
Retired/Recalled Judges

April 1, 2016

HOT TOPICS



WELCOME

The Committee on Retired/Recalled Judges welcomes you to the second edition of “Hot Topics.” The purpose of Hot Topics is to increase and enhance communication among the Retired/Recalled judges. This and subsequent Hot Topics publications is intended to contain information helpful to you. We hope you will share information to include in these publications, whether posed in the form of a question to which we will provide answers, information you find helpful in navigating the system as a retired or recalled judge, or an interesting tidbit about what’s happening in your life – hobbies, interests, etc. So, if there is something that you think your colleagues will find interesting or informative, please let us know. Also, please let us know how we might improve this news flash so that it is more meaningful for you.

MEET THE EDITORS

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FINANCIAL DISCLOSURE FORMS

Your Chance to Disclose Online and Not on Match.Com!

Many of you already have submitted your financial disclosure statement for 2015. For those who have not, financial disclosure statements are now available for online completion and filing. The AOC sent out an email with the link to the system and posted the link on the financial disclosure webpage. **The filing deadline is April 30, 2016 for online filings.**

The new system will allow you to complete and submit your statement electronically. Many of the questions in the electronic system are in yes/no format. If you select “No”, the system automatically moves to the next question. If you select “Yes”, then you may be asked to provide additional information. Some of the questions may be answered by entering text and other answers will be selected from a drop down box. You will have the ability to attach documents to Schedules A and B.

You can still file a paper copy by mailing it to: Administrative Office of the Courts, Human Resources Department, 580 Taylor Avenue, Building A, First Floor, Annapolis, Maryland 21401. You may also email a scanned copy of your statement to Debbie Kaminski (debra.kaminski@mdcourts.gov) or Connie Winkel (connie.winkel@mdcourts.gov).

If you already have submitted your paper statement, you do not need to do anything further this year. You may begin using the system for the next filing year. If you have already submitted your paper 2015 statement, and you wish to amend it, you may contact Debbie Kaminski [(410) 260-1271] or Connie Winkel [(410) 260-1275].

BENCH BAR CONFERENCE 2016

Going Down The Ocean, Hon!

The Conference is not mandatory for recalled judges but what fun to be in the surf and sand together!

The 2016 Joint Bench Bar Conference will be held from Wednesday, June 15 through Friday, June 17, 2016, in Ocean City, Maryland. The Conference will begin at 1:00 p.m. on Wednesday, June 15, at the Princess Royale Hotel, with opening remarks by Chief Judge Barbera, followed by the business meeting and an educational plenary session.

There will be a retired/recalled judges’ reception attended by Chief Judge Barbera on Thursday, June 16 at 3:45 p.m. The reception will have an area for one-on-one hands-on training for Connect. There will also be speakers from Human Resources that will give a presentation on Connect, address common issues, and answer questions. If you have any questions related to Connect that you would like to see discussed, please contact the committee counsel, Hina Z. Hussain at hina.hussain@mdcourts.gov.

There will be no assessment collected this year for the hospitality room. Instead, the hospitality area at the Princess Royale will have a cash bar. Refreshments will be available. All judges, spouses, and guests are welcome in the hospitality room.

In addition to standard hotel rooms at the Princess Royale Hotel, there will be a limited number of 2- and 3-bedroom condominiums that will be available on a first-come, first-served basis. These are intended for those who wish to share accommodations with colleagues. The 2- and 3-bedroom condominiums contain living rooms, kitchens, and en suite bathrooms for each bedroom.

Hotel rooms will be covered for the nights of June 15 and 16. Anyone who desires to extend his or her stay through Friday and/or Saturday night must pay for the additional nights at the rate of \$257-\$317 per night.

To register for the Conference, please use this link: www.MSBAAnnualMeeting.org. You should follow the same registration instructions on the MSBA website as the sitting judges. The deadline for registration is April 30, 2016. Additionally, please complete and send the attached Hotel Room Reservation Form to Vickie Wachter at vickie.wachter@mdcourts.gov by April 30, 2016, with your hotel room request. If you have any questions about the Conference, you may contact Vickie at (410) 260-3601.

E-MAIL VERIFICATION FOR LISTSERV

We have maintained the Judiciary's e-mail distribution list for retired judges to notify you recent retirements, life events, and other similar events within the Judiciary. Due to changes in the Judiciary's email system from Lotus Notes to Microsoft Outlook, it is necessary that we update our database to insure that you continue to receive these emails. All the recalled judges should have a "mdcourts.gov" email address.

If you are presently on the listserv you should have received an email survey asking that you confirm whether you would like to remain on the list and verifying your information. If you have not received the survey, please answer the following questions and respond to Judge Thurman Rhodes at Thurman.rhodes@mdcourts.gov.

- 1. What is your preferred email address?**
- 2. Please verify the spelling of your full name?**
- 3. Are you serving as a Recalled Judge?**

CURRENT RECALL DESIGNATION

The Retired Recalled Judges Committee has been asked to assist the Court of Appeals in maintaining accurate designation information for the recalled judges. In June 2016, recalled judges will be receiving a letter from the Committee asking whether the recalled judge wishes to maintain his/her present designation for Calendar Year 2017 or if the judge wishes to remove one or all of the areas in which the judge is designated for recall. Responses are due by August 1, 2016 to Debra Kaminski, Administrative Office of the Courts, Human Resources Department, 580 Taylor Avenue, Building A, First Floor, Annapolis, Md. 21401 or by email to debra.kaminski@mdcourts.gov.

RETIRED/RECALLED JUDGES' WEBPAGE

If you haven't already, please visit the [Retired/Recalled Judges Webpage](#). This webpage includes information that should be of interest to the group, as well as personal updates, accolades, announcements and others

items you may wish to share with the group. If there is anything you would like to share with your colleagues, you may contact Hina Hussain, Esq. or Sharon Wright, staff to the Retired and Recalled Judges Committee at hina.hussain@mdcourts.gov (410) 260-3658 or sharon.wright@mdcourts.gov (410) 260-3451.

Note: The following article was submitted by Judge Nancy Shuger. The Committee appreciates Judge Shuger's contribution to the newsletter and encourages future reader submissions.

TIPS FOR MARYLAND JUDGES OFFICIATING AT MARRIAGE CEREMONIES IN MARYLAND

By: Judge Nancy B. Shuger, Ret.

This article is based on the author's own research and experiences as well as questions posed to her by judges over the years. It is a summary of the various rules and statutes that apply to the performance of a marriage ceremony by a judge and includes tips and best practices. This article is informational and is not intended to encourage, discourage, or authorize the performance of a marriage ceremony by a judge. Readers should refer to Family Law Article §§ 2-201--2-409 and Maryland Rules 16-821-824.

Under Family Law § 2-406(ii), a "judge" who is permitted to perform marriage ceremonies includes a "judge approved under Article IV, § 3A of the Maryland Constitution and § 1-302 of the Courts Article for recall and assignment to the District Court, a circuit court, the Court of Special Appeals, or the Court of Appeals." This definition is consistent with the definition of judge under the Maryland Code of Judicial Conduct. *See* Md. Rule 16-813. Read together, these provisions reasonably can be interpreted to mean that a retired judge who is not approved for recall may not perform a marriage ceremony.

I. BEFORE THE CEREMONY

1. The judge should meet with the couple in person to find out what kind of ceremony they want, and to tell them about the items listed below, in this section.
2. The judge may perform the ceremony in the courthouse or elsewhere, at any time; however, ceremonies shall be scheduled so as not to interfere with the judge's duties, and shall be consistent with courthouse security. Md. Rule 16-822. Read literally, this same rule would seem to impose on a judge the additional obligation to notify the clerk that the judge has agreed to perform the marriage ceremony. However, at least in Baltimore City, the clerk expects no such notification from the judge. What the clerk does expect is that the person(s) applying for the marriage license will tell the clerk that the ceremony is to be performed by a judge. This is because there is an additional fee which the parties must pay to the clerk, at the time they apply for a license, for the privilege of being married by a judge. *See* paragraph 5, below. The judge should advise the couple to give this notification and to be prepared to pay the extra fee.
3. The judge shall include substantially the form of ceremony used by the clerk of the circuit court for the county in which the marriage is to be performed. If the parties request and the judge agrees, the ceremony may include reference to matters not typically found in the clerk's ceremony. The judge may participate in performing a ceremony with another person authorized under Maryland law to do so. Md. Rule 16-823(a).
4. A judge may not advertise or solicit individuals to choose the judge to perform the ceremony. Md. Rule 16-824(c).

5. The couple must obtain a license no earlier than 6 months, *see* Fam. Law § 2-406(b), and, preferably, no later than 3 days (to avoid a waiting period, *see* Fam. Law § 2-405(d)) before the wedding date, from the circuit court clerk in the county in which the ceremony is to be performed. *See* Fam. Law § 2-405 (Issuance of License); Md. Rule 16-823(b). In addition to paying a fee to the clerk to obtain a license, the couple must tell the clerk that a judge is to perform the ceremony and must, at the time the license is obtained, pay the clerk an additional “Maryland judge’s fee” for the privilege of having the civil ceremony performed by a judge. Fam. Law § 2-410(a)(2)(i).
6. The judge should take possession of the license before the ceremony. (You know how goofy newlyweds can be).
7. The judge may receive no fee, compensation, remuneration, or gift for performing the ceremony. *See* Md. Rule 16-824(b), Fam. Law § 2-410(a)(1), and Md. Rule 16-813, Code of Judicial Conduct Rule 3.13. As to expenses, take guidance from Md. Rule 16-813, Code of Judicial Conduct Rule 3.14.
8. Only a marriage between two individuals who are not otherwise prohibited from marrying is valid in Maryland. Fam. Law § 2-201(b), effective January 1, 2013. This provision replaces prior Fam. Law § 2-201, under which only a marriage between a man and a woman was valid in Maryland. The prohibition as to marriages within certain degrees of relationship, as set forth in Fam. Law § 2-202, remains in effect. Effective January 1, 2013, a judge may perform a same-sex marriage ceremony.
9. Be aware that a judge who knowingly performs a ceremony between individuals prohibited from marrying under Fam. Law § 2-202, or who performs a ceremony without a license effective under the statute, may be charged with a misdemeanor punishable by a fine of \$500. *See Conaway v. Deane*, 401 Md. 219, 932 A.2d 571 (2007) (statute (Fam. Law § 2-201) prohibiting same-sex marriages upheld). *Conaway* no longer is valid authority for the prohibition of same-sex marriage. *See* paragraph 8, *supra*. A judge may not perform a ceremony for a couple that already has been legally married in another state. However, a judge may perform a marriage ceremony for a same-sex couple if their prior celebration, e.g., a commitment ceremony in a foreign jurisdiction, was not a legally valid marriage in that jurisdiction.
10. A judge who performs a ceremony without a license effective under Maryland law is subject to criminal penalties. *See* paragraph 9, *supra*. To obtain a Maryland marriage license, one or both members of a couple must file an affidavit stating their present marital status. If they check that they are “married,” no license should be issued by the clerk. Even if it is issued, and the judge knows that it should not have been issued because the couple told the judge that they already were validly married in another state, the judge should not perform the ceremony. Conversely, if the couple checks that their marital status is “single,” on the theory that they never have been married in Maryland and want to do so (e.g., as part of a festive celebration), and a license is issued, if the judge knows this status to be incorrect because the couple told the judge that they already were legally married in another state, the judge should not perform the ceremony. The judge should make sure to determine the parties’ actual marital status before agreeing to perform the ceremony.
11. There appears to be no requirement that the ceremony be witnessed to make it valid under Maryland law.

II. AFTER THE CEREMONY

1. The judge is required to give one copy of the marriage certificate to the couple and return the other one (both are attached to the license) to the Clerk who issued the license **within 5 days from the date of the ceremony**. *See* Fam. Law § 2-409(b); Md. Rule 16-823(b). The clerk will give the judge a copy for the judge’s records.

2. A judge who violates this requirement may be charged with misdemeanor punishable by “a fine in an amount that the court considers appropriate.” Fam. Law § 2-409(d)(2).

III. ARCHITECTURE OF THE CEREMONY (BARE BONES VERSION)

If a photographer is capturing the event on film, warn him that the “bare bones” ceremony is short.

1. WELCOMING BY THE JUDGE

- a. For example, “we are gathered here for the purpose of uniting in marriage, etc.”
- b. Here, the judge can be inspirational or humorous, or just polite; no specific language is required.

2. EXCHANGE OF VOWS BY COUPLE TO BE MARRIED

- a. This is, arguably, the only element of the bare bones ceremony that the couple must comply with under Maryland law. *See generally Jennings v. Jennings*, 20 Md. App.369 (1974), *cert. denied*, May 17, 1974 (the man and woman must mutually agree in words of the present tense to be husband and wife).
- b. The vows may be written by the couple or by the judge.
- c. To satisfy this requirement, and making sure to ask the couple what terms they prefer, the judge may simply say:
“(Insert names of parties to be married), please face one another”.
“(Insert name of one party), do you choose (Insert name of the other party) as your lawful wedded husband/wife/ spouse.”

(Repeat same for the other party)

Or, more elaborately and traditionally:

“Do you, (Insert name of one party), take (Insert name of the other party) to be your lawful wedded husband/wife/spouse? Do you promise to love and comfort him/her, to honor him/her and keep him/her, in sickness and in health, in prosperity and adversity, and forsaking all others, be faithful to him/her so long as you both shall live?”

First party answers “I do.”

(Repeat same for the other party)

3. EXCHANGE OF RINGS

- a. Customary, but not required by Maryland law.
- b. The judge should handle the same way as the exchange of vows.

4. PERSONAL COMMENTS BY THE JUDGE

This may be the real reason that the judge was asked to officiate, but it is not required by Maryland law.

5. OFFICIAL PRONOUNCEMENT OF MARRIAGE

- a. This element is, arguably, required by Maryland law. *See* Fam. Law § 2-406(a).
- b. Making sure to ask the couple what terms they prefer, the judge may simply say:
“By the authority vested in me as a judge of the (Insert name of the court), I now pronounce you lawfully married/husband and wife/husband and husband/wife and wife.”

Or, more elaborately and traditionally:

“By virtue of the authority vested in me by the legislature of Maryland as a judge of the (Insert name of the court), I do this ____ day of ____, 20__, now pronounce you husband and wife/lawfully married/husband and husband/wife and wife.”

IV. INCORPORATING OTHER ELEMENTS INTO THE CIVIL CEREMONY

1. Examples:

- a. Religious elements: e.g., explanation of chuppah (Jewish); breaking the glass (Jewish); exchanging rings (Christian) (some Jewish) (some Muslim); groom giving bride a ring (Jewish); lighting candles (Christian); declaration of consent (Christian);
- b. Non-religious elements: music, readings (by the judge or others), processional/recessional, wearing your judicial robe

2. None of the foregoing elements is barred by or required for a lawful ceremony under Maryland law.

3. In fact, an exchange of rings is included in the “bare bones” civil ceremony because it is customarily added.

4. For information on incorporating other elements into a civil ceremony, the internet is a rich resource. The author also recommends the following additional resources for any judge interested in this topic: *The New Jewish Wedding* by Anita Diamant; *Celebrating Interfaith Marriages: Creating your Jewish/Christian Ceremony* by Rabbi Devon A. Lerner; and *Joining Hands and Hearts: Interfaith, Intercultural Wedding Celebrations* by Reverend Susanna Macomb.

5. The greater the number of elements added to the “bare bones” ceremony, the greater the preparation/rehearsal may be required before the ceremony itself.

6. The only suggestion: the judge should follow the wishes of the couple to be married, not their parents or children, and, of course, the judge’s own comfort level, in deciding whether to incorporate such elements into the civil ceremony, and, if so, which ones.

THE ABOVE TIPS ARE TIPS ONLY, NOT AN EXHAUSTIVE LIST OF ISSUES OR DEFINITIVE LEGAL ADVICE AS TO ANY OF THEM.

RESOURCES

Where do I go to find help?

JIS Help Desk - (410) 260-1114

GEARS - Tammy Sitar – Tammy.sitar@mdcourts.gov or (410) 260-1419

HR Benefits - Monica Jackson – monica.jackson@mdcourts.gov or (410) 260-1288

Education Committee - Mary Keller - mary.keller@mdcourts.gov or (410) 260-5373

MDEC - Carla Jones – carla.jones@mdcourts.gov or (410) 260-3526

Payroll - Lolli Petrillo – lolli.petrillo@mdcourts.gov or (410) 260-1591

SharePoint - Mylita Jacob – mylita.jacob@mdcourts.gov or (410) 260-1041

Travel Policy (related to GEARS) - Tammy Sitar – tammy.sitar@mdcourts.gov or (410) 260-1419

Judiciary State Travel Coordinator - Allison Leebrick – Allison.leebrick@mdcourts.gov or (410) 260-1417