

UNREPORTED\*

IN THE APPELLATE COURT

OF MARYLAND

No. 2246

September Term, 2023

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JERRY G. LAMB

v.

AFFORDABLE EXCAVATING, LLC, ET AL.

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Berger,  
Nazarian,  
Ripken,

JJ.

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Opinion by Ripken, J.

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Filed: December 13, 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).

Appellant Jerry G. Lamb (“Lamb”) filed suit in the Circuit Court for Charles County against Affordable Excavating, LLC (“Affordable Excavating”) and, later, its owner Charles Bingham<sup>1</sup> based on a contract dispute. Because Lamb had previously litigated his case in the District Court for Charles County, the circuit court granted Affordable Excavating’s motion for summary judgment based on res judicata. Lamb filed this appeal. For the reasons to follow, we shall affirm the judgment of the circuit court.

### ISSUES PRESENTED FOR REVIEW

Lamb presents the following issues for our review, which we have consolidated and rephrased:<sup>2</sup>

1. Whether the circuit court properly granted summary judgment.
2. Whether the circuit court abused its discretion in denying Lamb’s motion to stay.

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<sup>1</sup> Charles Bingham was added as a defendant in Lamb’s amended complaint, which was struck by the circuit court. Bingham remains a named party to this appeal.

<sup>2</sup> Rephrased from:

1. Did the Circuit Court err or abuse its discretion by improperly striking Appellant’s Amended Complaint for restitution and damages filed on August 31, 2023 for failing to comply with the Maryland rules, including inter alia, Maryland Rule 2-303(b)?
2. Did the Circuit Court err or abuse its discretion in Ordering summary judgment[] in favor of Appellee on the basis of res judicata filed by the Appellee on August 14, 2023 for a moot Complaint?
3. Did the Circuit Court err or abuse its discretion in failing to consider Appellant’s cross-motion for summary judgment?
4. Did the Circuit Court err or abuse its discretion by improperly denying Appellant’s motion to stay pending disposition of Appellant’s appeal in Case No. C-08-CV-23-000944?
5. Did the Circuit Court err or abuse its discretion in ordering Appellant to pay Appellee the sum of \$2,997.50 for the cost of defendant’s attorney’s fees within 30 days of order on the basis of vexatious litigation?
6. Did the District Court abuse[] its Discretion in Denying Plaintiff Due Process and to facilitate the Ability of Plaintiff, to be Fairly Heard on his claims?

3. Whether the circuit court abused its discretion in awarding attorney’s fees.

### **FACTUAL AND PROCEDURAL BACKGROUND**

In June of 2021, Lamb contracted with Affordable Excavating to improve the drainage system of his driveway. Lamb alleged that the work was not done properly, resulting in damage to the driveway. In June of 2022, Lamb filed suit against Affordable Excavating and Charles Bingham in the District Court for Charles County, seeking damages for fraud and breach of contract (“*Lamb P*”). Following Lamb’s repeated failure to respond to interrogatories, Affordable Excavating moved for sanctions in the form of a dismissal of the case with prejudice, which was granted in July of 2023. Lamb appealed the dismissal to the circuit court in August of 2023.

In May of 2023, while *Lamb I* was still ongoing, Lamb filed a separate suit against Affordable Excavating in the Circuit Court for Charles County, seeking damages for fraudulent inducement, breach of contract, and negligence (“*Lamb IP*”). Affordable Excavating answered the complaint, and in July of 2023, Lamb filed a motion to strike the answer. A motions hearing was scheduled to address the motion to strike. Prior to the motions hearing, Affordable Excavating moved to dismiss or, in the alternative, for summary judgment, arguing that res judicata precluded *Lamb II* because *Lamb I*, which encompassed the same set of operative facts, had by then been dismissed with prejudice. Lamb moved to extend his time to respond and for a stay pending his appeal in *Lamb I*. He filed an opposition to the motion for summary judgment and cross-motion for summary judgment. On the same day, he also filed an amended complaint.

A hearing on the motions was held on September 5, 2023. The circuit court denied Lamb’s motion to strike Affordable Excavating’s answer. The circuit court then heard argument on the motion to stay and motion for summary judgment. Lamb protested that Affordable Excavating’s motion for summary judgment was not ripe because he had attempted to file an amended complaint following the filing of the motion for summary judgment. The circuit court disagreed and denied Lamb leave to file his amended complaint. Finding that *Lamb II* arose from the same transaction as in *Lamb I* and involved the same parties and underlying facts, the court granted summary judgment in favor of Affordable Excavating based on res judicata. The court also found that Lamb engaged in vexatious litigation and directed Affordable Excavating to file an affidavit stating attorney’s fees it had incurred.

The circuit court issued an order on September 7, 2023 granting the motion for summary judgment and entering judgment in favor of Affordable Excavating. Affordable Excavating filed an affidavit as to attorney’s fees per the court’s direction. The court then entered another order on September 22, 2023 which, in addition to memorializing the rulings made at the motions hearing, struck Lamb’s amended complaint, denied the motion to stay, and ordered Lamb to pay Affordable Excavating’s attorney’s fees in the amount of \$2,997.50, the amount stated in the affidavit. After his timely motion to alter or amend was denied, Lamb noted this appeal.<sup>3</sup>

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<sup>3</sup> Because Lamb filed his notice of appeal 31 days after the circuit court entered its final order, he failed to comply with Maryland Rule 8-202(a), which provides that a notice of appeal “shall be filed within 30 days after entry of the judgement or order from which the appeal is taken.” The Supreme Court of Maryland has recognized that Maryland Rule 8-

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## DISCUSSION

Lamb contends that the circuit court erred in granting summary judgment because his amended complaint rendered the motion for summary judgment moot. He argues that his cross-motion—which he claims raised a dispute of material fact—was not considered by the court. He also contends that his amended complaint was proper under the Maryland Rules and that the circuit court abused its discretion in denying him leave to file, and then striking, his amended complaint. Lamb further asserts that his motion to stay was filed with a proper purpose and the court abused its discretion in denying the motion. Finally, he asserts that he was not acting in bad faith and that the circuit court abused its discretion in ordering him to pay attorney’s fees to Affordable Excavating.<sup>4</sup> Affordable Excavating did not file a brief in this appeal.

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202(a) is “a claim-processing rule,” which, although binding on litigants “is not a jurisdictional limitation on [the] Court.” *Rosales v. State*, 463 Md. 552, 568 (2019). Because the Rule does not divest this Court of its jurisdiction, the issue of untimeliness can be waived or forfeited by an appellee. *Id.* Here, Affordable Excavating has not moved to dismiss for untimeliness; we therefore consider the issue of untimeliness waived and will review the merits of this appeal. *See Tallant v. State*, 254 Md. App. 665, 674–75 (2022) (declining to dismiss an untimely appeal where the State never sought dismissal based on untimeliness and where a review on the merits was in the interest of efficiency). Considering the protracted litigation that has already taken place in this and Lamb’s related case, reaching the merits is in the interest of avoiding “unjustifiable expense and delay.” Md. Rule 1-201(a).

<sup>4</sup> Lamb additionally contends that he was denied due process. However, he did not support this contention in his briefing. Lamb had notice of and was able to respond to the motion for summary judgment and was heard by the court on the issue at the September 5, 2023 motions hearing. *See Superior Court v. Ricketts*, 153 Md. App. 281, 337 (2003) (“Procedural due process ensures that citizens are afforded both notice and an opportunity to be heard, where substantive rights are at issue.”) (internal citation and quotation marks omitted). As we see no due process issue from the record nor supported in the briefing, we will not address this contention further.

**I. THE CIRCUIT COURT PROPERLY GRANTED SUMMARY JUDGMENT BASED ON RES JUDICATA.**

**A. Standard of Review**

Upon motion by a party, “[t]he 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). “We review a trial court’s grant or denial of summary judgment de novo by conducting our own independent review of the record and deciding the same legal issue(s) as the trial court.” *Gonsalves v. Bingel*, 194 Md. App. 695, 708 (2010) (citing *Haas v. Lockheed Martin Corp.*, 396 Md. 469, 478–79 (2007)). Where there are no disputed facts underlying the trial court’s grant of summary judgment, “our only task is to determine whether the trial court’s decision was legally correct.” *Id.* (citing *Haas*, 396 Md. at 479). Here, the circuit court based its ruling on the prior filing and final judgment in *Lamb I*, the fact of which Lamb did not, and still does not, dispute. We therefore review only the legal correctness of the circuit court’s ruling.

**B. Analysis**

Res judicata is a legal doctrine which establishes that “[a] judgment between the same parties and their privies is a final bar to any other suit upon the same cause of action[.]” *Davis v. Wicomico Cnty. Bureau*, 447 Md. 302, 306 (2016) (quoting *Prince George’s Cnty v. Brent*, 414 Md. 334, 342 (2010)). Such a judgment “is conclusive not only as to all matters that have been decided in the original suit, but as to all matters which with propriety could have been litigated in the first suit.” *Id.* Res judicata serves judicial

economy by avoiding the expense of multiple lawsuits and the risk of inconsistent decisions. *Powell v. Breslin*, 430 Md. 52, 64 (2013) (citing *Colandrea v. Wilde Lake Cmty. Ass’n, Inc.*, 361 Md. 371, 389 (2000)). The doctrine applies if the following elements are met:

(1) the parties in the present litigation are the same or in privity with the parties to the earlier litigation; (2) the claim presented in the current action is identical to that determined or that which could have been raised and determined in the prior litigation; and (3) there was a final judgment on the merits in the prior litigation.

*Cochran v. Griffith Energy Servs., Inc.*, 426 Md. 134, 140 (2012) (quoting *R & D 2001, LLC v. Rice*, 402 Md. 648, 663 (2008)).

Here, Lamb filed his complaint in *Lamb II* while *Lamb I* was proceeding in the district court. Lamb acknowledges that the two cases arise out of the same transaction. Both cases were brought by Lamb against Affordable Excavating and/or Charles Bingham; hence, the same parties are involved. Both cases arise out of the contract dispute between Lamb and Affordable Excavating, and both seek damages on claims related to that contract dispute; hence, the claims presented in both actions were the same.<sup>5</sup> *Lamb I* was dismissed with prejudice, a final judgment, after which Affordable Excavating moved for summary judgment in *Lamb II*.

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<sup>5</sup> In his amended complaint, Lamb sought to differentiate this case from *Lamb I* by adding several claims relating to Affordable Excavating’s website. These changes do not rescue *Lamb II* from preclusion because the new claims, arising out of the same transaction, could have been brought in *Lamb I*. See *Cochran*, 426 Md. at 140 (“[T]he claim presented in the current action is identical to that determined *or that which could have been raised and determined* in the prior litigation.”) (emphasis added) (internal citation and quotation marks omitted).

Lamb contends that the vacatur of the dismissal order in *Lamb I* supports his contention that the circuit court erred in granting summary judgment in *Lamb II*. We disagree. “[E]ven if a ruling in an original suit was found later to be in error, [t]he mere fact that the prior ruling is wrong does not deprive it of its res judicata effect.” *Powell*, 430 Md. at 64 (internal quotation marks and italics omitted). This case is comparable to *Powell*, where the plaintiff filed a second, identical complaint against the same parties and raising the same claims while an appeal from summary judgment was pending in his first case. *Id.* at 59. The Supreme Court of Maryland concluded that summary judgment in the second case was properly granted because the first case, though pending appeal, had concluded with a final judgment on the merits. *Id.* at 64. Here, the circuit court’s granting of summary judgment in *Lamb II* was a correct application of res judicata because *Lamb I* involved the same parties and claims and had reached a final judgment.

Lamb also contends that because he filed an amended complaint, Affordable Excavating’s summary judgment motion was rendered moot. This argument fails for two reasons. First, a litigant may not use an amended complaint to resurrect extinguished rights or subvert proper application of the law.<sup>6</sup> See *Pharmaceia Eni Diagnostics, Inc. v.*

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<sup>6</sup> For the same reason, it was not an abuse of discretion for the court to strike Lamb’s amended complaint. It does not appear from the record before us that a scheduling order was filed or a trial date scheduled; Lamb’s amended complaint, filed without leave, may have been timely under Maryland Rule 2-341(a). However, reversal on this point would have no effect on the outcome of *Lamb II*, as all the claims asserted in Lamb’s amended complaint are precluded by res judicata. See *Prudential Securities, Inc. v. E-Net, Inc.*, 140 Md. App. 194, 234 (2001) (reversing the striking of an amended complaint but noting that, because the Court upheld the grant of summary judgment, many of the claims raised in the amended complaint would be precluded); *Flores v. Bell*, 398 Md. 27, 33 (2007) (“[A]n error that does not affect the outcome of the case is harmless error” and “[i]t has long been



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*Washington Suburban Sanitary Com'n*, 85 Md. App. 555, 563 (1991) (holding that filing an amended complaint did not resurrect the plaintiff's right to voluntarily dismiss the case); *Gonzales v. Boas*, 162 Md. App. 344, 355 (2005) (holding that the plaintiff could not use an amended complaint to subvert discovery deadlines). Res judicata would remain applicable to Lamb's amended complaint, and it was not proper for Lamb to attempt to delay the inevitable by amending his pleading. *See also Powell*, 430 Md. at 64 (noting that the purpose of res judicata is to serve the interests of judicial economy).

Second, even if the amended complaint was accepted by the circuit court as operative, the case was ripe for summary judgment. On the same date he filed his amended complaint, Lamb filed his own cross-motion for summary judgment.<sup>7</sup> Where a litigant has moved for summary judgment, the trial court has the authority to grant summary judgment to the other party. *See Cotillo v. Duncan*, 172 Md. App. 29, 50 (2006), *affirmed in part and reversed on other grounds by American Powerlifting Ass'n v. Cotillo*, 401 Md. 658 (2007). In *Cotillo*, the plaintiff argued that the defendant's summary judgment motion was moot following plaintiff's filing of an amended complaint that asserted new claims. *Id.* The Court held that, because the plaintiff had also moved for summary judgment, and judgment was granted based on an affirmative defense which was a complete defense to all the plaintiff's

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the policy in this State that this Court will not reverse a lower court judgment if the error is harmless.”).

<sup>7</sup> Lamb contends that, because the court's order does not formally state that his cross-motion was denied, the court erred in not considering the motion. Ruling on a motion for summary judgment is not compulsory upon a trial court. *See Mathis v. Hargrove*, 166 Md. App. 286, 306 (2005). Notably, the circuit court's entry of summary judgment in favor of Affordable Excavating disposed of all contentions raised in Lamb's cross-motion.

claims, granting summary judgment was not a procedural error. *Id.* Res judicata is a complete affirmative defense to all of Lamb’s claims, including those he asserted in his amended complaint. Therefore, there was no error in the circuit court’s grant of summary judgment.

## **II. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN DENYING THE MOTION TO STAY.**

### **A. Standard of Review**

“[C]ourts have inherent power to stay proceedings when the resolution of those proceedings could be impacted by other pending proceedings.” *Bechamps v. 1190 Augustine Herman, LC*, 202 Md. App. 455, 460 (2011). We review a trial court’s decision to grant or deny a stay for abuse of discretion. *Fishman v. Murphy ex rel. Estate of Urban*, 433 Md. 534, 546 (2013). An abuse of discretion occurs where the court’s decision “was clearly against the logic and effect of facts and inferences before the court.” *Id.* (internal quotation marks and citation omitted). A trial court’s discretion to grant or deny a stay is broad and should only be reversed if “no reasonable person would take the view adopted by the [trial] court.” *Id.* (quoting *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 418 (2007)).

### **B. Analysis**

A stay generally functions “to protect parties involved in parallel proceedings,” *Moser v. Heffington*, 465 Md. 381, 399 (2019); here however, a stay order would have no such protective function. Lamb describes the purpose of his motion to stay as “to preserve Appellant’s claims for prosecution after the disposition of the appeal should Appellant have

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the decision vacated.”<sup>8</sup> At the hearing, Lamb was of the mistaken belief that should the final decision in *Lamb I* be vacated, he could voluntarily dismiss *Lamb I* and proceed instead with *Lamb II*.<sup>9</sup> This appears to be Lamb’s misunderstanding of the procedural posture of his appeal. Regardless of whether the judgment in *Lamb I* was vacated, the two cases would remain separate. It was clear that any final judgment in *Lamb I* would have a preclusive effect on *Lamb II*, hence there were no viable claims in *Lamb II* to preserve. A stay order in *Lamb II* would not serve the function Lamb’s motion sought.

Lamb cites *Powell v. Breslin* to support his contention that his motion to stay was procedurally proper. In *Powell*, the Supreme Court of Maryland noted that “when parallel related cases are pending judicial action simultaneously, a proper tactical decision may be to file a motion to stay one proceeding while the other proceeding is prosecuted to exhaustion, *in order to preserve the opportunity to pursue the stayed suit’s claim.*” 430

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<sup>8</sup> Lamb also asserts that the circuit court “did not consider or rule on” his motion to stay. Lamb was heard on his motion at the September 5, 2023 motions hearing, and the court denied the motion in its written order entered September 22, 2023. Lamb’s confusion on this point seems to stem from the circuit court’s written order. Lamb states in his brief that he is “perplexed” by the circuit court’s September 22, 2023 order, because it is not identical to the initial order entered September 7, 2023. He asserts that the September 22, 2023 order “appears to have been manipulated after the original [o]rder was issued.” Pursuant to Maryland Rule 6-408, “the court has revisory power and control over the judgment” for 30 days. *See also Velasquez v. Fuentes*, 262 Md. App. 215, 238 (2024) (“The court may act to revise its judgment *sua sponte.*”) (internal quotation marks and citation omitted). The circuit court’s revision of the initial order to address all matters pending before it is not a procedural irregularity.

<sup>9</sup> As Affordable Excavating noted at the motions hearing, it had already filed its notice of intent to defend in *Lamb I*, so Lamb could no longer dismiss without a stipulation from the defendants. *See* Md. Rule 3-506(a).

Md. at 67 (emphasis added). However, *Powell* is distinguishable because there the plaintiff's claims risked tolling the applicable statute of limitations absent a stay. *Id.* at 66. Here, such considerations were inapplicable, because Lamb's claims in *Lamb I* would not be barred by a statute of limitations if the dismissal was vacated by the circuit court.<sup>10</sup> In the interests of judicial economy and avoiding undue expense to the parties, it was reasonable for the circuit court to enter summary judgment instead of a stay order. Thus we cannot conclude that the circuit court committed an abuse of discretion in denying the motion to stay.

### **III. THE CIRCUIT COURT DID NOT ABUSE ITS DISCRETION IN ORDERING LAMB TO PAY AFFORDABLE EXCAVATING'S ATTORNEY'S FEES.**

#### **A. Sanctions Under Rule 1-341**

The circuit court ordered Lamb to pay attorney's fees to Affordable Excavating pursuant to Maryland Rule 1-341(a). Maryland follows the "American Rule" regarding attorney's fees, which dictates that fees are not generally recoverable as damages. *Poole v. Bureau of Support Enforcement*, 238 Md. App. 281, 294 (2018) (citing *Bahena v. Foster*, 164 Md. App. 275, 288–89 (2005)). The American Rule is subject to limited exceptions, including Rule 1-341. *Johnson v. Baker*, 84 Md. App. 521, 527 (1990). Rule 1-341(a) states that

[i]n any civil action, if the court finds that the conduct of any party in maintaining or defending any proceeding was in bad faith or without substantial justification, the court, on motion by an adverse party, may

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<sup>10</sup> Though *Lamb I* is not before us, we note that the circuit court did vacate the dismissal, and *Lamb I* proceeded to trial before the district court. A trial was held in June of 2024. Lamb lost on the merits and has appealed for a second time to the circuit court.

require the offending party . . . to pay to the adverse party the costs of the proceeding and the reasonable expenses, including reasonable attorneys’ fees, incurred by the adverse party in opposing it.

“To impose sanctions under Rule 1-341(a), a court must make an explicit finding that a party conducted litigation either in bad faith or without substantial justification.” *URS Corp. v. Fort Myer Construction Corp.*, 452 Md. 48, 72 (2017). Rule 1-341(a) sanctions are intended to be levied against “those who proceed in the courts without any colorable right to do so.” *Garcia v. Foulger Pratt Development, Inc.*, 155 Md. App. 634, 677 (2003) (quoting *Legal Aid Bureau, Inc. v. Bishop’s Garth Assocs. Ltd. P’ship*, 75 Md. App. 214, 224 (1988)). The purpose of Rule 1-341(a) sanctions is not punitive, but “to put the wronged party in the same position as if the offending conduct had not occurred.” *Kilsheimer v. Dewberry & Davis*, 106 Md. App. 600, 622 (1995). Appellate review of Rule 1-341 sanctions first examines the finding of bad faith, then the sanctions award. *Christian v. Maternal-Fetal Med. Assocs. of Maryland, LLC*, 459 Md. 1, 20–21 (2018). This Court upholds a trial court’s finding of bad faith unless clearly erroneous. *URS Corp.*, 452 Md. at 72. A trial court’s determination to award sanctions is reviewed under an abuse of discretion standard. *Garcia*, 155 Md. App. at 677.

## **B. Analysis**

The circuit court made findings of both bad faith and lack of substantial justification, premised on Lamb’s bringing a second suit based on the same underlying facts as the first suit. Bad faith “exists when a party litigates with the purpose of intentional harassment or unreasonable delay.” *Garcia*, 155 Md. App. at 676 (quoting *Barnes v. Rosenthal Toyota*,

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*Inc.*, 126 Md. App. 97, 105 (1999)). A claim is brought without substantial justification “if it is not fairly debatable, not colorable, or not within the realm of legitimate advocacy.” *URS Corp.*, 452 Md. at 72 (internal citations omitted). The circuit court understood Lamb’s filing of *Lamb II* to be an improper effort to avoid the sanctions imposed in *Lamb I*—in essence, an impermissible “second bite at the apple.” *Anne Arundel Cnty. Bd. of Educ. v. Norville*, 390 Md. 93, 112 (2005) (holding that res judicata barred the plaintiff from bringing a second claim based on a separate legal theory but identical underlying facts). The claims in *Lamb II*, as we have discussed, are barred by res judicata and therefore not colorable. The circuit court’s findings are not clearly erroneous.

Lamb bases his contention that he did not proceed in bad faith on two arguments, neither of which was before the circuit court. Any issue not decided by the trial court is not preserved for review in this Court. Md. Rule 8-131(a); *Heineman v. Bright*, 140 Md. App. 658, 671 (2001) (“[W]here a contention was not raised below either in the pleadings or in the evidence and was not directly passed upon by the trial court . . . [t]he point was not preserved for appellate review.”) (internal citation and quotation marks omitted). Lamb contends that he “understood the District Court Judge to allow Appellant to eventually move to Circuit Court” based on a statement apparently made by the district court in a hearing on April 3, 2023. To support this contention, Lamb presents a single page from that hearing transcript, which appears to be a discussion regarding the jurisdictional limit of the district court and the possibility of removal to circuit court. Our review of the record revealed nothing to suggest that Lamb presented this argument to the circuit court.

Lamb also points to the decision of the circuit court vacating the dismissal of *Lamb I* to further support his contention that the circuit court’s finding of bad faith was clearly erroneous. In the vacatur order, the circuit court found that the sanction of dismissal with prejudice was too extreme for Lamb as a *pro se* litigant whom that court found to have made a good faith effort to comply with discovery rules. This finding, based on conduct in a different proceeding, was made following the rulings in *Lamb II* and were necessarily not part of the record before the court in *Lamb II*. As neither of Lamb’s two arguments were raised below, neither is a basis upon which the circuit court’s decision can be found to be clearly erroneous.

“[U]nder the clearly erroneous standard, this Court does not sit as a second trial court” but rather “decid[es] whether the circuit court’s factual findings were supported by substantial evidence *in the record*[.]” *L.W. Wolfe Enterprises, Inc. v. Maryland Nat’l Golf, L.P.*, 165 Md. App. 339, 343 (2005) (internal citation and quotation marks omitted) (emphasis added). The circuit court reasonably based its findings on the record and conduct of the litigants. We will not disturb the circuit court’s findings of bad faith and lack of substantial justification because that court had a reasonable basis and a better vantage point from which to judge Lamb’s conduct. Further, as required by Rule 1-341(a), the court based its award of costs on an affidavit explaining the attorney’s fee rate and work performed in the case. The court ordered Lamb to pay the cost of attorney’s fees explicated in the

affidavit. We conclude that the court's determination to award attorney's fees was within the bounds of its discretion and therefore affirm.

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