Circuit Court for Anne Arundel County
Case No. C-02-CV-19-003135

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2496

September Term, 2019

MARGUERITE R. MORRIS

v.

TIMOTHY ALTOMARE, *et al.*

Nazarian,
Friedman,
Kenney, James A. III
(Senior Judge, Specially Assigned),

JJ.

Opinion by Friedman, J.

Filed: July 12, 2021

Appellant Marguerite R. Morris appeals the grant, by the Circuit Court for Anne Arundel County, of motions to dismiss her complaint against appellee Anne Arundel County ("the County")[1] and appellees Timothy Altomare, James Teare, Sr., Jacklyn Davis, Vincent Carbonaro, Keith Clark, and John Poole, all employees or former employees of the Anne Arundel County Police Department.

Representing herself, Morris presents ten questions for our review, all of which may be distilled into the single question of whether the circuit court was legally correct in granting the County's and appellees' motions to dismiss her complaint.[2] For the reasons that follow, we will affirm the circuit court's orders.

[1] In her brief, Morris acknowledges that she did not object when the County moved to dismiss her complaint, and she makes no specific claim that the circuit court's grant of the County's motion to dismiss was improper. Because the Anne Arundel County Attorney's Office lists the County as a represented appellee in its brief, however, we include the County in our discussion.

[2] The questions Morris presents in her brief are:

1. Does there exist a reversible error over the elements of the cause of action?

2. Was the trial court erroneous in its ruling on the statute of limitation when it is in direct conflict with the ruling of another judge in a related matter that involved the same documents?

3. Does the statute of limitations go to discovery?

4. Was the trial court[']s dismissal an abuse of discretion?

5. Was the trial court erroneous because it overlooked the elements of the complaint of defamation?

BACKGROUND

On May 6, 2012, Morris's 22-year-old daughter, Katherine Morris,[3] was found dead in her car at Arundel Mills Mall. She died of carbon monoxide poisoning from two charcoal grills lit inside the car. Following an investigation by appellees and the Office of the Chief Medical Examiner of Maryland, Katherine's death was ruled a suicide.

At the request of the Morris family, who believed that Katherine may have been murdered, Teare, then Chief of Police, reopened the investigation into the manner of Katherine's death.[4] The re-opened investigation ended with the same ruling of suicide. For

6. Was the trial court erroneous because it overlooked the elements of the complaint of conspiracy?

7. Was the trial court erroneous because it overlooked the elements of the complaint of Intentional Infliction of Emotional Distress?

8. Was the trial court erroneous because it overlooked the elements of the complaint of fraud?

9. Was the trial court acting arbitrarily and capriciously in dismissing the complaint when there existed multiple disputed facts?

10. Was the trial court erroneous because it overlooked the procedural error in the matter related to alleged tort claims notification deficiency notice that was required to be included in the original filing of the Appellee Motion [to] Dismiss?

[3] Because the appellant and her daughter share a surname, we will refer to the daughter as "Katherine," for clarity.

[4] After this suit was filed, and after Morris noted her appeal of the circuit court's orders, the General Assembly passed a law which will allow interested persons to appeal to the Secretary of the Maryland Department of Health if the Chief Medical Examiner denies their request to change the manner of death on the deceased's autopsy report. Acts of Md. 2021, ch. 788. Morris testified in support of the change in the law. *See*, *e.g.*, Hannah

the next seven years, Morris continued to assert that appellees undertook a "less than stellar" investigation into Katherine's death, as a result of "a series of serious investigative errors" and an ensuing coverup that was meant to ensure a finding of suicide, "regardless of any evidence to the contrary."[5]

On October 3, 2019, Morris filed a 193-page complaint against the County and appellees, alleging libel, defamation *per se*, intentional infliction of emotional distress, fraud, and conspiracy. She claimed that she had been injured by the "libelous and fraudulent actions," corruption, and "malicious and reckless behavior" of members of the Anne Arundel County Police Department and sought $800,000 in damages.

The County filed a motion to dismiss or in the alternative for summary judgment, on the ground that as a governmental entity, it is immune from liability. Appellees also filed a motion to dismiss or in the alternative for summary judgment, and argued that Morris had failed to state a claim upon which relief could be granted because: (1) most of the counts in her complaint were beyond the applicable statutes of limitations; (2) a private citizen has no legal right to compel a public official to investigate or prosecute a crime and no standing to pursue such a claim in court; (3) the conclusion of the police department concerning the manner of Katherine's death cannot be defamatory as a matter of law;

Gaskill, *New Law Will Close 'Loophole' in Appeals of Autopsy Findings*, MARYLAND MATTERS (June 3, 2021) https://perma.cc/KW9U-WJLG.

[5] On October 3, 2016, the County responded to Morris's Maryland Public Information Act request and released over 9000 pages of internal reports and communications related to the investigation into Katherine's death. Morris included many of those documents as supporting exhibits to her complaint.

(4) Morris could not establish the elements of fraud; (5) Morris could not establish a causal connection between appellees' actions and her alleged emotional distress, nor had she presented a factual claim of severe emotional distress; and (6) Morris had alleged no facts to suggest that an unlawful agreement existed between or among any of the appellees to support a finding of conspiracy.

In her response to the County's and appellees' motions, Morris claimed that, under the discovery of harm rule, the October 3, 2016 receipt of documents in response to her Public Information Act request "constituted a restarting of the statute of limitations" as of that date, and, therefore, none of her claims should be dismissed. She further disagreed with appellees' argument that she had not alleged facts in support of the elements of each tort count in her complaint.

In their replies to Morris's response, the County and appellees added that Morris's complaint should be dismissed because she had failed to provide the County timely written notice of her claim, which is required under Maryland's Local Government Tort Claims Act ("LGTCA"). *See* MD. CODE, CTS. & JUD. PROC. ("CJ") § 5-301 *et seq*.; CJ § 5-304(b) (requiring a person seeking liquidated damages from a local government or its employees to provide written notice of the claim "within 1 year after the injury").

At the January 27, 2020 hearing on the motions to dismiss, the County's and appellees' attorney again asserted that the County had governmental immunity and should be dismissed from Morris's lawsuit. For the individual appellees, counsel argued that there were "three overall bases for dismissal for all the claims:" (1) they were time barred by the applicable statutes of limitations; (2) Morris's required LGTCA notice was untimely and

inadequate; and (3) Morris could not establish the required elements of any of her tort claims.

Regarding the statute of limitations argument, defense counsel explained that all the actions taken by the individual appellees—except statements made by Altomare and Davis in 2018—occurred before October 3, 2016. Despite Morris's claim that the three-year general statute of limitations was tolled as a result of her October 3, 2016 receipt of documents pursuant to a Maryland Public Information Act request, Morris, who alleged an inadequate investigation dating back to 2012, was on inquiry notice well before 2016, and, in any event, her complaint did not list any actions taken by the appellees after 2014.

Referring to the LGTCA claim, counsel explained that, notwithstanding Morris's claim that she had sent the required notice in a timely manner, the County Attorney's Office had received no tort claims notification until November 21, 2018. Therefore, Morris's right to sue did not accrue until that date, which was well past a year from October 3, 2016, the latest arguable discovery date. And Morris was clearly on notice of potential claims well before then, as evidenced by mention in the LGTCA notice that appellees had repeatedly caused Morris emotional distress over a six-and-a-half-year period. Finally, the only individual appellee identified in the notice was Altomare.

As to the specific torts listed in Morris's complaint, counsel continued, "one or more of the elements just aren't there." For example, Altomare's and Davis's statements that Morris claimed were defamatory merely recited what they had done during the investigation and did not expose Morris to public scorn, hatred, contempt, or ridicule. Therefore, neither appellee had made a defamatory statement to support either the libel or

defamation *per se* counts. In addition, Morris's claim of intentional infliction of emotional distress failed because no action taken by the appellees was outrageous or extreme, and Morris had not included any allegation of a severe disabling emotional response in her complaint. Regarding the fraud count, even assuming, solely for the sake of argument, that Altomare and Davis had made false representations in their statements, no such statement was directed at Morris, nor did she plead that she had relied on those statements to her detriment. Finally, counsel concluded, the conspiracy count must be dismissed because Morris had alleged no agreement between or among the appellees.

Morris responded that she had met the notice requirement of the LGTCA because "[t]his lawsuit and any legal actions [she] took was not a surprise to" the appellees, who were well aware of the complaints she had about the investigation.[6] She also repeated her argument that the statute of limitations did not begin to run until October 3, 2016, when she received the more than 9,000 pages of documents in response to her Maryland Public Information Act request, which clarified to her "exactly what was wrong" with the investigation. Additionally, Morris argued that she had sufficiently set forth facts pertaining to the elements of the alleged torts and that her complaint should not be dismissed on that ground.

[6] Initially, Morris argued that the County's and appellees' replies to her response to the motions to dismiss should be struck because they were filed too late to provide her sufficient time to further respond before the hearing. The circuit court denied the motion to strike. In our view, the circuit court acted within its discretion in denying Morris's motion to strike.

The circuit court considered the matter, and entered written memoranda and orders granting the County's and appellees' motions to dismiss, with prejudice, on February 11, 2020.

Therein, the circuit court ruled that the County was immune from liability for its actions in performing a governmental function and found that the County had not waived its governmental immunity to permit Morris to proceed against it. Pointing out that Morris had not made any argument that the County should remain as a party to the case, the circuit court granted the County's motion to dismiss. The circuit court further explained that Morris's claim for damages, based on her belief that Katherine's death was not investigated in the manner she believed it should have been, "does not comport with current Maryland law" because a private citizen does not have standing to pursue a claim against public officials or employees for failure to investigate a matter in the way in which the citizen would find appropriate.

As to the individual appellees, the circuit court agreed that the general three-year statute of limitations for tort actions barred any action taken by appellees that occurred before October 3, 2016 and that the one-year statute of limitations for libel and defamation claims barred any action taken by appellees that occurred before October 3, 2018. The circuit court disagreed with Morris's claim that the discovery rule should alter the start of the running of the statutes of limitations because Morris conceded that she was on notice of concerns about the police investigation beginning the week of May 10, 2012. The circuit court ruled that Morris was prevented from reviving claims that could have been made before the statutes of limitation had run.

The circuit court also agreed with appellees that the tort claims in Morris's complaint would fail as a matter of law, for the following reasons: (1) Libel and defamation—the only statements by any appellee that arguably fell within the applicable statute of limitations were not actionable because Morris was not the person to whom the messages were directed and she could not show how she suffered money damages as a result of them; (2) Fraud—Morris did not allege that she relied on any supposed misrepresentation by the appellees, an essential element of the claim, and appellees made no allegedly false representations to her; (3) Intentional Infliction of Emotional Distress—Morris did not allege that appellees' conduct was extreme and outrageous, and her claim that appellees failed to agree with her position about the investigation did not rise to the level necessary to sustain the count; and (4) Conspiracy—Morris's complaint contained no facts to suggest or reasonably imply that an unlawful agreement existed to cover up the manner of Katherine's death in some unlawful manner.

Morris filed a timely notice of appeal of the circuit court's orders.

DISCUSSION

Morris continues to assert that specific actions taken by appellees did not rise to the level of proper investigation into her daughter's death. She cites numerous instances, which, in her view, indicate that appellees manipulated and suppressed evidence relating to Katherine's manner of death, and argues that the circuit court erred or abused its discretion in granting the County's and appellees' motions to dismiss her complaint.

We review the grant of a motion to dismiss to determine whether the circuit court was "legally correct." *Davis v. Frostburg Facility Operations, LLC*, 457 Md. 275, 284

(2018). Our review is without deference. "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." *D.L. v. Sheppard Pratt Health System, Inc.*, 465 Md. 339, 350 (2019) (cleaned up).

In undertaking our review, we "accept all well-pled facts in the complaint, and reasonable inferences drawn from them, in a light most favorable to the non-moving party." *Converge Services Group, LLC v. Curran*, 383 Md. 462, 475 (2004). The pleader must, however, set forth a cause of action with sufficient specificity—"'bald assertions and conclusory statements by the pleader will not suffice.'" *Davis*, 457 Md. at 284-85 (quoting *State Ctr., LLC v. Lexington Charles Ltd. P'ship.*, 438 Md. 451, 497 (2014)).

Typically, "[t]he object of the motion [to dismiss] is to argue that as a matter of law relief cannot be granted on the facts alleged." *Id*. (quoting PAUL V. NIEMEYER & LINDA M. SCHUETT, MARYLAND RULES COMMENTARY 206 (3d ed.2003)). Therefore, our consideration of the facts pertinent to the circuit court's analysis of the motion is limited generally to the four corners of the complaint and its supporting exhibits. *Id*.

We agree with the circuit court that there are several bases that support the dismissal of Morris's complaint. We will address each in turn.

I. GOVERNMENTAL IMMUNITY

To the extent that Morris claims that the circuit court erred in dismissing her complaint against Anne Arundel County, we agree with the County that the circuit court's decision was legally correct.

Maryland counties generally enjoy immunity from common law tort liability arising from acts that are governmental in nature. *Clark v. Prince George's Cty.*, 211 Md. App. 548, 557 (2013). In *Williams v. Prince George's Cty.*, a case like this one arising from the actions of county police officers, the plaintiff brought common law tort claims against Prince George's County. 112 Md. App. 526 (1996). This Court explained that "[c]ounties are shielded from tort liability for governmental actions unless the General Assembly has specifically waived the immunity of the municipality." *Id.* at 553 (footnote omitted). We concluded that Prince George's County had not waived such immunity and that the LGTCA does not specifically waive immunity for common law tort claims against a County, in its own capacity, for governmental actions. *Id.* at 554. Because the operation by a county of its police department is "quintessentially governmental," *Clark*, 211 Md. App. at 558, we held that the circuit court correctly ruled that Prince George's County was shielded by governmental immunity from tort liability for its alleged acts or omissions in the conduct of its police department's investigation. *Williams*, 112 Md. App. at 554. We hold similarly here.

II. STATUTES OF LIMITATION

The general statute of limitations for civil actions provides that "[a] civil action at law shall be filed within three years from the date it accrues unless another provision of the Code provides a different period of time within which an action shall be commenced." CJ § 5-101. Slander and libel fall under a different provision, which provides that "[a]n action for assault, libel, or slander shall be filed within one year from the date it accrues." CJ § 5-105. These limitations periods reflect "a legislative judgment of what is deemed an

adequate period of time in which a person of ordinary diligence should bring his action." *Philip Morris USA, Inc., v. Christensen*, 394 Md. 227, 240 (2006) (cleaned up). Statutes of limitation are strictly construed. *Sheng Bi v. Gibson*, 205 Md. App. 263, 266 (2012).

In a statute of limitations analysis, the operative date is the date that a claim accrues. *Rounds v. Maryland-Nat. Cap. Park & Planning Comm'n.*, 441 Md. 621, 654 (2015). "Generally, a claim accrues when the plaintiff suffers the actionable harm." *Id.*

As an exception to this general rule, however, the "discovery rule" operates to "'toll … the accrual date of the action until such time as the potential plaintiff either discovers his or her injury, or should have discovered it through the exercise of due diligence.'" *Poole v. Coakley & Williams Const., Inc.*, 423 Md. 91, 131 (2011) (quoting *MacBride v. Pishvaian*, 402 Md. 572, 581 (2007)). Under the "discovery rule," the statute of limitations begins to run when "'a claimant gains knowledge sufficient to put her on inquiry [notice]. As of that date, she is charged with knowledge of facts that would have been disclosed by a reasonably diligent investigation. The beginning of limitations is not postponed until the end of an additional period deemed reasonable for making the investigation.'" *Bacon v. Arey*, 203 Md. App. 606, 652-53 (2012) (quoting *Bennett v. Baskin & Sears,* 77 Md. App. 56, 67 (1988)). In other words, under the discovery rule, "notice of facts … is the trigger for commencement of the limitations period." *Anne Arundel Cty. v. Halle Dev., Inc.,* 408 Md. 539, 565 (2009); *see also Doe v. Maskell*, 342 Md. 684, 691-91 (1996) (explaining the operation of the discovery rule).

Because Morris filed her complaint on October 3, 2019, only actions accruing after October 3, 2018 survive the one-year statute of limitations for slander and defamation *per*

se, and only actions accruing after October 3, 2016 survive the general three-year statute of limitations for the remaining torts alleged in Morris's complaint, *i.e.*, intentional infliction of emotional distress, fraud, and conspiracy.

Both in her memorandum in response to the County's and appellees' motions to dismiss and in her appellate brief, Morris appears to acknowledge that she was aware of alleged defamatory statements by appellees Teare, Carbonaro, Clark, and Poole before October 3, 2018. Therefore, the libel and defamation *per se* claims against those appellees are not within the applicable statute of limitations and were properly dismissed.

With regard to Davis, Morris appears to point to Davis's quote in a newspaper article that appeared in *The Capital Gazette* on October 2, 2018, in which Davis spoke about the conclusions that the police department, the FBI, and the Office of the Chief Medical Examiner had reached in its investigation of Katherine Morris's death. Accepting as true Morris's statement that she did not see the newspaper article until October 3, 2018, the libel and defamation claims against Davis are not time barred. As we will explain below, however, they were properly dismissed for failure to state a claim upon which relief could be granted.

In support of her libel and defamation *per se* counts against Altomare, Morris points to an allegedly untruthful October 5, 2018 email sent by Altomare to Carl Snowden, the head of the Caucus of African-American Leaders, a group Morris had contacted to help uncover information about the police department's investigation into Katherine's death. Because the email was sent less than one year before the expiration of the applicable statute of limitations, the claim survives that ground for dismissal. Again, however, as we will

explain below, it was properly dismissed for failure to state a claim upon which relief could be granted.

The remaining counts in the complaint against appellees Teare, Carbonaro, Clark, and Poole were not filed within the applicable three-year statute of limitations. Katherine died on May 6, 2012, Morris determined that the police investigation into her daughter's death was suspicious as early as May 10, 2012, and the police department re-opened the investigation in June 2012. In Morris's complaint, she acknowledges that the "harmful activity was initiated during a period of documented County government corruption in 2012[.]" The pertinent events related to appellees' investigation appear to have ended with a letter from the medical examiner to Poole dated August 11, 2015, and Morris asserts no facts to indicate that any individual appellee undertook any action relating to the investigation after that date.[7] Therefore, the counts for intentional infliction of emotional distress, fraud, and conspiracy against all appellees except Davis and Altomare were time barred, and the circuit court was legally correct in dismissing them on that ground.[8]

[7] Indeed, in her "Chart of Relevant Individuals or Entities" attached to her complaint, Morris does not list any relevant individual as having undertaken any action after 2014.

[8] We are not persuaded by Morris's claim that her October 3, 2016 receipt of over 9,000 pages of documents pursuant to her Maryland Public Information Act request "restarted" the statute of limitations. Morris cites no authority in support of her position, and, as noted above, she was clearly on notice of alleged issues with the police investigation well before that date, as early as May 10, 2012. In fact, it was her suspicion of a questionable investigation that prompted her to request the documents in the first place.

III. RIGHT TO SUE

A. LGTCA Notice

The LGTCA was enacted to provide a remedy for members of the public who are injured by tortious acts of employees of local governments. *Mayor & Cty. Council of Baltimore v. Stokes*, 217 Md. App. 471, 479 (2014). The LGTCA requires local governments to defend lawsuits resulting from torts committed by its officers and employees acting within the scope of their employment. *Id*. To maintain a civil action against a local government or its employees, the injured party must provide written notice, stating the time, place, and cause of the injury, to the designated government official within one year of the injury. *See* CJ § 5-304(b)(1) and (2); *see also Rios v. Montgomery County,* 157 Md. App. 462, 480 (2004), *aff'd*, 386 Md. 104 (2005) ("Serving timely notice is essential to preserve a claimant's right to file suit at any time during the limitations period.").

"Compliance with the notice requirement is 'a condition precedent to maintaining an action against a local government or its employees to the extent otherwise not entitled to immunity under the LGTCA.'" *Prince George's Cty. v. Longtin*, 419 Md. 450, 467 (2011) (quoting *Rios,* 386 Md. at 127). Our courts have denied relief to injured parties for the failure to provide adequate notice to the defendant local government. *Id*.

Morris, in her complaint, acknowledges that she provided the written notice required by the LGTCA to the Anne Arundel County Attorney's Office by letter dated November 21, 2018, well over one year past any date that could conceivably be considered the latest date of her injury, with the exception of the libel and defamation *per se* claims against

Altomare and Davis. Although there exists a "good cause" exception and a "substantial compliance" exception to the written notice requirement, *see* CJ § 5-304(d); *Faulk v. Ewing*, 371 Md. 284, 299 (2002), Morris makes no assertion that either exception applies to the facts of this matter to excuse her late filing of the notice.

B. Lack of Standing

As the circuit court pointed out in its memoranda ruling on the motions to dismiss, there is no "constitutional, statutory, or common law right that a private citizen has to require a public official to investigate or prosecute a crime. These are discretionary public duties that are enforced by public opinion, policy, and the ballot." *Doe v. Mayor and City Council of Pocomoke City*, 745 F. Supp. 1137, 1139 (D. Md. 1990). Moreover "[a] public official charged with the duty to investigate or prosecute a crime does not owe that duty to any one member of the public. Therefore, no one member of the public has a right to compel a public official to act." *Id*. The County and appellees did not owe Morris a duty to investigate and re-investigate her daughter's death to her satisfaction, and she had no right to compel them to act.

Morris's untimely LGTCA notice of injury and her lack of standing to maintain an action "about the inappropriate behaviors of those that are on the police force" also support the circuit court's dismissal of most of the counts in her complaint.

IV. FAILURE TO STATE A CLAIM UPON WHICH RELIEF COULD BE GRANTED

Finally, the facts as alleged in Morris's complaint were not sufficient to support a *prima facie* claim for the alleged torts that are not time barred.

A. Libel and Defamation Per Se

"Libel includes any unprivileged … false and malicious publication which by printing, writing, signs or pictures tends to expose a person to public scorn, hatred, contempt or ridicule." *Thompson v. Upton*, 218 Md. 433, 437 (1958). A publication is *per se* defamatory when the statement "needs no explanation" because the statement's "'injurious character is a self-evident fact of common knowledge of which the court takes judicial notice[.]'" *Samuels v. Tschechtelin*, 135 Md. App. 483, 549 (2000) (quoting *M & S Furniture Sales Co. v. Edward J. DeBartolo Corp.*, 249 Md. 540, 544 (1968)).

"'Under Maryland law, to present a *prima facie* case for defamation, a plaintiff must ordinarily establish that the defendant made a defamatory statement to a third person; that the statement was false; that the defendant was legally at fault in making the statement; and that the plaintiff thereby suffered harm.'" *Seley-Radtke v. Hosmane*, 450 Md. 468, 472 n.1 (2016) (quoting *Gohari v. Darvish*, 363 Md. 42, 54 (2001)). If the defendant's statement is not defamatory, that is the end of the inquiry.

As explained above, only the counts of libel and defamation *per se* against Altomare and Davis were filed within the applicable statutes of limitation. Morris's claim appears to relate to: (1) an October 5, 2018 email Altomare sent to Carl Snowden, in which Altomare shared the "timeline of events related to reviews conducted of the Katherine Morris investigation;" and (2) an October 2, 2018 article in *The Capital Gazette,* in which Davis spoke about the conclusions the police department, the FBI, and the Office of the Chief Medical Examiner had reached in its investigation of Katherine's death and responded to

Morris's allegation that the investigation "was a rush to a suicide finding" by pointing to all the agencies that had agreed that Katherine's death was a suicide.

In her complaint, Morris alleged that Altomare had made "numerous statements he knew to be false" in his email, especially the one in which he claimed that the police department had undertaken "exhaustive efforts" in its investigation. Morris also took issue with Davis's statement that the FBI had investigated Katherine's death because she "vehemently denied that the FBI did an investigation." Neither statement, however, rises to the level of libel or defamation *per se* because neither statement is defamatory.

"A defamatory statement is one [that] tends to expose a person to public scorn, hatred, contempt or ridicule, thereby discouraging others in the community from having a good opinion of, or from associating or dealing with, that person." *Batson v. Shifflet*, 325 Md. 684, 722-23 (1992). Whether a statement is defamatory is a question of law. *Hosmane v. Seley-Radtke,* 227 Md. App. 11, 20-21, *aff'd*, 450 Md. 468 (2016).

We fail to see how Altomare's factual chronology of the multi-year investigation into Katherine's death, or Davis's statement that numerous agencies had participated in the investigation, exposed Morris to public scorn, hatred, or ridicule. In fact, the statements neither referenced Morris, nor pertained to her. And, despite Morris's claim that appellees "repeatedly and knowingly allowed false and/or misleading written information to be communicated to the FBI, State's Attorney's Office, Governor's Office on Crime Prevention, Homicide Panel, State and local NAACP, the Caucus of African American Leaders, and the public in general," false or misleading information is not necessarily

defamatory, and Morris provides no specific statements by Altomare and Davis that allegedly defamed her.

B. Intentional Infliction of Emotional Distress

To support a claim of intentional infliction of emotional distress, a plaintiff must plead and prove each of the following four elements, with specificity: "'(1) The conduct must be intentional or reckless; (2) [t]he conduct must be extreme and outrageous; (3) [t]here must be a causal connection between the wrongful conduct and the emotional distress; (4) [t]he emotional distress must be severe.'" *Manikhi v. Mass Transit Admin*., 360 Md. 333, 367 (2000) (quoting *Harris v. Jones*, 281 Md. 560, 566 (1977)). Morris's claim of intentional infliction of emotional distress must fail because no alleged action by either Altomare or Davis in the conduct of their investigation into Katherine's death, and their disagreement with Morris as to the manner of the death, came close to reaching the required level of "extreme and outrageous" conduct, which must be "'so outrageous in character, and so extreme in degree, as to go beyond all possible bounds of decency, and to be regarded as atrocious, and utterly intolerable in a civilized community.'" *Harris*, 281 Md. at 567 (quoting RESTATEMENT (SECOND) OF TORTS: EMOTIONAL DISTRESS § 46, cmt. d (1965)). Moreover, Morris makes no allegation that she suffered any severely disabling emotional response to appellees' conduct.

C. Fraud

To prevail on a claim of fraud, a plaintiff must prove, by clear and convincing evidence, that:

(1) The defendant made a false representation to the plaintiff;

(2) The falsity of the representation was either known to the defendant or was made with reckless indifference to the truth;

(3) The representation was made for the purpose of defrauding the plaintiff;

(4) The plaintiff relied on the representation and had the right to do so; and

(5) The plaintiff suffered compensable injury resulting from the representation.

Crystal v. Midatlantic Cardiovascular Assocs., P.A., 227 Md. App. 213, 224 (2016).

Morris's claim of fraud must fail because, even were we to assume, solely for the sake of argument, that Altomare, in his letter or in internal police documents, and Davis, in her interview with *The Capital Gazette*, made false representations intentionally or with reckless disregard for the truth, none of those representations were made to Morris. Moreover, Morris did not allege how the purpose of the statements was to defraud her, how she relied upon the representations with a right to do so, or how she suffered a compensable injury therefrom.

D. Conspiracy

Civil conspiracy is

> a combination of two or more persons by an agreement or understanding to accomplish an unlawful act or to use unlawful means to accomplish an unlawful act not in itself illegal, with the further requirement that the act or means employed must result in damages to the plaintiff. The plaintiff must also prove the commission of an overt act, in furtherance of the agreement, that caused the plaintiff to suffer actual injury. The tort of civil conspiracy lies in the act causing the harm; the

> agreement to commit the act is not actionable on its own but rather is in the nature of an aggravating factor.

Shenker v. Laureate Educ., Inc., 411 Md. 317, 351-52 (2009) (cleaned up).

Morris's claim of conspiracy must fail because, although asserting that appellees undertook a coverup meant to ensure a finding of suicide as the manner of Katherine's death, she made no allegation of a combination of any two or more appellees having an agreement or understanding to "accomplish an unlawful act or to use unlawful means to accomplish an act not in itself illegal," and there is nothing to suggest or reasonably imply that such agreement or understanding exists. Appellees' continued determination that Katherine's manner of death was suicide cannot rise to the level of an unlawful conspiracy directed at harming Morris.

CONCLUSION

For all the foregoing reasons, the circuit court was legally correct in dismissing Morris's complaint.

ORDERS OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY AFFIRMED; COSTS TO BE PAID BY APPELLANT.