Circuit Court for Prince George's County
Case No.: CAL14-30313

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 2100
September Term, 2019

&

No. 2167
September Term, 2023

JOSEPH BASSO

v.

CAMPOS & ASSOCIATES REALTY, ET AL.

Wells, C.J.
Leahy,
Hotten, Michele D.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Hotten, J.

Filed: July 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 Rule 1-104(a)(2)(B).

This is a consolidated appeal from two orders of the Circuit Court for Prince George's County denying attorney's fees to appellant Joseph Basso. The first order, entered on October 24, 2019, denied Basso's request for attorney's fees under Maryland Rule 1–341. The second order, entered on December 14, 2023, denied Basso's petition for statutory attorney's fees under the fee-shifting provision of the Maryland Consumer Protection Act ("CPA"). Basso presents four questions for this Court's review,[1] which we have consolidated and rephrased as follows:

[1] Basso presented the following questions on appeal:

1. After a Statutory Attorneys' Fees and Costs Petition under Maryland Rule 2-703 was filed after the jury's favorable findings on fraud-related counts and the fee-shifting Maryland Consumer Protection Act, did the second retired trial Judge err in failing to issue a standard and required Memorandum discussing the 12 *Johnson* factors, lengthy affidavits, and time billing records in support, to then calculate and ascertain what are the "reasonable attorneys' fees" through its Lodestar value, but instead, awarded Appellant and Counsel zero ($0) Attorney's Fees and Costs for a decade of litigation, in a conclusionary one-page Order six-months after a hearing, without specifics or findings given, said Order copied from Appellees who themselves barely contested nearly the entirety of billable work hours or the supportive and objective *Johnson* factors?
2. In addition to lacking any specifics to allow appropriate appellate review in Question Presented One, when the Plaintiff's attorney and client in the case, provided approximately 40 pages of affidavits, the Appellees deliberately did not contest as futile at least 11 of 12 *Johnson* factors or more than 2% of the supportive billing time records as challengeable of an appropriate Lodestar attorney's fee award, (including the most important factor of "excellent results"), and the Court was provided hundreds of billing records consistent with the case file detailing the actual work done during the (1) first trial, (2) first successful appeal, (3) oppositions to dispositive motions and post-trial motions, (4) discovery and depositions, and (5) a successful second trial, was the trial Court's award of zero dollars for both lodestar Attorney's Fees and about $28,000 out of pocket costs, properly sustainable on appeal?
3. When Retired Judge Dwight Jackson, in potential violation of Article 33 of the Maryland Declaration of Rights and ethical concerns expressed in the published

(continued)

1. Did the circuit court err in denying Basso's petition for statutory attorney's fees without first engaging in a lodestar analysis?

2. Did the retired judge who decided Basso's petition for statutory attorney's fees lack the authority to issue a ruling?

3. Did the circuit court err in denying Basso's request for attorney's fees under Maryland Rule 1–341 solely on the basis of his being in a contingency fee arrangement?

For the reasons that follow, we affirm the judgments of the circuit court.

BACKGROUND

I. Underlying Facts and Basso's First Appeal

On July 29, 2011, appellees Javier Szuchman and Jose Rodriguez, both licensed real estate agents, purchased a two-story single-family home in Hyattsville ("the Property") for $119,000 at a foreclosure sale. Szuchman and Rodriguez were agents of appellee Juan

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Judicial Ethics Opinion of 2007-06, after being assigned to handle the Statutory Attorney Fee hearing, then in the record had three years of nonfeasance without a hearing, and then 6 months later issuing a conclusory one-page Order written by Appellees, yet failed to disclose he had either (1) already begun work as an associate county attorney for Prince George's County, and thus acted ultra vires in the December 14, 2023 issued order, or (2) said Order was issued within days of the non-judicial "practice of law" attorney work, giving an appearance of impropriety in the ruling itself supporting this Court's reversal and remand which nevertheless, should be explicitly reassigned to a different qualified judge?

4. Did Retired Judge Thomas Smith, after finding Appellees violated Maryland Rule 1-341, err in misapplying and misinterpreting *dicta* in *Seney v. Seney*, 97 Md. App. 544 (1993), that Plaintiffs' counsels in any type of contingency fee agreement, cannot seek monetary relief for 1-341 Rule violations, ignoring subsequent and contrary precedent and public policy statements including the Maryland Supreme Court's decisions in *Henriquez v. Henriquez*, 413 Md. 287 (2010) (awarding Attorney's Fees and Costs to House of Ruth in *pro bono* family law case) and *Worsham v. Greenfield*, 435 Md. 349 (2013) (Defendants' counsels in insurance cases can obtain Rule 1-341 monetary relief)?

Campos, d/b/a Campos & Associates Realty, a real estate broker. About two months later, Szuchman and Rodriguez listed the Property for sale and Basso purchased it for $260,000 on October 2, 2011. That same day, Szuchman and Rodriguez signed the Maryland Residential Property Disclosure and Disclaimer Statement ("Disclosure Statement"), representing that they had owned the Property for three months and had no "actual knowledge" of any "leaks or evidence of moisture" in the basement. The sale closed on November 14, 2011, and Basso moved in with one housemate.

On December 7, 2011, the housemate called Basso to alert him that "there was water in the basement." The housemate believed that the water was entering from under the exterior basement door jamb, at the bottom of the exterior stairwell. Basso hired a water remediation company to clean up the basement, but on March 1, 2012, Basso discovered more water infiltration in the basement. This time, he pulled up the carpet and could see "areas where there was obviously water seeping in from the foundation." He also noticed upon pulling up the carpet that there was "an area of concrete that[was] a different color," with some of the concrete appearing to be "newer." Basso obtained an estimate for concrete work on the Property to address the water infiltration problems, but he decided not to go forward with the work at that time.

Throughout the rest of 2012 and 2013, the basement at the Property flooded "[e]very time there was a substantial rainstorm or, . . . continued [sic] rain over a few days, any time that . . . [it rained] a half inch . . . and up[.]" The water would "seep in from . . . numerous places along the back wall and the wall where the door was . . . [a]nd depending on the amount of rain or the amount of ground saturation, it would just keep going." In July of

2013, Basso became concerned about mold in his basement and hired Larry Hammond, a certified home inspector and certified mold remediation contractor, to perform a "General Grading and Water Infiltration Inspection."

On November 13, 2014, Basso sued Szuchman, Rodriguez, and Campos (collectively "the appellees"), and filed the operative third amended complaint on February 16, 2015. Basso alleged that when Szuchman and Rodriguez signed the Disclosure Statement on October 2, 2011, they had actual knowledge that the basement area flooded repeatedly and had attempted to conceal this defect by removing bushes that lined the side of the home and replacing them with poured concrete. Counts I and II asserted claims against Szuchman and Rodriguez for negligent and fraudulent misrepresentations, respectively; Counts III, IV, and V asserted claims for breach of the CPA; and Counts VI and VII asserted claims against Campos for vicarious liability and negligent hiring and supervision. On July 17, 2015, Basso designated two expert witnesses: Howard Phoebus, a real estate agent, as an expert on valuation of real property as well as the standard of care; and Hammond, as a standard of care and causation expert.

A jury trial commenced on March 28, 2016. Over two days, Basso testified and called five witnesses: Szuchman, Campos, Phoebus, Hammond, and Daniel Seger, a neighbor who lived directly across the street from Basso. Basso also introduced into evidence certified records from the Storm Events Database for the National Climatic Data Center, which reflected that there were multiple storm events involving significant rainfall during the period between July 29, 2011, when Rodriguez and Szuchman purchased the Property, and September 25, 2011, when the Property was listed for sale. During his direct

examination of Hammond, counsel for Basso repeatedly asked whether, based on Hammond's observations of the Property in July of 2013, the Property would have had "flooding issues" prior to Basso's purchasing it and, more specifically, during the period that Rodriguez and Szuchman owned it. Defense counsel objected to each of these questions, and the circuit court sustained the objections, explaining that Hammond's opinion about whether the Property would have flooded in August and September 2011 was "nothing but speculation."

At the close of Basso's case, the appellees moved for judgment on all counts, arguing that Basso had not adduced any evidence, "circumstantial or otherwise, that [on October 2, 2011], [any of the appellees] were aware of or knew of any issues of flooding with that basement." The circuit court agreed, ruling that Basso failed to meet his burden to show that any of the appellees had knowledge of "water or flooding conditions or a wet basement" during the time in which they held title to the Property. Therefore, the circuit court granted the appellees' motion for judgment on all counts, and entered judgment in favor of the appellees on April 19, 2016.

Basso appealed the circuit court's judgment on April 26, 2016, and this Court, in a reported opinion,[2] reversed. This Court held that the circuit court abused its discretion by precluding Hammond from expressing an expert opinion about whether the Property would have experienced flooding during the three-month period when Rodriguez and Szuchman held title to it. Additionally, this Court held that the erroneous exclusion of Hammond's

[2] *See Basso v. Campos*, 233 Md. App. 461 (2017).

testimony was prejudicial because such testimony would have provided sufficient evidence to survive a motion for judgment. As a result, this Court remanded the case to the circuit court for further proceedings consistent with its opinion.

II. The Parties File Competing Motions for Sanctions

On May 13, 2016, after Basso noted his first appeal, but before this Court decided that appeal, the appellees filed a "Motion for Attorneys Fees" pursuant to Maryland Rule 1–341, arguing that Basso "brought this case knowing that it lacked substantial legal justification."[3] On June 7, 2016, the circuit court entered an order staying a ruling on the motion "until the appeal is resolved." This Court resolved Basso's first appeal in a reported opinion filed on July 27, 2017, and a mandate issued on August 28, 2017, reversing the circuit court's grant of judgment in favor of the appellees. However, the appellees did not voluntarily withdraw their motion for attorney's fees following the issuance of the mandate from this Court. Instead, they continued to prosecute their motion for attorney's fees until it was denied without prejudice on April 10, 2018.

Following his win at this Court, Basso also filed motions for sanctions and attorney's fees. On March 26, 2018, Basso moved for Rule 1–341 sanctions against the appellees for "maintaining [a] frivolous motion after [the] appellate court mandate is issued." Additionally, that same day, Basso also moved for Rule 1–341 sanctions against

[3] Rule 1–341 allows the court, if it "finds that the conduct of any party in maintaining or defending any proceeding was in bad faith or without substantial justification," to "require the offending party or the attorney advising the conduct or both of them to pay to the adverse party the costs of the proceeding and the reasonable expenses, including reasonable attorneys' fees, incurred by the adverse party in opposing it." Md. Rule 1–341(a).

the appellees for their "bad faith filing claiming that [a] 3rd party witness they never spoke to was their 'expert.'" Then, on July 16, 2018, the circuit court announced that it "is in receipt of various pleadings seeking or opposing Rule 1–341 sanctions and/or Attorneys' Fees. The Court will resolve these motions after trial on the merits has concluded."

III. Basso Wins a Jury Verdict on all Claims Against Szuchman and Rodriguez and Petitions for Statutory Attorney's Fees

The parties went to trial again from June 10 through 12, 2019. This time, Basso won a favorable jury verdict on all his claims against Szuchman and Rodriguez. The jury awarded him $135,000 in compensatory damages and another $5,000 in punitive damages. On August 5, 2019, after trial had concluded, the circuit court partially granted Basso's motion for Rule 1–341 sanctions against the appellees for "maintaining a proceeding without substantial justification," based on the appellees' further prosecution of their own Rule 1–341 motion after this Court's mandate was received.[4] However, upon discovering that Basso's attorney's fee arrangement was a contingency fee, the court denied Basso's request for Rule 1–341 fees on October 24, 2019. Then, in denying Basso's motion for reconsideration on November 13, 2019, the court explained that

> Plaintiff's counsel has claimed $16,320 in attorney's fees in opposing Defendants' brief simplistic Motion for Attorney's Fees, Docket Entry #93. All of these fees arose when Plaintiff and his counsel were under a contingent fee arraignment [sic] and are not recoverable under *Seney v. Seney 97 MD App. 544*.

[4] The court denied Basso's other Rule 1–341 motion for sanctions related to an alleged "bad faith filing claiming that 3rd party witness [the appellees] never spoke to was their 'expert,'" relying primarily on this Court's decision in *Levitsky v. Prince George's County*, 50 Md. App. 484 (1982). Since Basso did not appeal the court's decision on this motion, we will not address it further.

Basso timely noted an appeal of the court's Rule 1–341 ruling on December 13, 2019.

Later, on January 2, 2020, Basso filed a petition seeking attorney's fees under the statutory fee-shifting provision of the CPA. Basso filed supplemental petitions on February 8, 2020, July 13, 2023, and September 6, 2023. The circuit court heard arguments on the petition on July 21, 2023, and on December 14, 2023, the court denied Basso's petition for statutory attorney's fees. The court reviewed "the numerous billing entries for the high volume of motions filed in this case," and found that "many of the entries are excessive, redundant, and otherwise unnecessary hours the counsel asserts were expended in this matter." The court also found "a lack of detail in the billing entries that would allow it to determine what specific work was done to advance the claim under the Commercial Law Article."

Basso noted a timely appeal of the circuit court's statutory attorney's fees ruling on January 10, 2024. The Rule 1–341 case and the statutory attorney's fees case were consolidated for appeal.

STANDARD OF REVIEW

We review a trial court's decision whether to award attorney's fees in a statutory fee-shifting case for abuse of discretion. However, given the remedial nature of such fee-shifting provisions, we keep in mind that "courts should exercise their discretion liberally in favor of awarding a reasonable fee, unless the circumstances of the particular case indicate some good reason why a fee award is inappropriate in that case." *Friolo v. Frankel*, 373 Md. 501, 518 (2003) ("*Friolo I*").

This Court explained the standard of review for an award of attorney's fees under Maryland Rule 1–341 in *Seney v. Seney*, 97 Md. App. 544 (1993):

> [B]efore imposing sanctions in the form of costs and/or attorney's fees under Rule 1–341, the judge must make two separate findings that are subject to scrutiny under two related standards of appellate review. First, the judge must find that the proceeding was maintained or defended in bad faith and/or without substantial justification. This finding will be affirmed unless it is clearly erroneous or involves an erroneous application of law. Second, the judge must find that the bad faith and/or lack of substantial justification merits the assessment of costs and/or attorney's fees. This finding will be affirmed unless it was an abuse of discretion.

Id. at 549 (quoting *Inlet Assocs. v. Harrison Inn Inlet, Inc.*, 324 Md. 254, 267–68 (1991)).

DISCUSSION

I. The Circuit Court did not Err in Failing to Apply a Lodestar Analysis, nor did it Abuse its Discretion in Declining to Award Any Statutory Attorney's Fees

Basso attacks the circuit court's ruling on his petition for statutory attorney's fees on three separate grounds. First, he argues that the court erred in failing to apply a lodestar analysis[5] to his petition for statutory attorney's fees. Second, he contends that the court issued a "bald and conclusionary Order," which lacked any explanation of the "reasoning" or "process" behind the court's decision. And third, he takes issue with the fact that the court's order was "copied from a proposed order of Appellees." We address each of Basso's appellate arguments and conclude that they are without merit.

[5] The "lodestar approach" is a method of computing attorney's fees "by multiplying the reasonable number of hours expended by the attorney on the litigation by a reasonable hourly rate and then to consider appropriate adjustments to the product of that multiplication." *Friolo I*, 373 Md. at 504.

The General Assembly enacted the CPA in order to establish "minimum statewide standards for the protection of consumers across the State." Md. Code Ann., Com. Law ("CL") §§ 13–102(b)(1), 13–103(a). In 1986, the Act was amended to include a private cause of action "to improve the enforcement" of the Act for the benefit of those consumers. *See* Report of Senate Judicial Proceedings Committee concerning Senate Bill 551 (March 7, 1986); CL § 13–408(a).

Section 13–408(a) of the Commercial Law Article authorizes any person to "bring an action to recover for injury or loss sustained by him as the result of a practice prohibited by this title." CL § 13–408(a). Furthermore, Section 13–408(b) provides that a person who brings an action "to recover for injury or loss under this section and who is awarded damages may also seek, and the court *may award*, reasonable attorney's fees." CL § 13–408(b) (emphasis added). As the language of this provision makes clear, the decision whether to award any attorney's fees is discretionary, although "that discretion is to be exercised liberally in favor of allowing a fee." *Friolo I*, 373 Md. at 512.

There are, as the Supreme Court of Maryland explained in *Friolo I*, two steps to granting attorney's fees under the CPA. The first step is the discretionary decision whether to allow any award of attorney's fees. *Id.* If the court determines that some fees should be awarded, then the second step is to determine the amount of those fees, which the court

must calculate using the lodestar approach.[6] *Id.* Here, the circuit court decided that no fees should be awarded, so we review its decision for an abuse of discretion.[7]

In *Frazier v. Castle Ford, Ltd.*, 430 Md. 144, 166–67 (2013), the Supreme Court of Maryland considered the grant of an attorney's fee award under Section 13–408(b). In a footnote, the Court explained:

> If Mr. Frazier should seek an additional award of attorney's fees in the future, the Circuit Court's consideration of such a request should take into account the factors set forth in Rule 1.5(a) and this Court's prior decisions concerning the award of attorney's fees. *E.g.*, *Hoffman v. Stamper*, 385 Md. 1 (2005) (award of attorney's fees permissible with respect to Consumer Protection Act count, but not fraud count); *Friolo v. Frankel*, 373 Md. 501 (2003) (method for determining reasonable fee).

Frazier, 430 Md. at 167 n.27.

Here, in denying Basso's petition for statutory attorney's fees, the circuit court did exactly as the Supreme Court of Maryland instructed in *Frazier*. The circuit court explained that, in reaching its decision, it "reviewed the applicable law in *Friol[o] v. Frankel*, 403

[6] The Court later confirmed this "two-step" explanation in *Friolo v. Frankel*, 438 Md. 304 (2014) ("*Friolo V*"):

> We acknowledged that there was no actual entitlement to attorneys' fees under either statute, but noted that the court *did* award fees in this case and that no cross-appeal had been taken from that decision, so the exercise of that discretion was not before us. The only issue was the appropriate method of calculating the fee, and, as to that, we held that the lodestar approach, more-or-less as it had been applied in the Federal courts, was the proper method.

Id. at 310 (emphasis in original).

[7] We disagree with Basso that the circuit court erred in failing to apply a lodestar analysis. Since the circuit court declined to award *any* fees, it never reached the second issue—calculation of fees—which is where the lodestar analysis is required.

Md. 443 (2008), *Rochkind v. Stevenson*, 229 Md. App. 442, (2016), *(reversed on other grounds)*, related cases, and the factors enumerated in Md. Rule 2-703." The court also noted that it was "mindful of Rule 1.5 of the Maryland Rules of Professional Conduct, which requires that a lawyer's fee be reasonable."[8] After reviewing the "numerous billing entries for the high volume of motions filed in this case," the court found that "many of the entries are excessive, redundant, and otherwise unnecessary hours[.]" Additionally, the court found "a lack of detail in the billing entries that would allow it to determine what specific work was done to advance the claim under the Commercial Law Article." Based on these findings, the court denied Basso's petition for statutory attorney's fees. We review the court's factual findings for clear error, and its ultimate decision to deny attorney's fees for an abuse of discretion.

"A trial court abuses [its] discretion when it disregards established principles or adopts a position that no reasonable person would accept." *Pinnacle Grp., LLC v. Kelly*, 235 Md. App. 436, 476 (2018). First, the circuit court clearly did not "disregard[] established principles" in reaching its decision. *Id.* To the contrary, the court cited several authoritative sources of law in its order, including a case decided by the Supreme Court of

[8] Our appellate review is not hampered, as Basso contends, by the circuit court's lack of detailed analysis in its order denying his petition for statutory attorney's fees. "[A] judge is presumed to know the law, and thus is not required to set out in intimate detail each and every step of his or her thought process." *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 426 (2007) (quoting *Kirsner v. Edelmann*, 65 Md. App. 185, 196 n. 9 (1985)). Thus, "[t]he fact that the court did not catalog each factor and all the evidence which related to each factor does not require reversal." *Id.* (quoting *John O. v. Jane O.*, 90 Md. App. 406, 429 (1992)). For the same reason, we also reject Basso's contention that the circuit court erred in "copying" its order from the appellees' proposed order, as he supplies no evidence to rebut the presumption that the trial judge knew and applied the law correctly.

Maryland, another case decided by this Court, and two relevant Maryland Rules governing attorney's fees. Thus, we must determine whether the circuit court, in applying the law, "adopt[ed] a position that no reasonable person would accept." *Id.*

The first reason the circuit court gave for denying Basso's request for statutory attorney's fees was that "many of [his counsel's billing] entries are excessive, redundant, and otherwise unnecessary hours[.]" This is a factual finding that we review for clear error. *See Cong. Hotel Corp. v. Mervis Diamond Corp.*, 200 Md. App. 489, 500 (2011) ("[T]he trial court's determination of the reasonableness of attorneys' fees 'is a factual determination within the sound discretion of the court, and will not be overturned unless clearly erroneous.'" (quoting *Royal Inv. Grp., LLC v. Wang*, 183 Md. App. 406, 456 (2008))).

Here, the appellees point to numerous motions filed by Basso that they claim exemplify the court's finding of unreasonableness. For example, the appellees point to a "Motion to Recuse or Reassignment" filed by Basso's counsel, seeking the disqualification of the administrative coordinating judge prior to that judge's presiding over a scheduling conference. This motion was apparently based on counsel's dealings with the judge in a prior case, rather than any conduct of the judge in this case. The appellees also point to similar motions seeking the disqualification of Judge Thomas Smith, the trial judge in this

case, as well as a separate lawsuit filed against Judge Smith over his decision not to enter judgment on the jury verdict until a pending Rule 2–519 motion was decided.[9]

Basso's counsel also filed several appeals and motions for reconsideration of rulings that were largely in his client's favor. For example, after the circuit court denied the appellees' motion for attorney's fees without prejudice, Basso appealed that decision solely on the basis that the denial should have been *with* prejudice. Then, after this Court dismissed the appeal for lack of a final judgment, Basso filed a motion to reconsider the dismissal, which this Court denied, and a petition for writ of certiorari to the Supreme Court of Maryland, which was also denied. In his petition for statutory attorney's fees, Basso seeks compensation from the appellees for all of these billing entries.

Other motions that the appellees point to as being frivolous include (1) a "Motion to Clarify the September 15 Hearing is No Longer On Docket"; (2) a Motion for Summary Judgment on the "Conceded Limited Matter" of whether the appellees were seeking "prevailing party" attorney's fees; and (3) a Rule 1–341 Motion for Sanctions against the appellees "For Bad Faith Filing Claiming That Third Party Witness They Never Spoke To Was Their Expert." The appellees claim that these motions were unnecessary and meritless legal work that no client or adversary should have to pay for.

When reviewing for clear error, the question for this Court is not whether we would have found counsel's billing entries unreasonable, but rather, whether there was *any*

[9] Although this issue is not before us here, Rule 2–519(d) does allow the circuit court, in a jury trial, to "submit the case to the jury and reserve its decision on [a] motion [for judgment] until after the verdict or discharge of the jury[,]" which is exactly what occurred in this case.

evidence to support such a position. *See EBC Props., LLC v. Urge Food Corp.*, 257 Md. App. 151, 165 (2023) ("If there is any competent and material evidence to support the factual findings of the trial court, those findings cannot be held to be clearly erroneous." (citations omitted)). Considering (1) the volume of motions and other filings for which Basso's counsel billed, (2) the fact that many of those filings were appeals or motions for reconsideration of minor issues in rulings that were largely favorable to Basso, and (3) the fact that many of the motions appeared to be motivated by counsel's personal grievances against the judges involved in this case rather than the merits of their rulings, we hold that it was not clear error for the court to find that "many of the [billing] entries are excessive, redundant, and otherwise unnecessary hours[.]"

The circuit court's second explanation for denying statutory attorney's fees was "a lack of detail in the billing entries that would allow it to determine what specific work was done to advance the claim under the Commercial Law Article." A fee award under the CPA "is limited to the CPA action and may not be based on additional recoveries under other causes of action." *Hoffman*, 385 Md. at 49. In other words, if a plaintiff sues under multiple causes of action, including an action brought under the CPA, the fee-shifting provision of the CPA allows the plaintiff to recover attorney's fees *only* for work performed on the CPA claim.

Here, Basso sued the appellees for negligent misrepresentation, fraudulent misrepresentation, and breaches of the CPA. Under *Hoffman*, Basso can only recover statutory attorney's fees for work performed on the CPA claims. Thus, to award any statutory attorney's fees, the court must first be able to determine what work was performed

on the CPA claims, as distinct from work performed on Basso's other tort claims. The court here found that the billing entries of Basso's counsel lacked sufficient detail to allow for such a determination. We review this finding for clear error.

This Court has reviewed the billing records provided by Basso's counsel. Like the circuit court below, we also find that the records are unclear as to what specific work was performed to advance Basso's CPA claims, as opposed to work done to advance his other tort claims. Thus, the circuit court did not commit clear error in making this finding.

When presented with a petition for statutory attorney's fees, "courts should exercise their discretion liberally in favor of awarding a reasonable fee, unless the circumstances of the particular case indicate some good reason why a fee award is inappropriate in that case." *Friolo I*, 373 Md. at 518. Here, we hold that the circuit court did not abuse its discretion in determining that this is one of those circumstances where a fee award was inappropriate. Considering the circuit court's findings that (1) the hours for which Basso's counsel billed were "excessive, redundant, and otherwise unnecessary," and (2) the billing entries lacked detail "that would allow it to determine what specific work was done to advance the claim under the Commercial Law Article," the court's decision to deny an award of statutory attorney's fees was reasonable.[10]

[10] In a supplemental filing, Basso points to this Court's recent decision in *Sugarloaf Alliance, Inc. v. Frederick County, Maryland*, 265 Md. App. 199 (2025), as support for his argument that the circuit court abused its discretion when it awarded no statutory attorney's fees. However, *Sugarloaf* is distinguishable from this case. In *Sugarloaf*, which involved a request for records under the Maryland Public Information Act ("MPIA"), we held that the circuit court abused its discretion in denying Sugarloaf's supplemental attorneys' fees petition without first considering the requisite factors set forth in *Kline v. Fuller*, 64 Md. (continued)

II. Basso Provides Insufficient Evidence for this Court to Determine Whether Judge Jackson was Engaged in the Practice of Law at the Time of his Decision in this Case

As an alternative ground for reversing the circuit court's denial of statutory attorney's fees, Basso argues that the judge who decided his petition, Senior Judge Dwight Jackson, was practicing law at the time that he rendered his decision. This, if true, would violate Article 33 of the Maryland Declaration of Rights[11] and the Maryland Code of Judicial Conduct ("CJC"). *See* Md. Rule 18–100.2(c) (providing that the CJC applies to senior judges); Md. Rule 18–103.1(c) (prohibiting judges from participating in activities that would, among other things, "appear to a reasonable person to undermine the judge's independence, integrity, or impartiality"); Md. Rule 18–103.9(b) (providing an exception for senior judges who "conduct alternative dispute resolution (ADR) proceedings in a

App. 375, 386 (1985) and *Stromberg Metal Works, Inc. v. University of Maryland*, 395 Md. 120, 128 (2006) (holding that, in exercising its discretion to award or deny attorneys' fees under the MPIA, "a court must consider at least three factors: (1) the benefit to the public, if any, derived from the suit; (2) the nature of the complainant's interest in the released information; and (3) whether the agency's withholding of the information had a reasonable basis in law"). Here, on the other hand, Basso sought attorney's fees under the fee-shifting provision of the CPA, *not* the MPIA. Therefore, it was not an abuse of discretion for the circuit court to deny Basso's request for statutory attorney's fees without first considering the factors set forth in the MPIA cases.

[11] Article 33 provides:

> No Judge shall hold any other office, civil or military, or political trust, or employment of any kind, whatsoever, under the Constitution or Laws of this State, or of the United States, or any of them; except that a Judge may be a member of a reserve component of the armed forces of the United States or a member of the militia of the United States or this State; or receive fees, or perquisites of any kind, for the discharge of his official duties.

private capacity"). The appellees, however, contend that the evidence Basso offers to support his allegation is insufficient.

The only evidence Basso points to in support of his allegation is a LinkedIn update from December of 2023, purportedly showing that Judge Jackson began working as an associate county attorney for Prince George's County. However, the LinkedIn update does not specify the date when Judge Jackson started his new job, nor does it actually indicate that Judge Jackson started his new position that month, as opposed to some future time.

In *Newsom v. Brock & Scott, PLLC*, 253 Md. App. 181 (2021), the appellant raised an issue that came to counsel's attention after the trial in that case was over, namely, whether the judge had an undisclosed conflict of interest because of the relationship between the defense counsels' law firm and the Prince George's County Committee to Elect the Sitting Judges. *Id.* at 222. Although this Court held that the appellant's "failure to move for recusal in the circuit court d[id] not preclude us from exercising our discretion to review the issue on appeal[,]" this Court ultimately concluded that there was "too little documentation to make a determination on this issue." *Id.* The same is true in this case. Absent anything more than a LinkedIn post, there is simply no evidence to determine whether Judge Jackson was practicing law in violation of the CJC at the time he rendered the decision at issue in this case.

III. The Circuit Court did not Err in Denying Rule 1–341 Attorney's Fees on the Basis of Basso's Contingency Fee Arrangement

In his final question presented, Basso argues that the circuit court "was legally wrong" when it denied his motion for Rule 1–341 attorney's fees solely on the basis of his

contingency fee agreement with counsel. The appellees, on the other hand, claim that Basso "incurred no fees or expenses"[12] in defending against their own Rule 1–341 motion because "his contractual financial obligation to his attorney were [sic] covered by a fee agreement that called for the attorney's fees to be paid on a contingent basis." In other words, the appellees argue that the mere fact of Basso's being in a contingency fee relationship with his attorney means that he did not incur any fees or expenses and therefore cannot recover fees under Rule 1–341.

In *Seney*, we held that a party in a contingency fee agreement cannot recover Rule 1–341 attorney's fees when they lose their case, because when a party in a contingency fee agreement loses their case they do not have to pay any fees. *See Seney*, 97 Md. App. at 550 ("Mrs. Seney lost the case, therefore, under her contract with Mr. Evans, she was not liable for any attorney's fees."); *see also id.* at 553 (explaining that Rule 1–341 attorney's fees should not be available to attorneys "hired on the basis of contingencies" when "they cannot collect from their own clients whose cases they have lost"). That is the risk inherent in contingency fee agreements. *See id.* at 553 ("Maryland Rule 1–341 was not intended to reduce the risks inherent in contingent fee arrangements."). Since the appellee in *Seney* lost her case, this Court held that she did not incur any fees or expenses and therefore could not recover attorney's fees from the opposing party under Rule 1–341.[13] *Id.*

[12] Rule 1–341 "only allows the court to award attorney's fees actually incurred by the moving party[.]" *Seney*, 97 Md. App. at 553.

[13] The logic behind this rule, as we explained in *Seney*, is simple. Unlike its federal counterpart, Maryland Rule 1–341 "does not provide for a monetary award to *punish* a (continued)

Here, on the other hand, Basso overwhelmingly *won* his case and was awarded $140,000 in total damages. As a result of the contingency fee agreement, Basso paid approximately $72,000 of his recovery to his attorney as a fee. *See* Contingent Fee Definition, Black's Law Dictionary (12th ed. 2024) (defining a contingent fee as a "fee charged for a lawyer's services only if the lawsuit is successful or is favorably settled out of court" that is usually "calculated as a percentage of the client's net recovery"). Thus, unlike the appellee in *Seney*, Basso did incur some attorney's fees in this case. The problem, however, is that there is no way to determine how much of that approximately $72,000 fee is attributable to, and therefore reimbursable for, the time counsel spent responding to the appellees' sanctionable conduct.

Rule 1–341 requires a "direct correlation between the monetary sanction imposed and the actual fees incurred by the opposing party." *Worsham v. Greenfield*, 435 Md. 349, 354 n.3 (2013); *see also Frison v. Mathis*, 188 Md. App. 97, 106 (2009) ("[P]ursuant to the plain language of Rule 1–341, the attorney's fees recoverable are limited to those that *reimburse* the party for actual expenses incurred." (emphasis added)). Thus, even when a party in a contingency fee agreement wins their case, they may be barred from recovering

party that misbehaves." *Seney*, 97 Md. App. at 552 (emphasis added). Rather, the purpose of the rule is to "put a prevailing party in the same position as if the wrongful party's offending conduct had not occurred." *Id.* (emphasis removed). Thus, "[w]hen a party takes money out of her pocket and gives it to the court or to her attorney because of the opposing party's substantially unjustified or bad faith actions, the court may order reimbursement of that money by the opposing party, or the opposing party's attorney, to the aggrieved party." *Id.* "When, however, a party does not incur any expense for attorney's fees, those fees cannot be reimbursed." *Id.*

Rule 1–341 attorney's fees if there is no direct correlation between the fees incurred and the sanctionable conduct.[14]

Here, even though Basso won his case and incurred a contingent fee, there is no way to determine what amount of that fee is attributable to time spent by his counsel opposing the appellees' sanctionable conduct. This is because a contingency fee is not billed by the hour. Unlike hourly fee agreements, which allow courts to draw a "direct correlation" between sanctionable conduct and the actual fees that are incurred in opposing that sanctionable conduct, a contingency fee agreement only allows for a lump sum payment at the end of the case if the client wins. Basso claims that his attorney spent approximately $16,000 worth of time responding to the appellees' Rule 1–341 motion that the court found sanctionable. However, since Basso entered into a contingency fee agreement and was not billed at an hourly rate, it does not matter how much his attorney *would* have billed for the time he spent responding to the appellees' sanctionable conduct. Given the contingency fee agreement, there is no way of determining whether Basso actually incurred $16,000—or any other amount of money—in responding to the appellees' sanctionable conduct. Thus,

[14] In a supplemental filing, Basso cites this Court's recent decision in *Johnson v. Spireon, Inc.*, No. 317, Sept. Term 2024 (Md. App. June 27, 2025), in support of his argument that the circuit court erred in denying attorney's fees under Rule 1–341. However, *Spireon* is distinguishable from the case at bar. In *Spireon*, this Court considered whether a company was barred from seeking attorney's fees under Rule 1–341 when Section 7–301 of the Corporations and Associations Article prohibited the company from doing business in Maryland and maintaining a suit in this State. *Spireon*, slip op. at 34. Here, on the other hand, the issue we decide is whether a party can collect Rule 1–341 attorney's fees when they are in a contingency fee arrangement. Therefore, we find *Spireon* unpersuasive and Basso's reliance on it misplaced.

even though he ultimately won his case, we hold that Basso was barred from recovering attorney's fees under Rule 1–341 because he entered into a contingency fee agreement.

JUDGMENTS OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY ARE AFFIRMED. COSTS TO BE PAID BY APPELLANT.