Circuit Court for Baltimore City
Case No.: 24-C-18-004157

UNREPORTED

IN THE APPELLATE COURT

OF MARYLAND*

No. 1471

September Term, 2022

---

BALTIMORE CITY BOARD OF SCHOOL COMMISSIONERS

v.

ANGEL LEWIS

---

Berger,
Ripken,
Woodward, Patrick L.
(Senior Judge, Specially Assigned),

JJ.

---

Opinion by Woodward, J.

---

Filed: October 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 its persuasive value only if the citation conforms to Rule 1-104(a)(2)(B).

Angel Lewis, appellee, was the principal of Claremont Middle/High School ("Claremont") in Baltimore City for the 2016-2017 and 2017-2018 school years. In March of 2018, Ms. Lewis submitted to the Baltimore City Public Schools ("BCPS") a Request for Family and Medical Leave of Absence ("FMLA request") and an Americans with Disabilities Act Reasonable Accommodations Request Form ("ADA request"), requesting medical leave and accommodations due to a disability. Before a decision regarding either request was made, Ms. Lewis received notice that her employment with BCPS would not be renewed for the following school year.

On July 18, 2018, Ms. Lewis initiated a lawsuit against the Baltimore City Board of School Commissioners ("the Board"), appellant, in the Circuit Court for Baltimore City, claiming, among other things, disability discrimination. After a trial on July 22-August 3, 2022, the jury returned a verdict in favor of Ms. Lewis on the ground of disability discrimination and awarded her the sum of $100,000. The court then granted Ms. Lewis's petition for an award of $122,097.50 in attorney's fees against the Board.

In this appeal, the Board presents two questions for our review, which, as stated in its brief, are as follows:

1. Did the Circuit Court err in determining that [Ms. Lewis] presented sufficient evidence at trial demonstrating [the Board's] knowledge of [Ms. Lewis's] disability before any alleged adverse employment action was taken by [the Board]?

2. Did the Circuit Court properly justify the entry of judgment on [Ms. Lewis's] application for attorneys' fees and costs?

For the following reasons we shall affirm in part and vacate in part the judgment of the circuit court and remand the case for further proceedings.

## BACKGROUND

On August 10, 2016, the Board hired Ms. Lewis to be the principal of Claremont. Claremont is a public school operated by BCPS, which in turn is governed by the Board. Ms. Lewis was the principal at Claremont for the 2016-17 and 2017-18 school years. During her 2016-17 annual evaluation, Ms. Lewis received a rating of "[e]ffective[.]" On March 7, 2018, Ms. Lewis submitted a FMLA request to the Office of Human Capital, Division of Leaves Management, for BCPS. Ms. Lewis indicated on the FMLA request that she was requesting leave to care for her own serious health condition. Ms. Lewis also indicated that the health condition made it medically necessary for her to take intermittent leave from work. On March 22, 2018, Ms. Lewis submitted an ADA request to the Equal Employment Opportunity ("EEO") and Title IX Compliance office for BCPS. On April 27, 2018, Jeremy Grant-Skinner, the Chief Human Capital Officer for BCPS, sent a letter to Ms. Lewis informing her that her employment as principal of Claremont would cease on June 30, 2018.

On April 30, 2018, Paula J. Thomas, a leave specialist for BCPS, sent an email to Ms. Lewis informing her that her FMLA request was insufficient because "the information that the physician has provided [was] not enough information to constitute a serious health condition as defined by FMLA." On May 15, 2018, Ms. Thomas sent another email to Ms. Lewis approving her intermittent FMLA request for the dates of February 28, 2018, through August 28, 2018. On May 23, 2018, Linda Mason, an EEO investigator for the EEO and Title IX Compliance office, sent a letter to Ms. Lewis in response to her ADA request, in which Ms. Mason acknowledged that Ms. Lewis had a disability pursuant to the

ADA but that her disability could not be reasonably accommodated in her position as principal.

On July 18, 2018, Ms. Lewis initiated a lawsuit against the Board in the Circuit Court for Baltimore City. In Ms. Lewis's amended complaint, filed on May 14, 2019, she asserted ten counts against the Board, seven of which made it to the jury: (1) Retaliation in Violation of Maryland Public School Employee Whistleblower Protection Act, (2) Retaliatory Harassment in Violation of Maryland Public School Employee Whistleblower Protection Act, (3) Disability Discrimination in Violation of 42 U.S.C. § 12111, et. seq., (4) Disability Discrimination in Violation of Md. Code Ann., State Gov't §§ 20-601, et. seq., (5) Retaliation in Violation of 42 U.S.C. § 12111 et. seq., (6) Retaliation in Violation of Md. Code Ann., State Gov't §§ 20-601 et. seq., and (7) Retaliation in Violation of the Family and Medical Leave Act.

A trial was held in the circuit court from July 22-August 3, 2022. On August 3, 2022, the jury returned a verdict in favor of Ms. Lewis only on the basis of disability discrimination. The jury awarded Ms. Lewis $50,000 economic damages and $50,000 non-economic damages, for a total of $100,000. On August 15, 2022, the Board filed a motion for Judgment Notwithstanding the Verdict, which the court denied on September 23, 2022. On October 21, 2022, the Board filed its first notice of appeal.

On November 1, 2022, Ms. Lewis filed a petition for attorney's fees and costs. The trial court granted her petition on January 11, 2023, and ordered the Board to pay her $122,097.50 in attorney's fees. On February 3, 2023, the Board filed its second notice of

appeal on the issue of attorney's fees. We shall provide additional facts as necessary to the resolution of the questions presented.

## DISCUSSION

### I. Did the circuit court err in determining that Ms. Lewis presented sufficient evidence at trial demonstrating the Board's knowledge of her disability before any alleged adverse employment action was taken by the Board?

#### A. Facts

At trial on August 2, 2022, Jerome Jones, the director of labor relations and negotiations for BCPS, testified on behalf of the Board. Mr. Jones began his testimony by describing his role in the nonrenewal of a teacher/principal's contract:

> **[O]ne of my functions is I am the person that, if** principals want to recommend teachers for nonrenewal of their contract or **supervisors or principals recommend principals for nonrenewal of their contract, those requests come to me for review** prior to forwarding to the chief union capital officer for a final signature.

(Emphasis added.)

Mr. Jones then elaborated on the nonrenewal process and his role in it:

> [COUNSEL FOR THE BOARD]: Okay. Can you help us understand how the district decides who gets renewed and who does not get renewed.
>
> [MR. JONES]: So the supervisor -- in the case of teachers, principals look at the performance of teachers over a wide variety of issues, and then they will recommend if the employee should receive tenure. The same for principals. The principal's supervisor will evaluate employees, document any concerns that they may have.
>
> And if they have concerns that go to their ability to perform, they are to offer -- make sure that the employee knows those concerns and offer support. And that support is generally given in the form of a performance improvement plan, which outlines specific actions that the party is supposed to take and support that. Both -- the supervisor will provide any actions the employee is supposed to take.

[COUNSEL FOR THE BOARD]: And what happens after you receive documentation from, let's say, a principal's supervisor?

[MR. JONES]: **So in March, mid-March, we** put out -- my office generally put out guidance on -- and **let folks know that if they are considering non-renewing employees, there's a process that they pull together all the documents they have, and they submit a form. And they will attach any documentation that they have to that form.**

**It goes to their supervisor first. If the supervisor approves of it, it then comes to my office. I will then take a look at it. If I agree with it, I will then process it to the chief human capital officer for sign-off.**

***

[COUNSEL FOR THE BOARD]: Now, **when you're reviewing these, do you have to agree with the supervisor, or do you have an option to do something different?**

[MR. JONES]: **No. Every year, there are people that I send back, said, "No, I don't believe that this warrants a recommendation of nonrenewal."** And a lot of cases I don't see any evidence that the person was provided any support.

The primary thing I often see with brand new teachers in the first year, if their -- the reason is classroom management. That's something that every new teacher struggles with. And if I don't see additional support there, very often I will send them back.

So every year, I get recommendations that I send back to the -- I send them back to the supervisor of the principal, who then must also then talk to the principal. Sometimes they send them back to me with additional information, but every year there are ones that are submitted that I say no.

[COUNSEL FOR THE BOARD]: Now, I hear you making reference to teachers and how you process them. **Have you ever rejected a principal's recommendation for nonrenewal?**

[MR. JONES]: **I have.**

***

[COUNSEL FOR THE BOARD]: So if you decide that you want to move forward, what happens? What do you do next?

> [MR. JONES]: So as I said before, I finalize the list of folks. I then sit down with the chief human capital officer. I go through the list with him or her, and they will -- and get their final approval.
>
> Once I get the final approval, we draft the letters. It's pretty much a standard letter. And then the employee gets a copy of the letter via email. The supervisor gets a copy of the letter via email. And that letter has to be in their hands by May 1st of that year.

(Emphasis added.)

Mr. Jones was asked specifically about the recommendation for nonrenewal of Ms. Lewis's contract. He testified:

> [COUNSEL FOR THE BOARD]: Did there come a time where Ms. Lewis was recommended for nonrenewal?
>
> [MR. JONES]: Yes.
>
> [COUNSEL FOR THE BOARD]: Do you know when the time frame was?
>
> [MR. JONES]: It would have been March, late March of 2018.
>
> [COUNSEL FOR THE BOARD]: How do you know that?
>
> [MR. JONES]: I would have gotten a form from Dr. Jackson, her supervisor.
>
> [COUNSEL FOR THE BOARD]: Is that the form that you were talking about earlier?
>
> [MR. JONES]: Yes. That would have been the E- forms. And I do know that Ms. Lewis was -- that's how she left the district, through a nonrenewal at the end of the 2017/2018 school year.
>
> ***
>
> [COUNSEL FOR THE BOARD]: **Mr. Jones, what is this document?**
>
> [MR. JONES]: **This is a notice to Ms. Lewis that her contract would not be renewed for the upcoming school year.**
>
> [COUNSEL FOR THE BOARD]: **Are you familiar with this document?**

[MR. JONES]: **I am.**

[COUNSEL FOR THE BOARD]: **Have you seen it before?**

[MR. JONES]: **I wrote it. Yes.**

[COUNSEL FOR THE BOARD]: Oh, okay. Is this letter that you wrote normally kept in the usual course of business at Baltimore City Public Schools?

[MR. JONES]: Yes.

[COUNSEL FOR THE BOARD]: Your Honor, I move to admit Defendant's Exhibit No. 3.

[THE COURT]: Mr. McCormick?

[COUNSEL FOR MS. LEWIS]: No objection.

[THE COURT]: So admitted.

(Defendant's Exhibit 3, notice of nonrenewal, admitted into evidence.)

[COUNSEL FOR THE BOARD]: And, Mr. Jones, **could you tell us again: What is Exhibit No. 3?**

[MR. JONES]: **This is a notice of nonrenewal.**

[COUNSEL FOR THE BOARD]: **And what's the date?**

[MR. JONES]: **April 27th, 2018.**

[COUNSEL FOR THE BOARD]: Can you read the very first sentence of the letter.

[MR. JONES]: "Pursuant to your contract with Baltimore City Public Schools, this letter serves as your official notice that your employment with City Schools will cease on June 30th, 2018."

[COUNSEL FOR THE BOARD]: Is this letter compliant with the process?

[MR. JONES]: Yes.

[COUNSEL FOR THE BOARD]: Why?

[MR. JONES]: It is being delivered prior to May 1st, and it notifies the employee, pursuant to the contract, the contract with the Maryland State Department of Education, as outlined there. **We're notifying them that we're not going to renew the contract for next year. Their employment will end.**

(Emphasis added.)

Mr. Jones's testimony included a discussion of Ms. Lewis's FMLA and ADA requests. Regarding Ms. Lewis's FMLA request, Mr. Jones stated:

[COUNSEL FOR THE BOARD]: Mr. Jones, are you familiar with FMLA?

[MR. JONES]: I am.

[COUNSEL FOR THE BOARD]: What is FMLA?

[MR. JONES]: So FMLA is the Family Medical Leave Act. I think it was 1983. What it does, ensures that employees can file for and receive up to 60 days of leave for a personal illness or the illness of a close family member. That 60 days of leave can be taken in two different ways. It can be taken in one chunk, which is consecutively, or it can be taken intermittently.

***

[COUNSEL FOR THE BOARD]: You mentioned there's a person who handles FMLA. Who is that?

[MR. JONES]: At the time that Ms. Lewis worked for the school district, it was Paula Thomas.

[COUNSEL FOR THE BOARD]: Who is it now?

[MR. JONES]: Now it is Felicia Cooper.

[COUNSEL FOR THE BOARD]: Why the change?

[MR. JONES]: Paula Thomas decided she wanted to retire.

[COUNSEL FOR THE BOARD]: And Ms. Cooper replaced Paula Thomas?

[MR. JONES]: Correct.

[COUNSEL FOR THE BOARD]: Madam Clerk, could you please hand Mr. Jones Plaintiff's Exhibit 22.

[MR. JONES]: (Reviewing exhibit.)

[COUNSEL FOR THE BOARD]: Mr. Jones, could you take a look at the document and familiarize yourself. There are a lot of different documents in this packet.

[MR. JONES]: (Reviewing exhibit.)

[COUNSEL FOR THE BOARD]: Familiar?

[MR. JONES]: Yes.

[COUNSEL FOR THE BOARD]: Okay. **What is that document?**

[MR. JONES]: So it starts off with the -- **an application for FMLA for Ms. Lewis.**

[COUNSEL FOR THE BOARD]: Give me a second. Court's indulgence, please.

[COUNSEL FOR THE BOARD]: **And when is the document dated?**

[MR. JONES]: **March 7th, 2018.**

***

[COUNSEL FOR THE BOARD]: Okay. And there's a section where Ms. Lewis has to tell what she is requesting. It's right under the black box. Can you help the jury understand: **What is Ms. Lewis requesting?**

[MR. JONES]: **So she is requesting** F- -- **family medical leave for the care of her own serious medical condition.**

***

[COUNSEL FOR THE BOARD]: Now, let's pause from the documents just a second. **The last communication was May 14th, 2018.** At that point, do

you know whether or not -- at that point, what, if any, permission or approval does Ms. Lewis have to be on leave?

[MR. JONES]: So at this point, with the note prior, the doctor is saying Ms. Lewis cannot return to work until 6/30/2018.

[COUNSEL FOR THE BOARD]: **And what, if any, FML[A] approval does Ms. Lewis have at that time?**

[MR. JONES]: She does not -- **at this point in time, there is no approved FML[A] for Ms. Lewis.**

(Emphasis added.)

Concerning Ms. Lewis's ADA request, Mr. Jones testified:

[COUNSEL FOR THE BOARD]: **Mr. Jones, do you have any familiarity with American Disabilities Act?**

[MR. JONES]: **I do.**

[COUNSEL FOR THE BOARD]: **How?**

[MR. JONES]: **I've been trained -- I've taken a number of training courses on it, and I work with the office of legal counsel, the person who does the placement or works with accommodations for people, that that office grants accommodation if they need them.**

[COUNSEL FOR THE BOARD]: **How do you work with the office? What do you have to do?**

[MR. JONES]: **Sometimes it means that we have to reassign individuals to different jobs. Sometimes that means I have to intercede to make sure** that **the additional equipment is** -- sometimes has to be **purchased to meet the accommodations, needs, of the employee.**

[COUNSEL FOR THE BOARD]: You said different equipment. Can you tell us some of the different types of equipment.

[MR. JONES]: Yes. It could be a bigger monitor to read your -- for your computer. It could be keys in the case of a multilevel building. In City Schools, it could be keys to the elevator so that the individual doesn't have to use steps. It could be a parking space close to the building.

[COUNSEL FOR THE BOARD]: Are you the person who processes ADA applications?

[MR. JONES]: No.

[COUNSEL FOR THE BOARD]: Madam Clerk, can you hand Mr. Jones Plaintiff's Exhibit 23.

[MR. JONES]: Thank you.

[COUNSEL FOR THE BOARD]: Can you review it, Mr. Jones, so that we can review it with the jury.

[MR. JONES]: (Reviewing document.)

[COUNSEL FOR THE BOARD]: Let me know when you're done.

[MR. JONES]: Okay.

[COUNSEL FOR THE BOARD]: **Do you know what this form is?**

[MR. JONES]: **Yes. This is a form the office sends out when individuals indicate they have a disability and need an accommodation.**

[COUNSEL FOR THE BOARD]: **You said the office sends out. Which office sends it out?**

[MR. JONES]: It would be -- currently, that's the direct- -- **the office of legal counsel.** Within the office of legal counsel, there is a director of fair practices that handles these ADA requests.

[COUNSEL FOR THE BOARD]: **Are you able to tell when this form is dated?**

[MR. JONES]: **Yes. March 22nd, 2018.**

(Emphasis added.)

As previously stated, by letter dated May 23, 2018, Ms. Mason advised Ms. Lewis that her ADA request was denied, stating:

> It has been determined that, although you do have a disability pursuant to the (ADA), your disability cannot be reasonably accommodated in your current position as Principal. Also, your medical information indicates that you can perform the essential functions of your job except when symptoms are exacerbated. Therefore, this matter is officially closed.

A copy of Ms. Mason's letter of denial was sent to Mr. Jones. Finally, Mr. Jones testified about the status of Ms. Lewis's FMLA and ADA requests as of the date of the nonrenewal of Ms. Lewis's contract as Principal – April 27, 2018. He said:

> [COUNSEL FOR THE BOARD]: **Mr. Jones, the date which you pointed out -- by April 27 of 2018, what, if any, FMLA approval did Ms. Lewis have by this date?**
>
> [MR. JONES]: **None.**
>
> [COUNSEL FOR THE BOARD]: **And by this date, what, if any, ADA determination had been made?**
>
> [MR. JONES]: **None.**

(Emphasis added.)

**B. Arguments of the Parties**

The Board challenges the legal sufficiency of the evidence supporting the jury's verdict in favor of Ms. Lewis on her disability discrimination claim. The Board argues that Ms. Lewis "failed to demonstrate that [BCPS] decisionmakers had any knowledge of the disability for which she claimed she was discriminated." The Board contends that such knowledge was required for a jury to find that the Board discriminated against Ms. Lewis on the basis of her disability, and Ms. Lewis "failed at trial to address the issue altogether." According to the Board, "[i]t is prevailing law that where a plaintiff's protected activity or

status is not known to the decisionmaker . . . ***there can be no liability***." (Emphasis in original).

Relying on *Sellman v. Spencer*, No. CCB-18-0359, 2019 WL 1411182 at *3 (D. Md. Mar. 28, 2019), the Board argues that Ms. Lewis "failed to offer any evidence or testimony even suggesting that [the Board's] decisionmakers had actual knowledge of her disability before deciding to not renew her contract." Without such evidence of knowledge, the Board argues, "it was impossible for a jury to conclude that [BCPS] decisionmakers knew of [Ms. Lewis's] disability in advance of the adverse employment action." Finally, the Board asserts that Ms. Lewis's failure to meet her evidentiary burden is supported by her admitting at the close of her case that she was not sure who was responsible for the decision to fire her and the fact that she called no witnesses besides herself at trial.

In response, Ms. Lewis contends that "when viewed in the light most favorable to her, [she] presented more than the 'slight' evidence required to demonstrate that [the Board] violated the ADA and [the Maryland Fair Employment Practices Act ("FEPA")]." First, Ms. Lewis argues that she presented sufficient evidence that the Board possessed notice of her disability and request for reasonable accommodations through her FMLA and ADA requests, and the Board's "failure to timely respond to [Ms. Lewis's] request for reasonable accommodations alone is sufficient evidence for a jury to infer a discriminatory motive based on [Ms. Lewis's] disability." Further, according to Ms. Lewis, the fact that the Board terminated her after refusing to respond in a timely manner to each of her disability requests "is sufficient evidence of disability-based discrimination to submit the matter to a jury."

Ms. Lewis also asserts that Mr. Jones testified that he was familiar with the ADA request forms, was aware of which offices are responsible for handling the forms, and knew that Ms. Lewis did not have FMLA or ADA approval as of the date of termination, April 27, 2018. Ms. Lewis points to Mr. Jones's testimony that he wrote the letter terminating Ms. Lewis's employment and argues that "a jury could have deduced that [the Board] possessed no legitimate basis for its delay of reasonable accommodations, denial of reasonable accommodations, and decision to terminate Ms. Lewis."

In reply, the Board first contends that Ms. Lewis's submission of the FLMA and ADA requests were insufficient to "impute knowledge to the [BCPS] decisionmaker(s) that decided not to renew [Ms. Lewis's] contract." The Board argues that Ms. Lewis improperly attempts to demonstrate knowledge through events that occurred after the decision was made to not renew her contract. Second, the Board contends that Ms. Lewis "failed to link any evidence from the accommodation process to any [BCPS] decisionmaker *prior* to the date of the adverse employment action." (Emphasis in original). Third, contrary to Ms. Lewis's claim, the Board argues that it had no legal duty to present evidence of its ignorance of Ms. Lewis's disability, and there is no such burden shifting that occurs in a disability discrimination case. Finally, the Board asserts that Mr. Jones's testimony, which is relied upon by Ms. Lewis, does not show that the decisionmakers who approved the

notice of nonrenewal had knowledge of Ms. Lewis's FMLA or ADA requests before the decision was made.[1]

**C. Standard of Review**

The standard of review of a question of the sufficiency of the evidence is *de novo*. *See Univ. of Maryland Med. Sys. Corp. v. Gholston*, 203 Md. App. 321, 329 (2012). "Evidence is legally sufficient if there is 'some evidence, including all inferences that may permissibly be drawn therefrom, that, if believed and if given maximum weight, could logically establish all the elements necessary to prove' plaintiff's case." *CR-RSC Tower I, LLC v. RSC Tower I, LLC*, 202 Md. App. 307, 333 (2011), *aff'd*, 429 Md. 387 (2012) (quoting *Starke v. Starke*, 134 Md. App. 663, 678-79 (2000)). In a jury trial in a civil case,

[1] At the trial, the Board made a motion for judgment at the conclusion of Ms. Lewis's case-in-chief, which the court denied. The Board then proceeded to introduce evidence, including the testimony of Mr. Jones. At the conclusion of all the evidence, the Board renewed its motion for judgment, which the court again denied. In its reply brief, the Board makes the curious argument that "this Court can ignore the evidence produced in Appellant's case altogether and review only the evidence proffered in Appellee's case-in-chief." The Board does not cite to any legal authority for such argument, except for an unreported 2021 case from this Court. Under Maryland Rule 1-104, no unreported opinion of this Court issued prior to July 1, 2023, may be cited for persuasive authority. *See* Md. Rule 1-104(a)(2)(B). The Board overlooks Maryland Rule 2-519(c), which provides that "[a] party who moves for judgment at the close of the evidence offered by an opposing party may offer evidence in the event the motion is not granted," but "[i]n so doing, the party withdraws the motion." Citing to Rule 2-519(c), this Court held in *Maryland Prop. Mgmt., LLC v. Peters-Hawkins*, 249 Md. App. 1, 22 (2021), that "when a party introduces evidence after a motion for judgment has been denied at the conclusion of the opponent's case, that motion is withdrawn[,]" and thus any issue as to the legal sufficiency of the evidence adduced in the plaintiff's case-in-chief has not been preserved for appellate review. Further, in *Est. of Blair by Blair v. Austin*, 469 Md. 1, 26-27 (2020), our Supreme Court stated that in reviewing a renewed motion for judgment at the close of all of the evidence, the appellate court "must review the entirety of the evidence in the light most favorable to the Estate as the non-moving party."

"the quantum of legally sufficient evidence needed to create a jury question is slight." *Gholston*, 203 Md. App. at 329. "The standard of review of a court's denial of a motion for JNOV is the same as the standard of review of a court's denial of a motion for judgment at the close of the evidence, i.e., whether on the evidence presented a reasonable fact-finder could find the elements of the cause of action by a preponderance of the evidence." *Id.* Thus we look to see "if there is any evidence, no matter how slight, that is legally sufficient to generate a jury question." *Jones v. State*, 425 Md. 1, 30-31 (2012) (internal quotation marks omitted).

**D. Analysis**

Under the Americans with Disabilities Act, an employer may not discriminate against an individual with a disability "in regard to job application procedures, the hiring, advancement, or discharge of employees, employee compensation, job training, and other terms, conditions, and privileges of employment." 42 U.S.C. § 12112(a). In Maryland, Md. Code Ann., State Gov't § 20-606 (2024) states that an employer may not discharge an employee because of a "disability unrelated in nature and extent so as to reasonably preclude the performance of the employment." In order to establish a prima facie case of intentional disability discrimination, an employee must show: "(1) that he or she had a disability; (2) that notwithstanding the disability, he or she was otherwise qualified for the employment, with or without reasonable accommodation; and (3) that he or she was excluded from employment on the basis of his or her disability." *Peninsula Reg'l Med. Ctr. v. Adkins*, 448 Md. 197, 239 (2016). The third element requires the employee to establish

that the employer acted with discriminatory intent, which can be proven by circumstantial evidence. *Id.*

In *Adkins*, the appellee claimed intentional disability discrimination because she was terminated from her employment when she had a disability that restricted her to "light duty." 448 Md. at 207. This Court reversed the trial court's grant of summary judgment to the employer, and our Supreme Court affirmed. *Id.* at 208. The Court stated that the appellee had provided sufficient circumstantial evidence to survive summary judgment, namely that "[her employer] terminated her, knowing she was at the time restricted to light duty, and simultaneously ignored its responsibility to reasonably accommodate her." *Id.* at 240. The Court concluded "that a factfinder may infer that [the appellee] was terminated because of her disability." *Id.*

In the present case, the Board does not dispute, and has conceded, that Ms. Lewis had a qualifying disability. Nor does the Board dispute that Ms. Lewis was otherwise qualified for her job as principal, notwithstanding her disability. What the Board is contesting is whether Ms. Lewis produced sufficient evidence to create a jury question about whether "she was excluded from employment on the basis of [her] disability." *Adkins*, 448 Md. at 239. Specifically, the Board claims that there was insufficient evidence for the jury to find that at the time of the nonrenewal of Ms. Lewis's employment contract, the BCPS decisionmaker had knowledge of her disability.

According to the Board, the first step in resolving this issue is determining which individual or individuals made the decision to not renew Ms. Lewis's contract. Mr. Jones testified at trial that one of his functions was to review recommendations of principals for

nonrenewal of contracts for teachers, and of supervisors for nonrenewal of contracts for principals. He explained that in mid-March his office would put out guidance for "nonrenewing employees." The principals or supervisors would submit a form with documentation to their respective supervisors. "If the supervisor approves of it, it then comes to my office. I will then take a look at it. If I agree with it, I will then process it to the chief human capital officer for sign-off." Mr. Jones testified further that if he did not believe that a recommendation of nonrenewal was warranted, he would send it back, and that "every year there are ones that are submitted that I say no."

Regarding Ms. Lewis, Mr. Jones testified that in late March of 2018 he reviewed a recommendation of nonrenewal from Dr. Starletta Jackson, Ms. Lewis's supervisor. Mr. Jones then identified the written notice of nonrenewal of Ms. Lewis's contract, in the form of a letter to Ms. Lewis from Jeremy Grant-Skinner, Chief Human Capital Officer, dated April 27, 2018. When asked whether he had ever seen such notice of nonrenewal for Ms. Lewis, Mr. Jones stated: "I wrote it. Yes." In our view, the testimony of Mr. Jones, as set forth above, is more than sufficient to create a question for the jury about whether Mr. Jones was a decisionmaker in the nonrenewal of Ms. Lewis's contract.

The second step is to determine whether Mr. Jones knew of Ms. Lewis's disability before making the decision to not renew her contract. Here, Mr. Jones testified that he is the director of labor relations and negotiations for BCPS. Mr. Jones stated that he was familiar with FMLA and briefly explained the benefits available under FMLA for employees of BCPS. Mr. Jones was able to identify who handled FMLA requests for BCPS when Ms. Lewis worked for the school district and at the time of trial. He also identified

Ms. Lewis's FMLA request, dated March 7, 2018, and stated that she was asking for "family medical leave for the care of her own serious medical condition." Mr. Jones testified that as of May 14, 2018, (seventeen days after the date of the notice of nonrenewal of Ms. Lewis's contract), there was no approved FMLA for Ms. Lewis.

Regarding Ms. Lewis's ADA request, Mr. Jones testified that he was familiar with the ADA. He then explained that he had taken training courses on the ADA and that he worked with the office of legal counsel, which grants the accommodations requests, and with "the person who does the placement or works with accommodations for people[.]" When asked how he worked with the office of legal counsel, Mr. Jones stated that he was involved with reassigning employees to different jobs, and "[s]ometimes that means I have to intercede to make sure that the additional equipment is . . . purchased to meet the accommodations, needs, of the employee." Mr. Jones also identified the form used by Ms. Lewis to submit her ADA request, dated March 22, 2018, as the form sent out by the office of legal counsel "when individuals indicate they have a disability and need an accommodation." Although Mr. Jones testified that he did not process the ADA requests, he was copied on the letter, dated May 23, 2018, from Ms. Mason, EEO Investigator, to Ms. Lewis denying Ms. Lewis's ADA request.

Finally, and most importantly, Mr. Jones was asked "what if any, FMLA approval did Ms. Lewis have" and "what, if any, ADA determination had been made" by April 27, 2018, the date of the notice of nonrenewal of Ms. Lewis's contract. Mr. Jones gave a one word answer to both questions: "None." No further questions were asked, nor did Mr. Jones testify, about when he became aware that the FMLA and ADA requests had not been

approved as of the date of the nonrenewal of Ms. Lewis's contract. Given Mr. Jones's position as director of labor relations and negotiations for BCPS, his knowledge of and involvement with FMLA and ADA requests by employees of BCPS, and his role in the nonrenewal of Ms. Lewis's contract, a jury could reasonably infer from Mr. Jones's answer of "[n]one" that he was aware of the status of Ms. Lewis's FMLA and ADA requests *at the time of* the notice of nonrenewal. Thus the jury could conclude that Mr. Jones had knowledge of Ms. Lewis's disability at the time of the adverse employment action.

In sum, this Court concludes that there was sufficient evidence for a jury to reasonably conclude that Mr. Jones was a decisionmaker in the determination of BCPS to not renew Ms. Lewis's contract as principal for the 2018-19 school year and that Mr. Jones had knowledge of Ms. Lewis's disability at the time of the notice of nonrenewal. Accordingly, the jury's verdict in favor of Ms. Lewis on her claim of disability discrimination must be upheld.

## II. Did the circuit court properly justify the entry on judgment on Ms. Lewis's application for attorney's fees and costs?

### A. Facts

On November 1, 2022, Ms. Lewis filed a Motion and Petition for Attorneys' Fees pursuant to Md. Code Ann., State Gov't § 20-1015 (2009), 42 U.S.C. § 1998, and Maryland Rule 2-703. Ms. Lewis requested that the trial court grant her $122,097.50 in attorney's fees. The Board filed an opposition on December 5, 2022. On December 19, 2022, Ms. Lewis filed a reply memorandum and a Supplemental Motion for Attorney's Fees. In her

supplemental motion, Ms. Lewis requested an additional $16,720 in attorney's fees. On January 6, 2023, the Board filed its opposition to Ms. Lewis's supplemental motion.

On January 11, 2023, the trial court issued an Order granting Ms. Lewis's Motion and Petition for Attorneys' Fees but denying her Supplemental Motion for Attorney's Fees.

The Order stated, in its entirety:

> Upon consideration of [Ms. Lewis's] motion and petition for attorney's fees, [the Board's] response thereto, and the factors enumerated in Maryland Rule 2-703(f)(3), and pursuant to Maryland Rule 2-703(a), it is this 11th day of January 2023, by the Circuit Court for Baltimore City, Part 19, hereby:
>
> > **FOUND** that the $122,097.50 in attorney's fees requested in [Ms. Lewis's] motion and petition is reasonable; and it is further
> >
> > **ORDERED** that [Ms. Lewis's] motion and petition for $122,097.50 in attorney's fees is **GRANTED**; and it is further
> >
> > **FOUND** that the $16,720.00 in attorney's fees requested in [Ms. Lewis's] supplemental motion is not reasonable; and it is further
> >
> > **ORDERED** that the [Ms. Lewis's] supplemental motion for $16,720.00 in attorney's fees is **DENIED**.

**B. Arguments of the Parties**

The Board argues that the trial court granted Ms. Lewis's Motion and Petition for Attorneys' Fees "without providing any analysis, justification, or context." The Board contends that under Maryland law the "lodestar" approach is the correct way to determine attorney's fees under a fee-shifting statute. Such approach, according to the Board, requires the trial court to first "multiply 'the reasonable number of hours expended by the attorney on the litigation by reasonable hourly rate'[,]" and then "consider adjusting the final product on a case-by-case basis." The Board claims that by issuing only a one-page order,

the court failed to provide any of the analysis or justification under the lodestar approach that's required for proper appellate review. In addition, the Board asserts that there are material deficiencies in Ms. Lewis's motion, including Ms. Lewis's failure to provide specific information on the fee arrangement between her and her counsel and to submit detailed time-entries for work done by her counsel. The Board concludes that "the issue of attorneys' fees and costs should be remanded to the Circuit Court for further proceedings."

Ms. Lewis responds that the lower court did not abuse its discretion when it awarded attorney's fees to her. Ms. Lewis argues that her motions for attorney's fees analyzed each lodestar factor and contained details of the time and activity of Ms. Lewis's counsel on the case, as well as an affidavit attesting to the reasonableness of the time spent and the hourly rate of her counsel. Ms. Lewis also asserts that the trial court's statement that it had considered the lodestar factors is all that is required in an award of attorney's fees. According to Ms. Lewis, the Board's "suggestion that the lower court was required to do more is misguided, and representative of a failure to reasonably interpret the applicable abuse of discretion standard."

In its reply brief, the Board argues that under Maryland Law the trial court is required to do more than just state the factors that were considered in its award of attorney's fees; it must articulate the factors and reasoning used to determine such award. Therefore, the Board reiterates that the judgment of the circuit court as to attorney's fees should be vacated and remanded back to that court.

**C. Standard of Review**

A trial court's decision to award attorney's fees and costs is reviewed for abuse of discretion. *See Pinnacle Grp., LLC v. Kelly*, 235 Md. App. 436, 476 (2018). A trial court abuses its discretion when it "disregards established principles or adopts a position that no reasonable person would accept." *Id.*

**D. Analysis**

In cases involving a fee-shifting statute, the trial court is required to apply the "lodestar method" to calculate the amount of attorney's fees and costs that are to be paid to the winning party. *Cong. Hotel Corp. v. Mervis Diamond Corp.*, 200 Md. App. 489, 503 (2011). The first step of the lodestar method is "multiplying the number of hours reasonably spent pursuing a legal matter by a reasonable hourly rate for the type of work performed." *Id.* The second step is adjusting that number based on the application of twelve factors, as enumerated in Maryland Rule 2-703(f)(3):

> (A) the time and labor required;
> (B) the novelty and difficulty of the questions;
> (C) the skill required to perform the legal service properly;
> (D) whether acceptance of the case precluded other employment by the attorney;
> (E) the customary fee for similar legal services;
> (F) whether the fee is fixed or contingent;
> (G) any time limitations imposed by the client or the circumstances;
> (H) the amount involved and the results obtained;
> (I) the experience, reputation, and ability of the attorneys;
> (J) the undesirability of the case;
> (K) the nature and length of the professional relationship with the client; and
> (L) awards in similar cases.

*Id.* The lodestar method may return an award of attorney's fees that is larger than the amount in controversy. *Est. of Castruccio v. Castruccio*, 247 Md. App. 1, 48 (2020).

In *Pinnacle Grp. LLC*, this Court overturned an award of attorney's fees when the trial court failed to explain its decision to exclude several blocks of hours billed by the plaintiff's attorneys. 235 Md. App. at 483. We stated that "[g]iven the need for specificity, 'it is necessarily incumbent upon the trial judge to give a clear explanation of the factors he or she employed in arriving at the end result.'" *Id.* at 480–81 (quoting *Frankel v. Friolo*, 170 Md. App. 441, 448 (2006)). We explained that in making its final decision on attorney's fees, "a trial court must clearly articulate the factors and reasoning used to calculate the overall figure so that an appellate court can adequately discern the soundness of the trial court's conclusion." *Id.* at 481. This Court concluded that, when a trial court's decision does not show that the court actually used the lodestar approach, there is an error of law, and we will remand for further proceedings to detail the calculation of attorney's fees. *Id.*

In the present case, the trial court's one-page order stated that upon consideration of Ms. Lewis's motion and petition for attorney's fees, the Board's response, and the Rule 2-703(f)(3) factors, the court found that "the $122,097.50 in attorney's fees requested in [Ms. Lewis's] motion and petition is reasonable[.]" The court did not explain why it found Ms. Lewis's request for attorney's fees of $122,097.50 to be reasonable, nor did it analyze any of the twelve lodestar factors. Accordingly, this Court will vacate the award of attorney's fees and remand the case back to the trial court. *See Pinnacle Grp. LLC*, 235 Md. App. at 480-81. On remand, the court will set forth an explanation for its determination of the reasonable number of hours worked by Ms. Lewis's counsel and reasonable hourly rate,

along with an analysis of each of the factors listed in Rule 2-703(f)(3) and the effect, if any, of that analysis on the ultimate award.

**JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED IN PART AND VACATED IN PART. CASE REMANDED TO THAT COURT FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE DIVIDED EQUALLY BETWEEN THE PARTIES.**