Circuit Court for Baltimore City
Case No. 24-C-23-001860

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 952

September Term, 2024

HOWARD GOLDSTEIN

v.

JONATHAN BIERER, ET AL.

Friedman,
Tang,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: September 26, 2025

*This is an unreported opinion. This opinion may not be cited as precedent within the rule of stare decisis. It may be cited for its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

This case arises from a complaint, filed in the Circuit Court of Baltimore City, by Howard Goldstein, Appellant, against Jonathan Bierer, Esq., and the Bierer Law Group, P.A. (collectively "Appellees") alleging negligence. During the subsequent proceedings, Appellees served Goldstein with a "Request for Admissions" pursuant to Maryland Rule 2-424, which included certain admissions that were dispositive of Goldstein's claim. Although Goldstein later provided a response in which he denied the relevant admissions, he did so beyond the time required by the rule. Appellees thereafter moved for summary judgment, arguing that, because Goldstein did not submit a timely response to their request, the dispositive facts should be deemed admitted, and Appellees should be granted judgment as a matter of law.

On February 14, 2024, following a hearing, the court granted Appellees' motion and entered summary judgment in their favor. On February 27, 2024, Goldstein filed a motion to alter or amend, which the court denied on April 12, 2024. Goldstein then noted this appeal, raising a single question for our review. For clarity, we have rephrased that question as[1]:

> Did the circuit court abuse its discretion in denying Goldstein's motion to alter or amend?

Finding no abuse of discretion, we affirm.

[1] Goldstein phrased the question as: "Whether the trial court erred by abusing its discretion in granting Summary Judgment based on the 'deemed admissions' of Appellants' late filing of Request for Admissions." As noted *infra*, our review is limited to whether the court abused its discretion in denying Goldstein's motion to alter or amend.

BACKGROUND

On April 3, 2023, Goldstein, acting *pro se*, filed a complaint against Appellees for negligence. In his complaint, Goldstein alleged that he had retained Appellees to collect funds from several debtors. Those debts arose from two judgments, one of which was entered in the Circuit Court for Baltimore County on March 26, 2009, and the other was entered in the Circuit Court for Baltimore County on January 26, 2010. According to Goldstein, Appellees had "failed to renew the judgments within the statutorily required twelve year period." Goldstein maintained that Appellees had a duty to renew the judgments and that they breached that duty. Goldstein alleged that, as a result of that breach, he was "denied the opportunity to seek collection of the aforementioned judgments[.]"

On May 31, 2023, Appellees filed an answer to the complaint. That same day, Appellees sent Interrogatories and a Request for Production of Documents to Barry Diamond, Esq., whom Appellees believed was Goldstein's attorney.

On June 6, 2023, the court issued a scheduling order. Per that order, all discovery was to be completed by February 5, 2024, and trial was scheduled to begin on June 11, 2024.

On August 22, 2023, Appellees filed a motion for sanctions. Appellees alleged that, as of the date of the filing, Goldstein had not responded to their discovery requests.

On September 5, 2023, Goldstein sent to Appellees his Answers to Interrogatories. Shortly thereafter, the court denied Appellees' request for sanctions. The court noted that

there was "no indication in the file that Mr. Diamond ever entered an appearance in this case."

On September 20, 2023, Appellees mailed Goldstein a "Request for Admissions" pursuant to Maryland Rule 2-424. Under that rule, "[a] party may serve one or more written requests to any other party for the admission of . . . the truth of any relevant matters of fact set forth in the request." Md. Rule 2-424(a). The rule also states, in relevant part, that "[e]ach matter of which an admission is requested shall be deemed admitted unless, within 30 days after service of the request . . . , the party to whom the request is directed serves a response signed by the party or the party's attorney." Md. Rule 2-424(b). The rule adds that "[a]ny matter admitted under this Rule is conclusively established unless the court on motion permits withdrawal or amendment." Md. Rule 2-424(d).

> The court may permit withdrawal or amendment if the court finds that it would assist the presentation of the merits of the action and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice the party in maintaining the action or defense on the merits.

Id.

In their request for admissions, Appellees set forth several facts that, if admitted, were dispositive of Goldstein's claim. Specifically, Appellees asked Goldstein to admit: that the underlying judgments and debts were invalid and/or uncollectible; that Appellees never agreed to collect a debt for Goldstein and did not owe him any duty; that Appellees did not breach any alleged duty; and that Appellees were not the proximate cause of any damages suffered by Goldstein.

On November 14, 2023, twenty-two days after the time proscribed by Rule 2-424, Goldstein mailed to Appellees an Answer to their Request for Admissions (hereinafter the "belated admissions"). Goldstein denied all admissions that were dispositive of his negligence claim.

On November 30, 2023, Appellees filed a motion for summary judgment. Appellees argued that, because Goldstein did not serve a response to their admissions in the time proscribed by Rule 2-424, all the requests, including those dispositive of Goldstein's claim, were deemed admitted (hereinafter the "deemed admissions"). Appellees argued that they were therefore entitled to judgment as a matter of law. Appellees also argued, in the alternative, that they were entitled to summary judgment because Goldstein could not prove that Appellees were the proximate cause of his damages.

In January 2024, the court held a hearing on Appellees' summary judgment motion. That hearing was ultimately postponed so that Goldstein could retain counsel. A new hearing was scheduled for February 14, 2024.

On January 25, 2024, Mr. Diamond entered his appearance on behalf of Goldstein. That same day, Mr. Diamond filed, on behalf of Goldstein, an answer to Appellees' motion for summary judgment. The answer stated that Goldstein "denies that there is no dispute as to any genuine fact" and that he "denies that [Appellees are] entitled to [j]udgment as a matter of law."

On February 9, 2024, Mr. Diamond filed, on behalf of Goldstein, a memorandum in support of his answer to Appellees' motion for summary judgment. In that memorandum, Goldstein argued that his initial failure to respond to Appellees' request for

admissions should be excused because he "was *pro se* at the time, lived in Florida, and did provide the responses albeit twenty two days late." Goldstein noted that withdrawal or amendment of an admission may be granted pursuant to Rule 2-424(d). Goldstein argued that Appellees' motion for summary judgment should therefore be denied.

On February 14, 2024, the parties returned to court for the rescheduled hearing on Appellees' motion for summary judgment. At the beginning of the hearing, Appellees' counsel informed the court that he had just received Goldstein's memorandum in response to the motion for summary judgment. When counsel asked the court if it had received the memorandum, the court stated, "No." Mr. Diamond responded by stating that the memorandum "was delivered by messenger on the 8th to the court." The court stated that "as of February the 13th it had not been entered." After some discussion as to the timing of the memorandum's filing, Appellees' counsel asked to proceed on the motion for summary judgment, and the court agreed. At no point during that entire exchange did Goldstein seek to have his memorandum submitted for the court's consideration, nor did he indicate that he wanted the deemed admissions to be withdrawn or amended.

Appellees proceeded by arguing that summary judgment should be granted for two independent reasons: one, Goldstein could not prove proximate causation, and two, it had been conclusively established, by way of the deemed admissions, that Goldstein could not make a *prima facie* claim for negligence. Regarding the latter argument, Appellees maintained that, because Goldstein did not timely respond to the request for admissions, those admissions, several of which were dispositive of Goldstein's case, were conclusively established pursuant to Rule 2-424. Appellees noted that, although the rule allowed a party

to request withdrawal or amendment of an admission, Goldstein had never made such a request. Appellees argued that they would be prejudiced if the court were to allow withdrawal or amendment at that time, as the parties were "less than a month out from an extended discovery date[,]" and Appellees had been operating under the assumption that the deemed admissions had been conclusively established.

Mr. Diamond, speaking on behalf of Goldstein, responded that a request for admissions is "not intended to be used to establish the ultimate issue and judgment in the case." Mr. Diamond argued that Appellees were attempting "to bully and overwhelm an unrepresented plaintiff" and were seeking summary judgment based on a "technicality" even though the facts were clearly in dispute.

In response, Appellees again noted that Goldstein had not asked for the deemed admissions to be withdrawn or amended. As before, Goldstein did not object or otherwise indicate that he had sought withdrawal or amendment of the deemed admissions.

In the end, the court found that Goldstein had failed to comply with Rule 2-424, that the deemed admissions were conclusively established by rule, and that Appellees were entitled to summary judgment:

> While the purpose of the rule may be to eliminate from trial less trivial matters, there's nothing that prevents a party from using the rule in a broader fashion. In that case it is incumbent upon the receiving party to answer in the negative the broad request for admissions or in the case where the receiving party fails to respond diligently and timely seek withdraw or amendment of those admissions.
>
> * * *
>
> Okay. And so I have [Appellees' summary judgment motion] in front of me date stamped from the clerk of the court is November the 30th and even

> then the plaintiff then is placed on notice that this issue and the issue of these admissions was – was being brought to the court's attention and the seeking that the court use them in ruling for summary judgment. And even from November until now there still has not been a request to withdraw and if there were it was – if there were even at this point it could not hardly be found to have been diligently, diligently filed.
>
> And so the court chooses at this point not to further analyze whether or not these admissions should be withdrawn or whether or not they can be used. The law is clear. The case law is clear. They can be used and they have – and they are being used in this particular case.
>
> * * *
>
> Here in this particular case the admissions have been deemed admitted as it relates to the obligation that each of the defendants – each of the debtors had to this particular – this particular plaintiff. And also the admissions as to whatever was the engagement between counsel and this particular plaintiff for which the plaintiff admitted.
>
> I mean it is what it is, but I – this court is going to follow the law the way that it's written as unfair as this may sound given that Mr. Goldstein was – was not represented. There was no counsel I guess appearance in the case on his behalf. It looks like he was consulting counsel some along the way, but nonetheless, the law is what it is.
>
> The admissions are deemed admitted and based upon those facts then the court is satisfied that the – the defendants are entitled to judgment and as per the law.

On February 14, 2024, the court entered an order granting summary judgment in favor of Appellees. On February 27, 2024, Goldstein filed a motion to alter or amend the court's judgment. In that motion, Goldstein argued that the court's reliance on the deemed admissions in granting summary judgment was improper because those admissions "went to the core of [the] case" and "were genuinely in dispute." Goldstein argued that the court "placed no findings on the record" with regard to whether Appellees were prejudiced or whether it would be in the interest of justice to accept the deemed admissions. Goldstein

argued that his conduct was not egregious and that he did manage to provide Appellees with the belated admissions "relatively early in the proceedings[.]" Goldstein argued, therefore, that the court abused its discretion in imposing the "extreme punishment" of granting summary judgment.

On April 12, 2024, the court denied Goldstein' motion to alter or amend. This timely appeal followed. Additional facts will be supplied as needed below.

DISCUSSION

Parties' Contentions

Goldstein argues that the court erred in granting summary judgment to Appellees. He argues that the court should have permitted him to withdraw or amend the deemed admissions because, when Appellees initially sent their request for admissions, Goldstein "was *pro se* at the time, living in Florida, and did provide the responses, albeit twenty-two days late." (Emphasis omitted.) Goldstein contends that his conduct was not egregious, that Appellees suffered no prejudice, and that it was in the interest of justice for the court to accept his late responses. Goldstein notes that the court placed no findings on the record regarding prejudice or whether it would be in the interest of justice to accept his late responses. Goldstein also notes that Appellees did not object to the late responses or file a motion to challenge the sufficiency of his responses pursuant to Rule 2-424. Relying heavily on *Gonzales v. Boas*, 162 Md. App. 344 (2005), Goldstein contends that the court's decision was erroneous and an abuse of discretion.

Appellees contend that the court did not err or abuse its discretion in accepting the deemed admissions and granting summary judgment based on those admissions.[2] Appellees also contend that the court did not abuse its discretion in denying Goldstein's motion to alter or amend.

Before discussing the merits of Goldstein's claims, we note that Goldstein's motion to alter or amend was filed beyond the ten-day time limit set forth in Maryland Rule 2-534. We also note that, although Goldstein did file an appeal within thirty days of entry of the court's decision denying his motion to alter or amend, he did not file an appeal within thirty days of entry of the court's decision granting summary judgment. Where, as here, a revisory motion is filed beyond the ten-day period set forth in Rule 2-534, an appeal noted within thirty days after the court resolves the revisory motion is limited to the issues generated by the revisory motion. *Sydnor v. Hathaway*, 228 Md. App. 691, 707-08 (2016). Consequently, our review is limited to whether the court abused its discretion in denying Goldstein's motion to alter or amend.

Standard of Review

The denial of a motion to alter or amend a court's judgment is reviewed for abuse of discretion. *Halstad v. Halstad*, 244 Md. App. 342, 349 (2020). "An appeal from the denial of a motion asking the court to exercise its revisory power is not necessarily the same as an appeal from the judgment itself." *Bennett v. State Dep't of Assessments and*

[2] Appellees argue that Goldstein's answers to interrogatories provided an independent basis for the entry of summary judgment. Because we affirm on other grounds, we need not address Appellees' alternate argument.

Tax'n, 171 Md. App. 197, 203-04 (2006) (quotation marks and citations omitted). "Rather, the standard of review is whether the trial court abused its discretion in declining to revise the judgment." *Id.* (quotation marks and citations omitted). In that respect, a court's discretion is "virtually without limit[,]" particularly where a party raises arguments in support of a motion to revise that the party either did raise or could have raised prior to the court's decision on the merits. *Steinhoff v. Sommerfelt*, 144 Md. App. 463, 484-85 (2002).

Analysis

As noted, Rule 2-424 states that "[a] party may serve one or more written requests to any other party for the admission of . . . the truth of any relevant matters of fact set forth in the request." Md. Rule 2-424(a). Generally, "'[t]he primary function of a request for admissions is to avoid the necessity of preparation, and proof at the trial, of matters which either cannot be or are not disputed.'" *Wilson v. John Crane, Inc.*, 385 Md. 185, 197 (2005) (quoting *Mullan Contracting Co. v. IBM Corp.*, 220 Md. 248, 260 (1959)). Nevertheless, "deemed admissions may properly embrace material or 'ultimate' issues of fact in a case[.]" *Gonzales*, 162 Md. App. at 359; *see also Att'y Grievance Comm'n v. White*, 480 Md. 319, 361 (2022) (noting that Rule 2-424 "contains no express qualitative restrictions regarding the substance of the admissions that a party may attempt to obtain"). As the language of the Rule makes clear, "[a] party may serve one or more written requests to any other party for the admission of . . . the truth of *any relevant matters of fact* set forth in the request." Md. Rule 2-424(a) (emphasis added).

When a request for admissions has been served pursuant to Rule 2-424, the receiving party has thirty days to respond. *Gonzales*, 162 Md. App. at 356. "Failure to do

so will result in the requests being 'deemed admitted.'" *Id.* at 356-57. "In other words, 'one may make an admission by timely filing a response to the request; however, by its terms, . . . that same result occurs by default whether the request for admissions is not timely responded to.'" *Att'y Grievance Comm'n v. McCarthy*, 473 Md. 462, 485 (2021) (quoting *Att'y Grievance Comm'n v. Robertson*, 400 Md. 618, 635 (2007)). As the Rule clearly states, "[e]ach matter of which an admission is requested *shall* be deemed admitted *unless*, within 30 days after service of the request . . . , the party to whom the request is directed serves a response signed by the party or the party's attorney." Md. Rule 2-424(b) (emphasis added). Rule 2-424 further states that "[a]ny matter admitted under this Rule is conclusively established unless the court on motion permits withdrawal or amendment." Md. Rule 2-424(d). As such, "it is incumbent upon the receiving party to answer in the negative the broad request for admissions, or, in the case where the receiving party fails to respond, diligently and timely seek withdrawal or amendment of those admissions." *White*, 480 Md. at 361.

Finally, Rule 2-424 states that the court

> *may* permit withdrawal or amendment if the court finds that it would assist the presentation of the merits of the action and the party who obtained the admission fails to satisfy the court that withdrawal or amendment will prejudice the party in maintaining the action or defense on the merits.

Md. Rule 2-424(d) (emphasis added). By its plain language, the Rule "does not require the trial court to allow for withdrawal or amendment if certain circumstances exist," but rather "it *permits* the court to do so if those circumstances exist[.]" *Wilson*, 385 Md. at 200 (emphasis in original). Moreover, "[t]hat the Rule specifically states that the trial court

'may permit' instead of 'shall permit' is telling in and of itself, *i.e.*, the power of the trial court in deciding matters relating to whether to allow withdrawal or amendment of admissions is *broad*." *Id.* (emphasis in original). "Thus, as established by the permissive language throughout Rule 2-424, the court has a great deal of discretion in deciding how to handle the situation when an untimely or insufficient response to a request for admission is filed." *Gonzales*, 162 Md. App. at 357. In those situations, if '"a trial court's ruling is reasonable, even if we believe it might have gone the other way, we will not disturb it on appeal.'" *Id.* (quoting *Doe v. Md. Bd. of Soc. Workers*, 154 Md. App. 520, 528 n.7 (2004)).

Against that backdrop, we hold that the circuit court did not abuse its discretion in denying Goldstein's motion to alter or amend the court's granting of summary judgment in favor of Appellees. Appellees properly served on Goldstein, pursuant to Rule 2-424, several requests for admissions that, if admitted, were dispositive of Goldstein's underlying claims. Goldstein failed to respond to those requests within thirty days. As a result, the requests were deemed admitted, and the matters admitted, including those that were dispositive of Goldstein's claims, were conclusively established. At that point, if Goldstein wished to withdraw or amend those admissions, he needed to diligently and timely seek such relief from the court. Simply providing Appellees with a belated response to the request for admissions was insufficient. *See* Md. Rule 2-424(d) ("Any matter admitted under this Rule is conclusively established *unless* the court on motion permits withdrawal or amendment." (emphasis added)). Although Goldstein ultimately did seek withdrawal or amendment of the deemed admissions by way of his memorandum in support of his response to Appellees' motion for summary judgment, that request was filed only a few

days before the court's hearing on Appellees' motion, more than two months after Appellees filed their motion for summary judgment and nearly four months after his response to Appellees' initial request for admissions was due. In fact, Goldstein's motion, though docketed as having been received by the court several days prior to the hearing, was never actually submitted to the court for consideration at the hearing. The court therefore concluded that Goldstein had not sought withdrawal or amendment of the deemed admissions, and Goldstein never asked the court to consider his memorandum at the hearing. Under the circumstances, it was reasonable for the court to accept the deemed admissions as having been conclusively established and to award summary judgment in Appellees favor. As such, we cannot say that the court abused its discretion in refusing to alter or amend that decision.

As discussed, Goldstein presents several arguments in support of his contention that the court erred and abused its discretion in granting summary judgment to Appellees. First, he argues that the court should have withdrawn or amended the deemed admissions because Goldstein "was *pro se* at the time, living in Florida, and did provide the responses, albeit twenty-two days late." (Emphasis omitted.) Second, he argues that his conduct was not egregious, that Appellees suffered no prejudice, and that it was in the interest of justice for the court to accept his late responses. Third, he argues that the court placed no findings on the record regarding prejudice or whether it would be in the interest of justice to accept his late responses, and Appellees did not object to the late responses or file a motion to challenge the sufficiency of his responses pursuant to Rule 2-424. Lastly, Goldstein insists that our decision in *Gonzales v. Boas* is "clearly on point with the instant case[.]"

We are not persuaded by any of Goldstein's arguments. The court refused to withdraw or amend the deemed admissions because Goldstein never submitted such a request for the court's consideration at the hearing on Appellees' motion for summary judgment. The circumstances surrounding Goldstein's belated response to Appellees' request therefore had no bearing on the court's decision. Nevertheless, the court made plain that, had Goldstein's memorandum been provided in time for the hearing, there were various competing interests, including Goldstein's lack of diligence, that weighed against allowing withdrawal or amendment of the deemed admissions. To the extent that Goldstein is claiming that the court was required to make additional findings, there is nothing in the Rule or the relevant case law to suggest that a court is required to make any particular findings when denying a motion to withdraw. *See Wilson*, 385 Md. at 201 ("[W]hile Rule 2-424(d) establishes two prerequisites to *permitting* withdrawal or amendment of admissions, it says nothing about denying motions to withdraw or to amend admissions." (emphasis in original)). Furthermore, Appellees were not required to challenge the timeliness of Goldstein's responses in order for the deemed admissions to be conclusively established. *See White*, 480 Md. at 362 ("Rule 2-424(b) operates automatically as a matter of law without the need for motion or court order deeming any unanswered requests admitted.").

As for Goldstein's reliance on *Gonzales v. Boas*, that case is inapposite. There, we held that a court abused its discretion in refusing to withdraw or amend certain admissions that were "deemed admitted" after the party failed to respond within thirty days. *Gonzales*, 162 Md. App. at 349. That holding was based, in part, on the fact that the response was

filed only eight days late, that the party subsequently filed a timely request to withdraw or amend, and that the record was devoid of any indication that the court exercised its discretion in declining the party's request to withdraw or amend. *Id.* at 350. Here, we are not concerned with whether the court abused its discretion in declining to withdraw or amend the deemed admissions; rather, we are concerned with whether the court abused its discretion in refusing to alter or amend that decision. Furthermore, even if the court's underlying decision was properly before us, the record shows that Goldstein's request to withdraw or amend was not timely and that the court did exercise some discretion in declining to withdraw or amend the deemed admissions.

In sum, the court acted reasonably and within the letter of the law in concluding that the deemed admissions were conclusively established and that, consequently, Appellees were entitled to summary judgment. The court therefore did not abuse is discretion in refusing to alter or amend its decision.

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