Circuit Court for Prince George's County
Case No. CAE17-13579

UNREPORTED

IN THE COURT OF SPECIAL APPEALS

OF MARYLAND

No. 2728

September Term, 2018

LAWRENCE V. WASHINGTON

v.

KIRK WASHINGTON

Meredith,
Wells,
Wright, Alexander, Jr.
(Senior Judge, Specially Assigned),

JJ.

Opinion by Wright, J.

Filed: January 24, 2020

*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.

On September 12, 2018, Lawrence Washington, appellant, appeared before the Prince George's County Circuit Court. Appellant sought to have the circuit court assume jurisdiction over a purported revocable trust created in his name, and to bring breach of fiduciary duty and conversion claims against his son, Kirk Washington, appellee. After considering identified errors with appellant's filing, the circuit court dismissed his petition. Appellant on appeal presents one question for our review. We rephrase that question for clarity as follows:

> Did the circuit court err in dismissing appellant's complaint?[1]

Answering that question in the negative, we affirm.

BACKGROUND

UNDERLYING FACTS

Many of the facts central to the adjudication of this case were subject to contention. To properly frame the matter, we begin with that which is undisputed. The instant

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[1] The question as presented in appellant's brief read as follows:

> Lawrence Washington petitioned the Circuit Court to assume jurisdiction over his revocable trust. In the same suit he sought damages against his son, the appellee, for breach of fiduciary duty and conversion. Washington voluntarily dismissed the assumption of jurisdiction claim. As a result, however, the Circuit Court concluded that it lacked fundamental jurisdiction over his damages claims and dismissed them without prejudice. Did the Circuit [Court] err in dismissing those claims for lack of fundamental jurisdiction?

disagreement concerns father, Lawrence Washington ("Father"), and son, Kirk Washington ("Son"), and revolves around a revocable trust ostensibly created by Father.

Father claimed to be the Trustor and Trustee of a revocable trust executed on September 6, 2007.[2] The trust was meant solely for the benefit of Father during his lifetime, and Son was named the successor Trustee, with the authority to take control of the trust in the event that Father was deemed incompetent.[3] On or about that same day, Father executed a Durable General Power of Attorney in favor of Son, giving him the authority to make financial decisions on Father's behalf, as well as a Last Will and Testament, a Living Will, and an Advance Directive.[4] Son acknowledged that he did, in fact, proceed to make a variety of financial decisions while acting as Father's attorney-in-fact.

In 2012, Father had a stroke, rendering him incapacitated. Father maintained that after this episode, Son assumed control of the trust and subsequently refused to relinquish

[2] Whether the trust ever actually came into existence was the subject of some discussion before the circuit court. Following our review of the record, the question of the trust's actual existence was never definitively answered and remains unanswered. Nonetheless, because the purportedly-created trust was central to Father's allegations giving rise to this litigation, we reference it insofar as it was relevant to his claims. What is clear is that the trust, if it existed, was never funded.

[3] Son maintained that he never assumed the role of Trustee or exercised the authority accorded thereto.

[4] Father executed a second Durable General Power of Attorney on May 18, 2008, and contends that the second document "effectively remov[ed] virtually all powers granted under the September 6, 2007 power of attorney." While Son acknowledges that a second power of attorney document was executed, he denies that it abrogated the authority conferred to him under the first power of attorney.

it; Son, conversely, maintained that he never took control of the trust in the first place. In either event, Father claimed that in the wake of his incapacitation, Son took control of his assets and finances and subsequently refused to relinquish this control.

In an illustration of the complained-of conduct, Father explained that in 2009, he purchased a new Lexus valued at $63,000.00. In 2012, following his incapacitation, Father stated that Son took control of the vehicle and began using it as if it were his own. Father further averred that Son used his authority under the "invalid" power of attorney to retitle the vehicle to the revocable trust and then to sell it. Son challenged this characterization, responding that he used the vehicle largely to support Father, who resided with him at the time and was then unable, due to his incapacity, to drive himself. Son further averred that in 2015, Father gave the vehicle to him as a gift. Son's version of events was corroborated in affidavits submitted by both his brother, Rodney Washington, and a family friend, Renee Griffith. Son admits to selling the vehicle using the Durable General Power of Attorney. In addition to the allegations regarding the vehicle, Father further claimed that Son used the power of attorney to retitle Father's Delaware home under the revocable trust.

Father also accused Son of various other acts of financial impropriety. He contended that Son "may have" opened bank and annuity accounts in his name and placed various investment instruments in the revocable trust. Likewise, Father charged Son with making numerous and substantial financial withdrawals from various accounts, ranging from $4,400.00 to $60,000.00. Father also noted thousands of dollars in unauthorized credit card purchases. In response to the allegations that he had opened or otherwise

transferred investment instruments from accounts into the revocable trust, Son offered a straightforward denial. As to the missing monies, Son acknowledged that he made some withdrawals from his Father's accounts, but explained that they were generally for the benefit of Father, being allocated either toward the renovation of the Delaware home as it was being prepared for sale, or otherwise being transferred into Father's own accounts. To the extent that Father alleged withdrawals he could not account for, Son noted that other people may have had access to Father's accounts. Finally, regarding the allegations that Son failed to provide an accounting of Father's financial accounts upon his lawyer's request, Son responded that he had raised the issue of Father's competency and declined to act absent a showing that Father was not incapacitated. At the point when the underlying action was initiated, Son continued to contest Father's competency.

CURRENT COURT PROCEEDINGS

Father initiated litigation against Son by filing a civil action in the Circuit Court for Prince George's County on June 1, 2016. The initial complaint, captioned "In the Matter of the Revocable Trust of Lawrence V. Washington," included a petition for the circuit court to assume jurisdiction over the trust pursuant to Md. Rule 10-501, along with two additional claims for breach of fiduciary duty and conversion. The complaint included a hand-written addendum reading: "v. Kirk Washington[.]"[5] However, Father's counsel moved, and the court ordered, that the petition be stricken, presumably because the

[5] At oral argument, Father's counsel attributed the addition to the clerk's office.

document was never signed by Father. Father subsequently filed a second petition, which he signed, but which also omitted any reference to Son in the caption.

A preliminary hearing was held on September 12, 2018. Before any discussion in open court, counsel for both Father and Son approached the bench, and the following colloquy ensued:

> [FATHER'S COUNSEL]: So, based on the information I was given by my clients, apparently there's nothing that was ever placed in the trust in this case.
>
> COURT: No, there was no trust.
>
> [FATHER'S COUNSEL]: Right. So I've got (inaudible) there was no trust and (inaudible) there was a trust, [the] document was signed but no property was ever placed in it.
>
> [SON'S COUNSEL]: That's unlikely (inaudible).
>
> [FATHER'S COUNSEL]: (Inaudible) in any case, I don't think there's anything for the court to take (inaudible).
>
> * * *
>
> [FATHER'S COUNSEL]: So we are—we are going to dismiss Count One of the Complaint.
>
> COURT: Oh.
>
> [FATHER'S COUNSEL]: Yeah.
>
> COURT: I thought you were going to withdraw the whole complaint.
>
> [FATHER'S COUNSEL]: No. So we would ask the court to take the complaint from the Trust Office at this point and send it to the regular civil—to proceed on our civil claim.
>
> COURT: What civil claim are you saying?
>
> * * *

[FATHER'S COUNSEL]: So, for Count Two and Count Three, we're just asking for civil damages, we're asking for monetary damages.

COURT: No, but that's—this is not the—then I can't do it in this. You're saying, "we're just asking for civil damages," but you first have to able to find that he's liable in some way, right?

[FATHER'S COUNSEL]: Correct.

COURT: But you've done it under the trust case, which no longer will be a trust case.

[FATHER'S COUNSEL]: Right.

COURT: So it's not the proper action. I'll be happy to contact our Civil Coordinating Judge just to confirm, but it is not consistent that we would just transfer this, convert this guardianship and let it be a civil action so you [can] pursue on the underlying issues that involve the trust, but there's no longer a trust.

[FATHER'S COUNSEL]: Right.

COURT: Because you would have filed it as a civil action.

[FATHER'S COUNSEL]: A civil action, had I known that there was nothing in the trust.

COURT: No, go ahead.

[FATHER'S COUNSEL]: So in the action that we filed, it had to be filed—we had to file—

COURT: If you didn't have the trust component, what would you have done?

[FATHER'S COUNSEL]: Filed a regular civil case.

COURT: And what would you have filed it as, seeking a what?

[FATHER'S COUNSEL]: Seeking just regular civil damages.

COURT: Mm-hmm. Right.

> [FATHER'S COUNSEL]: And included all the—all the counts in the complaint.
>
> COURT: And you would want the case to be heard by a judge?
>
> [FATHER'S COUNSEL]: Yeah—no, so we'd ask for—
>
> COURT: Oh, you'd ask for a jury trial. All right. I'm of the opinion that it can't be done in this case. But before I say that, I want to confirm. But I believe that you—we'll see, but I don't think it can.

Following the exchange, the court went to confer with the Civil Coordinating Judge. After returning to the bench, the court summarily granted Father's motion to dismiss the first count of the complaint and informed counsel for both parties that they would need to meet with the coordinating judge for a pretrial conference. Upon conclusion of the conference, the parties returned to the courtroom and went back on record, and the following colloquy ensued:

> COURT: I did receive a phone call from [the Civil Coordinating Judge]. He said pursuant to his conversation with you at the beginning of what was to be your pretrial conference that he indicated that the remaining Counts Two and Three in this case were also going to be dismissed. Is that correct?
>
> [FATHER'S COUNSEL]: Yes, I think he indicated that the court would dismiss it without prejudice, as opposed to withdraw it.
>
> COURT: Okay. But as to Counts Two and Three without prejudice, Count One I've already dismissed with prejudice.
>
> [SON'S COUNSEL]: Correct.
>
> * * *
>
> COURT: So, you know, this is what's on the record. So I guess for clarity for the record, we probably should say[—] Maybe you want to say for the record, because right now all it would say was dismissed without any—because we don't have any of what [the Civil Coordinating Judge] said.

> [SON'S COUNSEL]: Yes. **The reason that it's being dismissed is the party that's named in the case, the only party, is the revocable trust and if it doesn't exist, then he cannot bring suit.**
>
> COURT: All right. Is that correct, sir?
>
> [FATHER'S COUNSEL]: That's—yes, that's what the court indicated.
>
> COURT: Well, for that basis, I understand and will note the dismissed stance, **the case is dismissed based on how it's listed** and the representations by counsel. Thank you.

(Emphasis added).

With the case so disposed, Father timely filed his appeal to this Court.

DISCUSSION

I. PROCEDURAL POSTURE OF THE CASE AND STANDARD OF REVIEW

The instant matter is peculiar in the posture in which it presents to this Court. The matter was filed in the circuit court in the name of a revocable trust that was never funded and which may have never actually come into existence. Further, the party seeking relief was never named as a party in the circuit court litigation nor the party against whom the action is prosecuted. The matter was dismissed before any discussion of the merits of the lawsuit took place. The issue left for this Court to decide has been framed by the appellant as one of jurisdiction. However, Father's position on the matter notwithstanding, we regard it, rather, as one of procedure.

As a prefatory point, we would note that Father characterizes the circuit court's dismissal of the petition specifically as an abdication of its *fundamental* jurisdiction. This is noteworthy because "the word 'jurisdiction' encompasses different meanings depending

upon the context in which it is being used." *Pulley v. State*, 287 Md. 406, 415 (1980). Fundamental jurisdiction focuses principally upon "the power residing in [a] court to determine judicially a given action, controversy, or question presented to it for decision." *Fooks' Ex'rs v. Ghingher*, 172 Md. 612, 621 (1937). A court's possession of fundamental jurisdiction endows it with the power and authority to render a valid final judgment, with such power and authority being derived from applicable constitutional and statutory provisions. *Kent Island, LLC v. DiNapoli*, 430 Md. 348, 362-63 (2013).

Consistent with that, we observe that "[t]he circuit courts are the highest common-law and equity courts of record exercising original jurisdiction within the State. Each has full common-law and equity powers and jurisdiction in all civil and criminal cases within its county . . . ." Md. Code (1972, 2013 Repl. Vol.) Courts & Judicial Proceedings Article ("CJP") § 1-501. Further, they retain "all the additional powers and jurisdiction conferred by the Constitution and by law . . . ." *Id.* Of particular relevance in this case, "[o]n the invocation of the court's jurisdiction by an interested person . . . the court may intervene actively in the administration of a trust . . . ." Md. Code (1974, 2017 Repl. Vol.), Estates & Trusts Article § 14.5-201.

Having reviewed the law to which Father directs us, we nonetheless conclude that he has mischaracterized the circuit court proceedings, as well as the basis for the court's decision. Our conclusion follows straightforwardly from the record. Father claims that "this appeal arises from an order dismissing [Father's] damages claims for lack of fundamental jurisdiction." In support of this assertion, he directs us to the colloquy

excerpted in our recitation of the factual background, *supra*, wherein the circuit court expressed that Father's was "not the proper action." Father would have us imply, merely from the fact that the circuit court dismissed the breach of fiduciary duty and conversion claims, that the basis for its decision was an issue with "fundamental jurisdiction," despite the lack of any reference to the subject during his discussion with the circuit court.[6] To the contrary, the circuit court incorporated the civil coordinating judge's comments, as reported by counsel, as the basis for its decision. Those comments focused not on the court's jurisdiction but on problems with Father's filing.

As Son's counsel concisely stated and the circuit court accepted, the counts were dismissed because "the party that's named in the case, the only party, is the revocable trust and if it doesn't exist, then [Father] cannot bring suit." Despite Father's argument, this simply is not about "fundamental jurisdiction"— it is about a filing error. That error, in turn, is a failure to join other parties.

With that said, as we mention *infra*, appellant did not move to join additional parties

[6] In this Court's review, we were able to identify only one point where the circuit court even used the term "jurisdiction." In discussing how to proceed after the voluntary dismissal of the first count, regarding the trust, the circuit court made the following remark: "[O]ne thing is clear. If . . . our civil coordinating judge says this can become a civil action under his jurisdiction, leave the guardianship, [the trial] won't be today."

We think it is plain from the context of the remark that the circuit court was not making a commentary on its fundamental jurisdiction or its power to decide conversion and breach of fiduciary duty claims. Rather, this comment was directed merely towards the administrative designation of cases within the court. Father's argument asks this Court to make a sweeping, unsubstantiated characterization of the circuit court's comment. We decline.

before the circuit court or otherwise request leave of the court to amend his pleading. Consequently, the only act for us to review is the circuit court's dismissal of the matter, generally. Significantly, this scenario is one contemplated by the Maryland Rules. Md. Rule 2-322(b) provides:

> **Permissive.** The following defenses may be made by motion to dismiss filed before the answer, if an answer is required: (1) lack of jurisdiction over the subject matter, (2) failure to state a claim upon which relief can be granted, **(3) failure to join a party under Rule 2-211**, (4) discharge in bankruptcy, and (5) governmental immunity. **If not so made, these defenses and objections may be made in the answer, or in any other appropriate manner after answer is filed.**

(Some emphasis added). In conjunction we note subsection (c) of the same provision, which states, in relevant part: "A motion under section[] . . . (b) of this Rule shall be determined before trial . . . . **In disposing of the motion, the court may dismiss the action or grant such lesser or different relief as may be appropriate.**" (Emphasis added).

As to the standard of our review, the law is somewhat ambiguous. The Court of Appeals explained in *Garay v. Overholtzer*, 332 Md. 339, 355 (1993), that "[Md.] Rule 2-211 essentially tracks Fed. R. Civ. P. 19. Therefore, interpretations of that federal rule are persuasive as to the meaning and proper applications of the Maryland rule." However, this Court previously had leave to consider the standard of review applicable in cases concerning joinder in *Service Transport, Inc. v. Hurricane Exp., Inc.*, 185 Md. App. 25

(2009).[7]

There, we began with a discussion of "necessary" and "indispensable" parties, explaining:

> It is not uncommon for Maryland courts to use the term "necessary party" in describing state procedure under [Md.] Rule 2-211 and the term "indispensable party" when referring to the federal practice under Rule 19 of the Federal Rules of Civil Procedure. . . . [W]hen a court determines whether a party should be joined on the basis of the factors stated in Md. Rule 2-211(a), it determines whether the party is necessary. However, if the court finds that an absent necessary party cannot be joined, it must determine under Rule 2-211(c) whether the case should continue or be dismissed. If the court concludes that the case must be dismissed, the party is labeled "indispensable."

Id. at 35-36. Moving, then, to a discussion of the appropriate standard of review, we explained:

> The federal circuits are divided on the appropriate standard of appellate review of necessary and indispensable party determinations. For example, the Fourth Circuit applies the abuse of discretion standard to both issues. *National Union Fire Ins. Co. v. Rite Aid, Inc.*, 210 F.3d 246, 250, n.7 (4th Cir. 2000). On the other hand, the Third Circuit applies *de novo* review to the necessary party issue, but abuse of discretion to the indispensable party question. *Koppers Co., Inc. v. Aetna Cas. & Sur. Co.*, 158 F.3d 170, 174 (3rd Cir. 1998). The Sixth Circuit reviews the former issue under abuse of

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[7] In *Service Transport* we considered a case where appellant, Service Transport, Inc., raised a pre-trial appeal. The underlying action centered on the appropriation of trade secrets. Service Transport initially filed its action seeking declaratory judgment, damages, and injunctive and other relief under the Maryland Uniform Trade Secrets Act against two former employees who set up a competing operation. It later amended its filing to include the two entities comprising that operation, Hurricane Express, Inc. and Hurricane Express Logistics, Inc., as well as the president of both entities, Kaedon Steinert, and his brother. Shortly before trial, Service Transport learned that Hurricane Express was actually a shell company for a third enterprise, Kaedon Steinart, Inc ("KSI"). Service Transport subsequently sought to add KSI as an undisclosed necessary party. The circuit court denied the motion and Service Transport appealed. We ultimately affirmed the circuit court's decision, holding that KSI was not a necessary party.

> discretion and the latter *de novo*. *Keweenaw Bay Indian Community v. Michigan*, 11 F.3d 1341, 1346 (6th Cir. 1993). The District of Columbia Circuit reviews just one component of the necessary party determination *de novo*. *Western M.R. Co. v. Harbor Ins. Co.*, 910 F.2d 960, 963 (D.C. Cir. 1990). The Seventh Circuit has refused to decide the issue. *Thomas v. U.S.*, 189 F.3d 662, 666 (7th Cir. 1999).

Id. at 36-37. Holding that "whether analyzed under an abuse of discretion standard or a *de novo* consideration of a legal issue . . . [t]he circuit court's decision was correct[,]" we resolved that the case was "not appropriate for us to enter into this thicket." *Id.* at 37. Because we believe the same to be true in this case—that whether an abuse of discretion or *de novo* review is applied, the circuit court's decision is correct—we adopt the same posture.

II. JOINDER OF NECESSARY PARTIES

The Maryland Rules provide the authority governing joinder of parties. At base, "[e]very action shall be prosecuted in the name of the real party in interest." Md. Rule 2-201.[8] However, failure to abide this Rule is not necessarily fatal. As the Rule explicitly provides, "[n]o action shall be dismissed on the ground that it is not prosecuted in the name of the real party in interest until reasonable time has been allowed after objection for joinder or substitution of the real party in interest." *Id.* Further, some parties—"necessary parties"—are required to be joined in a given action. The governing Rule, Md. Rule 2-211(a), reads as follows:

[8] We would also CJP § 3-405, which states that "[i]f declaratory relief is sought, a person who has or claims any interest which would be affected by the declaration, shall be made a party."

> **Persons to be joined.** Except as otherwise provided by law, a person who is subject to service of process shall be joined as a party in the action if in the person's absence
>
> > (1) complete relief cannot be accorded among those already parties, or
> >
> > (2) disposition of the action may impair or impede the person's ability to protect a claimed interest relating to the subject of the action or may leave persons already parties subject to substantial risk of incurring multiple or inconsistent obligations by reason of the person's claimed interest.
>
> The court shall order that the person be made a party if not joined as required by this section. If the person should join as a plaintiff but refuses to do so, the person shall be made either a defendant or, in a proper case, an involuntary plaintiff.

The Rules also allow for various contingencies. For instance, Md. Rule 2-213 provides guidance in the event of misjoinder and nonjoinder of parties. It states:

> Misjoinder of parties is not ground for dismissal of an action. So long as one of the original plaintiffs and one of the original defendants remain as parties to the action, parties may be dropped or added (a) by amendment to a pleading pursuant to Rule 2-341 or (b) by order of the court on motion of any party or on its own initiative at any stage of the action and on such terms as are just. Any claim against a party may be severed and proceeded with separately.

Likewise, Md. Rule 2-241 allows for the substitution of parties, stating that "[a]ny party to the action, any other person affected by the action, the successors or representatives of the party, or the court may file a notice substituting the proper person as a party."

Neither the Rules nor statute referenced above squarely addresses a factual scenario like the one now presented to this Court. We find that unsurprising. It is, we surmise, a rare case where the sole named party may not or does not exist, and the person against

whom recovery is sought is not named as a party. Nonetheless, it is clear that Father's petition suffered from a number of deficiencies and was insufficient under Md. Rule 2-201 and CJP § 3-405 to support the civil claims he sought to prosecute. The action was filed in compliance with Md. Rule 10-501, concerning the court's power to assume jurisdiction over fiduciary estates other than guardianships.[9] However, to the extent that Father intended to initiate collateral adversarial proceedings, Md. Rule 10-501 does not obviate the need to comply with the other applicable rules of joinder. The real party in interest and

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[9] Md. Rule 10-501 reads in full:

(a) **Who May File.** A fiduciary or other interested person may file a petition requesting a court to assume jurisdiction over a fiduciary estate other than a guardianship of the property of a minor or disabled person.

(b) **Venue.** The petition shall be filed in the county in which all or any part of the property of the estate is located or where the fiduciary, if any, resides, is regularly employed, or maintains a place of business.

(c) **Contents.** The petition shall be captioned "In the Matter of . . ." [stating the name of the fiduciary estate]. It shall be signed and verified by the petitioner, and shall contain at least the following information:

(1) The petitioner's name, address, age, and telephone number.
(2) The reason for seeking the assumption of jurisdiction by the court and a statement of the relief sought, specifying the extent to which court jurisdiction over the fiduciary estate is desired.
(3) An identification of any instrument creating the estate, with a copy attached to the petition, if possible, and, if not, an explanation of its absence.
(4) The name, address, telephone number, and nature of interest of all interested persons and all others exercising control of any of the fiduciary estate, to the extent known or reasonably ascertainable.
(5) The nature of the interest of the petitioner.
(6) The nature, value, and location of the property comprising the fiduciary estate.

"person who has or claims any interest that would be affected," Father himself, was not made a party to the action. The same may be said for Son, against whom the action was pursued. The filing made in the circuit court had only one named party—the trust—and once that party was excused from the litigation, absent the joinder of additional parties, there really was no action to maintain.

With that said, Father clearly had various options of which he could have availed himself, but that he nonetheless failed to pursue. Father did not request leave of the court to amend his petition and join either himself or Son in the action, nor did he seek to substitute himself for the trust. In fact, Father did not even object to the circuit court's dismissal of the counts.

III. REMEDIAL EFFECT OF THE ANSWER

At oral argument Father raised the point that Son's answer in some manner added Son as a party, or cured the deficiencies in his own filing. That contention is without merit. We explain.

Of note, Md. Rule 2-323(f) requires that each negative defense pleaded be supported by any particulars within the pleader's knowledge.[10] The provision reads as follows:

> **Negative Defenses.** Whether proceeding under section (c) or section (d) of this Rule, when a party desires to raise an issue as to (1) the legal existence of a party, including a partnership or a corporation, **(2) the capacity of a party to sue or be sued,** (3) the authority of a party to sue or be sued in a representative capacity, (4) the averment of the execution of a written

[10] This is a requirement of a negative defense as "it is not necessary to aver the capacity of a party to sue or be sued . . . ." Md. Rule 2-304(a).

> instrument, or (5) the averment of the ownership of a motor vehicle, the party shall do so by negative averment, which shall include such supporting particulars as are peculiarly within the pleader's knowledge. **If not raised by negative averment, these matters are admitted for the purpose of the pending action.** Notwithstanding an admission under this section, the court may require proof of any of these matters upon such terms and conditions, including continuance and allocation of costs, as the court deems proper.

Id. (some emphasis added). "The purpose for requiring such particulars is to put the plaintiff on notice of the factual basis for each negative defense." *Cooper v. Sacco*, 357 Md. 622, 630 (2000). The only relevant issue of the five enumerated in the statute is the capacity to sue.

As to that capacity, Son straightforwardly "denie[d] that the Petitioner has the capacity to sue[,]" and pleaded that "none of the expenditures he made were transacted under the auspices of the purported authority given him under a revocable trust and **none of the property affected was titled in the name of a revocable trust.**" (Emphasis added). He also noted that the Petition failed to state a claim upon which relief could be granted. Thus, he asked the court to dismiss the Petition and deny the relief sought.

We think a plain reading of the Answer indicates Son's intent to respond to the purported Trust's capacity to bring an adverse action. Likewise, per Md. Rule 2-323(f), Son was obligated to respond with particularity or otherwise risk conceding the existence of that capacity. We would not construe this, however, as an acknowledgment on Son's part that either he or Father was properly joined as a party, the existence of the civil counts in the complaint notwithstanding. Rather, it was a response compelled by law and necessary to protect Son from what, from his vantage point, was specious litigation.

Further, this functional argument[11]—that the parties acted as they would have, had all parties been properly joined—cannot be held to subvert the fact that Father failed to comply with the procedural requirements of the Maryland Rules. Consequently, Father's contention that the Answer remediated the errors with his own filing is without merit.

IV. SIGNIFICANCE OF *MATTER OF DONALD EDWIN WILLIAMS REVOCABLE TRUST*

As a final point, we would address Father's reliance on *Matter of Donald Edwin Williams Revocable Trust*, 234 Md. App. 472 (2017), to support his position that "the Circuit Court had no legitimate reason to dismiss [Father's] breach-of-fiduciary-duty and conversion claims because all of his claims arise from identical allegations of [Son's] wrongdoing." While *Williams* involves a similar factual basis, it is distinguishable in a number of respects and ultimately only serves to highlight the deficiencies in Father's filing.

Factually, *Williams* concerned an appeal taken by the Donnie Williams Foundation, Inc., following the Wicomico County Circuit Court's dismissal of its petition requesting the court to assume jurisdiction over the Donald Edwin Williams Revocable Trust and the Individual Beneficiary Trust of Linda L. Slacum. The petition also sought removal of their Trustees. That action had been consolidated with **a second action** filed by the Foundation asserting claims of constructive fraud, breach of fiduciary duty, negligence, and unjust

[11] We would note that this argument was presented only at oral argument and was never addressed in Father's brief. Consequently, we can only address Father's contention with reference to counsel's brief comments and our own inferences from those comments.

enrichment against both trusts and the Trustees. Legally, the Court was confronted with a motion to dismiss the appeal. After the actions had been consolidated, and a decision rendered as to the assumption of jurisdiction and trustee removal actions *only*, the Foundation appealed the decision. Consequently, this Court was tasked with determining whether, in light of the consolidation of the actions, there had been a final judgment necessary to support appellate jurisdiction.

Answering that question in the negative, we granted the Trustees' motion to dismiss. In arriving at this conclusion, we reviewed the various decisions on the subject rendered by the Court of Appeals. Noting that consolidation may occur for purposes of trial, discovery, and otherwise where practicality warrants, we recognized that it did not necessarily have the uniform result of subjecting all consolidated claims to a single disposition; rather, even in a consolidated action, separate judgments could be rendered.

Father cites *Williams* primarily for the proposition that the action against the Trust and the associated civil counts could have been brought "in a single action." *Williams*, 234 Md. App. at 499. He highlights our language emphasizing that, "[t]he cases plainly are not separate and distinct[,]" and that "they pursue the exact same legal theories . . . based upon the same set of operative facts." *Id.* Father relies on these statements to support his claim that "[i]f a Circuit Court has the authority to consolidate civil actions involving common questions of fact and law, the Circuit Court certainly [has] the authority to decide [Father's civil claims] given that they involve the same questions of fact and law as his assumption-of-jurisdiction claim."

Despite Father's contentions, *Williams* is distinguishable in several significant respects and consequently offers little support for his position. We begin by noting that *Williams* contemplated the consolidation of separate actions and whether a decision as to one such action constituted a final, appealable judgment. The court's analysis on that point was predicated on whether the trial court "intended to resolve the consolidated case in joint or separate judgments[,]" or alternatively "whether [based on the record and applicable law] the consolidated action should be treated as one or multiple cases." *Id.* at 496 (citing *Waterkeeper Alliance, Inc. v. Maryland Dept. of Agriculture*, 439 Md. 262, 280 (2014)). While the mutuality of allegations and factual origins were relevant to the inquiry in *Williams*, they are not similarly helpful in the scenario presented here. The question is not whether two separate actions may be consolidated; indeed, had Father filed two separate actions, one regarding the assumption of jurisdiction and the other regarding his civil claims, as in *Williams*, we do not dispute that they *could* have been consolidated. There is no question as to the circuit court's authority in that regard. Nor do we dispute that, given a different filing, the matter may have been tried as a single action. But here, unlike the scenario presented in *Williams*, two actions were not filed, and all parties were not properly joined. The latter point—the joinder of parties, or lack thereof—is the dispositive legal issue before us. *Williams* never addresses that issue and consequently does little to support Father's case.

CONCLUSION

In conclusion, we note that, under an abuse of discretion standard, we consider whether "no reasonable person would take the view adopted by the [trial] court[,]" whether a circuit court's ruling is "violative of fact and logic[,]" and whether the decision is "well removed from any center mark imagined by the reviewing court and beyond the fringe of what the court deems minimally acceptable." *Aventis Pasteur, Inc. v. Skevofilax*, 396 Md. 405, 418-19 (2007) (quoting *Wilson v. John Crane, Inc.*, 385 Md. 185, 198-99 (2005)) (some alteration in original). Alternatively, our *de novo* review accords no deference to the legal determinations of the trial court.

We hold that, under either standard, the circuit court's decision was proper. The court's decision to dismiss was reasonable in light of the circumstance presented to it. Father failed to comply with the applicable rules of civil procedure, did not seek to remediate his error before the circuit court, and did not offer contrary argument before the dismissal. Likewise, in considering the matter purely as a legal question, we consider it dispositive as a matter of law that, once the sole named party was dismissed from the matter, no parties remained to maintain the action. Additionally, Father's contention that the answer somehow vindicated those errors was without merit, and the authority to which he directs us offers no refuge. Thus, we hold that the circuit court properly exercised its authority pursuant to the Maryland Rules and that there was no error with its judgment. We affirm.

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