Circuit Court for Anne Arundel County
Case No. C-02-CV-15-002956

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1035

September Term, 2021

MICHAEL H. REEVES

v.

ANNE ARUNDEL COUNTY, *ET AL.*

Kehoe, C.**
Nazarian,
Salmon, James P.***
(Senior Judge, Specially Assigned),

JJ.

Opinion by Kehoe, J.

Filed: August 22, 2024

* 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).

** Kehoe, Christopher, now retired, participated in the hearing of this case while an active member of this Court; after being recalled pursuant to the Constitution, Article IV, Section 3A, he also participated in the decision and the preparation of this opinion.

*** Salmon, J., participated in the hearing of the case and in the conference in regard to its decision, but passed away prior to adoption of the opinion. The remaining judges sitting on the panel constitute a quorum. Because they are in agreement as to the reasoning and outcomes of the appeal, there is a "concurrence of a majority of [the] panel." Md. Code, Cts. & Jud. Proc., § 1–403(b); *see also Jackson v. State*, 408 Md. 231, 239-240 (2009).

Michael H. Reeves appeals from a judgment of the Circuit Court for Anne Arundel County, the Honorable Glenn L. Klavans, presiding,[1] that denied his motion for leave to file an amended complaint. The appellees are Anne Arundel County and Rodney Price, a former member of the Anne Arundel County Police Department (collectively "the County").

The parties present two issues which we have reworded slightly:

> 1. Was leave of court required to amend the ad damnum clause of the *Prince George's County v. Longtin*, 419 Md. 450, 500 (2011), claim given that it had been bifurcated, there was no deadline for amendment in the applicable scheduling order, and trial was more than thirty days away?
>
> 2. To whatever extent leave was required, did the trial court prejudicially err in denying the plaintiff leave to amend the ad damnum clause of his *Longtin* claim to more clearly seek injunctive and declaratory relief?

We will affirm the judgment of the circuit court.

BACKGROUND

This is the third time that aspects of this case have been considered by a Maryland appellate court. *See Anne Arundel County v. Reeves*, 474 Md. 46 (2021) ("*Reeves II*"); and *Reeves v. Davis*, No. 1191, Sept. Term 2018, 2019 WL 5606605 (Md. Ct. Spec. App., *filed* Oct. 30, 2019) ("*Reeves I*"), *aff'd in part, rev'd in part*, 474 Md. 46 (2021). We will

[1] Judge Klavans and Judge James P. Salmon were outstanding public servants who, in the diligent and faithful discharge of their judicial duties, provided the "fair, efficient and effective justice for all" that is the mission of the Maryland Judiciary. Both passed away while this appeal was pending. *Ave atque Vale*, colleagues.

summarize the relevant facts, drawing from Chief Judge Barbera's opinion for the Court in *Reeves II*, 474 Md. at 53–59, as well as the panel's opinion in *Reeves I*, 2019 WL 5606605, at *1–4:

On the afternoon of February 1, 2014, Anne Arundel County Police Officer Rodney Price was conducting an investigation into daytime burglaries in a residential neighborhood in Glen Burnie. He approached Mr. Reeves' residence, knocked on the door, received no response, and turned away. While standing in Mr. Reeves' front yard, Officer Price was approached by Vern, Mr. Reeves' Chesapeake Bay retriever. Officer Price shot Vern twice, inflicting fatal injuries.

On September 24, 2015, Mr. Reeves and his sons, Michael Reeves Jr., and Timothy Reeves, filed a civil action against Officer Price; Kevin Davis, who was the chief of the Anne Arundel County Police Department at the time of the shooting; and the County itself. The complaint asserted thirteen causes of action. Among them were claims that: (1) Vern's death was the result of a longstanding pattern or practice of unconstitutional conduct by the Police Department that resulted in the needless and avoidable shootings of

dogs (Count 1),[2] and (2) this pattern or practice was the result of a conspiracy among members of the Department (Count 13).[3]

Each count contained a claim for relief. The claim for relief in all but two of the counts were identical:

> WHEREFORE, Plaintiffs demand judgment against Defendants, individually, jointly and severally, in an amount to be determined at trial, but in excess of the jurisdictional amount of $75,000.00 plus interest, costs, and attorneys' fees, and punitive damages, in an amount to be determined at trial, *and such other and further relief as the nature of the case requires*.[4]

(Emphasis added.)

On November 19, 2015, and pursuant to Md. Rule 2-303(b), the County filed a motion to bifurcate the *Longtin* and conspiracy counts from the remaining counts. The plaintiffs did not respond to the motion.

On December 7, 2015, the circuit court issued a scheduling order that set the following relevant deadlines:

> March 23, 2016 as the deadline "for any party seeking to add an additional party and/or amend a claim to file the appropriate pleading[;]" and

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[2] The parties refer to this cause of action as the "*Longtin* claim," a reference to the leading Maryland Supreme Court opinion on the issue, *Prince George's County v. Longtin*, 419 Md. 450, 492–498 (2011). We will do the same.

[3] The counts in the complaint are inconsistently numbered—there are two counts labeled as "X" and two labeled as "VIII." To avoid confusion, we will refer to Mr. Reeves' *Longtin* count as "Count 1" and his conspiracy count as "Count 13."

[4] We will use the term "claim for general relief" to refer to a request for "such other and further relief as the nature of the case requires."

> June 6, 2016 as the deadline "for completion of all depositions, and other methods of oral and written discovery . . . [other than] de bene esse depositions."

(Formatting altered.)

On March 3, 2016, the circuit court granted the motion to bifurcate. The bifurcation order stated in pertinent part:

> ORDERED that the Defendants' Motion to Bifurcate Counts I and XIII and for Separate Trials be, and hereby is GRANTED; and it is further,
>
> ORDERED that there be separate trials of those issues relating to the Plaintiffs' claims against Defendant Rodney Price and Plaintiff's claims against Defendant Anne Arundel County, Maryland and Chief Kevin Davis as to Counts I and XIII- Unlawful Pattern or Practice of Violating the State Constitution and conspiracy; and it is further,
>
> ORDERED that discovery regarding Plaintiffs' [*Longtin*] and conspiracy claims against Anne Arundel County, Maryland and Chief Kevin Davis [is] stayed unless a second trial is necessary, and it is further,
>
> ORDERED that if, in light of the result of the first trial and existing circumstances, it will be necessary to proceed with Plaintiffs' [*Longtin*] and conspiracy claims against the Defendant Anne Arundel County, a second trial will be scheduled. However, prior to the second trial:
>
> a. *The parties will be permitted a reasonable period of time to engage in discovery as to Plaintiffs' claims against the County and the alleged individual conspirators, including a new scheduling order if the Court deems necessary;* and,
>
> b. The Court will consider, in due course, any dispositive motions addressed to Plaintiffs' claims against the County and alleged conspirators.

(Emphasis added.)

The bifurcation order did not address the prior scheduling order's deadline for filing amendments to pleadings.

Eventually, four of the remaining claims went to trial. They were: (1) trespass to a chattel, namely Vern, (2) violation of Mr. Reeves' constitutional rights under Article 24 of the Maryland Declaration of Rights for the unlawful shooting of Vern, (3) violation of Mr. Reeves' constitutional rights under Article 26 of the Maryland Declaration of Rights for the unlawful seizure of Vern, and (4) gross negligence resulting in Vern's death.[5]

During the trial, Officer Price testified that he shot Vern in self-defense because Vern had leapt onto him with his muzzle and jaws near the officer's face and throat. But there was conflicting evidence as to what actually happened, and the jury did not fully credit his version of events. In *Reeves II*, Chief Judge Barbera explained:

> The jury found a violation of Mr. Reeves' due process rights under Article 24 by depriving him of his dog. However, the jury awarded him $0 in damages for that constitutional claim. The jury further found that Officer Price had violated Mr. Reeves' constitutional rights under Article 26 by "seizing" Vern and/or interfering with the use or enjoyment of the dog. The jury likewise awarded Mr. Reeves $0 in damages for that constitutional claim. As to both constitutional claims, the jury also found that Officer Price did not act with "ill will or improper motivation."
>
> The jury then found that Officer Price was grossly negligent and awarded Mr. Reeves $500,000 in economic damages and $750,000 in noneconomic damages, for a total of $1,250,000. Finally, for the trespass to chattel claim, the jury awarded Mr. Reeves $10,000 in economic damages. The jury also made a factual finding on the verdict sheet that the dog was not attacking Officer Price at the time of the shooting. . . .
>
> * * *

[5] Prior to trial, the court granted summary judgment in Chief Davis' favor "as to all individual claims against [him]." The court also dismissed the claims of Reeves' two sons.

> The circuit court then reduced the jury award for trespass to chattel from $10,000 to $7,500, pursuant to [Cts. & Jud. Proc.] § 11-110.[6] The court further reduced the total damages award for the gross negligence claim from $1,250,000 to $200,000 pursuant to the LGTCA, resulting in Mr. Reeves receiving a total of $207,500 in damages.

474 Md. at 57–58 (footnote omitted).

After the circuit court entered this judgment, the focus shifted to the *Longtin* and civil conspiracy counts. The circuit court entered scheduling orders that imposed deadlines for completion of discovery and filing motions for summary judgment and other dispositive motions. The orders were silent as to a deadline for filing amendments to the pleadings.

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[6] At the time that Vern was shot, Cts. & Jud. Proc. § 11-110 stated:

> (a) (1) In this section the following words have the meanings indicated.
> (2) "Compensatory damages" means:
> (i) In the case of the death of a pet, the fair market value of the pet before death and the reasonable and necessary cost of veterinary care; and
> (ii) In the case of an injury to a pet, the reasonable and necessary cost of veterinary care.
> (3)(i) "Pet" means a domesticated animal.
> (ii) "Pet" does not include livestock.
> (b) (1) A person who tortiously causes an injury to or death of a pet while acting individually or through an animal under the person's ownership, direction, or control is liable to the owner of the pet for compensatory damages.
> (2) The damages awarded under paragraph (1) of this subsection may not exceed $7,500.

At the time this cause of action accrued, the statutory limit was $7,500. The cap has since been increased to $10,000. *See* Acts 2017, c. 413, § 1, eff. Oct. 1, 2017.

The County then filed a motion for summary judgment as to the *Longtin* and civil conspiracy counts. Among the grounds asserted by the County was that a judgment in favor of Mr. Reeves on those counts would be an exercise in futility because the court had already entered judgment "in the full amount allowed by the LGTCA; [so a further award of] even nominal damages would exceed that cap."[7] The trial court granted the County's motion on this ground. In his initial brief filed in *Reeves I*, Mr. Reeves asserted that:

> At the summary judgment stage, the defense announced an intention to appeal and, indeed, had already prematurely appealed once, which appeal was dismissed by this Court.
>
> In other words, it was admitted that the defense intended to challenge the jury's verdict. To date, the defense has paid no part of the verdict and the defense has indeed filed the threatened cross-appeal.
>
> Under these circumstances, the trial court had no basis to rule that, "even nominal damages would exceed [the] cap." This is because the trial court had no way of knowing whether this Court, or even the Court of Appeals, might one day reduce some or all of the existing verdict as a result of the defendants' appeal. Not knowing whether the verdict might be reduced, the trial court also could not know whether any reduced verdict might still exceed the cap. Therefore, it was error to dismiss the claim on the ground cited by the trial court.
>
> As to both the trial court's ruling and the defense claim that "[t]here is nothing more for the Plaintiff to gain in the instant case" other than "a symbolic victory," such victories are crucially important in our democracy and routinely allowed to vindicate constitutional rights.[8]

[7] *Reeves I*, Appellant's Initial Brief at 25.

[8] *Reeves I*, Appellant's Initial Brief at 25–27.

The circuit court's order granting the motion was filed on August 16, 2018. As this order disposed of all of the pending claims, it constituted the final judgment in this case.

The *Reeves I* panel summarized the circuit court's reasoning:

> The circuit court . . . granted the County's motion for summary judgment for three reasons. First, the court concluded that the doctrine of collateral estoppel applied to preclude Reeves's *Longtin* claim. . . . The court noted that Reeves's claims arose, in part, out of Article 24, and found that because "the issue of damages resulting from an Article 24 violation was an issue of fact actually litigated and resolved in a valid court determination essential to the prior judgment[,] . . . the issue of damages under Article 24 cannot be re-litigated through a separate claim."
>
> Second, the court granted summary judgment on the basis that no additional damages could be awarded to Reeves by virtue of the cap provided for in the LGTCA. The court, relying on *Beall v. Holloway Johnson*, 446 Md. 48, 71 (2016), observed that the LGTCA entitles plaintiffs to collect up to $200,000 for an individual claim where there is no finding of actual malice. The court found that because Reeves's claims arose out of a single cause of action—the death of his dog—and that the jury had already awarded the fullest amount possible under the LGTCA, that any further damages awarded to Reeves would violate the LGTA, even if those damages were nominal. To rule otherwise, the court reasoned, would be to violate the "one wrong, one recovery" rule of *Beall v. Holloway-Johnson*, 446 Md. 48, 71 (2016).
>
> Finally, as to the civil conspiracy count, the court concluded that "civil conspiracy[ ] is not recognized in Maryland as a separate cause of action."

2019 WL 5606605, at *11–12.

This ruling disposed of all pending claims. Mr. Reeves filed a notice of appeal and the County filed a cross appeal. In *Reeves I*, the parties presented five issues, which the panel articulated as follows:

> 1. Was the evidence legally sufficient to support the jury's finding of gross negligence?
>
> 2. Was the evidence legally sufficient to support the jury's award of damages?
>
> 3. Was it error when the trial court failed to apply the statutory cap on damages for tortious injuries to pets to the gross negligence claim?
>
> 4. Was it error for the trial court to enter judgment in excess of the cap on damages mandated by the Local Government Tort Claims Act?
>
> 5. Did the circuit court err in granting summary judgment in favor of the County on Reeves's *Longtin* and civil conspiracy claims?

2019 WL 5606605, at *1.

The majority of the panel reached the following conclusions:

First, there was legally sufficient evidence presented to the jury that Officer Price had been grossly negligent. *Id.* at *6–7.

Second, the County's contention that there was legally insufficient evidence to support the $1.3 million damages award was not preserved for appellate review. *Id.* at *8.

Third, the majority of the panel concluded that Cts. & Jud. Proc. § 11-110 did not apply to Mr. Reeves' claims. Therefore, reasoned the panel, Mr. Reeves' monetary recovery was not limited to $7,500.[9] *Id.* at *9.

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[9] In reaching this conclusion, the majority relied on this Court's analysis in *Brooks v. Jenkins*, 220 Md. App. 444, 469 (2014), another case that arose from the shooting of a dog by law enforcement officials. In *Brooks*, Judge Nazarian explained:

> [In enacting § 11-110,] the General Assembly limited the extent of a tortfeasor's liability for the tortious injury he causes to a pet. This statute does not, and cannot, alter the fundamental nature of the underlying (in this

(Footnote Continued . . . .)

Fourth, the panel agreed with the County and Mr. Reeves that the version of the Local Government Tort Claims Act in effect at the time of the shooting capped his monetary damages at $200,000. *Id.* at *10.

This brings us to Mr. Reeves' contention that the circuit court erred when it granted the County's motion for summary judgment as to the *Longtin* and the civil conspiracy claims. To recap, the circuit court granted judgment as to these claims on three grounds: First, the court concluded that the doctrine of collateral estoppel precluded the *Longtin* claim because the issue had already been decided by the court. *Id.* at *11. Second, the court ruled that no additional damages could be awarded to Mr. Reeves "by virtue of the

> case, constitutional) tort. Nor does it limit a victim's *overall* recovery for a tort that includes, but isn't limited to, damage to a pet for vet bills up to $7,500.
>
> * * *
>
> On the count at issue, the Jenkinses alleged that Deputy Brooks violated their rights under Articles 24 and 26 of the Maryland Constitution when, acting with gross negligence, he used excessive force and shot Brandi. They alleged more than one form of damage from the Deputy's actions, and the law entitled them to recover more than just property damage. . . . [N]othing about [Cts. & Jud. Proc.] § 11–110 vitiated their existing right to recover, on appropriate proof, whatever non-pet damages they could prove, including their non-economic damages, for the Deputy's grossly negligent violation of their constitutional rights.

220 Md. App. at 469–70 (emphasis in original).

cap provided for in the LGTCA." *Id.* Third, the court concluded that "civil conspiracy[] is not recognized in Maryland as a separate cause of action."[10] *Id.* at *12.

The majority of the *Reeves I* panel addressed the circuit court's conclusions as follows:

> According to Reeves, the court erred in granting summary judgment in favor of the County on the *Longtin* claim. Reeves contends that relying on collateral estoppel was in error because . . . the verdict on the Article 24 claim was not a final judgment and therefore not appealable. Then, Reeves argues that the court's second basis for granting the motion—that the jury had already awarded Reeves the amount of damages allowable by statute—was in error *because he was entitled to nominal damages*, *see Mason v. Wrightson*, 205 Md. 481, 488–89 (1954); *Brown v. Smith*, 173 Md. App. 459, 481 (2007); *Amato v. City of Saratoga Springs, N.Y.,* 170 F.3d 311, 317–21 (2d Cir. 1999), and that because the County made clear its intention to challenge the jury's verdict by filing its (premature) appeal, it was possible that, on appeal, the damage award might be reduced *to allow the jury to award additional damages*.
>
> * * *
>
> [T]he circuit court's reliance on the doctrine of collateral estoppel was premature because there was no final judgment when the court granted the County's motion for summary judgment. But the circuit court's underlying logic has been validated by the outcome of this appeal. . . . [W]e will vacate the damages award in this case and remand it to the circuit court for entry of a judgment in Reeves's favor in the amount of $200,000, the maximum recovery permitted by the version of [Cts. & Jud. Proc.] § 5-303 that is applicable to this case. [T]he LGTA's limitation on damages bars Reeves from any additional monetary recovery.
>
> In his brief, Reeves cites to *Mason v. Wrightson*, 205 Md. 481, 489 (1954), for the proposition that "[i]t is well settled that every injury to the

[10] On appeal, Mr. Reeves did not challenge the trial court's ruling on the civil conspiracy claim.

> rights of another imports damages, and if no other damage is established, the party injured is at least entitled to a verdict for nominal damages," and from there, argues that he may be entitled to nominal damages for the *Longtin* claim. . . . But, in this case, the addition of even one cent to the damages awarded to Reeves would surpass [Cts. & Jud. Proc.] § 5-303's limit on damages. . . .
>
> *Our decision on this issue might be different if, in his complaint, Reeves had asked for a remedy other than damages, such as injunctive or declaratory relief. But he did not*.

2019 WL 5606605, at *12–13 (emphasis added).[11]

The County filed a petition of a writ of certiorari and presented two issues for the Supreme Court of Maryland:

> 1) As a matter of first impression, does [Cts. & Jud. Proc. § 11-110] limit the amount of damages recoverable for negligently causing the death of a pet?
>
> 2) Did the Court of Special Appeals err in finding sufficient evidence of gross negligence?

Reeves II, 474 Md. at 59.

[11] Judge Friedman filed a dissenting opinion. Among his several points of departure from the majority's reasoning was its conclusion that Cts. & Jud. Proc. § 11-110's $7,500 limitation on damages for the death of a pet did not apply in Mr. Reeves' case. Judge Friedman explained:

> [T]he damages for the destruction of a dog are capped at $7,500. *See* [Cts. & Jud. Proc.] § 11-110. Calling Mr. Reeves' claims by different names—trespass to chattel, negligence, gross negligence, or even an intentional tort—doesn't change the analysis: there is still just one injury.

Reeves I, 2019 WL 5606605, at *14 (citation and footnote omitted).

Mr. Reeves did not file a cross-petition for certiorari. Instead, he sought relief from the circuit court. But before we discuss what happened in the circuit court, we will summarize the Supreme Court's analysis and holdings in *Reeves II.*

First, the Court noted that, although the jury had found that Officer Price had violated Mr. Reeves' rights guaranteed by Articles 24 and 26 of the Maryland Declaration of Rights, the jury awarded $0 for each violation. *Id.* at 52.

Second, the Court stated that "Mr. Reeves' gross negligence and trespass to chattel claims are premised on the same set of operative facts. They are thus alternative legal theories for the same recovery. Therefore, Mr. Reeves is entitled to one recovery as compensation." *Id.* at 68.[12] In agreement with Judge Friedman's dissenting opinion in *Reeves I*, the Supreme Court concluded that Cts. & Jud. Proc. § 11-110 limited Mr. Reeves' recovery on all counts to $7,500. *Reeves II*, 474 Md. at 68–69.

Third, the Court held that there was sufficient evidence "for a rational juror to find that Officer Price was grossly negligent." *Id.* at 75. The Court concluded:

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[12] The Supreme Court distinguished the *Reeves* case from *Brooks v. Jenkins*:

> In *Brooks*, the Court of Special Appeals explained the scope of its holding as follows: "We hold only that [Cts. & Jud. Proc. § 11-110] does not limit the Jenkinses' total recovery for the constitutional tort to the capped value of their pet's vet bills." 220 Md. App. at 471. Here, [Cts. & Jud. Proc.] § 11-110 did not work to cap Mr. Reeves' constitutional claim damages to the value of veterinary bills or Vern's fair market value. Rather, the jury awarded no damages at all for those claims.

474 Md. at 68 (emphasis and parallel citation omitted).

> [D]espite the fact that there was sufficient evidence on the gross negligence claim, as explained above Mr. Reeves' damages are limited to $7,500 for his claims, as both the trespass to chattel claim and the gross negligence claim sought recovery for the same harm and both are torts covered by [Cts. & Jud. Proc.] § 11-110. Thus, consistent with the jury's award and the circuit court's reduction of the award, Mr. Reeves is limited to $7,500 on his trespass to chattel claim, and $0 on his alternative gross negligence claim.

Id.

At this point, our focus shifts back to the circuit court.

Reeves I was filed on October 30, 2019. On November 25, 2019, that is, while the County's petition for a writ of certiorari was pending,[13] Mr. Reeves filed a Motion for Leave to Amend Pleadings together with a proposed First Amended complaint. The amendments that Mr. Reeves sought pertained to the claims for relief in Counts 1 and 13 of his complaint.

As we have related, Counts 1 and 13 set out Mr. Reeves' *Longtin* and civil conspiracy claims. He requested permission to change those counts' claims for relief to read as follows (new language in italics):

> WHEREFORE, Plaintiffs demand judgment against Defendants, individually, jointly and severally, in an amount to be determined at trial, but in excess of the jurisdictional amount of $75,000.00 plus interest, costs, and attorneys' fees, and punitive damages, in an amount to be determined at trial, and such other and further relief as the nature of the case requires, *including, but not limited to, declaratory and injunctive relief declaring the conduct which is the subject of this Complaint unlawful and*

[13] The Supreme Court granted the County's petition for a writ of certiorari on February 11, 2020. 467 Md. 262 (2020) (Table).

> *unconstitutional and enjoining future unlawful and unconstitutional misconduct of the same type*.

The circuit court deferred ruling on the motion pending final action on the then-pending petition for certiorari. The Supreme Court filed its opinion in *Reeves II* on June 7, 2021.[14] On September 7, 2021, the circuit court denied Mr. Reeves' Motion for Leave to Amend Pleadings. The court stated:

> The Court finds this Motion to be grossly untimely. Plaintiff has demonstrated no reason as to why these claims were not included in the original Complaint.

THE PARTIES' CONTENTIONS

Mr. Reeves' contentions in the present appeal derive from the following passage in *Reeves I*:

> In his brief, Reeves cites to *Mason v. Wrightson*, 205 Md. 481, 489 (1954), for the proposition that "[i]t is well settled that every injury to the rights of another imports damages, and if no other damage is established, the party injured is at least entitled to a verdict for nominal damages," and from there, argues that he may be entitled to nominal damages for the *Longtin* claim. . . . But, in this case, the addition of even one cent to the

[14] On July 20, 2021, that is, after the Supreme Court's opinion in *Reeves II* was filed, Mr. Reeves filed a "Motion to Revise Verdict to Conform to the Jury's Intent Given the Decision of the Court of Appeals or, in the Alternative, for a New Trial." In the motion, Mr. Reeves asserted that in *Reeves II*, the Supreme Court "strongly hinted" that the jury's awards of $0 as damages for his Articles 24 and 26 claims should be revised to award Mr. Reeves $200,000 for those claims. He asked the circuit court to "conform the jury's verdict to the intent of the jury[.]" The circuit court denied the motion. Mr. Reeves does not challenge the court's ruling on appeal.

> damages awarded to Reeves would surpass [Cts. & Jud. Proc.] § 5-303's limit on damages.
>
> * * *
>
> *Our decision on this issue might be different if, in his complaint, Reeves had asked for a remedy other than damages, such as injunctive or declaratory relief. But he did not*.

2019 WL 5606605, at *12–13 (emphasis added).

In his brief in this appeal, Mr. Reeves asserts that:

> The plaintiff's *Longtin* claim in the original Complaint included an *ad damnum* clause seeking monetary damages and "such other and further relief as the nature of the case requires." Although the Court did not quote, cite or otherwise address this language, apparently, the Court of Special Appeals deemed the original *ad damnum* clause insufficient to seek injunctive relief. The opinion never directly addresses this point.

Mr. Reeves contends that in this passage, the *Reeves I* panel:

> ruled that the plaintiff could only go forward with the bifurcated *Longtin* claim if the plaintiff sought injunctive or declaratory relief. Without mentioning this language in the Complaint, this Court further held that no injunctive or declaratory relief had been sought despite the Complaint's request for monetary damages and "such other and further relief as the nature of the case requires." This Court's rulings on these points were matters of first impression.
>
> Within 30 days of this Court's opinion, the plaintiff filed an Amended Complaint to more explicitly seek injunctive and declaratory relief in connection with the preexisting *Longtin* claim. The plaintiff did not seek to add a new cause of action or plead new facts. The goal was simply to comply with the new standards this Court had set.

From this premise, Mr. Reeves contends that he did not need permission from the circuit court to amend his complaint to include claims for declaratory and injunctive relief; and, even if he did, the court abused its discretion in denying his request.

Mr. Reeves argues that "[a]s a result of the trial court's bifurcation order, the *Longtin* claim was no longer subject to the original March 23, 2016 deadline to amend the pleadings (or any other aspect of the original scheduling order)." Mr. Reeves also contends that when "a scheduling order to govern the [*Longtin*] claim was later issued on December 11, 2017, it contained no deadline for amending the *Longtin* claim." He states that:

> On November 25, 2019, when the plaintiff filed the Amended Complaint, the balance of the case was still on appeal and no trial date was pending. Thus, there was no "scheduled trial date," and the requirement for the amendment to fall 30 days before any such date was not implicated.
>
> Given the procedural posture at the time, it was evident that no trial would be scheduled for at least 30 days in any event. Indeed, the trial court ordered the issue held in abeyance until the conclusion of the appeal. The appeal was not resolved until the Court of Appeals opinion was issued on July 7, 2021—more than a year and a half after the Amended Complaint and accompanying motion were filed. Therefore, to whatever exten[t] the 30-day period in Rule 2-341(a) is implicated in the present situation, that requirement was met.

(Citations to record omitted.)

Finally, Mr. Reeves asserts that several appellate decisions support one or more of the contentions he presents on appeal. We will discuss these decisions in our analysis.

The County agrees with none of this. We will discuss its contentions as necessary in our analysis.

AMENDING PLEADINGS

In general, amendment of pleadings is governed by Md. Rule 2-341, which provides, in pertinent part:

> (a) Without leave of court. 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 30 days before a scheduled trial date.
>
> * * *
>
> (b) With leave of court. A party may file an amendment to a pleading after the dates set forth in section (a) of this Rule only with leave of court.

See also Bacon v. Arey, 203 Md. App. 606, 667–68 (2012).

Consistent with these principles, we have explained that:

> Maryland Rule 2-341(c) provides that amendments shall be freely allowed when justice so permits. . . . [T]he decision to grant leave to amend rests within the discretion of the trial court, which considers that leave to amend should be generously granted but not if the amendment would result in prejudice to the opposing party or undue delay. As long as the operative factual pattern remains essentially the same, and no new cause of action is stated invoking different legal principles, amendments to pleadings are to be allowed freely and liberally. It is a rare situation in which the granting of leave to amend is not warranted.

Asphalt & Concrete Servs., Inc. v. Perry, 221 Md. App. 235, 269 (2015) (cleaned up), *aff'd*, 447 Md. 31 (2016).

Although amendments to pleadings should be freely allowed, amendments should not be permitted if doing so would unfairly prejudice other parties. *See Scott v. Jenkins*, 345 Md. 21, 28 (1997) ("The Court has no authority, discretionary or otherwise, to rule upon a question not raised by the pleadings, and of which the parties therefore had neither

notice nor an opportunity to be heard.") (quoting *Early v. Early*, 338 Md. 639, 658 (1995)). In *Ledvinka v. Ledvinka*, 154 Md. App. 420, 429 (2003), this Court explained:

> Despite the fact that Maryland has long since abandoned the necessities of common law pleading, it is clear that the pleading requirements remain important elements in the process of bringing a case to trial, and cannot be dispensed with altogether. Pleading serves four important purposes: (1) it provides notice to the parties as to the nature of the claim or defense; (2) it states the facts upon which the claim or defense allegedly exists; (3) it defines the boundaries of litigation; and (4) it provides for the speedy resolution of frivolous claims and defenses. *The most important of the four is notice*.

(Cleaned up and emphasis added.)

THE STANDARD OF REVIEW

"[W]hether to allow amendments to pleadings or to grant leave to amend pleadings is within the sound discretion of the trial judge, and the decision in that regard will be reversed only on a showing of a clear abuse of discretion." *Shabazz v. Dep't of Pub. Safety*, 261 Md. App. 355, 379 (2024) (cleaned up).

Nearly thirty years ago, the Honorable Alan M. Wilner, at the time the Chief Judge of this Court, articulated what has become Maryland's enduring articulation of the standard of review for discretionary decisions by a court:

> [A] ruling reviewed under an abuse of discretion standard will not be reversed simply because the appellate court would not have made the same ruling. The decision under consideration has to be well removed from any center mark imagined by the reviewing court and beyond the fringe of what that court deems minimally acceptable. That kind of distance can arise in a number of ways, among which are that the ruling either does not logically follow from the findings upon which it supposedly rests or has no reasonable relationship to its announced objective.

North v. North, 102 Md. App. 1, 14 (1994).

ANALYSIS

> The Court finds this Motion to be grossly untimely. Plaintiff has demonstrated no reason as to why these claims were not included in the original Complaint.

The circuit court's twenty-six word assessment of the merits of Mr. Reeves' Motion for Leave to Amend Pleadings provides a sufficient basis for us to affirm the court's judgment. The succinct nature of the order is immaterial because an appellate court "presumes that trial judges know the law and correctly apply it." *Plank v. Cherneski*, 469 Md. 548, 607 (2020) (cleaned up); *see also Lamalfa v. Hearn*, 457 Md. 350, 389 (2018) ("The circuit court is presumed to know and properly apply the law.").

Mr. Reeves' contentions that the circuit court abused its discretion in denying his motion for leave to amend boil down to the following propositions:

First, the *Reeves I* panel enunciated a new standard for requesting declaratory and injunctive relief that was and is inconsistent with relevant caselaw.

Second, the deadline for amending his complaint in the circuit court's scheduling order did not apply to him because the court subsequently ordered that the *Longtin* and conspiracy claims were to be tried separately from his other claims.

Third, his claims for general relief in the *Longtin* and conspiracy counts constituted requests for declaratory and injunctive relief as a matter of law.

These contentions are not persuasive.

We start with the basis of all of Mr. Reeves' current contentions, namely that the *Reeves I* panel enunciated a new standard of pleading claims for injunctive and declaratory relief in *Longtin* cases. In his brief, he states:

> In the prior appeal*,* this Court *ruled* that the plaintiff could only go forward with the bifurcated *Longtin* claim if the plaintiff sought injunctive or declaratory relief. Without mentioning this language in the Complaint, this Court *further held* that no injunctive or declaratory relief had been sought despite the Complaint's request for monetary damages and "such other and further relief as the nature of the case requires." This Court's *rulings* on these points were matters of first impression.
>
> Within 30 days of this Court's opinion, the plaintiff filed an Amended Complaint to more explicitly seek injunctive and declaratory relief in connection with the preexisting *Longtin* claim. The plaintiff *did not* seek to add a new cause of action or plead new facts. *The goal was simply to comply with the new standards this Court had set*.

(Emphasis added.)

These contentions are based on the following passage from *Reeves I*:

> In his brief, Reeves cites to *Mason v. Wrightson*, 205 Md. 481, 489 (1954), for the proposition that "[i]t is well settled that every injury to the rights of another imports damages, and if no other damage is established, the party injured is at least entitled to a verdict for nominal damages," and from there, argues that he may be entitled to nominal damages for the *Longtin* claim. . . . But, in this case, *the addition of even one cent to the damages awarded* to Reeves would surpass [Cts. & Jud. Proc.] § 5-303's *limit on damages*.
>
> * * *
>
> *Our decision on this issue might be different if, in his complaint, Reeves had asked for a remedy other than damages, such as injunctive or declaratory relief. But he did not*.

2019 WL 5606605, at *12–13 (emphasis added).

Mr. Reeves' contentions in the current appeal notwithstanding, the *Reeves I* panel did not articulate a new standard of pleading for injunctive and declaratory relief in *Longtin* cases when it stated that its analysis of his claim for nominal damages "might have been different" had he asked the trial court for injunctive or declaratory relief. There are several reasons for this conclusion.

The first is the meaning of "might." "Might" is the subjunctive form of the verb "may." The subjunctive mood

> refers to an action or state as conceived (rather than as a fact) and is therefore used chiefly to express a wish, command, exhortation, or a contingent, hypothetical, or prospective event.

Subjunctive, OXFORD ENGLISH DICTIONARY, available at https://www.oed.com/dictionary/subjunctive_adj?tab=meaning_and_use#20064592 (last visited August 14, 2024). The modifier that best fits the panel's reasoning in *Reeves I* is "hypothetical."

Thus, when the *Reeves I* panel posited that its treatment of Mr. Reeves' claim for nominal damages "might be different" under different circumstances, the panel was speaking hypothetically. Hypothetical observations are not holdings.

Second, Mr. Reeves' contention that the *Reeves I* panel articulated a new standard for pleading declaratory or injunctive relief fails for another reason, namely that the issue of what is necessary to plead declaratory or injunctive relief never arose in the initial appeal.

The only remedies that Mr. Reeves sought at the trial were compensatory and punitive damages.[15] On appeal, and for the first time, Mr. Reeves argued that the scope of remedies that he sought included also nominal damages. However, Mr. Reeves did not assert that the trial court erred by denying requests for injunctive or declaratory relief. In fact, none of the briefs filed in *Reeves I* (including the County's briefs) discussed injunctive or declaratory relief in any manner whatsoever. Because the parties did not raise the issue, the *Reeves I* panel did not discuss it.

Because the issue of Mr. Reeves' entitlement to injunctive and declaratory relief was not raised at the trial or appellate levels, the *Reeves I* panel's passing observation that its decision "might" have been different had Mr. Reeves framed his complaint differently was *dicta*, that is "[a] judicial comment [made] while delivering a judicial opinion, but one that is unnecessary to the decision[.]" *Plank*, 469 Md. at 594 (quoting *Obiter dictum*, BLACK'S LAW DICTIONARY at 569 (11th ed. 2019)).

In *Plank*, our Supreme Court observed that *dicta*, while not precedential, "may be considered persuasive[.]" *Id.* (quoting *Obiter dictum*, BLACK'S LAW DICTIONARY at 569 (11th ed. 2019)). But not so in the present case. At the time that the panel's opinion in *Reeves I* was filed, Md. Rule 1-104(a) stated:

[15] Mr. Reeves is correct that the *Longtin* and conspiracy counts in his complaint contained claims for general relief.

> (a) Not authority. An unreported opinion of the Court of Appeals or Court of Special Appeals is neither precedent within the rule of stare decisis nor persuasive authority.[16]

All of Mr. Reeves' contentions in the current appeal are premised on the notion that the *Reeves I* opinion established a new standard for pleading damages in *Longtin* cases. This premise is based on an incorrect reading of the opinion of the *Reeves I* decision. Because *Reeves I* did not articulate a new standard of pleading, Mr. Reeves' contention that he should be permitted to file an amended complaint is without merit. Moreover, concluding otherwise would be profoundly prejudicial to the County because it would permit Mr. Reeves to obtain relief based upon a theory of recovery that was not presented at trial or in the appellate process that culminated with *Reeves II*.[17]

Finally, we will survey the cases cited by Mr. Reeves to support his contention that he should be permitted to retry this case for a reason that he did not present to this Court in *Reeves I* or the Supreme Court in *Reeves II.*

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[16] As Judge Moylan observed for this Court in *Colao v. Maryland-Nat'l Cap. Park & Plan. Comm'n*, 167 Md. App. 194, 210 (2005), "[i]t is hard to see how [Rule 1-104] could be more plainly stated[.]"

[17] We have no quarrel with the notion that a claim for general relief would be sufficient to permit a trial court to grant injunctive or declaratory relief in a *Longtin* case as long as the issue was presented to the trial court prior to judgment and the opposing parties had an opportunity to be heard on the issue. *See, e.g., Ledvinka*, 154 Md. App. at 429–30. But, based on the briefs filed in *Reeves I* as well as those filed in the present case, Mr. Reeves never requested injunctive or declaratory relief at any time during the proceedings before the circuit court.

In his briefs, Mr. Reeves cites a number of appellate decisions, *i.e.*, *New York State Rifle & Pistol Ass'n, Inc. v. City of New York*, 590 U.S. 336, 339 (2020) (per curiam); *Carey v. Piphus*, 435 U.S. 247, 266–67 (1978); *Utah Animal Rts. Coal. v. Salt Lake City Corp.*, 371 F.3d 1248, 1265 (10th Cir. 2004); *Amato v. City of Saratoga Springs, N.Y.*, 170 F.3d 311, 317–21 (2d Cir. 1999); *Smith v. Coughlin*, 748 F.2d 783, 789 (2d Cir. 1984); *Falcinelli v. Cardascia*, 339 Md. 414, 427 (1995); *Norino Props., LLC v. Balsamo*, 253 Md. App. 226, 261–62 (2021); *Brown v. Smith*, 173 Md. App. 459, 483 (2007); and *Scamardella v. Illiano*, 126 Md. App. 76, 92 (1999). None of these decisions provide meaningful support for Mr. Reeves' appellate contentions.

First, Mr. Reeves cites a series of federal court decisions involving pattern and practice claims: *New York State Rifle & Pistol Ass'n, Inc. v. City of New York*, 590 U.S. 336, 339 (2020) (per curiam); *Carey v. Piphus*, 435 U.S. 247, 266–67 (1978); *Utah Animal Rts. Coal. v. Salt Lake City Corp.*, 371 F.3d 1248, 1265 (10th Cir. 2004); *Amato v. City of Saratoga Springs, N.Y.*, 170 F.3d 311, 317–21 (2d Cir. 1999); and *Smith v. Coughlin*, 748 F.2d 783, 789 (2d Cir. 1984).

Carey, *Utah Animal Rights, Amato*, and *Smith* stand for the proposition that nominal damages are available in appropriate situations in pattern and practice cases. But Mr. Reeves is not asking permission to amend his complaint to recover nominal damages, he is asking for permission to seek declaratory and injunctive relief even though he never requested such relief before or during trial.

In *New York State Rifle & Pistol*, the case became moot because the municipal regulation that was the subject of the case at the lower court levels was amended while the case was pending before the Supreme Court. The effect of the amendment was to make legal what had previously been prohibited. In lieu of dismissing the case, the Court remanded it to give the parties an opportunity to present contentions regarding the new version of the regulation. But, and as we have explained, *Reeves I* made no change whatsoever to existing Maryland law.

Mr. Reeves fares no better with the Maryland decisions. In *Brown v. Smith*, this Court vacated an award of $8,350 in nominal damages and remanded the case for the trial court to "determine what compensatory damages can be supported by the evidence in the record[.]" 173 Md. App. at 484-85. But Mr. Reeves is not seeking leave to amend to obtain nominal or actual damages, he is asking for permission to seek declaratory and injunctive relief. *Brown* is factually and procedurally inapposite.

The relevant issue in *Norino Properties, LLC v. Balsamo* was whether the trial court abused its discretion by denying the plaintiff's request to amend his complaint before "discovery had . . . commenced and no trial date [had been] set[.]" 253 Md. App. at 261. We held that the trial court erred. *Id.* But asking for leave to amend before discovery had begun and before a trial date had been scheduled is not the same thing as seeking permission to amend after the case had been tried on its merits and final judgment entered. Mr. Reeves' efforts to blur this distinction are not persuasive.

Finally, Mr. Reeves cites *Falcinelli v. Cardascia*, 339 Md. 414, 427 (1995) and *Scamardella v. Illiano*, 126 Md. App. 76, 92 (1999), for the proposition that a trial court has discretion to amend the ad damnum clause in the complaint, even after a jury's verdict in a case. This is an accurate distillation of the relevant holding from each case and these holdings are reflected in a Rules Committee note to Md. Rule 2-341(b) ("The court may grant leave to amend the amount sought in a demand for a money judgment after a jury verdict is returned."). However, the County correctly points out that those decisions "sought only to change the *amount* of monetary relief sought in the ad damnum clause to reflect the verdicts returned by the jury." *Falcinelli* and *Cardascia* provide no support whatsoever for the proposition that, after trying the case to judgment without asking for declaratory and injunctive relief, Mr. Reeves should be permitted to retry the case in order to obtain different forms of relief.

CONCLUSION

Mr. Reeves filed his complaint on September 24, 2015. Final judgment was entered at the trial court level on August 16, 2018. During that time, Mr. Reeves had ample opportunity to file an amended complaint to request injunctive and declaratory relief as a matter of right or to seek the court's permission to do so. He did neither. Nor did Mr. Reeves argue in *Reeves I* that he had a right to declaratory and/or injunctive relief. It was only after the *Reeves I* panel filed its opinion on October 30, 2019, more than four years after he had filed his complaint that Mr. Reeves asserted, for the very first time, that he was entitled to declaratory and injunctive relief. To permit Mr. Reeves to relitigate this

case under a different theory of recovery at that point would be inconsistent with Maryland law, grossly unfair to the County, and an arrant waste of judicial resources.

For these reasons, the circuit court did not abuse its discretion when it concluded that Mr. Reeves' motion for leave to amend was "grossly untimely." Nor did the court abuse its discretion when it concluded that Mr. Reeves had not presented a reason as to why these claims were not included in the only complaint filed in this case.

THE JUDGMENT OF THE CIRCUIT COURT FOR ANNE ARUNDEL COUNTY IS AFFIRMED. APPELLANT TO PAY COSTS.