

Circuit Court for Baltimore County
Case No. C-03-CV-19-003168

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 325

September Term, 2020

VALENTINO MOFOR

v.

LYFT, INC.

Nazarian,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: May 28, 2021

*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.

In 2019, Valentino Mofor, appellant, filed a complaint against Lyft, Inc., appellee, in the District Court of Baltimore County, raising claims of breach of implied covenant of good faith and fair dealing, unfair and deceptive trade practices, constructive fraud, negligence, and intentional infliction of emotional distress. These claims were based on Lyft’s refusal to allow him to rejoin its Express Drive Program after a background check allegedly revealed that he was no longer eligible to participate in that program. The case was subsequently transferred to the Circuit Court for Baltimore County over Mr. Mofor’s objection. Thereafter, Mr. Mofor filed an amended complaint and also filed various motions including a motion to strike jury trial demand, motion for injunctive relief, and motion for declaratory relief. Lyft filed a motion to dismiss for failure to state a claim upon which relief could be granted. Following a November 4, 2019 hearing, the court denied all of Mr. Mofor’s motions and dismissed his amended complaint without prejudice. In doing so, the court found that the complaint failed to state a cause of action. However, it declined to dismiss the amended complaint with prejudice because it wanted to give Mr. Mofor an opportunity to speak with an attorney. Notably, the order dismissing the complaint did not grant Mr. Mofor leave to amend.

Mr. Mofor then filed several post-judgment motions, all of which were denied. However, he did not file a notice of appeal from the order dismissing his complaint or attempt to file a new civil action. Rather, approximately two months after his complaint was dismissed, Mr. Mofor filed in the same case a second amended complaint entitled “Complaint for Breach of Contract, Demand for Preliminary Injunctive Relief, Constructive Fraud and Intentional Infliction of Emotional Distress, Fraudulent

Concealment.” That complaint was based on the same set of facts as his first amended complaint that had previously been dismissed. He then filed a third amended complaint in the same action which added a negligence claim but was otherwise indistinguishable from his second amended complaint.

Lyft filed a motion to dismiss the third amended complaint on the grounds that (1) the court had not granted leave for Mr. Mofor to file an amended complaint, and (2) it failed to state a claim upon which relief could be granted. Following a hearing, the court dismissed the third amended complaint, with prejudice, finding that it was procedurally improper because it was filed without leave of the court and was filed more than 30 days after the dismissal of his original complaint. Mr. Mofor filed a notice of appeal, raising two issues which reduce to one: whether the court erred in dismissing his third amended complaint.¹ For the reasons that follow, we shall affirm.

Because Mr. Mofor’s first amended complaint was dismissed without prejudice he could have filed a new civil action. Instead, he filed a second and third amended complaint in the same case. Maryland Rule 2-322(c) provides that, when a dismissal is

¹ Mr. Mofor also challenges the court’s denial of his motion for injunctive relief that was filed prior to the dismissal of his first amended complaint. However, the court’s order dismissing appellant’s first amended complaint without prejudice, and without leave to amend, was a final judgment. *See Moore v. Pomory*, 329 Md. 428, 431-2 (1993) (“[A]n order dismissing or granting a motion to dismiss a plaintiff’s entire complaint, without granting leave to amend . . . puts the plaintiff out of court and terminates the particular action . . . regardless of whether the dismissal was with prejudice or was without prejudice.”). Mr. Mofor did not file a notice of appeal within 30 days after the court’s denial of his motion to revise that judgment or within 30 days after the denial of his motion for injunctive relief. Consequently, his appeal is untimely as to that order and we will not consider that issue on appeal.

ordered, an amended complaint may be filed only if the court expressly grants leave to amend, and even then, it must be filed within 30 days after the entry of the dismissal order. Here, Mr. Mofor was not granted leave to amend, and his amended complaints were filed more than 30 days after the first amended complaint was dismissed. For that reason, the court did not err in dismissing his third amended complaint with prejudice. *See Mohiuddin v. Doctors Billing and Mgmt. Solutions, Inc.*, 196 Md. App. 439, 455-56 (2010). Finally, Mr. Mofor raises several claims on appeal addressing the merits of the claims raised in his third amended complaint. However, because the complaint was properly dismissed on procedural grounds, we do not reach those issues on appeal.

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