

**MARYLAND BAR EXAMINATION
BOARD'S WRITTEN TEST**

February 24, 2015

EXTRACT FOR QUESTION 5

THIS EXTRACT IS TO BE USED FOR QUESTION 5 OF THE BOARD'S WRITTEN TEST. THIS EXTRACT CONTAINS SELECTED PROVISIONS OF THE MARYLAND ANNOTATED CODE, COURTS & JUDICIAL PROCEEDINGS ARTICLE AND THE MARYLAND RULES, TITLE 3. CIVIL PROCEDURE – DISTRICT COURT.

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

**ANNOTATED CODE OF MARYLAND
COURTS AND JUDICIAL PROCEEDINGS**

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TITLE 6. PERSONAL JURISDICTION, VENUE, PROCESS AND PRACTICE

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SUBTITLE 2. VENUE

§ 6-201. General rule

(a) Civil actions. -- Subject to the provisions of §§ 6-202 and 6-203 of this subtitle 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) Multiple defendants. -- If there is more than one defendant, and there is no single venue applicable to all defendants, under subsection (a) of this section, 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.

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**ANNOTATED CODE OF MARYLAND
MARYLAND RULES**

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

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Rule 3-131. Appearance

(a) By an attorney or in proper person. Except as otherwise provided by rule or statute: (1) an individual may enter an appearance by an attorney or in proper person and (2) a person other than an individual may enter an appearance only by an attorney.

(b) How entered. An appearance may be entered by filing a pleading, motion, or notice of intention to defend, by filing a written request for the entry of an appearance, or, if the court permits, by orally requesting the entry of an appearance in open court.

(c) Effect. The entry of an appearance is not a waiver of the right to assert any defense in accordance with these rules. Special appearances are abolished.

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CHAPTER 300. PLEADINGS AND MOTIONS

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Rule 3-326. Dismissal or transfer of action

(a) Improper venue. A defense of improper venue may be raised by motion before or at commencement of trial. If a court on motion or on its own initiative determines that venue is improper, it may dismiss the action or, if it determines that in the interest of justice the action should not be dismissed, it may transfer the action to any county in which it could have been brought.

(b) Convenience of the parties and witnesses. On motion of any party, the court may transfer any action to any other county where the action might have been brought if the transfer is for the convenience of the parties and witnesses and serves the interests of justice.

(c) Domestic violence action.

(1) In an action under Code, Family Law Article, Title 4, Subtitle 5, after entering a temporary protective order, the District Court, on motion or on its own initiative, may transfer the action to a circuit court for the final protective order hearing if, after inquiry, the District Court finds that (A) there is an action in the circuit court involving one or more of the parties in which there is an existing order or request for relief similar to that being sought in the District Court and (B) in the interests of justice, the action should be heard in the circuit court.

(2) In determining whether a hearing in the circuit court is in the interests of justice, the Court shall consider (A) the safety of each person eligible for relief, (B) the convenience of the parties, (C) the pendency of other actions involving the parties or children of the parties in one of the courts, (D) whether a transfer will result in undue delay, (E) the services that may be available in or through each court, and (F) the efficient operation of the courts.

(3) The consent of the parties is not required for a transfer under this section.

(4) After the action is transferred, the circuit court has jurisdiction for the purposes of enforcing and extending the temporary protective order as allowed by law.

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(d) Action for dishonored check.

(1) Transfer to circuit court. In an action for damages exceeding \$ 25,000 for a dishonored check or other instrument pursuant to Code, Commercial Law Article, § 15-802, the District Court shall transfer the action to an appropriate circuit court upon a separate written demand filed by a defendant within 10 days after the time for filing a notice of intention to defend pursuant to Rule 3-307. Failure to file a timely demand constitutes a waiver of the right to transfer the case to a circuit court.

(2) Transmittal of record to circuit court. When a timely demand 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 transfer was not timely filed or that the action was not entitled to be transferred pursuant to Code, Courts Article, § 4-402 (f).

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CHAPTER 500. TRIAL

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Rule 3-533. Motion for new trial

(a) Time for filing. Any party may file a motion for new trial within ten days after entry of judgment. A party whose judgment has been amended on a motion to amend the judgment may file a motion for new trial within ten days after entry of the amended judgment.

(b) Grounds. All grounds advanced in support of the motion shall be filed in writing within the time prescribed for the filing of the motion, and no other grounds shall thereafter be assigned without leave of court.

(c) Disposition. The court may set aside all or part of any judgment entered and grant a new trial to all or any of the parties and on all of the issues, or some of the issues if the issues are fairly severable. If a partial new trial is granted, the judge may direct the entry of judgment as to the remaining parties or issues or stay the entry of judgment until after the new trial.

(d) Costs. If a trial or appellate court has ordered the payment of costs as a part of its action in granting a new trial, the trial court may order all further proceedings stayed until the costs have been paid.

Rule 3-534. Motion to alter or amend a judgment

On motion of any party filed within ten days after entry of judgment, the court may open the judgment to receive additional evidence, may amend its findings or its statement of reasons for the decision, may set forth additional findings or reasons, may enter new findings or new reasons, may amend the judgment, or may enter a new judgment. A motion to alter or amend a judgment may be joined with a motion for new trial.

Rule 3-535. Revisory power

(a) Generally. On motion of any party filed within 30 days after entry of judgment, the court may exercise revisory power and control over the judgment and may take any action that it could have taken under Rule 3-534.

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(b) Fraud, mistake, irregularity. On motion of any party filed at any time, the court may exercise revisory power and control over the judgment in case of fraud, mistake, or irregularity.

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(c) Newly-discovered evidence. On motion of any party filed within 30 days after entry of judgment, the court may grant a new trial on the ground of newly-discovered evidence that could not have been discovered by due diligence in time to move for a new trial pursuant to Rule 3-533.

(d) Clerical mistakes. Clerical mistakes in judgments, orders, or other parts of the record may be corrected by the court at any time on its own initiative, or on motion of any party after such notice, if any, as the court orders. During the pendency of an appeal, such mistakes may be so corrected before the appeal is docketed by the appellate court, and thereafter with leave of the appellate court.

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CHAPTER 600. JUDGMENT

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Rule 3-621. Lien of money judgment

(a) Generally. A money judgment constitutes a lien in the amount of the judgment and post-judgment interest on the judgment debtor's interest in land located in a county, except as provided by law, only in accordance with this Rule.

(b) In Baltimore City. In Baltimore City a money judgment, when recorded and indexed pursuant to Rule 3-601 (d), constitutes a lien from the date of entry if entered in Baltimore City, or from the date of recording if received from another county.

(c) In counties other than Baltimore City.

(1) Notice of lien. A person holding a money judgment entered in a county other than Baltimore City may file with the clerk of the court of entry a request that a certified Notice of Lien of Judgment be transmitted for recording to the clerk of the circuit court for that county or any other county. Within 24 hours after the filing of the request, the clerk shall transmit the Notice of Lien. If the Notice of Lien is transmitted to another county, the clerk at the same time shall transmit a certified copy of the judgment to the clerk of the District Court sitting in that county. The clerk shall maintain a record of all transmittals.

(2) Content of notice. A Notice of Lien shall contain: (A) the names of the parties, designating each judgment creditor as a plaintiff and each judgment debtor as a defendant; (B) the name of the court and assigned docket reference; (C) the date of the judgment; and (D) the amount of the judgment.

(3) Date of lien. When a Notice of Lien is recorded and indexed in the circuit court, the judgment constitutes a lien from the date of recording.

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Rule 3-633. Discovery in aid of enforcement

(a) Methods. A judgment creditor may obtain discovery to aid enforcement of a money judgment (1) by use of interrogatories pursuant to Rule 3-421, and (2) by examination before a judge or an examiner as provided in section (b) of this Rule.

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(b) Examination before a judge or an examiner. On request of a judgment creditor, filed no earlier than 30 days after entry of a money judgment, the court where the judgment was entered or recorded may issue an order requiring the appearance for examination under oath before a judge or person authorized by the Chief Judge of the Court to serve as an examiner of (1) the judgment debtor, or (2) any other person if the court is satisfied by affidavit or other proof that it is probable that the person has property of the judgment debtor, is indebted for a sum certain to the judgment debtor, or has knowledge of any concealment, fraudulent transfer, or withholding of any assets belonging to the judgment debtor. The order shall specify when, where, and before whom the examination will be held and that failure to appear may result in the person served being held in contempt. The order shall be served upon the judgment debtor or other person in the manner provided by Rule 3-121. The judge or examiner may sequester persons to be examined, with the exception of the judgment debtor.

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(c) Subsequent examinations. After an examination of a defendant or other person has been held pursuant to section (b) of this Rule, the court may order a subsequent appearance for examination of that defendant or other person on request of the same judgment creditor only for good cause shown.

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TITLE 7. APPELLATE AND OTHER JUDICIAL REVIEW IN CIRCUIT COURT
CHAPTER 100. APPEALS FROM THE DISTRICT COURT TO THE CIRCUIT COURT

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Rule 7-102. Modes of appeal

(a) De novo. Except as provided in section (b) of this Rule, an appeal shall be tried de novo in all civil and criminal actions.

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(b) On the record. An appeal shall be heard on the record made in the District Court in the following cases:

(1) a civil action in which the amount in controversy exceeds \$ 5,000 exclusive of interest, costs, and attorney's fees if attorney's fees are recoverable by law or contract;

(2) any matter arising under § 4-401 (7) (ii) of the Courts Article;

(3) any civil or criminal action in which the parties so agree;

(4) an appeal from an order or judgment of direct criminal contempt if the sentence imposed by the District Court was less than 90 days' imprisonment; and

(5) an appeal by the State from a judgment quashing or dismissing a charging document or granting a motion to dismiss in a criminal case.

(END OF EXTRACT)

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