

Circuit Court for Baltimore County
Case No.: C-03-CV-21-003528

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 251

September Term, 2022

VALENTINO MOFOR

v.

LYFT, INC.

Wells, C.J.,
Tang,
Meredith, Timothy E.,
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: December 2, 2022

*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.

Valentino Mofor, appellant, sued Lyft, Inc., appellee, in the District Court of Maryland for Baltimore County alleging breach of contract, unfair trade practices, constructive fraud, negligence, and intentional infliction of emotional distress. Lyft demanded a jury trial and transferred the case to the Circuit Court for Baltimore County. Mofor then filed an amended complaint, which Lyft moved to dismiss for failure to state a claim upon which relief could be granted. After a hearing, the circuit court dismissed Mofor’s amended complaint without prejudice. The court declined to dismiss the action with prejudice because it wanted to give Mofor an opportunity to speak with an attorney, but the court’s order did not grant Mofor leave to amend.

Mofor then filed several post-judgment motions, all of which were denied. Approximately two months later, Mofor filed a second amended complaint, which was followed shortly by a third. Both complaints were based on the same facts as Mofor’s previously dismissed complaint. Lyft again moved to dismiss Mofor’s complaint because the court had not granted Mofor leave to file an amended complaint and it still failed to state a claim upon which relief could be granted. After another hearing, the circuit court dismissed Mofor’s third amended complaint because it was filed without leave of the court and more than 30 days after the dismissal of his original complaint. But this time it did so with prejudice. Notably, the circuit court explicitly did not address the substance of Mofor’s third amended complaint. We affirmed that dismissal on appeal. *Mofor v. Lyft, Inc.*, No. 325, Sept. Term, 2020, 2021 WL 2182337 (filed May 28, 2021). But we also explicitly did so solely on procedural grounds. *Id.* at *2.

Mofor later refiled his third amended complaint as a new action. And Lyft again moved to dismiss it. But this time Lyft argued that Mofor’s claims were barred by the doctrine of *res judicata* because his previous complaint had been dismissed with prejudice. The circuit court agreed and dismissed the new case. This appeal followed. For the following reasons, we shall vacate the circuit court’s judgment and remand the case for further proceedings.

On appeal, Mofor contends that the circuit court’s dismissal of his first amended complaint was not a judgment on the merits, so *res judicata* did not bar his second action.¹ We review the grant of a motion to dismiss *de novo*. *D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 350 (2019).

Res judicata prevents a party from relitigating a claim that has already been fully and fairly decided. *Anne Arundel Cnty. Bd. of Educ. v. Norville*, 390 Md. 93, 107 (2005). Its elements are: (1) the parties in both cases are the same; (2) the claim presented in both cases is the same; and (3) there was a final judgment on the merits. *Id.* This case centers on the third element.

Ordinarily, a “dismissal with prejudice . . . bars the plaintiff from bringing a second action against that defendant on the same claim[.]” *Women First OB/GYN Assocs., LLC v. Harris*, 232 Md. App. 647, 678 (2017). In other words, it “has the same *res judicata* effect as a final adjudication on the merits[.]” *Claibourne v. Willis*, 347 Md. 684, 692 (1997).

¹ Mofor also asserts that the circuit court erred in denying his summary-judgment motion—which he filed contemporaneously with his new action—as moot after dismissing his complaint. Although we find that the dismissal was improper, the circuit court did not err in denying Mofor’s motion because the underlying action had been dismissed.

And that is the crux of Lyft’s argument on appeal: that because Mofor’s first suit was dismissed with prejudice, it was a final judgment on the merits for purposes of *res judicata*. Our review of the caselaw, however, indicates that the grounds for a decision to dismiss a claim overshadow whether it was dismissed with or without prejudice.

The traditional definition of a judgment on the merits is “one which rules on the real or substantial grounds of [an] action or defense as distinguished from matters of practice, procedure, jurisdiction[,], or form.” *N. Am. Specialty Ins. Co. v. Boston Med. Grp.*, 170 Md. App. 128, 138 (2006) (cleaned up). But “[i]t is a misconception of *res judicata* to assume that the doctrine does not come into operation if a court has not passed on the ‘merits’ in the sense of the ultimate substantive issues of a litigation.” *Id.* (cleaned up). Consequently, we adhere to the following definition of adjudication on the merits for purposes of *res judicata*:

When a court dismisses an action because of jurisdictional, *procedural*, or venue problems, it is acting for reasons that do not go to the [merits] of the case. But, when a court decides that it cannot hear the case because of a legal defense . . . , it is deciding that, [on the merits], the plaintiff cannot maintain [their] cause of action.

Id. at 139 (cleaned up) (emphasis added).

Thus, the reason for dismissing an action supersedes the fact that it was dismissed with prejudice. This is because a dismissal with prejudice, alone, “is not an affirmative finding” on the merits unless there is a “substantive determination underlying it.” *Women First*, 232 Md. App. at 678. *See also Davison v. Rose*, 19 F. 4th 626, 633 (4th Cir. 2021) (“[T]he words ‘with prejudice’ must be considered in light of the circumstances in which they are used.” (cleaned up)). So too with the cases cited by Lyft. In each one, the prior

decision barring the later-filed action was based on substantive—not procedural—reasons that resolved the merits of the claim.² That is not the case here.

In dismissing Mofor’s first action with prejudice, the circuit court did so “based on the *procedural* issues that [had] not been complied with.” (Emphasis added.) The court expressly declined to “get to the substantive issues[.]” Under our definition, that was not a final judgment on the merits for purposes of *res judicata*. *N. Am. Specialty Ins. Co.*, 170 Md. App. at 139. Consequently, the circuit court erred in dismissing Mofor’s refiled complaint on that basis.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE
COUNTY VACATED. CASE
REMANDED FOR FURTHER
PROCEEDINGS CONSISTENT
WITH THIS OPINION. COSTS TO
BE PAID BY APPELLEE.**

² See *Innocent v. Bank of New York Mellon*, 2016 WL 8273956 (D. Md. Apr. 25, 2016) (prior substantive dismissal with prejudice); *Fether v. Frederick Cnty. Md.*, 2013 WL 1314190 (D. Md. Mar. 29, 2013) (prior voluntary dismissal with prejudice); *Hiob v. Progressive Am. Ins. Co.*, 440 Md. 466 (2014) (same); *Claibourne v. Willis*, 347 Md. 684 (1997) (same); *Women First OB/GYN Assocs., LLC v. Harris*, 232 Md. App. 647 (2017) (same); *Parks v. State*, 41 Md. App. 381 (1979) (prior dismissal of untried indictment with prejudice); *Annapolis Urban Renewal Auth. v. Interlink, Inc.*, 43 Md. App. 286, 291 (1979) (prior judgment based on sovereign-immunity defense).