Circuit Court for Baltimore County
Case No. 03-C-15-4824

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 1165

September Term, 2016

FREDERICK P. WINNER, LTD.

v.

PABST BREWING COMPANY

Kehoe,
Berger,
Reed,

JJ.

Opinion by Berger, J.

Filed: November 21, 2017

*This is an unreported opinion, and it may not be cited in any paper, brief, motion, or other document filed in this Court or any other Maryland Court as either precedent within the rule of stare decisis or as persuasive authority. Md. Rule 1-104.

This appeal arises from the termination by Pabst Brewing Company, Inc. ("Pabst") of distribution rights that it had previously granted to Frederick P. Winner, Ltd. ("Winner"), a beer distributor operating in and around Baltimore, MD. After Pabst's holding company was sold on November 13, 2014, Pabst believed that it had become a "successor beer manufacturer" as defined by Maryland statute and was, therefore, entitled to terminate Winner's distributorship.[1] Pabst sent Winner a termination letter on March 9, 2015. Believing that Pabst's termination letter violated Maryland's Beer Franchise Fair Dealing Act ("BFFDA"),[2] Winner filed a complaint against Pabst ("Initial Complaint") on May 4, 2015 in the Circuit Court for Baltimore County.

In its Initial Complaint, Winner sought a declaration that Pabst had violated the BFFDA and an order prohibiting Pabst from terminating Winner's distributorship or giving Winner's rights to other distributors. The Initial Complaint was flawed, however, because it referred to the wrong contract. On January 21, 2016, Winner filed an amended complaint ("Amended Complaint") that corrected this mistake, making it clear that Winner's claim was based on a newer contract in force when Pabst sent its termination letter. Winner also made two significant changes to the prayer for relief. In addition to the original request

[1] At the time of the acquisition, the rights and obligations of a successor beer manufacturer were governed by Md. Code (1957, 2011 Repl. Vol.), § 21-103 of Article 2B (black volume). Effective July 1, 2016, this statute was moved to Md. Code (2016 Repl. Vol.), § 5-201 of the Alcoholic Beverages Article (red volume).

[2] When Winner received the termination letter, the BFFDA was codified at Md. Code (1957, 2011 Repl. Vol.), § 17-101 – § 17-107 of Article 2B (black volume). Effective July 1, 2016, the statute was moved to Md. Code (2016 Repl. Vol.), § 5-101 – § 5-109 of the Alcoholic Beverages Article (red volume).

for declaratory relief, the Amended Complaint sought the fair market value of the distribution rights. Winner also revised its request for injunctive relief to reflect the fact that Pabst had, by that time, completely terminated its relationship with Winner and entered into agreements with several successor distributors.

In response, Pabst filed a motion to strike the Amended Complaint on the grounds that Winner had waited too long to amend its Complaint, resulting in prejudice to Pabst. Winner then filed a motion for partial summary judgment, seeking a declaratory judgment in its favor, an injunction to enforce its rights, and a hearing on damages, costs, and legal fees. The same day, Pabst filed its own motion for summary judgment, arguing that both the Initial Complaint and the Amended Complaint failed to state a cognizable claim. The circuit court, agreeing that the Amended Complaint would result in prejudice to Pabst, granted Pabst's motion to strike the Amended Complaint. The circuit court then granted Pabst's motion for summary judgment and denied Winner's motion for partial summary judgment.

Winner presents three issues for appeal, which we have reworded as follows:

1. Whether the circuit court abused its discretion in striking the Amended Complaint.

2. Whether the circuit court erred in granting summary judgment in favor of Pabst on all counts.

3. Whether the circuit court erred in denying Winner's motion for partial summary judgment as to liability.

Factual Circumstances

On April 30, 2014, Winner entered into a distributorship agreement ("2014 Agreement") with Pabst, a supplier of malt beverages operating in Maryland as a non-resident dealer. Under the 2014 Agreement, Winner had the right to sell twenty-two brands of Pabst products. The 2014 Agreement supplanted a previous distributorship agreement that Pabst had made with an earlier incarnation of Winner on January 31, 1994 ("1994 Agreement").[3]

When the parties entered into the 2014 Agreement, Pabst was a Delaware corporation and a wholly-owned subsidiary of Pabst Holdings Inc., which was, in turn, a wholly-owned subsidiary of Pabst Corporate Holdings, Inc. On November 13, 2014, Pabst became a Delaware limited liability company. On the same day, Pabst Corporate Holdings, Inc. sold its interest in Pabst Holdings, Inc. to Blue Ribbon, LLC. In the wake of the acquisition, Pabst replaced all of its directors and officers.

On March 9, 2015, Pabst informed Winner that it was terminating Winner's distribution rights effective May 8, 2015. In Pabst's view, Pabst had become a "successor beer manufacturer" as defined by the BFFDA and was, therefore, entitled to terminate its agreement with Winner. In response, Winner's attorney sent a letter to Pabst asserting that Pabst was not a "successor beer manufacturer" and that, consequently, Pabst had no legal

[3] The current incarnation of Winner is the result of a merger between Frederick P. Winner, Ltd. and MMA Beverage Inc. that occurred on April 28, 2014. Although this change in corporate form was apparently the catalyst for the 2014 Agreement between Winner and Pabst, it is not relevant to our resolution of the case.

right to terminate the 2014 Agreement. Despite Winner's protest, Pabst refused to rescind its termination letter.

Procedural History

On May 4, 2015, Winner filed a complaint in the Circuit Court of Baltimore County asserting two causes of action: (1) an action for declaratory judgment; and (2) an action for breach of contract. The Initial Complaint sought the following forms of relief: (a) a declaration that Pabst had no basis to terminate Winner's franchise; (b) a permanent injunction prohibiting Pabst from terminating Winner's distributorship; (c) an order preliminarily and permanently enjoining Pabst from contracting with other distributors for Winner's territories; (d) an order preliminarily and permanently enjoining Pabst from interrupting delivery of Pabst products to Winner, and (e) an award of damages Winner sustained as a result of Pabst's violations of the BFFDA.

Winner's Initial Complaint, however, contained a few mistakes. Although Winner's relationship with Pabst was governed by the 2014 Agreement, the Initial Complaint referred to the 1994 Agreement as the basis for Winner's claims. The Initial Complaint did not explicitly mention the 2014 Agreement at all, although it contained language consistent with an ongoing contractual relationship. Winner also attached the 1994 Agreement, rather than the 2014 Agreement, to the Initial Complaint.

On June 19, 2015, Pabst notified Winner that it was terminating product deliveries to Winner effective July 24, 2015, at which point the successor distributors would take over distribution of the Pabst brands. On July 21, 2015, the circuit court issued a scheduling order. Under the scheduling order, discovery was to be closed by on January 9,

2016, and all motions (excluding motions in limine), were to be filed on or before January 24, 2016.

On August 3, 2015, Pabst sent a letter to Winner reiterating that Winner's distribution rights had been terminated and that henceforth its brands could only be distributed by the successor distributors. On August 4, 2015, Winner filed a request for a temporary restraining order ("TRO") against Pabst. The circuit court denied the request. Thereafter, Pabst completed the termination of Winner's rights and entered into distribution agreements with seven local distributors.

On January 21, 2016, Winner filed the Amended Complaint without leave of the circuit court. The Amended Complaint left the basic claims of the Initial Complaint intact. It corrected the Initial Complaint, however, by referring to the 2014 Agreement as the basis for Winner's contractual claims. The Amended Complaint also anticipated a finding that Pabst was, indeed, a "successor beer manufacturer," arguing that such a finding would actually entitle Winner to an award of the fair market value of the distribution rights. Finally, the Amended Complaint revised the request for injunctive relief by seeking an order requiring Pabst to reinstate Winner and terminate the successor distributors.

On February 4, 2016, Pabst filed a motion to strike the Amended Complaint. On January 27, 2016, Winner filed a motion for partial summary judgment. The same day, Pabst filed its own motion for summary judgment. On March 3, 2016, the clerk of the circuit court issued a notice setting a trial date for October 17, 2016.

On April 26, 2016, the circuit court entertained a hearing on the open motions. Thereafter, on June 28, 2016, the Circuit Court for Baltimore County issued a

Memorandum Opinion on the parties' motions. The circuit court granted Pabst's motion to strike the Amended Complaint on the grounds that allowing it to stand would result in prejudice to Pabst. The circuit court then granted Pabst's motion for summary judgment, finding that the Initial Complaint's request for declaratory judgment was moot and that the contractual claim failed because the 1994 Agreement was no longer in force. Although the circuit court had stricken the Amended Complaint, it nonetheless proceeded to address Pabst's arguments concerning the Amended Complaint. Finally, the circuit court considered Winner's motion for partial summary judgment, which it understood to be based on the contract claim in the Amended Complaint. The Circuit Court, siding with Pabst on the merits, denied Winner's motion for partial summary judgment.

DISCUSSION

I. Standard of Review

A. Standard of Review for the Grant of a Motion to Strike an Amended Complaint.

The decision to grant or deny a motion to strike an amended complaint is "within the sound discretion of the trial court." *Bacon v. Arey*, 203 Md. App. 606, 667 (2012). We review such decisions, therefore, for abuse of discretion. *Hendrix v. Burns*, 205 Md. App. 1, 45 (2012), citing *Schmerling v. Injured Workers' Ins. Fund*, 368 Md. 434, 443-44 (2002). A trial court abuses its discretion when it adopts a view that "no reasonable person would take" or "acts without reference to any guiding rules or principles." *Bord v. Baltimore Cty.*, 220 Md. App. 529, 566 (2014) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 312 (1997)). A trial court also abuses its discretion when it issues a ruling that is

"clearly against the logic and effect of facts and inferences before the court, or when the ruling is violative of fact and logic." *Id.* Under this standard, an appellate court may not reverse the trial court's decision unless it was "well removed from any center mark imagined by the reviewing court." *Santo v. Santo*, 448 Md. 620, 626 (2016) (quoting *In re Adoption/Guardianship No. 3598*, 347 Md. 295, 313 (1997))

B. Standard of Review for the Grant of a Motion for Summary Judgment.

We review a circuit court's decision to grant summary judgment to determine whether the court was correct as a matter of law. *Piscatelli v. Van Smith*, 424 Md. 294, 305 (2012) (citing *Rosenberg v. Helinski*, 328 Md. 664, 674 (1992)). Our review of a circuit court's grant of summary judgment is *de novo*. *See Torbit v. Baltimore Cty Police Dep't*, 231 Md. App. 573, 586 (2017) (citing *Roy v. Dackman*, 445 Md. 23, 39 (2015)); *see also Carter v. Aramark Sports & Entm't Servs., Inc.*, 153 Md. App. 210, 224 (2003) ("Our review over a circuit court's decision on summary judgment is plenary.") (citing *Hemmings v. Pelham Wood Ltd. Liab. P'ship*, 375 Md. 522, 533 (2003)).

Maryland Rule 2-501, which governs the circuit court's decision whether to grant summary judgment, provides the following: "[a]ny party may file a written 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. Rule 2-501(f). As the Court of Appeals explained in *Roy v. Dackman*,

> We "review independently the record to determine whether the parties generated a dispute of material fact and, if not, whether the moving party was entitled to judgment as a matter of law." *Tyler v. City of Coll. Park*, 415 Md. 475, 499, 3 A.3d 421, 434 (2010) (citing *Charles Cnty. Comm'rs*, 393 Md. at 263, 900

> A.2d at 762). This review is done in "the light most favorable to the non-moving party and [we] construe any reasonable inferences that may be drawn from the well-plead facts against the moving party." *Id.*

445 Md. 23, 39 (2015), *reconsideration granted* (Nov. 24, 2015).

C. Standard of Review for the Denial of a Motion for Summary Judgment.

When reviewing a denial of a motion for summary judgment, we generally ask whether the trial court abused its discretion. *Hous. Auth. of Baltimore City v. Woodland*, 438 Md. 415, 426, 92 A.3d 379, 386 (2014). When the denial of a motion for summary judgment does not involve an exercise of discretion, however, we review the denial of the motion *de novo*. *See Amalgamated Transit Union v. Lovelace*, 441 Md. 560, 565 n. 4 (2015) (holding that *de novo* review of a denial of a motion for summary judgment was appropriate because the relevant facts were undisputed and therefore "the factual record was complete with respect to the issue under consideration").

II. The Trial Court Abused Its Discretion In Granting Pabst's Motion to Strike the Amended Complaint.

We hold that the trial court abused its discretion in granting Pabst's motion to strike the Amended Complaint. Pabst carried the burden of showing that the Amended Complaint, if not stricken, would result in prejudice or undue delay, and Pabst failed to satisfy its burden. First, Pabst argued that Winner waited too long to amend its pleading, but Winner filed its Amended Complaint before Pabst moved for summary judgment and well before the trial date was established. Secondly, Pabst argued that the Amended Complaint changed the operative fact pattern of the case, but all of Winner's claims in both pleadings arose out of the same transaction -- namely, Pabst's termination of Winner's

distribution rights. Pabst further argued that the Amended Complaint would have forced it to "to redo activities that had already cost it hundreds of thousands of dollars in legal fees." Our review of the record demonstrates that Pabst failed to show that litigating the Amended Complaint would have resulted in unnecessary or wasted costs. Given that Pabst failed to carry its burden on multiple fronts, and in light of Maryland's liberal policy toward amended pleadings, we conclude that the trial court's decision was far enough from the "center mark" to warrant reversal.[4]

Maryland Rule 2-341 provides that "[a] party may file an amendment to a pleading without leave of court by the date set forth in a scheduling order or, if there is no scheduling order, no later than 30 days before a scheduled trial date." An amended pleading may seek, among other things, to "change the nature of the action or defense," to "set forth a better statement of facts concerning any matter already raised in a pleading," and to "make any other appropriate change." *Id.* As to whether a particular amendment should be granted or denied on a motion to strike, Rule 2-341 dictates that "[a]mendments shall be freely allowed when justice so permits." *Id.* The purpose of Maryland's liberal policy toward amended pleadings is to ensure that "cases will be tried on their merits rather than upon the niceties of pleading." *Bord*, *supra*, 220 Md. App. at 566 (quoting *Crowe v. Houseworth*, 272 Md. 481, 485 (1974)).

[4] Winner also failed to file a comparison copy with its Amended Complaint as required by Maryland Rule 2-341(e). The trial court observed that "failure to file a comparison copy is not in and of itself sufficient to warrant a finding that the Defendant is prejudiced." We agree. The requirement of a comparison copy, while important, must be enforced in a manner consistent with Rule 2-341 as a whole, which, as we discuss below, adopts a liberal policy toward amended pleadings.

Because Rule 2-341 mandates a liberal policy toward amended pleadings, "it is a rare situation in which the granting of leave to amend is not warranted." *Asphalt & Concrete Servs., Inc. v. Perry*, 221 Md. App. 235, 269 (internal citations omitted), *aff'd sub nom. Perry v. Asphalt & Concrete Servs.*, 447 Md. 31 (2016), *reconsideration denied* (Apr. 21, 2016); *see also RRC Ne., LLC v. BAA Maryland, Inc.*, 413 Md. 638, 673-74 (2010). A trial court should strike or deny an amended pleading, however, "if it would result in prejudice to the opposing party or undue delay, such as where an amendment would be futile because the claim is flawed irreparably." *RRC Ne., LLC*, *supra*, 413 Md. at 673-74. The burden of showing prejudice or undue delay falls on the party opposing amendment. *Mattvidi Assocs. Ltd. P'ship v. NationsBank of Virginia, N.A.*, 100 Md. App. 71, 83 (1994).

A. The Timing of the Amended Complaint Did Not Cause Prejudice or Undue Delay.

In support of its motion to strike, Pabst pointed to Winner's tardiness in filing the Amended Complaint:

> It is clear that amending the complaint on January 21, 2016, *after* the expert report deadline, *after* the discovery deadline, and just three days before the dispositive motions deadline, is fatally late. [emphasis in the original].

The trial court agreed, noting that Winner "had ample opportunity to amend their Complaint prior to February 2016, but have failed to take action." To be sure, Winner could have -- and should have -- sought to amend as soon as it realized that the Initial Complaint referred to the wrong contract. The relevant question is not, however, whether the timing of Winner's amendment was justified; the critical inquiry is whether the timing

of the amendment resulted in prejudice or undue delay. *See RRC Ne., LLC*, *supra*, 413 Md. 638 at 673-74; *see also Mattvidi Assocs. Ltd. P'ship*, *supra*, 100 Md. App. at 83.

By default, Rule 2-341(a) allows parties to amend their pleadings without leave of the court until thirty days prior to trial. The implication of Rule 2-341(a) is that amended pleadings will need little judicial oversight unless they are filed fairly close to the trial date. Indeed, in nearly every case in which this court has upheld the denial of an amended complaint, the party seeking to file the amendment filed the Amended Complaint after the trial had started.[5] *See Bord*, *supra*, 220 Md. App. at 567-68 (plaintiff amended its complaint after the trial had begun and the opposing party had rested its case.); *see also Mattvidi Assocs. Ltd. P'ship*, *supra*, 100 Md. App. at 84-85 (plaintiff filed an amended answer on the day of trial); *see also E.G. Rock, Inc. v. Danly*, 98 Md. App. 411, 428-29 (1993) (party filed motion to amend after the close of evidence); *see also Bacon*, *supra*, 203 Md. App. at 669-70 (plaintiff filed after the case had been appealed and remanded).

The major outlier in this regard is *Berry v. Dep't of Human Res.*, in which we affirmed the trial court's denial of the filing of an amended complaint that was filed before

[5] There is one set of narrow circumstances in which the denial of an amended complaint is proper regardless of the trial date. In *RRC Ne., LLC v. BAA Maryland, Inc.*, the Court of Appeals affirmed the trial court's denial of leave to amend after the plaintiff repeatedly failed to allege sufficient facts to state a claim. 413 Md. 638, 673-75 (2010). In *Beyond Sys., Inc. v. Realtime Gaming Holding Co., LLC*, the Court of Appeals affirmed the trial court's striking of an amended complaint because, like the initial complaint, it did not establish a *prima facie* case. 388 Md. 1, 28–29 (2005). In both of these cases, the trial court denied the amended complaint because it failed to resolve a fatal flaw that had previously led to dismissal of the initial complaint. Here, Winner's Initial Complaint was never dismissed, and -- as we discuss below -- the mistaken references to the 1994 Agreement were not fatal.

the start of trial. 88 Md. App. 461, 466-68 (1991). In that case, however, the trial date had already been set and postponed once, and the amended complaint was filed fewer than three months before the original trial date. *Id.* In *Prudential Sec. Inc. v. E-Net, Inc.*, by contrast, we reversed the trial court's striking of an amended complaint in part "because a trial date was not set at the time the Amended Complaint was filed." 140 Md. App. 194, 234 (2001).

In the case at hand, Winner filed its Amended Complaint before a trial date was set and well before the disposition deadline,[6] giving Pabst sufficient time to prepare a defense against any new material in the Amended Complaint. Critically, when Winner filed the Amended Complaint on January 21, 2016, there was no trial date. The scheduling order did, however, provide a disposition deadline of November 30, 2016. Thereafter, on March 3, 2016, the circuit court set the trial date for October 17, 2016. As this timeline makes clear, Winner filed its Amended Complaint six weeks before a trial date was set and nine months before the disposition deadline. In contrast to the cases discussed above, Winner's Amended Complaint did not delay the resolution of an ongoing trial or require the court to reschedule an existing trial date. The trial date that was ultimately scheduled

[6] The "disposition deadline" is identified in the Scheduling Order under "Trial Date." The Scheduling Order provides the following:

> **Trial Date:** Please note that if the case does not settle in the initial Settlement Conference date set forth in this Order, an agreed trial date shall be obtained at the Settlement Conference. **The Disposition Deadline for this case is: 10/30/16.** The trial **must** be scheduled prior to the Disposition Deadline date.

gave the parties more than eight months to address any new facts and claims raised by the Amended Complaint.

B. The Amended Complaint Did Not Change the Operative Facts of the Case.

In support of its motion to strike, Pabst argued that the Amended Complaint was prejudicial because "the entire case was litigated under the allegations in the Original Complaint." In its brief before this Court, Pabst argues more explicitly that the Initial Complaint and the Amended Complaint do not "allege the same operative facts" because "the original Complaint alleges breach of a contract that was no longer in force, while the Amended Complaint alleges breach of an operational contract." In its memorandum supporting its motion to strike, Pabst also took issue with the new requests for relief in the Amended Complaint, arguing that it "would have approached nearly everything in this case differently if the allegations in the Amended Complaint had been timely made."

We have explained that "amendments to pleadings are to be allowed freely and liberally" so long as "the operative factual pattern remains essentially the same, and no new cause of action is stated invoking different legal principles." *Asphalt & Concrete Servs., Inc.*, *supra*, 221 Md. App. at 269 (internal citations omitted). Despite the apparent rigidity of this formulation, we have allowed parties to raise new claims in amended pleadings, so long as all the claims arise from the operative fact pattern alleged in the initial complaint. *See Prudential Sec. Inc.*, *supra*, 140 Md. App. at 233-34 (reversing the trial court's striking of an amended complaint that added six new counts based on a variety of

legal theories). This approach is consistent with Rule 2-341, which contemplates that parties will amend their pleadings to "change the nature of the action."

In the case at hand, Winner's Amended Complaint did not change the operative facts of the case. Taken as a whole, the Initial Complaint clearly alleges that Winner had a contractual right to distribute Pabst brands as of July 24, 2015, and that Pabst attempted to terminate Winner's distributorship on or around that time. For example, the Initial Complaint alleges that, following the holding company transaction on November 13, 2014,

> Pabst and FP Winner continued, renewed, and/or re-affirmed and furthered their "Franchise" in accordance with MFFDA § 17-101(b)(1) by seamlessly continuing to do business in the exact same fashion in which they had conducted business with one another for the prior 20 years.

More broadly, the Initial Complaint contains copious allegations of an ongoing business relationship between Pabst and Winner that would make little sense if the parties did not have an existing contractual arrangement. Although the Initial Complaint is incorrect about *which* contract Pabst terminated, it nonetheless alleges the existence of a contract between the parties and the termination of that contract by Pabst. These facts, which Pabst does not dispute, have formed the basis of all litigation between the parties since the filing of the Initial Complaint in these proceedings.

Another way to frame the inquiry into the operative fact pattern is to ask whether the claims raised by an amended pleading were truly a surprise to the opposing party. *See Bord*, *supra*, 220 Md. App. at 567 (upholding a denial of amendment because "appellee was not on notice that plaintiff would assert federal § 1983 constitutional violations"); *see*

also Hartford Acc. & Indem. Co. v. Scarlett Harbor Assocs. Ltd. P'ship, 109 Md. App. 217, 249 (1996), aff'd, 346 Md. 122, 695 A.2d 153 (1997) ("Thus, the Defendants had ample notice of the contention of a warranty of conformity with plans and specifications and, presumably, were prepared to defend against it."); *see also E.G. Rock, Inc.*, *supra*, 98 Md. App. at 428-29 ("Appellant BHP stated that its trial strategy would have been significantly different if it had notice of the indemnification claim.").

Here, Pabst could not have been surprised by the contents of the Amended Complaint. Pabst knew that Winner's distributorship was governed by the 2014 Agreement. Indeed, Pabst referred to the 2014 Agreement in the termination letter that prompted Winner to file the Initial Complaint. Moreover, the record demonstrates that some time passed before Pabst even noticed Winner's mistake. Pabst did not raise the issue, for example, in its August 5, 2015 opposition to Winner's TRO request. Nor did Pabst mention it at the TRO hearing the next day. Pabst was aware of Winner's mistake by September 17, 2015, when it asked Winner's CEO about the controlling contract at his deposition. Winner's CEO replied that his attorneys were "handling it." Having informed Winner that the Initial Complaint referred to the wrong contract, Pabst was on notice that Winner alleged a breach of the contractual relationship between the parties. Pabst was aware all along, however, that the crux of the dispute was its termination of the agreement between the parties.

Turning now to the prayer for relief in the Amended Complaint, we conclude that the new and revised material in this section arises from the same operative fact pattern alleged in the Initial Complaint. Winner's request for the fair market value of the

distribution rights is based on Md. Code (1957, 2011 Repl. Vol.), § 21-103 of Article 2B (black volume) ("Art. 2B"),[7] which makes such relief available to a beer distributor whose rights have been terminated by a "successor beer manufacturer." Pabst has argued from the inception of this case that it is a "successor beer manufacturer" and that its relationship with Winner was governed by Art. 2B § 21-103. In making this argument, Pabst should have known that it was exposing itself to a claim for the fair market value of the distribution rights. Indeed, Pabst knew that Winner had begun the process of seeking the fair market value by entering negotiations -- and, ultimately, mediation -- with the other distributors. The availability of this relief was not, therefore, a new issue when Winner filed its Amended Complaint, but merely an additional thread in the legal knot that was tied when Pabst terminated Winner's distributorship.

Winner's request for a mandatory injunction, likewise, arose from the same operative fact pattern. In its Initial Complaint, Winner asked for a preliminary injunction prohibiting Pabst from ceasing deliveries, terminating Winner's distribution rights, or granting those rights to another distributor. Winner later sought a TRO against Pabst, which the circuit court denied. Subsequently, Pabst completed its termination of Winner and entered into distribution agreements with several other distributors. In response to these changing circumstances, Winner updated its prayer for relief in the Amended Complaint, requesting that the trial court order Pabst to reinstate the 2014 Agreement and

[7] Effective July 1, 2016, this statute was moved to Md. Code (2016 Repl. Vol.), § 5-201 of the Alcoholic Beverages Article (red volume). Although the General Assembly made some minor changes for clarity when it moved the statute to the Revised Code, the current version is substantively the same for the purposes of the case at hand.

terminate the successor agreements. Such relief could only be granted if Pabst was not entitled by contract or statute to terminate Winner's distributorship. The request for a mandatory injunction, therefore, rests upon Winner's basic claim that the termination was invalid, which in turn arises from the same transaction alleged in the Initial Complaint. Inasmuch as Winner has been disputing Pabst's right to terminate from the beginning, Pabst was on notice that Winner might seek a reinstatement of the contract.

C. Allowing the Amended Complaint to Stand Would Not Impose Unnecessary Costs On Pabst.

In support of its motion to strike, Pabst argued that the Amended Complaint would force it to "to redo activities that had already cost it hundreds of thousands of dollars in legal fees." The trial court agreed, reasoning as follows:

> The Plaintiff's argument that an October trial date will allow the Defendant ample opportunity to prepare is not a sufficient reason to deny the Defendant's request to strike the Amended Complaint. This Court finds that despite the four months still remaining prior to trial, the Defendant still incurred substantial costs and prejudice in the time leading up to the April 21, 2016 hearing.

In its brief before this court, Pabst reiterates that it "spent hundreds of thousands of dollars litigating the whole case under the allegations in the original Complaint."

Amended pleadings prolong litigation by their very nature. Striking an amended complaint, then, is an easy way to expedite a case and reduce costs for all involved. Nonetheless, Rule 2-341 adopts a liberal policy toward amended pleadings. The fact that an amended complaint will require additional time and effort to litigate is not grounds for a denial of amendment. *See Prudential Sec. Inc.*, *supra*, 140 Md. App. at 234 ("The

prejudice complained of by appellees relates to further delay of the case and additional costs to be incurred, but costs and delay, although unfortunate, are not unusual in complicated commercial litigation."). A party may suffer prejudice if it incurs substantial costs pursuing a strategy that is later obviated by an amended pleading. *See Berry*, *supra*, 88 Md. App. at 468 (affirming the trial court's denial of leave to amend because the motion was not timely and "the defendants and the court were led into devoting their energies and resources into dealing with what remained of the initial complaint"). But a trial court cannot accept on faith a party's claim of unnecessary costs. *See Asphalt & Concrete Servs., Inc.*, *supra*, 221 Md. App. at 269–70 (observing that the defendant's claim of prejudice was unpersuasive because the defendant would not need to change its case strategy).

In the instant case, the new material in the Amended Complaint arose from the same operative factual pattern alleged in the Initial Complaint, and Pabst was on notice that it might have to litigate those issues. Pabst might have a better claim for prejudice if it had incurred substantial costs pursuing avenues that, upon the filing of the Amended Complaint, turned into dead-ends. The record suggests, however, that Pabst did not immediately notice Winner's mistaken references to the 1994 Agreement. Insofar as Pabst was aware of the mistake, it had no need to expend significant resources defending against a contract that was no longer in effect. As for the relief sought in the Amended Complaint, Winner added new requests for relief while leaving the original requests largely intact.[8]

[8] Although Winner deleted its original request for an order enjoining Pabst from terminating its distribution rights, this revision merely reflected the evolving circumstances of the parties and would require no real change in Pabst's case strategy.

Any costs that Pabst incurred attacking the original prayer for relief, therefore, would not be wasted if the Amended Complaint were allowed to stand.

For the foregoing reasons, we conclude that a much stronger showing of prejudice and undue delay would be needed for us to affirm the circuit court's decision to strike the Amended Complaint. Our conclusion is strengthened by a comparison of the current case to *Prudential Sec. Inc. v. E-Net, Inc.*, a business tort case involving certificates issued by a corporation without proper indication of restriction. 140 Md. App. 194 (2001). In that case, the plaintiff filed an amended complaint "shortly before the hearing on dispositive motions," adding six new counts based on a variety of legal theories. *Id.* at 233-34. The trial court struck the amended complaint because the new claims were based on information known to the plaintiff "well before" the filing and would require the opposing party to take additional discovery. *Id.* We reversed, noting that the amended complaint was filed in the absence of a trial date, did not change the operative fact pattern, and did not impose inordinate costs on the opposing party. *Id.* at 234. In light of these circumstances, we held that the trial court had abused its discretion in striking the amended complaint. *Id.*

Here, the Amended Complaint was filed in the absence of a trial date. It arose from the same operative fact pattern as the Initial Complaint. Had it been allowed to stand, Pabst would not have incurred inordinate costs. We hold, therefore, that Pabst failed to make the requisite showing of prejudice or undue delay that would justify the trial court's striking of the Amended Complaint. Given Pabst's failure to carry its burden, and in light of Maryland's liberal policy toward amended pleadings, we hold that the trial court abused its discretion in granting Pabst's motion to strike the Amended Complaint.

II. The Trial Court Erred In Granting Pabst's Motion for Summary Judgment and In Denying Winner's Motion for Partial Summary Judgment.

After granting Pabst's motion to strike the Amended Complaint, the circuit court granted Pabst's motion for summary judgment, finding that the Initial Complaint's request for declaratory judgment was moot and that the contract claim failed because the 1994 Agreement was no longer in force. The circuit court also denied Winner's motion for partial summary judgment. Because the circuit court's judgments here were necessarily constrained by its error in striking the Amended Complaint, we vacate the circuit court's order granting summary judgment in favor of Pabst.

We further hold that the circuit court applied the incorrect standard in deciding the motion. In considering Pabst's motion for summary judgment, the circuit court found that the first count in the Initial Complaint failed because "the termination has already occurred and has been implemented," whereas the second count failed "for failure to state a claim upon which relief may be granted." In analyzing Winner's motion, the circuit court found that Winner's claim was time-barred and that Winner was incorrect on the merits. The circuit court never found, however, that a genuine dispute of material fact was lacking. Indeed, the circuit court never acknowledged that such a finding was necessary. As a result of this procedure, the circuit court, in effect, converted Pabst's motion for summary judgment into a motion to dismiss, which was in error under the procedural posture of this case. Because we vacate the circuit court's granting of the motion to strike the Amended Complaint, we make no further holding on the parties' competing motions for summary judgment.

Upon granting the motion to strike the Amended Complaint, the trial court observed that "the only remaining claims are those contained in the Original Complaint." The trial court nonetheless proceeded to consider "*arguendo*" both parties' motions in light of the Amended Complaint. Indeed, the trial court's entire analysis of Winner's motion was based on the Amended Complaint. Because the Amended Complaint was no longer properly before the court, it was improper for the circuit court to consider the Amended Complaint in any respect in reaching its judgment. We will not, therefore, address those portions of the memorandum opinion that address an Amended Complaint that the trial court had improperly stricken.

JUDGMENT OF THE CIRCUIT COURT FOR BALTIMORE COUNTY VACATED. CASE REMANDED TO THE CIRCUIT COURT FOR FURTHER PROCEEDINGS CONSISTENT WITH THIS OPINION. COSTS TO BE PAID BY APPELLEES.