

Circuit Court for Anne Arundel County
Case No. C-02-CV-23-002313

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 802

September Term, 2024

CHRISTINA M. VOGT

v.

NATIONAL ORGANIZATION FOR
WOMEN, *et al.*

Berger,
Tang,
Sharer, J. Frederick
(Senior Judge, Specially Assigned),

JJ.

Opinion by Tang, J.

Filed: June 18, 2025

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

Christina M. Vogt, appellant, filed a civil complaint in the Circuit Court for Anne Arundel County against the National Organization for Women, Inc. (“NOW”); Christian Nunes (“Nunes”), the president of NOW; and Thomas Hart, Esq. (“Hart”), an attorney for NOW, appellees. Vogt alleged negligent infliction of emotional distress, intentional infliction of emotional distress, negligence, and breach of contract. Following a hearing, the court dismissed Vogt’s complaint with prejudice. Vogt appealed, presenting ten questions for our review. We have consolidated those questions into one:¹ Did the circuit court err in dismissing Vogt’s complaint with prejudice? Finding no error, we affirm.

¹ In her brief, Vogt, pro se, phrased the questions as follows:

1. What part of the Plaintiff’s legal argument for jurisdiction is not in accordance with Maryland Law?
2. How did the Judge determine that Intentional Infliction of Emotional Distress (IIED) did not occur given that the complaint meets all conditions of this cause of action under Maryland Law?
3. How would the Maryland Courts justify not granting IIED to a mentally and emotionally disabled person who was further injured and disabled by the actions of the NOW Grievance Committee?
4. How could the Judge rule on Intentional Infliction of Emotional Distress without expert of medical evidence?
5. How did the Judge determine that Negligence, given the doctrine of Respondeat Superior, did not occur given that the complaint meets all conditions of this cause of action under Maryland Law?
6. How did the Judge rule upon the cause of action for Negligence without the presentation of any medical or expert evidence?
7. To what extent do the Maryland Courts rely upon medical/expert information to make their determination of Intentional Infliction of Emotional Distress?

BACKGROUND

NOW is a national organization based in Washington, D.C., dedicated to promoting women’s rights, with chapters throughout the United States. Vogt served as the treasurer of NOW’s West Virginia chapter (“WV NOW”).

In 2020, the Board of Directors for WV NOW submitted a grievance to NOW’s Grievance Committee, alleging that Vogt had mismanaged the chapter’s finances during her tenure as treasurer. The Board requested that Vogt be removed from her position and declared ineligible to hold office in the future. Vogt denied misappropriating funds.

On March 19, 2021, the Committee held a formal hearing, which was attended by Hart. Vogt did not attend but provided some documentation to demonstrate her bookkeeping practices. After the hearing, the Committee determined that Vogt had breached her fiduciary duty to WV NOW by failing to maintain and provide accurate financial records. Consequently, it recommended that Vogt be sanctioned.

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8. Why would a person who was injured and suffered further injury by a defendant not be allowed to recover damages under Tort of Intentional Infliction of Emotional Distress in Maryland?
 9. To what extent do the Maryland Courts rely upon medical/expert information to make their determination of Negligence?
 10. Why would a person who was injured and suffered further injury by a defendant not be allowed to recover damages under the Tort of Negligence in Maryland?

Lawsuit in the D.C. Superior Court

In June 2023, Vogt filed a civil complaint in the Superior Court of the District of Columbia (the “D.C. Superior Court”) based on the actions of the WV NOW Board and the Grievance Committee. NOW was the only defendant.

In her complaint, Vogt alleged that the Board “used defamatory and untrue statements to open a case” with the Committee. She alleged that the subsequent investigation revealed she had not violated her fiduciary duties as the treasurer of WV NOW. Vogt claimed that, despite this, the Committee continued its investigation and conducted a hearing, which violated the grievance procedure in NOW’s bylaws. She asserted that her treatment during the proceeding “was a clear act of malice in that there was a conscious intention of doing harm to the victim when she refused to cooperate in the hearing.” Vogt claimed that the Committee “exhibited ill-will, hatred or total disregard for [her] well-being” and that she “was harassed, threatened, and intimidated” by members of the Board and Committee.

Vogt’s complaint included three causes of action: (1) intentional and/or negligent infliction of emotional distress, (2) negligence, and (3) breach of contract. In her first cause of action, Vogt alleged that the Board and Committee had harassed and humiliated her by sending her threatening emails and by holding the grievance hearing without justification and in violation of NOW’s bylaws. Vogt claimed that those actions caused her extreme duress and exacerbated her preexisting mental health issues.

In her second cause of action, Vogt alleged that NOW owed her a duty to follow the grievance procedure set forth in its bylaws, which included a requirement that a grievance hearing be held within a certain amount of time. Vogt alleged that NOW had breached that duty by holding an untimely hearing and by continuing with the hearing when there was no evidence that she had breached her fiduciary duty. Vogt claimed that NOW’s breach had damaged her emotionally and mentally.

In her third cause of action, Vogt alleged that NOW’s bylaws were an enforceable contract. Vogt claimed that the Board had breached that contract by threatening her and “holding an illegal hearing.”

In October 2023, the D.C. Superior Court dismissed the complaint for want of prosecution. The court’s dismissal, which was reflected in the court’s docket, did not indicate whether it was “with prejudice” or “without prejudice.” Under D.C. Superior Court Rule of Civil Procedure 41, “[a]n order dismissing a claim for failure to prosecute must specify that the dismissal is without prejudice, unless the court determines that the delay in prosecution of the claim has resulted in prejudice to an opposing party.” D.C. Super. Ct. R. Civ. P. 41(b)(1)(B). The rule further states that, “[u]nless the dismissal order states otherwise or as provided elsewhere in these rules, a dismissal by the court—except a dismissal for lack of jurisdiction or for failure to join a party under Rule 19—operates as an adjudication on the merits.” *Id.*

Lawsuit in the Circuit Court for Anne Arundel County

In November 2023, after dismissal of the lawsuit in the D.C. Superior Court, Vogt filed a civil complaint in the Circuit Court for Anne Arundel County. Vogt named NOW, Nunes (NOW’s president), and Hart (NOW’s attorney) as defendants. Vogt brought the suit in the circuit court because, according to her complaint, NOW had significant contacts with Maryland and because Vogt “conducted most of her NOW business out of Maryland and was often in [her Annapolis] residence” during the relevant period. Aside from the addition of Nunes and Hart as defendants, Vogt’s complaint was a nearly word-for-word restatement of the complaint she filed in the D.C. Superior Court.

In March 2024, Hart moved to dismiss Vogt’s complaint. Hart argued that Vogt’s complaint failed to state a claim upon which relief could be granted because it failed to present any facts showing that he had engaged in conduct adverse to Vogt. Hart also argued that the court lacked jurisdiction over him, as he was not a resident of Maryland and did not have sufficient contacts with the state.

NOW and Nunes also moved to dismiss Vogt’s complaint. First, they asserted that Vogt’s complaint was barred by *res judicata* due to the dismissal of her prior action in the D.C. Superior Court. Second, they argued that the circuit court lacked jurisdiction over NOW. Finally, they contended that the complaint failed to state a claim for which relief could be granted.

In May 2024, the court held a hearing on the motions to dismiss. Vogt did not appear, as she had previously filed a request to postpone the hearing. In her request, she

claimed that she was injured in a “playground accident” and was not well enough to attend. During the hearing, all defendants objected to granting the postponement. The court denied Vogt’s motion and proceeded with the hearing.

Ultimately, the court granted the motions to dismiss. As to all three defendants, the court found that it lacked personal jurisdiction and that Vogt failed to state a claim for which relief could be granted. As to NOW and Nunes, the court found that Vogt’s claims were barred by *res judicata*. Based on those findings, the court dismissed Vogt’s complaint with prejudice.

On June 5, 2024, Vogt timely noted an appeal.²

STANDARD OF REVIEW

When reviewing the grant of a motion to dismiss, we apply a *de novo* standard of review to determine whether the court was legally correct. *D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 350 (2019). In making that determination, “we look only to the allegations in the complaint and any exhibits incorporated in it”³ *Worsham v. Ehrlich*,

² On October 9, 2024, while this appeal was pending, Vogt filed a motion in the D.C. Superior Court, requesting that the court vacate its order of dismissal and enter a new order stating that the dismissal was without prejudice. On October 16, 2024, while that motion was pending, Vogt submitted her appellate brief in this Court. In her brief, she noted her pending motion in the D.C. Superior Court and requested that we “suspend judgment on this case until the DC Court rules on her motion.” She conceded that if the D.C. Superior Court’s judgment was not amended to reflect dismissal without prejudice, she would have “no options left.” On November 19, 2024, the D.C. Superior Court denied Vogt’s motion to vacate. Because we issued this opinion after the D.C. Superior Court’s ruling, Vogt’s request to “suspend judgment on this case” is now moot.

³ In her brief, Vogt includes myriad facts and allegations that were not part of her complaint. Because our review is limited to the allegations in the complaint, we will not consider any other facts and allegations.

181 Md. App. 711, 722 (2008) (citations omitted). We “assume the truth of factual allegations made in the complaint and draw all reasonable inferences from those allegations in favor of the plaintiff.” *Ceccone v. Carroll Home Servs., LLC*, 454 Md. 680, 691 (2017). “[G]enerally, dismissal is proper if the alleged facts and permissible inferences, viewed in a light most favorable to the non-moving party . . . would, if proven, nonetheless fail to afford relief to the plaintiff.” *Sanders v. Bd. of Educ. of Harford Cnty.*, 477 Md. 1, 15 (2021) (citation and quotations omitted).

DISCUSSION

Vogt argues that the circuit court erred in dismissing her complaint with prejudice. Vogt contends that the court should not have dismissed for lack of jurisdiction because she was injured in Maryland and because NOW had sufficient contacts with Maryland. Regarding her alleged failure to state a claim, Vogt asserts that she adequately pleaded all elements of her three causes of action and that the court’s dismissal was premature, given the absence of any expert opinion or medical evidence. Regarding the court’s decision that her claims against NOW and Nunes were barred by *res judicata*, Vogt concedes that the D.C. Superior Court’s dismissal of her complaint and subsequent denial of her motion to vacate (*see supra* n.2) are fatal to her claims.

For the reasons discussed below, we hold that Vogt’s claims against NOW and Nunes were barred by *res judicata*. As for Hart, we hold that Vogt failed to state a claim upon which relief could be granted. Since these grounds are sufficient to affirm the circuit court’s judgment, we need not address any other grounds or arguments cited by the court

or raised by the parties. *See, e.g., Monumental Life Ins. Co. v. U.S. Fid. & Guar. Co.*, 94 Md. App. 505, 523 (1993) (citing *Ellett v. Giant Food, Inc.*, 66 Md. App. 695, 700 (1986) (where the trial court relied on several alternative independent grounds in reaching its decision, we affirm if at least one of those independent grounds was properly decided)).

A. The Claims Against NOW and Nunes are Barred by *Res Judicata*.

Res judicata, also referred to as claim preclusion or direct estoppel, is “an affirmative defense barring the same parties from litigating a second lawsuit on the same claim, or any other claim arising from the same transaction or series of transactions and that could have been—but was not—raised in the first suit.” *Anne Arundel Cnty. Bd. of Educ. v. Norville*, 390 Md. 93, 106 (2005) (citations omitted). The elements of *res judicata* are:

(1) the parties in the present litigation are the same or in privity with the parties to the earlier litigation; (2) the claim presented in the current action is identical to that determined or that which could have been raised and determined in the prior litigation; and (3) there was a final judgment on the merits in the prior litigation.

Spangler v. McQuitty, 449 Md. 33, 65 (2016) (citation omitted). Whether the doctrine of *res judicata* is applicable in a particular case is a question of law that we review *de novo*. *Augustine v. Wolf*, 264 Md. App. 1, 12 (2024).

Vogt’s claims against NOW and Nunes were barred by *res judicata* based on the D.C. Superior Court’s dismissal of her previous complaint. First, the parties in the instant case, i.e., NOW and Nunes, are identical to or are in privity with the parties to Vogt’s D.C. Superior Court case. NOW was a named defendant in that case, and NOW is a named

defendant in the instant case. It is evident that Nunes was named as a defendant in the instant case solely because she is the president of NOW. The instant complaint contains no allegations of wrongdoing by Nunes. In fact, aside from naming Nunes as a defendant, the complaint contains no facts or allegations that could reasonably be attributed to Nunes. Thus, for *res judicata* purposes, Nunes is in privity with NOW. *See Bank of N.Y. Mellon v. Georg*, 456 Md. 616, 659 (2017) (“[P]rivity generally involves a person so identified in interest with another that [the person] represents the same legal right.” (citation and quotations omitted)).

Second, the claims in the instant case were determined by or could have been raised in the D.C. Superior Court case. With only minor, non-substantive changes, Vogt’s complaint in the instant case is largely a duplication of her complaint in the D.C. Superior Court case.

Finally, there was a final judgment on the merits in the D.C. Superior Court case. The D.C. Superior Court dismissed Vogt’s complaint without indicating whether the dismissal was with or without prejudice. That dismissal is therefore deemed to be with prejudice. *Lofton v. Kator & Scott*, 802 A.2d 955, 956 (D.C. 2002). Under the circumstances, the dismissal acted as an adjudication on the merits. *See Norville*, 390 Md. at 113–15 (explaining that under a similar rule, Rule 41(b) of the Federal Rules of Civil Procedure, the district court’s dismissal constituted an adjudication on the merits).

Because all three elements of *res judicata* are satisfied, we hold that all the claims against NOW and Nunes in the instant case were barred. As such, the circuit court did not err in dismissing Vogt’s complaint as to NOW and Nunes.

B. The Complaint Fails to State a Claim Against Hart.

Vogt’s complaint included three causes of action against Hart: (1) negligent and/or intentional infliction of emotional distress, (2) negligence, and (3) breach of contract. However, the complaint only briefly references Hart:

The plaintiff knows of a case of a NOW Chapter editing bylaws to avoid legal issues after the fact. While highly illegal, little was done to admonish this chapter. The lawyer for NOW (Hart) said he felt the whole issue was demagoguery. The plaintiff’s harsh treatment was undoubtedly malicious.

* * *

Hart was aware of the fraud and false accusations perpetrated by the WVNOW members and never addressed it in the hearing or otherwise.

Aside from these cursory references, there are no facts or allegations in Vogt’s complaint that specifically identify Hart or that could reasonably be attributed to him.

We hold that Vogt failed to state a claim against Hart for negligent and/or intentional infliction of emotional distress. As to Vogt’s claim for negligent infliction of emotional distress, such a cause of action is not recognized as an independent tort in Maryland. *Alban v. Fiels*, 210 Md. App. 1, 16 (2013). As to her claim for intentional infliction of emotional distress, Vogt had to allege facts that Hart intentionally or recklessly caused her emotional distress by engaging in behavior that was “extreme and outrageous,” among other elements. *Haines v. Vogel*, 250 Md. App. 209, 229–30 (2021). That is, “the alleged conduct must ‘go beyond all possible bounds of decency and is to be regarded as atrocious and

utterly intolerable in a civilized community.” *Id.* at 230 (citation omitted). Vogt’s complaint contains no such allegation against Hart.

We likewise hold that Vogt failed to state a claim against Hart for negligence. To establish a claim for negligence, Vogt needed to allege facts that Hart was under a duty to protect Vogt from injury, among other elements. *Evergreen Assocs., LLC v. Crawford*, 214 Md. App. 179, 186–87 (2013). A duty is “an obligation, to which the law will give recognition and effect, to conform to a particular standard of conduct toward another.” *Ford v. Edmondson Vill. Shopping Ctr. Holdings, LLC*, 251 Md. App. 335, 347 (2021) (citation omitted). Vogt’s complaint contains no such allegation with respect to Hart.

Finally, we hold that Vogt failed to state a claim against Hart for breach of contract. To establish a claim for breach of contract, Vogt needed to “. . . allege with certainty and definiteness *facts* showing a contractual obligation owed by the defendant to the plaintiff and a breach of that obligation by [the] defendant.” *Polek v. J.P. Morgan Chase Bank, N.A.*, 424 Md. 333, 362 (2012) (citation omitted). Vogt’s complaint contains no such allegation with respect to Hart.

In sum, Vogt’s complaint failed to include sufficient facts to support a claim against Hart. Accordingly, the circuit court did not err in dismissing Vogt’s complaint.

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