

Circuit Court for Anne Arundel County  
Case No. C-02-CV-20-000521

UNREPORTED  
IN THE APPELLATE COURT  
OF MARYLAND

No. 1913

September Term, 2021

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NICHOLAS SHANEFELTER

v.

JAMES EDWARD HOOD, JR.

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Wells, C.J.,  
Graeff,  
Arthur,

JJ.

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Opinion by Arthur, J.

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Filed: January 4, 2023

\*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.

To facilitate the prompt settlement of decedents’ estates, a person must “present” a claim against an estate within six months after the decedent’s death or two months after the personal representative mails or delivers proper notice of the need to file a claim within two months, whichever comes first. Maryland Code (1974, 2022 Repl. Vol.), § 8-103(a) of the Estates and Trusts Article (“ET”). In general, if a claimant fails to meet those statutory deadlines, the claim is “forever barred.” *Id.*

If, however, the decedent had insurance coverage for the claim, the claimant need not present a timely claim against the estate, as long as the claimant files suit against the estate before the applicable statute of limitations has run. ET § 8-104(e)(1). In that event, a judgment against the estate is not limited to the amount of insurance coverage, but the amount of the judgment that is recoverable from the estate is limited to the amount of the policy. ET § 8-104(e)(2)(i)-(ii). In essence, the case becomes an action against the insurance policy. *See Greentree v. Fertitta*, 338 Md. 621, 628 (1995).

In this case, the Circuit Court for Anne Arundel County employed ET § 8-104(e)(2) to limit the amount recoverable from an estate to the limits of the decedent’s automobile insurance policy. We affirm.

#### **FACTUAL AND PROCEDURAL BACKGROUND**

On December 1, 2018, appellant Nicholas Shanefelter was involved in an automobile accident with the late James Hood, Jr. At the time of the accident, State Farm Mutual Automobile Insurance Co. insured the car that Hood was driving.

Hood died on August 4, 2019, of causes unrelated to the accident. On September 30, 2019, Hood’s wife opened an estate on his behalf with the Register of Wills for Anne Arundel County.

On February 20, 2020, Shanefelter filed suit against Hood in the Circuit Court for Anne Arundel County. On March 6, 2020, seven months after Hood’s death, Shanefelter filed a claim against Hood’s estate with the Register of Wills for Anne Arundel County. The claim was untimely.<sup>1</sup>

On March 20, 2020, Shanefelter filed a notice of substitution of party in the circuit court, naming the estate rather than Hood himself as the defendant.<sup>2</sup> As an exhibit, Shanefelter’s notice of substitution included a copy of the claim that he had filed with the Register of Wills.

Before the trial in the circuit court, the estate filed a motion in limine, in which it asserted that under ET § 8-104(e)(2) the amount of any judgment recoverable from the estate was limited to the amount of the decedent’s liability insurance policy, \$100,000.00. The circuit court denied the estate’s motion in limine because the issue would not become ripe unless and until a jury returned a verdict in excess of \$100,000.00.

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<sup>1</sup> The certificate of service on Shanefelter’s claims says that he served the claim on March 3, 2020. The docket shows, however, that the claim was not filed until March 6, 2020. Because the claim is untimely either way, the three-day difference is immaterial.

<sup>2</sup> “Because an estate is a collection of assets and liabilities rather than a juridical entity like a corporation or an LLC,” the correct defendant, technically, was the personal representative in her capacity as personal representative. *Castruccio v. Estate of Castruccio*, 230 Md. App. 118, 124 n.3 (2016).

After a two-day trial in October 2021, a jury returned a verdict in favor of Shanefelter and against the estate in the amount of \$285,977.69. Thus, the issue became ripe.

One week after the verdict, the estate filed a motion in which it reiterated the substance of its motion in limine, cited ET § 8-104(e)(2), and asked the court to limit the amount of the judgment that was recoverable from the estate to the policy limits of \$100,000.00. The motion did not expressly assert what the record already showed – i.e., that Shanefelter had failed to present a timely claim under ET § 8-103(a).

Shanefelter opposed the estate’s motion, arguing that he had filed a claim against the estate “as soon as he was made aware that Defendant had died” and that the decedent’s insurer, State Farm, “had failed to settle the case in good faith.” Shanefelter did not argue that he had presented a timely claim under ET § 8-103(a) and, thus, that ET § 8-104(e) did not restrict his recovery to the policy limits.

The circuit court granted the estate’s motion in a written order that was docketed on December 3, 2021. The order states, in pertinent part, that the estate’s “liability is limited to Defendant’s liability insurance policy of \$100,000.”

On December 10, 2021, Shanefelter filed a timely motion to alter or amend the court’s order under Maryland Rule 2-534. In that motion, Shanefelter argued, in substance, that the court’s order did not track the language of ET § 8-104(e)(2). The statute, he observed, says that “the amount of the judgment that is recoverable from the estate is limited to the amount of the decedent’s liability insurance policy,” but the order states that the estate’s “liability is limited to Defendant’s liability insurance policy of

\$100,000.”<sup>3</sup> He asked the court to revise the order to make it conform to the wording of the statute. In addition, he asserted that he intended to file a bad faith action against State Farm.<sup>4</sup>

On December 16, 2021, while his motion to alter or amend was still pending, Shanefelter filed a revisory motion under Maryland Rule 2-535(a). Shanefelter’s argument in support of the motion was not particularly clear or cogent, but he seems to have contended that § 8-103(a) and § 8-104(e) must be read together; that § 8-104(e) is a limited exception to the complete bar of § 8-103(a); that the limits on recovery in § 8-104(e) come into play only if a claim is barred because of the claimant’s failure to present a timely claim under § 8-103(a); and that the estate did not establish that he had failed to present a timely claim. Shanefelter did not argue that he had actually presented a timely claim. Nor could he, as the record showed that he had not.

Although his still-pending motion to alter or amend asked the court to revise the judgment to make it conform to the language of § 8-104(e) and to state that the “the

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<sup>3</sup> The court appears to have drafted its own order. The estate’s proposed order tracked the language of the statute.

<sup>4</sup> Under Maryland law, an insured has a claim against an insurer if the insured is subjected to a judgment in excess of policy limits after the insurer, in “bad faith” (as that term is defined in the case law), rejects an opportunity to settle a case within policy limits. *See, e.g., State Farm Mut. Auto. Ins. Co. v. White*, 248 Md. 324 (1967). Frequently, the insured will assign its bad faith claim to the judgment-creditor in exchange for the creditor’s agreement not to execute against the insured’s personal assets. The creditor, as assignee, will then assert the insured’s bad faith claim against the insurer. In this case, however, if ET § 8-104(e)(2)(ii) limits the amount of the judgment that is recoverable from the insured to the policy limits, it is unclear how the estate would have a bad faith claim to assign.

amount of the judgment that is recoverable from the estate is limited” to \$100,000, Shanefelter’s revisory motion asked the court to reverse its decision to grant the estate’s motion to limit the amount recoverable. Thus, the revisory motion sought a judgment in which Shanefelter’s recovery was not confined to the limits of the decedent’s insurance policy.

In a written order docketed on January 7, 2022, the court granted Shanefelter’s motion to alter or amend and amended the judgment to make it conform to the language of ET § 8-104(e)(2)(ii). The judgment now states, in pertinent part, that “the amount of the judgment that is recoverable from the estate is limited to the amount of the decedent’s liability insurance policy of \$100,000.”

In a written order docketed on January 25, 2022, the court denied Shanefelter’s revisory motion.

On February 4, 2022, Shanefelter noted a timely appeal.

#### **QUESTION PRESENTED**

Shanefelter presents one question, which we have rephrased as follows: Did the court abuse its discretion in denying Shanefelter’s motion to revise the judgment under Maryland Rule 2-535(a)?<sup>5</sup>

For the reasons that follow, we shall affirm the circuit court’s exercise of its discretion.

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<sup>5</sup> Shanefelter framed the question as follows: “Did the trial court improperly apply § 8-104 of the Estates and Trust[s] Article, thus limiting the effectiveness of a jury verdict, by failing to consider the entire statutory scheme and by adding language to the statute?”

**STANDARD OF REVIEW**

This case involves a post-judgment revisory motion under Maryland Rule 2-535(a). That rule provides, in pertinent part, as follows: “On motion of any party filed within 30 days after entry of judgment, the court may exercise revisory power and control over the judgment and, if the action was tried before the court, may take any action that it could have taken under Rule 2-534.” Rule 2-535(a) reflects a circuit court’s broad discretion to revise, or not to revise, a judgment before a judgment is said to have become “enrolled.”

In a case involving Rule 2-535(a), the scope of appellate review is limited to the issue of “whether the trial court abused its discretion in declining to revise the judgment.” *Bennett v. State Dep’t of Assessments & Taxation*, 171 Md. App. 197, 203 (2006) (quoting *Green v. Brooks*, 125 Md. App. 349, 362 (1999)). This Court will not reverse a trial court’s decision to decline to exercise its revisory power “unless there is grave reason for doing so.” *Hossainkhail v. Gebrehiwot*, 143 Md. App. 716, 724 (2002). In this context, the issue before the appellate court is not whether the trial court “was right or wrong” in denying the motion to revise, but whether the decision to deny the motion to revise “was *so far wrong* . . . as to constitute a clear abuse of discretion.” *Stuples v. Baltimore City Police Dep’t*, 119 Md. App. 221, 232 (1998) (citation omitted) (emphasis in original). “It is hard to imagine a more deferential standard than this one.” *Estate of Vess*, 234 Md. App. 173, 205 (2017).

**DISCUSSION**

In his opening brief, Shanefelter presented his argument a bit more clearly than he did in the circuit court. He observed that ET § 8-104(e) is an exception to ET § 8-103(a), under which a claim is forever barred unless it is presented within six months after the decedent’s death or two months after the personal representative mails or delivers a notice to a creditor, whichever comes first. He also observed that ET § 8-104(e) does not apply when a claimant has presented a claim within the deadlines dictated by § 8-103(a). He asserted that he “filed” a claim “as required” by § 8-103(a), implying that he presented a claim within the deadlines dictated by the statute. Thus, he concluded that § 8-104(e) “has no application to this case.”

On the basis of that conclusion, Shanefelter argued that he “is entitled to recover his entire judgment,” and not merely the policy limits of \$100,000.00. He reiterated his earlier statements about his intention to assert a bad faith claim against State Farm.

In its brief, the estate refuted Shanefelter’s assertion that he had filed a timely claim within the deadlines dictated by § 8-103(a). Citing the Register of Wills’ docket sheet for Shanefelter’s claim, which it attached as an appendix to its brief, the estate demonstrated that Shanefelter did not file his claim until March 6, 2020, more than seven months after Hood’s death on August 4, 2019. The estate concluded that the circuit court did not abuse its discretion in applying ET § 8-104(e) and decreeing that “the amount of the judgment that is recoverable from the estate is limited to the amount of the decedent’s liability insurance policy of \$100,000.”



In his reply brief, Shanefelter did not dispute that he failed to present a claim within six months of Hood’s death, as required by ET § 8-103(a).<sup>6</sup> Instead, he complained that the estate, in his view, waived its argument concerning the timeliness of the claim by failing to assert that argument in the circuit court. He also complained that, in placing the docket sheet in the appendix to its brief, the estate was improperly “interject[ing] documents into this litigation for the first time at the appellate stage.” He correctly conceded that this Court may take judicial notice of the docket sheet (*see generally* Md. Rule 5-201; *Hanover Invests., Inc. v. Volkman*, 455 Md. 1, 9 n.5 (2017)), but argued that it would be improper to do so. He appears not to have recognized that the record already contained the untimely claim itself. *See* Md. Rule 8-413.

In our judgment, Shanefelter’s contentions have no merit. As we read the record, the tacit premise of the estate’s motion to limit liability, understood by all, including the circuit court, was that Shanefelter had not presented a timely claim and thus that § 8-104(e) limited the amount recoverable from the estate. If Shanefelter contended that that premise was somehow incorrect, it was incumbent on him to dispute it. He could have argued that he had presented a timely claim and could have supported his argument, as required by the rules, with an affidavit. *See* Md. Rule 2-311(d). Yet, he failed to do so. He did not even give the court an unsworn assertion that he had presented a timely claim. Instead, he said only that he had filed the claim as soon as he knew of the decedent’s death, which is insufficient to satisfy the requirements of § 8-103(a). In these

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<sup>6</sup> Nor did he dispute that he made an inaccurate insinuation to the contrary in his opening brief, when he asserted that he had “filed” a claim “as required” by § 8-103(a).

circumstances, the court did not abuse its broad discretion in denying Shanefelter’s Rule 2-535(a) revisory motion.

In any event, because the record includes a copy of the untimely claim that Shanefelter presented more than a month after the statutory deadline in ET § 8-103(a) had already passed, it is beyond any serious dispute that Shanefelter failed to present a timely claim. Because of his failure to present a timely claim, Shanefelter could recover, at most, the policy limits of the decedent’s insurance policy. ET § 8-104(e)(2)(ii). Thus, despite his unfounded claims to the contrary, Shanefelter is not entitled to recover the full amount of his judgment from the estate. *Id.* The circuit court could not have abused its broad discretion in correctly declining to grant relief to which Shanefelter was not entitled.<sup>7</sup>

**JUDGMENT OF THE CIRCUIT COURT  
FOR ANNE ARUNDEL COUNTY  
AFFIRMED; COSTS TO BE PAID BY  
APPELLANT.**

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<sup>7</sup> Alternatively, the court’s error, if any, was harmless. The circuit court record establishes that Shanefelter failed to present a timely claim. So does the docket sheet, of which we can take judicial notice. Shanefelter is not entitled to a windfall merely because the estate’s motion to limit liability did not explicitly state that his claim was untimely.