

Circuit Court for Prince George's County  
Case No. CAL20-10229

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 2409

September Term, 2023

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URBAN BAR B QUE SYSTEMS LLC

v.

PASIL ABOAROB

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Tang,  
Albright,  
Hotten, Michele D.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Albright, J.

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Filed: May 22, 2025

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

This appeal from the Circuit Court for Prince George’s County involves disputes as to two multi-page franchise agreements. Appellant Urban Bar B Que Systems LLC (“Urban BBQ”), the franchisor, brought claims of breach of contract against Appellee Pasil Aboarob, the franchisee. Mr. Aboarob countersued below and cross-appeals here. Approximately two hours after the conclusion of a three-day bench trial, the circuit court found that neither party had proven its claims.

All right, the verdict on this case: The one thing that was a theme that was raised, actually, by both parties during closing arguments, that the Court seizes upon and agrees wholeheartedly, is that the case really comes down to a matter of credibility. And in this case, the Court did not find either parties’ testimony particularly credible to the extent that they were able to us prove by a preponderance of the evidence any of the counts that are remaining in the charging document.

Here, both parties seek reversal, arguing that the circuit court erred in failing to enter verdicts in their favor.<sup>1</sup> Because the circuit court’s comments are inadequate to

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<sup>1</sup> On appeal, Urban BBQ presents four questions:

1. Did the Circuit Court err as a matter of law in ruling that Mr. Aboarob did not breach the parties’ franchise agreements?
2. Did the Circuit Court commit clear error in finding as a matter of fact that Mr. Aboarob did not breach the parties’ franchise agreements?
3. Did the Circuit Court abuse its discretion in denying Urban BBQ’s motion to alter or amend the judgment?
4. Did the Circuit Court enter an irreconcilably inconsistent verdict?

allow for meaningful review of the parties’ appellate arguments, and because the Senior Judge who tried this case is no longer available to provide further detail for his decision, we must vacate the circuit court’s judgments and remand for a new trial in the circuit court. We do not address the parties’ questions presented.

## **BACKGROUND**

### **I. The Parties’ Claims and Counterclaims**

#### ***A. Urban BBQ’s Third Amended Complaint***

Urban BBQ’s claims pertained to two of its Maryland franchise locations, one in Hanover and the other on Wilkens Avenue in Baltimore City. Mr. Aboarob was alleged to have been the franchisee in both locations. Urban BBQ claimed that Mr. Aboarob breached the relevant franchise agreement in a number of ways.<sup>2</sup>

With respect to the Wilkens Avenue location, Urban BBQ alleged that Mr. Aboarob “failed to remit timely royalty payments to Urban [BBQ].” Urban BBQ also alleged that Mr. Aboarob, in violation of a covenant not to compete (“the in-term

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On cross-appeal, Mr. Aboarob presents two questions:

1. Did the trial court err in refusing to admit the Opinion and Order of the Circuit Court for Prince George’s County in CAL20-12412?
2. Did the trial court err in failing to grant judgment in favor of Aboarob on his Counterclaim?

<sup>2</sup> Initially, these claims were not brought in the name of Urban BBQ. Instead, the initial plaintiff was Clucksters, LLC, the purported purchaser of Urban BBQ in July 2019. Clucksters, LLC brought claims against Mr. Aboarob and SAL BBQ, Inc. (“SAL BBQ”). Urban BBQ was later substituted for Clucksters, LLC as the plaintiff, and Urban BBQ voluntarily dismissed its claims against SAL BBQ.

covenant”), operated a Steak ‘n Shake franchise during the time that the Wilkens Avenue location was in operation. An additional violation of the in-term covenant was Mr. Aboarob’s alleged opening of two Ledo Pizza franchises, one in Aberdeen around June 2020 and one in Eldersburg in early 2021. Urban BBQ sought \$1,000 per day for Mr. Aboarob’s violation of the in-term covenant not to compete (estimated to total at least \$300,000) and injunctive relief to enforce the covenant.<sup>3</sup>

With respect to the Hanover location, Urban BBQ alleged that Mr. Aboarob permanently closed the location in August 2019 and thus terminated the franchise agreement before the end of the term. In doing so, Mr. Aboarob allegedly breached the agreement and thereby owed Urban BBQ liquidated damages representing thirty-six months of royalty fees. Urban BBQ added that it had been denied its contractual right of first refusal to assume ownership and control of the Hanover franchise. And Urban BBQ alleged that Mr. Aboarob’s operation of a Steak ‘n Shake restaurant less than ten miles from the former Hanover location violated the franchise agreement’s post-term covenant not to compete, a violation that entitled Urban BBQ to another \$100,000 in liquidated damages.

***B. Mr. Aboarob’s Second Amended Counterclaim***

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<sup>3</sup> Urban BBQ also brought claims for trademark infringement and unfair competition against Mr. Aboarob, and for intentional interference with contract against Ledo Pizza Systems, Inc. (“Ledo Pizza”). The circuit court granted a motion to dismiss Urban BBQ’s claim against Ledo Pizza in September 2023. Urban BBQ’s claims for trademark infringement and unfair competition against Mr. Aboarob were voluntarily dismissed at trial.

Mr. Aboarob's second amended counterclaim revolved around the alleged purchase of Urban BBQ by another entity, Clucksters, LLC. On July 1, 2019, according to Mr. Aboarob, Clucksters, LLC and the owners of Urban BBQ entered into a Membership Purchase Agreement whereby Urban BBQ's owners would sell their interest in Urban BBQ to Clucksters, LLC, subject to various financing and security agreements. With his amended counterclaim, Mr. Aboarob, who identified himself as a franchisee of Urban BBQ, generally alleged that, after the Membership Purchase Agreement was entered into, Clucksters, LLC (and other entity and individual counter-defendants allegedly allied with it, including Urban BBQ) had defrauded Mr. Aboarob in various ways, or otherwise harmed Mr. Aboarob. He sought damages and declaratory relief.

Mr. Aboarob named eight counter-defendants and pled ten counts; some counts named all counter-defendants, and some did not.<sup>4</sup> The counter-defendants were Urban BBQ; Clucksters, LLC; Cluck-U, Corp.; Jean-Pierre Haddad (a member of Clucksters, LLC and president of Cluck-U, Corp.); and Roula Zoghby (Mr. Haddad's wife). Also named as counter-defendants were Levin Gann PA (a law firm) and two of its partners, Aaron Turner and Sean Elavia, who, Mr. Aboarob alleged, aided Mr. Haddad in committing the fraud.

In a claim for fraudulent misrepresentation or deceit, Mr. Aboarob alleged that the counter-defendants made a number of representations in connection with the purchase of Urban BBQ that were false or (in the case of the law firm and its partners) aided in the

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<sup>4</sup> Urban BBQ was the only counter-defendant that appealed.

making of those representations. Those representations pertained to (1) the receipt of illegal kickbacks as part of a change in franchise distributors; (2) whether Mr. Aboarob was required to pay franchise royalties to Cluck-U, Corp.; (3) the Assignment of Income Rights between Urban BBQ and Cluck-U, Corp.; (4) the extent to which Urban BBQ, Clucksters, LLC, and Cluck-U, Corp. would support the Wilkens Avenue franchise with marketing and advertising; and (5) whether Clucksters, LLC and Urban BBQ were properly licensed as franchisors under the Maryland Franchise Act. In a negligence claim against the non-lawyer (or law firm) counter-defendants, Mr. Aboarob made essentially the same allegations.

Mr. Aboarob also alleged tortious interference with contractual and economic relations (specifically arising out of the Wilkens Avenue Franchise Agreement) against all counter-defendants other than Urban BBQ. Mr. Aboarob said that these counter-defendants “create[d] a pretext for the termination of the Wilkens [Avenue] Franchise Agreement and to divert royalty payments from [Mr. Aboarob to them.]” He also repeated his claim that he had been improperly forced to switch distributors, with the result that he had been forced to use inferior product.

Against Urban BBQ, Mr. Aboarob alleged breach of contract (again, specifically the Wilkens Avenue Franchise Agreement) by

failing to provide the services to [Mr. Aboarob] required under the Franchise Agreement, failing to use the royalty payments in accordance with the Franchise Agreement, failing to assist the franchisees under the Franchise Agreement, failing to sufficiently market and advertise for the franchisees, forcing the franchisees to change distributors and thereafter allowing the acceptance of kickbacks to [Mr.] Haddad by the distributor, engaging in

fraudulent conduct to devalue the franchise, creating a false pretext for the termination of the Franchise Agreement and failing to honor the implied covenant of good faith and fair dealing in the Franchise Agreement.

Against all counter-defendants, Mr. Aboarob lodged a claim for fraudulent conveyance. Mr. Aboarob said that they “created a fraudulent mechanism to divert all funds and assets of Urban [BBQ] to Clucksters, Cluck-U, Corp., [Mr.] Haddad, and [Ms.] Zoghby.” In addition to damages, Mr. Aboarob sought to have the fraudulent transfers set aside or that all fraudulently transferred assets be subject to levy or garnishment.

Against the counter-defendants other than the law firm and its partners, Mr. Aboarob alleged violations of the Maryland Franchise Act in that Urban BBQ and Clucksters, LLC were not properly registered and had made materially false and untrue statements in connection with the Urban BBQ franchise. In addition to compensatory damages, Mr. Aboarob asked that this Wilkens Avenue Franchise Agreement be rescinded, and that the court award punitive damages and attorney’s fees.<sup>5</sup>

Mr. Aboarob also sought declaratory judgment regarding the Wilkens Avenue Franchise Agreement and the Assignment of Income Rights between Urban BBQ and Cluck-U, Corp. Specifically, Mr. Aboarob asked that the circuit court (1) declare that Mr. Aboarob could terminate the Wilkens Avenue Franchise Agreement without penalty; (2) declare and establish the rights of the parties under the terms of the Wilkens Avenue Franchise Agreement; (3) declare that the Assignment of Income Rights is fraudulent,

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<sup>5</sup> Mr. Aboarob also brought a claim for unjust enrichment against Mr. Haddad, Ms. Zoghby, Clucksters, LLC, and Cluck-U, Corp. This claim was voluntarily dismissed at trial.

null, and void; and (4) require counter-defendants to refund all monies taken by them in connection with the Assignment of Income Rights.

Finally, in a claim for civil conspiracy, Mr. Aboarob alleged that all counter-defendants “entered into an agreement to wrongfully and fraudulently hide and/or transfer assets without fair consideration in an effort to avoid the claims of [Mr. Aboarob] in connection with Counter-Defendants fraud, breach of contract, and other illegal actions.”

## **II. The Circuit Court’s Bench Trial**

The circuit court tried the merits of the parties’ claims and counterclaims from December 4 through 6, 2023, in a bench trial. The parties presented witnesses and introduced many exhibits. These purported to be the Membership Purchase Agreement for Clucksters, LLC’s acquisition of Urban BBQ; the franchise agreements between Urban BBQ and Mr. Aboarob for the Hanover and Wilkens Avenue locations; the lease termination agreement between Mr. Aboarob and the landlord terminating the Hanover location’s lease, effective August 31, 2019; written communication between Mr. Aboarob and the landlord for the Hanover location; written communication between Mr. Aboarob and Mr. Haddad about the closure of the Hanover location and about royalties owed for the Wilkens Avenue location; a notice of recorded judgment against Clucksters, LLC in favor of the previous owners of Urban BBQ in another case from the Circuit Court for Prince George’s County (*Clucksters, LLC v. D&L Urban Holdings, LLC*, Case No. CAL20-12412); a Facebook screenshot appearing to show that Mr. Aboarob opened a



Ledo Pizza in Aberdeen in June 2020; a writ of garnishment issued in March 2020 to be served on Mr. Aboarob as part of another case from the Circuit Court for Prince George’s County (*D&L Urban Holdings, LLC v. Urban Bar-B-Que Systems, LLC*, Case No. CAL20-01111); and an email from Mr. Haddad to Urban BBQ franchisees about the writs of garnishment.

***A. The Parties’ Franchise Agreements<sup>6</sup>***

The franchise agreements introduced into evidence purport to indicate that Urban BBQ and Mr. Aboarob entered into agreements for, respectively, the Wilkens Avenue location on December 6, 2015, and the Hanover location on October 16, 2016. Both agreements were for five-year terms and require, among other terms, that Mr. Aboarob pay Urban BBQ a franchise royalty fee of six percent of all gross sales.

If Mr. Aboarob terminated the agreements before their expiration, Urban BBQ would be entitled to recover from Mr. Aboarob the royalty fees that would have been payable for the balance of the term, but not more than thirty-six months. This amount is to be calculated using the average annual gross sales for the twenty-four-month period immediately preceding the date of termination. Urban BBQ had the option, exercisable for a period of thirty days after the effective date of termination, to purchase all the assets of Mr. Aboarob’s franchise locations as well as the option to assume the leases for the restaurant locations.

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<sup>6</sup> Here, we summarize some of what the franchise agreements purport to show on their faces. This summary is not based on factual findings of the circuit court.

The agreements also include in-term and post-term covenants not to compete. The in-term covenant not to compete, which entitles Urban BBQ to liquidated damages of \$1,000 per day, states:

During the term of this Agreement and any extensions or renewals of this agreement, [Mr. Aboarob] shall not, without prior written permission of Urban [BBQ], either directly or indirectly or for himself, or through, or on behalf of, or in conjunction with any person, partnership or corporation, own, engage in, be employed by, advise, assist, consult, manage, invest in, franchise, make loans to, or have any other interest in, any other food and related products carry-out or eat-on premises business.

The post-term covenant not to compete provides that Mr. Aboarob could not, for a period of two years following the effective date of termination or expiration:

either directly or indirectly, for himself or through, on behalf of or in conjunction with any person, partnership or corporation, own, engage in, be employed by, advise, assist, consult, manage, invest in, franchise, make loans to, or have any other interest in, any dine in or carry-out food products business, which is either located at the premises of the [Urban BBQ] restaurant or within Ten (10) miles of the premises of the [Urban BBQ] restaurant.

The post-term covenant not to compete entitles Urban BBQ to liquidated damages of \$100,000.

The agreements allow Mr. Aboarob to terminate in the case of a breach by Urban BBQ if (and only if) Mr. Aboarob sent written notice of breach, Urban BBQ failed to cure such a breach within thirty days of receipt, and Mr. Aboarob sent a notice of termination within sixty days of the notice of breach. The agreements provide that

Any attempted termination of this Agreement and the franchise by [Mr. Aboarob] without strictly complying with the foregoing requirements may, at [Urban BBQ's] option, be deemed a termination by [Mr. Aboarob] *without cause* and shall be deemed a breach of this Agreement by [Mr. Aboarob].

The franchise agreements include a provision explaining that the agreement, along with other documents incorporated by reference, “contain the entire agreement and understanding between Urban [BBQ] and [Mr. Aboarob] pertaining to the subject matter of this Agreement and there are no oral representations, stipulations, warranties or understandings relating thereto which are not fully set forth herein.” The agreements provide that Mr. Aboarob and Urban BBQ could, in writing, “unilaterally waive any obligation of or restriction upon the other” under the agreement.

***B. Oral Testimony***<sup>7</sup>

Beatrice Maggio, an employee of Cluck-U, Corp., testified for Urban BBQ. Ms. Maggio testified that she participated in the due diligence for the July 2019 sale of Urban BBQ to Clucksters, LLC. She visited Mr. Aboarob’s Hanover Urban BBQ franchise. During her visit, Mr. Aboarob did not mention challenges with the franchise besides food costs and Ms. Maggio’s impression was that “[t]hey seemed to have a good operation.” Ms. Maggio was “very surprised” that Mr. Aboarob’s Hanover franchise closed, as Mr. Aboarob had not given her any indication that it was going to. Ms. Maggio did not know that the store was closing until she physically showed up there in late August 2019.

Mr. Haddad, the managing member of Clucksters, LLC, also testified on behalf of Urban BBQ. Mr. Haddad testified about Clucksters, LLC’s acquisition of Urban BBQ.

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<sup>7</sup> Here, we summarize the testimony that was before the circuit court as shown in the transcripts provided by the parties in their joint Record Extract. This summary is not based on the circuit court’s factual findings.

Mr. Haddad recalled visiting the Hanover location and meeting with Mr. Aboarob during the due diligence for the sale in May and June 2019. Mr. Haddad and Mr. Aboarob discussed Mr. Haddad's interest in purchasing Urban BBQ and Mr. Aboarob's concerns about food costs. Mr. Haddad acknowledged that "the company as a whole was struggling[,] but said that Mr. Aboarob had never given him (Mr. Haddad) any indication that Mr. Aboarob was going to close the Hanover location. Mr. Haddad was surprised to receive an email in late July 2019 about Mr. Aboarob's termination of the lease for the Hanover location effective August 31, 2019. Mr. Haddad did not receive written notice from Mr. Aboarob of any alleged breach or other cause for the termination. Mr. Haddad also suspected that, because of the creation of Aboarob Steak, LLC, in November 2019, Mr. Aboarob was considering opening a Steak 'n Shake within five miles of, and within two years of closing, the Hanover location.

Regarding the Wilkens Avenue location, Mr. Haddad explained that it continued to operate until the five-year term ended in December 2020, but that Mr. Aboarob stopped paying royalties in approximately May or June of 2020. At the time of trial, Mr. Aboarob still owed royalties. With respect to the in-term covenant not to compete, Mr. Haddad alleged that Mr. Aboarob violated this provision by opening and operating a Ledo Pizza in Aberdeen in June 2020 without written permission from Mr. Haddad. Mr. Haddad later acknowledged that, when he purchased Urban BBQ, he was "aware that Mr. Aboarob had numerous Ledo franchises." Mr. Haddad also acknowledged that Urban BBQ did not renew the franchise disclosure document with the State of Maryland in or

around 2020 so it “must have expired[.]”

Mr. Haddad also testified about a \$750,000 loan that he and Ms. Zoghby made in 2007 to Cluck-U, Corp. A portion of a deposition transcript for Ms. Zoghby, in which she denied having personally lent money to Cluck-U, Corp., was read into evidence by Mr. Aboarob’s counsel. Ms. Zoghby then testified that this was an incomplete reading because although she did not “personally” lend money to Cluck-U, Corp., she did so jointly, with her husband, Mr. Haddad.

Mr. Aboarob testified about his experience in the restaurant franchise business. Mr. Aboarob explained that Jamie Beall owns the Ledo Pizza franchise, which predates Urban BBQ, and that Mr. Aboarob was a Ledo Pizza franchisee before Urban BBQ was created by Mr. Beall. Mr. Aboarob has maintained six Ledo Pizza locations over the last seventeen years, including in the same shopping centers where the Urban BBQ franchises were in Hanover and on Wilkens Avenue. Mr. Aboarob explained that Mr. Haddad became aware that Mr. Aboarob was a Ledo Pizza franchisee during meetings that took place prior to Mr. Haddad’s acquisition of Urban BBQ.

Mr. Aboarob testified about the condition of Urban BBQ when Clucksters, LLC acquired ownership. Mr. Aboarob described Urban BBQ as not doing well and as not being a healthy company. Mr. Aboarob claimed that he had verbal approval from Mr. Beall to either convert the Hanover location to a different restaurant or close entirely, and that Mr. Beall was not requiring Mr. Aboarob to pay any termination fees. Mr. Aboarob acknowledged that he did not give Mr. Beall written notice to terminate and that Mr.

Beall did not mention the termination provision of the franchise agreement during their discussions about closing the Hanover location. When Mr. Aboarob terminated the Hanover location lease on July 25, 2019 (effective August 31, 2019), he was unaware that Urban BBQ had been sold to Clucksters, LLC.

Mr. Aboarob claimed that Mr. Haddad did not meet with him after Clucksters, LLC's acquisition of Urban BBQ and described Mr. Haddad's emails as threatening towards him. Mr. Aboarob explained that he "offered for Mr. Haddad to come in and take over the Hanover and Wilkens [Avenue] stores" but that Urban BBQ did not exercise its option to do so.

Mr. Aboarob completed his term for the Wilkens Avenue Franchise Agreement, which ended in December 2020. He acknowledged that he stopped paying royalties for the Wilkens Avenue location in May 2020 and owed approximately \$5,000 per month. Mr. Aboarob's reason for stopping was "[b]ecause of the garnishment." Mr. Aboarob received a garnishment in March 2020.

Mr. Aboarob claimed that Urban BBQ breached the Wilkens Avenue Franchise Agreement because Mr. Haddad "never got involved with the company at all," "switched food companies without us knowing[,]" and "did not advertis[e] whatsoever." Mr. Aboarob acknowledged on cross-examination that Urban BBQ, under the franchise agreement, could select which suppliers Mr. Aboarob was allowed to use. Mr. Aboarob, when asked, did not identify any specific provisions of the franchise agreement that Mr. Haddad breached.

Addressing the allegations that he violated the covenants not to compete, Mr. Aboarob explained that he and Mr. Beall had discussed, beginning in early 2019, relocating one of Mr. Aboarob's Ledo Pizza locations to Aberdeen. Mr. Aboarob acknowledged that he had opened an LLC in preparation for a Steak 'n Shake franchise, but noted that the plans did not materialize and that he had never owned any interest in such a franchise.

*C. Closing Arguments*

In their closing arguments, the parties did not agree (as the circuit court later asserted in its ruling) that the case was simply about credibility. Urban BBQ highlighted the language of the parties' franchise agreements and the ways in which Mr. Aboarob had breached them. On Urban BBQ's claims, Mr. Aboarob argued that Mr. Haddad was not credible, that he and Mr. Beall had orally agreed to modify the agreements, that the garnishments prevented his being held liable, and that the covenant not to compete was not enforceable.

Arguing his counterclaims, Mr. Aboarob again emphasized credibility. He argued that Urban BBQ breached the Wilkens Avenue Franchise Agreement by failing to support the franchise, identified a number of things that he claimed were fraudulent, and added that Urban BBQ was not properly registered as a franchisor in violation of the Maryland Franchise Act. In its defense, Urban BBQ pointed out the insufficiency of the evidence to support Mr. Aboarob's claims. Specifically, Urban BBQ explained that Mr. Aboarob did not identify anything specific in the parties' agreement, that the Assignment

of Income Rights never made it into evidence, and that Mr. Aboarob was not harmed by the failure of Urban BBQ to remain current in its registration with the state.

### **III. The Circuit Court’s Decision and the Parties’ Appeal and Cross-Appeal**

The circuit court found for Mr. Aboarob as to the remaining claims in Urban BBQ’s complaint and found for Urban BBQ and the other counter-defendants as to the remaining claims in Mr. Aboarob’s counterclaim.<sup>8</sup> The circuit court only briefly explained the verdict orally at the conclusion of the trial:<sup>9</sup>

the case really comes down to a matter of credibility. And in this case, the Court did not find either parties’ testimony particularly credible to the extent that they were able to us prove by a preponderance of the evidence any of the counts that are remaining in the charging document.

The circuit court’s judgment was entered.<sup>10</sup> Urban BBQ moved to alter or amend the judgment or, in the alternative, for a new trial. Mr. Aboarob opposed Urban BBQ’s motion. The circuit court denied Urban BBQ’s motion.<sup>11</sup> Urban BBQ timely noted this appeal and Mr. Aboarob timely noted a cross-appeal.

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<sup>8</sup> As noted previously, Urban BBQ’s claims against Mr. Aboarob for trademark infringement and unfair competition were dismissed voluntarily at trial. Mr. Aboarob’s counterclaim for unjust enrichment was dismissed voluntarily at trial, but this claim did not include Urban BBQ as a counter-defendant.

<sup>9</sup> No written opinion followed this oral ruling.

<sup>10</sup> The circuit court entered judgment on December 28, 2023. In its January 29, 2024 order denying Urban BBQ’s motion to alter or amend or for a new trial, the circuit court ordered that a proposed order be submitted for the entry of judgment. Judgment was entered (again) on February 20, 2024.

<sup>11</sup> A different circuit court judge (not the trial court judge) ruled on this motion.



## DISCUSSION

Rule 8-131(c) provides that, for an action tried without a jury,

an appellate court will review the case on both the law and the evidence. It will not set aside the judgment of the trial court on the evidence unless clearly erroneous, and will give due regard to the opportunity of the trial court to judge the credibility of the witnesses.

Md. Rule 8-131(c). We review the trial court’s factual findings for clear error and its legal conclusions de novo. *Liberty Mut. Ins. Co. v. Md. Auto. Ins. Fund*, 154 Md. App. 604, 609–10 (2004). “Under the clearly erroneous standard, this Court does not sit as a second trial court, reviewing all the facts to determine whether an appellant has proven his case.” *Id.* at 609. It is not our function to weigh conflicting evidence; rather, we must view all the evidence in a light most favorable to the prevailing party and decide whether the trial court’s factual findings were supported by substantial evidence in the record. *Id.*

Other procedural rules support this standard of review. For example, in a bench trial, the judge is required to “prepare and file or dictate into the record a brief statement of the reasons for the decision[.]” Md. Rule 2-522(a).<sup>12</sup> With such a statement of reasons, the parties can know why the trial court decided as they did, and we can determine whether the trial court’s decision was, as both parties here argue, in error. While a trial

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<sup>12</sup> Rule 2-522(a) provides:

In a contested court trial, the judge, before or at the time judgment is entered, shall prepare and file or dictate into the record a brief statement of the reasons for the decision and the basis of determining any damages.

Md. Rule 2-522(a).

court’s factual findings and legal conclusions need not be lengthy, they should not be “so summarily articulated as to prevent [an appellate court] from adequately assessing the cogency of its conclusion or the reasonableness of its remedy.” *Patriot Constr., LLC v. VK Elec. Servs., LLC*, 257 Md. App. 245, 270 (2023). Failure to make factual findings and legal conclusions, at least sufficient to allow for appellate review, amounts to a failure to comply with Rule 2-522(a). *See Beka Indus., Inc. v. Worcester Cnty. Bd. of Educ.*, 419 Md. 194, 234–37 (2011) (explaining that the trial court’s judgment was reversed and a new trial was ordered by the appellate court due to the lack of “factual and legal conclusions upon which to assess whether it would be appropriate to affirm”).

The core problem here is that the circuit court made no factual findings. The circuit court’s singular statement that “it did not find either parties’ *testimony* particularly credible” (emphasis added) does not explain the circuit court’s failure to make factual findings about the numerous documentary exhibits that it admitted.<sup>13</sup> These included the franchise agreements at issue here, emails between the parties, the Membership Purchase Agreement by which Clucksters, LLC appeared to purchase Urban BBQ, and the garnishment notices that Mr. Aboarob received, among many other documents. Of

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<sup>13</sup> Nor can we determine from the circuit court’s singular statement the extent to which the circuit court credited the oral testimony before it. Four witnesses testified: Mr. Haddad, Mr. Aboarob, Ms. Maggio, and Ms. Zoghby. We cannot determine whether the circuit court discredited all of the testimony offered by the parties or all of the testimony given by those witnesses who were also parties. For example, we cannot determine whether the circuit court discredited all of the testimony offered by Urban BBQ, which would include Mr. Haddad, Ms. Maggio, and Ms. Zoghby, or simply the testimony of Mr. Haddad and Ms. Zoghby, both of whom were parties.

course, a preliminary decision to admit a document is not the same thing as deciding that what the document says or shows should be believed. *See* Md. Rule 5-104(e) (explaining that Rule 5-104, pertaining to preliminary decisions of the trial court, “does not limit the right of a party to introduce before the trier of fact evidence relevant to weight or credibility”). But without any factual findings, we are unable to review whether there was substantial evidence to support the court’s judgments. *See* Md. Rule 8-131(c); *see also* *Liberty Mut. Ins. Co.*, 154 Md. App. at 609.<sup>14</sup>

Further, the circuit court drew no conclusions of law. It merely said that the parties did not prove any of their counts. For example, the circuit court did not address whether the Wilkens Avenue Franchise Agreement’s in-term covenant not to compete without geographic limitation was enforceable. Without knowing what legal conclusions the circuit court drew, we are unable to review whether the circuit court erred as a matter of law in reaching those conclusions.

Put another way, the circuit court’s cursory oral ruling prevents us from assessing the cogency of its conclusions. Urban BBQ and Mr. Aboarob ask us to reverse because

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<sup>14</sup> Urban BBQ urges us past this problem by arguing that, because the facts of Mr. Aboarob’s breach of the Hanover and Wilkens Avenue franchise agreements are “undisputed,” we can interpret the franchise agreements as a matter of law. This interpretation, Urban BBQ contends, allows us to conclude (1) that Mr. Aboarob breached both franchise agreements, and (2) that, because the circuit court entered judgments to the contrary, it erred as a matter of law. We disagree. What the franchise agreements required of Mr. Aboarob, and what Mr. Aboarob did (or did not do) regarding any contractual obligations he may (or may not) have had under the franchise agreements has not yet been established through factual findings by the circuit court. Accordingly, we cannot conclude that the facts of Mr. Aboarob’s alleged breaches are “undisputed.”

the circuit court reached the wrong conclusion. Without findings of fact and conclusions of law, we cannot determine whether these appellate requests have merit. In other words, without knowing the factual and legal building blocks upon which the circuit court built its conclusions, we cannot evaluate the cogency of those conclusions. *See* Md. Rule 2-522(a); *see also Beka Indus., Inc.*, 419 Md. at 234–37; *Patriot Constr., LLC*, 257 Md. App. at 270.

Consequently, we vacate the circuit court’s judgment and remand to the circuit court for a new trial, including the entry of complete written factual findings and conclusions of law, and, if appropriate, a written declaration of the parties’ rights as sought by Mr. Aboarob in his counterclaim. *See* Md. Rule 8-604(d)(1).<sup>15</sup> We are mindful that a new trial is not always required in order to remedy lapses such as those here, that the parties have already had a complete opportunity to present their cases, and that another trial will likely be a burden to all involved. Nonetheless, because the Senior

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<sup>15</sup> Rule 8-604(d)(1) provides:

If the Court concludes that the substantial merits of a case will not be determined by affirming, reversing or modifying the judgment, or that justice will be served by permitting further proceedings, the Court may remand the case to a lower court. In the order remanding a case, the appellate court shall state the purpose for the remand. The order of remand and the opinion upon which the order is based are conclusive as to the points decided. Upon remand, the lower court shall conduct any further proceedings necessary to determine the action in accordance with the opinion and order of the appellate court.

Md. Rule 8-604(d)(1).

Judge who first tried this case is no longer available for recall duty,<sup>16</sup> another circuit court judge will have to step in, and that judge will need to make their own credibility determinations from all the evidence they receive.<sup>17</sup>

In addition to the steps outlined above, the next circuit court judge may wish to require proposed findings of fact and conclusions of law from the parties prior to rendering a decision. Such a step is not required but doing so may aid the circuit court as it adjudicates these complex claims. The circuit court should also, if appropriate, enter declaratory judgment on Mr. Aboarob’s counterclaim for declaratory relief.<sup>18</sup>

**JUDGMENTS OF THE CIRCUIT COURT  
FOR PRINCE GEORGE’S COUNTY ARE  
VACATED AND THE CASE IS  
REMANDED FOR A NEW TRIAL  
CONSISTENT WITH THIS OPINION.  
COSTS TO BE DIVIDED EQUALLY  
BETWEEN THE PARTIES.**

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<sup>16</sup> Maryland’s Attorney Information System lists the trial judge’s status as “Active”—as opposed to the “Judge/Magistrate” status listed for a Senior Judge available for recall duty.

<sup>17</sup> Given our decision, we decline to address Mr. Aboarob’s argument here that the circuit court erred by failing to admit the Opinion and Order from *Clucksters, LLC v. D&L Urban Holdings, LLC*, Case No. CAL20-12412. Nor need we address Urban BBQ’s argument that the circuit court abused its discretion by denying its motion to alter or amend the circuit court’s judgments.

<sup>18</sup> If the disputes on which Mr. Aboarob seeks a declaratory judgment are appropriate for declaratory judgment, the circuit court must enter a declaratory judgment; however, if those disputes are not appropriate for declaratory judgment, the circuit court is “neither compelled, nor expected, to enter a declaratory judgment.” *See Converge Servs. Grp., LLC v. Curran*, 383 Md. 462, 477 (2004).

The correction notice(s) for this opinion(s) can be found here:

<https://mdcourts.gov/sites/default/files/import/appellate/correctionnotices/cosa/unreported/2409s23cn.pdf>