

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 to the Court its One Hundred Seventy-Ninth Report recommending adoption on an emergency basis of proposed amendments to Rule 1-322.1 and adoption of proposed new Rule 1-322.2, all as set forth in that Report; and

This Court having considered at an open meeting, notice of which was posted as prescribed by law, all those proposed amendments and finding that an emergency exists with reference to the proposed rules changes, it is this 2nd day of July, 2013,

ORDERED, by the Court of Appeals of Maryland, that amendments to Rule 1-322.1 and new Rule 1-322.2 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that the amendments to Rule 1-322.1 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 July 9, 2013, and insofar as practicable to all actions then pending; and it is further

ORDERED that new Rule 1-322.2 hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceeding, and shall take effect and apply to all actions commenced on or after July 1, 2014, 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/ Sally D. Adkins

Sally D. Adkins

/s/ Mary Ellen Barbera

Mary Ellen Barbera

/s/ Robert N. McDonald

Robert N. McDonald

Filed: July 2, 2013

/s/ Bessie M. Decker

Clerk
Bessie M. Decker

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

AMEND Rule 1-322.1 to clarify its applicability, to add a Committee note, to add a cross reference, to delete references to birth dates, to permit the filing of personal identifier information required to implement a court order, to correct internal references, and to make stylistic changes, as follows:

Rule 1-322.1. EXCLUSION OF PERSONAL IDENTIFIER INFORMATION IN COURT FILINGS

(a) Applicability

This Rule applies only to pleadings and other papers filed in an action on or after July 9, 2013 by a person other than a judge or judicial appointee. The Rule does not apply to administrative records, business license records, or notice records, as those terms are defined in 16-1001 (a).

Committee note: Although not subject to this Rule, judges and judicial appointees should be aware of the purpose of the Rule and refrain from including personal identifier information in their filings, unless necessary.

Cross reference: For the definition of "action," see Rule 1-202. For the prohibition against including certain personal information on recordable instruments, see Code, Real Property Article, §3-111. For the prohibition against publicly posting or displaying on an Internet Website certain personal information contained in court records, including notice records, see Code, Courts Article, §1-205.

~~(a)~~ (b) Generally

~~Unless~~ Except as otherwise provided in this Rule, required

by law, ~~or~~ permitted by court order, or required to implement a court order, the following personal identifier information shall not be included in any electronic or paper filing with a court:

(1) an individual's Social Security number, or taxpayer identification number, ~~or date of birth~~; or

(2) the numeric or alphabetic characters of a financial or medical account identifier.

~~(b)~~ (c) Exceptions

Unless otherwise provided by law or court order, section ~~(a)~~ (b) of this Rule does not apply to the following:

(1) a financial account identifier that identifies the property allegedly subject to forfeiture in a forfeiture proceeding; or

(2) the record of an administrative agency proceeding; or

~~(3) in a charging document, the date of birth of the defendant; or~~

~~(4) a court record filed prior to July 1, 2013.~~

~~(c)~~ (d) Alternatives

If, by reason of the nature of the action, it is necessary to include in a filing personal identifier information described in section ~~(a)~~ (b) of this Rule, the filer may:

(1) include in the filing only the last four digits of the Social Security or taxpayer identification number, ~~the year of the individual's birth~~, or the last four characters of the financial or medical account identifier, unless that identifier consists of fewer than eight characters, in which event all

characters shall be redacted;

Committee note: Financial accounts include credit and debit card accounts, bank accounts, brokerage accounts, insurance policies, and annuity contracts. PIN numbers or other account passwords also may need to be redacted, as well as health information identifiers.

(2) file the unredacted document under seal, if permitted by order of court;

(3) if the full information is required to be provided only to another party or to a court official, other than a judge or judicial appointee, provide the information separately to that party or official and file only a certificate that the information has been so provided;

Committee note: It may be necessary to provide personal identifier information to a court official, including a clerk, sheriff, or constable, in order for that official to send or serve notices, summonses, or other documents. Subsection ~~(c)(2)(A)~~ (d)(3) of this Rule is not intended to permit *ex parte* communications with a judge.

(4) if the full information is required to be in the filing and the filing is a paper filing, file the paper in duplicate, one copy with the information redacted as required by section ~~(a)~~ (b) of this Rule and one copy without redaction, together with instructions to the clerk to shield the unredacted copy in conformance with the Rules in Title 16, Chapter 1000; or

(5) if the full information is required to be in the filing and the filing is electronic, designate, in conformance with the applicable electronic filing requirements, the information to be redacted or shielded for purposes of public access.

Cross reference: See Rule 20-201.

~~(d)~~ (e) Protective Orders

For good cause, the court may, by order, in a case:

- (1) require redaction of additional information; and
- (2) limit or prohibit a nonparty's remote electronic access

to a document filed with the court.

Committee note: Other than remote access to docket entries, nonparties currently do not have remote access to documents filed with the court, except under certain limited circumstances, such as in asbestos-related litigation.

~~(e)~~ (f) Non-conforming Documents

- (1) Waiver

A person waives the protection of section ~~(a)~~ (b) of this Rule as to the person's own information by filing it without redaction and not under seal.

- (2) Sanctions

If a person fails to comply with this Rule, the court on motion of a party or on its own initiative, may enter any appropriate order.

Committee note: This Rule does not affect the discoverability of personal information.

Source: This Rule is in part derived from Fed. R. Civ. P. 5.2 (2007) and is in part new.

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ADD new Rule 1-322.2, as follows:

Rule 1-322.2. CERTIFICATE OF EXCLUSION OF PERSONAL IDENTIFIER
INFORMATION

(a) Certificate Required

Every pleading or paper filed an action on or after July 1, 2014 shall contain either:

(1) a certificate of compliance with Rule 1-322.1 that is signed by an individual who is (A) the party filing it or an attorney for the party, or (B) if the paper is filed by a nonparty, the person filing it or the person's attorney, employee, or agent; or

(2) in an affected action under Title 20 of these Rules, a certificate that complies with Rule 20-201 (f) (1) (B).

Cross reference: For the definition of "affected action," see Rule 20-101.

(b) Action by Clerk

The clerk shall not accept for filing any pleading or other paper requiring a certificate under section (a) of this Rule unless the pleading or paper contains the certificate.

Source: This Rule is new.