

Circuit Court for Baltimore City
Case No. 24-C-17-3267

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 2236

September Term, 2017

LIJO PANGHAT

v.

UNIVERSITY OF MARYLAND,
BALTIMORE

Graeff,
Arthur,
Moylan, Charles E., Jr.
(Senior Judge, Specially Assigned),

JJ.

PER CURIAM

Filed: March 5, 2019

*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.

Dr. Lijo Panghat, appellant, appeals from an order, issued by the Circuit Court for Baltimore City, dismissing his complaint for defamation against the University of Maryland, Baltimore, appellee, (the University) for failure to submit a written claim to the State Treasurer (the Treasurer) within one year of his injury, as required § 12-106(b)(1) of the State Government Article. Dr. Panghat raises thirteen issues on appeal that reduce to two: (1) whether the trial court erred in dismissing the complaint, and (2) whether the motions judge erred in not recusing herself from the case. Because Dr. Panghat did not comply with § 12-106(b)(1) of the State Government Article and has not established a conflict of interest that would have required the motions judge to recuse herself *sua sponte*, we affirm the dismissal of his complaint.¹

Dr. Panghat was employed by the University as a Post-Doctoral Fellow, but was terminated from his employment in 2016. On June 13, 2017, Dr. Panghat filed a complaint for defamation, claiming that an employee of the University had written a letter containing false information about the reasons for his termination and then sent that letter to the University’s Office of International Services (OIS). Dr. Panghat alleged that he did not

¹ On February 8, 2018, Dr. Panghat sent a letter to this Court, stating that he intended to file “two very important Motions” that, he claimed, would address “crucial evidence that has now come to light that has compelling and decisive relevance to this Case.” Dr. Panghat indicated that he would file those motions within ten days and requested that we not decide his case until those motions were filed. On February 19, 2018, Dr. Panghat filed a motion for extension of time, requesting the Court to grant him an additional week to file both motions. Because Dr. Panghat’s motion to postpone ruling on his case and his motion for extension of time do not identify what type of motions he intends to file, the nature of the newly discovered evidence, or how the newly discovered evidence might be relevant to the issues raised on appeal, we deny both motions.

learn about the letter until June 14, 2016, and therefore, that his cause of action against the University did not arise until that date.

The University filed a motion to dismiss, asserting that: (1) Dr. Panghat’s claim was barred because he had not submitted a written claim with the Treasurer within one year of his injury, and (2) his complaint failed to state a claim for defamation as a matter of law. Dr. Panghat filed an opposition, wherein he asserted that he had served a written claim on the Treasurer on November 27, 2017. He did not, however, provide any reason for his failure to submit the claim within one year from the date of the injury. Thereafter, the court granted the motion to dismiss, finding that Dr. Panghat had not submitted a claim with the Treasurer within one year and had “failed to file a motion to show good cause” why the claim had not been timely filed. This appeal followed.

In challenging the dismissal of his complaint, Dr. Panghat first asserts that his written claim to the Treasurer, which was submitted in November 2017, was timely because § 12-106(b)(3) of the State Government Article allows a claim to the Treasurer be submitted within three years. We disagree. Section 12-106(b)(3) sets forth the time within which a civil action must be filed in the circuit court after a written claim to the Treasurer has been denied. It does not address the time limit for submitting a written claim to the Treasurer. That time limit is governed by § 12-106(b)(1), which requires the written claim to be submitted “within 1 year after the injury to person or property that is the basis of the claim.” Thus, Dr. Panghat’s claim to the Treasurer, which was submitted approximately seventeen months after the date of injury, was not timely.

Alternatively, Dr. Panghat contends that the court should have excused his failure to submit a timely claim to the Treasurer because: (1) he substantially complied with § 12-106(b)(1); (2) he demonstrated good cause for his noncompliance with § 12-106(b)(1); (3) the State had either actual or constructive notice of his injury within one year of the date of injury; and (4) he is self-represented and a foreign national. None of these claims have merit.

First, the doctrine of substantial compliance is not applicable when the notice of claim is submitted more than one year after the date of injury. *See Barbre v. Pope*, 402 Md. 157, 179 (2007) (holding that the doctrine of substantial compliance could not be invoked where the appellant did not provide written notice to the State Treasurer until fourteen months after the injury); *Candelero v. Cole*, 152 Md. App. 190, 198 (2003) (rejecting the appellant’s claim that he substantially complied with the Maryland Tort Claims Act and noting that the failure to provide a written notice within the one-year period is “an outright failure to comply”). Second, the court did not abuse its discretion in finding that Dr. Panghat had failed to establish good cause for not submitting a timely claim to the Treasurer because his opposition to the motion to dismiss provided no explanation for his noncompliance with § 12-106(b)(1) and he never filed a motion for good cause pursuant to § 12-106(c)(1) of the State Government Article.² Third, § 12-106(c)(2) of the State

² Dr. Panghat notes that he filed a “Motion to Show Good Cause to Defer Entry of An Order of Dismissal” on November 15, 2017. However, that motion addressed a notice of contemplated dismissal by the court based on his failure to file proof of service of the summons and complaint on the University. It did not set forth any reasons why he had failed to file his claim with the Treasurer within one year.

Government Article, which dispenses with the notice of claim requirement when the State has either actual or constructive notice of the injury within the one-year period, does not apply in this case. Rather, that provision became effective on October 1, 2016, after Dr. Panghat’s claim against the University had arisen, and applies “only prospectively” and not “to any cause of action arising before the effective date of this Act.” *See* 2016 Md. Laws ch. 623. Finally, Dr. Panghat’s status as a foreign national and self-represented litigant does not excuse his non-compliance with § 12-106(b)(1). *See Dept. of Labor, Licensing, and Regulation v. Woodie*, 128 Md. App. 398, 411 (1999) (noting that “*pro se* parties must adhere to procedural rules in the same manner as those represented by counsel”).

Dr. Panghat also asserts that the court’s order should be vacated because it incorrectly cited § 12-206 of the State Government Article, a non-existent statute, as the basis for dismissing his complaint. However, this is a clerical error that does not require reversal. The order quoted directly from § 12-106 of the State Government Article and it is clear from the record that the court dismissed the complaint based on that statute.

Finally, Dr. Panghat claims that the motions judge should have recused herself because she had a conflict of interest, specifically that she is an alumnus and former adjunct professor at the University of Maryland School of Law and is a current member of the law school’s Alumni Board and Board of Visitors. However, Dr. Panghat did not file a motion

to recuse in the circuit court. Moreover, none of the conflicts that he alleges in his brief would have required the judge to recuse herself *sua sponte*.

**JUDGMENT OF THE CIRCUIT
COURT FOR BALTIMORE CITY
AFFIRMED. COSTS TO BE PAID
BY APPELLANT.**