Circuit Court for Montgomery County
Case No. 382979-V

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 28

September Term, 2017

CHARLES S. RAND

v.

STEVEN STEINBERG

Nazarian,
Shaw Geter
Davis, Arrie W.
(Senior Judge, Specially Assigned),*

JJ.

Opinion by Nazarian, J.

Filed: August 31, 2018

* Judge Davis was a Senior Judge of this Court when the case was submitted, but he has subsequently retired and has not participated in the decision or preparation of this opinion. MD. CODE (1973, 2013 Repl. Vol.), § 1-403(b) of the Courts and Judicial Proceedings Article.

This case arises from a lengthy, acrimonious dispute that began in 2004 when Steven Steinberg retained Charles Rand to represent him in an employment dispute. Mr. Rand sued Mr. Steinberg to collect his fee, and Mr. Steinberg sued Mr. Rand for malpractice. That suffices for the history; the remaining details aren't relevant to the questions before us now. This case arises from a collection action initiated on October 11, 2013, when Mr. Steinberg enrolled a $40,000 consent judgment against Mr. Rand in the Circuit Court for Montgomery County. The consent judgment had originated in the United States Bankruptcy Court for the District of Maryland in connection with Mr. Rand's filing for bankruptcy.

Mr. Rand has not paid the judgment, and this is the second time that the parties are before this Court in this case. We dismissed the first appeal on the ground that the challenged order was neither a final order nor an appealable interlocutory order. *Steinberg v. Rand*, No. 1807, Sept. Term 2014 (Md. App. Dec. 31, 2015). In this appeal, both Mr. Rand and Mr. Steinberg challenge the circuit court's denial of their motions to alter or amend. Those motions challenged an order entered by the circuit court that modified the order that Mr. Steinberg challenged in the first appeal. Mr. Rand also attempts to challenge an order directing a garnishee in this case to pay a judgment in a different case that was entered against her and in favor of Mr. Rand's limited liability company into the registry of the circuit court. We affirm.

I. BACKGROUND

This case is all about Mr. Steinberg's attempts to collect the enrolled judgment,

which was entered against Mr. Rand personally. Among the steps he has taken, Mr. Steinberg has requested writs of garnishment, at least some of which the circuit court entered, against various garnishees. Mr. Steinberg also attempted to reach Mr. Rand's interest in his single member limited liability company, McKernonRand, LLC ("McKernonRand") by filing a motion for a charging order on May 20, 2014. As we discuss further below, a "charging order" is a procedural mechanism by which a judgment creditor can obtain an order charging the debtor's interest in a limited liability company, partnership, or corporation. *See* MD. CODE (1975, 2014 Repl. Vol.), §§ 4A-607(b)(1), 9A-504(a) and 10-705 of the Corporations and Associations Article ("CA"); Maryland Rules 2-649(b), 2-651; *Burnett v. Spencer*, 230 Md. App. 24, 33 (2016); *see also* PAUL V. NIEMEYER, LINDA M. SCHUETT & JOYCE E. SMITHEY, MARYLAND RULES COMMENTARY 749 (4th ed. 2014). Relying on CA § 4A-607 and Maryland Rule 2-649, Mr. Steinberg requested an order charging Mr. Rand's interest in McKernonRand toward payment of the enrolled judgment, and specifically that (1) McKernonRand pay to Mr. Steinberg all distributions that would otherwise be payable to Mr. Rand and (2) Mr. Rand be enjoined from transferring, conveying or otherwise disposing of any property owned by the LLC or Mr. Rand's interest in it. *See Steinberg*, No. 1807, Sept. Term 2014, slip op. at 2.

On September 15, 2014, the circuit court held a hearing on several open issues, including Mr. Steinberg's motion. *See Steinberg*, No. 1807, Sept. Term 2014, slip op. at 2. Mr. Rand, through counsel, objected to the motion on the ground that he had not been timely served, and in fact had only just learned of the motion about five days before the

hearing, even though it had been filed months earlier. *Id.* Mr. Steinberg, also through counsel, responded that Maryland Rule 2-649 only requires service of the charging *order* and not the motion requesting the order, and that he did not serve the motion because of Mr. Steinberg's concern that providing too much advance notice to Mr. Rand would allow him to dissolve the LLC or otherwise dissipate its assets. *See id.* at 2–3. Mr. Steinberg's concerns apparently were based on Mr. Rand's history of hiding and transferring assets.[1] *Id.* at 3.

As we observed in the first appeal, *id.*, the circuit court listened to the parties' concerns at the September 2014 hearing and "articulated the following solution":

> The second paragraph [of the proposed order] says that McKernon Rand LLC shall sequester and pay over to the judgment creditor all distributions of any kind whatsoever otherwise payable to the judgment debtor, Charles S. Rand, to account for said payments to this Court and to the judgment creditor until such time as the judgment plus interest costs entered against the judgment debtor has been paid in full and satisfied.
>
> So it is my understanding we are going to be taking that paragraph out, just leaving the last paragraph[:] The Defendant is enjoined from transferring, conveying, assigning or otherwise disposing of any property owned by McKernon Rand or defendant's interest.

Id. at 3 (citing circuit court transcript). The parties and the court went on to discuss Mr. Rand's ability to pay for McKernonRand's operating expenses and his request to maintain

[1] *See Greystone Operations, LLC v. Steven Steinberg*, No. 454, Sept. Term 2016, slip op. at 1–2 (April 12, 2017) (unreported opinion affirming order of circuit court setting aside the fraudulent transfer of an automobile from Mr. Rand to an LLC formed by his daughter and her husband two days before the transfer).

a salary. *See id.* Mr. Steinberg objected but the court ultimately allowed a "partnership draw" of $2,000 per month to Mr. Rand. *Id.*

On September 18, 2014, the court entered a written order memorializing its oral ruling at the hearing. The order enjoined Mr. Rand from transferring or disposing of any property of McKernonRand, LLC, or of his interest in it:

> [It is] ORDERED, that [Mr. Rand] is enjoined from transferring, conveying, assigning, or otherwise disposing of any property owned by McKernonRand, LLC or [Mr. Rand]'s interest in McKernonRand LLC, except for reasonable operating expenses and no more than $2,000.00 for [Mr. Rand]'s monthly partnership draw, documentation of which must be provided monthly to Plaintiff's counsel.

Id. at 4. Both parties appealed the September 2014 order to this Court. Mr. Rand voluntarily dismissed his appeal. *Id.* On December 31, 2015, we dismissed Mr. Steinberg's appeal on the ground that the September 2014 order was neither a final judgment nor an appealable interlocutory order. *Id.* at 13–15.

On December 22, 2015, the Court of Appeals indefinitely suspended Mr. Rand from the practice of law. *Attorney Grievance Comm'n of Md. v. Rand*, 445 Md. 581 (2015).

On July 8, 2016, Mr. Steinberg moved the circuit court for an order amending the September 2014 order on the ground that Mr. Rand's suspension from the practice of law should preclude him from continuing to draw a salary for work he was not authorized to do. Mr. Steinberg also repeated his original request for a charging order, and specifically for the court to direct that any distributions payable to Mr. Rand from McKernonRand be paid to him. Mr. Steinberg additionally requested that the court assign to him an $8,310

judgment that had been entered in favor of McKernonRand in another case and against a garnishee in this case, Michelle Baldwin. On the same day, Mr. Steinberg filed a separate motion requesting that the court order Ms. Baldwin to pay the judgment into the registry of the court on the ground that the judgment would then be protected from any attempts by Mr. Rand to dispose of the money.

On August 11, 2016, the court entered (1) a two-page memorandum opinion, (2) an order modifying the September 2014 charging order ("Modified Order"), and (3) an order directing that Ms. Baldwin deposit the $8,310 judgment into the registry of the circuit court ("Baldwin Order"). In its opinion, the court observed, without elaborating, that although Mr. Steinberg's motion to modify had "overreache[d]," the court would nevertheless address the issue of whether the $2,000 draw should continue in light of Mr. Rand's suspension from the practice of law. The court held that the draw should cease, but could resume were Mr. Rand reinstated to the practice of law.

The court then went on to make additional observations about the procedural posture of the case. Specifically, it noted that a conservator had been appointed in a related case and that it would not make a decision about the disposition of the Baldwin judgment funds or modify the September 2014 charging order further until all parties and the conservator had been given an opportunity to be heard. The Modified Order read as follows, with the differences from the September 2014 order highlighted in bold:

> [It is] ORDERED, that the Charging Order (D.E. 130) shall be modified as follows:
>
> [Mr. Rand] is enjoined from transferring, conveying, assigning, or otherwise disposing of any property owned by

> McKernonRand, LLC or [Mr. Rand]'s interest in McKernonRand, LLC, except for reasonable operating expenses, documentation of which must be provided monthly to [Mr. Steinberg]'s counsel. **[Mr. Rand] shall immediately cease taking a monthly partnership draw from McKernon Rand, LLC in any amount until his license to practice law is reinstated. Upon the reinstatement of his license to practice law, [Mr. Rand] may resume the monthly withdrawal of no more than $2,000.00 for his partnership draw, documentation of which must be provided monthly to [Mr. Steinberg]'s counsel.**

(Emphasis added.)

Nobody filed a notice of appeal in connection with this order. On August 12, 2016, though, Mr. Rand filed a motion to alter or amend the Modified Order, citing Maryland Rule 2-534 and arguing that he should be allowed to continue to "take draws from the fees he earned . . . while fully licensed to practice law." He did not object to the Baldwin funds being paid into the registry of the court, but appears instead to have conceded that it was proper for the court to order Ms. Baldwin to pay the funds into the registry: "This Honorable Court is correct that the Conservatorship case, M-32436, currently requires that the Baldwin proceeds be paid into the Court Registry until a definitive ruling is made in it."

On August 22, 2016, Mr. Steinberg filed a motion to alter or amend the Modified Order, citing Maryland Rule 2-534. Referencing CA § 4A-607 and Rule 2-651, Mr. Steinberg argued again that the court should amend the September 2014 order by directing Mr. Rand to pay to Mr. Steinberg any distributions from McKernonRand that would otherwise be payable to Mr. Rand (less reasonable operating expenses for the LLC). In the

alternative, Mr. Steinberg requested that the court order Mr. Rand to pay him 50% of any McKernonRand funds that are distributed to Mr. Rand. The motion did not raise the Baldwin judgment.

On December 8, 2016, the court entered a one-line order denying Mr. Steinberg's motion to alter or amend, and on February 10, 2017, the court entered a one-line order denying Mr. Rand's motion to alter or amend.

On March 3, 2017, Mr. Rand filed a notice of appeal, citing the Modified Order and the denial of his motion to alter or amend.

On March 16, 2017, Mr. Steinberg filed a notice of cross-appeal, citing the court's December 8 order denying his motion to alter or amend the Modified Order.[2]

We supply additional facts as necessary below.

II. DISCUSSION

The parties list numerous questions in their briefs, but before we address them, we must decide, as we did in the first appeal, whether the orders to which the parties object are appealable. If not, we lack jurisdiction to reach the merits. *Baltimore Home Alliance, LLC v. Geesing*, 218 Md. App. 375, 381 (2014). And before we begin the appealability analysis, we offer some background on charging orders and the parties' arguments.

[2] The time for directly appealing the Modified Order and the Baldwin Order expired 30 days after those orders were entered under Maryland Rule 8-202(a). The parties filed notices of appeal and cross-appeal only after their motions to alter or amend were denied pursuant to Maryland Rule 8-202(c).

A. Background On Charging Orders And Overview Of The Parties' Positions

Although the parties and the circuit court referred to the September 2014 order as a "charging order," neither it nor the Modified Order appears actually to be a charging order.[3] Charging order statutes generally "provide[] two basic collection methods: (1) the diversion of the debtor partner's profits to the judgment creditor; and (2) the ultimate transfer of the debtor partner's interest should the first collection method prove unsatisfactory." *91st Street Joint Venture v. Goldstein*, 114 Md. App. 561, 572 (1997) (citing cases). The purpose of a charging order is "to protect the partnership business and prevent the disruption that would result if creditors of a partner executed directly on partnership assets." *Lauer Constr., Inc. v. Schrift*, 123 Md. App. 112, 115 (1998).[4]

Mr. Steinberg moved for a charging order under CA § 4A-607(b)(1), which allows a court to enter an order charging the economic interest of the debtor in the limited liability company for the amount of the debt:

> On application by a creditor of a debtor holding an economic interest in a limited liability company, a court having jurisdiction may charge the economic interest of the debtor in

[3] We also referred to the September 2014 order as a "charging order" in our earlier opinion, but at the same time recognized that it was not properly characterized as a "charging order." *Steinberg*, No. 1807, Sept. Term 2014, slip op. at 10.

[4] Although *Lauer* dealt with partnerships, we see no reason why charging orders would work any differently with respect to protecting a limited liability company's or corporation's business and the interests of other members or owners (if any). *See 91st Street Joint Venture*, 114 Md. App. at 567 n.1 (discussing the history of charging orders in the context of partnerships in case in which the debtor's business organization was not a partnership but rather a joint venture, and expressly noting that "[a] joint venture and a partnership are indistinguishable for all purposes relevant to the case before us") (citing *Madison Natl. Bank v. Newrath*, 261 Md. 321 (1971)).

> the limited liability company for the unsatisfied amount of the debt.

CA § 4A-607(b)(1). "[E]conomic interest" is defined by the statute as "*a member's share of the profits and losses* of a limited liability company and *the right to receive distributions* from a limited liability company." CA § 4A-101(i) (emphasis added).

Mr. Steinberg also relied on Maryland Rule 2-649. Subsection (a) of that Rule outlines the procedure for obtaining an order charging the judgment debtor's interest in a *partnership* (not a limited liability company), and also allows the court to enter other appropriate relief, including appointment of a receiver:

> Upon the written request of a judgment creditor of a partner, the court where the judgment was entered or recorded may issue an order charging the partnership interest of the judgment debtor with payment of all amounts due on the judgment. The court may order such other relief as it deems necessary and appropriate, including the appointment of a receiver for the judgment debtor's share of the partnership profits and any other money that is or becomes due to the judgment debtor by reason of the partnership interest.

Subsection (b) of Rule 2-649 further requires that "[t]he order shall be served on the partnership" in the same manner required for service of process.[5]

[5] Section (b) of Maryland Rule 2-649 provides in full:

> The order shall be served on the partnership in the manner provided by Chapter 100 of this Title for service of process to obtain personal jurisdiction. The order may be served in or outside the county. Promptly after service of the order upon the partnership, the person making service shall mail a copy of the request and order to the judgment debtor's last known address. Proof of service and mailing shall be filed as provided in Rule 2-126. Subsequent pleadings and papers shall be served on the

At least two other statutes and one other rule provide authority for the entry of charging orders. Those statutes have wording similar, although not identical to, CA § 4A-607. The *first* relates to partnerships:

> On application by a judgment creditor of a partner or of a partner's transferee, a court having jurisdiction may charge the transferable interest of the judgment debtor to satisfy the judgment. The court may appoint a receiver of the share of the distributions due or to become due to the judgment debtor in respect of the partnership and make all other orders, directions, accounts, and inquiries the judgment debtor might have made or which the circumstances of the case may require.

CA § 9A-504(a). And the *second* relates to limited partnerships:

> On application to a court of competent jurisdiction by any judgment creditor of a partner, the court may charge the partnership interest of the partner with payment of the unsatisfied amount of the judgment with interest. To the extent so charged, the judgment creditor has only the rights of an assignee of the partnership interest. This title does not deprive any partner of the benefit of any exemption laws applicable to his partnership interest.

CA § 10-705. *Third*, and finally, Maryland Rule 2-651—the "wild card" mechanism in the Rules that "supplements the five specific mechanisms set forth in the [] Rules for enforcing a judgment"—also authorizes a court to enter a charging order against a debtor's right to receive distributions from his corporation. *Burnett*, 230 Md. App. at 32.

The Rule on which Mr. Steinberg relied in his initial motion, Rule 2-649, refers only to partnerships, not to LLCs. The parties did not cite, and we did not find, any cases

> creditor, debtor, and partnership in the manner provided by Rule 1-321.

applying Rule 2-649 in which a charging order was sought with respect to an LLC under CA § 4A-607(b)(1). Indeed, we found no reported cases that interpreted CA § 4A-607(b)(1) or addressed a charging order entered under its authority. *See 91st Street Joint Venture*, 114 Md. App. at 570 (in considering a question concerning a charging order issued against joint venture interests, court discussed "paucity" of case law on the subject of charging orders generally). Whether and how CA § 4A-607 and Rule 2-649 relate to one another is not at issue in this appeal. But we make these observations not only to provide context for the appealability analysis but also so that the parties may brief, and the court may consider, questions concerning the interplay of the applicable statute(s) and rule(s), as appropriate, in further proceedings.

In this case, as noted above, neither the original September 2014 order nor the Modified Order appears to be characterized properly as a "charging order." Neither order requires Mr. Rand to pay to Mr. Steinberg his "economic interest" in the LLC, *i.e.*, Mr. Rand's share of profits and losses from the LLC or any distributions due to him from the LLC. *See* CA §§ 4A-607(b)(1), 4A-101(i). Instead, the court entered an order that simply prevented Mr. Rand from transferring or otherwise disposing of his interest in the LLC, allowed him to pay for operating expenses, and allowed him to pay himself a $2,000 per month "draw," at least until he was suspended from the practice of law.

Indeed, Mr. Steinberg's main complaint seems to lie just here: that the court did *not* enter a "charging order," as provided in CA § 4A-607(b)(1), in response to any of his motions (his initial 2014 motion, his 2016 motion to modify, or his 2016 motion to alter or

amend). Put another way, Mr. Steinberg moved for an order charging Mr. Rand's interest in his LLC, but that is not what he got. Instead, he got an order that prevented Mr. Rand from transferring or otherwise disposing of his interest in the LLC, *i.e.*, an order that essentially maintained the status quo. In 2016, after Mr. Rand was suspended from the practice of law, Mr. Steinberg saw another opportunity to request the relief he originally sought, and also saw an additional, slightly different opportunity, to request that a judgment in favor of McKernonRand in another case, but against a garnishee in this case (Ms. Baldwin), be assigned to him. The circuit court denied that request, and Mr. Steinberg now argues on appeal that the court erred in denying both his request for a charging order under CA § 4A-607 and his request to have the Baldwin judgment assigned directly to him. Mr. Steinberg asserts that he has no remedy other than to appeal because the court denied his motion to alter or amend.

Mr. Rand, for his part, objects to the elimination of his $2,000 monthly draw in the Modified Order. He states, although does not develop, the argument that the removal of the draw is a violation of his due process rights under the Fifth and Fourteenth Amendments to the United States Constitution and Article 24 of the Declaration of Rights of the Constitution of Maryland. He challenges the Baldwin Order on the same ground. With respect to the Modified Order, he also raises the same argument he made in the earlier appeal concerning service, *i.e.*, that he was not served with Mr. Steinberg's initial 2014 motion for a charging order, and that the Modified Order should therefore be vacated.

B. The Challenged Orders Are Not Final Judgments.

With that background, we turn to the appealability question. We can dispose quickly of the parties' arguments about the Baldwin judgment and the Baldwin Order because they were not preserved for review. Mr. Steinberg did not raise his objection to the court's denial of his request to have the Baldwin judgment assigned to him in his motion to alter or amend. Mr. Rand's motion to alter or amend did not object to—and indeed appeared to agree with—the decision to have the Baldwin funds deposited into the registry of the court. Because the parties did not preserve their objections to the court's decisions concerning the Baldwin judgment, we decline to consider them for the first time on appeal.[6] Md. Rule 8-131(a); *Burnett*, 230 Md. App. at 35.

This brings us to the court's denial of the parties' motions to alter or amend the Modified Order. Unlike the first appeal in this case, in which the parties recognized and briefed the appealability issue, *see Steinberg*, No. 1807, Sept. Term 2014, slip op. at 5, they have not done so here, at least not at any depth. Mr. Rand does not raise appealability at all, and Mr. Steinberg offers only the conclusory assertion that "[t]he charging order at issue in this case may be appealed despite its interlocutory nature," followed by a block quote from § 12-303(1) of the Courts and Judicial Proceedings Article ("CJ") of the

[6] Even if the parties had preserved their objections about the Baldwin judgment, we don't see how the circuit court could have abused its discretion by ordering the Baldwin judgment funds deposited into the registry of the court. Placing the funds in the court registry for safekeeping pending the outcome of events in the related case (which is discussed further below) seems eminently reasonable, especially given the contentious history between these parties.

Maryland Code. But it is not the Modified Order that is subject to review: the parties have appealed the denials of their motions to alter or amend, and it is those orders that we review here. We address the question of whether those orders are appealable *sua sponte* because if they are not, we lack jurisdiction to reach the merits. *Geesing*, 218 Md. App. at 381; Md. Rule 8-602(a), (b).

Generally, only final judgments are appealable. CJ § 12-301; *see URS Corp. v. Fort Myer Constr. Corp.*, 452 Md. 48, 65 (2017). Whether a judgment is final "is a question of law to be reviewed *de novo*." *Geesing*, 218 Md. App. at 381. Under the rules and case law, "[a]n order will constitute a final judgment if the following conditions are satisfied: (1) it must be intended by the court as an unqualified, final disposition of the matter in controversy; (2) it must adjudicate or complete the adjudication of all claims against all parties; and (3) the clerk must make a proper record of it on the docket." *Waterkeeper Alliance, Inc. v. Maryland Dept. of Agriculture*, 439 Md. 262, 278 (2014) (cleaned up); *see also* Md. Rule 8-602.

Although the initial question before us is whether the court's orders denying the parties' motions to alter or amend were final and therefore appealable orders, the substantive legal question is ultimately whether the denial of a motion for a charging order can be a final judgment, and if so, whether the court's denial in this case was indeed final. We conclude that although the denial of a charging order request may be final under some circumstances, those circumstances do not exist here, and therefore that the orders denying the motions to alter or amend were not final judgments.

We found no Maryland cases addressing the finality of an order *denying* a request for a charging order.[7] But as we observed in our earlier opinion, there are at least two reported Maryland cases addressing the finality of a decision *granting* a charging order. *Steinberg*, No. 1807, Sept. Term 2014, slip op. at 6 (citing *91st Street Joint Venture*, 114 Md. App. 561 and *Keeler v. Academy of Am. Franciscan History, Inc.*, 178 Md. App. 648 (2008)). And those cases are instructive. Neither case approaches the question of finality from the three-step finality analysis outlined above, likely because that analysis doesn't fit well with the charging order procedure. Charging orders don't involve the "adjudication of claims" in the conventional sense of, for example, resolution of a legal claim for breach of contract in favor of one party and against another. And here, the waters are further muddied by the fact that this is a collection action. Resolution of this action would ostensibly occur when the judgment is paid. But whether a judgment is successfully collected cannot be the gauge of finality; if that were the case, a court's disposition of a party's motion for a charging order in a collection action might never be appealable.

So we turn to the two cases. We held in *91st Street Joint Venture* that charging orders can be final judgments when they have the effect of putting the aggrieved party "out of court." 114 Md. App. at 575. The trial court in that case had granted the creditor's motion for a charging order under the then-applicable Code provision for charging a debtor's

[7] Without conducting an exhaustive review, we did find one case from another jurisdiction holding that the denial of a motion for a charging order was a final judgment. *Kriti Ripley, LLC v. Emerald Investments, LLC*, 404 S.C. 367 (2013) (denial of motion for charging order and foreclosure was final where, after such denial, there was nothing left for the trial court to do).

interest in a partnership. *Id.* at 567–68. The order charged the debtor's interest by appointing a receiver to transfer the debtor's interest in the partnership. *Id.* at 565. Because a transfer had to take place according to the rules governing judicial sales—which made the transfer subject to challenge by the filing of exceptions, the partnership interest subject to redemption by the judgment debtor, and the transfer subject to ratification by the court—the charging order was subject to further amendment and was not final. *Id.* at 575–76, 577. In contrast, in *Keeler* we held that a charging order entered under CA § 9A-504 *was* final and appealable. 178 Md. App. at 655. The order there directed the debtor to pay to the creditor all distributions due to the debtor from his limited partnership until the judgment against the debtor had been paid in full and satisfied. *Id.* Because there was no possibility that the order would be challenged or otherwise amended, the charging order in *Keeler* was final. *Id.*

In this case, we must determine whether the court's orders denying the parties' motions to alter or amend the Modified Order are final. In its memorandum opinion denying Mr. Steinberg's initial motion, the court explained first that it would terminate Mr. Rand's $2,000 draw because he had been suspended indefinitely from the practice of law. It then stated that it "will not modify the charging order further," and went on to discuss its decision to deny Mr. Steinberg's request to assign the Baldwin judgment to himself:

> The Court will not modify the charging order further, particularly as requested by Plaintiff that Mr. Rand and the LLC be ordered to assign the judgment against Garnishee Michelle Baldwin to Mr. Steinberg. This Court has by separate order directed that the funds owed by Ms. Baldwin be deposited into the Registry of the Court. The Court will

> entertain an appropriate motion for the disposition of the Baldwin funds after all interested parties, including the conservator appointed in Case No. M32436, have had an opportunity to respond.

In the following paragraph, the court observes that the case "has been made somewhat complicated" by the conservator's appointment, and reinforced its decision not to make any other changes to the charging order at that particular time:

> This case has been made somewhat complicated by the appointment of a conservator in Case No. M32436. The Court takes judicial notice of Mr. Rand's Motion to Intervene filed in that case, as well as the Answer and Motion to Dismiss, which will be accepted for filing if the Motion to Intervene is granted. But until the Court in Case No. M32436 rules otherwise, pursuant to the authority of the conservator to take control of all trust or business accounts of the LLC, the Charging Order's provision regarding payment of operating expenses of the LLC, which this Court declines to modify, nevertheless may be impacted.

The court's denial of the parties' motions to amend the Modified Order are not final judgments. The denial of Mr. Steinberg's request for a charging order under CA § 4A-607 was not final. Although the circuit court stated in its memorandum opinion that it "will not modify the Charging Order," it made that statement in the context of waiting to see what would happen in the related case. The court's denial of Mr. Steinberg's request therefore was subject to revision as the case proceeded. Mr. Steinberg does not identify anything that happened in the proceedings between the entry of the Modified Order on August 11, 2016 and the filing of his motion to alter or amend on August 22, 2016—and we found nothing on the docket—that would contradict that conclusion.

Mr. Steinberg has also identified nothing in the Rules or any other legal authority that would preclude him from filing another motion for relief under CA § 4A-607 in the circuit court. He complains that his motion to alter or amend was denied and implies that this has left him effectively out of court—which, if that were the case, could potentially support the finality of the court's denial of his motion for a charging order—but he makes no argument in support of that assertion. And the court never stated that its denial of Mr. Steinberg's motion meant that it would *never* grant relief under CA § 4A-607 during the course of the collections case. To the contrary, the court grounded its explanation in the implied premise that the court *would* reconsider its ruling depending upon further developments in the related case.

C. Even So, The Challenged Orders Are Appealable Interlocutory Orders.

As such, the dispositive question as to appealability is whether the orders denying the motions to alter or amend are appealable interlocutory orders. Mr. Steinberg relies on CJ § 12-303(1), which allows for appeals from interlocutory orders concerning the "possession of property with which the action is concerned" or income from such property:

> A party may appeal from any of the following interlocutory orders entered by a circuit court in a civil case:
>
> (1) An order entered with regard to the possession of property with which the action is concerned or with reference to the receipt or charging of the income, interest, or dividends therefrom, or the refusal to modify, dissolve, or discharge such an order . . . .

CJ § 12-303(1). We have observed that the legislative intent in enacting this section "was to permit an appeal of an interlocutory order where a controversy exists over the right to

possession of property or the benefits generated therefrom during the pendency of the litigation." *McCormick Constr. Co., Inc. v. 9690 Deerco Rd. Ltd. P'ship*, 79 Md. App. 177, 181 (1989). In addition to permitting appeals during the pendency of litigation, this section also permits appeals from post-judgment enforcement orders. *See Burnett*, 230 Md. App. at 30–31; *see also* KEVIN F. ARTHUR, FINALITY OF JUDGMENTS AND OTHER APPELLATE TRIGGER ISSUES 90 (2018).

In our earlier opinion, we held that Mr. Steinberg's appeal of the September 2014 order should be dismissed because (1) it "was not an order that charges income, interest, or dividends of property" and (2) McKernonRand was not "property with which the action is concerned" per CJ § 12-303(1). *Steinberg*, No. 1807, Sept. Term 2014, slip op. at 13. Because the Modified Order is almost identical to the September 2014 order, we are bound by our earlier decision under the doctrine of the law of the case, unless an exception applies. *Scott v. State*, 379 Md. 170, 183 (2004) ("[O]nce an appellate court rules upon a question presented on appeal, litigants and lower courts become bound by the ruling, which is considered to be the law of the case."). And an exception to the law of the case doctrine does apply here: "a controlling authority has made a contrary decision in the interim on the law applicable to the particular issue." *Baltimore Cty. v. Fraternal Order of Police, Balt. Cty. Lodge No. 4*, 449 Md. 713, 730 (2016) (citations omitted). In the time since we decided the earlier appeal, we held in *Burnett v. Spencer* that an order denying a debtor's motion to vacate a charging order—specifically, an order charging the debtor's interest in and distributions from his corporation—*was* appealable under CJ § 12-303(1). 230 Md. App.

at 30–31. Although in this case, the motion for a charging order was never granted (unlike in *Burnett*, in which the creditor *had* successfully obtained a charging order), we conclude that the holding of *Burnett* changes the outcome here.

In this case, the enforcement action below is "concerned with" enforcement of the consent judgment enrolled against Mr. Rand. It follows that, under *Burnett*, 230 Md. App. at 30–31, Mr. Rand's interest in and distributions from McKernonRand that could go toward satisfaction of that judgment are "property with which the action is concerned" under CJ § 12-303(1). The Modified Order here concerns the receipt or charging of income from property "with which the action is concerned" or income from that property pursuant to CJ § 12-303(1). It also follows that the questions of whether Mr. Steinberg is entitled to have Mr. Rand's distributions from McKernonRand paid to him under CA § 4A-607, whether Mr. Rand is entitled to a partnership draw, and whether Mr. Rand should be precluded from transferring or otherwise disposing of his interest in McKernonRand all relate to "the possession of property with which the action is concerned" or "the receipt or charging of the income" from such property. Not only that, those questions concern "possession" of such property or income, a determinative factor in deciding whether an order may be reviewed under CJ § 12-303(1). *Eubanks v. First Mount Vernon Indus. Loan Assoc., Inc.*, 125 Md. App. 642, 656–57 (1998) (in a dispute between the owner and a lender over possession of real property, an interlocutory order *was* appealable under CJ § 12-303(1) where the trial court had ordered appellant to deposit monthly rent payments into an escrow account and to post a $5,000 bond; rent payment and bond orders

were appealable because they related to the receipt of income from the real property that was the subject of the action); *cf. Rustic Ridge, L.L.C. v. Washington Homes, Inc.*, 149 Md. App. 89, 98–99 (2002) (dismissing appeal where court had entered partial summary judgment on a declaratory judgment claim declaring that party was the "proper and rightful owner" of disputed land; while the order addressed *ownership*, it did not address right of *possession* and therefore was not appealable under CJ § 12-303(1)); *Abner v. Branch Banking & Trust Co.*, 180 Md. App. 685, 692 (2008) (dismissing appeal where the challenged ruling had "no direct bearing on the possession of the proceeds" from the sale of the property); *see also* ARTHUR, *supra* p. 18, at 90–91. In short, the orders denying the parties' motions to alter or amend the Modified Order are appealable interlocutory orders under CJ § 12-303(1).

D. The Circuit Court Did Not Err In Denying The Parties' Motions To Alter Or Amend.

After all of that, the merits. The parties raise several issues[8] that we consolidate into

[8] Mr. Rand states the questions presented as follows in his brief:

> I. Whether the Court's "Charging Order" of September 18, 2014, D.E. 130; E-184 (and therefore its modification thereof of August 11, 2016; D.E. 531; E-136) was a nullity and void *ab initio*.
>
> II. Whether the Court's [Charging] [sic] Order of August 11, 2017 [sic] (D.E. 531; E-136) prohibiting Rand from taking any funds whatever from his LLC and other Order (D.E. 527; E-135) placing Appellant's Judgment for lawfully-earned (Baldwin) attorneys [sic] fees in the Registry of Court) was or became an unconstitutional confiscation of Appellant's property under the 5th and 14th amendments to the constitution

one straightforward question: Did the circuit court err in denying the parties' respective motions to alter or amend? We review the court's disposition of those motions for abuse of discretion. *Puppolo v. Adventist Healthcare, Inc.*, 215 Md. App. 517, 534 (2013). "An abuse of discretion is found when a decision is clearly against the logic and effect of facts and inferences before the court or where no reasonable person would take the view adopted by the [trial] court." *Id.* (cleaned up).

First, we affirm the circuit court's denial of Mr. Steinberg's motion to alter or amend the Modified Order. The circuit court did not abuse its discretion in declining to enter a charging order given the apparent potential for developments in the related case that would affect the rights of the parties in this case. This should not be read to suggest, however, that Mr. Steinberg would *never* be entitled to a charging order or that he is not entitled to move for such relief again at the appropriate time.

Second, we affirm the circuit court's denial of Mr. Rand's motion to alter or amend

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> United States [sic] (and Article 24 of Maryland's Declaration of Rights) and/or otherwise exceeded its lawful authority.

Mr. Steinberg states the questions presented as follows in his brief:

> I. Did the court err as a matter of law in not issuing an order that charged the debtors interest in MckernonRand, LLC [sic]
>
> II. Was the original "charging order" void thus voiding every subsequent order in this case
>
> III. Was the order directing Garnishee Michelle Baldwin to pay into the Registry of the court properly preserved on appeal
>
> IV. If preserved on appeal, is the order directing Baldwin to pay in to [sic] the Registry of the court a lawful and valid order

as well. The circuit court did not abuse its discretion in removing the $2,000 monthly draw in the Modified Order in light of Mr. Rand's suspension from the practice of law. The circuit court also did not abuse its discretion in declining to vacate the Modified Order on the ground that Mr. Rand was not served with the original 2014 motion for a charging order around the time it was filed. Nothing in CA § 4A-607 requires service of such a motion, which makes sense because it is an enforcement procedure. Rule 2-649 requires service of the order only, although, as observed above, it is unlikely that that rule even applies with respect to motions for charging orders against LLCs. That said, Rule 2-651 likely does require service of a motion, so this decision would not apply to any future enforcement efforts brought pursuant to that Rule.

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. APPELLANT TO PAY COSTS.