

MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS
CHAPTER 300 - GENERAL PROVISIONS

AMEND Rule 1-325 to revise provisions pertaining to the waiver of certain costs, as follows:

Rule 1-325. ~~FILING FEES AND COSTS~~ INDIGENCY WAIVER OF COSTS
DUE TO INDIGENCE

~~(a) Generally~~

~~A person unable by reason of poverty to pay any filing fee or other court costs ordinarily required to be prepaid may file a request for an order waiving the prepayment of those costs. The person shall file with the request an affidavit verifying the facts set forth in that person's pleading, notice of appeal, application for leave to appeal or request for process, and stating the grounds for entitlement to the waiver. If the person is represented by an attorney, the request and affidavit shall be accompanied by the attorney's signed certification that the claim, appeal, application, or request for process is meritorious. The court shall review the papers presented and may require the person to supplement or explain any of the matters set forth in the papers. If the court is satisfied that the person is unable by reason of poverty to pay the filing fee or other court costs ordinarily required to be prepaid and the~~

~~claim, appeal, application, or request for process is not frivolous, it shall waive by order the prepayment of such costs.~~

~~Committee note: The term "other court costs" in section (a) of this Rule includes the compensation, fees, and costs of a master or examiner. See Rules 2-541 (i), 2-542 (i), 2-603 (e), and 9-208 (j).~~

(a) Scope

Sections (b) through (f) of this Rule apply only to civil actions in a circuit court or the District Court.

(b) Definition

In this Rule, except as provided in section (g), "prepaid costs" means costs that, unless prepayment is waived pursuant to this Rule, must be paid prior to the clerk's docketing or accepting for docketing a pleading or paper or taking other requested action.

(c) No Fee for Filing Request

No filing fee shall be charged for the filing of the request for waiver of prepaid costs pursuant to section (d) or (e) of this Rule.

(d) Waiver of Prepaid Costs by Clerk

On written request, the clerk shall waive the prepayment of prepaid costs, without the need for a court order, if:

(1) the party is an individual who is represented (A) by an attorney retained through a pro bono or legal services program on a list of programs serving low income individuals that is submitted by the Maryland Legal Services Corporation to the State Court Administrator and posted on the Judiciary website, provided

that an authorized agent of the program provides the clerk with a statement that (i) names the program, attorney, and party; (ii) states that the attorney is associated with the program and the party meets the financial eligibility criteria of the Corporation; and (iii) attests that the payment of filing fees is not subject to Code, Courts Article, §5-1002 (the Prisoner Litigation Act), or (B) by an attorney provided by the Maryland Legal Aid Bureau, Inc. or the Office of the Public Defender, and

(2) the attorney certifies that, to the best of the attorney's knowledge, information, and belief, there is a good ground to support the claim, application, or request for process and it is not interposed for any improper purpose or delay.

Committee note: The Public Defender represents indigent individuals in a number of civil actions. See Code, Criminal Procedure Article, §16-204 (b).

(e) Waiver of Prepaid Costs by Court

(1) Request for Waiver

An individual unable by reason of poverty to pay a prepaid cost and not subject to a waiver under section (d) of this Rule may file a request for an order waiving the prepayment of the prepaid cost. The request shall be accompanied by (A) an affidavit substantially in the form approved by the State Court Administrator, posted on the Judiciary website, and available in the Clerks' offices, and (B) if the individual is represented by an attorney, by the attorney's certification that, to the best of the attorney's knowledge, information, and belief, there is good ground to support the claim, appeal, application, or request for

process and it is not interposed for any improper purpose or delay.

(2) Review by Court; Factors to be Considered

The court shall review the papers presented and may require the individual to supplement or explain any of the matters set forth in the papers. In determining whether to grant a prepayment waiver, the court shall consider:

(A) whether the individual has a family household income that qualifies under the client income guidelines for the Maryland Legal Services Corporation for the current year, which shall be posted on the Judiciary website; and

(B) any other factor that may be relevant to the individual's ability to pay the prepaid cost.

(3) Order

If the court finds that the party is unable by reason of poverty to pay the prepaid cost and that the pleading or paper sought to be filed does not appear, on its face, to be frivolous, it shall enter an order waiving prepayment of the prepaid cost. In its order, the court shall state the basis for granting or denying the request for waiver.

(f) Award of Costs at Conclusion of Action

(1) Generally

At the conclusion of an action, the court and the clerk shall allocate and award costs as required or permitted by law.

Cross reference: See Rules 2-603, 3-603, 7-116, and *Mattison v. Gelber*, 202 Md. App. 44 (2011).

(2) Waiver

(A) Request

At the conclusion of an action, a party may seek a final waiver of open costs, including any appearance fee, by filing a request for the waiver, together with (i) an affidavit substantially in the form prescribed by subsection (e) (1) (A) of this Rule, or (ii) if the party was granted a waiver of prepayment of prepaid costs by court order pursuant to section (e) of this Rule and remains unable to pay the costs, an affidavit that recites the existence of the prior waiver and the party's continued inability to pay by reason of poverty.

(B) Determination by Court

In an action under Title 9, Chapter 200 of these Rules or Title 10 of these Rules, the court shall grant a final waiver of open costs if the requirements of Rules 2-603 (e) or 10-107 (b), as applicable, are met. In all other civil matters, the court may grant a final waiver of open costs if the party against whom the costs are assessed is unable to pay them by reason of poverty.

(g) Waiver of Prepaid Appellate Costs

(1) Scope of Section

This section applies to appeals from an order or judgment of the District Court to a circuit court and to appeals, applications for leave to appeal, and petitions for certiorari or other extraordinary relief seeking review in the Court of Special

Appeals or the Court of Appeals from an order or judgment of a circuit court in a civil action.

(2) Definition

In this section, "prepaid costs" means (A) the fee charged by the clerk of the trial court for assembling the record, including the cost of the transcript in the District Court, and (B) the filing fee charged by the clerk of the appellate court.

Cross reference: See the schedule of appellate court fees following Code, Courts Article, §7-102 and the schedule of circuit court fees following Code, Courts Article, §7-202.

(3) Waiver

(A) Generally

Waiver of prepaid costs under this section shall be governed generally by section (d) or (e) of this Rule, as applicable, except that:

(i) the request for waiver of both the trial and appellate court costs shall be filed in the trial court with the notice of appeal;

(ii) waiver of the fee charged for assembling the record shall be determined in the trial court;

(iii) waiver of the appellate court filing fee shall be determined by the appellate court, but the appellate court may rely on a waiver of the fee for assembling the record ordered by the trial court;

(iv) both fees shall be waived if the appellant received a waiver of prepaid costs under section (d) of this Rule, will be

represented in the appeal by an eligible attorney under that section, and the attorney certifies that the appeal is meritorious and that the appellant remains eligible for representation in accordance with section (d) of this Rule; and

(v) if the appellant received a waiver of prepaid costs under section (e) of this Rule, the trial court and appellate courts may rely upon a supplemental affidavit of the appellant attesting that the information supplied in the affidavit provided under section (e) of this Rule remains accurate and that there has been no material change in the appellant's financial condition or circumstances.

(B) Procedure

(i) If an appellant requests the waiver of the prepaid costs in both the trial and appellate courts, the trial court, within five days after the filing of the request, shall act on the request for waiver of its prepaid cost and transmit to the appellate court the request for waiver of the appellate court prepaid cost and a copy of the request and order regarding the waiver of the trial court prepaid cost.

(ii) The appellate court shall act on the request for the waiver of its prepaid cost within five business days after receipt of the request from the trial court.

(iii) If either court denies, in whole or in part, a request for the waiver of its prepaid cost, it shall permit the appellant, within 10 days, to pay the unwaived prepaid cost. If, within that time, the appellant pays the full amount of the

unwaived prepaid cost, the appeal or application shall be deemed to have been filed on the day the request for waiver was filed in the trial court.

~~(b)~~ (h) Appeals Where Public Defender Representation Denied
- Payment by State

The court shall order the State to pay the court costs related to an appeal or an application for leave to appeal and the costs of preparing any transcript of testimony, brief, appendices, and record extract necessary in connection with the appeal, in any case in which (1) the Public Defender's Office is authorized by these rules or other law to represent a party, (2) the Public Defender has declined representation of the party, and (3) the party is unable by reason of poverty to pay those costs.

Source: This Rule is derived as follows:

~~Section (a) is derived from former M.D.R. 102 and Courts Article §7-201 is new.~~

Section (b) is new.

Section (c) is new.

Section (d) is new.

Section (e) is new.

Section (f) is new.

Section (g) is new.

Section ~~(b)~~ (h) is derived from former Rules 883 and 1083 b.

REPORTER'S NOTE

Proposed amendments to Rule 1-325 rewrite the provisions of the Rule dealing with waiver of court costs in civil actions. Conforming amendments to Rules 2-603 (e), 7-103, 8-201, 8-303, 8-505, and 10-107 also are proposed. Detailed descriptions of the proposed changes and the reasons therefor are set forth in the "Category 10" section of this, the Committee's One Hundred Eighty-Sixth Report.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 600 - JUDGMENT

AMEND Rule 2-603 to conform with amendments to Rule 1-325,
as follows:

Rule 2-603. COSTS

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(e) Waiver of Costs in Domestic Relations Cases - Indigency

In an action under Title 9, Chapter 200 of these Rules,
the court shall ~~waive~~ grant a final waiver of open costs,
including any compensation, fees, and costs of a master or
examiner if the court finds that the party against whom the costs
are assessed is unable to pay them by reason of poverty. The
party may seek the waiver at the conclusion of the case by filing
a request for a final waiver of open costs, together with (1) an
affidavit substantially in the form prescribed by Rule 1-325
(e) (1) (A), or (2) if in accordance with Rule 1-325 (a). If the
party was granted a waiver of prepayment of prepaid costs by
court order pursuant to ~~that~~ Rule 1-325 (e) and remains unable to
pay the costs, ~~the~~ an affidavit ~~required by Rule 1-325 (a) need
only that~~ recites the existence of the prior waiver and the
party's continued inability to pay.

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REPORTER'S NOTE

See the Reporter's note to Rule 1-325.

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 7-103 to conform with amendments to Rule 1-325,
as follows:

Rule 7-103. METHOD OF SECURING APPELLATE REVIEW

(a) By Notice of Appeal

The only method of securing appellate review in the circuit court is by the filing of a notice of appeal with the clerk of the District Court within the time prescribed in Rule 7-104.

(b) District Court Costs

Unless the prepayment of prepaid costs has been waived in accordance with Rule 1-325, before ~~Before~~ the clerk transmits the record pursuant to section (d) of this Rule, the appellant shall pay to the clerk of the District Court the cost of preparation of a transcript, if a transcript is necessary to the appeal.

Cross reference: Rule 7-113 (b).

(c) Filing Fee

Within the time for transmitting the record under Rule 7-108, the appellant shall deposit the fee prescribed by Code, Courts Article, §7-202 with the clerk of the District Court unless:

(1) if the appeal is in a civil action, the prepayment of prepaid costs has been waived in accordance with Rule 1-325; or

(2) if the appeal is in a criminal action, the fee has been waived by an order of court or unless the appellant is represented by (1) the Public Defender's Office, (2) an attorney assigned by Legal Aid Bureau, Inc., or (3) an attorney assigned by any other legal services organization that accepts as clients only those persons meeting the financial eligibility criteria established by the Federal Legal Services Corporation or other appropriate governmental agency. The filing fee shall be in the form of cash or a check or money order payable to the clerk of the circuit court.

~~Cross reference: Rule 1-325.~~

(d) Transmittal of Record

After all required fees have been paid, the clerk shall transmit the record as provided in Rules 7-108 and 7-109. The filing fee shall be forwarded with the record to the clerk of the circuit court.

Committee note: When a notice of appeal is filed, the clerk should check the docket to see if it contains the entry of a judgment in compliance with Rules 3-601 and 3-602, and if not, advise the parties and the court. This note is not intended to authorize the clerk to reject a notice of appeal or to place a mandatory duty on the clerk, or to relieve counsel of their responsibility to assure that there is an appealable order or judgment properly entered on the docket before noting an appeal.

Source: This Rule is derived from former Rule 1311.

REPORTER'S NOTE

See the Reporter's note to Rule 1-325.

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 200 - OBTAINING REVIEW IN COURT OF SPECIAL APPEALS

AMEND Rule 8-201 to conform with amendments to Rule 1-325,
as follows:

Rule 8-201. METHOD OF SECURING REVIEW - COURT OF SPECIAL APPEALS

(a) By Notice of Appeal

Except as provided in Rule 8-204, the only method of securing review by the Court of Special Appeals is by the filing of a notice of appeal within the time prescribed in Rule 8-202. The notice shall be filed with the clerk of the lower court or, in an appeal from an order or judgment of an Orphans' Court, with the register of wills. The clerk or register shall enter the notice on the docket.

(b) Filing Fees

At the time of filing a notice of appeal in a civil case, or within the time for transmitting the record under Rule 8-412 in a criminal case, an appellant shall deposit the fee prescribed pursuant to Code, Courts Article, §7-102 with the clerk of the lower court unless:

(1) if the appeal is in a civil action, the prepayment of prepaid costs has been waived in accordance with Rule 1-325; or

(2) if the appeal is in a criminal action, the fee has been waived by an order of court or ~~unless~~ the appellant is represented by ~~(1) the Public Defender's Office, (2) an attorney assigned by Legal Aid Bureau, Inc., or (3) an attorney assigned by any other legal services organization that accepts as clients only those persons meeting the financial eligibility criteria established by the Federal Legal Services Corporation or other appropriate governmental agency.~~

~~Cross reference: Rule 1-325.~~

(c) Transmittal of Record

After all required fees have been deposited, the clerk shall transmit the record as provided in Rules 8-412 and 8-413. The fee shall be forwarded with the record to the Clerk of the Court of Special Appeals.

Committee note: When a notice of appeal is filed, the clerk should check the docket to see if it contains the entry of a judgment in compliance with Rules 2-601 and 2-602, and if not, advise the parties and the court. This note is not intended to authorize the clerk to reject a notice of appeal, to place a mandatory duty on the clerk, or to relieve counsel of their responsibility to assure that there is an appealable order or judgment properly entered on the docket before noting an appeal.

Source: This Rule is derived from former Rule 1011 with the exception of the first sentence of section (a) which is derived from former Rule 1010.

REPORTER'S NOTE

See the Reporter's note to Rule 1-325.

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 300 - OBTAINING APPELLATE REVIEW IN COURT OF APPEALS

AMEND Rule 8-303 to conform with amendments to Rule 1-325,
as follows:

Rule 8-303. PETITION FOR WRIT OF CERTIORARI - PROCEDURE

(a) Filing

A petition for a writ of certiorari, together with seven legible copies, shall be filed with the Clerk of the Court of Appeals. The petition shall be accompanied by the filing fee prescribed pursuant to Code, Courts Article, §7-102 unless:

(1) if the petition is in a civil action, the prepayment of prepaid costs has been waived in accordance with Rule 1-325; or

(2) if the petition is in a criminal action, the fee has been waived by an order of court or unless the petitioner is represented by (1) the Public Defender's Office, (2) an attorney assigned by Legal Aid Bureau, Inc., or (3) an attorney assigned by any other legal services organization that accepts as clients only those persons meeting the financial eligibility criteria established by the Federal Legal Services Corporation or other appropriate governmental agency.

~~Cross reference: Rule 1-325.~~

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REPORTER'S NOTE

See the Reporter's note to Rule 1-325.

MARYLAND RULES OF PROCEDURE
TITLE 8 - APPELLATE REVIEW IN THE COURT OF APPEALS
AND COURT OF SPECIAL APPEALS
CHAPTER 500 - RECORD EXTRACT, BRIEFS, AND ARGUMENT

AMEND Rule 8-505 to conform with amendments to Rule 1-325,
as follows:

Rule 8-505. BRIEFS - INDIGENTS

When the lower court has ordered that costs be paid by the State of Maryland pursuant to Rule 1-325 ~~(b)~~ (h) or in any case in which a party to the appeal is represented by the Public Defender, that party's brief, reply brief, and other documents required to be filed by that party in the appellate court shall be reproduced under the supervision of the Public Defender.

Source: This Rule is derived from Rules 831 f and 1031 e.

REPORTER'S NOTE

See the Reporter's note to Rule 1-325.

MARYLAND RULES OF PROCEDURE
TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES
CHAPTER 100 - GENERAL PROVISIONS

AMEND Rule 10-107 to conform with amendments to Rule 1-325,
as follows:

Rule 10-107. ASSESSMENT AND WAIVER OF FEES AND COSTS -
GUARDIANSHIPS

(a) Assessment

Upon a determination on the merits of a petition to
appoint a guardian, the court may assess the filing fee and other
court costs against the assets of the fiduciary estate or against
the petitioner.

(b) Waiver

The court shall ~~waive~~ grant a final waiver of open costs
and fees if the court finds that the person against whom the
costs are assessed is unable to pay them by reason of poverty.
The person may seek the waiver at the conclusion of the case by
filing a request for a final waiver of open costs, together with
(1) an affidavit substantially in the form prescribed by Rule 1-
325 (e) (1) (A), or (2) if in accordance with Rule 1-325 (a). If
the person was granted a waiver of prepayment of prepaid costs by
court order pursuant to ~~that~~ Rule 1-325 (e) and remains unable to
pay the costs, ~~the~~ an affidavit ~~required by Rule 1-325 (a) need~~

~~only~~ that recitesu the existence of the prior waiver and the person's continued inability to pay.

Source: This Rule is in part new and in part derived from Rule 2-603 (e).

REPORTER'S NOTE

See the Reporter's note to Rule 1-325.