

Circuit Court for Harford County
Case No. C-12-CV-23-000691

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1129

September Term, 2024

MINOR CHILD

v.

LAUREN BUCKINGHAM

Wells, C.J.,
Beachley,
Eyler, James R.,
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wells, C.J.

Filed: October 20, 2025

*This is an unreported opinion. It 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).

Ian Smith (“Father”) filed a complaint for damages on behalf of his then-six-year-old daughter (“the Child”)¹ against the Child’s mother, Lauren Buckingham (“Mother”), after Mother’s pet dog allegedly attacked the Child in Mother’s home. The Circuit Court for Harford County granted Mother summary judgment based on the doctrine of parent-child immunity. Father appealed, posing two questions which we condense into one: Did the circuit court err in granting Mother summary judgment based on parent-child immunity?² We answer in the negative and affirm. We decline to answer the additional question Father poses because we affirm the circuit court on the applicability of parent-child immunity.

BACKGROUND

Mother and Father were never married and live apart. They have a minor daughter, the Child, who at the time of the events at issue lived with Mother in Harford County.³ In

¹ We refer to the minor child as “the Child” solely to preserve her anonymity.

² As posed in his brief, Father’s verbatim questions are:

- I. WHETHER THIS COURT SHOULD ABROGATE PARENT CHILD IMMUNITY, EITHER IN WHOLE OR IN PART; IF IN PART, THEN WHETHER TO CREATE AN ADDITIONAL EXCEPTION[.]
- II. WHETHER APPELLANT’S CURRENT CUSTODIAL ARRANGMENT IS A BAR TO THE PRESENT SUIT[.]

³ The Circuit Court for Cecil County granted the parents a shared physical custody arrangement that was in place at the time of the incident. The Child happened to be in Mother’s care and custody when the alleged attack occurred.

his complaint for damages, Father alleged that while the Child was in Mother’s care, Mother’s pet dog⁴ attacked the Child, biting her in the face and causing “severe personal injuries.” Father further alleged the dog had “vicious and violent propensities as defined by Maryland law.” Mother answered the complaint denying that the dog attacked the Child and, later, explained in her answer to interrogatories that the dog bit the Child accidentally. Mother also moved for summary judgment.

In her motion for summary judgment, Mother alleged that Father’s complaint arose from his dissatisfaction with the temporary custody arrangement that the Circuit Court for Cecil County issued granting the parties joint legal custody with Mother having so-called tie-breaking authority should an impasse arise between the parents after good faith negotiations. Mother asserted that parent-child immunity was an absolute bar to the Child’s recovery, and on that basis alone, Mother was entitled to summary judgment. Alternatively, Mother averred that after Father filed the lawsuit, the Circuit Court for Cecil County granted her sole legal custody of the Child. Consequently, according to Mother, Father had no right, as the non-custodial parent, to initiate and maintain a lawsuit on the Child’s behalf without Mother’s consent. As the custodial parent, Mother claimed the lawsuit placed her in an untenable position and could not continue.

Before the circuit court, Father admitted that the doctrine of parent-child immunity was an absolute bar to recovery, but he urged the circuit court to abrogate the doctrine or fashion an exception so his suit could go forward. The circuit court declined to do so and

⁴ The record suggests the dog is a “Collie/Heeler.”

granted summary judgment in Mother’s favor. The court also ruled that Mother’s status as sole legal custodian precluded Father from filing suit without Mother’s consent. Father filed this timely appeal.

STANDARD OF REVIEW

This Court “reviews the trial court’s decision to grant or deny a motion for judgment in a civil case without deference.” *Webb v. Giant Food of Maryland, LLC.*, 477 Md. 121, 136 (2021) (quoting *Sugarman v. Liles*, 460 Md. 396, 413 (2018)). In so doing, “[w]e conduct the same analysis that [the] trial court should make when considering the motion for judgment.” *District of Columbia v. Singleton*, 425 Md. 398, 406-07 (2012).

DISCUSSION

As we noted in *Grier v. Heidenberg*, 255 Md. App. 506, 522 (2022),⁵ our most recent opinion on the issue of parent-child immunity, that doctrine took shape based on three decisions from the late 19th and early 20th centuries: *Hewlett v. George*, 68 Miss. 703, 9 So. 885 (1891); *McKelvey v. McKelvey*, 111 Tenn. 388, 77 S.W. 664 (1903); and *Roller v. Roller*, 37 Wash. 242, 79 P. 788 (1905). See Gail D. Hollister, *Parent-Child Immunity: A Doctrine in Search of Justification*, 50 Fordham L. Rev. 489, 495 (1982) (characterizing *Hewlett*, *McKelvey*, and *Roller* as the “great trilogy” that established the doctrine of parent-child immunity in the United States) (quoting *Comment, Tort Actions*

⁵ Our colleague, the Honorable Christopher Kehoe, the author of the *Grier* opinion, did an admirable job of marshalling the history of the doctrine of parent-child immunity and we are indebted to him for his research.

Between Members of the Family-Husband & Wife-Parent & Child, 26 Mo. L. Rev. 152, 182 n.41 (1961).

The Supreme Court of Maryland, at the time called the Maryland Court of Appeals, first addressed parent-child immunity in *Schneider v. Schneider*, 160 Md. 18 (1930). There, a passenger in an automobile involved in an accident sued the driver of the vehicle, who was her unemancipated minor son. *Id.* at 19–20. In concluding that the mother had no cause of action, the Supreme Court of Maryland concluded *Hewlett*, *McKelvey*, *Roller*, and similar cases established that “a minor child cannot maintain such an action against its parent.” *Id.* at 22. The Court also held a parent could not maintain an action against a minor child:

It seems clear [that] one person cannot at the same time occupy the position of parent and natural guardian, fulfilling the functions devolved upon that position, and the position of plaintiff demanding damages from the child at law. We need not dwell upon the importance of maintaining the family relation free for other reasons from the antagonisms which such suits imply.

Id. at 23–24 (cleaned up). In short, *Schneider* “fashioned a broad reciprocal immunity under which parents and children could not assert **any** claim for civil redress.” *Macedo v. Auto. Ins. Co. of Hartford, Connecticut*, No. 52, 480 Md. 200, 221 (2022) (quoting *Warren v. Warren*, 336 Md. 618, 622 (1994) (emphasis in *Warren*)).

After *Schneider* was decided, Maryland’s appellate courts considered application of the parent-child immunity doctrine in a variety of legal and factual contexts. For example, in *Mahnke v. Moore*, 197 Md. 61, 67 (1951), a father shot and killed the mother of his five-year-old daughter in her presence and, about a week later, shot and killed himself, again in

the child's presence. The child's maternal grandfather, as her guardian and next friend, filed suit against the father's estate for damages for "shock, mental anguish and permanent nervous and physical injuries." *Id.* at 63. The circuit court dismissed the action based on parent-child immunity. *Id.* at 64. But the Supreme Court of Maryland reversed the judgment, reasoning that the basis for the doctrine, preservation of a harmonious family home, no longer existed under those facts. *Id.* at 68 ("[T]here is no home at all in which discipline and tranquility are to be preserved.").

Forty-six years later, *Eagan v. Calhoun*, 347 Md. 72 (1997), presented a variation of the facts in *Mahnke*. In *Eagan*, the father killed his wife, the mother of his two minor children, but did not do so in the presence of the children and did not commit suicide. *Id.* at 77–78. The father was charged with second-degree murder and later pled guilty to manslaughter in return for a five-year prison sentence. *Id.* at 78. While incarcerated, the father consented to a court order appointing a guardian for the persons and property of the children. *Id.* The guardian filed a wrongful death action on the children's behalf against the father, who argued the claim was barred by the parent-child immunity doctrine. *Id.* at 79. He sought to distinguish *Mahnke* by asserting that he still cared for his children and looked forward to re-establishing a relationship with them after his release from incarceration. *Id.* at 81.

In rejecting the father's contention, the Supreme Court of Maryland discussed its holding in *Mahnke* and the reasoning behind it:

When the conduct giving rise to the action is of such a nature to have, itself, destroyed the family harmony and significantly eroded any realistic

prospect of parental control and discretion, and there is no indication of fraud or collusion or the risk of depleting resources that otherwise would be devoted to the family unit, there is no longer any justification for the immunity and therefore no logical or public policy reason to apply it.

Those circumstances do not necessarily arise merely because culpable conduct causes the death of a family member, and we therefore, expressly, do not extend the *Mahnke v. Moore* exception to every wrongful death case. . . . **A parent who negligently causes the death of his or her spouse or of a child can still maintain a parent-child relationship;** the family, even in its grief, can survive. Thus, the mere fact that death is the consequence of the conduct is not a reason to discard the doctrine.

When the death is occasioned by murder or voluntary manslaughter, however, any remaining relationships are far more likely to be sufficiently shattered to be beyond further impairment by a lawsuit. The blow is not just the death itself, or even the hard fact that it was caused by the other parent, but rather that the killing was intentional and not the product of mere carelessness.

Id. at 83–84 (emphasis supplied). In so explaining, the Supreme Court of Maryland slightly extended *Mahnke*’s narrow exception to the parent-child immunity doctrine.

Three years after the Supreme Court of Maryland abrogated the separate doctrine of interspousal immunity in negligence actions in *Boblitz v. Boblitz*, 296 Md. 242, 275 (1983), the Court had the opportunity to completely jettison parent-child immunity in *Frye v. Frye*, 305 Md. 542 (1986). But the Court declined to do so, saying,

The fifty-four years which have elapsed since *Schneider* have been marked by shifting values in a changing world. But both this Court and the legislature have been faithful to the promotion of the stability, harmony and peace of the family and to the preservation of parental authority and the family unity as a matter of public policy in the best interests of society. . . . It is clear that today’s parent-child relationship, as recognized by this Court and the legislature, furnishes no compelling reason to abrogate the rule.

Id. at 561. The Court again refused to abrogate the doctrine in the following decade. *See Warren v. Warren*, 336 Md. 618, 626 (1994) (“Family life and values have not significantly

changed since we last addressed this issue in 1990, and we believe that it is still in the best interest of both children and parents to retain parent-child immunity.”).

In the same line of cases, the Court also declined to create an exception to the parent-child immunity doctrine for negligence cases arising from automobile accidents. *See Frye*, 305 Md. at 567 (“[T]he exclusion of motor torts from parent-child immunity ‘involves fundamental and basic public policy considerations properly to be addressed by the legislature.’”) (citing *Boblitz*, 296 Md. at 288); *Warren*, 336 Md. at 627–28 (“We continue to adhere to th[e] position [in *Frye*] and decline to create an exception to parent-child immunity in motor tort cases; any such exception must be created by the General Assembly after an examination of appropriate policy considerations in light of the current statutory scheme.”); *Renko*, 346 Md. at 480–81 (“[W]e remain convinced that the parent-child immunity rule [for motor tort cases] ‘is still in the best interests of both children and parents to retain and that abrogating immunity would result only in further discord within the family and would interfere with the exercise of parental discretion in raising and disciplining children.’”) (quoting *Warren*, 336 Md. at 626) (cleaned up).

In response to *Renko*, the General Assembly carved out a motor vehicle tort exception to the parent-child immunity doctrine by passing Md. Code Ann., Cts. & Jud. Proc. (“CJP”) § 5-806, which provides:

The right of action by a parent or the estate of a parent against a child of the parent, or by a child or the estate of a child against a parent of the child, for wrongful death, personal injury, or property damage arising out of the operation of a motor vehicle, as defined in Title 11 of the Transportation Article, **may not be restricted by the doctrine of parent-child immunity**

or by any insurance policy provisions, up to the limits of motor vehicle liability coverage or uninsured motor vehicle coverage.

(emphasis added).

As it stands, there are four exceptions to the parent-child immunity doctrine in Maryland. *First* is the statutory modification under CJP § 5-806, enacted by the General Assembly in 2001 and amended in 2005, excepting certain motor vehicle actions from parent-child immunity. Three other exceptions were created by the Supreme Court of Maryland, none of which are relevant to this case. They are, *second*, as we have seen, that parent-child immunity does not apply where, as a result of the tortfeasor’s criminal conduct, “any remaining [family] relationships are . . . likely to be sufficiently shattered to be beyond further impairment by a lawsuit.” *Eagan*, 347 Md. at 83. *See also Mahnke*, 197 Md. at 68, 77. *Third*, when the parent and the child are adults at the time of the tortious conduct, parent-child immunity does not apply. *Waltzinger v. Birsner*, 212 Md. 107, 126 (1957). And, finally, parent-child immunity is not a bar to a minor child’s negligence claim against a business partner of a parent for injuries received while working at the partnership’s business. *Hatzinicholas v. Protopapas*, 314 Md. 340, 358 (1988).

As mentioned, we last considered the application of the parent-child immunity three years ago in *Grier v. Heidenberg*. There, then-twenty-one-month-old Michaelangelo Heidenberg, the son of Claudia Grier and Timothy Heidenberg, tragically died after falling into a swimming pool and drowning at Mr. Heidenberg’s home. 255 Md. App. at 511–12. In the Circuit Court for Howard County, Ms. Grier, in her own name and as the personal representative of Michaelangelo’s estate, filed a wrongful death and survival action against

Mr. Heidenberg and his mother, Marguerite Heidenberg, basically alleging they were negligent in failing to ensure Michaelangelo’s safety. *Id.* at 510, 512. The case then had a long and difficult procedural history, which is not necessarily relevant to the issue at hand. *See id.* at 513–16. It is sufficient for our purposes to note that, ultimately, the circuit court granted Mr. Heidenberg’s motion to dismiss the amended complaint and granted Ms. Grier’s motion to certify the question of whether parent-child immunity applied to Mr. Heidenberg as a final judgment under Rule 2-602(b).⁶

After reviewing the history of the doctrine of parent-child immunity in the United States and in Maryland, much of which has been recounted in this opinion, this Court considered whether to abrogate the parent-child immunity doctrine in its entirety. *Id.* at 533. We declined to do so. *Id.* at 534. This Court’s opinion, authored by Judge Christopher Kehoe, in summing up our position on complete abrogation of the doctrine, stated:

Both this Court and the [the Supreme Court of Maryland] have declined to abrogate parent-child immunity on repeated occasions, most recently in *Bushey v. Northern Assurance Co. of America*, 362 Md. 626, 645 (2001); *see also Macedo*, 480 Md. at 221, (observing that “Although Maryland was increasingly isolated in its attachment to this doctrine, this Court ‘steadfastly refused to abolish it[.]’ ” (quoting *Allstate Insurance Co. v. Kim*, 376 Md. at

⁶ In ruling in favor of Mr. Heidenberg, the circuit court also:

1. denied his motion to intervene as a plaintiff in Ms. Grier’s amended complaint,
2. dismissed his claims for indemnification against a third-party defendant, the original owners of the house who had installed the swimming pool,
3. reserved on the third-party defendants’ motion to dismiss Mr. Heidenberg’s claim for damages,
4. denied Ms. Heidenberg’s (Mr. Heidenberg’s mother’s) motion to strike the amended complaint, and
5. reserved ruling on Ms. Heidenberg’s motion to dismiss the amended complaint pending a hearing on the merits of that motion. *Grier*, 255 Md. App. at 515.

281)). Assuming for purposes of analysis that the principle of *stare decisis* and our role as an intermediate appellate court would permit us to do so, Ms. Grier has not convinced us that societal mores, expectations, and values have changed sufficiently since 2001 for us to abrogate the doctrine of parent-child immunity in its entirety.

Id. at 534.⁷ For similar reasons, we declined to make an exception and abrogate the parent-child immunity solely in survival actions. The Supreme Court of Maryland declined to issue a writ of certiorari after our mandate issued. *Grier v. Heidenberg*, 482 Md. 149 (2022).

In the three years since we decided *Grier*, we do not perceive that “societal mores, expectations, and values” have markedly changed to a degree requiring us to reconsider whether to abrogate parent-child immunity or carve out an exception for negligence actions, as Father urges us to do. Indeed, it seems to us that given the rationale for parent-child immunity—promoting and maintaining harmonious family relations—this case would not be the best one for us to consider abrogation of the doctrine. *See Mahnke*, 197 Md. at 68; *Egan*, 347 Md. at 83; *Frye*, 305 Md. at 561. Mother alleges this lawsuit arose from Father’s dissatisfaction with the court-ordered custody arrangement. While that allegation has not been proven, there is sufficient evidence in the record to give us pause. With that allegation in the background of this case, adding a tort suit to an already fractious

⁷ Judge Kevin Arthur, a member of the panel that decided *Grier*, filed a concurring opinion in which he agreed with the majority’s decision in every respect but one. He disagreed with the statement that “societal mores, expectations, and values” have not “changed sufficiently since 2001” for a court “to abrogate the doctrine of parent-child immunity in its entirety.” 255 Md. App. at 542 (Arthur, J., concurring). He opined that if the decision was left solely to him, and in contravention of *stare decisis* and the limits of the Court’s authority, he would “abrogate the doctrine in order to permit a recovery in this case.” *Id.* at 543.

relationship between these parents seems to us to be a good reason for keeping the doctrine of parent-child immunity in place rather than removing it. *See Renko*, 346 Md. at 480–81 (“Abrogating immunity would result only in further discord within the family and would interfere with the exercise of parental discretion in raising and disciplining children.”).

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