

Circuit Court for Howard County
Case No. C-13-CV-19-000207

UNREPORTED
IN THE APPELLATE COURT
OF MARYLAND*

No. 2102

September Term, 2024

MARC L. JORDAN, ESQUIRE

v.

JOHNNY TILLERY

Ripken,
Tang,
Zarnoch, Robert A.
(Senior Judge, Specially Assigned),
JJ.

Opinion by Zarnoch, J.

Filed: April 14, 2026

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Johnny Tillery sued Marc L. Jordan, Esq., for legal malpractice in the Circuit Court for Howard County. After a jury was impaneled, the court declared a mistrial as a result of remarks during an opening statement. A new trial has yet to occur. Mr. Jordan appeals the numerous court rulings before and after granting the mistrial, raising the following seven questions for our review, which we have changed only as to capitalization:

1. Did the circuit [court] judge err in modifying an order and judgment after previously submitting the un-modified order to this Court in response to a remand from this Court?
2. Did the circuit [court] judge err in granting appellee partial summary judgment on a claim of legal malpractice where there is no evidence of damages and the motion was filed two years after the date set in the scheduling order for filing such a motion?
3. Did the circuit [court] judge err in sanctioning appellant in the amount of \$4,500.00 for not appearing for a deposition while the case was on appeal?
4. Did the circuit [court] judge err in ordering that appellant was precluded from contesting liability at trial as a sanction where the stated reason for the sanction was factually incorrect?
5. Did the circuit [court] judge err in granting appellee’s motion in limine precluding appellant from testifying at trial that appellee had testified in a deposition that Howard Rensin, Esq., had accused appellee of attempting insurance fraud?
6. Did the circuit [court] judge err in granting appellee’s motion in limine precluding appellant from testifying at trial that circuit [court] Judge Becker had denied appellee’s motion for partial summary?
7. Did the motions judge err in denying appellant’s motion to execute on circuit [court] Judge Coleman’s order granting sanctions against

appellee, where the order stated that the sanctions would be determined by the trial judge?^[1]

As explained below, none of these questions are properly before us because there has been no final judgment. Accordingly, we shall dismiss the appeal.

FACTS AND PROCEEDINGS

On February 26, 2015, Mr. Tillery was involved in a motor vehicle accident in Howard County and sustained injury. He retained Marc L. Jordan, Esq., to pursue personal injury claims against the driver, who was insured by Progressive Insurance Company (“Progressive”) with a maximum \$50,000 per person policy limit. At the time of the accident, Mr. Tillery carried uninsured/underinsured motorist (“UM/UIM) coverage with GEICO in the amount of \$300,000.

On January 30, 2018, Mr. Jordan sent Mr. Tillery an email advising him to accept Progressive’s settlement offer of \$50,000, and that doing so would not affect his UM/UIM claim with GEICO. On February 2, 2018, Mr. Tillery accepted Progressive’s offer. Three

¹ Mr. Jordan sets forth in the Table of Contents of his appellate brief seven questions that are slightly different in their wording and scope than those found in his Questions Presented section. Because the Questions Presented section more closely matches the questions he addresses in the argument section of his brief, we shall address the Questions Presented and not the Table of Contents questions. The Questions Presented and the questions Mr. Jordan addresses in the argument section of his brief do not have the same numbers because he combined two of his Questions Presented (questions 3 and 4) into one question in his argument. For ease of understanding, we shall address the questions as contained in his Questions Presented.

months later, Mr. Jordan contacted GEICO to claim UM/UIM benefits for Mr. Tillery, which GEICO subsequently denied as untimely.

On February 25, 2019, Mr. Tillery’s then attorney, Russell Jay Bennett, Esq., filed a complaint against Mr. Jordan in the Circuit Court for Howard County for legal malpractice, alleging that Mr. Jordan had breached the standard of care for an attorney when he advised Mr. Tillery to accept Progressive’s \$50,000 policy limit settlement offer without first notifying Mr. Tillery’s UM/UIM carrier, GEICO, as required under Md. Code Ann., Insurance (“Ins.”) § 19-511.² In December 2020, the Attorney Grievance Commission (“AGC”) notified Mr. Tillery that Mr. Bennett was hospitalized, unable to practice law, and his cases were in a conservatorship.

On February 8, 2021, Bruce M. Plaxen, Esq., notified Mr. Jordan that he would soon be entering his appearance on Mr. Tillery’s behalf but was awaiting to receive and review Mr. Bennett’s files from the AGC before doing so. That same day, Mr. Jordan served

² Ins. § 19-511(b) provides:

If an injured person receives a written offer from a motor vehicle insurance liability insurer or that insurer’s authorized agent to settle a claim for bodily injury or death, and the amount of the settlement offer, in combination with any other settlements arising out of the same occurrence, would exhaust the bodily injury or death limits of the applicable liability insurance policies, bonds, and securities, the injured person shall send by certified mail, to any insurer that provides uninsured motorist coverage for the bodily injury or death, a copy of the liability insurer’s written settlement offer.

Within sixty days after receipt of the above required notice, the UM/UIM insurer shall send to the injured person: (1) written consent to acceptance of the settlement offer and to the execution of releases; or (2) written refusal to consent to acceptance of the settlement offer. *See* Ins. § 19-511(c).

interrogatories and a request for documents on Mr. Tillery. When Mr. Jordan received no response, he filed a motion for sanctions. On April 26, 2021, the circuit court granted Mr. Jordan’s motion, any sanction to be determined at trial. On May 18, 2021, Mr. Plaxen entered his appearance on Mr. Tillery’s behalf and moved to strike the sanctions, which the court denied.

In August 2021, Mr. Tillery filed a partial motion for summary judgment. Following a hearing, the circuit court denied the motion and issued a written opinion, stating that, because of the intricacies of the practice of law, an expert was required to opine whether Mr. Jordan breached the expected standard of care for an attorney.

During the summer of 2021 and continuing through the end of the year, several discovery contentions arose.³ On December 16, 2021, Mr. Tillery served Mr. Jordan with notice to take his deposition on January 25, 2022.⁴ Mr. Jordan failed to appear for his

³ Specifically, on June 18, 2021, Mr. Tillery propounded discovery on Mr. Jordan. On August 9, 2021, Mr. Tillery filed a motion to amend the scheduling order, which the court granted, extending the discovery deadline to October 25, 2021. On September 7, 2021, Mr. Tillery moved to compel discovery, which the court granted. About two months later, Mr. Tillery filed a motion to compel Mr. Jordan’s deposition duces tecum, which the court again granted.

⁴ Mr. Jordan filed a motion for injunctive relief to preclude Mr. Tillery from conducting the deposition, which the circuit court denied. Mr. Jordan appealed the circuit court’s order to our Court. On March 4, 2022, Mr. Jordan filed a petition for mandamus in our Court seeking an order to stay the circuit court proceedings pending appeal. The same day, the circuit court sua sponte stayed the proceedings pending appeal, and we subsequently denied the petition for mandamus as moot.

scheduled deposition, and Mr. Tillery filed a motion for sanctions because of Mr. Jordan’s failure to appear and his failure to engage in discovery.

On October 21, 2022, the circuit court held a hearing on Mr. Tillery’s motion for sanctions and orally ruled from the bench. The court granted the motion and awarded Mr. Tillery’s attorney \$4,500 in attorney’s fees and costs. The oral order was noted on a hearing sheet, but the court failed to issue a written order. Mr. Tillery subsequently filed motions for sanctions against Mr. Jordan for his failure to produce documents and to provide deposition dates, in violation of the court’s oral order. In the meantime, Mr. Jordan appealed the oral order to our Court, and we remanded to the circuit court with instructions to issue a written order memorializing the oral ruling.

On September 1, 2023, the circuit court issued a written order memorializing the \$4,500 sanction award (the “Memorializing Order”). Additionally, in the Memorializing Order, the court granted Mr. Tillery’s motion for sanctions, ordering that liability was to be determined in Mr. Tillery’s favor. As a result, the case was to proceed to trial on damages only.

Mr. Tillery then filed a second motion for partial summary judgment. His motion included an accompanying expert witness affidavit from an attorney, who opined that Mr. Jordan had breached the accepted standard of practice when he failed to timely and appropriately comply with Ins. § 19-511 and pursue a claim for Mr. Tillery under his

UM/UIM policy. Mr. Tillery also filed two motions in limine.⁵ On November 17, 2023, the circuit court granted Mr. Tillery’s second motion for partial summary judgment and his two motions in limine.

On November 28, 2023, the case proceeded to a jury trial on the question of damages. When Mr. Jordan remarked during his opening statement that Mr. Tillery had received a \$50,000 settlement, Mr. Tillery moved for a mistrial, which the court granted.

On October 28, 2024, Mr. Tillery filed a motion to amend the circuit court’s September 1, 2023 Memorializing Order, asking the court to clarify that the sanction award was for Mr. Plaxen, Mr. Tillery’s counsel, and not for Mr. Tillery. On December 10, 2024, the court granted Mr. Tillery’s motion to amend. Additionally, the court stayed Mr. Jordan’s notice of discharge in bankruptcy.⁶

DISCUSSION

Mr. Jordan raises seven questions on appeal, which we summarize as follows:

Question 1 concerns the circuit court’s December 2024 order modifying its September 1,

⁵ The first motion in limine sought to preclude Mr. Jordan from mentioning at trial the unfounded allegations of insurance fraud by Mr. Tillery. The second motion in limine sought to preclude Mr. Jordan from mentioning at trial the circuit court’s order denying Mr. Tillery’s first motion for partial summary judgment, which the court had denied.

⁶ At oral argument, Mr. Jordan reminded the Court of the automatic bankruptcy stay issue. We note that federal law appears to recognize that a motion for sanctions against the debtor is exempt from the automatic stay. *Alpern v. Lieb*, 11 F.3d 689 (7th Cir. 1993); *Elof Hansson Paper & Bd., Inc. v. Caldera*, No. 11-20495-CV-Williams, 2013 WL 12093241, at *1 n.1 (S.D. Fla. June 4, 2013). The *Alpern* court observed:

A litigant should not be allowed to delay the imposition of sanctions indefinitely by the expedient of declaring bankruptcy. Allowing him to do so
(continued...)

2023 Memorializing Order regarding discovery sanctions; question 2 concerns the court’s November 17, 2023 order granting Mr. Tillery’s second motion for partial summary judgment; questions 3 and 4 concern the court’s September 1, 2023 Memorializing Order regarding discovery sanctions; questions 5 and 6 concern Mr. Tillery’s two motions in limine; question 7 concerns the court’s September 26, 2023 order denying Mr. Jordan’s motion to execute the court’s earlier order regarding Mr. Tillery’s violation of the discovery rules. In sum, questions 1, 3, 4 and 7 concern discovery orders; question 2 concerns an order granting partial summary judgment; and questions 5 and 6 concern orders on motions in limine filed by Mr. Tillery.

“Because the absence of a final judgment may deprive a court of appellate jurisdiction, we can raise the issue of finality on our own motion.” *Zilichikhis v. Montgomery Cnty.*, 223 Md. App. 158, 172 (2015). If we lack appellate jurisdiction, the appeal must be dismissed. *See* Md. Rule 8-602(b) (stating that an appellate court must dismiss an appeal that is not allowed by the Rules or by other laws). *See also McLaughlin v. Ward*, 240 Md. App. 76, 83 (2019) (discussing the law on final judgments).

Unless constitutionality recognized, “appellate jurisdiction is determined entirely by statute, and therefore, a right of appeal only exists to the extent it has been legislatively

would not only increase the number of bankruptcy filings but also create incentives for unprofessional conduct in litigation by firms or individuals teetering on the edge of bankruptcy abyss.

11 F.3d at 690. The Memorializing Order was clearly a discovery sanction and the December 2024 order modifying it to clarify that the monetary sanction was awarded to Mr. Tillery’s counsel was clearly proper.

granted.” *Mayor & City Council of Baltimore v. ProVen Mgmt., Inc.*, 472 Md. 642, 665 (2021) (quotation marks and citations omitted). Md. Code Ann., Cts. & Jud. Proc. Art. (“CJP”) § 12-301 provides that appellate review is authorized only where a “final judgment” has been entered. “To constitute a final judgment, a trial court’s ruling must either decide and conclude the rights of the parties involved or deny a party the means to prosecute or defend rights and interests in the subject matter of the proceeding.” *Md. Bd. of Physicians v. Geier*, 451 Md. 526, 545 (2017) (quotation marks and citations omitted). *See also Ruiz v. Kinoshita*, 239 Md. App. 395, 416 (2018) (stating that a final judgment is a ruling that “has the effect of putting the parties out of court and denying them the means of further prosecuting the case or the defense” (quoting Judge Kevin F. Arthur, *Finality of Judgments and Other Appellate Trigger Issues* 5 (3d ed. 2018))). The purpose of the final judgment rule is to “promote judicial economy and efficiency by preventing piecemeal appeals after every order or decision by a trial court.” *In re C.E.*, 456 Md. 209, 221 (2017) (quotation marks and citation omitted).

CJP § 12-301 contains three exceptions to the final judgment rule: (1) appeals from interlocutory orders that fall within one of the three statutory exceptions found in CJP § 12-303; (2) appeals permitted under Md. Rule 2-602; and (3) appeals from interlocutory orders allowed under the common law collateral order doctrine. *Salvagno v. Frew*, 388 Md. 605, 615 (2005). None of the questions raised here fall within those exceptions. We explain.

Interlocutory orders appealable by statute under CJP § 12-303. This section provides for appeals from the following types of orders or proceedings: possession of property; motions to quash a writ of attachment; injunctions; appointing a receiver; the

sale, conveyance, or delivery of real or personal property or the payment of money; an accounting between the parties; bonds; insolvency proceedings; arbitration proceedings; child custody; immunity; and motions to dismiss. *See* CJP § 12-303(1)-(3).

Here, questions 1, 3, 4 and 7 concern discovery sanction orders. The only CJP § 12-303(1)-(3) provision remotely implicated is the section that provides that a party may appeal from an interlocutory order concerning the “payment of money[.]” *See* CJP § 12-303(3)(v). However, the Maryland Supreme Court has explained that this section applies to only those orders “for the payment of money which had traditionally been rendered in equity.” *Anthony Plumbing of Md., Inc. v. Att’y Gen. of Md.*, 298 Md. 11, 20 (1983) (quotation marks and citation omitted). Requiring a party to pay money as a sanction typically is not considered equitable in nature nor appealable under CJP § 12-303. *Yamaner v. Orkin*, 310 Md. 321, 324-25 (1987); *Simmons v. Perkins*, 302 Md. 232, 235-36 (1985). Accordingly, questions 1, 3, 4 and 7 do not fall within this exception. Question 2, which concerns a partial grant of summary judgment, likewise does not fall within this exception because the denial of a motion for summary judgment is considered an interlocutory order not subject to an immediate appeal, but reviewable only after the conclusion of proceedings ending in a final judgment. *See Mathis v. Hargrove*, 166 Md. App. 286, 302-03 (2005). Likewise, questions 5 and 6, which concern motions in limine, are interlocutory orders reviewable only after the conclusion of the proceedings ending in a final judgment. Accordingly, none of the questions raised on appeal fall within the exception of CJP § 12-303.

Md. Rule 2-602, governing judgments not disposing of entire action. Md. Rule 2-602(a)(1) provides that an order “that adjudicates fewer than all of the claims in an action . . . is not a final judgment[.]” However, if the circuit court expressly determines in a written order that there is no just reason for delay, it may direct in the order the entry of a final judgment: “(1) as to one or more but fewer than all of the claims or parties; or (2) pursuant to Rule 2-501(f)(3), for some but less than all of the amount requested in a claim seeking money relief only.” Md. Rule 2-602(b). *See also Cnty. Comm’rs for St. Mary’s Cnty. v. Lacer*, 393 Md. 415, 425-26 (2006) (discussing the intricacies of this Rule).

Here, the circuit court never expressly entered a written order of final judgment in any of its orders. Accordingly, none of the claims Mr. Jordan raises on appeal are reviewable under this Rule. *Cf. Lacer*, 393 Md. at 426 (“[A]n order which decides that there is liability, or which resolves some liability issues in favor of a party seeking damages, but fails to make a determination with regard to the amount of damages, does not dispose of an entire claim and cannot be made final and appealable under Rule 2-602(b).” (cleaned up)).

Collateral order doctrine. This doctrine is a “very narrow exception” to the final judgment rule. *Pittsburgh Corning Corp. v. James*, 353 Md. 657, 660 (1999). To qualify as a collateral order, the order must satisfy all four criteria: “(1) it must conclusively determine the disputed question; (2) it must resolve an important issue; (3) it must be completely separate from the merits of the action; and (4) it must be effectively unreviewable on appeal from a final judgment.” *Md. Bd. of Physicians v. Geier*, 225 Md. App. 114, 131 (2015) (quotation marks and citation omitted).

Here, questions 1, 3, 4 and 7, which concern discovery orders, are reviewable on appeal from a final judgment, and therefore, do not fall within the collateral order exception. *Cf. St. Joseph Med. Ctr., Inc. v. Cardiac Surgery Assocs., P.A.*, 392 Md. 75, 87 (2006) (noting that discovery orders generally do not meet the third and fourth requirements of the collateral order exception). Question 2 concerns an order granting partial summary judgment, and likewise is reviewable on appeal and does not fall within this exception. *Cf. Osborn v. Bunge*, 338 Md. 396, 400-03 (1995) (where the Maryland Supreme Court dismissed an appeal of a circuit court order granting partial summary judgment, holding that the collateral order doctrine did not apply because “nothing prevent[ed] effective appellate review of the circuit court’s ruling on the [legal] issue after final judgment has been entered”). Similarly, questions 5 and 6, which concern an order granting Mr. Tillery’s motions in limine, are reviewable on appeal and do not fall within this exception.

For the reasons stated above, none of the questions Mr. Jordan raises on appeal are properly before us. Accordingly, we shall dismiss this appeal.⁷

APPEAL DISMISSED.

COSTS TO BE PAID BY APPELLANT.

⁷ At oral argument, Mr. Jordan appeared to concede that some of the issues he had raised were not appealable. He requested the Court to remand those issues. We think a remand is unnecessary because those questions are not final and are still in the circuit court. This does not mean the circuit court must reconsider those issues. It is free to do that, but it is not obliged to do so. Thus, we will simply dismiss the appeal.