Circuit Court for Baltimore City
Case No. 24-C-13-004869

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1805

September Term, 2017

MIDLAND FUNDING, LLC

v.

CLIFFORD CAIN, JR.

Kehoe,
Reed,
Salmon,
(Senior Judge, Specially Assigned)
JJ.

Opinion by Kehoe, J.

Filed: July 30, 2020

Clifford Cain, Jr., filed a civil action in the Circuit Court for Baltimore City against Midland Funding, LLC. In it he asserted that a judgment obtained by Midland against him in a collection action was void and that he was entitled to declaratory and injunctive relief as well as money damages based upon several different theories. Additionally, Cain sought to have his lawsuit certified as a class action.

Midland did not agree with any of this and eventually filed a motion to dismiss or, in the alternative, for summary judgment as to all claims. Cain responded with his own motion for partial summary judgment. The court's disposition of these motions satisfied neither party. Midland filed an appeal and Cain a cross-appeal. Between them, they raise eleven issues, which we have reworded, re-ordered, and consolidated:

> 1. Does this court have appellate jurisdiction over this case?
>
> 2. Did the circuit court err in concluding that Cain's claims for damages were time-barred?
>
> 3. Did the circuit court err in concluding that Midland's judgment against Cain was void?
>
> 4. Did the circuit court have the authority to enter a declaratory judgment under the Declaratory Judgment Act?
>
> 5. Did Midland's Settlement Agreement with the Maryland Collection Agency Licensing Board authorize it to act as a collection agency?[1]

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[1] The parties set out the issues as follows:

Cain:

> 1. Is Midland permitted to pursue its piecemeal, interlocutory appeal to this Court?

This Court has already addressed Cain's arguments that we lack appellate jurisdiction. We hold that Cain's claims for monetary relief are time-barred. The remaining questions have been answered by the Court of Appeals' opinion in *LVNV Funding LLC v. Finch*

2. Did the Circuit Court abuse its discretion by staying all matters pending before it in light of Midland's improper appeal?

3. Did the Circuit Court commit mistakes of law and abuse its discretion by ruling on Midland's motion for summary judgment before ruling on Cain's Motion to Compel and Cain's Md. Rule 2-501(d) request?

4. Did the Circuit Court make a finding of fact which was not supported by purported evidence advanced by Midland and otherwise gave improper credit to Midland's illegal activities done in violation of an Executive Branch enforcement action to cease and desist its business activities?

5. Did the Circuit Court fail to properly consider the application of the continuing harm doctrine to Cain's claim for unjust enrichment?

6. Did the Circuit Court fail to properly recognize cross jurisdictional and class action tolling?

7. Under the factual and legal issues already determined under the law of the case doctrine, did the Circuit Court apply the wrong statute of limitations to Cain's legal claims?

Midland:

1. Did the circuit court err in holding that Cain's claims for ancillary monetary relief were not time-barred?

2. Did the circuit court err in finding a justiciable controversy under the [Declaratory Judgment Act]?

3. May Midland be sued for actions that were lawful under its settlement with the Licensing Board?

4. Was [Midland's judgment against] Cain void?

(*Finch III*), 463 Md. 586 (2019).[2] We will affirm the circuit court's judgment in part, reverse it in part, and remand this case for further proceedings.

Background

The collection action

Midland is a consumer-debt buyer, that is, it purchases bulk portfolios of past-due consumer debt from lenders for purposes of collection. *See Finch III*, 463 Md. at 593–94 (describing the debt-buying industry). In January 2009, Midland purchased a portfolio of past-due loans from Citibank. Among them was an unpaid balance on a credit card account owed by Cain. On March 30, 2009, Midland filed a collection action against Cain in the District Court of Maryland, sitting in Baltimore City. Cain was served with the complaint and filed a notice of intention to defend in which he requested a postponement of the trial date so that he could obtain counsel. When the trial was held on August 19, 2009, Cain did not appear. Judgment by affidavit was entered in Midland's favor in the amount of $4,520.54, plus costs. On September 25, 2009, Midland received a partial payment of $300 towards the judgment.[3] On October 29, 2010, Midland filed a request for a writ of garnishment to collect the remaining balance. Whether through garnishment or by other

[2] To distinguish it from *Finch v. LVNV Funding, LLC* (*Finch I*), 212 Md. App. 748, *cert. denied*, 435 Md. 226 (2013), and *LVNV Funding LLC v. Finch* (*Finch II*), No. 1075, 2017 WL 6388959 (Md. Ct. Spec. App. 2017), *vacated*, 463 Md. 586 (2019).

[3] Cain asserts that this payment is irrelevant because Midland's records do not show who made the payment. We will discuss this later in our analysis.

means, the balance due was paid and Midland filed an order of satisfaction on August 8, 2012. It is undisputed that, at the time it filed its action against Cain, was granted judgment, and received its first payment from him, Midland was not a licensed debt-collection agency under Maryland law.

Midland's Licensing Status

The Maryland Collection Agency Licensing Act ("MCALA")[4] requires debt-collection agencies to obtain licenses from the Maryland Collection Agency Licensing Board. *Finch III*, 463 Md. at 595. The Licensing Board took the position that debt buyers like Midland were required to obtain Maryland licensure before attempting to collect debts in Maryland. Midland disagreed, asserting that it was not required to obtain a Maryland license because it did not directly engage in debt-collection activities in Maryland but instead hired lawyers and collections agencies to do so.[5] On September 16, 2009, the Board entered an administrative order requiring Midland and a number of its affiliates to cease and desist collection activities in Maryland.

On December 17, 2009, Midland, several of its affiliates, and the Board entered into a settlement agreement. Pursuant to the agreement, Midland agreed to stay all of its active

[4] Md. Code, §§ 7-101 to -502 of the Business Regulation Article.

[5] In this regard, Midland was wrong. *See Finch III*, 463 Md. at 606 (holding that on and after October 1, 2007, "debt buyers who engaged directly or indirectly in the business of collecting consumer debt that they owned and that was in default when they acquired it needed to be licensed" (footnote omitted)).

collection-related actions in Maryland and not to file any new collection-related actions in Maryland until it was issued a license by the Licensing Board.

The agreement also provided that after it obtained the proper license, Midland could "file appropriate motions with the Maryland State courts or take other appropriate actions in order to have the voluntary stay referenced above lifted by the courts." Midland also agreed to pay a $998,000 penalty.[6] On January 15, 2010, the Licensing Board issued Midland a collection-agency license.

The Johnson v. Midland Litigation

On September 10 2009, Delvell Johnson and Denise Y. Roarty filed a civil action against Midland in the United States District Court for the District of Maryland. *Johnson v. Midland Funding, LLC*, D. Md. Civil No. 09-2391. The plaintiffs sought class-action certification. The proposed class was defined as:

> all natural persons who reside in Maryland and who have been the subject of consumer debt collection efforts by Midland within three years immediately preceding the filing of this class action that included the filing of an action before a Court of the State of Maryland.

Cain was a putative member of the *Johnson* plaintiffs' proposed class. In June 2010, the parties agreed to a settlement in the *Johnson* case. As part of the settlement, the plaintiff

[6] The agreement also stated that the Board dismissed its charges against Midland's affiliates.

class was redefined to exclude persons (like Cain) against whom Midland had obtained a judgment. The federal court approved the settlement on March 10, 2011.

The Present Action

Cain filed the present action on July 30, 2013. The complaint alleged that Midland improperly sought to collect debts as an unlicensed collection agency, and that as a result of those improper collections actions, the judgments obtained by Midland were void. Specifically, Cain asserted that the judgments were void because:

> Midland lacked standing in Maryland to collect those debts before it obtained the mandatory license required by Maryland law. Without the mandatory license it was not legally entitled to payment on the debts and had suffered no protectable injury or standing which was required for it to obtain the jurisdiction of the state courts.

Cain requested several forms of relief, including a declaration that Midland was not entitled to interest, attorney's fees or court costs on his debt because it was acting unlawfully as an unlicensed collection agency; a declaration that Midland's judgment against Cain was void; injunctive relief; and money damages based on the theories of unjust enrichment as well as Midland's violations of the MCALA, the Maryland Consumer Debt Collection Act ("MCDCA"),[7] and the Maryland Consumer Protection Act ("MCPA").[8]

[7] Md. Code, §§ 14-201 to -204 of the Commercial Law Article ("Com. Law.").

[8] Com. Law §§ 13-101 to -501.

Additionally, Cain sought to have his lawsuit certified as a class action, the proposed class consisting of all persons sued by Midland in Maryland courts from October 30, 2007, to October 14, 2010, and against whom Midland had obtained judgments.

The case then took a procedural detour. Midland's claim against Cain was based on his failure to make payments on an overdue credit card balance. Midland asserted that it was entitled to invoke a mandatory arbitration clause contained in the credit card agreement between Cain and Citibank. Both the circuit court and a panel of this Court agreed with this contention, *see Cain v. Midland Funding, LLC*, No. 530, 2016 WL 1597179, at *15 (Md. Ct. Spec. App. 2016), but the Court of Appeals did not, *see Cain v. Midland Funding*, 452 Md. 141, 163 (2017) ("Because Midland's 2009 collection action is related to Cain's claims, Midland waived its right to arbitrate the current claims when it chose to litigate the collection action.").

The opinion of the Court of Appeals in *Cain v. Midland Funding* was filed on April 24, 2017. On June 2, 2017, Midland filed a motion to dismiss or, in the alternative, for summary judgment. Midland presented a number of contentions. The ones relevant to the present appeal are: (1) none of the counts were justiciable because Cain did not have a private cause of action against Midland for its alleged violation of Maryland law;[9] (2) all counts were time-barred by the applicable statute of limitations or laches; and (3) the circuit

[9] A more or less identical contention was rejected by the Court of Appeals in *Finch III*, 463 Md. at 611–12.

court lacked the authority to declare a judgment entered by the District Court void and, relatedly, that Cain was not permitted to attack an allegedly void judgment by instituting a separate lawsuit.

A month later, Cain filed an opposition to Midland's motion, as well as his own motion for partial summary judgment. Citing to *Finch I*, 212 Md. App. 748, Cain argued that he was entitled to summary judgment as a matter of law as to his requests for declaratory judgment because there was no dispute that Midland was not licensed in Maryland when it obtained its judgment against him. Cain also requested that the court decide that his additional claims were not time-barred because the statute of limitations was tolled by virtue of the class-action-tolling doctrine recognized by the Supreme Court in *American Pipe & Construction Co. v. Utah*, 414 U.S. 538 (1974), and adopted by the Court of Appeals in *Philip Morris USA, Inc. v. Christensen*, 394 Md. 227 (2006). Because Midland's and Cain's arguments in their motions mirror those they make on appeal, we will discuss them in more detail later in this opinion.

In July 2017, Cain moved for an order to compel discovery. Cain alleged that Midland had supplied unresponsive answers to interrogatories that prejudiced Cain, and he requested the court to issue an order compelling Midland to provide full responses to any outstanding discovery.

On September 13, 2017, the circuit court held a hearing on Midland's motion and Cain's motion for partial summary judgment. In a written opinion dated September 21, 2017, the court addressed the claims of the parties. The court granted each motion in part

and denied each in part. Both parties filed motions to alter or amend the court's judgment. When everything was said and done and, as pertinent to the issues before us, the court concluded that:

(i) As a result of its violations of the Maryland Collection Agency Licensing Act, Midland's judgment against Cain was voidable and he was entitled to a declaratory judgment vacating that judgment.

(ii) The three-year statute of limitations set out in Courts & Jud. Proc. § 5-101 applied to Cain's unjust enrichment claim. Cain's cause of action for unjust enrichment accrued on the date Midland received its first payment, which was September 25, 2009. Because Cain's civil action was filed on July 30, 2013, Cain's unjust enrichment claim was time-barred. The circuit court declined Cain's invitation to apply the concept of cross-jurisdictional class action tolling to his unjust enrichment claim.

(iii) Cain's claims for damages arising out of Midland's violations of Maryland Consumer Debt Collection Act and the Maryland Consumer Protection Act were subject to the twelve-year limitations period specified in Courts & Jud. Proc. § 5-102(a)(3) for an action on a judgment.

(iv) Because the judgment against Cain had been paid and an order of satisfaction filed, there was no basis to grant the injunctive relief sought by him.

On the same day,[10] the court signed a "declaratory judgment" in favor of Cain in the amount of $4,520.54, plus costs and post-judgment interest, and vacated the judgment entered in Midland's favor in the collection action. Also on that day, Cain filed an amended complaint to add Cassandra Murray as an additional named plaintiff. [11]

[10] The opinion was signed on September 21, 2017 and filed on the next day.

[11] Murray had previously filed an action against Midland in the Circuit Court for Anne Arundel County on April 25, 2014. Midland removed the case to federal court, which remanded Murray's claims for declaratory and related injunctive relief but retained jurisdiction over her other claims for unjust enrichment, disgorgement, and statutory violations. The U.S. District Court certified a question of law to the Maryland Court of Appeals: whether Midland's "collection activities after it obtained its collection agency license but on judgments it obtained before it received its license constitute a valid basis for cognizable claims under [Murray's] theories of unjust enrichment, violation of the Maryland Consumer Protection Act, and money had and received." The federal court stated:

> this issue involves questions of exclusively state law, such as the authority of the executive branch of the State of Maryland to determine the legality of Midland's post-licensure actions in collecting on prelicensure judgments. Such a determination is reasonably implicit in its settlement agreement with the Licensing Board.

The Court of Appeals never reached that question. On September 25, 2015, the U.S. District Court approved Murray's request to voluntarily dismiss her claims without prejudice. Subsequently, on October 1, 2015, she filed a "notice of suggested dismissal/rejection of the certified question," in the Court of Appeals, asking the Court to reject the certified question because "the certified question is no longer 'determinative of an issue in pending litigation before the federal court pursuant to Md. Code Ann., Cts. & Jud. Proc. § 12-603."

Then, the circuit court dismissed Ms. Murray's remaining declaratory and injunctive relief claims as time-barred. On June 19, 2017, this Court vacated the circuit court's ruling, concluding that:

> There is no time bar at all if Murray seeks the primary relief of a simple declaration. Our courts (and others) hold that she can obtain such a declaration "at any time," meaning there is not, nor will there ever be a time

We return for a moment to Cain's amended complaint, which sought to add Cassandra Murray as a named plaintiff and was filed on September 21, 2017, the day that the circuit court signed its decision on the cross-motions for summary judgment. Midland filed a motion to strike the amended complaint and a motion to dismiss or, in the alternative, for summary judgment. After a hearing on these motions, the circuit court entered an order on November 29, 2017, that stayed further proceedings pending a decision on Midland's appeal by this Court. The court observed that Midland's motion to strike "contains nearly identical claims and issues as those noted in Defendant's Appeal to the Court of Special Appeals" and so "exercise[d] its discretion and [did] not rule on Defendant's motion to strike . . . at this time."

Midland filed a timely notice of appeal of the court's judgment and Cain filed a conditional cross-appeal in which he asserted that the no appealable judgment had been entered in the case and that the circuit court had erred in denying the relief sought by him and granting that sought by Midland. Additionally, Cain filed a motion to dismiss the

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bar to that cause of action. *Jason v. National Loan Recoveries, LLC*, 227 Md. App. 516, 525 (2016).

Murray v. Midland Funding, LLC, 233 Md. App. 254, 261 (2017). We remanded Murray's other claim (for injunctive relief) to the circuit court. 233 Md. App. at 261.

On July 5, 2017, Ms. Murray moved to transfer her action to Baltimore City. Midland opposed the transfer and moved to dismiss the action. Before the circuit court could rule on either motion, on August 5, 2017, she dismissed her claims. And, as we have mentioned, on September 21, 2017, Cain filed an amended complaint adding Murray as a named plaintiff in this action.

appeal on the grounds that there was no final judgment. Midland filed an opposition to that motion. This Court denied the motion on December 28, 2017.

Finally, Cain filed a motion to stay proceedings before this Court pending issuance of the Court of Appeals' opinion in *Finch III*. This Court granted the motion and later entered an order lifting the stay after the opinion in *Finch III* was filed and authorizing the filing of supplemental briefing before oral argument to address the impact of the Court's opinion in *Finch III* upon the issues raised in this appeal.

Analysis

Appellate jurisdiction

In his brief, Cain argues that this appeal should be dismissed because the circuit court's order granting in part and denying in part the parties' cross-motions for summary judgment was neither a final judgment nor eligible for interlocutory appellate review. The substantive gist of the motion is that the circuit court's order did not constitute a final judgment because the court had not ruled on his motion to compel discovery, his request for class-action certification, and his amended complaint, which, as we have noted, was filed after the circuit court had conducted a hearing on the summary-judgment motions and, coincidentally on the same day that the court signed its order disposing of this case.

Whatever merits Cain's motion might have, we will not address—or, more accurately, will not re-address—them. This is because Cain previously filed a motion to dismiss this appeal that was based upon precisely the same facts and legal contentions. On December 28, 2017, the Court denied the motion. At that point, Cain's recourse was to file a motion

for reconsideration pursuant to Md. Rule 8-602(e), which he did not do. Having already decided this issue, we decline to do so a second time.

The Standard of Review

As we will see, the answers to several of the issues raised by the parties in their briefs can readily be found in the Court of Appeals' opinion in *Finch III*. However, *Finch III* provides no guidance as to whether Cain's claims for monetary damages are time-barred. Answering that question requires us to decide: (1) the date on which Cain's claims for damages accrued, (2) the appropriate statute(s) of limitations for those claims, and (3) whether the limitations period was tolled because of the *Johnson v. Midland* federal court litigation. These are legal issues and were decided by the circuit court through summary judgment.

Reviewing a court's grant of summary judgment is a two-step process explained in *Koste v. Town of Oxford*, 431 Md. 14 (2013):

> [O]ur analysis begins with the determination of whether a genuine dispute of material fact exists; only in the absence of such a dispute will we review questions of law. If no genuine dispute of material fact exists, this Court determines whether the Circuit Court correctly entered summary judgment as a matter of law. Thus, the standard of review of a trial court's grant of a motion for summary judgment on the law is de novo, that is, whether the trial court's legal conclusions were legally correct.

Id. at 24–25 (cleaned up).

Are Cain's claims for monetary damages time-barred?

The circuit court concluded that Cain's unjust enrichment claim was time-barred because it was not raised within three years of the date that he knew or should have known

of the facts giving rise to his causes of action. The court also concluded that the statute of limitations for Cain's claims for damages based on Midland's violations of Maryland's licensing was twelve years. Neither party is in full agreement with the court's decision and they have raised a number of reasons as to why parts of the court's decision were wrong.

We are going to organize our analysis around the four primary contentions presented by Cain in his briefs. *First*, he argues that there was no factual basis for the circuit court's conclusion that his unjust enrichment claim accrued on September 25, 2009, which was the first date that Midland received a payment on its judgment against him. *Second*, Cain argues that the twelve-year limitations period set out in Courts & Jud. Proc. § 5-102(a)(3) applies to his claims for damages based on Midland's violations of Maryland statutes. *Third*, Cain asserts that the continuing-harm doctrine applies to all of his claims, regardless of the three-year statute-of-limitations period, because Midland garnished his wages after the alleged $300 payment. *Finally*, he argues that the operation of the statute of limitations on his claims for money damages was tolled from the day that *Johnson v. Midland* was filed until the day that the U.S. District Court approved the class settlement that excluded him as a plaintiff. These contentions are unpersuasive.

1. The date that Cain's claims for money damages accrued

The circuit court concluded that Cain's claims for money damages accrued for limitations purposes on September 25, 2009, which was when Midland received its first payment on the judgment. Cain argues that the court erred in granting summary judgment on this issue because the court's finding that he made a payment on that day was based

entirely on a financial record that shows merely that Midland, or one of its agents, received a payment of $300 on that day on his account. Because there was no evidence that *he* made the payment on September 25, 2009, Cain argues that that date cannot be the date the three-year limitations period began to run. We do not agree.

When considering a motion for summary judgment, the court's decision must be based on the facts properly before it. If there are conflicting reasonable inferences as to a material issue that can be drawn from the evidence before the court, then summary judgment is inappropriate. *See Hill v. Cross Country Settlements*, 402 Md. 281, 294 (2007). However, "[t]he party opposing summary judgment must do more than simply show there is some metaphysical doubt as to the material facts." *Beatty v. Trailmaster Products*, 330 Md. 726, 738 (1993) (citation omitted)). In the present case, the evidence that money was paid on Cain's account supports the reasonable inference that either he paid it with his own funds or that a third party paid it on his account either as a gift to him or because of an obligation owed to Cain. That same evidence does not support a reasonable inference that an unknown entity made the payment without Cain's knowledge or consent. Thus, there was no evidence before the court from which a fact finder could infer that any person other than Cain or someone acting at his behest made the payment. A suggestion by the non-moving party that a fact finder might not believe the evidence presented in support of a motion for summary judgment is insufficient. *Benway v. Port Authority*, 191 Md. 22, 46 (2010). If, in fact, Cain did not make the September 25, 2009 payment, the proper way for him to

establish a dispute of fact would have been for him to file an affidavit or other evidence to that effect. At best, he has raised a "metaphysical doubt," which is insufficient.

2. A three-year or a twelve year limitations period

Cain's next argument is that the twelve-year statute of limitations of CJP § 5-102(a)(3)[12] applies to his claims for money damages based on unjust enrichment and Midland's violations of Maryland law. These contentions were addressed in detail in *Jason v. National Loan Recoveries, LLC*, 227 Md. App. 516, 527–34 (2016). In that case, and among other things, we held that Courts & Jud. Proc. § 5-102(a)(3) applied neither to claims for unjust enrichment nor to claims for damages arising out of alleged violations of Maryland statutes. We reiterated these holdings in *Murray v. Midland Funding*, 233 Md. App. 254, 259–60 (2017).

3. The continuing-harm doctrine

Cain contends that the continuing-harm doctrine applies to change the accrual date for his unjust enrichment claim because Midland continued to garnish his wages after the alleged $300 payment. We do not agree.

[12] Courts & Jud. Proc. § 5-102 states in pertinent part:

> (a) An action on one of the following specialties shall be filed within 12 years after the cause of action accrues, or within 12 years from the date of the death of the last to die of the principal debtor or creditor, whichever is sooner:
>
> * * *
>
> (3) Judgment;

In *Jason v. National Loan Recoveries*, 227 Md. App. 516 (2016), we held that the statute of limitations for an unjust-enrichment claim is three years and that limitations begins to run when the plaintiff "knew or reasonably should have known of the wrong." *Id.* at 531. Cain argues that, because he filed suit within three years of the date that Midland received its last payment, the continuing-harm doctrine provides that he has the right to recover any payment made within three years of the date he filed suit.

The continuing-harm doctrine permits recovery by an injured party caused by a tortfeasor's sequential breaches of an ongoing duty by imposing a new limitations period for each breach. *See Litz v. Maryland Department of the Environment*, 434 Md. 623, 649 (2013). The doctrine is usually applied in nuisance, trespass and other tort cases. *Id.* at 646; *Walton v. Network Solutions*, 221 Md. App. 676–77 (2015). This Court explained that there is a distinction between cases in which the continuing harm theory applies and those in which the damages claimed are "simply the continuing ill effects of prior tortious acts." *Bacon v. Arey*, 203 Md. Ap. 606, 656 (2012). In *Walton*, we held that the continuing-harm doctrine did not apply in a case involving a violation of the Maryland Consumer Protection Act:

> the current case does not involve a trespass or nuisance claim, but instead involves an MCPA deceptive practice claim. There has been no intrusion by way of trespass or nuisance onto appellant's property, justifying the application of the continuing harm doctrine. Here, appellee's actions of sending numerous e-mails did not delay the accrual of appellant's MCPA action to a further date.

221 Md. App. at 667.

We believe that the same reasoning is applicable with regard to Cain's claims: Midland's actions did not involve a trespass or nuisance. Cain's statutory causes of action accrued when he was placed on inquiry notice of Midland's wrong-doing. At the very latest, this occurred when it received its first payment on the judgment.

4. Cross-jurisdictional class action tolling

Cain's final statute-of-limitations argument requires us to decide whether the limitations period was ever suspended. Midland filed its collection action against Cain on March 30, 2009, obtained its judgment on August 19, 2009, and received its first payment on its judgment on September 25, 2009. Cain filed the current action on July 30, 2013. If the three-year limitations period set out in Cts. & Jud. Proc. § 5-101 applies, then Cain's claims for monetary relief are time-barred. If, however, the running of the statute as to Cain's claims for damages was suspended during the pendency of the federal *Johnson v. Midland* litigation (by a doctrine known as cross-jurisdictional class-action tolling), then the current action was timely filed regardless of which date is chosen for accrual purposes.[13]

[13] *Johnson v. Midland* was filed on September 10, 2009. The U.S. District Court approved the settlement, which excluded Cain as a member of the plaintiffs' class, on March 10, 2011. As Maryland courts calculate time, *see* Md. Code, § 1-302 of the General Provisions Article, *Johnson* was pending for 547 days or eighteen months. When the federal court approved the class-action settlement, and thus excluded Cain from the ranks of possible class members, Md. Rule 1-101(b) provided that Cain had thirty days to file an action in state court asserting his state-law claims. He did not do so. But if the running of the statute of limitations on Cain's claims for damages was tolled during the pendency of the federal ligation, then, for limitations purposes, the present action was filed thirty-four

Cain's argument that the doctrine of cross-jurisdictional class-action tolling applies to his case breaks down into several sub-issues. The first is whether limitations on a claim that arises under Maryland law is tolled when that claim is asserted in a civil action pending in a federal court with jurisdiction over the state-law claims. The answer to this question is yes. *See Turner v. Kight*, 406 Md. 167, 189 (2008).[14] The second is how the tolling period should be calculated. At one time, this was a matter of disagreement among courts throughout the country, but that issue was resolved by *Artis v. District of Columbia*, ___ U.S. ___, 138 S. Ct. 594 (2018), a decision that we will discuss later. The third issue is the tolling effect of a class action filed in a court of another jurisdiction or, to get to the point, whether the *Johnson v. Midland* class action in federal court tolled the running of the statute of limitations on the state-law claims of putative members of the plaintiff class. We declined to apply cross-jurisdictional tolling in a context similar to the one in the present

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months after Midland's collection was filed, twenty-nine months and a few days after Midland obtained its judgment against him, and twenty-eight months and a few days after Midland received its first payment.

[14] In *Turner*, the Court of Appeals stated:

> [W]e conclude that [28 U.S.C.] § 1367(d) serves to suspend the running of a State statute of limitations from the time the State-law claim is filed in U.S. District Court until 30 days after (1) a final judgment is entered by the U.S. District Court dismissing the pendant State-law claims, or (2) if an appeal is noted from that judgment, issuance of an order of the U.S. Court of Appeals dismissing the appeal or a mandate affirming the dismissal of those claims by the District Court.

406 Md. at 189.

case in *Adedje v. Westat*, 214 Md. App. 1 (2013). We will decline to do so in this case as well. Before explaining why, some context is necessary.

A.

As the Court of Appeals has explained,

> [s]tatutes of limitations . . . are intended simultaneously to provide adequate time for diligent plaintiffs to file suit, to grant repose to defendants when plaintiffs have tarried for an unreasonable period of time, and to serve societal purposes, including judicial economy. There is no magic to a three-year limit. It simply represents the legislature's judgment about the reasonable time needed to institute suit.

Shailendra Kumar, P.A. v. Dhanda, 426 Md. 185, 209 (2012) (quoting *Bragunier Masonry Contractors v. Catholic University of America*, 368 Md. 608, 627 (2002)). Such statutes "are by definition arbitrary, and their operation does not discriminate between the just and the unjust claim, or the voidable and unavoidable delay." *Walko Corporation v. Burger Chef Systems, Inc.*, 281 Md. 207, 210 (1977) (quoting *Chase Securities Corp. v. Donaldson*, 325 U.S. 304, 314 (1945)).

There are a few narrow exceptions to the applicability of statutes of limitations. One of them pertains to the tolling effect of a pending class action on claims by individual class members and putative class members. The concept of "class action tolling" stems in large part from two decisions of the Supreme Court.

The first was in *American Pipe & Construction Co. v. Utah*, 414 U.S. 538 (1974). That case began as a class action but eventually, the federal district court ruled that the number of possible plaintiffs who could actually assert meritorious claims was not large enough to

warrant class-action status. *Id.* at 543. After the court's order, more than sixty local-government entities in the State of Utah moved to intervene. All of them had been identified in the class action complaint as members of the proposed class. The federal district court denied these motions on the ground that the relevant statute of limitations had expired for the individual would-be intervenors. *Id.* at 545.

In considering whether the federal district court erred, the Supreme Court first set out the conceptual basis for class-action tolling: (emphasis added):

> A federal class action is no longer an invitation to joinder but a truly representative suit designed to avoid, rather than encourage, unnecessary filing of repetitious papers and motions. Under the circumstances of this case, where the District Court found that the named plaintiffs asserted claims that were 'typical of the claims or defenses of the class' and would 'fairly and adequately protect the interests of the class,' the claimed members of the class stood as parties to the suit until and unless they received notice thereof and chose not to continue. Thus, *the commencement of the action satisfied the purpose of the limitation provision as to all those who might subsequently participate in the suit as well as for the named plaintiffs*. To hold to the contrary would frustrate the principal function of a class suit, because then the sole means by which members of the class could assure their participation in the judgment if notice of the class suit did not reach them until after the running of the limitation period would be to file earlier individual motions to join or intervene as parties—precisely the multiplicity of activity which Rule 23 was designed to avoid in those cases where a class action is found 'superior to other available methods for the fair and efficient adjudication of the controversy.' Rule 23(b)(3).

414 U.S. at 550–51.

The Supreme Court then held:

> where class action status has been denied solely because of failure to demonstrate that the class is so numerous that joinder of all members is impracticable, the commencement of the original class suit tolls the running of the statute for all purported members of the class who make timely

> motions to intervene after the court has found the suit inappropriate for class action status.

414 U.S. at 552–53 (cleaned up).

The issue in *American Pipe* was whether putative members of the proposed plaintiffs' class could *intervene* in the case once class certification had been denied. In *Crown, Cork & Seal Co. v. Parker*, 462 U.S. 345 (1983), the issue was whether a putative member of the proposed class could file a *separate action* after denial of class certification. The Court stated:

> We conclude, as did the Court in *American Pipe*, that the commencement of a class action suspends the applicable statute of limitations as to all asserted members of the class who would have been parties had the suit been permitted to continue as a class action. Once the statute of limitations has been tolled, it remains tolled for all members of the putative class until class certification is denied. At that point, class members may choose to file their own suits or to intervene as plaintiffs in the pending action.

Id. at 353–54 (cleaned up).

With these cases as background, the Court of Appeals addressed class-action tolling in *Philip Morris USA, Inc. v. Christensen*, 394 Md. 227 (2006), *abrogated in part on other grounds by Mummert v. Alizadeh*, 435 Md. 207 (2013). After reviewing *American Pipe* and *Crown, Cork & Seal*, the Court of Appeals concluded that it recognized class action tolling subject to five conditions:

> (1) "there is persuasive authority or persuasive policy considerations supporting the recognition of the tolling exception,". . .
>
> (2) "recognizing the tolling exception is consistent with the generally recognized purposes for the enactment of statutes of limitations[,]"

> [(3)] "the class action complaint notified the defendants of not only of the substantive claims being brought against them, but also of the number and generic identities of the potential plaintiffs[,]"
>
> [(4) "that . . . the individual suit must concern the same evidence, memories, and witnesses as the subject matter of the original class suit[,]" [and]
>
> [(5)] "that claims as to which the defendant was not fairly placed on notice by the class suit are not protected[.]."

394 Md. at 238 and 256 (cleaned up); *see also Adedje v. Westat*, 214 Md. App. 1, 15–16 (2013) (summarizing the *Christensen* factors).

In its analysis, the *Christensen* Court concluded that there was a persuasive policy consideration that supported recognizing class-action tolling, specifically, judicial economy and efficiency. The Court explained:

> Class action procedures are designed to promote [judicial economy and efficiency] by preventing duplication, permitting when possible the claims of large classes of persons to be litigated at once rather than individually or as a joint action. . . . The ends of efficiency and economy, therefore, are undermined to the extent that members of a putative plaintiff class have a genuine incentive to file prophylactic motions to intervene or individual complaints in order to prevent their claims being barred by the statute of limitations. We agree with the *American Pipe* Court that, in the absence of a class action tolling rule, putative plaintiff class members will indeed have a sufficiently strong incentive to file protective claims to justify adoption of a class action tolling rule.

Id. at 253–54 (cleaned up).

Finally, the *Christensen* Court "express[ed] no opinion" as to whether it would recognize the doctrine of *cross-jurisdictional* class-action tolling, "under which the filing of a putative class action in a different jurisdiction tolls the statute of limitations for putative class members to file individual claims in the jurisdiction recognizing cross-jurisdictional

tolling while the issue of class certification is pending in the other jurisdiction." *Id.* at 255 n.9 (emphasis added).

We will now turn to the parties' contentions.

B.

Cain's contention that the statute of limitations was tolled by the doctrine of cross-jurisdictional class-action tolling is rooted in his reading of the Supreme Court's decision in *Artis v. District of Columbia*, ___ U.S. ___, 138 S. Ct. 594 (2018). Cain argues that *Artis* "clearly establishes" that a class action that is pending in a federal court and that includes federal and state claims tolls the running of the statute of limitations on the state-law claims. He argues that *Artis*'s holding extends not only his right to assert claims on his own behalf but also to file a class action in a Maryland court after he and similarly situated individuals were excluded from the plaintiffs' class by the U.S. District Court in *Johnson v, Midland.* We do not read *Artis* so broadly.[15]

The issue before the Supreme Court in *Artis* was the proper construction of part of the federal supplemental-jurisdiction statute, 28 U.S.C. § 1367. Section 1367 states in pertinent part (emphasis added):

> (a) Except as [otherwise provided], in any civil action of which the district courts have original jurisdiction, the district courts shall have supplemental jurisdiction over all other claims that are so related to claims in the action

[15] Cain argues that state courts are required to adhere to the holding of *Artis* because of the Supremacy Clause (U.S. Const. art. VI). This is inarguably correct, insofar as the *Artis* decision interprets federal law. But *Artis* does not address class-action tolling.

> within such original jurisdiction that they form part of the same case or controversy under Article III of the United States Constitution. Such supplemental jurisdiction shall include claims that involve the joinder or intervention of additional parties.
>
> * * *
>
> (d) The period of limitations for any [state-law] claim [joined with a claim within a district court's original jurisdiction] shall be tolled *while the claim is pending* [in federal court] and for a period of 30 days after it is dismissed unless State law provides for a longer tolling period.

The question before the Court was whether:

> the word "tolled," as used in § 1367(d), mean[s] the state limitations period is suspended during the pendency of the federal suit; or does "tolled" mean that, although the state limitations period continues to run, a plaintiff is accorded a grace period of 30 days to refile in state court post dismissal of the federal case? Petitioner urges the first, or stop-the-clock, reading. Respondent urges . . . the second, or grace-period, reading.

Id. at 598.

The Court ultimately concluded that the "stop the clock" interpretation of § 1367(d) was the correct one. *Id.* at 608.[16] For our purposes, *Artis* teaches that if a plaintiff files an

[16] The Supreme Court noted that, among other tribunals, Maryland's Court of Appeals had interpreted § 1367 in the same manner. 138 S. Ct. at 600 n.3.a. In *Turner v. Kight*, the Court of Appeals stated:

> [W]e conclude that § 1367(d) serves to suspend the running of a State statute of limitations from the time the State-law claim is filed in U.S. District Court until 30 days after (1) a final judgment is entered by the U.S. District Court dismissing the pendant State-law claims, or (2) if an appeal is noted from that judgment, issuance of an order of the U.S. Court of Appeals dismissing the appeal or a mandate affirming the dismissal of those claims by the District Court.

action in federal court asserting a mixture of federal and state claims and if the federal court rules against the plaintiff on the federal claims and dismisses the state-law claims, then, pursuant to § 1367(d), the running of the statute of limitations on the litigant's state-law claims is suspended for the period that the federal case was pending plus thirty days. 138 S. Ct. at 608.

Midland presents several arguments as to why *Artis* should not affect the outcome of this case. The first is that Cain did not raise a statute-based argument in favor of tolling before the circuit court.[17] Midland notes that Maryland already has a thirty-day tolling provision in Md. Rule 2-101(b)[18] and that "[t]his rule does not open the door to broad

406 Md. 167, 189 (2008).

[17] Midland is correct on this point, but Cain certainly argued to the circuit court that the *Johnson v. Midland* litigation tolled the running of the statute of limitations with respect to his claims for damages. The circuit court relied on *Adedje v. Westat*, 214 Md. App. 1, 33 (2013) in deciding that Cain's tolling arguments were unpersuasive. And our analysis in *Adedje* was based in part on our reading of 28 U.S.C. § 1367(d).

Like any appellate litigant, Cain is entitled to direct our attention to additional authority to support the contentions he made before the circuit court. (We note that the Supreme Court's opinion in *Artis* was filed on January 22, 2018, about four months after the circuit court entered its judgment in this case.) There is no unfairness because Midland had ample opportunity to brief and argue *Artis* to this Court and did so.

[18] Md. Rule 2-101(b) states:

> (b) Except as otherwise provided by statute, if an action is filed in a United States District Court or a court of another state within the period of limitations prescribed by Maryland law and that court enters an order of dismissal (1) for lack of jurisdiction, (2) because the court declines to exercise jurisdiction, or (3) because the action is barred by the statute of limitations required to be applied by that court, an action filed in a circuit

judge-made tolling rules based on the pendency of actions in federal courts or other state courts." Midland is correct as to the implications of Md. Rule 2-101(b), but the fact remains that the Court of Appeals has recognized judicially-created tolling under narrow circumstances.[19] And, of course, the Court of Appeals recognized class-action tolling in *Christensen*. 394 Md. at 253. The question before us is whether we should recognize *cross-jurisdictional* class-action tolling. Midland correctly asserts that this Court has twice considered cross-jurisdictional tolling and rejected it, citing *Antar v. Mike Eagan Insurance*, 209 Md. App 336, 365 (2012), and *Adedje v. Westat*, 214 Md. App. 1, 33 (2013).[20] We turn to these cases.

Antar is not particularly helpful. That case did not involve class-action tolling, and it did not implicate 28 U.S.C. § 1367 because the prior action was filed in a Pennsylvania state court. The issue before us was whether the running of the Maryland statute of

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> court within 30 days after the entry of the order of dismissal shall be treated as timely filed in this State.

[19] *See Bertonazzi v. Hillman*, 241 Md. 361, 367 (1966) (statute of limitations tolled by timely good-faith filing in incorrect venue); *Weaver v. Leiman*, 52 Md. 708, 716 (1880) (statute of limitations tolled during plaintiff's infancy).

[20] Midland also contends that *Artis* "is irrelevant because Cain filed no federal lawsuit invoking § 1367 supplemental jurisdiction. Only the *Johnson* named plaintiffs did." It is one thing for us to decide, as we did in *Adedje*, whether *cross-jurisdictional* class-action tolling should apply in the present case. It would be quite another for us to decide that *class-action* tolling doesn't apply because Cain was not a named party in the *Johnson* litigation. We will treat Midland's argument as a placeholder for preservation purposes and simply state that Midland has not persuaded us to disregard the Court of Appeals' holding in *Christensen*.

limitations was tolled during the pendency of the Pennsylvania litigation. *Id.* at 340. In addition to other arguments, the appellants contended that just as the Court of Appeals recognized equitable tolling in the context of class actions, we should do the same in their case. We declined to do so. 209 Md. App. at 356. Our refusal to extend the holding of *Christensen* to non-class-action lawsuits filed in other states can hardly be said to constitute a rejection of the cross-jurisdictional class-action tolling concept.

This brings us to *Adedje v. Westat*, 214 Md. App. 1 (2013). Although it doesn't use these terms in its briefs, Midland seems to suggest that *Adedje* categorically rejected the concept of cross-jurisdictional class action tolling in Maryland. We do not have to decide this question in the present case.

In *Aedeje,* the appellant argued that the doctrine of cross-jurisdictional class action tolling operated to suspend the running of the statute of limitations on her claims that her former employer, Westat, had violated Maryland's Wage and Hour Law[21] and the Wage Payment and Collection Law.[22] There was no antecedent class action in *Adedje.* Instead, Adedje had joined a pending collective action[23] in the U.S. District Court for the District

[21] Md. Code, §§ 3-401 to -431 of the Labor and Employment Article ("Lab. & Empl.").

[22] Lab. & Empl. §§ 53-501 to -509.

[23] The Fair Labor Standards Act provides that an employee may file an action for damages for certain violations of the Act on behalf of the plaintiff "and other employees similarly situated." 29 U.S.C. § 216(b). Other employees do not become parties unless they file written consents with the court. *Id.* They are termed "collective actions." *See Sandoz v. Cingular Wireless LLC,* 553 F.3d 913, 914 (5th Cir. 2008). In a collective action, only

of Maryland alleging that Westat the federal Fair Labor Standards Act and Maryland's Wage Payment and Collection Law. *Id.* at 6–7. The federal court concluded that the case was not appropriate for treatment as a collective action because it involved "an unmanageable assortment of individual inquiries," and then later dismissed Adedje's efforts to repackage the federal claims together with additional state law claims as a class action. *Id.* at 7. After the second dismissal, the Court granted Adedje leave to file an amended complaint within twenty days but instead she filed an action in Maryland court asserting that Westat had violated Maryland's Wage and Hour Law[24] and the Wage Payment and Collection Law.[25] The circuit court dismissed the action on limitations grounds. On appeal, Adedje asserted that the running of the Maryland state of limitations was tolled by a combination of 28 U.S.C. 1367(d) (the statute at issue in *Artis*) and cross-jurisdictional class action tolling. *Id.* at 12–13. We did not agree.

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similarly situated persons who affirmatively opt in as plaintiffs are bound by the court's judgment. *McKnight v. D. Houston, Inc.*, 756 F. Supp. 2d 794, 808 (S.D. Tex. 2010).

However, after the opt-in process, the court must make a two-step determination as to whether the case should proceed as a collective action. The criteria for these decisions are analogous in some respects to those used in class actions. *See Syrja v. Westat, Inc.*, 756 F. Supp. 2d 682, 686 (D. Md. 2010) (summarizing relevant case law).

Adedje's appellate contentions did not distinguish between collective and class actions and, although we noted the distinction, 214 Md. App. at 19–20, for purposes of analysis we equated the two.

[24] Md. Code, §§ 3-401 to -431 of the Labor and Employment Article ("Lab. & Empl.").

[25] Lab. & Empl. §§ 53-501 to -509.

We began our analysis by noting that:

> Cross-jurisdictional class-action tolling is a rule whereby a court in one jurisdiction tolls the applicable statute of limitations based on the filing of a class action in another jurisdiction. We acknowledge that *Christensen* and *Antar* concern class action judicial tolling and cross-jurisdictional tolling respectively. However, we have not found any Maryland cases that have analyzed these topics together [and] *Christensen* did not analyze 28 U.S.C. § 1367 nor did it involve a class action filed in federal court and a subsequent individual claim filed in state court. While this issue is one of first impression in Maryland, *see Christensen*, 394 Md. at 255, n.9, ("We express no opinion as to whether we would recognize the doctrine of cross-jurisdictional class action tolling. . . ."), "[t]he supreme courts of states that recognize class action tolling have split on the issue of whether to adopt cross-jurisdictional tolling.")

214 Md. App. at 18–19 (some citations and quotation marks omitted).

After surveying cross-jurisdictional class action tolling cases from throughout the country, *id.* at 17–30, we concluded that:

> Recognizing a tolling exception would assist in advancing the effectiveness of suits in other jurisdictions. However, this would deplete our judicial resources, and render our state the focal point for complainants whose class certifications were denied. Moreover, if we recognized an exception, our Courts would be at the mercy of other jurisdictions, waiting on them to rule on the cases.

Id. at 30.

Based in part on that conclusion, we then applied the five-factor test enunciated by the Court of Appeals in *Christensen* to determine whether class action tolling applies in a specific case:

> (1) whether the plaintiff was a party to the prior action; (2) whether the action concerns the same facts, claims, defendants, and witnesses as the prior action; (3) whether the defendant was placed on notice of another claim being filed; (4) whether persuasive authority and policy exist that support use of

> the tolling exception; and (5) whether recognition of the exception harmonizes with the purpose of statutes of limitation.

Id. at 31.

We concluded that Adedje failed to demonstrate that she satisfied all of these factors. Although she was a party in the prior action and the federal and state actions involved the same facts, evidence, and witnesses, we held that her state-court action did not involve the same claims or parties because the collective action involved only the Fair Labor Standards Act claim and not the state-law claims. *Id.* at 30–31. As to the final two factors, we stated:

> The two remaining questions are whether persuasive authority and policy considerations exist that support use of the tolling exception and whether recognition of the exception parallels with the General Assembly's statutes of limitation.

Id. at 31.

To answer these questions, we looked first to 28 U.S.C. § 1367(d) and interpreted it as providing a thirty-day window to file a state-court action after dismissal of the federal action. *Id.* at 31–32.[26] We noted that, when Adedje opted into Syrja's Fair Labor Standards Act claim, she had eight months to file a claim in Maryland courts asserting her state-law claims but did not do so. After the federal district court denied the motion for class certification on November 2, 2010, Adedje had a thirty-day window to file a state-court action pursuant to our interpretation of § 1367(d). Instead, she filed another class action

[26] This interpretation was not consistent with the Supreme Court's holding in *Artis* but *Artis* had not been decided.

claim. When the federal district court dismissed the second action, it granted her leave to file an amended complaint within twenty days but instead she filed her action in the Circuit Court for Montgomery County. *Id.* at 32–33. We concluded:

> Additionally, appellant's claims were not the same as the claim she opted-into, and therefore, appellees were not placed on notice. Furthermore, there were no persuasive authority or policy considerations that existed, as recognition of an equitable tolling and cross-jurisdictional class action tolling exception neither harmonized with the purpose of 28 U.S.C. § 1367(d) nor Cts. & Jud. Proc. § 5–101.

Id. at 33.

Our analysis in *Adedje* suggests that *Christensen's* five-part test is to be applied on a case-by-case basis. For the purposes of our analysis, we can read *Adedje* as leaving open the possibility that there might be cases in which cross-jurisdictional class action tolling would be appropriate. But such a case would necessarily involve persuasive authorities and policy considerations different than those identified in *Christensen* and invoked in *Adedje*. This brings us back to the case before us.

In his briefs, Cain's treatment of *Adedje* is limited to the observations, without further explanation or citation, that our opinion in that case "was expressly limited to a factual situation not present in this case" and that our opinion "contained [an] express limitation . . . to the claims before that court." He does not explain how the facts in Cain's case are different from those in *Adedje* and, more importantly, why those differences should matter. Moreover, Cain does not address how he meets *Christensen's* five-element

test for class-action tolling. Nor does he point us to persuasive authority or policy considerations that could be a basis to distinguish the present case from *Adedje*.

Cain's failure to come to grips in any substantive fashion with our analysis in *Adedje* constitutes a waiver of his contention that *Adedje* is not applicable to this case. *See* Md. Rule 8-504(a)(5) (briefs must contain "[a]rgument in support of the party's position on each issue"); *HNS Dev., LLC v. People's Counsel for Baltimore County*, 425 Md. 436, 459 (2012) ("The brief provides only sweeping accusations and conclusory statements [and] we are disinclined to search for and supply HNS with authority to support its bald and undeveloped allegation[.]"

Cain does argue that *Artis* requires a different result, but *Artis* was not a class-action case and did not address class-action tolling. He points to no authority for the proposition that 28 U.S.C. § 1367(d) requires a state court to recognize cross-jurisdictional class-action tolling.[27] There is no basis for us to hold that the circuit court erred in declining to apply cross-jurisdictional class-action tolling to Cain's claims.

[27] Midland correctly points out that Cain sought to have his action certified as a class action. In doing so, it asserts that Cain "forfeited any right to claim *American Pipe* tolling." Midland directs us to *China Agritech, Inc. v. Resh*, ___ U.S. ___, 138 S. Ct. 1800, 1811 (2018). In that case, the Court considered whether, under the *American Pipe* line of cases, after "denial of class certification, may a putative class member, in lieu of promptly joining an existing suit or promptly filing an individual action, commence a class action anew beyond the time allowed by the applicable statute of limitations?" *Id.* at 1804. The Court's answer was succinct:

> Our answer is no. *American Pipe* tolls the statute of limitations during the pendency of a putative class action, allowing unnamed class members to join

3. *Finch III* and Cain's remaining claims

We believe that the Court's analysis and holdings in *Finch III* dispose of the parties' remaining contentions. Therein, the Court of Appeals held that, during the time period relevant to the case before us, debt purchasers such as Midland and LVNV Funding were required to obtain licenses from the Maryland Collection Agency Licensing Board before attempting to collect debts either directly or through surrogates. 463 Md. at 602–06. The Court also held that, absent a failure of fundamental jurisdiction, judgments in Maryland are neither void nor subject to collateral attack. *Id.* at 611. This holding applies to Midland's judgment in the collection action. Finally, the Court held:

> An unlicensed debt collector who, in the furtherance of its business, attempts to collect a debt through litigation unquestionably is attempting to enforce a right that, *for it*, does not exist. [Com. Law § 14-203], also part of MCDCA states that "[a] collector who violates any provision of this subtitle is liable for any damages proximately caused by the violation, including damages for emotional distress or mental anguish suffered with or without accompanying physical injury." *Mostofi v. Midland Funding*, 223 Md. App. 687, 702–03, (2015). It is hard to imagine, notwithstanding LVNV's importuning, a clearer expression of an intent to provide a private remedy for the violation of MCALA—a remedy that permits recovery of "any damages," including for emotional distress.

> the action individually or file individual claims if the class fails. But *American Pipe* does not permit the maintenance of a follow-on class action past expiration of the statute of limitations.

Id.

Because we conclude that Cain's claims for damages action fail on limitations groundsand that the holdings of *Finch III* address the parties' remaining contentions, it isn't necessary for us to consider how *China Agritech* might apply in Maryland.

* * *

> Although the District Court judgments may not be collaterally attacked, BR § 7-401, read in conjunction with § 7-101(c), would permit declaratory and injunctive relief precluding LVNV from taking any action to enforce those judgments and for *any* damages incurred by the plaintiffs as the result of LVNV's collection efforts.

463 Md. at 612.

This means that the judgment entered by the circuit court declaring that Midland's judgment was voidable was in error because it constituted a collateral attack on the judgment entered the District Court. We have held that Cain's claims for monetary damages are time-barred. Our holding means that the circuit court's declaratory judgment awarding Cain damages was in error. Because Midland filed an order of satisfaction in its collection case against Cain eleven months before Cain filed this action, it does not appear that there is a basis for Cain to seek injunctive relief against Midland, and Cain did not argue that the circuit court erred in denying injunctive relief. We will remand this case to the circuit court for it to enter judgment accordingly.

THE JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY IS AFFIRMED IN PART AND REVERSED AND IN PART. THIS CASE REMANDED TO THE CIRCUIT COURT FOR BALTIMORE CITY FOR ENTRY OF A JUDGMENT CONSISTENT WITH THIS OPINION.

APPELLANT TO PAY COSTS.