Circuit Court for Baltimore City
Case No. 03-C-11-012506

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 634

September Term, 2017

MICHELE GALLAGHER

v.

MERCY MEDICAL CENTER, INC.

Wright,
Kehoe,
Krauser, Peter B.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: June 28, 2018

In this medical malpractice action, Michele Gallagher appeals from a judgment of the Circuit Court for Baltimore City, the Honorable Wanda Keyes Heard presiding, in favor of Mercy Medical Center, Inc. She presents two issues which we have consolidated and reworded:

> Did the circuit court err when it granted summary judgment in favor of Mercy based on the One Satisfaction Rule?

We conclude, as did Judge Heard, that Gallagher's claim against Mercy is indeed barred by the One Satisfaction Rule.

The facts are known to the parties and do not require a detailed recitation from us. Ms. Gallagher was seriously injured as the result of a motor vehicle accident. She required surgery, which was performed at Mercy. She developed a post-operative infection which proved resistant to treatment. Eventually, a physician at Mercy decided to treat the infection with antibiotics delivered intravenously by means of a "PICC," a peripherally inserted central catheter. Unfortunately, an adjacent artery was inadvertently punctured during this procedure, which resulted in reflex sympathetic dystrophy ("RSD"), a permanent condition of pain, numbness, and disability in her left arm.

Gallagher filed a civil action setting out a negligence claim against Phuong Nguyen, the driver of the other car, and a respondeat superior claim against Jenny Le Phan. The same action asserted a breach of contract claim against State Farm Mutual Automobile Insurance Company, Gallagher's insurer, under the underinsured motorist provision of her insurance policy. Gallagher's claim against Nguyen and Phan was quickly settled for

$25,000, the limit of coverage under the Nguyen/Phan policy. {RE 5} This left Gallagher's underinsured motorist claim against State Farm.

Prior to trial, the circuit court resolved a discovery dispute by issuing an order prohibiting Gallagher from introducing into evidence reports or other evidence related to Gallagher's medical treatment prior to January 7, 2014, unless the document had been turned over to State Farm prior to March 2015. {RE 9-11} Gallagher takes the position that this order kept out some evidence that would have supported her claim for damages related to the PICC incident. However, there is no dispute that she made a claim for her RSD condition in her suit against State Farm. Shortly after the trial began, counsel informed the court that the case had been settled. Gallagher received a payment of $125,000, and the parties filed a written stipulation of dismissal with prejudice. {RE 16, 96, Apx 7}

Gallagher then filed the current action, alleging that various members of Mercy's staff had been negligent: *first*, by puncturing her artery while inserting the catheter, and *second*, by failing to detect and treat the injury on a timely basis. Mercy filed a motion for summary judgment. Mercy called the court's attention to the fact that Gallagher had sought compensation for her RSD condition in her action against Ngyuen, Phan, and State Farm. Mercy asserted that the settlements of her claims against Nguyen, Phan, and State Farm barred her from seeking additional damages from Mercy. The trial court granted the motion, relying in large part on the holdings and analyses of two decisions by the Court of Appeals, *Morgan v. Cohen*, 309 Md. 304 (1987), and *Underwood-Gary v. Mathews*, 366 Md. 660 (2001).

(1)

Our standard of review is a familiar one:

> [W]e review a trial court's granting of a motion for summary judgment [for] legal correctness. If no material facts are placed in genuine dispute, this Court must determine whether the Circuit Court correctly entered summary judgment as a matter of law.
>
> Our review is further limited to the basis relied upon by the trial court.

Bryan v. State Farm Mutual Auto. Ins. Co., 205 Md. App. 587, 591 (2012) (citations and quotation marks omitted).

(2)

Maryland adheres to the One Satisfaction Rule, which provides:

> [a] plaintiff [is] entitled to but one compensation for his loss, and that satisfaction of his claim, even by a stranger to the action, would prevent its further enforcement. It is obvious that this rule is equitable in its nature, and that its purpose is to prevent unjust enrichment. It is equally obvious that it applies not only to joint tort-feasors, but also to concurrent wrongdoers not acting in concert, or even to payments made by parties who have no connection with the tort at all.

Morgan, 309 Md. at 312 (quoting W. Prosser, *Joint Torts and Several Liability*, 25 CALIF. L. REV. 413, 421–22 (1937)). However, as the Court later noted, although "this principle appears straightforward, its application has led to confusion in the law." *Underwood-Gary v. Mathe*ws, 366 Md. at. 660. Difficulties could arise in several ways. One had to do with the difference between a joint tortfeasor and a successive tortfeasor. *Morgan*, 309 at 311. Another problem pertained to the legal consequences between releasing and satisfying a claim. Both *Morgan* and *Underwood-Gary* addressed these problems in ways that are relevant to the present appeal.

By way of background, *Morgan* was a consolidated appeal involving two separate medical malpractice actions against Dr. Cohen, an orthopedic surgeon, for what was alleged to be negligent treatment of persons injured in motor vehicle accidents. Morgan, one of the patients, settled with the other driver and, as part of the deal, signed a release of

> all other persons ... of and from any and all claims, [and] damages which the undersigned now has ... or which may hereafter accrue on account of or in any way growing out of any and all known and unknown, foreseen and unforeseen bodily and personal injuries ... and the consequences thereof, resulting or to result from the accident[.]

309 Md. at 307.

The other plaintiff, Hovermill, filed suit against the other driver. That case was settled and, in addition to signing a release, she directed the clerk to enter an order of satisfaction. *Id.* at 308. Cohen was not a party to either case, nor did he contribute to either settlement. Morgan and Hovermill filed malpractice actions against Cohen, and the trial court in each granted summary judgment to Cohen, based on the release in Morgan's case, and based on its finding that Hovermill's injury had been satisfied by the settlement and released. *Id.* at 309. At the Court of Appeals, the issue was "[w]hether a general release, executed in settlement of a damage claim against the operator of a motor vehicle whose negligence caused injury, also releases a physician who subsequently treats the injury." *Id.* at 306. The Court found that the general release of an original tortfeasor does not automatically release the treating physician from liability, and that the impact of the release is a question of fact for the trial court to determine:

> If releases given under the circumstances of these cases do not, as a matter of law, bar action against one in Dr. Cohen's position, it follows that the satisfaction of a

> judgment against Jones, the original tortfeasor, in an action to which Dr. Cohen was not a party, should have no greater effect. The policy implicated here is that against double recovery for the same harm. . . . But the policy against double recovery does not apply when a judgment against the original tortfeasor for the original tort only has been satisfied, at least when the subsequent tortfeasor has not been joined in that suit. *See* Restatement (Second) of Judgments § 50 (1982). Like the question of intent with respect to the ambiguous releases, **we are presented with a question of fact: Did the satisfied judgment include damages for both torts, or just the original tort?** If the judgment in fact encompassed the former, Hovermill's claim against Dr. Cohen is barred because she has received full compensation for all her injuries; if it encompassed only the latter, her claim is not barred because she has been compensated only for the initial harm caused by Jones. **This is a question of fact for the trial court.**

Id. at 320–21 (emphasis added).

In *Underwood-Gary v. Matthews,* 366 Md. 660 (2001), the Court considered a similar situation. Underwood-Gary was in a car accident and sued the driver who hit her. At the conclusion of the trial, the jury found the other driver negligent and awarded Underwood-Gary a little over $9,000. *Id*. at 665-66. Underwood-Gary appealed the decision to this Court, but the case was settled for $20,000 while the appeal was pending. *Id.* at 666. Underwood-Gary then sued the doctors who treated her following the accident for medical malpractice, on the basis that they had subjected her to medically unnecessary surgery. *Id.* The jury found in Underwood-Gary's favor and awarded her more than $400,000. *Id.* The physicians appealed and this Court reversed the judgment on the grounds that the One Satisfaction Rule applied, as well as the doctrine of judicial estoppel. *Matthews v. Underwood-Gary*, 133 Md. App. 570, 580–81 (2000).

In addressing the effect of the settlement in the motor vehicle case on the claim against the doctors, the Court of Appeals noted that "[i]t is ordinarily a question of fact whether

the judgment in the first action encompassed **all** the injuries sustained by the plaintiff and included those alleged in the second action to be attributable to the doctor's alleged malpractice." *Id.* at 672 (emphasis in original). The court concluded that "[t]he preclusive effect of a satisfied judgment in a prior case is properly a question for the trial judge, not the jury." *Id.* at 673. The Court concluded that Underwood-Gary claimed the same pain and suffering as well as medical expenses in both of her cases, "[a]ll the harm claimed in the present case was included among the harms alleged to have resulted from the negligence in the Thompson litigation." *Id.* at 674. Therefore, those damages had already been factored into the award in her first trial against Thompson and her claim had already been satisfied, which barred her subsequent attempt to recover for those same injuries from the physicians. *Id.* at 674-75.

(3)

We now turn to the case before us. In determining whether the One Satisfaction Rule applies, we look to the settlement in the State Farm case and consider whether the payment in that case was full satisfaction for Gallagher's injuries such that the One Satisfaction Rule would bar an additional award against Mercy. As was established in *Underwood-Gary*, 366 Md. 673, this is a question of fact for the trial court to consider. Appellant disagrees, insisting that it is a factual question for the jury because unlike in *Underwood-Gary*, there is only a settlement, rather than an award resulting from a trial on the merits.

In this case, the distinction between a recovery resulting from a settlement and one resulting from a jury verdict is not as significant as appellant suggests. As we recently

noted, "context matters" when courts consider the preclusive effect of a prior adjudication. *Women First OB/GYN Associates, L.L.C. v. Harris*, 232 Md. App. 647, 678-79 (2017), *cert. denied,* 456 Md. 73 (2017). The relevant context in the case before us is how Gallagher framed her theory of recovery in the State Farm case. It is clear (indeed, Gallagher's counsel conceded in a deposition) that she sought to recover from State Farm compensation for all of her injuries, including those resulting from the PICC procedure. While there is no satisfied judgment against State Farm, as there was in *Underwood-Gary,* there was a dismissal with prejudice, which can have a similar impact if the dismissal was entered in consideration for a settlement which compensated the plaintiff. *Women First,* 232 Md. App. at 678-79 ("The legal effect of a dismissal with prejudice of an agent on his principal should be guided by whether the dismissal is a procedural device used to drop the agent as a defendant or has a substantive basis, such as an adverse decision on the merits, the release of the plaintiff's claim, or an exchange of value."). The dismissal in the State Farm case was based upon "an exchange of value."

The One Satisfaction Rule ensures that a plaintiff may only be compensated once for the injury she suffers. *See Underwood-Gary*, 366 Md. at 667 ("We begin with the general principle that a plaintiff is entitled to but one compensation for her loss and that satisfaction of her claim prevents further action against another for the same damages.") We are unpersuaded by appellant's contention that the reasoning in *Underwood-Gary* should not apply to her case. Although there was not a complete trial in the State Farm action, there was nonetheless sufficient information for the summary judgment court to compare the

basis for the settlement in the State Farm case with the claim Gallagher brought against Mercy, including the pleadings in both cases that seek recovery for the same injuries, and representations made by Gallagher and her counsel at her deposition for the Mercy claim conceding that she was seeking the same damages against Mercy as she had included in her claim against State Farm.

Gallagher's appellate contentions boil down to the assertion that, if she were able to bring a case against State Farm, and then to bring another against Mercy, she would be better compensated for her injuries. To put it another way, she believes that the jury in her case against Mercy should decide whether her entirely voluntary settlement with State Farm was adequate recompense for her injuries. Neither *Morgan* nor *Underwood-Gary* stands for such a proposition.

THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY IS AFFIRMED. COSTS TO BE PAID BY APPELLANT.