

Circuit Court for Baltimore City  
Case No. 24-C-15-000398  
Case No. 24-C-16-001341

UNREPORTED\*  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1224

September Term, 2023

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PETER FERRARO

V.

L. CABRERA, INC., *et al.*

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Berger,  
Nazarian,  
Ripken,

JJ.

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Opinion by Nazarian, J.

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Filed: September 17, 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 persuasive value only if the citation conforms to Maryland Rule 1-104(a)(2)(B).

This is a debt collection case that already has been to this Court twice and returns after remand to the Circuit Court for Baltimore City to calculate the interest owed. After the circuit court performed the interest calculation we directed, the creditor, Peter Ferraro, filed, expressly under Maryland Rule 2-535, a Motion to Correct Entry/Indexing of Judgment. The court denied that motion and Mr. Ferraro filed a Motion for Reconsideration of that decision. After the court denied that motion as well, Mr. Ferraro filed his first notice of appeal. Unfortunately, that final decision isn't appealable, and Mr. Ferraro's one notice of appeal was filed too late to bring the denial of the Motion to Correct before us. We dismiss the appeal.

## I. BACKGROUND

This Court has told the full story of this debt and collection twice before and we need not recount it all again here. It will suffice for present purposes that back in 2008, Mr. Ferraro entered into a confessed judgment promissory note with Luis F. Cabrera and two entities, L. Cabrera, Inc. and 4528-30 Harford Road, LLC, (collectively, "the Borrowers") memorializing a debt of \$100,000 for the purchase of a limited liability company interest relating to the sale and renovation of a business. *See Ferraro v. L. Cabrera Inc., et al. (Ferraro II)*, No. 1086, Sept. Term 2020 (Md. App. June 27, 2022), at 3. Mr. Ferraro was the lender, the Borrowers were the debtors, and the latter agreed to repay the loan in thirty-six consecutive payments—the first thirty-five in the amount of \$1,021.87 and the thirty-sixth a balloon payment of \$90,815.18. *Id.* Mr. Cabrera and 4528-30 Harford Road, LLC executed guaranties. The Borrowers made the first thirty-five payments, but not the

thirty-sixth, and Mr. Ferraro filed suit in the circuit court in January 2015. After a bench trial, the court entered judgment in favor of Mr. Ferraro on November 3, 2016. The original judgment was entered against only “the Counter Plaintiff Defendant, Mr. Ferraro” rather than all of the Borrowers, a fact that, it appears, went unnoticed and unchallenged until recently.

In the ensuing (almost eight) years, the parties have litigated the amount that the Borrowers owe. We’ll pick the story up after *Ferraro II*, when we remanded the case to the circuit court to calculate the amount of post-maturity interest owed. *Ferraro II*, at 9–10. The circuit court performed that calculation and, on March 17, 2023, entered an Order for Entry of New Final Judgment on Second Remand, a Judgment in favor of Mr. Ferraro and against L. Cabrera Inc. in the amount of \$107,766.59 plus post-judgment interest at an annual rate of twelve percent, and a Memorandum Opinion explaining its decisions.

Mr. Ferraro didn’t appeal the New Final Judgment. Instead, on April 7, 2023 (twenty-one days after the New Final Judgment), he filed a Motion to Correct Entry/Indexing of Judgment “pursuant to Maryland Rule 2-535(b) and (d) and in the interest of justice.” In this motion, Mr. Ferraro asked the circuit court (apparently for the first time since the original judgment in November 2016) to enter an order “correcting the entry/indexing of the judgment in this case to include the names of all Plaintiffs/Counter-Defendants/Judgment Debtors, L. Cabrera, Inc., 4528-30 Harford Road, LLC and Luis C. Cabrera.” The Borrowers opposed the motion, and on May 18, 2023, the circuit court denied it. In its order denying the motion, the court noted specifically that “[a]lthough there

may have been a basis for such relief based on the guaranties signed by 4528-30 Harford Road, LLC and Luis E. Cabrera, the judgments in this action have been against L. Cabrera, Inc. only, and it does not appear that Mr. Ferraro previously has appealed this limitation.” Accordingly, the order stated, “[t]he Court will not expand the scope of the judgment now.”

Mr. Ferraro didn’t appeal this decision either. Instead, on May 31, 2023 (thirteen days after the order denying the Motion to Correct), he filed a Motion for Reconsideration of this Honorable Court’s Denial of Peter M. Ferraro’s Motion to Correct Entry/Indexing of Judgment and Request for Hearing. This motion again cited Maryland Rule 2-535(d) and sought the same relief, characterizing the omission of the two other Borrowers from the New Final Judgment as a clerical mistake. The Borrowers opposed again, Mr. Ferraro replied, and on July 18, 2023, the circuit court denied the motion for reconsideration. At this point, on August 15, 2023 (twenty-eight days after the denial of the motion for reconsideration), Mr. Ferraro filed a notice of appeal. The Borrowers filed a cross-appeal on August 23, 2023.

## II. DISCUSSION

Mr. Ferraro contends on appeal that the circuit court erred in denying his Motion to Correct Entry/Indexing of Judgment.<sup>1</sup> In their cross-appeal, the Borrowers argue that the appeal should be dismissed for failure to file a timely notice of appeal; they also defend the denial of the Motion to Correct and challenge the circuit court’s decision to enter the New

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<sup>1</sup> Mr. Ferraro listed the Question Presented in his brief as “Whether the Trial Court erred in denying Appellant’s Motion to Correct Entry/Indexing of Judgment.”

Final Judgment.<sup>2</sup>

We agree with the Borrowers that Mr. Ferraro’s one notice of appeal was fatally untimely. The potentially appealable final judgment issued during this phase of the case, the New Final Judgment, was entered on March 17, 2023. Although Mr. Ferraro contends now that that judgment is incomplete because it didn’t include all of the Borrowers, he didn’t file a notice of appeal within thirty days of that judgment. *See* Md. Rule 8-202(a). Instead, he filed a post-judgment motion—a motion styled as a Motion to Correct Entry/Indexing of Judgment that, by its own terms, he grounded in Md. Rule 2-535(b) and (d). He filed that motion on April 7, 2023, within thirty days of the New Final Judgment, so it was timely as far as it went. But unlike timely post-judgment motions filed under Rules 2-532, 2-533, 2-534, and 11-218, which toll the deadline for filing a notice of appeal until the entry of an order denying the motion, Md. Rule 8-202(c), a timely motion filed under Rule 2-535 doesn’t.

The difference lies in the definition of timeliness. The motions listed in Rule 8-202(c) all *must* be filed within ten days after entry of judgment, whereas a Rule 2-535

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<sup>2</sup> The Borrowers listed the Questions Presented in their brief as follows:

- I. Should Ferraro’s appeal be dismissed on the ground that he failed to file a timely notice of appeal.
- II. If Ferraro’s appeal is not dismissed as being untimely, did the Circuit Court abuse its discretion when it denied Ferraro’s Motion to Correct?
- III. Did the Circuit Court err when it entered its March 17, 2023 judgment?

motion is timely if filed within thirty days after entry of judgment.<sup>3</sup> And the Rule underlying the motion matters. The Maryland Rules neither contain nor recognize a motion called “Motion to Reconsider” or “Motion for Reconsideration.” Yes, parties file motions containing that sort of title all the time. But a circuit court’s authority to grant post-judgment relief is not, and cannot be, grounded in colloquialisms—parties can ask a court to do just about anything, but their request must be grounded in a constitution, statute, or Rule, and the scope of the underlying authority is what defines the court’s ability to act, not the title of the paper making the request.

Mr. Ferraro could have appealed the New Final Judgment directly, as he had its two predecessors. He was entitled as well to invoke the circuit court’s revisory power under Rule 2-535. In this instance, Mr. Ferraro didn’t file a notice of appeal within thirty days of the New Final Judgment—he filed a timely Rule 2-535 motion twenty-one days later. The motion, styled as a Motion to Correct, didn’t toll the deadline for appealing the New Final Judgment. Then, after the circuit court denied the Motion to Correct, Mr. Ferraro filed a Motion for Reconsideration—same tactic, same Rule, same arguments, but this time twelve days later. That motion also was timely under Rule 2-535, but it didn’t toll the time to file

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<sup>3</sup> Had Mr. Ferraro filed his Rule 2-535 motion within ten days after entry of the New Final Judgment, we might have been able to treat it the same as the listed ten-day motions. *See Pickett v. Noba*, 114 Md. App. 552, 557 (1997) (stating that a Rule 2-535 motion filed within *ten days* of judgment, even though the motion would be timely within thirty days of judgment, would stay the time for an appeal like a ten-day motion under Rule 2-533 or 2-534 would). In this case, though, both of Mr. Ferraro’s Rule 2-535 motions were filed more than ten days after the judgment or order they asked the circuit court to revise.

a notice of appeal from *that* decision under Rule 8-202(c). *Johnson v. Francis*, 239 Md. App. 530, 541 (2018) (“Moreover, once a court has denied one motion for reconsideration, the filing of additional such motions does not toll the running of the time to note an appeal.” (citing *Leese v. Dep’t of Lab., Licensing & Regul.*, 115 Md. App. 442, 445 (1997))).

Mr. Ferraro’s only notice of appeal followed the denial of the Motion for Reconsideration. By its terms, that motion sought reconsideration of a denied revisory motion. In his briefs, Mr. Ferraro asks us to reverse the denial of the Motion to Correct, a question that two insurmountable procedural hurdles removed from the notice of appeal before us. And even if we were to consider reviewing the circuit court’s denial of the Motion for Reconsideration, that could *at most* raise the question of whether the circuit court had erred in denying reconsideration of the decision to deny the Motion to Correct (an argument subject to two layers of abuse of discretion review). That’s not the relief Mr. Ferraro has sought—he has asked us to reverse the denial of the Motion to Correct, and we can’t get there.<sup>4</sup>

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<sup>4</sup> And even if we could, it’s hard to see how the core issue Mr. Ferraro seeks to raise—which individuals or entities should be included in the judgment—wasn’t waived years ago. The circuit court issued the original judgment in November 2016 and the case was the subject of post-judgment motions and two appeals that never raised the question of whether judgment debtors were missing. As straightforward as the issue might seem—all of the Borrowers were parties to the case and could well have been included in the judgment—it should have been addressed and decided in one of the earlier phases of the case.

Because Mr. Ferraro's notice of appeal is untimely, the appeal must be dismissed. And as a result, we need not (indeed, cannot) consider the Borrowers' cross-appeal.

**APPEAL DISMISSED. APPELLANT TO  
PAY COSTS.**