UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1006

September Term, 2013

FREDERICK JONES

v.

HYUNDAI MOTORS AMERICA

Nazarian,
Leahy,
Thieme, Raymond G., Jr.
(Retired, Specially Assigned),

JJ.

Opinion by Nazarian, J.

Filed: January 5, 2015

Frederick Jones appeals from an Order of the Circuit Court for Prince George's County granting Hyundai Motors America's ("Hyundai") Motion to Enforce Settlement ("the Motion"). Mr. Jones claims that Maryland Rule 2-311 entitled him to a hearing before the Motion was granted. We disagree and affirm.

I. BACKGROUND

Mr. Jones brought suit against Hyundai over alleged defects in Jones's 2011 Hyundai Genesis, the details of which are not important for present purposes. Trial was set for August 15 and 16, 2012. On August 15—after a jury was selected—counsel met in the judge's chambers for what the docket labels a "settlement conference." At the end of the meeting, the parties reached a settlement, so the court released the jury and dismissed the case from the bench, without prejudice. The lone page of transcript from August 15, 2012 reads as follows:

> [THE COURT]: You guys just sit tight, I've got to do it. Okay, the Court calls the case of Frederick Jones versus Hyundai Motor America. It's an add-on case, jury was selected by Judge Pearce and referred to me as a pending judge. Madam Clerk, CAL11-11858.
>
> Met with the lawyers in -- in chambers. We've settled the matter, should, matter is dismissed, closed statistically. Okay, you all right?
>
> [UNIDENTIFIED SPEAKER]: Yes.
>
> [THE COURT]: All right.

Judgment of dismissal without prejudice was entered August 28, 2012.

The court's confidence seems to have been justified—both Jones and Hyundai agree, even now, that they reached a settlement on August 15. Unfortunately, the parties did not reduce the settlement to writing at that time, nor were the terms placed on the record. As the parties worked on a writing, a dispute emerged about the terms. Hyundai claims that it agreed to pay Mr. Jones $4,000.00, install a new navigation system in his car, and provide a one-time alignment service for the vehicle. Mr. Jones claims that the parties agreed to those three terms *and* to extend his five-year, 60,000-mile, bumper-to-bumper warranty to a ten-year, 120,000-mile, bumper-to-bumper warranty.

The parties' discussions stalled and Hyundai filed the Motion on March 29, 2013—five months after judgment had been entered. Mr. Jones responded on April 10, 2013; his response did not include an independent request for a hearing. On June 19, 2013, without convening a hearing, the court granted the Motion.[1] Mr. Jones appeals.

II. DISCUSSION

Mr. Jones presents one question on appeal:

> Did the Circuit Court trial judge abuse his discretion in granting [the Motion] without conducting an evidentiary hearing as required by the Rules of Procedure?

Mr. Jones argues that the circuit court did abuse its discretion because the Motion constituted a dispositive motion under Maryland Rule 2-311, which cannot be granted

[1] The parties agree that the circuit court's one-sentence Order of June 19 errs to the extent it asserts that the judge "heard argument related to" the Motion.

without a hearing. Hyundai argues, to paraphrase slightly, that because Mr. Jones did not request a hearing, he was not entitled to a hearing, and because the circuit court granted the Motion when there was evidence in the record to do so, the court did not abuse its discretion.

The outcome turns on Maryland Rule 2-311(f), which leaves to the trial court to decide whether or not to hold a hearing *except* where granting the motion would resolve a claim or defense:

> A party desiring a hearing on a motion, other than a motion filed pursuant to Rule 2-532, 2-533, or 2-534, shall request the hearing in the motion or response under the heading "Request for Hearing." The title of the motion or response shall state that a hearing is requested. Except when a rule expressly provides for a hearing, the court shall determine in each case whether a hearing will be held, but the court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested as provided in this section.

Md. Rule 2-311.[2] It is enough that Hyundai asked for the hearing: so long as a hearing is requested by one party, the other need not request a hearing if the Rule entitles him to one. *Phillips v. Venker*, 316 Md. 212, 217 (1989); *Karl v. Blue Cross and Blue Shield of Md., Inc.*, 100 Md. App. 743, 746 (1994); *Adams v. Offender Aid & Restoration of Baltimore, Inc.*, 114 Md. App. 512, 515-16 (1997). The question, then, is whether the Motion sought a dispositive ruling.

[2] Mr. Jones does not argue that the Motion was filed pursuant to Rules 2-532, 2-533, or 2-534.

It didn't. Judgment had already been entered in this case, and post-judgment motions are not dispositive motions. *Lowman v. Consol. Rail Corp.*, 68 Md. App. 64, 75 (1986); *Abrishamian v. Washington Medical Group, P.C.*, 216 Md. App. 386, 407 n.6 (citing *Lowman*, 68 Md. App. at 77). In *Lowman*, the trial court granted summary judgment against the Lowmans. *Id.* at 74. The Lowmans filed a motion for reconsideration with a request for hearing, and their motion was denied without hearing. *Id.* at 75. Citing Rule 2-311, the Lowmans made essentially the same argument Mr. Jones makes here, and we disagreed, explaining that the court resolved the claim when it entered judgment, not when it declined to reconsider that dispositive decision:

> The docket entries clearly reflect that the court did more than merely grant [appellee's] motion for summary judgment—it also entered judgment in favor of [appellees]. That judgment was dispositive of [the Lowmans'] claim. By denying the motion for reconsideration, the court merely refused to change its original ruling which had disposed of [the Lowmans'] claims. That ruling was not "dispositive of a claim or defense," and thus no hearing was mandated.

Id.

More recently, we held that a motion eliminating the evidentiary basis for a plaintiff's claim is not "dispositive" under Rule 2-311. *Logan v. LSP Marketing Corp.*, 196 Md. App. 684 (2010). In *Logan*, the trial court granted a motion for sanctions without holding a hearing, ordering the exclusion of all but one of Mr. Logan's experts at trial. *Id.* at 688. Mr. Logan sought reconsideration on three separate occasions, arguing that without the excluded experts "he could not present a *prima facie* case." *Id.* at 694-95 (quotations

omitted). After refusing to reconsider, the trial court ultimately granted a motion for summary judgment against him. *Id.* at 695. Mr. Logan argued there that because the exclusion of his experts ultimately necessitated the entry of summary judgment, the motion for sanctions was dispositive of his claim and required a hearing. *Id.* We disagreed—the evidentiary question may have foreshadowed the summary judgment outcome, but the two are not the same:

> [T]he dispositive action was the granting of summary judgment in favor of [appellees]. Although the grant of summary judgment may have resulted from earlier discovery rulings, the court did not directly dismiss the case when it granted [appellees'] motion for sanctions. As such, the court did not abuse its discretion by ruling on the motion without holding a hearing.

Id. at 697.

In much the same way, the circuit court here did not dismiss Mr. Jones's case when it entered the Motion. The court dismissed the case when it *dismissed the case*, over five months before the Motion was filed. Mr. Jones cites *Shelton v. Kirson*, 119 Md. App. 325 (1998), for the proposition that a dispositive decision "must actually and formally dispose of the claim or defense," and we do not disagree. But Mr. Jones's argument from there—that "[t]he Circuit Court's Order *effectively* disposed of Appellant's claim in that the matter was deemed settled and otherwise over"—glosses the Rule's requirement. (emphasis added). It is not enough, as we held in *Logan*, for a non-dispositive motion *effectively* to force an outcome—the Rule requires hearings only for motions that actually dispose of claims.

Similarly, Jones's reliance on *Hensley v. Alcon Laboratories, Inc.*, 277 F.3d 535 (4th Cir. 2002), is misplaced. There, the federal district court had granted a motion to enforce settlement when there was a dispute as to whether any settlement existed. *Id.* at 537. Critically, the trial court also had not yet dismissed the matter, instead "giving the parties 30 days within which to submit an agreed-upon order of dismissal." *Id.* at 538. Despite these facts, the court granted the appellee's motion to enforce settlement without a hearing. *Id.* at 539. In that instance, the plaintiff was entirely denied his right to trial without, as in this case, having ever advised the court that the parties had settled. *Id.* at 541.

Here, the parties agree that a settlement was reached, the matter was dismissed without any objection, and judgment was entered. The Motion was, quite literally, a post-judgment motion, and Rule 2-311 did not require the court to hold a hearing on it.

JUDGMENT OF THE CIRCUIT COURT FOR PRINCE GEORGE'S COUNTY AFFIRMED. COSTS TO BE PAID BY APPELLANT.