

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

**July 29, 2014**

**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 MARYLAND ANNOTATED CODE, COURTS & JUDICIAL PROCEEDINGS ARTICLE AND THE MARYLAND RULES, TITLE 2. CIVIL PROCEDURE – CIRCUIT 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 5. LIMITATIONS, PROHIBITED ACTIONS, AND IMMUNITIES**

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**SUBTITLE 1. LIMITATIONS**

**§ 5-101. Three-year limitation in general**

A civil action at law shall be filed within three years from the date it accrues unless another provision of the Code provides a different period of time within which an action shall be commenced.

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**ANNOTATED CODE OF MARYLAND  
MARYLAND RULES**

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

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**CHAPTER 100. COMMENCEMENT OF ACTION AND PROCESS**

**Rule 2-101. Commencement of action**

(a) Generally. A civil action is commenced by filing a complaint with a court.

(b) After Certain Dismissals by a United States District Court or a Court of Another State. Except as otherwise provided by statute, if an action is filed in a United States District Court or a court of another state within the period of limitations prescribed by Maryland law and that court enters an order of dismissal (1) for lack of jurisdiction, (2) because the court declines to exercise jurisdiction, or (3) because the action is barred by the statute of limitations required to be applied by that court, an action filed in a circuit court within 30 days after the entry of the order of dismissal shall be treated as timely filed in this State.

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(c) After Dismissal by the District Court of Maryland for Lack of Subject Matter Jurisdiction. If an action is filed in the District Court of Maryland within the period of limitations prescribed by Maryland law and the District Court dismisses the action for lack of subject matter jurisdiction, an action filed in a circuit court within 30 days after the entry of the order of dismissal shall be treated as timely filed in the circuit court.

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## CHAPTER 400. DISCOVERY

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### **Rule 2-404. Perpetuation of evidence**

(a) Before action instituted.

(1) Right to take. A person who may have an interest in an action that the person expects to be brought may perpetuate testimony or other evidence relevant to any claim or defense that may be asserted in the expected action in accordance with these rules. In applying these rules, a person who files or is served with a notice, request, or motion shall be deemed a "party" and references to the "court in which the action is pending" shall be deemed to refer to the court in which the notice, request, or motion is filed.

(2) Notice, request, motion. The notice of deposition required by Rule 2-412, the request for production of documents required by Rule 2-422, and the motion for mental or physical examination required by Rule 2-423 shall include a description of the subject matter of the expected action, a description of the person's interest in the expected action, the facts that the person desires to establish through the evidence to be perpetuated, the person's reasons for desiring to perpetuate the evidence, and, in the case of a deposition, the substance of the testimony that the person expects to elicit and a statement that any person served has a right to be present. The notice, request, or motion shall include a statement that the information sought may be used in a later action.

(3) Filing. The notice, request, or motion shall be filed in the circuit court in the county of residence of any expected resident adverse party. If the expected adverse party is not a resident of this State, the notice, request, or motion shall be filed in the circuit court in any county where venue of the expected action would be proper. The clerk shall index the notice, request, or motion under the name of the person seeking to perpetuate evidence as plaintiff and under the names of the persons served. All motions, responses, and orders of court shall be filed. Unless otherwise ordered by the court, if the person seeking to perpetuate evidence or any other person who may be interested in the matter requests, the deposition, the documents or other things produced, or any reports shall be filed under seal. The clerk shall make appropriate docket entries.

(4) Service. The notice, request, or motion shall be served in the manner provided by Chapter 100 of this Title for service of summons on each person against whom the testimony or other evidence is expected to be used and on any other interested person. If the court orders that service be made upon a person in accordance with Rule 2-122, the court may appoint an attorney to represent that person.

(5) Subpoena or court order. No sanctions shall be available against a person from whom evidence is sought under this Rule in the absence of service of a subpoena or court order.



(6) Use of perpetuated evidence. Evidence perpetuated in accordance with the requirements of this section may be used in any court in any action involving the same subject matter and against any person served with a notice, request, or motion in the manner provided by subsection (a) (4) of this Rule. Depositions may be used to the extent permitted by Rule 2-419. Use of a report of findings or of testimony of an examining physician or physicians shall be subject to the order required by Rule 2-423.

(b) Pending appeal. After an appeal has been taken or before an appeal is taken if the appeal period has not expired, the circuit court in which the judgment or appealable order was entered may allow perpetuation of evidence for use in the event of further proceedings in that court. A motion for leave to perpetuate evidence shall be filed and served as if the action were pending in the circuit court. The motion shall identify (1) the reasons for perpetuating evidence, (2) the persons to be examined and the substance of the testimony expected from each, and (3) the documents or things to be inspected and preserved, if any. If the court finds that perpetuation of the evidence is proper to avoid a failure or delay of justice, it may enter an order allowing depositions to be taken, permitting documents and tangible things to be inspected or copied as provided by Rule 2-422, or requiring submission to a mental or physical examination as provided by Rule 2-423. The court's order may include any provision which justice requires to protect a party or person from annoyance, embarrassment, oppression, or undue burden or expense. Testimony perpetuated in accordance with this section may be used to the extent permitted by Rule 2-419. Use of evidence perpetuated in accordance with this section shall be subject to the court's order permitting it to be perpetuated.

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**Rule 2-422. Discovery of documents, electronically stored information, and property**

(a) Scope. Any party may serve one or more requests to any other party (1) as to items that are in the possession, custody, or control of the party upon whom the request is served, to produce and permit the party making the request, or someone acting on the party's behalf, to inspect, copy, test or sample designated documents or electronically stored information (including writings, drawings, graphs, charts, photographs, sound recordings, images, and other data or data compilations stored in any medium from which information can be obtained, translated, if necessary, by the respondent through detection devices into reasonably usable form) or to inspect and copy, test, or sample any designated tangible things which constitute or contain matters within the scope of Rule 2-402 (a); or (2) to permit entry upon designated land or other property in the possession or control of the party upon whom the request is served for the purpose of inspection, measuring, surveying, photographing, testing, or sampling the property or any designated object or operation on the property, within the scope of Rule 2-402 (a).

(b) Request. A request shall set forth the items to be inspected, either by individual item or by category; describe each item and category with reasonable particularity; and specify a reasonable time, place, and manner of making the inspection and performing the related acts. The request may specify the form in which electronically stored information is to be produced.



(c) Response. The party to whom a request is directed shall serve a written response within 30 days after service of the request or within 15 days after the date on which that party's initial pleading or motion is required, whichever is later. The response shall state, with respect to each item or category, that (1) inspection and related activities will be permitted as requested, (2) the request is refused, or (3) the request for production in a particular form is refused. The grounds for each refusal shall be fully stated. If the refusal relates to part of an item or category, the part shall be specified. If a refusal relates to the form in which electronically stored information is requested to be produced (or if no form was specified in the request) the responding party shall state the form in which it would produce the information.

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(d) Production.

(1) A party who produces documents or electronically stored information for inspection shall (A) produce the documents or information as they are kept in the usual course of business or organize and label them to correspond with the categories in the request, and (B) produce electronically stored information in the form specified in the request or, if the request does not specify a form, in the form in which it is ordinarily maintained or in a form that is reasonably usable.

(2) A party need not produce the same electronically stored information in more than one form.

**(END OF EXTRACT)**