

IN THE COURT OF APPEALS OF MARYLAND

R U L E S O R D E R

This Court's Standing Committee on Rules of Practice and Procedure having submitted its One Hundred Seventy-First Report to the Court recommending adoption of proposed amendments to Rules 3-306, 3-308, 3-509, 4-353, 4-354, 7-208, 8-204, 8-421, 8-502, 8-503, 8-504, 8-521, 16-101, 16-110, 16-204, 16-309, 16-714, and 16-902; Rules 3.8, 5.5, and 6.5 of the Maryland Lawyers' Rules of Professional Conduct; Rule 14 of the Rules Governing Admission to the Bar of Maryland; and Appendix: Forms for Special Admission of Out-of-State Attorneys, Forms RGAB-14/M and RGAB-14/O, all as set forth in that Report published in the *Maryland Register*, Vol. 38, Issue 15, pages 884 - 897 (July 15, 2011); and

This Court having considered at an open meeting, notice of which was posted as prescribed by law, all those proposed rules changes, together with the comments received, and making certain amendments to the proposed rules changes on its own motion, it is this 8th day of September, 2011,

ORDERED, by the Court of Appeals of Maryland, that amendments to Rules 3-306, 3-308, 3-509, 4-353, 4-354, 7-208, 8-204, 8-421, 8-502, 8-503, 8-504, 8-521, 16-101, 16-110, 16-204, 16-309, 16-714, and 16-902; Rules 3.8, 5.5, and 6.5 of the Maryland Lawyers' Rules of Professional Conduct; Rule 14 of the Rules Governing Admission to the Bar of Maryland; and Appendix: Forms for Special Admission of Out-of-State Attorneys, Forms RGAB-14/M and RGAB-14/O be, and they are hereby, adopted in the form previously published; and it is further

ORDERED that the amendments to Rules 16-101 and 16-714 hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions commenced on or after October 1, 2011 and, insofar as practicable, to all actions then pending; and it is further

ORDERED that all other rules changes hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions commenced on or after January 1, 2012 and, insofar as practicable, to all actions then pending; and it is further

ORDERED that a copy of this Order be published in the next issue of the *Maryland Register*.

/s/ Robert M. Bell
Robert M. Bell

/s/ Glenn T. Harrell, Jr.
Glenn T. Harrell, Jr.

*

/s/ Lynne A. Battaglia
Lynne A. Battaglia

/s/ Clayton Greene, Jr.
Clayton Greene, Jr.

**

/s/ Joseph F. Murphy, Jr.
Joseph F. Murphy, Jr.

/s/ Sally D. Adkins
Sally D. Adkins

/s/ Mary Ellen Barbera
Mary Ellen Barbera

* Judge Battaglia declined to approve for adoption the amendments to Rules 4-353 and 4-354.

** Judge Murphy declined to approve for adoption the amendments to Rules 3-306, 3-308, and 3-509.

Filed: September 8, 2011

/s/ Bessie M. Decker

Clerk
Court of Appeals of Maryland

MARYLAND RULES OF PROCEDURE
TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT
CHAPTER 300 - PLEADINGS AND MOTIONS

AMEND Rule 3-306 to add a new section (a) containing definitions, to divide current section (a) into sections (b) and (c), to change the tagline of new section (b), to add the words "in the amount claimed" to new section (b), to add a new tagline to new section (c), to require that an interest worksheet in a certain form accompany the affidavit if interest is claimed, to add a new subsection (c)(4)(C) pertaining to attorneys' fees, to add a new section (d) pertaining to claims arising from assigned consumer debt, to delete from new subsection (e)(2)(A) the words "section (a) of," to add the words "or other credit" to new section (f), to add the word "latest" to new section (g), and to make stylistic changes, as follows:

Rule 3-306. JUDGMENT ON AFFIDAVIT

(a) Definitions

In this Rule the following definitions apply except as expressly otherwise provided or as necessary implication requires:

(1) Charge-off

"Charge-off" means the act of a creditor that treats an account receivable or other debt as a loss or expense because payment is unlikely.

(2) Charge-off Balance

"Charge-off balance" means the amount due on the account or debt at the time of charge-off.

(3) Consumer Debt

"Consumer debt" means a secured or unsecured debt that is for money owed or alleged to be owed and arises from a consumer transaction.

(4) Consumer Transaction

"Consumer transaction" means a transaction involving an individual seeking or acquiring real or personal property, services, future services, money, or credit for personal, family, or household purposes.

(5) Original Creditor

"Original creditor" means the lender, provider, or other person to whom a consumer originally was alleged to owe money pursuant to a consumer transaction. "Original creditor" includes the Central Collection Unit, a unit within the State Department of Budget and Management.

(6) Original Consumer Debt

"Original consumer debt" means the total of the consumer debt alleged to be owed to the original creditor, consisting of principal, interest, fees, and any other charges.

Committee note: If there has been a charge-off, the amount of the "original consumer debt" is the same as the "charge-off balance."

(7) Principal

"Principal" means the unpaid balance of the funds

borrowed, the credit utilized, the sales price of goods or services obtained, or the capital sum of any other debt or obligation arising from a consumer transaction, alleged to be owed to the original creditor. It does not include interest, fees, or charges added to the debt or obligation by the original creditor or any subsequent assignees of the consumer debt.

(8) Future Services

"Future services" means one or more services that will be delivered at a future time.

(9) Future Services Contract

"Future services contract" means an agreement that obligates a consumer to purchase a future service from a provider.

(10) Provider

"Provider" means any person who sells a service or future service to a consumer.

~~(a) (b) Time for Demand - Affidavit and Supporting Documents~~
Demand for Judgment by Affidavit

In an action for money damages a plaintiff may file a demand for judgment on affidavit at the time of filing the complaint commencing the action. The complaint shall be supported by an affidavit showing that the plaintiff is entitled to judgment as a matter of law in the amount claimed.

(c) Affidavit and Attachments - General Requirements

The affidavit shall:

(1) be made on personal knowledge;~~;~~

(2) ~~shall~~ set forth such facts as would be admissible in evidence;~~;~~ ~~and shall~~

(3) show affirmatively that the affiant is competent to testify to the matters stated in the affidavit; ~~and;~~ ~~The affidavit shall~~

(4) include or be accompanied ~~(1)~~ by:

(A) supporting documents or statements containing sufficient detail as to liability and damages, including the precise amount of the claim and any interest claimed; ~~and (2);~~

(B) if interest is claimed, an interest worksheet substantially in the form prescribed by the Chief Judge of the District Court;

(C) if attorneys' fees are claimed, sufficient proof evidencing that the plaintiff is entitled to an award of attorneys' fees and that the fees are reasonable; and

(D) ~~If~~ if the claim is founded upon a note, security agreement, or other instrument, ~~by~~ the original or a photocopy of the executed instrument, or a sworn or certified copy, unless the absence thereof is explained in the affidavit. ~~If interest is claimed, the plaintiff shall file with the complaint an interest worksheet.~~

(d) If Claim Arises from Assigned Consumer Debt

If the claim arises from consumer debt and the plaintiff is not the original creditor, the affidavit also shall include or be accompanied by (i) the items listed in this section, and (ii)

an Assigned Consumer Debt Checklist, substantially in the form prescribed by the Chief Judge of the District Court, listing the items and information supplied in or with the affidavit in conformance with this Rule. Each document that accompanies the affidavit shall be clearly numbered as an exhibit and referenced by number in the Checklist.

(1) Proof of the Existence of the Debt or Account

Proof of the existence of the debt or account shall be made by a certified or otherwise properly authenticated photocopy or original of at least one of the following:

(A) a document signed by the defendant evidencing the debt or the opening of the account;

(B) a bill or other record reflecting purchases, payments, or other actual use of a credit card or account by the defendant;
or

(C) an electronic printout or other documentation from the original creditor establishing the existence of the account and showing purchases, payments, or other actual use of a credit card or account by the defendant.

(2) Proof of Terms and Conditions

(A) Except as provided in subsection (d)(2)(B) of this Rule, if there was a document evidencing the terms and conditions to which the consumer debt was subject, a certified or otherwise properly authenticated photocopy or original of the document actually applicable to the consumer debt at issue shall accompany the affidavit.

(B) Subsection (d)(2)(A) of this Rule does not apply if (i) the consumer debt is an unpaid balance due on a credit card; (ii) the original creditor is or was a financial institution subject to regulation by the Federal Financial Institutions Examination Council or a constituent federal agency of that Council; and (iii) the claim does not include a demand or request for attorneys' fees or interest on the charge-off balance in excess of the Maryland Constitutional rate of six percent per annum.

Committee note: This Rule is procedural only, and subsection (d)(2)(B)(iii) is not intended to address the substantive issue of whether interest in any amount may be charged on a part of the charge-off balance that, under applicable and enforceable Maryland law, may be regarded as interest.

Cross reference: See Federal Financial Institutions Examination Council Uniform Retail Credit Classification and Account Management Policy, 65 Fed. Reg. 36903 - 36906 (June 12, 2000).

(3) Proof of Plaintiff's Ownership

The affidavit shall contain a statement that the plaintiff owns the consumer debt. It shall include or be accompanied by:

(A) a chronological listing of the names of all prior owners of the debt and the date of each transfer of ownership of the debt, beginning with the name of the original creditor; and

(B) a certified or other properly authenticated copy of the bill of sale or other document that transferred ownership of the debt to each successive owner, including the plaintiff.

Committee note: If a bill of sale or other document transferred debts in addition to the consumer debt upon which the action is based, the documentation required by subsection (d)(3)(B) of this Rule may be in the form of a redacted document that provides the general terms of the bill of sale or other document and the

document's specific reference to the debt sued upon.

(4) Identification and Nature of Debt or Account

The affidavit shall include the following information:

(A) the name of the original creditor;

(B) the full name of the defendant as it appears on the original account;

(C) the last four digits of the social security number for the defendant appearing on the original account, if known;

(D) the last four digits of the original account number;

and

(E) the nature of the consumer transaction, such as utility, credit card, consumer loan, retail installment sales agreement, service, or future services.

(5) Future Services Contract Information

If the claim is based on a future services contract, the affidavit shall contain facts evidencing that the plaintiff currently is entitled to an award of damages under that contract.

(6) Account Charge-off Information

If there has been a charge-off of the account, the affidavit shall contain the following information:

(A) the date of the charge-off;

(B) the charge-off balance;

(C) an itemization of any fees or charges claimed by the plaintiff in addition to the charge-off balance;

(D) an itemization of all post-charge-off payments received and other credits to which the defendant is entitled; and

(E) the date of the last payment on the consumer debt or of the last transaction giving rise to the consumer debt.

(7) Information for Debts and Accounts not Charged Off

If there has been no charge-off, the affidavit shall contain:

(A) an itemization of all money claimed by the plaintiff, (i) including principal, interest, finance charges, service charges, late fees, and any other fees or charges added to the principal by the original creditor and, if applicable, by subsequent assignees of the consumer debt and (ii) accounting for any reduction in the amount of the claim by virtue of any payment made or other credit to which the defendant is entitled;

(B) a statement of the amount and date of the consumer transaction giving rise to the consumer debt, or in instances of multiple transactions, the amount and date of the last transaction; and

(C) a statement of the amount and date of the last payment on the consumer debt.

(8) Licensing Information

The affidavit shall include a list of all Maryland collection agency licenses that the plaintiff currently holds and provide the following information as to each:

(A) license number,

(B) name appearing on the license, and

(C) date of issue.

~~(b)~~ (e) Subsequent Proceedings

(1) When Notice of Intention to Defend Filed

If the defendant files a timely notice of intention to defend pursuant to Rule 3-307, the plaintiff shall appear in court on the trial date prepared for a trial on the merits. If the defendant fails to appear in court on the trial date, the court may proceed as if the defendant failed to file a timely notice of intention to defend.

(2) When No Notice of Intention to Defend Filed

(A) If the defendant fails to file a timely notice of intention to defend, the plaintiff need not appear in court on the trial date and the court may determine liability and damages on the basis of the complaint, affidavit, and supporting documents filed pursuant to ~~section (a)~~ of this Rule. If the defendant fails to appear in court on the trial date and the court determines that the pleading and documentary evidence are sufficient to entitle the plaintiff to judgment, the court shall grant the demand for judgment on affidavit.

(B) If the court determines that the pleading and documentary evidence are insufficient to entitle the plaintiff to judgment on affidavit, the court may deny the demand for judgment on affidavit or may grant a continuance to permit the plaintiff to supplement the documentary evidence filed with the demand. If the defendant appears in court at the time set for trial and it is established to the court's satisfaction that the defendant may have a meritorious defense, the court shall deny the demand for judgment on affidavit. If the demand for judgment on affidavit

is denied or the court grants a continuance pursuant to this section, the clerk shall set a new trial date and mail notice of the reassignment to the parties, unless the plaintiff is in court and requests the court to proceed with trial.

Cross reference: Rule 3-509.

~~(c)~~ (f) Reduction in Amount of Damages

Before entry of judgment, the plaintiff shall inform the court of any reduction in the amount of the claim by virtue of any payment or other credit.

~~(d)~~ (g) Notice of Judgment on Affidavit

When a demand for judgment on affidavit is granted, the clerk shall mail notice of the judgment promptly after its entry to each party at the latest address stated in the pleadings. The notice shall inform (1) the plaintiff of the right to obtain a lien on real property pursuant to Rule 3-621, and (2) the defendant of the right to file a motion to vacate the judgment within 30 days after its entry pursuant to Rule 3-535 (a). The clerk shall ensure that the docket or file reflects compliance with this section.

Source: This Rule is derived as follows:

Section (a) is new.

Section ~~(a)~~ (b) is derived from former M.D.R. 610 a.

Section (c) is derived from former M.D.R. 610 a.

Section (d) is new.

Section ~~(b)~~ (e) is derived from former M.D.R. 610 b, c and d.

Section ~~(c)~~ (f) is derived from former M.D.R. 610 e.

Section ~~(d)~~ (g) is derived from former M.D.R. 610 d.

MARYLAND RULES OF PROCEDURE
TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT
CHAPTER 300 - PLEADINGS AND MOTIONS

AMEND Rule 3-308 by adding a Committee note, as follows:

Rule 3-308. DEMAND FOR PROOF

When the defendant 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 instrument, or (5) the averment of the ownership of a motor vehicle, the defendant shall do so by specific demand for proof. The demand may be made at any time before the trial is concluded. If not raised by specific demand for proof, these matters are admitted for the purpose of the pending action. Upon motion of a party upon whom a specific demand for proof is made, the court may continue the trial for a reasonable time to enable the party to obtain the demanded proof.

Committee note: This Rule does not affect the proof requirements set forth in Rules 3-306 (d) and 3-509 (a) that are applicable to claims arising from consumer debt when the plaintiff is not the original creditor.

Source: This Rule is derived from former M.D.R. 302 a.

MARYLAND RULES OF PROCEDURE
TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT
CHAPTER 500 - TRIAL

AMEND Rule 3-509 to add provisions concerning assigned consumer debt, as follows:

Rule 3-509. TRIAL UPON DEFAULT

(a) Requirements of Proof

When a motion for judgment on affidavit has not been filed by the plaintiff, or has been denied by the court, and the defendant has failed to appear in court at the time set for trial:

(1) if the defendant did not file a timely notice of intention to defend, the plaintiff shall not be required to prove the liability of the defendant, but shall be required to prove damages; except that for claims arising from consumer debt, as defined in Rule 3-306 (a)(3), when the plaintiff is not the original creditor, as defined in Rule 3-306 (a)(5), the court (A) may require proof of liability, (B) shall consider the requirements set forth in Rule 3-306 (d), and (C) may also consider other competent evidence;

(2) if the defendant filed a timely notice of intention to defend, the plaintiff shall be required to introduce prima facie evidence of the defendant's liability and to prove damages. For claims arising from consumer debt, as defined in Rule 3-306

(a)(3), when the plaintiff is not the original creditor, as defined in Rule 3-306 (a)(5), the court shall consider the requirements set forth in Rule 3-306 (d) and may also consider other competent evidence.

(b) Property Damage - Affidavit

When the defendant has failed to appear for trial in an action for property damage, prima facie proof of the damage may be made by filing an affidavit to which is attached an itemized repair bill, or an itemized estimate of the costs of repairing the damaged property, or an estimate of the fair market value of the property. The affidavit shall be made on personal knowledge of the person making such repairs or estimate, or under whose supervision such repairs or estimate were made, and shall include the name and address of the affiant, a statement showing the affiant's qualification, and a statement that the bill or estimate is fair and reasonable.

(c) Notice of Judgment

Upon entry of a judgment against a defendant in default, the clerk shall mail notice of the judgment to the defendant at the address stated in the pleadings and shall ensure that the docket or file reflects compliance with this requirement.

Cross reference: For default judgments relating to citations issued for certain record-keeping violations, see Code, Transportation Article, §15-115.

Source: This Rule is derived from former M.D.R. 648.

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-353 to add a new section (b) regarding indigency and the waiver of court costs assessed pursuant to Code, Courts Article, §7-409; to add a Committee note stating that costs assessed pursuant to that statute should be assessed separately and should be waived only in extraordinary circumstances; to add a cross reference at the end of section (b); and to make stylistic changes; as follows:

Rule 4-353. COSTS

(a) Generally

Unless otherwise ordered by the court, A a judgment of conviction, an order accepting a plea of nolo contendere, or a disposition by probation before judgment or an accepted plea of nolo contendere shall include an assessment of court costs against the defendant unless otherwise ordered by the court.

(b) Special Costs

Costs assessed pursuant to Code, Courts Article, §7-409 shall be assessed separately from other costs and shall not be waived by the court except upon an express finding stated on the record that the defendant is not likely to be able to pay any significant part of those costs within the succeeding twelve years.

Committee note: This Rule requires the court to consider a defendant's ability to pay court costs assessed pursuant to Code, Courts Article §7-409 separately from the defendant's ability to pay all other court costs. In doing so, the court must make clear whether it is waiving costs under subsection (a) of this Rule, subsection (b) of this Rule, or both.

Code, Courts Article, §7-405 directs that §7-409 costs may not be waived "unless the defendant establishes indigency as provided in the Maryland Rules." Coupled with Rule 4-354, the Rule addresses the fact that indigence, for purposes of these special costs, should not be found merely because a defendant may be indigent for other purposes. The special costs are modest in amount; they are not part of the sentence but are instead enforceable as a civil judgment which, subject to renewal, is valid for 12 years; and they are not in the nature of pre-paid costs and do not have to be paid at the time of sentencing unless the court so directs. By statute, these costs are used solely to support victim services.

Source: This Rule is derived in part from former Rule 764 and former M.D.R. 764 and is in part new.

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-354 to add to section (a) provisions regarding the collection of court costs and language pertaining to statutory procedures for the collection of a debt due to the State or a State agency, to correct an obsolete statutory reference, to delete the words "imposition of," and to add a cross reference following section (a), as follows:

Rule 4-354. ENFORCEMENT OF MONEY JUDGMENT

(a) Generally

A money judgment or other order for payment of a sum certain entered in a criminal action in favor of the State, including court costs, ~~imposition of~~ a fine, forfeiture of an appearance bond, and adjudication of a lien pursuant to Code, ~~Article 27A, §7~~ Criminal Procedure Article, §16-212, may be enforced in the same manner as a money judgment entered in a civil action or in accordance with statutory procedures for the collection of a debt due to the State or a State agency.

Cross reference: See Code, Courts Article, §7-505 and Code, State Finance and Procurement Article, §§3-301 through 3-307.

(b) Judgment of Restitution

A judgment of restitution may be enforced in the same manner as a money judgment entered in a civil action.

Cross reference: See Code, Criminal Procedure Article, §11-613 (d) and *Grey v. Allstate Insurance Company*, 363 Md. 445 (2001).

Source: This Rule is derived in part from former M.D.R. 620 a and in part new.

MARYLAND RULES OF PROCEDURE
TITLE 7 - APPELLATE AND OTHER JUDICIAL REVIEW
IN CIRCUIT COURT
CHAPTER 200 - JUDICIAL REVIEW OF ADMINISTRATIVE
AGENCY DECISIONS

AMEND Rule 7-208 to add a new section (c) to allow participation in a hearing by video conferencing or other electronic means under certain circumstances, as follows:

Rule 7-208. HEARING

(a) Generally

Unless a hearing is waived in writing by the parties, the court shall hold a hearing.

(b) Scheduling

Upon the filing of the record pursuant to Rule 7-206, a date shall be set for the hearing on the merits. Unless otherwise ordered by the court or required by law, the hearing shall be no earlier than 90 days from the date the record was filed.

(c) Hearing Conducted by Video Conferencing or Other Electronic Means

(1) Generally

Except as provided in subsection (c)(2) of this Rule, the court, on motion or on its own initiative, may allow one or more parties or attorneys to participate in a hearing by video

conferencing or other electronic means. In determining whether to proceed under this section, the court shall consider:

(A) the availability of equipment at the court facility and at the relevant remote location necessary to permit the parties to participate meaningfully and to make an accurate and complete record of the proceeding;

(B) whether, in light of the issues before the court, the physical presence of a party or counsel is particularly important;

(C) whether the physical presence of a party is not possible or may be accomplished only at significant cost or inconvenience;

(D) whether the physical presence of fewer than all parties or counsel would make the proceeding unfair; and

(E) any other factors the court finds relevant.

(2) Exceptions and Conditions

(A) The court may not allow participation in the hearing by video conferencing or other electronic means if (i) additional evidence will be taken at the hearing and the parties do not agree to video conferencing or other electronic means, or (ii) such a procedure is prohibited by law.

(B) The court may not allow participation in the hearing by video conferencing or other electronic means on its own initiative unless it has given notice to the parties of its intention to do so and has afforded them a reasonable opportunity

to object. An objection shall state specific grounds, and the court may rule on the objection without a hearing.

~~(c)~~ (d) Additional Evidence

Additional evidence in support of or against the agency's decision is not allowed unless permitted by law.

Cross reference: Where a right to a jury trial exists, see Rule 2-325 (d). See *Montgomery County v. Stevens*, 337 Md. 471 (1995) concerning the availability of prehearing discovery.

Source: This Rule is in part derived from former Rules B10 and B11 and in part new.

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 200 - OBTAINING REVIEW IN COURT OF SPECIAL APPEALS

AMEND Rule 8-204 to add a sentence to section (c) requiring the clerk to notify parties of the transmittal of the record and application and to change the time period to respond in section (d) to 15 days after the clerk has sent out the notice of transmittal, as follows:

Rule 8-204. APPLICATION FOR LEAVE TO APPEAL TO COURT OF SPECIAL APPEALS

. . .

(c) Record on Application

(1) Time for Transmittal

The clerk of the lower court shall transmit the record, together with the application, to the Court of Special Appeals ~~within~~ within (A) five days after the filing of an application by a victim for leave to file an interlocutory appeal pursuant to Code, Criminal Procedure Article, §11-103, (B) 30 days after the filing of an application for leave to appeal in any other case, or (C) such shorter time as the appellate court may direct, ~~the clerk of the lower court shall transmit the record, together with the application, to the Court of Special Appeals.~~ The clerk shall notify each party of the transmittal.

. . .

(d) Response

Within 15 days after ~~service of the application~~ the clerk of the lower court sends the notice that the record and application have been transmitted to the Court of Special Appeals, any other party may file a response in the Court of Special Appeals stating why leave to appeal should be denied or granted, except that any response to an application for leave to appeal with regard to bail pursuant to Code, Courts Article, §3-707 or with regard to an interlocutory appeal by a victim pursuant to Code, Criminal Procedure Article, §11-103 shall be filed within five days after service of the application.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 400 - PRELIMINARY PROCEDURES

AMEND Rule 8-421 (a) to delete the third sentence, as follows:

Rule 8-421. DOCKETING OF APPEALS

(a) Generally

The Clerk need not docket an appeal until the record in the action has been received in the Clerk's office. In the Court of Special Appeals the Clerk need not docket the appeal until the filing fee provided by Rule 8-201 (b) has been received by the Clerk or waived. ~~Ordinarily, the Clerk shall docket appeals in the order in which the records are received.~~ When the record is received on or after March first in any term, the Clerk shall place the appeal on the docket for the next term.

(b) Separate Appeals on Same Record

All appeals on the same record, whether in the same action or in two or more actions consolidated in the lower court, shall be docketed as one action on appeal.

Source: This Rule is derived from former Rules 1004 and 804.

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 500 - RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-502 (c) by adding a new sentence addressing the number of briefs and record extracts that self-represented incarcerated and institutionalized parties shall file, as follows:

Rule 8-502. FILING OF BRIEFS

. . .

(c) Filing and Service

In an appeal to the Court of Special Appeals, 15 copies of each brief and 10 copies of each record extract shall be filed, unless otherwise ordered by the court. Incarcerated or institutionalized parties who are self-represented shall file nine copies of each brief and nine copies of each record extract. In the Court of Appeals, 20 copies of each brief and record extract shall be filed, unless otherwise ordered by the court. Two copies of each brief and record extract shall be served on each party pursuant to Rule 1-321.

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MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 500 - RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-503 (c) to add white as a color for the briefs of self-represented incarcerated or institutionalized parties and to add that certain information be required for the cover page, as follows:

Rule 8-503. STYLE AND FORM OF BRIEFS

. . .

(c) Covers

A brief shall have a back and cover of the following color:

(1) In the Court of Special Appeals:

(A) appellant's brief - yellow;

(B) appellee's brief - green;

(C) reply brief - light red;

(D) amicus curiae brief - gray-*i*

(E) briefs of incarcerated or institutionalized parties who are self-represented - white.

(2) In the Court of Appeals:

(A) appellant's brief - white;

(B) appellee's brief - blue;

(C) reply brief - tan;

(D) amicus curiae brief - gray.

The cover page shall contain the name of the appellate court, the caption of the case on appeal, and the case number on appeal, as well as the name, address, telephone number, and e-mail address, if available, of at least one attorney for a party represented by an attorney or of the party if not represented by an attorney.

If the appeal is from a decision of a trial court, the cover page shall also name the trial court and each judge of that court whose ruling is at issue in the appeal. The name typed or printed on the cover constitutes a signature for purposes of Rule 1-311.

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MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 500 - RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-504 to add language to subsection (a)(5) to add a statement of the applicable standard of review to the contents of a brief, as follows:

Rule 8-504. CONTENTS OF BRIEF

(a) Contents

A brief shall comply with the requirements of Rule 8-112 and include the following items in the order listed:

(1) A table of contents and a table of citations of cases, constitutional provisions, statutes, ordinances, rules, and regulations, with cases alphabetically arranged. When a reported Maryland case is cited, the citation shall include a reference to the official Report.

Cross reference: Citation of unreported opinions is governed by Rule 1-104.

(2) A brief statement of the case, indicating the nature of the case, the course of the proceedings, and the disposition in the lower court, except that the appellee's brief shall not contain a statement of the case unless the appellee disagrees with the statement in the appellant's brief.

(3) A statement of the questions presented, separately numbered, indicating the legal propositions involved and the

questions of fact at issue expressed in the terms and circumstances of the case without unnecessary detail.

(4) A clear concise statement of the facts material to a determination of the questions presented, except that the appellee's brief shall contain a statement of only those additional facts necessary to correct or amplify the statement in the appellant's brief. Reference shall be made to the pages of the record extract supporting the assertions. If pursuant to these rules or by leave of court a record extract is not filed, reference shall be made to the pages of the record or to the transcript of testimony as contained in the record.

Cross reference: Rule 8-111 (b).

(5) A concise statement of the applicable standard of review for each issue, which may appear in the discussion of the issue or under a separate heading placed before the argument.

~~(5)~~ (6) Argument in support of the party's position on each issue.

~~(6)~~ (7) A short conclusion stating the precise relief sought.

~~(7)~~ (8) The citation and verbatim text of all pertinent constitutional provisions, statutes, ordinances, rules, and regulations except that the appellee's brief shall contain only those not included in the appellant's brief.

~~(8)~~ (9) If the brief is prepared with proportionally spaced type, the font used and the type size in points shall be stated on the last page.

Cross reference: For requirements concerning the form of a brief, see Rule 8-112.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 500 - RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-521 to make a stylistic change, as follows:

Rule 8-521. ASSIGNMENT OF CASES

. . .

(b) Advancement or Postponement of Case

A case may be advanced or postponed on motion of a party or on the Court's own initiative. Argument will not be postponed because of the absence of an attorney or a ~~pro se~~ self-represented party on either side unless the absence is caused by sickness or other sufficient cause. Unless briefs have already been filed, an order advancing argument shall fix the times for filing briefs.

Source: This Rule is derived from former Rules 1045 and 845.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 100 - COURT ADMINISTRATIVE STRUCTURE,
JUDICIAL DUTIES, ETC.

AMEND Rule 16-101 to make the provisions of the Rule applicable to the senior judge present in the Court of Special Appeals in the absence of the Chief Judge of that Court, to allow the administrative judge of the Circuit Court for Baltimore City to authorize one judge in each courthouse for that Court to postpone certain criminal cases under certain circumstances, and to make stylistic changes, as follows:

Rule 16-101. ADMINISTRATIVE RESPONSIBILITY

. . .

b. Chief Judge of the Court of Special Appeals

The Chief Judge of the Court of Special Appeals ~~shall~~, subject to the direction of the Chief Judge of the Court of Appeals, and pursuant to the provisions of this Title, shall be responsible for the administration of the Court of Special Appeals. ~~With respect to the administration of the Court of Special Appeals, and to the extent applicable~~ In fulfilling that responsibility, the Chief Judge of the Court of Special Appeals shall possess, to the extent applicable, the authority granted to a County Administrative Judge in section d of this Rule. In the absence of the Chief Judge of the Court of Special Appeals, the

provisions of this Rule shall be applicable to the senior judge present in the Court of Special Appeals.

. . .

d. County Administrative Judge

. . .

3. Power to Delegate

(i) A County Administrative Judge may delegate to any judge, to any committee of judges, or to any officer or employee any of the administrative responsibilities, duties and functions of the County Administrative Judge.

(ii) In the implementation of Code, Criminal Procedure Article, §6-103 and Rule 4-271 (a), a County Administrative Judge may ~~authorize~~ (A) with the approval of the Chief Judge of the Court of Appeals, authorize one or more judges to postpone criminal cases on appeal from the District Court or transferred from the District Court because of a demand for jury trial, and (B) except as provided in subsection d.3.(iii) of this Rule, authorize not more than one judge at a time to postpone all other criminal cases.

(iii) The administrative judge of the Circuit Court for Baltimore City may authorize one judge sitting in the Clarence M. Mitchell Courthouse to postpone criminal cases set for trial in that Courthouse and one judge sitting in Courthouse East to postpone criminal cases set for trial in that courthouse.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 100 - COURT ADMINISTRATIVE STRUCTURE, JUDICIAL
DUTIES, ETC.

AMEND Rule 16-110 to correct the internal numbering in
section (d), as follows:

Rule 16-110. CELL PHONES; OTHER ELECTRONIC DEVICES; CAMERAS

. . .

(d) Notice

Notice of the provisions of sections (b) and (c) of this
Rule shall be:

~~(A)~~ (1) posted prominently at the court facility;

~~(B)~~ (2) included on the main judiciary website and the
website of each court; and

~~(C)~~ (3) disseminated to the public by any other means
approved in an administrative order of the Chief Judge of the
Court of Appeals.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 200 - THE CALENDAR - ASSIGNMENT AND DISPOSITION
OF MOTIONS AND CASES

AMEND Rule 16-204 to make a stylistic change, as follows:

Rule 16-204. FAMILY DIVISION AND SUPPORT SERVICES

(a) Family Division

. . .

(3) Family Support Services

Subject to the availability of funds, the following family support services shall be available through the family division for use when appropriate in a particular action:

(A) mediation in custody and visitation matters;

(B) custody investigations;

(C) trained personnel to respond to emergencies;

(D) mental health evaluations and evaluations for alcohol and drug abuse;

(E) information services, including procedural assistance to ~~pro-se~~ self-represented litigants;

Committee note: This subsection is not intended to interfere with existing projects that provide assistance to ~~pro-se~~ self-represented litigants.

(F) information regarding lawyer referral services;

(G) parenting seminars; and

(H) any additional family support services for which funding is provided.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 300 - CIRCUIT COURT CLERKS' OFFICES

AMEND Rule 16-309 to add language authorizing electronic transmission of the circuit clerk's list of cases to the Court of Special Appeals and to add items to the list, as follows:

Rule 16-309. NOTICE TO COURT OF SPECIAL APPEALS

By the third working day of each month, the clerk shall send or electronically transmit to the Clerk of the Court of Special Appeals a list of all cases in which, during the preceding calendar month, (1) a notice of appeal to the Court of Special Appeals has been filed, (2) a timely motion pursuant to Rule 2-532, 2-533, or 2-534 has been filed after the filing of a notice of appeal, (3) an application for leave to appeal has been filed, or (4) a notice of appeal or an application for leave to appeal ~~or (3) an appeal~~ to the Court of Special Appeals has been stricken pursuant to Rule 8-203. The list shall include the title and docket number of the case, the name and address of counsel for appellant(s), and the date on which the notice of appeal, the motion, or the dismissal was filed.

Source: This Rule is derived from former Rule 1219.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 700 - DISCIPLINE AND INACTIVE STATUS OF ATTORNEYS

AMEND Rule 16-714 to add clarifying and descriptive language concerning the creation, administration, contents, and purposes of the Disciplinary Fund and to make stylistic changes, as follows:

Rule 16-714. DISCIPLINARY FUND

(a) Payment by Attorneys

There is a Disciplinary Fund. ~~As to which, as~~ a condition precedent to the practice of law, each attorney shall pay annually ~~to the Fund the sum that~~ an amount prescribed by the Court of Appeals prescribes. The ~~sum~~ amount shall be ~~paid~~ in addition to and paid by the same date as other sums required to be paid pursuant to Rule 16-811. The Disciplinary Fund is created and administered pursuant to the Constitutional authority of the Court of Appeals to regulate the practice of law in the State of Maryland and to implement and enforce the Maryland Lawyers' Rules of Professional Conduct adopted by the Court. The Fund consists of contributions made by lawyers as a condition of their right to practice law in Maryland and income from those contributions. The principal and income of the Fund shall be dedicated exclusively to the purposes established by the Rules in this Title.

(b) Collection and Disbursement of Disciplinary Fund

The treasurer of the Client Protection Fund of the Bar of Maryland shall collect and remit to the Commission the sums paid by attorneys to the Disciplinary Fund.

(c) Audit

There shall be an independent annual audit of the Disciplinary Fund. The expense of the audit shall be paid out of the Fund.

(d) Enforcement

Enforcement of payment of annual assessments of attorneys pursuant to this Rule is governed by the provisions of Rule 16-811 (g).

Source: This Rule is derived from former Rules 16-702 d (BV2 d) and 16-703 b (vii) (BV3 b (vii)).

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 900 - PRO BONO LEGAL SERVICE

AMEND Rule 16-902 to make a stylistic change, as follows:

Rule 16-902. LOCAL PRO BONO COMMITTEES AND PLANS

. . .

(c) Local Pro Bono Action Plans

. . .

(2) Contents

The Local Pro Bono Action Plan shall address the following matters:

. . .

(F) methods of informing lawyers about the ways in which they may provide pro bono legal service;

Committee note: Ways in which lawyers may provide pro bono legal service include assisting in the screening and intake process; interviewing prospective clients and providing basic consultation; participating in ~~pro-se~~ self-represented clinics or other programs in which lawyers provide advice and counsel, assist persons in drafting letters or documents, or assist persons in planning transactions or resolving disputes without the need for litigation; representing clients through case referral; acting as co-counsel with legal service providers or other participating attorneys; providing consultation to legal service providers for case reviews and evaluations; training or consulting with other participating attorneys or staff attorneys affiliated with a legal service provider; engaging in legal research and writing; and, if qualified through training and experience, serving as a mediator, arbitrator, or neutral evaluator.

. . .

MARYLAND RULES OF PROCEDURE

APPENDIX: THE MARYLAND LAWYERS' RULES OF PROFESSIONAL CONDUCT

ADVOCATE

AMEND Rule 3.8 to make a stylistic change, as follows:

Rule 3.8. SPECIAL RESPONSIBILITIES OF A PROSECUTOR

. . .

COMMENT

. . .

[2] Paragraph (c) does not apply to an accused appearing ~~pro~~
~~se~~ self-represented with the approval of the tribunal. Nor does
it forbid the lawful questioning of a suspect who has knowingly
waived the rights to counsel and silence.

. . .

MARYLAND RULES OF PROCEDURE

APPENDIX: THE MARYLAND LAWYERS' RULES OF PROFESSIONAL CONDUCT
LAW FIRMS AND ASSOCIATIONS

AMEND Rule 5.5 to make a stylistic change, as follows:

Rule 5.5. UNAUTHORIZED PRACTICE OF LAW; MULTIJURISDICTIONAL
PRACTICE OF LAW

. . .

COMMENT

. . .

[3] A lawyer may provide professional advice and instruction to nonlawyers whose employment requires knowledge of law; for example, claims adjusters, employees of financial or commercial institutions, social workers, accountants and persons employed in government agencies. Lawyers also may assist independent nonlawyers, such as paraprofessionals, who are authorized by the law of a jurisdiction to provide particular law-related services. In addition, a lawyer may counsel nonlawyers who wish to proceed ~~pro se~~ self-represented.

. . .

MARYLAND RULES OF PROCEDURE

APPENDIX: THE MARYLAND LAWYERS' RULES OF PROFESSIONAL CONDUCT

PUBLIC SERVICE

AMEND Rule 6.5 to make a stylistic change, as follows:

Rule 6.5. NONPROFIT AND COURT-ANNEXED LIMITED LEGAL SERVICES
PROGRAMS

. . .

COMMENT

[1] Legal services organizations, courts and various nonprofit organizations have established programs through which lawyers provide short-term limited legal services - such as advice or the completion of legal forms - that will assist persons to address their legal problems without further representation by a lawyer. In these programs, such as legal-advice hotlines, advice-only clinics, ~~pro-se self-~~represented counseling programs, or programs in which lawyers represent clients on a pro bono basis for the purposes of mediation only, a client-lawyer relationship is established, but there is no expectation that the lawyer's representation of the client will continue beyond the limited consultation.

. . .

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Bar Admission Rule 14 to add a cross reference following section (a) referencing Forms RGAB-14/M and RGAB-14/O as follows:

Rule 14. SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEYS

(a) Motion for Special Admission

A member of the Bar of this State who is an attorney of record in an action pending in any court of this State, or before an administrative agency of this State or any of its political subdivisions, or representing a client in an arbitration taking place in this State involving the application of Maryland law, may move, in writing, that an attorney who is a member in good standing of the Bar of another state be admitted to practice in this State for the limited purpose of appearing and participating in the action as co-counsel with the movant. If the action is pending in a court, the motion shall be filed in that court. If the action is pending before an administrative agency or arbitration panel, the motion shall be filed in the circuit court for the county in which the principal office of the agency is located or in which the arbitration hearing is located or in any other circuit to which the action may be appealed and shall include the movant's signed certification that copies of the

motion have been furnished to the agency or the arbitration panel, and to all parties of record.

Cross reference: For the definition of "arbitration," see Rule 17-102 (b). See Forms RGAB-14/M and RGAB/14-O for the form of a motion and order for the Special Admission of an out-of-state attorney.

. . .

MARYLAND RULES OF PROCEDURE

FORMS OF SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY

AMEND Form RGAB-14/M to add a new paragraph concerning the fee required by Code, Judicial Proceedings Article, §7-202 (e), as follows:

Form RGAB-14/M. MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY UNDER RULE 14 OF THE RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND.

(Caption)

MOTION FOR SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEY UNDER RULE 14 OF THE RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

I,, attorney of record in this case, move that the court admit, of (Name)

....., an (Address)

out-of-state attorney who is a member in good standing of the Bar of, for the limited purpose of appearing and participating in this case as co-counsel with me.

Unless the court has granted a motion for reduction or waiver, the \$100.00 fee required by Code, Courts and Judicial Proceedings Article, §7-202 (e) is attached to this motion.

I [] do [] do not request that my presence be waived under Rule 14 (d) of the Rules Governing Admission to the Bar of Maryland.

.....
Signature of Moving Attorney

.....
Name

.....
Address

.....
Telephone

Attorney for

CERTIFICATE AS TO SPECIAL ADMISSIONS

I,, certify on this day of, that during the preceding twelve months, I have been specially admitted in the State of Maryland times.

.....
Signature of Out-of-State Attorney

.....
Name

.....
Address

.....
Telephone

(Certificate of Service)

MARYLAND RULES OF PROCEDURE

FORMS OF SPECIAL ADMISSION OF OUT-OF-STATE ATTORNEYS

AMEND Form RGAB-14/O to add a clause instructing the Clerk to return any fee paid for the Special Admission if the court denies the Special Admission, as follows:

Form RGAB-14-O. ORDER

(Caption)

ORDER

ORDERED, this day of,, by the Court for, Maryland, that

[] is admitted specially for the limited purpose of appearing and participating in this case as co-counsel for The presence of the Maryland lawyer [] is [] is not waived.

[] That the Special Admission of is denied for the following reasons: and the Clerk shall return any fee paid for the Special Admission and it is further

ORDERED, that the Clerk forward a true copy of the Motion and of this Order to the State Court Administrator.

.....
Judge