issue an order for the payment of money. But rather, the Court denied the Mother's request that Father be ordered to pay PL alimony and child support. Therefore, the order was not appealable pursuant to CJ § 12-303(3)(v).

**C. HOLDING: APPEAL WAS NOT PROPER PURSUANT TO MD RULE 8-602(G)(1) AS TO THE CLAIMS FOR PL CHILD SUPPORT AND ALIMONY.**

(1) Md. Rule 8-602(b) allows a circuit court in some circumstances to enter as a final judgment an order that would not otherwise constitute a final judgment. If the circuit court properly exercises its discretion under this Rule and directs the entry of final judgment in a case to which the rule applies, the order is immediately appealable. Here the Court did not enter judgment pursuant to Rule 2-602

(2) Further, Md. Rule 8-602(g) provides that the AC may exercise its discretion and enter judgment on its own initiative. However, the circumstances in which the AC may do so are extremely limited when the Circuit Court was not asked to exercise its authority under Rule 2-602(b).

(3) In this case, neither party asked the Circuit Court to exercise its authority and enter an immediate order. Therefore, the AC declined to exercise its own discretion to consider the entry of a final judgment.

(4) Because the order was not a final judgment and Mother failed to show it falls within 1 of the exceptions allowing interlocutory appeals, the Court will not consider the merits of the issue raised.

4. *Adelakun v. Adelakun*, 490 Md. 201, 333 A.3d 1203 (2025). Per Curiam Order. Filed April 8, 2025. AC affirmed Circuit Court for Howard County (Porter, J.), and SC affirmed AC. *And see Adelakun v. Adelakun*, \_\_ Md. \_\_, \_\_ A.3d \_\_ (2025), 2025 WL 1804903, which explains the basis for the per curiam order.

**A. FACTS: SEE ABOVE**

(1) After the AC dismissed the interlocutory appeal, Mother filed a petition for writ of certiorari.

**B. HOLDING: CONFIRMING THAT AN INTERLOCUTORY ORDER DENYING PL ALIMONY AND CHILD SUPPORT IS NOT APPEALABLE AS AN ORDER FOR THE PAYMENT OF MONEY PURSUANT TO CJ § 12-303(3)(V).**

(1) “Maryland case law supports our determination that an interlocutory order is appealable as an order for the payment of money under CJ § 12-303(3)(v) only if the order actually directs a party to pay money to the other party.”

(2) In fact, the SC went on to emphasize that, “an order granting a request for *pendente lite* alimony or child support in an amount less than that requested is not appealable by the party who requested the *pendente lite* alimony or child support....Permitting an appeal of an order that does not grant the full amount requested would in essence permit the appeal of the denial of the difference between the amount awarded and the amount requested.”

**F. ALIMONY – None.**

**G. MONETARY AWARD**

1. *Smith v. Smith*, 266 Md. App. 106, 337 A.3d 162 (2025). Filed June 6, 2025. Getty, S.J. Circuit Court for Baltimore County (Battista, J.) reversed and remanded.

**A. FACTS:**

(1) The parties were married in 1990, and divorced in July 1999, following 9 years and 5 months of marriage. Husband retired from the military in 1999 and served a total of 468 months of service (39 years). At the time of the marriage, he had served 6 ½ years in the military on active duty. The balance of his military service, including during the period of the parties' marriage, was as a reservist.

(2) At the time of the divorce a Constituted Pension Order (“CPO”) was prepared and entered. The parties and their respective counsel agreed to the specific wording of the CPO, which awarded to Wife 50% of the marital share of the military retired pay. The parties used the *Bangs* formula to express this award, i.e. the number of months of Husband’s military service / the number of months of his total military service. They agreed that the numerator (months of marriage during service) was 113 months and that was included in the CPO.

(3) In 2020, Wife discovered that Husband had retired as the result of a FOIA request to the Defense Finance and Accounting Service (“DFAS”). She filed suit for enforcement of the CPO as Husband had made no payments to her.

(4) The dispute centered on the expression of the coverture fraction in the CPO. Husband had served as both active duty and a reservist and was retired as a reservist. Per DOD Financial Regulations, the calculation of active duty retired pay is done using the “time” calculation, i.e. number of months of marriage / number of months of service. For reservist pensions, the DOD Financial Regulations mandate the use of the “points” calculation.

(5) The differing methods of calculation lead to widely disparate results in this case with Wife asserting her interest in the retired pay was 29.35% of Husband’s pay and Husband asserting her interest was 6.84% of his retired pay, citing reliance on the DOD Financial Regs.

(6) The trial court modified the CPO and adopted Husband’s calculation of 6.84%. Wife filed a motion to alter/amend which was denied. Wife appealed.

**B. HOLDING: TRIAL COURT ERRED BY MODIFYING THE CPO TO CHANGE THE FORMULA FROM THE TIME CALCULATION TO THE POINTS CALCULATION WITHOUT MAKING A FINDING THAT THERE WAS “FRAUD, MISTAKE OR IRREGULARITY” IN THE CPO.**

(1) Md. 2-535(b) provides “Fraud, mistake, irregularity- On motion of any party file at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake or irregularity.”

(2) Husband relied on a “mistake” that he agreed to, i.e. the time calculation rather than the points calculation and did so while represented by counsel.

(3) Maryland courts have narrowly defined and strictly applied the tiers “‘fraud, mistake and irregularity’ in order to endure finality of judgements.” The court then calculated Wife’s share according to the time calculation and ordered Husband to pay.

(4) As the parties did not meet the “10-year rule” (requires parties to be married for 10 years during military service), Wife was not entitled to payment directly from DFAS, but the court ordered him to pay her directly.

2. *Sims v. Sims*, \_\_ Md. App. \_\_, \_\_ A.3d \_\_ (2025), 2025 WL 1792885. Filed June 30, 2025. Nazarian, J. Circuit Court for Anne Arundel County (Jackson-Stevenson, J.) vacated and remanded.

#### **A. FACTS:**

(1) The parties were married in 1996 and had 4 children. At the time of trial only 1 was a minor. The parties separated in January 2020. Wife filed her complaint on November 28, 2022, requested indefinite alimony, child support, finding of dissipation, a monetary award, attorney’s fees, and use and possession of the family home. Husband filed a counter-complaint, and he requested that the court order the sale of the family home, determine and divide marital property, that the court deny Wife alimony but transfer the entirety of his interest in the marital home to Wife, and a monetary award.

(2) After a 4-day trial, the court granted Wife a divorce based on Husband’s adultery, awarded her rehabilitative alimony of \$2,500 for 3 years, monthly child support of \$6,313 with arrearages, use and possession of the home for 3 years, Husband to pay the mortgage on the home during the 3-year period, after the 3-year period transfer of the home to Wife, and Husband to pay the minor child’s tuition expenses. The court also made a monetary award to Wife by totaling the non-retirement assets, including dissipated assets on the part of Husband, and by totaling retirement assets, which the court ordered would be divided equally “on an if, as, and when basis.” The Court did not include any assets acquired after the parties separated in January 2020.

#### **B. HOLDING: BECAUSE COURT FAILED TO CONDUCT THE REQUIRED 3-STEP ANALYSIS, MONETARY AWARD WAS ERRONEOUS.**

(1) Court’s finding that certain assets were non-marital because they were acquired entirely or in part after the parties’ separation was clearly erroneous. The Court may determine, on remand that these marital assets are not subject to equitable distribution, but there was no indication in the record to that effect.

#### **C. HOLDING: COURT ERRED IN ITS VALUATION OF HUSBAND’S RETIREMENT, FAILURE TO VALUE BANK ACCOUNTS, FAILURE TO PROPERLY CONSIDER AND DIVIDE RETIREMENT ASSETS, AND FAILURE TO CONSIDER ALL MARITAL ASSETS**

**D. HOLDING: COURT ERRED IN FINDING THAT HUSBAND DISSIPATED AN ASSET BY DISPOSING OF THOSE ASSETS APPROXIMATELY 2 YEARS BEFORE THE PARTIES EXPERIENCED AN IRRECONCILABLE BREAKDOWN OF THE MARRIAGE, DISSIPATED A BANK ACCOUNT VALUED AT \$1,793.38, AND IN ITS OVERALL DISSIPATION FIGURE.**

**E. HOLDING: COURT'S FINDINGS OF AS TO WIFE'S POTENTIAL FUTURE EMPLOYMENT WERE NOT BASED ON AND CONTRADICTED EVIDENCE PRESENTED.**

**F. HOLDING: COURT MUST TIE ITS ALIMONY DECISION TO ACTUAL EXPENSES ASSERTED.**

**G. HOLDING: "IN DETERMINING THE MINOR CHILD'S EXPENSES, THE COURT SHOULD ENSURE THAT THE CHILD DOES NOT GET TREATED DIFFERENTLY FROM THEIR SIBLINGS SIMPLY BECAUSE THE CHILD IS TO GROW UP IN A WORLD WHERE THE CHILD'S PARENTS ARE DIVORCED."**

#### **H. CONTEMPT**

1. *Trusted Science and Technology Inc. v. Evancich*, 262 Md. App 621, 320 A.3d 474 (2024). Filed July 22, 2024. Leahy, J. Circuit Court for Montgomery County (McCullough, J. and Cho, J.). Appeal dismissed.

#### **A. FACTS:**

(1) The parties were married in November 2017. Husband is the co-founder of TST and owned shares in the company. TST is an engineering company focused on cyber security and engages with government contracting with various defense industry agencies. The company's headquarters are in Rockville. Wife worked for TST as an administrator during the parties' marriage.

(2) Husband filed for divorce in March 2021. In April 2021, the court held a hearing, and the parties placed on the record terms of a consent agreement reached in a separate case stemming from cross-protective orders. The consent agreement included a provision that the parties would stay at least 500 feet away from one another and have no contact except through counsel and for purposes of resolution or litigation of the divorce matter. An order was entered incorporating these terms.

(3) Shortly thereafter, Wife petitioned for contempt claiming that Husband had violated the order and agreement. The parties then became embroiled in discovery disputes until discovery closed on 1/25/22. Ultimately, TST was drawn into the case by Wife in the discovery process.

(4) While the divorce matter was pending, a dispute ensued between TST and Wife. As part of her employment, Wife had a laptop that she used for business and personal purposes. She had access to certain financial information of the company, as well as HR, government contracts, corporate records, trade secrets, and other

information. TST requested that Wife provide certain company property. At the April 2021 hearing, Wife agreed to turn over passwords and specific information needed for TST's accounts and programs. Wife did not comply, and the company sued.

(5) In June 2021, the court granted TST a preliminary injunction and ordered Wife to transfer the domain name for the website to TST and return her computer so that TST could delete or remove company files. Before turning over the laptop, Wife copied all of the information on a thumb drive and wiped the laptop by resetting the operating system 2 days before the transfer deadline. She then placed 13 files back on the laptop and turned it over. TST was aware of Wife's misconduct but took no action for more than a year.

(6) In January 2023, Wife was found in contempt for removing the information from the laptop and was given until January 11 to purge the contempt by turning over all thumb drives and external hard drives that include information or files related to TST. She did not. The court then modified the contempt order by directing Wife to report to the 7<sup>th</sup> floor of the courthouse from 8am until 5pm each day starting January 27 until she purged her contempt by delivering the drives to TST. After a 2-day trial, on 2/7/23, the court found Wife liable for conversion and awarded TST a permanent injunction, \$1 in compensatory damages, and \$25,000 in punitive damages.

(7) In the divorce case, Wife sought corporate documents from TST so that her expert could value the company. The Husband argued that because he was not a board member or officer of the company, he was not able to produce the documents Wife sought. However, TST agreed to provide certain confidential information subject to entry of a protective order. Wife refused to sign and requested additional highly sensitive and confidential information. on 8/23/22, TST moved for a protective order.

(8) On 9/1/22, Wife served TST with a subpoena and requested the same documents be produced in 28 days. TST moved to quash the subpoena and for a protective order. The court set a hearing on TST's motions for 1/27/23, which required a postponement of the September trial. Wife then served a new subpoena on TST requesting even more documents than those requested previously. TST filed a notice of objection and produced those documents that were not objectionable. On 1/26/23, just before the hearing on TST's motions, the parties signed the stipulated protective order.

(9) Husband and Wife's experts conferred and created a list of documents they both required to value the company. TST produced some but not all documents. On 2/17/23, Wife moved to compel TST's production, and Husband consented and joined Wife's motion. TST opposed the motion. The Court granted the motion to compel, and TST appealed and filed a motion to stay pending appeal. The court denied that motion on 7/18/23, and TST produced the remaining documents that day.

(10) On 8/4/23, TST petitioned for contempt against the parties for violating the protective order. Husband and Wife moved separately to strike the petition, claiming that TST could not initiate contempt proceedings as a third party. The court granted Husband's motion without a hearing or explanation. TST appealed.

**B. HOLDING: THIRD PARTY HAS STANDING TO OBJECT TO A PARTY'S SUBPOENA ON GROUNDS OF RELEVANCE AND OVERBREADTH.**

(1) The court erred by holding TST's nonparty status against it by limiting the company's ability to defend its interests. At the very least, TST's objections should have been given the same weight as if they were a party to the action. "[P]arties cannot use family law divorce cases as a method of obtaining confidential documents from a nonparty without the court giving the nonparty's interests due consideration."

2. *Sayed A. v. Susan A.*, 265 Md. App. 40, 333 A.3d 941 (2025). Filed March 28, 2025. Leahy, J. Circuit Court for Montgomery County (Hessler, J.) contempt vacated, attorney's fee award affirmed.

**A. FACTS:**

(1) Mother was granted a TPO against Father and filed for divorce 2 days later. The Court entered a Consent FPO. The Consent FPO granted Mother custody for 1 year of both children, A. and O., and granted Father non-overnight access as agreed upon by the parties.

(2) In 2022, Mother filed her first contempt action claiming that Father was trying to communicate with her through the children. She also claimed his in-person contact, phone calls, and voicemails were harassment. Father was found in contempt and had to attend 5 in-person parenting classes.

(3) On or around September 17, 2022, A. left to live at Father's parents' residence. Mother filed an emergency motion, which was denied. A BIA was appointed for the 2 children.

(4) In December 2022, the Court entered a PL custody order granting Mother temporary legal custody of both children and physical custody of O. The Order granted Father physical custody of A. and ordered him to pay child support for O. and alimony to Mother.

(5) In February 2023, Mother filed her 2nd motion for civil contempt in the PO case. The Court found Father had driven in front of the marital home more than 10 times with the intent to "threaten, harass, stalk, or abuse" Mother and O., played loud music to threaten, harass, or abuse O., and repeatedly called O. and visited her school, and found him in contempt.

(6) On June 13, 2024, after a 9-day custody trial, the Court entered a Custody Order that granted Mother sole legal and primary physical custody of A. Father was granted 3 hours of supervised visitation every other Saturday. Father was prohibited from communicating with the child or taking any action to interfere with reconciliation efforts between Mother and A. Father was ordered to drop A. and A.'s dog to Mother's residence the following day at 6:00pm. The Order granted Mother permission to employ individuals to help the transition of A. and required her to bear those costs. A day later, Mother filed a Motion for Contempt claiming that Father had failed to bring A. to the

marital home as required by the terms of the Custody Order. The Court issued a Supplemental Custody Order allowing Mother to use all means to facilitate A.'s transition back to the marital home.

(7) On June 18, 2024, Mother attempted to use a private firm, SVI, and A.'s prior therapist to help transition A. Mother paid \$8,000 to the therapist and \$1,600 to the SVI employee. These efforts were unsuccessful.

(8) On June 20, 2024, Mother and the BIA filed a joint motion for contempt. The joint motion claimed that Father had assaulted the SVI employee that came for A. and then drove off with A. Mother and the BIA requested that the Court order that the Sheriff has authority to return A. to Mother's custody, and for reimbursement of \$5,600 to Mother for her hiring SVI and the therapist to facilitate terms of the Custody Order. The Court entered a 2nd supplemental Custody Order with a new date for Father to return A. to Mother's Custody. Father did not return A. On August 9, 2024, a show cause hearing was held, but ruling was deferred to a second show cause hearing to include a further Contempt filing by Mother.

(9) In July 2024, Mother filed a 3rd motion for contempt requesting incarceration, reimbursement for hiring SVI and a therapist to facilitate A's transition, and attorney's fees.

(10) Ultimately, the Court found Father in contempt of the Custody Order and awarded \$8,000 in attorney's fees and \$9,600 for Mother's costs and expenses associated with hiring the SVI employee and therapist. The Order imposed a sanction of 30 days incarceration deferred to September 10, 2024. The Order set out multiple purge provisions for Father including dropping the child off at the marital home on September 9, 2024, with all of her clothing, electronics, belongings, and dog, and not allowing the child to return to his current residence or contacting the child for a period of 60 days.

(11) A. did not arrive at the marital home on September 10, 2024. That same day Mother filed a line stating Father failed to purge his contempt. A hearing was held to which Father did not appear. The Court issued a body attachment, which was served on Father on September 27, 2024. For failing to appear at the September 10, 2024 hearing, Father was held in custody until October 4, 2024. Following an evidentiary hearing on October 18, the Court found Father had not completely purged his contempt, but did not impose a period of incarceration.

**B. HOLDING: COURT COMMITTED AN ABUSE OF DISCRETION BY FINDING FATHER IN CONSTRUCTIVE CIVIL CONTEMPT UNDER THE INCORRECT LEGAL STANDARD OF NONCOMPLIANCE WITH THE CUSTODY ORDER RATHER THAN WILLFUL VIOLATION OF THE CUSTODY ORDER.**

(1) "[A]lthough the Court articulated what may otherwise be a sufficient basis for finding Father in contempt, the court's express application of an incorrect legal standard renders that finding an abuse of discretion."

**C. HOLDING: PURGE PROVISION MUST HAVE A COERCIVE EFFECT AND SHALL NOT BE PUNITIVE.**

(1) The sanction of 30-day sentence of incarceration for Father's contempt of the Custody Order was a punitive measure, and not an appropriate sanction for a constructive civil contempt. If Father did not drop off A. by September 9, 2024, there was no post-confinement purge provision to incentivize him to facilitate transfer of A. to Mother's custody. As such, the sanction did not have a coercive effect and was a punitive measure.

**D. HOLDING: PURGE PROVISION PROHIBITING FATHER FROM CONTACTING A . FOR 60 DAYS AND REQUIRING HIM TO LEAVE FATHER'S HOME IF A. ARRIVED THERE WAS INCONSISTENT WITH THE PARTIES' CUSTODY ORDER AND MODIFIED CUSTODY WITHOUT FOLLOWING REQUIRED PROCEDURAL ANALYSIS.**

(1) Under the Custody Order, Father was granted supervised visitation with A. every other Saturday. Though the purge was intended to coerce Father to comply with the Custody Order, the Court did not address whether the 60-day period of no-contact was in the best interests of the child.

**E. HOLDING: TERMS OF CONTEMPT ORDER IMPROPERLY SUBJECT FATHER TO INCARCERATION UPON FILING OF A LINE BY MOTHER'S COUNSEL OR BIA ALLEGING FATHER HAS NOT PURGED CONTEMPT, WITHOUT REQUIRING JUDICIAL DETERMINATION THAT FATHER HAS NOT PURGED THE CONTEMPT.**

(1) Pursuant to the Contempt Order, upon Mother's counsel or the BIA filing a line, Father was required to report to the circuit court "to be taken into custody and begin serving his period of incarceration."

(2) Father did not have an opportunity to contest the Line, and the allegations of the Line filed by Mother's counsel or the BIA were not subject to judicial scrutiny.

(3) Prior to incarceration, a Court "must determine that a contemnor is still in contempt and still has the present ability to purge before the contemnor can be incarcerated."

**F. HOLDING: COURT ERRONEOUSLY AWARDED MOTHER \$9,600 IN COMPENSATORY DAMAGES.**

(1) Pursuant to the Custody Order, the costs of retaining any professionals to assist in facilitating transfer of A. from Father to Mother were allocated to Mother. Though Father's behavior was egregious and led to protracted litigation, he did not cause financial loss to Mother as she was already responsible for the cost of any professionals.

(2) Compensatory damages are only appropriate in cases of civil contempt “under exceptional circumstances,” where “a willful violations of a court order[] clearly and directly caus[ed] the plaintiff a monetary loss[.]”

**G. HOLDING: COURT HAD AUTHORITY UNDER FL § 12-103 TO AWARD ATTORNEY’S FEES FOR CONSTRUCTIVE CIVIL CONTEMPT ACTION BROUGHT “TO ENFORCE A DECREE OF CUSTODY OR VISITATION.”**

**I. ATTORNEY’S FEES**

1. *George v. Bimbira*, 265 Md. App. 505, 335 A.3d 252 (2025). Filed May 6, 2025. Wells C.J. Circuit Court for Montgomery County (McAuliffe, J.) vacated and remanded.

**A. FACTS:**

(1) The parties were never married. They are the parents of 1 14-year-old child, X. Pursuant to a Partial Parenting Agreement from March 2021, the parties shared legal and 50/50 physical custody of X. The court denied both parents’ requests for tie breaking authority.

(2) In December 2021, Mother filed a motion to modify legal custody to request tie-breaking authority. Father counter-sued, requesting sole legal custody. Mother then requested sole legal custody the next day in an amended motion.

(3) Father’s relationship with X became strained in or around June 2022, and Father began family therapy with X. In October 2022, Father filed an emergency motion to enforce the Partial Parenting Agreement, claiming Mother was preventing him from contacting X. Father demanded to return to the prior schedule, over the BIA’s opposition.

(4) The parties ultimately entered in a PL Consent Order, which granted Father access to X on alternate Sundays for 4 hours. The plan was to ultimately return to the 50/50 schedule by restarting visits and with the assistance of family therapy. Family therapy ended 2 months later when Father yelled and cursed at the family therapist. Shortly thereafter, he amended his Petition to request primary physical custody or at least restoration to 50/50. Mother amended her motion as well and requested primary physical custody.

(5) The Trial was originally set for January 2023, but was continued 3 times. The Trial was ultimately scheduled for 4 days in May/June 2024. However, immediately before opening statements, Father’s counsel informed Mother and the Court that Father was no longer contesting Mother’s request for sole legal and primary physical custody, as he had moved to Las Vegas. Instead, he was requesting regular video contact and “some sort of access” when he visited X in Maryland. Father did not appear at trial until the 4<sup>th</sup> day.

(6) After Trial but before the Court issued its decision, Mother filed a Petition and Affidavit in Support of Attorney’s Fees and Costs. She sought \$622,095.12 in fees

incurred from February 2022 through June 2024. Father had incurred fees totaling \$445,585.51.

(7) The Court granted Mother primary physical and sole legal custody of X, as well as video access to Father with X once a week and in-person at Mother's discretion. As to Mother's attorney's fee request, the Court outlined each party's financial circumstances – with Father's financial circumstances far superior to Mother's. The Court found that Mother had substantial justification to proceed as she did, but Father did not. Ultimately, the Court awarded Mother \$295,493.26 in fees. Both parties filed motions to alter or amend, which were denied. The Court reasoned that "the relative financial positions must be considered as 'good cause.'" Both parties appealed.

**B. HOLDING: GOOD CAUSE UNDER FL § 12-103(C) "MEANS A SUBSTANTIAL REASON TO NOT AWARD A PARTY ALL OF THEIR REASONABLE ATTORNEYS' FEES IF THE COURT FINDS THE OTHER PARTY DID NOT HAVE SUBSTANTIAL JUSTIFICATION FOR PROSECUTING OR DEFENDING THE PROCEEDING."**

(1) The purpose of FL § 12-103(c) was to limit judges' discretion in awarding fees by requiring judges to award fees if one party has to litigate against a party who lacks substantial justification. While judges still have some discretion, that discretion is more limited if a party lacks substantial justification.

**C. HOLDING: DEFINITION OF GOOD CAUSE IS A FLEXIBLE ONE BASED ON FACTS AND CIRCUMSTANCES OF THE INDIVIDUAL CASE.**

**D. HOLDING: PARTIES' RELATIVE FINANCIAL STATUS, FEES, AND EXPENSES INCURRED SHOULD NOT BE CONSIDERED IN THE GOOD CAUSE ANALYSIS.**

**E. HOLDING: ONCE COURT HAS FOUND THAT GOOD CAUSE EXISTS TO CONSIDER REDUCTION IN FEES TO BE AWARDED, ONLY THEN CAN COURT CONSIDER REASONABLENESS OF FEES AND RELATED CONSIDERATIONS, BUT MAY NOT CONSIDER RELATIVE FINANCIAL SITUATIONS OF THE PARTIES.**

2. *Johnson v. Spireon*, \_\_ Md. App. \_\_ A.3d \_\_ (2025), 2025 WL 1778990. Filed June 27, 2025. Tang, J. Circuit Court for Prince George's County (Anderson, J.) vacated in part, affirmed in part, and remanded.

**A. FACTS:**

(1) Johnson, with paralegal experience, filed *pro se*, 2 lawsuits against Spireon. The first suit was resolved. The second was dismissed, and following its dismissal, Spireon filed a Rule 1-341 motion. Spireon claimed that Johnson pursued the second suit in bad faith and without substantial justification providing several examples, including harassing filings, exceeding the scope of permissible discovery, asking the court to refer the case to the Attorney General's Office, etc. The court set the motion in for an evidentiary hearing. The court held that

Johnson's claims were maintained in bad faith and without substantial justification and awarded Spireon \$84,321 in fees, finding the fees to be fair and reasonable.

**B. HOLDING: COURT DID NOT HAVE SUBJECT MATTER JURISDICTION OVER SECOND LAWSUIT BECAUSE AMOUNT SOUGHT DID NOT EXCEED \$25,000.**

**C. HOLDING: IF COURT FINDS CLAIM WAS PURSUED IN BAD FAITH OR WITHOUT SUBSTANTIAL JUSTIFICATION, IT SHOULD 'EXERCISE DISCRETION IN DECIDING, IN LIGHT OF THOSE FINDINGS, WHETHER COSTS AND/OR ATTORNEY'S FEES SHOULD BE AWARDED.'**

(1) "Bad faith 'exists when a party litigates with the purpose of intentional harassment or unreasonable delay....' To make a finding of bad faith, the court would have had to concluded that a party acted 'vexatiously, for the purpose of harassment or unreasonable delay, or for other improper reasons.'"

(2) "For a claim to lack substantial justification within the meaning of Rule 1-341, 'a party must have no reasonable basis for believing that the claims would generate an issue of fact for the fact finder, and the claim or litigation position must not be fairly debatable, must not be colorable, or must not be within the realm of legitimate advocacy.'"

(3) "Although a finding that a cause of action was brought or maintained without substantial justification requires an examination of the merits, a finding of bad faith does not necessarily involve such an examination."

(4) Court did not err in finding Johnson acted in bad faith.

**J. AGREEMENTS**

1. *Matter of Batchelor*, 260 Md. App. 456, 310 A.3d 1136 (2024). Filed February 28, 2024. Zarnoch, S.J. Circuit Court for Montgomery County (Burrell, J.), reversed and remanded.

**A. FACTS:**

(1) Wife failed to change the beneficiary designation of her TSP prior to her death, and so Husband was named as the sole beneficiary at the time of her passing. Former wife's estate brought action against former husband for specific performance, breach of contract, and conversion after he had received, as beneficiary, proceeds of former wife's TSP, although he had waived his right to the same in property settlement agreement.

(2) Court denied Husband's motion to dismiss and partially granted Wife's estate's motion for summary judgement. Husband appealed.

**B. HOLDING: FEDERAL EMPLOYEES' RETIREMENT SYSTEM ACT (FERSA) PREEMPTED PARTIES' CLAIMS UNDER SUPREMACY CLAUSE OF US CONSTITUTION.**

(1) Court erred in denying Husband's motion to dismiss. Thus, remanded with instructions to dismiss the estate's complaint.

(2) "To be sure, we recognize the general presumption against preemption in the family law context, as well as the benefit to public policy in requiring an individual who has seemingly waived his right to TSP funds to honor that agreement. But where, as here, a state action clearly conflicts with a federal statute, the state action "must give way[.]"

**But see *Matter of Isely* below...**

2. *Pattison v. Pattison*, 262 Md. App. 504, 319 A.3d 1204 (2024). Filed August 1, 2024. Graeff, J. Circuit Court for Anne Arundel County (Morris, J.) reversed.

**A. FACTS:**

(1) This is Wife's 2nd appeal. The parties were married on 4/9/16 and separated in April 2019. On 5/24/19, Husband a complaint for divorce based on adultery. At that time, Husband was self-employed and Wife was employed full-time. After extensive settlement negotiations, on 9/25/20, counsel for Wife sent an agreement to Husband's counsel that was signed and dated by Wife. Husband signed that agreement on 9/28/20, as well as a promissory note and an unconditional guaranty that support the payment of the monetary award under the agreement. The parties' Agreement addressed alimony, property distribution, counsel fees (\$65,000 to be paid by Husband), mutual waiver of alimony, mutual waiver of retirement, monetary award (\$760,000 to be paid by Husband) and sale of the marital home. The Agreement also provided that in the event of a breach or enforcement action, the breaching party shall be responsible for paying the other's fees and costs.

(2) On 9/29/20, Husband filed a supplemental complaint alleging the parties had reached an agreement and requesting a divorce based on mutual consent. Wife filed an answer and denied that an agreement was reached. She claimed instead the agreement she sent on 9/25/20 was not timely accepted and therefore a nullity. Wife claimed the agreement was accompanied by a letter stating that the agreement was conditioned on Husband's executing all 3 documents that day (9/25/20). On 10/16/20, Husband filed a motion to enforce and requested Wife pay his fees.

(3) On 2/19/21 Wife filed a motion to set aside the agreement and response to the motion to enforce. Wife argued: "(1) there was no binding agreement because Wife's offer to settle was conditioned on Husband's execution of the document on September 25, 2020, which did not occur; (2) even if there was a valid contract, it must be set aside because the terms were unconscionable; and (3) the agreement should be set aside because it was a result of fraud, coercion or undue influence." The court

granted Husband's motion to enforce the agreement and granted Husband's motion for fees, finding no condition precedent and that if one existed, Wife waived it. Wife appealed. The appeal was dismissed on 3/31/22 because a final judgment had not yet been entered in the divorce case.

(4) After a hearing on the parties' respective various motions, the court granted Husband's motions for judgment as to the attorney's fees award and second motion to enforce, among others. Wife noted an appeal on 3/20/23. On 5/9/23, the court conducted a pretrial conference to schedule an uncontested divorce hearing and ordered that the grounds for divorce were mutual consent and the agreement would be incorporated but not merged into the judgment. After a hearing, on 6/16/23, the court entered a judgment of divorce based on mutual consent and ordered that the agreement was to be incorporated but not merged into the judgment. Wife appealed and the AC consolidated both appeals.

**B. HOLDING: A CONDITION PRECEDENT, REQUIRING EXECUTION OF AGREEMENT BY A DATE/TIME CERTAIN, MAY BE INCLUDED IN A LETTER SENT AT THE SAME TIME AS THE AGREEMENT.**

(1) Husband argued that there was no condition precedent because the letter, which contained the alleged deadline" was not admitted into evidence. While Husband was correct, the contents of the letter were read into evidence. Additionally, Husband argued that the condition was not effective because it was not included in the agreement. Lastly, a reasonable person would have understood that the letter meant the agreement was conditioned on it being signed by the end of the day on 9/25.

**C. HOLDING: CONTRACT IS NOT FORMED IF OFFER IS CONDITIONED ON ACCEPTANCE WITHIN A STATED TIME AND OFFER IS ACCEPTED AFTER THAT TIME. EXCEPTION TO THIS GENERAL RULE IS IF OFFEROR WAIVES STRICT COMPLIANCE WITH THE TIME CONDITION.**

(1) The trial court found that Husband indicated through counsel that Husband would not be able to sign until Monday, but because there was no evidence to indicate Wife rejected Husband's offer to sign Monday, Wife indicated a willingness to accept if signed Monday. No evidence was presented in support of the claim that Husband's counsel sent such a communication. Additionally, no evidence was presented to indicate a waiver on Wife's part.

**D. HOLDING: BECAUSE WIFE IMPOSED A CONDITION PRECEDENT TO THE FORMATION OF A CONTRACT AND CONDITION WAS NOT PERFORMED WITHIN TIME REQUIRED OR EXCUSED BY WIFE, VALID CONTRACT WAS NOT FORMED.**

(1) Circuit Court erred in granting motion to enforce agreement and ruling reversed. Because award of attorney's fees was based on a finding that Wife breached the agreement, attorney's fees award was also reversed.

3. *Pattison v. Pattison*, \_\_\_ Md. \_\_\_, \_\_\_ A.3d \_\_\_ (2025), 2025 WL 2057986. Filed July 23, 2025. Gould J. Affirmed Appellate Court, which reversed Circuit Court for Anne Arundel County (Morris, J.).

**A. FACTS: SEE ABOVE.**

**B. HOLDING: ANY REASONABLE PERSON IN THE PARTIES' POSITIONS WOULD UNDERSTAND THAT WIFE'S OFFER WAS CONDITIONED ON HUSBAND SIGNING BY SEPTEMBER 25; THAT WIFE IMPOSED CONDITION IN A NOTE AND NOT AGREEMENT ITSELF IS IRRELEVANT.**

**C. HOLDING: "BASIC LOGIC DICTATES THAT IF THE WITHDRAWAL OF AN OFFER CAN BE (AND ALWAYS IS) COMMUNICATED OUTSIDE OF THE PROPOSED CONTRACT AFTER THE OFFER IS MADE, SO TOO CAN A DEADLINE FOR ACCEPTING AN OFFER WHEN THE OFFER IS MADE."**

**D. HOLDING: WIFE'S SILENCE AFTER HUSBAND SIGNED THE AGREEMENT PAST THE DEADLINE DID NOT AMOUNT TO WAIVER.**

**E. HOLDING: EXCLUDED EXHIBITS – COMMUNICATIONS LEADING UP TO THE HAND DELIVERY OF THE AGREEMENT TO HUSBAND'S COUNSEL'S OFFICE – DO NOT SUPPORT A FINDING OF WAIVER.**

4. *Mergner v. Estate of John G. Mergner*, 264 Md. App. 423, 330 A.3d 1151 (2025). Filed January 31, 2025. Kehoe, J. Circuit Court for Montgomery County (Salant, J.) affirmed.

**A. FACTS:**

(1) Dorothy and John were married in 1996. In 2011, John and Dorothy consulted an attorney regarding estate planning matters. Both signed revocable trust agreements. Among its terms, John's revocable trust agreement provided that, if he predeceased Dorothy, she would be the beneficiary for the remainder of her life of a trust consisting of 50% of the trust assets at the time of his death or 5 million dollars, whichever was greater. After Dorothy's death, the balance of the trust was to be paid to John's descendants after payment of estate taxes.

(2) John entered an assisted living facility in 2015 or 2016. In the fall of 2015, Dorothy approached the parties' attorney and asked her for assistance in increasing her income. John was initially reluctant to do so, but, after discussing the matter with the parties' attorney, he agreed to establish an irrevocable trust with an initial value of \$2,000,000 to provide additional income to Dorothy during her life. His willingness to establish the trust was subject to conditions. One of them was that Dorothy would have to give up her rights to assert additional claims against his assets in the event of his death or their divorce.

(3) In March 2016, John and Dorothy executed a marital property agreement. Pursuant to the terms of the marital property agreement, John agreed to establish the

Dorothy C. Mergner Irrevocable Trust and to fund the irrevocable trust with the sum of \$2,000,000. On the same day that John signed the marital property agreement, John executed an irrevocable trust and transferred \$2,000,000 to the irrevocable trust.

(4) From July 2016 through August 2021, Dorothy received the sum of approximately \$450,000 from the irrevocable trust. When John passed, Dorothy brought action seeking declaratory judgment that the marital property agreement was void or that the spouse had not relinquished rights in any property under the agreement.

**B. HOLDING: ESTATE'S ATTACHMENT OF ALLEGEDLY INADMISSIBLE SETTLEMENT LETTER AS AN EXHIBIT TO ITS MOTION FOR SUMMARY JUDGMENT DID NOT PROVIDE A BASIS FOR REVERSAL OF PARTIAL SUMMARY JUDGMENT GRANTED TO JOHN'S ESTATE.**

**C. HOLDING: ACCEPTING PAYMENTS UNDER IRREVOCABLE TRUST IS A WAIVER OF THE RIGHT TO CHALLENGE THE MARITAL PROPERTY AGREEMENT.**

(1) Dorothy waived her right to challenge the validity of marital property agreement by accepting monthly payments totaling roughly \$450,000 from the irrevocable trust created by agreement.

**D. HOLDING: PROFFERED EVIDENCE AS TO WHAT PROPERTY WAS INCLUDED WITHIN DEFINITION OF "SEPARATE PROPERTY" UNDER MARITAL PROPERTY AGREEMENT, WAS INADMISSIBLE, BECAUSE IT CONSISTED ENTIRELY OF SUBJECTIVE INTERPRETATION OF MARITAL PROPERTY AGREEMENT.**

5. *Matter of Isely*, 489 Md. 374, 330 A.3d 682 (2025). Filed January 28, 2025. Fader, C.J. Circuit Court for Montgomery County (Burrell, J.) reversed and remanded by AC. AC reversed and remanded by SC with instructions to affirm Judgment of the Circuit Court.

**A. FACTS:**

(1) This case reversed the Appellate Court's decision and holdings in *Matter of Batchelor*, 260 Md. App. 456, 310 A.3d 1136 (2024).

(2) Wife failed to change the beneficiary designation of her TSP prior to her death, and Husband was named as the sole beneficiary at the time of her passing. Former wife's estate brought action against former husband for specific performance, breach of contract, and conversion after he had received, as beneficiary, proceeds of former wife's TSP, although he had waived his right to the same in the divorce property settlement agreement.

(3) The Court denied Husband's motion to dismiss and partially granted Wife's estate's motion for summary judgement. Husband appealed.

(4) The AC held that the Federal Employees' Retirement System Act (FERSA) preempted parties' claims under the Supremacy Clause of the US Constitution. In so holding, the AC stated, "to be sure, we recognize the general presumption against preemption in the family law context, as well as the benefit to public policy in requiring an individual who has seemingly waived his right to TSP funds to honor that agreement. But where, as here, a state action clearly conflicts with a federal statute, the state action "must give way[.]" at 480.

(5) Certiorari was granted to decide whether FERSA preempts the wife's estate's assertion of rights arising from the divorce settlement agreement.

**B. HOLDING: FERSA DOES NOT PREEMPT WIFE'S ESTATE'S BREACH OF CONTRACT CLAIM.**

(1) FERSA does not preempt the wife's estate's breach of contract claim. The wife's estate's post-distribution breach of contract claim against the former husband to enforce the terms of the divorce settlement agreement "does not interfere with any identified federal interests, much less do major damage to clear and substantial federal interests."

(2) The Appellate Court was reversed, and the trial court affirmed.

6. *Matter of Bodhi Sico Becker*, 265 Md. App. 301, 335 A.3d 133 (2025). Filed May 2, 2025. Berger, J. Circuit Court for Montgomery County affirmed.

**A. FACTS:**

(1) This case concerns a petition for name change. 2 mothers, Ms. Sico and Ms. Becker, had a child through IVF. The couple agreed that if they married, they would use the last name Becker for the child and the middle name Sico. The parties were engaged when the child was born. Both mothers signed the birth certificate naming the child "Bodhi Sico Becker." Ms. Sico signed an affidavit of parentage that also listed the child's name as "Bodhi Sico Becker."

(2) The couple separated in June 2021. In December 2021, Ms. Becker did sign a Consent to Change Name Form with the proposed name of "Bodhi Alexis Becker-Sico", but the child's name was never changed. In June 2022, Ms. Becker filed a Petition for Custody.

(3) The parties reached a Custody Agreement in November 2022. The Agreement stated in part that the parties would directly discuss and meet with a parent coordinator or other mediator regarding the idea of changing the child's last name to reflect both parents' surnames. However, the parties were not able to come to an agreement.

(4) In October 2023, Ms. Sico filed an Amended Petition for Name Change asking to change the name to "Bodhi Jospheh Sico-Becker". Ms. Sico argued that marriage was a condition precedent to changing the name, and as the parties were

never married there was no agreement on using the last name Becker. She also argued that certain additional factors should be considered in the extreme circumstances analysis including: “(1) the parties’ alleged conditional agreement; (2) Ms. Sico's strong attachment to her surname and familial lineage; (3) the existence of postbirth agreements and negotiations to include both parents’ surnames; (4) Ms. Sico's journey to parenthood, including her experience through IVF treatments; and (5) circumstances unique to same-sex parents, including Ms. Sico's testimony regarding confusion as to her relationship with Bodhi due to their different last names.” She stated that her status as the child’s mother had been questioned as they did not share the same last name.

(5) The Court found that the parties had come to an agreement on the name “Bodhi Sico Becker,” there were no extreme circumstances warranting changing the name, and that it was not in the minor child’s best interest to change the name.

**B. HOLDING: PARTIES HAD AN AGREEMENT AS TO CHILD’S NAME AT TIME OF HIS BIRTH.**

(1) The court held: “In making this finding, the court relied on the fact that both parents were present at the birth of the child and both parents signed the birth certificate indicating the name Bodhi Sico Becker. As the circuit court properly found, not only did Ms. Sico and Ms. Becker jointly file the birth certificate bearing Bodhi's name, but they had also previously discussed the name, jointly announced the name to their friends and family, and filed legal documents bearing the child's name.”

(2) The Court further noted that “a child’s name ‘isn’t a wedding right. This is somebody’s identity.”

(3) The parties had agreed to the name at the time of the child’s birth. The Court did not have to consider discussions, agreements, or disagreements following the child’s birth as they did not have an effect on whether there was an agreement at the time the child was initially named.

**C. HOLDING: PREVIOUSLY AGREED-UPON NAME WILL ONLY BE CHANGED IF MAINTAINING NAME IS ADVERSELY AFFECTING THE CHILD.**

(1) The Court found that Ms. Sico’s raised considerations did not rise to the level of adversely affecting the child and did not conduct such an examination.

**K. APPEALS – None.**

**L. MISCELLANEOUS**

1. *AGC v. Donnelly*, 486 Md. 454, 310 A.3d 1110 (2024). Filed February 27, 2024. Hotten, J. Circuit Court for Calvert County (Rappaport, J.), disbarment was warranted and is so ordered.

**A. FACTS:**

(1) Mr. Langley and his siblings retained Donnelly regarding the administration of their deceased mother's estate. In March 2013, Donnelly had a Judgement entered against him in the amount of \$540,793.59. Aware that his client was going to receive approximately \$50,000 from the sale of the deceased mother's real estate, Donnelly requested that Mr. Langley loan him \$40,000. Donnelly did not advise Mr. Langley to seek independent counsel, nor did he advise Mr. Langley of the recent Judgement entered against him. Donnelly drafted a promissory note for the loan.

(2) In January 2020, Mr. Langley filed a civil action against Donnelly. During the trial, Donnelly made statements under oath that the hearing judge found to be "knowingly false." Donnelly then proceeded to make false statements, both orally and in writing, to bar counsel during the investigation.

**B. HOLDING: ATTORNEY ENTERING INTO LOAN AGREEMENT WITH CLIENT WITHOUT FIRST ADVISING CLIENT TO CONSULT WITH INDEPENDENT COUNSEL VIOLATED MRPC RESTRICTING WHEN AN ATTORNEY MAY ENTER INTO A BUSINESS TRANSACTION WITH A CLIENT.**

**C. HOLDING: ATTORNEY'S ASSERTION OF A FICTITIOUS DEFENSE IN CLIENT'S CIVIL ACTION AGAINST ATTORNEY OVER LOAN REPAYMENT VIOLATED MRPC PROHIBITING ATTORNEY FROM ASSERTING A FRIVOLOUS ARGUMENT.**

2. *Harrod v. State*, 261 Md. App. 499, 314 A.3d 415 (2024). Filed April 22, 2024. Tang, J. Circuit Court for Anne Arundel County (Alban, J.) affirmed.

**A. FACTS:**

(1) Following a neighborhood shooting, while parents were dropping their children off for induction in the US Naval Academy, the police collected videos from over 100 surveillance cameras in the neighborhood. The video footage allowed the police to pinpoint the events before and after the shooting. The state created a composite video of the video footage, and it was admitted into evidence as a summary under Md. Rule 5-1006. Harrod argues the composite was not a summary.

**B. HOLDING: COMPOSITE OF VIDEOS IS A SUMMARY OF ELECTRONIC RECORDINGS.**

(1) The source material (the videos) could have been presented. And, contrary to Harrod's position, the composite was not misleading.

**C. HOLDING: DETECTIVE'S NARRATION WHILE VIDEO COMPOSITE PLAYED WAS PROPER UNDER MD. RULE 5-701.**

3. *Freeman v. State*, 487 Md. 420, 318 A.3d 1241 (2024). Filed July 16, 2024. Hotten, J. AC's affirmation of Circuit Court for Charles County (West, J.) affirmed.

**A. FACTS:**

(1) Mr. Brown was found lying on a driveway near a garage with 2 fatal gunshot wounds, 1 to his chest and the other to his thigh. The police recovered Mr. Brown's cellphone at the crime scene and found information that led them to suspect Freeman. Through Brown's text messages, the police were able to determine that he was selling illegal THC vape pens through social media. The state theorized that Brown and Freeman were discussing an anticipated sale of the THC vape pens. The police found Brown's trunk opened and vape pens inside.

(2) The state called a detective to testify regarding his investigation. He was asked to define the term "lick" based on his experience in the Robbery Unit. Freeman objected, arguing the response would elicit an expert opinion, but the trial court disagreed and allowed the detective to testify as a lay witness. He testified that "lick" meant a robbery, and "sweet lick" meant an easy rob or easy to rob. Phone messages and communications between Freeman and his contacts were then entered into evidence wherein Freeman inquired about "licks" and "sweet licks". Ultimately, Freeman was found guilty on all counts, including first-degree murder, and was sentenced to life on the murder conviction and 48 years on the other convictions.

**B. HOLDING: LAY WITNESS MAY TESTIFY TO SLANG THAT IS NOT BEYOND THE "KEN" OF A LAYPERSON.**

4. *AGC v. Whitted*, 487 Md. 501, 319 A.3d 1116 (2024). Filed August 1, 2024. Gould, J. Circuit Court for Montgomery County (Schweitzer, J.). Indefinite suspension.

**A. FACTS:**

(1) Whitted and Lori Jordan were married in 1985 and had 3 children born between 1993 and 1998. In 2007, the parties were divorced in Georgia, and Whitted was ordered to pay monthly child support of \$1,735.93. Whitted chronically failed to pay child support, and in 2010, Jordan asked the Superior Court of Fulton County to hold him in contempt. The court determined Whitted owed over \$12,000 in child support and ordered him to pay \$1,000 per month until paid in full.

(2) On 7/16/10, Jordan filed a motion in Georgia requesting permission to move with the children to North Carolina. In response, Whitted filed a separate lawsuit against Jordan, her attorney, her attorney's law firm, and "John Doe," containing multiple outrageous allegations. He requested \$500,000 in punitive damages. In the divorce case, he filed for contempt against Jordan, that she be required to return with the children, and that he have physical custody. In September 2010, Whitted lost his job and ceased paying child support. However, he did not move for modification of his child support obligation.

(3) On 1/6/11, Jordan was granted sole physical and legal custody. Whitted appealed (and lost) and continued to file outrageous proceedings, including a complaint against the judge who granted Jordan custody, as well as Jordan's husband.

(4) In late 2011, Whitted took a position with the Prince George's County Attorney as an Assistant County Attorney. Between 2010 and 2016, he made no child

support payments. on 6/14/16, Jordan filed to register the GA order in Washington (where she had been living) and moved to collect unpaid child support. Whitted was found in contempt and found to owe \$169,868.85 in child support plus interest. He was also ordered to pay \$10,000 in attorney's fees. Whitted appealed and then filed a complaint against the WA judge. He continued filing similar outrageous pleadings in WA against Jordan, her husband, her attorney, and her attorney's firm, and the court there determined his complaint was frivolous, for the purpose of harassment, and an abuse of process. The Court found "enough is enough" and ordered \$13,540 in fees. This did not deter Whitted. He continued filing similar motions, and Jordan filed a motion to have Whitted deemed "a vexatious litigant." The Court granted the request and ordered additional fees. Again, that did not deter Whitted, and after another hearing he was ordered to pay additional fees.

(5) Whitted's actions prompted a filing by Jordan and her husband with the Commission. The hearing judge in WA found that Whitted violated 2 Washington RPC (Meritorious Claims and Contentions and Misconduct). Whitted was ultimately sanctioned with an indefinite suspension from the practice of law in MD.

**B. HOLDING: ATTORNEY'S EGREGIOUS CONDUCT ON A PERSONAL, BUT NOT PROFESSIONAL, LEVEL MAY WARRANT SANCTIONS.**

5. *Matter of the Honorable April T. Ademiluyi*, 488 Md. 45, 321 A.3d 142 (2024). Filed August 14, 2024. Watts, J. SC ordered removal.

**A. FACTS:**

(1) This case concerns a Circuit Court Judge from Prince George's County. She was charged in June 2023 with having engaged in sanctionable conduct that violated multiple provisions of the MCJC. Among other things, she was charged with engaging in sanctionable misconduct as a candidate for election, misconduct as a judge in training, misconduct involving her colleagues, misconduct with her staff, misconduct as a respondent in judicial discipline proceedings, and misconduct as a judge presiding in a trial and deciding matters before the circuit court. The Commission recommended that the Judge be censured, suspended without pay, and placed on probation with conditions (i.e., cooperating with a mentor judge and probation monitor, submitting to a healthcare evaluation, attending judiciary trainings, etc.). The matter was referred to the Court for final disposition, and the Judge filed exceptions to the Commission's findings of fact, conclusions of law, and recommendations.

**B. HOLDING: JUDGE'S FAILURE TO COMPLY WITH COMMISSIONER'S LETTER OF CAUTIONARY ADVICE VIOLATED DUTY TO COOPERATE AND BE CANDID AND HONEST WITH COMMISSION.**

(1) Prior to charges being filed, the Commission issued a Letter of Cautionary Advice advising her to comply with reasonable directives from judges with supervisory authority, to conduct designated dockets so the public was not negatively impacted, and to refrain from engaging in future sanctionable conduct. The Judge failed to follow the

cautionary advice by continuing to question and refusing to cooperate with criminal and civil jury trial training and by objecting to having supervisory judges observe her.

(2) A Judge's failure to comply with a letter of cautionary advice issued by the Commission constitutes a violation of MD Rule 18-102.16(a).

**C. HOLDING: JUDGE'S CAMPAIGN BLOG POST AND VIDEO VIOLATED DISCIPLINARY RULES.**

(1) During the Judge's campaign, she distributed a campaign video in which she discussed being drugged and raped 8 years earlier. In the video she stated: "The Police and Prosecutors destroy and fabricate evidence to cover up drug rapes... Justice is ours."

(2) The content of the campaign videos and blog posts could reasonably be perceived as inconsistent with the independence and impartiality of judicial office. They could also be perceived as promising to help victims of sexual violence. The video and blog posts violated MD Rule 18-104.4.

**D. HOLDING: JUDGE'S LENGTHY PATTERN OF DEMEANING AND DISCOURTEOUS BEHAVIOR TOWARD LAW CLERK AND ADMINISTRATIVE AIDES VIOLATED DISCIPLINARY RULES.**

(1) She often referred to her law clerk as incompetent and lazy and sent many emails with demands outside of works hours. She unjustifiably terminated her 1st administrative aide. Her 2nd administrative aide quit. Her law clerk eventually took medical leave due to anxiety from working with the Judge, and eventually quit. The Judge further spoke poorly of court personnel and other judges in writings to her chambers.

(2) The Judge engaged in a pattern of making wholly inappropriate remarks to and about her staff and other judges. The Judge's demeanor and decorum violated MD Rule 18-102.8 by not being "patient, dignified, and courteous to court staff and judicial colleagues."

**E. HOLDING: JUDGE VIOLATED SEVERAL OBLIGATIONS TOWARD CHIEF JUDGE AND SUPERVISING JUDGE.**

(1) The Judge violated MD Rules 18-101.1, 18-101.2, 18-102.5, and 18-102.8 by failing to cooperate with the Committee and failing to comply with reasonable directives, protocols, and procedures within the courthouse, especially regarding the training of new trial judges. She routinely failed to be present at the courthouse on assigned days, failed to attend scheduled meetings, or was habitually late. She failed to comply with notice requirements for sick leave, and she postponed matters without contacting or getting approval from the Family Coordinating Judge.

**F. HOLDING: JUDGE VIOLATED PROHIBITIONS ON EX PARTE COMMUNICATIONS AND INVESTIGATION OF ADJUDICATIVE FACTS IN RAPE**

## **TRIAL AND DISPLAYED BIAS AND VIOLATED DUTY TO BE FAIR AND IMPARTIAL IN COMMENTS TO LAW CLERK.**

(1) During a criminal trial, after refusing to allow certain photographs to be admitted into evidence, the Judge spent multiple evenings doing her own research on the issue. She then *sua sponte* suspended the trial and ordered a *Daubert* hearing regarding the photographs (something that neither party had requested nor was prepared for). Counsel objected that the Judge was injecting herself as a party to the case and it was prejudicial to the defendant. Prior to the hearing, the Judge made a comment to her law clerk that the photographs needed to come into evidence. On the morning of the *Daubert* hearing, neither party wanted the hearing to go forward, but the Judge insisted on having the hearing. The Judge explained the findings of her independent research to the parties and counsel and then admitted the photographs into evidence based on her independent research. Following the hearing, the Judge refused to have debriefing meetings regarding the trial with her supervisory judge.

(2) The Judge continued to show bias against criminal defendants in subsequent trials. In discussing a motion with her law clerk, the Judge stated: “you will see drug and alcohol abuse evaluation requests frequently. It’s a way to get out of prison! ... Most of the motions are filed pro se and I deny them.”

(3) Such behavior constituted a violation of MD Rule 18-102.2, 18-102.3, 18-102.9, and 18-102.11.

### **G. HOLDING: REMOVAL OF THE JUDGE WAS REQUIRED.**

(1) The Judge’s removal was the only disposition sufficient to protect the public’s confidence in the independence, integrity, and impartiality of judiciary and ensure the fair and impartial administration of justice.

7. *Shapiro v. Hyperheal Hyperbarics, Inc.*, 263 Md. App. 424, 323 A.3d 1202 (2024). Filed October 3, 2024. Albright, J. Circuit Court for Baltimore County affirmed in part, reversed in part, and remanded. Cross petition denied. Cert granted.

### **A. FACTS:**

(1) Mr. Shapiro founded Hyperheal Hyperbarics, Inc. (HHI). He had many roles over time in the company including director, majority shareholder, corporate officer, and employee. In October 2016, Mr. Shapiro was fired from HHI but remained a minority shareholder. In March 2017, Mr. Shapiro was rehired by HHI solely as an HBOT technician, an employee. Mr. Shapiro had accessed his personal email account on HHI computers while he was an employee there on his second round of employment with HHI. Mr. Shapiro states that each time he accessed his personal email at HHI, he logged out afterwards.

(2) Mr. Shapiro was terminated for a second time in March of 2018. Among numerous other counts, Mr. Shapiro filed claims that HHI and individual defendants had wrongfully accessed his personal email account. Mr. Shapiro claims that by accessing

his personal emails post-termination, HHI had violated the Stored Electronic Communications Act (SECA) and the Maryland Wiretapping Act.

(3) HHI filed a motion for summary judgement on Mr. Shapiro's email claims. HHI argued that Mr. Shapiro granted authority to view his emails as he logged onto his personal email account on HHI computers and by virtue of a clause in the Employee Handbook. HHI also stated that while an employee at HHI, Mr. Shapiro asked Mr. Hughey to assist in adding his personal email to 2 HHI computers. After Mr. Shapiro's termination, his personal email notifications would pop up on the HHI computers. Mr. Hughey claims he went in and downloaded a backup of Mr. Shapiro's account before deleting it from HHI's server. HHI could not locate that hard drive. HHI claims the only time it accessed Mr. Shapiro's account was when Mr. Hughey downloaded a backup and deleted it off HHI's servers.

(4) Mr. Shapiro argued that there was a genuine dispute of fact regarding if any other individuals access his personal email, and the process of accessing the email on HHI's computer, as he disagreed with Mr. Hughey's statement as to how Mr. Hughey had access to the account on HHI's 2 computers. Mr. Shapiro claimed he would see emails marked as read in his account that he had not viewed himself. Mr. Shapiro also argued that Maryland's wiretapping laws require 2 party consent, so even if he had consented to review of his employees through the Employee Handbook, any email that was reviewed by HHI was not authorized by the 3rd party sender of the email.

(5) The Court granted the motion for summary judgment regarding Mr. Shapiro's 2 email claims, as Mr. Shapiro was not able to provide evidence that Defendants ever reviewed or opened any of his emails. Mr. Shapiro appealed.

**B. HOLDING: COURT PROPERLY GRANTED SUMMARY JUDGMENT REGARDING MR. SHAPIRO'S WIRETAPPING CLAIM. THERE WAS NO EVIDENCE THAT ANY POST-TERMINATION EMAILS WERE ACQUIRED AT THE SAME TIME THEY WERE TRANSMITTED, AS REQUIRED UNDER THE DEFINITION OF "INTERCEPT" PURSUANT TO CJP § 10-401(10).**

(1) "Intercept" is defined by the Wiretap Act as "the aural or other acquisition of the contents" of an electronic communication. CJP § 10-401(10). "Interception requires 'acquisition contemporaneous with transmission' of the communication."

(2) There was no evidence that HHI read any of Mr. Shapiro's post-termination emails, "let alone that they did so while the emails were being sent." Further, there was no evidence that HHI disclosed or used his emails knowing the emails were intercepted.

(3) Mr. Shapiro did not present evidence that Mr. Hughey downloaded his email account contemporaneously as emails were sent to his email account.

**C. HOLDING: COURT IMPROPERLY GRANTED SUMMARY JUDGMENT REGARDING MR. SHAPIRO'S STORED ELECTRONIC COMMUNICATION ACT**

**(SECA) CLAIM WHEN IT CONCLUDED THAT A VIOLATION REQUIRED A READING OF MR. SHAPIRO'S EMAILS.**

(1) Mr. Hughey's download of Mr. Shapiro's Gmail account to a hard drive was access that exceeded Mr. Shapiro's initial authorization of asking Mr. Hughey to add his Gmail account to the HHI computers.

(2) The Court erred in concluding that the download of Mr. Shapiro's Gmail account would not meet the SECA access requirements as a matter of law.

(3) A party does not need to prove evidence of damages to have a successful claim under the Stored Electronic Communications Act.

8. *Esposito v. State*, 264 Md. App. 54, 328 A.3d 830 (2024). Filed December 23, 2024. Tang, J. Circuit Court for Anne Arundel County (Schaeffer, J.) affirmed.

**A. FACTS:**

(1) Michael Esposito was convicted of involuntary manslaughter of his grandmother, Betty Esposito. On December 16, 2021, Betty was found unconscious at her home by the police. She died days later due to a blunt force to her head. The medical examiner ruled her manner of death as a homicide.

(2) The State alleged that on December 16, 2021, shortly before 7:00pm, Esposito pushed Betty causing a brain injury to her that led to her death. Part of the evidence the State used to support its case was communications between Betty and her children, Christopher Esposito and Angela Terry, and a recorded 911 call Betty made after the incident.

(3) Prior to trial, Michael filed a motion *in limine* asking in part to suppress statements made by Betty to Christopher and Angela via text and statements Betty made during the 911 call. The court found that the statements made by Betty via text and during the 911 call did constitute hearsay but were admissible under 1 of the hearsay exceptions. The relevant exceptions the court noted were present sense impression, excited utterance, then existing mental, emotional, or physical condition, and statements for purposes of medical diagnosis or treatment.

(4) This case concerns as a matter of first impression as to whether punctuation and sentences meet the spontaneity requirement of the excited utterance hearsay exception and whether a text message can satisfy the spontaneity requirement of the excited utterance hearsay exception.

(5) The communication at issue was the following:

7:01PM Message from Betty to Angela after the incident: ""Angela I need you to call right away. Michael has hurt me."

(6) During the hearing, the court admitted the text messages between Betty and her children and the 911 call over objection.

**B. HOLDING: TEXT MESSAGE COMMUNICATIONS MAY QUALIFY AS ADMISSIBLE HEARSAY UNDER THE EXCITED UTTERANCE EXCEPTION OF RULE 5-803(B). THE USE OF SENTENCES AND PUNCTUATION IN A TEXT MESSAGE DOES NOT “COMPROMISE THE SPONTANEITY REQUIREMENT.”**

(1) The Court disregarded Appellant’s argument that a text message cannot constitute an excited utterance because it has “multiple sentences and punctuation.” Appellant was only focused on 1 factor. The trial court assesses “the declarant’s subjective state of mind” to determine whether “under *all the circumstances*, [the declarant is] still excited or upset to that degree.”

(2) The Court considered that Betty sent the text to Angela at most 11 minutes after the incident with Michael, cried when speaking on the phone with Angela after sending the text, continued crying when talking with Chris a few minutes later, and that the tone of the message showed a sense of urgency that she “need[ed]’ Angela to call her ‘right away’.”

(3) The court did note that the first sentence of the text message (“Angela, I need you to call me right away”) was a command and did not constitute hearsay.

(4) The trial court properly admitted the 7:01PM text between Betty and Angela.

9. *Issar v. Robertson*, 265 Md. App. 435, 335 A.3d 212 (2025). Filed May 6, 2025. Shaw, J. Circuit Court for Charles County (Brown, J.) affirmed.

**A. FACTS:**

(1) Benjamin and former spouse, Barbara, created an irrevocable trust prior to divorce and placed real property known as 13665 Ballantrae Lane, Waldorf, Maryland, which was titled TBE, into trust on July 9, 2020. The Deed, however, was never changed. The parties divorced in September 2021.

(2) The Trust stated, “on the date set forth above, the Grantor transferred to the Trust the property described on ‘Attachment A’ which is attached and incorporated into this Trust.” Attachment A listed “Lot A of Land, House and Improvements at Canterbury Estates at 13665 Ballantrae Lane, Waldorf, MD 20601”.

(3) Benjamin subsequently married Christina Issar approximately 2 weeks before his death and executed a will providing that all of his property that he owned at the time of his death and which was not previously distributed to the Trust shall be administered and distributed to Christina.

(4) Upon Benjamin’s death, Issar filed a Complaint for Sale in Lieu of Partition regarding the Ballantrae property. Barbara filed a counterclaim based on breach of

contract, fraudulent inducement, fraudulent misrepresentation, and unjust enrichment, claiming that Benjamin did not disclose certain assets during their divorce negotiations. Barbara also filed a partial motion for summary judgment requesting the court to dismiss Issar's Complaint and render declaratory relief.

(5) The Court held that the Ballantrae Property was the sole property of the Trust, free and clear of any claims arising from Benjamin's estate. Accordingly, the Court denied Issar's Complaint and granted Barbara's request for declaratory judgment. Issar appealed.

**B. HOLDING: COURT DID NOT ERR IN FINDING THAT PROPERTY WAS TRANSFERRED TO TRUST BY OPERATION OF LAW THEREBY CREATING EQUITABLE INTEREST FOR TRUST.**

(1) Real Property § 4-108 allows parties who own property TBE to jointly act and transfer said property. Transfer of said property is not exclusively limited to a deed.

(2) Real Property Article 5-103 provides that no corporeal estate, leasehold or freehold, or incorporeal interest in land may be assigned, granted or surrendered, unless it is in writing signed by the party assigning, granting or surrendering it or his agent lawfully authorized by writing, *or by act and operation of law*.

**C. HOLDING: REQUEST FOR DECLARATORY RELIEF WAS NOT TIME BARRED.**

(1) Issar argued that based on Estates and Trusts §§ 1-301 and 8-103, Defendant's claims were time barred because they were supposed to bring cause of action within 6 months of death of decedent or 2 months after PR mails or delivers creditor a copy of notice. AC held that these statutes were not applicable because at the time of Benjamin's death, the property had already been transferred to trust and was not part of his estate.

**D. HOLDING: THERE WAS NO MATERIAL FACT AT ISSUE, THEREFORE COURT DID NOT ERR IN GRANTING MOTION FOR PARTIAL SUMMARY JUDGMENT.**

(1) Court relied upon documents in the Robertson divorce, including the agreement and deed, as well as the trust instrument.

10. *Jun v. State*, 265 Md. App. 459, 335 A.3d 225 (2025). Filed May 6, 2025. Shaw, J. Circuit Court for Anne Arundel County (Malone, J.) affirmed.

**A. FACTS:**

(1) Defendant was charged with 10 counts of distributing a visual representation of a minor engaged in sexual conduct and 10 counts of possession a visual representation of a minor engaged in sexual conduct. He was found guilty of 8 counts of each offense and sentenced to 80 years minus time served. An appeal

ensued based upon a motion in limine and Defendant's argument that the State required expert testimony to testify about IP records produced by Kik and Verizon.

(2) During trial, a detective, relying on his experience and training, was permitted, over the objection of the Defendant, to testify extensively about documents that were received from Verizon and an app called Kik, which tied the Defendant to the inappropriate images that had been sent from an IP address that was determined to be connected to him.

**B. HOLDING: TESTIMONY OF DETECTIVE FELL WITHIN COMMON UNDERSTANDING OF THE AVERAGE PERSON WHO USES A CELL PHONE, LAPTOP, OR TABLET TO CONNECT TO THE INTERNET.**

(1) Expert testimony is required when the subject of the inference is so particularly related to some science or profession that it is beyond the ken<sup>1</sup> of the average layman. Md. Rule 5-702 permits expert testimony when the testimony will assist the trier of fact to understand the evidence or to determine a fact in issue. The Court should determine whether the testimony is within the range of perception and understanding of the average person.

(2) Md. Rules 5-701 and 5-702 prohibit the admission as lay opinion testimony based upon specialized knowledge, skill, experience, training, or education.

**C. HOLDING: BUSINESS RECORDS WERE PROPERLY ADMITTED PURSUANT TO MD. RULE 5-803(B)(6) BUSINESS RECORDS EXCEPTION. NOTHING ABOUT SOURCE OF MANNER OF PRODUCTION INDICATED A LACK OF TRUSTWORTHINESS.**

11. *Hollabaugh, v MRO Corporation*, \_\_ Md. \_\_, \_\_ A.3d \_\_ (2025), 2025 WL 1903601. Filed July 10, 2025. Fader, C.J. Affirmed in part and reversed in part with instructions Appellate Court's affirming Circuit Court for Baltimore County (Truffer, J.).

**A. FACTS:**

(1) Hollabaugh authorized her attorney to request her medical records from a health care provider for use in a personal injury matter. The provider contracted with MRO Corporation to fulfill the request. MRO sent Hollabaugh's attorney a document titled "Cancellation Invoice", indicating that MRO completed its search and retrieval of the records, but the request was cancelled. Pursuant to the invoice, Hollabaugh was charged \$22.88 "for searching for her Medical Records", but did not produce records. Hollabaugh's attorney paid the fee, and Hollabaugh reimbursed him in full.

(2) In August 2022, Hollabaugh filed a putative class action lawsuit claiming that the charge violated § 4-304(c) of the Health-General Article – the Confidentiality Act – based on the \$22.088 fee for retrieval and preparation. Hollabaugh sought damages to equal to the alleged overpayment.

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<sup>1</sup> Refers to someone's range of perception, knowledge, or understanding.

(3) The circuit court determined that Hollabaugh had standing to sue but that § 4-304(c) authorized MRO's fee. Accordingly, the court granted MRO's motion to dismiss. The AC affirmed.

**B. HOLDING: § 4-304(C) OF HEALTH-GENERAL ARTICLE DOES NOT ALLOW HEALTH CARE PROVIDER TO CHARGE PREPARATION FEE FOR MEDICAL RECORDS SEARCH THAT DOES NOT RESULT IN RECORDS BEING RETRIEVED AND PREPARED TO BE PROVIDED TO REQUESTING PARTY.**

#### **IV. APPENDIX**