Circuit Court for Montgomery County
Case No. C-15-CV-23-001764

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1324

September Term, 2024

NEW LIFE TREATMENT CENTER, INC.

v.

WAKEFIELD & ASSOCIATES, LLC

Graeff,
Ripken,
Eyler, Deborah S.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Ripken, J.

Filed: September 12, 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).

This case initiated as a breach of contract action. Wakefield & Associates, LLC ("Wakefield") sued New Life Treatment Center ("NLTC") in the Circuit Court for Montgomery County for NLTC's failure to pay money due under contract. NLTC did not file a response to Wakefield's complaint. Wakefield initiated the two-step default judgment process against NLTC. In September of 2023, the circuit court granted Wakefield a default judgment. Subsequently, NLTC filed a motion to vacate the default judgment pursuant to Maryland Rule 2-535(b), which Wakefield opposed. The circuit court denied NLTC's motion. This timely appeal followed, in which NLTC presents two issues for our review:[1]

I. Whether the circuit court abused its discretion when it denied NLTC's Rule 2-535(b) motion to vacate the default judgment.

[1] Consolidated and rephrased from:

1. Whether the Circuit Court abused its discretion by denying [NLTC's] Motion to Vacate where [NLTC] had established that the Default Judgment [was] void because the purported recipient of the process was not the Agent for Service of Process for [NLTC] at the time of the alleged service of process and any purported substituted service on the actual Agent for Service of Process via delivery of process to her was improper under Maryland and California law.

2. Whether the Circuit Court abused its discretion by denying [NLTC's] Motion to Vacate where [NLTC] had established that the Default Judgment [was] void because, even if the purported recipient of the process had been authorized to receive service of process for [NLTC] (which she was not), her Affidavit and the corroborating Affidavit of her employer's chief executive officer conclusively rebutted and discredited Wakefield's process server's Declaration of Service indicating that the process documents had been delivered to her.

3. Whether the Circuit Court abused its discretion by denying [NLTC's] Motion to Vacate without holding an evidentiary hearing, where the only evidence before the Court as to service of process was conflicting affidavits as to whether [NLTC] had been properly served.

II. Whether the circuit court abused its discretion when it ruled on NLTC's motion to vacate without a hearing.

For the reasons to follow, we shall vacate the circuit court's denial of the Rule 2-535(b) motion and remand this matter to the circuit court.

FACTUAL AND PROCEDURAL BACKGROUND

This case concerns two companies, Wakefield[2] and NLTC. Wakefield is a debt collection service registered as a limited liability company in Maryland with its principal place of business in Colorado. NLTC is an addiction rehabilitation and recovery center registered as a corporation in California. NLTC's information is as follows:

- Principal place of business: 7 Narbonne, Newport Beach, CA 92660
- Resident agent: Jordan Thatcher ("Thatcher")
- Resident agent address: 3240 Professional Drive, Auburn, CA 95602 ("the California address")

In May of 2022, Wakefield and NLTC entered into a Master Service Agreement ("MSA"), wherein the parties consented to the exclusive jurisdiction and venue of any action in Maryland. Pursuant to the MSA and corresponding work order, NLTC agreed to compensate Wakefield at a rate of 6.5% of its monthly gross collections. One year later, in May of 2023, Wakefield sued NLTC for breach of contract, alleging that despite Wakefield's demands, NLTC had failed to pay Wakefield's invoices from November of

[2] Wakefield is the successor in interest to Collect Rx, LLC. Collect Rx was a "medical billing company that assist[ed] in collections and help[ed] medical providers maximize revenue by negotiating out-of-network reimbursements from health insurance companies."

2022 through March of 2023. The complaint further alleged that those invoices totaled $138,903.34.

In early May of 2023, the circuit court issued a writ of summons to NLTC. On May 19, 2023, a process server, Kenneth Woo ("Woo"), purported to serve NLTC with several documents, including: the writ of summons, a notice of the case number, a scheduling order, and the complaint. Via a Declaration of Service ("the Woo Declaration"), Woo attested that

> [o]n the 19th day of May, 2023 at 1:45 PM at the [California address]; the undersigned served the above described documents upon [NLTC] c/o [Thatcher], Resident Agent by then and there personally delivering 1 true and correct copy(ies) thereof, by then presenting to and leaving the same with Kristie Crowley, I delivered the documents to Kristie Crowley who identified themselves as the person authorized to accept with identity confirmed by subject stating their name. The individual accepted service with direct delivery. The individual appeared to be a brown-haired white female [approximately] 45-55 years of age, 5'6"-5'8" tall and weighing 120-140 lbs.

NLTC did not file an answer or respond in any way to Wakefield's complaint.

In July of 2023, Wakefield filed a motion for an order of default. In the motion, Wakefield explained that pursuant to Maryland Rule 2-321[3], NLTC was required to file a responsive pleading or motion within sixty days of service of process, and that sixty days had expired without a response from NLTC. Wakefield also attached the Woo Declaration regarding service of process upon NLTC as an exhibit to the motion. The circuit court then granted Wakefield's motion for an order of default. In August of 2023, the Clerk of the

[3] "A defendant who is served with an original pleading outside of the State but within the United States shall file an answer within [sixty] days after being served." Md. Rule 2-321(b)(1).

Court sent NLTC a notice that the court had entered an order of default against NLTC. This notice was returned to the court as "not deliverable as addressed unable to forward."

In August of 2023, Wakefield filed a motion for a default judgment. Wakefield requested that the circuit court enter a default judgment in its favor for compensatory damages in the amount of the principal balance, "plus pre-judgment interest at the contract rate of 1.5% per month from May 4, 2023 to judgment," "post-judgment interest at the legal rate," and "reasonable attorneys' fees and court costs." Wakefield noted that NLTC had yet to move to vacate or set aside the circuit court's order of default.

Wakefield attached multiple exhibits to the motion. The first exhibit was an affidavit from Pat O'Connor ("O'Connor")—the General Manager of Healthcare Solutions for Wakefield—in which O'Connor attested that NLTC owed Wakefield a principal balance of $138,903.34. Another exhibit was an "interest worksheet." The "interest worksheet" depicted four categories of money that Wakefield asserted it was owed: the aforementioned principal balance, prejudgment interest at 18% by contract, attorney's fees, and costs. A third exhibit was a series of invoices that Wakefield had previously sent to CollectRx, *see supra* n.2. This exhibit demonstrated the money that was "past due" to Wakefield from December of 2022 through April of 2023, and depicts how late fees and interest affected the principal balance.

In September of 2023, the circuit court granted Wakefield's motion for a default judgment. The court ordered NLTC to pay Wakefield: the principal debt of $138,903.34, interest in the amount of $7,740.50, reasonable attorney's fees in the amount of $1,365, post-judgment interest at the legal rate, and court costs. The circuit court sent NLTC a

notice that the default judgment had been entered on the same day that the judgment was entered. This notice was also returned to the court as "not deliverable as addressed unable to forward." The record reflects that no hearings were held.

In July of 2024—almost a year after the circuit court granted Wakefield's motion for default judgment and ordered NLTC to pay Wakefield—NLTC filed a "motion to vacate [the] default judgment," pursuant to Maryland Rule 2-535(b). NLTC alleged that the default judgment was void because the "purported" service of process on NLTC "was improper and unlawful." NLTC alleged that the "online docket for the case" did not contain any indication that NLTC had "appeared or participated in the case in any way[,]" and alleged that six mailings from the circuit court to NLTC were returned as "undeliverable."

With the motion to vacate the default judgment, NLTC filed multiple exhibits. Exhibit A was a copy of the California Secretary of State records as to NLTC. This exhibit reflected, among other information, that NLTC's state-registered resident agent was Thatcher, and NLTC's state-registered resident agent's address for service of process was the California address. Exhibit B was an affidavit from Kristi Crowley ("Crowley" or "the Crowley affidavit"), wherein she attested that, contrary to Woo's Declaration: the service of process documents were not personally delivered to her; that she was an employee of Executive Management Solutions, Inc., not NLTC; and that she was not at the California address—where Woo attested that he served her—on May 19, 2023 because she was on a family vacation at Sand Mountain in Nevada. Exhibit C was an affidavit from David Glenwinkel ("Glenwinkel" or "the Glenwinkel affidavit"), the CEO of Executive Management Solutions, Inc., in which he attested that: Crowley was on paid leave on May

19, 2023; Crowley does not work at Executive Management Solutions, Inc.'s front office reception area; and that Executive Management Solutions, Inc.'s front desk log—which tracks mail and other incoming legal documents—"does not reflect the company's receipt of any legal process" on May 19, 2023. To further demonstrate this point, Glenwinkel described in the affidavit the "standard procedure" that the employee located at the front desk is required to follow and attached a screenshot[4] of a Windows computer folder, which depicted other mail and documents that the front desk had received on May 19, 2023. NLTC thus argued that it had "conclusively rebutted any presumption arising from Woo's [Declaration] that it was lawfully served with process in this case." NLTC further asserted that because of the lack of proper service, it had not waived defenses related to service of process or the court's jurisdiction.

Wakefield opposed NLTC's motion. Wakefield asserted that service of process upon Crowley was proper, and that the Crowley and Glenwinkel affidavits did not rebut its valid proof of service. In support of this assertion, Wakefield attached exhibits to its opposition, which included a picture of the outside of the California address taken by Woo, and a screenshot of Woo's geolocation[5] data. Wakefield contended that

> notably absent from either [the Crowley or the Glenwinkel affidavits] is any documentary proof that [Crowley] was not in the office that day, either by

[4] A screenshot is an image, usually a photograph, that depicts the contents of a computer or phone display. *See* MERRIAM WEBSTER, *screenshot*, https://perma.cc/5UHZ-3T5Z (last visited Aug. 28, 2025).

[5] Geolocation is defined as: "the process of determining the location of an electronic device, as a computer, cellphone, [or] satellite[,]" and then subsequently, "the actual location determined by this process." DICTIONARY.COM, *geolocation*, https://perma.cc/BM67-AVRX (last visited Aug. 28, 2025).

> way of proof of her being in Reno, Nevada[,] or any company documents showing the paid time off. More concerning, [Crowley] does not state that the physical description of her on the [affidavit] does not match her own description.

Wakefield further took issue with NLTC's assertion that many of the court notices were returned as "undeliverable" to the address listed on the complaint, because "during the entirety of the case[,] . . . the listed address on file with the California Secretary of State" was the California address.

In August of 2024, the circuit court denied NLTC's motion to vacate the default judgment. This timely appeal followed.

DISCUSSION

Typically, this Court reviews a "circuit court's decision whether to grant a motion to revise a judgment pursuant to [Maryland] Rule 2-535(b) under an abuse of discretion standard." *Peay v. Barnett*, 236 Md. App. 306, 315 (2018). Although the abuse of discretion standard is ordinarily quite deferential, *see, e.g.*, *North v. North*, 102 Md. App. 1, 13 (1994), "courts do not have discretion to apply inappropriate legal standards, even when making decisions that are regarded as discretionary in nature." *Morton v. Schlotzhauer*, 449 Md. 217, 231 (2016) (further quotation marks and citations omitted). "The existence of a factual predicate of fraud, mistake, or irregularity, necessary to support vacating a judgment under Rule 2-535(b), is a question of law." *Wells v. Wells*, 168 Md. App. 382, 394 (2006). "If the factual predicate exists, the court's decision on the motion is reviewed[,]" *see, id.*, to determine "whether the trial court erred as a matter of law or abused its discretion in

denying the motion." *In re Adoption/Guardianship No. 93321055/CAD*, 344 Md. 458, 475 (1997).

I. THE CIRCUIT COURT ABUSED ITS DISCRETION IN DENYING NLTC'S RULE 2-535(B) MOTION.

A. Party Contentions

NLTC contends that the circuit court abused its discretion when the court denied its Rule 2-535(b) motion to revise the default judgment. NLTC asserts that it established through the Crowley and Glenwinkel affidavits that: Crowley was not an employee of NLTC; Crowley was not authorized to accept service of process; and that service of process upon Crowley was not valid or completed because Crowley was on vacation on the purported date of service. NLTC avers that the docket does not contain any "indication that [NLTC] had appeared or participated in the case in any way," particularly because multiple mailings to NLTC were returned to the court as "undeliverable." NLTC thus contends that because a jurisdictional mistake occurred, the default judgment is void.

Wakefield contends that the circuit court did not abuse its discretion. Wakefield asserts that although NLTC provided evidence to illustrate that it was not properly served, such evidence was insufficient to refute Woo's Declaration. Wakefield contends that the Crowley and Glenwinkel affidavits "contain only conclusory denials of service of process," and thus, there was no jurisdictional mistake pursuant to Rule 2-535(b).[6]

[6] Additionally, both parties discuss California law in their briefs regarding the procedural matters of service of process and default judgments. "Procedural matters, however, are always governed by the law of the forum." *Lewis v. Waletzky*, 422 Md. 647, 657–58 (2011). Both NLTC and Wakefield consented to the exclusive jurisdiction of Maryland in the MSA; thus, we apply Maryland law.

B. Analysis

"This case requires consideration of procedural rules relating to service of process, personal jurisdiction, the entry of a default judgment, and a circuit court's discretion to set aside or revise an order of default." *Peay*, 236 Md. App. at 315.

A "default judgment is the circuit court's final determination of both liability and damages." *Id.* at 318. After a default judgment has been granted, the circuit court's authority to revise that judgment is narrow because there are only two specific methods for a defaulting party to challenge or undo a default judgment. *Wells*, 168 Md. App. at 394; *Peay*, 236 Md. App. at 319–22. One such method permits the defaulting party to move to alter or amend the judgment under the circuit court's revisory powers pursuant to Maryland Rule 2-535(b). *See Peay*, 236 Md. App. at 320–21 ("Rule 2-535(b) provides the circuit court's power to revise a default judgment after the judgment becomes final.").[7]

Rule 2-535(b) states that "[o]n [a] motion of any party filed *at any time*, the court may exercise revisory power and control over the judgment in case of fraud, mistake, or

[7] The other method requires specific procedural steps which NLTC did not follow. For the second method, NLTC would have had to move to vacate the order of default—not the default judgment—within thirty days of the circuit court's granting of that order. Md. Rule 2-631(d); *see Peay*, 236 Md. App. at 317 (citing Md. Rule 2-613(a)) ("The Rule provides the circuit court with broad discretion to vacate an order of default before it becomes an enrolled, final judgment."). Here, NLTC did not file a timely motion to vacate the order of default. Because NLTC did not file a motion to vacate the order of default, NTLC was procedurally precluded from filing a Rule 2-534 motion to alter or amend the default judgment or to contest liability. *See Franklin Credit Mgmt. Corp. v. Nefflen*, 436 Md. 300, 326 (2013). Accordingly, the only viable pathway for NLTC to challenge the default judgment was through a revisory motion pursuant to Rule 2-535. *See Peay*, 236 Md. App. at 320 (explaining that Rule 2-613(g) "leaves open the court's power to revise the judgment under [Rule] 2-535(b)").

irregularity." (emphasis added); *see Peay*, 236 Md. App. at 320 ("Once the circuit court enters the default judgment in compliance with Rule 2-613, . . . that judgment 'may be stricken or revised only upon a showing of fraud, mistake, or irregularity in conformance with [Maryland] Rule 2-535(b)."). The terms fraud, mistake, and irregularity are "narrowly defined and strictly applied . . . in order to ensure finality of judgments." *Pelletier v. Burson*, 213 Md. App. 284, 290 (2013) (quoting *Thacker v. Hale*, 146 Md. App. 203, 217 (2002)). Of these three, only mistake is before us.[8]

A mistake "refers only to a 'jurisdictional mistake.'" *Peay*, 236 Md. App. at 322 (citing *Chapman v. Kamara*, 356 Md. 426, 436 (1999)) (further citation omitted). A jurisdictional mistake typically occurs "when a judgment has been entered in the absence of valid service of process; hence the court never obtains personal jurisdiction over a party." *Champan*, 356 Md. at 436 (internal citation and quotation marks omitted)). Before entering a default judgment, a court must satisfy itself that it has personal jurisdiction over the defaulting party. Md. Rule 2-613(f); *Franklin Credit Mgmt. Corp. v. Nefflen*, 436 Md. 300, 312 (2013); *cf. Pinner v. Pinner*, 467 Md. 463, 479 (2020) (noting that a court's exercise of personal jurisdiction must comport with the requirements of due process). Thus,

[8] NLTC concedes that mistake is the only "ground pertinent to the facts of this case." "[A]n 'irregularity' is a failure to follow required process or procedure." *Velasquez v. Fuentes*, 262 Md. App. 215, 242 (2024) (quoting *Early v. Early*, 338 Md. 639, 652 (1995)); *see also Md. Lumber Co. v. Savoy Constr. Co., Inc.*, 286 Md. 98, 103 (1979) (holding that the clerk of the court's failure to send the notice of the entry of a default judgment was an irregularity); *Early*, 338 Md. at 653 (finding an irregularity existed where the clerk failed to send copies of a court order to all the parties). Fraud, under Rule 2-535(b), is limited to extrinsic fraud, which is where the fraud "actually prevents an adversarial trial. . . . [because] the fraud prevented the actual dispute from being submitted to the fact finder[.]" *Hrseko v. Hrseko*, 83 Md. App. 228, 232 (1990).

"[i]mproper service of process is a proper ground to strike a judgment under Rule 2-535." *Pickett v. Noba, Inc.*, 114 Md. App. 552, 558 (1997).

"The determination [of] '[w]hether a person has been served with process is essentially a question of fact.'" *Wilson v. Md. Dep't of Env't*, 217 Md. App. 271, 286 (2014) (quoting *Harris v. Womack*, 75 Md. App. 580, 585 (1988)). "A proper return of service is *prima facie* evidence of valid service of process, but the presumption of validity can be rebutted." *Wilson*, 217 Md. App. at 285. To rebut the presumption of validity, "a mere denial of service is not sufficient[.]" *Id.* However, "if the 'denial is supported by corroborative evidence by independent, disinterested witnesses, the denial will stand unless the corroborative evidence is refuted.'" *Id.* (quoting *Ashe v. Spears*, 263 Md. 622, 628 (1971)).

Here, Wakefield filed the Woo Declaration with its motion for order of default. In the Declaration, Woo attested that he was at the California address, and that he completed service of process upon NLTC by personally delivering the documents to Crowley. Woo further attested that Crowley identified herself as a person "authorized to accept" service of process, and that Crowley confirmed her own identity by stating her name to Woo. Additionally, Woo provided an approximation of Crowley's age, height, and weight, based on her appearance. Therefore, the Woo Declaration is *prima facie* evidence of valid service of process. *See Wilson*, 217 Md. App. at 285; *see also Weinreich v. Walker*, 236 Md. 290, 296 (1964) ("It is equally well established that a proper official return of service is presumed to be true and accurate[.]").

Because the Woo Declaration is *prima facie* evidence of valid service of process,

the burden then shifted to NLTC to rebut the presumption of validity. *See Wilson*, 217 Md. App. at 285–86. To properly rebut this presumption, NLTC was required to support its Rule 2-535(b) motion with corroborative evidence by independent, disinterested witnesses. *See id.* As corroborative evidence to rebut this presumption, NLTC provided the Crowley and Glenwinkel affidavits and the returned and undeliverable notices sent by the circuit court.[9]

In the Crowley affidavit, Crowley attested that: the process documents were not personally delivered to her either on May 19, 2023, or any other date; she was not at the California address on May 19, 2023; she could not have been at the California address on May 19, 2023 because she was out of the office that entire day with her family at Sand Mountain in Nevada; she was not the resident agent for NLTC; her first name was spelled incorrectly in the Woo Declaration[10]; she is an employee of Executive Management Solutions, Inc., not NLTC; she is Executive Management Solutions, Inc.'s Chief Financial Officer; she has worked for Executive Management Solutions, Inc. since 2010; and Woo's

[9] NLTC also included, as an exhibit to the Rule 2-535(b) motion, a screenshot, *see supra* n.4, of Executive Management Solutions, Inc.'s front reception desk's log of mail received on May 19, 2023. The screenshot depicts an electronic Windows folder containing eleven documents, none of which concern service of process, Wakefield, Woo, or Crowley. The screenshot appears to cut off some of the documents in the folder. At the top of the screenshot, the location of the Windows folder is depicted; it states: "Enterprise client WIP > Malek, John - [NLTC] > 1 AUDIT [NLTC] > 2023 Tax." We note that according to the California Secretary of State electronic filing, John Malek is the CEO of NLTC. Without further factfinding by the circuit court we are unable to reach any conclusions as to this exhibit.

[10] Woo spelled Crowley's first name as "Kristie," although her first name is correctly spelled as "Kristi."

attestation in his Declaration is not correct.

In the Glenwinkel affidavit, Glenwinkel attested that: he is Executive Management Solutions, Inc.'s CEO; he has been the CEO since 1993; "according to [company] records," Crowley was on paid leave on May 19, 2023; Crowley does not work at Executive Management Solutions, Inc.'s reception desk; the reception desk's log from May 19, 2023 does not reflect receipt of any legal process that day; his affidavit corroborates Crowley's affidavit; and he reviewed the Woo Declaration and believes that Woo's attestation is incorrect.

Additionally, in its Rule 2-535(b) motion, NLTC asserted that six notices from the circuit court regarding these proceedings were returned to the court as "undeliverable." NLTC asserted further that the online docket for the case did not contain any indication that NLTC had "appeared or participated in the case in any way." NLTC thus asserted that its evidence "conclusively rebutted any presumption arising from Woo's [Declaration] that it was lawfully served in this case." *See Wilson*, 217 Md. App. at 285. The Glenwinkel and Crowley affidavits were corroborative evidence sufficient to rebut the presumption that service of process on NLTC was valid; Wakefield therefore had the burden to refute NLTC's denial. *Id.*

In response, Wakefield filed an opposition to NLTC's Rule 2-535(b) motion to revise the default judgment, wherein it provided its attempt to refute NLTC's "corroborative evidence" of lack of service of process, so that NLTC's denial of service of process would not "stand." *See Wilson*, 217 Md. App. at 285 (quoting *Ashe*, 263 Md. at 628). In Wakefield's opposition, it acknowledged NLTC's assertion that many of the court

papers were returned as "undeliverable" from the California address, but also noted that "during the entirety of the case[,]" the address listed for NLTC was the California address on file with the California Secretary of State, and thus it knew of no other address for service of process for NLTC. Further, Wakefield asserted that the Crowley and Glenwinkel affidavits "amount[ed] to a mere conclusory statement" that Crowley was not served. Wakefield argued that the Crowley and Glenwinkel affidavits were not "corroborated by any evidence . . . i.e.[,] travel receipts, hotel receipts, [or] paystubs showing time off." Wakefield also attached exhibits to its opposition, including a photograph of the exterior of the California address and a screenshot purported to be Woo's geolocation data.[11] Wakefield's opposition challenges some assertions contained in the Crowley and Glenwinkel affidavits however fails to conclusively demonstrate that proper service of process was effectuated. Thus, we are left with conflicting affidavits and evidence as to the facts regarding service of process and whether it was proper. Moreover, the circuit court did not articulate its reasoning, on the record or in writing, for granting the default order and default judgment and denying the Rule 2-535(b) motion.[12]

Based on these conflicting affidavits and the circuit court's silence, we are unable

[11] We note that the record reflects that neither of these photographs were submitted initially with Woo's Declaration; they were only provided as exhibits to Wakefield's opposition to NLTC's Rule 2-535(b) motion to revise the default judgment. Additionally, although Wakefield asserted that Woo took these pictures on May 19, 2023, neither have date or time stamps.

[12] These orders do not provide any further description. The order of default finds that NLTC is in default; the order of default judgment states that Wakefield's motion is granted and notes the amounts that NLTC is to pay Wakefield; and the order denying NLTC's Rule 2-535(b) motion states that NLTC's motion is denied.

to determine whether a jurisdictional mistake exists. *See Wells*, 168 Md. App. at 394; *Wilson*, 217 Md. App. at 286. A default judgment "should not proceed until the court is completely satisfied that there has been proper notice of the impending proceedings served on the defaulting absentee party." *See Roddy-Duncan v. Duncan*, 157 Md. App. 197, 201 (2004). "When the only proof of the facts of the case is competing affidavits, it is virtually impossible for the trial judge to weigh the credibility of the competing witnesses and make the requisite factual findings." *Reisterstown Lumber Co. v. Royer*, 91 Md. App. 746, 762 (1992); *see also Wilson*, 217 Md. App. at 286 ("Where the only evidence before the ALJ regarding service of process was two conflicting affidavits regarding whether [the appellant] was properly served, there was insufficient evidence to support the ALJ's decision to deny [the appellant's] motion to vacate the default order."). Therefore, the circuit court abused its discretion in denying the Rule 2-535(b) motion without assuring itself that service of process was proper.

II. THE CIRCUIT COURT ABUSED ITS DISCRETION IN RULING ON NLTC'S RULE 2-535(B) MOTION WITHOUT A HEARING.

A. Party Contentions

NLTC asserts that the circuit court abused its discretion when the court ruled on its Rule 2-535(b) motion without a hearing.[13] NLTC further asserts that where a circuit court

[13] NLTC's motion was titled "[Appellant's] motion to vacate [the] default judgment." (capitalization removed). However, the body of the motion and accompanying memorandum discuss Maryland Rule 2-535(b), and the circuit court's revisory power pursuant to that rule. "A motion may be treated as a motion to revise under [Maryland] Rule 2-535 even if it is not labeled as such." *Pickett v. Noba, Inc.*, 114 Md. App. 552, 557 (1997); *see also Higgins v. Barnes*, 310 Md. 532, 535 n.1 (1987) ("[O]ur concern is with the nature of the *issues* legitimately raised by the pleadings, and not with the labels given

has before it conflicting affidavits as to service of process, the court "abuses its discretion by simply crediting the process server's affidavit without holding an evidentiary hearing."

Wakefield asserts the opposite, that the circuit court did not abuse its discretion when the court ruled on NLTC's Rule 2-535(b) motion without holding a hearing. Wakefield contends that the case law NLTC cites in support of this point, *Wilson v. Maryland Department of the Environment*, 217 Md. App. 271, 286 (2014), is inapplicable because it concerns judicial review of administrative agency decisions.[14] Wakefield further contends that because NLTC did not request a hearing in its Rule 2-535(b) motion, pursuant to Maryland Rule 2-311(f), NLTC was not entitled to a hearing before the circuit court.

B. Analysis

Maryland Rule 2-311 governs motions. The Rule states in pertinent part:

> A party desiring a hearing on a motion, other than a motion filed pursuant to Rule[s] 2-532, 2-533, or 2-534, *shall request the hearing in the motion or response under the heading "Request for Hearing.*" The title of the motion or response shall state that a hearing is requested. Except when a rule expressly provides for a hearing, the court shall determine in each case whether a hearing will be held, but the court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested as provided in this section.

to the pleadings.") (emphasis in original). Accordingly, we address NLTC's motion to vacate as a revisory motion pursuant to Rule 2-535(b).

[14] While Wakefield is correct that *Wilson* discusses administrative agency decisions, Wakefield is incorrect that the analysis in *Wilson* is inapplicable. It is inconsequential that in *Wilson*, an ALJ was the factfinder, while here it was a circuit court. Other cases not concerning administrative agency decisions have relied on *Wilson*'s analysis. *See, e.g.*, *Peay*, 236 Md. App. at 316 (citing *Wilson* for the proposition that the determination of whether a person has been served with process is a question of fact); *Swarey v. Stephenson*, 222 Md. App. 65, 86 n.11 (2015) (citing *Wilson* for the proposition that the a mere denial of service is not sufficient to rebut the presumption of validity created by a proper return of service). Accordingly, we need not further address this contention.

Md. Rule 2-311(f) (emphasis added). Rule 2-535 is not discussed in Rule 2-311(f). *See id.; see also Miller v. Mathias*, 428 Md. 419, 441–42 (2012). In *Miller v. Mathias*, the Supreme Court of Maryland explained that, because "Rule 2-535 is not specifically referenced in Rule 2-311[,] . . . a motion pursuant to [Rule 2-535] does not *require* a hearing to be granted." *Id.* at 442 (emphasis added). The Court further explained that Rule 2-311(f) "mandates a hearing only if a party requests one and [only] if the court 'render[s] a decision that is dispositive of a claim or defense.'" *Id.* at 443 (quoting Md. Rule 2-311(f)). For purposes of Rule 2-311(f), this Court has defined "dispositive decision" as "one that conclusively settles a matter." *Lowman v. Consol. Rail Corp.*, 68 Md. App. 64, 76 (1986); *see also Fowler v. Printers II, Inc.*, 89 Md. App. 448, 485 (1991) ("Th[e] history of the language of the rule suggests that the requirement that a hearing be held if the ruling is dispositive of a 'claim"' or 'defense' was intended to be a 'claim' or 'defense' intrinsic to the underlying cause of action[.]"). Some common examples of motions that are dispositive of a case are motions for summary judgment and motions to dismiss, "and not [motions regarding] collateral claims or defenses like those involving sanctions or discovery matters." *Fowler*, 89 Md. App. at 485.

Miller is analogous to the case before us. In *Miller*, the respondent filed a Rule 2-535 motion, which the circuit court granted. 428 Md. at 437. The petitioner appealed and argued that the circuit court abused its discretion in granting the Rule 2-535 motion without holding a hearing. *Id.* 437–39. The Maryland Supreme Court affirmed and held that Rule 2-311(f) was applicable because it addresses all "other motions," which includes motions

filed pursuant to Rule 2-535. *Id.* at 443. However, the Court found that because the petitioner never requested a hearing on his Rule 2-535 motion, Rule 2-311(f) "simply [did] not assist him." *Id.*

Just as in *Miller* where the petitioner did not request a hearing in his Rule 2-535(b) motion, here, too, the record reflects that NLTC did not request a hearing in its Rule 2-535(b) motion. *See* 428 Md. at 443. Moreover, a Rule 2-535(b) motion is not one that is dispositive of a case. *See Llanten v. Cedar Ridge Counseling Centers, LLC*, 214 Md. App. 164, 178 (2013) ("The denial of a motion to alter or amend or a motion to revise [pursuant to Rule 2-535] is not a dispositive motion."); *accord Lowman*, 68 Md. App. at 75–76 (holding that a motion for reconsideration of a grant of summary judgment was not a dispositive motion because it was not dispositive of a claim or defense, and that the motion for summary judgment was the dispositive motion). NLTC's Rule 2-535(b) motion does not meet the two elements required by *Miller* and Rule 2-311(f). *See Miller*, 428 Md. at 443. Therefore, Rule 2-311 did not require that the circuit court hold a hearing before ruling on the Rule 2-535(b) motion.

However, Appellant asserts that, under the holding of *Wilson*, the circuit court nevertheless abused its discretion in ruling on the motion without a hearing. In *Wilson*, the Department of Environment sought a default order against a rental property owner who failed to request a hearing. 217 Md. App. at 277. The Department submitted an affidavit by a process server averring that Wilson had been served with the complaint. *Id.* at 277–78. Wilson sought to vacate the default, attaching an affidavit from the person alleged to have been served which indicated that service had not been accepted. *Id.* at 278–79. The

Administrative Law Judge ("ALJ") did not hold a hearing and denied the motion to vacate. *Id.* at 286. We held that it was improper to resolve the question of proper service without holding a hearing under those facts, because the ALJ's order "resolve[d] a credibility determination based solely on conflicting affidavits." *Id.* We therefore vacated the judgment and remanded for the ALJ to resolve the factual issue of whether service of process was valid. *Id.* at 287 (citing *Roddy-Duncan*, 157 Md. App. at 201). Similarly, in *Roddy-Duncan*, the factual record regarding the court's jurisdiction contained several "red flags" which should have prompted further inquiry before the court denied the appellant's motion to vacate default judgment. 157 Md. App. at 200–01. We remanded to the circuit court with instructions to hold a hearing. *Id.* at 199, 214. Though the holdings in *Wilson* and *Roddy-Duncan* are narrow and specific to the facts of each case, both are analogous to the case before us. The circuit court had conflicting affidavits before it which raised significant factual questions and necessitated further inquiry and a credibility determination prior to ruling on the Rule 2-535(b) motion. Thus, we hold that the circuit court abused its discretion in ruling on the motion without first holding a hearing. *Wilson*, 217 Md. App. at 286; *Roddy-Duncan*, 157 Md. App. at 201. Accordingly, we vacate the denial of the Rule 2-535(b) motion and remand for further proceedings.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY VACATED AND CASE REMANDED FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLEE.