Circuit Court for Baltimore County
Case No. 03-C-15-008544

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2103

September Term, 2017

1830 MCCULLOH STREET, LLC, ET AL.

V.

BALTIMORE COMMUNITY LENDING, INC.

Berger,
Leahy,
Eyler, James R.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Berger, J.

Filed: April 15, 2019

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises out of efforts by Bettye Jean McFarland ("McFarland"), appellant, to obtain the release of funds in her Sun Trust Bank account that were subject to a writ of garnishment filed by Baltimore Community Lending, Inc., appellee. After a hearing on September 8, 2017, the Circuit Court for Baltimore County denied appellant's motion to release the property from levy. Thereafter, appellant filed a motion to alter or amend the judgment which was denied on November 20, 2017. This timely appeal followed.

ISSUE PRESENTED

Appellant presents the following issues for our consideration:

> I. Whether the trial court erred in finding that appellant had not supplied any documentary evidence to support her motion to release when such evidence was part of the court's record prior to the hearing on the motion to release.
>
> II. Whether the trial court erred in finding that uncontested witness testimony alone was insufficient to satisfy the clear and convincing burden of proof.
>
> III. Whether the trial court abused its discretion in denying appellant's motion to alter or amend when appellant offered additional evidence of the type referenced as necessary in the court's September order.

For the reasons set forth below, we shall affirm.

FACTUAL BACKGROUND

Bettye Jean McFarland, appellant, is the owner of a bank account at Sun Trust Bank. Her daughters, Kimberly Starks and Sherri McFarland, are co-owners of that account. On August 19, 2015, the Circuit Court for Baltimore County entered a judgment in favor of

Baltimore Community Lending, Inc., in the principal amount of $81,658.93 against numerous individuals and entities, jointly and severally, including Kimberly Starks. No judgment was entered against appellant or Sherri McFarland. Subsequently, at the request of Baltimore Community Lending, Inc., a writ of garnishment of property was issued and served on Sun Trust Bank with respect to the bank account owned by appellant and her daughters. Sun Trust Bank responded to the writ of garnishment, in part, by acknowledging that it was in possession of funds in the amount of $33,365.69 from an account held in the names of Kimberly Starks, appellant, and Sherri McFarland.

Appellant filed, in proper person, a request to release the funds from levy[1] on the grounds that she was not a party to the judgment entered in favor of Baltimore Community

[1] Requests to release property from levy are permitted, in part, by Maryland Rules 2-643(e) and 2-645(i). Rule 2-643(e) provides:

> (e) **Upon claim of a third person.** A person other than the judgment debtor who claims an interest in property under levy may file a motion requesting that the property be released. That motion shall be served on the judgment creditor and, if reasonably feasible, on the judgment debtor. If the judgment debtor is not served and does not voluntarily appear, the claimant shall file an affidavit showing that reasonable efforts have been made to ascertain the whereabouts of the judgment debtor and to provide the judgment debtor with notice of the motion. The court may require further attempts to notify the judgment debtor. The judgment creditor or the judgment debtor may file a response to the motion.

Rule 2-645(i) provides:

> (i) **Release of property; claim by third person.** Before entry of judgment, the judgment debtor may seek release of the garnished property in accordance with Rule 2-643, except that

Lending, Inc., that her daughters, Kimberly Starks and Sherri McFarland, were joint owners of the bank account only as a convenience because she was elderly, and that she could provide proof that all of the funds in the joint account "came from [her] through traceable contributions." Appellant's request was denied for failure to comply with the Maryland Rules.

On May 31, 2016, appellant filed another motion requesting that the funds be released from levy. In that motion, she appended several bank statements pertaining to the Sun Trust Bank account. The court denied for failure to comply with the Maryland Rules. Thereafter, Baltimore Community Lending, Inc. requested that the circuit court enter judgment with respect to the levied funds and the court granted that relief.

On or about June 11, 2016, Kimberly Starks and her husband filed, in the United States Bankruptcy Court for the District of Maryland, a petition for Chapter 13 bankruptcy. In light of the automatic stay provision of 11 U.S.C. § 362, the circuit court vacated its prior orders denying appellant's motion to release the funds from levy and granting entry of judgment in favor of Baltimore Community Lending, Inc. On March 27, 2017, the Bankruptcy Court granted a consent order concerning the Sun Trust Bank account that

> a motion under Rule 2-643(c) shall be filed within 30 days after service of the writ of garnishment on the garnishee. Before entry of judgment, a third person claimant of the garnished property may proceed in accordance with Rule 2-643(e).

provided, in part, that the proceeds of the account "are not property of the estate by consent and the automatic stay imposed by § 362 of the Bankruptcy Code does not apply" to them.

On April 11, 2017, appellant filed a third motion to release the property from levy and a request for a hearing. Appellant argued that the garnished funds "consisted solely of her social security and Maryland State pension income[,]" and were owned "beneficially" by her alone. She asserted that her two daughters "were on the Garnished Funds account for convenience only, and exercised no power or control over the account." Further, her daughters were included on the account "only so that they could access the funds for [her] benefit in the event [she] became incapacitated or died." In support of her motion, appellant argued that neither her social security income nor her Maryland State pension income was subject to attachment, garnishment, or levy.

Baltimore Community Lending, Inc. opposed appellant's motion to release the property from the levy, arguing that there was a rebuttable presumption that the joint account holders owned the funds in the account, that the presumption could be rebutted by clear and convincing evidence to the contrary, and that appellant failed to provide clear and convincing evidence that Kimberly Starks did not own the funds in the account. In addition, Baltimore County Lending, Inc. argued that the funds in the Sun Trust Bank account were never property of the bankruptcy estate of Kimberly Starks and her husband. Accordingly, it argued that the circuit court should not have set aside its order granting entry of judgment in its favor. It, therefore, requested that the court's prior order entering judgment in its favor be considered effective. Baltimore County Lending, Inc. further argued that if the court's order granting entry of judgment on the levied funds was

considered effective, appellant's subsequent motion to release the property from levy was untimely under Maryland Rule 2-645(i), which required appellant to file her claim before the entry of judgment. Lastly, it contended that appellant's motion to release the property from the levy was not properly before the court because numerous judgment debtors had not been served.

A hearing on appellant's motion to release the property from levy was held in the circuit court on September 8, 2017. Appellant testified that she put her daughters' names on her Sun Trust Bank account so that if she became incapacitated or died, "they would be able to get [her] money." She trusted that neither of her daughters would take any funds from the account for her own use. According to appellant, all of the money in the bank account came from her Social Security benefits, her "retirement checks," and income tax refunds, and none of the money came from her daughters. Appellant's name was the sole name on the checks, she paid the taxes on the interest earned on the funds in the account, and her daughters did not exercise any power or control over the account. Appellant did not provide any bank statements or other documents showing that the only deposits into the account came from her Social Security benefits, retirement checks, or income tax refunds. She acknowledged that her daughters potentially had access to her checkbook and deposit slips, that she did not regularly reconcile the account, that she loaned both daughters money, that both daughters paid her back, and that she deposited the loan repayments into the Sun Trust Bank account.

In a memorandum opinion and order filed on September 27, 2017, the circuit court denied appellant's motion to release the property from levy, entered judgment in favor of

Baltimore Community Lending, Inc., and ordered Sun Trust Bank to pay $33,365.69 to the judgment creditor. In reaching its decision, the court held that appellant failed to overcome the presumption of joint ownership by clear and convincing evidence. The court noted that appellant failed to produce any documents or statements in support of her contention that the subject bank account consisted solely of her Social Security benefits and State of Maryland pension income. In addition, appellant failed to produce tax returns to support her assertion that she, and not her daughters, had paid taxes on the interest earned on the funds in the account.

On October 10, 2017, appellant filed a motion to alter or amend the judgment pursuant to Maryland Rule 2-534.[2] Attached to that motion was appellant's affidavit, Kim Starks's tax returns for the years 2013-2015, certain bank statements, and copies of checks. The motion to alter or amend was denied on November 20, 2017. Subsequently, on December 20, 2017, appellant filed, in proper person, a timely notice of appeal from "the

[2] Maryland Rule 2-534 provides:

> In an action decided by the court, on motion of any party filed within ten days after entry of judgment, the court may open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment, or may enter a new judgment. A motion to alter or amend a judgment may be joined with a motion for new trial. A motion to alter or amend a judgment filed after the announcement or signing by the trial court of a judgment but before entry of the judgment on the docket shall be treated as filed on the same day as, but after, the entry on the docket.

Order entered September 27, 2017 denying her motion to release property from levy, and Order entered November 20, 2017 denying her motion to alter or amend the September 27 Order."

STANDARD OF REVIEW

In considering an appeal from an action that was tried without a jury, we review the case on both the law and the evidence. Md. Rule 8-131(c). We "will not set aside the judgment of the trial court on the evidence unless clearly erroneous[.]" *Id.* Although the factual determinations of the circuit court are afforded significant deference on review, "'the clearly erroneous standard for appellate review . . . does not apply to a trial court's determinations of legal questions or conclusions of law based on findings of fact.'" *Ins. Co. of N. Am. v. Miller*, 362 Md. 361, 372 (2001) (citation omitted). Instead, "where the order involves an interpretation and application of Maryland statutory and case law, [we] must determine whether the lower court's conclusions are 'legally correct' under a *de novo* standard of review." *Walter v. Gunter*, 367 Md. 386, 392 (2002).

DISCUSSION

I.

Appellant challenges the circuit court's factual findings with respect to her failure to provide documents, bank statements, and other evidence pertaining to the subject bank account. Specifically, she directs our attention to the court's September 27, 2017 memorandum opinion, in which the judge found as follows:

> McFarland purports both in the Third Party Claimant's Motion to Release Property from Levy (Paper No. 42000) and at the September 8, 2017 hearing that the $33,365.69 identified

> in the account at issue consisted solely of McFarland's social security and Maryland State pension income. However, McFarland neither attached any documents or statements in support of this contention to the Motion nor offered same during her examination at the hearing. Similarly, McFarland claimed she pays interest on the funds in her account, but conceded "it is possible" that the judgment debtor could have paid such interest, as she did not offer her own tax returns and has not seen the tax returns of the judgment debtor.
>
> Based upon the evidence submitted and the Court having no documents or statements before it that would reflect upon the co-owner's contributions to and exercise of control over the account – such as whose social security numbers appear on the account, the names that appear on checks and which party signed checks from the account, who paid taxes on interest from the account, and which party kept possession of documents pertaining to the account – this Court finds that the presumption of joint ownership has not been overcome by clear and convincing evidence.

Appellant contends that these factual findings were incorrect because she had attached bank statements for the period March 24, 2015 through April 30, 2016 to her prior motion filed on May 31, 2016. In addition, she referenced those bank statements during her testimony on cross-examination at the September 8, 2017 hearing, as follows:

> [APPELLEE'S COUNSEL]: Ma'am, a while back you filed a Motion to Exempt from case number 03-C-15-008544 CJ and in that Motion, you stated that you could provide proof that all of the funds in these accounts came through your traceable contributions.
>
> [APPELLANT]: Yes.
>
> Q. Do you remember that, ma'am?
>
> A. Yes.
>
> Q. What, what proof would you have to provide that?

A. I have proof from the bank.

Q. Um hm.

A. Statements from the bank.

Q. Statements?

A. Yes, that show that I, all of the funds came from my Social Security and my retirement checks.

Q. Did you bring them with you today, ma'am?

A. No, did you bring them?

[APPELLANT'S COUNSEL]: No, no.

[APPELLANT]: No, I do not have them. But I can provide it. I have them at home.

[APPELLEE'S COUNSEL]: You filed actually sort of a second request to have your funds released and that was a request in the form of what looks like an Order for Domestic Relief 57 and in that you also said, I have traceable submitted documentary, documentation showing traceable contributions and that these funds came from my Social Security and State pension. Do you remember filing that pleading, ma'am?

[APPELLANT]: Yes, probably, I don't remember, but I did file some.

Q. Would it help you to see a copy of it?

A. Yes.

* * *

Q. So, without taking this into evidence, Your Honor, this is already in the Court's file.

THE COURT: All right and just for the record, so the Court knows, that's a document that is dated when? And you have no objection if I see part of the court file, Mr. Haeger?

[APPELLANT'S COUNSEL]: No, Your Honor.

THE COURT: All right and just, the Court has reviewed an Order that was signed by Judge Ballou-Watts of this Court. It request [sic] for relief and that was denied on June 6, 2016 and the Court notes that this document is part of the court file and I'll pass your copy back.

[APPELLEE'S COUNSEL]: Thank you, Your Honor.

THE COURT: All right, thank you.

[APPELLEE'S COUNSEL]: I just really wanted to refresh your recollection. So, ma'am, you said in here, I have submitted documentation showing traceable contributions and that these funds came from my Social Security and State pension.

* * *

[APPELLANT]: Yes, I, I do recognize that and what, what was your answer, what was your question?

Q. Yes, ma'am. So, my question is, what are these documentations?

A. My documentations are what the, what the bank had given me to show that I had, that I did, I continually or it was consistent, so many years, came out, came from my retirement and Social Security.

Q. And did you, are these the same documents you just mentioned before?

A. Yes.

Q. And you didn't bring them today?

A. No, I didn't know I was supposed to, no.

Appellant argues that the trial judge was free to consider, and take judicial notice of, the bank statements because they were attached to her prior motion and were part of the

court record. According to appellant, the bank statements showed that "over ninety-nine percent (99%) of all deposits" into the joint account were from her "Social Security . . . and Maryland State pension benefits," and that the remaining one percent of the deposits totaled less than $900, which "unambiguously" demonstrated that her funds were the only funds in the bank account and that they were exempt from levy. Appellant asserts that reversal is required because, "[r]egardless of whether the accuracy or truthfulness of [the bank] statements was or could be verified absent admission at trial," the trial court's factual finding that she failed to provide any documents or statements in support of her motion was clearly erroneous. We are not persuaded.

To be sure, appellant's May 31, 2016 motion, requesting that the funds in her bank account be released from levy, included copies of certain bank statements. That motion was initially denied for failure to comply with the Maryland Rules and, thereafter, the court entered judgment in favor of Baltimore Community Lending, Inc. with respect to the levied funds. When the trial court later vacated its judgment in light of the Starks' bankruptcy and the automatic stay, it could be argued that the court's denial of appellant's May 31, 2016 motion was also vacated.

After it was determined that the automatic stay was not applicable, the case proceeded in the circuit court. Appellant, however, did not proceed on her May 31, 2016 motion. Instead, on April 11, 2017, she filed a new motion to release the funds in her bank account from the levy. That motion included an affidavit by appellant but did not include as attachments any bank statements. At the beginning of the September 8, 2017 hearing, the judge clarified with counsel that the hearing would address the April 11, 2017 motion,

which was filed as paper number 41000 on the docket. At no time did appellant ask the court to proceed on, or consider in any way, her May 31, 2016 motion. Nor did appellant ask the court to take judicial notice of her prior motion or the bank statements that were attached to it.

Maryland Rule 5-201, which governs judicial notice of adjudicative facts, provides, in part, as follows:

> (a) **Scope of Rule.** This Rule governs only judicial notice of adjudicative facts. Sections (d), (e), and (g) of this Rule do not apply in the Court of Special Appeals or the Court of Appeals.
>
> (b) **Kinds of facts.** A judicially noticed fact must be one not subject to reasonable dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or (2) capable of accurate and ready determination by resort to sources whose accuracy cannot reasonably be questioned.
>
> (c) **When discretionary.** A court may take judicial notice, whether requested or not.
>
> (d) **When mandatory.** A court shall take judicial notice if requested by a party and supplied with the necessary information.
>
> (e) **Opportunity to be heard.** Upon timely request, a party is entitled to an opportunity to be heard as to the propriety of taking judicial notice and the tenor of the matter noticed. In the absence of prior notification, the request may be made after judicial notice has been taken.
>
> (f) **Time of taking notice.** Judicial notice may be taken at any stage of the proceeding.

Appellant never requested the court to take judicial notice of the bank statements attached to her prior motion, nor did she supply the court with bank statements at the time

of the hearing. Moreover, details of the transactions recorded on the bank statements were the subject of the dispute between the parties. The court could not have determined from them the identity of the person or persons who exercised control over the account, the source of all the funds, or the identity of the person who made each transaction. Nor could the court determine the purpose for each transaction. Those particular issues were the subject of the dispute between the parties and were not capable of accurate and ready determination by resort to a sampling of bank statements alone. These were not the type of facts that could be subject to judicial notice under Md. Rule 2-501. Because the bank statements were not properly before the court, the factual finding that appellant did not attach to her motion or produce at the hearing any documents or statements in support of her contentions was not erroneous.

II.

Appellant next contends that the trial court erred in finding that she did not overcome the presumption of joint ownership by clear and convincing evidence. We disagree and explain.

A. Burden of Proof

There is a presumption that joint account holders own funds that are sought to be garnished against one holder as a joint debtor, but that presumption of joint ownership can be rebutted by clear and convincing evidence as to which portion of the account belongs to each holder. *See Morgan Stanley & Co., Inc. v. Andrews*, 225 Md. App. 181, 187-88 (2015). As we noted in *Morgan Stanley*, "the presumption of joint ownership is most difficult to overcome." *Id.* at 198 (footnote omitted).

Morgan Stanley involved a bank account jointly titled in the names of a father and son. After Morgan Stanley obtained a judgment against the son, it sought to levy funds in the joint bank account. *Id.* at 183. The father filed a motion asserting his claim to the funds in the bank account. *Id*. At a hearing on that motion, the father testified that he established the joint account because his son was remodeling the father's vacation home. In addition, the father was concerned about his health. *Id.* at 185. The father maintained control over the checkbook and testified that all of the checks written by the son were for the father's benefit. *Id.*

The parties stipulated to the admission of the bank records for the joint account and that the father was the original source of all of the funds in that account. *Id.* at 184. The bank manager testified that the father established the joint account because he wanted to make sure that his son could "write checks if something happened." *Id.* The son testified that he wrote checks from the joint account to cover his father's expenses, that he did not deposit any of his own funds into the joint account, and that none of the funds in the account belonged to him. *Id.* at 184. The son identified each transaction on the bank records and explained how each was for his father's benefit. *Id.* Based on this evidence, the trial court found that the father had established by clear and convincing evidence that all of the funds in the joint account belonged solely to him and granted his motion to release the funds from levy. *Id.* at 186.

On appeal, we affirmed and adopted the principle recognized by a majority of states, that, as a general rule, a judgment creditor of one joint account holder may execute against

a joint account only to the extent of the debtor's equitable interest in the joint account. *Id.* at 191. We explained:

> When determining equitable ownership of funds within an account, courts generally apply a presumption of ownership, which can be rebutted only by clear and convincing evidence. Various factors are considered by courts when determining ownership of the funds within a joint account, but the two primary factors considered are: (1) the exercise of control over the funds in the account, and (2) contribution, or the source of funds within the account. Courts also consider various circumstances relevant to each case, such as whether a party's social security number appeared on an account, which party's name appeared on checks, which party paid taxes on interest from the account, which party kept possession of the passbook or other documents pertaining to the account, and which party signed checks from the account.

Id. at 192-93 (citations and footnote omitted).

In affirming the trial court's decision, we noted that the judge had considered "copious evidence," including the bank records and the testimony of the bank manager, the father, and the son. *Id.* at 198. In addition, the undisputed evidence supported the court's finding that the sole source of funds in the bank account was the father. *Id.* at 199. For those reasons, we determined that the trial court did not err in concluding that the father had overcome the "significant hurdle" of effectively rebutting the presumption of joint ownership through clear and convincing evidence. *Id.* at 200.

The heightened standard of clear and convincing evidence was defined in *Wills v. State*, 329 Md. 370 (1993) as "more than a preponderance of the evidence and less than evidence beyond a reasonable doubt[.]" 329 Md. at 374 n.1 (citing *Whittington v. State*, 8 Md. App. 676, 679 n.3 (1970)). "To be clear and convincing, evidence should be 'clear'

in the sense that it is certain, plain to the understanding, and unambiguous and 'convincing' in the sense that it is so reasonable and persuasive as to cause one to believe it." *Mathis v. Hargrove*, 166 Md. App. 286, 311 (2005) (citing *Wills*, 329 Md. at 374 n.1). As we shall explain, that standard was not met in the instant case.

B. Appellant's Proof

At the hearing below, appellant acknowledged that she put her daughters' names on her account so that if she became incapacitated or died, they would be able to access her money. Appellant testified that all of the money in the account came from her Social Security checks, State of Maryland retirement checks, annuities, and income tax refunds, and that none of the money was provided by either of her daughters. Appellant's name was on the checks associated with the bank account, but she was not sure if either daughter's social security number was assigned to the bank account. Appellant stated that she reported on her income tax returns the interest earned from her bank account, but she did not know whether her daughters had also done so. Both of appellant's daughters had borrowed money from her, and she used the accumulated funds in the subject bank account to make those loans. Appellant stated that the loan repayments were deposited into the account. Neither of appellant's daughters testified and no documentation from the bank or tax returns were produced at the hearing.

On cross-examination, appellant acknowledged that each of her daughters had access to her checkbook and could access the funds in the account. She also testified that she did not reconcile her bank statements and, as a result, she could not say whether either of her daughters had ever accessed the account. Those facts alone raised ambiguity and

uncertainty as to the daughters' contributions to, and exercise of control over, the account. Thus, the circuit court did not err in concluding that absent additional evidence, the appellant failed to meet her burden of producing clear and convincing evidence that she was the sole holder of the funds in the bank account or, alternatively, which portion of the account belonged to each holder.

III.

Appellant argues that the trial court abused its discretion in denying her motion to alter or amend because she offered additional evidence that the court referenced as necessary in its September 27, 2017 memorandum opinion. We disagree.

A. Standard of Review

An appellate challenge to a court's ruling on a motion to alter or amend pursuant to Md. Rule 2-534 is typically limited in scope. *Cent. Truck Ctr., Inc. v. Cent. GMC, Inc.*, 194 Md. App. 375, 397 (2010) (quoting *In re Julianna B.*, 179 Md. App. 512, 558 (2008), *vacated as moot*, 407 Md. 657 (2009)). Generally, we review an appeal from the denial of a motion to alter or amend a judgment for abuse of discretion. *Miller v. Mathias*, 428 Md. 419, 438 (2012); *RRC Northeast, LLC v. BAA Maryland, Inc.*, 413 Md. 638, 673 (2010); *Sydnor v. Hathaway*, 228 Md. App. 691, 708 (2016); *Schlotzhauer v. Morton*, 224 Md. App. 72, 84 (2015), *aff'd*, 449 Md. 217 (2016). A court abuses its discretion "'where no reasonable person would take the view adopted by the [trial] court' or when the court acts 'without reference to any guiding rules or principles.'" *Johnson v. Francis*, 239 Md. App. 530, 542 (2018) (quoting *Powell v. Breslin*, 430 Md. 52, 62 (2013)).

A motion to alter or amend is not a vehicle to re-litigate a case or "a time machine in which to travel back" and argue "the case better with hindsight." *Steinhoff v. Sommerfelt*, 144 Md. App. 463, 484 (2002). "The trial judge has boundless discretion not to indulge this all-too-natural desire to raise issues after the fact that could have been raised earlier but were not . . . Losers do not enjoy *carte blanche*, through post-trial motions, to replay the game as a matter of right." *Id.* On this issue, we have held:

> When a party requests that a court reconsider a ruling solely because of new arguments that the party could have raised before the court ruled, the court has almost limitless discretion not to consider those arguments. *Steinhoff v. Sommerfelt*, 144 Md. App. 463, 484, 798 A.2d 1195 (2002). By contrast, when a party makes a prompt and timely request that a court reconsider a ruling because of a development that the party could not have raised before the court ruled, the court can and should reconsider its decision.

Schlotzhauer, 224 Md. App. at 85-86 (footnote omitted).

Here, appellant was using the motion to alter or amend to relitigate the issue of whether she had properly rebutted the presumption of joint ownership of the funds in the Sun Trust Bank account that were subject to levy. In her motion to alter or amend, appellant argued that her own testimony alone constituted clear and convincing evidence and that Baltimore Community Lending, Inc. did not provide any evidence to rebut her testimony. Nevertheless, she attached to her motion an affidavit, bank statements, and copies of cancelled checks. She also attached her daughter, Kimberly Starks's tax returns for 2013, 2014, and 2015, in support of her argument that Starks did not claim the interest income from the subject bank account on her income tax returns. In addition, appellant argued that the court had ignored a consent order entered in Starks' bankruptcy case which

determined, for purpose of the automatic stay, that the proceeds of the subject bank account were not property of the bankruptcy estate. As for why she failed to produce documentary evidence at the hearing, appellant stated:

> Due to the Court's redaction rules, *see* Rule 1-322.1, it has become very time consuming and expensive to file financial documents in Court. That is one of the reasons McFarland testified that nobody asked her to bring her bank records to Court on September 8th when she testified. She also rightly believed that additional documentary evidence was merely duplicative and redundant, since Plaintiff already admitted in the Bankruptcy Court Consent Order that Kimberly [Starks] did not own the subject property, and the Court had McFarland's un-rebutted and credible testimony that she deposited all the money into the subject accounts, and exercised sole control over them. McFarland therefore reasonably viewed the introduction of additional documentary evidence as unnecessary and unreasonably burdensome on her in light of the substantial expense involved.

Appellant provided no compelling reason for her failure to provide bank statements and other evidence at the hearing on her motion to release the funds in the bank account from levy. Moreover, the documents attached to appellant's motion to alter or amend were, on their own, insufficient to rebut the presumption of joint ownership. The documents were not properly admitted in evidence. Appellant did not produce copies of all of the checks drawn on the account, there was no evidence about the recipients of ATM withdrawals, and there was no evidence about the source of some of the deposits so as to establish that appellant was the source of all the funds in the account. Clearly, appellant's motion to alter or amend, and the documents attached to it, were merely an attempt to present new evidence and relitigate the issue that was the subject of the hearing on September 8, 2017.

Appellant supplied the court with her sworn affidavit, and ultimately, she presented the documentation necessary to support her affidavit and her position that she met the clear and convincing standard of proof applicable in such cases, s*ee Morgan Stanley*, *supra*, 225 Md. App. at 187-88, but not until the court ruled against her on September 27, 2017. We are restrained to review the trial judge's decision to deny a motion to alter or amend a judgment for abuse of discretion. Consequently, because of the highly deferential standard of review, we cannot say the court abused its discretion in denying appellant's motion to alter or amend.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.