

EXTRACT FOR QUESTION 6

THIS EXTRACT IS TO BE USED FOR QUESTION 6 OF THE BOARD'S WRITTEN TEST. THIS EXTRACT CONTAINS SELECTED PROVISIONS OF THE ANNOTATED CODE OF MARYLAND, COURTS AND JUDICIAL PROCEEDINGS ARTICLE, TITLE 4. DISTRICT COURT JURISDICTION; AND MARYLAND RULES TITLE 3. CIVIL PROCEDURE- DISTRICT COURT.

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

ANNOTATED CODE OF MARYLAND COURTS AND JUDICIAL PROCEEDINGS ARTICLE

TITLE 4. DISTRICT COURT -- JURISDICTION

Subtitle 4. Civil Jurisdiction.

§ 4-401. Exclusive original jurisdiction.

Except as provided in § 4-402 of this subtitle, and subject to the venue provisions of Title 6 of this article, the District Court has exclusive original civil jurisdiction in:

(1) An action in contract or tort, if the debt or damages claimed do not exceed \$ 30,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract;

(2) An action of replevin, regardless of the value of the thing in controversy;

(3) A matter of attachment before judgment, if the sum claimed does not exceed \$ 30,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract;

(4) An action involving landlord and tenant, distraint, or wrongful detainer, regardless of the amount involved;

(5) A grantee suit brought under § 14-109 of the Real Property Article;

(6) A petition for injunction relating to the use, disposition, encumbrances, or preservation of property that is:

(i) Claimed in a replevin action, until seizure under the writ; or

(ii) Sought to be levied upon in an action of distress, until levy and any removal;

(7) A petition of injunction filed by:

(i) A tenant in an action under § 8-211 of the Real Property Article or a local rent escrow law; or

(ii) A person who brings an action under § 14-120, § 14-125.1, or § 14-125.2 of the Real

Property Article;

(8) A petition filed by a county or municipality, including Baltimore City, for enforcement of local health, housing, fire, building, electric, licenses and permits, plumbing, animal control, consumer protection, and zoning codes for which equitable relief is provided;

(9) Proceedings under Title 12 or Title 13 of the Criminal Procedure Article for the forfeiture or return of moneys involved in a gambling or controlled dangerous substances seizure where the amount involved, excluding any interest and attorney's fees, if attorney's fees are recoverable by law or contract, does not exceed \$ 20,000;

(10) A proceeding for adjudication of:

(i) A municipal infraction as defined in Article 23A, § 3(b)(1) of the Code;

(ii) A Commission infraction as defined in Article 28, § 5-113 of the Code;

(iii) A Washington Suburban Sanitary Commission infraction under § 29-102 of the Public Utilities Article, concerning rules and regulations governing publicly owned watershed property;

(iv) A Washington Suburban Sanitary Commission infraction under § 29-101 of the Public Utilities Article, concerning Washington Suburban Sanitary Commission regulations governing:

1. Erosion and sediment control for utility construction;

2. Plumbing, gas fitting, and sewer cleaning;

3. Required permits for utility construction; and

4. The Washington Suburban Sanitary Commission Pretreatment Program;

(v) A zoning violation for which a civil penalty has been provided pursuant to Article 66B, § 7.02 or Article 28, § 8-120(c) of the Code;

(vi) A violation of an ordinance enacted:

1. By a charter county for which a civil penalty is provided under Article 25A, § 5(A) of the Code;

2. By the Mayor and City Council of Baltimore for which a civil penalty is provided by ordinance; or

3. By a code county for which a civil citation is issued under Article 25B, § 13C-1 of the Code;

(vii) A citation for a Code violation issued under § 10-119 of the Criminal Law Article;

(viii) A civil infraction relating to a violation of the campaign finance laws under § 13-604 of the Election Law Article;

(ix) A violation of an ordinance or regulation enacted by a county without home rule, under authority granted under Article 25 of the Code, or any provision of the Code of Public Local Laws for that county, for which a civil penalty is provided;

(x) A civil infraction that is authorized by law to be prosecuted by a sanitary commission;

(xi) A subdivision violation for which a civil penalty has been provided in accordance with Article 66B, § 14.07(f) of the Code;

(xii) A violation under Title 10, Subtitle 1, Part III of the Criminal Law Article; or

(xiii) A civil infraction relating to the storage or distribution of tobacco products under Article 24, Title 15 of the Code;

(11) A proceeding for adjudication of a civil penalty for any violation under § 5-1001 of the Environment Article, § 15-113, § 15-113.1, § 21-1122, or § 21-1414 of the Transportation Article, or § 14-304 of the Public Safety Article, or any rule or regulation issued pursuant to those sections;

(12) A proceeding to enforce a civil penalty assessed by the Maryland Division of Labor and Industry under Title 5 of the Labor and Employment Article where the amount involved does not

exceed \$ 20,000;

(13) A proceeding for a civil infraction under § 21-202.1, § 21-704.1, § 21-706.1, § 21-809, or § 21-810 of the Transportation Article or § 10-112 of the Criminal Law Article;

(14) A proceeding for a temporary peace order or a final peace order under Title 3, Subtitle 15 of this article;

(15) A proceeding for condemnation and immediate possession of and title to abandoned, blighted, distressed, and deteriorated property under authority granted in the Code of Public Local Laws of a county, including Baltimore City, where the estimated value of the property does not exceed \$ 25,000;

(16) A proceeding for a replacement motor vehicle under § 14-1502(c)(1)(i) of the Commercial Law Article;

(17) An action for damages for a dishonored check or other instrument under Title 15, Subtitle 8 of the Commercial Law Article, regardless of the amount in controversy; and

(18) A civil action for an injunction or for a civil penalty for a violation of § 8-605(f) of the Transportation Article.

§ 4-402. Exceptions.

(a) *Equity cases.* -- Except as provided in §§ 4-401 and 4-404 of this subtitle, the District Court does not have equity jurisdiction.

(b) *Land title cases.* -- Except as provided in § 4-401 of this subtitle, the District Court does not have jurisdiction to decide the ownership of real property or of an interest in real property.

(c) *Declaratory judgment cases.* -- The District Court does not have jurisdiction to render a declaratory judgment.

(d) *Concurrent jurisdiction cases.* -- (1) (i) Except in a case under paragraph (2), (4), (5), or (6) of § 4-401 of this subtitle, the plaintiff may elect to file suit in the District Court or in a trial court of general jurisdiction, if the amount in controversy exceeds \$ 5,000, exclusive of prejudgment or postjudgment interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract.

(ii) In the case of a class action, the separate claims of the proposed members of the class may be aggregated to meet the minimum amount in controversy required under subparagraph (i) of this paragraph.

(2) In a case under § 4-401(7) or (8) of this subtitle, the plaintiff may elect to file a petition for injunctive relief either in the District Court or the circuit court.

(3) In a case under § 4-401(16) of this subtitle, the plaintiff may elect to file a claim for a replacement motor vehicle in either the District Court or the circuit court.

(e) *Jury trial.* -- (1) In a civil action in which the amount in controversy does not exceed \$ 15,000, exclusive of attorney's fees if attorney's fees are recoverable by law or contract, a party may not demand a jury trial pursuant to the Maryland Rules.

(2) Except in a replevin action, if a party is entitled to and files a timely demand, in accordance with the Maryland Rules, for a jury trial, jurisdiction is transferred forthwith and the record of the proceeding shall be transmitted to the appropriate court. In a replevin action, if a party is entitled to and files a timely demand for a jury trial, the District Court may conduct a hearing on the show-cause order prior to issuing the writ, enforce an injunction issued by it in the action, and issue, renew, and receive returns upon the writ of replevin. The action shall be transmitted to the appropriate court only after the writ has been returned, stating that the property

sought has been seized or elojned, and the time for filing a notice of intention to defend has expired.

(f) *Dishonored check or other instrument.* -- If the amount in controversy in an action for damages for a dishonored check or other instrument under § 4-401(17) of this subtitle exceeds \$ 25,000, the defendant is entitled to transfer the action from the District Court to an appropriate circuit court by filing a timely demand as prescribed under the Maryland Rules.

**ANNOTATED CODE OF MARYLAND
MARYLAND RULES**

**TITLE 3. CIVIL PROCEDURE -- DISTRICT COURT
CHAPTER 100. COMMENCEMENT OF ACTION AND PROCESS.**

Rule 3-124. Process -- Persons to be served.

(a) **Statutes not abrogated.** The provisions of this Rule do not abrogate any statute permitting or requiring service on a person.

(b) **Individual.** Service is made upon an individual by serving the individual or an agent authorized by appointment or by law to receive service of process for the individual.

(c) **Individual under disability.** Service is made upon an individual under disability by serving the individual and, in addition, by serving the parent, guardian, or other person having care or custody of the person or estate of the individual under disability.

(d) **Corporation.** Service is made upon a corporation, incorporated association, or joint stock company by serving its resident agent, president, secretary, or treasurer. If the corporation, incorporated association, or joint stock company has no resident agent or if a good faith attempt to serve the resident agent, president, secretary, or treasurer has failed, service may be made by serving the manager, any director, vice president, assistant secretary, assistant treasurer, or other person expressly or impliedly authorized to receive service of process.

(e) **General partnership.** Service made upon a general partnership sued in its group name in an action pursuant to Code, Courts Article, § 6-406 by serving any general partner.

(f) **Limited partnership.** Service is made upon a limited partnership by serving its resident agent. If the limited partnership has no resident agent or if a good faith attempt to serve the resident agent has failed, service may be made upon any general partner or other person expressly or impliedly authorized to receive service of process.

(g) **Limited liability partnership.** Service is made upon a limited liability partnership by serving its resident agent. If the limited liability partnership has no resident agent or if a good faith attempt to serve the resident agent has failed, service may be made upon any other person expressly or impliedly authorized to receive service of process.

(h) **Limited liability company.** Service is made upon a limited liability company by serving its resident agent. If the limited liability company has no resident agent or if a good faith attempt to serve the resident agent has failed, service may be made upon any member or other person

expressly or impliedly authorized to receive service of process.

(i) **Unincorporated association.** Service is made upon an unincorporated association sued in its group name pursuant to Code, Courts Article, § 6-406 by serving any officer or member of its governing board. If there are no officers or if the association has no governing board, service may be made upon any member of the association.

(j) **State of Maryland.** Service is made upon the State of Maryland by serving the Attorney General or an individual designated by the Attorney General in a writing filed with the Clerk of the Court of Appeals. In any action attacking the validity of an order of an officer or agency of this State not made a party, the officer or agency shall also be served.

(k) **Officer or agency of the State of Maryland.** Service is made on an officer or agency of the State of Maryland by serving (1) the resident agent designated by the officer or agency, or (2) the Attorney General or an individual designated by the Attorney General in a writing filed with the Clerk of the Court of Appeals. If service is made on the Attorney General or a designee of the Attorney General and the officer or agency is not ordinarily represented by the Attorney General, the Attorney General or designee promptly shall forward the process and papers to the appropriate officer or agency.

(l) **Local entity.** Service is made on a county, municipal corporation, bicounty or multicounty agency, public authority, special taxing district, or other political subdivision or unit of a political subdivision of the State by serving the resident agent designated by the local entity. If the local entity has no resident agent or if a good faith effort to serve the resident agent has failed, service may be made by serving the chief executive or presiding officer or, if there is no chief executive or presiding officer, by serving any member of the governing body.

(m) **United States.** Service is made upon the United States by serving the United States Attorney for the District of Maryland or an individual designated by the United States Attorney in a writing filed with the Chief Clerk of the court and by serving the Attorney General of the United States at Washington, District of Columbia. In any action attacking the validity of an order of an officer or agency of the United States not made a party, the officer or agency shall also be served.

(n) **Officer or agency of the United States.** Service is made upon an officer or agency of the United States, including a government corporation, by serving the United States and by serving the officer or agency.

(o) **Substituted service upon State Department of Assessments and Taxation.** Service may be made upon a corporation, limited partnership, limited liability partnership, limited liability company, or other entity required by statute of this State to have a resident agent by serving two copies of the summons, complaint, and all other papers filed with it, together with the requisite fee, upon the State Department of Assessments and Taxation if (i) the entity has no resident agent; (ii) the resident agent is dead or is no longer at the address for service of process maintained with the State Department of Assessments and Taxation; or (iii) two good faith attempts on separate days to serve the resident agent have failed.

CHAPTER 300. PLEADINGS AND MOTIONS

Rule 3-307. Notice of intention to defend.

(a) **To be filed with court -- When service not required.** The defendant, including a counter-defendant, cross-defendant, and third-party defendant, shall file with the court a notice of intention to defend which may include any explanation or ground of defense. When the defendant is represented by an attorney, the notice shall be served in accordance with Rule 1-321. A defendant not represented by an attorney need not serve the notice on any party.

(b) **Time for filing.** (1) Generally. Except as provided by subsection (b)(2) of this Rule, the notice shall be filed within 15 days after service of the complaint, counterclaim, cross-claim, or third-party claim.

(2) Exceptions. A defendant shall file the notice within 60 days after being served if the defendant is:

(A) served outside of the State;

(B) a person who is required by statute of this State to have a resident agent and who is served by service upon the State Department of Assessments and Taxation, the Insurance Commissioner, or some other agency of the State authorized by statute to receive process; or

(C) the United States or an officer or agency of the United States served pursuant to Rule 3-124 (m) or (n).

(c) **Identity of attorney.** If the defendant is represented by an attorney, the notice shall contain the attorney's name, office address and telephone number.

(d) **Notice to parties.** When the defendant files a notice pursuant to this Rule, the clerk promptly shall mail notice of the filing to other parties.

(e) **Effect of failure to file notice.** If a defendant fails to file a timely notice of intention to defend pursuant to this Rule, the court, on the date set for trial, may determine liability and assess damages based on ex parte proof by the plaintiff, unless the defendant appears and the court is satisfied that the defendant may have a defense to the claim. In that event, the court shall proceed with trial or, upon request of the plaintiff, may grant a continuance for a time sufficient to allow the plaintiff to prepare for trial on the merits.

Rule 3-325. Jury trial.

(a) **Demand -- Time for filing.** (1) By plaintiff. A plaintiff whose claim is within the exclusive jurisdiction of the District Court may elect a trial by jury of any action triable of right by a jury by filing with the complaint a separate written demand therefor.

(2) By defendant. A defendant, counter-defendant, cross-defendant, or third-party defendant may elect a trial by jury of any action triable of right by a jury by filing a separate written demand therefor within ten days after the time for filing a notice of intention to defend.

(b) **Waiver.** The failure of a party to file the demand as provided in section (a) of this Rule constitutes a waiver of trial by jury of the action for all purposes, including trial on appeal.

(c) **Transmittal of record to circuit court.** When a timely demand for jury trial is filed, the clerk shall transmit the record to the circuit court within 15 days. At any time before the record is transmitted pursuant to this section, the District Court may determine, on motion or on its own initiative, that the demand for jury trial was not timely filed or that the action is not triable of right by a jury.

Rule 3-332. Third-party practice.

(a) **Defendant's claim against third party.** A defendant, as a third-party plaintiff, may cause a summons and complaint, together with a copy of all pleadings, scheduling notices, court orders, and other papers previously filed in the action, to be served upon a person not a party to the action who is or may be liable to the defendant for all or part of a plaintiff's claim against the defendant. A person so served becomes a third-party defendant.

(b) **Response by third party.** A third-party defendant shall file a notice of intention to defend pursuant to Rule 3-307 and may assert counterclaims against the third-party plaintiff and cross-claims against other third-party defendants as provided by Rule 3-331. The third-party defendant may assert against the plaintiff any defenses that the third-party plaintiff has to the plaintiff's claim. The third-party defendant may also assert any claim against the plaintiff arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff.

(c) **Plaintiff's claim against third party.** The plaintiff shall assert any claim against the third-party defendant arising out of the transaction or occurrence that is the subject matter of the plaintiff's claim against the third-party plaintiff, and the third-party defendant thereupon shall file a notice of intention to defend pursuant to Rule 3-307 and may assert counterclaims and cross-claims as provided by Rule 3-331. If the plaintiff fails to assert any such claim against the third-party defendant, the plaintiff may not thereafter assert that claim in a separate action instituted after the third-party defendant has been impleaded. This section does not apply when a third-party claim has been stricken pursuant to section (e) of this Rule.

(d) **Additional parties.** A third-party defendant may proceed under this Rule against any person who is or may be liable to the third-party defendant for all or part of the claim made in the pending action. When a counterclaim is asserted against a plaintiff, the plaintiff may cause a third party to be brought in under circumstances that would entitle a defendant to do so under this Rule.

(e) **Time for filing.** A defendant may file a third-party claim at any time before ten days of the scheduled trial date. Within ten days of the scheduled trial date or after trial has commenced, a defendant may file a third-party claim only with the consent of the plaintiff or by order of court.

(END OF EXTRACT)