

Circuit Court for Baltimore City
Case No. 24-C-23-003944

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 2487

September Term, 2023

1201 W. CROSS STREET, LLC

v.

GRAY INSURANCE GROUP, INC.

Beachley,
Zic,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Zic, J.

Filed: October 8, 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 Maryland Rule 1-104(a)(2)(B).

This case arises from a complaint filed by 1201 W. Cross Street, LLC (“Cross Street”), appellant, against its insurance broker, Gray Insurance Group, Inc. (“Gray”), appellee, in the Circuit Court for Baltimore City. Cross Street’s complaint set forth two counts—namely, common law breach of contract and negligence—based on Gray’s alleged failure to notify Cross Street that its insurance policy had lapsed. After a hearing, the circuit court dismissed Cross Street’s complaint with prejudice. Cross Street timely appealed and presents two questions for our review, which we have recast as one and rephrased as follows:¹ Did the circuit court err in dismissing Cross Street’s complaint with prejudice? As explained below, we answer this question in the negative and affirm.

BACKGROUND

Before outlining the facts giving rise to the instant appeal, we briefly discuss the statutory framework governing Maryland limited liability companies (“LLCs”). An LLC is a specific type of unincorporated business organization that has the power to, among other things, execute contracts, transact business, and sue (and be sued). Md. Code Ann., Corps. & Assn’s (“CA”) §§ 4A-101(l), 4A-203(2)–(4) (1975, 2014 Repl. Vol.);² *MAS*

¹ Cross Street phrases the questions as follows:

- I. Did the trial judge err in granting a dismissal with prejudice with no findings beyond that [Cross Street’s] company charter was forfeited at relevant times?
- II. Were there legally sufficient grounds for the trial judge to have found either *in pari delicto*, unclean hands or that the claimed negligence could not have caused harm?

² Unless otherwise indicated, all further statutory citations are to the Corporations and Associations Article.

Assocs., LLC v. Korotki, 465 Md. 457, 475 (2019). “The privileges associated with an LLC, such as tax benefits and liability protections, are afforded with the expectation that an LLC will fulfill its statutory obligations.” *Mayor and City Council of Baltimore v. Prime Realty Assocs., LLC*, 468 Md. 606, 623 (2020). An LLC that does not comply with certain statutory requirements, such as timely filing its tax returns, forfeits “the right to do business in Maryland and the right to use [its] name[.]” § 4A-911(d). Forfeiture, however, does not make an LLC a legal non-entity; it only prevents the LLC from bringing an action in the State. *7222 Ambassador Road, LLC v. Nat’l Ctr. Insts. & Alts., Inc.*, 470 Md. 66, 80 (2020); see also *Price v. Upper Chesapeake Health Ventures*, 192 Md. App. 695, 704-08 (2010) (holding that an LLC’s forfeiture status does not prevent it from *defending* against legal action).

Additionally, the Maryland LLC Act’s (“LLC Act”)³ savings provision provides that forfeiture “does not impair the validity of a contract or act of the [LLC] entered into or done *either before or after* the forfeiture[.]” § 4A-920 (emphasis added). As explained by the Supreme Court of Maryland:

[T]he savings provision does not exist simply to give back what the forfeiture provision[, § 4A-911,] takes away. Rather, it provides some protection for those with whom the LLC does business. By upholding the validity of the LLC’s contractual obligations and allowing it to defend litigation initiated by others, the savings provision prevents the forfeiture from being used to the detriment of third parties. Thus, an LLC cannot avoid fulfilling its contracts or deprive someone else of a judicial remedy against the LLC simply by succumbing to forfeiture.

³ Codified at §§ 4A-101 to 4A-1303.

7222 Ambassador Road, Inc., 470 Md. at 77. The LLC Act also discourages third parties from transacting business with a forfeited LLC:

Any person that transacts business in the name or for the account of a limited liability company knowing that its right to do business in Maryland has been forfeited and has not been reinstated is guilty of a misdemeanor and on conviction is subject to fine of not more than \$500.

§ 4A-919(a). A person aware of an LLC’s forfeited status who nonetheless conducts business with the LLC may be prosecuted for such conduct while the LLC remains forfeited. § 4A-919(b).

With this background in mind, we now turn to the facts before us. Cross Street, a domestic LLC, formed on November 5, 2019. At some point thereafter, Cross Street employed Gray to broker insurance for the property located at the LLC’s namesake. Cross Street and Gray continued their business relationship “for . . . years[,]” with Gray notifying Cross Street when it was time to renew its property insurance.

On October 3, 2022, the Maryland State Department of Assessments and Taxation listed Cross Street as “forfeited” and “not in good status” for failure to file property returns for the 2021 tax year. On September 11, 2023, while Cross Street remained forfeited, it filed the underlying complaint, claiming that Gray failed to notify it that its property insurance had lapsed.⁴ Cross Street alleged that in failing to notify, “Gray breached the contractual agreements by and among the parties . . . [and] failed to act with

⁴ Neither party has indicated exactly when the insurance policy lapsed. Before the circuit court, Gray stated, without correction, that Cross Street was forfeited when the policy lapsed.

due care[.]” Gray filed a motion to dismiss Cross Street’s complaint or, in the alternative, for summary judgment, arguing that Cross Street lacked standing to initiate the lawsuit because it was a forfeited LLC. Gray further asserted that even if Cross Street had standing to file the suit, no legal relief was available because a forfeited domestic LLC cannot lawfully enter into a new insurance policy.

Cross Street then filed its missing property return—thereby reviving its ability to do business—and responded to Gray’s motion, arguing that its “temporary forfeiture” did not impact its standing to initiate the lawsuit. Gray replied, contending that Cross Street’s revival “d[id] not retroactively cure” its inability to maintain affirmative litigation against Gray.

After holding a hearing on February 21, 2024, the circuit court dismissed Cross Street’s complaint with prejudice. The court explained that there is no “law that would allow for [Cross Street’s] suit to be maintained given that [Cross Street] was forfeited at the time of the filing and forfeited at the time of the alleged cause of action.” Cross Street filed the present timely appeal. We supplement with additional facts below as necessary.

STANDARD OF REVIEW

When reviewing a circuit court’s decision to grant a motion to dismiss for failure to state a claim upon which relief may be granted, we consider “whether the trial court was legally correct.” *Davis v. Frostburg Facility Ops., LLC*, 457 Md. 275, 284 (2018). The appropriate standard of review is, accordingly, *de novo*, and “we will affirm the circuit court’s judgment on any ground adequately shown by the record, even one upon

which the circuit court has not relied or one that the parties have not raised.” *Sutton v. FedFirst Fin. Corp.*, 226 Md. App. 46, 74 (2015) (citation omitted).

DISCUSSION

I. THE CIRCUIT COURT DID NOT ERR IN DISMISSING CROSS STREET’S COMPLAINT WITH PREJUDICE.

A. Parties’ Contentions

Cross Street contends on appeal that the circuit court erred in dismissing its complaint with prejudice because “a dismissal for lack of capacity to sue could be rectified once capacity was restored and a new lawsuit filed.” According to Cross Street, because the court only made factual findings regarding the “loss of the right to do business and with regard to the ability to bring a lawsuit while forfeited,” the complaint should have been dismissed *without* prejudice, thus allowing Cross Street to refile the complaint as a revived, domestic LLC. On the merits of its breach of contract and negligence claims, Cross Street argues that: (1) entering into an insurance contract—despite being forfeited at the time—falls under a statutory “winding up” exception to conducting a corporation’s business while forfeited, and (2) the savings clause provision of the LLC Act would have rendered valid an insurance contract entered into by Cross Street while it was forfeited.⁵

⁵ Cross Street also argues that none of the affirmative defenses raised by Gray justified the dismissal with prejudice. As explained in detail below, because Cross Street was forfeited at the time of the alleged cause of action, we do not reach these additional arguments.

In response, Gray argues that the circuit court properly dismissed the complaint with prejudice because Cross Street could not have conducted business while forfeited. Gray explains that Cross Street lost its right to do business after failing to file a property tax return (and failed to rectify this failure within the 60-day grace period pursuant to § 4A-912(b)), therefore making any solicitation of Cross Street by Gray to enter into a new insurance contract unlawful. Gray further argues that the savings clause referenced by Cross Street protects only third parties to a contract, not the forfeited LLC itself. Gray also asserts that the winding up exception only applies to corporations, not LLCs, and that, in any event, no facts indicate that Cross Street was conducting “winding up” activities.

We first dispose of Cross Street’s contention regarding factual findings made by the circuit court because this argument misconstrues both the significance of a dismissal with prejudice and the record before us. “[I]n ruling on a motion to dismiss, the circuit court is not to make factual findings.” *O’Brien & Gere Engineers, Inc. City of Salisbury*, 222 Md. App. 492, 507 (2015) (citation omitted). There is no indication in the record before us that the circuit court made any factual findings; instead, the court dismissed the complaint with prejudice upon its determination that no law “allow[ed] for [Cross Street’s] suit to be maintained given that [Cross Street was] forfeited at the time of the filing and forfeited at the time of the alleged cause of action.” This statement is a legal determination—not, as Cross Street contends, a factual finding. Accordingly, we see no merit to this particular argument and do not address it further below.

B. Legal Framework

Central to this appeal is the difference between dismissal without prejudice and dismissal with prejudice. In the former, “there is no adjudication on the merits and . . . , therefore, a new suit on the same cause of action is not barred by principles of *res judicata*.” *Moore v. Pomory*, 329 Md. 428, 432 (1993) (citation omitted). By contrast, the decision to grant a motion to dismiss *with* prejudice is generally “based on an appraisal of the legal sufficiency of the claim. It touches the substantive merits of the case.” *Mohiuddin v. Doctors Billing & Management Solutions, Inc.*, 196 Md. App. 439, 452 (2010). Thus, as the dismissal with prejudice here resulted in an adjudication on the merits, we must review the legal sufficiency of each count raised before the circuit court.

Cross Street’s complaint raised two counts: (1) common law breach of contract, and (2) common law negligence. To state a claim for breach of contract, “a plaintiff must prove that the defendant owed the plaintiff a contractual obligation and that the defendant breached that obligation.” *Taylor v. NationsBank, N.A.*, 365 Md. 166, 175 (2001). A complaint alleging breach of contract “must of necessity allege with certainty and definiteness facts showing a contractual obligation owed by the defendant to the plaintiff[.]” *RRC Northeast, LLC v. BAA Maryland, Inc.*, 413 Md. 638, 655 (2010) (emphasis omitted).

Similarly, the preliminary determination in a negligence analysis is whether there was a duty owed. *Doe v. Pharmacia & Upjohn Co.*, 388 Md. 407, 414 (2005) (“Ordinarily, we begin our analysis of a negligence action with the question of whether a legally cognizable duty exi[s]ts.”) (citations omitted). This determination is a question of

law to be decided by the court. *Id.* “[T]here can be no negligence where there is no duty that is due; for negligence is the breach of some duty that one person owes to another.” *Pendleton v. State*, 398 Md. 447, 460 (2007).

C. Analysis

Cross Street has not identified, and we could not locate, any Maryland cases holding that an insurance broker (or any third party) can owe either a negligence-based or contracts-based duty to a forfeited LLC with which the broker has previously conducted business. Instead, Cross Street bypasses this threshold duty inquiry and argues that two statutory provisions would have allowed it to enter into a contract and bring an action for events occurring while it was forfeited.

“Where a party cites no relevant law on an issue in their brief, we have refused to ‘rummage in a dark cellar for coal that isn’t there[,]’ or to ‘fashion coherent legal theories to support appellant’s sweeping claims.’” *Francis v. Francis*, 263 Md. App. 307, 321 (2024), *cert. denied*, 489 Md. 342 (2025) (quoting *Konover Prop. Tr., Inc. v. WHE Assocs.*, 142 Md. App. 476, 494 (2002)). Pursuant to Maryland Rule 8-131(a), however, we exercise our discretion and briefly discuss Cross Streets’ arguments.

First, we address the argument that a forfeited LLC may enter into a contract because forfeited corporations may conduct winding up activities pursuant to § 3-515. Cross Street cites to *Attn’y Grievance Comm’n v. Rand*, 429 Md. 674 (2012), in which the Supreme Court of Maryland interpreted § 3-515, to support its contention that entering into a new insurance contract would have been a permissible winding up activity.

Even assuming *arguendo* that a provision of the Maryland General Corporations Law applies to LLCs, *Rand* does not support the contention that entering into a new contract constitutes a winding up activity for purposes of § 3-515. In *Rand*, the Supreme Court relied on *Dual, Inc. v. Lockheed Martin Corp.*, 383 Md. 151 (2004), to determine whether an attorney’s conduct constituted winding up:

In *Dual*, we held that that [the corporation’s agent] was not “winding up” the affairs of Dual, incorporated under [§ 3-514], because he had been actively negotiating new contracts on its behalf. . . .

[The attorney here], however, was attempting to collect fees he believed were owed to the [forfeited corporation] as a result of his legal work. It is a given that eviscerating debts owed and liability outstanding is inextricably linked to “winding up” a corporation, such that [the attorney’s] actions were related to the administration of the forfeited corporation[.]

Rand, 429 Md. at 714 (citing *Dual*, 383 Md. at 165). Thus, contrary to Cross Street’s contention here, entering into a new contract on behalf of an LLC is not “winding up” for purposes of § 3-515.

In any event, the LLC Act contains a winding up provision—Section 4A-904—and we see no reason to ignore it here. Section 4A-904, which immediately follows the LLC Act’s provision on petitions for dissolution,⁶ provides:

⁶ The provision governing dissolution of LLCs, § 4A-903, states:

On application by or on behalf of a member, the circuit court of the county in which the principal office of the limited liability company is located may decree the dissolution of the limited liability company whenever it is not reasonably

(continued)

- (a) Unless otherwise agreed, the remaining members of a limited liability company or, if the company has no remaining members, the personal representative, guardian, or other successor to the last remaining member of the company may wind up the affairs of the limited liability company.
- (b) Notwithstanding the provisions of subsection (a) of this section, the circuit court of the county in which the principal office of the limited liability company is located, *on cause shown after dissolution*, may wind up the limited liability company’s affairs on application of any member or, if the limited liability company has no remaining members, on application of the personal representative, guardian, or other successor to the last remaining member of the limited liability company.

(Emphasis added.)

Our interpretation of any statute begins with “the cardinal rule of statutory interpretation—to ascertain and effectuate the General Assembly’s purpose and intent when it enacted the statute.” *Wheeling v. Selene Fin. LP*, 473 Md. 356, 376 (2021) (citation omitted). We first look at “the normal, plain meaning of the language of the statute.” *Lockshin v. Semsker*, 412 Md. 257, 275 (2010) (citations omitted). “[T]he meaning of the plainest language is controlled by the context in which it appears.” *Elsberry v. Stanley Martin Cos., LLC*, 482 Md. 159, 179 (2022) (internal marks and citations omitted). “In addition, we neither add nor delete words to a clear and unambiguous statute to give it a meaning not reflected by the words that the General Assembly used. . . .” *Bellard v. State*, 452 Md. 467, 481 (2017). “If the plain language

practicable to carry on the business in conformity with the articles of organization or the operating agreement.

of the statute is unambiguous, our inquiry ends, and the statute is applied as written.”

Mohan v. State, 257 Md. App. 65, 75 (2023) (citing *Lockshin*, 412 Md. at 275).

Applying these principles here, the plain language of § 4A-904 unambiguously permits *dissolved* LLCs to conduct winding up activities: “the circuit court of the county in which the principal office of the limited liability company is located, *on cause shown after dissolution*, may wind up the limited liability company’s affairs. . . .” § 4A-904(b) (emphasis added). The provision immediately follows other provisions discussing dissolved LLCs and does not once mention forfeited LLCs. *See Elsberry*, 482 Md. at 179. For these reasons, we hold that § 4A-904 is unambiguous and does not apply to forfeited LLCs. We, accordingly, reject the proposition that Cross Street was statutorily permitted to conduct winding up activities while forfeited.

Second, we turn to Cross Street’s argument regarding the LLC Act’s savings clause, which is codified at § 4A-920 and provides:

The forfeiture of the right to do business in Maryland and the right to the use of the name of the limited liability company under this title does not impair the validity of a contract or act of the limited liability company entered into or done *either before or after* the forfeiture, or prevent the limited liability company from defending any action, suit, or proceeding in a court of this State.

(Emphasis added.)

Cross Street argues that this provision would have rendered valid an insurance contract executed *while* it was forfeited. Not so. Section 4A-920 only covers contracts made or acts done “before or after” forfeiture. Cross Street’s posited interpretation of § 4A-920 is also contrary to *7222 Ambassador Road, Inc.*, in which the Supreme Court

held that the savings provision should be interpreted as benefiting third parties—not forfeited LLCs. 470 Md. at 77 (“[T]he savings provision does not exist simply to give back what the forfeiture provision takes away. Rather, it provides some protection for those with whom the LLC does business.”). Therefore, because § 4A-920 does not protect forfeited LLCs, it is inapplicable to the case at bar.

CONCLUSION

We hold that Cross Street did not evince that Gray owed it any common law duty while forfeited. Accordingly, because the complaint stated no legally cognizable action, the circuit court did not err in dismissing Cross Street’s suit with prejudice.

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