

UNREPORTED  
IN THE COURT OF SPECIAL APPEALS  
OF MARYLAND

CONSOLIDATED CASES

No. 2023  
September Term, 2011

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JERICO BAPTIST CHURCH MINISTRIES,  
INC., ET AL.

v.

GLORIA MCCLAM-MAGRUDER, ET AL.

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No. 1953  
September Term, 2011

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JOEL R. PEEBLES, SR., ET AL.

v.

JERICO BAPTIST CHURCH MINISTRIES,  
INC., ET AL.

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Hotten,  
Watts,  
Moylan, Charles E., Jr.  
(Retired, Specially Assigned),

JJ.

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Opinion by Watts, J.

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Filed: September 19, 2012

This case involves a bitter dispute among alleged members of the Board of Trustees for control of Jericho Baptist Church. In an action for declaratory judgment and injunctive relief filed by Gloria McClam-Magruder, Denise Killen, Clarence Jackson, and Clifford Boswell, appellees<sup>1</sup> and members of the church, and a Counterclaim and Third-Party Complaint filed by Joel R. Peebles, Sr.<sup>2</sup> and William Meadows, appellants, the Circuit Court for Prince George's County granted appellees' request for summary judgment and appellees' motion to strike appellants' Third-Party Complaint, and denied appellants' request for summary judgment as to the Counterclaim.<sup>3</sup> Appellants noted an appeal raising three issues, which we quote and reorder:

- I. Did the [c]ircuit [c]ourt err in granting [appellees'] motion for summary judgment?
- II. Did the [c]ircuit [c]ourt err in striking [appellants'] complaint against [appellees]?

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<sup>1</sup>Dorothy Williams, appellee, was not a party to the other appellees' original complaint, but was joined later in the litigation. See infra note 8.

<sup>2</sup>On brief, appellants refer to Joel R. Peebles, Sr. as "Pastor Peebles." According to appellees, Joel R. Peebles, Sr. has never been "officially installed or ordained as" a pastor. Because we do not resolve this factual dispute, and to avoid confusion among his relatives with the same last name, we refer to Joel R. Peebles, Sr. as "appellant Peebles."

<sup>3</sup>Both on appeal and in the circuit court, appellants (Joel R. Peebles, Sr. and Meadows) and appellees (McClam-Magruder, Killen, Jackson, Boswell, and Williams) have claimed to be acting on behalf of Jericho Baptist Church. In two separate lawsuits before the circuit court, the parties on both sides sued each other using the name "Jericho Baptist Church." Appellants appealed both cases to this Court, which consolidated the appeals. The name "Jericho Baptist Church" remains on both appeals' captions in this Court. For clarity—and because we do not resolve the issue of who is rightfully acting on behalf of Jericho Baptist Church—we use the terms "appellants" and "appellees" to refer to individuals, and we refrain from referring to any party as "Jericho Baptist Church."

III. Did the [c]ircuit [c]ourt err in denying [appellants'] motion for summary judgment?

For the reasons discussed below, we answer question I in the affirmative and questions II and III in the negative. We, therefore, reverse and remand.

### **FACTUAL AND PROCEDURAL BACKGROUND**

In 1962, Jericho Baptist Church was incorporated in Washington, D.C. by Alice Harvey, Betty Peebles,<sup>4</sup> and James Peebles, Sr., all of whom comprised the original Board of Trustees of Jericho Baptist Church ("the Board"). In 1996, the Board consisted of: Betty Peebles, James Peebles, Jr.,<sup>5</sup> Lucy Lane, Anne Wesley, appellant Meadows, and appellee Williams. In an affidavit titled "Affidavit of Reverend Joel R. Peebles, Sr."—attached as an exhibit to, and incorporated in, appellants' Motion for Summary Judgment and appellants' Reply and Opposition to appellees' Motion for Summary Judgment—appellant Peebles averred that he has served as a Board member since 1997, upon the death of James Peebles, Jr. According to the affidavit, appellant Peebles averred that he has remained on the Board without interruption since 1997. Appellant Peebles's name, the word "Trustee," and his signature appear on multiple documents that purport to be records of actions that the Board has taken on behalf of Jericho Baptist Church.

On March 15, 2009, Betty Peebles, appellant Meadows, Wesley, and appellee Williams—the then-living Board members, according to appellees—signed Resolution 1-09,

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<sup>4</sup>Appellant Peebles is the son of Betty Peebles.

<sup>5</sup>Appellant Peebles is the brother of James Peebles, Jr.



which purports to have elected to the Board: (1) Betty Peebles, (2) appellees McClam-Magruder, Killen, Jackson, and Williams, and (3) four other people.<sup>6</sup> Resolution 1-09 does not list appellants as Board members. The parties agree that appellant Peebles did not receive notice of the purported March 15, 2009, Board meeting.

On September 21, 2010, appellants and Wesley signed a document labeled "Corporate Resolution," which purported to elect appellant Peebles as the "Chief Executive" of Jericho Baptist Church due to Betty Peebles's declining health.<sup>7</sup> On September 29, 2010, appellant Peebles learned for the first time of the purported March 15, 2009, Board meeting.

On October 12, 2010, Betty Peebles died. On October 18, 2010, appellees McClam-Magruder, Killen, Jackson, and Boswell<sup>8</sup> brought an action for a temporary restraining order, declaratory judgment, and injunctive relief against appellants in the circuit court, alleging that appellant Peebles was "attempt[ing a] takeover" through the "Corporate Resolution" that

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<sup>6</sup>Appellants have presented evidence that Meadows and Wesley were "duped" into signing Resolution 1-09, which is comprised of two pages. The first page lists the purported new Board members, and the second page contains the signatures of Betty Peebles, appellant Meadows, Wesley, and appellee Williams.

<sup>7</sup>Although appellee Williams's typed name appears on the "Corporate Resolution," the space for her signature is blank.

<sup>8</sup>Hereinafter, we refer to appellees McClam-Magruder, Killen, Jackson, and Boswell generally as "appellees." Appellee Williams was not a party to the original complaint. Williams did not become a party until appellants filed with the circuit court an Amended Counterclaim and Third-Party Complaint.



purported to elect appellant Peebles as the “Chief Executive” of Jericho Baptist Church.<sup>9</sup> According to the complaint,<sup>10</sup> appellant Peebles was never a Board member, and appellant Meadows gave up his Board membership on March 15, 2009, by signing Resolution 1-09. The complaint, in pertinent part, requested that the circuit court: (1) grant appellees a temporary restraining order and preliminary injunction against appellants, and (2) declare the “Corporate Resolution” null and void.

On January 13, 2011, appellants filed with the circuit court an Answer to Amended Complaint, in which they denied the allegations in the complaint that they were not Board members. On the same day, appellants separately filed with the circuit court a Counterclaim and Third-Party Complaint (“appellants’ third-party complaint”), in which they alleged that: (1) appellants were members of the “lawful Board[,]” (2) “[t]he Purported Board is operating as if it is the lawful Board[,]” and (3) that Wesley and appellant Meadows “did not understand that they were signing the [second] page of Resolution 1-09, which purported to elect a new Board[.]” Appellants requested that the circuit court: (1) declare that appellees

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<sup>9</sup>Each party accuses the other of waiting until Betty Peebles’s sickness to attempt a coup of Jericho Baptist Church. According to appellants, appellees used the opportunity to sue appellants and reveal Resolution 1-09, which appellees had kept secret since its signing. According to appellees, appellant Peebles used the opportunity to draft the “Corporate Resolution” that purported to elect appellant Peebles as the “Chief Executive” of Jericho Baptist Church. Although it is clear that Betty Peebles’s death created a power vacuum, we do not resolve the issue of which party rightfully attempted to fill it.

<sup>10</sup>We use the term “complaint” for the Amended Complaint for Temporary Restraining Order, Preliminary and Permanent Injunctive Relief and for Declaratory Judgment, which appellees filed with the circuit court on December 29, 2010.

were not Board members and that appellants and Wesley were the only Board members, (2) enjoin appellees “from purporting to act as the Board[,]” and (3) declare all acts by appellees, acting as the purported Board, null and void.

On February 17, 2011, appellees moved to strike appellants’ third-party complaint, contending that it was “duplicative” because it failed to allege new parties or facts. On July 20, 2011, appellants moved for summary judgment. On August 4, 2011, appellees moved for summary judgment. On August 22, 2011, appellants filed a Reply and Opposition to appellees’ Motion for Summary Judgment. On October 24, 2011, disposing of both lawsuits in one order, the circuit court: (1) denied appellants’ motion for summary judgment, (2) granted appellees’ motion for summary judgment, and (3) granted appellees’ motion to strike appellants’ third-party complaint. Appellants appealed both cases to this Court,<sup>11</sup> which consolidated the appeals.

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<sup>11</sup> Appellees’ original suit against appellants, Case No. CAL10-33647 in the circuit court, was captioned: Bd. of Trustees of the Jericho Baptist Church Ministries, Inc. v. Joel R. Peebles, Sr., et al. v. Gloria McClam-Magruder, et al. Before this Court, the appeal, No. 1953, is captioned: Joel R. Peebles, Sr., et al. v. Jericho Baptist Church Ministries, Inc., et al. Appellants’ lawsuit against appellees, Case No. CAL11-00873 in the circuit court, was captioned: Jericho Baptist Church Ministries, Inc. v. Gloria McClam-Magruder, et al. Before this Court, the appeal, No. 2023, is identically captioned.



## DISCUSSION

### I.

#### Grant of Appellees' Motion for Summary Judgment

Appellants contend that the circuit court erred in granting appellees' motion for summary judgment. Appellants argue that "[i]t was erroneous as a matter of law for the [circuit c]ourt to make . . . factual findings [in granting] a motion for summary judgment." Alternatively, appellants assert that the circuit court's findings—that: (1) appellant Peebles is not a Board member, and (2) that a valid Board meeting occurred on March 15, 2009—were clearly erroneous.<sup>12</sup>

In Benway v. Md. Port Admin., 191 Md. App. 22, 45-46 (2010), this Court explained that an appellate court reviews *de novo* a grant of a motion for summary judgment. This Court stated:

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<sup>12</sup>On June 8, 2010, and June 20, 2010, appellants filed briefs with this Court, one for each appeal. Maryland Rule 8-502(a)(2) provides that "[w]ithin 30 days after the filing of the appellant's brief, the appellee shall file a brief[.]" According to Maryland Rule 8-502(d), "[a]n appellee who fails to file a brief within the time prescribed by this Rule may not present argument except with permission of the" appellate court. Appellees' briefs were required to be filed no later than July 9, 2012, and July 20, 2012. On August 29, 2012, appellees filed briefs and Motions for Leave to Present Argument Post Filing of Brief—approximately thirteen days before the scheduled oral argument date of September 11, 2012. The Motions for Leave to Present Argument Post Filing of Brief were denied. On September 4, 2012, appellants filed a Motion to Strike Untimely Appellees' Briefs and To Shorten Time for Response. The motion was granted. On September 6, 2012, appellees filed Motions for Reconsideration of the denials of the Motions for Leave to Present Argument Post Filing of Brief. The Motions for Reconsideration were denied. Even if appellees' briefs had been timely filed and appellees permitted to argue, the outcome of this appeal would not have been different.



If [a trial] court grants a party's motion for summary judgment, [an appellate c]ourt's review of [the trial] court's decision to grant summary judgment is *de novo*. . . . In reviewing the grant of summary judgment, we construe the facts properly before the [trial] court and any reasonable inferences that may be drawn from them, in the light most favorable to the non-moving party[. The appellate court] generally limit[s its] review to the grounds relied upon by the trial court.

Id. (citations omitted).

"Any party may make a motion for summary judgment on all or part of an action on the ground that **there is no genuine dispute** as to any material fact and that the party is entitled to judgment as a matter of law." Md. R. 2-501(a) (emphasis added). "[T]o defeat a motion for summary judgment, the opposing party must show that there is a genuine dispute as to a material fact by proffering facts which would be admissible in evidence." Beatty v. Trailmaster Prods., Inc., 330 Md. 726, 737 (1993) (citations omitted).

"When making a determination on summary judgment, **a trial court makes no findings of fact**, but rather determines whether a genuine dispute exists concerning a material fact which would preclude the entry of summary judgment." Commercial Union Ins. Co. v. Harleysville Mut. Ins. Co., 110 Md. App. 45, 51, cert. denied, 343 Md. 679 (1996) (emphasis added) (citations omitted). "Credibility . . . is not an issue to be determined on summary judgment. In granting or denying a motion for summary judgment, **[trial court] makes no findings of fact. Indeed, the function of the summary judgment procedure is not to try the case or to decide issues of fact**; rather, the procedure merely determines whether there is a triable issue of fact." King v. Bankerd, 303 Md. 98, 111-12 (1985)

(citation omitted) (emphasis added). “[T]he purpose of summary judgment is to determine whether there are facts in dispute that must be resolved through a more formal dispute resolution process, a trial on the merits. . . . [I]t is not the purpose of summary judgment to resolve issues of material fact.” Eng’g Mgmt. Servs. v. Md. State Highway Admin., 375 Md. 211, 229-30 (2003) (emphasis added).

Returning to the instant case, we conclude that the circuit court erred in granting appellees’ motion for summary judgment because a genuine dispute of material fact exists as to whether appellant Peebles was a member of the Board. In 1996, the Board elected to accept the provisions of the District of Columbia Nonprofit Corporation Act, pursuant to which:

Any vacancy occurring in the board of directors and any directorship to be filled by reason of an increase in the number of directors may be filled by the affirmative vote of a majority of the then members of the board of directors, though less than a quorum of the board, unless the articles of incorporation or the bylaws provide that a vacancy or directorship so created shall be filled in some other manner, in which case such provision shall control. A director elected or appointed, as the case may be, to fill a vacancy shall be elected or appointed for the unexpired term of his predecessor in office.<sup>[13]</sup>

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<sup>13</sup>In 2009, the D.C. Nonprofit Corporation Act had a correlating identical version of § 29-520, found at § 29-301.20. The circuit court applied the 2009 version of the Act when ruling as to summary judgment.

Section 29-406.10, which currently governs vacancies on the board of directors, provides, in pertinent part, as follows:

(a) Except as otherwise provided in subsection (b) of this section, the articles of incorporation, or the bylaws, if a vacancy occurs on the board of directors, including a vacancy resulting from an increase in the number of directors, the vacancy may be filled by a majority of the directors remaining in office even  
(continued...)



D.C. Code § 29-520 (1996).

According to the affidavit that appellant Peebles signed, he has served as a Board member since 1997 when his brother died. In opposition to the motion for summary judgment, appellant Peebles argued that the affidavit stating that he served on the Board since 1997 and the “twelve years of documentation” showing his membership on the Board demonstrated that he was a member of the Board. We conclude that appellant Peebles’s argument is sufficient to raise a genuine dispute of material fact as to whether he was elected to the Board. Although appellant Peebles’s affidavit does not explicitly state that he was “elected” as a Board member,<sup>14</sup> when determining a motion for summary judgment, a trial

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<sup>13</sup>(...continued)  
if they constitute less than a quorum.

(b) Except as otherwise provided in the articles of incorporation or bylaws, a vacancy in the position of a director who is:

(1) Elected by a voting group of members, by a chapter or other organizational unit of members, or by a region or other geographic grouping of members, shall be filled during the first 3 months after the vacancy occurs only by that voting group or chapter, unit, region, or grouping;

(2) Appointed by persons other than the members, may be filled only by those persons; or

(3) Designated in the articles of incorporation or bylaws shall not be filled by action of the board of directors.

D.C. Code § 29-406.10 (2012).

<sup>14</sup>The affidavit that appellant Peebles signed simply states: “I have served on the  
(continued...) ”



court is to draw all factual inferences in the non-movant's favor. Benway, 191 Md. App. at 46. In this case, rather than drawing an inference in appellants' favor, the circuit court drew a negative inference in appellees' favor. In the Opinion and Order, the circuit court concluded that appellant Peebles "was never elected" as a Board member. The circuit court adopted appellees' position that, despite appellants' evidence that appellant Peebles's **acted** as a Board member,<sup>15</sup> there is no evidence that he was **elected** as a Board member. As such, the circuit court made a finding of fact in concluding that appellant Peebles "was never elected" a Board member. No statutory interpretation or analysis of case law was needed for the determination. Instead, the circuit court weighed the probative value of different pieces of evidence—namely, various documents—to **determine whether the then-existing Board elected appellant Peebles as a Board member in 1997**. The circuit court noted the absence of appellant Peebles's name in Resolution 1-09, and found that the lists of Board members that **did** include appellant Peebles's name did not "in and of themselves make [appellant]

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<sup>14</sup>(...continued)  
Board . . . without interruption since after the passing of my brother . . . in 1997." The parties' contentions boil down to the question of whether a negative inference can be drawn from the lack of evidence that appellant Peebles was elected to the Board. Appellees essentially argue that the lack of evidence proves that appellant Peebles was never a Board member. Appellants essentially argue that the affidavit that appellant Peebles signed, along with the signed documents that purport to be records of actions that the Board took on behalf of Jericho Baptist Church, are circumstantial evidence that appellant Peebles was elected as a Board member in 1997.

<sup>15</sup>Appellant Peebles's name, the word "Trustee," and his signature appear on multiple documents that purport to be records of actions that the Board took on behalf of Jericho Baptist Church.

Peebles a" Board member. In concluding that appellant Peebles was not elected as a Board member, the circuit court engaged in fact-finding, which is not a function permitted of a trial court when making a determination on summary judgment. See Commercial Union Ins. Co., 110 Md. App. at 51; King, 303 Md. at 111-12.

In opposition to the motion for summary judgment, in addition to contending that no dispute of material fact existed as to whether appellant Peebles was a member of the Board, appellants argued there was no documentation or evidence establishing "the precise date or time when Betty Peebles, James Peebles, Jr., William Meadows, Lucy Lane, Anne Wesley, or Dorothy Williams were 'elected' to the Board[.]" raising the inference that board membership could be obtained in a manner other than election, or, at a minimum, that the Board maintained no records of its elections. On appeal, appellants argue that members of the Board acknowledged that Betty Peebles "appointed" them. A review of the record reveals that Jericho Baptist Church's "Statement of Election to Accept,"<sup>16</sup> dated October 16, 1996, provides that "[t]he trustees of the corporation shall be elected in accordance with its bylaws." The bylaws, however, are silent as to the process of the attainment of board membership, *i.e.* the bylaws fail to provide any information about board membership other than stating that "[t]he church will have . . . Trustees[.]"

Despite the Nonprofit Corporation Act and the Statement of Election, with the exception of Resolution 1-09, there is no information concerning Board records, minutes, or

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<sup>16</sup>This is the document in which the Church elected to accept the provisions of the Nonprofit Corporation Act of the District of Columbia.



any documents purporting to memorialize the election of its members accompanying appellees' motion for summary judgment. It is difficult to conceive that a person who is the subject of a vote at an election would be present, participate in the actual vote, or have first hand knowledge of the election. Under the circumstances, appellant Peebles's affidavit attesting that he has served as a Board member since 1997 and the documents bearing his signature in the capacity of a Board member are sufficient to raise a genuine dispute of material fact. Testimony, or the taking of evidence, would be necessary to determine whether appellant Peebles was elected a member of the Board.

As to the possibility that despite the Act and its acceptance by the church, the Board failed to institute in its bylaws a process for election of the Board and failed to conduct elections, in the Statement of Election, the following people are identified as members of the Board of Trustees: Betty Peebles, James R. Peebles, Jr., appellant Meadows, and Lane. Wesley and Williams are identified in the Statement of Election as the Secretary and Treasurer, respectively. In Resolution 1-09, the Board of Trustees purporting to elect the new members of the Board consisted of: Betty Peebles as trustee/chairperson, Meadows as trustee, Wesley as trustee, and Williams as treasurer. In Resolution 1-09 of the Board of Trustees, in contrast to the trustees listed in the Statement of Election, the following people are identified as the new trustees: Betty Peebles, appellee McClam-Magruder, appellee Williams, appellee Killen, appellee Jackson, Jennie L. Jackson, Bruce E. Lansdowne, Norma Y. Lewis, and



LaShonda S. Terrell. Thus, via Resolution 1-09, dated March 15, 2009, the church increased the number of Board members after accepting the Nonprofit Corporation Act in 1996.

In our view, the alleged failure to elect the original trustees is of no consequence because the Nonprofit Corporation Act does not require the election of the initial board, only that the names of the trustees be provided in the Articles of Incorporation. D.C. Code §29-301.19(b) (2009); D.C. Code § 29-519(b) (1996). The alleged failure to conduct elections after acceptance of the Nonprofit Corporation Act in 1996 raises the potential issue of whether—where a nonprofit corporation subject to the Act fails to institute a process for the election of board members—persons who are designated as members of the Board: (1) are indeed members of the Board; and (2) in appellant Peebles’s case, a member of the Board entitled to notice of the 2009 meeting. Although possibly relevant questions of mixed fact and law, these are questions we need not answer in light of our determination that the circuit court engaged in fact-finding in determining that appellant Peebles was not an elected Board member.

Having concluded that the issue of whether appellant Peebles is a Board member is at least, in part, a matter of fact, we are satisfied that it is a material fact in the instant case. As the circuit court noted, if appellant Peebles is not a Board member, then he was not entitled to notice of the meeting on March 15, 2009. See D.C. Code § 29-523(a) (1996) (“Meetings of the board of directors, regular or special, may be held . . . upon such notice as may be prescribed in the bylaws or, where not inconsistent with the bylaws, by resolution of the board

of directors.”). Because a genuine dispute of material fact existed as to whether appellant Peebles was a member of the Board, we reverse summary judgment as to both appellants and remand for further proceedings.<sup>17</sup>

## II.

### Grant of Appellees’ Motion to Strike Appellants’ Third-Party Complaint

Appellants contend that the circuit court erred in granting appellees’ motion to strike appellants’ third-party complaint. Appellants argue that the two lawsuits were not duplicative, and that reducing paper consumption was not a “valid basis for the [circuit c]ourt to strike” appellants’ third-party complaint.

In Bacon v. Arey, 203 Md. App. 606, 667 (2012), this Court explained that an appellate court reviews for abuse of discretion a trial court’s ruling on a motion to strike. This Court stated:

The decision whether [or not] to grant a motion to strike is within the sound discretion of the trial court. An abuse of discretion occurs where no reasonable person would take the view adopted by the [trial] court[] . . . or when the [trial] court acts without reference to any guiding principles, and the ruling under consideration is clearly against the logic and effect of facts and inferences before the [trial] court[] . . . or when the ruling is violative of fact and logic.

Id. (some alterations in original) (citations and internal quotation marks omitted).

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<sup>17</sup>Determination of the question of appellant Peebles’s status as a Board member is also dispositive of whether appellees were entitled to judgment as a matter of law as to appellant Meadows. Appellant Peebles did not receive notice of the purported March 15, 2009, Board meeting, when Betty Peebles, appellant Meadows, Wesley, and appellee Williams signed Resolution 1-09 and purportedly elected a new Board that did not include appellants.



A trial court “may order any pleading that is late or otherwise not in compliance with [the Maryland R]ules stricken in its entirety.” Md. R. 2-322(e). In Beyond Sys. Inc. v. Realtime Gaming Holding Co., LLC, 388 Md. 1, 29 (2005), the Court of Appeals held that the trial court did not abuse its discretion in striking a complaint that “**failed to introduce any new facts** to cure its inability to produce *prima facie* evidence of Maryland’s personal jurisdiction over” the defendants. (Emphasis added).

Returning to the instant case, we conclude that the circuit court did not abuse its discretion in striking appellants’ third-party complaint. On brief, appellants contend that, “[i]n the original suit, [appellants] defended and prosecuted claims as individual [Board members], because that is how they were sued. In the countersuit, [appellants, acting in the name of] the Church[,] brought an action against [appellees,] who were falsely claiming to be directors and unlawfully acting in the name of’ Jericho Baptist Church. This distinction does not change the fact that the two lawsuits are duplicative. **The parties in both lawsuits are identical—aside from the fact that the plaintiff in each case is purportedly Jericho Baptist Church.**<sup>18</sup> **Both lawsuits hinge on who belongs to the Board. Disposition of one lawsuit will**

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<sup>18</sup>Although appellants’ Amended Counterclaim and Third-Party Complaint added appellee Williams as a third-party defendant, the only reason that appellants had for doing so was that appellee Williams “improperly caused this action to be filed in the name of the Board[.]” This superficial reason is the same as appellants’ purpose in filing the third-party complaint in the first place—to protest the circumstance that appellees filed suit on behalf of Jericho Baptist Church. The circuit court implicitly found this reason to be meritless in its conclusion that the two lawsuits are “identical substantively[.]” We are satisfied that the circuit court acted within its discretion in so concluding.

Because we affirm the circuit court’s grant of appellees’ motion to strike appellants’  
(continued...)



necessarily resolve the other. The relief that appellants sought via appellants' third-party complaint would necessarily occur if appellants prevailed in the original lawsuit. As appellants admit on brief, the only reason that appellants had for filing a third-party complaint was to do exactly what appellees were doing—attempt to act on behalf of Jericho Baptist Church.

“The label ‘counterclaim’ on [a] pleading does not transform what is really an answer by [a] defendant into a claim against an opposing party.” East v. Gilchrist, 293 Md. 453, 462 (1982) (alterations in original) (citation and internal quotation marks omitted). Similarly, we hold that the label “third-party complaint” on a pleading does not transform what is really a counterclaim by a defendant into a claim that merits a separate lawsuit. A trial court does not abuse its discretion in granting a motion to strike a third-party complaint that fails to introduce any new facts that merit a separate lawsuit. See generally Beyond Sys., 388 Md. at 29. For all the reasons discussed above, we conclude that the circuit court did not abuse its discretion in granting appellees’ motion to strike appellants’ third-party complaint.

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<sup>18</sup>(...continued)  
third-party complaint, Case No. CAL11-00873 will no longer exist on remand, and appellee Williams will no longer be a party to this case. There will only be Case No. CAL10-33647, Board of Trustees of the Jericho Baptist Church Ministries, Inc. v. Joel Peebles, Sr., et al. v. Gloria McClam-Magruder, et al.

### III.

#### **Denial of Appellants' Motion for Summary Judgment**

Appellants contend that the circuit court erred in denying appellants' motion for summary judgment. Appellants argue that there was no genuine dispute of material fact because "[i]t is undisputed" that: (1) appellant Peebles is a Board member, (2) appellant Peebles was not given notice of the purported March 15, 2009, Board meeting, (3) the purported March 15, 2009, Board meeting was invalid, and (4) Wesley and appellant Meadows did not intentionally resign as Board members. Appellants assert that they are "entitled to judgment as a matter of law" because appellant Peebles did not receive notice of the meeting on March 15, 2009, invalidating both the meeting and the purported removal of appellants as Board members.

In Dashiell v. Meeks, 396 Md. 149, 165 (2006), the Court of Appeals explained that an appellate court reviews for abuse of discretion a denial of a motion for summary judgment.

The Court stated:

[A] trial court may even exercise its discretionary power to deny a motion for summary judgment when the moving party has met the technical requirements of summary judgment. Thus, on appeal, the standard of review for a denial of a motion for summary judgment is whether the trial [court] abused [its] discretion and in the absence of such a showing, the decision of the trial [court] will not be disturbed.

Id. (citations omitted).

"Any party may make a motion for summary judgment on all or part of an action on the ground that **there is no genuine dispute** as to any material fact and that the party is



entitled to judgment as a matter of law.” Md. R. 2-501(a) (emphasis added). **If the various documents and exhibits show a genuine conflict, then [a motion for] summary judgment should be denied** and the issues should be submitted to the trier of [] fact[.]” Delia v. Berkey, 41 Md. App. 47, 53 (1978) (emphasis added) (citations omitted). **“Where several inferences may be drawn, [a motion for] summary judgment must be denied** and the dispute submitted to the trier of fact.” Barber v. Eastern Karting Co., 108 Md. App. 659, 672 (1996) (emphasis added) (citation omitted).

In this case, we conclude that the circuit court did not abuse its discretion in denying appellants’ motion for summary judgment. As discussed supra in Part I, a genuine dispute of material fact existed as to whether appellant Peebles is a Board member. To hold that appellants are entitled to summary judgment would be to make a finding of fact—which, ironically, is the action taken by the circuit court that causes appellants to cry foul as to the circuit court’s grant of appellees’ motion for summary judgment. A trial court does not abuse

its discretion in denying a motion for summary judgment where the evidence shows a genuine dispute of material fact. See Delia, 41 Md. App. at 53. For all the reasons discussed above, we conclude that the circuit court did not abuse its discretion in denying appellants' motion for summary judgment.

**AS TO APPEAL NO. 2023 (CASE NO. CAL10-33647): DENIAL OF APPELLANTS' MOTION FOR SUMMARY JUDGMENT AFFIRMED, GRANT OF APPELLEES' MOTION FOR SUMMARY JUDGMENT REVERSED, AND CASE REMANDED TO THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION.**

**AS TO APPEAL NO. 1953 (CASE NO. CAL11-00873), JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED.**

**COSTS TO BE PAID TWO-THIRDS BY APPELLANTS AND ONE-THIRD BY APPELLEES.**