Circuit Court for Anne Arundel County
Case No.: C-02-CV-24-002766

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 0814

September Term, 2025

ALVERA LEWIS

v.

UNITED SERVICES AUTOMOBILE ASSOCIATION CASUALTY INSURANCE COMPANY

Leahy,
Ripken,
Albright,

JJ.

Opinion by Leahy, J.

Filed: June 29, 2026

*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).

In 2018, Appellant Alvera Lewis was in a car accident. She sued the other driver, whose car insurance company paid her $30,000—the limit of the other driver's insurance policy. Lewis then turned to her own car insurer, United States Automobile Association Casualty Insurance Company (USAA), to cover the remainder of her damages. The applicable USAA policy provides "uninsured/underinsured motorist" (UIM) coverage, under which USAA would cover damages that are not covered by the other driver's insurance, up to $50,000 per person.

USAA offered Lewis $20,000, calculated as the difference between what the other driver's insurer paid ($30,000) and Lewis's UIM limit ($50,000). Lewis thought her policy limit should have been $300,000 and that USAA owed her more money, so she sued USAA in the Circuit Court for Anne Arundel County as a self-represented litigant. She alleged that under a Marital Settlement Agreement (MSA), her ex-spouse had to provide her with $300,000 of UIM coverage. She further alleged that USAA incorporated the MSA into the "insurance policy contract" and, therefore, USAA breached the MSA when it changed her policy to lower her UIM coverage.

USAA moved to dismiss, arguing that it could not breach the MSA, because it was not a party to the MSA. The court granted USAA's motion and dismissed the case. Lewis now appeals, presenting three questions for our review, which we have consolidated and recast as:

1. Did the circuit court err in granting USAA's motion to dismiss?

2. Did the Circuit Court err by failing to address Lewis's claims of fraud and misrepresentation or by failing to swear in USAA's counsel?[1]

Finding no error or abuse of discretion, we affirm.

FACTUAL AND PROCEDURAL BACKGROUND[2]

2018 Accident and Insurance Claim

On November 29, 2018, Lewis was in an automobile accident, which she alleged resulted in bodily injury. She was covered under an insurance policy issued by USAA, and her policy limits for UIM coverage were $50,000 per person and $100,000 per accident. Lewis sued the other driver involved in the accident. The other driver's insurance company, Maryland Automobile Insurance Fund, paid Lewis its limit of liability: $30,000. Lewis then requested UIM coverage from USAA. USAA offered to pay Lewis $20,000 in

[1] Lewis phrased the questions presented as:

> I. Did the circuit court err in making a finding of fact that a contractual agreement did not exist between the parties and nullified the instrument used by USAA to draft/execute the terms of the insurance policy contract requiring premium payments of the insurance policy contract?
>
> II. Did the Circuit Court err by failing to address the 2nd Claim of fraud and misrepresentation as required for adjudicating all claims of final judgement?
>
> III. Did the Circuit Court err by failing to swear under oath or affirmation all parties before testimony was given on the record in a complaint that alleges fraud and misrepresentations?

[2] The summary of the facts and proceedings that occurred prior to Lewis filing the underlying lawsuit against USAA are taken from Lewis's complaint and the public record in the following lawsuits, of which we can take judicial notice: *Lewis v. Nib*, No. CAL21-08333 (Cir. Ct. Prince George's Cnty. filed July 23, 2021); *Lewis v. USAA*, No. C-16-CV-24-001018 (Cir. Ct. Prince George's Cnty. filed Feb. 29, 2024); and *Lewis v. USAA*, No. C-16-CV-24-001607 (Cir. Ct. Prince George's Cnty. filed April 3, 2024); *In re: Lewis*, No. C-02-CV-24-002801 (Cir. Ct. Anne Arundel Cnty. filed Oct. 30, 2024).

UIM benefits, which brought her total insurance coverage for the accident to $50,000, the limit of liability for UIM coverage under the USAA policy.

Administrative Proceedings

Lewis disagreed with USAA's calculation, alleging that the UIM limit at the time of the accident was $300,000 per person, not $50,000 per person. In April 2022, she filed a complaint with the Maryland Insurance Administration ("MIA"), challenging USAA's determination as to the UIM policy limits and asserting that she was also covered by Enhanced UIM (EUIM) benefits. MIA requested and received documents from USAA, then concluded that USAA had not violated Maryland insurance law in its handling of Lewis's claim for coverage—Lewis's applicable limit of liability was $50,000, and USAA had acted reasonably in handling Lewis's claim. In October 2022, MIA notified Lewis of its findings and of her right to request a hearing.

Lewis requested a hearing, which was held by the Office of Administrative Hearings (OAH) before an administrative law judge (ALJ). OAH treated the hearing as an appeal from MIA's earlier decision that presented one question: "Did [USAA] refuse or delay payments due [to Lewis] without just cause or engage in any unfair claim settlement practice … ?" The ALJ found that since October 2016, Lewis's applicable UIM limit was $50,000 per person; that USAA had paid Lewis $20,000 based on the other driver's $30,000 insurance coverage limit; and that USAA "did not act without just cause or arbitrarily or capriciously in limiting [Lewis]'s claim to $20,000." The ALJ's proposed decision notified Lewis of her right to file exceptions, so Lewis filed exceptions. In January

2024, MIA issued its "final order," accepting the ALJ's findings of fact and conclusions of law.[3]

Procedural History

Lewis filed this lawsuit on October 29, 2024, alleging that USAA had breached "a Negotiated Settlement Agreement related to a Mar[it]al Separation Agreement inc[o]rporated into a Divorce Decree dated February 5, 2017[.]" She asserted that USAA arbitrarily lowered her UIM coverage from $300,000 per person to $50,000 per person, violating the MSA.

Motion for Order of Default

On December 19, 2024, Lewis sent a summons to USAA's attorney by certified mail, and it was received the next day. USAA's attorney promptly e-mailed Lewis explaining that service was improper because she had sent *only* the summons, not the

[3] In February 2024, Lewis sought judicial review of MIA's final order in the Circuit Court for Prince George's County. USAA successfully moved to dismiss Lewis's petition for judicial review, arguing that only the Circuit Court for Anne Arundel County was an appropriate venue.

Rather than refile her petition in the right court, Lewis filed a new complaint against USAA in the Circuit Court for Prince George's County, asserting claims similar to this asserted here: USAA had breached a contract by paying her only $20,000. USAA successfully moved to dismiss, arguing that Lewis's claims were collaterally estopped by the final decision of the MIA. On October 21, 2024, the court dismissed Lewis's suit with prejudice. Lewis did not appeal.

Eight days later, Lewis filed this action in the Circuit Court for Anne Arundel County. The next day, she filed a second petition for judicial review, this time in the Circuit Court for Anne Arundel County. USAA successfully moved to dismiss the petition, arguing that Lewis had only 30 days after MIA's final order to seek judicial review, so her petition was 245 days too late. On December 30, 2024, the court dismissed Lewis's petition and denied her motion to reconsider. Lewis did not appeal.

complaint or any other filings. USAA's attorney requested that Lewis e-mail him the complaint and offered to ask USAA if it would be willing to waive service. Lewis did not respond.

On January 16, 2025, Lewis filed an affidavit of service with the court, stating that the summons—and only the summons—had been served on USAA's counsel on an unknown date. The court issued an order two weeks later, noting that the affidavit of service was insufficient. The next day, Lewis submitted a request to reissue the summons. Then, on February 5, Lewis moved for order of default despite still not having served USAA, which the court denied. She ultimately served USAA three months later and filed a new affidavit of service.

Motion to Dismiss

USAA moved to dismiss, arguing that Lewis had not pled a contractual relationship between her and USAA, such that USAA could breach a contract. At the conclusion of a hearing on June 13, 2025, the court granted USAA's motion, finding that because USAA was not a party to the MSA, it could not breach the MSA. The court also held that Lewis could not raise new arguments about fraud, misrepresentation, and due process violations for the first time at the hearing, as they were not in her complaint. The court explained to Lewis that because it was dismissing her claims, the parties could disregard the court's earlier order directing the parties to mediate. Four days later, the court entered an order striking its mediation order.

Lewis now appeals the court's orders denying her motion for order of default and granting USAA's motion to dismiss.

DISCUSSION

I.

Dismissal

When reviewing the grant of a motion to dismiss, "we view the well-pleaded facts of the complaint in the light most favorable to the appellant to determine whether the trial court was legally correct in dismissing the complaint." *See Tavakoli-Nouri v. State*, 139 Md. App. 716, 725 (2001) (cleaned up). We will affirm the dismissal "if the complaint does not disclose, on its face, a legally sufficient cause of action." *Paula v. Mayor and City Council of Balt.*, 253 Md. App. 566, 579 (2022) (cleaned up).

When ruling on a motion to dismiss for failure to state a claim, we "consider[] only the facts alleged in the complaint and any supporting exhibits incorporated into the complaint." *Bennett v. Ashcraft & Gerel, LLP*, 259 Md. App. 403, 451 (2023). Dismissal is appropriate if "even after assuming the truth of all well-pleaded factual allegations and after drawing all reasonable inferences from those allegations in favor of the pleader, the pleader would still not be entitled to relief." *Id*.

Breach of Contract

Lewis mainly argues that "USAA accepted consideration by the terms stipulated in the MSA," used it to create "the insurance policy contract," and agreed to permit her ex-spouse to continue to pay premiums on the same policy that covered the couple during their marriage. She maintains that under the MSA, USAA could not change Lewis's insurance coverage without her consent.

USAA responds that the court correctly determined that USAA is not a party to the MSA and cannot be governed by its provisions. USAA asserts that only Lewis and her ex-spouse are subject to the terms of the MSA, that USAA did not become a party to the contract by acknowledging its receipt, and that Lewis's allegations to the contrary misstate the law of contract.

We agree with USAA that Lewis's claim for breach of contract was properly dismissed. "A fundamental premise of the law of contracts is that a person who is not a party to a contract is not bound to its terms." *Matter of Collins*, 468 Md. 672, 678 (2020). Put another way, "as a general rule[,] a contract cannot be enforced by or against a person who is not a party to it." *Crane Ice Cream Co. v. Terminal Freezing & Heating Co.*, 147 Md. 588, 593 (1925). After all, a "contract" is just "[a]n agreement between two or more parties creating obligations that are enforceable or otherwise recognizable at law." *Contract*, Black's Law Dictionary (12th ed. 2024). We have found very few exceptions to this rule,[4] none of which apply here.

Under the plain text of the MSA, it does not impose any obligations on USAA. The MSA begins by providing that it is an agreement "between [Lewis's ex-husband] and [Lewis]." In the relevant section, it obligates Lewis's ex-husband (who it calls "Husband") to "pay auto insurance for the vehicle until January 31, 2017." The agreement provides that it is "binding upon the parties hereto, and their respective heirs, personal

[4] *See, e.g.*, *Peterson v. Evapco, Inc.*, 238 Md. App. 1, 33–50 (2018) (finding that the wife of a contract signatory can be bound by the contract's forum selection clause under certain circumstances).

representatives, executors, administrators, successors and assigns," but none of which pick out USAA as Lewis's auto insurer. It is possible on this record that the MSA obligated *Husband* to procure certain car insurance coverage for Lewis, but that obligation was breached (if at all) by Husband, not by USAA. We therefore reject Lewis's argument that "USAA accepted consideration by the terms stipulated in the MSA."

For similar reasons, Lewis is incorrect when she argues that under the terms of the MSA, USAA is not allowed to change her insurance coverage. If the MSA requires that Lewis receive certain insurance coverage, the burden of providing that coverage falls on Husband, not on USAA. The contract that governs the coverage USAA must provide is its insurance policy, not the MSA. Under the insurance policy, the applicable limit of UIM insurance is $50,000. Contrary to Lewis's arguments, nothing in the text of the insurance policy incorporated the terms of the MSA or otherwise increased the UIM coverage limit above $50,000.

Mediation

Separately, Lewis asserts that the court erred when it disregarded its own order for mediation after dismissing the case. We disagree. The order for mediation is a perfunctory order issued to encourage the parties to resolve the issues in dispute outside of the court proceeding. Once the court determined that Lewis failed to state a claim on which relief can be granted, there were no longer any disputed issues that could be resolved in mediation. Indeed, the order for mediation notes that "[i]n the event a settlement agreement is reached or the case is dismissed prior to using the [Alternative Dispute Resolution] services, counsel shall notify the mediator immediately," presumably to inform them that their services are no longer necessary. As the order for mediation is nullified by the court's dismissal of the case, the court did not err in instructing Lewis that it was no longer necessary for the parties to engage in mediation.

Default

Lewis also argues that the court abused its discretion[5] when it failed to grant her motion for order of default. Again, we disagree.

Under Rule 2-613, "[i]f the time for pleading has expired and a defendant has failed to plead as provided by these rules, the court, on written request of the plaintiff, shall enter an order of default." It follows that Lewis was entitled to an order of default only if USAA's "time for pleading" had "expired."

But USAA's time for pleading never expired in this case. USAA's answer to Lewis's complaint was due "60 days after" USAA was "served." Rule 2-321. In this case, USAA becomes "served" only when Lewis delivers "a copy of the summons, complaint, and all other papers filed with it" to USAA under Rule 2-121. The uncontroverted record in this case shows that Lewis served USAA on May 5, 2025; Lewis's earlier attempt at service sent only the summons, not the complaint. USAA's time for pleading thus ran until July 4, 2025 (plus two days, because July 4 was a Saturday, *see* Rule 1-203). Because the case was dismissed in June 2025, USAA's time for pleading never expired, and USAA was

[5] A decision on a motion for order of default is reviewed for abuse of discretion. *Das v. Das*, 133 Md. App. 1, 15 (2000).

never in default. The circuit court thus correctly denied Lewis's motion for an order of default.

II.

Fraud and Misrepresentation

Lewis also argues that the court erred when it refused to consider her arguments that USAA engaged in fraud, misrepresentation, and due process violations. But Lewis's complaint brought one cause of action for breach of contract; it did not raise claims of fraud, misrepresentation, or denial of due process. *See* Rule 2-303(a) ("Each cause of action shall be set forth in a separately numbered count."). In a hearing on a motion to dismiss, the question is whether the *complaint* is sufficient to survive, not whether the party might have some other claim they could bring. *Heritage Harbour, L.L.C. v. John J. Reynolds, Inc.*, 143 Md. App. 698, 704–05 (2002) ("in considering a motion to dismiss for failure to state a claim, the court examines only the sufficiency of the pleading.") (cleaned up). For this reason, the court was right to conclude that Lewis's arguments about fraud, misrepresentation, and due process could not save her complaint from dismissal.

On appeal, Lewis responds that her complaint "provided facts that USAA breached the insurance policy contract by their substantial failure to perform essential elements of the contract." She explains that in the course of allegedly breaching the MSA, USAA necessarily committed fraudulent misrepresentation. But under Maryland law, the failure to perform a contract duty cannot itself be the basis for a tort claim like negligent misrepresentation. *Mesmer v. Md. Auto. Ins. Fund*, 353 Md. 241, 253 (1999) ("A contractual obligation, by itself, does not create a tort duty. Instead, the duty giving rise to a tort action must have some independent basis.”). Lewis offers no independent basis (no reason other than alleged breach of the MSA) for her claim that USAA committed fraudulent misrepresentation. Thus, even if Lewis had set out a separate claim of negligent missrepresentation in her pleadings, such a claim would have been properly dismissed.

In a related argument, Lewis takes issue with the court’s decision not to swear in USAA’s attorney, which she claims was necessary because she “alleged fraud in a breach of contract complaint.” At the hearing on Lewis’s motion to dismiss, Lewis was sworn in, because she was both a “witness” and her own “counsel.” Under Rule 5-603, “[b]efore testifying, a witness shall be required to declare that the witness will testify truthfully.” In her capacity as a self-represented litigant, Lewis was acting as both witness and counsel, whereas USAA’s attorney was acting only as counsel. The court was not required to swear in USAA’s attorney, as she could not present testimony in her representative capacity—she was not a witness to any material fact in dispute. USAA’s attorney was bound by a different set of ethical rules that required her to tell the truth in court, whether she was sworn in or not. *See* Rule 19-303.3. Accordingly, the court did not err when it swore in only Lewis.

CONCLUSION

For these reasons, we affirm the judgment of the Circuit Court for Anne Arundel County.

JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED. COSTS TO BE ASSESSED TO APPELLANT.