Circuit Court for Baltimore City
Case No. 24-C-20-001144

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 291

September Term, 2021

IRIS MCCLAIN

v.

LAW OFFICE OF CHRISTMAN & FASCETTA, LLC, *et al.*

Kehoe,
Arthur,
Battaglia, Lynne A.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Battaglia, J.

Filed: August 18, 2022

Iris McClain, appellant, filed, in the Circuit Court for Baltimore City, a civil complaint against Edward Christman, an attorney, and his law firm, the Law Office of Christman & Fascetta, LLC (collectively "Appellees"), alleging fraud, legal malpractice, negligent infliction of emotional distress, and punitive damages. Appellees filed a motion to dismiss, which Ms. McClain opposed. Ms. McClain thereafter filed a motion for summary judgment, which Appellees opposed. The court ultimately granted Appellees' motion and dismissed Ms. McClain's complaint because Ms. McClain had failed to state a claim upon which relief could be granted. Ms. McClain subsequently filed a motion for reconsideration, which the court denied.

In this appeal, Ms. McClain presents eight questions, which we have rephrased and consolidated into three questions.[1] They are:

[1] Ms. McClain phrased the questions as:

1. Whether the judge erred by denying the reconsideration motion?

2. Whether the judge erred by exercising jurisdiction over [Appellees'] motion to quash?

3. Whether the judge erred in granting [Appellees'] motion to dismiss and should the IIED [sic] and punitive damages claims be allowed?

4. Whether the judge erred in dismissing the fraud claim?

5. Whether the judge erred in dismissing the legal malpractice claim?

6. Whether the summary judgment should be granted for failure to file the second amended plan?

(Continued on next page)

1. Did the circuit court err in granting a motion to quash service of process filed by Appellees following the filing of Ms. McClain's initial complaint?

2. Did the circuit court err in granting Appellees' motion to dismiss and in denying Ms. McClain's motion for summary judgment?

3. Did the circuit court err in denying Ms. McClain's motion for reconsideration?

For reasons to follow, we hold that the circuit court erred only in dismissing part of Ms. McClain's claim for legal malpractice. We, therefore, affirm the remainder of the court's rulings.

BACKGROUND

In 2015, Ms. McClain was involved in bankruptcy proceedings in the United States Bankruptcy Court for the District of Maryland (the "Bankruptcy Court"). One of the primary issues in those proceedings was the repayment of an outstanding mortgage held by Wells Fargo on Ms. McClain's home. During the course of the proceedings, Wells Fargo submitted a "proof of claim," which set forth the amount that Wells Fargo claimed that Ms. McClain owed on the outstanding mortgage (hereinafter the "proof of claim"). The Bankruptcy Court ultimately dismissed Ms. McClain's case, but granted her leave to refile.

(Continued from previous page)

7. Whether the judge erred not ordering an amended complaint?

8. Whether inexcusable judicial issues prejudiced and harmed me?

In September 2016, Ms. McClain contacted an attorney, Edward Christman, to inquire about assisting her in a new bankruptcy case. Ms. McClain informed Mr. Christman that she wanted to object to Wells Fargo's proof of claim. Mr. Christman initially agreed to file the objection for $1,600.00, but he later indicated that such a service would cost $2,000.00.

On September 8, 2016, Ms. McClain obtained the $2,000.00, which she deemed "reasonable," and went to Mr. Christman's office to sign paperwork and engage his services. At that meeting, Mr. Christman informed Ms. McClain that any objection to Wells Fargo's proof of claim would be "frivolous" and that, as a result, he could not ethically file such an objection. Ms. McClain nevertheless gave Mr. Christman the $2,000.00 and agreed to engage his services.

On September 12, 2016, Mr. Christman filed a new bankruptcy case in the Bankruptcy Court on behalf of Ms. McClain. On September 13, 2016, the Bankruptcy Court informed Ms. McClain that she needed to file a "Chapter 13 Plan" with the court. That plan was subsequently filed on September 23, 2016. After the Bankruptcy Trustee objected to the plan on the grounds that the plan was insufficient under the relevant bankruptcy statutes, Mr. Christman filed an amended plan (the "first amended plan") on February 10, 2017.

On March 17, 2017, following a hearing, the Bankruptcy Court determined that the first amended plan could not be confirmed. The court granted Ms. McClain leave to amend,

and the court ordered that a second amended plan be filed by March 31, 2017. The court scheduled a new confirmation hearing for May 2, 2017.

On March 20, 2017, Mr. Christman sent a letter to Ms. McClain informing her of the new confirmation hearing and the need to file the second amended plan. Mr. Christman stated that the plan needed to be filed by March 31, 2017, or the case would be dismissed.

On March 27, 2017, Ms. McClain filed a grievance against Mr. Christman in the Bankruptcy Court. In that grievance, Ms. McClain stated that Mr. Christman had failed in his duties as her attorney; that Mr. Christman had lied about filing the objection to Wells Fargo's proof of claim; and that she was dissatisfied with Mr. Christman's efforts as her attorney.

On March 31, 2017, Mr. Christman filed a motion in the Bankruptcy Court asking for additional time to file the second amended plan. In that motion, Mr. Christman explained that he needed to "evaluate his role as counsel" given that Ms. McClain had filed the grievance. The court granted the request and set a new deadline for submission of the second amended plan for April 14, 2017.

On April 6, 2017, Mr. Christman sent a letter to Ms. McClain indicating his intention to withdraw as her counsel. Mr. Christman declared that, by filing the grievance on March 27, 2017, Ms. McClain had "created an adversarial situation" such that he could not continue as her attorney in the bankruptcy proceedings. Mr. Christman concluded by reminding Ms. McClain about the upcoming deadline on April 14, 2017. Mr. Christman

stated that Ms. McClain needed to file the second amended plan or obtain an extension by that date, or her case could be dismissed.

On April 12, 2017, Ms. McClain submitted another grievance to the Bankruptcy Court, in which she noted Mr. Christman's desire to withdraw as her counsel and expressed dissatisfaction with Mr. Christman's services. Ms. McClain asked the court to remove Mr. Christman as her counsel. On April 27, 2017, the court excused Mr. Christman from the case.

In May 2017, Ms. McClain appeared in the Bankruptcy Court, and her case was continued. That same month, Ms. McClain filed an objection to Wells Fargo's proof of claim. On October 30, 2017, the Bankruptcy Court dismissed Ms. McClain's case for failure to file the second amended plan by April 14, 2017.

Ms. McClain's Circuit Court Complaint

In February 2020, Ms. McClain filed, in the circuit court, a civil complaint against Mr. Christman and his law firm. In that complaint, Ms. McClain set forth four causes of action: fraud, legal malpractice, negligent infliction of emotional distress, and "demand for punitive damages[.]"

In her claim for fraud, Ms. McClain alleged that Mr. Christman accepted her $2,000.00 under the false pretense that he would file an objection to Wells Fargo's proof of claim. Ms. McClain asserted that Mr. Christman never intended to file the objection despite claiming that he would, that she relied on those claims, and that her reliance resulted in compensatory and punitive damages of more than $75,000.00.

In her claim for legal malpractice, Ms. McClain alleged that Mr. Christman breached his duty as her attorney by failing to file the objection to Wells Fargo's proof of claim. Ms. McClain also alleged that Mr. Christman breached his duty in various other respects, namely, by filing the first amended plan without her signature; by failing to inform her about various hearings; by failing to file the second amended plan; by offering "unsound legal advice"; and by failing to surrender various paperwork and funds after withdrawing as counsel. Ms. McClain claimed that Mr. Christman's failures, and in particular his failure to file the second amended plan, resulted in her case ultimately being dismissed by the Bankruptcy Court. Ms. McClain asked that she be awarded compensatory and punitive damages of more than $75,000.00.

In her claim for negligent infliction of emotional distress, which she presented as an independent cause of action, Ms. McClain alleged that Mr. Christman's "pattern of conduct" throughout the course of the litigation caused unnecessary emotional distress resulting in physical and emotional damages. Ms. McClain asked that she be awarded compensatory and punitive damages of more than $75,000.00.

Finally, in her claim for "demand for punitive damages[,]" which she presented as an independent cause of action, Ms. McClain alleged that Mr. Christman's behavior throughout the course of the litigation supported a claim for punitive damages. Ms. McClain asked that she be awarded punitive damages of not less than $75,000.00.

Motion to Quash Service of Process

From February to September 2020, Ms. McClain made various attempts at serving Appellees with process. In October 2020, Appellees filed a motion to quash service of process, claiming that Ms. McClain's attempts at service of process were improper. After Ms. McClain filed a response, the circuit court granted Appellees' motion on November 11, 2020.[2] The court ordered Appellees to file a responsive pleading within 30 days.

Motion to Dismiss

On November 23, 2020, Appellees filed a motion to dismiss Ms. McClain's complaint on the grounds that she had failed to state a claim upon which relief could be granted. Appellees argued that Ms. McClain's claim for legal malpractice failed as a matter of law because she did not establish that she would have obtained a more favorable result in the bankruptcy matter but for Mr. Christman's alleged negligence. Appellees argued that Ms. McClain had also failed to state a claim for fraud because she did not plead her claim with the requisite specificity and because she failed to identify the basis for damages. As for Ms. McClain's claim for negligent infliction of emotional distress, Appellees argued that such claims are not recognized in Maryland.

As part of their motion to dismiss, Appellees included various documents for the circuit court's consideration. The documents demonstrated that, as a matter of law, Ms. McClain would not have prevailed on an objection to the Wells Fargo proof of claim.

[2] Although the court's order is dated October 9, 2020, it is clear from the court's docket that the order was not entered until November 12, 2020.

One of those documents was an order entered in April 2020 by the United States District Court for the District of Maryland. According to that order, Ms. McClain had filed, in 2019, a motion in the Bankruptcy Court asking the court to reopen a bankruptcy case that she had filed in 2009 and that had been closed in 2012. The Bankruptcy Court had denied the motion, and Ms. McClain had appealed that decision to the United States District Court. The United States District Court ultimately denied the appeal by way of its April 2020 order.

In that order, the United States District Court noted the following facts: in 1997, Ms. McClain received a mortgage loan secured by her home, and Wells Fargo was the creditor and servicer of that loan. Ms. McClain subsequently defaulted on that mortgage, and, in 2009, she initiated a bankruptcy action to avoid foreclosure. As part of those proceedings, the Bankruptcy Trustee submitted a proof of claim, which showed that Ms. McClain owed $168,806.95 per the terms of a loan modification agreement she had entered into in 2007. Ms. McClain thereafter objected to that proof of claim, and, in 2011, the Bankruptcy Court held a hearing on Ms. McClain's objection. At that hearing, the parties submitted a consent order indicating that Ms. McClain was withdrawing her objection with prejudice and was agreeing to the accounting of her loan. The Bankruptcy Court accepted the order, and Ms. McClain's bankruptcy case was closed in 2012.

Seven years later, in 2019, Ms. McClain filed a motion to reopen the 2009 bankruptcy case, seeking to vacate the 2011 consent order so that she could relitigate the accounting of her mortgage loan. The Bankruptcy Court denied the motion, finding that

Ms. McClain's motion was untimely and without merit. Ms. McClain then appealed that decision to the United States District Court, which ultimately affirmed the Bankruptcy Court's decision.

Ms. McClain's Motion for Summary Judgment

After filing an opposition to Appellees' motion to dismiss, Ms. McClain filed a motion for summary judgment. Ms. McClain's primary argument was that, because Appellees did not address Mr. Christman's alleged failure to file the second amended plan in their motion to dismiss, the allegation was admitted, and summary judgment should be granted in her favor. Appellees opposed Ms. McClain's summary judgment motion.

Circuit Court Order Granting Appellees' Motion to Dismiss

The circuit court eventually granted Appellees' motion to dismiss. The court ordered that Ms. McClain's complaint be dismissed for failure to state a claim upon which relief could be granted. In that order, the court stated that it had considered Ms. McClain's complaint, Appellees' motion to dismiss and supporting documents, and Ms. McClain's response to the motion to dismiss.

Ms. McClain's Motion for Reconsideration

Ms. McClain thereafter filed a motion for reconsideration, in which she claimed that her complaint was sufficient to survive a motion to dismiss. Ms. McClain also claimed, in

the alternative, that she should have been given a chance to amend her complaint to address any deficiencies. The court denied Ms. McClain's motion. This timely appeal followed.[3]

STANDARD OF REVIEW

"When reviewing the grant of a motion to dismiss, the appropriate standard of review is whether the trial court was legally correct." *D.L. v. Sheppard Pratt Health Sys., Inc.*, 465 Md. 339, 350 (2019) (citations and quotations omitted). In making that determination, we "assume the truth of factual allegations made in the complaint and draw all reasonable inferences from those allegations in favor of the plaintiff." *Ceccone v. Carroll Home Servs., LLC*, 454 Md. 680, 691 (2017). Those facts, however, "'must be pleaded with sufficient specificity; bald assertions and conclusory statements by the pleader will not suffice.'" *State Ctr., LLC v. Lexington Charles Ltd. P'ship*, 438 Md. 451, 497 (2014) (citation omitted). "Dismissal is proper only if the complaint would fail to provide the plaintiff with a judicial remedy." *Holzheid v. Comptroller of Treasury of Maryland*, 240 Md. App. 371, 387 (2019) (citations and quotations omitted).

When the trial judge considers matters outside of the pleadings, we review the grant of a motion to dismiss as though it was a grant of a motion for summary judgment.[4] *D'Aoust v. Diamond*, 424 Md. 549, 573 (2012); *see also* Md. Rule 2-322. "In reviewing

[3] Ms. McClain filed a supplement to her brief in order to bring to this Court's attention that, on December 16, 2021, the Attorney Grievance Commission of Maryland reprimanded Mr. Christman for failing to properly maintain his attorney-trust account. By order dated July 25, 2022, Ms. McClain was permitted to supplement her appeal.

[4] As noted, when ruling on Appellees' motion to dismiss, the circuit court considered several supporting documents that Appellees had attached to their motion.

the grant of summary judgment, the appellate court asks whether it was legally correct, without deference to the trial court." *Muse-Ariyoh v. Bd. of Educ. of Prince George's Cnty.*, 235 Md. App. 221, 235 (2017). "We evaluate the record in the light most favorable to the non-moving party and construe any reasonable inferences that may be drawn from the well-pleaded facts against the moving party[.]" *Id.* (citations and quotations omitted).

DISCUSSION

I.

Ms. McClain first contends that the circuit court erred in granting Appellees' motion to quash service of process. Ms. McClain claims that she properly effectuated service on one defendant, the Law Office of Christman & Fascetta, LLC, on August 28, 2020, and that she properly effectuated service on the other defendant, Mr. Christman, on September 8, 2020. In support of her claim regarding Mr. Christman's law firm, Ms. McClain cites to an affidavit from the Sheriff's Office, which shows that, on August 28, 2020, a summons for the Law Office of Christman & Fascetta, LLC, was given to a "receptionist at law office[.]" In support of her claim regarding Mr. Christman, Ms. McClain cites to a different affidavit from the Sheriff's Office, which states that, on September 8, 2020, a summons for Mr. Christman was given to "Jayne Symanski (Office Secretary)" at Mr. Christman's place of business.

Ms. McClain insists, therefore, that her attempts at serving Appellees with process were proper and that the court erred in granting Appellees' motion to quash. Ms. McClain also argues that the court, in granting Appellees' motion, failed to properly consider her

arguments in response, given that the court's order granting the motion was dated October 9, 2020, and her responses were not filed until October 15 and October 23, 2020. Ms. McClain requests various relief, including, that we strike the court's order and enter a default judgment in her favor.[5]

The circuit court, however, did not err. Neither of Ms. McClain's attempts at service was proper. "Service is made upon an individual by serving the individual or an agent authorized by appointment or law to receive service of process for the individual." Md. Rule 2-124(b). "Service is made upon a corporation … by serving its resident agent, president, secretary, or treasurer." Md. Rule 2-124(d). Ms. McClain's efforts at serving Mr. Christman (by giving the summons to "Jayne Symanski (Office Secretary)" at Mr. Christman's place of business) and her efforts at serving Mr. Christman's law firm (by giving the summons to a "receptionist") failed to comport with those rules.

Even were service to have been proper, Ms. McClain was not automatically entitled to the requested relief, *i.e.*, a default judgment, but instead was required to have sought the entry of a default judgment, which she failed to do. *See* Md. Rule 2-613(b) ("If the time for pleading has expired and a defendant has failed to plead as provided by these rules, the court, *on written request of the plaintiff*, shall enter an order of default.") (emphasis added).

[5] Although Ms. McClain suggests that the circuit court lacked jurisdiction because of the issues regarding service of process, Appellees submitted to court's jurisdiction when they filed their motion to dismiss. *See LVI Env't Servs., Inc. v. Acad. of IRM*, 106 Md. App. 699, 707 (1995) ("Once a party speaks to the merits of a case, the individual has made a voluntary appearance, submitting himself to the jurisdiction of the court for all subsequent proceedings.") (citations and quotations omitted). It is worth noting that, if Ms. McClain were correct in stating that the court did not have jurisdiction, then her complaint could not proceed.

Appellees apparently received service in August and September 2020 and responded shortly thereafter by filing their motion to quash and motion to dismiss (in October and November 2020, respectively), so we cannot say that the court erred in permitting Appellees to file a belated motion to dismiss. *See Abrishamian v. Washington Med. Grp., P.C.*, 216 Md. App. 386, 404 (2014) (noting that the default judgment rule "is not punitive in nature" and that "the goal of the rule is to ensure that justice is done, which requires consideration of all relevant circumstances in any given case") (citations, quotations, and brackets omitted).

II.

Ms. McClain next claims that the circuit court erred in dismissing her complaint because, she asserts, it properly set forth all the elements of her various causes of action. She also claims that the court erred in denying her motion for summary judgment. Finally, Ms. McClain argues that the court should have granted leave to amend the complaint to correct any deficiencies.[6]

Appellees argue that Ms. McClain's complaint was properly dismissed without leave to amend. Appellees further argue that the court's dismissal of the complaint rendered Ms. McClain's summary judgment motion moot.

For reasons to follow, we hold that Ms. McClain failed to establish any dispute of a material fact to support her claims for fraud, negligent infliction of emotional distress, and

[6] Ms. McClain also raises various "inexcusable judicial errors" that she claims caused her prejudice, but she did not specify the nature of that prejudice. *See Shealer v. Straka*, 459 Md. 68, 102 (2018) ("The party complaining that an error has occurred has the burden of showing prejudicial error.").

punitive damages. Appellees were therefore entitled to judgment as a matter of law, and the circuit court properly granted summary judgment on those claims. As to the legal malpractice claim, we hold that summary judgment on that claim was improper.

A. Fraud Claim

Ms. McClain argues that her claim for fraud was sufficiently pled based on her allegation that Mr. Christman deliberately misrepresented his intentions regarding the filing of the objection to Wells Fargo's proof of claim. Appellees argue that those alleged representations were too ambiguous to constitute a claim for fraud.

To prove a claim of fraud, a plaintiff must show:

1) That the defendant made a false representation to the plaintiff;

2) That its falsity was either known to the defendant or that the representation was made with reckless indifference as to its truth;

3) That the misrepresentation was made for the purpose of defrauding the plaintiff;

4) That the plaintiff relied on the misrepresentation and had the right to rely on it; and

5) That the plaintiff suffered compensable injury resulting from the misrepresentation.

Crystal v. Midatlantic Cardiovascular Assocs., P.A., 227 Md. App. 213, 224 (2016) (citing *VF Corp. v. Wrexham Aviation Corp.*, 350 Md. 693, 703-04 (1998)).

To support an action for fraud, the representation at issue must be definite. *Goldstein v. Miles*, 159 Md. App. 403, 436 (2004). Stated another way, "[a] statement that is vague and indefinite in its nature and terms cannot support a cause of action for fraud."

Lasater v. Guttmann, 194 Md. App. 431, 472 (2010) (citations and quotations omitted). "This is because such statements are deemed to put the party to whom they are made on inquiry notice to investigate further." *Id.* Thus, "'mere vague, general, or indefinite statements are insufficient, because they should, as a general rule, put the hearer upon inquiry, and there is no right to rely upon such statements.'" *Goldstein*, 159 Md. App. at 436 (quoting *Fowler v. Benton*, 229 Md. 571, 579 (1962)).

Ms. McClain's claim for fraud fails because it is based entirely upon Mr. Christman's alleged representation that he would file an objection to Wells Fargo's proof of claim in exchange for $2,000.00. Ms. McClain alleged that, on September 8, 2016, she went to Mr. Christman's office with the intention of giving him $2,000.00 for that service. Ms. McClain admitted, however, that Mr. Christman later informed her that any objection to Wells Fargo's proof of claim would be "frivolous" and that, as a result, he could not ethically file such an objection. Ms. McClain further admitted that, upon being so informed, she gave Mr. Christman the $2,000.00 and agreed to engage his services. Ms. McClain presented no facts to show that she had any basis to rely on Mr. Christman's initial statement, which concededly had been withdrawn without inquiry. *See Mitchell v. Baltimore Sun Co.*, 164 Md. App. 497, 507 (2005) (noting that, to defeat a properly plead motion for summary judgment, a party "must present facts that are detailed and admissible in evidence"). Thus, there is no dispute of a material fact that would have precluded the granting of summary judgment in favor of Appellees.

B. Legal Malpractice Claim

Ms. McClain contends that her claim for legal malpractice was sufficiently pled based on her allegations that Mr. Christman breached his duty to file the second amended plan by the due date, April 14, 2017, and that that breach directly resulted in the dismissal of her bankruptcy case. Appellees argue that the alleged breach did not constitute legal malpractice because Ms. McClain failed to show that she would have obtained a more favorable result but for the alleged breach.

The Appellees focus on Ms. McClain's allegation that they committed malpractice by failing to object to the Wells Fargo proof of claim. Neither in this Court nor in the circuit court did they address Ms. McClain's separate allegation that they committed malpractice by failing to file the second amended plan.

"To prevail on a claim for legal malpractice, a former client must prove '(1) the attorney's employment, (2) the attorney's neglect of a reasonable duty, and (3) loss to the client proximately caused by that neglect of duty.'" *Suder v. Whiteford, Taylor & Preston, LLP*, 413 Md. 230, 239 (2010) (quoting *Thomas v. Bethea*, 351 Md. 513, 528-29 (1998)). At issue here is the third prong, which is sometimes referred to as the "trial-within-a-trial doctrine." *Id.* at 239-43. Under that doctrine, "the plaintiff must prove by a preponderance of the evidence that, but for the defendant lawyer's misconduct, the plaintiff would have obtained a more favorable judgment in the previous action." *Id.* at 241 (citation and quotations omitted). "The trial-within-a-trial doctrine exposes what the result should have

been or what the result would have been had the lawyer's negligence not occurred." *Id.* at 242 (citations and quotations omitted).

The issues of proof of a favorable result, however, does not dictate that Ms. McClain had to specifically allege the favorable result. Ms. McClain alleged that Mr. Christman neglected his reasonable duty to file the second amended plan by April 14, 2017. She further alleged that Mr. Christman's negligence directly resulted in the dismissal of her 2016 bankruptcy case, which was borne out by the Bankruptcy Court's dismissal order, which expressly stated that Ms. McClain's bankruptcy case was dismissed because she failed to file the second amended plan by April 14, 2017. The dismissal of the bankruptcy case was a loss of a favorable result. Thus, the court erred in granting the Appellees' motion as to the claim alleging legal malpractice because of the failure to file a second amended plan.[7]

C. Negligent Infliction of Emotional Distress Claim

Ms. McClain argues that that her claim for negligent infliction of emotional distress was sufficiently pled because she alleged facts showing that Mr. Christman's negligence resulted in emotional trauma. Appellees argue that Maryland does not recognize negligent infliction of emotional distress as an independent cause of action.

"In Maryland, recovery may be had for emotional distress arising out of tortious conduct, as an element of damage, not as an independent tort." *Alban v. Fiels*, 210 Md.

[7] Ms. McClain also will have the opportunity on remand to press for the admission of the evidence of the Attorney Grievance reprimand discussed in footnote 4. The admission of the reprimand is not determined herein.

App. 1, 16 (2013). "In other words, Maryland does not recognize the tort of negligent infliction of emotional distress." *Id.* In her complaint, Ms. McClain only asserted her claim as an independent tort, rather than one based on other tortious conduct. Therefore, she failed to state a claim upon which relief could be granted, and the circuit court did not err in granting summary judgment on that claim. *See Gambrill v. Bd. of Educ. of Dorchester Cnty.*, 252 Md. App. 342, 363 (2021) (holding that the trial court did not err in granting summary judgment on tort of "educational negligence" because Maryland does not recognize that cause of action).

D. Punitive Damages Claim

Ms. McClain contends that she properly pled her claim for "punitive damages" because she set forth facts showing that Mr. Christman's conduct was malicious and that it caused "extreme and intentional harm[.]" Appellees argue that "punitive damages" is not an independent tort, but instead requires an underlying claim resulting in the award of compensatory damages.

"Maryland law clearly establishes that a party cannot recover punitive damages absent an award of compensatory damages." *Fisher v. McCrary Crescent City, LLC*, 186 Md. App. 86, 136 (2009). That is, "[i]t is a well settled proposition in Maryland law that a cause of action does not exist for punitive damages alone." *Shabazz v. Bob Evans Farms, Inc.*, 163 Md. App. 602, 639 (2005). In her complaint, Ms. McClain only asserted her claim for punitive damages as an independent tort, rather than one based on other tortious conduct for which compensatory damages could be awarded. Therefore, she failed to state

a claim upon which relief could be granted, and the circuit court did not err in granting summary judgment on that claim. *See Gambrill*, 252 Md. App. at 363.

E. Motion for Summary Judgment

Ms. McClain next argues that the circuit court erred in failing to grant her motion for summary judgment. As noted, Ms. McClain's primary argument in her motion was that, because Appellees did not address Mr. Christman's alleged failure to file the second amended plan in their motion to dismiss, the allegation was admitted, and summary judgment should be granted in her favor.

We are unpersuaded. Ms. McClain is essentially arguing that Appellees' failure to address a specific factual allegation somehow entitles her to summary judgment. She is mistaken. *See Dashiell v. Meeks*, 396 Md. 149, 164-65 (2006) (noting that "[o]rdinarily no party is entitled to a summary judgment as a matter of law" and that "a trial court may even exercise its discretionary power to deny a motion for summary judgment when the moving party has met the technical requirements of summary judgment") (citations and quotations omitted). Based on the record before us, we cannot say that the circuit court abused its discretion in denying Ms. McClain's motion.

F. Leave to Amend

Ms. McClain next argues that the circuit court erred in not allowing her to amend her complaint. She asserts that "[t]he complaint fully satisfies possible amendments such as (a) fraud by omission (b) breach of fiduciary duty (c) breach of contract (d) unjust enrichment (e) expound on the damages [sic] (f) fraudulent inducement[.]" Appellees

argue that Ms. McClain's complaint was irreparably flawed and that amending the complaint would be futile.

We hold that Ms. McClain's arguments are unpreserved. None of the "possible amendments" set forth by Ms. McClain in her brief was presented to the trial court as a basis for amending her complaint. Those arguments are therefore not properly before this Court. Md. Rule 8-131(a).

III.

Ms. McClain's final claim is that the circuit court erred in denying her motion for reconsideration. She has presented no argument in support of that claim; rather, she merely states that her motion for reconsideration "provided ample reason for the Judge to take a second look at the case[.]" In her motion for reconsideration, Ms. McClain provided no additional arguments beyond those presented in her response to Appellees' motion to dismiss.

We recognize that the trial court erred in denying Ms. McClain's motion with respect to her legal malpractice claim. Otherwise, the motion for reconsideration was properly denied.

CONCLUSION

In sum, we hold that the circuit court did not err in granting Appellees' motion to quash service of process, in granting Appellees' motion to dismiss Ms. McClain's claims for fraud, negligent infliction of emotional distress, and punitive damages, and in denying Ms. McClain's summary judgment motion. The court did, however, err in dismissing the

legal malpractice claim, as Ms. McClain sufficiently pled all the elements of that cause of action, and there were genuine disputes of material fact such that summary judgment on that claim was inappropriate.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY REVERSED IN PART AND AFFIRMED IN PART; CASE REMANDED TO THAT COURT FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION; COSTS TO BE PAID 2/3 BY APPELLANT AND 1/3 BY APPELLEES.