

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

No. 0772

September Term, 2015

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MARLENA JAREAUX

v.

GAIL PROCTOR

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Kehoe,  
Nazarian,  
Eyler, James R.  
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Nazarian, J.

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Filed: October 4, 2016

\*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.

Gail Proctor brought a derivative claim in the Circuit Court for Howard County (“Howard County”) against the sole co-member of her property management limited liability company, Marlena Jareaux. Ms. Proctor prevailed, and that court entered judgment in favor of “Gail Proctor on behalf of Proceaux Properties, LLC [(the “Company”)].” The corresponding Notice of Recorded Judgment (“Howard County Notice”), issued by the Clerk of that court, declared “Judgment in Favor of: Proctor, Gail R.” The fact and validity of that judgment are not at issue here.

Instead, this case arises from Ms. Proctor’s so-far-unsuccessful efforts to execute against the judgment. She filed the judgment for recording and indexing in the Circuit Court for Baltimore City—Ms. Jareaux apparently has assets there—along with a request for a writ of execution. The Clerk in Baltimore City entered a Notice of Recorded Judgment (“Baltimore City Notice”) that mirrored the language in the Howard County Notice. Ms. Jareaux asked the circuit court to exercise its revisory power to correct the Notice and to stay the writ of execution pending resolution of the error because, she argued, the Notice effectively created two judgment creditors—Ms. Proctor, individually, and the Company. The court denied the motion, Ms. Jareaux appeals, and we affirm.

## **I. BACKGROUND**

### **A. The Howard County case.**

Ms. Proctor and Ms. Jareaux were co-owners of a property management company. The details aren’t important to this case, but we can see from the orders before us that their business relationship unraveled badly. Ms. Proctor filed a derivative suit in the Circuit Court for Howard County alleging claims for gross negligence, breach of contract, unjust

enrichment, and constructive fraud against Ms. Jareaux, and on August 27, 2012, after a three-day bench trial, that court entered judgment in favor of “Gail Proctor on behalf of Proceaux Properties, LLC.” The judgment awarded \$49,942.00 in damages and enjoined “[Ms.] Jareaux from any further activities regarding [the Company],” including “any action to thwart efforts [Ms.] Proctor might make to salvage [the Company]’s fortunes or to be in a position to pay off debts of the [Company],” among other relief. The next day, the Clerk issued the Howard County Notice, which noted “Judgment in Favor of: Proctor, Gail R.”

Ms. Jareaux filed a Motion to Reconsider and Alter/Amend Judgment and a Motion for a New Trial, both of which were denied on February 13, 2013. She appealed, but the appeal was dismissed for reasons that don’t matter here.

In the meantime, Ms. Jareaux filed two more motions in the trial court: on February 6, 2013, a Motion to Correct Clerical Error in Judgment and in the Electronic Maryland Judiciary Case Record, and on September 23, 2014, a Motion to Vacate Enrolled Judgment and Motion for Hearing on Motion to Correct Clerical Error. After a hearing, those motions were denied, and after the court denied her motion to reconsider, Ms. Jareaux appealed those decisions to this Court. And in an unreported opinion, *Jareaux v. Proctor*, No. 322, Sept. Term 2015 (Md. App. 19, 2016) (“*Jareaux I*”), we affirmed.

**B. The Baltimore City proceedings.**

Ms. Proctor later asked the Circuit Court for Baltimore City to record the Howard County judgment and index notice of a lien. On April 23, 2013, the circuit court issued the Baltimore City Notice, which, like the Howard County Notice, noted the “Judgment in Favor of: Proctor, Gail R.” Ms. Proctor also requested, and the court issued on

February 12, 2015, a Writ of Execution that listed “Gail R Proctor” as the judgment creditor.

On April 27, 2015, Ms. Jareaux filed a Motion to Vacate Judgment Enrolled in Error By Clerk and to Stay a Requested Writ of Execution (“Motion to Vacate”). Ms. Proctor moved to strike that motion. On June 16, 2015, the court denied Ms. Jareaux’s Motion to Vacate, and, the following day, granted Ms. Proctor’s motion to strike. Ms. Jareaux noted a timely appeal from those decisions.

## II. DISCUSSION

Ms. Jareaux raises two issues on appeal.<sup>1</sup> She contends *first* that the circuit court lacked subject matter jurisdiction<sup>2</sup> to record and index the Baltimore City Notice (and the Writ of Execution that flows from it) “in the name of both an individual and a limited liability company when the original circuit court ... judgment listed one party name to

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<sup>1</sup> Ms. Jareaux briefed the following Questions Presented:

1. Did the circuit court exceed its authority by recording and indexing a judgment in the name of both an individual and a limited liability company when the original circuit court making judgment listed one party name to receive judgment?
2. Did the lower court make an error by allowing the new judgment creditor to execute on a Writ of Execution and by denying the Appellant’s Motion to Vacate Judgment Enrolled in Error by Clerk?

<sup>2</sup> A party may challenge subject matter jurisdiction at any time. *Evans v. Evans*, 75 Md. App. 364, 372 (1988).

receive judgment.” *Second*, she claims that the circuit court erred when it denied her Motion to Vacate and granted Ms. Proctor’s motion to strike.<sup>3</sup> Both arguments flow from the premise that the court mis-recorded and mis-indexed the Howard County judgment in favor of Ms. Proctor on behalf of the Company. But we rejected this premise in *Jareaux I*, and that decision drives the outcome here as well. *See* Md. Rule 1-104(b)(1) (unreported opinions may be cited “when relevant under the doctrine of the law of the case, res judicata, or collateral estoppel”).

In *Jareaux I*, Ms. Jareaux argued that the Circuit Court for Howard County should have revised the Howard County Notice because it “had the net effect of almost creating a new Order.” Slip op. at 7. The “clerical error” she identified there is the same she alleges here: the court’s final order ordered judgment in favor of Ms. Proctor “on behalf of” the Company, but the clerk entered judgment on the docket in favor of “Proctor, Gail R.” *Id.*

We began by explaining that the entry of judgment is a ministerial act:

Rule 1-202(m) and Rule 2-601, taken together, make clear that **two acts must occur for an action by a court to be deemed the granting of a judgment: the court must render a final order and the order must be entered on the docket by the clerk.** Once both steps have occurred, rendition and entry, a judgment has been created. **Rendition of judgment is . . . the court’s pronouncement,** by spoken word in open court or by written order filed with the clerk, **of its decision upon the matter submitted to it for adjudication. The entry of a**

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<sup>3</sup> Ms. Jareaux is right that we review these decisions for abuse of discretion. *See Beyond Sys., Inc. v. Realtime Gaming Holding Co., LLC*, 388 Md. 1, 28 (2005) (citation omitted) (A court abuses its discretion “where no reasonable person would take the view adopted by the [trial] court.”); *Remson v. Krausen*, 206 Md. App. 53, 60-61 (2012) (reviewing the denial of a motion to vacate for abuse of discretion).

**judgment is the purely ministerial act of placing a judgment in the permanent record of a court.**

*Id.*, slip op. at 8 (emphasis in original) (quoting *Bd. of Liquor License Comm'rs for Balt. City v. Fells Point Café, Inc.*, 344 Md. 120, 127-28 (1996)). There was no dispute that the Howard County court's order expressed the unambiguous intent to find in favor of Ms. Proctor on behalf of the Company—the only question was whether the clerk somehow had mis-transcribed the winner, and judgment creditor, when memorializing the judgment in the docket. Ms. Jareaux argued, as she argues here, that the notation of judgment in favor of Ms. Proctor without a specific reference to the Company altered the judgment on the derivative action into an individual judgment. *See id.* We disagreed:

A Notice of Recorded Judgment is required to be issued by the clerk “[p]romptly after entry” of a judgment. Md. Rule 2-601(c). Jareaux has cited no authority, nor have we found any, stating that a clerical error in a Notice of Recorded Judgment affects, in any substantive manner, a judgment that is duly rendered by the court and entered by the clerk under Rule 2-601(a) and (b).

Indeed, Jareaux failed to show any error in the Notice of Recorded Judgment. The Notice states that the judgment is in favor of Proctor. The Notice does not say that the judgment is “on behalf of” the Company; but it also does not say that the judgment is in favor of Proctor “individually.” The Notice is simply silent, and thus is not inconsistent with the trial court's August 27, 2012 order. Jareaux also did not submit an affidavit from the Clerk of the Court stating that the Notice of Recorded Judgment contained an incorrect application of the court's order, or that a court order was needed to correct any such error; nor did Jareaux subpoena the Clerk to testify that the Notice of Recorded Judgment was incorrect. In fact, Jareaux conceded in her motion to vacate that the “judgment is recorded within the Circuit Courts of Howard County and Baltimore City in Proctor's name alone *due to the character field limitation in the case management software* that auto-

populates into the judgment indexing system.” (Emphasis added.) In sum, Jareaux did not present any law or evidence that the Notice of Recorded Judgment actually contained “a nonconformity of process or procedure.” See *Pelletier v. Burson*, 213 Md. App. 284, 290 (2013).

*Id.*, slip op. at 8-9 (emphasis in original) (footnote omitted).

This holding—that the language in the Howard County Notice properly characterized the Howard County judgment—resolves this appeal as well. The relevant language in the Baltimore City Notice is identical to the disputed language in the Howard County Notice. The circuit court recorded and indexed the Howard County judgment, then issued a Notice identical to the Howard County Notice. Because Ms. Jareaux “failed to show any error in the Notice of Recorded Judgment” in that court, *id.*, slip op. at 8, a notice that tracks the Howard County Notice tracks the Howard County judgment.

Under Maryland Rule 2-535(d), a court may exercise revisory power over its judgments, and a court may correct a purely clerical mistake at any time. A mistake in this context “is limited, however, to jurisdictional error, such as where the Court lacks the power to enter judgment.” *Pelletier*, 213 Md. App. at 291 (quoting *Green v. Ford Motor Credit Co.*, 152 Md. App. 32, 51 (2003)). In the wake of *Jareaux I*, there was no clerical error to correct here, nor any element of the Baltimore City circuit court’s decisions to revise, nor any doubt that the circuit court had the authority to register and index the judgment. See Md. Rule 2-623(a). Like the entry of judgment itself, the acts of registering

and indexing the judgment of a sibling county were ministerial acts the court was required to perform, and the court committed no error in performing them here.

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