

COURT OF APPEALS OF VIRGINIA

Record No. 0731-25-2

POONAM MATHUR

v.

SHARAD MATHUR, INDIVIDUALLY AND AS THE EXECUTOR OF THE ESTATE OF
RAJENDRA PRASHAD MATHUR, ET AL.

Present: Judges AtLee, Ortiz and Senior Judge Humphreys

Argued at Richmond, Virginia

Opinion Issued August 25, 2026

FROM THE CIRCUIT COURT OF CHESTERFIELD COUNTY

David E. Johnson, Judge

Oliver T. Ward (Rachel L. Yates, Yates Appellate Law, on briefs), for appellant.

W. Brandon Cowan (CowanGates, on brief), for appellees.

PUBLISHED OPINION BY **JUDGE DANIEL E. ORTIZ**

The General Assembly enacted Code § 8.01-6.3 to cure common fatal naming defects in claims against representatives of decedent estates. The statute’s two subsections work in tandem to address common errors. Subsection (A) prescribes a naming convention by which a plaintiff must style a complaint against a fiduciary, and subsection (B) allows a plaintiff to amend a complaint with relation back to the date of filing if the complaint does not comply with the proper naming convention but “otherwise identifies” the proper party to the claim.

In her complaint seeking family allowance, exempt property, and an elective share of the estate of her deceased husband, Poonam Mathur failed to comply with the naming convention prescribed in subsection (A). Accordingly, the circuit court dismissed her complaint, concluding that Poonam had failed to identify the proper parties and the statute of limitations barred a new suit.

But despite her failure to properly style her complaint according to subsection (A), Poonam did name the proper party in the body of her complaint. On appeal, Poonam argues this entitled her to amend under the safe harbor provision in Code § 8.01-6.3(B). We agree. Finding that Poonam’s complaint “otherwise identifies” the proper party and that Poonam was entitled to amend her complaint with relation back to the date of filing under subsection (B), we reverse the judgment of the circuit court.

BACKGROUND¹

Poonam and Rajendra married in 1993. Rajendra had two daughters from a previous marriage, Sharad and Alta. Rajendra died testate on June 30, 2023, and named Sharad as the executrix of his estate. His will left Poonam only 25% of his retirement account. Rajendra’s will was admitted to probate² and in November and December 2023, Poonam filed claims for family allowance, exempt property, and her elective share of Rajendra’s estate.

On June 7, 2024, Poonam filed a complaint in the circuit court requesting family allowance, exempt property, and the elective share of Rajendra’s estate. She styled her complaint, “In re: Estate of Rajendra Prashad Mathur, Deceased[,] Date of Death: June 30, 2023.” The case style did not name Sharad personally or as the executrix of the estate as the party defendant, but the complaint did allege “[t]hat Rajendra’s will named Sharad Mathur executor of his estate.” In support of her requested relief, the complaint further alleged that Sharad and Alta were Rajendra’s two living children from a previous marriage, that “Rajendra’s will made no provision for Poonam

¹ The circuit court dismissed the suit based solely on the pleadings. Accordingly, we presume the facts alleged in the complaint are true and grant Poonam all reasonable inferences derived from those facts. *Givago Growth, LLC v. iTech AG, LLC*, 300 Va. 260, 264 (2021); *Fines v. Rappahannock Area Cmty. Servs. Bd.*, 301 Va. 305, 312 (2022). “Our recitation of the facts, of course, restates only factual allegations that, even if plausibly pleaded, are as yet wholly untested by the adversarial process.” *A.H. ex rel. C.H. v. Church of God in Christ, Inc.*, 297 Va. 604, 614 (2019).

² The record does not indicate when the will was admitted to probate.

other than that she would receive twenty-five percent of his retirement,” and that Poonam was entitled to a family allowance, exempt property, and an elective share of Rajendra’s estate.

After learning of the suit, Sharad, in her capacity as executor, filed a plea in bar³ by special appearance, arguing that, because Poonam did not properly style her complaint against Sharad as the executor of Rajendra’s estate, Poonam had failed to join all necessary defendants to the suit and the statute of limitations barred any new filing. Poonam conceded that the pleading failed to name the executor of the estate in the style, but argued that the body of the complaint identified Sharad, the proper party, which entitled her to amend her complaint to the proper style under subsection (B). Sharad countered that the statute did not apply because Poonam’s complaint failed to identify Sharad as the party defendant, in any capacity.

The circuit court granted Sharad’s motion and dismissed the suit. Relying on *Ray v. Ready*, 296 Va. 553 (2018), it reasoned that Poonam’s complaint failed to “identify the proper parties anywhere in the body of the complaint,” so the safe harbor provision of subsection (B) did not apply. The circuit court dismissed the action with prejudice, because the statute of limitations barred any new action against Sharad. Poonam appeals.

ANALYSIS

On appeal, Poonam argues the circuit court erred by dismissing her complaint with prejudice for failure to comply with Code § 8.01-6.3 because the complaint “otherwise identifies” the proper party by naming Sharad as the executrix of Rajendra’s estate. We agree.

“A plea in bar is a defensive pleading that reduces the litigation to a single issue, which, if proven, creates a bar to the plaintiff’s right of recovery.” *Stevens v. Jurnigan*, ___ Va. ___, ___ (Apr. 9, 2026) (quoting *Cooper Indus., Inc. v. Melendez*, 260 Va. 578, 594 (2000)). When

³ Sharad styled her pleading a “Motion to Dismiss and Plea in Bar.” Sharad did not argue that Poonam failed to state a claim or lacked jurisdiction, instead she was arguing that a single issue—failure to identify the executor—was dispositive of the case.

the circuit court takes no evidence on a plea in bar, we review the circuit court’s decision “functionally de novo.” *Clutteur v. Rosier*, 79 Va. App. 55, 64 (2023) (quoting *Plofchan v. Plofchan*, 299 Va. 534, 547 (2021)). In such cases, “we accept the plaintiff’s allegations in the complaint as true.” *Id.* (quoting *Plofchan*, 299 Va. at 547-48).

When a plea in bar depends on the identification of proper parties, “[w]hether a pleading has adequately identified the proper party to be sued is a question of law, which we review de novo.” *Id.* at 65 (quoting *Ray*, 296 Va. at 558). Issues of statutory interpretation and a circuit court’s application of a statute to its factual findings are further questions of law. *Id.*

“[A]ll suits and actions must be prosecuted by and against living parties, in either an individual or representative capacity.” *Ray*, 296 Va. at 558 (quoting *Rennolds v. Williams*, 147 Va. 196, 198 (1927)). Code § 8.01-6.3 prescribes a naming convention by which a plaintiff must bring a suit against a fiduciary, and the conditions for amendment should the plaintiff fail to comply with that convention. It provides:

A. In any action or suit required to be prosecuted or defended by or in the name of a fiduciary, including a personal representative, trustee, conservator, or guardian, the style of the case in regard to the fiduciary shall be substantially in the following form: “(Name of fiduciary), (type of fiduciary relationship), (Name of the subject of the fiduciary relationship).”

B. Any pleading filed that does not conform to the requirements of subsection A but otherwise identifies the proper parties shall be amended on the motion of any party or by the court on its own motion. Such amendment relates back to the date of the original pleading.

Code § 8.01-6.3.

Reading the statute as a whole, subsection (A) establishes a naming convention by which a plaintiff must style a complaint against a fiduciary. Subsection (B) then creates a safe harbor provision allowing a plaintiff who fails to conform to the naming convention in subsection (A), but “otherwise identifies” the proper party, to amend the complaint with relation back to the date of the

original pleading. Thus, by its plain terms, subsection (B) permits a plaintiff to amend the complaint to comply with subsection (A) if the complaint “otherwise identifies” the proper party. See Bryan A. Garner, *Garner’s Modern English Usage* 563 (5th ed. 2022) (defining “identify” as “to ascertain or demonstrate . . . who someone is”); see also *Identify*, *Black’s Law Dictionary* (12th ed. 2024) (defining “identify” as “[t]o look on as being associated (with)”).

The General Assembly enacted Code § 8.01-6.3 to address recurring fatal naming issues in complaints against fiduciaries. *Ray*, 296 Va. at 559. For example, in *Swann v. Marks*, 252 Va. 181, 184 (1996), our Supreme Court found that a plaintiff who filed a personal injury suit against a decedent’s estate, rather than the personal representative of the decedent’s estate, committed fatal misjoinder, given that “the personal representative [was] a living individual while the ‘estate’ [was] a collection of property.” Later, in *James v. Peyton*, 277 Va. 443 (2009), our Supreme Court again considered a personal injury suit naming an estate. Relying on *Swann*, the Court found that the plaintiff’s complaint failed to name the personal representative of the estate when “the pleading [was] read as a whole.” *Id.* at 455. In each case, the plaintiff’s failure to name the personal representative of the estate meant that the statutory limitations period continued to run. Thus, the General Assembly enacted Code § 8.01-6.3 after *Swann* and *James* to “obviate many of the fatal statute of limitations problems that have previously arisen with improper naming of parties or representatives.” *Ray*, 296 Va. at 560 (quoting 1 Charles E. Friend & Kent Sinclair, *Friend’s Virginia Pleading and Practice* § 6.03, at 6-14 (3d ed. 2018)).

But not all naming errors are correctable under this statute. In *Ray*, a case brought after the General Assembly enacted Code § 8.01-6.3, the plaintiff sued to claim her elective share of her deceased husband’s estate. 296 Va. at 556. Her complaint named “the ‘Estate of Keith F. Ready’ (the ‘Estate’) as the defendant” rather than “[t]he administratrix of the Estate, Katherine Ready.” *Id.* *Ray*’s complaint did not name Katherine anywhere, and failed to use “either the

terms or the concepts of a personal representative, administrator, or administratrix.” *Id.* On Ready’s motion, the circuit court dismissed the complaint as a nullity, rejecting Ray’s request to amend the suit under subsection (B). *Id.* at 556-57. The Supreme Court of Virginia affirmed the dismissal, holding that Ready “failed to ‘otherwise identif[y] the proper part[y]’ defendant in the complaint as filed, as required by subsection (B) as a necessary condition for obtaining the benefit of this safe-harbor provision.” *Id.* at 560 (alterations in original). Thus, under Code § 8.01-6.3, a plaintiff who brings a complaint against an estate and fails to name the proper party in the entirety of the complaint cannot amend under subsection (B) because the complaint does not “otherwise identify” the proper party.

Here, there is no dispute that Poonam failed to “substantially comply” with the naming convention in subsection (A). Subsection (A) required her to name Sharad as the executor of Rajendra’s estate in the style of the complaint. Poonam only partially complied with subsection (A) by naming the “Estate of Rajendra Prashad Mathur,” the subject of the fiduciary relationship, in the style of her complaint, before requesting the circuit court grant her the “family allowance, exempt property, and elective share” of the estate. So, whether Poonam is entitled to amend her complaint turns on if the complaint “otherwise identifies” Sharad as the proper party.

Unlike the plaintiff in *Ray*, Poonam’s complaint does name the proper party: Sharad Mathur, as Rajendra’s executor. Poonam alleges that “Rajendra’s will named Sharad Mathur executor of his estate.” Reading her complaint with all reasonable inferences derived from it, we can infer not only that Rajendra named Sharad as the executrix of his estate, but that she qualified as the executrix of his estate—an inference confirmed by Sharad’s response in her representative capacity. *See Givago Growth, LLC v. iTech AG, LLC*, 300 Va. 260, 264 (2021); *Fines v. Rappahannock Area Cmty. Servs. Bd.*, 301 Va. 305, 312 (2022). Thus, while Poonam did not identify Sharad as a party to the suit in the style of the complaint, the complaint does demonstrate

that Sharad is the executrix of the Rajendra's estate. Accordingly, the complaint "otherwise identifies" Sharad, in her representative capacity, as a proper party within the meaning of subsection (B). *See Ray*, 296 Va. at 560 (holding that a plaintiff who failed to name the fiduciary in the entirety of her complaint against a decedent's estate failed to "otherwise identify" the proper party to amend under subsection (B)).

This case is unique in that, unlike *Ray*, where "neither the name of the personal representative nor any reference thereto [were] anywhere to be found in the body of the complaint," Poonam's complaint identifies the proper party in the body despite the improper case style. *Id.* Given that Poonam's complaint "otherwise identifies" the proper party under subsection (B) by naming Sharad as the executrix of Rajendra's estate, Poonam was entitled to amend her complaint to comply with subsection (A) with relation back to the date of filing.⁴

CONCLUSION

For the foregoing reasons, we reverse the judgment of the circuit court and remand for further proceedings consistent with the holding of this opinion.

Reversed and remanded.

⁴ Because Poonam provided notice of this action to Sharad before the expiration of the statute of limitations, we do not reach the issue of whether a plaintiff's failure to provide notice to the proper party or parties within the six-month limitations period to seek an elective share would preclude amendment under subsection (B). In other words, we do not address a plaintiff's potential ability to move to amend under subsection (B) after the statute of limitations has expired and the plaintiff has provided no notice to the defendant.