Circuit Court for Montgomery County
Case No. 479445V

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1417

September Term, 2021

DAVID MAZZEO, *et al*.

v.

JENNIE FARR-BROCKMAN

Arthur,
Tang,
Raker, Irma S.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: July 29, 2022

David and Kelly Mazzeo, appellants, filed a complaint for defamation in the Circuit Court for Montgomery County against Jennie Farr-Brockman, appellee. The case proceeded to a jury trial and the jury found in favor of appellee. Appellants now appeal, raising five issues, which reduce to two: (1) whether the court erred in allowing appellee to introduce certain exhibits at trial that, they claim, were not provided to them within the deadline set forth in the discovery schedule, and (2) whether the court erred in failing to adequately explain defamation per se to the jury in the jury instructions and the verdict sheet. For the reasons that follow, we shall affirm.

Appellants first contend that the court erred in allowing appellee to submit certain exhibits at trial because they were not timely provided during discovery. As an initial matter, appellants assert in their brief that the court admitted a binder containing 17 exhibits. However, this claim is not supported by the record. Although appellee's pre-trial statement listed 17 exhibits, only six of those exhibits were marked for identification at trial. And only five of the six were actually admitted into evidence.[1]

As to those six exhibits, appellants did not object either when they were marked for identification or admitted into evidence. Moreover, when the court asked appellants if there was any objection to three of the exhibits being admitted, appellants indicated that

[1] In their brief, appellants specifically take issue with what they refer to as exhibit 13, a photograph of a child who had allegedly been injured after being bitten by a dog at appellants' school. Although this picture was listed as exhibit 13 in appellee's pre-trial statement, it was marked for identification as exhibit 4 at trial. Appellants did not object when that exhibit was marked for identification and shown to one of appellee's witnesses. Moreover, that exhibit was never admitted into evidence.

those exhibits were "fine." "It is well established that a party opposing the admission of evidence shall object at the time the evidence is offered or as soon thereafter as the grounds for objection become apparent." *Wimbish v. State* 201 Md. App. 239, 260–61 (2011) (internal quotation marks and citations omitted). If not, the objection is waived. *Id*. at 260. "Th[is] requirement of a contemporaneous objection at trial applies even when the party contesting the evidence has made his or her objection known in a motion in limine[.]" *Id*. at 261 Because appellants failed to make a contemporaneous objection at trial, their claim that the exhibits were improperly admitted is not preserved for appellate review. *See* Maryland Rule 8-131(a). Consequently, we will not consider that issue for the first time on appeal.

Appellants also contend that the court failed to adequately explain defamation per se to the jury. Specifically, they assert that the court failed to properly instruct the jury on defamation per se and did not include an option for the jury to find defamation per se on the verdict sheet. Again, however, appellants did not object at trial to either the jury instructions or the verdict sheet. In fact, when questioned by the court about whether they had any objections, appellants stated that they "agreed" with the verdict sheet and that they were "satisfied" with the jury instructions. Consequently, these claims are also waived and we will not consider them on appeal. *Watts v. State*, 457 Md. 419, 426 (2018) ("This Court has consistently repeated that the failure to object to an instructional error prevents a party on appeal from raising the issue under Rule 4-325([f])." (citations omitted)).

JUDGMENT OF THE CIRCUIT COURT FOR MONTGOMERY COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANTS.