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# SUPREME COURT OF MARYLAND

*Attorney Grievance Commission of Maryland v. Spencer Michael Hecht*, AG No. 37, September Term 2024, filed March 20, 2026. Opinion by Watts, J.

<https://www.mdcourts.gov/data/opinions/coa/2026/37a24ag.pdf>

ATTORNEY DISCIPLINE – SANCTIONS – DISBARMENT

## **Facts:**

Spencer Michael Hecht, Respondent, a member of the Bar of Maryland, was admitted to the Bar in 2002. Mr. Hecht maintained a law office in Montgomery County and at the relevant time his practice primarily involved family law. Mr. Hecht engaged in misconduct involving three different clients. The hearing judge found Mr. Hecht “to be a less than credible witness[,]” explaining that Mr. Hecht’s “testimony was marked by inconsistencies, evasion, deflection, and deception.”

In April 2023, Jose Juarez retained Mr. Hecht for representation in a divorce action against his wife. Mr. Hecht filed a divorce complaint on Mr. Juarez’s behalf in the Circuit Court for Montgomery County. After the divorce action was filed, Mr. Hecht emailed Mr. Hecht’s wife’s attorney, advising that Mr. Juarez was willing to dismiss the complaint for divorce “in exchange for a post-nuptial agreement between him and [his wife] identifying everything in their names as non-marital” property. Mr. Hecht billed Mr. Juarez approximately \$2,400 for drafting the post-nuptial agreement. The hearing judge found that the “post-nuptial agreement conferred significant benefits to [Mr.] Juarez” and that the “benefits were very important to [Mr.] Juarez.” On August 22, 2023, Mr. Juarez arranged with Mr. Hecht to drop off the signed and notarized post-nuptial agreement to Mr. Hecht the next morning at 9:00 a.m. On August 23, 2023, Mr. Juarez went to Mr. Hecht’s office, but no one was at the front desk. Mr. Hecht spoke to Mr. Juarez from another office, instructing Mr. Juarez to leave the signed and notarized post-nuptial agreement on the front desk. Mr. Juarez complied and, before departing the office, took a photograph of the agreement on the desk.

The agreement went missing. On September 19, 2023, after his wife’s counsel’s appearance had been stricken, Mr. Hecht and Mr. Juarez’s wife filed a “Consent Line to Dismiss,” dismissing the divorce action. The hearing judge found that, although Mr. Hecht knew that Mr. Juarez’s willingness to dismiss the divorce action was contingent on having a post-nuptial agreement, Mr. Hecht nonetheless proceeded with dismissing the divorce action even though he had not located

the missing agreement.” On November 13, 2023, Mr. Hecht emailed Mr. Juarez, and among other things, reminded him that a hearing had been scheduled for December 15 on a motion to rescind a final protective order that Mr. Juarez had obtained against his wife. The hearing judge found that Mr. Hecht did not tell Mr. Juarez that the agreement was missing and that, at that point, his wife’s desire to obtain relief from the final protective order could have been used as leverage to get her to sign a replacement agreement. Mr. Hecht continued to conceal from Mr. Juarez that the post-nuptial agreement was missing in other communications in November 2023. On December 13, 2023, Mr. Hecht finally admitted to Mr. Juarez that the agreement was missing. Mr. Juarez asked for a refund for the cost of preparing the post-nuptial agreement if it could not be found. Mr. Hecht rejected the request for a refund and blamed Mr. Juarez for leaving the agreement at the office when no one was there to receive it. Over a year later, on January 16, 2025, Mr. Hecht mailed Mr. Juarez a refund check for \$2,400, along with a letter stating that because Mr. Juarez had informed a peer review panel that he did not keep a copy of the document, Mr. Hecht “decided to refund” the fees. The mailing was returned, and on June 19, 2025, Mr. Hecht sent another refund check to Mr. Juarez’s new address.

On June 22, 2020, Mr. Hecht entered his appearance on behalf of Jackie Greiner in a pending divorce action in the Circuit Court for Howard County. At the time that Mr. Hecht was retained, discovery in the divorce action was closed and, without her knowledge, Ms. Greiner’s prior counsel had withdrawn a motion to compel discovery that had been filed by her original attorney. The hearing judge found that, from the start of Mr. Hecht’s representation of Ms. Greiner, she was concerned about obtaining documents she believed were missing from the discovery. The hearing judge determined that, although Mr. Hecht gave “inconsistent and less than credible testimony” at the disciplinary hearing about the need to file a motion to compel and about advice he had given to Ms. Greiner, Ms. Greiner clearly asked Mr. Hecht to file a motion to compel and Mr. Hecht said that he was working on it. The hearing judge found that “[a]mazingly,” at the disciplinary hearing, Mr. Hecht testified that he had “no idea” why he told Ms. Greiner he was working on a motion to compel because he never intended to file a motion to compel, and that on the day he first met Ms. Greiner, he told her that he was not going to file a motion to compel.

For Ms. Greiner’s case, Mr. Hecht engaged a person named Dan Chaney as an expert in the areas of business valuation, income determination, alimony analysis, and tax consequences of alimony. Ms. Greiner paid \$5,000 to retain Mr. Chaney and believed that Mr. Chaney would prepare an expert report. On July 9, 2020, Mr. Hecht filed an expert witness designation with the court on Ms. Greiner’s behalf, identifying Mr. Chaney as an expert witness and stating that “Mr. Chaney is in the process of investigation and preparation of a report. . . . Plaintiff [sic] intends to serve Plaintiff with Mr. Chaney’s report as soon as it is complete.” The hearing judge found that, despite Ms. Greiner’s numerous requests for a copy of the report, Mr. Hecht did not advise Ms. Greiner that Mr. Chaney had not prepared a written report and was not expected to.

During a hearing, before the start of the trial, Mr. Hecht informed the court that he needed to withdraw as Ms. Greiner’s counsel due to a “breakdown in communication” with Ms. Greiner. Ms. Greiner advised the court that she had been seeking discovery information from Mr. Hecht for months to no avail. Ms. Greiner also stated that she had spent \$5,000 for a report from Mr. Chaney and that she had asked Mr. Hecht for the last several months to send her the report, but

that she did not “even know if it exists.” In his remarks to the court, Mr. Hecht did not disclose whether Mr. Chaney was ever expected to prepare a written report or why he had not responded to Ms. Greiner’s repeated inquiries as to the status of the report. The court granted Mr. Hecht’s request to withdraw as Ms. Greiner’s counsel. The court also granted Ms. Greiner’s request for a continuance of the trial date, conditioned on her paying Mr. Kruger, her husband’s attorney, \$9,000 as compensation for time spent preparing for the now-continued trial. The hearing judge found that Mr. Hecht had not advised Ms. Greiner that she might be required to pay attorneys’ fees if the court granted a motion for a continuance.

Ms. Greiner hired new counsel, Chad Spencer, who attempted to obtain discovery materials from Mr. Hecht. After trying unsuccessfully to obtain missing documents from Mr. Kruger, Mr. Spencer filed a “Motion for Appropriate Relief,” asking the court to compel Mr. Kruger to provide copies of missing documents. Mr. Kruger filed an opposition to the motion accompanied by an affidavit signed by Mr. Hecht. The affidavit stated, in part, that, “[p]rior to the withdrawal of [his] appearance as counsel for Ms. [Greiner], and throughout [his] representation of her,” Mr. Hecht “provided her with all documents that were received in discovery. This included documents provided by both of my predecessor counsel.” The affidavit stated that the reason Ms. Greiner needed a postponement was “because of the voluminous documentation she had been provided that she had not yet reviewed.” The hearing judge found that Mr. Hecht’s “efforts in helping his former opposing counsel oppose his former client’s request for relief were successful” as the court denied Mr. Spencer’s motion for appropriate relief.

The hearing judge found that Mr. Hecht’s “story” about Mr. Chaney and the existence of an expert report changed throughout Bar Counsel’s investigation. On March 1, 2024, in a statement under oath, Mr. Hecht testified that Mr. Chaney had produced an expert report that had been provided to Mr. Kruger and was in materials that he had given to Bar Counsel. When asked why, if the report existed, Ms. Greiner never received it, Mr. Hecht accused Ms. Greiner of being untruthful. After the statement under oath, Bar Counsel asked Mr. Hecht to produce both his correspondence with Mr. Chaney about the report and the correspondence in which he provided Mr. Chaney’s report to Mr. Kruger. Mr. Hecht did not respond to either request. The hearing judge found that in his answer to the petition for disciplinary or remedial action, Mr. Hecht “changed his account” and contended that “Mr. Chaney did not produce a report because his opinions were consistent with the Husband’s position as to his income and non-marital assets.” The hearing judge found that in an amended answer to an interrogatory, Mr. Hecht’s “recollection shifted yet again.” In the amended answer to interrogatory number 7, Mr. Hecht stated that he “now recalled” receiving only a draft report from Mr. Chaney.

Michael Bonnell retained Mr. Hecht to represent him in a child custody dispute with his ex-wife. Mr. Bonnell paid Mr. Hecht \$10,000 as an initial retainer and, on March 1, 2022, Mr. Hecht entered his appearance in the case on Mr. Bonnell’s behalf. Mr. Hecht billed Mr. Bonnell \$11,270 for work performed between February 28 and March 27, 2022. On March 28, 2022, Mr. Hecht sent Mr. Bonnell an email requesting to bill an additional \$20,000 and including a link for payment. The next day, Mr. Hecht sent Mr. Bonnell an e-mail asking: “[C]an we process

payment today?” Mr. Bonnell did not respond to the requests for payment and did not authorize the requested payment.

On March 30, 2022, Mr. Bonnell sent Mr. Hecht an email informing him that he was “changing direction relative to the case” and he had decided to hire new counsel but that he might keep Mr. Hecht “as a strategist and someone [Mr.] Bonnell could ‘discuss planning and ideas with.’” In the email, Mr. Bonnell advised Mr. Hecht that he could “use the card on file to cover the current balance.” The hearing judge found that, as of March 27, 2022, the balance due was \$1,270. At some point before March 31, 2022, without Mr. Bonnell’s authorization, Mr. Hecht charged \$7,500 to Mr. Bonnell’s credit card. On March 31, Mr. Bonnell emailed Mr. Hecht, stating: “I saw a charge of \$7,500.00 come through on my card. We never spoke about any authorized charge amount beyond paying the existing balance.” Mr. Hecht responded that there was balance greater than what Mr. Bonnell had seen.

On July 7, 2022, Mr. Bonnell emailed Mr. Hecht, asking him to “refund any balances” and to provide “billing support.” Mr. Hecht did not respond to the email. On January 11, 2023, Mr. Bonnell emailed Mr. Hecht requesting a refund of “all unused amounts.” Mr. Hecht replied that he thought a refund had been “done several months ago[,]” but that he would look into it and be in touch. At the disciplinary hearing, Mr. Hecht testified that he sent Mr. Bonnell an invoice and refund check on January 27, 2023. Mr. Bonnell never received either the invoice or the refund check. On March 26, 2025, after an unsuccessful attempt to resolve the matter using the Bar Association of Montgomery County’s Committee on the Resolution of Fee Disputes, Mr. Bonnell entered into a settlement agreement with Mr. Hecht and received \$7,000.

On June 9, 2025, prior to the date of the disciplinary hearing, the hearing judge granted Bar Counsel’s Supplement to Petitioner’s Motion to Compel Discovery Responses and ordered that Mr. Hecht produce all ledgers for clients with money in trust from March 28, 2022, through January 27, 2023, and all monthly reconciliations of his IOLTA for the same period. According to the hearing judge, the order was not processed and served through MDEC. On June 30, 2025, when counsel and the parties appeared for the disciplinary hearing, they believed that the court had not ruled on the motion. Counsel agreed to confer and arrange for production of the materials. According to the hearing judge, after counsel discussed efforts that had been made for Mr. Hecht, through his accountant, to produce responsive records, which were stored electronically, it was agreed that Mr. Hecht “would extract whatever documents he could, produce them, and give some testimony.” Mr. Hecht produced reconciliations for only six months, March 2022 through August 2022, and one page of one month’s general ledger, and gave testimony regarding reconciliations for September 2022 through January 2023.

On January 15, 2025, behalf of the Attorney Grievance Commission, Petitioner, Bar Counsel filed a “Petition for Disciplinary or Remedial Action” against Mr. Hecht, charging him with violating Maryland Attorneys’ Rules of Professional Conduct (“MARPC”) 1.1 (Competence), 1.3 (Diligence), 1.4(a) and (b) (Communication), 1.5(a) (Fees), 1.9(c) (Duties to Former Clients), 1.15(a) (Safekeeping Property), 1.16(d) (Terminating Representation), 8.4(c) (Dishonesty, Fraud, Deceit, or Misrepresentation), 8.4(d) (Conduct that is Prejudicial to the Administration of Justice), and 8.4(a) (Violating the MARPC), and Maryland Rule 19-407(a) and (b) (Attorney

Trust Account Record-Keeping). On May 27, 2025, Bar Counsel filed an Amended Petition for Disciplinary or Remedial Action, which added allegations that Mr. Hecht had violated MARPC 8.1(a) and (b) (Bar Admission and Disciplinary Matters). The Supreme Court of Maryland designated a hearing judge to hear the attorney discipline proceeding.

On September 26, 2025, the hearing judge issued an opinion including findings of fact and conclusions of law, concluding that Mr. Hecht had violated MARPC 1.1, 1.3, 1.4(a) and (b), 1.5(a), 1.9(c), 1.15(a), 8.1(b), and 8.4(a) and (c), but had not violated MARPC 1.16(d) or 8.4(d), or Maryland Rule 19-407. The hearing judge did not make a determination as to whether Mr. Hecht violated MARPC 8.1(a).

The hearing judge found that the Commission had established by clear and convincing evidence eight aggravating factors: (1) prior disciplinary history; (2) a pattern of misconduct; (3) multiple offenses; (4) bad faith obstruction of the attorney discipline proceeding; (5) a dishonest or selfish motive; (6) the submission of false evidence, false statements, and other deceptive practices during the attorney discipline proceeding; (7) refusal to acknowledge the wrongful nature of the misconduct; and (8) substantial experience in the practice of law. The hearing judge found that Mr. Hecht did not establish the existence of any mitigating factors.

On December 5, 2025, the Supreme Court of Maryland heard oral argument.

**Held:** Disbarred.

With the exception of the hearing judge's findings as to deceit, to which Mr. Hecht excepted, the Supreme Court of Maryland treated the hearing judge's findings of fact as established.

The Supreme Court of Maryland overruled Bar Counsel's exception to the hearing judge not concluding that Mr. Hecht violated MARPC 1.1 and 1.3 with respect to his representation of Mr. Bonnell and in his attorney trust record-keeping practices. The Supreme Court agreed with Bar Counsel that a hearing judge's conclusion that an attorney has violated MARPC 1.4(a) and 1.5 may support the conclusion that the attorney has also violated MARPC 1.1 and 1.3. In the case, however, the misconduct that resulted in the hearing judge's conclusion that Mr. Hecht violated MARPC 1.4 and 1.5(a) with respect to Mr. Bonnell occurred after the attorney-client relationship had been terminated and, therefore, could not be the basis of a violation of MARPC 1.1 and 1.3 or MARPC 1.4. The Supreme Court concluded that there was no allegation that Mr. Hecht lacked competence and diligence in his representation of Mr. Bonnell in the brief time before Mr. Bonnell terminated the representation. The Supreme Court overruled Mr. Hecht's exception to the hearing judge's conclusion that he violated MARPC 1.1 and 1.3 as to Mr. Juarez. Mr. Hecht lost the very document that was essential to protecting Mr. Juarez's interests in his reconciliation with his estranged wife. By losing the post-nuptial agreement and not immediately notifying Mr. Juarez that the agreement was missing and permitting Mr. Juarez to proceed with the withdrawal of the protective order and dismissal of the divorce action, Mr. Hecht clearly engaged in misconduct that violated MARPC 1.1 and 1.3. The Supreme Court also

concluded that clear and convincing evidence supported the hearing judge's conclusion that he violated MARPC 1.1 and 1.3 in his representation of Ms. Greiner.

The Supreme Court of Maryland sustained Bar Counsel's exception to the hearing judge not finding that Mr. Hecht violated MARPC 1.4(b) with respect to Ms. Greiner. Mr. Hecht's failure to communicate honestly with Ms. Greiner about the work that he was, or was not, performing in her case prevented her from making informed decisions about the case. Even though Mr. Hecht knew that Mr. Chaney would not produce an expert report and that he was not working on a motion to compel, on May 18, 2021, Mr. Hecht requested that Ms. Greiner pay a \$10,000 replenishment of his retainer. Mr. Hecht withheld important information about the case that prevented Ms. Greiner from making an informed decision about her continued payment of his retainer. For the same reasons that the Supreme Court sustained Mr. Hecht's exception to the hearing judge's conclusion that he violated MARPC 1.1 and 1.3 in his representation of Mr. Bonnell, the Court sustained his exception to the conclusion that he violated MARPC 1.4(a)(2) and (3) as to Mr. Bonnell. The Supreme Court determined that the hearing judge's conclusions that Mr. Hecht violated MARPC 1.4(a)(2) and (3) in his representation of Mr. Juarez and Ms. Greiner, and MARPC 1.4(b) in his representation of Mr. Juarez, were supported by clear and convincing evidence.

The Supreme Court of Maryland overruled Mr. Hecht's exception to the hearing judge's conclusion that he violated MARPC 1.5(a) with respect to Mr. Juarez and Ms. Greiner. It was plain that Mr. Hecht violated MARPC 1.5(a) by refusing to refund Mr. Juarez the \$2,400 that he paid for preparation of the post-nuptial agreement that Mr. Hecht lost. Although the fee may not have been unreasonable at the time it was charged, Mr. Hecht collected and refused to return for a substantial period of time a fee, where as a result of him losing the post-nuptial agreement, the outcome was that he had not provided the promised service. Mr. Hecht billed Ms. Greiner for work that he had no intention of performing with respect to filing a motion to compel, actively misled Ms. Greiner about the status of the motion, and testified at the disciplinary hearing that filing the motion would have been frivolous. The Supreme Court determined that the hearing judge's conclusion that Mr. Hecht violated MARPC 1.5(a) in relation to the \$7,500 charge on Mr. Bonnell's credit card was also supported by clear and convincing evidence.

The Supreme Court of Maryland overruled Mr. Hecht's exception to the hearing judge's conclusion that he violated MARPC 1.9 and held that the hearing judge's findings of fact and conclusions of law substantiate a violation of MARPC 1.9(c)(1) and (2). Mr. Hecht signed an affidavit, which the MARPC did not require or permit him to sign, containing information about his representation of Ms. Greiner that was not generally known, and which contributed to Ms. Greiner's motion for appropriate relief being denied. At oral argument, despite having filed a written exception indicating otherwise, Mr. Hecht acknowledged that the affidavit was adverse to Ms. Greiner's interests.

The Supreme Court of Maryland determined that clear and convincing evidence supported the hearing judge's conclusion that Mr. Hecht violated MARPC 1.15(a) by failing to safeguard Mr. Juarez's signed and notarized post-nuptial agreement. That Mr. Hecht may have made

subsequent, unsuccessful steps to search for the document does not negate his failure to safeguard it.

The Supreme Court of Maryland sustained Bar Counsel’s exceptions to the hearing judge not concluding that Mr. Hecht violated MARPC 1.16(d) with respect to Mr. Juarez and Mr. Bonnell. When Mr. Hecht finally advised Mr. Juarez that the post-nuptial agreement was lost—“after months of evasion and deception”—Mr. Juarez immediately asked for a refund of the \$2,400 fee paid for preparation of the agreement. Mr. Hecht refused to refund the \$2,400 and did so only after Bar Counsel received a complaint from Mr. Juarez, and Mr. Juarez sought assistance from a peer review panel. In June 2025, almost two years after Mr. Juarez had returned the signed agreement to Mr. Hecht’s office on August 23, 2023, Mr. Hecht sent Mr. Juarez a refund. Mr. Hecht’s failure to take reasonably practicable steps to refund Mr. Juarez’s payment upon request clearly constituted a violation of MARPC 1.16(d). Likewise, despite Mr. Bonnell’s repeated requests for a refund, he did not receive repayment until after he attempted unsuccessfully to use the Bar Association of Montgomery County’s Committee on the Resolution of Fee Disputes, filed a complaint with Bar Counsel against Mr. Hecht, and eventually entered into a settlement agreement and received \$7,000 from Mr. Hecht.

The Supreme Court of Maryland determined that the hearing judge’s conclusion that Mr. Hecht violated MARPC 8.1(b) “[b]y failing to promptly correct the misapprehension he knew had arisen” concerning Mr. Chaney having prepared a report and disclosing to Bar Counsel that Mr. Chaney had not in fact produced a report was supported by clear and convincing evidence.

The Supreme Court of Maryland overruled Mr. Hecht’s exception to the hearing judge’s conclusion that he violated MARPC 8.4(c). The hearing judge concluded that, in Mr. Hecht’s representation of Mr. Juarez, Mr. Hecht “continually conceal[ed] the fact that the post-nuptial agreement was lost. In so doing, [Mr.] Hecht engaged in a deliberate course of action that resulted in harming the interests of his client in order to minimize his embarrassment and maximize his financial gain.” The hearing judge also concluded that, between August and December 2023, Mr. Hecht “was dishonest either through omission or through intentional misrepresentation when he avoided responding to [Mr. Juarez’s] inquiries about the status of the post-nuptial agreement or when he falsely asserted that he would get [Mr. Juarez] a copy of the document.” The hearing judge’s description of Mr. Hecht’s misconduct left no question that his dishonesty about the post-nuptial agreement was intentional and a part of Mr. Hecht’s “deliberate course of action[.]” Likewise, the hearing judge concluded that Mr. Hecht, among other misconduct, “affirmatively misrepresented to [Ms.] Greiner that he was in the process of working on a motion to compel discovery[.]” and “failed to correct her misapprehension that [Mr.] Chaney was retained to produce an expert report.” The hearing judge concluded that Mr. Hecht “initiat[ed] an unauthorized \$7,500.00 charge” on Mr. Bonnell’s credit card and likened his conduct to that of the attorneys in cases in which this Court upheld determinations that attorneys violated MARPC 8.4(c) by intentional misappropriation.

The Supreme Court of Maryland sustained Bar Counsel’s exception to the hearing judge’s conclusion that Mr. Hecht did not violate MARPC 8.4(d). The Supreme Court also determined

that clear and convincing evidence supported the hearing judge's conclusion that Mr. Hecht violated MARPC 8.4(a).

The Supreme Court of Maryland agreed that the hearing judge's findings as to each of the eight aggravating factors it found were supported by clear and convincing evidence. In addition, the Supreme Court sustained Bar Counsel's exception to the hearing judge not finding indifference to making restitution or rectifying the misconduct's consequences and likelihood of repetition as aggravating factors. The Supreme Court overruled Mr. Hecht's exception to the hearing judge's failure to find any mitigating factors.

After careful consideration of the nature, circumstances, and consequences of Mr. Hecht's intentional dishonest conduct, the Supreme Court concluded that the *Vanderlinde* standard applies. Mr. Hecht's misconduct—which consisted of acts of intentional dishonesty with his clients, opposing counsel, and the trial court, and harm to his clients, as well as him benefitting or profiting from the misconduct—aligned with the factors that the Court had discussed in *Collins* as indicative of when the *Vanderlinde* standard applies. See *Attorney Grievance Comm'n v. Collins*, 477 Md. 482, 530, 533, 270 A.3d 917 945-46, 948 (2022). Mr. Hecht had not alleged that there are compelling extenuating circumstances that warranted consideration of a sanction less than disbarment. See *Attorney Grievance Comm'n v. Vanderlinde*, 364 Md. 376, 413-14, 773 A.2d 463, 485 (2001). The Supreme Court explained that while its holding in *Vanderlinde* had been qualified, it had not been overruled. The Supreme Court stated that the “holding in *Collins* stands for the proposition that this Court has the discretion based on the nature, circumstances, and consequences of the intentional dishonest misconduct at issue to determine whether to invoke the *Vanderlinde* standard.” The Supreme Court stated that where intentional dishonesty, false statements and the like are concerned, the first step in determining the appropriate sanction is a decision as to whether the *Vanderlinde* standard applies. “If the *Vanderlinde* standard applies, only where an attorney has demonstrated compelling extenuating circumstances that are the root cause of the attorney's misconduct is a sanction less than disbarment warranted.”

*State of Maryland v. James S. Houston*, No. 37, September Term 2025, filed March 20, 2026. Opinion by Fader, C.J.

<https://www.mdcourts.gov/data/opinions/coa/2026/37a25.pdf>

APPELLATE JURISDICTION – COLLATERAL ORDER DOCTRINE –

DISQUALIFICATION OF STATE’S ATTORNEY – FIREWALL ORDERS

**Facts:**

In the Circuit Court for Anne Arundel County, the State charged James S. Houston with homicide, alleging that he murdered his wife with a knife. Police responding to a 911 call found Mr. Houston and his wife lying in a pool of blood with multiple stab wounds. One knife remained in the wife’s chest and another knife was found between the bodies. Mr. Houston survived and asserted self-defense.

During the investigation, the State’s Attorney for Anne Arundel County personally interviewed several witnesses without anyone else present. One witness told the State’s Attorney that Mr. Houston had previously shared that Mr. Houston’s wife had once “pulled a knife” on him (Mr. Houston). While Mr. Houston independently informed defense counsel of that statement, the State’s Attorney did not. After a hearing, the circuit court concluded that the State’s Attorney had committed a discovery violation, improperly withheld *Brady* material, and made herself a potential witness under the advocate-witness rule. The court issued orders that (1) disqualified the State’s Attorney from acting as a prosecutor in Mr. Houston’s case, and (2) required a “complete and absolute firewall” preventing the State’s Attorney from communicating with staff about the case. The State filed an interlocutory appeal. The Appellate Court dismissed the appeal for lack of jurisdiction, and the Supreme Court of Maryland granted certiorari.

**Held:**

Affirmed in part and reversed in part and remanded to the Appellate Court for further proceedings concerning the firewall order.

Interlocutory orders are generally not appealable subject to limited exceptions, one of which is the collateral order doctrine, which applies only when an order (1) conclusively determines the issue, (2) resolves an important issue, (3) is completely separate from the merits, and (4) is effectively unreviewable after final judgment.

The Court held that the order disqualifying the State’s Attorney was not immediately appealable because determining whether the State’s Attorney was likely to be a necessary witness required evaluating anticipated testimony and evidentiary issues, which are intertwined with the merits of

the criminal case. The order therefore failed the requirement that the issue be completely separate from the merits.

The Court reached a different result regarding the firewall order. The firewall raised important separation-of-powers concerns by limiting the State's Attorney's authority to supervise her office, and review of that order did not require consideration of the merits of the criminal prosecution. Because the firewall order satisfied all elements of the collateral order doctrine, it was immediately appealable.

The Court therefore affirmed dismissal of the appeal as to the disqualification order, reversed dismissal as to the firewall order, and remanded for further proceedings.

*Lance Cutchember v. State of Maryland*, No. 39, September Term 2025; *Phillip Antoine Hicks v. State of Maryland*, No. 40, September Term 2025, filed March 3, 2026. Opinion by Killough, J.

<https://www.mdcourts.gov/data/opinions/coa/2026/39a25.pdf>

CRIMINAL LAW - CRIMINAL PROCEDURE ARTICLE (“CP”) § 1-211 -  
RETROACTIVITY

CRIMINAL LAW - CP § 1-211 – LAWFULNESS OF STOPS AND/OR SEIZURES BASED  
ON THE ODOR OF CANNABIS ALONE

**Facts:**

This issue arises from two separate instances where Petitioners Lance Cutchember and Phillip Hicks were stopped and searched based solely on the odor of cannabis. Both Petitioners’ appeals were consolidated for the purpose of answering the question presented.

Petitioner Cutchember was arrested on January 6, 2023, for possession of MDMA after a law enforcement officer conducting a traffic stop detected an odor of cannabis and searched Cutchember’s vehicle. In a hearing on August 23, 2023, before the Circuit Court for St. Mary’s County, Cutchember moved to suppress evidence resulting from the stop pursuant to the newly enacted CP § 1-211, which prohibits searches based solely on the odor of cannabis. The court ruled that the statute, which became effective July 1, 2023, did not apply retroactively and denied the motion to suppress.

Petitioner Hicks was arrested on January 2, 2023, and charged with possession of cocaine and cannabis with intent to distribute, as well as related offenses. Hicks was stopped based solely on the odor of cannabis emanating from his vehicle. After Hicks admitted to “smoking weed or marijuana in the vehicle,” the officer searched the car. Like Cutchember, Hicks filed a motion to suppress, which was heard by the Circuit Court for Worcester County on July 6, 2023. The court denied the motion on the same grounds: that CP § 1-211 was not in effect at the time of the stop.

Both petitioners appealed to the Appellate Court of Maryland which affirmed the circuit courts’ rulings.

**Held:** Affirmed.

The Supreme Court of Maryland held that CP § 1-211 does not apply retroactively.

Statutes are presumed to operate prospectively unless there is clear legislative intent to the contrary. But a statute may be applied retroactively if it is purely procedural or remedial in

nature. Procedural statutes prescribe the methods of enforcement of existing rights, while remedial statutes create a new remedy or improve an existing one. These exceptions are narrow and do not apply when the legislature has clearly indicated the statute to apply prospectively or when a statute creates a new substantive right.

The Supreme Court of Maryland held that the plain language of CP § 1-211 is clear in that it applies prospectively to searches conducted on or after its July 1, 2023, effective date. Moreover, CP § 1-211 is a substantive statute creating a new right to be free from searches and seizures based solely on the odor of cannabis. A violation of the statute was legally impossible when the searches in this case occurred because the right did not yet exist; therefore, the remedy to exclude evidence obtained from these searches is unavailable.

The Supreme Court of Maryland adopted the “right/remedy” framework applied by Virginia’s intermediate appellate court in *Street v. Commonwealth*, 75 Va. App. 298 (2022). Under this framework, a court looks to whether the substantive right to be free from a specific type of search existed when the search occurred. In contrast, when a statute creates a new adjudicatory rule, a court looks at the law at the time of a hearing to determine a penalty, such as the sentencing provision in *Waker v. State*, 431 Md. 1, 9–10 (2013). Because the trigger for the remedy in CP § 1-211(c) is a “violation” of the new substantive right—being free from a search based on the odor of cannabis alone—the circuit courts properly determined that the evidence remained admissible under the law as it existed at the time of the searches

For the foregoing reasons, the Court held that the language of CP § 1-211 clearly indicates it should be applied prospectively and additionally created a new substantive right to be free of searches and seizures based on the odor of cannabis alone. Because Cutchember and Hicks’ searches were conducted before the statute was enacted, the evidence from the searches should not be excluded. The judgments of the Circuit Courts of St. Mary’s and Worcester Counties are affirmed.

*Express Scripts, Inc., et al. v. Anne Arundel County, Maryland*, Misc. No. 1, September Term 2025, filed March 23, 2026, Opinion by Booth, J. Killough, J., Concurrs. Watts, J., Concurrs and Dissents.

<https://www.courts.state.md.us/data/opinions/coa/2026/1a25m.pdf>

## CERTIFIED QUESTION – MARYLAND COMMON LAW OF PUBLIC NUISANCE

### **Certified Questions:**

Pursuant to a certification order from the United States District Court for the District of Maryland (“District Court”), the Supreme Court of Maryland (“Supreme Court”) was requested to answer the following questions:

1. Under Maryland’s common law, can the licensed dispensing of, or administration of benefit plans for, a controlled substance constitute an actionable public nuisance?
2. If so, what are the elements of such a public nuisance claim, and what types of potential relief can a local government plaintiff seek when asserting such a claim?

### **Held:**

The Supreme Court of Maryland answered the first certified question “no.”

As reflected in the District Court’s certification order, Anne Arundel County (the “County”) brought a single public nuisance claim against the defendants, all of whom fall into three distinct categories: pharmacy benefit managers, mail-order pharmacies, and retail pharmacies (the “Defendants”). The County alleged that the Defendants caused and maintained a public nuisance by collaborating and partnering with opioid manufacturers in deceptive and dangerous marketing of opioids for financial gain, and by spurring opioid abuse by placing these drugs on lists of prescription drugs covered by insurance plans with preferred status and without restriction on their approval for use. The County sought, among other things, a finding that the Defendants have created a public nuisance, an injunction permanently enjoining the Defendant from engaging in these practices allegedly causing the public nuisance, and damages to reimburse the County for the costs of public services related to opioid misuse.

The Supreme Court of Maryland held that the licensed dispensing of, or administration of benefit plans for, a controlled substance does not constitute an actionable public nuisance under

Maryland common law. After conducting a survey of Maryland public nuisance law, the Court held that Maryland has not expanded the public nuisance doctrine beyond the traditional historical principles embodied in the common law—namely, that a public nuisance action was not regarded as a tort but was instead a public action by a government entity to pursue criminal prosecutions or seek injunctive relief to abate harmful conduct. The Court explained that it has never recognized a government actor’s ability to recover damages for public nuisance.

The Supreme Court further held that it did not need to decide whether to expand Maryland’s common law of public nuisance because the County’s complaint failed to satisfy a primary requirement of a public nuisance action—specifically, that the Defendants’ conduct of dispensing opioids, and the administration of benefit plans for opioids, affects a common public right. But even if the County were able to establish that the alleged conduct interfered with a public right, the Court held that it would nonetheless decline to expand Maryland’s common law of public nuisance in this case given the extensive federal and state statutory and regulatory framework that governs the highly complex conduct of the licensed prescribing, dispensing, and administration of benefit plans related to opioids. The Court stated that common law public nuisance is an inapt vehicle to address complex societal problems, which are best left to the legislative branch.

*Mayor & City Council of Baltimore v. B.P. P.L.C., et al.; Anne Arundel County, Maryland v. B.P. P.L.C., et al; City of Annapolis v. B.P. P.L.C., et al.*, No. 11, September Term 2025, filed March 24, 2026. Opinion by Booth, J.

Fader, C.J., concurs.

Gould, J., concurs.

Watts, J., concurs and dissents.

Killough, J., concurs and dissents.

<https://www.courts.state.md.us/data/opinions/coa/2026/11a25.pdf>

FEDERAL DISPLACEMENT/PREEMPTION OF STATE LAW CLAIMS

PUBLIC NUISANCE

PRIVATE NUISANCE

TRESPASS

STRICT LIABILITY/NEGLIGENCE ARISING FROM FAILURE TO WARN

**Facts:**

The Supreme Court of Maryland considered three consolidated cases—one case filed in the Circuit Court for Baltimore City and two cases filed in the Circuit Court for Anne Arundel County. In these cases, the Mayor and Council of Baltimore City, Anne Arundel County, and the City of Annapolis (collectively, the “local governments”) filed state common law tort claims against 26 multinational oil and gas companies (the “Defendants”) to recover damages caused by global greenhouse gas emissions. Specifically, the local governments asserted five causes of action against the Defendants, all arising under Maryland law: (1) public nuisance; (2) private nuisance; (3) trespass; (4) negligent failure to warn; and (5) strict liability failure to warn.

The local governments argued that the Defendants, individually and collectively, are responsible for extracting, processing, producing, promoting, and marketing fossil fuel products, the normal and intended use of which has led to the emission of a substantial percentage of the total volume of greenhouse gases released into the atmosphere for over 50 years. The local governments contend that the Defendants deceived consumers and the public about the dangers associated with their fossil fuel products when they knew of a direct link between their products and climate change threats, causing sea levels to rise, as well as other physical and environmental impacts, resulting in inundation, destruction, and/or other interference with the local governments’ property and citizenry.

The Circuit Court for Baltimore City and the Circuit Court for Anne Arundel County granted the Defendants’ motions to dismiss. After an appeal to the Appellate Court of Maryland, in which

the cases were consolidated, this Court issued a bypass writ of certiorari to determine whether Maryland local governments may bring the state common law tort claims against the 26 companies to recover damages caused by global greenhouse gas emissions.

**Held:** Affirmed.

The Supreme Court of Maryland affirmed the judgments of the lower courts dismissing the complaints. The Court held that the local governments' state law claims are displaced and preempted by federal law. The Court determined that the local governments, through their state law claims, are attempting to regulate air emissions. The Court explained that, for over a century, the United States Supreme Court has held that cases involving regulations of interstate pollution arise under federal law. Under the United States Supreme Court's jurisprudence, any state law claims are displaced by federal common law. Moreover, as the United States Supreme Court held in *American Electric Power Co., Inc. v. Connecticut*, 564 U.S. 410 (2011), the Clean Air Act, 42 U.S.C. § 7401, *et seq.* (1970), displaces applicable federal common law. Applying the preemption framework adopted by the United States Supreme Court in *International Paper Company v. Ouellette*, 479 U.S. 481 (1987), the Supreme Court of Maryland held that the Clean Air Act does not authorize the broad state law claims under its saving clause. Finally, the Supreme Court of Maryland held that federal common law would not extend to apply to the local governments' claims that regulate international conduct. The United States Supreme Court has made it clear that the political branches, not the Judiciary, have the responsibility and institutional capacity to weigh foreign policy concerns.

The Supreme Court further held that, even if the local governments' state law claims were not displaced or preempted by federal law, the local governments failed to state legally cognizable claims under state law for public nuisance, private nuisance, trespass, and negligent and strict liability failure to warn.

The Supreme Court held that the local governments failed to state a claim for public nuisance under Maryland law. As this Court explained in *Express Scripts, Inc. v. Anne Arundel County, Maryland*, \_\_\_ Md. \_\_\_\_ (filed March 23, 2026), Maryland has not expanded the public nuisance doctrine beyond the traditional historical principles embodied in the common law—namely, that a public nuisance action was not regarded as a tort but was instead a public action by a government entity to pursue criminal prosecutions or seek injunctive relief to abate harmful conduct. Additionally, this Court has never recognized a government entity's ability to recover damages for public nuisance. Moreover, assuming without deciding that there is a public right to be free from adverse effects of climate change, the Court stated that it nonetheless declines to expand Maryland's common law of public nuisance to govern the conduct alleged in the local governments' complaints given the extensive federal statutory and regulatory framework that governs the highly complex conduct of regulating air emissions.

The Supreme Court held that the local governments failed to state a claim for private nuisance because that tort requires that a plaintiff establish an injury to property that is different in kind

from that suffered by the public generally. Here, the injuries alleged by the local governments are not unique or different from any injuries suffered by the public generally.

The Court held that the local governments' trespass claim exceeds the bounds of the tort established in this Court's case law, which holds that when an adjacent property is invaded by an inanimate or intangible object, the defendant must have some connection or control over that object for a trespass action to lie. The Court agreed with the Circuit Court for Baltimore City that the link between the Defendants' activities and the harms alleged by the local governments, which are caused by human activities around the world, are far too attenuated to constitute the Defendants' connection or control over the rainfall and storms that invaded the local governments' property.

The Court held that the local governments failed to state claims for strict liability and negligent failure to warn. The Court determined that the duty the local governments seek to impose is a duty to warn the entire human race of the effects of climate change. The Court stated that finding such a duty would stretch Maryland tort law beyond manageable bounds.

# APPELLATE COURT OF MARYLAND

*Eun O. Kim, et al., v. Parcel K-Tudor Hall Farm, LLC*, No. 2483, September Term 2023, filed March 5, 2026. Opinion by Nazarian, J.

<https://www.mdcourts.gov/data/opinions/cosa/2026/2483s23.pdf>

INTERPLEADER – FINALITY OF JUDGMENT

## **Facts:**

Parcel K-Tudor Hall Farm, LLC (“PKTHF”) owned a piece of land fittingly called Parcel K. Eun O. Kim, an investor, along with a group of fellow investors, held a Subordinated Deed of Trust on Parcel K. Due to a long and colorful history between the parties involving Parcel K, PKTHF was unsure how much it owed under the Deed, to whom, and in what proportion. It sought then to exercise its right of redemption through an interpleader action in the Circuit Court for St. Mary’s County, seeking declaratory judgment of how much it owed under the deed in total, an order to pay that value into the court’s registry, an order interpleading the investors, and a release of the lien on Parcel K. After motions and argument, the circuit court entered an order of interpleader granting that interim relief. Mr. Kim and his fellows appealed from that interlocutory order. Meanwhile, other claimants began to file new pleadings in the circuit court in order to litigate their claims to the funds. The circuit court held all filings in abeyance and stayed all proceedings until the Appellate Court resolved Mr. Kim’s appeal.

## **Held:** Dismissed.

The Appellate Court dismissed the appeal as premature. Interpleader is an ancient way to resolve disputes over ownership of assets. When a party holds an asset they’re sure they don’t have a right to but aren’t sure who does have a right to it, and in what proportion, they can file an action in interpleader. It occurs in two stages. First, the party holding the asset files suit as a nominal plaintiff and names as nominal defendant everyone they think might have a claim to the asset. After the nominal defendants respond, the court evaluates whether interpleader is appropriate. If it thinks so, it enters an order of interpleader that tells the nominal plaintiff to hand over either the asset or its value to the court. In the second stage, the court can select one of the nominal defendants as the new nominal plaintiff, rearranges the rest of the nominal defendants as cross claimants, and these parties then litigate over ownership of the asset or funds.

Here, the order appealed from was only the step one order of interpleader. The Appellate Court reiterated that interpleader is not a final judgment until the last claim from the last claimant is resolved in step two. Therefore, the court said, it lacks jurisdiction to hear this premature appeal and must dismiss it. While this was already established law, it had been over quite some time since a reported opinion reiterated that principle.

*Jasmine Leah Gambino v. State of Maryland*, No. 349, September Term 2024, filed March 17, 2026. Opinion by Nazarian, J.

<https://www.mdcourts.gov/data/opinions/cosa/2026/0349s24.pdf>

CRIMINAL LAW – SUFFICIENCY OF THE EVIDENCE

CRIMINAL LAW – EVIDENCE – MOTION TO SUPPRESS – WARRANT REQUIREMENT FOR SEARCHES AND SEIZURES – EXCEPTIONS – EXIGENT CIRCUMSTANCES

CRIMINAL LAW – EVIDENCE – MOTION TO SUPPRESS – EXECUTION OF SEARCH WARRANT – REASONABLENESS OF DELAY

CRIMINAL LAW – EVIDENCE – MOTION TO SUPPRESS – EXCLUSIONARY RULE – EXCEPTIONS – GOOD FAITH

WITNESS CREDIBILITY – BOLSTERING

INTERCEPTED COMMUNICATIONS – ADMISSIBILITY

POST-TRIAL MOTIONS – MOTION FOR A NEW TRIAL – NEWLY DISCOVERED EVIDENCE – MATERIALITY

CRIMINAL PROCEDURE – DUE PROCESS – ACCESS TO EXCULPATORY EVIDENCE

**Facts:**

Between March 25 and May 10, 2023, Jasmine Leah Gambino, a licensed clinical social worker, made multiple reports to police, Child Protective Services (“CPS”), and medical professionals that her five-year-old daughter, R.W., was disclosing instances of sexual abuse by her father, T.W. In addition to these reports, Ms. Gambino filed for a protective order against T on R’s behalf, took R for three forensic interviews, and brought R in for a forensic medical examination. After an investigation by the Montgomery County Police Department, which involved the seizure and search of Ms. Gambino’s cell phone, the State charged her with, and a jury in the Circuit Court for Montgomery County convicted her of, making a false statement to law enforcement under Md. Code (2002, 2021 Repl. Vol.), § 9-501 of the Criminal Law Article and contributing to a condition rendering a child in need of assistance (“CINA”) under Md. Code (1974, 2020 Repl. Vol.), § 3-828 of the Courts & Judicial Proceedings Article.

**Held:** Affirmed.

The Appellate Court of Maryland affirmed, holding first that the evidence was sufficient for a reasonable jury to convict Ms. Gambino of making a false statement to law enforcement because the State showed that although she made the offending statement in response to a question from a social worker, she was aware that a police officer was also present in the room. Second, the court held that the evidence was sufficient to convict Ms. Gambino of contributing to a condition rendering a CINA because a reasonable jury could have concluded that Ms. Gambino abused or neglected R by coaching her into making false allegations of sexual abuse against her father and by subjecting her to three unnecessary forensic interviews and an unwarranted forensic medical examination. A reasonable jury also could have concluded that Ms. Gambino's actions demonstrated an unwillingness or inability to care for R adequately and also made T unable to meet R's needs properly.

Third, the Appellate Court of Maryland held that the circuit court denied Ms. Gambino's motion to suppress evidence obtained from her cell phone properly. Exigent circumstances justified the warrantless seizure of the cell phone by a police detective to prevent the destruction or alteration of evidence after Ms. Gambino showed him videos that she had saved on the phone of her child making disclosures of sexual abuse. Under these circumstances, the detective reasonably could have believed that Ms. Gambino, who was aware that he wanted the videos as evidence and whom he had no basis for detaining, would delete the videos if he permitted her to leave with the cell phone. Additionally, a twenty-one-day delay between the seizure of the phone and the execution of a warrant to search it was reasonable and did not render the seizure unconstitutional because there was evidence that the delay was caused by limited manpower and not by a lack of diligence by the executing officers, and because Ms. Gambino diminished her possessory interest in the phone by revealing its contents to law enforcement. Finally, the good faith exception to the exclusionary rule applied to the seizure of a video falling outside the scope of the warrant to search Ms. Gambino's cell phone. The search warrant authorized officers to seize files with associated dates inside a specified range. However, when officers input the date range from the warrant into the forensic examination software, for reasons unknown, the software included a video with associated dates outside the scope of the warrant in the narrowed set of files responsive to the officers' prompt. The officers' conduct was not the type of willful, knowing, or even negligent misconduct that the exclusionary rule was designed to deter.

Fourth, the Appellate Court of Maryland held that testimony by a detective that he did not find Ms. Gambino's allegations that T had sexually abused R to be credible was not improper bolstering testimony that infringed on the jury's function of assessing witness credibility. The detective was not opining on Ms. Gambino's credibility as a witness but was rather giving a factual explanation of his reasons for ceasing his investigation into T to rehabilitate his own credibility after defense counsel attempted to impeach him.

Fifth, the Appellate Court of Maryland held that a video recording of an argument between Ms. Gambino and T was not inadmissible as a matter of law under Md. Code (1974, 2020 Repl.

Vol.), § 10-402 of the Courts & Judicial Proceedings Article, Maryland's Wiretap Act. Ms. Gambino consented implicitly to the interception of the communication when she saw T recording and took no action to stop him.

Sixth and finally, the Appellate Court of Maryland held that the circuit court didn't abuse its discretion when it denied Ms. Gambino's motion for a new trial based on newly discovered evidence or when it quashed a subpoena that she served on CPS in relation to her motion. Newly discovered evidence that a social worker who testified at Ms. Gambino's trial had provided false testimony and documentation in unrelated cases was mere impeachment evidence and was not material to the outcome of the trial. Thus, if the newly discovered evidence did not warrant a new trial. Further, Ms. Gambino was not entitled to obtain and inspect records related to CPS's investigation into the social worker, because she failed to demonstrate a genuine need that outweighed Maryland's compelling interest in protecting its child-abuse information.

*City of Brunswick, et. al. v. Christopher Handler*, No. 1437, September Term 2024, filed March 2, 2026. Opinion by Kenney, J.

<https://www.mdcourts.gov/data/opinions/cosa/2026/1437s24.pdf>

## MUNICIPAL, COUNTY AND LOCAL GOVERNMENT

### **Facts:**

Appellee, Christopher Handler, is a corporal with the Brunswick Police Department in Frederick County, Maryland. On August 24, 2023, Mr. Handler received two letters of reprimand from appellants, the City of Brunswick and its chief of police, Kevin Grunwell – one relating to a speeding complaint, and the other relating to an allegation of unprofessional conduct towards a supervisor. Neither letter sought to reprimand conduct involving a member of the public. Mr. Handler requested trial board process under Md. Code Ann., Public Safety § 3-106(a)(1), which appellants denied. Mr. Handler filed a petition for writ of mandamus seeking to compel appellants to provide that process. After a hearing, the circuit court found that appellants failed to comply with Public Safety § 3-106(a)(1) in denying Mr. Handler’s request and granted Mr. Handler’s petition for writ of mandamus.

### **Held:** Affirmed.

The Appellate Court of Maryland held that Public Safety § 3-106(a)(1) unambiguously requires every law enforcement agency to establish a trial board process “to adjudicate all matters for which a police officer is subject to discipline.” *Id.* Although appellants contend that Public Safety § 3-106(a)(1) applies only to misconduct involving a member of the public and a police officer, the plain language of the statutory provision indicates no limitations or exclusions on the types of matters to be adjudicated by trial board process. Accordingly, because the letters of reprimand involved matters in which Mr. Handler was subject to discipline, the circuit court correctly determined that appellants failed to comply with Public Safety § 3-106(a)(1) when denying Mr. Handler’s request for trial board process.

*Joseph Dennie v. Montgomery County, Maryland*, No. 993, September Term 2024, filed March 2, 2026. Opinion by Eyler, D., J.

<https://www.mdcourts.gov/data/opinions/cosa/2026/0993s24.pdf>

WORKERS' COMPENSATION – LABOR & EMPLOYMENT (“LE”) ART. § 9-610 – OFFSET FOR GOVERNMENT EMPLOYER PAYING BENEFITS THAT ARE SIMILAR TO WORKERS' COMPENSATION BENEFITS AWARDED EMPLOYEE – STATUTE IN EFFECT AT TIME OF DISABLEMENT, NOT SUBSEQUENTLY AMENDED STATUTE, APPLIES – DECISIONAL LAW INTERPRETING STATUTE APPLIES RETROACTIVELY TO INTERPRETATION BASED ON NEW FACTUAL SCENARIO – *SPEVAK V. MONTGOMERY COUNTY*, 480 MD. 562 (2022), AND *REGER V. WASHINGTON COUNTY BOARD OF EDUCATION*, 455 MD. 68 (2017) – PRINCIPLES SET OUT IN *SPEVAK* CONTROL BUT PRODUCE DIFFERENT RESULT FOR PARTIAL DISABILITY PENSION THAN FOR TOTAL DISABILITY PENSION.

**Facts:**

A county employee was granted a service-connected partial disability retirement benefit for specified injuries and diseases. Soon after retirement, he applied for workers' compensation benefits for the occupational disease of hearing loss, which was not one of those specified diseases and had not manifested itself until a later time. The Workers' Compensation Commission (“the Commission”) determined that the hearing loss was an occupational disease and granted him permanent partial disability benefits. Under Md. Code, Labor and Employment Article (“LE”) § 9-610, the employer sought an offset for its payment of service-connected partial disability retirement benefits against the workers' compensation benefits on the ground that the two benefits were “similar” within the meaning of that word in the statute. The employee argued that either the 2023 amendment to LE § 9-610 (“2023 Offset Law”) requiring “similar benefits” to be for injury to the same body part, applied, or the legislature’s own 2023 interpretation of the prior 1999 version of LE § 9-610 (“1999 Offset Law”) applied, and that the benefits were not “similar.” He also argued that the Supreme Court’s interpretation of the 1999 Offset Law in *Spevak* did not apply because it was decided after his date of disablement. The employer argued that the 1999 Offset Law applied, as did *Spevak*, and it was entitled to the offset. The Commission denied the offset, and, in an action for judicial review, the circuit court reversed, ruling that the offset applied.

**Held:** Reversed and remanded.

Judgment reversed and case remanded with instructions. Under LE § 9-601, the law in effect at the time of the employee’s disablement controls so the 1999 Offset Law, not the 2023 Offset Law, applied. A Maryland appellate decision applying an existing interpretation of a statute to a

new factual scenario applies retroactively to cases pending when the decision is made. In this case, therefore, the Supreme Court’s 2022 interpretation of the 1999 Offset Law in *Spevak* applied retroactively. Despite commentary in uncodified sections of the 2023 Offset Law, the legal principles set forth in *Reger*, in 2017, and in *Spevak*, in 2022, are not different. Both recognize that the offset applies when the benefit the government employer is paying is traceable to the same injury as the workers’ compensation award.

In *Spevak*, the employee was granted a service-connected *total* disability benefit, which, pursuant to the Montgomery County Code, covers any and all injuries and occupational diseases the employee sustained as a result of his employment. Even though the occupational disease in *Spevak* (also hearing loss) did not manifest itself until after the employee retired, he had sustained it in the course of his employment. Thus, the total disability retirement benefit covered it, and the workers’ compensation award covered it, resulting in “similar” benefits, which meant the offset applied. In this case, the employee was granted a service-connected *partial* disability benefit, which does not cover any and all injuries and occupational diseases the employee sustained as a result of his employment. Because the partial disability benefit did not cover the hearing loss and the workers’ compensation benefit did, the benefits were not “similar,” and the offset did not apply.

# ATTORNEY DISCIPLINE

## REINSTATEMENTS

\*

By Order of the Supreme Court of Maryland

BRUCE CHARLES BEREANO

has been replaced on the register of attorneys permitted to practice law in this State as of  
March 20, 2026.

\*

## DISBARMENTS/SUSPENSIONS/INACTIVE STATUS

\*

By an Order of the Supreme Court of Maryland dated March 20, 2026, the following attorney  
has been suspended for 60 days:

JULIAN ARNOLD HAFNER

\*

By an Opinion and Order of the Supreme Court of Maryland dated March 20, 2026, the  
following attorney has been disbarred:

SPENCER MICHAEL HECHT

\*

By an Order of the Supreme Court of Maryland dated March 20, 2026, the following attorney  
has been disbarred by consent:

SCOTT MICHAEL MYERS

\*

\*

By an Order of the Supreme Court of Maryland dated March 20, 2026, the following attorney  
has been indefinitely suspended by consent:

BRYAN S. ROSS

\*

By an Order of the Supreme Court of Maryland dated February 20, 2026, the following attorney  
has been suspended for six months, effective March 23, 2026:

CHARLES T. TUCKER, JR.

\*

By an Order of the Supreme Court of Maryland dated March 31, 2026, the following attorney  
has been disbarred by consent:

ASIM ABDUR RAHMAN GHAFOR

\*

# UNREPORTED OPINIONS

The full text of Appellate Court unreported opinions can be found online:

<https://mdcourts.gov/appellate/unreportedopinions>

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