Circuit Court for Baltimore City
Case Nos. 24X16000052; 24X15000559

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 659

September Term, 2019

CHRISTOPHER COATES, ET AL.,

v.

FORD MOTOR COMPANY

Kehoe,
Shaw Geter,
Wells,

JJ.

Opinion by Shaw Geter, J.

Filed: July 15, 2020

Christopher Coates filed a lawsuit against Ford Motor Company, the appellee, alleging negligence and strict liability failure to warn about the presence of asbestos in products supplied to Coates employer. In November 2016, a jury found Ford liable for negligent failure to warn Coates. The jury, however, found Ford not liable for strict liability failure to warn. Coates was awarded $5 million in non-economic damages and $72,000 for past medical expenses.

On appeal before this Court, we held the trial court erred in giving a jury instruction on negligence that was not generated by the evidence, and we reversed the judgments against Ford and remanded for further proceedings, not inconsistent with our opinion. On remand, the trial court commenced a re-trial on February 4, 2019. The trial lasted sixteen days and the jury ultimately returned a verdict in favor of Ford.

In this appeal, appellant, the estate of Christopher Coates,[1] presents the following questions for our review:

1. Did the court err in refusing to enter partial summary judgment in favor of Plaintiffs given Ford's absolutely defective response?

2. Did the court err in refusing to grant new trial where the verdict that Coates was not exposed to the asbestos fibers released from Ford brakes was against the weight of the evidence and contrary to Ford's admissions of exposure?

3. Did the court err in refusing plaintiffs' requests to apply the doctrines of res judicata and/or collateral estoppel to the exposure and substantial factor causation issues resolved in 2016 and not appealed by Ford?

For reasons to follow, we affirm the judgments of the trial court.

[1] Christopher Coates died in 2018.

BACKGROUND

Coates was employed by Marcantoni, a general construction contracting company, from 1974 until 1989. From approximately 1974 to 1978, Coates worked as a pipe layer, primarily digging ditches and laying pipe. Coates described this as a "dusty job" because he would cut cement pipe with a gas-powered saw that would often leave dust on his clothes and face.

In 1978, Coates worked as a dump truck driver for Marcantoni. Marcantoni owned at least fifteen Ford vehicles, including four or five Ford dump trucks, six to eight Ford pickup trucks, and various other Ford vehicles. Coates drove a Ford dump truck for approximately four years. Ford friction materials, such as the brake lining in the Ford vehicles, contained chrysotile asbestos and small amounts of tremolite asbestos.

Although Coates was not a mechanic while working at Marcantoni, he spent time in the shop almost every work day socializing with the mechanics. He would also help the mechanics in the shop on the days he was not driving. For instance, Coates would assist with servicing Ford brakes by using a wire brush to clean off the brake shoes prior to replacement and then using compressed air to blow dust out of the drums. This took approximately 15 to 20 minutes per wheel and would leave large amounts of dust and debris in the air that filled up the shop. According to Coates, he assisted the mechanics with hundreds of brake replacements. He specifically recalled working on brake jobs for Ford dump trucks and cleaning up the area after clutches were replaced on the trucks.

In June 2015, Coates was diagnosed with malignant mesothelioma at the age of 67 years old. He maintains that throughout his employment at Maracantoni, Ford never

warned him about the hazards of asbestos, and that had he been warned, he would have gotten another job.

On October 6, 2015, Coates filed a lawsuit against Ford and several other defendants,[2] asserting claims in negligence and strict liability arising from his exposure to asbestos while employed by Marcantoni. Ford along with Mack Truck, Inc.[3] denied liability and also filed cross-claims for indemnity and contribution against other defendants.[4] Prior to trial, several defendants settled and were dismissed.[5]

A jury trial commenced on November 10, 2016 (the "2016 Trial"). Coates testified and called several witnesses, including John Lake, a former coworker at Marcantoni, family members, and various scientific and industrial experts.[6] On December 2, 2016, the case was submitted to the jury with a special verdict form. The jury returned a verdict in favor of Coates on his negligent failure to warn claims, finding that Coates developed malignant mesothelioma as a result of his exposure to asbestos; that he was exposed to

[2] Ford and Mack Truck were co-defendants in the 2016 trial.

[3] Appellant resolved its claims against Mack Trucks about one week before the start of the retrial.

[4] Cross-claims against CertainTeed alleged amphibole asbestos from CertainTeed pipes were a substantial contributing factor in causing Coates' mesothelioma.

[5] A settlement was reached with CertainTeed on the eve of the 2016 trial.

[6] Jerry Lauderdale, C.I.H., an industrial hygienist; James Millette, Ph.D., an environmental scientist; Arnold Brody, Ph.D., a cell biologist; David Rosner, Ph.D., a professor of public health; Murray Finkelstein, M.D., an epidemiologist; John Maddox, M.D., a pathologist were called to testify on behalf of Coates.

asbestos containing products or equipment manufactured, supplied, or sold by Ford and Mack, that exposure was a substantial factor in causing him to develop malignant mesothelioma; and that Ford and Mack were ultimately negligent in failing to warn Coates about the dangers of asbestos. However, the jury found in favor of Ford and Mack Trucks on strict liability failure to warn.[7] Coates was awarded $5 million in non-economic damages and $72,000 for past medical expenses.

Following trial, Ford and Mack moved for a new trial and judgment notwithstanding the verdict ("JNOV").[8] Both motions were denied. Ford and Mack appealed to this Court arguing (1) the jury's verdict on the negligence claim was irreconcilably inconsistent with

[7] The jury also found Coates' exposure to asbestos containing products manufactured, sold, or supplied by CertainTeed was not a substantial contributing factor causing his malignant mesothelioma.

[8] The questions originally presented by Ford were:

A. Did the Circuit Court err in refusing to grant a new trial where the jury's finding that Ford is liable for negligent failure to warn is inconsistent with its finding that Ford is not liable for strict liability failure to warn?

B. Did the Circuit Court err by: (1) instructing the jury regarding causes of action that Plaintiff did not pursue; (2) failing to instruct the jury that Plaintiff is required to prove that Ford's alleged failure to warn caused his injuries; (3) failing to instruct the jury concerning the definition of substantial contributing factor causation or medical causation; (4) permitting the jury to hold Ford liable for Plaintiff's exposure to products manufactured by others?

C. Did the Circuit Court err in denying Ford's motion for judgment notwithstanding the verdict on its cross-claim against CertainTeed where the evidence and Plaintiff's own admissions establish that CertainTeed failed to warn Plaintiff, that Plaintiff was exposed frequently, regularly, and in close proximity to asbestos from CertainTeed cement pipe, and that those exposures caused Plaintiff's mesothelioma?

its verdict on strict liability failure to warn; (2) the trial court gave erroneous jury instructions; and (3) the trial court erred in denying Ford and Mack's motions for JNOV on the verdict in their cross-claim against CertainTeed or, alternatively they were entitled to a new trial on their cross-claim against CertainTeed.

In an opinion filed May 11, 2018, this Court held "the trial court erred by giving a jury instruction on negligence that was not generated by the evidence." *Mack Trucks, Inc. v. Coates*, 2018 Md. App. 2018 WL 2175932, at *2 (Md. Ct. Spec. App. May 11, 2018). Although this Court held "Mack and Ford did not preserve for review their inconsistent verdicts argument," we concluded "the verdicts were illogical, likely as a result of the improperly given instruction," and thus, "Mack and Ford were prejudiced by the instructional error." *Id.* We further held "the evidence against Mack was legally sufficient to support the negligence verdict against it." *Id.* Accordingly, we reversed "the judgments against Mack and Ford and remand[ed] for further proceedings on the negligence claims against them not inconsistent with this opinion." *Id.* This Court's order stated:

> JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY IN FAVOR OF THE APPELLEE ON NEGLIGENT FAILURE TO WARN REVERSED. JUDGMENTS IN FAVOR OF CERTAINTEED CORPORATION ON CROSS-CLAIMS AGAINST IT REVERSED. JUDGMENTS OTHERWISE AFFIRMED. CASE REMANDED TO THAT COURT FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY THE APPELLEE.

Id. at *26

On remand, appellant filed four separate motions requesting the trial court to preclude the issues of exposure and substantial factor causation on re-trial, including a Motion for an Immediate Status Conference to Define the Issues for Retrial and a Motion

for Partial Summary Judgment. The trial court denied all requests, holding that "[t]he retrial in this matter shall include all elements of [appellant's] negligence count against Defendants Mack Trucks, Inc. and Ford Motor Company." Claims against Mack were resolved before the start of the retrial. With Ford as the sole defendant, retrial began on February 4, 2019 (the "2019 Trial"). Following deliberations, the jury returned a verdict in favor of Ford, finding that Coates was not exposed to asbestos by products manufactured or sold by Ford. Appellant filed a Motion for New Trial on April 25, 2019, which was denied. This appeal timely followed.

I. The trial court did not abuse its discretion in denying appellant's Motion for Partial Summary Judgment.

Unlike a grant of summary judgment where we determine whether the trial court was legally correct, we review a trial court's denial of a motion for summary judgment for abuse of discretion. *Hous. Auth. of Baltimore City v. Woodland*, 438 Md. 415, 426 (2014). When presented with a motion for summary judgment, a court has discretion to "'affirmatively . . . deny . . . a summary judgment request in favor of a full hearing on the merits; and this discretion exists even though the technical requirements for the entry of such a judgment have been met.'" *Id.* (quoting *Metropolitan Mortgage Fund, Inc. v. Basiliko*, 288 Md. 25, 28 (1980)). In the absence of clear abuse of discretion, the decision of the trial judge "will not be disturbed." *Basiliko*, 288 Md. at 28.

Here, appellant sought partial summary judgment on the issues of exposure and substantial factor causation. Appellant claims he was entitled to a partial summary judgment "because Ford failed to comply with Md. Rule 2-501(b), failed to respond to the

substance of Plaintiffs' motion failed to identify any material fact in dispute, and failed to cite any affidavit, testimony or statement under oath." "Ford's deficient response was insufficient to prevent entry of partial summary judgment against it on those issues."

Ford counters by stating that it opposed the motion on the grounds that the retrial should include all elements of the negligent count. Specifically, Ford argued "the instructional errors on negligence and proximate cause infected the entire judgment against Ford and Mack, and there are no individual issues that can be fairly severed for retrial." Ford further asserts that appellant waived the "argument concerning Ford's response brief, Ford's summary judgment response was not defective, and the Circuit Court properly exercised its wide discretion in denying Plaintiffs' motion in favor of holding trial on the merits."

In denying appellant's motion, the court found Ford's response adequate stating "the papers and exhibits submitted by the parties are sufficient for this [c]ourt's consideration of the motion . . . A hearing would not aid the [c]ourt in the decision-making process," and thus, the court declined to hold a hearing. While appellant argues Ford's response was lacking, the court did not view it that way.

Appellant also claims it was an abuse of discretion for the court to deny the motion for partial summary judgment without explanation and without holding a hearing. Maryland Rule 2-311(f) provides:

> 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(f). In the motion for partial summary judgment, appellant did not request a hearing. Further, Maryland Rule 2-501, which governs motions for summary judgment, does not expressly require one be held. Thus, it was for the court to determine whether a hearing was necessary, and under these circumstances, it was not an abuse of discretion for the trial judge to forgo holding one.

Generally, no party is entitled to a summary judgment as a matter of law. *Dashiell v. Meeks*, 396 Md. 149, 165 (2006). A judge, hearing such motion, has wide discretion to grant summary judgment or to allow the case to proceed on the merits. As stated by the Court of Appeals in *Metropolitan Mortgage Fund, Inc. v. Basiliko*,

> a denial . . . of a summary judgment motion, as well as foregoing the ruling on such a motion either temporarily until later in the proceedings or for resolution by trial of the general issue, involves not only pure legal questions but also an exercise of discretion as to whether the decision should be postponed until it can be supported by a complete factual record . . . absent clear abuse (not present in this case), the manner in which this discretion is exercised will not be disturbed.

Basiliko, 288 Md. at 29.

Here, the Court had presided over the previous trial, was familiar with the evidence, the procedural posture of the case and the rulings from this court. Given this history, we cannot find that its decision to allow the case to be heard and submitted to the jury for its determination was "manifestly unreasonable or exercised on untenable grounds or for untenable reasons." *Goodman v. Commercial Credit Corp.*, 364 Md. 483, 492 (2001).

II. The trial judge did not abuse her discretion in denying the motion for a new trial.

We review the decision to grant or deny a motion for a new trial for abuse of discretion. *Mason v. Lynch*, 151 Md. App. 17, 28 (2003), *aff'd*, 388 Md. 37 (2005). An appellate court does not generally disturb the exercise of a trial court's discretion in denying a motion for a new trial. *Buck v. Cam's Broadloom Rugs, Inc.*, 328 Md. 51, 57 (1992) (citations omitted). "Motions for new trial on the ground of weight of the evidence are not favored and should be granted only in exceptional cases, when the evidence preponderates so heavily against the verdict that it would be a miscarriage of justice to let the verdict stand." *Yorke v. State*, 315 Md. 578, 583 (1989).

Typically, assessing the weight of the evidence is the role of the jury. See *Fowler v. Benton*, 245 Md. 540, 545 (1967) ("[t]he jury alone have the right and power to judge of the weight of the evidence."). Upon review of a motion for new trial, a judge may set aside a jury verdict because it was against the weight of the evidence. *Cam's Broadloom Rugs, Inc.*, 328 Md. at 61. The moving party bears the burden of persuading the court that the alleged error had a "substantial likelihood of causing an unjust verdict." *Isley v. State*, 129 Md. App. 611, 619 (2000), *rejected on other grounds*, 367 Md. 17 (2001). "[A] claim that the verdict is against the weight of the evidence requires assessment of credibility and assignment of weight to evidence—a task for the trial judge," rarely to be disturbed on appeal. *Cam's Broadloom Rugs, Inc.*, 328 Md. at 61.

Here appellant filed a Motion for New Trial, arguing in part, the verdict was against the weight of the evidence. The court denied the motion and appellant now argues the

court abused its discretion by failing to grant its motion. Appellant contends "there is no indication the trial court considered at all, the procedural history of the case, including the 2016 verdict and appeal, the extent of the 2019 evidence and Ford's many and repeated concessions that Coates was exposed to the asbestos fibers released from its brakes." According to appellant, the record is absent of any showing that the court properly exercised its discretion and thus reversal is required. In response, Ford asserts, "there was ample evidence to support the jury's finding."

Appellant argues several reasons support his claim that the verdict is against the weight of the evidence. Specifically, Coates, in regularly performing the tasks of a mechanic, was in a contaminated Marcantoni shop. He was "exposed to dangerous concentrations of asbestos fibers" when he would open boxes of Ford brakes, use wire brushes and high pressure compressed air to blow brake wear dust from Ford trucks, and was near Ford brake shoes when they were sanded. He asserts "Ford repeatedly conceded Coates performed the tasks of brake repair workers and even admitted he was thereby exposed to the asbestos fibers released from its brakes." Lastly, Appellant asserts "Even Ford's experts admitted that workers who performed the same tasks as Coates were exposed to asbestos."

In contrast, Ford presented evidence that Coates was not a mechanic and had spent years prior to his work at Marcantoni performing other jobs that could have potentially exposed him to asbestos, such as brick and pipe laying. Ford also produced evidence that Coates believed his exposure to asbestos was a result of his work as a pipefitter. Notes from Coates' treating physician stated "patient got exposed to asbestos as a pipefitter."

Additionally, Coates testified that his time in the shop when brakes were replaced on Ford dump trucks was limited to five or six times a year over a course of four years or five years.

Ford's expert witness Lucian Chirieac, M.D., a pulmonary oncology pathologist, testified that despite the brake pads having chrysotile asbestos fibers, they were "subjected to large [friction] forces . . . and high temperatures" that any chrysotile fibers "get destroyed and there's not chrysotile anymore." Instead, under high temperatures chrysotile fibers "actually get transferred to a completely different type of product or compound which is called forsterite," which "a lot of research publications [] say that these have no effect on [the] human body." Also, Ford's expert in industrial hygiene, risk assessment, and toxicology, Dennis Paustenbach, Ph.D., testified that during braking, brake pads "get very hot" and "are under a lot of pressure" so "chrysotile asbestos fibers, under the heat and pressure, convert, they no longer stay asbestos." Paustenbach ultimately concluded that "Mr. Coates was not at increased risk of mesothelioma as a result of his exposure to these friction products." Although Garabrandt, Ford's expert in epidemiology, stated that asbestos "exposure levels of brake repair workers have been well characterized," he concluded "a person doing brake repair work would have an exposure level above [background level]" but "not high enough to put them at any measurably increased risk of mesothelioma."

Moreover, the statements appellant points to in demonstrating that Ford's counsel admitted Coates was exposed to asbestos fibers released from Ford brakes, were made during either its opening statement or closing argument, and thus, were not evidence considered by the jury. See *Keller v. Serio*, 437 Md. 277, 288 (2014) (explaining

opening statements are not evidence); see also, *Farley v. Allstate Ins. Co.*, 355 Md. 34, 56 (1999) ("the remarks of counsel in closing arguments are not evidence."). Appellant also argues that Ford's witnesses "admitted that the workers . . . were exposed to asbestos." Ford characterizes this assertion as misleading.

Based on our review of the record and the evidence presented, a jury could have reasonably found Coates was not exposed to the asbestos fibers released from Ford brakes. There was substantial evidence on both sides, to support the theories and positions argued, including expert testimony. A jury is free to believe all, part or none of the testimony of any witness. See *Mason v. Lynch*, 151 Md. App. 17, 30, (2003), *aff'd*, 388 Md. 37 (2005). As such, we cannot substitute our judgment for that of the trial judge when the trial judge had the opportunity to "closely observe the entire trial, complete with nuances, inflections, and impressions never to be gained from a cold record . . ." *Cam's Broadloom Rugs, Inc.*, 328 Md. at 59. We hold the trial judge did not abuse her discretion in denying the motion for new trial and further, the trial judge was not required to set out the details of her thought process. "Trial judges are presumed to know the law and to apply it properly." *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 426 (2007) (internal quotations omitted).

III. The court did not err in determining the doctrines of res judicata and collateral estoppel did not bar retrial of the issues of exposure and substantial factor causation.

Plaintiff argues "the doctrines of res judicata and collateral estoppel barred retrial of the exposure and substantial factor causation issues fully resolved in 2016 and not appealed by Ford." Conversely, Ford asserts "neither res judicata nor collateral estoppel precluded Ford from contesting exposure and substantial factor causation in the 2019 trial"

because there was no valid final judgment on the merits to invoke either doctrine and appellant waived his argument that collateral estoppel applies. We agree.

On appeal, "[w]e review without deference . . . questions of law, such as a determination as to the applicability of the doctrines of res judicata and collateral estoppel." *Bank of New York Mellon v. Georg*, 456 Md. 616, 666 (2017). Thus we will exercise a *de novo* review "and shall not set aside the [trial] court's findings of fact unless they are clearly erroneous." *Id.* Maryland Rule 8-131(a) provides that, except for jurisdiction of the trial court, "[o]rdinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court." Md. Rule 8-131(a).

Appellant claims the issue of collateral estoppel was before the trial court as it was raised in his motion for partial summary judgment. However, we do not find support for his assertion in the record because the issue does not appear to us to have been made in the motion. He claims he "framed res judicata and collateral estoppel, and preserved both for review," in the following argument to the lower court:

> [T]he jury found sufficient evidence of substantial factor causation as to Ford, i.e., sufficient evidence of Coates' exposure to asbestos attributable to Ford brakes. Ford did not challenge the jury's finding on appeal. The determination became the final judgment affirmed on appeal.
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> ***
>
> . . . Ford . . . chose to appeal only limited issues . . . The following jury verdicts and subsequent judgments of this Court were not appealed and were never before that court:
>
> 3. Coates was exposed to asbestos fibers from products . . . manufactured and/or sold by Ford;

> 4. With respect to Ford, Coates" exposure to asbestos- containing products was a substantial factor in causing his mesothelioma.
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> ***
>
> The jury . . . reasonably concluded that Plaintiff established the necessary elements of substantial factor causation as to Ford.
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> ***
>
> Therefore, the judgments in favor of the Plaintiff as to substantial factor causation were affirmed by the CSA and are not subject to retrial.
>
> ***
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> . . . [A]s to the issue of substantial factor causation, the jury determined that Ford . . . brakes contained asbestos, Coates was exposed to asbestos fibers from those products with sufficient regularity, frequency and proximity, that those exposures caused his . . . mesothelioma.

We find this argument unavailing. "Collateral estoppel is concerned with the issue implications of the earlier litigation of a different case, while *res judicata* is concerned with the legal consequences of a judgment entered earlier in the same cause." *Brown v. Mayor*, 167 Md. App. 306, 319–20 (2006) (internal quotations omitted). "Under the doctrine of collateral estoppel, '[w]hen an issue of fact or law is actually litigated and determined by a valid and final judgment and the determination is essential to the judgment, the determination is conclusive in a subsequent action between the parties, whether on the same or a different claim.'" *Id*. See also, *Ashe v. Swenson*, 397 U.S. 436, 443 (1970) (holding that collateral estoppel "means simply that when an issue of ultimate fact has once been determined by a valid and final judgment, that issue cannot again be litigated between the same parties in any future lawsuit."). For the doctrine of collateral estoppel to apply, the following four-part test that must be satisfied:

1. Was the issue decided in the prior adjudication identical with the one presented in the action in question?
2. Was there a final judgment on the merits?
3. Was the party against whom the plea is asserted a party or in privity with a party to the prior adjudication?
4. Was the party against whom the plea is asserted given a fair opportunity to be heard on the issue?

Id.

In the case at bar, collateral estoppel was not plainly raised in the motion and was not decided by the trial court. We thus, decline further review. See Md. Rule 8-131(a) ("[o]rdinarily, the appellate court will not decide any other issue unless it plainly appears by the record to have been raised in or decided by the trial court."). Assuming arguendo, the collateral estoppel argument was not waived, we hold that one of the critical factors of the four-part test was not met. As we shall discuss, there was no final judgment on the merits, and thus, collateral estoppel does not apply.

Turning to appellant's res judicata argument, we find this argument was preserved below, wherein appellant stated "[u]nder Md. Rule 1-104(b) and the doctrines of Law of the Case and res judicata, the previous jury's determinations and the holdings in the [Court of Special Appeal's] opinion are binding." Nevertheless, we hold res judicata is not applicable as there was no final judgment on the merits.

Res judicata, otherwise known as claim preclusion, "restrains a party from litigating the same claim repeatedly and ensures that courts do not waste time adjudicating matters which have been decided or could have been decided fully and fairly." *Anne Arundel Cty. Bd. of Educ. v. Norville*, 390 Md. 93, 107 (2005) (emphasis removed). The doctrine "avoids the expense and vexation attending multiple lawsuits, conserves the judicial

resources, and fosters reliance on judicial action by minimizing the possibilities of inconsistent decisions." *Id.* (quoting *Murray Int'l Freight Corp. v. Graham*, 315 Md. 543, 547 (1989)). For res judicata to apply:

> (1) the parties in the present litigation should be the same or in privity with the parties to the earlier case; (2) the second suit must present the same cause of action or claim as the first; and (3) in the first suit, there must have been a valid final judgment on the merits by a court of competent jurisdiction.

Id. Thus, "[i]f a final judgment exists as to a controversy between parties, those parties and their privies are barred from relitigating any claim upon which the judgment is based." *Id.* at 108.

Here, Coates' estate and Ford, the parties in the present litigation, are in privity with the parties to the original suit. Further, the present litigation presents the same negligence claim as the 2016 trial. Therefore, the first and second elements of res judicata are not in dispute. The pertinent question, however, is whether there was a final judgment entered in favor of Coates against Ford in the 2016 trial.

Appellant argues "that there was a valid judgment entered in favor of Coates and against Ford which, was not appealed or reversed," but was instead affirmed by this Court. Conversely, Ford asserts "following the 2016 trial, the [c]ircuit [c]ourt entered [a] judgment in favor of Mr. Coates on his negligence claim," but "this Court reversed that judgment" and "once that happened, there was no longer valid final judgment encompassing either the exposure or substantial factor causation findings in Mr. Coates' favor." We agree.

A "final judgment" is a judgment that "disposes of all claims against all parties and concludes the case." *Miller & Smith at Quercus, LLC v. Casey PMN, LLC*, 412 Md. 230, 241 (2010). See also, *In re Billy W.*, 386 Md. 675, 688 (2005) ("[A] final judgment" is one that "either determine[s] and conclude[s] the rights of the parties involved or den[ies] a party the means to 'prosecut[e] or defend[ ] his or her rights and interests in the subject matter of the proceeding.'") Here, this Court issued the following order:

> JUDGMENTS OF THE CIRCUIT COURT FOR BALTIMORE CITY IN FAVOR OF THE APPELLEE ON NEGLIGENT FAILURE TO WARN REVERSED. JUDGMENTS IN FAVOR OF CERTAINTEED CORPORATION ON CROSS-CLAIMS AGAINST IT REVERSED. JUDGMENTS OTHERWISE AFFIRMED. CASE REMANDED TO THAT COURT FOR FURTHER PROCEEDINGS NOT INCONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY THE APPELLEE.

In so doing, we reversed the negligence claim and remanded for further proceedings. As a result of the reversal and remand, there was no longer a final judgment for purpose of res judicata. As such, the trial court did not err in determining that the retrial should include all elements of the negligence count.

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