

STANDING COMMITTEE ON RULES OF PRACTICE AND PROCEDURE

NOTICE OF PROPOSED RULES CHANGES

The Rules Committee has submitted its One Hundred Eightieth Report to the Court of Appeals, transmitting thereby proposed new Rule 8-124 and Rules 16-811.1 through 16-811.11; the proposed deletion of current Rule 16-811; and proposed amendments to Rules 1-312, 2-202, 2-506, 2-522, 2-647, 3-202, 3-647, 8-301, 8-303, 8-412, 8-502, 8-503, 8-511, 8-606, 10-108, 10-201, 10-205, 10-301, 10-703, 14-215, 14-502, 16-101, 16-303, and 16-502, 16-714, 16-724, 16-753, 16-903, Form 4-504.1, and Rules 2, 12, and 13 of the Rules Governing Admission to the Bar of Maryland.

The Committee's One Hundred Eightieth Report and the proposed new rules and amendments are set forth below.

Interested persons are asked to consider the Committee's Report and proposed rules changes and to forward on or before November 4, 2013 any written comments they may wish to make to:

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BESSIE M. DECKER
Clerk
Court of Appeals of Maryland

September 23, 2013

The Honorable Mary Ellen Barbera,
Chief Judge

The Honorable Glenn T. Harrell, Jr.

The Honorable Lynne A. Battaglia

The Honorable Clayton Greene, Jr.

The Honorable Sally D. Adkins

The Honorable Robert N. McDonald

The Honorable Shirley M. Watts

Judges

The Court of Appeals of Maryland
Robert C. Murphy Courts of Appeal Building
Annapolis, Maryland 21401

Your Honors:

The Rules Committee submits this, its One Hundred Eightieth Report and recommends that the Court adopt the new Rules and amendments to existing Rules transmitted with this Report. The Report comprises six categories.

Category One consists of amendments to several appellate Rules in Title 8 and new Rule 8-124.

(1) Amendments are proposed to Rules 8-511 and 8-503 (d) (4) to clarify the procedure regarding the filing of *amicus* briefs. The major features of the amendments, derived in part from U.S. Supreme Court Rule 37, Fed. R. App. P. 29, and appellate Rules in some of the other States, are:

(a) that an *amicus* brief may be filed in the Court of Appeals or the Court of Special Appeals only (i) upon written consent of all parties to the appeal, (ii) by the Attorney General of Maryland in an appeal in which the State may have an interest, (iii) upon request by the Court, or (iv) upon the Court's grant of a motion under Rule 8-511 (b);

(b) except with permission of the Court, an *amicus* brief may not be filed as a reply brief or supporting or opposing a motion for reconsideration;

(c) the current provision that, except with permission of the Court, an *amicus* may not participate in oral argument remains intact;

(d) an *amicus* brief may be filed in the Court of Appeals supporting or opposing the grant of a writ of *certiorari* or other extraordinary relief as well as on the issues before the Court if the Court decides to hear the appeal;

(e) there is no comparable provision permitting an *amicus* brief in the Court of Special Appeals supporting or opposing the grant of an application for leave to appeal, the intent being that an *amicus* brief may not be filed on that issue unless requested by the Court;

(f) if a motion is filed seeking the Court's consent to file an *amicus* brief, two copies of the proposed brief must be attached to the motion and served on each party;

(g) if the motion is granted, the brief is deemed filed when the motion was filed, and the *amicus* must then file the additional copies of the brief required by Rule 8-502;

(h) ordinarily, an *amicus* brief must be filed at or before the time specified for the filing of the principal brief of the appellee, but an *amicus* brief supporting or opposing a petition for *certiorari* or other extraordinary relief in the Court of Appeals must be filed at or before the time an answer to the petition is due;

(i) except with permission of the Court, an *amicus* brief may not exceed 15 pages in the Court of Special Appeals or 25 pages in the Court of Appeals; and

(j) within ten days after the filing of an *amicus* brief that is not substantially in support of the appellee's position, the appellee may file a reply brief, not exceeding 15 pages, limited to the issues in the *amicus* brief not substantially in support of the appellee's position and not fairly covered in the appellant's principal brief.

The intent of these amendments is to provide some greater latitude, particularly in the Court of Appeals, for the filing of *amicus* briefs but to place reasonable conditions and limitations on such briefs. One notable change is to permit an *amicus* brief, whatever position it espouses, to be filed when the principal

brief for the appellee is due, rather than when the brief of the party it is supporting is due, in order that *all* potential *amici*, in deciding whether to participate and how to construct their brief, may have the benefit of seeing the exposition of the issues framed by the appellant. As a matter of fairness to the appellee, the Rule permits the appellee to file a reply brief addressing matters raised in an *amicus* brief not substantially in support of the appellee and not fairly presented in the appellant's principal brief.

New also is the ability of the Attorney General to file an *amicus* brief in any appeal in which the State may have an interest, even without the consent of the parties or permission of the Court. That provision was derived from U.S. Supreme Court Rule 37, as it pertains to the Solicitor General, and from Fed. R. App. P. 29.

(2) New Rule 8-124, requested by the Public Defender, is intended to provide some degree of anonymity in an appeal from an order relating to a petition for the expungement of criminal records. The Public Defender noted that it does the petitioner little good to win the appeal (and thus to have the records below expunged), only to have his or her full name in the briefs, record extract, caption of the case, and opinion, all of which are publicly accessible. The proposed Rule prohibits the use of the petitioner's last name in appellate documents generally available to the public.

(3) The proposed amendment to Rule 8-412 (a) requires trial court clerks to transmit the record to the Court of Special Appeals within 30 days, rather than 60 days, in expedited appeals under Rule 8-207 (a)(1), namely, appeals from a judgment granting or denying a petition for adoption, guardianship terminating parental rights, guardianship of the person of a minor or disabled person, declaring a child to be a CINA, or granting, denying, or establishing custody of or visitation with a minor child.

(4) Two amendments are proposed to Rule 8-502 (a), both requested by the Court of Special Appeals and approved by the Clerk of the Court of Appeals. Rule 8-502 (a)(1) currently requires the appellant's brief to be filed within 40 days after the *filing* of the record. The proposed amendment is to have the brief filed within 40 days after the clerk *sends notice of the filing* of the record, which conforms to the practice in both Courts. The second clarifies an ambiguity regarding reply briefs by making clear that an appellant's reply brief must be filed not later than the *earlier* of 20 days after the filing of the appellee's brief or 10 days before the date of scheduled argument. An argument had been made that, under the existing

Rule, an appellant could file a reply brief more than 20 days after the appellee's brief was filed so long as it was filed at least 10 days before scheduled argument.

(5) The proposed amendment to Rule 8-301 (a) is to make explicit *in the Rule* the ability of the Court of Appeals to grant a writ of *certiorari* on its own initiative. That authority is conferred by statute (Code, Courts Article, §12-201), but, because practitioners are more likely to look at the Rules governing *certiorari* rather than Title 12 of the Courts Article, it was thought useful to mention that authority there as well.

(6) Proposed amendments to Rule 8-303 (b)(1) reduce the maximum page limit for a petition for *certiorari*, absent permission from the Court, from 25 to 15 and require the petition to contain a particularized statement of why review of the issues by the Court of Appeals is desirable and in the public interest. A survey conducted by the Committee revealed that 20 other States limit *certiorari* petitions to 15 pages or less.

(7) Two amendments are proposed to Rule 8-606, dealing with appellate court mandates. A new subsection (b)(3) provides that, in the Court of Special Appeals, the mandate in expedited appeals under Rule 8-207 (a) shall be issued 15 days after the filing of the Court's opinion or order, rather than the usual 30 days. A new subsection (d)(2) provides that, if a petition for *certiorari* is filed with respect to an appeal decided by the Court of Special Appeals, that Court shall not return the record to the trial court until the petition is denied or, if it is granted, until the Court of Special Appeals takes action in accordance with the mandate of the Court of Appeals. That conforms to the practice of the Court of Special Appeals and avoids the inefficiency of returning the record to the trial court, only to have it sent back if the petition is granted.

Category Two consists of amendments to Rules 16-101 d., 16-303, and 16-502. Those amendments were part of proposed new Rules 16-105 and 16-202 submitted in Part I of the Rules Committee's 178th Report. Although, at its August 13, 2013 hearing, the Court deferred voting on Part I as a whole, it requested that Rule 16-105, as amended by the Court, and Rule 16-202 be submitted to the Court as amendments to existing Rules 16-101 d., 16-303, and 16-502, so they could be acted on sooner. The amendment to the text of Rule 16-101 d., with an accompanying Committee note, conforms that section to the Court's recent holding in *St. Joseph Medical Ctr., Inc. v. Hon. Turnbull*, 432 Md. 259 (2013).

The amendments to Rules 16-303 and 16-502 require that money paid into court in a pending action be deposited by the clerk in

a financial institution approved by the State Treasurer. The Treasurer's Office has indicated no objection to the amendment. The Treasurer has a list of approved depositories, which it will supply to the clerks.

Category Three consists of proposed new Rules 16-811.1 through 16-811.11 and the deletion of current Rule 16-811, all dealing with the Client Protection Fund (CPF), an amendment to Rule 2 (b) of the Rules Governing Admission to the Bar, and purely conforming amendments to Rules 1-312, 16-714, 16-724, 16-753, and 16-903 and Rules 12 and 13 of the Rules Governing Admission to the Bar of Maryland. The new material regarding CPF consists mostly of style changes and some reorganization of current Rule 16-811 that were discussed with and approved by the Trustees of CPF. Subject to the Court's consideration of the instant proposals, that material and the amendment to Bar Admission Rule 2 (b) will be included in Part III of the 178th Report (new Title 19), which the Rules Committee anticipates will be transmitted to the Court and published for comment within the next several weeks. There is one matter of substance, however, that, due to exigent circumstances, the Rules Committee believes should be considered by the Court prior to any hearing that feasibly could be conducted on Part III of the 178th Report and which, if the proposed Rules are approved, could take effect well before Part III could likely become effective.

Code, Bus. Occup. & Prof. Art. (BOP) §10-313, first enacted in 1993, requires CPF to provide to the State Comptroller and the State Department of Assessments and Taxation (SDAT), by August 31 of each year, a list of all attorneys who have paid the required fee to CPF during the year.¹ The list must include the name and address of the attorney and the attorney's Federal Tax Identification Number (TIN) or, if the attorney does not have a TIN, the attorney's Social Security number (SSN).

Code, Fam. Law Art. (FL) §10-119.3, which is part of the State child support enforcement laws and was first enacted in 1997, requires each "licensing authority" - a defined term - (1) to require each applicant for a license to disclose the applicant's SSN, (2) to provide to the Child Support Enforcement Administration (CSEA), on request, information concerning any obligor in arrears in paying child support through a support enforcement agency, including the obligor's SSN, (3) on request, to "periodically share its licensing database" with CSEA, and (4) on request by CSEA, to suspend the occupational license of an

¹ The 1993 enactment required reporting only to SDAT. In 2008, the statute was amended to require reporting to the Comptroller as well. As explained in a May 10, 1993 unreported bill review Opinion of the Attorney General, the purpose of the statute was to "pinpoint unincorporated professionals and services that are currently escaping the tax system . . ."

obligor in arrears. In 2007, the General Assembly added the Court of Appeals as a "licensing authority," which made the Court subject to those four requirements with respect to both attorneys admitted to practice in Maryland and applicants for admission to the Maryland Bar.

At least since the early 1980s, the Board of Law Examiners, for its own purposes but without any specific authorization by statute or Rule, has required applicants who have a SSN to disclose it on their application and would decline to process an application that does not contain the SSN (if the applicant had one). Even since becoming a licensing authority, the Court itself has never independently collected SSNs; nor did CPF. In order to comply with its obligations under BOP §10-313, CPF initially obtained the SSNs from the Board of Law Examiners but more recently began requiring attorneys to report them separately with their payment of the annual fee, in order to be able to comply with both BOP §10-313 and, on behalf of the Court of Appeals, with FL §10-119.3.

Most attorneys complied with that requirement, but many - at one point over 9,100 - refused. The only available enforcement mechanism was to refer those attorneys to Bar Counsel, which created a huge administrative problem for him and engaged a process that was unduly cumbersome if invoked only to coerce compliance and not to address sanctionable violations of the Code of Professional Responsibility.

Initially at the request of then-Chief Judge Bell, the Rules Committee opted, as part of the new Title 19 Rules, dealing with attorneys, (1) to require attorneys to report their SSN and any TIN to CPF, which already had a disclosure duty under BOP §10-313, (2) to have that agency, on behalf of the Court of Appeals, also respond to requests from CSEA under FL §10-119.3, and (3) to invoke the temporary suspension (decertification) procedure, already available in the CPF Rule for non-payment of the required fee, as well for failure to report the SSN or TIN. At the subsequent request of the State Court Administrator, the Rules Committee also recommends an amendment to Rule 2 of the Bar Admission Rules, to expressly authorize the Board of Law Examiners to require applicants to include their SSN on their application, as it has been doing for about 30 years. Those provisions are included in proposed Rules 19-605, 19-606, and 19-202, to be submitted to the Court in Part III of the Committee's 178th Report, but, because Part III needs to be considered together with Parts I and II, the Court may not be able to act on the proposals in that context any time soon.

The exigency that creates the need for more expeditious consideration of those proposals, in the form of amendments to the current CPF Rules, has a dual source. The major problem

arises from the Legislature's recent and clear insistence that CPF comply with CSEA's request under FL §10-119.3 (c) (4) for a sharing of certain information in its database, including SSNs, and the threat to preclude the expenditure of substantial FY 2014 appropriations to the Judiciary in the event of noncompliance. To avoid that prospect, CPF was administratively directed to share that information and has been doing so on a quarterly basis (the next data transfer being due in October 2013), but there still remains no efficient sanction for attorneys who refuse to report their SSN and, by so refusing, inhibit the ability of CPF (on behalf of the Court) to comply fully with the legislative directive. A secondary source of exigency is the demand of the Comptroller for the sharing of SSNs and the demand of SDAT for the sharing of TINs, which, unlike SSNs, CPF has not been collecting.²

At least one attorney has asserted to the Rules Committee his view, which may well be shared by other attorneys who have refused to report their SSN, that any disciplining of attorneys - any denial of their privilege to practice law - for refusal to report their SSN violates Section 7 of the Federal Privacy Act of 1974. His letter to that effect will be forwarded by the Rules Committee to the Court as a Comment on the proposed Rules both in this Report and in Part III of the 178th Report. Both the Rules Committee and the Executive Director of Legal Services for AOC have investigated that claim and are convinced that, due to other federal enactments, the proposed amendments to the CPF Rules do not violate the Federal Privacy Act. If the Court desires, the Rules Committee is prepared to present a memorandum of law on that issue.

It is anticipated that, unless the Court orders otherwise, CPF will comply with the requirements of BOP §10-313 and FL §10-119.3 pursuant to the existing administrative directives that it do so. The proposed amendments, if approved, will supply a greater level of authority for CPF to require the reporting of SSNs and TINs and will provide a more efficient mechanism to enforce that requirement than currently exists.

Category Four consists of amendments to Rules 2-202, 2-506, 2-522, 3-202, and 10-205. The amendments to Rules 2-202 and 3-202 are intended to resolve a perceived ambiguity as to whether court approval is required of the settlement of a claim brought on behalf of a minor by one parent, acting as the minor's next friend, when there is another living parent who has not consented to the settlement. The amendments make clear that court

² The Rules Committee has been advised that, although law firms have TINs, very few of the individual attorneys required to pay the annual fee to CPF have them. Nonetheless, BOP § 10-313 requires CPF to report the TINs of attorneys who have them.

approval, after a reasonable attempt at notice to each living parent and an opportunity for a hearing, is required under that circumstance - that court approval of the settlement of a minor's claim is necessary unless (1) the next friend is the only living parent of the minor, or (2) if the next friend is not the only living parent, each living parent approves the settlement. One parent, acting as next friend, may not settle the claim without court approval if the other parent is alive and does not consent. The purpose is to bring a measure of transparency and finality to the settlement and avoid later claims by a non-consenting parent of a lack of notice or ability to object to the settlement.

The amendment to Rule 2-506 was recommended by the Conference of Circuit Judges. It parrots an existing provision in Rule 3-506, applicable in the District Court, that allows an action that is settled and dismissed on stipulated terms to be reopened at the request of any party to the settlement for the purpose of enforcing the stipulated terms. That avoids the need to file a new action to enforce the terms of the settlement.

The amendment to Rule 2-522 (b) is in response to a request by the Court. It requires that (1) when a jury's verdict in a civil case is in the form of written findings recorded on a verdict sheet, the verdict sheet be reviewed by the judge prior to any announcement of the findings or any harkening or polling of the jury, and (2) if there is any material inconsistency between the verdict as announced and the written findings, the court inform the jury and the parties of the inconsistency and invite and consider, on the record, the parties' position on any response. The amendment to Rule 10-205 conforms an internal reference to the relettering of Rule 2-522.

Category Five consists of amendments to Rules 10-108, 10-201, and 10-301, in order to implement a requirement of 2013 Md. Laws, ch. 427 (the Firearm Safety Act). That Act requires courts to report to the FBI's National Instant Criminal Background Check System the name of and "identifying information" regarding, an individual who, pursuant to Code, Est. & Trusts Art., §§13-201 (c) or 13-705, has been placed under the protection of a guardian. Although the statute does not specify the "identifying information" to be reported, the Rules Committee was advised by the Administrative Office of the Courts that it includes the sex and birth date of the individual. The statute exempts from the reporting requirement cases in which the appointment of a guardian is "solely the result of a physical disability."

In order to permit the courts to comply with the statute, the Rules Committee recommends amendments (1) to Rules 10-201 and 10-301, which deal, respectively, with petitions for a guardianship of the *person* of a minor or disabled person and for

a guardianship of the *property* of a minor or disabled person, to require those petitions to state the sex and birth date of the individual and whether the petition is based solely on a physical disability, so that the court will have that information, and (2) to Rule 10-108, dealing with orders appointing a guardian, to require the order to include the sex and birth date and to express a finding whether the guardianship is based solely on a physical disability. That will allow the clerk to determine whether the guardianship has to be reported and, if so, to include the sex and birth date.

Category Six consists of "housekeeping" amendments to (1) Rules 2-647, 3-647, 14-215, and 14-502, to add a cross-reference to a 2013 amendment to Code, Real Property Art., §7-113 (see 2013 Md. Laws, ch. 515), allowing a party claiming the right to possession of residential real property to take possession from a "protected resident" in accordance with a court-ordered writ of possession or after a non-judicial procedure followed by certain notice, (2) Form 4-504.1 (Petition for Expungement of Records), making certain style changes and, in order to conform with a 2013 amendment to Code, Crim. Proc. Art. §10-105 (see 2013 Md. Laws, ch. 643), permitting expungement upon a finding of not criminally responsible for certain minor offenses, and (3) Rule 10-703 to correct a cross reference.

For the further guidance of the Court and the public, following each proposed new Rule and proposed amendment to an existing Rule is a Reporter's note describing in further detail the reasons for the proposal. *We caution that the Reporter's notes are not part of the Rules, have not been debated or approved by the Committee, and are not to be regarded as any kind of official comment or interpretation.* They are included solely to assist the Court in understanding some of the reasons for the proposed changes.

Respectfully submitted,

Alan M. Wilner
Chair

AMW:cdc

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 500 - RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-511 to authorize the filing of an amicus curiae brief upon the written consent of all parties; to authorize the filing of an amicus curiae brief by the Attorney General under certain circumstances; to specify the contents of, attachments to, and service requirements for a motion requesting permission to file an amicus curiae brief; to add a cross reference; to add certain provisions pertaining to the granting of a motion for permission to file an amicus curiae brief; to specify the time for filing certain motions and briefs; to add provisions pertaining to the filing of an amicus curiae brief on the issue of whether a writ of certiorari or other extraordinary writ should be issued; to require compliance with certain Rules; to permit certain briefs to be filed only with permission of the Court; and to specify when an appellee may file a limited reply brief; and to make stylistic changes, as follows:

Rule 8-511. AMICUS CURIAE

(a) ~~Generally~~ Authorization to File Amicus Curiae Brief

~~A person may participate as an~~ An amicus curiae ~~only with permission of the Court.~~ brief may be filed only:

(1) upon written consent of all parties to the appeal;

(2) by the Attorney General in any appeal in which the State of Maryland may have an interest;

(3) upon request by the Court; or

(4) upon the Court's grant of a motion filed under section (b) of this Rule.

(b) Motion and Brief

(1) Content of Motion

~~The Court, on motion of an amicus curiae or a party or on its own initiative, may grant permission to the amicus curiae to file a brief. A motion requesting permission for an amicus curiae to file a~~ an amicus curiae ~~brief shall:~~

~~(1) (A) identify the interest of the amicus curiae, movant;~~

~~(2) (B) state the reasons why the amicus curiae brief is desirable;~~

~~(C) state whether the movant requested of the parties their consent to the filing of the amicus curiae brief and, if not, why not;~~

~~(3) (D) state the issues that the amicus curiae movant intends to raise, and~~

~~(4) (E) identify every person or entity, other than the amicus curiae movant, its members, or its counsel attorneys, who made a monetary or other contribution to the preparation or submission of the brief, and identify the nature of the contribution. The style (except for the color of the cover), content, and time for filing of the amicus brief shall be the same as prescribed by these rules for the brief for the party~~

~~whose petition as to affirmance or reversal the amicus curiae supports.; and~~

(F) if filed in the Court of Appeals to seek leave to file an amicus curiae brief supporting or opposing a petition for writ of certiorari or other extraordinary writ, state whether, if the writ is issued, the movant intends to seek consent of the parties or move for permission to file an amicus curiae brief on the issues before the Court.

(2) Attachment of Brief

Copies of the proposed amicus curiae brief shall be attached to two of the copies of the motion filed with the Court.

Cross reference: See Rule 8-431 (e) for the total number of copies of a motion required when the motion is filed in an appellate court.

(3) Service

The movant shall serve a copy of the motion and proposed brief on each party.

(4) If Motion Granted

If the motion is granted, the brief shall be regarded as having been filed when the motion was filed. Within ten days after the order granting the motion is filed, the amicus curiae shall file the additional number of briefs required by Rule 8-502 (c).

(c) Time for Filing

(1) Generally

Except as required by subsection (c) (2) of this Rule and unless the Court orders otherwise, an amicus curiae brief shall

be filed at or before the time specified for the filing of the principal brief of the appellee.

(2) Time for Filing in Court of Appeals

(A) An amicus curiae brief may be filed pursuant to section (a) of this Rule in the Court of Appeals on the question of whether the Court should issue a writ of certiorari or other extraordinary writ to hear the appeal as well as, if such a writ is issued, on the issues before the Court.

(B) An amicus curiae brief or a motion for leave to file an amicus curiae brief supporting or opposing a petition for writ of certiorari or other extraordinary writ shall be filed at or before the time any answer to the petition is due.

(C) Unless the Court orders otherwise, an amicus curiae brief on the issues before the Court if the writ is granted shall be filed at the applicable time specified in subsection (c)(1) of this Rule.

(d) Compliance with Rules 8-503 and 8-504

An amicus curiae brief shall comply with the applicable provisions of Rules 8-503 and 8-504.

~~(c)~~ (e) Reply Brief; Oral Argument; Brief Supporting or Opposing Motion for Reconsideration

Without permission of the Court, ~~The~~ an amicus curiae shall may not (1) file a reply brief, (2) participate in oral argument, or (3) file a brief in support of, or in opposition to, a motion for reconsideration without permission of the Court. Permission shall may be granted only for extraordinary reasons.

(f) Appellee's Reply Brief

Within ten days after the filing of an amicus curiae brief that is not substantially in support of the position of the appellee, the appellee may file a reply brief limited to the issues in the amicus curiae brief that are not substantially in support of the appellee's position and are not fairly covered in the appellant's principal brief. Any such reply brief shall not exceed 15 pages.

Source: This Rule is derived in part from Fed. R. App. P. 29 and Sup. Ct. R. 37 ~~(b)6~~ and is in part new.

REPORTER'S NOTE

The Court of Appeals has requested that the Rules Committee propose revisions to Rules pertaining to amicus curiae briefs. Of particular concern are timing issues related to the filing of amicus briefs in "bypass" cases, i.e., cases in which the Court of Appeals, having reviewed an appellant's brief that was filed in the Court of Special Appeals, issues a writ of certiorari on its own initiative. The current Rules could be interpreted as precluding the filing of an amicus brief in support of the appellant if the amicus brief had not already been filed in the Court of Special Appeals.

Proposed new section (c) of Rule 8-511 addresses this problem by tying the time for filing all amicus briefs on the issues before the Court to the time for filing the principal brief of the appellee and by the addition of the phrase, "unless the Court orders otherwise."

Additional amendments to Rule 8-511 substantially rewrite the Rule.

In section (a) the four bases for authority to file an amicus brief are listed. New to the Rule are the authorization to file upon written consent of all parties and subsection (a)(2), which authorizes filing by the Attorney General in any appeal in which the State of Maryland may have an interest. The other two bases for authorization to file are upon request by the Court and upon the Court's grant of a motion filed under section (b) of the Rule.

Subsection (b) (1) specifies the content of a motion requesting permission to file an amicus brief. A new provision requires the movant to state whether the movant requested permission of the parties to file the amicus brief and, if not, why not. Another new provision recognizes that occasionally a person may wish to file an amicus brief on the issue of whether the Court of Appeals should grant certiorari. Subsection (b) (1) (F) requires a person who moves for permission to file such a brief to state in the motion whether the movant also seeks to file an amicus brief on the issues before the Court if the writ is granted.

Subsection (b) (2) requires that the movant attach a copy of the proposed brief to two of the copies of the motion requesting permission to file the brief. Subsection (b) (3) requires service of the motion and proposed brief on all parties. If the motion is granted, subsection (b) (4) requires the amicus to file the additional number of copies required by Rule 8-502 (c). Subsection (b) (4) also contains a "relation back" provision - that the brief is regarded as having been filed on the date the motion was filed.

Section (c) contains provisions pertaining to the time for filing an amicus brief, as well as an express authorization of the practice of filing an amicus brief on the issue of whether the Court of Appeals should issue a writ of certiorari or other extraordinary writ.

Section (d) requires compliance with Rules 8-503 and 8-504.

Section (e) carries forward the provision of current Rule 8-511 (c), prohibiting oral argument by an amicus unless permission is granted by the Court for extraordinary reasons. Added to the section are comparable prohibitions against the filing of a reply brief or a brief supporting or opposing a motion for reconsideration.

Section (f) is new. Because the time for filing an amicus brief is keyed to the time for filing the appellee's principal brief, it is possible that new issues are raised in the amicus brief that the appellee has not had the opportunity to brief. For the limited purpose of addressing those new issues that are not substantially in support of the appellee's position and are not fairly covered in the appellant's principal brief, the appellee is permitted to file a reply brief within ten days after the amicus brief is filed.

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 500 - RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-503 (d) by establishing a page limit for an amicus curiae brief and by making stylistic changes, as follows:

Rule 8-503. STYLE AND FORM OF BRIEFS

. . .

(d) Length

(1) Principal Briefs of Parties

Except as otherwise provided in section (e) of this Rule or with permission of the Court, ~~a~~ the principal brief of ~~the~~ an appellant ~~and~~ or appellee shall not exceed 35 pages in the Court of Special Appeals or 50 pages in the Court of Appeals. This limitation does not apply to ~~(1)~~ (A) the table of contents and citations required by Rule 8-504 (a) (1); ~~(2)~~ (B) the citation and text required by Rule 8-504 (a) (7); ~~and~~ or (C) a motion to dismiss and argument supporting or opposing the motion.

(2) Motion to Dismiss

Except with permission of the Court, any portion of a party's brief pertaining to a motion to dismiss shall not exceed an additional ten pages in the Court of Special Appeals or 25 pages in the Court of Appeals.

(3) Reply Brief

Any reply brief filed by the appellant shall not exceed

15 pages in the Court of Special Appeals or 25 pages in the Court of Appeals.

(4) Amicus Curiae Brief

Except with the permission of the Court, an amicus curiae brief shall not exceed 15 pages in the Court of Special Appeals or 25 pages in the Court of Appeals.

. . .

REPORTER'S NOTE

Proposed amendments to Rule 8-503 (d) divide the section into four subsections, use the federal terminology "principal brief" to describe the brief of a party that is not a reply brief or a brief on the issue of whether a writ of certiorari or other extraordinary writ should be issued, and set a page limit of 15 pages for an amicus brief filed in the Court of Special Appeals and 25 pages for an amicus brief filed in the Court of Appeals.

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 100 - GENERAL PROVISIONS

ADD new Rule 8-124, as follows:

Rule 8-124. APPEALS FROM PROCEEDINGS FOR EXPUNGEMENT -
CONFIDENTIALITY

(a) Scope

This Rule applies to an appeal from an order relating to a petition for expungement.

(b) Caption

The proceeding shall be styled "In re Expungement Petition of [first name and first initial of last name of expungement petitioner]".

(c) Confidentiality

The last name of the expungement petitioner shall not be used in any opinion, oral argument, brief, record extract, petition, or other document pertaining to the appeal that is generally available to the public.

(d) Inclusion of Docket Numbers

If the appellate court grants the expungement, the mandate issued by the court shall contain the docket number of the lower court case.

Source: This Rule is new.

REPORTER'S NOTE

The Office of the Public Defender has requested the addition of a new Rule that would prevent the use of the full name of a person who has petitioned for the expungement of records in an appellate case caption, opinion, oral argument, brief, record extract, petition, or other similar papers for an appeal of an order related to a petition for expungement. Using the expungement petitioner's full name in the appellate case caption, opinion, and brief is inconsistent with the legislative purpose underlying expungement statutes. Further, the current uncertainty regarding whether an appellate court will permit an expungement petitioner to proceed in a manner that does not result in permanent disclosure of the petitioner's name has a chilling effect on the person's exercise of the right to appellate review, and it is impairing the development of appellate case law to resolve legal issues in expungement law.

The Rules Committee recommends adopting the language proposed by the Office of the Public Defender, but with the addition of language requiring that the mandate of the appellate court that allows the expungement should contain the docket number of the lower court case, so that the court or agency receiving the mandate can identify the records to be expunged.

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 400 - PRELIMINARY PROCEDURES

AMEND Rule 8-412 (a) to add references to certain cases,
as follows:

Rule 8-412. RECORD - TIME FOR TRANSMITTING

(a) To the Court of Special Appeals

Unless a different time is fixed by order entered pursuant to section (d) of this Rule, the clerk of the lower court shall transmit the record to the Court of Special Appeals within sixty days or thirty days in child in need of assistance cases and guardianships terminating parental rights cases, or other cases proceeding under Rule 8-207 (a) (1) after:

(1) the date of an order entered pursuant to Rule 8-206 (a) (1) that the appeal proceed without a prehearing conference, or an order entered pursuant to Rule 8-206 (d) following a prehearing conference, unless a different time is fixed by that order, in all civil actions specified in Rule 8-205 (a); or

(2) the date the first notice of appeal is filed, in all other actions.

Cross reference: Rule 8-207 (a).

(b) To the Court of Appeals

Unless a different time is fixed by order entered pursuant

to section (d) of this Rule, the clerk of the court having possession of the record shall transmit it to the Court of Appeals within 15 days after entry of a writ of certiorari directed to the Court of Special Appeals, or within sixty days after entry of a writ of certiorari directed to a lower court other than the Court of Special Appeals.

(c) When Record is Transmitted

For purposes of this Rule the record is transmitted when it is delivered to the Clerk of the appellate court or when it is sent by certified mail by the clerk of the lower court, addressed to the Clerk of the appellate court.

(d) Shortening or Extending the Time

On motion or on its own initiative, the appellate court having jurisdiction of the appeal may shorten or extend the time for transmittal of the record. If the motion is filed after the prescribed time for transmitting the record has expired, the Court will not extend the time unless the Court finds that the failure to transmit the record was caused by the act or omission of a judge, a clerk of court, the court reporter, or the appellee.

Source: This Rule is derived from former Rules 1025 and 825.

REPORTER'S NOTE

The Chief Judge of the Court of Special Appeals requested an amendment to Rule 8-412 (a) to clarify that the clerk of a lower court shall transmit the record to the Court of Special Appeals within 30 days for guardianships terminating parental rights cases, since those cases are exempt from the information report requirement, and no order to proceed issues. The Legal Aid

Bureau pointed out that section (a) also applies to cases proceeding under Rule 8-207 (a) (1) and suggested that these cases be referenced also in section (a) of Rule 8-412. The Rules Committee recommends making both of these changes.

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 500 - RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-502 by adding certain language to subsection (a) (1), by modifying subsection (a) (3) to clarify the time for filing an appellant's reply brief, and by adding a cross reference after subsection (a) (3), as follows:

Rule 8-502. FILING OF BRIEFS

(a) Duty to File; Time

Unless otherwise ordered by the appellate court:

(1) Appellant's Brief

Within 40 days after the clerk sends notice of the filing of the record, an appellant other than a cross-appellant shall file a brief conforming to the requirements of Rule 8-503.

(2) Appellee's Brief

Within 30 days after the filing of the appellant's brief, the appellee shall file a brief conforming to the requirements of Rule 8-503.

(3) Appellant's Reply Brief

The appellant may file a reply brief ~~within~~ not later than the earlier of 20 days after the filing of the appellee's brief, ~~but in any event not later than~~ or ten days before the date of scheduled argument.

Cross reference: The meaning of subsection (a) (3) is in accordance with *Heit v. Stansbury*, 199 Md. App. 155 (2011).

(4) Cross-appellant's Brief

An appellee who is also a cross-appellant shall include in the brief filed pursuant to subsection (2) of this section the issues and arguments on the cross-appeal as well as the response to the brief of the appellant, and shall not file a separate cross-appellant's brief.

(5) Cross-appellee's Brief

Within 30 days after the filing of that brief, the appellant/cross-appellee shall file a brief in response to the issues and argument raised on the cross-appeal and shall include any reply to the appellee's response that the appellant wishes to file.

(6) Cross-appellant's Reply Brief

The appellee/cross-appellant may file a reply to the cross-appellee's response within 20 days after the filing of the cross-appellee's brief, but in any event not later than ten days before the date of scheduled argument.

(7) Multiple Appellants or Appellees

In an appeal involving more than one appellant or appellee, including actions consolidated for purposes of the appeal, any number of appellants or appellees may join in a single brief.

(8) Court of Special Appeals Review of Discharge for Unconstitutionality of Law

No briefs need be filed in a review by the Court of Special Appeals under Code, Courts Article, §3-706.

. . .

REPORTER'S NOTE

An attorney noted that although Rule 8-502 (a)(1) provides that an appellant shall file a brief conforming to the requirements of Rule 8-503 within 40 days after the filing of the record, in several cases, the practice of the Court of Special Appeals has been to time the filing of the brief from the date the clerk mailed a notice indicating the record had been received. To conform the Rule to what appears to be the practice of the court, the attorney proposed adding the language "clerk sends notice of the" to Rule 8-502 (a)(1). The Rules Committee recommends the addition of this language to the Rule.

A Court of Special Appeals judge proposed an amendment to Rule 8-502 to clarify subsection (a)(3) concerning the time within which the appellant's reply brief must be filed. An appellant had argued that a reply brief can be filed at any time as long as it was filed at least ten days before the date of argument, basing this interpretation of the Rule on the use of the word "may" in subsection (a)(3). *Heit v. Stansbury*, 199 Md. App. 155 (2011), clarifies that a reply brief is optional (hence the use of the word "may"), but if one is filed, it must be filed within 20 days after the filing of the appellant's brief. The language referring to "ten days" means that the appellant would not have the full benefit of the 20-day period if that period encroaches on the ten-day period before the date of argument. The Committee recommends (1) changing the language of subsection (a)(3), so that the meaning is clear as it was stated in *Heit* and (2) adding a cross reference to that case.

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 300 - OBTAINING APPELLATE REVIEW IN COURT OF APPEALS

AMEND Rule 8-301 by specifying that a writ of certiorari may be issued upon petition filed pursuant to Rules 8-302 and 8-303 or on the Court's own initiative, by adding a cross reference after section (a), and by making stylistic changes, as follows:

Rule 8-301. METHOD OF SECURING REVIEW - COURT OF APPEALS

(a) Generally

Appellate review by the Court of Appeals may be obtained only:

(1) by direct appeal or application for leave to appeal, where allowed by law;

(2) pursuant to the Maryland Uniform Certification of Questions of Law Act; ~~or~~

(3) by writ of certiorari ~~in all other cases~~ upon petition filed pursuant to Rules 8-302 and 8-303; or

(4) by writ of certiorari issued on the Court's own initiative.

Cross reference: For Code provisions governing direct appeals to the Court of Appeals, see Code, Criminal Law Article, §2-401 concerning automatic review in death penalty cases; Code, Election Law Article, §12-203 concerning appeals from circuit court decisions regarding contested elections; and Code, Financial Institutions Article, §9-712 (d) (2) concerning appeals from circuit court decisions approving transfer of assets of savings and loan associations. For the Maryland Uniform

Certification of Questions of Law Act, see Code, Courts Article, §§12-601 through 12-613. For the authority of the Court to issue a writ of certiorari on its own initiative, see Code, Courts Article, §12-201.

. . .

REPORTER'S NOTE

Amendments to Rule 8-301 are proposed to expressly state the authority of the Court of Appeals to issue a writ of certiorari on its own initiative.

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 300 - OBTAINING APPELLATE REVIEW IN COURT OF APPEALS

AMEND Rule 8-303 (b) (1) by decreasing the page limit for a petition for writ of certiorari from 25 pages to 15 pages and by requiring a statement of why review of the issues presented is desirable and in the public interest, as follows:

Rule 8-303. PETITION FOR WRIT OF CERTIORARI - PROCEDURE

. . .

(b) Petition

(1) Contents

The petition shall present accurately, briefly, and clearly whatever is essential to a ready and adequate understanding of the points requiring consideration. Except with the permission of the Court of Appeals, a petition shall not exceed ~~25~~ 15 pages. It shall contain the following information:

(A) A reference to the action in the lower court by name and docket number;

(B) A statement whether the case has been decided by the Court of Special Appeals;

(C) If the case is then pending in the Court of Special Appeals, a statement whether briefs have been filed in that Court or the date briefs are due, if known;

(D) A statement whether the judgment of the circuit court has adjudicated all claims in the action in their entirety, and the rights and liabilities of all parties to the action;

(E) The date of the judgment sought to be reviewed and the date of any mandate of the Court of Special Appeals;

(F) The questions presented for review;

(G) A particularized statement of why review of those issues by the Court of Appeals is desirable and in the public interest.

~~(G)~~ (H) A reference to pertinent constitutional provisions, statutes, ordinances, or regulations;

~~(H)~~ (I) A concise statement of the facts material to the consideration of the questions presented; and

~~(I)~~ (J) A concise argument in support of the petition.

. . .

REPORTER'S NOTE

A Court of Appeals judge requested that the page limit for petitions for a writ of certiorari be decreased. She pointed out that many of these petitions are largely a repetition of the briefs in the Court of Special Appeals and that less lengthy petitions would be more likely to focus on the major issue, which is whether granting the petition is desirable and in the public interest. See Code, Courts Article, §12-203. Proposed to be added to the required contents of a petition is a particularized statement of why the Court's review of the questions presented is desirable and in the public interest.

Research on page limits in other states indicated that 20 states limit their petitions to 15 pages or less. The Rules Committee recommends decreasing the page limit for petitions for a writ of certiorari from 25 to 15. A petition that is longer than 15 pages may only be filed with the permission of the Court.

An additional amendment to Rule 8-303 is proposed new subsection (b) (1) (G), which adds to the requirements of a petition for a writ of certiorari a particularized statement of

why review of the issues presented is desirable and in the public interest.

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 600 - DISPOSITION

AMEND Rule 8-606 to include in section (b) language pertaining to the issuance of a mandate in an appeal proceeding under Rule 8-207 (a), to add language pertaining to the delayed issuance of a mandate under certain circumstances, to add a new subsection (d) (2) pertaining to deferral of the return of the record under certain circumstances, and to make stylistic changes, as follows:

Rule 8-606. MANDATE

(a) To Evidence Order of the Court

Any disposition of an appeal, including a voluntary dismissal, shall be evidenced by the mandate of the Court, which shall be certified by the Clerk under the seal of the Court and shall constitute the judgment of the Court.

(b) ~~Issuance of Mandate~~ When Issued

(1) Generally

Subject to subsections (b) (2), (3), and (4) of this Rule, unless the Court orders otherwise, the Clerk shall issue the mandate upon the expiration of 30 days after the filing of the Court's opinion or entry of the Court's order.

(2) Voluntary Dismissal

Upon a voluntary dismissal, the Clerk shall issue the mandate immediately.

(3) Court of Special Appeals - Expedited Appeal

In any appeal proceeding under Rule 8-207 (a), issuance of the mandate shall be as provided in Rule 8-207 (a) (6).

(4) Motion for Reconsideration

~~In all other cases, unless a motion for reconsideration has been filed or the Court orders otherwise, the Clerk shall issue the mandate upon the expiration of 30 days after the filing of the Court's opinion or entry of the Court's order. If a~~
timely motion for reconsideration is filed, issuance of the mandate ordinarily shall be delayed, as provided in Rule 8-605 (d).

(c) To Contain Statement of Costs

The mandate shall contain a statement of the order of the Court assessing costs and the amount of the costs taxable to each party.

(d) Transmission - Mandate and Record

(1) Generally

Except as provided in subsection (d) (2) of this Rule,
~~Upon~~ upon issuance of the mandate, the Clerk shall transmit it to the appropriate lower court. Unless the appellate court orders otherwise, the original papers comprising the record shall be transmitted with the mandate.

(2) Court of Special Appeals - Delayed Return

If a petition for a writ of certiorari is filed pursuant

to Rule 8-303 while the record is in the possession of the Court of Special Appeals, the Clerk of the Court of Special Appeals shall not return the record to the lower court until (A) the petition is denied, or (B) if the petition is granted, the Court of Special Appeals takes action in accordance with the mandate of the Court of Appeals.

(e) Effect of Mandate

Upon receipt of the mandate, the clerk of the lower court shall enter it promptly on the docket and the lower court shall proceed in accordance with its terms. Except as otherwise provided in Rule 8-611 (b), the assessment of costs in the mandate shall not be recorded and indexed as provided by Rule 2-601 (c).

Cross reference: Code, Courts Article, §6-408.

Source: This Rule is derived from former Rules 1076, 1077, 876, and 877.

REPORTER'S NOTE

Rule 8-207 (a) (6) contains an exception to the requirement that a mandate be issued 30 days after the filing of the Court's opinion or entry of the Court's order. That Rule provides that in certain cases, unless the mandate is delayed pursuant to Rule 8-605 (d) or unless otherwise directed by the court, the Clerk of the Court of Special Appeals shall issue the mandate upon the expiration of 15 days after the filing of the Court's opinion or order. The Chief Judge of the Court of Special Appeals suggested that a cross reference be added to Rule 8-606 (b) to indicate this. The Rules Committee, with the input of the Legal Aid Bureau, proposes new language to be added to section (b) to address this issue.

Section (b) is reorganized to first state the general rule [that, unless otherwise ordered by the Court, the Clerk issues the mandate upon the expiration of 30 days after the filing of the Court's opinion or entry of the Court's order], followed by

the exceptions to that rule.

Additionally, to conform to procedures in the Court of Special Appeals, language is proposed to be added to section (d) of Rule 8-606 to provide that the return of the record to the lower court shall be deferred until any petition for issuance of a writ of certiorari is either denied by the Court of Appeals, or, if the petition is granted, until the Court of Special Appeals takes action in accordance with the mandate of the Court of Appeals.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 100 - COURT ADMINISTRATIVE STRUCTURE, JUDICIAL
DUTIES, ETC.

AMEND Rule 16-101 to delete current section d. and add a new section d., as follows:

Rule 16-101. ADMINISTRATIVE RESPONSIBILITY

. . .

d. County Administrative Judge

~~1. Designation~~

~~After considering the recommendation of the Circuit Administrative Judge, the Chief Judge of the Court of Appeals may appoint a judge of the Circuit Court for any county to be County Administrative Judge of the Circuit Court for that county. A County Administrative Judge shall serve in that capacity at the pleasure of the Chief Judge of the Court of Appeals.~~

~~2. Duties~~

~~Subject to the supervision of the Circuit Administrative Judge, a County Administrative Judge shall be responsible for the administration of justice and for the administration of the court for that county. The duties shall include:~~

~~(i) supervision of all judges, officers, and employees of the court, including the authority to assign judges within the court pursuant to Rule 16-103 (Assignment of Judges);~~

~~(ii) supervision and expeditious disposition of cases filed in the court and the control of the trial calendar and other calendars, including the authority to assign cases for trial and hearing pursuant to Rule 16-102 (Chambers Judge) and Rule 16-202 (Assignment of Actions for Trial);~~

~~(iii) preparation of the court's budget;~~

~~(iv) ordering the purchase of all equipment and supplies for the court and its ancillary services, such as master, auditor, examiner, court administrator, court reporter, jury commissioner, staff of the medical and probation offices, and all additional court personnel other than personnel comprising the Clerk of Court's office;~~

~~(v) supervision of and responsibility for the employment, discharge, and classification of court personnel and personnel of its ancillary services and the maintenance of personnel files, unless a majority of the judges of the court disapproves of a specific action. However, each judge (subject to budget limitations) shall have the exclusive right to employ and discharge the judge's personal secretary and law clerk; and~~

~~Committee note: Article IV, § 9, of the Constitution gives the judges of any court the power to appoint officers and, thus, requires joint exercise of the personnel power. A similar provision was included in the July 17, 1967 Administrative and Procedure Regulation.~~

~~(vi) implementation and enforcement of all policies, rules and directives of the Court of Appeals, Chief Judge, and the State Court Administrator, and performance of any other duties necessary for the effective administration of the judicial~~

~~business of the court and the prompt disposition of litigation.~~

~~Cross reference: See also Rule 16-102 (Chambers Judge); Rule 16-103 (Assignment of Judges); Rule 16-201 (Motion Day Calendar); Rule 16-202 (Assignment of Actions for Trial).~~

~~3. Power to Delegate~~

~~(i) A County Administrative Judge may delegate to any judge, to any committee of judges, or to any officer or employee any of the administrative responsibilities, duties and functions of the County Administrative Judge.~~

~~(ii) In the implementation of Code, Criminal Procedure Article, §6-103 and Rule 4-271 (a), a County Administrative Judge may (A) with the approval of the Chief Judge of the Court of Appeals, authorize one or more judges to postpone criminal cases on appeal from the District Court or transferred from the District Court because of a demand for jury trial, and (B) except as provided in subsection d.3.(iii) of this Rule, authorize not more than one judge at a time to postpone all other criminal cases.~~

~~(iii) The administrative judge of the Circuit Court for Baltimore City may authorize one judge sitting in the Clarence M. Mitchell Courthouse to postpone criminal cases set for trial in that Courthouse and one judge sitting in Courthouse East to postpone criminal cases set for trial in that courthouse.~~

~~4. Single Judge Counties~~

~~In a county that has only one resident judge of the Circuit Court, that judge shall exercise the power and authority of a County Administrative Judge.~~

1. Appointment

After considering the recommendation of the Circuit Administrative Judge, the Chief Judge of the Court of Appeals shall appoint a County Administrative Judge for each circuit court, to serve in that capacity at the pleasure of the Chief Judge. Except as permitted by subsection c. 2. of this Rule, the County Administrative Judge shall be a judge of that circuit court.

2. Duties

Subject to the provisions of this Chapter, the general supervision of the Chief Judge of the Court of Appeals, and the general supervision of the Circuit Administrative Judge, the County Administrative Judge is responsible for the administration of the circuit court, including:

(A) supervision of the judges, officials, and employees of the court;

(B) assignment of judges within the court pursuant to Rule 16-202 (Assignment of Actions for Trial);

(C) supervision and expeditious disposition of cases filed in the court, control over the trial and other calendars of the court, assignment of cases for trial and hearing pursuant to Rule 16-102 (Chambers Judge) and Rule 16-202 (Assignment of Actions for Trial), and scheduling of court sessions;

(D) preparation of the court's budget;

(E) preparation of a case management plan for the court pursuant to Rule 16-202 b.;

(F) preparation of a continuity of operations plan for the court;

(G) preparation of a jury plan for the court pursuant to Code, Courts Article, Title 8, Subtitle 2;

(H) preparation of any plan to create a problem-solving court program for the court pursuant to Rule 16-206;

(I) ordering the purchase of all equipment and supplies for (i) the court, and (ii) the ancillary services and officials of the court, including masters, auditors, examiners, court administrators, court reporters, jury commissioner, staff of the medical offices, and all other court personnel except personnel comprising the Clerk of Court's office;

(J) supervision of and responsibility for the employment, discharge, and classification of court personnel and personnel of its ancillary services and the maintenance of personnel files, unless a majority of the judges of the court disapproves of a specific action. Each judge, however, has the exclusive right, subject to budget limitations, any applicable administrative order pertaining to the judiciary's anti-nepotism policy, and any applicable personnel plan, to employ and discharge the judge's personal secretary and law clerk;

Committee note: Article IV, §9, of the Constitution gives the judges of any court the power to appoint officers and, thus, requires joint exercise of the personnel power.

(K) implementation and enforcement of all administrative policies, rules, orders, and directives of the Court of Appeals, the Chief Judge of the Court of Appeals, the State Court

Administrator, and the Circuit Administrative Judge of the judicial circuit; and

(L) performance of any other administrative duties necessary to the effective administration of the internal management of the court and the prompt disposition of litigation in it.

Cross reference: See *St. Joseph Medical Ctr. v. Hon. Turnbull*, 432 Md. 259 (2013) for authority of the county administrative judge to assign and reassign cases but not to countermand judicial decisions made by a judge to whom a case has been assigned.

3. Delegation of Authority

(A) With the approval of the Circuit Administrative Judge or in accordance with a continuity of operations plan adopted by the court, a County Administrative Judge may delegate one or more of the administrative duties and functions imposed by this Rule to (i) another judge or a committee of judges of the court, or (ii) one or more other officials or employees of the court.

(B) Except as provided in subsection d. 3. (C) of this Rule, in the implementation of Code, Criminal Procedure Article, §6-103 and Rule 4-271 (a), a County Administrative Judge may (i) with the approval of the Chief Judge of the Court of Appeals, authorize one or more judges to postpone criminal cases on appeal from the District Court or transferred from the District Court because of a demand for jury trial, and (ii) authorize not more than one judge at a time to postpone all other criminal cases.

(C) The administrative judge of the Circuit Court for Baltimore City may authorize one judge sitting in the Clarence M.

Mitchell courthouse to postpone criminal cases set for trial in that courthouse and one judge sitting in Courthouse East to postpone criminal cases set for trial in that courthouse.

Source: This Rule is in part derived from former Rule 1200 and is in part new.

REPORTER'S NOTE

Part I of the 178th Report of the Rules Committee contains proposed Rule 16-105, Circuit Court - County Administrative Judge.

During open meetings on the 178th Report, the Court of Appeals directed that certain modifications be made to the proposed new Rule and further directed that, pending the Court's consideration of the entire 178th Report, current Rule 16-101 d. be amended to incorporate the provisions of the proposed new Rule, including a new cross reference to *St. Joseph Medical Ctr. v. Hon. Turnbull*, 432 Md. 259 (2013).

To implement that directive, section d. of Rule 16-101 is deleted in its entirety and replaced by the provisions of new Rule 16-105, with internal references revised for consistency with the numbering of the Rules in current Title 16.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 300 - CIRCUIT COURT CLERKS' OFFICES

AMEND Rule 16-303 to require that money be deposited into a financial institution approved by the State Treasurer, as follows:

Rule 16-303. PAYMENT OF MONEY INTO COURT

All money paid into court under an order or on account of a pending action shall be deposited by the clerk in a ~~bank and~~ financial institution approved by the State Treasurer. The deposit shall be noted in an appropriate record. The clerk shall disburse the money only upon order of the court and, unless the court otherwise directs, only by check payable to the order of the party entitled and the party's counsel of record.

Source: This Rule is derived from former Rule 1214.

REPORTER'S NOTE

In Part I of the 178th Report of the Rules Committee, proposed new Rule 16-202 consolidates the provisions of current Rules 16-303 and 16-502 into a single Rule. In the proposed new Rule, the phrase "financial institution approved by the State Treasurer" replaces the word "bank" in the current Rule.

At an open meeting on the 178th Report, the Court of Appeals directed that, pending the Court's consideration of the entire 178th Report, current Rules 16-303 and 16-502 be amended to use the language of the proposed new Rule.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 500 - COURT ADMINISTRATION - DISTRICT COURT

AMEND Rule 16-502 to require that money be deposited into a financial institution approved by the State Treasurer, as follows:

Rule 16-502. PAYMENT OF MONEY INTO COURT

All money paid into court on account of a pending action shall be deposited by the clerk in a ~~bank and~~ financial institution approved by the State Treasurer. The deposit shall be noted in an appropriate record. The clerk shall disburse the money only upon order of the court and, unless the court otherwise directs, only by check payable to the order of the party entitled and the party's counsel of record.

Source: This Rule is derived from former M.D.R. 1214.

REPORTER'S NOTE

See the Reporter's note to Rule 16-303.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

DELETE current Rule 16-811, as follows:

~~Rule 16-811. CLIENT PROTECTION FUND OF THE BAR OF MARYLAND~~

~~a. Name, Operation, and Purpose.~~

~~. . .~~

~~b. Appointment and Compensation of Trustees and Officers.~~

~~. . .~~

~~c. Powers and Duties of Trustees.~~

~~. . .~~

~~d. Meetings and Quorum.~~

~~. . .~~

~~e. Payments to Fund.~~

~~. . .~~

~~f. Enforcement.~~

~~. . .~~

~~g. Treasurer's Duties.~~

~~. . .~~

~~h. Claims.~~

~~. . .~~

~~i. Powers of Court of Appeals.~~

~~. . .~~

REPORTER'S NOTE

Rule 16-811 is proposed to be deleted and replaced by new Rules 16-811.1 through 16-811.11.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-811.1, as follows:

Rule 16-811.1. DEFINITIONS

In Rules 16-811.1 through 16-811.11, the following definitions apply:

(a) Client Protection Fund; Fund

"Client Protection Fund" and "Fund" mean the Client Protection Fund of the Bar of Maryland created by Code, Business Occupations and Professions Article, §10-311.

(b) Local Bar Association

"Local Bar Association" means (1) in Baltimore City, the Bar Association of Baltimore City, or (2) in each county, the bar association with the greatest number of members who are residents of the county and who maintain their principal offices for the practice of law in that county.

(c) These Rules

"These Rules" means Rules 16-811.1 through 16-811.11.

Source: This Rule is new but is derived, in part, from former Rule 16-811 (2013).

REPORTER'S NOTE

In proposed Rule 16-811.1, section (b) carries forward the definition of "local bar association" currently in Rule 16-811 e. 1., and sections (a) and (c) are new.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-811.2, as follows:

Rule 16-811.2. PURPOSE

(a) Purpose

The purpose of the Client Protection Fund is to maintain the integrity and protect the good name of the legal profession by reimbursing, to the extent authorized by these Rules and deemed proper and reasonable by the trustees of the Fund, losses caused by defalcations by members of the Bar of Maryland or out-of-state attorneys authorized to practice in this State under Rule 15 of the Rules Governing Admission to the Bar of Maryland, acting either as attorneys or, except to the extent they are bonded, as fiduciaries.

(b) Fiduciary; Definition

For purposes of this Rule, "fiduciary" means an attorney acting in a fiduciary capacity that is traditional and customary in the practice of law in Maryland, such as a personal representative of a probate estate, a trustee of an express trust, a guardian, a custodian acting pursuant to statute, or an attorney-in-fact by written appointment.

Cross reference: Regulations of the Client Protection Fund of the Bar of Maryland, subsection (a) (1).

(c) Fiduciary Relationship Not Formed

A fiduciary relationship is not formed between an attorney and a third party who has been assigned an interest in the proceeds of a civil award or settlement, including attorneys' fees, in consideration for the advancement of funds by the third party to the attorney or client.

Committee note: For purposes of this Rule, a fiduciary relationship is not formed between an attorney and a lawsuit cash advance lending company. Section (c) is not intended to apply to medical, healthcare, or other service providers that may be owed money for services rendered.

Source: This Rule is derived from former Rule 16-811 (2013).

REPORTER'S NOTE

Subsection a. 3. of current Rule 16-811 is carried forward, with some changes, to proposed Rule 16-811.2 (a).

Section (b), *Fiduciary; Definition*, is new. The definition is derived from the Regulations of the Client Protection Fund. It is not included in proposed Rule 16-811.1, *Definitions*, because the word "fiduciary" appears only in Rule 16-811.2.

Section (c) is new. It is proposed in response to issues associated with lawsuit cash advance lenders. Lawsuit lending companies provide loans to clients awaiting payment on lawsuit settlements. These companies typically charge high interest rates, and some have taken the position that the attorney is responsible for ensuring payment of both the principal and the interest. Section (c) and the accompanying Committee note are proposed in order to make clear that, for purposes of this Rule, a fiduciary relationship is not created between a lawsuit cash advance lending company and an attorney. It is not intended to foreclose the possibility of the formation of a fiduciary relationship between an attorney and a medical or other service provider who provided services to the client and must be compensated with settlement proceeds.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-811.3, as follows:

Rule 16-811.3. APPOINTMENT, COMPENSATION, MEETINGS OF
TRUSTEES

(a) Number of Trustees

The Court of Appeals shall appoint nine individuals to be the trustees of the Client Protection Fund. Eight of the trustees shall be members of the Maryland Bar. One individual shall not be an attorney.

(b) Geographic Appointment

One trustee who is a member of the Maryland Bar shall be appointed from each of the seven appellate judicial circuits. The other two trustees shall be appointed at large.

(c) Term

The term of each trustee is seven years. A trustee may be removed by the Court at any time. In the event of a vacancy, the Court shall appoint a successor trustee for the unexpired term.

(d) Compensation; Expenses

The trustees shall serve without compensation, but unless no other source of funds is available, shall be entitled to reimbursement from the Fund for their expenses reasonably incurred in the performance of their duties as trustees,

including transportation costs.

(e) Meetings

Meetings of the trustees shall be held at the call of the chair or a majority of the trustees on reasonable notice. The trustees shall meet at least once each year.

(f) Quorum

(1) Five trustees shall constitute a quorum. Except as otherwise provided by these Rules, a majority of the trustees present at a duly constituted meeting may exercise any powers held by the trustees.

(2) The trustees' powers under Rule 16-811.4 (a) may be exercised only by the affirmative vote of at least five trustees.

Source: This Rule is derived from former Rule 16-811 (2013).

REPORTER'S NOTE

Current Rule 16-811 b. 1. states that one trustee shall not be a "member of the Bar." It was intended that this individual not be an attorney (a member of any Bar). The current language could be interpreted to mean that this individual can be an attorney, but cannot be a member of the Maryland Bar. Proposed Rule 16-811.3 (a) resolves this ambiguity. The remaining sections are carried forward, with stylistic changes, from current Rule 16-811.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-811.4, as follows:

Rule 16-811.4. POWERS AND DUTIES OF TRUSTEES; TREASURER

(a) Trustees

The trustees have the following powers and duties:

(1) To elect, from among their membership, a chair, a treasurer, and such other officers as they deem necessary or appropriate.

(2) To receive, hold, manage, and distribute, pursuant to this Rule, the funds raised hereunder, and any other monies that may be received by the Fund through voluntary contributions or otherwise.

(3) To authorize payment of claims in accordance with this Rule.

(4) To adopt regulations for the administration of the Fund and the procedures for the presentation, consideration, recognition, rejection and payment of claims, and to adopt procedures for conducting business. A copy of the regulations shall be filed with the Clerk of the Court of Appeals, who shall mail a copy of them to the clerk of the circuit court for each county and to all Registers of Wills. The regulations shall be posted on the Judiciary website.

(5) To enforce claims for restitution arising by subrogation, assignment, or otherwise.

(6) To deposit funds in any bank or other savings institution (A) that is chartered and whose financial activities are regulated under federal or Maryland law, and (B) whose deposits are insured by an instrumentality of the federal government.

(7) To invest funds not needed for current use in such investments as they deem appropriate, consistent with an investment policy specified in regulations adopted by the trustees and approved by the Court of Appeals.

(8) To employ and compensate consultants, agents, attorneys, and employees.

(9) To delegate the power to perform routine acts which may be necessary or desirable for the operation of the Fund, including the power to authorize disbursements for routine operating expenses of the Fund, but authorization for payments of claims shall be made only as provided in Rule 16-811.9.

(10) To sue or be sued in the name of the Fund without joining any or all individual trustees.

(11) To comply with the requirements of Rules 16-713 (e), 16-714 (b), 16-724 (a), and 16-753 and all other applicable laws.

(12) To designate an employee to perform the duties set forth in Rules 16-724 (a) and 16-753 and notify Bar Counsel of that designation.

(13) To file with the Court of Appeals an annual report of the management and operation of the Fund and to arrange for an

annual audit of the accounts of the Fund by state or private auditors. The cost of the audit shall be paid by the Fund if no other source of funds is available.

(14) To file additional reports and arrange for additional audits as the Court of Appeals may order.

(15) To perform all other acts authorized by these Rules or necessary or proper for the fulfillment of the purposes of the Fund and its efficient administration.

(b) Treasurer

The treasurer shall:

(1) maintain the Fund in a separate account;

(2) disburse monies from the Fund only upon the action of the trustees pursuant to these Rules;

(3) file annually with the trustees a bond for the proper execution of the duties of the office of treasurer of the Fund in an amount established by the trustees and with one or more sureties approved by the trustees; and

(4) comply with the requirements of Rule 16-714 (b).

Source: This Rule is derived from former Rule 16-811 (2013).

REPORTER'S NOTE

With the exceptions outlined below, the substance of proposed Rule 16-811.4 is carried forward with stylistic changes from current Rule 16-811 b., c., g., and i.

The last sentence of subsection (a)(4) is new. It is proposed because it would be useful to require the trustees to post their regulations on the Judiciary website in light of the increasing use of technology.

Subsection (a)(6) is amended to ensure that the bank or

savings institution into which funds are deposited is one regulated by law and whose deposits, at least as to applicable federal limits, are insured by an instrumentality of the federal government.

Subsection (a)(7) permits the trustees to invest funds not needed for current use as they deem appropriate. Appropriateness will be governed by the trustees' investment policy as specified in their regulations. The policy must be approved by the Court of Appeals.

Subsection (a)(11) is amended to make clear that the trustees have the power and duty to comply not only with the listed Rules but also with all other applicable laws.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-811.5, as follows:

Rule 16-811.5. OBLIGATIONS OF ATTORNEYS

(a) Conditions Precedent to Practice

(1) Generally

Except as otherwise provided in this section, each attorney admitted to practice before the Court of Appeals or issued a certificate of special authorization under Rule 15 of the Rules Governing Admission to the Bar of Maryland, as a condition precedent to the practice of law in this State, shall (A) provide to the treasurer of the Fund the attorney's Social Security number, (B) provide to the treasurer of the Fund the attorney's federal tax identification number or a statement that the attorney has no such number, and (C) pay annually to the treasurer of the Fund the sum, and all applicable late charges, set by the Court of Appeals.

(2) Exception

Upon timely application by an attorney, the trustees of the Fund may approve an attorney for inactive/retired status. By regulation, the trustees may provide a uniform deadline date for seeking approval of inactive/retired status. An attorney on inactive/retired status may engage in the practice of law without

payment to the Fund if (A) the attorney is on inactive/retired status solely as a result of having been approved for that status by the trustees of the Fund and not as a result of any action against the attorney pursuant to the Rules in Title 16, Chapter 700, and (B) the attorney's practice is limited to representing clients without compensation, other than reimbursement of reasonable and necessary expenses, as part of the attorney's participation in a legal services or pro bono publico program sponsored or supported by a local bar association, the Maryland State Bar Association, Inc., an affiliated bar foundation, or the Maryland Legal Services Corporation.

(3) Bill; Request for Information; Compliance

For each fiscal year, the trustees by regulation shall set dates by which (A) the Fund shall send to an attorney a bill, together with a request for the information required by subsection (a)(1) of this Rule, and (B) the attorney shall comply with subsection (a)(1) by paying the sum due and providing the required information. The date set for compliance shall be not earlier than 60 days after the Fund sends the bill and requests the information.

(4) Method of Payment

Payments of amounts due the Fund shall be by check or money order, or by any additional method approved by the trustees.

(b) Change of Address

Each attorney shall give written notice to the trustees of

every change in the attorney's resident address, business address, e-mail address, telephone number, or facsimile number within 30 days of the change. The trustees shall have the right to rely on the latest information received by them for all billing and other correspondence.

Source: This Rule is derived from former Rule 16-811 (2013).

REPORTER'S NOTE

The provisions of proposed Rule 16-811.5 (a) (1) and (2) are carried forward from current Rule 16-811 e. 2. with stylistic changes and the addition of a requirement that the attorney provide to the treasurer of the Client Protection Fund (1) the attorney's Social Security number and (2) the attorney's federal tax identification number or a statement that the attorney has no such number.

The requirements concerning the attorney's Social Security number and federal tax identification number are added to subsection (a) (1). Current Rule 16-778 (Referral from Child Support Enforcement Administration), which is based on statutory requirements set forth in Code, Family Law Article, §10-119.3, provides a mechanism by which the license of an attorney may be suspended for failure to pay child support. In order to fully implement that statute and to facilitate compliance with Code, Business Occupations and Professions Article, §10-313, a process is needed to (1) require an attorney to provide to the Fund the attorney's Social Security number and federal tax identification number and (2) enforce that requirement. See also 42 U.S.C. §666 (a) (13) and (16) and §666 (c) (1) (D) (iv), requiring State child support plans to provide for State licensing authorities, of which the Court of Appeals is one, to collect and share Social Security numbers of its licensees with the State child support agency. The most efficient manner of complying with the federal requirement is for the Client Protection Fund to be the unit which, on behalf of the Court, collects and shares that information.

The enforcement mechanism is added to Rule 16-811.6. That Rule sets out the existing process for the temporary suspension of an attorney who fails to pay the attorney's monetary obligation to the Fund. Added to Rule 16-811.6 are provisions by which the same process for temporary suspension can be used to enforce the requirement that the attorney provide his or her Social Security number and federal tax identification number to

the Fund.

Subsection (a) (3) of Rule 16-811.5 is a revision of Rule 16-811 e. 4. To facilitate compliance with the information reporting requirements of subsection (a) (1) of the Rule, provisions requiring the Fund to request the required information and for the attorney to comply with that request are added to subsection (a) (3). Because the bills are not sent to all attorneys at the same time, the Committee suggests that the due date be tied to the date the bills are sent to the attorneys, and that the date set for payment be not earlier than 60 days after the bill is sent. The dates are set by the trustees and published in their regulations.

Subsection (a) (4), Method of Payment, is derived from current Rule 16-811 f. 5., which refers to payment by cash or "bank official's check." The revised Rule authorizes payment by check or money order, or by any additional method (such as by cash or credit card) that is approved by the trustees.

Section (b) is carried forward from current Rule 16-811 e. 3. The requirement to notify the trustees of a change in e-mail address and facsimile numbers is added.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-811.6, as follows:

Rule 16-811.6. ENFORCEMENT OF OBLIGATIONS

(a) List of Delinquencies

As soon as practicable after January 1, but no later than February 15 of each calendar year, the trustees shall prepare, certify, and file with the Court of Appeals a list showing:

(1) the name and account number, as it appears on their records, of each attorney who, to the best of their information, is engaged in the practice of law and, without justification, has (A) failed to provide to the treasurer of the Fund the attorney's Social Security number, (B) failed to provide to the treasurer of the Fund the attorney's federal tax identification number or a statement that the attorney has no such number, or (C) failed to pay (i) one or more annual assessments, (ii) a penalty for late payment, (iii) any charge for a dishonored check, or (iv) reimbursement for publication charges; and

(2) the amount due from that attorney to the Fund.

(b) Required Notice of Delinquency

(1) The trustees shall give notice of delinquency promptly to each attorney on the list by first class mail addressed to the attorney at the attorney's last address appearing on the records

of the trustees. The notice shall state whether the delinquency is based upon (A) a failure to provide the attorney's Social Security number, (B) a failure to provide the attorney's federal tax identification number or a statement that the attorney has no such number, (C) a failure to pay the attorney's monetary obligation to the Fund, or (D) a combination of any of these failures. Notice of a failure to pay a monetary obligation to the Fund shall include a statement of the amount overdue. A notice of delinquency shall include a statement that failure to provide the required information and pay the amount owed to the Fund within 30 days following the date of the notice will result in the entry of an order by the Court of Appeals prohibiting the attorney from practicing law in the State.

(2) The mailing by the trustees of the notice of delinquency constitutes service of the notice on the attorney.

(c) Additional Discretionary Notice

(1) In addition to the mailed notice, the trustees may give any additional notice to the attorneys on the delinquency list as the trustees deem desirable. Additional notice may be in the form of:

(A) publication in one or more newspapers selected by the trustees;

(B) telephone, facsimile, e-mail, or other transmission to the named attorneys;

(C) dissemination to local bar associations or other professional associations;

(D) posting in one or more courthouses of the State; or

(E) any other means the trustees deem appropriate.

(2) The additional notice may be statewide, regional, local, or personal to a named attorney as the trustees direct.

(d) Temporary Suspension

(1) Proposed Order

Promptly after expiration of the deadline date stated in the mailed notice, the trustees shall submit to the Court of Appeals a proposed Temporary Suspension Order stating the names and account numbers of (A) those attorneys who have failed to provide their Social Security number, (B) those attorneys who have failed to provide their federal tax identification number or a statement that they have no such number, and (C) those attorneys whose accounts remain unpaid. The trustees shall furnish additional information from their records or give further notice as the Court of Appeals may direct.

(2) Entry of Order

If satisfied that the trustees have given the required notice to the attorneys remaining delinquent, the Court of Appeals shall enter a Temporary Suspension Order prohibiting each of them from practicing law in the State. The trustees shall mail by first class mail a copy of the Temporary Suspension Order to each attorney named in the order at the attorney's last address as it appears on the records of the trustees. The mailing by the trustees of the copy constitutes service of the order on the attorney.

(3) Effect of Order

(A) An attorney who has been served with a copy of a Temporary Suspension Order and has not been restored to good standing may not practice law and shall comply with the requirements of Rule 16-760 (c) and (d). In addition to any other remedy or sanction allowed by law, an action for contempt may be brought against a attorney who practices law in violation of a Temporary Suspension Order.

(B) Upon written request from any judge, attorney, or member of the public, the trustees, by informal means and, if requested, in writing, promptly shall confirm whether a Maryland attorney named in the request has been temporarily suspended and has not been restored to good standing.

(e) Termination of Temporary Suspension Order

(1) Duty of Trustees

Upon receipt of the attorney's Social Security number, federal tax identification number or statement that the attorney has no such number, and all amounts due by the attorney, including all related costs prescribed by the Court of Appeals or the trustees, the trustees shall:

(A) remove the attorney's name from the list of delinquent attorneys;

(B) if a Temporary Suspension Order has been entered, inform the Court of Appeals that the Social Security number, federal tax identification number or statement that the attorney has no such number, and full payment have been received and

request the Court to enter an order terminating the attorney's suspension; and

(C) if requested by the attorney, confirm that the trustees have complied with the requirements of subsection (e) (1) (A) and (B) of this Rule.

(2) Duty of Court

Upon receipt of the notice and request provided for in subsection (e) (1) (B) of this Rule, the Court of Appeals shall enter an order terminating the temporary suspension of the attorney.

Committee note: Subsection (e) (2) does not affect any other suspension of the attorney.

Source: This Rule is new but is derived in part from former Rule 16-811 (2013).

REPORTER'S NOTE

Proposed Rule 16-811.6, Enforcement of Obligations, is derived primarily from current Rule 16-811 f. The majority of the proposed amendments are stylistic in nature, except for the addition of provisions concerning enforcement of the requirement to provide to the treasurer of the Client Protection Fund the attorney's Social Security number and federal tax identification number [or a statement that the attorney has no such number], as described in the Reporter's note to Rule 16-811.5.

Subsection (d) (3) (B), regarding requests for information about a Maryland attorney's status, has been amended to reflect the current practice of the Client Protection Fund ("Fund"). The current Rule appears to allow only a *Maryland* judge, attorney, or litigant to request information about an attorney's status. In practice, the Fund responds to requests from any judge, attorney, or member of the public, and, because the information is a matter of public record, there appears to be no reason not to do so.

Current Rule 16-811 f. 4. (iii) prohibits a judge from permitting a suspended attorney to practice in his or her court. The Committee proposes deleting this section because it is disciplinary in nature, and therefore would be more appropriate in another Chapter.

Subsection (e) (1) outlines the duty of trustees with respect to the termination of a temporary suspension order. Subsection (e) (2) outlines the duty of the Court. The current Rule requires the trustees to request that the Court terminate the temporary suspension but does not require the Court to do so. The proposed amendment requires the Court to enter an order terminating suspension because an attorney who has provided the required information and paid all amounts owed is no longer delinquent.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-811.7, as follows:

Rule 16-811.7. DISHONORED CHECKS

(a) Notice by Treasurer

If a check to the Fund is dishonored, the treasurer of the Fund shall notify the attorney immediately by the quickest available means.

(b) Duty of Attorney

Within seven business days following the date of the notice, the attorney shall pay to the treasurer of the Fund the full amount of the dishonored check plus any additional charge that the trustees shall prescribe. Payment shall be by certified check or money order.

(c) Temporary Suspension Order

(1) Notice by Treasurer

The treasurer of the Fund promptly (but not more often than once each calendar quarter) shall submit to the Court of Appeals a proposed interim Temporary Suspension Order stating the name and account number of each attorney who remains in default of payment for a dishonored check and related charges.

(2) Entry and Service of Order

The Court of Appeals shall enter an Interim Temporary

Suspension Order prohibiting the practice of law in the State by each attorney as to whom the Court is satisfied that the treasurer has made reasonable efforts to give notice concerning the dishonored check. The treasurer shall mail by first class mail a copy of the interim Temporary Suspension Order to each attorney named in the order at the attorney's last address as it appears on the records of the trustees. The mailing by the treasurer of the copy constitutes service of the order on the attorney.

(d) Payment; Termination or Replacement of Interim Order

(1) Procedure Upon Payment

Upon payment of the full amount due by the attorney, the trustees and the Court shall follow the procedure set forth in Rule 16-811.5 (e).

(2) If No Payment

If the full amount due is not paid by the time the Court enters its next Temporary Suspension Order under Rule 16-811.6 and, as a result, the attorney is included in that order, the interim order shall terminate and be replaced by the Temporary Suspension Order.

Source: This Rule is derived from former Rule 16-811 (2013).

REPORTER'S NOTE

Proposed Rule 16-811.7, Dishonored Checks, is carried forward from current Rule 16-811 e. and f.

Section (b), requiring payment by certified check or money order after an attorney had given the Fund a check that was dishonored, conforms to current practice of the Fund.

Section (d) is added because the current Rule does not cover what happens after an interim order is issued. Presumably, either the attorney will make good on the check or will fail to make payment. Section (d) provides a procedure for terminating the interim order if payment is made and continuing the suspension in the next temporary suspension order if payment is not made.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-811.8, as follows:

Rule 16-811.8. NOTICES CONCERNING TEMPORARY SUSPENSIONS

(a) Sending Copies

The Clerk of the Court of Appeals shall send a copy of each Temporary Suspension Order and each order that terminates a temporary suspension and restores the attorney to good standing entered pursuant to these Rules to:

- (1) the Clerk of the Court of Special Appeals;
- (2) the clerk of each circuit court;
- (3) the Chief Clerk of the District Court;
- (4) the Register of Wills for each county;
- (5) the State Court Administrator; and
- (6) the Office of Administrative Hearings.

(b) Posting to Website

The Clerk shall also post to the Judiciary website any order sent pursuant to section (a) of this Rule.

Source: This Rule is derived from former Rule 16-811 (2013).

REPORTER'S NOTE

Section (a) of proposed Rule 16-811.8 is carried forward from current Rule 16-811 f. 7. with stylistic changes and the addition of a requirement to send copies of orders to the Office of Administrative Hearings.

Section (b) is new. In light of the increasing use of technology, it would be useful to post the orders on the Judiciary website.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-811.9, as follows:

Rule 16-811.9. CLAIMS

(a) Method of Making Claim

A claim against the Fund shall be made in conformance with regulations adopted by the trustees.

(b) Review by Trustees

(1) Generally

The trustees shall determine whether a claim merits reimbursement from the Fund and, if so:

- (A) the amount of such reimbursement;
- (B) the time, place, and manner of payment;
- (C) any conditions upon which payment will be made; and
- (D) the order in which payments will be made.

(2) No Rights in Fund

No claimant or other person has any right in the Fund, as beneficiary or otherwise.

(3) Assistance in Investigation

The trustees may request bar associations, Bar Counsel, other organizations of attorneys, individual attorneys, and other individuals selected by the trustees to assist the trustees in the investigation of claims.

(c) Factors to be Considered

In exercising their discretion, the trustees may consider:

(1) The amounts available and likely to become available to the Fund for the payment of claims;

(2) The amount and number of claims likely to be presented in the future;

(3) The total amount of losses caused by defalcations of any one attorney or associated groups of attorneys;

(4) The unreimbursed amounts of claims recognized by the trustees in the past as meriting reimbursement, but for which reimbursement has not been made in the total amount of the loss sustained;

(5) The amount of the claimant's loss as compared with the amount of the losses sustained by other claimants who may merit reimbursement from the Fund;

(6) The degree of hardship the claimant has suffered by the loss; and

(7) Any other factor the trustees deem appropriate.

(d) Conditions to Payment

In addition to other conditions and requirements, the trustees may require claimants, as a condition of payment, to take such action and to enter into such agreements and execute such instruments as the trustees find appropriate, including assignments, subrogation agreements, trust agreements, and promises to cooperate with the trustees in making and prosecuting claims or charges against any person.

Source: This Rule is derived from former Rule 16-811 (2013).

REPORTER'S NOTE

Proposed Rule 16-811.9, Claims, is derived from current Rule 16-811 h. Bar Counsel is added to subsection (b) (3) as a person the trustees may request to assist them in the investigation of claims. Also added to subsection (b) (3) is a provision allowing the trustees to select other individuals [such as accountants or private investigators] to assist in investigations. The requirement that an affirmative vote of five trustees is needed to exercise the power under section (b) has been moved to Rule 16-811.3 (f) (2). The remaining changes are stylistic.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-811.10, as follows:

Rule 16-811.10. JUDICIAL REVIEW

(a) Generally

A person aggrieved by a final determination of the trustees may seek judicial review of the determination pursuant to Title 7, Chapter 200 of the Maryland Rules.

(b) Standard of Review

In the action for judicial review, the decision of the trustees shall be deemed prima facie correct and shall be affirmed unless the decision was arbitrary, capricious, unsupported by substantial evidence on the record considered as a whole, beyond the authority vested in the trustees, made upon unlawful procedure, or unconstitutional or otherwise illegal. Any party, including the Fund, aggrieved by the judgment of the circuit court may appeal the judgment to the Court of Special Appeals.

Source: This Rule is derived from former Rule 16-811 (2013).

REPORTER'S NOTE

Proposed Rule 16-811.10, Judicial Review, is derived from current Rule 16-811 i. 2.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-811.11, as follows:

Rule 16-811.11. SUPERVISORY AUTHORITY OF COURT OF APPEALS

(a) Audit

In addition to the authority of the trustees under Rule 16-811.4, the Court of Appeals may at any time arrange for an audit of the accounts of the Fund to be made by State or private auditors. The cost of any such audit shall be paid by the Fund if no other source of funds is available.

(b) Administrative Advice

The trustees may apply to the Court of Appeals, in its non-adjudicatory, supervisory capacity, for interpretation of these Rules and for advice as to their powers and as to the proper administration of the Fund. Any final order issued by the Court in response to any such application shall determine all rights with respect to the matters covered and shall be binding.

(c) Dissolution

The Court of Appeals may provide for the dissolution and winding up of the affairs of the Fund.

Source: This Rule is derived from former Rule 16-811 (2013).

REPORTER'S NOTE

Proposed Rule 16-811.11, Supervisory Authority of Court of Appeals, is derived from current Rule 16-811 i.

Current Rule 16-811 i. 1., regarding the power of the Court to change the Rule, is proposed to be deleted because it is unnecessary except as to the provision concerning the dissolution and winding up of the affairs of the Fund. The Court has the Constitutional authority to amend and repeal any of its Rules. By Rule, the Court regards the exercise of its Rule-making authority as subject to open meeting requirements, which would preclude the repeal or modification of these Rules without prior notice. When necessary, the Court may adopt Rules changes on an emergency basis, but it has always provided some notice.

Sections (a) and (b) are carried forward with stylistic changes.

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Rule 2 (b) of the Rules Governing Admission to the Bar of Maryland by adding to the contents of the application form a requirement that applicants provide their Social Security number, as follows:

Rule 2. APPLICATION FOR ADMISSION AND PRELIMINARY DETERMINATION OF ELIGIBILITY

. . .

(b) Form of Application

The application shall be on a form prescribed by the Board and shall be under oath. The form shall elicit the information the Board considers appropriate concerning the applicant's character, education, and eligibility to become a candidate for admission. The application shall require the applicant to provide the applicant's Social Security number and shall include an authorization for release of confidential information pertaining to character and fitness for the practice of law to a Character Committee, the Board, and the Court.

. . .

REPORTER'S NOTE

The proposed amendment to Bar Admission Rule 2 (b) adds to the application form a requirement that the applicant provide his or her Social Security number. This requirement assists the Court of Appeals, a "licensing authority" under Code, Family Law Article, §10-119.3, in complying with laws pertaining to the

enforcement of child support obligations. The requirement also helps facilitate compliance with the requirements of Code, Business Occupations and Professions Article, §10-313 and is useful for positive identification of bar applicants in the course of character and fitness investigations.

MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS
CHAPTER 300 - GENERAL PROVISIONS

AMEND Rule 1-312 to conform internal references to the revised Rules pertaining to the Client Protection Fund, as follows:

Rule 1-312. REQUIREMENTS OF SIGNING ATTORNEY

(a) General

In addition to having been admitted to practice law in this State, an attorney signing a pleading or paper in compliance with Rule 1-311 shall comply with one of the following three requirements. The attorney shall:

. . .

(3) have a practice limited exclusively to participation in a legal services or pro bono publico program sponsored or supported by a local Bar Association as defined by Rule ~~16-811 e 1~~ 16-811.1 (b), the Maryland State Bar Association, an affiliated bar foundation, or the Maryland Legal Services Corporation, and the attorney shall include on the pleading or paper the address and telephone number of (A) the legal services or pro bono publico program in which the attorney is practicing, or (B) the attorney's primary residence, which shall be in the United States.

Cross reference: Rule ~~16-811 e 2~~ 16-811.5 (a) (1).

. . .

REPORTER'S NOTE

Proposed amendments to Rules 1-312, 16-714, 16-724, 16-753, and 16-903 and Rules 12 and 13 of the Rules Governing Admission to the Bar of Maryland conform internal references in those Rules to the revised Rules pertaining to the Client Protection Fund.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 700 - DISCIPLINE AND INACTIVE STATUS OF ATTORNEYS

AMEND Rule 16-714 to conform internal references to the revised Rules pertaining to the Client Protection Fund, as follows:

Rule 16-714. DISCIPLINARY FUND

(a) Payment by Attorneys

There is a Disciplinary Fund to which, as a condition precedent to the practice of law, each attorney shall pay annually an amount prescribed by the Court of Appeals. The amount shall be in addition to and paid by the same date as other sums required to be paid pursuant to Rule ~~16-811~~ 16-811.5. The Disciplinary Fund is created and administered pursuant to the Constitutional authority of the Court of Appeals to regulate the practice of law in the State of Maryland and to implement and enforce the Maryland Lawyers' Rules of Professional Conduct adopted by the Court. The Fund consists of contributions made by lawyers as a condition of their right to practice law in Maryland and income from those contributions. The principal and income of the Fund shall be dedicated exclusively to the purposes established by the Rules in this Title.

. . .

(d) Enforcement

Enforcement of payment of annual assessments of attorneys pursuant to this Rule is governed by the provisions of Rule ~~16-811 (g)~~ 16-811.4 (b).

Source: This Rule is derived from former Rule 16-702 d (BV2 d) and 16-703 b (vii) (BV3 b (vii)).

REPORTER'S NOTE

See the Reporter's note to Rule 1-312.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 700 - DISCIPLINE AND INACTIVE STATUS OF ATTORNEYS

AMEND Rule 16-724 to conform an internal reference to the revised Rules pertaining to the Client Protection Fund, as follows:

Rule 16-724. SERVICE OF PAPERS ON ATTORNEY

(a) Statement of Charges

A copy of a Statement of Charges filed pursuant to Rule 16-741 shall be served on an attorney in the manner prescribed by Rule 2-121. If after reasonable efforts the attorney cannot be served personally, service may be made upon the employee designated by the Client Protection Fund of the Bar of Maryland pursuant to Rule ~~16-811 c 1 (x)~~ 16-811.4 (a) (12), who shall be deemed the attorney's agent for receipt of service. The Fund's employee shall send, by both certified mail and ordinary mail, a copy of the papers so served to the attorney at the address maintained in the Fund's records and to any other address provided by Bar Counsel.

. . .

REPORTER'S NOTE

See the Reporter's note to Rule 1-312.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 700 - DISCIPLINE AND INACTIVE STATUS OF ATTORNEYS

AMEND Rule 16-753 to conform an internal reference to the revised Rules pertaining to the Client Protection Fund, as follows:

Rule 16-753. SERVICE OF PETITION

A copy of a Petition for Disciplinary or Remedial Action filed pursuant to Rule 16-751, and the order of the Court of Appeals designating a judge pursuant to Rule 16-752, shall be served on an attorney in the manner prescribed by Rule 2-121 or in any other manner directed by the Court of Appeals. If after reasonable efforts the attorney cannot be served personally, service may be made upon the employee designated by the Client Protection Fund of the Bar of Maryland pursuant to Rule ~~16-811-c~~ ~~1~~ ~~(*)~~ 16-811.4 (a) (12), who shall be deemed the attorney's agent for receipt of service. The Fund's employee shall send, by both certified mail and ordinary mail, a copy of the papers so served to the attorney at the address maintained in the Fund's records and to any other address provided by Bar Counsel.

Source: This Rule is in part derived from former Rule 16-709 (BV9) and in part new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-312.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 900 - PRO BONO LEGAL SERVICE

AMEND Rule 16-903 to conform an internal reference to the revised Rules pertaining to the Client Protection Fund, as follows:

Rule 16-903. REPORTING PRO BONO LEGAL SERVICE

. . .

(e) Enforcement

. . .

(2) Additional Discretionary Notice of Default

In addition to the mailed notice, the Administrative Office of the Courts may give additional notice to defaulting lawyers by any of the means enumerated in Rule ~~16-811 f-3~~ 16-811.6 (c).

. . .

REPORTER'S NOTE

See the Reporter's note to Rule 1-312.

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Bar Admission Rule 12 to conform an internal reference to the revised Rules pertaining to the Client Protection Fund, as follows:

Rule 12. ORDER OF ADMISSION; TIME LIMITATION

. . .

Cross reference: See Code, Business Occupations and Professions Article, §10-212, for form of oath. See also ~~Maryland Rule 16-811 e (Client Protection Fund of the Bar of Maryland — Payments to Fund)~~ section (a) of Maryland Rule 16-811.5 (Obligation of Attorneys) and Maryland Rule 16-714 (Disciplinary Fund), which require persons admitted to the Maryland Bar, as a condition precedent to the practice of law in this State, to pay an annual assessment to the Client Protection Fund of the Bar of Maryland and the Attorney Grievance Commission Disciplinary Fund.

Source: This Rule is in part derived from former Rule 13 and is in part new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-312.

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Bar Admission Rule 13 to conform an internal reference to the revised Rules pertaining to the Client Protection Fund, as follows:

Rule 13. OUT-OF-STATE ATTORNEYS

. . .

Cross reference: See Code, Business Occupations and Professions Article, §10-212, for the form of oath. See also ~~Maryland Rule 16-811 e (Client Protection Fund of the Bar of Maryland — Payments to Fund)~~ section (a) of Maryland Rule 16-811.5 (Obligation of Attorneys) and Maryland Rule 16-714 (Disciplinary Fund) which require persons admitted to the Maryland Bar, as a condition precedent to the practice of law in this State, to pay an annual assessment to the Client Protection Fund of the Bar of Maryland and the Attorney Grievance Commission Disciplinary Fund.

Source: This Rule is derived in part from former Rule 14 and is in part new.

REPORTER'S NOTE

See the Reporter's note to Rule 1-312.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 200 - PARTIES

AMEND Rule 2-202 to revise and clarify section (c), as follows:

Rule 2-202. CAPACITY

(a) Generally

Applicable substantive law governs the capacity to sue or be sued of an individual, a corporation, a person acting in a representative capacity, an association, or any other entity.

(b) Suits by Individuals under Disability

An individual under disability to sue may sue by a guardian or other like fiduciary or, if none, by next friend, subject to any order of court for the protection of the individual under disability. When a minor is in the sole custody of one of its parents, that parent has the exclusive right to sue on behalf of the minor for a period of one year following the accrual of the cause of action, and if the custodial parent fails to institute suit within the one year period, any person interested in the minor shall have the right to institute suit on behalf of the minor as next friend upon first mailing notice to the last known address of the custodial parent.

(c) Settlement of Suits on Behalf of Minors

~~A next friend who files an action for the benefit of a~~

~~minor may settle the claim in accordance with this subsection. If the next friend is not a parent or person in loco parentis of the child, the settlement is not effective unless approved by each living parent or person in loco parentis. If (1) both parents are dead and there is no person in loco parentis of the child or (2) one of the parents does not approve the settlement, the settlement is not effective unless approved by the court in which the suit is pending. Approval may be granted only on verified application by the next friend, stating the facts of the case and why the settlement is in the best interest of the child.~~

(1) Generally

Subject to subsection (c) (2) of this Rule, a next friend who files an action for the benefit of a minor may settle the claim on behalf of the minor.

(2) Approval of Court

(A) If the next friend is the only living parent of the minor, the settlement need not be approved by a court.

(B) If the next friend is not the only living parent of the minor, the settlement must be approved (i) by each living parent of the minor, or (ii) after a reasonable attempt at notice to each living parent and an opportunity for a hearing, by a court.

(C) If there are no living parents of the minor, the settlement must be approved by a court.

(D) A motion for court approval shall be filed in the court where the action is pending.

Cross reference: For settlement of suits on behalf of minors, see Code, Courts Article, §6-405. For settlement of a claim not in suit asserted by a parent or person in loco parentis under a liability insurance policy, see Code, Insurance Article, §19-113.

(d) Suits Against Individuals Under Disability

In a suit against an individual under disability, the guardian or other like fiduciary, if any, shall defend the action. The court shall order any guardian or other fiduciary in its jurisdiction who fails to comply with this section to defend the individual as required. If there is no such guardian or other fiduciary, the court shall appoint an attorney to represent and defend the individual.

Source: This Rule is derived as follows:

Section (a) is new.

Section (b) is derived from former Rule 205 c and d.

Section (c) is new.

Section (d) is derived from former Rule 205 e 1 and 2.

REPORTER'S NOTE

The Committee was advised that substantial disparities exist in the interpretation of Rules 2-202 (c) and 3-202 (c). The Rules are proposed to be revised and clarified to require court approval of the settlement of a suit on behalf of a minor whenever (1) the minor has no living parent, or (2) the minor has at least one living parent who has not affirmatively approved the settlement. If the minor has at least one living parent, and each living parent consents to the settlement, court approval of the settlement is not required.

MARYLAND RULES OF PROCEDURE
TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT
CHAPTER 300 - PARTIES

AMEND Rule 3-202 to revise and clarify section (c), as follows:

Rule 3-202. CAPACITY

(a) Generally

Applicable substantive law governs the capacity to sue or be sued of an individual, a corporation, a person acting in a representative capacity, an association, or any other entity.

(b) Suits by Individuals under Disability

An individual under disability to sue may sue by a guardian or other like fiduciary or, if none, by next friend, subject to any order of court for the protection of the individual under disability. When a minor is in the sole custody of one of its parents, that parent has the exclusive right to sue on behalf of the minor for a period of one year following the accrual of the cause of action, and if the custodial parent fails to institute suit within the one year period, any person interested in the minor shall have the right to institute suit on behalf of the minor as next friend upon first mailing notice to the last known address of the custodial parent.

(c) Settlement of Suits on Behalf of Minors

~~A next friend who files an action for the benefit of a~~

~~minor may settle the claim in accordance with this subsection. If the next friend is not a parent or person in loco parentis of the child, the settlement is not effective unless approved by each living parent or person in loco parentis. If (1) both parents are dead and there is no person in loco parentis of the child or (2) one of the parents does not approve the settlement, the settlement is not effective unless approved by the court in which the suit is pending. Approval may be granted only on verified application by the next friend, stating the facts of the case and why the settlement is in the best interest of the child.~~

(1) Generally

Subject to subsection (c) (2) of this Rule, a next friend who files an action for the benefit of a minor may settle the claim on behalf of the minor.

(2) Approval of Court

(A) If the next friend is the only living parent of the minor, the settlement need not be approved by a court.

(B) If the next friend is not the only living parent of the minor, the settlement must be approved (i) by each living parent of the minor, or (ii) after a reasonable attempt at notice to each living parent and an opportunity for a hearing, by a court.

(C) If there are no living parents of the minor, the settlement must be approved by a court.

(D) A motion for court approval shall be filed in the court where the action is pending.

Cross reference: For settlement of suits on behalf of minors, see Code, Courts Article, §6-405. For settlement of a claim not in suit asserted by a parent or person in loco parentis under a liability insurance policy, see Code, Insurance Article, §19-113.

(d) Suits Against Individuals under Disability

In a suit against an individual under disability, the guardian or other like fiduciary, if any, shall defend the action. The court shall order any guardian or other fiduciary in its jurisdiction who fails to comply with this section to defend the individual as required. If there is no such guardian or other fiduciary, the court shall appoint an attorney to represent and defend the individual.

Source: This Rule is derived as follows:

Section (a) is new.

Section (b) is derived from former M.D.R. 205 c and d.

Section (c) is new.

Section (d) is derived from former M.D.R. 205 e.

REPORTER'S NOTE

See the Reporter's note to the proposed amendment to Rule 2-202.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 500 - TRIAL

AMEND Rule 2-506 to add a new section (b) pertaining to a dismissal upon stipulated terms, as follows:

Rule 2-506. VOLUNTARY DISMISSAL

(a) By Notice of Dismissal or Stipulation

Except as otherwise provided in these rules or by statute, a party who has filed a complaint, counterclaim, cross-claim, or third-party claim may dismiss all or part of the claim without leave of court by filing (1) a notice of dismissal at any time before the adverse party files an answer or (2) by filing a stipulation of dismissal signed by all parties to the claim being dismissed.

(b) Dismissal Upon Stipulated Terms

If an action is settled upon written stipulated terms and dismissed, the action may be reopened at any time upon request of any party to the settlement to enforce the stipulated terms through the entry of judgment or other appropriate relief.

~~(b)~~ (c) By Order of Court

Except as provided in section (a) of this Rule, a party who has filed a complaint, counterclaim, cross-claim, or third-party claim may dismiss the claim only by order of court and upon such terms and conditions as the court deems proper. If

a counterclaim has been filed before the filing of a plaintiff's motion for voluntary dismissal, the action shall not be dismissed over the objection of the party who filed the counterclaim unless the counterclaim can remain pending for independent adjudication by the court.

~~(c)~~ (d) Effect

Unless otherwise specified in the notice of dismissal, stipulation, or order of court, a dismissal is without prejudice, except that a notice of dismissal operates as an adjudication upon the merits when filed by a party who has previously dismissed in any court of any state or in any court of the United States an action based on or including the same claim.

~~(d)~~ (e) Costs

Unless otherwise provided by stipulation or order of court, the dismissing party is responsible for all costs of the action or the part dismissed.

Cross reference: See Code, Courts Article, §7-202. For settlement of suits on behalf of minors, see Code, Courts Article, §6-405 and Rule 2-202. For settlement of a claim not in suit asserted by a parent or person in loco parentis under a liability insurance policy, see Code, Insurance Article, §19-113.

Source: This Rule is derived as follows:

Section (a) is derived in part from the 1968 version of Fed. R. Civ. P. 41 (a) (1) and is in part new.

Section (b) is new.

Section ~~(b)~~ (c) is derived from former Rule 541 b and the 1968 version of Fed. R. Civ. P 41 (a) (2).

Section ~~(c)~~ (d) is derived from former Rule 541 c.

Section ~~(d)~~ (e) is derived from former Rules 541 d and 582 b.

REPORTER'S NOTE

By unanimous request of the Conference of Circuit Judges, Rule 2-506 is proposed to be amended by the addition of a new section (b), Dismissal Upon Stipulated Terms, the language of which is taken *verbatim* from Rule 3-506 (b).

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 500 - TRIAL

AMEND Rule 2-522 to add a procedure to address any material inconsistency between a jury's announced verdict and its written findings and to make stylistic changes, as follows:

Rule 2-522. COURT DECISION - JURY VERDICT

(a) Court Decision

In a contested court trial, the judge, before or at the time judgment is entered, shall prepare and file or dictate into the record a brief statement of the reasons for the decision and the basis of determining any damages.

(b) Verdict

(1) Unanimity

Unless the parties stipulate at any time that a verdict or finding of a stated majority shall be taken as the verdict or finding of the jury, the The verdict of a jury shall be unanimous ~~unless the parties stipulate at any time that a verdict or finding of a stated majority shall be taken as the verdict or finding of the jury.~~

~~(c)~~ (2) Verdict Containing Written Findings

(A) Court May Require

The court may require a jury to return a verdict in the form of written findings upon specific issues. For that purpose,

the court may use any method of submitting the issues and requiring written findings as it deems appropriate, including the submission of written questions susceptible of brief answers or of written forms of the several special findings that might properly be made under the pleadings and evidence. The court shall instruct the jury as may be necessary to enable it to make its findings upon each issue.

(B) Omission of Issue

If the court fails to submit any issue raised by the pleadings or by the evidence, all parties waive their right to a trial by jury of the issues omitted unless before the jury retires a party demands its submission to the jury. As to an issue omitted without such demand, the court may make a finding or, if it fails to do so, the finding shall be deemed to have been made in accordance with the judgment entered.

(3) Return in Open Court

A verdict shall be returned in open court. If the verdict is in the form of written findings pursuant to subsection (b) (2) of this Rule, the verdict sheet shall be handed to and examined by the judge prior to the announcement of the verdict or any harkening or polling. If there is any material inconsistency between the verdict as announced and the written findings, the court shall inform the jury and the parties of the inconsistency and invite and consider, on the record, the parties' position on any response.

(4) Polling

On request of a party or on the court's own initiative, the jury shall be polled before it is discharged. If the poll discloses that the jury, or stated majority, has not concurred in the verdict, the court may direct the jury to retire for further deliberations or may discharge the jury.

(5) Objections; Waiver

No party may assign as error the submission of issues to the jury, the instructions of the court, or the refusal of the court to submit a requested issue unless the party objects on the record before the jury retires to consider its verdict, stating distinctly the matter to which the party objects and the grounds of the objection. Upon request of any party, the court shall receive objections out of the hearing of the jury.

Source: This Rule is derived as follows:

Section (a) replaces former Rule 18 b from which it is in part derived.

Section (b) is in part new and in part derived from former Rules 560 and 759 a and e; ~~and~~ from the 1937 version of Fed. R. Civ. P. 48.

~~Section (c) is derived from former Rule 560 and the~~ and from 1963 version of Fed. R. Civ. P. 49 (a).

REPORTER'S NOTE

The Court of Appeals has requested that the Rules Committee propose an amendment to Rule 2-522 to provide a procedure for resolving, prior to discharge of the jury, any material inconsistency that may exist between a jury's announced verdict and its written findings. Rule 2-522 is proposed to be restyled, with such a procedure included in new subsection (b) (3).

MARYLAND RULES OF PROCEDURE
TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-205 to conform an internal reference to the relettering of Rule 2-522, as follows:

Rule 10-205. HEARING

. . .

(b) Guardianship of Alleged Disabled Person

(1) Generally

When the petition is for guardianship of the person of an alleged disabled person, the court shall set the matter for jury trial. The alleged disabled person or the attorney representing the person may waive a jury trial at any time before trial. If a jury trial is held, the jury shall return a verdict pursuant to Rule 2-522 ~~(c)~~ (b) (2) as to any alleged disability. Each certificate filed pursuant to Rule 10-202 is admissible as substantive evidence without the presence or testimony of the certifying health care professional unless, not later than 10 days before trial, an interested person who is not an individual under a disability, or the attorney for the alleged disabled person, files a request that the health care professional appear to testify. If the trial date is less than 10 days from the date the response is due, a request that the health care professional appear may be filed at any time before trial. If the alleged

disabled person asserts that, because of his or her disability, the alleged disabled person cannot attend a trial at the courthouse, the court may hold the trial at a place to which the alleged disabled person has reasonable access.

(2) Beneficiary of the Department of Veterans Affairs

If guardianship of the person of a disabled person who is a beneficiary of the United States Department of Veterans Affairs is being sought and no objection to the guardianship is made, a hearing shall not be held unless the Court finds that extraordinary circumstances require a hearing.

. . .

REPORTER'S NOTE

The proposed amendment to Rule 10-205 conforms an internal reference to the relettering of Rule 2-522.

MARYLAND RULES OF PROCEDURE
TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-108 to add certain information to the required contents of an order appointing a guardian, as follows:

Rule 10-108. ORDERS

(a) Order Appointing Guardian

An order appointing a guardian shall state:

- (1) Whether the guardianship is of the property or person or both;
- (2) The name, sex, and date of birth of the minor or disabled person;
- (3) The name, address, and telephone number of the guardian;
- (4) Whether or not the appointment of a guardian is solely as a result of a physical disability, and if not, ~~The~~ the reason for the guardianship;
- (5) The amount of the guardian's bond, or that the bond is waived;
- (6) The date upon which any annual report of the guardian shall be filed; and
- (7) The specific powers and duties of the guardian and any limitations on those powers or duties. The order shall recite the powers and duties of the guardian either expressly or by referring to the specific paragraphs of an applicable statute

containing those powers and duties.

Cross reference: Code, Estates and Trusts Article, §§13-201 (b) and (c), 13-213, 13-214, 15-102, 13-705 (b), and 13-708.

(b) Letters of Guardianship

A court may issue letters of guardianship of the property which shall contain a list of any restrictions on the powers of the guardian.

Cross reference: Code, Estates and Trusts Article, §§13-215 and 13-217.

(c) Orders Assuming Jurisdiction Over a Fiduciary Estate other than a Guardianship

An order assuming jurisdiction over a fiduciary estate other than a guardianship shall state whether the court has assumed full jurisdiction over the estate. If it has not assumed full jurisdiction over the estate or if jurisdiction is contrary to the provisions in the instrument, the order shall state the extent of the jurisdiction assumed. The order shall state the amount of the fiduciary's bond or that the bond is waived.

(d) Modifications

The court may modify any order of a continuing nature in a guardianship or fiduciary estate upon the petition of an interested person or on its own initiative, and after notice and opportunity for hearing.

Source: This Rule is derived as follows:

Section (a) is derived in part from Code, Estates and Trusts Article, §§13-208 and 13-708 and is in part new.

Section (b) is derived from former Rule V77 c 3.

Section (c) is derived from former Rules V71 f 1 and f 2.

Section (d) is derived in part from former Rule R78 b and is in part new.

REPORTER'S NOTE

Chapter 427, Acts of 2013 (SB 281), the Firearm Safety Act of 2013, requires courts to report to the FBI's National Instant Criminal Background Check System ("NICS") the name and identifying information of a person the court has found, according to Code, Estates and Trusts Article, §§13-201 (c) or 13-705, should be under the protection of a guardian, except for cases in which the appointment of a guardian is solely a result of a physical disability. The court is also required to provide to NICS the date of the determination or finding.

Although the new law does not specify what the "identifying information" is, the Rules Committee recommends including in the order appointing a guardian the date of birth and sex of the person subject to the guardianship. This would be added to subsection (a)(4) of Rule 10-108, so that it can be included as "identifying information." The federal regulation concerning NICS, 28 C.F.R. §25.7, specifies complete date of birth and sex as a required search descriptor for all queries to NICS for purposes of a background check.

Because the Firearm Safety Act only requires reporting of guardianships that are not as a result of a physical disability, the Committee also recommends adding language to the order appointing the guardian in subsection (a)(4). The additional language would expand the reason for the guardianship that the court is required to provide to include a statement as to whether or not the guardianship is solely a result of a physical disability.

The Committee also recommends amending Rules 10-201 and 10-301 so that the contents of petitions are consistent with the proposed changes to Rule 10-108.

MARYLAND RULES OF PROCEDURE
TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 200 - GUARDIAN OF PERSON

AMEND Rule 10-201 to require the petitioner to state whether the alleged disability is solely physical and to substitute "date of birth" for "age" in subsection (c)(7)(A), as follows:

Rule 10-201. PETITION FOR APPOINTMENT OF A GUARDIAN OF PERSON

. . .

(c) Contents

The petition shall be captioned, "In the Matter of . . ." [stating the name of the minor or alleged disabled person]. It shall be signed and verified by the petitioner, may contain a request for the guardianship of property, and shall contain at least the following information:

(1) The petitioner's name, address, age, and telephone number.

(2) The petitioner's familial or other relationship to the minor or alleged disabled person.

(3) Whether the person who is the subject of the petition is a minor or alleged disabled person, and, if an alleged disabled person, a brief description of the alleged disability, including whether the disability is solely physical, and how it affects the alleged disabled person's ability to function.

(4) The reasons why the court should appoint a guardian of

the person and, if the subject of the petition is a disabled person, allegations demonstrating an inability of that person to make or communicate responsible decisions concerning the person, including provisions for health care, food, clothing, or shelter, because of mental disability, disease, habitual drunkenness or addiction to drugs, and a description of less restrictive alternatives that have been attempted and have failed.

Cross reference: Code, Estates and Trusts Article, §13-705 (b).

(5) An identification of any instrument nominating a guardian or constituting a durable power of attorney, with a copy attached to the petition, if possible, and, if not, an explanation of its absence.

Cross reference: Code, Estates and Trusts Article, §13-701.

(6) If a guardian or conservator has been appointed for the alleged disabled person in another proceeding, the name and address of the guardian or conservator and the court that appointed the guardian or conservator. If a guardianship or conservatorship proceeding was previously filed in any other court, the name and address of the court, the case number, if known, and whether the proceeding is still pending in that court.

(7) A list of (A) the name, ~~age~~ date of birth, sex, and address of the minor or alleged disabled person, (B) the name and address of the persons with whom the minor or disabled person resides, and (C) if the minor or alleged disabled person resides with the petitioner, the name and address of another person on whom service can be made.

(8) The name, address, telephone number, and nature of interest of all other interested persons and all other persons exercising control of the minor or alleged disabled person, to the extent known or reasonably ascertainable.

(9) If the minor or alleged disabled person is represented by an attorney, the name and address of the attorney.

(10) A statement that the certificates required by Rule 10-202 are attached, or, if not, an explanation of their absence.

(11) If the petition also seeks a guardianship of the property, the additional information required by Rule 10-301.

(12) A statement of the relief sought.

. . .

REPORTER'S NOTE

See the Reporter's note to Rule 10-108.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 300 - GUARDIAN OF PROPERTY

AMEND Rule 10-301 to require the petitioner to state whether the alleged disability is solely physical and to substitute "date of birth" for "age" in subsection (c)(7), as follows:

Rule 10-301. PETITION FOR APPOINTMENT OF A GUARDIAN OF PROPERTY

. . .

(c) Contents

The petition shall be captioned "In the Matter of . . ." [stating the name of the minor or alleged disabled person]. It shall be signed and verified by the petitioner and shall contain at least the following information:

(1) The petitioner's name, address, age, and telephone number;

(2) The petitioner's familial or other relationship to the alleged disabled person;

(3) Whether the person who is the subject of the petition is a minor or an alleged disabled person and, if an alleged disabled person, a brief description of the alleged disability, including whether the disability is solely physical;

(4) The reasons why the court should appoint a guardian of the property and, if the subject of the petition is an alleged disabled person, allegations demonstrating an inability of the

alleged disabled person to manage the person's property and affairs effectively because of physical or mental disability, disease, habitual drunkenness, addiction to drugs, imprisonment, compulsory hospitalization, confinement, detention by a foreign power, or disappearance;

Cross reference: Code, Estates and Trusts Article, §13-201 (b) and (c).

(5) An identification of any instrument nominating a guardian for the minor or alleged disabled person or constituting a durable power of attorney;

Cross reference: Code, Estates and Trusts Article, §13-207 (a) (2) and (5).

(6) If a guardian or conservator has been appointed for the alleged disabled person in another proceeding, the name and address of the guardian or conservator and the court that appointed the guardian or conservator. If a guardianship or conservatorship proceeding was previously filed in any other court, the name and address of the court, the case number, if known, and whether the proceeding is still pending in that court.

(7) The name, ~~age~~ date of birth, sex, and address of the minor or alleged disabled person, the name and address of the persons with whom the minor or alleged disabled person resides, and if the minor or alleged disabled person resides with the petitioner, the name and address of another person on whom service can be made;

(8) To the extent known or reasonably ascertainable, the name, address, telephone number, and nature of interest of all

interested persons and all others exercising any control over the property of the estate;

(9) If the minor or alleged disabled person is represented by an attorney, the name, address, and telephone number of the attorney.

(10) The nature, value, and location of the property of the minor or alleged disabled person;

(11) A brief description of all other property in which the minor or alleged disabled person has a concurrent interest with one or more individuals;

(12) A statement that the exhibits required by section (d) of this Rule are attached or, if not attached, the reason that they are absent; and

(13) A statement of the relief sought.

. . .

REPORTER'S NOTE

See the Reporter's note to Rule 10-108.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 600 - JUDGMENT

AMEND Rule 2-647 to add a cross reference to a certain statute to the end of the Rule, as follows:

Rule 2-647. ENFORCEMENT OF JUDGMENT AWARDING POSSESSION

Upon the written request of the holder of a judgment awarding possession of property, the clerk shall issue a writ directing the sheriff to place that party in possession of the property. The request shall be accompanied by instructions to the sheriff specifying (a) the judgment, (b) the property and its location, and (c) the party to whom the judgment awards possession. The clerk shall transmit the writ and the instructions to the sheriff. When a judgment awards possession of property or the payment of its value, in the alternative, the instructions shall also specify the value of the property, and the writ shall direct the sheriff to levy upon real or personal property of the judgment debtor to satisfy the judgment if the specified property cannot be found. When the judgment awards possession of real property located partly in the county where the judgment is entered and partly in an adjoining county, the sheriff may execute the writ as to all of the property.

Cross reference: See Code, Real Property Article, §7-112 (c) (1) for an alternate method to take possession of residential real property when the person claiming a right to possession of the property by the terms of a foreclosure sale or court order does

not have a court-ordered writ of possession executed by a sheriff or constable.

Source: This Rule is new.

REPORTER'S NOTE

Chapter 515, Laws of 2013 (HB 1308) added language to Code, Real Property Article, §7-112 allowing a party claiming the right to possession of residential real property to take possession from a protected resident (which is defined as an owner, former owner, grantee, tenant, subtenant, or other person in actual possession by, through, or under an owner or former owner) either (1) in accordance with a court-ordered writ of possession executed by a sheriff or constable or (2) after a detailed, nonjudicial procedure, including posting a notice on the front door of the property and mailing the notice by first-class mail to all occupants. This law supersedes the decision in *Nickens v. Mount Vernon Realty Group, et al.*, 429 Md. 53 (2012), which permits "peaceable self-help" allowing a party claiming the right of possession to take possession without court intervention and without the notice requirements of the new law.

The Rules Committee recommends adding a cross reference to Rules 2-647, 3-647, 14-215, and 14-502 to draw attention to the new, more limited nonjudicial self-help procedure.

MARYLAND RULES OF PROCEDURE
TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT
CHAPTER 600 - JUDGMENT

AMEND Rule 3-647 to add a cross reference to a certain statute to the end of the Rule, as follows:

Rule 3-647. ENFORCEMENT OF JUDGMENT AWARDING POSSESSION

Upon the written request of the holder of a judgment awarding possession of property, the clerk shall issue a writ directing the sheriff to place that party in possession of the property. The request shall be accompanied by instructions to the sheriff specifying (a) the judgment, (b) the property and its location, and (c) the party to whom the judgment awards possession. The clerk shall transmit the writ and the instructions to the sheriff. When a judgment awards possession of property or the payment of its value, in the alternative, the instructions shall also specify the value of the property, and the writ shall direct the sheriff to levy upon real or personal property of the judgment debtor to satisfy the judgment if the specified property cannot be found. When the judgment awards possession of real property located partly in the county where the judgment is entered and partly in an adjoining county, the sheriff may execute the writ as to all of the property.

Cross reference: See Code, Real Property Article, §7-112 (c)(1) for an alternate method to take possession of residential real property when the person claiming a right to possession of the property by the terms of a foreclosure sale or court order does

not have a court-ordered writ of possession executed by a sheriff or constable.

Source: This Rule is new.

REPORTER'S NOTE

See the Reporter's note to Rule 2-647.

MARYLAND RULES OF PROCEDURE
TITLE 14 - SALES OF PROPERTY
CHAPTER 200 - FORECLOSURE OF LIEN INSTRUMENTS

AMEND Rule 14-215 to add a cross reference to a certain statute to the end of the Rule, as follows:

Rule 14-215. POST-SALE PROCEDURES

(a) Procedure Following Sale

The procedure following a sale made pursuant to this Chapter shall be as provided in Rules 14-305 and 14-306, except that an audit is mandatory.

(b) Resale

If the court sets a sale aside, the court may order that the property be resold by the individual who made the previous sale or by a special trustee appointed by the court.

(c) Conveyance to Purchaser

(1) When Made

After the court has finally ratified a sale and the purchase money has been paid, the individual making the sale shall convey the property to the purchaser or the purchaser's assignee. If the conveyance is to the purchaser's assignee, the purchaser shall join in the deed.

(2) Under Power of Sale - When Vendor and Purchaser are the Same

If the individual making a sale and the purchaser at a

sale made pursuant to a power of sale are the same person, the court shall appoint in the order of ratification a trustee to convey the property to the purchaser after payment of the purchase money. The trustee need not furnish a bond unless the court so provides in its order.

(3) To Substituted Purchaser

At any time after the sale and before a conveyance, the court, upon ex parte application and consent of the purchaser, substituted purchaser, and individual making the sale, may authorize the conveyance to be made to a substituted purchaser.

Cross reference: For a purchaser's obligation to notify the supervisor of assessments for the county in which the residential property is located of the ratification of the foreclosure sale, see Code, Real Property Article, §7-105.12. For requirements relating to registration by foreclosure purchasers with the Foreclosed Property Registry of the Department of Labor, Licensing, and Regulation, see Code, Real Property Article, §14-126.1. For an alternate method to take possession of residential real property when the person claiming a right to possession of the property by the terms of a foreclosure sale or court order does not have a court-ordered writ of possession executed by a sheriff or constable, see Code, Real Property Article, §7-112 (c) (1).

Source: This Rule is derived from the 2008 version of former Rule 14-207 (d), (e), and (f).

REPORTER'S NOTE

See the Reporter's note to Rule 2-647.

MARYLAND RULES OF PROCEDURE
TITLE 14 - SALES OF PROPERTY
CHAPTER 500 - TAX SALES

AMEND Rule 14-502 to add a cross reference to a certain statute to the end of the Rule and to make stylistic corrections, as follows:

Rule 14-502. FORECLOSURE OF RIGHT OF REDEMPTION - COMPLAINT

(a) Notices to be Sent

The holder of a certificate of sale may not file a complaint to foreclose the right of redemption until at least two months after sending the first notice and at least 30 days after sending the second notice required by Code, Tax-Property Article, §14-833 (a-1) (1).

(b) Contents

In an action to foreclose the right of redemption in property sold at a tax sale, the complaint, in addition to complying with Rules 2-303 through 2-305, shall set forth:

- (1) the fact of the issuance of the certificate of sale;
- (2) a description of the property in substantially the same form as the description appearing on the certificate of tax sale;
- (3) the fact that the property has not been redeemed by any party in interest; and
- (4) a statement of the amount necessary for redemption.

(c) Documents

The complaint shall be accompanied by:

(1) the original certificate of sale, or a photocopy of the certificate;

(2) a copy of a title report supported by an affidavit by the person making the search that a complete search of the records has been performed in accordance with generally accepted standards of title examination for the period of at least 40 years immediately before the filing of the complaint; ~~and~~

(3) a notice setting forth (A) the substance of the complaint and the relief sought, (B) a description of the property in substantially the same form as the description appearing on the collector's tax records, (C) the time within which a defendant must file an answer to the complaint or redeem the property, and (D) a statement that failure to answer or redeem the property within the time allowed may result in a judgment foreclosing the right of redemption; ~~and~~

(4) an affidavit (A) stating the date that the notices required by Code, Tax-Property Article, §14-833 (a-1)(1) were given, the name and address of the persons to whom the notices were given, and the manner of the delivery of the notice and (B) verifying that the amount that shall be paid to redeem the property complies with the requirements of Code, Tax Property Article, §14-833 (a-1)(3).

Cross reference: See Code, Tax - Property Article, §14-833 for provisions governing limitations on the time for bringing an action to foreclose the right of redemption and Code, Tax - Property Article, §14-841 for the limitation on the number of certificates that may be joined in one action. See also Code,

Tax - Property Article, §§14-836 and 14-837 governing parties to the action. For purchaser's obligations once a complaint has been filed, see *Scheve v. Shudder, Inc.*, 328 Md. 363 (1992). See Code, Real Property Article, §7-112 (c)(1) for an alternate method to take possession of residential real property when the person claiming a right to possession of the property by the terms of a foreclosure sale or court order does not have a court-ordered writ of possession executed by a sheriff or constable.

Source: This Rule is new but is consistent with Code, Tax - Property Article, §§14-835 and 14-838 and is derived in part from Code, Tax - Property Article, §§14-840 and 14-836.

REPORTER'S NOTE

See the Reporter's note to Rule 2-647.

Amendments to Rule 14-502 (c) correct stylistic errors.

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
FORMS FOR EXPUNGEMENT OF RECORDS

AMEND Form 4-504.1 to delete language pertaining to certain types of crimes and criminal actions and to add a new category of eligibility for expungement, as follows:

Form 4-504.1. PETITION FOR EXPUNGEMENT OF RECORDS

(Caption)

PETITION FOR EXPUNGEMENT OF RECORDS

1. (Check one of the following boxes) On or about _____,
(Date)

I was [] arrested, [] served with a summons, or [] served with a citation by an officer of the _____

(Law Enforcement Agency)

at _____,
Maryland, as a result of the following incident _____

_____.

2. I was charged with the offense of _____

3. On or about _____,
(Date)

the charge was disposed of as follows (check one of the following

boxes) :

[] I was acquitted and either three years have passed since disposition or a General Waiver and Release is attached.

[] The charge was dismissed or quashed and either three years have passed since disposition or a General Waiver and Release is attached.

[] A judgment of probation before judgment was entered on a charge that is not a violation of Code*, Transportation Article, §21-902 or Code*, Criminal Law Article, §§2-503, 2-504, 2-505, or 2-506, or former Code*, Article 27, §388A or §388B, and either (a) at least three years have passed since the disposition, or (b) I have been discharged from probation, whichever is later. Since the date of disposition, I have not been convicted of any crime**, ~~other than violations of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment;~~ and I am not now a defendant in any pending criminal action** ~~other than for violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.~~

[] A Nolle Prosequi was entered and either three years have passed since disposition or a General Waiver and Release is attached. Since the date of disposition, I have not been convicted of any crime**, ~~other than violations of vehicle or traffic laws, ordinances, or regulations not~~

~~carrying a possible sentence of imprisonment; and I am not now a defendant in any pending criminal action** other than for violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.~~

[] The proceeding was stotted and three years have passed since disposition. Since the date of disposition, I have not been convicted of any crime**, ~~other than violations of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment; and I am not now a defendant in any pending criminal action** other than for violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.~~

[] I was convicted of a crime specified in Code*, Criminal Procedure Article, §10-105 (a) (9); three years have passed since the later of the conviction or satisfactory completion of the sentence, including probation; and I am not now a defendant in any pending criminal action** ~~other than for violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.~~

[] I was found not criminally responsible for a crime specified in Code*, Criminal Procedure Article, §10-105 (a) (9) or (a) (10); three years have passed since the finding of not criminally responsible; I have not been

convicted of any crime** , and I am not now a defendant in any pending criminal action**.

- [] The case was transferred to the juvenile court pursuant to Code*, Criminal Procedure Article, §§4-202 or 4-202.2.

(Note: The expungement is only of the records in the criminal case, not those records in the juvenile court. See Code*, Criminal Procedure Article, §10-106.)

- [] The case was compromised or dismissed pursuant to Code*, Criminal Law Article, §3-207, former Code*, Article 27, §12A-5, or former Code*, Article 10, §37 and three years have passed since disposition.

- [] On or about _____ , I was granted
(Date)

a full and unconditional pardon by the Governor for the one criminal act, not a crime of violence as defined in Code*, Criminal Law Article, §14-101 (a), of which I was convicted. Not more than ten years have passed since the Governor signed the pardon, and since the date the Governor signed the pardon I have not been convicted of any crime** , ~~other than violations of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment;~~ and I am not now a defendant in any pending criminal action** ~~other than for violation of vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.~~

WHEREFORE, I request the Court to enter an Order for

Expungement of all police and court records pertaining to the above arrest, detention, confinement, and charges.

I solemnly affirm under the penalties of perjury that the contents of this Petition are true to the best of my knowledge, information and belief, and that the charge to which this Petition relates was not made for any nonincarcerable violation of the Vehicle Laws of the State of Maryland, or any traffic law, ordinance, or regulation, nor is it part of a unit the expungement of which is precluded under Code*, Criminal Procedure Article, §10-107.

(Date)

Signature

(Address)

(Telephone No.)

* References to "Code" in this Petition are to the Annotated Code of Maryland.

** References to "crime" and to "criminal action" in this Petition mean any criminal offense other than a violation of the vehicle or traffic laws, ordinances, or regulations not carrying a possible sentence of imprisonment.

REPORTER'S NOTE

The Rules Committee proposes amending Form 4-504.1 to delete the language that excludes violations of vehicle or traffic law, ordinances, or regulations not carrying a possible sentence of imprisonment from the definition of the terms "crime" and

"criminal action." This language suggests that the petitioner has been convicted of or has been charged with a motor vehicle or traffic offense not carrying a possible sentence of imprisonment. Instead, the proposal is to put two asterisks after the words "crime" and "criminal action," except when the word "crime" is defined as one specified in the Code. Language would be added at the end of the Rule indicating that wherever the two terms appear followed by two asterisks, they do not include violations of vehicle or traffic laws, ordinances, and regulations not carrying a possible sentence of imprisonment. The proposed change avoids repeating the language throughout the Rule and removes the ambiguity.

Chapter 643, Laws of 2013 (HB 854) added to Code, Criminal Procedure Article, §10-105 as a category for eligibility for expungement, being found not criminally responsible for certain specified crimes. The Rules Committee recommends adding a new category to Form 4-504.1, which provides being found "not criminally responsible" for crimes specified in Code, Criminal Procedure Article, §10-105 (a) (9) and (10) as an eligibility category for expungement of those crimes.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 700 - FIDUCIARY ESTATES INCLUDING GUARDIANSHIPS

OF THE PROPERTY

AMEND Rule 10-703 to correct a cross reference, as follows:

Rule 10-703. COMPROMISE OF CLAIM OR DISPUTE

. . .

Cross reference: For the authority of the Orphans' court to authorize the compromise of any claim by a personal representative or guardian against or in favor of the estate, see Code, Estates and Trusts Article, §2-102; but see Code, Estates and Trusts Article, §7-401 (h), eliminating the necessity for court approval. See Code, Estates and Trusts Article, §15-102 (o), which allows a fiduciary to employ an attorney, but requires court approval for attorney's fees exceeding \$50 in a fiduciary estate administered under court jurisdiction. See also Rule 2-202 ~~(e)~~ (d), authorizing the court to appoint an attorney to represent a person under disability.

. . .

REPORTER'S NOTE

The amendment to Rule 10-703 corrects a cross reference at the end of the Rule.