

MARYLAND BAR EXAMINATION  
BOARD'S ESSAY TEST

February 21, 2006

**EXTRACT for QUESTION 3**

**THIS EXTRACT IS TO BE USED FOR QUESTION 3 OF THE BOARD'S ESSAY TEST. THIS EXTRACT CONTAINS SELECTED PROVISIONS OF THE THE ANNOTATED CODE OF MARYLAND, COURTS AND JUDICIAL PROCEEDINGS ARTICLE, TITLE 6. PERSONAL JURISDICTION, VENUE, PROCESS AND PRACTICE, AND THE MARYLAND RULES, TITLE 2. CIVIL PROCEDURE – CIRCUIT COURT.**

**Note: Asterisks (\*\*\*) indicate places where material contained in the Annotated Code has been omitted from this extract.**

MARYLAND ANNOTATED CODE  
COURTS AND JUDICIAL PROCEEDINGS

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**TITLE 6. PERSONAL JURISDICTION, VENUE, PROCESS AND PRACTICE**

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*Subtitle 1. Bases of Personal Jurisdiction*

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**Section 6-102. Persons Domiciled in, organized under laws of, or maintaining principal place of business in State.**

a) A court may exercise personal jurisdiction as to any cause of action over a person domiciled in, served with process in, organized under the laws of, or who maintains his principal place of business in the State.

(b) This section does not limit any other basis of personal jurisdiction of a court of the State.

**Section 6-103, Conduct in State; tortious injury.**

(a) If jurisdiction over a person is based solely upon this section, he may be sued only on a cause of action arising from any act enumerated in this section.

(b) A court may exercise personal jurisdiction over a person, who directly or by an agent:

(1) Transacts any business or performs any character of work or service in the State;

(2) Contracts to supply goods, food, services, or manufactured products in the State;

(3) Causes tortious injury in the State by an act or omission in the State;

(4) Causes tortious injury in the State or outside of the State by an act or omission outside the State if he regularly does or solicits business, engages in any other persistent course of conduct in the State or derives substantial revenue from goods, food, services, or manufactured products used or consumed in the State;

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*Subtitle 2. Venue*

**Section 6-201. In general.**

(a) Subject to the provisions of §§ 6-202 . . . and unless otherwise provided by law, a civil action shall be brought in a county where the defendant resides, carries on a regular business, is employed, or habitually engages in a vocation. In addition, a corporation also may be sued where it maintains its principal offices in the State.

(b) If there is more than one defendant, and there is no single venue applicable to all defendants, under subsection (a), all may be sued in a county in which any one of them could be sued, or in the county where the cause of action arose.

**Section 6-202. Additional Venue Permitted.**

In addition to the venue provided in § 6-201 . . . , the following actions may be brought in the indicated county:

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(8) Tort action based on negligence – Where the cause of action arose;

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(11) Action for damages against a nonresident individual – Any county in the State;

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**MARYLAND RULES**

**TITLE 2. CIVIL PROCEDURE - CIRCUIT COURT**

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**CHAPTER 300. PLEADINGS AND MOTIONS.**

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**Rule 2-321. Time for Filing Answer.**

(a) *General Rule.* A party shall file an answer to an original complaint, counterclaim, cross-claim, or third-party claim within 30 days after being served, except as provided by sections (b) and (c) of this Rule.

(b) *Exceptions.*

(1) A defendant who is served with an original pleading outside of the State but within the United States shall file an answer within 60 days after being served.

\* \* \*

(5) A defendant who is served with an original pleading outside of the United States shall file an answer within 90 days after being served.

(6) If rules for special proceedings, or statutes of this State or of the United States, provide for a different time to answer, the answer shall be filed as provided by those rules or statutes.

(c) *Automatic Extension.* When a motion is filed pursuant to Rule 2-322, the time for filing an answer is extended without special order to 15 days after entry of the court's order on the motion or, if the court grants a motion for a more definite statement, to 15 days after the service of the more definite statement.

**Rule 2-322. Preliminary Motions.**

(a) *Mandatory.* The following defenses shall be made by motion to dismiss filed before the answer, if an answer is required; (1) lack of jurisdiction over the person, (2) improper venue, (3) insufficiency of process, and (4) insufficiency of service of process. If not so made and the answer is filed, these defenses are waived.

(b) *Permissive.* The following defenses may be made by motion to dismiss filed before the answer, if an answer is required: (1) lack of jurisdiction over the subject matter, (2) failure to state a claim upon which relief can be granted, (3) failure to join a party under Rule 2-211, (4) discharge in bankruptcy, and (5) governmental immunity. If not so made, these defenses and objections may be made in the answer, or in any other appropriate manner after answer is filed.

(c) *Disposition.* A motion under sections (a) and (b) of this Rule shall be determined before trial, except that a court may defer the determination of the defense of failure to state a claim upon which relief can be granted until the trial. In disposing of the motion, the court may dismiss the action or grant such lesser or different relief as may be appropriate.

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(f) *Consolidation of Defenses in Motion.* A party who makes a motion under this Rule may join with it any other motions then available to the party. No defense or objection raised pursuant to this Rule is waived by being joined with one or more other such defenses or objections in a motion under this Rule. If a party makes a motion under this Rule but omits any defense or objection then available to the party that this Rule permits to be raised by motion, the party shall not thereafter make a motion based on the defenses or objections so omitted except as provided in Rule 2-324.

**Rule 2-323. Answer.**

(a) *Content.* A claim for relief is brought to issue by filing an answer. Every defense of law or fact to a claim for relief in a complaint, counterclaim, cross-claim, or third-party claim shall be asserted in an answer, except as provided by Rule 2-322. If a pleading setting forth a claim for relief does not require a responsive pleading, the adverse party may assert at the trial any defense of law or fact to that claim for relief. The answer shall be stated in short and plain terms and shall contain the following: (1) the defenses permitted by Rule 2-322 (b) that have not been raised by motion, (2) answers to the averments of the claim for relief pursuant to section (c) or (d) of this Rule, and (3) the defenses enumerated in sections (f) and (g) of this Rule.

(b) *Preliminary Determination.* The defenses of lack of jurisdiction over the subject matter, failure to state a claim upon which relief can be granted, failure to join a party under Rule 2-211, and governmental immunity shall be determined before trial on application of any party, except that the court may defer the determination of the defense of failure to state a claim upon which relief can be granted until the trial.

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**(END OF EXTRACT)**

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**EXTRACT for QUESTION 9**

**THIS EXTRACT IS TO BE USED FOR QUESTION 9 OF THE BOARD'S ESSAY TEST. THIS EXTRACT CONTAINS SELECTED PROVISIONS OF THE ANNOTATED CODE OF MARYLAND, COMMERCIAL LAW ARTICLE, TITLE 4. BANK DEPOSITS AND COLLECTIONS.**

**Note: Asterisks (\*\*\*) indicate places where material contained in the Annotated Code has been omitted from this extract.**

ANNOTATED CODE OF MARYLAND  
COMMERCIAL LAW

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**TITLE 4. BANK DEPOSITS AND COLLECTIONS**

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*Subtitle 4 Relationship Between Payor Bank and Its Customer.*

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**§ 4-401. When bank may charge customer's account**

(a) A bank may charge against the account of a customer an item that is properly payable from that account even though the charge creates an overdraft. Any item is properly payable if it is authorized by the customer and is in accordance with any agreement between the customer and bank.

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**§ 4-406. Customer's duty to discover and report unauthorized signature or alteration; comparative fault**

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(c) If a bank sends or makes available a statement of account or items pursuant to subsection (a), the customer must exercise reasonable promptness in examining the statement or the items to determine whether any payment was

not authorized because of an alteration of an item or because a purported signature by or on behalf of the customer was not authorized. If, based on the statement or items provided, the customer should reasonably have discovered the unauthorized payment, the customer must promptly notify the bank of the relevant facts.

(d) If the bank proves that the customer failed, with respect to an item, to comply with the duties imposed on the customer by subsection (c) the customer is precluded from asserting against the bank:

(1) The customer's unauthorized signature of the customer or any alteration on the item, if the bank also proves that it suffered a loss by reason of the failure; and

\* \* \*

(e) If subsection (d) applies and the customer proves that the bank failed to exercise ordinary care in paying the item and that the failure substantially contributed to loss, the loss is allocated between the customer precluded and the bank asserting the preclusion according to the extent to which the failure of the customer to comply with subsection (c) and the failure of the bank to exercise ordinary care contributed to the loss. If the customer proves that the bank did not pay the item in good faith, the preclusion under subsection (d) does not apply.

(f) Without regard to care or lack of care of either the customer or the bank, a customer who does not within 12 months after the statement or items are made available to the customer (subsection (a)) discover and report the customer's unauthorized signature on or any alteration on the item is precluded from asserting against the bank the unauthorized signature or alteration. If there is a preclusion under this subsection, the payor bank may not recover for breach of warranty under § 4-208 with respect to the unauthorized signature or alteration to which the preclusion applies.

**(END OF EXTRACT)**