

Circuit Court for Montgomery County
Case No. C-15-CV-22-000884

UNREPORTED*
IN THE APPELLATE COURT
OF MARYLAND

No. 1844

September Term, 2023

HDEEL ABDELHADY

v.

WILLIAM M. SAVAGE, *et al.*,

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

JJ.

Opinion by Friedman, J.

Filed: October 23, 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 MD. RULE 1-104(a)(2)(B).

The Circuit Court for Montgomery County entered an order granting summary judgment in favor of Nationstar and U.S. Bank, and dismissed with prejudice claims against substitute trustees, William M. Savage and Gregory N. Britto. Abdelhady appeals from these judgments. For the reasons that follow, we affirm.

BACKGROUND

In April 2005, Abdelhady executed an adjustable rate Note that was secured by a deed of trust on her home in Montgomery County. This created a mortgage, which Bank of America, N.A., originally serviced and on or around November 13, 2013, transferred the servicing to Nationstar. A letter to Abdelhady notified her of this transfer. Since 2013, Nationstar has continued to service the mortgage and U.S. Bank, or its agents, as trustees for Bank of America, have possessed the original Note. In 2020, U.S. Bank, in its capacity as a Bank of America trustee, executed a limited power of attorney to Nationstar, which allowed Nationstar to pursue debts, interest, and initiate legal proceedings concerning the mortgaged property on behalf of U.S. Bank. Abdelhady made payments to Nationstar until about four years ago, when she stopped paying on the loan altogether.¹

In 2022, Abdelhady filed a complaint against Nationstar, U.S. Bank,² and its substitute trustees, Kristine D. Brown, R. Kip Stone, William M. Savage, and Gregory N.

¹ Foreclosure proceedings were initiated against Abdelhady for not paying on the Note in December 2019. The proceedings, however, were dismissed without prejudice in October 2021, and no foreclosure action is currently pending.

² For simplicity, we will refer to Nationstar and U.S. Bank collectively as “Nationstar.”

Britto.³ In her complaint, Abdelhady argued that Nationstar was not entitled to enforce the Note and sought to quiet title to her property, a declaratory judgment to release her deed of trust, and damages under the Maryland Mortgage Fraud Protection Act (MMFPA). Nationstar and Savage and Britto filed motions to dismiss the complaint, and a hearing was scheduled. The night before the hearing, however, Abdelhady filed her first amended complaint which brought an additional mortgage fraud claim.⁴ The circuit court dismissed the counts for quiet title and declaratory judgment with prejudice, and gave Abdelhady leave to amend her mortgage fraud claims. Abdelhady amended her complaint two more times. Abdelhady filed her third and final amended complaint in which she alleged new claims for quiet title, declaratory judgment, and four counts of mortgage fraud. “An amended complaint supersedes the initial complaint, rendering the amended complaint the operative pleading.” *Asphalt & Concrete Servs., Inc. v. Perry*, 221 Md. App. 235, 267 (2015) (citation omitted). “The amended complaint replaces the initial complaint in its entirety, and the initial complaint is considered withdrawn.” *Id.* We, therefore, will only look to the third amended complaint in reviewing the court’s grant of summary judgment.

³ Kristine D. Brown and R. Kip Stone were former employees of the law firm that initiated foreclosure proceedings. Abdelhady did not properly serve Brown and Stone when she filed her complaint.

⁴ We note that though Maryland Rule 2-341 sets general timing guidelines for amending a civil pleading, our courts have long held that amendments should be allowed freely, unless they result in prejudice to the opposing party or undue delay. *See e.g., Jacobson v. Julian*, 246 Md. 549, 554 (1967); *E.G. Rock, Inc. v. Danly*, 98 Md. App. 411, 428 (1993); *Bayly Crossing, LLC v. Consumer Protection Div., Office of Atty. Gen.*, 188 Md. App. 299, 328 (2009). Neither Nationstar nor the substitute trustees allege that the untimely and numerous amendments by Abdelhady prejudiced or delayed them in any way. We, therefore, do not consider timing of the amendments in our analysis.

In response to Abdelhady's third amended complaint, Savage and Britto moved to dismiss and Nationstar moved for summary judgment on all counts.⁵ The circuit court held separate hearings on each motion, and all parties agreed the operative Note was labeled as Exhibit G. At each hearing, the circuit court found the Note was indorsed in blank and that Nationstar, as the possessor of the Note, was entitled to enforce it and assign Savage and Britto to initiate foreclosure. Accordingly, the court granted Savage and Britto's motion to dismiss all claims against them with prejudice and summary judgment to Nationstar on all counts.⁶ On appeal,⁷ Abdelhady challenges the dismissal of the claims for quiet title and

⁵ Abdelhady also filed for partial summary judgment, which was denied. She does not appeal from the denial, and we do not review it here.

⁶ The order of a dismissal with prejudice prohibits refiling the same claims. *Mohiuddin v. Drs. Billing & Mgmt. Sols., Inc.*, 196 Md. App. 439, 452 (2010). Despite this, Abdelhady asserted her quiet title and declaratory judgment claims for a second time against Nationstar, arguing that these were new claims based on a new fact—that Nationstar materially altered the Note by removing stamps during discovery. Rather than reject the quiet title and declaratory judgment claims because they were previously dismissed with prejudice, the circuit court examined the revised counts in Abdelhady's third amended complaint to see whether they stated a claim for which relief could be granted. The circuit court found that they did not, noting that the unstamped versions of the Note were earlier iterations, not material alterations as Abdelhady claimed. As discussed below, this result is immaterial to this appeal because of the rights the Note confers to Nationstar.

⁷ Abdelhady also challenges the denial of a motion to suppress her deposition testimony taken by Savage and Britto. We note that the substitute trustees originally gave notice to depose Abdelhady in December 2022, which Abdelhady fought by filing for a protective order (which was denied, appealed, and affirmed) and by not showing up. Eventually, Savage and Britto deposed Abdelhady. Abdelhady filed for another protective order, which was denied. Abdelhady then filed a motion to suppress the deposition on the basis that proper procedure was not followed during and after the deposition. The circuit court assigned the motion to a special magistrate, who denied it. Even if the circuit court erred in denying the motion to suppress, which it did not, Abdelhady's deposition makes

declaratory judgment from the original complaint, the dismissal of the substitute trustees from the third amended complaint, and the grant of summary judgment for Nationstar.⁸

DISCUSSION

At the core of this conflict is the Note and the rights, if any, that it confers. If the Note is specially indorsed, as Abdelhady argues, then she may have valid causes of action—her quiet title claim, declaratory judgment, and fraud claims—that warrant further litigation. If the Note is indorsed in blank, however, as Nationstar argues, then all of Abdelhady’s causes of actions have no basis and fail, as a matter of law, no matter what other facts are available. For the reasons that follow, we affirm the decision of the circuit court that the Note is indorsed in blank.

When reviewing a grant of a motion to dismiss, the motion must be treated as one for summary judgment when matters outside the pleadings are considered. MD. R. 2-322(c). Because, in addition to the pleadings, the circuit court here considered

no difference in determining the rights under the Note, which we review based on the undisputed facts of this case.

⁸ Though Abdelhady does not make this argument on appeal, we note that a declaratory judgment claim may only be dismissed under limited circumstances, such as when there is no justiciable controversy between the parties. *Aleti v. Metro. Balt., LLC*, 251 Md. App. 482, 520 (2021). A justiciable controversy is one in which “there are interested parties asserting adverse claims upon a state of facts ... wherein a legal decision is sought or demanded.” *Id.* (citation omitted). This dismissal was one of the rare instances where dismissal of a declaratory judgment was appropriate because, based on the complaint, there was no justiciable controversy. The claim was based on whether and to whom Abdelhady was obligated to make payments, based on the Note. The existence of the Note and the debt it carries for Abdelhady was undisputed. She was always obligated to pay someone. That she didn’t want to pay Nationstar does not make this a justiciable legal question for which declaratory judgment must be entered. We, thus, affirm the dismissal of this claim.

depositions, affidavits, and other evidence, we treat the grant of the motions to dismiss as we would a grant of summary judgment. *Matter of Carpenter*, 264 Md. App. 138, 169 (2024). We review a grant of summary judgment for whether the circuit court’s order was legally correct. *Id.* A party is entitled to summary judgment “if the motion and response show that there is no genuine dispute [of] material fact and ... the party in whose favor judgment is entered is entitled to judgment as a matter of law.” MD. R. 2-501(f). To prove the existence of material fact and defeat a motion for summary judgment, the party opposing must proffer facts that would be admissible into evidence—merely alluding to the existence of a dispute will not suffice. *Woznicki v. GEICO Gen. Ins. Co.*, 443 Md. 93, 118 (2015). If no genuine dispute of material fact exists, we next review the grant of summary judgment as a matter of law, without deference to the circuit court’s decision and construe the undisputed facts and reasonable inferences in the light most favorable to the non-moving party. *Md. Cas. Co. v. Blackstone Int’l Ltd.*, 442 Md. 685, 694 (2015).

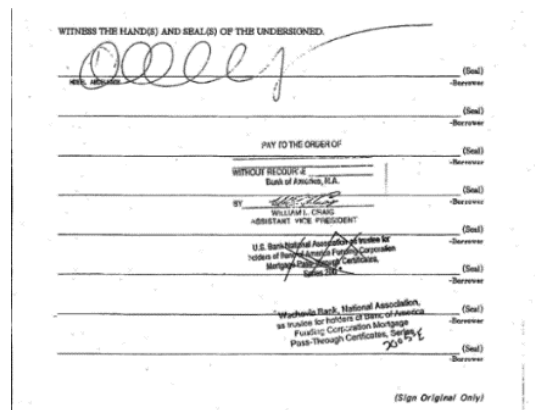
A note is a negotiable instrument that contains a promise to pay an amount of money. MD. CODE, COM. LAW (“CL”) § 3-104(a), (e). Notes contain “indorsements,” or a “signature, other than that of a signer ... for the purpose of (i) negotiating the instrument, (ii) restricting payment of the instrument, or (iii) incurring indorser’s liability on the instrument[.]” CL § 3-204. The note may be enforced by “(i) the holder of the instrument, (ii) a nonholder in possession of the instrument who has the rights of a holder, or (iii) a person not in possession of the instrument who is entitled to enforce the instrument pursuant to § 3-309 or § 3-418(d).” CL § 3-301. Further, “[a] person may be ... entitled to

enforce the instrument even though the person is not the owner of the instrument or is in wrongful possession of the instrument.” *Id.*

The note itself may be indorsed in a variety of ways, including indorsed in blank or specially indorsed. CL § 3-205. A note that is indorsed in blank is signed by the original holder but does not specify who is entitled to collect on the loan, usually reading “PAY TO THE ORDER OF _____ WITHOUT RECOURSE _____.” If a note is indorsed in blank, then the instrument holder may collect on payment. *Deutsche Bank Nat’l Tr. Co. v. Brock*, 430 Md. 714, 729 (2013). In contrast, a note that is specially indorsed is signed by the original instrument holder and specifies who may collect on the loan, reading “PAY TO THE ORDER OF [specific person or entity].” CL § 3-205(a). This type of note only creates rights for the specific person or entity written on the “pay to the order of” line. *Id.* Additionally, an instrument holder “may convert a[n] indorsement [in blank] ... into a special indorsement by writing, above the signature of the indorser, words identifying the person to whom the instrument is made payable.” CL § 3-205(c).

As noted above, all parties agreed that the correct version of the Note was attached as Exhibit G to the third amended complaint and that Nationstar was in possession of the Note. The front page of Exhibit G identifies Bank of America, N.A., as the lender, and underneath, contains the statement, “I understand that Lender may transfer this Note.” The last page (depicted below) contains Abdelhady’s signature, accepting the Note as negotiated, followed by four stamps. The first stamp below Abdelhady’s signature reads: “PAY TO THE ORDER OF _____ WITHOUT RECOURSE _____. Bank of America[.]” The second reads “By [signature], Assistant Vice President.” The third, which is crossed

out, indicates U.S. Bank “as trustee for holders of Bank of America.” The last stamp indicates Wachovia Bank “as trustee for holders of Banc of America.”



Abdelhady argued that the Note was specially indorsed and payable only to Wachovia Bank, because its stamp is the bottom stamp on the Note. At the same time, however, she argued that there is no way to determine to whom the Note is indorsed because the stamps lack dates and throughout the course of this litigation copies of the Note were “altered.” Nationstar countered that the Note was indorsed in blank, and therefore, as the holder of the Note, it is entitled to collect payments on it, regardless of the stamps.

For the issue to proceed to trial, the non-moving party, in this case Abdelhady, must produce evidence of the disputed material fact. *Ragin v. Porter Hayden Co.*, 133 Md. App. 116, 133 (2000). She did not produce any such evidence. Rather, she merely pointed to the Note and declared that there is a dispute, with no other evidence to support that the Note was specially indorsed. Because Abdelhady merely alluded to the existence of a dispute about the Note, the circuit court did not err in concluding that the Note was indorsed in blank.

Concluding that there was no dispute of material fact, we look next to whether Nationstar was entitled to judgment as a matter of law. *See Matter of Carpenter*, 264 Md.

App. at 169-73 (after examining evidence to determine that there was no dispute of material fact, this Court considered whether the undisputed evidence supported a grant of summary judgment). We, therefore, examine the record in front of us, which includes the Note. We see that the Note was originally negotiated by Abdelhady and Bank of America. The original indorsement block reading, “PAY TO THE ORDER OF _____ WITHOUT RECOURSE _____ . Bank of America[,],” is an indorsement in blank, and though there are stamps below it, none of these stamps serve the function of specially indorsing the Note. As stated above, a specially indorsed note only creates rights for the entity written on the “PAY TO THE ORDER OF...” line. That line is blank here. Nor do we read the Wachovia stamp to fill in the blank of that line, converting the indorsement in blank to a special indorsement. CL § 3-205 requires the written conversion to occur *above* the indorser’s signature, but here, the Wachovia stamp is *below* the original indorsement block.

Moreover, even if one of these stamps could be interpreted as a special indorsement, it would have no effect on the outcome of this case. It is undisputed that Nationstar obtained and possessed the Note from Bank of America since 2013 (when it was indorsed in blank). Thus, as the holder of the Note indorsed in blank, Nationstar can, at any time, choose to have another possess the Note and collect payments on it, or it can decide to specially indorse the Note without asking Abdelhady for permission. CL § 3-205(c). Further, by signing the Note, Abdelhady “underst[ood] that Lender may transfer [the] Note.” In other words, if Nationstar wants to “alter” who can collect on the Note, it has the authority to do so. Such an alteration is not mortgage fraud.

We affirm that in the absence of a dispute of material fact, the Note is indorsed in blank and currently possessed by Nationstar. Because of this holding, we conclude that Nationstar is entitled to enforce it. Accordingly, the deed of trust that secures the Note, moves with the Note. CL § 9-203(g), & cmt. 9; *Deutsche Bank*, 430 Md. at 728 (citations omitted). In other words, it is not a nullity, as Abdelhady argued. Instead, with any change in possession or indorsement of the Note, the deed of trust and who has legal rights under it also changes. Because Nationstar is in possession of the Note, it has legal rights under the deed of trust. Such rights include the power to appoint Savage and Britto as substitute trustees to initiate foreclosure. Thus, dismissal with prejudice of the substitute trustees, and summary judgment for Nationstar, are affirmed on all counts.

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