

Circuit Court for Montgomery County
Case No. 480821V

UNREPORTED
IN THE COURT OF SPECIAL APPEALS
OF MARYLAND

No. 1364

September Term, 2020

THOMAS MORRISON

v.

ALICE B. MORRISON

Graeff,
Friedman,
Ripken,

JJ.

Opinion by Ripken, J.

Filed: January 18, 2022

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

Thomas Morrison (“T. Morrison”) filed a civil action against his stepmother, Alice Morrison (“A. Morrison”). A. Morrison filed a motion for summary judgment, which the Circuit Court for Montgomery County granted. T. Morrison subsequently filed a motion to revise the court’s order granting summary judgment. That same day, T. Morrison also filed an amended complaint. A. Morrison thereafter filed a motion to strike the amended complaint. The court denied T. Morrison’s Motion to Reconsider Summary Judgment Order, granted A. Morrison’s motion to strike, and dismissed the action with prejudice. T. Morrison then filed a Motion for Reconsideration and/or in the Alternative For Further Order and Opinion, in which he asked the court to revise its order granting A. Morrison’s motion to strike and dismissing the case. That motion was denied. T. Morrison then filed a Motion for Orders Nunc Pro Tunc and Construing Pleading and Other Miscellaneous Relief, in which he again asked the court to revise its prior orders. That motion was denied, and T. Morrison filed the instant appeal contending such dismissals were in error. We shall affirm the circuit court’s dismissals.

FACTUAL AND PROCEDURAL BACKGROUND

Following the death of T. Morrison’s father, Jerome Morrison (“J. Morrison”), T. Morrison claimed that J. Morrison’s wife,¹ A. Morrison, misappropriated certain funds that were supposed to go to T. Morrison upon his father’s death. On January 23, 2020, T. Morrison filed his original complaint against A. Morrison in the District Court for Montgomery County. T. Morrison alleged that J. Morrison created a living trust that

¹ A. Morrison was J. Morrison’s second wife and was married to him at the time of his death.

contained real property that was supposed to go to T. Morrison upon J. Morrison's death. According to T. Morrison, A. Morrison encumbered the real property by cashing three checks, totaling \$39,000.00, from a line of credit that J. Morrison had secured against the real property. T. Morrison claimed that J. Morrison was not competent when the checks were negotiated and that he was unaware of their intended use. T. Morrison claimed that A. Morrison was therefore responsible for repaying the \$39,000.00 to him for the debt on the real property.

On February 12, 2020, A. Morrison requested a jury trial. The case was transferred to the Circuit Court for Montgomery County. On March 11, 2020, the case was docketed in the circuit court. On April 6, 2020, T. Morrison informed the court that he was replacing his current counsel with substitute counsel. Over the coming months, the parties engaged in various discovery. On June 26, 2020, A. Morrison filed a motion for summary judgment. She argued that T. Morrison had failed to set forth any evidence that J. Morrison lacked mental capacity to sign the disputed checks. T. Morrison did not file a response. On July 22, 2020, the circuit court issued a written order granting A. Morrison's motion for summary judgment.

On August 3, 2020, T. Morrison filed an amended complaint. In it, he claimed that A. Morrison had improperly accessed the line of credit on the trust assets and wrongfully converted \$46,200.00 in trust property for her own personal use. He also claimed that A. Morrison, in converting that property, had breached her fiduciary duty to both J. and T. Morrison.

That same day, T. Morrison filed a Motion to Reconsider Summary Judgment Order, in which he asked the circuit court to revise its order granting A. Morrison’s summary judgment motion. T. Morrison claimed that, at all times during the two-week period prior to the date on which his response to A. Morrison’s summary judgment motion was due, his attorney’s daily activities had been disrupted by “a pernicious and ongoing medical problem.” T. Morrison claimed that his counsel’s medical issues were made known to A. Morrison’s counsel and that “the idea of a consent to enlargement of time was discussed but not concluded” because T. Morrison’s counsel “thought [] that he could timely file a motion to reconsider the grant of [A. Morrison’s] motion for summary judgment if necessary.”

T. Morrison also claimed that his attorney, upon taking over the case from prior counsel in April 2020, determined that the original complaint needed to be “refined” and that an amended complaint needed to be drafted based on a different legal theory. T. Morrison argued that, because A. Morrison’s summary judgment motion was based on the facts and claims in the original complaint, which T. Morrison had abandoned in favor of the facts and claims in the amended complaint, A. Morrison’s summary judgment motion was “moot,” and the case should proceed under the legal claims set forth in the amended complaint.

On August 10, 2020, A. Morrison filed a motion to strike the amended complaint. She asserted that, because the circuit court had already granted her motion for summary judgment on T. Morrison’s original complaint, there was no complaint to amend. A.

Morrison also asserted that the granting of her summary judgment motion barred T. Morrison from bringing any new claims, including those raised in his amended complaint, because those claims could have been brought earlier. T. Morrison did not file a response.

On September 1, 2020, the circuit court issued a written order denying T. Morrison’s Motion to Reconsider Summary Judgment Order. On September 9, 2020, the court issued a written order granting A. Morrison’s motion to strike the amended complaint. The court also ordered that the action be dismissed with prejudice.

On September 21, 2020, T. Morrison filed a Motion to Reconsider Order Striking Amended Complaint. In it, he argued that the Rule governing motions to strike, Maryland Rule 2-322, was inapplicable to his amended complaint and that any reliance on that Rule by A. Morrison or the court was inappropriate. T. Morrison asked the court to reconsider its ruling or, in the alternative, to issue an order explaining its decision.

On October 21, 2020, the circuit court issued a written order denying T. Morrison’s second revisory motion. The court found that T. Morrison’s amended complaint had been filed after the court had granted summary judgment on the original complaint. The court found further that the amended complaint had materially altered the case by introducing new causes of action, and that T. Morrison had not sought leave of court to amend the original complaint pursuant to Maryland Rule 2-341. Finally, the court noted that T. Morrison had failed to file any opposition to the motion to strike.

On November 2, 2020, T. Morrison filed a Motion for Orders, in which he asked the circuit court to again reconsider its decisions to grant summary judgment and to strike

his amended complaint. He argued that it was “fundamentally unfair” for the court to strike the complaint simply because it had been filed after the granting of A. Morrison’s motion for summary judgment. He argued that the court’s decision was particularly unjust given that his attorney was “under a medical burden” around the time that A. Morrison filed her motion.

T. Morrison also argued that he was not required to obtain leave of the court before filing an amended complaint and that, even if he were, the court should have treated his Motion to Reconsider Summary Judgment Order as such a request. T. Morrison therefore asked the court to enter an order changing the date of the filing of his amended complaint to July 21, 2020; enter an order construing his Motion to Reconsider Summary Judgment Order as a petition to amend the original complaint; and, in light of those orders, find that A. Morrison’s summary judgment motion was “moot.”

On December 30, 2020, the circuit court issued a written order denying T. Morrison’s third revisory motion. The court found that T. Morrison’s “prior two motions for reconsideration were denied” and that “the matter properly was dismissed with prejudice.” On January 29, 2021, T. Morrison filed this appeal.

ISSUE PRESENTED

In this appeal, T. Morrison presents a single question, which we have rephrased for clarity²: Did the circuit court err in denying T. Morrison’s revisory motions?

² Rephrased from: “Whether the trial court abused its discretion under the Rules, especially Rule 2-535, by failing to consider the totality of the circumstances and the presence of extrinsic fraud—perpetrated by opposing counsel—in its decisions to deny Appellant’s motions for revisory relief[?]”

Specifically, T. Morrison challenges the propriety of the circuit court’s September 1st order denying his Motion to Reconsider Summary Judgment Order; the court’s October 21st order denying his Motion to Reconsider Order Striking Amended Complaint; and the court’s December 30th order denying his Motion for Orders. For reasons to follow, we hold that the circuit court did not err.

DISCUSSION

Maryland Rule 2-534 permits a court to alter or amend an enrolled judgment upon a motion of any party filed within ten days after entry of that judgment. Md. Rule 2-534. “On motion of any party filed within 30 days after entry of judgment, the court may exercise revisory power and control over the judgment and, if the action was tried before the court, may take any action that it could have taken under Rule 2-534.” Md. Rule 2-535(a). If a motion to revise a judgment is filed after that time, “the court may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity.” Md. Rule 2-535(b).

“An appeal from the denial of a motion asking the court to exercise its revisory power is governed by the abuse of discretion standard.” *Central Truck Center, Inc. v. Central GMC, Inc.*, 194 Md. App. 375, 397 (2010). Such an appeal “is not necessarily the same as an appeal from the judgment itself.” *Estate of Vess*, 234 Md. App. 173, 204–05 (2017) (citations and quotations omitted). Rather, “our scope of review must be limited to whether the trial judge abused his [or her] discretion in declining to reconsider the judgment.” *Grimberg v. Marth*, 338 Md. 546, 553 (1995). In that respect, “the discretion

of the trial judge is more than broad; it is virtually without limit.” *Steinhoff v. Sommerfelt*, 144 Md. App. 463, 484 (2002).

An abuse of discretion occurs when “no reasonable person would take the view adopted by the [circuit] court, or when the court acts without reference to any guiding rules or principles.” *Bord v. Baltimore Cnty*, 220 Md. App. 529, 566 (2014) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997)). “An abuse of discretion may also be found where the ruling under consideration is clearly against the logic and effect of facts and inferences before the court, or when the ruling is violative of fact and logic.” *Id.* (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. at 312).

I. T. MORRISON’S APPEAL OF THE SEPTEMBER 1ST ORDER IS NOT TIMELY.

At the outset, we must discuss whether the circuit court’s orders are properly before this Court. Generally, notice of appeal “shall be filed within 30 days after entry of the judgment or order from which the appeal is taken.” Md. Rule 8-202(a). When, however, a motion to alter or amend a judgment is filed within ten days after entry of the judgment, the appeal period is tolled until entry of the judgment disposing of the motion to alter or amend. Md. Rule 8-202(c). “A motion for reconsideration filed more than ten days, but within 30 days, after entry of a judgment or order may still be considered by the trial court, pursuant to Rule 2-535, but it does not toll the running of the time to note an appeal.” *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.” *Id.*

Here, the circuit court granted summary judgment on July 22, 2020. T. Morrison filed his Motion to Reconsider Summary Judgment Order on August 3, 2020, within ten days of entry of the summary judgment order, and the circuit court subsequently denied the motion on September 1, 2020. T. Morrison’s second motion to revise, his Motion to Reconsider Order Striking Amended Complaint, was filed on September 21, 2020, more than ten days after the court entered its order denying the Motion to Reconsider Summary Judgment Order. As a result, for the court’s September 1st order to be properly before this Court, T. Morrison needed to file an appeal by October 1, 2020. He did not. We therefore will not consider the propriety of that order. *See Rosales v. State*, 463 Md. 552, 568 (2019) (noting that Rule 8-202(a) is “a binding rule on appellants”). We will, however, consider the propriety of the court’s October 21st order denying the Motion to Reconsider Order Striking Amended Complaint and the court’s December 30th order denying the Motion for Orders, as the instant appeal was timely filed to permit challenge of those judgments.

T. Morrison also argues that his three motions “must be viewed in tandem as part of this Court’s review of the totality of the circumstances justifying vacation of summary judgment and acceptance of the stricken amended complaint.” He is mistaken. Our task is to review each decision in light of the facts and arguments raised by T. Morrison in the pertinent motion for relief. We must then determine whether, based upon the particular facts and arguments of the respective motion, the circuit court abused its discretion in deciding the motions.

II. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN DENYING T. MORRISON’S MOTIONS TO REVISE.

T. Morrison contends that the circuit court abused its discretion in denying his Motion to Reconsider Order Striking Amended Complaint, and his Motion for Orders. He maintains that the court’s decisions were based entirely on the timing of A. Morrison’s motion for summary judgment, which had been filed at a time when appellant’s attorney was medically incapacitated. Because, he claims, A. Morrison’s attorney knew about his attorney’s medical issues and filed the summary judgment motion anyway, those actions constituted a “fraud” and resulted in an “irregularity” such that the court should have revised its judgments and permitted him to proceed with his amended complaint. He also claims that the court, in denying his motions to revise, erroneously concluded that he was required to obtain leave of court before amending his complaint.

Maryland Rule 2-341 states that “[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.” Md. Rule 2-341(a). The Rule further states that “[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.” Md. Rule 2-341(b). “Amendments shall be freely allowed when justice so permits.” Md. Rule 2-341(c).

“Generally, amendments to pleadings ‘should be freely allowed in order to promote justice, so that cases will be tried on their merits rather than upon the niceties of pleading.’” *Bord*, 220 Md. App. at 566 (quoting *Crowe v. Houseworth*, 272 Md. 481, 485 (1974)). “An amendment that would result in prejudice to the opposing party, however, should not be

allowed.” *Residential Warranty Corp. v. Bancroft Homes Greenspring Valley, Inc.*, 126 Md. App. 294, 317 (1999). In addition, Maryland Rule 2-322 states that the court may, on proper motion, order “any improper, immaterial, impertinent, or scandalous matter stricken from any pleading or may order any pleading that is late or otherwise not in compliance with these rules stricken in its entirety.” Md. Rule 2-322(e).

T. Morrison filed his amended complaint on August 3, 2020, approximately ten days after the circuit court granted A. Morrison’s motion for summary judgment on the original complaint. Because the original complaint was amended beyond the time frame set forth in Rule 2-341, T. Morrison was required to obtain leave of court before filing the amended complaint, which he did not do. A. Morrison thereafter filed a motion to strike the amended complaint, which the court granted. T. Morrison then filed his Motion to Reconsider Order Striking Amended Complaint, arguing that A. Morrison’s reliance on Rule 2-322 was misplaced and that the court should allow the amended pleading to go forward because it advanced “substantive theories of law and fact” and was not “frivolous or without merit.” The court subsequently denied that motion because summary judgment had already been granted, the amended complaint had materially altered the case by introducing new causes of action, and T. Morrison had not sought leave of court to amend the original complaint pursuant to Maryland Rule 2-341. T. Morrison then filed his Motion for Orders, arguing that A. Morrison’s counsel had taken advantage of his counsel’s medical issues in moving for summary judgment and that the court had erroneously determined that he needed leave of court to amend his original complaint. T. Morrison again asked the court to accept his

amended complaint and permit the case to move forward. The court denied the request, noting that T. Morrison’s prior motions to revise had already been considered and denied.

Given those circumstances, we hold that the circuit court did not abuse its discretion in denying either of T. Morrison’s motions. Although the amended complaint may have been meritorious on its face, T. Morrison was nevertheless required to obtain leave of court before filing the complaint. Because T. Morrison failed to do so, the court was expressly permitted, pursuant to Rule 2-322, to strike the pleading in its entirety for failing to comply with the Maryland Rules.

T. Morrison argues, as he did in his Motion for Orders, that the circuit court “misapplied the legal standards” in refusing to accept his amended complaint on the ground that the complaint was filed after summary judgment on the original complaint had been granted. He is mistaken. As noted, Rule 2-341 requires leave of court if a party wishes to amend a pleading fewer than 30 days before trial, and Rule 2-322 permits a court to strike a pleading that is not in conformity with the Rules. T. Morrison’s amended complaint was filed after the time period set forth in Rule 2-341, and leave of court was required. No such leave was requested. Thus, the pleading violated Rule 2-341, and the court was permitted, pursuant to Rule 2-322, to strike it in its entirety.

T. Morrison next argues that, even if his amended complaint was untimely, the circuit court should have accepted the pleading pursuant to Maryland Rule 1-201(a) based on the “totality of the circumstances.” Again, he is mistaken. Rule 1-201(a) provides as follows:

These rules shall be construed to secure simplicity in procedure, fairness in administration, and elimination of unjustifiable expense and delay. When a rule, by the word “shall” or otherwise, mandates or prohibits conduct, the consequences of noncompliance are those prescribed by these rules or by statute. If no consequences are prescribed, the court may compel compliance with the rule or may determine the consequences of the noncompliance in light of the totality of the circumstances and the purpose of the rule.

As discussed, Rule 2-341 requires that leave of court be obtained if a party wishes to amend a complaint beyond the time prescribed by that Rule, and Rule 2-322 authorizes the court to strike a pleading if the party fails to comply with the Rules. In short, Rule 2-341 “mandates” conduct, and Rule 2-322 provides “consequences of noncompliance” with that Rule. Thus, the court’s act of striking the amended complaint was consistent with Rule 1-201.

Even so, the record makes plain that the circuit court did consider the “totality of the circumstances” in determining the consequences of T. Morrison’s failure to comply with Rule 2-341. That is, the court did not refuse to revise its decision to strike the amended complaint simply because the complaint violated Rule 2-341. Rather, the court considered the various arguments raised in T. Morrison’s revisory motions and determined that revision of its prior decisions was unwarranted under the circumstances. The court did not abuse its discretion in making those determinations.

The circuit court was also justified in striking the pleading on the grounds that it materially altered the case. Allowing T. Morrison to amend his complaint and introduce new substantive theories of law and fact at a late stage of the proceedings would have prejudiced A. Morrison. *See Asphalt & Concrete Servs., Inc. v. Perry*, 221 Md. App. 235,

269 (2015) (“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.”) (citations and quotations omitted) (emphasis added). For those reasons, the court did not err in refusing to revise its order striking the amended complaint and then refusing to grant T. Morrison’s subsequent Motion for Orders.

III. THERE WAS NO EVIDENCE OF FRAUD OR IRREGULARITY.

T. Morrison finally argues that opposing counsel’s pursuit of summary judgment in the face of T. Morrison’s counsel’s medical issues constituted a “fraud” and resulted in an “irregularity,” which, pursuant to Maryland Rule 2-535(b), the court may exercise revisory power following a motion submitted “at any time.” That argument, however, was not raised in either of T. Morrison’s motions. Thus, the argument is not preserved for our review. Md. Rule 8-131(a).

Assuming, *arguendo*, that the argument was preserved, it is without merit. “Maryland courts ‘have narrowly defined and strictly applied the terms fraud, mistake, [and] irregularity’ in order to ensure finality of judgments.” *Thacker v. Hale*, 146 Md. App. 203, 217 (2002) (citing *Platt v. Platt*, 302 Md. 9, 13 (1984)). The moving party must establish fraud, mistake, or irregularity by clear and convincing evidence. *Peay v. Barnett*, 236 Md. App. 306, 321 (2018). “Moreover, the party moving to set aside the enrolled judgment must establish that he or she acted with ordinary diligence and in good faith upon a meritorious cause of action or defense.” *Thacker*, 146 Md. App. at 217 (citations and quotations omitted).

“To establish fraud under Rule 2-535(b), a movant must show extrinsic fraud, not intrinsic fraud.” *Pelletier v. Burson*, 213 Md. App. 284, 290 (2013) (citations and quotations omitted). “Fraud is extrinsic when it actually prevents an adversarial trial but is intrinsic when it is employed during the course of the hearing which provides the forum for the truth to appear, albeit, the truth was distorted by the complained of fraud.” *Id.* at 290–91 (citations and quotations omitted). “In determining whether or not extrinsic fraud exists, the question is not whether the fraud operated to cause the trier of fact to reach an unjust conclusion, but whether the fraud prevented the actual dispute from being submitted to the fact finder at all.” *Green v. Ford Motor Credit Co.*, 152 Md. App. 32, 48 (2003) (citations omitted).

“An irregularity is the doing or not doing of that, in the conduct of a suit at law, which, conformable to the practice of the court, ought or ought not to be done.” *Pelletier*, 213 Md. App. at 290 (citations and quotations omitted). “As a consequence, irregularity, in the contemplation of [Rule 2-535(b)], usually means irregularity of process or procedure, and not an error, which in legal parlance, generally connotes a departure from truth or accuracy of which a defendant had notice and could have challenged.” *Weitz v. MackKenzie*, 273 Md. 628, 631 (1975) (citations omitted). “Courts, therefore, have held that if the judgment under attack was entered in conformity with the practice and procedures commonly used by the court that entered it, there is no irregularity justifying the exercise of revisory powers under Rule 2-535(b).” *Pelletier*, 213 Md. App. at 290 (citations and quotations omitted).

Here, the details contained in the record regarding T. Morrison’s counsel’s medical issues are sparse. In his Motion to Reconsider Summary Judgment Order, T. Morrison stated that, “at all times” between the filing of A. Morrison’s motion for summary judgment on June 26, 2020, and the filing of T. Morrison’s motion to revise on August 3, 2020, “undersigned counsel’s daily activities have been disrupted as a result of a pernicious and ongoing medical problem.” T. Morrison stated further that those facts “were made known by the undersigned to [A. Morrison’s] counsel and the idea of a consent to enlargement of time was discussed but not concluded, the undersigned’s thought being that he could timely file a motion to reconsider the grant of [A. Morrison’s] motion for summary judgment if necessary.” T. Morrison later reiterated those sentiments in his Motion for Orders, stating that he had failed to respond to A. Morrison’s motion for summary judgment because his attorney “was hospitalized and unable to work throughout that period of time.” In that Motion, T. Morrison included an email that his attorney had sent to A. Morrison’s counsel on July 13, 2020, in which T. Morrison’s counsel stated that he was “not well enough to answer [the motion for summary judgment]” and that it was his understanding that opposing counsel would “not object to [his] late filed opposition or motion to reconsider.” T. Morrison’s counsel then stated that he “intend[ed] to amend the complaint.” There is nothing in the record to indicate that A. Morrison’s counsel ever responded to that email or took any action as a result of T. Morrison’s counsel’s purported medical issues.³

³ In his opposition to T. Morrison’s Motion for Orders, A. Morrison’s counsel acknowledged that he knew about counsel’s illness, but maintained that “counsel never asked [A. Morrison] for a continuance which [A. Morrison] would have been happy to agree to.”

It appears that T. Morrison’s counsel had an ongoing medical issue that affected his ability to respond to A. Morrison’s motion for summary judgment. That fact was made known to A. Morrison’s counsel, and “the idea of enlargement of time was discussed but not concluded,” as T. Morrison’s counsel believed that “he could timely file a motion to reconsider the grant of defendant’s motion for summary judgment if necessary.” It also appears that the attorneys had an email conversation on July 13, 2020, 17 days after A. Morrison filed her motion for summary judgment. In that conversation, T. Morrison’s counsel indicated that he intended to file a motion for reconsideration and an amended complaint. Approximately 9 days later, the circuit court granted A. Morrison’s motion for summary judgment, and, approximately 11 days after that, T. Morrison filed his amended complaint and motion to revise.

Given those circumstances, we fail to see how A. Morrison’s counsel’s actions constituted a “fraud” or resulted in an “irregularity.” Although T. Morrison does present some evidence that his counsel’s medical issues may have prevented him from filing a timely response to the summary judgment motion, he does not present any evidence that opposing counsel’s knowledge of those medical issues prevented the actual dispute, *i.e.*, the merits of the summary judgment motion, from being submitted to the court. A. Morrison’s motion for summary judgment was based on the allegations in the original complaint, which T. Morrison had yet to amend. There is no indication that A. Morrison’s counsel did anything to prevent T. Morrison from amending his complaint at an earlier time, nor is there any indication that A. Morrison’s counsel did anything to prevent T.

Morrison from responding to the summary judgment motion. Further, T. Morrison’s counsel did not inform opposing counsel that he intended to amend the complaint until 17 days *after* A. Morrison filed her motion for summary judgment. In so doing, T. Morrison’s counsel never asked for opposing counsel to withdraw the motion, and A. Morrison’s counsel never indicated that such an action was a possibility.

T. Morrison likewise fails to present any evidence or authority to show that opposing counsel was required to conform his actions on behalf of his client to meet the needs of T. Morrison’s counsel, who had ample opportunity to amend the complaint prior to the filing of the summary judgment motion. A. Morrison’s counsel never indicated that he intended to inform the court about the situation or otherwise take any action beyond pursuing his motion for summary judgment, which, as noted, had already been filed. At that point, A. Morrison’s counsel was under no obligation to withdraw the motion for summary judgment or inform the court about T. Morrison’s counsel’s ongoing medical issues and T. Morrison’s counsel’s stated plans to amend the complaint. If anything, the onus was on T. Morrison (or his counsel) to apprise the court of the situation and request a continuance or related relief.⁴

⁴ T. Morrison’s reliance on *City of College Park v. Jenkins*, 150 Md. App. 254 (2003) and *Fleisher v. Fleisher Co.*, 60 Md. App. 565 (1984) is misplaced. In each of those cases, there was clear evidence that the fraudulent party deliberately and affirmatively deceived the court and that those actions prevented the aggrieved party from presenting their claims to the court. *See, e.g., Jenkins*, 150 Md. App. at 270; *Fleisher*, 60 Md. App. at 572–73. Here, by contrast, there was no evidence that A. Morrison’s counsel did anything to deceive either appellant’s counsel or the court.

Moreover, even if counsel’s medical issues prevented him from filing a response to A. Morrison’s summary judgment motion, that fact is of no import because the circuit court did not grant the motion based on T. Morrison’s lack of response. The court granted the motion because A. Morrison was entitled to judgment as a matter of law as to the claims in T. Morrison’s original complaint. T. Morrison does not appear to dispute the court’s finding as to the granting of summary judgment on the original complaint. He claims, rather, that the granting of summary judgment was premature because he eventually amended his complaint to include legal theories and facts not contained in the original complaint.

Furthermore, T. Morrison’s counsel made clear that, in the event that summary judgment was granted, his plan was always to file a motion to revise. There is nothing in the record to indicate that A. Morrison’s counsel did anything to thwart that plan, and T. Morrison ultimately filed multiple motions to revise, each of which the court considered and denied on the merits and in accordance with the Maryland Rules. Hence, there was no “fraud” that prevented T. Morrison from bringing his stated plan to fruition, despite opposing counsel’s purported knowledge of T. Morrison’s counsel’s medical issues. Likewise, there was no “irregularity,” as the court’s judgments were entered in conformity with the practice and procedures commonly used by the court.

**JUDGMENTS OF THE CIRCUIT COURT
FOR MONTGOMERY COUNTY
AFFIRMED. COSTS TO BE PAID BY
APPELLANT.**