

Maryland Rules

Title 2. Civil Procedure – Circuit Court

Chapter 500. Trial

Rule 2-501. Motion for summary judgment.

(a) **Motion.** – Any party may file at any time a motion for summary judgment on all or part of an action on the ground that there is no genuine dispute as to any material fact and that the party is entitled to judgment as a matter of law. The motion shall be supported by affidavit if filed before the day on which the adverse party's initial pleading or motion is filed.

(b) **Response.** – The response to a motion for summary judgment shall identify with particularity the material facts that are disputed. When a motion for summary judgment is supported by an affidavit or other statement under oath, an opposing party who desires to controvert any fact contained in it may not rest solely upon allegations contained in the pleadings, but shall support the response by an affidavit or other written statement under oath.

(c) **Form of affidavit.** – An affidavit supporting or opposing a motion for summary judgment shall be made upon personal knowledge, shall set forth such facts as would be admissible in evidence, and shall show affirmatively that the affiant is competent to testify to the matters stated in the affidavit.

(d) **Affidavit of defense not available.** – If the court is satisfied from the affidavit of a party opposing a motion for summary judgment that the facts essential to justify the opposition cannot be set forth for reasons stated in the affidavit, the court may deny the motion or may order a continuance to permit affidavits to be obtained or discovery to be conducted or may enter any other order that justice requires.

(e) **Entry of judgment.** – The court shall enter judgment in favor of or against the moving party if the motion and response show that there is no genuine dispute as to any material fact and that the party in whose favor judgment is entered is entitled to judgment as a matter of law. By order pursuant to Rule 2-602 (b), the court may direct entry of judgment (1) for or against one or more but less than all of the parties to the action, (2) upon one or more but less than all of the claims presented by a party to the action, or (3) for some but less than all of the amount requested when the claim for relief is for money only and the court reserves disposition of the balance of the amount requested. If the judgment is entered against a party in default for failure to appear in the action, the clerk promptly shall send a copy of the judgment to that party at the party's last known address appearing in the court file.

Cross References. Section 200 of the Soldiers' and Sailors' Relief Act of 1940, 50 U.S.C. Appendix, § 520, imposes specific requirements that must be fulfilled before a default judgment may be entered.

(f) Order specifying issues or facts not in dispute. – When a ruling upon a motion for summary judgment does not dispose of the entire action and a trial is necessary, the court, on the basis of the pleadings, depositions, answers to interrogatories, admissions, and affidavits and, if necessary, after interrogating counsel on the record, may enter an order specifying the issues or facts that are not in genuine dispute. The order controls the subsequent course of the action but may be modified by the court to prevent manifest injustice.

Chapter 600. Judgment

Rule 2-613. Default judgment.

(a) Parties to whom applicable. – In this Rule, the term “plaintiff” includes counter-plaintiffs, cross-plaintiffs, and third-party plaintiffs, and the term “defendant” includes counter-defendants, cross-defendants, and third-party defendants.

(b) Order of default. – If the time for pleading has expired and a defendant has failed to plead as provided by these rules, the court, on written request of the plaintiff, shall enter an order of default. The request shall state the last known address of the defendant.

(c) Notice. – Promptly upon entry of an order of default, the clerk shall issue a notice informing the defendant that the order of default has been entered and that the defendant may move to vacate the order within 30 days after its entry. The notice shall be mailed to the defendant at the address stated in the request and to the defendant's attorney of record, if any. The court may provide for additional notice to the defendant.

(d) Motion by defendant. – The defendant may move to vacate the order of default within 30 days after its entry. The motion shall state the reasons for the failure to plead and the legal and factual basis for the defense to the claim.

(e) Disposition of motion. – If the court finds that there is a substantial and sufficient basis for an actual controversy as to the merits of the action and that it is equitable to excuse the failure to plead, the court shall vacate the order.

(f) Entry of judgment. – If a motion was not filed under section (d) of this Rule or was filed and denied, the court, upon request, may enter a judgment by default that includes a determination as to liability and all relief sought, if it is satisfied (1) that it has jurisdiction to enter the judgment and (2) that the notice required by section (c) of this Rule was mailed. If, in order to enable the court to enter judgment, it is necessary to take an account or to determine the amount of damages or to establish the truth of any averment by evidence or to make an investigation of any matter, the court may rely on affidavits, conduct hearings, or order references as appropriate, and, if requested, shall preserve to the plaintiff

the right of trial by jury.

(g) Finality. – A default judgment entered in compliance with this Rule is not subject to the revisory power under Rule 2-535 (a) except as to the relief granted.

Cross references. Section 200 of the Soldiers' and Sailors' Relief Act of 1940, 50 U.S.C. Appendix, § 520, imposes specific requirements that must be fulfilled before a default judgment may be entered.

Title 14. Sales of Property

Chapter 200. Foreclosure of Lien Instruments

Rule 14-204. Commencement of action and process.

(a) Methods of commencing action. – An action to foreclose a lien pursuant to a power of sale shall be commenced by filing an order to docket. An action to foreclose a lien pursuant to an assent to a decree or where the lien instrument contains neither a power of sale nor an assent to a decree shall be commenced by filing a complaint to foreclose. When a lien instrument contains both a power of sale and an assent to a decree, the lien may be foreclosed pursuant to either the power of sale or the assent to a decree. The complaint or order to docket shall be accompanied by:

(4) if any defendant is a natural person, an affidavit that either the person is not in the military service of the United States as defined in Section 511 of the Soldiers' and Sailors' Civil Relief Act of 1940, as amended, 50 U.S.C. Appendix, 520, or that the action is authorized by the Act.

(b) Process and hearing not required. – In an action to foreclose a lien pursuant to a power of sale or pursuant to an order for sale under an assent to a decree, it is not necessary that process issue or that a hearing be held prior to sale.

Cross references. Sections 511 and 532 of the Soldiers' and Sailors' Civil Relief Act of 1940, 50 U.S.C. Appendix.