Circuit Court for Baltimore County
Case No. 03-C-18-005006

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2665

September Term, 2018

JEFFREY COHEN

v.

EVAN FELDMAN, ET AL.

Arthur,
Gould,
Sharer, J. Frederick,
(Senior Judge, Specially Assigned)

JJ.

Opinion by Gould, J.

Filed: July 20, 2020

In this professional malpractice case, Appellant Jeffrey Cohen filed a pro se complaint against Appellees Evan Feldman, the Law Office of Evan Feldman, LLC (the "Feldman Law Office"), and Alperstein & Diener, P.A. ("Alperstein")[1] in the Circuit Court for Baltimore County. Mr. Cohen asserted claims for "professional negligence/breach of contract," breach of fiduciary duty, and gross negligence. The Feldman Parties moved to dismiss the complaint, asserting that Mr. Cohen lacked standing to sue for malpractice or breach of contract because he was not their client; that the real party in interest was a limited liability company that forfeited its right to do business in Maryland, including the right to sue in a Maryland court; and that, in any event, Mr. Cohen's claims were barred by the statute of limitations. The circuit court granted the motion to dismiss with prejudice, finding that Mr. Cohen lacked standing to pursue the claims.

On appeal from that judgment, Mr. Cohen asks: Did the circuit court abuse its discretion by granting the motion to dismiss with prejudice?[2] We conclude that it did not and therefore affirm.

[1] Mr. Feldman, the Feldman Law Office, and Alperstein are collectively referred to as the "Feldman Parties."

[2] Mr. Cohen poses three questions in his brief:

> 1. Did the trial court abuse its discretion by granting the appellee-prepared motion to dismiss, which dismissed the action with prejudice?
>
> 2. Did the trial court abuse its discretion by failing to rule on appellant's request for sanctions?

(continued)

BACKGROUND FACTS AND LEGAL PROCEEDINGS[3]

FORMATION OF THE LIMITED LIABILITY COMPANY

On March 7, 2014, Mr. Cohen filed articles of organization with the State Department of Assessments and Taxation ("SDAT")[4] to establish CMB1, LLC (the "LLC"), a Maryland limited liability company, "for the express purpose of acquiring a retail check cashing and lottery business that was operating in Baltimore, MD," known as "Checks-N-Keno." Mr. Cohen's business partner, Jeffrey Duke, was the resident agent of the LLC, and Mr. Cohen and Mr. Duke were its sole members.

Checks-N-Keno was owned by Arynmason, LLC ("Arynmason"), which in turn was owned by David Pelta. In March 2014, the LLC executed an Asset Purchase

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3. Did the trial court abuse its discretion by failing to refer the matter to bar counsel regarding the misconduct of appellee and its counsel?

Mr. Cohen presents no argument on the latter two questions, and accordingly, we decline to address them. See Md. Rule 8-504(a)(6) (an appellate brief must contain "[a]rgument in support of the party's position on each issue"); Wallace v. State, 142 Md. App. 673, 684 n.5, aff'd, 372 Md. 137 (2002) (cleaned up) ("Arguments not presented in a brief or not presented with particularity will not be considered on appeal.").

[3] Because this appeal arises from the granting of a motion to dismiss, we present the facts as alleged in Mr. Cohen's complaint, the exhibits to the complaint, and those of which the circuit court took judicial notice in the light most favorable to Mr. Cohen and make all reasonable favorable inferences in his favor. See State Center, LLC v. Lexington Charles Ltd. Partnership, 438 Md. 451, 426 (2014).

[4] The Articles of Organization are in the record as an exhibit to a supplemental memorandum filed by Mr. Cohen in the circuit court but were not incorporated into the complaint. They are publicly available on the SDAT website, however, and this Court may judicially notice facts in the public record. See Price v. Upper Chesapeake Health Ventures, 192 Md. App. 695, 706 n.11 (2010) (taking judicial notice of public records on SDAT's website and affirming a motion to dismiss).

Agreement to acquire Checks-N-Keno from Arynmason. Mr. Cohen "funded the transaction[,]" paying $170,000 to Arynmason and $10,000 to Mr. Pelta. Arynmason agreed to assign its lease for the retail space rented by Checks-N-Keno to the LLC. Thereafter, Mr. Cohen and Mr. Duke began operating Checks-N-Keno through the LLC, paying rent on the lease, and investing money in improvements to the business.

A few months later, in June 2014, Mr. Cohen was indicted on federal criminal charges in the United States District Court for the District of Maryland, United States v. Jeffrey Cohen, Case No. 1:14-cr-00310-GLR. He ultimately pleaded guilty to some of those charges and has been incarcerated in federal prison ever since.

After Mr. Cohen's arrest, Arynmason, Mr. Pelta, and the landlord on the lease for Checks-N-Keno's retail space "took over the premises," "changed the locks," and "obstructed CMB1 and [Mr.] Duke's access to the business." Mr. Duke sought legal representation to commence litigation as a result of these actions.

ENGAGEMENT OF MR. FELDMAN

Mr. Duke "was referred" to Mr. Feldman for legal representation. On August 29, 2014, Mr. Duke, "on behalf of CMB1, executed an Engagement Letter." The Engagement Letter was addressed to Mr. Duke and stated:

> You requested that our [law firm] provide legal services, (including litigation, if necessary) to you ("the Client") in connection with any and all matters concerning your interest in a commercial check cashing company and any other related matters.

The Engagement Letter set Mr. Feldman's rate, the amount of the retainer fee, the allocation of expenses, and other details of the engagement.

In paragraph 9, captioned "Acknowledgement As To Uncertainty Of Results[,]" the Engagement Letter stated that the law firm would "act on behalf of *the clients* in a courteous, conscientious and diligent manner to attempt to achieve solutions which are reasonable and just." (emphasis added). The Engagement Letter otherwise referred to the "Client" in the singular form. With respect to termination of representation, the Engagement Letter provided:

> This Engagement Letter may also be prospectively terminated at any time upon reasonable advance written notice given by either party. The Client further agrees that the Firm shall be under no obligation to undertake or continue services on any matter (a) if the Firm deems such services to be in conflict with legal ethics or (b) if the Client fails to make any payment to the Firm when due.

Mr. Feldman and Mr. Duke signed the Engagement Letter. Mr. Cohen was not mentioned in the Engagement Letter. Mr. Duke "expressly instructed [Mr.] Feldman to communicate with [Mr.] Cohen for all substantive issues."

THE ARYNMASON LITIGATION

On January 30, 2015, Mr. Feldman[5] filed a complaint in the Circuit Court for Baltimore County captioned, CMB1, LLC v. Arynmason, LLC & David Pelta, Case. No. 03-C-15-001218 ("the Arynmason Case"). According to Mr. Cohen, the Feldman Parties "failed to properly represent [his] interests . . . by" not filing an "adequate complaint," not

[5] Notwithstanding that the instant case was filed against the Feldman Parties, the docket sheet provided in the record indicates that Mr. Feldman of Alperstein was attorney of record. The clerk's office for the Circuit Court for Baltimore County indicated that only Mr. Feldman was listed as the attorney of record. Throughout this opinion, we will refer to the legal representation in the Arynmason Case as handled by Mr. Feldman.

responding to emails from Mr. Cohen and Mr. Duke, not amending the complaint when given leave of court to do so and as expressly instructed to by Mr. Cohen, not adding counts to the complaint as instructed, not adding claims against the landlord as instructed, not providing detailed billing statements upon request, not filing a motion to compel, and "failing to take proper steps to shield [Mr.] Cohen's inadmissible and unreliable criminal matter."

On December 19, 2017, Mr. Feldman emailed Mr. Cohen and advised him that "a motion to withdraw was forthcoming." Mr. Feldman filed the motion several days later, which the court granted on January 3, 2018. Mr. Cohen received a copy of the motion after it had been granted "[d]ue to the Christmas and New Year holidays."

The clerk's office mailed a "Notice to Employ New Counsel" to the LLC at the address the court had on file, which was Mr. Cohen's home address. Mr. Cohen did not receive the Notice to Employ New Counsel, which he attributed to his incarceration. On March 12, 2018, after emailing Mr. Feldman requesting the status of the Arynmason Case, Mr. Cohen learned for the first time that Mr. Feldman's appearance had been stricken months earlier.

The trial was scheduled to begin on March 20, 2018. Mr. Cohen was not aware of the trial date, and no one appeared on the LLC's behalf. As a result, the court dismissed the case with prejudice.

THE INSTANT CASE

On May 17, 2018, Mr. Cohen filed a complaint in the Circuit Court for Baltimore County against the Feldman Parties in connection with the Arynmason Case. Mr. Cohen contended that he was asserting the claims on behalf of the LLC, which he claimed was a sole proprietorship and that he was "the owner and . . . there is no legal existence of CMB1 apart from" him. He further contended that "[a]s an individual owner, [he had] the right to represent the Sole Proprietorship in a pro se capacity."

In Count I, Mr. Cohen asserted a claim for professional negligence and/or breach of contract, alleging that he employed the Feldman Parties and that they "failed to adequately inform and consult," "properly communicate," "follow [Mr. Cohen's] instructions," "act diligently," "pursue the lawful obligations specified by [Mr. Cohen]," and "recklessly abandoned [Mr. Cohen] on the eve of trial." The complaint further alleged that as a direct and proximate result, the Arynmason Case was dismissed, foreclosing the LLC's damages claim and causing "the loss of a substantial amount of money."

In Count II, Mr. Cohen asserted a claim for legal malpractice and/or breach of fiduciary duty, alleging that he had "placed confidence in [the Feldman Parties] . . . to represent [his] interests in the Arynmason [Case]," that the Feldman Parties "did not act in a manner consistent with [Mr. Cohen's] best interests," and that he was harmed as a result.

In Count III, Mr. Cohen asserted a claim for gross negligence, alleging that the Feldman Parties' withdrawal from the Arynmason Case "on the eve of trial and [their] failure to take reasonable steps to avoid the resulting prejudice to [Mr. Cohen]" amounted

to a "reckless[] disregard [for] the consequences" and caused him harm. Mr. Cohen sought damages in excess of $75,000, including "disgorgement and forfeiture of fees" and costs.

The Feldman Parties moved to dismiss the complaint. Citing cases establishing that Maryland requires strict privity in legal malpractice cases, they asserted that the Engagement Letter failed to establish privity of contract with Mr. Cohen and did not otherwise express any intent to make Mr. Cohen a third-party beneficiary of the contract. The Feldman Parties similarly contended that Mr. Cohen lacked standing to sue for breach of contract.

Although the Feldman Parties acknowledged that the LLC was an intended third-party beneficiary of the Engagement Letter, they maintained that the LLC lacked standing to sue because it was a "forfeited LLC." They attached to their motion copies of documents from the SDAT showing that the LLC's right to conduct business had been forfeited on October 13, 2017, before the complaint was filed.

Mr. Cohen opposed the motion and requested sanctions against the Feldman Parties. He asserted that Mr. Feldman had implicitly acknowledged that Mr. Cohen was a client by using the plural "clients" in paragraph 9 of the Engagement Letter and in communications with Mr. Cohen and the circuit court. He attached exhibits showing that in negotiating hearing dates in the Arynmason Case, Mr. Feldman represented to the court that he was "checking with my clients," and in connection with the Arynmason Case used terms such as "our opposition" and "our filing."

Further, Mr. Cohen asserted that he had taken steps to convert the LLC to a sole proprietorship, but that the SDAT had advised him that "over $1,000 in fees" needed to be paid before the conversion could be approved. He attached a "Unanimous Written Consent of the Members of CMB1, LLC," "Articles of Conversion of CMB1, LLC," and a cover letter to SDAT dated November 22, 2017, which were "to effect the conversion CMB1, LLC to a sole proprietorship."[6] In a "Supplemental Memorandum" filed a month later, Mr. Cohen contended that the LLC had the power to bring litigation after its forfeiture and reiterated that he had converted the LLC to a sole proprietorship.

On September 18, 2018, the circuit court held a hearing on the motion to dismiss. The Feldman Parties argued that they were hired by Mr. Duke on behalf of the LLC, and that the LLC was the client but that the LLC lacked standing to file suit. They further contended that Maryland law requires that two-thirds of the members of a limited liability company consent to the conversion of the entity and that Mr. Cohen had presented no evidence to show that Mr. Duke consented to the conversion. See Md. Code Ann., Corps. & Ass'ns ("CA") § 4A-403(d)(1) (1975, 2014 Repl. Vol., 2017 Supp.) (a member of a limited liability company may not convert the company into another business entity "without the consent of members holding at least two-thirds of the interest in profits").

[6] All three documents were signed only by Mr. Cohen. He also included a letter he wrote to Mr. Duke dated May 1, 2017 stating that "[p]ursuant to our conversation, you understand the need and benefit of converting CMB1, LLC into a Sole Proprietorship," and that Mr. Duke "agree[d] to this conversion and waive[d] all rights against the surviving entity." He concluded the letter by stating that "there [was] no need to respond to this letter if you are in agreement." Finally, Mr. Cohen included an application form from the SDAT for an identification number for the sole proprietorship, which Mr. Cohen had completed.

Mr. Cohen countered that he had converted the LLC to a sole proprietorship and further argued that it was "indisputable" that he was the client. As support, he stated that Mr. Feldman moved to withdraw as counsel in the Arynmason Case pursuant to Maryland Lawyer's Rules of Professional Conduct 1.16(b)(4), which permits withdrawal if a "client insists upon action or inaction that the attorney considers repugnant or with which the attorney has a fundamental disagreement," and that the repugnant action referenced in the motion to withdraw, according to Mr. Cohen, was his filing of an attorney grievance complaint against Mr. Feldman. Thus, he asserted that if he was not the client, then Mr. Feldman had no basis to withdraw from the Arynmason Case.

The Feldman Parties responded that a conversion to a sole proprietorship is effective only when accepted by the SDAT. They argued that Mr. Cohen had not alleged or otherwise demonstrated that the SDAT accepted his filings to convert the LLC to a sole proprietorship. In response, Mr. Cohen acknowledged that after he submitted his conversion paperwork to the SDAT, he never "received anything back," and explained that the SDAT would not accept his paperwork until he "pa[id] the prior three years of personal property tax[es]."

The court granted the Feldman Parties' motion to dismiss. The court found that Mr. Cohen was not the party in interest because he was not named in the Engagement Letter and that Mr. Cohen lacked standing to sue on behalf of the LLC because "the Corporate Charter had been forfeited" and it had not been converted to a sole proprietorship. The court did not address whether the action was barred by the statute of limitations.

On September 18, 2018, the circuit court signed an order dismissing the complaint with prejudice. Mr. Cohen moved to alter or amend the judgment, arguing that he was permitted to maintain the action as the "director-trustee" of the LLC, asking the court to reverse its dismissal and requesting leave to amend to allege facts supporting his position. The court denied the motion.

While his motion to alter or amend was pending, Mr. Cohen noted this timely appeal.

DISCUSSION

STANDARD OF REVIEW

This Court reviews a trial court's decision to grant a motion to dismiss without deference. Bradley v. Bradley, 214 Md. App. 229, 234 (2013). 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." Sprenger v. Pub. Serv. Comm'n of Md., 400 Md. 1, 21 (2007) (quotations omitted). "Dismissal is proper only if the alleged facts and permissible inferences, so viewed, would, if proven, nonetheless fail to afford relief to the plaintiff." Pendleton v. State, 398 Md. 447, 459 (2007) (quotations omitted).

The denial of a motion for leave to amend is reviewed for an abuse of discretion. RRC Northeast, LLC v. BAA Md., Inc., 413 Md. 638, 673 (2010). So too is the circuit court's decision to dismiss a case with prejudice. See Zdravkovich v. Siegert, 151 Md. App. 295, 310 (2003). A court abuses its discretion if its decision "is well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court

deems minimally acceptable." Consol. Waste Indus., Inc. v. Standard Equip. Co., 421 Md. 210, 219 (2011) (cleaned up).

THE MOTION TO DISMISS

Mr. Cohen argues that the trial court abused its discretion by granting the motion to dismiss with prejudice and without leave to amend. He argues that the trial court did not make any findings that an amendment of the pleading would be futile and that although the court's written order stated that the dismissal was with prejudice, at the hearing, the court did not state that the dismissal was with prejudice. Mr. Cohen asks us to:

> amend the trial court's order to reflect what the docket shows so that once the simple filing discrepancy is remedied (receipt of articles of conversion to Sole Proprietorship by MD SDAT), he could proceed with holding [the Feldman Parties] accountable for [their] unprofessional conduct which cost [Mr.] Cohen several hundred thousand dollars in a lost judgment.

(internal footnote omitted.) He also maintains that if given the opportunity, he could bring the LLC into good standing.

The Feldman Parties contend that the circuit court did not err in dismissing the complaint with prejudice and denying Mr. Cohen leave to amend. They argue that the court correctly found that Mr. Cohen lacked standing to assert claims on the LLC's behalf and that Mr. Cohen was neither in privity of contract with them nor a third-party beneficiary of the Engagement Letter. Thus, they contend that, as a matter of law, Mr. Cohen cannot sustain either the breach of contract or tort claims. They also argue that the LLC could not pursue the claims because its charter had been forfeited. Finally, they argue that Mr. Cohen's claims are barred by the statute of limitations.

Standing

Mr. Cohen does not appear to claim that the court erred in granting the motion to dismiss per se. To the extent he is making such a claim, however, we reject it. Pursuant to Maryland Rule 2-202(a), "[a]pplicable substantive law governs the capacity to sue or be sued of an individual, a corporation, a person acting in a representative capacity, an association, or any other entity." Rule 2-201 requires that, with exceptions that do not apply here, "[e]very action shall be prosecuted in the name of the real party in interest."

The circuit court correctly determined that the LLC was the real party in interest. The LLC was the named plaintiff in the Arynmason Case, the underlying case for this professional liability suit. But, the LLC could not have maintained this lawsuit because it had forfeited its right to conduct business in Maryland pursuant to CA § 4A-911.[7] See Price, 192 Md. App. at 707-08 (the right to conduct business includes the right to file or maintain a lawsuit in the name of or on behalf of a limited liability company). As such, the LLC lacked standing to sue.[8]

[7] We take judicial notice of the undisputed fact that the LLC forfeited its right to do business in Maryland in October 2017 for failing to file a personal property report for 2016. See Price, 192 Md. App. at 703 (explaining that section 11-101(a)(1) of the Tax-Property Article of the Maryland Annotated Code requires a limited liability company to file a tangible personal property report on or before April 15 of each year).

[8] In our view, the issues raised as to whether Mr. Cohen was in privity of contract with, or a client of, Mr. Feldman, are beside the point. Even if we fully credit Mr. Cohen's contention that he was a party to the Engagement Agreement and/or was the client, the fact remains that it would have been the LLC, not Mr. Cohen, that was damaged by Mr. Feldman's alleged misconduct. Mr. Cohen alleged no injury distinct from the LLC's alleged injury and therefore any damage that Mr. Cohen suffered as a member of the LLC (continued)

Though Mr. Cohen argues that he was the client, he stated in his complaint that he filed this lawsuit in his own name "as the sole proprietor for CMB1" and was asserting "the claims of CMB1." In his opposition to the motion to dismiss and at the hearing, however, he admitted that the conversion to a sole proprietorship had never been accepted by SDAT. Thus, at the time the court dismissed this case, he also did not have standing to sue, either in his individual capacity or on behalf of any entity.

Accordingly, we affirm the circuit court's dismissal of this action.

Dismissing this Action Without Leave to Amend and With Prejudice

We now turn to Mr. Cohen's central argument: that the circuit court abused its discretion by dismissing his complaint with prejudice and without leave to amend. The distinction between a dismissal without prejudice and a dismissal with prejudice is that, in the former circumstance, "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). An order granting a motion to dismiss that does not include the express language "with leave to amend," whether entered with or without prejudice, "terminates the particular action in the trial court." Id. at 431. Conversely, the grant of a motion to dismiss a complaint with express "leave to amend" is not a final judgment and does not terminate the action in the trial court. Id. at 453; see also

would only have been derivative of the LLC's damage. As such, Mr. Cohen had no direct claims in his individual capacity. Oliveira v. Sugarman, 451 Md. 208, 231 (2017) ("To assert a direct claim, a plaintiff must have suffered a 'distinct injury' separate from any harm suffered by the corporation.").

Md. Rule 2-322(c) ("If the court orders dismissal [of a claim], an amended complaint may be filed only if the court expressly grants leave to amend."). The denial of a motion to alter or amend is reviewed for abuse of discretion. Wilson-X v. Dep't of Human Res., 403 Md. 667, 674-75 (2008).

The circuit court did not abuse its discretion by dismissing the action with prejudice and without leave to amend. Mr. Cohen did not ask the court for leave to amend in his opposition to the motion to dismiss or at the hearing on the motion. Moreover, he gave the court no basis to believe that he could have cured the defects that barred his standing to assert the LLC's claims. For that reason alone, the court did not abuse its discretion in dismissing the case without leave to amend.

Mr. Cohen waited to request leave to amend until his post-dismissal motion to alter or amend. At that time however, Mr. Cohen—who claimed being indigent—had neither cured the standing defects nor demonstrated the financial ability to do so.[9] For that reason as well, the denial of his post-dismissal motion was not an abuse of discretion.

Even if he had demonstrated that he had the funds to pay the filing fees and back taxes, Mr. Cohen still could not have converted the LLC to a sole proprietorship. Mr.

[9] In his post-dismissal motion, Mr. Cohen requested leave to amend so that he could allege that he was suing as a director or trustee of the LLC. That theory had no merit. Mr. Cohen claimed status as a "director-trustee" pursuant to CA § 3-515, which on its face applies to corporations, not limited liability companies. See Price, 192 Md. App. at 703-04 (observing distinctions between corporations and limited liability companies). Even if that were a viable basis for him to assert standing, his failure to cure the forfeiture of the LLC's right to do business and his failure to demonstrate his ability to do so was ample basis for the court to exercise its discretion to deny the motion.

Cohen claimed that he could make the conversion pursuant to CA § 4A-1101(b), which provides that a limited liability company is permitted to convert to only an "other entity." Section 4A-1101(a) defines "other entity" as:

> (1) A Maryland corporation incorporated under Title 2 of this article;
> (2) A foreign corporation, as defined in § 1-101 of this article;
> (3) A partnership, as defined in § 9A-101 of this article;
> (4) A limited partnership, including a limited partnership registered or denominated as a limited liability limited partnership under § 10-805 of this article or under the laws of a state other than this State;
> (5) A business trust, as defined in § 1-101 of this article;
> (6) Another form of unincorporated business formed under the laws of this State or the laws of the United States, another state of the United States, a territory, possession, or district of the United States, or a foreign country; or
> (7) A foreign limited liability company.

The question, then, is whether a sole proprietorship falls within one of "other entit[ies]" enumerated in CA § 4A-1101(a). A sole proprietorship certainly would not fall within subsections (1) through (5) and (7), because each identifies a specific type of entity that does not include a sole proprietorship. Nor does subsection (6) apply here. A sole proprietorship could never qualify as a "form of unincorporated business formed under the laws of this State" because "the sole proprietorship form of business provides complete identity of the business entity with the proprietor himself'" and has "no legal existence apart from its owner." Bushey v. N. Assurance Co. of Am., 362 Md. 626, 637 (2001) (cleaned up). Accordingly, because a sole proprietor is a human being, and human beings are not "formed under the laws" of the State of Maryland, subsection (6) provided no basis on which Mr. Cohen could have successfully converted the LLC to a sole proprietorship.

For these reasons, we find no error in the court's dismissal of this action with prejudice. Mr. Cohen purported to bring the action against the Feldman Parties in his name on behalf of a non-existent sole proprietorship and the court correctly ruled that he lacked standing to bring those claims either individually or on behalf of the LLC. The defects that warranted the dismissal were not technical glitches that could be remedied, but rather fundamental flaws in the legal underpinnings of the action.[10] See Mohiuddin, 196 Md.

[10] Our analysis included a review of the merits of the underlying causes of action. See Mohiuddin v. Doctors Billing & Mgmt. Solutions, Inc., 196 Md. App. 439, 452 (2010) (a dismissal "with prejudice" ordinarily "is ordered in cases where the dismissal is based on an appraisal of the legal sufficiency of the claim"). The Arynmason Case was dismissed because nobody appeared when the case was called for trial. Although he alleges other wrongful acts and omissions, none are alleged to have been the proximate cause of the dismissal. As to the dismissal, Mr. Cohen alleged that: (1) he converted the LLC to a sole proprietorship in October, 2017, it logically follows, therefore, that he considered himself the plaintiff as of that date; (2) Mr. Feldman notified Mr. Cohen by email on December 19, 2017 of his intention to move to withdraw; (3) Mr. Feldman moved to withdraw shortly after the notice to Mr. Cohen; (4) the court granted Mr. Feldman's motion to withdraw shortly after it was filed; (5) Mr. Cohen received a copy of the motion to withdraw after the court had already granted it, and attributed the delay to "the Christmas and New Year holidays"; (6) the court's Notice to Employ Counsel was sent to his home residence, which he admits was "[t]he address on file" for the LLC; and (7) before the scheduled trial date, Mr. Cohen was aware that the court had previously granted Mr. Feldman's motion for withdrawal. Mr. Cohen does *not* allege that: (1) he informed Mr. Feldman of the purported conversion to a sole proprietorship at any time, let alone before the court granted his motion to withdraw; (2) the court had the incorrect official address of the LLC; (3) no one had access to the LLC's official address of record to retrieve mail on the LLC's behalf; and (4) knowing that his lawyer had moved to withdraw, he contacted the court to ascertain the status of the lawsuit. Had Mr. Cohen informed Mr. Feldman of the purported conversion, that would have alerted Mr. Feldman to the need to make sure the court's records were changed so that all notices would be sent to Mr. Cohen, not the LLC. Had Mr. Cohen informed Mr. Feldman that no one from the LLC had access to retrieve mail from the LLC's address of record, Mr. Feldman would have known to make sure the court had the correct address. Absent such allegations, we fail to see how Mr. Cohen would have had a viable claim against the Feldman Parties arising out of a dismissal that occurred *after* their (continued)

App. at 452 ("A dismissal without prejudice . . . is more likely to be ordered in cases where the dismissal is based on some procedural glitch or lapse in the necessary formalities, something that does not engage the merits of *res judicata* and that can be readily rectified on the next try.").

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

representation had been terminated. Moreover, once Mr. Cohen learned that Mr. Feldman was no longer counsel, it was incumbent upon him to promptly contact the court to ascertain the status of what he believed was *his* claim.