Circuit Court for Montgomery County
Case No. C-15-FM-23-003809

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2377

September Term, 2024

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CHANTELLE CHAFFATT

v.

ROBERT J. AIELLO

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Ripken,
Kehoe, S.
Wright, Alexander Jr.
(Senior Judge, Specially Assigned),

JJ.

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Opinion by Ripken, J.

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Filed: September 2, 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).

Robert J. Aiello ("Father") and Chantelle Chaffatt ("Mother") are parents to one minor child, J.[1] After a four-day trial, the Circuit Court for Montgomery County entered an order granting Father sole legal and physical custody of J., and ordered that Mother have no contact with J. until supervised access was arranged. Mother noted an interlocutory appeal raising fourteen issues, which we have consolidated and rephrased as follows:

I. Whether this Court has jurisdiction over filings that post-date Mother's appeal.[2]

II. Whether the circuit court abused its discretion in the denial of Mother's motion to prohibit *ex parte* communication.[3]

III. Whether the circuit court abused its discretion in allowing Father to amend pleadings.[4]

IV. Whether the circuit court abused its discretion in awarding Father sole physical and legal custody of J.[5]

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[1] To preserve the anonymity of the minor child, we refer to her by the randomly generated letter, "J."

[2] Mother presented the following questions in relation to this topic:

> (12) Did the trial court err in finding [Mother] to be a "vexatious litigant" and imposing pre-filing restrictions while her appeal was pending?

[3] Mother presented this question in relation to this topic:

> (2) Did The Trial Court err and abuse its discretion by denying [Mother's] Motion to Prohibit Ex Parte Communication and by subsequently participating in ex parte communication to issue a warrant?

[4] Mother presented this question in relation to this topic:

> (4) Did The Trial Court err by denying [Mother's] motion to strike the [Father's] amended counterclaim for custody?

[5] Mother presented the following questions in relation to this topic:

> (1) Did The Trial Court err by issuing a written memorandum opinion on April 4, 2025, nearly 60 days after its oral ruling and after the appeal had been filed and the record transmitted?

As we discuss, we shall affirm the judgment of the circuit court.

## FACTUAL AND PROCEDURAL BACKGROUND

The facts of this case span the course of more than ten years and at least two states. The information relevant to the instant appeal is as follows.

*i. History of the parties from 2014 through 2023*

Mother and Father met at a nightclub in New York City in 2014. The parties began a brief relationship and Mother became pregnant. The relationship ended in March of 2015.

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(3) Did The Trial Court err in granting primary physical and sole legal custody Without Proper Evaluations and exceeding the Requested Relief[?]
(5) Did The Trial Court err by failing to properly apply Maryland's statutory factors for custody determinations and failing to preserve jurisdiction?
(6) Did The Trial Court err by imposing a pretrial sanction order preventing [Mother] from objecting to expert witness testimony?
(7) Did The Trial Court err by improperly evaluating and discrediting the [Mother's] evidence while accepting the [Father's] evidence without equivalent scrutiny?
(8) Did The Trial Court err by Ordering an Immediate Custody Reversal Without a Proper Transition Plan, Parenting plan, Evidence-based Justification, or Consideration of the Child's Best Interests[?]
(9) Did The Trial Court err by reversing custody based on allegations of parental alienation without requiring sufficient supporting evidence or expert testimony to establish that parental alienation actually occurred?
(10) Did The Trial Court err or abuse its discretion in Delegating Custody Decision-Making Authority to Private Parties and Imposing Unreasonable Conditions on Visitation[?]
(11) Did the trial court err and abuse its discretion by dismissing the visitation evaluation report as outdated, despite it being a comprehensive and thorough evaluation that included detailed interviews with both parents and the minor child?
(13) Did the trial court err by ordering supervised visitation without due consideration?
(14) Did the trial court err by failing to consider harm to the child by the sudden separation from her primary attachment figure and community?

Father was married to another woman at that time of the relationship, but not to Mother.

Both parties thereafter sought protective orders against each other in New York. Mother's petition was based upon her allegation that Father had physically abused her while she was pregnant in an attempt to coerce her into getting an abortion. Father's petition was based upon Mother's repeated disparaging posts on social media applications, and Mother's repeated contacting of Father's wife, friends, and family to communicate with them regarding the pregnancy and Father's infidelity. The court in New York denied Mother's petition and granted Father's petition, finding that Mother "through rebellious engagement" conducted herself in such a way that constituted "aggravated harassment and stalking." In September of 2017, the New York court entered a five-year order of protection against Mother.

*ii. Father begins establishing contact with J.*

After J. was born, Mother and J. moved to Maryland.[6] Due to the protective order, Father had no contact with J. until June of 2023, at which point he emailed Mother and requested to meet J. Mother agreed, and J. spoke on the phone with Father for the first time in her life. Father's outreach in 2023—post-expiration of the protective order—led to the parties arranging in-person visitation between Father and J. Father and J. then had three in-person visits, which Mother supervised. After the third visit, Mother prohibited Father from

[6] The record does not reflect the year when J. and Mother moved to Maryland. At trial in February of 2025, Mother testified that she and J. moved to Maryland over six-and-a-half years prior.

seeing J., accusing Father of inappropriately kissing J. at the end of the third visit and of verbally abusing Mother at all three visits. Father denied both of Mother's accusations.

In August of 2023, Mother filed a complaint for custody, wherein she sought primary physical custody and sole legal custody of J. In response, Father filed both an answer and a counter complaint. Father sought for primary physical custody to be awarded to Mother, with reasonable and regular access awarded to Father, to include holidays and vacations, and for the parents to share joint legal custody of J. In December of 2023, the circuit court entered a *pendente lite* consent order providing Father with supervised in-person visits with J. on alternating Saturdays and virtual visits with J. on Tuesday evenings. Months passed where Mother failed to comply with the court's *pendente lite* order by withholding Father's access to J. In May of 2024, Father filed an emergency motion to enforce parenting time, which the circuit court granted.

In August of 2024—as Mother continued to withhold access to J.—Father filed an emergency petition for constructive civil contempt against Mother. In the petition, Father contended that Mother had prohibited him from having in-person visitation with J. for nearly seven months and that she had prohibited him from having virtual visitation with J. for eleven consecutive weeks.

In November of 2024, the circuit court granted Father's emergency petition for constructive civil contempt.[7] The court found Mother in contempt for failing to comply with the court's previous order to provide Father with access to J. The court provided a

[7] By this point in time, Father had not seen J. since before January 6, 2024—a period of ten months.

specific and detailed order, including a precise list of dates from November of 2024 through January of 2025 that Mother was required to make J. available for virtual and in-person visitation with Father.

*iii. Visitation from November of 2024 through January of 2025*

On November 30, 2024, J. was scheduled to have a visit with Father. After arriving with J. at the set location for the visit, Mother called the police and stated that she received a threatening text message from an unknown number. Mother told the police that she and J. were present so that J. could have supervised visitation with Father and that she believed the threatening text message was sent by Father. Two officers then accompanied Mother and J. to meet Father. Once there, the officers questioned Father about the text message; Father denied having sent the text message and advised the officers regarding the "ongoing situation with false accusations" being made by Mother. The police determined that J. was safe with Father and Mother ultimately agreed and that J. was "safe and not fearful of going with [Father]" for the visit. The visit thus continued. Dr. Camille Jones ("Dr. Jones"), the appointed therapeutic supervisor, was present at the visit and reported that although J. initially "display[ed] visible signs of discomfort, such as avoiding eye contact and fidgeting[,]" J. "began to warm up" to Father, "showing increased signs of affection, familiarity and comfort."

On December 1, 2024, Mother and J. failed to appear for Father's scheduled in-person visitation.

On December 7 and December 8, 2024, Father had in-person supervised visitation with J. Both visits were disrupted by Mother—as she arrived thirty minutes early to the

scheduled end time of the visit to pick up J., which, according to Dr. Jones, "disrupted the father-daughter dynamic" and—because Mother arrived with two other people, a male friend of hers as well as a friend of J.'s. Despite Mother's interruptions, Dr. Jones noted continued progress between J. and Father, including "their emotional connection and shared enjoyment of each other's company."

In January of 2025, Father and J. visited a paintbar and then a restaurant for in-person supervised visitation. Father and J. completed their painting and then went down the road to the restaurant; upon entering the restaurant, Father noticed that Mother was seated in a booth with the same male friend and the same friend of J.'s who had been present when Mother interrupted the December visits. Father, J., and Dr. Jones sat at a table separate from Mother, her male friend, and J.'s friend within the restaurant. Mother interrupted this visit by taking pictures of Father, J., and Dr. Jones despite a request to refrain from such an act. Father, J., and Dr. Jones completed their meal and attempted to leave the restaurant as there was still approximately one hour left of the visit at which point Mother "jetted from her table and accosted [J.,]" directing J. to join Mother at Mother's table. In an attempt to continue the scheduled visit, Father explained to Mother that there was still one hour remaining and that they would return to the agreed upon meeting location at the appropriate time. Mother then began yelling "[W]hy are you hitting me? Why are you assaulting me?" continuously, despite no actual or attempted physical contact. The police were called and despite Father's "composed attempts" to continue the visit as scheduled, Mother "forcibly ended the visit," and departed the restaurant with J. prior to the arrival of the police.

*iv. Custody trial and subsequent events*

The parties appeared for a four-day custody trial from February 3, 2025 through February 6, 2025. Father appeared with counsel and Mother appeared pro se. The court heard testimony from Mother, Father, Dr. Jones, Amanda Taylor ("Taylor")—a custody evaluator appointed by the court, Dr. Robin Deutsch ("Dr. Deutsch")—an expert in parent-child conflict, and Colleen Bokman ("Bokman")—an expert in parental fitness assessments and evaluations. Additionally, the court heard argument from the best interest attorney appointed to represent J.

At the conclusion of the trial, the court made an oral ruling and issued a written order ("the Custody Order") granting Father sole physical and legal custody of J. In its oral ruling, the court analyzed each of the child custody factors set forth in *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406 (1977) and *Taylor v. Taylor*, 306 Md. 290 (1986). The court, noting that it was "very troubled by the fitness of [Mother]" and that it was fearful of Mother absconding J., ordered an immediate transfer of J. to Father. The court further directed Father to "proceed immediately" from the courthouse to J.'s elementary school to retrieve J. The court set an additional hearing to consider supervised visitation options for Mother and ordered that Mother have no contact with J. "until such time as supervised access can be arranged[.]"

On February 13, 2025, Mother noted this timely appeal. Additional facts will be incorporated as they become relevant to the issues.

## DISCUSSION

### I. THIS COURT DOES NOT HAVE JURISDICTION OVER FILINGS THAT POST-DATE MOTHER'S NOTICE OF APPEAL.[8]

After Mother noted her appeal in February of 2025, both she and Father continued to file motions in the circuit court. Pertinent to the issues Mother raised before us, the timeline of those motions is as follows:

- February 21, 2025: Father filed a "Motion for a Pre-Filing Order," requesting that Mother be deemed a vexatious litigant.
- February 24, 2025: Mother filed a motion to strike Father's motion.
- March 5, 2025: Father filed a motion in opposition to Mother's motion to strike. On the same day, Mother filed an amended motion to strike Father's initial motion for a pre-filing order.
- March 7, 2025: The circuit court held a hearing on outstanding matters, at which Mother confirmed that her motion to strike constituted her response to Father's motion for a pre-filing order.
- March 12, 2025: The circuit court entered a memorandum opinion and order granting Father's motion, finding Mother to be a vexatious litigant, and imposing certain pre-filing restrictions on Mother.

In July of 2025, Mother filed a "motion for appropriate relief" in this Court. The motion requested that this Court enter an order "confirming the Court's jurisdiction" and that such confirmation "would assist in maintaining orderly proceedings and ensure proper administration" of the case. Father did not file a response. On August 6, 2025, we denied

[8] As an initial matter, we note Mother challenges several circuit court orders entered after the she filed a notice of appeal. Although neither party directly addresses this Court's jurisdiction as to any of Mother's questions presented, as a matter of appellate procedure, we *sua sponte* address this issue. *See Stevens v. Tokuda*, 216 Md. App. 155, 165 (2014) ("Even if no party challenges the appealability of an order, appealability is a jurisdictional issue that we must resolve *sua sponte*.").

Mother's motion.

Without directly addressing jurisdictional concerns in her brief, Mother avers an argument that pertains to post-notice-of-appeal filings. Mother asserts that the circuit court erred in finding her to be a "vexatious litigant" and in imposing pre-filing restrictions upon her. Mother asserts that the pre-filing order was "overbroad" because it was not "narrowly tailored to address specific abusive conduct without foreclosing legitimate judicial access." Mother further asserts that the litigation history between her and Father does not reflect one that is marked by "duplicative, harassing, or frivolous filings[.]"

Father contends that the circuit court's "issuance of the pre-filing order is unrelated to Mother's appeal." However, were we to address the merits of the "vexatious litigant" finding, Father contends that the circuit court's pre-filing order was narrowly tailored to meet the needs of this specific case.

Mother's challenge to the pre-filing order is not properly before us on appeal because the pre-filing order was docketed months after Mother filed her notice of appeal. *See In re Guardianship of Zealand W.*, 220 Md. App. 66, 79 (2014) (noting that this Court lacked jurisdiction over orders appealed which were docketed "*after* the last notice of appeal was filed by appellant." (emphasis in original)); *see also Forward v. McNeily*, 148 Md. App. 290, 296 n.2 (2002) ("[A] non-appealable order may not be combined with an appealable interlocutory order so as to confer jurisdiction upon this Court."). Accordingly, we will not address it here.

## II. THE ISSUE OF WHETHER THE CIRCUIT COURT PROPERLY EXERCISED ITS DISCRETION IN DENYING MOTHER'S MOTION TO PROHIBIT *EX PARTE* COMMUNICATION IS MOOT.

### A. Additional Facts

In March of 2024, Mother filed a motion to prohibit *ex parte* communication. In the motion, Mother alleged that counsel for Father engaged in *ex parte* communication with a judge's chambers without providing notice to or involving Mother. Mother also alleged that Father's counsel submitted exhibits to the same judge's chambers that were not filed with the court.

In April of 2024, Father filed an opposition to Mother's motion. Father asserted that Mother's motion "distort[ed] the reality of the events" that transpired in March of 2024. Father asserted:

> The parties were scheduled to appear before [the judge] on March 22, 2024, for a hearing on [Mother's] Motion to Change [the] Custody Supervisor. [The judge's] chambers sent the parties a Zoom link for the hearing, which included an instruction regarding the submission of exhibits via MDEC. Counsel for [Father] called [the judge's] law clerk on March 21, 2024, to ask a procedural question regarding the submission of exhibits to ensure that they complied with the [c]ourt's instruction. After the conversation with [the judge's] chambers, counsel for [Father] promptly emailed a summary of the conversation to [the judge's] chambers and [to Mother].

That same month, the circuit court denied Mother's motion as moot in a written order.

Additionally, Mother asserts that the circuit court engaged in another instance of *ex parte* communication in February of 2025, when the court issued a warrant the day after it issued the Custody Order. The Custody Order directed: Father "to proceed immediately" from the courthouse to J.'s school to retrieve J.; the school officials at J.'s school to release J. only to Father and not to Mother; and that Mother have no contact with J. "either direct,

indirect, by phone, by text, by email, by third-party, or by any other means, until such time as supervised access can be arranged[.]" The circuit court, "having received a verified oral petition seeking enforcement of a child custody determination," issued a warrant pursuant to Maryland Code, Family Law ("FL") section 9.5-311, "direct[ing] law enforcement officers to take physical custody of [J.] immediately, and to deliver [J.] to the custody of [Father] . . . . promptly thereafter."[9]

**B. Party Contentions**

Mother contends that the circuit court erred and abused its discretion by denying the motion to prohibit *ex parte* communication. Mother further contends that the circuit court communicated *ex parte* with Father in these two instances. According to Mother, the first instance occurred when a court clerk spoke with Father's counsel regarding exhibits, requesting that counsel resubmit the exhibits "as instructed [by the clerk],"and the second instance occurred when the court issued a custody warrant as to J. based on "a clandestine phone call with opposing counsel."[10]

Father contends that the circuit court's issuance of the warrant *ex parte* is moot. However, if we were to review the issue, Father asserts that the warrant was properly issued

[9] We note that there are no facts in the record regarding Mother's actions that precipitated the issuance of the warrant. However, Father contends in his brief, that "[o]n the evening of February 6, 2025, [he] orally petitioned for a warrant because Mother left the courtroom, intercepted [J.] after school, took [J.] into her apartment and then held her there for hours." Father further explained that "Mother did not open the door when Father knocked, nor when police arrived before a warrant was issued. Mother would not speak to Father or to police through the closed door."

[10] In her brief, Mother omits that the circumstances surrounding the issuance of the warrant occurred only because of her disregard of the Custody Order.

pursuant to FL section 9.5-311(b).

**C. Analysis**

"Generally, a case is moot if no controversy exists between the parties or when the court can no longer fashion an effective remedy." *In re K.K.*, 266 Md. App. 161, 174 (2025) (internal quotation marks and citation omitted). "[A]ppellate courts do not sit to give opinions on abstract propositions or moot questions; appeals which present nothing else for decision are dismissed as a matter of course." *In re Sophie S.*, 167 Md. App. 91, 96 (2006) (internal quotation marks and citation omitted). However, there is an exception to the rule that moot matters are dismissed as a matter of course, because "[t]he decision to dismiss a case for mootness is discretionary." *In re S.F.*, 477 Md. 296, 318 (2022) (citing Md. Rule 8-602(c)). We can exercise our discretion to address a moot appeal in two instances: "where the urgency of establishing a rule of future conduct in matters of important public concern is imperative and manifest" and where an issue is "capable of repetition, yet evading review." *In re K.K.*, 266 Md. App. at 177 (internal quotation marks and citation omitted).

Here, the circuit court's denial of Mother's motion to prohibit *ex parte* communication is moot. The circuit court's denial of the motion does not present an active controversy between Mother and Father. Moreover, we decline to exercise our discretion to address this moot issue because the denial of a motion to prohibit *ex parte* communication is not a matter of important public concern regarding an urgency to establish a rule, nor is it an issue that is capable of repetition, yet evading review. Further, even if we vacated the denial of the motion to prohibit *ex parte* communication, as Mother

requests, the Custody Order would still govern. *See Cabrera v. Mercado*, 230 Md. App. 37, 85–86 (2016) (holding that a service of process issue was moot because the final custody order would still govern even if the court vacated the emergency temporary order as the appellant requested). Similarly, even if we were to determine that the circuit court's issuance of the warrant was *ex parte* pursuant to FL section 9.5-311(b) and was improper, the issue would remain moot because the Custody Order would still govern. *See id.* Thus, we decline to address this moot issue.

## III. THE CIRCUIT COURT PROPERLY EXERCISED ITS DISCRETION IN DENYING MOTHER'S MOTION TO STRIKE FATHER'S AMENDED COUNTER COMPLAINT.

### A. Additional Facts

In December of 2024, Father amended his August of 2023 counter complaint. In the amended counter complaint, Father requested primary physical custody of J., joint legal custody of J., and tie-breaking authority. Therein, Father cited increased concern regarding Mother's behavior, Mother's failure to comply with court orders, and J.'s school absences, noting that in the 2023–2024 school year, J. was absent thirty-eight times and tardy on seventy-eight occasions. Father also pointed to several unilateral decisions made by Mother, including a decision to transfer J. to a new school without notifying Father, as well as a decision for J. to begin practicing a new religion.[11] In response, Mother filed a motion

[11] Specifically, Father asserted that Mother withdrew J. from a private Catholic school and enrolled her in a Montgomery County public school without notifying Father. Further, although J. had attended Catholic school from kindergarten through second grade, "sometime between July 2024 and November 2024, Mother and [J.] began to wear hijabs." Mother "neither discussed nor notified Father of any intention or plan to change [J.'s] religious faith."

to strike Father's amended counter claim for custody. In the motion, Mother asserted that Father's amended counter claim "'introduce[d] new facts or varie[d] the case in a material respect' and unduly prejudice[d] [Mother] in her preparation and defense of the pending claims."

Later that same month, Father filed an opposition to Mother's motion to strike. In January of 2025, the circuit court denied Mother's motion.

**B. Party Contentions**

Mother asserts that the circuit court abused its discretion by denying her motion to strike Father's amended counter claim for custody because the amended counter claim violated the Maryland Rules regarding pleading requirements. Mother further asserts that the circuit court's denial of the motion to strike "radically transformed the case's fact pattern," "severely prejudiced [her] case preparation[,]" and "directly caused an unjust outcome." Father contends that this issue is waived because Mother was required "to file an answer if she contested any new facts or believed Father's amendment varied the case in a material way[,]" and she did not file such a pleading.

**C. Standard of Review**

The decision to grant or deny a motion to strike an amended complaint is within the sound discretion of the trial court. *Bacon v. Arey*, 203 Md. App. 606, 667 (2012). We review issues regarding the amendment of pleadings under the abuse of discretion standard. *Crowe v. Houseworth*, 272 Md. 481, 489 (1974); *Nouri v. Dadgar*, 245 Md. App. 324, 365–66 (2020). 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

rules or principles.'" *Kpetigo v. Kpetigo*, 238 Md. App. 561, 568–69 (2018) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997). Rulings on procedural issues, such as the amendment of a pleading, are given great deference in appellate review. *Schmerling v. Injured Workers' Ins. Fund*, 368 Md. 434, 443–44 (2002).

**D. Analysis**

Maryland Rule 2-341 governs the amendment of pleadings. Subsection a, which is specific to amending a pleading without leave of court, provides in relevant part:

> A party may file an amendment to a pleading without leave of court by the date set forth in a scheduling order or, if there is no scheduling order, no later than [thirty] days before a scheduled trial date. Within [fifteen] days after service of an amendment, any other party to the action *may file a motion to strike* setting forth reasons why the court should not allow the amendment. *If an amendment introduces new facts or varies the case in a material respect, an adverse party who wishes to contest new facts or allegations* ***shall*** *file a new or additional answer to the amendment within the time remaining to answer the original pleading or within [fifteen] days after service of the amendment, whichever is later.* If no new or additional answer is filed within the time allowed, the answer previously filed shall be treated as the answer to the amendment.

Md. Rule 2-341(a) (emphasis added).

"Maryland courts have imposed a liberal construction on the allowance of amendments to pleadings." *Nouri*, 245 Md. App. at 365 (internal quotation marks and citation omitted); *see* Md. Rule 2-341(c) ("Amendments shall be freely allowed when justice so permits."). This is because Maryland courts carry a preference for cases to be "tried on their merits rather than upon the niceties of pleading," especially when they concern an equitable matter such as a child custody determination. *Nouri*, 245 Md. App. at 365 (quoting *Crowe*, 272 Md. at 485); *see also McMahon v. Piazze*, 162 Md. App. 588,

599 (indicating that the circuit court should have allowed a party to request for leave to amend in a child custody case because the issue regarded "the best interest of a child, an issue that is not ordinarily decided on a point of pleading"). "The primary situation in which an amendment should not be allowed is where it would result in prejudice to the opposing party." *Nouri*, 245 Md. App. at 366 (internal quotation marks and citation omitted).

Here, Father's filing of the amended counter complaint complied with Maryland Rule 2-341(a). Father filed the amended counter complaint on December 4, 2024. At that time, trial was set to begin on January 21 of 2025. We have not discerned from the record any scheduling order dictating amendment deadlines nor has either party asserted that such an order was issued. Thus, Father's amended counter complaint was filed prior to the thirty days before the scheduled trial date and was timely. *See* Md. Rule 2-341(a).

Pursuant to Rule 2-341, Mother then filed a motion to strike Father's amended counter complaint, which Father opposed. Mother did not file a new or additional answer to Father's amended counter complaint, despite the language of Rule 2-341 which states that an adverse party who wishes to contest new facts or allegations *shall* file a new or additional answer. Because Mother did not file a new or additional answer within the time allowed, the circuit court properly treated her previously filed answer to Father's initial counter complaint—which was not fully responsive to Father's amended counter complaint—as the answer to Father's amended counter complaint. *See* Md. Rule 2-341(a); *see also Lasko v. Lasko*, 245 Md. App. 70, 78–79 (2020).

Father complied with Rule 2-341 and Mother did not file a new or amended answer to Father's amended counter complaint; hence the only viable pathway available to the

circuit court to grant Mother's motion to strike would have been for Mother—as the party opposing Father's amended counter complaint—to demonstrate that denying her motion would have resulted in prejudice to her. *See Nouri*, 245 Md. App. at 366. Mother made no such showing in this case. In the motion to strike, Mother alleged that Father's amended pleading introduced new facts, and varied the case in a material respect, and that this unduly prejudiced Mother's "preparation and defense of the pending claims." However, Mother did not explain how Father's amended counter complaint prejudiced her; merely asserting that an amended counter complaint prejudices one's preparation and defense of the pending claims does not demonstrate prejudice, and in this case, Mother did not provide any specific examples. *See, e.g.*, *Crowe*, 272 Md. at 489 (disagreeing with appellant's assertion that adding other parties to the action would prejudice him because newly added parties might share in the potential recovery); *Nouri*, 245 Md. App. at 366–67 (explaining that a party's claim of prejudice from an amended pleading—because that party did not have time to address certain issues—was meritless because those same issues were raised in previous pleading documents). Thus, the circuit court properly exercised its discretion in denying Mother's motion to strike.

Against this backdrop, we now turn to the Custody Order.

## IV. THE CIRCUIT COURT PROPERLY EXERCISED ITS DISCRETION IN AWARDING FATHER SOLE PHYSICAL AND LEGAL CUSTODY OF J.

### A. Party Contentions

Mother contends that the circuit court erred in granting sole physical and legal custody to Father because it deprived Mother of due process and because granting Father

custody exceed Father's "requested relief." Mother further asserts that the court erred because it failed to properly apply the best interest factors, as highlighted by its disregard for Mother's "established parent-child relationship" with J., and by the court's decision to transfer J. from Maryland with Mother, to New York with Father. Mother contends that—as to the evidence regarding the court's best interest determination—the circuit court "systematically applied disparate evidentiary standards, consistently subjecting [her] evidence to heightened scrutiny while accepting [Father's] submissions with minimal examination."[12]

Father asserts the circuit court properly awarded him sole physical and legal custody of J., noting that what the circuit court ordered did not exceed his requested relief. Father contends the circuit court properly applied the best interest factors, highlighting that in its

[12] In her sixth issue presented, Mother asserted that the circuit court abused its discretion by imposing a pre-trial sanction which prevented her from objecting to Father's "expert witness testimony." We review discovery sanctions under the abuse of discretion standard. *Kadish v. Kadish*, 254 Md. App. 467, 492–93 (2022). "However, before we look through that lens in a child custody case, we must be satisfied that the court has applied the best interests of the child standard in its determination. When the custody of children is the question, the best interest[s] of the children is the paramount fact." *Id.* at 493 (internal citations and quotation marks omitted). This is because, in a child custody case, determining what is in the best interest of the child "is a bedrock principle[.]" *Id.* (quoting *Reichert v. Hornbeck*, 210 Md. App. 282, 304 (2013)). Thus, "procedural defects," i.e., a discovery violation and subsequent sanction, "should not be corrected in a manner that adversely impacts the court's determination regarding the child's bests interests." *A.A. v. Ab.D.*, 246 Md. App. 418, 446, *cert denied*, 471 Md. 75 (2020). Here, the circuit court's sanction—that Mother "shall not be permitted to object to the expert's ability to testify" at the then-upcoming trial—was not an abuse of discretion. The court sanctioned Mother only after she failed to appear for three depositions, two of which were court-ordered. Further, the sanction allowed Father's experts to testify and thus, it created no limitation on the circuit court's ability to ascertain information regarding the best interest of J. *See Kadish*, 254 Md. App. at 500–01; *see also A.A.*, 246 Md. App. at 447–48. We therefore perceive no abuse of discretion in the trial court's imposition of the discovery sanction.

oral ruling, the court considered and discussed each *Taylor* and *Sanders* factor on the record, and that the court properly considered J.'s best interests in determining that J. should move to New York with Father. Additionally, Father asserts that the court "equally scrutinized" the evidence presented by both him and Mother.

**B. Standard of Review**

This Court reviews determinations regarding child custody with three interrelated, but distinct standards of review. *In re Adoption/Guardianship of H.W.*, 460 Md. 201, 214 (2018).

> When [an] appellate court scrutinizes factual findings, the clearly erroneous standard of [Rule 8-131(c)] applies. [Second,] if it appears that the [court] erred as to matters of law, further proceedings in the trial court will ordinarily be required unless the error is determined to be harmless. Finally, when [an] appellate court views the ultimate conclusion of the [court] founded upon sound legal principles and based upon factual findings that are not clearly erroneous, the [court's] decision should be disturbed only if there has been a clear abuse of discretion.

*J.A.B. v. J.E.D.B.*, 250 Md. App. 234, 246 (2021) (quoting *In re Yve. S.*, 373 Md. 551, 586 (2003)). 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 rules or principles." *Kpetigo*, 238 Md. App. at 568–69 (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. at 312); *see also Gordon v. Gordon*, 174 Md. App. 583, 638 (2007) ("Because a trial court is endowed with broad discretion in a custody proceeding, we may not set aside the trial court's judgment merely because we would have decided the case differently."). Thus, we do "not make our own determination as to a child's best interest." *J.A.B.*, 250 Md. App. at 247.

**C. Analysis**

A trial court's child custody determination requires "a careful examination of the specific facts of each individual case[.]" *Azizova v. Suleymanov*, 243 Md. App. 340, 344 (2019). This Court and the Supreme Court of Maryland have "identified several factors for a trial court to consider when making a custody determination as to a minor child." *J.A.B.*, 250 Md. App. at 249. Specifically, in *Montgomery County Department of Social Services v. Sanders*, 38 Md. App. 406 (1977), this Court set forth the following factors:

> 1) fitness of the parents; 2) character and reputation of the parties; 3) desire of the natural parents and agreements between the parties; 4) potentiality of maintaining natural family relations; 5) preference of the child; 6) material opportunities affecting the future life of the child; 7) age, health[,] and sex of the child; 8) residences of parents and opportunity for visitation; 9) length of separation from the natural parents; and 10) prior voluntary abandonment or surrender[.]

*Sanders*, 38 Md. App. at 420 (internal citations omitted).

In *Taylor v. Taylor*, 306 Md. 290 (1986), the Supreme Court of Maryland expounded upon the factors enumerated in *Sanders* particularly as to consideration of joint custody and set out additional criteria to be considered. *See Taylor*, 306 Md. at 304, 307–11. The *Taylor* factors include: 1) capacity of the parents to communicate and to reach shared decisions affecting the child's welfare; 2) willingness of the parents to share custody; 3) fitness of the parents; 4) relationship established between the child and each parent; 5) preference of the child; 6) potential disruption of child's social and school life; 7) geographic proximity of parental homes; 8) demands of parental employment; 9) age and number of children; 10) sincerity of parents' requests; 11) financial status of the

parents; 12) impact on state or federal assistance; 13) benefit to the parents; and 14) any other factors as appropriate. *Id.*

The factors set out in *Sanders* and *Taylor* are instructive to the trial court's determination of custody, yet, "[u]nequivocally, the test with respect to custody determinations begins and ends with what is in the best interest of the child." *Azizova*, 243 Md. App. at 347.

*i. The circuit court properly considered J.'s best interests and each of the factors set forth in* Sanders *and* Taylor

The record indicates that the court properly considered J.'s best interests, including each of the factors set forth in *Sanders* and *Taylor*, in reaching the custody determination. The circuit court discussed each of the factors in its oral ruling. [R. 1527-538]. We review and discuss the circuit court's findings as they pertain to each factor.

**1) The Fitness of the parents.** The court was satisfied by Father's fitness as a parent. The court noted that based upon the testimony of several of the witnesses—Bokman, Taylor, Dr. Jones, and Dr. Deutsch—"as well as the demeanor and [testimony] of [Father] himself[,]" Father was a "fit and proper person to have custody of J." Conversely, the court was "very troubled" regarding Mother's fitness as a parent, noting that the court had "the sense [that] there's something very serious troubling [Mother.]" The court found that Mother's accusations against Father—namely that he is a violent person, or that he had been violent and abusive in numerous ways to Mother—were "not credible." The court noted that Mother's repeated accusations and complaints regarding Father "simply don't carry any weight" because they had "little substance or any explanation to

them." As an example, the court referenced the evidence regarding the visit in January of 2025 at the paintbar and restaurant. The court noted:

> Mother truly believes that she is being abused. But she's not. But she truly believes, she truly believes someone was beating on her at [the restaurant], but nobody was. I credit the testimony of Dr. Jones, a neutral witness. I find her completely credible about what happened at [the restaurant]. I think [Mother], although she believes she was being abused, it's simply not true. I don't find [Mother] to be evil. I don't think she's deliberately or intentionally lying. I think she believes she's telling the truth. I think she believes she's trying to protect herself and to protect her child. However admirable that is, it is misplaced in this case because she's seeing things that aren't there and feeling things that aren't there and hearing things that aren't there.

The court found Mother's "testimony to be rapid fire accusation after accusation[.]"

**2) The character and reputation of Mother and Father.** The court found both Mother and Father "to be of good character." Regarding Mother, the court noted that Mother called witnesses who all spoke highly of her and that she seems like "a very nice person." Regarding Father, the court noted that "[h]e's had his issues . . . you know, hanging out in clubs those years ago[,]" but the court also noted that the court did not believe that behavior was currently occurring. The court noted that Father's witnesses "spoke so highly of him," including his former girlfriend and the positive "impact that he had on her child," which the court found significant, as well as the testimony and observations of Dr. Jones.

**3) The desire of Mother and Father and agreements between them.** The court found that "they don't agree on anything." The court noted that Mother testified "that her desire is to involve [Father,] that but her actions show otherwise" and that "[s]he's done

everything she could to keep him out of [J.]'s life[.]" The court also explained that Father testified that it was his desire to keep Mother involved regarding J.

**4) The potentiality of maintaining natural family relations.** The court noted that there was a "problem" here, because Father lives in New York and Mother lives in Maryland.

**5) J.'s preference.** The court explained that J. was "too young" for the court to weigh her preference. Further, the court noted that the best interest attorney indicated that J. had stated that "her mom is the greatest," but that when discussing her feelings concerning spending time with Father, J. had stated "well, I don't want to spend time with people I don't know." The court continued that J. had been raised by only one parent, Mother, and that—as supported by Dr. Jones' and Bokman's expert opinions—J.'s statements regarding her desires sounded like Mother speaking through J. and influencing J.

**6) The material opportunities affecting J.'s future.** The court stated that there had been "very limited evidence on this point." The court noted that it was "confused about [Mother's] financial situation" but that Father "does quite well[.]"

**7) The age, health, and sex of J.** The court noted that J. was nine and "generally healthy," but that it never "got a straight answer" from Mother concerning J.'s alleged allergies. The court explained that Mother stated to J.'s elementary school that J. has had "some significant allergies, but then when [Father] took appropriate steps, such as having an EpiPen during visitation," that Mother "resented" Father's actions, asserting that "he shouldn't be allowed to administer medication."

**8) Residences of Mother and Father and opportunity for visitation.** The court noted that Father lives on Staten Island and that Mother lives in Montgomery County, but that it was not "exactly" sure where, as Mother's address is confidential. The court explained that there was "always going to be a distance issue in terms of visitation."

**9) Father's length of separation from J.** The court acknowledged that Father "was separated from [J.] for a very long time." The court however noted that there were "a lot of reasons for that" including the protective order Father obtained against Mother due to Mother's harassment of Father and his family. The court additionally explained that Mother had never been separated from J., did her "absolute best" to raise J., provided adequate food, shelter, clothing, and all other "things that a little girl needs." The court noted that Mother "loves [J.] very much."

**10) Prior voluntary abandonment or surrender.** The court explained that it had already covered this factor along with factor nine, stating, "I think I've already covered that in terms of [Father] not establishing a relationship with [J.,] . . . . because he did not want to lose his order of protection."[13]

The court next addressed each of the factors set forth in *Taylor*. We review the circuit court's findings as to each factor not already encompassed by the discussion of the

[13] Mother contends that the court's "ruling shows cursory consideration" of the *Sanders* and *Taylor* factors "particularly regarding [Father's] eight-year absence [J.]'s life" and that "[t]his disregard for [Father's] prolonged absence constitutes reversible error[.]" While Father's absence in J.'s life prior to 2023 is unfortunate, the record supports the circuit court's conclusion that this was attributable to the highly contentious relationship between the parties and the five-year order of protection entered against Mother in 2017, not an intention by Father to abandon J. Thus, Mother's argument is unavailing.

*Sanders* factors. Regarding *Taylor* factors one and two—1) the capacity of Mother and Father to communicate and to reach shared decisions affecting J.'s welfare; 2) the willingness of Mother and Father to share custody—the court stated "I have no confidence that they can set aside their past history and make shared decisions. Joint custody would be a terrible idea for these two people who cannot communicate at all. . . . It's a terrible idea for [J.]" Regarding *Taylor* factor six, the potential disruption to J.'s social and school life, the court acknowledged that ordering Father to have sole physical custody of J. was "a huge disruption[,]" and would likely be "very hard on a little girl." However, the court explained that it was confident in its decision even with this disruption because—as amplified by Bokman's and Dr. Deutsch's testimony—it would be less dangerous to move J. to New York than to keep her with Mother.

As to *Taylor* factor eight, the demands of parental employment, the court explained that it was unclear on Mother's work hours, but that it understood "that there's a fair amount of flexibility." The court continued, that Father has some flexibility because he works from home sometimes, but also that Father travels occasionally for work. Regarding *Taylor* factor nine, the number of children, the court addressed that J. is an only child of Mother's and that Father has two older teenage sons who are "apparently quite interested in meeting their sister." *Taylor* factor ten is the sincerity of the parents' requests. The court noted that it did not doubt the sincerity of either party's request.

Finally, the court noted that it relied upon several additional factors, including Taylor's testimony that Mother "could not identify any strengths of [Father] as a parent[.]" Further, the court explained that it had accounted for a number of Mother's inconsistencies,

including, Mother's repeated assertions that Father was solely interested in J. to benefit him in his ongoing divorce, although Mother "never explained what that meant or how [J.] could possibly benefit [Father] in his divorce." The court noted Taylor's concern that Mother was "whether knowingly or unknowingly, . . . placing [J.] in the middle of an adult conflict[.]" Accordingly, Mother's assertions—that the court erred in applying the statutory factors for custody determinations and that the court improperly considered the evidence—are unsupported by the record.

*ii. The circuit court's memorandum opinion was not an attempt to "retroactively strengthen a legally insufficient decision."*

Mother contends that the filing and docketing of the April 2025 memorandum opinion "shows an attempt to retroactively strengthen a legally insufficient decision." Mother further contends that Maryland Rule 20-402 prohibits this Court's consideration of the memorandum opinion.[14] The memorandum opinion did not alter the circuit court's previous oral ruling or Custody Order. It merely memorialized the court's oral ruling and Custody Order, providing limited additional details; thus, the opinion was not a "post-appeal modification" and it does not affect the outcome of this case. *Cf. Jackson v. State*, 358 Md. 612, 620 (2000) ("[A] circuit court is not divested of fundamental jurisdiction to take post-judgment action in a case merely because an appeal is pending from the judgment."); and *Kent Island, LLC v. DiNapoli*, 430 Md. 348, 361 (2013) ("[A] trial court

[14] Maryland Rule 20-402, which falls within the electronic filing and case management title and covers transmittal of the record and custody of trial court filings, provides that "[e]xcept as otherwise ordered by the appellate court, submissions filed in the trial court after the date of the notice shall not be part of the appellate record but shall be within the custody and jurisdiction of the trial court." *See* Md. Rule 20-402(b).

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.) The trial court's post-notice of appeal issuance of the memorandum opinion does not frustrate the actions of this Court. *In re Emileigh F.*, 355 Md. 198, 202 (1999) ("After an appeal is filed, a trial court may not act to frustrate the actions of an appellate court.").

*iii. The circuit court properly considered the impact of relocating J.*

Mother's argument that the court failed to consider the impact of relocating J. to Father's custody is without merit. As we explained above, the court acknowledged that awarding Father custody would be a "huge disruption" to J. Nonetheless, the court noted that it "did balance the risks," and that it would be "less dangerous to move [J.] than to keep her [in Mother's care,]" adding that it would be "more dangerous to keep her here . . . in the situation she's in." This conclusion was supported by: Dr. Deutsch's testimony regarding the "risk analysis" required when considering transitioning a child to another person's custody to avoid the risk of developmental harm; Bokman's testimony, in which she expressed concern regarding the impact of Mother's behavior on J.'s "own sense of safety"[15]; and by the court's credibility determinations concerning the incident at the visit in January of 2025, including that it found Mother's accusations of abuse against Father

[15] Particularly, Bokman testified about the cognitive dissonance J. may experience if her enjoyment of her time and company with Father "doesn't align" with Mother's thoughts concerning Father. Bokman further testified that this cognitive dissonance could have a "terrible impact" on J.'s "own sense of self, [her] ability to trust [her] own feelings, and emotions, and read on people."

"not credible[,]" that it found Mother's witness of the incident not credible, and that it found Dr. Jones' testimony "completely credible[.]"

*iv. The circuit court did not delegate its custody decision-making authority to Bokman or Dr. Deutsch.*

Mother asserts that in reaching its custody determination, the court "improperly delegat[ed]" its authority to Father's expert witnesses, by adopting "wholesale" the recommendations of Bokman and Dr. Deutsch, "without independent analysis[.]" We disagree. Mother is correct that a trial court "may not delegate to a non-judicial person decisions regarding child visitation and custody." *Van Schaik v. Van Schaik*, 200 Md. App. 126, 134 (2011). There is, however, no indication in the record before us that the court delegated its authority to anyone. The Custody Order did not address Bokman or Dr. Deutsch, and neither Bokman nor Dr. Deutsch offered a custody recommendation to the court. Accordingly, we cannot say that the court improperly relied upon testimony of, or delegated its authority to, either witness.

*v. The circuit court did not err in observing that Taylor's report was dated.*

Mother asserts that the court erred in "dismissing" a report by the court evaluator, Taylor. We disagree that the record indicates that the court dismissed Taylor's report. Instead, while noting that the report was "a bit dated at this point because so much has happened over the last couple of months[,]" the court did rely on Taylor's report to make several findings. The court found, based upon Taylor's report, which was then confirmed by Taylor's testimony, that Father was a fit parent; that Mother "could not identify any strengths of [Father] as a parent"; that J.'s feelings "are closely tied to Mother"; that J. "was

protective" of Mother; and that Mother is "placing [J.] in the middle of an adult conflict and issues, which can have a significant negative impact on [her]."

Further, we find no error in the court correctly noting Taylor's report was "a bit dated." Taylor issued her report in January of 2024, over a year before trial and prior to several events the came to light during trial that the court found concerning. These events included Mother's failure to transport J. for court-ordered supervised visitation, Mother's interruption of several of Father's court-ordered supervised visitations with J., including the visit in January of 2025. In sum, we disagree that the court failed to give due regard to Taylor's report.

*vi. The circuit court did not "erroneously fail to preserve" its jurisdiction.*

Mother asserts that the circuit court "committed reversible error when it authorized [J.'s] relocation to New York without preserving Maryland's exclusive, continuing jurisdiction as explicitly mandated by" FL sections 9.5-201 and 9.5-202(a)(1). However, neither FL section 9.5-201 nor FL section 9.5-202, nor the caselaw cited by Mother,[16]

[16] We note that although Mother cites several cases throughout her appellate brief, many of the cases cited either do not exist, do not state the language quoted, or do not stand for the proposition asserted. Although we need not address each here for purposes of resolving the instant appeal, by way of example, as to Mother's contention that the court erred in failing to preserve continuing, exclusive jurisdiction, she maintains that the court committed a "jurisdictional error that directly contravenes controlling Maryland precedent in *In re Adoption/Guardianship of Bernie B.* and *Pilkington v. Pilkington*, which mandate that courts affirmatively preserve Uniform Child Custody Jurisdiction and Enforcement Act . . . jurisdiction on the record when a child relocates yet remains in Maryland." The first case cited—"In re Adoption/Guardianship of Bernie B."—does not appear to exist, and the second case cited—*Pilkington v. Pilkington*, 230 Md. App. 561 (2016)—while considering jurisdictional questions related to child custody, does not mandate a circuit

"explicitly mandate" that the court make written findings regarding its ongoing jurisdiction. Instead, and as Father correctly notes, FL section 9.5-202 provides that Maryland maintains exclusive, continuing jurisdiction until a court of this State or another concludes otherwise, as set forth in FL section 9.5-202(a)(1)–(2).

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

court's affirmative preservation of exclusive, continuing jurisdiction. *See* 230 Md. App. at 575–80.