Circuit Court for Baltimore County
Case No.: C-03-CV-22-002407

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2375

September Term, 2023

FATIMA HERNANDEZ DE CHAVEZ

v.

ANGEL CLAROS, ET AL.

Reed,
Shaw,
Zic,

JJ.

Opinion by Reed, J.

Filed: May 21, 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).

This appeal by Fatima Hernandez de Chavez arises from an automobile collision that took place on June 29, 2019, when Ms. Chavez's Ford Escape SUV was struck by a vehicle driven by Angel Claros. On June 17, 2022, Appellant Chavez, on behalf of herself, her husband, Cristobal Chavez and their minor child, filed a personal injury action in the Circuit Court for Baltimore County against Mr. Claros and State Farm Mutual Automobile Insurance Company (Appellees). Seeking compensatory damages arising out of the accident, Ms. Chavez alleged three counts of negligence against Mr. Claros, and three counts of breach of contract against State Farm.

This case went to trial before a jury on January 12 and 16, 2024. Appellee Claros admitted responsibility for the accident, and the trial court submitted the case to the jury on the issues of causation and damages. On January 16th, the jury found for the Appellees Mr. Claros and State Farm, finding that Mr. Claros's negligence was not the proximate cause of Appellant's injuries. Ms. Chavez brought this timely appeal and presents a single issue for our review, which we have slightly rephrased as follows:

> Whether the trial Court erred or abused its discretion by denying Appellant's motion in limine for judicial notice of a federal regulation.

For the reasons to be discussed, we shall affirm.

BACKGROUND

Because Appellee Claros has admitted responsibility for the accident and any injuries or damage caused thereby, we will limit our recitation to those facts that are necessary for the disposition of the issues raised in this appeal. *See generally, Gatewood v. State*, 158 Md. App. 458, 462 (2004), *aff'd on other grounds*, 388 Md. 526 (2005).

On June 29, 2019, Appellant Chavez was at the wheel of her Ford Escape SUV and stopped at a red traffic light, behind the car driven by Appellee Claros, who was also stopped at the light. When the traffic light turned green, Mr. Claros went into reverse. Appellant recalled that Mr. Claros's vehicle "impacted the bumper, the tire, and he was – he stopped by the side of my door." Appellant testified that Mr. Claros's vehicle was travelling "like 40, maybe 45 miles an hour. It was very quick." Appellant's "estimate" of the speed of impact was called into question on cross-examination by Appellee Claros's Attorney, who asked:

> Q What is the distance from the front of your bumper to the back of my client's car? What is the distance approximately?
>
> A Could be from the banister there to this one here. I am not totally sure.
>
> Q Could it have been less?
>
> A Perhaps.
>
> Q Okay. Because from where you are to where that banister is, possibly 15 feet maybe?
>
> * * *
>
> Q Based on your testimony when your lawyer asked you about speed, you said the accident happened at about 40 to 45 miles per hour, correct?
>
> A Correct. Probably.
>
> Q Probably, okay. So, in that distance, my client puts his car in reverse, hits the gas, and hits you at about 40 to 45 miles an hour?
>
> A It's just an approximation. I recall seeing that car coming at me very, very fast.

Appellant recounted that "[w]hen I tried to get out of the way and swerve to the right, my leg, my knee hit the dashboard and the door as I was trying to swerve away." Although Appellant initially did not "experience" pain, she testified that after the adrenalin from the collision "had past," she felt the effects of "what had happened." Her "whole body hurt" and the pain "began to get worse" during the following weeks. She would not seek medical treatment right away, explaining that she "had hopes" that by relying on "home remedies" the "pain would go away." She "kind of resisted going to the hospital[,]" because she was reluctant to "go[] out in a vehicle[,]" and "had not had the experience really of looking for assistance or help from the hospital."

We will recite additional facts as they relate to the issue before us.

MOTION IN LIMINE

On January 2, 2024, nine days before the original trial date of January 11, Appellant filed a "Motion in Limine for Judicial Notice of Federal Law."[1] Appellant asked the trial court to take judicial notice of 49 C.F.R. § 581.2, which states the purpose of the "Bumper Standards" issued by the National Highway Traffic Safety Administration (NHTSA). Appellant also requested that the "Court instruct the jury to accept as conclusive any fact judicially noticed." Section 581.2, which we shall refer to as the "purpose clause," provides that "[t]he purpose of [the Bumper Standard] is to reduce physical damage to the front and

[1] In her brief, Appellant avers that she "provided reasonable notice [of the request that the trial court take judicial notice] on January 2, 2024, which was a day short of two weeks before trial." Appellant's Brief at 9. This is not accurate. According to the date stamp on the first page, the Motion was docketed on "1/2/2024 3:18 PM" Trial was originally scheduled for January 11, but was postponed to the following day pursuant to a request by Appellant's counsel, who was in trial in another county.

rear ends of a passenger motor vehicle from low speed collisions." 49 C.F.R. § 581.2. Appellant maintained that the trial court was required to take judicial notice of the "purpose clause" pursuant to the Maryland Uniform Judicial Notice of Foreign Law Act, incorporated into Md. Code (2006, 2020 Repl. Vol., 2023 Supp.), §§ 10-501—10-507 of the Courts and Judicial Proceedings Article, as well as pertinent federal statutes.[2]

> Appellant argued that the "purpose clause" was relevant for three reasons:
>
> Title 49 CFR 581.2 is relevant in the present case, because Plaintiff has filed a complaint against Defendant for compensatory damages arising out of a vehicular collision where the rear bumper of Defendant's vehicle collided with the front bumper of Plaintiff's vehicle.
>
> Title 49 CFR 581.2 is also relevant in order for Plaintiff to defend against Defendant's anticipated argument that there is a correlation between the degree of property damage and the degree of bodily injury.
>
> Title 49 CFR 581.2 is also relevant in helping to prove that Plaintiff is injured despite there being little visible damage on Plaintiff's bumper.

Appellant pointed out that the "front bumper has little visible property damage."

Appellee Claros responded on January 10th by filing his "Reply to Plaintiff's Use of Federal Law/Bumper Standard" and acknowledged that he "has no issue with the court[']s accepting federal law as described within Maryland CJP Section 10-501 through 10-504."

[2] Title 1 § 204 of the United States Code provides in part that "[t]he matter set forth in the edition of the Code of Laws of the United States ... shall ... establish prima facie the laws of the United States[.]" 1 U.S.C. § 204 (2018 & Supp. V). Title 44 relevantly provides that "[t]he contents of the Federal Register shall be judicially noticed and without prejudice to any other mode of citation, may be cited by volume and page number." 44 U.S.C. § 1507 (2018 & Supp. V). Maryland Rule 5-201 addresses "Judicial notice of adjudicative facts" but "does not regulate judicial notice of ... law." **Committee note** to Rule 5-201.

Claros did object, however, to Appellant's "discussing or relying" on the regulation, moved to strike Appellant's use of the Bumper-Standards and explained:

> However, defendant Claros does object to the plaintiff discussing or relying on the National Highway Safety Administration, Department of Transportation, Bumper Standards-Purpose known as Title 49 CFR 581.2.
>
> This defendant objects as plaintiff has never previously provided notice that it would rely on this Standard at trial or use its purpose to explain the minor impact and property damage sustained.
>
> There is no mention in plaintiff's discovery responses or in its production of documents indicating that it would rely on Title 49 CFR 581.2 in its presentation of evidence or testimony in court.
>
> The defendant is prejudiced and has no opportunity to present rebuttal evidence or testimony to refute any argument the plaintiff may make relying on the aforesaid Title.

During the first day of trial, the trial court took up four motions filed by Appellant. After considering the other three motions, the discussion turned to the motion requesting judicial notice of the "purpose clause":

> [APPELLANT'S ATTORNEY]: Plaintiff's motion in limine to take additional notice of federal law. We are just basically citing –
>
> THE COURT: What is the actual law?
>
> [APPELLANT'S ATTORNEY]: The actual law is title 49 CFR 581(2), which is the National Highway Safety Administration Department of Transportation bumper standards.
>
> THE COURT: Bumper standards, are those federal law?
>
> [APPELLANT'S ATTORNEY]: Yes.
>
> THE COURT: A standard?
>
> * * *

Okay. To the extent – again, I am not used to a motion in limine being used in this fashion. I agree that could just be my problem. The motion – I am not taking judicial notice of a purpose.

* * *

[APPELLANT'S ATTORNEY]: No, Your Honor. Just the rule says that the Court has to do it. So –

THE COURT: I don't think I have to take notice of a purpose. You said it was a law.

All right. Let's move on. Anything over here?

[MR. CLAROS'S ATTORNEY]: With regard to bumper standards, judge, the other thing I would add with regards to Defendant Claros is we were first – I was first made aware of that use, the potential desire to use that standard, whatever its purpose may be on January 3rd or January 4th.

THE COURT: That can't possible [*sic*] be.

[MR. CLAROS'S ATTORNEY]: It was. Because it was never mentioned in answers to interrogatories. It was never provided in discovery.

THE COURT: Do you have an interrogatory that would have covered it?

[MR. CLAROS'S ATTORNEY]: I think there was a request for production of documents that says, please provide copy of all citations, statutes that you may rely on to prove your case or whatever the jargon is for that.

THE COURT: Okay. Hold that thought. Did you get a request for production of documents that would have covered this?

[APPELLANT'S ATTORNEY]: I remember getting requests for production of documents. I don't recall that specifically. But if it says it, then –

THE COURT: Right. That's a problem. That's maybe even a bigger problem.

[MR. CLAROS'S ATTORNEY]: It was – my issue with that wasn't so much what the standard is. I know what it says. I understand the Courts can take judicial notice of federal law under CJP.
But my issue more so was it was never disclosed that there was going to be the potential use.

* * *

> THE COURT: What is the purpose of the bumper? To take the brunt of any accident. It's supposed to crumple so people don't. *And you can make that argument.*
>
> [APPELLANT'S ATTORNEY]: Well, the statute says the opposite. It says that the purpose of the bumper is to prevent property damage to the bumper. Not to crumble.
>
> THE COURT: All right, well – listen, start to finish, this has been difficult. You say it's inadvertent that you didn't give them records. You say that it's inadvertent that you kept – that they didn't even know of one of the visits [that Appellant had seen the medical expert witness].
>
> And now I am hearing that you didn't provide any information to put them on notice of this latest request until literally just a couple days ago. That's just not how we do things here.
>
> So I am not taking judicial notice. You can an argument [*sic*] if you want to.

(emphasis added)

STANDARD OF REVIEW

We review two aspects of the trial court's ruling. First, to the extent the trial court declined to take judicial notice of the Federal Bumper Standard because it did not consider it a "law," we exercise plenary review of that ruling.[3] "Where the [trial court's ruling] involves an interpretation and application of Maryland statutory and case law, we must

[3] Although the trial court initially stated that it would not take judicial notice of a "purpose," the transcript suggests that the court's ruling was eventually based on the Appellant's failure to provide information about the Part 581 standard and its implications in discovery in a timely manner. Nevertheless, we shall address the legal argument as it is presented before us.

determine whether the lower court's conclusions are legally correct." *Khan v. Law Firm of Paley Rothman*, 245 Md. App. 415, 421 (2020) (quotation marks and citation omitted).

Second, the trial court has "inherent power to control and supervise discovery as it sees fit." *Sibley v. Doe*, 227 Md. App. 645, 659, *cert. denied*, 448 Md. 726 (2016) (quotation marks and citations omitted). Accordingly, we review discovery questions for an abuse of discretion, *id.*, and the proper exercise of which "involves consideration of the particular circumstances of each case." *101 Geneva LLC v. Wynn*, 435 Md. 233, 241 (2013) (quotation marks and citation omitted). *See generally, Dackman v. Robinson*, 464 Md. 189, 231 (2019).

DISCUSSION

Appellant argues that the court erred in declining her request to take judicial notice of the "purpose clause" of 49 C.F.R. § 581.2. Appellees assert no error, but even if there was error by the trial court, such error was harmless. Appellees also maintain that the decision was a proper sanction for Appellant's failure to provide a timely response to their discovery requests.

FEDERAL BUMPER STANDARD

I.

The Federal Bumper Standard is set forth in 49 C.F.R. Part 581.[4] The standard "require[s] passenger cars to withstand specified collision impacts without sustaining

[4] We shall take judicial notice of the entirety of 49 C.F. R. Part 581 because the "purpose clause" is essentially meaningless unless the standard to which it refers is set forth along with the remaining operative provisions of Part 581.

damage to the vehicles' safety systems[.]" *Center for Auto Safety v. Peck*, 751 F.2d 1336, 1338 (D.C. Cir. 1985). The "CFR 49 Part 581 Bumper Standard establishes requirements for the impact resistance of vehicles in low-speed front and rear collisions." *See* 49 C.F.R. § 581.1. The "impact of speed on bumper effectiveness, however, is a concern primarily with respect to minor accidents. ... [E]conomic rather than safety concerns dominate the debate over the bumper standard." Viscusi, W. Kip, *Regulatory Economics in the Courts: An Analysis of Judge Scalia's NHTSA Bumper Decision*, 50 Law & Contemporary Problems 18 (1987).

For purposes of our discussion, we recite not only the "purpose" of the Bumper Standard, 49 C.F.R. § 581.2, as urged by Appellant, but remaining portions of the Part 581 standard as appropriate.

Initially, both the "scope" and "purpose" clauses of the Bumper Standard are as follows:

> **§ 581.1 Scope.**
> This standard establishes requirements for the impact resistance of vehicles in low speed front and rear collisions.
>
> **§ 581.2 Purpose.**
> The purpose of this standard is to reduce physical damage to the front and rear ends of a passenger motor vehicle from low speed collisions.

II.

The Part 581 standard and "purpose" are indeed laws or regulations that are subject to judicial notice. To the extent the trial court contemplated ruling otherwise in the belief that the Section 581.2 "purpose" was not a law or rule, the court would have erred as a

matter of law. The Part 581 "purpose clause" lies squarely within the ambit of Section 10-501—10-504 of the Courts Article.[5]

DISCOVERY SANCTION

Assuming that any refusal to judicially notice the Part 581 "purpose clause" would constitute error, we conclude that Appellant is not entitled to relief on appeal because the trial court did not abuse its discretion in denying Appellant's motion in limine for failure to provide timely discovery. The record suggests that this was an important part of Appellant's theory of the case. Accordingly, she was bound to provide a timely and complete answer to Appellees' discovery requests so that Appellees could prepare their defense.[6]

"Trial judges are vested with great discretion in applying sanctions for discovery failures. Moreover, the decision to grant sanctions is not limited to cases in which the trial judge has found the discovery violations to be willful or contumacious." *Rodriguez v. Clarke*, 400 Md. 39, 56-57 (2007) (cleaned up). We, therefore, review the Circuit Court's determination of discovery sanctions under an abuse of discretion standard." *Id.* "In

[5] The trial court would not have erred in refusing to instruct the jury about the "purpose clause." Appellant asked the court to note the "purpose clause," and no other provision of Part 581, and requested a jury instruction based on the requested judicial notice. The clause's reference to a "standard," without articulating what that standard is, would have likely confused the jurors. "A jury instruction is improper if it will confuse or mislead a jury." *S & S Oil, Inc. v. Jackson,* 428 Md. 621, 637 (2012).

[6] In any event, Appellant overlooks a significant contradiction between the Bumper Standard and her direct testimony. The "scope" provides that the "standard establishes requirements ... in '**low speed**' ... collisions." In her direct testimony, Appellant claims that Mr. Claros, who was stopped at the same red light about 15 feet in front of her, accelerated to speeds of "40, maybe 45 miles an hour." (emphasis added).

applying sanctions for discovery violations, a large measure of discretion is entrusted to the trial court." *Lowery v. Smithburg EMS*, 173 Md. App. 662, 674 (2007). In *Frericks v. General Motors Corp.*, 274 Md. 288 (1975), the corporate respondents in that negligence action maintained that the law of North Carolina, supposedly more favorable to its case, would apply. Our Supreme Court agreed in theory, but ruled that judicial notice under Section 10-504 was not appropriate in that case because the respondents "failed to give notice of their intent to rely on foreign law, when the case was before the trial court, as required by [CJP Section 10-504]." In a passage that is directly relevant to the case before us, the Supreme Court cautioned: "[Section 10-504] contemplates that, if a party wishes to rely on foreign law, notice be given in the trial court so that the adverse party has an adequate opportunity to prepare his arguments on the foreign law." *Id.*, 274 Md. at 296.

Such notice was not provided in this case. When counsel for both Mr. Claros and State Farm filed their discovery requests long before trial seeking, in part, citations to relevant codes or regulations, they each understood one classic function of discovery – the need for information to prepare a defense and frame their theory of the case. Although Appellant's counsel insisted that he could make a request for judicial notice at apparently any time, the trial court properly rejected his eleventh-hour motion because Appellant's counsel essentially ignored Appellees' discovery requests. Again, we conclude that Appellees did not have "an adequate opportunity to prepare [their] arguments on [the Bumper Standard]." *Frericks*, 274 Md. at 296.

In *Taliaferro v. State*, 295 Md. 376 (1983), the Supreme Court outlined factors that continue to be relevant in assessing a trial court's exercise of discretion in excluding

evidence, in that case the testimony of an alibi witness. The Court emphasized several factors that should be evaluated:

> Under the approach taken by most courts, whether the exclusion of alibi witness testimony is an abuse of discretion turns on the facts of the particular case. Principal among the relevant factors which recur in the opinions are whether the disclosure violation was technical or substantial, the timing of the ultimate disclosure, the reason, if any, for the violation, the degree of prejudice to the parties respectively offering and opposing the evidence, whether any resulting prejudice might be cured by a postponement and, if so, the overall desirability of a continuance. Frequently these factors overlap. They do not lend themselves to a compartmental analysis.

Id., 295 Md. at 390-91. In addition, this Court has urged an inquiry into the proponent's good faith. *See Naughton v. Bankier*, 114 Md. App. 641, 653 (1997).

Technical or Substantial Disclosure Violation

We conclude that Appellant's failure to respond to separate requests for "All codes, standards or other regulations upon which you have relied or intend to rely in connection with this case[,]" constitutes a "substantial" violation of discovery. As in *Taliaferro,* the "rule violation was a gross one." 295 Md. at 391. The results of the trial court taking judicial notice of this "purpose," and the anticipated use of it by Appellant, would clearly require defense counsel to prepare diligently to address this issue, especially given the fact that Appellant requested the trial judge to "instruct the jury to accept as conclusive any fact judicially noticed."

The Timing

Appellant, as noted, claimed that she moved for judicial notice nearly two weeks before trial. Appellant is mistaken. As noted above, her counsel filed the motion on the afternoon of January 2, 2024. In her brief to this Court, Appellant emphasizes that she

"provided reasonable notice." We disagree. Timing could not have been worse for the defense, because at this point trial was scheduled for January 11. This factor weighs heavily in favor of exclusion.

The Reason

On the first day of trial, following a break and outside the presence of the jury, the trial judge and counsel addressed various discovery issues. At this point, the discussion turned to Appellant's in limine motion for judicial notice. After the trial judge stated that she was not going to take judicial notice of a "purpose," Appellant's counsel replied, "Just the rule says that the Court has to do it." In our view, this explanation did not constitute a sound reason for this discovery violation.

Prejudice

The *Taliaferro* Court advised that the "degree of prejudice to the parties respectively offering and opposing the evidence" should be considered. 295 Md. at 391. We conclude that Appellees were substantially prejudiced by the eleventh-hour motion. To the *Frericks* Court, "notice [must] be given in the trial court so that the adverse party has an adequate opportunity to prepare his arguments on the foreign law." *Id.*, 274 Md. at 296. Any prejudice suffered by Appellant in this instance would be vastly outweighed by that experienced by the defense.

"Curing" the Prejudice

The *Taliaferro* Court also pointed out that a court should inquire as to whether any prejudice could be cured by a postponement. On this record, a postponement would not have been a reasonable alternative. Testimony had already been taken before the jury.

Good Faith

During the parties' discussion of various motions, it became apparent that Appellant's counsel had failed to communicate with opposing counsel to resolve general discovery issues. Further, notwithstanding the fact that Appellant's counsel overlooked specific requests for "All codes, standards or other regulations upon which you have relied or intend to rely in connection with this case[,]" Appellant instead lodged her motion in limine well short of two weeks before the scheduled trial date. We conclude that the record shows a lack of "good faith and earnest effort" on counsel's part. *See Naughton*, 114 Md. App. at 653.

We conclude that the trial court did not abuse its discretion by denying Appellant's motion in limine seeking judicial notice of Part 581. The trial court's action was a proper exercise of the discovery sanction.

HARMLESS ERROR

Even if the trial court erred and abused its discretion in declining to take judicial notice of the "purpose clause" of the Part 581 standard, we hold that any misstep by the court was harmless. With respect to harmless error, this Court has recently emphasized:

> Our appellate courts will not reverse a lower court's judgment if the error is harmless. Generally, the party complaining that an error has occurred has the burden of showing prejudicial error. Prejudice will be found if a showing is made that the error was likely to have affected the verdict below.

Morales v. Bryant Concrete Construction, 268 Md. App. 277, 314 (2026) (cleaned up).

We conclude that Appellant has failed to demonstrate prejudicial error on this record. The trial court permitted Appellant's counsel to argue the "purpose" of the Bumper

Standard in closing argument, and we disagree with Appellant that her counsel was foreclosed from presenting argument on his theory of the Bumper Standard. Appellees told the jury in opening statements that Appellant managed to drive home following the collision. She waited two to three weeks before seeking medical attention. Appellee Claros's counsel pointed out in closing argument that there was no treatment throughout the year 2020:

> And then, you know what, nothing. Nothing in 2020. No emergency room. No Patient First. No urgent care. No trips to Hopkins. No trips to a doctor. No complaints of documented pain anywhere. We are going from November 21st of 2019, fast forward now to February of 2021.

Appellee Claros's attorney then focused extensively on the credibility of the physician who served as Appellant's expert. Appellees also pointed out to the jurors that Appellant had been in a subsequent accident in March, 2021, that resulted in neck and back injuries. There is no argument that exploits any correlation between the extent of damage to Appellant's vehicle and her injuries. In the final analysis, the jurors refused to believe Appellant's testimony or credit the opinions of her expert.

As this Court pointed out in *Morales v. Bryant Concrete Construction*, 268 Md. App. at 314, "[i]t is not the possibility, but the probability, of prejudice which is the object of the appellate inquiry. Ultimately, we determine prejudice based on the facts of each individual case." (cleaned up). On this record, we do not see even the possibility of prejudice.

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