

IN THE COURT OF APPEALS OF MARYLAND

R U L E S   O R D E R

This Court's Standing Committee on Rules of Practice and Procedure having submitted its One Hundred Seventy-Fourth Report to the Court recommending adoption of the proposed deletion of existing Rules in Title 17 of the Maryland Rules and a proposed new Title 17, the proposed deletion of Rule 9-205 and a proposed new Rule 9-205, the proposed deletion of Rule 11-601, and proposed amendments to Rules 2-214, 2-303, 2-305, 2-311, 2-401, 2-403, 2-504.1, 2-510, 2-521, 2-643, 3-305, 3-510, 3-722, 4-212, 4-214, 4-216, 4-216.1, 4-217, 4-242, 4-243, 4-262 (a) and (m), 4-263 (a) and (m), 4-266, 4-326, 4-331, 4-345, 4-501, 4-504, 4-711, 5-404, 6-416, 7-112, 9-105, 14-212, 15-1001, and 15-1201, Form 4-504.1, and Rules 4 and 19 of the Rules Governing Admission to the Bar of Maryland, all as set forth in that Report published in the *Maryland Register*, Vol. 39, Issue 16, pages 1036 - 1075 (August 10, 2012); and

The Rules Committee having withdrawn the proposed amendments to Rules 2-521 and 4-326; and

This Court having considered at an open meeting, notice of which was posted as prescribed by law, all those proposed rules changes, together with the comments received, it is this 4th day of October, 2012,

ORDERED, by the Court of Appeals of Maryland, that current Rule 11-601 be, and it is hereby, rescinded, effective January 1, 2013; and it is further

ORDERED that amendments to Rules 2-403, 2-510, 3-510, 4-262 (m), 4-263 (m), 4-266, 4-331, 4-501, 6-416, 7-112, and 15-1001, Form 4-504.1, and Rules 4 and 19 of the Rules Governing Admission to the Bar of Maryland, be, and they are hereby, adopted in the form previously published; and it is further

ORDERED that action on all other proposed rules changes contained in the One Hundred Seventy-Fourth Report be, and it is hereby, deferred; and it is further

ORDERED that the rules changes hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions commenced on or after January 1, 2013 and, insofar as practicable, to all actions then pending; and it is further

ORDERED that a copy of this Order be published in the next issue of the *Maryland Register*.

/s/ Robert M. Bell  
Robert M. Bell

/s/ Glenn T. Harrell, Jr.  
Glenn T. Harrell, Jr.

/s/ Lynne A. Battaglia  
Lynne A. Battaglia

/s/ Clayton Greene, Jr.  
Clayton Greene, Jr.

/s/ Sally D. Adkins  
Sally D. Adkins

/s/ Mary Ellen Barbera  
Mary Ellen Barbera

/s/ Robert N. McDonald  
Robert N. McDonald

Filed: October 4, 2012

/s/ Bessie M. Decker  
Clerk  
Court of Appeals of Maryland

MARYLAND RULES OF PROCEDURE  
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT  
CHAPTER 400 - DISCOVERY

AMEND Rule 2-403 to add language to section (a) that refers to persons named or depicted in an item sought to be discovered and to make stylistic changes, as follows:

Rule 2-403. PROTECTIVE ORDERS

(a) Motion

On motion of a party, ~~or of~~ a person from whom discovery is sought, or a person named or depicted in an item sought to be discovered, and for good cause shown, the court may enter any order that justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following: (1) that the discovery not be had, (2) that the discovery not be had until other designated discovery has been completed, a pretrial conference has taken place, or some other event or proceeding has occurred, (3) that the discovery may be had only on specified terms and conditions, including an allocation of the expenses or a designation of the time or place, (4) that the discovery may be had only by a method of discovery other than that selected by the party seeking discovery, (5) that certain matters not be inquired into or that the scope of the discovery be limited to certain matters, (6) that discovery be conducted with no one present

except persons designated by the court, (7) that a deposition, after being sealed, be opened only by order of the court, (8) that a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only in a designated way, (9) that the parties simultaneously file specified documents or information enclosed in sealed envelopes to be opened as directed by the court.

(b) Order

If the motion for a protective order is denied in whole or in part, the court may, on such terms and conditions as are just, order that any party or person provide or permit discovery.

Source: This Rule is derived as follows:

Section (a) is derived from the 1980 version of Fed. R. Civ. P. 26 (c) and the 1980 version of Fed. R. Civ. P. 33 (b) and from former Rule 406 a.

Section (b) is derived from the 1980 version of Fed. R. Civ. P. 26 (c).

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

AMEND Rule 2-510 to add language to sections (e) and (f) that refers to persons named or depicted in an item specified in the subpoena, as follows:

Rule 2-510. SUBPOENAS

. . .

(e) Objection to Subpoena for Court Proceedings

On motion of a person served with a subpoena to attend a court proceeding (including a proceeding before a master, auditor, or examiner) or a person named or depicted in an item specified in the subpoena filed promptly and, whenever practicable, at or before the time specified in the subpoena for compliance, the court may enter an order that justice requires to protect the person from annoyance, embarrassment, oppression, or undue burden or cost, including one or more of the following:

- (1) that the subpoena be quashed or modified;
- (2) that the subpoena be complied with only at some designated time or place other than that stated in the subpoena;
- (3) that documents, electronically stored information, or tangible things designated in the subpoena be produced only upon the advancement by the party serving the subpoena of the reasonable costs of producing them; or

(4) that documents, electronically stored information, or tangible things designated in the subpoena be delivered to the court at or before the proceeding or before the time when they are to be offered in evidence, subject to further order of court to permit inspection of them.

A motion filed under this section based on a claim that information is privileged or subject to protection as work product materials shall be supported by a description of the nature of each item that is sufficient to enable the demanding party to evaluate the claim.

(f) Objection to Subpoena for Deposition

A person served with a subpoena to attend a deposition may seek a protective order pursuant to Rule 2-403. If the subpoena also commands the production of documents, electronically stored information, or tangible things at the deposition, the person served or a person named or depicted in an item specified in the subpoena may seek a protective order pursuant to Rule 2-403 or may file, within ten days after service of the subpoena, an objection to production of any or all of the designated materials. The objection shall be in writing and shall state the reasons for the objection. If an objection is filed, the party serving the subpoena is not entitled to production of the materials except pursuant to an order of the court from which the subpoena was issued. At any time before or within 15 days after completion of the deposition and upon notice to the deponent, the party serving the subpoena may move for an order to compel the

production.

A claim that information is privileged or subject to protection as work product materials shall be supported by a description of each item that is sufficient to enable the demanding party to evaluate the claim.

. . .



MARYLAND RULES OF PROCEDURE  
TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT  
CHAPTER 500 - TRIAL

AMEND Rule 3-510 to add language to sections (e) and (f) that refers to persons named or depicted in an item specified in the subpoena, as follows:

Rule 3-510. SUBPOENAS

. . .

(e) Objection to Subpoena for Court Proceedings

On motion of a person served with a subpoena to attend a court proceeding (including a proceeding before an examiner) or a person named or depicted in an item specified in the subpoena filed promptly and, whenever practicable, at or before the time specified in the subpoena for compliance, the court may enter an order that justice requires to protect the person from annoyance, embarrassment, oppression, or undue burden or expense, including one or more of the following:

- (1) that the subpoena be quashed or modified;
  - (2) that the subpoena be complied with only at some designated time or place other than that stated in the subpoena;
  - (3) that documents or other tangible things designated in the subpoena be produced only upon the advancement by the party serving the subpoena of the reasonable costs of producing them;
- or

(4) that documents or other tangible things designated in the subpoena be delivered to the court at or before the proceeding or before the time when they are to be offered in evidence, subject to further order of court to permit inspection of them.

(f) Objection to Subpoena for Deposition

A person served with a subpoena to attend a deposition may seek a protective order pursuant to Rule 2-403. If the subpoena also commands the production of documents or other tangible things at the deposition, the person served or a person named or depicted in an item specified in the subpoena may seek a protective order pursuant to Rule 2-403 or may file, within ten days after service of the subpoena, an objection to production of any or all of the designated materials. The objection shall be in writing and shall state the reasons for the objection. If an objection is filed, the party serving the subpoena is not entitled to production of the materials except pursuant to an order of the court from which the subpoena was issued. At any time before or within 15 days after completion of the deposition and upon notice to the deponent, the party serving the subpoena may move for an order to compel the production.

. . .

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-262 to add language to section (m) that refers to persons named or depicted in an item sought to be discovered and to make stylistic changes, as follows:

Rule 4-262. DISCOVERY IN DISTRICT COURT

. . .

(m) Protective Orders

On motion of a party, ~~or~~ a person from whom discovery is sought, or a person named or depicted in an item sought to be discovered, the court, for good cause shown, may order that specified disclosures be denied or restricted in any manner that justice requires.

. . .

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-263 to add language to subsections (m)(1) and (2) that refers to persons named or depicted in an item sought to be discovered and to make stylistic changes, as follows:

Rule 4-263. DISCOVERY IN CIRCUIT COURT

. . .

(m) Protective Orders

(1) Generally

On motion of a party, ~~or~~ a person from whom discovery is sought, or a person named or depicted in an item sought to be discovered, the court, for good cause shown, may order that specified disclosures be denied or restricted in any manner that justice requires.

(2) In Camera Proceedings

On request of a party, ~~or~~ a person from whom discovery is sought, or a person named or depicted in an item sought to be discovered, the court may permit any showing of cause for denial or restriction of disclosures to be made in camera. A record shall be made of both in court and in camera proceedings. Upon the entry of an order granting relief in an in camera proceeding, all confidential portions of the in camera portion of the proceeding shall be sealed, preserved in the records of the

court, and made available to the appellate court in the event of an appeal.

. . .

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-266 to add language to section (c) to expand the categories of persons who may file a motion for a protective order and to make stylistic changes, as follows:

Rule 4-266. SUBPOENAS - GENERALLY

(a) Form

Every subpoena shall contain: (1) the caption of the action, (2) the name and address of the person to whom it is directed, (3) the name of the person at whose request it is issued, (4) the date, time, and place where attendance is required, and (5) a description of any documents, recordings, photographs, or other tangible things to be produced.

(b) Service

A subpoena shall be served by delivering a copy to the person named or to an agent authorized by appointment or by law to receive service for the person named or as permitted by Rule 2-121 (a) (3). A subpoena may be served by a sheriff of any county or by a person who is not a party and who is not less than 18 years of age. A subpoena issued by the District Court may be served by first class mail, postage prepaid, if the administrative judge of the district so directs.

Cross reference: See Code, Courts Article, §6-410, concerning service upon certain persons other than the custodian of public

records named in the subpoena if the custodian is not known and cannot be ascertained after a reasonable effort.

(c) Protective Order

Upon motion of a party, ~~or of the witness~~ a person named in the subpoena, or a person named or depicted in an item specified in the subpoena filed promptly and, whenever practicable, at or before the time specified in the subpoena for compliance the court ~~may~~, for good cause shown, may enter an order which justice requires to protect the party or ~~witness~~ person from annoyance, embarrassment, oppression, or undue burden or expense, including one of the following:

(1) That the subpoena be quashed;

(2) That the subpoena be complied with only at some designated time or place other than that stated in the subpoena, or before a judge, or before some other designated officer;

(3) That certain matters not be inquired into or that the scope of examination or inspection be limited to certain matters;

(4) That the examination or inspection be held with no one present except parties to the action and their counsel;

(5) That the transcript of any examination or matters produced or copies, after being sealed, not be opened or the contents be made public only by order of court; or

(6) That a trade secret or other confidential research development or commercial information not be disclosed or be disclosed only in a designated way.

(d) Attachment

A witness personally served with a subpoena under this Rule is liable to a body attachment and fine for failure to obey the subpoena without sufficient excuse. The writ of attachment may be executed by the sheriff or peace officer of any county and shall be returned to the court issuing it. The witness attached shall be taken immediately before the court if then in session. If the court is not in session, the witness shall be taken before a judicial officer of the District Court for a determination of appropriate conditions of release to ensure the witness' appearance at the next session of the court that issued the attachment.

Source: This Rule is derived as follows:

- Section (a) is derived from former Rule 742 c and M.D.R. 742 b.
- Section (b) is derived from former Rule 737 b and M.D.R. 737 b.
- Section (c) is derived from former Rule 742 d and M.D.R. 742 c.
- Section (d) is derived from former Rule 742 e and M.D.R. 742 d.



MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-331 to add a new subsection (b) (2) concerning a motion filed pursuant to Code, Criminal Procedure Article, §8-302; to add language to clarify the time for filing a motion under section (c); and to make stylistic changes, as follows:

Rule 4-331. MOTIONS FOR NEW TRIAL; REVISORY POWER

(a) Within Ten Days of Verdict

On motion of the defendant filed within ten days after a verdict, the court, in the interest of justice, may order a new trial.

Cross reference: For the effect of a motion under this section on the time for appeal see Rules 7-104 (b) and 8-202 (b).

(b) Revisory Power

(1) Generally

The court has revisory power and control over the judgment to set aside an unjust or improper verdict and grant a new trial:

~~(1)~~ (A) in the District Court, on motion filed within 90 days after its imposition of sentence if an appeal has not been perfected;

~~(2)~~ (B) in the circuit courts, on motion filed within 90 days after its imposition of sentence.

Thereafter, the court has revisory power and control over the

judgment in case of fraud, mistake, or irregularity.

(2) Act of Prostitution While under Duress

On motion filed pursuant to Code, Criminal Procedure Article, §8-302, the court has revisory power and control over a judgment of conviction of prostitution to vacate the judgment, modify the sentence, or grant a new trial.

(c) Newly Discovered Evidence

The court may grant a new trial or other appropriate relief on the ground of newly discovered evidence which could not have been discovered by due diligence in time to move for a new trial pursuant to section (a) of this Rule:

(1) on motion filed within one year after the later of (A) the date the court imposed sentence or (B) the date ~~it~~ the court received a mandate issued by the ~~Court of Appeals or the Court of Special Appeals~~ final appellate court to consider a direct appeal from the judgment or a belated appeal permitted as post conviction relief; whichever is later;

(2) on motion filed at any time if a sentence of death was imposed and the newly discovered evidence, if proved, would show that the defendant is innocent of the capital crime of which the defendant was convicted or of an aggravating circumstance or other condition of eligibility for the death penalty actually found by the court or jury in imposing the death sentence; and

(3) on motion filed at any time if the motion is based on DNA identification testing not subject to the procedures of Code, Criminal Procedure Article, §8-201 or other generally accepted

scientific techniques the results of which, if proved, would show that the defendant is innocent of the crime of which the defendant was convicted.

Committee note: Newly discovered evidence of mitigating circumstances does not entitle a defendant to claim actual innocence. See *Sawyer v. Whitley*, 112 S. Ct. 2514 (1992).

(d) DNA Evidence

If the defendant seeks a new trial or other appropriate relief under Code, Criminal Procedure Article, §8-201, the defendant shall proceed in accordance with Rules 4-701 through 4-711. On motion by the State, the court may suspend proceedings on a motion for new trial or other relief under this Rule until the defendant has exhausted the remedies provided by Rules 4-701 through 4-711.

Cross reference: For retroactive applicability of Code, Criminal Procedure Article, §8-201, see *Thompson v. State*, 411 Md. 664 (2009).

(e) Form of Motion

A motion filed under this Rule shall (1) be in writing, (2) state in detail the grounds upon which it is based, (3) if filed under section (c) of this Rule, describe the newly discovered evidence, and (4) contain or be accompanied by a request for hearing if a hearing is sought.

(f) Disposition

The court may hold a hearing on any motion filed under this Rule. Subject to section (d) of this Rule, the court shall hold a hearing on a motion filed under section (c) if a hearing was requested and the court finds that: (1) if the motion was

filed pursuant to subsection (c) (1) of this Rule, it was timely filed, (2) the motion satisfies the requirements of section (e) of this Rule, and (3) the movant has established a prima facie basis for granting a new trial. The court may revise a judgment or set aside a verdict prior to entry of a judgment only on the record in open court. The court shall state its reasons for setting aside a judgment or verdict and granting a new trial.

Cross reference: Code, Criminal Procedure Article, §§6-105, 6-106, 11-104, and §11-503.

Source: This Rule is derived in part from former Rule 770 and M.D.R. 770 and is in part new.

MARYLAND RULES OF PROCEDURE  
TITLE 4 - CRIMINAL CAUSES  
CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-501 by deleting the cross reference at the end of the Rule, as follows:

Rule 4-501. APPLICABILITY

The procedure provided by this Chapter is exclusive and mandatory for use in all judicial proceedings for expungement of records whether pursuant to Code, Criminal Procedure Article, §§10-102 through 10-109 or otherwise.

~~Cross reference: For expungement of criminal charges transferred to the juvenile court, see Rule 11-601 and Code, Criminal Procedure Article, §10-106.~~

Source: This Rule is derived from former Rule EX2.

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

AMEND Form 4-504.1 to add a category for cases transferred to the juvenile court and to make stylistic changes, 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.

[ ] 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.

MARYLAND RULES OF PROCEDURE  
TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES  
CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-416 to change a word in subsection (a) (1), to add language to section (b) pertaining to certain conditions for payment of attorneys' fees without court approval, and to make stylistic changes, as follows:

Rule 6-416. ATTORNEY'S FEES OR PERSONAL REPRESENTATIVE'S COMMISSIONS

(a) Subject to Court Approval

(1) Contents of Petition

When a petition for the allowance of attorney's fees or personal representative's commissions is required, it shall be verified and shall state: (A) the amount of all fees or commissions previously allowed, (B) the amount of fees or commissions that the petitioner reasonably ~~anticipates~~ estimates will be requested in the future, (C) the amount of fees or commissions currently requested, (D) the basis for the current request in reasonable detail, and (E) that the notice required by subsection (a) (3) of this Rule has been given.

(2) Filing - Separate or Joint Petitions

Petitions for attorney's fees and personal representative's commissions shall be filed with the court and may be filed as separate or joint petitions.

(3) Notice

The personal representative shall serve on each unpaid creditor who has filed a claim and on each interested person a copy of the petition accompanied by a notice in the following form:

NOTICE OF PETITION FOR ATTORNEY'S FEES OR PERSONAL  
REPRESENTATIVE'S COMMISSIONS

You are hereby notified that a petition for allowance of attorney's fees or personal representative's commissions has been filed.

You have 20 days after service of the petition within which to file written exceptions and to request a hearing.

(4) Allowance by Court

Upon the filing of a petition, the court, by order, shall allow attorney's fees or personal representative's commissions as it considers appropriate, subject to any exceptions.

(5) Exception

An exception shall be filed with the court within 20 days after service of the petition and notice and shall include the grounds therefor in reasonable detail. A copy of the exception shall be served on the personal representative.

(6) Disposition

If timely exceptions are not filed, the order of the court allowing the attorney's fees or personal representative's commissions becomes final. Upon the filing of timely exceptions,

the court shall set the matter for hearing and notify the personal representative and other persons that the court deems appropriate of the date, time, place, and purpose of the hearing.

(b) Payment of Attorney's Fees and Personal Representative's Commissions Without Court Approval

~~(b) (1) Consent in Lieu of Court Approval Payment of Contingency Fee for Services Other Than Estate Administration~~

~~(1) Conditions for Payment~~

~~Payment of attorney's fees and personal representative's commissions may be made without court approval if:~~

~~(A) the fee is paid to an attorney representing the estate in litigation under a contingency fee agreement signed by the decedent or the current personal representative of the decedent's estate;~~

~~(B) the fee does not exceed the terms of the contingency fee agreement;~~

~~(C) a copy of the contingency fee agreement is on file with the register of wills; and~~

~~(D) the attorney files a statement with each account stating that the scope of the representation by the attorney does not extend to the administration of the estate.~~

(2) Consent in Lieu of Court Approval

Payment of attorney's fees and personal representative's commissions may be made without court approval if:

(A) the combined sum of all payments of attorney's fees and personal representative's commissions does not exceed the amounts

provided in Code, Estates and Trusts Article, §7-601; and

(B) a written consent stating the amounts of the payments signed by (i) each creditor who has filed a claim that is still open and (ii) all interested persons, is filed with the register in the following form:

BEFORE THE REGISTER OF WILLS FOR ....., MARYLAND  
IN THE ESTATE OF:

\_\_\_\_\_ Estate No. \_\_\_\_\_

CONSENT TO COMPENSATION FOR  
PERSONAL REPRESENTATIVE AND/OR ATTORNEY

I understand that the law, Estates and Trusts Article, §7-601, provides a formula to establish the maximum total compensation to be paid for personal representative's commissions and/or attorney's fees without order of court. If the total compensation being requested falls within the maximum allowable amount, and the request is consented to by all unpaid creditors who have filed claims and all interested persons, this payment need not be subject to review or approval by the Court. A creditor or an interested party may, but is not required to, consent to these fees.

The formula sets total compensation at 9% of the first \$20,000 of the gross estate PLUS 3.6% of the excess over \$20,000.

Based on this formula, the total allowable statutory maximum based on the gross estate known at this time is \_\_\_\_\_,

LESS any personal representative's commissions and/or attorney's fees previously approved as required by law and paid. To date, \$\_\_\_\_\_ in personal representative's commissions and \$\_\_\_\_\_ in attorney's fees have been paid.

Cross reference: See 90 Op. Att'y. Gen. 145 (2005).

Total combined fees being requested are \$\_\_\_\_\_, to be paid as follows:

Amount	To	Name of Personal Representative/Attorney
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

I have read this entire form and I hereby consent to the payment of personal representative and/or attorney's fees in the above amount.

Date	Signature	Name (Typed or Printed)
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

\_\_\_\_\_  
Attorney

\_\_\_\_\_  
Personal Representative

Address

Personal Representative

---

Address

---

Telephone Number

---

Facsimile Number

---

E-mail Address

Committee note: Nothing in this Rule is intended to relax requirements for approval and authorization of previous payments.

~~(2)~~ (3) Designation of Payment

When rendering an account pursuant to Rule 6-417 or a final report under modified administration pursuant to Rule 6-455, the personal representative shall designate any payment made under this section as an expense.

Cross reference: Code, Estates and Trusts Article, §§7-502, 7-601, 7-602 and 7-604.



MARYLAND RULES OF PROCEDURE

TITLE 7 - APPELLATE AND OTHER JUDICIAL REVIEW IN CIRCUIT COURT

CHAPTER 100 - APPEALS FROM THE DISTRICT COURT

TO THE CIRCUIT COURT

AMEND Rule 7-112 (f) (4) to delete language referring to a "commissioner" and to add a sentence addressing the unavailability of a judge, as follows:

Rule 7-112. APPEALS HEARD DE NOVO

. . .

(f) Dismissal of Appeal; Entry of Judgment

(1) An appellant may dismiss an appeal at any time before the commencement of trial. The court shall dismiss an appeal if the appellant fails to appear as required for trial or any other proceeding on the appeal.

(2) Upon the dismissal of an appeal, the clerk shall promptly return the file to the District Court. Any statement of satisfaction shall be docketed in the District Court.

(3) On motion filed in the circuit court within 30 days after entry of a judgment dismissing an appeal, the circuit court, for good cause shown, may reinstate the appeal upon the terms it finds proper. On motion of any party filed more than 30 days after entry of a judgment dismissing an appeal, the court may reinstate the appeal only upon a finding of fraud, mistake, or irregularity. If the appeal is reinstated, the circuit court

shall notify the District Court of the reinstatement and request the District Court to return the file.

(4) If the appeal of a defendant in a criminal case who was sentenced to a term of confinement and released pending appeal pursuant to Rule 4-349 is dismissed, the circuit court shall (A) issue a warrant directing that the defendant be taken into custody and brought before a judge ~~or commissioner~~ of the District Court or (B) enter an order that requires the defendant to appear before a judge ~~or commissioner~~. If a judge is not available on the day the warrant or order is served, the defendant shall be brought before a judge the next day that the court is in session. The warrant or order shall identify the District Court case by name and number and shall provide that the purpose of the appearance is the entry of a commitment that conforms to the judgment of the District Court.

Source: This Rule is derived in part from former Rule 1314 and in part new.

MARYLAND RULES OF PROCEDURE

TITLE 15 - OTHER SPECIAL PROCEEDINGS

CHAPTER 1000 - OTHER SPECIAL PROCEEDINGS

AMEND Rule 15-1001 to add a Committee note following section (a); to add to the cross reference following section (a) language concerning statutes of limitations; to reverse the order of sections (c) and (d); to add language to section (c) requiring a good faith and reasonably diligent effort with respect to identifying, locating, and naming plaintiffs; to add a specific form of notice to use plaintiffs; to change the procedure for service of the complaint and notice; to add new section (e) providing for a waiver by inaction; to add new section (f) concerning use plaintiffs identified after a complaint is filed; and generally to implement holdings of the Court in *University of Md. Medical Systems v. Muti*, \_\_\_ Md. \_\_\_ (2012), as follows:

Rule 15-1001. WRONGFUL DEATH

(a) Applicability

This Rule applies to an action involving a claim for damages for wrongful death.

Committee note: Under Code, Courts Article, §3-903 (a), if the wrongful act causing the decedent's death occurred in the District of Columbia or in another State or territory of the United States, a Maryland court must apply the substantive law of that jurisdiction. Under Code, Courts Article, §3-903 (b), however, a Maryland court must apply the Maryland Rules of pleading and procedure. This Rule sets forth the pleading and procedural requirements particularly applicable to a wrongful death action filed in a Maryland court.

Cross reference: See Code, Courts Article, §§3-901 through 3-904, relating to wrongful death claims generally. See Code, Courts Article, §3-905 (g) for the statute of limitations generally and §5-201 (a) for statutes of limitations as to wrongful death claims involving minors, individuals under a disability, and actions arising from criminal homicide. See Code, Courts Article, §5-806, relating to wrongful death claims between parents and children arising out of the operation of a motor vehicle. See also Code, Labor and Employment Article, §9-901 et seq. relating to wrongful death claims when workers' compensation may also be available, and Code, Insurance Article, §20-601, relating to certain wrongful death claims against the Maryland Automobile Insurance Fund. See also Code, Estates and Trusts Article, §8-103, relating to the limitation on presentation of claims against a decedent's estate.

(b) Required Plaintiffs

~~If the wrongful act occurred in this State, all~~ All persons who are or may be entitled by law to claim damages by reason of the wrongful death shall be named as plaintiffs whether or not they join in the action. The words "to the use of" shall precede the name of any person named as a plaintiff who does not join in the action.

~~(d)~~ (c) Complaint

~~In addition to complying with Rules 2-303 through 2-305,~~ The complaint shall state (1) the relationship of each plaintiff to the decedent whose death is alleged to have been caused by the wrongful act-, (2) the last known address of each use plaintiff, and (3) that the party bringing the action conducted a good faith and reasonably diligent effort to identify, locate, and name as use plaintiffs all individuals who might qualify as use plaintiffs. The court may not dismiss a complaint for failure to join all use plaintiffs if the court finds that the party bringing the action made such a good faith

and reasonably diligent effort.

~~(c)~~ (d) Notice to Use Plaintiff

The party bringing the action shall ~~mail~~ serve a copy of the complaint ~~by certified mail to any use plaintiff at the use plaintiff's last known address. Proof of mailing shall be filed as provided in Rule 2-126.~~ on each use plaintiff pursuant to Rule 2-121. The complaint shall be accompanied by a notice in substantially the following form:

[Caption of case]

NOTICE TO [Name of Use Plaintiff]

You may have a right under Maryland law to claim an award of damages in this action. You should consult Maryland Code, §3-904 of the Courts Article for eligibility requirements. Only one action on behalf of all individuals entitled to make a claim is permitted. If you decide to make a claim, you must file with the clerk of the court in which this action is pending a motion to intervene in the action in accordance with the Maryland Rules no later than the earlier of (1) the applicable deadline stated in §3-904 (g) and §5-201 (a) of the Courts Article ["the statutory deadline"] or (2) 30 days after being served with the complaint and this Notice if you reside in Maryland, 60 days after being served if you reside elsewhere in the United States, or 90 days after being served if you reside outside of the United States ["the served notice deadline"]. You may represent yourself, or you may obtain an attorney to represent you. If the court does

not receive your written motion to intervene by the earlier of the applicable deadlines, the court may find that you have lost your right to participate in the action and claim any recovery.

(e) Waiver by Inaction

(1) Definitions

In this section and in section (f) of this Rule, "statutory deadline" means the applicable deadline stated in Code, Courts Article, §3-904 (g) and §5-201 (a), and "served notice deadline" means the additional applicable deadline stated in the notice given pursuant to section (d) of this Rule.

(2) Failure to Satisfy Statutory Time Requirements

An individual who fails to file a complaint or motion to intervene by the statutory deadline may not participate in the action or claim a recovery.

(3) Other Late Filing

If a use plaintiff who is served with a complaint and notice in accordance with section (d) of this Rule does not file a motion to intervene by the served notice deadline, the use plaintiff may not participate in the action or claim any recovery unless, for good cause shown, the court excuses the late filing. The court may not excuse the late filing if the statutory deadline is not met.

(f) Subsequently Identified Use Plaintiff

Notwithstanding any time limitations contained in Rule 2-341 or in a scheduling order entered pursuant to Rule 2-504, if, despite conducting a good faith and reasonably diligent

effort to identify, locate, and name all use plaintiffs, an individual entitled to be named as a use plaintiff is not identified until after the complaint is filed, but is identified by the statutory deadline, the newly identified use plaintiff shall be added by amendment to the complaint as soon as practicable and served in accordance with section (d) of this Rule and Rule 2-341 (d).

Source: This Rule is derived as follows:

Section (a) is derived from former Rule Q40.

Section (b) is derived from former Rule Q41 a.

Section ~~(d)~~ (c) is derived in part from former Rule Q42 and is in part new.

Section ~~(c)~~ (d) is new.

Section (e) is new.

Section (f) is new.

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Rule 4 to expand the Board's discretion to waive the requirements of Bar Admission Rules 3 and 4 (a) (2) under certain circumstances and to make stylistic changes, as follows:

Rule 4. ELIGIBILITY TO TAKE BAR EXAMINATION

(a) Legal Education

(1) In order to take the bar examination of this State an ~~person~~ individual either shall have graduated or shall be unqualifiedly eligible for graduation from a law school.

(2) The law school shall be located in a state and shall be approved by the American Bar Association.

(b) Waiver

The Board shall have discretion to waive the requirements of subsection (a) (2) of this Rule and Rule 3 for any ~~person~~ individual who, in the Board's opinion, is qualified by reason of education, experience, or both to take the bar examination and:

(1) has passed the bar examination of another state and is a member in good standing of the Bar of that state; or

(2) is admitted to practice in a jurisdiction that is not defined as a state by Rule 1 and has obtained an additional degree from an American Bar Association approved law school in Maryland that meets the requirements prescribed by the Board Rules.



(c) Minors

If otherwise qualified, ~~an~~ person individual who is under 18 years of age is eligible to take the bar examination but shall not be admitted to the Bar until 18 years of age.

Source: This Rule is derived as follows:

Section (a) is derived from former Rule 5 b.

Section (b) is derived from former Rule 5 c.

Section (c) is derived from former Rule 5 d.

MARYLAND RULES OF PROCEDURE

RULES GOVERNING ADMISSION TO THE BAR OF MARYLAND

AMEND Rule 19 of the Rules Governing Admission to the Bar of Maryland to add to subsection (c) (7) language regarding the disclosure of applicant information to bar associations and to make stylistic changes, as follows:

Rule 19. CONFIDENTIALITY

. . .

(c) When Disclosure Authorized

The Board may disclose:

(1) statistical information that does not reveal the identity of an individual applicant;

(2) the fact that an applicant has passed the bar examination and the date of the examination;

(3) any material pertaining to an applicant that the applicant would be entitled to inspect under section (b) of this Rule if the applicant has consented in writing to the disclosure;

(4) any material pertaining to an applicant requested by  
(A) a court of this State, another state, or the United States;

(B) Bar Counsel, the Attorney Grievance Commission, or the attorney disciplinary authority in another state;

(C) the authority in another jurisdiction responsible for investigating the character and fitness of an applicant for

admission to the bar of that jurisdiction, or

(D) Investigative Counsel, the Commission on Judicial Disabilities, or the judicial disciplinary authority in another jurisdiction for use in:

(i) a pending disciplinary proceeding against the applicant as an attorney or judge;

(ii) a pending proceeding for reinstatement of the applicant as an attorney after disbarment; or

(iii) a pending proceeding for original admission of the applicant to the Bar;

(5) any material pertaining to an applicant requested by a judicial nominating commission or the Governor of this State, a committee of the Senate of Maryland, or a committee of the United States Senate in connection with an application by or nomination of the applicant for judicial office;

(6) to a law school, the names of persons who graduated from that law school who took a bar examination and whether they passed or failed the examination;

(7) to the Maryland State Bar Association and any other bona fide bar association in the State of Maryland ~~and to each entity selected to give the course on legal professionalism required by Rule 11,~~ the name and address of a person recommended for bar admission pursuant to Rule 10;

(8) to each entity selected to give the course on legal professionalism required by Rule 11, the name and address of a person recommended for bar admission pursuant to Rule 10;

~~(8)~~ (9) to the National Conference of Bar Examiners, the following information regarding persons who have filed applications for admission pursuant to Rule 2 or petitions to take the attorney's examination pursuant to Rule 13: the applicant's name and aliases, applicant number, birthdate, Law School Admission Council number, law school, date that a juris doctor degree was conferred, bar examination results and pass/fail status, and the number of bar examination attempts;

~~(9)~~ (10) to any member of a Character Committee, the report of any Character Committee or the Board following a hearing on an application; and

~~(10)~~ (11) to the Child Support Enforcement Administration, upon its request, the name, Social Security number, and address of a person who has filed an application pursuant to Rule 2 or a petition to take the attorney's examination pursuant to Rule 13.

Unless information disclosed pursuant to paragraphs (4) and (5) of this section is disclosed with the written consent of the applicant, an applicant shall receive a copy of the information and may rebut, in writing, any matter contained in it. Upon receipt of a written rebuttal, the Board shall forward a copy to the person or entity to whom the information was disclosed.

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