Circuit Court for Baltimore City
Case No. 24-C-22-004032

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1869

September Term, 2023

WAYNE WILLIAMS

v.

TRANSDEV SERVICES, INC., ET AL.,

Nazarian,
Reed,
Albright,

JJ.

Opinion by Nazarian, J.

Filed: August 21, 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 persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

Wayne Williams is a participant in the Maryland Transit Administration's Mobility Link Program, a state program that provides transportation services to individuals with disabilities. On February 17, 2022, while trying to get into a Mobility Link van operated by Transdev Services, Inc. ("Transdev"), a program contractor, Mr. Williams slipped, fell, and fractured his wrist. He sued Transdev in the Circuit Court for Baltimore City, alleging that its negligence caused his injury. During discovery, Transdev disclosed that its expert would opine on the cause of Mr. Williams's wrist injury. Shortly before trial but after discovery, however, Transdev added that its expert would opine as well on how Mr. Williams's pre-existing medical conditions contributed to his fall. Mr. Williams moved to strike Transdev's supplemental expert disclosure and the circuit court denied the motion; Mr. Williams opposed any continuance of the trial as well. After trial, a jury found Transdev negligent but concluded that its negligence hadn't caused Mr. Williams's injury. He appeals the circuit court's denial of his motion to strike and we affirm.

I. BACKGROUND

Mr. Williams is legally blind and uses a walking stick when navigating unfamiliar areas. He can "only see shapes and colors and outlines of things," and he depended on Mobility Link for his daily commute to his job at the Federation of the Blind.

On the morning of February 17, 2022, Mr. Williams waited at home for the Mobility Link van to pick him up. Transdev's driver, Kevin Chambers, arrived in the van, pulled up in front of Mr. Williams's house, and parked at an angle, leaving space between the curb of the sidewalk and the van. Mr. Williams walked from his front door to the van. When he

stepped from the curb onto the street to board the van, he slipped, fell, and fractured his wrist.

A. Civil Complaint and Discovery Dispute

Mr. Williams filed a civil complaint against Mr. Chambers, Transdev, and Transdev North America, Inc., alleging negligence, agency liability, and negligent hiring, training, retention, and supervision.[1] The circuit court issued a scheduling order that, among other things, required Mr. Williams to identify his expert by January 28, 2023, Transdev to disclose its expert by April 29, Mr. Williams to disclose any rebuttal experts by May 30, and for the parties to resolve all discovery disputes by June 29. The order set a trial date of October 24, 2023. The court issued a modified order on May 4, 2023 that gave Transdev until May 29 to designate its expert, closed discovery on July 29, and required motions to exclude expert testimony by August 29.

Transdev served its interrogatories and requests for production of documents on October 24, 2022. Mr. Williams needed additional time and the parties agreed to multiple extensions. Consistent with their agreement, Mr. Williams responded to Transdev's request for interrogatories and production of documents on January 25, 2023. On March 24, 2023, Transdev deposed Mr. Williams. At that time, he denied having any prior history of falls.

On April 13, 2023, Transdev sent a letter to Mr. Williams asserting that fifteen of his interrogatory responses were deficient. Three of those included interrogatories asking

[1] Before trial, the parties agreed to dismiss Mr. Chambers and Transdev North America, Inc. as defendants.

about Mr. Williams's medical history,[2] including treatment he received for an injury he sustained in 2019 when he was riding in a taxicab that rear-ended another vehicle (the "2019 injury"). Mr. Williams provided supplemental answers on May 30, 2023. He maintained that he had suffered "an injury to his leg" in the cab accident but offered no additional details and referred Transdev to his deposition testimony. He insisted as well that he had already identified all his providers and referred Transdev to the medical records he had produced. The parties were unable to resolve the dispute.

On July 26, 2023, Transdev filed a motion to compel complete responses about Mr. Williams's medical history. From its own recent investigation, Transdev learned that Mr. Williams had filed a personal injury lawsuit after his 2019 injury. Transdev had obtained his interrogatory responses and medical records from that case and reported discrepancies

[2] Interrogatory no. 15 asked if Mr. Williams had "ever been treated at a hospital, other than on account of [the slip and fall], state the dates of treatment, the name and address of the hospital and the nature of the injury or condition."

Interrogatory no. 17 asked Mr. Williams for details about any prior or subsequent injuries he had suffered:

> If you have sustained other accident injuries or personal injuries of any kind before or after the [slip and fall], state the details, including the date, place of occurrence, nature of any injuries sustained, names and addresses of the parties involved, and names and addresses of [his] attending physicians . . . or hospital and the dates of treatment.

Interrogatory no. 21 asked Mr. Williams to name "all medical providers [that had] examined or treated [him] within the past ten (10) years and [to] state the approximate dates and nature of such treatment or examination . . . ." His original answer identified five treatment providers: his primary care physician, his occupational therapist, the University of Maryland Medical Center, Mercy Hospital, and Johns Hopkins Hospital.

between his interrogatory answers in that case and his responses to Transdev in this case. In the other lawsuit, Mr. Williams had said he "sustained injury to his [b]ack, his right knee, and his right foot," and had identified treatment providers that he hadn't disclosed to Transdev—the Institute for Foot and Ankle Reconstruction at Mercy, the Maryland Healthcare Clinic, and Choices Integrative Healthcare. Mr. Williams had given those answers on or around December 22, 2022, about a month before his responses to Transdev's interrogatories.

Mr. Williams responded that Transdev had already questioned him about his 2019 injury during his March 2023 deposition and that he had executed seven medical authorizations for Transdev to obtain his medical records immediately after it ended. He ended the dispute when he served amended interrogatory responses to Transdev on August 10, 2023. There, he described the cab injury as a "foot/ankle/leg injury" and disclosed that he had been treated "for wound care since approximately 2021 for a chronic ulcer/wound on his right ankle related to his 2019 surgery." He identified another prior medical provider, KureSmart Pain Management, and disclosed two recent appointments he'd had with Innovative Healthcare Centers and Chesapeake Open MRI on July 18 and 20, 2023 for his wrist. On July 26, 2023, Transdev filed a motion to extend discovery, arguing that it had subpoenaed some of the newly discovered providers on July 25, 2023[3] and needed time to

[3] Transdev issued eleven subpoenas for records from Maryland Healthcare Clinics; Maryland Physicians Associates; Institute for Foot and Ankle Reconstruction at Mercy; JP Medical Supply Co.; KureSmart Pain Management, LLC; and Choices Integrated Healthcare, Inc., among others.

obtain their medical records. On August 23 and 29, 2023, the court denied Transdev's motions to compel and to extend discovery. On August 30, 2023, Transdev subpoenaed records from Innovative Healthcare Centers and Chesapeake Medical Imaging.

B. Transdev's Expert Designations

On May 26, 2023, Transdev designated Dr. Marc Danziger as an expert in the field of orthopedic surgery and disclosed that he would testify about Mr. Williams's injuries, their relation to pre-existing conditions, the permanency of the injuries, and his treatment:

> Dr. Danziger is expected to testify based upon his knowledge, education, training and experience, as well as his examination of Plaintiff's medical records, any pleadings and testimony and other pertinent documentation in this case. Dr. Danziger is expected to offer opinions regarding Plaintiff's alleged medical conditions/injuries (including any permanent and/or residual injury), the treatment Plaintiff received, and the fairness/reasonableness of any costs thereof. Dr. Danziger is also expected to offer opinions regarding Plaintiff's diagnosis, recovery, functional capacity, and when Plaintiff reached maximum medical improvement. Further, Dr. Danziger is expected to offer opinions regarding any pre-existing injuries of Plaintiff.
>
> Dr. Danziger will testify to the extent to which Plaintiff's alleged injuries and corresponding medical treatment are related to pre-existing conditions and/or subsequent injuries. Dr. Danziger will also provide an opinion regarding any claim of permanency and the extent to which Plaintiff's treatment was medical[ly] necessary and causally related to the occurrence. . . .
>
> Dr. Danziger will offer opinions that refute [Mr. Williams's] experts' opinions regarding the extent of damages/injuries.

Transdev submitted Dr. Danziger's May 17, 2023 report about his review of Mr. Williams's medical records. The report noted that Mr. Williams had a "past history of ankle

surgery in 2019 where he underwent a triple arthrodesis[4] and [that] he had non-healing of the wound that required long term wound care for [his] ankle and foot." Dr. Danziger was aware that the University of Maryland Rehabilitation and Orthopedic Institute for Pain Management had treated Mr. Williams on January 20, 2023, a visit that mostly "centered around his right ankle and right foot pain where he had the previous triple arthrodesis and had been having wound healing issues since that time with an open foot wound." The report noted that Mr. Williams had a "superficial open wound" on his right ankle "that was draining a small amount of fluid" on that day. Dr. Danziger stated that Mr. Williams had two more appointments with this provider on February 2, and March 3, 2023, but that he wasn't aware of any follow-up pain management visits after that time. His report did not offer an opinion on the cause of Mr. Williams's fall.

On October 11, 2023, Transdev served Mr. Williams a supplemental designation of expert witnesses that previewed plans for Dr. Danziger to testify about the cause of his fall:

> Dr. Danziger will testify that [Mr. Williams] sustained a distal radius fracture that healed after his right wrist surgery and he underwent physical therapy as well as pain management, which is causally related to the fall . . . .
>
> In addition, Dr. Danziger will opine that [Mr. Williams's] significant right foot injury, and triple arthrodesis with ongoing pain management, resulted in gait and ambulation problems, and may have contributed to the . . . fall.

Transdev served this supplemental designation four months after the scheduling order deadline for its expert disclosure, two months after discovery had closed, roughly two

[4] Arthrodesis is a surgery to permanently fuse two bones in a joint together.

weeks before trial, and hours before Dr. Danziger's *de bene esse* deposition[5] was scheduled to begin. Mr. Williams did not request a discovery deposition of Dr. Danziger or ask to postpone his *de bene esse* deposition.

During his deposition, Dr. Danziger testified about Mr. Williams's history of falling, specifically in October 2016, March 2019, and August 2022. He testified about his knee instability, abnormal foot and ankle function, and his lack of feeling in his feet and ankles due to neuropathy, opining that all contributed to gait and ambulation problems and a heightened risk of falling. He testified also about Mr. Williams's surgery after the 2019 injury to resolve his "flat foot deformity" and "multiple abnormal joints" by fusing "three joints together . . . to provide . . . stability of the ankle." Some of Dr. Danziger's testimony relied on records of Mr. Williams's pain management treatment for his right foot and ankle, which had continued from 2019–2022. He opined to a reasonable degree of medical certainty that Mr. Williams's 2019 injury and his gait and ambulation problems were a contributing factor to his slip and fall.

On October 19, 2023, Mr. Williams asked the circuit court to strike Transdev's supplemental expert designation and exclude Dr. Danziger's opinion about the cause of his fall. The circuit court heard the parties' arguments on the first day of trial. At first, the court granted Mr. Williams's motion. But after hearing more about the history of the parties'

[5] A *de bene esse* deposition is a taped expert witness deposition played at trial to substitute for the expert's in-person testimony.

discovery dispute, Transdev's discovery and subpoenas to medical providers that Mr. Williams hadn't disclosed previously, and its assertion that Dr. Danziger had relied on records from the undisclosed providers to form new opinions, including records of ongoing pain management treatment for the 2019 injury, the court struck its prior ruling and denied Mr. Williams's motion. The parties proceeded to trial, where Transdev played Dr. Danziger's *de bene esse* deposition for the jury. The jury found that Transdev had been negligent but concluded that its negligence had not been the proximate cause of Mr. Williams's injuries.

II. DISCUSSION

Mr. Williams presents one issue on appeal: whether the circuit court abused its discretion when it denied his motion to strike Transdev's supplemental expert designation.[6] We review a circuit court's decision not to sanction a party for violating a scheduling order for abuse of discretion. *Watson v. Timberlake*, 251 Md. App. 420, 431 (2021) (*citing Butler v. S&S P'ship*, 435 Md. 635, 660 (2013)).

Mr. Williams argues that the circuit court abused its discretion when it reversed its initial ruling to strike Transdev's supplemental expert testimony and did so without considering the factors set forth in *Taliaferro v. State*, 295 Md. 376 (1983). Additionally, he asserts that accepting Transdev's reason for its late disclosure was unwarranted factually because Dr. Danziger had the information he needed to opine on the cause of Mr.

[6] Mr. Williams phrased his Question as, "Did the circuit court abuse its discretion by admitting a defense medical expert's opinion on alternative causation despite its unfairly prejudicial disclosure within two weeks of trial?"

Williams's fall when he wrote his initial medical report. Lastly, Mr. Williams maintains that he was prejudiced by the court's erroneous ruling. We hold that the circuit court did not abuse its discretion by declining to exclude Transdev's supplemental expert opinion under the circumstances.

If a scheduling order violation is the result of "a discovery failure, the trial court has wide discretion to determine what sanction, if any, is appropriate." *Watson*, 251 Md. App. at 434. An abuse of discretion happens when the court's ruling is "'manifestly unreasonable . . . exercised on untenable grounds, or for untenable reasons,'" *Dackman v. Robinson*, 464 Md. 189, 215 (2019) (*quoting Levitas v. Christian*, 454 Md. 233, 243 (2017)), or when its judgment is "well removed from any center mark" imaginable and "beyond the fringe of what [a reviewing] court deems minimally acceptable." *Livingstone v. Greater Wash. Anesthesiology & Pain Consultants, P.C.*, 187 Md. App. 346, 389 (2009) (citation omitted). In other words, we conclude that a court has abused its discretion only in "'the extraordinary, exceptional, or most egregious case.'" *Id.* at 388 (*quoting Wilson v. John Crane, Inc*, 385 Md. 185, 199 (2005)).

Circuit courts have inherent authority to impose sanctions for violations of scheduling orders, *Butler*, 435 Md. at 660 (*citing Station Maint. Sol., Inc. v. Two Farms, Inc.*, 209 Md. App. 464, 485 (2013)), but that authority is not unlimited. *See Wynn v. State*, 388 Md. 423, 443–444 (2005). When considering whether a sanction should issue for such a violation, "the reasons given for noncompliance, and the need for an exemption from the . . . deadlines imposed[] are significant." *Livingstone*, 187 Md. App. at 388. Sometimes

absolute compliance with a scheduling order isn't feasible. *Id.* (citation omitted). Our courts have maintained flexible expectations, demanding "'substantial compliance, or, *at the barest minimum*, a good faith and earnest effort toward compliance.'" *Id.* (*quoting Maddox v. Stone*, 174 Md. App. 489, 499 (2007)). Our assessment of compliance and effort covers "the same factual ground," *Watson*, 251 Md. App. at 434, as our analysis of the court's discretion to fashion a remedy for a violation of the discovery rules. *See Taliaferro*, 295 Md. at 390–92; *Butler*, 435 Md. at 660–61 (discussing the difference between scheduling order violations and discovery rule violations under Md. Rule 2-432). And contrary to Mr. Williams's contention, circuit courts don't have to perform a detailed analysis of the *Taliaferro* factors, particularly when they decide against imposing sanctions at all. *Watson*, 251 Md. App. at 440.

But the circuit court should weigh certain factors, such as why the disclosure wasn't made, the degree of prejudice, if any, to the other party because of the violation, the feasibility of curing that prejudice, and "'any other relevant circumstances.'" *Dackman*, 464 Md. at 232 (*quoting Beka Indus., Inc. v. Worcester Cnty. Bd. of Educ.*, 419 Md. 194, 232 (2011)). The court doesn't have to spell out each factor on the record, *Beka*, 419 Md. at 232, but the record must reveal that the court analyzed "the relevant facts and circumstances" and, from there, reached its ruling. *Livingstone*, 187 Md. App. at 389. If that process is discernible from the record, "we will not reweigh the factors and second-guess the circuit court's ruling . . . ." *Dackman*, 464 Md. at 235.

At the hearing on Mr. Williams's motion to strike, he argued that Transdev's

supplemental disclosure was unfair sandbagging—they had, he claimed, expanded the scope of their expert's testimony into undisclosed grounds with no notice too late in the process. In response, Transdev suggested that Mr. Williams's nondisclosure during discovery had prevented Dr. Danziger from opining on the cause of his fall any sooner. Transdev offered to agree to continue the trial so that Mr. Williams could take a discovery deposition of Dr. Danziger and retake his *de bene esse* deposition. After Transdev conceded that Dr. Danziger had the surgical record for Mr. Williams's 2019 injury at the time of his initial medical report, the court granted Mr. Williams's motion, finding that Dr. Danziger could have opined on the cause of Mr. Williams's fall earlier. Then Transdev asked a point of clarification that reopened the discussion:

> [COUNSEL FOR TRANSDEV]: Okay. . . . [Y]ou issued an order that Dr. Danziger's opinions with regard to the right foot surgery and how that may impact [Mr. Williams's] gait and ambulation. Are you also excluding the falls that [he] failed to disclose that Dr. Danzinger also opined, were the basis of his opinion and the . . . Pain Management records that we received at the end of September?
>
> [THE COURT]: . . . [I]s that part of the same opinion?
>
> [COUNSEL FOR TRANSDEV]: It's part of the same opinion, Your Honor. He has gait and ambulation problems that are well documented in the records. . . .
>
> [THE COURT]: Were they documented prior to this late disclosure?
>
> [COUNSEL FOR TRANSDEV]: The surgery [for the 2019 injury] . . . was disclosed, but we didn't know he was still in pain management for it.
>
> [THE COURT]: Okay. None of that was disclosed?
>
> [COUNSEL FOR MR. WILLIAMS]: With regards to what, Your Honor?

> [THE COURT]: The pain management.
>
> [COUNSEL FOR MR. WILLIAMS]: . . . I frankly don't know.

To try and pin down which records were disclosed and when, the circuit court reviewed Dr. Danziger's deposition testimony and exhibits about Mr. Williams's falls, knee instability, foot and ankle problems, and pain management needs. Transdev told the court that Dr. Danziger had based his new opinions on medical records that it didn't get until "sometime between August 10, 2023 and September 24, 2023," and not just the surgical record of the 2019 injury that it already had. Transdev recounted the history of the parties' discovery disputes, and specifically that in late July it discovered through its own investigation medical providers that Mr. Williams hadn't disclosed, filed a motion to compel, got the names of new providers, subpoenaed medical records from those providers, and supplemented Dr. Danziger's opinion. Transdev maintained that if Mr. Williams had disclosed all his providers in January 2023, when he gave his original interrogatory answer, no supplemental designation would have been necessary. Mr. Williams insisted that his deposition testimony about the 2019 injury and the records in Dr. Danzinger's possession had been enough. The court questioned counsel about the deposition before making its final decision:

> [THE COURT]: What is the date of that deposition?
>
> [COUNSEL FOR MR. WILLIAMS]: This is dated March 24, 2023. Well before discovery closed, more than ample time for Dr. Danziger to consider any of the records which he actually had in his possession, including the deposition transcript of [Mr. Williams] which was taken before he was designated and before he offered his opinions in his letter report. He had everything he needed during discovery to offer these opinions

about his prior foot condition and what, if any, impact it had on the causation of why he fell in February of 2022.

[THE COURT]: Well once that deposition was taken in March of 2023, then [Transdev] had to subpoena all of the medical records. Didn't they?

[COUNSEL FOR MR. WILLIAMS]: I think they had already subpoenaed them because they obtained them in less than—

[THE COURT]: Then how could they have subpoenaed them if they didn't know they needed them?

[COUNSEL FOR MR. WILLIAMS]: Because we had identified them in our answers to interrogatories in January of 2023.

[THE COURT]: Then—I got it.

[COUNSEL FOR TRANSDEV]: With the exception of the pain management records, which are very significant.

[THE COURT]: I understand. I have a full, complete picture. So this is what I'm going to do.

* * *

[W]ith regards to this expert disclosure, given the answers to interrogatories, the depositions, and the times of each of these, [Mr. Williams's] motion to strike [Transdev's] untimely expert disclosure[] is denied. So it's denied. Number 53.

[COUNSEL FOR MR. WILLIAMS]: Your Honor, just to clarify because you had previously granted as to the foot injury.

[THE COURT]: I did. But that's because I was not aware of all of the dates and times of the other medical records that were—from what I understand, Dr. Danziger did not make his—did not make an opinion in a vacuum. He used all of the medical records and the medical records were not all, I'll say, available to [Transdev] in a timely manner to get all of the information needed to make a fully intelligent and knowing decision or opinion by an expert.

So any previous ruling I made on Number 53 is moot, is stricken, and I am denying the request to strike the alleged untimely opinion of Dr. Danziger. All right?

From this record, we cannot say that the circuit court exercised its discretion in an

unreasonable or untenable way. *See Dackman*, 464 Md. at 235. Under the circumstances, Transdev had a legitimate, documented reason for its late supplemental disclosure. *Compare Naughton v. Bankier*, 114 Md. App. 641, 654 (1997) (holding that court abused its discretion by allowing testimony of expert witness who was disclosed one day before trial and over a year after the scheduling order deadline expired where the record was "devoid" of any reason for the violation). True, Transdev had the surgical record about the 2019 injury as early as May 2022, but it remained entitled to the discoverable information it requested on October 24, 2022 that Mr. Williams didn't answer fully until August 10, 2023. During that time, Transdev discovered additional treatment providers through its own investigation, subpoenaed those providers, and moved to compel answers to its questions about the 2019 injury and all the medical providers Mr. Williams had seen. When Mr. Williams identified new providers in his amended August 10 interrogatory responses, Transdev subpoenaed those providers. Foreseeing that the scheduling order would be difficult to satisfy given its need to follow this trail of new information, Transdev asked the court to extend the discovery deadline and the court said no. As Transdev predicted in that motion, it did not receive the subpoenaed records by the close of discovery. The discovery dispute prefacing Transdev's supplemental expert disclosure was a "relevant circumstance[]," *Dackman*, 464 Md. at 231–32, and the court placed its late disclosure into context responsibly rather than viewing it in a vacuum.

Mr. Williams insists that the court's finding of good cause is unmoored from the facts because Dr. Danziger had enough information about his medical history to form a

causation opinion. He told the court that he could prove that Dr. Danziger had the subpoenaed records all along. But he never did so, and neither of the parties parsed out the specific medical records Dr. Danziger relied on for his initial medical report compared to his deposition. The court's role is to "'weigh the reasons why the disclosure was not made, the existence and amount of any prejudice to the opposing party, the feasibility of curing any prejudice, and any other relevant circumstances.'" *Beka*, 419 Md. at 232 (cleaned up) (*quoting Williams v. State*, 416 Md. 670, 698 (2010)). In his *de bene esse* deposition, Dr. Danziger testified that he relied on all the pain management records to make his causation opinion, so it wasn't up to the court to make a medical judgment that he didn't need or use them after all.

Lastly, Mr. Williams argues that the court's ruling prejudiced him. We understand that Transdev's designation took him by surprise, but given the parties' discovery dispute, its disclosure wasn't so surprising. Mr. Williams knew that Transdev was still acquiring information about his prior medical history and latest medical treatments as recently as July and August 2023. To the extent that Mr. Williams thought he should be able to disclose new information late without it being used defensively at trial, that expectation was unreasonable. *See Watson*, 251 Md. App. at 437 ("[D]iscovery sanctions are not to operate as a windfall.").

Mr. Williams's tactical decisions compounded the impact of Transdev's late disclosure as well. In *Dackman v. Robinson*, 464 Md. 189 (2019), the Dackman family moved to strike the report and testimony of Mr. Robinson's economic expert, arguing that

even though he had identified the expert on time, Mr. Robinson had not shared the substance of his expert's opinions via an expert report until a few weeks before trial. *Id.* at 195, 201–02. The Dackmans argued that the disclosure violated the scheduling order and prejudiced them because Mr. Robinson's expert had already been deposed, their own experts had already issued reports, all other expert depositions had been scheduled, and they hadn't had a chance to designate an opposing economic expert. *Id.* at 201–02. The circuit court denied the motion because Mr. Robinson had designated his economic expert on time and the Dackmans had failed to depose his expert or ask for a postponement after receiving his expert's report. *Id.* at 202. The court offered to let the Dackmans take the economic expert's deposition that day and to designate an expert of their own. *Id.* at 235. The Supreme Court declined to second-guess the court's ruling where the court had weighed the reasons for Mr. Robinson's late disclosure, the existence of prejudice to the Dackmans, and the feasibility of curing potential prejudice properly. *Id*.

Likewise, the record in this case reveals that the circuit court weighed and considered the evidence properly. The court weighed Mr. Williams's discovery violation against Transdev's scheduling order violation and concluded that the prejudicial impact of the violations canceled each other out. And although the court didn't offer to cure the prejudicial effect of Transdev's late disclosure, Transdev offered an alternative when it proposed to let Mr. Williams take Dr. Danziger's discovery deposition, retake his *de bene esse* deposition, and agreed to postpone the trial. Mr. Williams didn't entertain those offers even though they could have relieved the surprise he suffered when Transdev violated the

scheduling order. *See Watson*, 251 Md. App. at 437–38. Instead, he seemed to focus on one remedy—exclusion of Dr. Danziger's supplemental testimony—to his detriment. There may have been good reasons to decline those alternatives, but the circuit court didn't err by denying Mr. Williams's request for an all-or-nothing sanction.

Excluding evidence for a scheduling order violation is a strong sanction and should be a last resort if other, less drastic measures are available, which they were in this case. *See id.* at 487; *Butler*, 435 Md. at 650–51. When Mr. Williams didn't serve complete interrogatory responses, Transdev tried to resolve the dispute informally before filing a motion to compel his answer. When Transdev supplemented its expert designation, Mr. Williams moved to strike that testimony—the strongest possible sanction—rather than lesser cures such as postponing Dr. Danziger's *de bene esse* deposition, retaking it, taking his discovery deposition, or asking the court for leave to retake his own expert's deposition. Striking Dr. Danziger's supplemental opinion was not the only potential remedy. Also, Transdev's late disclosure was not part of a pattern of deliberate or egregious conduct. *See Watson*, 251 Md. App. at 437 ("'The more draconian sanctions of . . . precluding the evidence necessary to support a claim are normally reserved for persistent and deliberate violations that actually cause some prejudice.'" (*quoting Butler*, 435 Md. at 650) (cleaned up)). And from its motion to extend discovery, we can see that Transdev made an earnest and good faith effort to comply with the scheduling order while maintaining its obligation to keep following the discovery trail. *See Butler*, 435 Md. at 650 ("[A] court must consider the parties' good faith compliance with the scheduling order."). We cannot say that no

reasonable person would deny Mr. Williams's motion to strike. Mr. Williams neither admitted to his history of falls nor provided a complete list of providers in answer to Transdev's initial interrogatory. His original answer did not provide a full picture of his pain management treatment. This might have been an oversight. It might have been a reasoned choice. But in the end, the balance of the parties' violations didn't compel the court to strike Transdev's admittedly late supplemental expert disclosure.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. APPELLANT TO PAY COSTS.