Circuit Court for Prince George's County
Case No. CAL16-26895

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1874

September Term, 2016

PAMELA A. BROOKS, PERSONAL REPRESENTATIVE OF THE ESTATE OF AMIR BROOKS-WATSON

v.

PRINCE GEORGE'S COUNTY, MARYLAND, ET AL.

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*Woodward,
*Wright,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Woodward, J.

Filed: February 6, 2020

*Wright, Alexander, J., now retired, and Woodward, Patrick L., J., now retired, participated in the hearing of this case while active members of this Court, and Woodward, Patrick L., J. as its Chief Judge; after being recalled pursuant to the Constitution, Article IV, Section 3A, they also participated in the decision and the preparation of this opinion.

The instant case arises out of a single vehicle accident involving a dirt bike that occurred on August 4, 2014, in which Amir Brooks-Watson was killed. On August 14, 2014, Brooks-Watson's mother, Pamela Brooks, filed a suit for wrongful death and survival in the Circuit Court for Prince George's County against Prince George's County ("the County") and Grady Management, Inc. ("Grady") (*Brooks I*). In *Brooks I*, Brooks alleged that the actions of an off-duty member of the Prince George's County Police Department, who also worked as a private security guard for Grady, were the proximate cause of the dirt bike accident, because that officer was negligently pursuing Brooks-Watson moments before the accident occurred. On January 13, 2015, Brooks and the County filed a joint stipulation of dismissal of the County as a defendant without prejudice, and on January 16, 2015, the circuit court signed an order dismissing the County without prejudice. On February 9, 2015, however, Grady filed a third-party complaint against the County seeking indemnification and contribution. Thereafter, the County and Grady filed motions for summary judgment, and Brooks did not file any response or opposition, although Brooks did file several motions to extend the time to respond. On December 8, 2015, the circuit court granted both motions for summary judgment.

In the instant case, Brooks, appellant, filed a wrongful death and survival action against the County, Officer Brandon Peters, and Sergeant Nicholas Cicale, appellees, in the same circuit court (*Brooks II*). Appellees filed a motion for summary judgment, arguing that appellant's claims were barred by res judicata because the circuit court had granted a motion for summary judgment in favor of the County in *Brooks I*. On October 27, 2016, after a hearing was held, the circuit court granted appellees' motion.

Appellant presents two questions for our review,[1] which we have consolidated and rephrased as one: Did the circuit court err in granting appellees' motion for summary judgment?

For the reasons set forth below, we shall affirm the judgment of the circuit court.

BACKGROUND

On August 4, 2014, Officer Peters was working "secondary employment" as a security guard for Grady at the Fox Club Apartments in Capitol Heights, Maryland. While parked in his police cruiser in his full police uniform at the entrance to the apartment complex, Officer Peters observed Brooks-Watson driving a dirt bike through the apartment complex with his cousin, Nigel Pulliam, as a passenger on the back. Officer Peters began to follow the dirt bike to the back of the complex, because he recalled that Prince George's County officers were told to be on the lookout for a full-size dirt bike that had been stolen recently in a commercial robbery. When Brooks-Watson and Pulliam saw Officer Peters approaching them, Brooks-Watson accelerated the bike, rode over the curb and grass, and left the apartment complex. Officer Peters followed Brooks-Watson and Pulliam down

[1] As posed by appellant, the questions are:

1. Did the lower court err when it determined that *res judicata* precluded Ms. Brooks from filing wrongful death and survivorship claims in *Brooks II* when she voluntarily dismissed her wrongful death claims without prejudice in *Brooks I*?

2. Did the lower court err when it determined that Ms. Brooks' wrongful death and survivorship claims were barred by *res judicata* when the lower court entered no final judgment on Ms. Brooks' wrongful death and survivorship claims against the County in *Brooks I*?

Brooks Drive and then on to Pennsylvania Avenue. When Officer Peters caught up to the dirt bike, Brooks-Watson sped up and began to travel in the wrong direction down the shoulder of Pennsylvania Avenue. Officer Peters activated his emergency equipment and continued to follow Brooks-Watson and Pulliam as they traveled on the wrong side and then the right side of Pennsylvania Avenue and crossed into the District of Columbia. Once in the District of Columbia, Officer Peters slowed down and was five or six car lengths behind the dirt bike. When Brooks-Watson turned left on to Alabama Avenue from Pennsylvania Avenue, Officer Peters lost sight of the dirt bike. Officer Peters turned left on to Alabama Avenue and drove until he saw a plume of smoke. When he reached the origin of the smoke, Officer Peters saw that the dirt bike had been involved in a single vehicle crash. Officer Peters informed the dispatcher that the two bikers had been injured in an accident and instructed the dispatcher to call for help. Pulliam was seriously injured, and Brooks-Watson died of injuries that he sustained in the crash.

On August 14, 2014, Brooks filed *Brooks I* in the circuit court against the County and Grady. In *Brooks I*, Brooks alleged that an off-duty Prince George's County police officer, who was working as a private security guard for Grady, illegally pursued Brooks-Watson and Pulliam, with his emergency lights and siren activated, from Maryland into the District of Columbia where the illegal pursuit ultimately caused the crash in which Brooks-Watson was killed. Brooks further alleged that the County and Grady were "dual" employers of the off-duty officer, and thus both defendants were liable for the police officer's tortious acts. The off-duty police officer was later identified as Officer Peters. By letter dated January 9, 2015, the County informed Brooks's trial counsel that Officer

Peters "was not on assigned duty or being paid by the County at the time of the occurrence on August 4, 2014." On January 13, 2015, Brooks and the County filed a joint stipulation of dismissal as to the County without prejudice, and the circuit court issued an order in conformance with such stipulation on January 16, 2015.

Nonetheless, on February 9, 2015, Grady filed a third-party complaint against the County seeking indemnification and contribution against the County. In the third-party complaint, Grady denied all allegations of negligence and liability against it, alleging that in the pursuit of the dirt bike operated by Brooks-Watson, "Officer Peters was acting in his capacity as a sworn police officer" and thus, if Brooks obtained a judgment against Grady, it was the County's actions, or failure to act, that were the proximate cause of Brooks-Watson's death. After the County was brought back into *Brooks I* as a third-party defendant, Brooks did not assert any claim against the County arising out of the death of Brooks-Watson in the accident of August 4, 2014.

On September 17, 2015, the County filed a motion for summary judgment as to Grady's third-party complaint. Brooks did not file any opposition or other substantive response to this motion. On the same date, Grady filed a motion for summary judgment on Brooks's claims against it. Again, Brooks did not file any opposition or other substantive response. The circuit court granted both motions for summary judgment on December 8, 2015.

Then, on June 23, 2016, appellant filed *Brooks II* in the circuit court against appellees. On August 12, 2016, appellees filed a motion for summary judgment arguing that appellant's claims were barred by res judicata, because previously the trial court had

granted summary judgment in favor of the County as a third-party defendant in *Brooks I*. After a hearing on October 27, 2016, the court granted appellees' motion. Appellant noted her appeal to this Court on November 2, 2016.[2] We shall include additional facts as necessary to the disposition of this appeal.

STANDARD OF REVIEW

A trial court may grant summary judgment when "there is no genuine dispute as to any material fact," and the moving party "is entitled to judgment as a matter of law." Md. Rule 2-501(f). An appellate court reviews the grant of summary judgment as follows:

> When reviewing a grant of summary judgment, we determine whether the parties properly generated a dispute of material fact and, if not, whether the moving party is entitled to judgment as a matter of law. This Court considers the record in the light most favorable to the nonmoving party and construe[s] any reasonable inferences that may be drawn from the facts against the moving party. A plaintiff's claim must be supported by more than a scintilla of evidence[,] as there must be evidence upon which [a] jury could reasonably find for the plaintiff.

Blackburn Ltd. P'ship v. Paul, 438 Md. 100, 107–08 (2014) (alterations in original) (citations and quotation omitted). "The defense of res judicata is before the court as a question of law. [W]e review questions of law de novo." *Davidson v. Seneca Crossing Section II Homeowner's Ass'n, Inc.*, 187 Md. App. 601, 633 (2009) (alteration in original) (quotation omitted).

[2] The circuit court's order, however, was not entered on the docket until December 6, 2016. Thus, under Maryland Rule 8-602(f), we treat the notice of appeal as having been filed on December 6, 2016.

DISCUSSION

I.
Res Judicata

Appellant argues that, because the circuit court did not make a final judgment regarding her claims against the County in *Brooks I*, res judicata does not bar any of her claims against the County or its employees in *Brooks II*. Appellant further asserts that, because her claims against the County were voluntarily dismissed without prejudice in *Brooks I*, the trial court could not have rendered a final judgment. Appellees respond that the circuit court correctly found that res judicata bars *Brooks II*.

Res judicata comprises three elements:

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

Spangler v. McQuitty, 449 Md. 33, 65 (2016) (quotation omitted). We address each element in turn below.

a. The Parties

The first element of res judicata requires that the parties in the present litigation are the same or were in privity with the parties in the earlier litigation. *Id.* Appellant was the plaintiff in *Brooks I*. In *Brooks I*, appellant sued the County and Grady for the alleged tortious acts of Officer Peters. Although the County was dismissed as a defendant pursuant to the joint stipulation, Grady brought the County back into *Brooks I* as a third-party

defendant when Grady filed a third-party complaint against the County. Therefore, the County was a party in *Brooks I*.

Having established that the County was a party in *Brooks I*, we must next determine whether Officer Peters and Sergeant Cicale were in privity with the County in *Brooks I*, because neither Officer Peters nor Sergeant Cicale was named as a party in *Brooks I*. The Court of Appeals has previously explained the test for privity as

> where persons, although not formal parties of record, **have a direct interest in the suit**, and in the advancement of their interest take open and substantial control of its prosecution, **or they are so far represented by another that their interests receive actual and efficient protection**, any judgment recovered therein is conclusive upon them to the same extent as if they had been formal parties.

Cochran v. Griffith Energy Servs., Inc., 426 Md. 134, 141 (2012) (emphasis in original) (quotation omitted). The Court of Appeals analyzed the issue of privity in the context of an employer-employee relationship in *deLeon v. Slear*, 328 Md. 569 (1992).

In *deLeon*, a surgeon, Dr. deLeon, and his wife filed a defamation action in the United States District Court for the District of Maryland against the hospital at which Dr. deLeon worked and the chief of surgery of the hospital. *Id.* at 574. Dr. deLeon and his wife alleged that the chief of surgery relied on "false, unsubstantiated and distorted" information about Dr. deLeon's job performance as the basis of the chief of surgery's decision to revoke Dr. deLeon's privileges to work at the hospital. *Id.* at 575. At some point before trial, Dr. deLeon deposed two nurses who supposedly complained about Dr. deLeon and his job performance. *Id.* At trial, the hospital and the chief of surgery moved for summary judgment, which the district court granted. *Id.* at 575–76. Dr. deLeon and

his wife appealed the district court's decision to the United States Court of Appeals for the Fourth Circuit. *Id.* at 576. During the pendency of this appeal,[3] Dr. deLeon and his wife brought a defamation action in the Circuit Court for Baltimore City against the two nurses that Dr. deLeon had deposed previously. *Id.* The circuit court found that all counts against the two nurses were barred by res judicata, collateral estoppel, and the statute of limitations. *Id.* at 578.

This Court reversed on the res judicata issue, holding that res judicata did not bar the action against the nurses. *Id.* at 579. The Court of Appeals granted certiorari to decide, in part, whether the two nurses were in privity with the hospital for the purposes of res judicata. *Id.* at 581. In reversing this Court's judgment, the Court explained that it had never decided whether an employee was in privity with his or her employer for purposes of res judicata where a plaintiff unsuccessfully brought a tort action against an employer and later sued the employer's employees based on the same tortious conduct. *Id.* Relying on the opinions of courts in other states regarding this specific issue, the Court stated that, because the nurses were employed by the hospital at the time of the alleged defamations and because the nurses were acting within the scope of their employment, the nurses were in privity with the hospital in the earlier lawsuit. *Id.* at 587. The Court concluded "that the nurses, by virtue of their employment relationship with the hospital, are in privity with the hospital for purposes of applying the doctrine of res judicata." *Id.*

[3] The Fourth Circuit eventually affirmed the district court's decision. *deLeon v. Slear*, 328 Md. 569, 576 (1992).

Here, Officer Peters and Sergeant Cicale were in privity with the County in *Brooks I*. Specifically under the *deLeon* analysis, Officer Peters and Sergeant Cicale were in privity with the County by virtue of their employment relationship. Like Dr. deLeon, appellant brought an action against an employer, in this case, the County. Then, also like Dr. deLeon, appellant failed to recover from the employer and now seeks to recover from individual employees for the same conduct that was the basis of the first suit. Finally, just as the nurses were acting within the scope of their employment, appellant specifically alleges in the *Brooks II* complaint that both Officer Peters and Sergeant Cicale were employed by the County and were acting within the scope of their employment in the moments leading up to, and at the time of, the single vehicle crash of August 4, 2014.

Furthermore, under the general privity test, both Officer Peters and Sergeant Cicale were adequately represented by the County in *Brooks I*, so that their interests were effectively protected. *See Cochran*, 426 Md. at 141–42. Specifically, in defense of *Brooks I*, the County argued that "Brooks-Watson's negligence was the direct and sole cause of the accident." This defense effectively protected both Officer Peters and Sergeant Cicale, because, as argued by appellees, the County's defense in *Brooks I* was the same defense that the County asserted on behalf of the employees in *Brooks II*. In other words, the County provided effective protection for both Sergeant Cicale and Officer Peters by arguing that neither the County, nor any County employee, was liable for Brooks-Watson's death. Therefore, Officer Peters and Sergeant Cicale were in privity with the County in *Brooks I*.

b. The Claims

The doctrine of res judicata bars re-litigation not only of claims actually brought in a prior proceeding, but also of any claims "which could have been raised and determined in the prior litigation." *Spangler*, 449 Md. at 65 (quotation omitted). Thus the second element of res judicata will be met when "the subject matter and causes of action are identical or substantially identical as to issues actually litigated *and as to those which could have or should have been raised in the previous litigation*." *Id.* (emphasis added) (quotation omitted). If claims "are based upon the same set of facts and one would expect them to be tried together ordinarily, then a party must bring them simultaneously. Legal theories may not be divided and presented in piecemeal fashion in order to advance them in separate actions." *Anne Arundel Cty. Bd. of Educ. v. Norville*, 390 Md. 93, 109 (2005).

Maryland has adopted the transaction test of the Restatement (Second) of Judgments to determine whether two causes of action are the same for the purposes of res judicata. *Kent Cty. Bd. of Educ. v. Bilbrough*, 309 Md. 487, 498–99 (1987); *see also Gertz v. Anne Arundel Cty*, 339 Md. 261, 269 (1995) ("[W]e adopted the transaction test of § 24 of the Restatement (Second) of Judgments as the basic test for determining when two claims or causes of action are the same . . . ."). Under Section 24 of the Restatement (Second) of Judgments (1982):

> (1) When a valid and final judgment rendered in an action extinguishes the plaintiff's claim pursuant to the rules of merger or bar, **the claim extinguished includes all rights of the plaintiff to remedies against the defendant with respect to all or any part of the transaction**, or series of connected transactions, **out of which the action arose.**

> (2) **What factual grouping constitutes a "transaction", and what groupings constitute a "series", are to be determined pragmatically, giving weight to such considerations as whether the facts are related in time, space, origin, or motivation, whether they form a convenient trial unit**, and whether their treatment as a unit conforms to the parties' expectations or business understanding or usage.

(Emphasis added) (citation omitted).

Here, it is clear that the claims in *Brooks I* and *II* "are related in time, space, origin, [and] motivation." *Id.* Both the complaint in *Brooks I* and the complaint in *Brooks II* arise from the same event—Brooks-Watson's death in the single vehicle accident and the alleged tortious conduct of the County and its employees that proximately caused Brooks-Watson's death. Both of the complaints recite similar versions of the facts leading up to Brooks-Watson's death; they recite the events that began with the pursuit of the dirt bike operated by Brooks-Watson around 2:00 pm on the afternoon of August 4, 2014, at the apartment complex and ended with the single vehicle accident on Alabama Avenue involving the same dirt bike. Both complaints cite to D.C. Code §§ 16-2701 and 11-101 as the bases for relief, and both complaints request identical damages. Finally, appellant's claims against the County, Officer Peters, and Sergeant Cicale form a convenient trial unit. The witnesses and evidence in *Brooks II* overlap with the witnesses and evidence in *Brooks I* because the complaints in *Brooks I* and *Brooks II* arise from the same subject matter and have causes of action that are substantially identical. *See Norville*, 390 Md. at 111–12 (holding that "both of the arguments advanced by Norville arise out of the same set of facts, [and] they form the basis of the litigative unit or entity which may not be split") (quotation omitted).

Regarding the claims against Sergeant Cicale, however, the complaint in *Brooks I*

did not name Sergeant Cicale, nor did it include any facts regarding his alleged tortious conduct, which appellant later included in the *Brooks II* complaint. In *Brooks II*, appellant alleged that Sergeant Cicale failed to instruct Officer Peters to cease the pursuit, which "directly caus[ed]" Brooks-Watson to crash the dirt bike. But these allegations against Sergeant Cicale could have been included in the *Brooks I* complaint. Sergeant Cicale's conduct was so intertwined with the facts of the complaint in *Brooks I* that his alleged tortious actions were part of the same transaction giving rise to the claims against the County. *See id.* Because the claims against Sergeant Cicale could have been pleaded in *Brooks I*, such claims are within the preclusive scope of res judicata. *See id. at 115.* Therefore, the second element of res judicata is satisfied.

c. Final Judgment on the Merits

The final element of res judicata is a final adjudication on the merits. We have explained that "[i]n order for an issue to be finally adjudicated, there must have been some dispute between the parties and a decision that resulted from adversarial proceedings." *Brown v. Mayor*, 167 Md. App. 306, 322 (2006).

Appellant argues and cites case law supporting the assertion that a dismissal without prejudice is not a final adjudication of the merits. *See Wilcox v. Orellano*, 443 Md. 177, 182–83 (2015); *Moore v. Pomory*, 329 Md. 428, 432 (1993). Appellant is correct that in some situations a dismissal without prejudice is not a final adjudication on the merits for res judicata purposes. *See Wilcox*, 443 Md. at 182–83 ("As Rule 2–506 indicates, on the first occasion that a claim is voluntarily dismissed, the dismissal is 'without prejudice'—

i.e., it is not an adjudication on the merits that would, under the doctrine of res judicata, foreclose a plaintiff from refiling the action.") (emphasis omitted).

In the case, *sub judice*, however, the dismissal without prejudice was not the final adjudication in *Brooks I*. Instead, the grant of summary judgment in favor of the County in *Brooks I* is the relevant adjudication. As explained previously, the County became a third-party defendant in *Brooks I*, and thus was again an active party in that lawsuit. As an active party in *Brooks I*, the County could properly request that summary judgment be entered in its favor. *See* Md. Rule 2-501(a) (stating that "*[a]ny party* may file a written motion for summary judgment on all or part of an action on the ground that there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law") (emphasis added). Thus the circuit court's grant of summary judgment in favor of the County in *Brooks I* is a final judgment on the merits for the purposes of res judicata. *See Powell v. Breslin*, 430 Md. 52, 64 (2013) (holding that a grant of summary judgment constituted a final judgment on the merits).

Nevertheless, appellant asserts that the trial court did not have the authority in *Brooks I* to render a judgment for the County and against appellant, and thereby preclude the second suit, because "[appellant's] claims against [the County] were not before the [circuit] court." Furthermore, appellant argues that "the dismissed claims were no longer ripe for judicial review," and that "[t]he dismissal 'without prejudice' rendered moot, [appellant's] claims against [the County]." We are not persuaded.

As explained previously, Grady brought the County back as a party in *Brooks I* when it filed a third-party complaint against the County for indemnification and

contribution. Thus the grant of summary judgment in favor of the County on Grady's third-party complaint, as well as the grant of summary judgment in favor of Grady on appellant's complaint, constituted a final judgment on the merits of appellant's claims against both the County and Grady.

Furthermore, Md. Rule 2-332(c), which governs third-party practice, requires a plaintiff to bring certain claims against a third-party defendant. Rule 2-332(c) states in pertinent part:

> The plaintiff **shall assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff**, and the third-party defendant thereupon shall assert defenses as provided by Rules 2-322 and 2-323 and may assert counterclaims and cross-claims as provided by Rule 2-331.

(Emphasis added). It is pellucid that appellant's claims against the County arise out of the transaction or occurrence that was the subject matter of appellant's claims against Grady, to wit, the events leading up to the single vehicle accident involving the dirt bike operated by Brooks-Watson. In sum, the grant of summary judgment in favor of the County was a final adjudication on the merits of appellant's claims against the County; thus all three elements of res judicata are satisfied.[4]

[4] Normally appellate review of the grant of summary judgment "is confined to the legal grounds relied upon by the trial court in granting summary judgment." *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 440–41 (2007). Although not a ground cited by the trial court for its grant of summary judgment, Md. Rule 2-332(c) directly addresses the consequences of a plaintiff not bringing a required claim against a third-party defendant. Rule 2-332(c) states in pertinent part: "If the plaintiff fails to assert" any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's "claim against the third-party defendant, **the plaintiff may not thereafter assert that claim in a separate action instituted after the third-party defendant has**

II.
Res Judicata Applies to Wrongful Death Claims

Finally, appellant argues that "the lower court erred because the State of Maryland does not recognize the doctrine of res judicata as a viable defense to a wrongful death action." For this proposition, appellant cites to *Spangler*, 449 Md. 33 (2016). Appellant's reliance on *Spangler* is misplaced.

In *Spangler*, Mr. and Ms. McQuitty ("the McQuittys") brought an action on behalf of their minor child, Dylan, against Ms. McQuitty's obstetrician, Dr. Spangler, and Dr. Spangler's practice group ("defendants") for failing to obtain Ms. McQuitty's informed consent for treatment. *Id.* at 40–41. The McQuittys, on behalf of Dylan, alleged that as a result of Dr. Spangler's treatment, Ms. McQuitty suffered from complications during childbirth, and Dylan developed a severe case of cerebral palsy. *Id.* at 40. After a jury trial, the jury returned a verdict in favor of Dylan. *Id.* at 41. The circuit court granted, however, the defendants' motion for judgment notwithstanding the verdict ("JNOV"). *Id.* Dylan appealed, and this Court affirmed the circuit court's ruling, but the Court of Appeals reversed the circuit court's grant of the JNOV and remanded with instructions to consider an unresolved motion for remittitur. *Id.* Before the circuit court ruled on the motion for remittitur, Dylan died. *Id.* The defendants filed various post-trial motions and appeals regarding the amount of damages that they were required to pay to Dylan. *Id.* at 41–42.

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been impleaded." (Emphasis added). Thus under the principles of res judicata, and under Rule 2-332(c), appellant could not bring *Brooks II*.

After all of the appeals concluded, the defendants satisfied the judgment entered against them. *Id.* at 42.

Shortly thereafter, the McQuittys filed a wrongful death action against the defendants, which was based on the same underlying facts as the personal injury action. *Id.* Dr. Spangler filed a motion to dismiss the action, which the circuit court granted, because that court concluded that the wrongful death action was precluded by the previous judgment in favor of Dylan in the personal injury action. *Id.* at 42–43. The McQuittys appealed the circuit court's grant of the motion to dismiss. *Id.* at 43. This Court reversed the circuit court's judgment granting the motion to dismiss, remanded the case for further proceedings, and held that the wrongful death action was not barred by a judgment in the personal injury action. *Id.* at 45. The defendants filed a petition for a writ of certiorari, and the Court of Appeals granted the writ. *Id.* at 47.

Before the Court of Appeals, the defendants raised several defenses to the action, including, most importantly to our analysis, res judicata. *Id.* at 48. Specifically, the defendants argued that the wrongful death action was barred by res judicata because Dylan "would not be entitled to a double recovery if death had not ensued." *Id.* at 48. The Court of Appeals disagreed and held that "the Maryland wrongful death statute provides a new and independent cause of action, which does not preclude a subsequent action brought by a decedent's beneficiaries, although the decedent obtained a personal injury judgment based essentially on the same underlying facts during his or her lifetime." *Id.* at 49.

Appellant oversimplifies the holding of *Spangler* by broadly asserting that a "res judicata defense is not relevant to a wrongful death action." *Spangler* does not stand for

the proposition that res judicata will never apply to any case involving a wrongful death action. Here, unlike Dylan, whose parents filed a personal injury action on his behalf before his death, appellant never filed a personal injury action on behalf of Brooks-Watson based on injuries that Brooks-Watson sustained in the single vehicle crash. *Id.* at 67. Instead, appellant brought both a wrongful death and survival action in *Brooks I*. When *Brooks I* failed, appellant brought a second wrongful death and survival action in *Brooks II* based on the same set of underlying facts. By contrast, in *Spangler*, the McQuittys first filed a *personal injury* action on behalf of Dylan, and only after Dylan died, did they file a second action for *wrongful death*. *Id.* at 47. *Spangler* is thus distinguishable from the case at hand, and accordingly, does not preclude the application of the doctrine of res judicata.

In sum, because there is no genuine dispute of material fact and appellees are entitled to judgment as a matter of law on the basis of res judicata, we hold that the circuit court did not err in granting summary judgment in favor of appellees.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.