

IN THE COURT OF APPEALS OF MARYLAND

R U L E S O R D E R

This Court's Standing Committee on Rules of Practice and Procedure having submitted its One Hundred Fifty-First Report to the Court recommending the adoption of proposed new Rules 16-205, 16-506, 16-819 and new Appendix: Maryland Code of Conduct for Court Interpreters; amendments to Rules 1-303, 1-322, 1-361, 2-311, 2-510, 2-532, 2-533, 2-534, 2-652, 3-115, 3-303, 3-311, 3-325, 3-401, 3-421, 3-509, 3-510, 3-535, 3-601, 3-643, 3-711, 4-212, 4-231, 4-243, 4-266, 4-312, 4-340, 4-341, 4-342, 4-343, 4-346, 4-351, 4-402, 4-502, 4-504, 4-512, 4-631, 5-412, 5-606, 7-203, 7-206, 8-202, 8-205, 8-301, 8-306, 8-411, 8-422, 8-602, 9-105, 9-203, 11-118, 16-307, 16-309, 16-405, 16-713, 16-714, 16-722 (a) and (h), 16-723, 16-724, 16-735, 16-742, 16-743, 16-751, 16-753, 16-760, 16-772, 16-774, 16-775, 16-781, 16-811 and Forms 1-332, 4-504.1, and 4-508.1; and the deletion of Rule 5-604 of the Maryland Rules of Procedure; and amendments to Rules 12, 13, 14, and 15 of the Rules Governing Admission to the Bar of Maryland, all as set forth in that Report published in the *Maryland Register*, Vol. 29, Issue 16, pages 1230 - 1280 (August

9, 2002); and

This Court having considered at an open meeting, notice of which was posted as prescribed by law, all those proposed rules changes, together with the comments received, and making certain amendments to the proposed rules changes on its own motion, it is this 31st day of October, 2002

ORDERED, by the Court of Appeals of Maryland, that Rule 5-604 be, and it is hereby, rescinded; and it is further

ORDERED that new Rules 16-205, 16-506, and 16-819, new Appendix: Maryland Code of Conduct for Court Interpreters, and new Appendix: Court Interpreter Inquiry Questions be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that amendments to Rules 1-303, 1-322, 1-361, 2-311, 2-510, 2-652, 3-303, 3-325, 3-401, 3-421, 3-509, 3-510, 3-535, 3-601, 3-643, 3-711, 4-212, 4-231, 4-243, 4-266, 4-312, 4-340, 4-341, 4-342, 4-346, 4-351, 4-402, 4-504, 4-512, 4-631, 5-412, 5-606, 7-206, 8-301, 8-306, 8-411, 8-422, 8-602, 9-203, 11-118, 16-309, 16-405, 16-722 (h), 16-723, 16-735, 16-743, 16-751, and

16-774, and Forms 4-504.1, and 4-508.1 be, and they are hereby, adopted in the form previously published; and it is further

ORDERED that amendments to Rules 2-532, 2-533, 2-534, 3-115, 3-311, 4-343, 4-502, 7-203, 8-202, 8-205, and 16-307, and Form 1-332 be, and they are hereby, adopted in the form attached to this Order; and it is further

ORDERED that consideration of the proposed amendments to Rules 9-105, 16-713, 16-714, 16-722 (a), 16-724, 16-742, 16-753, 16-760, 16-772, 16-775, 16-781, and 16-811 of the Maryland Rules of Procedure and Rules 12, 13, 14, and 15 of the Rules Governing Admission to the Bar of Maryland be, and it is hereby, deferred pending further study; and it is further

ORDERED that the rules changes hereby adopted by this Court shall govern the courts of this State and all parties and their attorneys in all actions and proceedings, and shall take effect and apply to all actions commenced on or after January 1, 2003, and insofar as practicable, to all actions then pending; and it is further

ORDERED that a copy of this Order be published in the next issue of the *Maryland Register*.

/s/ Robert M. Bell

Robert M. Bell

/s/ John C. Eldridge

John C. Eldridge

/s/ Irma S. Raker

Irma S. Raker

/s/ Alan M. Wilner

Alan M. Wilner

/s/ Dale R. Cathell

Dale R. Cathell

/s/ Glenn T. Harrell, Jr.

Glenn T. Harrell, Jr.

/s/ Lynn A. Battaglia

Lynne A. Battaglia

Filed: October 31, 2002

/s/ Alexander L. Cummings

Clerk
Court of Appeals of Maryland

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 200 - THE CALENDAR - ASSIGNMENT AND DISPOSITION
OF MOTIONS AND CASES

ADD new Rule 16-205, as follows:

Rule 16-205. BUSINESS AND TECHNOLOGY CASE MANAGEMENT PROGRAM

(a) Definitions

The following definitions apply in this Rule:

(1) ADR

"ADR" means "alternative dispute resolution" as defined in Rule 17-102.

(2) Program

"Program" means the business and technology case management program established pursuant to this Rule.

(3) Program Judge

"Program judge" means a judge of a circuit court who is assigned to the program.

(b) Program Established

Subject to the availability of fiscal and human resources, a program approved by the Chief Judge of the Court of Appeals shall be established to enable each circuit court to handle business and technology matters in a coordinated, efficient, and responsive manner and to afford convenient access to lawyers and litigants in business and technology matters. The program shall

include:

- (1) a program track within the differentiated case management system established under Rule 16-202;
- (2) the procedure by which an action is assigned to the program;
- (3) program judges who are specially trained in business and technology; and
- (4) ADR proceedings conducted by persons qualified under Title 17 of these Rules and specially trained in business and technology.

Cross reference: See Rules 16-101 a and 16-103 a concerning the assignment of a judge of the circuit court for a county to sit as a program judge in the circuit court for another county.

(c) Assignment of Actions to the Program

On written request of a party or on the court's own initiative, the Circuit Administrative Judge of the circuit in which an action is filed or the Administrative Judge's designee may assign the action to the program if the judge determines that the action presents commercial or technological issues of such a complex or novel nature that specialized treatment is likely to improve the administration of justice. Factors that the judge may consider in making the determination include: (1) the nature of the relief sought, (2) the number and diverse interests of the parties, (3) the anticipated nature and extent of pretrial discovery and motions, (4) whether the parties agree to waive venue for the hearing of motions and other pretrial matters, (5) the degree of novelty and complexity of the factual and legal

issues presented, (6) whether business or technology issues predominate over other issues presented in the action, and (7) the willingness of the parties to participate in ADR procedures.

(d) Assignment to Program Judge

Each action assigned to the program shall be assigned to a specific program judge. The program judge to whom the action is assigned shall hear all proceedings until the matter is concluded, except that, if necessary to prevent undue delay, prejudice, or injustice, the Circuit Administrative Judge or the Circuit Administrative Judge's designee may designate another judge to hear a particular pretrial matter. That judge shall be a program judge, if practicable.

(e) Scheduling Conference; Order

Promptly after an action is assigned, the program judge shall (1) hold a scheduling conference under Rule 2-504.1 at which the program judge and the parties discuss the scheduling of discovery, ADR, and a trial date and (2) enter a scheduling order under Rule 2-504 that includes case management decisions made by the court at or as a result of the scheduling conference.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 500 - COURT ADMINISTRATION - DISTRICT COURT

ADD new Rule 16-506, as follows:

Rule 16-506. ELECTRONIC FILING OF PLEADINGS AND PAPERS

(a) Applicability; Conflicts with Other Rules

This Rule applies to the electronic filing of pleadings and papers in the District Court. A pleading or paper may not be filed by direct electronic transmission to the Court except in accordance with this Rule. This Rule and any administrative order entered pursuant to it prevail if inconsistent with any other Rule.

(b) Submission of Plan

The Chief Judge of the District Court may submit to the Court of Appeals for approval a detailed plan for a pilot project for the electronic filing of pleadings and papers. In developing the plan, the Chief Judge shall consult with the District Administrative Judge and the District Administrative Clerk of each district included in the plan, the District Court Chief Clerk, appropriate vendors, the State Court Administrator, and any other judges, court clerks, members of the bar, vendors of electronic filing systems, and interested persons that the Chief Judge chooses to ensure that: (1) the proposed electronic filing system is compatible with the data processing systems,

operational systems, and electronic filing systems used or expected to be used by the judiciary; (2) the installation and use of the proposed system does not create an undue financial or operational burden on the District Court; (3) the proposed system is reasonably available for use at a reasonable cost or an efficient and compatible system of manual filing will be maintained; (4) the proposed system is effective, secure, and not likely to break down; (5) the proposed system makes appropriate provision for the protection of privacy and for public access to public records; and (6) the court can discard or replace the system during or at the conclusion of a trial period without undue financial or operational burden. The State Court Administrator shall review the plan and make a recommendation to the Court of Appeals with respect to it.

Cross reference: For the definition of "public record," see Code, State Government Article, §10-611.

(c) Approval; Duration

A plan may not be implemented unless approved by administrative order of the Court of Appeals. The plan shall terminate two years after the date of the administrative order unless the Court terminates it earlier or modifies or extends it by a subsequent administrative order.

(d) Evaluation

The Chief Judge of the Court of Appeals may appoint a committee consisting of one or more judges, court clerks, lawyers, legal educators, bar association representatives, and

other interested and knowledgeable persons to monitor and evaluate the plan. Before the expiration of the two-year period set forth in section (c) of this Rule, the Court of Appeals, after considering the recommendations of the committee, shall evaluate the operation of the plan.

(e) Public Availability of Plan

The Chief Clerk of the District Court shall make available for public inspection a copy of any current plan.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 16 - COURTS, JUDGES, AND ATTORNEYS
CHAPTER 800 - MISCELLANEOUS

ADD new Rule 16-819, as follows:

Rule 16-819. COURT INTERPRETERS

(a) Definitions

The following definitions apply in this Rule:

(1) Certified Interpreter

"Certified Interpreter" means an interpreter who is certified by:

(A) the Maryland Administrative Office of the Courts;

(B) a member of the Consortium for State Court Interpreter Certification; or

(C) the Federal Administrative Office of the Courts.

(2) Interpreter

"Interpreter" means an adult who has the ability to render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written and without explanation.

(3) Interpreter Eligible for Certification

"Interpreter eligible for certification" means an interpreter who is not a certified interpreter but who:

(A) has submitted to the Administrative Office of the Courts a completed Maryland State Judiciary Information Form for

Spoken and Sign Language Court Interpreters and a statement swearing or affirming compliance with the Maryland Code of Conduct for Court Interpreters;

(B) has attended the Maryland Judiciary's orientation workshop on court interpreting; and

(C) does not have, in a state or federal court of record, a pending criminal charge or conviction on a charge punishable by a fine of more than \$500 or imprisonment for more than six months unless pardoned or expunged in accordance with law.

(4) Non-Certified Interpreter

"Non-certified interpreter" means an interpreter other than a certified interpreter or an interpreter eligible for certification.

(5) Person Who Needs an Interpreter

"Person who needs an interpreter" means a party or a witness who is deaf or unable adequately to understand or express himself or herself in spoken or written English.

(b) Application for the Appointment of an Interpreter

A person who needs an interpreter may apply to the court for the appointment of an interpreter. The application shall be made by providing the information required by Form 1-332 in the Appendix to these Rules.

(c) Procedures to Determine the Need for Interpreters

(1) Sign Language Interpreter

The court shall determine whether a sign language interpreter is needed in accordance with the requirements of the

Americans with Disabilities Act, 42 U.S.C. §12101, *et seq.*; Code, Courts Article, §9-114; and Code, Criminal Procedure Article, §§1-202 and 3-103.

(2) Spoken Language Interpreter

(A) Examination of Party or Witness

To determine whether a spoken language interpreter is needed, the court, on request or on its own initiative, shall examine a party or witness on the record. The court shall appoint a spoken language interpreter if the court determines that:

(i) the party does not understand English well enough to participate fully in the proceedings and to assist counsel, or

(ii) the party or a witness does not speak English well enough to be understood by counsel, the court, and the jury.

(B) Scope of Examination

The court's examination of the party or witness should include questions relating to:

(i) identification;

(ii) active vocabulary in vernacular English; and

(iii) the court proceedings.

Committee note: Examples of matters relating to identification are: name, address, birth date, age, and place of birth. Examples of questions that elicit active vocabulary in vernacular English are: How did you come to court today? What kind of work do you do? Where did you go to school? What was the highest grade you completed? What do you see in the courtroom? Examples of questions relating to the proceedings are: What do you understand this case to be about? What is the purpose of what we are doing here in court? What can you tell me about the rights of the parties to a court case? What are the responsibilities of a court witness? Questions should be phrased to avoid "yes or

no" replies.

(d) Selection and Appointment of Interpreters

(1) Certified Interpreter Required; Exceptions

When the court determines that an interpreter is needed, the court shall make a diligent effort to obtain the services of a certified interpreter. If a certified interpreter is not available, the court shall make a diligent effort to obtain the services of an interpreter eligible for certification. The court may appoint a non-certified interpreter only if neither a certified interpreter nor an interpreter eligible for certification is available. A person related by blood or marriage to a party or to the person who needs an interpreter may not act as an interpreter.

Committee note: The court should be cautious about appointing a non-certified interpreter and should consider carefully the seriousness of the case and the availability of resources before doing so.

(2) Inquiry of the Prospective Interpreter

Before appointing an interpreter under this Rule, the court shall conduct an appropriate inquiry of the prospective interpreter on the record.

Committee note: The court should use the interpreter inquiry questions promulgated by the Maryland Judicial Conference Advisory Committee on Interpreters and published, together with suggested responses, in the October 20, 1998 Report of the Advisory Committee. The questions and suggested responses are reprinted as an Appendix to these Rules.

(3) Oath

Upon appointment by the court and before acting as an interpreter in the proceeding, the interpreter shall solemnly

swear or affirm under the penalties of perjury to interpret accurately, completely, and impartially and to refrain from knowingly disclosing confidential or privileged information obtained while serving in the proceeding.

(4) Multiple Interpreters in the Same Language

At the request of a party or on its own initiative, the court may appoint more than one interpreter in the same language to ensure the accuracy of the interpretation or to preserve confidentiality if:

(A) the proceedings are expected to exceed three hours;

(B) the proceedings include complex issues and terminology or other such challenges; or

(C) an opposing party requires an interpreter in the same language.

Committee note: To ensure accurate interpretation, after interpreting for a period of forty-five minutes, an interpreter ordinarily should be granted a reasonable rest period.

(e) Removal From Proceeding

A court interpreter may be removed from a proceeding for good cause. Good cause for removal includes:

(1) failing to interpret adequately;

(2) knowingly interpreting falsely;

(3) knowingly disclosing confidential or privileged information obtained while serving in a proceeding; or

(4) failing to follow applicable laws, rules of court, or the Maryland Code of Conduct for Court Interpreters in the Appendix to these Rules.

(f) Compensation of Court Interpreters

Compensation for interpreters shall be in accordance with Code, Criminal Procedure Article, §§1-202 and 3-103 and Code, Courts Article, §9-114.

Committee note: Code, Courts Article, §9-114 provides for the appointment of interpreters for certain parties and witnesses, generally. Code, Criminal Procedure Article, §§1-202 and 3-103 provide for the appointment of interpreters for certain defendants in criminal proceedings and proceedings under Title 3 of that Article.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

APPENDIX: MARYLAND CODE OF CONDUCT FOR COURT INTERPRETERS

ADD new Maryland Code of Conduct for Court Interpreters, as follows:

MARYLAND CODE OF CONDUCT FOR COURT INTERPRETERS

Preamble

In the absence of a court interpreter, many persons who come before the courts are partially or completely excluded from full participation in the proceedings because they have limited proficiency in the English language, have a speech impairment, or are deaf or hard of hearing. It is essential that the resulting communication barrier be removed, as far as possible, so that these persons are placed in the same position and enjoy equal access to justice as similarly situated persons for whom there is no such barrier. As officers of the court, interpreters help to ensure that these persons enjoy equal access to justice and that court proceedings and court support services function efficiently and effectively.

Applicability

This Code shall guide and be binding upon all certified interpreters and interpreters eligible for certification, as those terms are defined in Rule 16-819, and all agencies and organizations that administer, supervise the use of, or deliver interpreting services in the courts of this State.

Canon 1

Accuracy and Completeness

Interpreters shall render a complete and accurate interpretation or sight translation, without altering, omitting, or adding anything to what is stated or written and without explanation.

Commentary

The interpreter has a twofold duty: 1) to ensure that the proceedings reflect precisely what was said, and 2) to place the person with limited English proficiency on an equal footing with those who understand English. This creates an obligation to conserve every element of information contained in a source language communication when it is rendered in the target language.

Therefore, interpreters are obligated to apply their best skills and judgment to preserve faithfully the meaning of what is said in court, including the style or register of speech. Verbatim, "word for word," or literal oral interpretations are not appropriate if they distort the meaning of the source language, but every spoken statement, even if it appears non-responsive, obscene, rambling, or incoherent, should be interpreted. This includes apparent misstatements.

Interpreters should never interject their own words, phrases, or expressions. If the need arises to explain an interpreting problem (e.g., a term or phrase with no direct equivalent in the target language or a misunderstanding that only the interpreter can clarify), the interpreter should ask the court's permission to provide an explanation. Interpreters should convey the emotional emphasis of the speaker without reenacting or mimicking the speaker's emotions or dramatic gestures.

Sign language interpreters, however, *must* employ all of the visual cues that the language that they are interpreting requires) including facial and spatial grammar.

The obligation to preserve accuracy includes the interpreter's duty to correct any error of interpretation discovered by the interpreter during the proceeding.

Interpreters should demonstrate their professionalism by objectively analyzing any challenge to their performance.

Canon 2

Representation of Qualifications

Interpreters shall accurately and completely represent their certifications, training, and pertinent experience.

Commentary

Acceptance of a case by an interpreter conveys linguistic and interpreting competency in legal settings. Withdrawing or being asked to withdraw from a case after it begins causes a disruption of court proceedings and is wasteful of scarce public resources. It is therefore essential that, prior to appointment, interpreters present a complete and truthful account of their training, certification, and experience, so the officers of the court can fairly evaluate their qualifications for delivering interpreting services.

Canon 3

Impartiality and Avoidance of Conflict of Interest

Interpreters shall be impartial and unbiased and shall refrain from conduct that may give an appearance of bias.

Interpreters shall disclose any real or perceived conflict of interest.

Commentary

The interpreter serves as an officer of the court, and the interpreter's duty in a court proceeding is to serve the court and the public to which the court is a servant. This is true regardless of whether the interpreter is retained publicly at government expense or privately at the expense of one of the parties.

Interpreters should avoid any conduct or behavior that presents the appearance of favoritism toward any of the parties. Interpreters should maintain professional relationships with the participants and should not take an active part in any of the proceedings.

During the course of the proceedings, interpreters should not converse with parties, witnesses, jurors, attorneys, or law enforcement officers or with friends or relatives of any party, except in the discharge of official functions. It is especially important that interpreters who are familiar with courtroom personnel refrain from casual and personal conversations that may convey an appearance of a special relationship with or partiality to any of the court participants.

Interpreters should strive for professional detachment. Verbal and non-verbal displays of personal attitudes, prejudices, emotions, or opinions should be avoided at all times.

Whenever an interpreter becomes aware that a proceeding participant views the interpreter as having a bias or being biased, the interpreter should disclose that knowledge to the appropriate judicial authority and counsel.

Any condition that interferes with the objectivity of an interpreter constitutes a conflict of interest. Before providing services in a matter, court interpreters must disclose to all parties and presiding officials any prior involvement, whether personal or professional, that could be reasonably construed as a conflict of interest. This disclosure should not include privileged or confidential information.

The following are circumstances that are presumed to create actual or apparent conflicts of interest for interpreters so that they should not serve:

1. The interpreter is a friend, associate, or relative of a party or counsel involved in the proceedings;

2. The interpreter has served in an investigative capacity for any party to the case;

3. The interpreter was retained by a law enforcement agency to assist in the preparation of the civil or criminal case at issue;

4. The interpreter or the interpreter's spouse or child has a financial interest in the subject matter in controversy or in a party to the proceeding or has any other interest that would be affected by the outcome of the case;

5. The interpreter has been involved in the choice of counsel or law firm for that case.

Interpreters should disclose to the court and other parties whenever they have been retained previously for private employment by one of the parties in the case.

Interpreters should not serve in any matter in which payment for their services is contingent upon the outcome of the case.

An interpreter who is also an attorney should not serve in both capacities in the same matter.

Canon 4

Professional Demeanor

Interpreters shall conduct themselves in a manner consistent with the dignity of the court and shall be as unobtrusive as possible.

Commentary

Interpreters should know and observe the established protocol, rules, and procedures for delivering interpreting services. Interpreters should work without drawing undue or inappropriate attention to themselves.

Interpreters should avoid obstructing the view of any of the individuals involved in the proceedings. However, the positioning of interpreters should be conducive to receiving effective communications.

Canon 5

Confidentiality

Interpreters shall protect the confidentiality of all privileged and other confidential information.

Commentary

The interpreter must protect and uphold the confidentiality of all privileged information obtained during the course of her or his duties. It is especially important that the interpreter understand and uphold the attorney-client privilege, which requires confidentiality with respect to any communication between attorney and client. This rule also applies to other types of privileged communications.

Interpreters must also refrain from repeating or disclosing information that is obtained by them in the course of their employment and that may be relevant to the legal proceeding.

In the event that an interpreter becomes aware of information that suggests imminent harm to someone or relates to a crime being committed during the course of the proceedings, the interpreter should immediately disclose the information to an appropriate authority within the judiciary who is not involved in the proceeding and seek advice in regard to the potential conflict in professional responsibility.

Canon 6

Restriction of Public Comment

Interpreters shall not publicly discuss, report, or offer an opinion concerning a matter in which they are or have been engaged, even when that information is not privileged or required by law to be confidential.

Canon 7

Scope of Practice

While serving as interpreters, interpreters shall limit themselves to interpreting or translating and shall not give legal advice, express personal opinions to individuals for whom they are interpreting, or engage in any other activities which may be construed to constitute a service other than interpreting or translating.

Commentary

Since interpreters are responsible only for enabling others to communicate, they should limit themselves to the activity of interpreting or translating.

Interpreters should refrain from initiating communications while interpreting, except as necessary for ensuring an accurate and faithful interpretation. Interpreters may be required to initiate communications during a proceeding when they find it necessary to seek assistance in performing their duties. Examples of such circumstances include seeking direction when unable to understand or express a word or thought, requesting speakers to moderate their rate of communication or to repeat or rephrase something, correcting their own interpreting errors, or notifying the court of reservations about their ability to satisfy an assignment competently. In such instances, interpreters should make it clear that they are speaking for themselves.

An interpreter may convey legal advice from an attorney to a person only while that attorney is giving it. An interpreter should not explain the purpose of forms or services or otherwise act as counselors or advisors but, rather, merely interpret for someone who is acting in that official capacity. The interpreter may translate language on a form for a person who is filling out the form but may not explain the form or its purpose for such a person.

The interpreter should not perform acts that are the official responsibility of other court officials including, but

not limited to, court clerks, pretrial release investigators or interviewers, or probation counselors.

Canon 8

Assessing and Reporting Impediments to Performance

Interpreters shall assess at all times their ability to deliver their services. When interpreters have any reservation about their ability to satisfy an assignment competently, they shall immediately convey that reservation to the appropriate judicial authority.

Commentary

Interpreters should notify the appropriate judicial authority whenever the communication mode or language of the persons with limited English proficiency cannot be interpreted readily.

Interpreters should notify the appropriate judicial authority about any environmental or physical limitation that impedes or hinders their ability to deliver interpreting services adequately (e.g., the courtroom is not quiet enough for the interpreter to hear or be heard, more than one person at a time is speaking, or principals or witnesses are speaking too rapidly for the interpreter to interpret adequately). Sign language interpreters must ensure that, prior to commencement of the proceeding, they are positioned visually in the most appropriate position for the deaf or hard of hearing person to convey and receive the communication. The proceeding should not begin, even by permitting the attorneys to identify themselves for the record, until the sign language interpreter is positioned properly. Immediately after the attorneys have identified themselves, the interpreter oath should be administered, regardless of the type of proceeding.

Interpreters should notify the presiding officer of the need to take periodic breaks to maintain mental and physical alertness and to prevent interpreter fatigue. Interpreters should recommend and encourage the use of a relay interpreter and/or interpreter teams as necessary.

Interpreters are required to inquire as to the nature of a case before accepting an assignment. This enables interpreters to match their professional qualifications, skills, and experience more closely to potential assignments, to assess more accurately their ability to satisfy those assignments competently, and to identify any personal bias arising from the nature of the case.

Even competent and experienced interpreters may encounter situations in which routine proceedings involve unanticipated technical or specialized terminology unfamiliar to the interpreter (e.g., the unscheduled testimony of an expert witness). When such instances occur, interpreters should request a recess for a sufficient amount of time to familiarize themselves with the terminology. If familiarity with the terminology requires extensive time or more intensive research, interpreters should inform the presiding officer.

Interpreters should refrain from accepting a case whenever they feel the language or subject matter of that case is likely to exceed their skills or capacities. Interpreters should feel no compunction about notifying the presiding officer if they feel unable to perform competently, due to lack of familiarity with terminology, lack of preparation, or difficulty in understanding a witness or defendant.

Canon 9

Duty to Report Ethical Violations

Interpreters shall report to the proper judicial authority any effort to impede their compliance with any law, any provision of this Code, or any other official policy governing court interpreting and legal translating.

Commentary

Since users of interpreting services frequently misunderstand the proper role of the interpreter, they may ask or expect the interpreter to perform duties or engage in activities that run counter to the provisions of this Code or of laws, regulations, or policies governing court interpreters. It is incumbent upon the interpreter to inform such persons of his or her professional obligations. If, having been apprised of these obligations, the person persists in demanding that the interpreter violate them, the interpreter should ask a supervisory interpreter, a judge, or another official with

jurisdiction over interpreter matters to resolve the situation.

Canon 10

Professional Development

Interpreters shall continually improve their skills and knowledge and advance the profession through activities such as professional training and education and interaction with colleagues and specialists in related fields.

Commentary

Interpreters must continually strive to increase their knowledge of the languages in which they work professionally, including past and current trends in technical, vernacular, and regional terminology as well as their application within court proceedings.

Interpreters should keep informed of all statutes, rules of courts and policies of the judiciary that relate to the performance of their professional duties.

Interpreters should seek to elevate the standards of the profession through participation in workshops, professional meetings, interaction with colleagues, and reading of current literature in the field.

Canon 11

Compliance

After notice and an opportunity for a hearing, the Administrative Office of the Courts may discipline an interpreter, by actions such as public or private reprimand or suspension or removal from a list of court interpreters, for inadequate performance or other good cause.

Commentary

The following are examples of good cause for disciplining an interpreter:

Knowingly making false interpretation while serving in an official capacity;

Knowingly disclosing confidential or privileged information obtained while serving in an official capacity;

Failing to follow the standards prescribed by law and the ethics of the interpreter profession.

MARYLAND RULES OF PROCEDURE

APPENDIX: COURT INTERPRETER INQUIRY QUESTIONS

ADD new Appendix: Court Interpreter Inquiry Questions, as follows:

Following is an excerpt from the October 20, 1998 Report of the Maryland Judicial Conference Advisory Committee on Interpreters.

Interpreter Voir Dire Questions¹

These questions are intended to elicit from a prospective interpreter, whether sign or spoken, the information that the Court needs to determine whether an individual is a competent court interpreter and whether the individual is the appropriate interpreter for the particular case. A few questions are appropriate only to a sign or a spoken language interpreter. In the event that the interpreter is considered "certified" in Maryland, the *voir dire* need not be as extensive.

- (1) State your full name and address.
- (2) Where are you employed currently?
- (3) How long have you known [**sign/spoken language**]?
- (4) Where did you learn [**sign/spoken language**]?
- (5) Can you communicate fluently in [**sign/spoken language**]?
- (6) What is your educational background?
- (7) What formal interpreter training have you undertaken?
- (8) What formal legal interpreter training have you undertaken?

¹ ADAPTED FROM WILLIAM MITCHELL SCHOOL OF LAW, LEGAL INTERPRETING WORKSHOP, 1981, CONDUCTED BY ANNA WITTER-MERITHEW AND JILL HARTMAN. REVISED IN 1986 BY THE AUTHORS. REVISED IN 1994 BY THE MARYLAND JUDICIAL CONFERENCE'S TASK FORCE ON INTERPRETERS. REVISED IN MAY, 1997 BY THE ADVISORY COMMITTEE ON INTERPRETERS' SUBCOMMITTEE ON COURT INTERPRETER FEES, QUALIFICATION STANDARDS AND USAGE.

- (9) What knowledge and skill areas did you study?
- (10) Have you attended the Maryland Judiciary's Orientation Workshop for Court Interpreters?
- (11) Are you certified? By whom? What is your certification called?
- (12) Please explain the certification process?

Questions 13 through 19 need not be asked if the interpreter is "certified" for purposes of Maryland courts.

- (13) Have you spent time in a country where your **spoken language** is used?
- (14) Are you active in any professional organization?
- (15) What do "RID" and NAJIT" mean?
- (16) How many times have you interpreted in court and in what kinds of situations have you interpreted?
- (17) Have you met _____?
the person for whom interpreter services are to be provided
- (18) Were you able to establish communication?
- (19) How could you determine that you were being understood and that communication was established?

- (20) What language does the person use?
- (21) How did you determine the language used?
- (22) How long did it take you to determine the language used?
- (23) In your opinion, is the **deaf** person American Sign Language-English bilingual?

Questions 24 through 30 need not be asked if the interpreter is

"certified" for purposes of Maryland courts.

- (24) Please explain the difference between interpreting and transliterating. Between interpreting and translation.
- (25) Can you define "minimal language skills"?
- (26) Is it possible to **sign in American Sign Language** at the same time you are speaking in English?
- (27) Will the interpretation you provide today be verbatim?
- (28) What process would you use to inform the Court of an error in your interpretation?
- (29) Can you explain the difference between simultaneous and consecutive interpretation?
- (30) What issues significantly affect your interpreting in court?

- (31) Have you submitted to the Administrative Office of the Courts a completed information form, a statement swearing or affirming compliance with the Maryland Code of Conduct for Court Interpreters and a statement subscribing to the Interpreter's Oath?
- (32) Have you, in a state or federal court of record, a pending criminal charge or criminal conviction on a charge punishable by a fine of more than \$500 or imprisonment for more than 6 months and not pardoned or expunged?
- (33) Are you a potential witness in this case?
- (34) Do you have any other potential conflicts of interests that you have not yet mentioned to the Court?
- (35) Are you ready to take the oath for interpreters?

Explanation of Responses to Voir Dire Questions for Interpreters²

The following is an explanation or suggested responses to the *voir dire* questions used to determine the qualifications of interpreters working in Maryland courts. In some instances, the appropriateness of the response will depend on whether a sign or spoken language interpreter is being questioned.

- (1) *State your full name and address.*

No explanation needed.

- (2) *Where are you employed currently?*

The Court needs to determine whether there is any potential conflict due to full- or part-time employment of an interpreter or assignments as an independent contractor. For example, some police forces employ bilingual officers who freelance as interpreters. The Court may need to evaluate whether a conflict arises from that employment in, e.g., a vehicle tort case.

Interpreters may be self employed, "freelance" interpreters, may work through interpreter service agencies, or do both. In certain localities, such as Frederick or Columbia, a number of certified interpreters work full-time at the schools for the deaf and freelance on a part-time basis.

- (3) *How long have you known [sign/spoken] language?*

Research indicates that it takes between 6 to 10 years of language study before an individual has the language skills necessary to learn the interpreting process in his or her second language.

An interpreter may indicate that the signed or spoken language is his or her first language.

- (4) *Where did you learn [sign/spoken language]?*

² ADAPTED FROM WILLIAM MITCHELL SCHOOL OF LAW, LEGAL INTERPRETING WORKSHOP, 1981, CONDUCTED BY ANNA WITTER-MERITHEW AND JILL HARTMAN. REVISED IN 1986 BY THE AUTHORS. REVISED IN 1994 BY THE MARYLAND JUDICIAL CONFERENCE'S TASK FORCE ON INTERPRETERS. REVISED IN MAY, 1997 BY THE ADVISORY COMMITTEE ON INTERPRETERS' SUBCOMMITTEE ON COURT INTERPRETER FEES, QUALIFICATION STANDARDS AND USAGE.

The answer to this question reinforces the answer to question 3, indicating whether the language was learned in the home in which the interpreter was raised, in school, or in some combination of these or other settings. A mix of formal and informal language training is an asset. For a second language, 6 to 10 years' use should be expected.

- (5) *Can you communicate fluently in [sign/spoken language]?*

The answer to this question should be "yes".

On occasion, a deaf person will use a language other than American Sign Language (ASL) such as French Sign Language, and an interpreter may be available in that language. Thus, if the Court inquires about ASL specifically, the answer may be "No, I do not use American Sign Language; however, the individual for whom I am to interpret uses French Sign Language, which I do use."

- (6) *What is your educational background?*

Formal education may vary dramatically among interpreters, depending on their cultural heritage, but the Court should realize the complexity of interpreting. For this reason, the Court is urged not to accept an interpreter on the basis of a *voir dire* examination unless the interpreter has at least a high school education or its cultural equivalent.

- (7) *What formal interpreter training have you undertaken?*

The advent of formal postsecondary programs for interpreters is relatively recent, but the number of programs are growing in recognition that interpreter training differs from general, non-interpreting language training.

Such programs for sign language interpreting degree programs have been offered since the 1970's, usually at a 2-year associate of arts level. About 10, 4-year interpreting programs exist throughout the country and, within the vicinity of Maryland, 2 master's degree interpreting programs are available. Additionally or in the alternative, the interpreter may have less formal training such as completion of workshops through professional organizations.

An individual with no formal interpreter training should be questioned to document non-formal training.

- (8) *What formal legal interpreter training have you undertaken?*

Resources for formal training in legal interpreting have not stabilized. Over the past 10 years, intensive programs have been offered through California State University/Northridge (6 weeks), Advancement Seminars Inc. (3 weeks), Haury Institute for Court Interpreting (3 weeks), and Montclair State University (3 weeks). Less intensive courses include those of the Gallaudet University School of Professional and Sign Language Studies Department (4 days), Potomac Chapter of the Registry of Interpreters for the Deaf (4 days), and the Bicultural Center formerly of Riverdale, Maryland (2 days).

- (9) *What knowledge and skill areas did you study?*

Interpreters who have had legal training have studied the vocabulary of the law and the manner in which language is used in the courtroom. In addition, these interpreters have spent considerable time interpreting legal texts. The interpreter training programs for legal interpreting include course work on courtroom protocol and legal interpreting ethics. Interpreters also should have successfully participated in supervised fieldwork prior to completing the program. Each of these subject areas is extensive and a competent interpreter should be able to explain each thoroughly.

Sign language interpreters also study how deaf people use American Sign Language to discuss legal topics.

- (10) *Have you attended the Maryland Judiciary's Orientation Workshop for Court Interpreters?*

The answer should be "yes", as this is required under the Administrative Order issued on December 7, 1995. This workshop includes components on legal terminology, ethics, and skills but is merely a 2-day overview and not an intensive course.

- (11) *Are you certified? By whom? What is your certification called?*

The answer to the first of these questions preferably

is "yes", but the Court should be aware that "certified" often is used loosely. Refer to the next answer for an explanation of the various types of certification credentials.

For a sign language interpreter, certification is offered throughout the United States by the Registry of Interpreters for the Deaf, Inc. (RID), which has several types of certificates. Additionally, the National Association of the Deaf (NAD), the Mid-Atlantic Quality Assurance Test developed by the Kansas Commission for the Hearing Impaired in cooperation with the Johnson County Community College, and some states also establish levels that some courts use in determining competency in sign language interpretation and that may denote an interpreter as "certified". As these categories are not in general use in this area at this time, however, the following discussion describes RID certification. As the RID certification process is in transition, you may wish to contact its FAX on Demand number (800-711-3691) for a document entitled "Explanation of Certificates".

After a lapse of almost 10 years, RID has renewed testing for skills and specialized knowledge of legal settings and terminology, as evidenced by a Specialist Certificate: Legal (SC:L). RID previously issued Specialist Certificate: Legal (SC:L) but discontinued doing so when the reliability of the testing procedures were questioned. Various training programs were instituted, leading to the Provisional Specialist Certificate: Legal (Prov. SC:L) for intensive training and testing, the Conditional Legal Interpreting Permit (CLIP) and Conditional Legal Interpreting Permit-Relay (CLIP-R) certificates for training followed by a supervision component.

A revamped SC:L examination has been developed. SC:L Prov. and CLIP holders must take and pass the new examination to retain specialized certification in legal settings. CLIP-R certificates will remain valid until RID develops an appropriate examination.

Other current RID certificates are: the Certificate of Interpretation (CI), which is indicative of a demonstrated ability to interpret between American Sign Language and spoken English, both in sign-to-voice and voice-to-sign; the Certificate of Transliteration (CT),

which denotes a demonstrated ability to transliterate between an English-based sign language (traditionally, but inaccurately, termed Signed English, Pidgin Sign Language, Ameslan or otherwise) and spoken English, both in sign-to-voice and voice-to-sign; the combined Certificate of Interpretation and Certificate of Translation (CI and CT); the Oral Transliteration Certificate (OTC), which denotes a demonstrated ability to transliterate a spoken message from a hearing person to, and to understand and repeat the message and intent of the speech and mouth movements of, a deaf or hard of hearing person; the Certified Deaf Interpreter (CDI), which denotes testing of a deaf or hard of hearing person with at least 1 year's work experience and 16 hours of training in interpreting; and the Certified Deaf Interpreter-Provisional (CDI-P), which is awarded for partial completion of CDI testing.

RID certificates that no longer are issued, but may remain valid so long as RID continuing education requirements are met, include: the Master Comprehensive Skills Certificate (MCSC), which denotes testing both of American Sign Language (ASL) and other varieties of sign language that do not conform to ASL grammar; the Comprehensive Skills Certificate (CSC), which denotes the same testing as the MCSC, at a lower level but comparable to the current, combined CI and CT; the Interpretation Certificate/Transliteration Certificate (IC/TC); the Interpretation Certificate (IC) and the Transliteration Certificate (TC), which were awarded to persons not scoring sufficiently high marks for the full CSC and, for holders who are deaf interpreters, is being replaced by the CDI and the CDI-P certificates; the Reverse Skills Certificate (RSC), which also was awarded to persons not scoring sufficiently high marks; the Oral Interpreting Certificate: Comprehensive (OIC:C), the Oral Interpreting Certificate: Spoken to Visible (OIC:S/V) and the Oral Interpreting Certificate: Visible to Spoken (OIC:V/S), being phased out by the OIC; and the Specialist Certificate: Performing Arts (SC:PA).

Due to the limitations on the availability of these tests for deaf interpreters and the unique need for these interpreters for some assignments, some deaf interpreters may have extensive experience without certification. However, this situation should change with renewed RID testing.

Similarly, for spoken language interpreters, a number of forms of recognition exist, which are informally or formally denoted as certification. For purposes of court interpretation, however, an interpreter should be listed in the Maryland Administrative Office of the Courts' Registry of Court Interpreters as certified, because Maryland certification standards require, in addition to passing an examination of the United States Administrative Office of the Courts or State Court Interpreter Certification Consortium, attendance at a Maryland orientation workshop and, if practicable, a background check.

(12) *Please explain the certification process?*

RID certification involves written testing of knowledge as to the ethics of interpreting, the history of interpreting, the culture of deaf people, the protocol of the interpreting process and the business of interpreting, followed by an interpretation skills evaluation, and/or transliteration evaluation. This process is not directed at interpretation in a legal setting, which is evaluated by written and practical test for the specialist certificate.

(13) *Have you spent time in a country where the spoken language is used?*

This question is intended to elicit information about time that afforded intensive exposure to, and use of, the spoken language.

(14) *Are you active in any professional organization?*

The answer to this question should be "yes". See question 15.

(15) *What do "RID" and "NAJIT" mean?*

"RID" is the acronym for The Registry of Interpreters for the Deaf, Inc., a professional membership organization formed in 1964, and certifying sign language interpreters.

"NAJIT" is the National Association of Judiciary Inter-

preters and Translators.

- (16) *How many times have you interpreted in court and in what kinds of situations have you interpreted?*

While usage of interpreters in court seems to be growing for every language, it still will be a rarity to encounter an interpreter with hundred hours of court interpreting experience even in the most frequently used languages. Furthermore, experience may run the gamut of court proceedings and is not a guarantee of quality skills. Consequently, the Court needs to elicit whether an interpreter has professional experience and evaluate that experience in light of the interpreter's education and testing and the particular court assignment.

- (17) *Have you met _____?*
the person for whom interpreter services are to be provided

The answer should be "yes", for two reasons.

First, an interpreter needs to establish his or her ability to communicate with the person and to identify any potential communication barriers deriving from the person's unique language patterns.

Second, the Code of Conduct for Court Interpreters requires an interpreter to disclose prior contact with the person, in order to have the Court determine whether there is or may appear to be a conflict of interest. The deaf community and various linguistic groups, and their respective pools of interpreters, can be very limited in number, and meeting with the person may remind the interpreter of an earlier contact.

- (18) *Were you able to establish communication?*

The answer should be "yes", or the interpreter cannot fulfill the function of the job.

For example, a deaf person who uses an idiosyncratic variation of sign language may require that a deaf and hearing interpreter be used as a team. Deaf people with limited English or American Sign Language skills often

benefit from this type of arrangement.

Communication must not only be established but maintained, and the interpreter should bring to the attention of the Court any difficulty in communicating that subsequently arises, as soon as the difficulty becomes apparent to the interpreter. Furthermore, the interpreter should suggest that the Court check on a continuous basis with the individual for whom interpreter services are being provided, to monitor whether communication is maintained.

(19) *How could you determine that you were being understood and that communication was established?*

During the initial meeting between an interpreter and an individual with limited English proficiency, the interpreter should ask open-ended questions about neutral topics unrelated to the case, such as the individual's life, current events, or the community, to determine whether the interpreter and individual understand one another. "Yes" or "no" questions do not suffice. A perceived problem should be explored by asking the individual to rephrase his or her questions. If the individual answers appropriately, the interpreter is assured that communication has been established.

(20) *What language does the person use?*

The Court needs to establish on the record which language or combination of the 5,000 plus extant languages is being used. For example, a deaf person may be monolingual-American Sign Language, monolingual-English, monolingual-other signed language, or bilingual American Sign Language and English. Most deaf persons are somewhat bilingual by virtue of the fact that they live in an English speaking environment; however, most are not equally fluent in both languages. The majority of deaf Americans are described accurately as "American Sign Language dominant bilingual."

(21) *How did you determine the language used?*

The answer of a sign language interpreter should discuss the linguistic features that would indicate whether the person uses American Sign Language (ASL). For example, an ASL user would use a subject-object-verb or object-subject-verb sentence structure; time

and tense markers would be at or near the beginning of the utterances; adverbs and other grammar would take place on the face and not in separate signs; complex features, such as sentence structure that incorporates topic-comment eyebrow markers, would be used; rhetorical question eyebrow markers would be employed; relative clause eyebrow and head-tilt markers would be used; verbs would incorporate pronouns; and pronouns would be performed by eye-gaze and not by signs.

(22) *How long did it take you to determine the language used?*

The answer will vary. If no communication difficulties arise, a reasonable time allows the interpreter and individual for whom interpreter services are to be provided to become comfortable communicating. It can, however, take a considerable amount of time, so that the interpreter and individual should be allowed to decide, within limits, the amount of time they need.

The crucial point is to allow enough time for the interpreter and individual, as well as the Court and attorneys, to feel comfortable that communication is effective.

(23) *In your opinion, is the **deaf** person American Sign Language-English bilingual?*

The answer will vary, depending on the deaf person. The question is intended to determine the interpreter's grasp of bilingualism.

(24) *Please explain the difference between interpreting and transliterating. Between interpreting and translation.*

Interpretation involves working between two formal languages)transmitting a message from a source language into an appropriate equivalent message in a target language. Interpreting requires rearrangement of the syntax of both languages in order to convey the message faithfully.

Transliterating involves changing the form of a single language. Thus, an interpreter might listen to spoken English or watch a variation of sign language that approximates English and convey the message in either a signed or spoken form. Transliterating does not necessarily involve fluency in American Sign Language. Approximately 30% of deaf Americans can be accommodated

satisfactorily with a transliteration.

Translation involves transmitting a message from written form to written form between languages.

Sight translation is a hybrid of interpretation and translation, whereby an interpreter translates a written document into a spoken or signed rendition.

(25) *Can you define "minimal language skills"?*

"Minimal language skills" refers to an absence of, or limitation on, language skills due to limited education and/or minimal exposure to a community of language users. By virtue of isolation, an individual may lack fluency in a formal language system such as American Sign Language. If the Court encounters such an individual, a linguistic evaluation should be performed to determine the best method of interpretation for that individual.

(26) *Is it possible to sign in American Sign Language at the same time you are speaking in English?*

No. American Sign Language and English differ significantly in syntax, making it no more possible to use American Sign Language and speak English at the same time than to use two spoken languages simultaneously.

The question derives from the common experience of people who do in fact sign and speak at the same time in what is called "simultaneous communication", a practice of speaking English while attempting to sign in a language that approximates English. As 70% of deaf Americans use American Sign Language and simultaneous

communication supposedly is a form of English, most deaf persons cannot rely on simultaneous communication as an effective means of courtroom interpretation.

(27) *Will the interpretation you provide today be verbatim?*

The answer should be "no". Some interpreters will answer "yes" and assume that the Court's intention is to determine whether, as required by the Code of Conduct for Court Interpreters, they will interpret the message accurately while retaining the nuances of the language. However, the assumption may not be clear to

counsel or other persons interested in the role of the interpreter.

Verbatim means "word-for-word", which is impossible in interpreting since it would necessitate a disregard for grammar and other features unique to a language. The interpreter's task is to convey the source message in the target language appropriately. A proper interpretation will retain the mood, tone, nuances, and meaning of the speaker to the extent that the target language has an appropriate equivalent.

(28) *What process would you use to inform the Court of an error in your interpretation?*

An interpreter has an ethical duty to inform the Court of an error of substance made in interpretation, and the interpreter should construe "substance" broadly. On the other hand, an interpreter should not continually interrupt the proceedings to refine the interpretation. Furthermore, the Court should be notified as soon as possible with the least disruption of the proceedings.

If the interpreter realizes an error while still interpreting, the proper manner to inform the Court is to speak in the third person and state something like, "The interpreter erred in conveying the last question, may Counsel please repeat?" or "The interpreter has erred in interpreting the last response, the correct interpretation is... ." Otherwise, the interpreter should apprise the Court by note, during the next break or in some other, unobtrusive manner.

A second interpreter who realizes an error may apprise the first interpreter. Should the first interpreter refuse to correct a substantive error, the second interpreter has an ethical obligation to do so.

(29) *Can you explain the difference between simultaneous and consecutive interpretation?*

Simultaneous interpretation occurs when continuous spoken text is interpreted while the speaker or signer convey their message. Notwithstanding the word "simultaneous", the interpreter may allow a lag time of up to two or three sentences, in order to comprehend the message to be interpreted. The Nuremberg trials were the first notable example of the use of simultaneous interpretation in court and involved the entire

proceedings, but now simultaneous interpretation is used most often during opening and closing statements, jury instructions or other relatively uninterrupted segments of spoken text. As explained below, it should not be used during questioning of a witness.

In consecutive interpreting, an interpreter listens or watches an entire message before beginning to convey the interpretation. Accordingly, consecutive interpreting can be more accurate, by obviating the need to guess at the entire message and allowing time to refine the interpretation after the pressure of continued spoken or signed text is removed. Accordingly, it should always be used during examination of a witness.

(30) *What issues significantly affect your interpreting in court?*

Interpreters may view these issues as too numerous to list, but among the obstacles are: the interpreter's lack of familiarity with legal terminology, process, protocol, and ethics specifically relating to court interpretation; the Court's, counsels' or parties' lack of understanding of the role of the interpreter; positioning in the room; and the speed of the spoken text.

(31) *Have you submitted to the Administrative Office of the Courts a completed information form, a statement swearing or affirming compliance with the Maryland Code of Conduct for Court Interpreters and a statement subscribing to the Interpreter's Oath?*

The answer to this question should be "yes" as to the information form, as this is required under the Administrative Order dated December 7, 1995. The remaining documents will be required should the Subcommittee report be adopted.

(32) *Have you, in a state or federal court of record, a pending criminal charge or criminal conviction on a charge punishable by a fine of more than \$500 or imprisonment for more than 6 months and not pardoned or expunged?*

The answer should be "no". This is the standard for juror qualification, although Courts Article § 8-204 as to disclosures by prospective jurors contains an exclusion for traffic offenses.

(33) *Are you a potential witness in this case?*

The answer should be "no".

(34) *Do you have any other potential conflicts of interests that you have not yet mentioned to the Court?*

In addition to conflicts that may stem from the interpreter's employment or a prior relationship with the individual for whom he or she would be interpreting, the interpreter may raise issues of financial interest in the proceedings or other actual or potential conflicts.

(35) *Are you ready to take the oath for interpreters?*

This question presents the prospective interpreter with a final opportunity to raise with the Court any points of concern about undertaking the role of court interpreter in this particular case, and the Court should note any hesitancy that may indicate unresolved issues that could disrupt the proceedings if the interpreter later must be replaced.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 500 - TRIAL

AMEND Rule 2-532 to add a certain cross reference, as follows:

Rule 2-532. MOTION FOR JUDGMENT NOTWITHSTANDING THE VERDICT

(a) When Permitted

In a jury trial, a party may move for judgment notwithstanding the verdict only if that party made a motion for judgment at the close of all the evidence and only on the grounds advanced in support of the earlier motion.

(b) Time for Filing

The motion shall be filed within ten days after entry of judgment on the verdict or, if no verdict is returned, within ten days after the discharge of the jury. If the court reserves ruling on a motion for judgment made at the close of all the evidence, that motion becomes a motion for judgment notwithstanding the verdict if the verdict is against the moving party or if no verdict is returned.

Cross reference: See Rule 8-205 requiring notice to the Clerk of the Court of Special Appeals of information not disclosed in an information report regarding the filing of a motion under this Rule, or its withdrawal or disposition.

(c) Joinder With Motion for New Trial

A motion for judgment notwithstanding the verdict may be

joined with a motion for a new trial.

(d) Effect of Failure to Make Motion

Failure to move for a judgment notwithstanding the verdict under this Rule does not affect a party's right upon appeal to assign as error the denial of that party's motion for judgment.

(e) Disposition

If a verdict has been returned, the court may deny the motion, or it may grant the motion, set aside any judgment entered on the verdict, and direct the entry of a new judgment. If a verdict has not been returned, the court may grant the motion and direct the entry of judgment or order a new trial. If a party's motion for judgment notwithstanding the verdict is granted, the court at the same time shall decide whether to grant that party's motion for new trial, if any, should the judgment thereafter be reversed on appeal.

(f) Effect of Reversal on Appeal

(1) When Judgment Notwithstanding the Verdict Granted

If a motion for judgment notwithstanding the verdict is granted and the appellate court reverses, it may (A) enter judgment on the original verdict, (B) remand the case for a new trial in accordance with a conditional order of the trial court, or (C) itself order a new trial. If the trial court has conditionally denied a motion for new trial, the appellee may assert error in that denial and, if the judgment notwithstanding the verdict is reversed, subsequent proceedings shall be in

accordance with the order of the appellate court.

(2) When Judgment Notwithstanding the Verdict Denied

If a motion for judgment notwithstanding the verdict has been denied and the appellate court reverses, it may (A) enter judgment as if the motion had been granted or (B) itself order a new trial. If the motion for judgment notwithstanding the verdict has been denied, the prevailing party may, as appellee, assert grounds entitling that party to a new trial in the event the appellate court concludes that the trial court erred in denying the motion. If the appellate court reverses the judgment, nothing in this Rule precludes it from determining that the appellee is entitled to a new trial or from directing the trial court to determine whether a new trial should be granted.

Source: This Rule is derived as follows:

Section (a) is derived in part from former Rule 563 a and is in part new.

Section (b) is derived from FRCP 50 (b) and in part from former Rule 563 a 2.

Section (c) is derived from former Rule 563 a 3.

Section (d) is derived from former Rule 563 a 4.

Section (e) is derived from former Rule 563 b.

Section (f) is derived from former Rule 563 c and FRCP 50 (c) and (d).

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 500 - TRIAL

AMEND Rule 2-533 to add a certain cross reference, as follows:

Rule 2-533. 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 verdict has been set aside on a motion for judgment notwithstanding the verdict or 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 judgment notwithstanding the verdict or the amended judgment.

Cross reference: See Rule 8-205 requiring notice to the Clerk of the Court of Special Appeals of information not disclosed in an information report regarding the filing of a motion under this Rule, or its withdrawal or disposition.

(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. When a motion for new trial is joined with a motion for judgment notwithstanding the verdict and the motion for judgment notwithstanding the verdict is granted, the court at the same time shall decide whether to grant that party's motion for new trial if the judgment is thereafter reversed on appeal.

(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.

Source: This Rule is derived as follows:

Section (a) is derived in part from FRCP 59 (b) and is in part new. It replaces former Rules 567 a and 690.

Section (b) is derived from former Rule 567 b.

Section (c) is derived from former Rules 567 c and 563 b 3.

Section (d) is derived from former Rule 567 e.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 500 - TRIAL

AMEND Rule 2-534 to add a certain cross reference, as follows:

Rule 2-534. MOTION TO ALTER OR AMEND A JUDGMENT -- COURT DECISION

In an action decided by the court, 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.

Cross reference: See Rule 8-205 requiring notice to the Clerk of the Court of Special Appeals of information not disclosed in an information report regarding the filing of a motion under this Rule, or its withdrawal or disposition.

Source: This Rule is derived from FRCP 52 (b) and 59 (a).

MARYLAND RULES OF PROCEDURE

TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT

CHAPTER 100 - COMMENCEMENT OF ACTION AND PROCESS

AMEND Rule 3-115 to conform it to the relettering of Rule 3-311, as follows:

Rule 3-115. ATTACHMENT BEFORE JUDGMENT

. . .

(h) Release of Property or Dissolution of Attachment

A defendant who has appeared may obtain release of the attached property by posting a bond in an amount equal to the value of the property, as determined by the court, or in the amount of the plaintiff's claim, whichever is less, conditioned upon satisfaction of any judgment that may be recovered.

Upon motion of a defendant who has appeared, the court may release some or all of the attached property if it finds that (1) the complaint has been dismissed or settled, (2) the plaintiff has failed to comply with the provisions of this Rule or an order of court regarding these proceedings, (3) the plaintiff fails to demonstrate the probability of success on the merits, (4) property of sufficient value to satisfy the claim and probable costs will remain subject to the attachment after the release, or (5) the attachment of the specific property will cause undue hardship to the defendant and the defendant has delivered to the

sheriff or made available for levy alternative property sufficient in value to satisfy the claim and probable costs.

Upon motion of a defendant or garnishee, the court may release some or all of the attached property on the ground that by law the property is automatically exempt from attachment without the necessity of election or it may dissolve the attachment on the ground that the plaintiff is not entitled to attachment before judgment. If the motion is filed before the defendant's notice of intention to defend is due pursuant to ~~the~~ Rule 3-307, its filing shall be treated as an appearance for that purpose only. A party desiring a hearing on a motion filed pursuant to this section shall so request pursuant to Rule 3-311 ~~(d)~~ (e) and, if requested, a hearing shall be held promptly.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 3 - CIVIL PROCEDURE -- DISTRICT COURT
CHAPTER 300 - PLEADINGS AND MOTIONS

AMEND Rule 3-311 to establish a time to respond to a motion, to change the time within which a party who is served with a motion may file a request for a hearing, and to make hearings on certain motions discretionary, as follows:

Rule 3-311. MOTIONS

(a) Generally

An application to the court for an order shall be by motion which, unless made during a hearing or trial, shall be made in writing, and shall set forth the relief or order sought.

(b) Response

Except as otherwise provided in this section, a party against whom a motion is directed shall file any response within ten days after being served with the motion or within the time allowed for that party to file a notice of intention to defend pursuant to Rule 3-307 (b), whichever is later. Unless the court orders otherwise, no response need be filed to a motion filed pursuant to Rule 1-204, 3-533, or 3-534. If a party does not file a timely response, the court may proceed to rule on the motion.

Cross reference: See Rule 1-203 concerning the computation of time.

~~(b)~~ (c) Statement of Grounds; Exhibits

A written motion and a response to a motion shall state with particularity the grounds. A party shall attach as an exhibit to a written motion or response any document that the party wishes the court to consider in ruling on the motion or response unless the document is adopted by reference as permitted by Rule 3-303 (d) or set forth as permitted by Rule 3-421 (g).

~~(c)~~ (d) Hearing - Motions for New Trial or to Amend the Judgment

When a motion is filed pursuant to Rule 3-533 or 3-534, the court shall determine in each case whether a hearing will be held, but it may not grant the motion without a hearing.

~~(d)~~ (e) Hearing - Other Motions

A party desiring a hearing on a motion, other than a motion filed pursuant to Rule 3-533 or 3-534, shall ~~file a~~ timely written request. ~~The request of the moving party shall be included request the hearing in the motion or response under the heading "Request for Hearing_{7.}" and the request of a party served with a motion shall be made by filing a "Request for Hearing" within five days after service. Upon a timely request, a hearing shall be held except as provided in Rule 3-421 (g). The court may hear and decide the motion before or at trial. If no hearing is requested, the court may decide the motion without a hearing~~

~~at any time.~~ Except when a rule expressly provides for a hearing, the court shall determine in each case whether a hearing will be held, but the court may not render a decision that is dispositive of a claim or defense without a hearing if one was requested as provided in this section. Unless the court orders otherwise, a motion filed within ten days before the trial date shall be decided on the trial date.

Source: This Rule is derived as follows:

Section (a) is derived from former M.D.R. 321 a.

Section (b) is new.

Section ~~(b)~~ (c) is derived from former M.D.R. 321 a.

Section ~~(c)~~ (d) is derived from former Rule 321 d.

Section ~~(d)~~ (e) is derived in part from former M.D.R. 321 b and is in part new.

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
CHAPTER 300 - TRIAL AND SENTENCING

AMEND Rule 4-343 to add a new section (f) providing for the right of victims' representatives to address the jury under certain circumstances, to add a certain Committee note following new section (f), to conform the rule to a proposed amendment to Rule 4-342, to conform terminology and statutory references to recent legislation, as follows:

Rule 4-343. SENTENCING -- PROCEDURE IN CAPITAL CASES

(a) Applicability

This Rule applies whenever a sentence of death is sought under Code, ~~Article 27, §413~~ Criminal Law Article, §2-303.

(b) Statutory Sentencing Procedure

When a defendant has been found guilty of murder in the first degree, the State has given the notice required under Code, ~~Article 27, §412 (b)(1)~~ Criminal Law Article, §2-202 (a), and the defendant may be subject to a sentence of death, a sentencing proceeding, separate from the proceeding at which the defendant's guilt was adjudicated, shall be conducted as soon as practicable after the trial pursuant to the provisions of Code, ~~Article 27, §413~~ Criminal Law Article, §2-303. A separate Findings and Sentencing Determination form that complies with sections ~~(g)~~ and

~~(h)~~ (h) and (i) of this Rule shall be completed with respect to each death for which the defendant is subject to a sentence of death.

(c) Presentence Disclosures by the State's Attorney

Sufficiently in advance of sentencing to afford the defendant a reasonable opportunity to investigate, the State's Attorney shall disclose to the defendant or counsel any information that the State expects to present to the court or jury for consideration in sentencing. Upon request of the defendant, the court may postpone sentencing if the court finds that the information was not timely provided.

(d) Reports of Defendant's Experts

Upon request by the State after the defendant has been found guilty of murder in the first degree, the defendant shall produce and permit the State to inspect and copy all written reports made in connection with the action by each expert the defendant expects to call as a witness at the sentencing proceeding, including the results of any physical or mental examination, scientific test, experiment, or comparison, and shall furnish to the State the substance of any such oral report or conclusion. The defendant shall provide this information to the State sufficiently in advance of sentencing to afford the State a reasonable opportunity to investigate the information. If the court finds that the information was not timely provided, the court may postpone sentencing if requested by the State.

(e) Judge

Except as provided in Rule 4-361, the judge who presides at trial shall preside at the sentencing proceeding.

(f) Notice and Right of Victim's Representative to Address the Court or Jury

(1) Notice and Determination

Notice to a victim's representative of proceedings under this Rule is governed by Code, Criminal Procedure Article, §11-104 (e). The court shall determine whether the requirements of that section have been satisfied.

(2) Right to Address the Court or Jury

The right of a victim's representative to address the court during a sentencing hearing under this Rule is governed by Code, Criminal Procedure Article, §11-403. The right of a victim's representative to address the jury during a sentencing hearing under this Rule is governed by Code, Criminal Procedure Article, §11-404.

Committee note: Code, Criminal Procedure Article, §11-404 permits the court (1) to hold a hearing outside the presence of the jury to determine whether a victim's representative may present an oral statement to the jury and (2) to limit any unduly prejudicial portion of the proposed statement. See *Payne v. Tennessee*, 501 U.S. 808 (1991), generally permitting the family members of a victim to provide information concerning the individuality of the victim and the impact of the crime on the victim's survivors to the extent that the presentation does not offend the Due Process Clause of the Fourteenth Amendment, but leaving undisturbed a prohibition against information concerning the family member's characterization of and opinions about the crime, the defendant, and the appropriate sentence.

Cross reference: See Code, Criminal Procedure Article, §§11-103 (b), 11-403 (e), and 11-404 (c) concerning the right of a victim's representative to file an application for leave to appeal under certain circumstances.

~~(f)~~ (g) Allocation

Before sentence is determined, the court shall afford the defendant the opportunity, personally and through counsel, to make a statement, and shall afford the State the opportunity to respond.

Committee note: A defendant who elects to allocute may do so before or after the State's rebuttal closing argument. If allocation occurs after the State's rebuttal closing argument, the State may respond to the allocution.

~~(g)~~ (h) Form of Written Findings and Determinations

Except as otherwise provided in section ~~(h)~~ (i) of this Rule, the findings and determinations shall be made in writing in the following form:

(CAPTION)

FINDINGS AND SENTENCING DETERMINATION

VICTIM: [Name of murder victim]

Section I

Based upon the evidence, we unanimously find that each of the following statements marked "proven" has been proven BEYOND A REASONABLE DOUBT and that each of those statements marked "not proven" has not been proven BEYOND A REASONABLE DOUBT.

1. The defendant was a principal in the first degree to the

murder.

<u> </u>	<u> </u>
proven	not
	proven

2. The defendant engaged or employed another person to commit the murder and the murder was committed ~~pursuant to~~ under an agreement or contract for remuneration or the promise of remuneration.

<u> </u>	<u> </u>
proven	not
	proven

3. The victim was a law enforcement officer who, while in the performance of the officer's duties, was murdered by one or more persons, and the defendant was a principal in the second degree who: (A) willfully, deliberately, and with premeditation intended the death of the law enforcement officer; (B) was a major participant in the murder; and (C) was actually present at the time and place of the murder.

<u> </u>	<u> </u>
proven	not
	proven

(If one or more of the above are marked "proven," proceed to Section II. If all are marked "not proven," proceed to Section VI and enter "~~Life~~ Imprisonment for Life.")

Section II

Based upon the evidence, we unanimously find that the following statement, if marked "proven," has been proven BY A PREPONDERANCE OF THE EVIDENCE or that, if marked "not proven," it

has not been proven BY A PREPONDERANCE OF THE EVIDENCE.

At the time the murder was committed, the defendant was mentally retarded.

_____ _____
proven not
 proven

(If the above statement is marked "proven," proceed to Section VI and enter "~~Life~~ Imprisonment for Life." If it is marked "not proven," complete Section III.)

Section III

Based upon the evidence, we unanimously find that each of the following aggravating circumstances that is marked "proven" has been proven BEYOND A REASONABLE DOUBT and we unanimously find that each of the aggravating circumstances marked "not proven" has not been proven BEYOND A REASONABLE DOUBT.

1. The victim was a law enforcement officer who, while in the performance of the officer's duties, was murdered by one or more persons.

_____ _____
proven not
 proven

2. The defendant committed the murder at a time when confined in a correctional ~~institution~~ facility.

proven not
 proven

3. The defendant committed the murder in furtherance of an escape from or an attempt to escape from or evade the lawful custody, arrest, or detention of or by an officer or guard of a correctional ~~institution~~ facility or by a law enforcement officer.

proven not
 proven

4. The victim was taken or attempted to be taken in the course of a kidnapping or abduction or an attempt to kidnap or abduct.

proven not
 proven

5. The victim was a child abducted in violation of Code, ~~Article 27, §2~~ Criminal Law Article, §3-503 (a)(1).

proven not
 proven

6. The defendant committed the murder ~~pursuant to~~ under an agreement or contract for remuneration or the promise of remuneration to commit the murder.

proven not
 proven

7. The defendant engaged or employed another person to commit the murder and the murder was committed ~~pursuant to~~ under an

agreement or contract for remuneration or the promise of remuneration.

_____ _____
proven not
 proven

8. At the time of the murder, the defendant was under the sentence of death or imprisonment for life.

_____ _____
proven not
 proven

9. The defendant committed more than one offense of murder in the first degree arising out of the same incident.

_____ _____
proven not
 proven

10. The defendant committed the murder while committing or attempting to commit a carjacking, armed carjacking, robbery under Code, Criminal Law Article, §3-402 or §3-403, arson in the first degree, rape in the first degree, or sexual offense in the first degree.

_____ _____
proven not
 proven

(If one or more of the above are marked "proven," complete Section IV. If all of the above are marked "not proven," do not complete Sections IV and V and proceed to Section VI and enter "Life Imprisonment for Life.")

Section IV

Based upon the evidence, we make the following determinations as to mitigating circumstances:

1. The defendant has not previously (i) been found guilty of a crime of violence; (ii) entered a plea of guilty or nolo contendere to a charge of a crime of violence; or (iii) been granted probation ~~on stay of entry of judgment pursuant to a charge of~~ before judgment for a crime of violence.

(As used in the preceding paragraph, "crime of violence" means abduction, arson in the first degree, carjacking, armed carjacking, escape in the first degree, kidnapping, mayhem, murder, robbery under Code, Criminal Law Article, §3-402 or §3-403, rape in the first or second degree, sexual offense in the first or second degree, manslaughter other than involuntary manslaughter, an attempt to commit any of these offenses, or the use of a handgun in the commission of a felony or another crime of violence.)

(Mark only one.)

- (a) We unanimously find by a preponderance of the evidence that the above circumstance exists.
- (b) We unanimously find by a preponderance of the evidence that the above circumstance does not exist.
- (c) After a reasonable period of deliberation, one or more of us, but fewer than all 12, find by a preponderance of the evidence that the above circumstance exists.

2. The victim was a participant in the defendant's conduct or consented to the act which caused the victim's death.

(Mark only one.)

- (a) We unanimously find by a preponderance of the evidence that the above circumstance exists.
- (b) We unanimously find by a preponderance of the evidence that the above circumstance does not exist.
- (c) After a reasonable period of deliberation, one or more of us, but fewer than all 12, find by a preponderance of the evidence that the above circumstance exists.

3. The defendant acted under substantial duress, domination, or provocation of another person, even though not so substantial as to constitute a complete defense to the prosecution.

(Mark only one.)

- (a) We unanimously find by a preponderance of the evidence that the above circumstance exists.
- (b) We unanimously find by a preponderance of the evidence that the above circumstance does not exist.
- (c) After a reasonable period of deliberation, one or more of us, but fewer than all 12, find by a preponderance of the evidence that the above circumstance exists.

4. The murder was committed while the capacity of the defendant to appreciate the criminality of his or her conduct or to conform his or her conduct to the requirements of law was substantially impaired as a result of mental incapacity, mental

disorder, or emotional disturbance.

(Mark only one.)

- (a) We unanimously find by a preponderance of the evidence that the above circumstance exists.
- (b) We unanimously find by a preponderance of the evidence that the above circumstance does not exist.
- (c) After a reasonable period of deliberation, one or more of us, but fewer than all 12, find by a preponderance of the evidence that the above circumstance exists.

5. The defendant was of a youthful age at the time of the ~~crime~~ murder.

(Mark only one.)

- (a) We unanimously find by a preponderance of the evidence that the above circumstance exists.
- (b) We unanimously find by a preponderance of the evidence that the above circumstance does not exist.
- (c) After a reasonable period of deliberation, one or more of us, but fewer than all 12, find by a preponderance of the evidence that the above circumstance exists.

6. The act of the defendant was not the sole proximate cause of the victim's death.

(Mark only one.)

- (a) We unanimously find by a preponderance of the evidence that the above circumstance exists.
- (b) We unanimously find by a preponderance of the evidence that the above circumstance does not exist.
- (c) After a reasonable period of deliberation, one or more of us, but fewer than all 12, find by a preponderance of the evidence that the above circumstance exists.

7. It is unlikely that the defendant will engage in further criminal activity that would constitute a continuing threat to society.

(Mark only one.)

- (a) We unanimously find by a preponderance of the evidence that the above circumstance exists.
- (b) We unanimously find by a preponderance of the evidence that the above circumstance does not exist.
- (c) After a reasonable period of deliberation, one or more of us, but fewer than all 12, find by a preponderance of the evidence that the above circumstance exists.

8. (a) We unanimously find by a preponderance of the evidence that the following additional mitigating circumstances exist:

(Use reverse side if necessary)

(b) One or more of us, but fewer than all 12, find by a preponderance of the evidence that the following additional mitigating circumstances exist:

(Use reverse side if necessary)

(If the jury unanimously determines in Section IV that no mitigating circumstances exist, do not complete Section V. Proceed to Section VI and enter "Death." If the jury or any juror determines that one or more mitigating circumstances exist, complete Section V.)

Section V

Each individual juror shall weigh the aggravating circumstances found unanimously to exist against any mitigating circumstances found unanimously to exist, as well as against any mitigating circumstance found by that individual juror to exist.

We unanimously find that the State has proven BY A

PREPONDERANCE OF THE EVIDENCE that the aggravating circumstances marked "proven" in Section III outweigh the mitigating circumstances in Section IV.

_____ _____
yes no

Section VI

Enter the determination of sentence either "~~Life~~ Imprisonment for Life" or "Death" according to the following instructions:

1. If all of the answers in Section I are marked "not proven," enter "~~Life~~ Imprisonment for Life."
2. If the answer in Section II is marked "proven," enter "~~Life~~ Imprisonment for Life."
3. If all of the answers in Section III are marked "not proven," enter "~~Life~~ Imprisonment for Life."
4. If Section IV was completed and the jury unanimously determined that no mitigating circumstance exists, enter "Death."
5. If Section V was completed and marked "no," enter "~~Life~~ Imprisonment for Life."
6. If Section V was completed and marked "yes," enter "Death."

We unanimously determine the sentence to be _____.

Section VII

If "~~Life~~ Imprisonment for Life" is entered in Section VI,
answer the following question:

Based upon the evidence, does the jury unanimously determine
that the sentence of ~~life~~ imprisonment for life previously
entered shall be without the possibility of parole?

_____ _____
yes no

Foreman

Juror 7

Juror 2

Juror 8

Juror 3

Juror 9

Juror 4

Juror 10

Juror 5

Juror 11

Juror 6

Juror 12

or,

JUDGE

~~(h)~~ (i) Deletions from Form

Section II of the form set forth in section ~~(g)~~ (h) of

this Rule shall not be submitted to the jury unless the issue of mental retardation is generated by the evidence. Unless the defendant requests otherwise, Section III of the form shall not include any aggravating circumstance that the State has not specified in the notice required under Code, ~~Article 27, §412~~ ~~(b)(1)~~ Criminal Law Article, §2-202 (a) of its intention to seek a sentence of death. Section VII of the form shall not be submitted to the jury unless the State has given the notice required under Code, ~~Article 27, §412~~ ~~(b)(2)~~ Criminal Law Article, §2-203 of its intention to seek a sentence of imprisonment for life without the possibility of parole.

Committee note: Omission of some aggravating circumstances from the form is not intended to preclude argument by the defendant concerning the absence of those circumstances.

~~(i)~~ (j) Advice of the Judge

At the time of imposing a sentence of death, the judge shall advise the defendant that the determination of guilt and the sentence will be reviewed automatically by the Court of Appeals, and that the sentence will be stayed pending that review. At the time of imposing a sentence of ~~life~~ imprisonment for life, the court shall cause the defendant to be advised in accordance with Rule 4-342 ~~(h)~~ (i).

Cross reference: Rule 8-306.

~~(j)~~ (k) Report of Judge

After sentence is imposed, the judge promptly shall prepare and send to the parties a report in the following form:

(CAPTION)

REPORT OF TRIAL JUDGE

I. Data Concerning Defendant

A. Date of Birth

B. Sex

C. Race

D. Address

E. Length of Time in Community

F. Reputation in Community

G. Family Situation and Background

1. Situation at time of offense (describe defendant's living situation including marital status and number and age of children)

2. Family history (describe family history including pertinent data about parents and siblings)

H. Education

I. Work Record

J. Prior Criminal Record and Institutional History (list any prior convictions, disposition, and periods of incarceration)

K. Military History

L. Pertinent Physical or Mental Characteristics or History

M. Other Significant Data About Defendant

II. Data Concerning Offense

- A. Briefly describe facts of offense (include time, place, and manner of death; weapon, if any; other participants and nature of participation)
- B. Was there any evidence that the defendant was impaired by alcohol or drugs at the time of the offense?
If so describe.
- C. Did the defendant know the victim prior to the offense?

Yes No

- 1. If so, describe relationship.
- 2. Did the prior relationship in any way precipitate the offense? If so, explain.

D. Did the victim's behavior in any way provoke the offense?
If so, explain.

E. Data Concerning Victim

- 1. Name
- 2. Date of Birth
- 3. Sex
- 4. Race
- 5. Length of time in community
- 6. Reputation in community

F. Any Other Significant Data About Offense

III. A. Plea Entered by Defendant:

Not guilty; guilty; not criminally

responsible

B. Mode of Trial:

Court Jury

If there was a jury trial, did defendant challenge the jury selection or composition? If so, explain.

C. Counsel

1. Name

2. Address

3. Appointed or retained

(If more than one attorney represented defendant, provide data on each and include stage of proceeding at which the representation was furnished.)

D. Pre-Trial Publicity - Did defendant request a mistrial or a change of venue on the basis of publicity? If so, explain. Attach copies of any motions made and exhibits filed.

E. Was defendant charged with other offenses arising out of the same incident? If so, list charges; state whether they were tried at same proceeding, and give disposition.

IV. Data Concerning Sentencing Proceeding

A. List aggravating circumstance(s) upon which State relied in the pretrial notice.

B. Was the proceeding conducted

before same judge as trial?

before same jury?

If the sentencing proceeding was conducted before a jury other than the trial jury, did the defendant challenge the selection or composition of the jury? If so, explain.

- C. Counsel - If counsel at sentencing was different from trial counsel, give information requested in III C above.
- D. Which aggravating and mitigating circumstances were raised by the evidence?
- E. On which aggravating and mitigating circumstances were the jury instructed?
- F. Sentence imposed:

~~Life Imprisonment for life~~
Death
~~Life Imprisonment for life~~
without the possibility of
parole

V. Chronology

Date of Offense

Arrest

Charge

Notification of intention to seek penalty of death

Trial (guilt/innocence) - began and ended

Post-trial Motions Disposed of

Sentencing Proceeding - began and ended

Sentence Imposed

VI. Recommendation of Trial Court As To Whether Imposition of Sentence of Death is Justified.

VII. A copy of the Findings and Sentencing Determination made in this action is attached to and made a part of this report.

.....
Judge

CERTIFICATION

I certify that on the day of,
(month)

....., I sent copies of this report to counsel for the parties
year

for comment and have attached any comments made by them to this
report.

.....
Judge

Within five days after receipt of the report, the parties may submit to the judge written comments concerning the factual accuracy of the report. The judge promptly shall file with the clerk of the trial court and with the Clerk of the Court of Appeals the report in final form, noting any changes made, together with any comments of the parties.

Committee note: The report of the judge is filed whenever a sentence of death is sought, regardless of the sentence imposed.

Source: This Rule is derived from former Rule 772A, with the exception of sections (c) and (d), which are new, and section ~~(f)~~ (g), which is derived from former Rule 772 d and M.D.R. 772 c.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 500 - EXPUNGEMENT OF RECORDS

AMEND Rule 4-502 (f) for conformity with Chapter 131 (SB 114),
Acts of 2002, as follows:

Rule 4-502. EXPUNGEMENT DEFINITIONS

. . .

(f) Law Enforcement Agency

"Law enforcement agency" means any State, county, and
municipal police department or agency, any sheriff's office, ~~the~~
any State's Attorney's office, the Office of the State
Prosecutor, and the Attorney General's office.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 7 - APPELLATE AND OTHER JUDICIAL REVIEW
IN CIRCUIT COURT
CHAPTER 200 - JUDICIAL REVIEW OF ADMINISTRATIVE
AGENCY DECISIONS

AMEND Rule 7-203 to add a cross reference to Code, Labor and Employment Article, §9-726, as follows:

Rule 7-203. TIME FOR FILING ACTION

(a) Generally

Except as otherwise provided in this Rule or by statute, a petition for judicial review shall be filed within 30 days after the latest of:

(1) the date of the order or action of which review is sought;

(2) the date the administrative agency sent notice of the order or action to the petitioner, if notice was required by law to be sent to the petitioner; or

Cross reference: See Code, Labor and Employment Article, §9-726 governing judicial review of a decision of the Workers' Compensation Commission in a case in which a rehearing request has been filed.

(3) the date the petitioner received notice of the agency's order or action, if notice was required by law to be received by the petitioner.

(b) Petition by Other Party

If one party files a timely petition, any other person may

file a petition within ~~10~~ ten days after the date the agency mailed notice of the filing of the first petition, or within the period set forth in section (a), whichever is later.

Committee note: The provisions of former Rule B4 concerning the shortening and extending of time are not carried forward. The time for initiating an action for judicial review is in the nature of a statute of limitations, which must be specifically raised either by preliminary motion under Rule 7-204 or in the answering memorandum filed pursuant to Rule 7-207.

Source: This Rule is derived from former Rule B4.

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 8-202 (c) to provide that a notice of appeal filed before a timely filed motion pursuant to Rule 2-532, 2-533, or 2-534 shall be treated as filed on the same day as but after entry of a notice withdrawing the motion or an order disposing of it, as follows:

Rule 8-202. NOTICE OF APPEAL -- TIMES FOR FILING

(a) Generally

Except as otherwise provided in this Rule or by law, the notice of appeal shall be filed within 30 days after entry of the judgment or order from which the appeal is taken. In this Rule, "judgment" includes a verdict or decision of a circuit court to which issues have been sent from an Orphans' Court.

Cross reference: Code, Courts Article, §12-302 (c)(3).

(b) Criminal Action - Motion for New Trial

In a criminal action, when a timely motion for a new trial is filed pursuant to Rule 4-331 (a), the notice of appeal shall be filed within 30 days after the later of (1) entry of the judgment or (2) entry of a notice withdrawing the motion or an order denying the motion.

(c) Civil Action - Post-Judgment Motions

In a civil action, when a timely motion is filed pursuant to Rule 2-532, 2-533, or 2-534, the notice of appeal shall be filed within 30 days after entry of (1) a notice of withdrawing the motion or (2) an order denying a motion pursuant to Rule 2-533 or disposing of a motion pursuant to Rule 2-532 or 2-534. A notice of appeal filed before the withdrawal or disposition of any of these motions does not deprive the trial court of jurisdiction to dispose of the motion. If a notice of appeal is filed and thereafter a party files a timely motion pursuant to Rule 2-532, 2-533, or 2-534, the notice of appeal shall be treated as filed on the same day as, but after, the entry of a notice withdrawing the motion or an order disposing of it.

Committee note: A motion filed pursuant to Rule 2-535, if filed within ten days after entry of judgment, will have the same effect as a motion filed pursuant to Rule 2-534, for purposes of this Rule. *Unnamed Att'y v. Attorney Grievance Comm'n*, 303 Md. 473, 494 A.2d 940 (1985); *Sieck v. Sieck*, 66 Md. App. 37, 502 A.2d 528 (1986).

(d) When Notice for In Banc Review Filed

A party who files a timely notice for in banc review pursuant to Rule 2-551 or 4-352 may file a notice of appeal provided that (1) the notice of appeal is filed within 30 days after entry of the judgment or order from which the appeal is taken and (2) the notice for in banc review has been withdrawn before the notice of appeal is filed and prior to any hearing before or decision by the in banc court. A notice of appeal by

any other party shall be filed within 30 days after entry of a notice withdrawing the request for in banc review or an order disposing of it. Any earlier notice of appeal by that other party does not deprive the in banc court of jurisdiction to conduct the in banc review.

(e) Appeals by Other Party - Within Ten Days

If one party files a timely notice of appeal, any other party may file a notice of appeal within ten days after the date on which the first notice of appeal was filed or within any longer time otherwise allowed by this Rule.

(f) Date of Entry

"Entry" as used in this Rule occurs on the day when the clerk of the lower court first makes a record in writing of the judgment, notice, or order on the file jacket, on a docket within the file, or in a docket book, according to the practice of that court, and records the actual date of the entry.

Cross reference: Rule 2-601.

Source: This Rule is derived from former Rule 1012.

MARYLAND RULES OF PROCEDURE

TITLE 8 - APPELLATE REVIEW IN COURT OF APPEALS

AND COURT OF SPECIAL APPEALS

CHAPTER 200 - OBTAINING REVIEW IN COURT OF SPECIAL APPEALS

AMEND Rule 8-205 to require a certain disclosure of the filing, withdrawal, and disposition of certain post-judgment motions, as follows:

Rule 8-205. INFORMATION REPORTS

(a) Applicability

This Rule applies to appeals in all civil actions in the Court of Special Appeals except juvenile causes and applications and appeals by prisoners seeking relief relating to confinement or conditions of confinement.

(b) Report by Appellant Required

Upon the filing of a notice of appeal, the clerk of the lower court shall provide to the appellant an information report form prescribed by the Court of Special Appeals. Unless an expedited appeal is elected pursuant to Rule 8-207, the appellant shall file with the Clerk of the Court of Special Appeals a copy of the notice of appeal and a complete and accurate information report.

(c) Time for Filing

When a notice of appeal is filed more than ten days after

the entry of judgment, the information report shall be filed within ten days after the filing of the notice. When the notice of appeal is filed within ten days after the entry of judgment, the information report shall be filed within ten days after the expiration of that ten-day period, if no post-judgment motion pursuant to Rule 2-532, 2-533, or 2-534 or a notice for in banc review pursuant to Rule 2-551 has been timely filed.

Cross reference: Rule 8-202 (c).

(d) Report by Appellee

Within seven days after service of appellant's information report, each appellee may file with the Clerk of the Court of Special Appeals a supplemental report containing any other information needed to clarify the issues on appeal or otherwise assist the prehearing judge.

(e) Disclosure of Post-Judgment Motions

If the filing, withdrawal, or disposition of a motion pursuant to Rule 2-532, 2-533, or 2-534 has not been disclosed in an information report or supplemental report, the party filing the motion shall notify the Clerk of the Court of Special Appeals of the filing and of the withdrawal or disposition.

(e) (f) Confidentiality

Information contained in an information report or a supplemental report shall not (1) be treated as admissions, (2) limit the disclosing party in presenting or arguing that party's case, or (3) be referred to except at a prehearing or scheduling

conference.

Source: This Rule is derived from former Rule 1023 with the exception of section (a) which is derived from former Rule 1022, section (e) which is new, and section ~~(e)~~ (f), the substance of which was transferred from Rule 8-206.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 300 - CIRCUIT COURT CLERKS' OFFICES

AMEND Rule 16-307 to conform to proposed new Rule 16-506, as follows:

Rule 16-307. ELECTRONIC FILING OF PLEADINGS AND PAPERS

a. Applicability; Conflicts with Other Rules

This Rule applies to the electronic filing of pleadings and papers in a circuit court. A pleading or paper may not be filed by direct electronic transmission to the court except in accordance with this Rule. To the extent of any inconsistency with any other Rule, this Rule and any administrative order entered pursuant to it shall prevail.

b. Submission of Plan

A County Administrative Judge may submit to the State Court Administrator a detailed plan for a pilot project for the electronic filing of pleadings and papers. ~~After consulting with~~ In developing the plan, the County Administrative Judge, shall consult with the Clerk of the Circuit Court, ~~the vendor~~ appropriate vendors, identified in the plan, the State Court Administrator, and ~~such~~ any other judges, court clerks, members of the bar, vendors of electronic filing systems, and ~~other~~ interested persons ~~as that~~ the State Court Administrator County

Administrative Judge shall chooses, the State Court Administrator shall review the plan, considering among other things to ensure that: (1) ~~whether~~ the proposed electronic filing system ~~will be~~ is compatible with ~~(A) the data processing systems, and operational systems, and electronic filing systems used or expected to be used~~ used or anticipated for use by the ~~Administrative Office of the Courts and by the Circuit Court, judiciary and (B) electronic filing systems that may be installed by other circuit courts;~~ (2) ~~whether~~ the installation and use of the proposed system ~~will~~ does not create ~~any~~ an undue financial or operational ~~burdens~~ burden on the court; (3) ~~whether~~ the proposed system is reasonably available for use ~~by litigants and attorneys~~ at a reasonable cost, ~~or whether~~ an efficient and compatible system of manual filing will be maintained; (4) ~~whether~~ the proposed system ~~will be~~ is effective, secure, and not likely to break down, ~~and secure;~~ (5) ~~whether~~ the proposed system makes appropriate provision for the protection of privacy and for public access to public records; and (6) ~~whether~~ the court can discard or replace the system during or at the conclusion of a trial period without undue financial or operational burden. The State Court Administrator shall review the plan and make a recommendation to the Court of Appeals with respect to ~~the plan~~ it.

Cross reference: For the definition of "public record," see Code, State Government Article, §10-611.

c. Approval; Duration

A plan may not be implemented unless approved by administrative order of the Court of Appeals. The plan shall terminate two years after the date of the administrative order ~~approving it~~ unless the Court terminated terminates it earlier or modifies or extended extends it by a subsequent administrative order.

d. Evaluation

The Chief Judge of the Court of Appeals ~~shall~~ may appoint a committee consisting of one or more judges, court clerks, lawyers, legal educators, bar association representatives, and other interested and knowledgeable persons to monitor and evaluate the plan. ~~Prior to~~ Before the expiration of the two-year period set forth in section c of this Rule, the Court of Appeals, after considering the recommendations of the committee, shall evaluate the operation of the plan.

~~e. Extension, Modification, or Termination~~

~~By administrative order, the Court of Appeals may extend, modify, or terminate a plan at any time.~~

~~f. e.~~ e. Public Availability of Plan

The State Court Administrator and the Clerk of the Circuit Court shall make available for public inspection a copy of any current plan.

Source: This Rule is derived from former Rule 1217A.

MARYLAND RULES OF PROCEDURE

APPENDIX: FORMS

AMEND Form 1-332 to change the heading of the form, to delete a certain parenthetical phrase, and to modify a certain parenthetical phrase, as follows:

Form 1-332. NOTIFICATION ~~UNDER RULE 1-332~~ OF NEED FOR ACCOMMODATION OR INTERPRETER

Court: _____

Case Name: _____

Case Number: _____

Trial or Hearing Date, if known: _____

NOTIFICATION ~~UNDER RULE 1-332~~ OF NEED FOR ACCOMMODATION
OR INTERPRETER

- Assistive Listening Device _____ (specify type)
- Computer Assisted Technology
- Documents in large print _____ (specify size)
or in Braille or in digital form or on
cassette
- Communication board
- Electrical outlet for, e.g., assistive notetaking
device
- Escort

- Familiarization with courtroom layout
- Guide dog accommodations _____ (specify)
- Interpreter ~~(in connection with disability)~~ _____
 (specify language and, if necessary, any dialect thereof, for example:
 American Sign Language, Korean,
Mandarin Chinese, Russian, Spanish)
- Lighting _____ (specify)
- Quiet room
- Recesses at _____ intervals
 (specify time or other interval)
- Scheduling of proceedings in a.m. or p.m.
- Small room
- Stair-free access to facility
- Use of personal tape recorder
- Videotaped testimony
- Visual aid machine _____ (specify)
- Wheel-chair accessible facilities, including
 raised/lowered counsel table; accessible witness
 stand
- Other _____

Name of person needing assistance: _____

Attorney's name, address, and telephone number: _____

Date: _____