

# WEST VIRGINIA CODE: §44-9-14

## **§44-9-14. Substitution of supposed decedent in pending actions; opening judgments; effect of judgment after substitution.**

After revocation of the letters and vacation of the order or orders declaring the presumption of death established, the person erroneously supposed to be dead may, on suggestion filed of record of the proper fact, be substituted as plaintiff in all actions, suits, or proceedings brought by the personal representative, whether prosecuted to judgment or decree, or otherwise. He may, in all actions, suits or proceedings previously brought against the personal representative, be substituted as defendant, on proper suggestion filed by himself or of the plaintiff therein, but shall not be compelled to go to trial in less than three months from the time of such suggestion filed. Judgments or decrees, recovered against the personal representative before revocation of the letters and vacation of such order or orders, may be opened on application by the supposed decedent, made within three months from such revocation of the letters and vacation of such order or orders, and supported by affidavit denying specifically, on the knowledge of the affiant, the cause of action, in whole or in part, or specifically alleging the existence of facts which would be a valid defense; but, if within such three months, such application shall not be made, or, being made, the facts exhibited shall be adjudged an insufficient defense, the judgment or decree shall be conclusive to all intents, saving the defendant's right to have it reviewed as in other cases in the manner provided by law. After the substitution of the supposed decedent as defendant in any judgment or decree, as aforesaid, it shall have the same force and effect as if taken against him originally, and shall so continue as other judgments or decrees, unless and until it shall be set aside by the court below or reversed in the Supreme Court of Appeals.