

HOT TOPICS NEWSLETTER

WINTER ISSUE



BEYOND MONEY IN RETIREMENT

By Hon. Lynne A. Battaglia

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The Court of Appeals has adopted a new application form for retired judges who wish to apply for certification for recall under Courts & Judicial Proceedings Article, §1-302.

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IN MEMORIAM

The Honorable Dana M. Levitz passed away on January 17, 2018.

Judge Levitz was a judge on the Circuit Court for Baltimore County. He served as a judge from November 26, 1985 until his retirement from the court on December 31, 2008. He received his undergraduate degree from the University of Maryland Baltimore County and his J.D. from the University of Baltimore School of Law. He was previously the Deputy State's Attorney in Baltimore County and worked as a Special Assistant to the United States Attorney for the District of Maryland.

Judge Levitz was the husband of Dale Levitz (nee Roth), brother of Robin Schless and the late Joseph E. Levitz. Services were held at SOL LEVINSON & BROS., INC., on Sunday, January 21, 2018.

<http://www.sollevinson.com/notice.php?lr=loc&id=16705>



Judge Dana M. Levitz



The Court of Appeals has adopted a new application form for retired judges who wish to apply for certification for recall under Courts & Judicial Proceedings Article, §1-302.

The application consists of three questions that concern (1) the judge's own assessment of his or her capacity to perform the duties of a senior judge; (2) a statement whether there are specified circumstances (e.g., criminal charges, failure to file tax returns) that could relate to the judge's conduct and integrity; and (3) an affirmation that none of the statutory disqualifications for recall status apply to the judge.

A retired judge who seeks certification for recall after January 1, 2018 will need to complete the form as part of the initial application for certification and at three-year intervals thereafter. Judges who were previously approved by the Court for recall status need not submit the application until December 31, 2020.

A copy of the Court's order may be found on the Maryland Judiciary website at:
<http://mdcourts.gov/adminorders/20171214formerjudgesforrecall.pdf>

You may access a fillable pdf version of the application online at:

<http://www.mdcourts.gov/hr/seniorjudges/pdfs/approvedrecallapplication.pdf>

2017 JUDICIARY FINANCIAL DISCLOSURE STATEMENT

As a reminder, your 2017 Judiciary Financial Disclosure Statement is due on or before **April 30, 2018**. You may complete your Statement in paper form or via our online filing system. We strongly encourage you to file using the online filing system because the information auto-populates from year-to-year. You will be receiving, via email, information on filing your 2017 Judiciary Financial Disclosure Statement, as well as a *Guide to Online Filing* with step-by-step instructions on how to complete your Statement online.

The most notable change made to this year's instructions involves **Schedule G - Members of Immediate Family Employed During Reporting Period (Spouse and Dependent Children)**. Instead of providing the full names of your family members, please identify them by their relationship to you (i.e., spouse, daughter, son). This also applies to other schedules where family members may need to be listed (i.e., Schedule A). As in past years, you may identify the address of the employer of a family member by just listing the county and state if you believe there might be a security issue created by listing the full address.

Please feel free to contact Debra Kaminski directly if you need any assistance. Her direct line is (410) 260-1271 and her email address is debra.kaminski@mdcourts.gov.

BEYOND MONEY IN RETIREMENT

By

Lynne A. Battaglia, Senior Judge
Court of Appeals

After retiring in the spring of 2016, I began working on my mental health counseling master's degree at Johns Hopkins, and started to explore what steps could be taken by judges to ease their transition from active judge to retired judge. In so doing, I developed a list of helpful readings, some of which are referenced here, and developed a three-stage group model for retirement planning. The model would include seminars beginning a year before retirement and continuing into the first year after retirement. I am seeking and would be grateful for your input about this proposed model. First, some background information.

As the Baby Boomers are closing in on the golden ring, the challenges of retirement are getting a lot of media attention. Much of the discussion focuses on financial concerns, but the transition into retirement also implicates physical and mental wellness issues. A very recent article in *Counseling Today* notes, "there's a lot more to sound retirement planning than saving money." (Myers, 2017, p. 29).

In his 2012 article on retirement, Jonathan Osborne posits that the most important emotional challenges in retiring are the loss of structure and the task of replacing it, as well as the development of a new identity. He suggests that transition planning before retirement can

help alleviate negative perceptions and experiences and enhance meaning, well-being, and satisfaction. Another well-recognized expert in the field of retirement transitions, Nancy Schlossberg, posited in her 2009 article about transitions that a model could be employed to ease emotional tension that is evoked by retirement. She suggests conceptualizing a four "s" system, referring to the **situational** context, then with reference to the inner **strength of the** individual, available **supports**, as well as coping **strategies**.

A particularly acute challenge is involuntary retirement resulting from mandatory age-restrictions, health considerations, or organizational lay-offs. In a 2016 discussion paper presenting the outcomes of studies of Irish workers in retirement, Mosca and Barrett found that "involuntary, or forced, retirement has a negative and statistically significant effect on mental health." The same result was posited by Schultz and Morton (1998) in a large scale national study of American retirees. They found that mental health *and* physical health were impaired. Noone, O'Loughlin, & Kendig (2013), in their study of Australian retirees, further posited that involuntary retirement creates a sense of lack of control for the retiree. They suggest that advance planning may create a

sense of mastery over the environment that is lacking when retirement is forced. Finally, in a 2007 study about perceptions of involuntary retirement, published in the *Journal of Gerontology*, Van Solinge and Henkens suggest that involuntary retirement affects women and men equally and that older workers who perceive being forced into retirement have more adjustment problems than those who leave voluntarily. Social support in involuntary retirement, at home and in the workplace, positively affects the emotional experience of involuntariness.

My proposed group model for retirement planning would consist of three seminars, two before retirement, spaced six months apart, and one three to six months after retirement. The seminars would be attended by the judge and his or her spouse or significant other. The goal of the series of seminars would be to ease the difficulty of financial and emotional adjustment to retirement, especially for involuntarily retired judges. Put another way, the goal would be to increase life satisfaction among those forced to retire by exploring the financial aspects of retirement and developing individual life scripts. In those, each judge would endeavor to put “meat” into his/her vision of retirement, whether by continuing to work, developing more robust leisure activities, developing a greater sense of health needs, and/or pursuing other endeavors that he or she would regret not having done. Through doing so, each judge would experience a greater

sense of control and ability to manage his/her life to manifest the particular “fingerprint” of retirement that each of us would like to have.

I recommend that the seminars build upon what is already offered by the Administrative Office of the Courts. The first seminar would orient the judges and their significant others to the goal of the model, which is to encourage the judges to take control of their retirement by making a retirement plan unique to them. The emphasis would be on financial considerations: eligibility requirements for judicial pensions, how to apply for the pension, the choices offered when taking a pension and the effect of choosing survivor benefits or monthly stipends; retiree health benefits; social security benefits; a supplemental retirement (401k), for example, and the effect of continuing to work on required minimum distributions. There also would be a discussion of the tax consequences of retirement for a judge, which is not presently discussed, as well as how to apply for designation as a senior judge, and along with this, a discussion of the limitations that continuing to sit might place on the freedom of a judge to work in other endeavors.

As homework after the first seminar, a reading list of resources would be made available but, most importantly, I would distribute a copy of *What Color is Your Parachute for Retirement* (Nelson and Bolles, 2010) and ask that each judge complete the exercises in it in anticipation of our second seminar six months

later. Online assessment tools, such as the Strong Interest Inventory, could be made available to the judges between the first and second seminar, to assist them in identifying their interests.

The second seminar would begin with unfinished business from the first seminar, to address questions that will have arisen as a result of the judges working on the financial aspects of retirement. I also would ask each judge to check in by identifying the elements of his/her ideal retirement, as derived from the exercises completed in working with *What Color is Your Parachute for Retirement?* The rest of the second seminar would be devoted to a segment on successful aging, both brain and body, through nutrition and exercise; to a discussion about the opportunities for judges to consult, volunteer, coach, mentor, teach, write, and continue his/her education; and to

exploring other pursuits such as travel, fine arts, sports, and hobbies.

The third seminar would be held within a year after retirement. Unfinished business would include questions that have arisen as a result of actually retiring and discussion of resources for resolution. Also, at the conclusion of the seminars it may be advisable to encourage the judges to break up into small groups that are geographically oriented, so they can lend support to one another in the transition.

I would appreciate hearing any thoughts or suggestions you might have about this proposed model. If you would like to request a list of readings or just schmooze with me about your experience in retirement, I would appreciate that too. I can be reached at lynne.battaglia@mdcourts.gov.

References

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- Schlossberg, N. K. (2009). *Revitalizing retirement: reshaping your identity, relationships, and purpose*. Washington, DC: American Psychological Association.
- Schlossberg, N. K. (1995). *Counseling adults in transition: linking practice with theory*. New York: Springer Pub. Co.

ADR IN THE SPIRIT OF THE SEASON

By

Nancy B. Shuger, Senior Judge
District Court

Last December I conducted a pre-trial conference in a contract case filed in the District Court. A sub-contractor sued the lessee of a property and the general contractor after the sub-contractor had completed 95% of his work and the general contractor had stopped paying him. The sub-contractor's business was installation of doors and windows; the lessee's was operating a café and bike repair shop on the premises.

The facts and legal arguments on both sides were compelling. The plaintiff had done substantial work which redounded to the benefit of the café owner. The plaintiff claimed that his signature on a release and waiver document presented to him by the general contractor's employee had been forged. On the other hand, there was no privity of contract between the defendant-lessee and the plaintiff, and the lessee suspected that the general contractor already had paid the plaintiff in full after proper execution of the waiver and release. Each side intended to call the agent of the general contractor in support of its position. Neither side could locate him. Apparently, like the general contractor, he had absconded. Put plainly, that left the sub-contractor and lessee

to pick up the pieces and resolve or litigate the matter.

Once the significance of this situation sunk in to everyone, the parties, with the able assistance of their respective counsel, decided to convert the pre-trial conference into a settlement conference. It continued through a series of joint and separate caucuses. During them, it became clear that the plaintiff felt aggrieved because he had not been paid in full for the excellent work he had done, and had been denied a chance to finish it. As an established business owner, he typically did not do business that way and was concerned his reputation might suffer if he lost the case after trial. He came to understand, though, that his legal argument as to unjust enrichment was weak. At the same time, the lessee had concerns that, if his legal arguments as to lack of privity of contract and unjust enrichment were misunderstood or rejected by the trial judge, he could not afford to pursue the case through the appellate process. His business had been open for only a year, and his cash flow was poor. He didn't want his considerable investment of time and money to end with this case. Moreover, he already had expended

additional sums to hire a company to finish the work the plaintiff had begun.

Gradually, the parties abandoned their legal positions and began to develop empathy for each other—a change that never would have transpired in court during trial. The plaintiff stated his interest in concluding the matter and closing his books on it before the end of the calendar year and in moving forward with his business reputation intact. The defendant expressed the same desire and thought a non-disclosure provision would satisfy his concerns. And, his cash flow issues were paramount, which the plaintiff, a more experienced business owner, understood.

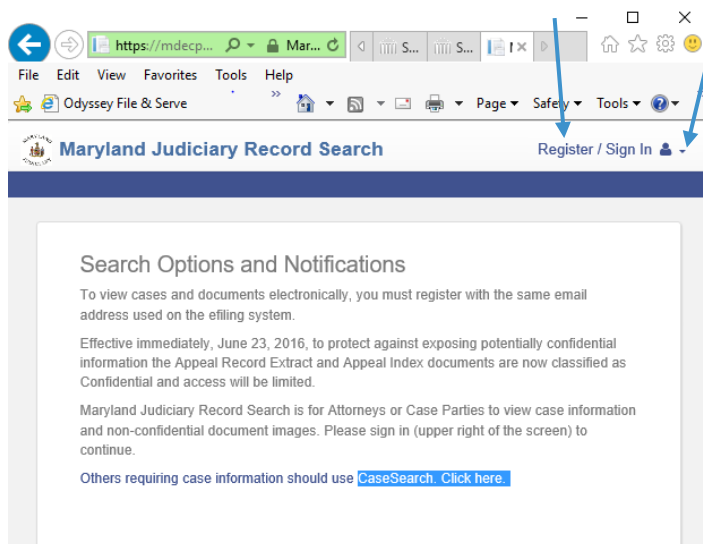
Ultimately, the case settled. Why? Because the settlement conference created a safe

space and process in which each party could see the other simply as a person with underlying interests similar to his own and greater than the issues that initially had divided them. The power of the mediation process to transform conflict into common ground was on full display. As counsel explained, neither wanted to hurt another small business owner.

Best of all: at the end, the two men stood up, shook hands and wished each other well.

I participated in this ADR process due to the commitment of Administrative Judge Barbara B. Waxman and Judge in Charge of Civil, Mark F. Scurti, to deploy ADR-trained Senior Judges in this way. Kudos to them!

HOW TO VIEW CASE DOCUMENTS ON YOUR DOCKET AT HOME



Senior Judges can view documents in cases on their upcoming dockets by registering in the “View Documents Portal” in MDEC.

The link is below:

<https://mdecportal.courts.state.md.us/MDODYSSEYP ORTAL>

Simply click on “Register” at the top right of the page.

Follow the registration instructions. After you receive the email to confirm registration, when you log into the website above you can request “elevated access” by clicking on the down arrow above and select “Request Elevated Rights.”

It takes some time for our Systems Administrators to process the access request so please be patient and try again in 24 hrs. If you still don’t have access, call Dennis Edwards at (410) 260-1146 and he’ll open an incident for you to get access.

NEXT SENIOR JUDGES COMMITTEE MEETING

Tuesday, April 24, 2018
5:30 PM
JCECC



Senior Judges Survey on Local Jurisdictional Practices now available online:

<http://www.mdcourts.gov/hr/seniorjudges/judgessurvey>

For your convenience, a hard copy of this survey is also attached to the print version of the newsletter.
Return surveys by mail to: JaCina Stanton,
Administrative Office of the Courts, 580 Taylor Avenue
Annapolis, MD 21401

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Centers for Medicare and Medicaid
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