

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted a Third Supplement to its Two Hundred and Ninth Report to the Court of Appeals, providing proposed new Rule 1-314.

The Committee's Third Supplement to the Two Hundred and Ninth Report and the proposed new Rule are set forth below.

Interested persons are asked to consider the Committee's Supplement and proposed Rule changes and to forward on or before March 16, 2022 any written comments they may wish to make to rules@mdcourts.gov or:

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**THE COURT OF APPEALS OF MARYLAND
STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE**

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February 14, 2022

The Honorable Joseph M. Getty,
Chief Judge

The Honorable Robert N. McDonald

The Honorable Shirley M. Watts

The Honorable Michele D. Hotten

The Honorable Brynja M. Booth

The Honorable Jonathan Biran

The Honorable Steven B. Gould,
Judges

The Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

Attached please find a Third Supplement to the Two Hundred and Ninth Report of the Rules Committee. It consists of a further revision of proposed new Rule 1-314.

Rule 1-314 was drafted in an attempt to implement new Section 6-412 of the Courts Article, enacted by the Legislature as Chapter 428 of the 2021 Laws of Maryland. According to its Constitutionally required Title, that law is for the purpose of requiring a "nongovernmental corporate party" to file a certain disclosure statement upon its first appearance in a court case. The statement must identify any parent corporation and any publicly held corporation owning ten percent or more of the party's stock. To that extent, the law tracks and is consistent with Federal Rule of Civil Procedure 7.1.

Chapter 428 adds, however, additional information that must be disclosed beyond what the Federal Rule requires and, it appeared to the Committee, what the Title to the law would allow. The law further requires the party to identify any "member or owner in a joint venture or limited liability corporation," "all partners in a partnership or limited liability partnership," and "any corporate member, if the party is any other unincorporated association."

Chapter 428 was first presented to the Rules Committee at its October 15, 2021 meeting. Questions were raised regarding what actually needed to be disclosed and by whom, whether the statement would be open to the public, where it would be kept, and what the consequence of a failure to file the statement would be. After much discussion, the matter was held for further consideration at the November 19, 2021 meeting.

The same issues arose in November as well. The Forms Committee of the Administrative Office of the Courts read the law as requiring partnerships to disclose their partners and joint ventures and other noncorporate entities also to disclose the identity of their members. Committee members considered that view as inconsistent with both the Title and other language in the Rule. Given this uncertainty regarding a statute that could impact tens of thousands of cases filed each year in Maryland courts, the Committee, though having no objection to the general objective of the statute, was reluctant to determine by Rule what the General Assembly intended but called the problem to the Court's attention in the penultimate paragraph of the 209th Report.

The Court has since asked the Committee to propose for its consideration a Rule that is consistent with the purpose of the statute as described in its Title, namely, to require nongovernmental parties to file with their initial appearance and supplement later a statement that identifies any parent corporation and any publicly held corporation that owns ten percent or more of its stock or states that there is no such corporation. That is the purpose of this Supplement.

Respectfully Submitted,

/ s /

Alan M. Wilner, Chair

AMW:sdm

cc: Suzanne C. Johnson, Clerk

MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS
CHAPTER 300 - GENERAL PROVISIONS

ADD New Rule 1-314, as follows:

Rule 1-314. DISCLOSURE STATEMENT BY NONGOVERNMENTAL CORPORATE PARTY

(a) Generally

A nongovernmental corporate party in a civil action shall comply with the disclosure requirement of Code, Courts Article, § 6-412 by filing a disclosure statement in accordance with this Rule. An entity other than a nongovernmental corporate party is not required to file such a statement.

(b) Required Disclosure Contents

A nongovernmental corporate party shall file a disclosure statement that (1) identifies any parent corporation and any publicly held corporation owning 10% or more of its stock, or (2) states that there is no such corporation.

(c) Time to File; Supplemental Statement

A disclosure statement under this Rule shall be filed with the party's first appearance, pleading, petition, motion, response, or other request addressed to the court. The party

promptly shall file a supplemental statement if any required information changes.

Source: This Rule is new. It is derived from Fed. R. Civ. P. 7.1.

REPORTER'S NOTE

Proposed new Rule 1-314 effectuates the purpose of Code, Courts Article, § 6-412, which was enacted by Chapter 428 (SB 335), 2021 Laws of Maryland. The Rule is consistent with Fed. R. Civ. P. 7.1.

In keeping with the title and "purpose" clause of the statute, section (a) of the Rule requires a nongovernmental corporate party in a civil action to file a statement disclosing certain information. Section (a) clarifies that the filing requirement applies only to a nongovernmental corporate party and does not apply to other forms of entities, such as a partnership, a limited liability partnership, a limited liability company as defined in Code, Corporations and Associations Article, § 4A-101(1), an unincorporated association, etc. Section (a) of the Rule is consistent with the plain language of the "stem" of section (a) of the statute ["A nongovernmental corporate party shall..."], by which the filing obligation imposed by the statute is imposed on corporations, only.

Sections (b) and (c) of the Rule are derived from Fed. R. Civ. P. 7.1, with stylistic changes.

Section (b) sets forth the contents of the required disclosure. The nongovernmental corporate party must (1) identify any parent corporation and any publicly held corporation owning 10% or more of its stock, or (2) state that there is no such corporation. Section (b) comports with the requirements of Fed. R. Civ. P. 7.1 (a) and Code, Courts Article, § 6-412(a) (1) and (5).

Section (c) requires that the statement be filed at the time of the nongovernmental corporate party's first appearance, pleading, petition, motion, response, or other request addressed to the court. If the information changes, a supplemental

statement must be filed. Section (c) comports with the requirements of Fed. R. Civ. P. 7.1 (b), the timing requirement of Code, Courts Article, § 6-412(a), and the information supplementation requirement of Code, Courts Article, § 6-412(b).