

COURT OF APPEALS STANDING COMMITTEE  
ON RULES OF PRACTICE AND PROCEDURE

Minutes of a meeting of the Rules Committee held in Rooms UL 4 & 5 of the Judiciary College and Education Conference Center, 2011-D Commerce Park Drive, Annapolis, Maryland on Friday, November 22, 2019.

Members present:

Hon. Alan M. Wilner, Chair

H. Kenneth Armstrong, Esq.  
Julia Doyle Bernhardt, Esq.  
Hon. Yvette M. Bryant  
Hon. John P. Davey  
Mary Anne Day, Esq.  
Hon. Angela M. Eaves  
Alvin I. Frederick, Esq.  
Pamela Q. Harris, State Court  
Administrator

Irwin R. Kramer, Esq.  
Victor H. Laws, III, Esq.  
Dawne D. Lindsey, Clerk  
Stephen S. McCloskey, Esq.  
Hon. Danielle M. Mosley  
Hon. Douglas R. M. Nazarian  
Hon. Paula A. Price  
Gregory K. Wells, Esq.  
Thurman W. Zollicoffer, Esq.

In attendance:

Sandra F. Haines, Esq., Reporter  
Colby L. Schmidt, Esq., Deputy Reporter  
Lawrence D. Coppel, Esq.  
Heather Deans Foley, Esq., Venable LLP  
Hon. John P. Morrissey, Chief Judge, District Court of Maryland  
Thomas B. Stahl, Esq., Spencer & Stahl, P.C.  
Gillian Tonkin, Esq., Staff Attorney, District Court Chief  
Clerk's Office

The Chair convened the meeting. He informed the Committee that the Court of Appeals held its open meeting on the 201<sup>st</sup> Report on November 19 and adopted the proposed changes - with

some amendments - effective January 1, 2020.

The Chair said that the Rules Committee is in the final stages of hiring a new Executive Aide. The Reporter added that the new hire should be in place by the next meeting. The Chair noted that the Committee has also re-advertised the Assistant Reporter position. He also announced that the Committee is moving next week and will be in the A-POD building adjacent to the Court of Appeals building. Subcommittee meetings will be held in that location.

Agenda Item 1. Consideration of the proposed deletion of Rule 16-703 (Maryland Professionalism Center)

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The Chair presented the rescission of Rule 16-703, Maryland Professionalism Center, for consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 16 - COURT ADMINISTRATION  
CHAPTER 700 - MISCELLANEOUS JUDICIAL UNITS

DELETE Rule 16-703 in its entirety, as follows:

~~Rule 16-703. MARYLAND PROFESSIONALISM  
CENTER~~

~~(a) Existence~~

~~There is a Maryland Professionalism  
Center, which exists as a unit of the~~

~~Maryland Judiciary.~~

~~(b) General Purposes and Mission~~

~~The general purposes and mission of the Maryland Professionalism Center are:~~

~~(1) to implement the professionalism policies adopted by the Court of Appeals;~~

~~(2) to examine ways of promoting professionalism among Maryland judges, judicial appointees and personnel, and attorneys and to encourage them to exercise the highest level of professional integrity in their relationship with each other, the courts, and the public and fulfill their obligations to improve the law and the legal system; and~~

~~(3) to help ensure that the practice of law remains a high calling focused on serving clients, promoting the proper administration of justice, and furthering the public good.~~

~~(c) Duties~~

~~To carry out its purposes, the Maryland Professionalism Center shall:~~

~~(1) develop and refine mechanisms to advance professionalism as an important core value of the legal profession and the legal process;~~

~~(2) design a professionalism website and gather and maintain on it information that will serve as a resource on professionalism for judges, judicial appointees and personnel, attorneys, and the public;~~

~~(3) monitor professionalism efforts and developments in other states;~~

~~(4) monitor and attempt to coordinate professionalism efforts by the various segments of the Maryland legal and judicial community—the Bar, the courts, the law schools, and attorneys and law firms—with particular emphasis on professionalism training in the law schools;~~

~~(5) monitor the efforts of the Maryland State Bar Association and other bar associations in the State in carrying out the mandate of the Court of Appeals with respect to the advancement of professionalism;~~

~~(6) publicly acknowledge judges, judicial appointees and personnel, and attorneys for particularly commendable acts of professionalism;~~

~~(7) administer the New Bar Admittees' Mentoring Program; and~~

~~(8) recognize the efforts of attorneys engaged in the Mentoring Program.~~

~~(d) Board of Directors~~

~~(1) Membership~~

~~The Maryland Professionalism Center shall be governed by a Board of Directors, to consist of (A) a judge of the Court of Appeals, who shall serve as Chair; (B) a judge of the Court of Special Appeals; (C) a judge of a circuit court; (D) a judge of the District Court; (E) the Dean of the University of Maryland School of Law, or the Dean's designee; (F) the Dean of the University of Baltimore School of Law, or the Dean's designee; and (G) seven practicing members of the Maryland Bar, one from each judicial circuit, giving due regard to ethnic, gender, and experiential diversity.~~

~~(2) Appointment~~

~~The members of the Board shall be appointed by the Chief Judge of the Court of Appeals.~~

~~(3) Terms~~

~~(A) The judge of the Court of Appeals serves at the pleasure of the Chief Judge;~~

~~(B) The term of the other judges shall be three years or during the incumbency of the individual as a judge of the court upon~~

~~which the individual was serving at the time of appointment, whichever is shorter.~~

~~(C) The term of the Deans' designees shall be three years or during the incumbency of the individual in the capacity in which the individual serves at the law school, whichever is shorter.~~

~~(D) The term of the other members shall be three years.~~

~~(E) Of the initial appointees, four shall be appointed for an initial term of three years, four shall be appointed for an initial term of two years, and four shall be appointed for an initial term of one year, in order that the terms shall remain staggered. At the end of a term, a member may continue to serve until a successor is appointed.~~

~~(F) With the approval of the Chief Judge, the Chair may remove a member prior to the expiration of the member's term and appoint from the same category of membership a successor for the remainder of the unexpired term.~~

~~(G) (i) Subject to subsection (d) (3) (G) (ii) of this Rule, a member may be reappointed.~~

~~(ii) The period of consecutive service by a member other than the Chair shall be not more than two consecutive terms, except that, if the member was appointed to fill the unexpired term of a former member, the period of consecutive service also may include the remainder of the term of the former member.~~

#### ~~(4) Secretary~~

~~The Chair shall appoint one of the members of the Board to serve as Secretary, at the pleasure of the Chair. The Secretary shall take minutes of the meetings of the Board and perform other duties related to the work of the Board as may be directed by~~

~~the Chair.~~

~~(5) Compensation~~

~~The members of the Board shall serve without compensation but shall be reimbursed for expenses in connection with travel related to the work of the Center in accordance with the approved budget of the Center.~~

~~(6) Vice Chair; Committees~~

~~The Chair may appoint a Vice Chair and committees of the Board.~~

~~(7) Meetings~~

~~The Board shall meet at least twice each year, at the call of the Chair.~~

~~(8) Quorum~~

~~Seven members of the Board shall constitute a quorum for the transaction of business.~~

~~(9) Duties~~

~~The Chair, in collaboration with the Board, shall provide managerial oversight of the policies, programs, operations, and personnel of the Maryland Professionalism Center and prepare and transmit to the State Court Administrator and the Chief Judge of the Court of Appeals a proposed annual budget for the Center. Preparation of the budget and all procurement and personnel decisions shall be in conformance with standards and guidelines promulgated by the State Court Administrator.~~

~~Cross reference: See Rule 16-801 (b).~~

~~(c) Personnel~~

~~(1) Appointment~~

~~The Chair of the Board of Directors may appoint personnel for the Center as authorized in the approved budget of the Center.~~

~~(2) Advisors~~

~~The Chair may invite persons to provide advice to and participate in the work of the Center. Unless funds are available in the approved budget of the Center for that purpose, service by those persons shall be without compensation.~~

~~(f) Funding~~

~~Funding for the Center shall be solely as provided in the annual judicial budget, except that funds obtained by the Center from other sources prior to that date may be used as authorized by the Board of Directors for the purposes and duties of the Center set forth in this Rule.~~

~~Source: This Rule is derived from former Rule 16-407 (2016).~~

Rule 16-703 was accompanied by the following Reporter's note:

The Rules Committee has been advised that all activities of the Maryland Professionalism Center have ended and that the unspent funds of the Center have been transferred to the Attorney Grievance Disciplinary Fund pursuant to an Administrative Order of the Court of Appeals dated October 17, 2019. Accordingly, the Committee recommends that Rule 16-703 be deleted in its entirety.

The Chair said that the Maryland Professionalism Center no longer exists. The Center was eliminated by Administrative Order and its funding has been allocated elsewhere. The Center had not been active for two years. By consensus, the Committee approved the deletion of the Rule.

Agenda Item 2. Consideration of proposed amendments to the Rules in Title 13 (Receivers and Assignees)

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The Chair said that Agenda Item 2 contains revisions to the Rules dealing with receivers and assignees. The changes are necessary to conform the Rules to a new statute. The proposed Rules call for the rescission of current Title 13 and its replacement with new Title 13.

Mr. Laws explained that the Probate/Fiduciary Subcommittee has been looking at the receivership Rules in light of the passage of the Maryland Commercial Receivership Act ("The Act") (Chapter 284, 2019 Laws of Maryland (HB 1065)). The Act went into effect on October 1, 2019. The Subcommittee consulted with creditor's rights attorneys Lawrence D. Coppel and Heather Deans Foley on the revisions. Mr. Coppel and Ms. Foley served on the Maryland Commercial Receivership Act Committee.

Mr. Coppel addressed the Committee. He explained that the Maryland Commercial Receivership Act was the result of a project that began four years ago when a group of attorneys with experience representing parties in receivership and assignment proceedings and bankruptcy and real estate matters got together to discuss a comprehensive receivership statute. He said that prior to the Act, there was no statute governing receiverships or assignments for the benefit of creditors and there were

inconsistencies in case law. He informed the Committee that the attorneys believed that a statute governing such proceedings and answering common questions was a good idea, comparing it to the Federal Bankruptcy Code. He said that the group started with the Uniform Real Estate Act, which was adopted by the Uniform Law Commission. The Act applies to a real estate receivership when a receiver is appointed in anticipation of foreclosure or as part of a foreclosure process. He explained that the attorneys then expanded the Act to apply to commercial receiverships. He noted that Oregon, Washington, Missouri, and Nevada have enacted similar legislation.

Mr. Coppel said that receiverships and assignments for the benefit of creditors have been governed by the Title 13 Rules, but those Rules do not apply to all receiverships. For example, a receiver appointed at the request of a lender in a foreclosure proceeding is not governed by the current Title 13. The proposed amendments will make many of the Title 13 Rules applicable to that type of receivership.

The Chair noted that Judge Price had pointed out a class of receiverships in District Court that needed to be excluded. Those receiverships involve the government seeking to take over property being used for illegal or immoral purposes.

The Chair suggested that Mr. Laws and Mr. Coppel explain each Rule in sequence.

Mr. Laws presented Rule 13-101, Definitions, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 100 - GENERAL PROVISIONS

DELETE current Rule 13-101 and ADD new Rule 13-101, as follows:

Rule 13-101. DEFINITIONS

In this Title the following definitions apply except as expressly otherwise provided or as necessary implication requires:

(a) Assignee

"Assignee" means a person to whom a debtor has made a general assignment of property in trust for the benefit of creditors.

(b) Court

"Court" means the Circuit Court in which an assignment for the benefit of creditors or a petition for receivership has been filed.

(c) Debtor

"Debtor" means the "owner" and the "insolvent."

(d) Designated Party

"Designated Party" means an officer, director, manager or principal equity holder in the debtor.

(e) Equity Holder

"Equity Holder" means a shareholder, partner, or member that owns an interest in the debtor's estate.

(f) Estate

"Estate" means "receivership property" and includes property assigned to an assignee.

(g) Insolvent

"Insolvent" means an assignor in an assignment for the benefit of creditors proceeding or an insolvent for whose affairs a receiver has been appointed to manage.

Cross reference: See Code, Commercial Law Article, § 15-101 (b) (2).

(h) Owner

"Owner" means a person for whose property or business a receiver is appointed. An "owner" is not an "equity holder".

Cross reference: See Code, Commercial Law Article, § 24-101 (m).

(i) Person

"Person" has the meaning set forth in Rule 1-202 (t) and includes an individual, an estate, a business, a nonprofit entity, a public corporation, a governmental unit, an instrumentality, and any other legal entity.

Cross reference: See Code, Commercial Law Article, § 24-101 (n).

(j) Property

(1) For proceedings under Code, Commercial Law Article, Title 24:

(A) "Property" means all of a person's right, title, and interest, both legal and equitable, in real and personal property, tangible and intangible, wherever located and however acquired.

(B) "Property" includes proceeds, products, offspring, rent, and profits of or from the property.

(C) "Property" does not include:

(i) any power that the owner may exercise solely for the benefit of another person; or

(ii) property impressed with a trust, except to the extent that the owner has a residual interest.

Cross reference: See Code, Commercial Law Article, § 24-101 (p).

(2) For all other proceedings, "Property" has the meaning set forth in Rule 1-202 (x).

(k) Receiver

"Receiver" means, a person appointed by the court under Code, Commercial Law Article, § 24-201 (a), and subject to the court's authority, to take possession of, manage, and, if authorized by the provisions of Title 24 of the Commercial Law Article or court order, transfer, sell, lease, license, exchange, collect, or otherwise dispose of receivership property.

Cross reference: See Code, Commercial Law Article, § 24-101 (q).

(l) Receivership Property

"Receivership Property" means property or business of an owner that is described in the order appointing a receiver or a subsequent order, including any products, offspring, profits, and proceeds of the property.

Cross reference: See Code, Commercial Law Article, § 24-101 (s).

Source: This Rule is derived in part from former Rule BP1 a, and in part from Code, Commercial Law Article, § 24-101.

Mr. Coppel explained that the uniform Act is real estate-oriented and uses the word "owner" instead of "debtor." The Title 13 Rules refer to debtors. There is no difference between "debtor" and "owner" and the term "insolvent," which also is used in the Act. The proposed new Rule includes definitions for all three terms. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-102, Scope, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 100 - GENERAL PROVISIONS

DELETE current Rule 13-102 and ADD new Rule 13-102, as follows:

Rule 13-102. SCOPE

(a) Generally

The Rules in this Title apply to actions and proceedings in a circuit court:

(1) to assume jurisdiction over and administer an assignment for the benefit of creditors; and

(2) for the appointment of a receiver and the administration of a receivership proceeding.

(b) Exceptions

(1) The Rules in this Title do not apply to:

(A) receivership proceedings commenced under Rule 3-722, except that the District Court may apply a Rule in this Title to the extent that such application is not inconsistent with Rule 3-722 and is within the jurisdiction of the District Court.

(B) receivership proceedings commenced under Code, Commercial Law Article, § 24-201 (b), except that Rules 13-101 through 13-107, 13-301 through 13-303, 13-501 (c) - (g), 13-601 through 13-603, and 13-701 through 13-704 apply in those proceedings.

(2) If, as part of an assignment or receivership proceeding, or in anticipation of such a proceeding, a foreclosure action subject to the Rules in Title 14 is commenced, the Rules in that Title apply and prevail with respect to the foreclosure proceeding.

Source: This Rule is derived in part from former Rule BP1 b.

Committee Note: Code, Commercial Law Article, § 24-201(b) permits a court to appoint a receiver in connection with a commenced or anticipated foreclosure action under certain circumstances. Because foreclosure proceedings may be commenced only by the mortgagee or trustee, or the agent or assignee of the mortgage or trustee, and are subject to special procedures, requirements, and limitations, the Rules in Title 14 will apply to such proceedings. It is recommended that the same judge preside over both the foreclosure and the receivership proceedings to assure that both proceed efficiently and in harmony.

Mr. Coppel said that a receivership initiated by a real estate owner to protect a real estate project so that it can serve as collateral is not covered by the current Title 13

Rules. Proposed Rule 13-102 (b) (1) (B) provides for the application of a number of the Title 13 Rules – but not all of them – to those receiverships. He explained that real estate receiverships usually have relatively few trade creditors compared to business receiverships; the Subcommittee chose not to apply some of the proposed Rules to those proceedings.

The Chair pointed out that there are several kinds of receiverships that are not covered by the statute but are governed by the Rules. Mr. Coppel said that the statute excludes a regulatory receivership where, for example, the Maryland Securities Commissioner files a petition to place a business that is violating securities laws into receivership. The statute does not apply to that type of case unless the Commissioner, who is the receiver in that case, either elects to have the statute apply or the court applies the statute for cause. Regulatory receiverships are not subject to the Act but would still be subject to the Rules because they are receiverships.

There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-103, Applicability of Other Rules, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 100 - GENERAL PROVISIONS

DELETE current Rule 13-103 and ADD new Rule 13-103, as follows:

Rule 13-103. APPLICABILITY OF OTHER RULES

(a) Generally

Except to the extent of any inconsistency with the Rules in this Title, the other applicable Maryland Rules apply to proceedings under this Title. To the extent there is any inconsistency, the Rules in this Title prevail.

(b) Discovery

Except as otherwise provided in this Title, the Rules in Title 2, Chapter 400 apply to discovery in actions under this Title.

Source: This Rule is in part derived from former Rule BP5 and is in part new.

Mr. Laws said that Rule 13-103 states that other applicable Maryland Rules apply to receiverships and assignments for the benefit of creditors, except when inconsistent with the Rules in Title 13. It is substantially the same as the current Rule. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-104, Commencement of Action, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 100 - GENERAL PROVISIONS

DELETE current Rule 13-106 and ADD new  
Rule 13-104, as follows:

Rule 13-104. COMMENCEMENT OF ACTION

(a) Assignment

(1) How Commenced

An assignment for the benefit of creditors proceeding is commenced by the filing of a petition to assume jurisdiction over the assignment.

(2) Who May File

The petition shall be filed by the assignee.

(3) Where Filed

The petition shall be filed in the circuit court for any county in which (A) the debtor resides, is employed, or maintains a place of business, or (B) where some part of the estate is located.

(4) Contents

(A) The petition shall: (i) contain the name, address, and e-mail address of the assignor and the assignee; (ii) be accompanied by the executed agreement; (iii) if the assignor is a corporation, be accompanied by all required corporate resolutions or contain a statement that all such resolutions have been executed; (iv) state the nature, approximate value, and location of the property comprising the estate, to the best of the petitioner's knowledge, information, and belief; and (v) contain or be accompanied by the name, address, and e-mail address, to the extent known, of all interested persons known to the petitioner and a statement of the

efforts made by the petitioner to identify and locate other possible interested persons.

(B) If any information in the assignment is subject to shielding pursuant to the Rules in Title 16, Chapter 900, the petition shall be accompanied by a copy of the assignment with the shielded information redacted.

(b) Receivership

(1) How Commenced

A receivership proceeding is commenced by the filing of a petition, except that if a receivership is sought in a pending action, the receivership may be commenced by the filing of a motion in that action. The motion shall comply with the requirements of a petition set forth in subsection (b)(4) of this Rule.

(2) Who May File

The petition may be filed by any person with statutory or common law standing. If the receivership is sought in a pending action, the motion may be filed by any party to that action.

Cross reference: *See*, in general, *Spivey-Jones v. Trans Healthcare*, 438 Md. 330 (2014) noting the existence of both equitable or chancery receiverships and statutory receiverships. For standing in equitable receiverships, *see Frigidraft, Inc. v. Michel*, 198 Md. 511 (1951).

(3) Where Filed

The petition shall be filed in the circuit court for any county in which (A) the debtor resides, is employed, or maintains a place of business, or (B) where some part of the estate is located.

(4) Contents

A petition to commence a receivership shall: (A) state the name,

address, and e-mail address of the petitioner and the alleged debtor, averments showing that the petitioner is authorized by law to file the petition and the basis for the petition, the name, address, and e-mail address of the person the petitioner seeks to have appointed as the receiver, and averments showing that such person is legally qualified to be appointed as a receiver; and (B) contain or be accompanied by a list of the names, addresses, and e-mail addresses, to the extent known, of all interested persons known to the petitioner and a statement of the efforts made by the petitioner to identify and locate other possible interested persons.

Cross reference: See Code, Commercial Law Article, § 24-201 for the circumstances in which a receiver may be appointed pursuant to Title 24. See § 24-203 for disqualifications for appointment as a receiver.

(c) Show Cause Order

Upon the filing of a petition or motion under this Rule, the court shall issue a show cause order directing a person to show cause in writing on or before a specified date why the court should not take the action described in the order. The petition or motion, together with the show cause order, shall be served on the debtor in the manner directed by the Court.

Mr. Laws also presented a handout, which adds a different new section (d) to Rule 13-104 and includes a new Rule 13-105, Appointment Prior to Notice, which was not included in the materials.

**HANDOUT**

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 100 - GENERAL PROVISIONS

ADD new Rule 13-104 (d), as follows:

Rule 13-104. COMMENCEMENT OF ACTION

. . .

(d) Hearing

Unless no interested party timely requests a hearing, after service of the show cause order and the petition or motion, the court promptly shall hold a hearing.

**HANDOUT**

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 100 - GENERAL PROVISIONS

ADD new Rule 13-105, as follows:

Rule 13-105. APPOINTMENT PRIOR TO NOTICE

(a) Upon a verified motion by the petitioner, the court may issue an order appointing a receiver before service of the show cause order and petition or motion only if (1) on evidence presented by the petitioner, the court finds on the record that the appointment is urgently required to preserve or protect property that will become receivership property from imminent waste, loss, transfer, dissipation, or impairment, and (2) the petitioner posts security that satisfies the requirements of

Code, Commercial Law Article, § 24-201  
(c) (1).

(b) The order shall specify the authority granted to the receiver pending further proceedings.

(c) Upon motion of any person joined as a party in the receivership and after a hearing, the court may terminate or amend the order.

Source: This Rule is new.

Mr. Laws said that Rule 13-104 deals with the commencement of an action. Mr. Coppel explained that the current Rule provides that proceedings are initiated by the filing of the petition in circuit court. Proposed Rule 13-104 (a) (3) governs venue, and Rule 13-104 (a) (4) states what must be included in the petition. The procedure essentially is the same for an assignment for the benefit of creditors and a receivership. The difference is that a receivership is like an involuntary bankruptcy because it usually is initiated by a creditor who wants the debtor business to go into a receivership; an assignment for the benefit of creditors is a voluntary action where the debtor assigns all assets to an assignee who files a petition asking the circuit court to assume jurisdiction. In all other respects, the two actions are the same and proceedings move forward the same way once the court assumes jurisdiction.

The Chair pointed out one distinction in section (b), which applies only to a receivership. If it is a new action, it is commenced by a petition. If it is arising from an ongoing proceeding, it may be commenced by a motion that is filed in that action. The motion must lay out the same information as a petition.

The Chair added that the handout provided at the meeting addresses recent issues raised regarding Rule 13-104. The document includes the addition of section (d) to Rule 13-104 and a new Rule 13-105 (Appointment Prior to Notice). He explained that the Act has a provision permitting the judge to appoint a receiver in an emergency prior to service of the petition. Handout Rule 13-105 attempts to put limits on the use of that provision. The Chair explained that the intent is to allow the judge to make an *ex parte* appointment of a receiver to act in a situation where such an appointment urgently is required to preserve and protect property from imminent waste, loss, transfer, or dissipation. The intent was not to allow the receiver to act with broad authority before anyone has notice of the receivership.

Mr. Coppel explained that the Rules require the court to issue a show cause order once the petition is filed. The show cause and petition normally would be served on the debtor in a manner directed by the court. If the debtor wants a hearing,

the court can hold a hearing, but that process takes time. There are situations that cannot wait for the appointment of a receiver because of fraud or dissipation of assets. Mr. Laws added that the statute covers these situations but does not include standards for the appointment. There is a provision in the statute (Code, Commercial Law, §24-201 (c)) for an *ex parte* appointment and a remedy if it is abused. The court can order damages, reasonable attorneys' fees, and costs, but there are no standards for the court to use to decide whether there is an emergency that requires the emergency appointment of a receiver before a hearing is held. Rule 13-105 helps fill the gap. By consensus, the handout version of Rule 13-105 was approved as presented. Mr. Laws noted that subsequent Rules in Chapter 100 will need to be renumbered to account for the addition of the new Rule 13-105.

Ms. Foley addressed the Committee. She explained that a prior version of the proposed amendments addressed the debtor's consent to a receivership. In her experience with commercial real estate receiverships where the loan is in default and the debtor wants to turn over the keys pending foreclosure, she has obtained an affidavit, stipulation, or consent for the form of the receivership order. She suggested that the Rules provide a mechanism for consent that would not burden the court with a show cause order and proceeding. She said that written

information from the debtor consenting to either the appointment of a receivership or the form of the receivership order can save time and resources. She noted her concern with an earlier draft of the Rules requiring the debtor to file the consent. In situations where the debtor has no interest in the property and has no money flowing from the property, the debtor does not want to hire counsel to file something. The Chair asked if the petitioner would have the consent in hand before filing the petition. Ms. Foley answered in the affirmative. The Chair said that the Committee's concern is for situations where the petitioner does not have that consent but asks the court to order the receiver before the debtor knows about the petition. Ms. Foley responded that a judge reading the Rules as drafted could feel that there must be a hearing. She suggested that the Rules acknowledge that consent is an option. Attorneys may need to file on an emergency basis. Consent facilitates the process.

Judge Bryant suggested that the handout version of Rule 13-104 (d) be reworked to say: "If an interested party timely requests a hearing after service of the show cause order and the petition or motion, the court shall promptly hold a hearing. Where no interested party requests a hearing, or in the case of a consent to receivership or assignment, the court need not hold a hearing." Mr. Coppel commented that the language would only need to reference a receivership because an assignment is, by

nature, a consent. Mr. Laws questioned whether "interested party" is the proper term because the debtor is the party that would want to request a hearing or consent. Ms. Foley responded that the party asking for a hearing or consenting would be the debtor. Judge Bryant proposed the phrase, "Unless the debtor timely requests a hearing." Judge Bryant moved to amend Rule 13-104 (d) to allow for a debtor to request a hearing or consent to a receivership. The motion was seconded and approved by consensus.

Mr. Laws told the Committee that the handout version of Rule 13-104 (d) refers to an interested person, which is not a defined term and not in the statute. He explained that later in proceedings, there are opportunities for creditors to come in and for outside parties to challenge aspects of the receivership. Mr. Zollicoffer said that he was involved in a case where there were interested parties other than the debtor who had made an investment and wanted it back. The investors had not received notice of the receivership and could not object to the receivership despite having a pecuniary interest. Mr. Zollicoffer suggested that the term "interested party" is not wrong, because there can be scenarios where people who invest or are silent partners in corporations do not get notice until months later to step in line behind the creditors. The Chair reiterated Mr. Laws's point that "interested party" is not

defined in the statute. Mr. Frederick said that he could see instances where someone other than the debtor might have a legitimate interest in receiving notice of a receivership. Mr. Zollicoffer commented that he likes the term "interested party."

Mr. Coppel pointed out that Rule 13-201 requires notice within five days, which is within the 30-day appeal period. He said that once the receiver is appointed, the appointment becomes a final order. Mr. Frederick suggested that the Rule may want to encourage providing notice to interested parties. The Chair said that his understanding is that the first stage of the receivership is the filing of a petition to appoint a receiver. This triggers a show cause order, which is served on the debtor, and the debtor has a certain amount of time to file an answer. If a receiver is appointed, notice is given to everyone on a master list of creditors and anyone else with an interest in the property. Mr. Coppel said that this is true for receiverships that are not real estate receiverships. The Rule requiring notice to creditors does not apply to real estate receiverships because they typically are one-creditor cases. The lender has a receiver appointed, and no other creditors, or very few other creditors, are impacted. In all other types of receiverships, notice goes out in five days.

The Chair observed that if the receivership arises out of a foreclosure, the notice is published. Mr. Coppel replied that

this can happen at a sale, but not all real estate receiverships lead to a foreclosure. The Chair questioned the need to send notice to interested parties when a creditor already will receive notice as a creditor. He asked if the statute requires notice to others who have an interest in the property. Ms. Foley replied that there is a definition for an equity holder. She asked if requiring notice to an equity holder instead of an interested person would be appropriate, or if the Committee should attempt to define interested person. Mr. Coppel said that Rule 13-201 as written requires notice to creditors and no other parties, which is what is called for in the statute.

The Chair directed the Committee's attention to the portion of the statute dealing with a master service list, which the receiver must file and keep up to date. The list includes the names and addresses of the respondent, the receiver, all persons joined as parties under the receivership, all persons known by the receiver to assert any ownership or lien in the receivership property, all persons that have filed a notice of appearance, and any attorney of record. The Act provides for this list, and it is not just creditors who receive subsequent notices. Mr. Coppel said that once the receivership or assignment starts, motions filed in those proceedings should be sent to a broad group of creditors and anyone else that has an interest. Under the existing practice and existing Rules, motions and

applications are not served, and people with an interest do not know what is going on.

Judge Bryant asked if the Rule should say that an interested person includes anyone who is entitled to notice under that section of the Act. The Reporter asked if Rule 13-104 (d) in the handout should read "unless the debtor." The Chair said that the point was made that the petitioner may not know who all the interested persons are, which is fine, but later the petitioner will have to identify them. If the petitioner does know of an interested party, it should be in the petition.

Mr. Laws said that Mr. Zollicoffer's point was to leave the reference to interested persons in the section about the petition but leave it out of the section about a hearing. A judge might see a debtor who consented to a receivership, but there may be other equity holders or stakeholders who should be heard. Judge Bryant commented that there should be a definition of "interested person" if the term remains in the Rules. Judge Price suggested that the Rule read, "unless a request for a hearing is made after service of the order and petition." She noted that the court does not know who might consider themselves an interested person. The Chair said that the Act discusses what the court can do prior to service on the debtor - the emergency relief - and when the court is not required to have a

hearing. The Act does not require a hearing if no one asks for one. The Chair questioned who would ask for a hearing. The debtor could request it and interested persons, if they are known and served with the petition.

Mr. Kramer said that Rule 13-104 (b) (2) allows the petition to be filed by any person with statutory or common law standing. The filer, therefore, must have some kind of interest. The Rule takes an expansive view of who may file, and the procedural problem would be determining if that party has standing. The Chair commented that if the petitioner knows who has an interest, the petitioner should tell the court. Mr. Zollicoffer said that the Rule states, "to the extent known," and he does not see a problem with giving notice to interested persons known to the petitioner. The Rule does not require an extensive search. Mr. Coppel pointed out that receiverships and assignments are like bankruptcy: an involuntary bankruptcy petition is served only on the debtor; then notice is sent, and creditors and stakeholders may file a motion later. He explained that the Subcommittee wanted to address the need to have a receiver appointed relatively quickly because there usually is a need for prompt action. The Subcommittee felt that, like a bankruptcy case, the petition should have to be served only on the debtor.

The Chair asked for any further comments on Rule 13-104.

Mr. Laws said that he believes that the scope needs to be narrower and only the debtor should receive service of the show cause order. Mr. Zollicoffer seconded. Mr. Laws said that the Committee is still adding the change suggested by Judge Bryant to the handout Rule 13-104 (d) which permits an interested person to timely request a hearing and permits the court to dispense with a hearing if there is no request for one and the debtor has consented to the receivership. The Chair asked if the Committee was comfortable with the revisions to Rule 13-104. By consensus, the Committee approved the Rule as amended.

The Chair called for a motion to approve the handout of new Rule 13-105. A motion was made, seconded, and approved by consensus. The Reporter noted that the remaining Rules in Title 13, Chapter 100 will need to be renumbered.

Mr. Laws presented Rule 13-105, Eligibility to Serve as Receiver, Assignee, or Professional (to be renumbered as 13-106), for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 100 - GENERAL PROVISIONS

DELETE current Rule 13-105 and ADD new Rule 13-105, as follows:

Rule 13-105. ELIGIBILITY TO SERVE AS RECEIVER, ASSIGNEE, OR PROFESSIONAL

(a) Receiver or Assignee

A person may not be appointed as a receiver or assignee who is disqualified under Code, Commercial Law Article, § 24-204 (b).

(b) Professionals Generally

A person may not serve as an attorney, accountant, appraiser, auctioneer, or other professional representing or assisting a receiver or assignee unless the person provides a statement, under penalty of perjury, as set forth in Rule 13-302, that demonstrates that the eligibility requirements under Code, Commercial Law Article, § 24-303 are satisfied.

(c) Ineligibility No Bar to Assumption of Jurisdiction

The court shall not refuse to assume jurisdiction over the estate of a debtor solely because it finds that the assignee is ineligible to serve under this Rule. After assuming jurisdiction, the court shall remove the ineligible assignee pursuant to Rule 13-701 and may take any action permitted or required by Rule 13-703.

Source: This Rule is derived in part from former Rule BP3 a and c and is in part derived from 11 U.S.C. § 101 and § 327.

Mr. Laws explained that Rule 13-105 in the meeting materials, which will be renumbered as Rule 13-106, addresses who is eligible to serve as receiver, assignor, or professional to assist the receiver or assignor. Mr. Coppel said that the statute requires a fiduciary to be disinterested and free of conflicts. The Rule states that the person cannot be appointed unless qualified under the statute.

The Chair pointed out that section (a) refers to a receiver or assignee, but section (c) only refers to an assignee. He asked whether the term receiver should be added. Mr. Coppel said that he does not have a problem with that change, but assumption of jurisdiction is language that only applies to assignments so the Rule would have to be made broader. Ms. Foley said that she does not think there is any harm in drafting language to include receiverships in section (c). She noted that assumption of jurisdiction in a receivership is a slightly different concept. Mr. Laws said that the court must decide who to appoint, and the fiduciary chosen by the debtor may be ineligible.

Mr. Coppel suggested adding the words "or appoint a receiver" after "the court shall not refuse to assume jurisdiction over the estate of a debtor." The Chair agreed with the proposed amendment. He said that his concern was a receivership where someone files a petition, the receiver wants emergency action taken, the judge grants the request, but the receiver is later found to be ineligible. If the court lacked jurisdiction, all the orders would be null and void and could be collaterally attacked. Ms. Foley noted that eligibility is something that must be established to ask the court for appointment. The statute allows for the disqualification of a receiver that has been appointed. The Reporter asked for

clarification about the proposed changes. Ms. Foley said that Mr. Coppel suggested that if there is a receiver that is ineligible at the outset, the court can appoint someone else. Mr. Schmidt read the proposed language in Rule 13-105 (c): "The court shall not refuse to assume jurisdiction over the estate of a debtor or appoint a receiver solely because it finds that the proposed assignee or receiver is ineligible." Mr. Coppel said that the second sentence in section (c) should also include the words "or receiver." Mr. Laws pointed out that section (a) also should be modified to read, "the person may not be appointed as a receiver and shall be replaced as an assignee who is disqualified under the Code." The Chair asked for any comment on the proposed changes. By consensus, the Committee approved the Rule as amended.

Mr. Laws presented Rule 13-106, Bond (to be renumbered as 13-107), for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 100 - GENERAL PROVISIONS

DELETE current Rule 13-107 and ADD new  
Rule 13-106, as follows:

Rule 13-106. BOND

(a) Bond Requirement

The order for appointment of a receiver or assignee shall state whether the appointment is conditioned upon the filing of a bond and, if a bond is required, the amount of the bond.

(b) Amount of Bond

Notwithstanding any provision in Rule 1-402, the amount of the bond shall be no greater than the net value of the property of the estate. In the event of a later sale of property by the receiver or assignee, the court shall evaluate the bond previously filed and may permit a decrease in the amount of the bond.

(c) Motion to Modify Amount of Bond

A receiver, assignee, or interested party may file a motion to modify the amount of a bond pursuant to Rule 1-402. The motion shall be served as provided under Rule 13-107 (a) and Code, Commercial Law Article, § 24-501 (d), or upon such persons as the court may direct.

(d) Terms of Bond

The bond shall be to the State of Maryland and shall be conditioned upon the faithful discharge of the duties of the receiver or assignee. In a receivership subject to Code, Commercial Law Article, Title 24, the bond shall comply with § 24-204 of that Article.

(e) Payment of Bond Premium from Estate

Unless the court orders otherwise, a receiver or assignee may pay the bond premium and be allowed reimbursement of the premium from the estate.

Source: This Rule is derived in part from former Rule V73.

Mr. Laws said that Rule 13-106 does not change

significantly from the current language. Bond will have to be posted by the receiver or the assignee. Judge Bryant moved to add "upon request" to section (b), which says the court shall evaluate the bond. The motion was seconded. Judge Bryant noted that under section (e), unless the court orders otherwise, a receiver or assignee may pay the bond premium. She moved that the Rule be amended to read "may advance the bond premium." The motion was seconded. By consensus, the Committee approved the Rule as amended.

Mr. Laws presented Rule 13-107, Service of Papers (to be renumbered as 13-108), for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 100 - GENERAL PROVISIONS

DELETE current Rule 13-104 and ADD New Rule 13-107, as follows:

Rule 13-107. SERVICE OF PAPERS

(a) Master Service List

In accordance with Code, Commercial Law Article, § 24-501 (c), the master service list shall consist of the names, mailing addresses, and, where available, facsimile numbers and e-mail addresses of the receiver or assignee, the debtor, all persons known by the receiver or assignee to have asserted any ownership or lien in property of the estate, all persons joined as parties in the proceeding, all attorneys

of record and all persons who file an entry of appearance.

(b) General Requirement

Unless otherwise ordered by the court, a motion or petition and show cause order shall be served in accordance with Code, Commercial Law Article, § 24-501 (D) on:

(1) all persons on the master service list;

(2) all persons that have asserted an ownership interest or lien in receivership property that is the subject of the motion;

(3) all persons that are identified in the motion as directly affected by the relief requested; and

(4) any other person that the court directs.

(c) Filing Master Service List

The receiver or assignee shall maintain the master service list, and, at least every 120 days, file with the court an updated master service list.

(d) Entry of Appearance

A person that is a creditor or party in interest and wishes to receive notices in a proceeding shall file with the clerk a notice of appearance stating the person's name, mailing address, email address, facsimile number, and telephone number and provide a copy of the notice to the receiver or assignee.

(e) Notices to Creditors

The receiver, assignee, or other person that files a motion shall include in the motion a notice section that states: (1) the deadline for filing and serving objections to the motion and any requests for hearing; (2) the effect of a failure to respond to the motion or to attend any

hearing the court may set; and (3) that, in the absence of a timely filed and served objection and request for hearing, the court may rule on the motion, without further notice or hearing.

(f) Content of Objection

An objection shall state the legal and factual basis for it and may be accompanied by a memorandum of fact and law. The objection shall contain a certificate of service certifying that a copy of the objection and of any supporting memorandum have been sent to each person who was served with the motion.

Source: This Rule is new.

The Chair said that there may be a style issue with the Rule. The statute begins with the requirement that the receiver file a master service list and keep it up to date. It goes on to say who is on the list. The Chair suggested that the Rule follow that format and move section (c) to the beginning of the Rule. Judge Nazarian clarified that the Chair was recommending making section (c) into section (a). The Reporter interjected that section (c) would also be amended to read "shall file and maintain." By consensus, the Committee approved the amendment. There being no further motion to amend or reject the proposed amendments to Rule 13-107, the Rule was approved as amended.

Mr. Laws presented Rule 13-201, Notice to Creditors, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 200 - NOTICE AND SCHEDULES

DELETE current Rules 13-201 and 13-202  
and ADD new Rule 13-201, as follows:

Rule 13-201. NOTICE TO CREDITORS

(a) Notice by Receiver or Assignee

No later than five days after the court appoints a receiver, assignee, or assumes jurisdiction over an estate, the receiver or assignee shall prepare, mail, and cause any publication of the Notice to Creditors required under Code, Commercial Law Article, § 24-302 (A) and (B). The receiver or assignee shall file a certificate of mailing or publication of the Notice within five days after the initial mailing or publication.

(b) After Filing of Financial Documents

Within 5 days after the filing of the financial documents required by Rule 13-202 (a), the receiver or assignee shall send a copy of the notice required by section (a) by mail to all creditors shown on the documents to whom the notice was not sent pursuant to section (a) of this Rule. Within five days after such mailing, the receiver or assignee shall file a certificate of mailing.

(c) Later-Discovered Creditors

The receiver or assignee shall promptly send a copy of the notice required by section (a) by mail to each creditor whose identity is discovered after the mailing of the notice under sections (a) or (b). Within five days after such mailing, the receiver or assignee shall file a certificate of mailing.

Source: This Rule is derived from former Rule BP4 a 1 and former Rule BP4 a 2.

Mr. Laws said that the statute requires notice to creditors but does not specify a timeframe. The Rule adds the requirement of first-class mail and publication as directed by the court. The mode of mailing and publication are in the statute and the current Rule. Judge Bryant pointed out that the second line in section (a) is missing the word "or" after receiver. Judge Wilner noted that subsections in line five should be lowercase "a" and "b." By consensus, the Committee approved the Rule as amended.

Mr. Laws presented Rule 13-202, Financial Documents, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 200 - NOTICE AND SCHEDULES

DELETE current Rule 13-203 and ADD new Rule 13-202, as follows:

Rule 13-202. FINANCIAL DOCUMENTS

(a) Preparation and Filing by Debtor

Subject to a court order, within 15 days after the court appoints a receiver or assumes jurisdiction over the estate, the debtor shall complete and file in the proceeding, with copies to the receiver or assignee, the Schedules of Assets and Liabilities and Statement of Financial Affairs substantially in the form approved by the State Court Administrator and posted on the Judiciary website.

(b) Preparation and Filing by Receiver or Assignee

If the debtor or designated party fails to file the financial documents required by section (a) within the deadline set for such filing, the receiver or assignee, to the extent able to supply the information, shall prepare and file the documents. The documents shall be filed within 30 days after the debtor's required filing date or such other date as the court orders.

(c) Failure of Receiver or Assignee to File Documents

If a receiver or assignee who is required to file the documents required by section (a) fails to do so within the required time, any creditor may file a motion regarding the delinquency. Upon the filing of the motion or on its own initiative, the court may issue an order to the receiver or assignee to show cause in writing on or before a specified date why the receiver or assignee should not be compelled to file the schedule or be removed. Unless cause is shown or the financial documents required by this Rule are filed, the court shall remove the receiver or assignee.

(d) Order Compelling Disclosure; Sanction

Upon a motion of the receiver or assignee, or on the court's initiative, the court may order a designated party or parties, or any other person who may have information that is necessary for the filing or completion of the financial documents required by section (a) to appear before the court or before an examiner pursuant to Rule 2-542 and to disclose such information. If the designated party or other person refuses to comply with an order compelling disclosure, the court may hold the offending party in contempt.

Source: This Rule is derived in part from

former Rule BP2 a and b and is in part new.

Mr. Laws said that Rule 13-302 deals with required financial documents. The form of those documents is to be specified by the State Court Administrator. There are forms under the current Rules that could be a model for the State Court Administrator. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-301, Employment of Attorney, Accountant, Appraiser, Auctioneer, Broker, or Other Professional, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 300 - EMPLOYMENT OF PROFESSIONALS

DELETE current Rule 13-301 and ADD new Rule 13-301, as follows:

Rule 13-301. EMPLOYMENT OF ATTORNEY,  
ACCOUNTANT, APPRAISER, AUCTIONEER, BROKER,  
OR OTHER PROFESSIONAL

(a) Court Approval Required

An order approving the employment of attorneys, accountants, appraisers, auctioneers, brokers, or other professionals under Code, Commercial Law Article, § 24-303, shall be entered only upon motion of the receiver or assignee. The motion shall set forth (1) the necessity for the employment, (2) the information required by Code, Commercial Law Article, § 24-303

(a) (3), and (3) if the schedule required by Rule 13-202 has not been filed, the nature and approximate amount of the debtor's property and debts. The motion shall be accompanied by the affidavit required by Rule 13-302. A receiver or assignee may serve as attorney or accountant for the estate with court approval.

(b) Prior Approval of Compensation in Certain Instances

If the motion requesting authority to employ an attorney, accountant, appraiser, auctioneer, broker, or other professional sets forth in reasonable detail the basis for the proposed compensation of the person to be employed, the court may authorize compensation to be paid without further order of court for work completed within stated limits. This Rule does not apply to a receiver or an assignee who serves as attorney or accountant for the estate.

Source: This Rule is derived in part from former Rule BP6 a and b and is in part new.

Mr. Laws said that there is a fair amount of specificity in the statute about the employment of professionals. Judge Bryant commented that she was curious about whether a court could approve a receiver or assignee serving as the attorney or accountant of the estate. Mr. Laws said that he believes that is covered by the statute. Judge Bryant asked if someone who is a receiver or assignee may provide professional services. Ms. Foley said that, in her experience, it is a rare situation. She said that she would not want her receivers acting as accountants or attorneys in the case. Ms. Foley said that the Rule

addresses that situation, but it does not prohibit that as an option. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-302, Affidavit of Receiver, Assignee, and Professionals, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 300 - EMPLOYMENT OF PROFESSIONALS

DELETE current Rule 13-302 and ADD new Rule 13-302, as follows:

Rule 13-302. AFFIDAVIT OF RECEIVER,  
ASSIGNEE, AND PROFESSIONALS

(a) Required Disclosure by Affidavit of Receiver or Assignee

A receiver or assignee shall file an affidavit containing all of the information that would demonstrate eligibility under Code, Commercial Law Article, § 24-203 (b).

(b) Required Disclosure by Affidavit of Other Professionals

Each attorney, accountant, appraiser, auctioneer, broker, or other professional to be employed by the assignee or receiver shall file an affidavit containing all of the information that would demonstrate eligibility under Code, Commercial Law Article, § 24-303.

(c) When Filed

The affidavit shall be filed:

(1) by an assignee, with the petition;

(2) by a receiver, with the petition or motion seeking appointment of the receiver;

(3) by an attorney, accountant, appraiser, auctioneer, broker, or other professional, with the motion requesting authority to employ the person.

(d) Supplemental Disclosure

A person who has filed an affidavit under this Rule and who learns that the information in the affidavit is inaccurate or incomplete shall promptly file a supplemental affidavit.

(e) Penalty for Failure to Disclose Required Information

In addition to any other remedies provided by law, the court, pursuant to Rule 13-701, may remove any person who fails to disclose any information required to be disclosed by this Rule and may take any action permitted or required by Rule 13-703.

Source: This Rule is derived from former Rule BP3 a, b, and d.

Mr. Laws said that Rule 13-302 requires an affidavit by the receiver or assignee and the professional. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-303, Compensation and Expenses by Receiver, Assignee, and Professionals, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 300 - EMPLOYMENT OF PROFESSIONALS

DELETE current Rule 13-303 and ADD new Rule 13-303, as follows:

Rule 13-303. COMPENSATION AND EXPENSES BY RECEIVER, ASSIGNEE, AND PROFESSIONALS

(a) Motion for Allowance of Compensation and Expenses

Except to the extent provided in the order appointing a receiver in a proceeding filed under Code, Commercial Law Article, § 24-103 (a) (1), or except as provided in Code, Commercial Law Article, § 24-303 (d) (2) or Rule 13-301 (b), before a receiver, assignee, or any person performing services for the estate pursuant to Rule 13-301 is paid compensation or reimbursed for expenses not previously approved by the court, the receiver or assignee shall file with the court a motion for the allowance of compensation and expenses. The motion shall include the information required by Code, Commercial Law Article, § 24-303 (c) (1), and shall also include:

(1) the amount of compensation and expenses requested;

(2) the amount of any compensation or expenses previously allowed by the court to the movant;

(3) the amount of any compensation and expenses received from or to be paid by any source other than the estate; and

(4) a detailed description of any agreement or understanding for a division of the compensation between the person rendering services and any other person except those specifically permitted to share in compensation by section (c) of this Rule.

(b) Allowance

The court shall review the motion and any evidence presented and shall determine the appropriate amount of compensation and expenses to be paid to the receiver, assignee, or person performing services for the receiver or assignee. In determining the amount, the court is not bound by any compensation or commission fixed in an assignment for the benefit of creditors or in any other agreement not approved by the court.

(c) Sharing of Compensation

Without the express written approval of the court, a receiver, assignee, or person performing services for a receiver or assignee shall not, in any form or manner, share or agree to share compensation for services rendered with any person other than a bonafide partner, employer, or regular employee of the person rendering services.

Source: This Rule is derived from former Rule BP7.

Mr. Laws said that Rule 13-303 governs compensation. Mr. Frederick asked if the term "bona fide partner" in section (c), line six, was from the statute. Mr. Coppel said that he believes it is in the statute. The existing Rule just says "partner." Mr. Frederick questioned the difference between a bona fide partner and a partner. Mr. Coppel said that he did not object to removing the phrase "bona fide." Mr. Laws moved to amend the Rule to remove "bone fide" from section (c). The motion was seconded, and, by consensus, the Committee approved the Rule as amended.

Mr. Laws presented Rule 13-401, Proof of Claim, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 400 - CLAIMS

DELETE current Rule 13-401 and ADD new Rule 13-401, as follows:

Rule 13-401. PROOF OF CLAIM

(a) Time for Filing

A proof of claim in a proceeding filed under Code, Commercial Law Article, § 24-103 (a) (2) or (3), or in a proceeding filed by an assignee, shall be filed within 120 days after the later of the date of the notice to creditors or the date of the most recent publication of the notice, under Rule 13-201.

(b) Extension of Time

The court may extend the time for filing a proof of claim for good cause upon the filing of a motion by any person.

(c) Form

A proof of claim, together with supporting documentation, shall be substantially in the form approved by the State Court Administrator and posted on the Judiciary website. The form shall comply with Code, Commercial Law Article, § 24-302(c).

(d) Assignment of Claim

If a claim has been assigned after a proof of claim has been filed, the transferee of the original claimant shall file a notice of assignment within 15 days

after the date of such assignment. The notice of assignment of the claim shall be substantially in the form approved by the State Court Administrator and posted on the Judiciary website.

Source: This Rule is derived in part from former Rule BP4 b and c and is in part new.

Mr. Laws said that Rule 13-401 deals with the proof of claim that creditors must file. Mr. Coppel noted that he believes the statute says that the proof of claim must be filed in no less than 120 days. The Chair added that 120 days is also in the current Rule. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-402, Objections to Claims, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 400 - CLAIMS

DELETE current Rule 13-402 and ADD new Rule 13-402, as follows:

Rule 13-402. OBJECTIONS TO CLAIMS

A motion objecting to a proof of claim may be filed at any time before entry of an order approving a receiver's or assignee's final report. The grounds for the motion shall be stated with particularity. The motion shall be served on the claimant, the claimant's counsel of record, if any, and,

unless the receiver or assignee is the moving party, on the receiver or assignee.

Source: This Rule is derived from former Rule BP4 d.

Mr. Laws explained that Rule 13-402 allows the receiver or other person to file a motion to object to a claim. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-403, Compromise of Claim or Dispute, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 400 - CLAIMS

DELETE current Rule 13-403 and ADD new Rule 13-403, as follows:

Rule 13-403. COMPROMISE OF CLAIM OR DISPUTE

On motion by a receiver or assignee, the court may approve a compromise or settlement.

Source: This Rule is in part derived from former Rule V77 b 1 and is in part new.

Mr. Laws said that Rule 13-403 allows the receiver or assignee to compromise or settle a claim with approval by the court. There being no motion to amend or reject the proposed

Rule, it was approved as presented.

Mr. Laws presented Rule 13-404, Relief from Stay, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 400 - CLAIMS

ADD New Rule 13-404, as follows:

Rule 13-404. RELIEF FROM STAY

A motion seeking relief from the stay imposed by Code, Commercial Law Article, § 24-401 (A) must include:

(1) a verified, detailed statement of the debt owed to the movant, including the amount of arrearages accrued, if any;

(2) a description of the property and the security interest involved, with attached documents evidencing the security interest and its perfection;

(3) if the movant asserts a valuation, the amount of the valuation, its date, and the basis for the valuation (e.g., appraisal, blue book, etc.);

(4) the grounds that constitute cause; and

(5) the remedy sought.

Source: This Rule is new.

Mr. Laws said that Rule 13-404 governs a stay of other proceedings. Like a bankruptcy, there is an automatic stay imposed by the new statute and this Rule spells out what a

motion seeking relief must include. Mr. Coppel explained that the stay is triggered once the receiver is appointed and the court assumes jurisdiction. There are exceptions, but generally proceedings will be stayed automatically, and if someone wants to sue outside of the receivership, the person could file a motion seeking relief from the stay.

The Chair questioned whether the Rule is likely to increase the use of receiverships because, previously, a stay was not part of the process. Mr. Coppel said that as a practical matter, the receiverships he has seen begin with a broadly worded receivership order, which usually includes a stay provision. In practice, the statute formalizes something that practitioners already see, but the stay may make receiverships more attractive.

The Chair noted that a problem with federal matters that trigger automatic stays is that they affect cases in state courts, and there is no provision for the court or trustee to notify the state judiciary that there is a stay. This can lead to cases proceeding and orders and judgments later being voided. Mr. Coppel replied that, as a matter of practice, bankruptcy trustees and debtors do file something if there is a state court proceeding pending. The Chair agreed that this happens, but not always. Mr. Coppel said that the parties usually want to stop other proceedings.

The Chair suggested requiring notice be filed in other proceedings. Mr. Frederick commented that the stay becomes a problem for lawyers who inadvertently proceed where proceedings have been stayed, and the lawyers can be subject to sanctions in bankruptcy court. He said that he fears that someone would argue that the Rules for receiverships are like those for bankruptcy and that bankruptcy court policies should apply. He agreed that courts and parties should be notified of a stay so that precautions can be taken. Mr. Coppel said that the Subcommittee did not discuss such a Rule, but he does not see a problem with drafting one requiring the receiver or assignee to file a notice of the automatic stay in pending proceedings.

Mr. Laws suggested that the Rule about schedules and the statement of affairs, which asks about pending litigation, incorporate a notice requirement that the receiver file a suggestion of stay in that pending litigation. Ms. Foley said that plaintiffs may inadvertently sue someone and later learn of the stay. She said that she believes there are two separate issues: (1) litigation existing at the time the receiver is appointed and (2) the inadvertent filing of a new lawsuit. The Chair agreed both could occur. The Reporter commented that she is unsure if MDEC can deal with notice in newly filed lawsuits, but it could in pending litigation. Ms. Harris said that the state does get notice of bankruptcy cases. The Chair said that

when the issue came up before, it involved pending cases that the bankruptcy court knows about because they were listed on the schedule. In a receivership, the receiver is going to know that a case is pending. Mr. Frederick asked Mr. Coppel if there would be a harm in requiring the filing of a notice of the stay in all pending litigation. Mr. Coppel explained that when he represents a debtor or a trustee, he does file a notice in all pending litigation, but he does not know if everyone does so.

Mr. Frederick moved to add a provision that "the receiver or assignee is to file a notice in all pending litigation of which he or she is aware." The Chair commented that the receiver or assignee may not know who the parties are. Mr. Frederick said that once MDEC is statewide, anyone who is a party in an action will get notice. Mr. Schmidt asked if the proposal was to add language to Rule 13-404. Mr. Frederick replied that it can be added wherever it should be. The Chair called for a second to Mr. Frederick's motion to add a requirement that the receiver or assignee file a notice of the action in all known pending litigation. The appropriate place in the Rules to add this requirement can be determined by the Style Subcommittee. The motion was seconded and by consensus, the Committee approved the Rule as amended.

Mr. Laws presented Rule 13-501, Reports, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 500 - REPORTS AND DISTRIBUTIONS

DELETE current Rule 13-501 and ADD new Rule 13-501, as follows:

Rule 13-501. REPORTS

(a) Interim Report

An interim report shall be filed by a receiver or assignee at such times as the receiver or assignee determines is appropriate or as ordered by the court.

(b) Form of Interim Report

An interim report shall be substantially in the form approved by the State Court Administrator and posted on the Judiciary website. The form shall comply with Code, Commercial Law Article, § 24-601.

(c) Final Report

A final report shall be filed by a receiver or assignee upon completion of the receiver's or assignee's duties.

(d) Form of Final Report

A final report shall be substantially in the form approved by the State Court Administrator and posted on the Judiciary website. The form shall comply with Code, Commercial Law Article, § 24-602.

(e) Monthly Report if Conducting a Business

For each calendar month during which the receiver or assignee conducts the business of the debtor, the receiver or assignee shall file a report listing the receipts and disbursements in reasonable detail. The report shall be filed not later than the 15th day after the end of the monthly reporting period.

(f) Further Accountability

Nothing in this Rule shall be construed to abridge the power of the court to require a receiver or assignee to submit reports covering periods greater or lesser, or at times earlier or later, than those prescribed in this Rule or to require the submission of more detailed information than that which is prescribed in this Rule.

(g) Examination by Trust Clerk

(1) Examination of Reports

If requested by the court, the trust clerk shall examine all reports submitted pursuant to this Rule. The trust clerk shall determine whether all required information has been submitted and whether the amount of and surety on the bond of the receiver or assignee are sufficient to protect the estate.

(2) Examination of Property Not Required

Unless the court orders otherwise, the trust clerk need not examine the property of the estate.

(3) Report and Recommendation

The trust clerk shall (A) report any irregularities in the report to the court, (B) bring to the court's attention any other matter that the trust clerk considers appropriate, and (C) make any appropriate recommendation, all of which shall be served on the receiver or assignee, and any person directly or indirectly affected by the report or recommendation.

Source: This Rule is derived from former Rule BP9 a, b, d, e, f, and g.

Mr. Laws said that Chapter 500 involves reports and distributions. Rule 13-501 requires interim and final reports.

The existing Rules contain the form of reports, and the new provisions direct the State Court Administrator to develop forms. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 15-502, Distribution, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 500 - REPORTS AND DISTRIBUTIONS

DELETE current Rule 13-503 and ADD new Rule 13-502, as follows:

Rule 13-502. DISTRIBUTION

(a) Court Approval Required

No interim or final distribution shall be made by a receiver or assignee without court approval. Until a final distribution is made to creditors, the estate shall not be closed, and any bond of the receiver or assignee shall not be released.

(b) Minimum Dividend

Unless the court orders otherwise, the assignee or receiver shall not make a distribution to a creditor in an amount less than \$5.00. Any amount not distributed to a particular creditor shall be redistributed pro rata to other creditors that are entitled to receive a distribution.

(c) Disposition of Unclaimed Distributions

The receiver or assignee shall pay into the court's registry any distributions that remain unclaimed for 90 days after the date of issuance of the distribution. The receiver or assignee shall file a list of the names and last known addresses of persons who have not claimed distributions, showing the amount of each person's distribution. The clerk shall issue a receipt for the payment, and the receipt shall release and discharge the receiver or assignee making the payment. Thereafter, any unclaimed distributions shall be subject to Code, Commercial Law Article, § 17-101.

(d) Distributions as Part of Final Report

A receiver or assignee may satisfy the requirement of court approval of a final distribution by proposing the distribution in a final report approved by the court under Code, Commercial Law Article, § 24-602.

Source: This Rule is derived from former Rules BP9 b 2 and BP10.

Mr. Laws said that Rule 15-502 governs distributions. He noted that the minimum distribution in the current Rules is \$5.00. The Chair asked what happens to remaining funds under \$5.00 and Mr. Laws replied that it goes back "into the pot." The Rules govern unclaimed distributions. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws noted that current Rule 13-502 is deleted as part of the revisions to the Title.

Mr. Laws presented Rule 13-601, Abandonment of Property and Records, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 600 - DISPOSITION OF PROPERTY

DELETE current Rule 13-601 and ADD new Rule 13-601, as follows:

Rule 13-601. ABANDONMENT OF PROPERTY AND RECORDS

(a) Abandonment of Property

On motion of a receiver or assignee, the court may order the abandonment of any property of the estate that is burdensome or not of material value to the estate.

(b) Abandonment or Destruction of Books and Records

(1) Motion

In connection with the termination of the receivership or assignment for the benefit of creditor's estate, the receiver or assignee may move for permission to destroy, return to the debtor, or otherwise dispose of all or part of the books and records of the debtor or of the estate.

(2) Notice

Notice of the motion shall be given to all federal and state tax authorities, the debtor at the debtor's last known address, and all other parties that are required to be served under Rule 13-104 (a).

Source: This Rule is derived from former Rule BP8.

Mr. Laws explained that Chapter 600 governs the disposition of property. Rule 13-601 addresses the power of the receiver or assignee, with court approval, to abandon property that is burdensome or not of material value or benefit. The abandonment or destruction of records also falls under this Rule. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-602, Assumption, Rejection, or Assignment of an Executory Contract, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 600 - DISPOSITION OF PROPERTY

ADD New Rule 13-602, as follows:

Rule 13-602. ASSUMPTION, REJECTION, OR  
ASSIGNMENT OF AN EXECUTORY CONTRACT

(a) Motion to Assume, Reject, or Assign

An executory contract may be assumed, rejected, or assigned by the receiver or assignee only by motion granted by the court. The time for responsive pleadings to be filed and served shall be governed by the Maryland Rules or order of the court.

(b) Limitations

The receiver or assignee shall not seek authority to assume or assign multiple executory contracts in one motion unless:  
(1) all executory contracts to be assumed or

assigned are between the same parties or are to be assigned to the same assignee; or (2) the court otherwise authorizes such motion to be filed. Subject to section (c), the receiver may join requests for authority to reject multiple executory contracts in one motion.

(c) Omnibus Motion

A motion to reject or, if permitted under section (b), a motion to assume or assign multiple executory contracts that are not between the same parties, shall:

(1) State in a conspicuous place where parties receiving the omnibus motion should locate their names and their contracts listed in the motion;

(2) List parties alphabetically and identify the corresponding contract;

(3) Specify the terms, including the amount and timing of curing monetary defaults, for each requested assumption or assignment;

(4) Specify the terms, including the identity of each assignee, and the adequate assurance of future performance by each assignee, for each requested assignment;

(5) Be numbered consecutively with other omnibus motions to assume, assign, or reject executory contracts; and

(6) Be limited to no more than 100 contracts.

(d) Finality of Determination

The finality of any order respecting an executory contract included in an omnibus motion shall be determined as though such contract had been the subject of a separate motion.

(e) Time for Filing Rejection Damage Claims

A claim for damages for rejection of an executory contract shall be set forth on a proof of claim substantially in the form and with the supporting documentation required in Rule 13-401 (b) and shall be filed by the later of the time for submitting a proof of claim in the proceeding, or 30 days after entry of the order rejecting the executory contract, unless otherwise ordered by the court.

Source: This Rule is new.

Mr. Laws said that Rule 13-602 deals with the concept of the executory contract, which is familiar to bankruptcy practitioners. Mr. Coppel said that an executory contract is a contract that is unperformed on both sides with material obligations to be performed in the future. In that situation, the receiver or the assignee is given the option to assume the contract or reject it. The Rule, as in bankruptcy, gives the receiver or assignee those options, which must be exercised before the case is over. Rule 13-602 (c) applies when there are many contracts. To avoid filing a motion for each contract, an omnibus motion is permitted. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-603, Use and Transfer of Estate Property Other Than in the Ordinary Course of Business, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 600 - DISPOSITION OF PROPERTY

ADD New Rule 13-603, as follows:

Rule 13-603. USE AND TRANSFER OF ESTATE  
PROPERTY OTHER THAN IN THE ORDINARY COURSE  
OF BUSINESS

(a) Definition

In this Rule, "transfer" includes a sale, lease, license, exchange or other disposition of estate property.

(b) Court Approval

A receiver or assignee may not (1) use of (2) transfer other than pursuant to Rule 13-601, receivership property outside of the ordinary course of business unless the use or transfer is authorized by the court upon motion filed by the receiver or assignee.

(c) Motion

(1) Generally

The motion shall be accompanied by a proposed order and any proposed purchase, license, exchange agreement, or lease and shall state why the proposed transaction is in the best interest of the receivership or assignment.

(2) Sale

A sale of property outside the ordinary course of business may be by private sale or public sale. If the motion seeks a private sale of the property, it shall describe the terms of the proposed sale, the basis for the receiver's or assignee's belief as to the fairness and reasonableness of the proposed price and, to the extent applicable, shall include the following information:

(A) if an appraisal has been performed at the request of the receiver or assignee: (i) the appraised value of the property being sold; (ii) the date of the appraisal; and (iii) the name and address of the appraiser;

(B) the purchaser's identity;

(C) a full description of any relationship between the purchaser and the receiver, assignee, owner of the property, or any other party in interest;

(D) the statement of all consideration to be paid the purchaser and the payment terms;

(E) a statement of all charges and costs to be paid by the estate and all concessions to be made by the estate;

(F) any provision in which the receiver or assignee has agreed not to solicit competing offers for the property subject to the motion or to otherwise limit shopping of the property;

(G) any deadline for the closing of the proposed sale and any other condition to closing the proposed sale;

(H) the amount of any deposit that the purchaser has paid or will be required to pay;

(I) the terms of any interim operating or management agreement between the receiver or assignee and the proposed purchaser;

(J) the proposed use of the sale proceeds;

(K) whether the proposed sale shall be free and clear of any lien;

(L) whether the proposed sale shall be free and clear of a possessory leasehold interest, license or other right; and

(M) whether the receiver or assignee seeks to allow, disallow or affect in any

manner, credit bidding pursuant to § 24-304 (g) of the Commercial Law Article.

(d) Report of Sale

As soon as practicable, but not more than 30 days after the closing of a sale, the receiver or assignee shall file and serve a report of the sale listing the amount paid by the purchaser, all closing expenses including any sales commission paid by the receiver or assignee, any amount paid to discharge liens on the property, and any amount to be retained by the estate.

(e) Inapplicability of Title 14, Chapter 300

The provisions of Title 14, Chapter 300 of the Rules do not apply to a sale by a receiver or assignee under this Title.

Source: This Rule is new.

Committee note: Title 14, Chapter 300 does apply to a foreclosure whether or not in conjunction with a receivership. Section (d) only applies to sales by the receiver or assignee.

Mr. Laws said that Rule 13-603 allows for the transfer of property outside of the ordinary course of business. Mr. Coppel explained that this Rule usually would apply to a sale, because receivers and assignees frequently end up selling off assets of the business or real property. The Rule says that if the assignee or receiver wants to do that, he or she must file a motion, which is served on the master service list. The sale can be public or private, but a private sale requires certain information in the motion to ensure that people know everything

necessary to determine whether to oppose the sale. After the sale, the receiver or assignee files a report of the sale with the court.

The Chair noted that the definition of "transfer" includes a sale and a lease. He asked what happens with a lease that includes an option. Mr. Coppel explained that that type of lease probably would be subject to Rule 13-602. The receiver could assume the lease and sell it for the cash value of the option. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-701, Removal of Assignee, Receiver, or Professional, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 700 - REMOVAL; RESIGNATION;  
TERMINATION OF PROCEEDING

DELETE current Rule 13-701 and ADD new Rule 13-701, as follows:

Rule 13-701. REMOVAL OF ASSIGNEE, RECEIVER,  
OR PROFESSIONAL

(a) On Court's Own Initiative; by Motion

Any person having an interest in the estate may file a motion to remove a receiver, assignee, or any person employed as a professional by the receiver or assignee. A motion filed pursuant to this section shall state the reasons for the requested removal and may include a request

for the appointment of a successor receiver, assignee, or professional. The court may initiate removal proceedings by entry of a show cause order pursuant to section (b) of this Rule and shall state in the order the reasons for the proposed removal.

(b) Show Cause Order; Service

If removal proceedings are initiated, the court shall order the receiver, assignee, or professional to show cause why the receiver, assignee, or professional should not be removed or be subject to other sanctions. The order, together with a copy of any motion, shall be served pursuant to Rule 2-121 on the person sought to be removed or, if it is shown by affidavit that the whereabouts of the person sought to be removed are unknown and that reasonable efforts have been made in good faith to locate the person, the court may order service pursuant to Rule 2-122. Copies of the show cause order and any motion shall be sent by first class mail, postage prepaid, to the surety on the bond of the receiver or assignee and to any other persons directed by the court.

(c) Disposition

For cause, including ineligibility, the court may remove a receiver, assignee, or professional.

Cross reference: See Code, Commercial Law Article, § 24-703.

Source: This Rule is in part derived from former Rule V84 and is in part new.

Mr. Laws said that Rule 13-701 deals with the removal of an assignee, receiver, or professional. This may occur on the court's own initiative or by motion. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-702, Resignation of Receiver or Assignee, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 700 - REMOVAL; RESIGNATION;  
TERMINATION OF PROCEEDING

DELETE current Rule 13-702 and ADD new Rule 13-702, as follows:

Rule 13-702. RESIGNATION OF RECEIVER OR ASSIGNEE

(a) Motion

A receiver may file a motion for permission to resign in the court in which the receiver was appointed. An assignee may file a motion to resign in the court in which a petition to assume jurisdiction of the estate has been filed. The motion shall state the reasons for the proposed resignation and may include a request for the appointment of a successor receiver or assignee.

(b) Report to Be Filed

The receiver or assignee shall file with the motion a report pursuant to Rule 13-501 for any period not covered in any report previously filed or, if no previous report has been filed, from the date the receiver took charge of the estate.

(c) Termination of Appointment

The resignation of a receiver or assignee does not terminate the appointment until the receiver or assignee has accounted for and turned over all property of the estate and the resignation has been approved by the court.

(d) Proceedings

In an order granting the motion, the court may specify any conditions for the acceptance of the resignation that the nature of the case may require.

Source: This Rule is in part derived from former Rule V81 and is in part new.

Mr. Laws said that Rule 13-702 deals with the resignation of the receiver or assignee on motion with court approval. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-703, Appointment of Successors; Forfeiture of Compensation, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 700 - REMOVAL; RESIGNATION;  
TERMINATION OF PROCEEDING

DELETE current Rule 13-702 and ADD new Rule 13-703, as follows:

Rule 13-703. APPOINTMENT OF SUCCESSORS;  
FORFEITURE OF COMPENSATION

When a receiver, assignee, or professional dies, becomes disabled, resigns, or is removed, the court shall appoint a successor on its own initiative or on the motion of any person having an interest in the estate. The court shall order that all appropriate papers, records, and property be turned over to the successor and may order that a removed or resigning

receiver or assignee file any report required by Rule 13-501. The court may order the person removed to forfeit any future compensation and return any compensation for services previously rendered.

Source: This Rule is derived from former Rule V82 a.

Mr. Laws said that Rule 13-703 deals with the appointment of a successor receiver, assignee, or professional. There being no motion to amend or reject the proposed Rule, it was approved as presented.

Mr. Laws presented Rule 13-704, Termination of Proceeding, for the Committee's consideration.

MARYLAND RULES OF PROCEDURE  
TITLE 13 - RECEIVERS AND ASSIGNEES  
CHAPTER 700 - REMOVAL; RESIGNATION;  
TERMINATION OF PROCEEDING

ADD New Rule 13-704, as follows:

Rule 13-704. TERMINATION OF PROCEEDING

After a final report is approved by the court, the receiver or assignee is discharged from performing duties, the receivership property is fully administered, and distributions, if any, are made, the court, on its own initiative, or on motion of a party in interest, shall enter an order terminating the receivership or assignment for the benefit of creditors proceeding.

Source: This Rule is new.

Mr. Laws said that Rule 13-704 addresses the termination of a proceeding. After the final report is approved, the receiver is discharged. He asked whether the Rule should state that the bond is discharged unless it should continue because of something unknown. Mr. Coppel commented that he believes the statute provides for the discharge of the bond, but he has no objection to that language being added. The Rule is new because under the existing practice, there is no requirement that a decree or order be entered to terminate a case. The new Rule requires an order be entered to say that the case is over. Mr. Laws commented that the statute is silent about discharge of the bond.

The Reporter asked if the receiver or assignee should file something in litigation that had been stayed. Mr. Laws said that it is self-evident that the stay ends when the receivership ends. The Reporter replied that it is unclear how parties in the stayed cases would learn about the termination of the receivership. Ms. Foley explained that the bonding companies usually ask for an order from the court indicating that the matter has been concluded. She suggested that the Committee address termination of the bond. Mr. Coppel agreed that, currently, the receiver files a final report and asks the court to approve it and discharge the receiver and the bond. That is normally done, and the order will go on to say that the

proceeding is terminated under this Rule.

The Chair said that the termination of the bond will include a claim against the bond if something happens afterward. He asked if a claim against the bonding company would be viable if, after the termination of the receivership, it turns out that the receiver did something wrong under the bond. Mr. Coppel replied that the bond usually protects against the loss of assets of an estate if a receiver steals or does not recover something.

Mr. Kramer noted that the Rules, as amended, now require notice to litigants of the receivership and questioned whether litigants will then be notified when the receivership terminates. Ms. Foley commented that some claims may have been adjudicated as part of the receivership process, but there could be open litigation that remains after the case is concluded. Mr. Coppel said that one of the parties in an action could file something to move the case forward, advise the court that the receivership has concluded, and state that the stay is no longer in effect.

The Chair asked how a clerk would learn that a stay has ended. Mr. Kramer pointed out that the initial notice of a stay is required, but not a subsequent notice that the stay is lifted. The Chair asked the Committee members for their opinions on the issue. Mr. Frederick said that a party can

learn what is transpiring in the case and act accordingly. He suggested that the initial notice is sufficient. Judge Nazarian said that a party litigating a claim will either be wrapped up in the receivership or, if the claim remains outside the receivership, receive notice, have knowledge of the stay, and can move to lift it. It would be to the debtor's benefit to keep the stay in effect, but the creditor will want to move forward with the claim. He added that he cannot think of a situation where a claim would not be decided in the receivership.

The Reporter commented that if a claim was resolved in the receivership, but the litigation remains stayed, the court has an interest in closing the file because that case has been resolved. The Chair noted that a party to the litigation may have no interest in the receivership but cannot proceed in his or her case. Chief Judge Morrissey commented that in bankruptcy, the discharge in bankruptcy resolves matters but notice of the discharge typically is not filed in pending state court actions. The case remains stayed indefinitely. Mr. Frederick added that an interested person in a related case that is not part of the bankruptcy would continue checking the docket online until the case concludes, and, with a copy of the order ending the bankruptcy, file it in state court, and lift the stay. Mr. Kramer proposed that notice occur at the end of the

receivership proceeding. Ms. Lindsey said that notice on the back end would clean up the process in the courts so that a case does not remain pending forever. A motion was made to add a notice of termination of the automatic stay to the appropriate place in the Rules. The motion was seconded and approved by consensus. By consensus, the Committee approved the Rule, subject to the amendment.

There being no further business before the Committee, the Chair adjourned the meeting.