

Circuit Court for Frederick County
Case No. C-10-CV-21-000162

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2338

September Term, 2023

SUSAN V. M. MAHARAJ, ET AL.

v.

SMITH BALLOONING, LLC, ET AL.

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

JJ.

Opinion by Wells, C.J.

Filed: October 22, 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 the third appeal from a tort action filed in the Circuit Court for Frederick County, in which Susan V. M. Maharaj and Erich Blatter (hereafter “the Homeowners”) sued multiple parties, Appellees here, seeking (1) an injunction barring the flying of hot air balloons over or near their home, and (2) compensatory and punitive damages. The first appeal was from an interlocutory order dismissing Homeowners’ request for injunctive relief.¹ In an unreported opinion, this Court reversed, in part, the circuit court’s order and remanded the case for further proceedings.²

On remand, the circuit court granted various Appellees’ motions for summary judgment, which resolved claims against all but two Appellees. The Homeowners filed a second interlocutory appeal from an order granting summary judgment in favor of several Appellees on the claim for injunctive relief.

While the second appeal was pending, the case proceeded to trial against the remaining two Appellees. Two weeks prior to trial, counsel for the Homeowners filed an emergency motion to withdraw his appearance based on “irreconcilable differences” between counsel and the Homeowners. The Homeowners expressly consented to counsel’s motion to withdraw. Contemporaneous with the filing of the motion to withdraw, the Homeowners, through counsel, filed a motion to postpone the trial to allow

¹ Section 12-303(3)(iii) of the Courts and Judicial Proceedings Article permits a party to file an interlocutory appeal from an order refusing to grant an injunction.

² *Maharaj v. Smith Ballooning, LLC*, No. 328, Sept. Term 2022 (Md. App. January 12, 2023).

them time to retain new counsel. The court granted the motion to withdraw but denied the Homeowners’ motion to postpone.

The Homeowners appeared for trial without counsel and renewed their motion to postpone, which the court denied. The Homeowners declined to proceed without legal representation. The proceedings went forward anyway, however. With the Homeowners providing no evidence to support their claims, the court granted the remaining Appellees’ motions for a directed verdict and entered a final judgment against the Homeowners. This appeal followed.

The Homeowners present five questions for our review, which we have rephrased and reordered:³

1. Did the court err in granting summary judgment on certain claims in the Homeowners’ second amended complaint, including the claim for punitive damages?

³ The Homeowners’ verbatim questions are:

1. Whether the circuit court abused its discretion when the court granted on the papers, Appellants’ counsel’s motion to withdraw less than one week before a five-day jury trial while denying Appellants’ motion for a brief postponement of the trial[.]
2. Whether the circuit court erred in granting summary judgment on certain claims in the Second Amended Complaint, including the claim for punitive damages[.]
3. Whether the circuit court erred in excluding Appellants’ expert witness[.]
4. Whether the circuit court erred in striking the Third Amended Complaint[.]
5. Whether the circuit court erred in entering a final judgment while an interlocutory appeal was pending.

2. Did the court err in excluding the testimony of the Homeowners’ expert witness?
3. Did the court err in striking the Homeowners’ third amended complaint?
4. Did the court abuse its discretion in denying the Homeowners’ motion to postpone the trial?
5. Did the circuit court err in entering a final judgment while the second appeal was pending?

For the reasons set forth below, we shall affirm the judgment of the circuit court on each issue.

FACTUAL AND PROCEDURAL BACKGROUND

To provide background and context for this appeal, we quote from our unreported opinion in the parties’ first appeal:

This appeal arises from a longstanding dispute between appellants, who live in a rural area of Frederick County, and Smith Ballooning, Inc., an entity that provides hot air balloon tours in the county. Smith Ballooning is owned by Patrick Smith, Meagan Smith, and Kevin Smith. Smith Ballooning . . . launches and lands hot air balloons at multiple locations across Frederick County, including three locations relevant to the present case: a residential property owned by Barbara and Luke Galant (the “Galant property”), Milkhouse Brewery, and Berrywine Plantations. The Galant property is located directly across the street from appellants’ property. Milkhouse Brewery is “1.5 miles away” from appellants’ property. Appellants allege that Berrywine Plantations “is in close enough proximity to [appellants’ property] that flights undertaken to/from [Berrywine Plantations] are believed to maneuver over and/or within the direct proximity of” appellants’ property. When launching from or landing at these locations, the hot air balloons would sometimes fly at a low altitude over or near appellants’ property, affording passengers a clear view of the property. Additionally, the burners used during flight made a loud noise audible from inside appellants’ home.

Maharaj v. Smith Ballooning, LLC, No. 328, Sept. Term 2022 (Md. App. January 12, 2023) at 2-3.

The operative pleading was the Homeowners’ second amended complaint. There, the Homeowners sued the following individuals and business entities: Smith Ballooning, Patrick Smith, Meagan Smith, and Kevin Smith (collectively referred to as the “Smith Defendants”); Barbara Galant and Luke Galant; Thomas Barse and Carolann McConaughy, d/b/a Milkhouse Brewery (collectively referred to as “Milkhouse Brewery”); and Berrywine Plantations. The second amended complaint included seven counts, styled as follows:

Count I – Injunctive Relief

Count II – Intrusion Upon Seclusion

Count III – Private Nuisance

Count IV – Trespass

Count V – Loss of Consortium

Count VI – Strict Liability for Abnormally Dangerous Activity

Count VII – Aiding and Abetting Tortious Conduct

Counts I, VI, and VII were brought against all Appellees. Counts II, III, IV, and V were brought against the Smith Defendants only.

The circuit court entered an order (1) dismissing Count I; (2) granting summary judgment in favor of all Appellees on Count VI; (3) granting summary judgment in favor of Meagan Smith on Counts II, III, IV, and V; and (4) granting summary judgment in favor of Berrywine Plantations on Count VII. As noted above, the dismissal of Count I was subsequently reversed in the first interlocutory appeal.

The court entered an order granting summary judgment in favor of Meagan Smith on Counts I and VII; in favor of Kevin Smith on Counts I, II, III, IV, V, and VII; and in favor of Milkhouse Brewery on Counts I and VII. In the same order, the court granted summary judgment in favor of all Appellees on the claim for punitive damages. The Homeowners filed a second interlocutory appeal from the provisions of that order granting summary judgment on Count I.

Later, the court entered an order granting summary judgment in favor of Luke and Barbara Galant on Count I and VII, and in favor of Berrywine Plantations on Count I.

As a result of the above orders, the only defendants remaining in the case were Patrick Smith and Smith Ballooning. The court scheduled the case for trial.

About a month before the trial was scheduled to begin, the Homeowners’ attorney, Jacob Weddle, filed an “Emergency Motion to Withdraw as Counsel” in which he represented that “[c]ertain irreconcilable matters have recently arisen between [the Homeowners] and [c]ounsel[.]”⁴ The motion was accompanied by a statement, signed by both homeowners, which advised the court that they consented to the immediate withdrawal of Mr. Weddle as counsel of record. On the same day the motion to withdraw was filed, the Homeowners, through counsel, filed a motion to continue the trial to allow them reasonable time to retain new counsel.

⁴ According to Appellants, Mr. Weddle “contended in the motion that his withdrawal was ‘mandatory’ per Maryland Attorneys’ Rules of Professional Conduct 19-301.16(a).” We see no such contention in Mr. Weddle’s motion.

Smith Ballooning and Patrick Smith, the remaining defendants, filed an opposition to the motion to continue on the grounds that the case had been pending for approximately three years and the defense was in the process of preparing for trial. In the same pleading, they advised the court they did not oppose the motion to withdraw.

Several days before trial, the court granted Mr. Weddle's motion to withdraw and denied the Homeowners' motion for continuance. The next day, the Homeowners, now representing themselves, filed a motion for reconsideration of the order denying the continuance. The court denied the motion for reconsideration.

The case was called for trial. The Homeowners appeared without counsel and renewed their request for a postponement, arguing that they would be prejudiced if forced to proceed. The court denied the motion to postpone, stating:

. . . [T]his case has been going on now for over three years to my understanding. It has been continued multiple times. You consented to the withdrawal of your counsel and you filed [a motion for] continuance. The withdrawal was not contingent on the continuance. You agreed to it. The continuance was denied by the administrative judge. [You] moved to reconsider. It was denied by the acting administrative judge. And then you are moving for one today when the defense is here with witnesses. This case has been on the calendar a long time. It is hard to get juries in. We have 55 jurors waiting downstairs.

So you know, the time has come where you are either going to put on your evidence[,] and plenty of people do it pro se[,] or you are going to walk out and I am going to enter judgment in favor of the defense. So it is up to you. You can question witnesses. You can testify. We can pick a jury. I will help you along with it without interfering in the substantive [matters]. . . .

So you can go forward if you choose to. But if you don't, the case will be dismissed. And you can certainly preserve your right to appeal the . . . denial of the continuance.

The Homeowners declined to proceed with trial. Smith Ballooning and Patrick Smith moved for a directed verdict in their favor, which the court granted. This appeal followed. Additional facts are incorporated in the discussion of the issues.

DISCUSSION

I. To the Extent Addressed, the Circuit Court Did Not Err in Granting Summary Judgment

A. Parties’ Contentions

The Homeowners assert that the court erred in granting summary judgment (1) in favor of Meagan Smith, Kevin Smith, Berrywine Plantations, the Galants, and Milkhouse Brewery on Count I (“Injunctive Relief) and Count VII (“Aiding and Abetting Tortious Conduct”); (2) in favor of all Appellees as to Count VI (“Strict Liability for Abnormally Dangerous Activity”); and (3) in favor of all Appellees on the claim for punitive damages.

Appellees, who submitted a joint brief, maintain that the Homeowners have failed to identify any material fact in dispute and have cited no authority in support of their claim that the court erred in granting summary judgment.⁵ With respect to the claim for punitive

⁵ The Appellees request that we dismiss the Homeowners’ appeal because their brief “is devoid of accurate and meaningful record references” in support of their allegations of error, in violation of the Maryland Rules governing appellate procedure. We shall decline to address some of the issues the Homeowners raise due to their failure to provide proper record references and citations to legal authority in support of their claims of trial court error but conclude it is unnecessary to dismiss the appeal. We shall not consider the “Factual & Procedural Background” section of the Homeowners’ brief, as it cites exclusively to allegations in their own complaint or to docket entries that provide no support for the stated fact.

damages, the Appellees argue the trial court did not err in granting summary judgment as there was no evidence to support a finding of actual malice.

B. Standard of Review

“Summary judgment is appropriate where ‘there is no genuine dispute as to any material fact and the moving party is entitled to judgment as a matter of law.’” *Oglesby v. Baltimore Sch. Assocs.*, 484 Md. 296, 327 (2023) (quoting Md. Rule 2-501(a)) (cleaned up). “To be ‘genuine’ in this context, the dispute must be more than hypothetical or conjectural: ‘the mere existence of a scintilla of evidence in support of the [non-moving party’s] claim is insufficient to preclude the grant of summary judgment; there must be evidence upon which the jury could reasonably find for the plaintiff.’” *Woznicki v. GEICO Gen. Ins. Co.*, 216 Md. App. 712, 725 (2014) (quoting *Beatty v. Trailmaster Products, Inc.*, 330 Md. 726, 738 (1993)), *aff’d* 443 Md. 93 (2015). “[M]ere general allegations which do not show facts in detail and with precision are insufficient to prevent summary judgment.” *Beatty*, 330 Md. at 738 (quoting *Lynx, Inc. v. Ordnance Products*, 273 Md. 1, 7–8 (1974)).

“An appellate court reviews without deference a trial court’s grant of a motion for summary judgment, reviews the record in the light most favorable to the nonmoving party, and construes any reasonable inferences that may be drawn from the facts against the moving party.” *Oglesby*, 484 Md. at 327 (internal citations omitted). “Ordinarily, on review of a grant of summary judgment, an appellate court may uphold the grant of a summary judgment only on the grounds relied on by the trial court.” *Warsham v. James Muscatello, Inc.*, 189 Md. App. 620, 635–36 (2009) (internal quotes and citations omitted). “However,

[i]f the alternative ground is one upon which the circuit court would have had no discretion to deny summary judgment, summary judgment may be granted for a reason not relied on by the trial court.” *Id.* (internal quotes and citations omitted).

C. Analysis

I. The Homeowners Fail to Present a Legal Argument in Support of Their Claim of Error in the Circuit Court’s Grant of Summary Judgment on Count VI and Punitive Damages.

The Homeowners assert that the circuit court erred in granting summary judgment in favor of all Appellees on Count VI (“Strict Liability for Abnormally Dangerous Activity”). According to the Homeowners, zoning regulations applicable to the properties owned by the Galants, Milkhouse Brewery, and Berrywine Plantations do not expressly permit the launching of hot-air balloons, therefore, such activity is “presumed to be prohibited[.]” The Homeowners do not provide references to material facts in the record in support of that assertion, nor do they point to any authority or set forth a legal argument as to how such a theory would preclude summary judgment on a cause of action seeking to hold Appellees strictly liable for an abnormally dangerous activity.⁶ Similarly, with respect to the issue of punitive damages, although the Homeowners point to a case discussing actual malice, they fail to provide references to material facts in the 3,197-page record

⁶ In a footnote, the Homeowners cite § 520 of the Restatement (Second) of Torts. However, they do not provide any information as to the content of that source, nor do they explain how, if at all, the source supports their argument that the court erred in granting summary judgment on Count VI.

extract that would support their claim that summary judgment on the punitive damages issue was improper.⁷

An appellate brief must include “[a]rgument in support of the party’s position on each issue.” *HNS Dev., LLC v. People’s Counsel for Balt. Cnty.*, 425 Md. 436, 458 (2012) (quoting Md. Rule 8-504(a)(6)). “A necessary part of any argument are case, statutory, and/or constitutional authorities to support it.” *Id.* It is not the role of this Court to “delve through the record to unearth factual support” for a parties’ appellate claims. *Rollins v. Capital Plaza Assocs., L.P.*, 181 Md. App. 188, 202 (2008). Nor is it “our function to seek out the law in support of a party’s appellate contentions.” *Conrad v. Gamble*, 183 Md. App. 539, 569 (2008) (internal quotes and citations omitted). “Where a party raises an issue on appeal, but fails to provide a proper supporting argument, which includes citation to legal authority and to material facts in the record, this Court, in the exercise of its discretion, may decline to consider the merits of the question so presented.” *Davidson v. Seneca Crossing Section II Homeowner’s Ass’n, Inc.*, 187 Md. App. 601, 646–47 (2009) (citations omitted); accord *HNS Dev.*, 425 Md. at 458–59 (declining to consider merits of position asserted by party through “sweeping accusations and conclusory statements” without “any constitutional or common law authority”); *Poole v. State*, 207 Md. App. 614, 633 (2012)

⁷ In their reply brief, the Homeowners provide references to four pages of the record extract, which they claim is evidence of Patrick Smith’s “animosity” toward Appellants and his knowledge of “the impact of his actions on their well-being.” Three of the four pages cited are not included in the record extract filed with the Court. The only record reference that appears in the extract is a printout of three email messages from Patrick Smith, none of which persuade us that the court erred in granting summary judgment on the issue of punitive damages.

(declining to consider merits of appellant’s assertion “made in one sentence, in a footnote, with no supporting argument”).

The Homeowners’ argument that the trial court erred in granting summary judgment on Count VI and on punitive damages consists only of conclusory statements unsupported by any legal authority and/or material facts in the record before the trial court. Therefore, we decline to address the potential merits of these claims.

II. The Circuit Court Did Not Err in Granting Summary Judgment on Count VII (“Aiding and Abetting Tortious Conduct”).

“Maryland has expressly recognized aider and abettor tort liability.” *Alleco, Inc. v. Harry & Jeanette Weinberg Found., Inc.*, 340 Md. 176, 199 (1995)). “A person may be held liable as a principal . . . if he, by any means (words, signs, or motions) encouraged, incited, aided or abetted the act of the direct perpetrator of the tort.” *Id.* (quoting *Duke v. Feldman*, 245 Md. 454, 457 (1967)).

Aiding and abetting, however, is not an independent cause of action. *Manikhi v. Mass Transit Admin.*, 360 Md. 333, 360 n.6 (2000). “[C]ivil aider and abettor liability . . . requires that there exist underlying tortious activity in order for the alleged aider and abettor to be held liable.” *Id.* (quoting *Alleco*, 340 Md. at 176). “The underlying tort is the cause of action that should be set forth in a separate count. The alleged aiders, abettors, and co-conspirators are simply additional parties jointly liable with the principal perpetrator.” *Manikhi*, 360 Md. at 360 n.6. Therefore, aider and abettor liability cannot exist where the underlying tort has been properly dismissed. *Carter v. Aramark Sports and Ent. Servs., Inc.*, 153 Md. App. 210, 253–54 (2003) (affirming grant of summary judgment

on count for aiding and abetting tortious conduct where summary judgment properly granted on underlying tort claims).

Here, the court granted summary judgment in favor of Meagan Smith, Kevin Smith, the Galants, Milkhouse Brewery, and Berrywine Plantations on all underlying tort claims. Consequently, the trial court had no discretion to deny them summary judgment on the separate count for aiding and abetting tortious conduct. Accordingly, we shall affirm.

III. The Circuit Court Did Not Err in Granting Summary Judgment on Count I (“Injunctive Relief”).

“[A]n injunction is an equitable remedy[.]” *Ademiluyi v. Egnuonu*, 466 Md. 80, 123 (2019) (citations omitted). “A cause of action and a corresponding remedy are not interchangeable terms.” *Caruso Builder Belle Oak, LLC v. Sullivan*, 489 Md. 346, 363 (2025). “[T]he remedy ‘is simply the means by which the cause of action is satisfied.’” *Id.* (citations omitted). “One must have a valid cause of action before one is entitled to a remedy.” *Id.*; accord *Doe v. Salisbury Univ.*, 123 F. Supp. 3d 748, 770 (D. Md. 2015) (“[A] claim for injunctive relief is not a standalone cause of action.”).

Here, all causes of action against Meagan Smith, Kevin Smith, the Galants, Milkhouse Brewery, and Berrywine Plantations were disposed of by way of summary judgment. Accordingly, there was no basis for the grant of injunctive relief against them. The court did not err in granting summary judgment on Count I in their favor.

IV. The Homeowners Fail to Present Proper Legal Argument in Support of Their Claim That the Circuit Court Erred in Excluding Their Expert Witness’ Testimony.

The Homeowners assert the court erred in excluding testimony from James D. Kitchel, whom they had designated as an expert witness. Here, again, the Homeowners fail to “provide a proper supporting argument, which includes citation to legal authority and to material facts in the record.” *Davidson*, 187 Md. App. at 647. Consequently, we shall decline to address it.

V. The Circuit Court Did Not Err in Striking the Homeowners’ Third Amended Complaint.

The Homeowners filed a third amended complaint, in which they pled new claims against several Appellees that the court had already resolved in the Appellees’ favor by way of summary judgment. The Homeowners also set forth new causes of action including negligence, unjust enrichment, and civil conspiracy. Upon motions filed by Appellees, the court dismissed the third amended complaint in its entirety. The court reasoned:

Allowing the Third Amended Complaint to stand will severely and unfairly prejudice the [Appellees]. Discovery closed over a year ago, and the last balloon flight over [the Homeowners’] property was in 2022 (at the latest). There has been nothing new under the sun since. [The Homeowners allege a count of negligence – a different legal theory than the intentional torts pled previously[.] . . . [the Homeowners’] claim for unjust enrichment is also an entirely new theory based on equity and quasi-contract where no claims for breach of contract exist[.]. No discovery was conducted into how, or whether, any of the [Appellees] might have been enriched by their actions. . . . [S]ome of the defendants were dismissed before discovery was concluded, several rounds of dispositive motions have been completed, and trial begins on January 8, 2024. [Appellees] would be prejudiced if the court were to allow an amendment that includes entirely new legal theories at this end stage of the litigation.

* * *

There is no reason [the Homeowners] could not have pled a conspiracy count in 2021, particularly given their position that it is based on the same operative facts as their aiding and abetting claims. Had they done so, [Appellees] would have had the opportunity to litigate the issue during one or both sets of the now-resolved dispositive motions, likely with the same outcome.

* * *

Reopening discovery and allowing for a third round of dispositive motions (most if not all of which would likely be granted given the nature of [Homeowners'] claims and the undisputed facts) would cost [Appellees] substantial additional legal fees and expenses. Stated differently, balancing the likelihood of [Homeowners'] recovery of more than minimal damages given the nature of the allegations (that there were relatively few close encounters with [Homeowners] over more than five years, that the flights ceased over a year ago, that [Homeowners'] property was not touched, and that their damages are based entirely on their subjective emotional upset) against the cost to [Appellees] of defending against claims that could have been brought years ago, equity favors [Appellees].

The court, however, granted the Homeowners leave to file an amended pleading against the remaining two defendants, Patrick Smith and Smith Ballooning, “to allow for the division of the nuisance count in the second amended complaint into two separate counts as set forth in the Third Amended Complaint.”

A. Parties' Contentions

The Homeowners maintain that the court erred in dismissing the newly pled claims of unjust enrichment, negligence, and civil conspiracy. According to them, allowing the amendments would not have prejudiced Appellees as the new claims “did not necessitate reopening discovery” and “did not introduce new operative facts but rather set forth a new

theory based on the same factual situation previously alleged.” They provide no legal authority or substantive argument in support of that assertion.

Appellees maintain that the trial court did not abuse its discretion in striking the third amended complaint, as it introduced new claims based on previously unpled operative facts and “would have caused severe prejudice to appellees, some of whom were no longer parties to the case.”

B. Standard of Review

“The decision whether to grant a motion to strike is within the sound discretion of the trial court.” *Bacon v. Arey*, 203 Md. App. 606, 667 (2012) (quoting *First Wholesale Cleaners, Inc. v. Donegal Mut. Ins. Co.*, 143 Md. App. 24, 41 (2002)). “An abuse of discretion occurs where no reasonable person would take the view adopted by the trial court or when the court acts without reference to any guiding principles, and the ruling under consideration is clearly against the logic and effect of facts and inferences before the court or when the ruling is violative of fact and logic.” *Bacon*, 203 Md. App. at 667 (quoting *Beyond Sys., Inc. v. Realtime Gaming Holding Co., LLC*, 388 Md. 1, 28 (2005) (cleaned up)).

C. Analysis

“Amendments to pleadings are allowed under Maryland Rule 2–341 ‘when justice so permits.’” *Residential Warranty Corp. v. Bancroft Homes Greenspring Valley, Inc.*, 126 Md. App. 294, 317 (1999) (quoting Md. Rule 2–341(c)). “The Rule provides for the liberal allowance of amendments ‘in order to prevent the substantial justice of a cause from being

defeated by formal slips or slight variances.”” *Residential Warranty*, 126 Md. App. at 317 (quoting *E.G. Rock, Inc. v. Danly*, 98 Md. App. 411, 428 (1993)). “An amendment that would result in prejudice to the opposing party, however, should not be allowed.” *Residential Warranty*, 126 Md. App. at 317.

In granting Appellees’ motion to strike the third amended complaint, the court considered that the case had been pending for over two years, discovery had been closed for almost a year, there had been two rounds of dispositive motions based on the legal theories pled in the second amended complaint, several parties had been dismissed from the case completely, and there had been no discovery on the newly pled claims. Based on our review of the record, we cannot say the court abused its discretion in granting the motion to strike the Homeowners’ third amended complaint. They have not set forth anything in their brief that would lead to a different conclusion.

VI. The Circuit Court Did Not Abuse its Discretion in Denying the Homeowners’ Motion to Postpone Trial.

A. Parties’ Contentions

The Homeowners maintain the circuit court abused its discretion in denying their motion to postpone trial while also granting their attorney’s motion to withdraw as counsel. Their argument on this issue focuses on the timing of the court’s ruling on the motion to withdraw.⁸ They point to Maryland Rule 2-132(b) which provides: “[u]nless the motion [to

⁸ In support of their argument that the court abused its discretion in denying their motion to postpone the trial, the Homeowners improperly cite unreported opinions of this Court as

withdraw] is granted in open court, the court may not order the appearance stricken before the expiration of the time prescribed by [Maryland] Rule 2-311 for responding.”⁹ They assert that the motion to withdraw was served on December 24, 2024; therefore, pursuant to Rule 2-132(b), the court “could not rule on it, unless in open court, until January 8, 2024, the date of trial.” According to the Homeowners, the court violated rules of procedure by granting the motion to withdraw before that time. They argue that if they had been “fairly apprised that the circuit court would not continue the case, they could have withdrawn their consent to Mr. Weddle’s request to withdraw and proceeded to trial with him as their attorney.”¹⁰

Appellees contend the court did not err in ruling on the motion to withdraw as it was ripe for consideration. Appellees further contend that denial of the motion for continuance

“controlling precedent.” “An unreported opinion of the Supreme Court or the Appellate Court is not precedent within the rule of stare decisis.” Md. Rule 1-104(a)(1). Furthermore, “an unreported opinion issued on or after July 1, 2023[,] may be cited for its persuasive value only if no reported authority adequately addresses an issue before the court[.]” Md. Rule 1-104(a)(2)(B). “An unreported *per curiam* opinion may not be cited as persuasive authority.” *Id.*

⁹ Maryland Rule 2-311(b) provides that a response to a motion shall be filed within 15 days after service of the motion.

¹⁰ The Homeowners’ comment that the court ruled on the motion to withdraw and the motion for continuance without a hearing, despite requests for same. No hearing was required. Pursuant to Maryland Rule 2-311(f), the court is not required to hold a hearing except (1) “when a rule expressly provides for a hearing,” and (2) when there is a request for a hearing on a motion that is dispositive of a claim or defense. Neither exception is applicable here.

was a proper exercise of discretion in that the court considered that the Homeowners consented to their attorneys’ motion to withdraw, as well as the effect a continuance would have on Appellees and the assembled jury pool.

B. Standard of Review

“To grant or deny a motion to withdraw as counsel or a motion for continuance is in the sound discretion of the trial court.” *Serio v. Baystate Props., LLC*, 209 Md. App. 545, 554 (2013) (quoting *Das v. Das*, 133 Md. App. 1, 31 (2000) (citations omitted). “We review the trial court’s decision for an abuse of discretion and ‘unless [the] court acts arbitrarily in the exercise of that discretion, [its] action will not be reviewed on appeal.’” *Serio*, 209 Md. App. at 554 (quoting *Das*, 133 Md. App. at 26). “‘An abuse of discretion occurs “where no reasonable person would take the view adopted by the court’ or if the court acts ‘without reference to any guiding rules or principles.’” *Serio*, 209 Md. App. at 554 (quoting *North v. North*, 102 Md. App. 1, 13 (1994)).

C. Analysis

The court did not err in ruling on Mr. Weddle’s motion to withdraw prior to the time set forth in Md. 2-311(b) for responding to a motion. “[W]hen an opposing party responds early to a . . . motion and in the response does not indicate that any additional response time is needed, the court is justified in deciding the motion forthwith.” *Johnson v. Rowhouses, Inc.*, 120 Md. App. 579, 591 (1998). Here, the motion to withdraw as counsel was filed with the express consent of the Homeowners, and the remaining defendants immediately advised the court they did not oppose the motion to withdraw.

Consequently, the court was justified in deciding the motion as no additional response time was needed.

We perceive no abuse of discretion in the court’s contemporaneous denial of the motion for continuance. The case had been pending for almost three years, and the remaining defendants were prepared for trial and eager for the matter to be concluded. Moreover, as the court noted, the Homeowners expressly consented to the withdrawal of their attorney two weeks before trial, and their consent was not conditioned on the grant of a continuance.

The Homeowners suggest that the trial court “had the option to deny Mr. Weddle’s motion to withdraw on grounds that to grant it would cause “undue delay, prejudice, or injustice.” To the extent that they are claiming error by the court in granting the motion to withdraw, to which they expressly consented, their argument is waived. *See Parker v. State*, 402 Md. 372, 405 (2007) (“A litigant who acquiesces in a ruling is completely deprived of the right to complain about that ruling.”).

VII. The Circuit Court Did Not Err in Entering Final Judgment.

At the time of trial on January 8, 2024, the second interlocutory appeal from the order granting summary judgment on Count I in favor of Meagan Smith, Kevin Smith, and Milkhouse Brewery, was still pending. After granting the motion for a directed verdict, the court issued an order entering judgment in favor of Patrick Smith and Smith Ballooning on all counts. The order is titled “FINAL JUDGMENT” and states “this is intended as a final judgment.”

On February 6, 2024, the Homeowners filed this appeal from that order. On February 9, 2024, they voluntarily dismissed the second interlocutory appeal.

A. Parties’ Contentions

The Homeowners argue it was improper for the court to enter final judgment on all claims while the second interlocutory appeal was still pending. Appellees contend it was within the court’s discretion to enter a final judgment as the only issue raised in the second interlocutory appeal was whether the trial court erred in entering summary judgment in favor of “a small subset” of Appellees on the Homeowners’ claim for injunctive relief based on alleged zoning violations. Alternatively, Appellees maintain that because the Homeowners voluntarily dismissed the second interlocutory appeal, the issue is moot.

B. Standard of Review

“[I]n the absence of a stay, trial courts retain fundamental jurisdiction over a matter despite the pendency of an appeal.” *Kent Island, LLC v. DiNapoli*, 430 Md. 348, 360–61 (2013) (citing *Cottman v. State*, 395 Md. 729, 739 (2006)). “Thus, a trial court may continue ordinarily to entertain proceedings during the pendency of an appeal, so long as the court does not exercise its jurisdiction in a manner affecting the subject matter or justiciability of the appeal.” *Kent Island*, 430 Md. at 361 (citing *Carroll Craft Retail*, 384 Md. at 45).

C. Analysis

“To constitute a final judgment . . . an order ‘need not resolve the merits of a case[.]’” *Matter of Broadway Svcs. Inc.*, 265 Md. App. 343, 360 (2025) (quoting *Metro Maint. Sys. South v. Milburn, Inc.*, 442 Md. 289, 299 (2015)). “Even if the order does not

decide and conclude the rights of the parties, it nevertheless will be a final judgment if it terminates the proceedings in that court and denies a party the ability to further prosecute or defend the party’s rights concerning the subject matter of the proceeding.”¹¹ *Milburn*, 442 Md. at 299.

At the time of trial, the only remaining defendants in the case were Patrick Smith and Smith Ballooning. All other defendants had been granted summary judgment on all claims against them. Upon entry of the directed verdict in favor of Patrick Smith and Smith Ballooning, the proceedings in the circuit court were at an end and the Homeowners had no ability to further prosecute the case. Consequently, as a matter of law, the court’s order dated January 8, 2024, constituted a final judgment. The court did not err in entering it as such.

THE JUDGMENT OF THE CIRCUIT COURT FOR FREDERICK COUNTY IS AFFIRMED. APPELLANTS TO THE PAY COSTS.

¹¹ The Homeowners do not argue that the entry of the final judgment affected the subject matter or justiciability of the second interlocutory appeal.