

Circuit Court for Anne Arundel County  
Case No: 02-C-11-162885

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 2829

September Term, 2018

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RAMEZ GHAZZAOUI

v.

CAROLINA CHELLE

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Graeff,  
Arthur,  
Raker, Irma S.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Graeff, J.

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Filed: August 17, 2020

\*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 is the third appeal in this Court relating to a lawsuit Ramez Ghazzaoui, appellant, brought against Carolina Chelle, appellee and his former spouse, in the Circuit Court for Anne Arundel County. In July 2011, Mr. Ghazzaoui sued Ms. Chelle for, among other things, assault, abuse of process, malicious prosecution, and intentional infliction of emotional distress. *Chelle v. Ghazzaoui*, No. 1259, Sept. Term, 2013, 2016 WL 3613398, at \*6–9 (Md. App. July 6, 2016) (“*Chelle I*”). A jury reached a verdict in favor of Mr. Ghazzaoui in the amount of \$1,748,390. Ms. Chelle filed a post-judgment motion, and in July 2013, the circuit court entered an order remitting the verdict to \$420,825 (the “July 2013 Remittitur Order”). Ms. Chelle noted an appeal to this Court, and we reversed the judgments on four counts and vacated the damages awarded for those counts. *Chelle I*. We remanded the case to the circuit court “for the limited purpose of recalculating the amount of remittitur, minus the awards for the reversed claims.” *Id.* at \*32.

On remand, the circuit court entered a “Revised Order as to Remittitur on Remand” (the “First Revised Order”), reducing the judgment from \$420,825 to \$414,325. Ms. Chelle noted a second appeal, contending that the circuit court disregarded this Court’s remand order and failed to explain the basis for its revisions to the July 2013 Remittitur Order. We agreed, vacating and remanding the case “for reconsideration of the appropriate amount of remittitur in light of the rulings of law made in *Chelle I*.” *Chelle v. Ghazzaoui*, No. 2480, Sept. Term 2016, 2018 WL 824453 at \*9 (Md. App. Feb. 8, 2018) (“*Chelle II*”). We further instructed the court to “provide an explanation for the amounts the court decides to include in a revised remittitur, including an explanation of how the court’s revised award relates to the analysis conducted when the court entered the July 2013 Remittitur Order.” *Id.* In

October 2018, the circuit court issued a “Revised Order as to Remittitur on Second Remand” (the “Second Revised Order”), reducing the judgment from \$414,325 to \$65,325.

On appeal, Mr. Ghazzaoui raises several questions for our review,<sup>1</sup> which we have consolidated, reordered, and rephrased, as follows:

1. Did the circuit court err in denying Mr. Ghazzaoui’s “Motion for Recalculation of Amount of Remittitur,” which alleged that Ms. Chelle was not entitled to a remittitur for failure to comply with Maryland Rule 2-532?
2. Did the circuit court err or abuse its discretion in reducing the damage award?

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

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<sup>1</sup> Appellant’s original questions presented are as follows:

1. Did the Trial Court comply with CoSA’s remand dated in Appeal Case number 2480, September 2016?
2. Does the Appellee have a right to any remittitur whatsoever, and did the Trial Court have the authority to reduce the Trial Jury Verdict Awards?
3. Should the Trial Court have reduced the award for counts 16 and 21 down to \$59,825 as it did in its October 23, 2018 ruling?
4. Should the Trial Court have reduced the award for Count 42 down to \$2,500 as it did in its October 23, 2018 ruling?
5. Should the Trial Court have reduced the awards for counts 39 and 40 down to \$3,000 as it did in its October 23, 2018 ruling?

## **FACTUAL AND PROCEDURAL BACKGROUND**

### **A.**

#### **Relationship History**

Mr. Ghazzaoui and Ms. Chelle were married in 2001. In December 2003, they had a child, M.G. The parties subsequently initiated divorce and child custody proceedings, which were finalized on March 10, 2011. Throughout the parties' history, there have been several child protective services investigations and domestic violence protective order cases against both Mr. Ghazzaoui and Ms. Chelle.

### **B.**

#### **Initial Complaint**

Following the parties' divorce in 2011, Mr. Ghazzaoui filed a 60-count complaint in the Circuit Court for Anne Arundel County alleging various causes of action against Ms. Chelle, including defamation, assault, battery, false arrest, nuisance, fraud, abuse of process, malicious prosecution, and intentional infliction of emotional distress. After numerous counts were dismissed by the circuit court, 11 counts proceeded to the jury for deliberations. The circuit court subsequently categorized these counts as three periods or categories of misconduct.<sup>2</sup>

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<sup>2</sup> In its opinion supporting the July 2013 Remittitur Order, the circuit court divided the counts into three "periods or categories of misconduct" in order to assess and remit the jury's monetary award to Mr. Ghazzaoui. The first period was described as an "intensive period," the second as an "occasional period," and the third, as a "collection of minor assaults." The court also noted some "blurring of the boundaries between them."

Period I, which included counts for malicious prosecution (count 16), intentional infliction of emotional distress (count 20), and abuse of process (count 21), stemmed from allegations that Ms. Chelle falsely accused Mr. Ghazzaoui of violating a July 1, 2008, protective order, resulting in his being “unjustly arrested and detained three (3) times.” The first detention took place from July 14 to July 17, 2008, and it “lasted just over 48 hours.” Mr. Ghazzaoui claimed that the jail jumpsuit he was required to wear caused him to contract a painful “fungal infection of his skin which took two weeks to resolve with antifungal creams.” He also alleged that a GPS tracker, which he was ordered to wear until August 14, 2008, “caused a deep skin and bone injury to [his] ankle,” and it took several weeks to heal. The second detention occurred on August 26, 2008, and it lasted “almost 8 hours.” The third detention occurred on October 22, 2008, and it “lasted nearly three hours.”

Period II included counts for abuse of process (counts 38 and 47), malicious prosecution (count 42), and intentional infliction of emotional distress (count 46). Count 38 stemmed from Ms. Chelle’s filing a petition for protective order on December 1, 2008. Counts 42 and 46 stemmed from Ms. Chelle’s filing a “false charge of second-degree assault against [Mr. Ghazzaoui]” following a May 28, 2010, encounter that resulted in an arrest warrant being issued for Mr. Ghazzaoui. Count 47 was based on Ms. Chelle’s filing a “false charge of second-degree assault” on May 31, 2010, resulting in a warrant for arrest of Mr. Ghazzaoui and her filing a “motion for contempt” on May 13, 2011.

Period III consisted of four separate claims of assault (counts 39A, 39B, 40, 41). The alleged assaults occurred on February 9, 2009, May 28, 2010, May 13, 2011, and May

25, 2011, respectively.<sup>3</sup> Mr. Ghazzaoui contended that, due to the assaults, he suffered “psychological problems, mental anguish, emotional anguish and other similar injuries both temporary and permanent in nature.”

C.

**Jury Verdict and First Remittitur**

On February 7, 2013, following a seven-day trial, the jury returned a verdict for Mr. Ghazzaoui, awarding damages of \$1,748,390. Ms. Chelle filed a “Motion for Judgment Notwithstanding the Verdict, New Trial, and Revisory Power of the Court” (“Ms. Chelle’s Post-Judgment Motion”). She argued that the jury awarded economic damages that were unsupported by the evidence at trial,<sup>4</sup> that the jury “repeated figures for [m]edical expenses on the verdict form” for four counts where “[t]here was no testimony of *four* distinct items of medical damages or out of pocket expenses, at any place in the trial,” and that it was “apparent from the size of the verdict” that the jury impermissibly awarded “punitive and not non-economic compensatory damages.” Ms. Chelle requested that the jury verdict be “set aside and reduced” or a new trial be granted.

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<sup>3</sup> “These allegations . . . included: (1) that on February 9, 2009, Ms. Chelle attempted to run Mr. Ghazzaoui over with her car while he was attempting to secure M.G. in her car; (2) that on May 28, 2010, Ms. Chelle leaped into his car and ‘assailed’ Mr. Ghazzaoui in attempt to extract M.G. from the car; (3) that Ms. Chelle assaulted Mr. Ghazzaoui again on May 13, 2011, in the presence of M.G. and one of M.G.’s friends; and (4) that on May 25, 2011, Ms. Chelle ‘attempted to hold [Mr. Ghazzaoui] hostage on the road demanding that he let her extract [M.G.] from his car in the middle of the road in front of [M.G.]’s school.” *Chelle II*, at \*4.

<sup>4</sup> For example, she argued that “the jury on the verdict sheet entered specific figures for [l]ost wages,” but there was “zero testimony of Mr. Ghazzaoui’s wages.”

On July 17, 2013, the circuit court issued an opinion and order. It granted, in part, Ms. Chelle’s motion and remitted the jury’s verdict to \$420,825, as follows:

Period	Count	Cause of Action	Verdict		July 2013 Remittitur Order	
			Economic	Noneconomic	Economic	Noneconomic
I	16	Malicious Prosecution	\$0	\$500,000	\$0	\$300,000 (concurrent)
	20	Int. Infliction of Emotional Distress	\$2,000	\$500,000	\$0	
	21	Abuse of Process	\$11,800	\$300,000	\$9,825	
II	38	Abuse of Process	\$9,800	\$100,000	\$6,500	\$100,000 (concurrent)
	42	Malicious Prosecution	\$1,900	\$150,000	\$1,500	
	46	Int. Infliction of Emotional Distress	\$0	\$150,000	\$0	
	47	Abuse of Process	\$0	\$200,000	\$0	
III	39A	Assault	\$4,800	\$10,000	\$0	\$1,000
	39B	Assault	\$0	\$5,000	\$0	\$1,000
	40	Assault	\$2,010	\$1,000	\$0	\$1,000
<b>TOTAL AWARDS</b>			\$32,310	\$1,916,000 <sup>5</sup>	\$17,825	\$403,000

In considering and reducing the amount of economic damages awarded by the jury, the circuit court found that “the only specific and compensable items proven” at trial were the legal fees incurred by Mr. Ghazzaoui for representation in the underlying criminal and domestic violence matters. Accordingly, the court apportioned these fees to the

<sup>5</sup> As reflected on the verdict sheet, the jury awarded \$200,000 for count 47, but it did not include this amount in the total damages award submitted to the court.

corresponding counts. The court noted that, although Mr. Ghazzaoui “did testify that he had medical conditions requiring treatment caused by [Ms. Chelle’s] actions,” he did not “offer actual medical bills or any other expenses incurred.” Therefore, as to the claims of injury, i.e., the assault claims, the court did not award Mr. Ghazzaoui any economic damages. Additionally, the court granted “revision as to compensation granted by the jury as to lost wages” because Mr. Ghazzaoui “did not offer any pay stub, W2, tax return or other specific evidence.”

As to the jury’s award of noneconomic damages, the circuit court agreed that it was impermissibly punitive in nature.<sup>6</sup> In considering Period I, the court noted that the common underlying misconduct of each count and its effects occurred “between 7/14/08 and 10/22/08.” Because Mr. Ghazzaoui gave “no separate and distinct explanation for his noneconomic damages to distinguish the harm attributed to one claim or another,” the court determined that there was no basis for the jury “[to award] \$300,000, \$500,000, and \$500,000 for each count separately.” Further, the court found that the \$1.3 million-dollar award for noneconomic damages in Period I was “grossly excessive” because the alleged harms consisted of only “three days plus several hours of detention, three months of emotional distress, a temporary ankle-skin injury, and a temporary skin rash.” The court, therefore, found that the “highest amount that a reasonable jury would award to fairly compensate” him would be \$300,000, concurrent for all three claims.

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<sup>6</sup> Mr. Ghazzaoui’s claim for punitive damages had been dismissed by the circuit court prior to the jury receiving the case for deliberations.



In remitting the damages, the court observed that it had found “no reported Maryland appeal case ever to have granted more than \$100,000 noneconomic compensatory damages for a claim of malicious prosecution, except for *Smithfield Packing Co., Inc. v. Evely*, 169 Md. App. 578 [ , *cert. denied*, 396 Md. 10] (2006), which was reversed on appeal for insufficient evidence.” Additionally, the court noted that, in the case of Kirk Bloodsworth, “a man notoriously convicted of a grisly first-degree murder,” who “spent 8 years on death row before new evidence resulted in his belated acquittal,” the State determined “that \$300,000 was fair compensation for his hardships.” The court further stated that it had found “few malicious prosecution verdicts reported anywhere in the U.S. in excess of \$300,000.”

With respect to Period II, the court noted that this period encompassed a “30-month period” of alleged misconduct by Ms. Chelle occurring between December 1, 2008, and May 13, 2011. These claims related primarily to Mr. Ghazzaoui’s emotional distress due to Ms. Chelle’s false legal claims against him and to “restrictions placed on visits with his daughter.” During trial, however, “several witnesses and a psychologist . . . reported a generally strong and positive relationship between the father and his young daughter.”<sup>7</sup> The court, therefore, found that the \$600,000 in noneconomic damages awarded for Period II was “grossly excessive,” and “the highest amount that a reasonable jury would award to fairly compensate [Mr. Ghazzaoui]” was \$100,000 total for the four claims.

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<sup>7</sup> The court also noted that several of Mother’s allegations were not false, and one took more than 12 months of investigation to resolve.

With respect to Period III, the circuit court observed that the underlying misconduct in this period consisted of three “isolated assaults resulting in no significant injuries and no description even of significant associated emotional distress.” The most serious claim of injury occurred when Ms. Chelle “dug her fingernails into his arm during a brief struggle of the parties’ child and left small marks.” The court, therefore, found that the \$16,000 in noneconomic damages awarded for Period III “grossly excessive for the minor assaults resulting in no injuries,” and “the highest amount that a reasonable jury would award to fairly compensate [Mr. Ghazzaoui] for his noneconomic damages as to these assaults would be \$1,000 per incident for a total of [a] \$3,000 award.”

**D.**

**First Appeal**

On August 8, 2013, Ms. Chelle appealed. We agreed with Ms. Chelle that the evidence was insufficient to support two of the abuse of process claims (counts 38 and 47) and two of the intentional infliction of emotional distress claims (counts 20 and 46). *Chelle I*, at \*32–33. With respect to damages, we stated:

The circuit court’s memorandum opinion granting the remittitur did not apportion damages between each individual claim; instead, it apportioned damages by combining the counts associated with individual events as presented by Mr. Ghazzaoui in his complaint. We are unable to determine, therefore, the correct amount of damages to be vacated under the remittitur because damages from some surviving claims are commingled with the reversed claims. However, the jury did apportion damages for each count. In reversing the judgments on counts 20, 38, 46, and 47, we also vacate the jury’s award of damages on those counts. Thus, we remand to the circuit court for the limited purpose of recalculating the amount of remittitur, minus the awards for the reversed claims.

*Chelle I*, at \*32.

**E.**

**Second Remittitur and Second Appeal**

On January 6, 2017, the circuit court issued a “Revised Order as to Remittitur on Remand,” reducing the total judgment to \$414,325. The July 2013 Remittitur Order was revised as follows:

Period	Count	Cause of Action	July 2013 Remittitur		January 2017 Revised Remittitur Per Remand	
			Economic	Noneconomic	Economic	Noneconomic
I	16	Malicious Prosecution	\$0	\$300,000 (concurrent)	\$00	\$300,000 (concurrent)
	20	Int. Infliction of Emotional Distress	\$0		Vacated	
	21	Abuse of Process	\$9,825		\$9,825	
II	38	Abuse of Process	\$6,500	\$100,000 (concurrent)	Vacated	\$100,000 (concurrent)
	42	Malicious Prosecution	\$1,500		\$1,500	
	46	Int. Infliction of Emotional Distress	\$ 0		Vacated	
	47	Abuse of Process	\$ 0		Vacated	
III	39A	Assault	\$0	\$1,000	\$0	\$1,000
	39B	Assault	\$0	\$1,000	\$0	\$1,000
	40	Assault	\$0	\$1,000	\$0	\$1,000
<b>TOTAL AWARDS</b>			\$17,825	\$403,000	\$11,325	\$403,000

Ms. Chelle again appealed, asserting that the order contained “no analysis of the evidence relating to the dismissed and remaining claims, and reflects no attempt to enter a revised judgment in accordance with the mandate.” *Chelle II*, at \*7. Ms. Chelle argued that the circuit court failed to make any “downward adjustment of the \$400,000 in noneconomic damages awarded for the seven claims that comprised Periods 1 and 2, even

though [this Court] granted Ms. Chelle judgment as a matter of law on four of the seven claims in these two Periods.” *Id.*

We agreed that the circuit court had not provided an explanation regarding its adjustments to the July 2013 Remittitur Order. *Chelle II*, at \*9. As to the noneconomic damages in Period II, we observed that:

[W]ithout any explanation, the judge subtracted zero dollars from Period 2’s concurrent noneconomic damage award of \$100,000. The circuit court did not explain why it left untouched the amount of damages that had been previously allocated to four counts, three of which have now been eliminated. In its opinion explaining the computations in the July 2013 Remittitur Order, the circuit court noted that Period 2’s concurrent noneconomic damage award “relate[s] primarily to the father’s report of emotional distress as to the mother’s false legal claims against him . . . .” But, on remand, even though we had reversed three claims related to emotional distress—two abuse of process claims and one intentional infliction of emotional distress claim—the court did not explain its rationale for again including \$100,000 in noneconomic damages for one surviving count.

*Id.*

Similarly, as to Period I, we observed that, despite this Court’s ruling vacating count 20, “the circuit court provided no explanation of its rationale for awarding Mr. Ghazzaoui the same amount of damages for Period I, despite one less claim.” *Id.* We, therefore, vacated the order and remanded “for reconsideration of the appropriate amount of remittitur in light of the rulings of law made in *Chelle I*.” We also directed the circuit court to “provide an explanation for the amounts the court decides to include in a revised remittitur, including an explanation of how the court’s revised award relates to the analysis conducted when the court entered the July 2013 Remittitur Order.” *Id.*

**F.**

### Third Remittitur

After the second remand, Mr. Ghazzaoui filed a “Motion for Recalculation of Amount of Remittitur in Accordance with COSA’s New Mandate” (“Motion for Recalculation”), raising three issues. First, Mr. Ghazzaoui argued that Ms. Chelle should be denied any remittitur for failure to comply with Maryland Rule 2-532 because “she did not make a motion for judgment at the close of all evidence at the jury trial.” The court rejected Mr. Ghazzaoui’s argument, finding that Ms. Chelle’s Post-Judgment Motion included a timely request for new trial pursuant to Maryland Rule 2-533, a proper basis for remittitur. The court also noted that Mr. Ghazzaoui had failed to preserve any objection in 2013 regarding Ms. Chelle’s purported failure to move for judgment at the close of evidence.

Second, Mr. Ghazzaoui argued that, even though this Court vacated count 47, the \$200,000 awarded by the jury in noneconomic damages for that count should be included in a revised monetary judgment because the jury “unintentionally and erroneously” failed to include the \$200,000 in the total monetary award, and therefore, it was not accounted for in the court’s first remittitur. The court rejected Mr. Ghazzaoui’s argument as moot, given the decision in *Chelle I*, vacating count 47.

Third, Mr. Ghazzaoui argued that “reversal of Count 38 had “absolutely no effect as a matter of law on the total award.” He asserted that he was not awarded money for that count because the circuit court “erroneously combined the verdict on counts 42b, 46 and 47 as concurrent with count # 38.” The court stated that Mr. Ghazzaoui’s logic was not “sufficient to countermand the appellate court’s remand instructions.”

In October 2018, the court issued an order denying Mr. Ghazzaoui’s “Motion for Recalculation of Remittitur.” The court explained that, in the First Revised Order, its “response had been simply to delete the reversed counts and to leave the balance of the damages award standing, despite their ‘commingled’ aspect.” Citing *Shapiro v. Chapman*, 70 Md. App. 307, 315 (1987), the court explained that it did so “bearing in mind precedents in which Maryland appellate courts have made clear that there can be only one recovery of damages for one wrong or injury and considering that both Plaintiff’s pleadings and his testimony generally lumped together his descriptions of harm in periods I and II.” The court noted that, in the second remand, the appellate court had provided more explicit instructions and stated that the conduct on counts 20 and 46 was not “extreme and outrageous.” After hearing further argument from the parties, the court found that further remittitur relief was warranted.

With respect to Period I, the court concluded that “a further reduction of noneconomic damages is appropriate given the appellate recognition that the conduct for which compensation was awarded did not reach the ‘extreme and outrageous’ standard and that separate claims, for which the jury awarded separate compensation, should not be combined.” After further review, the court found that cases that awarded noneconomic damages in the amount of \$300,000 were distinguishable from the present case and typically involved more vulnerable plaintiffs.

For reference, the court considered *Bowden v. Caldor, Inc.*, 350 Md. 4 (1998), in which a judge remitted a jury award from “\$110,000 to \$60,000” for a “juvenile’s wrongful detention” that occurred “over the course of two days” and included “public humiliation,

verbal abuse, handcuffing, and a coerced confession.” The court noted that the Kirk Bloodsworth case, which the court had referenced earlier, involved a \$300,000 award by the Maryland Board of Public Works to an individual wrongly-convicted of murder who served eight years on death row, a harm much more extensive than that suffered by Mr. Ghazzaoui. The circuit court, finding this case to be similar to *Bowden*, reduced the noneconomic damages for Period I to \$50,000, “apportioned between counts 16 and 21 at \$25,000 each.”

As to Period II, the court noted that the only remaining count was count 42(b), malicious prosecution. The court found that this claim “did not include any detention or physical contacts,” and although there were “conclusory claims of emotional distress,” the evidence indicated that Mr. Ghazzaoui “was unaware of [Ms. Chelle’s] May 31, 2010, charges against him until he was in the midst of the parties’ divorce and custody trial.” Upon discovery, Mr. Ghazzaoui was able to convert the charges’ warrant to a summons, and the issue was “considered jointly with domestic violence petitions, so that no additional court hearings were required.” The court then found that the minimal harms associated with count 42 were comparable to the minor assaults in Period III, revising the noneconomic damages award to \$1,000.

The court’s second revised remittitur adjusted the damages as follows:

Period	Count	Cause of Action	January 2017 Revised Remittitur Per Remand		October 2018 Revised Remittitur Per Second Remand	
			Economic	Noneconomic	Economic	Noneconomic
	16	Malicious Prosecution	\$0		\$0	\$25,000

I	20	Int. Infliction of Emotional Distress	Vacated	\$300,000 (concurrent)	Vacated	Vacated
	21	Abuse of Process	\$9,825		\$9,825	\$25,000
II	38	Abuse of Process	Vacated	\$ 100,000 (concurrent)	Vacated	Vacated
	42	Malicious Prosecution	\$1,500		\$1,500	\$ 1,000
	46	Int. Infliction of Emotional Distress	Vacated		Vacated	Vacated
	47	Abuse of Process	Vacated		Vacated	Vacated
III	39A	Assault	\$0	\$1,000	\$0	\$1,000
	39B	Assault	\$0	\$1,000	\$0	\$1,000
	40	Assault	\$0	\$1,000	\$0	\$1,000
<b>TOTAL AWARDS</b>			\$11,325	\$403,000	\$11,325	\$54,000

This appeal followed.

### STANDARD OF REVIEW

The Court of Appeals recently explained:

It is often said that a trial court’s decision to grant or deny a remittitur is discretionary with the trial court and is thus reviewed on appeal under an abuse of discretion standard. *E.g., State v. Walker*, 230 Md. 133, 137, 186 A.2d 472 (1962). . . . [T]his standard of review likely derives from the fact a motion for, or order of, remittitur generally relates to a trial court’s evaluation of the amount of the jury’s verdict in relation to the evidence the jury heard—that is, whether the verdict is “grossly excessive,” or “shocks the conscience” of the trial judge.

*Rodriguez v. Cooper*, 458 Md. 425, 437 (2018). *Accord Brooks v. Jenkins*, 220 Md. App. 444, 474 (2014) (“We review a trial court's decision to reduce a jury verdict (or not) for an abuse of discretion.”).



## DISCUSSION

### A.

#### Ms. Chelle’s “Right” to Remittitur

Mr. Ghazzaoui argues that the circuit court had no authority to reduce the verdict because, pursuant to Maryland Rule 2-532, “a party may move for judgment notwithstanding the verdict only if that party made a motion for judgment at the close of all the evidence,” and Ms. Chelle did not make a motion for judgement at the close of all evidence. Ms. Chelle disagrees, arguing that the circuit court correctly rejected Mr. Ghazzaoui’s claim that she had no right to remittitur. She asserts that her “post-trial motion for a new trial ‘properly is the basis for a remittitur claim.’” In any event, she contends that Mr. Ghazzaoui waived his objection to remittitur when he “failed to appeal or cross-appeal the July 2013 Remittitur.”

We have already determined that Mr. Ghazzaoui waived his right to argue that remittitur was improper based on his failure to file a cross-appeal within the time allotted from the first order reducing the damages award. *Chelle I*, at \*1 n.2. *See Pasarew Const. Co. v. Tower Apartments*, 208 Md. 396, 403 (1955) (Questions that “might have been, but were not, raised or presented on a former appeal will not be considered on a subsequent appeal, . . . either as an application of the ‘law of the case’ rule or the rule of res judicata.”).

In any event, Mr. Ghazzaoui’s contention is without merit. As the circuit court correctly observed, Ms. Chelle’s 2013 Post-Judgment Motion not only sought judgment notwithstanding the verdict, but it also requested a new trial and revision of the jury’s monetary award, a proper basis for remittitur. Maryland Rule 2-533 provides that “[a]ny

party may file a motion for new trial within ten days after entry of judgment.” As we have consistently stated: “The trial practice of granting a new trial sought by the defendant, unless the plaintiff remit a portion of the verdict which the trial court deems excessive, is well established in Maryland.” *Hebron Volunteer Fire Dep’t, Inc. v. Whitelock*, 166 Md. App. 619, 628, (2006) (quoting *Turner v. Washington Sub. San. Comm’n*, 221 Md. 494, 501–02 (1960)). *Accord Cunningham v. Baltimore County*, \_\_\_ Md. App. \_\_\_, No. 3461, Sept. Term, 2018, 2020 WL 3566871, at \*32 (filed July 1, 2020). “[T]rial judges have broad discretion to grant conditional new trial motions, requiring prevailing plaintiffs to agree to remittitur or face new trial.” *Owens-Illinois, Inc. v. Hunter*, 162 Md. App. 385, 415, *cert denied*, 388 Md. 674 (2005).

In Ms. Chelle’s Post-Judgment Motion, she cited Maryland Rule 2-533 directly and requested that the “jury verdict [be] set aside and reduced to the \$5,000 that is defensible and reasonable and supported by evidence or a new trial in toto.” Accordingly, Ms. Chelle’s compliance with Maryland Rule 2-532 was immaterial to the July 2013 order reducing the verdict.

## **B.**

### **Reduction of Award**

Mr. Ghazzaoui contends that the circuit court erred in reducing the damages to \$65,325. He argues that the court failed to comply with the remand order, which required the court to explain the basis for its remittitur. Ms. Chelle responds that Mr. Ghazzaoui has no basis for this argument, asserting that the circuit court did comply with *Chelle II*’s mandate.

We agree with Ms. Chelle that the circuit court complied with the order of remand in explaining the basis for its remittitur. We also are persuaded that the circuit court did not abuse its discretion in its judgment in that regard. *See Owens–Illinois, Inc.*, 162 Md. App. at 415 (“We will not disturb a trial judge's remittitur decision except in cases of an abuse of discretion.”). We note that, in remitting a jury verdict, the circuit court does not employ any “precise formula, nor a detailed checklist of considerations.” *Hebron*, 166 Md. App. at 642. Instead, the circuit court must make a “fair and reasonable assessment of the evidence it has seen and heard during the trial and determine the highest amount that a reasonable jury would award to fairly compensate a plaintiff for his or her loss based on that evidence.” *Id.* at 642–43. In doing so, the court is permitted to use “its own common knowledge” and “its experience with other [related] verdicts.” *Id.* at 643 (quoting *Fertile v. St. Michael’s Med. Ctr.*, 779 A.2d 1078, 1089 (2001)). With that background, we address the court’s ruling.

**1.**

**Period I: Counts 16 and 21**

As to Period I, Mr. Ghazzaoui asserts that “the lower court did not explain its choice of \$25,000 for Count 16 and \$25,000 for Count 21.” He contends that the court declared, in conclusory fashion, that it was “appropriate to revise the noneconomic damages,” while providing scant explanation for its reductions. Mr. Ghazzaoui further contends that the only “partial explanation” provided by the court was its use of the Kirk Bloodsworth case “point of reference.” He claims that this was not a sufficient basis for

the court’s reductions because the circuit court “admitted in writing that the Bloodworth case [was] not comparable.”

Ms. Chelle contends that the circuit court explained that the reduction was warranted due to “the minimal claimed injuries associated with the remaining, post-*Chelle I* Period-1 claims[.]” She asserts that the circuit court also compared Mr. Ghazzaoui’s award to other “more vulnerable plaintiffs” and used this comparison in making its reduction. She contends the court made a “fair and reasonable assessment of the evidence” and there is no reason to disturb its ruling.

The circuit court stated that the harms stemming from Period I included Mr. Ghazzaoui’s “three days plus several hours of detention, three months of emotional distress, a temporary ankle-skin injury, and a temporary skin rash.” The court explained the basis for its conclusion that an appropriate noneconomic damages award for these claims was \$50,000, \$25,000 for each count, and we conclude that the court did not abuse its discretion in this regard.<sup>8</sup>

## 2.

### **Period II: Count 42**

As to Period II, Mr. Ghazzaoui argues that there was no justification for the “noneconomic award for remaining count 42 to be reduced to \$1,000 on [the] basis of an arbitrary comparison of Chelle’s actions to the assaults reported in Counts 39 and 40.” Ms.

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<sup>8</sup> As to Count 21, Mr. Ghazzaoui also contends that the court did not explain “how it went from the jury’s award of \$11,880 down to \$9,825 for economic damages.” This, however, was not a commingled damage award that required reassessment following *Chelle I*.

Chelle contends that the circuit court did not abuse its discretion in concluding that the noneconomic harm for Period II was similar to the Period III harm and reducing the noneconomic damages for Period II accordingly. We agree with Ms. Chelle.

The court noted that the harm alleged and testified to regarding “malicious prosecution count 42(b)—the sole surviving period II claim—did not include any detention or physical contacts.” Although Mr. Ghazzaoui made conclusory claims of emotional distress attributable to Period II, the court noted that the evidence showed that he was unaware of the underlying “charges against him until he was in the midst of the parties’ divorce and custody trial,” and upon discovery, “he promptly succeeded in converting the charges’ warrant to a summons.” Thereafter, he was “successful in requesting the matter be considered jointly with domestic violence petitions, so that no additional court hearings were required.” The court then compared these damages to the assault claims asserted by Mr. Ghazzaoui, which consisted of “isolated assaults resulting in no significant injuries” or emotional distress and which the court awarded \$1,000 each in the July 2013 Remittitur Order. The court did not abuse its discretion in comparing these claims that did not result in significant injury or associated emotional distress, and it did not abuse its discretion in reducing the noneconomic damages for Period II.

### 3.

#### **Period III: Assault**

As to Period III, Mr. Ghazzaoui asserts that the circuit court provided “no explanation as to how it reached the amounts of \$2,000 and \$1,000 respectively” for these two counts. Ms. Chelle responds that the *Chelle II* court “expressly observed that it was

‘unnecessary to examine the damage award in Period 3,’” because they were all affirmed by *Chelle I*. She contends that any attempt to re-calculate the damages would have “strayed” beyond this Court’s “clear mandate.”

This Court’s decision in *Chelle I*, did not affect the damages awarded in Period III. Accordingly, the trial court properly limited its revised remittitur order to the damages in Periods I and II.

**JUDGMENT OF THE CIRCUIT  
COURT FOR ANNE ARUNDEL  
COUNTY AFFIRMED. COSTS  
TO BE PAID BY APPELLANT.**