

Circuit Court for Baltimore City
Case Nos. 24X90183501;
24X90183502; 24X90122506;
24X90096507; 24X90096508;
24X90096503; 20090096502;
24500115508; 24X90129508;
24X90129506; 24X90129505;
24X90129503; 24X90135507;
24X90135505; 24X90135501;
24X90135502; 24X90138520;
24X90138524

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2056

September Term, 2019

DORSEY COOCH, et al.,

v.

WALLACE & GALE ASBESTOS
SETTLEMENT TRUST

Graeff,
Friedman,
Kenney, James A., III
(Senior Judge, Specially Assigned)

JJ.

Opinion by Friedman, J.

Filed: February 17, 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.

On November 8, 2019,¹ the Circuit Court for Baltimore City entered final judgment dismissing these 18 separate, unconsolidated cases.² The Appellants jointly noted their appeals on December 12, 2019. As a result, the joint notice of appeals was filed outside the 30-day time-limit provided in Maryland Rule 8-602(b).³ We will, therefore, dismiss their appeals.

Appellants argue, however, that we should not dismiss their appeals because the trial judge entered an amended order on November 14, 2019 and, if calculated from this subsequent amended order, their appeals were timely noted. A comparison of the two orders, however, makes clear that the only purpose of the amended order was to remove a 19th case, that of Thomas Harrison, from the effect of the order.⁴ We hold that this amended

¹ Under Maryland law, to constitute a final judgment, the court had to enter a final judgment resolving all claims against all parties, written on a separate document, and entered on the electronic docket. *Won Bok Lee v. Won Sun Lee*, 466 Md. 601, 605-06 (2020). All of this was accomplished on November 8, 2019.

² There is no doubt that these cases were not consolidated at the trial court, but even if they had been, that would not have had the effect of consolidating them at the appellate level. *Yarema v. Exxon Corp.* 305 Md. 219 (1986) (holding that cases consolidated for trial are to be treated as entirely separate actions for purposes of appeal). These are, however, undoubtedly 18 separate cases.

³ The time-limits for noting an appeal are no longer jurisdictional, *Rosales v. State*, 463 Md. 552, 568 (2019), but a party's right to enforce the rule may, in exceptional circumstances, be waived or forfeited. The appellants here, however, have not argued that Wallace & Gale Asbestos Settlement Trust has waived or forfeited its right to rely on the 30-day limit of Rule 8-602(b).

⁴ In considering whether the November 14, 2019 Amended Order made substantive changes in to the November 8, 2019 Order, we observe that except for necessary pagination changes, there are only four changes from one order to the next: (1) Thomas Harrison's name and case number is deleted from the caption; (2) the word "amended" is added to the

order made no changes in the 18 remaining cases and is irrelevant for the purposes of computing the time for noting their appeals.⁵ See *FTC v. Minneapolis Honeywell Regulator Co.*, 344 U.S. 206, 211 (1952) (applying federal rules); *Am. Safety Indem. Co. v. Official Comm. of Unsecured Creditors (In re Am. Safety Indem. Co.)*, 502 F.3d 70, 72 (2d Cir. 2007) (same).

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED. COSTS TO BE
DIVIDED EQUALLY AMONG
APPELLANTS.**

title; (3) footnote 1 is added, which provides “The purpose of this Amended Order is to instruct that this Order does not apply to the Thomas Harrison (24x900081505) case.”; and (4) at the top of the last page an additional sentence was added: “**ORDERED** that the previous Order filed under this heading is **STRICKEN** as to the *Thomas Harrison* (24x900081505) matter.” There can be little doubt that this amended order is immaterial to any case other than Harrison’s.

⁵ Under the Maryland Rules, the only provision for tolling the time to file a notice of appeal is found in Rule 8-202(c) which provides that when a revisory motion under Rule 2-532, 2-533, or 2-534 is filed within 10 days after entry of judgment, the time for filing a notice of appeal is stayed until the revisory motion is withdrawn or resolved. See MD. RULE 8-202(c); *Estate of Vess*, 234 Md. App. 173, 194-95 (2017). If a revisory motion is filed after this 10-day period but within 30 days of the entry of judgment, the circuit court retains revisory power over the judgment, but the motion does not toll the time for filing an appeal. *Furda v. State*, 193 Md. App. 371, 377 n.1 (2010); *Bacon & Associates, Inc. v. Rolly Tasker Sails (Thailand) Co.*, 154 Md. App. 617, 626 (2004) (quoting *Gluckstern v. Sutton*, 319 Md. 634, 651 (1990)). If the circuit court were to grant that revisory motion, the revised judgment would become the effective final judgment. *Gluckstern*, 319 Md. at 651. If the circuit court denied that revisory motion, however, and no timely notice of appeal had been previously filed, the parties could appeal “only the issues generated by the revisory motion.” *Furda*, 193 Md. App. at 377 n.1. Here, there were *no* motions filed that would have stayed the time for filing the notice of appeal. And while the circuit court issued an amended order, as noted, that amended order did not substantively revise the judgment as to any of the Appellants.