

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 Sixty-Eighth Report to the Court recommending adoption of proposed new Rules 4-281, 4-332, 9-205.2, 12-701, 12-702, 12-703, 12-704 and proposed amendments to Rules 1-202, 1-311, 1-326, 1-351, 2-131, 2-221, 2-311, 2-331, 2-332, 3-131, 3-221, 3-331, 3-332, 4-247, 4-248, 4-251, 4-263, 4-314, 4-327, 4-403, 4-705, 4-706, 5-605, 6-208, 6-411, 6-416, 9-107, 9-202, 10-710, 13-201, 14-210, 15-306, 15-309, 15-901, 15-1103, 16-110, 16-204, 16-401, 16-808, 16-813, 16-815, 17-101, 17-105, and Rules 8.2 and 8.4 of the Maryland Lawyers' Rules of Professional Conduct, all as set forth in that Report published in the *Maryland Register*, Vol. 38, Issue 8, pages 475 - 503 (April 8, 2011); and

This Court having considered at open meetings, 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 7th day of June, 2011,

ORDERED, by the Court of Appeals of Maryland, that new Rules 9-205.2, 12-701, 12-702, 12-703, and 12-704 be, and they are

hereby, adopted in the form previously published; and it is further

ORDERED that new Rule 4-281 be, and it is hereby, adopted in the form attached to this Order; and it is further

ORDERED that amendments to Rules 1-202, 1-311, 1-326, 1-351, 2-131, 2-221, 2-311, 2-331 2-332, 3-131, 3-221, 3-331, 3-332, 4-247, 4-248, 4-251, 4-263, 4-314, 4-327, 4-403, 4-705, 4-706, 5-605, 6-208, 6-411, 6-416, 9-107, 9-202, 10-710, 13-201, 14-210, 15-306, 15-309, 15-901, 15-1103, 16-110, 16-204, 16-401, 16-808, 16-813, 16-815, 17-101, 17-105, and Rules 8.2 and 8.4 of the Maryland Lawyers' Rules of Professional Conduct, be, and they are hereby, adopted in the form previously published; and it is further

ORDERED that proposed new Rule 4-332 be, and it is hereby, remanded to the Standing Committee on Rules of Practice and Procedure for revision in light of discussion at the Court's open meeting; 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 July 1, 2011 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/ Glenn T. Harrell, Jr.
Glenn T. Harrell, Jr.

/s/ Lynne A. Battaglia
Lynne A. Battaglia

/s/ Clayton Greene, Jr.
Clayton Greene, Jr.

/s/ Joseph F. Murphy
Joseph F. Murphy, Jr.

/s/ Sally D. Adkins
Sally D. Adkins

/s/ Mary Ellen Barbera
Mary Ellen Barbera

* Judge Harrell does not sign as to Rule 4-281.

Filed: June 7, 2011

/s/ Bessie M. Decker
Clerk
Court of Appeals of Maryland

MARYLAND RULES OF PROCEDURE
TITLE 1 - GENERAL PROVISIONS

CHAPTER 200 - CONSTRUCTION, INTERPRETATION, AND DEFINITIONS

AMEND Rule 1-202 to add a definition of "newspaper of general circulation" and to make stylistic changes, as follows:

Rule 1-202. DEFINITIONS

. . .

(r) Newspaper of General Circulation

"Newspaper of general circulation" means a newspaper as defined in Code, Article 1, §28.

~~(r)~~ (s) Original Pleading

. . .

~~(s)~~ (t) Person

. . .

~~(t)~~ (u) Pleading

. . .

~~(u)~~ (v) Proceeding

. . .

~~(v)~~ (w) Process

. . .

~~(w)~~ (x) Property

. . .

~~(x)~~ (y) Return

. . .

~~(y)~~ (z) Sheriff

. . .

~~(z)~~ (aa) Subpoena

. . .

~~(aa)~~ (bb) Summons

. . .

~~(bb)~~ (cc) Writ

. . .

Source: This Rule is derived as follows:

. . .

Section (r) is new.

Section ~~(r)~~ (s) is derived from the last sentence of former Rule 5 v.

Section ~~(s)~~ (t) is derived from former Rule 5 q.

Section ~~(t)~~ (u) is new and adopts the concept of federal practice set forth in the 1963 version of Fed. R. Civ. P. 7 (a).

Section ~~(u)~~ (v) is derived from former Rule 5 w.

Section ~~(v)~~ (w) is derived from former Rule 5 y.

Section ~~(w)~~ (x) is derived from former Rule 5 z.

Section ~~(x)~~ (y) is new.

Section ~~(y)~~ (z) is derived from former Rule 5 cc.

Section ~~(z)~~ (aa) is derived from former Rule 5 ee.

Section ~~(aa)~~ (bb) is new.

Section ~~(bb)~~ (cc) is derived from former Rule 5 ff.

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

AMEND Rule 1-311 to require pleadings and papers to contain the facsimile number, if any, and e-mail address, if any, of the person signing the pleading or paper, as follows:

Rule 1-311. SIGNING OF PLEADINGS AND OTHER PAPERS

(a) Requirement

Every pleading and paper of a party represented by an attorney shall be signed by at least one attorney who has been admitted to practice law in this State and who complies with Rule 1-312. Every pleading and paper of a party who is not represented by an attorney shall be signed by the party. Every pleading or paper filed shall contain the signer's address, and telephone number, of the person by whom it is signed. It also may contain that person's business electronic mail address and business facsimile number, if any, and e-mail address, if any.

Committee note: The last sentence of section (a), which allows requirement that a pleading to contain a business electronic mail address and a business facsimile number facsimile number, if any, and e-mail address, if any, does not alter the filing or service rules or time periods triggered by the entry of a judgment. See *Blundon v. Taylor*, 364 Md. 1 (2001).

(b) Effect of Signature

The signature of an attorney on a pleading or paper constitutes a certification that the attorney has read the pleading or paper; that to the best of the attorney's knowledge,

information, and belief there is good ground to support it; and that it is not interposed for improper purpose or delay.

(c) Sanctions

If a pleading or paper is not signed as required (except inadvertent omission to sign, if promptly corrected) or is signed with intent to defeat the purpose of this Rule, it may be stricken and the action may proceed as though the pleading had not been filed. For a wilful violation of this Rule, an attorney is subject to appropriate disciplinary action.

Source: This Rule is derived as follows:

Section (a) is derived from former Rules 302 a, 301 f, and the 1937 version of Fed. R. Civ. P. 11.

Section (b) is derived from former Rule 302 b and the 1937 version of Fed. R. Civ. P. 11.

Section (c) is derived from the 1937 version of Fed. R. Civ. P. 11.

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

AMEND Rule 1-326 to conform it to revisions of Rules 16-813
and 16-814, as follows:

Rule 1-326. PROCEEDINGS REGARDING VICTIMS AND VICTIMS'
REPRESENTATIVES

. . .

Cross reference: See Maryland Declaration of Rights, Article 47;
Rules 16-813, Maryland Code of Judicial Conduct, ~~Canon 3B-(6)(a)~~
Rule 2.6 (a); and Rule 16-814, Maryland Code of Conduct for
Judicial Appointees, ~~Canon 3B-(6)(a)~~ Rule 2.6 (a). For
definitions of "victim" and "victim's representative," see Code,
Courts Article, §3-8A-01 and Code, Criminal Procedure Article,
Title 11.

Source: This Rule is new.

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

AMEND Rule 1-351 to conform it to the revision of Rule 16-813, as follows:

Rule 1-351. ORDER UPON EX PARTE APPLICATION PROHIBITED -
EXCEPTIONS

No court shall sign any order or grant any relief in an action upon an ex parte application unless:

(a) an ex parte application is expressly provided for or necessarily implied by these rules or other law, or

(b) the moving party has certified in writing that all parties who will be affected have been given notice of the time and place of presentation of the application to the court or that specified efforts commensurate with the circumstances have been made to give notice.

Source: This Rule is new and is consistent with Rule 16-812 (Maryland Lawyers' Rules of Professional Conduct, Rule 3.5) and Rule 16-813 (Maryland Code of Judicial Conduct, ~~Canon 3~~ Rule 2.9).

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 100 - COMMENCEMENT OF ACTION AND PROCESS

AMEND Rule 2-131 to conform a reference to a section of Rule 1-202 to the relettering of that section, as follows:

Rule 2-131. APPEARANCE

. . .

Cross reference: Rules 1-311, 1-312, 1-313; Rules 14, 15, and 16 of the Rules Governing Admission to the Bar. See also Rule 1-202 (~~s~~) (t) for the definition of "person".

Source: This Rule is derived from former Rule 124.

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 200 - PARTIES

AMEND Rule 2-221 to conform a reference to a section of Rule 1-202 to the relettering of that section, as follows:

Rule 2-221. INTERPLEADER

(a) Interpleader Action

. . .

Cross reference: For the definition of property, see Rule 1-202
(w) (x).

. . .

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 300 - PLEADINGS AND MOTIONS

AMEND Rule 2-311 by requiring a party requesting a hearing to state the request in the title of the motion or response, as follows:

Rule 2-311. MOTIONS

. . .

(f) Hearing - Other Motions

A party desiring a hearing on a motion, other than a motion filed pursuant to Rule 2-532, 2-533, or 2-534, shall request the hearing in the motion or response under the heading "Request for Hearing." The title of the motion or response shall state that a hearing is requested. 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.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 300 - PLEADINGS AND MOTIONS

AMEND Rule 2-331 (c) to delete the word "previously," as follows:

Rule 2-331. COUNTERCLAIM AND CROSS-CLAIM

. . .

(c) Joinder of Additional Parties

A person not ~~previously~~ a party to the action may be made a party to a counterclaim or cross-claim and shall be served as a defendant in an original action. When served with process, the person being added shall also be served with a copy of all pleadings, scheduling notices, court orders, and other papers previously filed in the action.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 2 - CIVIL PROCEDURE - CIRCUIT COURT
CHAPTER 300 - PLEADINGS AND MOTIONS

AMEND Rule 2-332 (a) to delete the word "previously," as follows:

Rule 2-332. THIRD-PARTY PRACTICE

(a) Defendant's Claim Against Third Party

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

. . .

MARYLAND RULES OF PROCEDURE

TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT

CHAPTER 100 - COMMENCEMENT OF ACTION AND PROCESS

AMEND Rule 3-131 to conform a reference to a section of Rule 1-202 to the relettering of that section, as follows:

Rule 3-131. APPEARANCE

. . .

Cross reference: Rules 1-311, 1-312, 1-313; Rules 14 and 15 of the Rules Governing Admission to the Bar. See also Rule 1-202 (~~s~~) (t) for the definition of "person", and Code, Business Occupations and Professions Article, §10-206 (b)(1), (2), and (4) for certain exceptions applicable in the District Court.

Source: This Rule is derived from former Rule 124.

MARYLAND RULES OF PROCEDURE
TITLE 3 - CIVIL PROCEDURE - DISTRICT COURT
CHAPTER 200 - PARTIES

AMEND Rule 3-221 to conform a reference to a section of Rule 1-202 to the relettering of that section, as follows:

Rule 3-221. INTERPLEADER

(a) Interpleader Action

. . .

Cross reference: For the definition of property, see Rule 1-202
(w) (x).

. . .

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

AMEND Rule 3-331 (c) to delete the word "previously," as follows:

Rule 3-331. COUNTERCLAIM AND CROSS-CLAIM

. . .

(c) Joinder of Additional Parties

A person not ~~previously~~ a party to the action may be made a party to a counterclaim or cross-claim and shall be served as a defendant in an original action. When served with process, the person being added shall also be served with a copy of all pleadings, scheduling notices, court orders, and other papers previously filed in the action.

. . .

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

AMEND Rule 3-332 (a) to delete the word "previously," as follows:

Rule 3-332. THIRD-PARTY PRACTICE

(a) Defendant's Claim Against Third Party

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

. . .

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-247 (a) to modify the notice procedures for the clerk to follow when a charge has been nol prossed, as follows:

Rule 4-247. NOLLE PROSEQUI

(a) Disposition by Nolle Prosequi

The State's Attorney may terminate a prosecution on a charge and dismiss the charge by entering a nolle prosequi on the record in open court. The defendant need not be present in court when the nolle prosequi is entered, but ~~in that event~~ if neither the defendant nor the defendant's attorney is present, the clerk shall send notice to the defendant, if the defendant's whereabouts are known, and to the defendant's attorney of record. Notice shall not be sent if either the defendant or the defendant's attorney was present in court when the nolle prosequi was entered. If notice is required, the clerk may send one notice that lists all of the charges that were dismissed.

(b) Effect of Nolle Prosequi

When a nolle prosequi has been entered on a charge, any conditions of pretrial release on that charge are terminated, and any bail bond posted for the defendant on that charge shall be released. The clerk shall take the action necessary to recall or revoke any outstanding warrant or detainer that could lead to the

arrest or detention of the defendant because of that charge.

Cross reference: For provisions relating to expungement of the records after a case has been dismissed by entering a nolle prosequi, see Rule 4-329. For provisions relating to a nolle prosequi with the requirement of drug or alcohol treatment in non-violent crimes, see Code, Criminal Procedure Article, §6-229.

Source: This Rule is derived from former Rule 782 a and b and M.D.R. 782 a and b.

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-248 (a) to modify the notice procedures for the clerk to follow when a charge has been stетted and to make a stylistic change to the language of the cross reference at the end of the Rule, as follows:

Rule 4-248. STET

(a) Disposition by Stet

On motion of the State's Attorney, the court may indefinitely postpone trial of a charge by marking the charge "stet" on the docket. The defendant need not be present when a charge is stетted but ~~in that event~~ if neither the defendant nor the defendant's attorney is present, the clerk shall send notice of the stet to the defendant, if the defendant's whereabouts are known, and to the defendant's attorney of record. Notice shall not be sent if either the defendant or the defendant's attorney was present in court when the charge was stетted. If notice is required, the clerk may send one notice that lists all of the charges that were stетted. A charge may not be stетted over the objection of the defendant. A stетted charge may be rescheduled for trial at the request of either party within one year and thereafter only by order of court for good cause shown.

(b) Effect of Stet

When a charge is statted, the clerk shall take the action necessary to recall or revoke any outstanding warrant or detainer that could lead to the arrest or detention of the defendant because of the charge, unless the court orders that any warrant or detainer shall remain outstanding.

Committee note: For provisions relating to bail or recognizance when criminal charges are statted, see Code, Criminal Procedure Article, §5-208.

Cross reference: For provisions relating to expungement of the records after a case stet has been ~~dismissed by entering a stet entered in a case~~, see Rule 4-329. For provisions relating to a stet with the requirement of drug or alcohol treatment in non-violent crimes, see Code, Criminal Procedure Article, §6-229.

Source: This Rule is derived from former Rule 782 c and d and M.D.R. 782 c and d.

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-251 (c) by adding language pertaining to sending of a notice of dismissal, as follows:

Rule 4-251. MOTIONS IN DISTRICT COURT

(a) Content

A motion filed before trial in District Court shall be in writing unless the court otherwise directs, shall state the grounds upon which it is made, and shall set forth the relief sought. A motion alleging an illegal source of information as the basis for probable cause must be supported by precise and specific factual averments.

(b) When Made; Determination

(1) A motion asserting a defect in the charging document other than its failure to show jurisdiction in the court or its failure to charge an offense shall be made and determined before the first witness is sworn and before evidence is received on the merits.

(2) A motion filed before trial to suppress evidence or to exclude evidence by reason of any objection or defense shall be determined at trial.

(3) A motion requesting that a child be held in a juvenile facility pending a transfer determination shall be heard and

determined not later than the next court day after it is filed unless the court sets a later date for good cause shown.

(4) A motion to transfer jurisdiction of an action to the juvenile court shall be determined within 10 days after the hearing on the motion.

(5) Other motions may be determined at any appropriate time.

(c) Effect of Determination Before Trial

(1) Generally

The court may grant the relief it deems appropriate, including the dismissal of the charging document with or without prejudice. The defendant need not be present in court when a dismissal is entered, but if neither the defendant nor the defendant's attorney is present, the clerk shall send notice to the defendant, if the defendant's whereabouts are known, and to the defendant's attorney of record. Notice shall not be sent if either the defendant or the defendant's attorney was present when the charging document was dismissed. If notice is required, the clerk may send one notice that lists all of the charges that were dismissed.

(2) Transfer of Jurisdiction to Juvenile Court

If the court grants a motion to transfer jurisdiction of an action to the juvenile court, the court shall enter a written order waiving its jurisdiction and ordering that the defendant be subject to the jurisdiction and procedures of the juvenile court. In its order the court shall (A) release or continue the pretrial release of the defendant, subject to appropriate conditions

reasonably necessary to ensure the appearance of the defendant in the juvenile court or (B) place the defendant in detention or shelter care pursuant to Code, Courts Article, §3-8A-15. Until a juvenile petition is filed, the charging document shall be considered a juvenile petition for the purpose of imposition and enforcement of conditions of release or placement of the defendant in detention or shelter care.

Cross reference: Code, Criminal Procedure Article, §4-202.

Source: This Rule is derived from former M.D.R. 736.

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
CHAPTER 200 - PRETRIAL PROCEDURES

AMEND Rule 4-263 (d) to require a certain statement and identification of material by the State if the State seeks a sentence of death, as follows:

Rule 4-263. DISCOVERY IN CIRCUIT COURT

. . .

(d) Disclosure by the State's Attorney

Without the necessity of a request, the State's Attorney shall provide to the defense:

(1) Statements

All written and all oral statements of the defendant and of any co-defendant that relate to the offense charged and all material and information, including documents and recordings, that relate to the acquisition of such statements;

(2) Criminal Record

Prior criminal convictions, pending charges, and probationary status of the defendant and of any co-defendant;

(3) State's Witnesses

The name and, except as provided under Code, Criminal Procedure Article, §11-205 or Rule 16-1009 (b), the address of each State's witness whom the State's Attorney intends to call to prove the State's case in chief or to rebut alibi testimony,

together with all written statements of the person that relate to the offense charged;

(4) Prior Conduct

All evidence of other crimes, wrongs, or acts committed by the defendant that the State's Attorney intends to offer at a hearing or at trial pursuant to Rule 5-404 (b);

(5) Exculpatory Information

All material or information in any form, whether or not admissible, that tends to exculpate the defendant or negate or mitigate the defendant's guilt or punishment as to the offense charged;

(6) Impeachment Information

All material or information in any form, whether or not admissible, that tends to impeach a State's witness, including:

(A) evidence of prior conduct to show the character of the witness for untruthfulness pursuant to Rule 5-608 (b);

(B) a relationship between the State's Attorney and the witness, including the nature and circumstances of any agreement, understanding, or representation that may constitute an inducement for the cooperation or testimony of the witness;

(C) prior criminal convictions, pending charges, or probationary status that may be used to impeach the witness, but the State's Attorney is not required to investigate the criminal record of the witness unless the State's Attorney knows or has reason to believe that the witness has a criminal record;

(D) an oral statement of the witness, not otherwise

memorialized, that is materially inconsistent with another statement made by the witness or with a statement made by another witness;

(E) a medical or psychiatric condition or addiction of the witness that may impair the witness's ability to testify truthfully or accurately, but the State's Attorney is not required to inquire into a witness's medical, psychiatric, or addiction history or status unless the State's Attorney has information that reasonably would lead to a belief that an inquiry would result in discovering a condition that may impair the witness's ability to testify truthfully or accurately;

(F) the fact that the witness has taken but did not pass a polygraph examination; and

(G) the failure of the witness to identify the defendant or a co-defendant;

Cross reference: See *Brady v. Maryland*, 373 U.S. 83 (1963); *Kyles v. Whitley*, 514 U.S. 419 (1995); *Giglio v. U.S.*, 405 U.S. 150 (1972); *U.S. v. Agurs*, 427 U.S. 97 (1976); *Thomas v. State*, 372 Md. 342 (2002); *Goldsmith v. State*, 337 Md. 112 (1995); and *Lyba v. State*, 321 Md. 564 (1991).

(7) Searches, Seizures, Surveillance, and Pretrial Identification

All relevant material or information regarding:

(A) specific searches and seizures, eavesdropping, and electronic surveillance including wiretaps; and

(B) pretrial identification of the defendant by a State's witness;

(8) Reports or Statements of Experts

As to each expert consulted by the State's Attorney in connection with the action:

(A) the expert's name and address, the subject matter of the consultation, the substance of the expert's findings and opinions, and a summary of the grounds for each opinion;

(B) the opportunity to inspect and copy all written reports or statements made in connection with the action by the expert, including the results of any physical or mental examination, scientific test, experiment, or comparison; and

(C) the substance of any oral report and conclusion by the expert;

(9) Evidence for Use at Trial

The opportunity to inspect, copy, and photograph all documents, computer-generated evidence as defined in Rule 2-504.3 (a), recordings, photographs, or other tangible things that the State's Attorney intends to use at a hearing or at trial; ~~and~~

(10) Property of the Defendant

The opportunity to inspect, copy, and photograph all items obtained from or belonging to the defendant, whether or not the State's Attorney intends to use the item at a hearing or at trial; and

(11) Evidentiary Statement and Identification of Materials in Capital Cases

If the defendant is charged with a first degree murder that is eligible for a sentence of death and the State filed a

notice of intention to seek a death sentence pursuant to Code, Criminal Law Article, §2-202 (a), (A) a statement of whether the material disclosed constitutes biological evidence or DNA evidence that links the defendant to the act of murder, a videotaped, voluntary interrogation and confession of the defendant to the murder, or a video recording that conclusively links the defendant to the murder, and, (B) if so, identification of the material that constitutes such evidence.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 4 - CRIMINAL CAUSES
CHAPTER 200 - PRETRIAL PROCEDURES

ADD new Rule 4-281, as follows:

Rule 4-281. MOTION RELATING TO DEATH PENALTY NOTICE

(a) Motion

Upon completion of discovery, a defendant may move to preclude the State from filing a notice of intention to seek a sentence of death pursuant to Code, Criminal Law Article, §2-301 or to strike a notice already filed on the ground that the State has failed to produce in discovery evidence of an aggravating circumstance listed in Code, Criminal Law Article, §2-303 (g), or one of the following:

(1) biological evidence or DNA evidence that links the defendant to the act of murder;

(2) a video taped voluntary interrogation and confession of the defendant to the murder; or

(3) a video recording that conclusively links the defendant to the murder.

(b) Order

After an opportunity for a hearing, the court shall promptly rule on the motion and enter an order.

Source: This Rule is new.

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

AMEND Rule 4-314 to conform an internal reference to the relettering of Rule 4-312, as follows:

Rule 4-314. DEFENSE OF NOT CRIMINALLY RESPONSIBLE

. . .

(b) Procedure for Bifurcated Trial

. . .

(3) Examination of Jurors

The court shall inform qualified jurors before examining them pursuant to Rule 4-312 ~~(d)~~ (e) that the issues of guilt or innocence and whether, if guilty, the defendant is criminally responsible will be tried in two stages. The examination of qualified jurors shall encompass all issues raised.

. . .

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

AMEND Rule 4-327 to conform it to the revision of Rule 16-813, as follows:

Rule 4-327. VERDICT - JURY

. . .

Cross reference: See Rule 16-813, Maryland Code of Judicial Conduct, ~~Canon 3B (1)~~ Rule 2.8, regarding praise or criticism of a jury's verdict.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 400 - POST CONVICTION PROCEDURE

AMEND Rule 4-403 to correct an obsolete reference to a certain division of the Office of the Public Defender, as follows:

Rule 4-403. NOTICE OF PETITION

Upon receipt of a post conviction petition, the clerk shall promptly notify the county administrative judge and the State's Attorney. When the petition relates to an action tried in that court, it shall be filed in the action. If the petition alleges that the petitioner is indigent, the clerk shall promptly notify the ~~Public Defender's Inmate Services Division~~ Office of the Public Defender by forwarding a copy of the petition.

Cross reference: Code, Article 27A, §4.

Source: This Rule is derived from former Rule BK41 e.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 700 - POST CONVICTION DNA TESTING

AMEND Rule 4-705 to correct an obsolete reference to a certain division of the Office of the Public Defender, as follows:

Rule 4-705. NOTICE OF PETITION

(a) To State's Attorney

Upon receipt of a petition, the clerk promptly shall forward a copy of it to the State's Attorney and the county administrative judge. If the petition seeks a search of the DNA database or log of an identified law enforcement agency, the State's Attorney shall send a copy of the petition to that law enforcement agency.

(b) To Public Defender

If the petition alleges that the petitioner is unable to pay the costs of testing or to employ counsel, the clerk shall promptly forward a copy of the petition to the ~~Public Defender's Inmate Services Division~~ Office of the Public Defender.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 4 - CRIMINAL CAUSES

CHAPTER 700 - POST CONVICTION DNA TESTING

AMEND Rule 4-706 to correct an obsolete reference to a certain division of the Office of the Public Defender, as follows:

Rule 4-706. ANSWER; MOTION TO TRANSFER

. . .

(d) Service

The State's Attorney shall serve a copy of the answer or motion to transfer on the petitioner and, if the petitioner alleges an inability to pay the costs of testing or to employ counsel, on the ~~Public Defender's Inmate Services Division~~ Office of the Public Defender.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 5 - EVIDENCE

CHAPTER 600 - WITNESSES

AMEND Rule 5-605 to conform it to the revisions of Rule 16-813, as follows:

Rule 5-605. COMPETENCY OF JUDGE AS WITNESS

The judge presiding at the trial may not testify in that trial as a witness. No objection need be made in order to preserve the point.

Cross reference: See Rule 16-813, Maryland Code of Judicial Conduct, ~~Canon 3D (1)(a) and (d)(iv)~~ Rule 2.11 (a)(1) and (a)(2)(D).

Source: This Rule is derived from F.R.Ev. 605.

MARYLAND RULES OF PROCEDURE
TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES
CHAPTER 200 - SMALL ESTATE

AMEND Rule 6-208 to add the words "of appointment" to paragraph 5 of the register's order for a small estate, as follows":

Rule 6-208. FORM OF REGISTER'S ORDER

The order entered by the register shall be in the following form:

[CAPTION]

ORDER FOR SMALL ESTATE

Upon the foregoing Petition, it is this ____ day of _____,
(month)
_____, by the Register of Wills ordered that:
(year)

1. The estate of _____ shall be administered as a small estate.
2. _____ shall serve as personal representative.
3. The personal representative shall pay fees due the register, expenses of administration, allowable funeral expenses, and statutory family allowances, and, if necessary, sell property of the decedent in order to pay them.
4. The will dated _____ (including codicils, if

any, dated _____) accompanying the petition is:

[] admitted to probate; or

[] retained on file only.

5. Publication is:

[] not required; or

[] required and Notice of Appointment shall be published once in a newspaper of general circulation in the county of appointment.

6. When publication is required, the personal representative shall, subject to the statutory order of priorities and the resolution of disputed claims by the parties or by the court: (a) pay all proper claims, expenses, and allowances not previously paid; (b) if necessary, sell property of the estate in order to do so; and (c) distribute the remaining property of the estate in accordance with the will or, if none, with the intestacy laws of this State.

Register of Wills

THIS ORDER DOES NOT CONSTITUTE LETTERS OF ADMINISTRATION AND DOES NOT AUTHORIZE THE TRANSFER OF ASSETS.

Certificate of Service

I hereby certify that on this ___ day of _____, _____, I
(month) (year)
delivered or mailed, postage prepaid, a copy of the foregoing
Order to _____, Personal
(name and address)

Representative.

Register of Wills

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-411 (c) to change the word "granted" to the word "filed" and to change the word "extended" to the words "before the expiration of any period extended," as follows:

Rule 6-411. ELECTION TO TAKE STATUTORY SHARE

. . .

(c) Extension of Time for Making Election

Within the period for making an election, the surviving spouse may file with the court a petition for an extension of time. The petitioner shall deliver or mail a copy of the petition to the personal representative. For good cause shown, the court may grant extensions not to exceed three months at a time, provided each petition for extension is granted filed before the expiration of the period originally prescribed or extended before the expiration of any period extended by a previous order. The court may rule on the petition without a hearing or, if time permits, with a hearing.

If an extension is granted without a hearing, the register shall serve notice on the personal representative and such other persons as the court may direct. The notice shall be in the following form:

[CAPTION]

NOTICE OF EXTENSION OF TIME
TO ELECT STATUTORY SHARE

On the _____ day of _____, _____, an extension
(month) (year)
of time to elect a statutory share of the estate was granted to
_____, the decedent's
surviving spouse. The extension expires on the _____ day of
_____.
(month) (year)

If you believe there is good cause to object to the
extension, within 20 days after service of this notice you may
file with the court, in writing, a petition to shorten the time
for filing an election. A copy of the petition shall be served
on the surviving spouse.

Register of Wills

. . .

MARYLAND RULES OF PROCEDURE

TITLE 6 - SETTLEMENT OF DECEDENTS' ESTATES

CHAPTER 400 - ADMINISTRATION OF ESTATES

AMEND Rule 6-416 (b) to modify the "Consent to Compensation for Personal Representative and/or Attorney" form, as follows:

Rule 6-416. ATTORNEY'S FEES OR PERSONAL REPRESENTATIVE'S COMMISSIONS

. . .

(b) Consent in Lieu of Court Approval

(1) Conditions for Payment

Payment of attorney's fees and personal representative's commissions may be made without court approval if:

(A) the combined sum of all payments of attorney's fees and personal representative's commissions does not exceed the amounts provided in Code, Estates and Trusts Article, §7-601; and

(B) a written consent stating the amounts of the payments signed by (i) each creditor who has filed a claim that is still open and (ii) all interested persons, is filed with the register in the following form:

BEFORE THE REGISTER OF WILLS FOR _____, MARYLAND

IN THE ESTATE OF:

_____ Estate No. _____

CONSENT TO COMPENSATION FOR
PERSONAL REPRESENTATIVE AND/OR ATTORNEY

~~I consent to the following payments of compensation to the personal representative and/or attorney and acknowledge that, if consented to by all unpaid creditors who have filed claims and all interested persons, these payments will not be subject to review or approval by the Court. I also understand that the total compensation does not exceed the amounts provided in Estates and Trusts Article, §7-601 which are 9% of the first \$20,000 of the gross estate plus 3.6% of the excess over \$20,000.~~

I understand that the law, Estates and Trusts Article, §7-601, provides a formula to establish the maximum total compensation to be paid for personal representative's commissions and/or attorney's fees without order of court. If the total compensation being requested falls within the maximum allowable amount, and the request is consented to by all unpaid creditors who have filed claims and all interested persons, this payment need not be subject to review or approval by the Court. A creditor or an interested party may, but is not required to, consent to these fees.

The formula sets total compensation at 9% of the first \$20,000 of the gross estate PLUS 3.6% of the excess over \$20,000.

Based on this formula, the total allowable statutory maximum based on the gross estate known at this time is _____, LESS any personal representative's commissions and/or attorney's

fees previously approved as required by law and paid. To date,
\$ _____ in personal representative's
commissions and \$ _____ in attorney's fees have been
paid.

Cross reference: See 90 Op. Att'y. Gen. 145 (2005).

Total combined fees being requested are \$ _____, to be
paid as follows:

<u>Amount</u>	<u>To</u>	<u>Name of Personal Representative/Attorney</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Consented to by: I have read this entire form and I hereby
consent to the payment of personal representative and/or
attorney's fees in the above amount.

<u>Date</u>	<u>Signature</u>	<u>Name (Typed or Printed)</u>
_____	_____	_____
_____	_____	_____
_____	_____	_____
_____	_____	_____

Attorney

Personal Representative

Address

Personal Representative

Address

Telephone Number

Committee note: Nothing in this Rule is intended to relax requirements for approval and authorization of previous payments.

(2) Designation of Payment

When rendering an account pursuant to Rule 6-417 or a final report under modified administration pursuant to Rule 6-455, the personal representative shall designate any payment made under this section as an expense.

Cross reference: Code, Estates and Trusts Article, §§7-502, 7-601, 7-602 and 7-604.

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 100 - ADOPTION; GUARDIANSHIP TERMINATING PARENTAL RIGHTS

AMEND Rule 9-107 (b)(4) to add the language "of general circulation" after the word "newspaper," as follows:

Rule 9-107. OBJECTION

. . .

(b) Time for Filing Objection

. . .

(4) Service by Publication in a Newspaper and on Website

If the court orders service by publication, the deadline for filing a notice of objection shall be not less than 30 days from the later of (A) the date that the notice is published in a newspaper of general circulation or (B) the last day that the notice is published on the Maryland Department of Human Resources website.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS
CHAPTER 200 - DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT,
AND CHILD CUSTODY

AMEND Rule 9-202 to conform a reference to a section of Rule 1-202 to the relettering of that section, as follows:

Rule 9-202. PLEADING

(a) Signing-Telephone Number

A party shall personally sign each pleading filed by that party and, if the party is not represented by an attorney, shall state in the pleading a telephone number at which the party may be reached during ordinary business hours.

Cross reference: See Rule 1-202 ~~(t)~~ (u).

. . .

MARYLAND RULES OF PROCEDURE
TITLE 9 - FAMILY LAW ACTIONS

CHAPTER 200 - DIVORCE, ANNULMENT, ALIMONY, CHILD SUPPORT,
AND CHILD CUSTODY

ADD new Rule 9-205.2, as follows:

Rule 9-205.2. PARENTING COORDINATION

(a) Applicability

This Rule applies to the appointment of parenting coordinators by a court and to consent orders approving the employment of parenting coordinators by the parties in actions under this Chapter.

Committee note: Actions in which parenting coordination may be used include an initial action to determine custody or visitation and an action to modify an existing order or judgment as to custody or visitation.

(b) Definitions

In this Rule, the following definitions apply:

(1) Parenting Coordination

"Parenting coordination" means a process in which the parties work with a parenting coordinator to reduce the effects or potential effects of conflict on the parties' child. Although parenting coordination may draw upon alternative dispute resolution techniques, parenting coordination is not governed by the Rules in Title 17, except as otherwise provided in this Rule.

(2) Parenting Coordinator

"Parenting coordinator" means an impartial provider of

parenting coordination services.

(c) Qualifications of Parenting Coordinator

(1) Age, Education, and Experience

To be designated or approved by the court as a parenting coordinator, an individual shall:

(A) be at least 21 years old and hold a bachelor's degree from an accredited college or university;

(B) hold a post-graduate degree in psychology, social work, counseling, negotiation, conflict management, or a related subject area, or from an accredited medical or law school;

(C) have at least three years of related professional experience undertaken after receiving the post-graduate degree; and

(D) hold a current license if required in the individual's area of practice.

(2) Parenting Coordination Training

A parenting coordinator also shall have completed:

(A) at least 20 hours of training in a family mediation training program meeting the requirements of Rule 17-106 (b); and

(B) at least 40 hours of accredited specialty training in topics related to parenting coordination, including conflict coaching, developmental stages of children, dynamics of high-conflict families, family violence dynamics, parenting skills, problem-solving techniques, and the stages and effects of divorce.

Committee note: The accredited specialty training requirement may be met by training offered by recognized national organizations such as the American Bar Association or the Association of Family and Conciliation Courts.

(3) Continuing Education

Within each calendar year, a parenting coordinator shall complete a minimum of four hours of continuing education approved by the Administrative Office of the Courts in one or more of the topics listed in subsection (c)(2) of this Rule and in recent developments in family law. The Administrative Office shall maintain a list of approved continuing education programs.

(d) Parenting Coordinator Lists

An individual who has the qualifications listed in section (c) of this Rule and seeks court appointment as a parenting coordinator shall submit an application to the family support services coordinator of the circuit court for each county in which the individual seeks appointment. The application shall document that the individual meets the qualifications required in section (c) of this Rule. If satisfied that the applicant meets the qualifications, the family support services coordinator shall place the applicant's name on a list of qualified individuals which, together with the information submitted by each individual on the list, shall be accessible to the public.

(e) Approval of Parenting Coordinator Employed by Parties

In any action in which the custody of or visitation with a child of the parties is or was at issue, the parties, by agreement, may employ a parenting coordinator to assist them in

dealing with existing or future conflicts regarding their access to and responsibilities for the child. The parties may jointly request the court to enter a consent order approving the agreement. The court shall enter such an order if it finds that the parenting coordinator has the qualifications set forth in section (c) of this Rule and that the agreement:

(1) is in writing and signed by the parties and the parenting coordinator;

(2) states the services to be provided by the parenting coordinator;

(3) states the extent to which the parenting coordinator may receive confidential or privileged information pertaining to the child or the parties and any limitations on the use of that information by the parenting coordinator;

(4) states the amount or rate of compensation to be paid to the parenting coordinator, which may exceed the amount or rate provided for in section (k) of this Rule; and

(5) is otherwise consistent with the best interest of the child.

Committee note: Parties who, by agreement, employ a parenting coordinator on their own initiative are not required to seek court approval. Section (e) of this Rule applies only if they request a court order approving the agreement.

(f) Appointment of Parenting Coordinator by Court

In an action in which the custody of or visitation with a child of the parties is in issue and the court determines that the level of conflict between the parties with respect to that

issue so warrants, the court may appoint a parenting coordinator in accordance with this section.

(1) Appointment During Pendency of Action

On motion of a party, on joint request of the parties, or on the court's own initiative and after notice and hearing, the court may appoint a parenting coordinator during the pendency of the action. Unless sooner terminated in accordance with this Rule, the appointment shall terminate upon the entry of a judgment granting or modifying custody or visitation.

(2) Appointment Upon Entry of Judgment

Upon entry of a judgment granting or modifying custody or visitation, the court, with the consent of the parties and after a hearing, may appoint a parenting coordinator. The court may appoint the individual who served as a parenting coordinator during the pendency of the action. Unless sooner terminated in accordance with this Rule, the appointment of a post-judgment parenting coordinator shall not exceed two years unless the parties and the parenting coordinator agree in writing to an extension for a specified longer period.

Committee note: Appointment of a parenting coordinator does not affect the applicability of Rules 9-204, 9-205, or 9-205.1, nor does the appointment preclude the use of an alternative dispute resolution process under Title 17 of these Rules.

(3) Selection

The court may not appoint an individual as a parenting coordinator unless the individual:

(A) has the qualifications listed in section (c) of this

Rule,

(B) is willing to serve as the parenting coordinator in the action, and

(C) agrees not to charge or accept a fee in excess of that allowed in the applicable fee schedule adopted pursuant to subsection (k)(1) of this Rule.

(4) Contents of Order or Judgment

An order or judgment appointing a parenting coordinator shall include:

(A) the name, business address, e-mail address, and telephone number of the parenting coordinator;

(B) if there are allegations or findings of domestic violence committed by or against a party or child, any provisions the court deems necessary to address the safety and protection of the parties, all children of the parties, other children residing in the home of a party, and the parenting coordinator; and

Committee note: The order must be consistent with the relevant provisions of any other existing order, such as a "no contact" requirement that is included in a civil protective order or is a condition of pre-trial release in a criminal case.

(C) if the appointment is of a post-judgment parenting coordinator, any decision-making authority of the parenting coordinator authorized pursuant to subsection (g)(9) of this Rule.

(g) Services Permitted

As appropriate, a parenting coordinator may:

(1) if there is no operative custody and visitation order,

work with the parties to develop an agreed plan for custody and visitation;

(2) if there is an operative custody and visitation order, assist the parties in amicably resolving disputes about the interpretation of and compliance with the order and in making any joint recommendations to the court for any changes to the order;

(3) educate the parties about making and implementing decisions that are in the best interest of the child;

(4) assist the parties in developing guidelines for appropriate communication between them;

(5) suggest resources to assist the parties;

(6) assist the parties in modifying patterns of behavior and in developing parenting strategies to manage and reduce opportunities for conflict in order to reduce the impact of any conflict upon their child;

(7) in response to a subpoena issued at the request of a party or an attorney for a child of the parties, or upon action of the court pursuant to Rule 2-514 or 5-614, produce documents and testify in the action as a fact witness;

(8) if concerned that a party or child is in imminent physical or emotional danger, communicate with the court or court personnel to request an immediate hearing; and

(9) decide post-judgment disputes by making minor, temporary modifications to child access provisions ordered by the court if (A) the judgment or post-judgment order of the court authorizes such decision making, and (B) the parties have agreed in writing

or on the record that the post-judgment parenting coordinator may do so.

Committee note: Examples of such modifications include one-time or minor changes in the time or place for child transfer and one-time or minor deviations from access schedules to accommodate special events or circumstances.

(h) Services Not Permitted

A parenting coordinator may not:

(1) except as permitted by subsections (g)(7) and (8) of this Rule, communicate orally or in writing with the court or any court personnel regarding the substance of the action;

Committee note: This subsection does not prohibit communications with respect to routine administrative matters; collection of fees, including submission of records of the number of contacts with each party and the duration of each contact; or resignation. Nothing in the subsection affects the duty to report child abuse or neglect under any provision of federal or State law or the right of the parenting coordinator to defend against allegations of misconduct or negligence.

(2) testify in the action as an expert witness; or

Cross reference: See Rule 5-702 as to expert witnesses.

(3) except for decision making by a post-judgment parenting coordinator authorized pursuant to subsection (g)(9) of this Rule, make parenting decisions on behalf of the parties.

(i) Confidential Information

(1) Access to Case Records

Except as otherwise provided in this subsection, the parenting coordinator shall have access to all case records in the action. If a document or any information contained in a case record is not open to public inspection under the Rules in Title 16, Chapter 1000, the court shall determine whether the parenting

coordinator may have access to it and shall specify any conditions to that access.

Cross reference: See Rule 16-1001 for the definition of "case record."

(2) Other Confidential Information

(A) A parenting coordinator may not require or coerce the parties or an attorney for the child to release any confidential information that is not included in the case record.

(B) Confidential or privileged information received by the parenting coordinator from a party or from a third person with the consent of a party may be disclosed by the parenting coordinator to the other party, to an attorney for the child, and in court pursuant to subsections (g)(7) and (8) of this Rule. Unless otherwise required by law, the parenting coordinator may not disclose the information to anyone else without the consent of the party who provided the information or consented to a third person providing it.

(j) Removal or Resignation of Parenting Coordinator

(1) Removal

The court shall remove a parenting coordinator:

(A) on motion of a party or an attorney for the child, if the court finds good cause, or

(B) on a finding that continuation of the appointment is not in the best interest of the child.

(2) Resignation

A parenting coordinator may resign at any time by

written notice sent by first-class mail to each party and any attorney for the child. The notice shall state the effective date of the resignation and that the parties may request the appointment of another parenting coordinator. The notice shall be sent at least 15 days before the effective date of the resignation. Promptly after mailing the notice, and at least seven days before the effective date of resignation, the parenting coordinator shall file a copy of the notice with the court.

(k) Fees

(1) Fee Schedules

Subject to the approval of the Chief Judge of the Court of Appeals, the county administrative judge of each circuit court may develop and adopt maximum fee schedules for parenting coordinators. In developing the fee schedules, the county administrative judge shall take into account the availability of qualified individuals willing to provide parenting coordination services and the ability of litigants to pay for those services. A parenting coordinator appointed by the court may not charge or accept a fee for parenting coordination services in that action in excess of the fee allowed by the applicable schedule. Violation of this subsection shall be cause for removal from all lists maintained pursuant to section (d) of this Rule, Rule 9-205, and the Rules in Title 17.

(2) Allocation of Fees and Expenses

Subject to any agreement entered into by the parties

pursuant to section (e) of this Rule, the court shall designate how and by whom the parenting coordinator shall be paid. If the court finds that the parties have the financial means to pay the fees and expenses of the parenting coordinator, the court shall allocate the fees and expenses of the parenting coordinator between the parties and may enter an order against either or both parties for the reasonable fees and expenses.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 10 - GUARDIANS AND OTHER FIDUCIARIES

CHAPTER 700 - FIDUCIARY ESTATES INCLUDING GUARDIANSHIPS

OF THE PROPERTY

AMEND Rule 10-710 to add a Committee note after section (f),
as follows:

Rule 10-710. TERMINATION OF A FIDUCIARY ESTATE - FINAL
DISTRIBUTION

. . .

(f) Final Accounting

If the petitioner is the fiduciary, the petitioner shall file with the petition a final accounting containing the same information required in annual accountings by Rule 10-708, together with the proposed final distribution of any remaining assets of the estate. The accounting shall cover any period of the fiduciary's administration of the estate which has not been covered by annual accountings previously filed in the proceedings. If the petitioner is not the fiduciary, the fiduciary shall file an accounting as directed by the court.

Committee note: For the right of a guardian to pay from the guardianship estate all commissions, fees, and expenses of the guardianship before the balance of the guardianship estate is paid out to the personal representative or other person entitled to it, see Code, Estates and Trusts Article, §13-214, which abrogates the ruling in *Battley v. Banks*, 177 Md. App. 638 (2007).

. . .

MARYLAND RULES OF PROCEDURE
TITLE 12 - PROPERTY ACTIONS
CHAPTER 700 - SEVERED MINERAL INTERESTS

ADD new Rule 12-701, as follows:

Rule 12-701. DEFINITIONS

In this Chapter, the terms "mineral," "mineral interest," "severed mineral interest," "surface estate," "surface owner," and "unknown or missing owner" have the meanings set forth in Code, Environment Article, §15-1201. A "dormant mineral interest" is a mineral interest that satisfies the criteria set forth in Code, Environment Article, §15-1203 (a)(2).

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 12 - PROPERTY ACTIONS
CHAPTER 700 - SEVERED MINERAL INTERESTS

ADD new Rule 12-702, as follows:

Rule 12-702. SCOPE

This Chapter does not apply to a mineral interest:

(a) held by the United State or a Native American tribe, except to the extent permitted by federal law; or

(b) held by the State or an agency or political subdivision of the State, except to the extent permitted by State law.

Source: This Rule is derived from Code, Environment Article, §15-1202 (a)(2).

MARYLAND RULES OF PROCEDURE
TITLE 12 - PROPERTY ACTIONS
CHAPTER 700 - SEVERED MINERAL INTERESTS

ADD new Rule 12-703, as follows:

Rule 12-703. TRUST FOR UNKNOWN OR MISSING OWNER OF SEVERED
MINERAL INTEREST

(a) Petition to Create Trust

(1) Generally

An owner in fee simple of a surface estate subject to a severed mineral interest that is vested, in whole or in part, in an unknown or missing owner may file a petition to place the mineral interest of the unknown or missing owner in trust. The petition shall be filed in the circuit court of any county in which the surface estate is located.

Cross reference: Code, Environment Article, §§15-1201 through 15-1206.

(2) Contents

The petition shall be captioned "In the Matter of ..." stating the location of the surface estate subject to the severed mineral interest. It shall be signed and verified by the petitioner and shall contain at least the following information:

(A) the petitioner's name, address, and telephone number;

(B) the name and address of all other surface owners;

(C) the reason for seeking the assumption of jurisdiction by the court and a statement of the relief sought;

(D) a legal description of the severed mineral interest;

(E) the name, address, telephone number, and nature of the interest of all persons with a legal interest in the severed mineral interest, including any unknown or missing owners, and their heirs, successors, or assignees;

(F) an affidavit of the petitioner stating that the identity or whereabouts of one or more owners are unknown and describing the reasonable efforts made in good faith to identify and locate each unknown or missing owner who is the subject of the petition;

(G) the nature of the interest of the petitioner;

(H) the nature and location of the surface estate subject to the severed mineral interest; and

(I) an affidavit of the petitioner, affirming fee simple ownership of the surface estate and including a reference to each recorded document establishing such ownership. If any person whose name is required information under this subsection is unknown, that fact shall be stated. If any person is the unknown heir of a decedent, that person shall be described as the unknown heir of _____, deceased.

(b) Service

The proceeding shall be deemed in rem or quasi in rem. A copy of the petition and attached documents shall be served on all persons with a legal interest in the severed mineral interest named in the petition and all surface owners who have not joined in the petition. Service on a person alleged to be unknown or

missing shall be pursuant to Rule 2-122. Otherwise, service shall be pursuant to Rule 2-121.

(c) Hearing

The court shall hold a hearing on the petition.

(d) Order Creating Trust

If the court finds that the title to a severed mineral interest is vested, in whole or in part, in an unknown or missing owner, the court may enter an order:

(1) placing the severed mineral interest of the unknown or missing owner in trust;

(2) appointing a trustee for the unknown or missing owner;

(3) if it is likely that any revenue will accrue to the benefit of the unknown or missing owner, directing the trustee to create a separate trust bank account to manage all trust assets; and

(4) authorizing the trustee to lease the mineral interest to the owner of the surface estate, subject to any conditions the court deems appropriate.

Cross reference: See Rule 1-324 concerning notice of the order sent by the clerk to the parties.

(e) Administration of Trust

A trust created under this Rule shall be administered pursuant to Rules 10-702 to 10-712.

(f) Termination of Trust

(1) Petition by Unknown or Missing Owner

(A) Generally

An unknown or missing owner whose interest in a severed mineral interest has been placed in trust, at any time prior to the filing of a petition under subsection (f)(2) or (f)(3) of this Rule, may file a petition to terminate the trust and convey the interest to the petitioner. The petition shall be signed and verified by the petitioner, filed in the court that created the trust, and name as respondents the trustee, each surface owner, and each other person with a legal interest in the minerals.

(B) Contents

The petition shall be captioned "In the Matter of ..." and shall state:

(i) the petitioner's name, address, e-mail address, if any, and telephone number;

(ii) the name, address, e-mail address, if any, and telephone number of the trustee and each surface owner;

(iii) the nature and extent of the petitioner's legal interest in the severed mineral interest in trust and include a reference to each recorded document establishing that interest and be accompanied by any unrecorded document establishing that interest; and

(iv) whether, the petitioner has recorded or intends to record a notice of intent to preserve the mineral interest in accordance with Code, Environment Article, §15-1204.

(C) Service

The petition shall be served on each respondent in accordance with the provisions of Rule 1-321 (a).

(D) Response

A respondent shall file a response to the petition within the time prescribed by Rule 2-321.

(E) Hearing

Unless waived in writing by all parties, the court shall hold a hearing on the petition.

(F) Order

If the court finds that the petitioner is the unknown or missing owner whose severed mineral interest was placed in the trust, that the petition is timely and in compliance with this Rule, and that the trust with respect to that mineral interest should be terminated, it shall enter an order (i) terminating the trust as to that mineral interest, (ii) directing the trustee to file a final accounting, convey the mineral interest to the petitioner, and distribute all proceeds in accordance with the accounting, as approved by the court, and (iii) assessing costs as it deems just under the circumstances.

(2) Petition by Trustee

(A) Generally

If the unknown or missing owner of a vested severed mineral interest to whom notice of the petition or order was given does not contest or move to terminate a trust created under this Rule on or before five years after the date that the court issued the order creating the trust, the trustee shall file a petition to terminate the trust and to convey to the surface owner title to the severed mineral interest. The petition shall

name as respondents each surface owner and each person with a legal interest in the minerals, including any unknown or missing owners of the severed mineral interest.

(B) Contents

The petition shall be captioned "In the Matter of ..." stating the location of the surface estate subject to the severed mineral interest. It shall be signed and verified by the petitioner and shall contain at least the following information:

(i) a legal description of the severed mineral interest;

(ii) a description of the putative property interests of each party;

(iii) the last known address of each party;

(iv) an affidavit signed by each surface owner, affirming fee simple ownership of the surface estate and requesting the court to convey title to the severed mineral interest at issue; and

(v) an affidavit signed by the petitioner, affirming that after conducting a diligent inquiry, including a search in each county where the severed mineral interest is located, performed in accordance with generally accepted standards of title examination of the land records of the county, the records of the register of wills of the county, and the records of the circuit court for the county, the trustee cannot locate the unknown or missing owner.

(C) Service

The petition shall be served on each respondent in

accordance with the provisions of Rule 1-321.

(D) Hearing

The court shall hold a hearing on the petition.

(E) Order Terminating Trust

The court shall enter an order requiring the trustee to convey the unknown or missing owner's mineral interest to the named surface owner if (i) the petition was filed more than five years after entry of the order creating the trust, (ii) the unknown or missing owner does not appear to contest the petition, and (iii) the court finds that the person named in the petition as surface owner is in fact the fee simple owner of the surface estate. After receiving the final report of the trustee as required by Code, Environment Article, §15-1206, the court shall enter an order (a) terminating the trust as to that mineral interest, (b) directing the trustee to file a final accounting, convey the mineral interest to the surface owner, and distribute all proceeds in accordance with the accounting, as approved by the court, and (c) assessing costs as it deems just under the circumstances.

Committee note: If the mineral interest is located in more than one county, conveyance by the trustee requires recordation in each county in which the surface estate is located.

Cross reference: See Rule 1-324 concerning notice of the order sent by the clerk to the parties.

(3) Petition by Surface Owner or Other Interested Person

If the trustee does not file the petition within the time prescribed in subsection (f)(2) of this Rule, the surface

owner or any person with a legal or beneficial interest in the severed mineral interest placed in trust may file a petition to direct the trustee to comply with subsection (f)(2) of this Rule or to appoint a substitute trustee to do so. The petition shall be served on the trustee in accordance with the provisions of Rule 2-121 and further proceedings shall be in accordance with subsection (f)(2) of this Rule.

Cross reference: For duties of the trustee, see Code, Environment Article, §15-1206.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 12 - PROPERTY ACTIONS
CHAPTER 700 - SEVERED MINERAL INTERESTS

ADD new Rule 12-704, as follows:

Rule 12-704. TERMINATION OF DORMANT MINERAL INTEREST

(a) Petition

(1) Generally

At any time after October 1, 2011, a surface owner of real property that is subject to a severed mineral interest may initiate an action to terminate a dormant mineral interest by filing a petition in the circuit court of any county in which the surface estate is located, but if a trust created under Rule 12-703 is in existence, then in the county where the trust was created.

(2) Contents

The petition shall be captioned "In the Matter of . . .," stating the location of each surface estate subject to the mineral interest. It shall be signed and verified by the petitioner and shall contain at least the following information:

- (A) the petitioner's name, address, and telephone number;
- (B) the name and address of all other surface owners;
- (C) the reason for seeking the assumption of jurisdiction by the court and a statement of the relief sought;
- (D) a legal description of the severed mineral interest;

(E) the name, address, telephone number, and nature of the interest of all interested persons, including each person who has previously recorded a notice of intent to preserve the mineral interest or a part of a mineral interest pursuant to Code, Environment Article, §15-1204;

(F) the nature of the interest of the petitioner;

(G) the nature and location of the surface estate or estates subject to a severed mineral interest; and

(H) an affidavit signed by each surface owner affirming fee simple ownership of the surface estate, including a reference to each recorded document establishing such ownership. If any person whose name is required information under this subsection is unknown, that fact shall be stated. If any person is the unknown heir of a decedent, that person shall be described as the unknown heir of _____, deceased.

Cross reference: See Code, Environment Article, §§15-1203 through 15-1205.

(b) Service

The proceeding shall be deemed in rem or quasi in rem. A copy of the petition and attached documents shall be served on all persons with a legal interest in the severed mineral interest named in the petition and all surface owners who have not joined in the petition. Service on a person alleged to be unknown or missing shall be pursuant to Rule 2-122. Otherwise, service shall be pursuant to Rule 2-121.

(c) Late Notice of Intent to Preserve Interest

Unless the mineral interest has been unused for a period of 40 years or more proceeding the commencement of the action, the court shall permit the owner of the mineral interest to record a late notice of intent to preserve the mineral interest and dismiss the action, provided that the owner of the mineral interest pays the litigation expenses incurred by the surface owner of the real property that is subject to the mineral interest.

Cross reference: See Code, Environment Article, §15-1203 (c) for actions constituting use of an entire mineral interest.

(d) Hearing

The court, in its discretion, may hold a hearing on the petition.

(e) Order

The court shall enter an order granting or denying the petition. An order terminating a mineral interest shall describe each tract of the surface estate overlying the terminated mineral interest into which the mineral interest is merged, and shall describe the proportional shares, if any, of each surface owner in each tract. The clerk shall record a copy of the order of termination in the land records of each county in which the mineral interest is located.

Cross reference: See Code, Environment Article, §15-1203 (d)(2) for the effects of an order terminating a mineral interest.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 13 - RECEIVERS AND ASSIGNEES
CHAPTER 200 - NOTICE AND SCHEDULES

AMEND Rule 13-201 to add clarifying language to three forms,
as follows:

Rule 13-201. PUBLICATION OF NOTICE TO CREDITORS

(a) Notice by Receiver or Assignee

Promptly but in no event later than 5 days after the court appoints a receiver or assumes jurisdiction over the estate of an assignee, the receiver or assignee shall file a form of Notice to Creditors with the clerk, who shall issue the Notice. The receiver or assignee shall cause the Notice to be published.

(b) Form of Notice

The Notice to Creditors shall be substantially in one of the following three forms, as applicable:

[CAPTION]

NOTICE TO CREDITORS BY RECEIVER

TO ALL PERSONS INTERESTED IN THE ESTATE OF _____, DEBTOR

Notice is given with respect to _____,
(Name in bold type)

whose business address is _____

_____ and whose business is _____,

that this Court has appointed _____,
(Name in bold type)

whose address is _____

as Receiver.

All persons having claims against the Debtor should file them, under oath, with the Clerk of the Circuit Court at the address below not later than 120 days from the date this Notice was issued.

Date Notice Issued

Clerk of the Circuit Court for

(County or Baltimore City)

Address

Receiver

Attorney for Receiver

Address

Address

Telephone Number

Telephone Number

[CAPTION]

NOTICE TO CREDITORS BY ASSIGNEE

TO ALL PERSONS INTERESTED IN THE ESTATE OF _____, DEBTOR

Notice is given with respect to _____,
(Name in bold type)

whose business address is _____

_____ and whose business is _____,
that the Debtor has executed an Assignment for the Benefit of
Creditors and that _____,
(Name in bold type)
whose address is _____

_____ has been designated as Assignee.

The deed of assignment [] does [] does not contain a provision requiring creditors to release their claims against the debtor as a condition to (1) sharing in the distribution under the deed or (2) being accorded a preferred status over other creditors.

All persons having claims against the Debtor should file them, under oath, with the Clerk of the Circuit Court at the address below not later than 120 days from the date this Notice was issued.

Date Notice Issued

Clerk of the Circuit Court for

(County or Baltimore City)

Address

Assignee

Attorney for Assignee

Address

Address

Telephone Number

Telephone Number

[CAPTION]

NOTICE TO CREDITORS OF BULK TRANSFER

TO ALL PERSONS INTERESTED IN THE ESTATE OF _____,
BULK TRANSFEROR

Notice is given with respect to _____,
(Name in bold type)

whose business address is _____

_____ and whose business is _____,

that the Transferor has effected a bulk transfer of property to

_____, transferee, whose
(Name in bold type)

address is _____

_____ and that _____ whose address is
(Name in bold type)

_____ has been appointed as Receiver pursuant to Code, Commercial Law
Article, §6-106.

All persons having claims against the Transferor should file
them, under oath, with the Clerk of the Circuit Court at the
address below not later than 120 days from the date this Notice
was issued.

Date Notice Issued

Clerk of the Circuit Court for

(County or Baltimore City)

Address

Receiver

Attorney for Receiver

Address

Address

Telephone Number

Telephone Number

(c) Where Published; Frequency

A copy of the Notice to Creditors shall be published in a newspaper of general circulation in the county where the court is located. The Notice shall be published at least once a week in each of three successive weeks, and the last publication shall occur not less than ninety days before the date specified in the Notice as the last day for filing claims.

(d) Certificate of Publication

On or before the last day for filing claims, the receiver or assignee shall file a certificate that publication has been made pursuant to this Rule.

Source: This Rule is derived from former Rule BP4 a 1.

MARYLAND RULES OF PROCEDURE
TITLE 14 - SALES OF PROPERTY

CHAPTER 200 - FORECLOSURE OF LIEN INSTRUMENTS

AMEND Rule 14-210 to delete the Committee note following section (a), as follows:

Rule 14-210. NOTICE PRIOR TO SALE

(a) By Publication

Before selling property in an action to foreclose a lien, the individual authorized to make the sale shall publish notice of the time, place, and terms of the sale in a newspaper of general circulation in the county in which the action is pending. Notice of the sale of an interest in real property shall be published at least once a week for three successive weeks, the first publication to be not less than 15 days before the sale and the last publication to be not more than one week before the sale. Notice of the sale of personal property shall be published not less than five days nor more than 12 days before the sale.

~~Committee note: In this Rule, "newspaper of general circulation" is intended to mean a newspaper satisfying the criteria set forth in Code, Article 1, Section 28. A newspaper circulating to a substantial number of subscribers in a county and customarily containing legal notices with respect to property in the county shall be regarded as a newspaper of general circulation in the county, notwithstanding that (1) its readership is not uniform throughout the county, or (2) its content is not directed at all segments of the population.~~

. . .

MARYLAND RULES OF PROCEDURE
TITLE 15 - OTHER SPECIAL PROCEEDINGS
CHAPTER 300 - HABEAS CORPUS

AMEND Rule 15-306 to allow certain confined or restrained individuals to participate in habeas corpus proceedings by electronic means under certain circumstances, as follows:

Rule 15-306. SERVICE OF WRIT; APPEARANCE BY INDIVIDUAL;
AFFIDAVIT

(a) Service

Except as provided in section (c) of this Rule, a writ of habeas corpus and a copy of the petition shall be served by delivering them to the person to whom the writ is directed or by mailing them by first class mail, postage prepaid, as ordered by the court.

Cross reference: See Rules 2-121 and 3-121.

(b) Production of Individual

At the time stated in the writ, which, unless the court orders otherwise, shall not be later than three days after service of the writ, the person to whom the writ is directed shall cause the individual confined or restrained to be taken before the judge designated in the writ. If the petition is by or behalf of an individual confined or restrained pursuant to an isolation or quarantine directive or order issued under any federal, State, or local public health law or public emergency

law, production of the individual may be by means of a telephonic conference call, live closed circuit television, live internet or satellite video conference transmission, or other available means of communication that reasonably permit the individual to participate in the proceedings.

Cross reference: For proceedings brought pursuant to Code, Health-General Article, §18-906 and Code, Public Safety Article, §14-3A-05, see the Rules in Title 15, Chapter 1100.

(c) Immediate Appearance

Subject to section (b) of this Rule, If if the judge finds probable cause to believe that the person having custody of the individual by or on whose behalf the petition was filed is about to remove the individual or would evade or disobey the writ, the judge shall include in the writ an order directing the person immediately to appear, together with the individual confined or restrained, before the judge designated in the writ. The sheriff to whom the writ is delivered shall serve the writ immediately, together with a copy of the petition, on the person having custody of the individual confined or restrained and shall bring that person, together with the individual confined or restrained, before the judge designated in the writ.

Cross reference: See Code, Courts Article, §2-305 for the penalty on a sheriff for failure to act as provided in section (b) of this Rule; see Code, Correctional Services Article, §9-611 for the penalty on an officer or other person failing to furnish a copy of a warrant of commitment when demanded.

Source: This Rule is derived in part from former Rules Z46 and Z47 and is in part new.

MARYLAND RULES OF PROCEDURE
TITLE 15 - OTHER SPECIAL PROCEEDINGS
CHAPTER 300 - HABEAS CORPUS

AMEND Rule 15-309 to add a new section (b) pertaining to the conduct of a hearing at which an individual is unable to appear in person due to a certain isolation or quarantine directive or order, as follows:

Rule 15-309. HEARING

(a) Generally

Upon the production of the individual confined or restrained, the judge shall conduct a hearing immediately to inquire into the legality and propriety of the individual's confinement or restraint. The individual confined or restrained for whom the writ is issued may offer evidence to prove the lack of legal justification for the confinement or restraint, and evidence may be offered on behalf of the person having custody to refute the claim.

(b) Conduct of Hearing If Isolation or Quarantine

If, pursuant to an isolation or quarantine directive or order issued under any federal, State, or local public health law or public emergency law, one or more of the parties, their counsel, or witnesses are unable to appear personally at the hearing, and the fair and effective adjudication of the proceedings permits, the court may:

(1) admit documentary evidence submitted or proffered by courier, facsimile, or other electronic means;

(2) if feasible, conduct the proceedings by means of a telephonic conference call, live closed circuit television, live internet or satellite video conference transmission, or other available means of communication that reasonably permits the parties or their authorized representatives to participate in the proceedings; and

(3) decline to require strict application of the rules of evidence other than those relating to the competency of witnesses and lawful privileges.

Source: This Rule is derived as follows:

Section (a) is derived from former Rules Z46 b and Z48.

Section (b) is derived from Rule 15-1104 (d).

MARYLAND RULES OF PROCEDURE
TITLE 15 - OTHER SPECIAL PROCEEDINGS
CHAPTER 900 - NAME - CHANGE OF

AMEND Rule 15-901 (e)(2) to add the language "in which the action was pending," as follows:

Rule 15-901. ACTION FOR CHANGE OF NAME

. . .

(e) Notice

. . .

(2) Publication

Unless the court on motion of the petitioner orders otherwise, the notice shall be published one time in a newspaper of general circulation in the county in which the action was pending at least fifteen days before the date specified in the notice for filing an objection to the petition. The petitioner shall thereafter file a certificate of publication.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 15 - OTHER SPECIAL PROCEEDINGS
CHAPTER 1100 - CATASTROPHIC HEALTH EMERGENCY

AMEND Rule 15-1103 to require that the petition be filed in a circuit court and not with the Clerk of the Court of Appeals and to specify certain actions to be taken by the County Administrative Judge or the judge's designee and by the clerk, as follows:

Rule 15-1103. INITIATION OF PROCEEDING TO CONTEST ISOLATION OR QUARANTINE

(a) Petition for Relief

An individual or group of individuals required to go to or remain in a place of isolation or quarantine by a directive of the Secretary issued pursuant to Code, Health-General Article, §18-906 or Code, Public Safety Article, §14-3A-05, may contest the isolation or quarantine by filing a petition for relief ~~with the Clerk of the Court of Appeals~~ in the circuit court for the county in which the isolation or quarantine is occurring or, if that court is not available, in any other circuit court.

Committee note: Motions to seal or limit inspection of a case record are governed by Rule 16-1009. The right of a party to proceed anonymously is discussed in *Doe v. Shady Grove Hosp.*, 89 Md. App. 351, 360-66 (1991).

(b) Order Assigning Judge and Setting Hearing

~~The Chief Judge of the Court of Appeals County~~
Administrative Judge or that judge's designee shall enter an order (1) assigning the matter to a judge ~~of any circuit court to hear the action~~ and (2) setting the date, time, and location of a hearing on the petition or directing ~~that~~ the clerk ~~of the circuit court to which the action has been assigned~~ to promptly set the hearing and notify the parties. The ~~Clerk~~ clerk ~~of the Court of Appeals~~ shall provide a copy of the order to all parties, the State Court Administrator, and the Chief Judge of the Court of Appeals.

Cross reference: See Code, Health-General Article, §18-906 (b), Code, Public Safety Article, §14-3A-05 (c), and Rule 15-1104 (c) concerning the time within which a hearing is to be conducted.

(c) Notice

No later than the day after the petition was filed, the ~~Clerk of the Court of Appeals~~ clerk shall provide a copy of the petition and a notice of the date that it was filed to the Secretary or other official designated by the Secretary and to counsel to the Department of Health and Mental Hygiene.

(d) Answer to Petition

The Secretary or other official designated by the Secretary may file an answer to the petition. If an answer is not filed, the allegations of the petition shall be deemed denied.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 100 - COURT ADMINISTRATIVE STRUCTURE, JUDICIAL
DUTIES, ETC.

AMEND Rule 16-110 by deleting subsection (d)(2), as follows:

Rule 16-110. CELL PHONES; OTHER ELECTRONIC DEVICES; CAMERAS

(a) Definitions

In this Rule the following definitions apply:

(1) Court Facility

"Court facility" means the building in which a circuit court or the District Court is located, but if the court is in a building that is also occupied by county or State executive agencies having no substantial connection with the court, then only that part of the building occupied by the court.

(2) Electronic Device

"Electronic device" means (A) a cell phone, a computer, and any other device that is capable of transmitting, receiving, or recording messages, images, sounds, data, or other information by electronic means or that, in appearance, purports to be a cell phone, computer, or such other device; and (B) a camera, regardless of whether it operates electronically, mechanically, or otherwise and regardless of whether images are recorded by using digital technology, film, light-sensitive plates, or other means.

(3) Local Administrative Judge

"Local administrative judge" means the county administrative judge in a circuit court and the district administrative judge in the District Court.

(b) Possession and Use of Electronic Devices

(1) Generally

Subject to inspection by court security personnel and the restrictions and prohibitions set forth in this section, a person may (A) bring an electronic device into a court facility and (B) use the electronic device for the purpose of sending and receiving phone calls and electronic messages and for any other lawful purpose not otherwise prohibited.

(2) Restrictions and Prohibitions

(A) Rule 5-615 Order

An electronic device may not be used to facilitate or achieve a violation of an order entered pursuant to Rule 5-615 (d).

(B) Photographs and Video

Except as permitted in accordance with this Rule, Rule 16-109, Rule 16-405, or Rule 16-504 or as expressly permitted by the local administrative judge, a person may not (i) take or record a photograph, video, or other visual image in a court facility, or (ii) transmit a photograph, video, or other visual image from or within a court facility.

Committee note: The prohibition set forth in subsection (b)(2)(B) of this Rule includes still photography and moving visual images. It is anticipated that permission will be granted

for the taking of photographs at ceremonial functions.

(C) Interference with Court Proceedings or Work

An electronic device shall not be used in a manner that interferes with court proceedings or the work of court personnel.

Committee note: An example of a use prohibited by subsection (b)(2)(C) is a loud conversation on a cell phone near a court employee's work station or in a hallway near the door to a courtroom.

(D) Jury Deliberation Room

An electronic device may not be brought into a jury deliberation room.

(E) Courtroom

(i) Except with the express permission of the presiding judge or as otherwise permitted by this Rule, Rule 16-109, Rule 16-405, or Rule 16-504, all electronic devices inside a courtroom shall remain off and no electronic device may be used to receive, transmit, or record sound, visual images, data, or other information.

(ii) Subject to subsection (b)(2)(F), the court shall liberally allow the attorneys in a proceeding currently being heard, their employees, and agents to make reasonable and lawful use of an electronic device in connection with the proceeding.

(F) Security or Privacy Issues in a Particular Case

Upon a finding that the circumstances of a particular case raise special security or privacy issues that justify a restriction on the possession of electronic devices, the local

administrative judge or the presiding judge may enter an order limiting or prohibiting the possession of electronic devices in a courtroom or other designated areas of the court facility. The order shall provide for notice of the designated areas and for the collection of the devices and their return when the individual who possessed the device leaves the courtroom or other area. No liability shall accrue to the security personnel or any other court official or employee for any loss or misplacement of or damage to the device.

(c) Violation of Rule

(1) Security personnel or other court personnel may confiscate and retain an electronic device that is used in violation of this Rule, subject to further order of the court or until the owner leaves the building. No liability shall accrue to the security personnel or any other court official or employee for any loss or misplacement of or damage to the device.

(2) An individual who willfully violates this Rule or any reasonable limitation imposed by the local administrative judge or the presiding judge may be found in contempt of court and sanctioned in accordance with the Rules in Title 15, Chapter 200.

(d) Notice

~~(1)~~ Notice of the provisions of sections (b) and (c) of this Rule shall be:

(A) posted prominently at the court facility;

(B) included on the main judiciary website and the website of each court; and

(C) disseminated to the public by any other means approved in an administrative order of the Chief Judge of the Court of Appeals.

~~(2) Notice that the possession and use of cell phones and other electronic devices may be limited or prohibited in designated areas of the court facility shall be included prominently on all summonses and notices of court proceedings.~~

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 200 - THE CALENDAR - ASSIGNMENT AND DISPOSITION

OF MOTIONS AND CASES

AMEND Rule 16-204 by adding a new subsection (a)(3)(G) pertaining to parenting coordination services, as follows:

Rule 16-204. FAMILY DIVISION AND SUPPORT SERVICES

(a) Family Division

(1) Established

In each county having more than seven resident judges of the circuit court authorized by law, there shall be a family division in the circuit court.

(2) Actions Assigned

In a court that has a family division, the following categories of actions and matters shall be assigned to that division:

(A) dissolution of marriage, including divorce, annulment, and property distribution;

(B) child custody and visitation, including proceedings governed by the Maryland Uniform Child Custody Jurisdiction Act, Code, Family Law Article, Title 9, Subtitle 2, and the Parental Kidnapping Prevention Act, 28 U.S.C. §1738A;

(C) alimony, spousal support, and child support, including proceedings under the Maryland Uniform Interstate Family Support

Act;

(D) establishment and termination of the parent-child relationship, including paternity, adoption, guardianship that terminates parental rights, and emancipation;

(E) criminal nonsupport and desertion, including proceedings under Code, Family Law Article, Title 10, Subtitle 2 and Code, Family Law Article, Title 13;

(F) name changes;

(G) guardianship of minors and disabled persons under Code, Estates and Trusts Article, Title 13;

(H) involuntary admission to state facilities and emergency evaluations under Code, Health General Article, Title 10, Subtitle 6;

(I) family legal-medical issues, including decisions on the withholding or withdrawal of life-sustaining medical procedures;

(J) actions involving domestic violence under Code, Family Law Article, Title 4, Subtitle 5;

(K) juvenile causes under Code, Courts Article, Title 3, Subtitles 8 and 8A;

(L) matters assigned to the family division by the County Administrative Judge that are related to actions in the family division and appropriate for assignment to the family division; and

(M) civil and criminal contempt arising out of any of the categories of actions and matters set forth in subsection (a)(2)(A) through (a)(2)(L) of this Rule.

Committee note: The jurisdiction of the circuit courts, the District Court, and the Orphan's Court is not affected by this section. For example, the District Court has concurrent jurisdiction with the circuit court over proceedings under Code, Family Law Article, Title 4, Subtitle 5.

(3) Family Support Services

Subject to the availability of funds, the following family support services shall be available through the family division for use when appropriate in a particular action:

(A) mediation in custody and visitation matters;

(B) custody investigations;

(C) trained personnel to respond to emergencies;

(D) mental health evaluations and evaluations for alcohol and drug abuse;

(E) information services, including procedural assistance to pro se litigants;

Committee note: This subsection is not intended to interfere with existing projects that provide assistance to pro se litigants.

(F) information regarding lawyer referral services;

(G) parenting coordination services as permitted by Rule 9-205.2;

~~(G)~~ (H) parenting seminars; and

~~(H)~~ (I) any additional family support services for which funding is provided.

Committee note: Examples of additional family support services that may be provided include general mediation programs, case managers, and family follow-up services.

(4) Responsibilities of the County Administrative Judge

The County Administrative Judge of the Circuit Court for

each county having a family division shall:

(A) allocate sufficient available judicial resources to the family division so that actions are heard expeditiously in accordance with applicable law and the case management plan required by Rule 16-202 b;

Committee note: This Rule neither requires nor prohibits the assignment of one or more judges to hear family division cases on a full-time basis. Rather, it allows each County Administrative Judge the flexibility to determine how that county's judicial assignments are to be made so that actions in the family division are heard expeditiously. Additional matters for county-by-county determination include whether and to what extent masters, special masters, and examiners are used to assist in the resolution of family division cases. Nothing in this Rule affects the authority of a circuit court judge to act on any matter within the jurisdiction of the circuit court.

(B) provide in the case management plan required by Rule 16-202 b criteria for:

(i) requiring parties in an action assigned to the family division to attend a scheduling conference in accordance with Rule 2-504.1 (a) (1) and

(ii) identifying those actions in the family division that are appropriate for assignment to a specific judge who shall be responsible for the entire case unless the County Administrative Judge subsequently decides to reassign it;

Cross reference: For rules concerning the referral of matters to masters as of course, see Rules 2-541 and 9-208.

(C) appoint a family support services coordinator whose responsibilities include:

(i) compiling, maintaining, and providing lists of available public and private family support services,

(ii) coordinating and monitoring referrals in actions assigned to the family division, and

(iii) reporting to the County Administrative Judge concerning the need for additional family support services or the modification of existing services; and

(D) prepare and submit to the Chief Judge of the Court of Appeals, no later than October 15 of each year, a written report that includes a description of family support services needed by the court's family division, a fiscal note that estimates the cost of those services for the following fiscal year, and, whenever practicable, an estimate of the fiscal needs of the Clerk of the Circuit Court for the county pertaining to the family division.

(b) Circuit Courts Without a Family Division

(1) Applicability

This section applies to circuit courts for counties having less than eight resident judges of the circuit court authorized by law.

(2) Family Support Services

Subject to availability of funds, the family support services listed in subsection (a)(3) of this Rule shall be available through the court for use when appropriate in cases in the categories listed in subsection (a)(2) of this Rule.

(3) Family Support Services Coordinator

The County Administrative Judge shall appoint a full-time or part-time family support services coordinator whose

responsibilities shall be substantially as set forth in subsection (a)(4)(C) of this Rule.

(4) Report to the Chief Judge of the Court of Appeals

The County Administrative Judge shall prepare and submit to the Chief Judge of the Court of Appeals, no later than October 15 of each year, a written report that includes a description of the family support services needed by the court, a fiscal note that estimates the cost of those services for the following fiscal year, and, whenever practicable, an estimate of the fiscal needs of the Clerk of the Circuit Court for the county pertaining to family support services.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE

TITLE 16 - COURTS, JUDGES, AND ATTORNEYS

CHAPTER 400 - ATTORNEYS, OFFICERS OF COURT, AND OTHER PERSONS

AMEND Rule 16-401 to conform a reference to a section of Rule 1-202 to the relettering of that section, as follows:

Rule 16-401. PROSCRIBED ACTIVITIES - GRATUITIES, ETC.

. . .

b. Receiving Prohibited

No officer or employee of any court, or of any office serving a court, shall accept a gratuity or gift, either directly or indirectly, from a litigant, an attorney or any person regularly doing business with the court, or any compensation related to such officer's or employee's official duties and not expressly authorized by rule or law.

Cross reference: For definition of "person," see Rule 1-202 ~~(s)~~ (t).

. . .

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

AMEND Rule 16-808 to conform it to the revision of Rule 16-813, as follows:

Rule 16-808. PROCEEDINGS BEFORE COMMISSION

(a) Charges

After considering the report and recommendation of the Board or Investigative Counsel submitted pursuant to Rule 16-805 (j), and upon a finding by the Commission of probable cause to believe that a judge has a disability or has committed sanctionable conduct, the Commission may direct Investigative Counsel to initiate proceedings against the judge by filing with the Commission charges that the judge has a disability or has committed sanctionable conduct. The charges shall (1) state the nature of the alleged disability or sanctionable conduct, including each ~~Canon of Judicial Conduct~~ Rule of the Maryland Code of Judicial Conduct allegedly violated by the judge, (2) allege the specific facts upon which the charges are based, and (3) state that the judge has the right to file a written response to the charges within 30 days after service of the charges.

. . .

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

AMEND Rule 16-813, Rule 3.8 to add the word "former" to the source note, as follows:

Rule 16-813. MARYLAND CODE OF JUDICIAL CONDUCT

. . .

Rule 3.8. APPOINTMENTS TO FIDUCIARY POSITIONS

(a) A judge shall not accept appointment to serve in a fiduciary position, such as executor, administrator, trustee, guardian, attorney in fact, or other personal representative, except for the estate, trust, or person of a **member of the judge's family**, and then only if such service will not interfere with the proper performance of judicial duties.

(b) A judge shall not serve in a fiduciary position if the judge as **fiduciary** will likely be engaged in proceedings that would ordinarily come before the judge, or if the estate, trust, or ward becomes involved in adversary proceedings in the court on which the judge serves, or one under its appellate jurisdiction.

(c) A judge acting in a **fiduciary** capacity shall be subject to the same restrictions on engaging in financial activities that apply to a judge personally.

(d) If a person who is serving in a **fiduciary** position becomes a judge, he or she must comply with this Rule as soon as

reasonably practicable, but in no event later than one year after becoming a judge.

(e) Paragraph (a) of this Rule does not apply to retired judges approved for recall under Maryland Constitution, Article IV, §3A.

COMMENT

[1] A judge should recognize that other restrictions imposed by this Code may conflict with a judge's obligations as a fiduciary; in such circumstances, a judge should resign as fiduciary. For example, serving as a fiduciary might require frequent disqualification of a judge under Rule 2.11 because a judge is deemed to have an economic interest in shares of stock held by a trust if the amount of stock held is more than de minimis.

Source: Paragraphs (a) through (d) of this Rule are derived from Rule 3.8 of the 2007 ABA Code. Paragraph (e) is derived from Canon 6C of the former Maryland Code of Judicial Conduct. The Comment is derived from the ABA Comment to Rule 3.8 of the 2007 ABA Code.

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

AMEND Rule 16-815 to conform it to the revision of Rule 16-813, as follows:

Rule 16-815. FINANCIAL DISCLOSURE STATEMENT

. . .

h. This rule applies to each judge of a court named in ~~Canon~~
~~6A~~ Rule 16-813, Maryland Code of Judicial Conduct, A-109 (General Provisions) who has resigned or retired in any calendar year, with respect to the portion of that calendar year prior to the judge's resignation or retirement and to each former judge with respect to the previous calendar year.

. . .

MARYLAND RULES OF PROCEDURE
TITLE 17 - ALTERNATIVE DISPUTE RESOLUTION
CHAPTER 100 - PROCEEDINGS IN CIRCUIT COURT

AMEND Rule 17-101 (b) to add a reference to parenting coordinators appointed under Rule 9-205.2, as follows:

Rule 17-101. APPLICABILITY

. . .

(b) Rules Governing Qualifications and Selection

The rules governing the qualifications and selection of a person designated to conduct court-ordered alternative dispute resolution proceedings apply only to a person designated by the court in the absence of an agreement by the parties. They do not apply to a master, examiner, ~~or~~ auditor, or parenting coordinator appointed under Rules 2-541, 2-542, ~~or~~ 2-543, or 9-205.2.

. . .

MARYLAND RULES OF PROCEDURE

TITLE 17 - ALTERNATIVE DISPUTE RESOLUTION

CHAPTER 100 - PROCEEDINGS IN CIRCUIT COURT

AMEND Rule 17-105 to conform it to revisions of Rules 16-813 and 16-814, as follows:

Rule 17-105. QUALIFICATIONS AND SELECTION OF PERSONS OTHER THAN MEDIATORS AND NEUTRAL EXPERTS

. . .

Cross reference: Rule 16-813, Maryland Code of Judicial Conduct, ~~Canon 4F~~ Rule 3.9 and Rule 16-814, Maryland Code of Conduct for Judicial Appointees, ~~Canon 4F~~ Rule 3.9.

. . .

MARYLAND RULES OF PROCEDURE

APPENDIX: THE MARYLAND LAWYERS' RULES OF PROFESSIONAL CONDUCT

AMEND Rule 8.2 to conform it to the revision of Rule 16-813,
as follows:

Rule 8.2. JUDICIAL AND LEGAL OFFICIALS

. . .

(b) ~~Canon 5C (4)~~ Rule 4.1 (c)(2)(D) of the Maryland Code of Judicial Conduct, set forth in Rule 16-813, provides that a lawyer becomes a candidate for a judicial office when the lawyer files a certificate of candidacy in accordance with Maryland election laws, but no earlier than two years prior to the general election for that office. A candidate for a judicial office:

(1) shall maintain the dignity appropriate to the office and act in a manner consistent with the impartiality, independence and integrity of the judiciary;

(2) with respect to a case, controversy, or issue that is likely to come before the court, shall not make a commitment, pledge, or promise that is inconsistent with the impartial performance of the adjudicative duties of the office;

Committee note: Rule 8.2 (b)(2) does not prohibit a candidate from making a commitment, pledge, or promise respecting improvements in court administration or the faithful and impartial performance of the duties of the office.

(3) shall not knowingly misrepresent his or her identity or qualifications, the identity or qualifications of an opponent, or any other fact;

(4) shall not allow any other person to do for the candidate what the candidate is prohibited from doing; and

(5) may respond to a personal attack or an attack on the candidate's record as long as the response does not otherwise violate this Rule.

COMMENT

[1] Assessments by lawyers are relied on in evaluating the professional or personal fitness of persons being considered for election or appointment to judicial office and to public legal offices, such as attorney general, prosecuting attorney and public defender. Expressing honest and candid opinions on such matters contributes to improving the administration of justice. Conversely, false statements by a lawyer can unfairly undermine public confidence in the administration of justice.

[2] To maintain the fair and independent administration of justice, lawyers are encouraged to continue traditional efforts to defend judges and courts unjustly criticized.

. . .

MARYLAND RULES OF PROCEDURE

APPENDIX: THE MARYLAND LAWYERS' RULES OF PROFESSIONAL CONDUCT

AMEND Rule 8.4 to conform it to the revision of Rule 16-813,
as follows:

Rule 8.4. MISCONDUCT

. . .

COMMENT

. . .

[4] Paragraph (e) reflects the premise that a commitment to equal justice under the law lies at the very heart of the legal system. As a result, even when not otherwise unlawful, a lawyer who, while acting in a professional capacity, engages in the conduct described in paragraph (e) and by so doing prejudices the administration of justice commits a particularly egregious type of discrimination. Such conduct manifests a lack of character required of members of the legal profession. A trial judge's finding that peremptory challenges were exercised on a discriminatory basis does not alone establish a violation of this rule. A judge, however, must require lawyers to refrain from the conduct described in paragraph (e). See Md. Rule 16-813, Maryland Code of Judicial Conduct, ~~Canon 3 B (11)~~ Rule 2.3.

. . .