

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-Sixth Report to the Court recommending adoption on an emergency basis of proposed new Rule 14-207.1 and amendments to Rules 1-311 and 14-207; and

This Court having considered at an open meeting, notice of which was posted as prescribed by law, all those proposed rules changes, making on its own motion certain deletions and additions to the proposed rules changes, and finding that an emergency does in fact exist with reference to the proposed rules changes, it is this 20th day of October, 2010,

ORDERED, by the Court of Appeals of Maryland, that new Rule 14-207.1 and amendments to Rules 1-311 and 14-207 be, and they are hereby, adopted in the form attached to this Order; 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 October 20, 2010,

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, Jr.

Joseph F. Murphy, Jr.

* Sally D. Adkins

/s/ Mary Ellen Barbera

Mary Ellen Barbera

* Judge Adkins did not participate in the consideration of this matter.

Filed: October 20, 2010

/s/ Bessie M. Decker

Clerk
Bessie M. Decker

MARYLAND RULES OF PROCEDURE
TITLE 14 - SALES OF PROPERTY
CHAPTER 200 - FORECLOSURE OF LIEN INSTRUMENTS

ADD new Rule 14-207.1, as follows:

Rule 14-207.1. COURT SCREENING

(a) Generally

The court may adopt procedures to screen pleadings and papers filed in an action to foreclose a lien. If the court determines that the pleadings or papers filed do not comply with all statutory and Rule requirements, it may give notice to the plaintiff and each borrower, record owner, party, and attorney of record that the action will be dismissed without prejudice or that some other appropriate order will be entered by reason of the non-compliance if the plaintiff does not demonstrate within 30 days that the papers are legally sufficient or that the deficiency has been cured.

Committee note: This Rule prevails over the provision in Rule 1-321 (a) or any other Rule that purports, where a party is represented by an attorney, to permit service on only the attorney. This Rule requires service on both.

(b) Review of Affidavits

(1) In this section, "affidavit" includes any attestation or certification by an attorney, borrower, record owner, party, or agent of the attorney, borrower, record owner, or party concerning the truth or accuracy of a pleading or paper.

Cross reference: See Rule 1-202 (b) for a general definition of "affidavit."

(2) If the court has reason to believe that an affidavit filed in the action may be invalid because the affiant has not read or personally signed the affidavit, because the affiant does not have a sufficient basis to attest to the accuracy of the facts stated in the affidavit, or, if applicable, because the affiant did not appear before the notary as stated, the court may order the party to show cause why the affidavit should not be stricken, and, if it is stricken, why the action should not be dismissed or other relief granted.

(3) As part of the show cause order, the court may order that the affiant and any notary appear before the court at a time stated in the order for the affiant to attest under penalty of perjury that the affiant read and personally signed the affidavit and had a sufficient basis to attest to the accuracy of the facts stated in the affidavit, and, if applicable, for the affiant and the notary to attest that the affiant appeared before the notary and made the oath stated.

(4) A copy of the order shall be sent to the plaintiff and to each borrower, record owner, party, and attorney of record, together with a notice that they may appear and examine the affiant and notary. The court may further require that the plaintiff serve the order and any response thereto on each borrower, record owner, party, and attorney of record.

Cross reference: See Rule 1-341.

(c) Special Masters or Examiners

The court may designate one or more qualified Maryland lawyers to serve as a part-time special master or examiner to screen pleadings and papers under section (a) of this Rule, conduct proceedings under section (b) of this Rule, and make appropriate recommendations to the court. Subject to section (d) of this Rule, the costs and expenses of the special master or examiner may be assessed against one or more of the parties pursuant to Code, Courts Article, §2-102 (c), Rule 2-541 (i), or Rule 2-542 (i). With his or her consent, the special master or examiner may serve on a pro bono basis.

(d) Assessment of Costs, Expenses, and Attorney's Fees

The costs, expenses, and attorney's fees of any proceeding under this Rule, including any costs or expense of a special master or examiner under section (c) of this Rule, shall not be assessed against the borrower or record owner either directly or as an expense of sale, unless the affidavit in question was filed by or on behalf of the borrower or record owner.

Committee note: The exercise of the authority granted in this Rule is discretionary with the court. Nothing in this Rule precludes the court from using its own personnel for these purposes.

Source: This Rule is new.

MARYLAND RULES OF PROCEDURE
TITLE 14 - SALES OF PROPERTY

CHAPTER 200 - FORECLOSURE OF LIEN INSTRUMENTS

AMEND Rule 14-207 by changing the title of the Rule, deleting current section (c), and adding a new section (c) to require service of affidavits, pleadings, and other papers that amend, supplement, or confirm a previously filed affidavit, pleading or paper, as follows:

Rule 14-207. PLEADINGS; COURT SCREENING; SERVICE OF CERTAIN AFFIDAVITS, PLEADINGS, AND PAPERS

. . .

~~(c) Court Screening~~

~~As part of its case management plan, a circuit court may adopt procedures for the court to screen orders to docket and complaints to foreclose a lien. If the court determines that the papers filed do not comply with all statutory and Rule requirements, it may give notice to the plaintiff that the action will be dismissed without prejudice if the plaintiff does not demonstrate within 30 days that the papers are legally sufficient or that the deficiency has been cured.~~

Committee note: Pursuant to subsections (b) (7) and (8) of this Rule, a preliminary or final loss mitigation affidavit must be filed in all actions to foreclose a lien on residential property, even if a loss mitigation analysis is not required.

(c) Service of Certain Affidavits, Pleadings, and Papers

Any affidavit, pleading, or other paper that amends, supplements, or confirms a previously filed affidavit, pleading, or other paper shall be served on each party, attorney of record, borrower, and record owner in accordance with the methods provided by Rule 1-321, regardless of whether service of the original affidavit, pleading, or paper was required.

Committee note: This Rule prevails over the provision in Rule 1-321 (a) or any other Rule that purports, where a party is represented by an attorney, to permit service on only the attorney. This Rule requires service on both.

Source: This Rule is derived in part from the 2008 version of former Rule 14-204 (a) and (c) and is in part new.

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

AMEND Rule 1-311 to add the words "or paper" to section (c),
as follows:

Rule 1-311. SIGNING OF PLEADINGS AND OTHER PAPERS

. . .

(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 or paper had not been filed. For a wilful violation of this Rule, an attorney is subject to appropriate disciplinary action.

. . .