Circuit Court for Baltimore City
Case No. 24-C-22-000977

UNREPORTED*

IN THE APPELLATE COURT

OF MARYLAND

No. 1681

September Term, 2023

MITCHELL F. LITTLE, JR.

v.

ANNE HYDE, ET AL.

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

JJ.

Opinion by Sharer, J.

Filed: January 13, 2025

Mitchell F. Little, Jr., plaintiff below, appeals from an order entered by the Circuit Court for Baltimore City granting summary judgment in favor of appellees, Anne Hyde, Nova Biomedical Corporation ("Nova Biomedical"), and D.L. Peterson Trust ("D.L. Peterson").

Appellant presents four issues for our review, which we have consolidated and rephrased as follows[1]:

1. Did the circuit court abuse its discretion by precluding appellant from presenting evidence of liability or damages as a sanction for violating the scheduling order?

2. Did the circuit court abuse its discretion by declining to modify the scheduling order or the sanctions it imposed?

3. Did the circuit court err by granting summary judgment in favor of appellees?

For the reasons that follow, we answer these questions in the negative and shall affirm the judgments of the circuit court.

[1] In his brief, appellant asks:

1. Did the Circuit Court abuse its discretion when it sanctioned Plaintiff for failing to timely respond to Defendants' Discovery?

2. Did the Circuit Court abuse its discretion when it failed to modify its Order sanctioning Plaintiff after Plaintiff provided Discovery?

3. Did the Circuit Court abuse its discretion when it failed to modify its incorrect Scheduling Order?

4. Did the Circuit Court err in granting Defendant's Motion for Summary Judgment?

BACKGROUND

This case arises from a two-car collision that occurred at an intersection in Baltimore City on June 2, 2019. One of the vehicles was operated by appellant. The other was driven by Ms. Hyde and leased by her then-employer, Nova Biomedical, from D.L. Peterson.[2] On February 22, 2022, appellant filed a complaint against appellees seeking compensatory damages for injuries he allegedly sustained as a result of the accident. When appellees did not timely file a responsive pleading, appellant moved for an order of default, which the court granted in an order entered on August 30, 2022. Thereafter, however, appellees successfully moved to vacate the default order.

On March 9, 2023, the circuit court issued a pre-trial scheduling order which, *inter alia,* required appellant to identify all his expert witnesses by April 23, 2023, and set a discovery deadline of July 9, 2023. That same day, a jury convicted appellant in an unrelated criminal case of charges for which he had been held without bail since December 2022.[3] On June 9, 2023, the criminal court sentenced appellant to an aggregate term of ten years' incarceration.

[2] It was not entirely clear from the record that the vehicle had, in fact, been "leased by [Ms. Hyde's] then-employer, Nova Biomedical Corporation, from . . . D.L. Peterson[.]" In their appellate briefs, however, the parties agree that this was the case. Hence, the ownership status of that vehicle is not implicated in this appeal.

[3] We take judicial notice of the docket entries in Baltimore City Circuit Court Case Number 120195024 as they appear on both MDEC and the Maryland Judiciary website. *See Lewis v. State*, 229 Md. App. 86, 90 n.1 (2016) ("We take judicial notice of the docket entries . . . found on the Maryland Judiciary CaseSearch website, pursuant to Maryland Rule 5-201."), *aff'd*, 452 Md. 663 (2017).

Appellees moved for sanctions against appellant on June 21, 2023, claiming that he had not responded to Nova Biomedical's interrogatories or its request for production of documents, both of which were purportedly propounded upon appellant on November 9, 2022. Appellees also alleged that appellant had "failed to designate any expert witnesses." As relief, appellees asked the court to preclude appellant from either (1) "introducing into evidence at . . . trial . . . any evidence of [appellees'] alleged liability or [appellant's] claimed damages" or (2) "relying on any expert testimony or opinions[.]" In an order entered on July 25, 2023, the court granted appellees' unopposed motion and imposed the sanctions they sought.

On August 8, 2023, appellees filed a motion for summary judgment against appellant, arguing that the court's sanctions prevented appellant from "prov[ing] any fact as to liability or damages at trial[.]" As "there [wa]s nothing for [appellees] to defend against or for the factfinder to decide[,]" appellees asserted that there was "no genuine dispute as to any material fact, and [they] [we]re entitled to judgment as a matter of law." On August 16th, appellant filed an opposition to the summary judgment motion, as well as motions to modify the scheduling order and to vacate or reconsider the sanctions. In each of these filings, appellant claimed that his incarceration had prevented him from participating in discovery. In the latter two, moreover, appellant assured the court that he had recently resumed communications with counsel.

On September 27, 2023, the scheduled trial date, the court held a hearing on the parties' respective motions. After hearing oral arguments, the court announced its rulings

from the bench.[4] In denying appellant's motion to vacate or modify the sanctions order, the court first determined that its broad discretion to impose sanctions for scheduling order violations was "not limited by [a] requirement that [it] find willful or contemptuous behavior[.]" The court then observed that, although "there were ways . . . to find those who are . . . incarcerated pending trial[,]" it had heard nothing indicating that "anyone from [appellant's attorney's] office" had gone to the courthouse where appellant was tried, convicted, and sentenced in an attempt to contact him. The court also reasoned that because appellant was not incarcerated until December 2022, he would have been "on the street" and in communication with counsel when he (1) filed the complaint "in early 2022"; (2) moved for an order of default on August 4, 2022; and (3) received appellees' discovery requests in November 2022. Finally, the court noted that appellant's attorney had failed to respond to appellees' motion for sanctions. Based on the foregoing, the court denied appellant's motion to vacate the sanctions order, adding that its ruling also served as a denial of his motion to modify the scheduling order.

Having denied appellant's motions, the court turned to appellees' request for summary judgment. In granting that request, the court reasoned as follows:

> [T]here was no reasonable excuse for [appellant's] protracted inaction[.]
>
> And while [appellant] argues that the case is not ripe for a motion for summary judgment because he . . . can still conduct a deposition[] and

[4] The circuit court bifurcated the hearing. It first heard oral argument on and then denied appellant's motion to vacate or reconsider the sanctions (as well as his motion to modify the scheduling order). It then turned to appellees' motion for summary judgment. After hearing argument on that motion, the court granted summary judgment in a second ruling from the bench.

> confront [appellees'] witnesses on cross-examination, the time for discovery has, indeed, closed. That today is . . . the trial date. So, at this date, everything should have been completed in order to proceed by way of trial.
>
> [Appellant] never requested per [appellees'] attorney [a] deposition of any of her clients and in looking at . . . a motion for summary judgment in the light most favorable of the non-moving party, here, [appellant], this [c]ourt has to . . . grant [appellees'] request for . . . summary judgment.
>
> * * *
>
> The case was not moved forward by [appellant] as it should have been and here we are, on the trial date, and nothing has occurred.
>
> And, again, the [c]ourt understands . . . that [appellant] was incarcerated. However, there were actions that could have been taken in order to make sure that this case could move forward even with [appellant] being incarcerated.
>
> And so[,] I will find that there is no genuine dispute as to any material fact and [appellees are] entitled to judgment as a matter of law[.]

At the court's direction, the clerk of court entered judgment in appellees' favor on October 2, 2023. This appeal followed.

We will include additional facts as necessary in our discussion of the issues presented.

DISCUSSION

I.

Appellant contends that the circuit court abused its discretion by imposing sanctions that precluded him from introducing evidence of liability or damages, arguing that the court "had no evidence before it . . . that such a severe sanction was warranted[.]" Appellees rejoin that "there was plenty of evidence to justify the circuit court entering sanctions

against [appellant] for his complete discovery failure and failure to designate experts based on the contents of and exhibits to the [m]otion for [s]anctions[.]" Specifically, they argue that appellant's failure to oppose their motion for sanctions, coupled with his violations of the scheduling order and disregard of their suggestion that he seek a stay of litigation, "made it rather plain to the court that [a]ppellant had either lost interest in or had abandoned [the] case."

Standard of Review

With certain exceptions not here relevant, Maryland "Rule 2-504(a)(1) requires [the] circuit courts to enter a scheduling order in every civil action."[5] *Asmussen v. CSX Transp., Inc.*, 247 Md. App. 529, 546 (2020). "[S]cheduling order[s] must specify, among other things, a deadline for the designation of expert witnesses expected to be called at trial . . . and a deadline for the completion of all discovery[.]" *Id.* "The principal function of a scheduling order is to move the case efficiently through the litigation process by setting specific dates or time limits for anticipated litigation events to occur." *Dorsey v. Nold*, 362 Md. 241, 255 (2001). In *Naughton v. Bankier*, 114 Md. App. 641, 653 (1997), we explained:

> The purpose of . . . [R]ule [2-504] is two-fold: to maximize judicial efficiency and minimize judicial inefficiency. Though [scheduling] orders are generally not unyieldingly rigid as extraordinary circumstances which warrant modification do occur, they serve to light the way down the corridors which pending cases will proceed. Indeed, while absolute compliance with

[5] Maryland Rule 2-504(a)(1) provides: "Unless otherwise ordered by the County Administrative Judge for one or more specified categories of actions, the court shall enter a scheduling order in every civil action, whether or not the court orders a scheduling conference pursuant to Rule 2-504.1."

> scheduling orders is not always feasible from a practical standpoint, we think it quite reasonable for Maryland courts to demand at least substantial compliance, or, *at the barest minimum*, a good faith and earnest effort toward compliance.

(Emphasis retained.) *See also Asmussen*, 247 Md. App. at 548 ("[E]ven if scheduling-order deadlines are not unyieldingly rigid, they should not be complaisantly lax either." (quotation marks and internal citation omitted)).

Maryland courts possess the "inherent power . . . to 'enforce their scheduling orders through the threat and imposition of sanctions.'" *Maddox v. Stone*, 174 Md. App. 489, 507 (2007) (quoting *Manzano v. S. Md. Hosp., Inc.*, 347 Md. 17, 29 (1997)). *See also Butler v. S & S P'ship*, 435 Md. 635, 649 (2013) ("'[S]anctions are available for the violation of directives in scheduling orders[.]'" (quoting *Dorsey*, 362 Md. at 256)). "Where the asserted scheduling order violation involves a discovery failure, the trial court has wide discretion to determine what sanction, if any, is appropriate." *Watson v. Timberlake*, 251 Md. App. 420, 434, *cert. denied*, 476 Md. 281 (2021). *See also Butler*, 435 Md. at 650 ("[T]he appropriate sanction for a discovery or scheduling order violation is largely discretionary with the trial court[.]" (quotation marks and citation omitted)). We will not disturb the exercise of that discretion absent a clear abuse thereof. *See Watson*, 251 Md. App. at 431.

"An abuse of discretion occurs 'where no reasonable person would take the view adopted by the [trial] court,' 'when the court acts without reference to any guiding rules or principles,' or when the court's 'ruling is clearly against the logic and effect of facts and inferences before the court.'" *State v. Alexander*, 467 Md. 600, 620 (2020) (quoting *Alexis v. State*, 437 Md. 457, 478 (2014)). A court does not abuse its discretion merely because

we would have reached a different decision. *See Woodlin v. State*, 484 Md. 253, 277 (2023) ("Under the abuse-of-discretion standard, we must refrain from reversing a lower court simply because this Court would not have made the same ruling." (cleaned up)). Rather, "[a]n abuse of discretion . . . 'should only be found in the extraordinary, exceptional, or most egregious case.'" *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 419 (2007) (quoting *Wilson v. John Crane, Inc.*, 385 Md. 185, 199 (2005)).

Notwithstanding our highly deferential standard of review, we "nevertheless will reverse a decision that is committed to the sound discretion of a trial judge if we are unable to discern from the record that there was an analysis of the relevant facts and circumstances that resulted in the *exercise* of discretion." *Maddox*, 174 Md. App. at 502 (emphasis retained). In exercising their discretion to impose discovery sanctions, trial courts should consider the following factors first set forth in *Taliaferro v. State*, 295 Md. 376, 390-91 (1983):

> "(1) whether the disclosure violation was technical or substantial; (2) the timing of the ultimate disclosure; (3) the reason, if any, for the violation; (4) the degree of prejudice to the parties respectively offering and opposing the evidence; and (5) whether any resulting prejudice might be cured by a postponement and, if so, the overall desirability of a continuance."

Valentine-Bowers v. Retina Grp. of Washington, P.C., 217 Md. App. 366, 378-79 (2014) (quoting *Hossainkhail v. Gebrehiwot*, 143 Md. App. 716, 725-26 (2002)). As the *Taliaferro* Court recognized, these factors "[f]requently . . . overlap" and do not therefore "lend themselves to a compartmental analysis." *Taliaferro*, 295 Md. at 391. *Accord Att'y Grievance Comm'n of Md. v. Kent*, 447 Md. 555, 577 (2016); *Butler*, 435 Md. at 650. In

Asmussen, *supra*, we observed that "two broader inquiries lie at the heart of the *Taliaferro* factors." 247 Md. App. at 550. These central questions are:

> First, has the party seeking to have the evidence admitted *substantially complied* with the scheduling order? This is increasingly less likely the later the disclosure and the less "technical" the violation at issue. Second, is there *good cause* to excuse the failure to comply with the order? This is more likely when the party seeking an accommodation has a good reason for noncompliance, where the prejudice he suffers from non-admission is great, and where the prejudice his opponent suffers from admission is less severe.

Id. at 550-51 (emphasis retained; footnote omitted).

Analysis

Appellant complains that "[t]here is no evidence that the [c]ircuit [c]ourt" either "considered any of the *Taliaferro* factors" or "entertained a lesser initial sanction, such as an [o]rder [c]ompelling production." Characterizing them as the functional equivalent of a dismissal, he argues that the sanctions imposed by the court were inappropriate "absent clear support." (Internal quotation marks and citation omitted.)

We note at the outset that appellant failed to file an opposition or other response to appellees' motion for sanctions. Accordingly, any challenge to the court's order granting that motion is not preserved for our review. *See Att'y Grievance Comm'n of Md. v. McCarthy*, 473 Md. 462, 483 (2021) ("McCarthy waived or forfeited any issue as to the propriety of the hearing judge's grant of the motion for sanctions by failing to file a response or opposition to the request for sanctions."). Even if this issue were properly before us, however, appellant would not prevail.

Although courts must consider the *Taliaferro* factors, they need not "go through a checklist and note [their] consideration for each[.]" *Muffoletto v. Towers*, 244 Md. App. 510, 542, *cert. denied*, 469 Md. 276 (2020). Rather, absent a clear indication to the contrary, "we 'presume judges to know the law and apply it, even in the absence of a verbal indication of having considered it.'" *Kadish v. Kadish*, 254 Md. App. 467, 498 n.11 (2022) (quoting *Aventis Pasteur*, 396 Md. at 426). *See also Smith-Myers Corp. v. Sherill*, 209 Md. App. 494, 504 ("Unless it is clear that he or she did not, *we presume the trial judge knows and follows the law.*" (emphasis retained; quotation marks and citation omitted)), *cert. denied*, 431 Md. 447 (2013). We will not, therefore, disturb the trial court's ruling "so long as the record supports a reasonable conclusion that [the] appropriate factors were taken into account in the exercise of discretion." *Cobrand v. Adventist Healthcare, Inc*., 149 Md. App. 431, 445 (2003).

Appellees filed their motion for sanctions on June 21, 2023, nearly two weeks after the discovery deadline had elapsed. Accompanying that motion was a "Notice of Service Regarding Discovery," wherein Nova Biomedical's attorney certified that appellant had been served with interrogatories and a request for production of documents by first class mail on November 9, 2022. As was plain from the record before the court when it granted appellees' motion for sanctions, appellant did not respond to those discovery requests by July 9, 2023—the deadline set in the scheduling order—or even by July 25, 2023—the date

on which the sanctions were imposed.[6] It was also readily apparent that appellant failed to file an opposition to appellees' motion for sanctions and had not therefore provided an explanation for these violations or offered any grounds to excuse them. Thus, the record clearly supported findings that appellant had neither substantially complied with the scheduling order nor demonstrated good cause to excuse his violations thereof.

Finally, while we acknowledge that the sanctions imposed in this case are generally reserved for "cases of egregious misconduct such as *willful* or contemptuous behavior[,]" *Manzano*, 347 Md. at 29 (cleaned up; emphasis added), "'willful' conduct need not be affirmative conduct[.]" *Valentine-Bowers*, 217 Md. App. at 383. Rather, "neglect or failure to act can be just as 'willful' as affirmative 'contumacious' conduct[.]" *Id.* On the record before it, the court could readily have found that appellant's discovery violations were the product of his bad faith and willful disregard for the scheduling order. Accordingly, the trial court did not abuse its discretion in imposing the sanctions at issue.

II.

Alternatively, appellant asserts that the court abused its discretion by denying his motions to reconsider the sanctions and to modify the scheduling order, in both of which he attributed the scheduling order violations to his incarceration. With respect to the court's refusal to reconsider the sanctions, he argues that, because "his delay in participating in discovery" was not the product of willful or contemptuous behavior, it was "deserving of

[6] It was also evident that appellant did not designate any expert witnesses by the April 23, 2023, deadline for doing so.

a lesser sanction, if any." As to the court's denial of his motion to modify the scheduling order, appellant asserts that the court erroneously disregarded the extenuating circumstance of his incarceration and his good faith effort at compliance. Instead, appellant claims, the court "applied the scheduling order in" an "unyieldingly rigid" manner and "did not demonstrate any willingness to" consider that "this or perhaps any [s]cheduling [o]rder" might merit modification.

Appellees respond that "[a]ppellant's stated reason for not responding to discovery falls far short of what is required in terms of diligence of counsel and parties." Notwithstanding appellant's incarceration, appellees argue that counsel "had several options available to him[.]" Specifically, appellees propose that appellant's counsel could have (1) "complet[ed] discovery while he was not incarcerated," (2) attempted to contact appellant through his criminal defense attorney, (3) met him at the courthouse on his sentencing date, and/or (4) moved to stay the case "to give him more time to complete discovery."

Appellant frames the court's denial of his motion to modify the scheduling order and its refusal to reconsider sanctions as two separate matters. In reality, however, they are essentially alternative formulations of a single issue. In *Asmussen*, we explained:

> [T]here is no substantive difference between a decision to modify (or adhere to) scheduling-order deadlines and a decision to admit (or strike) witnesses and other evidence designated or disclosed too late. Both are decisions to accommodate (or not) a party's failure to meet discovery deadlines originally fixed by the court. Permitting a party to rely on a witness untimely designated is a de facto modification of the scheduling order. Denying a motion to modify scheduling-order deadlines effectively precludes the party seeking modification from relying on the evidence untimely disclosed.

247 Md. App. at 548-49 (internal citation omitted). "Given this functional equivalence," we held that "the considerations surrounding scheduling-order modification" are the same as those "involved in granting . . . motions to strike . . . evidence as a sanction for scheduling-order . . . violations[.]" *Id.* at 549. Thus, the resolution of both appellate challenges turns on an analysis of the *Taliaferro* factors.

1. Whether the Disclosure Violation Was Substantial or Technical

"Disregard of discovery deadlines constitutes a 'substantial violation' because the plaintiff, as the party initiating suit, has an affirmative duty to move her case toward trial[.]" *Valentine-Bowers*, 217 Md. App. at 380. *See also Warehime v. Dell*, 124 Md. App. 31, 48 (1998) ("[F]ailure to answer interrogatories [is] a substantial, not a technical, discovery violation."). Here, appellant failed to comply with the scheduling order's deadlines for either designating expert witnesses (*i.e.*, April 23, 2023) or completing discovery (*i.e.*, July 9, 2023). Accordingly, his violations of the scheduling order were clearly substantial rather than technical.

2. Timing of the Ultimate Disclosure

The timing of appellant's ultimate disclosures also weighs against him. Although the scheduling order required appellant to designate his experts by April 23, 2023, appellant did not do so until August 22, 2023. Moreover, appellant did not answer Nova Biomedical's interrogatories until September 15, 2023, which was more than ten months after he had been served with them and over two months past the discovery deadline. Finally, the record does not reflect that appellant ever responded to Nova Biomedical's

request for production of documents, which was served contemporaneously with its interrogatories. As the violations at issue were not merely technical and given the timing of his ultimate disclosures, appellant clearly failed to "substantially compl[y]" with the court's scheduling order. *Asmussen*, 247 Md. App. at 550.

3. Reason for the Violation

In considering whether there was good cause to excuse appellant's scheduling order violations, we begin with the reason for his noncompliance. In his motions to modify the scheduling order and to vacate or reconsider the sanctions, appellant attributed his violations exclusively to his incarceration. In denying those motions, however, the circuit court was evidently unpersuaded that counsel had made a good faith effort to surmount that obstacle, determining that "there were ways in which to find those who are . . . incarcerated pending trial." The court also observed that appellant had been available to participate in discovery for approximately one month prior to being incarcerated and noted counsel's subsequent failure to respond to appellees' motion for sanctions. Thus, the court concluded that appellant's incarceration did not excuse his ongoing violations of the scheduling order.[7] Although we may not have reached the same determination, we cannot say that the court's conclusion in this regard was "manifestly unreasonable." *Touzeau v. Deffinbaugh*, 394 Md. 654, 669 (2006).

[7] As we noted above, as of the date of the hearing, appellant had yet to respond to appellees' request for production of documents.

4. Degree of Prejudice to the Parties

Turning to the degree of prejudice to the parties, we agree with appellant's characterization of the sanctions as "essentially the dismissal of [his] claim." The prejudice to appellant as a result of those sanctions cannot therefore be overstated. On the other hand, this Court has recognized that "there is prejudice inherent in delaying a trial, because the memories and even the location of witnesses can become problematic when . . . the years go by." *Warehime*, 124 Md. App. at 49. *See also Valentine-Bowers*, 217 Md. App. at 385. The September 27, 2023, hearing on appellant's motions was held over four years and three months after the underlying two-car collision occurred on June 2, 2019. Thus, the potential prejudice to appellees from delaying trial would have been significant.

5. Whether Prejudice Might Be Cured by Postponement

Finally, we reach the fifth *Taliaferro* factor, *i.e.*, "whether any resulting prejudice might be cured by a postponement[.]" *Valentine-Bowers*, 217 Md. App. at 378-79 (quotation marks and citation omitted). Appellant claims that this consideration weighs in his favor because "[he] did not disobey repeated orders of the [c]ircuit [c]ourt . . . and as discovery was nearly complete at the time of the hearing[.]" While appellant may not have "disobey[ed] repeated orders of the [c]ircuit [c]ourt," his disregard for the scheduling order was both persistent and egregious. As discussed above, appellant did not answer Nova Biomedical's interrogatories until September 15, 2023—over two months after the discovery deadline had elapsed—or designate expert witnesses until August 23, 2023—four months after he was required to have done so. He has yet to respond to appellees'

request for production of documents. Finally, appellant neither opposed appellees' motion for sanctions, nor moved for reconsideration of the sanctions imposed until after summary judgment was sought. Thus, "[c]ounsel's track record . . . gave the court no reason to think he would suddenly start cooperating or responding to . . . appellees in the event the court permitted postponement." *Valentine-Bowers*, 217 Md. App. at 386.

Based upon our review of the *Taliaferro* factors, we hold that the court did not abuse its discretion by denying appellant's motions to modify the scheduling order and to vacate or reconsider the sanctions.

III.

Lastly, appellant challenges the entry of summary judgment in appellees' favor. Maryland Rule 2-501 governs summary judgment and provides, in pertinent part: "The court shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law." Md. Rule 2-501(f). Appellant does not dispute that, because he was precluded from introducing evidence of liability or damages, appellees would have been entitled to judgment as a matter of law. To the contrary, he expressly acknowledges that "had the matter proceeded to trial, with the [sanctions] [o]rders in place, . . . [a]ppellees would have been victorious." He also concedes that if appellees had offered a sworn statement in support of their motion for summary judgment, "there would [have] be[en] no dispute as to the facts, because [appellant] was precluded from offering any." Appellant correctly notes, however, that

appellees did not present any such statements. In an apparent attempt to capitalize on this evidentiary void, he argues: "[I]n as much as the court must review the facts in the light most favorable to [the] non-moving party, . . . since there were no facts in evidence, the [m]otion [for summary judgment] should have failed."

Whether summary judgment was properly granted is a question of law which we review *de novo. See Bd. of Cnty. Comm'rs of St. Mary's Cnty. v. Aiken*, 483 Md. 590, 616 (2023) ("We review the circuit court's grant of summary judgment *de novo*." (quotation marks and citation omitted)). When reviewing the entry of summary judgment, we first independently review the record to determine "whether a genuine dispute of material fact exists[.]" *Koste v. Town of Oxford*, 431 Md. 14, 24-25 (2013) (quotation marks and citation omitted). Only in the absence of such a dispute will we then assess whether the moving party was entitled to judgment as a matter of law. *Id*. at 25.

"When reviewing the record to determine whether a genuine dispute of material fact exists, we construe the facts properly before the court, and any reasonable inferences that may be drawn from them, in the light most favorable to the non-moving party." *Appiah v. Hall*, 416 Md. 533, 546 (2010) (cleaned up). "In order for there to be disputed facts sufficient for us to hold that granting summary judgment was error, *there must be evidence on which the jury could reasonably find for appellant*." *Paul v. Blackburn Ltd. P'ship*, 211 Md. App. 52, 69 (2013) (cleaned up; emphasis added), *aff'd*, 438 Md. 100 (2014). Thus, a genuine issue of material fact does not exist where "one party lacks the proof that would be needed to establish an essential element of his case to a jury." *Asmussen*, 247 Md. App.

at 557. As the United States Supreme Court explained in *Celotex Corp. v. Catrett*, 477 U.S. 317, 322 (1986), and we reiterated in *Asmussen*, 247 Md. App. at 558: "In such a situation, . . . a complete failure of proof concerning an essential element of the nonmoving party's case necessarily renders all other facts immaterial."

As appellees correctly assert, an affidavit supporting a motion for summary judgment "is not necessary when the movant otherwise demonstrates that there is no genuine dispute of any material fact[.]" *See* Md. Rule 2-501(a) ("*The motion* [*for summary judgment*] *shall be supported by affidavit if it is* (1) filed before the day on which the adverse party's initial pleading or motion is filed or (2) *based on facts not contained in the record.*" (emphasis added)). In order to determine that appellant could not establish the essential elements of his claim, the court needed to look no further than its own sanctions order, which barred him from introducing any evidence of liability or damages. Absent any such evidence, appellant could not have generated a dispute of material fact or prevailed on his claim. Thus, "[t]he granting of summary judgment followed logically and necessarily from th[e] exclusion" of "the evidence necessary to sustain appellant's claim." *Heineman v. Bright*, 124 Md. App. 1, 12 (1998). *See also Shelton v. Kirson*, 119 Md. App. 325, 333 (stating that, because the court properly precluded plaintiff's evidence as a discovery sanction, "the appellant concedes that the granting of summary judgment . . . logically . . . followed from the resulting lack of evidence and she [had] no basis for

attacking the granting of summary judgment"), *cert. denied*, 349 Md. 236 (1998). We therefore hold that the court properly granted summary judgment in appellees' favor.

For the foregoing reasons, we affirm the judgments of the circuit court.

JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY AFFIRMED. COSTS TO BE PAID BY APPELLANT.